

## **Academy for Mountain Environics v. State of Orissa and Others.**

Vedanta Alumina Limited, a subsidiary of M/s Sterlite Industries (India) Ltd proposed a one million tonne per annum capacity alumina refinery project together with a 75 MW coal based captive power plant. The bauxite for the refinery was to be sourced from the Niyamgiri Hills. Interestingly, the Alumina refinery was granted environmental clearance without linking the project with the Mining.

M/s Sterlite (the parent company of M/s Vedanta) applied for environmental clearance on 19.03. 2003 to the MoEF. In the application, Vedanta stated that no forestland is involved and that within the radius of 10 kms there is no reserve forest. M/s Vedanta thereafter on 16.08.2004 applied for use of 58.943 ha forestland consisting of 28.943 ha village forest and 30 ha reserve forest. However, the application for environmental clearance was not modified and the same was processed on the premise that no forestland is involved.

Further, though Mining at Lanjigarh was integral part of the Alumina refinery project, Vedanta could not have started the work on the Alumina refinery without getting the clearance for mining also. As per the guidelines of the MoEF - *“for projects requiring clearance from forest as well as environment angles, separate communications of sanction will be issued, and the project would be deemed to be cleared only after clearance from both angles...”*

M/s Vedanta requested the MoEF to grant environmental clearance for the Alumina Refinery Plant stating that it would take three years to construct the refinery plant whereas mines can be opened up in one year. In its application for seeking environmental clearance for the project dated 19.3.2003 it is stated that “nil” forestland is required for the alumina refinery and that within a radius of 10 km of the project site there is no reserve forest, which is contrary to the facts on record. Subsequently, on 16.8.2004 a proposal for allowing the use of 58.943 ha forestland, consisting of 28.943 acre of “Gramya Jungle Jogya” land and 30 ha of reserve forest, was moved under the FC Act through the State Government to the MoEF. Out of the above, 26.123 ha forestland was required for the refinery, 25.82 ha for the mine access road and the balance 7.0 ha was required for the construction of the conveyor belt for the transportation of the mineral from the mine site to the plant.

The MoEF gives environmental clearance for Alumina Refinery Project by delinking it with mining project. In the environmental clearance it is stated that no forestland is involved, even though the application under the Forest Conservation Act was still pending.

As per para 4.4 of the guidelines laid down by the MoEF *“Some projects involve use of forest land as well as non-forest land. State Governments / Project Authorities some times start work on non-forest lands in anticipation of the approval of the Central Government for release of the forest lands required for the projects. Though the provisions of the Act may not have technically been violated by starting of work on non-forest lands, expenditure incurred on works on non-forest lands may prove to be infructuous if diversion of forest land involved is not approved. It has, therefore, been*

*decided that if a project involves forest as well as non-forest land, work should not be started on non-forest land till approval of the Central Government for release of forest land under the Act has been given”*

But Vedanta started the work on Alumina Refinery in blatant violation of this provision. Accordingly applicant with the legal support of LIFE has filed an Application before the Central Empowered Committee.

On the 21<sup>st</sup> of September 2005 the Central Empowered Committee gave its recommendations to the Hon’ble Supreme Court of India. Accordingly the CEC was of the opinion that that the Hon’ble court should consider revoking the environmental clearance dated 29/09/04 granted by the MoEF for setting up of the Alumina Refinery Plant by M/s Vedanta and directing them to stop further work on the project.