

**IN THE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE BENCH, CHENNAI**

IN

Appeal No. 01 of 2018

IN THE MATTER OF: -

Voice of Nature

.... Appellant

VERSUS

Union of India & Ors.

.... Respondents

MEMO FILED ON BEHALF OF THE 1ST RESPONDENT

This Memo is filed on behalf of the 1st Respondent Ministry of Environment, Forest, and Climate Change:

1. The facts pertaining to the case at hand are reduced into the following timeline of dates and events:

About the Project	M/s Asian Paints Limited, approached the answering respondent for the grant of Terms of Reference (ToR) dated 27 th April, 2017 with proposal no. IA/TN/IND2/63895/2017. The proposal was for expansion of Synthetic organic chemicals, Pentaerythritol from 560 TPM to 730 TPM and Sodium Formate from 336 MTM to 480 MTM. It is further submitted that this project/activity is covered under category B of item 5(f) 'Synthetic organic chemicals industry' of the schedule of the Environmental Impact Assessment Notification, 2006 and requires appraisal at State Level.
OM dated 20.05.2016 and 25.11.2016	OM issued wherein Moratorium on consideration of projects for environmental clearance was lifted
ToR issued by MoEF dated 15.12.2017	ToR was issued to the Project Proponent, the following terms is relevant: Paragraph 8 of the Terms of Reference clearly stated that " <i>You are required to submit the final EIA/ EMP report prepared by the consultants accredited with the Quality Council of India/National Accreditation Board of Education and Training (QCI/NABET), to the State Environment Impact Assessment Authority (SEIAA) for grant of Environmental Clearance,</i>

	<i>within 3 years as per the Ministry's OM No. J- 1 1013 /4t 12006-1A.11(t) dated 8th October, 2014."</i>
25.01.2018	EIA Report submitted by the Project Proponent to SEIAA
24.02.2018	Report of Project Proponent was placed before the 103 rd Meeting of the SEAC – SEAC decided to make an inspection
03.03.2018	Inspection by technical team
12.03.2018	Inspection Report submitted by Technical team
	Proponent submitted Additional particulars/proposals as requested to be furnished by the inspection team
19.03.2018	Inspection Report and additional particulars as furnished by the project proponent were placed before 104 th Meeting of the SEAC
16.04.2018	268 th SEIAA Meeting – Authority called for certain additional details
24.04.2018	291 st SEIAA Meeting – Decided to issue EC with terms and conditions
24.04.2018	EC issued

2. As per the above Appellant the following provision of the EIA Notification, 2006 is attracted since the project is located in SIPCOT Industrial Complex in Cuddalore District of Tamil Nadu:

“

V(xvii) “General Condition (GC):

Any project or activity specified in Category ‘B’ will be treated as Category A, if located in whole or in part within 10 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as identified by the Central Pollution Control Board from time to time, (iii) Eco-sensitive areas as notified under section 3 of the Environment (Protection) Act, 1986, such as, Mahabaleshwar Panchgani, Matheran, Pachmarhi, Dahanu, Doon Valley, and (iv) inter-State boundaries and international boundaries:

”

3. The exercise of classification an area to be Critically Polluted Area/Severally Polluted Area depends on the CEPI Score, which is calculated taking into account various

environmental factors. As per the CPCB guidelines for classification the following classes as created based on the CEPI Score (Annexure I, Typed Set of Papers):

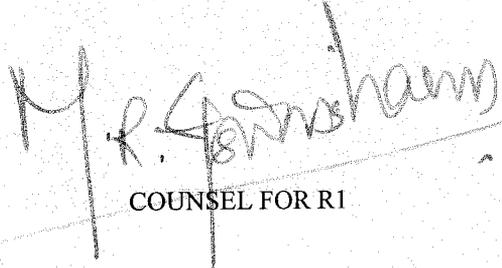
Industries are growing at common centres/estates/parks as the resources, manpower, transportation and marketing are feasible. Generally medium and small scale industries are developed at such areas and form industrial clusters. Due to lack of awareness and ignorance of waste management technologies, environmental pollution has been resulted to the surrounding environment. So, such industrial areas have to be assessed for improving the quality of the environment.

With this objective CPCB developed Comprehensive Environmental Pollution Index (CEPI) to find out an Index value to characterise quality of the environment. In 2009, 88 prominent industrial clusters were identified in consultation with the MoEF&CC for CEPI analysis. Out of identified 88 prominent industrial clusters, 43 industrial clusters in 17 States having CEPI score of 70 and above are identified as Critically Polluted Areas (CPAs). Further, 32 industrial clusters with CEPI scores between 60 & below 70 are categorized as Severely Polluted Areas (SPAs).

4. As on date of grant of ToR by the MoEF i.e., 15.12.2017, the CEPI Score was 62.56 as per the Evaluation Of CEPI Score & Action Plan For CEPI Area Of Sipcot Industrial Complex, Cuddalore submitted in January, 2020 (Evaluation Of Cepi Score & Action Plan For Cepi Area Of Sipcot Industrial Complex, Cuddalore, Report By Tamil Nadu Pollution Control Board, Annexure III, Page 59, Typed Set of Documents). Therefore, the area would be categorized as a Severally Polluted Area.
5. According to General Provision V(xvii) in EIA Notification, 2006, *Category 'B' will be treated as Category A, if located in whole or in part within 10 km from the boundary of:*
 - (ii) *Critically Polluted areas as identified by the Central Pollution Control Board from time to time. Therefore, seeing as the CEPI Score of the SIPCOT Industrial Complex in Cuddalore was much below the cut off of 70, the MoEF applying their mind and wisdom had directed the Project Proponent to submit the EIA/EMP Report to TN SEIAA for consideration and grant of Environmental Clearance.*

6. Taking into consideration the above along with the added fact as on date the SPICOT Industrial Complex Cuddalore is classified as a Severally Polluted Area as per CPCB norms, if adverse orders against the Project Proponent are issued they would be constrained only to approach the TN SEIAA again for grant of EC. Therefore if the relief as prayed for is granted it would only be inane and against the principle "*Justice must not only be done, but must also be seen to be done*"

Dated at Chennai on 8th day of September, 2021


COUNSEL FOR R1