

Item No. 08

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
(Through Video Conferencing)**

Original Application No. 55/2019(WZ)

Gajubha Jesar Jadeja

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 12.02.2020

**CORAM: HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL  
MEMBER  
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Applicant (s):

Rahul Chaudhary, Advocate

For Respondent (s):

Mr. Pinaki Misra, Senior Advocate  
a/w Mr. Kishore Kumar and Mr.  
Pratesh Chaudhary, Advocates for  
Respondent No. 7.

Mr. D. M. Gupte, Advocate for  
Respondent No. 1

Ms. Nidhi Jaswal and Ms. Manyaa  
Chandok, Advocates for GPCB

Mr. Parth. H. Bhatt & Priyanshi  
Chandarana for Tushar Mehta, for  
State of Gujarat for R- 4&5

**ORDER**

1. The present application has been filed alleging violation of the  
EIA Notification, 2006 by the Respondent No. 7 on the ground

that it had failed to obtain Environmental Clearance before commencing with the Cold Rolled Stainless Steel manufacturing industry and was extracting ground water without NoC from the Central Ground Water Authority.

2. Vide order dated 27.08.2019, apart from issuing notice, we had directed constitution of a committee comprising of (i) The State Environmental Impact Assessment Authority (SEIAA), Gujarat, (ii) the Gujarat Pollution Control Board (GPCB) (iii) the District Collector/Magistrate, Kutch District and (iv) The Regional Director, 2 CGWA with a direction to verify on the factual aspects set out in the original application and to submit a report.
3. The consequential report filed by the Joint Committee was considered on 15.10.2019 which *inter-alia* concluded as follows: “ ●

***“Committee concluded that the opinion on applicability of Environmental Clearance to the aforementioned unit involving process of Rolling, Annealing Furnace, Pickling and Skin Pass Rolling can only be given by the Ministry of Environment, Forest & Climate Change in consideration of the EIA Notification, 2006 as amended on 01/12/2009 ad definition of the Secondary Metallurgical Processing Industries as given in the EIA Guidance Manual Prepared by IL & FS Ecosmart Ltd.”***



4. During the course of the proceeding on 15.10.2019, Mr. Rahul Chaudhary, Learned Counsel for the Applicant, placed before us letter dated 14th August, 2019, written by the MoEF to the Chairman, SEIAA, Chhattisgarh, on the same subject whereby it has been stated as follow:

***"It is to inform that the Ministry is in receipt of various representation with regard to applicability of EIA Notification 2006 on steel re-rolling mills. The representations received earlier in this regard have been deliberated upon suitably in this Ministry.***

***2. As on date the Technical EIA Guidance Manual of the MoEF & CC for Metallurgical industry classifies re-rolling as a secondary metallurgical industry.***

***3. As per EIA Notification 2006 secondary metallurgical industries are to be appraised for EC as category B projects under schedule 3(a) Metallurgical industries. In case of secondary metallurgical processing industries units, those projects involving operation of furnaces only such as induction and electric arc furnace, submerged arc furnace, and cupola with capacity more than 30000 tonnes per annum (TPA) would require Environmental Clearance.***

***4. In view of the above, you are hereby requested to appraise the steel re-rolling proposals as per the provisions of EIA Notification 2006."***

5. Considering the above facts and circumstances where the report involved facts *pari materia* to the present case, the stand of the MoEF taken in the letter dated 14.8.2019, in our opinion, would be applicable in full force in the present case also. However, before taking a final call, we deemed it appropriate to seek the clarification from the MoEF as to whether the position indicated in the letter referred to above would be applicable in the present case also.



6. In the interregnum, I.A No. 4 of 2020 came to be filed by the respondent no. 7, the project proponent and was taken up on 16.1.2020 on being mentioned by the learned counsel for the said respondent. None had appeared for the Applicant on that day despite having been informed of the I.A being listed on that day. In fact the learned counsel had informed by e-mail of the same date that he would be appearing on 12.2.2020 when this O.A was earlier listed.

7. The I.A had been preferred by the Respondent No. 7 to place on record the subsequent events which taken place after the order dated 21.11.2019 prohibiting further operation of the unit. A minutes of the meeting of the reconstituted Environment Appraisal Committee (EAC) (Industry-I) held on 23<sup>rd</sup> – 24<sup>th</sup> December 2019 was placed before us, the relevant part of which read as follows;

***"14.21.20 In view of the forgoing and after detailed deliberations, the Committee recommended the following:***

- i.) Project activity of CSPL falls under Category B of Schedule 3(a) Metallurgical Industries (ferrous and non-ferrous) of EIA Notification, 2006.***
- ii.) The committee also noted that there are a few issues which may have diverse interpretations. The reports submitted by the Committee formed by the Hon'ble NGT and the joint inspection report by the Regional office of Bhopal and RO of GPCB for Kutch, have also left the final interpretation to the MoEF&CC. It is also noted that the present unit has obtained CTE from***



GPCB which is a Statutory authority. There may be other similarly placed cases in the country. This shows that there is a scope and need for further clarification in the matter regarding certain issues so that there is no subjective interpretation in future. These issues are (1) definition of secondary metallurgy units for the purpose of EIA process, (2) clarification about the types of furnaces under applicability of MoEF&CC notification 2006 and (3) clarifying re rolling vs. cold rolling in the context of Environment Clearance. Therefore, for further smoothening the EC process for present unit and proposals in future, the MoEF&CC may consider issuing further clarifications.

- iii.) In order to address to instant and similar cases where such re rolling/cold rolling units are established or operating with a CTE/CTO from the concerned State Pollution Control Boards, the Ministry may consider directing the State Pollution Control Boards to get a list of all such cases and take further quick actions so that they apply for EC and get covered by the EIA notification 2006. Since, these units are established or operating under the CTEs/CTOs obtained from a statutory authority i.e. the respective State Pollution Control Boards, a period of one year may be allowed for this recommended conversion to EC. This will also ensure that the units remain in operation for the allowed period and closures, unemployment and related social issues/unrests are avoided. During this period of one year, they will have to follow all the conditions imposed under the CTE.CTO."

8. As will appear from paragraph (iii.) of clause 14.21.20 of the minutes reproduced above, category of the units to which the Respondent No. 7 belongs, having been established or

operating under CTEs/CTOs obtained from the statutory authority, are permitted to operate for conversion to EC and would ensure that the units remain in operation for the said period with the condition that during the period of one year, the units shall follow all the conditions imposed under the CTE/CTO.

9. In the context of the above, we have noted that the respondent no. 7 had been operating under a CTE issued by the GSPCB containing the terms and conditions prescribed therefor. We were thus of the opinion that the order dated 21.11.2019 granting stay of the operation of the unit, required modification to the extent that the respondent no. 7 shall be permitted to run for a period of one year provided that the unit strictly adhere to the CTE conditions till such time CTO was not granted.

10.A short affidavit has now been filed on behalf of the respondent no. 7 which is dated 10.2.2020 to bring on record certain additional documents. On 7.2.2020, the MoEF also filed an affidavit which we find to be of relevance as by that affidavit, the MoEF has accepted recommendations no. (iii) of the Expert Committee reproduced above. We may reproduce below the relevant paragraph of the affidavit:-



*"5. It is submitted that the Ministry has accepted the recommendations no. (iii). of EAC to allow those units, operating under the CTEs/CTOs obtained from the respective State Pollution Control Boards, for a period of one year. Further, it has been decided that the requirement of EC or not for such units is a policy decision. Hence, the Ministry will constitute an Expert Committee, other than an EAC, having metallurgical experts for their recommendations.*

11. Considering the above facts and circumstances when the foundational question involved in the case have been dealt with effectively by the MoEF, in our considered opinion, nothing further would survive for our consideration.

12. It would appear from the sequence of events that the position that subsisted earlier in respect of Cold Rolled Coils (CRC) of stainless steel was quite obscure as it was not clear as to whether such activity would require environmental clearance under the EIA notification, 2006. The MoEF upon consideration of the expert opinion appears to have now clarified that such industry do require prior environmental clearance but, having regard to the fact that there were a large number of such mills operating on the strength of CTE and CTO, opportunity should be provide to such units to fall within

the EC regime by granting a period of at least one year to operate for the purpose.

13. In view of the above the O.A stands disposed off and no order as to cost.

S.P. Wangdi, JM

Siddhanta Das, EM

12<sup>th</sup> February, 2020  
Original Application No. 55/2019(WZ)  
pk