

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN BENCH, KOLKATA**

APPEAL No. 24 of 2022

IN THE MATTER OF:

Satyannarayan Rao

...Appellant

Versus

Union of India & Ors.

....Respondents

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REJOINDER TO THE REPLY FILED BY THE RESPONDENTS.

MOST RESPECTFULLY SHOWETH:

1. That the aforesaid appeal U/s. 16(h) of the National Green Tribunal Act, 2010 challenging the Environmental Clearance dated 05.05.2022 granted to the Respondent No. 2 by the Ministry of Environment, Forest and Climate Change (hereinafter referred as "MoEF&CC") for the expansion of Aluminium Smelter Production Capacity from 16 LTPA to 18 LTPA, CPP capacity of 1215 MW located at village Bhurkamunda, District Jharsuguda, Odisha is pending adjudication before this Hon'ble Tribunal.
2. That the MoEF is Respondent No. 1 and had filed Reply dated 15.09.2022 and seek to rely upon the same. Project Proponent, the Respondent No. 2 has filed a Reply dated 12.10.2023. The State of Odisha, the Respondent No. 3, submitted on 16.01.2024 that they do not wish to file any reply to the appeal. The Odisha Pollution Control Board, the Respondent No. 4 filed a Reply dated 18.10.2023.
3. The Appellant, having gone through the replies filed by the Respondents, seeks to submit his response on the issues raised therein. The Appellant for the sake of clarity is not submitting the parawise reply, and prays that the same may kindly not be construed as an admission of any of the averments made by the Respondents, unless otherwise specifically admitted.

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4. The Respondent No. 2, was granted Environment Clearance dated 07.03.2007 to set up Aluminium Smelter Plant with the Capacity of 2.5 LTPA and Environment Clearance dated 14.03.2007 to set up 5 X 135 MW Captive Power Plant. The Environment Clearance dated 11.06.2008 was granted to increase the Capacity of the Aluminium Smelter Plant from 2.5 LTPA to 16 LTPA. The impugned Environmental Clearance dated 05.05.2022 has been granted for further the expansion of Aluminium Smelter Production Capacity from 16 LTPA to 18 LTPA and CPP capacity of 1215 MW.
5. The Appellant, has challenged the Environmental Clearance dated 05.05.2022 granted for further the expansion of Aluminium Smelter Production Capacity from 16 LTPA to 18 LTPA and CPP capacity of 1215 MW, inter-alia on following grounds:
 - i) The EAC in its minutes of the meeting held on 18-20th January, 2021 clearly recorded that the consultant has drafted EIA/EMP report intentionally to mislead the EAC and warned not to mislead the committee and to do such things in the future and returned the proposal. However, EAC has failed to apply its mind as it did not ask the project proponent to conduct a fresh public consultation after the new EIA report was made as what was placed before the public at the time of public hearing held on 30.09.2020 was faulty EIA report. Thus, the EAC did not consider the fact that a fresh public hearing was required to be conducted on the basis of the new EIA report before recommending the project for grant of Environmental Clearance;
 - ii. That despite specific direction from this Hon'ble Tribunal in Original Application No. 10 of 2021 (EZ) vide order

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dated 06.05.2022, the illegal disposal of fly ash in the agricultural lands continues persistently thereby damaging the crops and completely destroying the fertility of the land. It is submitted that with respect to the impact on the agriculture field the EAC accepted the response of the project proponent without verifying the facts from the ground;

- iii. That the EAC has also failed to verify the facts with respect to encroachments on the forest land by the project proponent. The expansion of the project was recommended without looking into the fact that the project proponent had been continuously encroaching upon the forest land and dumping ash on the forest land without any approval from the Central Government as required under Forest (Conservation) Act, 1980;
- iv. That the project proponent has unauthorisedly built up a township over an area of 91 acre having 9 storeyed 8 blocks Residential Apartments named as "Nagavalli" within the area which has been declared as a greenbelt within the project site;
- v. The project proponent has deliberately not been complying with the several conditions of the Environmental Clearance granted earlier, and has been causing pollution to the area around the project. However, the Expert Appraisal Committee condoned the non-compliance by allowing the expansion of the project.
- vi. Furthermore, the EAC has failed to apply its mind with respect to encroachment and dumping of fly ash in the forest area without obtaining Forest Clearance by the project proponent. The Appellant submits that there have been instances where the project proponent has caused

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pollution to the water body and 3 agricultural land by dumping of fly ash. However, the EAC has just recorded the recommendation with respect to sampling and analysis of nearest irrigated land growing crops, vegetables and other products of human consumption.

- vii. Thus, the EAC failed to consider that the project proponent is habitually non-compliant of the Environmental Clearance conditions of 2008 and also of other environmental laws and that the allowing expansion of such project proponent will cause further pollution of the area.
6. That the Respondent No. 1 & 4, has not individually and specifically addressed the issues raised by the Appellant and merely, stated that, they have fulfilled their respective roles as per the EIA Notification, 2006 and therefore, the contention of the Appellant to the extent not denied are deemed to have been admitted by the said Respondents and so is, by the Respondent No. 3, State of Odisha, who has chosen not to file reply.
 7. As far as Respondent No. 2 is concerned, it has filed a Reply on 12.10.2023 and the summary of the same are as under:
 - i. The Appellant is not an aggrieved person within the meaning of Sec. 18 of the National Green Tribunal Act;
 - ii. The Appellant has deliberately submitted incomplete facts, specifically with respect to the history of litigation on the same project before the Hon'ble Odisha High Court and the Hon'ble Supreme Court;
 - iii. The Public Hearing for the Environment Clearance dated 05.05.2022 was conducted in accordance with the law and has already been examined by the Hon'ble High Court of Orissa – Res Judicata;

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- iv. There is no requirement in law to submit every revision of the EIA Report after comments are sought by the EAC/Competent Authority again for Public Hearing;
 - v. EC for expansion has been obtained after detailed scrutiny by the EAC and in compliance with the EIA Notification, 2006;
 - vi. No encroachment of Forest Land or dumping of the fly ash on forest land;
 - vii. No illegal construction in the Green Belt area;
 - viii. The Unit is being operated in compliance with the norms and statutory reporting such as six monthly reports, environment statements and other reports being submitted regularly;
8. Before dealing with the contention raised by the Respondents, it would be appropriate to bring it to the notice of this Hon'ble Court, the credentials of the Respondent No. 2 as habitual violators of the Environmental Laws and Norms. Though the instances are many, but, the appellant seeks to draw attention to few as under:
- i) In respect of the expansion of the expansion of the project from 1 to 6 MTPA of Alumina and power generation from 75 MW to 300 MW at Lanjigarh, Kalahandi, Orissa, the Respondent No. 2 in violation of the provisions of the EIA Notification, 2006 had started the construction of the Project, prior to the grant of Environment Clearance and therefore, the MoEF had on 20.10.2010 withdrawn the Terms of Reference granted to the Respondent No. 2. The Respondent No. 2 thus had approached the Hon'ble High Court of Odisha by filing a Writ Petition being W.P. (C) No. 19605 of 2010, the said Writ Petition was dismissed by the Hon'ble Division Bench by the Judgment & Order dated

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19.07.2011 reported as **Vedanta Aluminium Limited v. Union of India, 2011 SCC OnLine Ori 37**, holding as under:

43. For the reasons stated above, we are of the considered view that the construction work undertaken by the petitioner for expansion of its project without obtaining environmental clearance violates the mandates of the EIA Notification, 2006 and therefore, the opposite parties are justified in withdrawing the Term of Reference and in cancelling the public hearing proceeding held in respect of the proposed expansion. The opposite parties are also justified in holding that the process for environmental clearance has to be started de novo for which the petitioner has to submit fresh proposal to the Ministry under the procedure laid down in the EIA Notification, 2006.

True Copy of the Judgment reported as **Vedanta Aluminium Limited v. Union of India, 2011 SCC OnLine Ori 37** is annexed herewith and marked as **ANNEXURE RA-1**

- ii) The copper smelter operated by the Respondent No. 2 (Vedanta Limited) at the SIPCOT Industrial Complex in Thoothukudi in Tamil Nadu was directed to be closed for violations of numerous environmental norms. Various orders passed in that respect were challenged by the Respondent No. 2 in about 10 Writ Petitions before the Hon'ble High Court of Judicature at Madras. The Hon'ble High Court by the Judgment & Order dated 18.08.2020 was pleased to dismiss all the Writ Petitions. The said Judgment and Order came to be challenged by the Respondent No. 2 before the Hon'ble Supreme Court in Special Leave Petition (Civil) Nos. 10159-10168 of 2020, which has been dismissed by the Hon'ble Supreme Court by the Judgment & Order dated 29.01.2024 reported as **Vedanta Ltd. v. State of T.N., 2024 SCC OnLine SC**

230. In the Judgment & Order dated 29.01.2024, the Hon'ble Supreme Court has taken note of the fact that the Respondent No. 2 has been the persistent violators of the Environmental norms, and despite being given opportunity to take remedial action, due to the nature of the violations and the repeated nature of the breaches coupled with the severity of the breach of environmental norms, in the ultimate analysis did not leave either the statutory authorities or the Hon'ble High Court with the option to take any other view, than to close the unit operated by the Respondent No. 2.

The Appellant is not reproducing the observation made in the Judgement and seeks to refer and rely upon the same at the time of hearing.

True Copy of the Judgment reported as **Vedanta Ltd. v. State of T.N., 2024 SCC OnLine SC 230** is annexed herewith and marked as **ANNEXURE RA-2**

- iii) For alleged illegal mining and storage, FIR was registered against Respondent No. 2 and the same is discussed in the Judgment reported as **State of Karnataka v. Vedanta Ltd., (2018) 5 SCC 722.**

True Copy of the Judgment reported as **State of Karnataka v. Vedanta Ltd., (2018) 5 SCC 722** is annexed herewith and marked as **ANNEXURE RA-3**

RE: LOCUS:

9. To appreciate the issue of locus, it may be necessary to appreciate as to how the environmental jurisprudence developed in India and the background in which the National Green Tribunal Act, 2010 was promulgated.
10. UN Conference on Human Environment was held in Stockholm in 1972 (known as the Magna Carta of Environmental Law).

India was a party to the said Conference. Pursuant to the decisions taken at Stockholm, Article 48A and Article 51A(g) were inserted in the Constitution by the Constitution (42nd Amendment) Act, 1976, which provided for the duties and obligation of the State and People to protect and improve environment. It is in furtherance of the same that the Air (Prevention and Control of Pollution) Act, 1981 and the Environment Protection Act, 1986 were enacted.

11. Subsequently in the UN Conference on Environment and Development held at Rio De Janeiro in June 1992 (Earth Summit-I), it was decided to make environmental justice more accessible. India was a party to the said conference also.
12. The two International Conventions gave rise to various environmental principles i.e., Polluter Pays Principle, Precautionary Principle, Principle of Sustainable Development, Inter-Generational Equity Principle and Public Trust Doctrine.
13. The Hon'ble Supreme Court in S.P Gupta Vs. Union of India, (1981) Supp SCC 87, was pleased to liberalize the concept of Locus Standi, in the cases of public injury where no lis as understood in conventional litigation arises. The Hon'ble Supreme Court was pleased to elucidate the concept of public injury and accessibility of remedy to seek redressal on such injury. The Hon'ble Supreme Court in a series of cases was pleased to observe that that protection, preservation, and improvement of environment are both an obligation of the State under Article 48A as well as a duty of each and every Citizen under Article 51A(g) of the Constitution. It was also held that right to a clean and healthy environment is a part of the right to life enshrined in Article 21 of the Constitution. (Subhash Kumar Vs State of Bihar 1991(1) SCC 598)

14. Various principle adopted in the UN Conferences, were also accepted as a part of domestic environmental law:

- a) M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388 accepted Public Trust Doctrine;
- b) Vellore Citizens' Welfare Forum v. UOI and others (1996) 5 SCC 647; Indian Council for Enviro-legal Action Vs UOI 1996(3) SCC 212; A.P. Pollution Control Board v. Prof. M.V. Nayudu, (1999) 2 SCC 718 etc accepted the Polluter Pays Principle, Precautionary Principle and Principle of Sustainable Development;

15. History, Object & Purpose of Constitution of The National Green Tribunal.

15.1. While dealing with the cases on various environmental issues, the Hon'ble Supreme Court realized that the subject of environment requires understanding of various disciplines, and therefore, in following judgments, suggested constitution of Courts or Tribunals, consisting of experts:

- I. M.C. Mehta vs Union of India, 1986 (2) SCC 176, Para 22;
- II. Indian Council for Environmental-Legal Action Vs. Union of India, 1996 (3) SCC 212, Para 70.6;
- III. A.P. Pollution Control Board Vs M.V. Nayudu, 1999(2) SCC 718, Para 54 onwards;
- IV. A.P. Pollution Control Board Vs M.V. Nayudu, 2001(2) SCC 62, Para 73.

15.2. That in view of the observations made by the Hon'ble Supreme Court in the above-mentioned judgements, and taking into account that the Environmental Authorities constituted were not yielding anticipated result, the Law Commission in its 186th Report, recommended the setting up of environmental courts.

15.3. The Law Commission while making the recommendations took comprehensive view of development on environmental law in the international and domestic law and also that of the principle adopted in various conferences:

“The Environment Court must be able to provide an “environmental solution” to grave problems like the one mentioned above and unless it has powers to frame comprehensive schemes which will involve issuing directions to various departments, the solution cannot be implemented. Such a comprehensive jurisdiction is now being exercised both by the Supreme Court and High courts. In our view, the proposed courts must have similar powers. They will also have to monitor the schemes till they are successfully implemented on the ground and, if necessary, modify the schemes from time to time.”

15.4. The Law Commission Report while discussing the powers of proposed courts, proposed as under:

“Normally, Civil Courts do not grant relief which is not prayed for. But, like Writ Courts, these Environment Courts must be able to mould any relief appropriate in the facts and circumstances of the case.

Therefore, we are of the view that, in the original petitions or in appeals, the proposed courts should have power to grant any other relief other than what is sought for, which is suitable in facts and circumstances of the case.”

15.5. The Law Commission also recommended that the locus standi before the Tribunal in original petitions should be as wide as it is before the High Courts and this Hon'ble Court in Writ Jurisdiction in environmental matters.

15.6. Accepting the aforesaid recommendation, the Parliament exercising its jurisdiction under Entry 13, List I R/w. Article 253 of the Constitution, enacted the National Green Tribunal Act, 2010.

The readings of the Statement of Objects & Reasons and the Preamble shows, that the same is being proposed keeping in view:

- a) The right to healthy environment has been construed as part of the right of life under Art. 21 of the Constitution;
- b) The obligation of State to provide for effective access to judicial and administrative proceedings, in view of Stockholm & Rio Declaration;
- c) The need for the establishment of Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto;

16. In *Municipal Corp., Greater Bombay v. Ankita Sinha*, (2022) 13 SCC 401, the Hon'ble Supreme Court, faced with the question as to whether this Hon'ble Tribunal would have jurisdiction to take suo-motu cognizance of and Environmental Issues, was pleased to take note of the development of the environmental jurisprudence, the 186th law commission report and the background in which this Hon'ble Tribunal came to be constituted and was pleased to hold that:

“The above would show that from the very inception, the role of NGT was not simply adjudicatory in the nature of a lis but to perform equally vital roles which are preventative, ameliorative or remedial in nature. The functional capacity of NGT was intended to leverage wide powers to do full justice in its environmental mandate.

56. *Reflecting on the expanded role of NGT unlike other tribunals, this Court so appositely observed in All Dimasa Students Union case [State of Meghalaya v. All Dimasa Students Union, (2019) 8 SCC 177] that the forum has a duty to do justice while exercising “wide range of*

jurisdiction” and the “wide range of powers”, given to it by the statute.

57. During the course of its functioning, NGT has been recognised as one of the most progressive tribunals in the world. This jurisprudential leap has allowed our country to enter a rather exclusive group of nations which have set up such institutions with broad powers. To understand how NGT is perceived globally, we may usefully refer to the views of Chief Justice Brian Preston of the Land and Environment Court of NSW Australia:

“NGT is an example of a specialised court to better achieve the goals of ensuring access to justice, upholding the rule of law and promoting good governance.” [Gill, G., “Mapping the Power Struggles of the National Green Tribunal of India : The Rise and Fall?”, *Asian Journal of Law and Society*, 7(1), 85-126 (2020).]

60. The above discussion would advise us to say that NGT was conceived as a specialised forum not only as a like substitute for a civil court but more importantly to take over all the environment related cases from the High Courts and the Supreme Court. Many of those cases transferred to NGT, emanated in the superior courts and it would be appropriate thus to assume that similar power to initiate suo motu proceedings should also be available with NGT.

61. NGT is a Tribunal with sui generis characteristic, with the special and all-encompassing jurisdiction to protect the environment. Besides its adjudicatory role as an appellate authority, it is also conferred with the responsibility to discharge role of supervisory body and to decide substantial questions relating to the environment. The necessity of having a specialised body, with the expertise to handle multi-dimensional environmental issues allows for an all-encompassing framework for environmental justice. The technical expertise that may be required to address evolving environmental concerns would definitely require a flexible institutional mechanism for its effective exercise.

67. It may also be relevant to bear in mind that while dealing with contested cases, NGT is required to pass “award” and “order” and the statute repeatedly uses the word “decision”. Therefore, it is appropriate to correlate the word “decision” to NGT, in its non-adversarial or inquisitorial role, as was suggested by the Law Commission and recognised in NHAJ [NHAJ v. Aam Aadmi Lokmanch, (2021) 11 SCC 566] .

68. *The duty to safeguard Article 21 rights cannot stand on a narrow compass of interpretation. Procedural provisions must be allowed to fall in step with the substantive rights that are invoked in the environmental domain, in larger public interest. The specialised forum is bestowed with the responsibility to ensure protection of the environment. To be effective in its domain, we need to ascribe to NGT a public responsibility to initiate action when required, to protect the substantive right of a clean environment and the procedural law should not be obstructive in its application. In the context, V.R. Krishna Iyer, J. speaking for a Division Bench in State of Punjab v. Shamlal Murari [State of Punjab v. Shamlal Murari, (1976) 1 SCC 719 : 1976 SCC (L&S) 118] has so correctly prioritised the substantive rights and observed succinctly : (SCC p. 722, para 8)*

“8. ... We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice.”

69. *While discussing NGT's power and responsibility, it is essential to keep in mind the Principle 10 of the Rio Declaration which speaks of three fundamental rights i.e. access to information, access to public participation and access to justice, as key pillars of environmental governance. Access to justice, may however be curtailed by illiteracy, lack of mobility, poverty or even the lack of technical knowledge on the part of citizens. Another deterrence is the likelihood of polluters/violators being powerful entities with adequate wherewithal to skirt regulations. Thus, it may not always be feasible for individuals to knock on the doors of the Tribunal, and NGT in such exigencies must not be made dysfunctional.*

77. *There is also a need to focus on the interconnection between principles of procedural justice and distributive justice. The concern is to create a system which is affirmative enough to balance the disproportionate wielding of power between polluters and affected people:*

“Environmental justice starts with distributive justice, or more accurately, distributive injustice. The rich and powerful derive the most benefit while suffering the least harm from environmentally harmful activities; conversely, the poor and minorities derive the least benefit but suffer the most harm. Further, those who benefit cause harm to the places where people “live, work, play, and go to

school”, whereas the people who reside there do little or nothing to harm their community.” [Jeff Todd, “A ‘Sense of Equity’ in Environmental Justice Litigation”, 44 Harv Envtl L Rev 169, 193 (2020).]

78. When substantive justice is elusive for a large segment, disengaging with substantive rights at the very altar, for a perceived procedural lacuna, would surely bring in a process, which furthers inequality, both economic and social. An “equal footing” conception may not therefore be feasible to adequately address the asymmetrical relationship between the polluters and those affected by their actions. Instead, a recognition of the historical experience of marginalised classes of persons while accessing and effectively using the legal system, will allow for necessary appreciation of social realities and balancing the arm of justice.

79. The law must be interpreted in such a manner as to foster further development of existing legal concepts by incorporating this sense of equity. The issues which this Court has had the occasion to examine have highlighted the limitations of the mechanisms to reach to the heart of environmental concerns. This Court has previously moulded the jurisdictional jurisprudence in favour of larger societal interest, whether that be in the form of “public interest litigation” or widening the scope of locus standi:

“The identification of potential environmental justice issues is very important in determining how our enforcement efforts are working in minority and low-income communities, and whether they are comparable to the enforcement efforts in other communities.” [Schiffer, L.J. & Dowling, T.J. (1997), “Reflections on the Role of the Courts in Environmental Law”, 27(2) Environmental Law 327-342.]

86. Environmental jurisprudence in India has therefore been intrinsic to advancing a democratic, welfare-oriented legal regime. Issues affecting the ecology and the environment must have a broad perspective and should have a society-centric approach. Furthermore, the very nature of ecological and environmental issues has the propensity for rapid deterioration. Many such sensitive matters, as has been noted, stood transferred to NGT, with the aim that those would be dealt with expediently with the required technical expertise and legal sophistication. The proactiveness of the superior court was surely expected to be seen in the Tribunal's approach.

89. NGT, therefore, is the institutionalisation of the developments made by this Court in the field of Environment Law. These progressive steps have allowed it to inherit a very broad conception of environmental concerns. Its functions, therefore, must not be viewed in a cribbed manner, which detracts from the progress already made in the Indian environmental jurisprudence.

94. It is vital for the well-being of the nation and its people, to have a flexible mechanism to address all issues pertaining to environmental damage and resultant climate change so that we can leave behind a better environmental legacy, for our children, and the generations thereafter.

95. In circumstances where adverse environmental impact may be egregious, but the community affected is unable to effectively get the machinery into action, a forum created specifically to address such concerns should surely be expected to move with expediency, and of its own accord. The potentiality of disproportionate harm imposes a higher obligation on authorities to preserve rights which may be waylaid due to such restrictive access. It is also noteworthy that the “global impacts of climate change will fall disproportionately on minority and low-income communities”. [Scott LaFranchi, “Surveying the Precautionary Principle's Ongoing Global Development : The Evolution of an Emergent Environmental Management Tool”, 32 BC Env'tl Aff L Rev 679 (2005).] Thus, an affirmative role, beyond mere adjudication at the instance of applicant, is certainly required for serving the ends of environmental justice, as the statute itself requires of NGT. We cannot validate an argument which furthers uncertainty to justify the role of a spectator, if not inaction, and would most assuredly result in injustice.

96. NGT, with the distinct role envisaged for it, can hardly afford to remain a mute spectator when no one knocks on its door. The forum itself has correctly identified the need for collective stratagem for addressing environmental concerns. Such a society-centric approach must be allowed to work within the established safety valves of the principles of natural justice and appeal to the Supreme Court. The hands-off mode for NGT, when faced with exigencies requiring immediate and effective response, would debilitate the forum from discharging its responsibility and this must be ruled out in the interest of justice.

97. It would be procedural hair-splitting to argue (as it has been) that NGT could act upon a letter being written to it, but learning about an environmental exigency through any

other means cannot trigger NGT into action. To endorse such an approach would surely be rendering the forum procedurally shackled or incapacitated.

100. *Institutions which are often addressing urgent concerns gain little from procedural nit-picking, which are unwarranted in the face of both the statutory spirit and the evolving nature of environmental degradation. Not merely should a procedure exist but it must be meaningfully effective to address such concerns. The role of such an institution cannot be mechanical or ornamental. We must therefore adopt an interpretation which sustains the spirit of public good and not render the environmental watchdog of our country toothless and ineffective.*

17. It is with almost similar view that, this Hon'ble Tribunal, (5 Member Bench) in Save Mon Region Federation v. Union of India [Save Mon Region Federation v. Union of India, (2013) 1 All India NGT Reporter 1], on the issue of locus of a person, was pleased to hold as under:

“18. *Law gives a right to 'any person' who is 'aggrieved' by an order to prefer an appeal. The term 'any person' has to be widely construed. It is to include all legal entities so as to enable them to prefer an appeal, even if such an entity does not have any direct or indirect interest in a given project. The expression 'aggrieved', again, has to be construed liberally. The framers of law intended to give the right to any person aggrieved, to prefer an appeal without any limitation as regards his locus or interest. The grievance of a person against the Environmental Clearance may be general and not necessarily person specific. This provision of Section 16 requires communication of the order to such person(s). The expression 'him' takes within its ambit 'any person' who is aggrieved by an order.”*

18. Therefore, it is most humbly submitted that the issue of locus has to be appreciated keeping in view the *sui generis* characteristic of this Hon'ble Tribunal, as discussed by the Hon'ble Supreme Court and accordingly, the objection to the locus raised by the Respondent No. 2 deserves to be rejected.
19. In this regards, it may be appropriate to draw the attention of this Hon'ble Tribunal to the observation made by the Hon'ble

Supreme Court in **Sridevi Datla v. Union of India, (2021) 5 SCC 321:**

30. *This Court is of the opinion that there is merit in the appellant's argument. The respondents, especially, the project applicant, had urged that the appellant is an interested party, and cannot be called a public-spirited citizen, because she had opposed acquisition of land for the airport and therefore, was able to access legal advice at the High Court stage. There is, in our opinion, nothing in the NGT Act which excludes parties who would be directly affected by a project, that has environmental repercussions, from accessing the tribunal (NGT). Likewise, characterising the nature of legal advice that can be accessed for challenging land acquisition, as similar to a challenge to environmental clearance which involves application of mind to technical issues in a detailed manner, would be unfair and simplistic. Scientific or technical support — apart from expert professional legal advice is necessary, if NGT were to be approached. In these circumstances, this Court is of the opinion that given the mandate of the NGT Act, the exercise of discretion, as was done in this case, to reject the appeal by dismissing the application for condonation of delay, on the ground that no sufficient cause was shown, was erroneous and based on a narrow reading of the law. An appeal to NGT in such matters is no ordinary matter; it has the potential of irrevocably changing the environment with the possibility of likely injury. Application of judicial mind by an independent tribunal in such cases, at the first appellate stage, is almost a necessity.*

20. In view of the aforesaid facts and law and also keeping in view that in Para 1 of the Appeal Memo, the background of the Appellant has been mentioned, the objection that he is not an “aggrieved person” within the meaning of Sec 18 of the NGT Act is misconceived. Even otherwise, as held by the Hon’ble Supreme Court, the role of this Hon’ble Tribunal is not mere “adjudicatory” but, is “inquisitorial”, therefore, dismissing an appeal, without going into merits of the appeal, would be

against the very object for which the NGT Act was promulgated.

21. As far as reference made to the Judgment in State of Uttar Pradesh & Ors. v. Uday Education and Welfare Trust & Ors., 2022 SCC Online SC 1469, the attention of this Hon'ble Tribunal is drawn to Para 99 of the said Judgment, which is reproduced as below:

*99. We find that before a litigant is permitted to knock the doors of justice and seek orders which have far reaching effects of affecting the employment of thousands of persons, stopping investment in the State, prejudicing the interests of the farmers; the credentials and bonafides of the applicants must be tested. In the present case, there is scope to infer that the litigation could be at the behest of the existing WBIs who wanted to avoid competition and continue to get raw material at a cheaper rate. There is also scope to infer that it could be at the behest of the WBIs in the adjoining Yamuna Nagar district of Haryana where lakhs of tons of timber is exported from the State of Uttar Pradesh. There is scope to infer that it could be in the interest of middlemen who are engaged in exporting timber from Uttar Pradesh to Haryana. We would, therefore, only request the learned NGT that, when **credentials and bonafides of such litigants are seriously raised** and when entertaining the grievance of such litigants, which is likely to adversely affect the rights of many, it should ensure the bonafides and credentials of such litigants.*

22. In the said matter, the Hon'ble Supreme Court based on the material placed on record by the license holders made observations as to credentials of the Original Applicant and it is therefore, requested this Hon'ble Tribunal to **ensure the bonafides and credentials of such litigants, when credentials and bonafides of such litigants are seriously raised**. In the present case, the Respondent No. 2 has not brought on record any material while vaguely raising the issue of his bonafide and credentials.

As, such, as stated above, the issue of bonafide and credential can not be the sole criteria to dislodge examination of environmental issues by this Hon'ble Tribunal. More so, considering the fact that, even as per the Hon'ble Supreme Court, the Respondent No. 2 is a habitual violator of environmental laws.

23. As far as reliance on the Judgment & Order dated 18.07.2023 passed by this Hon'ble Tribunal in Satyabrata Sanjeev Kumar Mohanta (OA No. 53 of 2023) is concerned, the same has been relied upon by making incorrect statement by the Respondent No. 2, that the same was passed relying upon the Judgment of the Hon'ble Supreme Court in Uday Education & Welfare Trust (Supra) and with the object to mislead this Hon'ble Tribunal, the Respondent No. 2 has conveniently avoided to place the copy of the said Judgment on record, therefore, the Appellant seeks to place a copy of the said Judgment on record. The perusal of the said Judgment, would show that no where in the entire Judgment, there is any reference made to Uday Education & Welfare Trust (Supra). The said original application was primarily dismissed, on the grounds of non-maintainability, as recorded by this Hon'ble Tribunal in Para 14-16 of the said Judgment, which is being reproduced herein, for the convenience of this Hon'ble Tribunal:

14. We find that although the Applicant has not challenged any order as such or decision made by the State Government under Section 2 of the Forest (Conservation) Act, 1980, but the sum and substance of the reliefs claimed is a challenge to Stage-I Clearance granted by the Ministry of Environment, Forests and Climate Change, Regional Office, Bhubaneswar, on 25.06.2020 as would be clear from para 7 of the Original Application and also Stage-II Clearance approved by the Ministry of Environment, Forests and Climate Change on 31.03.2021 as stated in para 17 of the Original

Application. Paras 7 and 17 of the Original Application read as under:-

“7. That, as per condition no. viii of the Stage - 1 approval letter of MOEF & CC, Eastern Regional Office, Bhubaneswar vide F.No.5 ORC418/2020-BHU, Dated 25.06.2020, the base of electric transmission towers in the forest area must be fenced with barbed wire in addition to installation of spike on the legs of the towers in order to avoid elephant and other wildlife electrocution. But, no electric tower of the said project of Rungta Mines Ltd. has been installed with spikes and barbed wire in the said forest area and such gross irregularity and violation of the aforesaid condition no. viii of the Stage - 1 approval letter can be verified and inspected by appropriate authority.”

“17. That, on 31.03.2021, the user agency fraudulently managed to get the stage-2 approval of MOEF & CC even though the industry is non-compliant of stage-1 approval of forest clearance.”

15. Learned Counsel for the Applicant submitted that the Applicant was not challenging any order of the State Government under Section 2 of the Forest (Conservation) Act, 1980, and, therefore, the present Original Application is maintainable.

16. However, from the allegations made in the present Original Application, particularly in para 7 and para 17 thereof, we find that under the garb of the reliefs claimed in the Original Application without challenging the order dated 25.06.2020 granting Stage-I Clearance and the order dated 31.03.2021 granting Stage-II Clearance for the Project in question, the Applicant is, in fact, assailing the grant of Stage-I and Stage-II Clearances granted by the Ministry of Environment, Forests and Climate Change and, therefore, in our view, the present Original Application is not maintainable.

It is thereafter, that the State of Odisha, by placing on record the Orders of the Hon’ble High Court and other material on record, demonstrated before this Hon’ble Tribunal that the OA is a proxy litigation filed, after having failed in getting any relief from the Hon’ble High Court. Taking note of the entire material on record, the Hon’ble Tribunal, was pleased observe as below:

22. *Learned Advocate General further submitted that the address given by the Counsel for the present Applicant Ms. Soumya Mishra, has upon verification been found to be the same as that of Mr. Sambit Samal, the Counsel who had filed the PIL being W.P. (C) No. 33158 of 2021 before the Hon'ble High Court of Orissa, as being 552/t/13, Friends Colony, B.K. Road, P.O.-Buxi Bazar, P.S.- Mangalabag, District-Cuttack, Odisha, Pin – 753001, as stated in the affidavit of the Divisional Forest Officer, Keonjhar, dated 15.07.2023.*

23. *This fact has not been disputed by Mr. Md. Akram, Counsel holding brief of Ms. Soumya Mishra. Even the photocopy of the registered post on record, filed with the affidavit of service, mentions the address of Ms. Soumya Mishra as 'Friends Colony.'*

24. *In this view of the matter, the submission of Ashok Kumar Parija, learned Advocate General as well as Mr. Sanjay Upadhyay, learned Counsel appearing for Respondent No.8, is that the present Original Application has been originated in the same chamber as that of Mr. Sambit Sambal, though under the name of different parties and in the name of a different Counsel which amounts to a fraud upon the Court and also amounts to abuse of process of Court.*

25. *Ms. Soumya Mishra, learned Counsel who has filed the present Original Application is not present today. Mr. Md. Akram's Vakalatnama is on record and he is present today and has been heard. As we have already noted hereinabove Mr. Akram could not dispute either the legal position as to the non-maintainability of the present Original Application or the fact of dismissal of the PIL WP (C) No.33158 of 2021 and allied cases by the Hon'ble High Court of Orissa as well as dismissal of SLP (C) No. 8637 of 2022 by the Hon'ble Supreme Court.*

26. *We are, therefore, satisfied that not only is the Original Application not maintainable but the same is an abuse of process of Court in view of the order passed by the Hon'ble High Court of Orissa at Cuttack and the Hon'ble Supreme Court.*

Therefore, the reliance being placed on Satyabrata Sanjeev Kumar Mohanta (Supra), is not only by making incorrect statement on oath, but, also on an incorrect appreciation of fact and law, on which the said application was rejected. True Copy of the Judgment & Order dated 18.07.2023 passed by

this Hon'ble Tribunal in Satyabrata Sanjeev Kumar Mohanta Vs. MoEFCC & Ors (OA No. 53 of 2023) is being annexed herewith and marked as **ANNEXURE RA-4**

24. That as far as reliance being placed on Anand Kumar Jha Vs. UOI & Ors. (Appeal No. 5 of 2021/EZ) is concerned, the same was dismissed on the fact of that case and can not be said to be reliable in the facts of the present case, particularly, in view the fact that the Appellant is not only resident of the same area, but, also had been raising the environmental concerns in the area. True Copy of the Judgment & Order in Anand Kumar Jha Vs. UOI & Ors. (Appeal No. 5 of 2021/EZ) is being annexed herewith and marked as **ANNEXURE RA-5**

25. As such, the appeals U/s. 16 of the NGT Act, as held by the Hon'ble Supreme Court in ***Sridevi Datla (Supra)*** can not be dismissed *in-limini* and particularly, on the vague plea of the Respondents raising objection as to credential of the Appellant, that without placing on record any material. The same in the humble submission of the Appellant, would run contrary to the very object and purpose of the NGT Act.

RE: SUPPRESSION:

26. The Respondent No. 2 has alleged suppression of fact, on the allegation that the particulars of litigations have not been disclosed. The fact is that the Respondent No. 2 itself admits that the same is duly recorded in Minutes of Public Hearing dated 30.09.2020 (annexed at Annexure A3 of. 57 of the Appeal), which placed on record by the Appellant, therefore, the objection is completely misconceived, and is mere attempt to cause prejudice against the Appellant.

27. In view of the fact that the Respondent No. 2 has tried to mislead this Hon'ble Tribunal by stating that the "Appellant along with his associates had challenged the project of the

answering Respondent in the Hon'ble High Court of Orissa, specially on the issue of public hearing", it may be necessary to clarify, that there was no challenge to project in the WP (C) No. 24669 of 2020 filed by Anchalik Parivesh Surakhya Sangh, Jharsuguda which has limited prayer and the grievance raised in the said petition as recorded by the Hon'ble High Court is that:

3. The grievance of the petitioner in brief is that the opposite party No.8-M/s. Vedanta Limited has already established its 16 LTPA Smelter Plant at village Bhurkamunda of Jharsuguda district and due to functioning of said smelter plant as well as other industries, the atmosphere of Jharsuguda district is facing huge pollution. When the matter stood thus, the opposite party No.8-company has again applied to the State Pollution Control Board, Odisha seeking permission for expansion of the said Smelter Plant from 16LTPA to 18 LTPA by adding 2LTPA and to obtain environmental clearance. the opposite party-5, Member Secretary, State Pollution Control Board, Odisha has issued the impugned public Notice dated 27.08.2020 to conduct environmental public hearing and inviting suggestions, views, comments and objections on matters relating to environmental aspects of the proposed project from all the persons including bonafide residents, environmental groups and others people located at the proposed site/sites of displacement/sites like to be affected. In the said notice the date, time and venue of public hearing has been fixed at 11.00 A.M. on 30.09.2020 at Upper Primary School, Kurebaga, Dalki in the district of Jharsuguda. The grievance of the petitioner is that due to the prevailing

COVID-19 pandemic situation, most of the people of the localities may not file their objections, suggestions and may not participate in the said public hearing, as a result the moto of such public hearing will be frustrated. Therefore, the petitioner filed a representation dated 18.09.2020 under Annexure-2 to the opposite parties-authorities to defer the said public hearing, but no action has been taken thereon.

(Pg. 579 to 584)

Therefore, to say that the project itself was challenged in incorrect statement.

28. That as regards, the filing of the WP (C) No. 24789 of 2020 & WP (C) No. 24790 of 2020 is concerned, the Respondent No. 2 in Para 6, 7 & 9 while mentioning about the said Petitions and the Orders passed therein, has conveniently avoided to state that the same was filed respectively by one Subrat Bhoi and one P. Ram Mohan Rao and not by the Petitioner, his associates or any organization, that he may be associated with, as it is done in Para 4 & 5 while mentioning about the WP (C) No. 24669 of 2020, which was filed by Anchalik Parivesh Surakhya Sangh, Jharsuguda, of which the appellant is President.

The fact, that the WP (C) No. 24789 of 2020 & WP (C) No. 24790 of 2020 were filed respectively by one Subrat Bhoi and one P. Ram Mohan Rao, there is no reason for the appellant to be aware of or to disclose about the said fact or the fact about the further Writ Appeal, SLP etc. emanating therefrom.

As such, as stated by the Respondent No. 2, the Public Hearing Proceeding Dated 30.09.2020 (annexed at Annexure A3 of. 57 of the Appeal), clearly records the history of litigation before the Hon'ble High Court of Orissa.

Therefore, apparently, the Respondent No. 2 is not only attempting to mislead this Hon'ble Tribunal, but, is also shying from adjudication of the appeal on merits.

29. That the Respondent No. 2, has stated that in view of the orders passed in the aforesaid Writ Petitions, the issue of Public Hearing, is barred by Res-Judicata. The same is completely misconceived and incorrect submission, for the reason that the said submission has been made:

- a) Without placing on record the Pleadings in the said Writ Petitions;
- b) by making out as if Public Hearing was challenged;
- c) Without submitting that the limited issue in the said Writ Petitions were, as to whether the Public Hearing under the provisions of the EIA Notification, 2006 can be conducted, while there are restriction on holding public gathering due to Covid 19 Pandemic.

(Pl. Ref. The Orders passed by the Hon'ble High Court of Orissa and placed as Annexure R/1 to R/4 by the Respondent No. 2 at Pg. Nos. 579 to 609).

30. Therefore, it is submitted that the false and misleading statements are made by the Respondent No. 2 with the view to create prejudice against the appellant and to avoid adjudication of appeal on merit, which is not only mandatory, but, also the duty as held by the Hon'ble Supreme Court in **Sridevi Datla (Supra) and Ankita Sinha (Supra)**.

RE: PARAS 11, 12 & 13

31. In respect of Para 11 & 12 it is submitted that merely for the reason that the EC dated 07.03.2007, 14.03.2007 and 11.06.2008 were not challenged, does not mean that the Impugned EC for Expansion can not be challenged. It is settled that even an amendment/corrigendum in the previous granted EC is fresh cause of action and can be challenged.

(Pl. Ref. IL&FS Tamilnadu Power Company Ltd. Vs T Murugandam & Ors. 2023 (6) SCC 585, T Murugandam & Ors. Vs. MoEF & Ors. 2014 SCCOnline NGT 7161 & T Murugandam & Ors. Vs. MoEF & Ors. 2012 SCCOnline NGT 18)

32. As far as submission in Para 13 is concerned, the same is in the nature of submission which being incorrect is denied and in this regards, the submissions have already been made in the appeal and the Appellant seeks to refer and rely upon the same, during the course of submissions on merits, as to how the EAC has failed in its duty to act as expert body, as held by the Hon'ble Supreme Court in *Hanuman Laxman Aroskar v. Union of India*, (2019) 15 SCC 401

RE: CONDUCT OF PUBLIC HEARING IN ACCORDANCE WITH LAW:

33. In this regard, it is necessary to bring it to the notice of this Hon'ble Tribunal, that:
- a) In Respect of the EIA Report on which the Public Hearing is stated to have been held on 30.09.2020, the EAC observed as below:

“M/s. Vedanta Limited, Jharsuguda had earlier made an online application vide proposal No. IA/OR/IND/185460/2007 dated 29/12/2020. The proposal was considered by the EAC in its meeting held on 18-20th January, 2021 wherein EAC recommended to return the proposal in its present form as consultant has drafted poor EIA/EMP report and intentionally tried to mislead the EAC.”

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True Copy of the relevant extracts of EIA Dated November 2020 and the Revised EIA Submitted on 28.10.2021 is being annexed herewith and marked as **ANNEXURE RA-6 Colly**

- a) The Public Hearing, as per the Public Notice dated 27.08.2020 was originally scheduled to be held at 11 am on 30.09.2022, but, was held at 4:30 pm on 30.09.2020,

upon receipt of Order dated 30.09.2020 passed by the Hon'ble High Court of Orissa in WP (C) No. 24789 of 2020 at 4:20 pm, for which no fresh notice was issued.

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- c) That the perusal of the Order dated 28.09.2020 passed in WP (C) No. 24669 of 2020 & Order dated 30.09.2020 passed by the Hon'ble High Court of Orissa in WP (C) No. 24789 of 2020 alongwith the Office Memorandum Dt. 14.09.2020 issued by the MoEFCC, would show that:
- i) That the Hon'ble High Court permitted the public hearing to be continued pursuant to advertisement dated 27.08.2020 issued by the State Pollution Control Board, Odisha with strict adherence to the guidelines contained in Covid-19 on Social Distancing and also COVID-19 SOP issued by the Government.
 - ii) That due to pandemic restriction, the MoEFCC had come out with an OM Dt. 14.09.2020, as according to which in view of the Order No. 40-3/2020-DM-I(A) dated 29th August 2020 issued by the Ministry of Home Affairs, Government of India, the Public Hearing can be conducted with the ceiling of 100 persons;
True Copy of the Office Memorandum Dated 14.09.2020 is annexed herewith and marked as **ANNEXURE RA-7**
True Copy of the Order dated Order dated 30.09.2020 passed by the Hon'ble High Court of Orissa in WP (C) No. 24789 of 2020 is annexed herewith and marked as **ANNEXURE RA-8**
- d) Though the relaxation for holding public hearing came only by way of OM dated 14.09.2020, the Public Notice for holding Public Hearing on 30.09.2020, was already issued

on 27.08.2020 i.e. even prior to the Order dated 29.08.2020 issued by MHA;

- e) As according to Public Hearing Proceedings, submitted by the OPCB, around 221 persons had attended the public hearing meeting where as 62 persons had delivered their views whose list is annexed as **Annexure-V**. The statement of the public participated in the deliberation is annexed as **Annexure-VI**. About 153 numbers of written representations were received which are annexed as **Annexure-VII**.

Therefore, it is submitted that the Public Hearing was conducted, in violation of:

- a) Clause III R/w. Appendix IV of the EIA Notification, 2006, as apart from other violations,
- i) The Notice of 30 days in terms of Para 3 of the Appendix IV was not provided for holding the Public Hearing at 4:30 pm on 30.09.2020, as per the Notice issued the Public Hearing was to be held at 11 am on 30.09.2020;
 - ii) The EIA Report on which the Public Hearing is stated to have been held on 30.09.2020, as according to the EAC was “poor EIA/EMP report” by which the Consultant is stated to have “intentionally tried to mislead the EAC.”
- b) Order dated 30.09.2020 passed by the Hon’ble High Court of Orissa in WP (C) No. 24789 of 2020, as according to which the Public Hearing was permitted to continue as per Public Notice dated 27.08.2020, as according to which the Public Hearing was to be held at 11 am on 30.09.2020 and not at 4:30 pm on 30.09.2020;

- c) Order No. 40-3/2020-DM-I(A) dated 29th August 2020 issued by the Ministry of Home Affairs, Government of India R/w. OM dated 14.09.2020 issued by MoEFCC, as the number of participants is stated to be 221, while there was there was ceiling of 100 persons;

In view of the aforesaid facts and circumstances to say that the Public Hearing was held in accordance with law is apparently an incorrect statement.

RE: WHETHER THE VALIDITY OF PUBLIC HEARING HAS BEEN EXAMINED BY THE HON'BLE HIGH COURT AND THUS, IF THE SAID ISSUE IS BARRED BY RES-JUDICATA.

34. It is settled, that to determine whether a suit is barred by res judicata, it is necessary that:

- (i) The pleadings, issues and decision in the 'previous suit' are placed for the consideration of the Court.
- (ii) the 'previous suit' is decided,
- (iii) the issues in the subsequent suit were directly and substantially in issue in the former suit;
- (iv) the former suit was between the same parties or parties through whom they claim, litigating under the same title; and
- (v) that these issues were adjudicated and finally decided by a court competent to try the subsequent suit;

(Ref: V. Rajeshwari v. T.C. Saravanabava, (2004) 1 SCC 551 & Srihari Hanumandas Totala v. Hemant Vithal Kamat, (2021) 9 SCC 99)

35. Since, the issue of Res-Judicata can not be decided, without appreciation of the pleadings, issues and decision in the 'previous suit', the contention that the issue of validity of the public hearing is barred by res-judicata, without placing on record the pleadings, issues and decision of the previous proceedings, is liable to be rejected.

36. The said objection is being raised by placing following order:

- i) Order dated 28.09.2020 in WP (C) No. 24669 of 2020 filed by Anchalik Parivesh Surakhya Sangh, Jharsuguda (Pg. 579 to 584);
- ii) Order dated 09.10.2020 in WP (C) No. 24789 of 2020 filed by Subrat Bhoi & Anr (Pg. 585 to 606);
- iii) Order dated 10.01.2022 in WA No. 711 of 2021 filed by filed by Subrat Bhoi & Anr (Pg. 607 to 608);
- iii) Order dated 10.01.2022 in WP (C) PIL No. 24790 of 2020 filed by filed by P. Ram Mohan Rao (Pg. 609 to 610);

37. Though, the pleadings of the aforesaid proceedings have not been placed on record, from the perusal of the aforesaid Order dated 28.09.2020 passed in WP (C) No. 24669 of 2020 & Order dated 30.09.2020 passed by the Hon'ble High Court of Orissa in WP (C) No. 24789 of 2020 alongwith the Office Memorandum Dt. 14.09.2020 issued by the MoEFCC would show that, the only issue decided was, as to whether the Public Hearing could be conducted during the prevailing Covid 19 restriction. The Hon'ble High Court, considering the Public Notice and the Orders issued by MHA and the OM Issued by MoEFCC, was pleased to hold that there is no bar for holding the hearing, if it is held by following the strict regulation as per the relevant government orders.

No other, issues were decided. Therefore, all others issues which were not matter of adjudication in the aforesaid Writ Petitions are not barred by res-judicata. As such, as stated above, Public Hearing conducted did not adhere to strict regulation as per the relevant government orders, and thus, was conducted in violation of the law and the aforesaid orders being relied upon by the Respondent No. 2.

RE: REQUIREMENT IN LAW TO SUBMIT REVISED EIA REPORT AGAIN FOR PUBLIC HEARING.

38. In this regard, it is to be noted that in respect of the EIA Report on which the Public Hearing is stated to have been held on 30.09.2020, the EAC in its Meeting held on 18-20th January, 2021 observed as below:

“M/s. Vedanta Limited, Jharsuguda had earlier made an online application vide proposal No. IA/OR/IND/185460/2007 dated 29/12/2020. The proposal was considered by the EAC in its meeting held on 18-20th January, 2021 wherein EAC recommended to return the proposal in its present form as consultant has drafted poor EIA/EMP report and intentionally tried to mislead the EAC.”

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39. In this regard, the attention of this Hon'ble Tribunal is drawn to certain relevant provisions of EIA Notification, 2006, which are reproduced as below:

- i) Para 7, Clause IV (i) of the EIA Notification, 2006 provides that *“This appraisal shall be made by Expert Appraisal Committee or State Level Expert Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited for furnishing necessary clarifications in person or through an authorized representative.”*
- ii) Para 7, Clause IV (iii) of the EIA Notification, 2006 provides that *“The prescribed procedure for appraisal is given in Appendix V;”*
- iii) Para 8 (iv) provides that *“Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already*

granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.”

- iv) Para 2 Appendix V of the EIA Notification, 2006, provides that the *“The Final EIA Report and the other relevant documents submitted by the applicant shall be scrutinized in office within 30 days from the date of its receipt by the concerned Regulatory Authority strictly with reference to the TOR and the inadequacies noted shall be communicated electronically or otherwise in a single set to the Members of the EAC/SEAC enclosing a copy each of the Final EIA Report including the public hearing proceedings and other public responses received along with a copy of Form -1 or Form I A and scheduled date of the EAC /SEAC meeting for considering the proposal.”*

40. It is submitted that, as per the aforesaid provisions, the law as regards appraisal of the EIA Report is that:

- a) Upon submission of the EIA Report shall be “scrutinized in office within 30 days from the date of its receipt by the concerned Regulatory Authority strictly with reference to the TOR and the inadequacies noted shall be communicated electronically or otherwise in a single set to the Members of the EAC/SEAC”;
- b) If there is deliberate concealment and/or submission of false or misleading information or data, the application is liable to be rejected;
- c) It is only in the case, where there is no “deliberate concealment and/or submission of false or misleading information or data”, the appraisal committee, is required to invite the applicant for furnishing **necessary clarifications**”

41. In view of the finding recorded by the EAC in its Meeting during 18-21st January, 2021, about the EIA/EMP Report being poor and misleading, the EAC was obligated to reject the application and there is no other course of action is contemplated by the EIA Notification, 2006.
42. Para 7, Clause IV (i) of the EIA Notification, 2006 only provides for “***furnishing necessary clarifications***”, and not to fill up the lacunae in the Report and introduce new facts, studies etc. Such, a procedure is alien to the settled principles of environmental jurisprudence and so to the EIA Notification, 2006.

The perusal of the original EIA Report & the revised EIA Report would show that, not only the Consultants were different, but, the baseline data relied were also for different periods.

Therefore, the contention of the Respondent No. 2 that the revised EIA is not to be submitted for public hearing is misconceived and liable to be rejected.

RE: IF EC FOR EXPANSION HAS BEEN OBTAINED AFTER A DETAILED SCRUTINY BY THE EAC AND IN COMPLIANCE WITH THE EIA NOTIFICATION, 2006.

43. It is submitted, that in view of the facts and law as discussed above in Para 13 to 17, the fact that the EAC found the EIR Report to be of “Poor Quality” and “Misleading”, there was no scope for further appraisal.
44. Without prejudice to the aforesaid contention, it is submitted that the perusal of the various EAC minutes of meetings, would show that, the issues/concerns raised has been simply brushed aside, taking the submission of the project proponent to be true, without further scrutiny. The minutes, does not reflect any application of mind.

True Copy of the Minutes of Meetings of the EAC (Industry-I) held during 18-20th January, 2021 are annexed herewith and marked as **ANNEXURE RA-9**

True Copy of the Minutes of Meetings of the EAC (Industry-I) held on 11 – 12th November, 2021 are annexed herewith and marked as **ANNEXURE RA-10**

True Copy of the Minutes of Meetings of the EAC (Industry-I) held on 16 – 17th December, 2021 are annexed herewith and marked as **ANNEXURE RA-11**

True Copy of the Minutes of Meetings of the EAC for Industry-I sector held on 22nd – 23rd March, 2022 are annexed herewith and marked as **ANNEXURE RA-12**

45. In this regard, the attention of this Hon'ble Tribunal is drawn to the law laid down by the Hon'ble Supreme Court in ***Hanuman Laxman Aroskar v. Union of India, (2019) 15 SCC 401:***

124. The reasons furnished by EAC for its recommendation are a basic link in the ultimate decision of the regulatory authority. They constitute substantive material which will be considered by the Tribunal when it considers a challenge to the grant of an EC.

125. What, then, do the reasons which have been furnished by EAC tell us? EAC relies on the “peculiar circumstances of the case” as the basis of its recommendation. What the peculiar circumstances are, is left for pure guesswork or surmise. EAC refers to the delay in acquisition proceedings, a larger public interest and the fact that the project proponent “has not concealed facts and circumstances”. Each one of the reasons which has weighed with EAC betrays a lack of comprehension of the true nature of its function under the 2006 Notification. EAC has failed to consider relevant circumstances bearing on the environmental impact of the project and has instead considered circumstances extraneous to its function. That the project proponent, according to EAC, has not concealed facts and circumstances is not reason enough to warrant a grant of an EC. Moreover, even this hypothesis (as we have seen earlier) is incorrect. There is

no analysis of the EIA report. EAC has failed to answer to the call to its expertise.

126. Clause (vi) of Para 8 of the 2006 Notification stipulates thus:

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

Deliberate concealment or the submission of false or misleading information or data material for screening, scoping, appraisal or decision on the application makes it liable for rejection. That the project proponent must submit all information and data without concealing relevant features is a basic hypothesis and expectation of the 2006 Notification. EAC has, in the brief reasons which are contained in Para 3.1.2, not applied its mind at all to the environmental concerns raised in relation to the project nor do its reasons indicate an appraisal of those concerns by evaluating the impact of the project.

127. EAC is an expert body. It must speak in the manner of an expert. Its remit is to apply itself to every relevant aspect of the project bearing upon the environment. It is not bound by the analysis which is conducted in the EIA report. It is duty-bound to analyse the EIA report. Where it finds it deficient it can adopt such modalities which, in its expert decision-making capacity, are required. The reasons which are furnished by EAC constitute a live link between its processes and the outcome of its adjudicatory function. In the absence of cogent reasons, the process by its very nature, together with the outcome stands vitiated.

46. In this regard, the attention of this Hon’ble Tribunal is also drawn to the law laid down by the Hon’ble Supreme Court in ***Mohinder Singh Gill v. Chief Election Commr., (1978) 1 SCC 405:***

8. *The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so*

mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji [Commr. of Police, Bombay v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16] :

“Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.”

Orders are not like old wine becoming better as they grow older.

47. Therefore, in view of the facts and law as discussed above, the only option that the EAC had was to reject the application, without further scrutiny. Permitting the Project Proponent to fill up the lacunae, by bringing in new material and processing the same further is in violation of the settled principles of Environmental Jurisprudence and so to the EIA Notification, 2006. The EAC thus miserably failed in its duty, by processing the proposal further and also by not discussing, deliberating and adducing reasoning, while processing the proposal and thus the entire proceedings undertaken by the EAC and the outcome of the same is vitiated. In view of the law laid down in ***Mohinder Singh Gill***, the lacunae in the proceedings can not be filled up subsequently.

RE: NO ENCROACHMENT OF FOREST LAND OR DUMPING OF FLY ASH ON FOREST LAND.

48. That this issue has been discussed in detail in the Judgment & Order dated 06.05.2022 passed by this Hon’ble Tribunal in OA

No. 10 of 2021/EZ titled Sri Ajit Kumar Dhal Vs. State of Odisha and the same is being placed for the kind consideration of this Hon'ble Tribunal as **ANNEXURE RA-13**

49. In view of the aforesaid facts and circumstances and also in view of the submissions made in the appeal memo, the appellant prays that the present appeal may kindly be allowed.

Drawn By:



Abhimanue Shrestha
Advocate for the Appellant
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Date: 12.04.2024

**BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN ZONE
BENCH, AT KOLKATA
APPEAL NO. 24 OF 2022 (EZ)**

IN THE MATTER OF:

Satranarayan Rao

...Appellant

VERSUS

Union of India & Ors.

...Respondents

AFFIDAVIT

I, Satranarayan Rao, S/o. Late Kurma Rao, Age about 51 Years, R/o. Milan Market, OMP Line, Jharsuguda, Odisha, PIN 768204, state on solemn affirmation as under: -

1. That being an Appellant in the aforesaid Appeal, I am well conversant with the facts and record of the case and therefore, I am competent to swear this affidavit.
2. That I have read and understood the contents of the application, and I state that the contents thereof are true and correct as per verification.

Satranarayan Rao
DEPONENT

VERIFICATION

the abovenamed deponent, do hereby verify and declare that the contents of paras No.1 & 2 of my above affidavit are true to my knowledge. No part of it is false and nothing material has been concealed therefrom.

Verified at *Rayagada* on this *12/5* day of April, 2024.

The above named deponent having been identified by Sri... *L. Anil Kumar* Advocate, Rayagada on solemn affirmation admits the contents of the affidavit and puts his/her signature in my presence

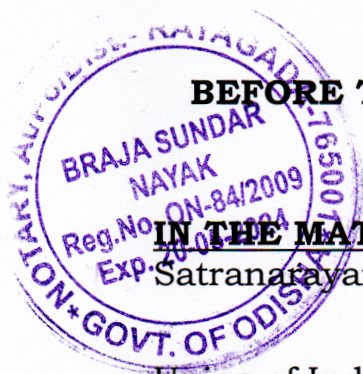
12.4.24 at 10:44 AM/PM

Identified by me,

L. Anil Kumar
Advocate, Rayagada.

Satranarayan Rao
DEPONENT

Braja Sundar Nayak
NOTARY, Rayagada-Odisha



W.P. (C) No. 19605 of 2010

Vedanta Aluminium Limited v. Union of India

2011 SCC OnLine Ori 37

(BEFORE V. GOPALA GOWDA, C.J. AND B.N. MAHAPATRA, J.)

M/s. Vedanta Aluminium Limited, represented by Dr. Mukesh Kumar, President & Chief Operating Officer, aged about 52 years, S/o. Babu Lal Jaiswal, At/P.O. Lanjigarh, Dist: Kalahandi .
.... Petitioner

v.

Union of India and another Opp. Parties

For Petitioner : Mr. Sundaram, Sr. Advocate

M/s. M.K. Mishra, P.K. Das, S. Senapati & T. Mishra

For Opp. Parties : Mr. S.D. Das Asst. Solicitor General

W.P. (C) No. 19605 of 2010

Decided on July 19, 2011

B.N. Mahapatra, J.

This writ petition has been filed praying for the following reliefs:

"(a) issue a writ of certiorari quashing the impugned order/directions issued on 20.10.2010 pursuant to the show cause notice dated 31.08.2010;

(b) issue a writ of mandamus directing the opp. party to reinstate the Terms of Reference issued to the petitioner;

(c) issue a declaration that the public hearing proceedings are good and valid and have full force in respect of the proposed expansion project,

(d) issue a writ in the nature of mandamus permitting the construction in relation to the expansion project to continue,

(e) issue a writ of prohibition restraining the opposite parties as also their related Departments from initiating legal action under the provisions of the Environment (Protection) Act, 1986 for the alleged violation of the EIA Notification, 2006;

(e-i) In the alternative issue a writ of mandamus directing the opposite party No. 1 to consider the case of the petitioner (as highlighted in its application of 22.11.2010 and reminders dated 07.12.2010 and 21.12.2010), in accordance with and in terms of the Office Memorandum dated 16.11.2010 issued by opposite party No. 1.

(f) pass any such further or other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. The petitioner's case in a nutshell is that it is a registered company under the Companies Act, 1956, having its registered office at SIPCOT Industrial Complex, Madurai Bypass Road, T.V. Puram, P.O. Tuticorin-628 002, Tamil Nadu and site office at Via-Viswanathpur, P.O. Lanjigarh,-766027, Dist: Kalahandi, Orissa. On 27.01.1994,

the Ministry of Environment and Forests issued the Environment Impact Assessment (for short, "EIA") Notification, 1994 under Section 3 of the Environment (Protection) Act, 1986 read with Rule 5 of the Environment (Protection) Rules, 1986. On 17.08.2002, Sterlite Industries (I) Ltd. (for short, "Sterlite"), the petitioner's predecessor - in - interest submitted its application for the establishment of the IMTPA Alumina Refinery and 75 MW Captive Power Plant" at Lanjigarh, Kalahandi, Orissa to the Orissa State Prevention and Control of Pollution Board under Section 25 of Water (Prevention and Control) Act, 1974 and under Section 21 of Air (Prevention and Control) Act, 1981. On 19.03.2003, Sterlite also submitted an application to opposite party No. 1-Union of India, represented through its Secretary, Ministry of Environment and Forests seeking environmental clearance for the said project. On 07.06.2003, Sterlite entered into a Memorandum of Understanding (for short, "MOU") with the Government of Orissa for setting up of the IMTPA Alumina Refinery and 3MTPA of Bauxite mining facilities as well as for the installation of a 4 × 25 MW captive power plant, at an aggregate investment of Rs. 4000 crores. On 22.09.2004, opposite party No. 1-Union of India granted its approval for setting up of the said project subject to the conditions stipulated in the said letter. On 14.09.2006, opposite party No. 1 issued the EIA Notification, 2006 which was in super cession of the earlier Notification of 1994.

3. On 03.10.2007 the petitioner submitted its application to opposite party No. 1 for expansion of the project from 1 to 6 MTPA of Alumina and power generation from 75 MW to 300 MW. On 11.02.2008 the opposite party No. 1 vide its letter No. F. No. 11011/1103/2007-IA II (I) sought certain clarifications from the petitioner in respect of the application for expansion. On 16.02.2008, the petitioner filed the details. On 20.02.2008, the petitioner gave a representation to the Members of the Expert Appraisal Committee (Industry) at the 78th meeting at New Delhi in respect of the Terms of Reference (for short, "TOR") for clearance. The proposal pertained to the expansion of the Alumina Refinery from 1 MTPA to 6 MTPA. On 12.03.2008, opposite party No. 1 issued TOR for preparation of the Environment Impact Assessment Report (for short, "EIAR") as also the Environment Management Plan Report by the petitioner. On 28.03.2008, the Board of Directors passed a resolution in-principle for approval of the expansion projects. On 03.11.2008, opposite party No. 2 accorded consent to the petitioner to operate, which was valid up to 31.03.2009. With an objective of taking stock of the situation, opposite party No. 2 carried out an inspection of the Project and its premises between 03-05.12.2008, subsequent to which a report was submitted. The report recorded the preventive and remedial measures undertaken by the petitioner and recommended certain other steps to be taken to mitigate the issue of pollution. The report also noted that construction for the expansion of the existing project had commenced. On 13.11.2008, the petitioner addressed a letter to the Managing Director, Industrial Promotion and Investment Corporation of Orissa Limited (for short, "IPICOL") seeking approval and clearance of the expansion project under the single window policy of the Government of Orissa in respect of foreign investment required for the said expansion. On 17.12.2008, the petitioner addressed another letter to the Managing Director, IPICOL furnishing further details as sought for by IPICOL (vide its letter dated 08.12.2008) and seeking clearance of the expansion project. On 12.01.2009, opposite party no. 2 had issued a notice under Section 33A of the Water (Prevention and Control of Prevention) Act, 1974 (for short, "Act 1974") and Section 31A of the Air (Prevention and Control of Pollution) Act, 1981 (for short, "Act 1981") *inter alia*, directing stoppage of construction work with regard to the expansion project. On 29.01.2009, the petitioner filed its reply in response to notice dated 12.01.2009 issued by opposite party No. 2 with a status report.

4. On 21.03.2009, opposite party No. 1 issued an advertisement in two local newspapers about the public hearing to be held on 25.04.2009 in compliance with the EIA Notification, 2006 for grant of environmental clearance for the expansion of the said project. On 30/31.03.2009, opposite party no. 2 conducted an inspection of the petitioner's project and recorded the petitioner's consent to operate conditions prescribed by opposite party No. 2 and the petitioner's compliance in respect of the same. This pertains to the existing projects. On 12.05.2009, the Member Secretary of opposite party No. 2 forwarded to the Secretary of opposite party No. 1, a copy of the proceeding of the public hearing conducted on 25.04.2009 in respect of the proposed expansion. According to the petitioner, the said proceedings certified that the overall opinion of the public was favourable towards the expansion project.

5. In May, 2009, subsequent to the public hearing and the approval received at such hearing, the petitioner commenced construction activities of the proposed expansion project. On 17.08.2009, the petitioner submitted final EIA report to opposite party No. 1. On 22.06.2009, the same was placed before the EAC at its meeting. At the said meeting the Committee sought additional information and also decided that a subcommittee comprising members from the EAC shall visit the plant site in order to assess the pollution control measures being adopted in the existing Alumina Refinery to be augmented and suggest additional pollution control measures for the proposed expansion project. On 31.08.2009, the minutes of the meeting of the Expert Appraisal Committee held during 17-18.08.2009 were approved by the Chairman of the Committee.

6. On 01.09.2009, opposite party No. 1 sought certain additional information from the petitioner in the report of the proposed expansion project. On 09.10.2009, opposite party No. 1 sent another reminder letter to the petitioner seeking required information. On 13.10.2009, the petitioner responded to the above letters of opposite party No. 1 and furnished all the information sought, *inter alia*, clarifying that the show cause notices issued by opposite party No. 2 had since been complied with and opposite party No. 2 issued the consent to operate which was valid up to 31.03.2011.

7. On 31.12.2009, opposite party No. 2 wrote to opposite party No. 1 upon certain issues raised by an NGO on the proposed expansion. On 29.01.2010, the petitioner wrote to opposite party No. 1 stating its readiness to receive the Sub-Committee of the EAC at the project site. On 16.02.2010, opposite party No. 2 conveyed its consent to establish under Section 25 of the Act, 1974 and Section 21 of the Act, 1981 and Rules framed thereunder.

8. On 16-17.05.2010, the Eastern Regional Officer of the opposite party No. 1 inspected the plant site and reported that the petitioner had carried out substantial construction relating to the expansion for which environmental clearance was yet to be accorded by the Ministry. Out of the 14 mines from which Bauxite was to be sourced, only one mine, namely KJST Iron Manganese and Bauxite Mines of M/s. S.N. Mohanty had obtained the environmental clearance, vide the Ministry's letter dated 28.01.2008.

9. On 09.07.2010, the Sub-Committee of the EAC visited the petitioner's site of the proposed expansion project. On 16.08.2010, the Saxena Committee submitted its report and highlighted the factum of construction undertaken by the petitioner without obtaining the environment clearance as per the EIA Notification, 2006. On 19.08.2010, opposite party No. 2 issued a circular bearing No. J-11013/41/2006-I.A.II(1) as a clarification with respect to the activities that could be undertaken without prior environmental clearance.

10. On 31.08.2010, opposite party No. 1 issued a show cause notice to the petitioner placing reliance on paragraphs 1 and 2 of the EIA Notification, 2006 as to why the Term of Reference issued for the expansion should not be withdrawn. On 15.09.2010, the petitioner replied to the above show cause notice. On 21.09.2010, opposite party No. 1 informed the petitioner about the personal hearing fixed for 30.09.2010 and also sought further information from the petitioner. On 30.09.2010, the petitioner submitted additional information on the list of queries mentioned by opp. party No. 1 in its earlier letter dated 21.09.2010. On 03.09.2010, a meeting was held between the petitioner and opposite party No. 1, the details of which were recorded in the form of minutes. On 04.10.2010, pursuant to the meeting held on 30.09.2010, the petitioner submitted further information with respect to the queries raised at the meeting. On 20.10.2010, opposite party No. 1 issued directions to the petitioner whereby the TOR were withdrawn and the petitioner was directed to maintain status quo and to undertake no further construction. On 28.10.2010, the petitioner replied to the above directions issued by opposite party No. 1 but there has been no response to the same from the Government. Hence, the present writ petition.

11. Mr. Sundaram, learned Senior Advocate appearing for the petitioner submits that the show cause notice and impugned direction have been passed by opposite party No. 1 without any application of mind and without consideration of submissions made by the petitioner and on reliance of irrelevant materials. As the expansion project involves no change in the process or technology or the product mix, but is merely in respect of enhancement of capacity, the provisions of paragraph 1 and 7(ii) of the EIA Notification, 2006 have no application. The existing process of low temperature and low pressure digestion and Bayer's process technology would continue to be utilized in the proposed expanded project and there would be no change in respect of either the process or the technology or product mix. As the petitioner's industry falls under Item 3(a) of the Schedule of the EIA Notification, 2006, which deals with "Metallurgical Industries (ferrous and nonferrous), for which no threshold limits have been prescribed and therefore, paragraph-2 of the EIA Notification, 2006 has no application. The environmental clearance was essential at the stage of setting up and establishing the existing refinery, in respect of which, clearance have been obtained from the authorities concerned. It is only in response to an Office Memorandum issued by opposite party No. 1 on 16.11.2010, stipulating a procedure for grant of Environmental clearance for the alleged violations of the EIA Notification, 2006, the petitioner without prejudice to its rights and contentions and its belief that it is not in fact in violation of any of the environmental norms, applied under the said Office Memorandum to the opposite party on 22.11.2010. Non-consideration of the said application by the opposite parties caused irreparable and irremediable hardship and loss to the petitioner.

12. Opposite party No. 1 in its direction dated October, 20, 2010 did not allege any irregularity either in the EIA report submitted by the petitioner or in the public hearing conducted by the petitioner and as such the withdrawal of the TOR and the cancellation of the public hearing by opposite party No. 1 was illegal and arbitrary. The petitioner in the instant case has merely commenced construction activities and it is submitted that "expansion" as contemplated in the EIA Notification, 2006, would and could only be when the petitioner commences operations from the proposed expanded unit, i.e., when the factory is operationalized. The impugned directions violates the petitioner's fundamental rights under Article 19(1)(g) of the Constitution.

13. In carrying out the activities for preparation of the expansion of the project there has been no violation of any of the pollution norms. The petitioner has obtained all the necessary clearances and permissions essential for the proposed expansion. The site

preparation work has started in May, 2009, after the public hearing proceedings were concluded in respect of the proposed expansion. The estimated capital expenditure for the project is around Rs. 10,000/- crores, of which a sum of Rs. 5,000/- crores has already been committed till date and the ordering of the plant and machinery is nearing completion. The proposed expansion currently generates employment for around 10,000 families directly and around 15,000 families indirectly in an area like Lanjigarh. The Hon'ble Supreme Court in IA Nos. 1324 & 1474 in W.P.(C) No. 202 of 1995 and IA Nos. 2081-2082 in W.P.(C) No. 549 of 2007 on the Bauxite Mining Project for the Alumina refinery, Lanjigarh, has specifically noted that "we have a picture of abject poverty in which the local people are living in Lanjigarh Tehsil including the tribal people. There is no proper housing, hospitals, schools and people are living in extremely poor conditions which is not in dispute. Opposite party No. 1 has committed grave injustice to the petitioner in withdrawing the TOR at the proposed site. The basic objective of the Environment Protection Act, 1986 is to ensure that adequate safeguard had been placed to prevent environment pollution and degradation of the environment through a process of sustainable development.

14. The petitioner's existing Alumina Refinery has adopted state of the Art Technologies in all its areas of operation and became the first Alumina Refinery in the country and among the few in the world to successfully implement the Zero Discharge System. The petitioner has always complied with the conditions, guidelines or instructions issued from time to time by the regulatory bodies like opposite parties herein as also other Central and State Authorities. No compromise is made in design procurement and operation in achieving the basic objective of the Environment Protection Act, 1986. The construction activities were not in violation of the EIA Notification, 2006 or there has been no violation of any of the pollution parameters. The petitioner has all along submitted six monthly reports of the surrounding environmental conditions to opposite party No. 2 in respect of the existing project. These reports would go to substantiate the stand of the petitioner that there has been no violation of any of the pollution parameters at the existing refinery or as a result of the construction activities undertaken with respect to the proposed expansion. By issuing the impugned show cause notice and subsequent directions, opposite parties committed a grave error and injustice in depriving the petitioner of its legitimate expectation of setting up the proposed expansion plan in respect of which all the necessary approvals and sanctions have been accorded. Opposite parties are barred by the doctrine of promissory estoppel in respect of the impugned actions, inasmuch as based on the approvals granted by the authorities concerned as also the mute silence in respect of the construction activities despite being aware of the same.

15. Basing on the TOR issued to the petitioner, the petitioner has undertaken large scale actions in order to ensure compliance with the same. The objections and submissions made by the petitioner in respect of the allegations made in the show cause notice were not taken into consideration by opposite party No. 1 while passing the impugned directions dated 20.10.2010. The show cause notice issued on 31.08.2010 was defective since it was ambiguous and not clear with regard to the area of violation by the petitioner as per paragraphs 1 and 2 of the EIA Notification, 2006. The petitioner being an environmentally conscious company, uses caustic soda manufactured by Membrane Technology. The petitioner is actively working on the "Zero Waste Concept" and has already commenced manufacturing red mud, bricks by developing a process in collaboration with the Institute of Minerals and Metals Technology, Bhubaneswar. The petitioner uses state of the art technology like pipe conveyors for materials movement, dry fog system for dust suppression, bag filters for dust collection, wet scrubbing system for lime handling and has also maintained and is

further developing the green belt within the plant as also around the periphery. The petitioner provides a rehabilitation colony with hospital and schools for the rehabilitated villagers as well as the local population from other villages. At the hospitals, medical treatment is provided free of cost. Kalahandi is the most backward region in Orissa and in Kalahandi itself, Lanjigarh is the latest developed. The lone project set up by the petitioner at the site has had a major impact in eradicating poverty and is providing opportunities to the poor and most deprived tribal population of the area to merge into mainstream.

16. Mr. S.D. Das, learned Asst. Solicitor General appearing on behalf of opposite party No. 1 submits that on 3rd August, 2007, the petitioner submitted an application under the provisions of EIA Notification, 2006 to the Ministry of Environment and Forests (opposite party No. 1) for expansion of alumina refinery capacity and captive power plant from 1 to 6 MTPA and from 75 to 300 MW respectively at Lanjigarh in the district of Kalahandi in Orissa. After following the due procedure, the TOR for preparation of EIA/Environment Management Plan (EMP) report including conducting public hearing was prescribed by the Ministry on 12th March, 2008. The petitioner submitted the final report vide letter dated 22nd June 2009 after completing the public hearing which was held on 25th April, 2009 for seeking environmental clearance. The proposal was placed before the Expert Appraisal Committee in its meeting held on 17th August, 2009 and the Committee sought additional information and also decided that a sub-committee comprising members from the Expert Appraisal Committee shall visit the plant site to assess the pollution control measures being adopted in the refinery to be augmented and suggest additional pollution control measures to be adopted for the proposed expansion and hence, the proposal was deferred.

17. The Ministry of Environment and Forest was informed by its Eastern Regional Office at Bhubaneswar about the construction which was undertaken by the petitioner before obtaining the environmental clearance in violation of provisions of EIA Notification, 2006. The report of the Sub-Committee of the Expert Appraisal Committee (Industry) who visited the site on 9th July, 2010 brought out that the petitioner has undertaken substantial construction of 6 MTPA Alumina Refinery and 300 MW Captive Power Plant. Dr. N.C. Saxena Committee brought out in its report dated 16.08.2010 that the petitioner had already proceeded with the construction activity for its expansion from 1 MTPA to 6 MTPA without obtaining environmental clearance. From their own submission, the petitioner had confirmed that they have already completed 50-55% construction activity. According to the petitioner, they had started construction activity in May, 2009 immediately after the public hearing which was over in April, 2009. However, record of opposite party No. 1 indicates that the construction for expansion project was noticed in November, 2008. Opposite party No. 1 issued show cause notice dated 31st August, 2010 for expansion of Alumina Refinery and Captive Power plant.

18. Opposite party No. 2 had also issued show cause notice on 12th January, 2009 under Section 33A of the Act, 1974 and Section 31 A of the Act, 1981 to the petitioner for undertaking expansion activity without obtaining consent to establish the plant from Pollution Control Board and Environment Clearance.

19. The petitioner filed its reply vide letter dated 15th September, 2010 to the show cause issued by the Ministry vide letter dated 31st August, 2010. In its show cause reply, the petitioner requested for a personal hearing before taking final decision on the project. The personal hearing took place on 30th September, 2010 in the Ministry. As decided during the course of personal hearing, certain additional documents were submitted by the petitioner vide letter dated 4th October, 2010.

20. Basing on the response/submissions of the petitioner, directions were issued in accordance with Section 5 of the Environment (Protection) Act, 1986. The directions were issued on 20.10.2010 and TOR issued on 12th March, 2009 for expansion of Alumina Refinery from 1 MTPA to 6 MTPA and 75 MW to 300 MW CPP was withdrawn and consequently the public hearing conducted on 25th April, 2009 was also cancelled. The opposite parties were directed to maintain the status quo at the site and no further construction shall be undertaken in respect of expansion of project. The Secretary, Forest and Environment Department, Government of Orissa was directed to take legal action under the provisions of Environment (Protection) Act, 1986 for violation of the EIA Notification, 2006.

21. The petitioner vide letter No. VAL/MK/MOEF/10/010 dated 28.10.2010 requested opposite party No. 1 for withdrawal of direction issued under the Environment (Protection) Act, 1986 on 20th September, 2010 and consideration of proposal for environmental clearance for expansion project. The petitioner's matter was examined with reference to the Circular No. J-11013/41/2006-IA.II (I) dated 16th November, 2010 issued by opposite party No. 1. Paragraph-4(i) of the Circular dated 16th November, 2010 issued by the Ministry envisages that all such cases of violation which are submitted to the Ministry/State Environmental Impact Assessment Authorities for environmental clearance would be referred to the Expert Appraisal Committee/State Expert Appraisal Committee for their consideration based on the merit of the proposal. It is further envisaged that after the said Committee makes its recommendations on the project, the proposal will be processed on file for obtaining the approval of the Competent Authority of the Ministry.

22. The petitioner was further intimated that any consideration of the fresh proposal for environmental clearance to be submitted by the company shall not be construed as regularization/condonation of violation of the Environment (Protection) Act, 1986 and EIA Notification, 2006 which took place due to undertaking of substantial construction activity without prior environmental clearance by the company.

23. Mr. Das submitted that opposite party No. 1 does not agree that on principle, approval of the petitioner's proposal was impliedly granted. The Expert Committee in its meeting held on 31.08.2009 decided to inspect the site to assess the pollution control measures being adopted in the existing Alumina refinery and sought additional information. Since appraisal of the project was not completed, the argument of the petitioner that the environmental clearance would have been granted to the petitioner within 45 days of the receipt of the recommendation of the Expert Appraisal Committee, which in the instant case ought to have been granted by the EAC within 45 days of 31 August, 2009, is not in line with the EIA Notification, 2006.

24. The petitioner did not indicate about the starting of construction work while it applied for TOR and also in the EIA/EMP reports prepared for the expansion project. In the case of the petitioner, appraisal process was not completed. As the petitioner violated the provisions of EIA Notification, 2016 and final directions were issued to it for withdrawal of Term of Reference issued in March, 2009 and cancellation of public hearing held on 25th April, 2009. The process for environmental clearance has to be started de novo. Therefore, the petitioner vide letter dated 11.01.2011 was requested to submit fresh proposal to the Ministry for obtaining environmental clearance for the above project under the procedure laid down in EIA Notification, 2006.

25. On the rival contentions of the parties, the following questions fall for consideration by this Court:

(i) Whether the provisions of paragraphs 1, 2 and 7 (ii) of the EIA Notification, 2006 are applicable to the expansion project of the petitioner?

(ii) Whether construction work undertaken by the petitioner for expansion of its existing project without obtaining environmental clearance violates the mandates of EIA Notification, 2006?

(iii) Whether opposite parties are justified in withdrawing the Terms of Reference and in canceling the public hearing proceeding held in respect of the proposed expansion plan?

(iv) Whether opposite party No. 1 is justified in holding that the process for environmental clearance has to be started de novo and the petitioner has to submit fresh proposal to the Ministry for obtaining environmental clearance for the expansion project under the procedure laid down in the EIA Notification, 2006?

26. To deal with question No. (1), it is felt necessary to reproduce paragraphs-1,2 and 7(ii) of the EIA Notification, 2006:

"Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 60 (E) dated the 27th January, 1994, except in respect of things done or omitted to be done before such supersession, the Central Government hereby directs that on and from the date of its publication the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to this notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by, the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified hereinafter in this notification.

2. Requirements of prior Environmental Clearance (EC) : - The following projects or activities shall require prior environmental clearance from the concerned regularity authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

(i) All new projects or activities listed in the Schedule to this notification;

(ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization.;

(iii) Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

xxxx xxxx xxxx

7(ii). Prior Environmental Clearance (EC) process for Expansion or Modernization or Change of product mix in existing projects:

All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernization of an existing unit with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product - mix shall be made in Form I and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence necessary including preparation of EIA and public consultations and the application shall be appraised accordingly for grant of environmental clearance."

27. Admittedly, the EIA Notification, 2006 was published in the Gazette of India, Extraordinary, Part-II, Ministry of Environment and Forests on 14th September, 2006. On 03.10.2007 the petitioner submitted its application to opposite party No. 1 for expansion of the project from 1 MTPA to 6 MTPA Alumina and power generation from 75 MW to 300 MW. In Paragraph (1) of the EIA Notification, 2006, it is provided that the Central Government directs that on and from the date of its publication, the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to that notification entailing capacity addition with change in process and/or technology shall be undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified in the said notification. Paragraph 7(ii) of the said notification provides that all applications seeking environmental clearance for expansion with increase in production capacity beyond the capacity for which prior environmental clearance has been granted under this Notification or with increase in either lease area or production capacity in the case of mining projects or for modernization of an existing unit with increase in the total production capacity beyond the threshold limits prescribed in the Schedule to that notification through change in the process or technology or involving a change in the product-mix shall be made in Form-I and they shall be considered by the concerned Expert Appraisal Committee or the State Level Expert Appraisal Committee within 60 days who will decide on the due diligence necessary including preparation of EIA and public consultations and the application shall be appraised accordingly for grant of environmental clearance. As per Paragraph-2(ii), prior environmental clearance is required for expansion and modernization of the existing project.

28. In the instant case, the petitioner undertakes expansion of its existing project for which prior environmental clearance has to be obtained.

29. A conjoint reading of Paragraphs 1, 2 and 7(ii) of the EIA Notification, 2006 makes it clear that the provisions contained in those clauses of the said notification are applicable to the expansion project of the petitioner.

30. Question Nos. (ii), (iii) and (iv) being interlinked, are dealt with together.

31. Admittedly, in the instant case, while the process for issuance of environmental clearance was going on, and for that purpose various directions were being issued to the petitioner for compliance, the petitioner started its expansion work. According to

the petitioner, prior environmental clearance is not the pre-requisite or the precondition for undertaking construction activities within an existing premise as the environmental clearance has already been obtained in respect of the existing project. The opposite parties were aware of sight preparation work undertaken by the petitioner since November, 2006 and yet the opposite party No. 1 sought to issue the show cause notice almost two years later and in the meanwhile impliedly permitting the petitioner to continue its construction activities and investment of money. The petitioner has invested huge sums of money and has thereby altered its position irreversibly. It is the further case of the petitioner that alteration position is irremediable and irreversible and the stoppage of work at this stage would cause grave prejudice and irreparable hardship to the petitioner, incapable of being calculated in terms of money. The opposite party No. 1 has ignored the three objects sought to be achieved by Environment (Protection) Act, 1986, viz., protection of the environment, controlling of pollution as also the sustainable development of the area. The petitioner being an environmentally conscious Company, uses Caustic soda manufactured by Membrane Technology. It is actively working on the "Zero Waste Concept" and has already commenced manufacturing red mud bricks by developing a process in collaboration with the Institute of Minerals and Metals Technology, Bhubaneswar. It has taken precautions, right from the conceptual stage of the project to ensure that the fugitive emissions during construction and operations remain well within the applicable norms. The petitioner uses state of the art technology like pipe conveyors for material movement, dry fog system for dust suppression, bag filters for dust filters/for dust collection, wet scrubbing system for lime handling and has also maintained and is further developing the green belt within the plant as also around the periphery. It also provides a rehabilitation colony with hospital and schools for the rehabilitated villagers as well as the local population from other villages, whereby, at the hospitals, medical treatment is provided free of cost. The project set up by the petitioner at the site has had a major impact in eradicating poverty and is providing opportunities to the poor and most deprived tribal population of the area to merge into the mainstream. The petitioner has not violated any of the pollution parameters at the existing refinery or as a result of the construction activity undertaken with respect to the proposed expansion.

32. Further case of the petitioner is that opposite party No. 1 has singled out the petitioner only for non-grant of approvals and clearances. In case of other entities, namely, (i) Jindal Power Limited, Tammar, Raigarh, Chattisgarh, (ii) Pohang Steel Company, (iii) Lavasa Corporation Limited, and (iv) Steel Authority of India, Chiria Iron Ore Mines Project despite violations of environmental regime being found and established, the MoEF has sought to condone/regularize the same and has proceeded to grant the requisite clearances/permissions to the said entities. It is alleged that those actions of the MoEF are arbitrary, discriminatory, without any rational nexus and are violative of the rights enshrined in Article 14 of the Constitution of India.

33. On the other hand, opposite party No. 1 denying the above allegation of the petitioner submitted that the case of the above four companies and the petitioner are not similar. The petitioner has not applied for the expansion project following the due procedure as is required in the EIA Notification, 2006, as has been done by Jindal Power Limited. As and when a proposal is submitted by the petitioner a similar procedure would be followed as in the case of *Jindal Power Limited*. Similarly, the case of the petitioner and Lavasa Corporation Limited are also not alike as the show cause notice issued to Lavasa Corporation Limited was due to violations of EIA Notification, 2006 and the construction work has been stopped. This is a category 'B' under EIA Notification, 2006 and the due procedure is being followed for appraisal of the project

of M/s Lavasa Corporation Limited as per the directions of MoEF on 07.01.2011. The project of M/s POSCO was accorded environmental clearance in 15th May, 2007 only the additional conditions have been stipulated vide letter dated 31st January, 2011. The case of POSCO is not a case of violation of EIA Notification, 2006 and the EC issued in 2007 is not withdrawn. Similarly, project of SAIL about Chiria Mines relates to Forest Advisory Committee, which has taken up the project for clearance under Forest (Conservation) Act, 1986. Thus, this project at present is not related to the EIA Notification, 2006 and therefore no violation proceedings are being pursued by the Ministry in the case of SAIL.

34. The specific case of opposite party No. 1 is that the petitioner vide letter dated 22 June, 2009 submitted the final EIA report after completion of the public hearing which was held on 25th April, 2009 seeking environmental clearance. The proposal of the petitioner was placed before the Expert Appraisal Committee in its meeting held on 17th August, 2009 and the Committee sought additional information and also decided that a sub-committee comprising members from the Expert Appraisal Committee shall visit the plant site to assess the pollution control measures being adopted in the refinery to be augmented and suggested additional pollution control measures to be adopted for the proposed expansion.

35. In the meantime, the Ministry of Environment and Forests was informed by its Eastern Regional Office at Bhubaneswar about the construction which was undertaken by the petitioner before obtaining the environmental clearance in violation of provisions of EIA Notification, 2006. The report of the Sub-committee of the Expert Appraisal Committee (Industry) who visited the site on 9th July, 2010 brought out that the Petitioner has undertaken substantial construction of 6 MTPA Alumina Refinery and 300 MW Captive Power Plant. Dr. N.C. Saxena Committee brought out in its report dated 16.08.2010 that the petitioner had already proceeded with the construction activity for its expansion from 1 MTPA to 6 MTPA without obtaining environmental clearance. It is their own submission that the petitioner had confirmed that it has already completed 50-55% construction activity. The only difference is while according to opposite party No. 1, the construction for expansion project was noticed in November, 2008, petitioner's case is that it has started construction activities in May, 2009 immediately after the public hearing was over in April, 2009. In any event, the fact remains that the petitioner has completed about 50-55% of expansion work prior to obtaining environmental clearance, which is violative of provisions of EIA Notification, 2006.

36. Law is well settled that when the statute requires to do certain thing in certain way, the thing must be done in that way or not at all. Other methods or mode of performance are impliedly and necessarily forbidden. The aforesaid settled legal proposition is based on a legal maxim "*Expressio unius est exclusion alteris*", meaning thereby that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner and following other course is not permissible. (See *Taylor v. Taylor*, (1876) 1 Ch.D. 426; *Nazir Ahmed v. King Emperor*, AIR 1936 PC 253; *Ram Phal Kundu v. Kamal Sharma*; and *Indian Bank's Association v. Devkala Consultancy Service*, AIR 2004 SC 2615).

37. Moreover, the petitioner did not indicate the start of construction work while it applied for Terms of Reference and also in the EIA/EMP reports prepared for the expansion project.

38. The stand of the petitioner that it has not violated any of the pollution parameters in the existing refinery will not alter the position because the petitioner is legally

bound to ensure the various statutory provisions. That cannot give licence to the petitioner to undertake expansion activities without obtaining prior environmental clearance.

39. The petitioner in many words has stated that the various measures have been taken by it for protection of the environment and development of tribals in Kalahandi, a backward district, but that cannot absolve the petitioner from complying with the requirement of EIA Notification, 2006.

40. In any event, since the petitioner has undertaken construction activities for expansion of the project without adhering to the provisions of EIA Notification, 2006, the same is held to be illegal.

41. For the aforesaid reasons, opposite party No. 5 has issued notice under Section 5 of the Environment (Protection) Act, 1986 for withdrawal of TOR. Opposite Party No. 2-Orissa State Prevention and Pollution Control Board had also issued show cause notice on 12th January, 2009 under Section 33A of Water (Prevention & Control of Pollution) Act, 1974 and Section 31 of Air (Prevention & Control of Pollution) Act, 1981 to the petitioner for undertaking expansion activity without obtaining consent from Pollution Control Board and environmental clearance.

42. The petitioner had filed its reply vide letter dated 15th September, 2010 to the show cause notice issued by the Ministry vide letter dated 31st August, 2010. While submitting the reply, the petitioner requested for personal hearing before finalizing the project. Accordingly, personal hearing took place at 3.30 PM on 30th September, 2010 in the Ministry. As decided in the personal hearing, certain additional documents were submitted by the petitioner vide letter dated 4th October, 2010. Considering the submissions of the petitioner to the above referred show cause notice, Opposite party No. 1 issued directions to the petitioner in accordance with Section 5 of the Environment (Protection) Act, 1986 read with Rule 4 of the Environment (Protection) Rules, 1986 on 20.10.2010 which includes as follows: -

“(a) The TOR issued on 12th March, 2009 for expansion of Alumina Refinery from 1 MTPA to 6 MTPA and 75 MW to 300 MW CPP is hereby withdrawn and consequently the public hearing conducted on 25th April, 2009 stands cancelled.

(b) The proponent were directed to maintain the status quo at the site and no further construction shall be undertaken in respect of expansion project.

(c) The Secretary, Forest & Environment Department, Government of Orissa shall take legal action under the provisions of Environment (Protection) Act, 1986 for violation of the EIA Notification, 2006.”

43. For the reasons stated above, we are of the considered view that the construction work undertaken by the petitioner for expansion of its project without obtaining environmental clearance violates the mandates of the EIA Notification, 2006 and therefore, the opposite parties are justified in withdrawing the Term of Reference and in canceling the public hearing proceeding held in respect of the proposed expansion. The opposite parties are also justified in holding that the process for environmental clearance has to be started de novo for which the petitioner has to submit fresh proposal to the Ministry under the procedure laid down in the EIA Notification, 2006.

44. In view of the above, the relief as prayed by the petitioner in the writ petition quoted in paragraph (1) above cannot be granted in favour of the petitioner.

45. In the result, the writ petition is dismissed.

No order as to costs.

V. Gopala Gowda, C.J.

I agree.

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2024 SCC OnLine SC 230

In the Supreme Court of India

(BEFORE DR D.Y. CHANDRACHUD, C.J. AND J.B. PARDIWALA AND MANOJ MISRA, JJ.)

Special Leave Petition (Civil) Nos. 10159-10168 of 2020

Vedanta Limited ... Petitioner;

Versus

State of Tamil Nadu and Others ... Respondents.

With

Special Leave Petition (Civil) Nos. 10461-10462 of 2020

And

Civil Appeal Nos. 276-285 of 2021

Special Leave Petition (Civil) Nos. 10159-10168 of 2020, Special Leave
Petition (Civil) Nos. 10461-10462 of 2020 and Civil Appeal Nos. 276-285
of 2021

Decided on February 29, 2024

JUDGMENT

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A. SLP (C) Nos 10159-10168 and 10461-10462 of 2020

i. Background

1. The Special Leave Petitions arise from a judgment dated 18 August 2020 of a Division Bench of the High Court of Judicature at Madras in a batch

of ten petitions under Article 226 of the Constitution of India.

2. A series of orders passed in April and May 2018 by the Tamil Nadu Pollution Control Board¹ and by the Government of Tamil Nadu and an order dated 29 March 2013 passed by the former form the subject of the challenge.

3. By the orders impugned, the copper smelter operated by the petitioner (Vedanta Limited) at the SIPCOT industrial complex in Thoothukudi in Tamil Nadu was directed to be closed for violations of numerous environmental norms.

4. Initially, there was a challenge before the National Green Tribunal. The order of the Tribunal was placed in issue before this Court by the TNPCB and became the subject matter of a judgment delivered by this Court on 18 February 2019, reported as *Tamil Nadu Pollution Control Board v. Sterlite Industries (India) Limited*.² While coming to the conclusion that there was an absence of jurisdiction on the part of the National Green Tribunal, this Court granted liberty to the operator of the unit to move the High Court in appropriate proceedings under Article 226 of the Constitution.

5. This resulted in the institution of the petitions before the High Court, as noticed above, and the judgment of the High Court which has been questioned in these proceedings.

ii. The judgment of this Court in 2013

6. An earlier judgment of this Court, reported as *Sterlite Industries (India) Limited v. Union of India*,³ concerned the same unit as in the present proceedings. Environmental clearances were granted to the unit in 1995 and it commenced production in 1997. Separate writ petitions were instituted before the High Court, *inter alia* for directions to cancel the environmental clearances; close the operation of the unit; and to the state to take action against the unit for its failure to take safety measures to remedy pollution and to protect against industrial accidents. By an order dated 28 September 2010, the High Court allowed the writ petitions and directed that the unit be closed. On appeal, a two-Judge Bench of this Court in *Sterlite Industries* (supra) adjudicated the validity of this order. This Court held that:

- a. The High Court was not justified in interfering with the decision to grant environmental clearance on the ground of procedural impropriety;
- b. The High Court was not justified in directing the closure of the plant on the ground that it was located in the SIPCOT industrial complex which was within a 25 km radius of four ecologically sensitive islands in the Gulf of Mannar. This is because one of the consent orders permitted the establishment of the plant at this location. However, the possibility of shifting the plant in the future was not precluded, if it became necessary for the purpose of conserving the environment;
- c. The High Court ought not to have interfered with the exercise of power by the TNPCB, which reduced the width of the mandated green belt in the no-objection certificate:

- d. Article 21 of the Constitution empowered the High Court to direct the plant to be closed if it was found to be polluting the environment, notwithstanding the fact that environmental clearances had been granted. This could be done if no other remedial measure was available; and
- e. Inspections of the unit indicated that some emissions and effluents were beyond the permissible limit prescribed by TNPCB. The unit was polluting the environment in violation of legal norms (detailed in the following paragraphs).

7. In terms of the directions of this Court, TNPCB issued directions for the removal of deficiencies. It was then claimed on behalf of the unit that the deficiencies had been removed. On the basis of a joint inspection by National Environmental Engineering Research Institute⁴ and the Central Pollution Control Board,⁵ this Court found that several suggestions towards remediation had been complied with. This Court was of the view that closure was therefore not the only remedy. Though there was a suppression of fact by the unit, the Court was not inclined to order closure at that stage and imposed instead a requirement of compensation quantified at Rs. 100 crores for non-compliance with environmental parameters and operating without consent in terms of the applicable environmental law:

"47. ... we are of the view that the appellant Company should be held liable for a compensation of Rs. 100 crores for having polluted the environment in the vicinity of its plant and for having operated the plant without a renewal of the consents by the TNPCB for a fairly long period and according to us, any less amount, would not have the desired deterrent effect on the appellant Company."

8. While setting aside the order of closure, this Court nonetheless observed that its judgment would not prevent TNPCB from issuing directions to the unit including a direction for closure, if required.

iii. The decision in this case

a. *Violations of environmental norms and consequent harm*

9. Before assessing the submissions of the parties, it is necessary to understand the basis for the decision of the High Court as well of this Court in 2013. It is not possible for this Court to assess the merits of the submissions, shorn of the context in which the decision(s) were rendered. Both this Court in *Sterlite Industries* (supra) as well as the High Court in the impugned judgment found that the unit of the petitioner was guilty of serious violations of environmental and other laws.

10. In 2013, this Court in *Sterlite Industries* (supra) found that the unit had violated the law in more than one way:

- a. The unit had caused pollution between 1997 and 2012;
- b. The reports of NEERI indicated non-compliance with environmental

standards;

- c. The unit had operated without a renewal of the consent to operate for a long period of time; and
- d. There was an act of suppression and misrepresentation on the part of the unit in the proceedings before this Court.

11. In the impugned judgment, the High Court *inter alia* found that:

- a. The unit had operated without consent from TNPCB for about sixteen years;
- b. The unit had operated without hazardous waste management authorisation for about ten years;
- c. The unit did not have appropriate systems in place for the disposal of hazardous waste;
- d. There was a substantial presence of Total Dissolved Solids (TDS) in the water;
- e. The unit dumped large amounts of copper slag, leading to air and water pollution. The dumped copper slag also caused the river in Thootukudi to flood. This was a violation of the conditions in terms of which the relevant authorities had granted consent;
- f. The unit failed to comply with the requirement of maintaining a green belt;
- g. The regulator, TNPCB, did not exercise its powers in a timely and effective fashion, as mandated by law; and
- h. TNPCB established that the unit flouted the law for over twenty-two years. There was no error in the decision of the authorities to direct the closure of the unit.

12. This Court must have due regard to these findings of fact and law while adjudicating whether grounds for interference with the impugned judgment are made out.

b. The High Court did not commit an error of jurisdiction

13. Essentially, five grounds were urged in the orders for the closure of the unit. They are:

- a. The unit had failed to furnish ground water examination reports to ascertain the impact on ground water quality;
- b. An extensive amount of copper slag lying on third party land had not been removed. A physical barrier had not been constructed between the copper slag and the river to prevent the slag from reaching the river;
- c. The unit had applied for authorization to generate and dispose of hazardous waste but did not have an extant licence;
- d. There was a failure to measure emissions in terms of the National Air Quality Ambient Standards; and
- e. The requirement of a gypsum pond (mandated by guidelines issued by CPCB) had not been observed.

14. Apart from the merits, the principal submission which has been urged on behalf of the petitioner by Mr. Shyam Divan, senior counsel (supported by Mr. Krishnan Venugopal, senior counsel) is that since the closure was founded on the above five grounds, the High Court was not justified, while exercising its writ jurisdiction under Article 226 of the Constitution, in enquiring into other grounds of environmental violations.

15. The above submission has been opposed both by Mr. CS Vaidyanathan, senior counsel appearing on behalf of the TNPCB and Mr. Gopal Sankaranarayanan, senior counsel appearing on behalf of the Government of Tamil Nadu. They have submitted, on the basis of the reliefs which were sought in the writ proceedings, that the petitioners had not merely challenged the orders adverse to them but had, in addition, sought a mandamus for the issuance of renewal permissions. Hence, it was urged that in such an event, it was open to the High Court not only to enquire into the grounds on which closure had been directed but to determine whether the petitioner was entitled to a renewal of permissions.

16. From a reading of the judgment of the High Court, it has emerged that the petitioner had expressly consented to the High Court enquiring into all the facets of the matter so as to determine fully and finally as to whether the petitioner would be entitled to a renewal of the permissions which were granted to it. Otherwise, even if the orders impugned were to be set aside, both the Board and the Government would have been justified in requesting the High Court to remand the proceedings back to the competent statutory authorities for re-determination afresh. This course of action was obviated on the petitioner submitting to the High Court that it was ready and willing to have the High Court evaluate the entirety of the matter in its full perspective.

17. The petitioner having agreed to this course of action, we are not inclined to entertain the submission that the High Court has committed an error of jurisdiction. The hearing before the High Court spanned forty-two days and the High Court has rendered a judgment on all factual and legal aspects, after considering as many as thirty-eight issues.

c. Interference under Article 136 is not warranted

18. In considering the merits of the challenge, this Court would have to apply settled principles of judicial review bearing on whether the findings which have been arrived at by the High Court are borne out from the record or conversely, are based on misappreciation of law and fact. This Court may exercise its power under Article 136 sparingly and only when exceptional circumstances exist which justify the exercise of its discretion.⁶

19. From the material which has emerged on the record and having considered the rival submissions, we are of the view that the areas which are matters of serious concern are:

- a. The failure of the petitioner at the material time to remove the copper slag which was dumped indiscriminately at almost eleven sites in the

- vicinity including private land adjoining the river;
- b. The failure to abide by the conditions in the 'consent to operate' governing the disposal of gypsum;
 - c. The failure to obtain authorisation for the disposal of hazardous waste; and
 - d. The failure of the petitioner to continue remediating the pollution caused by it despite findings and directions by multiple judicial fora at different points in time, including by this Court in 2013.

20. The judgment of this Court in *Sterlite Industries* (supra) afforded the petitioner sufficient opportunity to take remedial action. The consequence of the adjudication by this Court was not to obliterate the environmental violations which had preceded it. This Court came to the conclusion that there indeed were environmental violations, which were additionally compounded by a suppression of material facts. As the court held:

"48. We now come to the submission of Mr. Prakash that we should not grant relief to the appellants because of the misrepresentation and suppression of material facts made in the special leave petition that the appellants have always been running their plant with statutory consents and approvals and misrepresentation and suppression of material facts made in the special leave petition that the plant was closed at the time the special leave petition was moved and a stay order was obtained from this Court ... **There is no doubt that there has been misrepresentation and suppression of material facts made in the special leave petition but to decline relief to the appellants in this case would mean closure of the plant of the appellants.** ... For these considerations of public interest, we do not think it will be a proper exercise of our discretion under Article 136 of the Constitution to refuse relief on the grounds of misrepresentation and suppression of material facts in the special leave petition."

(emphasis supplied)

21. The Court in the earlier round of litigation would conceivably have been justified in rejecting the challenge to the judgment of the High Court but nonetheless held that closure was a matter of last option and that an opportunity for remediation ought to be granted. At the same time, while imposing an environmental compensation quantified at Rs. 100 crores, this Court clarified that TNPCB would be acting within the scope of its statutory powers including in directing closure, in the future. As the Court held:

"50. ... we make it clear that this judgment will not stand in the way of the TNPCB issuing directions to the appellant Company, including a direction for closure of the plant, for the protection of environment in accordance with law.

51. We also make it clear that the award of damages of Rs. 100 crores by this judgment against the appellant Company for the period from 1997 to 2012 will not stand in the way of any claim for damages for the

aforsaid period or any other period in a civil court or any other forum in accordance with law.”²

22. The tenor of the reasoning and the directions of this Court, therefore, leave no manner of doubt that the industrial establishment was not exculpated of its liability for environmental violations. The High Court has, in this backdrop, undertaken a copious analysis of the grounds on which action adverse to the unit has been taken both by the TNPCB and the State Government.

23. In the notes of submissions which have been tendered before this Court, an alternative perspective on facts has been sought to be established. We are not inclined in the exercise of the jurisdiction under Article 136 of the Constitution to re-appreciate the findings of facts which have been arrived at by the High Court. The High Court, it must be noted, was exercising its jurisdiction under Article 226 of the Constitution to judicially review the findings of statutory authorities and bodies entrusted with requisite powers under the Water (Prevention and Control of Pollution Act) 1974 and the Air (Prevention and Control of Pollution) Act, 1981. Apart from the exercise of jurisdiction by the statutory authorities, the proceedings before this Court had been preceded by an evaluation by the High Court which is not shown to suffer from error that would warrant the invocation of the jurisdiction under Article 136 of the Constitution. No special circumstances exist which justify the exercise of discretion by this Court nor is the conscience of the Court shocked by the judgment of the High Court.

24. The closure of the industry is undoubtedly not a matter of first choice. The nature of the violations and the repeated nature of the breaches coupled with the severity of the breach of environmental norms would in the ultimate analysis have left neither the statutory authorities nor the High Court with the option to take any other view unless they were to be oblivious of their plain duty. We are conscious of the fact that the unit, as this Court observed in its decision in 2013, has been contributing to the productive assets of the nation and providing employment and revenue in the area. While these aspects have undoubted relevance, the Court has to be mindful of other well-settled principles including the principles of sustainable development, the polluter pays principle, and the public trust doctrine. The polluter pays principle, a widely accepted norm in international and domestic environmental law, asserts that those who pollute or degrade the environment should bear the costs of mitigation and restoration. This principle serves as a reminder that economic activities should not come at the expense of environmental degradation or the health of the population.

25. In addition, the public trust doctrine, recognized in various jurisdictions, including India, establishes that the state holds natural resources in trust for the benefit of the public. It reinforces the idea that the State must act as a steward of the environment, ensuring that the common resources necessary for the well-being of the populace are protected against

exploitation or degradation. These principles underscore the importance of balancing economic interests with environmental and public welfare concerns. While the industry has played a role in economic growth, the health and welfare of the residents of the area is a matter of utmost concern. In the ultimate analysis, the State Government is responsible for preserving and protecting their concerns.

26. As consistently held in numerous decisions of this Court, the unequivocal right to a clean environment is an indispensable entitlement extended to all persons.⁸ Air, which is polluted beyond the permissible limit, not only has a detrimental impact on all life forms including humans, but also triggers a cascade of ecological ramifications. The same is true for polluted water, where the pervasive contamination poses a profound threat to the delicate balance of ecosystems. The impact of environmental pollution and degradation is far reaching : it is often not only severe but also persists over the long term. While some adverse effects may be immediately evident, the intensity of other kinds of harm reveals itself over time. Persons who live in surrounding areas may develop diseases which not only result in financial burdens but also impact the quality of life. The development and growth of children in these communities may become stunted, creating a tragic legacy of compromised potential. Basic necessities, such as access to potable water, may not be met, exacerbating the challenges faced by these already vulnerable populations. Undoubtedly, such adverse effects are felt more deeply by marginalised and poor communities, for whom it becomes increasingly difficult to escape the cycle of poverty.

27. This Court is also alive to the concept of intergenerational equity,⁹ which suggests that "*present residents of the earth hold the earth in trust for future generations and at the same time the present generation is entitled to reap benefits from it.*"¹⁰ The planet and its invaluable resources must be conscientiously conserved and responsibly managed for the use and enjoyment of future generations, emphasising the enduring obligation to safeguard the environmental heritage for the well-being of all.

28. It is an undeniable and fundamental truth that all persons have the right to breathe clean air, drink clean water, live a life free from disease and sickness, and for those who till the earth, have access to uncontaminated soil. These rights are not only recognized as essential components of human rights but are also enshrined in various international treaties and agreements, such as the Universal Declaration of Human Rights, the Convention on Biological Diversity, and the Paris Agreement. As such, they must be protected and upheld by governments and institutions worldwide, even as we generate employment and industry. The ultimate aim of all our endeavours is for all people to be able to live 'the good life.' Without these basic rights, increased revenue and employment cease to have any real meaning. It is not merely about economic growth but about ensuring the well-being and dignity of

every individual. As we pursue development, we must prioritize the protection of these rights, recognizing that they are essential for sustainable progress. Only by safeguarding these fundamental rights can we truly create a world where everyone has the opportunity to thrive and prosper.

29. We have heard these proceedings for several days and after a careful evaluation of the factual and legal material, we have come to the conclusion that the Special Leave Petitions do not warrant interference under Article 136 of the Constitution.

30. For the above reasons, the Special Leave Petitions shall stand dismissed.

31. Pending applications, if any, stand disposed of.

B. Civil Appeal Nos. 276-285 of 2021

32. TNPCB is aggrieved by the observations contained in the impugned judgment of the High Court dated 18 August 2020 about its failure to exercise its regulatory functions in a timely and conscientious manner and has preferred appeals in this regard. We are of the view that the High Court was justified in making the observations in regard to the lack of alacrity on the part of the Pollution Control Board in discharging its duties. The observations of the High Court do not call to be either expunged or obliterated from the record.

33. The Civil Appeals are accordingly dismissed.

34. Pending applications, if any, stand disposed of.

¹ "TNPCB"

² (2019) 19 SCC 479.

³ (2013) 4 SCC 575.

⁴ "NEERI"

⁵ "CPCB"

⁶ *Chandi Prasad Chokhani v. State of Bihar*, AIR 1961 SC 1708; *Pritam Singh v. State*, 1950 SCC 189.

⁷ *Sterlite Industries* (supra).

⁸ *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598; *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.

⁹ This Court has previously recognized the importance of this principle including in *G. Sundarrajan v. Union of India*, (2013) 6 SCC 620 and *D. Swamy v. Karnataka State Pollution Control Board*, 2022 SCC OnLine SC 1278.

¹⁰ Werner Scholtz, 'Equity' in (Lavanya Rajamani and Jaqueline Peel, eds.) *The Oxford Handbook of*

International Environmental Law (2nd edn., 2021).

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SUPREME COURT CASES

(2018) 5 SCC

(2018) 5 Supreme Court Cases 722

(BEFORE DR A.K. SIKRI AND ASHOK BHUSHAN, JJ.)

STATE OF KARNATAKA AND OTHERS

.. Appellants;

a

Versus

VEDANTA LIMITED (FORMERLY KNOWN AS SESA

STERLITE LIMITED) AND OTHERS

.. Respondents.

Criminal Appeals Nos. 348-56 of 2018[†], decided on March 6, 2018

b

Environment Law — Forests, Wildlife and Zoos — Mining and Industry in Forest Area — Illegal Mining — E-auction of iron ore illegally stored and confiscated, by State — High Court mistakenly setting aside permission granted by Special Court for such e-auction by State, and directing release of iron-ore to respondent — Untenability of — Order permitting e-auction passed by Special Court restored — Liberty granted to respondent to establish his ownership over iron ore before appropriate court

c

— First information report was registered for illegal storage of iron ore in violation of Karnataka Forest Act and Karnataka Forests Rules — Jurisdictional JMFC permitted further inquiry — On 20-3-2010 about 5 lakh metric tonnes of illegally stocked iron ore was seized on “as-is-where-is-basis” — Seizure report was submitted to JMFC who permitted seizure to continue until further orders — Another case was registered by CBI and the charge-sheet was submitted before Special Court — Appellant State filed application under Ss. 451/457 CrPC for disposal of 56 heaps of iron ore almost weighing 2,72,713.347 metric tonnes by e-tender — This application was allowed by Special Court on 8-5-2015 by imposing some conditions — Against this order, respondent filed writ petition before the High Court — This writ petition was allowed and auction order passed by Special Court was set aside — Unsustainability of

d

e

— Held, in compliance with order passed by Supreme Court in *Samaj Parivartana Samudaya*, (2018) 5 SCC 730, SIT was constituted — This SIT conducted investigation in Cr. No. 2 of 2014 — Final report was submitted in that case and it was accepted by Court — In this final report, no offence was made out against respondent — Thus, release order passed by Special Court was in different proceedings and final report accepted by Special Court was in different case — When appellant filed application for release in different proceedings, there was no effect or consequence of acceptance of final report — High Court erred in setting aside release order — Therefore, release order passed by Special Court restored — However, liberty granted to respondent to establish its ownership over iron ore before Special Court — Environment Law — Forests, Wildlife and Zoos — Forest Statutes, Rules, Regulations and Norms — Karnataka Forest Act, 1963 (5 of 1964) — Ss. 2(7)(b)(iv), 24, 62 and 80

f

g

[†] Arising out of SLP (Crl.) Diary No. 2398 of 2018. Arising from the Judgment and Order in *Vedanta Ltd. v. State of Karnataka*, 2017 SCC OnLine Kar 3787 [Karnataka High Court, Bengaluru Bench, Writ Petition No. 18941 of 2016 (GM-MM-S), dt. 4-7-2017]

h

STATE OF KARNATAKA v. VEDANTA LTD. (*Ashok Bhushan, J.*) 723

— Karnataka Forests Rules, 1969 — Rr. 143 and 162 — Criminal Procedure Code, 1973, Ss. 451 and 457 (Paras 13 to 20)

- a Vedanta Ltd. v. State of Karnataka*, 2017 SCC OnLine Kar 3787, *reversed*
Samaj Parivartana Samudaya v. State of Karnataka, (2018) 5 SCC 730; *Samaj Parivartana Samudaya v. State of Karnataka*, (2018) 5 SCC 732; *P.K. Pounraj v. State of Karnataka*, 2017 SCC OnLine Kar 3788, *cited*

G-D/59933/CR

- b* Advocates who appeared in this case :
Basava Prabhu S. Patil, Senior Advocate (V.N. Raghupathy, Chinmay Deshpande and Pariksith Angadi, Advocates) for the Appellants;
Dhruv Mehta, Ninad Laud, Jayant Mohan, Anjuman Tripathy, Ivo D’Costa and Aditya Swain, Advocates, for the Respondents.

Chronological list of cases cited **on page(s)**

- | | | |
|----------|---|----------------------------|
| <i>c</i> | 1. (2018) 5 SCC 732, <i>Samaj Parivartana Samudaya v. State of Karnataka</i> | 726g-h |
| | 2. (2018) 5 SCC 730, <i>Samaj Parivartana Samudaya v. State of Karnataka</i> | 725d, 725g-h, 727f-g |
| | 3. 2017 SCC OnLine Kar 3788, <i>P.K. Pounraj v. State of Karnataka</i> | 729f |
| | 4. 2017 SCC OnLine Kar 3787, <i>Vedanta Ltd. v. State of Karnataka (reversed)</i> | 723d, 723d-e, 724f-g, 726a |

The Judgment of the Court was delivered by

- d* **ASHOK BHUSHAN, J.**— Delay condoned. Leave granted. This appeal has been filed against the impugned judgment and order of the Karnataka High Court dated 4-7-2017 in *Vedanta Ltd. v. State of Karnataka*¹. The High Court vide its judgment dated 4-7-2017¹ has allowed the writ petitions directing for release of the iron ore in favour of the writ petitioner-respondent herein.

- e* **2.** The brief facts necessary to be noted for deciding this appeal are: First Information Report No. 17 of 2009-10 dated 15-3-2010 was registered for illegal storage of iron ore by violating Sections 2(7)(b)(iv), 62, 80 of the Karnataka Forest Act, 1963 and Rules 143, 162 of the Karnataka Forests Rules, 1969. The Judicial Magistrate, First Class, Ankola permitted for further inquiry by including Section 24(e) of the Karnataka Forest Act, 1963. On 20-3-2010 about 5 lakh metric tonnes of illegally stocked iron ore has been seized on *f* “as-is-where-is-basis” and seizure report has been submitted to the Judicial Magistrate, First Class, Ankola who permitted to retain the same until further orders.

- g* **3.** Another case registered was CBI Crime No. RC 17(A) of 2012. Charge-sheets were filed after investigation in Special CC No. 268 of 2013, Special CCs Nos. 11, 14, 15, 36-38, 53-54 of 2014. The State filed an application under Sections 451/457 CrPC in the aforesaid cases before the XXXIInd Additional City Civil and Sessions Judge and Special Judge for CBI Cases, Bangalore (CCH-34), seeking permission to dispose of 56 heaps of iron ore lying at Belekeri Port approximately weighing 2,72,713.347 metric tonnes by e-tender.

- h* **4.** Notices were published in the newspapers inviting the filing of application for the interim disposal of seized 56 heaps of iron ore at Belekeri

1 2017 SCC OnLine Kar 3787

724

SUPREME COURT CASES

(2018) 5 SCC

Port by Dy. Conservator of Forests, Karwar on 29-3-2015. The XXXIInd Additional City Civil and Sessions Judge and Special Judge for CBI Cases, Bangalore (CCH-34) after considering the application passed an order on 8-5-2015 allowing the application under Sections 451/457 CrPC permitting the applicant State to dispose of the seized iron ore through e-tender on certain terms and conditions as enumerated in the order. a

5. Against the order passed on 8-5-2015, Writ Petition No. 18941 of 2016 and Writ Petitions Nos. 19328-35 of 2016 (GM-MM-S) were filed by the respondents in the High Court of Karnataka at Bangalore. In the writ petition following prayers were made: b

“PRAYER

Wherefore, for the reasons and circumstances stated hereinabove, it is most humbly prayed that this Hon’ble Court may be pleased to:

(i) Issue a writ of certiorari or any other appropriate writ or order or direction setting aside the order dated 8-5-2015 passed by the Court of XXXIInd Additional City Civil and Sessions Judge and Special Judge for CBI Cases in Bangalore (CCH-34) in Spl. CCs Nos. 268 of 2013, 11, 14, 15, 36, 37, 38, 53 & 54 of 2014 vide Annexure A and all further consequential proceedings thereto, only insofar as the petitioner is concerned, in the interest of justice and equity. c

(ii) Issue a writ of mandamus or any other appropriate writ or order or direction, directing the 2nd, 3rd, 4th & 5th respondents to consider the representations dated 4-2-2016, 8-2-2016 & 24-2-2016 submitted by the petitioner vide Annexures ‘P’, ‘P-1’ & ‘P-2’ and permit the petitioner to remove and transport the entire quantity of approximately 34.544 metric tonnes of iron ore from Belekeri Port premises to the Pig Iron Plant of the petitioner at Amona in State of Goa by endorsing the Mineral Dispatch Permits & Forest Transit Passes and without insisting on any further payment of royalty, in the interest of justice and equity. d

(iii) Issue such other appropriate writ or order or direction as deemed fit under the facts and circumstances of the case, in the interest of justice and equity.” e

6. The State filed an objection in the writ petitions opposing the prayers made in the writ petitions. The High Court vide its judgment and order dated 4-7-2017¹ allowed the writ petitions. The State aggrieved by the judgment of the High Court has come up in this appeal. f

7. We have heard Shri B.P.S. Patil, learned Senior Advocate for the appellant and Shri Dhruv Mehta, Advocate for the respondent. g

8. The learned counsel for the appellant in support of the appeal contends that the High Court committed error in allowing the writ petitions and directing release of the iron ore in favour of the writ petitioner. It is contended that the basis of the judgment of the High Court is the final report accepted by the h

¹ *Vedanta Ltd. v. State of Karnataka*, 2017 SCC OnLine Kar 3787

STATE OF KARNATAKA v. VEDANTA LTD. (*Ashok Bhushan, J.*) 725

learned CBI Judge vide order dated 15-12-2015 which has nothing to do with the proceeding in which an order was passed by the Special Judge, CBI on 8-5-2015. It is contended that the High Court on wrong premise has allowed the writ petitions. It is submitted that the writ petitioners themselves have filed an application in Special CCs Nos. 268 of 2013, 11, 14, 15, 36, 37, 38, 53 & 54 of 2014 under Sections 451/457 CrPC dated 8-3-2016, praying for directing the release in favour of the applicant Company herein entire quantity of about 34,544 metric tonnes of iron ore, belonging to the applicant Company seized on 20-3-2010, which application was subsequently, withdrawn.

9. The learned Senior Counsel for the appellant submits that Crime No. 2 of 2014 dated 11-7-2014 in which final report was submitted and accepted by the XXXIInd Additional City Civil and Sessions Judge and Special Judge for the Prevention of Corruption Act at Bangalore City was a case which was registered by the Special Investigation Team of Karnataka Lokayukta, was altogether a different case, unconcerned with proceeding under which an application under Sections 451/457 CrPC has been allowed.

10. The learned counsel appearing for the respondent refuting the submission of the Senior Counsel for the appellant contends that the investigations were carried out by CBI in pursuance of the directions passed by this Court in *Samaj Parivartana Samudaya v. State of Karnataka*² and under the orders of this Court Special Investigation Team, Karnataka Lokayukta, Bangalore carried on investigations and registered a case with Karnataka Lokayukta, SIT Police Station, being Crime No. 2 of 2014 in which proceeding after thorough investigation, a final report dated 8-10-2015 was submitted by SIT, which was accepted by the Court on 15-12-2015. No offence having been found proved against the respondent, the High Court has rightly directed for release of iron ore seized in favour of the respondent. The respondent's claim for release of iron ore is confined to the quantity of about 34,544 metric tonnes of iron ore belonging to the respondent Company that has been seized on 20-3-2010 and lying at the plot allotted to the applicant Company by Shree Mallikarjun Shipping Pvt. Ltd. in Belekeri Port Area. He submitted that the claim of above iron ore is different from that seized and pending in Case No. 189 of 2010.

11. We have considered the submissions of the learned counsel for the parties and have perused the record.

12. The High Court in the impugned judgment has based its decision of allowing the writ petition and directing the release of the iron ore in favour of the respondent on the final report being accepted by the learned CBI Judge by order dated 15-12-2015. The High Court has further noticed that this Court directed on 7-9-2012² to CBI to investigate into illegally stocked iron ore in pursuance of which direction, SIT was constituted and final report was submitted. Paras 10 and 15 of the judgment of the High Court are the entire

consideration of the High Court for allowing the writ petition. It is useful to extract paras 8 to 15 of the judgment which are to the following effect: (*Vedanta Ltd. case*¹, SCC OnLine Kar paras 8-15)

“8. Accordingly, a Special Investigation Team (‘SIT’, for short) was appointed by the State. They submitted a final report, which is in favour of the writ petitioner. The final report has been accepted by the learned CBI Judge by an order dated 15-12-2015.

9. Mr K.M. Phanindra, learned Advocate, seeks a direction for release of the materials in favour of his client.

10. Mr V.G. Bhanuprakash, learned Additional Government Advocate, submits that a case of theft is pending and, therefore, the seized materials could not be released in favour of the petitioner.

11. In the wake of the final report being submitted by SIT, we do not find any impediment to release the iron ore in favour of the petitioner. An inventory has to be prepared and, thereafter, the iron ore shall be released in favour of the writ petitioner, immediately. The entire process must be completed by four weeks.

12. The writ petitions are, therefore, allowed.

13. Mr Phanindra, at this stage, expresses an apprehension that the authorities may claim royalty.

14. When the material is in the port area, it is presumed that royalty has, already, been paid, otherwise transport permit would not have been granted. Therefore, his apprehension is unfounded.

15. We make no order as to costs.”

13. The investigation which was carried out by SIT was registered as Crime No. 2 of 2014. The respondent in his compilation has filed a notice issued under Section 91 CrPC to the Managing Director/Director of M/s SESA Goa Ltd., presently, M/s Vedanta Ltd. (respondent). Notice dated 21-8-2014 refers to the order of this Court and registration of crime number and it is useful to extract the opening paragraph of the notice issued to the respondent dated 21-8-2014:

“KARNATAKA LOKAYUKTA

Special Investigation Team

No. SP2/CR/02/2014/SIT/KLA/03

DATE: 21-8-2014

POLICE NOTICE

(under Section 91 CrPC)

Special Investigation Team, Karnataka, Lokayukta, Bangalore, is investigating the cases of illegal mining of iron ore in Karnataka State on the orders of the Hon’ble Supreme Court³ and that of the Government of Karnataka. In this regard a case is registered against your Company in KLA SIT Police Station Cr. No. 02/2014 under Sections 379, 420 read with

¹ *Vedanta Ltd. v. State of Karnataka*, 2017 SCC OnLine Kar 3787

³ *Samaj Parivartana Samudaya v. State of Karnataka*, (2018) 5 SCC 732

STATE OF KARNATAKA v. VEDANTA LTD. (*Ashok Bhushan, J.*) 727

Section 120-B IPC and Section 13(2) read with Section 13(1)(d) PC Act and Sections 21, 23 read with Section 4(1)(a) MMRD Act, 1957.

- a* In this connection, you are requested to direct a competent official conversant with the activities/transactions of your Company (M/s Mineral Enterprises Limited, No. 49, 3rd Floor Khanija Bhavana, Race Course Road,) to appear before the undersigned at 1030 hrs on 30-8-2014 at the Office of Special Investigation Team, ATIC Building, University of Veterinary Science, Hebbal, Bangalore along with the following original documents/data. The said official may also carry soft copy of the data/tables/charts of the information as mentioned below.

* * *

- c* **14.** It was in the aforesaid proceeding that final report was submitted on 8-10-2015. The respondent has filed a copy of the order sheet of the XXXIInd Additional City Civil and Sessions Judge and Special Judge for the Prevention of Corruption Act at Bangalore City in Crime No. 2 of 2014 where filing of the final report is noticed and the court also directed for issuance of notice to the complainant returnable by 15-12-2015. On 15-12-2015, the court in Crime No. 2 of 2014 passed the following order:

- d* “Complainant by name Shri Manjunatha Annigeri, Superintendent of Police attached Special Investigation Team, Karnataka Lokayukta, Bengaluru is present and submits that he has gone through the records which disclosed that no case is made out against all the accused at the conclusion of investigation. He submits that he has no objection to accept the ‘B’ Report.

- e* I have gone through the records. It is seen that according to the investigating officer, there is no convincing evidence to arrive at conclusion that allegations against all the accused are made out. After having gone through the ‘B’ Report I find that there are no grounds to proceed further against all the accused and accordingly ‘B’ Report is accepted.

(V.G. Bopaiah)

- f* XXIIIth ACC and Spl. Judge,
Bangalore City.”

- g* **15.** From the above, it is clear that the final report which was accepted on 15-12-2015, was final report in Case Crime No. 2 of 2014 which was registered after the investigation by SIT in pursuance of order of this Court passed in *Samaj Parivartana Samudaya v. State of Karnataka*² and in the above case, no offence was found against the respondent.

- h* **16.** The order dated 8-5-2015 was passed allowing the application under Sections 451/457 CrPC of the State in Special CC No. 268 of 2013 and CCs Nos. 11, 14, 15, 36, 37, 38, 53 & 54 of 2014 which is mentioned in the operative portion of the order itself. It is useful to extract the operative portion of the order dated 8-5-2015 which is to the following effect:

“ORDER

The application filed by the State Government under Sections 451/457 CrPC, are allowed permitting the applicant State to dispose of the seized iron ore through e-tender with the following terms and conditions: a

(1) The auction of the property shall be through e-tender under the supervision of the “Monitoring Committee” constituted by the Hon’ble Supreme Court.

(2) The e-tender auction shall be conducted by involving the CBI Authorities and under intimation to the Lokayukta Department. b

(3) The e-tender auction shall be conducted only after measurement of the quality and quantity of each of the 56 iron ore heaps separately through the Mines and Geology Department.

(4) The e-auction shall be conducted after taking samples of each of the 56 iron ore heaps separately for which panchnama shall be drawn. c

(5) The e-auction process is over the disposal of the iron ore be covered by videography.

(6) The auction amount shall be deposited immediately with the Court in Special CC No. 268 of 2013 and a copy of the document for having deposited the amount be kept in connected cases. d

(7) The DMG shall keep records of the exact quantity of iron ore transported by the successful bidder of the property.

The original of the order be kept in Special CC No. 268 of 2013 and a copy thereof be kept in Special CCs Nos. 11, 14, 15, 36, 37, 38, 53 & 54 of 2014.

(Directed to the judgment writer, transcribed by the corrected and then signed and pronounced by me in the open court on this 8-5-2015), e

sd/-

(Pradeep S. Balikal)

XXXIInd Addl. City Civil and
Sessions Judge and Spl. Judge
for CBI Cases, Bangalore” f

17. From the above, it is clear that the order dated 8-5-2015 was passed in different proceedings which proceedings commenced by registration of FIR dated 15-3-2010, Ankola Police Station Crime No. 189 of 2010. After investigation by CID/CBI charge-sheets were filed, which were the cases as referred above. Iron ore which was directed to be released by order dated 8-5-2015 was iron ore seized on 20-3-2010. In the additional documents filed by the appellant, IA filed on behalf of the respondent under Sections 451/457 CrPC dated 8-3-2016 has been brought on record. It is useful to extract the prayer made in the application of the respondent, which is to the following effect: g

h

STATE OF KARNATAKA v. VEDANTA LTD. (*Ashok Bhushan, J.*)

729

“PRAYER

a Wherefore, it is prayed that this Hon’ble Court be pleased to allow the above application and direct the release in favour of the applicant Company herein, of about 34,544 MT of iron ore belonging to the applicant Company that has been seized on 20-3-2010 and is lying at the plot allotted to applicant Company by Shree Mallikarjun Shipping Private Limited in Belekeri Port area, in the interest of justice and equity.

b *Place:* Bangalore

Date: 8-3-2016

Applicant

[Anand Prakash Dubey,

Head-Finance, Iron Ore, Karnataka]

Advocate for applicant

(K.N. Phanindra)”

c **18.** It is, thus, clear that seizure of the iron ore was not in Case Crime No. 2 of 2014 in which final report has been accepted on 15-12-2015 rather seizure of the iron ore was in different proceeding in which proceeding order dated 8-5-2015 was passed. When release of iron ore on an application filed by the State under Sections 451/457 CrPC was in different proceeding, there was no effect or consequence of acceptance of the final report vide order dated 15-12-2015 in Case Crime No. 2 of 2014 and the High Court committed error in allowing the writ petition on the strength of the final report accepted on 15-12-2015. We have already extracted the entire consideration of the High Court while allowing the writ petition from paras 8 to 15 of the judgment. The High Court while allowing the writ petition had only relied on acceptance of the final report by CBI Judge dated 15-12-2015 which as has been noted above, was not relevant with regard to order dated 8-5-2015 passed by the trial court.

e **19.** The learned Senior Counsel for the appellant has also brought on record subsequent judgment of the High Court where the High Court in the writ petition filed against the same order dated 8-5-2015 by another writ petitioner has disposed of the writ petition granting liberty to that writ petitioner to approach the jurisdictional criminal court for release of the seized iron ore by establishing its existence and ownership rights. Reference has been made to the order of the Karnataka High Court dated 20-11-2017 in *P.K. Pounraj v. State of Karnataka*⁴ filed as Annexure P-11.

f **20.** In result of the foregoing discussion, we are of the view that order and judgment of the High Court is wholly unsustainable and is hereby set aside. We, however, observe that it shall be open for the respondent to file an appropriate application before the XXXIInd Additional City Civil and Sessions Judge and Special Judge for CBI Cases, Bangalore (CCH-34), for release of seized iron ore by establishing its existence and its ownership right over the same, which may be considered by the jurisdictional criminal court in accordance with law. The criminal appeal is allowed.

h

4 2017 SCC OnLine Kar 3788

Item No.03

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.53/2023/EZ
(I.A. No.28/2023/EZ)

Satyabrata Sanjeev Kumar Mohanta

Applicant(s)

Versus

MoEF&CC & Ors.

Respondent(s)

Date of hearing: 18.07.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Md. Akram, Advocate (in Virtual Mode)

For Respondent(s) : Ms. Anamika Pandey, Adv. for R-1 (in Virtual Mode),
Mr. Ashok Kumar Parija, Advocate General a/w
Mr. Tarun Patnaik, ASC for R-2 to 6,
Mr. Dipanjan Ghosh, Advocate for R-7,
Mr. Sanjay Upadhyay, Advocate a/w
Mr. Dhananjaya Mishra, Mr. Biswaranjan Sahoo, and
Ms. Mansi Bachani, Advocates for R-8,

ORDER

1. Mr. Md. Akram, learned Counsel holding brief of Ms. Soumya Mishra, learned Counsel is present (in Virtual Mode) for the Applicant.
2. Affidavit dated 15.07.2023 has been filed by Respondent No.8, Private Respondent; the same is taken on record.
3. Counter-affidavit dated 15.07.2023 has been filed by the Divisional Forest Officer, Keonjhar; the same is taken on record.
4. Mr. Dipanjan Ghosh, learned Counsel files Vakalatnama on behalf of the Respondent No.7, Odisha Power Transmission Corporation Limited (OPTCL); the same is taken on record.

5. We have heard the learned Counsel for the parties and perused the documents on record.
6. Final order of the said case will be uploaded in the website by separate sheets of paper.

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

July 18, 2023,
Original Application No.53/2023/EZ
(I.A. No.28/2023/EZ)
MN

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

**ORIGINAL APPLICATION NO.53/2023/EZ
(I.A. NO.28/2023/EZ)**

IN THE MATTER OF:

Satyabrata Sanjeev Kumar Mohanta,

Aged about 35 years,
S/o – Dambarudhara Mohanta,
At- Karadia, P.O. /P.S.- Karanjia,
Dist. –Mayurbhanj,

.... Applicant(s)

Versus

- 1. Ministry of Environment, Forest & Climate Change (MoEF&CC),**
Represented through its Secretary,
At- 2nd Floor, Agni Block,
Indira Paryavaran Bhawan,
Jorbagh Road,
New Delhi – 110003
- 2. Forest, Environment and Climate Change Department,**
Represented through its Secretary,
Government of Odisha,
Kharavel Bhavan,
Bhubaneswar,
Odisha
- 3. Divisional Forest Officer (D.F.O.), Keonjhar,**
At- Kamapala Street,
Keonjhar Town, Keonjhar,
Odisha – 758001
- 4. Collector & District Magistrate,**
At- Office of the Collector cum District Magistrate,
Collectorate, Keonjhar,
P.O./Dist. – Keonjhar,
Odisha
- 5. Divisional Forest Officer (D.F.O.), Bonai,**
At/P.O. - Bonaigarh,
Dist. – Sundergarh,
Odisha - 770038
- 6. Collector & District Magistrate, Sundergarh,**
At- District Collectorate, Sundergarh,
Office of the Collector-cum-District Magistrate,
Collectorate Sundergarh,
At/P.O. – Sundergarh,

Dist. – Sundergarh,
Odisha – 770001

7. Odisha Power Transmission Corporation Limited (OPTCL),

Represented through Managing Director,
At – Janpath Road, Gridco Colony,
Industrial Area, Satya Nagar, Bhubaneswar,
Odisha – 751022

8. M/s. Rungta Mines Ltd.

Represented through its Managing Director,
At- Rungta House, Chaibasa,
Dist. – West Singhbhum,
Jharkhand – 833201

And

At – Rungta Mines Ltd.
Main Road, Barbil HO,
Barbil, Dist. – Keonjhar,
Odisha – 758035

And

At- 8A Express Tower,
42A, Shakespeare Sarani,
Kolkata – 700017
West Bengal

.... Respondent(s)

Date of hearing: 18.07.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Md. Akram, Advocate (in Virtual Mode)

For Respondent(s) : Ms. Anamika Pandey, Adv. for R-1 (in Virtual Mode),
Mr. Ashok Kumar Parija, Advocate General a/w
Mr. Tarun Patnaik, ASC for R-2 to 6,
Mr. Dipanjan Ghosh, Advocate for R-7,
Mr. Sanjay Upadhyay, Advocate a/w
Mr. Dhananjaya Mishra, Mr. Biswaranjan Sahoo, and
Ms. Mansi Bachani, Advocates for R-8,

ORDER

1. The Applicant in the present Original Application is, *inter-alia*, seeking a direction to the Respondent No.8, M/s Rungta Mines Ltd., to comply with the conditions stipulated in Stage-I and Stage-II of the Forest Clearance granted to it and also to pay Environmental Compensation for causing damage to forest land to the Project of 132 KV Transmission Line.

2. The allegation of the Applicant is that the Respondent No.8, M/s Rungta Mines Ltd. was granted Stage-I Approval letter from the Ministry of Environment, Forests and Climate Change, Eastern Regional Office, Bhubaneswar, on 25.06.2020 for diversion of 35.507 hectares of forest land (31.806 hectares of forest land under Keonjhar Division and 3.701 hectares of forest land under Bonai Division) for construction of 132 KV Transmission Line from 132/33KV OPTCL Grid Station, Barbil, Keonjhar to Kamanda Steel Plant of M/s Rungta Mines Ltd. at Village-Kamanda in Sundergarh, Odisha. It is stated that the route alignment for construction of 132 KV Transmission Line from 132/33 KV OPTCL Grid Station, Barbil, Keonjhar to Kamanda Steel Plant of M/s Rungta Mines Ltd. at Village-Kamanda in Sundergarh, Odisha, has been diverted without prior sanction of the Central Government.
3. It is alleged that the User Agency has also changed the layout plan of the proposal without prior approval of the MoEF&CC at Latitude: 22°5'18"N Longitude 85°22'38"E on 28.06.2021 and thus obstructing the elephant movement in violation of the conditions stipulated in Stage-I and Stage-II Forest Clearance. It is also stated that the Elephant Corridor, namely, Karpada, is situated 7.5 KM from the proposed forest area but the site falls under Elephant Habitat Zone – 2.
4. It is further alleged that as per Condition No. viii of Stage-I Clearance dated 25.06.2020, the base of electric transmission towers in the forest area must be fenced with barbed wire, in addition to installation of spike on the legs of the towers in order to avoid elephant and other wildlife getting electrocuted but the

Project Proponent has not installed spikes and barbed wire on the electric towers in the forest area.

5. It is also alleged that the Project Proponent, Respondent No.8, has resorted to felling of trees, although they were only permitted felling to a minimum number in the diverted forest land and that too after depositing the cost of felling of the trees with the Forest Department.
6. It is also alleged that Condition No. xviii of the Stage-I Clearance also provides that the layout plan of the proposed forest land shall not be changed by the Project Proponent without the approval of the Central Government but the Respondent No.8 in gross defiance of the said conditions has diverted the sanctioned latitude plan without prior sanction of the Central Government for which the State Forest Department, Keonjhar Division, has also lodged an FIR being FIR No. 10 BL of 21/22 on 28.06.2021. The said FIR records that the incident occurred at Sunderabasti, Barbil near Jagada Sahi near Ward No.15 and one Bijay Kumar Pandey and Avimanyu Das have been arrayed as accused persons who happened to be the contractor of the Respondent No.8 and five felled Sal logs were also seized from their possession and also two quintals of fire wood, which have been kept in the custody of Forest Guard, Mr. Malaya Kumar Jena.
7. It is further alleged that though the Forest Department has not handed over its forest land to the Project Proponent, Respondent No.8, to execute its project work but unauthorisedly 133 KV electricity has been supplied by the OPTCL Grid Station, Barbil, Keonjhar to Kamanda Steel Plant of M/s Rungta Mines Ltd.,

Respondent No.8, at Village-Kamanda in Sundergarh, Odisha, on 01.12.2022.

8. The allegation further is that though Condition No.ii of the Stage-I Clearance provides that Compensatory Afforestation shall be raised over 37.281 hectares of non-forest land identified in Plot Nos. 232 (P), 233(P) and 234(P), Khata No. 67 (AAA), Kisam-Parbat of Village-Lungajhar under Banspal Tahasil of Keonjhar District, (32.261 hectare) and Plot No. 1263(P), Khata No. 77, Kissam-Patita of Village-Badabanga under Lephiapara Tahasil of Sundergarh District (5.02 hectares), but so far the User Agency, Respondent No.8, has only deposited the money for Compensatory Afforestation but the State Forest Department has failed to supply plant saplings to the User Agency.
9. It is also alleged that the User Agency, Respondent No.8, was allowed to fell 1359 trees (795 Sound and 564 unsound), 1230 Poles below 30 cm girth as per the letter of the Divisional Forest Officer, Keonjhar, 16.03.2021 but the Respondent No.8 has failed to execute the work process and before Government orders could be passed, the execution of the work has already been started by the Respondent No.8. It is also stated that despite non-compliances of the conditions of the Stage-I clearance, the MoEF&CC has illegally granted Stage-II Approval to the Respondent No.8 on 31.03.2021.
10. The Applicant has sought the following reliefs in the Original Application:-

- a. Admit this original application, Issue Notice; and*
- b. Direct the Opp. Party No.8 to immediately comply the non-complied conditions stipulated under Stage-I & II of the forest*

clearance granted to the user agency/project proponent i.e., M/s Rungta Mines Ltd.

c. Direct the Opp. Party No.8 to give environmental compensation for damaging the forest land due to the abovementioned project of 132 KV transmission line.

d. Direct the Opp. Party No.8 to give environmental compensation for damaging the forest land due to violation of the conditions stipulated under Stage-I & II of the forest clearance.

e. Direct the Opp. Party No.8 to restore the forest land degraded due to the aforesaid project.

f. Direct the Opp. Party No.1 to 7 to conduct a joint inspection in all respect to ensure the compliance of conditions stipulated under Stage-I & II of the forest clearance to avoid further damage to the environment.

g. To take action against the errant Opp. Party No.1 to 7 and to impose heavy penalty on the errant user agency/O.P. No.8 i.e., M/s Rungta Mines Ltd. for violation of Forest (Conservation) Act, and also for violation of para 1.21 of Chapter-1 of Handbook of Guidelines issued under F.C. Act, 1980 vide Ministry's letter No.5-2/2017-FC dated 28.03.2019."

11. The Applicant has also filed **I.A. No.28/2023/EZ**, *inter-alia*, seeking the following interim reliefs:-

"a) Stay/stoppage of the supply of Electricity from OPTCL Power grid Barbil to Kamanda Steel Plant of Rungta Mines Ltd. as the Forest Land has been handed over fraudulently during the pendency of a case for changing the lay out plan without prior sanction of Central Government."

b) Direct stay operation of Kamanda Steel Plant till environmental compensation is adequately paid by the Applicant would suffer irreparable loss and injury, which cannot be compensated otherwise.

c) And pass such any other order as this Hon'ble Court may deem fit and proper."

12. A preliminary objection has been raised by Mr. Sanjay Upadhyay, learned Counsel appearing for Respondent No.8, Project Proponent,

that the present Original Application is not maintainable in view of the provisions of Section 16(e) of the National Green Tribunal Act, 2010 (hereinafter referred to as 'Act, 2010')under which only an appeal could be filed if the Applicant was aggrieved by any order or decision made by the State Government or other authority under Section 2 of the Forest (Conservation) Act, 1980.

13. Section 16(e) of the Act, 2010, reads as under:-

“16. Tribunal to have appellate jurisdiction.-

.....xxx.....xxx.....xxx.....xxx.....

(e) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government or other authority under section 2 of the Forest (Conservation) Act, 1980;”

14. We find that although the Applicant has not challenged any order as such or decision made by the State Government under Section 2 of the Forest (Conservation) Act, 1980, but the sum and substance of the reliefs claimed is a challenge to Stage-I Clearance granted by the Ministry of Environment, Forests and Climate Change, Regional Office, Bhubaneswar, on 25.06.2020 as would be clear from para 7 of the Original Application and also Stage-II Clearance approved by the Ministry of Environment, Forests and Climate Change on 31.03.2021 as stated in para 17 of the Original Application. Paras 7 and 17 of the Original Application read as under:-

“7. That, as per condition no. viii of the Stage - 1 approval letter of MOEF & CC, Eastern Regional Office, Bhubaneswar vide F.No.5 ORC418/2020-BHU, Dated 25.06.2020, the base of electric transmission towers in the forest area must be fenced with barbed wire in addition to installation of spike on the legs of the towers in order to avoid elephant and other wildlife electrocution. But, no electric tower of the said project of Rungta

Mines Ltd. has been installed with spikes and barbed wire in the said forest area and such gross irregularity and violation of the aforesaid condition no. viii of the Stage - 1 approval letter can be verified and inspected by appropriate authority.”

“17. That, on 31.03.2021, the user agency fraudulently managed to get the stage-2 approval of MOEF & CC even though the industry is non-compliant of stage-1 approval of forest clearance.”

15. Learned Counsel for the Applicant submitted that the Applicant was not challenging any order of the State Government under Section 2 of the Forest (Conservation) Act, 1980, and, therefore, the present Original Application is maintainable.
16. However, from the allegations made in the present Original Application, particularly in para 7 and para 17 thereof, we find that under the garb of the reliefs claimed in the Original Application without challenging the order dated 25.06.2020 granting Stage-I Clearance and the order dated 31.03.2021 granting Stage-II Clearance for the Project in question, the Applicant is, in fact, assailing the grant of Stage-I and Stage-II Clearances granted by the Ministry of Environment, Forests and Climate Change and, therefore, in our view, the present Original Application is not maintainable.
17. There is another aspect of the matter which needs to be examined by this Tribunal, particularly in view of the serious objections raised by Mr. Ashok Kumar Parija, learned Advocate General of Odisha assisted by Mr. Tarun Patnaik, learned Additional Standing Counsel appearing for State Respondents, Government of Odisha.
18. Mr. Parija has drawn attention of this Court to para 4 of the affidavit of the Divisional Forest Officer, Keonjhar, dated 15.07.2023, and submitted that the Applicant has not approached

this Tribunal with clean hands. He submitted that in 2021 a PIL being W.P. (C) No.33158 of 2021 had been filed before the Hon'ble High Court of Orissa at Cuttack with the cause title "*Ashirbad Pattnaik & Ors. Vs. State of Odisha & Ors.*", wherein the State Government and certain other private respondents were impleaded as parties. The allegations raised in the said PIL were similar to those raised in another petition, namely, "*Ranjan Panda & Ors. Vs. State of Odisha & Ors.*". Para 7 of that petition has been quoted in para 4 of the affidavit of the Divisional Forest Officer, Keonjhar, to show that what was alleged in the said Writ Petition, which is also extracted herein below:-

"4.XXX.....XXX.....XXX.....XXX....."

"7. That it is also pertinent to mention here that, as per the news reported by the Indian Express dated 03.07.2021 and Oriya Weekly Newspaper, Bartta corroborating their statements with certain live photographs stated therein, that the Rungta Mining Company has cut down numerous amount of trees of the reserve forest area for its personal gain without obtaining the prior permission from the forest department near Jagadasahi Village under Joda Block of Keonjhar district. The aforesaid firm needs power supply of 132 KB electricity line for its proposed project at Kamanda Village under Bonai tehsil of Sundergarh district by utilizing 31 Hectares of forest land and such deforestation is largely affecting the environment of the said mining areas for which the presence of trees is utmost essential. Further, the forest range officer of Barbil enquired about the said activity of the said mining firm, lodged a case against the said mining firm for blatant violation of the forest laws. The above said violation is against the provision of Sec. 2 of the Forest Conservation Act, 1980 which clearly states that for any non-forest activity within forest land, needs prior approval from the Ministry of Environment and Forest and Climate Change (MOEF & CC). But at the instant case the said erring mining

firm not felt necessary to obtain the said permission before the illegal deforestation activity.”

19. It is further stated that the W.P. (C) No. 33158 of 2021 was duly considered by a Division Bench of the Hon’ble High Court and the same was dismissed by the Hon’ble High Court vide judgment and order dated 02.12.2021 with a cost of Rs. 5,000/- (Rupees Five Thousand only) against each of the petitioners (10 in number) totaling Rs. 50,000/- (Rupees Fifty Thousand only). Paras 9, 10 and 11 of the judgment read as under:-

“9. With the above observations, the present writ petition stands dismissed.

10. We would have ordinarily observed something against the counsel appearing in the case. However, keeping in view the early stages of his career, we refrain from commenting upon his conduct except to advise him to be careful in future and not be a party to such a litigation initiated by unscrupulous litigants.

The Registry is also directed to stringently comply with the rules as indicated hereinabove while dealing with Public Interest Litigations so as to prevent valuable judicial time from being wasted and prevent certain unscrupulous elements from weaponizing petitions in courts of law.

11. We feel constrained to direct the petitioners (10 in number) to deposit cost of Rs. 5,000/- each (totalling Rs.50,000/-) before the Orissa High Court Bar Association Advocates Welfare positively within four weeks from today, failing which Collector, Keonjhar shall proceed to recover the same as arrears of land revenue and ensure the deposit of the recovered amount as stated hereinabove.”

20. Thereafter, I.As. were filed by the petitioners therein (in the High Court) seeking expunging of certain portions of the judgment of the Hon’ble High Court dated 02.12.2021 wherein negative connotation had been made against Mr. Sambit Samal, Counsel who was

appearing on behalf of the petitioners in W.P. (C) No. 33158 of 2021 and the said I.As. were also dismissed by a Division Bench of the Hon'ble High Court vide order dated 10.03.2021. Paras 13, 14, 15 & 16 of the order read as under:-

“13. The observations made in Paragraph 3 and 10 of the judgment dated 02.12.2021 in no way affects the image of the arguing counsel. It was only a note of caution sounded to the counsel so that he may not get involved with unscrupulous litigants. It was merely a reminder on the duty of the counsel to the court and to his profession. The court has, in fact, restrained itself from passing any adverse order considering the petitioner's lesser length of practice at the Bar.

14. This court makes it clear that in the absence of any disparaging remark made against the counsel for the petitioners, he should take the observations of this Court in the manner in which it was intended, i.e. as a fillip to mould his legal career in a better way in future.

15. In view of the above, this Court is not inclined to accept the prayer of the petitioners made in the I.As. to effect any change in the judgment dated 02.12.2021 passed by this Court in W.P.(C) No.33158 of 2021.

16. Accordingly, both the I.As. are dismissed.”

21. Learned Advocate General also submitted that the judgment of the Hon'ble High Court was challenged by the petitioners before the Hon'ble Supreme Court in Special Leave to Appeal (C) No.8637/2022 and the said SLP was dismissed by the Hon'ble Supreme Court vide its order dated 09.09.2022 and the judgment of the Hon'ble High Court was upheld and the Hon'ble Supreme Court observed that the Special Leave Petitions are an abuse of process of Court and the said Special Leave Petitions were

dismissed with cost of Rs. 25,000/- (Rupees Twenty Five Thousand only). The order of the Hon'ble Supreme Court reads as under:-

“UPON hearing the counsel the court made the following

ORDER

Permission to file the Special Leave Petition granted.

- 2. Delay in refiling the Special Leave Petition is condoned.*
- 3. Application for permission to implead the High Court of Orissa is dismissed.*
- 4. Having heard senior counsel appearing on behalf of the petitioners, we see no reason to entertain the Special Leave Petitions. The High Court was entirely justified in coming to the conclusion that the petition was filed after suppressing the fact that an earlier petition filed by the same advocate had been dismissed as withdrawn. The subsequent petition contains substantially the same averments. The Special Leave Petitions are an abuse of process. We accordingly dismiss the Special Leave Petitions with costs quantified at Rs.25,000, which shall be paid to the Supreme Court Bar Association within four weeks.*
- 5. Pending application, if any, stands disposed of.”*

22. Learned Advocate General further submitted that the address given by the Counsel for the present Applicant Ms. Soumya Mishra, has upon verification been found to be the same as that of Mr. Sambit Samal, the Counsel who had filed the PIL being W.P. (C) No. 33158 of 2021 before the Hon'ble High Court of Orissa, as being 552/t/13, Friends Colony, B.K. Road, P.O.-Buxi Bazar, P.S.-Mangalabag, District-Cuttack, Odisha, Pin – 753001, as stated in the affidavit of the Divisional Forest Officer, Keonjhar, dated 15.07.2023.

23. This fact has not been disputed by Mr. Md. Akram, Counsel holding brief of Ms. Soumya Mishra. Even the photocopy of the

registered post on record, filed with the affidavit of service, mentions the address of Ms. Soumya Mishra as 'Friends Colony.'

24. In this view of the matter, the submission of Ashok Kumar Parija, learned Advocate General as well as Mr. Sanjay Upadhyay, learned Counsel appearing for Respondent No.8, is that the present Original Application has been originated in the same chamber as that of Mr. Sambit Sambal, though under the name of different parties and in the name of a different Counsel which amounts to a fraud upon the Court and also amounts to abuse of process of Court.
25. Ms. Soumya Mishra, learned Counsel who has filed the present Original Application is not present today. Mr. Md. Akram's Vakalatnama is on record and he is present today and has been heard. As we have already noted hereinabove Mr. Akram could not dispute either the legal position as to the non-maintainability of the present Original Application or the fact of dismissal of the PIL WP (C) No.33158 of 2021 and allied cases by the Hon'ble High Court of Orissa as well as dismissal of SLP (C) No. 8637 of 2022 by the Hon'ble Supreme Court.
26. We are, therefore, satisfied that not only is the Original Application not maintainable but the same is an abuse of process of Court in view of the order passed by the Hon'ble High Court of Orissa at Cuttack and the Hon'ble Supreme Court.
27. In view of above, the Original Application No.53/2023/EZ is accordingly dismissed with a cost of Rs. 10,000/- (Rupees Ten Thousand only) against the Applicant, Satyabrata Sanjeeb Kumar. The amount of cost shall be deposited by the Applicant with the Ld. Registrar, National Green Tribunal, Eastern Zone Bench, Kolkata,

within one week from the date of this order. In case the Applicant fails to deposit the amount of cost with the Ld. Registrar, National Green Tribunal, Eastern Zone Bench, Kolkata, the same shall be recovered from him by the Collector & District Magistrate, Keonjhar, in accordance with law and the same shall be deposited with the Ld. Registrar, National Green Tribunal, Eastern Zone Bench, Kolkata.

28. Let a copy of this order be also forwarded to the Collector & District Magistrate, Keonjhar, for due compliance.
29. I.As. if any, stand disposed of accordingly.

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

July 18, 2023,
Original Application No.53/2023/EZ
(I.A. No.28/2023/EZ)
AK

Mihir Sthalekar
//TRUE COPY//

Item No.04

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Appeal No.05/2021/EZ
(I.A. No.78/2021/EZ)

IN THE MATTER OF:**Anand Kumar Jha**

Son of Shri Bhalchandra Jha,
Resident of Type-B, Dakra,
Dakra Colliery,
Ranchi

.....Appellant(s)

Versus**1. Union of India,**

Through its Secretary,
Ministry of Environment, Forests and Climate Change,
Indira Paryavaran Bhawan, Jor Bagh Road,
New Delhi-11003;

2. Jharkhand State Pollution Control Board,

Through its Member Secretary,
H.E.C., Dhurwa,
Ranchi-834004;

3. State of Jharkhand,

Through Chief Secretary,
Project Bhawan, Doranda,
Ranchi-834002;

4. Damodar Valley Corporation (DVC),

Through its Chairman-cum-Managing Director DVC Towers,
VIP Road, Kolkata-700054

.....Respondent(s)

Date of hearing: 15.05.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Appellant(s) : Mr. Kaustav Dhar, Advocate (in Virtual Mode)

For Respondent(s) : Mr. Apurba Ghosh, Advocate for R-1,
Mr. Ashok Prasad, Advocate for R-2 (in Virtual Mode),
Ms. Aishwarya Rajyashree, Adv. for R-3 (in Virtual Mode),
Mr. Sanjay Upadhyay, Advocate a/w
Mr. Prasun Mukherjee, Advocate and
Mr. Deepak Agarwal, Advocate for R-4

ORDER

1. This Appeal has been filed by the Appellant seeking quashing of the Environmental Clearance dated 28.04.2021 granted to the Respondent No.4, Damodar Valley Corporation (DVC), for Tubed Coalmine Project of 6 MTPA in the District of Latehar, Jharkhand.
2. The contention of the Appellant is that the said mining block is located in an area of 460 ha; the EIA report of the project does not estimate the background concentration of Mercury (Hg) and Chromium (Cr) in Particulate Matter as required by Standard ToR No.15; there is no detailed timeline, maps etc. provided in the EIA report with respect to Additional ToR No.15; no details have been given in the EIA report regarding ecological restoration and mine reclamation plan prepared with local/native species found in the area as was required by Additional ToR No.3; the Palamau Tiger Reserve and other Protected areas are in close proximity to the site of the Tubed Coalmine Project and there is no presence of Schedule-I species which appears to be unlikely.
3. In the present Appeal the Environmental Clearance dated 28.04.2020 is under challenge, as such the Tribunal raised a preliminary objection regarding limitation.
4. Learned Counsel for the Appellant has relied upon the judgment of the Hon'ble Supreme Court dated 23.09.2021 in *Miscellaneous Application No. 665 of 2021 in SMW(C) No. 03 of 2021; Re: Cognizance for Extension of Limitation*. It is mentioned therein that the limitation period has itself been extended by the Hon'ble Supreme Court by the said judgment in cases where limitation would have expired during the period from 15.03.2020 till 02.10.2021.

5. The Respondent No.4, Damodar Valley Corporation, has filed counter-affidavit dated 26.04.2022 wherein a preliminary objection of limitation has been taken. The second ground of objection is whether the Appellant can be permitted to maintain the present Appeal as an 'aggrieved person'.
6. We will first take up the second issue namely as to whether the Appellant can be said to be an aggrieved person within the meaning of Section 16 and 18 of the National Green Tribunal Act, 2010 to entitle him to maintain the present Appeal. Section 16 of National Green Tribunal Act, 2010, reads as under: -

“16. Tribunal to have appellate jurisdiction-

Any person aggrieved by, -

(a) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 28 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(b) an order passed, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government under section 29 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(c) directions issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(d) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977 (36 of 1977);

(e) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State

Government or other authority under section 2 of the Forest (Conservation) Act, 1980 (69 of 1980);

(f) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the Appellate Authority under section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under section 5 of the Environment (Protection) Act, 1986 (29 of 1986);

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);

(i) an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986 (29 of 1986);

(j) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002 (18 of 2003),

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

7. Section 18 of the National Green Tribunal Act, 2010 reads as under: -

18. Application or appeal to Tribunal-

(1) Each application under sections 14 and 15 or an appeal under section 16 shall, be made to the Tribunal in such form, contain such particulars, and, be accompanied by such documents and such fees as may be prescribed.

(2) Without prejudice to the provisions contained in section 16, an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by--

(a) the person, who has sustained the injury; or

(b) the owner of the property to which the damage has been caused; or

(c) where death has resulted from the environmental damage, by all or any of the legal representatives of the deceased; or

(d) any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or

(e) any person aggrieved, including any representative body or organization.”

8. In the paragraph-1 under the heading ‘Facts’ in the Memo of Appeal the Appellant has described himself as a resident of Village Dakra in Ranchi District of Jharkhand and he *“is stated to be concerned by the environmental impact of the mining activities of the Respondent No.4 in the State of Jharkhand”*. It is stated that the Appellant has been observing for the past several years that the air quality in various parts of the State of Jharkhand especially in the region around the coal mines has severely deteriorated due to large number of coal mines in Jharkhand. The Appellant is stated to have observed that due to pollution being caused, there is an

increase in the respiratory illness in the persons residing in the region and he has been raising the issue of pollution and other environmental issues due to coal mines in electronic and other media. It is also stated that the Appellant being a resident of Jharkhand is concerned by the grant of Environmental Clearance to Tubed Coal Mines Project of Respondent No.4 and hence has filed the present Appeal.

9. In our opinion, merely saying that he is concerned with pollution in Jharkhand, the Appellant cannot be said to be a 'person aggrieved' within the meaning of Section 16 and Section 18 of the National Green Tribunal Act, 2010. The Tubed Coal Mines Project of the Respondent No.4 is located in Latehar District of Jharkhand. The Appellant is not a resident of Latehar District nor has he stated that he is a resident of any of the villages which may fall within the area of operation of the Tubed Coal Mines Project of the Respondent No.4. The Project Proponent in its counter-affidavit has stated that the place of residence of the Appellant is about 200 km from the Project site.
10. Among the various issues raised for assailing the grant of Environmental Clearance to the Respondent No.4 one of the grounds taken by him is that 'Public Consultation' was not conducted as per the EIA Notification, 2006 and that the process of 'public consultation' has not been done in the present case while granting Environmental Clearance to the Project of Respondent No.4.
11. Nowhere in the body of the Appeal has the Appellant claimed that he had sought hearing during public consultation as a matter of right but was not given such opportunity. None of the persons who

live in the vicinity of the villages covered by the Tubed Coal Mines Project of the Respondent No.4 are present before this Tribunal to complain that they were not provided opportunity of public hearing and that public consultation was not held as per the EIA Notification, 2006.

12. In this view of the matter, we hold that the Appellant is not a person aggrieved within the meaning word “any person aggrieved” under Section 16 and Section 18 of the National Green Tribunal Act, 2010.
13. Mr. Sanjay Upadhyay, learned Counsel for the Project Proponent submitted that it is also not disclosed in the body of the Appeal other than what has been reproduced hereinabove and which is based upon the Appellant’s own disclosure, to show what are his credentials and *bonafides* in approaching the Tribunal. Reliance has been placed on the judgment of the Hon’ble Supreme Court in *Civil Appeal No.2407-2421 of 2021, State of Uttar Pradesh & Ors. vs. Uday Education and Welfare Trust & Anr.*
14. The Hon’ble Supreme Court in *Civil Appeal No.2407-2412 of 2021, The State of Uttar Pradesh & Ors. Etc. Etc. vs. Uday Education and Welfare Trust & Anr. Etc. Etc.* and connected cases, has held that when issues and objections to the credentials and *bonafides* of litigants approaching the National Green Tribunal are seriously raised, the same cannot be ignored. Before a litigant is permitted to knock the doors of justice and seek orders which have far reaching effects of affecting the employment of thousands of persons, stopping investment in the State, prejudicing the interests of the farmers; the credentials and *bonafides* of the Applicants must be tested. The Hon’ble Supreme Court, therefore, laid stress

that when credentials and *bonafides* of such litigants are seriously raised and when entertaining the grievance of such litigants, which is likely to affect the rights of many, the National Green Tribunal should ensure the *bonafides* and credentials of such litigants. The Hon'ble Supreme Court also observed that the Tribunal must examine questions as to what were the aims and objectives of the Applicants and what are their sources of funding etc. Merely filing some Public Interest Litigations in the past would not suffice. Paragraphs-96 to 99 of the said judgment read as under: -

“96. Another aspect that needs consideration is that a serious issue was raised before the learned NGT by the appellants herein with regard to the credentials and bonafides of the original applicants.

97. When the matter was heard by us, we too made pertinent queries to Shri Mehta and Shri Chahar with regard to the credentials of the applicants before the learned NGT. One applicant is Uday Education and Welfare Trust; the second applicant is Samvit Foundation and the third applicant is U.P. Timber Association. Undisputedly, the U.P. Timber Association was a litigant interested in the litigation. However, insofar as the other original applicants, i.e. Uday Education and Welfare Trust and Samvit Foundation, for whom Shri Dhruv Mehta and Shri Brijender Chahar, learned Senior Counsel are appearing, specific queries with regard to the activities undertaken by the said original applicants were made as to whether they were involved in any activity with regard to the protection of the environment; had they at least been engaged in promoting plantation; what were the aims and objectives of the said original applicants; and what are the sources of funding, etc. Shri Mehta and Shri Chahar, learned Senior counsel, fairly submitted that apart from the fact that they (original applicants) had previously filed some public interest litigations wherein orders were passed in their favour, they had no other information.

98. *Shri Dhruv Mehta, learned Senior Counsel has rightly relied on the judgment of this Court in the case of Ankita Sinha and Others (supra) to submit that the learned NGT is empowered to take suo motu cognizance. This Court has held that, taking into consideration the nature of functions of the learned NGT, it cannot be equated with other Tribunals and in environmental matters, it will also have a power to take suo motu cognizance. However, when the credentials and bonafides of a litigant approaching the learned NGT are seriously raised, the same cannot be ignored.*

99. *We find that before a litigant is permitted to knock the doors of justice and seek orders which have far reaching effects of affecting the employment of thousands of persons, stopping investment in the State, prejudicing the interests of the farmers; the credentials and bonafides of the applicants must be tested. In the present case, there is scope to infer that the litigation could be at the behest of the existing WBIs who wanted to avoid competition and continue to get raw material at a cheaper rate. There is also scope to infer that it could be at the behest of the WBIs in the adjoining Yamuna Nagar district of Haryana where lakhs of tons of timber is exported from the State of Uttar Pradesh. There is scope to infer that it could be in the interest of middlemen who are engaged in exporting timber from Uttar Pradesh to Haryana. We would, therefore, only request the learned NGT that, when credentials and bonafides of such litigants are seriously raised and when entertaining the grievance of such litigants, which is likely to adversely affect the rights of many, it should ensure the bonafides and credentials of such litigants.”*

15. In the present case, nothing has been indicated by the Appellant as to why he is **only** concerned by the environmental impact of the mining activities of the ‘Respondent No.4’ in the State of Jharkhand as stated by him in paragraph-1 of the **“FACTS”**. What is his source of funding to maintain the Appeal or to take up such

environmental issues has not been disclosed. Assailing the Environmental Clearance, several scientific and technical facts and documents have been referred to by the Appellant; what is his source of funding and source of obtaining such documents, has not been disclosed. Not a single person who may be said to be a resident of any village affected by the mining operation of the Tubed Coal Mines Project of the Respondent No.4 is before us. Therefore, a serious shadow of doubt is cast upon the credentials and *bonafides* of the Appellant to maintain the present Appeal and in our considered view he cannot be said to be a 'person aggrieved' within the meaning of Section 16 and Section 18 of the National Green Tribunal Act, 2010 and, therefore, this Appeal is not maintainable at the behest of the Appellant.

16. The next preliminary issue raised by the Respondent No.4 is with regard to limitation. The Tribunal even on the first date while entertaining the Appeal had raised the issue of limitation and the same had been kept open for decision.
17. Mr. Sanjay Upadhyay, learned Counsel for the Respondent No.4, Damodar Valley Corporation, submitted that though the Environmental Clearance was granted to the Respondent No.4 on 28.04.2020 for 06 million tonnes per annum of the Tubed Coal Mines Project and uploaded on the Website of DVC (www.dvc.gov.in) under the head 'Business' sub-heading 'mining', the recommendations for grant of Environmental Clearance was made in the 51st Meeting of Expert Appraisal Committee on 05.12.2019, the Minutes of which were uploaded on the portal and, therefore, the decision of the Expert Appraisal Committee was already in public domain and, therefore, in the knowledge of the

Appellant whereas the present Appeal has been filed after a delay of almost one and half years challenging the Environmental Clearance granted to Respondent No.4.

18. The learned Counsel has also referred to the provisions of Paragraph-8 of the MoEF&CC Notification dated 14.09.2006 also known as 'EIA Notification, 2006' and submitted that Paragraph-8 provides that the regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the Applicant within forty-five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environmental Impact Assessment Report, and where Environmental Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents.
19. Reference has also been made to Paragraph-8 (ii) which provides that the regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty-five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement and intimation of this decision shall be simultaneously conveyed to the Applicant.
20. Paragraph-8 (i) & (ii) of the EIA Notification, 2006, read as under: -

“8. Grant or Rejection of Prior Environmental Clearance (EC)-

(i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.

(ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty-five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.”

21. According to the Respondent No.4, the recommendations for Environmental Clearance was made in the 51st Meeting of the Expert Appraisal Committee on 05.12.2019, Minutes of which were uploaded on the website/portal on 13.12.2019. Under sub

paragraph-(i) of paragraph-8 of the EIA Notification, 2006, the period of hundred and five days (105) would end on 28.03.2020. The period of limitation has been extended by the Hon'ble Supreme Court in view of the outbreak of COVID-19 pandemic in *Miscellaneous Application No.21 of 2022 in Miscellaneous Application No.665 of 2021 in Suo Motu Writ Petition (C) No.3 of 2020, Re: Cognizance for Extension of Limitation* and connected cases, and on 23.03.2020 the Hon'ble Supreme Court directed extension of the period of limitation in all proceedings pending before the Courts and Tribunals with effect from 15.03.2020 till further orders and which has been further extended till 28.02.2022. The present Appeal was filed on 08.10.2021 i.e. within the extended period of limitation and, therefore, the same cannot be said to be barred by limitation.

22. However, since we have already held the Appeal to be not maintainable considering the *bonafides* and credentials of the Appellant we dismiss this Appeal as not maintainable.
23. In view of the above, the Appeal No.05/2021/EZ is dismissed.
24. Interlocutory Applications, if any stand disposed of accordingly.
25. There shall be no order as to costs.

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

May 15, 2023
 Appeal No.05/2021/EZ
 (I.A. No.78/2021/EZ)
 MN

Amit Sthalekar
 //TRUE COPY//

ENVIRONMENTAL IMPACT ASSESSMENT

FOR

THE PROPOSED EXPANSION OF ALUMINIUM SMELTER PRODUCTION CAPACITY (FROM 16 LTPA TO 18 LTPA), CPP (1215 MW) BY ADDING 2 LTPA SMELTER PLANT AT BHURKAMUNDA VILLAGE, KALIMANDIR P.O., JHARSUGUDA DISTRICT, ODISHA

VOLUME-I FINAL EIA REPORT

TOR Reference : No. J-11011/29/2007-IA.II(I) dated 20.12.2017

UIN : VLL/ENV/2017/08/VLL/001

Baseline Period : December 2017 to February 2018

Environmental Consultant:



Vimta Labs Limited
142, IDA, Phase-II, Cherlapally,
Hyderabad-500 051, Telangana State
www.vimta.com, env@vimta.com
(NABL/ISO 17025 Certified Laboratory,
Recognized by MoEF&CC, New Delhi)



(Approved Consultant)

Project Proponent :



Vedanta Limited
Bhurkamunda, Jharsuguda

November, 2020

PREFACE

Vedanta Limited
Bhurkamunda, Jharsuguda

ENVIRONMENTAL IMPACT ASSESSMENT

FOR

**THE PROPOSED EXPANSION OF ALUMINIUM SMELTER PRODUCTION
CAPACITY (FROM 16 LTPA TO 18 LTPA), CPP (1215 MW) BY ADDING
2 LTPA SMELTER PLANT AT BHURKAMUNDA VILLAGE, KALIMANDIR P.O,
JHARSUGUDA DISTRICT, ODISHA**

For and on behalf of VIMTA Labs Limited

Approved by : **M. Janardhan**

Signed : 

Position : **Head & Vice President (Env)**

Date : 19th November, 2020

The report has been prepared inline with the prescribed TOR issued vide letter No. F.No. J-11011/29/2007-IA.II(I) dated 20.12.2017 issued by MoEF&CC, New Delhi

This report has been prepared by Vimta Labs Limited with all reasonable skill, care and diligence within the terms of the contract with the client, incorporating our General Terms and Conditions of Business and taking account of the resources devoted to it by agreement with the client.

DECLARATION FORMAT FOR EIA REPORT

Declaration by Experts contributing to the Proposed Expansion of Aluminium Smelter Production Capacity (from 16 LTPA to 18 LTPA), CPP (1215 MW) by adding 2 LTPA Smelter Plant at Bhurkamunda Village, Kalimandir P.O, Jharsuguda District, Odisha

I, hereby, certify that I was a part of the EIA team in the following capacity that developed the above EIA.

EIA coordinator: **M. Janardhan**

Name: **M. Janardhan**


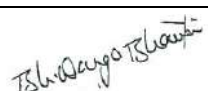



Signature and Date:





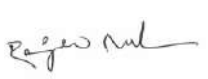
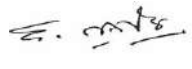


Period of involvement: **September 2017–November 2020**

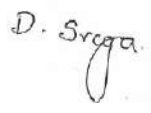



Contact information: **9000711309**

Functional area experts:

Sr. No.	Functional Areas	Name of the expert/s	Involvement		Signature and Date
			Period	Task	
1	AP	M. Janardhan	September 2017 – November 2020	Selected AAQ stations based on IMD data. Identified the sources of pollution and suggested mitigation measures and management plan	
2	WP	Bh. Durga Bhavani	September 2017 – November 2020	Selecting the water sampling locations. Identified the wastewater streams and effective treatment measures are suggested.	
3	SHW	G.V.Raghava Rao	September 2017 – November 2020	Suggested effective management practices for solid and hazardous waste based on the existing management plan	
4	SE	Ch. Venkatesham	September 2017 – November 2020	Involved in preparation of socio-economic and demography section	
5	EB	Dr. Bayyapu Reddy	September 2017 – November 2020	Ecological surveys conducted to identify the impacts and suggested mitigation measures in ecological aspects	

Sr. No.	Functional Areas	Name of the expert/s	Involvement		Signature and Date
			Period	Task	
6	AQ	Dr. B. Chandra Sekhar	September 2017 – November 2020	Conducted air dispersion modeling using AERMOD and determination of GLC's	
7	NV	M. Janardhan	September 2017 – November 2020	Predicted noise levels using noise modeling and also suggested mitigation measures	
8	LU	Y. Ramamohan	September 2017 – November 2020	Preparation of land use map using FCC of IRS RS-2 LISS-IV satellite imagery	
9	RH	Rajgopal Krishnan	September 2017 – November 2020	Involved in review of QRA and HAZOP study report	
10	HG	J. Rajendra Prasad	September 2017 – November 2020	Prepared Detailed Hydrogeological section.	
11	SC	Dr. Bayyapu Reddy	September 2017 – November 2020	Involved in identification of sampling locations. Identified the impacts and suggested suitable mitigation measures.	

Other approved cat-B experts involved in the EIA Report preparation:

Sr. No	Functional Areas	Name of the Expert/s	Involvement		Signature & Date
			Period	Task	
1	WP	D. Svega	September 2017 – November 2020	Identified the impacts and mitigation measures related to water consumption and treatment process	
2	HG	K. Rajeshwar	September 2017 – November 2020	Assisted in preparation of HG section	
3	SHW	Dr. M. Subba Reddy	September 2017 – November 2020	Assisted in preparation of SHW section	
4	AP (Category-B & Team Member)	Mr. B Naresh	September 2017 – November 2020	Identified the impacts and mitigation measures related to Air Pollution	

**Declaration by the Head of the accredited consultant organization/
authorized person**

I, **M. Janardhan** hereby, confirm that the above-mentioned experts prepared the Proposed Expansion of Aluminium Smelter Production Capacity (from 16 LTPA to 18 LTPA), CPP (1215 MW) by adding 2 LTPA Smelter Plant at Bhurkamunda Village, Kalimandir P.O, Jharsuguda District, Odisha.

I also confirm that the consultant organization shall be fully accountable for any mis-leading information mentioned in this statement.

It is certified that no unethical practices, plagiarism involved in carrying out the work and external data/ text has not been used without proper acknowledgement while preparing this EIA report.

Signature:



Name: **M. Janardhan**

Designation: **Head & VP - Environment**

Name of the EIA consultant organization: **Vimta Labs Limited**

NABET Certificate No. & Issue Date: **NABET/EIA/1720/SA 088 Dated:
February 16, 2021.**

Vimta Labs Limited

Registered Office
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Hyderabad-500 051, Telangana, India
T : +91 40 2726 4141
F : +91 40 2726 3657

**UNDERTAKING BY CONSULTANT**

M/s. Vimta Labs Limited has complied with all the prescribed Terms of Reference (ToR) issued by Ministry of Environment, Forest & Climate Change (MoEF&CC) vide Letter No.J-11011/29/2007-IA.II(I) dated 20.12.2017 stipulated for the Environmental Impact Assessment Report for Proposed Expansion of Aluminium Smelter Production Capacity (from 16 LTPA to 18 LTPA), CPP (1215 MW) by adding 2 LTPA Smelter Plant at Bhurkamunda Village, Kalimandir P.O, Jharsuguda District, Odisha.

For Vimta Labs Limited

A handwritten signature in black ink is written over a purple circular stamp. The stamp contains the text "VIMTA LABS LTD. * 51" around the top edge and "HYDERABAD" around the bottom edge.

M. Janardhan
Head & VP Environment

REVISED EIA / EMP REPORT

(Based on observation of REAC in the 42nd meeting held on 13.08.2021)

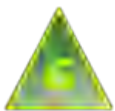
for

Proposed Expansion of Aluminium Smelter Production Capacity (from 16 LTPA to 18 LTPA), 1215 MW CPP

of

M/s. VEDANTA LIMITED

At- Bhurkamunda, P.O.- Kalimandir, District-Jharsuguda, Odisha



Accredited Consulting Organization

**GLOBAL TECH ENVIRO
EXPERT PVT. LTD.**

C-23, BJB Nagar, Bhubaneswar-751014, ODISHA, Phone No. -
0674-2433487

Email-globaltechenviroexperts@rediffmail.com

Nabet Accredited Category "A" Consultant Serial No-93
Certificate No. NABET/EIA/2023/IA0066



*Accredited
Laboratory*



**VISIONTEK CONSULTANCY
SERVICES PVT. LTD.**

Plot No.-M-22&23, Chandaka
Industrial Estate, Patia,
Bhubaneswar-751024, Odisha
E-Mail: visiontekin@yahoo.co.in

NABL Accreditation Number:
ISO/IEC 17025: 2005/ ISO/IEC
17025: 2017



28.10.2021

TO WHOM SO EVER IT MAY CONCERN

Sub: Environment Impact Assessment study for Proposed Expansion of Aluminium Smelter Production Capacity (from 16 LTPA to 18 LTPA), 1215 MW CPP of M/s. Vedanta Limited at Bhurkamunda Village, Kalimandir P.O, Jharsuguda District, Odisha.

Ref: File No. J-11011/29/2007-IA-II (I)

This is to certify that we , M/s. Vedanta Limited, Jharsuguda, have gone through the revised EIA/EMP report, prepared as per EIA Notification, 2006 and in compliance with the observations /points raised by Reconstituted Expert Appraisal committee Industry-1 Ministry of Environment , Forest & climate change (MoEF&CC), Govt. of India in its 42nd meeting held on 13.08.2021 for the proposal number IA/OR/IND/220714/2007 for Proposed Expansion of Aluminium Smelter Production Capacity from 16 LTPA to 18 LTPA at Bhurkamunda Village, Kalimandir P.O, Jharsuguda District, Odisha.

The Information/data as given by M/s. Global Tech Enviro Experts Pvt. Ltd., Bhubaneswar in the revised EIA/EMP report has been checked at our end and is found to be factually correct in all respect.

For **Vedanta Limited**,

(Authorized Signatory)

Vedanta Limited, Jharsuguda

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CIN: L13209GA1965PLC291394




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UNDERTAKING FOR OWNING THE EIA/EMP REPORT

M/s. Global Tech Enviro Experts Pvt. Ltd, has been appointed as environment consultant of M/s. Vedanta Limited, Jharsuguda for their expansion project of smelter from 16 LTPA to 18 LTPA and 1215 MW CPP at Bhurkamunda, Jharsuguda District in Odisha.

We, do hereby undertake that we own the EIA/EMP report earlier prepared by M/s Vimta Lab, Hyderabad, Environment consultant for the same project with baseline study from December 2017 to February 2018. The same has been revalidated by us with baseline study from March 2021 to May 2021.


Manoranjan Nayak
Managing Director



Compliance to the Observations made during 42nd meeting of Re-constituted EAC (Industry-1) held on 13th August 2021

The Expansion Proposal of Smelter plant from 16 to 18 LTPA of M/s Vedanta Limited, Jharsuguda was presented in 42nd meeting of REAC on 13th August 2021 where in some observations were made by the committee. Following are the compliances to the observations made by the Committee.

I. 16 LTPA smelter with 1215 MW CPP is in operation since 2008. The 2400 MW coal based TPP established through separate EC adjacent to the smelter complex is in operation since 2010.

No comments

II. No tangible effort has been taken by the proponent to comply with the following EC conditions even after the lapse of 13 years of operation.

- 1. The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/T.**

Response:

It is reiterated that fluoride consumption in the proposed expansion project for production of 2 LTPA (from 16 to 18 LTPA) Aluminium is designed to be less than 10 Kg/T Al from inception.

In the existing smelter plant, the current Fluoride consumption is 10.78 Kg/T Al. The action plan for bringing it down to less than 10 Kg/T Al in the existing smelter as per CREP guideline is as given below:

Sl. No.	Key Focus Area	Control Measure	Methodology	Target Date	Investment (Cr)	Impact (Kg/T)	Fluoride Consumption (Kg/T)
1	Input Control	Procurement of low sodium content alumina	Increasing the proportion of low sodium alumina.	Dec '21	70.00*	1.00	9.78
2 A	Emission Control	Fume Treatment Plant (FTP 1) Revamping in Smelter 1	Improved re-circulation feeder	Jul'22	11.00	0.10	9.68
2 B	Emission Control	Fume Treatment Plant Revamping in Smelter 1 (Balance 3 FTPs)	Improved re-circulation feeder	Mar'23	33.00	0.30	9.38

3	Performance Improvement	Smart Pot Implementation through GE	Advanced Analytics by Pot Digital Twin	Mar'23	25.00	0.10	9.28
4	Thermal Balance Optimization	Development of Indigenous Pot Controller	Tweaking the pot controller logic to get better AIF3 feed control and thermal balance	Apr'23	24.00	0.40	8.88

*Note: No capex required. Rs. 70 Cr would be the net annual incremental cost of procuring low-Na alumina.

It may kindly be noted from the action plan that we shall be able to fully comply with the stipulated fluoride consumption level latest by December 2021 and will continue to take additional initiatives to reduce it further for all of which actions have already been initiated.

2. Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.

Response:

Spent Pot Lining (SPL) is a hazardous waste under the Hazardous & Other Wastes (Management & Transboundary Movement) Rules 2016 primarily on account of high levels of leachable fluorides. The Standard Operating Procedure (SOP) developed by CPCB for SPL requires detoxification of SPL before utilization of this waste. In accordance with the SOP, the SPL generated from our Smelter is being sent to an agency authorized by OSPCB, viz, M/s Green Energy Resources, located at Sambalpur, for detoxification having an annual authorized capacity of 43200 MT (Authorization copy enclosed as Annexure I). That agency in turn is sending the detoxified material for further utilization in various industries including Cement & Steel Industries. Thus, the SPL is being utilized by steel and cement industries post detoxification through the authorized agency.

The current stock of SPL (Carbon) is about 38000 MT and monthly generation of 1500 MT. We intend to liquidate the entire stock including the current generation by Sept 2023.

SPL Utilization Plan										
Sl. No.	Month	UOM	Oct - Dec 2021	Jan - Mar 2022	Apr - June 2022	July - Sept 2022	Oct - Dec 2022	Jan - Mar 2023	Apr - June 2023	July - Sept 2023
1	SPL Generation	MT	4500	4500	4500	4500	4500	4500	4500	4500
2	Legacy SPL	MT	38000	33500	29000	24000	19000	14000	9000	4500
3	SPL Utilization	MT	9000	9000	9500	9500	9500	9500	9000	9000
	Closing Stock	MT	33500	29000	24000	19000	14000	9000	4500	0

3. Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.

Response:

In the last 2 months, we have carried out plantation of 332893 saplings as per details given below:

- 46.24 Ha area within the industrial complex – 116538 saplings (with this green belt coverage is 33% within the smelter complex)
- Katikela Ash Pond Area – 96000 saplings
- Increase in plantation density within the industrial complex – 120355 saplings

Out of 332893 saplings planted, 320000 saplings were procured from forest nurseries of Odisha State Forest Division, Jharsuguda (Acknowledgement copy enclosed as **Annexure II A**) and balance 12893 were from our own nursery. The remaining plantation of 17107 saplings for increasing the density in the smelter complex is continuing. However, the same will be completed by 31st Dec 2021. The photograph of the plantation is attached as **Annexure – II B**.

4. Rainwater harvesting has not been carried out at the site by stating that the ground water table is high in the area and establishment of rainwater harvesting structures may lead to flooding in the area.

Response:

We have the following submissions in this respect:

- As per CGWB Ground Water Yearbook 2019- 2020 (Sept 2020) South-Eastern Region, Bhubaneswar, the ground water level in Jharsuguda region varies from 2.80 m to 8.50 m below ground level. The Post monsoon levels rise to 2 m bgl.
- The groundwater levels within the smelter complex as measured during the baseline monitoring in the pre monsoon season were found to be 2.53 – 3.18 m bgl.
- As per CGWA guidelines, Sep 2020, the industries falling under hazardous category should not implement any recharge measures within the plant premises.

In view of the above, to comply with the condition stipulated in the EC, it has been decided to carry out roof top rainwater harvesting (RTRH) at our site and to utilize the water so collected/harvested in the plant. Additionally, we have done cleaning and restoring of 17 community ponds thereby augmenting the capacity for rainwater harvesting in the surrounding villages.

Accordingly, total 7 such RTRH facilities have been planned within the complex with a total capacity of harvesting 10000 m³ water. One of these facilities has been commissioned at our Synergy Building, CPP 1215 MW.

The remaining 6 RTRH facilities shall be ready by end of Nov 2021 and all these facilities will be able to harvest rainwater from next monsoon. The construction photographs of these RTRH facilities are enclosed herewith as **Annexure III**.

5. Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.

Response:

The Principal Chief Conservator of Forests, (Wildlife) and Chief Wildlife Warden, Odisha has approved the site-specific wildlife conservation plan on 30.04.2021 with a financial forecast of Rs. 610.894 lakhs to be spent for implementation by the Forest Department (Both Jharsuguda and Sambalpur Forest Division) for this plan.

Accordingly, as per the demand raised by the Divisional Forest Officer, Jharsuguda, an amount of Rs.530.904 lakhs have been deposited on 17.05.2021 towards implementation of the abovementioned plan over a period of 10 years. The plan is under implementation by Forest Department. The mitigation measures for the balance amount of Rs. 79.99 Lakhs will be executed by Vedanta Ltd directly by March 2022. During preparation of site-specific wildlife conservation plan, the perceived impacts of the project on the environment have been discussed and management strategies including mitigative measures have been considered and approved for implementation. Enclosed herewith the approval of Conservation plan and acknowledgement of the payment done towards implementation of this plan as **Annexures IV A & B**.

6. Significant quantity of legacy ash stocks is still stored in the ash pond located at three different locations in the vicinity of the project site. No effort has been taken to quantify the legacy ash stocks and utilize the same.

Response:

We have been achieving an average of 115% Fly Ash utilization from 2017-18 onwards wherein about 39 Lakh MT of Legacy Ash has also been utilized along with current generation.

Ash Generation and Utilization over last 4 years:

Sl No.	Year	UOM	Ash Generation			Ash Utilization			% Utilization
			CPP 1215 MW	TPP 2400 MW	Total	CPP 1215 MW	TPP 2400 MW	Total	
1	2017 - 18	Lakh MT	26.11	33.69	59.80	29.82	36.63	66.45	111.12
2	2018-19	Lakh MT	24.63	30.88	55.51	27.71	37.2	64.91	116.93

3	2019 - 20	Lakh MT	28.19	30.10	58.29	29.85	32.43	62.28	106.85
4	2020 - 21	Lakh MT	32.50	48.73	81.23	40.15	59.95	100.1	123.23
Total (LMT)			111.43	143.4	254.83	127.53	166.21	293.74	

There are 3 no. of Ash Ponds currently operational at Katikela, Kurebaga and Siriapalli catering to both CPP 1215 MW and TPP 2400 MW. The balance ash after being sent for utilization is stored/disposed to Ash Ponds by sending it through High Concentration Slurry Disposal (HCSD) system. Around 127.45 Lakh MT of Legacy Ash is stored in the Ash ponds for which the utilization is targeted to be completed within next 5 years. The details of the three ash ponds are mentioned here below:

Details of Legacy Ash Stored in Ponds:

Ash Pond	Qty (LMT)	Remarks
Kurebaga Lagoon 1	19.25	Reclamation to be started by Apr 2022 & completed by June 2022
Kurebaga Lagoon -2	23.79	In Operation
Kurebaga Lagoon -3	28.85	In Operation
Katikela Lagoon -1	35.84	In Operation
Katikela Lagoon -3	13.22	In Operation
Siriapalli Lagoon -1	6.50	In Operation
Total Ash Stored	127.45	
Power Plant		Stock of Fly Ash available as on 30.09.2021 (LMT)
1215 MW		62.193
2400 MW		65.259
Total 1215 MW & 2400 MW		127.452
After Reclamation Kurebaga- Lagoon 1		19.25
Qty of Legacy Ash available for utilization		108.20

The plan to utilize the legacy ash in the next 5 years is as mentioned below:

Legacy Ash Utilization Plan:

Year	UoM	FY '22	FY'23	FY'24	FY'25	FY'26
Ash Generation	LMT	90	95	95	95	95
Legacy Ash Inventory	LMT	108	95	77	53	29
Legacy Ash Utilization	LMT	13	18	24	24	29
Total Ash Utilization	LMT	103	113	119	119	124
Closing Ash Stock	LMT	95	77	53	29	0
Ash Utilization	%	114%	119%	125%	125%	131%

Avenue wise Utilization Quantity	UoM	FY '22	FY'23	FY'24	FY'25	FY'26
Mine (Back Filling)	LMT	2	8	10	10	10
Stone Quarry (Back filling)	LMT	15	12	12	12	12
Infra Development	LMT	2	5	5	5	10
Cement Industries	LMT	3	12	20	30	40
Bricks Manufacturing	LMT	1	1	2	2	2
Low Lying Area	LMT	80	75	70	60	50
Sub Total	LMT	103	113	119	119	124

7. SLF is provided inside the smelter complex. SLF is being implemented in two phases. Phase I of 5000 m3 capacity started in 2010 was capped in Sept 2013. Phase II of SLF is now in operation. It started in May 2014 and has 5285 m3 space. No details of the material filled in SLF or the capacity available were provided. No information on plan for post expansion of SLF capacity once the Phase II site is filled shall be furnished.

Response:

SLF I was utilized predominantly for disposal of Spent Pot Lining (SPL). Upon filling of this SLF, it was capped based on the approval of OSPCB in September 2013. Subsequently, SLF II was constructed and commissioned in 2014 with a capacity of 5285 m³ (equivalent to approximately 13200 MT). The waste disposed so far in this SLF II is approximately 7067 MT as per details mentioned below:

- ETP Sludge – 55.943 MT
- Housekeeping Waste – 954.20 MT
- Coke Dust – 313.29 MT
- Spent Resin – 32.685 MT
- Shot Blasting Dust – 403.22 MT
- Drain Cleaning Sludge – 303.843 MT
- Ladle Cleaning Sludge – 0.450 MT
- SPL – 5000 MT

We have discontinued SPL disposal in the SLF since 2016 – 17 onwards. There is still adequate space in this SLF for future use. In the meantime, all the other wastes are now being sent to RAMKY TSDF located at Sukinda. Hence, no further expansion of SLF is required. The SPL disposed in this SLF is proposed to be evacuated and disposed to authorized agency for detoxification.

- 8. There are three ash ponds sites in operation and PP has proposed to acquire large area for ash disposal in spite of new Fly Ash notification to utilize 100 % ash. Further, PP mentioned that they were utilizing 100 % Fly ash since 2018 and the pond ash shall be liquidated in next five years. In view of this, seeking additional land for ash disposal found to be not justifiable.**

Response:

There are three ash pond sites in operation. The ash pond site additionally proposed to be located at Gudigaon village has already been acquired and approved by MoEF&CC in 2018 Amendment to EC for 2400 MW TPP (not for the aluminium smelter). However, ash pond has not yet been developed at this location and there is no plan to develop in future also because it has been possible to achieve more than 100% ash utilization since 2018. The Utilization plan for the entire legacy ash has been provided under point no. 6 mentioned above.

- III. Kharkhari Nala passes in between the boundary of smelter-1 and smelter-2 and joins Bheden River towards southwest of plant premises. The HFL of Kharkhari Nala is 192.5 m, above mean sea level near confluence of Kharkhari Nala with Bheden river and as per the hydrogeology study conducted, the site comes under no risk zone as the elevation at plant site ranges between 198 – 216 m above mean sea level.**

No comments

- IV. Plantation all along the periphery of the project site is hardly visible from the KML file and photographs made available by the proponent.**

Response: The recent photographs of the existing and new plantation carried out have been incorporated in the EIA report.

- V. EMP cost of 77.3 Cr for a CAPEX of 1240 Cr in Aluminium Smelter is far less (6.2%) than the World benchmarks of 15-20 % of CAPEX on Environment Management.**

Response:

The revised EMP cost for the proposed smelter capacity expansion from 16 to 18 LTPA is as mentioned below:

Cost Provision for Environmental Management Plan			
Sl. No.	Details	Capital Cost (In Crores)	Recurring Cost (In Crores)
Air Pollution Control			
1	Supply and Installation of Dust Extraction System in Rodding Plant	9.20	1.00
2	Installation of Pitch Fume Treatment System in GAP	2.00	0.30

3	Pneumatic conveying system for Coke dust from Bake Oven to GAP	1.00	-
4	Industrial Vacuum Cleaning system for Shop Floors in GAP	2.00	0.20
5	Supply and Installation of De-dusting Unit in GAP	3.10	0.20
6	Installation of De-dusting system for Crushed Bath Silos in Potline 6	4.00	0.30
7	Fume Duct Extraction System in Potline 6 extension	2.35	0.20
8	Augmentation of existing Fume Treatment Plant, Bag filter Chambers and additional ID Fans in Potline 6)	9.00	1.00
9	Installation of additional Fugitive Fluoride Monitoring System in Potline 6	1.00	3.20
Sub Total		33.65	
Water Conservation & Pollution Control			
1	Augmentation of existing ETP with a 400 m3/hr RO & MEE	50.00	2.00
2	Water Treatment Plant	5.00	0.60
3	Upgradation of existing Sewage Treatment Plant in Smelter 2	0.60	-
Sub Total		55.50	2.60
Noise Environment			
1	Acoustic Enclosures (Ball Mill & Vacuum Unit) for GAP	0.90	
Wildlife Conservation Plan Implementation		6.11	-
Total EMP Cost			
		96.16	5.80

The EMP cost in case of green field projects will be around 15-20% of the total project cost. This expansion proposal is a brown field expansion involving placement of 66 pots within the existing Pot line, utilizing the existing bake ovens & addition of a rodding unit and a green anode plant. The corresponding environment measures wherever required have been provided which adds to about 8% of the expansion project cost (1240 Crs). However, we stand committed for additional cost as required for protection of environment.

VI. Performance monitoring of Pollution Control Devices is not included in monitoring schedule.

Response: Monitoring schedule is very important to ensure that effluent and emissions conform to the standard for which control measures have been designed. The performance monitoring of Pollution control devices also plays a vital role for safeguarding the environment. The details of the monitoring schedule for Environment Parameters are as given below:

Sl. No.	Particulars	Monitoring Frequency	Duration of Sampling	Important Monitoring Parameters
1	Air Pollution and Meteorology			
	Air Quality			
	a Ambient Air Quality Monitoring			
	Locations as specified by OSPCB a. Manual Monitoring b. Online CAAQMS	Once a week for two consecutive days	24 Hr Continuously	PM ₁₀ , PM _{2.5} , SO ₂ , NO ₂ , PAH, CO,
	b Stack monitoring	Monthly	As per Iso-kinetic method	PM, SO ₂ , NO ₂ , fluoride, PAH, CO
	c Fugitive emission in pot room – a. Laser Based continuous online b. Manual Cassette Method	Continuous Monthly	Continuously 24 Hr continuously	Fluoride
	Meteorology			
	d Meteorological data to be monitored	Daily	Continuous monitoring	Wind speed, direction, temperature, relative humidity and rainfall.
2	Water and Wastewater Quality			
	a Ground water quality	Monthly	Grab	As per the parameters specified under IS:10500
	b Surface water	Monthly	Grab	Parameters specified under IS:10500
3	Industrial Noise Levels			
	a Major noise generating sources	Every fortnight	24 hr continuous with 1 hr interval	Noise level in dB(A)
4	Ambient Noise Levels			
	a Locations around proposed expansion of project	Fortnight	24 hr continuous with one hr interval	Noise levels in dB(A)
5	Soil Characteristics			
	b Selected locations in core and buffer zone in nearby villages	Quarterly	One grab sample	Colour, texture, grain size, distribution, pH, electrical conductivity, bulk density, porosity, infiltration rate, moisture retention capacity, organic matter Na, N, K, PO ₄ , SO ₄ , SAR, base exchange capacity, Pb, Cu, Zn, Cd and Fe.
6	Forage Fluoride			
	Selected locations in buffer zone within 10 km radius	Once in a month	Grab sample	Fluoride content in the grass

7. Performance monitoring of Pollution control devices

Sl. No.	Details of Pollution Control Devices	Performance Evaluation	Parameters to be Monitored	Monitoring Frequency
1	Fume Treatment Plant in Pot room – Bag filters	Stack Emission PM < 30 mg/Nm ³ HF < 0.65 mg/Nm ³	Particulate Matter & HF	Continuous Online
2	Fume Treatment Plant in Bake Oven – Bag filters	Stack Emission PM < 30 mg/Nm ³	Particulate Matter	Continuous Online
3	Hybrid ESP comprising of Electrostatic Precipitators & Bag filters in Power Plant	Stack Emission PM < 50 mg/Nm ³	Particulate Matter	Continuous Online
4	De-dusting System – Bag filters (GAP & Rodding Plant)	Stack Emission < 30 mg/Nm ³	Particulate Matter	Monthly
5	Effluent Treatment Plant	Removal Efficiency of Pollutants > 95%	BOD, COD, TSS, Fluoride	Continuous Online
6	Sewage Treatment Plant	Removal Efficiency of Pollutants > 95%	BOD, COD, TSS	Monthly

In addition to the above, the performance evaluation of ESP, Bag filter, air pollution control devices, online CEMS, AAQMS etc. will be validated by 3rd party expert agency annually.

VII. EMP budget in Table 8.25 is generic and not monitorable. The table shall be resubmitted.

Response: The table being referred above was Table 8.2 in the last EIA/EMP report. The same table has now been re-cast by dividing the action plan into 2 parts i.e. 1st part is the action plan to address the environmental issues raised during the public hearing and 2nd part is the plan to address the socio-economic issues raised during the public hearing.

The action plan highlighting the physical activities to be taken up to address the issues raised during the public consultation is mentioned as below:

Action Plan to address Environmental issues raised during Public Hearing

Sl. No.	Issues & Concerns Raised by Public	FY 2022	Budget	FY 2023	Budget	Total Cost
1	Emission of Gas & fumes problem	Ordering for Fume Treatment Plant revamping including supply of equipment	11 Cr	Revamping of Fume Treatment Plant (FTP 1, Smelter 1) by July 2022 and Balance 3 FTPs by March 2023.	33 Cr	44 Cr
2	Compensation for Crop Damage due to emission of gases	Detailed study w.r.t Crop damage is being carried out by NRI for 2 crop cycles	0.50 Cr	2nd Crop Cycle Study	-	0.50 Cr
		Distribution of 7 Quintal high yield variety of seeds, Fertilizers (Completed)		Training to Farmers on best agricultural practices for higher yield/production		
		Training Program to Farmers of 12 Villages				

3	Road dust problem due to transport of Ash	Construction and Commissioning of dedicated road for truck traffic to avoid entering Sunarimunda village and Jharsuguda town by July 2021 (Completed)	31 Cr	Parking Plaza for 200 trucks entering and leaving the factory premises to be constructed at Brundamal with all facilities and amenities for drivers by Dec 2022	1.97 Cr	32.97 Cr
		Installation of Wheel Wash System at the entry/exit of Factory premises by Dec 2022	0.8 Cr	-	-	0.8 Cr
4	Avenue Plantation & Other Afforestation	-	-	Plantation & Maintenance of 25000 Saplings outside plant areas in consultation with DFO	1.0 Cr	1.0 Cr
Total			43.3 Cr		35.97 Cr	79.27 Cr

Action Plan to address Socio-economic issues raised during Public Consultation

Sl. No.	Issues & Concerns Raised by Public	FY 2022	Budget	FY 2023	Budget	Total Cost
1	Contractual work to local people	196 local contracts involving 52 local contractors	-	-	-	-
2	Employment & skill development for Local People. Livelihood Initiatives (Skill Development & Agriculture)	Through Project Jeevika to enhance the income of farmers fraternity, covering 5 villages namely Gudigaon, Siriapalli, Keldamal, Bhagipalli, Bhurkamunda to 750 people	2.5 Cr	Trough Project Jeevika to enhance the income of farmers fraternity, covering 5 villages namely Brundamal, Dalki, Katikela, Kumudapalli, Kurebaga to 750 people	2.5 Cr	5.0 Cr
		Skill development trainings to 150 numbers of youths through Vedanta Foundation from Banjari, Bhagipalli, Bhurkamunda, Brundamal	0.45 Cr	Skill development trainings to 450 numbers of youths through Vedanta Foundation from Dalki, Katikela, Kumudapalli, Sunarimunda, gudigaon	1.35 Cr	1.80 Cr
		5195 persons have been employed from Jharsuguda & Local affected villages	-	-	-	-
		More than 90% of our unskilled workforce is from Odisha	-	-	-	-
3	Health and establishment of medical	Vedanta State of Art - Pathology & Diagnostic Centre at JSG benefiting >2.5 lac population	20 Cr	Vedanta State of Art of Pathology & Diagnostic Centre at Laikera benefiting >2.5 lac population providing	20 Cr	40.0 Cr

	college and hospital	providing services for BPL at free of cost & rest as per CGHS rates		services for BPL at free of cost & rest as per CGHS rates		
		COVID-19 initiatives for communities (distribution of ration, mask in large scale to community & frontline workers and Vaccine)	0.30Cr	COVID-19 initiatives for communities (distribution of ration, mask in large scale to community & frontline workers and Vaccine)	0.20 Cr	0.5 Cr
		Supporting district COVID-19 Hospital - 100 bed + ventilators + lifesaving equipment	2.5 Cr	Supporting district COVID-19 Hospital - 100 bed + ventilators + lifesaving equipment	0.5 Cr	3.0 Cr
		COVID-19 support at state level	4.5 Cr	COVID-19 support at state level	0.5 Cr	5.0 Cr
4	Supply of Drinking water	Drinking water supply through Overhead tank and pipelines in Banjari village to approx. 300 House Holds.	0.3 Cr	Drinking water supply in Siriapalli, Kurebaga to approx. 600 Households	0.7 Cr	1.0 Cr
5	Provision of streetlights in surrounding villages	Streetlights (including solar streetlights in 10 villages) 50 numbers in villages Orampada, Banjari, Tharkimal, Bhagipalli, Bhurkamunda	0.25 Cr	Streetlights (including solar streetlights in 10 villages) 50 numbers in villages Brundamal, Kurebaga, Kumudapalli, Gudigaon, Siriapalli	0.25 Cr	0.5 Cr
6	Road & Peripheral Development	Construction of RCC road 700 m & drainage facilities in Banjari village	1.0 Cr	Construction of RCC road 1300 m & drainage facility in Tharkimal village	2.0 Cr	3.0 Cr
		Cleaning/renovation of 17 no. of community ponds	0.43 Cr	Cleaning/renovation of community 23 no.s of ponds	0.57 Cr	1.0 Cr
		Construction & Renovation of Community Centers/Place of worship/ Public gathering places around 4 core villages Kurebaga, Kherual, Brundamal, Bhurkamunda	1.0 Cr	Construction & Renovation of Community Centers / Place of Worship / Public gathering places around 6 core villages Banjari, Buromal, Badmal, Tharkimal, Gudigaon, Katikela	1.6 Cr	2.60 Cr
7	Education & Establishment of English Medium School	Partnering with State Govt. through "Mo School Abhiyaan" covering 4 Govt. Schools at Jharsuguda	0.8 Cr	-	-	0.8 Cr
		Renovation of 50 anganwadi for Nandghars covering 35 communities	2.0 Cr	Renovation of 50 anganwadi for Nandghars covering 35 communities	2.0 Cr	4.0 Cr
		Renovation of 10 school buildings + toilets	1.0 Cr	Renovation of 10 school buildings + toilets	1.0 Cr	2.0 Cr
		-	-	Developing 5 mini-science centre benefiting more than 1000 children	0.6 Cr	0.6 Cr

8	Women Empowerment	Strengthening of SHG & promoting income generation activities through Subhalaxmi Cooperative Society - 5K members in 35 communities	3.0 Cr	Strengthening of SHG & promoting income generation activities through Subhalaxmi Cooperative Society - 5K members in 35 communities	3.0 Cr	6.0 Cr
Total			40.03 Cr		33.77 Cr	76.80 Cr

VIII. Mitigation measures given in Table 10.2 are generic and not quantified. The 6.2 % of CAPEX cost towards mitigation measures seems to be adhoc as stated in the document

Response: The mitigation measures have now been quantified and revised as mentioned in the table below:

Mitigation Measures Proposed	Targets to Achieve	Risks and Consequence of Failure, if any
Air Environment		
Installation of Fume Duct Extraction system from pots to Fume Treatment Plant with dry scrubbing by alumina and removal of Particulate matter through bag filters	Fluoride emission <0.2kg per ton of Aluminium produced & particulate matter < 30mg/Nm ³ .	Increased fluoride emissions.
Installation of additional fugitive fluoride monitoring system in Potline 6	Monitor and control fugitive emissions below 0.4 Kg/T	Increased fluoride emissions
Installation of de-dusting system for crushed bath silos	Control of fugitive emissions	Increase in fugitive emissions
Installation of Dust Extraction system in Rodding Plant	Control of fugitive dust emissions	Increase in fugitive emissions
Installation of Pitch Fume Treatment system in Green Anode Plant	Control of PAH to less than 2 mg/Nm ³	Increased PAH emissions
Installation of pneumatic closed conveying system for Coke dust transfer from Bake Oven to Green Anode Plant	Control of fugitive dust emissions	Increase in fugitive emissions
Installation of De-dusting Units in Green Anode Plant	Control of fugitive dust emissions	Increased fugitive emissions
Water Environment		
Upgradation of existing Sewage Treatment Plant (STP) with ACF and enhanced pumping and aeration systems in Smelter 2	Removal of pollutants to meet revised standards	Non-compliance to revised standards
Augmentation of existing ETP with a 400 m ³ /hr RO & MEE in Smelter 2	Removal of pollutants to achieve zero effluent discharge	Non-compliance to zero effluent discharge norms
Noise Environment		
Acoustic enclosures at Ball Mills, Vacuum units in GAP	Ball Mill generates high noise levels > 100 dB and it will be reduced to below 75 dB outside the enclosure	Noise levels beyond the standard
Impact on Forest		
<ul style="list-style-type: none"> It has been proposed to improve Bamboo forests by seed ball technology. Engagement of firefighting watchers during fire prone season (Feb to June) Provision to create water holes in Katikela R.F. & Ghichamura R.F for 	<p>Ecological improvement</p> <p>Attenuation of air pollutants (PM, SO₂ and NOx) and noise in source receptor pathway</p>	<p>Deposition of dust emissions from smelter plant activities on leaves & vegetation</p> <p>Gaseous emissions (NO₂, SO₂, PM, F and B(A)P) from smelter plant activities</p>

Mitigation Measures Proposed	Targets to Achieve	Risks and Consequence of Failure, if any
<p>wildlife to quench their thirst especially during pinch period of the year (February to June);</p> <ul style="list-style-type: none"> • Avenue plantation with maintenance for 2 Kms • Provision of 5 no.s of bird baths • Soil moisture conservation measures to be undertaken in Ghichamura R.F; 		
Impact on Wildlife		
<p>Schedule-I fauna like Elephant which migrates through the region and other species such as Monitor lizard, Indian peafowl, Sloth bear and Indian python are reported from the buffer zone.</p> <ul style="list-style-type: none"> • Provision of one number of elephant squad to watch movement of the Pachyderms and distract their depredation to villages for crop raiding etc • Solar light at strategic locations prone to elephant movement. • Provision of 5 No.s of signage boards near Katikela • Maintenance of GIS Cell for tracking and monitoring • Solar fencing near village Kenmal and Bhimjhor over 3 km with annual maintenance contract for 10 years • Provision of watch tower • Public awareness programme • Improvement of habitat, fire protection, excavation of water hole, anti-depredation squad etc. are proposed. Detailed Wildlife Conservation Plan is attached as Annexure-X. 	<p>Protection of Wildlife, Human life as well as Crop protection, prevention of house damage.</p> <p>Ecological improvement</p>	<p>Wildlife degradation, habitat degradation, shortage of water sources.</p>

IX. Baseline data collected by the consultant organizations (M/s. Vimta Labs and M/s. Global Tech) are not comparable.

Response:

The baseline data collected by the previous consultant M/s Vimta Labs was during Winter season (Dec 2017 – Feb 2018) and the present consultant M/s Global Tech has re-conducted the baseline monitoring during summer season (March 2021 to May 2021). It may be noted that there are no significant variations in SO_x, NO_x, surface water quality, ground water quality and noise values, however there is a difference in baseline PM₁₀ & PM 2.5 values of both the consultants because of the change in season. Also, some of the industries located in the surrounding/ study area were operating at low load/partially closed during 2017 – 18. Hence, there is a variation of PM values in the baseline data of

both the consultants. All other parameters like Surface water, Ground water, Soil & Noise in both the seasons were found to be similar.

Period	M/s GTEEPL				M/s VIMTA LABS		
	Mar 2021 - May21				Dec 2017 - Feb 2018		
Pollutant	Minimum $\mu\text{g}/\text{m}^3$	Maximum $\mu\text{g}/\text{m}^3$	Average $\mu\text{g}/\text{m}^3$	98 TH Percentile	Minimum $\mu\text{g}/\text{m}^3$	Maximum $\mu\text{g}/\text{m}^3$	Average $\mu\text{g}/\text{m}^3$
PM ₁₀	50.2	76.3	62.0	74.7	27.1	63.5	46.6
PM _{2.5}	27.0	42	31.7	41.1	11.3	26.4	22.4
SOx	10.9	27.2	16.6	26.6	8.6	25	12.9
NOx	12.9	32	21.2	31.2	10.4	27.1	16
CO	251.6	430.4	341	428.9	151	360	300
F	0.010	0.023	0.020	0.023	-	-	

X. As per Ministry's O.M. No. – J-11015/286/2007-IA.II (I) dated 7/2/2020, any specific non – compliance singled out while the project is being appraised by the EAC, the concerned sector shall issue Show Cause Notice.

Reply to Show Cause notice has been separately submitted to the Ministry.

Milwano Shrestha
//TRUE COPY//

F. No. 22-25/2020-IA.III
Government of India
Ministry of Environment, Forest and Climate Change
Impact Assessment Division

ANNEXURE RA-7

Indira Paryavaran Bhawan,
Jor Bagh, Aliganj New Delhi – 110003
e-mail: sharath.kr@gov.in
Tel: 011-24695319

Dated: 14th September 2020

OFFICE MEMORANDUM

Subject: Conducting Public Hearing during the CoVID19 pandemic restrictions – reg.


Attention is invited to Clause 7(i) of Environment Impact Assessment (EIA) Notification, 2006, issued vide S.O.1533 (E), dated the 14th September, 2006 and as amended from time to time, wherein prior environmental clearance process for all Category 'A' and Category B1 projects or activities, *inter alia*, comprises of stages including public consultation before finalization of EIA and its appraisal by the Expert Appraisal Committee.

2. The Government of India, Ministry of Home Affairs has imposed certain restrictions on public gatherings due to Novel Covid-19 pandemic and has laid down thresholds on the number of persons permitted to be physically present during such gatherings/meetings. The said restrictions are being amended from time to time. Vide order 40-3/2020-DM-I(A) dated 29th August 2020, the activities allowed in "Unlock-4" have been listed. The permitted activities include, social/ academic/ sports/ entertainment/ cultural/ religious/ political functions and other congregations with **a ceiling of 100 persons**, which will be permitted with effect from 21st September 2020, with mandatory wearing of face masks, social distancing, provision for thermal scanning and hand wash or use of sanitizers.

3. As the Public Consultation is mandated and forms an integral part of the Environment Clearance process, it is hereby directed that Public Hearing may be carried out in accordance with the order no. 40-3/2020-DM-I(A) dated 29th August 2020 issued by the Ministry of Home Affairs, Government of India as amended from time to time taking into account the guidelines given below:

- i. The State/UT Pollution Control Boards/Committees shall restrict the number of persons gathered, to the ceiling specified by the Ministry of Home Affairs from time to time, for a single hearing and conduct the Public Hearing with adequate social distancing and other safe guards as issued by the Government from time to time.
- ii. If the number of participants is more than such ceiling, more than one Public Hearing shall be conducted by staggering the time and/or dates.

- iii. Use of virtual platform/online facilities may also be employed in addition to the physical Public Hearing process.
 - iv. The State/UT Pollution Control Boards/Committees may also obtain responses in writing from concerned persons having a plausible stake in the environmental aspects of the project or activity, through electronic means.
 - v. On completion of the said processes, the State/UT Pollution Control Boards/Committees shall submit the summary of the issues raised during physical public hearings or received in written or through e-mail or other electronic mode along with the response of the project proponent along with a certificate from District Magistrate or his authorized representative not below the rank of Additional District Magistrate, to the Regulatory Authority as per the procedure prescribed in EIA Notification 2006, as amended from time to time.
4. This issues with the approval of the competent authority.



(Sharath Kumar Pallerla)
Scientist 'F'/Director
IA (Policy)

To

1. Chairman of all State/UT Pollution Control Boards/Committees
2. Chairman of all the Expert Appraisal Committees
3. Chairman of all SEIAAs/SEACs
4. All the Officers of IA Division, MoEFCC
5. All District Collectors

Copy for information:

1. PS to Minister for Environment, Forest and Climate Change
2. PS to MoS (EF&CC)
3. PPS to Secretary(EF&CC)
4. PPS to AS(RSP) / AS (RA)
5. PPS to JS (GM)/ JS(AKN) / JS(SKB)
6. Website, MoEF&CC
7. Guard file


(Sharath Kumar Pallerla)
Scientist 'F'/Director

Later
30.09.2020

W.P.(C) No.24789 of 2020
I.A. No.11476 of 2020

Due to outbreak of COVID-19, this matter is taken up through Video Conferencing.

2. This matter was not in the list today. On being mentioned, the matter is taken up at 2.00 PM as per the special list.

3. Heard Mr.Partha Sarathi Nayak, learned counsel for the petitioners and Mr.S.P.Mishra, learned Senior Advocate along with Mr.Prasant Kumar Nayak, learned counsel for the opposite party No.4-M/s Vedanta Ltd., Jharsuguda.

4. None appears for State Government as well as State Pollution Control Board, Odisha, Bhubaneswar, probably due to want notice.

4.1 For the sake of convenience, the parties are described herein as per their status in the writ petition.

5. The I.A. No.11476 of 2020 is filed by the opposite party No.4 for recall of order dated 29.09.2020 passed in IA No.11105 of 2020.

6. Before delving into arguments made by learned counsel for the parties, this Court fees it proper to describe the facts relevant for adjudication.

6.1 This writ petition has been filed assailing the advertisement dated 27.08.2020 published by opposite party No.3-the Member Secretary, State Pollution

Control Board, Odisha, Bhubaneswar for conducting a public hearing on 30.09.2020 (today) at Dalki Kurebaga Government UP School in the district of Jharsuguda arranged for taking a decision on expansion of production capacity of opposite party No.4-Company, i.e., M/s Vedanta Limited, Jharsuguda.

6.2 It is alleged in the writ petition that notice dated 27.08.2020 (Annexure-1) issued by opposite party No.3- the Member Secretary, State Pollution Control Board, Odisha, Bhubaneswar is in violation of order No.5039/R&DM(DM) dated 31.08.2020 (Annexure-2) issued by the Special Relief Commission, Government of Odisha, Bhubaneswar.

7. When the matter was taken up on 29.09.2020, Mr.Partha Sarathi Nayak, learned counsel for the petitioners drew notice of this Court to the aforesaid notification dated 31.08.2020 (Annexure-2). He verily relied upon Clause-2 (iv) of the said notification. For ready reference, Clause-2 of notification dated 31.08.2020 (Annexure-2) reads as follows:-

“2. Regulation of activities in areas outside the Containment Zones

The following establishments/activities will continue to remain closed till 30th September, 2020 throughout the State:

- i. Religious places/places of worship for public;*
- ii. International air travel of passengers, except as permitted by MHA;*
- iii. Cinema halls, swimming pools, entertainment complexes, theaters, auditoriums, assembly halls and similar places;*

However, open air theaters and similar places will be permitted to open with effect from 21st September, 2020.

- iv. Social, political, sports, entertainment, academic, cultural, religious functions and other large congregations;*
- v. Schools, colleges, universities, other educational/training/coaching institutions, anganwadis, etc. will remain closed for the purpose of teaching till end of Puja vacations in the month of October 2020.*

However, the followings will be permitted:

- a. Conduct of examinations, evaluation and other administrative activities;*
- b. Online/distance learning shall continue to be permitted and shall be encouraged;*
- c. School & Mass Education Department/Higher Education Department may permit upto 50% of teaching and non-teaching staff to be called to the schools at a time for online teaching/tele-counselling and related work, in areas outside the Containment Zones only with effect from 21st September, 2020 as per Standard Operating Procedure (SOA) to be issued by the Ministry of Health & Family Welfare (MoHFW);*
- d. Skill or Entrepreneurship training will be permitted in National Skill Training Institutes, Industrial Training Institutes (it is), Short term training centres registered with National Skill Development Corporation or State Skill Development Missions or other Ministries of Government of India or State Governments; National Institute for Entrepreneurship and Small Business Development (NIESBUD), Indian Institute of Entrepreneurship (IIE) and their training providers will also be permitted.*

These will be permitted with effect from 21st September, 2020 for which SOP will be issued by MoHFW. Skill Development &

Technical Education Department will issue necessary order/guideline in this regard.

- e. Higher Education Institutions only for research scholars (Ph.D.) and post-graduate students of technical and professional programmes requiring laboratory/experimental works. These will be permitted by the Department of Higher Education (DHE) in consultation with MHA, based on the assessment of the situation, and keeping in view incidence of COVID-19 in the States/UTs.*

Subject to other provisions of this order, activities that are not specifically prohibited/regulated/restricted above are allowed subject to adherence to safety and health protocols and SOPs/guidelines issued by appropriate authorities.”

It is admitted by learned counsel for the parties that the place where public hearing is scheduled to be held is not within the containment zone. Hence, referring to Clause-2(iv) of the said Notification, Mr.Nayak submits that if the public hearing pursuant to the notification under Annexure-1 is taken up, there will be large congregation and such public hearing would directly be in contravention of the Clause-2(iv) of notification under Annexure-2.

8. Taking into consideration the above, this Court passed the following order on 29.09.2020 in IA No.11105 of 2020.

“Heard.

As an interim measure, it is directed that the public hearing pursuant to advertisement dated 27.08.2020 issued by the State Pollution Control Board, Odisha, scheduled to be held

on 30.09.2020 at 11.00 A.M. at Government U.P. School, Dalki, Kurebaga in the district of Jharsuguda shall not be held till next date.

Authenticated copy of this order downloaded from the website of this Court shall be treated at par with certified copy in the manner prescribed in this Court's Notice No.4587 dated 25.03.2020."

9. When the matter is taken up today in view of the special notice, Mr.Mishra, learned Senior Advocate on behalf of opposite party No.4 submitted that earlier W.P.(C)(PIL) No.24669 of 2020 was filed by one NGO, namely, Anchalik Parivesh Surakhya Sangh, Jharsuguda assailing the self-same advertisement issued on 27.08.2020 issued by the State Pollution Control Board under Annexure-1, which is dismissed on contest by a Division Bench of this Court vide order dated 28.09.2020. Further, the learned counsel for the petitioners in the instant writ petition did not bring notice of this Court to the Office Memorandum dated 14.09.2020 (Annexure-C to the present IA) of the Government of India in Ministry of Environment, Forest and Climate Change Impact Assessment Division, New Delhi. It is his submission that as per Clause-3 (ii) and (iii) of the said Office memorandum dated 14.09.2020, public hearing may be held following the guidelines and protocol issued by the concerned authorities of Central Government from time to time. He further submits that while conducting public hearing, the guidelines provided

in the said Office memorandum has to be strictly followed; if necessary more than one public hearing may also be held.

9.1 Further, Mr.Mishra draws attention of this Court to order dated 28.09.2020 passed in W.P.(C) No.24669 of 2020, by which the writ petition was, relevant portion of which is quoted below.

“5. We have heard learned counsel for the parties, gone through the impugned Notice under Annexure-1 and given our thoughtful consideration on the matter.

6. In the impugned Notice dated 27.08.2020 (Annexure1) it has been clearly mentioned that persons, who desire to submit their views, comments, objections etc. relevant to the project, may do so in writing within 30 days from the date of publication of the notice addressing the same to the Member Secretary, State Pollution Control Board, Odisha through Registered Post. Besides this, persons interested to submit their views relevant to the proposed project in writing or orally, may also do so during the public hearing to be conducted on 30.09.2020 at 11.00 A.M. at Govt. Upper Primary School, Kurebaga. Public hearing shall be conducted strictly observing guidelines contained in Covid-19 on Social Distancing and also COVID-19 SOP issued by the Government. We do not find any merit in the argument that the State Pollution Control Board has deliberately fixed the public hearing during pandemic of COVID-19. From the above Notice, it appears that the authority has given liberty to the public to file their objections/suggestions/views not only on the date of public hearing fixed but also in writing to the opposite party No.5, within 30 days from the date of Notice. The authority has thus not confined the submission of objection to the public hearing only on the date and time fixed,

but it has given liberty to the general public to file their objections/suggestion in writing any time during the period of thirty days. Therefore, the stand taken by the petitioner cannot be accepted that the date fixed for public hearing will frustrate the purpose, as the local people may not participate in the meeting.

7. The further stand of the petitioner that due to pandemic situation offices are functioning with half of employees and therefore, it may not be possible on the part of the people to collect the documents from the offices. The said assertion also cannot be accepted for the reason that in the impugned notice it has also clearly mentioned that persons desirous of participating in the public hearing may go through the Environmental Impact Assessment (EIA) Environmental Management Plan (EMP) of the said project which will be available at the offices as mentioned in the notice and the same can also be downloaded from the given website free cost.

8. Again, the impugned notice has been issued on 27.08.2020 inviting objections within 30 days and fixing 30.09.2020 as the date of open public hearing, but the petitioner has filed this writ petition much belatedly on 24.09.2020 and further before completion of 30 days period or holding of such public hearing with an apprehension that public may not participate in the meeting, which cannot be well-founded. It is open for the petitioner as well as all the interested public at large to give their objections/suggestions/views not only at the time of public -6- hearing but at any time within 30 days from the date of said notice in writing.

9. In view of the above, we do not see any reason to accept the stands taken by the petitioner and to interfere in the matter. The writ petition lacks merit and is accordingly dismissed.

No order as to costs.

As pandemic COVID-19 period is continuing, learned counsel for the parties may

utilize the soft copy of this order available in the High Court's website or print out thereof at par with certified copies in the manner prescribed, vide Court's Notice No.4587, dated 25.03.2020."

In that view of the matter, stalling the public hearing, more particularly when all arrangements in compliance of the aforesaid Office Memorandum dated 14.09.2020 has been made, will be prejudicial to opposite party No.4 in particular as well as the public at large who have come ready all the way to participate in the public hearing.

10. Mr.Nayak, learned counsel for the petitioners, on whom copy of the instant I.A., i.e., IA No.11476 of 2020 is served in Court today, expressed his inability to make submission on the averments made and grounds taken in the IA for recall of interim order dated 29.09.2020 passed in IA No.11105 of 2020. He, however, submits that as it appears in order dated 28.09.2020 passed in W.P.(C) (PIL) No.24669 of 2020 the Office Order No.5039/R&DM(DM) dated 31.08.2020 (Annexure-2) issued by the Special Relief Commission, Government of Odisha, Bhubaneswar was not discussed, which explicitly prohibits large congregation. He candidly admits that he had no knowledge of the order passed in W.P.(C)(PIL) No.24669 of 2020. He further submits that the petitioners are likely to be affected if the expansion of opposite party No.4-Company, as proposed is

undertaken. But due to the pandemic of COVID-19, they are not in a position to participate in the public hearing. In that view of the matter, he prays for some time to file his objection to the IA No.11476 of 2020.

11. Mr.Mishra, learned Senior Advocate appearing on behalf of opposite party No.4 further submits that since this bench was not supposed to function today, he has also filed a Writ Appeal bearing WA No.574 of 2020 assailing the said interim order dated 29.09.2020 passed in IA No.11105 of 2020. But, the same has not been moved in view of direction of Hon'ble the Chief Justice to take up this I.A.

12. Taking into consideration the submissions of learned counsel for the parties, this Court is of the considered opinion that since the impugned advertisement under Annexure-1 was the subject matter of challenge in W.P.(C) (PIL) No.24669 of 2020, which has already been dismissed and it has been specifically observed in the said judgment and order dated 28.09.2020, that the person interested may also participate in the public hearing, this Court thinks it proper to suitably modify the order dated 29.09.2020 subject to the submissions to be made by Mr.Nayak, learned counsel for the petitioners on the next date of hearing.

13. Put up this matter along with W.P.(C) (PIL) No.24669 of 2020 for reference

14. In partial modification to the order dated 29.09.2020 passed in IA No.11105 of 2020, it is directed that the public hearing pursuant to advertisement dated 27.08.2020 under Annexure-1 issued by the State Pollution Control Board, Odisha may continue, but no final decision shall be taken till the next date. Petitioners, if so advised may participate in the public hearing.

14.1 On consent of learned counsel for the petitioners and opposite party No.4, put up this matter tomorrow (01.10.2020).

14.2 An authenticated copy of this order downloaded from the website of this Court shall be treated at par with certified copy in the manner prescribed in this Court's Notice No.4587 dated 25.03.2020

SS

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K.R.Mohapatra, J.

Mihir
Sharma
//TRUE COPY//

19th January, 2021

28.7 Proposed Expansion of Aluminium Smelter Production Capacity (from 16 LTPA to 18 LTPA), CPP (1215 MW) by adding 2 LTPA Smelter Plant by **M/s. Vedanta Limited** at Bhurkamunda Village, Kalimandir P.O, **Jharsuguda District, Odisha** [Online Proposal No. IA/OR/IND/185460/2007; File No. J-11011/29/2007-IA II(I)] – **Environment Clearance** – regarding.

28.7.1 M/s. Vedanta Limited has made an online application vide proposal no IA/OR/IND/185460/2007 dated 29/12/2020 along with copy of EIA/EMP report and Form-2 seeking Environment Clearance (EC) under the provisions of the EIA Notification, 2006 for the project mentioned above. The proposed project activity is listed at Schedule No. 3 (a) Metallurgical industries (ferrous & non-ferrous) under Category “A” of the schedule of the EIA Notification, 2006 and appraised at the Central level.

Details submitted by Project proponent

28.7.2 The detail of the ToR is furnished as below:

Date of Application	Consideration	Details	Date of Accord
03/11/2017	26 th meeting of EAC held during 11 th -13 th December, 2017	Terms of Reference	20/12/2017

28.7.3 The project of M/s. Vedanta Limited located at Bhurkamunda village in Jharsuguda tehsil & district, Odisha is for expansion of Aluminium smelter capacity (from 16 LTPA to 18 LTPA); CPP (1215 MW) by adding 2 LTPA smelter plant. Vedanta Limited Jharsuguda also proposes for expansion of its township in an area of 36.826 ha, in its existing own area.

28.7.4 Environmental site settings

S.No.	Particulars	Details	Remarks
i.	Total land	834.236 ha [Already possession of the proponent at Jharsuguda]	Land use: Industrial land
ii.	Land acquisition details as per MoEF&CC O.M. dated 7/10/2014	Not applicable	Not applicable
iii.	Existence of habitation & involvement of R&R, if any.	Not applicable	Not applicable
iv.	Latitude and Longitude of the project site	Smelter Plant: Latitude: 21°48' 47" N Longitude: 84°02' 45" E Township: Latitude: 21°49' 26.8" N	-

S.No.	Particulars	Details	Remarks
		Longitude: 84°01' 45.1'' E	
v.	Elevation of the project site	Smelter plant: 198-216 m	
vi	Involvement of Forest land if any.	No forest land involved in proposed project	--
vii.	Water body exists within the project site as well as study area	<p>Project site: Kharkhari Nala (passes in between along the boundary of smelter-1 and smelter-2)</p> <p>Study area: Bheden river (0.3 km, S) Ib river (7.6 km, W) Hirakud reservoir (7.8 km, S)</p>	From Hydro-geological report- HFL-192.5 m above mean sea level
viii.	Existence of ESZ/ESA/national park/wildlife sanctuary/biosphere reserve/tiger reserve/elephant reserve etc. if any within the study area	Nil within 10 km radius	Not applicable

28.7.5 The existing project was accorded environmental clearance (latest) vide Letter.no. F. No. J-11011/29/2007-IA-II (I) dated 11/06/2008. Consent to Establish vide Letter no.7723/Ind-II-NOC-4870 dated 18/05/2009. Consent to Operate for the existing unit was accorded by Odisha State pollution Control Board vide Letter no. 3994/IND-I-CON-6079 dated 27/03/2020. The validity of CTO is up to 31/03/2021. CTO for existing Township complex has been granted by SPCB, Odisha vide Letter No: 2684/IND-I-CON-ULB-122 dated 15/03/2019 and is valid up to 31/03/2024.

28.7.6 Implementation status of the existing EC:

Sl. No.	Facilities	Units	As per EC F. No. J-11011/29/2007-IA-II (I) dated 11.06.2008.	Implementation Status as on 12.01.2021	Production as per CTO
1	Smelter	LTPA	16	16	16
2	CPP	MW	1350	1215	1215

28.7.7 The unit configuration and capacity of existing and proposed project is given as below:

Sl. No.	Name	Existing Units		Proposed Units		Total (Existing + Proposed)	
		Configuration	Production	Configuration	Production	Configuration	Production
1	Smelter	16 LTPA	16 LTPA	2 LTPA	2 LTPA	18 LTPA	18 LTPA

2	CPP	1215 MW	1215 MW	-	-	1215 MW	1215 MW
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28.7.8 The details of the raw material requirement for the proposed project/ expansion cum proposed project along with its source and mode of transportation is given as below:

Sl. No.	Description	Quantity Existing (TPA)	Additional Quantity Proposed (TPA)	Source & Distance from site (kms)	Mode of Transport
1	Alumina	30,88,000	3,86,000	1. Captive- Lanjigarh refinery (Major)-311 km, 2. Domestic- Utkal Alumina -483 km 3. Import -Kakinada port-715 km (from port to site)	Rail - BTAP wagon
2	Cryolite	3,200	400	1. Domestic 2. Import through via Vishakapatnam-564 km (from port to site)	Rail containers
3	Calcined petroleum coke	5,93,600	74,000	1. Domestic –Rain Calciner, Sanbhera etc, Vishakapatnam: 564 km 2. Import via Vishakapatnam-564 km (from port to site)	Rail wagons
4	Coal tar pitch	1,28,000	16,000	Domestic: Sambalpur -60 km	Trucks
5	Aluminum fluoride	32,000	4,000	1. Domestic: 564 km 2. Import through via Vishakapatnam port: 564 km	Trucks
6	Fuel requirement: Heavy Fuel Oil (HFO)	84,263 KLPA	5,060 KLPA	Domestic: Vishakapatnam-800 km –By road Raipur & Haldia-350 km	Trucks

28.7.9 The water requirement of the proposed expansion project is estimated as 576 KLD which will be completely recycled after treatment. No additional water will be required. It will be sourced from present allocation from Hirakud reservoir. The water requirement of the proposed township expansion is 800 KLD which will be met through present allocation from Hirakud reservoir and hence no additional allocation of water is required for proposed expansion. The permission for drawl of surface water is obtained from Water Resource Department vide letter no. IRR.II-WRC/157/13-26079 dated 01.10.2019 & II R.II-WRC/3843 dated 13.02.2014.

28.7.10 The power requirement of the proposed smelter plant expansion is about 400 MW. The additional power requirement will be met from existing Power Plant, State Grid or group

captive model. The power requirement for proposed expansion of township is estimated as 7 MVA which will be sourced existing TPP.

28.7.11 Baseline Environmental Studies:

Period	1 st December, 2017 to 28 th February, 2018
AAQ parameters at 9 locations	PM _{2.5} = 11.3-26.4 µg/m ³ PM ₁₀ = 27.1-63.5 µg/m ³ SO ₂ = 8.6-25.0 µg/m ³ NO _x = 10.4-27.1 µg/m ³ CO = 151-360 µg/m ³
AAQ modelling	PM ₁₀ = 0.11 µg/m ³ SO ₂ = 3.0 µg/m ³ NO _x = 1.1 µg/m ³
Ground water quality at 8 locations	pH: 6.7 - 7.4, Total Hardness: 91 -241 mg/l, Chlorides: 18.6-64.5 mg/l, Fluoride: 0.2 -0.5 mg/l. Heavy metals are within the limits.
Surface water quality at 8 locations	pH: 6.8 to 8.1; DO: 4.9 to 5.8 mg/l and BOD: <3 mg/l. COD : <5 to 10 mg/l
Noise levels	37.9 -59.2 dB(A) for the day time and 35-56 dB(A) for the Night time.
Traffic assessment study findings	Additional truck traffic due to existing & proposed project: 36 Trucks per day Incremental concentrations of PM, CO, NO₂ and HC: CO: 13.80 µg/m ³ NO ₂ : 0.50 µg/m ³ PM: 0.03 µg/m ³ HC: 0.97 µg/m ³
Flora and fauna	The project site is not located in any eco-sensitive area. There are no national parks, wildlife sanctuaries, biosphere reserves, elephant / tiger reserves or Important Bird Areas (IBAs) or Ramsar Wetlands. There are no Schedule-I Fauna in the core plant area. Peacock, Common Indian Monitor and Python are the only Schedule-I species reported / recorded from the study area. PP has further stated that though Peacock is Schedule I, does not belong to the RET category of the IUCN. If allowed to domesticate, it is easy to multiply them. Further, they are not threatened by poaching since it attracts severe punishment. If any Schedule-I species is found in the core area at any time, the EHS division will immediately alert the forest and wildlife department and assist them in rescue operations. Hence, the conservation of Schedule-I species is beyond the legal jurisdiction of the Vedanta Aluminium company. However, the company is ready to extend full support and cooperation to the wildlife authorities.

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

Sl. No	Name of the Residue / Waste	Source	Existing Plant Generation (per annum)	Proposed Expansion Generation (per annum)	Total after Expansion Generation (per annum)	Current Disposal Strategy
1	Used oil/Spent oil	From machinery/equipment	530 KL	34 KL	564 KL	Authorized recyclers
2	ETP sludge	ETP	520 T	65 T	585 T	SLF/ TSDF
3	Anode butt	From electrolytic process	3,00,000 T	37,500 T	3,37,500 T	Internally recycled / Authorized recyclers
4	Spent pot lining	From reduction cells	40,000 T	5,000 T	45,000 T	To authorized re-processors
5	Dross	From cast house	35,000 T	4,375 T	39,375 T	Authorized re-processors / internal processing/ recycling

28.7.13 Public Consultation:

Details of Advertisement given	28 th August 2020
Date of Public Consultation	30 th September 2020
Venue	Govt. upper primary school at Kurebaga, Dalki, Jharsuguda
Presiding Officer	Additional District Magistrate
Major Issues Raised	Emission of gas & fumes problem, Compensation for crop damage due to emission of gases, employment etc.

Action plan as per MoEF&CC O.M. dated 30/09/2020

Sr. No.	Issues Raised During Public	Response of the Project Proponent	Action Plan
1	Emission of gas & fumes problem	Both of the smelters and power plants of M/s. Vedanta Ltd. have state-of-the-art infrastructure and pollution control equipment. Vedanta Jharsuguda's power plant is the first in India, to implement hybrid ESP. State of the art fume treatment plants are installed in the smelter units for emission control. Vedanta company's vision is zero harm, zero waste and zero discharge. Vedanta Ltd. is complying with stipulated norms by regulatory bodies like SPCB, CPCB & MoEF&CC.	The project proponent has further submitted Action Plan with Timeline and Budget to address the

Sr. No.	Issues Raised During Public	Response of the Project Proponent	Action Plan
		Vedanta Ltd have online continuous emission monitoring systems in place which are monitored by State and Central Pollution Control Board. Vedanta Ltd will be complying with the state and central norms in the proposed expansion project also.	issues raised during public hearing. With respect to
2	Compensation for crop damage due to emission of gases	In 2018-19, as per the instruction of District Administration, Central Rice Research Institute (CRRI), Cuttack was engaged to conduct a survey. The results of their survey clarified that there was no direct connection between crop damage and Vedanta Limited. They have also invited again to survey, discuss and recommend actions which can help the farming community to avert such crop losses. Vedanta Ltd. are placing orders with CRRI, which is slightly getting delayed due to COVID. Unit have plans to get this survey started within next 2-3 months.	employment, PP has submitted that the direct & indirect employment for the proposed expansion will be around 800.
3	Road dust problem due to transport of ash	In the proposed expansion, Vedanta Limited is not proposing expansion of power generation.	Further it will benefit 4000 to 5000 people through various other
4	Avenue plantation and other afforestation	Avenue plantation & other afforestation is being carried out within the plant premises and outside the plant premises as a part of community development programs. The same will be continued.	engagements. Vedanta
5	Formation of Environmental Committee to address issues related to environment	Vedanta Limited will consult with SPCB and District Administration for formation of a separate committee and follow their advice on this matter.	Limited, will continue to be compliant with all employment-related rules, regulations laid down by the
6	Employment for local affected people	The proposed expansion will be taken up within the factory premises and existing land under possession of Vedanta Limited. There is no land acquisition in proposed expansion project, hence no land oustee for the project. Presently, Vedanta Limited, Jharsuguda is compliant with all employment-related rules, regulations laid down by the state and central governments. As on date nearly 5195 persons are employed from Jharsuguda. More than 90 % of our unskilled workforce is from Odisha. Vedanta Ltd. will continue to comply with all the statutory norms of state and central Govt on local employment.	state and central government and local employment will be given as per the eligibility in line with company policy. Further, Vedanta Ltd has
7	Contractual work to local people	Local contractors are being engaged suitably as per the Vedanta Limited policy and relevant Govt. guidelines and Vedanta Ltd. will suitably engage local contractor in future for the proposed expansion.	budgeted about Rs. 55 crores as a capital cost on
8	Training and skill development programme for local youth	At present skill development through livelihood activities are taken up by Vedanta ltd. through Subhalaxmi programme. Through initiatives, skill development is ongoing for local farmers and women entrepreneurs. Further, to help local youth of the peripheral communities who are unskilled to acquire desired skillsets, discussions will be undertaken with the state and central government's skill development department to have a structured program so that the local youths become self-reliant.	pollution control, treatment and monitoring systems in proposed expansion project. For the Compensation

Sr. No.	Issues Raised During Public	Response of the Project Proponent	Action Plan
9	Employment for unskilled & illiterate local people	Vedanta Ltd, Jharsuguda is compliant with all employment-related rules and regulations laid down by the state and central governments. More than 90% of Vedanta's unskilled workforces are from Odisha. Vedanta Ltd will comply with all the statutory norms of state and central Govt on local employment and will continue to focus on local employment. Through educational initiatives as a part of CSR, Vedanta Ltd will continue to support local students for their education to alleviate illiteracy.	for crop damage due to emission of gases, study through CRRRI will be carried out with a budget of Rs.49.5 lakhs and the study period will be for two years.
Issues Related to CSR Activity			
10	Supply of drinking water	Proper evaluation on the request to provide clean drinking water will be taken up as a part of CSR program wherever required	
11	Road & peripheral development	Vedanta Ltd. will take up it as a part of CSR activities as and when required	
12	Health and establishment of medical college and hospital	Vedanta Ltd. has been doing development of this area as per the rules & norms of government and the same will be continued.	
13	Education & establishment of English medium school	Vedanta Ltd. have been running education projects like DAV Scholarship, Vedanta Mini Science Centre and Vedanta Vidhyarthi Vikas Yojana for students. They are also supporting various English and Odia medium schools for infrastructural development. Further, Vedanta Ltd. will take up 50 brown field Nandghar, enriching current Aganbadi Centers into Nandghar which will help in creating strong foundation for pre-education for children aged between 3 to 6 years.	
14	Provision of street light in the surrounding villages	Vedanta ltd. will take feasible action through CSR.	
15	Women empowerment	Vedanta has developed and nurtured a Flag ship program, Subhalaxmi Cooperative Society, meant towards woman empowerment and entrepreneurship with more than 4,000 women members. This is one of the largest women cooperative society in western Odisha. The same will be further expanded to a targeted 10,000 members in next 3-5 years.	

28.7.14 The capital cost of the project is Rs. 1240 Crores and the capital cost for environmental protection measures for smelter plant is Rs. 55 Crores and annual recurring cost towards the environmental protection measures is proposed as Rs. 11 Crores. The capital cost of environmental protection measures of proposed township is Rs. 6.5 crores & recurring cost is Rs. 1.3 crores. The employment generation from the proposed expansion of smelter plant is estimated to be 800 (250-Direct & Indirect-550). The total approximate manpower of proposed township during construction is estimated as 200. The details of cost for environmental protection measures is as follows:

COST ESTIMATE FOR IMPLEMENTATION OF EMP FOR PROPOSED EXPANSION OF SMELTER PLANT

Sr. No.	Particulars	Capital Investment (Rs in Crores)	Recurring Cost (Rs in Crores)
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1	ETP (RO plant) and storm water management	50.0	10.0
2	Raw Water Treatment Plant	5.0	1.0
	Total	55.0	11.0

**BUDGET ALLOCATION FOR ENVIRONMENTAL PROTECTION FOR
PROPOSED EXPANSION OF TOWNSHIP**

Sr. No	Environmental Aspects	Capital cost (Rs. in Crores)	Recurring cost (Rs in Crores)
1	STP	3.0	0.6
2	Solid waste management	1.5	0.3
3	Rain water harvesting	1.5	0.3
4	Greenbelt	0.5	0.1
Total Cost		6.5	1.3

- 28.7.15 Plantation will be developed in 51.45 ha in addition to present 226.62 ha including expansion of smelter plant & township which is about 33% of the total project area after expansion. Local and native species will be planted with a density of 2500 trees per hectare. Total no. of 120,000 saplings will be planted and nurtured in 51.45 ha in 5 years.
- 28.7.16 The proponent has reported that the Writ Petition W.P. (C) 24789 of 2020 (Subrat Bhoi and Anr vs State of Odisha and Ors.) was filed by Subrata Bhoi & others before the Hon'ble Orissa High Court on 24/09/2020 praying for deferring the public hearing scheduled on 30/09/2020 for the purpose of expansion of aluminium smelter from 16 LTPA to 18 LTPA. Matter came up for hearing and admission on 29/09/2020. The Court issued notice to the opposite parties and as an interim measure directed that the public hearing scheduled on 30/09/2020 not to take place till the next date of hearing. However, while passing the aforesaid interim order, the Hon'ble court was unaware of the order already passed by the Division bench of the Orissa High Court in WP(C) No. 24669 of 2020 allowing the public hearing. The matter was mentioned by Vedanta Limited on 30/09/2020 and the Hon'ble Court was apprised of the order dated 28/09/2020 passed in the aforesaid writ petition. Upon hearing the parties, the Hon'ble Court in partial modification of its order dated 29/09/2020 allowed the public hearing to continue as per the original schedule further stating that no final decision to be taken till next date of hearing. The matter was next listed on 01/10/2020 for final hearing wherein arguments from both sides were completed and final order was reserved. The final order was passed on 09/10/2020. The Hon'ble High Court of Odisha disposed of the case by asking the petitioners to make a representation before the Collector, Jharsuguda. The Collector, after considering the said representation, passed an order dated 18/10/2020 in this matter holding, inter-alia, that 'the hearing conducted on 30/09/2020 with regard to the proposed expansion of Aluminium Smelter at Bhurkamunda is considered smooth and complete'.
- 28.7.17 Name of the EIA consultant: M/s. Vimta Labs Limited [S.No. 135, List of ACOs with their Certificate / Extension Letter no. Rev. 06, Jan. 15, 2021].
- 28.7.18 Certified compliance report from Regional Office:

The status of compliance of earlier EC was obtained from Regional Office, Bhubaneswar. vide Letter No: 101-405/EPE/1620 dated 24/12/2020 in the name of M/s. Vedanta Limited. The action taken report was submitted to Regional office MoEF&CC, Bhubaneswar vide letter no. VL/MoEF/06/2021-001 dated 05/01/2021. The details of the observations made by RO in the report dated 24/12/2020 along with its re-assessment / present status as furnished by the PP is given as below:

Sr. No	Non-compliances / Partially Compliance details	Observation of RO (abridged)	Condition no			Re-assessment by RO / Response by PP
			EC date	Specific	General	
1.	Fluoride consumption shall be less than 10kg/T of aluminium produced as specified in the CREP guidelines.	PP to submit an action plan along-with time schedule for achieving the target of fluoride consumption below 10kg/T of aluminium produced, as per the CREP guidelines. The PP may contemplate on establishing/ installing having in-house facility for treatment and disposal of SPL.	11/06/2008	vi & xvi	-	The action taken report was submitted to Regional office MoEF&CC, Bhubaneswar vide letter no. VL/MoEF/06/2021-001 dated 05/01/2021.
2.	As proposed, spent pot lining waste should also be provided to cement and steel industries for further utilisation.	The PP should prepare an Action Plan along with implementation schedule and submit the same regarding ways of using SPL generated in the plant including providing to Cement and Steel industries.	11/06/2008	ix	-	

Observations of the Committee

28.7.19 The Committee noted the following:

- i. There is 2400 MW coal based running power plant at the site for which EC was accorded by the Ministry vide letter no. Ltr. No. J-13011/3/2007 IA II (T) dated 7/12/2007.
- ii. Cumulative impact assessment of all the units have not been carried out by the project proponent.
- iii. With respect to compliance status existing EC, following non-compliances have been observed and the same is yet to be complied by the project proponent.
 - a. Action Plan and time schedule to achieve the CREP target of Fluoride emission of 10 kg/t of Al has not been furnished.
 - b. Facility for treatment of Spent Pot Liners (SPL) not yet provided and supply of SPL to Cement and Steel plants has not started as yet.

- c. CREP Recommendations for Aluminium Sector have not been strictly followed.
- iv. Kharkhari Nala (passes in between along the boundary of smelter-1 and smelter-2). No details are made available in the EIA report regarding HFL of Kharkhari nala.
- v. There are three Schedule I species in the study area. Wild life conservation plan as per TOR point # 6 has not been prepared. Consultant by referring IUCN did try to mislead EAC.
- vi. The table for EMP activities, based on the issues raised in Public hearing is not available in the report. Skill development for self-employment not addressed. Responses to issues raised in PH are vague.
- vii. TOR compliance given in Annexure I of Volume II of the EIA report is not readable. It has not been scanned with clarity. All Annexures in the report are not readable and identifiable easily. There are 824 pages without any identifiability/traceability index. In EIA report all signatures are scanned.
- viii. Trends for Fluorine content in the Foray for past two years have not been furnished.
- ix. TOR point #9 has not been addressed adequately in chapter 10.
- x. Large area has been earmarked for Flyash disposal. It has not been planned as per Fly ash Handling and Management Rules 2009 of MoEF&CC.
- xi. Green belt details are not available in the documents submitted for EC.
- xii. No details about Secured Land Fill have been provided.
- xiii. There is no EC for existing township. Township expansion by 36.826 ha is proposed. As per the MoEF&CC O.M. dated 24/12/2010 regarding consideration of integrated and interlinked proposals, the EC for the township project has to be obtained. Sectoral EAC may not be able to appraise the township proposal although ToR was accorded for the same.
- xiv. Solid waste management plan has not been furnished.

Recommendations of the Committee

- 28.7.20 In view of the observations cited above and after detailed deliberations, the committee recommended to return the proposal in present form as consultant has drafted poor EIA.EMP report and intentionally tried to mislead the EAC.

The consultant was warned not to mislead the Committee and not try to do such things in future. In case of further occurrence of the same, action against the consultant would be recommended.

- 28.8 1.2 MTPA Integrated Steel Plant with 225 MW CPP- change in configuration, production capacity & product mix of the project- Reduction in Blast Furnace from 1.0 MTPA (2 x 550 m³) to 0.6 MTPA (1 x 550 m³), Sinter Plant from 1.0 Million TPA (1 x 175 m²) to 0.6 Million TPA (1 x 70 m²), Ferro Alloy Plant from 0.12 MTPA (10 x 9 MVA) to 0.048 MTPA (4 x 9 MVA) & CFBC (Coal Dolomite based CPP) 135 MW (3 x 45 MW) to 90 MW (2 x 45 MW) ; Expansion of DRI from 0.5 MTPA (2 x 500 + 2 x 350 TPD) to 0.744 MTPA (4 x 600 TPD) with DRI based WHRB from 54 MW to 68 MW making total capacity of CPP- 194 MW and change in product mix (production of DI fitting & accessories with DI Pipe) within EC approved capacity of Ductile Iron Pipe (0.2 Million TPA), keeping steel melting shop with CCM and oxygen optimized furnace, rolling mill, coke oven plant, oxygen plant, lime & dolomite plant, iron ore beneficiation with pellet plant & producer gas plant as it, by **M/s. Rashmi Alloy Steel Private Limited** located at Village-Gokulpur, P.O.-Shyamraipur, P.S.-Kharagpur (Local) **District – West Medinipur, West Bengal.** [Online Proposal No.

Observations of the Committee

- 48.13.16 The EAC noted the following:
- i. The land proposed for the project activity is not contiguous which needs to be revisited and layout to be modified.
 - ii. No information has been furnished by the proponent regarding the land acquisition details of 5.6 ha Government land.
 - iii. No tangible action plan has been submitted for gradual phase out ground water abstraction of 1230 KLD.
 - iv. Project specific Hazard Analysis and Risk Assessment has not been carried out.
 - v. Budget proposed for environment protection measures needs to be revisited and enhanced.
 - vi. Action plan submitted to address the issues raised during public hearing is not as per the MoEF&CC O.M. dated 30/09/2020. PP need to submit the revised action plan.
 - vii. Type of submerged Arc Furnace has not been specified.
 - viii. The products envisaged under the Ferro Alloys Plant have not been submitted.
 - ix. Action plan submitted for solid and hazardous waste utilization is not satisfactory.
 - x. PP proposed to use SAF slag for land filling, land filling shall not be permitted.
 - xi. Project benefits have not been quantified in EIA / EMP report.
 - xii. Chapter 11 of EIA report is not as per appendix III of EIA notification, 2006.

Recommendations of the Committee

- 48.13.17 In view of the foregoing and after deliberations, the Committee recommended to return the proposal in its present form to address the shortcomings enumerated at para no. 48.13.16 above.

- 48.14 Proposed Expansion of Aluminium Smelter Production Capacity from 16 LTPA to 18 LTPA without increasing the CPP capacity of 1215 MW by **M/s. Vedanta Limited** located at Village- Bhurkamunda, PO Kalimandir, **District Jharsuguda, Odisha** - [Online Proposal No. IA/OR/IND/236646/2017, File No. IA-J-11011/29/2007-IA-II(D)] – **Environment Clearance– regarding**

- 48.14.1 M/s Vedanta Limited, Jharsuguda has made an online application vide proposal no. IA/OR/IND/236646/2017 dated 03/11/2021 along with copy of revised EIA/EMP report and Form–2 seeking Environment Clearance (EC) under the provisions of the EIA Notification, 2006 for the project mentioned above. The proposed project activity is listed at schedule no. 3(a) Metallurgical industries (ferrous & nonferrous) under Category “A” of the schedule of the EIA Notification, 2006 and is appraised at the Central level.

Details submitted by Project proponent

- 48.14.2 The details of the ToR are furnished as below:

Date of application	Consideration	Details	Date of accord
03/11/2017	26 th meeting held during 11-13 th Dec 2017.	Terms of Reference (ToR) granted.	20/12/2017

48.14.3 The project of M/s Vedanta limited located in Bhurkamunda Village, Jharsuguda Tehsil, Jharsuguda District, Odisha State is for setting up of additional 2 LTPA smelter plant for enhancement of production capacity of Aluminium Smelter from 16 LTPA to 18 LTPA.

48.14.4 Environmental Site Settings:

SNo	Particulars	Details		Remarks
i.	Total land	834.236 ha		-
ii.	Land acquisition details as per MoEF&CC O.M. dated 7/10/2014.	Total land is in possession and is used for on-going industrial operations		-
iii.	Existence of habitation & involvement of R&R, if any.	No habitation inside acquired land hence R&R not involved.		-
iv.	Latitude and Longitude of the project site.	Latitude	Longitude	Topo sheet No. - F44R13, F44R14 & F45M1, F45M2
		21°49' 43.0''N	84° 02' 40.7'' E	
		21°48' 32.2''N	84° 03' 53.7'' E	
		21°46' 52.5''N	84° 03' 2.91'' E	
		21°48' 6.51''N	84°01'48.29'' E	
	21°49' 3.01''N	84°01'30.55'' E		
v.	Elevation of the project site.	Elevation of project site ranges from 198 m to 216 m AMSL		-
vi.	Involvement of Forest land if any	Nil		-
vii.	Water body exists within the project site as well as study area	Project site: Name- Kharkhari Nala Study area: Bhedan River at 0.3 Km South IB River at 8 Km West Hirakud Reservoir at 8 Km South		At confluence of Kharkhari Nala with Bhedan river HFL of Kharkhari Nala is 192.5 m AMSL.
viii.	Existence of ESZ/ ESA/ national park/ wildlife sanctuary/ biosphere reserve/ tiger reserve/ elephant reserve etc. if any within the study area	Nil		Following Reserve Forests are present in study area: Katikela RF: (0.1 km, East) Badkhalia RF: (2.9 km, NE) Ghichamura RF (5.8 km, SE) Binjidungri RF (6.5 km WSW) Malda DPF (6.8 km, SW) Mahalmunda RF (7.7 km, SW)

48.14.5 The existing project was accorded environmental clearance vide letter no. J-11011/29/2007-IA II(I) dated 11th June 2008 for 16 LTPA of Aluminium Smelter and CPP of 1350 MW. Consent to Operate for the existing unit was accorded by Odisha State Pollution Control Board vide letter No. 5324 dated 27/03/2021. The validity of CTO is up to 31/03/2022.

48.14.6 Implementation status of the existing EC:

S No	Facilities	Units	As per EC dated 11/06/2008	Implementation	Production as per CTO
1	Aluminium Smelter	16 LTPA	J-11011/29/2007-IA II (I), dated 11 th June 2008.	Implemented	16 LTPA
2	Captive Power Plant 1215 MW	9 x 135 MW	J-11011/29/2007-IA II (I), dated 11 th June 2008.	9 x 135 MW implemented	1215 MW

48.14.7 The unit configuration and capacity of existing and proposed project is given as below:

S No	Name	Existing Units		Proposed Units		Total (Existing + Proposed)	
		Configuration	Production	Configuration	Production	Configuration	Production
1	Aluminium Smelter	1864 pots in 6 Potlines, 4 x 35 TPH Green Anode Plant, 5 units of Bake Oven, 1 x 90 & 1 x 160 RPH of Rodding Unit, 3 units of Casting	16,00,000 TPA	66 pots in Potline-6, 1 x 60 TPH Green Anode Plant, 1 x 120 RPH Rodding Unit, 1 unit of Casting	2,00,000	1930 pots in 6 Potlines, 4 x 35 TPH & 1 x 60 TPH Green Anode Plant, 5 units of Bake Oven, 1 x 90, 1 x 160 & 1 x 120 RPH Rodding Unit, 4 units of Casting	18,00,000 TPA
2	CPP	9 x 135 MW	1215 MW	Nil	Nil	9 x 135 MW	1215 MW

48.14.8 The details of the raw material requirement for the proposed project along with its source and mode of transportation is given as below:

S No	Raw Material	Quantity required per annum in TPA			Source	Distance from site (Km)	Mode of Transportation
		Existing	Expansion	Total			
1	Alumina	30,88,000	3,86,000	34,74,000	Captive, domestic & import	500	Road, Rail
2	Calcined petroleum coke	5,93,600	74,000	667,000	Domestic & import	564	Rail
3	Cryolite	3,200	400	3600	Domestic & import	564	Rail
4	Aluminium fluoride	32,000	4,000	36000	Domestic & import	564	Road
5	Coal tar pitch	1,28,000	16,000	1,44,000	Domestic	60	Road

48.14.9 The water requirement for the expansion project is estimated as 576 m³ /day, which is within the permissible drawl quantity of 1,00,065 m³/day (40.9 cusecs) surface water

from Hirakud Reservoir is obtained from Department of Water Resources vide Letter No. RC/157/13-26079 dated 31/03/2017.

48.14.10 The power requirement for 18 LTPA Aluminium Smelter is estimated to be 2960 MW out of which additional 400 MW (for 2 LTPA expansion) will be obtained from the 2400 MW TPP.

48.14.11 Baseline Environmental Studies:

Baseline Data collection is from December 2017 to February 2018 and again in March to May, 2021 to revalidate the previous EIA/EMP report.

Period	March, 2021- May, 2021	Dec 2017 - Feb 2018
AAQ parameters at 9 locations	PM _{2.5} = 27.0 to 42 µg/m ³ PM ₁₀ = 50.2 to 76.3 µg/m ³ SO ₂ = 10.9 to 27.2 µg/m ³ NO _x = 12.9 to 32 µg/m ³ CO = 251.6 to 430.4 µg /m ³	PM _{2.5} = 11.3 to 26.4 µg/m ³ PM ₁₀ = 27.1 to 63.5 µg/m ³ SO ₂ = 8.6 to 25 µg/m ³ NO _x = 10.4 to 27.1 µg/m ³ CO = 151 to 360 µg /m ³
AAQ modelling (Incremental GLC)	Max. Incremental GLC: PM ₁₀ = 0.852 µg/m ³ PM _{2.5} = 0.51 µg/m ³ SO ₂ = 8 µg/m ³ NO _x = 6.88 µg/m ³ Fluorides = 0.078 µg/m ³ B(a)P = 0.00008 µg/m ³	-
Ground water quality at 8 locations	pH: 6.73 to 7.43, Total Hardness: 58 to 92 mg/l, Chlorides: 18 to 41 mg/l, Fluoride: 0.12 to 0.31 mg/l. Heavy metals are within the limits	pH: 6.7 to 7.4, Total Hardness: 91 to 241 mg/l, Chlorides: 18.6 to 64.5 mg/l, Fluoride: 0.2 to 0.5 mg/l. Heavy metals are within the limits
Surface water quality at 8 locations	pH: 6.74 to 7.36; DO: 6.8 to 7.4 mg/l and BOD: 0.8 to 1.6 mg/l. COD from 4 to 12 mg/l; Total Coliform: 580 to 840 MPN/100	pH: 6.8 to 8.1; DO: 4.9 to 5.8 mg/l and BOD: <3 mg/l. COD from <5 to 10 mg/l, Total Coliform: 534 to 840 MPN/100
Noise levels	Ambient noise reaches 49.7 to 67.9dB(A) during day time and 40.1 to 60.2 dB(A) during night time.	Ambient noise reaches 37.9 to 59.2dB(A) during day time and 35 to 56 dB(A) during night time.
Traffic assessment study findings	Traffic assessment study has been made & recorded at selected traffic location, which is towards Bhurkamunda to Jharsuguda route and Jharsuguda to Bhurkamunda route and counts converted to equivalent PCU and found to be 3,741 PCU.	
Flora & Fauna	Schedule I fauna, such as Monitor lizard, Indian Peafowl, & Indian Python are commonly found in the forest. Elephant, Sloth Bear are occasionally reported in the buffer zone of the project site. Site specific Wildlife Conservation Plan has been prepared and duly approved by PCCF (wildlife) & Chief Wildlife Warden, Odisha, vide letter no-4488/7 WL-FD & WLC-32/2021, dated	

	Bhubaneswar, the 30 th April, 2021 with a financial outlay of Rs. 610.894 lakh for its implementation.
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48.14.12 The details of solid and hazardous waste generation along with its mode of treatment/disposal is furnished as below:

S No	Type of Waste	Source	Quantity generated (TPA)	Mode of Treatment / Disposal
1	Spent pot lining	Pot room	45,000 T	Disposed to authorized re-processors
2	Used oil/Spent oil	During Maintenance activity	562 KL	Disposed to Authorized recyclers
3	ETP sludge	ETP	585 T	Disposed to CHWTSDF
4	Anode butt	Carbon Plant	3,37,500 T	Internally recycled & disposed to Authorized Re-processors
5	Aluminium Dross	Cast house	39,375 T	Internal processing/ recycling and disposed to authorized re-processors
6	Waste containing Oil	Maintenance activity	33.75 MT	Disposal through HW incinerator
7	Tar Containing wastes	Bake Oven	225 MT	Internal Recycling
8	Flue gas dust	Carbon Plant	129.375 MT	Internal Recycling/ Disposed to CHWTSDF
9	Housekeeping waste	Potline, Carbon Plant	2250 MT	Disposal in SLF/ CHWTSDF/ Internal Recycling
10	Rejected Filter bags (FTP)	Potline & Bake Oven	39,375	Incineration in HW incinerator/ Pots
11	Rejected ALF ₃ bags	Pot line	39,375	Incineration in HW incinerator/ Pots
12	Asbestos waste	(Ladle cleaning and other units)	6.75 MT	Disposal in SLF/ CHWTSDF
13	Coke dust	Bake Oven	2025 MT	Internal Recycling
14	Spent resin	Rectifier & DM plant	51.75 KL	Disposal in SLF/ CHWTSDF
15	Green anode ridge waste	Green Anode Plant (GAP)	67.5 MT	Internal Recycling/ Disposal in SLF/ CHWTSDF
16	Green anode cooling decantation tank sludge	Green Anode Plant	6.75 MT	Disposal in SLF/ CHWTSDF
17	Shot blasting dust	Rodding plant	6750 T	Disposed to SLF/ CHWTSDF
18	Drain cleaning	Carbon & pot	281.25 MT	Disposed to CHWTSDF

S No	Type of Waste	Source	Quantity generated (TPA)	Mode of Treatment / Disposal
	sludge	room		
19	Ladle cleaning residue	Ladle cleaning Shop	27,000 MT	Internal Recycling

48.14.13 Public Consultation:

Details of advertisement given	The press notification indicating date and venue of the public hearing was issued by State Pollution Control Board, Odisha, on 27/08/2020. Notice was published in widely circulated Odia daily 'The Samaj' and English daily 'The Times of India' on 28/08/2020.
Date of public consultation	30/09/2020
Venue	Government Upper Primary School, Kurebaga, Dalki in Jharsuguda district.
Presiding Officer	Additional District Magistrate, Jharsuguda
Major issues raised	<ul style="list-style-type: none"> • Emission of gas & fumes problem • Compensation for crop damage due to emission of gases • Road dust problem due to transport of ash • Employment for local affected people • Training and skill development programme for local youth • Employment for unskilled & illiterate local people • Contractual work to local people • Supply of drinking water • Provision of streetlight in the surrounding villages • Women empowerment

Action plan as per MoEF&CC O.M. dated 30/09/2020

A) Public Hearing

Sl. No.	Concerns Raised during Public Hearing	Physical Activity & Action plan for FY 2022	Tentative Budget in Rs. Lacs	Physical Activity & Action plan for FY 2023	Tentative Budget in Rs. Lacs	Total budget in Rs. lacs
1	Emission of Gas & fumes problem	Ordering for Fume Treatment Plant revamping including supply of equipment	1100	Revamping of Fume Treatment Plant (FTP 1, Smelter 1) by July 2022 and Balance 3 FTPs by March 2023.	3300	4400
2	Compensation for Crop Damage due to emission of gases	Detailed study w.r.t Crop damage is being carried out by NRRRI for 2 crop cycles	50	2nd Crop Cycle Study	-	50
		Distribution of 7 Quintal high yield variety of seeds, Fertilizers (Completed)		Training to Farmers on best agricultural practices for higher		

Sl. No.	Concerns Raised during Public Hearing	Physical Activity & Action plan for FY 2022	Tentative Budget in Rs. Lacs	Physical Activity & Action plan for FY 2023	Tentative Budget in Rs. Lacs	Total budget in Rs. lacs
		Training Program to Farmers of 12 Villages		yield/production		
3	Road dust problem due to transport of Ash	Construction and Commissioning of dedicated road for truck traffic to avoid entering Sunarimunda village and Jharsuguda town by July 2021 (Completed)	3100	Parking Plaza for 200 trucks entering and leaving the factory premises to be constructed at Brundamal with all facilities and amenities for drivers by Dec 2022	197	3297
		Installation of Wheel Wash System at the entry/exit of Factory premises by Dec 2022	80	-	-	80
4	Avenue Plantation & Other Afforestation	-	-	Plantation & Maintenance of 25000 Saplings outside plant areas in consultation with DFO	100	100
Total			4330		3597	7927

B) Socio-economic issues

Sl. No.	Concerns Raised during Public Hearing	Physical Activity & Action plan for FY 2022	Tentative Budget in Rs. Lacs	Physical Activity & Action plan for FY 2023	Tentative Budget in Rs. Lacs	Total budget in Rs. lacs
5	Formation of Environmental committee to address issues related to environment	Committee will be formed in consultation with district administration, SPCB, Local representative & company representative	-	-	-	-
6	Contractual work to local people	196 local contracts involving 52 local contractors	-	-	-	-
7	Training & skill development for Local People.	Through Project Jeevika to enhance the income of farmers fraternity, covering 5 villages namely Gudigaon, Siriapalli, Keldamal, Bhagipalli, Bhurkamunda to 750 people	250	Trough Project Jeevika to enhance the income of farmers fraternity, covering 5 villages namely Brundamal, Dalki, Katikela, Kumudapalli, Kurebaga to 750	250	500

Sl. No.	Concerns Raised during Public Hearing	Physical Activity & Action plan for FY 2022	Tentative Budget in Rs. Lacs	Physical Activity & Action plan for FY 2023	Tentative Budget in Rs. Lacs	Total budget in Rs. lacs
				people		
		Skill development trainings to 150 numbers of youths through Vedanta Foundation from Banjari, Bhagipalli, Bhurkamunda, Brundamal	45	Skill development trainings to 450 numbers of youths through Vedanta Foundation from Dalki, Katikela, Kumudapalli, Sunarimunda, Gudigaon	135	180
		5195 persons have been employed from Jharsuguda & Local affected villages	-	-	-	-
		More than 90% of our unskilled workforce is from Odisha	-	-	-	-
8	Health and establishment of medical college and hospital	Vedanta State of Art - Pathology & Diagnostic Centre at JSG benefiting >2.5 lac population providing services for BPL at free of cost & rest as per CGHS rates	2000	Vedanta State of Art Pathology & Diagnostic Centre at Laikera benefiting >2.5 lac population providing services for BPL at free of cost & rest as per CGHS rates	2000	4000
		COVID-19 initiatives for communities (distribution of ration, mask in large scale to community & frontline workers and Vaccine)	30	COVID-19 initiatives for communities (distribution of ration, mask in large scale to community & frontline workers and Vaccine)	20	50
		Supporting district COVID-19 Hospital - 100 bed + ventilators + life saving equipment	250	Supporting district COVID-19 Hospital - 100 bed + ventilators + lifesaving equipment	50	300
		COVID-19 support at state level	450	COVID-19 support at state level	50	500
9	Supply of Drinking water	Drinking water supply through Overhead tank and pipelines in Banjari village to approx. 300 House Holds.	30	Drinking water supply in Siriapalli, Kurebaga to approx. 600 Households	70	100
10	Provision of streetlights in surrounding villages	Streetlights (including solar streetlights in 10 villages) 50 numbers in villages Orampada, Banjari, Tharkimal, Bhagipalli, Bhurkamunda	25	Streetlights (including solar streetlights in 10 villages) 50 numbers in villages Brundamal, Kurebaga, Kumudapalli, Gudigaon, Siriapalli	25	50
11	Road & Peripheral Development	Construction of RCC road 700 m & drainage facilities in Banjari village	100	Construction of RCC road 1300 m & drainage facility in Tharkimal village	200	300

Sl. No.	Concerns Raised during Public Hearing	Physical Activity & Action plan for FY 2022	Tentative Budget in Rs. Lacs	Physical Activity & Action plan for FY 2023	Tentative Budget in Rs. Lacs	Total budget in Rs. lacs
		Cleaning/renovation of community ponds 17 numbers	43	Cleaning/renovation of community ponds 23 numbers	57	100
		Construction & Renovation of Community Centers/Place of worship/ Public gathering places around 4 core villages Kurebaga, Kherual, Brundamal, Bhurkamunda	100	Construction & Renovation of Community Centers / Place of Worship / Public gathering places around 6 core villages Banjari, Buromal, Badmal, Tharkimal, Gudigaon, Katikela	160	260
		Partnering with State Govt. through "Mo School Abhiyaan" covering 4 Govt. Schools at Jharsuguda	80	-	-	80
12	Education & Establishment of English Medium School	Renovation of 50 anganwadi for Nandghars covering 35 communities	200	Renovation of 50 anganwadi for Nandghars covering 35 communities	200	400
		Renovation of 10 school buildings + toilets	100	Renovation of 10 school buildings + toilets	100	200
			-	Developing 5 mini-science centre benefiting more than 1000 children	60	60
13	Women Empowerment	Strengthening of SHG & promoting income generation activities through Subhalaxmi Cooperative Society - 5K members in 35 communities	300	Strengthening of SHG & promoting income generation activities through Subhalaxmi Cooperative Society - 5K members in 35 communities	300	600
Total			4303		3377	7680

48.14.14 The capital cost of the expansion project is Rs. 1240 Crores and the capital cost for environmental protection measures is proposed as Rs. 96.16 Crores. The annual recurring cost towards the environmental protection measures is proposed as Rs 5.80 Crores. The employment generation from the proposed expansion is 800 (250-direct & 550-indirect). The details of cost for environmental protection measures are as follows:

Sl. No.	Description of Item	Existing (Rs. In Crores)	
		Capital Cost	Recurring Cost
i.	Air Pollution Control/Noise	33.65	3.20
ii.	Water Pollution Control	55.50	2.60
iii.	Noise Management	0.90	-
iv.	Wildlife Conservation Plan Implementation	6.11	-
	Total	96.16	5.80

In addition to above EMP cost, an additional budgetary provision has been made to address the issues raised during Public Hearing as mentioned below:

- a) Budget to address Environmental issues - Rs. 79.27 Crore.
- b) Budget to address Socio-economic issues - Rs. 76.80 Crore

48.14.15 Greenbelt has been developed in 275.29 ha which is 33% of the total project area. Local and native species have been planted with a density of 2500 trees per hectare. Total no. of 6,97,160 trees/saplings have been planted in 275.29 hectares within the industrial complex and ash pond area.

48.14.16 Summary of violation under EIA, 2006/court case/show cause/direction if any, related to the project under consideration.

- W.P. (C) 24789 of 2020 (Subrat Bhoi and Anr vs State of Odisha and Ors.)
One Writ Petition was filed by Subrata Bhoi & others before the Hon'ble Orissa High Court on 24/09/2020 praying for deferring the public hearing scheduled on 30/09/2020 for the purpose of expansion of aluminium smelter from 16 LTPA to 18 LTPA. However, The Hon'ble High Court of Odisha disposed off the case by asking the petitioners to make a representation before the Collector, Jharsuguda. The Collector, after considering the said representation, passed an order dated 18.10.2020 in this matter holding, inter-alia that 'the hearing conducted on 30.09.2020 with regard to the proposed expansion of Aluminium Smelter at Bhurkamunda is considered smooth and complete.
- Show Cause Notice
Under Section "5" of Environment (Protection) Act, 1986, a Show cause notice has been issued for non-compliance of stipulated Environmental Conditions vide F. No. J-11011/29/2007-IA.II(I) dated 01/09/2021 for which reply has been submitted vide letter No. VL/MOEF/006/2021-027 dated 29/09/2021 and additional action taken report submitted vide VL/MOEF/006/2021-031 on 23/10/2021.

48.14.17 Name of the EIA consultant: Originally the EIA Report was prepared by M/s. Vimta Labs. The consultant was changed by project proponent to M/s GlobalTech Enviro Experts Pvt. Limited, Bhubaneswar [S No. 99, List of ACOs with their Certificate / Extension Letter no. Rev. 15, October 11, 2021].

Certified compliance report from Regional Office

48.14.18 The Status of compliance of earlier EC was obtained from Regional Office of MoEF&CC, Bhubaneswar vide letter no.101-405/EPE/1620 dated 24/12/2020 in which some non-compliances were detected and pointed out. Action Taken Report was submitted by Vedanta Limited to MOEF&CC, Regional Office on 05/01/2021. Based on the action taken report submitted, the Regional Office issued another examination report vide Letter No. 101-405/EPE/91 dated 18/01/2021 mentioning that the conditions may be treated as complied or are in the process of compliance. The Integrated Regional Office, MoEF&CC, Bhubaneswar issued another examination of reply vide Letter No. 101-405/EPE/1335 dated 27/10/2021 mentioning that all the conditions have been complied with.

The details of the observations made by RO in the report dated 27.10.2021 along with its re-assessment/ present status is given as below.

Sl. No.	Non-compliances details	Observation of RO (abridged)	Condition no.		Re-assessment by RO
			EC date	Specific	
1	The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/T.	The Project authorities have initiated action for reduction in the fluoride consumption by increasing the proportion of low sodium alumina. By this, it is contemplated by the project that the fluoride consumption would come down to 9.78 Kg/T from the present value of 10.78 Kg/T Al by Dec 2021. Further, as per action plan with implementation schedule, the project is to achieve a gradual decrease in the fluoride consumption over the next two years and finally achieve 8.88 Kg/T of Al by end of April 2023	11/06/2008	Specific condition vi & xvii	The condition has been complied with
2	Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.	As reported by the project authorities that SPL generated is being sent to an agency M/s Green Energy Resources, which is authorized for handling and recycling Hazardous Wastes for detoxification of SPL. This is in accordance with the SOP issued by CPCB. After detoxification, the agency in turn would send the material to various industries including cement and steel industries for its utilization. From the action plan, it is noted that the project has contemplated the utilization of SPL and the project is to achieve complete utilization of all the stock of SPL by end of Sept 2023.	11/06/2008	Specific condition ix	The condition has been complied with
3	Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.	The project has carried out plantation of 3,32,893 saplings, which have been procured from the nurseries of OFDC, Jharsuguda and have planted over an area of 46.24 Ha within the industrial complex and around the ash pond. The density of plantation within the industrial complex is also undertaken. All this has been undertaken to achieve green belt of more than 27%.	11/06/2008	Specific condition xiii	The condition has been complied with
4	Rainwater harvesting has	From the report, it is noted that	11/06/2008	Specific	The

Sl. No.	Non-compliances details	Observation of RO (abridged)	Condition no.		Re-assessment by RO
			EC date	Specific	
	not been carried out at the site by stating that the ground water table is high in the area and establishment of rainwater harvesting structures may lead to flooding in the area.	developing rainwater harvesting recharge structures especially by the industries which fall under red category for which aluminium smelter is one of them, is not recommended as per CGWA guidelines issued in Sept 2020. However, as a measure of water conservation and re-use the project authorities have developed facilities for roof top rainwater harvesting system which are seven in number within the complex with a total capacity of harvesting 10000 cubic meter water. One of the facilities have been commissioned, the rest 6 numbers of rainwater harvesting are to be completed by Nov 2021, so as to facilitate rainwater harvesting from next monsoon season.		condition xv	condition has been complied with
5	Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.	It is noted that the project authorities have submitted the site-specific wildlife conservation plan to PCCF wildlife and Chief Wildlife Warden which has been approved by the authority on 30.04.2021 with a financial outlay of Rs. 610.894 lakhs to be spent for implementation by Forest department (Both Jharsuguda and Sambalpur Forest division) for this plan. Out of this amount, Rs. 530.904 Lakhs has already been deposited with DFO, Jharsuguda on 17.05.2021 towards the implementation of the Wildlife Conservation Plan for a period of 10 years. It is also stated that the mitigation measures for balance amount of Rs.79.99 lakhs will be executed by M/s Vedanta Ltd directly by March 2022.	11/06/2008	Specific condition xix	The condition has been complied with
6	Significant quantity of legacy ash stocks is still stored in the ash pond located at three different locations in the vicinity of the project site. No effort has been taken to	From the report submitted, it is noted that the project authorities have been utilizing 115% Fly Ash utilization from the year 2017-18 onwards. It is also noted that there are 3 no. of Ash Ponds currently			The condition has been complied with

Sl. No.	Non-compliances details	Observation of RO (abridged)	Condition no.		Re-assessment by RO
			EC date	Specific	
	quantify the legacy ash stocks and utilize the same.	operational at Katikela, Kurebaga and Siriaplli catering to both CPP 1215 MW and TPP 2400 MW. It is also submitted by the project authorities that the ash being sent for utilization is stored/disposed to Ash Ponds by sending it through High Concentration Slurry Disposal (HCSD) system. Around 127.45 Lakh MT of Legacy Ash is stored in the Ash ponds for which the utilization is targeted to be completed within next 5 years. The project authorities have submitted and 5 year action plan for the fly ash being generated presently and also stored as legacy ash which is to be completed by the year 2026.			
7	SLF is provided inside the smelter complex. SLF is being implemented in two phases. Phase I of 5000 m3 capacity started in 2010 was capped in Sept 2013. Phase I of SLF is now in operation. It started in May 2014 and has 5285 m3 space. No details of the material filled in SLF or the capacity available were provided. No information on plan for post expansion of SLF capacity once the Phase II site is filled shall be furnished.	In the action taken report, the project authorities have submitted that no further expansion of SLF is required as all the wastes are being sent to RAMKY TSDf located at Sukinda. It is also submitted that the disposed in this SLF is proposed to be evacuated and disposed to authorized agency for detoxification.			The condition has been complied with
8	There are three ash ponds sites in operation and PP has proposed to acquire large area for ash disposal dn, spite of new Fly Ash notification to utilize 100 % ash. Further, PP mentioned that they were utilizing 100 % Fly ash since 2018 and the pond ash shall be liquidated in next - five years. In view of this, seeking additional land for ash disposal found to	It is submitted by the project authorities that a proposal for acquiring additional land for ash pond to be located at Gudigaon village has been approved by MoEF&CC in 2018 Amendment to EC for 2400 MW TPP (not for the aluminium smelter). The land has already been acquired by the project. It is submitted by them the ash pond has not yet been developed at this location and there is no plan to develop in future			The condition has been complied with

Sl. No.	Non-compliances details	Observation of RO (abridged)	Condition no.		Re-assessment by RO
			EC date	Specific	
	be not justifiable.				

48.14.19 The project proponent had earlier applied for EC vide proposal no. IA/OR/IND/222980/2017 dated 03/08/2021. The project was considered during 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021 wherein the Committee, after deliberations, recommended to return the proposal in present form. The observations and recommendations of the committee during the 42nd meeting are as follows:

Observations of the Committee during 12 – 13th August, 2021 meeting:

48.14.20 The Committee observed the following:

- i. The 16 LTPA smelter with 1215 MW CPP is in operation since 2008. The 2400 MW coal based TPP established through separate EC adjacent to the smelter complex is in operation since 2010.
- ii. No tangible effort has been taken by the proponent to comply with the following EC conditions even after the lapse of 13 years of operation.
 - The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/t.
 - Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.
 - Wastewater is being discharged outside the plant premises during monsoon season.
 - Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.
 - Rain water harvesting has not been carried out at the site by stating that the ground water table is high in the area and establishment of rain water harvesting structures may lead to flooding in the area.
 - Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.

In addition to the above, PP also yet to comply with the following:

- Significant quantity of legacy ash stocks is still stored in the ash pond located at three different locations in the vicinity of the project site. No effort has been taken to quantify the legacy ash stocks and utilize the same.
- SLF is provided inside the smelter complex. SLF is being implemented in two phases. Phase I of 5000 m³ capacity started in 2010 was capped in Sept 2013. Phase II of SLF is now in operation. It started in May 2014 and has 5285 m³ space. No details of the material filled in SLF or the capacity available were provided. No information on plan for post expansion of SLF capacity, once the Phase II site is filled shall be furnished.
- There are three ash ponds sites in operation and PP has proposed to acquire large area for ash disposal in spite of new Fly Ash notification to utilize 100 % ash. Further, PP mentioned that they were utilizing 100 % Fly ash since 2018 and the pond ash shall be liquidated in next five years. In view of this, seeking additional land for ash disposal found to be not justifiable.

- iii. Kharkhari Nala passes in between the boundary of smelter-1 and smelter-2 and joins Bheden River towards southwest of plant premises. The HFL of Kharkhari Nala is 192.5 m, above mean sea level near confluence of Kharkhari Nala with Bheden river and as per the hydrogeology study conducted, the site comes under no risk zone as the elevation at plant site ranges between 198 – 216 m above mean sea level.
- iv. Plantation all along the periphery of the project site is hardly visible from the KML file and photographs made available by the proponent.
- v. EMP cost of 77.3 Cr for a CAPEX of 1240 Cr in Aluminium Smelter is far less (6.2%) than the World benchmarks of 15-20 % of CAPEX on Environment Management.
- vi. Performance monitoring of Pollution Control Devices is not included in monitoring schedule.
- vii. EMP budget in Table 8.25 is generic and not monitorable. The table shall be resubmitted.
- viii. Mitigation measures given in Table 10.2 are generic and not quantified. The 6.2 % of CAPEX cost towards mitigation measures seems to be adhoc as stated in the document.
- ix. Baseline data collected by the consultant organizations (M/s. Vimta Labs and M/s. Global tech) are not comparable.
- x. As per Ministry's O.M. No. J-11015/286/2007-IA.II(I) dated 7/2/2020, any specific non-compliance singled out while the project is being appraised by the EAC, the concerned sector shall issue Show Cause Notice

Recommendations of the Committee during 12 – 13th August, 2021 meeting:

- 48.14.21 In view of the foregoing and after detailed deliberations, the Committee recommended the following:
- i. Show Cause Notice shall be issued to the proponent for not complying with the conditions prescribed in the EC letter dated 11/6/2008.
 - ii. Proposal to be returned in its present form and the same would be considered by the EAC after the compliance to the existing EC conditions has been achieved by the Project Proponent.
- 48.14.22 The project proponent has submitted the revised application vide proposal no. IA/OR/IND/236646/2017 dated 03/11/2021 and the proposal is placed before the REAC (Industry-I) in its 48th meeting held on 11 – 12th November, 2021.
- 48.14.23 The Ministry as well as the EAC members was in receipt of a public representation alleging that the unit is disposing of the fly ash in the nearby agricultural fields and causing pollution. In this regard, a case bearing no. 10/2021 is pending before the Hon'ble NGT, Eastern Zone.
- 48.14.24 The observations and recommendations of the committee is as follows:

Observations of the Committee

- 48.14.25 The Committee observed the following:
- i. BOD in Surface Water quality has been indicated as 0.8 to 1.6 mg/l, the method used for analysis the BOD shall be furnished.

- ii. EAC noted that the public representation mentioned at para 48.14.23 quoted a NGT court case (O.A. 10/2021/EZ) National Green Tribunal Eastern Zone Bench, Kolkata. The case is arising out of disposal of fly ash in the nearby agricultural land by the proponent causing damaging on the agricultural land. As per the Hon'ble NGT Order dated 2/09/2021, the inspection report filed by the Odisha State Pollution Control Board shows several violations of Consent conditions. In this regard, the Hon'ble NGT directed to file an affidavit inter-alia the Environmental Compensation assessed on account of damage caused to the environment.
- iii. PP did not provide the information of said court case in Form 2 application and also not disclosed during the presentation. EAC opined to seek an explanation from the PP in this regard.
- iv. Project proponent has undertaken a study on the impact of the project on nearby agricultural fields.
- v. Show Cause Notice was issued to the unit 1/09/2021 and as per the reply furnished, the unit is yet to comply with the following. Further, MoEF&CC is yet to take final view on the SCN issued to the unit.
 - a. Current fluoride emission is at 10.78 Kg/T Al production and sought time till December 2021 to achieve reduced level.
 - b. SPL refractory stock is 85,108 MT which is being stored in covered sheds as there is no mechanism is in place for disposal of SPL refractory stock.
 - c. Ash stock of 124 Lakh Metric Ton is unutilized and sought additional time for its liquidation by 31/03/2027.
 - d. Only one Roof Top Rainwater Harvesting (RTRW) has been commissioned and 6-RTRH, the construction activities are reported to be under progress.
 - e. Green belt development covering 33% of the project area will be achieved by Dec, 2021.

Recommendations of the Committee

- 48.14.26 In view of the foregoing and after detailed deliberation, the committee recommended to defer the proposal and sought for following additional information.
- i. Ministry may forward the public representation to the project proponent. PP shall submit the point wise reply to the said public representation received on 12/11/2021 along with the requisite supporting documents. The details of environmental compensation made if any, shall also be submitted.
 - ii. Project proponent shall explain the reasons for not disclosing the court case details in Form 2 application (or) during the EAC presentation.
 - iii. PP shall submit the recommendation of interim report on impact of project on the crop by the plant and action plan to mitigate the impact on crop damage shall be submitted.
 - iv. PP shall submit the action plan for the liquidation 85000 MT SPL refractory waste inter-alia standard operating procedure for disposal of the same.
 - v. BOD in Surface Water quality samples have been reported as 0.8 to 1.6 mg/l, the method used for analysis the BOD parameter shall be furnished.

- 48.15 Expansion of Integrated Steel Plant from 9.6 to 15.6 MTPA (Liquid Steel) by **M/s. Arcelormittal Nippon Steel India Limited** located at Hazira Village, Chorasi Tehsil, **District Surat, Gujarat**. [Online Proposal No. IA/GJ/IND/231036/2021; File No.: IA-J-

Cond. No.	Specific Conditions	Amendment recommended
ment in subject of EC dated 17/03/2021	Bokaro Steel plant by up-gradation of existing SMS-I (1.306 MTPA), Debottlenecking of SMS-II (3.35 MTPA) & existing CRM complex (1.66 MTPA) , installation of new kiln of 450 TPD in Lime plant, a new Sinter Plant (3.7MTPA) and Oxygen plant (1250 TPD on BOO basis) without increasing the overall production capacity of 5.77 MTPA hot metal by M/s SAIL located at Bokaro Steel City, Tehsil: Chas, District Bokaro, Jharkhand.	plant by up-gradation of existing SMS-I (1.306 MTPA), Debottlenecking of SMS-II (3.35 MTPA) & existing CRM complex (2.86 MTPA) , installation of new kiln of 450 TPD in Lime plant, a new Sinter Plant (3.7MTPA) and Oxygen plant (1250 TPD on BOO basis) without increasing the overall production capacity of 5.77 MTPA hot metal by M/s SAIL located at Bokaro Steel City, Tehsil: Chas, District Bokaro, Jharkhand.

49.19 Proposed Expansion of Aluminium Smelter Production Capacity from 16 LTPA to 18 LTPA without increasing the CPP capacity of 1215 MW by **M/s. Vedanta Limited** located at Village- Bhurkamunda, PO Kalimandir, **District Jharsuguda, Odisha-** [Online Proposal No. IA/OR/IND/236646/2017, File No. IA-J-11011/29/2007-IA-II(I)] – **Reconsideration for Environment Clearance based on ADS reply– regarding**

49.19.1 M/s Vedanta Limited, Jharsuguda has made an online application vide proposal No. IA/OR/IND/222980/2017 dated 03/08/2021 along with copy of revised EIA/EMP report and Form–2 seeking Environment Clearance (EC) for the proposed expansion of Smelter Plant Capacity from 16 to 18 LTPA, 1215 MW CPP at Bhurkamunda village, District – Jharsuguda, Odisha under the provisions of the EIA Notification, 2006 for the project mentioned above.

49.19.2 The proposal cited above was considered by the EAC in its meeting held on 12-13th August, 2021 wherein EAC recommended to return the proposal in its present form and also recommended for issuance of show cause notice on account of following non-compliances to the prescribed EC conditions.

- i. The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/t.
- ii. Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.
- iii. Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.
- iv. Rain water harvesting has not been carried out at the site by stating that the ground water table is high in the area and establishment of rain water harvesting structures may lead to flooding in the area.
- v. Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.
- vi. Significant quantity of legacy ash stocks is still stored in the ash pond located at three different locations in the vicinity of the project site. No effort has been taken to quantify the legacy ash stocks and utilize the same.

- vii. Secured Land Fill (SLF) is provided inside the smelter complex. SLF is being implemented in two phases. Phase I of 5000 m³ capacity started in 2010 was capped in Sept 2013. Phase II of SLF is now in operation. It started in May 2014 and has 5285 m³ space. No details of the material filled in SLF or the capacity available were provided. No information on plan for post expansion of SLF capacity, once the Phase II site is filled shall be furnished.
- viii. There are three ash ponds sites in operation and PP has proposed to acquire large area for ash disposal in spite of new Fly Ash notification to utilize 100 % ash. Further, PP mentioned that they were utilizing 100 % Fly ash since 2018 and the pond ash shall be liquidated in next five years. In view of this, seeking additional land for ash disposal found to be not justifiable.

49.19.3 Accordingly, Show Cause Notice was issued to proponent on 1/09/2021. PP submitted the response to the SCN on 29/09/2021. Further, additional submissions were made on 23/10/2021.

49.19.4 Meanwhile, M/s Vedanta Limited, Jharsuguda made a revised online application vide proposal no. IA/OR/IND/236646/2017 dated 03/11/2021 along with copy of revised EIA/EMP report and Form-2 seeking Environment Clearance (EC) under the provisions of the EIA Notification, 2006 for the project mentioned above.

49.19.5 The revised proposal was considered by the EAC in its meeting held on 11-12th November, 2021. The observations and recommendations of EAC are as follows:

Observations of the Committee held during 11-12th November, 2021

The Committee observed the following:

- i. BOD in Surface Water quality has been indicated as 0.8 to 1.6 mg/l, the method used for analysis the BOD shall be furnished.
- ii. EAC noted that the public representation mentioned at para 48.14.23 quoted a NGT court case (O.A. 10/2021/EZ) National Green Tribunal Eastern Zone Bench, Kolkata. The case is arising out of disposal of fly ash in the nearby agricultural land by the proponent causing damaging on the agricultural land. As per the Hon'ble NGT Order dated 2/09/2021, the inspection report filed by the Odisha State Pollution Control Board shows several violations of Consent conditions. In this regard, the Hon'ble NGT directed to file an affidavit inter-alia the Environmental Compensation assessed on account of damage caused to the environment.
- iii. PP did not provide the information of said court case in Form 2 application and also not disclosed during the presentation. EAC opined to seek an explanation from the PP in this regard.
- iv. Project proponent has undertaken a study on the impact of the project on nearby agricultural fields.
- v. Show Cause Notice was issued to the unit 1/09/2021 and as per the reply furnished, the unit is yet to comply with the following. Further, MoEF&CC is yet to take final view on the SCN issued to the unit.
 - a. Current fluoride emission is at 10.78 Kg/T Al production and sought time till December 2021 to achieve reduced level.
 - b. SPL refractory stock is 85,108 MT which is being stored in covered sheds as there is no mechanism is in place for disposal of SPL refractory stock.

- c. Ash stock of 124 Lakh Metric Ton is unutilized and sought additional time for its liquidation by 31/03/2027.
- d. Only one Roof Top Rainwater Harvesting (RTRW) has been commissioned and 6-RTRH, the construction activities are reported to be under progress.
- e. Green belt development covering 33% of the project area will be achieved by Dec, 2021.

Recommendations of the Committee held during 11-12th November, 2021

In view of the foregoing and after detailed deliberation, the committee recommended to defer the proposal and sought for following additional information.

- i. Ministry may forward the public representation to the project proponent. PP shall submit the point wise reply to the said public representation received on 12/11/2021 along with the requisite supporting documents. The details of environmental compensation made if any, shall also be submitted.
- ii. Project proponent shall explain the reasons for not disclosing the court case details in Form 2 application (or) during the EAC presentation.
- iii. PP shall submit the recommendation of interim report on impact of project on the crop by the plant and action plan to mitigate the impact on crop damage shall be submitted.
- iv. PP shall submit the action plan for the liquidation 85000 MT SPL refractory waste inter-alia standard operating procedure for disposal of the same.
- v. BOD in Surface Water quality samples have been reported as 0.8 to 1.6 mg/l, the method used for analysis the BOD parameter shall be furnished.

49.19.6 In addition to the aforementioned ADS, information has also been sought on environment impacts occurred due to the non-compliances reported at para no. 49.19.2 above along with the remedial measures undertaken by the proponent on account of the said environment impacts.

49.19.7 The proponent submitted the ADS reply through PARIVESH on 02/12/2021 and 9/12/2021. The said ADS replies as well as the reply submitted with respect to the Show Cause Notice dated 1/09/2021 was placed before the EAC for taking appropriate view on the expansion proposal and the show cause notice.

49.19.8 During the course of meeting, EAC came across an Order dated 15/12/2021 of Hon'ble High Court of Odisha in Writ Appeal No. 711 of 2021 (Subrat Bhoi Vs State of Odisha) pertaining to the public hearing held for the instant expansion proposal wherein Hon'ble Court **"directed that if no environment clearance has been granted as of today, it shall not be granted till next date. List on 10th January, 2022"**. Further, the Committee inferred that the said case was registered in the Hon'ble High Court on 7/09/2021 and no information has been furnished by the project proponent either in Form 2 application submitted vide proposal no. IA/OR/IND/236646/2017 dated 03/11/2021 or during the EAC meeting held on 11-12th November, 2021 and response to the ADS replies submitted on 2/12/2021 & 9/12/2021. The EAC took a serious view on the approach of the project proponent regarding repeated suppression of the court cases' information which are essential for due-diligence by the EAC for taking appropriate view on the expansion proposal as well as the show cause notice issued by the Ministry on 1/09/2021.

- 49.19.9 In this regard, project proponent claimed during the meeting that they became aware of the existence of court case bearing Writ Appeal No. 711 of 2021 only on 15/12/2021. Hence, the case details could not be made available.

Observations of the Committee

- 49.19.10 The Committee noted the following:
- i. As per the Order dated 15/12/2021 of Hon'ble High Court of Odisha in Writ Appeal No. 711 of 2021 (Subrat Bhoi Vs State of Odisha) pertaining to the public hearing held for the instant expansion proposal wherein Hon'ble Court **“directed that if no environment clearance has been granted as of today, it shall not be granted till next date. List on 10th January, 2022”**.
 - ii. The aforesaid case was registered in the Hon'ble High Court on 7/09/2021 and no information has been furnished by the proponent neither in the EC application nor during the EAC meeting held on 11-12th November, 2021 and response to the ADS replies dated 2/12/2021 & 9/12/2021.
 - iii. Project proponent is repeatedly suppressing the information regarding court cases relevant to the proposal under consideration which are essential for due-diligence by the EAC for taking appropriate view on the expansion proposal as well as the show cause notice issued by the Ministry on 1/09/2021. Thus, the project proponent is repeatedly trying to mislead the EAC as well as the Ministry with a malafide intention to obtain expansion EC by deliberately suppressing the vital information essential for due-diligence of the project. Further, it appears that there may be more number of court cases pending before different Hon'ble Courts pertaining to the project under consideration.

Recommendations of the Committee

- 49.19.11 In view of the foregoing and after deliberations, the Committee recommended to defer the consideration of the proposal and reply to the show cause notice dated 1/09/2021 till the outcome of the Writ Appeal No. 711 of 2021, pending before the Hon'ble High Court of Odisha at Cuttack or as directed by the Hon'ble High Court of Odisha from time to time. Further, the project proponent shall submit explanation regarding the suppression of the information regarding the status of court case at Odisha High Court (Writ Appeal No. 711 of 2021) and all other court cases relevant to the proposal under consideration. An affidavit containing details of all the court cases pending before different Hon'ble Courts pertaining to the project under consideration should also be submitted. All these submissions by the PP shall be considered along with their response to SCN dated 1/09/2021.

MoM of 2nd meeting of the EAC for Industry-I sector held on 22nd – 23rd March, 2022

relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.

- iii. The project proponent shall upload the status of compliance of the stipulated environment clearance conditions, including results of monitored data on their website and update the same on half-yearly basis.
- iv. The project proponent shall monitor the criteria pollutants level namely; PM₁₀, SO₂, NO_x (ambient levels as well as stack emissions) or critical sectoral parameters, indicated for the projects and display the same at a convenient location for disclosure to the public and put on the website of the company.
- v. The project proponent shall submit six-monthly reports on the status of the compliance of the stipulated environmental conditions on the website of the ministry of Environment, Forest and Climate Change at environment clearance portal.
- vi. The project proponent shall submit the environmental statement for each financial year in Form-V to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently and put on the website of the company.
- vii. The project proponent shall inform the Regional Office as well as the Ministry, the date of financial closure and final approval of the project by the concerned authorities, commencing the land development work and start of production operation by the project.
- viii. The project proponent shall abide by all the commitments and recommendations made in the EIA/EMP report, commitment made during Public Hearing and also that during their presentation to the Expert Appraisal Committee.
- ix. No further expansion or modifications in the plant shall be carried out without prior approval of the Ministry of Environment, Forests and Climate Change (MoEF&CC).
- x. Concealing factual data or submission of false/fabricated data may result in revocation of this environmental clearance and attract action under the provisions of Environment (Protection) Act, 1986.
- xi. The Ministry may revoke or suspend the clearance, if implementation of any of the above conditions is not satisfactory.
- xii. The Ministry reserves the right to stipulate additional conditions if found necessary. The Company in a time bound manner shall implement these conditions.
- xiii. The Regional Office of this Ministry shall monitor compliance of the stipulated conditions. The project authorities should extend full cooperation to the officer (s) of the Regional Office by furnishing the requisite data / information/monitoring reports.
- xiv. Any appeal against this EC shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

2.15 Proposed Expansion of Aluminium Smelter Production Capacity from 16 LTPA to 18 LTPA without increasing the CPP capacity of 1215 MW by **M/s. Vedanta Limited** located at Village- Bhurkamunda, PO Kalimandir, **District Jharsuguda, Odisha** - [Online Proposal No. IA/OR/IND/236646/2017, File No. IA-J-11011/29/2007-IAII(I)] – **Reconsideration for Environment Clearance based on ADS reply– regarding.**

2.15.1 M/s. Vedanta Limited, Jharsuguda has made an online application vide proposal No. IA/OR/IND/236646/2017 dated 03/11/2021 along with copy of revised EIA/EMP report and Form–2 seeking Environment Clearance (EC) under the provisions of the EIA

Notification, 2006 for the project mentioned above. The Proposed project activity is listed at schedule no. 3(a) under Category “A” of the schedule of the EIA Notification, 2006 and is appraised at the Central level.

Detail submitted by Project proponent

2.15.2 The detail of the ToR is furnished as below:

Date of application	Consideration	Details	Date of accord	Validity of ToR
03/11/2017	The proposal was considered by EAC (Industry – I) during its 26 th meeting held during 11-13 th Dec 2017.	Terms of Reference (ToR) granted.	20/12/2017	19/12/2022*

*The validity of ToR is extended from 19/12/2021 to 19/12/2022 as per the provision of the MoEF&CC Notification dated 18/01/2021.

2.15.3 The proposed expansion project of M/s Vedanta limited is located in Bhurkamunda Village, Jharsuguda Tehsil, Jharsuguda District, Odisha State is for setting up of additional 2 LTPA smelter plant for enhancement of production capacity of Aluminium Smelter from 16 LTPA to 18 LTPA.

2.15.4 Environmental site settings:

SNo	Particulars	Detail	Remarks						
i.	Total land	834.236 ha [Private Land: 834.236 ha]	Land use: Industrial						
ii.	Land acquisition details as per MoEF&CC O.M. dated 7/10/2014	The expansion facility is proposed in existing project area of 834.236 ha Total land of 834.236 ha is in possession of the M/s. Vedanta Limited. No additional land is required for proposed expansion.	-						
iii.	Existence of Habitation & Involvement of R&R, if any.	Project site: NIL	No R&R applicable						
		Study Area:							
		<table border="1"> <thead> <tr> <th>Habitation</th> <th>Distance</th> <th>Direction</th> </tr> </thead> <tbody> <tr> <td>Jhasruguda</td> <td>0.2 km</td> <td>NW</td> </tr> </tbody> </table>	Habitation	Distance	Direction	Jhasruguda	0.2 km	NW	
Habitation	Distance	Direction							
Jhasruguda	0.2 km	NW							
iv.	Latitude and Longitude of the Project site	<u>Latitude Longitude</u> 21°49' 43.0''N 84° 02' 40.7'' E 21°48' 32.2''N 84°03' 53.7'' E 21°46' 52.5''N 84°03' 2.91'' E 21°48' 6.51''N 84°01' 48.29''E 21°49' 3.01''N 84°01' 30.55'' E	Topo sheet No. - F44R13, & F44R14 & F45M1, F45M2						
v.	Elevation of the Project site	198 m to 216 m AMSL	-						
vi.	Involvement of Forest land if any.	No	-						

SNo	Particulars	Detail	Remarks												
vii.	Water body exists within the project site as well as study area	<p>Project site: Name-Kharkhari Nala</p> <p>Study area:</p> <table border="1"> <thead> <tr> <th>Water Body</th> <th>Distance</th> <th>Direction</th> </tr> </thead> <tbody> <tr> <td>Bhedan River</td> <td>0.3 Km</td> <td>South</td> </tr> <tr> <td>IB River</td> <td>8Km</td> <td>West</td> </tr> <tr> <td>Hirakud Reservoir</td> <td>8 Km</td> <td>South</td> </tr> </tbody> </table>	Water Body	Distance	Direction	Bhedan River	0.3 Km	South	IB River	8Km	West	Hirakud Reservoir	8 Km	South	At confluence of Kharkhari Nala with Bhedan river HFL of Kharkhari Nala is 192.5m AMSL.
Water Body	Distance	Direction													
Bhedan River	0.3 Km	South													
IB River	8Km	West													
Hirakud Reservoir	8 Km	South													
viii.	Existence of ESZ/ESA/national park/wildlife sanctuary/biosphere reserve/tiger reserve/elephant reserve etc. if any within the study area	NIL	No existence of Eco-sensitive zone within study area												

2.5.26 The existing project was accorded environmental clearance vide letter no. J-11011/29/2007-IA II(I) dated 11th June 2008 for 16 LTPA of Aluminium Smelter and CPP of 1350 MW. Consent to Operate for the existing unit was accorded by Odisha State pollution Control Board vide letter No. 5324 dated 27.03.2021. The validity of CTO is up to 31.03.2022.

2.5.27 Implementation status of the existing EC:

S No	Facilities	Units	As per EC dated 11/06/2008	Implementation	Production as per CTO
1	Aluminium Smelter	16 LTPA	J-11011/29/2007-IA II (I), dated 11 th June 2008.	Implemented	16 LTPA
2	Captive Power Plant 1215 MW	9 x 135 MW	J-11011/29/2007-IA II (I), dated 11 th June 2008.	9 x 135 MW implemented	1215 MW

2.15.5 The unit configuration and capacity of existing and proposed project is given as below:

S No	Name	Existing Units		Proposed Units		Total (Existing +Proposed)	
		Configuration	Production in TPA	Configuration	Production in TPA	Configuration	Production in TPA
1	Aluminium Smelter	1864 pots in 6 Potlines, 4x35TPH Green Anode Plant, 5 units of Bake Oven,	16,00,000 TPA	66 pots in Potline-6, 1x60TPH Green Anode Plant, 1x120 RPH Rodding Unit,	2,00,000	1930 pots in 6 Potlines, 4x35 TPH & 1x60 TPH Green Anode Plant,	18,00,000 TPA

S No	Name	Existing Units		Proposed Units		Total (Existing +Proposed)	
		Configuration	Production in TPA	Configuration	Production in TPA	Configuration	Production in TPA
		1x90 & 1x160 RPH of Rodding Unit, 3 units of Casting		1 unit of Casting		5 units of Bake Oven, 1x90, 1x160 & 1x120 RPH Rodding Unit, 4 units of Casting	
2	CPP	9 units of 135 MW each	1215 MW	-	-	9 units of 135 MW each	1215 MW

2.15.6 The details of the raw material requirement after proposed expansion along with its source and mode of transportation is given below:

S No	Raw Material	Quantity required per annum in TPA			Source	Distance from site (Km)	Mode of Transportation
		Existing	Expansion	Total			
1	Alumina	30,88,000	3,86,000	34,74,000	Captive, domestic & import	500	Road, Rail
2	Calcined petroleum coke	5,93,600	74,000	6,67,000	Domestic & import	564	Rail
3	Cryolite	3,200	400	3600	Domestic & import	564	Rail
4	Aluminium fluoride	32,000	4,000	36,000	Domestic & import	564	Road
5	Coal tar pitch	1,28,000	16,000	1,44,000	Domestic	60	Road
6	HFO	84,263 KLPA	5,060 KLPA	89323 KLPA	Domestic	350	Road

2.15.7 The existing water consumption for smelter & CPP complex is 3,933 m³/hr and the additional water requirement for proposed expansion is 24 m³/hr (576 m³/day). The total water consumption after expansion will be 3957 m³/hr which is within the drawl permission 40.9 cusecs (4,169.35 m³/hr) from Hirakud reservoir. The renewal of agreement between M/s. Vedanta Limited and Govt. of Odisha for obtaining water from Hirakud Reservoir made on 26/08/2020 and validity of agreement is up to 21/04/2023.

2.15.8 The power requirement for 2 LTPA Aluminium Smelter is estimated to be 400M. total power requirement after proposed project will be 3615 MW which will be obtained from the 1215 MW from Captive power plant and 2400 MW TPP.

2.15.9 Baseline Environmental Studies

Period	March, 2021 to May, 2021
AAQ Parameters at 8 Locations	PM _{2.5} = 27.0 to 42 µg/m ³ PM ₁₀ = 50.2 to 76.3 µg/m ³ SO ₂ = 10.9 to 27.2 µg/m ³

Period	March, 2021 to May, 2021																				
	NO _x = 12.9 to 32 µg/m ³ CO =251.6 to 430.4 µg/m ³																				
AAQ Modelling (Incremental GLC)	PM ₁₀ =0.85µg/m ³ PM _{2.5} =0.51µg/m ³ SO ₂ =8.0µg/m ³ NO _x =6.88µg/m ³ Fluorides =0.007µg/m ³ B(a)P =0.00008µg/m ³																				
Ground water quality at 8 Locations	PH =6.73 to 7.43 Total Hardness = 58 to 92 mg/l Chloride =18 to 41 mg/l Fluoride =0.12 to 0.31 mg/l Heavy metals are within the limits.																				
Surface water quality at 8 Locations	PH =6.74 to 7.36 DO =6.8 to 7.4 mg/l BOD =1.0 to 1.6 mg/l COD = 4 to 12 mg/l																				
Noise levels	49.7 to 67.9 dB(A)for the day time 40.1 to 60.2dB(A) for the Night time.																				
Traffic Assessment study findings	<ul style="list-style-type: none"> Traffic study has been conducted at Bhurakamunda to Jharsuguda Road which is ~1.5 km from the plant site. Existing PCU is 156 PCU/hr and existing level of service (LOS) is: <table border="1" style="width: 100%; border-collapse: collapse; margin-bottom: 10px;"> <thead> <tr> <th style="text-align: center;">Road</th> <th style="text-align: center;">V (Volume in PCU/hr.)</th> <th style="text-align: center;">C (Capacity in PCU/hr.)</th> <th style="text-align: center;">Existing V/C Ratio</th> <th style="text-align: center;">LOS</th> </tr> </thead> <tbody> <tr> <td>Bhurakamunda to Jharsuguda Road</td> <td style="text-align: center;">156</td> <td style="text-align: center;">833</td> <td style="text-align: center;">0.187</td> <td style="text-align: center;">A</td> </tr> </tbody> </table> <ul style="list-style-type: none"> PCU load after proposed expansion project will be 165 PCU/hr (156 Existing + 9 Additional) and level of service (LOS) will be: <table border="1" style="width: 100%; border-collapse: collapse; margin-bottom: 10px;"> <thead> <tr> <th style="text-align: center;">Road</th> <th style="text-align: center;">V (Volume in PCU/hr.)</th> <th style="text-align: center;">C (Capacity in PCU/hr.)</th> <th style="text-align: center;">Proposed V/C Ratio</th> <th style="text-align: center;">LOS</th> </tr> </thead> <tbody> <tr> <td>Bhurakamunda to Jharsuguda Road</td> <td style="text-align: center;">165</td> <td style="text-align: center;">833</td> <td style="text-align: center;">0.198</td> <td style="text-align: center;">A</td> </tr> </tbody> </table> <p>*Note: Capacity as per IRC-73:1980 Guideline for capacity for non-urban highways.</p> <p>Conclusion: the level of service will remain same as “A” after including additional traffic due to proposed expansion project.</p>	Road	V (Volume in PCU/hr.)	C (Capacity in PCU/hr.)	Existing V/C Ratio	LOS	Bhurakamunda to Jharsuguda Road	156	833	0.187	A	Road	V (Volume in PCU/hr.)	C (Capacity in PCU/hr.)	Proposed V/C Ratio	LOS	Bhurakamunda to Jharsuguda Road	165	833	0.198	A
Road	V (Volume in PCU/hr.)	C (Capacity in PCU/hr.)	Existing V/C Ratio	LOS																	
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Road	V (Volume in PCU/hr.)	C (Capacity in PCU/hr.)	Proposed V/C Ratio	LOS																	
Bhurakamunda to Jharsuguda Road	165	833	0.198	A																	

Period	March, 2021 to May, 2021
Flora & Fauna	Schedule I fauna, such as Monitor lizard, Indian Peafowl, & Indian Python are commonly found in the forest. Elephant, Sloth Bear are occasionally reported in the buffer zone of the project site. Site specific Wildlife Conservation Plan has been prepared and duly approved by PCCF (wildlife) & Chief Wildlife Warden, Odisha, vide letter no-4488/7 WL-FD & WLC-32/2021, dated 30/04/2021 with a financial forecast of Rs. 610.894 lakh for its implementation over a period of 10 years.

2.15.10 The details of solid and hazardous waste for the expanded plant generation along with its mode of treatment/disposal is furnished as below:

S No	Type of Waste	Source	Quantity generated (TPA)	Mode of Treatment /Disposal
1	Spent pot lining	Pot room	45,000 T	Disposed to authorized re-processors
2	Used oil/Spent oil	During Maintenance activity	562 KL	Disposed to Authorized recyclers
3	ETP sludge	ETP	585 T	Disposed to CHWTSDF
4	Anode butt	Carbon Plant	3,37,500 T	Internally recycled & disposed to Authorized Re-processors
5	Aluminium Dross	Cast house	39,375 T	Internal processing/recycling and disposed to authorized re-processors
6	Waste containing Oil	Maintenance activity	33.75 MT	Disposal through HW incinerator
7	Tar Containing wastes	Bake Oven	225 MT	Internal Recycling
8	Flue gas dust	Carbon Plant	129.375 MT	Internal Recycling/ Disposed to CHWTSDF
9	Housekeeping waste	Potline, Carbon Plant	2250 MT	Disposal in SLF/CHWTSDF/Internal Recycling
10	Rejected Filter bags (FTP)	Potline & Bake Oven	39,375	Incineration in HW incinerator/ Pots
11	Rejected ALF ₃ bags	Pot line	39,375	Incineration in HW incinerator/ Pots
12	Asbestos waste	(Ladle cleaning and other units)	6.75 MT	Disposal in SLF/CHWTSDF
13	Coke dust	Bake Oven	2025 MT	Internal Recycling
14	Spent resin	Rectifier & DM plant	51.75 KL	Disposal in SLF/CHWTSDF

S No	Type of Waste	Source	Quantity generated (TPA)	Mode of Treatment /Disposal
15	Green anode ridge waste	Green Anode Plant (GAP)	67.5 MT	Internal Recycling/ Disposal in SLF/CHWTSDf
16	Green anode cooling decantation tank sludge	Green Anode Plant	6.75 MT	Disposal in SLF/CHWTSDf
17	Shot blasting dust	Rodding plant	6750 T	Disposed to SLF/CHWTSDf
18	Drain cleaning sludge	Carbon & pot room	281.25 MT	Disposed to CHWTSDf
19	Ladle cleaning residue	Ladle cleaning Shop	27,000 MT	Internal Recycling

2.15.11 Public Consultation:

Details of advertisement given	28/08/2020: Odia daily 'The Samaj' and English daily 'The Times of India'
Date of public consultation	30/09/2020
Venue	Government Upper Primary School, Kurebaga, Dalki in Jharsuguda district.
Presiding Officer	Shri Pradeep Kumar Sahoo, Additional District Magistrate, Jharsuguda
Major issues raised	<ul style="list-style-type: none"> • Emission of gas & fumes problem • Compensation for crop damage due to emission of gases • Road dust problem due to transport of ash • Employment for local affected people • Training and skill development programme for local youth • Employment for unskilled & illiterate local people • Contractual work to local people • Supply of drinking water • Provision of streetlight in the surrounding villages • Women empowerment

Action Plan as per MoEF&CC O. M. dated 30/09/2020:

S No	Concerns Raised during Public Hearing	Physical Activity & Action plan for FY 2022	Tentative Budget in Rs. (Lacs)	Physical Activity & Action plan for FY 2023	Tentative Budget in Rs. (Lacs)	Total budget in Rs. lacs
1	Emission of Gas & fumes problem	Ordering for Fume Treatment Plant revamping including supply of equipment	1100	Revamping of Fume Treatment Plant (FTP 1, Smelter 1) by July 2022 and Balance 3 FTPs by March 2023.	3300	4400

S No	Concerns Raised during Public Hearing	Physical Activity & Action plan for FY 2022	Tentative Budget in Rs. (Lacs)	Physical Activity & Action plan for FY 2023	Tentative Budget in Rs. (Lacs)	Total budget in Rs. lacs
2	Compensation for Crop Damage due to emission of gases	Detailed study w.r.t Crop damage is being carried out by NRRI for 2 crop cycles	50	2 nd Crop Cycle Study	-	50
		Distribution of 7 Quintal high yield variety of seeds, Fertilizers (Completed)		Training to Farmers on best agricultural practices for higher yield/production		
		Training Program to Farmers of 12 Villages				
3	Road dust problem due to transport of Ash	Construction and Commissioning of dedicated road for truck traffic to avoid entering Sunarimunda village and Jharsuguda town by July 2021 (Completed)	3100	Parking Plaza for 200 trucks entering and leaving the factory premises to be constructed at Brundamal with all facilities and amenities for drivers by Dec 2022	197	3297
		Installation of Wheel Wash System at the entry/exit of Factory premises by Dec 2022	80	-	-	80
4	Avenue Plantation & Other Afforestation	-	-	Plantation & Maintenance of 25,000 Saplings outside plant areas in consultation with DFO	100	100
Total			4330		3597	7927

Action plan for need base activity

S No	Concerns Raised during Public Hearing	Physical Activity & Action plan for FY 2022	Tentative Budget in Rs. Lacs	Physical Activity & Action plan for FY 2023	Tentative Budget in Rs. Lacs	Total budget in Rs. lacs
5	Formation of Environmental committee to address issues related to environment	Committee will be formed in consultation with district administration, SPCB, Local representative & company representative	-	-	-	-
6	Contractual work to local people	196 local contracts involving 52 local contractors	-	-	-	-

S No	Concerns Raised during Public Hearing	Physical Activity & Action plan for FY 2022	Tentative Budget in Rs. Lacs	Physical Activity & Action plan for FY 2023	Tentative Budget in Rs. Lacs	Total budget in Rs. lacs
7	Training & skill development for Local People.	Through Project Jeevika to enhance the income of farmers fraternity, covering 5 villages namely Gudigaon, Siriapalli, Keldamal, Bhagipalli, Bhurkamunda to 750 people	250	Through Project Jeevika to enhance the income of farmers fraternity, covering 5 villages namely Brundamal, Dalki, Katikela, Kumudapalli, Kurebaga to 750 people	250	500
		Skill development trainings to 150 numbers of youths through Vedanta Foundation from Banjari, Bhagipalli, Bhurkamunda, Brundamal	45	Skill development trainings to 450 numbers of youths through Vedanta Foundation from Dalki, Katikela, Kumudapalli, Sunarimunda, Gudigaon	135	180
		5,195 persons have been employed from Jharsuguda & Local affected villages	-	-	-	-
		More than 90% of our unskilled workforce is from Odisha	-	-	-	-
8	Health and establishment of medical college and hospital	Vedanta State of Art - Pathology & Diagnostic Centre at JSG benefiting >2.5 lac population providing services for BPL at free of cost & rest as per CGHS rates	2000	Vedanta State of Art Pathology & Diagnostic Centre at Laikera benefiting >2.5 lac population providing services for BPL at free of cost & rest as per CGHS rates	2000	4000
		COVID-19 initiatives for communities (distribution of ration, mask in large scale to community & frontline workers and Vaccine)	30	COVID-19 initiatives for communities (distribution of ration, mask in large scale to community & frontline workers and Vaccine)	20	50
		Supporting district COVID-19 Hospital - 100 bed + ventilators + lifesaving equipment	250	Supporting district COVID-19 Hospital - 100 bed + ventilators + lifesaving equipment	50	300
		COVID-19 support at state level	450	COVID-19 support at state level	50	500

S No	Concerns Raised during Public Hearing	Physical Activity & Action plan for FY 2022	Tentative Budget in Rs. Lacs	Physical Activity & Action plan for FY 2023	Tentative Budget in Rs. Lacs	Total budget in Rs. lacs
9	Supply of Drinking water	Drinking water supply through Overhead tank and pipelines in Banjari village to approx. 300 House Holds.	30	Drinking water supply in Siriapalli, Kurebaga to approx. 600 Households	70	100
10	Provision of streetlights in surrounding villages	Streetlights (including solar streetlights in 10 villages) 50 numbers in villages Orampada, Banjari, Tharkimal, Bhagipalli, Bhurkamunda	25	Streetlights (including solar streetlights in 10 villages) 50 numbers in villages Brundamal, Kurebaga, Kumudapalli, Gudigaon, Siriapalli	25	50
11	Road & Peripheral Development	Construction of RCC road 700 m & drainage facilities in Banjari village	100	Construction of RCC road 1300 m & drainage facility in Tharkimal village	200	300
		Cleaning/renovation of community ponds 17 numbers	43	Cleaning/renovation of community ponds 23 numbers	57	100
		Construction & Renovation of Community Centers/Place of worship/ Public gathering places around 4 core villages Kurebaga, Kherual, Brundamal, Bhurkamunda	100	Construction & Renovation of Community Centers / Place of Worship / Public gathering places around 6 core villages Banjari, Buromal, Badmal, Tharkimal, Gudigaon, Katikela	160	260
12	Education & Establishment of English Medium School	Partnering with State Govt. through "Mo School Abhiyaan" covering 4 Govt. Schools at Jharsuguda	80	-	-	80
		Renovation of 50 anganwadi for Nandghars covering 35 communities	200	Renovation of 50 anganwadi for Nandghars covering 35 communities	200	400
		Renovation of 10 school buildings + toilets	100	Renovation of 10 school buildings + toilets	100	200
		-	-	Developing 5 mini-science centre benefiting more than 1000 children	60	60

S No	Concerns Raised during Public Hearing	Physical Activity & Action plan for FY 2022	Tentative Budget in Rs. Lacs	Physical Activity & Action plan for FY 2023	Tentative Budget in Rs. Lacs	Total budget in Rs. lacs
13	Women Empowerment	Strengthening of SHG & promoting income generation activities through Subhalaxmi Cooperative Society - 5K members in 35 communities	300	Strengthening of SHG & promoting income generation activities through Subhalaxmi Cooperative Society - 5K members in 35 communities	300	600
Total			4303		3377	7680

- 2.15.12 The capital cost for the expansion project is Rs. 1240 Crores and the capital cost for environmental protection measures is proposed as Rs.96.16 Crores. The annual recurring cost towards the environmental protection measures is proposed as Rs.5.80 Crores. The employment generation from the proposed expansion is 800 (250-direct & 550-indirect). The details of cost for environmental protection measures are as follows:

S No	Description of Item	Existing (Rs. In Crores)	
		Capital Cost	Recurring Cost
i.	Air Pollution Control/Noise	33.65	3.20
ii.	Water Pollution Control	55.50	2.60
iii.	Noise Management	0.90	-
iv.	Wildlife Conservation Plan Implementation	6.11	-
	Total	96.16	5.80
v.	Addressal to public consultation concerns	156.07	

- 2.15.13 Green belt has been developed in 275.29 ha which is 33% of the total project area. Local and native species have been planted with a density of 2500 trees per hectare. Total no. of 7,28,235 trees/saplings have been planted in 275.29 hectares within the industrial complex and ash pond area.
- 2.15.14 Name of the EIA consultant: M/s. Global Tech Enviro Experts Pvt. Limited [Sl. No. 102, List of ACOs with their Certificate No: NABET/EIA/2023/IA0066valid till 06/11/2023; Rev. 19, February 14, 2022].
- 2.15.15 Summary of violation under EIA, 2006/court case/show cause/direction if any, related to the project under consideration is given as below:

Writ Petition:

One Writ Petition was filed by Subrata Bhoi & others before the Hon'ble Orissa High Court on 24/09/2020 praying for deferring the public hearing scheduled on 30/09/2020 for the purpose of expansion of aluminium smelter from 16 LTPA to 18 LTPA. However, The Hon'ble High Court of Odisha disposed of the case by asking the petitioners to make a representation before the Collector, Jharsuguda. The Collector, after considering the said representation, passed an order dated 18/10/2020 in this matter holding, inter-alia, that 'the hearing conducted on 30/09/2020 about the proposed expansion of Aluminium Smelter at Bhurkamunda is considered smooth and complete.

The petitioners directly challenged the order dated 09/10/2020 passed by Single Judge before the SC, which vide order dated 26/07/2021 dismissed the SLP with liberty to approach High Court filing appeal before division bench. Thereafter, the petitioners filed Writ Appeal No. 711 of 2021 against the order dated 09/10/2020. The matter got listed on 15/12/2021 wherein the Court directed notice to be issued and passed and interim order stating that: “if no environment clearance has been granted as of today, it shall not be granted till next date.” However, the Hon’ble High Court on 10/01/2022 heard the matter and disposed of the petition.

Parallely, one Writ Petition was filed by P Ram Mohan Rao (WP 24790 of 2020) before the Orissa High Court with a prayer to defer the public hearing for the proposal for expansion of Smelter of Vedanta scheduled for 30/09/2020. The Hon’ble High Court heard the matter on 10/01/2022 and has disposed of the same. The Hon’ble High Court has also held that there is no legal impediment for the competent authority to proceed in accordance with law.

Another Writ Petition was filed by Ajay Kumar Patel (WP 25087 of 2020) before the Orissa High Court with a prayer to defer the public hearing for the proposal for expansion of Smelter of Vedanta scheduled for 30/09/2020. The Hon’ble High Court heard the matter for the first time on 20/01/2022 and has dismissed the matter.

- **NGT Case:**

A petition was filed by Mr. Ajit Kumar Dhal, resident of Jharsuguda before the National Green Tribunal (NGT), Eastern Zone, Kolkata vide OA No. 10/2021/EZ on 28.01.2021 relating to the accidental spillage of fly ash on the petitioner’s private plot at Junanimunda, Jharsuguda. The ash has been spilled during the monsoon because of the breach of one of the side slopes of permitted low lying area for reclamation. The entire spilled ash has been removed from the affected area and the said area has been reclaimed to its original condition at the cost of the company. Further, an amount of Rs. 5 Lakhs has been paid to the petitioner. A joint committee comprising of District Administration & Odisha State Pollution Control Board have submitted their report and the matter is awaiting procedural disposal from NGT and is listed for hearing on 08th April 2022.

- **Show Cause Notice**

Under Section “5” of Environment (Protection) Act, 1986, a Show cause notice has been issued for non-compliance of stipulated Environmental Conditions vide F. No. J-11011/29/2007-IA.II(I) dated 01/09/2021 for which reply has been submitted vide letter No. VL/MOEF/006/2021-027 dated 29/09/2021 and additional action taken report submitted vide VL/MOEF/006/2021-031 on 23/10/2021.

Certified compliance report from Regional Office

- 2.15.16 The Status of compliance of earlier EC was obtained from Regional Office of MoEF&CC, Bhubaneswar vide letter no.101-405/EPE/1620dated 24/12/2020 after site visit carried out on 22/12/2020. Action Taken Report was submitted by Vedanta Limited to MOEF&CC, Regional Office on 05/01/2021. Based on the action taken report submitted, the Regional Office issued examination report vide Letter No. 101-405/EPE/91 dated 18/01/2021. The Integrated Regional Office, MoEF&CC, Bhubaneswar issued another examination of reply vide Letter No. 101-405/EPE/1335 dated 27/10/2021 on the basis of ATR report submitted by PP on 23/10/2021 against show cause notice issued Ministry letter dated 01/09/2021.

The details of the observations made by RO in the report dated 27/10/2021 along with its re-assessment/ present status is given as below:

Sl. No.	Non-compliances details	Observation of RO (abridged)	Condition no.		Re-assessment by RO
			EC date	Specific	
1	The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/T.	The Project authorities have initiated action for reduction in the fluoride consumption by increasing the proportion of low sodium alumina. By this, it is contemplated by the project that the fluoride consumption would come down to 9.78 Kg/T from the present value of 10.78 Kg/T Al by Dec 2021. Further, as per action plan with implementation schedule, the project is to achieve a gradual decrease in the fluoride consumption over the next two years and finally achieve 8.88 Kg/T of Al by end of April 2023	11/06/2008	Specific condition vi & xvii	The condition has been complied with
2	Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.	As reported by the project authorities that SPL generated is being sent to an agency M/s Green Energy Resources, which is authorized for handling and recycling Hazardous Wastes for detoxification of SPL. This is in accordance with the SOP issued by CPCB. After detoxification, the agency in turn would send the material to various industries including cement and steel industries for its utilization. From the action plan, it is noted that the project has contemplated the utilization of SPL and the project is to achieve complete utilization of all the stock of SPL by end of Sept 2023.	11/06/2008	Specific condition ix	The condition has been complied with
3	Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.	The project has carried out plantation of 3,32,893 saplings, which have been procured from the nurseries of OFDC, Jharsuguda and have planted over an area of 46.24 Ha within the industrial complex and around the ash pond. The density of plantation within the industrial complex is also undertaken. All this has been undertaken to achieve green belt of more than 27%.	11/06/2008	Specific condition xiii	The condition has been complied with

Sl. No.	Non-compliances details	Observation of RO (abridged)	Condition no.		Re-assessment by RO
			EC date	Specific	
4	Rainwater harvesting has not been carried out at the site by stating that the ground water table is high in the area and establishment of rainwater harvesting structures may lead to flooding in the area.	From the report, it is noted that developing rainwater harvesting recharge structures especially by the industries which fall under red category for which Aluminium smelter is one of them, is not recommended as per CGWA guidelines issued in Sept 2020. However, as a measure of water conservation and re-use the project authorities have developed facilities for roof top rainwater harvesting system which are seven in number within the complex with a total capacity of harvesting 10000 cubic meter water. One of the facilities have been commissioned, the rest 6 numbers of rainwater harvesting are to be completed by Nov 2021, so as to facilitate rainwater harvesting from next monsoon season.	11/06/2008	Specific condition xv	The condition has been complied with
5	Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.	It is noted that the project authorities have submitted the site-specific wildlife conservation plan to PCCF wildlife and Chief Wildlife Warden which has been approved by the authority on 30.04.2021 with a financial outlay of Rs. 610.894 lakhs to be spent for implementation by Forest department (Both Jharsuguda and Sambalpur Forest division) for this plan. Out of this amount, Rs. 530.904 Lakhs has already been deposited with DFO, Jharsuguda on 17.05.2021 towards the implementation of the Wildlife Conservation Plan for a period of 10 years. It is also stated that the mitigation measures for balance amount of Rs.79.99 lakhs will be executed by M/s Vedanta Ltd directly by March 2022.	11/06/2008	Specific condition xix	The condition has been complied with
5	Significant quantity of legacy ash stocks is still stored in the ash pond located at three different locations in the vicinity	From the report submitted, it is noted that the project authorities have been utilizing 115% Fly Ash utilization from the year 2017-18 onwards. It is	--	--	The condition has been complied with.

Sl. No.	Non-compliances details	Observation of RO (abridged)	Condition no.		Re-assessment by RO
			EC date	Specific	
	of the project site. No effort has been taken to quantify the legacy ash stocks and utilize the same.	also noted that there are 3 no. of Ash Ponds currently operational at Katikela, Kurebaga and Siriapalli catering to both CPP 1215 MW and TPP 2400 MW. It is also submitted by the project authorities that the ash being sent for utilization is stored/disposed to Ash Ponds by sending it through High Concentration Slurry Disposal (HCSD) system. Around 127.45 Lakh MT of Legacy Ash is stored in the Ash ponds for which the utilization is targeted to be completed within next 5 years. The project authorities have submitted a 5-year action plan for the fly ash being generated presently and also stored as legacy ash which is to be completed by the year 2026.			
7	SLF is provided inside the smelter complex. SLF is being implemented in two phases. Phase I of 5000 m3 capacity started in 2010 was capped in Sept 2013. Phase II of SLF is now in operation. It started in May 2014 and has 5285 m3 space. No details of the material filled in SLF or the capacity available were provided. No information on plan for post expansion of SLF capacity once the Phase II site is filled shall be furnished.	In the action taken report, the project authorities have submitted that no further expansion of SLF is required as all the wastes are being sent to RAMKY TSDF located at Sukinda. It is also submitted that the disposed in this SLF is proposed to be evacuated and disposed to authorized agency for detoxification.	--	--	The condition has been complied with
8	There are three ash ponds sites in operation and PP has proposed to acquire large area for ash disposal in spite of new Fly Ash notification to utilize 100 % ash. Further, PP mentioned that they were utilizing 100 % Fly ash since 2018 and the pond ash	It is submitted by the project authorities that a proposal for acquiring additional land for ash pond to be located at Gudigaon village has been approved by MoEF&CC in 2018 Amendment to EC for 2400 MW TPP (not for the aluminium smelter). The land has already been acquired by the project. It is submitted by	--	--	The condition has been complied with.

Sl. No.	Non-compliances details	Observation of RO (abridged)	Condition no.		Re-assessment by RO
			EC date	Specific	
	shall be liquidated in next five years: In view of this, seeking additional land for ash disposal found to be not justifiable.	them the ash pond has not yet been developed at this location and there is no plan to develop in future.			

- 2.15.17 M/s. Vedanta Limited, Jharsuguda had earlier made an online application vide proposal No. IA/OR/IND/185460/2007 dated 29/12/2020. The proposal was considered by the EAC in its meeting held on 18-20th January, 2021 wherein EAC recommended to return the proposal in its present form as consultant has drafted poor EIA/EMP report and intentionally tried to mislead the EAC. The consultant was warned not to mislead the Committee and not try to do such things in future. In case of further occurrence of the same, action against the consultant would be recommended.
- 2.15.18 M/s. Vedanta Limited, Jharsuguda has again made an online application vide proposal No. IA/OR/IND/222980/2017 dated 03/08/2021 along with copy of revised EIA/EMP report and Form-2 seeking Environment Clearance (EC) for the proposed expansion of Smelter Plant Capacity from 16 to 18 LTPA, 1215 MW CPP at Bhurkamunda village, District – Jharsuguda, Odisha under the provisions of the EIA Notification, 2006 for the project mentioned above.
- 2.15.19 The proposal cited above was considered by the EAC in its meeting held on 12-13th August, 2021. Wherein, EAC recommended to return the proposal in its present form and also recommended for issuance of show cause notice to PP on account of following non-compliances to the prescribed EC conditions.
- i. The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/t.
 - ii. Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.
 - iii. Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.
 - iv. Rain water harvesting has not been carried out at the site by stating that the ground water table is high in the area and establishment of rain water harvesting structures may lead to flooding in the area.
 - v. Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.
 - vi. Significant quantity of legacy ash stocks is still stored in the ash pond located at three different locations in the vicinity of the project site. No effort has been taken to quantify the legacy ash stocks and utilize the same.
 - vii. Secured Land Fill (SLF) is provided inside the smelter complex. SLF is being implemented in two phases. Phase I of 5000 m³ capacity started in 2010 was capped in Sept 2013. Phase II of SLF is now in operation. It started in May 2014 and has 5285 m³ space. No details of the material filled in SLF or the capacity available were provided. No information on plan for post expansion of SLF capacity, once

the Phase II site is filled shall be furnished.

- viii. There are three ash ponds sites in operation and PP has proposed to acquire large area for ash disposal in spite of new Fly Ash notification to utilize 100 % ash. Further, PP mentioned that they were utilizing 100 % Fly ash since 2018 and the pond ash shall be liquidated in next five years. In view of this, seeking additional land for ash disposal found to be not justifiable.

2.15.20 Accordingly, Show Cause Notice was issued to proponent on 01/09/2021. PP submitted the response to the SCN on 29/09/2021. Further, additional submissions were made on 23/10/2021. EAC has been requested by the Ministry to examine the SCN reply also while appraising the expansion proposal.

2.15.21 M/s Vedanta Limited, Jharsuguda made a revised online application vide proposal no. IA/OR/IND/236646/2017 dated 03/11/2021 along with copy of revised EIA/EMP report and Form-2 seeking Environment Clearance (EC) under the provisions of the EIA Notification, 2006 for the project mentioned above.

2.15.22 The revised proposal was considered by the EAC in its meeting held on 11-12th November, 2021. The observations and recommendations of EAC are as follows.

2.15.23 The Ministry as well as the EAC members wherein receipt of a public representation on 12/11/2021 alleging that the unit is disposing of the fly ash in the nearby agricultural fields and causing pollution. In this regard, a case bearing no. 10/2021 is pending before the Hon'ble NGT, Eastern Zone.

Observations of the Committee held during 11-12th November, 2021

2.15.24 The Committee observed the following:

- i. BOD in Surface Water quality has been indicated as 0.8 to 1.6 mg/l, the method used for analysis the BOD shall be furnished.
- ii. EAC noted that the public representation mentioned at para 2.5.8 quoted a NGT court case (O.A. 10/2021/EZ) National Green Tribunal Eastern Zone Bench, Kolkata. The case is arising out of disposal of fly ash in the nearby agricultural land by the proponent causing damaging on the agricultural land. As per the Hon'ble NGT Order dated 2/09/2021, the inspection report filed by the Odisha State Pollution Control Board shows several violations of Consent conditions. In this regard, the Hon'ble NGT directed to file an affidavit inter-alia the Environmental Compensation assessed on account of damage caused to the environment.
- iii. PP did not provide the information of said court case in Form 2 application and also did not disclosed during the presentation. EAC opined to seek an explanation from the PP in this regard.
- iv. Project proponent has undertaken a study on the impact of the project on nearby agricultural fields.
- v. Show Cause Notice was issued to the unit 1/09/2021 and as per the reply furnished, the unit is yet to comply with the following. Further, MoEF&CC is yet to take final view on the SCN issued to the unit.
 - a. Current fluoride emission is at 10.78 Kg/T Al production and sought time till December 2021 to achieve reduced level.
 - b. SPL refractory stock is 85,108 MT which is being stored in covered sheds as there is no mechanism is in place for disposal of SPL refractory stock.

- c. Ash stock of 124 Lakh Metric Ton is unutilized and sought additional time for its liquidation by 31/03/2027.
- d. Only one Roof Top Rainwater Harvesting (RTRW) has been commissioned and 6-RTRH, the construction activities are reported to be under progress.
- e. Green belt development covering 33% of the project area will be achieved by Dec, 2021.

Recommendations of the Committee held during 11-12th November, 2021

- 2.15.25 In view of the foregoing and after detailed deliberation, the committee recommended to defer the proposal and sought the following additional information.
- i. Ministry may forward the public representation to the project proponent. PP shall submit the point wise reply to the said public representation received on 12/11/2021 along with the requisite supporting documents. The details of environmental compensation made if any, shall also be submitted.
 - ii. Project proponent shall explain the reasons for not disclosing the court case details in Form 2 application (or) during the EAC presentation.
 - iii. PP shall submit the recommendation of interim report on impact of project on the crop by the plant and action plan to mitigate the impact on crop damage shall be submitted.
 - iv. PP shall submit the action plan for the liquidation 85000 MT SPL refractory waste inter-alia standard operating procedure for disposal of the same.
 - v. BOD in Surface Water quality samples have been reported as 0.8 to 1.6 mg/l, the method used for analysis the BOD parameter shall be furnished.
- 2.15.26 In addition to the afore mentioned ADS, information has also been sought on environment impacts occurred due to the non-compliances reported at para no. 2.15.21 above along with the remedial measures undertaken by the proponent on account of the said environment impacts.
- 2.15.27 The proponent submitted the ADS reply through PARIVESH on 02/12/2021 and 9/12/2021. Detail of ADS and point wise reply is given as below:

Reply of ADS given by project proponent submitted on 02/12/2021:

S No	Details/ Information sought	Response by PP
1	PP shall submit the point wise reply to the public representation received on 12/11/2021 along with the requisite supporting documents. The details of environmental compensation made if any, shall also be submitted.	The point wise response to the Public Representation is as mentioned below. It is to note that no such environmental compensation has been made in this regard.
	S No	Public representation point
	i	At the outset, when Global Warming and Climate change is a big challenge for all nations and our Hon'ble Prime Minister has given his deliberation in Glasgow before a week regarding such, that time in India, our Experts and Statutory bodies are trying to promote the Corporate Houses by closing the eyes to all concerns for social impacts for their vested interest.
		The Experts Analysis Committee (EAC) formed by the Ministry of Environment Forest and Climate
		M/s Vedanta Limited, Jharsuguda is going for an expansion of its Aluminium smelter plant

S No	Details/ Information sought	Response by PP
	<p>Change to regulate the Environmental Clearance to the Large-Scale Industries is going to be held on dated 12/11/2021, and it is the last meeting of the existing EAC members, being their tenure is turned out on dated 15/11/2021, so the Committee is going to sanction the Environmental Clearance to some Industries by not considering the logical and fundamental principles also. Let us take the example of M/s Vedanta Aluminium Limited, Jharsuguda, Odisha, who have applied for the expansion of 3million to 6million of their production, and in the agenda of EAC for dated 12/11/2021, it was not listed, but abruptly it was added in their list, while following matters are going to be taken on connivance in the EAC.</p>	<p>production capacity from 16 to 18 LTPA; and not from 3 million to 6 million.</p>
	<p>The same proposal was listed in the EAC meeting on last August and rejected because of noncompliance of the Company as well as pending cases in National Green Tribunal (NGT) for the mismanagement of the fly-ash of the Company, while those issues have neither complied nor the NGT has given clean chit to Vedanta, besides the Statutory bodies have given a report that the Company has given a commitment to comply all norms, is it a basis that, on a commitment of Corporate House, the norms to waived?</p>	<p>It is pertinent to note that the Company has formulated time bound action plans for compliance of these points raised by the Hon'ble EAC and has also submitted. Action Taken Report vide Letter No. VL/MoEF/006/2021 -031 dated 23/10/2021 to the MoEF&CC. In pursuance to the same, the Integrated Regional Office, Bhubaneswar of the MoEF&CC has also examined all actions undertaken and has noted about significant progresses made by the Company vide its letter File No. 101 -405/EPE/1335 dated 27/10/2021. It is based on the above compliances that MoEF&CC has listed our proposal and considered our case for grant of EC in EAC meeting held on 12th November, 2021.</p>
	<p>The Public Hearing of the Company for such expansion has not been conducted in line with law, while the Public Hearing matter was pending in Hon'ble Odisha High Court and stay order was passed by Court for not to conduct Public Hearing, and interestingly, the day when Hon'ble Court has vacated the Stay Order, within one hour the Public Hearing was conducted and allowed to expand the Project is totally a "Sat-up" of official procedure.</p>	<p>It is humbly submitted that the Member Secretary, State Pollution Control Board, Odisha had published an advertisement on 27/08/2020 for conducting a public hearing on 30/09/2020 with respect to the proposed expansion of the aluminium smelter of the Company. The same was challenged before the Hon'ble High Court of Odisha vide WP (C) (PIL) No. 24669 of 2020 which was dismissed by a division bench vide Order dated 28/09/2020. Thereafter, another WP (C) No. 24789 of 2020 was filed seeking a stay on the public hearing and a stay order was granted by a single judge bench on 29/09/2020. However, on 30/09/2020, the stay was vacated and thus, the public hearing was conducted. It is pertinent to note that the Hon'ble High Court of Odisha vide its final Order in WP (C) 24789 of 2020 dated 09/10/2020 dismissed the petition and directed the District Collector, Jharsuguda to consider the representations of the Petitioner and</p>

S No	Details/ Information sought	Response by PP
		<p>pass necessary orders thereon in consultation with the stakeholders if another public hearing is to be conducted.</p> <p>In compliance of the same, the District Magistrate & Collector, Jharsuguda vide Order No. 17053/G&M dated 18/10/2020 passed an order stating that the public hearing conducted on 30/09/2020 with respect to the proposed expansion was conducted smooth and complete. It is also pertinent to note that the Hon'ble Supreme Court has also dismissed the Special Leave. Petition challenging the order of the Hon'ble High Court of Odisha dated 09/10/2020 vide its Order dated 26/07/2021.</p> <p>In the light of abovementioned facts and circumstances, it is humbly submitted that an effective public hearing was conducted for the proposed expansion of the aluminium smelter of the Company on 30/09/2020 which is in accordance with the law and with the MoEF&CC guidelines as well as the orders of the courts.</p>
	<p>If the peripheral agricultural lands have been damaged due to the fly ash decomposition of the existing 3 million tonnes production plant and case no. 10/2021/EZ is still pending in National Green Tribunal on the same matter, then can the members of EAC, imagine, what will be the consequences if the plant to be expanded up to 6 million tonnes?</p>	<p>At the outset, it is humbly submitted that the Company has applied for expansion of its aluminium smelter from 16 LTPA to 18 LTPA and not from 3 million tonnes to 6 million tonnes as mentioned in the public representation. Further, the Company has been achieving an average of 115% Fly Ash utilization in various avenues such as Cement manufacturing, Quarry filling, Road and Infrastructure Projects, Low lying area reclamation etc with due permission and complying to applicable rules and regulations.</p> <p>With respect to the referred case no. 10/2021/EZ, it is to note that a petition was filed by Mr. Ajit Kumar Dhal, resident of Jharsuguda before NGT, Eastern Zone, Kolkata vide OA no. 10/2021/EZ relating to accidental spillage of fly ash on the petitioner's private plot at Junanimunda, Jharsuguda. The ash has been spilled during monsoon because of breach of one of the side slopes of permitted low-lying area. The entire spilled ash has been removed from the affected area and the said area has been reclaimed to its original condition at the cost of the company.</p> <p>There has been no damage on the peripheral agricultural lands due to fly ash spillage and the expansion capacity as mentioned in the representation is not factual.</p>
2	<p>Project proponent shall explain the reasons for not disclosing the court case details in Form 2 application (or) during the EAC presentation.</p>	<p>The case pertains to accidental run off of Ash to a private land admeasuring 4.71 Acres and part of adjacent government land from our permitted low lying filling area during heavy monsoon. One portion of low-lying area duly filled with ash got breached due to heavy rains to a private land. The low-lying area filling is being done with due permission and in compliance with applicable</p>

S No	Details/ Information sought	Response by PP
		<p>rules and regulations. We have immediately removed the ash and cleaned the said affected area completely at our own cost. The area has been brought back to its original condition. As all remedial works/measures in this regard have been accomplished to the satisfaction of owners I petitioners at our own costs with due payments towards compensation to the owners of the affected land. Since the matter has been resolved/closed amicably and only procedural disposal from the Hon'ble NGT is awaited, hence the said case was inadvertently missed out in the Form 2. It is pertinent to note that there has been no stay in the matter and has no impact whatsoever on the expansion project.</p>
3	<p>PP shall submit the action plan for the liquidation 85000 MT SPL refractory waste inter-alia standard operating procedure for disposal of the same.</p>	<p>At present, A legacy stock of 85108 MT stored on concrete platform in covered sheds within plant premises.</p> <p>There is no Standard Operating Procedure (SOP) developed and approved by Central Pollution Control Board (CPCB) for disposal of SPL refractory Odisha State Pollution Control Board (OSPCB) has granted Consent to Establish (CTE) to M/s Tekno Processors LLP, for processing of Spent Pot Refractory Lining of Aluminium Smelter for production of Refractory Mortar & Ramming Mass having a capacity of 39266 MT subject to approval of technology and trial run by CPCB, Delhi.</p> <p>Once the SOP is developed and approved by CPCB which is expected by next 1 year, PP will be liquidating the entire stock along with the current generation of 1500 MT per month within next 3 years i.e., by Dec, 2025. However, PP is maintaining all safeguards for its proper storage to prevent any contamination by storing the same on concrete floors and under covered sheds having garland drains all around connected to ETP.</p>
4	<p>PP shall submit the recommendation of interim report on impact of project on the crop by the plant and action plan to mitigate the impact on crop damage shall be submitted.</p>	<p>In view of the concerns raised during the public hearing PP is carrying out a study on the impacts of Primary and Secondary pollutants on soil and crops around our factory premises through ICAR - National Rice Research Institute (NNRI), Cuttack, Odisha.</p> <p>An interim preliminary half yearly report for the period from April - September 2021 on the study being conducted has been received.</p> <p>During the last EAC meeting held on 12/11/2021, it was suggested to expedite the study by adopting latest modelling techniques instead of doing it through the conventional method.</p> <p>Accordingly, PP has immediately approached NNRI about the same and an expert team is expected at PP's Jharsuguda site shortly for providing immediate recommendations for implementation based on the analysis results of collected samples for soil, water, air, forage and</p>

S No	Details/ Information sought	Response by PP
		plants; thereby improving agricultural productivity as assured positively for earliest resolution of the issue.
5	BOD in Surface Water quality samples have been reported as 0.8 to 1.6 mg/l, the method used for analysis the BOD parameter shall be furnished	BOD of surface water was done using conventional titration method and found to be below detection limit. Therefore, a portable BOD meter (Model: HQ40 D) having a range to show BOD levels as low as 0.5 mg/l was used to measure BOD. Hence, the BOD value from the portable BOD meter was reported accordingly.

Reply of ADS given by project proponent submitted on 09/12/2021:

ADS Point: Submit additional information regarding environmental impact arisen out of non-compliances such as fluoride consumption, disposal of spent pot lining wastes, legacy ash stocks, rain water harvesting, green belt development, and recommendations of state forest department and respective remedial measures undertaken by the proponent.

Reply by PP:

A. For Fluoride Consumption:

There is no impact observed on the environment as we have taken requisite precautionary and remedial measures from time to time. Regular monitoring of air, water and soil quality is being carried out and the report is being submitted to OSPCB, CPCB and MoEF&CC periodically.

Broadly, the actions taken to keep the impacts on environment, on account of fluoride emissions in check are noted here below:

- Fume treatment Plants with dry scrubbers have been installed in Pot rooms and Bake Ovens for fluoride absorption and alumina enrichment.
- Real Time monitoring of Fluoride emissions is being done through CEMS. The fluoride emissions from the Fume treatment Plant stacks are being maintained well within the stipulated norms i.e., less than 0.65 mg/Nm³ and reports confirming the same are being submitted to OSPCB monthly and to the Regional Office of the Ministry every six months.
- Surface as well as the groundwater quality is well within the standard limit as evident from the analysis reports and is monitored on a regular basis within plant premises and surrounding areas. The fluoride content from the courtyard is collected through drains and treated through ETP having adequate capacity and being controlled through RO technology. Zero Effluent discharge is being adhered to. As per data collected from 2014 to October, 2021 of, maximum fluoride in surface water is 0.52 mg/l out of 7 locations and 0.53 mg/l in ground water out of 11 locations.
- The Forage fluoride reported in the surrounding areas during the last 5 years is less than 20 ppm against a limit of 40 PPM (average of 12 consecutive months) which indicates that the forage is not impacted by the fluoride emissions and are well within the notified limits for forage fluoride.
- Fluoride goes into the environment through stack and fugitive emissions and the balance fluoride is accumulated in the form of Spent Pot Lining (SPL) and bath material which gets recycled from time to time.
- Further, the periodic medical test results (Urine Fluoride report) of the people working in the plant (Pot rooms) indicates that there is no adverse effect due to fluoride on the health of the people. All the samples tested for urine fluoride are within

limit of ACGIH Pre shift value of 2mg/L and post shift value of 3 mg/l.

B. Disposal of Spent-Pot Lining wastes:

- The average SPL generation is around 37800 MT per annum. At present, there is a stock of around 33000 MT SPL Carbon and 87000 MT SPL refractory stored within our plant premises.
- SPL is currently stored in 4 no of covered sheds each of 40000 MT capacity. The SPL is being stored over a concrete platform within covered sheds where rainwater cannot enter at all. Thus, there is no chance of the stored SPL getting exposed to air or water and thus does not contribute to air or water pollution. However, as abundant precaution, these storage sheds have been provided with garland drains, which in turn are connected to the ETP. The ETP outlet is being monitored on regular basis and the results are well within the limits and treated effluent is being utilized within the plant.
- Around 5000 MT of SPL Carbon is also stored temporarily in the SLF (Phase II – 5285 m³) under covered condition to prevent any leachate generation and the same will be evacuated and disposed to authorized agency for detoxification as per submitted plan. Leachate collection pit is in place for collection of leachates from SLF if any. Phase SLF having capacity of 5000 m³ is already capped post obtaining approval from OSPCB.
- The groundwater quality around the SLF area is being monitored on regular basis and there is no contamination as evident for the reports being submitted to OSPCB and MoEF&CC.
- SPL Carbon is being currently sent to authorize re-processors with a plan to liquidate the entire legacy stock by September, 2023 as per action plan submitted to EAC on 12th November, 2021. SPL Refractory portion is currently getting stored in accordance with permission granted by OSPCB since there are no approved SOPs for its treatment and utilization. As informed earlier, work is under progress for SOP development with CPCB and developing vendor partner for disposal. As committed earlier, we expect the SOP to be developed within one year and are committed to dispose off the entire stock by December 2025. Storage of refractory portion of SPL is also being ensured with all precautions as for carbon portion and thus ensuring no impacts on the environment.

C. Legacy ash stocks:

- The annual fly ash generation is approximately around 9 - 9.5 MT/ Annum. PP is achieving an average of 115% fly ash utilization over the past 4 years where in PP has utilized about 39 Lakh MT of Legacy ash and for this year also, PP is on track to achieve more than 100% ash utilization as per fly ash notification 2009 and its subsequent amendments.
- PP has been utilizing ash in various avenues such as Cement manufacturing, Quarry filling, Road and Infrastructure Projects, Low lying area reclamation etc. with due approvals and complying to applicable rules and regulations.
- There are 3 no. of Ash Ponds currently operational at Katikela, Kurebaga and Sripallali catering to both CPP 1215 MW and TPP 2400 MW. Around 127.45 Lakh MT of Legacy Ash is stored in the Ash ponds for which the utilization is targeted to be completed within next 5 years as committed by us in the last EAC meeting on 12th November.

- The ash ponds have been properly designed and constructed having HDPE liners at the bottom to prevent seepage of water into groundwater. Free board is also maintained so as to prevent overflow of ash to the surrounding areas. The embankments are designed and maintained so as to avoid breaching under the most meteorological conditions.
- PP has adopted High Concentration Slurry Disposal System (HCSD) to dispose ash to the ash ponds which is an environment friendly technique for ash disposal. The quantum of surplus water is minimal resulting in very less surplus water available for seepage or even pumping back.
- Dust Suppression measures such as water sprinkling through mobile tankers is being carried out specially during the dry season. Ash laden trucks are covered with tarpaulin to avoid spillage.
- Regular monitoring of Air, Water & Soil quality is being carried out in the Ash Pond area. From the above, it can be seen that there is no adverse impact on the environment due to ash disposal in the ash dykes.

D. Rainwater harvesting

- As per CGWB Ground Water Yearbook 2019- 2020 (Sept 2020) South-Eastern Region, Bhubaneswar, the ground water level in Jharsuguda region varies from 2.80 m to 8.50 m below ground level. The Post monsoon levels rise to 2 mbgl.
- The groundwater levels within the smelter complex as measured during the baseline monitoring in the pre monsoon season were found to be 2.53 — 3.18 mbgl.
- As per CGWA guidelines, Sep 2020, the industries falling under hazardous category should not implement any recharge measures within the plant premises. Therefore, we have installed and commissioned 7 no. of Roof Top Rainwater Harvesting systems with a total capacity of harvesting around 10000 m³ of rainwater and re-use the water in the plant which is around 0.01% of the water being drawn from the Hirakud reservoir.
- Further, during monsoon, the rainwater/surface run off collected in the plant premises is collected through storm water drains to the storm water reservoirs which act as a settling pit. The water collected during the 1% showers is treated through ETP for reuse and surplus treated water is discharged.
- In addition, PP has also augmented the capacity of 18 no's of community ponds in the surrounding villages by restoring & cleaning of the same and raising of embankment. Thus, there was no adverse impact on the environment on account of delayed compliance of this condition.

E. Green belt development:

- PP had covered around 27% of the total area with plantation as green cover till March 2021. Green cover helps in arresting of particulate matter. Although overall green cover area was little less than the stipulated norm of 33%, but no such major impact was observed in the ambient air quality.
- During the last 3 months, PP has carried out plantation of 3,55,556 saplings. This includes 116538 no. of saplings planted on 46.24 ha area (balance 6%) thereby achieving 33% green cover. Around 1,00,000 saplings planted in Katikela Ash Pond area. Further, PP has increased the plantation density to about 2500 trees/ hectare.
- As a remedial measure, PP is going to increase the green cover area beyond 33% by developing green cover on reclaimed ash ponds over an area of 40 Ha by Aug 2023,

plantation on additional land (37.5 Ha) outside plant premises in consultation with DFO, Jharsuguda by July 2024.

F. Recommendations of State Forest Department and respective remedial measures undertaken:

- The Principal Chief Conservator of Forests, (Wildlife) and Chief Wildlife Warden, Odisha has approved the site-specific wildlife conservation plan on 30/04/2021 with a financial forecast of Rs. 610.894 lakhs to be spent for implementation by the Forest Department (Both Jharsuguda and Sambalpur Forest Division) for this plan.
- Accordingly, as per the demand raised by the Divisional Forest Officer, Jharsuguda, an amount of Rs. 530.904 lakhs have been deposited on 17/05/2021 towards implementation of the abovementioned plan over a period of 10 years. The plan is under implementation by Forest Department. The mitigation measures for the balance amount of Rs. 79.99 Lakhs will be executed by Vedanta Ltd directly by March, 2022.
- All our raw materials and finished goods are being transported through dedicated roads and railway tracks without disturbing nearby forests and/or wildlife.
- PP is regularly interacting with the forest department and no negative feedback have been reported by them w.r.t impact on the nearby forests.

2.15.28 The said ADS replies as well as the reply submitted with respect to the Show Cause Notice dated 1/09/2021 was placed before the 49th REAC (Industry- 1 Sector) meeting held on 16-17th December, 2021 for taking appropriate view on the expansion proposal and the show cause notice.

2.15.29 During the course of meeting, EAC came across an Order dated 15/12/2021 of Hon'ble High Court of Odisha in Writ Appeal No. 711 of 2021 (SubratBhoi Vs State of Odisha) pertaining to the public hearing held for the instant expansion proposal wherein Hon'ble Court "directed that if no environment clearance has been granted as of today, it shall not be granted till next date listed on 10th January, 2022". Further, the Committee inferred that the said case was registered in the Hon'ble High Court on 7/09/2021 and no information has been furnished by the project proponent either in Form 2 application submitted vide proposal no. IA/OR/IND/236646/2017 dated 03/11/2021 or during the EAC meeting held on 11-12th November, 2021 and response to the ADS replies submitted on 2/12/2021 & 9/12/2021. The EAC took a serious view on the approach of the project proponent regarding repeated suppression of the court cases' information which are essential for due-diligence by the EAC for taking appropriate view on the expansion proposal as well as the show cause notice issued by the Ministry on 1/09/2021.

2.15.30 In this regard, project proponent claimed during the meeting that they became aware of the existence of court case bearing Writ Appeal No. 711 of 2021 only on 15/12/2021. Hence, the case details could not be made available.

Observations of the Committee held on 16-17th December, 2021

2.15.31 The Committee noted the following:

- i. As per the Order dated 15/12/2021 of Hon'ble High Court of Odisha in Writ Appeal No. 711 of 2021 (Subrat Bhoi Vs State of Odisha) pertaining to the public hearing held for the instant expansion proposal wherein Hon'ble Court "**directed that if no**

environment clearance has been granted as of today, it shall not be granted till next date. List on 10th January, 2022”.

- ii. The aforesaid case was registered in the Hon’ble High Court on 7/09/2021 and no information has been furnished by the proponent neither in the EC application nor during the EAC meeting held on 11-12th November, 2021 and response to the ADS replies dated 2/12/2021 & 9/12/2021.
- iii. Project proponent is repeatedly suppressing the information regarding court cases relevant to the proposal under consideration which are essential for due-diligence by the EAC for taking appropriate view on the expansion proposal as well as the show cause notice issued by the Ministry on 1/09/2021. Thus, the project proponent is repeatedly trying to mislead the EAC as well as the Ministry with a malafide intention to obtain expansion EC by deliberately suppressing the vital information essential for due-diligence of the project. Further, it appears that there may be more number of court cases pending before different Hon’ble Courts pertaining to the project under consideration.

Recommendations of the Committee held on 16-17th December, 2021

- 2.15.32 In view of the foregoing and after deliberations, the Committee recommended to defer the consideration of the proposal and reply to the show cause notice dated 1/09/2021 till the outcome of the Writ Appeal No. 711 of 2021, pending before the Hon’ble High Court of Odisha at Cuttack or as directed by the Hon’ble High Court of Odisha from time to time. Further, the project proponent shall submit explanation regarding the suppression of the information regarding the status of court case at Odisha High Court (Writ Appeal No. 711 of 2021) and all other court cases relevant to the proposal under consideration. An affidavit containing details of all the court cases pending before different Hon’ble Courts pertaining to the project under consideration should also be submitted. All these submissions by the PP shall be considered along with their response to SCN dated 1/09/2021.
- 2.15.33 In this regard, additional information has been sought from the proponent and the same was submitted by the proponent on 01/03/2022 and 11/03/2022 through PARIVESH. The submissions made by the proponent are summarized as below:

A. Status of compliance to the issues raised in Show Cause Notice dated 01/09/2021.

In respect to show cause notice point wise response given by PP is as below:

SCN point No 1: Current fluoride emission is at 10.78 Kg/T of Al production and sought time till December 2021 to achieve reduced level.

Response of PP: The fluoride consumption in the Smelter Plant is presently at 10.00 Kg/T of Aluminium as reported last in the month of Jan 2022. The fluoride consumption for the last 4 months is as mentioned below:

S No	Month/Year	Specific Consumption (kg/T of Al)
1	September 2021	11.26
2	October 2021	0.92
3	November 2021	10.36
4	December 2021	9.94

5	January 2022	10.00
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Further, PP will continue to work on the action plan to reduce fluoride consumption further given as below:

Table: The action plan with updated status for bringing it down to less than 10 Kg/T Al as per CREP guideline

S No	Key Focus Area	Control Measures	Methodology	Target Date	Investment (Crores)	Impact (Kg/T)	Fluoride consumption (Kg/T)	Status/Remarks
1	Input Control	Procurement of low sodium content alumina	Increasing the proportion of low sodium alumina.	Dec'21	70.0	1.0	9.78	Continuous, At present, Fluoride Consumption is in the range of 10 Kg/ T of Al (Jan'22)
2A	Emission Control	Fume Treatment Plant (FTP 1) Revamping in smelter 1	Improved re-circulation in feeder	Jul'22	11.0	0.1	9.68	Contract placed. Supply material is expected at site by March 2022. Balance site work is in progress
2B	Emission Control	Fume Treatment Plant Revamping in Smelter (Balance 3 FTPs)	Improved re-circulation in feeder	March'23	33.0	0.3	9.38	--
3	Performance improvement	Smart Pot Implementation through GE	Advanced Analytics by Pot Digital Twin	March'23	25.0	0.1	9.28	Work in progress
4	Thermal Balance Optimization	Development of Indigenous Pot Controller	Tweaking the pot controller logic to get better AIF3 feed control and thermal balance	April'23	24.0	0.4	8.88	Pot Controller has been developed. It has been implemented on few pots

SCN point No 2: SPL refractory stock is 85,108 MT which is being stored in covered sheds as there is no mechanism in place for disposal of SPL refractory stock.

Response of PP: PP has disposed a total of 30060 MT SPL Carbon in the current financial year 2021-22. The current stock of SPL Carbon is about 26911 MT and SPL refractory is around 92053 MT. While SPL carbon is being disposed to OSPCB authorized agency which in turn is sending the detoxified material for further utilization in various industries including Cement and Steel industries, SPL refractory stock is being stored in covered sheds for disposal once approved SOP and disposal mechanism is in place. PP has been disposing SPL Carbon at an average rate of 3500 MT/month as committed to EAC during our earlier meeting and is evident from the table below:

S No	Month/Year	SPL Carbon Disposal (MT)
1	September 2021	4054

S No	Month/Year	SPL Carbon Disposal (MT)
2	October 2021	4564
3	November 2021	3595
4	December 2021	4737
5	January 2022	4174

Further, PP has also been granted authorization for disposal of SPL (Carbon & Refractory) to cement plants for co-processing as per CPCB approved guidelines. Additionally, Consent to Establish has been granted to M/s. Tekno Processors LLP for processing of SPL refractory lining of Aluminium smelter for production of refractory mortar & ramming mass for a capacity of processing around 40000 MT SPL refractory per annum.

PP has committed to liquidate the entire stock including current generation of SPL Carbon by September, 2023 and SPL refractory by December, 2025.

SCN point No 3: Ash stock of 124 Lakh Metric Ton is unutilized and sought additional time for its liquidation by 31/03/2027.

Response of PP: The current stock of Ash is around 112.5 Lakh Metric Ton which will be utilized as per our earlier submitted action plan. However, we are in advanced stages for exploring ash utilization in mine void filling and are committed to utilize the entire legacy stock by end of FY 2026 as committed to EAC during last meeting and as per the recent fly ash notification & guideline dated 31st December, 2021.

S No	Month/Year	Ash Generation (T)	Ash Utilization (T)	Ash Utilization (%)
1	September 2021	742406	706180	95
2	October 2021	629089	851876	135
3	November 2021	530685	945233	178
4	December 2021	570464	911732	160
5	January 2022	625368	802376	128

SCN point No 4: Green belt development covering 33% of the project area will be achieved by Dec 2021.

Response of PP: PP has done a plantation of 363968 nos. of saplings by end of December, 2021 thereby covering the entire smelter complex with 33% green cover in an area of 275 ha and having a total plantation of 728235 and survival rate of more than 93%.

Further, PP requested the forest department to supply us with 1,60,000 saplings this year for plantation during the monsoon.

SCN point No 5: Only one roof top rainwater harvesting (RTRW) has been commissioned and 6 RTRH, the construction activities are reported to be under progress.

Response of PP: PP has successfully completed the installation and commissioning of total 7 nos. of roof top rainwater harvesting facilities in November, 2021 with a capacity of harvesting more than 11000 m³/annum. Also, PP conducting surface run off management study to harvest more surface run off water to be collected in ponds.

B. Information sought on environment impacts occurred due to non-compliances as reported at para 2.15.4 above along with the remedial measures undertaken by the

project proponent on account of the said environment impacts.

PP has submitted the detailed information on environment impacts occurred due to non-compliances along with the remedial measures undertaken vide our earlier letter no. VL/MOEF/006/2021-039 dated 8/12/2021 as mentioned at para 2.15.12 above. Further, in this regard an independent study was also carried out by IIT Kanpur on the environmental impacts arising out of the non-compliances. The findings of the said study are summarized as below:

Sl. No.	Environmental Indicator	Levels		Statistically Significant Trend	Remarks
		Reported	Standards/ international practices		
1	Fluoride Consumption	10.74kg/T (2021)	-	No Trend	Data show 14% decrease
2	SPL generation	16.60kg/t (2020)	22kg/t ^(a)	No Trend	Generation:36320 ton Sold: 11212t (2020-21) Including Legacy SPL
3	Fluoride uptake by forage(measured)	19 ppm	40 ppm	No trend at 5 locations and increasing trend at five locations	Reported Fluoride levels in the grass near other Aluminium smelter 16-70 ppm [©]
4	Fluoride in ground water	0.31-0.53 mg/L	1.5 mg/L ^(d)	No Trend	Complies with drinking water standards
5	Fluoride in surface water	0.16-0.49 mg/L	1.5 mg/L ^(d)	No Trend	Complies with drinking water standards
6	Fly Ash Utilization	100% from last 3 years	-	-	Complies with the fly ash notification. Legacy fly ash utilization is under progress.
7	Soil fluoride and deposition	65 to 100 mg/kg	90-190 mg/kg ^(c)	Not done	Limited data for trend analysis
8	Fume Control: dry scrubbing and bag filters	99.7-99.8%	-	-	Exceptionally high control efficiency
9	Fluoride emissions	0.46 kg/t	0.52 kg/t ^(a) 0.65 kg/t ^(b)	Not done	Emissions are below the world average
10	Fluoride Balance	Fresh Fluoride: 11.47 kg/t	-	-	Pathways for fluoride distribution and losses fully established.
11	Fluoride uptake by vegetations	6.69 ppm	-	-	Based on the modelling, vegetation concentration is not likely to exceed 40 ppm (9MOEFCC Standard) even during critical periods of the years after expansion.

Final recommendations of study report by IIT Kanpur

- Detoxify the stored SPL and utilize (value recovery or other means) in a time-bound manner.
- Enhance the utilization of legacy fly ash in a time-bound manner in line with the new notification 31st December, 2021.
- The area of sampling and analysis of fluoride in soil and forage should extend up to 10 kilometers radius of plant premises covering upwind and downwind directions. Further fluoride sampling and analysis should be taken quarterly at the

nearest irrigated lands growing crops, vegetables, and other products of human consumption.

- d. The major emissions are from the pot room roof. The sampling frequency should be increased, and sampling is done at multiple locations.
- e. The Vedanta Limited, Jharsuguda should continuously explore advanced technologies, operations, and quality of raw material to further reduce the fresh fluoride intake (less than 10 kg/t of Al) and emissions.

C. The project proponent shall submit explanation regarding the suppression of the information regarding the status of court case at Odisha High Court (Writ Appeal No. 711 of 2021) and all other court cases relevant to the proposal under consideration. An affidavit containing details of all the court cases pending before different Hon'ble Courts pertaining to the project under consideration should also be submitted:

PP submit that there has been always a bonafide disclosure by PP that there has been no willful suppression of information. PP would like to bring in kind attention that while the above-mentioned case had been registered on 07/09/2021, no notice had been issued nor the copy of the Writ Appeal was served on us by the Appellant in the ensuring period.

Therefore, PP was not aware of the filing of the case in the Hon'ble Orissa High Court at Cuttack. PP came to know about the said case only on 15/12/2021 when the case was listed for the very first time. It is further submitted that the copy of the Writ Appeal was served to us only on 15/12/2021 as per the directions of the Hon'ble High Court.

The Writ Appeal No. 711 of 2021 along with WP (C) No. 24790 of 2020 was heard on 10/01/2022 by the Hon'ble bench of Justice Jaswant Singh and Justice MS Sahoo whereby the Hon'ble High Court has disposed off both the Writ Appeals. Furthermore, the Hon'ble High Court has also held that there is no legal impediment for competent authority to proceed in accordance with law. A copy of the Hon'ble Orissa High Court orders dated 10/01/2022 and 20/01/2022 along with the affidavit containing details of all the court cases pending before different Hon'ble Courts pertaining to the project under consideration has been submitted in response to ADS

- 2.15.34 The Ministry and EAC was in receipt of the public representation dated 23/03/2022. Point wise reply and affidavits has been submitted by PP given as below:

S. No.	Representation points	Reply of Company
1.	That, M/S Vedanta Aluminium Limited coming under Jharsuguda district state of Odisha has illegally capture more than 2500 acers forest land with the support of IDCO government of Odisha inside plant without forest diversion of MOEF (Forest land capture copy enclosed) and manage two times production from beginning to till date without the approval of MOEF a gap of 13 year's this excess production matter came to the knowledge of public then the company try to maintain the process of environment clearance from MOEF, Vedanta completely violate the norms and conditions of MOEF.	We have acquired 2061 acres for the Aluminium Smelter and 1215 Captive Power Plant and have not encroached on any forest land. It is humbly submitted that there is no forest land inside the Smelter and CPP Complex as has been alleged by the Complainant. Further, the Company is producing aluminium within the permitted capacity as per the Consent to Operate (CTO) granted by the State Pollution Control Board, Odisha which is in accordance with the Environment Clearance (EC) granted by MoEF&CC, New Delhi on 11.06.2008. It is also submitted that we are compliant to the norms and conditions

S. No.	Representation points	Reply of Company
		<p>as stipulated by the MoEF&CC and other statutory authorities from time to time.</p> <p>Subsequently, the Company was granted CTO to operate the Plant. Accordingly, it is for the last 13 years that the Company is operating and producing aluminium within the permitted capacities.</p>
2.	<p>That, Jharsuguda district state of Odisha where the M/S Vedanta Aluminium LIMITED situated the complete district under the grip of pandemic corona time the public of the locality facing terrible condition due to lack of proper treatment but the said company manage foul game with conduct a public hearing on dt.30/09/2020 only to obtain the extension environment clearance certificate from MoEF&CC in back door.</p> <p>That, being a responsible registered environmental organization, we demand for a high level inquiry about physical verification of false and fabricated afforestation report which was submitted by the company in MOEF and complete proceedings of expansion public hearing High court case conspiracy W.A no.711 of 2021 and its related supreme court S.L.P(c) No.5140/2021 of the plant and conspiracy of all expansion related issues from beginning to till date.</p>	<p>With reference to allegations levelled on conducting the public hearing, it is submitted that the public hearing has been conducted as per the applicable provisions and statutory process of all regulatory agencies.</p> <p>The basic issue of conduct of public hearing was before the Orissa High Court in WP (C) No. 24789 of 2020 (Subrat Bhoi v State of Odisha &Ors.), wherein the Hon'ble High Court referred the matter to Collector, Jharsuguda vide order dated 09.10.2020.</p> <p>In compliance with the order of the Hon'ble Orissa High Court, the Collector has passed an order dated 18.10.2020 holding that the public hearing conducted on 30.09.2020 for the proposed expansion of the Company is smooth and complete.</p> <p>The order of the Hon'ble High Court was challenged before the Hon'ble Supreme Court in SLP (C) No. 5140 of 2021. The matter was heard on 26.07.2021 and the Hon'ble Supreme Court dismissed the SLP with the liberty to approach High Court by filing an appeal before division bench of Orissa High Court.</p> <p>Thereafter, the petitioners filed Writ Appeal No. 711 of 2021 against the order dated 09.10.2020. The Hon'ble High Court on 10.01.2022 heard the matter and has disposed of the petition.</p> <p>It is pertinent to note that WP (C) No. 24669 of 2020 (Anchalik Paribesh Surakhya Sangh v State of Odisha &Ors.) represented by the Complainant Himself Sri Satyanarayan Rao was filed praying for the deferment of the public hearing to be conducted on 30.09.2020 claiming that the same was being done during the pandemic and effective public hearing could not take place. The Division Bench of the Hon'ble High Court comprising of the Chief Justice, after detailed hearing on the merits, dismissed the petition with the following observation:</p> <p><i>"9. In view of the above, we do not see any</i></p>

S. No.	Representation points	Reply of Company
		<p><i>reason to accept the stands taken by the petitioner and to interfere in the matter. The writ petition lacks merit and is accordingly dismissed.”</i></p> <p>Parallely, 2 similar petitions viz. WP (C) No. 24790 of 2020 (P Ram Mohan Rao v Union of India &Ors.) and WP (C) No. 25087 of 2020 (Ajay Kumar Patel v State of Odisha &Ors.) were filed before the Orissa High Court for deferment of the public hearing scheduled on 30.09.2020. The Hon’ble High Court heard WP (C) No. 25087 of 2020 on 20.01.2022 and has dismissed the matter.</p> <p>The Hon’ble High Court heard WP (C) NO. 24790 of 2020 on 10.01.2022 and has disposed of the same with the following direction: <i>“6. Thus, it is clear that there is no legal impediment for the competent authority, to proceed in accordance with law.”</i></p>
3.	<p>That, being a responsible registered environmental organization, we demand for a high level inquiry about physical verification of false and fabricated afforestation report which was submitted by the company in MOEF and cross check the complete proceedings of expansion public hearing High court conspiracy W.A. No.711 of 2021 and its related supreme court S.L.P (C) No.5140/2021 of the plant.</p>	<p>We would like to apprise the Hon’ble EAC and MoEF&CC that we have done afforestation/plantation to the extent of 3,63,968 number of saplings during the year 2021-22 thereby achieving 33% green cover.</p> <p>With reference to the proceedings of public hearing for the proposed expansion of the Company, the Collector, Jharsuguda vide order dated 18.10.2020 has concluded that the public hearing conducted for the proposed expansion has been smooth and complete. The Hon’ble Supreme Court has dismissed the SLP (C) No. 5140 of 2021 vide order dated 26.07.2021.</p> <p>Thereafter, the petitioners filed Writ Appeal No. 711 of 2021 against the order dated 09.10.2020. The Hon’ble High Court heard the matter on 10.01.2022 and accordingly, disposed of the case maintaining that the public hearing is in order.</p>
4.	<p>That, there are two smelter and power plant in our JHARSUGUDA district namely M/S Vedanta Aluminium & power Limited, At:-Bhurkamunda dist-Jharsuguda purely private owned company and a state government owned PSU company Odisha Power Generation Corporation Limited, Ib Thermal Power Station , Banharpali district - Jharsuguda. But sorry to say the state government owned PSU company OPGC Banharpali Jharsuguda pay all dues, royalty, revenue cess, labour cess and water cess (payment copy</p>	<p>It is humbly submitted that the Company is in full compliance of the BOCW and Cess Act and we have paid 6.84 Crores payable for the construction of the project and the Company has communicated the same to the District Labour Officer, Jharsuguda vide letter dated 29.01.2021.</p> <p>Apart from above, the Company is regularly making payments including royalty, tax, cess, etc. to the authorities.</p>

S. No.	Representation points	Reply of Company
	<p>enclosed for reference) in other hand the private owned M/S Vedanta Aluminium LIMITED refuse to pay the dues/ royalty/ tax/cess inspite of repeated request by the revenue authority and play round foul game in the name of court case. OPGC Banharpali Jharsuguda pay all projects cost's 1% labour CESS dues but Vedanta Aluminium limited suppress the labour cess and royalty issue with the blessings and support of state government and file a case in High court of Odisha in W.P(C) No.15924 of 2009 the said case is dismissed on dt.4/09/2010(High court dismissed copy enclosed for your reference),once again the company challenge the High court order in supreme court of India in SLP (CIVIL) No.27411 this is also dismissed on dt.18/10/2016(SLP dismissed copy enclosed) but the execution authority office of the labour commissioner JHARSUGUDA government of Odisha remain silent instead of collection of labour cess.</p>	
5.	<p>That, an order of High court in WP(C) No.2660 of 2015 and order copy of revenue and disaster management department no.9542/23 March 2019 Forwarded to RDC, collector, DFO, sub collector, Tahasildar JHARSUGUDA for necessary action, according to this letter District office: Jharsuguda (Revenue section) order no 3054/dt.4/05/2019 withdraw the forest land permission around 48.68 decl plot no.188 under khata no.108 Bhurkamunda under Jharsuguda Tehsil but sorry to say the all official process is till date only in ice-box</p>	<p>At the outset, it is humbly submitted that the Plot No. 188 under Khata No. 108 in Mouza Bhurkamunda, is falling outside the premises of the plant of the Company. Additionally, it is submitted that the Sub-Collector, Jharsuguda has passed an order dated 06.09.2017 in EA Case No. 03 of 2014 and has held that there is no physical encroachment by the Company on Plot 188 and other plots of Khata No. 108 of Mouza Bhurkamunda.</p> <p>It is to note that the order of the Sub-Collector is a judicial order and the same has never been interfered with by way of an appeal in any forum.</p>
6.	<p>That, the pollution condition of the Jharsuguda district is alarming situation due to overburden industrialization, the environment of the district unable to afford the load of extra expansion of existing plants or any other new industry, already our Jharsuguda district recorded as a most polluted city in India and latest forest growth of Jharsuguda is only 14% instead of actual 35% according to the population ratio. The side effects of illegal waste and coal fly Ash of Vedanta reflected in all restricted/prohibited zone like Gochar land, Agricultural land, forest land and destroy the nearby water bodies like IB, Bheden, Mahanadi, Banjari nalla, kharkharinalla, Hatia nalla alongwith upstream branches of historical Hirakud reservoir with coal fly Ash which guidelines reclamation of lowland fixed by CPCB and SPCB everywhere in entire district ash ash and causes of different disease. Now the historic</p>	<p>It is humbly submitted that we have been handling and disposing of wastes including fly ash as per the statutory guidelines and after obtaining necessary permission from SPCB, Odisha. The statements in the representation have been made to mislead the forum and defame the Company.</p> <p>The Company has been established with the due approval and is operating with all the requisite clearances. It is submitted that the Company is committed to the best Environment Management Systems including Air, Water and Solid Waste Management. The Environment Management, Energy Conservation and Sustainability practices of the Company have been recognized by the Government and also by the various trade bodies / associations. We have also laid down procedures and standard operating practices</p>

S. No.	Representation points	Reply of Company
	Hirakud reservoir in danger condition due illegal coal fly Ash disposal	<p>regarding Air, Water and Waste Management and have been certified with Integrated Management Systems (IMS) comprising of ISO 9001, ISO 14001 and ISO45001.</p> <p>It is also submitted that the Company embarked on its sustainability journey more than a decade ago and as a part of overall design and framework, we recognize Environment, Social and Governance (ESG) as an important pillar that guides our business decisions. We aim not only to be ESG compliant but aspire to become an Industry leader in having sustainable operations and governance.</p>
7.	That, the Vedanta Aluminium LIMITED failed to maintain the guidelines of MoEF&CC which was fixed in first public hearing held on 2008 and maintain everything with the illegal support of state government and local political mafias in gun point.	The Company has submitted the compliance status of all the conditions of the EC granted on 11.06.2008 to the Hon'ble EAC during the appraisal of the proposed expansion of the Aluminium Smelter from 16 LTPA to 18 LTPA.
8.	That, the Vedanta Aluminium limited not maintain the proper guidelines of Ash management and overlooked entire norms and conditions of MoEF&CC from beginning. The company killed more than 2500 acre high density natural forest in kurebaga, katikela, Sibrapur, kumuda Pali siriapali, Kali bahal,parmanpur, sodamal, junanimunda and a NGT case no.10/2021 also pending in eastern region National Green Tribunal Kolkata in this case also the company manage everything with the blessings and blind support of JHARSUGUDA district administration (copy enclosed) and purchase the applicant with money.	<p>The Company has a robust ash management system with a competent team comprising of environment and technical professionals for sustainable disposal of ash generated from its Thermal Power Plants.</p> <p>In furtherance, we have ensured more than 100% utilization of fly ash generated in the past 4 years and are committed to utilize the entire legacy ash stock by end of FY 2026 as committed to the Hon'ble EAC in line the recent fly ash notification & guidelines dated 31st Dec 2021 issued by the MoEF&CC.</p> <p>With respect to OA 10 of 2021 (Ajit Dhal v State of Odisha), it is submitted that the Company has already removed the spilled ash from the affected land and reclaimed it to the original status. The area has been inspected by the Joint Committee comprising of the District Collector, Jharsuguda and Regional Officer, Jharsuguda of the State Pollution Control Board, Odisha which has submitted an affidavit before the Hon'ble NGT stating that all ash has been removed by the Company at its own cost and all the recommendations of the Joint Committee have been complied with by the Company. Apart from above, the Joint Committee has also advised that a study may be carried out to verify the geotechnical strength of earthen embankment by National Accreditation Board for Testing and Calibration Laboratories (NABL) certified Laboratories or Institute of National Repute like NITs/IITs by Vedanta at its own cost for</p>

S. No.	Representation points	Reply of Company
		which we have already initiated the study through IIT Bhubaneswar.

2.15.35 During the meeting, project proponent submitted written submission on the following points:

M/s. Vedanta Limited has confirmed in the form of affidavit dated 22/03/2022 about court case related to project cited above and correctness of data/ information submitted in reply of public representation dated 23/03/2022 as mentioned at para 2.15.22 above.

Observations of the Committee

2.15.36 The Committee noted the following:

- i. The Committee noted that the EIA/EMP report is in compliance of the ToR issued for the project, reflecting the present environmental concerns and the projected scenario for all the environmental components. The Committee also found the baseline data and incremental GLC due to the proposed project within NAAQ standards.
- ii. The EAC also deliberated on the certified compliance report of RO and action taken report submitted by PP, written submissions, public hearing issues as well as action plan to address the issues raised during public hearing and found it satisfactory.
- iii. The EAC found that the response submitted by PP on additional detail sought by EAC in earlier meeting was satisfactory.
- iv. Affidavits and a point wise reply to the public representations submitted by PP were satisfactory.
- v. The Committee also deliberated upon the reply submitted by the proponent against the show cause notice 01/09/2021. The committee satisfied with the SCN replies.
- vi. The committee noted that there are schedule 1 species present in study area for which PP has obtained approved conservation plan dated 30/04/2021 with a budget of Rs. 610.894 lakh for its implementation over a period of 10 years.
- vii. The Committee noted that M/s. Vedanta Limited engaged to IIT, Kanpur as the competent agency for carried out the impact study of Fluoride, SPL, Legacy Ash and Fluoride Mass Balance at Vedanta limited, Jharsuguda. After completion of study IIT, Kanpur made recommendation as given below:
 - a. Detoxify the stored SPL and utilize (value recovery or other means) in a time-bound manner.
 - b. Enhance the utilization of legacy fly ash in a time-bound manner in line with the new notification 31st December, 2021.
 - c. The area of sampling and analysis of fluoride in soil and forage should extend up to 10 kilometers radius of plant premises covering upwind and downwind directions. Further fluoride sampling and analysis should be taken quarterly at the nearest irrigated lands growing crops, vegetables, and other products of human consumption.
 - d. The major emissions are from the pot room roof. The sampling frequency should be increased, and sampling is done at multiple locations.
 - e. The Vedanta Limited, Jharsuguda should continuously explore advanced technologies, operations, and quality of raw material to further reduce the fresh fluoride intake (less than 10 kg/t of Al) and emissions.

Recommendations of the Committee

2.15.37 In view of the foregoing and after detailed deliberations, the committee recommended the instant proposal for grant of Environment Clearance under the provisions of EIA Notification, 2006 subject to the stipulation of following specific conditions and general conditions as per the Ministry's Office Memorandum No. 22-34/2018-III dated 9/8/2018 pertaining to Aluminum smelter based on project specific requirements. Further, the EAC also recommended that SCN issued to project proponent on 01/09/2021 may be withdrawn.

A. Specific conditions

- i. The project proponent shall abide by all orders and judicial pronouncements, made from time to time in OA No. 10/2021/EZ pending before the National Green Tribunal (NGT), Eastern Zone, Kolkata.
- ii. The poly-aromatic hydrocarbons (PAH) from the carbon plant (anode bake oven) shall not exceed 2 mg/Nm³. The data on PAH shall be monitored quarterly and report shall be submitted regularly to the Ministry/Regional Office at Bhubaneswar and Odisha Pollution Control Board.
- iii. A nallah is passing through the project site, PP shall maintain the nallah in its natural form and provide the green buffer zone of 10 m on both side of the nallah.
- iv. Particulate fluoride emissions shall not be more than 0.65 mg/Nm³ and fugitive particulate fluoride emissions from pot room shall not be more than 1.85 mg/Nm³.
- v. Project proponent shall maintain the Fluoride consumption less than 10 kg/tonne of Aluminium production by April, 2022 and reduce further at 8.0 kg/t by April, 2023 as committed by PP.
- vi. Three tier Green Belt shall be developed in a time frame of one year covering 33% of total area with native species all along the periphery of the project site of adequate width and tree density shall not be less than 2500 per ha. Survival rate of green belt developed shall be monitored on periodic basis to ensure that damaged plants are replaced with new plants in the subsequent years. This shall include development of green belt of 50 width from the project site towards the Jharsuguda village located at 0.2km from the site. In addition to this, following activities shall also be undertaken as committed by the proponent:
 - Green cover on reclaimed ash ponds over an area of 40 Ha shall be developed by June 2022.
 - PP shall undertake plantation over 37.5 ha outside plant premises in consultation with DFO, Jharsuguda.
- vii. Present stock of SPL carbon (36320 T) and legacy SPL stock shall be liquidated by Sep, 2023 as committed.
- viii. Refractory SPL stock (40000 T) stored in covered shed on concrete floors shall be disposed of Dec, 2025 as committed.
- ix. PM levels shall be less than 30 mg/Nm³ for all units under expansion. In case of older units, PP shall initiate retrofitting/modification action to achieve the PM emission level of 30 mg/Nm³ by October, 2024.
- x. Wastes shall be sent to RAMKY TSDF located at Sukinda. Further, waste disposed in this SLF shall be evacuated and disposed to authorized agency for detoxification as committed by PP.
- xi. PP shall use Roof Top Rainwater Harvesting systems with a total capacity of around 10000 m³ of rainwater and re-use the water in the plant.

- xii. All the recommendations made in the Charter on Corporate Responsibility for Environment Protection (CREP) for the Aluminium sector shall be strictly implemented.
- xiii. PP shall utilize 100% ash as per Fly Ash Notification 2021 and its subsequent amendments. Further, legacy ash shall be utilized completely by 31/05/2027 as committed by PP.
- xiv. Dust Suppression measures such as water sprinkling through mobile tankers is being carried out especially during the dry season. Ash laden trucks are covered with tarpaulin to avoid spillage.
- xv. Regular monitoring of Air, Water & Soil quality shall be carried out in the Ash Pond area.
- xvi. Performance monitoring of pollution control equipment shall be taken up yearly and compliance status in this regard shall be reported to RO.
- xvii. The recommendations of the approved Site-Specific Conservation Plan / Wildlife Management Plan shall be implemented in consultation with the State Forest Department. The implementation report shall be furnished along with the six-monthly compliance report to the concerned Regional Office of the MoEF&CC.
- xviii. The area of sampling and analysis of fluoride in soil and forage should extend up to 10 kilometers radius of plant premises covering upwind and downwind directions. Further, fluoride sampling and analysis should be taken quarterly at the nearest irrigated lands growing crops, vegetables, and other products of human consumption.
- xix. The major emissions are from the pot room roof. The sampling frequency should be increased, and sampling is done at multiple locations. The laser-based advance technology shall be adopted to continuously monitor gaseous fluoride emissions from pot rooms on real time basis by March, 2023.
- xx. Wheel Washing mechanism shall be provided in entry and exit gates with complete water recirculation system
- xxi. Greening and Paving shall be implemented in the plant area to arrest soil erosion and dust pollution from exposed soil surface

B. General Conditions

I. Statutory compliance:

- i. The Environment Clearance (EC) granted to the project/ activity is strictly under the provisions of the EIA Notification, 2006 and its amendments issued from time to time. It does not tantamount/ construe to approvals/ consent/ permissions etc., required to be obtained or standards/conditions to be followed under any other Acts/Rules/Subordinate legislations, etc., as may be applicable to the project.

II. Air quality monitoring and preservation

- i. The project proponent shall install 24x7 Continuous Emission Monitoring System (CEMS) at process stacks to monitor stack emission as well as 4 Nos. Continuous Ambient Air Quality Station (CAAQS) for monitoring AAQ parameters with respect to standards prescribed in Environment (Protection) Rules 1986 as amended from time to time. The CEMS and CAAQMS shall be connected to SPCB and CPCB online servers and calibrate these systems from time to time according to equipment supplier specification through labs recognized under Environment (Protection) Act, 1986 or NABL accredited laboratories.

- ii. The project proponent shall monitor fugitive emissions in the plant premises at least once in every quarter through labs recognized under Environment (Protection) Act, 1986.
- iii. The project proponent shall provide leakage detection and mechanized bag cleaning facilities for better maintenance of bags.
- iv. The project proponent shall ensure covered transportation and conveying of ore, coal and other raw material to prevent spillage and dust generation; Use closed bulkers for carrying fly ash;
- v. The project proponent shall provide wind shelter fence and chemical spraying on the raw material stock piles;
- vi. Ventilation system shall be designed for adequate air changes as per the prevailing norms for all tunnels, motor houses, and cement bagging plants.
- vii. Sufficient number of mobile or stationery vacuum cleaners shall be provided to clean plant roads, shop floors, roofs, regularly.
- viii. Adopt measures to recover fluoride gas from electrolytic cells and recycle the same in the process.
- ix. Practice use of low-Sulphur tars for baking anodes.
- x. Make efforts to increase the life of pot lining through better construction and operating techniques.
- xi. Design the pot roofs with louvers and roof ventilators

III. Water quality monitoring and preservation

- i. The project proponent shall install 24x7 continuous effluent monitoring system with respect to standards prescribed in Environment (Protection) Rules 1986 (G.S.R 742 (E) dated 30th August 1990 and further amended vide G.S.R 46 (E) dated 3rd February 2006(Aluminium); S.O. 3305 (E) dated 7th December 2015(Thermal Power Plants) as amended from time to time and connected to SPCB and CPCB online servers and calibrate these system from time to time according to equipment supplier specification through labs recognised under Environment (Protection) Act, 1986 or NABL accredited laboratories.
- ii. The project proponent shall monitor regularly ground water quality at least twice a year (pre and post monsoon) at sufficient numbers of piezometers/sampling wells in the plant and adjacent areas through labs recognised under Environment (Protection) Act, 1986 and NABL accredited laboratories.
- iii. Sewage Treatment Plant shall be provided for treatment of domestic wastewater to meet the prescribed standards.
- iv. Garland drains and collection pits shall be provided for each stock pile to arrest the run-off in the event of heavy rains and to check the water pollution due to surface run off
- v. Water meters shall be provided at the inlet to all unit processes in the cement plant.
- vi. The project proponent shall make efforts to minimize water consumption in the cement plant complex by segregation of used water, practicing cascade use and by recycling treated water.

IV. Noise monitoring and prevention

- i. Noise quality shall be monitored as per the prescribed Noise Pollution (Regulation and Control) Rules, 2000 and report in this regard shall be submitted to Regional Officer of the Ministry as a part of six-monthly compliance report.

V. Energy Conservation measures

- i. The project proponent shall provide waste heat recovery system (pre-heating of combustion air) at the flue gases.
- ii. Provide solar power generation on roof tops of buildings, for solar light system for all common areas, street lights, parking around project area and maintain the same regularly;
- iii. Provide LED lights in their offices and residential areas.

VI. Waste management

- i. Used refractories shall be recycled.
- ii. Oily scum and metallic sludge recovered from ETP shall be mixed, dried, and briquetted and reused.

VII. Green Belt

- i. The project proponent shall prepare GHG emissions inventory for the plant and shall submit the Programme for reduction of the same including carbon sequestration including plantation.
- ii. Project proponent shall submit a study report on De-carbonization program, which would essentially consist of company's carbon emissions, carbon budgeting/ balancing, carbon sequestration activities and carbon capture, use and storage and offsetting strategies. Further, the report shall also contain time bound action plan to reduce its carbon intensity of its operations and supply chains, energy transition pathway from fossil fuels to Renewable energy etc. All these activities/ assessments should be measurable and monitor able with defined time frames.

VIII. Public hearing and Human health issues

- i. Emergency preparedness plan based on the Hazard identification and Risk Assessment (HIRA) and Disaster Management Plan shall be implemented.
- ii. The project proponent shall carry out heat stress analysis for the workmen who work in high temperature work zone and provide Personal Protection Equipment (PPE) as per the norms.
- iii. Occupational health surveillance of the workers shall be done on a regular basis and records maintained.

IX. Environment Management

- i. The project proponent shall comply with the provisions contained in this Ministry's OM vide F.No. 22-65/2017-IA.III dated 30/09/2020. As part of Corporate Environment Responsibility (CER) activity, company shall adopt nearby villages based on the socio-economic survey and undertake community developmental activities in consultation with the village Panchayat and the District Administration as committed.
- ii. The company shall have a well laid down environmental policy duly approve by the Board of Directors. The environmental policy should prescribe for standard operating procedures to have proper checks and balances and to bring into focus any infringements/deviation/violation of the environmental / forest / wildlife norms / conditions. The company shall have defined system of reporting infringements / deviation / violation of the environmental / forest / wildlife norms / conditions and /

or shareholders / stake holders. The copy of the board resolution in this regard shall be submitted to the MoEF&CC as a part of six-monthly report.

- iii. A separate Environmental Cell both at the project and company head quarter level, with qualified personnel shall be set up under the control of senior Executive, who will directly to the head of the organization.

X. Miscellaneous

- i. The project proponent shall make public the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the District or State, of which one shall be in the vernacular language within seven days and in addition this shall also be displayed in the project proponent's website permanently.
- ii. The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.
- iii. The project proponent shall upload the status of compliance of the stipulated environment clearance conditions, including results of monitored data on their website and update the same on half-yearly basis.
- iv. The project proponent shall monitor the criteria pollutants level namely; PM10, SO₂, NO_x (ambient levels as well as stack emissions) or critical sectoral parameters, indicated for the projects and display the same at a convenient location for disclosure to the public and put on the website of the company.
- v. The project proponent shall submit six-monthly reports on the status of the compliance of the stipulated environmental conditions on the website of the ministry of Environment, Forest and Climate Change at environment clearance portal.
- vi. The project proponent shall submit the environmental statement for each financial year in Form-V to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently and put on the website of the company.
- vii. The project proponent shall inform the Regional Office as well as the Ministry, the date of financial closure and final approval of the project by the concerned authorities, commencing the land development work and start of production operation by the project.
- viii. The project proponent shall abide by all the commitments and recommendations made in the EIA/EMP report, commitment made during Public Hearing and also that during their presentation to the Expert Appraisal Committee.
- ix. No further expansion or modifications in the plant shall be carried out without prior approval of the Ministry of Environment, Forests and Climate Change (MoEF&CC).
- x. Concealing factual data or submission of false/fabricated data may result in revocation of this environmental clearance and attract action under the provisions of Environment (Protection) Act, 1986.
- xi. The Ministry may revoke or suspend the clearance, if implementation of any of the above conditions is not satisfactory.
- xii. The Ministry reserves the right to stipulate additional conditions if found necessary. The Company in a time bound manner shall implement these conditions.

- xiii. The Regional Office of this Ministry shall monitor compliance of the stipulated conditions. The project authorities should extend full cooperation to the officer (s) of the Regional Office by furnishing the requisite data / information/monitoring reports.
- xiv. Any appeal against this EC shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

2.16 Establishment of Iron ore beneficiation (8,00,000 TPA), Pellet Plant (6,00,000 TPA), DRI Kilns (6,60,000 TPA), Induction Furnace with matching LRF & CCM (Billets/ Ingots/ Hot Billets) (2,97,000 TPA), Rolling Mill (TMT Bars/ Structural Steel) (3,63,000 TPA), Ferro Alloy Unit 2 x 9 MVA (FeSi-14000 TPA/ FeMn-50400 TPA/ SiMn-28800 TPA/ FeCr-30000 TPA), WHRB based Power Plant – 50 MW (4 x 12.5 MW), FBC based Power Plant - 24 MW(2 x 6 MW & 1 x 12 MW) & Brick Manufacturing unit (58,000 Bricks/Day) & Briquetting Plant (200 Kg/Hr.) by **M/s. Karnikripa Power Private Limited** located at Khairjhitti&Koajhar Village, **Mahasamund Tehsil & District, Chhattisgarh**. [Online Proposal No. IA/CG/IND/208264/2021; File No. IA-J-11011/154/2021-IA-II(I)] – **Environment Clearance – regarding.**

2.16.1 M/s. Karnikripa Power Private Limited has made an online application *vide* proposal no. IA/CG/IND/208264/2021 dated 05/03/2022 along with copy of EIA/EMP Report, Form - 2 and seeking Environment Clearance (EC) under the provisions of the EIA Notification, 2006 for the project mentioned above. The proposed project activity is listed at schedule no. 3(a) Metallurgical Industries (ferrous & non-ferrous), 2(b) Mineral Beneficiation and 1(d) Thermal Power Plants under Category “A” of the schedule of the EIA Notification, 2006 and appraised at Central Level.

Details submitted by Project proponent

2.16.2 The details of the ToR are furnished as below:

Date of application	Consideration	Details	Date of accord	Validity of ToR
08/04/2021	35 th EAC held on 30 th April 2021	TOR issued	17/05/2021	16/05/2025

2.16.3 The project of M/s. Karnikripa Power Private Limited located in Khairjhitti & Koajhar Village, Mahasamund Tehsil & District, Chhattisgarh State is for Establishment of Iron ore beneficiation (8,00,000 TPA), Pellet Plant (6,00,000 TPA), DRI Kilns (6,60,000 TPA), Induction Furnace with matching LRF & CCM (Billets/ Ingots/ Hot Billets) (2,97,000 TPA), Rolling Mill (TMT Bars/ Structural Steel) (3,63,000 TPA), Ferro Alloy Unit 2x9 MVA (FeSi-14000 TPA/ FeMn-50400 TPA/ SiMn-28800 TPA/ FeCr-30000 TPA), WHRB based Power Plant – 50 MW (4x12.5 MW), FBC based Power Plant - 24 MW(2x6 MW & 1x12 MW) & Brick Manufacturing unit (58,000 Bricks/Day) & Briquetting Plant (200 Kg/hr).

2.16.4 Environmental Site Settings:

SNo	Particulars	Details	Remarks
i.	Total land	50.57 ha (124.95 Acres) [Private land: 50.57 ha]	Land Use: Agriculture
ii.	Land acquisition	Agreement have been entered with	--

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH,
KOLKATA**

.....

ORIGINAL APPLICATION No. 10/2021/EZ

IN THE MATTER OF:

**Sri Ajit Kumar Dhal,
S/o Sri Aditya Kumar Dhal,
R/o Gajapati Nagar, Police Station-Brajrajnagar,
District-Jharsuguda, Odisha,
Pin - 768216,**

....Applicant(s)

Versus

- 1. State of Odisha,
Through Chief Secretary,
Secretariat Building, Bhubaneswar,
Pin - 751001,**
- 2. The Chairman,
State Pollution Control Board,
Paribesh Bhawan, A/118,
Nilakanthanagar, Unit-VIII,
Bhubaneswar, Odisha,
Pin - 751012,**
- 3. The Regional Officer,
State Pollution Control Board,
Odisha (Dept. of Forest & Environment, Govt. of Odisha),
Plot No. 370/5971, at Babu Bagicha (Cox Colony),
St. Mary's Hospital Road, Post-Industrial Estate,
Jharsuguda - 768203,**
- 4. The Chief Environmental Engineer (C),
State Pollution Control Board,
Paribesh Bhawan, A/118,**

Nilakantha Nagar, Unit-III, Bhubaneswar,
Pin – 751012,

5. **The Principal Secretary,
Water Resources Department,
Govt. of Odisha,
Secretariat Building, Bhubaneswar,
Pin – 751001,**
6. **The District Collector-cum-Magistrate, Jharsuguda,
NH 10, Jharsuguda, Bijju Nagar, Jharsuguda,
Pin – 768204,**
7. **The Revenue Divisional Commissioner (RDC),
Kacheri Road, Hans Nagar, Sambalpur,
Odisha – 768001,**
8. **The Managing Director,
Odisha Development Corporation Ltd.,
Pathanivas (Old Block), Lewis Road,
Bhubaneswar – 751014,**
9. **The Director,
M/s Vedanta Limited,
Burkhamunda, Jharsuguda,
Odisha – 768203,**

....Respondent(s)

COUNSEL FOR APPLICANT:

Ms. Mithu Bhattacharya, Advocate

COUNSEL FOR RESPONDENTS :

**Mr. S.K. Nayak, AGA for R-1, 5 & 6
Mr. N.C. Bihani, Advocate a/w Ms. Papiya Banerjee Bihani,
Advocate for R-2 to 4,
Mr. Ratnako Banerjee, Sr. Advocate a/w Mr. Deepan Kumar
Sarkar, Advocate, Mr. Matri Prasad Advocate for R-9,**

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

HON'BLE MR. SAIBAL DASGUPTA (EXPERT MEMBER)

Reserved On:- 22nd April, 2022

Pronounce On:- 06th May, 2022

1. Whether the Judgment is allowed to be published on the net? **Yes**
 2. Whether the Judgment is allowed to be published in the NGT Reporter? **Yes**
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JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

Heard the learned Counsel for the parties and perused the documents on record.

2. This Original Application has been filed by the Applicant with the allegation that on 15.04.2021 the Applicant has purchased about 10 acres of land Plot No.12/15, Plot No.18/192 and Plot No. 18/195 under Mouza-Junarimunda, District Jharsuguda within the limits of Rajpur Panchayat but the Respondent No.9, M/s Vedanta Limited, has been dumping fly ash over the land and other ponds in the area thereby completely destroying the land and environment. There are serious allegations made in the Original Application that the Respondent No. 9 is manufacturing aluminum products and in the process of manufacturing, fly ash is being produced which is being dumped on the adjacent land of the Applicant. It is also alleged that the Applicant belongs to the Scheduled Caste category and as a result of dumping of fly ash, the quality of his agricultural land is being destroyed. It is further alleged that a fish pond created

by the Applicant, has been severely damaged by large scale dumping of fly ash. It is also alleged that the fly ash is being dumped by the Respondent No. 9 without erecting proper boundary wall and the same is washed with rain water into the fish pond and adjacent plots. The allegation of the Applicant further is that the Respondent No. 9 has established its industry within the residential area whereas it should have been established in an industrial area.

3. The Tribunal at the time of admission formed a committee comprising of the following Members:-

(i) *A Senior Scientist, from Odisha State pollution Control Board, Bhubaneswar.*

(ii) *The District Collector-cum-Magistrate, Jharsuguda,*

4. The Committee was directed to inspect the site and submit its report on the following aspects:-

(a) Whether the land on which the Respondent Company has established its industry is in industrial area;

(b) Whether there is any pond created by the Applicant for pisciculture which has now been degraded/polluted due to deposition of fly ash product by the Respondent Company;

(c) Whether fly ash is flowing into the water body and stream, if any, causing environmental damage to soil and water;

(d) Whether fly ash is also covering the agricultural land or other land thereby degrading the quality of the land;

(e) Whether environmental norms have been observed by the Respondent No.9, so far as disposal of fly ash is concerned and also for abatement of air and water pollution, and

(f) The Committee shall also acquire soil sample to determine its fertility and water sample for analysis of pollutants.

5. It was also directed that the Committee in its report shall consider the general impact and the damage suffered by the environment and the monetary value and cost of such environmental damage so that the same may be recovered from the polluter if violation is observed. The Committee was also required to suggest remedial measures for restoration of damage caused.

6. An affidavit has been filed by the Odisha State Pollution Control Board, bringing on record the Inspection Report of an inspection carried out on 08.07.2021. The Observation and Conclusion of the Report read as under:-

“Observations:

The Committee has conducted a detailed enquiry in and around the alleged site in presence of the Tahasildar, Jharsuguda & his officials, Chief District Agriculture Officer, Jharsuguda & his officials, Sarpanch, Rajpur, Complainant & the Villagers to verify the aspects as directed in para 10 & 11 of the order dated 15.06.2021 of the Hon’ble NGT, EZB, Kolkata and following observations were made:

Sl. No.	Subjects as para 10 & 11 of the Hon’ble NGT order dtd.	Observations

	15.06.2021	
a.	Whether the land on which the respondent company has established its industry is in Industrial area.	The alleged site (land) is non-industrial area and coming under the category of agriculture land with kissam Atta Sadharana, Mala Sadharana and Berna Sadharana. A portion of Govt. village forest Kisam land measuring about Ac. 13.00 has also covered with ash deposit by the M/s Vedanta Ltd.
b.	Whether there is any pond created by the applicant for pisciculture which has now been degraded/polluted due to deposition of fly ash product by the respondent company.	There is a Kata (Cross Bond to harvest & store rain water for irrigation purpose) existed prior to 1982. As per the statement of the petitioner a portion of the said kata consisting of around Ac. 5.00 have been developed by him for pisciculture. It was further informed by the petitioner that Pisciculture has been commenced by him for the first time in that year.
c.	Whether fly ash is flowing into the water body and stream if any, causing environmental damage to soil & water.	Fly ash had flown to the said water body. However, the ash has been settled at the bottom of the pond. The thickness of ash deposition near the pond water level is minimum and is varying 1 cm to 130 cm towards the reclaimed area.

d.	<p>Whether fly ash is also covering the agricultural land or other land there by degrading the quality of land.</p>	<p>There is no private agriculture land exist around the fly ash deposited area of M/s Vedanta Ltd. due to breach in the earthen embankment fly ash flown away through the village forest covering Ac. 4.21 & water stream (Nala) measuring Ac. 0.14 towards the Kata (water body) measuring area of about Ac. 4.70.</p>
e.	<p>Whether environmental norms have been observed by Respondent No.9 so far as disposal of fly ash is concerned and also for abatement of air & water pollution.</p>	<ul style="list-style-type: none"> • Vedanta Ltd. has obtained following permissions to fill up the site with fly ash as per the provisions of Guideline for reclamation of low-lying area. <ol style="list-style-type: none"> 1. Consent from Land Owner of Khata No.10, 2. NOC from Sarpanch of Rajpur Gram Panchayat, 3. Consent to Establish from SPCB, Odisha, 4. Consent to Operate from SPCB, Odisha, • But Vedanta Ltd. deposited fly ash over the govt. village forest land measuring approx. Ac. 13.00 adjoining to the permitted pvt. Land of Ac. 6.700 for which no

		<p><i>permission granted.</i></p> <ul style="list-style-type: none"> • <i>It has completed the reclamation of the land with fly ash by March 2020 and provided earthen embankment towards the adjacent low-lying areas for protection against surface runoff. However, M/s Vedanta Ltd. has not submitted the completion certificate of the alleged reclaimed area for further verification.</i> • <i>The earthen embankment of the reclaimed site got breached during the rainy season in the month of August 2020. As a result, surface runoff of the areas along with wash outs of fly ash had flown to the alleged pond (Kata) through the low lying village forest area and nala.</i> • <i>It has neither intimated the date of completion of reclamation work of alleged site nor submitted the completion certificate to the SPC Board for further</i>
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		<p>verification.</p> <ul style="list-style-type: none"> • It has not properly maintained the side slopes of the completed site in a manner to avoid erosion or collapse of the slopes at least up to end of one monsoon after completion of the work as per Clause 4.6 (iv) of Guidelines for reclamation of low-lying areas and abandoned quarries with fly ash of SPCB, Odisha. • It has not provided proper earthen embankment with adequate geo-technical features Guidelines of SPCB, Odisha for reclamation of low-lying areas and abandoned quarries with fly ash. • In some part of the reclaimed area, it has raised the height of ash deposition than the surrounding level as well as the earthen embankment. It has not done proper compaction, leveling & covering of soil of at least 200 mm thickness of the entire reclaimed area to prevent the chance of
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		<p><i>mixing of fly ash in the surface runoff during rainy reason.</i></p> <ul style="list-style-type: none"> • <i>It has not complied to the Board's direction to take remedial action vide letter no. 1205 dated 15.12.2020.</i>
f.	<p><i>The committee shall also acquire soil sample to determine its fertility and water sample for analysis of water pollutants.</i></p>	<ul style="list-style-type: none"> • <i>The water sample from the alleged pond was collected during the field visit and submitted to the laboratory of Regional Office, State Pollution Control Board Odisha, Jharsuguda for analysis of pollutants.</i> <p>⇒ <i>It is revealed from the analysis report of the water sample that the parameters are within the standard prescribed by CPCB for Pond water.</i></p> <ul style="list-style-type: none"> • <i>Three nos. of soil sample @ one each from the affected area of the village forest land, Kata land and one from the unaffected area of the Kata have been collected and submitted to the laboratory of Agriculture Department of Government to determine its fertility.</i> <p>⇒ <i>The analysis report of Soil sample indicates</i></p>

		<p>that it has not much hampered its fertility rate. However, there is only one parameter namely Boron was found to be deficit in the land covered with fly ash.</p>
Para 11.	<p>General impact and damage suffered by the environment and the monetary value and cost of such environmental damage so that same can be recovered.</p>	<ul style="list-style-type: none"> The ash deposited land area was non-agricultural land and no cultivation was carried out. The soil analysis report indicates that it has not much impacted the fertility of land below the Ash. However, it has impacted much to the fish farming area of the Kata for more than one year. The committee consulted the local Sarpanch for the monetary losses and it was calculated to be Rs. 50,000/- per annum towards the fishing activity in the said kata for the initial years. The Govt. village forest land restoration work, the earthen embankment around the ash deposit and removal of excess fly ash from Govt. land, compaction and earth coverage of the Ash

		<p><i>deposit area with earth & proper slopping may be imposed on Vedanta or, further time may be given to involve the Deptt. of Forest & Environment. to workout the cost of reclamation /restoration.</i></p> <ul style="list-style-type: none"> • <i>Ash deposit from the Govt. village forest kizam land of Ac. 17.210 (Ac. 13.00 & Ac. 4.210) and water stream (nala) kizam land of Ac. 0.14 may be removed completely and the land may be restored by M/s Vedanta at its own cost.</i>
	<p><i>Remedial measures for restoration of damage caused</i></p>	<p><i>Following steps need to be taken as Remedial Measures for restoration of the damage caused in a time bound manner and action taken has to be verified from time to time by officers of SPCB.</i></p> <ul style="list-style-type: none"> • <i>Ash deposition has to be completely lifted or removed from the land as well as from the pond area in a manner to maintain the natural profile of the land & with no soil excavation. The kata shall be made</i>

		<p><i>habitable for fish farming and irrigation.</i></p> <ul style="list-style-type: none"> <i>The entire reclaimed area along with its slope shall be thoroughly compacted,</i> <p><i>leveled uniformly within 300 mm of proper soil covering to prevent such incidence in future. Wherever necessary, the excess fly ash may be removed.</i></p> <ul style="list-style-type: none"> <i>Earthen embankment of adequate geotechnical strength has to be provided and maintained at least up to end of one monsoon after completion of the work as per the Clause 4.6 (iv) of the Guidelines for reclamation of low-lying areas and abandoned quarries with fly ash of SPCB, Odisha.</i> <i>Ash deposit from the Govt. village forest kism land of Ac.</i>
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		<p>17.210 (Ac. 13.00 & Ac. 4.210) and water stream (Nala) kism land of Ac. 0.14 may be removed completely and the land may be restored by M/s Vedanta at its own cost.</p> <ul style="list-style-type: none"> • A technical dedicated team of M/s Vedanta Ltd. comprising of Civil Engineering and Environment professional shall supervise, monitor and perform the aforesaid remedial works for restoration of the damage caused.
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Conclusion:

In view of the above, it is clear that M/s Vedanta Ltd. has violated consent conditions. As a result, earthen embankment of the reclaimed area got breached and surface runoff along with ash has flown to the nearby area and kata (pond). The respondent industry may be directed to pay the restoration cost along with fish farming compensation for the monetary loss of the petitioner and to take the aforesaid remedial measures immediately for restoration of the damage caused to the Govt. Land in an time bound manner.”

7. Another Inspection Report of inspections carried out on 25.09.2021 and 19.10.2021, has been filed as Annexure-R2/2 (page

no. 160 of the paper book), along with the affidavit of the Odisha Pollution Control Board dated 21.10.2021, which reads as under:-

- *The petitioner (Ajit Kumar Dhal) has a total land of Ac. 7.00 land (plot no. 18/192, area Ac. 400 & Plot No. 18/195, area Ac. 3.00) of Khata No. 12/15 in the Village- Junanimunda coming under Kata Kisam (Water Body). As per revenue record, Kata is a water body and it is a traditional water harvesting structure to preserve the rain water through cross bond and used for irrigation and fishing purpose. Copy of ROR is enclosed for kind reference as Annexure-I. There is no private agricultural land affected due to breach of the earthen embankment of the reclamation site of M/s Vedanta Ltd., Brajarajnagar, Jharsuguda.*
- *The thickness of the ash deposition at the land under question was 1 cm to 130 cm in a slope. The thickness of ash deposition was 1 cm at the eastern end in the kata and 130 cm at the western end and deposited in a manner of slope.*
- *The detail of the restoration cost of the affected area is estimated as follows:-*

<i>Sl. No</i>	<i>Type of land</i>	<i>Affected area due to ash deposition (Approximate)</i>	<i>Restoration cost/ Environmental compensation</i>
1.	<i>Govt. Village Forest Kisam land</i>	<i>Ac. 17.210 dec</i>	<i>20,82,427/-</i>
2.	<i>Govt. Land Water stream (Nala) Kisam</i>	<i>Ac. 0.114 dec</i>	<i>13,794/-</i>
3.	<i>Total Kata Land (Pond) of petitioner</i>	<i>Ac. 7.00 dec</i>	<i>4,23,504/-</i>
4.	<i>Compensation for pisciculture for</i>	<i>-</i>	<i>1,00,000/-</i>

	<i>financial year</i> 2020-21 & 2021-22		
Total			Rs. 26,19,725/-

- *However, it is found on field verification that the ash deposited over the government forest kism, water stream land and the private kata land have already been removed by M/s Vedanta Ltd. at its own cost. The photograph from the field is attached as Annexure-III for reference.*
- *The entire reclaimed area along with its slope was found to be thoroughly covered with soil and no exposed ash surface was found. The photograph from the field is attached as Annexure-IV for reference.*
- *The prevailing practice for pisciculture in the Govt. owned ponds is carried out by the Gram Panchayat through annual auction process.”*

8. This report was conflicting in as much as in one paragraph of the report it was mentioned that thickness of fly ash deposition on the land in question was 1cm to 130cm in a slope. The thickness of ash deposition was 1cm at the Eastern end in the Kata and 130cm at the Western end and deposited in a manner of slope. However, in the next para it is mentioned that during field verification the ash deposition was found to be over the Government forest kism land, water system land and private kata land which have been removed by M/s Vedanta Ltd., Respondent No.9 the Project Proponent (PP).

9. The Odisha Pollution Control Board has calculated an amount of Rs.26,19,725/- (Rupees Twenty Six Lakhs Nineteen Thousand Seven Hundred Twenty Five) towards restoration and remedial

measures of the affected area. The Tribunal observed that in so far as the observations of the Committee and the remedial measures suggested by the Committee that the Kata (pond) in question shall be made habitable for fish farming and irrigation but the report is silent in this regard and all that has been stated is that pisciculture in Government owned pond is the same as carried out by the Gram Panchayat concerned through annual auction process as per the prevailing practice. The Tribunal, however, further noted that the report was silent as to whether the pond had been excavated/cleaned for grant of auction and whether it has been made habitable for fish farming. The remedial measure/action suggested by the Committee was also that the entire reclamation area along with its slope be thoroughly compacted, leveled uniformly with 300 mm of proper soil covering to prevent such incidence in future. The report was also silent with regard to what action has been taken in that regard. It was also noted that the remedial measure/action further suggested was that the earthen embankment of adequate geotechnical strength has to be provided and maintained at least up to the end of one monsoon after completion of the work as per Clause 4.6(iv) of the Guidelines for reclamation of low-lying areas and abandoned quarries with fly ash. The report was also silent in this regard. Therefore, the Tribunal granted further time to the Odisha State Pollution Control Board for filing a comprehensive affidavit including all points in the Terms of Reference given in para 10 & 11 of the order dated 15.06.2021 and also showing compliance of the remedial measures suggested

by the Committee for restoration of the damage caused and recovery of the Environmental Compensation of Rs. 26,19,725/- (Rupees Twenty Six Lakhs Nineteen Thousands Seven Hundred Twenty Five only). It was also noted that the amount of Rs. 26,19,725/- (Rupees Twenty Six Lakhs Nineteen Thousands Seven Hundred Twenty Five only) did not refer to the inaction of the Respondent No.9 with regard to the entire remedial measures for restoration of the damage caused to the environment and, therefore, a fresh financial assessment of damage caused would have to be made for purposes of recovery from the Respondent No.9, M/s Vedanta Limited.

10. In compliance of the order of the Tribunal dated 21.01.2022, the Odisha State Pollution Control Board has filed an additional affidavit dated 03.03.2022 bringing on a report (Annexure-R-2/3 page nos. 173 to 177 of the paper book), on low lying area reclamation site by utilizing ash by the Respondent No.9, M/s Vedanta Limited, inspection of which was carried out on 21.02.2022. The report reads as under:-


“A report on Low-lying a area reclamation site by utilizing ash by M/s. Vedanta Ltd., Junanimunda, Brajarajnagar, Jharsuguda in the matter of O.A. No.10/2021/EZ.


In response to the order dtd.21.01.2022 of the Hon'ble Green Tribunal, EZB, Kolkata in the matter of O.A. No. 10/2021/EZ and in reference to the report of the inspection conducted on 08.07.2021 by the Committee, a site visit was conducted on 21.02.2022 in and around the alleged site to verify the various aspects as pointed out in


the aforesaid Hon'able NGT the order and following observations were made.

Sl. No.	Para of the Hon'ble NGT the order dtd.21.01.2022	Observations
1.	<p>We find it very surprising that in one paragraph of the report it is mentioned that the thickness of ash deposition at the land in question was 1 cm to 130cm in a slope. The thickness of ash deposition was 1 cm at the eastern end in the Kata and 130 cm at the western end and deposited in a manner of slope. However, in the subsequent para, it is mentioned that during the field verification the ash deposition was found to be over Government Forest Kisam land, water stream land and the private kata land which have been removed by Ms/ Vedanta Ltd. at its own cost.</p>	<ul style="list-style-type: none"> • Thickness of ash deposition at the land in question was 130cm at western end near the breach point down to 1 cm at the tail end on the Eastern Part in a slope manner. • The parcel on which this deposit had been spread comprised of 17.21 acres of Forest land, Kata land of 04.70 acres out of the total area of 07.00 acres and water stream (Nalah area) 0.14 acres. It is pertinent to mention that the Kata land in toto is 07.00 acres out of which the cover of ash was on 04.70 acres. Now on site visit it is ascertained and

		<p>evident on the field that the entire ash deposition has been removed by M/s Vedanta Ltd. from the total parcel consisting of Govt. (Forest + Water Stream) and private (Kata land).</p>
2.	<p>So far as the observations of the Committee and the remedial measures suggested by the Committee that the kata (pond) in question shall be made habitable for fish farming and irrigation, the report is silent in this regard and all that has been stated is that as per the prevailing practice for pisciculture in the Govt. owned pond the same is carried out by the Gram Panchayat concerned through annual auction process. Whether the pond has been excavated/cleaned for grant of auction and whether the pond has been made habitable for fish farming has also not been stated in the</p>	<ul style="list-style-type: none"> • As per revenue record, Kata is a water body and it is traditional water harvesting structure to preserve the rainwater through cross bond existed prior to 1982. • The water sample from the alleged kata land was collected during the field visit on 08.07.2021 for analysis and it is revealed from the analysis report of the water sample that the parameters are within the standard prescribed by CPCB for Pond water.


	<p>report.</p> 	<ul style="list-style-type: none"> • Further, it is mentioned in the last report that “However, it is found on filed verification that the ash deposited over the government forest kisam, water stream land and the private kata land have already been removed by M/s Vedanta ltd. at its own cost.” • Again, it is verified by the Committee on 21.02.2022, the Kata land has been cleaned and only clay was found as it has been dried up. This type of Kata land is not suitable for pisciculture as the property is not bound by bund on all sides. Bunds are present on two sides and other two sides are open. To make the pod suitable for pisciculture, certain conditions
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		<p>are required to be fulfilled as per the report of Fishery Department of Govt. of Odisha. Since this is a private land it all depends upon the land owner whether he will be going for earth work at own investment for pisci-culture in future. Detail report of the same is enclosed for reference.</p>
3.	<p>The remedial action suggested by the Committee was also that the entire reclamation area along with its slope be thoroughly compacted, leveled uniformly with 300 mm of proper soil covering to prevent such incidence in future. The report is silent as to what action has been taken in that regard.</p>	<ul style="list-style-type: none"> • The entire reclaimed area with its slope was thoroughly compacted, leveled and covered with soil as per visual observation on the day of inspection. The Committee is of opinion that a study may be carried out to verify the thickness of soil covering of the entire reclaimed area by National Accreditation

		<p><i>Board for Testing and Calibration laboratories (NABL) certified Laboratories or Institute of National Repute like NITs/IITs at its own cost of the respondent industry. The detail report may be submitted directly to Hon'ble NGT by the respondent industry.</i></p>
4	<p><i>The remedial action further suggested was that the earthen embankment of adequate geotechnical strength has to be provided and maintained at least up to the end of one monsoon after completion of the work as per the Clause 4.6 (iv) of the Guidelines for reclamation of low-lying areas and abandoned quarries with fly ash of SPCB, Odisha, the report is silent in this regard.</i></p>	<ul style="list-style-type: none"> • <i>It has provided a solid earthen embankment as a protection measure. The Committee is of opinion that a study may be carried out to verify the geotechnical strength of earthen embankment by National Accreditation Board for Testing and Calibration laboratories (NABL) certified laboratories or</i>


		<p>Institute of National Repute like NITs/IITs by the respondent industry at its own cost. The detail report may be submitted directly to Hon'ble NGT by the respondent industry.</p>
5	<p>Ms. Papiya Banerjee Bihani, learned Counsel appearing for Odisha State Pollution Control Board as well as Mr. Saubhagya Ketan nayak, learned AGA appearing for State Respondents, Govt. of Odisha, pray for and are granted three weeks time for filing further comprehensive affidavits which should include all the points in the Terms of Reference given in para 10 & 11 of the order dated 15.06.2021 and also showing compliance of the remedial measures suggested by the Committee for restoration of the damage caused and recovery of the</p>	<ul style="list-style-type: none"> • A detail comprehensive report on inspection dtd. 08.07.2021 has already been submitted for all the points in the Terms of Reference given in para 10 & 11 of the order dated 15.06.2021. Further, clarification on the aforesaid report & a field verification report of 19.10.2021 has also been submitted. • Again, a field visit was conducted on 21.02.2022 to verify the status of the site and parawise

	<p><i>Environmental Compensation of Rs.26,19,725/- (Rupees Twenty Six lakhs Nineteen Thousand Seven Hundred Twenty Five).</i></p>	<p><i>observations has been mentioned. It is observed on the day of inspection i.e. 21.02.2022 that the ash deposited over the government forest Kisam, water stream land and the private kata land have already been removed by M/s Vedanta Ltd. at its own cost.</i></p> <ul style="list-style-type: none"> <i>• The entire reclaimed area with its slope was thoroughly compacted, leveled and covered with soil as per visual observation on the day of inspection. The Committee is of opinion that a study may be carried out to verify the thickness of soil covering of the entire reclaimed area and to verify the geotechnical strength of earthen embankment by National</i>
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		<p><i>Accreditation Board for Testing and Calibration laboratories (NABL) certified laboratories or Institute of National Repute like NITs/IITs by the respondent industry at its own cost. The detail report may be submitted directly to Hon'able NGT by the respondent industry.</i></p> <ul style="list-style-type: none"> • <i>There is no agriculture private land affected due to breach of the earthen embankment of reclamations site.</i> • <i>The private kata land has been cleaned and only clay was found as it has been dried up. This type of kata land is not suitable for pisciculture as the property is not bound by bund on all sides. Bunds are present on two</i>
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		<p>sides and other two sides are open. To make the pond suitable for pisciculture, certain conditions are required to be fulfilled as per the report of Fishery Department of Govt. of Odisha. Since this is a private land it all depends upon the land owner whether he will be going for earth work at own investment for pisci-culture in future. Detail report of the same is enclosed for reference.</p>
6	<p>We also find that this amount of Rs.26.19,725/- (Rupees Twenty Six lakhs Nineteen Thousand Seven Hundred Twenty Five does not refer to the inaction of the Respondent No.9 with regard to the entire remedial measures for restoration of the damage caused which we have already noted</p>	<ul style="list-style-type: none"> • To assess the damage caused, three nos. of soil sample @ one each from the affected area of the village forest land, Kata land and one from the unaffected area of the Kata and water sample was collected on 08.07.2021 during the visit of the

	<p>hereinabove, and which entail a fresh financial assessment of the damage caused which is required to be recovered from M/s Vedanta Ltd.</p>	<p>Committee. It is evident from the analysis reports that the parameters are within the norms.</p> <ul style="list-style-type: none"> • There is no agricultural private land affected due to breach of the earthen embankment of reclamations site. • The Industry (M/s. Vedanta ltd.) has done all the remediation & restoration cost at its own cost. However, the financial assessment was estimated to be Rs. 26,19,725/- as per the observation of the Committee. <p>In view of the analysis results of soil & water sample and observation of the committee made earlier on 08.07.2021, the ash deposition has not impacted to the</p>
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		<p><i>fertility rate of soil of the affected Govt. land. Under such circumstances, a fresh financial assessment based on the previous observations made earlier on 08.07.2021 may not be feasible.</i></p>
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11. The applicant in his affidavit dated 05.04.2022 has laid great stress upon the findings and the remedial measures suggested by the Committee.

12. The Respondent No.9, M/s Vedanta Limited, Project Proponent (PP), in its affidavit dated 20.04.2022, has further stated that it had carried out all remedial measures at its own cost and as per letter of the District Collector-cum-Magistrate , Jharsuguda, dated 10.08.2021, the Respondent No.9 had also paid compensation of Rs. 5,00,000/- (Rupees Five Lakhs only) to the Applicant, Sri Ajit Dhal, for damage caused to the Applicant towards soil filling and levelling and compaction in the reclaimed area (Ac. 8.20 decimal). Further, the Respondent No.9 has also claimed to have paid Rs.5,46,31,596/-(Rupees Five Crore Forty Six Lakhs Thirty One Thousand Five Hundred Ninety Six Only) for remedial measures towards removal of ash from Government village forest Kisam land (Ac.17.210 decimal) and removal of ash from

Government land water stream (Nala) Kisam (Ac. 0.114 decimal). Thus, it is stated that by the Respondent No.9 that he had paid a total amount of Rs.5,51,31,596/- (Rupees Five Crore Fifty One Lakh Thirty One Thousand Five Hundred Ninety Six Only).

13. The learned Counsel for the Respondent No.9 has submitted that having paid Rs.5,51,31,596/- (Rupees Five Crore Fifty One Lakhs Thirty One Thousand Five Hundred Ninety Six Only), the said Respondent has paid much more than Rs.26,19,725/- (Rupees Twenty Six Lakhs Nineteen Thousand Seven hundred Twenty Five Only) computed towards Environmental Compensation by the Committee and, therefore, the imposition of Environmental Compensation of this amount was absolutely incorrect.

14. From the documents on record and the Inspection Report which has not been disputed by the Learned Counsel for the Respondent No.9, we find that damage caused to the Kata Land (Pond) of the Applicant and damage caused to the Government village forest kism land is admitted by the Respondent No.9. Though the said Respondent claimed that he has paid a total sum of Rs. 5,51,31,596/- (Rupees Five Crore Fifty One Lakhs Thirty One Thousand Five Hundred Ninety Six Only) towards remedial measures and compensation to the Applicant, however, the same cannot be equated with Environmental Compensation which the Project Proponent would be liable to pay. Environmental Compensation is for the illegal and unlawful acts of the Project Proponent causing damage to the environment. Cost of restoration

towards remedial measures is the cost of ameliorating the ill-effects of the damage caused to the land, water, air, flora and fauna, etc., by the Project Proponent. Environmental Compensation on the other hand is a charge for the deliberate disregard by the Project Proponent to the excesses committed by him which have resulted in damage to the environment which he ought to have anticipated and taken care of under the Precautionary Principle.

15. The Respondent No.9, Project Proponent, in his affidavit has further stated that the amount of Rs. 5,51,31,596/- (Rupees Five Crore Fifty One Lakhs Thirty One Thousand Five Hundred Ninety Six Only), is far in excess of the amount suggested by the Committee. However, we find that the Committee has recommended Rs. 26,19,725/- (Rupees Twenty Six Lakhs Nineteen Thousand Seven Hundred Twenty Five), as the restoration cost, though in Annexure R-2/2 (page no. 268 of the paper book) to the affidavit, it is referred to as restoration cost/environmental compensation. However, a reading of the report would show that this amount is not towards Environmental Compensation rather it is the cost of restoration. In fact, the chart itself carries the heading **'The detail of the restoration of the affected area is estimated as follows'**. We also find that the amount of Rs. 5,00,000/- (Rs. Five Lakhs) paid by the Respondent No.9, Project Proponent, to the farmer, the Applicant, is not under the direction of the Committee since there is no such direction for determination of such amount. The report of the Committee filed as Annexure-R-2/3 (page no. 292 to 296) to the affidavit of the Odisha State Pollution Control Board dated

03.03.2022, also mentions that the industry has done all the remediation and restoration measures at its own cost. However, the financial assessment was estimated to be Rs. 26,19,725/- as per the observation of the Committee and this amount cannot be equated with Environmental Compensation.

16. The Hon'ble Supreme Court in (1987) 1 SCC 395; M.C. Mehta and Another Vs. Union of India and Others, has held that the rule for compensation by reason of an accident or persons dying or suffering injury caused by the industrial enterprise cannot be determined in terms of the judgment passed in Rylands Vs. Fletcher (1868) LR 3 HL 330; 19 LT 20; (1861-73) All ER Rep 1. Para 31 of the judgment reads as under:-

“31. We must also deal with one other question which was seriously debated before us and that question is as to what is the measure of liability of an enterprise which is engaged in an hazardous or inherently dangerous industry, if by reason of an accident occurring in such industry, persons die or are injured. Does the rule in Rylands v. Fletcher apply or is there any other principle on which the liability can be determined. The rule in Rylands v. Fletcher was evolved in the year 1866 and it provides that a person who for his own purposes being on to his land and collects and keeps there anything likely to do mischief if it escapes must keep it at his peril and, if he falls to do so, is prima facie liable for the damage which is the natural consequence of its escape. The liability under this rule is strict and it is no defence that the thing

escaped without that person's wilful act, default or neglect or even that he had no knowledge of its existence. This rule laid down a principle of liability that if a person who brings on to his land and collects and keeps there anything likely to do harm and such thing escapes and does damage to another, he is liable to compensate for the damage caused. Of course, this rule applies only to non-natural user of the land and it does not apply to things naturally on the land or where the escape is due to an act of God and an act of a stranger or the default of the person injured or where the thing which escapes is present by the consent of the person injured or in certain cases where there is statutory authority. Vide Halsbury Laws of England, Vol. 45 para 1305. Considerable case law has developed in England as to what is natural and what is non-natural use of land and what are precisely the circumstances in which this rule may be displaced. But it is not necessary for us to consider these decisions laying down the parameters of this rule because in a modern industrial society with highly developed scientific knowledge and technology where hazardous or inherently dangerous industries are necessary to carry out part of the developmental programme. This rule evolved in the 19th Century at a time when all these developments of science and technology had not taken place cannot afford any guidance in evolving any standard of liability consistent with the constitutional norms and the needs of the present day economy and social structure. We need not feel

*inhibited by this rule which was evolved in this context of a totally different kind of economy. Law has to grow in order to satisfy the needs of the fast changing society and keep abreast with the economic developments taking place in the country. As new situations arise the law has to be evolved in order to meet the challenge of such new situations. Law cannot afford to remain static. We have to evolve new principles and lay down new norms which would adequately deal with the new problems which arise in a highly industrialised economy. We cannot allow our judicial thinking to be constricted by reference to the law as it prevails in England or for the matter of that in any other foreign country. We no longer need the crutches of a foreign legal order. We are certainly prepared to receive light from whatever source it comes but we have to build up our own jurisprudence and we cannot countenance an argument that merely because the new law does not recognise the rule of strict and absolute liability in cases of hazardous or dangerous liability or the rule as laid down in *Rylands v. Fletcher* as is developed in England recognises certain limitations and responsibilities. We in India cannot hold our hands back and I venture to evolve a new principle of liability which English courts have not done. We have to develop our own law and if we find that it is necessary to construct a new principle of liability to deal with an unusual situation which has arisen and which is likely to arise in future on account of hazardous or inherently dangerous industries which are concomitant*

to an industrial economy, there is no reason why we should hesitate to evolve such principle of liability merely because it has not been so done in England. We are of the view that an enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous nature of the activity which it has undertaken. The enterprise must be held to be under an obligation to provide that the hazardous or inherently dangerous activity in which it is engaged must be conducted with the highest standards of safety and if any harm results on account of such activity, the enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that it had taken all reasonable care and that the harm occurred without any negligence on its part. Since the persons harmed on account of the hazardous or inherently dangerous activity carried on by the enterprise would not be in a position to isolate the process of operation from the hazardous preparation of substance or any other related element that caused the harm must be held strictly liable for causing such harm as a part of the social cost for carrying on the hazardous or inherently dangerous activity. If the enterprise is permitted to carry on an hazardous or inherently dangerous activity for its

profit, the law must presume that such permission is conditional on the enterprise absorbing the cost of any accident arising on account of such hazardous or inherently dangerous activity as an appropriate item of its over-heads. Such hazardous or inherently dangerous activity for private profit can be tolerated only on condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of the carrying on of such hazardous or inherently dangerous activity regardless of whether it is carried on carefully or not. This principle is also sustainable on the ground that the enterprise alone has the resource to discover and guard against hazards or dangers and to provide warning against potential hazards. We would therefore hold that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation of such hazardous or inherently dangerous activity resulting, for example, in escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-a-vis the tortious principle of strict liability under the rule in Rylands v. Fletcher.”

17. The Hon'ble Supreme Court also held that the measure of compensation must be co-related to the magnitude and capacity of the enterprise and such compensation must have a deterrent effect. The larger and more prosperous the enterprise, the greater must be

the amount of compensation payable by it for the harm caused.

Para 32 of the judgment reads as under:-

“32. We would also like to point out that the measure of compensation in the kind of cases referred to in the preceding paragraph must be co-related to the magnitude and capacity of the enterprise because such compensation must have a deferent effect. The larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it for the harm caused on account of an accident in the carrying on of the hazardous or inherently dangerous activity by the enterprise.”

18. In the present case the damage caused to the environment has been caused by dissipation of fly-ash in the atmosphere as also on the agricultural land of the Applicant. It was the duty of the Respondent No.9, Project Proponent, if carrying on a hazardous or inherently dangerous activity, to take reasonable care and to ensure that no damage was caused either to the land or air in the vicinity of his industry and if any harm is caused to the air and land due to generation of fly-ash by the Respondent No.9 industry, it is the abundant duty of the Respondent No.9 to compensate those losses on the principle of ‘Polluter Pays’ as held by the Hon’ble Supreme Court in (1996) 3 SCC 212; Indian Council for Enviro-Legal Action and Others Vs. Union of India and Others.

19. In this view of the matter, we are of the view that if the cost of remedial measures itself is 5,51,31,596/- (Rupees Five Crore Fifty One Lakhs Thirty One Thousand Five Hundred Ninety Six Only),

the Environmental Compensation cannot be less than at least Rs.1,00,00,000/-(Rupees One Crore). We, therefore, determine the cost of Environmental Compensation @ Rs.1,00,00,000/-(Rupees One Crore). The said amount shall be deposited by the Respondent No.9, Project Proponent, with the Odisha State Pollution Control Board within one month, failing which the same shall be recovered from him by due process of law.

20. We further direct the Respondent No.9, Project Proponent, to conduct a study to verify geotechnical strength of earthen embankment by National Accreditation Board for Testing and Calibration Laboratories (NABAL), certified Laboratories or institute of national repute like NITs/IITs. The Respondent No.9 is further directed to carry out a study through any national institute of repute like NITs/IITs to verify the thickness of soil covering of the entire reclaimed area. The cost of both the studies to be conducted shall be borne by the Respondent No.9, Project Proponent, and the report thereof may be submitted to the Odisha State Pollution Control Board for future direction.

21. The Odisha State Pollution Control Board is also directed to regularly monitor the situation and in case further violation is found, action in accordance with law may be taken.

22. With the aforesaid directions, the Original Application No. 10/2021/EZ is accordingly disposed of.

23. There shall be no order as to costs.

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B. AMIT STHALEKAR, JM

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SAIBAL DASGUPTA, EM

Kolkata,
May 6th, 2022,
Original Application No.10/2021/EZ
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NGT



Shubham Verma <shubhamvrm5309@gmail.com>

ADVANCE SERVICE OF THE REJOINDER TO THE REPLIES FILED BY THE RESPONDENTS I

1 message

Shubham Verma <shubhamvrm5309@gmail.com>

Sat, Apr 13, 2024 at 8:51 AM

To: Judicial Section <ngtjudicial-kolkata@gov.in>, soumitra.mukherjee@yahoo.com, Dipanjan Ghosh <dpnjnghsh0@gmail.com>, Sanjay Upadhyay <sanjayeldf@gmail.com>, mansi@eldfindia.com

Cc: Abhimanue Shrestha <shrestha.abhimanue@gmail.com>, adv.nishant.k28@gmail.com, Pritesh Patni <patni.pritesh@gmail.com>, sid poddar <sidpoddar94@gmail.com>

Dear,
Sir/Ma'am,

Please find the attachment of the Advance service of the Rejoinder to the replies filed by the Respondents in the matter of Appeal No. 24 of 2022 (Satyanarayan Rao Vs. Union of India & Ors.)

This case has been listed as item No. 08 in Court No.1 on April 15, 2024.

Thanks & Regards,

Shubham Verma (Paralegal)
for Abhimanue Shrestha
Advocate for the Appellant

 **FINAL SATNARAYAN RAO REJOINDER 13.04.2024.pdf**
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