

Item No. 02

Court No. 1

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

Appeal No. 36/2020  
(Earlier Appeal No. 66/2019 (WZ))

Larsen & Toubro Limited

Appellant

Versus

Sanghi Industries Limited & Ors.

Respondent(s)

Date of hearing: 06.01.2021

Date of uploading of order: 22.01.2021

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

**ORDER**

1. This appeal has been preferred against order dated 23.08.2019 of the State Level Environment Impact Assessment Authority (SEIAA), Gujarat, granting Environmental Clearance (EC) to M/s. Sanghi Industries Limited for setting up of stand-alone Cement grinding unit at Survey No. 125/1 and 126/1+2+3, Village Shivrampur, Ta: Choryasi, Distt.: Surat in category 3(b) of Schedule annexed with Environment Impact Assessment (EIA) Notification dated 14.09.2006.

2. The appellant is a company engaged in construction, manufacturing and other industrial/commercial activities. Its grievance is that the project in question will have hazardous impact on Hazira Manufacturing Complex where the appellant is manufacturing defence equipments. The said industrial area at Surat is 'polluted industrial area' classified as such based on data of air water and soil quality, called 'comprehensive

environment pollution index' (CEPI). The unit is of 'red' category in terms of categorisation of industries based on level of contribution to pollution under the Environment (Protection) Rules. EC has been granted without consideration of crucial aspects such as air emissions, water availability, wildlife etc.

3. The appeal was filed on 20.09.2019. Notice was issued on 26.09.2019. The appeal was allowed to be amended on 24.10.2019. IA No. 28/2020 has been filed by the interveners viz. the village Panchayat. IA No. 131/2019 has been filed by the appellant for production of documents relating to compliance status of main cement unit of the project proponent at Kutch in terms of environmental norms.

4. By way of amendment, the appellant has brought on record proceedings of public hearing dated 22.03.2019 wherein, among others, questions with regard to generation of dust from the plant, capacity of the road and source of water were raised. According to the appellant, such concerns relating to increased air and water pollution have not been addressed. The appellant has also pointed out discrepancies in the EIA report. It is submitted that neither the EIA report explains potential of compliance with the environmental norms nor State Environment Assessment Committee (SEAC) and SEIAA have given any reasons from which possibility of such compliance can be inferred. The proceedings do now show application of mind on the environmental consequences and the EC has been granted in a mechanical manner.

5. There are mangroves in the area but the project proponent concealed the said information in application Form I. Similarly, there is reserve forest area which will be impacted which has not been mentioned. 2 Million Tonnes Per Annum (MTPA) cement is proposed to be grinded

which will require raw material including clinker, gypsum, fly ash, slag which has to be transported, involving movement of huge number of trucks. We made a reference to Table 4.17 in the EIA report showing the truck/tanker capacity and the frequency of trucks per day. The said table is reproduced in para 15 of this order. Though EC mentions that only 363 trucks will be permitted for transporting 278,000 liters water per day (as per specific condition no. 47), atleast 799 canters per day will be required. The land allotted is total 12 acres, out of which 33% is to be green area (as per specific condition no. 67 of the EC) Condition no. 67 of the specific conditions mentions that if land for green belt is not available, plantation can be in open land on road sides. The condition is as follows:

***“67. The SIL shall develop green belt within the factory premises as per the CPCB guidelines, **consisting of at least three rows of trees of local species on periphery. However, if the adequate land is not available within the premises, the SIL shall take up adequate plantation at suitable open land on road sides and other open areas in nearby locality or schools in consultation with the Gram Panchayat/GPCB and submit an action plan of plantation for next three years to the GPCB.”*****

6. There is no provision in the EIA for space for parking for the trucks and other vehicles. Shifting of green belt outside the factory complex will defeat the object of mitigation of pollution. The industrial area in question is polluted industrial area which has no capacity for any further polluting activities as held in the order of this Tribunal dated 10.07.2019 in OA No. 1038/2018, *News item published in “The Asian Age” Authored by Sanjay Kaw Titled “CPCB to rank industrial units on pollution levels”.*

7. The project proponent-Respondent No. 1 has filed reply by stating that it has state of art facilities to adhere to the environmental norms. The mangroves have been duly disclosed in the EIA report. The project is at a distance of 1.3 km from the mangroves. The Krishak Bharati Cooperative

Ltd. (KRIBHCO) has agreed to supply water through irrigation pipelines. The water requirement will be partly met by recycling.

8. Reply of the SEIAA, Gujarat is that EC has been granted based on EIA report furnished by the project proponent. Undertaking was given not to use lignite and pet coke which is not permissible fuel. The project was considered by the SEAC in the meeting held on 12.06.2019 in continuation of meeting held on 16.04.2019. The project proponent explained mitigation measures against the emissions on which the members of SEAC were satisfied and on their recommendation SEIAA granted EC on 16.7.2019.

Relevant extract from the reply of SEIAA is:

“ xxx xxx  
12. I say that the answering respondent authority after receiving the recommendation considered the same alongwith the relevant material at its meeting held on 16.07.2019. A true copy of the minutes of the meeting of the respondent authority held on 16.07.2019 is annexed herewith and marked as Annexure R4. Being satisfied with the recommendation made by the Expert Appraisal Committee on the basis of the material and consideration of relevant aspects, the respondent authority decided to grant environment clearance for the proposed project. Accordingly, the clearance was issued on 23.08.2019.”

9. Relevant extracts from the minutes of the meetings of SEAC dated 16.04.2019 and 12.06.2019 are:

**“The 497<sup>th</sup> meeting of the State Level Expert Appraisal Committee (SEAC) was held on 16<sup>th</sup> April, 2019 at Gujarat Pollution Control Board, Sector 10-A, Gandhinagar.**

xxx xxx xxx

**In view of the above, Committee unanimously decided to consider the proposal the proposal after submission of the following details:**

xxx xxx xxx

iii. **Fugitive emission details with its mitigation measures.**  
Fugitive emission during raw material handling and feeding process and vehicle movements.

Mitigation measures – High efficiency pulse air jet type bag filters will be considered to arrest the air borne dust at all the locations where transfer of material are takes place; The automatic bagging machine with bag filters will be installed for packing plant; unloading of coal trucks will be carried out with proper care avoiding dropping of the materials from height. Sprinklers will be installed in Raw Material/ Fuel Storage/Loading / Unloading areas. The sprinkling of water will be done along with internal roads in the plant in order to control the dust arising due to the movement of vehicular traffic; Proper maintenance of vehicles shall be carried out; All the workers inside the plant will be provided with disposable dust masks; thick greenbelt will be developed around the plant to arrest the fugitive emissions; and Periodic air quality monitoring shall be carried out as per CPCB/ SPCB norms etc.

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**After deliberation, SEAC unanimously decided to consider the proposal after submission of the following details:**

1. to 4. xxx xxx xxx
5. Sound APCM to control fugitive dust emission during raw material transportation, storage, handling, loading, unloading, transfer, fuel grinding etc.”

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**“Minutes of the 514<sup>th</sup> meeting of the State Level Expert Appraisal Committee held on 12/06/2019 at Committee Room, Gujarat Pollution Control Board, Sector 10-A, Gandhinagar.**

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15	SIA/GJ/IND2/ 30448/2018	M/s. Sanghi Industries Limited Survey No. 125/1, 125/2 and 126/1+2+3, Vill.: Shivrampur, Tal.: Choryasi, Distt.: Surat	Appraisal – Recommendation
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xxx

xxx

iii, **Fugitive emission details with its mitigation measures:**

xxx

xxx

xxx

**On Road:**

- All internal roads used for transport of vehicles will be paved and maintained properly and repaired immediately when required.
- For prevention of road dust emission, speed will be restricted to 10 km/hr for heavy vehicles within the project premises.

- *All preventive measures i.e. covering of trucks, paving and maintenance of internal roads will be adopted.*
- *Regular vacuum sweeping and water spraying will be done on the internal roads.*
- *Proper maintenance of vehicles will be carried out.”*

10. The minutes of the meeting of SEIAA dated 16.07.2019 are:

***“Minutes of the 253<sup>rd</sup> Meeting held on 16<sup>th</sup> July, 2019 at 09:00 A.M.***

*The 253<sup>rd</sup> meeting of the State Level Environment Impact Assessment Authority (SEIAA) was held under the Chairmanship of Shri C.L. Meena at Gujarat Pollution Control Board, Gandhinagar. Prof. G.H. Ban, Member of SEIAA and Shri S.M. Saiyad, Member Secretary of the State Level Environment Impact Assessment Authority (SEIAA) attended the meeting.*

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***2) Sanghi Industries Limited, Dist. Surat***

- ***After detailed discussion, it was decided to grant environment clearance with all the conditions recommended by the SEAC.”***

11. The stand of the Ministry of Defence is that L&T facility is only a defence manufacturing facility and not a defence establishment. Thus, Works of Defence Act, 1903, prohibiting activities within a particular distance therefrom, does not apply.

12. We have heard Shri Raj Panjwani, learned Senior Counsel for the appellant, Shri Pinaki Mishra, learned Senior Counsel for Respondent No. 1 and Shri Maulik Nanavati, learned Counsel for SEIAA, Gujarat and perused the documents on record, with their assistance. We have also perused the written submissions filed by the parties in pursuance of order dated 06.01.2021 passed on conclusion of the hearing. In view of the fact that we are giving liberty to the parties to file written submissions before the CPCB for consideration of the Committee to which the matter is being referred, we do not find it necessary to make any comment on the said

submissions, beyond the comment on the rival contentions already raised before the Tribunal.

13. Shri Panjwani has drawn our attention to Form I, the EIA and the minutes of the SEAC. He pointed out contradictions in the information in the EIA compared to the information furnished in Form-1, particularly with regard to the mangroves, forests and birds. From the EIA documents, it is pointed out that the project proponent is one of largest cement plants at Kutch while the present project is proposed as grinding unit at Hazira Industrial Zone, Village Shivrampur, Taluka-Choryasi, District-Surat, Gujarat. The land procured for the purpose is 4.856 hectare for use as per following break-up:

**“Table 2.7 Land Breakup of Cement Grinding Unit**

#	Particulars	Total Area (in Ha.)	Area
1.	Production Plant	0.712	14.66%
2.	Office & Lab Area	0.022	0.46%
3.	Raw Material Storage Area	0.632	13.01%
4.	Solid Waste Storage Area	0.005	0.10%
5.	Open Space	1.835	37.79%
6.	Green Belt	1.650	33.98%
	<b>Total</b>	<b>4.856</b>	<b>100.00%</b>

In the above break up, there is no provision for parking of large number of trucks to be used for about 800 trips per day for transporting material and other trucks for transporting water.

14. The main raw material i.e. clinker is to be transported from Kutch plant by sea/road as per statement in the EIA as follows:

**“2.6.3 Transportation & Storage of Raw Material**

*The clinker shall be transported from Sanghipuram (IU) to Surat GU mainly by sea. Clinker shall be extracted from the Clinker load out silos at IU, transported to the captive Jetty of SIL by trucks and loaded on to the barges by grab cranes. Barges shall transport the Clinker to*

the ship stationed at high seas. At Surat, the Clinker shall be unloaded from the ship at nearest port and transported to the Surat GU site by trucks. The clinker received through self-tipping trucks shall be unloaded by into a box feeder and transported to clinker storage silo through conveyor and elevator. The clinker storage has been envisaged in RCC silos of capacity 50,000 Ton, adequate for about 10 day requirement of the plant. Clinker shall be extracted from the bottom of the clinker silos and fed to the clinker hoppers in the cement grinding section through a belt conveyors and elevator.”

15. Under the heading ‘air environment’, the EIA mentions as follows:

**“Table-4.17: Incoming & Outgoing Transportation**

<b>Incoming Raw Material Transportation</b>							
<b>S.No.</b>	<b>Raw Material</b>		<b>Quantity TPA</b>	<b>Quantity TPD</b>	<b>Source</b>	<b>Mode of Transport</b>	<b>No. of vehicles (Truck/day)</b>
1.	Clinker				Captive	Sea	184
2.	Additives like Gypsum, Fly Ash, Slag		2000000	6061	Purchase	Road	
	Fuel		60000	182	Purchase	Road	
<b>Total No. of Trucks deployed/day will be</b>							<b>184</b>
<b>Outgoing Product Transportation</b>							
<b>S. No.</b>	<b>Product</b>	<b>Quality Million TPA</b>	<b>Quantity TPA</b>	<b>Quantity TPD</b>	<b>Source</b>	<b>Mode of Transport</b>	<b>No. of vehicles (Truck/day)</b>
1.	Cement	2.0	2000000	6061	Captive	Road/Sea	179
<b>Total No. of Trucks deployed/day will be</b>							<b>363</b>

**Frequency of Vehicles:**

Total Capacity (Fuel, Clinker, Fly ash)	40, 60,000 TPA
No. of working days	330
Transportation of incoming and outgoing material	12303 Tons/day
Working hours per day	24 hours (3 shifts)
Truck/Tanker Capacity	34 Tons
Frequency of trucks/day (92 No. × 4 trips/day × 2 (up/down))	363 × 2
Frequency of trucks deployed/hr	16
Increase in PCU/hr	16 × 3 = 48

16. The mode of transportation mentioned in para 5.3 of the EIA is as follows:

**“5.3 ALTERNATIVE FOR TECHNOLOGY AND OTHER PARAMETERS**

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xxx

xxx

<b>S. No.</b>	<b>Site Particular</b>	<b>Alternative Option 1</b>	<b>Alternative Option 2</b>	<b>Remarks</b>
1 to 6	xxx	xxx	Xxx	Xxx
7.	Road	Metallic Road	Kachcha Road	The road is well furnished. Most of



				<i>the raw material and fuel will be transported through ship (sea route)</i>
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17. Under the hearing mitigation measures, table 2.13 is as follows:

**“Table 2.13: Aspects & Impacts Analysis**

<b>Activity</b>	<b>Environmental Attribute</b>	<b>Cause</b>	<b>Impact Characteristics</b>			
			<b>Nature</b>	<b>Duration</b>	<b>Reversibility</b>	<b>Intensity and Significance</b>
<i>Vehicles Movement and utilities operation</i>	<i>Air quality</i>	<i>Exhaust Emissions i.e. NO<sub>x</sub>, SO<sub>2</sub>, Fugitive emission</i>	<i>Negative</i>	<i>Short Term</i>	<i>Reversible</i>	<i>Low, due to movement of vehicle only for loading and unloading of raw material. Provision of APC's.</i>
	<i>Noise Levels</i>	<i>Noise Generation</i>	<i>Negative</i>	<i>Short Term</i>	<i>Reversible</i>	<i>Low, due to limited activity</i>
	<i>Risk &amp; Hazards</i>	<i>Accidents, collision of transport vehicles</i>	<i>Negative</i>	<i>Short Term</i>	<i>Reversible</i>	<i>Medium due to loss of property and injury to manpower.</i>

18. Conclusions in the EIA report are:

**“11.5 Conclusion**

*Based on the EIA study conducted in Post Monsoon of 2018 (Oct. to Dec. 2018) and as per terms of reference given by SEAC, the following highlights emerge:*

- There will be minimal pollution potential on air, water and noise environment, which, with the implementation of the mitigation measures and EMP, can be reduced considerably.*
- The proposed project activities will have positive beneficial effect on the local population, economic output and other related facilities viz. employment, development of business, transportation etc.*
- Risk assessment including emergency response plan and DMP has been prepared to handle any sort of emergencies.*
- Looking to the overall project justification, process, pollution potential and pollution prevention measures/technologies installed by proponent, environmental management activities of proponent; the proposed project would be environmentally acceptable, in compliance with environmental legislation and standards.*

*Hence, looking to the overall project justification, process, pollution potential and pollution prevention, measures/technologies installed by proponent, environmental management activities of proponent, **it has been concluded that the proposed project would not have any considerable impacts on environment as well as socio-economic and ecological conditions of the project area. Hence proposed grinding unit at Shivrampur, Hazira is considered environmentally safe.***

19. Learned Counsel for the appellants has then referred to documents filed with IA No. 8/2020 and documents filed on 18.11.2020 by the intervener – Suvali Gram Panchayat. In para 15 of the reply filed by Suvali Gram Panchayat, it is mentioned that the project is in violation of Comprehensive General Development Control Regulations (CGDCR) notified by the State Government on 12.10.2017 under the Gujarat Town Planning and Urban Development Act, 1976. The CGDCR classify different zones for the permissible activities also specify negative list of activities. According to the said regulations, there is prohibition of Obnoxious & Hazardous industries in general industrial zone.

20. On being called upon, the learned Counsel for the project proponent as well as learned Counsel for the SEIAA were unable to show any discussion in the minutes of the SEAC or any material which may reflect application of mind to the assessment of impact of dust generation during the transportation and mitigation measures against the same. Beyond saying that provision has been made for covering the vehicles during transport and sprinkling of water, it has not shown as to how generation of dust and causing of noise pollution by movement of large number of heavy vehicles will be neutralized, given the carrying and load bearing capacity of the Panchayat road in question.

21. In view of above, we find that the precautionary principle, for which EIA is conducted, remains to be addressed. As held in Hanuman Laxman

Aroskar v. Union of India<sup>1</sup>, the object of EIA is to ensure that all concerns affecting the environment are duly taken care of. Thus, the impugned EC cannot be sustained until the environmental concerns are duly addressed. We are informed that the project has not yet commenced. Even learned Counsel for the project proponent and the SEIAA fairly accepted this factual position.

22. Accordingly, we refer the issue of assessment of carrying and load bearing capacity of the Panchayat road in question and evaluation of EIA and EMP prepared by the project proponent to the EAC of the MoEF&CC dealing with the cement plants, alongwith the representatives of CPCB, NEERI and IIT Mumbai. The CPCB will be the nodal agency for coordination and compliance. Coordination with the EAC may be through the MoEF&CC. The Committee may assess how generation of dust and causing of noise pollution by movement of large number of heavy vehicles will be neutralized, given the carrying and load bearing capacity of the Panchayat road in question. The Expert Committee may furnish its report to this Tribunal within three months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

23. The appellant, the Suveli Gram Panchayat and the project proponent may file their respective written submissions to the CPCB within two weeks for consideration by the Committee.

A copy of this order be forwarded to the MoEF&CC, CPCB, NEERI and IIT Mumbai by e-mail for compliance.

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<sup>1</sup> (2019) 15 SCC 401

List for further consideration on 14.07.2021.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

January 22, 2021  
Appeal No. 36/2020  
(Earlier Appeal No. 66/2019 (WZ))  
DV