

Item Nos. 02 & 03

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 644/2019  
(I.A No. 147/2020, I.A. No. 307/2020 & I.A. No. 358/2020)

(With report dated 20.10.2020)

Sudhir Applicant

Versus

State of Chhattisgarh Respondent(s)

**WITH**

Original Application No. 694/2019

Sri Kant Applicant

Versus

State of Chhattisgarh Respondent(s)

Date of hearing: 25.11.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Sahil Shafique, Advocate

Respondent(s): Ms. S. Lakshmi Iyer, Advocate for CECB

**ORDER**

1. The issue raised in these applications pertains to alleged violation of environmental norms by M/s Metallic Alloys, Plot No. 29, Industrial Growth Centre, Sitara, Phase-III, Raipur, Chhattisgarh. Questions are whether the unit requires EC, whether it is complying with the consent conditions and whether ground water extraction is illegal. If so, what is the remedial action required.

2. The matter was considered on 14.05.2020 in the light of the report furnished by the State PCB. The matter was deferred for a fresh report by a joint Committee comprising the CPCB, MoEF&CC and the State PCB with reference to the requirement of EC and violation of environmental norms, including illegal withdrawal of ground water.

3. The joint Committee has filed a report on 20.10.2020 as follows:-

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<b>Sr. No.</b>	<b>Issue Raised</b>	<b>Observation</b>
01	<i>Requirement of Environmental Clearance</i>	<i>The unit has applied for Consent to Establish (CTE) the plant for production of "Low carbon Ferroalloys (8000MT per year) on 08.11.2005 and subsequently CTE was issued by CECB on 19.05.2006 i.e. before EIA Notification (14.09.2006). The copy of CTE is placed at <b>Annexure- B</b>. In order to start the production industry has applied for Consent to Operate (CTO) on 02.08.2011 for "Low Carbon Ferro Alloys (8000 MT per year) and same was issued by CECB on 23.08.2011. The copy of the same is placed at Annexure- C. Since there is no increase in production quantity/change in product/change in project area/change in location as mentioned in application for CTO, committee observes that condition of Environmental Clearance as per EIA Notification, 2006 may not be applicable.</i>
02	<i>Pollution was caused by the unit and requisite safeguards such as plantation etc. do not exist.</i>	<i>The industry has installed 05 MVA Submerged Electric Arc Furnace for production of Carbon Ferro Alloys using Manganese Ore, Dolomite, carbon paste and coke. The furnace is electric operated and was found covered with suction hoods attached with ID fan, Heat Exchanger, Bag Heat exchanger, Bag house (06 chambers with 144 bags in each chamber) and MS stack of approximately 30 m height  <i>Movable sprinklers were found installed in the premises to control fugitive emission. There was mild rain on date of visit hence fugitive emission could not be assessed.  <i>During visit approximately 100 trees were found survived</i></i></i>

		<i>inside and outside of the industry.</i>
03	<i>Illegal withdrawal of ground water</i>	<i>The unit is located in industrial area and have made agreement with Chhattisgarh Ispat Bhumi Limited for regular water requirement. Copy of the agreement is placed at <b>Annexure-E</b>. However for any emergency situation, the industry has also made bore well with NOC from Central Ground Water Authority which is valid up to 09.08.2022. Copy of the same is placed at <b>Annexure-F</b>.</i>

4. The Applicant has filed objections to the report as follows:-

“6. It is admitted fact that the Unit had started its operation on 23.08.2011 after obtaining consent to operate and hence was utilizing water since that time whereas as per the Agreement annexed by the Joint Inspection Team at Page No. the Unit has only entered into agreement with Chhattisgarh Bhumi Ispat Limited for water supply on 18.03.2020 (Refer page No. 115 of the report) and obtained No Objection Certificate only on 10.06.2020 ( Refer Page No. 119 of the report ) i.e. after the orders of this Hon’ble Tribunal. And therefore, **it is evident that the Unit was illegally withdrawing ground water between 23.08.2011 to 18.03.2020. This Hon’ble Tribunal may take note of this and direct the CGWA to impose environment compensation of illegal withdrawal of ground water as per set methodology.**

10. The report is completely silent on the issue of production of consented capacity and violation of consent condition raised by the applicant in I.A. No. 147 of 2020. That the Unit has consented capacity of 8,000 M.T./Year and to verify that the Unit has conveniently provided copies of the Excise returns for few months of the year 2013 to 2017. **It is believed that between 01.04.2017 to 31.03.2018 the unit has produced about 11,000 MT/year and between 01.04.2018 to 31.03.2019 the unit has produced about 12,000 MT/year. The actual production was correctly reported in the audit report of the income tax returns.** This Hon’ble Tribunal may direct the unit to produced audit report of the last two years verify the same.

11. Further, it is important to submit that the unit has obtained Consent for production of Low Carbon Ferro Alloys while the unit is manufacturing High Carbon Ferro Alloys. That the Applicant has sought expert view from known Ferro Alloy Consultant that whether Low Carbon Ferro Alloys can be produced from one Sub Merged Arc Furnace of 5 MVA. **The Expert vide letter dated 03.10.2020 responded to the applicant query stating that cannot produce any kind of low carbon Ferro Alloys with this technology and raw material. Further, the expert stated that Low Carbon Alloys can be produced by Aluminium Thermit Process among other things and therefore, the unit is violating the consent**

**conditions.** *The copy of the letter dated 03.10.2020 is marked and appended as ANNEXURE A/1.”*

5. In view of above, the joint Committee may assess compensation for illegal extraction of ground water for the period such extraction was illegal. Further issues of violation of consent conditions requirement of EC, particularly if there was capacity enhancement. The decision in this regard be taken within two months, following due process of law.

6. We have also noted the submission that since consent to operate was given after the notification dated 14.9.2006, as per the view taken by the Tribunal, EC was required. The said matter is pending before the Hon'ble Supreme Court in *Civil Appeal No. 3369/2020, Shobha Chemical Industries Pvt. Ltd. v. Udit Jagat & Ors.* Stay has been granted on 27.10.2020. In view of this, the parties may act as per decision of the Hon'ble Supreme Court.

The applications are disposed of.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. S.S. Garbyal, EM

Dr. Nagin Nanda, EM

November 25, 2020  
Original Application No. 644/2019  
(I.A No. 147/2020, I.A. No. 307/2020& I.A. No. 358/2020)  
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