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Representation- Reg. Recommendation of 'Amendment in Environmental Clearance' by Expert Appraisal Committee to proposed 1320 MW Coal based thermal power plant in Dist. Mirzapur, Uttar Pradesh- in violation of Judgment of National Green Tribunal.

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To,
The Secretary,
Ministry of Environment, Forest & Climate Change
New Delhi

Date- 24 June 2019

Sub- Reg. Recommendation of 'Amendment in Environmental Clearance' by Expert Appraisal Committee to proposed 1320 MW Coal based thermal power plant in Dist. Mirzapur, Uttar Pradesh- in violation of Judgment of National Green Tribunal.

Dear Sir,

I am a wildlife researcher and Managing Trustee of a Mirzapur based organization 'Vindhyan Ecology & Natural History Foundation'. I was one of the applicants in the matter 'Debadityo Sinha & Ors V. Union of India & Ors, O.A. No. 74/2014) wherein the Environmental Clearance (EC) dated 21 August 2014 granted to the aforementioned project was quashed by the National Green Tribunal. The main argument before the court was that the project involves forest area and has very good presence of wildlife which includes several Schedule I animals viz Sloth Bear, Leopard, Chinkara, Blackbuck, Mugger Crocodile etc. and being a non-site specific project, alternative locations should have been considered for the project. During the time of appraisal, several representations were made by me to the EAC. However, the EAC proceeded with the grant of EC which I had to challenge before the Principal Bench of the National Green Tribunal.

The major flaw in the previous appraisal process had been the absence of Form I at the stage of scoping as a consequence of which, all the subsequent stages of EIA i.e the preparation of EIA, public consultation and final appraisal stage turned out to be defective and invalid, a fact which is also recorded in the NGT judgment. In the entire proceedings the project proponent concealed substantial and material information from the EAC and maintained its stand that there was no forest, no wildlife, and no destruction of habitat whatsoever while also indulging in wrongful means to gain public support in the public hearing. In fact, they also went ahead with calling the project site as 97.5% barren land and proximity to NCL coal mines as primary factor for selecting the site. Our major contention was that had the true status of the siting of the project and correct facts been revealed before the EAC, this project had been rejected at the Scoping stage itself. The project had concealed several other crucial facts and that each stage of EIA suffered from serious flaws, which are briefly as follows:

1. Original Form-1 was submitted for Dist. Ghazipur which the EAC ignored, and carried out 'Scoping' based on 'Basic Information Form'. The project proponent also claimed to have

submitted fresh Form-1 before Scoping but the argument was rejected by NGT. It was apparent from the Form-1, ToR, EIA report and the EC, that the Scoping was carried out based on 'Basic Information Form' which cannot replace Form-1. Thus, Site Selection and Scoping was completely flawed.

2. The EIA report concealed substantial facts including the presence of wildlife and forest in the project area. The Wildlife Conservation Plan, prepared by Green Future Foundation and Wildlife Institute of India was negated by NGT as incomplete and devoid of any expert assessment and site visit. The Hon'ble Tribunal also highlighted that laying of railway line, roads, pipelines etc will have an impact on wildlife which was not accounted for.
3. The Public Hearing conducted as part of the EIA was declared completely unlawful due to presence of gun-toting men in the public hearing premises.
4. The entire process of application of EC and its process and appraisal by EAC was termed 'tainted' and was 'set aside' by NGT in its main judgment dated 21 December 2016 which held that **"the project requires to undergo the entire process afresh"**.
5. Your Ministry in the review application requested the Tribunal to keep the EC in suspension for rectification of defects instead of quashing/setting aside the EC. However, the said prayer was rejected by the NGT holding that the same do not make a ground for review since the same fall under the appellate jurisdiction of Supreme Court. The court only issued a clarification that MoEFCC can process the application of EC after rectification of defects while strictly adhering to contents of the judgment.

The NGT in the judgment had specifically noted that the reason for quashing the EC had been that the entire consideration and appraisal of the project proposal by EAC right from the stage of scoping, EIA, public consultation and final appraisal was erroneous, invalid and bad in law and therefore found it appropriate to go through the entire process afresh instead of suspending the same. When the entire process is defective especially from the stage of scoping, the project proponent cannot interpret the review order as per its convenience and ask for "Amendment in EC" in June 2017 instead of applying for it afresh with the fresh application for EC. At this stage when the Environmental Clearance of the project has already been set aside and the petitions by the MoEFCC, State of U.P. and the project proponent M/s Welspun Energy (U.P.) Pvt. Ltd seeking review of the original judgment been rejected and appeal to the same in the Supreme Court withdrawn by the project proponent, no amendment of a quashed EC could be sought for since the original judgement has neither been modified or overruled by the NGT or the SC.

It is important to note that the project was even delisted by your EAC/Ministry, however, for unknown reasons the project proposal was again considered by your EAC/Ministry for "Amendment in EC" on 22 February 2019 in blatant violation of the judgment. Your Expert Appraisal Committee in its proceedings, as evident from the minutes of meeting for 22 February and 27 March, 2019- has in fact exceeded its jurisdiction by overturning the observations and directions of the NGT and relying blindly on the false submissions made by the project proponent.

Without going into too much technical details of the information submitted by the project proponent, my submission to you will be that the Form-1 supplied by the project proponent now with the application for "Amendment in EC" has radically different descriptions of land in compared to what was considered by the EAC in its previous proceedings while granting the EC dated 21 August 2014. The EAC in recent proceedings nowhere shows any deliberation on 'site selection', 'forest', 'wildlife', 'EIA study' and consideration of the mandatory stages required as per the EIA Notification-2006 like Scoping, Public Consultation and consideration of EIA report which are critical. Without undergoing the said stages, the project cannot be granted EC. Thus, the recommendation of the EAC for "Amendment in EC" should not be accepted in terms of the judgement passed by the NGT.

I would also like to bring to your knowledge that a detailed representation was sent to MoEFCC and EAC members by my lawyer Advocate Parul Gupta on 06 September 2017 (attached as Annexure) where the contents of the judgment was explained to the committee. She also requested for a personal hearing before the EAC. Unfortunately, neither EAC responded to the said request, nor the said representation was considered in the subsequent meetings.

I request you to please provide me a personal hearing before you and the members of Expert Appraisal Committee to explain the issues in detail and also present our wildlife research undertaken in recent years to show significance of the area in question.

Enclosed- Representation dated 06/Sep/2017 by Advocate Parul Gupta to MoEFCC/EAC and other authorities

Thanks & Regards,

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2 attachments



RepresentationDebadityoSinha-24June2019.pdf

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Representation-ParulGupta-06Sep2017.pdf

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