BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

SOUTHERN ZONE - CHENNAI.

Original Application No. 180 of 2021(SZ)

Between

Baddam Raji Reddy and ors ..... Applicants (S)

Versus

Union of India and others ..... Respondent(S)

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T.V.Sai Srujan. Advocate

MoEF&CC

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

ORIGINAL APPLICATION NO. 180 of 2021

IN THE MATTER OF: -

Baddam Raji Reddy and Ors. **.... Applicant(s)**

Versus

Union of India and Others **.... Respondent(s)**

ACTION TAKEN REPORT ON BEHALF OF RESPONDENT NO. 1, MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

MOST RESPECTFULLY SHOWETH:

I Tarun Kathula S/o Shyamala Rao, aged about 45 years working as Director/Scientist 'F' Integrated Regional office in the Ministry of Environment, Forest and Climate Change, Government of India having an office located at 3nd Floor, Aranya Bhawan, Saifabad, Hyderabad, Telangana, do hereby solemnly affirm on oath and state as under:

1. It is submitted that the instant Original Application was filed as the Irrigation & CAD Department of State of Telangana, under Re-Engineering Proposal, issued orders for expansion of Gouravelli Reservoir, situated in Siddipeta District, from 1.410 TMCs to 8.23 TMCs without obtaining the prior Environmental Clearance from the MoEF&CC.

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2. It is submitted that the applicant has contended that the State of Telangana has started the construction work for the *expansion of the Gouravelli Reservoir* in 2021 on the strength of the old EC which was granted on 14.05.2003 without obtaining amendment under the provisions of the EIA Notification, 2006, as amended. The Flood Flow Canal (FFC) project envisages an irrigation facility to an area of 2.2 lakh acres in the drought-prone areas of the Telangana region, diverting about 20 TMC of surplus of water from the Sri Ram Sagar Project during floods and storing in Balancing Reservoirs.

   Further, it is alleged that the State of Telangana is in gross violation of the provisions of EIA Notification, 2006, on account of initiating several changes in irrigation projects without obtaining prior Environmental Clearance from the MoEF&CC and without undertaking mandatory impact study that led to submergence of four villages and has caused damage to the environment and loss of livelihood.

3. It is submitted that the present application has been filed by the applicant seeking the following reliefs:

   i. To stop all construction activities relating to expansion of the Flood Flow Canal and Gouravelli reservoir by the State of Telangana until the Project Proponent obtains prior EC.

   ii. Direct the State of Telangana, District collector of Siddipeta not to damage natural resources and the agriculture lands of farmers until the approvals are accorded for the expansion of the Flood Flow Canal and Gouravelli Reservoir project.

   iii. To appoint an Expert Committee to undertake a comprehensive study on the flood flow canal and Gouravelli Reservoir expansion project.

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4. It is submitted that vide order dated 13.08.2021, the Hon'ble Tribunal constituted a Joint Committee, comprising a Sr. Officer from MoEF&CC, Regional Office, Hyderabad along with other expert members of other government offices/ departments, to ascertain the issues that were raised in the instant matter. The Joint Committee conducted the site visit and based on the observations, a report was filed stating certain non-compliances.

5. It is submitted that the counter affidavit was filed the MoEF&CC stating that:

    a. Since the project profile w.r.t Flood Flow Canal Project from Sri Rama Sagar Project has been modified by an expansion of the Gouravelli Reservoir under the project in question without the consideration of the MoEF&CC for further amendment; therefore, it does amount to change in scope of the project, attracting the provisions of EIA Notification, 2006. Further, serious non-compliance of EC conditions has been observed wherein it has been found that none of the specific conditions were undertaken.

    b. The Ministry issued a show cause notice to the Engineer In-Chief, Irrigation & CAD Department, Government of Telangana on account of changing the scope of the project without prior environmental clearance and non-compliance of environmental conditions.

6. It is submitted that the Hon'ble Tribunal, vide order dated 10.02.2022 disposed of the instant matter with the following directions:

"...3. Since the Ministry of Environment, Forests and Climate Change (MoEF& CC) has come to the conclusion on the basis of the material collected by them that the present project requires a further environmental

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clearance, the State of Telangana is restrained from proceeding with the project further till the proceedings initiated by the Ministry of Environment, Forests and Climate Change (MoEF& CC) is completed.

4. If the project proponent makes an application for including the change of scope and applies for Environmental Clearance (EC) the same should not be granted by way of an amendment to an existing EC and the entire process will have to be reassessed afresh.

5. Ministry of Environment, Forests and Climate Change (MoEF&CC) is also at liberty to conduct a further enquiry regarding the nature of damage caused and also the cost required for restoration of damage caused to the environment and reassessment of the compensation to be recovered from the State of Telangana.

6. The Ministry of Environment, Forests and Climate Change (MoEF&CC) is directed to complete the process of the enquiry as early as possible at any rate within a period of four months and submit the further action taken report before this Tribunal after the expiry of four months has to be fixed by this Tribunal…"

7. It is submitted that in compliance of the final order passed by this Hon'ble Tribunal following actions have been taken in this regard:

   i. In compliance of the aforesaid order, the matter was taken before the EAC and the Ministry examined the response submitted by the Irrigation & CAD Department, Government of Telangana for Show-Cause notice in consultation with EAC (River Valley and Hydro-electric) and they were also called for personal hearing before EAC.

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ii. The EAC meeting took place on 15th June, 2022 wherein after detailed deliberation it was observed by the EAC that *"based on fact submitted by the project proponent and report of the Joint Committee, it has been confirmed that the project involves violation and the project will be appraised by the EAC as per the Standard Operating Procedure (SoP) for identification and handling of violation cases under EIA Notification, 2006 mentioned in OM dated 7.07.2021.The EAC therefore, suggested the project proponent to submit the proposal a fresh at PARIVESH portal for terms of reference (ToR) under violation category."*

The copy of EAC meeting held on 15.06.2022 is annexed as **Annexure 1**.

iii. The Notification S.O. No. 1886 (E) dated 20.04.2022, which states that irrigation projects, mentioned at Item no. 1 (c) of the Schedule to the EIA Notification, 2006, as amended, irrespective of its command area, are Category 'B' project and shall be appraised by State Environment Impact Assessment Authority (SEIAA), except for irrigation projects involving inter-state issues. Accordingly, the Engineer In-Chief, Indiramma Flood Flow Canal Project from Sri Rama Sagar Project with expansion of Gouravelli Reservoir, Irrigation & CAD Department of State of Telangana has submitted the proposal (No. SIA/TG/RIV/409365/2022) on 06.12.2022 titled as "expansion of Gouravelli reservoir, from 1.410 TMC to 8.23 TMC" before the State Environment Impact Assessment Authority (SEIAA) in compliance of the aforesaid order seeking Terms of Reference (ToR) for conducting EIA study under the provisions of EIA Notification, 2006, as amended in violation category. The State Expert Appraisal Committee (SEAC) i.e. the technical body of the SEIAA, Telangana has considered the

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proposal in its 210th meeting held on 03.01.2023 and *inter-alia* recommended that:

".... The SEAC confirmed the project as a case of violation of the EIA Notification, 2006 and the project has to be considered in the terms of the provisions of the S.O.No.804 (E) dt.14.03.2017: S.O.1030 (E), dt.08.03.2018, and O.M. dt: 07.07.2021 & O.M. dt: 28.01.2022 issued by the MoEF&CC. GoI w.r.t. SOP for identification and handling of violation cases under EIA Notification, 2006.

After detailed discussions, the proponent is directed to prepare EIA report, as per the Standard Terms of Reference (TORs) issued by the MoEF&CC. GoI for "1 (c) river valley projects" and following Additional Terms of Reference along with the Specific Terms of Reference w.r.t. violation as per S.O. No 804 (E) dt.14.03.2017 & S.O.1030 (E). dt. 08.03.2018 and OM dt. 07.07.2021 & 28.01.2022 undergo the process of Public Hearings (District wise) in consultation with TSPCB and submit final EIA report along with minutes of Public Hearings & response of the proponent to the issues emerged in the Public Hearings to the SEAC for appraisal.

Additional Terms of Reference:

- *Capacity table (1 mtr interval) with graphical representation.*
- *Details of submergence*
- *Details of development of greenbelt as per the Report of the Joint Committee constituted by the Hon'ble NGT. Chennai.*
- *Compliance of Order dt.10.02.2022 in OA No.180 of 2021 (SZ) of the Hon'ble NGT, Chennai..."*

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iv. Thereafter, accepting the recommendations of the SEAC, the State Level Environment Impact Assessment Authority (SEIAA) has accorded Standard ToR along with Public hearing and following specific and additional ToR to the project on 15.02.2023 in its meeting held on 04.02.2023 which inter alia includes the following:

- 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 EC (if Credible Action was not initiated).
- 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 the grant of EC. The quantum shall be recommended by the SEAC and finalized by the regulatory authority. The bank guarantee shall be released after successful implementation of the EMP followed by recommendations of the SEAC and approval of the regulatory authority. The proponent also shall pay penalty amount to be levied by SEIAA as per O.M. dated 07.07.2021.
- Assessment of ecological damage with respect to air, water land and other environmental attributes. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act. 1986, or an environmental laboratory accredited by NABL or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment.

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- Preparation of EMP comprising remediation plan and natural and community resource augmentation plants or responding to the ecological damage assessed and economic benefits derived due to violation.
- The remediation plan and the natural and community resource augmentation plan to be prepared as an independent chapter in the ELA report by the accredited consultants.
- Funds shall be allocated for Corporate Environment Responsibility (CER) for various activities therein. The details of fund allocation and activities for CER shall be incorporated in the ELA/EMP report.
- Capacity table (1 mtr interval) with graphical representation.
- Details of submergence
- Details of development of greenbelt as per the Report of the Joint Committee constituted by the Hon'ble NGT. Chennai.
- Compliance of Order dated 10.02.2022 in O.A. No.180 of 2021 (SZ) of the Hon'ble NGT, Chennai.

Apart from the above the SEIAA has directed the project proponent to stop construction activity forthwith and to comply with the terms of provisions of the Gazette Notification S.O. No. 804 (E) dated 14.03.2017; S.O.1030 (E), dated 08.03.2018; and Office Memorandum dated 07.07.2021 issued by the MoEF&CC w.r.t. Standard Operating Procedure (SoP) for identification and handling of violation cases under EIA Notification, 2006. The copy of ToR dated 15.02.2023 is annexed as **Annexure- 2**.

v. The SoP dated 07th July, 2021, for consideration of violation cases, involves two components:

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[a] Ecological Damage assessment and restoration: Assessment of environmental / ecological damage with respect to air, water, noise, soil/land, flora & fauna, occupation health and other environmental attributes and preparation of Remediation plan.

[b] Penalty on the basis of Polluter Pay Principle:

- Where operation has not commenced: 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report; [Ex: Rs.1 lakh for project cost of Rs. 1 Cr]
- Where operations have commenced without EC: 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report PLUS 0.25% of the total turnover during the period of violation. [Ex: For Rs.100 Cr project cost and Rs.100 Cr total turnover, the penalty shall be Rs.1 Cr + Rs. 0.25 Cr = Rs. 1.25 Cr]

It is pertinent to mention here that as per the provisions contained in the Notification S.O. 1030 (E) dated 08.03.2018 and SoP issued by the MoEF&CC vide Office Memorandum dated 07.07.2021, the violation cases which lies under the jurisdiction of SEIAA shall be dealt/handled by SEIAA.

The copy of notification S.O. 1030 (E) dated 08.03.20218 and SoP vide Office Memorandum dated 07.07.2021 is annexed as **Annexure 3** and **Annexure 4** respectively.

vi. It is also humbly submitted that for additional information/ further clarification, if any, with regard to the project in question, the Hon'ble Tribunal is requested to implead the SEIAA, Telangana as a necessary party

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since it is the Competent Authority to carry out all the proceedings w.r.t grant of EC to the project in question.

vii. In light of the aforesaid mentioned facts of the matter, the action taken report may kindly be taken on record. It is submitted that the Hon'ble Tribunal may pass appropriate order(s), direction(s) as deemed fit and proper under the facts and circumstances of the present case.

Deponent

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VERIFICATION

I, the above-named deponent do hereby solemnly affirm and state that the contents of the aforesaid are true and correct to my personal knowledge and have been derived from the official records maintained by the Respondent. No part of it is false nor has anything material been concealed therefrom.

Verified at Hyderabad on this 18th day of May, 2023.

Deponent

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MINUTES OF THE 29TH MEETING OF THE EXPERT APPRAISAL COMMITTEE (EAC) ON ENVIRONMENTAL IMPACT ASSESSMENT (EIA) OF RIVER VALLEY AND HYDROELECTRIC PROJECTS HELD ON 15TH JUNE, 2022

The 29th Meeting of the EAC (River Valley and Hydroelectric Projects) organized by the Ministry of Environment, Forest & Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi was held on 15th June, 2022 through video conference under the Chairmanship of Dr. K. Gopakumar. The list of Members participated in the meeting is at **Annexure**.

Agenda Item No.29.1:

Confirmation of the Minutes of the 23rd EAC meeting

The Minutes of the 28th EAC (River Valley and Hydroelectric Projects) meeting held on 31st May, 2022 were confirmed.

Agenda Item No. 29.2:

Kishau Multipurpose Project 660 MW (4x165 MW) and 97076 Ha, in Chakrata and Shillai tehsil, Dehradun and Sirmaur, District of Uttarakhand and Himachal Pradesh by M/s Kishau Corporation Limited - Terms of Reference (TOR) - reg.

[Proposal No. IA/UK/RIV/276905/2022; F. No. J-12011/09/2021-IA.I(R)]

29.2.1 The proposal is for Terms of Reference to Kishau Multipurpose Project 660 MW (4x165 MW) and 97076 Ha, in Chakrata and Shillai tehsil, Dehradun and Sirmaur, District of Uttarakhand and Himachal Pradesh by M/s Kishau Corporation Limited.

29.2.2 The details of the project submitted by project proponent and ascertained from the document submitted are mentioned below:-

i. Kishau Dam Project envisaged the construction of a 236 m high concrete gravity dam alongwith a 660 MW capacity power house across the river Tons, a tributary to the river Yamuna, for harnessing the vast monsoon flow of river Tons by storing and utilizing the regulated release thereof, for irrigation and power generation.

ii. A 236 m high Roller Compacted Concrete gravity dam across river Tons in district Dehradun to provide a gross storage of 1824 Mm3 live storage available for irrigation and power generation as well as for drinking water supply will be more then 1324 MCM throughout the life of the reservoir.

iii. A spillway with total width of 127 m would be located in the dam body having 6 nos. bays each 17 m wide. The design discharge of spillway is 23019 m3/s. For energy dissipation, flip bucket type stilling basin with splitters has been provided.

iv. Four intake structures in the body of dam with four off taking unit penstocks of 5.0 m dia each. A surface power house on the left bank of the river with installed capacity of 660 MW (4 x165 MW). Over ground 400 kV pothead yard on the left flank, near the toe of the dam.

29.2.3 The EAC during deliberations noted the following:

The proposal is for Terms of Reference to the project for Kishau Multipurpose Project 660 MW (4x165 MW) and 97076 Ha, in Chakrata and Shillai tehsil, Dehradun and Sirmaur, District of Uttarakhand and Himachal Pradesh by M/s Kishau Corporation Limited.

River Valley Projects are listed in S.N. 1(c) of Schedule of Environment Impact Assessment (EIA) Notification under Category 'A' and to be appraised at Central level in the Ministry.

The project proponent was not well prepared and was not able to give proper reply to the EAC regarding environmental sensitivity and other concerns related to ecological biodiversity. The EAC also took note on the Form-1 submitted on the PARIVESH portal, wherein, there is no details mentioned about the environmental sensitivity around the project site. The project proponent has not done study on alternate site analysis and no details submitted about the reservoir and command area.

29.2.4 The EAC after detailed deliberation decided to return the proposal in present form with the request to submit following information.

(i) Submit report on alternate site analysis.
(ii) Study report on impact of proposed project on forest and wildlife.
(iii) Report on impact and benefits of the proposed project.
(iv) Revised Form-1 to be submitted along with the details of environmental sensitivity around 10 km of the project site.

The proposal was therefore **returned** in present form.

Agenda Item No. 29.3:

Kopra Medium Irrigation Project (48.43 MCM) in an area of 1044.72 Ha at village Bagaspura Tehsil Rehli, District Sagar, Madhya Pradesh by M/s Water Resources Division No One Sagar – Terms of References (TOR) – reg.

[Proposal No. IA/MP/RIV/241400/2021; F. No. J-12011/07/2022- IA.I (R)]

The project proponent did not attend the meeting. The EAC therefore **deferred** the proposal.

Agenda Item No. 29.4:

OA No. 180 of 2021 (SZ) in the matter of Baddam Raji Reddy & others Vs Union of India and others before the National Green Tribunal Southern Zone, Chennai regarding change the scope of flood flow canal and Gouravelli reservoir by increasing the capacity of canals and reservoir from 1.410 TMCs to 8.23 TMCs under Re-engineering of Indiramma Flood Canal project in Siddipeta District of Telangana State.

29.4.1 The OA No. 180 of 2021 (SZ) in the matter of Baddam Raji Reddy & others Vs Union of India and others has been filed on 10.08.2020 before Hon'ble National Green Tribunal Southern Zone, Chennai as the Irrigation & CAD Department of State of Telangana, issued orders for expansion of Gouravelli Reservoir, situated in Siddipeta District, from 1.410 TMCs to 8.23 TMCs without obtaining the prior environmental clearance from the MoEF&CC. The application has been filed regarding the proposal of 'Re-engineering Indiramma Flood Canal Project' in Siddipeta District of State of Telangana to change the scope of flood flow canal and expansion of Gouravelli reservoir by increasing the capacity of canals and reservoir from 1.410 TMCs to 8.23 TMCs.

In this context, the Hon'ble NGT vide order dated 13.08.2021 constituted a Joint Committee and directed to conduct a site visit in order to find out whether there is any violation committed. Accordingly, the Joint Committee site visit was conducted by Dr E. Arockia Lenin, Scientist 'C', IRO, MoEF&CC, Hyderabad; Shri P. S. Kutiyal, Member, GRMB, Hyderabad and Shri M. Ramesh Kumar, Director, CWC, KGBO, Hyderabad on 22.09.2021 and filed the report on 29.09.2021.The Joint Committee Report was received in the Ministry on 24.11.2021. It was noted the that as per the findings of the report, EIA Notification 2006 has been violated. It further mentions that Change in scope of project are reservoir capacity from 1.41 TMCft capacity to 8.23 TMCft, increase in the pump house capacity and feeder canal and the irrigation being envisaged to the same area. Due to this enhancement of capacity, the area of submergence will increase from 769.25 ha to 1566.8 ha, with an increase in partially submerged villages from 2 to 6 with number of Project displaced families (PDFs) increase from 937 to 1104. Moreover, the scope of the project was also changed without obtaining necessary fresh appraisal and the committee also suggested a compensation of Rs. 2 Crores.

Further, the Ministry vide letter dated 07.01.2022 issued a Show Cause Notice to Flood Flow Canal project from Sri Rama Sagar District, Telangana and thereafter, an affidavit was filed on behalf of the MoEF&CC in the NGT, Chennai on 23.01.2022 in compliance of the NGT order dated 20.12.2021. In response of the same the project proponent vide letter No. ENC(G)/SE(P&M)/DCE(GB)/OT3/AEE7/NGT dated 27.01.2022 submitted response against the Show cause notice issued by the Ministry and following is stated:

"..... the environmental clearance is accorded to Flood Flow Canal project from SRSP to irrigate an ayacut of 2,20,000 acres with utilization of 20 TMC of flood water from Godavari river. Hence the enhanced capacity is well within the limits of the boundaries in which EIA was done and clearance was issued in 64th TAC meeting conducted in 1996 and 128th TAC meeting conducted in 2016. Further it

has also made submissions against the non-compliances as observed in the Joint Committee report dated 29.09.2021… …"

29.4.2 Thereafter, the Hon'ble NGT vide final order dated 10.02.2022, disposed off the matter with following directions to the Ministry:

"…….. 49.Under such circumstances, we feel that the application itself can be disposed as follows:-

The contention of the contesting respondent, namely, State of Telangana, that the application is not maintainable and barred by limitations is rejected and we hold that the application is maintainable and within limitation. Since the Ministry of Environment, Forests and Climate Change (MoEF&CC) has taken cognizance of the alleged violations said to have been committed by the State of Telangana and initiated proceedings under Section5 of the Environment (Protection) Act, 1986 by issuing show cause notice, we feel that there is not necessity for this Tribunal to proceed with the matter and leave open the regulators to take appropriate action against the project proponent on the basis of the enquiry to be conducted by them which must also include revisiting on the question of environmental compensation considering the gravity of the violations committed, on account of the proceeding with the project by the project proponent and also the conduct of the project proponent both the present and past in respect of this project as well as other projects undertaken by them and violation of the EIA Notification, 2006, the nature of damage caused and cost of restoration required while assessing the environmental compensation and pass appropriate orders m accordance with law without much delay.

Since Ministry of Environment, Forests and Climate Change (MoEF& CC) has come to the conclusion on the basis of the material collected by them that the present project requires further environmental clearance, the State of Telangana is restrained from proceeding with the project further till the proceedings initiated by the Ministry of Environment, Forests and Climate Change (MoEF& CC) is completed. If the project proponent makes an application for including the change of scope and apply for Environmental Clearance (EC) the same should not be granted by way of an amendment for existing EC and the entire process will have to be reassessed afresh as has been observed by the Hon'ble Apex Court in (Key Stone Realtors Vs. Anil V. Tharthare (2020) 2 sec 66. Ministry of Environment, Forests and Climate Change (MoEF&CC) is also at liberty to conduct further enquiry regarding the nature of damage caused and also the cost required for restoration of damage caused to the environmental and reassess the compensation to be recovered from the State of Telangana. The Ministry of Environment, Forests and Climate Change (MoEF&CC) is directed to complete the process of the enquiry as early as possible at any rate within a period of four months and submit the further action taken report before this Tribunal after the expiry of four months has to be fixed by this Tribunal. As regards the remedy of the applicant regarding the non¬ availability of the benefits under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 to approach the appropriate authorities are left open. If the Rehabilitation and Resettlement (R & R) is also part of the conditions of Environment Clearance (EC), then Ministry of Environment, Forests and Climate Change(MoEF&CC) are also at liberty to consider those violations and necessary directions can be given in accordance with law to comply with those conditions by the project proponent and

take appropriate action if those conditions are not properly complied with on the basis of the further direction issued by the Ministry of Environment, Forests and Climate Change (MoEF&CC) in this regard……

29.4.3 The EAC during deliberations observed that based on fact submitted by the project proponent and report of the Joint Committee, it has been confirmed that the project involves violation and the project will be appraised by the EAC as per the standard Operating Procedure (SoP) for identification and handling of violation cases under EIA Notification, 2006 mentioned in OM dated 7.07.2021.

The EAC therefore, suggested the project proponent to submit the proposal a fresh at PARIVESH portal for terms of reference (ToR) under violation category.

***

ANNEXURE

ATTENDANCE

Sr. No	Name & Address	Role	Attendance
1.	Dr. K. Gopakumar	Chairman	P
2.	Dr. N. Lakshman	Member	P
3.	Dr. A. K. Malhotra	Member	P
4.	Dr. UdayKumar R.Y.	Member	P
5.	Shri Sharvan Kumar	Member	P
6.	Dr.J. A. Johnson	Representative of WII	P
7.	Dr.A. K.Sahoo	Representative of CIFRI	P
8.	Shri Yogendra Pal Singh	Member Secretary	P
9.	Dr Saurabh Upadhyay	Scientist C, MoEF&CC	P

***

APPROVAL OF THE CHAIRMAN

Fwd: draft MOM of the EAC (RVHEP) meeting held on 15.06.2022-reg. Inbox ×

Yogendra Pal Singh via nic.in 12:27 PM (3 minutes ago)
to me

From: kgopa@iisc.ac.in
To: "Yogendra Pal Singh" <yogendra78@nic.in>, jaj@wii.gov.in, ajitkumarmalhotra463@gmail.com, "amiya sahoo" <amiya.sahoo@icar.gov.in>, amiya7@gmail.com, "CE EMO" <ceenvtmgmt@nic.in>, "bijayaketan panigrahi" <bijayaketan.panigrahi@gmail.com>, "chandrahas deshpande" <chandrahas.deshpande@welingkar.org>, dchandrahas@gmail.com, mukesh@iitk.ac.in, lnand@rocketmail.com, "kn shenoy" <kn.shenoy@manipal.edu>, udaykumarry@yahoo.com, "Dr. Vijay Kumar" <vijay.kumar66@nic.in>, "Mukesh Sinha" <sinha.mukesh@nic.in>
Cc: "Saurabh Upadhyay" <saurabh.upadhyay85@gov.in>
Sent: Sunday, June 26, 2022 6:27:22 PM
Subject: Re: draft MOM of the EAC (RVHEP) meeting held on 15.06.2022-reg.

Dear Dr Yogendra
I think it is good and I approve it
Kindly get others opinions aLso.
With regards
Gopakumar

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सत्यमेव जयते	**State Level Environment Impact Assessment Authority (SEIAA)** **Telangana State** **Government of India** **Ministry of Environment Forests & Climate Change** Block No: 305, Maitrivihar, Ameerpet, Hyderabad.

Order No. SEIAA/TS/OL/SDPT-37/2022- **Dt:15.02.2023.**

Sub: SEIAA – Indiramma Flood Flow Canal Project from Sri Ramasagar Project with expansion of Gouravelly reservoir from 1.410 TMC to 8.23 TMC, Gouravelly Village, Akkannapet Mandal, Siddipet District – TORs [Violation] with Public Hearing issued – Reg.

* * *

I. This has reference to your proposal No. **SIA/TG/RIV/409365/2022, dt. 06.12.2022** (accepted on **16.12.2022**) submitted to the SEIAA, Telangana seeking Terms of Reference (ToR) in terms of the provisions of Environment Impact Assessment (EIA) Notification, 2006 under the Environment (Protection) Act, 1986. The project is for **Indiramma Flood Flow Canal Project from Sri Ramasagar Project with expansion of Gouravelly reservoir from 1.410 TMC to 8.23 TMC, Gouravelly Village, Akkannapet Mandal, Siddipet District**.

II. The proposal for grant of Terms of Reference (ToR) to the proposed project was considered by the State level Expert Appraisal Committee (SEAC) in its meeting held on **03.01.2023**. The SEAC observed the following:`

The representative of the project proponent Sri Shankar (Engineer in Chief); and Dr. Ramakrishna of M/s. EPTRI, Hyderabad attended and made a presentation before the SEAC.

During presentation, the proponent informed the following:

- *Concept of IFFC project from SRSP is:*
  - *Sri Ramasagar Project (SRSP) reservoir was commissioned in the year 1964-69 with a **capacity of 112 TMC** at Pochampad (V), Nizamabad district to **irrigate an ayacut of 14.08 Lakh acres in Stage-I and Stage-II**.*
  - *Flood Flow Canal project was proposed by the then Government of Andhra Pradesh envisaging **diversion of balance surplus water** available at SRSP reservoir after meeting the requirement of SRSP Stage-I&II.*
  - *The Head regulator was provided in the foreshore of SRSP for diversion of water from the said reservoir into the Flood Flow Canal .*
  - *The main aim of the Flood Flow Canal project is to irrigate an ayacut of **89,031 Ha (2,20,000 acres) in the upland drought prone areas** of Peddapalli, Rajanna Sircilla, Jagtial, Karimnagar, Siddipet, Hanumakonda and Jangaon (erstwhile districts of Karimnagar, Warangal and Nalgonda) districts in Telangana region duly utilising 20 TMC of flood water of Godavari river from the fore shore of SRSP reservoir.*

- *Background of the project is:*
  - *The **Technical Advisory committee(TAC)** of Central Water Commission (CWC) in its 64th meeting on 03.04.1996 **approved the project components comprising the following three (3 Nos)** reservoirs for an estimated cost of Rs.1331.30 Cr @ Price Level 1992-93.*
    - *Combined Storage Reservoir-I (Storage Capacity : 7.346 TMC, Ayacut : 32,000 acres)*
    - *Mid Manair Reservoir (Storage Capacity : 25.873 TMC, Ayacut : 68,000 acres)*
    - *Gouravelly Reservoir (Storage Capacity : 1.095 TMC, Ayacut : 1,20,000 acres)*
  - *The then Government of Andhra Pradesh vide G.O. Ms. No. 209 dated 17.11.1997 deleted **the combined storage reservoir-I** across **Peddavagu-II and Korutla vagu near Konaraopet(V),** Karimnagar district with a storage capacity of 7.346 TMC to irrigate an ayacut of 12950Ha (32,000 Acres).*

- *The Environmental clearance for the IFFC Project from SRSP was accorded vide Lr. No.J-12011/26/2000-IA-I, Dt.14.05.2003 to irrigate an ayacut of 2,20,000 acres duly utilizing 20 TMC of Flood water of Godavari river water from foreshore of Sriramsagar project.*

    - ***Mid Manair Reservoir – 25.873 TMC***
    - ***Gouravelly Reservoir – 1.410 TMC***

- *The statutory clearance w.r.t. the project are:*

    - *The **Forest clearances** for canals and reservoirs was accorded vide Lr. Ref. No. 50907/99/F.1, Dt: 14-03-2000 & 14.09.2000 respectively.*
    - *The **Site clearance for investigation & survey** was accorded vide Lr. No.J-12011/26/2000-IA-I, Dt.24.06.2002.*
    - *The **Environmental clearance** was accorded vide Lr. No.J-12011/26/2000-IA-I, Dt.14.05.2003.*
    - *The **Rehabilitation and Resettlement clearance** is received from the Govt. of India vide MOTA Lr. no.20011/4/2003- CP & R, Dt. 02-09-2004.*
    - *The Planning Commission (water Resources Division) accepted for investment in the State Plan with an estimated cost of Rs 1331.30 crores vide Lr.No.2 (322)/03-WR Dt: 08.12.2005*

- *The details of Hon'ble NGT case w.r.t. the project are:*

    - *The Government of Telangana has accorded administrative approval for the Gouravelly reservoir project with enhanced capacity from 1.410 TMC to 8.23 TMC vide G.O.Ms. No. 533, I&CAD (Projects-IV) Department Dt: 26.05.2017 and 85% of work was completed by the time of NGT Case was filed.*
    - *The submerging villagers of Gouravelly reservoir had filed the case **OA no 180 of 2021** on 10th August 2021 before the **Hon'ble NGT (SZ), Chennai** on the ground that the irrigation and CAD department of State of Telangana under the Re-engineering proposal issued orders **for expansion of Gouravelly Reservoir from 1.410 TMC to 8.230 TMC without obtaining prior EC from Ministry.***
    - *The Joint Committee constituted by the NGT, Chennai was formed on 13th August 2021*
    - *Joint committee had a **site visit** on **23rd September 2021** and submitted a report on **29th September 2021** in which it has reported that **the scope of the project has been changed without approval of MoEF & CC.***
    - *The committee has proposed an **Environmental Compensation of Rs.2,05,31,250 (Rs.2.05 Crores)** for Violation.*
    - *MoEF&CC issued show cause notice to I&CAD Department on **7th January 2022**.*
    - *I&CAD submitted the replies to show cause notice on **27th January 2022**.*
    - *NGT has disposed the case on **10th February 2022** duly directing the MoEF&CC to complete the process of enquiry and to submit the report in four months*

- *EAC has scheduled a meeting on 15th June 2022 for the replies to show cause.*
- *Based on the EAC meeting the committee suggested a fresh proposal under violation category*

29.4.3 The EAC during deliberations observed that based on fact submitted by the project proponent and report of the Joint Committee, it has been confirmed that the project involves violation and the project will be appraised by the EAC as per the standard Operating Procedure (SoP) for identification and handling of violation cases under EIA Notification, 2006 mentioned in OM dated 07.07.2021.

- *The EAC therefore, suggested the project proponent to submit the proposal a fresh at PARIVESH portal for terms of reference (TOR) under violation category.*

- *Accordingly, the proponent submitted Form-I for TOR on 02.09.2022 at the MoEF&CC, GoI. But, the Ministry did not consider the proposal as the project becomes Category-B project as per S.O.1886(E), dt.20.04.2022. Hence, the proponent re-submitted the proposal for TOR to the SEIAA, TS on 06.12.2022.*

The SEAC noted the details of the project as following:

- *The Indiramma Flood Flow Canal Project (IFFC) envisages diversion of flood water from Sri Ramasagar Project (SRSP) .*

  - ***Ayacut 89,031 ha.***
  - ***Drought prone areas*** *- erstwhile districts of Karimnagar, Warangal and Nalgonda (present districts Peddapalli, Rajanna Sircilla, Jagtial, Karimnagar, Siddipet, Hanumakonda and Jangaon)*
  - ***Excess flood*** *– Once in four years*

- *The storage facilities for storing such flood plays major role in harnessing and conserving flood water.*

The SEAC noted that the project components are:

➢ ***Water covenyance system:***

➢ *FFC Canal :122 km*
➢ *Reverse lift pump houses: 3 number*
➢ *MMR Canals:103.375 km*
➢ *Tunnel – 11.98 km*
➢ *Pump house – 3 x 32MW(3x19cumecs)*
➢ *Gouravelly Canals-63.725 km*
➢ *High Level Canals-20.845 Km*

➢ ***Reservoir:***

- *Mid Manair Reservoir : 25.873 TMC*
- *Gouravelly reservoir : 8.23 TMC*

➢ ***Distributory network system:***

- *MMR Command Area – 40,470 ha (1,00,000 acres)*
- *Gouravelly Command Area – 48,561 ha (1,20,000 acres) in Karimnagar, Siddipet, Hanumakonda and Jangaon Districts.*

The SEAC noted that the command area of 89,031 Ha. falls in the Districts of Peddapalli, Rajanna Sircilla, Jagityal, Karimnagar, Siddipet, Hanumakonda & Jangaon

During presentation, the proponent informed the following w.r.t. Expansion of Gauravelly Reservoir Project:

- *The Sriramsagar project was designed with a* ***capacity of 112 TMC****. But due to heavy siltation the* ***effective storage capacity is decreased to 90 TMC,*** *increasing the untapped flood water. In this context it is also an edge to have more storage capacity for tapping such flood.*
- *The excess flood as per the data available occurs once in every four years in SRSP. The storage facilities for storing such flood plays major role in harnessing and conserving flood water.*
- *After formation of Telangana state the Government has reviewed the existing irrigation project and as a part of effective utilisation of water allocation and to compensate the storage lost due to* ***deletion of Combined Storage Reservoir (7.346 TMC)*** *near Konaraopet (V), an alternate proposal of increasing the* ***Gouravelly reservoir capacity from 1.409 TMC to 8.230*** *TMC has been proposed.*

The SEAC confirmed the project as a case of violation of the EIA Notification, 2006 and the project has to be considered in the terms of provisions of the S.O.No.804 (E) dt.14.03.2017; S.O.1030 (E), dt.08.03.2018; and O.M. dt: 07.07.2021 & O.M. dt: 28.01.2022 issued by the MoEF&CC, GoI w.r.t. SOP for identification and handling of violation cases under EIA Notification., 2006.

After detailed discussions, the proponent is directed to prepare EIA report, as per the Standard Terms of Reference (TORs) issued by the MoEF&CC, GoI for "1 (c) river valley projects" and following Additional TORs along with the Specific Terms of Reference w.r.t. violation as per S.O.No.804 (E) dt.14.03.2017 & S.O.1030 (E), dt.08.03.2018 and OM dt. 07.07.2021 & 28.01.2022 undergo the process of Public Hearings (District wise) in consultation with TSPCB and submit final EIA report along with minutes of Public Hearings & response of the proponent to the issues emerged in the Public Hearings to the SEAC for appraisal.

Additional TORs:

- *Capacity table (1 mtr interval) with graphical representation.*
- *Details of submergence.*
- *Details of development of greenbelt as per the Report of Joint Committee constituted by the Hon'ble NGT, Chennai.*
- *Compliance of Order dt.10.02.2022 in OA No.180 of 2021 (SZ) of the Hon'ble NGT, Chennai*

III. Accordingly, the proposal along with recommendations of SEAC, Telangana was examined by the State level Environment Impact Assessment Authority (SEIAA) in its meetings held on **04.02.2023** and observed the following:

The SEIAA discussed the recommendations of the SEAC in detail and noted that the proponent has started project activity without obtaining EC and violated EIA Notification, 2006.

However, approved the project for issue of TORs (Violation) with public hearing. The proponent is directed to stop the activity forthwith and shall comply with the MoEF&CC, GoI, OM No22-21./2020-IA.III dt.07.07.2021. The proponent shall prepare EIA report as per the Standard Terms of Reference (TORs) issued by the MoEF&CC, GoI for "1 (c) river valley projects" and following Additional TORs.

- *Capacity table (1 mtr interval) with graphical representation.*
- *Details of submergence.*
- *Details of development of greenbelt as per the Report of the Joint Committee constituted by the Hon'ble NGT, Chennai.*
- *Compliance of Order dt.10.02.2022 in OA No.180 of 2021 (SZ) of the Hon'ble NGT, Chennai*

IV. In view of the above, **the SEIAA, Telangana hereby accords ToRs with public hearing to the project** for preparation of the Environment Impact Assessment (EIA) Report and Environment Management Plan (EMP). The TORs and general guidelines for preparation of EIA & EMP report are as following:

STANDARD TERMS OF REFERENCE FOR CONDUCTING ENVIRONMENT IMPACT ASSESSMENT STUDY FOR RIVER VALLEY PROJECTS & IRRIGATION PROJECTS AND INFORMATION TO BE INCLUDED IN EIA/EMP REPORT.

A. Scope of EIA Study

The EIA Report should identify the relevant environmental concerns and focus on potential impacts that may change due to the construction of proposed project. Based on the baseline data collected for three (3) seasons (Pre-monsoon, Monsoon and Winter seasons), the status of the existing environment in the area and capacity to bear the impact on this should be analysed. Based on this analysis, the mitigation measures for minimizing the impact shall be suggested in the EIA/EMP study

B. Details of the Project and Site

1 General introduction about the proposed project

2 Details of Project and site giving L-Sections of all U/S and D/S Projects with all relevant maps and figures. Connect such information as to establish the total length of interference of Natural River and the committed unrestricted release from the site of Dam/Barrage into the main river

3 A map of boundary of the project site giving details of protected areas in the vicinity of 25 km of project location

4 Location details on a map of the project area with contours indicating main project features. The project layout shall be superimposed on a contour map of ground elevation showing main project features (viz. location of dam, Head works, main canal, branch canals, quarrying etc.) shall be depicted in a scaled map

5 Layout details and map of the project along with contours with project components clearly marked with proper scale maps of at least 1:50,000 scale and printed at least on A3 scale for clarity

6 Existence of National Park, Sanctuary, Biosphere Reserve etc. in the study area, if any, should be detailed and presented on a map with distinct distances from the project components

7 Drainage pattern and map of the river catchment up to the proposed project site.

8 Delineation of critically degraded areas in the directly draining catchment on the basis of Silt Yield Index as per the methodology of Soil and Land use Survey of India

9 Soil characteristics and map of the project area

10 Geological and Seismo-tectonic details and maps of the area surrounding the proposed project site showing location of dam site and canal sites

11 Remote Sensing studies, interpretation of satellite imagery, topographic sheets along with ground verification shall be used to develop the land use/land cover pattern of the study using overlaying mapping techniques viz. Geographic Information System (GIS), False Color Composite (FCC) generated from satellite data of project area

12 Land details including forests, private and other land

13 Demarcation of snow fed and rain fed areas for a realistic estimate of the water availability

C. Description of Environment and Baseline Data

1 To know the present status of environment in the area, baseline data with respect to environmental components air, water, noise, soil, land and biology & biodiversity (flora & fauna), wildlife, socioeconomic status etc. should be collected within 10 km radiusof the main components of the project/site i.e. dam site and power house site. The air quality and noise are to be monitored at such locations which are environmentally & ecologically more sensitive in the study area. The baseline studies should be collectedfor 3 seasons (Pre-Monsoon, Monsoon and Post Monsoon seasons)

2 Flora-Fauna in the catchment and command area should be documented. The study area should comprise of the following:

a Catchment area up to the dam/barrage site

b Submergence Area

c Project area or the direct impact area should comprise of area within 10 km radius of the main project components like dam, canals etc

D. Details of the Methodology

The methodology followed for collection of base line data along with details of number of samples and their locations in the map should be included. Study area should be demarcated properly on the appropriate scale map. Sampling sites should be depicted on map for each parameter with proper legends. For Forest Classification, Champion and Seth (1968) methodology should be followed

E. Methodology for Collection of Biodiversity Data

1 The number of sampling locations should be adequate to get a reasonable idea of the diversity and other attributes of flora and fauna. The guiding principles should be the size of the study area (larger area should have larger number of sampling locations) and inherent diversity at the location, as known from secondary sources (e.g. eastern Himalayan and low altitude sites should have a larger number of sampling locations owing to higher diversity).

2 The entire area should be divided in grids of 5kmX5km preferably on a GIS domain. There after 25% of the grids should be randomly selected for sampling of which half should be in the directly affected area (grids including project components such as reservoir, dam, powerhouse, tunnel, canal etc.) and the remaining in the rest of the area (areas of influence in 10 km radius form project components). At such chosen location, the size and number of sampling units (e.g. quadrates in case of flora/transects in case of fauna) must be decided by species area curves and the details of the same (graphs and cumulative number of species in a tabulated form) should be provided in the EIA report. Some of the grids on the edges may not be completely overlapping with the study area boundaries. However, these should be counted and considered for selecting 25% of the grids. The number of grids to be surveyed may come out as a decimal number (i.e. it has an integral and a fractional part) which should be rounded to the next whole number.

3 The conventional sampling is likely to miss the presence of rare, endangered and threatened (r.e.t.) species since they often occur in low densities and in case of faunal species are usually secretive in behaviour. Reaching the conclusion about the absence of such species in the study area based on such methodology is misleading. It is very important to document the status of such species owing to their high conservation value. Hence likely presence of such species should be ascertained from secondary sources by a proper literature survey for the said area including referring to field guides which are now available for many taxonomic groups in India. Even literature from studies/surveys in the larger landscapes which include the study area for the concerned project must be referred to, since most species from adjoining catchments is likely to be present in the catchments in question. In fact such literature form the entire state can be referred to. Once a listing of possible r.e.t. species form the said area is developed, species specific methodologies should be adopted to ascertain their presence in the study area which

would be far more conclusive as compared to the conventional sampling. If the need be, modern methods like camera trapping can be resorted to, particularly for areas in the eastern Himalayas and for secretive/nocturnal species. A detailed listing of the literature referred to, for developing lists of r.e.t. species should be provided in the EIA reports.The conventional sampling is likely to miss the presence of rare, endangered and threatened (r.e.t.) species since they often occur in low densities and in case of faunal species are usually secretive in behaviour. Reaching the conclusion about the absence of such species in the study area based on such methodology is misleading. It is very important to document the status of such species owing to their high conservation value. Hence likely presence of such species should be ascertained from secondary sources by a proper literature survey for the said area including referring to field guides which are now available for many taxonomic groups in India. Even literature from studies/surveys in the larger landscapes which include the study area for the concerned project must be referred to, since most species from adjoining catchments is likely to be present in the catchments in question. In fact such literature form the entire state can be referred to. Once a listing of possible r.e.t. species form the said area is developed, species specific methodologies should be adopted to ascertain their presence in the study area which would be far more conclusive as compared to the conventional sampling. If the need be, modern methods like camera trapping can be resorted to, particularly for areas in the eastern Himalayas and for secretive/nocturnal species. A detailed listing of the literature referred to, for developing lists of r.e.t. species should be provided in the EIA reports.

4 The R.E.T. species referred to in this point should include species listed in Schedule I and II of Wildlife (Protection) Act, 1972 and those listed in the red data books (BSI, ZSI and IUCN).

F. Components of the EIA Study

Various aspects to be studied and provided in the EIA/EMP report are as follows:

I. Physical and Chemical Environment

1 **Geological & Geophysical Aspect sand Seismo- Tectonics:**

a Physical geography, Topography, Regional Geological aspects and structure of the Catchment

b Tectonics, seismicity and history of past earthquakes in the area. A site specific study of the earthquake parameters will be done. The results of the site specific earthquake design shall be sent for approval of the NCSDP (National Committee of Seismic Design Parameters, Central water Commission, New Delhi for large dams

c Landslide zone or area prone to landslide existing in the study area should be examined

d Presence of important economic mineral deposit, if any

e Justification for location & execution of the project in relation to structural components (dam /barrage height)

f Impact of project on geological environment.

2 **Meteorology, Air and Noise:**

a Meteorology (viz. Temperature, Relative humidity, wind speed/direction etc.) to be collected from nearest IMD station

b Ambient Air Quality with parameters viz. Suspended Particulate Matter (SPM), Respirable Suspended Particulate Matter (RSPM) i.e. suspended particulate materials < 10 microns, Sulphur dioxide (SO2) and Oxides of Nitrogen (NOX) in the study area at 5-6 Locations

c Existing Noise Levels and traffic density in the study area at 5-6 Locations.

3 **Soil Characteristics:**

Soil classification, physical parameters (viz., texture, Porosity, Bulk Density and water holding capacity) and chemical parameters (viz. pH, electrical conductivity, magnesium, calcium, total alkalinity, chlorides, sodium, potassium, organic carbon, available potassium, available phosphorus, SAR, nitrogen and salinity, etc.) at @ one sample/1000 ha of command area.

4 **Remote Sensing and GIS Studies:**

a Generation of thematic maps viz, slope map, drainage map, soil map, land use and land cover map, etc. Based on these, thematic maps, an erosion intensity map should be prepared.

b New configuration map to be given in the EIA Report

5 **Water Quality:**

a History of the ground water table fluctuation in the study area.

b Water Quality for both surface water and ground water for [i] Physical parameters (pH, Temperature, Electrical Conductivity, TSS); [ii] Chemical parameters (Alkalinity, Hardness, BOD, COD, NO3, PO4, Cl, So4, Na, K, Ca, Mg, Silica, Oil & grease, phenolic compounds, residual sodium carbonate);[iii] Bacteriological parameter (MPN, Total coliform); and [iv] Heavy Metals (Pb, As, Hg, Cd, Cr6,Total Cr, Cu, Zn, Fe) at minimum10 Locations, however, the sampling numbers should be increased depending on the command area

c Delineation of sub and micro watersheds, their locations and extent based on the Soil and Land Use Survey of India (SLUSOI), Department of Agriculture, Government of India. Erosion levels in each micro-watershed and prioritization of micro-watershed through Silt Yield Index (SYI) method of SLUSOI

II Water Environment & Hydrology:

a Hydro-Meteorology of the project viz. precipitation (snowfall, rainfall), temperature, relative humidity, etc. Hydro-meteorological studies in the catchment area should be established along-with real time telemetry and data acquisition system for inflows monitoring

b Run off, discharge, water availability for the project, sedimentation rate, etc

c Basin characteristics

d Catastrophic events like cloud bursts and flash floods, if any, should be documented.

e For estimation of Sedimentation Rate, direct sampling of river flow is to be done during the EIA study. The study should be conducted for minimum one year. Actual silt flow rate to be expressed in ha-m km2 year-1.

f Set up a G&D monitoring station and a few rain gauge stations in the catchment area for collecting data during the investigation.

g Flow series, 10 daily with 90%, 75% and 50% dependable years discharges.

h Environmental flow release should be 20% of the average of the 4 lean months of 90% dependable year (MAF)during the lean season and 30% of Monsoon flow during monsoon season. For remaining months, the flow shall be decided by the Committee based on the hydrology and available discharge.

i A site specific study on minimum environment flow should be carried out.

III Biological Environment:

1 Flora

a Characterization of forest types (as per Champion and Seth method) in the study area and extent of each forest type as per the Forest Working Plan.

b General vegetation profile and floral diversity covering all groups of flora including Bryophytes, Pteridophytes, Lichens and Orchids. A species wise list may be provided

c Assessment of plant species with respect to dominance, density, frequency, abundance, diversity index, similarity index, importance value index [IVI], Shannon Weiner Index etc. of the species to be provided. Methodology used for calculating various diversity indices along with details of locations of quadrats, size of quadrats etc. to be reported within the study area in different ecosystems

d Existence of National Park, Sanctuary, Biosphere Reserve etc in the study area, if any, should be detailed.

e Economically important species like medicinal plants, timber, fuel wood etc.

f Details of endemic species found in the project area

g Flora under RET categories should be documented using International Union for the Conservation of Nature and Natural Resources (IUCN) criteria and Botanical Survey of India's Red Data list along with economic significance. Species diversity curve for RET species should be given

2 Fauna:

a Fauna study and inventorisation should be carried out for all groups of animals including reptiles.

b and nocturnal animals in the study area. Their present status along with Schedule of the species

c Information (authenticated) on Avi-fauna and wild life in the study area

d Status of avifauna their resident/migratory/ passage migrants etc.

e Documentation of butterflies, if any, found in the area

f Details of endemic species found in the project area

g RET species- voucher specimens should be collected along with GPS readings to facilitate rehabilitation. RET faunal species to be classified as per IUCN Red Data list and as per different schedule of Indian Wildlife (Protection) Act, 1972

h Existence of barriers and corridors, if any, for wild animals

i Compensatory afforestation to compensate the green belt area that will be removed, if any, as part of the proposed project development and loss of biodiversity

j For categorization of sub-catchments into various erosion classes and for the consequent CAT plan, the entire catchment (Indian Portion) is to be considered and not only the directly the draining catchment

IV Aquatic Ecology:

a Documentation of aquatic fauna like macro-invertebrates, zooplankton, phytoplantktons, benthos, periphyton particularly on the rock substratum, so that this could reflects the food and feeding of grazing fish species

b Fish and fisheries, fish migration, migratory path elimination and seasonal migration pattern and breeding and spawning grounds

c Fish diversity composition and maximum length & weight of the measured populations and migratory behaviourto be studies for estimation of environmental flow

d Conservation status of aquatic fauna/fish and benthic communities

e Sampling for aquatic ecology and fisheries and fisheries must be conducted during three seasons Pre-monsoon (summer), monsoon and winter. Sizes (length &weight) of important fish species need to be collected and breeding and feeding grounds should also be identified along the project site or in vicinity.

V Irrigation and Cropping:

a Cropping pattern and Horticultural practices in the study area

b Collection of primary data on agricultural activity, crop and their productivity and irrigation facilities component

c Component of pressurized/drip irrigation and micro irrigation

d Details of Conjunctive use of water for irrigation

VI Socio-Economic:

a Collection of Baseline data on human settlements, health status of the community and existing infrastructure facilities for social welfare including sources of livelihood, job opportunities and safety and security of workers and surrounding population

b Collection of information with respect to social awareness about the developmental activity in the area and social welfare measures existing and proposed by project proponent

c Collection of information on sensitive habitat of historical, cultural and religious and ecological importance

d The Socio-economic survey/profile within 10 Km of the study area for Demographic profile

e Economic Structure; Development Profile; Agricultural Practices; Infrastructure, education facilities; health and sanitation facilities; available communication network etc.

f Documentation of Demographic, Ethnographic, Economic structure and development profile of the area

g Information on Agricultural practices, Cultural and aesthetic sites, Infrastructure facilities etc

h Information on the dependence of the local people on minor forest produce and their cattle grazing rights in the forest land.

i List of all the Project Affected Families with their names, education, land holdings, other properties, occupation, source of income, land and other properties to be acquired, etc

j In addition to Socio-economic aspects of the study area, a separate chapter on socio-cultural aspects based upon study on Ethnography of the area should be provided

G Impact Prediction and Mitigation Measures

The adverse impact due to the proposed project should be assessed and effective mitigation steps to abate these impacts should be described.

1 Air Environment
   a Changes in ambient and ground level concentrations due to total emissions from point, line and area sources
   b Effect on soils, material, vegetation and human health
   c Impact of emissions from DG sets used for power during the construction, if any, on air environment
   d Pollution due to fuel combustions in equipments& vehicles
   e Fugitive emissions from various sources.
   f Impact on micro climate
2 Water Environment
   a Changes in surface & ground water quality
   b Steps to develop pisci-culture and recreational facilities
   c Changes in hydraulic regime and down stream flow.
   d Water pollution due to disposal of sewage.
   e Water pollution from labour colony/camps and washing equipment.
3 Land Environment
   a Changes in land use/land cover and drainage pattern
   b Immigration of labour population
   c Quarrying operation and muck disposal.
   d Changes in land quality including effects of waste disposa
   e River bank and their stability
   f Impact due to submergence
   g Adverse impact on land stability, catchment of soil erosion, reservoir sedimentation and spring flow (if any) [a] due ·to considerable road construction/widening activity [b] interference of reservoir with the inflowing streams [c] blasting for excavation of canals and some other structures
4 Biological Environment
   a Impact on forests, flora, fauna including wildlife, migratory avi-fauna, rare and endangered species, medicinal plants etc
   b Pressure on existing natural resources
   c Deforestation and disturbance to wildlife, habitat fragmentation and wild animal's migratory corridors
   d Compensatory afforestation -Identification of suitable native tree species for compensatory afforestation & green belt
   e Impact on fish migration and habitat degradation due to decreased flow of water
   f Impact on breeding and nesting grounds of animal and fish
5 Socio-economic aspects
   a Impact on local community including demographic profile
   b Impact on socio-economic status.
   c Impact on economic status
   d Impact on human health due to water / vector borne disease
   e Impact on increases traffic
   f Impact on Holy Places and Tourism.
   g Impacts of blasting activity during project construction which generally destabilize the land mass and lead to landslides, damage to properties and drying up of natural springs and cause noise pollution, will be studied. Proper record shall be maintained of the base line information in the post project period
   h Positive as well as negative impacts likely to be accrued due to the project are to be listed
   i Positive and negative impacts likely to be accrued due to the project are listed

H Environment Impact Analysis

Environmental Impact Analysis due to the project on the above mentioned components should be carried out for construction and operation phases using qualitative or quantitative methods.

I Environmental Management Plan

Environmental Management Plan aimed at minimizing the negative impacts of the project should be given in detail. The mitigation measures are to be presented for all the likely adverse impacts on the environment. The following suggestive mitigating plans should be included

1 **Biodiversity Management Plan**

a Biodiversity and Wild Life Conservation & Management Plan for conservation and preservation of endemic, rare and endangered species of flora and fauna to be prepared in consultation with State Forest Department

b Compensatory Afforestation in lieu of the forest land required for the project needs to be proposed. Choice of plants should be made in consultation with State Forest Department including native and RET species, if any

c Fish suitable based passages (Fish passes/Natural bypass) must be included in the plan. This plan must be a scientific based study (seasonal migration) from the Fisheries Research Institute having experience in fish pass studies

d Fisheries Conservation & Management Plan-Fish fauna inhabiting the affected stretch of river, a specific fisheries management plan should be prepared for river and reservoir

e Plan for Green Belt Development along the periphery of reservoir, colonies, approach road, canals etc. to be prepared in consultation with the State Forest Department. Local plant species suitable for greenbelt development should be selected

f Environmental Monitoring Programme with physical & financial details covering all the aspects of EMP. A summary of cost estimate for all the plans, cost for implementing all Environmental Management Plans including the cost for implementing environmental monitoring programme should be given. Provision for an Environmental Management Cell should be made.

2 **Disaster Management Plan**

a Catchment Area Treatment (CAT) Plan should be prepared micro-watershed wise. Identification of area for treatment based upon Remote Sensing & GIS methodology and Silt Yield Index (SYI) method of SLUSOI coupled with ground survey. Areas/watersheds falling under 'very severe' and `severe' erosion categories are required to be treated. Both biological and engineering measures should be proposed in consultation with State Forest Department. Year-wise schedule of work and monetary allocation should be provided. CAT plan is to be completed prior to reservoir impoundment. Mitigations measures to check shifting cultivation in the catchment area with provision for alternative and better agricultural practices should be include

b Study of Design Earthquake Parameters: A site specific study of earthquake parameters should be done. The results of the site specific earth quake design parameters should be approval by National Committee of Seismic Design Parameters, Central Water Commission (NCSDP), New Delhi

c Dam Break Analysis and Disaster Management Plan: The outputs of Dam Break Model should be illustrated with appropriate graphs and maps clearly bringing out the impact of Dam break scenario. Provision for early warning systems should be provided

d Reservoir Rim Treatment Plan for stabilization of land slide/land slip zones if any, around the reservoir periphery to be prepared. Suitable engineering and biological measures for treatment of the identified slip zones to be provided with physical and financial schedule

e Muck Disposal Plan- suitable sites for dumping of excavated material should be identified in consultation with the State Pollution Control Board and Forest Department. All Muck disposal sites should be minimum 30 m away from the HFL of river. Plan for rehabilitation of muck disposal sites should also be given. The L-section/ cross section of muck disposal sites and approach roads to be given. Financial out lay for this may be given separately. Detailed muck transportation plan delinating the path ways, number of trucks, quantity of muck to be transported along with monitoring mechanism using latest technology, shall be prepared

f Plan for Restoration of quarry sites and landscaping of colony areas, working areas, roads, etc.

g Command Area Development (CAD) Plan giving details of implementation schedule with a sample CAD plan

h In the EMP, also include a sample CAD plan for a distributary outlet command. Such a plan is to show the alignment of irrigation and drainage channels. The components of the OFD works to be undertaken may be clearly mentioned along with a time schedule for their completion vis-à-vis the progress of irrigation development

i Mitigating measures for impacts due to Blasting on the structures in the vicinity

3 Socio - economic aspects

a A detailed CER plan along with activities wise break up of financial commitment shall be prepared in terms of the provisions OM No. 22-65/2017-IA.III dated 30.09.2020. CER component shall be identified considering need based assessment study and Public Hearing issues. Sustainable income generating measures which can help in upliftment of affected section of society, which is consistent with the traditional skills of the people shall be identified.

b While formulating CER schemes it shall be ensured that an in-built monitoring mechanism for the schemes identified are in place and mechanism for conducting annual social audit from the nearest government institute of repute in the region shall be prepared. The project proponent shall also provide Action Plan for the status of implementation of the scheme from time to time and dovetail the same with any Govt. scheme(s). CER details done in the past should be clearly spelt out in case of expansion projects

c Resettlement and Rehabilitation (R&R) Plan need to be prepared with due consultation with Project Affected Families (PAFs). The provision of the d R&R plan should be according to the National Resettlement and Rehabilitation Policy (NRRP-2007) as well as State Resettlement and Rehabilitation Policy. Detailed budgetary estimates are to be provided. Resettlements sites should be identified

d Public Health Delivery Plan including the provisions for drinking water facility for the local community

e Local Area Development Plan to be formulated in consultation with the Revenue Officials and Village Panchayats. Local skill development schemes should be given. Details of various activities to be undertaken along with its financial out lay should be provided

f Labour Management Plan for their Health and Safety

g Sanitation and Solid Waste Management Plan for domestic waste from colonies and labour camps etc

h Plan for Land Restoration and Landscaping of project sites.

4 **Miscellaneous**

a Energy Conservation Measures..

b Environmental safeguards during construction activities including Road Construction

c Ground Water Management Plan

d Water and Air Quality & Noise Management Plans to be implemented during construction and post-construction periods.

In the EMP, also include a sample CAD plan for a distributary outlet command. Such a plan is to show the alignment of irrigation and drainage channels. The components of the OFD works to be undertaken may be clearly mentioned along with a time schedule for their completion vis-à-vis the progress of irrigation development

GENERAL GUIDELINES:

i. The EIA document shall be printed on both sides, as far as possible.

ii. All documents should be properly indexed, page numbered.

iii. Period/date of data collection should be clearly indicated.

iv. Authenticated English translation of all material in Regional languages should be provided.

v. The letter/application for EC should quote the MOEF&CC file No. and also attach a copy of the letter prescribing the TOR.

vi. The copy of the letter received from the SEIAA on the TOR prescribed for the project should be attached as an annexure to the final EIA-EMP Report.

vii. The final EIA-EMP report submitted to the SEIAA must incorporate the issues mentioned in TOR including action plan on the issues emerged during EPH. The index of the final EIA-EMP report, must indicate the specific chapter and page No. of the EIA-EMP Report where the specific TOR prescribed by SEIAA. Questionnaire related to the project (posted on MoEF&CC website) with all sections duly filled in shall also be submitted at the time of applying for EC.

viii. Grant of ToR does not mean grant of EC.

ix. The status of accreditation of the EIA consultant with NABET/QCI shall be specifically mentioned. The consultant shall certify that his accreditation is for the sector for which this EIA is prepared.

x. On the front page of EIA/EMP reports, the name of the consultant/consultancy firm along with their complete details including their accreditation, if any shall be indicated. The consultant while submitting the EIA/EMP report shall give an undertaking to the effect that the prescribed ToRs (ToR proposed by the project proponent and additional ToR given by the MoEF&CC) have been complied with and the data submitted is factually correct (Refer MoEF&CC Office memorandum dated 4th August, 2009).

xi. While submitting the EIA/EMP reports, the name of the experts associated with/involved in the preparation of these reports and the laboratories through which the samples have been got analysed should be stated in the report. It shall clearly be indicated whether these laboratories are approved under the Environment (Protection) Act, 1986 and the rules made there under (Please refer MoEF&CC Office Memorandum dated 4th August, 2009). The project leader of the EIA study shall also be mentioned.

xii. All the ToR points as presented before the State Expert Appraisal Committee (SEAC) shall be covered.

Specific Terms of Reference:

- *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 EC (if Credible Action was not initiated).*
- *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 the grant of EC. The quantum shall be recommended by the SEAC and finalized by the regulatory authority. The bank guarantee shall be released after successful implementation of the EMP, followed by recommendations of the SEAC and approval of the regulatory authority. The proponent also shall pay penalty amount to be levied by SEIAA as per O.M. dt: 07.07.2021.*
- *Assessment of ecological damage with respect to air, water, land and other environmental attributes. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited by NABL, or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment.*
- *Preparation of EMP comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation.*
- *The remediation plan and the natural and community resource augmentation plan to be prepared as an independent chapter in the EIA report by the accredited consultants.*
- *Funds shall be allocated for Corporate Environment Responsibility (CER) for various activities therein. The details of fund allocation and activities for CER shall be incorporated in the EIA/EMP report.*

xiii. The above ToR should be considered for preparation of EIA Report in addition to all the relevant information as per the 'Generic Structure of EIA' given in Appendix III and IIIA in the EIA Notification, 2006 & its subsequent amendments.

xiv. The consultants involved in preparation of EIA/EMP report after accreditation with Quality Council of India/National Accreditation Board of Education and Training (QCI/NABET) would need to include a certificate in this regard in the EIA/EMP reports prepared by them and data provided by other Organization(s)/ Laboratories including their status of approvals etc., vide Notification dt. 19.07.2013 of the MoEF&CC.

xv. The project proponent shall submit the detailed final EIA/EMP prepared as per ToRs, to the SEIAA for considering the proposal for Environmental Clearance within 4 years, as per the O.M. No.J-11013/41/2006-IA-11(1) (P) dt. 08.10.2014 of the MoEF&CC, GoI.

xvi **The project proponent should stop construction activity forthwith and shall also comply with the terms of the provisions of the S.O.No.804 (E) dt.14.03.2017; S.O.1030 (E), dt.08.03.2018; and O.M. dt: 07.07.2021 issued by the MoEF&CC, GoI w.r.t. SOP for identification and handling of violation cases under EIA Notification., 2006.**

xvii The prescribed ToRs would be valid for a period of **(5) five years as per the O.M. No.IA3-22/10/2022-IA-III (E 177258) (P) dt. 08.06.2022 of the MoEF&CC, GoI** for submission of the EIA/EMP Reports.

Additional TORs:

- Capacity table (1 mtr interval) with graphical representation.
- Details of submergence.
- Details of development of greenbelt as per the Report of Joint Committee constituted by the Hon'ble NGT, Chennai.
- Compliance of Order dt.10.02.2022 in OA No.180 of 2021 (SZ) of the Hon'ble NGT, Chennai

Sd/-	Sd/-	Sd/-
MEMBER SECRETARY	**MEMBER**	**CHAIRMAN,**
SEIAA, T.S.	**SEIAA, T.S.**	**SEIAA, T.S.**

To
Sri. B. Shankar, Engineer-in-Chief, (Irrigation),
Indiramma Flood Flow Canal Project from
Sri RamaSagar Project with expansion of
Gouravelly Reservoir,
LMD Colony, Karimnagar, Telangana- 505527
Ph.No: +91 90004 69450
Email:enc-knr-icad@telangana.gov.in

Copy to :

1. Prof. Ch. Krishna Reddy, Chairman, SEAC, T.S. for kind information.
2. The Member Secretary, TSPCB for kind information.
3. The EE, RO: SRD-II, TSPCB for information.
4. The IRO, MoEF&CC, GoI, Hyderabad for kind information.
5. The Director of Mines & Geology Dept., Hyderabad for kind information
6. The Secretary, MoEF&CC, GoI, New Delhi for kind information

//T.C.F.B.O.//

JOINT CHIEF ENVIRONMENTAL ENGINEER

रजिस्ट्री सं० डी० एल०-33004/99 REGD. NO. D. L.-33004/99

भारत का राजपत्र
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पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 8 मार्च, 2018

का.आ.1030(अ).—पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय ने अधिसूचना सं. का.आ. 804(अ), तारीख 14 मार्च, 2017 (जिसे इसमें इसके पश्चात् उक्त अधिसूचना कहा गया है) द्वारा पर्यावरणीय अनापत्ति और निदेश निबंधनों को अनुदत्त करने के लिए परियोजनाओं के मूल्यांकन के लिए प्रक्रिया अधिसूचित की है, जिसमें स्थल पर पर्यावरण समाघात अधिसूचना 2006 [का.आ. 1533(अ), तारीख 14 दिसंबर, 2006] के अधीन यथा आज्ञापक पूर्व पर्यावरण अनापत्ति अभिप्राप्त किए बिना पर्यावरणीय अनापत्ति के परे उत्पादन का विस्तार या उत्पादन मिश्रण में परिवर्तन का कार्य आरंभ कर दिया है।

और पर्यावरण, वन और जलवायु परिवर्तन (जिसे इसमें इसके पश्चात् उक्त अधिसूचना कहा गया है) उक्त अधिसूचना में, अन्य बातों के साथ, पैरा 13 के उपपैरा (2) द्वारा निदेश दिया है कि उस दशा में, जब पर्यावरण समाघात निर्धारण अधिसूचना, 2006 के अधीन संबंधित विनियामक प्राधिकरण से पूर्व पर्यावरणीय अनापत्ति की अपेक्षा वाली परियोजनाएं या क्रियाकलाप संनिर्माण कार्य आरंभ करने के पश्चात् पर्यावरणीय अनापत्ति के लिए लायी जाती हैं या जिन्होंने पूर्व पर्यावरणीय अनापत्ति के बिना विस्तार, आधुनिकीकरण और उत्पाद मिश्रण में परिवर्तन किया है, उन परियोजनाओं को अतिक्रमण के मामले के रूप में समझा जाएगा और ऐसे मामलों में यहां तक कि प्रवर्ग ख की परियोजनाएं, जिन्हें पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (3) के अधीन गठित राज्य पर्यावरण संघात निर्धारण प्राधिकरण द्वारा पर्यावरणीय अनापत्ति अनुदत्त की गई है, का पर्यावरणीय अनापत्ति अनुदत्त करने के लिए विशेषज्ञ मूल्यांकन समिति द्वारा ही मूल्यांकन किया जाएगा और पर्यावरणीय अनापत्ति केंद्रीय स्तर पर अनुदत्त की जाएगी ;

और मंत्रालय को उक्त अधिसूचा के अनुसरण में प्रवर्ग 'क' और प्रवर्ग 'ख' के अंतर्गत आने वाले सभी सेक्टरों से विचार करने के लिए अनेक प्रस्ताव प्राप्त हुए हैं।

और मंत्रालय को लोक प्रतिनिधित्वों तथा औद्योगिक संगमों से अभ्यावेदन प्राप्त हुए हैं जिनमें कार्यचालन संबंधी कारणों तथा प्रस्तावों को आगे बढ़ाने के लिए उल्लंघन संबंधी मामलों का निपटारा करने के लिए संबंधित राज्यों को शक्तियों का प्रत्यायोजन करने का अनुरोध किया गया है;

और नई दिल्ली स्थित राष्ट्रीय हरित अधिकरण ने अपने तारीख 27 नवंबर, 2017 के आदेश द्वारा मैसर्स अंजली इन्फ्रा हाउसिंग एल एल पी बनाम भारत संघ और अन्य नामक मूल आवेदन सं. 570/2016 के वैसे ही मामले में, मैसर्स अंकुल खुशाल कंस्ट्रक्शन एल एल पी बनाम भारत संघ और अन्य नामक मूल आवेदन सं. 576/2016 के मामले में और अंजली इन्फ्रा हाउसिंह एल एल पी बनाम भारत संघ और अन्य मामले में मूल आवेदन सं. 579/2016 के मामले में राज्य स्तर पर परियोजनाओं पर विचार किए जाने के लिए निदेश पारित किए हैं और विधि के अनुसार पर्यावरण अनापत्ति प्रदान करने/का इन्कार करने के संबंध में उचित आदेश पारित किया है।

और उपरोक्त को ध्यान में रखते हुए, केंद्रीय सरकार को यह आवश्यक प्रतीत होता है कि वह लोकहित में, उन व्यक्तियों से, जिनकी इससे प्रभावित होने की संभावना है, आक्षेप तथा सुझाव आमंत्रित करने के बारे में पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (क) में निर्दिष्ट सूचना की अपेक्षा का त्याग करके उक्त अधिसूचना सं. का.आ. 804(अ), तारीख 14 मार्च, 2017 का संशोधन करे।

इसलिए अब, केंद्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (i) के उपखंड (क) और खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, लोकहित में उक्त नियम के नियम 5 के उपनियम (3) के खंड (क) में निदेश की सूचना की अपेक्षा के साथ वितरण द्वारा उक्त अधिसूचना में निम्नलिखित संशोधन करती है।

उक्त अधिसूचना में, पैरा 13 में,-

(क) उपपैरा (2) के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात्:-

"(2) उस दशा में, जब पर्यावरण समाघात निर्धारण अधिसूचना, 2006 के अधीन संबंधित विनियामक प्राधिकरण से पूर्व पर्यावरणीय अनापत्ति की अपेक्षा वाली परियोजनाएं या क्रियाकलाप संनिर्माण कार्य आरंभ करने के पश्चात् पर्यावरणीय अनापत्ति के लिए लायी जाती हैं या जिन्होंने पूर्व पर्यावरणीय अनापत्ति के बिना विस्तार, आधुनिकीकरण और उत्पाद मिश्रण में परिवर्तन किया है, उन परियोजनाओं को अतिक्रमण के मामले के रूप में समझा जाएगा और पर्यावरण समाघात निर्धारण अधिसूचना, 2006 की अनुसूची के प्रवर्ग 'क' के अंतर्गत आने वाली परियोजनाओं या क्रियाकलापों का, जिनमें विद्यमान परियोजनाओं या क्रियाकलापों का विस्तार और आधुनिकीकरण भी है, मंत्रालय में विशेषज्ञ मूल्यांकन समिति द्वारा पर्यावरणीय अनापत्ति प्रदान करने के लिए मूल्यांकन किया जाएगा और पर्यावरणीय अनापत्ति केंद्रीय स्तर पर प्रदान की जाएगी और प्रवर्ग 'ख' परियोजनाओं के लिए, उनका मूल्यांकन और अनुमोदन पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (3) के अधीन गठित विभिन्न राज्यों और संघ राज्यक्षेत्रों में राज्य या संघ राज्यक्षेत्रीय स्तरीय विशेषज्ञ मूल्यांकन समितियों और राज्य या संघ राज्य क्षेत्रीय पर्यावरण समाघात निर्धारण प्राधिकरणों में निहित होगा।";

(ख) उपपैरा (4) के स्थान पर निम्नलिखित उपपैरा रखा जाएगा, अर्थात्:-

"(4) पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (3) के अधीन गठित केंद्रीय स्तर की विशेषज्ञ समिति या राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति द्वारा उल्लंघन के मामलों का यह मूल्यांकन करने के लिए निर्धारण किया जाएगा कि परियोजना का ऐसे स्थल पर संनिर्माण किया गया है जो लागू विधियों के अधीन अनुज्ञेय है और विस्तार किया गया है, जिसको पर्याप्त पर्यावरणीय सुरक्षोपायों के साथ पर्यावरणीय मानकों की अनुपालना के अधीन भरणीय रूप से चलाया जा सकता है ; और उस दशा में जहां प्रवर्ग 'क' के अधीन विशेषज्ञ मूल्यांकन समिति या प्रवर्ग 'ख' के अधीन परियोजना के लिए राज्य या संघ राज्यक्षेत्र स्तर की विशेषज्ञ मूल्यांकन समिति का निष्कर्ष नकारात्मक है, विधि के अधीन अन्य कार्रवाईयों के साथ परियोजना को बंद करने की सिफारिश की जाएगी।";

(ग) उपपैरा (5) के स्थान पर निम्नलिखित उपपैरा रखा जाएगा, अर्थात्:-

"(5) उस दशा में जहां पूर्वोक्त उप पैरा (4) के बिन्दु पर विशेषज्ञ मूल्यांकन समिति राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति के निष्कर्ष सकारात्मक हैं, इस प्रवर्ग के अधीन परियोजनाओं को पर्यावरण संघात निर्धारण करने और पर्यावरणीय प्रबंधन योजना और विशेषज्ञ मूल्यांकन समिति या राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति तैयार करने के लिए समुचित निदेश निबंधनों के साथ विहित किया जाएगा। इसके अतिरिक्त विशेषज्ञ मूल्यांकन समिति पारिस्थितिकीय नुकसान, सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना के निर्धारण पर परियोजना के विशिष्ट निदेश निबंधनों को विहित करेगी और उनको प्रत्यायित परामर्शदाताओं द्वारा पर्यावरण संघात निर्धारण रिपोर्ट में एक स्वतंत्र अध्याय के रूप में तैयार किया जाएगा। पारिस्थितिकीय नुकसान, सुधारकारी योजना तैयार करने और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना के निर्धारण के लिए डाटा का संग्रहण और विश्लेषण, पर्यावरण (संरक्षण) अधिनियम, 1986 के अधीन सम्यकता

अधिसूचित प्रयोगशाला या राष्ट्रीय जांच और अशांकन प्रत्यायन बोर्ड द्वारा प्रत्यायित प्रयोगशाला या वैज्ञानिक और औद्योगिक अनुसंधान परिषद् की पर्यावरण के क्षेत्र में कार्य कर रही प्रयोगशाला द्वारा किया जाएगा ।";

(घ) उपपैरा (6) के स्थान पर निम्नलिखित उपपैरा रखा जाएगा, अर्थात्:-

"(6) विशेषज्ञ मूल्यांकन समिति, यथास्थिति, राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति पर्यावरणीय प्रबंधन योजना, सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना से मिलकर बनने वाली पर्यावरणीय प्रबंधन योजना को उपदर्शित करेगी, जो कि मूल्यांकन किए गए पर्यावरणीय नुकसान और पर्यावरणीय अनापत्ति की शर्त के उल्लंघन के कारण उदभूत आर्थिक फायदे की तत्स्थानी होगी ।";

(ङ) उपपैरा (7) के स्थान पर निम्नलिखित उपपैरा रखा जाएगा, अर्थात्:-

"(7) परियोजना प्रस्तावक से सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना की रकम के समतुल्य बैंक प्रत्याभूति को राज्य प्रदूषण नियंत्रण बोर्ड के पास प्रस्तुत करने की अपेक्षा होगी और राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति द्वारा या प्रवर्ग 'क' परियोजना के लिए मात्रा की सिफारिश विशेषज्ञ मूल्यांकन समिति द्वारा की जाएगी और इसको विनियामक प्राधिकरण द्वारा अंतिम रूप दिया जाएगा तथा बैंक प्रत्याभूति को पर्यावरणीय अनापत्ति अनुदत्त करने से पूर्व जमा किया जाएगा और उसे मंत्रालय के प्रादेशिक कार्यालय, विशेषज्ञ मूल्यांकन समिति, यथास्थिति, राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति तथा विनियामक प्राधिकरण के अनुमोदन के पश्चात् सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना के सफलतापूर्वक कार्यान्वयन के पश्चात् निर्मुक्त किया जाएगा ।"।

[फा. सं. जेड-11013/22/2017-आईए-II(एम)]

ज्ञानेश भारती, संयुक्त सचिव

टिप्पण: मूल अधिसूचना का.आ. 804(अ), तारीख 14 मार्च, 2017 द्वारा प्रकाशित की गई थी ।

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 8th March, 2018

S.O. 1030(E). —Whereas, the Ministry of Environment, Forest and Climate Change *vide* notification number S.O.804(E), dated the 14th March, 2017 (hereinafter referred to as the said notification) has notified the process for appraisal of projects for grant of Terms of Reference and Environmental Clearance, which have started the work on site, expanded the production beyond the limit of environmental clearance or changed the product mix without obtaining prior environmental clearance as mandated under the Environment Impact Assessment Notification, 2006 [S.O.1533 (E), dated the 14th September, 2006];

And whereas, the Ministry of Environment, Forest and Climate Change (hereinafter referred to as the Ministry) in the said notification *inter alia*, directed *vide* sub-paragraph (2) of paragraph 13, that in case the projects or activities requiring prior environmental clearance under Environment Impact Assessment Notification, 2006 from the concerned Regulatory Authority, are brought for environmental clearance after starting the construction work, or have undertaken expansion, modernization, and change in product- mix without prior environmental clearance, these projects shall be treated as cases of violations and in such cases, even Category B projects which are granted environmental clearance by the State Environment Impact Assessment Authority constituted under sub-section (3) section 3 of the Environment (Protection) Act, 1986 shall be appraised for grant of environmental clearance only by the Expert Appraisal Committee and environmental clearance will be granted at the Central level;

And whereas, the Ministry has received a number of proposals relating to all sectors covered under category A and category B, for consideration in pursuance of the said notification;

And whereas, the Ministry is in receipt of representations from the public representatives and Industrial Associations, requesting delegation of powers to the respective States to deal with the violation cases for operational reasons and expediting the proposals;

And whereas, the National Green Tribunal, Principal Bench at New Delhi *vide* their order dated the 27th November, 2017 in similar matters in OA No.570/2016 titled M/s Anjli Infra Housing LLP Vs Union of India & othrs, OA No.576/2016 in the matter of M/s Ankur Khusal Construction LLP Vs Union of India & others and OA No.579/2016 in the matter of Anjli Infra Housing LLP Vs Union of India & others, has passed directions for consideration of the projects at the State level and pass appropriate orders in regard to grant/refusal of the environmental clearance in accordance with law;

And whereas, in view of the above, the Central Government finds it necessary to amend the said notification number S.O.804(E), dated the 14th March, 2017 by dispensing with the requirement of notice referred to in clause (a) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 regarding inviting objections and suggestions from persons likely to be affected thereby, in public interest;

Now, therefore, in exercise of the powers conferred by sub-section (1), sub-clause (a) of clause (i) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification by dispensing with the requirement of notice referred to in clause (a) of sub-rule (3) of rule 5 of the said rules, in public interest, namely:-

In the said notification, in paragraph 13, -

(a) for sub-paragraph (2), the following sub-paragraph shall be substituted, namely:-

"(2) In case the projects or activities requiring prior environmental clearance under the Environment Impact Assessment Notification, 2006 from the concerned regulatory authority are brought for environmental clearance after starting the construction work, or have undertaken expansion, modernisation, and change in product-mix without prior environmental clearance, these projects shall be treated as cases of violations and the projects or activities covered under category A of the Schedule to the Environment Impact Assessment Notification, 2006, including expansion and modernisation of existing projects or activities and change in product mix, shall be appraised for grant of environmental clearance by the Expert Appraisal Committee in the Ministry and the environmental clearance shall be granted at Central level, and for category B projects, the appraisal and approval thereof shall vest with the State or Union territory level Expert Appraisal Committees and State or Union territory Environment Impact Assessment Authorities in different States and Union territories, constituted under sub-section (3) of section 3 of the Environment (Protection) Act, 1986.";

(b) for sub-paragraph (4), the following sub-paragraph shall be substituted, namely:-

"(4) The cases of violations will be appraised by the Expert Appraisal Committee at the Central level or State or Union territory level Expert Appraisal Committee constituted under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can run sustainably under compliance of environmental norms with adequate environmental safeguards, and in case, where the findings of Expert Appraisal Committee for projects under category A or State or Union territory level Expert Appraisal Committee for projects under category B is negative, closure of the project will be recommended along with other actions under the law.";

(c) for sub-paragraph (5), the following sub-paragraph shall be substituted, namely:-

"(5) In case, where the findings of the Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee on point at sub-paragraph (4) above are affirmative, the projects will be granted the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan and the Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee, will prescribe specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants, and the collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or a environmental laboratory accredited by the National Accreditation Board

for Testing and Calibration Laboratories, or a laboratory of the Council of Scientific and Industrial Research institution working in the field of environment.";

(d) for sub-paragraph (6), the following sub-paragraph shall be substituted, namely:-

"(6) The Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee, as the case may be, shall stipulate the implementation of Environmental Management Plan, comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefit derived due to violation as a condition of environmental clearance.";

(e) for sub-paragraph (7), the following sub-paragraph shall be substituted, namely:-

"(7) The project proponent will be required to submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by the Expert Appraisal Committee for category A projects or by the State or Union territory level Expert Appraisal Committee for category B projects, as the case may be, and finalised by the concerned Regulatory Authority, and the bank guarantee shall be deposited prior to the grant of environmental clearance and released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after recommendation by regional office of the Ministry, Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee and approval of the Regulatory Authority.".

[F.No.Z-11013/22/2017-IA-II (M)]

GYANESH BHARTI, Jt. Secy.

Note: The principal notification was published vide number S.O.804(E), dated the 14th March, 2017.

आदेश

नई दिल्ली, 8 मार्च, 2018

का.आ. 1031(अ).—केन्द्रीय सरकार ने पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उप नियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1), उपधारा (2) के खंड (i) के उपखंड (क) और खंड (v) के अधीन जारी भारत सरकार की, पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय में अधिसूचना संख्या का.आ.804(अ) तारीख 14 मार्च, 2017 (जिसे इसमें इसके पश्चात् उक्त अधिसूचना कहा गया है) द्वारा उन परियोजनाओं का जिन्होंने पूर्व पर्यावरण अनापत्ति प्राप्त किए बिना कार्य आरंभ कर दिया है और ऐसे मामलों को उल्लघंन माना गया है, का मूल्यांकन करने के लिए प्रबंध किया है।

और उपर्युक्त अधिसूचना के पैरा 13 के उपपैरा (1) द्वारा निर्देश दिया गया है कि यथास्थिति केन्द्रीय सरकार से अथवा उपर्युक्त अधिनियम के अधीन केन्द्रीय सरकार द्वारा विधिवत रूप से गठित राज्य पर्यावरण समाघात निर्धारण प्राधिकरण से, पूर्व पर्यावरणीय स्वीकृति प्राप्त किए बिना भारत के किसी भी भाग में प्रक्रिया या प्रौद्योगिकी अथवा दोनों में परिवर्तन सहित अतिरिक्त क्षमता के लिए शुरू की गई पर्यावरण समाघात निर्धारण अधिसूचना, 2006 [का.आ.1533(अ) तारीख 14 सितंबर, 2006] के अधीन पूर्व पर्यावरणीय स्वीकृति की अपेक्षा वाली परियोजनाओं अथवा क्रियाकलापों या मौजूदा परियोजनाओं अथवा क्रियाकलापों के विस्तार या आधुनिकीकरण को पर्यावरण संघात निर्धारण अधिसूचना, 2006 के उल्लंघन का मामला माना जाएगा;

और उपर्युक्त अधिसूचना में यह और उपबंध है कि ऊपर उल्लिखित परियोजनओं और क्रियाकलापों से उपर्युक्त अधिसूचना के पैरा 13 के उपपैरा (2) से (7) में विनिर्दिष्ट प्रक्रिया के अनुसार सख्ती से निपटा जाएगा;

और पर्यावरण (सरंक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उपर्युक्त अधिसूचना के पैरा 13 के उप पैरा (4) के अनुसरण में सभी क्षेत्रों में उल्लंघन के मामलों का मूल्यांकन करने और केन्द्रीय सरकार को सिफोरिशें करने के लिए विभिन्न क्षेत्रों के विशेषज्ञों से मिलकर बनने वाली भारत सरकार, पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय, संख्यांक का.आ.1805(अ), तारीख 6 जून, 2017 की अधिसूचना द्वारा एक विशेषज्ञ मूल्यांकन समिति (ईएसी) का गठन किया गया था ;

और इस प्रकार गठित की गई विशेषज्ञ मूल्यांकन समिति में, श्री एस.के.श्रीवास्तव, वैज्ञानिक ई को उक्त समिति के सदस्य सचिव के रूप में पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय के प्रतिनिधि रूप में नामनिर्देशित किया गया था।

और प्रशासनिक तथा प्रचालन संबंधी कारणों से, अतिक्रमण मामलों में कार्यवाई करने के लिए गठित की गई विशेषज्ञ मूल्यांकन समिति के सदस्य सचिव के रूप में यथास्थिति श्री **एस.के.श्रीवास्तव**, वैज्ञानिक ई के साथ वैज्ञानिक ई या वैज्ञानिक एफ या वैज्ञानिक जी का नामांकन प्रतिस्थापित करना समीचीन हुआ है;

और अत: अब, केन्द्रीय सरकार पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और उक्त अधिसूचना सं0 का.आ.804(अ) तारीख 14 मार्च, 2017 के पैरा 13 के उपपैरा (4) के अनुसरण में भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii), तारीख 6 जून, 2017 में प्रकाशित भारत सरकार की पर्यावरण वन और जलवायु परिवर्तन मंत्रालय संख्या का.आ.1805(अ), तारीख 6 जून, 2017 के आदेश में **निम्नलिखित संशोधन करती है**, अर्थात्:--

उक्त आदेश की सारणी में, क्रम सं0 11 के सामने, **स्तंभ (2) में प्रविष्टियों के स्थान पर**, निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात्:--

"वैज्ञानिक ई या वैज्ञानिक एफ या वैज्ञानिक जी, **यथास्थिति**, पर्यावरण, वन और जलवायु परिवर्तन, मंत्रालय, जोरबाग रोड, नई दिल्ली-3।

[फा.सं.जेड-11013/22/2017-आईए-।।(एम)]

ज्ञानेश भारती, **संयुक्त सचिव**

टिप्पण: मूल आदेश सं. का.आ.1805(अ) तारीख 6 जून, 2017 द्वारा प्रकाशित किया गया था।

ORDER

New Delhi, the 8th March, 2018

S.O. 1031(E).—Whereas, by the notification of the Government of India in the Ministry of Environment, Forest and Climate Change number S.O. 804(E), dated the 14th March, 2017, issued under sub-section (1), sub-clause (a) of clause (i) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 (29 of 1986), read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 (hereinafter referred to as the said notification), the Central Government has established an arrangement to appraise the projects, which have started the work without obtaining prior environmental clearance and such cases have been termed as cases of violation;

And whereas, vide sub-paragraph (1) of paragraph 13 of the said notification, it has been directed that the projects or activities or the expansion or modernisation of existing projects or activities requiring prior environmental clearance under the Environment Impact Assessment Notification, 2006 [S.O.1533(E), dated the 14th September, 2006] entailing capacity addition with change in process or technology or both, undertaken in any part of India without obtaining prior environmental clearance from the Central Government or by the State Environment Impact Assessment Authority, as the case may be, duly constituted by the Central Government under the said Act, shall be considered a case of violation of the Environment Impact Assessment Notification, 2006;

And whereas, the said notification further provides that the projects and activities referred above, shall be dealt strictly as per the procedure specified in sub-paragraph (2) to (7) of paragraph 13 of the said notification;

And whereas, in exercise of the power conferred by sub-section (3) of section 3 of the Environment (Protection) Act, 1986 and in pursuance of sub-paragraph (4) of paragraph 13 of the said notification, an Expert Appraisal Committee (EAC) was constituted by notification of the Government of India in the Ministry of Environment, Forest and Climate Change *vide* number S.O.1805(E), dated the 6th June, 2017 comprising members with expertise in different sectors to appraise and make recommendations to the Central Government as cases of violation in all the sectors;

And whereas, in this Expert Appraisal Committee so constituted, Shri S K Srivastava, Scientist E was nominated as representative of the Ministry of Environment, Forest and Climate Change as Member Secretary of the said Committee;

And whereas, due to administrative and operating reasons, it has become expedient to replace the nomination of Shri S. K. Srivastava, Scientist E with the Scientist E or Scientist F or Scientist G, as the case may be, as Member Secretary of the Expert Appraisal Committee constituted to deal with violation cases;

And now, therefore, in exercise of the powers conferred by sub-section (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) and in pursuance of sub-paragraph (4) of paragraph 13 of the said notification number S.O.804(E), dated the 14th March, 2017, the Central Government hereby makes the following amendments in the order of the Government of India in the Ministry of Environment, Forest and Climate Change number S.O.1805(E), dated the 6th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 6th June, 2017, namely:-

In the said order, in the Table, against serial number 11, for the entries in column (2), the following entries shall be substituted, namely:-

"Scientist E or Scientist F or Scientist G, as the case may be, Ministry of Environment, Forest and Climate Change, Jorbagh Road, New Delhi-3".

[F. No. Z-11013/22/2017-IA-II (M)]

GYANESH BHARTI, Jt. Secy.

Note: The principal order was published vide number S.O.1805(E), dated the 6th June, 2017.

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F. No. 22-21/2020-IA.III
Government of India
Ministry of Environment, Forest and Climate Change
Impact Assessment Division
*****

Indira ParyavaranBhawan
Jor Bagh Road, Aliganj
New Delhi – 110003
sujit.baju@gov.in

Date: 7th July, 2021

Office Memorandum

Subject: Standard Operating Procedure (SoP) for Identification and handling of violation cases under EIA Notification 2006 in compliance to order of Hon'ble National Green Tribunal in O.A. No.34/2020 WZ - Regarding.

The Ministry had issued a notification number S.O.804(E), dated the 14th March, 2017 detailing the process for grant of Terms of Reference and Environmental Clearance in respect of projects or activities which have started the work on site and/or expanded the production beyond the limit of Prior EC or changed the product mix without obtaining Prior EC under the EIA Notification, 2006.

2. This Notification was applicable for six months from the date of publication i.e. 14.03.2017 to 13.09.2017 and further based on court direction from 14.03.2018 to 13.04.2018.

3. Hon'ble NGT in Original Application No. 287 of 2020 in the matter of Dastak N.G.O. Vs Synochem Organics Pvt. Ltd. &Ors. and in applications pertaining to same subject matter in Original Application No. 298 of 2020 in Vineet Nagar Vs. Central Ground Water Authority &Ors., vide order dated 03.06.2021 held that "(...) ***for past violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process***".

4. Further, the Hon'ble National Green Tribunal in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors., vide order dated 24.05.2021 has directed that ***"...a proper SoP be laid down for grant of EC in such cases so as to address the gaps in binding law and practice being currently followed. The MoEF may also consider circulating such SoP to all SEIAAs in the country"***.

5. Therefore, in compliance to the directions of the Hon'ble NGT a Standard Operating Procedure (SoP) for dealing with violation cases is required to be drawn.The Ministry is also seized of different categories of 'violation' cases which have been

pending for want of an approved structural/procedural framework based on *'Polluter Pays Principle'* and *'Principle of Proportionality'*. It is undoubtedly important that action under statutory provisions is taken against the defaulters/violators and a decision on the closure of the project or activity or otherwise is taken expeditiously.

6. In the light of the above directions of the Hon'ble Tribunal and the issues involved, the matter has accordingly been examined in detail in the Ministry. A detailed SoP has accordingly been framed and is outlined herein. The SoP is also guided by the observations / decisions of the Hon'ble Courts wherein principles of proportionality and polluters pay have been outlined.

7. Relevant Court Cases on the issue: It is noted that while deciding issues related to violations of the Environment Protection Act, 1986 on account of running the project/activity without prior environmental clearance or in excess of capacity allowed in such clearances, **the Hon'ble courts have, *inter-alia*, deliberated on various facets involving 'violation' cases** and have **enunciated principles of 'Proportionality' and 'Polluter Pays'** in various decisions viz. Industrial Council for Enviro-Legal Action Vs Union of India (the Bichhri village industrial pollution case) (1996 SCC [3] 212); Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. (C.A. No. 1526 of 2016, order dated 1.4.2020) and Hindustan Copper Limited Vs Union of India in (W.P. (C) No. 2364 of 2014, order dated 28.11.2014). The salient extracts of the judgements are as under:

Issue 1: Proposal for grant of Environmental Clearance in violation cases – to be considered on merits:

i. Hon'ble High Court of Jharkhand in the matter of Hindustan Copper Limited Vs Union of India in W.P. (C) No. 2364 of 2014, vide order dated 28.11.2014

> *Held: "(...) action for alleged violation would be an independent and separate proceeding and therefore, consideration of proposal for environment clearance cannot await initiation of action against the project proponent."*
>
> *"(...) the proposal of the petitioner company for **environmental clearance must be examined on its merits, independent of any proposed action for the alleged violation of the environmental laws**."*

ii. Hon'ble Madras High Court in the matter of Puducherry Environment Protection Association Vs The Union of India in W.P. No. 11189 of 2017, vide order dated 13.10.2017

> *Held "27. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down only because of failure to obtain prior environmental clearance, even though the establishment may not otherwise be violating*

pollution laws or the pollution, if any, can conveniently and effectively be checked. ***The answer necessarily has to be in the negative.***"

"29. It is reiterated that protection of environment and prevention of environmental pollution and degradation are non-negotiable. At the same time, the Court cannot altogether ignore the economy of the Nation and the need to protect the livelihood of hundreds of employees employed in projects, which as stated above, otherwise comply with or can be made to comply with norms."

Issue 2: Environmental Clearance – Prospective & not ex-post facto:

Hon'ble Supreme Court in the matter of Common Cause Vs Union of India in W.P. (C) No. 114 of 2014, vide order dated 2.8.2017

Held: "(...) an EC will come into force ***not earlier than the date of its grant.***"

Issue 3: 'Principles of Proportionality' – to be applied:

Hon'ble Supreme Court in the matter of Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. in C.A. No. 1526 of 2016, vide order dated 1.4.2020

Held: "(...) ***this Court must take a balanced approach*** *which holds the industries to account for having operated without environmental clearances in the past without ordering a closure of operations. The directions of the NGT for the revocation of the ECs and for closure of the units do not accord* ***with the principle of proportionality***"

Issue 4: 'Polluter pays' principle &

&

Issue 5: Costs for remedial measures implicit in Sections 3 & 5 of Environment (Protection) Act, 1986.

Hon'ble Supreme Court in the matter of Indian Council for Enviro- Legal Action Vs Union of India (the Bichhri village industrial pollution case) in (1996 SCC [3] 212)

Held:

a) The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. The said powers will ***include giving directions ...*** *and also the power to* ***impose the cost of remedial measures*** *on the offending industry and utilize the amount so recovered for carrying out remedial measures.....*

Sd

b) ***Levy of costs required for carrying out remedial measures is implicit in Sections 3 and 5*** *which are couched in very wide and expansive language. Sections 3 and 5 of the Environment (Protection) Act, 1986, apart from other provisions of Water and Air Acts, empower the Government to make all such directions and take all such measures as are necessary or expedient for protecting and promoting the 'environment', which expression has been defined in very wide and expansive terms in Section 2 (a) of the Environment (Protection) Act. This power includes the power to prohibit an activity, close an industry, direct to carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry.*

c) The question of liability of the respondents to defray the costs of remedial measures can also be looked into from accepted universally sound principle, viz., the ***"Polluter Pays" Principle****. "The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution".*

8. Legal provisions:

i. The Environment (Protection) Act, 1986 mandates the Central Government to take all measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution (reference sub-section (1) of Section 3 of Environment (Protection) Act, 1986). Further, clause (xiv) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 specifies that the measures stipulated under sub-section (1) of Section 3 of the Environment (Protection) Act 1986 includes '*such other matters as the Central Government deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act*'.

ii. Further, notwithstanding anything contained in any other law but subject to the provisions of the Environment Protection Act, 1986, Section 5 of the Environment (Protection) Act, 1986, provides that the Central Government may, in the exercise of powers and performance of Central Government functions under the said Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

9. Definition of Violation and Non-compliance:

The Standard Operating Procedure (SoP) considers 'Violation' & 'Non-compliance' from the following perspective:

i. "Violation" means cases where projects have either started the construction work or installation or excavation, whichever is earlier, on site or have expanded the production capacity and / or project area beyond the limit specified in the Environmental Clearance (Prior-EC) without obtaining Prior-EC or change of scope without prior approval from the Ministry.

ii. "Non-compliance" means non-compliance of terms and conditions prescribed by the Regulatory Authority in the Prior Environment Clearance accorded to the project.

10. Standard Operating Procedure – Guiding Principles:

i. Without prejudice to any other consequences, **action has to be initiated under section 15 read with section 19** of The Environment (Protection) Act, 1986 **against all violations.**

ii. Projects not allowable/permissible, for grant of EC, as per extant regulations: **To be demolished**.

iii. Projects allowable/permissible, if prior EC had been taken as per extant regulations: **To be closed until EC is granted (if no prior EC has been taken) or to revert to permitted production level (in case prior EC has been granted)**.

iv. **Polluter pays**: Violators to pay for violation period - proportionate to the scale of project and extent of commercial transaction.

v. Setting up a mechanism for reporting of violation to the regulatory authority(ies).

11. SOP for dealing with the violation cases:

Step 1: Closure or Revision

Sl no.	Status of EC	Actions
1	If no prior EC has been taken	Order to **close** its operation
2.	If prior EC is available for existing/old unit	Order to **revert the activity/ production** to **permissible limits.**
3.	If prior EC was not required for earlier production level but is now required	**Restrict the activity/production** to the extent to which prior EC was not required.

Step 2: Action under Environment (Projection) Act, 1986

Action under section 15 read with section19 of the Environment (Protection) Act, 1986 shall be initiated against the violators.

Step: 3: Appraisal under EIA Notification, 2006

The permissibility of the project shall be examined from the perspective of whether such activity/project was at all eligible for the grant of prior EC.

A. If not permissible:

i. The project shall be **ordered for the demolition/closure after issuing show cause notice and providing an opportunity of hearing**.

Ex. If a red industry is functioning in a CRZ-I area which means that the activity was, in the first place, not permitted at the time of commencement of project. Therefore, the activity is not permissible and therefore it shall be ***closed & demolished****.*

ii. Respective regulatory authorities shall issue directions under section 5 of the Environment (Protection) Act, 1986 for such closure & demolition of the project/activity.

B. If permissible:

i. As per extant regulations at the time of scoping, if it is viewed that the project activity is otherwise permissible, Terms of Reference (TOR) shall be issued with directions to complete the impact assessment studies & submit Environmental Impact Assessment (EIA) report & Environmental Management Plan (EMP) in a time bound manner.

ii. Such cases of violation shall be subject to appropriate

(a) Damage Assessment

(b) Remedial Plan and

(c) Community Augmentation Plan by the Central level Sectoral Expert Appraisal Committees or State/Union Territory Level Expert Appraisal Committees, as the case may be.

iii. The Competent Authority shall issue directions to the project proponent, under section 5 of the Environment (Protection) Act, 1986 on case to case basis mandating payment of such amount (as may be determined based on Polluters Pay principle) and undertaking activities relating to Remedial Plan and Community Augmentation Plan (to restore environmental damage caused including its social aspects).

iv. Upon submission of the EIA & EMP report, the project shall be appraised by the Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, as if it was a new proposal. If, on examination of the EIA/EMP report, the project is considered permissible for operation as per extant regulations, the requisite Environmental Clearance shall be issued **which shall be effective from the date of issue**.

v. However, during appraisal after examination if it is found that even though the project may **be permissible but not environmentally sustainable in its present**

form/configuration/features then the project shall be directed to be **modified so that the project would be environmentally sustainable.**

vi. If, however, it is not considered appropriate to issue EC, the project shall be directed to be **demolished/ closed. If such proposal is a case of expansion, the project shall be directed to revert back to the extent of activity for which EC had been granted earlier or to revert back to the extent of activity for which EC was not required (as the case may be).**

vii. Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, may insist upon public hearing to be conducted for such categories of projects for which the EIA Notification 2006, as amended from time to time, requires the public hearing to be conducted.

viii. The project proponent will be required to **submit a bank guarantee equivalent to the amount of Remediation Plan and Natural & Community Resource Augmentation Plan with Central / the State Pollution Control Board (depending on whether it is appraised at Ministry or by SEIAA).** The quantification of such liability will be recommended by Expert Appraisal Committee and finalized by Regulatory Authority. The bank guarantee shall be deposited prior to the grant of environmental clearance and **will be released after successful implementation of the Remediation plan and Natural & Community Resource Augmentation Plan**.

Note - The activities, as per above clauses, shall be undertaken simultaneously wherever feasible. Environmental Clearance, if granted, to such projects or activities, after due appraisal of EIA/EMP report, **shall be effective only from the date of issuance of such clearance** and shall be subject to compliance of obligations towards Damage Assessment, Remedial Plan & Community Augmentation Plan, etc. finalized in each case.

12. Penalty provisions for Violation cases and applications:

a. **For new projects:**

i. **Where operation has not commenced**: 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report; [Ex: Rs.1 lakh for project cost of Rs.1 Cr]

ii. **Where operations have commenced without EC**: 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report **PLUS** 0.25% of the total turnover during the period of violation. [Ex: For Rs.100 Cr project cost and Rs.100 Cr total turnover, the penalty shall be Rs.1 Cr + Rs. 0.25 Cr = Rs.1.25 Cr]

b. **For expansion projects:**

i. **Where operation/production with expanded capacity has not commenced**: 1% of the project cost, attributable to the expansion, incurred up to the date of filing of application along with EIA/EMP report.

ii. **Where operation/ production with expanded capacity have commenced**: 1% of the project cost (attributable to the expansion activity) incurred upto the date of filing of application along with EIA/EMP report PLUS 0.25% of the total turnover (attributable to the expanded activity/capacity) involved during the period of violation.

12.1. Without prejudice to obligation as per (a) & (b) above, where the project or activity is considered for appraisal as above & the project proponent fails to provide required information or requisite documents or complete the requisite study for the purpose of EIA/EMP reports or does not furnish such reports within such period, as specified by the appraisal committee, without reasonable cause, it shall be inferred that the project proponent is not serious enough and the project or activity shall be directed to be demolished / closed.

12.2. The percentage rates, as above, shall be halved if the project proponent *suo-moto* reports such violations without such violations coming to the knowledge of the Government either on inquiry or complaint.

12.3. The penalty, as above, shall be in addition to liability for carrying out various remedial measures which shall be worked out based on the damage assessment for quantifying the environmental damage caused due to unauthorized project activity [as per Step 3 enumerated above].

13. Identification of Violation cases:

With a view to protecting the environment and to expeditiously bring violators into a regulatory regime so as to prevent & control environment damage caused by such violation & to determine whether operation of such projects is permissible and to take action stipulated under Section 15 of the Environment (Protection) Act, 1986 for contravention of the provisions of the said Act, Rules, orders and directions, it is expedient to also identify the cases of violation, examine and appraise such projects so as to refrain them from causing further environmental damage and also to compensate for causing damage to the environment.Therefore, in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986, the Central Government hereby directs that:-

i. State Pollution Control Boards & Union Territory Pollution Control Committees, before grant or renewal of Consents under Water(Prevention & Control of Pollution) Act, 1974 & Air (Prevention& Control of Pollution) Act, 1981, shall ensure that the project proponents applies for or possess valid Prior

Environmental Clearance in terms of extant EIA Notification and shall not grant or renew CTO (Consent to Operate) unless Environment Clearance (if applicable) has been obtained.

ii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall identify cases of violation under their respective jurisdiction, report such cases to the Ministry or State/Union Territory Level Environmental Impact Assessment Authority, as the case may be and also revoke CTO, if granted to the unit after giving an opportunity of being heard.

iii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall expeditiously examine the references, received from public and other bodies, relating to violations and take necessary steps as per (ii) above.

14. This is issued with the approval of the Competent Authority.

07/7/2021

(Dr. Sujit Kumar Bajpayee)
Joint Secretary (IA)

To

1. Chairperson/Member Secretary of Central Pollution Control Board
2. Chairperson/Member Secretaries of all the SEIAAs/SEACs
3. Chairman/Members of all the Expert Appraisal Committees
4. Chairman/Members of all the State Pollution Control Boards and Union Territory Pollution Control Committees

Copy for information:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS for Environment, Forest and Climate Change
3. PPS to Secretary(EF&CC)
4. PPS to AS(RS) / AS (RA)/ AS (UD)/ JS(JT) / JS (MP)/ JS (NPG)
5. All the officers of IA Division
6. Website of MoEF&CC/PARIVESH/Guard file

Copy (by email) also forwarded to the Registrar, NGT, in compliance to instruction given in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors.(order dated 24.05.2021).