

P.Sundaravathanam vs Union Of India on 31 May, 2022

Bench: K. Ramakrishnan, Satyagopal Korlapati

Item No.1:

Court No.1

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

(Through Video Conference)

Appeal No. 13 of 2019 (SZ)

IN THE MATTER OF:

P. Sundaravathanam
S/o. Shri Periyasamy N
Virudhachalam Taluk, Cuddalore District.
Tamil Nadu - 607 802 and Anr.

... Appellant

Versus

Union of India
The Ministry of Environment, Forest & Climate Change
Through its Secretary, Indira Parayavaran Bhawan,
Jorbagh Road, Aligunj, New Delhi - 110 003 and Ors.

... Respondent(s)

For Appellant(s):

Mr. Ritwick Dutta along with
Mr. Saurabh Sharma and
Mr. G. Stanley Hebzon Singh.

For Respondent(s):

Mrs. Me. Saraswathy for R1.
Dr. D. Shanmuganathan for R2.
Mr. S. Sai Sathya Jith for R3.
Mr. Arjun Suresh for R4.

Judgment Pronounced on: 31st May 2022.

CORAM:

HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

ORDER

Judgment pronounced through Video Conference. The Appeal is disposed of vide separate Judgment.

Pending interlocutory application, if any, shall stand disposed of.

Sd/-

Justice K. Ramakrishnan, JM Sd/-

Dr. Satyagopal Korlapati, EM Appeal No.13/2019 (SZ) 31st May 2022. Mn.

Item No.1:

Court No.1

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
(Through Video Conference)

IN THE MATTER OF:

1) P. Sundaravathanam
S/o. Shri Periyasamy N
Aged about 62 years
R/o. 8/59, 3rd Street, Veppankurichi,
Post Vedakkuvellore, Neyveli,
Virudhachalam Taluk, Cuddalore District.
Tamil Nadu - 607 802.

2) R. Raju
S/o. Shri Ranganathan
Aged about 45 years,

R/o 202, North Street, Mumudichozhagan Village, Kathazai Post, Virudhachalam Taluk, Cuddalore District, Tamil Nadu - 606 103.

... Appellant(s) Versus

1) Union of India The Ministry of Environment, Forest & Climate Change Through its Secretary, Indira Parayavaran Bhawan, Jorbagh Road, Aligunj, New Delhi - 110 003.

2) State of Tamil Nadu Through its Chief Secretary Government of Tamil Nadu Secretariat, Chennai, Tamil Nadu - 600 009.

3) Tamil Nadu Pollution Control Board Through its Member Secretary 76, Mount Salai, Guindy, Chennai - 600 032.

4) M/s. NLC India Limited Represented by its Chairman Mudnai, Kunankurichi, Uthangal Village, Virudhachalam Taluk, Cuddalore District, Tamil Nadu.

...Respondent(s) For Appellant(s): Mr. Ritwick Dutta along with Mr. Saurabh Sharma and Mr. G. Stanley Hebzon Singh.

For Respondent(s): Mrs. Me. Saraswathy for R1.

Dr. D. Shanmuganathan for R2.

Mr. S. Sai Sathya Jith for R3.

Mr. Arjun Suresh for R4.

Judgment Reserved on: 10th May 2022.

Judgment Pronounced on: 31st May 2022.

CORAM:

HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER Whether the Judgment is allowed to be published on the Internet - Yes/No Whether the Judgment is to be published in the All India NGT Reporter - Yes/No JUDGMENT Delivered by Justice K. Ramakrishnan, Judicial Member

1. The above appeal has been filed by the appellant against the grant of Environmental Clearance (EC) in favour of the 4th Respondent - M/s.

NLC India Limited for their second expansion of the Thermal Power Plant having a capacity of 2 x 660 MW Super Critical Lignite-based Plant by the 1st Respondent/Ministry of Environment, Forests & Climate Change (hereinafter referred to as "MoEF&CC") vide their proceedings No. J-13012/11/2016-IA.I (T) dated 29.10.2018, under Section 16 of National Green Tribunal Act, 2010.

2. It is alleged in the appeal memorandum that the 4th Respondent had obtained Environmental Clearance for their Thermal Power Station - II for (4 x 210 MW) on 05.01.1983 and they obtained their first expansion of 2 x 250 MW on 09.01.2003. Thereafter, the 4th Respondent had applied for their second expansion of Super Critical Lignite-based Plant adjacent to its operating Thermal Power Station - II having a capacity of 2 x 600 MW to the 1st Respondent and they issued Terms of Reference on 23.03.2017.

3. On 19.12.2017, the 4th Respondent prepared the Draft EIA Report and submitted to the Tamil Nadu Pollution Control Board, Cuddalore District and public hearing was conducted on 15.02.2018 at Community Hall, Block - 29, Neyveli Township, Virudhachalam Taluk, Cuddalore District. Thereafter, the 4th Respondent had prepared the Final EIA Report in June 2018 and submitted their application for Environmental Clearance along with the Final EIA Report on 13.08.2018. On 30.08.2018, the project was appraised by the Re-Constituted Expert Appraisal Committee of Thermal Power Projects in its 20th Meeting held on 30.08.2018, evidenced by Annexure - A2 and the project was recommended on the said meeting by the Expert Appraisal Committee and the MoEF&CC had issued the Environmental Clearance vide Annexure - A1, Proceedings dt. 29.10.2018 which was challenged by the appellant on the following grounds:-

There was no proper Environmental Impact Assessment conducted.

No Cumulative Impact Assessment was conducted for this project.

The Terms of Reference issued were not properly complied with. The air quality was not properly assessed.

No impact assessment was conducted within 10 Kms area on the basis of the existing units within that area.

The necessary particulars were not provided in the public domain along with the EIA Report thereby, public were denied access to the entire report.

There was violation of siting criteria and the siting criteria guidelines produced as Annexure - A4.

The existence of ecologically sensitive areas were not mentioned. Further, lot of Reserve Forest and River were situated within 25 Kms of the existing power plant.

The project was situated in agricultural area and there are other industrial estates situated which was mentioned in Section 3.10.2.5.

The directions issued by the Sarpanch, Grampanchayat Tiroda Vs. The Ministry of Environment and Forests (Appeal No.3 of 2011) and T. Muruganandham & Ors. Vs. Union of India & Ors. (Appeal No.50 of 2012) regarding the Cumulative Impact Assessment and Carrying Capacity has not been properly assessed before recommending and granting the Environmental Clearance for this project.

It is violating the National Energy Requirement Policy, evidenced by Annexure - A6.

The questions raised regarding health assessment and non- providing employment of the people in the project impact area and non-providing of sufficient CSR Projects were not properly considered.

No proper Hydro-geological study was conducted regarding the impact of drawal of water for this project and its impact on the neighbouring areas.

The Ambient Air Quality mentioned was not proper. There was no proper application of mind by the authorities. The nature of availability of water provided is also not correct.

4. The appellant relied on the decision reported in Utkarsh Mandal Vs. Union of India¹, Samata Vs. Union of India², and Samarth Trust Vs. Union of India³ of the Hon'ble High Court of Delhi in support of their case.

5. So, the Environmental Clearance granted is not proper and they prayed for setting aside the Environmental Clearance granted on the above grounds.

6. The 1st Respondent filed counter contending that the proposal for grant of Environmental Clearance was deliberated by the Expert Appraisal Committee for Thermal Sector in the meeting held on 30.08.2018. The EAC comprising of domain experts of different fields, after detailed 1 2009 X AD (Delhi) 365 2 2014 All India NGT Reported (1) (SZ) 1 3 Writ Petition (Civil) No.9317 of 2009 deliberations on the proposed expansion and taking note of the confirmations given by the Project Proponent, recommended for grant of Environmental Clearance (EC) for expansion of 2x660 MW Supercritical Lignite based Thermal Power Plant subject to compliance of certain terms and conditions for implementation of various environmental safeguards. After taking cognizance of environmental concerns and the mitigation measures proposed by the EAC, the Environmental Clearance (EC) for expansion of 2x660 MW Supercritical Lignite based Thermal Power Plant was granted by the Ministry to the 4th Respondent on 29.10.2018. The averment that there was no application of mind etc. is not correct. Pursuant to the submission of the draft EIA, a notice intimating the holding of a public hearing, was published on 12.01.2018 in two newspapers viz., "The New Indian Express" in English and "Dinamani" in Tamil languages which are widely circulated in the region. In the notice, it was informed that a public hearing would be held on 15.02.2018 at 10:30 a.m. at the Community Hall, Block-29, Neyveli Township, Cuddalore, Tamil Nadu - 7. As per the provisions of EIA Notification, 2006 and amendments thereof, the Public Hearing for the proposed expansion was conducted by Tamil Nadu State Pollution Control Board on 15.02.2018 at the notified designated place. The draft EIA was available to the general public before conduct of the public hearing along with the ToR and its point wise compliance. The project proponent duly clarified various issues raised by the general public during the Public Hearing and the same have been included in the EIA report. So, the allegation that the Public Hearing was a sham and false one and hence, denied. The EIA report was prepared in accordance with the ToR granted to NLCIL by the Ministry and point-wise compliance of the conditions of ToR has been incorporated in the EIA report. Earlier, the proposed site for the expansion of 2x660 MW Supercritical Lignite based Thermal Power Plant was visited by the Sub-committee of the EAC prior to grant of ToR to relook into the suitability of the project including to verify the use of common facilities of the existing power plants in the proposed expansion. Besides, guidelines of a generic structure, as per the EIA Notification, 2006 have also been followed while preparing the EIA/EMP report which have been duly verified and found to be in order before appraisal of the project. So, the averment that there was no proper application of mind and the EIA Report was not prepared on the basis of the ToR issued was not correct. The dictum laid down in the decisions relied on by the appellant are not applicable to the facts of this case. The ToR was issued strictly in compliance with the EIA Notification, 2006 and the 4th Respondent had carried out the environmental study within the radius of 10 Kms. The area of the study was restricted to 10 Km only because it was not a critically polluted area and there were no environmentally sensitive areas situated within that area. None of the reserve forest mentioned by the appellant were categorized or notified as ecologically sensitive areas. The existing Thermal Power Plants were mentioned in the EIA Report and impact of the same has been considered. No other industrial area situated within the radius of 10 Kms. The Environmental Clearance (EC) was granted based on the fact that the 4th Respondent shall install FGD and DENOX system as stipulated under clause 11 and 12 of the Environmental Clearance (EC).

This is also mentioned that these facilities will have to be installed to ensure that SO_x and NO_x shall be met as per the notification dated 07.12.2015. The height of the stack has been properly fixed. The particulate emission shall not exceed 30 mg/Nm³ which was more stringent than the regular norm of 50 mg/Nm³ as per the standard provided by the Central Pollution Control Board and the 1st Respondent. Necessary conditions have been imposed depending upon the nature of disposal of fly ash generated. They are achieving 100% utilization of the fly ash as regards the present units are concerned. They have denied the allegation of non-implementation of the ZLD System and the pollution control mechanism provided was not sufficient. The Ambient Air Quality study conducted by the project proponent shows that it is within the limit. As per the present environmental norms, the 4th Respondent have to install and connect OEQMS pertaining to each stack as part of CEMS to ensure online monitoring of emission from the proposed plant. Though a representation was sent on 24.01.2019, the appellant filed the appeal immediately before this Tribunal. They denied the allegation that the Expert Appraisal Committee has not properly assessed the project and they prayed for dismissal of the appeal.

7. The 3rd Respondent filed counter contending that the 4th Respondent industry had proposed for expansion by setting up of 2 x 600 MW Supercritical Lignite-based Thermal Power Plant - II Expansion adjacent to existing 7 x 210 MW (TSP-II) and 2 x 250 MW (TPS-II Expansion) power plants. They obtained Terms of Reference issued by the 1st Respondent/MoEF&CC for the above proposed expansion. They submitted the draft Environmental Impact Assessment report and a public hearing were organized by the Tamil Nadu Pollution Control Board, Cuddalore on 15.02.2018. The MoEF&CC had issued Environmental Clearance on 29.10.2018 on the basis of the documents submitted and recommendations made by the Expert Appraisal Committee. As per the EIA report, there were no ecologically sensitive areas within 25 Kms. The existing power plants such as TPP - I, TPP - I expansion, TPP - II, TPP - II Expansion of NCL India Ltd. are continuously monitored by the Pollution Control Board. The site was inspected on 14.02.2019 by the Tamil Nadu Pollution Control Board officials and found that earth leveling works for the construction of administrative building was being carried out. The 4th Respondent industry was instructed to carry out any construction activities only after obtaining Consent to Establishment from the Board. They submitted online application for Consent to Establishment which was returned for want of particulars. So, they prayed for accepting their contentions and passing appropriate orders.

8. The 4th Respondent filed reply affidavit contending that the appeal is not maintainable and the reasons stated are not sufficient for setting aside the Environmental Clearance granted for the project. The 4th respondent is a Central Public Sector Undertaking (CPSU) and a limited company incorporated in the year 1956. It was categorized as a Navratna Company and falls under the administrative control of the Ministry of Coal, Government of India. They operate four opencast Lignite mines, five Lignite-based Thermal Power Stations and one Coal-based thermal power plant. The Coal - based thermal power plant is operated through its joint venture with the Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) viz., NLC Tamil Nadu Power Limited. Apart from the above thermal power plants, they are actively setting up renewable energy based power plants such as wind and solar based plants. The 4th Respondent was set up by the Government of India to ensure that the electricity demands of the State of Tamil Nadu and the neighboring States such as Andhra Pradesh, Kerala, Telangana and Union Territory of Puducherry

are met. They initiated plans to set up a second expansion of its existing thermal power station viz. TPS -II having a capacity of 2 X 660 MW Supercritical Lignite - based thermal power station which was expected to generate 9250.56 Million units (MU) per year at 80% PLF. The subject plant is to be set up in an area of 608 Acres owned by the 4th Respondent which falls within the existing TPS - II complex and is proposed to be set up adjacent to the existing TPS - II plant. Out of the 608 Acres of barren land with shrubs, the main expansion plant is to be constructed in an area of 52 Acres and the greenbelt pertaining to the subject plant is to be put up in an area of 160 Acres. The total project cost is Rs.8,733.49 crores. A sum of Rs. 1123.71 crores is apportioned towards capital costs for Environmental Management Plan and a sum of Rs. 140.46 crores is towards recurring costs which is in addition to the total project cost. The proposed subject plant is going to be the first Lignite - based 660 MW Supercritical Power Plant in India. They proposed to engage the services of 850 persons during the construction stage of the Subject Plant and 1000 persons during the operation stage of the Plant. In the thermal power generation, chemical energy of fuel (in the present case, lignite) is first converted into thermal energy during combustion which is then converted into mechanical energy through a turbine and thereafter, finally into electrical energy through a generator. They use pulverized fuel combustion technology, apart from using steam pressure over and above the critical pressure of 221 bar i.e., exceeding 240 bar and the steam temperature i.e. both super heat & reheat is > 5950 C. There are various air pollution control mechanism provided such as installing Electrostatic Precipitators (ESP), Flue Gas De - Sulfurisation (FGD) and DENOX Systems to reduce the levels of PM, SO₂, NO_x and Mercury (Hg). They are using the latest technology and adhering to the environmental norms. Since the project falls under Category A of the Environmental Impact Assessment Notification, 2006, they submitted an application for environmental clearance in Form - I with Pre - Feasibility Report (PFR) and Proposed ToR studies with the 1st Respondent vide its proposal bearing reference number IA / TN / THE / 60765/2016 dated 30.11.2016. The details of alternative sites were also listed in the said report. The sub-committee of the Central Level Expert Appraisal Committee (EAC) had visited the site on 04/02/2017 and 05/02/2017 and certain compliances was sought and necessary action was taken by the 4th Respondent and informed the EAC about the compliance of the directions. The present site was approved by the EAC after discussions and after considering the environmental conditions and proximity to the existing TPS - II. Thereafter, the Terms of Reference (ToR) was issued on 23/03/2017 which was informed to the 4th Respondent under reference letter No. J - 13012/11/2016- IA. II (T). After complying with the Terms of Referene and preparation of the draft EIA Report, they addressed the District Environmental Engineer, TNPCB, Cuddalore on 20/12/2017 along with the draft EIA Report and Executive Summary in English and Tamil. The 4th Respondent had hired the services of M/s. Hubert Enviro Care Systems (P) Ltd to carry out the comprehensive Environmental Impact Assessment (EIA) study with regard to the subject project as mandated under the EIA Notification, 2006 which is accredited with the National Accreditation Board for Education and Training which is a constituent board of the Quality Council of India. On the basis of the request made by the 4th Respondent, Tamil Nadu Pollution Control Board had published the date of public hearing in two dailies dated 12/01/2018 viz. The New Indian Express (English) and Dinamani (Tamil). The date of meeting was schedule as 15/02/2018 at 10:30 a.m. at the Community Hall, block 29, Neyveli Township and the public hearing was conducted on that day, and various queries were raised by the public and the same were responded by the project proponent. The draft EIA as well as the ToR were available with the public during the public hearing and every apprehension raised by the

participants in the public hearing were explained by the project proponent. Pursuant to the public hearings, the consultants have finalized the EIA Report on 15/06/2018 and the same was uploaded in the web portal of the 1st Respondent on 15/06/2018 to the extent of 20 MB, as the uploading capacity was limited to that much only. They received an email from the MoEF&CC seeking certain Essential Details Sought (EDS) on 17/07/2018 and the same was complied with by the 4th Respondent on 27/07/2018 by uploading the documents. They received the acknowledgment of receipt of the Essential Details Sought (EDS) on 13.08.2018. They have narrated the critical points covered in the EIA are as follows:-

"(i) There are no notified ecologically sensitive areas within 10 km from the core of the Subject Plant. It is relevant to state that the ToR did not require a study of 25 km. Radius and hence, the Consultant, in accordance with the ToR had only carried out its study to 10 km or 15 km. Radius, as the case may be.

(ii) The Subject Plant is not being put up in a critically polluted area.

(iii) The Subject Plant is being put up on barren land with shrubs and the same is classified for 'Industrial Use' and not on agricultural land.

(iv) The source of water for the Subject Plant shall be the water pumped out during mining operations from the basket of lignite mines including Mine III of the Fourth Respondent and the recycled water from the effluent and sewage treatment plants.

(v) The height of stack was originally envisaged at 275 meters which is now reduced to 150 meters pursuant to notification, S.O. 3337 (E) dated 28/06/2018. It is submitted that the reduction to 150 m is also due to the stringent environmental norms to install various air pollution control devices such as ESPs, FGDs and DENOX systems.

(vi) The lignite transportation shall be by pipe conveyor system which is also suitable for an environmentally sensitive area.

(vii) The ash generated from the lignite obtained from all the mines, including Mine III and burned will be supplied to nearby manufacturers of building material, cement and for land filling of low-lying areas as per the guidelines issued by the first respondent.

(viii) The gypsum from the FGD which is not classified as hazardous under the Hazardous and other Wastes Trans boundary (Management and Movement) Rules 2016, Notification No. G.S.R No. 395 (E) dated: 04.04.2016 (2016 Rules) would also be marketed or disposed to cement plant or used for backfilling in the mines.

(ix) From the data collected from the 12 air quality monitoring stations in and around the Subject Plant during the period March - May 2017, the particulate matters were

within the National Ambient Air Quality Standards (NAAQ Standards). Further, the maximum concentration of criteria pollutants such as Sulfur oxide (SO₂), Nitrogen Oxide (NO_x), Lead (Pb), Sulfur Dioxide (CO), Ammonia (NH₃), Benzene (C₆H₆), Perylene (C₂₀H₁₂), Arsenic (AS) and Nickel (Ni), were also well within the NAAQ Standards for Industrial, Commercial and Residential areas in all the monitoring stations during the entire period of study. It is also relevant to state that the TOR had only required the Fourth Respondent to carry out studies for one non - monsoon season and the same was accordingly carried out during summer season viz. March to May when the climate is most oppressive.

(x) Even after considering the operation of the Subject Plant by applying the AERMOD process, the ambient air quality with regard to PM, SO₂ and NO_x will be within the NAAQ Standards.

(xi) From the data collected from five sampling locations with regard to surface water, the same fall under category 'B' of IS 2296: 1992 of Surface Water Standards. The Chloride content and the Sulphate content of surface water are within the limits of IS 2296: 1992 of Surface Water Standards. Likewise, the Chloride content and the Sulphate content of ground water is also within the desirable limits of the IS 10500 : 2012.

(xii) As per the Seismic study, the Subject Plant falls in Zone II which is safe."

9. It is further contended that the Expert Appraisal Committee had considered the project on 30.08.2018 and after elaborate discussions with the project proponent and their consultant, they have decided to recommend the project and on that basis, the 1st Respondent had issued the impugned Environmental Clearance on 29.10.2018. This was published in New Indian Express (English) and Daily Thanthi (Tamil) on 4/11/2018. They have also given the detailed reply in the above lines in Para-wise. They also given the details of Terms of Reference and its compliance in a tabular form which reads as follows:-

S. No.	Terms of Reference	Compliance
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1	Compliance and implementation	1. MoEF&CC Sub Committees site visit status of the sub committee (4-5th February, 2017) observation is recommendations made during the enclosed as Annexure 7. site visit on 04 - 05th February 2. Proponent reply to the committee 2017 shall be submitted observation is enclosed as Annexure 7A. 2 PP Shall submit a request letter to Proponent has submitted the request to DG-CSIR for facilitating the CSIR (Lr. No. NLCIL/D(P&P)/ alternate new technologies available 113/TPS-II Exp./ENVT/2017 dated for utilizing of dry fly ash to 19.01.2017) and remainder letter enhance its utilization level. submitted to CSIR (Lr. No. DGM/Envr./ Fly ash/2018 dated 27.04.2018 (meeting with CSIR officials from Bhopal is expected) Letter submitted to CSIR is enclosed as Annexure 13.
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5. Carbon Footprint Study shall be Carbon Footprint study has been carried out from a reputed institute conducted by Environment Engineer, for existing plant as well as for the Department of Pondicherry Engineering proposed project. College, Pondicherry Central University. Report is enclosed as Annexure 19 7 Need based assessment study/skill Based on SIA Study recommendation, mapping shall be conducted for all CSR plan will cover implementation of the villages located in and around modern methods of irrigation, Organic 10 km radius from the project site. farming, skill development for the local Accordingly, a long term CSR people and towards this 0.25% i.e. activities shall specifically include Rs.23.1 Crore of the proposed expansion improving and providing modern project cost is earmarked as the budget. methods of irrigation, organic farming, skill development for the local people.

9 Detailed and time bound action It is proposed to phase out the existing plan for phasing out of the existing TPS - I when the (NNTPS 2 x 500 unit i.e. TPS-I along with waste MW) units are commissioned. The time management plan shall be schedule for phasing out (Letter sent to submitted and shall be inline with CPCB Lr. No.002/GM/TPS- the construction and Demolition I/CPCB/2018 is enclosed as Annexure Waste Management Rules, 2016 20. While decommissioning the existing unit, the waste management plant will be prepared and handled in line with Construction and Demolition Management Waste Rules, 2016.

10 The selected location is low lying The topography of the selected location area and requires filling up upto 2 varies from 47 to 57 m MSL, which will m depth with borrow materials. be levelled to a common base level using Details of borrow materials or the soil removed from higher elevation filling materials viz., source, total and hence there is no additional material quantity to be used, etc. should be required for this work. If at all any provided. additional filling materials is required pond ash from nearby ash pond will be used.

Details are given in EIA Report, Chapter 4 Section 4.3.1 12 Vision document specifying The vision of the project is derived from prospective long term plan of the the vision of the parent company. The project shall be formulated and long term vision of the proposed power submitted project is sustainable power generation maintaining high standards of efficiency, environment performance and financial strength, over the design life (25 years) and extended life of the project through suitable renovation and modernization programmes from time to time. The long term plan will be covering environmental protection, pollution control and CSR activities.

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|----|---|--|
| 14 | The project proponent to identify minimum three potential sites based on environment, ecological and economic considerations, and choose one appropriate site having minimum impacts on ecology and environment. A detailed comparison of the sits in this regard shall be submitted. | As it is an expansion project utilizing available land area which is in possession of NLCIL, identification of minimum 3 potential sites does not arise. |
| 32 | Hydro-geological study to the area shall be carried out through an institute/ organization of repute to assess the impact on ground and | Optimum Ground water development plan for the multi-layer coastal aquifer system of Neyveli Hydro-geological Basin conducted by Central Ground |

surface water regimes. Specific mitigation measures shall be spelt out and time bound Action Plan for its implementation shall be submitted.

Water Board, SECR, Chennai and concluded as follows: Based on the present Hydro-geological study, it is concluded that the aquifers of the Neyveli Hydro-geological Basin spread over an area of 3500 Sq. Km are safe with the present rate of pumping and as such no threat of sea water intrusion exists. In addition, IIT - Madras has prepared Environment Management Plan on the mine water generation and disposal and its impacts on ground water, surface water and soil for mine - II expansion, which covers Hydro-geological study of the area. As per the recommendation of the IIT - Madras Hydro-geological Study, Chennai Testing laboratory studied groundwater & surface water and soil quality. Report is enclosed in Annexure - 14.

- 33 Detailed Studies on the impacts of the ecology including fisheries of the River/ Estuary/ Sea due to the proposed withdrawal of water discharge of treated waste water into the River/Sea etc. shall be carried out and submitted along with the EIA Report. In case of requirement of marine impact assessment study, the location of

The waste water generated from the proposed project is recycling and reused in utilities and ash pond. Hence, there is no discharge of effluent.

intake and outfall shall be clearly specified along with depth of water drawal and discharge into open sea.

- 34 Source of water and its sustainability even in lean season shall be provided along with details of ecological impacts arising out of withdrawal of water and taking

Water requirement is water pumped out from the NLCIL mines including mine - III through TPS-II reservoir. Hence, the concept of lean season does not arise. Also the water is sourced from NLCIL

into account of inter-state shares (if own mine's the question of competing any). Information on other downstream user doesn't arise.

competing sources downstream of the proposed project and commitment regarding availability of requisite quantity of water from the Competent Authority shall be provided along with the letter/ document stating firm allocation of water.

35 Detailed plan for rainwater The typical rainwater harvesting system harvesting and its proposed is attached Annexure 11. All the utilization in the plant shall be rainwater from road rains, roof top

furnished. drains, would be collected in the rainwater pit. The collected water would be recharged into the ground. All the buildings will be provided with rainwater harvesting arrangement.

40 Socio-economic study of the study Socio-economic study report is enclosed area comprising of 10 Km from the as Annexure 9.

plant site shall be carried out through a reputed institute / agency which shall consist of detail assessment of the impact on livelihood of the local communities.

49 In case of expansion projection, air AAQ monitoring being carried out 104 quality monitoring data of 104 measurements at 13 locations and observations a year for relevant results are well within the NAAQ parameters at air quality standards, 2009. Results are given in monitoring stations as EIA Report, Chapter - 3, Table 3-8. identified/stipulated shall be In addition, continuous one no online submitted to assess for compliance AAQ data monitoring and 13 Semi of AAQ Standards (annual average Automatic monitoring is being carried as well as 24 hrs.) out as per CPCB guidelines and measured data is being regularly sent to TNPCB/MoEF&CC, Regional Office.

51 Cumulative Impacts of all sources Impacts due to the proposed project is of emissions including handling predicted using AERMOD model. and transportation of existing and Details are provided in Chapter - 4, proposed projects on the Section 4.4. The existing baseline environment of the area shall be concentration covers all the existing assessed in detail. Details of the emission sources, which has been Model used and the input data used monitored for the operating units and for modelling shall also be provided. the contribution due to the proposed The air quality contours should be project it was assessed through plotted on a location map showing AERMOD and the resulting the location of project site, concentration is within the prescribed habitation nearby, sensitive standards.

receptors, if any. The windrose and isopleths should be shown on the location map. The cumulative study should also include impacts on water, soil, and socio economics.

52 Radioactive and heavy metal The radioactive and heavy metal content contents of coal to be sourced shall report conducted by BARC is enclosed be examined and submitted along as Annexure - 24.

with laboratory reports.

55 Details of transportation of fuel The transportation is through piped from the source (including port conveyor and no dust pollution is handling) to the proposed plant and anticipated. Details are provided in its impact on Ambient AAQ shall Chapter - 2, Section 2.6.2 be suitably assessed and submitted.

If transportation entails a long distance it shall be ensured that rail transportation to the site shall be first assessed. Wagon loading at source shall preferably be through silo/conveyor belt.

61 Detailed scheme for raising green Greenbelt layout is enclosed as belt of native species of appropriate Annexure - 6. Three tier greenbelt of 50 width (50 to 100m) and consisting to 100 mts is envisaged as per CPCB of at least 3 tiers around plant guidelines with shrub layer beneath tree boundary with tree density of 2000 layer would serve as an effective sieve to 2500 trees per ha. with a good for dust and sink for Co2 and other survival rate of around 80% shall gaseous pollutants. The tree species will be submitted. Photographic be short listed and the recommendation evidence must be created and of DFO, Cuddalore and CPCB submitted periodically including guidelines. Greenbelt details are NRSA reports in case of expansion provided in Chapter - 9. projects. A shrub layer beneath tree layer would serve as an effective sieve for dust and sink for Co2 and other gaseous pollutants and hence a stratified greenbelt should be developed.

10. They also contended that the dictum laid down in the decisions relied on by the appellant are not applicable to the facts of this case. They also given the answers regarding the siting criteria alleged by the appellant in a tabular form as follows:-

S. No.	Appellant's reference to the purported sitting guidelines	Response
(i)	Ecologically and / or otherwise sensitive areas: preferably 5 Km; Depending on the Geo-Climatic conditions the requisite distance may be decided appropriated by the agency.	There are no ecologically sensitive areas, a declared by the Government in 10 Kms radius. It is pertinent to state that as per Paragraph 4 of the IL & FS Report, the Ecologically Sensitive areas are listed and the said areas fall within 10 Km from the subject plant.
(ii)	Coastal areas: Preferably Half a Kilometre from High Tide Line (HTL)	There are no coastal areas in the vicinity of 10 Km
(iii)	Flood Plain of the Riverine System: Preferably half a kilometre away from flood plain or modified flood plain affected by the dam in the upstream or by flood control system	There is no riverine system within half a km distance from the subject project site. Further, there are no notified rivers. It is also pertinent to state that the subject plant does not be discharging any effluent nor consume any water from rivers or lakes.
(vi)	Transport / Communication system: Preferably half a way km away from the Highway and Railway line	The Nearest Highway Road is 1 Km from the project site.

Guidelines based on the selection of site of coal based Thermal Power Plants set by the MoEF.

Locations of the Thermal Power Stations are avoided within 25 Km of the outer periphery of the following:

S. No.	Appellant's reference to the purported sitting guidelines	Response
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- | | | |
|------|---------------------------------------|---|
| (v) | Metropolitan cities | There is no Metropolitan City within Km radius. Chennai is the only nearest Metropolitan City which is more than Kms. |
| (vi) | Natural park and wildlife sanctuaries | There are no natural parks or wildlife sanctuaries in 25 a km radius. |

(vii) Ecologically sensitive areas like There are no ecologically sensitive area in (Tropical forest, biosphere 25 Km radius. In specific terms, there are reserve, important lake, and no tropical forests, biosphere reserve, coastal areas rich in coral important lake, and coastal areas rich in formation); coral formation. Reserve forests referred to in the EIA are not notified as ecologically sensitive.

(viii) The sites should be chosen in No chimney or tower would be constructed such way that chimneys of the within the approach funnel of a runway of power plants does not fall the nearest airport. Further, nearest within the approach funnel of airports from the project plant are:-

runway of the nearest airport. (i) Neyveli Airstrip (non-functional - 2.5 Km ENE)

(ii) Pondicherry airport - 62.2 Km (NE)

(ix) Those sites should be chosen The project plant is not near a flood plain of which are at least 500 m away a river system.

from the flood plain of river system

(x) Location of the sites are avoided There are none in a 10 Km radius.

- | | | |
|------|---|--|
| (xi) | <p>in the vicinity (say 10 km) of places of Archaeological, historical, cultural / religious/ tourist importance and defence installations.</p> <p>Forest or prime agricultural lands are avoided for setting up of power houses or ash disposal.</p> | <p>The proposed project plant is not being put up on forest land or agricultural land. It is submitted that land was earlier acquired and under possession of the Fourth Respondent and the subject plant is proposed to be put up on land classified as 'Barren Land' by Special Tahsildar, Land Acquisition.</p> |
|------|---|--|

11. There are no ecologically sensitive areas like National Park/Wildlife Sanctuary/Biosphere Reserve/Tropical Forest/Lake and coastal areas situated within 10 Km radius of the project area. They have conducted all the necessary studies including health study and socio-economic study as

required under the ToR and provided the same in the EIA Report. This area is not a critically polluted area, as in the case of SIPCOT area and the SIPCOT is situated about 40 Km from the project site. They have given the water consumption rate, availability of water within their premises and as such, there is no necessity for conducting any Hydro- geological study. They have denied all the concerns made by the appellant regarding the probable pollution and also given the details of the pollution control mechanism and mitigating measures taken by them to resolve all the issues which were raised in the public hearing. They further contended that the authorities have properly applied their mind and appraised the project and rightly recommended, based on which, the Environmental Clearance was granted by the 1st Respondent. So, they prayed for dismissal of the appeal.

12. The appellant filed rejoinder to the statements submitted by the 1st Respondent more or less reiterating the contentions raised by them in the appeal memorandum.

13. Heard the learned counsels Mr. Ritwick Dutta along with Mr. Saurabh Sharma and Mr. G. Stanley Hebzon Singh for the appellant, Mrs. Me. Saraswathy for the MoEF&CC, Dr. D. Shanmuganathan for the State Department, Mr. S. Sai Sathya Jith for the State Pollution Control Board and Mr. Arjun Suresh for the project proponent/4th Respondent.

14. The learned counsel appearing for the appellant argued that it is a critically polluted area and there was no Cumulative Impact Assessment study conducted. There was no Hydro-geological Impact Study for drawal of water conducted and the concerns raised in the public hearing were not answered properly. Further, the EIA Report was not prepared in tune with the ToR issued and they have not conducted any independent Hydro-geological study as required and they only copy pasted the report prepared by the Government Department in this regard. The baseline of air pollution and sound pollution shown are not correct. The EIA Report shows the quality of water in that area having high TDS and they have not mentioned anything about the mitigation measures that they are going to take to resolve the issue. The noise level in some area was higher than the standard prescribed. They have not conducted the impact assessment study covering 25 Km, including SIPCOT industrial area. The health impact that is likely to be caused on account of the Lignite-based Thermal Power Plant was not properly appreciated. The grievance raised in the public hearing was that on account of the operation of the existing Lignite-based Thermal Power Plant by the 4th Respondent, Kidney related diseases have been increased and that aspect has not been appraised by the 4th Respondent at all. The social impact assessment of the project on the socio-economic aspect of the local people and the grievance of the people for not providing employment for the persons from whom the lands were acquired which was promised by the 4th Respondent and the grievance of the people of the project impact area has not been addressed and that was not considered in the appraisal and no specific recommendations were issued in this regard. That shows the non-application of mind.

15. The learned counsel appearing for the appellant had relied on the dictum laid down in the decisions reported in T. Muruganandham & Ors. Vs. Union of India & Ors. 4 , Sarpanch, Grampanchayat Tiroda Vs. The Ministry of Environment and Forests 5 , Alaknanda Hydro Power Company Ltd. Vs. Anuj Joshi & Ors.6, Utkarsh Mandal Vs. Union of India7, Samata Vs. Union of

India⁸, and Samarth Trust Vs. Union of India ⁹ of the Hon'ble High Court of Delhi and Uma Maheswar Dahagama Vs. Union of India & Ors.¹⁰ of this Tribunal confirmed by the Hon'ble Apex Court in National Thermal Power Corporation Limited (NTPC) Vs. Uma Maheshwar Dahagama ¹¹ and also the necessity of protection of water bodies and extraction of ground water as observed by the Principal Bench of National Green Tribunal, New Delhi in Lt. Col. Sarvadaman Singh Oberoi Vs. Union of India & Ors.¹² dated 10.05.2009.

6 (2014) 1 SCC 769 7 2009 X AD (Delhi) 365 8 2014 All India NGT Reported (1) (SZ) 1 9 Writ Petition (Civil) No.9317 of 2009

16. The learned counsel appearing for the State Pollution Control Board submitted that their role is very limited and they have conducted public hearing on the basis of the Draft EIA Report submitted and forwarded the minutes along with the discussions and queries to the MoEF&CC as required under the EIA Notification, 2006. When they inspected the area and found that the 4th Respondent is proceeding with their work without getting Consent to Establish, they directed them not to proceed with the work without obtaining Consent to Establish. It is further submitted that subsequently they obtained Consent to Establish as well.

17. The learned counsel appearing for the MoEF&CC argued that necessary particulars were called for even before issuing the ToR and the Sub Committee had inspected the area and only after compliance of the directions issued by the project proponent and after the compliance report was received, they recommended for ToR on the basis of which, the 1st Respondent had issued the ToR. The public hearing was conducted and thereafter, the final EIA Report was submitted and that was appraised by the Expert Appraisal Committee and they have recommended the project and accordingly, the MoEF&CC has issued the Environmental Clearance. They have considered all the aspects and necessary conditions have been imposed.

18. The learned counsel appearing for the 4th Respondent submitted that all necessary details were furnished and there is no necessity to conduct any separate Hydro-geological Study, as they have no intention to tap any groundwater from any other sources than their own independent source of tapping water available in the closed mines which was available in excess and even during critical water shortage period, they have supplied from the existing pits to Chennai to meet the water scarcity in that area. Further, none of the impacts on ground water in that area was due to their activity. They are conducting health camps and also having primary health centres to provide free medical aid to the people of the project impact area. Further, using their Corporate Social Responsibility Fund, they have even promised to provide dialysis unit in the Government Hospital to meet the demand of the people in that locality and as such, a facility was not available there. Kidney related diseases were not due to impact of the activities of the unit. All necessary studies have been conducted and it is on that basis, that the EIA Report was prepared by an accredited agency and that was properly appreciated and appraised by the Expert Appraisal Committee and necessary details required were furnished by the project proponent even during the course of appraisal and the public hearing grievance were addressed properly and as such, the submissions made by the counsel for the appellant that there was no application of mind and the EIA Report is defective etc. are not correct. The learned counsel also submitted that they are prepared to abide by

any conditions imposed by this Tribunal, as they want to be more environment friendly project and they do not want anything happening in the health affairs of the people in that area. They were also providing necessary green belt and in fact, they received several awards for being environment friendly unit and showing commitment in protecting the environment. So, they prayed for dismissal of the application.

19. Considered the pleadings, submissions made by the learned counsel appearing for the parties and the written submissions submitted by the parties.

20. The points that arise for consideration are:-

a. Whether the Environmental Clearance granted for the second expansion of 2x 660 MW Super Critical Lignite based Thermal Power Plant of the 4th Respondent unit is liable to set aside for any of the reasons stated in the appeal memorandum and the submissions made by the learned counsel for the appellant at the time of hearing?

b. Whether there are any further directions (if any) to be issued applying the "Precautionary Principle" and "Sustainable Development" for protecting the environment and to mitigate the possible pollution and also remove the apprehension raised by the public at the time of public hearing?

c. Relief and costs.

POINTS:-

21. It is an admitted fact that the 4th Respondent is operating the Thermal Power Plant using Lignite Coal as fuel and they have already established two units as Stage - I and II and they applied for expansion of Thermal Power Station - II for additional capacity of 2 x 600 MW Super Critical Lignite-based Thermal Power Station and after conducting appraisal by the Expert Appraisal Committee and on the basis of the Expert Appraisal Committee's recommendation, the MoEF&CC had granted the subject Environmental Clearance under challenge to the 4th Respondent for this project. The grant of Environmental Clearance was challenged on the ground that there was no Cumulative Impact Assessment Study conducted taking into consideration the polluted industries situated within the radius of 25 Kms, no Hydro-geological Study was conducted, the fact of presence of high TDS and Alkaline nature of the water in that area has not been considered, the impact of the expansion on socio- economic conditions and health impact caused on account of the operation of the existing Thermal Power Plant owned by the 4th Respondent, the grievances raised in the public hearing were not considered and discussed and no remedial measures have been provided. Further, there was no independent Hydro-geological Study conducted but they have only extracted the study conducted by the Government agency in this regard, some years back.

22. As regards the Cumulative Impact Assessment Study is concerned, even according to the appellant, they have no case that the 4th Respondent had omitted any of the polluting industries situated within the distance of 25 Kms which will have an impact on environment on account of

allowing the present expansion. The Cumulative Impact Assessment is relevant only at a time when the new project is to be established in a place where there are cluster of polluted industries operating and no proposal to establish such type of industries in that area and in such circumstances, the impact of newly proposed industry or expansion in an area which is already having impact of pollution due to the existence of other polluted industries. In such circumstances, the Cumulative Impact Assessment is relevant for the purpose of considering whether the environment will sustain the probable pollution that is likely to be caused on account of the proposed unit and in order to make sustainable, what are all the precautionary measures to be taken by the proposed industry applying the principles of "Sustainable Development" and "Precautionary Principle"

and the EIA Report must reflect these aspects for the purpose of consideration and appraisal by the Expert Appraisal Committee and the issuing authority.

23. Admittedly, in this case, the project area is neither a critically polluted area nor are there any other polluted industries or cluster of industries situated. So, under such circumstances, there is no necessity for conducting Cumulative Impact Assessment of Ambient Air Quality, as has been observed in the decisions reported in T. Muruganandham & Ors. Vs. Union of India & Ors.¹³, Sarpanch, Grampanchayat Tiroda Vs. The Ministry of Environment and Forests¹⁴, Alaknanda Hydro Power Company Ltd. Vs. Anuj Joshi & Ors.¹⁵, Uma Maheswar Dahagama Vs. Union of India & Ors.¹⁶ of this Tribunal confirmed by the Hon'ble Apex Court in National Thermal Power Corporation Limited (NTPC) Vs. Uma Maheshwar Dahagama¹⁷ and Samata Vs. Union of India¹⁸.

24. The EIA Report prepared by an accredited agency appointed by the 4th Respondent had shown all the existing industries and coal mines which are situated within the complex of the 4th Respondent which were shown by the appellant also in the written submissions, as the existing polluted industries within a radius of 10 Kms and there was no case for the appellant that they have omitted any of the existing industries within that area which were not included for the purpose of conducting Cumulative Impact Assessment by the project proponent.

15 (2014) 1 SCC 769 18 2014 All India NGT Reported (1) (SZ) 1

25. Further, the appellant had noted the exceedance of noise level in some areas with a marginal increase relied on by the appellant from the Table 3.9 provided in the EIA Report (Internal Page No.119) which reads as follows:-

S. No	Location	Distance (km) from Project boundary	Noise level in dB(A) Leq		CPCB Standard		Environmental Setting
			Day	Night	Lday (Ld)	Lnight (LN)	
1.	Project Site	Within Site	54.8	49.6	75	70	Industrial
2.	Periyakappankulam	4.35	50.1	44.6	55	45	Residential
3.	Kunankurichi	0.78	49.6	43.2	55	45	Residential

4.	Umangalam	1.33	52.0	45.8	55	45	Residential
5.	Uttangal	0.72	54.9	40.2	65	55	Commercial
6.	Edaikuppam	1.14	47.6	43.1	55	45	Residential
7.	Vridhagiriku ppam	1.22	46.0	38.9	55	45	Residential
8.	Mudanai	1.24	50.8	47.8	55	45	Residential
9.	Edatteru	2.14	46.3	49.3	55	45	Residential
10.	Kotteri	4.72	44.9	40.7	55	454	Residential

26. It may be mentioned here that only in three areas, there is a slight variation and it cannot be attributable to the industrial activity alone. There may be other reason for increase. So under such circumstances, it cannot be said that the increase is due to industrial activity of the 4th Respondent alone and allowing further expansion will have more impact in that area.

27. It is true that a reading of the relevant portion of Dinakaran's report of general Hydro-geological Study in that area, it will be seen that they have almost reproduced in verbatim without any change in the EIA Report. But that alone will not be sufficient to discredit the study conducted by an accredited agency. A reading of the EIA Report will go to show that this has been taken as a baseline study for the purpose of understanding the Hydro-geological status in that area and they also mentioned in the report that since the project proponent has their own source of water for their requirement which they are going to take from the abandoned mines or closed mines which is in excess than what is required for them, there is no necessity for them to draw water from any of the water bodies from outside or to get the water from other sources by outsourcing. The Hydro-geological Study will be relevant only if the project proponent has not having their own source of water but they will have to take water from outside either from the nearby water body or by outsourcing so as to assess the impact of drawal of such water for their project on such water bodies. In this case, since they have got their own facility of getting water, there is no necessity to conduct any Hydro-geological Study at the drawing location of the water for their project. So under such circumstances, this cannot be taken as a ground for setting aside the Environmental Clearance, as the same has been properly explained.

28. The impact of ash pond has been studied and further mentioned that since they have made an arrangement for disposal of the dry fly ash generated immediately, there will not be much impact on the same.

29. Further, there was no health impact study conducted and the grievance raised by the public on this aspect has not been considered is one of the grounds raised. It may be mentioned here that in the public hearing, several persons have raised the question of increasing Kidney disease in that area including a doctor. But there was no specific instances mentioned as a cause for Kidney disease relating to any of the activities of the project proponent. Merely because, there is an increase in Cancer or Kidney disease in a particular area, unless the probable cause for such disease is related to the activities of the project proponent, it cannot be said that there is a nexus between the disease and the activity of the project proponent.

30. The further contention raised was that the medical facilities provided are not sufficient and the quality of medicines provided are not meeting the standard. Except the bare allegations, there is no relevant data available to establish this aspect. Further, at the time of appraisal, when the Expert Appraisal Committee found that the minutes of the public meeting was not properly signed by the authority who conducted the same, it has been returned and only after getting it corrected, they appraised the same. Further, the project proponent had given detailed answers in tabular form to the Expert Appraisal Committee regarding the public grievance raised and the answers for the same by the Project Proponent and those things were made available along with the EIA Report which was considered by the Expert Appraisal Committee before it is being recommended and on the basis of the recommendations, the MoEF&CC has decided to grant Environmental Clearance.

31. There is no dispute regarding the fact that the project proponent is conducting number of health camps and they are primary health centres established by them where the people from the project impact area are being treated. It is also submitted by the learned counsel appearing for the Project Proponent that there was a demand for providing dialysis machine in the Government Hospital which the project proponent had decided to sponsor.

32. In order to remove the apprehension of the people in that locality on health issues, we feel that applying the "Precautionary Principle", the Project Proponent can be directed to conduct a health survey with the help of a reputed institution to assess the health impact in that area and further remedial measures (if any) to be taken to meet the situation, on the basis of the recommendations made by such agency who has been deputed for that purpose and that will meet the ends of justice.

33. Further, they have provided greenbelt, but a perusal of the nature of species planted, we feel that certain modifications can be made in respect of the species that are being planted for that purpose. They are using Eucalyptus as one of the species which is not conducive for environment. So, they may avoid using Eucalyptus and other species of such nature which are likely to extract more water and accelerate the depletion of groundwater level in that area. Instead they may go for plantation of native species which are conducive for that area including Bamboo and that will not accelerate the depletion of groundwater in that area.

34. They must also provide greenbelt along the boundary of the unit with sufficient width in three tiers as stipulated in the Environmental Clearance so that the impact of air and sound pollution will be reduced on account of the barrier that will be created by the existence of greenbelt along the boundary. Further, they must also increase the amount for health related activities by utilizing their CSR Fund and CER Fund for this purpose for removing the apprehension of health impact on the people in that locality.

35. We have perused the file produced by the MoEF&CC relating to the Environmental Clearance granted and also the EIA Report submitted by the Project Proponent along with the replies given by them for the grievances raised in the public hearing and also the conditions imposed in the Environmental Clearance and the recommendations made by the Expert Appraisal Committee and we are satisfied that there was proper application of mind, proper appraisal of the project by the Expert Appraisal Committee before recommending the project and the MoEF&CC in granting the

Environmental Clearance.

36. We do not find any reason to doubt the genuineness of the appraisal made by the authorities in deciding to grant Environmental Clearance and none of the grounds alleged by the appellant are really available to set aside the Environmental Clearance granted in favour of the 4th Respondent. However, applying the "Precautionary Principle" and also to remove the apprehension of the people in that locality, we feel that certain directions can be given to be complied with by the Project Proponent as follows:-

a. The Project Proponent/4th Respondent is directed to conduct a health survey in the villages of project impact area to ascertain the impact of activities on the health issues by an accredited agency approved by the MoEF&CC and on the basis of the recommendations made by them, they are directed to carry out the recommendations and provide such facility which are recommended by them to meet the situation and to remove the apprehensions of the people in that locality. b. The Project Proponent/4th Respondent is directed to increase the CSR Fund, if permissible under law for the purpose of conducting more medical camps and also to provide more facilities in the Primary Health Clinics established by them and also extend their CSR Fund for other Government Hospitals to increase the facility of meeting the probable Kidney disease that is being increased in that area by providing necessary infrastructure to meet the same. They are also directed to ensure the quality of medicine supplied in Primary Health Clinics as part of their CSR activity. c. As regards the greenbelt is concerned, instead of using Eucalyptus and other species which are not conducive to protect environment, they are directed to use native plants and also consider the proposal of planting fast growing Bamboo species in that area and the development of greenbelt must be along the boundary with sufficient density and also in three tier so as to avoid emission of dust and other fugitive / toxic emissions going outside the project area so as to affect the air quality in the neighbouring areas. d. The Tamil Nadu Pollution Control Board is directed to monitor the activities of the Project Proponent/4th Respondent and if there is any violation committed in implementing the conditions imposed in the Environmental Clearance or in the Consent granted, then they are directed to take appropriate action against the 4th Respondent including imposition of environmental compensation for the violations, apart from suggesting remedial measures to rectify the pollution (if any) caused on account of the deficiencies found in the pollution control mechanism provided by the 4th Respondent.

37. The points are answered accordingly.

38. In the result, the appeal is disposed of with the following directions:-

(i) The Environmental Clearance granted to the 4th Respondent is not liable to be set aside for any of the reasons stated in the appeal memorandum or the grounds raised by the appellant at the time of hearing and also in the written submission.

(ii) The Project Proponent/4th Respondent is directed to conduct a health survey in the villages of project impact area to ascertain the impact of activities on the health issues by an accredited agency approved by the MoEF&CC and on the basis of the recommendations made by them, they are directed to carry out the recommendations and provide such facility which are recommended by them to meet the situation and to remove the apprehensions of the people in that locality.

(iii) The Project Proponent/4th Respondent is directed to increase the CSR Fund, if permissible under law for the purpose of conducting more medical camps and also to provide more facilities in the Primary Health Clinics established by them and also extend their CSR Fund for other Government Hospitals to increase the facility of meeting the probable Kidney disease that is being increased in that area by providing necessary infrastructure to meet the same. They are also directed to ensure the quality of medicine supplied in Primary Health Clinics as part of their CSR activity.

(iv) As regards the greenbelt is concerned, instead of using Eucalyptus and other species which are not conducive to protect environment, they are directed to use native plants and also consider the proposal of planting fast growing Bamboo species in that area and the development of greenbelt must be along the boundary with sufficient density and also in three tier so as to avoid emission of dust and other fugitive / toxic emissions going outside the project area so as to affect the air quality in the neighbouring areas.

(v) The Tamil Nadu Pollution Control Board is directed to monitor the activities of the Project Proponent/4th Respondent and if there is any violation committed in implementing the conditions imposed in the Environmental Clearance or in the Consent granted, then they are directed to take appropriate action against the 4th Respondent including imposition of environmental compensation for the violations, apart from suggesting remedial measures to rectify the pollution (if any) caused on account of the deficiencies found in the pollution control mechanism provided by the 4th Respondent.

(vi) Considering the circumstances, parties directed to bear their respective costs in the appeal.

(vii) The Registry is directed to communicate this order to the MoEF&CC, Tamil Nadu Pollution Control Board and also to the Project Proponent/4th Respondent for their information and compliance of directions.

(viii) The Registry is directed to communicate this order to the MoEF&CC to take back the file (pertains to issuance of Environmental Clearance), if any, produced by them.

39. With the above observations and directions, this appeal is disposed of.

Sd/-

Justice K. Ramakrishnan, JM Sd/-

Dr. Satyagopal Korlapati, EM Appeal No.13/2019 (SZ) 31st May 2022. Mn.