

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

APPEAL NO.157 (THC)/2013

Society for Environmental Protection, Amaravati V/s Union of India & Ors.

**CORAM: HON'BLE MR JUSTICE V.R. KINGAONKAR, JUDICIAL MEMBER
HON'BLE DR. AJAY A. DESHPANDE, EXPERT MEMBER**

**Present: Applicant/ Appellant : None Appeared
Respondent No.1 : K.D.Ratnaparkhi Adv**

**Respondent No.2,4 : D.M. Gupte w/
Supriya Dangre Adv**

Respondent No.2 : S.G.Jagtap Adv

**Respondent No.5 : Chetan Sharma w/
Partha Pati, Adv**

Date and Remarks	Orders of the Tribunal
Item No.3 March 10, 2014 Order No.14	<p>We have heard Counsel for the parties. We desire to sort out the issue as to whether Thermal based Power Plant sought to be established in MIDC area can be exempted from process of Public Hearing.</p> <p>The affidavit of MoEF, communicate that if the project is within MIDC area, then Public Hearing/Consultation, is not required, because the State Authority gives permission for establishment of such industry/plant. We directed the learned Counsel for MoEF to seek better clarification of Regulation No.7 (iii) of EIA Notification, which requires clearance by "concerned Authority" about which now learned Counsel Mr Ratnaparkhi, has placed on record e-mail communication received from Dr M.Ramesh, Deputy Director of MoEF. E-mail communication shows that exemption from public hearing/consultation process under paragraph 7(i) (iii), Stage (3)(i)(b) of EIA Notification 2006, is only available to the project activities located within industrial estate or parts which have obtained prior EC under Notification of 2006, as provided under Item No.7 of the Scheduled of EIA Notificaiton.</p> <p>The above explanation appears to be inconsistent with earlier statement in the affidavit or maybe there is some discrepancy on account of certain ambiguity in the mind of concerned Authority. This aspect of the matter may have some larger ramification and is required to be clarified at the earliest. This is not necessary only for the present case, but would govern many other similar cases.</p> <p>Under the above circumstances, we direct that a responsible officer of MoEF, shall file additional affidavit along with clarification, in order to explain discrepancy/inconsistency in the stand taken the Ministry in this behalf. So also, a responsible officer shall be deputed to attend the Tribunal personally along with relevant file, in which such clarification is approved by the competent Authority.</p> <p>We make it clear that in case of failure of MoEF to file additional affidavit, prior to scheduled date of hearing, we will be constrained to take</p>

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coercive steps against the Deputy Director and particularly Dr M. Ramesh, whose e-mail communication is placed on record, to secure his presence along with relevant file. This order be communicated to the concerned officer and wing of MoEF by learned Counsel, Mr. Ratnaparkhi, without any delay.

By consent of learned Counsel for the parties **stand over to 21st April,, 2014.**

....., **JM**
(Justice V. R. Kingaonkar)

....., **EM**
(Dr.Ajay A. Deshpande)

