



Appeal No. 7 /2007 – NEAA

September 17, 2008

To

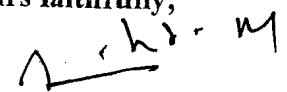
1. Shri Ritwick Dutta,
Advocate for Appellant
C-86, L.G.F., East of Kailash,
New Delhi – 110 065.
2. The Secretary to Government of India
Ministry of Environment & Forests,
C.G.O Complex, Lodi Road,
New Delhi – 110 003.
(Shri Om Prakash Dy. Director, MoEF)
3. The Member Secretary,
Maharashtra pollution Control Board
Kalpataru Point, 3rd and 4th Floor,
Sion Matunga Scheme Road No. 8,
Opp. Cine Planet Cinema, Near Sion Circle, Sion (East)
Mumbai – 400 022.
4. Shri U.A Rana, Advocate
M/s. Gagrat & Company, Supreme Court Advocates,
Plaza Cinema Building, Connaught Circus,
New Delhi – 110 001.

Sub: Appeal No. 7/ 2007 (Balachandra Bhikaji Nalawade Vs. Ministry of Environment and Forests & 2 Others)

Sir,

The order dated 12th September 2008 of the National Environment Appellate Authority in the above appeal is enclosed. Please acknowledge the receipt of the same.

Yours faithfully,


Court Master
NEAA



BEFORE THE NATIONAL ENVIRONMENT APPELLATE AUTHORITY
NEW DELHI

DATED THE 12TH SEPTEMBER, 2008

APPEAL NO. 7/2007

CORAM: HON'BLE MEMBER KAUSHLENDRA PRASAD
HON'BLE MEMBER DR. I.V.MANIVANNAN
HON'BLE MEMBER J.C. KALA

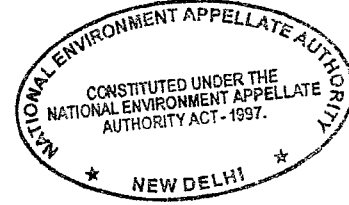
BETWEEN:

Balachandra Bhikaji Nalawade,
AT/PO-Ganpatipule,
Taluka/Dist-Ratnagiri, Maharashtra.

APPELLANT

AND :

1. Ministry of Environment and Forests,
Through the Secretary,
Paryavaran Bhawan,
C.G.O Complex, Lodhi Road,
New Delhi – 110003.
2. The Maharashtra Pollution Control Board,
Kalpataru Point, 3rd and 4th Floor,
Sion Matunga Scheme Road No. 8,
Opp. Cine Planet Cinema, Near Sion Circle Sion (East),
Mumbai –400 022.
3. M/s JSW Energy (Ratnagiri) Ltd.,
Ambassador Plaza, 1st Floor, Mal Naka,
Ratnagiri, Maharashtra –415 612.



RESPONDENTS

Counsel for Appellant (s) : Shri Ritwick Dutta, Advocate
Shri Rahul Choudhary, Advocate
Shri Priyabrata Satapathy, Advocate

Counsel for Respondent(s)
Respondent No. 1(MoEF) : Shri Om Praksh, Deputy Director, MoEF

Respondent No. 2 : Not Present
(Maharashtra Pollution Control Board)

Respondent No. 3 : Shri Raju Ramchandran, Senior Advocate
(M/s. JSW Energy (Ratnagiri) Ltd) Shri U.A Rana, Advocate
Shri Nitesh Jain, Advocate

ORDER

1. This is an appeal filed under section 11(1) of the National Environment Appellate Authority Act, 1997 against the Environment Clearance Order No. J-13012/52/2006-IA.II (T) dated 17th May, 2007 of Ministry of Environment and Forests (MoEF), Government of India, for setting up a 1200 MW (4x300 MW) coal based Thermal Power Plant at Jaigad, District Ratnagiri, Maharashtra by M/s. JSW Energy (Ratnagiri) Limited, Ambassador Plaza, 1st Floor, Mal Naka, Ratnagiri – 415 612, Maharashtra. The land requirement for the project is 350 ha and 11000 TPD of imported coal with sulphur content of 0.6% and ash content of upto 12% will be used. Total cost of the project is Rs.4500.00 crores. The Project has been considered by the MoEF in accordance with para 12 of the EIA Notification dated 14th September 2006 read with para 2.2.1 (I) (a) of the Circular No.J-11013/41/2006-IA.II (I) dated 13.10.2006.
2. The National Environment Appellate Authority (NEAA) registered the Appeal on 27.07.2007 and notices were issued to the concerned parties by listing case for hearing on the application of condonation delay. The said application was taken up for hearing on 30.08.2007, 27.09.2007 and 23.10.2007. After hearing the parties and perusing the documents produced before this Authority, the Authority condoned the delay in filing the Appeal. The Appeal was admitted for hearing on merit and the parties were heard on 28.11.2007, 18.12.2007, 22.01.2008, 13.02.2008, 18.03.2008, 02.04.2008, 03.04.2008 and finally on 17.07.2008.
3. **Grounds of Appeal.**
 - 3.1 The Appellant has challenged the impugned Environment Clearance Order by Respondent –1 on the following grounds:
 - (i) The Public Hearing conducted by Respondent –2 is defective, in view of the total disregard shown by the Respondents to the procedure prescribed



under Environment Impact Assessment (EIA) Notification 2006, while conducting the Public Hearing;

- (ii) The EIA report prepared by Respondent-3 is grossly inadequate for evaluating a highly polluting industry such as a coal based Thermal Power Plant; and
- (iii) The Project, on implementation, would devastate the local environment and livelihood security of millions of people and would almost wipe out the thriving agriculture and fisheries along the coast.

3.2 Again in his additional submission, after hearing the arguments of respondents, the appellant has highlighted non-availability of complete EIA report at designated places and some major changes in the revised EIA submitted to the Respondent 1 viz. (a) wrong geographical location (long./lat.) of the project site; (b) different figure of land requirement, distance to sea, plant species, coal use pattern, extent of green belt development etc; (c) change in wind rose direction, ground level concentration and (d) difference in management plan etc.

3.3 Based on the above grounds and citing the **Precautionary Principles** laid down by the Supreme Court of India, the Appellant has prayed for –

- (a) an immediate stay of operation of environmental clearance order;
- (b) verification of the ground situation should be verified by an independent committee / commission with respect to air and water pollution, impact on mango orchards, fisheries, agriculture etc.
- (c) action against the environmental consultants for providing wrong / false information; and
- (d) Quashing the Environment Clearance Order granted by Respondent -1.

4. The prayer of the Appellant for grant of stay against implementation of the impugned order was examined and all the parties to the Appeal were heard. The Authority considered all the relevant aspects of the prayer and declined to accept



the prayer for interim stay of the impugned order. The main appeal was taken up for consideration.

5. The following issues arise out of the grounds of Appeal and the supporting arguments of the Appellant.

(i) **Whether the Public Hearing conducted by Respondent -2 is defective and in total disregard of the procedure prescribed therefor?**

(ii) **Whether the EIA Report prepared by Respondent -3 is defective and inadequate for evaluating a highly polluting industry covered under this Appeal?**

and

(iii) **Whether the project on implementation, would adversely affect the environment wiping out agriculture and fisheries of the local area?**

These issues are taken up for detailed examination in succeeding paragraphs.

6. The **First Issue** revolves around the conduct of Public Hearing by Respondent -2.

6.1 The Appellant has argued that -

(a) the first Public hearing was held on 11th August 2007 at Ratnagiri Collector's office. However before this hearing neither EIA Report nor the summary was made available to the public. The representatives of the Company were not able to respond to the queries of the people and therefore the hearing was re-scheduled for 12th September 2007.

(b) In this second hearing only the summary of EIA was given allowing less than 20 days time as against 30 days time prescribed under EIA Notification of 1994.

(c) Further, only 10 people were allowed to raise queries and a complaint to this effect was also lodged by Dr Vivek Yaswant Bhide, Chairman,



Ratnagiri Jillah Jagruk Manch on behalf of the residents of Ratangiri Taluk.

- 6.2 The affidavit filed by MPCB before Hon'ble High Court, Bombay in Public Interest Litigation No. 131/2006, is relevant here. A perusal of that affidavit reveals that the Executive Summary of the Project Report was made available at the office of (a) District Collector –Ratnagiri (b) District Industries Centre, Ratnagiri (c) Zila Parishad Office Ratnagiri (d) Gram Panchayat, Jaigad, Nativadi, Tal & Dist. Ratnagiri (e) Regional office, MPCB, Kolhapur (f) MPCB – head office (g) Environment Department, GOM, Mantralaya, Mumbai (h) Sub-Regional Officer, MPCB, Collector Office Compound, Ratnagiri for perusal of general public.

It was specifically mentioned that the concerned person will be provided access to that summary during office hours at these places. Secondly, it is seen that the Public Hearing held on 11.08.2006 was adjourned, as the participants wanted the proceedings to be conducted in Marathi and not in English. The adjourned Public Hearing was held on 12.09. 2006 at Jaigad, after publication of notice in local newspapers, Tarun Bharat and Ratnagiri Times on 24.08.2006. The demand of the Appellant for 30 days notice for adjourned meeting of Public Hearing does not hold any waters. Lastly the minutes of the Public Hearing held on 12.09.2006 reveal that adequate opportunities were provided for participants to air their views.

- 6.3 Respondent –3, the Project Proponent, contended that after the Public hearing held on 11.08.2006 (which was adjourned to 12.09.2006 due to objections raised by local public) certain minor discrepancies in EIA Report were removed and EIA Report was accordingly modified. The initial EIA Report and the final EIA report filed before the Ministry of Environment and Forest have no material difference and to this effect the Answering Respondent has itself filed a detailed Affidavit on 17.03.2008 pointing out the minor differences. Respondent-3 has further submitted that the procedure prescribed in para 7(III)(vii) of the Notification of



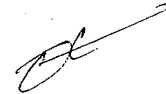
the MoEF of 14.09.2006 has been duly followed and no fault has occurred in the conduct of the Public Consultation.

- 6.4 As seen from above, the procedure prescribed for conduct of Public Hearing was followed by Respondent -2. For the Public Hearing initially fixed on 11.08.2006, adequate notice had been given and copies of the Executive Summary of the Project Report and draft EIA Report were made available at specified places. The demand for conduct of Public Hearing in Marathi laid to adjournment of that meeting to 12.09.2006. The Authority finds that the date for adjourned meeting was duly notified in two local Newspapers 20 days in advance. The demand of the Appellant for 30 days advance notice for the adjourned meeting is not covered by the provisions of the Notification. The Authority holds that the Public Hearing conducted by the Respondent - 2 cannot be considered as faulty. **The first issue is accordingly, answered in negative.**

7. The **Second Issue** relates to the alleged defective EIA Report prepared by Respondent -3 and inadequacy to assess the Environmental Impact of the Project.

- 7.1 The Appellant has alleged that EIA Report has several factual errors and critical omissions that make it ambiguous and unscientific and, it is far from being adequate enough to correctly assess the impact of the Project on the local environment:-

- (i) As regards its omissions, the Appellant has pointed out the omission about the rich costal biodiversity falling within the proposed Coastal Biosphere Reserve, laterite layer acting as a crucial catchment area for fresh water etc.,
- (ii) He has also referred to the inadequacies pointed out by Ratnagiri Zila Jagruk Manch such as the non-examination of alternate location(s), misleading data on dispersion of air emissions, wrong distance of TPP from the sea, inadequate chimney height, effect of open coal stock




yard(on elevated land) on soil and water pollution, incorrect assessment of water requirement for the Plant and its effect on ground water, high level of SO₂ and NO_x pollution and lack of control measures, fly ash emission and disposal, effects on low lying paddy fields etc;

- (iii) Complete EIA Report was not made available to the public before the Public Hearing was conducted, and the EIA Report submitted to MoEF for final decision is different from the one made available on the eve of Public Hearing, in respect of certain major aspects such as geographic location of Project, extent of land required for the Project, number of plants species, wind direction, sulphur content of the coal used, sea water analysis, difference in Management Plan etc; and
- (iv) The TPPs have been proposed in a massive scale along the Konkan coast with outputs many times more than requirement of the State, causing severe green house effect, presence of humidity, SO₂, NO₂ leading to acid rains adversely affecting livelihood security of millions, almost wiping out the thriving agriculture and fisheries including immediate and serious reduction in mango yields. A critique by Dr Arun of SACON, Coimbatore and the reports of two respectable groups of Horticulturists who have been awarded certificates of Good Agricultural practices by a reputed agency of Netherlands on the flaws of EIA and devastating impact of the Project on mangoes in the area have been cited in support of his argument .

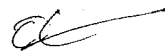
7.2 Respondent -3, the Project Proponent has vehemently opposed the contentions of the Appellant and submitted detailed clarification on the various allegations of the Appellant :-

- (i) Referring to the site selection, Respondent 3 has submitted that the existing site was identified for power project as an ideal one due to a) easy accessibility to road, b) availability of table top barren land, c) availability of sea water for



cooling, d) potential development of port for importing coal and exporting fly ash, e) proximity of load centres and f) no involvement of Rehabilitation and Resettlement issues etc. Despite the above, the respondent had furnished all the project related documents including the advantages, in the questionnaire along with application in prescribed format to MoEF's Thermal Power Plant Expert Committee in Nov 2006 for scrutiny. He added that the said site was purchased by them in 1992 and as the said site was found to be ideal in all aspects, search for an alternative site amounted to mere formality.

- (ii) Respondent-3 has added that **(a)** the existence of Mangroves in the vicinity was never denied by them. In response to a query raised by the MOEF vide its letter dated 12.02.2007, the Respondent -3, vide letter dated 27.02.2007 (prior to the grant of Environmental Clearance) replied to the effect that, "There are no coastal features such as Mangroves in the proposed (Project) area. It is clear from the satellite imagery that Mangroves are existent only at an aerial distance beyond 4 km from the proposed sea water intake point and about 8 km from the outfall point." A satellite imagery of the area, depicting 'Land use/Land use Map with village location' within 10 KM of the project was also furnished to the MoEF. Interpretation of the satellite imagery for land & land cover indicating 'Mangrove Sparse' and 'Mangrove Dense' occupying just 0.56 sq. km and 0.74 sq. km., constituting 0.18% and 0.24% of the impact zone (i.e. 10 km radius around the project area) was also made clear to the EAC/MoEF. Hence, there was no question of hiding facts from the EAC or MoEF, **(b)** the issue of mangroves was also included in the study undertaken by the Centre for Earth Science on eco - systems (CESS), which confirmed in the report at the page 5 that " No other ecologically sensitive and important areas have been identified in the project area or close to it." **(c)** as per the environmental data interpreted from Satellite Imageries and furnished to Respondent -3 by the Environmental Information Centre (EIC), New Delhi, which in turn was submitted to the MoEF (vide its letter dated 27.02.200), there are no Reserve/Protected forest patches, falling within the 50 km radius of the Project.



- (iii) Regarding the alleged discrepancies and differences between the draft EIA Report and the final EIA Report, the Respondent-3 has, in his additional submission, clarified that the requirement of Notification 2006 in para 7(III)(viii) has been fully met with, which reads as below:

“After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during the 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.”

He has submitted that there are no material differences between these Reports and the Final Report and the minor differences have been clarified in the final Report.

- 7.3 The Authority has examined the contentions of all the parties to the Appeal in the form of submissions and arguments during the final hearing. The technical aspects viz. emission of SO₂, NO_x and fly ash etc and necessary safeguards in this regard have been satisfactorily in EIA Report submitted by Respondent-3. The main concern, however, is about Ratnagiri mangoes and effect on fisheries. The Authority has perused the minutes of the 42nd meeting of Expert Committee for EIA of Thermal Power and Coal Mine Projects held on March 12-14, 2007. The Authority has noted the following extract of report from Konkan Krishi Vidyapeeth.

“ Based on the impact assessment studies conducted by the EQMS India Ltd., New Delhi and prediction level of pollutants mentioned by Maharashtra Pollution Control Board and Central Pollution Control Board, New Delhi, it appears that the activities to be undertaken by JSWERL for power generation at Jaigad are not likely to affect horticultural plantations and mango plantation in particular as well

as marine life significantly provided JSWERL strictly maintains its adherence to its commitments made for preventing environmental pollution from time to time in long run. However, Alphonso mango being the choicest variety of mango and premium quality branded variety in national and international market is necessary to undertake detail study for a period of 4 years to evaluate impact. Similar type of research is also necessary for marine fisheries”.

The Authority therefore concludes that EIA Report has largely covered all the critical aspects of environmental impact of the Project on the local area. **The Second Issue is therefore answered in negative.**

8. The **Last Issue** taken up for consideration revolves around the impact of the Project on the local environment specially the agriculture and fisheries of the area.
 - 8.1 The Appellant has alleged that the Project along with the Projects coming up along with Konkan Coast would devastate the Environment and livelihood security of the people and would almost wipeout the thriving agriculture and fisheries along with coast. The release of huge amount of green house gas, direct heat radiation, fly ash particles etc. would contribute greatly to the local warming up and resultant change in the climate conditions. This change would result in serious reduction in the production capacity of mango orchards as well as the fisheries of the coastal area.
 - 8.2. The Project Proponent has categorically denied any devastating impact of the Project on the local environment as well as on livelihood of millions of people. He has cited the following points in his favour:
 - (i) The Regional Plan of Ratnagiri- Sindhudurg has nowhere rejected the idea of industrial development in the area. In fact, Chapter 10 nowhere stipulates that a TPP should not be established in the region. On the other hand, as the map prepared by the Ratnagiri - Sindhudurg Regional Planning Board clearly indicates, Jaigad and surrounding area has been earmarked for development as an industrial area.

- (ii) The Project does not violate Coastal Zone Regulation of the area vide Report of Centre for Earth Science Studies, Thiruvananthapuram, Kerala.
- (iii) Ecological survey of flora and fauna in the 10 km radius impact zone around the Project site was an integral part of the baseline studies associated with the EIA/EMP report preparation and was accomplished through both primary and secondary sources, as is the normal practice.
- (iv) The TPP cited by the Appellant uses indigenous coal with high-ash content and low-calorific value, whereas the subject TPP of the Respondent-3 is based on imported coal of ultra-low ash and high Calorific Value. Secondly, the generated ash from the subject Project, in normal operating conditions, is not stored at site in ash ponds, like conventional TPPs, but is collected in dry form and completely evacuated from the site and sent to the end-user. In emergencies also, the generated ash is disposed off through HCSD (High Concentration Slurry Disposal) system, instead of conventional slurry disposal system, thereby posing no hazard to human health.
- (v) Total SO₂ emission from the TPP, both from combustion of coal and fuel Oil would be 138.28 tpd. Maximum SO₂ emission from each stack was stated to be 811 g/s. Maximum Sulphur content in the feed coal being less than 0.6%, as stipulated by MoEF and the emission of SO₂ will be well within the limit of 118 tpd, stipulated by the MPCB. Proper dispersion of SO₂ will be achieved by adopting the stipulated stack height, as envisaged by the MoEF norms for SO₂ control. In addition, space of 20,000 sq m has been provided for future installation of FGD (Flue Gas Desulfurization) system, if so warranted. Further, the answering Respondent is committed to implement all the recommendations emerging from the impact studies being carried out by KKVD, to ensure amelioration of adverse impact, if any, on the nearby plantations and marine fisheries.
- (vi) As for SO₂ control, the most important stipulation is dispersion through a tall chimney. A tall stack is considered sufficient for minimising the deleterious

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effects of SO₂ emissions. MoEF Notification dated 31.12.1993 makes this very clear “for dispersal of SO₂, a minimum stack height limit is accordingly prescribed.”

- (vii) The total NO_x emission would be 103.8 tpd, but with Low-NO_x burners of 70% efficiency, the NO_x emissions would be 31.14 tpd from both the stacks, and 180.2 g/s from each stack. As a consequence, the maximum 24-hourly Ground Level Concentration of NO_x that may result from the subject Project would be only 2.72 ug/m³.
- (viii) As regards the alleged adverse impact on mango cultivation, the following studies and their findings would be relevant:

- (a) as per the information supplied by the State Horticulture Dept. and Satellite – 9, imagery interpreted by Environmental Information Center (EIC), mango plantations, which occupy only 7.42% of the area in the District of Ratnagiri, occupy a meagre 0.31% to 1.07% area within the immediate vicinity of the Project site, as evidenced from the table given below:

Location	Total Area (Ha)	Area Under Mango plantation (Ha)	% of area under Mango
Ratnagiri District	8,20,800	60,951	7.42
10 km radius study area	31,381	336	1.07
7 km radius study area	15,400	48	0.31

- (b) as per the ITRC paper quoted by the Appellant, there is ‘No injury’ to mango plants up to an exposure concentration of 2092 ug/m³ (i.e. 0.8 ppm) of SO₂, whereas the subject project is estimated to contribute only 13.6 ug/m³ to the Ground Level Concentration of SO₂,



- (c) with specific reference to the Project at Jaigad, the ongoing 4 year-long study by the Konkan Krishi Vidyapeeth, Dapoli, (KKVD) commissioned by the Respondent-3 at a cost of Rs 2.5 Crs and being monitored by the District Collector, would determine actual impact on the mango and cashew plantations. Respondent-3 stands committed to implement all the recommendations arising out of the study, in order to ameliorate adverse impact, if any, of the Project;
- (d) Prior to the grant of Environmental Clearance itself, Respondent-3 had voluntarily approached KKVD to conduct the impact studies, and in accordance with the Agreement entered thereafter with it, the studies are currently in progress; and
- (e) the KKVD & COF are required to establish the baseline conditions, in and around the Project site and commence the study by Aug 2008 about one year period prior to the commissioning of the first 300 MW unit of the Project in Sept – Oct 2009.
- (ix) It is incorrect to say that EQMS has no data on pollution levels in Ratnagiri. As a matter of fact, EQMS, a Consultant empanelled by MPCB has primary data, based on AAQ monitoring conducted at various locations, in and around the Project site, as is the case with all EIA/EMP studies for any developmental project. Assimilative capacity of any location, as estimated by Ventilation Coefficient, is not a directly measurable entity but is a derived parameter. However, it only gives a rough idea as the assimilation potential also depends on wet and dry deposition phenomena as also adsorption and absorption capacity of land mass, water and vegetation.
- (x) The Impact of TPP on climate change is universal phenomena and there is nothing specific to the subject project alone.

Respondent-3 added that in the State of Maharashtra the gap between the Demand and Supply of Power has exceeded about 4000 MW during peak hours and, as consequence, the State of Maharashtra is presently subjected to a planned load



shedding. In order to overcome the situation of shortage of Power, the State Government has come out with a policy to promote investment in power sector in the State. In pursuance of this policy, the Respondent-3 has applied for setting up of this power project with a huge investment and he has complied with all the environmental safeguards prescribed by the MPCB and the MoEF and further committed to implement the environmental safeguards for the conservation of the ecology of the areas in and around the project area.

8.3 Respondent 1, the MoEF has vigorously denied the allegations of the Appellant and argued as follows :-

- (i) the environmental clearance was granted based on the consideration of EIA report by the Expert Appraisal Committee (EAC) and its recommendations to the Ministry and the minutes of the Public Hearing dated 12.09.2006 by the Maharashtra Pollution Control Board(MPCB);
- (ii) the proposed site is reported to be an identified site (17° 17' , 30"- 73° ,13' 00") for locating the power plant and no alternate site was considered by the Project Proponent;
- (iii) the base line data of AAQ provided in EIA report had been examined by the EAC and requisite clarification obtained before recommending the Project. The distance between the plant and sea has been given as more than 500 metres;
- (iv) the emission of SO₂ and NO_x in the presence of humid atmosphere causing acid rains was considered by the EAC based on the data provided by the Project authorities and then only the project was recommended by the said Committee.
- (v) the issues raised in Ministry has taken into consideration the recommendations made by Dr B S Kokan Krishi Vidyapeeth Dapoli on environmental Impact of proposed Project on horticulture plantations and fisheries. EAC has also taken note of this report for making their recommendations.



- (vi) the letter of Ratnagiri Zila Jagruk Manch was received in the Ministry and issues raised therein were considered by the EAC and after satisfying itself the Committee has recommended the Project.
- (vii) the coal to be used will have sulphur content not exceeding 0.6% and the height of Chimney is as per CPCB norms i.e. 220 m for less than 500 MW unit capacities. Ministry has stipulated condition regarding 100% fly ash utilization by the Project Authorities from Day One of the commissioning of the plant; and
- (viii) the main requirement of water for the Project is to be met from sea water, with only 2% of the requirement from surface water. Conditions have been stipulated for controlling air and water pollution around the area. The steps relating to air pollution include installation of high efficiency ESP, tall stack with exit velocity of 21m/s and space provision for FGD, if needed.

Respondent -1 has thus defended issue of Environmental Clearance Order in favour of Respondent -3 for the Project.

- 8.4 The Authority have considered the claims and counterclaims made by the concerned parties to the Appeal. The Expert Advisory Committee has seen the presentation made by R3 and considered the recommendations of Konkan Krishi Vidyapeeth and recommended the Project for clearance with certain conditions which interalia, includes detailed study regarding the impact on alphonso mango and fisheries for enforcing additional safeguard measures as may be required. The EIA and the Expert Appraisal Committee have taken due diligence in providing necessary safeguards against environmental degradation, with currently available knowledge and made provisions for studies for prescribing additional measures, if necessary. Thus it is clear that the Expert Appraisal Committee has taken a conscious decision of recommending the project for clearance and did not intend to hold it until the study is completed. The Authority agrees with the views of the Committee in larger interest of balancing the conservation and development needs of the society and that the Respondent -3 has taken all the required precautions to protect the local environment. **The Third Issue is also answered in negative.**



9. **FINDINGS AND VERDICT**

9.1 In fine, all the three Issues raised by the Appellant are answered in negative.

9.2 Respondent-1 has relied upon critical examination made by the EAC of the EIA Report prepared by Respondent -3 and argued and that the Project would not adversely affect the local environment including the productivity of mango orchards and coastal fisheries as well as livelihood security of the local people. Further very strict conditions have been imposed on the Project Proponent for necessary compliance during the operation of the Project so as to protect the local people and environment from the possible adverse impact. Respondent -3 the Project Proponent has raised the issue of acute power shortage prevailing the State of Maharashtra and tried to justify the Project form the angle of infrastructural development of the State. Citing the Precautionary Principles laid down by Hon'ble Supreme Court the Appellant has raised anxiety over the possible impact of Project on the local environment, on production of choicest variety of mango ie. Alphonso and Costal Fisheries of the Kokan Region. Examining all these arguments, the Authority finds that that Respondent-1 (MoEF) have weighed the pros -cons of the arguments of the both the sides and decided to issue environmental Clearance Order in favour of the Project. Keeping in view the imperative need for urgent action on the part of the State Government to fill up the widening gap between the demand and supply in Power Sector and various stringent conditions imposed by MoEF as part of their order, so as to protect the local environment including agriculture horticulture and fisheries and livelihood security of the local people, the Authority upholds the orders of the MoEF granting Environment Clearance for the coal base Thermal Power Plant at Jaigad, Maharashtra State. **The Appeal is therefore, dismissed as devoid of merits.**

[Handwritten signature]
(J.C. Kala)
Member

[Handwritten signature]
(Dr. I.V. Manivannan)
Member

[Handwritten signature]
(Kaushlendra Prasad)
Member

*-1 certified to be
the copy*

Court Master
National Environment Appellate Authority
Trikoot-I 2nd Floor, Bhikaji Cama Place
New Delhi-110066

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17/9/2008

