

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH AT KOLKATA
I.A. NO. 186 OF 2022
IN
APPEAL NO. 24 OF 2022**

IN THE MATTER OF:

SATYANARAYAN RAO

... APPELLANT

VERSUS

UNION OF INDIA AND ORS.

... RESPONDENTS

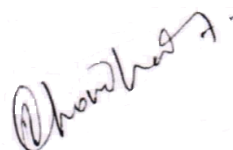
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DATE: 22.09.2022

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

I.A. NO. 186 OF 2022

IN

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**REJOINDER ON BEHALF OF THE APPELLANT TO THE REPLY
FILED BY RESPONDENT NO 2, M/S VEDANTA LIMITED.**

MOST RESPECTFULLY SHOWETH:

1. The Application for the condonation of delay has been filed in the above-mentioned Appeal under Section 16(h) of the National Green Tribunal Act, 2010 against the grant of Environmental Clearance dated 05.05.2022 granted by the Ministry of Environment, Forest and Climate Change to M/s Vedanta Limited (hereafter referred as '**project proponent**') for the expansion of Aluminium Smelter Production Capacity from 16 LTPA to 18 LTPA, CPP capacity located at village Bhurkamunda, District Jharsuguda, Odisha.
2. That the instant Rejoinder is being filed in response to the Reply filed by Respondent No. 2 i.e., M/s Vedanta Limited filed vide affidavit dated 17.09.2022. At the outset, the Applicant deny various statements which have been made and nothing should be assumed to be admitted unless specifically admitted or is part of the record. The Applicants reiterates all the facts and

submissions made in the Application to be true and correct and the same may be read as part of the instant rejoinder and are not all being repeated for the sake of brevity.

3. That the main contentions which needed to be re-joined are as follows: -

- i. Environmental Clearance was granted on 5th May, 2022 and the same was uploaded for public information by MoEFCC on Parivesh Portal least by 5th May, 2022. Therefore, EC was publicly available from 5th May, 2022 for perusal to the general public.
- ii. EC was published on an English Newspaper 'Orissa Post' and on a vernacular newspaper 'Samaj' on 11th May, 2022.
- iii. Applicant is the president of self-proclaimed organization called 'Anchalik Paribesh Surakhya Sanga' which pretends to be an organization for protection of environment but in reality, is a vehicle for blackmailing legitimate business and deriving undue benefits from legally operating industries by misusing and misleading various legal forum.
- iv. Facebook posts of the Applicant on 18th December, 2021 shows he was aware of each and every single development.
- v. As held by Tribunal, in judgment dated 19.08.2022 in R. Sreedhar that it is the behaviour of the litigant to seek condonation of delay in approaching the court and hence needs to be examined.
- vi. No proof of public discussion as contented by the Applicant has been placed on record.

4. Rejoinder on Behalf of the Applicant to the Reply filed by Respondent No. 2, M/S Vedanta Limited:

- i. That the contents in Para No. 5(b) of the reply are denied except which are matter of record. It is further denied that the Environmental Clearance dated 5th May, 2022 uploaded for public information by MoEFCC on Parivesh Portal least by 5th May, 2022, therefore, EC was publicly available from 5th May, 2022 for perusal to the general public. The Applicant submits that the contention raised here is incorrect as the Environmental Clearance was not immediately uploaded in the Parivesh Portal, since, the Applicant couldn't locate the Environmental Clearance, he then decided to file an RTI Application dated 23.05.2022 before the Public Information Officer, Collectorate, Jharsuguda and thereafter received the RTI response vide letter dated 26.05.2022 along with the copy of the EC letter dated 05.05.2022 granted to the M/s Vedanta Ltd. It is therefore submitted that the communication of the copy of the EC can only be considered on 26.05.2022 when the copy was received through RTI response. It is further pertinent to note that Respondent No. 2 has annexed the screenshots evidencing the public availability and accessibility of the EC on Parivesh Portal as Annexure A, the Applicant in this regard submits that the screenshot taken is of the present date when the EC has been made available in the Portal and hence it cannot be contended that EC was available from the 5th May, 2022 for perusal to the general public.

- ii. The contents of Para 5(d) of the reply are denied except which are matter of record. Respondent No. 2 stated that EC was published on an English Newspaper 'Orissa Post' and on a vernacular newspaper 'Samaj' on 11th May, 2022. In this regard, the Applicant submits that the size of the notice is very small cannot be noticed at first. The idea of publishing the notice is to inform the general public about the fact of grant of clearance and also the contents of the clearance condition. It is submitted that as per Para 10(i)(a) of the EIA Notification, 2006 for Category 'A' project, it shall be mandatory for the project proponent to make public the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by advertising it in at least two local newspapers of the district or state where the project is located. Therefore, as per the requirement under the Para 10(i)(a) of the EIA Notification, 2006 the project proponent was required to publish the conditions imposed in the clearance letter also. The Applicant submits that the Annexure C of the Reply clearly shows that the environmental clearance granted for their project which was published lacks the environmental conditions thereof.
- iii. That the contention raised in Para 5(l) of the reply are denied except which are matter of record. The Applicant is the President of an environmental organisation called "Anchalik Paribesh Surakhya Sangh" which solely works on the protection and conservation of forest and environment and further

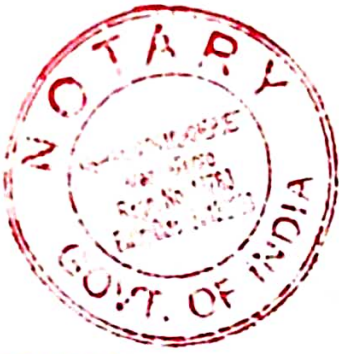
works in favour of the local communities and hence it is completely an incorrect and wrongful statement by Respondent No. 2 that the organisation is a vehicle for blackmailing legitimate business and deriving undue benefits from legally operating industries by misusing and misleading various legal forum. It is the respondent's unit which is polluting the area by not complying the environmental norms. In this regard, the Applicant submits that the project proponent has been a defaulter in the past as well. It is pertinent to note that in an earlier matter filed against the project proponent titled *Sri Ajit Kumar Dhal vs. State of Odisha (Original Application 10 of 2021)*, where this Hon'ble Tribunal recorded that 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 and directed that:

"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), 38 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."

- iv. The contention raised in Para 5(m) of the reply are denied. The Respondent No. 2 states that the Facebook posts of the Applicant on 18th December, 2021 shows he was aware of each and every single development and his ignorance of the EC and the resulting delay is in-correct and false. In this regard it is submitted that the Applicant at any stage has not denied his awareness about the expansion of the project and any developments thereto. However, he was not aware on the date of grant of clearance that It is pertinent to point out that the Environmental Clearance granted on 05.05.2022 was not immediately posted on the Parivesh Portal, hence he did not have any access to the same. Therefore, he moved an RTI Application dated 23.05.2022 before the Public Information Officer, Collectorate, Jharsuguda and thereafter received the RTI response *vide* letter dated 26.05.2022 along with the copy of the EC letter dated 05.05.2022 granted to the project proponent. It is then when he had the access to the Environmental Clearance.
- v. The contention raised in Para 5(s) is completely denied. Respondent No. 2 here stated that it is the behaviour of the litigant to seek condonation of delay in approaching the court. The Applicant here submits that the delay here is not deliberate on the part of the of the Applicant and hence it needs to be condoned in the interest of justice.
- vi. The contentions raised in Para 11 of the reply is denied. The Respondent No. 2 raised the contention

that the project is not likely to cause air, water and land pollution. In this regard, the Applicant submits that the Hon'ble Tribunal in Original Application No. 10 of 2021 *vide* order dated 06.05.2022, has recorded that 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. The Applicant here submits that despite specific direction from this Hon'ble Tribunal, in Original Application No. 10 of 2021 of the Hon'ble Tribunal *vide* order dated 06.05.2022, the illegal disposal of fly ash in the agricultural lands continues persistently thereby damaging the crops and completely degrading the fertility of the land. The images of the present violations showing the illegal dumping of large-scale fly ash has been annexed as Annexure A/5 in the Appeal. Thus, it is completely incorrect to say that the project is not likely to cause air, water or land pollution. It further submitted that the Applicant herein had a detailed discussions on the issue of illegal disposal of fly ash resulting large-scale of crop damage. The Applicant submits that oral and verbal discussion took place while deciding to move ahead with the filing of the present petition and hence there is no specific minutes documented in this regard.

- vii. It is stated that in view of the abovementioned facts and circumstances the prayer in the Application may very kindly be allowed as the delay here is not deliberate on the part of the of the Applicant and hence it needs to be condoned in the interest of justice.



21 SEP 2022

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA

I.A. NO. 186 OF 2022

IN

APPEAL NO. 24 OF 2022

IN THE MATTER OF:

SATYANARAYAN RAO

... APPLICANT

VERSUS

UNION OF INDIA AND ORS.

... RESPONDENTS

AFFIDAVIT

I, Satyanarayan Rao, S/o Late Kurma Rao, aged about 49 years, R/o Milan Market, OMP Lane, Jharsuguda, District Jharsuguda – 768204, Odisha, do hereby solemnly affirm and state as under:

1. I am the Applicant in the above titled Interlocutory Application and conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.

BISHWANATH MUKHERJEE
NOTARY
Govt. of India
Regd. No.- 13783

21 SEP 2022

Satyanarayan Rao
DEPONENT

VERIFICATION

Verified on this 21st day of Sept 2022 that the contents of the above-mentioned Affidavit are true and correct and nothing material has been concealed therefrom.

(21.09.2022)

BISHWANATH MUKHERJEE
NOTARY
Govt. of India
Regd. No.- 13783

21 SEP 2022

Satyanarayan Rao
DEPONENT

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
VAKALATNAMA
Appeal No.24 of 2022**

Satyanarayan Rao

... Appellant

V E R S U S

Union of India & Ors

... Respondent

KNOW ALL to whom these present shall come that I/We the above named _____ do hereby appoint (herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him :-

**Ritwick Dutta Rahul Choudhary, Kaustav Dhar, Advocate
N-73, Lower Ground Floor, Greater Kailash-i, New Delhi**

To act, appear and plead in the above-noted case in this Court or in any other Court the same may be tried or heard and also in the appellate Court including High Court payment of fees separately for each Court by me/ us. To sign, file verify and present appeals cross objections or petitions for execution review, revision, withdrawal, and other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case. To take execution proceedings. The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case. To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate, which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 22th day of September 2022.
Accepted subject to the terms of fees.

Kaustav Dhar

Advocate

Client

Satyanarayan Rao

Client

