

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)  
\*\*\*\*\*

**Appeal No.35/2020(WZ)  
I.A. No.68/2020(WZ)**

**IN THE MATTER OF:**

**Kheti Vikas Seva Trust**

Through its President,  
C/o Naran Bharubhai Gadhvi,  
Village Zarpura, Mundra, Kutch,  
Gujarat – 370 405.

**.....Appellant**

*Versus*

**1. Adani Enterprises Ltd.**

Through Head Environment.  
Sambhav House,  
Judges Bungalow Road. Bodakdev.  
Ahmedabad, Gujarat – 380 015.

**2. State of Gujarat**

Through Chief Secretary,  
Government of Gujarat, 1<sup>st</sup> Block,  
5th Floor, Sachivalaya,  
Gandhinagar, Gujarat- 382 010.

**3. Union of India**

Through Secretary,  
Ministry of Environment, Forests and Climate Change,  
Indira Paryavaran Bhawan, Jor Bagh Road,  
Aliganj, New Delhi – 110 003.

**4. Ministry of Environment, Forest and Climate Change (WZ),**

Through Deputy Director General of Forests (C),  
Regional Office (WZ), E-5, Kendriya Paryavaran Bhawan,  
E-5 Arera Colony, Link Road-3,  
Ravishankar Nagar. Bhopal – 462 016.

**5. Forests & Environment Department,**

Through the Additional Chief Secretary  
(Forests and Environment)  
Government of Gujarat, 14<sup>th</sup> Block  
8<sup>th</sup> floor, Sachivalaya, Gandhinagar,  
Gujarat - 382 010.

**.....Respondent(s)**

**Counsel for Appellant:**

None appeared

**Counsel for Respondent(s):**

Shri Vikram Nankani, Senior Advocate along-with  
Mr. Saurabh Kulkarni, Advocate and  
Mr. S. Bhatt, Advocates for R-1/PP  
Mr. Ravi Patel, Advocate h/f Mr. Parth H. Bhatt, Advocate for R-2 & 5  
Mr. Rahul Garg, Advocate for R-3 & 4/MoEF&CC

**PRESENT:**

**Hon'ble Mr. Justice Dinesh Kumar Singh (Judicial Member)**  
**Hon'ble Dr. Vijay Kulkarni (Expert Member)**

---

---

**Reserved on : 01.07.2024**  
**Pronounced on : 06.08.2024**

---

**JUDGMENT**

1. This appeal has been filed under Section 16 of the National Green Tribunal Act, 2010, seeking the quashing of Environmental Clearance, dt. 08.05.2020, annexed as Annexure A-1 to the memo of Appeal granted to respondent No.1 Adani Enterprises Ltd. for the Greenfiled Copper Refinery Plant (1.0 MTPA) by respondent No.3 Ministry of Environment, Forest and Climate Change (MoEF&CC), located at villages Siracha, Navinal in Taluq Mundra, District Kutch at Gujarat.
2. In brief the facts of this appeal are as follows.
3. The total required land for the project is 256.58 ha, out of which 154.19 ha is non-forest land and 102.39 ha is reserved forest land. The land which is part of the project is part of 1500 ha of forest land, which has been granted Stage I forest clearance, however in favour of another entity, namely the Adani Ports and Special Economic Zone Ltd. The Adani Ports and Special Economic Zone has thereafter signed a Memorandum of Understanding (MoU) with the Project Proponent stating that after receiving the final forest clearance, the land will be transferred to the Project Proponent for the use of the project in question.
4. The impugned EC dated 08.05.2020 has been challenged as it suffers from various serious infirmities. It has been obtained by concealing critical facts as well as misrepresenting data in Form I as well as in the EIA Report,

and the EAC has miserably failed to appraise the project and apply the laws in force.

5. As regards concealment/ misrepresentation of material facts in Form I, it is submitted that it has not been provided as to how many trees have to be cut at the project site. The EIA report merely mentions the presence of certain “shrubs”. Further it is mentioned that the reserved forest land is said to have several fully grown up trees that would have to be removed. The 102 ha of the project area is reserved forest land, which also has trees growing and not just “shrubs” but fully grown trees. A copy of the Form – I is annexed as Annexure A-2. Photographs of the trees are also annexed as Annexure A-3.

6. The Project Proponent has also mentioned the presence of the Dhaneshwari River within the project site and the Kotri Creek in the ‘buffer area’. However, this is contradicted by the information provided in Table 1.1: Environmental Setting of the Project Site of the EIA Report, which lists the following waterbodies in the vicinity:

*“Dhaneswari river also referred as Danesri nadi (within the project site, W)  
Kotri Creek (0.5 km, S)  
Khari nadi (1.9 km, W)  
Gulf of Kachchh (3.9 km, S)  
Nagavani nadi (4.7 km, E)  
Phot nadi (8.7 km, ENE).”*

7. The above information provided in Form – I is misleading and incorrect, due to which the impact on all the water bodies has not been studied.

8. The Case Law of the Hon’ble Supreme Court has also been cited, such as **Hanuman Laxman Aroskar v. Union of India, 2019 (15) SCC 401** and relying on the same, it has been stated that there is failure to make mandatory disclosures in Form I, lack of which would have consequences in law. Reliance is also placed on **Bengaluru Development Authority v. Sudhakar Hegde and Ors., 2020 SCC Online SC 328** wherein the fact that wrong information about trees i.e. “few trees” was mentioned in place of 16,685 trees, was held to be a serious lacuna in disclosure in Form – I.

9. The Project Proponent has not carried out environmental studies as per the Terms of Reference (ToR) provided by the EAC. The Expert Appraisal Committee provided Terms of Reference (ToR), based on which the Environment Impact Assessment (EIA) was to be carried out. However, the Project Proponent has failed to carry out study in compliance with the ToRs. A copy of the ToRs issued by the MoEFCC dated 21.06.2016 is annexed as Annexure A-4.

10. The point no. 5(xii) sought "R&R details in respect of land in line with the State Government Policy", but the PP has merely stated that "there is no Resettlement and Rehabilitation involved in the project." However, during the public consultation, multiple concerns were raised regarding Forest Rights, one of which was that 102 ha of land of the forest department will be used in this project. Adani had, in the year 2004, made a demand of 1576.81 ha of land but the forest department did not approve it till the filing of the appeal. Navinal and Shiracha, both villages have claimed their rights under the Forests Rules. The people of Navinal and Shiracha graze their cattle and obtain a livelihood. Therefore if the forest is given, where will the wild animals and grazing domestic animals go? Lastly, when the remaining forest land, government land, and Gauchar land are given, where will the people, animals, and birds go? In response, the Project Proponent merely stated that "the conditions stipulated in the Forest Clearance and Environmental Clearance will be strictly adhered to and complied with. It is also stated that the fodder for cattle in the nearby villages, such as Siracha and Navinal will be provided through CSR initiatives. Another person sought a copy of the certificate by the District Collector under the Forest Rights Act, 2006, stated that no private or government land is available in this area other than the forest. The PP only vaguely stated that 'the construction will start only after getting all required statutory clearance from the concerned department.'" The concerns mentioned above shown by the people i.e. local communities, which are dependent on the forest land who are grazing their cattle, have not been

clearly settled. Thus the EIA Report has completely failed to consider these rights and to determine the rehabilitation and resettlement packages for said persons.

11. As per point no. 5(xii) study was required of 'surface water quality of nearby River (60m upstream and downstream) and other surface drains at eight locations as per CPCB/MoEF&CC guidelines'. However, in the present case, samples have been collected only from four locations. Therefore it is important to have baseline data of any nearby water channel located within 100 mtrs. of the plant site which can be used to compare water quality in case of any failure in the effluent treatment plant. Thus it is clear that in the present matter, the study is not as per the ToR, hence environment clearance needs to be set aside. A copy of the compliance for the ToR submitted by the Project Proponent is annexed as Annexure A-5.

12. Faulty EIA has been submitted to the EAC by the Project Proponent and regarding this, it is submitted that alternative sites have not been properly studied. The technical Guidance Manual for the Metallurgical Industry prepared by ILFS Ecosmart Limited Hyderabad, metallurgical industries also include the copper industry. The said manual states that 'no forest land shall be converted into non-forest activity for the sustenance of the industry' and 'Layout of the industry that may come up in the area must conform to the landscape of the area, without affecting the scenic features of that place'. The Manual also states that the selection of the site must be based on the least possible environmental impacts for which an online study is required of the main alternatives by the developer. It is required to be indicated as to what were the main reasons for this choice, taking into account the environmental effects. The reasons for evaluating the significance of the environmental impact are stated to be a key in choosing the alternative site, i.e. the least environmentally harmful site must be chosen. In the case in hand the only information on the justification of location is shown to be that the site is advantageous over the alternatives as it is close to the water i.e.

desalination plant by APSEZ and power source i.e. the Adani Power Plant. The respondent No. 1 has made a comparison of three sites. The comparison chart makes it clear that the only criteria taken into consideration while selecting the site is the proximity of the site to an existing source of power and water and an existing approach road. The third site which is 7.5 km south of Mudra, Gujarat (outside the SEZ area) seems to be more compatible with industrial land use as it is flat vacant land with no vegetation or forest cover. The EIA report does not make it clear as to how the site in question is advantageous in terms of 'environmental criteria'. Moreover, this site has no natural streams and passing through it. So there is a risk of drying up or complete diversion of existing streams. Besides that, the selected site is in close proximity to mangrove forest and multiple natural streams passing through it. Thus in terms of ecological feasibility, the third site is suitable for a copper refinery plant. It is further mentioned that the third site is suitable for a copper refinery plant, but the same is not technically feasible due to a variety of reasons because the selected site already having an approach road while the third site would require the construction of a new approach road; water source (i.e. AP SEZ) is 25 km from the project site, while in the selected site, the water source is only 5 km away; the closest power source (i.e. existing Adani Power Plant) is 20 km from the third site but it is only 0.5 km from the selected site. Due to the above reasons, respondent No. 1 has failed to appreciate the ecological sensitivity of the area and has given weightage to the technical feasibility over ecological feasibility for justifying location of a non-site specific project on forest land. This is a violation of technical guidance manual which provides for choosing the site to be based on the 'significance of environmental impacts' and not technological superiority.

13. No cumulative impact assessment study has been carried out despite the presence of two thermal power plants and the presence of the project within the Mundra Special Economic Zone. As per the EIA report, within a 10 km radius study area, the Adani Power Plant (adjacent) and the

Tata Mundra Power Plant (2.0 km) are located in the western direction from the proposed project. The EIA report has determined the concentration of the existing baseline due to the presence of the two power plants but has not determined any impact due to the addition of the copper plant or upcoming future projects. In the present matter, the PP has only determined the cumulative impact on air quality and traffic quality but not on the terrestrial, aquatic and marine ecology. The impact of the change of land use from forest land to an industrial area as well as the impact on mangroves which are located in the area next to the project site has not been studied at all cumulatively. Further, the impact on the human community and ecosystems that function for fishermen, farmers, and other workers has not been addressed at all. This is despite the fact that the presence of the other projects as well as the Adani desalination plant has been the cause of conflict with the local community which has objected to the SEZ and the roads, and ports being built in the area. The SEZ projects have had a devastating effect on the livelihoods of agriculturalists, farmers, and pastoralists in the area which has not been studied at all. It is further mentioned that as per the report of the Committee for the inspection of M/s Adani Port and SEZ Ltd. Mundra, Gujarat prepared by the Centre for Science and Education, submitted to the MoEF&CC, there is a specific recommendation to carry out a cumulative impact assessment in light of the Mundra port and thermal power plant within the Special Economic Zone. The said report submitted to MOEF&CC is annexed as Annexure A-8.

14. With respect to misleading and deficient impact assessment on the fishing community it is submitted that in chapter 4, it is stated that *'there will be no damage to fishing activities and fisherman due to the proposed project. The roads used by fishermen will not be disturbed due to the proposed project.'* Such a conclusion is impossible in the light of not carrying out any baseline studies. This chapter does not contain probable changes in fishermen's community or any change at least in the fish yields. This is

especially relevant due to the use of 32,000KLD of water which will be used in the project. There has been no discussion on the impact already felt by the fisheries community due to the Adani Mundra Special Economic Zone. The protestors have stated that OPG Power and the Adani groups Kutch Power Generation Ltd. have severely curtailed their access to the sea, besides destroying fish yield, as a consequence of outlet channels from the plant sites. The plant requiring 32,000 KLD of water from the desalination plant will certainly destroy fisheries set up and will block access of fishermen.

15. With respect to the deliberate concealment of the presence of the agriculture and pastoral community it is submitted that EIA Report has only considered the fishing community and completely disregarded the agricultural and pastoral community living around the project site. During the public consultation, several concerns/objections were raised against the project by agriculturists and pastoralists which include nearly 80% of the population surrounding the project site. Concerns were shown that the impact on green date trees has not been considered and that the grazing land used by pastoralists will also be affected.

16. With respect to deficient impact assessment of the impact on the Dhaneshwari river it is submitted that the said River falls within the site of the Proposed Greenfield Copper Refinery Project, however no impact assessment has been carried out. Figure-2.1 does not show the flow of the river at all. It is impossible to know whether and how that flow would be maintained with the present plant, particularly if the river has been re-channeled and is seasonal. With respect to deliberate concealment and misleading information about the presence of rivers in the project area, it is submitted that there are as many as six water bodies in the area in question which have been cited above by us, and due to the presence of these water bodies, it was essential that there an impact assessment was carried out with respect to the impact on these water bodies by function of the plant. These rivers/streams serve as perennial water sources and will serve as



groundwater reservoirs that have to be protected from pollutants such as air emissions, coal dust, etc. which could affect water quality. Therefore it is apparent that the impact on creeks within the project area has been deliberately concealed.

17. With respect to misleading and submitting incorrect information about the presence of mangroves within the project site, it is submitted that as per Form-I which has been submitted by the PP, it shows that the Mundra Mangrove Reserve Forest is within a distance of 0.18kms from the project site. As per the EIA Report, a break-up of land use within a 10km radius shows that 1,251.74 hectares (approximately 3% of the surrounding area) include mangroves and is also within the list of flora recorded around the project site. One of the issues raised for conservation in Table 3.10.6 also included 'Decline in mangrove area', however, the EIA Report ignores the same and does not provide any response. In public hearings, multiple concerns were raised regarding the presence of mangroves in the area. The responses of PP are misleading. In fact, there are mangroves within the project area at a distance of 100-180m from the project site, yet no impact assessment is carried out on the mangroves. Given the large-scale destruction of mangroves in the past it was incumbent on the PP to carry out a robust impact assessment on the mangrove within 100 mtrs. of the project site.

18. With respect to concealing information about flora & fauna surrounding the project site it is submitted that the EIA report says that *'there are no records of any fauna of significance in the area. The fauna which is present is of very common species and available near almost all human settlements. There are no other endangered species of fauna reported or observed in the vicinity of the proposed project, except for Peacock which is a Schedule-I bird which is known to live close to the human settlements and agricultural lands in Semi-arid climates of Gujarat.'* Despite the project site being a Reserved Forest, the PP has found the presence of only the Indian

Peafowl which is covered under Schedule-I of the Wildlife (Protection) Act, 1972, and prepared a conservation plan. The PP has also only recorded 10 species of mammals and some 20 species of birds within the project area. However, as per official forest clearance documents for the proposal for the diversion of 1,576.51 hectares of forest land, the project will require 394.1 hectares of forest land from Siracha village. According to the Forest Department, the Siracha Reserved Forest supports the Indian Wolf and a variety of Indian Birds. The fact that the PP only focused on the conservation of the peacock, implies that the correct faunal distribution of the proposed reserved forest land is still not complete. Concerns with respect to faunal distribution during public hearing is shown wherein it was stated that the project will push these animals into agricultural areas away from the forest land which will impact the produce but no impact assessment of the same was done.

19. With respect to deficient impact assessment on the proposed biodiversity heritage site it is submitted that as per EIA Report, the proposed area was identified as a Biodiversity Heritage Site (BHS) under the Biological Diversity Act, 2002. The Gujarat Biodiversity Board has already made a proposal to declare the area as a BHS, it is the biodiversity profile as compiled by the EIA Consultant, which must match with the one prepared by the Biodiversity Board, to analyze any gaps/missing information but the PP has not provided any information and has merely stated that there is no impact on biodiversity.

20. With respect to deficient impact assessment of air quality it is submitted that baseline data is insufficient. As per the EIA Guidance Manual prepared by IL&FS for the Metallurgical Industry, the following parameters for baseline air quality need to be collected at 10-15 locations in the project impact area – SO<sub>2</sub>, NO<sub>x</sub>, PM<sub>10</sub>, PM<sub>2.5</sub>, O<sub>3</sub>, Pb, CO, As, Ni and Acid mist. However, the EIA consultant has collected data for all the parameters except Acid Mist which is an essential parameter for any copper industry as

stipulated in the Technical Guidance Manual. The EIA report clearly indicates that the proposed plant has a Sulphuric Acid ( $H_2SO_4$ ) and Phosphoric Acid ( $H_3PO_4$ ) plant. Therefore, it's mandatory to know the background concentration of acid mist in the ambient air without which it will be impossible to assess the impact on acid mist concentration once the project is in operation.

21. With respect to the Air Model used to predict GLC concentration it is submitted that the EIA report has used the AERMOD (American Meteorological Society and the United States Environmental Protection Agency Regulatory Model) to predict ground-level concentration of various air pollutants in view of the upcoming unit. However, the project site is located in a coastal area at a distance of about 3 km from the sea. The United States Environment Protection Agency does not recommend the use of this model in coastal areas as the AERMET, the meteorological processor of AERMOD, was designed to process land-based meteorology and does not account for air-sea interactions needed to characterize the marine boundary and thus not adequately represent marine environment. The AERMET was designed for overland applications and assumes a diurnal cycle of heating and cooling of land surfaces in which heat flux at the surface is positive during the day and negative at night. The US EPA has recommended the use of CALPUFF, which is a multi-layer, multi-species non-steady-state Gaussian puff dispersion model that stimulates the effects of time and space-varying meteorological conditions on pollutant transport, transformation, and removal. Therefore it is important to use the CALPUFF model to determine air quality.

22. With respect to the deficient impact assessment of the release of Sulphur dioxide ( $SO_2$ ) emissions, it is submitted that as per the EIA Report (table 4.2) emissions from the proposed copper smelter would be dominated by emissions of Sulphur dioxide ( $SO_2$ ).  $SO_2$  emissions from the copper smelter generate indirect (secondary)  $PM_{2.5}/PM_{10}$  emissions that exceed their direct emissions. The amount of ammonium sulfate and ammonium nitrate is

74% of the fine particulate mass, then these direct emissions of secondary PM<sub>2.5</sub>/PM<sub>10</sub> are three times the amount of directly emitted PM<sub>2.5</sub>/PM<sub>10</sub> from a copper smelter. The EIA report did not take into account these indirect emissions. Further, it is mentioned that the EIA report vastly undermines how pollutant emissions would impact levels of PM<sub>2.5</sub>/PM<sub>10</sub> in a project area in which PM<sub>10</sub> levels already exceed the annual National Ambient Air Quality Standard for PM<sub>10</sub> of 60 ug/m<sup>3</sup>.

23. With respect to misleading cumulative GLC concentration predicted, it is submitted that the EIA Report uses the AERMOD to predict GLC of air pollutants for two different scenarios: the proposed Copper and Cement Grinding unit (Table 4.6) and existing CGPL 4000 MW TPP (Table 4.8). It is submitted that if the contribution in baseline concentration from CGPL is very high, then how the incremental concentration predicted for proposed plant can be so low as shown in the table given in page 41 and 42 of the paper book.

24. It is further submitted that project cannot be setup on the forest land. With respect to this, it is further stated that stage one forest clearance has been granted for 1576.81 ha Reserved Forest land involving the development of a Special Economic Zone (SEZ) and Industrial Park at villages Siracha, Navinal, Dhrub, Mundra, Baroi, Gorasama, Luni, Bhadreswar, Tehsil Mundra, under Forest Division and District Kutch, Gujarat where one entity namely the Adani Ports and Special Economic Zone Ltd (APSEZL) would be the user agency. A copy of this Stage-I forest clearance granted to Adani Ports and Special Economic Zone Ltd (APSEZL) is annexed as annexure A-12. Further it is mentioned that the EC has been granted to the Project Proponent over Reserved Forest Land, for which no final forest clearance has been granted. The conditions of the lease in favour of the Project Proponent have not been provided, only an MOU has been executed by APSEZL in favour of the Project Proponent for the use of the 102.38 ha of forest land. The use of 102.38 ha of forest land that form a part of the project site have to be as per

the general siting guidelines given in the Technical Guidance Manual which state that 'no forest land shall be converted into non-forest activity for the sustenance of the industry'. Forest land can be used only for non-site specific activities that are permissible under the Rules and Guidelines framed under the Forest (Conservation) Act, 1980. Therefore, industries, construction of residential colonies, institutes, disposal of fly ash, rehabilitation of displaced persons etc. are termed as non-site specific projects i.e. projects which do not require forest land.

25. With respect to the objections raised during the public hearing as well as written objections it is submitted that a total of 98 persons gave oral representations and 44 persons sent written representations. Despite the serious objections on their part to the project, especially regarding the concerns of the fishing and agricultural communities, the PP has simply stated that there will be 'no impact' on these communities. The Social Impact Assessment Report of EIA study has not discussed any issue raised during the public hearing. The issues raised during the public hearing were mainly pertaining to Employment, Environmental Protection and Rural infrastructure. The objections were primarily based on the earlier track record of the company.

26. Further it was alleged that there was faulty appraisal by the EAC which has merely accepted the statement made by the PP without verifying the ecological sensitivity of the area and on 24-25.02.2020, the EAC recommended the project for EC. EAC failed to determine that a copper refinery cannot be brought on forest land in the light of alternatives available. The EAC did not carry out detailed scrutiny even of the MoEF&CC's memorandums that provide for alternatives to be studied nor has it considered that thousands of species would be affected. The EAC has completely failed to appreciate the concerns/objections raised during public hearing and those have not been considered and addressed appropriately hence the EC in question needs to be set aside.

27. Respondent No. 1 – Adani Enterprises Ltd / PP has filed a reply affidavit dated 12.11.2020 wherein denying the allegations made against him in the memo of appeal, it is submitted that no concealment of facts is made nor any misrepresentation of data is made by them. The information presented in Form – 1 is not only information that was submitted for the purpose of the appraisal process under the EIA Notification. Various other details, particulars, data, etc., including Form-2, EIA Report, etc. are submitted by the project proponent for the purpose of appraisal under the EIA notification. The photographs of the trees on the project site submitted by the appellant are of the location outside the project site. On perusal of Form-2, it becomes apparent that the particulars that were sought were: (i) details of the Presence of Water Bodies in the Core Area, and (ii) details of the Presence of Water Bodies in the Buffer Area. The details relating to the presence of water bodies in the Core Area, in this regard there is no alleged contradiction in Form – 2 and Table – 1.1 of the EIA Report. The existence of the water bodies in the vicinity of the project site is mentioned in Form-1. The facts about the other bodies within the buffer area is clearly stated in the EIA Report, the EIA Report was submitted to the EAC, which has granted the EC after examining the EIA Report, which clearly mentions all the water bodies are in the buffer area. The EIA Report in Chapter 4, Section 4.2.4 specifically deals with 'Impact of water resources and water quality' The EIA Report, inter alia, clearly states that: (i) The total water requirement for the said project will be sourced from the desalination plant of APSEZ, (ii) No ground water will be abstracted during the operation phase, (iii) Dhaneshwari river (which is a seasonal river) flowing through the project site will not be diverted, but will be suitably trained along the boundary, and (iv) The total wastewater generated would be treated in the effluent treatment plant, and the treated wastewater would be fully utilized within the plant for process, cooling, and other purposes. No wastewater will be discharged outside the plant. The plant will operate on a Zero Liquid Discharge (ZLD) concept. The EIA Report examined

by the EAC demonstrates that there would be no impact on the water bodies in the vicinity of the project site because of the said project, nor the flow of water from Dhaneshwari Nadi shall be disturbed.

28. It is further mentioned that it is wrong to say that the answering respondent has failed to carry out compliance with the ToR. The ToR quoted in para 10 and 11 of the 11 at point no.4(xii) to the effect 'R&R details in respect of land in line with state Government Policy' which is annexed as Annexure – I – Generic Terms of Reference (ToR) in respect of Industry Sector. Generic Terms of Reference may or may not be applicable to a particular project depending on the facts and circumstances. The project site is located within the SEZ, being developed by APSEZ. Thus, it is APSEZ that has applied for the diversion of forest land which has already received State-I approval for the diversion of 1576.81 ha of forest land, including 102.39 ha of forest land forming part of the project site. The alleged grievances raised pertain to the diversion of forest land, which has been sought by APSEZ in accordance with the law. The appellant has not challenged the Stage – I approval granted to APSEZ for the diversion of 1576.81 ha of forest land in any proceedings.

29. The Term of Reference to the effect 'Surface water quality of nearby River (60m upstream and downstream) and other surface drains at eight locations as per CPCB/MoEF&CC guidelines' is at point no.6(iv) of the Annexure – I – Generic Terms of Reference (TOR) in respect of Industry Sector. The alleged grievance raised that the answering respondent collected samples from 4 locations for testing the surface water quality instead of 8 locations. In this regard, it is submitted that identification of surface water sampling location depends on (i) the density of surface drainage in the study area and (ii) the availability of surface water source. In respect of the project site, there are no perennial water bodies within the study area of a 10 km radius, but for the Arabian Sea. In the circumstances, the baseline data was collected by NABET approved EIA consultant during the post-monsoon

season in the month of October-December 2016, during this period, there were no other surface water bodies besides the 4 locations in question, that had availability of surface water for sampling. The EAC has taken note of this fact in its meeting held on 9<sup>th</sup> to 11<sup>th</sup> January 2019 that the surface water samples were analyzed from the available 4 locations. The EIA Report in detail describes the locations for the surface water sampling as well as the results but the Appellant has purposefully excluded the relevant pages of the EIA Report, the extracts of which are annexed at Annexure A-7 to the said appeal.

30. It is further submitted that the Technical Guidance Manual for Metallurgical Industry prepared by IL & FS Ecosmart Ltd. was neither binding nor has any legal force, hence the allegation of the appellant that the project site is not in accordance with such alleged guidelines, is misconceived. The EIA Report has an exclusive chapter dealing with the analysis of alternative sites. In it, a detailed comparative analysis has been undertaken in respect of the alternative sites, and thereafter it has been concluded that Site-2 (i.e. the project site) is substantially advantageous in terms of environmental and technical criteria. The project site is superior to Site-3 in terms of availability and closeness of water and power source, land development, closeness to road and rail, etc. The appellant's stand in treating the aforesaid factors as only technical and not environmental, is misconceived. The EIA Report says that there is no presence of mangroves within the project site and that site is outside the CRZ area, thus the requirement that metallurgical activity should be carried out outside the CRZ area is fulfilled. The mangroves are at a distance of around 200 mtrs away from the project site. Hence, there is no impact on the mangroves. Only the Dhaneshwari River passes through the project site which is a seasonal River and that as per the conditions of the said EC, the Dhaneshwari River is not getting diverted. There will be bridges across the two land parcels for



accessibility as mentioned in EC. Thus, the project site is environmentally better suited than Site 3.

31. Chapter 4 of the EIA Report comprehensively deals with the cumulative impact of the existing projects and the upcoming projects proposed at the relevant point of time. While annexing the extracts of the EIA Report with the appeal, the Appellant has conveniently excluded the relevant figures and pages of the EIA Report demonstrating the cumulative impact assessment undertaken for the project in question.

32. The project is proposed with Zero Liquid Discharge to mitigate any water pollution and Secured Landfill to mitigate any impact on soil and groundwater.

33. The project site is located at a distance of 3.9 kms from the Gulf of Kutch, where fishing activities are taking place. There is no intake or outfall facilities planned in the seafront. The Dhaneshwari River which is passing through the project site is a seasonal river, and no fishing activity takes place therein. There is no fish landing centers within the project site. The existing roads used by the fishermen do not pass through the project site, nor are they disturbed due to the project in question. There will be no impact on the water regime due to the wastewater generated from the plant complex. There is provision of a separate stormwater system to collect and store run-off water during rainy season and utilization of the same in the process. The EIA Report in Chapters 3 and 4, and Annexure – XII, discusses in detail the status of the fishermen's community, its impact on it because of the project in question, and the proposed plans of the answering respondent in respect of the fishermen's community. The total requirement of water for the said project will be met by sourcing the same from the desalination plant of APSEZ, which would be within the capacity approved by MoEF in the EC granted to APSEZ, including its intake and outfall.

34. There is no agricultural or pastoral community in the vicinity of the project site. The nearest agricultural land is situated within 1.7 km away to

the North of the project site, whereas the maximum ground level concentration envisaged due to the said project occurring at a distance of 2.2 km to the North-East of the project site, nor does the project site encompass any Gauchar/grazing land.

35. It is further mentioned that during the public hearing, intake, and outfall channels referred to in the response of the answering respondent, are those of APSEZ, for which APSEZ has already received the requisite EC, which is not under challenge. There will be no extraction of groundwater for the purpose of the project. The presence of the mangroves to the south of the project site has been disclosed in Form – 1 and the EIA Report. A wildlife conservation plan & Mangrove Conservation Plan for the said project has been prepared and submitted to the Divisional Forest Officer (Kutch-East), and which in turn is forwarded to the Chief Conservator of Forest and Chief Wildlife Warden of Gujarat State. A perusal of the EIA Report would reveal that a comprehensive impact assessment has been undertaken by the answering respondent in respect of the entire study area (i.e. 10 km radius from project site), including the mangroves found in the study area.

36. It is denied that the project site or the study area is a proposed Biodiversity area nor is there any Biodiversity Heritage Site ('BHS'). The appellant has failed to point out any evidence to demonstrate as to how the project site or the study area is biodiversity-rich which requires being declared BHS.

37. The acid mist is not a parameter under the National Ambient Air Quality Standards 2009, therefore the question does not arise to measure acid mist in the Ambient Air Quality. The project is a greenfield project, and therefore there is no existing emission of acid mist. The EAC in its recommendations had specified the limits for acid mist emission from the proposed sulphuric acid plant stack. The answering respondent has proposed to monitor acid mist from the proposed sulphuric acid plant stack on a monthly basis during the plant operation as mentioned in Chapter 6 of the EIA Report.

38. It is further mentioned that the eight monitoring stations, within the study area were finalized in accordance with applicable guidelines in the EIA Manual of MOEF. The justification for choosing each of the aforesaid eight locations for monitoring stations has been explained in the EIA Report in Chapter 3 in Section 3.6.1. These stations provide the baseline data for the entire study area, one of which is also at the boundary of Danderi Reserve Forest.

39. Further it is mentioned that as per the National Ambient Air Quality Standards 2009, the yearly average is the annual arithmetic mean of minimum 104 measurements in a year at a particular site taken twice a week, twenty four hourly, at uniform intervals. Therefore, a comparison of three-month data of air quality with a prescribed limit of yearly average is untenable. It becomes evident that the three-month of air quality in respect of the said project is well within the limits for 24 hourly standards.

40. The EIA Report pertains to the period of October to December 2016. The data relating to the ambient air quality is produced in the six monthly compliance report by Adani Power Limited and Coastal Gujarat power limited for the period July-September 2019. Therefore, there cannot be any comparison of both the aforesaid set of data, hence there could be no concealment or misrepresentation of data.

41. Further it is mentioned that the air dispersion modeling studies were conducted as per the ToR by using software (AERMOD version 7.1.0) for the prediction of maximum Ground Level Concentrations (GLCs). This modeling was carried out in line with CPCB modeling guidelines. Air dispersion modeling studies were repeatedly using the CALPUFF model as per the advice of EAC. The Marine National Park is located more than 30 km south of the proposed site. Thus, the expected concentration of pollutants will be further lower at Marine National Park as compared to the concentration at a distance of 25 km from the project site, which is within permissible limits.

42. It is denied that the social impact assessment in the EIA Report does not discuss issues raised during public hearing. The objections raised during the public hearing and the response given by the answering respondent is a matter of record which indicates that all the concerns raised during the public hearing were considered and adequately responded to and the answering respondent prepared an action plan and proposed a Corporate Environment Responsibility ('CER') budget of Rs.58 crores. The details of the public hearing along with the action plan were produced before the EAC in Chapter 7 of the EAC Report but the appellant has conveniently not annexed the said relevant portion of the EIA Report. The allegations made by the appellant are bald. The EC has been recommended after examining the comprehensive EIA Report, ADS filed by the answering respondent and EAC Sub-Committee's site visit. Therefore, the present appeal requires dismissal with cost.

43. From the side of respondent no. 3 MOEF&CC reply affidavit dated 11.12.2020 has been filed, wherein it is submitted that ToR for the project was granted by the answering respondent on 21.06.2016. The proposed EC was considered by the Expert Appraisal Committee (Industry - 1) in its meeting held during 9-11<sup>th</sup> January 2019, 22-23<sup>rd</sup> August 2019, 23-24<sup>th</sup> December 2019 and 24-25<sup>th</sup> February 2020, wherein the PP and their accredited consultant presented the EIA/EMP report. The EAC examined the proposal submitted by the PP in desired form 2 along with the EIA/EMP report prepared and submitted by the Consultant accredited by the QCI/NABET on behalf of the PP. The Committee found the EIA/EMP report to be satisfactory, complying with the ToR, and recommended the project for grant of EC. The Committee noted that the EIA/EMP report is in compliance of the Terms of Reference (ToR) issued for the project, and reflected the present environmental concerns and the projected scenario for all the environmental components. The EAC has deliberated on the proposal and has made due diligence in the process as notified under the provisions of the EIA

Notification, 2006, as amended from time to time, and accordingly made the recommendations to the proposal. The copy of the minutes of meeting of EAC (Industry – I) is annexed as Annexure-I. The total land required for the project is 256.58 ha., out of which 154.19 ha. Is non-forest land already notified as SEZ and is in possession of APSEZ, for 102.39 ha. Forest land diversion was applied APSEZ, for which stage 1 clearance has been granted in November 2018. The PP has provided MOU with APSEZ; that the proposed land will be provided by APSEZ for this project after receiving necessary clearance. Based upon the recommendations of the EAC, the answering respondent granted the EC on 08.05.2020, subject to compliance with specific terms and conditions to proposed ‘Greenfield Copper Refinery Plant (1.0 MTPA) of M/s Adani Enterprises Ltd.’ So the question of negligence doesn’t arise on the part of MOEF&CC.

44. The Appellant has filed a rejoinder dated 14.09.2021 to the reply affidavit filed by respondent No. 1 – Adani Enterprises Ltd. In this rejoinder it is submitted by him that the appellant is an organization working for the interest of farmers situated in the Kutch Region of Gujarat and it is dedicated to working towards the needs of agriculturalists in the said region. The impugned project is likely to affect grazing lands belonging to said agriculturalists, hence the appellant organization is well within the scope of ‘aggrieved person’ as under Section 16 of the NGT Act, 2010.

45. It is further stated that the appellant had previously filed PILs against the respondents in the Hon’ble High Court of Gujarat viz., W.P. PIL No. 12 of 2011 and W.P. PIL No. 199 of 2014 against Adani Ports Special Economic Zone Ltd. and Adani Power Ltd. owing to various environmental violations caused by such companies in the Kutch region of Gujarat, therefore for the respondent, to say that this appeal is baseless, filed with a view to harassing the respondent, has no force. The appellant is re-iterating its version given in the memo of appeal, it is further submitted that there are at least 5 water bodies within a 10 km radius of the project site, which include

Kotdi creek (0.5 km, S), Khari Nadi (1.9 km, W), Gulf of Kutch (3.9 km, S), Nagavanti Nadi (4.7 km, E) and Phot Nadi (8.7 km, ENE). Therefore, the submission of the respondent No - 1 there being only 4 available water sampling locations is prima facie untenable.

46. ToR No. 6(iv) provides for the manner and locations of sampling, i.e., upstream, downstream, and on the project site. The EIA Report on Pg 585, Table 3.7.1 shows that direction of 3 of 4 surface water locations analyzed is in the Southern Direction of the project site, while 1 is in the South East direction of the project site; therefore, it is evident that guidelines for collection of surface water samples were not adhered to while preparing EIA Report. Further it is mentioned that the respondent No -1 has misdirected this Tribunal by stating that 'identification of a surface water sampling location depends on two grounds i.e. (i) the density of surface drainage in the study area and (ii) availability of surface water source.' But has not given any proof that they are conditions mandates by CPCB or MOEF&CC. Such a stand is in contravention to the technical guidance manual for metallurgical industries.

47. ToR No. 4 (xii) mandates that 'R&R details in respect of land in line with state Government Policy' be provided by the PP. In this regard respondent No. 1 has merely stated that Adani Ports Special Economic Zone Ltd. ('APSEZ'), has applied for Stage - I Forest Clearance for diversion of 1576.81 ha. of forest land (which includes 102.39 ha. for the impugned project), therefore grievance regarding Resettlement and Rehabilitation exclusively pertain to such Forest land diversion and the respondent No. 1 is not required to address the same. Such a stand is a willful and criminal ignorance of the submissions made during the Public Hearing, wherein it was clearly stated by nearby villagers of Siracha and Navinal that they were relying on the 102.39 ha. of forest land for grazing purpose. ToR specifically mandated for a policy to be evolved regarding R&R but respondent No. 1 has

avoided the responsibility by outsourcing the forest clearance to another legal entity belonging to the Adani group of companies.

48. Table 4.6 titled “RESULTANT CUMULATIVE GROUND LEVEL CONCENTRATIONS (24 HOURLY)’ on Pg C4-11 of the EIA Report, only analyses the cumulative GLCs of the impugned project and the closely situated Cement grinding unit, and does not include the two mega power projects situated in close proximity. Therefore, it cannot be held to be Cumulative Impact Assessment (CIA) made in the present case. The CIA must necessarily assess impact of all the polluting activities in totality and not just simply quantify individual activities in isolation, but EIA Report has failed to do so. This Report intentionally separates the AERMOD output value for thermal power plants as in Table 4.8 and the Cumulative GLCs of the impugned project and nearby Cement Grinding Unit as in Table 4.6, so as to mislead the authorities. The CIA must analyze the cumulative effect caused by all past, present, and reasonably foreseeable future projects as well, and even ‘induced impacts’, which do not have a direct relationship with the action under assessment. However, no such CIA has been undertaken in the EIA Report Chapter 4.

49. It is further mentioned that it is denied that the Technical Guidance Manual for Metallurgical Industry has no binding authority, and for this reliance has been placed by the appellant on **Hanumand Laxman Aroskar V. Union of India and Ors. (2019) 15 SCC 441**, a relevant portion of which is also cited in para 34 of the rejoinder.

50. The appellant has cited six monthly compliance Report of CGPL Thermal Power Plant and Adani Thermal Power Plant, located in close proximity of the impugned project, both of which clearly indicated higher PM10 and PM2.5 concentration than what has been reported in the EIA Report. It would make it clear that there is a discrepancy in the ambient air quality reported in the EIA Report and the six monthly compliance reports. In response to it, respondent No. 1 – Adani Enterprises Ltd has simply stated

that same pertains to the period of October to December 2016, whereas, CGPL Compliance Report and Adani Thermal Power Plant Compliance Report are for the period of July – September 2019. Respondent No. – 1 has not denied that the two abovementioned compliance Reports are true. In view of above no new polluting industry should come up in that region.

51. With respect to trees being outside the project area as stated by respondent No – 1 it is submitted by the appellant that he has annexed photographs of fully grown trees to negate the claim of the respondent No – 1 that the project area does not contain significant fully grown trees and has the presence of certain shrubs. The appellant wanted to prove that vital information has not been disclosed in Form – I because of which proper assessment has not been undertaken in the EIA Report.

52. The appellant submits that such trees and forest area should have formed part of the assessment undertaken in the EIA Report.

53. The EIA Report analysis of faunal distribution makes no mention of the diverse species existing in and around the project site.

54. On secured waste disposal it is submitted by the appellant that the EIA Report does not provide adequate information and assessment of the method and manner of safe disposal of the total hazardous waste generated by the operations of the impugned project. Respondent – 1 has merely stated that the project will operate on ZLD.

55. It is further submitted that EIA Report Table 2.9 titled SOLID AND HAZARDOUS WASTE GENERATION on Pg 533, elucidates the total quantum of solid and hazardous waste that is proposed to be generated by the impugned project, as well as lists the various methods of disposal of such waste. This table clearly mentions the following waste items –

- a. 216000 TPA of ETP Waste sludge and scrubber waste;
- b. 6560 TPA of Nickel sludge;
- c. 40,000 L/yr of Spent Catalyst;
- d. 20,000 L/yr or Spent Resin.



Such extremely hazardous and toxic waste amounting to several lakhs of tonnes per annum is allegedly going to be stored in secured landfills situated on the project site area itself but no details or information of a location of secured landfills have been submitted by respondent No – 1. The ZLD-based system cannot overrule any accidental discharge from the impugned site. Respondent No. – 1 has provided no information as to the manner of treatment of waste effluents prior to sending it to the RO plant.

56. The respondent No – 1 has repeatedly stated that the total forest land (102.39 ha.) to be diverted for the impugned project is included in the Forest Clearance of 1576.81 ha. applied for by APSEZ, and that such proposal of APSEZ has been granted Stage – I clearance, and that no challenge has been made to Stage – 1 clearance. In this regard, it is submitted that the Stage – 1 clearance cannot be treated to be final and hence, no appeal would lie against it under Section 16 of the NGT Act. Therefore, the appellant reserves the right to challenge the same as and when final clearance is given.

57. The respondent No – 1 has filed sur-rejoinder dated 26.04.2022, wherein respondent No - 1 has reiterated the same facts again, which have been submitted earlier in his reply affidavit, and in that he has denied all the allegations made by the appellant in his rejoinder. It is further submitted by respondent No – 1 apart from the reiteration of earlier version that on 09.01.2021, made an application to the MOEF&CC for amendment to EC, in view of the market situation prevalent at that point of time, which was considered by EAC of the MOEF on 20.01.2021. After detailed deliberation, the same was returned seeking amendment. Subsequently, the said application was withdrawn by respondent No – 1. On 17.05.2021, respondent No – 1 made a fresh application to the MOEF&CC for the same purpose, wherein it was submitted that it had decided to retain the project capacity of 1 MTPA, but it sought to optimize the land requirement of the said project.

The proposed revision to the project site involved inclusion of additional new land/plots and the exclusion of forest land admeasuring 102.39 ha which was earlier forming part of the project site. The parcel of land to the west of Dhaneshwari River, which was forming part of the project site earlier, was also sought to be excluded. Thus, the location of the project site was sought to be revised in a way so as to ensure that no forest land is utilized in the said project and the said project site does not include flow area of the Dhaneshwari River. A copy of the said application is annexed as Annexure-A. The said application dated 17.05.2021 was considered by the EAC in its meeting held on 31<sup>st</sup> May – 1<sup>st</sup> June 2021 and after deliberation the EAC recommended the amendment in the EC subject to stipulation of certain additional specific condition, a copy of the minutes of the EAC meeting held is annexed as Annexure-B. Thereafter following said recommendation of the EAC, the MOEF granted amendment to the EC on 23.06.2021 after stipulating additional conditions as recommended by the EAC. A copy of the same is annexed as Annexure – C.

58. Thereafter the answering respondent took a decision to undertake the said project through its wholly owned subsidiary, viz. Kutch Copper Ltd, which has been incorporated for carrying out business activities pertaining to copper and its products. The answering respondent proposed to transfer the said project to Kutch Copper Ltd. In this regard, the respondent 1 made an application on 12.07.2021 to the MOEF, seeking transfer of the EC (amended on 23.06.2021) from the respondent 1 to Kutch Copper Ltd. A copy of the said application is annexed as Annexure-D. The aforesaid request for transfer of EC was accepted by the MOEF by way of an order dated 03.08.2021, subject to satisfactory compliance of all the stipulated specific and general conditions. A copy of the same is annexed as Annexure-E.

59. From the above facts, it is clear that the answering respondent is not the PP of the project in question anymore and that the PP has now become Kutch Copper Ltd, which would be a necessary and proper party in

the present appeal. Therefore, the appellant is required to take the necessary steps for deleting the names of the answering respondent and for impleading Kutch Copper Ltd. It is further mentioned that due to diversion due to amendment in the EC relating to the diversion of Forest land, impact of the said project on forest land would not survive.

60. Besides that all the averments made by the appellant other than with respect to the diversion of forest and Dhaneshwari river have been reiterated as mentioned in their reply affidavit, which in detail have already been mentioned by us above. Hence, need not be repeated here.

61. From the side of respondent No.2 – State of Gujarat and respondent No.5 - Forests & Environment Department, reply affidavit has been filed on 02.02.2023, wherein it is submitted that the answering respondent is not involved in the decision-making process for the grant of EC.

62. From the side of MOEF&CC Additional affidavit filed on 09.11.2021. In this affidavit, it is submitted that during the pendency of the appeal the respondent No. 1 vide online proposal no IA/GJ/IND/86812/2016 dated 17.05.2021 along with Form 4, addendum EIA/EMP report sought for amendment in EC accorded by the Ministry dated 08.05.2020. The said proposal of the respondent No. 1 is regarding optimization of land requirement of proposed project which involves inclusion of additional new land plots and exclusion of forest land. This optimization of land & proposed new layout has following benefits:

- i. Dhaneshwari River was passing through the earlier layout of 1.0 MTPA. The land on the west of the Dhaneshwari river has been excluded in the new proposed layout of 1.0 MTPA and it passes along the project boundary; and
- ii. Optimization of the layout by including additional unutilized land has made it possible to exclude forest land for the project. The layout will become compact providing improvement in internal traffic movement.

63. Further it is mentioned that a diagrammatic representation of before and after the position of the Dhaneshwari river has been annexed as Annexure R/2 and the amended EC dated 23.06.2021 is annexed as Annexure R/3. The proposal cited was considered by the EAC (Industry 1) in its 37<sup>th</sup> meeting held on 31<sup>st</sup> May – 1<sup>st</sup> June 2021 which recommended the amendment in the EC dated 08.05.2020, prescribing the following additional conditions pertaining to the issue of mangrove conservation and protection of Dhaneshwari river and its flow:

- i. The Mangrove and Mudflat conservation plan submitted to the Deputy Conservator of Forests, Gujarat Forest Department shall be implemented in a time-bound manner, and periodic compliance status in this regard shall be submitted to the Regional Office of the MoEF&CC along with the six monthly compliance report (Paragraph number 18 (iii) of EC amendment dated 23.06.2021.
- ii. The Dhaneshwari (Daneswari Nadi) River passes alongside of the project area, which will be maintained. A greenbelt along with a safety zone (towards the river bank with gabion, gully plugs to avoid erosion of the bank, if any of 50-meter-wide will be developed along the sides of the Dhaneshwari (Daneswari Nadi) River. (Paragraph number 11 (5) of EC amendment dated 23.06.2021.

64. It is further mentioned in this affidavit that during the pendency of the appeal, respondent No. 1 sought a transfer of EC dated 08.05.2020 online and subsequent amendment of EC dated 23.06.2021. The respondent No. 1 vide letter dated 03.08.2021 transferred the EC dated 08.05.2020 and amended EC dated 23.06.2021 from respondent No. 1 to M/s. Kutch Copper Ltd. A copy of which is annexed as Annexure R/5. Both the EC dated 08.05.2020 as well as amended EC dated 23.06.2021 have been accorded after due appraisal process and recommendation made by EAC, as per procedure laid down under EIA notification 2006.

65. Thereafter the appellant moved an application (IA 182 of 2022) dated 19.10.2022, praying therein to withdraw the appeal, stating therein that after going through the responses filed by the respondents especially the response filed by respondent No. 3 – MOEF&CC by way of an affidavit dated 11.12.2020 and additional affidavit dated 09.11.2021, where after the appellant was convinced that the due process has been followed in granting the EC.

66. Thereafter matter continued to be heard by this Tribunal on merits irrespective of the absence of the appellant in view of the withdrawal application have been moved by him, in order to ensure that there was no infirmity in the EC dated 08.05.2020 and amended EC dated 23.06.2021 granted to respondent No. 1. We may also make it clear that the second EC which is amended EC dated 23.06.2021 has not been challenged by the appellant, rather in view of the transfer made of the EC both the EC dated 08.05.2020 as well as amended EC of 23.06.2021 to the M/s Kutch Copper Ltd, now it is the Kutch Copper Ltd against whom the appellant could have proceeded instead of respondent No. 1. But instead of doing that the appellant has chosen to withdraw the appeal and we after gone through the entire pleadings and the evidence placed on record by the respondent No – 1 and respondent 3 – MOEF&CC, are of the view that the procedure in accordance with law was followed while granting the EC dated 08.05.2020 and amended EC dated 23.06.2021.

67. The learned Counsel for the pp has filed written submissions also, stating therein the relevant page numbers of the respective pleadings for the assistance of this Tribunal to reach the right conclusion which was submitted to us on 17.02.2023. In that, in tabular form, the allegations made by the appellant and the response given by the respondent No. 1 have been contained to deal with all the allegations, which are numbered 1 to 24. Serial no. 1 in it pertains to the removal of trees which has become redundant in view of the amended EC, hence it does not require any analysis. With respect

to the presence of water bodies at serial no. 2, we may say that the main problem was with regard to the flow of water of the Dhaneshwari River getting obstructed by the project in question. But even that does not stand any longer because of the change in location of the project partially excluding the area of the said river from the project in question.

68. Regarding other points such as R&R details not having been provided, surface water quality not studied as per TOR, EIA report not including proper alternative sites, cumulative impact assessment study not having been done, deficient impact assessment on fishing community, concealment of presence of agriculture and pastoral community, deficient impact assessment on marine environment and ecology, deficient impact assessment on Dhandeshwari river, incorrect information about presence of mangroves (this mangrove issue also does not survive because of the forest area having been excluded in the amended EC). Concealment of information about flora/fauna surrounding the project site, deficient impact assessment on the proposed biodiversity heritage site, deficient impact assessment of air quality, objections raised during public hearing not being considered, secured waste disposal have not been considered, on all these points, the replies which have been given by the respondent No. 1 in their written replies cited above as well as the sur-rejoinder are found to be logical and creditworthy by us. As against the same, the stand taken by the appellant does not appear to be logical and moreover appellant himself has backed out from pressing the appeal. Therefore, we are not inclined to further discuss in detail the evidence on record extended from the side of the parties in regard to these points.

69. In view of the above analysis by us, we deem it appropriate to dismiss the appeal.

70. No order as to cost.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

July, 2024  
Appeal No.35/2020(WZ)  
I.A. No.68/2020(WZ)  
PJB