

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ), CHENNAI

Appeal No. 41 of 2017

Human Rights Forum

.... Appellant

Versus

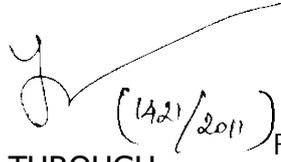
Union of India

... Respondent

ADDITIONAL TYPED-SET OF PAPERS FILED BY THE APPELLANT

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1	Conservation Action Trust Vs Union of India- Order dated 26.11.2018	1
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Dated at Chennai on this the 11th of April, 2022



THROUGH

Clifton D' Rozario

(142/2017) For Clifton D' Rozario

Item No. 05 to 07

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)

Original Application No. 554/2018
(Earlier O.A. No. 151/2013 (SZ))
With
Appeal No. 178/2018
(Earlier Appeal No. 155/2013 (SZ))
With
Appeal No. 179/2018
(Earlier Appeal No. 161/2013 (SZ))

Mr. Marimuthu, Paniayur Post Applicant(s)

Versus

The Union of India & Ors. Respondent(s)

With

M/s Conservation Action Trust & Anr. Appellant(s)

Versus

The Union of India & Ors. Respondent(s)

With

Shri K. Saravanan Appellant(s)

Versus

Union of India & Ors. Respondent(s)

Date of hearing: 26.11.2018

CORAM : HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s): M/s. D. Nagasaila, Advocate
T. K. Ramkumar, Advocate

For Respondent (s): ME Sarashwathy, Advocate for MoEF&CC
Abdul Saleem, S. Sarvanan, Advocates for TNPCB
Mr. Jagdeep Kishore with Ms. Rekha Gupta,
Advocate and with Mr.Nitesh Jambulkar and Mr.
Nand Kishore, Nagar, Dy. Managers

ORDER

1. As recorded in the last order which is dated September 19, 2018, the Environmental Clearance and CRZ Clearance being assailed in the present proceedings are based upon imported coal which pertains to both the power plant as well as the Coal Captive Jetty.

2. It is submitted on behalf of the Respondent No. 3, the Project Proponent, that as it is now been proposed to change the medium to domestic coal which will be in digression of the earlier one, the MoEF&CC has directed submission of fresh Applications for Environmental Clearance. An Application has been filed on behalf of Respondent No. 3 placing on record their letter dated 12.10.2018 and the letter dated 12.10.2018 of the MoEF&CC to that effect.
3. We have perused the affidavit and the letters and we find that the MoEF&CC in paragraph 3 of its letter dated 12.10.2018 it has clarified that “any change in source of coal will require an amendment in Environmental Clearance as per the specific condition no. (iii) for the Environmental Clearance dated 30.09.2013” and further directing the Respondent No. 3 to file an online application for the purpose.
4. The Learned Counsel for Appellants in Appeal No. 155 of 2013 (SZ) in which the very same Environmental Clearance is involved, submits that amending the Environmental Clearance alone would not be sufficient as the entire clearance would require reconsideration having regard to the fact that the very medium used in the Plant is now being changed from imported coal to domestic coal of which the emission level would differ in all respects.
5. We find substance in the submission and, therefore, while dismissing the Appeals and the Original Application as being infructuous, we direct the MoEF&CC to consider as to whether all stages in the EIA Notification would be necessary to be followed while acting upon the letter dated 12th October, 2018.

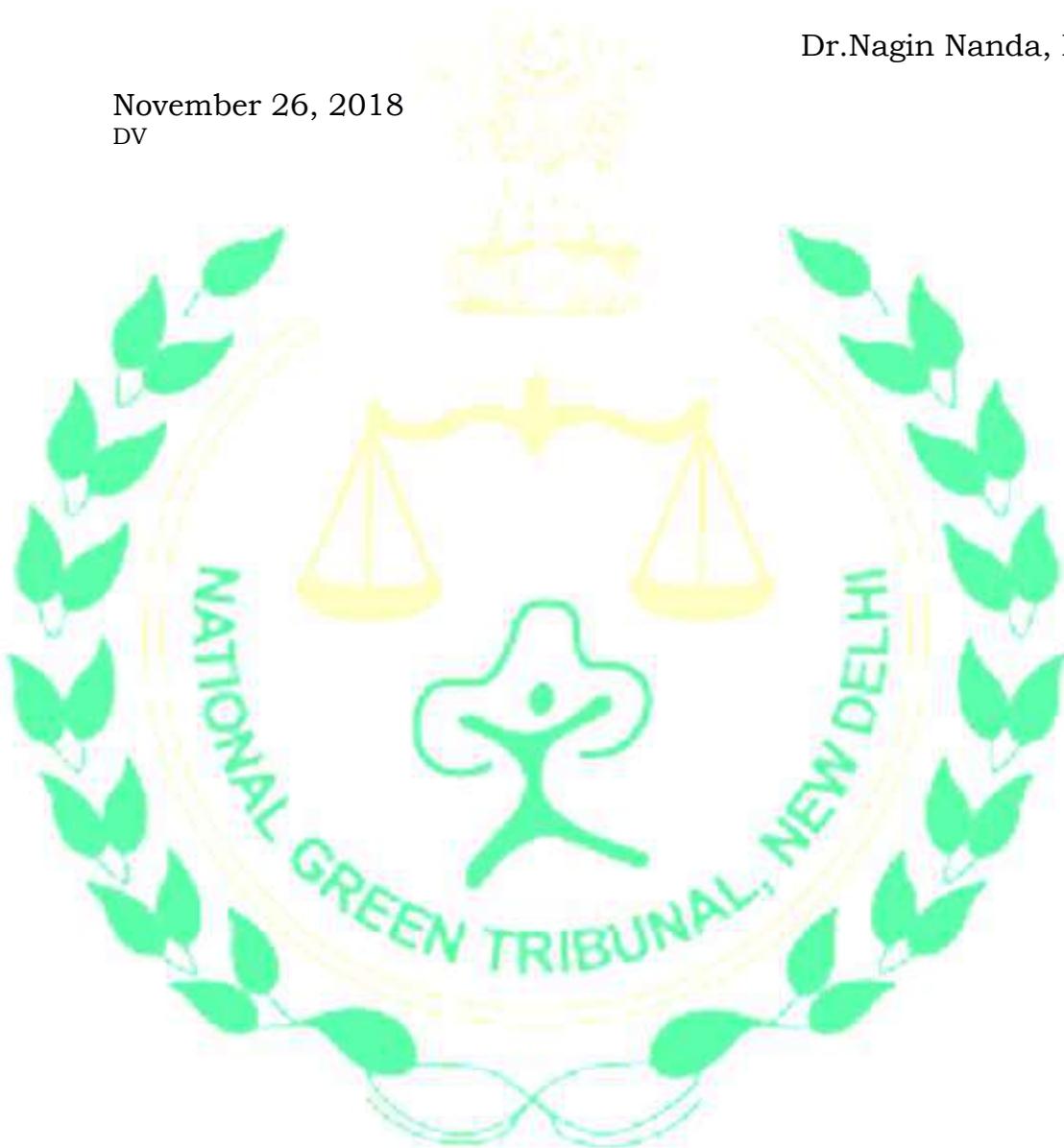
6. With the above observations, Original Application No. 554/2018, Appeal No. 178/2018 and Appeal No. 179/2018 stand disposed of.
7. No order as to cost.

S.P. Wangdi, JM

K.Ramakrishnan, JM

Dr.Nagin Nanda, EM

November 26, 2018
DV



MINUTES OF THE 24th MEETING OF THE RE-CONSTITUTED EXPERT APPRAISAL COMMITTEE (EAC) ON ENVIRONMENTAL IMPACT ASSESSMENT (EIA) OF THERMAL POWER PROJECTS HELD DURING 23rd JANUARY, 2019.

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The 24th meeting of the re-constituted EAC (Thermal Power) was held on 23rd January, 2019 in the Ministry of Environment, Forest & Climate Change at Narmada Meeting Hall, Jal Wing, Ground Floor, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi under the Chairmanship of Dr. Navin Chandra. The following members were present:

1. Dr. Navin Chandra - Chairman
2. Shri Suramya D. Vora - Member
3. Dr. N.P. Shukla - Member
4. Shri G.P. Kundargi - Member
5. Dr. J.K. Pandey - Member
6. Dr. (Mrs. Manjari Srivasta) - Member
7. Dr. S.K. Gupta - Member (Rep. of ISM/IIT Dhanbad)
8. Dr. R.K. Giri - Member (Rep. of IMD)
9. Shri N.S. Mondal - Member (Rep. of CEA)
10. Dr. S.K. Paliwal - Member (Rep. of CPCB)
11. Dr. S. Kerketta - Member Secretary

Shri N. Mohan Karnat and Dr. S. Lele could not be present.

Item No.24.0: CONFIRMATION OF THE MINUTES OF THE 23rdEAC MEETING.

The minutes of the 23rd EAC (Thermal Power) meeting held on 30.11.2018 were confirmed in presence of members present during the meeting.

Item No. 24.0: CONSIDERATION OF PROJECTS

(24.1) Expansion of cogeneration power plant from 6 MW to 18 MW at Sy. Nos. 250, 259, 260, 262, 471, 263 and 473, Village & Taluk Gokak, District Belagavi, Karnataka by M/s. Roquette Riddhi Siddhi Pvt. Ltd.-reg. reconsideration of EC.

(F.No. J-13012/06/2016-IA.I (T) & Online No.IA/KA/THE/53776/2016)

(24.1.1) Project Proponent submitted online proposal on 21.5.2018 for reconsideration of EC. The proposal for grant of EC has earlier been considered in the 18th Meeting of the EAC (Thermal Power) held on 27.6.2018 and EAC has sought the following information:

- i. Legible copy of MoU for imported coal vide dated 19.4.2016 is to be submitted.
- ii. Authenticated map by Chief Wildlife Warden showing distance between Ghata Prabha Bird Sanctuary & its Eco-sensitive Zone vis-à-vis Project along with specific comments shall be submitted.
- iii. Permission for water withdrawal from GhataPrabha River shall be submitted.
- iv. 104 readings for baseline data of Ambient Air Quality of the existing unit during last one year as per ToR No.xlix. Soft copy of Project file of the air quality modelling is to be submitted for verification by IMD Expert.

forest and non-forest land are to be made available. Committee noted that the greenbelt of 70 acres for main plant and another 70 acres for raw water reservoir and ash pond will be around 25% of the 558 acres. If all the facilities are included such as railway line, water pipeline, reservoirs, intake system, the requirement to have 33% greenbelt is high.

(24.8.5) Committee **after deliberations deferred the project** for submission of following information for reconsideration:

- i. Revised Form-1 mentioning the details of forest land.
- ii. Forest Diversion Permission (Stage-I FC) for 36.821 acres of forest land to be part of pipeline.
- iii. Details and number of trees to be cut in the forest land and non-forest land enroute pipeline.
- iv. Details of land requirement for all facilities and the map showing the revised co-ordinates of these facilities which include ash pond area, water reservoirs and intake & pump stations.

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(24.9) 4000 MW Imported Coal based UMPP at Villages Cheyyur Block-B, Chitharkadu, Gangadevankupam, Panaiyur, Vedal and Vilangadu, Taluk Cheyyur, Kancheepuram District, Tamil Nadu by M/s Coastal Tamil Nadu Power Ltd.- amendment in EC for change in source of coal.

(F.No. J-13012/155/2008-IA.II(T) & Online No. IA/TN/THE/10418/2008)

(24.9.1) Project Proponent submitted online application on 12.12.2018 for change in source of coal from imported coal to domestic coal.

(24.9.2) The Environmental Clearance for setting up of 4000 MW Imported Coal based Ultra Mega Power Project in Kancheepuram District of Tamil Nadu was issued vide Ministry's letter dated 30.9.2013. As per the EC, the project is based on imported coal. The coal requirement would be about 12-14 MTPA at 90% PLF. Ash and Sulphur contents in the coal will be limited to 12% and 0.7% respectively.

(24.9.3) The environmental clearance condition no.4(iii) specifies as follows:

"In case of fuel supply is to be changed at a later stage (now proposed on imported coal the project proponent shall intimate the Ministry well in advance along with necessary requisite documents for its concurrence for allowing change. In such a case the necessity for re-conducting public hearing may be decided by the Ministry in consultation with the Expert Appraisal Committee (Thermal Power)."

(24.9.4) Project Proponent has made the presentation and inter-alia submitted the following information:

- i. Cheyyur Tamil Nadu Power Ltd. (CTNPL) a operating SPV was incorporated as a wholly owned subsidiary by Power Finance Corporation (PFC) on 9.1.2007 to undertake developmental activities for the proposed UMPP like acquisition, obtaining statutory clearances and approvals, etc and to undertake bidding process to select the successful bidder.
- ii. Cheyyur Infra Ltd. is an infrastructure SPV for acquiring and holding the Project Land for the project.

- iii. The CTNPL shall be transferred to the Successful Bidders and the Cheyyur Infra Ltd. shall be transferred to the procurers at the end of the bidding process.
- iv. It is now proposed to change source of coal from imported coal to domestic coal and there is an additional land acquisition of 767 acres proposed for the ash dyke. The land acquisition process has been initiated by the company.
- v. The source of water is sea (Bay of Bengal) at a distance of about 5 km from the proposed site. A separate desalination plant has been proposed for treating the sea water for using for power plant. The sea water will be transported through pipelines.
- vi. The coal requirement is 18-20 MTPA and the coal block is yet to be allocated by the MoC.
- vii. The coal will be transported to plant premises from the jetty through closed conveyor system. CRZ and EC for Captive Port was also obtained on 30.11.2012.
- viii. NGT in the OA No.554/2018 vide Order dated 19.9.2018, has directed the following:
“However we make it clear that the main contention raised in the appeal is with regard to the bifurcation of the Environmental Clearance to two components i.e. the plant itself and dedicated coal jetty & conveyor system. In the event, there is a decision to convert the nature of the coal used to domestic coal, the Ministry of Environment, Forest and Climate Change shall take these aspects into consideration while going into the question of granting fresh Environmental Clearance if not already considered.”
- ix. Further, NGT in the OA No.554/2018 vide Order dated 19.9.2018 while dismissing the case directed the following:
“We find substance in the submission and, therefore, while dismissing the Appeals and the Original Application as being infructuous, we direct the MoEF&CC to consider as to whether all stages is in the EIA Notification would be necessary to be followed while acting upon the letter dated 12th October, 2018.”

(24.9.4) Committee noted that the project is still in the process of acquiring the land and the requirement was originally 416.45 ha (1058 acres). However, the land requirement has been increased to 2007 acres which is nearly the double the requirement as approved in the Environmental Clearance. Further, Committee noted physical construction activities have not started yet and more than five years have been passed now. Further, the coal quality parameters have changed now to domestic coal. The environmental impacts from the domestic coal for a large size power project will also change significantly. It has been informed that the project configuration, layout and other technical parameters will also be revised. Accordingly, committee is of the opinion that a fresh EIA and Public Hearing may be required. In the last five years, the baseline status in the area may have changed and new industries may have come up. Presently, the EC is valid till September, 2020 (Seven years). It may not possible to complete the construction within the validity period, even if it is extended for further period of three years.

(24.9.5) Committee after detailed deliberations, **returned their application and requested Project Proponent to carry out the process of obtaining Environmental Clearance *denovo*.**

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(24.10) 2x660 MW Khargone Super Critical Thermal Power Project at Villages Selda and Dalchi, District Khargone, Madhya Pradesh by M/s NTPC Ltd.- reg. temporary permission for transportation of coal by road. (F.No. J-13012/54/2010-IA-II (T) & Online No. IA/MP/THE/22937/2014)

(24.10.1) Project Proponent submitted online application on 11.1.2019 for seeking temporary permission for transportation of 2000 TPD coal by road till December, 2019.

(24.10.2) The environmental clearance for 2x660 MW Khargone Thermal Power Project in District Khargone of Madhya Pradesh has been issued vide Ministry's letter dated 31.3.2015. Coal requirement for two units is 6.51 MTPA and to be sourced from Pakri Barwadih Captive Coal Block. The condition no.4A(i) of the Environmental Clearance specifies as follows:

“Coal transportation shall be by Rail only. An additional EIA shall be carried out and an EMP shall be prepared for laying down the rail line and alternate mode of transportation, in case rail line gets delayed. The EIA/EMP shall be submitted to the Ministry within one year of issuing EC.”

(24.10.3) Project Proponent along with M/s Min Mec Consultancy Pvt. Ltd. has made the presentation and *inter alia* submitted the following information:

- i. Unit-1 (660 MW) is expected to be commissioned by 31.3.2019 and Unit-2 is expected to be commissioned by 30.9.2019.
- ii. The coal transportation is envisaged by rail from Pakri Barwadih Captive Coal Block by rail with an approx. Distance of 1500 km. However, there are two components of railway works which have been delayed. The first one is conversion of meter gauge to broad gauge from Khandwa Railway station to Nimerkhedi Railway station for a length of about 42 km which is to be done by Railways and expected to be completed by March, 2019. Second one is construction of 37 km long dedicated railway line from Nimerkhedi Railway station to the plant premises. This line is being built up by NTPC through M/s RITES; which has also been delayed and expected to be ready by December 2019.
- iii. It is proposed to transport 2000 TPD with 100 trucks (20 Ton capacity; Total trips: 200) from six different railway sidings. The details area as below:

Route No.	Description of the route	Distance from the plant
Route No.1	Bediya Railway siding to Plant via Beria and Roriya	22.6 km
Route No.2	Dhakalgaon railway siding to plant via Sanawad, Beriya and Katora	46 km
Route No.3	MPPKGCL Singhaji plant siding to plant via Mundi, Mohana, Sanawad, Beriya and Katora	97.4 km