

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH AT PUNE

ORIGINAL APPLICATION NO. 109 OF 2023

IN THE MATTER OF:

PRALHAD TUKARAM GAWANDE AND ANR.

.... APPLICANTS

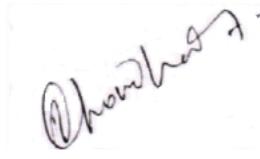
VERSUS

STATE OF MAHARASHTRA AND ORS.

.... RESPONDENTS

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THROUGH**RITWICK DUTTA****RAHUL CHOUDHARY****KAUSTAV DHAR****ADVOCATES****COUNSELS FOR THE APPLICANTS**

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
ORIGINAL APPLICATION NO. 109 OF 2023**

IN THE MATTER OF:

PRALHAD TUKARAM GAWANDE AND ANR. APPLICANTS

VERSUS

STATE OF MAHARASHTRA AND ORS. RESPONDENTS

**REJOINER ON BEHALF OF THE APPLICANTS TO THE AFFIDAVIT
DATED 25.09.2023 FILED BY RESPONDENT NO. 3**

MOST RESPECTFULLY SHOWETH:

1. That the above-mentioned Application is filed under Sections 14 read with Section 20 of the National Green Tribunal Act, 2010 raising a 'substantial question relating to the environment' as defined under Section 2(m) of the Act. The grievance of the Applicants is with respect to the E-Tender Notice bearing No. 01 for 2023-2024 *vide* dated 18.04.2023 and the same was available on public domain from 21.04.2023 to 12.05.2023 and the E-Tender opening date was 15.05.2023. The E-Tender is issued for the purpose of commencing the construction of the Lower Penganga Irrigation Project at Yavatmal in Maharashtra after the expiry of Environmental Clearance dated 17.05.2007 issued by the Ministry of Environment, Forest and Climate Change. That the issuance of the E-Tender notice for the commencement of construction activity is in violation of the Environmental Impact Assessment Notification, 2006.
2. That the instant Rejoinder is being filed in response to the affidavit filed by Respondent No. 3, Lower Penganga Irrigation Project Division, Yavatmal. At the outset, the Applicants deny contents of the Affidavit and various statements which have been made and nothing should be

assumed to be admitted unless specifically admitted or is part of the record. The Applicants reiterate all the facts and submissions made in the Application to be true and correct and the same may be read as part of the instant rejoinder and are not all being repeated for the sake of brevity.

3. The main contentions of the Affidavit of Respondent No. 3 that needs to be Rejoined:

- i. Environmental Clearance dated 17.05.2007 is in accordance with Notification dated 1994 and therefore the Government Notification dated 2006 and subsequent amendments vide Government Resolution of 2022 will not be applicable to this Project;
- ii. The work has started in year 2011 so the Condition No. 8 mentioned in the order of Environment Clearance Certificate is fulfilled i.e., work commenced within stipulated time period;
- iii. The delay in the project work progress is only due to obstruction from some project affected person. Lower Penganga Inter-State Irrigation Project Construction work has started prior to the expiry of its validity and admittedly once the project is started and meanwhile, if due to any obstruction from local people causes delay and stopping of the construction work for some period and again restart of work doesn't termed as fresh Project work.

REJOINDER TO THE REPLY AFFIDAVIT DATED 25.09.2023 OF R-3, LOWER PENGANGA IRRIGATION PROJECT DIVISION, YAVATMAL:

- i. **Environmental Clearance dated 17.05.2007 is in accordance with Notification dated 1994 and therefore the Government Notification dated 2006 and subsequent amendments vide**

Government Resolution of 2022 will not be applicable to this**Project is misleading:**

The Respondent No. 3 in Para No. 3 of the affidavit dated 25.09.2023 has asserted that the EC dated 17.05.2007 granted to the Lower Penganga Irrigation Project is in accordance with the EIA Notification 1994. The Applicants herein completely deny such contention as raised by Respondent No. 3. The Applicants herein submit that Para No. 4 of the EC letter dated 17.05.2007 (**Annexed as Annexure A/1 of the Original Application at Pg. No. 44**) clearly states that the EC has been granted by the MoEF as per the provisions of EIA Notification, 2006:

"4. The Ministry of Environment and Forests hereby accords environmental clearance only for Maharashtra portion, as per the provisions of Environmental Impact Assessment Notification, 2006 subject to strict compliance of the terms and conditions as follows".

Thus, it is absolutely an incorrect and a misleading contention raised by the Respondent No. 3. It is pertinent to note that the EC dated 17.05.2007 granted to the Lower Penganga Irrigation Project is in accordance with the EIA Notification, 2006 and hence subsequent amendments made in the 2006 Notification shall be applicable to the project in question. However, in the present scenario, the EC dated 17.05.2007 was primarily valid for 5 years and the same got expired on 16.05.2012 as no construction and operation activity commenced. Thereafter, vide corrigendum dated 27.09.2013, the validity of EC was extended for a period of 10 years from the date of issuance of the letter and hence the EC was valid till 16.05.2017, which accordingly expired on the same date. Further, the MoEFCC Notification dated 12.04.2022 made an amendment with regard to the validity of EC for river valley projects which earlier was 10 years and has now been extended to 13 years, but in case of the present

project, even the extended period of MoEFCC is also not applicable as the validity of EC expired on 16.05.2017. Thus, the Lower Penganga Irrigation Project Division is not legally entitled to commence the construction without obtaining a fresh EC as on present date, hence the E-Tender Notification No. 01 for 2023 dated 18.04.2023 is bad in law and is in complete violation of EIA Notification, 2006.

ii. The work has started in year 2011 so the Condition No. 8 mentioned in the order of Environment Clearance Certificate is fulfilled i.e., work is commence in stipulated time period is wrong:

The Respondent No. 3 in Para No. 3 of the affidavit dated 25.09.2023 has contended that the construction work has commenced in the year 2011 prior to the expiry of the EC within the stipulated timeframe. The Applicants herein deny the contention in its entirety. In this regard, the Applicants submit that Para No. 9 of the EIA Notification 2006 defines the term 'Validity of Environmental Clearance':

*"The validity of Environmental Clearance is meant the period from which a prior environmental clearance is granted by the regulatory authority or may be presumed by the applicant to have been granted under sub-paragraph (iii) of paragraph 8, **to start of production operations by the project or activity or completion of all construction operation in case of construction projects"***

Further, the same definition has been elaborated by the MoEFCC Notification No. S.O. 1807(E) dated 12.04.2022 thereby defining the '**Validity of Environmental Clearance**' as a period from which prior EC is granted to the start of operations by the project or completion of all the construction operations **(Annexed as Annexure A/7 of the Original Application at Pg. No. 122):**

"In the said notification-

(i) In paragraph 9-

(a) For sub-paragraphs (i) and (ii), the following sub-paragraphs shall be substituted, namely:-

*(i) The "Validity of Environmental Clearance" is meant the period from which a prior Environmental Clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub-paragraph (iii) of paragraph 8. **to start of production operations by the project or activity, or completion of all construction operations in case of construction projects relating to item 8 of the Schedule, to which the application for prior environmental clearance refers".***

It is pertinent to note that the legal interpretation of the definition of validity of environmental clearance as defined in the amendment notification dated 12.04.2022 by the MoEFCC in simple words mean that - *'Validity of Environmental Clearance' is the period from prior clearance approval until the start of production operations or completion of all construction operations, as applicable to the project or activity mentioned in the application.* It is crucial to highlight the expression **'the start of production operations or completion of all construction operations'**. That in the present case, neither the production operations commenced nor all the construction operations completed within 16.05.2017, hence, the EC got expired on the same date. Thus, any further construction is legally not permissible till fresh EC is obtained in accordance with the EIA Notification, 2006. Hence, the E-Tender Notification No. 01 for 2023 dated 18.04.2023 is bad in law and is in complete violation of EIA Notification, 2006. In this regard, it is pertinent to note that in the matter titled **Manoj Kumar Mishra and Anr. vs. Union of India and Ors. (O.A. No. 431 of 2015)** this Hon'ble Tribunal dealt with the issue of Lakhwar Vyasi Hydro Electric Project (HEP) which involves construction of 204 mt. high concrete dam with a 40 km

long reservoir on river, Yamuna, wherein the construction work started in 1987 and continued till 1992. Thereafter construction work stopped. That this Hon'ble Tribunal vide order dated 10.01.2019 gave the specific directions:

*"It was brought to the notice of the EB that clearances to start work had been granted recently to the Lakhwar (300 MW) and Vyasi (120 MW) projects. This is in violation of the spirit of the Hon'ble Supreme Court's order of August 13, 2013. **It is also noticed that these projects were approved more than 25 years ago. Consequently they do not have any EIA/EMP/DMP studies that are mandatory today. Without conducting cumulative impact assessments and disaster management studies of the Yamuna and Kali basins no such projects should be allowed at the risk of fragile ecology, biodiversity and lives of people living in and around the project sites**".*

*9. After considering the pleadings and materials on record, we are of the considered opinion that the clarifications given by the Project Proponent, the report of the expert Committee and finding of various studies need to be looked into and studied by the EAC and **project needs to be reappraised in terms of EIA notification, 2006.***

10. We, therefore, direct the EAC to appraise the project afresh in terms of EIA Notification 2006 and impose additional general and specific conditions as may be considered necessary. EAC will be free to call for any reports which it may consider necessary. EAC is further directed to complete the appraisal by 15.04.2019. Till the project is reappraised status quo shall be maintained."

That the Applicants herein submit that the EC was granted in 2007, i.e., 17 years ago. As the valid EC expired on 16.05.2017, hence, it is imperative to note that the project lacks mandatory EIA/EMP/DMP studies as on present date and thus without conducting any fresh cumulative impact assessments and disaster management studies such project will pose a significant threat to the fragile ecology, biodiversity, and the lives of individuals residing in and around the project sites. Thus, the Lower Penganga Irrigation Project Division is not legally entitled to commence the construction without obtaining a fresh EC as on present date, hence the E-Tender Notification No.

01 for 2023 dated 18.04.2023 is bad in law and is in complete violation of EIA Notification, 2006.

A Copy of the order dated 10.01.2019 in the matter titled **Manoj Kumar Mishra and Anr. vs. Union of India and Ors. (O.A. No. 431 of 2015)** passed by this Hon'ble Tribunal is annexed herewith as **Annexure A/1.**

- iii. **The delay in the project work progress is only due to obstruction from some project affected person. Lower Penganga Inter-State Irrigation Project Construction work has started prior to the expiry of its validity and admittedly once the project is started and meanwhile, if due to any obstruction from local people causes delay and stopping of the construction work for some period and again restart of work doesn't termed as fresh Project work:**

The Respondent No. 3 in Para No. 6 and 7 of the affidavit dated 25.09.2023 has contended that the delay in the progress of the project work is solely due to the obstruction from the project affected people. The Applicants in this regard submit that the Applicants through an organisation challenged the Lower Penganga Irrigation Project by filing a PIL on 01.03.2011 titled **Lower Penganga Virodhi Sangharsha Samiti & Anr. Vs. State of Maharashtra & Ors. (Writ Petition No. 4025 of 2011)** before the Hon'ble High Court of Judicature at Bombay Nagpur Bench. The Hon'blr High Court vide order dated 19.10.2011 (**Annexed as Annexure A/2 of the Original Application at Pg. No. 48**) granted an ad-interim stay thereby staying the EC dated 17.05.2007 and stayed the commencement of the construction. The matter was transferred by the Hon'ble Nagpur Bench to this Hon'ble Tribunal whereby this Hon'ble Tribunal also upheld the stay vide order dated 26.02.2013. Since, there were specific directions from the Hon'ble Nagpur Bench as well as from this Hon'ble Tribunal, thus any claim of construction

is illegal and contrary to the orders passed by the Hon'ble Court's orders. Hence, it is pertinent to note that the project proponent now cannot claim benefit of their own violation by disobeying the directions of the Hon'ble Court. In this regard, the Applicants herein submit that the Hon'ble Supreme Court in the matter titled **Balwantbhai Somabhai Bhandari vs. Hiralal Somabhai Contractor (Deceased) Rep. by Lrs. and Others (2023 SCC OnLine SC 1139)** has stated that persons who disobey orders and undertakings given to courts deserve no mercy:

"There ought not to be a tendency by courts to show compassion when disobedience of an undertaking or an order is with impunity and with total consciousness."

That despite specific direction regarding the stay of any construction work by the Hon'ble Nagpur Bench, vide order dated 19.10.2011, any claim of construction is illegal in complete disobedience to the Hon'ble Court's order. It is to be noted that the construction commenced in complete disregard to the direction of the Hon'ble Court and the same had been objected by the project affected people and thereafter the validity of the EC expired on 16.05.2017. Thus, issuance of the E-Tender notice for the commencing the construction activity is in complete violation of the EIA Notification 2006 as obtaining a fresh EC is a statutory mandate which cannot be overlooked.

4. In light of the above it is submitted that the Appellants have suitably made a case for grant of the prayers and reliefs sought for in the present Application and accordingly such prayers and reliefs may be granted by this Hon'ble Tribunal.

5 Pass any other order deemed fit by this Hon'ble Tribunal in the interest of justice, equity and good conscience.


APPLICANT NO.2

THROUGH



RITWICK DUTTA



RAHUL CHOUDHARY



KAUSTAV DHAR

COUNSEL FOR THE APPLICANTS

N-71, LOWER GROUND FLOOR,
 GREATER KAILASH-I, NEW DELHI-110048
 MOBILE NO: 9312407881
 Email: litigation.life@gmail.com

Place: Pune/Delhi

Date: 20.12.2023

VERIFICATION

I, Balaji Anantrao Yerawar, aged about 68 years, S/o Late. Anantrao Nanaji Yerawar, R/o Rutuparn Dayariz, Plot No.6, Mahadev Nagar, Near Om Society, Yaavatmal, Maharashtra – 445001, do hereby verify that the contents of paragraphs 1 to 5 are true to the best of my knowledge and I have not suppressed any material fact.


APPLICANT NO.2

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
ORIGINAL APPLICATION NO. 109 OF 2023 (WZ)

IN THE MATTER OF:

PRALHAD TUKARAM GAWANDE AND ANR.

...APPLICANTS

VERSUS

STATE OF MAHARASHTRA AND ORS.

...RESPONDENTS

AFFIDAVIT

I, Balaji Anantrao Yerawar, aged about 68 years, S/o Late. Anantrao Nanaji Yerawar, R/o Rutuparn Dayariz, Plot No.6, Mahadev Nagar, Near Om Society, Yaavatmal, Maharashtra – 445001, do hereby solemnly affirm and state as under:

1. I am the Applicant No. 2 in the above titled Original Application and conversant with the facts and circumstances of the case and competent to swear this present Affidavit.
2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.

B. Yerawar
DEPONENT

VERIFICATION

Verified at Yavatmal on this 20th day of December, 2023 that the contents of the above-mentioned Affidavit are true and correct and nothing material has been concealed therefrom.

B. Yerawar
DEPONENT



N K S. 7427/2023
Solemnly affirmed before me by
Shri Balaji A. Yerawar
Who is personally known to me
has been identified by Shri [Signature]
Advocate, whom
personally known
Dt. 20/12/2023
Narendra A. Salodkar
Advocate & Notary Public
At. Po. Dist. Yavatmal
Govt. of India Reg.No.3281
Pages. 1 of 1



**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

APPLICATION NO. 431 OF 2015

IN THE MATTER OF:

1. Manoj Kumar Mishra

178-F, Pocket 4,
Mayur Vihar, Phase 1
Delhi -110091

2. Bhim Singh Rawat

House No. 213, Street No. 7
Sanjay Colony,
Safiabad Road,
Narela, Delhi - 110040

.....Applicants

Versus

1. Union of India

Through the Secretary
Ministry of Environment, Forest and Climate Change
Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi – 110 003

2. Ministry of Water Resources, River Development and Ganga Rejuvenation

Through its Secretary,
Shram Shakti Bhawan
Rafi Marg, New Delhi- 110 001

3. Uttarakhand Jal Vidyut Nigam

Maharani Bagh, G.M.S. Road
Dehradun, Uttarakhand – 248006

.....Respondents

COUNSEL FOR APPLICANT:

Mr. Ritwick Dutta, Sr. Adv. with Mr. Rahul Choudhary, Mr. Saurabh Sharma, Ms Meera Gopal, Ms. Geetanjali Sreedhar & Mr. Utkarsh Jain, Advs.

COUNSEL FOR RESPONDENTS:

Mr. Balendu Shekhar, Mr. Sriansh Prakash and Mr. Raj Kumar Maurya, Advs. for MoEF

Mr. Ardhendumauli Kr. Prasad, Mr. Shashank Saxena, Mr. Amritesh and Ms. Diksha Gera, B.V. Niren & Mr. Kshitij Mudgal, Advs for MoWR (R-2)

Mr. Amit Anand Tiwari and Mr. Shashwat Singh, Advs. for UJVNL

Mr. Brajesh Pandey and Mr. Varun Thakur, Advs. for NMCG

JUDGEMENT**PRESENT:**

Hon'ble Mr. Justice Raghuvendra S. Rathore (Judicial Member)

Hon'ble Dr. Satyawan Singh Garbyal (Expert Member)

Reserved on: 04th January, 2019
Pronounced on: 10th January, 2019

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

Dr. S.S. GARBYAL, (EXPERT MEMBER)

This Original Application is regarding Lakhwar Vyasi Hydro Electric Project (HEP) which involves construction of 204 mt. high concrete dam with a 40 km long reservoir on river, Yamuna, Ministry of Environment & Forest gave its approval on 03.02.1987 stipulating following conditions:-

(a) Adequate fuel arrangement for the labour force to avoid destruction of nearby vegetation cover in the forests;

- (b) Restoration of the construction area;**
- (c) Catchment area treatment scheme;**
- (d) Grazing to be prohibited in the Reserve Forests;**
- (e) Scheme for training of the displaced people;**
- (f) No additional forest to be acquired;**
- (g) Monitoring Committee to be constituted by the State Government should include the expert on soil conservation, forest research etc.**

2. The construction work started in 1987 and continued till 1992. Thereafter construction work stopped. The project was subsequently bifurcated into two components namely Lakhwar Multipurposes Dam (300 MW) and Vyasi HEP (120 MW). A separate Environmental Clearance was obtained for Vyasi HEP on 07.09.2007.

3. The Construction work on Lakhwar Multipurpose Dam which was stopped in 1992 is yet to restart. This project came up for consideration of the EAC on 12.11.2010 and following clarification were sought by the EAC:-

- I. It was noted that irrigation facility will be increased by augmentation of water by constructing a barrage in Katapathar. However, no details in this regard has been provided.**
- II. The purpose of Vyasi dam shown downstream of Lakhwar dam is not spelt out.**
- III. Katapathar barrage is proposed for irrigation (or regulated) release to Hathinkund barrage (11,100 sq. km basin). No clear description with a flow chart to explain the functioning of schemes is available. A map may be provided showing the followings:-**
 - (a) Lakhwar dam, linkage to Vyasi dam, is Lakhwar dam UG power house a dam to power house?**

- (b) Vyasi dam, mentioned as 5 km downstream of Lakhwar dam with additional catchment area of 20 km². Its Public Hearing at Hathiary (is this the underground powerhouse of Lakhwar project, or Vyasi project) fig- 1.2 of EMP Report.**
- (c) Does katapathar barrage, provide direct irrigation and drinking water benefit or merely feed Hathnikund barrage?**
- (d) Command area of EYC from Hathnikund barrage to be augmented by Katapathar barrage regulation linked with (functioning from the regulated power release of Lakhwar dam and Vyasi power house) Lakhwar project primarily. The extent of irrigation supplementation to the existing command, its impact on drainage, soil quality (due to additional input of water) has to be brought out in the EIA studies. A simulation of 90% and 75% dependable year of Lakhwar reservoir, out flow from Vyasi power house and moderation done at Hathnikund barrage, its water demand, deficit to be met from lakhwar dam be brought out with clarity.**

At page - 4.1 of Vol.- VI (Executive summary), it is mentioned that "Lakhwar hydro project with an installed capacity of 300 MW and downstream Vyasi project with installed capacity of 120 MW are geographically very attractive sites". Where are the details of Vyasi projects such as the dam, the water conductor system and power house, tail race etc.

It is quite obvious the developers have submitted piecemeal documents with no linkage, particularly on the environment aspects. The Vol.-I DPR (Engineering) does not show/ contain Form-1 required for scoping clearance. Instead a long check list required for TEC of CWC/ CEA is enclosed, which is totally irrelevant for environmental scoping. A look at reservoir operation study for 1974-75 shows the project

generates 4-8 hours of electricity every day thereby grossly altering the existing hydrological regime of the river.

DPR Vol.-I (b) "Irrigation Aspects" do not contain any linkage of power release with irrigation drawal/ need either at katapathar or Hathnikund barrages.

In view of the facts that part construction of Lakhwar dam complex is already done, the environmental impacts have already occurred. How do the developers address this issue?

The Lakhwar reservoir operation during non-monsoon has to match the crop water need of the proposed expansion/ stabilization of EY Canal? What is the existing cropping pattern and proposed cropping pattern of the Lakhwar-Vyasi-Hathnikund project? Does the Table - 1.3 at Page-5 at Table at page-6 of irrigation Report depict the position correctly? In the absence of salient features, linkages, sketchy information the scheme cannot be examined. The EIA/ EMP reports prepared do not serve much purpose in the absence of an approved Form-1 and TOR.

This project should be broken down to three independent projects such as Lakhwar, Vyasi and Katapathar with their linkages and clear hydrological details and other environmental issues for examining and granting a scoping clearance. All past clearances of MoEF, CWC, CEA may also be provided.

4. It is revealed from the letter dated 10.01.2011 from MoEF to Director Uttarakhand Jal Vidyut Nigam Limited, which is on record that after bifurcation of the original projects into Lakhwar and Vyasi HEP the construction of Vyasi HEP was transferred to NHPC and EC was granted for this project on 07.09.2007 and subsequently EC was transferred to Uttarakhand Jal Vidyut Nigam (UJVNL). The MoEF

had reviewed the request of the State Government to exempt the project from obtaining fresh EC and it was intimated by the MoEF that the validity of EC issued to the project continues. It was, however, observed as follows:-

However, as the project was granted environment clearance long time back and since then there may be several changes in the surroundings of the project. As such the clarifications sought by the EAC all its meeting held on 12.11.2010 as per current practice should be submitted. Minutes of the meeting is available in the Ministry's website (envfor.nic.in). A copy of the same is annexed. Additional conditions as safeguard measures would be proposed after examining the clarifications.

5. The applicant submits that the approval which was given in 1987 was only an administrative approval and not proper EC as it was given without proper EIA reports and EMP. The applicant contends that there has been many changes on the ground, after 1992 including disaster of 2013 and has also brought to our notice the findings of a study conducted by a noted geologist K.S. Valdiya in 2014 which are summarised as below :-

“In the fault-ridden, seismically and tectonically ravaged by excessive rains and resultant Landslides in Uttarakhand, a very large number of big and small dams are being constructed and planned. Quite many of these projects suffered crippling damages during the 2013 disaster as mountain slopes slid down and floodwater severely eroded stream banks and dumped huge volumes of sediments on critical facilities. If the idea is to have environment-friendly power projects, then the planners and dam builders must not ignore the geological

reality of the geodynamically sensitive region. Better sites for dams can be explored far upstream of the main Central Thrust Zone”.

6. It has further been submitted that after 2013 tragedy an expert body was set up by MoEF IN October, 2013 on the direction of Hon’ble Supreme Court and one of the terms of reference was to assess and review extent of progress made in respect of ongoing/ under construction Hydro Electric Power Projects as on the date of occurrence of the tragedy vis-à-vis progress made in compliance of environmental conditions/ safeguard measures. Summary of “Assessment of Environmental Degradation and Impact of Hydro Electric Power Project during the June, 2013 Disaster in Uttarakhand” submitted to MoEF in 2014 includes observation of one of the Member of the expert body Dr. Hemant Dhyani which reads as follows :-

“It was brought to the notice of the EB that clearances to start work had been granted recently to the Lakhwar (300 MW) and Vyasi (120 MW) projects. This is in violation of the spirit of the Hon’ble Supreme Court’s order of August 13, 2013. It is also noticed that these projects were approved more than 25 years ago. Consequently they do not have any EIA/EMP/DMP studies that are mandatory today. Without conducting cumulative impact assessments and disaster management studies of the Yamuna and Kali basins no such projects should be allowed at the risk of fragile ecology, biodiversity and lives of people living in and around the project sites”.

7. It has been noted by the expert Committee that as per the EIA notification dated 14.09.2006 the validity of approval EC is 10 years and that in number of cases the validity of EC is 5 years. The expert Committee have recommended that the validity should not be extended, unless fresh appraisal is done.

8. Learned Counsel for the Project Proponent submits that they have complied with all the conditions of the approvals and have also clarified the various points raised by the EAC in 2010. It is, however, not known whether the clarifications given by the project authorities were placed before the EAC.

9. After considering the pleadings and materials on record, we are of the considered opinion that the clarifications given by the Project Proponent, the report of the expert Committee and finding of various studies need to be looked into and studied by the EAC and project needs to be reappraised in terms of EIA notification, 2006.

10. We, therefore, direct the EAC to appraise the project afresh in terms of EIA notification 2006 and impose additional general and specific conditions as may be considered necessary. EAC will be free to call for any reports which it may consider necessary. EAC is further directed to complete the appraisal by 15.04.2019. Till the project is reappraised status quo shall be maintained.

With above directions this Original Application No. 431/2015 is disposed of, with no order as to cost.

.....
Justice Raghuvendra S. Rathore
(Judicial Member)

.....
Satyawan Singh Garbyal
(Expert Member)

Dated: 10th January, 2019
New Delhi