

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 912 OF 2022
WITH
ORIGINAL APPLICATION NO. 913 OF 2022**

IN THE MATTER OF:

MANAV SEWA SANSTHAN & ANR.

...APPLICANTS

VERSUS

UNION OF INDIA AND ORS.

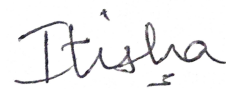
...RESPONDENTS

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Email:- litigation@dclawchambers.com

Place:- Delhi

Dated:- 17.02.2025

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**SUBMISSIONS ON BEHALF OF APPLICANTS ON APPLICABILITY OF
EIA NOTIFICATION, 2006**

MOST RESPECTFULLY SHOWETH:-

1. That the above titled Applications were filed under Section 14 and Section 15 of the National Green Tribunal Act, 2010 bringing to its notice the illegal discharge of industrial effluents from sugar mill and distillery unit of:
 - i. Balrampur Chini Mills Ltd. located in Village Bishunipur, Tehsil & District Balrampur, Uttar Pradesh (subject-matter of Original Application No. 912 of 2022); and
 - ii. Bajaj Hindusthan Sugar and Industries Ltd. located in Village Bishunipur, Tehsil & District Balrampur, Uttar Pradesh (subject-matter of Original Application No. 913 of 2022).
2. That the Applicants are making the following submissions to highlight that the sugar units of Balrampur Chini Mills and Baja Hindusthan Sugar Industries Ltd. are functioning without a prior Environmental Clearance and would be required to obtain an Environmental Clearance in accordance with the EIA Notification, 2006.
3. That the EIA Notification, 2006, notified on 14.09.2006 under Section 3, 6 and 25 of the Environment (Protection) Act, 1986 mandates sugar

industries with ≥ 5000 tcd cane crushing capacity to obtain a prior Environmental Clearance before starting operations. Item 5 (j) of the EIA Notification, 2006 requires sugar industry to obtain an Environmental Clearance.

Consents obtained by the units, as per record before this Hon'ble Tribunal

I. Balrampur Chini Mills Ltd.

4. That the Joint Committee Report (@ Page 546) states that the Balrampur Chini Mills has been operating since 1932. As per record before this Hon'ble Tribunal, the No-Objection Certificates (NOC) under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 have been obtained by the project proponent only on 24.12.2021 (at Page 547 and Page 926). The Applicant also perused the website of Uttar Pradesh Pollution Control Board, however, could not find any NOC prior to the one granted on 24.12.2021. Even the NOC for abstraction of groundwater and the authorization issued under provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 were issued on 17.11.2021 and 09.06.2021 respectively.
5. That the Joint Committee Report (@ Page 548), while detailing the need to obtain an Environmental Clearance for the Balrampur sugar unit has tried to mislead this Hon'ble Tribunal by stating that the Consent to Establish was granted prior to EIA Notification, 2006 but at the same time, has also failed to mention the date of grant of such CTE. The Report has left the space blank, implying that no consent was granted prior to EIA Notification, 2006. Following is the excerpt from the Report, being referred by the Applicant:

"1.3. Environmental Clearance

v. It has come to our noticed that the above project has been commissioned at capacity of 12000 TCD before EIA notification of 14 Nov, 2006, and continuing with the same crushing capacity as on date, as evident from CTO.

vi. Consent to Establish (CTE) was issued to the unit by UPPCB on _____ prior to EIA Notification, 2006. Hence, EC is not applicable on the said unit."

II. Bajaj Hindusthan Sugar Ltd.

6. That the Joint Committee Report (@ Page 557) states that the Bajaj Hindusthan Sugar Ltd. has been operating since 2007-2008. As per record before this Hon'ble Tribunal, the No-Objection Certificates (NOC) under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 have been obtained by the project proponent only on 14.02.2022 (at Page 557). The Applicant also perused the website of Uttar Pradesh Pollution Control Board, however, could not find any NOC prior to the one granted on 14.02.2022. Even the NOC for abstraction of groundwater and the authorization issued under provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 were issued on 17.11.2021 and 04.12.2020 respectively.
7. That the Joint Committee Report (@ Page 559), while detailing the need to obtain an Environmental Clearance for the Bajaj Hindusthan sugar unit has tried to mislead this Hon'ble Tribunal by stating that the Consent to Establish was granted prior to EIA Notification, 2006 even though the Report contradicts itself by stating that the year of commissioning of the unit is 2007-2008. The Report, at the same time, has also failed to mention the date. The Report has left the space blank, implying that no consent was granted before 14.02.2022. Following is the excerpt from the Report, being referred by the Applicant:
- "1.3. Environmental Clearance*
- ii. For Sugar Unit*
- a. Consent to Establish (CTE) was issued to the unit by UPPCB on _____ prior to EIA Notification, 2006. Hence, EC is not applicable on the said unit."***
8. That as per record, the consents for the Balrampur Chini Mills and Bajaj Hindusthan were granted on 24.12.2021 and 14.02.2022 respectively.

However, the legal requirement to obtain consents had arisen when the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 came into effect on 23.03.1974 and 29.03.1981.

Office Memorandums of MoEF&CC stating that while granting consents, Pollution Control Boards to verify if Environmental Clearance has been obtained

9. That the Ministry of Environment, Forest & Climate Change had issued an Order dated 20.09.2021 under Section 5 of the Environment (Protection) Act, 1986 to not grant or renew Consent to Operate unless an Environmental Clearance has been obtained. The MoEF&CC has stipulated that before grant or renewal of consents, the State Pollution Control Board has to ascertain whether the unit has a valid Environmental Clearance or not. The Order reads as follows:

"Now therefore, in exercise of powers conferred by section 5 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government, hereby directs that all SPCB/ UTPCC shall:

i. Ascertain the applicability of EIA Notification at the time of grant/ renewal of CTE and stipulate appropriate condition for obtaining Environmental Clearance (EC), if applicable, before construction/ commencement of project/ activity.

ii. Ensure that the project proponent possesses a valid Prior EC in terms of the extant EIA Notification, if applicable, at the time of grant/ renewal of CTO and no CTO shall be granted or renewed unless Environmental Clearance, if applicable, has been obtained."

Copy of Order dated 20.09.2021 issued by MoEF&CC is annexed herewith as **ANNEXURE A-1**.

10. That accordingly, another Order dated 05.04.2022 was issued by the MoEF&CC that directed all Pollution Control Boards to incorporate changes in the application form for obtaining consents, to reflect questions relating to obtaining Environmental Clearance. The Order read as follows:

"2. And whereas, in order to ascertain the applicability of prior environmental clearance and to ensure availability of prior environmental clearance, if applicable, at the time of grant/renewal of CTO, the data fields in respect of applicability of the prior environmental clearance to the proposed project or activity and details of such clearance are required to be included in the CTE/CTO forms so as to integrate the Consent mechanism with the database of respective Projects/Activities on PARIVESH portal."

Copy of Order dated 05.04.2022 issued by MoEF&CC is annexed herewith as **ANNEXURE A-2**.

11. That for Balrampur Chini Mills Ltd., the consent dated 24.12.2024 (@Page 632) states that the capacity of the sugar unit of Balrampur Chini Mills is 12000 tcd, and therefore, it is required to obtain a prior Environmental Clearance as per the EIA Notification, 2006.
12. That for Bajaj Hindusthan Ltd., the Joint Committee Report (@ Page 557) states that the licensed capacity of sugar mill is 12000 tcd. Since it was commissioned in 2007-2008 i.e. after the EIA Notification, 2006 came into force, the unit ought to have obtained prior Environmental Clearance before starting operations.
13. That it is upon the project proponents and the Uttar Pradesh Pollution Control Board to clarify why an Environmental Clearance was not obtained when the EIA Notification, 2006 legally mandated the sugar units to obtain an Environmental Clearance.
14. That the sugar units has been functioning without a prior Environmental Clearance. No environmental impact assessment of its activities has been conducted as yet, even though the EIA Notification was notified in 2006. If the units continues to function without an Environmental Clearance, it will lead to a situation that its activities would never be assessed through an environmental impact lens, for the entirety of its life.
15. That the EIA process plays a crucial role in protecting the environment and promoting sustainable development. By identifying potential

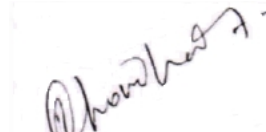
impacts and proposing mitigation measures, it ensures that projects are designed and implemented in an environmentally responsible manner. The process helps identify potential environmental impacts, allowing for appropriate measures to be taken to prevent or minimize adverse effects. It enables the integration of environmental considerations into project planning and decision-making. EIA promotes public participation, allowing affected communities and stakeholders to voice their concerns and contribute to the decision-making process. This transparency enhances public trust and accountability.

16. That in light of the above facts and circumstances, the Hon'ble Tribunal may pass appropriate directions/ orders as it may deem suitable.

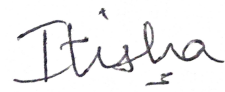
Through



Ritwick Dutta



Rahul Choudhary



Itisha Awasthi

Advocates

Counsel for the Applicant

N-73, Lower Ground Floor, Greater Kailash-1

New Delhi-110048

Email:- litigation@dclawchambers.com

Place:- Delhi

Dated:- 17.02.2025

F. No. IA3-22/19/2021-IA.III [E 164361]
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi-110 003

Dated: 20th September, 2021

ORDER

Sub: Directions under Section 5 of the Environment (Protection) Act, 1986 to not grant or renew CTO unless Environment Clearance, as applicable, has been obtained – regarding.

Whereas, prior Environmental Clearance is a statutory requirement for project/activities covered in the schedule of the EIA Notification 2006, issued under section 3 of the Environment (Protection) Act, 1986.

2. And whereas, obtaining the consents under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981 is mandatory for all industrial units in Red, Orange and Green categories.
3. And whereas, the grant of EC and Consents are requirements under different statutes and are not inter-dependent and can be carried out as a parallel process.
4. And whereas, many a times it has been observed that while industrial units are in possession of valid 'Consent to Establish' (CTE)/ 'Consent to Operate' (CTO) issued by State Pollution Control Boards (SPCBs)/ UT Pollution Control Committees (UTPCC), however, they have not obtained the Environmental Clearance (EC), even though it was required as per provisions of EIA Notification 2006.
5. And whereas, it has been observed that this situation is arising because majority of the SPCBs/ UTPCCs are issuing CTE/CTO to projects without ascertaining the applicability of prior EC to projects/ activities, resulting in an avoidable situation of closure for even those industries also who seek to carry out their activities following due procedure.

6. Now therefore, in exercise of powers conferred by section 5 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government, hereby directs that all SPCB/UTPCC shall:

- i. Ascertain the applicability of EIA Notification at the time of grant/renewal of CTE and stipulate appropriate condition for obtaining Environmental Clearance (EC), if applicable, before construction/commencement of project/activity.
- ii. Ensure that the project proponent possesses a valid Prior EC in terms of the extant EIA Notification, if applicable, at the time of grant/renewal of CTO and no CTO shall be granted or renewed unless EC, if applicable, has been obtained.

7. This is issued with the approval of the Competent Authority.


(A K Agrawal)
Director

To

Chairmen of all State/UT Pollution Control Boards and Pollution Control Committees

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to AS(RA)/JS(SKB)
5. Chairman of all the Expert Appraisal Committees
6. Chairperson/Member Secretaries of all the SEIAAs/SEACs
7. All the Officers of IA Division, MOEFCC
8. Website MoEF&CC/ Guard file.

Annexure A-2

F. No. 1A3-22/19/2021-1A.III [E 164361]
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan
 Aliganj, Jorbagh Road
 New Delhi-110 003

Dated: 5th April, 2022

ORDER

Sub: Directions under Section 5 of the Environment (Protection) Act, 1986 to not to grant or renew CTO unless Environmental Clearance, as applicable, has been obtained - regarding.

Whereas, Ministry vide order dated 20th September, 2021 has issued a direction under Section 5 of the Environment (Protection) Act, 1986 not to grant or renew CTO unless Environmental Clearance, as applicable, has been obtained.

2. And whereas, in order to ascertain the applicability of prior environmental clearance and to ensure availability of prior environmental clearance, if applicable, at the time of grant/renewal of CTO, the data fields in respect of applicability of the prior environmental clearance to the proposed project or activity and details of such clearance are required to be included in the CTE/CTO forms so as to integrate the Consent mechanism with the database of respective Projects/Activities on PARIVESH portal.

3. Now, therefore, in exercise of powers conferred by section 5 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government, hereby directs that all SPCB/UTPCC shall make necessary change in their CTE/ CTO form to include following fields:

1.0	Whether the Project requires Clearance under the Environment (Protection) Act 1986 (Environmental clearance)?	:	Drop Down [Yes/No]
	If Yes,		
1.1	Status of Environmental Clearance		Drop Down [<i>EC Obtained / Application submitted / Application yet to be submitted</i>]
	If EC Obtained		
1.2	Date of issue of environmental clearance	:	#Date#
1.3	PARIVESH Proposal Number	:	#Free Text#
1.4	MoEFCC/SEIAA File Number	:	#Free Text#
	If Application Submitted		
1.2	Date of application		#Date#

1.3	PARIVESH Proposal Number	:	#Free Text#
1.4	Status of application		Drop Down [Submitted recently / ToR Granted / PH Conducted / Under appraisal]
	If Application Yet to be submitted		
1.2	Reasons thereof		#Free Text#

4. This is issued with the approval of the Competent Authority.

Sharath
5/4/22
(Sharath Kumar Pallerla)
Scientist F/Director

To

1. Chairmen and Member Secretaries of all State/UT Pollution Control Boards and Pollution Control Committees
2. Sr. Director, NIC (Online Consent Management System)

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to AS(TK)/ PPS to JS(SKB)
5. Chairman of all the Expert Appraisal Committees
6. Chairperson/Member Secretaries of all the SEIAAs/SEACs
7. All the Officers of IA Division, MoEFCC
8. Website MoEF&CC/ Guard file.



Litigation . <litigation@dclawchambers.com>

Submission on behalf of Applicant in OA No. 912 & 913 OF 2022 Manav Seva Sansthan Vs. Union of India & Ors.

1 message

Litigation . <litigation@dclawchambers.com>

Mon, Feb 17, 2025 at 2:02 PM

To: pradeepmisra@yahoo.com, artakkar@artlo.in, "legalvibes.lawfirm@gmail.com" <legalvibes.lawfirm@gmail.com>

Dear Sir,

Please find attached- Submission on behalf of Applicant in OA No. 912 & 913 OF 2022 Manav Seva Sansthan Vs. Union of India & Ors.

Thanks & Regards

Counsel for the Applicant

**Submission on behalf of the Applicant.pdf**

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