

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
Principal Bench, New Delhi
Appeal No. 36/2020
(Earlier Appeal No. 66/2019(WZ))

Larsen & Toubro Limited

Appellant

Vs.

Sanghi Industries Limited & Ors.

Respondent(s)

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| 1. | Report of the Special Expert Committee in Appeal No. 36/2020 titled Larsen & Toubro Limited Vs. Sanghi Industries Limited & Ors .in compliance to the Hon'ble NGT order dated: 21.01.2021. | |
| 2. | Annexure-1: A copy of letter dated 16.07.2021 issued by MoEF&CC to CPCB for filing the report before Hon'ble NGT. | |
| 3. | Annexure-2: A copy of Hon'ble NGT order dated 21.01.2021. | |

(Nazimuddin)
Scientist-E

Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Delhi- 110032.

Date: 27.07.2021

Place: Delhi

Report of the Special Expert Committee as per the Order dated 21/01/2021 of Hon'ble National Green Tribunal in Appeal No. 36/2020: Larsen & Toubro Limited Vs Sanghi Industries Limited & Ors.

Reference is invited to the Order dated 21/01/2021 of Hon'ble National Green Tribunal (NGT) in Appeal No. 36/2020: Larsen & Toubro Limited Vs Sanghi Industries Limited & Ors. with respect to the proposed cement grinding unit of M/s. Sanghi Cement at Hazira, Gujarat for which prior Environment Clearance (EC) was accorded by State Level Impact Assessment Authority (SEIAA) Gujarat on 23/08/2019 under the provisions of the Environment Impact Assessment (EIA) Notification, 2006. The operative paragraph of the Order dated 21/01/2021 is reproduced below:

“22. Accordingly, we refer the issue of assessment of carrying and load bearing capacity of the Panchayat road in question and evaluation of EIA and EMP prepared by the project proponent to the EAC of the MoEF&CC dealing with the cement plants, along with the representatives of CPCB, NEERI and IIT Mumbai. The CPCB will be the nodal agency for coordination and compliance. Coordination with the EAC may be through the MoEF&CC. The Committee may assess how generation of dust and causing of noise pollution by movement of large number of heavy vehicles will be neutralized, given the carrying and load bearing capacity of the Panchayat road in question.

The Expert Committee may furnish its report to this Tribunal within three months by e-mail at judicialngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

23. The appellant, the Suvali Gram Panchayat and the project proponent may file their respective written submissions to the CPCB within two weeks for consideration by the Committee. A copy of this order be forwarded to the MoEF&CC, CPCB, NEERI and IIT Mumbai by e-mail for compliance.

List for further consideration on 14.07.2021”.

2. In pursuance to the Order dated 21/01/2021 of Hon’ble NGT, meetings of Expert Committee were convened by the Ministry of Environment, Forest and Climate Change (MoEF&CC) on 13/04/2021, 17/05/2021 & 12/07/2021 through Video-Conferencing (VC). The Expert Committee specially comprised for the purpose consisted of Expert Appraisal Committee of Industry 1 dealing with the Cement Sector, experts from Indian Institute of Technology, Mumbai and National Environmental Engineering Research Institute (NEERI), Nagpur along with the representative from Central Pollution Control Board (CPCB) as directed by the Hon’ble NGT. The report was finalized in its meeting held on 12/07/2021 through video-conferencing. The meetings of the Special Committee were held under the Chairmanship of Dr. Chhavi Nath Pandey, Chairman of Expert Appraisal Committee of Industry 1 sector.

3. The following documents had been examined by the expert members:

- i. Documents submitted by M/s. Sanghi Industries Limited for obtaining Environment Clearance from SEIAA, Gujarat [Form I, Public Hearing proceedings, Form 2, additional information reply submitted by the project proponent, Final EIA report and EC dated 23/08/2019].

- ii. Written submissions received from Central Pollution Control Board (CPCB) and circulated by M/s. Sanghi Industries Limited, M/s. Larsen and Toubro and Suvali Gram Panchayat.
 - iii. Additional written submissions filed by L&T vide email dated 16/04/2021 [Documents indicating the forests around the proposed project site, Color maps indicating distance of the project site from the forests, mangroves and sea and Excerpts from National Wetland Atlas showing that the area around Hazira industrial area falls under the wetlands] and by M/s. SIL vide email dated 15/04/2021 [SUDA Application form and payment receipt, Note on noise and dust control measures due to the truck movement, Road map network of Surat City, Map showing location of the project site and consent to establish granted by GPCB], 01/07/2021 and 05/07/2021.
4. From the aforesaid documents submitted by CPCB, the Committee noted that following are the grounds of challenge by L&T and interveners viz. Suvali Gram Panchayat:
- i. EC granted by SEIAA, Gujarat to M/s. Sanghi Industries Limited (SIL) **[herein after referred as Project Proponent (PP)]** is for setting up of a 2.0 Million Tons Per Annum (MTPA) standalone cement grinding unit at Survey No. 125/1, 125/2, 126/1+2+3, Hazira Industrial Area, Village: Shivrampur, Taluka Choryasi, District Surat, Gujarat.
 - ii. Dust emission will occur due to movement of trucks.
 - iii. Transportation of cement and raw materials will cause disturbance to the peace of village life and damage to health.
 - iv. There is no provision in the EIA for parking space for the trucks.
 - v. Discrepancies in the EIA report:

- a. EIA report does not have potential of compliance with the environmental norms.
- b. Unaddressed public concerns with respect to increased air and water pollution raised during public hearing.
- c. About 1100 children studying in Navchetan Vidyalaya in Shivrampur village located at a distance of 1.3km from the plant, will also be adversely affected.
- d. Cement dust will affect the fertility (quality) of agricultural land & will also emanate into the water resources of village Suvali. People/ animals will suffer from disease due to air pollution.

5. Shri. Ayush Puri, Advocate representing Suvali Gram Panchayat in his submissions emphasized the following points for consideration of the Expert Committee:

- i. The sites of GIDC Pandesara and GIDC Sachin located in Surat were declared as severely polluted areas by an office order dated 11/11/2019 issued by the Gujarat Pollution Control Board (GPCB). The SIL project site is located at considerable distance of 14 km after buffer zone of 5 km from GIDC Pandesara and GIDC Sachin. The proposed unit should not be allowed to set up as it would cause further pollution in the area around Surat.
- ii. Land Survey no. 498-1, Village Suvali, and measuring 20 Acres i.e., approx. 80,000 sq. m., has been allotted to Marine Sector Commander, Hazira (Superintendence of Police) under Home Ministry of Gujarat for development of residential cum office complex of Marine Task Force, Hazira. The map is attached as Annexure 5 of the written submissions by the panchayat. However, the project though sanctioned has not yet come up. The aerial

distance of SIL project site to this residential complex is approx. 1.6 km in Suvali village.

- iii. Variable information submitted by the PP regarding coal consumption. Initially, it was stated that the coal requirement would be 252TPD. However, later the project proponent while submitting reply to the additional information sought by the SEAC, stated that they will use imported coal and requirement of the same would be to the tune of 6.9 TPH.
- iv. Substantial concerns were related to carrying and load capacity of the approach road that would be used by PP for transportation. It is the concern of the Panchayat that the particular road does not have the carrying capacity for transportation of 34 Ton trucks. Further, it was stated in the Draft EIA that the trucks deployed would be of 20 Ton capacity, however, the final EIA showed 34-ton truck capacity, thus there has been variation in the documents submitted by the PP.
- v. The EIA report avoids mention to facilities like disposal of discarded containers, allocation to finished storage area, loading and unloading area, parking area for trucks, canteen area, etc.
- vi. In the public hearing that was held for the proposed project at the project site, many villagers from adjoining villages raised several detailed queries which were either evaded or given incorrect assurances. The responses of SIL were unsatisfactory.

- vii. There is no application of mind in granting of EC and it has been granted in a mechanical manner.
 - viii. The proposed facility is nearby a boarding school which has a strength of 1200 children and thus presence of such a unit in the vicinity would cause health hazards. The letter from the Medical officer of the Suvali Gram Panchayat has been annexed stating that large industries are located in area of Hazira, Mora, Suvali which have spread cancer, TB, skin diseases which have seriously affected the health of the people. Thus, no further industries should be set up. The Suvali village is 1.89 kms from the proposed SIL project site.
6. Shri. Raj Panjwani, Learned Senior Advocate made following written submissions on behalf of Larsen and Toubro.
- i. The proposed cement manufacturing unit is a red category industry based on CEPI score due to their high pollution levels. Since cement manufacturing is also one of the most obnoxious and polluting process, the unit needs to follow stringent checks and balances.
 - ii. Failure to adhere to 'Precautionary Principle' would lead to causing of health hazards to nearby boarding school comprising 1100 students and a population of 3000 – 5000 people adjoining the project site. The boarding school is located less than a kilometer away from the unit. This concern has been raised by the local population vide some letters sent by them.
 - iii. The Project Proponent has misrepresented/ concealed environment sensitivities like presence of mangrove forests, wetland and migratory birds in the project area, conversion of agricultural land for industrial purpose in

their pre- feasibility report, Form 1 and the impugned EC. The Project Proponent has denied any presence of sensitive flora and fauna within 15 kms of the proposed project location boundary as per the data submitted by them in Form – 1. The EIA report also fails to mention presence of any mangroves which as seen from the map are only 2 kms away. The Book titled ‘High in the Sky at Hazira’ by Essar has published that the Hazira Industrial area is home to 68 migratory species spending quarter of a year in the region.

- iv. The project proponent in their EIA report has stated that there are no forests within 10 kms radius of the project site, however, there is 17 sq.km forest area at a distance of 3 kms from the project site. L&T have made an application to the forest department seeking the area breakup of the wetlands, forests and mangroves in the Hazira Industrial Area.
- v. The Hazira industrial area has the city’s largest wetland covering 41.42% of the area. The distance of the proposed cement plant is 3.62 km from Arabian Sea and 0.89 kms from Tapi River as stated by the Project proponent in Form-1. The project proponent has not demonstrated in its EIA report any steps taken for the conservation of the wetlands surrounding the project. The plant is thus in violation of the rule 4 of the Wetlands Rules 2010 and 2017.
- vi. Inadequate land allotment has been done by the project proponent as they do not provide for finished products, storage area, loading and unloading area, product transfer area, parking areas for the used trucks and other amenities. This is in violation of the factories Act, 1948, which lays down the mandate for setting up of such amenities in the industrial project.

- vii. The EIA fails to take into consideration where the 363 trucks (Refer EIA @Page 301 –Table 4.17) would be parked for loading and unloading of materials. Further, the panchayat road, which is only 7.5mts in width would not be able to handle 363 trucks of 34 tonnes as it is a kaccha road as mentioned by the Project Proponent in its EIA report as the alternative route for transportation. Furthermore, no evaluation of the impact of trucks, primarily the dust generated by them while operating on the kaccha road has been done by them.
- viii. The impact of coastal mode of transportation used for supplying raw material and taking finished products by the project proponent has been done in the EIA, PFR, impugned EC.
- ix. The project proponent has failed in providing clarity with respect to green belt on the project site as they stated they will develop 33% green belt out of which green belt of width 6 mts - 8mts will be on the periphery. However, the plan of the project proponent is not substantiated by the layout plans as submitted by the Project proponent.
- x. Furthermore, the armoured system complex of L&T is a defense installation for the purpose of environmental sensitivity, as is mentioned in Report1 form B, which was not mentioned by the Project Proponent in its Form 1 and the EIA report. However, the Ministry of Defence in its affidavit has stated that the complex does not qualify for a Defense Establishment which is nothing but an erroneous stand taken by the Ministry of Defence.

- xi. The EIA placed on record by the project proponent states that it would require 278 Kilo Liter (KL) of water every day. However, no source of water, no pipelines are in place and no requisite authorization have been placed on record for the procurement of water from the irrigation department.
 - xii. That in 2017, Government of Gujarat issued a revised draft plan of the earlier notification dated 12/10/2017 laying down the Comprehensive General Development Regulations, 2017, under which various industrial zones have been classified, wherein cement qualifies as an obnoxious and hazardous industry. Furthermore, on 8/10/2020, Surat Development Authority (hereinafter 'SUDA') published the Sanctioned Development Plan, 2035 showing various categories including General Industrial Zone and Obnoxious / Hazardous Industrial Zone. The Proposed cement project site falls under the General Industrial Zone and thus it would be appropriate if a red category industry is not set up in the area.
 - xiii. That the Hon'ble NGT vide order dated 19/08/2019 in the matter titled 'Original Application No. 1038/2018, news item published in the Asian Age authored by Sanjay Kaw Titled 'CPCB to rank industrial units on pollution levels' directed that the viability of red category units be determined on the basis of the Precautionary Principle by an appropriate mechanism. Thus, keeping in view of the pollution that could be caused by such an industrial unit, such a plant should not be permitted.
7. Mr. Aniruddh Wadhwa, Advocate made following written submissions on behalf of M/s. SIL.
- i. The Consent to Establish was granted to the Unit by GPCB on 10/03/2019.

- ii. The TOR issued for EIA and MoEF&CC guidelines for obtaining EC prescribe the requirement by the Project Proponent to conduct an assessment of carrying and load bearing capacity of the proposed transportation route. However, the said study has been carried out and enclosed as Annexure 14 of the written submission.
- iii. The parking area in the said plant site is 4716 m²(nearby the packing plant) as stated in the traffic study report conducted by the project proponent. (As laid out in the parking layout plan).
- iv. The Project Proponent has submitted its application to Irrigation department for obtaining permissions for water. A letter to that effect was annexed.
- v. The panchayat road is a pucca road measuring 1.62 kms from NH-6 to the proposed grinding unit and has a carrying capacity 1250 Passenger Car Unit (PCU)s on which on an average 190 PCUs travel per hour.
- vi. Approach road (panchayat road) is more than 15 mts wide and the total PCU per day of the plant will be 363.
- vii. The speed limitations on all the trucks will be 10 kmph to control noise pollution within the plant and all trucks with valid Pollution Under Control (PUC) Certificate will only be operated by the unit along with creation of paved roads on the premises.

- viii. Raw material which is in solid form (i.e. clinker and gypsum), is proposed to be transported in trucks/ automated tippers completely covered in tarpaulin. Fly ash is proposed to be transported in blousers (specially designed closed cylindrical container trucks).
- ix. Green belt will be developed in an area of 33.98% as proposed in the layout plan, along the boundary of the proposed unit to further curb pollution.
- x. To control dust generation during transportation, measures such as water sprinkling and spray water over the roads and material for dust settlement will be undertaken regularly.
- xi. Proposed transportation route has the requisite load bearing capacity, is not adjacent to any village and the vehicular movement will have minimal impact on Suvali village.
- xii. State of the art energy efficient machinery will be installed wherein minimum pollution will be generated.
- xiii. Large-scale socio-economic development of the region will be done and thus the project will only create positive impact and will generate revenue and employment in the surrounding area.
- xiv. L&T had separately submitted representation to SEIAA pertaining to the issues against the Project Proponent for which point wise reply was submitted by the Project Proponent to SEIAA, answering all the queries raised by them. Only thereafter the EC was granted.

- xv. The land surrounding the Unit is mostly owned by L&T. The list of other existing industries in the study area is given below:

| S.No. | Name of Industry | Aerial Distance from Appellant's Armor Unit - KM | Aerial Distance from the Proposed Unit (KM) |
|--------------|---------------------------------------|---|--|
| 1. | L&T Defence | - | 1.38 |
| 2. | L&T Heavy Engineering | 1.81 km | 1.41 |
| 3. | L&T MHPS Turbine Generators Pvt. Ltd. | 0.90 km | 1.24 |
| 4. | L&T Special Steel and Heavy Forging | 1.01 km | 1.03 |
| 5. | L&T Piping | 0.33km | 0.3 |
| 6. | Reliance | 3.25 km | 3.23 |
| 7. | NTPC | 4.70km | 4.97 |
| 8. | KRIBHCO | 6.40km | 5.50 |
| 9. | GAIL | 6.00km | 8.87 |
| 10. | ONGC | 8.70km | 9 |
| 11. | CAIRN India | 1.80km | 1.70 |
| 12. | Adani Wilmar | 1.30 km | 1 |
| 13. | Essar Steel | 5.07 km | 4.77 |
| 14. | Adani Port | 7.20 km | 9.5 |
| 15. | Hazira LNG & Port | 6.56 km | 6.56 |
| 16. | ABG Cement | 4.7 km | 5.15 |
| 17. | Ultratech Cement | 8.6 km | 8.55 |
| 18. | Ambuja Cement | 9 km | 9.12 |

- xvi. The project proponent uses state of the art Vertical Roller Mill Technology which is both energy as well as space efficient.

8. Observations by the Expert Committee on the presentations and written submissions of Suvali Panchayat, L&T and SIL:

- i. As per the available records, Surat with the Comprehensive Environment Pollution Index (CEPI) of 76.43 falls under the category of critically polluted

areas (Areas: Pandesara Cluster and Sachin cluster) The project site of M/s.SIL is located at a distance of 14 km from buffer zone of Pandesara Cluster and Sachin cluster. The Hon'ble Supreme Court vide its Order dated 22/09/2020 in Civil Appeal Diary number 19271/2020 imposed a stay on the operation of the impugned orders dated 10.07.2019, 23.08.2019 and 14.11.2019 passed by the National Green Tribunal, Principal Bench, New Delhi with respect to CEPI areas.

- ii. The Suvali village is located at a distance of 1.89 kms from the proposed SIL project site. It does not fall on the transportation route from highway to the SIL plant, nor located in downwind direction from the plant, hence is not likely to be affected by stack emissions from the plant.
- iii. Public hearing for the project under the provisions of the EIA Notification, 2006 was held on 22/03/2019. As per the proceedings, 117 participants attended the hearing.
- iv. As per the EC accorded on 23/08/2019, the issue of coal consumption has been taken into cognizance and as per condition no. 35, the imported coal consumption for the project is reported to be 182 MT/day. Further, as per condition no.13 of EC dated 23/08/2019, PP shall not use lignite and pet coke as a fuel.
- v. The learned counsel for Suvali panchayat also raised issues pertaining to concerns related to another village namely Shivarampur, but the learned counsel did not have any authorization from the village Panchayat to present their case.

- vi. The proposed project of M/s. SIL involves setting up of stand-alone cement grinding unit of 2 MTPA capacity. The major source of pollution from this unit will be particulate matter and fugitive dust emissions from handling raw materials which can be mitigated by adopting adequate environmental safeguards.
- vii. The land area envisaged for the project is 4.856 ha and it is sufficient for the proposed project activity of M/s. SIL.
- viii. PP has not addressed several aspects in the Form I inter-alia pre-construction site investigation, construction work, quantum of resources, solid and liquid waste generation, existence of vulnerable group and eco sensitive areas such as mangroves, hospitals in the study area with direction and distance, mitigation measures, occupational diseases etc.
- ix. As per the affidavit of the Ministry of Defence, the L&T complex does not qualify for a Defence Establishment.
- x. The concerns of L&T on SIL project were submitted to SEIAA on 5/4/2019 and 22/04/2019 which have been responded by the PP to SEIAA on 23/05/2019. Subsequently, on review of the submissions, the EC was accorded to the SIL on 23/08/2019 by SEIAA.
- xi. As per the Surat Urban Development Authority (SUDA) notification dated 8/10/2020, the proposed cement grinding unit project site falls under the General Industrial Zone and red category industry is not allowed to be set up

in the area. However, the EC to M/s. SIL was granted on 23/08/2019 which was prior to 8/10/2020 i.e. issuance of SUDA Notification. It may also be noted that the proposed unit is not an integrated cement plant. It is a grinding unit where, clinker (brought from outside), fly ash and slag (waste materials from power plants and steel plants) are ground and converted to a useful green cement. Clinkerization process makes the cement plants a red category industry due to pollution of particulate matter, SO₂, NO_x and Carbon Monoxide. In grinding units only particulate matter is emitted during grinding and that too much less than that in the clinkerization process.

- xii. PP has submitted an application to SUDA on 7/09/2019 for obtaining requisite permission as per the prevailing regulatory norms. The application is reportedly under process by SUDA and the approval is yet to be accorded.
- xiii. The impact on existing traffic was mentioned in the EIA report at page 97 and additional information was sought by SEIAA with respect to the transportation aspect. The material and finished product quantity along with number of trucks required are as below:

| S.No. | Raw Material & Product | Quantity Million TPA | Quantity TPA | Quantity TPD | Source | Mode of Transport | No. of Vehicles (Truck/day) |
|-------------------------------------|--------------------------------------|----------------------|--------------|--------------|----------|-------------------|-----------------------------|
| 1. | Clinker | 2.0 | 20,00,000 | 6061 | Captive | Sea | 184 |
| 2. | Additives like Gypsum, Fly Ash, Slag | | | | Purchase | Road | |
| 3. | Fuel | 0.06 | 60,000 | 182 | Purchase | Road | |
| 4. | Cement | 2.0 | 20,00,000 | 6061 | Captive | Road/Sea | 179 |
| Total No. of Trucks Required | | | | | | | 363 |

- xiv. As per the written submission made by the project proponent on 15/04/2021, and as per new recommendations of IRC (<https://thelibraryofcivilengineer.files.wordpress.com/2015/09/irc-sp-41.pdf>), the equivalent PCU factor for 4-6 Axle Truck/Trailer (fast moving) vehicle is 4.5. The modified equivalent PCU for proposed project will be as follows:

No. of trucks required per day = 363

Equivalent PCU factor for 4-6 Axle = 4.5

PCU per day for 363 Trucks = $363 \times 4.5 = 1633.5$ per day or 68.06 say 68 PCU per hr. The modified traffic scenario considering 68 PCU per hr presented in table below:

Modified Traffic Scenario in case of 68 PCU and LOS

| S.No | Road | Increased PCUs | Modified V (Volume in PCU per hr) | C (Capacity in PCU per hr) | Modified V/C Ratio | LOS (Level of Service) |
|------|-------------------------------|-----------------------|-----------------------------------|----------------------------|--------------------|------------------------|
| 1. | National Highway 6 | $68 \times 60\% = 41$ | $1421 + 41 = 1462$ | 3000 | 0.48 | C |
| 2. | State Highway 168 | $68 \times 40\% = 27$ | $743 + 27 = 770$ | 1250 | 0.62 | D |
| 3a. | Approach Road/Panchayat Road* | 68 | $190 + 68 = 258$ | 1250 | 0.21 | B |
| 3b. | | | | 900 | 0.28 | B |

*For considering modified PCU factor of 4.5, the LOS value of Approach road / Panchayat Road (Sr. No. 3.a) will change from A to B i.e. Excellent to Very Good.

In this scenario, the impact can be further reduced by utilizing the trucks bringing clinker for cement dispatch to the sea route. As per the present market condition, about 118 trips can be reutilized (same truck will be used for clinker in up and cement in down) which will negate approx. 20 PCU per hour (actual

22). Thus only $68-20 = 48$ PCU per hour will be the net impact as per the previous scenario of traffic.

PP has also made a provision for parking of trucks and trailers. The trucks and trailers would be covered with tarpaulins as mentioned in the EC granted by SEIAA.

- xv. In addition to the written submission referred at point xiv above, another study report of M/s. Multimedia Consultants has been made available to the Committee on 1/07/2021. As per the said report (**copy enclosed along with SIL written submission**) and considering 10 years design life, vehicle damage factor of 2.89 and growth rate of 5 %, the resulting traffic will be 2 MSA (Million Standard Axle) which is a miniscule increase to the existing traffic.
- xvi. It has been reported that the Panchayat Road is found to be having a carrying capacity of 1250 PCU per hour on which an average 190 PCUs travel per hour. 48 PCU per hour will be the net additional impact on the existing traffic due to the SIL project. SIL has submitted a traffic management plan and presented that the approach road (Panchayat Road) is “Pucca” (Metal tarred) and having a current width of more than 15 meters throughout the entire 1.2 kms stretch from the Highway to the plant.
- xvii. The Panchayat Road of 1.2 km only, for which the load bearing capacity was impugned by the L&T, was constructed by L&T Limited itself pursuant to directions of the Hon’ble High Court of Gujarat in Special Civil Appeal No 10850/2009 titled as “Sukhabhai Bhikhabhai Aahir & 29 others. Vs. Principal Secretary & 3 others”. Furthermore, the Panchayat Road has been disclosed

and sanctioned to be a 22-meter-long road under the sanctioned SUDA Development Plan. The Panchayat Road has been constructed pursuant to judicial directions and in accordance with applicable regulations and standards, is a 'Pacca' road and is in fact being used for movement of commercial vehicles such as the 34 tonner trucks proposed to be used by the SIL.

- xviii. The panchayat road under question is also being used by other industries existing in the area mentioned at paragraph 7(xvi) above for several years. It may be noted that this road is being used by heavy industries such as Larsen & Toubro.
- xix. The water requirement for the project is 278 KLD and as per the condition no. 28 of the EC dated 23/08/2019 necessary permission from the concerned Competent Authority has to be obtained for the water withdrawal.
- xx. Mangroves exist at a distance of 1.4km from the project site on the other bank of Tapi river. As per the provisions of Coastal Regulation Zone (CRZ), 2019, Mangroves (in case mangrove area is more than 1000 square meters), a buffer of 50 meters along the mangroves is required to be provided. In the present case, the distance of 1.4km is much more than the required buffer zone of 50 meters.
- xxi. No evidence or credible document has been made available by representative of Suvali Gram Panchayat as well as L&T in support of their contentions with respect to existence of notified wetlands in the project area, pollution & health

concerns and degradation of agricultural land due to the proposed standalone cement grinding unit of M/s. SIL.

9. Recommendations

On the basis of observations, the Committee is of the considered view that the EC dated 23/08/2019 accorded by SEIAA can be sustained subject to the stipulation of the following additional conditions in order to further to safeguard the environment and address the concerns of appellants.

A. M/s. Sanghi Industries Limited

- i. Particulate matter from the stacks shall not exceed 30 mg/Nm³.
- ii. M/s. SIL shall develop a green belt of 15 meters width around the boundary limits of its factory by planting native and high foliage trees with a tree density of 2500 trees per hectare.
- iii. Wheel Washing Facility at exit gate shall be provided and used.
- iv. CCTV Monitoring of Plant and Gates shall be carried out to ensure that all materials are transported in covered trucks having valid Pollution Under Control (PUC) Certificate.
- v. Coal will be stored in the covered shed and fly ash in silos.
- vi. All unpaved areas which are not covered by the green belt shall be covered by suitable form of vegetation such as lawn and landscaping etc.

- vii. M/s SIL shall use ultra-low NOx burner, flue gas recirculation and auto combustion control system.
- viii. All the industries in this area are likely to augment their respective capacities in future. This may, in future, require periodical maintenance and strengthening of the village panchayat road presently being used by all the industries in this area. It is therefore suggested that the Surat Urban Development Authority which is presently maintaining the road may be directed to ensure the periodic maintenance and strengthening of the village panchayat road in question in future.
- ix. The Stack height of coal combustion system shall be minimum 30 meters height.
- x. Noise level at the boundary wall shall be monitored as per the prescribed Noise Pollution (Regulation and Control) Rules, 2000 and report in this regard shall be submitted to Regional Office of the Ministry as a part of six-monthly compliance report.

Enclosures:

1. Written submissions of Suvali Gram Panchayat
2. Written submission of L&T and additional submissions made on 16/04/2021
3. Written submission of SIL and additional submissions made on 15/04/2021, 1/07/2021 and 05/07/2021.

F. No. L-11011/1/2021-IA-II(I)
 Government of India
 Ministry of Environment, Forest and Climate Change
 (Impact Assessment Division)

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 Dated: 16th July, 2021

To

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Subject: Order dated 21/01/2021 of Hon'ble National Green Tribunal in Appeal No. 36/2020 Larsen & Toubro Limited Vs Sanghi Industries Limited & Ors. – **Submission of final report by the Expert Committee – regarding.**

Sir,

Reference is invited to the Order dated 21/01/2021 of Hon'ble National Green Tribunal with respect to the cement grinding unit of M/s. Sanghi Cement at Hazira, Gujarat (copy enclosed) for which EC was accorded by SEIAA - Gujarat.

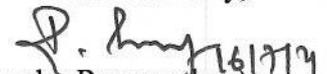
2. In pursuance to the aforesaid Order, the meetings of Expert Committee were convened by the Ministry of Environment, Forest and Climate Change (MoEF&CC) on 13/04/2021, 17/05/2021 & 12/07/2021 through Video-Conferencing (VC) under the chairmanship of Mr. C. N. Pandey, Chairman, EAC (Industry I). The final report has been duly approved by the Chairman on 12/07/2021.

3. In this regard, the undersigned is hereby directed to forward the final approved report along with the written submissions of the concerned parties and request you to submit the final report to the Hon'ble NGT in compliance with the directions of Hon'ble National Green Tribunal.

3. This issues with the approval of the Competent Authority.

Encl: as above.

Yours faithfully,


 (Sundar Ramanathan)
 Scientist 'E'

Copy to

1. All the members of the Expert Committee (As per the list)
2. PPS to JS(SKB)


 (Sundar Ramanathan)
 Scientist 'E'

| S.No. | Name & Address |
|--|--|
| Expert Appraisal Committee – Industry 1 | |
| 1. | Dr. Chhavi Nath Pandey, IFS(Retired), (Former PCCF&HoFF, Gujarat) House No. 726 B, Sector-8(C), (Behind Gandhinagar Samachar), Gandhi Nagar, Gujarat – 382007 E-mail: cnpandey@iitgn.ac.in |
| 2. | Director, Central Pulp and Paper Research Institute (CPPRI), Paper Mill Road, Himmat Nagar, Saharanpur, Uttar Pradesh- 247001 E-mail: mkg_cppri@rediffmail.com director.cppri@gmail.com |
| 3. | Director General of Meteorology, Indian Meteorological Department (IMD), Mausam Bhawan, Lodhi Road, New Delhi – 110003 E-mail: siddhartha.singh74@gmail.com |
| 4. | Dr. Jagdish Kishwan, IFS (Retired) (Former Additional Director General, Ministry of Environment Forest & Climate Change) SrishtiParsvanath Prestige II, Tower 8, Flat-101, Sector 93-A, NOIDA- 201304 E-mail: jkishwan@gmail.com |
| 5. | Dr. Tejaswini Ananth Kumar Residence-84, Ranoji Rao Road, Basavanagudi, Bengaluru – 560 004 Tel: 080-26568484; Email: tejaswini.acf@gmail.com |
| 6. | Dr. G.V.Subramanyam, (Former Advisor, Ministry of Environment Forest & Climate Change) C-22, KendriyaVihar, Sector 51, Noida – 201301. Uttar Pradesh. E-mail: sv.godavarthi@gmail.com |
| 7. | Shri. Ashok Upadhyaya, Technology Expert (Environment), B10/7052, Vasant Kunj, New Delhi -110070. E-mail: ahupadhy@rediffmail.com |
| 8. | Shri. Rajendra Prasad Sharma, Expert (Energy & Environment), 4528, Achiever’s Villa, Kalindi Hills, Sector49, Faridabad- 121001, Haryana E-mail: rps3@hotmail.com |

| | |
|----------------------|--|
| 021/IPC-II-H | Prof. S.K. Singh, Prof. and Dean of Env. Engg., Delhi Technical University, Type-V/29, DTU Campus, Bawana Road, Delhi – 110042 E-mail: sksinghdce@gmail.com |
| 10. | Shri Jagannadha Rao Avasarala, Environment Expert, 49-37-8/1,NGGO Colony, Akkayyapalem, Visakhapatnam – 530016. E-mail: avasaralajagan@gmail.com |
| 11. | Shri. J.S.Kamyotra, (Former Member Secretary, Central Pollution Control Board), WZ 169, B 1 st Floor, Street No. 5, Veerender Nagar, New Delhi – 1110058. E-mail: kamyotra@yahoo.co.in |
| Other Experts | |
| 12. | Dr.Suresh Kumar, Head – EISD National Environmental Engineering Research Institute Nehru Marg, Nagpur – 440020. Email: ms_kumar@neeri.res.in |
| 13. | Prof. Munish Chandel Indian Institute of Technology, Mumbai Powai, Mumbai – 400076. Email: deen.rnd.offo@iitb.ac.in |
| 14. | Shri. Ankur Tiwary Scientist ‘D’, IPC – II Division, Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi-110032. Email: ankur.cpcb@nic.in |

Item No. 02

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Appeal No. 36/2020
(Earlier Appeal No. 66/2019 (WZ))

Larsen & Toubro Limited

Appellant

Versus

Sanghi Industries Limited & Ors.

Respondent(s)

Date of hearing: 06.01.2021

Date of uploading of order: 22.01.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

ORDER

1. This appeal has been preferred against order dated 23.08.2019 of the State Level Environment Impact Assessment Authority (SEIAA), Gujarat, granting Environmental Clearance (EC) to M/s. Sanghi Industries Limited for setting up of stand-alone Cement grinding unit at Survey No. 125/1 and 126/1+2+3, Village Shivrampur, Ta: Choryasi, Distt.: Surat in category 3(b) of Schedule annexed with Environment Impact Assessment (EIA) Notification dated 14.09.2006.

2. The appellant is a company engaged in construction, manufacturing and other industrial/commercial activities. Its grievance is that the project in question will have hazardous impact on Hazira Manufacturing Complex where the appellant is manufacturing defence equipments. The said industrial area at Surat is 'polluted industrial area' classified as such based on data of air water and soil quality, called 'comprehensive

environment pollution index' (CEPI). The unit is of 'red' category in terms of categorisation of industries based on level of contribution to pollution under the Environment (Protection) Rules. EC has been granted without consideration of crucial aspects such as air emissions, water availability, wildlife etc.

3. The appeal was filed on 20.09.2019. Notice was issued on 26.09.2019. The appeal was allowed to be amended on 24.10.2019. IA No. 28/2020 has been filed by the interveners viz. the village Panchayat. IA No. 131/2019 has been filed by the appellant for production of documents relating to compliance status of main cement unit of the project proponent at Kutch in terms of environmental norms.

4. By way of amendment, the appellant has brought on record proceedings of public hearing dated 22.03.2019 wherein, among others, questions with regard to generation of dust from the plant, capacity of the road and source of water were raised. According to the appellant, such concerns relating to increased air and water pollution have not been addressed. The appellant has also pointed out discrepancies in the EIA report. It is submitted that neither the EIA report explains potential of compliance with the environmental norms nor State Environment Assessment Committee (SEAC) and SEIAA have given any reasons from which possibility of such compliance can be inferred. The proceedings do now show application of mind on the environmental consequences and the EC has been granted in a mechanical manner.

5. There are mangroves in the area but the project proponent concealed the said information in application Form I. Similarly, there is reserve forest area which will be impacted which has not been mentioned. 2 Million Tonnes Per Annum (MTPA) cement is proposed to be grinded

which will require raw material including clinker, gypsum, fly ash, slag which has to be transported, involving movement of huge number of trucks. We made a reference to Table 4.17 in the EIA report showing the truck/tanker capacity and the frequency of trucks per day. The said table is reproduced in para 15 of this order. Though EC mentions that only 363 trucks will be permitted for transporting 278,000 liters water per day (as per specific condition no. 47), atleast 799 canters per day will be required. The land allotted is total 12 acres, out of which 33% is to be green area (as per specific condition no. 67 of the EC) Condition no. 67 of the specific conditions mentions that if land for green belt is not available, plantation can be in open land on road sides. The condition is as follows:

“67. The SIL shall develop green belt within the factory premises as per the CPCB guidelines, **consisting of at least three rows of trees of local species on periphery. However, if the adequate land is not available within the premises, the SIL shall take up adequate plantation at suitable open land on road sides and other open areas in nearby locality or schools in consultation with the Gram Panchayat/GPCB and submit an action plan of plantation for next three years to the GPCB.”**

6. There is no provision in the EIA for space for parking for the trucks and other vehicles. Shifting of green belt outside the factory complex will defeat the object of mitigation of pollution. The industrial area in question is polluted industrial area which has no capacity for any further polluting activities as held in the order of this Tribunal dated 10.07.2019 in OA No. 1038/2018, *News item published in “The Asian Age” Authored by Sanjay Kaw Titled “CPCB to rank industrial units on pollution levels”.*

7. The project proponent-Respondent No. 1 has filed reply by stating that it has state of art facilities to adhere to the environmental norms. The mangroves have been duly disclosed in the EIA report. The project is at a distance of 1.3 km from the mangroves. The Krishak Bharati Cooperative

Ltd. (KRIBHCO) has agreed to supply water through irrigation pipelines. The water requirement will be partly met by recycling.

8. Reply of the SEIAA, Gujarat is that EC has been granted based on EIA report furnished by the project proponent. Undertaking was given not to use lignite and pet coke which is not permissible fuel. The project was considered by the SEAC in the meeting held on 12.06.2019 in continuation of meeting held on 16.04.2019. The project proponent explained mitigation measures against the emissions on which the members of SEAC were satisfied and on their recommendation SEIAA granted EC on 16.7.2019.

Relevant extract from the reply of SEIAA is:

“ xxx xxx
12. I say that the answering respondent authority after receiving the recommendation considered the same alongwith the relevant material at its meeting held on 16.07.2019. A true copy of the minutes of the meeting of the respondent authority held on 16.07.2019 is annexed herewith and marked as Annexure R4. Being satisfied with the recommendation made by the Expert Appraisal Committee on the basis of the material and consideration of relevant aspects, the respondent authority decided to grant environment clearance for the proposed project. Accordingly, the clearance was issued on 23.08.2019.”

9. Relevant extracts from the minutes of the meetings of SEAC dated 16.04.2019 and 12.06.2019 are:

“The 497th meeting of the State Level Expert Appraisal Committee (SEAC) was held on 16th April, 2019 at Gujarat Pollution Control Board, Sector 10-A, Gandhinagar.

xxx xxx xxx

In view of the above, Committee unanimously decided to consider the proposal the proposal after submission of the following details:

xxx xxx xxx

iii. **Fugitive emission details with its mitigation measures.**
Fugitive emission during raw material handling and feeding process and vehicle movements.

Mitigation measures – High efficiency pulse air jet type bag filters will be considered to arrest the air borne dust at all the locations where transfer of material are takes place; The automatic bagging machine with bag filters will be installed for packing plant; unloading of coal trucks will be carried out with proper care avoiding dropping of the materials from height. Sprinklers will be installed in Raw Material/ Fuel Storage/Loading / Unloading areas. The sprinkling of water will be done along with internal roads in the plant in order to control the dust arising due to the movement of vehicular traffic; Proper maintenance of vehicles shall be carried out; All the workers inside the plant will be provided with disposable dust masks; thick greenbelt will be developed around the plant to arrest the fugitive emissions; and Periodic air quality monitoring shall be carried out as per CPCB/ SPCB norms etc.

xxx

xxx

xxx

After deliberation, SEAC unanimously decided to consider the proposal after submission of the following details:

1. to 4. xxx xxx xxx
5. Sound APCM to control fugitive dust emission during raw material transportation, storage, handling, loading, unloading, transfer, fuel grinding etc.”

xxx

xxx

xxx

“Minutes of the 514th meeting of the State Level Expert Appraisal Committee held on 12/06/2019 at Committee Room, Gujarat Pollution Control Board, Sector 10-A, Gandhinagar.

xxx

xxx

xxx

| | | | |
|----|----------------------------|---|-------------------------------|
| 15 | SIA/GJ/IND2/ 30448/2018 | M/s. Sanghi Industries Limited Survey No. 125/1, 125/2 and 126/1+2+3, Vill.: Shivrampur, Tal.: Choryasi, Distt.: Surat | Appraisal – Recommendation |
|----|----------------------------|---|-------------------------------|

xxx

xxx

xxx

iii, **Fugitive emission details with its mitigation measures:**

xxx

xxx

xxx

On Road:

- All internal roads used for transport of vehicles will be paved and maintained properly and repaired immediately when required.
- For prevention of road dust emission, speed will be restricted to 10 km/hr for heavy vehicles within the project premises.

- *All preventive measures i.e. covering of trucks, paving and maintenance of internal roads will be adopted.*
- *Regular vacuum sweeping and water spraying will be done on the internal roads.*
- *Proper maintenance of vehicles will be carried out.”*

10. The minutes of the meeting of SEIAA dated 16.07.2019 are:

“Minutes of the 253rd Meeting held on 16th July, 2019 at 09:00 A.M.

The 253rd meeting of the State Level Environment Impact Assessment Authority (SEIAA) was held under the Chairmanship of Shri C.L. Meena at Gujarat Pollution Control Board, Gandhinagar. Prof. G.H. Ban, Member of SEIAA and Shri S.M. Saiyad, Member Secretary of the State Level Environment Impact Assessment Authority (SEIAA) attended the meeting.

xxx

xxx

xxx

2) Sanghi Industries Limited, Dist. Surat

- ***After detailed discussion, it was decided to grant environment clearance with all the conditions recommended by the SEAC.”***

11. The stand of the Ministry of Defence is that L&T facility is only a defence manufacturing facility and not a defence establishment. Thus, Works of Defence Act, 1903, prohibiting activities within a particular distance therefrom, does not apply.

12. We have heard Shri Raj Panjwani, learned Senior Counsel for the appellant, Shri Pinaki Mishra, learned Senior Counsel for Respondent No. 1 and Shri Maulik Nanavati, learned Counsel for SEIAA, Gujarat and perused the documents on record, with their assistance. We have also perused the written submissions filed by the parties in pursuance of order dated 06.01.2021 passed on conclusion of the hearing. In view of the fact that we are giving liberty to the parties to file written submissions before the CPCB for consideration of the Committee to which the matter is being referred, we do not find it necessary to make any comment on the said

submissions, beyond the comment on the rival contentions already raised before the Tribunal.

13. Shri Panjwani has drawn our attention to Form I, the EIA and the minutes of the SEAC. He pointed out contradictions in the information in the EIA compared to the information furnished in Form-1, particularly with regard to the mangroves, forests and birds. From the EIA documents, it is pointed out that the project proponent is one of largest cement plants at Kutch while the present project is proposed as grinding unit at Hazira Industrial Zone, Village Shivrampur, Taluka-Choryasi, District-Surat, Gujarat. The land procured for the purpose is 4.856 hectare for use as per following break-up:

“Table 2.7 Land Breakup of Cement Grinding Unit

| # | Particulars | Total Area (in Ha.) | Area |
|----|---------------------------|------------------------|----------------|
| 1. | Production Plant | 0.712 | 14.66% |
| 2. | Office & Lab Area | 0.022 | 0.46% |
| 3. | Raw Material Storage Area | 0.632 | 13.01% |
| 4. | Solid Waste Storage Area | 0.005 | 0.10% |
| 5. | Open Space | 1.835 | 37.79% |
| 6. | Green Belt | 1.650 | 33.98% |
| | Total | 4.856 | 100.00% |

In the above break up, there is no provision for parking of large number of trucks to be used for about 800 trips per day for transporting material and other trucks for transporting water.

14. The main raw material i.e. clinker is to be transported from Kutch plant by sea/road as per statement in the EIA as follows:

“2.6.3 Transportation & Storage of Raw Material

The clinker shall be transported from Sanghipuram (IU) to Surat GU mainly by sea. Clinker shall be extracted from the Clinker load out silos at IU, transported to the captive Jetty of SIL by trucks and loaded on to the barges by grab cranes. Barges shall transport the Clinker to

the ship stationed at high seas. At Surat, the Clinker shall be unloaded from the ship at nearest port and transported to the Surat GU site by trucks. The clinker received through self-tipping trucks shall be unloaded by into a box feeder and transported to clinker storage silo through conveyor and elevator. The clinker storage has been envisaged in RCC silos of capacity 50,000 Ton, adequate for about 10 day requirement of the plant. Clinker shall be extracted from the bottom of the clinker silos and fed to the clinker hoppers in the cement grinding section through a belt conveyors and elevator.”

15. Under the heading ‘air environment’, the EIA mentions as follows:

“Table-4.17: Incoming & Outgoing Transportation

| Incoming Raw Material Transportation | | | | | | | |
|---|--------------------------------------|----------------------------|---------------------|---------------------|---------------|--------------------------|------------------------------------|
| S.No. | Raw Material | | Quantity TPA | Quantity TPD | Source | Mode of Transport | No. of vehicles (Truck/day) |
| 1. | Clinker | | | | Captive | Sea | 184 |
| 2. | Additives like Gypsum, Fly Ash, Slag | | 2000000 | 6061 | Purchase | Road | |
| | Fuel | | 60000 | 182 | Purchase | Road | |
| Total No. of Trucks deployed/day will be | | | | | | | 184 |
| Outgoing Product Transportation | | | | | | | |
| S. No. | Product | Quality Million TPA | Quantity TPA | Quantity TPD | Source | Mode of Transport | No. of vehicles (Truck/day) |
| 1. | Cement | 2.0 | 2000000 | 6061 | Captive | Road/Sea | 179 |
| Total No. of Trucks deployed/day will be | | | | | | | 363 |

Frequency of Vehicles:

| | |
|--|---------------------|
| Total Capacity (Fuel, Clinker, Fly ash) | 40, 60,000 TPA |
| No. of working days | 330 |
| Transportation of incoming and outgoing material | 12303 Tons/day |
| Working hours per day | 24 hours (3 shifts) |
| Truck/Tanker Capacity | 34 Tons |
| Frequency of trucks/day (92 No. × 4 trips/day × 2 (up/down)) | 363 × 2 |
| Frequency of trucks deployed/hr | 16 |
| Increase in PCU/hr | 16 × 3 = 48 |

16. The mode of transportation mentioned in para 5.3 of the EIA is as follows:

“5.3 ALTERNATIVE FOR TECHNOLOGY AND OTHER PARAMETERS

xxx

xxx

xxx

| S. No. | Site Particular | Alternative Option 1 | Alternative Option 2 | Remarks |
|---------------|------------------------|-----------------------------|-----------------------------|-------------------------------------|
| 1 to 6 | xxx | xxx | Xxx | Xxx |
| 7. | Road | Metallic Road | Kachcha Road | The road is well furnished. Most of |

| | | | | |
|--|--|--|--|---|
| | | | | <i>the raw material and fuel will be transported through ship (sea route)</i> |
|--|--|--|--|---|

17. Under the hearing mitigation measures, table 2.13 is as follows:

“Table 2.13: Aspects & Impacts Analysis

| Activity | Environmental Attribute | Cause | Impact Characteristics | | | |
|--|--------------------------------|---|-------------------------------|-------------------|----------------------|--|
| | | | Nature | Duration | Reversibility | Intensity and Significance |
| <i>Vehicles Movement and utilities operation</i> | <i>Air quality</i> | <i>Exhaust Emissions i.e. NO_x, SO₂, Fugitive emission</i> | <i>Negative</i> | <i>Short Term</i> | <i>Reversible</i> | <i>Low, due to movement of vehicle only for loading and unloading of raw material. Provision of APC's.</i> |
| | <i>Noise Levels</i> | <i>Noise Generation</i> | <i>Negative</i> | <i>Short Term</i> | <i>Reversible</i> | <i>Low, due to limited activity</i> |
| | <i>Risk & Hazards</i> | <i>Accidents, collision of transport vehicles</i> | <i>Negative</i> | <i>Short Term</i> | <i>Reversible</i> | <i>Medium due to loss of property and injury to manpower.</i> |

18. Conclusions in the EIA report are:

“11.5 Conclusion

Based on the EIA study conducted in Post Monsoon of 2018 (Oct. to Dec. 2018) and as per terms of reference given by SEAC, the following highlights emerge:

- There will be minimal pollution potential on air, water and noise environment, which, with the implementation of the mitigation measures and EMP, can be reduced considerably.*
- The proposed project activities will have positive beneficial effect on the local population, economic output and other related facilities viz. employment, development of business, transportation etc.*
- Risk assessment including emergency response plan and DMP has been prepared to handle any sort of emergencies.*
- Looking to the overall project justification, process, pollution potential and pollution prevention measures/technologies installed by proponent, environmental management activities of proponent; the proposed project would be environmentally acceptable, in compliance with environmental legislation and standards.*

*Hence, looking to the overall project justification, process, pollution potential and pollution prevention, measures/technologies installed by proponent, environmental management activities of proponent, **it has been concluded that the proposed project would not have any considerable impacts on environment as well as socio-economic and ecological conditions of the project area. Hence proposed grinding unit at Shivrampur, Hazira is considered environmentally safe.***

19. Learned Counsel for the appellants has then referred to documents filed with IA No. 8/2020 and documents filed on 18.11.2020 by the intervener – Suvali Gram Panchayat. In para 15 of the reply filed by Suvali Gram Panchayat, it is mentioned that the project is in violation of Comprehensive General Development Control Regulations (CGDCR) notified by the State Government on 12.10.2017 under the Gujarat Town Planning and Urban Development Act, 1976. The CGDCR classify different zones for the permissible activities also specify negative list of activities. According to the said regulations, there is prohibition of Obnoxious & Hazardous industries in general industrial zone.

20. On being called upon, the learned Counsel for the project proponent as well as learned Counsel for the SEIAA were unable to show any discussion in the minutes of the SEAC or any material which may reflect application of mind to the assessment of impact of dust generation during the transportation and mitigation measures against the same. Beyond saying that provision has been made for covering the vehicles during transport and sprinkling of water, it has not shown as to how generation of dust and causing of noise pollution by movement of large number of heavy vehicles will be neutralized, given the carrying and load bearing capacity of the Panchayat road in question.

21. In view of above, we find that the precautionary principle, for which EIA is conducted, remains to be addressed. As held in Hanuman Laxman

Aroskar v. Union of India¹, the object of EIA is to ensure that all concerns affecting the environment are duly taken care of. Thus, the impugned EC cannot be sustained until the environmental concerns are duly addressed. We are informed that the project has not yet commenced. Even learned Counsel for the project proponent and the SEIAA fairly accepted this factual position.

22. Accordingly, we refer the issue of assessment of carrying and load bearing capacity of the Panchayat road in question and evaluation of EIA and EMP prepared by the project proponent to the EAC of the MoEF&CC dealing with the cement plants, alongwith the representatives of CPCB, NEERI and IIT Mumbai. The CPCB will be the nodal agency for coordination and compliance. Coordination with the EAC may be through the MoEF&CC. The Committee may assess how generation of dust and causing of noise pollution by movement of large number of heavy vehicles will be neutralized, given the carrying and load bearing capacity of the Panchayat road in question. The Expert Committee may furnish its report to this Tribunal within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

23. The appellant, the Suveli Gram Panchayat and the project proponent may file their respective written submissions to the CPCB within two weeks for consideration by the Committee.

A copy of this order be forwarded to the MoEF&CC, CPCB, NEERI and IIT Mumbai by e-mail for compliance.

¹ (2019) 15 SCC 401

List for further consideration on 14.07.2021.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

January 22, 2021
Appeal No. 36/2020
(Earlier Appeal No. 66/2019 (WZ))
DV