

Minutes of the Expert Appraisal Committee (Industry-1) held at 11 AM on 5th May, 2011 in Room No. 402 (Conference Hall), Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi- 110 003 - Final recommendation of the EAC on the project of M/s Nirma Ltd. to establish a Cement Plant at Padhiarka, District Bhavanagar, Gujarat.

The EAC (Industry) met on 5th May, 2011 to further re-examine the approval accorded to Nirma Ltd. on 11th December, 2008 to locate a Cement Plant of 1.9 MTPA, a Captive Power Plant of 50 MW and a Coke Oven Plant of 1.5 LTPA capacity at Village Padhiyarka, Taluka Mahuva, district Bhavnagar, Gujarat by M/s Nirma Ltd. The Committee considered in depth the report of the 'Expert Body' constituted under the Chairmanship of Prof C.R.Babu following the order dated 18th March 2011 of the Hon'ble Supreme Court on SLP 14698/2010 and SLPs 15016, 32414 and 32625 of 2010.

2. To start with Prof C. R. Babu, who had been invited to initial session of the EAC, gave a detailed presentation explaining the rationale and the basis of the unanimous conclusions reached by the 'Expert Body' in its the report which is at Annexe A. Thereafter the Committee heard the representation of the officials of the Gujarat government who had been invited by the Ministry to present their views as also the submissions of Nirma Ltd. The Ministry had acceded to the Company's request that they be heard.

3. The views of the EAC set out herein are a continuum of its recommendations at the meeting held on 23rd February 2011 that are at Annexe B and require to be read with the same.

4. The chief findings and conclusions in the report of the 'Expert Body' chaired by Prof. C. R. Babu are:

- I. The site allotted to M/s Nirma Ltd. to locate the project lies within the water-spread and catchment of, and the water run-off terrain into the Samadhiala Bandhara. The Bandhara, a freshwater reservoir, was a Government initiative taken up in 2000. Constructed in the lower reach of drainage of Rivulet Shen Shuri, the structure is a dyke that prevents sea water intrusion ashore, entraps fresh water outflow from land into the sea and thereby fulfils the role of a water body. The impounded waters of the Bhandhara assist lift

irrigation. What earlier was a coastal saline natural ecosystem was thus converted into a fresh water man made ecosystem.

- II. The site may be classified only as wetland and water body and as none other applying accepted authoritative and standard definitions and in accordance with regime set out in conventions to which India is a signatory.
- III. This water body cum wetland is of manifold ecological utility besides. It helps recharge ground water, sustains rich biodiversity, provides pastures and supports settlements. In brief, it is a common property resource.
- IV. The thermal power plant, coke oven battery, and the cement plant will generate particulate matter, fugitive emissions, and effluents deleterious to agriculture and strain the environment. Ecology of water body, aquatic flora and fauna will suffer. Lime stone mining in the adjoining area of 3460 Ha.- the bulk of which is cropped area will result in over burden dumps and pits. These will impact agriculture, particularly onion production.
- V. Two critically endangered vulture species (White-back vulture and long billed vulture) and many other globally threatened bird species are seen around the Bhandara. There is a Reserve forest within 10 Km radius of the site.
- VI. Adoption of measures suggested by the Shelat committee such deepening of patches of submergible area to compensate for reservoir capacity lost and other expedients proposed therein will be of no avail, but will run counter to the intent. Deepening of tracts within the water-spread of the reservoir will, in fact, invite saline intrusion. Prof. Babu has elaborated on the matter in a note sent after the meeting.
- VII. The existence of a plant at the site is incompatible with ecology and the project may not be proceeded with.

5. Officials of the Government of Gujarat maintained vehemently that the status of the land was and is 'wasteland'. It is so described in authentic revenue records and remains so. It was duly allotted to Nirma Ltd on this basis. There was no opposition to the move. EAC enquired whether the land did not merit being reclassified as 'wet land' or 'water-body' post Bhandhara construction. The stand of the Revenue official was that mutation of the land may be done, if at all, only on the authoritative technical advice from the concerned department. No such need has arisen as yet. At any rate, reclassification of lands already allotted to Nirma Ltd

and still in possession of the company does not arise. The technical officers of Gujarat argued that the project will not impact the environment or thwart the purposes served by the Bhandhara. The Shelat Committee, comprising of eminent engineers, had prescribed more than adequate safeguards. Nirma is obliged to deepen 75 Ha of land in the water-spread area. This would help a volume of water greater than the storage capacity that would be lost in erecting the plant. The Engineers specifically clarified that deepening of the 75 Ha tract will not be below 2.4 Metres above MSL. The Bhandhara apron level is 3.8 M above MSL. There can therefore be no sub-surface saline water ingress from the sea into the reservoir applying the principles of hydraulic balance and gradient. The fresh water-seawater sub-surface interface is an altogether different technical independent of the Bhandhara. The officials pointed out that salinity upland had been increasing progressively over the years despite the Bhandhara.- a natural phenomenon. The technical officers maintained that the land may not be classified as 'wet' or as 'water-body' just because a dyke had been constructed 10 years ago to merely keep out salinity. The Bhandhara is a part of a series of enduring long term measures which the Government of Gujarat is taking up along the coast to resolve salinity related issues and improve ecology. It may not be viewed in isolation. Nor is a span of 10 years, since its construction in 2000, enough of an after time to formulate and pronounce opinions on the state of the land. Such views could be presumptuous.

6. The representatives of Ms Nirma Ltd. prayed that a copy of the 'Expert Body's' report be furnished to them. The EAC did not accede to the request as the document is, at this stage, confidential. They urged that it would be erroneous to classify the tract as wet merely because of the Bhandhara when, in fact, salinity has been increasing in the area. Development of industries and settlements have occurred without ecological degradation at other sites situated like-wise on the coast of Gujarat and testify to the soundness, sanguine nature and utility of the proposal. The Bhandhara was constructed solely to ward off salinity. To import more than this to its purpose as of now is not justified. They reiterated that none objected when the land was originally allotted. Substantial costs have been incurred that may not just be written off. A cement plant needs to be located in the vicinity of a limestone quarry. The firm reiterated the arguments adduced earlier

and produced a statement bearing the signatures of a large number of people who it was claimed had assented to the construction of the project at the proposed site.

7. Diverse parties appear to hold strong opinions on the nature of the land. The EAC, in the light of the findings of the 'Expert Body' concludes that post 2000 continuation of classification of the land in revenue records as 'Wasteland' in was, and is, an anachronism. Perhaps by definition the tract was 'wet land' even prior to 2000 as it was in the nature of a marsh, the depth of which at low tide did not exceed 6 Metres. The Topo sheet of 1952 suggests that the terrain was a wasteland. This tract has perhaps over the decades assumed the characteristics of a 'water-body' / 'wetland'. It is unfortunate that the classification was not amended.

8. The committee is of the view that the site is, and ought to have been appropriately re-classified as, 'wet land' or 'water body' at least after the construction of the Bhandhara. There could be views, not congruent, in regard to the utility of measures prescribed by the Shelat Committee. Progression of salinity inwards from the sea into the land is an intricate subject. Nevertheless, as may be discerned from the report of the 'Expert Body' the site in question supports aquatic flora and fauna besides also species that thrive in fresh water tracts. What the area was in 1952 or might be in reversion is not of relevance. It is now a 'wet land' and a 'water body'.

9. The EAC is in broad agreement with the findings and recommendations of the Prof. C.R.Babu 'Expert Body'. The committee concludes that anthropogenic activity that potentially alters the hydrological regime or obstructs water flow into wetland/water body or affects the water quality should not be allowed within an area of influence close to the wet land/water-body. There could be alternative sites enough in the vicinity that breed no contention. No fresh water sanctuary needs to be razed to pitch a cement plant therein. The approval accorded may be revoked as it was initially founded on undisclosed and incorrect postulates.
