

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI**

ORIGINAL APPLICATION NO. 174 OF 2020 (SZ)

IN THE MATTER OF:

Banothu Nandu Nayak ...Applicant
Versus
The Singareni Collieries Company Ltd. & Ors. ...Respondents

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Place:

Dated:

Respondent No.2

Through

Ms. M.E. Sarashwathy Meyappan
(Advocate for the Respondent No.2)



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डॉ. इ. आरोकिया लेनिन/Dr. E. Arockia Lenin
वैज्ञानिक 'सी'/Scientist 'C'
उप निदेशक/Deputy Director
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय
Ministry of Environment Forest & Climate Change
एकीकृत क्षेत्रीय कार्यालय, हैदराबाद-500
Integrated Regional Office, Hyderabad

IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI

ORIGINAL APPLICATION NO. 174 OF 2020 (SZ)

IN THE MATTER OF:

Banothu Nandu Nayak ...Applicant
Versus
The Singareni Collieries Company Ltd. & Ors. ...Respondents

**WRITTEN SUBMISSION ON BEHALF OF RESPONDENT NO. 2, UNION
OF INDIA |MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE
CHANGE**

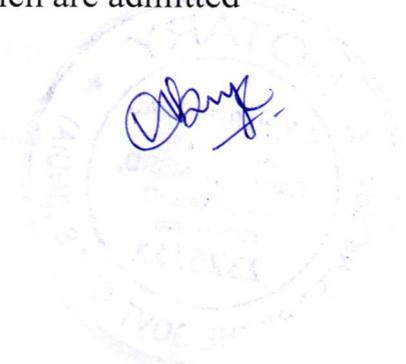
I, Dr. E. Arockia Lenin aged about 34 years, S/o Emanuvel currently working as Scientist 'C' in the Ministry of Environment, Forest & Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi-110003 do hereby solemnly affirm and state on oath as follows:

MOST RESPECTIFULLY SHOWETH:

1. That I am Dr. E. Arockia Lenin, Scientist 'C' in the Ministry of Environment, Forest & Climate Change, Government of India (hereinafter referred to as 'MoEF&CC') and as such I am conversant with the facts and circumstances of the case and I have been authorized to file the Written Submission on behalf Union of India Respondent No. 2 herein.
2. That I have read and understood the content of Application under reply and I deny each and every averment made therein except those which are admitted



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expressly by the deponent. The averment which are not denied may be deemed to have been denied by the deponent.

3. It is submitted that the present Application has been filed on account of environmental issues arising out of Opencast Coal mining activities done at Jalagam Vengal Rao Opencast Project, a Coal Mining Project, operated by Singareni Collieries Company Ltd. adjoining to the residential colony i.e., NTR Nagar in Sattupally of Khammam district of Telangana. The applicant has alleged that severe noise, air, water pollution has been caused due to massive blasting, drilling, and extraction of coal in the Opencast Mine. Further, it has also been alleged that several houses got damaged due to the mining activity and safety of the residents of those houses is in danger.

4. It is submitted that the Applicant has raised the following contentions:

- i. That the Singareni Collieries Company Ltd. failed to implement the mandatory conditions and pollution control measures during the mining activity.
- ii. That the Singareni Collieries Company Ltd. has violated the Environment Protection Act, 1986, Air Act, Water Act and Environment conditions imposed by MoEF&CC.
- iii. That there has been massive air, noise, soil pollution besides heavy heat due to high density blasting, drilling, transportation of coal, exposing the black surface to the sun.
- iv. That besides pollution, which has been causing health hazards for the residents, several houses (ceiling and walls) have got damaged due to mining activity and safety of the people residing in those houses is in danger.



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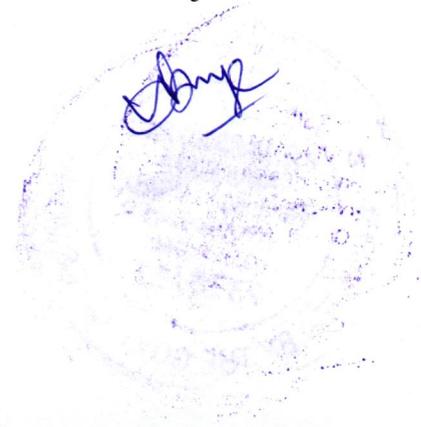
5. It is submitted that the applicant seeks the following reliefs based upon the contentions mentioned above:

- i. *Appoint an independent Expert Committee to verify the allegations raised in the present Application.*
- ii. *Direct the MoEF&CC, TSPCB to take appropriate action for violations committed and loss caused.*
- iii. *Direct the District Collector to enumerate and assess the loss caused by Respondent No. 1 for restoring it to normalcy or providing housing scheme to the damaged houses as per State Government Policy.*
- iv. *Direct the Respondent No. 1, State of Telangana and District Collector to setup health centre under Corporate Social Responsibility at NTR Nagar Colony of Sattupally of Khammam district to provide free health facilities as per office Memorandum No. 3 – 11013/25/2014 – IA. I, dated 11.08.2014 of MoEF&CC.*
- v. *Direct the MoEF&CC to file an action taken report on the violations recorded in the Minutes of 8th meeting of EAC dated 13th & 14th June, 2018 for passing appropriate orders.*

6. It is submitted that, MoEF&CC vide letter no. J-11015/240/2003-IA.II (M) dated 16.09.2004 granted Environmental Clearance (hereinafter referred to as 'EC') for Sathupally Opencast Project-I for production of coal at a rated capacity of 0.7 MTPA in a lease area of 410.58 ha to M/s Singareni Collieries Company Ltd. (hereinafter referred as 'M/s SCCL'). Subsequently, the project was renamed as Jalagam Vengal Rao Opencast-I Coal Mine Project (hereinafter referred to as 'JVR OCP-I').



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Thereafter, the MoEF&CC vide letter no. J-11015/301/2007- IA.II (M) dated 17.07.2007 granted EC for the expansion of JVR OCP-I (from 0.70 MTPA to 2.0 MTPA with a peak production of 2.50 MTPA and increase in lease area from 410.58 ha to 547.08 ha) to M/s SCCL located in Village Ayyagaripeta, Mandal Sathupally, District Khammam, Andhra Pradesh (Presently in the State of Telangana), under the provisions of Environment Impact Assessment Notification, 2006 subject to the implementation of environmental conditions and safeguards contained therein.

Copy of the EC Letter dated 27.07.2007 is annexed herewith and marked as **Annexure R/2-1**.

7. It is submitted that, MoEF&CC vide letter no. J-11015/268/2007-IA.II (M) dated 28.03.2010 granted another EC for Jalagam Vengal Rao Opencast-II Coal Mine Project (**hereinafter referred to as 'JVR OCP-II'**) for 4MTPA Normative and 5 MTPA peak in a project area of 1409.81 ha. to M/s SCCL under the provisions of Environment Impact Assessment Notification, 2006 subject to the implementation of environmental conditions and safeguards contained therein. The JVR OCP-II coal mine is located adjacent to JVR OCP-I coal mine.

Copy of the EC Letter dated 28.03.2010 is annexed herewith and marked as **Annexure R/2-2**.

8. It is pertinent to mention that M/s SCCL submitted proposal for JVR OCP-I expansion (from 2 MTPA to 4.50 MTPA) for grant of Terms of Reference (hereinafter referred to as 'ToR') on 07.09.2013.



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In this regard, it is pertinent to mention that the Integrated Regional Office, Bangalore dated 19.08.2013, reported that the coal production was exceeded by M/s SCCL beyond the approved/sanctioned capacity. Consequently, the MoEF&CC communicated to the State Government of Telangana vide letter dated 16.12.2013 to initiate credible action for the violation under Section 15 of the Environment Protection Act, 1986 and submit an action taken report on this aspect. Meanwhile, the MoEF&CC communicated to M/s SCCL, vide letter dated 17.12.2013, that the proposal for ToR dated 07.09.2013 stands closed and delisted. No communication, thereafter, was received from the State Govt. of Telangana regarding compliance to MoEF&CC letter dated 16.12.2013.

Copy of letters dated 16.12.2013 & 17.12.2013 is annexed as **Annexure R/2-3 and Annexure R/2-4** respectively.

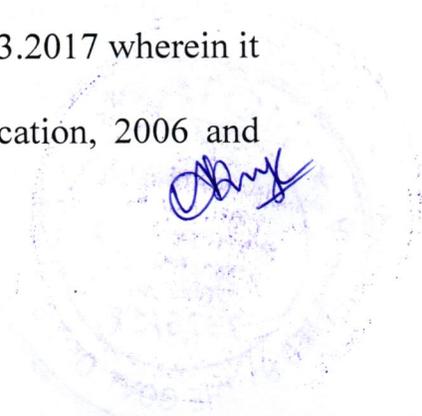
9. Thereafter the M/s SCCL again submitted proposal for JVR OCP-I expansion (from 2 MTPA to 5 MTPA) for grant of ToR on 11.07.2017. Meanwhile, the MoEF&CC issued a notification vide S.O. 804 (E) dated 14.03.2017 in order to streamline the projects involving violation of EIA Notification, 2006 during a specified time-window to appraise the projects that have not taken prior EC in terms of EIA Notification, 2006 amended from time to time.

The copy of Notification dated 14.03.2017 is annexed as **Annexure R/2-5**.

10. That the deliberations took place for the said proposal by the Expert Appraisal Committee (EAC) in their minutes of 8th meeting dated 13.06.2018 in terms of the provisions of the MoEF&CC Notification dated 14.03.2017 wherein it confirmed the case to be of violation of the EIA Notification, 2006 and



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recommended ToR subject to specific terms of reference being under violation category. Some of the significant specific terms of reference are mentioned below:

“i. The State Government/SPCB to take action against the project proponent under the provisions of section 19 of the Environment (Protection) Act, 1986 and further no consent to operate to be issued till the project is granted environmental clearance.

ii. The project proponent shall be required to submit a bank guarantee equivalent to the amount of remediation plan and natural and community resource augmentation plan with the SPCB prior to grant of EC.”

The copy of 8th Minutes of meeting dated 13.06.2018 is annexed as **Annexure R/2-6**.

11. It is submitted that based on recommendations of the EAC and in pursuance of the provisions of the Notification dated 14.03.2017, the MoEF&CC accorded approval for ToR to JVR OCP-I expansion on 08.08.2019. Further, based on recommendations of the EAC and the Office Memorandum dated 30.05.2018, the MoEF&CC directed the M/s SCCL/project proponent to pay the compensation against the illegal mining, if any, in terms of the order dated 02.08.2017 of the Hon'ble Supreme Court in WP (Civil) No. 114/2014 in the matter of 'Common Cause vs. Union of India & Ors.

The copy of ToR Letter dated 08.08.2019 is annexed as **Annexure R/2-7**.

12. It is submitted that the M/s SCCL requested for grant of EC vide online proposal no. IA/TG/CMIN/152625/2017 dated 02.07.2020 for JVR OCP-I



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expansion. The proposal was considered by the EAC in its minutes of 35th meeting held on 07.08.2020 wherein the EAC noted that M/s SCCL has submitted 26 crores rupees towards Remediation plan (Rs. 678.00 lakhs), Natural Resource Augmentation plan (Rs 506.00 lakhs) and Community Resource Augmentation Plan (Rs 1442.00 lakhs). EAC, after detailed deliberation on the information submitted by the M/s SCCL, deferred the project for want of certain information.

The EAC, after deliberation on the requisite information submitted by the M/s SCCL on 22.09.2020, recommended the proposal for grant of EC subject to the compliance of following specific conditions in addition to all standard conditions applicable for such projects:

“

- i. *Total budgetary provision with respect to Remediation plan and Natural & Community Resource Augmentation plan is Rs. 2667.00 lakhs. Therefore, project proponent shall be required to submit a bank guarantee of an amount of Rs. 2667.00 lakhs towards Remediation plan and Natural and Community Resource Augmentation plan with the SPCB prior to the grant of EC.*
- ii. *Remediation plan shall be completed in 3 years whereas bank guarantee shall be for 5 years. The bank guarantee will be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after the recommendation by regional office of the Ministry, Expert Appraisal Committee and approval of the Regulatory Authority.*



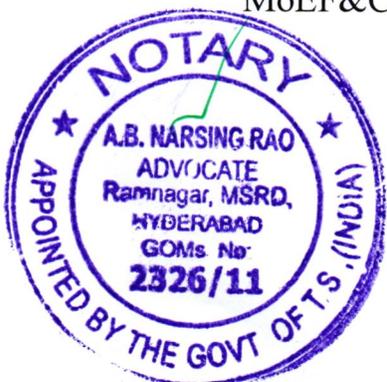
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- iii. *State Government concerned shall ensure that mining operation shall not commence till the entire compensation levied, if any, for illegal mining paid by the Project Proponent through their respective Department of Mining & Geology in strict compliance of judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors.*
- iv. *The Environmental Clearance will not be operational till such time the Project Proponent complies with all the statutory requirements and judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors.*
- v. *Fund allocation for Corporate Environment Responsibility (CER) of Rs. 1.05 crore to be implemented as per the details submitted to the Ministry and to be spent in three years.*
- vi. *Effective dust suppression system shall be adopted at the transportation site and in the other parts of the mining lease to arrest the fugitive dust emission."*

The copy of 35th minutes of meeting dated 07.08.2020 and 36th minutes of meeting dated 22.09.2020 is annexed as **Annexure R/2-8** and **Annexure R/2-9** respectively.

13. Thus, based on the aforementioned recommendations of the EAC, the MoEF&CC accorded EC to the proposal of JVR OCP-I expansion on



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01.02.2021 subject to the compliance of terms and conditions for environment safeguards.

The copy of EC dated 01.02.2021 is annexed as **Annexure R/2-10**.

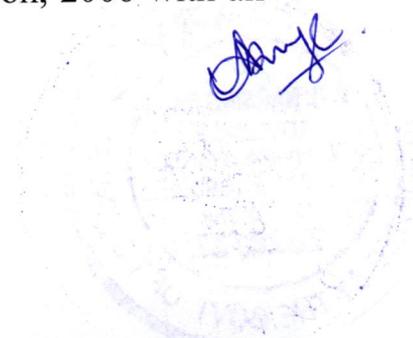
14. It is submitted that the M/s SCCL vide online proposal no. IA/TG/CMIN/196357/2021 dated 05.02.2021 submitted to MoEF&CC for grant of amendment in EC dated 28.03.2010 for JVR OCP-II (another mine) w.r.t. specific condition at 2(A)(viii) regarding '*no coal transportation shall be undertaken by road*'.

Earlier, keeping in view the delay in progress of railway line works, M/s SCCL requested MoEF&CC to extend the validity period of modification to enable transport of coal by road mode for a further period of two years. The proposal was considered by EAC in its minutes of 47th meeting held on 22.08.2019 and observed non-compliance of EC conditions. The MoEF&CC after deliberation on the recommendation of EAC sought clarification from the M/s SCCL. In response to the clarification, the M/s SCCL vide Letter No. CRP/ENV/A/405/698 dated 19.10.2020 submitted the status of progress of railway line works and requested to extend the validity period of modification to enable transport of coal by road mode up to March, 2022, considering the existing pandemic Covid19. Subsequently, the M/s SCCL apprised the EAC on status of compliance and after detailed deliberations by the EAC, considering the advance status of implementation of railway line, it recommended the proposal in minutes of 8th meeting on 11.02.2021 for grant

of amendment in EC to JVR OCP-II as per EIA Notification, 2006 with all



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the conditions stipulated in EC dated 28.03.2010 and subject to additional conditions as mentioned below for environment safeguards:

“

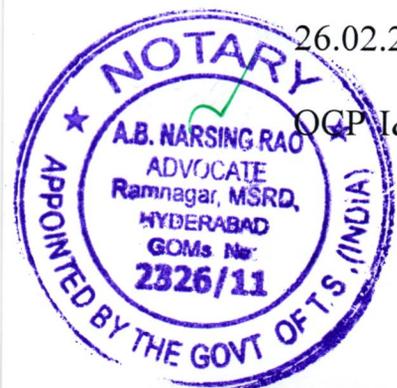
- i. *PP shall transport coal by road mode with covered tarpaulin only up to December 31st 2021.*
- ii. *PP shall comply with the judgment/orders of the two NGT cases Case No. O.A. 174 of 2020 (SZ), dt: 08.09.2020 - Basing on a complaint received from Sri Banothu Nandu Nayak, R/o Sathupally in regard to environmental violations and damage caused to houses by SCCL in operation of JVR Opencast mines. 2. Case No. O.A.No.20 of 2021(SZ) , dt:27.01.2021 -Basing on a complaint received from Sri Oggu Srinivasa Reddy, R/o Sathupally and another in regard to violation of environmental conditions by SCCL in operation of JVR OCP-II.”*

The copy of 47th minutes of meeting dated 22.08.2019 and 8th minutes of meeting dated 11.02.2021 are annexed as **Annexure R/2-11** and **Annexure R/2-12** respectively.

15. Thus, based on the aforementioned recommendations of the EAC, the MoEF&CC accorded amendment in EC to JVR OCP-II on 19.04.2021 subject to the compliance of terms and conditions for environment safeguards.

The copy of EC dated 19.04.2021 is annexed as **Annexure R/2-13**.

16. It is submitted that the M/s SCCL submitted another proposal dated 26.02.2021 for grant of EC regarding amalgamation of two mines i.e. JVR OCP I&II (from 4 / 5 MTPA (Normative/ Peak) to 10 MTPA (Peak) with



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setting up of coal washery of 4 MTPA capacity in ML Area of 1953.46 ha. The EAC examined the said proposal in 10th minutes of meeting held on 22.03.2021 and after detailed deliberations, deferred the proposal based on certain observation which are reproduced hereunder:

“

- i. *PP shall submit Past Production details of both the said mines since inception of mine duly authenticated by departments of Mine and Geology Government of Telangana or from Coal Controller vis-à-vis CTO.*
- ii. *Fresh certified compliance report from Ministry's Regional Office shall be obtained and accordingly also submit action taken report of both the ECs (JVR- OC I and JVR OC II).*
- iii. *PP should submit details of control blasting with adequate safeguard for nearby people.*
- iv. *PP should conduct Noise and vibration monitoring in nearby habitation/villages during day and night for 1 month.*
- v. *PP should submit the fund allocated for green belt development with proper timeline. PP should submit the detailed plan in tabular format (year-wise for life of mine) for afforestation and green belt development in and around the mining lease. PP should show on a surface plan (5-year interval for life of mine) of suitable scale the area to be covered under afforestation & green belt clearly mentioning the latitude and longitude of the area to be covered during each 5 years.*



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- vi. *PP shall study the impact Assessment and its mitigation measures w.r.t. proposed road route on receptors for environment parameters as per Ambient Air Quality standards.*
- vii. *Ministry shall form the EAC Subcommittee to conduct site visit to analyse the prevailing condition of the current scenario and implementation of measures approved by Ministry while granting EC dated 1st February, 2021 regarding Remediation plan and Natural and Community Resource Augmentation Plan.”*

The copy of 10th minutes of meeting dated 22.03.2021 is annexed as **Annexure R/2-14**.

17. It is submitted that the EAC, after detailed deliberation, observed in 16th minutes of meeting on 22.07.2021 that the M/s SCCL has presented satisfactory detail during the meeting. The EAC discussed the comments, recommendations & related issues of the instant application filed before this Hon'ble Tribunal against the M/s SCCL with the Project authorities and found that the damage to the property of the villagers located nearby was the major issue. In this regard, the EAC was of the view that it should optimize the blasting technique to minimize the damages occurred to the nearby by locations and directed to follow the recommendations of committee formed by this Hon'ble NGT in the instant matter.

Further, it was observed that instant proposal for amalgamation wherein mine void of JVR OCP-I will be used for dumping of OB generated from expanded capacity which will reduce the usage of virgin land for dumping. Thereafter, the EAC recommended for grant of EC for JVR OCP- I & II amalgamation



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with setting up of coal washery by M/s SCCL under the provisions of EIA Notification, 2006 and its amendments therein, with specific conditions for environmental safeguards. Some of the significant specific conditions are mentioned hereunder:

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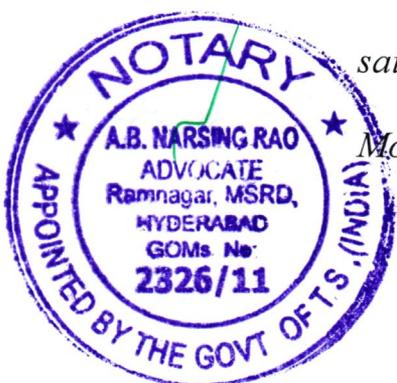
- i. *All the conditions mentioned in EC dated 27th July, 2007 for JVR-OC I and 28th March, 2010 and 1st February, 2021 should be strictly complied within certain timeframe and shall be read with instant EC. (Refer specific condition no. i)*
- ii. *Transportation of coal from Coal Handling Plant shall be through mechanized covered trucks for 2 years. No transportation by trucks after 2 years and proposed railway siding should be constructed within 2 years of mine operations. (Refer specific condition no. iii)*
- iii. *PP shall employ appropriate measure to control the environmental impacts of blasting such as noise, vibration, air blast etc. Use of state of the technology solution for design and simulation of each blast is strongly recommended to minimize the environmental impacts of blasting. PP should as far as possible maintain a distance of 500 m from the blasting point to the nearby habitation. (Refer specific condition no. xvi)*
- iv. *Project Proponent shall explore deployment of rock breakers of suitable capacity in the project to avoid blasting very near to villages. There shall be no damages caused to habitation/structures due to blasting activity. (Refer specific condition no. xxi)*



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- v. PP shall pay to farmers of agricultural land if there is any loss and for cracks in the house due to blasting found by concerned District Commissioner as per extent rules or norms. **(Refer specific condition no. xxiv)**
- vi. PP shall strictly comply the judgement of Hon'ble NGT in the matter of OA. 174 of 2020 and OA 20 of 2021 as and when judgment is pronounced. **(Refer specific condition no. xxv)**
- vii. PP shall complete all the activity listed in Remediation plan and Natural and Community Resource Augmentation plan with three years and before the expiry of mining lease (valid upto 22nd March, 2025) as stipulated in EC dated 1st February, 2021. **(Refer specific condition no. xxviii)**
- viii. Hon'ble Supreme Court in an Writ Petition(s) Civil No. 114/2014, Common Cause vs Union of India & Ors vide its judgement dated 8th January, 2020 has directed the Union of India to impose a condition in the mining lease and a similar condition in the environmental clearance and the mining plan to the effect that the mining lease holders shall, after ceasing mining operations, undertake re-grassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc. Compliance of this condition after the mining activity is over at the cost of the mining lease holders/Project Proponent". The implementation report of the above said condition shall be sent to the Regional Office of the MoEF&CC. **(Refer specific condition no. xxix)**"



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The copy of 16th minutes of meeting dated 22.07.2021 is annexed as **Annexure R/2-15**.

18. Thus, based on the aforementioned recommendations of the EAC, the MoEF&CC accorded EC for Expansion of Jalagam Vengala Rao Opencast Mine (JVR OCP I&II Amalgamation + Expansion + 26.39 ha area) from 4 / 5 MTPA (Normative/ Peak) to 10 MTPA (Peak) with setting up of coal washery on 11.10.2021 subject to the compliance of terms and conditions for environment safeguards.

The copy of EC dated 11.10.2021 is annexed as **Annexure R/2-16**.

19. It is submitted that the Integrated Regional Office, Hyderabad vide letter dated 23.06.2021 has submitted the latest Certified Compliance Report of the JVR OCP I & JVR OCP II.

The copy of Certified Compliance Report of the JVR OCP I & JVR OCP II dated 23.06.2021 is annexed as **Annexure R/2-17** and **Annexure R/2-18**.

20. Further, the Hon'ble NGT (SZ), Chennai in the present matter constituted a Joint Committee vide order dated 08.09.2020 in order to ascertain the contentions of the instant application and submit a report accordingly. The nodal agency of the Committee (Integrated Regional Office of MoEF&CC at Chennai) submitted a combined Joint Committee report on 03.09.2021 before the Hon'ble Tribunal. For the sake of brevity the said Joint Committee Report is not being annexed as it has been filed already before the Hon'ble Tribunal.

The significant conclusion and recommendations drawn by the Committee in the said report are the following:



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- i. *Though there is no blast induced vibrations are detected at the NTR Nagar on the day of present site inspection, it appears that the alleged damage of the houses might have been attributed due to combined effect of the inadequate civil structure of the houses and the nearby blasting operations in the past. In either of the case, the residents are not responsible for the said damages and thus on humanitarian ground the Committee recommends for the grant of suitable relief to the damaged house of the applicant as well as other such damaged houses in the three villages namely NTR Nagar, Jalgam Vengal Rao Nagar and Rejarla village by meeting the fund requirement either from the District Mineral Fund (DMF) or the project authority or any other means as direct by the Hon'ble NGT. [Refer para no. 1 (i)]*
- ii. *Based on the study undertaken EAC recommended for an amount of Rs.26,67,00,000/- (rupees twenty six crores and sixty seven lakhs) towards implementation of remediation plan and natural and community resource augmentation plan which appears to be covered various impacts / damage attracted due to excess production and also profit gained on account of excess production. Further, the amount arrived by the MoEF&CC is higher than the Environmental Compensation (EC) arrived based on the methodology prescribed by the CPCB. [Refer para no. 3 (vii) (e)]*
- iii. *Hon'ble NGT in the Order dated 12.07.2021 directed the Committee to revisit the aspect of green belt developed, survival rate and the remedial action taken by the project authority, if any. In this regard*



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Project authority informed that M/s SCCL is having dedicated qualified forestry Officers to oversee the plantation program. Further, Project authority is having their own nursery. [Refer para no. 5]

iv. *During the visit of the Committee, it has been observed that Project Authority has taken adequate precautionary measures to maintain the AAQ, water quality and noise level within the prescribed level. [Refer para no. 6]”*

21. It is submitted that the project in question has been regularized in terms of notification dated 14.03.2017 and as per the latest Certified Compliance Report dated 23.06.2021, no case of non-compliance of EC conditions has been observed. Moreover, w.r.t. excessive coal production under EC violation, the project authority has already submitted a bank guarantee for Rs. 26.67 crores to TSPCB, Hyderabad which is being utilized to implement the remediation plan and natural and community resource augmentation plan as directed by the MoEF&CC.

22. In view of the above and observations & recommendations of Joint Committee Report, Hon'ble NGT may take appropriate view and decide and suitable course of action accordingly.

23. It is submitted that the present written submission may kindly be taken on record.

24. In view of the above-mentioned facts, this Hon'ble Tribunal is graciously requested to pass any orders as may deem fit in the interest of justice. The MoEF&CC prays accordingly.



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Deponent

डॉ. इ. आरोकिया लेनिन/Dr. E. Arockia Lenin
वैज्ञानिक 'सी'/Scientist 'C'
उप निदेशक/Deputy Director
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय
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Integrated Regional Office, Hyderabad-500 004.

