

BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL, BENCH AT WESTERN ZONE [PUNE]

APPEAL NO. 145/ 2024

REJOINDER OF THE APPELLANTS

[DATED 12-11-2025]

PETITIONERS:-

1. BRIJKISHORE HARGOVIND AGRAWAL
AGE:-75 YEARS, OCCUPATION:-BUSINESS,
RESIDING AT PLOT NO:-51, NEW COLONY, NAGPUR-
440001
2. MANOJ, S/O RAMCHANDRA PALI, AGED :- 39
YEARS, OCCUPATION :-AGRICULTURIST, R/O
HOUSE NO. 602, AMRAVATI ROAD WADDHAMNA,
NAGPUR, MAHARASHTRA- 440023- MOB. NO. –
937288278
3. PAWAN, S/O BALIRAM LASHKARE, AGED : 48,
OCCUPATION :-AGRICULTURIST, R/O WARD NO. 2,
AT SURABARDI-POST, DAWLAMETI, TAH –
NAGPUR-SURABARDI, NAGPUR, MAHARASHTRA-
440023.-MOB. NO. – 99231S71346



4. ISHWAR, S/O DAMAJI GANVIR, AGED : 63,
OCCUPATION :-AGRICULTARIST, R/O SURABARDI,
POST, DAWLAMETI TAH, NAGPUR, SURABARDI,
DAWLAMETI, NAGPUR, MAHARASHTRA,-440023.
5. HARIBHAU, S/O GOPALRAO SONULE, AGED: 83,
OCCUPATION:- AGRICULTURIST, R/O WARD NO. 2,
AT SURABARDI (TAKIYA) TAL - NAGPUR,
SURABARDI, PO- DAWLAMETI, DIST : NAGPUR,
MAHARASHTRA, 440023-MOB. NO. - 9764333262

VERSUS**RESPONDENTS:-**

1. UNION OF INDIA, THROUGH ITS SECRETARY,
MINISTRY OF ENVIRONMENT FOREST & CLIMATE
CHANGE, INDIRA PARYAVARAN BHAWAN,
JORBAGH ROAD, NEW DELHI - 110 003
Email. Id:- secy-moef@nic.in
2. THE MAHARASHTRA POLLUTION CONTROL
BOARD THROUGH ITS MEMBER SECRETARY,
KALPATARU POINT, 3RD AND 4TH FLOOR, ROAD
NO. 8, SION CIR, OPP. PVR THEATER, MUMBAI,
MAHARASHTRA 400023.
Email.id:- ms@mpcb.in



3. ADANI POWER MAHARASHTRA LIMITED THROUGH ITS DIRECTOR, HAVING OFFICE AT CORPORATE HOUSE, SHANTIGRAM, NEAR VAISHNO DEVI CIRCLE, S.G. HIGHWAY, KHODIYAR, AHAMADABAD, GUJRAT, 382421 EMAIL:- gondkhairi@adani.com
4. THE DISTRICT MAGISTRATE/ DISTRICT COLLECTOR, CIVIL LINES, NAGPUR – 440001
Email.id:- collector.nagpur@maharashtra.gov.in
5. THE CHIEF EXECUTIVE OFFICER, ZILLA PARISHAD, NAGPUR-440001
Email.id:- admin@nagpurzp.com
6. THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, UDYOG BHAVAN, CIVIL LINES, NAGPUR-440001
Email.id:- didicnagpur@maharashtra.gov.in
7. NAGPUR MUNICIPAL CORPORATION THROUGH ITS COMMISSIONER, HAVING ITS OFFICE AT CIVIL LINES, NAGPUR.
8. NAGPUR METRO REGION DEVELOPMENT AUTHORITY THROUGH ITS CHAIRMAN, SADAR, NAGPUR



9. PRINCIPAL CHIEF CONSERVATOR OF FOREST,
(HoFF), MAHARASHTRA STATE, RAMGIRI ROAD ,
CIVIL LINES, NAGPUR- 440001

**REJOINDER OF THE APPELLANTS TO THE REPLY
FILED BY THE RESPONDENT NO:-01, 02, 03, 04, 09**

The petitioners most respectfully submit their rejoinder as under:-

- (1) That the Petitioners who are seriously affected due to the grant of Environmental Clearance to the private company M/s Adani Power Maharashtra Ltd. On **05-02-2024** without holding Valid Public Hearing as per the EIA Notification 2006 have challenged the Environmental Clearance in this appeal. The respondent no:-01, 02, 03, 04, 09 have appeared and filed their reply to the present appeal and the petitioners are filing this "rejoinder" to make their further legal submissions and clarify their stand.
- (2) The respondent no:-03 has raised a strong objection to the locus of petitioner no:-01. It is submitted that the petitioner no:-01 is admittedly "running business"



and is director of resort named as "SURABARDI MEDOWS" and is also severally affected by the project. The petitioner no:-01 is also having a "residential unit" in his resort and is mostly residing in his unit and hence affected citizen. The petitioner no:-01 renders unconditional apology for not disclosing his business in the original appeal and submits that he had no intention to deceive this Hon'ble Tribunal. The other petitioners are villagers residing in their respective villages and are also severally affected due to the project.

- (3) The petitioners are not associated with any political party nor are interested/influenced by any political decision but are approaching this Hon'ble Court so as to bring to light the grave illegalities committed while conducting "**Public Hearing**" dated **13.07.2023** conducted by respondent No. 03 for grant of Environmental Clearance for the Project of "Gondkhairi Underground Coal Mine" having Production capacity of 2.0/3.0 NTPA in the mine area of 862.00 HA located in Village Gondkhairi Tahsil Kalmeshwar, Nagpur.



- (4) The petitioners have objected to the conduct of respondent authorities responsible for “making wide publicity of Draft Environmental Impact Assessment Report” in their respective jurisdiction requesting the interested persons to send their comments to the concerned regulatory authorities. These authorities are responsible to make available the Draft EIA Report for inspection “electronically” or otherwise in their respective jurisdiction to the Public in normal office hours till the Public Hearing is over. It is the contention of the petitioners that these authorities have failed in their duties to make available draft EIA Report as per the EIA Notification issued 14-09-2006 amended on 01-12-2009 in local vernacular language for the benefit of the villagers and therefore the “Public Hearing” was vitiated and the respondents have failed to give satisfactory reply to all the allegations of the petitioners.

PUBLIC HEARING NOT CONDUCTED IN ACCORDANCE WITH EIA NOTIFICATION 14-09-2006 AND 01-12-2009 AND HENCE VITIATED



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- (5) That the respondent No. 03 has applied for grant of Environmental Clearance for the Project of "GONDKHAIRI UNDERGROUND COAL MINE" having Production capacity of 2.0/3.0 NTPA in the mine area of 862.00 HA located in Village Gondkhairi Tahsil Kalmeshwar, Nagpur. The Respondent No 02 through its, Regional Office Nagpur has published a public notice in newspapers on **13-06-2023** for Environmental Public hearing to be held on 13-07-2023 at 12:30 PM at. Site location.
- (6) **PUBLIC HEARING VIOLATIONS:-** It is submitted that the "Public Hearing" was conducted in most illegal fashion depriving many citizens from expressing their opinions and hence was violative of article 14, 19 of Constitution of India and in violation of EIA NOTIFICATION dated 14-09-2006 and 01-12-2009. {ANNEXURE-P-04 AND ANNEXURE-P-05} and hence the **Public Hearing** conducted on **13-07-2023 must be quashed.**
- (i) **PUBLIC HEARING WAS ABRUPTLY STOPPED AND NEVER CONCLUDED**



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**AND THE MINUTES OF PUBLIC
HEARING WERE NEVER READ OVER**

- (a) It is clear that all the villagers present in the Public Hearing have objected to the procedure adopted by the MPCB and other respondents for conducting the Public Hearing and demanded the EIA Report and Presentation in **Marathi**. The respondent authorities have abruptly stopped the Public Hearing at that point of time and closed it for reasons best known to them. The procedure prescribed in EIA Notification 2006 is violated.
- (b) Even according to the "Minutes of Public Hearing" held on **13-07-2023** it is clear that the participants were demanding EIA REPORT in Marathi and when the objection got intense the PUBLIC HEARING was abruptly stopped and never concluded. Even the Chairman of Public Hearing [Additional Collector] announced that "public hearing is stayed" / "held up" due to Public Sentiments. [PAGE-205, PAGE-548, PAGE-539] Hence the



arguments advanced by the respondents that "PUBLIC HEARING" was "CONCLUDED" is not correct. The grant of EC is vitiated on this ground alone.

- (c) The Minutes of the Public Hearing were never read over to the Public present as per clause 6.2 [PROCEDURE FOR CONDUCTING PUBLIC HEARING] EIA Notification 01-12-2009 in exercise of powers u/s 3 (2) (v) and 3 {1} of Environment Protection Act 1986 read with Rule 5 (3) {d} of Environment Protection Rules 1986. [PAGE-164] The respondents have failed to submit that the "MINUTES OF PUBLIC HEARING" were ever "read over" by the Chairperson.

- (ii) **DRAFT EIA REPORT WAS NOT SERVED TO ALL VILLAGES/ GRANPANCHAYATS/ VILLAGERS IN "ENGLISH AND MARATHI" as per clause 2.2. of EIA NOTIFCATION 01-12-2009 AND 14-09-2006**



(a) As per 2.2 The Applicant shall enclose with the letter of request, at least 10 hard copies and an equivalent number of soft (electronic) copies of the draft EIA Report with the generic structure given in Appendix III including the Summary Environment Impact Assessment report **in English and in the official language** of the state/local language, prepared strictly in accordance with the Terms of Reference communicated after Scoping (Stage-2). Simultaneously the applicant shall arrange to forward copies, one hard and one soft, of the above draft **EIA Report along with the Summary EIA report to the following authorities or offices, within whose jurisdiction the project will be located:**

- a) *District Magistrate/District collector/Deputy commissioner/s*
- b) *Zila Parishad or Municipal Corporation or Panchayats Union*
- c) *District Industries Office*



d) *Urban Local Bodies (ULBs) / PRIs Concerned / Development authorities.*

e) *Concerned Regional Office of the Ministry of Environment and Forests*

(b) It is the stand of the respondent no:-01, 03 that the "Draft EIA" report is not required to be submitted in both languages, but the law mandates the submission of entire EIA REPORT to be submitted in ENGLISH AND OFFICIAL LANGUAGE OF THE STATE. Hence it is clear that the EIA REPORT was never submitted in MARATHI [OFFICIAL LANGUAGE] to all the Grampanchayats / Villages/ villagers.

(c) It is necessary to point out that even the DRAFT EIA REPORT was also not served to all affected Villages within 10 kms of the project site and even according to the respondent no:-03 it is served to only 24 Grampanchayats [PAGE-1170 TO 1175] in reply filed by respondent no:-03. The respondents have failed to show even according to their own reply that **all the affected villages** and authorities were duly served with the Notice of



Public Hearing along with EIA REPORT in two languages.

(d) The notice of public hearing is not circulated to all the villages that were covered under the study area of the said expansion project. There are around 75 villages of Nagpur District that will be affected with the setting up of the unit, however, the circulation and notice of public hearing were made to the smaller number of villages and also as per the Amended EIA Notification dated 01/12/2023, the notice of public hearing must be circulated for a widest possible public participation but it was not done in this case.

**(iii) MAJOR AUTHORITIES LIKE NMRDA,
NAGPUR MUNICIPAL
CORPORATION NAGPUR WAS NOT
SERVED WITH NOTICE AND EIA
REPORT**

(a) It was mandatory for the respondents to serve the Nagpur Metro Region Development Authority to serve the PUBLIC NOTICE AND EIA REPORT



as the project comes within the jurisdiction of NMRDA. The NMRDA has 768 villages under its control and the authority is responsible for development of the entire region including residential development and other commercial development. The residents residing in jurisdiction of NMRDA are required to take sanction of NMRDA for any development/ project and construction. The respondent no:-01, 02, 03 have failed to even submit their reply on this issue. The water bodies like Futala Lake, Ambazari Lake are under the jurisdiction of NMC and will also be severally affected and hence Nagpur Municipal Corporation was also required to be included in PUBLIC HEARING.

**(iv) ATTENDENCE OF ALL PERSONS
PRESENT IN PUBLIC HEARING WAS**



**NOT RECORDED AS PER CLAUSE 6.1
OF EIA NOTIFICATION 01-12-2009
AND 14-09-2006**

- (a) As per the reply filed by the respondent no:-03 around 600 persons were present in Public Hearing on 13-07-2023 but signatures of all the persons were not obtained and recorded by MPCB. The record submitted by respondent no:-01 on page 552 to 562 depicts signature of only 100 persons.
- (b) It is submitted that the law mandates to record "attendance of all" those persons who are present at the venue "shall" be noted and annexed with the final proceedings [CLAUSE 6.1 OF EIA NOTIFICATION ON PAGE-164] It is imperative for the Chairman of Public Hearing [ADDITIONAL COLLECTOR] to record attendance of all the persons present on venue and annex it with Minutes of Public Hearing, but even



according to the respondents attendance was secured only of 100 persons and others were prevented from signing the register.

(v) THE DETAILS OF PUBLIC NOTICE, EIA REPORT IN TWO LANGUAGES WAS NOT AVAILABLE ON WEBSITE OF MPCB AND HENCE CITIZENS COULD NOT BE ACCESS AND OPPORTUNITY TO RAISE OBJECTIONS:-

- (a) That, it is pertinent to note that the details of PUBLIC NOTICE were not available at the website of MPCB or MAHAGENCO. By not hosting the details on web site large section of society was prevented from attending the Public Hearing or even sending their objections. It is submitted that EIA NOTIFICATION is issued by MOEF, NEW DELHI on 14-09-2006 and 01-12-2009 prescribing the



procedure to be followed in conducting Public Hearing in exercise of powers u/s 3 (2) (v) and 3 {1} of Environment Protection Act 1986 read with Rule 5 (3) {d} of Environment Protection Rules 1986. It was necessary to give wide publicity even on web-site with details in "electronic" mode, but the respondents have failed to give such details on web-site too.

1.0 The Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District-wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC).

2.0 THE PROCESS:

2.1 The Applicant shall make a request through a simple letter to the Member Secretary of the SPCB or Union Territory Pollution Control



Committee, in whose jurisdiction the project is located, to arrange the public hearing within the prescribed statutory period. In case the project site is covering more than one District or State or Union Territory, the public hearing is mandated in each District, State or Union Territory in which the project is located and the applicant shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per this procedure.

2.3 On receiving the draft Environmental Impact Assessment report, the abovementioned authorities except the Regional Office of MoEF, **shall arrange to widely publicize it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities.** They shall also make available the draft EIA Report for inspection **electronically** or otherwise to the public during normal office hours till the Public Hearing is over.

2.4 The SPCB or UTPCC concerned **shall** also make similar arrangements for giving publicity



*about the project within the State/Union Territory and make available the Summary of the draft Environmental Impact Assessment report (Appendix III A) for inspection in select offices or public libraries or any other suitable location etc. They **shall** also additionally make available a copy of the draft Environmental Impact Assessment report to the above five authorities/offices as given in para 2.2.*

(vi) THE VIOLATION OF 6.4, 6.5, 6.6, 7.1 OF EIA NOTIFICATION

(a) The persons / villagers did not get opportunity to seek information or clarifications from the project proponent in absence of "EIA REPORT" in MARATHI. It is submitted that two MLA's were present in PUBLIC HEARING on 13-07-2023 namely Shri Anil Deshmukh and Shri Sunil Kedar who sought the EIA REPORT in MARATHI which was denied. The letters of two local representatives are enclosed on PAGE NO:-2085, 2086 by respondent no:-03 objecting to the execution of this project as the same is not in public interest.



(b) The minutes of PUBLIC HEARING were not signed and read over at the end of the PUBLIC HEARING on the same day. The respondent no:-01 has failed to answer these violations.

CLAUSE 6.4 Persons present at the venue shall be granted the opportunity to seek information or clarifications on the project from the applicant. The summary of the public hearing proceedings accurately reflecting all the views and concerns expressed **shall be** recorded by the representative of the SPCB or UTPCC and read over to the audience at the end of the proceedings explaining the contents in the local/vernacular language and the agreed minutes shall be signed by the District Magistrate/ District Collector/ Deputy Commissioner or his or her representative on the same day and forwarded to the SPCB/UTPCC concerned.

6.5 A statement of issues raised by the Public and Comments of the applicant shall



also be prepared in the local language or the official state language, as the case may be, and in English and annexed to the proceedings

6.6 *The proceedings of the public hearing shall be conspicuously displayed at the office of the Panchyats within whose jurisdiction in which the project is located, office of the concerned Zila Parishad, District Magistrate / District collector / Deputy Commissioner, and the SPCB or UTPCC. The SPCB or UTPCC shall also display the proceedings on its website for general information. That the proceedings of public hearing were not prepared, published and signed within stipulated time of eight days, to be displayed at above locations.*

7.1 *The public hearing shall be completed within a period of **forty five days** from date of receipt of the request letter from the applicant. Thereafter the*



SPCB or UTPCC concerned **shall** sent the public hearing proceedings to the concerned regulatory authority **within eight days** of the completion of the public hearing. Simultaneously, a copy will also be provided to the project proponent. The _applicant may also directly forward a copy of the approved public hearing proceedings to the regulatory authority concerned along with the final Environmental Impact Assessment report or supplementary report to the draft EIA report prepared after the public hearing and public consultations incorporating the concerns expressed in the public hearing along with action plan and financial allocation, item-wise, to address those concerns."

The public hearing must be completed within a period of **forty five** days from date of receipt of the request letter from the applicant. Thereafter the SPCB or UTPCC concerned is required to send



the public hearing proceedings to the concerned regulatory authority within **eight days** of the completion of the public hearing. However the said procedure is not followed.

(vii) **FAILURE TO GIVE DIGITAL PLATFORM:-**

As per MoEF & CC Office Memorandum dated **09-06-2021 (ANNEXURE-P- 06)** the Public Hearing is also to be conducted on digital platform however, the details of WebEx meeting link, meeting number and pass word of Public Hearing was not available on website of any of the Respondents No 1 , 2 and 3. On MPCB website on Public Hearing page Advertisement Column could not be accessed as it displayed "The requested page could not be found". Therefore, large number of persons who wanted to participate on line were deliberately denied participation. The respondents have failed to give satisfactory reply to this objection.

(viii) **NO ACCURATE RECORDING OF THE PUBLIC HEARING**



The EIA notification also mandates that the summary of the public hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the representative of the SPCB and read over to the audience at the end of the proceedings explaining the contents in the vernacular language and the agreed minutes shall be signed by the District Magistrate or his or her representative on the same day and forwarded to the SPCB concerned. This process is not followed. The petitioner no:-01 also raised the objections and objected to the project but his name and objection is not found in "MINUTES OF PUBLIC HEARING" and hence it is vitiated. The careful screening of VIDEO RECORDING of PUBLIC HEARING will substantiate the allegations of the petitioner that the "accurate recording of public hearing" was not done in minutes and also not read over to the public.



- (7) The purpose of EIA is not just to assess impacts and complete an environmental impact statement (EIS), it is to improve the quality of decisions. Through

informing the public the project proponent can make environmentally sensitive decision by being aware of a project's potential adverse impacts on the environment. Another purpose of EIA is to inform the public of the proposed project and its impacts. In this context public participation provides crucial information. Through their participation the project proponent will be able to take advantage of the information that citizens contribute concerning values, impacts, innovative solutions and alternatives.

- (8) CHALLENGE TO THE ENVIRONMENTAL CLEARANCE :-**The impugned Environmental Clearance granted on **02-02-2024** by MOEF AND CC under section 3 of E. P. Act 1986 vide file no:-IA-J-11011/46/2022-IA-II (M) for "GONDKHAIRI UNDERGROUND COAL MINE PROJECT" having Production Capacity of 2.0/3.0 MTPA [Normative /Peak] in Mine Lease Area of 862 HA located at Village:-Gondkhairi, Tahsil:-Kalmeshwar, District Nagpur [Maharashtra] **(ANNEXURE- P- 01)** is



absolutely illegal and needs to be quashed and set aside on grounds raised in this petition.

- (a) **The** “Public Hearing” was cancelled by the respondent authorities immediately as soon as the objection was raised by the villagers that the EIA Report was not made available to them in Marathi hence the requirement of “widest public participation” is defeated.
- (b) **The** MOEF AND CC has failed to consider the fact that the “public hearing” was cancelled and was a complete sham, violating the EIA Notification 2006, and EIA Notification 2009. The EC granted by the MOEF AND CC does not speak about the “cancellation of Public Hearing”
- (c) **The** EAC has failed to apply its mind and failed to assess the damage to the “environment” and various “water bodies” The respondents have misled the EAC and obtained the Environmental Clearance



(9) SERIOUS DANGER TO WATER BODIES IN PROJECT AREA NOT ADDRESSED BY EIA REPORT AND RESPONDENTS:-

- (a) It is submitted that respondents have failed to give scientific and sustainable reply in their rejoinder about the damages to be caused to several water bodies. The EIA report also fails to consider the fact many water bodies will be severally affected. There are several Water bodies in and around proposed mine namely Ambazari Lake, Bhivkund Dam, Futala Lake, Alesur Local Lake, Mordham Dam and Reservoir, Suraburdi Lake, Vena Dam, Jilpi Lake etc. These water of these bodies is bound to deplete drastically and some bodies may dry up. There is no major source of Drinking or irrigation water to nearby citizens. The water bodies will be severally affected disturbing the entire "ecology of the region".
- (b) The respondents have failed to see that Hydrological Study was not carried out



properly and the EIA Report does not assess the impact on "ecology" in proper perspective and is inadequate.

- (c) No Objection Certificate for extraction of ground water obtained from Central Ground Water Authority is only for the theoretical quantity of water which will be extracted during mining. No assessment is undertaken to estimate the quantity of water in lakes and well which are bound to go DRY.
- (d) The mine is located within 2 kilometers of Wadi Municipal Council which has large population and is in fact suburb of Nagpur City. The water supply to the town is from Vena Dam and Ambazari Dam. The mine is located in Nagpur Metro region which is highly polluted is one of "NON ATTAINMENT CITIES" in Maharashtra. However EIA has no deliberation on the cumulative impact.
- (e) That the respondent no:-03 has prepared a false EIA REPORT and stated that only 13.89



HA area is “occupied by water bodies” like lakes and reservoirs etc [SEE PAGE NO:- 2163 OF EAC MEETING HELD ON 22-12-2023] which is a false statement. The EAC was made to believe this false statement, where as huge area is covered by WATER BODIES in project affected area. The respondents have systematically misled the EAC and procured the EC on false data and details of WATER BODIES. The adverse effect to aquatic life, biodiversity in water bodies would seriously affect the entire life of citizens. The “drinking water” is being taken from many of these water bodies and the same shall be severally affected. The big lakes like Ambazari, Futala, Alusur, Vena will be completely destroyed.



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Sr. No	Lake	Area
1.	AMBAZARI WATER AREA	24 HA
	AMBAZARI CATCHMENT AREA	1540 HA
2.	FUTALA LAKE	24 HA
	CATCHMENT AREA	1200 HA
3.	ALESUR LOCAL LAKE	259.1 HA
4.	SURABARDI LAKE	75.39 HA
5.	BHIVKUND DAM	252.36 HA
6.	MORDHAM DAM AND RESERVOIR	1315 HA
7.	VENA DAM	569 HA
8.	ZILPI LAKE	150 HA



(10) NO PERMISSION PCCF/STATE GOVERNMENT WAS EVER OBTAINED BEFORE CONDUCTING THE PUBLIC HEARING

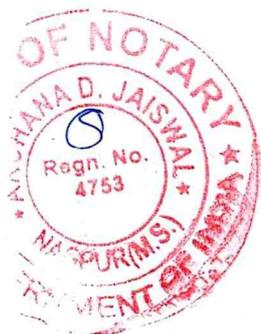
- (a) The Joint Secretary government of Maharashtra has granted in principle approval to enter into lease agreement on 20-09-2023 [PAGE NO:-2162]
- (b) The respondent no 9 by letter dated 10-10.2023 has recommended the diversion of **87.351 Hect Forest** Land to respondent No 1 through Principal Secretary (Forests), Revenue and Forest Department, Government of Maharashtra. The Forest diversion proposal no. FP/MH/MIN/ QRY/408247/ 2022 has been forwarded by Under Secretary (Revenue and Forest Department) Govt. of Maharashtra to the Secretary, MoEF&CC, GOI vide letter no. FLD-3423/CR-310/F-10 dated **21.11.2023**. The recommendation is based on false and misleading information viz,

SEAL

Gondhkhairi Coal Block of 2 MTPA capacity is an underground coal mine allotted as commercial mine to accelerate ***economic development of the nation.***

The respondents have stated that total requirement of land is 862 ha which includes 87.351 ha of Revenue Forest Land (undisturbed surface area). Forest land involved at the surface will remain undisturbed as no infrastructure activities planned in forest land and method of mining is underground.

- (c) The proposed mine is an underground mine and it is claimed that forest will be undisturbed, if that is so what is the need for diversion of 87.351 ha forest. There are hundreds of underground mines in India which are below forest but no forest is diverted. It is obvious that the project proponent wants to open up the mine in due course of time and therefore is seeking right on Forest Land for future use.



(11) **THE PRESENCE OF WILD LIFE IN THE PROJECT AREA:-**

It is submitted that the respondents have conveniently misled the EAC and stated that “no wild life” is affected. Where as it is known to all that TIGERS, LEOPARDS, DEARS are every day being sighted and are crossing the corridor. The tiger named BAJIRAO was killed while crossing Highway at Bazargaon on NH-6 in project area. Large number of wild animals are existing and the proposed project will severally affect the WILD LIFE. [INDIAN EXPRESS NEWSPAPER DATED 30-12-2017] Several wild life animals of schedule-I are suffering and dying due to haphazard development in the region and the present project also causes huge danger to the WILD LIFE.

(12) The concept of cumulative impact assessment includes combined impact of past, present and reasonably foreseeable future and has been highlighted by National Green Tribunal in its judgment decided on 10.11.2014 in ***Appeal No.***



50/2012, *T. Muruganandam vs. MoEF*,
wherein Tribunal has observed as under:

“41. The European Commission in its guidelines for Assessment of indirect and Cumulative impacts as well as impact interactions defines **Cumulative Impact** as **“Impacts that result from incremental changes caused by other past, present or reasonably foreseeable actions together with the project”**. CEAA guidelines give similar definition of **Cumulative effects**: these are changes to the environment that are caused by an action in combination with other past, present and future human actions. The U.S Environmental Protection Agency defines it as “the combined incremental effect on human activity”. These definitions are in no way conflicting with the concept of Cumulative Impact Assessment Study, the Project Proponent holds to be correct, as revealed



*from its submissions. Thus, the **Cumulative Impact as the term indicates is not the impact of any project in isolation but it is a total impact resulting from the interaction of the project with other project activities around it- past, present and those to come up in future. It is a comprehensive view of the impacts resulting from all the projects- past, present or planned ones on the environment. Cumulative Impact may be same or different and those arising out of individual activities and tend to be larger, long lasting and spread over a greater area within the individual impact. Such studies are therefore commonly expected to:-***

- 1. Assess effects over a larger area that may cross jurisdiction boundaries;*
- 2. Assess effects during a longer period of time into the past and future;*
- 3. Consider effects on other eco-system*

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components due to interactions with other actions, and not just the effect of the single action under review;

4. Include other past, existing and future (reasonably foreseeable) action; and

- (13) The grant of Environmental Clearance prior to grant of Forest Clearance is in violation of the law laid down in *Lafarge Umium versus Union of India* (2011) 7 SCC 338: 2011 SCC OnLine SC 897 at page 383 wherein it was held:

The Office Memorandum dated 26-4-2011 is in continuation of an earlier Office Memorandum dated 31-3-2011. This earlier OM clearly delineates the order of priority required to be followed while seeking environmental clearance under the Environment Impact Assessment Notification, 2006. It provides that in cases where environmental clearance is required for a project on forest land, the forest clearance shall be obtained before the grant of the environment clearance.



- (14) The Reliance is placed on certain observations made in Administrative Law (2009) by Wade & Forsyth at page 415-417 and Judicial Review of Administrative Action by de Smith (5th Edition) at page 397-399.

It is submitted that this is a classic case of Non-application of mind and lack of scrutiny by EAC:-

- [1] There is complete non-application of mind and lack of scrutiny by EAC who has simply relied on the submission of project proponent and has not applied its own mind by not assessing the facts and documents placed before it.
- [2] EAC, it appears, did not deliberate upon the matter as an Expert body comprising of subject specialist but has behaved as generalists in a haste to approve the project irrespective of environmental and health consequences.



- [3] Approach of EAC is casual and display haste.
- [4] EAC should have considered the observations made in Shivpal Bhagat vs. Union of India (supra) wherein the Committee has recommended carrying and cumulative capacity study to be commissioned by CPCB and SPCB or a reputed institute. There is no direction to carrying capacity study by EAC of project in question.

(15) CASE LAWS:-

- (1) **Utkarsh Mandal V. Union Of India (SCC Online Del 3836), Writ Petition (civil) No. 930/2009& CM APPL No.s 7127/09,12496/2009 Decided on November 26,2009.**

Para no. 28:- The requirement of a fair public hearing:-

The scope of the powers of judicial review of the High Court under Article 226 of the Constitution



*of India is limited to examining the decision making process and not so much the decision itself. The classical statement of law to this effect can be found in the decision of the Supreme Court in **Tata Cellular Co. v. Union of India (1994) 3 SCC 651 (SCC, at p. 677-78)***

- (2) **IN PRAKASH RATAN SINHA VS. STATE OF BIHAR, (2009) 14 SCC 690 AND AUTOMOTIVE TYRE MANUFACTURERS ASSN. VS. DESIGNATED AUTHORITY, (2011) 2 SCC 258**, it has been indicated by Supreme Court that if there is a power to decide detrimentally to the prejudice of a person, duty to act judicially is implicit in exercise of such power and rules of natural justice would operate. Whenever, an action of public body results in civil consequences for the person against whom action is directed, duty to act fairly can be presumed and authority must afford an opportunity of hearing to the affected person.



- (3) CENTRE FOR SOCIAL JUSTICE VERSUS UNION OF INDIA AND OTHERS (2000 SCC ONLINE GUJ 55) SPL.CIVIL APPLN. NO. 8529 OF 1999, DECIDED ON MARCH 2,2000
- (4) IN THE MATTER OF KANHAI RAM PATEL VERSUS UNION OF INDIA, THE NATIONAL GREEN TRIBUNAL CENTRAL ZONE BENCH AT BHOPAL (MADHYA PRADESH) {APPEAL NO.26/2022(CZ)} ON JANUARY 15, 2024
stated that -

40. *Considering the above discussion, we find that prior EC granted in the case in hand is vitiated in law on account of observations made hereinabove, particularly, with regard to public consultation, non- consideration of ICMR report, Hydrological study and carrying capacity.*
41. **Appeal is accordingly allowed.** *EC dated 11.07.2022 granted to respondent 4 is quashed. MoEF&CC may re-examine the matter from the stage of conducting public consultation afresh and*



in case, other appropriate study material is placed on record by proponent, the same may be considered/appraised and a fresh order may be passed by MoEF&CC with regard to prior EC in accordance with law and existing state of environment and ecology.

- (5) SUPREME COURT OF INDIA HELD IN
CIVIL APPEAL NO 12251 OF 2018
HANUMAN LAXMAN AROSKAR VERSUS
UNION OF INDIA.
2019-15-SCC-401 OR
2019-SCCONLINE-SC-441**

PARA-46:- PUBLIC CONSULTATION – Prior to this stage, a Summary EIA is prepared in the format given in Appendix IIIA on the basis of the ToR furnished to the applicant. This stage involves the process “by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view of taking into account all the material concerns in the project or activity



design as appropriate.” The detailed procedure is stipulated in Appendix IV. Subject to the exceptions provided in the 2006 notification, all Category ‘A’ and Category ‘B1’ projects shall undertake the public consultation process. This stage comprises two components:

- (i) A public hearing at the site or in its close proximity – district-wise to be carried out in the manner prescribed in Appendix IV; and
- (ii) Procurement of written responses from concerned persons having a plausible stake in the environmental aspects surrounding the project.

PARA:-47 The State Pollution Control Board⁴³ or the Union Territory Pollution Control Committee⁴⁴ is charged with conducting the public hearing in the manner stipulated in Appendix IV and forwarding the proceedings to the regulatory authority within 45 days of a request from the applicant. The regulatory authority is empowered to engage another public agency or authority to carry out the process within a further



period of forty-five days in case the SPCB or the UTPCC does not adhere to the prescribed time period stipulated in the notification. The public hearing should be arranged in a “systematic, time bound and transparent manner” to ensure the “widest possible public participation at the project site(s) or in its close proximity District wise”. The public hearing proceeding is filmed and a copy of the video is submitted to the concerned regulatory authority.

PARA:-48 Within seven days of receiving a written request to initiate the public consultation process, the SPCB or the UTPCC shall place the Summary EIA and the application on their website and invite responses. The concerned authority may also make use of other appropriate media in addition to publication on their website to ensure wide publicity of the project. On a written request from any concerned person, the authority will make available a hard copy of the Draft EIA for inspection at a notified place during office hours till the date of the public



hearing. A duty is placed on the authority to forward all responses and comments received at this stage to the applicant through the quickest available means.

PARA:-49 After the public consultation process, the applicant is duty bound to address all the material environmental concerns expressed during the process and make appropriate changes to the Draft EIA and EMP. The applicant shall then forward the final EIA report to the regulatory authority to initiate the next stage. Alternatively, the applicant may submit a supplementary report to the Summary EIA and EMP.

PARA:- 100 The importance of public consultation is underscored by the 2006 notification. Public consultation, as it states, is “the process by which the concerns of local affected persons and others who have a plausible stake in the environmental impacts of the project or activity are ascertained with a view to take into account all the material concerns in the project or activity design as appropriate”. This postulates two elements. They have both, an intrinsic and an instrumental character. The intrinsic



character of public consultation is that there is a value in seeking the views of those in the local area as well as beyond, who have a plausible stake in the project or activity. Public consultation is a process which is designed to hear the voices of those communities which would be affected by the activity. They may be affected in terms of the air which they breathe, the water which they drink or use to irrigate their lands, the disruption of local habitats, and the denudation of environmental eco-systems which define their existence and sustain their livelihoods.

PARA:-101 Public consultation involves a process of confidence building by giving an important role to those who have a plausible stake. It also recognizes that apart from the knowledge which is provided by science and technology, local communities have an innate knowledge of the environment. The knowledge of local communities is transmitted by aural and visual traditions through generations. By recognizing that they are significant stakeholders, the consultation process seeks to preserve participation as an important facet of governance based on the rule



of law. Participation protects the intrinsic value of inclusion.

PARA:-102 The 2006 notification postulates:

- (i) A public hearing at or in close proximity to the project site to ascertain the views of “locally affected persons”;
- (ii) Obtaining written responses from “other concerned” individuals having a “plausible stake” in the environmental aspects of the project or the activity;
- (iii) The duty of the SPCB to conduct hearings and to forward the proceedings to the regulatory authority within the stipulated time;
- (iv) Placing on the website of the Pollution Control Board a summary of the EIA report in the prescribed format and the making available of the draft EIA report by the regulatory authority on a written request by any person concerned, for inspection;
- (v) The duty of the applicant to address all material concerns expressed during the process of public consultation;



- (vi) The making of appropriate changes in the draft EIA and EMP; and
- (vii) The submission of the final EIA report by the applicant to the regulatory authority for appraisal.

Each of these features is crucial to the success of a public consultation process. Public consultation cannot be reduced to a mere incantation or a procedural formality which has to be completed to move on to the next stage. Underlying public consultation is the important constitutional value that decisions which affect the lives of individuals must, in a system of democratic governance, factor in their concerns which have been expressed after obtaining full knowledge of a project and its potential environmental effects.

PARA:-103 Apart from the intrinsic value of public consultation, it serves an instrumental function as well. The purpose of ascertaining the views of stakeholders, is to account for all the material concerns in the design of the proposed project or activity. For this reason, the process of public



consultation involves several important stages. The Pollution Control Board is under a mandate to forward the proceedings to the regulatory authority. The project proponent must address all material environmental concerns and make appropriate changes in the draft EIA and EMP. The project proponent may even submit a supplementary report to the draft EIA. Each of these elements is crucial to the design features of the 2006 notification. A breach will render the process vulnerable to challenge on the ground that: (i) significant environmental concerns have not been taken into account; (ii) there was an absence of a full disclosure when the EIA report was put up for consultation; and (iii) concerns which have been expressed by persons affected by the project have not been adequately dealt with or analysed.

PARA:-106 In *Utkarsh Mandal v Union of India*⁵², the Delhi High Court has succinctly summarized the duty of the EAC to apply its mind to the objections raised in the course of public hearings:

“It is that body that has to apply its collective mind to the objections and not merely the MoEF



which has to consider such objections at the second stage. We therefore hold that in the context of the EIA Notification dated 14th September 2006 and the mandatory requirement of holding public hearings to invite objections it is the duty of the EAC, to whom the task of evaluating such objections has been delegated, to indicate in its decision the fact that such objections, and the response thereto of the project proponent, were considered and the reasons why any or all of such objections were accepted or negated. The failure to give such reasons would render the decision vulnerable to attack on the ground of being vitiated due to non-application of mind to relevant materials and therefore arbitrary.”

(6) IN THE MATTER OF:

NGT APPEAL NO. 3/2011 (T) (NEAA No. 26 of 2009)

**Adivasi Majdoor Kisan Ekta Sangthan vs
Ministry of Environment and Forests.**

2012-SCCONLINE-NGT-51



2. It is the case of the Appellant that the EC was granted to the project without properly conducting the public hearing. In fact, the EAC had recommended for re-conduct of the public hearing. Even this was not adhered to. The project proponent submitted false 'No Objection Certificates' from the affected Gram Panchayats. The impact of the project on the Kelo river and the forests around has not been considered. Therefore, the entire process of issuing the EC was vitiated under Law and thus deserves to be set aside. Whereas it is the case of the Respondents that the EC was granted only after conducting public hearing as required under Environment Impact Assessment Notification of 2006. There was no violation of any kind in conducting public hearing nor it is true to say that false No Objection Certificates purported to have been issued by the Gram Panchayats were submitted. The MoEF had considered the impact on Kelo River and the forests around the proposed project.



3. The Learned Counsel on either side advanced lengthy arguments on each and every aspect of the issues and we have given our earnest consideration to the submissions made by them. We are of the opinion that mainly the following points arise for consideration in this appeal:

i) Whether the Public Hearing in the present case was conducted as contemplated under EIA Notification 2006 and the written representations filed by the appellant were considered by the EAC and the same is valid or not;

ii) Whether the EAC ignored the mandatory requirement of Cumulative Impact Assessment as required under the EIA Notification 2006

Issue no:-I

14. This is not a case where there are a few ignorable procedural lapses in conducting the public hearing. This is a case of a mockery of public hearing, which is one of the essential parts of the decision making process, in the grant of Environmental Clearance. This is a classic example of violation of the rules and the principles of natural justice to its brim. Therefore,



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we consider it appropriate to declare that the public hearing conducted in this case is nullity in the eye of law and therefore is invalid.

Issue No. ii:

19. Be that as it may. We consider that there is no necessity of going into all the details as to this issue since against issue No. 1 we have already come to the conclusion that the public hearing conducted was not proper and the same is invalid. Further, the suggestions made by the EAC for conducting public hearing afresh was brushed aside. Absolutely there was no discussion about conducting of the public hearing are even with regard to the consideration of the representations made by the people raising objections for the establishment of the project. The MoEF simply ignored the mandatory procedure under clause 8 of the EIA Notification 2006 and granted the EC in favour of the project proponent. Therefore, the EAC recommendation and the grant of EC is liable to be set aside. Accordingly the appeal is disposed of as under:



- i) The EC granted in file No. J-11015/110/2007-IA.II (M) dated 18th May, 2009 by the MoEF is set aside.
- ii) The MoEF is at liberty to direct the appropriate authority to reconduct a Public Hearing by taking all steps as required under the law.
- iii) The public hearing may be directed to be conducted by an experienced ADM, other than the present one who conducted the public hearing on 05.01.2008, and special care may be directed to be taken while recording the statements of the people participates.

Date:-12-11-2025

Place :-Nagpur


Counsel for Petitioners

Dr. Tushar Mandekar

Office Address:-Chamber No:-60, NIT COMPLEX, Hill Road,
Gandhinagar, Nagpur.440010; Mobile No:-09422101632,
email:-tusharmandekar@yahoo.com

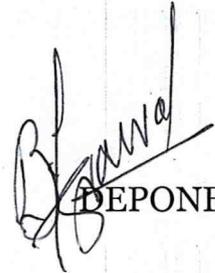


~~3759~~**SOLEMN AFFIRMATION**

I, Mr. BRIJKISHOR HARGOVIND AGRAWAL Aged about 75 years
Occ. Business R/o Nagpur , having the status of petitioner no.1 do
hereby take oath and state on solemn affirmation that:

- (i) I am duly conversant with the facts of the case and
competent to file the present Petition.
- (ii) That the contents in this Rejoinder are drafted by my
counsel on my instruction are true to the best of my
personal knowledge and belief.
- (iii) The contents from 1 to of this Rejoinder are drafted by
my counsel on the basis of documents supplied by me and
were explained to me in vernaculars which I have
understood. Hence verified and signed on **12th November
2025** at Nagpur.




DEPONENT

{ Brijkishor Agrawal }

I know and identify the Deponent


Adv. Dr. Tushar Mandalekar



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VERIFICATION

I Mr. BRIJKISHOR HARGOVIND AGRAWAL, Aged 75 years, Occ Business R/O Nagpur having status as Petitioner No.1 in the present petition do hereby verify that the content of the Para 1 to _ are true to my knowledge and the contents in this rejoinder are drafted by my counsel on my instructions are true to the best of my personal knowledge and belief and I have not suppressed any material fact;

Date:- 12.11.2025

Place: Nagpur

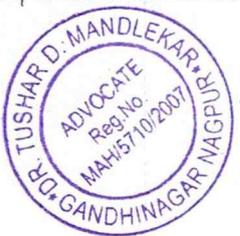
Signature of the Applicant

(Brijkishor Agrawal)

I know and identify the deponent

DR. TUSHAR D MANDLEKAR

(ADVOCATE)



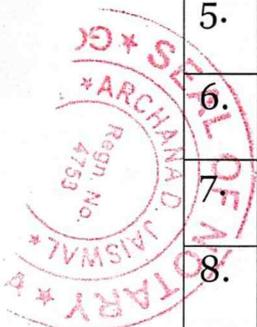
do Sworn Solemnly Affirmation
by Brijkishor H. Agrawal
Who is personally known to
me / identified by Adv. T. mandalekar
before me on this 12th day
of Nov 2025 at Nagpur

ARCHANA D. JAISWAL
NOTARY (Regn. No. 4753)
KHARE TOWN, DHARAMPETA
NAGPUR-440010



~~3761~~**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,****BENCH AT WESTERN ZONE [PUNE]****APPEAL NO. 145/ 2024****LIST OF VILLAGES WITHIN 10 KMS****AFFECTED IN PROJECT OF ADANI POWER LTD****AS PER THE STUDY CONDUCTED BY****RESPONDENT NO:-03**

1.	Jhunki	26.	Sirpur	51.	Digdoh
2.	Waroda	27.	Nildoh	52.	Nanda Khurd.
3.	Khairi	28.	Kinhi	53.	Alesar
4.	Ghorad	29.	Dhanoli	54.	Chicholi
5.	Brahmani	30.	Raipur	55.	Gondkhairi
6.	Pardi	31.	Khairi	56.	Mahaljbari
7.	Ghogali	32.	Turagondi	57.	Khapri
8.	Kalmeshwar	33.	Gumthala	58.	wari
9.	Ashti	34.	Wari	59.	Lawa
10.	Lonhara	35.	Kinhi	60.	Mangrul
11.	Ukhali	36.	Dhangarpura	61.	Kalambi



12.	Khairi	37.	Nandera	62.	Junawani
13.	Hingna	38.	Dhamna	63.	Sukli
14.	Ashti Kalan	39.	Dahegaon	64.	Yerla
15.	Nimji	40.	Ambajhari	65.	Meta Umri
16.	BazargaonRF	41.	Gondni	66.	Mandawahorar
17.	MadhogarhRF	42.	Bandara	67.	Giorhola
18.	Bhuyari	43.	Mohgaon	68.	Phetri
19.	Pethakaldonri	44.	Jhilpi	69.	khargaon
20.	Vyahad	45.	Wardhamna	70.	Sahuji
21.	Sonegaon	46.	Borgaon	71.	Surabardi
22.	Mangli	47.	Selu	72.	Nildoh
23.	Dhugdhama	48.	ketapar	73.	Wanadongri
24.	Deolimet	49.	Sawangi	74.	Gumthala
25.	Dhaba	50.	Uparwahi	75.	Nimboli

Tushar
COUNSEL FOR APPELLANTS

DR TUSHAR MANDLEKAR

