

Date: 06.12.18

To,
The Principal Chief Conservator of Forest &
ED, Wasteland Development Board,
Department of Forest, Environment and Climate Change,
Government of Jharkhand,
Van Bhawan, Ranchi.

Subject: Fresh Forest Diversion Proposal by ESL
Refer : EDS raised on 04.12.2018 against the proposal no. FP/JH/IND/36339/2018.

Without Prejudice

Dear Sir,

Electrosteel Steels Limited (“ESL”) had applied under “Industry” Category for the forest diversion proposal on October 4, 2018 (No - FP/JH/IND/36339/2018) for 184.23 Ha of alleged Forest and Jungle JhariLand. The application was made by ESL without prejudice to its rights and contention against the contention of forest department, Government of Jharkhand regarding nature and title of partial land of the plant being forest land. This “without prejudice” application was made specifically under the aegis of order of Jharkhand High Court dated 25.08.2018.

Since filing the application, the following steps have been taken in the processing of our application:

1. Verification of land by the competent authorities and lease arrangement
2. Regularization of revenue land
3. Completed GPRS Survey
4. Duly Certified land schedule submitted as part of the application
5. Compensatory afforestation land has been identified
6. FRA Process application & request with relevant details has been made with DC, Bokaro

All details which have been sought by the forest department, by raising multiple EDS on 06.10.2018, 13.11.2018, 22.11.2018, 27.11.2018, have been replied satisfactorily by ESL.

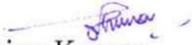
EDS has been raised on 04.12.2018 to re-categorise the category of the Project from “industry” to “encroachment”. As the Category of the project could not be changed in Form A after the proposal has been submitted, we were requested that the proposal no. FP/JH/IND/36339/2018 filed on 04.10.2018 be refiled under relevant category.

It is pertinent to note that ESL had purchased the plant land from Raiyats for establishing the steel plant through registered sale deeds. These Raiyats had successfully pursued their claim against

forest department and proceed a title decree in their favor which held that claims of forest department regarding forest land was a mere myth. Title appeal is pending currently before District Court, Bokaro but there is no stay against the title decree. ESL has also in all forums successfully defended against encroachment cases filed by government authorities time and again including Jharkhand High Court and Supreme Court which have held the matter of nature and title of land to be sub-judice and ordered no coercive action against ESL during pendency of the these sub-judice proceedings

The forest diversion proposal was filed in good faith by the new management under Vedanta group in order to completely bring to rest all controversies and pave the path for final settlement of all issues with forest department such that the industry could be revived and grown after being subjected to proceedings under Insolvency and Bankruptcy Code, 2016. Although we believe we have very strong merits in our claim that there is no forest land involved in the plant and there is no material violation of any environment clearance or other such conditions, the Hon'ble High Court of Jharkhand in WPC 4850 of 2018 and 1873 of 2018 permitted us to file application for regularization without prejudice to our rights. Since the industry provides livelihood to thousands of people and is also critical for the state as it contributes significantly to the state revenues, it is very important to process our application expeditiously. In view of the emergent need outlined above and reserving all our rights, we are processing our application further under the 'Encroachment' category as directed by your good offices. We hope and reasonably expect that no adverse determination or penal action will arise from this change in category for processing of our application.

We request you to kindly expedite the approval of forest diversion proposal.


Ajoy Kumar
Authorized Signatory

Date: 30.11.2018

Without Prejudice To

Justification for locating the project in the forest area.

This forest diversion proposal (File No.FP/JH/IND/36339/2018) is being filed in good faith by the project proponent (M/s Electrosteel Steels Limited) and is without prejudice to any of the legal rights and remedies, with reference to the order of the Hon'ble High Court of Jharkhand dated 25.08.2018 and 27.09.2018 in the case of WPC 1873 of 2018 and 4850 of 2018.

Site Identification

National Environmental Engineering Research Institute, Nagpur ("NEERI") undertook the Environmental Impact Assessment and Risk Assessment studies based on the latest EIA notification i.e. September, 2006 of Ministry of Environment and Forest and Climate Change, New Delhi ("MoEF") and in consultation with the environmental regulatory authorities of the State Government, in order to assess the likely environmental and social impacts arising due to setting up and operation of Integrated Steel Project of M/s Electrosteel Steels Ltd ("ESL") in different districts of Jharkhand. The research conducted included study of availability of Raw Material, Transportation, Railway Linkage, Grid Connectivity, Future Market, etc of Jharkhand State.

The existing site based in the villages of Bandhdih, Bhagabandh, Hutupathar & Siyaljori, etc in Chas and Chandankiyari Circle, Dist Bokaro, Jharkhand were found suitable in all aspects of studies and hence the plant was set up in this location, after obtaining due permissions from relevant government authorities.

Land Acquisition

The competent court of civil jurisdiction by its order dated 29.05.2007 in the Title Suit (TS) 25/96 had held the title of the Raiyati land in favour of the vendors of ESL, from whom the land was purchased. The court also found that the claims of the Forest Department were incorrect, and that the land and other similar land was never recorded as Forest Land. However, the District Forest office, Bokaro preferred to file an appeal bearing number title appeal 33/2007 in the District Court of Bokaro, which has since then been pending for adjudication. ESL purchased approximately 2667.51 acres of land from

multiple Raiyats, on the basis of this court order obtained in TS 25/96 vide registered sale deeds.

Consents

The plant was constructed during the 2008 to 2010 and numerous encroachment cases were filed by forest department and revenue department. However all these cases have been quashed by the High Court, and some of them have been quashed by the Supreme Court.

Hot steel production at the plant began in 2011 after obtaining due approvals from the State Pollution Control Board. Since then, ESL has obtaining relevant clearances including Consent to Operate (“CTO”) to operate the plant from the state pollution control board.

The last CTO was valid till 31.12.2017, but ESL had applied for CTO extension till 2022 in September 2017. However, JSPCB vide Order dated 21.08.2018 denied grant of CTO to ESL. ESL challenged the denial of CTO by JSPCB in WP(C) 1873/2018 and the Hon’ble HC was pleased to pass an Order dated 25.08.2018 wherein the operation, implementation and execution of the Order dated 21.08.2018 was stayed until 27.09.2018. This stay order is currently valid till December 11, 2018 (or such other next date of hearing) and the plant has been allowed to operate till then.

In the same Order, the Court also directed ESL to approach the Union of India with their proposal/ application for regularization of the alleged violation, without prejudice to their right, title, interest, possession and nature of the land and its status.

Further to this Order, MoEF granted an opportunity of personal hearing to ESL on 10.09.2018. The MoEF passed an order dated 20.09.2018 wherein the Environmental Clearance of ESL was revoked. Pursuant to this, ESL challenged the revocation of EC in WP(C) 4850/ 2018 wherein the Hon’ble Jharkhand High Court vide Order dated 27.09.2018 stayed the operation, implementation and execution of the Order of MoEF dated 20.09.2018 and granted interim relief till 11.12.2018. ESL was given an option to apply for revised Environmental Clearance and Forest Clearance under protest and without prejudice to their rights to the land and its status.

Corporate Insolvency and Livelihood of People

ESL has recently undergone a Corporate Insolvency Resolution Process and the new management (read Vedanta Limited) has taken over the plant with effect from June 4, 2018. This steel plant is the first green field plant in the state of Jharkhand, which provides employment to approximately 30,000 people (10,000 direct and remaining indirect).

As the plant is already operating, it is a 'fait accompli' situation where regularization of violation / encroachment of the land, is the only viable and long term solution. Post the CIRP process, the management of ESL, in the interest of the plant, dependent community, government and the investors has agreed to file Forest diversion proposal for regularization of the encroachment of land, in good faith and without prejudice to their legal rights otherwise available, as per the order dated 25.08.2018 of the Hon'ble High Court of Jharkhand in the case of WPC 1873 of 2018 & 4850 of 2018.

Forest Land

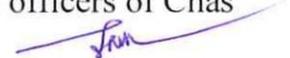
The aforesaid application has been filed for the 184.23 Ha of land. This area is cumulative of the area on which the forest department has laid its claim admeasuring 89.39 Ha of Notified Forest land along with 94.84 Ha of Jungle Jhari Land, under occupation of ESL, which has been based on the land records certified by the Circle Officer, Chas, and Circle Officer, Chandankyari on 02/11/18 and 01/11/18 respectively.

Each land parcel for which the forest diversion has been applied for has either been claimed by the Forest Department or the Revenue Department has been included for diversion in this proposal.

Some patches of this Land may not seem to be under active occupation currently as per google maps, but ESL has definite plans to utilize each and every area under its occupation for catering to the expansion project of the plant. The management is committed to increase the steel production capacity at ESL to 2.5 MTPA by end of 2019.

Revenue Land

ESL had requested Revenue Department to regularize the GM Khas and Aam land under its occupation in the Chas and Chandankyari Circle. DC Bokaro has raised a demand note no. 2468 / Ra. towards lease arrangement of 128.03 Ac of land on 17.11.2018 on the basis of the land records, certified by the Circle officers of Chas

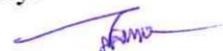


and Chandankyari. The due amount of Rs. 15.42 crores has been remitted to the state treasury on 20/11/2018 towards leasing of the land for 30 years period.

Occupied Areas outside the Boundary

All necessary precautions have been taken to restrict plant operations only within the boundary (natural or made). With reference to an observation on Plot 1390, Khata 22, Bhagabhand Mouza, please note that a major portion of the coal stacked in 2.66 Ac of GM Khas land has been evacuated, but, as the satellite data on Google maps is aged typically 1 to 3 years, it cannot be verified digitally. Physical verification of the site can reveal the actual information. This plot has been also considered for regularization by the revenue department.

Apart from this, at some places there may be overlapping of physical boundary and purchased land area. The actual Plant boundary at some places may be within the portion of purchased land and the portion of land may be outside since the KML map is prepared based on the actual land purchased by the company.



IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 4850 of 2018

Electrosteel Steels Limited, a company incorporated under the Companies Act, 1956, Shiyaljori, Jogidih, Bangaria, P.O. & P.S. Chandankeyari, District Bokaro, represented through its Authorized Signatory, Sauvick Mazumdar, son of Late B.N. Mazumdar, aged about 50 years, resident of Flat No. B 262, Landscape Pinto Park, Campal P.O. Panaji, P.S. Panaji, District North Goa, Goa (Union Territory) Petitioner

Versus

1. Union of India through Secretary, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Prithavi Wing, Jorbag Road, P.O. New Delhi, P.S. New Delhi, New Delhi
2. Joint Secretary, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Prithavi Wing, Jorbag Road, P.O. New Delhi, P.S. New Delhi, New Delhi
3. Scientist 'F'/Director, Government of India, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Prithavi Wing, Jorbag Road, P.O. New Delhi, P.S. New Delhi, New Delhi
4. Additional Principal Chief Conservator of Forest (Central), Ministry of Environment, Forest and Climate Change, Regional Office (Eastern Central Zone), Bungalow A-2, Shyamali, Colony, at Doranda, P.O. Doranda, P.S. Doranda, District Ranchi
5. Additional Chief Secretary, Department of Environment & Forest, Government of Jharkhand, at Project Building, Dhurwa, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi
6. Principal Conservator of Forest and HoFF, Van Bhawan, at Doranda, P.O. Doranda, P.S. Doranda, District Ranchi
7. Chairman, Jharkhand State Pollution Control Board, H.E.C. Dhurwa, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi
8. Member Secretary, Jharkhand State Pollution Control Board, H.E.C. Dhurwa, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi
9. Additional Collector, Bokaro, P.O. Bokaro, P.S. Bokaro, District Bokaro
10. Divisional Forest Officer, Bokaro Range, Bokaro, P.O. Bokaro, P.S. Bokaro, District Bokaro Respondents

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner	: Mr. Indrajit Sinha, Mr. Ninad Land, : Mr. Bibhash Sinha, Advocates
For the U.O.I.	: Mr. Rajiv Sinha, A.S.G.I. Mr. Niraj Kumar, Advocate
For the State of Jharkhand	: Mr. Ajit Kumar, A.G. Mr. V.K. Prasad, S.C. (L&C) Mr. Ashish Kumar Thakur, A.C. to S.C. (L&C)
For the Pollution Control Board	: Mrs. Richa Sanchita, Advocate

2/27.09.2018

1. Heard counsel for the parties.
2. Counsel appearing on behalf of Union of India has raised

preliminary objection on the point of maintainability of this writ petition and has submitted that this issue should be decided before entering into the merits of the case. He submits that the petitioner has alternative remedy of appeal under Section 5-A of the Environment (Protection) Act, 1986 read with Section 16 (g) of the National Green Tribunal Act, 2010. He submits that there are many technical aspects in connection with environment clearance which can be appreciated by the Tribunal.

3. Upon this, counsel appearing on behalf of the petitioner has advanced extensive argument on the point of maintainability of the writ petition. He submits that this Court may not enter into the technical aspects of the matter of environmental clearance and will confine his argument on the point of gross violation of principles of natural justice and fair play while passing the order impugned in this writ petition.
4. While advancing his argument, he submits that the environmental clearance was granted to the petitioner vide order dated 21.02.2008 issued by the Ministry of Environment and Forests. However, vide letter dated 06.06.2012 a show cause was issued to the petitioner by the said Ministry asking the petitioner to show cause as to why the environmental clearance dated 21.02.2008 be not revoked and certain allegations were made against the petitioner in the show cause notice.
5. After the receipt of the show cause notice, the petitioner had responded and also requested for an opportunity of personal hearing vide its letter dated 20.06.2012. He submits that thereafter the matter remained pending and certain inspections were carried out by the respondents. In the meantime, another writ petition was filed by the petitioner relating to environment issues being W.P. (C) No. 1873 of 2018 and the fact about pendency of proceeding pursuant to show cause dated 06.06.2012 was brought to the notice of this court. In such circumstances, the order dated 25.08.2018 was passed to expedite the matter in connection with show cause notice dated 6.6.2012.
6. Pursuant to this order, the petitioner was required to appear before the authority for the purpose of personal hearing and accordingly a

notice dated 31.08.2018 was issued to the petitioner for personal hearing.

7. By referring to paragraph nos. 28,29 and 32 of the writ petition, the petitioner submits that on 10.09.2018 an opportunity of hearing was given before Mr. Gyanesh Bharti, the Joint, Secretary, Ministry of Environment, Forest and Climate Change (MOEFCC). The petitioner at the outset had pointed out that the competent authority for the purpose is Secretary of the Ministry and it was contended that hearing by the Joint Secretary was wholly without jurisdiction. He submits that however the petitioner continued with hearing on 10.09.2018 which concluded on the same day. He further submits that transfer of the joint secretary who heard the matter was notified on 10.09.2018 and he was relieved on 12.09.2018 in the afternoon. Counsel submits that thereafter the impugned letter dated 20.09.2018 was communicated to the petitioner indicating that the matter has been examined by the Department and the competent authority has decided to revoke the environmental clearance which was granted to the petitioner as back as on 21.02.2008 and in the said order it was also communicated that the petitioner may apply for environmental clearance afresh after clearing all the issues.
8. The specific case of the petitioner on the point of violation of natural justice been stated in paragraph no. 31 of the writ petition wherein it has stated that hearing was done by the joint secretary on 10.09.2018 and admittedly the order was not passed by him. Further the person who had given the hearing was himself not the competent authority to take a decision in the matter.
9. He has also submitted by referring to the impugned order that certain materials which were submitted on 12.09.2018 (refers to the internal page no. 13 of the impugned order which mentions document as Annexure-XIII which is dated 12.9.18 and is contained in page 165 of the supplementary affidavit). He submits that such materials submitted after the conclusion of hearing, could not have been used by the respondent authority for passing the impugned adverse order against the petitioner. He submits that on this ground also, the impugned order has been passed in gross violation of

principles of natural justice.

10. He submits that the impugned order has serious consequences and the authority who has passed the impugned order ought to have granted the opportunity of hearing to the petitioner. Further the documents which were filed on 12.09.18 i.e. after the date of hearing could not have been taken into consideration while passing the impugned order. Accordingly, he submits that on these grounds the writ petition be entertained and after hearing the parties, the impugned order be set aside and the matter is fit to be remanded. He submits that in the mean time the impugned order be stayed so that the running industry of the petitioner may not be closed down which employs a large number of workmen. He submits that the writ petition is certainly maintainable in such circumstances, wherein there has been gross violation of principles of natural justice and fair play.
11. The petitioner has relied upon the judgment passed by the Hon'ble Supreme Court reported in **(1998) 8 SCC 1** (Whirlpool Corporation versus Registrar of Trade Marks, Mumbai and Others) **paragraph no. 15**; **AIR 1959 SC 308** (Gullapalli Nageswara Rao and Others versus Andhra Pradesh State Road Transport Corporation and Another) **paragraph no. 31**; **(2014) 1 SCC 603** (Commissioner of Income Tax and Others versus Chhabil Dass Agarwal) **paragraph no. 15** and **(2016) 3 SCC 643** (Shree Bhagwati Steel Rolling Mills versus Commissioner of Central Excise and Another) **paragraph no. 29**. He submits that it has been held by the Hon'ble Supreme Court that under Article 226 of the Constitution of India, the High Court having regard to the facts of the case, has a discretion to entertain or not to entertain the writ petition. But the High Court has self imposed restrictions, one of which is that if an effective and efficacious remedy is available, the High court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this court not to operate as a bar in at least in three contingencies, namely,
- (i) where the writ petition has been filed for the enforcement of any of the Fundamental Rights; or
 - (ii) where there has been a violation of the principles of natural

justice or

(iii) where the order of proceedings are wholly without jurisdiction or the vires of an Act is challenged.

12. He further submits that it has been held in the judgment reported in AIR 1959 SC 308 at paragraph no. 31 that if the person is called for personal hearing and if one person hears and another decides, then personal hearing becomes an empty formality. The personal hearing should be given by the person who has to pass the order. He accordingly submits that it was certainly not open to the respondents to ask the petitioner to appear before any person for personal hearing who was not competent to pass final order.

13. Counsel appearing on behalf of the Union of India submits that in the instant case, the Joint Secretary has acted under delegation of power and has heard the matter. He further submits that it is not necessary that the Secretary should hear all the matters and pass order although the ultimate decision has to be taken by the competent authority. The point which the petitioner has taken that certain materials have been taken into account which was collected or submitted after the date of hearing is factually incorrect. He further argues that there was nothing new in the subsequent communication and whatever materials was there, was already available in the records and the same was only made available in a consolidated form by the subsequent communication dated 12.09.2018. Counsel appearing for the Union of India has relied upon one judgment passed by the Hon'ble Supreme Court reported in **(2018) 3 SCC 85 (Authorized Officer, State Bank of Travancore And Another versus Mathew K.C.)** and has referred to paragraph no. 15 of the said judgment and has submitted that in the matters where there are statutory remedy available, powers under Article 226 of the Constitution of India should not be exercised. He submits that it has been consistent view of the Hon'ble Supreme Court and numerous decisions has been referred in the aforesaid judgment including the case of Satyawati Tondon reported in (2010) 8 SCC 110 as well as the judgment which has been relied upon by the petitioner reported in (2014) 1 SCC 603. Accordingly, he concludes by saying that there has been neither any procedural

violation nor there has been any violation of principles of natural justice. He further submits that this court cannot enter into the technical formalities in this case therefore this writ petition should be dismissed on account of availability of alternative efficacious remedy which is available to the petitioner.

14. The learned Advocate General appearing on behalf of the respondent-State submits that the industry which is involved in this case engages a large number of workmen and at the same time any industry which has to exist under the State of Jharkhand, can be permitted to exist only in accordance with law. He also submits that there is no absolute bar regarding entertaining a writ petition by the High Court and in appropriate cases and in appropriate circumstances, power under Article 226 of the Constitution of India can be exercised. He also submits that if the petitioner chooses, he can certainly apply for fresh environmental clearance and the same will be considered in accordance with law.
15. After hearing counsel for the parties and after considering the materials available on record this court finds that apparently the Joint Secretary had given personal hearing to the petitioner on 10.09.2018 and he was transferred immediately thereafter and left his office on 12.09.2018. This court further finds that it is nobody's case that the joint secretary is the competent authority to take a decision in the matter.
16. Counsel appearing on behalf of the Union of India has submitted that the joint secretary had given the opportunity of hearing by virtue of certain delegation of power and upon his report, the appropriate authority was to take final decision. He has also submitted that as per the procedure, it is not required that the person who has to pass the order, should be the same person who hears the matter. This court is of the prima-facie view on the basis of aforesaid judgment which has been cited by the petitioner reported in AIR 1959 SC 308 that person who has to pass the order is required to give personal hearing, otherwise the very purpose of giving personal hearing will be defeated. It also appears that the joint secretary heard the matter on 10.09.2018 and was himself transferred within the period of two days, thereafter the final order

was passed by the Secretary of the Department.

17. In such circumstances, this court is inclined to entertain this writ petition on the limited ground of violation of principles of natural justice as has been indicated by the petitioner. So far as the judgement relied upon by the respondent reported in **(2018) 3 SCC 85 (Authorized Officer, State Bank of Travancore And Another versus Mathew K.C.)** is concerned, this court finds that in para 5 of this judgement it has been held as under:-

"5. We have considered the submissions on behalf of the parties. Normally this Court in exercise of jurisdiction under Article 136 of the Constitution is loath to interfere with an interim order passed in a pending proceeding before the High Court, except in special circumstances, to prevent manifest injustice or abuse of the process of the court. In the present case, the facts are not in dispute. The discretionary jurisdiction under Article 226 is not absolute but has to be exercised judiciously in the given facts of a case and in accordance with law. The normal rule is that a writ petition under Article 226 of the Constitution ought not to be entertained if alternate statutory remedies are available, except in cases falling within the well-defined exceptions as observed in CIT v. Chhabil Dass Agarwal⁴, as follows: (SCC p. 611, para 15)

"15. Thus, while it can be said that this Court has recognised some exceptions to the rule of alternative remedy i.e. where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case⁵, Titaghur Paper Mills case⁶ and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation."

18. As this court prima-facie finds that the impugned order in this case has been passed in total violations of principles of natural justice therefore in such circumstances this writ petition is being entertained .

19. The respondents have not filed any counter affidavit in the matter and the so called delegation of power which is argued by the respondents Union of India is also not on record.

20. Accordingly, two weeks time is hereby granted to the respondents to file counter-affidavit in this case confining their counter affidavit to the limited points which has been argued by the petitioner. The Union of India shall certainly ensure annexing the copy of the

delegation of power which has been referred by counsel appearing on behalf of the respondent-Union of India along with the counter-affidavit.

21. This court further prima-facie finds that the impugned order has serious repercussions on the unit of the petitioner which is a running unit and has caused prejudice to the petitioner on account of violations of principles of natural justice. This court further finds that the balance of convenience is in favour of the petitioner. Accordingly, operation, implementation and execution of the impugned order dated 20.09.2018 (Annexure-19) is hereby stayed till the next date.
22. Post this case on 10.10.2018 along with W.P. (C) No. 1873 of 2018.
23. However, this order will not be an impediment for the petitioner if the petitioner chooses to apply for statutory clearance as indicated in the impugned order without prejudice to the contention of the petitioner in this writ petition.
24. Let a copy of this order be handed over to the parties.

(Anubha Rawat Choudhary, J.)

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 1873 of 2018

With

I.A. No. 7610 of 2018

Electrosteel Steels Limited, a Company incorporated under the Companies Act, 1956, Shiyaljori, Jogidih, Bangaria, P.O. & P.S. Chandankeyari, District Bokaro, represented through its Chief Operating Officer, Suresh Kandelwal, son of Shri Banwari Lal Khandelwal, resident of Plot No. 103, Lohanchal Housing Colony, Sector-12, P.O. P.S. Sector-12, District Bokaro Petitioner

Versus

1. Jharkhand State Pollution Control Board, through its Member Secretary, at Town Administrative Building, H.E.C. Township, P.O. P.S. Dhurwa, Dist. Ranchi
2. The Chairman, Jharkhand State Pollution Control Board, Town Administrative Building, H.E.C. Township, P.O. P.S. Dhurwa, Dist. Ranchi
3. Secretary, Ministry of Environment, Forest & Climate Change, Govt. of India, Indira Paryavaran Bhawan, Prithavi Wing, Jorbag Road, New Delhi-110003... .. Respondents

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner : Mr. Indrajit Sinha, Advocate
Mr. Bibhash Sinha, Advocate
For the U.O.I. : Mr. Rajiv Sinha, A.S.G.I.
For the Respondent Board : Mrs. Richa Sanchita, Advocate

I.A. No. 7610 of 2018 and I.A No. 7613 of 2018

6/25.08.2018

1. Heard counsel for the parties.
2. Counsel for the petitioner submits that I.A. no. 7610 of 2018 has been filed for amendment of the writ petition challenging the order dated 21.08.18 which has been passed by the Respondent no 1 during the pendency of this case refusing to grant consent to operate to the petitioner. The other I.A No. 7613 OF 2018 has been filed for grant of interim relief.
3. Counsel for the petitioner submits that said I.A. has been filed challenging the order passed by the Pollution Control Board whereby a decision has been taken to deny the grant of Consent to Operate to the petitioner and their application has been rejected and

a decision and the clearance given by the Ministry has not yet been withdrawn and therefore the entire matter is depending on the decision which has to be taken by the Ministry of Environment, Forest & Climate Change and he submits that the matter pending before the ministry of the Union of India and the order passed by the pollution control board are inter related, therefore petition for amendment may be allowed .

4. He further submits that pursuant to the order dated 16.07.2018, the aforesaid ministry of Union of India has filed a counter affidavit. Union of India has made specific statement that pursuant to the show cause dated 6.6.2012 issued to the petitioner, they are in a position to take final decision in the matter. The counsel submits that a date of hearing in the matter will be shortly fixed for hearing on the reply which has been filed by the petitioner.
5. Counsel for the petitioner submits that in view of the counter affidavit filed by the respondent-Union of India, it is apparent that ~~the~~ respondent-Union of India is willing to give hearing to the petitioner taking a final decision on the show cause issued to the petitioner as back as in the year 2012. Counsel further submits that along with the counter affidavit filed in which certain allegations have been made. He submits that the petitioner, without prejudice to his rights and contentions is intending and willing to file appropriate application before the respondent no. 3 i.e Ministry of Environment, Forest & Climate Change, Government of India, New Delhi, at the time of hearing of the show cause and/or within ten days from today for regularization of any irregularity which might have been committed by the petitioner in connection with the location of plant of the petitioner or in connection with the allegations made against the petitioner. He submits that appropriate order be passed indicating that show cause reply of the petitioner be considered together with the aforesaid application to be filed by the petitioner for regularization, to settle the entire dispute and the petitioner would know as to what is to be done

reason or the other, the decision on the same has not been taken. However they are likely to take an appropriate decision in the matter in a very short time, and they have to give a hearing to the petitioner and pass final order. He submits that so far as stand of the petitioner in connection with filing application for regularisation of the alleged irregularities etc. in connection with any deviation or any violation of the conditions of environmental clearance is concerned, they are free to take steps for the aforesaid purpose in accordance with law. He has referred to the circulate issued by Government of India, Ministry of Environment and Forests dated 22nd January 2010 which provides that

".....any shift in location after holding of public hearing will be deemed to be a new proposal and will be appraised afresh as per the procedure prescribed under EIA Notification, 2006 provided the respective Expert Appraisal recorded in the minutes and prior approval of Advisor SEIAA for Category 'A'/Category 'B' projects respectively is obtained for not holding the public hearing for the engaged location afresh."

7. Counsel appearing on behalf of the Pollution Control Board submits that the unit of the petitioner has not been situated on the same location for which approval of the Union Ministry was taken and accordingly the impugned order has been rightly passed. She also submits that the Unit of the petitioner is situated on forest land. However, she could not dispute the fact that the decision of the Pollution Control Board is directly dependent on the decision which is yet to be taken by the Ministry of Forest and Environment and Climate Change pursuant to aforesaid show cause notice issued in the year 2012.
8. After hearing counsel for the parties and after considering the materials on record this court finds that the issue involved in the order dated 21.08.18 which has been passed by the Respondent no 1 during the pendency of this case, refusing to grant consent to operate to the petitioner, has been co-related to the decision to be

No. 7610 of 2018 challenging the order dated 21.08.2018 passed by the State Pollution Control Board is hereby allowed.

9. Counsel for the petitioner is directed to file the amended writ petition and serve copies upon the respondents within a period of one week from today. The respondents may file their response to the amended writ petition within a period of two weeks thereafter.
10. So far as interim relief is concerned, this court finds that the order passed by the respondent-Jharkhand State Pollution Control Board dated 23.08.2018 appears to be directly dependent on the final decision which is yet to be taken by the Ministry of Environment, Forest & Climate Change on the show cause issued to the petitioner as back as in the year 2012. As per the submission made by the counsel appearing on behalf of Union of India, they are shortly going to take a final decision in the matter after hearing the petitioner. Accordingly the operation, implementation and execution of the order dated 23.08.2018 passed by Jharkhand State Pollution Control Board is hereby stayed till 27.09.2018 and the interim order dated 16.07.2018 is hereby extended till 27.09.2018.
11. So far as decision of the Ministry of Environment, Forest & Climate Change are concerned, considering the fact that the unit of the petitioner is running unit and large number of employees are working in this unit of the petitioner, this court consider it appropriate that the issue regarding the environmental clearance of the petitioner should be decided at the earliest.
12. It is further observed that it is open to the petitioner to approach the Union of India with their proposal/ application for regularization of the alleged violation, without prejudice to their rights (including right, title, interest, possession and nature of property of the petitioner) and advance submissions before the respondent authority of Union of India pursuant to the show cause notice issued to them dated 6.6.2012 and the appropriate authority may, if possible, simultaneously consider the aforesaid application of the petitioner for regularization along with the show cause reply of the

either of the parties by filing supplementary affidavit latest by 25.09.2018.

13.I.A. No. 7610 of 2018 and I.A No. 7613 OF 2018 are hereby disposed of.

14.It is made clear that this court has not gone into the merits of the claim of the petitioner and it will be open to the respondent no 3 to take decision as per law.

15.Post this case on 27.09.2018.

16.Let a copy of this order be handed over to the counsel for the parties.

Sd/-
(Anubha Rawat Choudhary,J.)

True Copy
Secretary/Sr.P.A./P.A.
27/09/2018

Binit



उपायुक्त-सह-जिला दण्डाधिकारी का कार्यालय, बोकारो।

(जिला राजस्व शाखा)

पत्रांक 2468/रा0.

प्रेषक,

उपायुक्त,
बोकारो।

सेवा में,

मेसर्स इलेक्ट्रोस्टील स्टील्स लिमिटेड,
बोकारो।

बोकारो, दिनांक 17/11/2018

विषय :- अवैध रूप से धारित गैरमजरूआ आम/खास भूमि की लीज बन्दोबस्ती के निमित्त भूमि के मूल्य का 80 प्रतिशत राशि सरकारी कोषागार में जमा करने के संबंध में।
प्रसंग :- राजस्व विभागीय पत्रांक- 4437 (5)/रा0, दिनांक 30.10.2018
महाशय,

उपर्युक्त विषयक इस कार्यालय का पत्रांक 2422/रा0, दिनांक 12.11.2018 के द्वारा अंचल अधिकारी, चास एवं चन्दनकियारी के प्रतिवेदनानुसार मेसर्स इलेक्ट्रोस्टील स्टील्स लिमिटेड के द्वारा अवैध रूप से धारित गैरमजरूआ आम/खास भूमि का विभागीय निदेशानुसार कम्पनी के पक्ष में लीज बन्दोबस्ती हेतु भूमि के मूल्य की गणना राजस्व विभाग के संकल्प संख्या- 48/रा0, दिनांक 03.01.2017 के आलोक में करते हुए प्रतिवेदन समर्पित किया गया था। भूमि का विवरणी निम्नवत है:-

अंचल चास -

3. गैरमजरूआ खास भूमि - 212.59 एकड़।
4. गैरमजरूआ आम भूमि - 1.10 एकड़।
कुल भूमि - 213.69 एकड़।

अंचल चन्दनकियारी -

2. गैरमजरूआ खास भूमि - 51.60 एकड़।
कुल भूमि - 51.60 एकड़।

अंचल अधिकारी, चास एवं चन्दनकियारी से प्राप्त गैरमजरूआ आम/खास भूमि का कुल- 265.29 एकड़ भूमि का अनुमानित मूल्य निर्धारण गणना तालिका (संलग्न) के अनुसार कुल- 347642826.23 (चौतीस करोड़ छिहत्तर लाख बयालिस हजार आठ सौ छब्बीस रूपये तेईस पैसा) रूपये मात्र का 80 प्रतिशत राशि- 278114261.00 (सताईस करोड़ एकासी लाख चौदह हजार दो सौ एकसठ) रूपये मात्र प्राप्ति शीर्ष- 0029-भू-राजस्व में चालान के माध्यम से जमा कर चालान की मूल प्रति अधोहस्ताक्षरी कार्यालय को अविलम्ब उपलब्ध कराया जाय, ताकि कम्पनी के पक्ष में उक्त भूमि का लीज हस्तांतरण की कार्रवाई की जा सके। आपके द्वारा दिनांक 16.11.2018 को एक लिखित पत्र देते हुए यह मांग किया गया कि चास अंचल में जो आम/खास भूमि का रकवा प्रतिवेदित है, वह 213.69 एकड़ न होकर 74.16 एकड़ ही है।

अपर समाहर्ता, बोकारो ने अपने कार्यालय पत्रांक 2429/रा0, दिनांक 16.11.2018 द्वारा अंचल अधिकारी, चास को पुनः रकवा एवं राशि की गणना का निदेश दिया। अंचल अधिकारी, चास ने अपने पत्रांक 2256, दिनांक 17.11.2018 द्वारा एक संशोधित प्रतिवेदन समर्पित किया गया, जो निम्नवत है:-

अंचल चास -

3. गैरमजरूआ खास भूमि - 73.06 एकड़।
4. गैरमजरूआ आम भूमि - 3.37 एकड़।
कुल भूमि - 76.43 एकड़।

अतः अंचल अधिकारी, चास द्वारा उपलब्ध कराये गये संशोधित प्रतिवेदन एवं अंचल अधिकारी, चन्दनकियारी द्वारा उपलब्ध कराये गये प्रतिवेदन के अनुसार पुनः राशि की गणना की गई है, जो निम्न प्रकार है:-

अंचल चास -

3. गैरमजरूआ खास भूमि - 73.06 एकड़।
 4. गैरमजरूआ आम भूमि - 3.37 एकड़।
- कुल भूमि - 76.43 एकड़।

अंचल चन्दनकियारी -

2. गैरमजरूआ खास भूमि - 51.60 एकड़।
- कुल भूमि - 51.60 एकड़।

अंचल अधिकारी, चास एवं चन्दनकियारी से प्राप्त अवैध रूप से धारित गैरमजरूआ आम/खास भूमि का कुल रकवा- 128.03 एकड़ भूमि का अनुमानित मूल्य निर्धारण गणना तालिका (संलग्न) के अनुसार कुल- 192777603.00 (उन्नीस करोड़ सताईस लाख सतहत्तर हजार छः सौ तीन) रूपये मात्र का 80 प्रतिशत राशि- 154222082.00 (पन्द्रह करोड़ बयालिस लाख बाईस हजार बिरासी) रूपय मात्र प्राप्ति शीर्ष- 0029-भू-राजस्व में चालान के माध्यम से जमा कर चालान की मूल प्रति अधोहस्ताक्षरी कार्यालय को अविलम्ब उपलब्ध कराया जाय, ताकि कम्पनी के पक्ष में उक्त भूमि का लीज हस्तांतरण की कार्रवाई की जा सके। यह गणना पूर्णतः औपबंधिक है। लीज बन्दोबस्ती (30 वर्ष हेतु) के समय भूमि के मूल्य गणना के अनुसार शेष राशि सरकारी कोषागार में जमा करना होगा। यह गणना इलेक्ट्रोस्टील के द्वारा अवैध रूप से धारित गैरमजरूआ आम/खास भूमि के संबंध में है। उक्त में इलेक्ट्रोस्टील के द्वारा वन भूमि/जंगल-झाड़ी की अधिग्रहित भूमि की गणना नहीं की गई है। गैरमजरूआ आम भूमि के संबंध में सरकार के निदेश के आलोक में निर्णय लिया जाएगा।

अनुलग्नक-यथोक्त।

विश्वासभाजन
18-11-18
उपायुक्त,
बोकारो।

यास अंचल अंतर्गत इलेक्ट्रोस्टील कंपनी के अधीन धारीत गैरमजुरवा आम/खास भूमि का लीज बन्दोबस्ती हेतु देय राशि का मूल्यांकन प्रतिवेदन-

क0 सं0	मौजा/थाना नं0	गैरमजुरवा आम/खास भूमि का रकबा	भूमि का मूल्य प्रति एकड(औद्योगिक) 01.11.2018 से लागू	भूमि का मूल्य	सलामी	लगान	शेष	अन्य(लगान एवं शेष का 29 गुणा)	कुल	कुल राशि का 80 प्रतिशत
1	2	3	4	5	6	7	8	9	10	11
1	भारगाबाघ / 83	71.92	725400.00	52170768.00	52170768.00	521707.68	391280.76	26476664.76	79560421.20	63648336.96
2	बुडीबिनोर / 81	2.56	734400.00	1880064.00	1880064.00	18800.64	14100.48	954132.48	2867097.60	2293678.08
3	बांधडीह / 79	1.54	725400.00	1117116.00	1117116.00	11171.16	8378.37	566936.37	1703601.90	1362881.52
4	धनडावर / 61	0.31	745500.00	231105.00	231105.00	2311.05	1733.29	117285.79	352435.13	281948.10
5	हुटुपाथर / 84	0.10	986100.00	98610.00	98610.00	986.10	739.58	50044.58	150380.25	120304.20
कुल योग :-		76.43	3916800.00	55497663.00	55497663.00	554976.63	416232.47	28165063.97	84633936.08	67707148.86

चन्दनकियारी अंचल अंतर्गत इलेक्ट्रोस्टील कंपनी के अधीन धारीत गैरमजुरवा आम/खास भूमि का लीज बन्दोबस्ती हेतु देय राशि का मूल्यांकन प्रतिवेदन-

क0 सं0	मौजा/थाना नं0	गैरमजुरवा आम/खास भूमि का रकबा	भूमि का मूल्य प्रति एकड(औद्योगिक) 01.11.2018 से लागू	भूमि का मूल्य	सलामी	लगान	शेष	अन्य(लगान एवं शेष का 29 गुणा)	कुल	कुल राशि का 80 प्रतिशत
1	2	3	4	5	6	7	8	9	10	11
1	सियालजोरी / 2	51.60	1374300.00	70913880.00	70913880.00	709138.80	531854.10	35988794.10	108143867.00	86514933.60


उपायुक्त,
बोकारो।

**E-CHALLAN**

Planning Cum Finance Dept, Government of Jharkhand

Receiving Dept: Revenue, Registration and Land Reforms Department
(Revenue and Land Reforms Division)

Valid Up To :-29/11/2018

Remitter's Copy

GRN:-1803219688

Date:- 20/11/2018 12:12:46

Receiving Office :- BKRLDR014-ADDITIONAL COLLECTOR, BOKARO-D.C.OFFICE,
BOKARO

District :- Bokaro

Treasury:- Bokaro

Year:-17/11/2018

to:- 16/11/2048

Head(0029)

Amount

₹

Head Details

002900107010103

86514933.60

परती भूमि की बिक्री से आगमन और भू-कर

Net Payable Amount:-

₹

86514933.60

Eight Crore Sixty Five Lakh Fourteen Thousand Nine Hundred Thirty Three Rupees And

Payee Detail

Identity Proof(TAN Number) - RCHE00250F

PAN No:-

AABCE6875H

Remitter Name:-

ELECTROSTEEL STEELS LIMITED

Address :-

ELECTROSTEEL STEELS LTD SIYALJORI, PO
JOGIDIH, DISTRICT, BOKARO, BOKARO, 828303
CHANDANKIYARI CIRCLE

Remarks :-

FOR USE IN RECEIVING BANK (GBSS)

CHEQUE/DD No :-

569740 DT 19.11.2018

Bank CIN No :-

Bank Name :- State Bank of India (Any CBS Branch)



Signature & Seal of Bank

**E-CHALLAN**

Planning Cum Finance Dept, Government of Jharkhand

Receiving Dept: Revenue, Registration and Land Reforms Department
(Revenue and Land Reforms Division)

Valid Up To :- 29/11/2018

Remitter's Copy

GRN:-1803219502

Date:- 20/11/2018 12:04:33

Receiving Office :- BKRLDR014-ADDITIONAL COLLECTOR, BOKARO-D.C.OFFICE,
BOKARO

District :- Bokaro

Treasury:- Bokaro

Year:-17/11/2018

to:- 16/11/2048

Head(0029)

Amount

₹

Head Details

002900107010101

परती भूमि की बिक्री से आगमन और भू-कर

67707148.86

Net Payable Amount:-

₹

67707148.86

Six Crore Seventy Seven Lakh Seven Thousand One Hundred Forty Eight Rupees And E

Payee Detail

Identity Proof(TAN Number) - RCHE00250F

PAN No:-

AABCE6875H

Remitter Name:-

ELECTROSTEEL STEELS LIMITED

Address :-

ELECTROSTEEL STEELS LTD SIYALJORI, PO
JOGIDIH, DISTRICT- BOKARO, BOKARO 828303
CHAS CIRCLE

Remarks :-

FOR USE IN RECEIVING BANK (GBSS)

CHEQUE/DD No :-

569739 DT 19.11.2018

Bank CIN No :-

Bank Name :- State Bank of India (Any CBS Branch)

08/11/2018



Signature & Seal of Bank

Chas Court Area Br.