

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, AT NEW DELHI**

ORIGINAL APPLICATION NO. 644 of 2019

IN THE MATTER OF:

Sudhir

....Applicant

Versus

State of Chhattisgarh

.....Respondent(s)

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Date: 20 .11. 2020

Place: New Delhi

Drawn & Filed By:



Salik Shafique

Counsel for the Applicant

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**OBJECTIONS ON BEHALF OF THE APPLICANT TO THE JOINT
INSPECTION TEAM REPORT DATED 19.10.2020**

MOST RESPECTFULLY SHOWETH:

1. That the Applicant had approached this Hon'ble Tribunal against the operation of Ferro Alloys unit in Raipur, Chhattisgarh in violation of the provisions of the Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981, EIA Notification, 2006 and withdrawal of ground water in violation of the Environment protection Act, 1986.
2. This Hon'ble tribunal taking cognizance on the complaint of the applicant vide order dated 20.08.2019 directed the Chhattisgarh State Pollution Control Board to submit factual report on the issues raised by the applicant. That the Chhattisgarh State Pollution Control Board on 20.09.2019 submitted factual report before this Hon'ble Tribunal
3. That this Hon'ble Tribunal vide order dated 14.05.2020 in I.A. No.147 of 2020 the Hon'ble Tribunal sought a fresh report on the joint committee comprising of MoEF& CC, CPCB and State PCB on the issue of environment clearance among other things. That the in compliance of the

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above order the Joint Committee submitted its report on 19.10.2020. Below is the summary of the Joint Inspection report.

- The Unit has applied for Consent to Establish on 08.11.2005 (before EIA Notification 14.09.2006) and subsequently, applied for Consent to Operate on 02.08.2011 and the PCB granted Consent to Operate on 23.08.2011. Since there is no increase in production quantity/change in product/ change in product area and change in location area, the committee observes that EC will not be required.
- The Unit has installed movable water sprinkler. There was mild rain on the date of visit hence fugitive emission cannot be assessed and during the visit the visit 100 trees were found survived inside and outside the industry.
- The Unit is located in the industrial area and have made agreement with Chhattisgarh Bhumi Ispat Limited for regular requirement (In the agreement annexed the date of agreement is 18.03.2020) and However, for emergency situation the industry has made emergency borewell with NOC from the CGWA. (date of grant of NOC is 10.06.2020)

OBJECTIONS REGARDING ILLEGAL WITHDRAWAL OF GROUNDWATER

4. That this Hon'ble Tribunal as early on 15.04.2015 in the matter Krishan Kant Singh Vs. M/s Deoria Paper Ltd., Hata Road Narainpur Deoria and other made it mandatory for the industries to obtain permission from the Central Ground Water Authority for extraction of ground water for new as well as existing unit. (Copy of the order annexed as A/3 of I.A. No. 147 of 2020)

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5. That the Central Ground Water Board published Dynamic Ground Water Resource of India Study by CGWA as on 31st March, 2013 published on June, 2017. The District Raipur, Chhattisgarh was reported as critical area. (Copy of the Dynamic Study is annexed as A/4 of I.A. No. 147 of 2020)
6. It is admitted fact that the Unit had started its operation on 23.08.2011 after obtaining consent to operate and hence was utilizing water since that time whereas as per the Agreement annexed by the Joint Inspection Team at Page No. the Unit has only entered into agreement with Chhattisgarh Bhumi Ispat Limited for water supply on 18.03.2020 (Refer page No. 115 of the report) and obtained No Objection Certificate only on 10.06.2020 (Refer Page No. 119 of the report)i.e. after the orders of this Hon'ble Tribunal. And therefore, it is evident that the Unit was illegally withdrawing ground water between 23.08.2011 to 18.03.2020. This Hon'ble Tribunal may take note of this and direct the CGWA to impose environment compensation of illegal withdrawal of ground water as per set methodology.

GREENBELT AND POLLUTION

7. The Photograph annexed by the Joint Inspection Team at page. No. 94 clearly shows that new plantation has been done after the orders of this Hon'ble Tribunal. Further, regarding fugitive emission the joint inspection team may be directed to submit monitoring report as it couldn't be done during last inspection due to rains.

REQUIREMENT OF ENVIRONMENT CLEARANCE

8. Its admitted fact that the Unit had applied for Consent to Establish on 08.11.2005 and subsequently, applied for Consent to Operate on 02.08.2011 and the PCB granted Consent to Operate on 23.08.2011 but no were the report it is mentioned about the validity of the Consent to Establish dated

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08.11.2005. Further, the date of commencement of construction is also not mentioned in the report.

9. It is pertinent to mention that the MoEF&CC in O.A. No. 04 of 2020 (EZ) Udit Jagat vs Union of India &Ors has taken a contradictory stand for a project wherein Consent to Establish was granted 24.08.2013 and thereafter, MoEF&CC amended the EIA Notification, 2006 on 25.06.2014 to include the project under purview of EIA Notification and Consent to Operate was granted to the project 29.12.2015. The MoEF&CC stated that since the Unit has not started its production and failed to obtain Consent to Operate before EIA Amendment notification dated 25.06.2014, it is require to obtain environment clearance. This Hon'ble Tribunal relying on affidavit of MoEF&CC among other things vide Judgment dated 28.08.2020 held that necessary for therespondent industry to obtain EnvironmentClearance before a fresh consent to operate isgranted. Although, it is pertinent to mention that the matter is presently sub judice before the Hon'ble Supreme Court.

**SILENT ON PRODUCTION BEYOND CONSENTED
CAPACITY/VIOLATION OF CONSENT CONDITIONS.**

10. The report is completely silent on the issue of production of consented capacity and violation of consent condition raised by the applicant in I.A. No. 147 of 2020. That the Unit has consented capacity of 8,000 M.T./Year and to verify that the Unit has conveniently provided copies of the Excise returns for few months of the year 2013 to 2017. It is believed that between 01.04.2017 to 31.03.2018 the unit has produced about 11,000 MT/year and between 01.04.2018 to 31.03.2019 the unit has produced about 12,000 MT/year. The actual production was correctly reported in the audit report of

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the income tax returns. This Hon'ble Tribunal may direct the unit to produced audit report of the last two years verify the same.

11. Further, it is important to submit that the unit has obtained Consent for production of Low Carbon Ferro Alloys while the unit is manufacturing High Carbon Ferro Alloys. That the Applicant has sought expert view from known Ferro Alloy Consultant that whether Low Carbon Ferro Alloys can be produced from one Sub Merged Arc Furnace of 5 MVA. The Expert vide letter dated 03.10.2020 responded to the applicant query stating that cannot produce any kind of low carbon Ferro Alloys with this technology and raw material. Further, the expert stated that Low Carbon Alloys can be produced by Aluminium Thermit Process among other things and therefore, the unit is violating the consent conditions. The copy of the letter dated 03.10.2020 is marked and appended as **ANNEXURE A/1**.

12. In light of the above submissions it is humbly submitted that this Hon'ble Tribunal may consider the objection of the applicant and pass appropriate directions.

Date: 20 .11. 2020

Place: New Delhi

Drawn & Filed By:



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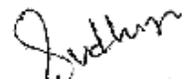
State of Chhattisgarh

Respondent(s)

Affidavit

I Sudhir Kumar S/o Kushal Chandra aged about 46 years Rio A-204. Ozone Orchid, Shankar Nagar, Raipur- 492007 presently at New Delhi, do hereby solemnly affirms and declares as under:

1. That I am the Applicant in the aforesaid Original Application and am fully aware of the facts in the matter and am duly authorized to swear this affidavit.
2. The contents of the accompanying objections to the Joint Inspection Report are true and correct to the best of my knowledge and have been drafted by the counsel on my instructions and nothing material has been concealed therefrom.



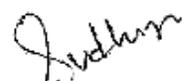
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Verification:

I, the abovenamed deponent do hereby verify that all the facts mentioned in the affidavit are true to my knowledge and that no part thereof is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of November, 2020.



DEPONENT

that due to ongoing physical closure of courts in majority of places it is requeste to you to exempt attestation of this affidavit (physcally)

ANNEXURE A-1



TRUE COPY/-