

**BEFORE THE NATIONAL ENVIRONMENT APPELLATE AUTHORITY
NEW DELHI**

DATED 19TH APRIL, 2010

**PRESENT:
HON'BLE MEMBER J.C. KALA**

APPEAL 28 OF 2009

BETWEEN:

1. Balakrishna S. Pai
S/o. House No. 461, M.G Road, Karwar,
Uttar Kannada District,
Karnataka
2. Krishnanand S/o Datta Naik,
Aged about 63 Years,
R/o Hankon, Taluka Karwar,
Karnataka – 581 301

APPELLANTS

A N D :

1. Ministry of Environment and Forests,
Through the Secretary, Government of India,
Paryavaran Bhawan, C.G.O Complex,
Lodhi Road, New Delhi – 110 003.
2. Karnataka State Pollution Control Board
Through the Member Secretary,
49, Parisara Bhavan, 4th & 5th Floor,
Church Street, Bangalore – 560 001.
3. Government of Goa
Through the Chief Secretary,
State Secretariat, Panaji,
Goa
4. M/s. Ind Bharat Power (Karwar) Limited,
Plot No. 30A, Road No.1, Film Nagar,
Jubilee Hills, Hyderabad – 500 033.

RESPONDENTS



Counsel for Appellant : Shri Ritwick Dutta, Advocate
Shri Rahul Choudhary, Advocate

Counsel for Respondents :

Respondent No. 1 (MoEF) : Not Present

Respondent No. 2
(KSPCB) : Not Present

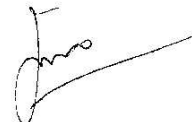
Respondent No. 3
(Government of Goa) : Not Present

Respondent -4 : Shri A.N Vasu Rao, Executive Director,
(M/s. Ind Bharat Power (Karwar) Ltd. M/s. Ind Barath Power (Karwar) Ltd.,

ORDER

This is an appeal preferred under section 11(1) of the National Environment Appellate Authority Act, 1997 against order no. J-13011/58/2008-IA II (T) dated 3rd June, 2009 of Respondent-1 (Ministry of Environment and Forests) conveying 'Environmental Clearance' for setting up of a 450 MW (3x150MW) Coal based TPP at Village Hankon, Karwar Taluk, Uttar Kannada District in favour of M/s. Ind Barath Power (Karwar) Ltd., with a prayer to quash the Environmental Clearance dated 3rd June, 2009.

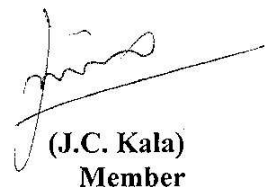
2. The said Appeal was preferred on 30.06.2009 before the National Environment Appellate Authority (NEAA). The Appeal was registered and listed for hearing on admission on 10.08.2009. Upon hearing the parties to the Appeal on 25.08.2009, the Authority ordered to hold the Environmental Clearance granted to M/s. Ind-Barath Power (Karwar) Ltd., in abeyance and maintain the status-quo till the next date of hearing. The case was listed for hearing on merit on 29.09.2009, 01.12.2009, 28.01.2010, 17.02.2010, 01.04.2010 and finally on 19.04.2010.



3. Counsel for the Appellants argued the matter indicating various reasons for quashing the Environmental Clearance granted to above Project. The most important reason being proximity of the project site from the Cotigao Wildlife Sanctuary. Respondent-4 (M/s. Ind Barath Power Ltd), accepting this contention has agreed to shift the project and wrote to this effect to the Ministry of Environment and Forests (MoEF) vide their letter dated 1st January, 2010. Respondent-4 also requested this Authority to allow them to shift the Project material. The Authority granted necessary permission vide its order of 28th January, 2010 and 19th February, 2010. However, before taking a decision on Environmental Clearance, this Authority wanted to hear the views of Environmental Clearance issuing Authority viz. MoEF.

4. The Ministry on 16th April, 2010 submitted an additional affidavit and accepted the fact that they have granted Environment Clearance to the Project without considering the distance between Cotigao Wildlife Sanctuary and they have decided to issue letter of cancellation of Environmental Clearance.

5. In view of the above, the Authority feels that the Environmental Clearance granted by Respondent-1 (Ministry of Environment and Forests) vide letter no. J-13011/58/2008-IA II (T) dated 3rd June, 2009 for setting up of a 450 MW (3x150MW) Coal based TPP at Village Hankon, Karwar Taluk, Uttar Kannada District in favour of M/s. Ind Barath Power (Karwar) Ltd., be quashed and therefore this Authority quashes the Environmental Clearance dated 3rd June, 2009. **The Appeal is disposed off accordingly.**


(J.C. Kala)
Member