

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

.....

APPLICATION No. 287 of 2013

In the matter of :

Shiva Cement Limited

Represented through its Managing Director,

Rajendra Prasad Gupta,

P-25, Civil Township,

PO-Rourkela,

Dist- Sundargarh

Odisha- 769004.....Applicant

Versus

1. Union of India,

Represented through its Secretary, Ministry of Environment
and Forests,

CGO Complex, Lodhi Road,

New Delhi-110003

2. State Pollution Control Board,
Represented through its Secretary,
Paribesh Bhawan, A/118, Nilakantha Nagar,
Unit-VIII, Bhubaneswar -751012
Dist- Khurda

3. Collector & District Magistrate, Sundargarh

PO/Dist- Sundargarh

Odisha

.....Respondents

Counsel for Applicant:

Mr. Raj Panjwani, Sr. Adv. Along with Mr. Bibhu Tripathy and Mr. G. Pujari, Advocates.

Counsel for Respondents :

Mr. Vikas Malhotra, Advocate , Mr. Mareesh P. Shay, Advocatefor Respondent No.1.

Mr. Satyabrata Panda, Advocate, Mr. Linghraj Sarangi, Advocate, Mr. M. Paikray, and Mr. A.K. Panda Advocates for Respondent No.2

Mr. Shibashish Misra, Advocate for Respondent No. 3.

ORDER/JUDGMENT

PRESENT :

Hon'ble Mr. Justice Dr. P. Jyothimani (Judicial Member)

Hon'ble Mr. Justice M.S. Nambiar (Judicial Member)

Hon'ble Dr. G.K. Pandey (Expert Member)

Hon'ble Prof. A.R. Yousuf (Expert Member)

Hon'ble Shri Ranjan Chatterjee (Expert Member)

Dated :4th March, 2014

JUSTICE DR. P. JYOTHIMANI (JUDICIAL MEMBER) :

1. This application is filed by the project proponent challenging the letter of respondent No. 1 Government of India Ministry of Environment and Forest (MoEF) dated 22.05.2013 by which the respondent No. 1 has directed the Chief Secretary of the Government of Odisha to request the Collector Sundargarh, Odisha, respondent No. 3, to have public hearing conducted on the application filed by the Project Proponent seeking Environment Clearance (EC) for expansion of limestone production capacity from 0.12 MTPA to 0.3475 MTPA in respect of its mine in the lease area of 72.439 hectares located at Khatkurbahal Village, Tehsil Rajgangpur, Sundergarh District. Pursuant to the said direction, of respondent

No. 1 under the impugned letter dated 24.08.2013, the State Pollution Control Board (SPCB) Odisha, respondent No.2,has directedrespondent No. 3, District Collector to conduct public hearing. Both the said communications of respondentNo. 1 and 3 are impugned in these proceedings.

2. This Tribunal while issuing notice, in the order dated 26.09.2013 having been *prima facie* satisfied, has directed the respondents to maintain *status quo*, which order has continued till date.

3. Brief facts leading to the issuance of the impugned letters and consequent filing of the present application are as follows:

The applicant company is running a mini cement plant with captive lime stone mines over an area of 72.439 hectares at Khatkurbahal and Kulelbahal, in the District of Sundergarh in State of Odisha. The original mining capacity granted to the applicant/project proponent was for 0.12 MTPA. With an intention to enhance the said mining capacity to 0.3475 MTPA, the applicant has sent its proposal to respondent no. 1. The respondent no. 1, pursuant to the said proposal for expansion has sent its Terms of Reference (TOR) on 15.12.2009. Thereafter, with due compliance of the TOR, the applicant company has sent its report on 13.04.2011. It appears that respondent no. 2, the SPCB has intimated the respondent no. 3 to fix the venue for public hearing on 17.05.2011. Accordingly, the respondent no. 3, District Collector has fixed the venue and date of public hearing as 18.01.2012. In the meantime it appears that the Mining Department has directed the applicant to stop operation from 15.11.2011. As the proceeding for grant of EC was pending with

respondent no. 1 at the stage of public hearing which was fixed on 18.1.2012 and in the meantime, the period of mining lease was to expire on 14.1.2012, the Mining Department in the letter dated 4.1.2012 has ordered closure of mines unless EC is obtained by 15.1.2012. As against the said order of the Mining Department, the applicant had filed an Appeal before this Tribunal on 15.1.2012 in Appeal no. 3 of 2012 which has granted an order of *status quo*.

4. The said appeal was disposed by the Tribunal in the order dated 1.3.2012. In the said order, taking note of the fact that the public consultation has been fixed on 16.3.2012, it was directed that the said consultation shall be completed on the said date and the report sent by respondent no.3 to respondent no. 1 within 8 days, observing that the said procedures shall be completed in strict compliance of the procedure as required under Environment Impact Assessment Notification 2006 (EIA Notification 2006) within the time frame prescribed and take a final decision regarding issuance of EC. The Tribunal has further directed that till then the order of *status quo* shall be continued.

5. It is stated that when no decision was taken as per the final judgment passed by the Tribunal stated above, the Applicant has approached this Tribunal by filing M.A. No. 118 of 2012 in appeal no. 3 of 2012 which was disposed off on 1.11.2012 with a direction to the SPCB to send the communication of the District Collector to MoEF along with its recommendations within 2 weeks and thereafter, the MoEF to take a decision as per paragraph 7.2 of the EIA

Notification 2006 stating that the entire exercise shall be completed within a period of 6 weeks.

6. It is seen that, by an earlier order passed in the above appeal dated 20.7.2012, in view of the fact that the public hearing was to be conducted by making more stringent security arrangements, the Tribunal has directed to comply with the order dated 1.3.2012 passed in Appeal No. 3 of 2012 within a period of 2 months time. It appears that as public hearing was not possible due to various reasons, public consultations have been obtained by way of representations and opinions from the public along with the videography and was sent to respondent no. 1 followed by a letter of respondent no. 2 SPCB dated 15.1.2012 that the respondent no. 1 may pass suitable orders based on the said public consultations. It is stated that the Impact Assessment Division of the Expert Appraisal Committee (EAC) for Environmental Appraisal of mining projects, in the meeting held on 21/23.11.2012 has recommended issuance of EC for the proposal for expansion of the project made by the applicant. The complaint of the applicant is that in spite of such decision having been taken by the Expert Appraisal Committee on 21/23.11.2012, the respondent no. 1 who has to take a final decision under EIA Notification 2006 for grant of EC, without taking any such decision has issued the impugned letter dated 22.5.2013 to the Chief Secretary of the State of Odisha directing the District Collector to conduct public hearing and consequently the respondent no. 2 SPCB has issued the impugned letter dated 22.5.2013 requesting the District Collector to conduct public hearing.

7. The impugned letters are challenged by the applicant on various grounds including that they are not in accordance with law; that the letter of respondent no. 1 dated 22.5.2013 has no authority of law; that on the Expert Appraisal Committee (EAC) recommendation issued on 21/23.11.2012, within 45 days the respondent no. 1 should have taken a decision either way, failing which the EIA Notification 2006 mandates that on expiry of 45 days the respondent no. 1 is deemed to have granted EC and thereafter, there is no question of convening public hearing once again; that in the absence of such power to convene public hearing after the deemed clearance under the EIA Notification 2006, both the impugned letters cannot stand the test of law and that in any event the respondent no. 1 has no authority under the EIA Notification 2006 to write such letter to the Chief Secretary of the State.

8. The respondent no. 1 in its reply has submitted that, public hearing process is one of the most important ingredients of EC as per EIA Notification 2006. Even though the District Collector in the letter dated 17.12.2012 addressed to the SPCB has intimated that the public hearing in this case is not possible due to law and order problems, it is stated by respondent no. 1 that the principle of transparency requires public hearing before issuance of EC. It is also stated that for effective EIA report, the issues raised during public hearing are of utmost importance. Therefore, it was felt by respondent no. 1 that avoiding of public hearing in the name of public consultation by the District Collector is not permissible under the EIA Notification 2006 and finding that public hearing very much is

inbuilt in the EIA, respondent no. 1 had no other go than directing the Chief Secretary who is the Chief Administrative Officer of the State Government to direct the District Collector to conduct public hearing which cannot be said to be either illegal or malafide.

9. In the reply filed by respondent no. 2, it is stated that the impugned communication of respondent no. 2 dated 24.8.2013 was only a necessary consequence of the impugned letter of respondent no. 1 dated 22.5.2013.

10. The Learned Counsel appearing for applicant, vehemently contented that when once the Tribunal in the final Judgment dated 1.3.2012 has issued direction to conduct public hearing and the entire process in accordance with the EIA Notification 2006, and the Tribunal has extended the time twice the last extension being on 20.7.2012 granting 2 months time which expired on 20. 9.2012 and in spite of that if respondent no. 1 has not taken any decision, as per the provisions of the EIA Notification 2006, the deemed clearance comes into effect on completion of 45 days at least from the lapse of the last opportunity given by the Tribunal namely September 2012 and in such circumstances, the impugned letter of respondent no. 1 dated 22.5.2013 has no legs to stand in accordance with law and EIA Notification 2006 itself. He has also submitted that the very conduct of respondent no. 1 in not taking any effective decision shows, not only the lethargic conduct of the said respondent, but is in total defiance of its own EIA Notification 2006. He would also contend that in any event, such letter of the respondent no. 1 addressed to the

Chief Secretary is unknown as per the provisions of the EIA Notification 2006.

11. Per Contra, it is the contention of Mr. Vikas Malhotra Learned Counsel appearing for respondent no. 1 that when admittedly on the facts of the case public hearing was not conducted, this being a necessary ingredient as per the EIA Notification 2006, there is no right on the part of the applicant to claim EC from respondent no.1. When that is so, the applicant cannot question the genuine efforts taken by respondent no. 1 which cannot be termed either malafide or illegal.

12. The Learned Counsel appearing for respondent no. 2 while adopting the arguments of the learned Counsel for respondent no.1, would submit that it is because of the law and order problem created by public agitation, that public hearing could not take place and therefore, the opinion of public were obtained in the form of consultation and the same have been forwarded to respondent no. 1 and respondent no. 1 has not taken any decision for which respondent no. 2 cannot be held responsible. In any event, according to the learned Counsel, respondent no. 2 is bound by the letter of respondent no.1 and therefore, respondent no. 2 had to necessarily issue letter to the District Collector to convene the public hearing which cannot be said to be malafide.

13. The Learned Counsel appearing for respondent no. 1 at the direction of the Tribunal has submitted the original file relating to the above said matter. We have heard learned Counsel appearing for the applicant and respondents, perused the entire records including the

original file submitted by the learned Counsel appearing for respondent no. 1 apart from the provisions of the EIA Notification 2006 and given our anxious thought to the issue involved in this case.

14. In the above said background of the admitted facts, before going into the merits of the matter we think it appropriate to mention some of the dates which are relevant for the purpose of arriving at a conclusion especially in the light of the EIA Notification 2006. The applicant company has applied originally for permission to manufacture limestone in the name of Khatkurbahal limestone and Dolomite mines for the quantity of 0.12 MTPA in the extent of 72.439 hectares. The consent of the SPCB for the original plant is seen to have been made on 16.11.2006 and SPCB has granted consent to operate on 20.02.2007. The company has subsequently applied on 16.09.2009 for enhancement of the production capacity to 0.35 MTPA to the MoEF in form 1 for EC as required in the EIA Notification 2006. That was accompanied by the approved mining plan for finalisation of TOR. Admittedly the proposal for expansion comes under Category A as per the EIA Notification 2006. For finalisation of the TOR, the MoEF in the letter dated 5.11.2009 addressed to the project proponent has directed the representative of the project proponent to be present in the meeting of the EAC convened on 24.11.2009. The EAC in its meeting held on 23/24.11.2009 has considered the proposal for expansion and after considering the presentation made on behalf of the project proponent and taking note of the information submitted that the mining lease area is 72.439

hectares, that no forest land is involved, that however, 62.685 hectares is agricultural land, that the working will be open cast semi-mechanised drilling and blasting, that life of mine is 53 years, that ultimate working depth will be 110 m bgl (below ground level), that water table is 8 m bgl, that mine working will intersect ground water table, that no crushing is proposed as part of the said project and that the limestone will be for their captive use in the cement plant at a distance of 12 kms. , has prescribed TOR for undertaking Environment Impact Assessment (EIA) study. The above decision of the EAC with TOR prescribed was communicated to the project proponent by the MoEF on 15.12.2009. In the said letter the project proponent was directed to prepare EIA report based on the TOR as per the instructions given by the MoEF through website of the Ministry dated 4.08.2009. The said letter also states that after preparing the draft EIA by the project proponent covering all matters referred in the TOR, the proponent will get the public hearing conducted and further action would be taken for issuance of EC as per EIA Notification 2006. The project proponent has accordingly sent EIA report to the Odisha SPCB along with necessary fees on 13.04.2011 for conducting public hearing. The project proponent has assigned the reason for delay in producing the EIA report, for data collection and other compliances. The SPCB has directed the District Collector respondent no. 3 to fix the venue for public hearing on 17.05.2011. Accordingly, the District Collector has fixed the venue and date of public hearing as 18.01.2012. Admittedly no public hearing took place on the said date.

15. Since in the meantime, mining lease period has expired on 14.01.2012, mining department directed closure of the applicant's unit on 4.01.2012. Appeal no. 3 of 2012 was filed by the project proponent in the National Green Tribunal against the order of closure dated 4.01.2012. The said Appeal was disposed on 1.03.2012 directing completion of public consultation fixed on 6.03.2012 and sent report to MoEF within 8 days along with an order of *status quo*. M.A No. 118 of 2012 in Appeal no. 3 of 2012 was filed for extension of time. National Green Tribunal, by order dated 1.11.2012, directed SPCB to send the communication of the District Collector to MoEF with its recommendation within 2 weeks and thereafter, MoEF to take a decision and the entire process was directed to be completed within a period of 6 weeks. Admittedly from the said date, namely 1.11.2012 onwards, no order has been passed by the MoEF regarding the grant of EC for expansion.

16. It is also clear that when public hearing was not possible, certain public consultations were conducted by obtaining opinion from public and representations.

17. On a reference to the original file produced by the learned Counsel appearing for the MoEF, we are able to see an undated and unsigned order of March 2013 having file number J-11015/275/2009-IA.II(M). This has been prepared in the name of Ms. Saroj, Director of the MoEF. As stated above, it is undated and unsigned and there is no evidence of the said order having been served on the project proponent. Apart from that, the pages in the

file are also not numbered. The draft EC letter was put up by the Dy. Director which includes the following:

“The Ministry of Environment and Forest hereby accords environmental clearance to the above mentioned Khatkurbahal Limestone and Dolomite Mine of M/S. Shiva Cement Ltd. informing lease of 73.439 hectares under the provisions of the Environmental Impact Assessment Notification 2006 and further implements thereto subject to compliance of terms and conditions mentioned below;

A. SPECIFIC CONDITIONS:

I. Environmental clearance is subject to obtaining clearance under the wildlife(Protection) Act, 1972 from the competent authority, as may be applicable to this project.

II. The project proponent shall obtain Consent to Establish and the Consent to Operate from the Rajasthan SPCB and effectively implement all the conditions stipulated therein.

III. Appropriate mitigative measures shall be taken to prevent pollution of the Sankh River in consultation with the SPCB

B. GENERAL CONDITIONS: (39 Conditions have been mentioned in the draft EC letter mentioned above).”

18. However, subsequently by a letter dated 10.04.2013, Dr. Sonu Singh Deputy Director, Government of India, MoEF addressed to the applicant has stated as follows:

“Subject: Expansion of Limestones production from 0.12 MTPA to 0.3475 MTPA over Mine Lease Area of 72.439 ha of khatkurbahal Limestone & Dolomite Mine of M/s Shiva Cements Ltd. at Village Khatkurbahal, Tehsil – Rajgangpur

District- Sundargarh, Odisha- Environmental Clearance –
regarding

Sir,

Reference is invited to your proposal seeking environmental clearance for the above mentioned project. In this regard it is to inform that public hearing being one of the most important element of environmental clearance process cannot be waived off as per the EIA Notification 2006.

Further, as per the circular issued by MoEF vide letter no. J-11011/618/2010-IA.II (I) dated 30.05.2012, you are requested to submit certified report of the status of compliance of the conditions stipulated in the environment clearance for the existing operations of the project by the Regional Office Bhubaneshwar of MoEF.

It is also suggested, to engage a consultant who is accredited with QCI/NABET, as M/s SS Environics (India) Pvt. Ltd. has no longer valid accreditation with QCI/NABET”.

19. It is relevant to note that there is no acknowledgment of the said letter having been received by the applicant. But there is an endorsement to the effect: “Issued 11.04.2013”

Thereafter the Joint Secretary of MoEF under the letter dated 22.05.2013 which is challenged in this application has directed the Chief Secretary of Government, Odisha to give instruction to Collector Sundargarh to have the public hearing conducted.

20. In these circumstances the issues that arise for consideration in this case are:

1. As to whether respondent no. 1, MoEF has any jurisdiction to address such a letter to the Chief Secretary of the State as per the Environmental Impact Assessment Notification 2006 and

2. As to whether by long delay the applicant company is deemed to have been granted EC as per the Environmental Impact Assessment Notification 2006.

21. For the purpose of providing protection and improvement of Environment and prevention of hazards to human beings and other living creatures, plants and property, the Government of India has enacted the Environment (Protection) Act, 1986 which was given assent by the President of India on 23.05.1986. The Act is in furtherance of the decision of the United Nations Conference on Human Environment that was held in Stockholm in June 1972. Section 6 of the said Act enables the Central Government by notification in the Official Gazette to make rules in respect of all or any of the matters contained in Section 3. Likewise, Section 25 of the Act also confers rule making power to the Central Government. It is in accordance with the powers contained in the above said Act, the Central Government has framed, The Environment (Protection) Rules 1986. Rule 5 of the said statutory rule enables the Central Government to take into consideration various environmental factors for the purpose of imposing restrictions and prohibitions on the location of industries and carrying on all processes and operations in different areas. However, for the purpose of imposing such

restriction, Rule 5 (3)(d) contemplates certain procedure to be followed. The said sub- clause is as follows:

“The Central Government shall within a period of one hundred and twenty days from the date of publication of the notification in the Official Gazette consider all the objections received against such notification and may within three hundred and sixty five days from such date of publication impose prohibition or restrictions on location of such industries and the carrying on of any process or operation in an area”.

22. By following the said procedures and in accordance with the statutory powers, the Government of India has issued EIA Notification 2006 published in the Gazette notification dated 14.08.2006. As per EIA 2006, prior EC is required from the MoEF, Government of India, in respect of Category A projects of the Schedule and State Level Environment Impact Assessment Authority (SEIAA) in respect of the projects falling under Category B. The same is contained in regulation no. 2 of 2006 which is as follows:-

“2. Requirements of prior Environmental Clearance-The following projects or activities shall require prior environmental Clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the MoEF for matters falling under Category A in the Schedule at SEIAA for matters falling under Category B in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, started on the project or activity:-

(i) All new projects or activities listed in the Schedule to this notification.

(ii) Expansion and modernisation of existing project of activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Scheduled, after expansion or modernisation.

(iii) Any change in product mix in an existing manufacturing unit included in Scheduled beyond the specified range ”.

23. Regulation 7 contemplates various stages for prior EC to be followed in respect of new projects. They are:

1. Stage one: Screening (only for Category B projects and activities)
2. Stage two: Scoping
3. Stage three: Public Consultation
4. Stage four: Appraisal

The third stage of public consultation has two components namely public hearing at the site or in its closed proximity and to obtain responses in writing from other concerned persons having a plausible state in the environmental aspects of the project or activity.

24. Regulation 8 of the EIA Notification 2006, which speaks about the grant of EC, imposes certain time limit. According to the said regulation, the regulatory authority which means MoEF in cases falling under Category A and SEIAA in cases falling under Category B have to consider the recommendations of EAC or State Level Expert Appraisal Committee (SEAC) and convey its decisions to the

applicant within 45 days of the receipt of report from EAC or SEAC. It also states that normally the regulatory authority accepts the recommendation of EAC or SEAC. If the report is not accepted, the regulatory authority may refer it back to EAC or SEAC to re-consider within 45 days of the receipt of recommendations stating the reasons for disagreement. In that event, the EAC or SEAC respectively shall furnish its views within 60 days which shall be final and conveyed to the applicant by regulatory authority within next 30 days. The regulation further states that if such time limit is not followed, the EC is deemed to be either granted or not granted as per the recommendation of EAC or SEAC.

25. For the proper appreciation of the above said fact it is relevant to extract regulation 8, which is as follows:-

“8. Grant or Rejection of Prior Environmental Clearance(EC)

- (i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the applicant within 45 days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within 105 days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within 105 days of the receipt of the complete application with requisite documents, except as provided below.
- (ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it

disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within 45 days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of 60 days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next 30 days.

(iii) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iv) On expiry of the period specified for decision by the regulatory authority under paragraph (i) and (ii) above, as applicable, the decision of the regulatory authority, and the final recommendations of the Expert Appraisal Committee or State

Level Expert Appraisal Committee concerned shall be public documents.

(v) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping, or appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons.

(vi) Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice”.

(Emphasis Supplied)

26. Appendix No. IV of the EIA Notification 2006, which speaks about the details of the procedure for conducting public hearing specifically states in para 7.2 while explaining the time period for completion of public hearing, that if the SPCB fails to hold public hearing within the stipulated 45 days, the Central Government in cases of Category A projects and State Government in cases of Category B projects shall engage any other agency or authority to complete the public hearing process. Para 7.0 of Appendix No. IV which is relevant is extracted as follows:-

“7.0 Time period for completion of public hearing.

7.1 The public hearing shall be completed within a period of 45 days from the date of receipt of the request letter from the applicant. Thereafter the SPCB or UTPCC concerned shall send the public hearing proceedings to the concerned regulatory authority within 8 days of the completion of the public hearing. Simultaneously, a copy will also be provided to the project proponent. The applicant may also directly forward a copy of the approved public hearing proceedings to the regulatory authority concerned along with the final Environmental Impact Assessment report or supplementary report to the draft EIA report prepared after the public hearing and public consultations incorporating the concerns expressed in the public hearing along with action plan and financial allocation, item-wise, to address those concerns.

7.2 If the SPCB or UTPCC fails to hold the public hearing within the stipulated 45 days, the Central Government in Ministry of Environment and Forests for Category A project or activity and the State Government or Union Territory Administration for Category B project or activity at the request of the SEIAA, shall engage any other agency or authority to complete the process, as per procedure laid down in this notification”.

(Emphasis Supplied)

27. The above said minute details have been given in EIA Notification 2006 in respect of public consultation process. Such minute details are given in respect of other three stages also. Since in this case, we are concerned more about the public consultation and public hearing we have chosen to extract only those relevant portions of EIA Notification 2006 alone. These extracts are sufficient to show that

while public hearing is a mandatory requirement to be conducted by the SPCB, in respect of Category A, it is not as though the Central Government in the MoEF is without any power in completing the said process. Further, as stated in regulation 7 stage 3 (v) If the public agency or authority nominated to conduct public hearing reports to the regulatory authority that owing to the local situation, it is not possible to conduct the public hearing, the regulatory authority after due consultation may decide that the public consultation in the particular case need not include the public hearing. If in spite of such a clear mandate, the regulatory authority failed to follow the time schedule for whatever reasons, the regulation 8, abundantly makes it clear that on the expiry of the period, the EAC recommendation either recommending the grant of EC or not, enable the applicant to proceed as if the Environment Clearance sought for has been granted or denied in terms of the final recommendations of the EAC or SEAC which would be final.

28.If such an event takes place as per the statutory regulation, there is no question of subsequent revival of public hearing, either in the garb of MoEF directing the Chief Secretary of the State Government to ask the Collector concerned to do the same or otherwise. Once the statutory effect of the regulation has taken place, no other executive authority shall retain any power. Therefore, it is simple that if on the facts and circumstances of the case and on the effect of regulation No. 8 of EIA Notification 2006, there is a finality to the recommendations of the EAC or SEAC, the EC is deemed to have been granted.

29. Now coming back to the facts of the present case again, after the final extension was given by the Tribunal in the earlier Appeal dated 1.11.2012, the project proponent has made presentation before the EAC for expansion of limestone production from 0.12 MTPA to 0.3475 MTPA and admittedly the presentation took place in the meeting of EAC between November 21 to 23rd 2012 and EAC has also recommended the proposal for expansion of the project. Therefore, the period of limitation starts from 23.11.2012. If really the MoEF was not agreeable to the recommendations of EAC on a specified point, it should have referred back to EAC for re-consideration within 45 days and thereafter within 60 days any decision given by EAC would have been binding. On the facts of the present case it is admitted that the EAC during the meeting held on 21/11 to 23/11 of 2012 has recommended for EC. It is also not in dispute that the MoEF has not send back the matter to EAC for re-consideration. Instead, under the impugned letter dated 22.05.2013 which is much after the period of limitation stipulated under the EIA Notification 2006, the MoEF has only chosen to request the Chief Secretary of the Odisha State Government to ask the Collector of the District to conduct public hearing. This is totally opposed not only to the provisions of the EIA Notification 2006, but also very spirit of the statutory provisions. This is typically a case of attempt to put cart before the horse.

30. On a reference to the original file submitted by the learned Counsel for MoEF, the presentation of papers by the project proponent before the EAC (mining) on 22.11.2012 with all detailed

particulars are available apart from the recommendation of the EAC made on 23.11.2012 in the meeting held between 21.11.2012 to 23.11.2012, as it is found in the minutes of EAC meeting available in the file. The perusal of the file shows the shabby way in which it has been maintained especially the papers are not arranged in the file date-wise. Even the minutes of the EAC meeting recommending grant of EC to the applicant is loosely kept at the end of the file without numbering and that too only part of the minutes relevant to the project are there and full minutes of the EAC are not put on the file. After page number 227 no papers have been numbered which are nearly about 38 pages. In fact, in the note filed, Mr. Sonu Singh Deputy Director, MoEF in the type written form dated 12.3.2013 has submitted the papers to the authority for granting EC after explaining the entire history of the case. In the said note he has mentioned in no uncertain terms that the case of the project proponent was considered in the EAC meeting held during 21/23 November, 2012. It also states that based on the information furnished, presentation made and discussion held, the Committee has recommended the expansion of project for issuance of EC.

31. We feel it appropriate to extract the note of the Deputy Director in page no. 7, 8 and 9 which is as follows:-

“Sub: Expansion of limestone production from 0.12 MTPA to 0.3475 MTPA over Mine Lease Area of 72.439 ha of Khatkurbahal Limestone & Dolomite Mine of M/s Shiva Cements Ltd. at Village Khatkurbahal, Tehsil- Rajgangpur District-Sundargarh, Odisha- Environmental Clearance- Reg.

The proposal of M/s Shiva Cements Ltd., Odisha for expansion of Limestone mine from 0.12 MTPA to 0.3475 MTPA was submitted on 06.06.2012 for obtaining environmental clearance (P-184/C). The terms of reference for undertaking detailed EIA study for this project was prescribed vide letter dated 15.12.2009 (P-108-112/C).

2. The proposal is for expansion of lime stone production from 0.12 MTPA to 0.3475 MTPA over mine lease area of 72.439 ha at village-khatkubahal, Tehsil- Ranjganpur, District- Sundargarh, Odisha. The Project Site is located between Latitude 22°16'38" to 22°16'53" N and Longitude 84°27'48" to 84°29'49" E (p.233/c). The mining scheme in this respect has been approved by IBM vide letter no. MS/OTF.MECH/53- ORI/BHU/2008-09 dated 24.03.2009. No Forest land is involved. Mining method will be opencast category- A (Other than Fully Mechanized). The tenure of lease being due to expire on 14.01.2012, the lessee has applied for the renewal of the same on 06.08.2010. Water requirement will be 50 m³/day, which will be sourced from the mining pit for dust suppression & green belt. 5m³ /day potable water shall be sourced from ground water, for which, permission has been obtained from CGWA (p. 250/c). Life of the mine is 53 years. Total cost of the Project is Rs. 3.25 Crores with an Environmental protection measures cost of Rs. 3.30 Lakhs and R&R cost Rs. 16.25 lakhs (p. 268/c).

3.No schedule-I fauna were found in the study area(p. 267/c).No ecologically sensitive area such as National Park/WildlifeSanctuary/Biosphere Reserve/Tiger Reserve/ Elephant Reserve etc. is located in core and buffer zone. The generation of intercalated wastes to be excavated in the

ensuing four years is computed to be 46,970 m³. The total waste to be generated is estimated to be 85,140 m³. Out of this, around 35% is required to be utilized for construction of approach roads and their maintenance along with the preparation & maintenance of check dams. The source of water for the mine will be from the mine pit as well as from the ground water source. 5 m³/day portable water shall be drawn from existing bore wells in the nearby villages close to the Mines Office. In addition, 50 m³/day shall be sourced from the mining pit. The study area falls in the catchment of Sankh River (p.236/c). The other water bodies are Jharia Nala 0.5km, N; Chhinda Nala 9.0km N; Nakti Jora 6.8km, S; Tambu Nala 5.0km, N from mining lease boundary (p.237/c). The reserve forest from core zone of mine lease Datani, 10.2 km E; Datarampur, 9.9 km E; Khatang 5.4 km S; Jhandapahar 6.5 km NE; Banglapahar 3.2 km N; Luhuraberni 8.9Km S; Dahijira 2.6 km S; Panchra 9.3 km NW; Lampti 4.3km NW; Tunmura 9.9 km S SE; Brahmani 8.4 km NW Bhursulia 8.5 km NW; Gudiali 10.2 km SSE (p. 237/c).

4. The Proponent received EC clearance for the Cement Plant vide letter no. J-11011/84/2008-IA.II dated 23.5.2011 for expanding the Plant capacity from 0.132 MTPA to 1.05 MTPA. They were awaiting environmental clearance for the captive mines up to a capacity of 0.35 MTPA. After receipt of TOR for the mines as stated above, Proponent submitted EIA/EMP report to Orissa State Pollution Control Board on 13.4.2011 along with fee of Rs. 75,000 for conducting Public Hearing. The delay was mainly on account of data collection and other compliances. The period of mining lease in respect

of lime stone being due to expire on 14th January, 2012, the Appellant had filed an Application for renewal of the lease but the Mining Authorities intimated the Appellant that the lease cannot be renewed in the absence of Environment Clearance (EC) to be granted by the MoEF. Appellant approached the Hon'ble NGT on 11th January, 2012. The sole grievance of the Appellant was that, though the process of granting EC had duly commenced after award of TOR by MoEF, there have been delays at the State Level in completing the procedure. Consequently, the Appellant is subjected to un-surmountable hardship. This Appeal No.3 of 2012 was disposed of by Hon'ble NGT order dated 1st March, 2012 with the following directions (p. 180/c):

a) The Public Consultation which was scheduled on 16th March 2012, shall be conducted on the said date without any fail. The Collector, Sundargarh should take adequate steps in this regard. The report of the Public Consultation should be sent to the MoEF within 8 days by OSPCB as laid down in Appendix IV of EIA Notification, 2006.

b) Based on the Public Consultation report, the Project Proponent shall finalize the EIA/EMP report and submit the Final EIA/EMP Report to MoEF for environmental appraisal within a period of one month.

c) After receipt of the final EIA report, the MoEF shall deal with it with utmost promptitude and take a decision with regard to EC as per the provisions of the EIA Notification 2006 and as per law.

d) The renewal of the mining lease would be subject to the final outcome of the EC.

5. The Orissa State Pollution Control Board (OSPCB) informed that Collector, Sundargarh in response intimated vide their letter no. 884 dated 17.10.2012 that it will not be appropriate to conduct public hearing for the time being due to law and order problem as reported by the Superintendent of Police, Sundargarh as well as Sub-collector, Sadar, Sundargarh. He has also recommended that in order to comply with the order dated 1.03.2012 of Hon'ble NGT in Appeal No. 3A of 2012 and in view of the facts stated above, the MoEF, Govt. of India may take suitable decision as per section 7 (iii) stage (3) public consultation (v) of EIA Notification dated 14.09.2006 that the public consultation in this regard need not include public hearing (p.189/c).

6. In view of the above, Hon'ble NGT directed MoEF to take a decision as per the EIA Notification 2006 expeditiously. As per the Hon'ble NGT Order, the case was considered in the EAC Meeting held during November 21st to 23rd, 2012. Based on the information furnished, presentation made and discussions held, the Committee recommended the Project for environmental clearance.

7. The following is also submitted:

(i) In accordance with the circular no. J-11011/618/2010-1A.II(I) dated 30.05.2012, in case of expansion project and or renewal of mine lease for which environment clearance was issued earlier, the project proponent shall submit a certified report of the status of compliance of the conditions stipulated in the environment clearance for the ongoing/ existing operations of the project by the Regional Offices of Ministry of Environment and Forests. The status of compliance of the conditions stipulated in the EC as highlighted in the report(s)

will be discussed by the EAC during appraisal of the project. The compliance report in this regard has not been received from Regional Office.

(ii) The consultant for this project was S.S. Environics (India) Pvt. Ltd. who has been accused by CBI for carrying out malpractice.

8. The proposal was recommended for environmental clearance by the EAC during its meeting held on November 21st to 23rd, 2012 (F/X). Accordingly, file has been processed, if approved, the Environment Clearance may be granted to the project, as per the draft letter placed below. Submitted Please.

Sonu Singh
Dy. Director
12.03.2013 ”

32. The above note was put up to the Director(s), who was apparently the Member Secretary of EAC, which had recommended the EC. (Full Minutes of EAC meeting is not placed on file and as such it is not known whether the Member Secretary was present or not). There is no note of descent given by any of the Member of EAC including its Member Secretary, Director(s) indicating that the EAC unanimously had recommended the project for grant of EC. If Member Secretary of EAC was present in that EAC meeting, agreeing to the recommendations of EAC, it is not fair to raise the requirement of public hearing subsequently on file as per the records available.

It is true that thereafter there was some reconsideration regarding the necessity of public hearing as per the regulation and afterwards it was decided to request the Chief Secretary to conduct public hearing through the District Collector. There is a copy of notice on 25.03.2013 to the effect that it must be referred back to EAC. But there is nothing on record to show that same has been done. In the absence of such record, we have no other go than accepting the plea made by the learned Counsel appearing for the applicant that the recommendation of EAC made between 21.11.2012 to 23.11.2012 has attained finality and on the failure of the MoEF to send the matter back to EAC for re-consideration within the time frame as per the regulations, we are unable to conclude on the facts and circumstances of this case that the respondent no. 1 is entitled to refer it for public hearing once again either through the Chief Secretary of the State or otherwise. The provisions of the EIA Notification 2006 have worked themselves out and there is no question of going back at this stage.

33. There is one other aspect which is relevant to be considered in this case. On a reference to the presentation submitted to the EAC on 22.11.2012 by the project proponent, the entire aspect and mitigating measures apart from the Impact Assessments like land and environment, solid waste management, air environment, water environment, biological environment, socio-economic environment have been analysed in detail and in such event when the EAC on application of mind has recommended

EC and that has attained finality as per regulation, there is absolutely no jurisdiction on the part of respondent no. 1 MoEF to write the impugned letter to the Chief Secretary of the State Government.

34. Further it is not as if the Central Government is not empowered under the provision of Environment (Protection) Act and Rules made there under to impose further stipulations and conditions in the event of its finding that the applicant is violating Environmental norms.

35. Therefore, looking from every angle the impugned letters are not sustainable in law and as per the EIA Notification 2006 the applicant is deemed to have been granted environmental clearance in accordance with the recommendations of the EAC dated 23.11.2012 along with the conditions both specific and general stipulated in the draft EC put up by the Director MoEF in March, 2013 based on the notes of the Deputy Director, MoEF dated 12.03.2013.

36. The conditions stipulated therein are reproduced below by as due to the reason that the EAC in the meeting on 23.11.2012 has recommended the project for environment clearance and same should have been in the normal course communicated by the Director, MoEF to the applicant along with the terms and conditions, specific condition as well as general condition, as seen in the draft EC prepared by the Dy. Director MoEF but not communicated

“ A. SPECIFIC CONDITIONS:

- (i) Environmental clearance is subject to obtaining clearance under the Wildlife (Protection) Act, 1972 from the competent authority, as may be applicable to this project.
- (ii) The project proponent shall obtain Consent to Establish and Consent to Operate from the Rajasthan State Pollution Control Board and effectively implement all the conditions stipulated therein.
- (iii) Appropriate mitigative measures shall be taken to prevent pollution of the Sankh River in consultation with the State Pollution Control Board.

B. GENERAL CONDITIONS:

- (i) The project proponent shall ensure that no natural watercourse and/or water resources are obstructed due to any mining operations. Adequate measures shall be taken for protection of the 1st order and 2nd order streams, if any emanating/ passing through the mine lease during the course of mining operation.
- (ii) The top soil, if any shall temporarily be stored at earmarked site(s) only and it should not be kept unutilized for long. The topsoil shall be used for land reclamation and plantation.
- (iii) The over burden (OB) generated during the mining operation shall be temporarily stacked at earmarked dump site(s) only for the purpose of backfilling. Monitoring and management of rehabilitated areas should continue until the vegetation becomes self-sustaining. Compliance status should be submitted to

the Ministry of Environment and Forests and its Regional Office, Bhubaneswar on six monthly basis.

- (iv) Catch drains and siltation ponds of appropriate size shall be constructed for the working pit, temporary OB and mineral dumps to arrest flow of silt and sediment directly into the Sankh River and other water bodies. The water so collected should be utilized for watering the mine area, roads, green belt development etc. The drains should be regularly desilted particularly after the monsoon and maintained properly.

Garland drains, settling tanks and check dams of appropriate size, gradient and length shall be constructed both around the mine pit and temporary over burden dumps to prevent run off of water and flow of sediments directly into the Sankh River and other water bodies and sump capacity should be designed keeping 50% safety margin over and above peak sudden rainfall (based on 50 years data) and maximum discharge in the area adjoining the mine site. Sump capacity should also provide adequate retention period to allow proper settling of silt material. Sedimentation pits should be constructed at the corners of the garland drains and desilted at regular intervals.

- (v) Dimension of the retaining wall at the toe of the temporary OB dumps and the OB benches within the mine to check run- off and siltation should be based on the rain fall data.
- (vi) Plantation shall be raised in a 7.5m wide green belt in the safety zone around the mining lease backfilled and reclaimed area, around water body, along the roads etc. by planting the native species in consultation with

the local DFO/ Agriculture Department. The density of the trees should be around 1000 plants per ha. Greenbelt shall be developed all along the mine lease area in a phased manner and shall be completed within first five years.

- (vii) Effective safeguard measures, such as regular water sprinkling shall be carried out in critical areas prone to air pollution and having high levels of SPM and RSPM such as around crushing and screening plant, loading and unloading point and all transfer points. Extensive water sprinkling shall be carried out on haul roads. It should be ensured that the Ambient Air Quality parameters conform to the norms prescribed by the Central Pollution Control Board in this regard.
- (viii) The project authority should implement suitable conservation measures to augment ground water resources in the area in consultation with the Regional Director, Central Ground Water Board.
- (ix) Regular monitoring of ground water level and quality shall be carried out in and around the mine lease by establishing a network of existing wells and installing new piezometers during the mining operation. The periodic monitoring (at least four times in a year pre-monsoon (April-May), monsoon (August), post-monsoon (November) and winter (January); once in each season) shall be carried out in consultation with the State Ground Water Board/Central Ground Water Authority and the data thus collected may be sent regularly to the Ministry of Environment and Forests and its Regional Office Bhubaneswar, the Central

Ground Water Authority and the Regional Director, Central Ground Water Board. If at any stage, it is observed that the groundwater table is getting depleted due to the mining activity, necessary corrective measures shall be carried out.

- (x) The project proponent shall obtain necessary prior permission of the competent authorities for drawl of requisite quantity of surface water required for the project.
- (xi) Suitable rainwater harvesting measures on long term basis shall be planned and implemented in consultation with the Regional Director, Central Ground Water Board.
- (xii) Vehicular emissions shall be kept under control and regularly monitored. Measures shall be taken for maintenance of vehicles used in mining operations and in transportation of mineral. The mineral transportation shall be carried out through the covered trucks only and the vehicles carrying the mineral shall not be overloaded.
- (xiii) Controlled blasting shall be practiced. The mitigative measures for control of ground vibrations and to arrest fly rocks and boulders should be implemented.
- (xiv) Drills shall either be operated with dust extractors or equipped with water injection system.
- (xv) Mineral handling area shall be provided with the adequate number of high efficiency dust extraction system. Loading and unloading areas including all the transfer points should also have efficient dust control arrangements. These should be properly maintained and operated.

- (xvi) Sewage treatment plant shall be installed for the colony. ETP shall also be provided for the workshop and wastewater generated during the mining operation.
- (xvii) Pre-placement medical examination and periodical medical examination of the workers engaged in the project shall be carried out and records maintained. For the purpose, schedule of health examination of the workers should be drawn and followed accordingly.
- (xviii) Provisions shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The housing may be in the form of temporary structures to be removed after the completion of the project.
- (xix) The critical parameters such as SPM, RSPM (Particulate matter with size less than 10 micron i.e. , PM₁₀) , NO_x in the ambient air within the impact zone, peak particle velocity at 300m distance or within the nearest habitation, whichever is closer shall be monitored periodically. Further, quality of discharged water shall also be monitored [TDS, DO, PH and Total Suspended Solids (TSS)]. The monitored data shall be uploaded on the website of the company as well as displayed on a display board at the project site at a suitable location near the main gate of the Company in public domain. The circular No. J-20012/1/2006-IA.II (M) dated 27.05.2009 issued by Ministry of Environment and Forests, which is available on the

website of the Ministry www.envfor.nic.in shall also be referred in this regard for its compliance.

- (xx) A Final Mine Closure Plan along with details of Corpus Fund should be submitted to the Ministry of Environment and Forests 5 years in advance of final mine closure for approval.
- (xxi) No change in mining technology and scope of working should be made without prior approval of the Ministry of Environment and Forests.
- (xxii) No change in the calendar plan including excavation, quantum of mineral and waste should be made.
- (xxiii) Conservation measures for protection of flora and fauna in the core and buffer zone should be drawn up in consultation with the local forest and wildlife department and effectively implemented.
- (xxiv) Four ambient air quality – monitoring stations should be established in the in the core zone as well as in the buffer zone should for RSPM, SPM, SO₂and NO_x monitoring. Location of the stations should be decided based on the meteorological data, topographical features and environmentally and ecologically sensitive targets and frequency of monitoring should be undertaken in consultation with the State Pollution Control Board.
- (xxv) Data on ambient air quality (RSPM, SPM, SO₂and NO_x) should be regularly submitted to the Ministry of Environment and Forests including its Regional office located at Bhubaneswar and the State Pollution Control Board/ Central Pollution Control Board once in six months.

- (xxvi) Fugitive dust emissions from all the sources should be controlled regularly. Water spraying arrangement on haul roads, loading and unloading and at transfer points should be provided and properly maintained.
- (xxvii) Measures should be taken for control of noise levels below 85 dBA in the work environment. Workers engaged in operations of HEMM, etc. should be provided with ear plugs/muffs.
- (xxviii) Industrial waste water (workshop and waste water from the mine) should be properly collected, treated so as to conform to the standards prescribed under GSR 422 (E) dated 19th May, 1993 and 31st December, 1993 or as amended from time to time. Oil and grease trap should be installed before discharge of workshop effluents.
- (xxix) Personnel working in dusty areas should wear protective respiratory devices and they should also be provided with adequate training and information on safety and health aspects.
- (xxx) Occupational health surveillance program of the workers should be undertaken periodically to observe any contractions due to exposure to dust and take corrective measures, if needed.
- (xxxi) A separate environmental management cell with suitable qualified personnel should be set – up under the control of a Senior Executive, who will report directly to the Head of the Organization.
- (xxxii) The funds earmarked for environmental protection measures should be kept in separate account and should not be diverted for other purpose. Year wise expenditure should be reported to the Ministry of

Environment and Forests and its Regional Office located at Bhubaneswar.

(xxxiii) The project authorities should inform to the Regional Office located at Bhubaneswar regarding date of financial closures and final approval of the project by the concerned authorities and the date of start of land development work.

(xxxiv) The Regional Office of the Ministry located at Bhubaneswar shall monitor compliance of the stipulated conditions. The project authorities should extend full cooperation to the officer (s) of the Regional Office by furnishing the requisite data/ information/ monitoring reports.

(xxxv) The project proponent shall submit six monthly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well as by e-mail) to the Ministry of Environment and Forests, its Regional Office Bhubaneswar, the respective Zonal Office of CPCB and the SPCB. The proponent shall upload the status of compliance of the EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of the Ministry of Environment and Forests, Bhubaneswar, the respective Zonal Office of CPCB and the SPCB.

(xxxvi) A copy of the clearance letter shall be sent by the proponent to concerned Panchayat, Zila Parishad/ Municipal Corporation, Urban Local Body and the Local NGO, if any, from whom suggestions/ representations, if any, were received while processing

the proposal. The clearance letter shall also be put on the website of the Company by the proponent.

(xxxvii) The State Pollution Control Board should display a copy of the clearance letter at the Regional office, District Industry Centre and the Collector's office/ Tehsildar's Office for 30 days.

(xxxviii) The environmental statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the Regional Office of the Ministry of Environment and Forests, Bhubaneswar by e-mail.

(xxxix) The project authorities should advertise at least in two local newspapers widely circulated, one of which shall be in the vernacular language of the locality concerned, within 7 days of the issue of the clearance letter informing that the project has been accorded environmental clearance and a copy of the clearance letter is available with the State Pollution Control Board and also at website of the Ministry of Environment and Forests at <http://envfor.nic.in> and a copy of the same should be forwarded to the Regional Office of this Ministry located at Bhubaneswar ”.

37. Accordingly, the impugned order stand set aside and application allowed. However it is made clear that the Central

Government can always invoke the provisions of the Environment (Protection) Act and rules made there under, whenever there are any environmental violation by the applicant industry. The MoEF is directed to ensure that the conditions stipulated in the draft EC and reproduced above are implemented by the project proponent and it is always open to the MoEF to impose any further conditions if the same are justified and subject to the principles of natural justice.

38. While parting with this case, we hope that in the interest of public and transparency the department would henceforth maintain files in an appropriate manner as laid down in the Manual of office Procedures. In addition, relevant documents such as minutes of EAC meeting should be kept in full, not in part, in the file as has been done in the present case.

39. The Application stands allowed. No cost.

....., JM
(Dr. P. Jyothimani)

....., JM
(M.S. Nambiar)

....., EM
(Dr. G.K. Pandey)

....., EM
(Prof. A.R. Yousuf)

....., EM
(Ranjan Chatterjee)

New Delhi,
4th March, 2014.