

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI
APPEAL NO. 40 OF 2022(SZ)

IN THE MATTER OF:

KULAL MUNINDAR NARENDER GOUD & ORS.

... APPELLANT

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

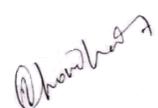
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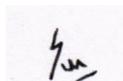
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DATED:- 28.01.2023

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI
APPEAL NO. 40 OF 2022(SZ)

IN THE MATTER OF:

KULAL MUNINDAR NARENDER GOUD & ORS. ... APPELLANT
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**REJOINDER ON BEHALF OF APPELLANTS TO THE REPLIES FILED
BY RESPONDENT NO. 1 AND 4.**

MOST RESPECTFULLY SHOWETH:-

1. That the present Appeal has been filed under Section 16 (h) of the National Green Tribunal Act, 2010 against the Environmental Clearance dated 03.01.2022 granted by the Ministry of Environment , Forests and Climate Change to Jurala Organics and Agro Industries LLP for setting up of Grain based distillery producing Ethanol in an area of 13.19 Hectares. The project is located at Chittanur Village, Marikal Mandal, Narayenpet District of State of Telangana. The project also involves captive coal based Thermal Power Plant of 15 Mega Watts.
2. That the Respondent Nos. 1 and 4 have filed their respective Replies which need to be Rejoined on the issues which are as follows:-
 - i. According to Respondent No.4, EAC has considered all aspects.
 - ii. According to Respondent No. 4, the project falls under category B2 and therefore EIA and Public Hearing are not required. The project proponent has prepared and submitted Environmental Management Plan (EMP) based

upon which the Environmental Clearance has been granted.

- iii. According to Respondent No.4, prior permission for water withdrawal shall be obtained from concerned Regulating authority.
- iv. According to Respondent No.4, there is no illegal diversion of two canals as they are natural rain water streams that are flowing through the project area.
- v. According to Respondent No.4, Project Proponent will apply for coal linkage as & when Govt. notifies availability of coal.
- vi. According to Respondent No. 4, Ash generated through the Co-Gen Power Plant will be used for manufacturing Fly Ash Bricks.
- vii. According to Respondent No. 1, the Appeal has been filed beyond limitation.

3. **In Rejoinder to the contention No. i. and ii** that EAC has considered all aspects is wrong and denied. According to Respondent No. 4 the project falls under category B2 and therefore EIA and Public Hearing are not required. It is further stated that the project proponent has prepared and submitted Environmental Management Plan (EMP) based upon which the Environmental Clearance has been granted. It is stated that a perusal of the paragraph 1.7 of the EMP which gives details of the Proposed Products & Production in it's list of products mentions that:-

S. No.	Name of Unit	Name of the Product	Production Capacity
1.	Distillery Plant	Ethanol	1x400 KLPD & 1 X 200 KLPD (600 KLPD)
2.	Power Plant	Electricity	15 MW
By-Products			

1.	Distillery Plant	DDGS	330 TPD
2.	Distillery Plant	CO ₂ recovery	340 TPD

4. That it is stated that even in the Plant layout given in figure 1.5 at S.No 15 Coal/Fuel Yard is mentioned.
5. It is stated that in thermal and coal related projects site selection, coal availability, coal characteristics, quantum of Ash generation, water availability, fuel and water linkage are important parameters for consideration before the EAC, which whole process has been circumvented and EIA process violated.
6. That in para 16 of the Appeal the Appellants have stated that the Thermal Power Plants which are above 5 MW are to be considered as the Category B1 projects and have undergo the stages of EIA Study, Public Consultation and Appraisal. Appellant in the Appeal states that:-
- “The Project Proponent also proposes to build 15 Mega Watt (MW) Captive Thermal Power Plant for the purpose of proposed project. As per the schedule under the EIA Notification and as per the Office Memorandum (No. J-13012/12/2013-IA-II (I) of MoEF&CC dated 24.12.2013, the Thermal Power Plants which are above 5 MW are to be considered as the Category B1 projects and have undergo the stages of EIA Study, Public Consultation and Appraisal”
7. That in support of the above contention, the Appellants are annexing copy of Office Memorandum (No. J-13012/12/2013-IA-II (I) of MoEF&CC dated 24.12.2013 which shows that the Thermal Power Plants which are above 5 MW are to be considered as the Category B1 projects. However, no such consideration and appraisal of the 15 MW Thermal Power Plant has been done in this case.

Copy of Office Memorandum of MoEF dated 24.12.2013 is annexed herewith as **ANNEXURE-A5.**

8. **In Rejoinder to the contention iii.** that according to Respondent No.4, prior permission for water withdrawal shall be obtained from concerned Regulating authority. It is stated that by the Project Proponent before the EAC that 2,700 m³/day of water will be required for the proposed project, which will be obtained from the Koilsagar lift irrigation project. It is stated that the water is only available seasonally in the Koilsagar project and the farmers in the area where the project is located are dependent on this water for the growth of their agricultural crops.
9. That it is stated further that the appraisal of the present project was done by the EAC. The perusal of the EAC minutes dated 23.12.2021 shows that the Project Proponent has not provided details such as the all-season availability of water required for the project at Koilsagar lift irrigation project, the already existing dependent users of the same water, the impacts of water withdrawal for the project on the environment, ecology and on various users, especially farmers, who are dependent on this water, etc. Without submission of these details, the Project Proponent has simply submitted before the EAC that they have applied for permission to withdraw water required for project. Relevant excerpt from the meeting minutes of EAC is as under:

"(v). Total Fresh water requirement shall not exceed 2400 KLD (@4.0 KL/KL) and will be met from Koilasagar lift Irrigation Scheme. Prior permission shall be obtained from the concerned regulatory authority/CGWA in this regard, and renewed from time to time..."
10. The perusal of the above excerpt reveals that the Project Proponent obtained the water withdrawal permission from the concerned

regulatory authority on 29.08.2022. It is submitted although the EAC noted this particular issue, it has however not delved into issues such as availability of water and the impacts of water withdrawal for the project, etc. Hence, it is submitted the all-season availability of water required for the project, the impact of water withdrawal for the project, etc. have not been studied and permission required from withdrawal of water from Koilsagar Lift Irrigation project have not been obtained.

11. **In Rejoinder to the contention iv.** that according to Respondent No.4, there is no illegal diversion of two canals as they are natural rain water streams that are flowing through the project area is denied. It is stated that the present project is located on two water canals which flow through the project site. Both these water canals are seasonal water canals, which receive water from the main canal of Koilsagar Irrigation lift irrigation project. During the monsoon season, the water from the Koilsagar water canal is released to these water canals on which the present project is located. It is from the same canals that the farmers draw water for the cultivation and growing of their agricultural crops.
12. That these two canals are diverted by the Project Proponent into project's own large water tanks, which are under construction. The purpose of building these tanks is to store the water from the canals and thus meet the water requirement of water. The photographs showing the diversion of two water canals and building large tank within the project site to meet the water requirement of the present project are already annexed on record as Annexure-A3 (Colly). The perusal of these photographs reveals that the Project Proponent is diverting the two water canals into the project site and into the several water tanks which are built within the project site, for the purpose of storing water.

13. That as per the Table 1.4 of EMP titled Environmental setting within the 10 KM radius of the project site the Water bodies in the 10 KM zone have been described and which also talks about stream which is passing through the site and it was also stated in the EMP that the same will be diverted as per Govt. rules & few ponds exist within 10 Km radius. The EMP states:-

Water body	Pedda Vagu-6.5 Kms (SEE) Manne Vagu-0.5 Kms (E) Canal-0.5 Kms Stream is passing through the site and same will be diverted as per Govt. rules & few ponds exist within 10 Km radius.
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14. That the Respondent No.1 alongwith it's Reply Affidavit dated 16.12.2022 have annexed a site visit Report dated 29.06.2022. According to this site visit Report para 8, the approval for obtaining water from Koilsagar are in final stage. Therefore, it is stated that the Respondent No.4 has failed to show as to which is the Govt. permission/rule by which it is diverting the streams which are passing through the site. The Govt. permission/rule for diversion of these two water canals, the storing of water inside the water tanks have not been disclosed by the Project Proponent before the EAC during the appraisal of the proposed project.
15. **In Rejoinder to the contention v.** that according to Respondent No.4, Project Proponent will apply for coal linkage as & when Govt. notifies availability of coal. It is stated by the Appellants that it is stated the EC has been issued by the MoEF&CC when the Project does not have confirmed fuel linkage. Further, the EAC too has failed to deal with the issue of confirmed coal linkage as is evident from the perusal of EAC minutes dated 23.12.2021.
16. That even in the EC there is no reference to confirmed fuel linkage. The fuel FOR 15 MW Thermal Power Plant, which in this case is coal is the most important aspect. A perusal of OM dated 24.12.2013 issued by the MoEF mentions categorically that a Thermal Power plant which is based on coal/linite/naptha and gas capacity > 5 MW and < 500 MW comes within

the category B1. The project of Thermal Power Plant of 15 MW ought to have been appraised separately by EAC (Thermal).

17. That according to the Official Memorandum No. J-11013/41/2006-IA.II(1) dated 19th April, 2012 of the Ministry of Environment & Forests it was stipulated that such projects shall be considered only after firm coal linkage is available. The relevant points of the said OM are as under:

- *This is in continuation to this Ministry's earlier circular of even number dated 1st November, 2010 on the above mentioned subject regarding proposals relating to thermal power and other projects, which are largely dependent on availability of coal as a raw material. It was stipulated that such projects shall be considered only after firm coal linkage is available.*
- *The issue of firm coal linkage as a pre-requisite for consideration of projects for environment clearance has been further considered in order to bring in greater clarity and to elaborate the procedure for submission and processing of proposals for environment clearance.*
- *It is essential to have detailed information regarding quality of coal to assess the environmental impacts of a thermal power project. The various important parameters of coal quality, inter alia, include (i) calorific value; (ii) sulphur content and (iii) ash content. The calorific value of coal would determine the quantity of coal requirement per unit of power generation, ash content would determine the land requirement for the ash pond as also the water consumption for its disposal in slurry mode and sulphur content would impact on the SO₂ emissions which, in turn, would affect the air quality.*
- *It is, therefore, essential to provide firm coal linkage for consideration of proposals for environment clearance of*

thermal power projects and other projects which are largely dependent on coal as a raw material. It is clarified that the coal linkage could either be in the form of a linkage through a specific mine or a basket of mines or through dedicated coal block, in the form of linkage accorded by Standing Linkage Committee of the Ministry of Coal or a fuel supply agreement. The linkage/FSA must provide the details of the coal quality parameters, specifically (i) calorific value; (ii) sulphur content and (iii) ash content and such other parameters as may be prescribed by MoEF from time to time. Further, it would be necessary to indicate the location of mine as this would determine the necessity of using beneficiated washed coal.

Copy of the Official Memorandum NO. J-11013/41/2006-IA.II(1) dated 19th April, 2012 of the Ministry of Environment & Forests is annexed as **ANNEXURE-A6**.

18. **In Rejoinder to the contention v.** that according to Respondent No. 4, Ash generated through the Co-Gen Power Plant will be used for manufacturing Fly Ash Bricks. It is stated that the EMP has failed to elaborate about the quantum of Ash generated and what would be its Utilization plan. In absence of any Fly Ash Utilization plan it cannot be inferred decisively as to whether Fly Ash Brick making would be enough to utilise 100 per cent Fly Ash and in how much time.
19. **In Rejoinder to the contention vi.** of Respondent No.1 that the Appeal has been filed beyond limitation it is stated that the same is wrong and denied. It is submitted that the present Appeal under Section 16(h) of the National Green Tribunal Act, 2010 has been filed against the Environmental Clearance dated 28.04.2020 and the Appellant relies on the Order dated 03.01.2022 passed by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No. 3/2020 which directed that the limitation stood extended from 15th March, 2020 onwards till further orders and the said Order continued to operate at the time of filing of present Appeal on 28.05.2022 even thereafter.

Copy of the Supreme Court Order has been annexed with the Appeal as **ANNEXURE-A7**

20. That it is stated that a perusal of Annexure-A7 shows that that the Hon'ble Supreme Court has passed the Order extending Limitation by taking Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State). To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including the Supreme Court, it was ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or special laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by the Hon'ble Supreme Court. The Hon'ble Supreme Court while exercising it's power under Article 142 read with Article 141 of the Constitution of India also declared that it's order extending limitation as a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities. This Order extending limitation passed by the Hon'ble Supreme Court operated till 90th from 01.03.2022 i.e end of May, 2022. Therefore, in view of the fact that the Order was binding on this Hon'ble Tribunal and other Civil Authorities there is no question of the Appeal being beyond limitation.
21. Therefore, in view of the abovementioned facts and circumstances the prayer in the Appeal may very kindly allowed.

22) Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.

K.M. Narendra Goud
APPELLANT No. 1

THROUGH

Ritwick Dutta

RITWICK DUTTA

Rahul Choudhary

RAHUL CHOUDHARY

G. Stanly Hebzon Singh

G. STANLY HEBZON SINGH

ADVOCATES

COUNSELS FOR THE APPELLANTS

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VERIFICATION

Verified by Kalal Munindar Narendra Goud, aged about 38 years, S/o Munindar Goud, R/o House No. 3-2, Village - Chithanoor, Mandal - Marikal, District - Narayanapet, Telangana - 509 409, do hereby verify that the contents of Paragraphs 1 to 22 are true to my personal knowledge and nothing material has been concealed therefrom.

K.M. Narendra Goud
APPELLANT No. 1

Date: 19/11/2023

Place:



Entered in Register

Page No. 01 of 07

19/11/2023

SYED FAQURUDDIN
B.Com., LL.B. (Spl)
ADVOCATE & NOTARY
Appointed by Govt. of T.S.
H.No: 1-10-30, Sha Shab Sutta,
Mahabubnagar-509 001 (T.S.)
Cell - 9849177933

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH, CHENNAI
APPEAL NO. 40 OF 2022

IN THE MATTER OF:

KulalMunindarNarendarGoud&Ors.

...Appellants

Versus

Union of India&Ors.

...Respondents

AFFIDAVIT

I, KalalMunindarNarendarGoud, aged about 38 years, S/o MunindarGoud, R/o House No. 3-2, Village - Chithanoor, Mandal - Marikal, District - Narayanapet, Telangana - 509 409, presently at Telangana, do hereby solemnly affirm and declare as under:

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

K.M. Narendar Goud
DEPONENT

VERIFICATION

Verified on this 19 day of January, 2023 that the contents of present Rejoinderare true and correct to my knowledge and belief and nothing material has been concealed therefrom.

SYED FAURUDDIN
 B.Com., LL.B. (Spl)
ADVOCATE & NOTARY
 Appointed by Govt. of T.S
 H.No: 1-10-30, Shashab Gutta,
 Mahabubnagar-509 001 (T.S.)
 Cell - 9849177932

K.M. Narendar Goud
DEPONENT

No. J-13012/12/2013-IA-II (I)
Government of India
Ministry of Environment and Forests

Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi – 110 003

Dated 24th December, 2013

OFFICE MEMORANDUM

Subject: Guidelines for consideration of proposals for grant of environmental clearance Environmental Impact Assessment (EIA) Notification, 2006 and its amendments – regarding categorization of Category 'B' projects/activities into Category 'B1' & 'B2'.

The EIA Notification, 2006 mandates prior Environmental Clearance (EC) for new projects or activities including expansion, or modernization of existing projects listed in its Schedule. The Category 'A' projects shall obtain EC from the Central Government and Category 'B' projects from the concerned State Level Environment Impact Assessment Authority (SEIAA)/Union Territory Environment Impact Assessment Authority (UTEIAA). The EIA Notification, 2006 prescribes that Category 'B' projects, will be further categorized as category 'B1' and 'B2' (except for Township and Area Development Projects) for which the Ministry of Environment & Forests (MoEF) shall issue appropriate guidelines from time to time - provisions under '7.1 Stage(1)-Screening' of the Notification refer. The projects categorized as B1 will require EIA Report for appraisal and to undergo public consultation process (as applicable). Projects categorized as 'B2' will be appraised based on the application in Form-I accompanied with the Pre-feasibility Report and any other documents.

2. In compliance with such a requirement under the EIA Notification and to examine other issues, the MoEF had constituted vide O.M No. J-11013/12/2013-IA-II(I) dated 30.01.2013, an Expert Committee, under the Chairmanship of Director, NEERI, Nagpur. The Committee has since submitted its report. The recommendations of the Committee have been examined by MOEF and the following has been decided w.r.t. categorization of Category 'B' projects/activities into Category 'B1' & 'B2' listed in the Schedule of EIA Notification, 2006 and its amendments:

I. Mining of Minerals

Mining of minor minerals

As of now, mining projects of minor minerals with less than 50 ha of mining lease area are categorized as Category 'B' as per Notification S.O.2731(E) dated 9th September, 2013. Also vide OM No.L-11011/47/2011-IA.II(M) dated 24.06.2013, guidelines have been issued regarding categorization of mining projects of 'brick earth' and 'ordinary earth' having lease area less than 5 ha as category 'B2' subject to stipulations stated therein.

In the above backdrop, the projects of mining of minor minerals, categorized as Category 'B' are hereby categorized as 'B2' as per the following:

- (i) 'Brick earth' / 'Ordinary earth' mining projects having lease area less than 5 ha will be considered for granting EC as per the aforesaid guidelines issued by MOEF on 24.6.2013.
- (ii) 'Brick earth' / 'Ordinary earth' mining projects with mining lease area ≥ 5 ha but < 25 ha and all other minor mineral mining projects with mining lease area < 25 ha, except for river sand mining projects will be appraised as Category 'B2' projects. These projects will be appraised based on following documents:
 - (a) Form -1 as per Appendix-I under EIA Notification, 2006
 - (b) Pre-feasibility report of the project
 - (c) Mining plan approved by the authorized agency of the concerned State Government

Provided, in case the mining lease area is likely to result into a cluster situation, i.e., if the periphery of one lease area is less than 500 m from the periphery of another lease area and the total lease area equals or exceeds 25 ha, the activity shall become Category 'B1' Project under the EIA Notification, 2006. In such a case, mining operations in any of the mine lease areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

- (iii) No river sand mining project, with mine lease area less than 5 ha, may be considered for granting EC. The river sand mining projects with mining lease area ≥ 5 ha but < 25 ha will be categorized as 'B2'. In addition to the requirement of documents, as brought out above under sub-para (ii) above for appraisal, such projects will be considered subject to the following stipulations:
 - (a) The mining activity shall be done manually.
 - (b) The depth of mining shall be restricted to 3m/water level, whichever is less.
 - (c) For carrying out mining in proximity to any bridge and/or embankment, appropriate safety zone shall be worked out on case to case basis to the satisfaction of SEAC/SEIAA, taking into account the structural parameters, locational aspects, flow rate, etc., and no mining shall be carried out in the safety zone so worked out.
 - (d) No in stream mining shall be allowed
 - (e) The mining plan approved by the authorized agency of the State Government shall inter-alia include study to show that the annual replenishment of sand in the mining lease area is sufficient to sustain the mining operations at levels prescribed in the mining plan and that the transport infrastructure is adequate to transport the mines material. In case of transportation by road, the transport vehicles will be covered with tarpoline to minimize dust/sand particle emissions.
 - (f) EC will be valid for mine lease period subject to a ceiling of 5 years.

Provided, in case the mining lease area is likely to result into a cluster situation i.e. if the periphery of one lease area is less than 1 km from the periphery of another lease area and total lease area equals or exceeds 25 ha, the activity shall become Category 'B1' Project under the EIA Notification, 2006. In such a case, mining operations in any of the mine lease areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

II. Other projects or activities

The guidelines for categorizing some of the other category of projects or activities into 'B1' or 'B2' out of the category 'B' projects listed in schedule to EIA Notification, 2006, as amended from time to time, are as follows. These projects will be appraised based on Form-1 as per Appendix-I under EIA Notification, 2006, as amended and pre-feasibility report of the project.

S. N. of Schedule	Activities	Category B2	Category B1
1 (d)	Thermal Power Plants	Thermal power plants based on coal/lignite/naphtha and gas of capacity \leq 5 MW.	Thermal power plants based on coal/lignite/ naphtha and gas of capacity $>$ 5 MW and $<$ 500 MW.
2 (b)	Mineral Beneficiation	The mineral beneficiation activity listed in the Schedule as Category 'B', with throughput $<$ 20,000 TPA, involving only physical beneficiation.	All other mineral beneficiation activity falling in the Schedule as Category 'B'.
3 (a)	Metallurgical Industries (ferrous & non-ferrous)	All non toxic secondary metallurgical processing industries involving operation of furnaces only, such as induction and electric arc furnaces, submerged arc furnaces, and cupola with capacity $>$ 30,000 TPA but $<$ 60,000 TPA provided that such projects are located within the notified Industrial Estates.	All other non toxic secondary metallurgical processing industries falling in the Schedule as Category 'B'.
3 (b)	Cement Plants	All stand-alone grinding units listed in the Schedule as Category 'B' subject to the condition that transportation of raw material and finished products shall be primarily* through Railways.	All stand-alone grinding units listed in the Schedule as Category 'B' where the transportation of raw material and finished products is not primarily through Railways.
4 (d)	Chlor Alkali Industry	All Chlor Alkali plants with production capacity $<$ 300 TPD (located within notified industrial area) listed in the Schedule as Category 'B'.	All Chlor Alkali plants with production capacity $<$ 300 TPD (located outside notified industrial area) listed in the Schedule as Category 'B'.
4 (f)	Leather/Skin/Hide Processing Industry	All new or expansion projects of leather production without tanning, located within a notified industrial area/estate, listed in the Schedule as Category 'B'.	All others projects listed in the Schedule as Category 'B'

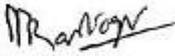
5 (a)	Chemical Fertilizers	Single Super Phosphate (SSP) plants involving only the activity of granulation of SSP powder.	All other Single Super Phosphate (SSP) plants listed in the Schedule as Category 'B'.
5 (d)	Manmade Fibres Manufacturing	All manmade fibre manufacturing units producing fibres from granules or chips.	All other manmade fibre manufacturing units listed in the Schedule as Category 'B'
7 (g)	Aerial Ropeways	All Aerial Ropeway projects, listed in the Schedule as Category 'B', should be categorized as Category B2.	

* transportation by railways should not be less than 90% of the traffic (inward and outward put together)

3. The guidelines for categorization of Category 'B' projects/activities into Category 'B1' & 'B2' are applicable only to those projects/activities mentioned above. All the other Category 'B' projects/activities listed under the Schedule of EIA Notification, 2006 and its amendments shall be considered as Category 'B1' projects and appraised as per the procedure prescribed in the EIA Notification.

4. The information filled in Form-1 by the project proponent inter-alia relates to land, water and energy requirement, use of hazardous substances, disposal of hazardous waste, emissions from combustion of fossil fuels, emissions from production process, handling and disposal of hazardous waste, etc. In case the concerned SEAC, based on the information provided by the project proponent in Form-1, comes to the conclusion that a project though falling in Category 'B2' as per these guidelines needs to be appraised as 'B1' Category project, it will accordingly be appraised as 'B1' category project notwithstanding the provisions under these guidelines.

This issues with the approval of the Competent Authority.


(Dr. P.B. Rastogi)
Director
Telefax : 24342436

To,

1. All the Officers of I.A Division
2. Chairpersons/Member Secretaries of all the SEIAAs/SEACs
3. Chairman, CPCB
4. Chairpersons/Member Secretaries of all the SPCBs/UTPCCs

Copy to:

1. PS to MEF
2. PPS to Secretary (E&F)
3. PPS to ADG (F)
4. PPS to ADG (WL)
5. PPS to JS (AT)
6. PPS to IG (FC)
7. Website, MoEF
8. Guard File

No. J-11013/41/2006-IA.II(I)
Government of India
Ministry of Environment & Forests

Paryavaran Bhavan,
CGO Complex, Lodi Road,
New Delhi-110003

Dated: 19th April, 2012

OFFICE MEMORANDUM

Subject : Consideration of Projects of Thermal Power, Steel Sector, etc. for Environmental Clearance with sourcing of Coal from dedicated Coal Blocks / Coal India Ltd. – Regarding

This is in continuation to this Ministry's earlier circular of even number dated 1st November, 2010 on the above mentioned subject regarding proposals relating to thermal power and other projects, which are largely dependent on availability of coal as a raw material. It was stipulated that such projects shall be considered only after firm coal linkage is available. Further, it was also required that the status of environment and forestry clearance of the coal source, i.e. the linked coal mine / coal block will be intimated for consideration of such proposals. In case of projects based on imported coal, a copy of the firm MOU signed between the coal supplier and the project proponent would be required.

2. The issue of firm coal linkage as a pre-requisite for consideration of projects for environment clearance has been further considered in order to bring in greater clarity and to elaborate the procedure for submission and processing of proposals for environment clearance.

3. It is essential to have detailed information regarding quality of coal to assess the environmental impacts of a thermal power project. The various important parameters of coal quality, inter alia, include (i) calorific value; (ii) sulphur content and (iii) ash content. The calorific value of coal would determine the quantity of coal requirement per unit of power generation, ash content would determine the land requirement for the ash pond as also the water consumption for its disposal in slurry mode and sulphur content would impact on the SO₂ emissions which, in turn, would affect the air quality.

4. Accordingly, quality of coal to be used in the project is taken into consideration while preparing the environment impact assessment (EIA) report and carrying out the environmental appraisal.

5. It is, therefore, essential to provide firm coal linkage for consideration of proposals for environment clearance of thermal power projects and other projects which are largely dependent on coal as a raw material. It is clarified that the coal linkage could either be in the form of a linkage through a specific mine or a basket of mines or through dedicated coal block, in the form of linkage accorded by Standing Linkage Committee of the Ministry of Coal or a fuel supply agreement. The

-2-

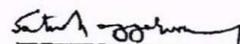
linkage/FSA must provide the details of the coal quality parameters, specifically (i) calorific value; (ii) sulphur content and (iii) ash content and such other parameters as may be prescribed by MoEF from time to time. Further, it would be necessary to indicate the location of mine as this would determine the necessity of using beneficiated washed coal.

6. In the eventuality of change in coal parameters with respect to the parameters based on which EIA was prepared, it would be necessary that the project is referred back to MoEF to revisit the environment clearance granted earlier so as to assess the adequacy of the conditions already stipulated and to incorporate any additional condition as may be necessary in the interest of environment protection including provision of FGD for control of SO_x emissions.

7. As regards the issue relating to the status of EC/FC for the linked coal mine, it is clarified that the case for environment clearance of Thermal Power Projects would be processed based on the status furnished by the proponent in line with the parallel processing being adopted for granting environment clearances of projects where forestry clearance is also required, i.e. having convergence at the last step. However, EC would be issued only after stage-I forestry clearance for linked mine has been issued.

8. The above procedure comes into force with immediate effect.

This issues with the approval of the Competent Authority.


(Dr. S.K. Aggarwal)
Director

To

All officers of IA Division

Copy to:

- (i) PS to MEF
- (ii) PPS to Secretary(E&F)
- (iii) PPS to SS(JMM)
- (iv) PPS to JS(RG)
- (v) All SEIAAs/SEACs
- (vi) Website of MoEF
- (vii) Guard File

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

MISCELLANEOUS APPLICATION NO. 21 OF 2022
IN
MISCELLANEOUS APPLICATION NO. 665 OF 2021
IN
SUO MOTU WRIT PETITION (C) NO. 3 OF 2020

IN RE: COGNIZANCE FOR EXTENSION OF LIMITATION

WITH

MISCELLANEOUS APPLICATION NO.29 OF 2022
IN
MISCELLANEOUS APPLICATION NO. 665 OF 2021
IN
SUO MOTU WRIT PETITION (C) NO. 3 OF 2020

Order

1. In March, 2020, this Court took Suo Motu cognizance of the difficulties that might be faced by the litigants in filing petitions/ applications/ suits/ appeals/ all other quasi proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central and/or State) due to the outbreak of the COVID-19 pandemic.

2. On 23.03.2020, this Court directed extension of the period of limitation in all proceedings before Courts/Tribunals including this Court w.e.f. 15.03.2020 till further orders. On 08.03.2021, the order dated 23.03.2020 was brought to an end, permitting the relaxation of period of limitation between 15.03.2020 and 14.03.2021. While doing so, it was made clear that the period of limitation would start from 15.03.2021.
3. Thereafter, due to a second surge in COVID-19 cases, the Supreme Court Advocates on Record Association (SCAORA) intervened in the *Suo Motu* proceedings by filing Miscellaneous Application No. 665 of 2021 seeking restoration of the order dated 23.03.2020 relaxing limitation. The aforesaid Miscellaneous Application No.665 of 2021 was disposed of by this Court *vide* Order dated 23.09.2021, wherein this Court extended the period of limitation in all proceedings before the Courts/Tribunals including this Court w.e.f 15.03.2020 till 02.10.2021.
4. The present Miscellaneous Application has been filed by the Supreme Court Advocates-on-Record Association in the context of the spread of the new variant of the COVID-19 and the drastic surge in the number of COVID cases across the country.

Considering the prevailing conditions, the applicants are seeking the following:

- i. allow the present application by restoring the order dated 23.03.2020 passed by this Hon'ble Court in *Suo Motu Writ Petition (C) NO. 3 of 2020* ; and
 - ii. allow the present application by restoring the order dated 27.04.2021 passed by this Hon'ble Court in *M.A. no. 665 of 2021 in *Suo Motu Writ Petition (C) NO. 3 of 2020**; and
 - iii. pass such other order or orders as this Hon'ble Court may deem fit and proper.
5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the *M.A. No. 21 of 2022* with the following directions:
 - I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

- II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.
- III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.
- IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

6. As prayed for by learned Senior Counsel, M.A. No. 29 of 2022 is dismissed as withdrawn.

.....CJI.
(N.V. RAMANA)

.....J.
(L. NAGESWARA RAO)

.....J.
(SURYA KANT)

New Delhi
January 10, 2022

ITEM NO.301 Court 1 (Video Conferencing) SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No.21/2022 in MA 665/2021 in SMW(C) No.3/2020

IN RE: COGNIZANCE FOR EXTENSION OF LIMITATION

(FOR ADMISSION and IA No.1935/2022-APPLICATION UNDER SECTION LV RULE 6 OF THE SUPREME COURT RULES, 2013)

WITH

MA 29/2022 in MA 665/2021 in SMW(C) No. 3/2020 (PIL-W)

(FOR ADMISSION and IA No.3161/2022-APPLICATION UNDER SECTION LV RULE 6 OF THE SUPREME COURT RULES, 2013 and IA No.3444/2022-APPLICATION FOR PERMISSION)

Date : 10-01-2022 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s)

Mr. Shivaji M. Jadhav, Adv.
Ms. Manoj K. Mishra, Adv.
Dr. Joseph Aristotle S., Adv.
Ms. Diksha Rai, Adv.
Mr. Nikhil Jain, Adv.
Mr. Atulesh Kumar, Adv.
Dr. Aman M. Hingorani, Adv.
Ms. Anzu Varkey, Adv.
Mr. Aljo Joseph, Adv.
Mr. Sachin Sharma, Adv.
Mr. Varinder K. Sharma, Adv.
Mr. Abhinav Ramkrishna, AOR

Mr. Neeraj Kishan Kaul, Sr. Adv.
Mr. Himanshu Chaubey, AOR
Mr. Prem Dave, Adv.
Mr. Raghav Agrawal, Adv.
Mr. Toshiv Goyal, Adv.

For Respondent(s)

Mr. K.K. Venugopal, AG
Mr. Tushar Mehta, SG

Mr. Rajat Nair, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Siddhant Kohli, Adv.
Mr. Chinmayee Chandra, Adv.
Mr. Arvind Kumar Sharma, AOR

Ms. Uttara Babbar, AOR
Mr. Manan Bansal, Adv.

Mr. Arjun Garg, AOR
Mr. Aakash Nandolia, Adv.
Ms. Sagun Srivastava, Adv.

Ms. Sunieta Ojha, AOR

Mr. P. I. Jose, AOR
Mr. Jenis V. Frensis, Adv.
Mr. Prashant K. Sharma, Adv.

Ms. Anindita Mitra, AOR

Mr. Sahil Tagotra, AOR
Mr. Subhro Mukherjee, Adv.

Mr. Amit Sharma, AOR

Mr. Sameer Parekh, Adv.
Mr. Kshatrashal Raj, Adv.
Ms. Tanya Chaudhry, Adv.
Ms. Pratyusha Priyadarshini, Adv.
Ms. Nitika Pandey, Adv.
For M/s.Parekh & Co., AOR

M/S. VKC Law Offices, AOR

Mr. Vinod Sharma, AOR

Mr. Mukesh K. Giri, AOR

Mr. Kunal Chatterji, AOR
Ms. Maitrayee Banerjee, Adv.
Mr. Rohit Bansal, Adv.

Ms. Pratibha Jain, AOR

Sh. Soumya Chakraborty, Sr. Adv.
Mr. Sanjai Kumar Pathak, AOR
Ms. Shashi Pathak, Adv.

Mr. Divyakant Lahoti, AOR
Mr. Parikshit Ahuja, Adv.
Ms. Praveena Bisht, Adv.
Ms. Madhur Jhavar, Adv.
Ms. Vindhya Mehra, Adv.
Mr. Kartik Lahoti, Adv.
Mr. Rahul Maheshwari, Adv.
Ms. Shivangi Malhotra, Adv.

Mr. Tapesk Kumar Singh, AOR
Mr. Aditya Pratap Singh, Adv.
Mr. Aditya Narayan Das, Adv.

Ms. Binu Tamta, Adv.
Mr. Dhruv Tamta, Adv.

Mr. Siddhesh Kotwal, Adv.
Ms. Ana Upadhyay, Adv.
Ms. Manya Hasija, Adv.
Ms. Pragya Barsaiyan, Adv.
Mr. Akash Singh, Adv.

Ms. Taruna Ardhendumauli Prasad, AOR

Mr. Sibho Sankar Mishra, AOR
Mr. Niranjana Sahu, Adv.

Mr. Abhimanyu Tewari, Adv.
Ms. Eliza Bar, Adv.

Mr. Avijit Mani Tripathi, AOR
Mr. T.K. Nayak, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Court is convened through Video Conferencing.

M.A. No.21 of 2022 is disposed of and M.A. No.29/2022 is dismissed as withdrawn, in terms of the signed Order.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(Signed Order is placed on the file)

(R.S. NARAYANAN)
COURT MASTER (NSH)