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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No. 837 of 2018

IN THE MATTER OF:

Sandeep Mittal

Applicant

Versus

Ministry of Environment,
Forest & Climate Change & Ors

Respondent

N.D.O.H. 24-03-2020

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3. Proof of service

429

Place:: New Delhi

Filed By

Date:: 30 -01-2020

Divya Prakash Pande

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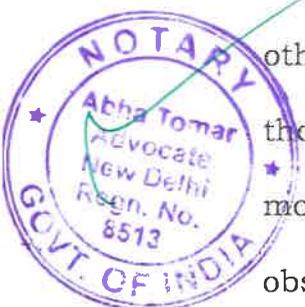
....Respondent

**AFFIDAVIT ON BEHALF OF RESPONDENT NO.1, MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE**

MOST RESPECTFULLY SHOWETH:-

I, Shruti Rai Bharadwaj, D/o Dr. Ramakant Rai, aged about 43 years working as Scientist 'E' in the Ministry of Environment, Forest & Climate Change (MoEFCC) at New Delhi, the deponent herein do hereby solemnly affirm and state on oath as under:-

1. That I am duly authorized and competent to swear the present counter affidavit on behalf of MoEF&CC.
2. It is submitted that the Answering Respondent is filing the present affidavit in compliance of the order dated 22.11.2019.
3. It is submitted that the contents of the previously filed affidavits are not being repeated herein for the sake of brevity. However, they may be treated as part of this affidavit.
4. That this Hon'ble Tribunal vide Order dated 22.11.2019 directed the Secretary, MoEF&CC and Chairman, CPCB to hold a meeting with such other experts as may be found necessary and establish and/or augment the institutional setups in MoEF&CC, CPCB and SEIAAs for meaningful monitoring of Category A and B projects in the light of the above observations and file the compliance report.
5. That a meeting was held on 20.01.2020 to review the status of implementation of the monitoring action plan with all the stakeholders.



Shruti

The minutes of the meeting held on 20.01.2020 and the list of participants is annexed herewith as **Annexure – R-1.**

6. It is submitted that the present affidavit may kindly be taken on record and the Answering Respondent seeks leave to make additional submissions, if required, during the course of the proceedings.

[Signature]
 डा. श्रुति राय भारद्वाज
 Dr. SHRUTI RAI BHARDWAJ
DEPONENT
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
 Min. of Environment, Forest and Climate Change
 भारत सरकार, नई दिल्ली
 Govt. of India, New Delhi

28 JAN 2020 VERIFICATION

Verified at New Delhi on _____ this day of January, 2020 that the contents of the above affidavit are correct to my knowledge and belief based on official records and nothing material has been concealed therefrom.

[Handwritten Signature]
 I certify the document recd from
 has signed in my presence

[Signature]

DEPONENT

डा. श्रुति राय भारद्वाज
 Dr. SHRUTI RAI BHARDWAJ
 वैज्ञानिक 'ई' / Scientist 'E'
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
 Min. of Environment, Forest and Climate Change
 भारत सरकार, नई दिल्ली
 Govt. of India, New Delhi



Certified that the foregoing statement was declared on solemn affirmation before me which has been read over to the deponent who has admitted

is correct Notary, DELHI

28 JAN 2020

List of Participants for Meeting on Implementation of Monitoring Action Plan held under the Chairmanship of Secretary on 20.01.2020

S.No.	Name	Designation
MoEF&CC		
1.	Shri C. K. Mishra	Secretary & Chairman
2.	Shri Ravi Agarwal	Addl. Secretary
3.	Ms. Richa Sharma	Joint Secretary
4.	Ms. Geeta Menon	Joint Secretary
5.	Shri Shrawan Kumar Verma	DIG (RoHQ)
6.	Shri Sharath Kumar Pallerla	Scientist 'F', IA (Policy) Division
7.	Shri Anil Kumar	Sr. Technical Director, NIC
8.	Shri N. Subrahmanyam	Scientist 'C', IA (Monitoring Cell) Division
9.	Shri Vikash Kumar	Scientist 'B', NIC
10.	Shri Manoj Kumar Azad	Research Investigator, IA (Monitoring Cell) Division
CPCB		
11.	Shri S.P.S. Parihar	Chairman
12.	Dr. Prashant Gargawa	Member Secretary
REGIONAL OFFICE		
13.	Shri. Subrat Mohapatra	DDGF, Bhubaneshwar
14.	Dr. S. C. Katiyar	Scientist 'E', Dehradun
SEIAA		
15.	Shri. S. Balasubramanyam	Chairman, SEIAA, Andhra Pradesh
16.	Shri. Mehul Patel	Dy. Env. Engineer, SEIAA, Gujarat
SPCB		
17.	Shri. B. K. Behera	Sr. Env. Engineer, Odisha
MEC		
18.	Dr. G.V. Subrahmanyam	Former Advisor (MoEF&CC) & Member- MEC
19.	Shri. K. P. Nyati	Member-MEC
20.	Dr. Deepak Apte	Director, BNHS & Member-MEC
21.	Dr. R. S. Mahwar	Ex. Addl Director (CPCB) & Member-MEC
NEERI		
22.	Shri. S. K. Goyal	Principal Scientist & Head, Delhi Zone

Minutes of Meeting held under the Chairmanship of Secretary, MoEF&CC on 20.01.2020 regarding Implementation of Monitoring Action Plan

A meeting was held under the Chairmanship of Secretary (EF&CC) on 20.01.2020 at 10:30 AM in Ministry of Environment, Forest and Climate Change to review the status of implementation of Monitoring Action Plan (MAP) formulated by the Ministry as per direction of Hon'ble NGT for augmenting the environmental compliance monitoring in the country. The list of participants is **annexed**.

2. After welcome by the Chairman and round of introduction presentation was made by Ms. Geeta Menon, Joint Secretary on the MAP and its status of implementation. The brief of the presentation is as given below:

Sl.No.	Action Point	Status
1	Strengthening of monitoring cell in the Ministry.	A proposal for augmentation of manpower including hiring of young professionals in Monitoring Cell was initiated in September, 2019.
2	Strengthening of Regional Offices	Proposal for filling of vacant posts in ROs has been taken up with Administration in September, 2019.
3	Opening up of new Regional Offices	The RoHQ Division of the Ministry is reviewing the matter. It is learned that the proposal for opening additional 10 Regional Offices of the Ministry is in advanced stage.
4	Writing to ROs, CPCB, SPCBs, SEIAAs seeking inputs on manpower and infrastructure requirement.	All these offices were requested to provide the requirement of manpower & infrastructure in July 2019. Few SEIAAs, SPCBs have responded as on date.
5	Hiring of Independent Agency as Knowledge Partner to undertake assessment of quantum of work and support the implementation.	NEERI was hired as the Knowledge Partner to the Ministry.
6	Constitution of Monitoring Evaluation Committee (MEC) to steer and supervise the new monitoring mechanism	MEC was constituted under the Chairmanship of JS (IA-Monitoring Cell), with Additional Director/ Director of Monitoring Cell, 1 representative from CPCB and 4 external experts.
7	Evolving the criteria for deciding the periodicity of monitoring for various category of projects	The criteria of frequency of the monitoring will be developed in consultation with CPCB, NEERI and MEC.
8	Reviewing the integration of all the existing statutory inspection and data collection mechanism as part of CTO, CTE, EC, HW Authorization etc under one system of monitoring mechanism	CPCB, NEERI and MEC will be involved for evolving the integrated mechanism for optimum utilization of infrastructure and manpower.
9	Formulation of SOP for inspection and monitoring of environmental conditions	NEERI as a knowledge partner will evolve the document to be reviewed by MEC.
10	Digitization of monitoring mechanism	NIC has developed online portal for digitization of monitoring mechanism, integrating with PARIVESH Portal.
11	Delegation of power to SEIAAs for issuing Show-cause/ Directions to Category B projects	SEIAAs were already empowered to issue directions/ show-cause to Cat 'B' projects vide SO No. 637 (E) dated 28.2.2014. Further, Ministry requested ROs to submit Monitoring Reports for Cat 'B' projects directly to SEIAAs, and SEIAAs shall take action on same.

12	Hiring consulting firm for evolving and managing web-based system for end to end digitization of monitoring mechanism.	NIC has initiated the process by evolving an integrated system with PARIVESH Portal. End to end digitization will be evolved in association with NEERI and MEC.
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3. It was also informed during the presentation that simultaneous action has also been initiated to strengthen the legal provision on monitoring as part of EIA Notification, 2006; which is at present limited to Para 10 on 'Post Environmental Clearance Monitoring'. The provision at present only refers to procedure related to self-compliance by the project proponent. Monitoring mechanism has now been integrated in draft EIA Notification, 2020, which include procedure for monitoring, procedure for dealing with non-compliances and violation, associated penalties etc.

4. This was followed by presentation by NEERI as the Knowledge Partner of the Ministry for the effective implementation of MAP. The Objectives of their assignment are:

- **Development of a system** (web based and integrated with ground data systems) to automate the entire process of inspection and compliance monitoring and Formulation of Standard Operating Procedure (SOP) for inspection and monitoring of Environmental Conditions.
- **Assess the requirement** of additional staff, additional Regional Offices and infrastructure needs based on quantum of work and resources available.

5. They shared their scope of work within the framework of MAP as given below:

- (a) Undertake assessment of number of ECs issued till date for both Category 'A' and Category 'B' projects and status of monitoring compliances.
- (b) Identifying the clusters on the basis of number of ECs issued to help in taking decision wrt setting up of ROs.
- (c) Assessment of existing manpower and sanctioned manpower in all the agencies to be involved in monitoring viz. MoEFCC's ROs, CPCB and its regional offices, SEIAAs and SPCBs.
- (d) Evaluate the existing international best practices regarding the monitoring and compliance mechanism and suggest the successful models applicable to India.
- (e) Formulation of Standard Operating Procedure (SOP) for inspection and monitoring of environmental conditions
- (f) Development of a web based system for end to end digitization of the whole monitoring mechanism utilizing the existing internal best practices

6. It was informed that since 2014, about 8000 Category A environmental clearances and more than 30000 Category B clearances have been issued. The MAP scheme has to be designed keeping in view the quantum of work in hand, manpower requirement, resources etc. It was clarified that the number of project would further increase once ECs before 2014 are also considered.

7. Plan of action presented by NEERI to implement the stated objective and scope involve use of Data Analytics comprising of data assessment, data integration, data triangulation, EC Status Module. They plan for first of its kind multi-disciplinary approach with the usage of information technology, GIS based interactive outputs etc making use of international best practices. Data triangulation will be on BHUVAN/GOOGLE-EARTH and GIS, utilizing the available data. Data will be Collected by CSIR-NEERI from all the identified organisations.

8. It was noted by the Additional Secretary, MoEF&CC that looking into the number of projects that require monitoring, the comprehensive approach of monitoring should include monitoring at entity level instead at the project level, ensuring uniform interpretation of EC requirements for consistency across the board, robust back end technology driven process that prompt self-correcting mechanism at the organization level etc. The mechanism for implementation of MAP ought to be developed with long term prospective while keeping short term, medium term and long-term goals and

milestones. The technology driven solution and process should be inclusive so as to involve feedback of all stakeholders. NEERI as a Knowledge Partner for the evolution and comprehensive implementation of the MAP need to be engaged, accordingly.

9. NIC informed about the online portal developed by them integrated with PARIVESH portal for submission of compliance and monitoring reports in retrievable format. The new system will create the data base of compliance and monitoring reports and a query-based report could be generated readily as against the existing practice of uploading reports in pdf format. Also, for the ECs issued prior to June, 2014, a webpage is made available at PARIVESH to register by creating login id by uploading EC documents, which will be verified by designated authority. The said webpage has been developed and is under testing phase.

10. Chairman, SEIAA, Andhra Pradesh indicated the limitation of SEIAA and SEAC wrt manpower and resources highlighting that their secretariat is presently outsourced from State Environment Department/State Pollution Control Boards. Some of the members are on dual role (SEIAA/SPCB as well as Env. Dept/SPCB). He emphasized on the need of adequate number of permanent staff and financial allocations through Budget. In case of any difficulty in providing budget, a fee collection system may be provided to get revenues on EC applications by SEIAAs. The views on staff limitation were reiterated by SEIAA, Gujarat representative. Further, SEIAA Gujarat appreciated the MAP more specifically wrt constitution of MEC and integration of all statutory clearances such as EC, CTE, CTO, HWA under one online system so that complete data on permissions and their monitoring reports are made available at one platform to enable optimum utilisation of manpower and infrastructure.

11. Expert members made some specific suggestions which are as cited below:

- (a) Regional Offices of MoEF&CC should also be equipped with laboratory facilities and mobile measuring instruments. Either, MoEF&CC may be provided with additional facility of laboratory or SPCB/CPCB labs may be tied with ROs to utilise their services as and when required.
- (b) EC conditions implementable during construction phase can be monitored by CPCB/SPCB before granting Consent to Operate(CTO) CTO may be issued only if such conditions are complied.

12. Chairman, CPCB stated that as per the NGT directions, the compliance monitoring is to be jointly done by MoEF&CC and CPCB. Accordingly, the roles and responsibilities of CPCB and NEERI are to be clearly defined so that there should be clarity. Further, he mentioned that the OCEMS data may not be used for regulatory purposes for non-compliance at present since it doesn't have any legal backing. Legal backing can be ensured through mentioning of OCEMS in EIA Notification or E (P) Act, 1986 as authenticate data source.

13. Secretary, MoEF&CC made the following suggestions:

- i. The EC conditions need to be practical, monitorable and implementable. Standard/general conditions are already placed at PARIVESH and a reference in this regard is to be made in the EC letter.
- ii. The system of self-certification by Project Proponents should be evolved and penalty for non-compliances shall be made very stringent.
- iii. It is difficult to monitor all the projects with the existing or augmented staff in the Ministry/Regional Offices. Regional Office can randomly pick 20 projects. Other projects shall be made compliant through higher penalties. Project proponents by knowing the consequence of non-compliances will achieve 100% compliance.

14. On the basis of above cited detailed deliberations Additional Secretary, MoEF&CC made following specific observations:

- a. Assessment of quantum of work/projects for monitoring and requirement of additional manpower to be completed on priority by NEERI.
- b. The EC conditions are to be monitorable. NEERI may be given the task of framing the monitorable conditions for various sectors. It was also suggested to reduce the redundancy and repeating the same conditions several times.
- c. Even after allocation of resources, the cycle of monitoring may be longer than anticipated in NGT Orders. Instead of monitoring all projects, a system needs to be developed for effective monitoring of selected projects which will have impact on other projects.
- d. If one project of a Corporate conglomerate is monitored and non-compliances are found, the Officers (CMD) at Corporate level are to be made accountable to fulfil the compliances in all other projects of same proponent. With this, other projects of similar nature may not be required to be monitored which will save considerable time.
- e. The mechanism on addressing the non-compliances to be framed by the Ministry in consultation with CPCB and NEERI. After finding non-compliances, the task is to close those non-compliances in time bound manner and the responsibility of this task lies with the Ministry.

15. Joint Secretary (Monitoring Cell) concluded the meeting with following anticipated course of action with reference to implementation of MAP:

- i. First meeting of MEC will be scheduled shortly to initiate the action on monitoring process.
- ii. NEERI is to submit its formal proposal immediately to the Ministry so that it can be taken up for further consideration in the Ministry.
- iii. The NIC is finalizing the integration of website on Compliance Monitoring with PARIVERSH;
- iv. The inputs received from CPCB, SEIAAs and experts will be considered for improving infrastructure/manpower and better facilitation of compliance mechanism.

The meeting ended with the vote of thanks to the Chair.

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PRINCIPAL BENCH AT NEW DELHI

ORIGINAL APPLICATION 837 OF ~~2020~~ 2018

IN THE MATTER OF:-

Sandeep Mittal

... APPLICANT

VERSUS

Ministry of Environment & forest
& Climate Change & Co.

...RESPONDENTS

PROOF OF SERVICE

S. NO.	ADVOCATE NAME	SIGNATURES
1	Purusottam Mishra	<i>[Signature]</i> 29/01/2020
2	Divyanshu Kumar Anand	Salt.
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