

HIGH COURT OF ANDHRA PRADESH

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WRIT PETITION No. 7163 of 2025

Between:

Vennapusa Siva Sankar Reddy and 4 others

....PETITIONERS

AND

State of Andhra Pradesh,
rep. by its Chief Secretary,
A. P. Secretariat, Velagapudi,
Guntur and 10 others

.....RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: **25.03.2025**

SUBMITTED FOR APPROVAL:

**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
3. Whether Your Lordships wish to see the fair copy of the Judgment? Yes/No

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

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.....RESPONDENTS

! Counsel for the Petitioners : Sri K. S. Murthy, Senior Advocate
Assisted by Sri K. Guru Raja

Counsel for the Respondents
No.1, 2, 6, 7 & 8 : Ms. K. Vijayeswari, AGP for Revenue

Counsel for Respondents No.3 & 4 : Sri Yellisetty Soma Raju,
Standing Counsel

Counsel for the Respondent No.11 : Sri Posani Venkateswarlu,
Senior Advocate
Assisted by Sri Vimal Varma Vasireddy

< Gist :

> Head Note:

? Cases Referred:

**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BL SRI JUSTICE MAHESWARA RAO KUNCHEAM**

WRIT PETITION No. 7163 of 2025

JUDGMENT: (per Hon'ble Sri Justice Ravi Nath Tilhari)

Heard Sri K. S. Murthy, learned senior Advocate, assisted by Sri K. Guru Raja, learned counsel for the petitioners, Sri Yelisetty Soma Raju, learned standing counsel for the respondents 3 & 4 and Sri Posani Venkateswarlu, learned senior Advocate, assisted by Sri Vimal Varma Vasireddy, learned counsel for the 11th respondent. Ms. K. Vijayeswari, learned Assistant Government Pleader for Revenue appears for the respondents 1, 2, 6, 7 & 8.

2. Learned counsels for the respondents advanced the arguments. They did not pray for counter affidavit.

3. The 11th respondent-M/s.Dalmia Cements (Bharath) Limited, (Cement Division), Y. S. R. Kadapa District, had constructed and established its Cement Factory in 2006. It applied for expansion of cement production unit from 4.6 M.T.P.A to 12.6 M.T.P.A and mining unit from 3.819 to 11.32 M.T.P.A. and for that purpose for environmental clearance.

4. The Environment Engineer of A. P. Pollution Control Board, respondents 3 and 4 published Public Hearing Notification dated 21.02.2025 (in short 'the Notification, dated 21.02.2025'), on the proposal of M/s.Dalmia Cement (Bharat) Limited for expansion of Nawabpeta Talamanchipatnam Limestone Mine from 3.819 to 11.32 MTPA, 1.51 MTPA of OB and 0.76 MTPA of Soil (total excavation 13.59 MTPA) in the Mine Lease area of 407.05 Ha.,

located in Nawabpeta & Talmanchipatnam Villages, Mylavaram (M), YSR Kadapa District, giving details of the Project, fixing the date 27.03.2025 at 12.30 p.m, at the specified Venue, near Solar Power Plant of M/s.Dalmia Cement (Bharat) Limited, Nawabpeta & Dugganapalli Villages, Mylavaram Mandal, YSR District for public hearing. The Notification has invited the concerns of the local affected people, if any, on the proposed project, within 30 days from the date of publication of the notification, in writing to the Environmental Officer, of the A. P. Pollution Control Board, YSR District, as also to participate in the proceedings of the public hearing on the specified date and venue.

5. The petitioners have filed the present writ petition for declaring the action of the respondent authorities in processing the application of the 11th respondent for enhanced capacity of factory and mine, as also in issuing publication of the Notification dated 21.02.2025, on the grounds of being violative of the principles of natural justice, illegality and arbitrariness, submitting that the processing of the application was made without referring to the reports of the Irrigation Department regarding flooding etc., i.e., causing environmental pollutions, without waiting for the report of the High Level Committee constituted by the Government vide G.O.Ms.No.90 dated 17.12.2024.

6. Sri K. S. Murthy, learned senior Advocate for the petitioners, submitted that the 11th respondent in his application for expansion (Ex.P10), in

Form-I, under Point-II Activity, 1-Table, at Serial No.1.24, filled 'No'.
Sl.No.1.24 is as under:

“Changes in water bodies or the land surface affecting drainage or run-off?”

In the Column of Details, in the same table, against same Sl.No.1.24, the 11th respondent mentioned as under;

“There will be no change in water bodies or the land surface affecting drainage or run-off. Topography of the area is more or less flat; which may require little leveling for construction of new Line and Solar Power Plant”.

7. Learned senior Advocate submitted that the information so furnished or the details submitted by the 11th respondent 'No' as also in the remarks column, are not correct. There is suppression of fact. He submitted that in the year 2006, without considering the objections raised, the clearance was issued by the official respondents and the 11th respondent constructed and established its cement factory occupying the flood plains. The cement factory was constructed adjacent to the main stream of Chinnakommerla, Duggana palle village, Mylavaram mandalam, YSR Kadapa District. On the opposite side bit up stream, of the natural rivulet, the lime stone quarry has been dug. The construction of lime stone mine and factory have effectively reduced width of the stream. A bund/embankment was erected to protect mine from flood waters. Previously, the water gushing down the hills used to flow freely into Kundu river. On one side mine and bund, and on the other side, factory occupied flood plains. The cement factory was constructed obstructing the main water stream. He submitted that the natural path of the stream, small

bridges, the flood water culverts/cause ways and some part of the water tanks have been obstructed, occupied, and constructed upon by the 11th respondent. As a result, during the monsoon season, due to heavy rains and inflow of water, every year, flash floods occur in the petitioners' villages and casualties also occurred due to flash floods. There is water logging for weeks. The petitioners' villages are then completely submerged with flood water, upto 4 to 6 feet deep due to heavy inflow of flood water, due to changing of the natural flow directions.

8. Learned senior Advocate for the petitioner further submitted that the complaint No.2029/2021/B1 was filed by the villagers of Nawabpeta, Dugganapalli, Chinnakomerla villages of Mylavaram Mandal, YSR Kadapa District, raising grievance against the Officials of the Revenue, Irrigation, Mines and Geology, Pollution Control Board and Agriculture Departments but they failed to take action against the management of the 11th respondent, whose location and operations were causing air and dust pollution, causing damage to the agricultural crops and health hazardous to the villagers, causing inundation of agricultural fields and houses during rainy season and causing damage to the residential houses and agricultural crops. However, on the said complaint, under the Orders of the Lokayukta, the Superintending Engineer Circle, Kadapa submitted Report dated 02.03.2023. The Complainants filed their objections. The Lokayukta observing that in spite of the report of the Superintending Engineer that the flood water was stagnating the lands of the villages concerned and the crops getting damaged, the revenue administration did not

consider the gravity nor protecting the lands, on 31.01.2024 directed its Director (Investigation) to examine the physical features of the formation of flood protection bund constructed by the 11th respondent with the assistance of Executive Engineer, Kadapa and to submit the report. The Deputy Director (Investigation) enquired the matter and submitted the report dated 30.06.2024, and the Director (Investigation) submitted his scrutiny report dated 27.08.2024 to the Lokayukta. The villagers submitted their representation and objections.

9. Considering the reports, as aforesaid, and the objections, the Lokayukta, vide Order dated 05.09.2024, recommended the Chief Secretary to Government of Andhra Pradesh to constitute a High Level Grievance Redressal Committee, with 7 Members in total, to which, the Collector and District Magistrate was to be the Chairman, to examine the issue in the light of the reports submitted and submit the action taken report. The Commissioner and Director of Agriculture, A.P. and the Member Secretary, A. P. Pollution Control Board were also directed to conduct a joint inspection through the responsible Officers of their respective departments and to assess the loss caused to the agricultural fields nearby the factory, affected by dust/air pollution and flood water stagnation for passing further orders.

10. It is submitted that the Government of Andhra Pradesh issued G.O.Ms.No.90, Industries & Commerce (Mines-III) Department, dated 17.12.2024, constituting the High Level Redressal Committee for examination of the matter, pursuant to the Order of the Lokayukta, dated 05.09.2024. It is submitted that the matter is still under investigation and the District Collector,

Chairman of the High Level Redressal Committee had already requested the Lokayuktha for extension of time for submission of the detailed report, vide reference File No.REV-LGLC0CC/92/2025-SA(COURT CELL)-KDPCO, dated 05.03.2025. It is submitted that thus, on the subject, the matter is pending before the High Level Redressal Committee, but without disclosing all these facts in the application, submitted for expansion, incorrectly it was mentioned that there will be no change in water bodies or the land surface, affecting drainage or run off etc., whereas, if all the material facts had been considered there would be no question of grant of environmental clearance pursuant to the application for expansion.

11. Learned counsel for the petitioners submitted that under Rule 5 sub-rule (3) of the Environment (Protection) Rules, 1986, a Notification dated 14.09.2006 (in short 'Notification dated 14.09.2006') was published in the Gazette of India, Extraordinary, Part-II, and Section 3 (ii), Ministry of Environment and Forests, imposing certain restrictions and prohibitions on new Projects or Activities, based on their potential environmental impacts, unless prior environmental clearance had been accorded. He submitted that under Para-7 of the Notification dated 14.09.2006, Stage-1, was the screening of the applications, seeking prior environmental clearance and Stage-2 provides for scoping. He submitted that without considering the aforesaid facts with respect to the reports and the constitution of the High Level Grievance Redressal Committee to submit the report, the publication of the public consultation under the Stage-3 vide Public Hearing Notification, was notified. He submitted that a

representation dated 02.03.2025 to the Environmental Engineer, the 4th respondent, was submitted, copies of which were also forwarded to the Official respondents in the present writ petition, pointing out the problems of the farmers, the villagers and also referring to the Order of the Lokayuktha dated 05.09.2024 and requesting that the notification of public hearing issued by the Andhra Pradesh Pollution Control Board (Ex.P8) should be cancelled. However, the petitioners have not been informed of any decision on their grievances raised, vide representation, and the publication has also not been cancelled or stayed. He further submitted that the petitioners have apprehension that after the public hearing, pursuant to the Notification dated 21.02.2025, everything would be finalized urgently, and even the petitioners may not be informed. Once the public hearing is done, the pending proceedings before the High Level Grievance Redressal Committee and the report of the Expert Committee to be filed, to redress grievances of the villagers will be redundant and of no use, though Government itself issued G.O.Ms.No.90, dated 17.12.2024. The reports were not even looked into by the concerned authorities, and further, the report of the High Level Grievance Redressal Committee constituted by G.O.Ms.No.90, dated 17.12.2024 will be vital to decide the question of examination of the environmental clearance. But, without waiting for such report, and even without considering that aspect, the respondents are proceeding with public hearing on the date fixed i.e., 27.03.2025.

12. Sri Yelisetty Soma Raju, learned standing counsel for the A. P. Pollution Control Board, submitted that pursuant to the Public Hearing

Notification, amongst others, the petitioners will also have the opportunity to raise their grievance. The public hearing would take place as per the procedure prescribed in para-7, Stage-3, of the Notification dated 14.09.2006, and in Appendix IV thereof, by ascertaining the concerns of the local affected persons. He further submitted that in public consultation, the responses in writing would also be received from the concerned persons. The public hearing shall be conducted by the State Pollution Control Board (SPCB) or Union Territory Pollution Control Committee (UTPCC) concerned. He drew the attention of the Court to the Notification dated 14.09.2006, as also to Ex.P12 to contend that the local affected people, on the proposed project, can participate in the proceedings of the public hearing. The petitioners can also participate. After completion of the public consultation at Stage-4, appraisal will be made. Such appraisal would be made by the Expert Appraisal Committee or the State Level Expert Appraisal Committee. The apprehension expressed by the petitioners, is their imagination, and approaching this Court by the petitioners, at this stage of issue of Public Hearing Notification, is premature.

13. Sri Posani Venkateswarlu, learned senior Advocate, appearing for the 11th respondent, submitted that the petitioners have no *locus* to maintain the writ petition. In this respect, he referred to the paragraph-03 of the writ petition, to contend that the petitioners are the residents of Dugganapalle and Nawabpeta villages. They have not stated as to how they are adversely affected. He further submitted that as per the procedure under the Public Hearing Notification, the opportunity shall be afforded to the public. The

petitioners may also avail that opportunity. Filing of the writ petition is premature, as well.

14. Learned counsel for the petitioners, in response, submitted that the petitioners have *locus* to maintain the writ petition. They are the residents of the very villages, where the project is located and have their lands. They have specifically stated that they are being affected. There are about 2500 residents, who are the farmers belonging to marginalized class of the society. They are also affected. The petitioners have given the details of their lands, which get affected. He further submitted that the petitioners have clearly stated in para-07 of the writ petition that due to heavy inflow of flood water, because of the retaining compound wall and also the huge bund constructed, the natural flow direction, was changed and the petitioners' villages are being completely submerged with flood water of 4 to 6 feet deep. Consequently, it cannot be said that the petitioners have no *locus* to maintain the writ petition.

15. We have considered the aforesaid submissions and perused the material on record.

16. With respect to the submission of the learned counsel for the 11th respondent that the petitioners have no *locus standi* to file writ petition, we do not find any force. The petitioners have clearly stated that they are the residents of the concerned villages and they have lands there and the expansion of the project would adversely affect them. They have also submitted representation to the Authority pursuant to the public consultation notification. The learned standing counsel has also submitted that the

petitioners have the right to be heard pursuant to the public hearing notice. Once they have right to be heard, and to file written response pursuant to the notification, with respect to the project in question, it cannot be said that they do not have *locus standi* to maintain writ petition. The objection on the point of *locus standi* is rejected.

17. Now coming to the submissions on merit, the Notification dated 14.09.2006 on the subject of grant of prior environmental clearance for the new projects or activities, listed in the Schedule to that notification and also for the expansion and modernization of existing projects or activities listed in the Schedule, lays down the complete procedure.

18. We would refer to paragraphs 6, 7 and 8 in particular of the Notification dated 14.09.2006, for ready reference, which are reproduced as under:

“6. Application for Prior Environmental Clearance (EC):-

An application seeking prior environmental clearance in all cases shall be made in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II, after the identification of prospective site(s) for the project and/or activities to which the application relates, before commencing any construction activity, or preparation of land, at the site by the applicant. The applicant shall furnish, along with the application, a copy of the pre-feasibility project report except that, in case of construction projects or activities (item 8 of the Schedule) in addition to Form 1 and the Supplementary Form 1A, a copy of the conceptual plan shall be provided, instead of the pre-feasibility report.”

7. Stages in the Prior Environmental Clearance (EC) Process for New Projects:-

7(i) The environmental clearance process for new projects will comprise of a maximum of four stages, all of which may not apply to particular cases as set forth below in this notification. These four stages in sequential order are:-

- Stage (1) Screening (Only for Category ‘B’ projects and activities)
- Stage (2) Scoping
- Stage (3) Public Consultation
- Stage (4) Appraisal

I. Stage (1) - Screening:

In case of Category ‘B’ projects or activities, this stage will entail the scrutiny of an application seeking prior environmental clearance made in Form 1 by the concerned State level Expert Appraisal Committee (SEAC) for determining whether or not the project or activity requires further environmental studies for preparation of an Environmental Impact Assessment (EIA) for its appraisal prior to the grant of environmental clearance depending up on the nature and location specificity of the project. The projects requiring an Environmental Impact Assessment report shall be termed Category ‘B1’ and remaining projects shall be termed Category ‘B2’ and will not require an Environment Impact Assessment report. For categorization of projects into B1 or B2 except item 8 (b), the Ministry of Environment and Forests shall issue appropriate guidelines from time to time.

II. Stage (2) - Scoping:

(i) “Scoping”: refers to the process by which the Expert Appraisal Committee in the case of Category ‘A’ projects or activities, and State level Expert Appraisal Committee in the case of Category ‘B1’ projects or activities, including applications for expansion and/or modernization and/or change in product mix of existing projects or activities, determine detailed and comprehensive Terms Of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought. The Expert Appraisal Committee or State level Expert Appraisal Committee concerned shall determine the Terms of Reference on the basis of the information furnished in the prescribed application Form1/Form 1A including Terns of Reference proposed by the

applicant, a site visit by a sub- group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, Terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. All projects and activities listed as Category 'B' in Item 8 of the Schedule (Construction/Township/Commercial Complexes /Housing) shall not require Scoping and will be appraised on the basis of Form 1/ Form 1A and the conceptual plan.

(ii) The Terms of Reference (TOR) shall be conveyed to the applicant by the Expert Appraisal Committee or State Level Expert Appraisal Committee as concerned within sixty days of the receipt of Form 1. In the case of Category A Hydroelectric projects Item 1(c) (i) of the Schedule the Terms of Reference shall be conveyed along with the clearance for preconstruction activities .If the Terms of Reference are not finalized and conveyed to the applicant within sixty days of the receipt of Form 1, the Terms of Reference suggested by the applicant shall be deemed as the final Terms of Reference approved for the EIA studies. The approved Terms of Reference shall be displayed on the website of the Ministry of Environment and Forests and the concerned State Level Environment Impact Assessment Authority.

(iii) Applications for prior environmental clearance may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned at this stage itself. In case of such rejection, the decision together with reasons for the same shall be communicated to the applicant in writing within sixty days of the receipt of the application.

III. Stage (3) - Public Consultation:

(i) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. All Category 'A' and Category B1 projects or activities shall undertake Public Consultation, except the following:-

(a) modernization of irrigation projects (item 1(c) (ii) of the Schedule).

(b) all projects or activities located within industrial estates or parks (item 7(c) of the Schedule) approved by the concerned authorities, and which are not disallowed in such approvals.

(c) expansion of Roads and Highways (item 7 (f) of the Schedule) which do not involve any further acquisition of land.

(d) All Building or Construction projects or Area Development projects and Townships (item 8).

e) all Category 'B2' projects and activities.

f) all projects or activities concerning national defence and security or involving other strategic considerations as determined by the Central Government.

(ii) **The Public Consultation shall ordinarily have two components comprising of:-**

(a) a public hearing at the site or in its close proximity- district wise, to be carried out in the manner prescribed in Appendix IV, **for ascertaining concerns of local affected persons;**

(b) **obtain responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.**

(iii) the public hearing at, or in close proximity to, the site(s) in all cases shall be conducted by the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) concerned **in the specified manner and forward the proceedings to the regulatory authority** concerned within 45(forty five) of a request to the effect from the applicant.

(iv) in case the State Pollution Control Board or the Union territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period directly to the regulatory authority concerned as above, the regulatory authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty five days,

(v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.

(vi) **For obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity, the concerned regulatory authority and the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) shall invite responses from such concerned persons by placing on their website the Summary EIA report prepared in the format given in Appendix IIIA by the applicant along with a copy of the application in the prescribed form, within seven days of the receipt of a written request for arranging the public hearing.** Confidential information including non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means.

(vii) After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during this process, and make appropriate changes in the draft EIA and EMP. The final EIA report, so prepared, shall be submitted by the applicant to the concerned regulatory authority for appraisal. The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.

IV. Stage (4) - Appraisal:

(i) Appraisal means the detailed scrutiny by the Expert Appraisal Committee or State Level Expert Appraisal Committee of **the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings, submitted by the applicant to the regulatory authority concerned for grant of environmental clearance. This appraisal shall be made by Expert Appraisal Committee or State Level Expert Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited for furnishing necessary clarifications in person or through an authorized representative. On conclusion of this proceeding, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall make categorical recommendations to the regulatory authority concerned either for grant of prior environmental clearance on stipulated terms and conditions, or rejection of the application for prior environmental clearance, together with reasons for the same.**

(ii) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an Environment Impact Assessment report, shall be carried out on the basis of the prescribed application Form 1 and Form 1A as applicable, any other relevant validated information available and the site visit wherever the same is considered as necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iii) The appraisal of an application shall be completed by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned **within sixty days of the receipt of the final Environment Impact Assessment report and other documents or the receipt of Form 1 and Form 1 A**, where public consultation is not necessary and the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee shall be placed before the competent authority for a final decision within the next fifteen days .The prescribed procedure for appraisal is given in Appendix V ;

7(ii). Prior Environmental Clearance (EC) process for Expansion or Modernization or Change of product mix in existing projects:

All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernization of an existing unit with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product –mix shall be made in Form I and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence necessary including preparation of EIA and public consultations and the application shall be appraised accordingly for grant of environmental clearance.

8. Grant or Rejection of Prior Environmental Clearance (EC):

(i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.

(ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the

observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.

(iii) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iv) On expiry of the period specified for decision by the regulatory authority under paragraph (i) and (ii) above, as applicable, the decision of the regulatory authority, and the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be public documents.

(v) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping, or appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons.

(vi) **Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection**, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.”

19. Briefly stated, as per para-6 of the Notification, dated 14.09.2006, an application seeking prior environmental clearance in all cases shall be made in the prescribed Form 1 annexed with the Notification and Supplementary Form 1A, if applicable, as given in Appendix II. As per para-7 (i) of the Notification, which deals with environmental clearance process for New Projects, there are four stages. Para-7 (ii) deals with prior environmental clearance process for expansion or modernization or change of product mix in existing projects. Para-7 (ii), also provides for Applications in Form-I, consideration by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee, including preparation of Environment Impact Assessment (EIA) and public consultations and appraisals.

20. As per para-7, the applications at Stage-I will be screened. In Stage-II, there is scoping which refers to the process by which the Expert Appraisal Committee (EAC) in the case of Category 'A' projects or activities, and State Level Expert Appraisal Committee (SEAC) in the case of Category 'B' projects or activities, including applications for expansion and/or modernization and/or change in product mix of existing projects or activities, determine detailed and comprehensive Terms Of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity, for which prior environmental clearance is sought. The detailed process of scoping is prescribed. Stage-III of Public Consultation, in this Stage, *inter alia*, the public consultation have two components. A public hearing for ascertaining concerns

of local affected persons, and also obtaining responses in writing from the concerned persons having a plausible stage in the environmental aspects of the project or activity. The public hearing is to be conducted by the State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC) concerned in the specified manner, which has to forward the proceedings to the regulatory authority concerned. The detailed procedure for public consultation has been specified and after completion of the public consultation, the appraisal is made in Stage-IV by the Expert Appraisal Committee in the manner laid down. The regulatory authority, thereafter, has to consider the recommendations of Expert Appraisal Committee or State Level Expert Appraisal Committee concerned and follow the further procedure. The regulatory authority may also disagree with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee for the reasons recorded, therefore Expert Appraisal Committee or State Level Expert Appraisal Committee has to consider the observations of the regulatory authority and furnish its views on the same. The decision of the Regulatory Authority shall be final. The Regulatory Authority has also got the power under Para-8 (vi) that in case of deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application, to reject the application and also to cancel the prior environmental clearance, if granted.

21. The submission of the petitioners' counsel is that the 11th respondent did not furnish the correct information in Application Form-I, 1-Table at

Sl.No.1.24 and its column. He so submitted, based on the Orders of the Lokayuktha and the reports, to show to the contrary, and therefore, there is no correct scoping of the application of the 11th respondent and their grievance at the stage of Public Consultation Notification shall not be duly addressed.

22. We are of the view that though the application for prior environmental clearance may be rejected by the regulatory authority on the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, at the stage of scoping itself, under Para-7, Stage-II, Clause (iii), but if any such fact, which required consideration at the stage of the scoping, could not be considered, may be for the reason of non-disclosure or otherwise, and so, the next stage of public consultation has been reached, even at this stage, it cannot be said that the petitioners have no opportunity to bring such facts to the notice of the concerned Authority during public hearing, on the date fixed, pursuant to the Notification for public consultation, dated 21.02.2025, which provides for, also the written responses with respect to the environmental aspects of the project or activity. Due opportunity to the locally affected persons and the other concerned stakeholders is being provided for which date of public hearing/consultation has been fixed. Learned standing counsel for the A. P. Pollution Control Board and the learned Senior Advocate for the 11th respondent have also submitted that, the petitioners will also have opportunity of consultation/hearing and they may also submit written response pursuant to the Public Consultation Notification, of

which, the proceedings shall be prepared and forwarded to the concerned Regulatory Authority for further action as per the prescribed proceedings.

23. We are of the view that, if any such fact is brought to the notice of the Authority conducting Public hearing, during the public consultation pursuant to the public hearing notification, it is not that the petitioners' objection will not be received or not considered. The petitioners have already submitted a written representation/response dated 02.03.2025 pursuant to Notification dated 21.02.2025, mentioning, the reports, the Order of the Lokayuktha, formation of the High Level Grievance Redressal Committee, the G.O.Ms.No.90, Industries & Commerce (Mines-III) Department, dated 17.12.2024, as also that, the High Level Grievance Redressal Committee has sought extension of time.

24. So, we are of the view that once a representation has been submitted to the Respondent Authorities, and further if on the date fixed for the public hearing, the objections are raised by the petitioners, and they further submit the written responses, pursuant to the notification itself, the same would be considered as per the procedure, at the stage of Public consultation, including the same in the proceedings by the Expert Appraisal Committee or State Level Expert Appraisal Committee, as the case may be, while forwarding its recommendations to the regulatory authority within the specified time and that the Regulatory Authority also in the exercise of its power under Para-8 of the Notification, dated 14.09.2006 shall give due consideration to the public consultation, while considering the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee, as it has the power, for

stated reasons, even to disagree with such recommendations, as also the power to reject the application at that stage also *inter alia* if there is concealment, false or misleading information or the data which was material to screening or scoping or appraisal, as per Para-8 (vi) of the Notification, dated 14.09.2006.

25. Considering the scheme under the notification, as also the publication made, the grievance raised by the petitioners as herein deserves be considered and addressed by the authorities at the stages contemplated under the Notification, dated 14.09.2006, including by the Regulatory Authority.

26. At this stage, the petitioners have adequate opportunity before the Authorities to raise their grievance as per the Scheme and Procedure under the Notification.

27. Consequently, in consideration of the aforesaid, we deem it fit to dispose of the writ petition and we do dispose of this writ petition finally, with the following directions:

- i. It is for the petitioners to participate in the public consultation process pursuant to the public hearing notice, dated 21.02.2025, raising their grievance and also filing written responses, accompanied by the reports, or / and the Order of the Lokayuktha, on the subject, conducting public hearing, with the Competent Authority / State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC), as the case may be.

- ii. If such objections are raised and responses filed in writing, the Competent Authority, conducting the public hearing, shall receive the same, and along with the petitioners' representation dated 02.03.2025, shall forward the same to the Regulatory Authority, with the proceedings of the public consultation;
- iii. Such Regulatory Authority as under the Notification dated 14.09.2006, shall also take that aspect into consideration as raised by the petitioners, and pass speaking Orders, while taking action on the recommendations of the Expert Appraisal Committee (EAC) / State Level Expert Appraisal Committee (SEAC), as per Para-8 of the Notification, dated 14.09.2006 including its Clause (vi);
- iv. The decision so taken shall also be timely communicated to the petitioners.

28. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

Date: 25.03.2025

Dsr

Note:

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