

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN BENCH, KOLKATA
APPEAL No. 24 of 2022**

IN THE MATTER OF:

Satyanarayan Rao

...Appellant

Versus

Union of India & Ors.

....Respondent(s)

INDEX

NDoH: 13.10.2023

S. No.	Particulars	Page No.
1.	Reply Affidavit of Respondent No.2 M/s Vedanta Limited to the Appeal Alongwith Affidavit.	553-578
2.	ANNEXURE R/1 – Copy of the Order dated 28.09.2020 of the Orissa High Court in Writ Petition (Civil) No. 24699/2020	579-584
3.	ANNEXURE R/2 - Copy of the Order dated 09.10.2020 of the Orissa High Court in Writ Petition (Civil) No. 24789/2020	585-606
4.	ANNEXURE R/3 - Copy of the Order dated 10.01.2022 of the Odisha High Court in Writ Appeal No. 711/2022	607-608
5.	ANNEXURE R/4 : Copy of the Order dated 10.01.2022 of the Orissa High Court in Writ Petitioner No. 24790/2020	609-610
6.	ANNEXURE R/5 – Copy of the Public Notice dated 27.08.2020 of the public hearing	611-612
7.	ANNEXURE R/6 ^(Colly) - Copy of the Order dated 29.09.2020 and 30.09.2020 in Writ Petition (Civil) No No. 24789/2020.	613-616
8.	ANNEXURE R/7 - Copy of the Order of the Collector dated 18.10.2020	617-620
9.	ANNEXURE R/8 – Copy of the relevant extracts of the EMP earmarked in the original EIA Report of 2020 and in the revised EIA Report of 2021	621-626
10.	ANNEXURE R/9 – Copy of the relevant extracts of the Minutes of the 42 nd EAC Meeting dated 25.08.2021	627-638
11.	ANNEXURE R/10 – Copy of the Minutes of the 48 th Meeting of EAC dated 23.11.2021	639-641

12.	ANNEXURE R/11 – Copy of the Show Cause Notice dated 01.09.2021 of the MoEF&CC along with the Reply of M/s Vedanta sans the annexures	642-660
13.	ANNEXURE R/12 – Copy of Order dated 13.11.2017 of the Hon'ble National Green Tribunal in Non Violence Again v. Vedanta Ltd. and Others (OA No. 151/2016)	661-678
14.	Proof of Service	679

Date: 12.10.2023

Place: Kolkata

DRAWN BY:



Sanjay Upadhyay, Mansi Bachani, Gitanjali Sanyal & Arushi Malik
 Advocates for Respondent No. 2
 29, LGF, Presidential Estate,
 Nizamuddin East, New Delhi -110013
 Email: mansi@eldfindia.com; +91-8600531203

FILED BY:

Sameer Manher

Clerk

Enviro Legal Defence Firm

Email: eldflegal@gmail.com; +91- 8851323704

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN BENCH, KOLKATA
APPEAL No. 24 of 2022**

IN THE MATTER OF:

Satyanarayan Rao

...Appellant

Versus

Union of India & Ors.

....Respondent(s)

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2, M/S
VEDANTA LIMITED TO THE APPEAL**

MOST RESPECTFULLY SHOWETH:

1. That this Hon'ble Tribunal is currently seized of the abovementioned Appeal, which alleges, albeit wrongly, that the Respondent No. 2, M/s Vedanta Limited has been granted Environment Clearance dated 05.05.2022 for expansion of its aluminium smelter in violation of the procedure established under the Environment Impact Assessment Notification, 2006, without a proper public hearing on the revised EIA Report and the unit of M/s Vedanta has encroached upon forest land, among other violations.
2. That in pursuance of the Notice issued by this Hon'ble Tribunal on 17.08.2022, the answering Respondent submitted its response on 17.09.2022 to the IA No. 186/2022 by the Appellant for condoning the delay in filing the Appeal. On 23.09.2022, this Hon'ble Tribunal was pleased to dismiss the Appeal due to failure of the Appellant to justify the delay in approaching the Hon'ble Tribunal especially after obtaining the Environment Clearance in May 2022 through its RTI application.
3. That thereafter, Civil Appeal No. 9216/2022 was filed by the Appellant herein before the Hon'ble Supreme Court. The Hon'ble Apex Court on 18.08.2023 remanded the matter back to this Hon'ble Tribunal and condoned the delay by the Appellant in filing the Appeal. The matter was thereafter listed on 12.09.2023 and the Respondents were granted liberty to submit their Reply on merits to the submissions in the Appeal.
4. That in pursuance of the liberty granted on 12.09.2023, the Respondent No. 2, M/s Vedanta Limited (hereinafter referred as 'answering Respondent') is submitting the present Reply Affidavit, clarifying that the allegations raised in the Appeal are devoid of all merits. The answering Respondent humbly submits that all those averments in the Appeal that have not been

specifically admitted are herewith denied and are not to be construed as having been accepted by the answering Respondent as if *traversed seriatim*.

5. That before averting to the para wise response on merits of the Appeal, the answering Respondent seeks to place on record its Preliminary Objections/Submissions, which in its humble opinion, are crucial for a holistic adjudication of the present matter.

Preliminary Objections

I. The Appellant is not an aggrieved person within the meaning of Section 18 of the National Green Tribunal Act, 2010

1. That the Appellant has not brought on record any material to show how he is aggrieved within the meaning of Section 18 of the National Green Tribunal Act, 2010. In a project of this nature, not a single person who owns the property around the Project has opposed or come before this Hon'ble Tribunal. It is pertinent to note that the minutes of the Public Hearing annexed as Annexure A3 Page 57 of the Appeal confirms that the public residing in the vicinity of the project is not aggrieved by the expansion of the aluminum smelter unit of the answering Respondent. The grievances raised largely pertain to creation of adequate employment opportunities by the answering Respondent in the expanded unit.
2. That it is also pertinent to note that the Appellant did not participate in the public hearing on 30.09.2020 and has now approached this Hon'ble Tribunal, at a belated stage, challenging the expansion of the Project without placing on record any evidence to substantiate the allegations. On one hand he appears to be aware of the entire procedure for obtaining Environment Clearance, Forest Clearance and at the same time there is no material on record to demonstrate his own credibility in the field of environment. All this certainly proves that there is something more than meets the eye and the Appellant cannot be conceived as a 'person aggrieved' within the meaning of Section 18 of the NGT Act, 2010.
3. That this Hon'ble Tribunal in the case of Anand Kumar Jha v. Union of India & Others (Appeal No. 05/2021) and Satyabrata Sanjeev Kumar Mohanta v. MoEF&CC & Ors. (OA No. 53/2023), while placing reliance on the Hon'ble Supreme Court Judgment in The State of Uttar Pradesh & Ors. vs. Uday Education and Welfare Trust & Anr., had dismissed the Appeal challenging

Environment Clearance due to Appellant's failure in clarifying his credentials and bona fides. Similarly, in the present case the Appellant has failed to submit a single document, verifying his credentials or how he is impacted by the Project. This is ground alone to dismiss the case *in limine* and impose huge costs on the Appellant for approaching this Hon'ble Tribunal, for reasons best known to them.

II. The Appellant has deliberately submitted incomplete facts, specifically with respect to the history of litigation on the same project before the Hon'ble Orissa High Court and the Hon'ble Supreme Court.

4. That it is also pertinent to note that the Appellant has submitted incomplete facts before this Hon'ble Tribunal. The Appellant along with his associates had also challenged the project of the answering Respondent in the Hon'ble High Court of Orissa, specifically on the issue of public hearing. However, the Appellant has conveniently left out the details of the said litigation in the Appeal despite the Minutes of the Public Hearing dated 30.09.2020 (annexed at Annexure A3 Page 57 of the Appeal) clearly recording the history of litigation before the Hon'ble High Court of Odisha.
5. That before the Hon'ble High Court, the Appellant through his organization "Anchalik Parivesh Surakhya Sangh" had challenged the notice of Public Hearing in W.P.(C)No. 24669 of 2020 in order to obtain a stay on the public hearing scheduled on 30.09.2020. However, the petition of the Appellant was dismissed by the Hon'ble High Court on 28.09.2020. Copy of the Order dated 28.09.2020 is marked and annexed as **Annexure R/1**.
6. Parallely, W.P.(C)No. 24789 of 2020 was also filed before the Hon'ble Orissa High Court inter alia challenging the proceedings of the public hearing and the same was heard by the Hon'ble Court on 09.10.2020 wherein the Petitioners were directed to make a Representation before the Collector within three days by 12.10.2020 raising their grievances against the public hearing. Upon receipt of the representations and after hearing the parties, the Collector was to take a decision on whether a fresh public hearing is required to be conducted. The Collector after hearing the parties on 15.10.2020 has disposed the Petition and clarified that there was no requirement of a fresh public hearing. A Copy of the Order dated 09.10.2020 is marked and annexed herein as **Annexure R/2**.

7. That the abovementioned Order dated 09.10.2020 was challenged in Special Leave to Appeal No. 5140/2021 before the Hon'ble Supreme Court, which was dismissed on 26.07.2021 as there was an alternative remedy before the Division Bench of the Orissa High Court. .
8. That in 2021, a W.A. No. 711/2021 was accordingly filed against the Order dated 09.10.2020 of the single judge bench of Orissa High Court in WP No. 24789 of 2020. Further, the wife of the Appellant filed an IA for intervening in the instant appeal, without having disclosed her relation to the Appellant. On 15.12.2021, the Hon'ble High Court observed that since no prior EC was granted till this date, it further directed that no environment clearance shall be granted till the next date of hearing to the answering Respondent. However, the said Writ Appeal was subsequently disposed of by the Hon'ble High Court on 10.01.2022, wherein the Hon'ble High Court observed that both the Appellant i.e., Subrat Bhoi and Tejraj Kumura, have through their Counsel moved IA Nos. 2390 of 2021 and 2401 of 2021 alongwith their Affidavits, seeking an unconditional withdrawal of the present Appeal. A Copy of the Order dated 10.01.2022 in W.A.No. 711/2021 is marked and annexed herein as **Annexure R/3**.
9. That in another Writ Petition NO. 24790/2020 vide Order dated 10.01.2022, the Division Bench of the Hon'ble High Court of Orissa, on the same subject was also disposed of at the request of the Petitioner stating that the Petition has become infructuous as the impugned public hearing to be conducted by the State Pollution Control Board has since been held on 30.09.2020 and accordingly withdrawal memo dated 10.01.2022 has been filed. The Hon'ble High Court disposed of the said matter as withdrawn and made it clear that there is no legal impediment for the competent authority to proceed in accordance with law. A copy of the Order dated 10.01.2022 in WP No. 24790/2020 is marked and annexed as **Annexure R/4**.
10. That the abovementioned history of litigation makes it clear that the validity of the public hearing dated 30.09.2020 was already challenged before the Hon'ble High Court of Orissa and it was disposed of by the Hon'ble High Court by directing the Collector to take a decision regarding the same. Thereafter, the Collector on 18.10.2020 considered the Representation of the members of the village community and held that the public hearing conducted on 30.09.2020 for the plant of the answering Respondent was considered smooth and complete. However, the Appellant herein has conveniently

omitted to submit the abovementioned case history before this Hon'ble Tribunal, for reasons best known to them. This is a clear case of "*suppressio veri suggestio falsi*" on part of the Appellant. This itself is a ground for dismissal of the Appeal, especially qua the issue of Public Hearing, as being barred by Res Judicata. It is humbly submitted that any grievance against the Order of the Collector issued in pursuance of the Direction of the Hon'ble High Court of Orissa could have only been challenged in an Appeal before the Hon'ble Orissa High Court and not before this Hon'ble Tribunal. The same was undertaken in W.A. No. 711/2021, but subsequently the said Writ Appeal was withdrawn by them for reasons best known to them. In such a scenario, the Appellant cannot approach this Hon'ble Tribunal raising the same issue of public hearing, without submitting the Directions of the Hon'ble High Court of Orissa and the decision dated 18.10.2020 of the Collector regarding the same.

Preliminary Submissions

III. About the Aluminium Smelter Plant of the answering Respondent

11. That the answering Respondent, M/s Vedanta Ltd., is a company registered under the provisions of the Companies Act, 1956. The Company is inter alia involved in the business of manufacturing aluminium products and had set up an aluminium smelting complex at Bharkhamunda village, Sripura Tehsil, District Jharsuguda, Odisha for 2.5 LTPA with a captive power plant of 675 MW in the year 2007 with requisite statutory clearances including environment clearances (specifically EC dated 07.03.2007 and 14.03.2007.) The said clearances were never challenged. No forest land was involved in the said establishment and has been recorded as such by the ECs granted in this regard.
12. That subsequently the unit expanded to 16 LTPA of aluminium smelter and a captive power plant of 1350 MW in pursuance of the Environment Clearance dated 11.06.2008. The said composite Environment Clearance was never challenged.
13. That due to the increase in demand, the answering Respondent applied for Environment Clearance on 24.10.2017 for further expansion of its Aluminium Smelter Plant from 16 LTPA to 18 LTPA. The Terms of Reference (TOR) for the said expansion were granted on 20.12.2017. After a detailed scrutiny of the

compliances undertaken by the answering Respondent with the Terms of Reference and the conditions imposed by the Expert Appraisal Committee during its appraisal meetings, the Environment Clearance was granted to the answering Respondent on 05.05.2022 in compliance with the EIA Notification, 2006 and the Orders of this Hon'ble Tribunal. However, the Appellant herein for reasons best known to them, have approached this Hon'ble Tribunal at a belated stage, submitting half-baked facts for challenging the Environment Clearance dated 05.05.2022 of the answering Respondent, without placing on record a shred of evidence to corroborate their allegations.

IV. The Public Hearing for the Environment Clearance dated 05.05.2022 was conducted in accordance with the law and has already been examined by the Hon'ble High Court of Orissa - Res Judicata

14. That the answering Respondent in pursuance of Terms of Reference dated 20.12.2017, engaged M/s Vimta Labs as its environmental consultant for preparing the EIA Report for the proposed expansion of its Aluminium Plant. The Draft Report was submitted for public hearing on 07.02.2020.
15. That thereafter, post the consultation between the District Magistrate and the State Pollution Control Board, the public hearing was scheduled to be held at Government Upper Primary School, Kurebaga , Jharsuguda on 30.09.2020. Public Notices for the same were also issued on 27.08.2020 in Odia in a Newspaper called 'Samaj' as well as in Orissa Post and an English Newspaper. A copy of the Public Notices are appended as **Annexure R/5**.
16. That however, in the meantime, one W.P.(C)No. 24669 of 2020 was filed by organisation of the Appellant herein, Anchalik Parivesh Surakhya Sangh, seeking a stay on the proposed date for public hearing of the Project of the answering Respondent. On 28.08.2020, the Hon'ble Court dismissed the Writ Petition and granted liberty to the Appellant as well as all interested public to give their opinion at the time of the public hearing.
17. That simultaneously another W.P. (C) No. 24789 of 2020 was filed before the Hon'ble Orissa High Court, on the same cause of action. The High Court passed an interim order on 29.09.2020 whereby a stay was imposed on the public hearing. Subsequently the order was modified on 30.09.2020, and the public hearing was directed to take place. On 09.10.2020 the Hon'ble Court disposed the Writ Petition with directions to the Petitioners to make

representation to Collector Jharsuguda. Copy of the Order dated 29.09.2020 and 30.09.2020 is marked and annexed as **Annexure R/6 (Colly)**.

18. The Collector on 18.10.2020 passed an order confirming that proper public hearing had been conducted on 30.09.2020, and that there was no need to reconvene the public hearing. Copy of the Order of the Collector dated 18.10.2020 is marked and annexed as **Annexure R/7**.
19. Subsequently order dated 09.10.2020 was challenged in Special Leave Petition 5140/2021 before the Supreme Court, which was dismissed on the ground that an alternate remedy was present. Pursuant to the same WA 711/2021 was filed before the Hon'ble High Court, wherein vide order dated 15.12.2021 a stay order on the process for the grant of EC was imposed. The said Writ Appeal along with WP(C) No. 24790 of 2020 was subsequently disposed of by the Hon'ble High Court on 10.01.2022 holding that there is no legal impediment for competent authority to proceed in accordance with law, as state earlier in the preceding paras.
20. In the meanwhile in pursuance of the liberty granted by the Hon'ble High Court in W.P. (C) No. 24789/ 2020, the public hearing was conducted on 30.09.2020 and all the requisite documents including the EIA Report were placed before the public for their comments and suggestions. The Minutes annexed at Page 60 of the Appeal clarify that the public was in favour of the said expansion of the unit and the grievances largely pertained to ensuring that them and their kins were provided with the requisite employment in the plant. The Minutes of the Public Hearing along with the procedural history of the challenge in the High Court was shared by State Pollution Control Board with the MoEF&CC. Thus, the Public Hearing was conducted by the answering Respondent in compliance with the EIA Notification, 2006. It is pertinent to highlight herein that although the Appellant states that they participated in the public hearing, the minutes of the hearing annexed in the Appeal at Page 64 does not record any objection by the Appellant or his organisation neither their participation in the said public hearing.

V. There is no requirement in law to submit every revision of the EIA Report after comments are sought by the EAC/Competent Authority again for Public Hearing.

21. That post the Public Hearing, the answering Respondent submitted the documents along with the EIA Report and Form II on 28.11.2020. The

Environmental consultant of the answering Respondent presented before the Expert Appraisal Committee on 19.01.2021.

22. That however, the Expert Appraisal Committee noted certain deficiencies in the EIA Report prepared by the Consultant of the answering Respondent and directed the answering Respondent to revise the Report based on the observations/recommendations noted in the 28th EAC meeting dated 19.01.2021.
23. That in furtherance of the recommendations of the EAC, the answering Respondent hired a new Consultant and revised the said EIA Report as per the observations/recommendations of the EAC in its 28th Meeting. The revised EIA Report was submitted to the EAC on 03.08.2021 for their consideration.
24. That it is humbly submitted that the EIA Notification, 2006 does not require every revision that may be made in light of the comments by the EAC/Competent Authority to be put such revised EIA Reports to be again subjected for public scrutiny by way of a public hearing. The objective of the public hearing is to ensure that prior to the appraisal of the proposal by the Regulatory Authority, the public is made aware of the environmental impacts of the Project and the mitigation plan for the same so as to afford an opportunity to the public at large to raise any grievances and/or suggestions for improvement regarding the same. The proposal for Environment Clearance is finally appraised based on the information submitted by the Project Proponent and the comments, suggestions or objections of the Public at large. Post the appraisal stage, all comments, objections of the public and the EAC meetings are addressed in the EIA Report/Study which is thereafter again submitted to the appraisal committee for final recommendation and approval by Competent Authority.
25. That the grievance of the Appellant herein is bereft of any merit as the revised EIA Report has incorporated measures which ensure reduced impact of the expansion on the environment. Thus, the assumption of the Appellant that the failure to submit the revised EIA Report for public hearing again would be detrimental to the cause of environment belies not only common sense but has no standing in law. Moreover, both the previous EIA Report and the Revised EIA Report are available in the public domain and easily accessible for any scrutiny. The Appellant could additionally have followed procedure known to law to obtain the said revised EIA Report to comment, suggest any measures

that may further help the mitigation process, which they have not submitted so far.

26. It is humbly submitted that the revised EIA Report, and the parameters of analyses as well as the environmental mitigation measures have been further improved from the previous EIA Report. For instance, the cost of Environment Monitoring Plan has been increased from Rs. 55 crores in the Original EIA Report to Rs. 96.16 crores. Additionally, 79.27 crores have been earmarked for addressing the environmental issues raised during the public hearing. The copy of the relevant extracts of the EMP earmarked in the original EIA Report of 2020 and in the revised EIA Report of 2021 is marked and annexed herein as **Annexure R/8**. A more detailed comparison between the previous and the revised EIA Report may be presented before this Hon'ble Tribunal, if it so desires. Thus, it is humbly submitted that there cannot be any ground for quashing of the Environment Clearance, especially when the environment, socio economic measures have been further revised and increased in the revised EIA Report with not only more sensitivity and compassion but with more resources to mitigate any anticipated environmental impact, which has been carefully and rigorously examined by the EAC as well as Competent Authority before recommending and granting the environmental clearance for the said expansion.

VI. EC for expansion has been obtained after a detailed scrutiny by the EAC and in compliance with the EIA Notification, 2006

27. That the Appellant's allegation of non-application of mind by the Expert Appraisal Committee in granting Environment Clearance for the expansion of the aluminium smelter plant of the answering Respondent is devoid of all merit. The Expert Appraisal Committee has scrutinised the proposal of the answering Respondent in over five appraisal committee meetings, apart from raising additional queries through parivesh, before recommending the proposal for Environment Clearance. Although, the Essential Details/Additional Details Sought (EDS/ADS) sought by the Ministry of Environment, Forest and Climate Change have not been brought on record by the Appellant, the list of dates of the Appellant clarifies that the proposal has been scrutinised in depth for almost 1.5 years, before recommending grant of Environment Clearance.

28. That the Application for Environment Clearance of the answering Respondent was first appraised by the EAC on 19.01.2021. The Minutes of the Meeting record that the EAC was not satisfied with EIA Report and asked the Consultant of the answering Respondent to submit a revised Report as per thirteen Directions/ Recommendations which included reworking the area earmarked for fly ash, undertaking cumulative impact of all units, details of the green belt, among others.
29. That thereafter the answering Respondent in pursuance of the recommendations of the EAC submitted the revised proposal on 03.08.2021 as per the suggestions of the EAC. The said proposal was again scrutinised by the Expert Appraisal Committee in its 42nd meeting on 25.08.2021. However, the EAC deferred the proposal and directed the answering Respondent to further revise its proposal to include performance monitoring of pollution control devices, better photographs of the plantation along the periphery of the unit and show case compliance with conditions of EC of the previous Environment Clearance of 2008 before they could further appraise the proposal for expansion. The Minutes of the 42nd Meeting of EAC are marked and annexed herein as **Annexure R/9**.
30. That subsequently, the answering Respondent updated its proposal and submitted the information on 03.10.2021, as directed by the EAC in its 42nd meeting. In pursuance of the information submitted, the answering Respondent received an Essential Details Sought (EDS) query for re-submitting certain documents which were not clearly legible. The documents were again submitted by the answering Respondent on 03.11.2021.
31. That the updated proposal of the answering Respondent was appraised in the 48th meeting of EAC on 23.11.2021. The EAC further directed the answering Respondent to submit additional information regarding the methodology for the analysis of BOD, liquidation of ash stock, among others. The Minutes of the 48th Meeting of EAC are marked and annexed herein as **Annexure R/ 10**. The MoEF&CC was also asked to issue a Show Cause Notice to the answering Respondent under Section 5 of the Environment Protection Act, 1986 for showcasing its compliance with the conditions of previous Environment Clearance of 2008. The said Show cause notice was issued on 01.09.2021. The answering Respondent submitted its response to the said Notice on 29.09.2021. A Copy of the Show Cause Notice along with the

response of M/s Vedanta sans the annexures of the response is appended as **Annexure R/11.**

32. That thereafter, the answering Respondent submitted its comprehensive response on 30.11.2021 to the EAC queries. Additionally on 02.12.2021, the Competent Authority, the Ministry of Environment, Forest & Climate Change sought further information from the answering Respondent on fluoride consumption, disposal of spent pot lining, among others. The same was clarified by the answering Respondent on 09.12.2021. However, the EAC on 28.12.2021 recommended to defer the proposal of the answering Respondent subject to the outcome of the W.A. No. 711/2021, pending before the High Court of Odisha at Cuttack as described above. The answering Respondent was also directed to submit all the details pertaining to the pending litigation in the High Court or the National Green Tribunal.
33. That finally on 22.03.2022, the EAC in its 2nd meeting noted the compliance of all the previous conditions, recommendations, earlier Directions of the EAC , the response to the Show Cause Notice dated 01.09.2021 given by the MoEF&CC , by the answering Respondent and recommended the grant of Environment Clearance for the proposed expansion subject to compliance with specific and general conditions as per the MoEF&CC OM dated 09.08.2018. The EAC also recommended that the Show Cause Notice dt. 01.09.2021 may be withdrawn and accordingly the Show Cause Notice was withdrawn by MoEF&CC on 05.05.2022. The Copy of the Minutes of the 2nd Meeting of EAC are annexed as Annexure A4, Pag 70 of the Appeal.
34. That in view of the abovementioned Appraisal Meetings, it is humbly submitted that the grounds raised by the Appellant herein were not only duly addressed and looked into by the EAC during the appraisal of the Project of the answering Respondent but a very rigorous process was adopted for scrutiny of various aspects of environmental assessment and their proposed mitigation. The Appellant herein, despite mentioning the particulars of the above-mentioned appraisal meetings has merely reiterated what the EAC had raised in the said meetings as a ground for quashing the Environment Clearance of the answering Respondent. Thus, the grievance or allegations of the Appellant have been duly scrutinized by the EAC and the MoEF&CC and it is only after the EAC was satisfied that the answering Respondent is complying with the conditions of EC, that the answering Respondent was first recommended by the EAC on 22.03.2022 for the grant of prior EC and

subsequently granted prior Environment Clearance for expansion by the Competent Authority on 05.05.2022. It is also important to add here that the expansion is at the advanced stage of completion with an investment of over Rs. 1240 crores. It is also to be noted that the answering Respondent has already completed the work at the potline and has received CTO for production of 18 MTPA of aluminium on 27.03.2023.

VII. No Encroachment of Forest Land or dumping of fly ash on forest land

35. That at the outset it is clarified that the answering Respondent did not acquire any forest land for the expansion of its unit. The same is also evident from the Minutes of the Meeting of EAC at page 72 of the Appeal. That further, it is humbly submitted that the answering Respondent has not encroached on any forest land or dumped any fly ash on forest land. The allegation of the Appellant is completely baseless, misleading and without any merit.
36. That on the issue of the alleged encroachment, this Hon'ble Tribunal in the case of Non Violence Again and Another v. Vedanta Limited Ors. O.A. No. 151 of 2016 was pleased to dismiss the application by order dated 13.11.2017. A copy of the Order is marked and annexed as **Annexure R/12**. Additionally, it is humbly submitted that the answering Respondent had sought permission from the Collector for filling the low lying area adjacent to the existing ash pond. After conducting a detailed enquiry by the Tehsildar, the Collector granted permission for using the land for disposal of fly ash, which is a permissible activity under the Fly Ash Notification and therefore is in total compliance with the Fly Ash Notifications as amended from time to time
37. That however, the Tehsildar booked a case of encroachment of 108.29 acres of revenue forest land vide case No. 158/13 on 04.04.2013. The encroachment order was confirmed by Tehsildar on 03.09.2013.
38. That the answering Respondent filed an Appeal challenging the Order of the Tehsildar on 04.03.2014 vide Encroachment Appeal Case No. 03/2014. The sub-Collector Jharsuguda vide Order dated 06.09.2017 has set aside the Order of the Tehsildar dated 03.09.2013, clarifying that there has been no encroachment by the Company on Plot No. 188 (48.68) acres. The said Order has not been appealed against. This is another instance of the Appellant submitting concocted facts to substantiate its allegations, which are clearly baseless and devoid of all merit. This Hon'ble Tribunal may take strict note of

the conduct of the Appellant. In any case an alleged violation under the Orissa Prevention of Land Encroachment Act, 1972 or even under Forest Conservation Act, 1980 cannot be a ground for Appeal under Section 16 of the NGT Act, 2010. In fact plural remedies even under Section 14 of the NGT Act read with NGT Rules (specifically Rule 14) is prohibited under the law.

39. That further, the Collector without taking note of the Order dated 06.09.2017 of the Sub – Collector, has revoked the permission dated 21.07.2011 of the answering Respondent and passed an eviction Order on 04.05.2019 along with a fine and penalty. The answering Respondent on 17.05.2022 and 31.01.2023 has paid the penalty in protest. The said Order, however, has been challenged by the answering Respondent in WP(C) No. 17332 of 2019 and is pending adjudication by the Hon'ble High Court of Orissa. It is humbly submitted that the issue of alleged violation of Orissa Prevention of Land Encroachment Act, 1972, is sub-judice before the Hon'ble High Court and this Hon'ble Tribunal may not deal with this for proprietary and issue of jurisdiction.
40. That further, specifically on fly ash, the answering Respondent has ensured utilisation and disposal of fly ash as per the Fly Ash Notification of 2021. The answering Respondent is periodically submitting the Annual Statements, Annual Audits and Monthly Compliance data as per the Fly Ash Notification and Guidelines. Thus, the allegation of disposal of fly ash in forest land is again completely baseless and devoid of all merit. In any case as stated earlier, the scope of Appeal under Section 16 is within the confines of the said Section and is not a case where plural remedies may be pressed on a totally separate cause of action. This is a ground alone to dismiss the present Appeal.

VIII. No illegal construction in the Green Belt area

41. That Nagavalli is part of the township of Vedanta Limited and outside the premises of the factory. It is humbly submitted that the same is not part of any Green Belt. It is also pertinent to note that the allegation raised by the Appellant refers to a letter by Jharsuguda Regional Improvement Trust and pertains to alleged violation of Orissa Town Planning and Improvement Trust Act, 1956. Nowhere has it mentioned that the said violation pertains to encroachment of a green belt. In any case such allegations do not merit any attention within the scope of Appeal under Section 16 of the NGT Act, 2010. As stated earlier, plural remedies are prohibited under the NGT Act, 2010

read with NGT Rules and is a ground alone to dismiss this Appeal with huge costs.

42. That further, the allegation of the Appellant that only 27% of the total area for development of green belt has been achieved as opposed to 33% is false and completely devoid of merit. As stated earlier, such allegations do not merit any attention within the scope of Appeal under Section 16 of the NGT Act, 2010. However, it must be mentioned that the answering Respondent has completed the requirement for development of 33% green belt. That answering Respondent in his Six Monthly Compliance Report of 11.11.2022 has submitted to the MoEF&CC the compliance with 33% green belt and increase in cover density of the plantation to 3500/ha. The same can be made available for perusal of this Hon'ble Tribunal if it so directs. It is only after the said compliance has been completed by the answering Respondent that the EAC in its 2nd meeting agreed to recommend the grant of the Environment Clearance for expansion to the answering Respondent.

IX. The unit is being operated in compliance with the norms and statutory reporting such as the six monthly reports, environment statements and other reports being submitted regularly

43. That the answering Respondent has been operating its unit in compliance with all the statutory norms, specifically enviro legal permissions. The answering Respondent has been periodically submitting the six monthly environment clearance report and the Annual Statement under Environment (Protection) Act, 1986 & the Environment (Protection) Rules, 1986 to MoEF&CC
44. That apart from the six monthly EC compliance Report and the Annual Environment Statement, the answering Respondent is periodically submitting its Annual Implementation Report on fly ash generation and utilisation to the State Pollution Control Board, Central Electricity Authority and the concerned Integrated Regional Office of Ministry of Environment, Forest & Climate Change clarifying the quantity of fly ash generated , the quantity of fly ash that has been utilized and the leftover amount within the unit. It is humbly submitted that the answering Respondent has been undergoing multiple levels of scrutiny pertaining to generation and utilization of fly ash by different units and in case of any irregularity , the State Pollution Control Board would not have renewed the Consent of the answering Respondent or

other competent authorities would have initiated some action in accordance with law. In any case it is humbly submitted that this issue does not merit any attention within the scope of Appeal under Section 16 of the NGT Act, 2010.

45. That further, the Minutes of the 2nd EAC meeting at page 77 record that all the issues raised in the public hearing, including apprehension of crop damage, the answering Respondent has clarified that detailed studies will be carried out by Indian Council of Agricultural Research (ICAR)-National Rice Research Institute (NRRI), Cuttack apart from distribution of high yield variety seeds, training of farmers for adoption of best agricultural practices, among other measures. Thus, the grievance of the Appellant herein with respect to previous violations by the answering Respondent, impact on agricultural productivity were duly addressed by the EAC. It is only after the EAC was satisfied with the compliance undertaken by the answering Respondent that the EC was recommended on 05.05.2022 for the expansion of its plant from 16LTPA to 18 LTPA .
46. That it is humbly submitted that the unit of the answering Respondent has undertaken various outreach programs which have benefited over sixty nine villages from three blocks of District Jharsuguda. The answering Respondent employs more than 16000 people , with 90% of the unskilled and semi-skilled workforce from Odisha, positively touching lives of eight Lakh people. Further, the answering Respondent has undertaken numerous welfare initiatives over the past few years such as development of a Diagnostic Centre at Laikera for comprehensive radiological and pathological services, mobile health units, computer literacy centre, DAV school program of supporting tuition fee of children, undertaking project Jeevika Samriddhi which involves providing farmers with training , tools and fertilizers for improving their crop yield. Thus, the answering Respondent is committed to ensuring that the surrounding areas and members of village community are not adversely but positively impacted by the project of the answering Respondent.

Para- Wise Response

1. The contents of para I-II of the Appeal do not merit any response.
2. The content of para III is denied as wrong, false and devoid of all merits. The proposal of the answering Respondent was scrutinised by the Environmental Appraisal Committee (EAC) over a period of 1.5 years, in five EAC meetings and the prior Environmental Clearance for expansion dated 05.05.2022 was

recommended only after all the queries/compliance conditions, which also included compliance with previous conditions of the Environmental Clearance of 2008, as imposed by the EAC were satisfied by the answering Respondent. Further, the answering Respondent was directed to revise the EIA Report and the parameters, which was duly complied with by the answering Respondent. The Appellant has approached this Hon'ble Tribunal alleging non-compliances and violations based on half-baked facts for reasons best known to them. The Minutes of the 2nd EAC itself record the detailed scrutiny undertaken since 2021 of the proposal of the answering Respondent. However, the answering Respondent has approached this Hon'ble Tribunal at a belated stage, without clarifying his bona fides raising the issues that have already been adjudicated upon. The present Appeal is but another attempt by the Appellant, after he and his associates failed to obtain a favourable order in the Hon'ble Orissa High Court, to stall the expansion of the Project without any basis in facts or law, for reasons best known to the Appellant. This Hon'ble Tribunal may take strict note of the conduct of the Appellant herein.

3. That the content of para 1 under the sub heading 'Array of Parties' is denied for want of proof. It is humbly submitted that the Minutes of the Public Hearing annexed by the Appellant do not record any grievance raised by the Appellant during the public hearing, although he claims that he was present in the public hearing. This Hon'ble Tribunal may kindly note the same.
4. That the contents of para 2 under the sub heading 'Array of Parties' do not merit any response. However it is vehemently denied that the Respondent No.2 is operating illegally or in violation of the "conditions".

Response to Facts in Brief for Filing the Appeal : Brief Description of the Project

5. That the contents of para 3 and 4 , to the extent that they are matters of record, do not merit any response. It is denied that the Terms of Reference has wrongly recorded at Serial No, 13 that there is no violation under the EIA Notification.
6. That the contents of para 5, to the extent of that they are matters of record do not merit any response. It is however pertinent to mention that the EIA Report was revised as per the observations/recommendations of the EAC in its 42nd Meeting. Arguendo even if the previous EIA Report was not as per the requisite standards, during the public hearing, no such observations were raised, including by the Appellant herein. The revised Report of the answering

Respondent duly addresses the concerns of the Appellant , especially on the issues of environmental impacts of the Project. The same is evident from the increased cost of the Environment Management Plan and the Pollution Monitoring Cost apart from other suggestions by both the EAC as well as the Competent Authority.

7. That the content of para 6 , is vehemently denied as it is misleading and filled with half-truths giving an impression that the public hearing was conducted even prior to the application for environmental clearance. This is not only blatant falsity but also fraught with mala fide. It is important to understand the sequence of events to appreciate the rigour with which the environmental clearance was granted eventually on 05.05.2022.

It is submitted that the application for prior environmental clearance was submitted as early as 24.10.2017. Thereafter, the Terms of Reference was granted on 20.12.2017 and draft EIA Report was submitted in February, 2020 after collecting the baseline data and in accordance with the framework of the EIA Notification, 2006. The Pollution Control Board accordingly wrote to the District Magistrate on 20.02.2020 to conduct the public hearing. However, an organisation namely Anchalik Parivesh Surakhya Sangh, of which the Appellant is the President moved to the High Court of Orissa vide WP(c) No. 24669/2020 to defer the public hearing. Two more litigants moved the High Court vide W.P.(C) No. 24789/2020 with similar prayers. The Hon'ble High Court was pleased to dismiss the said Petition with the liberty to the Petitioners to give their opinion at the time of the public hearing. The Public hearing was accordingly permitted and was conducted on 30.09.2020. It is clear from the above that the Appellants have been actively trying to derail the project. Meanwhile, W.P.(C) No. 24789/2020 was filed wherein the Hon'ble High Court was prayed before to allow the conduct of another public hearing. The Hon'ble High Court vide Order dated 09.10.2020 disposed of the said Writ with a Direction to the Petitioners to make a representation before the Collector for effective public hearing. The Collector after considering all such Representations by a reasoned Order dated 18.10.2020 demonstrated in detail as to why there was no requirement for another public hearing as an effective public hearing had already been held.

Consequent to the public hearing the proceedings were sent by the OSPCCB to MoEF&CC and the revised EIA Report along with Form II in November 2020.

The MoEF&CC sought Essential details and it was accordingly replied. Thereafter the EAC considered the project on 18-20.01.2021, which is reflected in the Minutes of Meeting of the 28th EAC. It is admitted that there were some adverse remarks on the quality of the EIA Report which is also a part of the process of appraisal in any EAC proceedings.

Meanwhile, the Order of the Hon'ble High Court was also challenged by way of an Appeal to the Hon'ble Supreme Court by one of the Petitioners which was dismissed by the Hon'ble Supreme Court with a liberty to the Petitioners to approach the Division Bench of the Hon'ble High Court.

Thereafter, the EAC considered the Project in its 42nd meeting on 25.08.2021, comprehensive replies were given to Notices of compliance of the previous EC and accordingly EIA and EMP Reports were revised under the instructions of the EAC. It must be noted that any revised EIA and EMP report has to be electronically submitted which has been misrepresented in the said para as a fresh proposal by way of the parivesh portal. The MoEF&CC has rigorously examined the said proposal for expansion through EDS and subsequent submissions with further revisions to the EIA/EMP Report . In this manner the presentations were made before the EAC and subsequent Minutes for example of the 48th EAC dated 23.11.2021 were sought for further information on technical aspects. Thereafter, ADS was also sought by MoEF&CC and additional documents were accordingly submitted through a series of correspondences between the Project Proponent and the EAC/Competent Authority. In subsequent meetings and presentations in December 2021 the EAC takes note of the ongoing cases filed against the Project Proponent by alibis of the present Appellant, seeks additional information and eventually recommended the EC on 05.04.2022 as recorded in the meeting of the 2nd EAC held on 22-23.03.2022. It is submitted that there were numerous occasions of EDS and ADS and consequent replies back and forth by the Project Proponent, the EAC and the Competent Authority. It is only after such detailed scrutiny that the final EC was granted on 05.05.2022. It is therefore submitted that paragraph 6 does not reflect the rigour and intensity with which the proposal was appraised and an attempt is being made to misrepresent the sequence of events to create an impression that the application was submitted after the public hearing. This is a ground alone to dismiss the Appeal with huge costs.

It is also humbly submitted that the EIA Notification of 2006 does not mandate revised EIA Reports to be placed before the public. It is assumed that the public

has duly raised its objections and concerns on the information submitted in the report, post which the EAC further scrutinizes the Report based on the expertise of the Committee members and accordingly directs revisions or updation of the Report, which in this case has been extraordinarily rigorous as demonstrated above.

8. That the contents of para 7 are vociferously denied as wrong and false. The Appellant is put to strict proof of any misrepresentation of data in the revised EIA Report. The Appellant is trying to mislead this Hon'ble Tribunal by making false, baseless allegations and has miserably failed to substantiate the same with adequate evidence in the present Appeal. The Appellant apparently had to write numerous RTI's for obtaining documents from the Regulatory Authorities and has cited the same for condoning the delay in approaching this Hon'ble Tribunal. However, despite obtaining the responses, the Appellant has surprisingly submitted only half the information before this Hon'ble Tribunal. A case in point is failure of the Appellant to submit the Letter of the Sub-Collector dated 06.09.2017 giving the answering Respondent a clean chit with respect to the alleged encroachment or submission of the amount in protest by the answering Respondent, the litigation undertaken by the associates of the Appellant in the Hon'ble Orissa High Court, among others. The answering Respondent urges this Hon'ble Tribunal to take strict note of the conduct of the Appellant herein, who is forum shopping on the same issues, after they have been duly adjudicated upon by the statutory authorities and the Hon'ble Orissa High Court. The content of the above mentioned para 6 may also be read here as a part of the response of the present para and is not being reiterated for the sake of brevity.
9. That the contents of para 8 are denied as wrong, false and devoid of all merit. The observations of the EAC pertaining to non-compliance with conditions of EC of 2008 were duly addressed by the answering Respondent as is also evident from the Minutes of the 2nd EAC meeting. Infact, the MoEF&CC was recommended to issue a Notice on 25.08.2021 by the EAC and which was subsequently recommended to be withdrawn on 05.04.2022, only after the statutory authorities were satisfied with the compliance submitted by the answering Respondent. The Appellant is put to strict proof for showcasing any non-compliance post the withdrawal of the Show Cause Notice on 05.05.2022 by the MoEF&CC. The content of para 7 and 8 above may be read as part of the response of this para and is not being repeated for the sake of brevity.

Response to EAC has failed to consider the necessity of a fresh public hearing/consultation on the basis of a new EIA Report

10. That the contents of para 9, to the extent that they are matters of record, are not denied. However, the Appellant is deliberately trying to mislead this Hon'ble Tribunal by failing to acknowledge that the gaps in the previous EIA Report were duly addressed by the answering Respondent in the new EIA Report, which has conveniently not been brought on record by the Appellant for showcasing any non-compliance or misrepresentation by the answering Respondent. The revised EIA Report was prepared by a different accredited Consultant and the EAC records compliance with all the discrepancies or gaps of the previous report in the revised EIA Report. The Appellant had in fact failed to highlight any such gaps or discrepancies during the public hearing. It is reiterated that there is no requirement in law to submit the revised and updated EIA Report again before the public for consultation. All updations/revisions and suggestions by the experts from the EAC have further developed the Report and improved the environment impact measures that were previously being adopted by the answering Respondent. This is evident from the revised EMP and Pollution Monitoring Cost. In fact, the social-economic cost has also been increased in the revised Report. Thus, the Appellant cannot raise misrepresentation in the revised EIA Report based on the remarks of the EAC for the previous EIA Report. The submissions of para V of the Preliminary Submissions are reiterated and are not being repeated for the sake of brevity. It must also be emphasised that the alibis of the Appellants had challenged the effectiveness of the public hearing which was dismissed by the Hon'ble High Court on two occasions and not entertained even by the Hon'ble Supreme Court. It is also a fact that the subsequent Petitions were withdrawn by the alibis of the Appellant for reasons best known to them. It therefore serves no purpose where such remedies were already exercised and no explanation has been given as to why such remedies were not availed by the Appellant again. From the above description of facts, it is abundantly clear that a very detailed scrutiny was carried out by the EAC as well as the Competent Authority, every possible information was sought and every query was responded to and even the previous compliance of the EC conditions were examined and only after the satisfaction of the EAC as well as the Competent Authority, the EC was finally granted on 05.05.2022. The Appellant has failed to demonstrate any particular

deficiency of the expansion Project till now and is opposing the Project without any solid ground or legal impropriety. It is also important to add that the Appellants have suddenly become active when an ongoing industrial entity contributing hugely to the economic and social well-being of the region is expanding its operations on the third occasion. It appears to be a clear case of vested interests who are opposed to economic and social development of the region for narrow private gains. This is a ground alone to dismiss this Appeal with huge costs. It is further submitted that there were no deliberate concealments or false /misleading representations either in the initial proposal application or when the EIA Reports were revised. The intention and subsequent actions only demonstrates that the quality of the EIA Reports were improved with better inputs and suggestions by the experts in the EAC as well as by the Competent Authority. The law never envisages that every revised EIA EMP Report has to be put before a public scrutiny by way of a public hearing and therefore the EAC or the Competent Authority are totally correct in applying their mind and seeking as many clarifications/queries in the form of EDS and ADS, fully satisfying itself on the anticipated impacts and the mitigation plans before granting the prior Environmental Clearance for expansion for the third time. The Appellant is merely trying to mislead this Hon'ble Tribunal with no substance on ground and therefore this Appeal liable to be rejected.

11. That in response to the contents of para 10 , it is submitted that the non-compliances raised by the EAC were duly addressed by the answering Respondent. The compliance with all the seven conditions as imposed by the EAC meeting is also recorded in the 2nd EAC Meeting Minutes at para 2.15.16, page 82 of the Appeal. Thus, the allegation of the Appellant that the EC has been granted despite non-compliances is wrong, false and devoid of merit. It is humbly submitted that the answering Respondent has also been submitting its six monthly compliance report pursuant to the expansion EC granted on 05.05.2022. Thus, the compliance of the EC conditions is continuously being monitoring by the Regulatory Authorities.
12. That in response to para 11 of the Appeal, it is humbly submitted that the answering Respondent had clarified to the EAC that answering Respondent pursuant to an agreement with Mr. Raju Gond, was filling his low lying area with fly ash and carrying out reclamation activity after obtaining all the requisite permissions from the State Pollution Control Board . However, due to

severe monsoon, the fly ash got spilled over to the nearby land of Mr. Ajit Kumar Dhal who thereafter filed an Application (OA No. 10/2021) before this Bench of the Hon'ble National Green Tribunal. This Hon'ble Bench has disposed the matter in view of the steps undertaken by the answering Respondent for removing the fly ash, development of earthen embankments to ensure that there is no spillage in the future and submission of compensation for loss or damage caused due to the spillage. The answering Respondent has duly addressed the issue, which arose due to the events beyond the control of the answering Respondent. That with respect to the other observations of the EAC, it is reiterated that all the said observations/directions were duly addressed alongwith requisite proof of compliance. Thus, the allegations of the Appellant herein at a belated stage are without any merit. Each issue, including the impact on the agricultural fields has been duly addressed by the answering Respondent and which is also recorded in the 2nd EAC Meeting Minutes. The above- mentioned reliance by the Appellant on the observations/directions of the EAC clearly show case that the proposal of the Appellant was scrutinised at length before the EC was recommended. It is humbly submitted that no ground is made out to necessitate a fresh public hearing or consultation on the basis of the above allegations.

Response to Continuous illegal dumping of fly ash on the forest land

13. That the contents of para 12 are wrong, false and devoid of all merit. There has been no encroachment of forest land by the unit of the answering Respondent. Infact, the minutes of the 2nd EAC meeting (annexed art page 70 of the Appeal) clearly record that no forest land is involved. The answering Respondent is put to strict proof of the photographs annexed in the Appeal, which fail to showcase any encroachment by the answering Respondent. In any case, such disputes cannot be grounds for challenging the grant of EC under Section 16 (h) and other remedies lie for such allegations.
14. That in response to the contents of para 13 and 14, it is submitted that the Appellant, allegations on encroachment of forest land is a separate cause of action and can be answered suitably under such proceedings and is certainly not within the purview of Section 16 of the NGT Act, 2010. Be that as it may, the Appellant has presented half-baked facts before this Hon'ble Tribunal, even with regard to the allegations on encroachment on forest land. It is reiterated that the Sub-Collector on 06.09.2017 had given the answering Respondent a

clean chit. However, the Collector without taking note of the Order dated 06.09.2017 of the Sub – Collector, has revoked the permission dated 21.07.2011 of the answering Respondent and passed an eviction Order on 04.05.2019 along with a fine and penalty. The answering Respondent on 17.05.2022 and 31.01.2023 has paid the penalty in protest. The said Order has been challenged by the answering Respondent in WP(C) No. 17332 of 2019 and is pending adjudication by the Hon'ble High Court of Orissa. It is humbly submitted that the present issue of violation of Orissa Prevention of Land Encroachment Act, 1972, being sub-judice before the High Court may not be entertained for both the reasons of propriety and jurisdiction. It is further submitted that a case of 2013 is being raked up today to mislead this Hon'ble Tribunal which has no relevance to the Appeal under Section 16 at this belated stage. The contents of para VII of the Preliminary Submissions are reiterated and are not being repeated for the sake of brevity.

15. That in response to the contents of para 15, the contents of para 13 and 14 are reiterated and are not being repeated for the sake of brevity. It is however, pertinent to reiterate that there was no encroachment on forest land by the answering Respondent. Due to the monsoon, certain quantity of fly ash spilled over the nearby land from the reclamation area, which has been duly rectified by the answering Respondent herein as was noted by this Hon'ble Tribunal in the final order and Judgment dated 10.12.2021 of the OA No. 10/2021. The said proceedings and the finality which has been attained has no bearing on the present Appeal under Section 16 of the NGT Act, 2010.

Response to illegal construction on the Green Belt.

16. That the contents of para 16 are denied as false and misleading. It is reiterated that Nagavalli is part of the township of Vedanta Limited and outside the premises of the factory. It is humbly submitted that the same is not part of any Green Belt. It is also pertinent to note that the allegation raised by the Appellant refers to a letter by Jharsuguda Regional Improvement Trust and pertains to alleged violation of Orissa Town Planning and Improvement Trust Act, 1956. Nowhere has it mentioned that the said violation pertains to the encroachment of a green belt. That further, the allegation of the Appellant that only 27% of the total area for development of green belt has been achieved as opposed to 33% is false and completely devoid of merit. The answering Respondent has completed the requirement for development of 33% green belt which has also been

examined by the EAC while appraising the compliance of previous conditions of the EC and recorded in the 2nd EAC minutes of the meeting. That answering Respondent in his Six Monthly Compliance Report of 11.11.2022 has submitted to the MoEF&CC the compliance with 33% green belt and increase in cover density of the plantation to 3500/ha. The same is available for perusal from this Hon'ble Tribunal if it so directs. Moreover, such bald allegations of violation of the Odisha Town Planning and Improvement Trust Act, 1956 which is not under the Schedule of the National Green Tribunal Act, 2010 has no bearing or relevance to the present list and accordingly should be disregarded for want of jurisdiction.

17. That the contents of para 17 are denied as wrong, false and devoid of all merit. The observations and directions of the EAC clearly record that they have noted the impact on nearby Nala's as well as on the agricultural field. It is for this reason the EIA Report was directed to be revised and a higher cost for environment management and social economic cost, has now been included in the EIA and EMP Report.
18. That in response to the contents of para 18 it is submitted that the Appellant has clearly gone through the revised EIA Report and having failed to highlight any discrepancies and gaps, relied upon the previous EAC meeting minutes for challenging the EC of the answering Respondent. The same is also evident from the conduct of the Appellant, who along with his associates has been challenging the Project of the answering Respondent in multiple forums for reasons best known to them. The fact that the Appellant has no expertise to make any submissions on the deficiencies of the EIA Report admittedly is a ground enough to dismiss this Appeal with huge costs .
19. That the grounds in para 19 of the Appeal are being summarily denied in view of the abovementioned Preliminary Submissions and Para Wise Submissions of the answering Respondent and are not being repeated for the sake of brevity. It is however submitted that the Hon'ble Supreme Court Judgment of Hanuman Lakshman Aroskar and the Hon'ble Tribunal's Judgment on T. Mohan Rao v. MoEF&CC are not applicable in the present case. The relevant case law shall be presented at the time of arguments.

Response to Limitation

20. That in response to the submissions of the Appellant for condoning the delay in approaching this Hon'ble Tribunal for challenging the EC dated 05.05.2022, it

is humbly submitted that since the Hon'ble Supreme Court has condoned the delay, the Respondents have no comments.

21. That in view of the abovementioned facts and position of law, it is humbly submitted that the present Appeal should be dismissed for want of merit. The EAC has duly scrutinised the proposal of the answering Respondent for 1.5 years and it is only after the answering Respondent has submitted compliance with each observation/recommendations that the EC for expansion was granted. Further, there is no requirement in law to submit the EIA Report again and again to the public every time it is revised or updated as per the suggestions of the EAC . The Appellant by submitting half-baked facts has approached this Hon'ble Tribunal with admittedly no expertise on commenting on the EIA Report and seeks further time for the same. This is a ground alone to dismiss this present appeal. In view of the above, the answering Respondent humbly prays for dismissal of the present Appeal with huge costs.

Date: 12.10.2023

Place: Kolkata

DRAWN BY:



Sanjay Upadhyay, Mansi Bachani, Gitanjali Sanyal & Arushi Malik
Advocates for Respondent No. 2
29, LGF, Presidential Estate,
Nizamuddin East, New Delhi -110013
Email: mansi@eldfindia.com; +91-8600531203

FILED BY:

Sameer Manher

Clerk

Enviro Legal Defence Frim

Email: eldflegal@gmail.com; +91- 8851323704

IN THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

Appeal No.24 of 2022/EZ

IN THE MATTER OF:

Satyanarayan Rao

... Applicant

Versus

Union of India & Ors.

... Respondent (s)

AFFIDAVIT

I, Satyapriya S/o Shri Arvind Shankar Singh aged about 47 years, presently working as Head Legal, Aluminium Business of M/s Vedanta Limited, having my Office at 2nd Floor, Core-6, SCOPE Complex, Lodhi Road, New Delhi, do hereby solemnly affirm and declare as under:

1. That I am the authorized representative of aforesaid Company in the present case and duly authorized to sign the present affidavit as such am fully acquainted with the facts and circumstances of the case and as such am competent to swear this affidavit.

The contents of the accompanying Reply are true and correct to the best of my knowledge and have been drafted by the counsel on my instructions and nothing material has been concealed therefrom.

3. That the Annexures in the accompanying Reply are true and correct to the best of my knowledge.

For Vedanta Limited

[Signature]
DEPONENT
Authorised signatory

VERIFICATION:

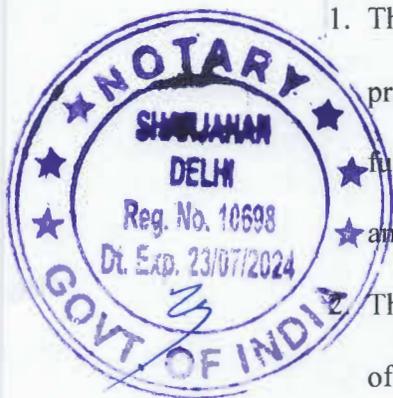
Verified at New Delhi on this 10th day of October, 2023 that the contents of the above affidavit are true and correct to my knowledge and belief and nothing material has been concealed there from.

For Vedanta Limited

[Signature]
DEPONENT
Authorised signatory

CERTIFIED THAT THE DEPONENT
Shri/Smt./Sd/-
S/o W/o D/-
Identified by
has solemnly affirmed before me on
on.....
that the contents of the affidavit
have been read & explained to me and
true and correct to this & knowledge

Notary Public



Maureen
I identified the deponent who has signed/put in my presence.



[Signature]
12 OCT 2023
[Signature]
4

Mausi Buehan
[Signature]

W.P.(C) No. 24669 of 2020

Advocates appeared (through Video Conferencing mode):

For Petitioner(s) : Mr. B.K. Ragada.
For Opp. Parties : Mr. S.P. Mishra, Sr. Adv. for O.P. No.8.
Mr. P.K. Muduli, AGA for State-O.Ps.

**HON'BLE THE CHIEF JUSTICE MR. MOHAMMAD RAFIQ
HON'BLE DR. JUSTICE B.R. SARANGI**

ORDER

02. 28.09.2020 Heard Mr. B.K. Ragada, learned counsel for the petitioner, Mr. S.P. Mishra, learned Sr. Advocate on behalf of opposite party No.8 and Mr. P.K. Muduli, learned Addl. Government Advocate on behalf of State-opposite parties by Video Conferencing mode.

2. This writ petition, in the nature of Public Interest Litigation, has been filed by Anchalik Parivesh Surakhya Sangh, Jharsuguda seeking issuance of a direction to the opposite parties–authorities, more particularly, opposite party Nos. 2 to 5, to defer the date of Public hearing as fixed vide Notice under Annexure-1 dated 27.08.2020 issued by the Member Secretary, State Pollution Control Board, Odisha for the purpose of environmental assessment for expansion of Aluminium Smelter Plant of M/s. Vedanta Limited (opp. party No.8) at village Bhurkamunda in the district of Jharsuguda.

3. The grievance of the petitioner in brief is that the opposite party No.8-M/s. Vedanta Limited has already established its 16 LTPA Smelter Plant at village Bhurkamunda

-2-

of Jharsuguda district and due to functioning of said smelter plant as well as other industries, the atmosphere of Jharsuguda district is facing huge pollution. When the matter stood thus, the opposite party No.8-company has again applied to the State Pollution Control Board, Odisha seeking permission for expansion of the said Smelter Plant from 16LTPA to 18 LTPA by adding 2LTPA and to obtain environmental clearance. Hence, the opposite party-5, Member Secretary, State Pollution Control Board, Odisha has issued the impugned public Notice dated 27.08.2020 to conduct environmental public hearing and inviting suggestions, views, comments and objections on matters relating to environmental aspects of the proposed project from all the persons including bonafide residents, environmental groups and others people located at the proposed site/sites of displacement/sites like to be affected. In the said notice the date, time and venue of public hearing has been fixed at 11.00 A.M. on 30.09.2020 at Upper Primary School, Kurebaga, Dalki in the district of Jharsuguda. The grievance of the petitioner is that due to the prevailing COVID-19 pandemic situation, most of the people of the localities may not file their objections, suggestions and may not participate in the said public hearing, as a result the moto of such public hearing will be frustrated. Therefore, the

petitioner filed a representation dated 18.09.2020 under Annexure-2 to the opposite parties-authorities to defer the said public hearing, but no action has been taken thereon.

4. Mr. B.K. Ragada, learned counsel for the petitioner submitted the State Pollution Control Board taking the advantage of such pandemic situation has deliberately fixed the public hearing on 30.09.2020 so that most of the persons may not participate in the public hearing. It is further submitted that in the impugned Notice it has been mentioned that desirous participants in the public hearing may go through the environmental impact assessment from the office indicated in the Notice, but due to pandemic situation most of the offices are functioning with half of the employees. Therefore, it may be difficult for the affected people for collecting the required documents for the purpose of submission of objections and suggestions.

5. We have heard learned counsel for the parties, gone through the impugned Notice under Annexure-1 and given our thoughtful consideration on the matter.

6. In the impugned Notice dated 27.08.2020 (Annexure-1) it has been clearly mentioned that persons, who desire to submit their views, comments, objections etc. relevant to the project, may do so in writing within 30 days from the date of

publication of the notice addressing the same to the Member Secretary, State Pollution Control Board, Odisha through Registered Post. Besides this, persons interested to submit their views relevant to the proposed project in writing or orally, may also do so during the public hearing to be conducted on 30.09.2020 at 11.00 A.M. at Govt. Upper Primary School, Kurebaga. Public hearing shall be conducted strictly observing guidelines contained in Covid-19 on Social Distancing and also COVID-19 SOP issued by the Government. We do not find any merit in the argument that the State Pollution Control Board has deliberately fixed the public hearing during pandemic of COVID-19.

From the above Notice, it appears that the authority has given liberty to the public to file their objections/suggestions/views not only on the date of public hearing fixed but also in writing to the opposite party No.5, within 30 days from the date of Notice. The authority has thus not confined the submission of objection to the public hearing only on the date and time fixed, but it has given liberty to the general public to file their objections/suggestion in writing any time during the period of thirty days. Therefore, the stand taken by the petitioner cannot be accepted that the date

fixed for public hearing will frustrate the purpose, as the local people may not participate in the meeting.

7. The further stand of the petitioner that due to pandemic situation offices are functioning with half of employees and therefore, it may not be possible on the part of the people to collect the documents from the offices. The said assertion also cannot be accepted for the reason that in the impugned notice it has also clearly mentioned that persons desirous of participating in the public hearing may go through the Environmental Impact Assessment (EIA) Environmental Management Plan (EMP) of the said project which will be available at the offices as mentioned in the notice and the same can also be downloaded from the given website free cost.

8. Again, the impugned notice has been issued on 27.08.2020 inviting objections within 30 days and fixing 30.09.2020 as the date of open public hearing, but the petitioner has filed this writ petition much belatedly on 24.09.2020 and further before completion of 30 days period or holding of such public hearing with an apprehension that public may not participate in the meeting, which cannot be well-founded. It is open for the petitioner as well as all the interested public at large to give their objections/suggestions/views not only at the time of public

hearing but at any time within 30 days from the date of said notice in writing.

9. In view of the above, we do not see any reason to accept the stands taken by the petitioner and to interfere in the matter. The writ petition lacks merit and is accordingly dismissed.

No order as to costs.

As pandemic COVID-19 period is continuing, learned counsel for the parties may utilize the soft copy of this order available in the High Court's website or print out thereof at par with certified copies in the manner prescribed, vide Court's Notice No. 4587, dated 25.03.2020.

(Dr. B.R. Sarangi)
Judge

(Mohammad Rafiq)
Chief Justice

A.Dash

Vedanta Ltd., Jharsuguda (for short, 'the Company') for recalling of order dated 29.09.2020 passed by this Court in IA No.11105 of 2020 of 2020.

2. This writ petition has been filed assailing the notice/advertisement dated 27.08.2000 under Annexure-1 published by opposite party No.3-Member Secretary, State Pollution Control Board, Odisha, Bhubaneswar (for short, 'SPCB') for a public hearing for the purpose of expansion of Aluminium Smelter Capacity from 16 LTPA to 18 LTPA, Captive Power Plant (CPP) capacity of 1215 megawatt by adding 2 LTPA Smelter Plant at village Bhurkamunda of opposite party No.4-Company in the district of Jharsuguda, to obtain environmental clearance from the Ministry of Environment, Forest and Climate Change, Government of India, New Delhi (for short, 'MoEF'). The said notice was issued in terms of the Government of India notification No.SO.1533(E) dated 14.09.2006 of MoEF. It specified that the persons who desires to give view and objections etc. relevant to the project may do so in writing within thirty days from the date of publication of the said notice addressing the same to the Member Secretary, State Pollution Control Board (OP No.3) through registered post. Besides that, persons

interested to submit their views relevant to the proposed project in writing or orally may also do so during the public hearing to be conducted on 30.09.2020 at 11.00 AM at Government UP School Kurebaga, Dalki in the district of Jharsuguda. It is further clarified in the said notice that the public hearing should be conducted strictly observing the guidelines of COVID-19 on social distancing and also COVID-19 SOP issued by the Government. The persons interested to participate in the said public hearing were requested to go through the Environment Impact Assessment (EIA)/Environment Management Plan (EMP) of the said Project available at the offices mentioned in the said notice under Annexure-1.

2.1 The matter was listed on 29.09.2020 for admission. Taking into consideration the submissions of learned counsel for the petitioners to the effect that notice/advertisement dated 27.08.2020 under Annexure-1 is in violation of order No.5039/R&D(DM) dated 31.08.2020 (Annexure-2) issued by the Special Relief Commissioner, Government of Odisha, Bhubaneswar preventing 'other large congregation' as per Clause-2(iv) of the said order, this Court issued notice in the matter and passed the following interim order in IA No.11105 of 2020.

“Heard.

As an interim measure, it is directed that the public hearing pursuant to advertisement dated 27.08.2020 issued by the State Pollution Control Board, Odisha, scheduled to be held on 30.09.2020 at 11.00 A.M. at Government U.P. School, Dalki, Kurebaga in the district of Jharsuguda shall not be held till next date.

Authenticated copy of this order downloaded from the website of this Court shall be treated at par with certified copy in the manner prescribed in this Court’s Notice No.4587 dated 25.03.2020.”

Thereafter, IA No.11476 of 2020 has been filed by opposite party No.4-Company to recall the said interim order dated 29.09.2020, which was taken up on 30.09.2020 and following direction was issued.

“xxx

xxx

xxx

14. In partial modification to the order dated 29.09.2020 passed in IA No.11105 of 2020, it is directed that the public hearing pursuant to advertisement dated 27.08.2020 under Annexure-1 issued by the State Pollution Control Board, Odisha may continue, but no final decision shall be taken till the next date. Petitioners, if so advised may participate in the public hearing.

14.1 On consent of learned counsel for the petitioners and opposite party No.4, put up this matter tomorrow (01.10.2020).”

3. In course of argument, it appeared that the consideration of aforesaid two Interlocutory Applications would require hearing of the matter on merit. As such, on consent of learned counsel for the petitioner, opposite party No.4 as well as Additional Government Advocate for opposite

party Nos.1 and 2, the matter is taken up for admission and final hearing.

4. Mr. Prafulla Kumar Rath, learned counsel appearing in the matter on consent of Mr.Partha Sarathi Nayak, learned counsel for the petitioners, submitted that the petitioners are villagers of Brundamal, Badamal which is one of the villages likely to be affected in the event of proposed expansion of opposite party No.4-Company is granted. In that regard, the petitioners along with other-co-villagers have made a representation on 21.09.2020 (Annexure-5) to opposite party No.3-Member Secretary, SPCB to postpone the public hearing till the pandemic of COVID-19 normalizes. The petitioners also made representation dated 21.09.2020 to opposite party No.2- Collector, Jharsuguda under Annexure-6 in that regard, but to no effect. Hence, this writ petition is filed to defer /postpone the date of public hearing pursuant to notice under Annexure-1.

4.1 Mr.Rath, learned counsel appearing on behalf of the petitioners further elaborating his submission, placed reliance on Clause-2 (iv) of Order No.5039/R & D(DM) dated 31.08.2020 (Annexure-2). For ready reference, Clause-2 of notification dated 31.08.2020 reads as follows:-

“2. Regulation of activities in areas outside the Containment Zones

The following establishments/activities will continue to remain closed till 30th September, 2020 throughout the State:

- i. Religious places/places of worship for public;*
- ii. International air travel of passengers, except as permitted by MHA;*
- iii. Cinema halls, swimming pools, entertainment complexes, theaters, auditoriums, assembly halls and similar places;*

However, open air theaters and similar places will be permitted to open with effect from 21st September, 2020.

- iv. Social, political, sports, entertainment, academic, cultural, religious functions and other large congregations;*
- v. Schools, colleges, universities, other educational/training/coaching institutions, anganwadis, etc. will remain closed for the purpose of teaching till end of Puja vacations in the month of October 2020.*

However, the followings will be permitted:

- a. Conduct of examinations, evaluation and other administrative activities;*
- b. Online/distance learning shall continue to be permitted and shall be encouraged;*
- c. School & Mass Education Department/Higher Education Department may permit upto 50% of teaching and non-teaching staff to be called to the schools at a time for online teaching/tele-counselling and related work, in areas outside the Containment Zones only with effect from 21st September, 2020 as per Standard Operating Procedure (SOA) to be issued by the Ministry of Health & Family Welfare (MoHFW);*
- d. Skill or Entrepreneurship training will be permitted in National Skill Training Institutes, Industrial Training Institutes (it is), Short term training centres registered with National Skill Development Corporation or State Skill*

Development Missions or other Ministries of Government of India or State Governments; National Institute for Entrepreneurship and Small Business Development (NIESBUD), Indian Institute of Entrepreneurship (IIE) and their training providers will also be permitted.

These will be permitted with effect from 21st September, 2020 for which SOP will be issued by MoHFW. Skill Development & Technical Education Department will issue necessary order/guideline in this regard.

- e. Higher Education Institutions only for research scholars (Ph.D.) and post-graduate students of technical and professional programmes requiring laboratory/experimental works. These will be permitted by the Department of Higher Education (DHE) in consultation with MHA, based on the assessment of the situation, and keeping in view incidence of COVID-19 in the States/UTs.*

Subject to other provisions of this order, activities that are not specifically prohibited/regulated/restricted above are allowed subject to adherence to safety and health protocols and SOPs/guidelines issued by appropriate authorities.”

Since the place where public hearing is scheduled to be held is not within the containment zone regulation of activities in that area should be guided by Clause-2 of the order under Annexure-2. He accordingly submitted that the establishment/activities more fully described in Sub-clause (i) to (v) of the said Clause-2 would continue to remain closed till 30th September, 2020 throughout the State. Sub-clause (iv) of

Clause-2 specifically provides that social, political, sports, entertainment, academic, cultural, religious functions and other large congregations has been directed to remain suspended till 30th September, 2020 throughout the State. As villagers of five revenue villages are likely to congregate in the public hearing, there will be large congregation, which is strictly prohibited under Clause-2(iv) of Order under Annexure-2.

4.2 He further submitted that public hearing is not an empty formality. It has to be conducted in strict adherence to the guidelines issued from time to time to achieve the purpose for which it is so conducted. Although public hearing was held at the scheduled place on 30.09.2020 pursuant to the direction of this Court dated 30.09.2020 in IA No.11476 of 2020 only 90 persons of the five revenue villages were present. The same cannot at all considered to be an effective public hearing for the purpose of which it is being conducted, more particularly when the population of the five revenue villages likely to participate in the public hearing is more than ten thousand. He further submitted that the petitioners were not made parties in W.P.(C)(PIL) No.24669 of 2020, which was disposed of on 28.09.2020. The order issued by the Special Relief Commissioner, Government of Odisha, Bhubaneswar

on 31.08.2020 (Annexure-2) was not discussed in the order dated 28.09.2020 while disposing of W.P.(C) (PIL) No.24669 of 2020. The said order was also not within the knowledge of the petitioners. As such, the order passed by the Hon'ble Division Bench in W.P.(C) (PIL) No.24669 of 2020 does not have any binding effect on the petitioners in view of the doctrine of *sub silentio*. In support of his submission, Mr.Rath relied upon the case law decided by the Hon'ble Supreme Court in the case of **Ajit Kumar Rath Vs. State of Orissa and others**, reported in (1999) 9 SCC 596 and **State of U.P. and another Vs. Synthetics and Chemicals Ltd. and another**, reported in (1991) 4 SCC 139. Participation of only 90 villagers out of more than ten thousand population of five revenue villages itself shows that there was no proper representation in the Grama Sabha/public hearing. Although, the petitioners were given opportunity to participate in the public hearing, due to the interim order passed on the previous day, i.e., 29.09.2020 they were indisposed and could not participate in the said public meeting due to lack of unpreparedness. In continuation to his submission, Mr.Rath contended that Mr.Mishra, learned Senior Advocate, during the course of hearing of IA No.11476 of 2020, submitted that if necessary more than one public hearing can be held, which is recorded

by this Court in order dated 30.09.2020 in its order at the concluding lines of para-9.

4.3 He further submitted that the opposite party No.4 has also filed W.A. No.574 of 2020 assailing the order dated 29.09.2020 passed in IA No.11105 of 2020. As such, two parallel proceedings against the self-same order is not maintainable. In support of his case he relied upon the case law in the case of **Jai Singh Vs. Union of India and others**, reported in (1977) 1 SCC 1.

4.4 He, therefore, submitted that there is no impediment for this Court to grant liberty to the petitioner to submit their written objection and consideration of the same by another public hearing. The petitioners undertake to submit their objection(s) within a stipulated date, if they are given such liberty.

5. Mr.S.P.Mishra, learned Senior Advocate appearing for opposite party No.4-Company, on the other hand, reiterated his submissions made on 30.09.2020. It is his submission that self-same advertisement/notice was under challenge in W.P.(C) (PIL) No.24669 of 2020 filed by one NGO, namely, *Anchalik Parvesh Surakhya Sangh, Jharsuguda*. The Hon'ble Division Bench of this Court, considering all relevant aspects as well as the office memorandum dated 14.09.2020

(Annexure-C to the IA) issued by the MoEF and Climate Change Assessment Division, Government of India, held as under:-

“5. We have heard learned counsel for the parties, gone through the impugned Notice under Annexure-1 and given our thoughtful consideration on the matter.

6. In the impugned Notice dated 27.08.2020 (Annexure1) it has been clearly mentioned that persons, who desire to submit their views, comments, objections etc. relevant to the project, may do so in writing within 30 days from the date of publication of the notice addressing the same to the Member Secretary, State Pollution Control Board, Odisha through Registered Post. Besides this, persons interested to submit their views relevant to the proposed project in writing or orally, may also do so during the public hearing to be conducted on 30.09.2020 at 11.00 A.M. at Govt. Upper Primary School, Kurebaga. Public hearing shall be conducted strictly observing guidelines contained in Covid-19 on Social Distancing and also COVID-19 SOP issued by the Government. We do not find any merit in the argument that the State Pollution Control Board has deliberately fixed the public hearing during pandemic of COVID-19. From the above Notice, it appears that the authority has given liberty to the public to file their objections/suggestions/views not only on the date of public hearing fixed but also in writing to the opposite party No.5, within 30 days from the date of Notice. The authority has thus not confined the submission of objection to the public hearing only on the date and time fixed, but it has given liberty to the general public to file their objections/suggestion in writing any time during the period of thirty days. Therefore, the stand taken by the petitioner cannot be accepted that the date fixed for public hearing will frustrate the purpose, as the local people may not participate in the meeting.

7. The further stand of the petitioner that due to pandemic situation offices are functioning with half of employees and therefore, it may not be possible on

the part of the people to collect the documents from the offices. The said assertion also cannot be accepted for the reason that in the impugned notice it has also clearly mentioned that persons desirous of participating in the public hearing may go through the Environmental Impact Assessment (EIA) Environmental Management Plan (EMP) of the said project which will be available at the offices as mentioned in the notice and the same can also be downloaded from the given website free cost.

8. Again, the impugned notice has been issued on 27.08.2020 inviting objections within 30 days and fixing 30.09.2020 as the date of open public hearing, but the petitioner has filed this writ petition much belatedly on 24.09.2020 and further before completion of 30 days period or holding of such public hearing with an apprehension that public may not participate in the meeting, which cannot be well-founded. It is open for the petitioner as well as all the interested public at large to give their objections/suggestions/views not only at the time of public -6- hearing but at any time within 30 days from the date of said notice in writing.

9. In view of the above, we do not see any reason to accept the stands taken by the petitioner and to interfere in the matter. The writ petition lacks merit and is accordingly dismissed.”

It is his submission that Sub-clause (ii) and (iii) of office memorandum dated 14.09.2020 (Annexure-C to the IA) are relevant for the instant purpose, which reads as follows:-

“(ii) If the number of participants is more than such ceiling, more than one Public Hearing shall be conducted by staggering the time and/or dates;

(iii) Use of virtual platform/online facilities may also be employed in addition to the physical Public Hearing process;”

He therefore submitted that public hearing has been allowed to be held with a ceiling of one hundred persons in the said

public hearing following the guidelines and protocol of COVID-19. If the number of participants would be more than such ceiling, more than one public hearing could be conducted by staggering the time and/or dates. But the participants in the public hearing in question, as submitted by learned counsel for the petitioners, was only 90. This Court has also given the liberty to the petitioners to participate in the said public hearing, if so advised. But for the reasons best known to the petitioners they neither filed their written statement/objection within thirty days of the said advertisement/notice under Annexure-1 nor they have participated in the public hearing, although liberty was granted by this Court. It clearly shows that the petitioners want to frustrate the public hearing and to drag the matter. The petitioners in the instant writ petition can only agitate their individual grievances and not the grievance of the public at large, as it is not a Public Interest Litigation. Moreover, Public Interest Litigation assailing the self-same advertisement/notice has already been dismissed by this Hon'ble Court. Non-consideration of the office order issued by the Special Relief Commissioner, Government of Odisha restricting 'other large congregation', as stipulated in Clause-2(iv) of the said order is not applicable to public hearing in

view of the office memorandum issued by the Government of India in the Ministry of Environment, Forest and Climate Change Impact Assessment Division, New Delhi, as the same was issued by the concerned Department specifically dealing with the subject 'public hearing'. Since the petitioners have been given ample opportunity to participate in the public hearing in question no further opportunity as sought for should be given. In that view of the matter, he prayed for dismissal of the writ petition.

6. Mr.Muduli, learned AGA heavily relied upon the order passed in W.P.(C)(PIL) No.24669 of 2020 dismissed on 28.09.2020. He submitted that ample opportunity was given to the petitioners and the averments made in the instant writ petition clearly establishes that the petitioners had the knowledge of the notice/advertisement issued under Annexure-1, but for the reasons best known to him, they neither filed any written objection within thirty days, as stipulated in the said notice under Annexure-1 nor participated in the public hearing in spite of liberty given by this Court in order dated 30.09.2020. He further submitted that the date of public hearing should neither be changed nor extended as sought for by the petitioners, at the subsequent stages of granting environmental clearance, if any, would be

delayed. Although the impugned notice/advertisement was issued on 27.08.2020, they approached this Court belatedly only on 25.09.2020. The Hon'ble Division Bench has also taken note of approaching the Court belatedly by the petitioner in W.P.(C)(PIL) No.24669 of 2020 and deprecated the same. In that view of the matter, the instant writ petition also merits no consideration and the same is liable to be dismissed.

7. Upon hearing learned counsel for the parties and on perusal of the order passed in W.P.(C)(PIL) No.24669 of 2020, it appears that the self-same notice/advertisement issued by opposite party No.3-State Pollution Control Board, Odisha, Bhubaneswar for public hearing has been challenged in both the writ petitions, i.e., W.P.(C)(PIL) No.24669 of 2020 as well as in the instant writ petition. The Division Bench, on a threadbare discussion of the contentions raised as well as taking note of the office memorandum issued on 14.09.2020 (Annexure-C to the IA filed for vacation of interim order dated 29.09.2020), dismissed the earlier writ petition.

7.1 Mr. Rath, learned counsel for the petitioners submitted that the office order dated 31.08.2020 (Annexure-2) issued by the Special Relief Commissioner prohibiting 'other large congregation' as per Clause-2(iv) of the said office order

was not taken into consideration by the Division Bench. As such, the findings given by the Division Bench is not binding on the petitioners in view of principles of *sub silentio*. Hon'ble Supreme Court in *Ajit Kumar Rath (supra)* and *Synthetics and Chemicals Ltd. (supra)* on the principles of binding effect of an order, held as follows:-

7.2 In ***Ajit Kumar Rath (supra)***, it is held as follows:-

“32. Learned counsel for the respondents has referred to the judgment of the Orissa High Court passed in identical situation and relating to the same service on 12th March, 1985, by which the seniority was denied to certain promoted officers over those appointed by direct recruitment, on the ground that *ad hoc* promotion was contrary to rules. It is contended that a Special Leave Petition against that judgment was dismissed by this Court on 28.3.1998. A copy of the order by which the Special Leave Petition was dismissed has been placed on record which indicates that no reasons were given for dismissing the petition. This order, therefore, would not constitute a binding precedent. Moreover, the judgment of the Orissa High Court was delivered on 12th March, 1985, that is to say, many years earlier than the decision rendered by the Constitution Bench in the 1990 case of *Direct Recruit Class-II Engg. Officers Association (supra)*. On the basis of the Constitution Bench decision as also the other decisions of this Court, the efficacy of the judgment passed by the Orissa High Court has altogether vanished and there was no occasion for the Tribunal to have relied upon that judgment in preference to the Constitution Bench decision while writing the Review judgment.”

7.3 In ***Synthetics and Chemicals Ltd. (supra)***,

Hon'ble Supreme Court on the principles of *sub-silentio* held as follows:-

“41. Does this principle extend and apply to a conclusion of law, Which was neither raised nor preceded by any consideration. In other words can such conclusions be considered as declaration of law? Here again the English Courts and jurists have carved out an exception to the rule of precedents. It has been explained as rule of sub-silentio. A decision passed sub-silentio, in the technical sense that has come to be attached to that phrase, when the particular point of law involved in the decision is not perceived by the Court or present to its mind' (Salmond 12th Edition). In Lancaster Motor Company (London) Ltd. v. Bremith Ltd., [1941] IKB 675 the Court did not feel bound by earlier decision as it was rendered 'without any argument, without reference to the crucial words of the rule and without any citation of the authority'. It was approved by this Court in Municipal Corporation of Delhi v. Gumam Kaur, [1989] 1 SCC 101. The Bench held that, 'prece- dents sub-silentio and without argument are of no moment'. The Courts thus have taken recourse to this principle for relieving from injustice perpetrated by unjust precedents. A decision which is not express and is not founded on reasons nor it proceeds on consideration of issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. Uniformity and consistency are core of judicial discipline. But that which escapes in the judgment without any occasion is not ratio decedendi. In Shama Rao v. State of Pondicherry, AIR 1967 SC 1680 it was ob- served, 'it is trite to say that a decision is binding not because of its conclusions but in regard to its ratio and the principles, laid down therein'. Any declaration or conclusion arrived without application of mind or preceded without any reason cannot be deemed to be declaration of law or authority of a general nature binding as a precedent. Restraint in dissenting or overruling is for sake of stability and uniformity but rigidity beyond reasonable limits is inimical to the growth of law.”

The office order dated 31.08.2020 under Annexure-2 refers to 'other large congregation' which does not include a 'public hearing'. Further, it is made clear in the said order under

Annexure-2 that the subject to other provisions in the said order, the activities not specifically prohibited/regulated /restricted in the said order are allowed subject to adherence to safety and health protocols and SOPs/guidelines issued by the appropriate authorities. On the other hand, office memorandum dated 14.09.2020 (Annexure-C to the IA) has been issued by the concerned Ministry, specifically on the subject of conducting 'public hearing' during pandemic of COVID-19. The said office memorandum under Annexure-C also restricts the congregation with a ceiling of one hundred persons. To meet with a situation where the number of participants are more than such ceiling, provision has been made under Clause-3(ii) of the said office memorandum, which prescribes that if the number of participants are more than such (100 persons) ceiling, more than one public hearing shall be conducted by staggering the time and/or dates. Thus, the restrictions imposed by the Special Relief Commissioner in his office order dated 31.08.2020 under Annexure-2 cannot be said to include a 'public hearing', if conducted as per the guidelines given under office memorandum under Annexure-C to the IA. In that view of the matter, the principles of *sub silentio* is not applicable to the case in hand.

8. Bare perusal of the writ petition as well as the representations annexed to it as Annexures-5 and 6, which are identical in nature, only suggests that the representationists therein pray for keeping the public hearing scheduled to be held on 30.09.2020 in abeyance till COVID-19 situation is normalized. The representations do not throw any light as to how the petitioners will be affected if the proposed expansion of opposite party No.4-Company is permitted. The case law decided by the Hon'ble Supreme Court in ***Orissa Mining Corporation Limited Vs. Ministry of Environment and Forests and others***, reported in (2013) 6 SCC 47, as relied upon by learned counsel for the petitioners has no application to the instant case, as in the said case law the issue was with regard to environmental clearance for diversion of forest land for alumina refinery project (ARP)/bauxite mining project (BMP). The issue of non-consideration of religious rights, i.e., customary rights of worship in the mountains, especially a hilltop known as Niyam-Raja by the Scheduled Tribe communities and other tribal forest dwellers were involved. But in the instant case, the same are certainly not in issue.

9. Further argument has been raised by Mr.Rath, learned counsel for the petitioners that two parallel

proceedings assailing the self-same interim order dated 29.02.2020, one by filing I.A. No.11476 of 2020 for recall of the said order and another by filing Writ Appeal bearing WA No.576 of 2020 is not maintainable. In support of his case, the case law in **Jai Singh Vs. Union of India and others**, reported in (1977) 1 SCC 1, wherein the Hon'ble Supreme Court held/observed as follows:-

“4. The High Court dismissed the writ petition on the ground that it involved determination of disputed questions of fact. It was also observed that the High Court should not in exercise of its extraordinary jurisdiction grant relief to the appellant when he had an alternative remedy. After hearing Mr. Sobhagmal Jain on behalf of the appellant, we see no cogent ground to take a view different from that taken by the High Court. There cannot, in our opinion, be any doubt on the point that the extent of purity of the gypsum won by the appellant is a question of fact. It has also been brought to our notice that after the dismissal of the writ petition by the High Court, the appellant has filed a suit, in which he has agitated the same question which is the subject matter of the writ petition. In our opinion, the appellant cannot pursue two parallel remedies in respect of the same matter at the same time.”

9.1 He, therefore, submitted that two parallel proceedings are not maintainable in the eye of law. The arguments advanced by Mr.Rath is not sustainable in view of the fact that Mr.Mishra, learned Senior Advocate appearing on behalf of opposite party No.4 very fairly submitted that although he had filed the I.A. No.11476 of 2020 seeking recall of interim order dated 29.09.2020 passed in IA No.11105 of

2020, but in view of the fact that this Bench was not supposed to sit on 30.09.2020, opposite party No.4 also filed W.A. No.576 of 2020 and moved the Hon'ble the Chief Justice to take up the matter. However, pursuant to the direction of Hon'ble the Chief Justice, the matter, i.e., the IA No. No.11476 of 2020, was taken up by a special list on 30.09.2020. He also fairly submitted that he has not moved the WA No.576 of 2020 in view of the fact that the instant IA for recalling of interim order dated 29.09.2020 passed in IA No.11105 of 2020 was taken up.

10. Mr.Rath, learned counsel for the petitioners submitted that only 90 persons have participated in the public hearing held on 30.09.2020 pursuant to order dated 30.09.2020 passed in IA No.11476 of 2020, which cannot be said to be a substantial representation of villagers of five revenue villages having population of more than ten thousand and there was no effective 'public hearing' at all. However, there is no material available before this Court to test the veracity of the same. If that be so, then petitioners may make a representation to the opposite party No.2-Collector, Jharsuguda within a period of three days hence, i.e., by 12.10.2020, who shall consider the same and pass necessary orders thereon in consultation with the stakeholders, if

necessary, by taking steps to hold another 'public hearing' pursuant to notice under Annexure-1.

11. With the aforesaid observation, the writ petition as well as IA No.11105 of 2020 and IA No.11476 of 2020 are disposed of.

11.1 Anauthenticated copy of this order downloaded from the website of this Court shall be treated at par with certified copy in the manner prescribed in this Court's Notice No.4587 dated 25.03.2020.

.....
K.R. Mohapatra,J.

IN THE HIGH COURT OF ORISSA AT CUTTACK
WA No. 711 of 2021

Subrat Bhoi, Jharsuguda and Appellants
another

Mr. Durga Prasad Nanda, Senior Advocate with
Mr. Swastik Dalai, Advocate

-versus-

State of Odisha through Respondents
Secretary, Lok Seva Bhawan,
Bhubaneswar and Others

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. SAHOO

ORDER (Oral)
10.01.2022

Order No.

- 03.**
1. Though this matter was not in today's list, on being mentioned, the same was taken up.
 2. This matter is taken up through virtual mode.
 3. The present writ appeal is directed against the order dated 09.10.2020 passed by learned Single Judge in WP(C) No. 24789 of 2020 along with I. A No. 11476 of 2020, whereby the writ petition along with I.A. were disposed of, with the liberty granted to the Petitioners/Appellants to make a representation to the Opposite Party/Respondent No. 2-Collector, Jharsuguda within three days i.e. by 12.10.2020, who was thereupon to take a decision, whether to hold a fresh public hearing in respect of the proposed expansion of the output capacity of an existing Aluminium Smelter Plant from 16 LTPA to 18 LTPA.

4. Upon notice of the present appeal, the Respondents have put their appearance.

5. Now both the Appellants i.e. Subrat Bhoi & Tejraj Kumura have, through their counsel, moved I.A. Nos. 2390 of 2021 and 2401 of 2021 along with their affidavits, seeking an unconditional withdrawal of the present appeal. Counsels for the respondents have no objection.

6. In view of the content of the aforesaid I.As., the present appeal is disposed of as withdrawn.

7. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No. 4587, dated 25th March, 2020, modified by Notice No. 4798, dated 15th April 2021, and Court's Office Order circulated vide Memo No. 514 and 515 dated 7th January, 2022.

(Jaswant Singh)
Judge

(M. S. Sahoo)
Judge

January 10th 2022
Cuttack

AKPradhan

ANNEXURE R/4

IN THE HIGH COURT OF ORISSA AT CUTTACK**WP(C) (PIL) No. 24790 of 2020**

P. Ram Mohan Rao, Petitioner
Jharsuguda

Mr. Laxmi Narayan Patel, Advocate

-versus-

Union of India & Others Opp. Parties

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. SAHOO

ORDER (Oral)
10.01.2022

Order No.

- 03.** 1. Though this matter was not in today's list, on being mentioned, the same was taken up.
2. This matter is taken up through virtual mode.
3. The present writ petition in the nature of Public Interest Litigation (in short 'the PIL') has been filed by the Petitioner, who is an Ex-Councillor of Jharsuguda Municipality, claiming to be an environmental activist, against the proposed expansion of Aluminium Smelter Plant of Vedanta Limited from 16 LTPA to 18 LTPA at Bhurkamunda under Jharsuguda District.
4. At the outset, counsel for the Petitioner states that the present writ petition has become infructuous as the impugned public hearing to be conducted by the Pollution Control Board, has since been held on 30.10.2020. Withdrawal Memo dated 10.01.2022 has

been filed for withdrawing the writ petition, which be kept on record.

5. In view of the above, the writ petition is disposed of as withdrawn.

6. Thus, it is clear that there is no legal impediment for the competent authority, to proceed in accordance with law.

7. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No. 4587, dated 25th March, 2020, modified by Notice No. 4798, dated 15th April 2021, and Court's Office Order circulated vide Memo No. 514 and 515 dated 7th January, 2022.

(Jaswant Singh)
Judge

(M. S. Sahoo)
Judge

January 10th 2022
Cuttack

AKPradhan

STATE POLLUTION CONTROL BOARD, ODISHA		
(Department of Forest & Environment, Govt. of Odisha)		
Parlbesh Bhawan, A/118, Nilakanthanagar, Unit-VIII, Bhubaneswar-751012		
No. 7725/	IND-II-PH-818	Date : 27.08.2020
NOTICE		
<p>It is brought to the notice of all concerned that M/s Vedanta Limited has proposed to have Environmental Assessment for expansion of Aluminium Smelter (capacity from 16 LTPA to 18 LTPA), CPP capacity of 1215 MW by adding 2 LTPA Smelter plant at village Bhurkamunda, PO : Kalimandir Road in the district of Jharsuguda to obtain Environmental Clearance from the Ministry of Environment, Forest and Climate Change, Govt. of India. The proponent has applied to the State Pollution Control Board, Odisha, Bhubaneswar for a Public Hearing.</p>		
<p>By virtue of Ministry of Environment, Forests & Climate Change, Government of India Notification No. S.O. 1533 (E) Dtd. 14.09.2006, the Board has been authorized to conduct environmental public hearing and as such invites suggestions, views, comments and objections on matters relating to environmental aspects of the proposed project from all the persons including bonafide residents, environmental groups and others located at the proposed site/sites of displacement/sites likely to be affected.</p>		
<p>For the above purpose, a person will only mean:</p>		
<p>A. Any person who is likely to be affected by the grant of Environmental Clearance.</p>		
<p>B. Any person who owns his control over the project with respect to which an application has been submitted for environmental clearance.</p>		
<p>C. Any association of persons whether incorporated or likely to be affected by the project and / or functioning in the field of environment.</p>		
<p>D. Any local authority within any part of whose local limits is within the neighborhood, wherein the project is proposed to be located.</p>		
<p>Persons as above who desire to submit their views, comments, objections etc. relevant to the project, may do so in writing within 30 days from the date of publication of this notice addressing the same to the Member Secretary, State Pollution Control Board, Odisha through Registered Post. Besides this, persons interested to submit their views relevant to the proposed project in writing or orally may also do so during the public hearing to be conducted on 30.09.2020 at 11.00 A.M at Govt. Upper Primary School, Kurebaga, Dalki, in the district of Jharsuguda. Public hearing shall be conducted strictly observing guidelines contained in COVID-19 on Social Distancing and also COVID-19 SOP issued by the Government.</p>		
<p>Persons desirous of participating in the public hearing may go through the Environmental Impact Assessment (EIA)/Environmental Management Plan (EMP) of the said project which will be available at the following offices. Copy of the Executive Summary both in English & Odia is also available in the following offices & the same can also be downloaded from the website www.ospcbboard.org free of cost.</p>		
<ol style="list-style-type: none"> 1. District Collector's Office, Jharsuguda. 2. District Industries Center, Jharsuguda. 3. In the office of the Chief Executive Officer, Zilla Parishad, Jharsuguda. 4. In the Head office of the State Pollution Control Board, Odisha, Parlbesh Bhawan, A/118, Nilakanthanagar, Unit -VIII, Bhubaneswar -12. 5. Regional Office, State Pollution Control Board, Odisha, Jharsuguda. 6. Department of Forest & Environment (Environment), Govt. of Odisha, Bhubaneswar 		
<p>For any further clarification in the matter, the Regional Officer, State Pollution Control Board, Jharsuguda or the Member Secretary, State Pollution Control Board, Odisha at Bhubaneswar may be contacted.</p>		
<p>Sd/- MEMBER SECRETARY</p>		



ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ, ଓଡ଼ିଶା

(ଜବାଇଶ ମରିବେଶ ବିଭାଗ, ଓଡ଼ିଶା ସରକାର)

ପରିବେଶ ଭବନ, ଏ/୧୧୮, ନୀଳକଣ୍ଠନଗର, ପୁନି-୮, ଭୁବନେଶ୍ୱର-୭୫୧୦୧୨

ସଂଖ୍ୟା : ୭୭୩୨/IND-II-PH-818

ତାରିଖ : ୨୭.୦୮.୨୦୨୦

ବିଜ୍ଞାପନ

ଏତଦ୍ୱାରା ସମସ୍ତଙ୍କ ଆବଶ୍ୟକ ନିମନ୍ତେ ଜଣାଇ ଦିଆଯାଉଅଛି ଯେ ମେସର୍ସ ବେଦାନ୍ତ ଲିମିଟେଡ୍ ଓଡ଼ିଶାର ଝାଲପୁସୁଡ଼ା ବିଜ୍ଞା, ପୋଖ-କାଳିମନ୍ଦିର ରୋଡ୍ ଅନ୍ତର୍ଗତ ଭୂର୍ଗାପୁଆ ଗ୍ରାମରେ ୨ ଏକଡିପିଏ ପ୍ଲଟରେ ପ୍ଲ୍ୟୁରାଲ ଥିଆଲିନିୟମ ପ୍ଲେଲଟର ବାରଖାନାର କ୍ଷମତା ବ୍ୟବସ୍ଥା ୧୬ ଲକ୍ଷ ମେଟ୍ରିକ ଟନ୍ ୧୮ ଲକ୍ଷ ମେଟ୍ରିକ ଟନ୍ ପର୍ଯ୍ୟନ୍ତ ପ୍ରସ୍ତୁତ କରିବା, ବିପିପି କ୍ଷମତା ୧୨୧୫ ମେଟାସ୍ତ୍ର କରିବା ନିମନ୍ତେ ଜାରିତ ସରକାରୀକ ପରିବେଶ, ଇଝା ଓ ଏକ୍ସପ୍ଲୋସିଭିଭି ନିୟମାବଳୀ ଦ୍ୱାରା ପରିବେଶୀୟ ମହୁରି ନିମନ୍ତେ ଆବଶ୍ୟକ ପଦକ୍ଷେପ ସର୍ବସାଧାରଣ ଶୁଣାଣି ନିମନ୍ତେ ଓଡ଼ିଶା ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ୍ ଆବେଦନ କରୁଅଛନ୍ତି ।

ଜାରିତ ସରକାରୀ ପରିବେଶ, ଇଝା ଏବଂ ଏକ୍ସପ୍ଲୋସିଭିଭି ନିୟମାବଳୀର ପରିବେଶୀୟ ମହୁରି ନିମିତ୍ତ ଅଧିପତ୍ୟ ସଂଖ୍ୟା ଏସ୍.୦. ୧୫୩୩ (ଇ), ଡି.୧୪.୯.୨୦୦୬ ଅନୁଯାୟୀ ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ, ଓଡ଼ିଶା, ଭୁବନେଶ୍ୱରଙ୍କ ସର୍ବସାଧାରଣ ଶୁଣାଣି କରିବାର କ୍ଷମତା ପ୍ରଦାନ କରାଯାଇଛି । ଏଥିନିମନ୍ତେ ବୋର୍ଡ, ସର୍ବସାଧାରଣଙ୍କ ସମେତ ପ୍ରକୃତ ଅଧିକାରୀ, ପରିବେଶୀୟ ସଂଗ୍ରାହକ ପ୍ରକାଶିତ ପ୍ରକାଶ ପ୍ରଦାନ ହେଉଥିବା ପ୍ରକାଶ କରାଯାଇଛି, ପ୍ରକାଶ ଯୋଗୁଁ ଉଦ୍ଦେଶ୍ୟ ହେଉଥିବା କାର୍ଯ୍ୟ, ପ୍ରକାଶ ଯୋଗୁଁ ପ୍ରକାଶିତ ହେଉଥିବା କାର୍ଯ୍ୟାଳୟରେ ପ୍ରକାଶ ପ୍ରଦାନ ଯୋଗୁଁ ପରିବେଶୀୟ ପ୍ରଭାବ ସମ୍ବନ୍ଧୀୟ ପ୍ରକାଶ, ମତାମତ, ମତାମତ ଓ ଆପତ୍ତିକୁ ଆହ୍ୱାନ କରୁଅଛନ୍ତି । ଏଥିନିମନ୍ତେ ବ୍ୟକ୍ତିର ଅର୍ଥ କେବଳ ନିମ୍ନରେ କୁଣ୍ଡାୟନାହିଁ :

- (କ) ପରିବେଶୀୟ ମହୁରି ଦ୍ୱାରା ପ୍ରକାଶିତ ହେଉଥିବା ବା ହେବାକୁ ଥିବା ଯେକୌଣସି ବ୍ୟକ୍ତି ।
- (ଖ) ପ୍ରକାଶ ସମ୍ବନ୍ଧିତ ପରିବେଶୀୟ ମହୁରି ପାଇଁ ଆଗତ ଦରକାରୀ ପରିପ୍ରେକ୍ଷାରେ ତହିଁ ଉପରେ କର୍ତ୍ତୃକ କାର୍ଯ୍ୟ କରିପାରୁଥିବା କୌଣସି ବ୍ୟକ୍ତିବିଶେଷ ।
- (ଗ) ପରିବେଶ କ୍ଷେତ୍ରରେ କାର୍ଯ୍ୟ କରୁଥିବା କିମ୍ବା ଏବଂ ପ୍ରକାଶିତ ପ୍ରକାଶ ଦ୍ୱାରା ପ୍ରକାଶିତ ହେଉଥିବା (ପଞ୍ଜିକୃତ ବା ଅପଞ୍ଜିକୃତ) ଯେକୌଣସି ବ୍ୟକ୍ତି ସମ୍ବନ୍ଧୀୟ ବ୍ୟକ୍ତି ।
- (ଘ) ପ୍ରକାଶିତ ପ୍ରକାଶ ପ୍ରକାଶ ସମ୍ପର୍କରେ ନିକଟବର୍ତ୍ତୀ ଅଞ୍ଚଳର ଯେକୌଣସି ସ୍ଥାନୀୟ କର୍ତ୍ତୃପକ୍ଷ ।

ଉପରୋକ୍ତ ବ୍ୟକ୍ତିମାନେ ସମ୍ପର୍କରେ ପ୍ରକାଶ, ମତାମତ, ମତାମତ ଏବଂ ଆପତ୍ତି ଉପରେ ସର୍ବସାଧାରଣ ସଭା ସଭା, ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ, ଓଡ଼ିଶାକୁ ନିଶ୍ଚିତ ଆକାରରେ ଏହି ବିଜ୍ଞାପନ ପ୍ରକାଶନର ୩୦ ଦିନ ମଧ୍ୟରେ ଉପରୋକ୍ତ ତାରିଖରେ ଜଣାଇପାରିବେ । ଏହାଛଡ଼ା ଉକ୍ତ ପ୍ରକାଶିତ ପ୍ରକାଶ ଉପରେ ନିଶ୍ଚିତ ବା ନିଶ୍ଚିତ ଭାବେ ମତାମତ ଦେବା ପାଇଁ ଉକ୍ତ ବ୍ୟକ୍ତିମାନେ ଡି.୩୦.୦୯.୨୦୨୦ ରଖି ବିକା ୧୧.୦୦ ଯଦିବା ସମ୍ପର୍କରେ ଝାଲପୁସୁଡ଼ା ବିଜ୍ଞା, ଦଲଦା, ଭୁବନେଶ୍ୱର ଅନ୍ତର୍ଗତ ସରକାରୀ ଭବନ ପ୍ରାଥମିକ ବିଦ୍ୟାଳୟରେ ଧାର୍ଯ୍ୟ ସର୍ବସାଧାରଣ ଶୁଣାଣି ସମୟରେ ମଧ୍ୟ ଉପସ୍ଥାପନ କରିପାରିବେ । ଏହି ସର୍ବସାଧାରଣ ଶୁଣାଣି କଠୋର ଭାବରେ ଓଡ଼ିଶା ସରକାରଙ୍କ Covid-19 SOP ଏବଂ ସ୍ୱାସ୍ଥ୍ୟ ଏବଂ ପରିବାର କଲ୍ୟାଣ ବିଭାଗ, ଓଡ଼ିଶା ସରକାରଙ୍କ ସାମ୍ବେଦିତ ଦୂରତା ଉପରେ ପର୍ଯ୍ୟବସିତ Covid-19 SOP ଅନୁଯାୟୀ କାର୍ଯ୍ୟକାରୀ ହେଉଥିବ ।

ପ୍ରକାଶିତ ପ୍ରକାଶ ବିଷୟରେ ବିଶଦ ଭାବରେ ଜାଣିବା ପାଇଁ ପରିବେଶୀୟ ପ୍ରଭାବ ମୂଲ୍ୟାୟନ ବିବରଣୀ (Environmental Impact Assessment) ଏବଂ ଏହାର ନିର୍ବାହୀ ସାରାଂଶ (Executive Summary) ଓଡ଼ିଆ ଏବଂ ଇଂରାଜୀ ଭାଷାରେ ନିମ୍ନଲିଖିତ ସ୍ଥାନମାନଙ୍କରେ ମିଳିପାରିବ ।

- ୧. ନିର୍ଦ୍ଦାପକ କାର୍ଯ୍ୟାଳୟ, ଝାଲପୁସୁଡ଼ା ।
- ୨. ବିଜ୍ଞା ବିଭାଗ, ଝାଲପୁସୁଡ଼ା ।
- ୩. ବିଜ୍ଞା ପରିଷଦ ମୁଖ୍ୟ ନିର୍ବାହୀ ଅଧିକାରୀ, ଝାଲପୁସୁଡ଼ା ।
- ୪. ମୁଖ୍ୟ କାର୍ଯ୍ୟାଳୟ, ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ, ଓଡ଼ିଶା, ପରିବେଶ ଭବନ, ଏ/୧୧୮, ନୀଳକଣ୍ଠ ନଗର, ଭୁବନେଶ୍ୱର-୭୫୧୦୧୨ ।
- ୫. ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟ, ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ, ଓଡ଼ିଶା, ଝାଲପୁସୁଡ଼ା ।
- ୬. ଭୁବନେଶ୍ୱର ପରିବେଶ ବିଭାଗ, ଓଡ଼ିଶା ସରକାର, ଭୁବନେଶ୍ୱର ।

ଏତଦ୍ୱାରା ପରିବେଶୀୟ ପ୍ରଭାବ ମୂଲ୍ୟାୟନ ବିବରଣୀ ନିର୍ବାହୀ ସାରାଂଶ (Executive Summary) ଓଡ଼ିଆ ଏବଂ ଇଂରାଜୀ ଭାଷାରେ ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ, ଓଡ଼ିଶା ସ୍ୱେଚ୍ଛାସିଦ୍ଧତା www.ospcboard.org ମଧ୍ୟ ମିଳିପାରିବ ।

ଏ ବିଷୟରେ ସର୍ବଶେଷ ବିବରଣୀ ପାଇଁ ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ, ଓଡ଼ିଶାର ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟ, ଝାଲପୁସୁଡ଼ାକୁ ଆଞ୍ଚଳିକ ଅଧିକାରୀ କିମ୍ବା ଭୁବନେଶ୍ୱରସ୍ଥିତ ମୁଖ୍ୟ କାର୍ଯ୍ୟାଳୟରେ ସର୍ବସାଧାରଣ ସଭା ସଭା ସହ ଯୋଗାଯୋଗ କରାଯାଇପାରିବ ।

ସ୍ୱା/-
ସର୍ବସାଧାରଣ ସଭା

୧୯୩/2147

ସମାଜ ଡାକ୍ତରୀ-୨୦ ପୃଷ୍ଠା-୧୦

2. 29.09.2020 Due to outbreak of COVID-19, this matter is taken up through Video Conferencing.

Heard Mr. Nayak, learned counsel for the petitioners.

Issue notice.

Since Mr. Mohanty, learned Additional Standing Counsel for the State accepts notice on behalf of opposite party Nos.1 and 2, two copies of the brief shall be served on him by 05.10.2020.

Issue notice to the opposite party Nos.3 and 4 by registered post with A.D. fixing a short returnable date.

Requisites shall be filed by 5th October, 2020.

Put up this matter immediately after the S.R. is back.

.....
K.R. Mohapatra, J.

I.A. No. 11105 of 2020

29.09.2020

Heard.

As an interim measure, it is directed that the public hearing pursuant to advertisement dated 27.08.2020 issued by the State Pollution Control Board, Odisha, scheduled to be held on 30.09.2020 at 11.00 A.M. at Government U.P. School, Dalki, Kurebaga in the district of Jharsuguda shall not be held till next date.

Authenticated copy of this order downloaded from the website of this Court shall be treated at par with

certified copy in the manner prescribed in this Court's
Notice No.4587 dated 25.03.2020.

.....
K.R. Mohapatra, J.

bct

W.P.(C) No.24789 of 2020

I.A. No.11476 of 2020

3. 30.09.2020 Due to outbreak of COVID-19, this matter is taken up through Video Conferencing.

This matter was not in the list today. On being mentioned, the matter is taken up at 2.00 PM as per the special list.

Heard Mr.Partha Sarathi Nayak, learned counsel for the petitioners and Mr.S.P.Mishra, learned Senior Advocate and long with Mr.Prasant Kumar Nayak, learned counsel for the opposite party No.4-M/s Vedanta Ltd., Jharsuguda.

None appears for State Government as well as State Pollution Control Board, Odisha, Bhubaneswar, probably due to want notice.

In partial modification to the order dated 29.09.2020 passed in IA No.11105 of 2020, it is directed that the public hearing pursuant to advertisement dated 27.08.2020 under Annexure-1 issued by the State Pollution Control Board, Odisha may continue, but no final decision shall be taken till the next date. Petitioner, if so advised may participate in the public hearing.

On consent of learned counsel for the petitioner and opposite party No.4, put up this matter on 01.10.2020.

Detail reasoned order follows.

To avoid delay, Deputy Registrar (Judicial) is directed to communicate the above order to the Collector and District Magistrate, Jharsuguda immediately.

.....
K.R.Mohapatra, J.

SS

**ORDER IN COMPLIANCE OF THE ORDER OF HON'BLE HIGH COURT
PASSED IN WP(C) NO.24789 /2020**No. 17053 /G&MDated : 18/10/2020

In pursuance of Notice No. 7732, Dated. 27.08.2020 of Odisha State Pollution Control Board and the order passed by the Hon'ble High Court while disposing off the **I.A. No. 11476 of 2020** in connection with Writ Petition (C) No. **24789 of 2020** on environmental public hearing for expansion of the Aluminium Smelter capacity of M/s. Vedanta at Bhurkamunda, Jharsuguda, which is a part of mandatory consultation before EIA & EMP is approved by the appropriate authority, the same was conducted on 30.09.2020 at Govt. U.P. School, Kurebaga, (notified place) in the district of Jharsuguda. The capacity augmentation as proposed is from existing 16 LTPA to 18 LTPA. The record of the proceeding chaired by the A.D.M. (Gen.), Jharsuguda under authorization of the Collector & District Magistrate, Jharsuguda and attendance sheet reveal that **221** no. of people attended the hearing and out of them **62** made their verbal presentations. Further **153** presented their written submissions at the venue.

The Hon'ble High Court finally disposed off the writ petition on **9.10.2020** asking the petitioner Sri Subrat Bhoi and another to make a representation before the Collector, Jharsuguda within a period of three days on their allegation that there was no effective public hearing and the latter was directed to pass necessary order considering the representation and consulting the stakeholders. The petitioners filed their presentations on 11.10.2020 wherein prayer for further public hearing was made basing the same on the ground that an interim order had been passed vide I.A. No.11105/202 dated 29.09.2020 that the public hearing would not be held till the next date when the Hon'ble High Court would take up the matter and this was widely circulated in the media leading to low participation.

Further they contended that gathering should not have been allowed in this pandemic period which is in violation of order No.5039/ Dt. 31.08.2020 issued by the Addl. Chief Secretary & Special Relief Commissioner, Odisha. Other grounds stated in the representations are immaterial as far as the prayer for re-hearing is concerned.

In the consonance of the direction of the Hon'ble High Court, all the stakeholders i.e. Regional Officer, SPCB, Jharsuguda, the petitioners, M/s. Vedanta Ltd. were asked to appear on 15.10.2020 before the Collector, Jharsuguda. The petitioners presented themselves through advocate though there was no issue of legality involved. The job of the Collector was limited to ascertaining relevant facts and passing an order in due consultation towards compliance of the order of the Hon'ble High Court. The advocates representing the petitioners reiterated the contentions presented earlier in writing. The RO, SPCB presented a copy of the proceeding of the public consultation and mentioned that all the papers along with written submissions received in the designated period of thirty (30) days prior to the platform hearing and filed in the meeting itself would be also forwarded to the appropriate quarter. M/s Vedanta Ltd. informed that steps had been and would be taken by them to address the concern raised in the public hearing. Further delay which has already cost them 8 months because of pandemic would derail the project – economics.

The contention of the petitioners in the writ prayer was that 90 people participated in the public hearing on 30.9.2020, the veracity of which could not be tested by the Hon'ble High Court in the absence of corroborating records. The record of proceeding as submitted by the ADM (Gen.), Jharsuguda who had been authorized by the Collector & District Magistrate, Jharsuguda to conduct the exercise jointly with the Regional Officer, SPBC, Jharsuguda establish that 221 people attended the hearing out of which 62 people spoke. Besides 153 people made written submissions in the process of the consultation. All these submissions have been forwarded by the R.O., SPCB, Jharsuguda to the nominated agency of the Ministry of Environment, Forest & Climate Change, i.e. OSPCB. Further it is ascertained that the regulations relating to COVID-19 pandemic as enunciated in office Memorandum No.22-25/2020-IA.III Dt.14.9.2020 of the Ministry of Environment, Forest and Climate Change and incorporated in the unlock order of Govt. of India and that of Govt. of Odisha applying to the month of September, 2020 were adhered to. The minuted proceeding clearly state that the venue had the sitting capacity of 100 and there was arrangement of waiting space outside. The waiting space had been inspected jointly by the Collector and the Superintendent of Police, Jharsuguda on the day preceding to be sure about

observance of the norms of distancing. People were allowed to the venue of meeting in phases as per the sitting capacity only. The video prepared by the RO, SPCB covering the proceeding corroborate a smooth and staggered process of hearing. As such there was no violation of customized COVID regulations applying to such occasion.

Order of the Hon'ble High Court dated 30.9.2020 passed in IA No.11470 enjoined upon the opposite parties not to take any final decision in this hearing. Order of the Hon'ble High Court has been respected fully. In fact the guidelines of the MoEF which regulate such proceeding renders this consultation only to be an exercise of recording of views on the draft EIA of the project proponent, compilation thereof and transmission of the same to the Ministry by the authorized agency. Public consultation, of which notified hearing is a part, is meant for redressal of the material environmental concern raised in the process and consequent appropriate change in the draft EIA by the applicant before the same is submitted to the regulatory authority for appraisal.

As regards attendance, this is to be kept in mind that there is no requirement of quorum for such platform consultation. The petitioner's plea about attendance of 90 people is untrue and misleading. Further the attendance of 221 on such occasions cannot be considered inadequate basing upon the history of other public hearings in this district. For example **"the hearing conducted for EIA of the Power Project of NLC held on 13.11.2019** had attendance of **172**. In fitness, the hearing conducted on 30.9.2020 with regard to the proposed expansion of Aluminum Smelter at Bhurkamunda is considered smooth and complete.

Copies of the order be made available to the stakeholders.

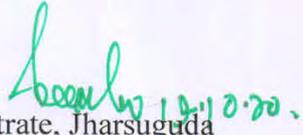

DISTRICT MAGISTRATE &
COLLECTOR, JHARSUGUDA

Memo No. 17117 / G & M Dt. 19/10/2020

Copy to the Regional Officer, State Pollution Control Board, Jharsuguda for information and necessary action.

Copy to the CEO, M/S Vedanta Ltd. Bhurkamunda, Jharsuguda for information and necessary action with reference their letter NoVL/PH/007/2020-002 dt.15.10.2020.

Copy to Sri Subrat Bhoi, Vill. Brundamal Dist. Jharsuguda / Sri Tejraj Kumura, Vill. Brundamal, Dist. Jharsuguda for information with reference to their application dt.12.10.2020.


Addl. District Magistrate, Jharsuguda

ENVIRONMENTAL IMPACT ASSESSMENT

FOR

THE PROPOSED EXPANSION OF ALUMINIUM SMELTER PRODUCTION CAPACITY (FROM 16 LTPA TO 18 LTPA), CPP (1215 MW) BY ADDING 2 LTPA SMELTER PLANT AT BHURKAMUNDA VILLAGE, KALIMANDIR P.O., JHARSUGUDA DISTRICT, ODISHA

VOLUME-I FINAL EIA REPORT

TOR Reference : No. J-11011/29/2007-IA.II(I) dated 20.12.2017

UIN : VLL/ENV/2017/08/VLL/001

Baseline Period : December 2017 to February 2018

Environmental Consultant:



Vimta Labs Limited
142, IDA, Phase-II, Cherlapally,
Hyderabad-500 051, Telangana State
www.vimta.com, env@vimta.com
(NABL/ISO 17025 Certified Laboratory,
Recognized by MoEF&CC, New Delhi)



(Approved Consultant)

Project Proponent :



Vedanta Limited
Bhurkamunda, Jharsuguda

November, 2020

	<p><i>Environmental Impact Assessment for the Proposed Expansion of Aluminium Smelter Production Capacity (from 16 LTPA to 18 LTPA), CPP (1215 MW) by adding 2 LTPA Smelter Plant at Bhurkamunda Village, Kalimandir P.O, Jharsuguda District, Odisha</i></p> <p style="text-align: right;"><i>Chapter-4</i></p> <p style="text-align: center;"><i>Anticipated Environmental Impacts and Mitigation Measures</i></p>
---	--

4.6.3 Noise Environment

In the plant, various equipment like pumps, cooling tower, compressors etc. generate the noise. Equipment is designed to conform to noise levels prescribed by regulatory authorities.

Management Measures

Several noise suppression and attenuation features are designed into the plant for the protection of personnel at all normally accessible locations within the plant boundary, both inside and outside the different buildings, and for the protection of the inhabitants living in the vicinity of the power plant.

To achieve the noise limitations around the equipment, the main measures are adopted as follows:

- Noise enclosures for equipment with unacceptable noise levels;
- Small units like condensate and vacuum pumps, are designed so as to limit noise emission; and
- In places where it is difficult to meet the prescribed noise levels, personal protection equipment is provided to the workers. The existing greenbelt around the plant will attenuate the noise level dissemination outside the plant boundary.

4.6.4 Solid Waste Management

The total ash generation in existing CPP is 10,109 TPD consisting of both bottom and fly ash.

➤ *Bottom Ash Handling System*

Bottom ash shall be removed by submerged conveyor. The bottom ash generation quantity is 2021 TPD. Bottom ash from furnace shall be collected in the hopper. The crushed ash shall be mixed with water and carried to ash slurry sump through the pitched trench.

➤ *Fly Ash Handling System*

The fly ash generation quantity from the boilers is 8088 TPD. The fly ash from various outlets such as economizer, air preheater and ESP hoppers is collected pneumatically in silos of sufficient capacities from where it shall be dispatched through trucks for utilization of fly ash. Balance ash is disposed-off to ash dyke using high concentrated ash slurry disposal method.

4.7 Cost Provision for Environmental Control Measures

The total capital cost of the project is Rs 1240 crores. It is proposed to invest about Rs. 55 crores as a capital cost on pollution control, treatment and monitoring systems. The break-up of implementation cost of EMP is given in Table-4.12.

	<i>Environmental Impact Assessment for the Proposed Expansion of Aluminium Smelter Production Capacity (from 16 LTPA to 18 LTPA), CPP (1215 MW) by adding 2 LTPA Smelter Plant at Bhurkamunda Village, Kalimandir P.O, Jharsuguda District, Odisha</i>
	<i>Chapter-4</i> <i>Anticipated Environmental Impacts and Mitigation Measures</i>

TABLE-4.12
COST ESTIMATE FOR IMPLEMENTATION OF EMP

Sr. No.	Particulars	Capital Investment (Rs in Crores)	Recurring Cost (Rs in Crores)
1	ETP (RO plant) and storm water management	50.0	10.0
2	Raw Water Treatment Plant	5.0	1.0
	Total	55.0	11.0

Source: Vedanta Limited

4.8 Compliance of the CREP Guidelines

The compliance of the CREP guidelines is given in Table-4.13.

TABLE-4.13
COMPLIANCE OF THE CREP GUIDELINES

Sr. No.	Action Points	Targets	Status
1	Technology		
	Allowing new pot lines only with pre-baked technology.	Clearance by MoEF & CC only for prebaked after June 2003.	Complied. The expansion of smelter capacity through adopting modern state of the art prebake technology.
2	Fluoride Emissions		
	(i) Prescribing Max. plant size.	To be decided based on assimilative capacity of plant location.	-
	(ii) Revision of fluoride emission standard.	Soderberg 2.8 kg/t by Dec 2005	For prebake line 0.8 kg/t is being complied.
		1.0 kg/t (VSS) & 1.30 kg/t (HSS) by Dec 2010. Pre-baked 0.8 kg/t	
	(iii) Phasing out wet scrubbing system for fluoride	By December 2006.	Complied.
	(iv) Allowing new pot lines only with dry scrubbing system.	Clearance by MoEF & CC only for dry scrubber system, after June 2003	The plant has dry scrubbing system (FTPs) for all our pot lines.
(v) Fugitive emissions monitoring from pot rooms	Monitoring data to be submitted to CPCB/SPCBs from January 2004.	The plant has been submitting the data to both CPCB/SPCB and also to MoEF&CC Regional Office, Delhi vide six monthly compliance report.	

REVISED EIA / EMP REPORT

(Based on observation of REAC in the 42nd meeting held on 13.08.2021)

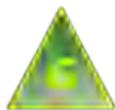
for

**Proposed Expansion of Aluminium Smelter Production
Capacity (from 16 LTPA to 18 LTPA), 1215 MW CPP**

of

M/s. VEDANTA LIMITED

At- Bhurkamunda, P.O.- Kalimandir, District-Jharsuguda, Odisha



Accredited Consulting Organization



**GLOBAL TECH ENVIRO
EXPERT PVT. LTD.**

C-23, BJB Nagar, Bhubaneswar-751014, ODISHA, Phone No. -
0674-2433487

Email-globaltechenviroexperts@rediffmail.com

Nabet Accredited Category "A" Consultant Serial No-93
Certificate No. NABET/EIA/2023/IA0066



*Accredited
Laboratory*



**VISIONTEK CONSULTANCY
SERVICES PVT. LTD.**

Plot No.-M-22&23, Chandaka
Industrial Estate, Patia,
Bhubaneswar-751024, Odisha
E-Mail: visiontekin@yahoo.co.in

NABL Accreditation Number:
ISO/IEC 17025: 2005/ ISO/IEC
17025: 2017

- 8. There are three ash ponds sites in operation and PP has proposed to acquire large area for ash disposal in spite of new Fly Ash notification to utilize 100 % ash. Further, PP mentioned that they were utilizing 100 % Fly ash since 2018 and the pond ash shall be liquidated in next five years. In view of this, seeking additional land for ash disposal found to be not justifiable.**

Response:

There are three ash pond sites in operation. The ash pond site additionally proposed to be located at Gudigaon village has already been acquired and approved by MoEF&CC in 2018 Amendment to EC for 2400 MW TPP (not for the aluminium smelter). However, ash pond has not yet been developed at this location and there is no plan to develop in future also because it has been possible to achieve more than 100% ash utilization since 2018. The Utilization plan for the entire legacy ash has been provided under point no. 6 mentioned above.

- III. Kharkhari Nala passes in between the boundary of smelter-1 and smelter-2 and joins Bheden River towards southwest of plant premises. The HFL of Kharkhari Nala is 192.5 m, above mean sea level near confluence of Kharkhari Nala with Bheden river and as per the hydrogeology study conducted, the site comes under no risk zone as the elevation at plant site ranges between 198 – 216 m above mean sea level.**

No comments

- IV. Plantation all along the periphery of the project site is hardly visible from the KML file and photographs made available by the proponent.**

Response: The recent photographs of the existing and new plantation carried out have been incorporated in the EIA report.

- V. EMP cost of 77.3 Cr for a CAPEX of 1240 Cr in Aluminium Smelter is far less (6.2%) than the World benchmarks of 15-20 % of CAPEX on Environment Management.**

Response:

The revised EMP cost for the proposed smelter capacity expansion from 16 to 18 LTPA is as mentioned below:

Cost Provision for Environmental Management Plan			
Sl. No.	Details	Capital Cost (In Crores)	Recurring Cost (In Crores)
Air Pollution Control			
1	Supply and Installation of Dust Extraction System in Rodding Plant	9.20	1.00
2	Installation of Pitch Fume Treatment System in GAP	2.00	0.30

3	Pneumatic conveying system for Coke dust from Bake Oven to GAP	1.00	-
4	Industrial Vacuum Cleaning system for Shop Floors in GAP	2.00	0.20
5	Supply and Installation of De-dusting Unit in GAP	3.10	0.20
6	Installation of De-dusting system for Crushed Bath Silos in Potline 6	4.00	0.30
7	Fume Duct Extraction System in Potline 6 extension	2.35	0.20
8	Augmentation of existing Fume Treatment Plant, Bag filter Chambers and additional ID Fans in Potline 6)	9.00	1.00
9	Installation of additional Fugitive Fluoride Monitoring System in Potline 6	1.00	3.20
Sub Total		33.65	
Water Conservation & Pollution Control			
1	Augmentation of existing ETP with a 400 m3/hr RO & MEE	50.00	2.00
2	Water Treatment Plant	5.00	0.60
3	Upgradation of existing Sewage Treatment Plant in Smelter 2	0.60	-
Sub Total		55.50	2.60
Noise Environment			
1	Acoustic Enclosures (Ball Mill & Vacuum Unit) for GAP	0.90	
Wildlife Conservation Plan Implementation		6.11	-
Total EMP Cost			
		96.16	5.80

The EMP cost in case of green field projects will be around 15-20% of the total project cost. This expansion proposal is a brown field expansion involving placement of 66 pots within the existing Pot line, utilizing the existing bake ovens & addition of a rodding unit and a green anode plant. The corresponding environment measures wherever required have been provided which adds to about 8% of the expansion project cost (1240 Crs). However, we stand committed for additional cost as required for protection of environment.

VI. Performance monitoring of Pollution Control Devices is not included in monitoring schedule.

Response: Monitoring schedule is very important to ensure that effluent and emissions conform to the standard for which control measures have been designed. The performance monitoring of Pollution control devices also plays a vital role for safeguarding the environment. The details of the monitoring schedule for Environment Parameters are as given below:

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

Recommendations of the Committee

- 42.5.6 In view of the foregoing and after deliberations, the Committee recommended for the rejection of ToR amendment proposal as there is no provision under the EIA notification, 2006 for waiver of public hearing for the instant expansion project.
- 42.6 Expansion and augmentation of integrating melting and rolling facility by **M/s. Amba Shakti Ispat Limited** located at Plot no.6 & 6A, Industrial Area Phase 2, Kala Amb, Tehsil- Nahan, **District Sirmaur, Himachal Pradesh**. [Online Proposal No. IA/HP/IND/222082/2021; File no: IA-J-11011/228/2018-IA-II.(I)] –**Extension of validity of Terms of Reference**– regarding.
- 42.6.1 M/s. Amba Shakti Ispat Limited has made online application vide proposal no. IA/HP/IND/222082/2021 dated 28/07/2021 along with Form 5 and sought for validity extension of Terms of Reference accorded by the Ministry vide letter no. J-11011/228/2018-IA.II(I) 16/08/2018.

Details submitted by the project proponent

- 42.6.2 The ToR was issued for expansion and augmentation of Integrating melting and rolling facility M/s. Amba Shakti Ispat Limited located at plot no 6 & 6A, Industrial area phase 2, Kala Amb, Tehsil- Nahan, District- Sirmaur, Himchal Pradesh.
- 42.6.3 Reason for seeking validity extension of ToR:
After grant of ToR, baseline monitoring was conducted on 1st December’ 2018 to 28th February’ 2019 and draft EIA/EMP report was prepared and submitted to Himachal Pradesh Pollution Control Board on dated 21.12.2019. Afterwards, public hearing (PH) was scheduled on 08.04.2020 but due to COVID-19 situation PH was postponed. Again, new date was given on 27.04.2021 but due to COVID-19 situation again postponed. Now, scheduling of new PH is in process. Approved ToR is going to expire on 16th August’ 2021.

Observations of the Committee

- 42.6.4 The Committee noted the following:
- i. ToR was granted on 16/08/2018.
 - ii. As per the MoEF&CC notification S.O. 751 (E) dated 17/02/2020, ToRs are valid for a period of four years from date of issue of this letter. In view of this, the instant ToR is valid till 15/08/2022.

Recommendations of the Committee

- 42.6.5 In view of the foregoing and after deliberations, the Committee recommended to return the proposal in its present form as the validity is ToR is up to 15/08/2022 based on the MoEF&CC notification S.O. 751 (E) dated 17/02/2020.

13th August, 2021

- 42.7 Aluminium Smelter (from 16 LTPA to 18 LTPA); CPP (1215 MW) by adding 2 LTPA plant by **M/s. Vedanta Limited** located at Village Bhurkamunda, P.O. Kalimandir, **District Jharsuguda, Odisha** [Online Proposal No. IA/OR/IND/222980/2017, File No. J-11011/29/2007-IA.II(I)] –**Environment Clearance**– regarding.

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

- 42.7.1 M/s Vedanta Limited, Jharsuguda has made an online application vide proposal No. IA/OR/IND/222980/2017 dated 03/08/2021 along with copy of revised EIA/EMP report and Form-2 seeking Environment Clearance (EC) for the proposed expansion of Smelter Plant Capacity from 16 to 18 LTPA, 1215 MW CPP at Bhurkamunda village, District – Jharsuguda, Odisha under the provisions of the EIA Notification, 2006 for the project mentioned above. The proposed project activity is listed at schedule no.3(a) Metallurgical industries (ferrous & nonferrous) under Category “A” of the schedule of the EIA Notification, 2006 and is appraised at the Central level.

Details submitted by Project proponent

- 42.7.2 The details of the ToR are furnished as below:

Date of application	Consideration	Details	Date of accord
03/11/2017	26 th meeting held during 11-13 th Dec 2017.	Terms of Reference (ToR) granted.	20/12/2017

- 42.7.3 The project of M/s Vedanta limited is located in Bhurkamunda Village, Jharsuguda Tehsil, Jharsuguda District, Odisha State is for setting up of additional 2 LTPA smelter plant for enhancement of production capacity of Aluminium Smelter from 16 LTPA to 18 LTPA.

- 42.7.4 Environmental Site Settings:

SNo	Particulars	Details	Remarks
i.	Total land	834.236 ha	-
ii.	Land acquisition details as per MoEF&CC O.M. dated 7/10/2014.	Total land is in possession and is used for on-going industrial operations	-
iii.	Existence of habitation & involvement of R&R, if any.	Not Applicable	-
iv.	Latitude and Longitude of the project site.	<u>Latitude Longitude</u> 21°49" 43.0"N 84° 02' 40.7" E 21°48" 32.2"N 84°03' 53.7" E21°46" 52.5"N 84°03' 2.91" E21°48" 6.51"N 84°01' 48.29" E 21°49" 3.01"N 84°01' 30.55" E	Topo sheet No. - F44R13, F44R14 & F45M1, F45M2
v.	Elevation of the project site.	Elevation of project site ranges from 198 m to 216 m AMSL	-
vi.	Involvement of Forest land if any	Nil	-
vii.	Water body exists within the project site as well as study area	Project site: Name- Kharkhari Nala Study area Bhedan River at 2 km South	At confluence of Kharkhari Nala with Bhedan river HFL of Kharkhari Nala is 192.5 m AMSL.
viii.	Existence of ESZ/ ESA/ national park/ wildlife	Nil	No existence of such sensitive area within

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

SNo	Particulars	Details	Remarks
	sanctuary/ biosphere reserve/ tiger reserve/ elephant reserve etc. if any within the study area	Following Forests are present in study area: Katikela RF: (0.1 km, East) Badkhalia RF: (2.9 km, NE) Ghichamura RF (5.8 km, SE) Binjidungri RF (6.5 km WSW) Malda DPF (6.8 km, SW) Mahalmunda RF (7.7 km, SW)	study area

42.7.5 The existing project was accorded environmental clearance vide letter no. J-11011/29/2007-IA II(I) dated 11th June 2008 for 16 LTPA of Aluminium Smelter and CPP of 1350 MW. Consent to Operate for the existing unit was accorded by Odisha State pollution Control Board vide letter No. 5324 dated 27.03.2021. The validity of CTO is up to 31.03.2022.

42.7.6 Implementation status of the existing EC:

S No	Facilities	Units	As per EC dated 11/06/2008	Implementation	Production as per CTO
1	Aluminium Smelter	16 LTPA	J-11011/29/2007-IA II (I), dated 11 th June 2008.	Implemented	16 LTPA
2	Captive Power Plant 1215 MW	9 x 135 MW	J-11011/29/2007-IA II (I), dated 11 th June 2008.	9 x 135 MW implemented	1215 MW

42.7.7 The unit configuration and capacity of existing and proposed project is given as below:

S No	Name	Existing Units		Proposed Units		Total (Existing + Proposed)	
		Configuration	Production	Configuration	Production	Configuration	Production
1	Aluminium Smelter	16 LTPA	16,00,000	2 LTPA	2,00,000	18 LTPA	18,00,000
2	CPP	9 x 135 MW	1215 MW	Nil	Nil	9 x 135 MW	1215 MW

42.7.8 The details of the raw material requirement for the proposed project along with its source and mode of transportation is given as below:

S No	Raw Material	Quantity required per annum in TPA			Source	Distance from site (Km)	Mode of Transportation
		Existing	Expansion	Total			
1	Alumina	30,88,000	3,86,000	34,74,000	Captive, domestic & import	500	Rail - BTAP wagon
2	Calcined petroleum coke	5,93,600	74,000	667,000	Domestic import	564	Rail containers
3	Cryolite	3,200	400	3600	Domestic import	564	Rail wagons
4	Aluminium fluoride	32,000	4,000	36000	Domestic import	564	Road
5	Coal tar pitch	1,28,000	16,000	1,44,000	Domestic	60	Road

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

- 42.7.9 The water requirement for the 18 LTPA Aluminium Smelter & CPP 1215 MW is estimated as 1,04,784 m³/day, out of which 94,968 m³/day of fresh water requirement will be obtained from Hirakud dam and the remaining requirement of 9816 m³/day will be met from wastewater treatment in ETP & recycle. The permission for drawl of 1,00,063.2 m³/day (40.9 cusecs) surface water from Hirakud Reservoir is obtained from Department of Water Resources vide Letter No. 26079/WR/Irr-II-WRC-157/13 dated 01.10.2013.
- 42.7.10 The power requirement for 18 LTPA Aluminium Smelter is estimated to be 2960 MW out of which additional 400 MW (for 2 LTPA expansion) will be obtained from the 2400 MW TPP or State Power Grid.
- 42.7.11 Baseline Environmental Studies:
Baseline Data collection is from December 2017 to February 2018 and again in March to May, 2021 to revalidate the previous EIA/EMP report.

Period	March, 2021- May, 2021	Dec 2017 - Feb 2018
AAQ parameters at 9 locations	PM _{2.5} = 27.0 to 42 µg/m ³ PM ₁₀ = 50.2 to 76.3 µg/m ³ SO ₂ = 10.9 to 27.2 µg/m ³ NO _x = 12.9 to 32 µg/m ³ CO = 251.6 to 430.4 µg /m ³	PM _{2.5} = 11.3 to 26.4 µg/m ³ PM ₁₀ = 27.1 to 63.5 µg/m ³ SO ₂ = 8.6 to 25 µg/m ³ NO _x = 10.4 to 27.1µg/m ³ CO = 151 to 360 µg /m ³
AAQ modelling (Incremental GLC)	Max. Incremental GLC: PM ₁₀ = 0.852 µg/m ³ PM _{2.5} = 0.51 µg/m ³ SO ₂ = 8 µg/m ³ NO _x = 6.88 µg/m ³ Fluorides = 0.078 µg/m ³ B(a)P = 0.00008 µg/m ³	-
Ground water quality at 8 locations	pH: 6.73 to 7.43, Total Hardness: 58 to 92 mg/l, Chlorides: 18 to 41 mg/l, Fluoride: 0.12 to 0.31 mg/l. Heavy metals are within the limits	pH: 6.7 to 7.4, Total Hardness: 91 to 241 mg/l, Chlorides: 18.6 to 64.5 mg/l, Fluoride: 0.2 to 0.5 mg/l. Heavy metals are within the limits
Surface water quality at 8 locations	pH: 6.74 to 7.36; DO: 6.8 to 7.4 mg/l and BOD: 0.8 to 1.6 mg/l. COD from 4 to 12 mg/l; Total Coliform: 580 to 840 MPN/100	pH: 6.8 to 8.1; DO: 4.9 to 5.8 mg/l and BOD: <3 mg/l. COD from <5 to 10 mg/l, Total Coliform: 534 to 840 MPN/100
Noise levels	Ambient noise reaches 49.7 to 67.9dB(A) during day time and 40.1 to 60.2 dB(A) during night time.	Ambient noise reaches 37.9 to 59.2dB(A) during day time and 35 to 56 dB(A) during night time.
Traffic assessment study findings	Traffic assessment study has been made & recorded at selected traffic location, which is towards Bhurkamunda to Jharsuguda route and Jharsuguda to Bhurkamunda route and counts converted to equivalent PCU and found to be 3,741 PCU.	
Flora & Fauna	Schedule I fauna, such as Monitor lizard, Indian Peafowl, &	

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

	Indian Python are commonly found in the forest. Elephant, Sloth Bear are occasionally reported in the buffer zone of the project site. Site specific Wildlife Conservation Plan has been prepared and duly approved by PCCF (wildlife) & Chief Wildlife Warden, Odisha, vide letter no-4488/7 WL-FD & WLC-32/2021, dated Bhubaneswar, the 30 th April, 2021 with a financial outlay of Rs. 610.894 lakh for its implementation.
--	--

42.7.12 The details of solid and hazardous waste generation along with its mode of treatment/disposal is furnished as below:

S No	Type of Waste	Source	Quantity generated (TPA)	Mode of Treatment / Disposal
1	Spent pot lining	Pot room	45,000 T	Disposed to authorized re-processors
2	Used oil/Spent oil	During Maintenance activity	562 KL	Disposed to Authorized recyclers
3	ETP sludge	ETP	585 T	Disposed to CHWTSDF
4	Anode butt	Carbon Plant	3,37,500 T	Internally recycled & disposed to Authorized Re-processors
5	Aluminium Dross	Cast house	39,375 T	Internal processing/recycling and disposed to authorized re-processors
6	Waste containing Oil	Maintenance activity	33.75 MT	Disposal through HW incinerator
7	Tar Containing wastes	Bake Oven	225 MT	Internal Recycling
8	Flue gas dust	Carbon Plant	129.375 MT	Internal Recycling/ Disposed to CHWTSDF
9	Housekeeping waste	Potline, Carbon Plant	2250 MT	Disposal in SLF/ CHWTSDF/ Internal Recycling
10	Rejected Filter bags (FTP)	Potline & Bake Oven	39,375	Incineration in HW incinerator/ Pots
11	Rejected ALF ₃ bags	Pot line	39,375	Incineration in HW incinerator/ Pots
12	Asbestos waste	(Ladle cleaning and other units)	6.75 MT	Disposal in SLF/ CHWTSDF
13	Coke dust	Bake Oven	2025 MT	Internal Recycling
14	Spent resin	Rectifier & DM plant	51.75 KL	Disposal in SLF/ CHWTSDF
15	Green anode ridge waste	Green Anode Plant (GAP)	67.5 MT	Internal Recycling/ Disposal in SLF/ CHWTSDF
16	Green anode cooling	Green Anode Plant	6.75 MT	Disposal in SLF/ CHWTSDF

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

S No	Type of Waste	Source	Quantity generated (TPA)	Mode of Treatment / Disposal
	decantation tank sludge			
17	Shot blasting dust	Rodding plant	6750 T	Disposed to SLF/CHWTSDF
18	Drain cleaning sludge	Carbon & pot room	281.25 MT	Disposed to CHWTSDF
19	Ladle cleaning residue	Ladle cleaning Shop	27,000 MT	Internal Recycling

42.7.13 Public Consultation:

Details of advertisement given	28/08/2020
Date of public consultation	30/09/2020
Venue	Government Upper Primary School, Kurebaga, Dalki in Jharsuguda district.
Presiding Officer	Shri Pradeep Kumar Sahoo, Additional District Magistrate, Jharsuguda
Major issues raised	<ul style="list-style-type: none"> • Emission of gas & fumes problem • Compensation for crop damage due to emission of gases • Road dust problem due to transport of ash • Employment for local affected people • Training and skill development programme for local youth • Employment for unskilled & illiterate local people • Contractual work to local people • Supply of drinking water • Provision of streetlight in the surrounding villages • Women empowerment

Action plan as per MoEF&CC O.M. dated 30/09/2020

S No	Issues/Concerns Raised by public / Stakeholders	Physical Activity & Action Plan (as per MoEF&CC O.M. dated 30.09.2020)	Budget (Rs)	Time Schedule For Implementation
1	Emission of gas & fumes problem	<ul style="list-style-type: none"> • Upgradation from Conventional bag filters to Star bag filters for enhancing collection efficiency in Fume Treatment Plants (FTP). • FTP with AHS – revamping with replacement of spares • Damaged Bags of power plant bag filters are being immediately replaced with new bags and sufficient spares are being maintained in the store inventory. • Dust Extraction & Suppression system are being 100% utilized and operational at raw material handling locations for control of fugitive emissions. 	7.00 Cr 15.35 Cr	Mar 2022

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

S No	Issues/Concerns Raised by public / Stakeholders	Physical Activity & Action Plan (as per MoEF&CC O.M. dated 30.09.2020)	Budget (Rs)	Time Schedule For Implementation
2	Compensation for crop damage due to emission of gases	<ul style="list-style-type: none"> Detailed study w.r.t crop damage is being carried out by NRRI (CRRI) vide PO no. 3600001767 issued on 22.12.2020 for two crop cycles. Findings & recommendations of the study will be implemented 	0.50 Cr	Jan 2021 to Dec 2022
3	Road dust problem due to transport of ash	<ul style="list-style-type: none"> Conditioned ash is being transported through properly covered trucks from the site. Water sprinkling is done at regular intervals on the internal & external roads used for ash transportation. 2 nos. of wheel wash system are already in operation each in Coal Handling & Ash Handling Plant for both CPP 1215 MW & 2400 MW units. Additional wheel wash system will be installed at the Main entry/Exit gate for control of fugitive emissions. 	0.50 Cr	Dec 2022
4	Avenue plantation and other afforestation	<ul style="list-style-type: none"> Plantation of around 50000 tree saplings will be carried out and maintained for which Purchase Order has been placed vide No. 6600014713 dtd. 18 Dec 2020. 	1.55 Cr	June '21 to Oct '22
5	Formation of Environmental Committee to address issues related to environment	A committee for addressing the environment related issues will be constituted in consultation with District Administration, SPCB comprising of govt. officials, local representatives and company representatives for which a letter has been sent to District Administration in this regard.	-	July '21
6	Employment for local affected people	<ul style="list-style-type: none"> There is no additional R & R involved for the proposed expansion. Proposed expansion will create about 250 direct and 550 Indirect employment opportunities. As on date, around 5195 persons have been employed from Jharsuguda & local affected villages and more than 90% of our unskilled workforce is from Odisha. 	-	Phase wise manner post commencement of the project
7	Contractual work to local people	<ul style="list-style-type: none"> Vedanta is giving 1st preference to the local people having relevant skills and work experience. Around 203 no. of contracts have been awarded to local people amounting to a value of Rs. 503 Cr. 	-	-
8	Training and skill development programme for local youth	<ul style="list-style-type: none"> Vedanta in partnership with Govt. ITI will provide job/entrepreneurship linked training to 250 youth from local villages by developing their skills in various trades such as AC repairing & Refrigeration, Plumbing, household electrical & appliance repairing, sewing etc (Training to 250 youth @ Rs. 60000/- per person) 	1.50 Cr	01 st July 2021 to 30th June 2024

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

S No	Issues/Concerns Raised by public / Stakeholders	Physical Activity & Action Plan (as per MoEF&CC O.M. dated 30.09.2020)	Budget (Rs)	Time Schedule For Implementation
9	Employment for unskilled & illiterate local people	<ul style="list-style-type: none"> Vedanta is giving 1st preference to the local people in terms of employment either directly or through business partners. Vedanta Ltd will continue to support local illiterate youth from affected villages through various skill development & educational initiatives as a part of CSR. 	-	-
10	Supply of drinking water	<ul style="list-style-type: none"> Around 10 No's of handpumps & borewells will be made operational in Banjari, Kurebaga, Bhurkamunda, Brundamal villages through gram panchayat. In order to overcome the acute shortage of drinking water during summer season, drinking water will be supplied through 3 no.s of tractors to Banjari, Orampada & Shivrampur (@Rs. 1.5 lakhs/tractor/month for 2 years) 	3 Lakhs 27 Lakhs	July 2021 During summer (3 Months in FY 2021 & 2022)
11	Road & peripheral development	<ul style="list-style-type: none"> ➤ Construction of RUB road connecting Brundamal to Biju Chowk (Badmal) is in final stage for congestion free movement of vehicles and local people. ➤ Road repairing (Bitumen) from Sundarimunda chowk to Brundamal (Length 3.5 Km, width – 20 ft.) <p>Internal road repairing of Tharkimal village (Length – 1.5 Km, width - 15 ft). Various peripheral development activities will be carried out through Gram Panchayat such as:</p> <ul style="list-style-type: none"> Renovation of 2 No's of temples in Villages Banjari & Kherual. Renovation of 4 No's of Schools in RR Colony, Brundamal, Kurebaga & Siriapalli & Renovation of Girls toilet at Sripura High school. Renovation & Cleaning of 5 No's of pond in villages Brundamal, Kurebaga, Bhagipalli, Siriapalli, Banjari. (@Rs. 3 Lakhs/Pond for an average area of 2500 sq. m) 	0.80 Cr 0.35 Cr 0.50 Cr	March 2022
12	Health and establishment of medical college and hospital	<ul style="list-style-type: none"> State of the Art advanced multi-facility Pathology Lab & Diagnostic center has been taken up in collaboration with SRL Laboratories at Jharsuguda & Laikera block facilitating over 500 tests at a single location. Regular Medical camps & doorstep health care facilities are provided to the periphery villages through Mobile Health Units (MHU) Development of 30 Brown Field Nand Ghars in next 2 years, an initiative to upgrade the existing anganwadi centers in the periphery villages (@ Rs. 3.5 lakhs /Nand Ghar) 	28 Cr 0.30 Cr/Year 1.05 Cr	18 months (Aug 2022) - May 2021 to Dec 2022

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

S No	Issues/Concerns Raised by public / Stakeholders	Physical Activity & Action Plan (as per MoEF&CC O.M. dated 30.09.2020)	Budget (Rs)	Time Schedule For Implementation
13	Education & establishment of English medium school	<ul style="list-style-type: none"> Development of 5 No.s Vedanta Mini Science center benefiting more than 1200 children at Debadi, Sripura, Mangal Bazaar, Puruna Basti & Kolabira Provide Tuition Fee support to 138 No.s of children from project affected and project displaced families to study in DAV English Medium School (@Rs. 38000/child) Provide basic computer training to 120 children/year from surrounding villages Kurebaga & Debadi at RR colony (@Rs.5000 per child) 	0.05 Cr 0.52 Cr /year 0.06 Cr /Year	March 2022 - -
14	Provision of streetlight in the surrounding villages	<ul style="list-style-type: none"> 100 No. of LED streetlights with angle fitting will be provided for fixing to electric poles through Gram Panchayat in villages Kurebaga, Banjari, Brundamal, Bhurkamunda & Purna (@Rs. 10000/streetlight) 	0.10 Cr	Dec 2021
15	Women empowerment	<ul style="list-style-type: none"> Vedanta Ltd promotes and has the highest gender diversity in the domestic manufacturing sector. Provide training to 100 No. of rural women and link to sustainable livelihood through Sewing, Mushroom cultivation, Poultry, Moodi Mill etc. in next 2 years (@Rs. 20000/woman) 	0.20 Cr	2 Years

42.7.14 The capital cost of the expansion project is Rs. 1240 Crores and the capital cost for environmental protection measures is proposed as Rs. 77.35 Crores. The annual recurring cost towards the environmental protection measures is proposed as Rs 30.60 Crores. The employment generation from the proposed expansion is 800 (250-direct & 550-indirect). The details of cost for environmental protection measures are as follows:

S No	Description of Item	Existing (Rs. Crores/ lakhs)	
		Capital Cost	Recurring Cost
i.	Air Pollution Control/Noise	22.35	
ii.	Water Pollution Control	55.00	11.00
iii.	Hazardous Waste Management	--	19.60
	Total	77.35	30.60
v.	Addressed to Public Issues/concerns	35.98	

42.7.15 Greenbelt has been developed in an area of 565.989 acres (229.05 ha) which is around 27.46% of total area. Around 3,64,267 no's saplings have been planted at site (about 1590 trees per ha). The proposed greenbelt area is 114.27 acres (46.24 ha) and 5.54% of total project area with 115600 no. of saplings to be planted (2500 tree per Ha).

42.7.16 It has been reported by PP that, at present, there are no litigations for the proposed aluminium smelter expansion project. However, the captioned Writ Petition was filed by Subrata Bhoi & others before the Hon'ble Orissa High Court on 24/09/2020 praying for deferring the public hearing scheduled on 30/09/2020 for the purpose of expansion of

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

aluminium smelter from 16 LTPA to 18 LTPA. However, The Hon'ble High Court of Odisha disposed of the case. The details are given below:

Case Title: W.P. (C) 24789 of 2020 (Subrat Bhoi and Anr vs State of Odisha and Ors.)

Crx of the Case: The captioned Writ Petition was filed by Subrata Bhoi & others before the Hon'ble Orissa High Court on 24.09.2020 praying for deferring the public hearing scheduled on 30.09.2020 for the purpose of expansion of aluminium smelter from 16 LTPA to 18 LTPA.

Matter came up for hearing and admission on 29.09.2020. The Court issued notice to the opposite parties and as an interim measure directed that the public hearing scheduled on 30.09.2020 not to take place till the next date of hearing. However, while passing the aforesaid interim order, the Hon'ble court was unaware of the order already passed by the Division bench of the Orissa High Court in WP(C) No. 24669 of 2020 allowing the public hearing.

The matter was mentioned by Vedanta Limited on 30.09.2020 and the Hon'ble Court was apprised of the order dated 28.09.2020 passed in the aforesaid writ petition. Upon hearing the parties, the Hon'ble Court in partial modification of its order dated 29.09.2020 allowed the public hearing to continue as per the original schedule further stating that no final decision to be taken till next date of hearing. (Order attached).

The matter was next listed on 01.10.2020 for final hearing wherein arguments from both sides were completed and final order was reserved. The final order was passed on 09.10.2020. The Hon'ble High Court of Odisha disposed of the case by asking the petitioners to make a representation before the Collector, Jharsuguda (Judgment copy attached). The Collector, after considering the said representation, passed an order dated 18.10.2020 in this matter holding, inter-alia, that 'the hearing conducted on 30.09.2020 with regard to the proposed expansion of Aluminium Smelter at Bhurkamunda is considered smooth and complete.

- 42.7.17 Name of the EIA consultant: Originally the EIA Report was prepared by M/s. Vimta Labs. The consultant was changed by project proponent to M/s GlobalTech Enviro Experts Pvt. Limited, Bhubaneswar [S No. 98, List of ACOs with their Certificate / Extension Letter no. Rev. 13, August 09, 2021].

Certified compliance report from Regional Office

- 42.7.18 The status of compliance of existing EC was obtained from Integrated Regional Office (IRO), Bhubaneswar vide letter no.101-405/EPE/1620 dated 24/12/2020. As per the report, following are the non-compliances to the existing EC conditions:

- i. The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/t.
- ii. Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.
- iii. Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.
- iv. Rain water harvesting has not been carried out at the site by stating that the ground water table is high in the area and establishment of rain water harvesting structures may lead to flooding in the area.

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

- v. Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.
- vi. All the recommendation stated in the Charter on Corporate Responsibility for Environment Protection with respect to Aluminium sector is yet to be complied by the proponent.

Observations of the Committee

42.7.19 The Committee observed the following:

- i. The 16 LTPA smelter with 1215 MW CPP is in operation since 2008. The 2400 MW coal based TPP established through separate EC adjacent to the smelter complex is in operation since 2010.
- ii. No tangible effort has been taken by the proponent to comply with the following EC conditions even after the lapse of 13 years of operation.
 - The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/t.
 - Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.
 - Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.
 - Rain water harvesting has not been carried out at the site by stating that the ground water table is high in the area and establishment of rain water harvesting structures may lead to flooding in the area.
 - Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.

In addition to the above, PP also yet to comply with the following:

- Significant quantity of legacy ash stocks is still stored in the ash pond located at three different locations in the vicinity of the project site. No effort has been taken to quantify the legacy ash stocks and utilize the same.
 - SLF is provided inside the smelter complex. SLF is being implemented in two phases. Phase I of 5000 m³ capacity started in 2010 was capped in Sept 2013. Phase II of SLF is now in operation. It started in May 2014 and has 5285 m³ space. No details of the material filled in SLF or the capacity available were provided. No information on plan for post expansion of SLF capacity, once the Phase II site is filled shall be furnished.
 - There are three ash ponds sites in operation and PP has proposed to acquire large area for ash disposal in spite of new Fly Ash notification to utilize 100 % ash. Further, PP mentioned that they were utilizing 100 % Fly ash since 2018 and the pond ash shall be liquidated in next five years. In view of this, seeking additional land for ash disposal found to be not justifiable.
- iii. Kharkhari Nala passes in between the boundary of smelter-1 and smelter-2 and joins Bheden River towards southwest of plant premises. The HFL of Kharkhari Nala is 192.5 m, above mean sea level near confluence of Kharkhari Nala with Bheden river and as per the hydrogeology study conducted, the site comes under no risk zone as the elevation at plant site ranges between 198 – 216 m above mean sea level.

MoM of 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021

- iv. Plantation all along the periphery of the project site is hardly visible from the KML file and photographs made available by the proponent.
- v. EMP cost of 77.3 Cr for a CAPEX of 1240 Cr in Aluminium Smelter is far less (6.2%) than the World benchmarks of 15-20 % of CAPEX on Environment Management.
- vi. Performance monitoring of Pollution Control Devices is not included in monitoring schedule.
- vii. EMP budget in Table 8.25 is generic and not monitorable. The table shall be resubmitted.
- viii. Mitigation measures given in Table 10.2 are generic and not quantified. The 6.2 % of CAPEX cost towards mitigation measures seems to be adhoc as stated in the document.
- ix. Baseline data collected by the consultant organizations (M/s. Vimta Labs and M/s. Global tech) are not comparable.
- x. As per Ministry's O.M. No. J-11015/286/2007-IA.II(I) dated 7/2/2020, any specific non-compliance singled out while the project is being appraised by the EAC, the concerned sector shall issue Show Cause Notice

Recommendations of the Committee

- 42.7.20 In view of the foregoing and after detailed deliberations, the Committee recommended the following:
- i. Show Cause Notice shall be issued to the proponent for not complying with the conditions prescribed in the EC letter dated 11/6/2008.
 - ii. Proposal to be returned in its present form and the same would be considered by the EAC after the compliance to the existing EC conditions has been achieved by the Project Proponent.
- 42.8 Proposed removal of the facility of 5.0 MTPA Pellet plant and partially 3.1 MTPA Rolling Mill (Hot Strip mill) from Integrated Steel plant (6.0 MTPA) and Captive Power Plant (810 MW) by **M/s. Jindal Steel & Power Limited** located at Village Kerjang, Sankerjang, Tehsil Chhendipada, **District Angul, Orissa** [Online Proposal No. IA/OR/IND/220435/2021; File no: J-11011/365/2006-IA.II(I)] – **Amendment in Environmental Clearance– regarding.**
- 42.8.1 M/s. Jindal Steel and Power Limited has made an online application vide proposal no. IA/OR/IND/220435/2021 dated 03/08/2021 along with Form 4 and sought for amendment in Environmental Clearance accorded by the Ministry vide letter no. J-11011/365/2006-IA-II (I) dated 22/02/2007 for excluding the facilities namely 5.0 MTPA Pellet plant and 3.1 MTPA Rolling Mill (Hot Strip mill).
- 42.8.2 It was apprised to the EAC that the facilities namely 5.0 MTPA Pellet plant and 3.1 MTPA Rolling Mill (Hot Strip mill) for which exclusion sought by the proponent is already a part of ToR dated 8/2/2021 & 16/06/2021 accorded for expansion of Integrated Steel from 6 MTPA to 25.2 MTPA. In this regard, following points have been noted by the EAC from the available records:
- The project was originally accorded environmental clearance vide letter no. J-11011/365/2006 dated 22/02/2007 and amended on 14/11/2008, 08/02/2017, 26/06/2018, 22/01/2019 and 18/01/2021. The existing EC has been implemented

Ministry of Environment, Forest and Climate Change
Impact Assessment Division
(Industry-1 Sector)

Date of zero draft MoM sent to Chairman: 16/11/2021

Approval by Chairman: 23/11/2021

Uploading on PARIVESH: 23/11/2021

Summary record of the forty eighth (48th) meeting of Re-Constituted Expert Appraisal Committee (REAC) held on 11-12th November, 2021 for environment appraisal of Industry-1 sector projects constituted under the provisions of Environment Impact Assessment (EIA) Notification, 2006.

The forty eighth meeting of the Expert Appraisal Committee (EAC) for Industry-1 Sector constituted as per the provisions of the EIA Notification, 2006 for Environment Appraisal of Industry-1 Sector Projects was held on **11-12th November, 2021** in the Ministry of Environment, Forest and Climate Change (MoEF&CC) through **video conferencing** in view of the ongoing Corona Virus Disease (Covid-19) pandemic. The list of EAC attendees is as follows:

S. No.	Name	Position	11/11/2021	12/11/2021
1.	Dr. Chhavi Nath Pandey	Chairman	Present	Present
2.	Dr. M.K.Gupta, Director, CPPRI.	Member	<i>Absent</i>	Present
3.	Dr. Siddharth Singh,	Member	Present	Present
4.	Dr. Jagdish Kishwan	Member	Present	Present
5.	Dr. Tejaswini Ananth Kumar	Member	<i>Absent</i>	Present
6.	Dr. G.V. Subramanyam	Member	Present	Present
7.	Shri. Ashok Upadhyaya	Member	Present	Present
8.	Shri. Rajendra Prasad Sharma	Member	Present	Present
9.	<i>Dr. Sanjay Deshmukh</i>	<i>Member</i>	<i>Absent</i>	<i>Absent</i>
10.	Prof. S.K. Singh	Member	<i>Absent</i>	Present
11.	<i>Dr. R. Gopichandran</i>	<i>Member</i>	<i>Absent</i>	<i>Absent</i>
12.	Shri Jagannadha Rao Avasarala	Member	Present	Present
13.	Shri. J.S. Kamyotra	Member	Present	Present
Officials from MoEF&CC				
14.	Shri. Sundar Ramanathan	Member Secretary	Present	Present
15.	Dr. Vipin Gupta	Scientist 'B'	Present	Present

After welcoming the Committee Members, discussion on each of the agenda items was taken up. The minutes of 47th meeting held during 28-29th October, 2021 were confirmed by the EAC as already uploaded on PARIVESH.

The details of the observations made by RO in the report dated 27.10.2021 along with its re-assessment/ present status is given as below.

Sl. No.	Non-compliances details	Observation of RO (abridged)	Condition no.		Re-assessment by RO
			EC date	Specific	
1	The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/T.	The Project authorities have initiated action for reduction in the fluoride consumption by increasing the proportion of low sodium alumina. By this, it is contemplated by the project that the fluoride consumption would come down to 9.78 Kg/T from the present value of 10.78 Kg/T Al by Dec 2021. Further, as per action plan with implementation schedule, the project is to achieve a gradual decrease in the fluoride consumption over the next two years and finally achieve 8.88 Kg/T of Al by end of April 2023	11/06/2008	Specific condition vi & xvii	The condition has been complied with
2	Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.	As reported by the project authorities that SPL generated is being sent to an agency M/s Green Energy Resources, which is authorized for handling and recycling Hazardous Wastes for detoxification of SPL. This is in accordance with the SOP issued by CPCB. After detoxification, the agency in turn would send the material to various industries including cement and steel industries for its utilization. From the action plan, it is noted that the project has contemplated the utilization of SPL and the project is to achieve complete utilization of all the stock of SPL by end of Sept 2023.	11/06/2008	Specific condition ix	The condition has been complied with
3	Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.	The project has carried out plantation of 3,32,893 saplings, which have been procured from the nurseries of OFDC, Jharsuguda and have planted over an area of 46.24 Ha within the industrial complex and around the ash pond. The density of plantation within the industrial complex is also undertaken. All this has been undertaken to achieve green belt of more than 27%.	11/06/2008	Specific condition xiii	The condition has been complied with
4	Rainwater harvesting has	From the report, it is noted that	11/06/2008	Specific	The

- ii. EAC noted that the public representation mentioned at para 48.14.23 quoted a NGT court case (O.A. 10/2021/EZ) National Green Tribunal Eastern Zone Bench, Kolkata. The case is arising out of disposal of fly ash in the nearby agricultural land by the proponent causing damaging on the agricultural land. As per the Hon'ble NGT Order dated 2/09/2021, the inspection report filed by the Odisha State Pollution Control Board shows several violations of Consent conditions. In this regard, the Hon'ble NGT directed to file an affidavit inter-alia the Environmental Compensation assessed on account of damage caused to the environment.
- iii. PP did not provide the information of said court case in Form 2 application and also not disclosed during the presentation. EAC opined to seek an explanation from the PP in this regard.
- iv. Project proponent has undertaken a study on the impact of the project on nearby agricultural fields.
- v. Show Cause Notice was issued to the unit 1/09/2021 and as per the reply furnished, the unit is yet to comply with the following. Further, MoEF&CC is yet to take final view on the SCN issued to the unit.
 - a. Current fluoride emission is at 10.78 Kg/T Al production and sought time till December 2021 to achieve reduced level.
 - b. SPL refractory stock is 85,108 MT which is being stored in covered sheds as there is no mechanism is in place for disposal of SPL refractory stock.
 - c. Ash stock of 124 Lakh Metric Ton is unutilized and sought additional time for its liquidation by 31/03/2027.
 - d. Only one Roof Top Rainwater Harvesting (RTRW) has been commissioned and 6-RTRH, the construction activities are reported to be under progress.
 - e. Green belt development covering 33% of the project area will be achieved by Dec, 2021.

Recommendations of the Committee

- 48.14.26 In view of the foregoing and after detailed deliberation, the committee recommended to defer the proposal and sought for following additional information.
- i. Ministry may forward the public representation to the project proponent. PP shall submit the point wise reply to the said public representation received on 12/11/2021 along with the requisite supporting documents. The details of environmental compensation made if any, shall also be submitted.
 - ii. Project proponent shall explain the reasons for not disclosing the court case details in Form 2 application (or) during the EAC presentation.
 - iii. PP shall submit the recommendation of interim report on impact of project on the crop by the plant and action plan to mitigate the impact on crop damage shall be submitted.
 - iv. PP shall submit the action plan for the liquidation 85000 MT SPL refractory waste inter-alia standard operating procedure for disposal of the same.
 - v. BOD in Surface Water quality samples have been reported as 0.8 to 1.6 mg/l, the method used for analysis the BOD parameter shall be furnished.

- 48.15 Expansion of Integrated Steel Plant from 9.6 to 15.6 MTPA (Liquid Steel) by **M/s. Arcelormittal Nippon Steel India Limited** located at Hazira Village, Chorasi Tehsil, **District Surat, Gujarat.** [Online Proposal No. IA/GJ/IND/231036/2021; File No.: IA-J-

F. No. J-11011/29/2007-IA. II (I)
 Government of India
 Ministry of Environment, Forest and Climate Change
 (Impact Assessment Division)

ANNEXURE R/11

Indira Paryavaran Bhawan
 Jor Bagh Road, Aliganj,
 New Delhi – 110003

E-mail: r.sundar@nic.in
 Tel: 011-24695304

Dated: 1st September, 2021

To

Shri Deepak Prasad,
COO - Metal,
 M/s. Vedanta Limited,
 Village- Bhurkamunda, PO Kalimandir,
 District Jharsuguda, Orissa-768202.
 Tel: 06645-666634; E-mail: envvljsgsc@vedanta.co.in

Subject: Aluminium Smelter (from 16 LTPA to 18 LTPA); CPP (1215 MW) by adding 2 LTPA plant by **M/s. Vedanta Limited** located at Village Bhurkamunda, P.O. Kalimandir, **District Jharsuguda, Odisha – Show cause Notice (SCN) issued under section 5 of the Environment (Protection) Act, 1986 for violation of provisions of EIA Notification 2006 – reg.**

Sir,

Whereas Ministry of Environment, Forest and Climate Change (MoEF&CC) vide letter no J-11011/29/2007-IA II(I) dated 11th June 2008 accorded Environment Clearance (EC) to M/s. Vedanta Limited [*herein after referred to as Project Proponent*] for the project titled "Expansion of Aluminium Smelter (2.5 to 16 LTPA) and Captive Power Plant (675 MW to 1350 MW) at Bhurkamunda/Brundamal, Jharsuguda, Odisha by M/s. Vedanta Aluminium Limited" under the provisions of EIA Notification, 2006.

2. Whereas, the project proponent vide proposal no. IA/OR/IND/70259/2017 dated 03/11/2017 made online application along with the application in prescribed format (Form-I), copy of pre-feasibility report and proposed ToRs for undertaking detailed EIA study as per the EIA Notification, 2006 for the project titled "Aluminium Smelter (from 16 LTPA to 18 LTPA); CPP (1215 MW) by adding 2 LTPA plant by M/s. Vedanta Limited located at Village Bhurkamunda, P.O. Kalimandir, District Jharsuguda, Odisha".

3. Whereas, based on the recommendations of the Reconstituted Expert Appraisal Committee [REAC] (Industry-1), this Ministry granted ToR to the expansion proposal cited above vide letter of even no. dated 20/12/2017 to the project proponent.

4. Whereas, the Regional Office of the MoEF&CC at Bhubaneswar vide letter no.101-405/EPE/1620 dated 24/12/2020 furnished the certified compliance report with respect to the conditions prescribed in the EC dated 11/06/2008. As per said report, the project proponent is yet to comply with the following conditions:

010

- i. The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/t.
- ii. Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.
- iii. Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.
- iv. Rain water harvesting has not been carried out at the site by stating that the ground water table is high in the area and establishment of rain water harvesting structures may lead to flooding in the area.
- v. Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.
- vi. All the recommendation stated in the Charter on Corporate Responsibility for Environment Protection with respect to Aluminium sector is yet to be complied by the proponent.

5. Whereas, the project proponent vide proposal no. IA/OR/IND/222980/2017 dated 03/08/2021 made online application along with copy of EIA/EMP report, Form – 2 and certified compliance report of Regional Office dated 24/12/2020 seeking EC under the provisions of the EIA Notification, 2006 for the expansion proposal mentioned above.

6. Whereas, the expansion proposal cited above was considered during the 42nd meeting of the Re-constituted EAC (Industry-I) held on 12 – 13th August, 2021 and the REAC Committee recommended the following:

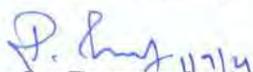
- i. Show Cause Notice shall be issued to the proponent for not complying with the following EC conditions prescribed in the EC letter dated 11/6/2008 as stated below:
 - The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/t.
 - Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.
 - Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.
 - Rain water harvesting has not been carried out at the site by stating that the ground water table is high in the area and establishment of rain water harvesting structures may lead to flooding in the area.
 - Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.

In addition to the above, PP also yet to comply with the following:

- Significant quantity of legacy ash stocks is still stored in the ash pond located at three different locations in the vicinity of the project site. No effort has been taken to quantify the legacy ash stocks and utilize the same.
- Secured Land Fill (SLF) is provided inside the smelter complex. SLF is being implemented in two phases. Phase I of 5000 m³ capacity started in 2010 was capped in Sept 2013. Phase II of SLF is now in operation. It started in May 2014 and has 5285 m³ space. No details of the material filled in SLF or the capacity available were provided. No information on plan for post expansion of SLF capacity, once the Phase II site is filled shall be furnished.

- There are three ash ponds sites in operation and PP has proposed to acquire large area for ash disposal in spite of new Fly Ash notification to utilize 100 % ash. Further, PP mentioned that they were utilizing 100 % Fly ash since 2018 and the pond ash shall be liquidated in next five years. In view of this, seeking additional land for ash disposal found to be not justifiable.
- ii. Proposal to be returned in its present form and the same would be considered by the EAC after the compliance to the existing EC conditions has been achieved by the Project Proponent.
7. Whereas, as per the Ministry's O.M. No. J-11015/286/2007-IA.II(I) dated 07/02/2020, any specific non-compliance is singled out while the project is being appraised by the EAC, the concerned sector shall issue Show Cause Notice (SCN) or take any other necessary action, as appropriate.
8. Whereas serious non-compliances of the stipulated environmental conditions mandate commensurate action; and
9. Now, therefore, under Section '5' of Environment (Protection) Act, 1986, you are hereby directed to show cause within **30 days** of receipt of this notice as to why the EC and ToR accorded to M/s. Vedanta Limited vide letter no. J-11011/29/2007-IA. II (I) dated 11/06/2008 and 20/12/2017 should not be revoked. In your response, it may also be clearly stated whether a hearing is required by the project proponent before a final order is passed by this Ministry. It may also be noted that if no response is received within **30 days**, appropriate orders, as may be deemed fit, will be passed and issued under the circumstances of the case without any further notice to you. Also, this show cause is without prejudice to any other legal action which may be taken against you.
10. This issues with the approval of the Competent Authority.

Yours faithfully,


(Sundar Ramanathan)
Scientist 'E'

Copy to:

1. Secretary, Department of Environment, Government of Odisha, Secretariat, Bhubaneswar.
2. Chairman, Central Pollution Control Board, Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, Delhi-110032.
3. Regional Officer, Ministry of Environment, Forest and Climate Change, Integrated Regional Office, A/3, Chandrasekharapur, Bhubaneswar – 751023.
4. Chairman, Odisha State Pollution Control Board, Parivesh Bhawan, A/118 Nilakantha Nagar, Unit-VIII, Bhubaneswar-751012.
5. Member Secretary, Central Ground Water Authority, A2, W3 Curzon Road Barracks, K.G. Marg, New Delhi-110001.
6. District Collector, Jharsuguda District, Odisha.
7. Guard File/Record File/Monitoring File.
8. MoEF&CC Website


(Sundar Ramanathan)
Scientist 'E'



VL/MoEF/006/2021-027
September 29, 2021.

To
The Scientist 'E',
Ministry of Environment, Forest & Climate Change (Impact Assessment Division- I)
2nd Floor, Vayu wing
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi – 110 003

Sub.: **Reply to the Show-Cause Notice dated 1st September 2021.**

- Ref.: 1) Show Cause Notice dated 1st September, 2021 (Bearing Ref. No. F. No. J-11011/29/2007-IA.II(I) issued by MoEF&CC , New Delhi.
- 2) Our Earlier Letter no. VL/MoEF/006/2021-024 dated 26.08.2021 regarding submission of Action Plan (**Annexure A**).
- 3) Minutes of Meeting dated 25.08.2021 of the 42nd meeting of REAC held o13th August 2021.
- 4) Examination of Reply No. 101-405/EPE/91 dated 18th January 2021 issued by the Eastern Regional Office, Bhubaneshwar of the MoEF&CC. (**Annexure B**)
- 5) Our Action Taken Report submitted to Regional Office, MoEF&CC vide Letter No. VL/MoEF/006/2021-001 dated 05.01.2021. (**Annexure – C**)
- 6) Terms of Reference (TORs) accorded by MoEF&CC vide Letter No. F. No. J-11011/29/2007-IA-II(I)) dated 20.12.2017 to Vedanta Ltd.
- 7) EC No. J-11011/29/2007-IA. II(I) dated 11.06.2008
- 8) EC No. J-11011/144/2006-IA.II(I) dated 07-03-2007

Respected Sir,

We are in receipt of the Show Cause Notice dated 1st September, 2021 bearing Ref. No. F. No. J-11011/29/2007-IA.II(I) issued by the Impact Assessment Division, Ministry of Environment, Forest & Climate Change, Government of India. under Section 5 of the Environment (Protection) Act, 1986.


Vedanta Limited, Jharsuguda

Vill- Bhurkamunda, P.O- Kalimandir, Dist- Jharsuguda (Odisha)- 768202
T +91-664 566 6000 F +91-664 566 6267 www.vedantalimited.com

Page: 1/9

It is humbly submitted that we are committed to the best Environment Management Systems including Air, Water and Solid Waste Management. We have adopted the Vedanta Sustainability Framework (VSF) comprising of best environment practices as is being followed by leading Natural Resources Companies in India and abroad. Our Environment Management, Energy Conservation and Sustainability practices have been recognized by the Government and also by the various trade bodies / associations. We have also laid down procedures and standard operating practices regarding Water, Air and Waste Management in line with international standards in our Integrated Management Systems (IMS) comprising of ISO 9001 (Quality Management System), ISO 14001 (Environment Management System) and OHSAS 18001 (Occupational Health and Safety Assessment System).

It is also submitted that we have embarked on sustainability journey more than a decade ago and as a part of overall design and framework, we recognize Environment, Social and Governance (ESG) as an important pillar that guides our business decisions. We aim not only to be ESG compliant but aspire to become an Industry leader in having sustainable operations and governance. ESG is our organization's biggest priority, and we wish to make this a foundation for all our decision making effectively embedding it into our DNA.

As a socially responsible entity, we have endeavoured to promote living standards and cultural development and several initiatives have been implemented to bring about a tangible positive difference in the spheres of health, education, livelihood, infrastructure, women empowerment, sports, and culture. The outreach of the various programs has benefited over 69 villages from 3 blocks of District Jharsuguda. In addition to our contributions to economy through our products and services, we have also contributed an amount of Rs. 8489 Crores to the State and Central exchequer during the past 3 financial years. Moreover, the Company has an overall employment impact on around 16,000 people with 4,000 direct employees and around 12,000 contractual employees. Out of the same, around 5195 persons have been employed from Jharsuguda and local affected villages and more than 90% of our unskilled workforce is from Odisha. We have also awarded around 200 contracts to local people amounting to a value of Rs. 503 Crores.

We have submitted detailed response on the observations made by REAC on 26.08.2021, vide Letter bearing Ref. No. VL/MoEF/006/2021-024 along with a detailed time-bound action plan for redressal of the non-compliance.

In view of the specific concerns and issues pointed out in the Show Cause Notice, and the directions under Para 9 thereof, we are hereby submitting following para wise reply and also seeking an opportunity of a personal hearing before a final order is passed by the Ministry:



1. The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/T.

Response:

Over the last three years, we have reduced our specific fluoride consumption from 12.26 to 10.78 Kg/T Al. We are currently achieving Specific Fluoride consumption of less than 9 Kg/T Al in 4 out of 6 Potlines by improving operational efficiency, bath temperature control, optimized thermal modelling and improved pot redressing practices.

In addition to this, we have already commenced the following 2 projects and work is under implementation to bring down the overall fluoride consumption to less than 10 Kg/T Al across 6 potlines. (Target Completion – August 2022)

- A. Smart Pot implementation through GE.
- B. Development of latest pot controller, 1st time in India by LMRC, Auckland, New Zealand.

It is important to mention that the proposed expansion of 66 pots is aimed at modernizing the technology used in the potline and include the abovementioned Smart Pot and Pot Controller technology. This addition of 66 pots will in turn bring down the fluoride consumption and also the pollution load per ton of metal produced.

Further, we are also in advanced stages of discussion with our OEM regarding revamping of one Fume Treatment Plant (FTP) on a trial basis to reduce AIF₃ consumption for which the contract will be placed by 25th October 2021. Consequently, the revamping of other FTPs shall be taken up based on the successful completion of the aforementioned trial.

2. Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.

Response:

Spent Pot Lining (SPL) consists of 2 parts – SPL Carbon and SPL Refractory. At present, we have a stock of around 40,000 MT of SPL Carbon and have already awarded a contract for disposal of 40000 MT of SPL Carbon to M/s Green Energy Resources which is the only authorized re-processor for SPL Carbon in the State of Odisha. Around 10270 MT of SPL Carbon has already been disposed till date. Moreover, disposal has been stepped up in last the



2 months at the average rate of 2000 MT per month against current generation of 1500 MT per month. It is further being expedited for faster disposal and utilization.

For SPL Refractory, there is no such approved disposal methodology and we have received permission to store it in covered sheds till an approved disposal mechanism is in place. M/s Ramky TSDF is conducting one such trial for disposal of SPL Refractory part pursuant to obtaining trial run permission from Odisha State Pollution Control Board.

Furthermore, as per the Minutes of Meeting of the 20th Technical Expert Committee of the CPCB held in July 2020 for "Evaluation of proposal for utilization hazardous and other wastes as per the Hazardous and Other Waste (Management & Transboundary Movement) Rules, 2016 (HOWM Rules, 2016)", it has been clarified that SPL from Aluminium Smelters for co-processing in cement industries shall be carried out as per CPCB "Guidelines for pre-processing and co-processing of hazardous and other waste in cement plant. In reference to the aforementioned clarification, we sought permission from the OSPCB on 08.03.2021 for disposal of SPL to Cement Plants. However, the OSPCB vide Letter No. 6620 dated 26.04.2021 has denied permission for sending SPL to cement plants citing reason that our industry has not been authorized to dispose Carbon/ Refractory portion of SPL in cement plant by this board for co-processing. We are actively pursuing the matter with the OSPCB for obtaining permission in this regard. We are also pursuing this issue through industry associations as all Aluminium Smelters are suffering from the same issue.

We have tied up with Ambuja Cements, Bhatapara, Chhattisgarh for disposal of 5,000 MT of SPL for coprocessing and order is in place, while we are awaiting the permission from OSPCB for the same. It must also be noted that Cement Plants in Odisha are yet to receive authorization for co-processing of SPL. We are independently and collectively engaging with Cement Plants to obtain authorization for utilization of SPL. It is humbly submitted that the disposal rate of SPL shall substantially increase once the authorization is granted.

We have also sought an in-principal approval from OSPCB vide letter dated 22.09.2021 for setting up of SPL treatment facility in our plant premises by M/s Green Mac Technologies, Raipur as per approved procedure of CPCB for detoxification and further utilization by cement and steel industries.

3. Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.

Response:



4/9

We have achieved 27% Green Plantation comprising of 3,64,267 trees within our premises over 229 Ha out of required 275 Ha. Additional plantation of 3,50,000 nos. of saplings is being executed at the site for which we have sourced saplings from the Odisha Forest Department. Till date, we have received a supply of 1,65,720 Saplings from the Forest Department out of which about 1,60,895 saplings have already been planted. Few photographs of the recent plantation is enclosed herewith as **Annexure D**). Balance 1,89,105 saplings will be planted by 15th November 2021. Additionally, a contract has also been placed for care and maintenance of the abovementioned plantations to achieve and sustain more than 95% survival rate. It is further to be noted that we are planting local species i.e. neem, karanj, sissoo, Bakul, Phasi, Kadam, Arjun, Bela, Alstonia, Mahaneem, Jamun. Etc.

4. Rainwater harvesting has not been carried out at the site by stating that the ground water table is high in the area and establishment of rainwater harvesting structures may lead to flooding in the area.

Response:

It is humbly submitted that we have already commissioned one rooftop rain-water harvesting facility which is in operation since March 2021 and the water collected is being treated and reused in the process. Furthermore, we are constructing additional 6 nos. of rooftop rain-water harvesting facilities vide Purchase Order (PO) No. 5600001928 dated 26.08.2021 & 5600001932 dated 01.09.2021, of which 3 nos. of rainwater harvesting facilities will be completed by 30th October 2021 and the balance 3 facilities will be completed by 30th November 2021. A schematic diagram of the rooftop rain-water harvesting facility is annexed herewith as **Annexure E**.

5. Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.

Response:

The Principle Chief Conservator of Forests, (Wildlife) and Chief Wildlife Warden, Odisha has approved the site-specific wildlife conservation plan on 30.04.2021 with a financial forecast of Rs. 610.894 lakhs to be spent for implementation by the Forest Department for this plan.

Accordingly, as per the demand raised by the District Forest Officer, Jharsuguda, an amount of Rs. 530.904 lakhs have been deposited on 17.05.2021 towards implementation of the abovementioned plan over a period of 10 years. The plan is under implementation by office of DFO.



5/9

6. Significant quantity of legacy ash stocks is still stored in the ash pond located at three different locations in the vicinity of the project site. No effort has been taken to quantify the legacy ash stocks and utilize the same.

Response:

We have been achieving an average of 115% Fly Ash utilization over the past 3 financial years wherein 37 Lakh MT of Legacy Ash has also been utilized along with current generation. Around 127 Lakh MT of Legacy Ash is stored in the Ash ponds located at Kurebaga, Katikela and Siriapalli, for which the utilization is targeted to be completed within next 6 years in phased manner with more than 100% ash utilization including current generation.

For FY 2021-22, we will be utilizing around 120 Lakh MT ash against the expected annual generation of 90 Lakh MT in different avenues such as;

- | | |
|----------------------------------|------------|
| a. Cement Plants | – 2.5 LMT |
| b. Brick manufacturing | – 1.2 LMT |
| c. Infra projects | – 2.5 LMT |
| d. Mine filling | – 20.0 LMT |
| e. Reclamation of Low-lying area | – 93.8 LMT |

It is to be noted that we have already identified the low-lying areas for reclamation with ash and have been granted the requisite permissions/consents from OSPCB for the same. Simultaneously, we are continuously following up with MCL and OSPCB to grant us permission to fill up their Mines void at Brajarajnagar, Odisha which is at a distance of 30 km away from our plant premises.

7. SLF is provided inside the smelter complex. SLF is being implemented in two phases. Phase I of 5000 m3 capacity started in 2010 was capped in Sept 2013. Phase II of SLF is now in operation. It started in May 2014 and has 5285 m3 space. No details of the material filled in SLF or the capacity available were provided. No information on plan for post expansion of SLF capacity once the Phase II site is filled shall be furnished.

Response:

The secured landfill (SLF) has been implemented at our site in 2 phases. Phase 1 of the SLF was majorly filled with Spent Pot Lining (SPL) which got exhausted in September 2013 and was subsequently capped.

6/9



We have disposed around 2063.709 MT of hazardous waste in SLF Phase 2 from 2014 onwards till March 2021. The details of the same are as follows:

Details of Hazardous Wastes Disposed to SLF								
Hazardous Wastes	UOM	2020-21	2019-20	2018-19	2017-18	2016-17	2015-16	2014-15
SPL (Cathode Residue)	MT	0	0	0	0	0	0	0
ETP Sludge	MT	0	0	0	0	0	27.443	28.500
Housekeeping Waste	MT	0	0	0	69.450	315.10	230.05	339.60
Rejected Filter Bags	MT	0	0	0	0	0	0	0
Rejected AlF3 Bags	MT	0	0	0	0	0	0	0
Coke Dust	MT	0	0	0	0	218.29	95.000	0.000
Spent Resin	MT	0.722	12.547	2.162	0	0.024	1.349	15.958
Shot Blasting Dust	MT	0	0	0	0	7.990	234.23	161.00
Drain Cleaning Sludge	MT	0	0	0	0	173.04	51.303	79.500
Ladle cleaning residue	MT	0	0	0	0	0	0	0.450
Total Quantity	MT	0.722	12.547	2.162	69.450	714.446	639.374	625.008

However, we have stopped sending SPL to SLF from 2104 onwards and the same is being stored under covered sheds for disposal to the authorized re-processors. Similarly, other hazardous wastes such as ETP Sludge, Housekeeping Waste, Drain Cleaning Sludge, Shot Blasting Dust are being sent to Common Hazardous Waste Treatment, Storage and Disposal Facility (TSDF) operated by M/s Ramky Enviro Engineers Ltd at Sukinda, Dist – Jajpur, Odisha.

At present, only a small quantity of hazardous waste such as Spent Resin is being sent to the SLF Phase 2. The present SLF Phase 2 has sufficient capacity to cater to the requirement of the current project and hence no further expansion of the SLF is required as most of the hazardous wastes are being sent to the Common Hazardous Waste TSDF operated by M/s Ramky at Sukinda.

8. There are three ash ponds sites in operation and PP has proposed to acquire large area for ash disposal in spite of new Fly Ash notification to utilize 100 % ash. Further, PP mentioned that they were utilizing 100 % Fly ash since 2018 and the pond ash shall be



7/9

liquidated in next five years. In view of this, seeking additional land for ash disposal found to be not justifiable.

Response:

We are not proposing for any new land parcel as Ash Pond as we are currently achieving more than 100 % ash utilization. Further, there is no expansion with respect to power plant capacities in the current expansion proposal. We have proposed a 100 MW Solar power project at the earmarked land parcel of Gudigaon for generating green energy and reducing our carbon footprint.

Apart from above, we are also proposing to close Kurebaga Ash Pond -1 by the end of Financial Year 2021-22 and reclaim the same with plantation to reduce the ash pond area, increase the green belt cover and reduce the burden of legacy ash.

Conclusion

We conclude by *firstly* stating that the Show Cause Notice has been issued without taking into account two critical documents which should have been duly considered, namely a) The Examination of Reply of the Regional Office of the Ministry dated 18.01.2021; and b) Our Letter dated 26.08.2021 responding to the observations made in the 42nd EAC Meeting and apprising the Ministry of the remedies adopted by us to effectively comply with the conditions of the EC Conditions. It is requested that the MoEF&CC considers the expedited actions undertaken by us and the representations made which evidence the firm commitment by us to ensure compliance.

Secondly, in view of the aforesaid response, we humbly state that we have endeavoured to take tangible efforts to substantially comply with the EC conditions which have been adumbrated in the Show Cause Notice. In fact, the Monitoring Report of the Regional Officer of the Ministry, had *inter alia* noted that many of the conditions of the previous applicable EC were *being complied with and/or partially complied*.

We would like to reiterate that Vedanta Limited, Jharsuguda has taken necessary steps for ensuring compliances, incurring huge Capex and Opex to the quantum of Rs. 1,259 Crs in the last five years. Through our sustained efforts and cohesive operational scrutiny, we are certain that we are diligently examining and complying with the environmental norms which are applicable on us vide the EC and the TOR, ensuring that there is no laxity on our part. We humbly request you to re-consider the above-mentioned time bound action plan for redressal of compliances which are being scrupulously adhered by us and kindly cessate from taking any



further coercive steps in this regard. We once again re-assure and re-iterate our commitment on zero tolerance towards non-compliances and addressing the same within the time frame as submitted.

In view of the aforesaid facts and circumstances, it is humbly requested that the Show Cause Notice dated 1st September 2021 issued under Section 5 of the Act may kindly be withdrawn and there be cessation of any further coercive action against us.

Request for Hearing: We also request that an opportunity for personal hearing before the concerned authorities be granted to validate our submissions and produce any additional document/information to establish our case before any final order is passed by the Ministry.

Thanking you,

Yours faithfully,

For **Vedanta Limited**



Deepak Prasad

Dy. Chief Executive Officer,
Vedanta Ltd., Jharsuguda

CC:

- 1) Secretary, Department of Environment, Govt of Odisha, Secretariat, Bhubaneswar,
- 2) Chairman, CPCB, Parivesh Bhavan, CBD Cum Office Complex, East Arjun Nagar, Delhi-110032
- 3) Regional Officer, MOEF & C, Integrated Regional Office, A/3, Chandrasekharpur, Bhubaneswar-751023
- 4) Chairman, OSPB, Parivesh Bhavan, A/118, Nilakantha Nagar, Unit-8, Bhubaneswar-751012.
- 5) Member Secretary, CGWA, A2, W3, Curzon Road Barracks, KG Marg, New Delhi-110001.
- 6) Dist. Collector, Jharsuguda District, Odisha.

9/9



VL/MoEF/006/2021-024
August 26th, 2021.

To
The Director,
Ministry of Environment, Forest & Climate Change (Impact Assessment Division- I)
2nd Floor, Vayu wing
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi – 110 003

Sub.: Submission of Action Plan w.r.t observation made in minute of meeting of 42nd EAC on Environmental Clearance of Expansion of Smelter Plant from 16 to 18 LTPA, 1215 MW CPP of M/s Vedanta Limited at Bhurkamunda Village, PO – Kalimandir, Dist- Jharsuguda, Odisha.

Ref.: 1. Expansion Proposal No. IA/OR/IND/222980/2017 dtd. 03.08.2021, File No. J-11011/29/2007-IA.II(I)
2. Minutes of Meeting of 42nd EAC dated 13th August 2021 on expansion of Smelter plant.
3. Our letter no. VL/ MOEF/ 006/2021-023 dated 17th August 2021.

Respected Sir,

Vedanta is committed to the best Environment Management Systems including Air, Water and Solid Waste Management. It has adopted the Vedanta Sustainability Framework (VSF) comprising of best environment practices as is being followed by leading Natural Resources Companies in India and abroad. The Environment Management, Energy Conservation and Sustainability practices of the Vedanta Limited have been recognized by the Government and also by the various trade bodies / associations. We have also laid down procedures and standard operating practices regarding Water, Air and Waste Management in line with international standards in our Integrated Management Systems (IMS) comprising of ISO 9001 (Quality Management System), ISO 14001 (Environment Management System) and OHSAS 18001 (Occupational Health and Safety Assessment System).

Vedanta embarked on its sustainability journey more than a decade ago and as a part of overall design and framework, we recognize Environment, Social and Governance (ESG) as an important pillar that guides our business decisions. We aim not only to be ESG compliant but aspire to become an Industry leader in having sustainable operations and governance. ESG is our organization's biggest priority, and we wish to make this a foundation for all our decision making effectively embedding it into our DNA.

With reference to Minutes of meeting of 42nd EAC dated 13th August 2021 regarding our proposal for expansion of Aluminium Smelter from 16 to 18 LTPA at Jharsuguda, Hon'ble EAC committee has made few observations on compliances of conditions of existing Environmental Clearance dated 11/06/2008.

Vedanta Limited, Jharsuguda

Vill- Bhurkamunda, P.O- Kalimandir, Dist- Jharsuguda (Odisha)- 768202
T +91-664 566 6000 F +91-664 566 6267 www.vedantalimited.com

Registered Office: Vedanta Limited 1st Floor, 'C' wing, Unit 103, Corporate Avenue, Atul Projects, Chakala, Andheri (East), Mumbai 400093, Maharashtra, India,
CIN: L13209GA1965PLC291394

In this regard, in continuation to our earlier letter dated 17th August 2021 (Copy enclosed with annexures), we would like to submit our detailed response on each of the observations raised by the EAC hereunder:

SI No.	EAC Observations	Status and Action Plan
1	<p>The fluoride consumption in the Smelter Plant is presently at 10.78 Kg/T Al, which is not in compliance to Charter on Corporate Responsibility for Environment Protection (CREP) guideline. Fluoride consumption shall be brought down to CREP standards of less than 10 kg/t.</p>	<p>Four Projects pertaining to improving hooding efficiency, bath temperature control, optimized thermal modelling and improved pot redressing practices in order to reduce the Fluoride consumption have already been executed in four potlines where we are achieving 8.5 Kg/T and is being implemented in rest of the 2 potlines.</p> <p>In addition to this, we are executing the following 2 projects to bring down the fluoride consumption to less than 10 Kg/T;</p> <p>a. Smart pot implementation through GE by December 2021.</p> <p>b. Development of latest pot controller, 1st time in India by LMRC, Auckland, New Zealand by August 2022.</p>
2	<p>Utilization of spent pot lining waste by the cement and steel industries are yet to be implemented.</p>	<p>We have sought permission from OSPCB on 08.03.2021 for disposal of SPL to Cement Plants. (Copy of the Letter enclosed). However, OSPCB vide Letter No. 6620 dated 26.04.2021 has denied permission for sending SPL to cement plants citing reason that our industry has not been authorized to dispose Carbon/ Refractory portion of SPL in cement plant by this board for co-processing. We are pursuing the matter with OSPCB for permission in this regard. We are also pursuing this issue through industry associations.</p> <p>In parallel to above, Contract has been placed with Ambuja Cements, Bhatapara to dispose 5,000 MT SPL for co-processing in cement plant. We are actively engaging with other cement plants for utilization of SPL.</p> <p>Additionally, contract has been awarded for disposal of 40,000 MT of SPL Carbon Part to M/s Green Energy Resources out of which they have already lifted 6,000 MT of SPL carbon. It is being expedited for faster disposal and utilization. (Copy of Contract enclosed).</p> <p>Ramky TSDF is conducting Trial Run for disposal of SPL Refractory Part pursuant to permission of OSPCB. Full Scale operation permission is targeted by December 2021.</p> <p>Green Mac Technologies, Raipur is in process to set up SPL treatment facility in our plant premises based on approved SOP of CPCB.</p>

3	Project proponent has only achieved green belt development in 27% of the total area as against the 33% requirement.	<p>So far we have achieved 27 % Green belt comprising of 3,64,267 nos of trees within our plant premises over 229 Ha out of required 275 Ha.</p> <p>Additional 3,50,000 nos plantation being executed through firm contract vide Agreement/PO dated 17.08.2021 on Forest Department, Govt of Odisha and plantation is under progress for completion by Oct 2021 to fulfill 33% requirement.</p> <p>Around 20000 tree saplings have been planted in last 5 days.</p>
4	Rainwater harvesting has not been carried out at the site by stating that the ground water table is high in the area and establishment of rainwater harvesting structures may lead to flooding in the area.	As per the CGWA guidelines, recharge of water into the ground is not permitted for our type of industry. So, in order to comply, we are constructing 6 roof top rain water harvesting structures vide PO no. 5600001928 dated 26.08.2021 which will be operational by March 2022. One such structure is already in operation and the water collected is being treated and reused in the process.
5	Prior permission from the State Forest Department regarding impact of the existing project has been obtained till date.	<p>PCCF (Wildlife) and Chief Wildlife Warden, Odisha has approved site-specific wildlife conservation on 30.04.2021 with a financial forecast of Rs. 610.894 lakhs to be spent for implementation by the Forest Department for this plan.</p> <p>Accordingly, as per the demand raised by DFO, Jharsuguda an amount of Rs. 530.904 lakhs have been deposited on 17.05.2021 towards implementation of this plan. The plan is under implementation.</p>
6	All the recommendation stated in the Charter on Corporate Responsibility for Environment Protection with respect to Aluminium sector is yet to be complied by the proponent.	All the recommendation stated in the Charter on Corporate Responsibility for Environment Protection w.r.t Aluminium Sector is complied except for SPL Disposal and Specific Fluoride consumption, against which detailed action plan has been submitted as above.
7	Significant quantity of legacy ash stocks is still stored in the ash pond located at three different locations in the vicinity of the project site. No effort has been taken to quantify the legacy ash stocks and utilize the same.	<p>Ash utilization of more than 100% is being done from 2017-18 onwards wherein 3.7 million Ton of legacy ash has been utilized.</p> <p>Rest ~ 12.7 Million Ton of legacy ash is stored in the Ash Ponds located at 3 different locations, for which the disposal is targeted to be completed within next 6 years in phased manner with more than 100% ash utilization.</p> <p>For FY 2021-22, we are utilizing ash (legacy + present) in different avenues such as;</p> <ul style="list-style-type: none"> a. Cement Plants – 2.5 LMT b. Brick manufacturing – 1.2 LMT c. Infra projects – 2.5 LMT d. Mine filling- 20.0 LMT e. Low lying area filling – 93.8 LMT

8	<p>SLF is provided inside the smelter complex. SLF is being implemented in two phases. Phase I of 5000 m3 capacity started in 2010 was capped in Sept 2013. Phase II of SLF is now in operation. It started in May 2014 and has 5285 m3 space. No details of the material filled in SLF or the capacity available were provided. No information on plan for post expansion of SLF capacity, once the Phase II site is filled shall be furnished.</p>	<p>As per the permission of OSPCB, SPL along with other Hazardous wastes were disposed in SLF Phase-1 having capacity of 5,000 m3, which got exhausted in September 2013 and subsequently capped.</p> <p>We have disposed around 2063.709 MT of Hazardous waste in SLF Phase II from 2014 onwards till March 2021. About 4000 m3 out of total capacity of 5285 m3 is further available for disposal of Hazardous wastes. Year wise details of Hazardous wastes disposed to SLF II is as mentioned below as ##;</p> <p>However, pursuant to Hazardous Waste Rules, 2016, we stopped sending SPL to SLF and the same is being stored under covered sheds for disposal to Authorized re-processors. Similarly, other Hazardous wastes such as ETP Sludge, Housekeeping waste, Drain Cleaning Sludge, Shot blasting dust are being sent to Common Hazardous wastes TSDf operated by Ramky Enviro Engineers Ltd at Sukinda, Dist – Jajpur, Odisha.</p> <p>At present, a small quantity of hazardous waste such as Spent resins is being sent to SLF. The present SLF phase II has sufficient capacity to cater to the requirement of the complete project and hence no expansion of SLF is required.</p>							
	##. Details of Hazardous Wastes Disposed to SLF								
	Hazardous Wastes	UOM	2020-21	2019-20	2018-19	2017-18	2016-17	2015-16	2014-15
SPL (Cathode Residue)	MT	0	0	0	0	0	0	0	0
ETP Sludge	MT	0	0	0	0	0	0	27.443	28.500
Housekeeping Waste	MT	0	0	0	69.450	315.100	230.049	339.600	
Rejected Filter Bags	MT	0	0	0	0	0	0	0	0
Rejected AlF3 Bags	MT	0	0	0	0	0	0	0	0
Coke Dust	MT	0	0	0	0	218.290	95.000	0.000	
Spent Resin	MT	0.722	12.547	2.162	0	0.024	1.349	15.958	
Shot Blasting Dust	MT	0	0	0	0	7.990	234.230	161.000	
Drain Cleaning Sludge	MT	0	0	0	0	173.042	51.303	79.500	
Ladle cleaning residue	MT	0	0	0	0	0	0	0.450	
Total Quantity	MT	0.722	12.547	2.162	69.450	714.446	639.374	625.008	
9	<p>There are three ash ponds sites in operation and PP has proposed to acquire large area for ash disposal in spite of new Fly Ash notification to utilize 100 % ash. Further, PP mentioned that they were utilizing 100 % Fly ash since 2018 and the pond ash shall be liquidated in next five years. In view of this, seeking additional land for ash disposal found to be not justifiable.</p>	<p>We are not proposing for any new land parcel as Ash Pond as we are currently achieving more than 100 % ash utilization. Further, there is no expansion with respect to power plant capacities in the current expansion proposal. Apart from above, we are also proposing to close Kurebaga Ash Pond -1 and reclaim with plantation on the same to reduce the ash pond area, increase the green belt cover and reduce the burden of legacy ash.</p>							



In view of the above, we would like to reiterate that Vedanta Limited, Jharsuguda has taken necessary steps for ensuring compliances, incurring huge Capex and Opex to the quantum of Rs. 1259 Crs in the last five years. Through our sustained efforts and cohesive operational scrutiny, we are certain that we are diligently examining and complying with the environmental norms which are applicable on us, ensuring that there is no laxity on our part. It may also be considered that in the current expansion from 1.6 to 1.8 MTPA, we are spending Rs. 1240 Crs. out of which Rs.157 Crs. is exclusively being spent towards the implementation of environmental management plan.

We humbly request you to consider the above-mentioned time bound action plan for redressal of compliances which are being scrupulously adhered to by Vedanta we urge your good office to kindly refrain from issuing any show cause notice to Vedanta Limited and cessate from taking any further coercive steps in this regard. We once again re-assure and re-iterate our commitment on zero tolerance towards non-compliances and addressing the same within the time frame as submitted.

We shall remain grateful for your kind consideration.

Thanking you,

Yours faithfully,

For **Vedanta Limited**



Deepak Prasad

Dy. Chief Executive Officer.

CC: Mr. Sujit Kumar Bajpayee.
Joint Secretary – MOEF & CC.

Encl: As above.

Vedanta Limited, Jharsuguda

Vill- Bhurkamunda, P.O- Kalimandir, Dist- Jharsuguda (Odisha)- 768202
T +91-664 566 6000 F +91-664 566 6267 www.vedantalimited.com

Registered Office: Vedanta Limited 1st Floor, 'C' wing, Unit 103, Corporate Avenue, Atul Projects, Chakala, Andheri (East), Mumbai 400093, Maharashtra, India.
CIN: L13209GA1965PLC291394

VL/MoEF/006/2021-023
August 17, 2021.

To
The Director,
Ministry of Environment, Forest & Climate Change (Impact Assessment Division)
2nd Floor, Vayu wing
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi – 110 003

श्री. वयु. अंशुमान द्वारा प्राप्त किया
Received by CR Section
पर्यावरण, वन्य जलसम्पु परिवर्तन मंत्रालय
Ministry of Environment, Forests & Climate Change
भारत सरकार/Covt. of India
इन्दिरा पर्यावरण भवन/Indira Paryavaran Bhawan
जोर्बाग रोड/जोर्बाग रोड, अलीगढ़
नई दिल्ली/नई दिल्ली-110003

Sub: **Submission of Action Plan w.r.t observations raised during 42nd EAC meeting regarding Environmental Clearance of Proposed Expansion of Smelter Plant from 16 to 18 LTPA, 1215 MW CPP of M/s Vedanta Limited at Bhurkamunda Village, Dist- Jharsuguda, Odisha.**

Ref.: Proposal No. IA/OR/IND/222980/2017 dtd. 03.08.2021, File No. J-11011/29/2007-IA.II(I)

Respected Sir,

Vedanta is committed to the best Environment Management Systems including Air, Water and Solid Waste Management. It has adopted the Vedanta Sustainability Framework (VSF) comprising of best environment practices as is being followed by leading Natural Resources Companies in India and abroad. The Environment Management, Energy Conservation and Sustainability practices of the Vedanta Limited have been recognized by the Government and also by the various trade bodies / associations. We have also laid down procedures and standard operating practices regarding Water, Air and Waste Management in line with international standards in our Integrated Management Systems (IMS) comprising of ISO 9001 (Quality Management System), ISO 14001 (Environment Management System) and OHSAS 18001 (Occupational Health and Safety Assessment System).

Vedanta embarked on its sustainability journey more than a decade ago and as a part of overall design and framework, we recognize Environment, Social and Governance (ESG) as an important pillar that guides our business decisions. We aim not only to be ESG compliant but aspire to become an Industry leader in having sustainable operations and governance. ESG is our organization's biggest priority, and we wish to make this a foundation for all our decision making effectively embedding it into our DNA.

With reference to above, it is to note that proposal for expansion of Aluminium Smelter from 16 to 18 LTPA at Jharsuguda was appraised recently in 42nd Meeting of Hon'ble Expert Appraisal Committee, Industry -1. During this meeting few issues of existing Environmental Clearance condition were discussed, on which we were advised to submit firm action plan for redressal. In this regard, we would like to brief that Vedanta Limited, Jharsuguda has taken necessary steps for ensuring compliances incurring huge Capex and Opex to the quantum of 1259 Crs in the last five years and ensured for complying environment norms. In the current expansion from 1.6 to 1.8 MTPA, we are spending Rs. 1240 Crs and out of that Rs.157 Crs is being spent towards implementation of environmental management plan. We are enclosing herewith a time bound action plan to address all the pending issues for effective resolution with necessary documentary evidence in a tabular form as attached in Annexure I for your kind reference.

Vedanta Limited, Jharsuguda

Vill- Bhurkamunda, P.O- Kalimandir, Dist- Jharsuguda (Odisha)- 768202
T +91-664 566 6000 F +91-664 566 6267 www.vedantalimited.com

Registered Office: Vedanta Limited 1st Floor, 'C' wing, Unit 103, Corporate Avenue, Atul Projects, Chakala, Andheri (East), Mumbai 400093, Maharashtra, India.

CIN: L13209GA1965PLC291394

We request you to kindly take the note of above-mentioned action plan for redressal of compliances and consideration of expansion proposal. We once again re-assure and re-iterate our commitment on zero tolerance towards non-compliances and addressing the same within the time frame as submitted.

We shall remain grateful for your kind consideration on the demonstration of expedited progress and taking up proposal in October 2021 month EAC meeting.

Thanking you,

Yours faithfully,

For Vedanta Limited



Deepak Prasad
Dy. Chief Executive Officer

CC: Mr. Sujit Kumar Bajpayee
Joint Secretary- MOEF

-TRUE COPY-

Vedanta Limited, Jharsuguda

Vill- Bhurkamunda, P.O- Kalimandir, Dist- Jharsuguda (Odisha)- 768202
T +91-664 566 6000 F +91-664 566 6267 www.vedantalimited.com

Registered Office: Vedanta Limited 1st Floor, 'C' wing, Unit 103, Corporate Avenue, Atul Projects, Chakala,
Andheri (East), Mumbai 400093, Maharashtra, India.

CIN: L13209GA1965PLC291394

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

.....

ORIGINAL APPLICATION No.151/2016/EZ

IN THE MATTER OF:

1. Non Violence Again
Represented by its Managing Trustee Ms Puspa Sahani,
HIG-B/41, Kalinga Vihar,
Phase-III, Chhend colony,
Rourkela, Sundargarh,
Odisha-769015
2. Jagannat Bhoi,
Son of late Sitaram Bhoi
At Dalaki, PO Kalimandir Road,
Dist. Jharsuguda, Odisha, PIN 768202.

.....Applicants

V e r s u s

1. Vedanta Limited,
(Formerly Vedanta Aluminium Ltd.)
1st Floor, Module C/2, Fortune Tower,
Bhubaneswar- 751023, Odisha
2. State of Odisha
Represented by Principal
Secretary, Forest and Environment
Deptt. Secretariat Building,
Bhubaneswar-751001
3. Union of India,
Through the Secretary,
M/o Environment & Forest, Climate Change,
Indira Paryabaran Bhawan, Jorbag
New Delhi-110 003
4. The District Collector, Jharsuguda,
Odisha-768201
5. The Principal Chief Conservator of Forests,
Forest Deptt. Govt. of Odisha,
Aranya Bhawan, Bhubaneswar,
Odisha-751923
6. The Divisional Forest Officer,
Jharsuguda, PO Jharsuguda

7. The Member Secretary,
Odisha State Pollution Control Board,
A-118, Nilakantha Nagar,
Bhubaneswar-751012

.....Respondents

COUNSEL FOR APPLICANTS:

Mr. Sankar Prasad Pani, Advocate

COUNSEL FOR RESPONDENTS:

Mr. Siddhartha Mitra, Senior Advocate for Respondent No. 1

Mr. Deepan Kumar Sarkar, Advocate

Mr. Souvik Kundu, Advocate

Mr. Deepak Kumar Pani, Advocate, Respondents No. 2,4 & 6

Mr. Gora Chand Roy Chowdhury, Advocate, Respondent No. 3

Ms. S. Roy, Advocate

Mrs. Papiya Banerjee Bihani, Advocate, Respondent No. 7

JUDGMENT

PRESENT:

Hon'ble Mr. Justice S.P.Wangdi, Judicial Member

Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

Reserved On: 01 .11.2017
Pronounced On: 13 .11.2017

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

Prof. (Dr) P.C. Mishra (EXPERT MEMBER)

1. The Application was preferred, under Section 18 (1) read with Section 14 (1) and 15 of the National Green Tribunal Act, 2010 (in short, NGT Act) by two Applicants, one registered Non-Profit Organization (in short, NGO) named “Non-Violence Again” represented by its Managing Trustee, Ms. Puspa Sahani, and other Sri Jagannat Bhoi. The NGO Applicant works for affected communities who are facing crises and challenges from environmental threats where as Sri Jagannat Bhoi, the 2nd Applicant is a local tribal who has brought to the notice of the State and Union Government the alleged illegal and unauthorized use of forest land in Jharsuguda by the Respondent No.1, Vedanta Limited.

2. The Applicant would state that the Respondent No.1, Vedanta Ltd. formerly known as Vedanta Alumina Ltd. used 246.74 acres of forest land in Khata No. 108 illegally for its ash pond in Burrkhamunda village in Jharsuguda district without approval from the Central Govt. under Forest (Conservation) Act, 1980 (in short, FC Act). They further contended that Environmental Clearance (in short, EC) was obtained for expansion of their existing Aluminium Smelter and Captive Power Plant on 11th June, 2008, suppressing the fact on forest land and

mentioning that no forest land is involved. It is also their case that the Divisional Forest Officer (in short, DFO) of Jharsuguda, the Respondent No.6 has confirmed in his reply to one RTI application that no forest land in Khata No. 108 has been allotted/given to Vedanta Ltd. for construction of ash pond or any other purpose.

3. It is further stated that in response to the representation of the Applicant No.2 and other villagers to the Secretary, Forest and Environment Department, Govt. of Odisha alleging encroachment of forest land for the ash pond of Respondent No.1, the DFO, Jharsuguda directed Vedanta to vacate the forest land of 246.74 acres which is illegally occupied by Vedanta Ltd. vide letter dated 20.01.2014. The DFO also requested the Collector and District Magistrate, Jharsuguda, Respondent No.4 for appropriate direction to Tahasildar, Jharsuguda to initiate eviction of encroachment by Vedanta Ltd. vide letter dated 20.01.2014 and one Encroachment Case No. 158/13 was instituted by Tahasildar, Jharsuguda against Vedanta Ltd. for encroachment of 108.29 acres of forest land (Gramya Jungle Kisam Category) in Khata No. 108 in Bherkhamunda Mouza.

4. In the light of the above-stated facts and circumstances and that the non-forest use of forest land without prior approval of the Union Government is a violation of Forest (Conservation) Act

and order of the Hon'ble Supreme Court in Godavarman case in WP (b) 202 of 1995, the Applicants would make the following prayer for adjudication :

A) Direct the Respondent No. 2 and 3 to take necessary legal action against the respondent No. 1 including the criminal proceeding for wilfully violating the provision of Forest Conservation Act, 1980.

B) Direct the forest department, Respondent No. 2 and 3 to take necessary action against the Respondent No. 1 for unauthorised use of forest land for Ash Pond and other purposes;

C) Hold and declare that the construction activities carried out by the Respondent No. 1 is illegal.

D) Suspend the environment clearance letter dated 11/06/2008 for obtaining the same by suppression of facts and illegally using forest land for Ash Pond.

E) Impose heavy penalty on private respondent and direct the private respondent to restore the land to its original condition.

F) Hon'ble Tribunal may grant any other relief as his lordship deem proper in the interest of justice.

5. The State Pollution Control Board, Odisha, Respondent No. 7 in their reply affidavit in opposition would state that the matter relating to forest land and approval thereof under FC act does not come under their purview. However, the Respondent No. 1 industry has obtained necessary consent to operate valid till

31.3.2017 for operation of its Aluminium Smelter Plant and Captive Power Plant under Section 25 of the Water(Prevention and Control of Pollution) Act, 1974 and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981.

6. The DFO, Jharsuguda in the affidavit filed on behalf of the Respondents No. 2,4,5 & 6 would reveal that the Respondent No. 1 Industry dumped fly ash at Kureboga Ash Pond spread over an area of 143.00 acres and the ash pond encircles a patch of Gramya Jungle of Ac 48.68 in Plot No. 188 in which the industry encroached and amalgamated with their ash pond on the plea that the Collector, Jharsuguda permitted for filling the low lying area in plot No. 188 without resorting to Forest diversion Proposal. Later the industry has been permitted by the State Pollution Control Board, Odisha to dispose of fly ash in ash ponds at Katikela over an area of Ac 192.00 and filling of low lying area at Bhagipali near Banjari gate and near Urja setu.

7. It is further stated in the affidavit that the Tahasildar, Jharsuguda booked an encroachment case bearing No.158/2013 against the Respondent No. 1 on the allegation made by the villagers for encroachment of Gramya Jungle in Mouza Burkhamunda, Khata No. 108 for an area of AC 108.29. However after field enquiry it was found that an area of Ac 48.68 in plot

No.188 has been encroached by the industry and eviction order was passed. The industry has filed an appeal against the order of the Tahasildar and that matter is now *sub-judice*.

8. Vedanta Ltd. Respondent No. 1 in their affidavit filed on 4th January 2017 raised the issue of maintainability as there exist no cause of action or grounds to make the application maintainable. According to them, the contents of the said application are frivolous, capricious, misconceived containing insufficient and mutually inconsistent particulars and suffers from gross suppression of material facts and that the Applicants have approached the Tribunal with mala fide motive and with unclean hand to harass the Respondent No. 1. They would further state inter alia that the application is barred by the principles of *res judicata* as the content of the application have been the subject matter of other proceedings including the one before the Hon'ble High Court of Odisha.

9. On the allegation of the Applicants on use of forest land to dump fly ash, the Respondent No. 1 would further contend that on 27th May 2011, the Vedanta Ltd. sought for permission for filling of low lying area adjacent to the ash pond of answering Respondent in terms of MOEF Notification dt. 3rd November, 2009, i.e., Plot No. 188 of Khata No. 108 in village Burkhamunda

which was totally barren land giving an undertaking to take all measures to control fugitive emission, compact the dyke with 500 mm soil followed by forestation. The District Collector granted permission to Vedanta Ltd. vide letter dated 21st July, 2011 to fill up in the said low lying area with fly ash. On the expert advice of the Asst. Director of Horticulture, Jharsuguda, the low lying area of size 130'x127' at a depth of 5' was filled up with fly ash followed by watering, compaction and top soil covering and by aforestation and the completion of such work including plantation in 48.68 acres of land was informed to the District Magistrate and Collector on 21st November, 2015.

10. It is also stated in the affidavit that a Public Interest Litigation being WP (C) (PIL) No. 2660 of 2015 was filed before the High Court of Orissa, Cuttack by one Mr. Digamber Bag and Dr. Subash Mohapatra, both from Jharsuguda, purportedly verified on 13th February 2015 against, ,inter alia, the Respondent No. 1 on the self-same cause of action as in the instant application. At the time of hearing, the Applicants prayed for a direction to the Additional Chief Secretary, Revenue and Disaster Management Department, Govt. of Odisha to consider the representation of local peoples submitted before him. By its order dated 11.3.2015, the Hon'ble High Court was pleased to dispose of the writ petition

by asking the concerned authorities to consider the same, without going into the merits of the matter. Thus, it is further stated that the instant proceedings are not maintainable.

11. On the issue of encroachment case and Eviction order dt. 3rd September, 2013, the Respondent No. 1 would state that an appeal was preferred before the Sub-collector of Jharsuguda, being Encroachment Appeal case No. 03/2014 and an order of stay on the eviction order was passed on 4th March, 2014 which was vacated by the order dated 7th May, 2015. Following the vacation of the stay, the Tahasildar, Jharsuguda was directed to act as per the provision of law and the matter was posted for further hearing on 26th May, 2015.

12. The Collector, Jharsuguda, Respondent No. 4, would state that considering the application of Vedanta Ltd. to permit for filling up low lying area in Plot No. 188, Khata No. 108, Kisam Gramya Jungle located adjacent to their ash pond the Tahasildar was asked vide letter dated 13.6.2011 to conduct an enquiry regarding detailed status of the land and its suitability to be filled up by fly ash. On the report of the Tahasildar that there is no forest growth over plot No. 188, the plot is low due to lifting of earths and it is suitable for plantation after being filled up, the Collector permitted the Vedanta Ltd. to fill up ash adhering to the

guidelines of MOEF notification dated 3.11.2009 strictly. From a Joint enquiry conducted by (i) Revenue Supervisor, Jharsuguda, (ii) ACF, Jharsuguda and (iii) Tahasildar, Jharsuguda, it was revealed that all the plots contiguous to plot No. 188 with an area of 48.68 acre are acquired by the Respondent No. 1 through IDCO for their ash pond and this lone plot of 188 was filled with fly ash making a heap of ash of approximately 25 m. During enquiry it was found that earth capping and plantation was being taken up. The district Collector has stated in the affidavit that by permitting filling up the low lying area by fly ash for the purpose of plantation does not violate the provisions of Forest (Conservation) Act, 1980 and he has never passed any order directing the use of forest land or any portion thereof for any non-forest purpose.

13. The State Pollution Control Board, in the additional affidavit filed on 27.4.2017 have categorically stated that no consent to operate has been granted to the Respondent No. 1 for dumping of fly ash over plot No. 188 in village Bhurkhamunda.

14. The MOEF & CC, the respondent No. 3 have dealt with the provisions of Forest (Conservation) Act, 1980 in their affidavit and would state that Principal Secretary, Forest & Environment Department, Govt. of Odisha, Respondent No. 2, has been requested to furnish an inspection report on the allegation of the

petitioners regarding use of forest land by Vedanta Ltd. for non-forest purpose without approval from the competent authority under section 2 of the Forest (Conservation) Act, 1980 and the report is awaited. MOEF & CC would further state that so far as the records available with the answering respondent no such proposal has been received with respect to the diversion of 246.74 acres of forest land and no such permission has been granted under the Forest (Conservation) Act, 1980.

15. The Respondent No. 1, the Vedanta Ltd. filed a further affidavit which was taken on record on 4th July, 2017 which summarises the affidavits filed by the Respondent No. 4, the District Magistrate and Collector and of MOEF, the Respondent No. 3 & 5. The other contents in the affidavits are the repetitions of what has already been stated above in respect to the affidavits filed by the respondents. However, in our order dated 27.4.2017, considering the statement of the MOEF & CC we directed that no unauthorised use of forest land for disposal of fly ash in the area in question shall be carried out further by the Respondent No. 1 until further order. The Respondent No. 1 was further directed to file show cause as to why this order should not be made absolute. Mr. Siddhartha Mitra, Ld. Sr. Counsel appearing for the Respondent No. 1 would submit on 4th July 2017 that as no action

as alleged is being undertaken by the respondent No. 1 on plot No. 188 measuring about 48.6 acres, the order of prohibition dated 27.4.2017 has become redundant and inchoate. He would also state that the work for which permission was granted by the District Magistrate and Collector has been completed way back on 21.11.2015.

16. We have also examined the rejoinder affidavit filed on behalf of the applicants which are nothing but reiteration of earlier submissions and some additional information on ash pond breach in Katikela resulting in revocation of consent to operate which are not connected to the issues raised in this Original Application.

17. After hearing the Applicants and the respondents, perusing the pleadings carefully and examining the documents annexed to the affidavits of the parties, we now frame the following questions to find out the answers.

1. Whether the application is barred by limitation in terms of Section 14(3) of the NGT Act ?
2. Whether the application is not maintainable because of *res-judicata* ?
3. Whether the Plot No. 188 in Khata 108 of 48.68 acre area is a recorded forest land?

4. Whether the permission granted by the District Magistrate and Collector, Jharsuguda to the Vedanta Ltd. to fill up the low-lying area in Plot No. 188 stated above with fly-ash and subsequent plantation over it without the approval of the Union Government is a violation of the Forest (Conservation) Act, 1980?

18. The discussion on question No. 2 depends upon the answer to question No. 1 and any discussion on question number 3 & 4 depends upon the answer to question No. 2. In other words, if the answer to question No. 1 is yes, then it is not required to traverse to question No. 2. Similarly, when answer to question No. 1 is no and answer to question No. 2 is yes, then we need not attempt to discuss on question No. 3 and 4 and the application will stand dismissed. Thus, only after the Applicants succeed to cross the first two hurdles, i.e., question No. 1 & 2, then only the matter will be adjudicated on merit.

19. So far as limitation is concerned, we may refer to the provision of the N.G.T. Act, 2010 on point of limitation.

Sec 14(3) of the NGT Act, 2010 reads as under :-

“ (3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose;

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days. “

20. Thus, in terms of Section 14(3) of the NGT Act, the application has to be filed within a period of six months from the date when the cause of action for a dispute first arose. The Tribunal is vested with the power to condone the delay by another 60 days in terms of proviso to Section 14 if application is filed beyond six months. At this stage, it may be relevant to refer to the following portion of the judgement of the Principal Bench of NGT dated 10.12.2015 passed in OA 61 of 2012 in **Dr. Arvind Gupta –vs- UOI & Ors. and batch of other OAs** in which identical issues of cause of action and continued cause of action were raised.

“..... It is true that the application has to be filed within a period of 6 months from the date when the Cause of Action first arose. The Tribunal is vested with the power to condone the delay in terms of proviso to Section 14 if the application is filed beyond 6 months. This power can be exercised for condoning the delay but under and not in excess of 60 days. The term ‘cause of action’ has been used in contra distinction to continuing cause of action. In case of a continuing cause of action, ‘cause of action first arose’ has completely a distinct and different role while computing period of limitation. However, it is not equally applicable and does not have the same consequences in a case where the cause of action is recurring complete cause of action. In other words, whenever subsequent act or subsequent breach is a complete cause in itself and its consequences are different, then such cause of action would enable an applicant to bring action before the

Tribunal on the strength of the subsequent act. The limitation would be computed from the date of the subsequent breach or act. In this regard, we may refer to the judgment of the Tribunal in the case of *The Forward Foundation V. State of Karnataka*, 2015 ALL (I) NGT Reporter (2) (DELHI) 81 where the similar question of adherence arose. After hearing the law in detail the Tribunal held as under:

23.'Cause of Action' as understood in legal parlance is a bundle of essential facts, which it is necessary for the plaintiff to prove before he can succeed. It is the foundation of a suit or an action. 'Cause of Action' is stated to be entire set of facts that give rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. In other words, it is a bundle of facts which when taken with the law applicable to them gives the plaintiff, the right to relief against defendants. It must contain facts or acts done by the defendants to prove 'cause of action'. While construing or understanding the cause of action, it must be kept in mind that the pleadings must be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or passage and to read it out of the context, in isolation. Although, it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words, or change of its apparent grammatical sense. The intention of the party concerned is to be gathered, from the pleading taken as a whole. [Ref. Shri Udhav Singh v. Madhav Rao Scindia, (1977) 1 SCC 511, A.B.C Laminart Pvt. Ltd. v. A.P. Agencies, [AIR 1989 SC 1239].

27. Whenever a wrong or offence is committed and ingredients are satisfied and repeated, it evidently would be a case of 'continuing wrong or offence'. For instance, using the factory without registration and licence was an offence committed every time the premises were used as a factory. The Hon'ble Supreme Court in the case of *Maya Rani Punj v. Commissioner of Income Tax, Delhi*, (1986) 1 SCC 445, was considering, if

not filing return within prescribed time and without reasonable cause, was a continuing wrong or not, the Court held that continued default is obviously on the footing that non-compliance with the obligation of making a return is an infraction as long as the default continued. The penalty is imposable as long as the default continues and as long as the assessee does not comply with the requirements of law he continues to be guilty of the infraction and exposes himself to the penalty provided by law. Hon'ble High Court of Delhi in the case of Mahavir Spinning Mills Ltd. v. Hb Leasing And Finances Co. Ltd., 199 (2013) DLT 227, while explaining Section 22 of the Limitation Act took the view that in the case of a continuing breach, or of a continuing tort, a fresh period of limitation begins to run at every moment of time during which the breach or the tort, as the case may be, continues. Therefore, continuing the breach, act or wrong would culminate into the 'continuing cause of action' once all the ingredients are satisfied. Continuing cause of action thus, becomes relevant for even the determination of period of limitation with reference to the facts and circumstances of a given case. The very essence of continuous cause of action is continuing source of injury which renders the doer of the act responsible and liable for consequence in law."

21. The Applicants had filed the Application in the Tribunal on 3.10.2016. The documents annexed to the application reveals that some of the villagers led by one of the Applicants, Jagannat Bhoi made a representation to the Secretary, Forest and Environment Department, Govt. of Odisha on 26.08.2013 regarding encroachment of 108.00 acre of Gramya Jungle, in the site in question, the information of which was obtained through Right to

Information Act on 16.08.2013 from DFO, Jharsuguda that no forest land has been allotted to Vedanta Limited. Thus, by his own admission the 2nd Applicant became aware of the cause of action first arose with effect from 16.8.2015. Similarly, one of the Applicants in the writ petition No. WP (C) (PIL) No. 2660 of 2015 filed before the Hon'ble High Court of Orissa raising identical issues is Digamber Bag, who is also a co-applicant in the representation dt. 26.8.2013 along with Jagannat Bhoi. Thus, the cause of action first arose was known to the Applicants on 16.08.2013 and the application was filed in the Tribunal after 3 years, which is much beyond the prescribed time limit. Therefore, the present Application is barred by limitation on this count.

22. However, the Applicants have pleaded under 'limitation' that there is a subsisting cause of action because of the ongoing encroachment of forest land without approval of the competent authority. From our discussion on the affidavits filed by the respondents, it is evidently clear that felling as well as plantation/afforestation work had already been completed by the Respondent No. 1 by 21st November, 2015, i.e., much before the application was filed before the NGT i.e. on 3.10.2016. Therefore, the contention of the Applicants that there is subsisting cause of action or continuing cause of action is not acceptable to us when

the application was filed. From the affidavit of the District Magistrate and Collector, Jharsuguda, it is revealed that Plot No. 188 of Area – Ac 48.66 is surrounded by Ash Pond of Vedanta Ltd. All the plots contiguous to plot No. 188 have been acquired by the company through IDCO for their ash pond. The Respondent No. 1 has also stated that after the filling of Plot No. 188 and completion of plantation work, no work is undertaken by them and the plot in question is a free land from any form of encroachment.

23. Since at the time of filing the OA, there was no subsisting cause of action, the answer to question No. 1 is 'yes' i.e., the application is barred by limitation. Therefore, it is not now necessary to traverse to the other questions for their answers. It is made clear that we have not decided the matter on merit. The Applicants are at liberty to approach the appropriate forum to redress their grievance.

24. Thus, the application No. 151/2016/EZ stands dismissed.

No order as to costs.

.....
Mr. Justice S.P. Wangdi , JM

.....
Prof.(Dr.) P.C. Mishra , EM

Kolkata,
Dated: 13th November, 2017.

Service in Satyanarayan Rao Vs. Union of India & Ors. (Appeal No. 24 of 2022/EZ)

1 message

ELDF <eldflegal@gmail.com>

Thu, Oct 12, 2023 at 2:52 PM

To: soumitra.mukherjee@yahoo.com, Dipanjan Ghosh <dpnjnghsh0@gmail.com>, shrestha.abhimanue@gmail.com

Cc: "Cc: Sanjay Upadhyay" <sanjay@eldfindia.com>, Sanjay Upadhyay <sanjayeldf@gmail.com>, Mansi Bachani <mansi@eldfindia.com>, Gitanjali Sanyal <gitanjali@eldfindia.com>, Arushi Malik <arushi@eldfindia.com>, Admin <admin@eldfindia.com>

Respected Sir/Ma'am

Please find the attached copy of the Reply on behalf of Respondent No. 2 M/s Vedanta Limited in the matter of Satyanarayan Rao Vs. Union of India & Ors. (Appeal No. 24 of 2022/EZ).

Thanks & Regards

--

Sameer Manher

Clerk

Enviro Legal Defence Firm

29, Presidential Estate LGF,

Nizamuddin East New Delhi – 110013

Ph. No. 011-40573181

 **Reply R-1.pdf**

9147K