

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

APPEAL NO. 7 (EZ) OF 2024

IN THE MATTER OF:

Sanjaya Kumar Mishra

... Appellant

Versus

Ministry of Environment, Forest and
Climate Change & Ors

.... Respondents

WRITTEN NOTES ON BEHALF OF RESPONDENT NO. 3

1. Subhadra Coal Mining Limited ("Respondent No. 3" or "SCML") is the Mine Developer and Operator (MDO) for Mahanadi Coalfields Limited ("MCL" or "Respondent No. 2") pursuant to a Coal Mining Agreement dated June 17, 2022.
2. This Hon'ble Tribunal, by order dated April 24, 2025, allowed SCML's intervention application (I.A. No. 97/2024/EZ), specifically noting that the allegation of the Appellant is directly against the Respondent No. 3.
3. Respondent No. 3 respectfully submits that the present appeal is entirely unsubstantiated, lacks evidentiary basis, and has been filed with the aim of misleading this Hon'ble Tribunal and derailing a perfectly compliant project.
4. It is stated that the Environmental Clearance dated March 6, 2024, was granted after a rigorous, multi-stage appraisal process conducted by the Expert Appraisal Committee (EAC) in full compliance with the EIA Notification 2006 and applicable environmental laws. The baseline data for benzene and all other parameters was collected and tested by Vardan EnviroLab, a NABL-accredited and MoEF&CC-recognized laboratory, using prescribed methodologies including IS: 5182 (P-11): 2006 standards.
5. The EIA report was prepared in accordance with all applicable guidelines and embodies a commitment to sustainable development.
6. In fact, the appellant's entire case rests on alleged "alternative findings" showing benzene concentrations between 2.2 to 6.4 micrograms per

cubic meter. However, despite multiple opportunities, the appellant has failed to produce even a single document supporting this core allegation.

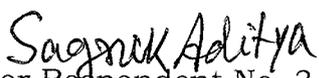
7. In his own email dated March 12, 2024, the appellant stated: "*I have document and I can produce, wherever required. But being a complainant, with limited resources, I have gathered documents, which may be not...*" This admission demonstrates that the appellant either does not possess credible evidence or has deliberately withheld it. It is trite law that no order can be passed on the basis of mere averments without documentary proof. The appeal cannot be sustained in light of non-submission of the reports relied upon by the appellant.
8. It is further stated that the testing in question was conducted strictly according to IS: 5182 (P-11): 2006 standards using Gas Chromatography with Flame Ionization Detector (GC-FID) method, as the use of "Limit of Quantification (LOQ)" is a scientifically accepted practice in environmental testing and does not constitute non-compliance with IS: 5182 standards. Also, Vardan EnviroLab is fully NABL-accredited and recognized by MoEF&CC under the Environment Protection Act 1986. In fact, LOQ has no relation whatsoever with the IS: 5182 (P-11): 2006 standards.
9. Crucially, benzene was not specifically mandated in the Terms of Reference granted on November 22, 2021. The ToR required baseline data on "*PM10, PM2.5, SOX, NOx and heavy metals such as Hg, Pb, Cr, As, etc...*" but did not mandate benzene testing. Further a perusal of test reports from 2 (two) different CPCB continuous air monitoring stations, being Annexure R to the affidavit filed on behalf of the Respondent no. 3, would show that benzene levels during the same monitoring period (October-December 2022) were negligible and "*very much less*" than prescribed standards of 5 $\mu\text{g}/\text{m}^3$.
10. Further, the EAC conducted a comprehensive, multi-stage appraisal process over several months:
 - a. 3rd EAC Meeting was held on November 16-17, 2023 where the Proposal was appraised and additional information requested;
 - b. 6th EAC Meeting was held January 17-18, 2024 when the Proposal was reconsidered after submission of additional information;
 - c. 7th EAC Meeting was held February 12-14, 2024 when the Appellant's grievance was specifically considered and MCL's clarification on the same was reviewed and only thereafter EC was recommended.
11. EC was thereafter granted on March 6, 2024 after completion of all procedural steps. The appellant's grievance dated January 15, 2024 was

specifically considered by the EAC in its 7th meeting. MCL submitted detailed clarification on February 20, 2024, which was accepted by MoEF&CC before granting the EC. It is categorically denied that the EAC relied solely on the undertaking provided in Form-1 or neglected to verify essential technical aspects.

12. In fact, the appellant's allegations questioning the credibility of the EAC and its expert members are made without any data or documents to substantiate such serious claims. There is always a presumption that statutory authorities like the EAC discharge their functions properly and in accordance with law. The burden is on the appellant to prove irregularity or non-compliance, which has manifestly not been discharged.
13. Respondent No. 3 supports and adopts the submissions made by Respondent No. 1 (MoEF&CC) and Respondent No. 2 (MCL) in their respective counter affidavits and written notes, particularly regarding:
 - a. Maintainability of the appeal
 - b. Compliance with EIA Notification 2006 procedures
 - c. Validity of NABL accreditation and laboratory testing
 - d. Adequacy of the EAC's appraisal process
 - e. Corroboration from CPCB monitoring stations
14. Both Respondents No. 1 and 2 have consistently maintained that the testing was conducted as per IS: 5182 (P-11): 2006 standards and that the appellant's allegations are mischievous and unsubstantiated. Respondent No. 1 has correctly pointed out that NABL has no specific "reporting practice" or prescribed format, and that NABL is not covered under the NGT Act 2010.
15. The central issue is whether the appellant has discharged the burden of proving deficiencies in baseline data or violations of environmental law. The answer is unequivocally in the negative as zero documentary evidence has been produced despite repeated opportunities and the same is coupled with the appellant's own admission of not possessing relevant documents.
16. The use of LOQ terminology and reporting of benzene as below quantification limits are scientifically valid practices that comply with IS: 5182 standards. The appellant's technical objections are based on misunderstanding rather than genuine non-compliance.
17. The fact that benzene was tested voluntarily when not mandated in the ToR demonstrates the bona fide endeavors of Respondent No. 3 in catering to environmental norms. Penalizing the project proponent for

conducting comprehensive testing beyond requirements would set a perverse precedent discouraging such practices.

18. Further, CPCB monitoring station data provides independent corroboration that benzene levels were negligible during the monitoring period, validating the baseline data and completely undermining the appellant's unproven allegations.
19. Allowing the instant appeal and setting aside the EC based on unsubstantiated technical objections would hamper socio-economic development, delay implementation of Environmental Management Plans, and not contribute to any tangible environmental benefit.
20. In light of the foregoing submissions, Respondent No. 3 respectfully prays that this Hon'ble Tribunal may be pleased to dismiss Appeal No. 7 (EZ) of 2024 with exemplary costs for being completely without merit and lacking evidentiary foundation and uphold the validity of the Environmental Clearance dated March 6, 2024 bearing Identification No. EC23A0101OR5745830N granted to Mahanadi Coalfields Limited for the Subhadra Open Cast Mine (Utkal-A Coal Mine).


For Respondent No. 3
Subhadra Coal Mining Limited
(Through Advocate-on-Record)

Date: 18.03.2026

Place: Kolkata