

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.156/2023/EZ
Earlier Original Application No.426/2021/PB

IN THE MATTER OF:

Dasai Munda & Ors.

...Applicant(s)

Versus

1. State of Jharkhand,
Through its Chief Secretary,
Government of Jharkhand,
2. Union of India,
Through its Secretary,
Ministry of Environment, Forests and Climate Change,
Government of India,
3. Principal Secretary,
Department of Industries,
Government of Jharkhand,
4. Jharkhand State Pollution Control Board,
5. District Magistrate,
Saraikela Kharsawan, (Jharkhand),
6. Neelanchal Iron and Power Ltd.
Ratanpur, Saraikela,

...Respondent(s)

Date of hearing: 26.04.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Vikas Garg, Amicus Curiae (in Virtual Mode)

For Respondent(s) : Ms. Aishwarya Rajyashree, Adv for R- 1,3&5,
Ms. Amrita Pandey, Adv. for R-2, (in Virtual Mode)
Mr. Kumar Anurag Singh, Adv. for R-4, (in Virtual Mode)
Mr. Ashim Sridhar, Adv for R-6, (in Virtual Mode)

ORDER

1. Mr. Vikas Garg, Amicus Curiae, is present (in Virtual Mode).

2. The Original Application No.426/2021/PB was registered by the New Delhi Bench of the National Green Tribunal on the basis of a complaint received by post by the Applicants, Dasai Munda & others.
3. The grievance of the Applicants in the Original Application is that Neelanchal Iron and Power Ltd. Ratanpur, Saraikela Plant, is operating for the last many years violating environmental norms. It is stated that toxic emission from the industry is causing serious health hazard and damage to the crops as well as environment.
4. It is also alleged that construction work of 600 TPD Sponge Kiln and 15 MTX3 Crucible Steel Melting Shop and CCM is about to start in the above Plant without any Environmental Clearance (EC) or Consent to Establish (CTE) and that complaints were also made in this regard to the Jharkhand State Pollution Control Board but no action has been taken.
5. Considering the matter, the New Delhi Bench of the National Green Tribunal constituted a fact finding Joint Committee comprising of the following Members:-
 - (A) Central Pollution Control Board,
 - (B) Jharkhand State Pollution Control Board, and
 - (C) District Magistrate, Saraikela Kharsawan, (Jharkhand)
6. The Joint Committee was required to visit the site in question and submit its factual Report within three months.
7. Accordingly, the Joint Committee Report has filed its Report vide e-mail dated 11.09.2022 before the New Delhi Bench of the Tribunal. Relevant extract of the Report reads as under:- order dt.

“.....XXX.....XXX.....XXX.....”

Background

1. Honourable NGT constituted a joint committee as above based on the grievance in the application filed by Sri Dasai munda , Ratanpur, Seraikela kharsawn and others regarding alleged 'Inaction of authorities in taking steps to control air pollution caused by operation of the industry for many years violating environmental norms. Also it is alleged that toxic emission from the industry is also causing serious health hazard and damage to crops as well as to environment. Complainant has also mentioned that construction work of 600 TPD sponge kiln, 15 x3 MT Crucible steel melting shop and CCM has been started without obtaining EC.
2. The company had obtained its I." EC vide MoEF, letter no. J-11011/662/2008-IA II (I) dated 24-12- 2009. CTE from Jharkhand State Pollution Control Board was also obtained vide JSPCB Memo No. 1839. / Fax No. 06512224135 dated 22-01-2010. Pursuant to obtaining EC/CTE company erected 550 TPD DRI plant (2x100 TPD, 1x350 TPD) and Coal Washery during 2010-2011 and started production after obtaining CTO. The validity of EC expired in 2016.
3. Company has also erected 10 MW WHRB based captive power plant and has submitted application for CTO to JSPCB
4. Company's operation was suspended between 2012 to 2015 due to adverse falling market matrix and other dependent variables. Operation was restarted in 2016. There was also change of ownership and management in 2018.
5. As covid-19 pandemic emerged as major obstacle for development in the region, people of surrounding villages have very few means for any sustainable livelihood. The company submitted that in order to support the livelihood of poor villages in the surrounding villages, in anticipation of EC, the company gave employment on humanitarian grounds and started functioning.
6. Company again applied for fresh EC with MoEF, New Delhi vide its letter dated 10.07.2020 as it decides to expand the existing steel plant to Integrated Steel Plant through installation of 1800 TPD (3x600 TPD) DRI kilns along with Beneficiation Plant for Iron ore (1X0. 6 MTPA), Pellet Plant (1x0. 6 MTPA), Steel Melting Shop (2x25 T + 4x1 5 T Induction Furnaces) with matching LRF & CCM,

Roiling Mill (0.35 MTPA), Ferro alloy Plant (4x1 6.5 MVA), Briquette plant for Chrome Ore (1x30 TPH), Oxygen plant (100 TPD)- and 75 MW (50 MW WHRB based + 25 MW AFBC based) Captive Power Plant within the existing plant premises and the land adjacent to the plant premises. Since company has obtained TOR, completed draft DA EMP study report and based on this JSPCB, Ranchi successfully conducted Public hearing on 27th September 2021. Now application is pending with MOEF, New Delhi for grant of EC.

Observations

1. Ambient air pollution caused due to production activities, loading and unloading of raw materials and plying of heavy vehicles on both kuccha and pucca roads adds to air pollution in and around factory was visible. Though it was insignificant. This was made possible as company recently refurbished ESP at a cost of Rs. 2.0 crores that became obsolete in course of time as its operation was suspended for long. 600 pieces of new bags have replaced old bags from 10 number of bag filter modules fitted to coal circuit, CD building, finished product house and blending unit. > 80 numbers of water sprinklers are placed along road side and other vulnerable areas of the Plant for dust suppression. Company has further deployed 03 water tankers (5KL of each) for the purpose. Besides company has planted > 900 tree saplings during monsoon within premises.

2. 5 Soil samples were collected from agricultural plots of village Ratanpur located around plant premises for identifying degree of soil pollution caused by Industry. Samples have been analyzed by District Vigyan Kendra, Searikela kharsawan for its physico-chemical characteristics vis a vis soil pollution caused for emissions from NIPL Ratanpur. Soil test results do not show any significant Impact on soils of nearby agricultural fields. This is evident from soil test report attached (Annexure 1).

3. Company has completed its construction and erection of SMS, CCM, Rolling mill (RM) and Rotary kiln (partly) without obtaining EC and CTE. It is presently under trial run. JSPCB, Jamshedpur vide its letter no. 860 dated 12.05.2021 has directed company to stop the construction works of SMS, CCM, Rolling mill and Rotary kiln until EC and CTE is obtained from competent authorities.

Reminder for same was also sent vide letter no, 205 dated 23.03,2022(Annexure 3).

4. Committee tried to locate and reach Mr Dasai Munda and others of Jharkhand Adivasi Jan Kalyan Morcha, Jharkhand to understand and record his views in person vis a vis petition to Honorable NGT, New Delhi. But task could not be accomplished for lack of complete address of the complainant.

Recommendations

1. *Installation of water sprinklers - Water tankers, fixed type sprinklers, potable water sprinklers besides fog based dust suppression are less in number and is not commensurate with scale of operation. This adds to air pollution. Company need to strengthen the existing dust control system in place.*
2. **Haul roads-** *Haul roads within premises is made of mix of boulders and loose soil. It adds to fugitive emission for plying of heavy vehicles at high frequency. All roads to be made pucca.*
3. **Keep multiple handling of input and output materials to minimum-** *This will reduce fugitive emission considerably and the resultant dust pollution.*
4. **Dense green belt development-** *Negligible planation is visible along boundary, haul roads and other areas within premises. Saplings to be planted at 2x2 M grid distance such that minimum 33% of project area is occupied by greenery, Reinforcing green belts with grass, herb and shrub coupled with sustained maintenance are very effective barrier against fugitive emission generated during process and handling of materials. This will contain dusts within premises and will protect nearby inhabitants as also the surrounding ecology.*
5. **Develop dense grass/vegetation on all bare lands-** *All available bare lands within premises to be thickly grassed/vegetated and properly maintained. This will reduce dust getting air borne and its resultant impact.*
6. **Installation and Interlocking of Online ambient air system with operation of water sprinklers-** *Minimum 2 no of online AAQM systems to be commissioned in the downstream of pre dominant wind direction/problem areas. 1st to be installed where dust concentration is maximum(within premises) and second where this is brought within CPCB norm (habitations). Operation of water sprinklers in the area to be*

interlocked with Online system such that sprinklers starts as dust concentration exceeds norms and stops as it is brought within norms. Chemical dosed water spray should be done for dust suppression on kuccha roads.

7. ***Dedicated team for controlling dust emission-*** *A dedicated team led by an officer not less than Manager rank to be deployed at site for controlling fugitive emission/other pollutions generated in the area.*

8. ***Awareness campaign-*** *To be conduct at least once in 6 months among employees and other stakeholders highlighting importance of clean environment.*

9. ***Obtain EC-*** *Company to expedite process of grant of EC following due process of the law as it has already filed EC application for its expansion project with MOEF, New Delhi and public hearing has been conducted successfully.”*

8. The following were impleaded as Respondents in the present case:-

- (1) State of Jharkhand, through its Chief Secretary, Government of Jharkhand,
- (2) Union of India, through its Secretary, Ministry of Environment, Forests and Climate Change, Government of India,
- (3) Principal Secretary, Department of Industries, Government of Jharkhand,
- (4) State Pollution Control Board,
- (5) District Magistrate, Saraikela Kharsawan, (Jharkhand), and
- (6) Neelanchal Iron and Power Ltd. Ratanpur, Saraikela Plant,

9. The case was thereafter transferred to the Kolkata Bench of the National Green Tribunal by the New Delhi Bench vide its order dated 22.08.2023.

10. Notices were issued to the Applicants on 18.10.2023. The case was listed on 08.01.2024, 19.01.2024 and 14.03.2024 but neither the Applicants nor any Counsel had appeared on their behalf.

11. The Respondent No.6, Nilachal Iron and Power Ltd., has filed affidavit dated 14.12.2022 stating therein that the Plant of the said Respondent was established on 06.05.2002; initially 350 TPD kiln was commissioned and it commenced commercial production on 01.04.2005. Thereafter, M/s Jai Balaji Group took over the ownership of Nilachal in 2007. The Respondent No.6 applied and was granted Consent to Establish (CTE) and Consent to Operate (CTO) on 17.12.2003 and 04.02.2005 respectively.
12. In the affidavit, it is further stated that the said Respondent applied for Environmental Clearance (EC) for expansion of M/s Nilachal Iron & Power Ltd. which was granted on 24.12.2009 and pursuant to the grant of Environmental Clearance, the Respondent No.6 Plant commissioned 100x2 TPD Kilns in 2010. It is stated that in March, 2018, the management and ownership of Respondent No.6 Plant was taken over by M/s Niryat Private Limited and 12 MW (WHRB) Power Plant was commissioned for which Environmental Clearance was not required. The said Power Plant started generating power in January, 2021.
13. It is further stated that the Respondent No.6 intended to expand the existing Sponge Iron Plant (350 TPD) into Integrated Steel Plant along with Captive Power Plant for which Environmental Clearance was required. It is stated that Environmental Impact Assessment has already been completed and is pending approval for grant of Environmental Clearance. Terms of Reference (ToR) was also issued by the Ministry of Environment, Forests and Climate Change, New Delhi ('MoEF' for short) on 06.09.2020 and thereafter public hearing was conducted on 27.09.2021 and the minutes of the

public hearing have also been forwarded by the Jharkhand State Pollution Control Board to the MoEF on 25.10.2022.

14. Further affidavit dated 07.12.2023 has been filed by the Respondent No.6, Nilachal Iron and Power Ltd., denying that the said Respondent is engaged in any activity causing toxic emissions damaging crops and environment. The findings of the Inspection Committee have been denied and it is reiterated that the application of the said Respondent for grant of Environmental Clearance is under process before the MoEF, New Delhi.
15. With regard to the recommendations of the Joint Committee, it is stated that; (1) 40% of the internal roads have been laid, especially road from main gate towards SMS and rolling area, (2) in addition to the water sprinklers, road laying work and covering of the raw materials, Air Filtration System has also been deployed to reduce air pollutants, (3) following dust excretion systems in DRI Plant to control the dust emission in the environment have been installed; (4) three “High efficiency Electrostatic Precipitator” (ESP) of 99.9% have been provided for limiting Suspended Particular Matter (SPM) concentration in the flue gas to less than 50 mg/Nm³ in 2x100 and 350 DRI Plant respectively, (5) 2 bag filters in 2x100 and 3 bag filters in 350 for removing the dust contained in the exhaust gases have been installed, (6) for hot flue gases, Waste Heat Recovery Boiler (WHRB) has been installed.
16. It is also stated that for control of fugitive emission from process units in Nilachal’s Plant following measures are stated to have been put in place – (a) preventive maintenance of valves and other equipment, (b) green belt on all sides within the project boundary and community plantation around the Unit, (c) Ambient Air Quality

and stack/fugitive emissions monitored regularly, (d) sprinklers in the high Ground Level Concentration (GLC) area have been installed in the Plant, (e) training has been provided to Plant personnel with regard to operation and maintenance of dust collector, techniques of dust emission measurements, particle size analysis etc. It is also stated that for control of water pollution, the Respondent No.6 has installed 50 KLD Sewage Treatment Plant i.e., STP for treatment of administrative sewage waste from all sections of Nilachal's Plant and the Plant is also using water in sprinklers for dust suppression on road, stock yard and material handling area. It is also stated that the Respondent No.6 has installed mechanisms for collection of rain water in RHW Pond (rainfall harvesting) for further utilization in the recharging of the Nilachal Plant ground water. It is also stated that 900 tree saplings have been planted during monsoon season and further 5000 tree saplings have been planted within the premises along the boundary towards green belt and all spare land has been covered with grass and shrubbery and at present at least 20% of the area has been covered with plantation.

17. In the affidavit, it is further stated that Respondent No.6 has engaged USR Enviro for testing of ambient air, fugitive emission, noise, groundwater, surface water and harvesting pond and USR Enviro has engaged a third party consultant, namely, Asia Enviro Lab, as a sub-consultant to monitor ambient air quality for the Plant.
18. Affidavit dated 26.12.2022 has been filed by the Respondent No.2, Ministry of Environment, Forest and Climate Change, stating therein that the Project Proponent, M/s Nilachal Iron & Power Ltd.,

Respondent No.6, was accorded Environmental Clearance dated 24.12.2009 for the Project located at Ratanpur-Kandra Village, Gamharia Block, District-Saraikela Kharswan, Jharkhand. It is further stated that for expansion of the existing Steel Plant to Integrated Steel Plant, through installation of 1800 TPD (3x600 TPD) DRI Kilns along with the Beneficiation Plant for Iron Ore (1x0.6 MTPA), Steel Melting Shop (2x25 T + 4X15 T Induction Furnaces) with matching LRF & CCM, Rolling Mill (0.35 MTPA), Ferro Alloy Plant (4x16.5 MVA), Briquette Plant for Chrome Ore (1x30 TPH), Oxygen Plant (100 TPD) and 63 MW (38 MW WHRB based + 25 MW AFBC based), capacity Captive Power Plant, the Project was considered by the Expert Appraisal Committee (EAC) (Industry I Section) in its meeting held on 26-28th August, 2020, and based on the recommendations of the EAC the Project Proponent has been accorded Terms of Reference (ToR) on 06.10.2020.

19. It is also stated that the Project Proponent had submitted online application vide his application dated 04.01.2021 along with Form 3 for amendment in ToR dated 06.10.2020 which was considered and thereafter the EAC recommended the proposal for amendment in the ToR on 12.02.2021. It is further stated that the Environment Impact Assessment (EIA)/Environment Management Plan (EMP) Report for expansion Project has not been received by the Ministry in PARIVESH portal and the whole process for grant of Environmental Clearance is through the PARIVESH portal.
20. An Action Taken Report has been filed by the Jharkhand State Pollution Control Board (pages 204-205 of the paper book), stating that direction for closure of the Unit was issued by the State Board

vide its letter dated 10.09.2022 and Environmental Compensation was determined @ 79,73,438/- (Rupees Seventy Lakhs Seventy Three Thousand Four Hundred and Thirty Eight Rupees only). Thereafter, the Unit represented before the State Board vide its letter dated 20.09.2022 to reconsider the decision by stating that instead of compensation for 189 days, compensation for 56 days be accepted, since the Unit was shut down for 133 days. The matter was reconsidered by the State Board and Environmental Compensation was recomputed to Rs.23,62,500/- (Rupees Twenty Three Lakhs Sixty Two Thousand Five Hundred only) vide its letter dated 16.11.2022. It is further stated that the said amount of Rs.23,62,500/- (Rupees Twenty Three Lakhs Sixty Two Thousand Five Hundred only) has been deposited by the Respondent No.6 Unit vide Demand Draft No.507205 dated 16.11.2022.

21. The Respondent No.6 has filed further affidavit dated 08.04.2023 stating that at present total 6289 plants are within the premises of the Unit. It has also developed Green Belt Development Plant as per agroclimatic zone, soil condition, climatic & rainfall pattern and Central Pollution Control Board recommended pollutants tolerant, dust accumulators and native high growing plants. As per this Plant:-

(a) proposed green belt would be covering around 33% of the total area i.e., 18.5 acres out of 56.0864 acres,

(b) green belt would be consisting of shrubs, trees, avenue trees, revenue trees, crops and potted plants,

(c) in addition to existing trees, total 30,951 trees will be planted which will cover an area of about 13.07 acres of the land,

- (d) total 11,340 trees have been proposed for plantation of trees surrounding the Plant area and within the Plant area, and
- (e) two gardens have been proposed of which one has been developed within the Plant premises in 0.05 acres.
22. Further Action Taken Report has been filed by the Jharkhand State Pollution Control Board, (pages 415-422 of the paper book), stating therein that Project Proponent, Respondent No.6, has submitted its response to a show cause notice dated 16.02.2023 issued by the State Board and in para 1E it is stated that the Project Proponent has applied to obtain fresh Consent to Operate (CTO) for Sponge Iron – 2x100 TPD & 1x350 TPD with Waste Heat Recovery Boiler (WHRB) Power Plant vide application dated 22.11.2022 but it did not file any documents in support thereof which showed that the Unit was operating the expanded part of its Plant without Environmental Clearance, Consent to Establish and Consent to Operate.
23. It is further stated that the Project Proponent admitted under the heading “Construction Status” that it had installed the 2x600 TPD Sponge Iron Plant, 3x10T Steel Melting Shop, 2,30,000 TPA Rolling Mill and 37 MW capacity WHRB Plant and under the heading “Operation status” it was also admitted by the Unit that capacity of 1x600 TPD Sponge Iron Steel Plant, 3x10T Steel Melting Shop and 2,30,000 TPA Rolling Mill were fully functional and maintained. These facts were also confirmed in the Inspection Report of the Jharkhand State Pollution Control Board dated 27.02.2023 during the inspection of the Unit carried out on 20.02.2023. Therefore, considering these facts, the State Board vide its order dated 21.03.2023 directed the Respondent No.6 to close down the

expanded part of the Unit for carrying out expansion activity of the Unit without obtaining Environmental Clearance, Consent to Establish or consent to Operate. It is also stated that penalty was also computed @ Rs.5,36,32,000/- (Rupees Five Crores Thirty Six Lakhs Thirty Two Thousand only) and the Respondent No.6 was directed to deposit the same with the Jharkhand State Pollution Control Board.

24. In the affidavit, it is also stated that in compliance of the directions, the Regional Officer, Jharkhand State Pollution Control Board, Jamshedpur, has filed a complaint case against the Respondent No.6 before the Court of Chief Judicial Magistrate, Saraikela Kharsawan, on 10.04.2023.
25. It is also stated that the Respondent No.6, M/s Nilachal Iron & Power Ltd. has deposited the penalty amount of Rs.5,36,32,000/- (Rupees Five Crores Thirty Six Lakhs Thirty Two Thousand only) vide Demand Draft No.507592 dated 04.04.2023.
26. Further affidavit dated 11.01.2024 has been filed by the Respondent No.6 stating therein that the Expert Appraisal Committee (EAC) conducted a detailed analysis of the compliances made by the said Respondent, and the Committee has recommended proposal for grant of Environmental Clearance subject to uploading the written submission on portal under the provisions of EIA Notification, 2006, read with Ministry's Office Memorandum dated 09.08.2018.
27. **I.A. No.11/2024/EZ** has also been filed by the Project Proponent, Respondent No.6, clarifying that Environmental Clearance has not been granted yet but has been proposed to be granted.

28. In view of the facts noted hereinabove, we find that nothing further remains for adjudication in the present case.
29. The Original Application No.156/2023/EZ is accordingly disposed of with a direction that the Respondent No.6 shall not operate the expanded part of its Unit without valid Environmental Clearance.
30. I.As. if any, stand disposed of accordingly.
31. There shall be no order as to costs.

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

April 26, 2024,
Original Application No.156/2023/EZ
(Earlier Original Application No.426/2021/PB)
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