

**BEFORE THE NATIONAL ENVIRONMENT APPELLATE AUTHORITY  
M I W DELHI**

**DATED 30<sup>TH</sup> AUGUST, 2010**

**PRESENT:**

**HON'BLE MEMBER SHRI J.C. KALA**

**APPEAL NO. 1612009**

**In the matter of:**

Mandapaka Narsinga Rao  
Vallevalasa Village,  
Kotabommali R.S (Post)  
District : Srikakulam  
Pin: 532 195, Andhra Pradesh

**APPELLANT**

**versus**

1. Union of India  
Through the Secretary,  
Ministry of Environment and Forsts.  
Paryavaran Bhawan,  
C.G.O Complex, Lodhi Road,  
New Delhi – 110 003
2. Andhra Pradesh Pollution Control Board  
Through the Member Secretary,  
**A-3, Industrial Eastate,**  
Sananth Nagar, Hyderabad – 18.
3. East Coast Energy Pvt. Ltd.,  
Through The Managing Director,  
1<sup>st</sup> Floor, B-Block, Plot No.14,  
Factory Road adjoining to Safdarjung Hospital,  
Ring Road, New Delhi – 110 016.
4. Commissioner,  
Department of Land Revenue,  
Government of Andhra Pradesh,  
Hyderabad, Andhra Pradesh.

**RESPONDENTs**

**APPEAL NO. 1712009**

**In the matter of:**

1. K. Mrutyumjaya Rao  
S/o Late Satyanarayana Rao,  
R/o 10-35-14311, W D A Layout, Bank Colony,  
Bhimunipatnam, Visakhapatnam District.
2. T. Pathanjali Shastry  
S/o T.K Tiruthulu,  
President of Environment Centre,  
Dr.No. 86-4-1611, Vadrarevu Nagar,  
Rajahmundry- 533 103,  
East Godavari District, A.P
3. K Srinivas Kumar,  
S/o. Laxmi Narasimha Rao,  
R/o 10-35-14311, W D A Layout, Bank Colony,  
Bhimunipatnam, Visakhapatnam District

**APPELLENTS**

**AND :**

1. Ministry of Environment and Forests,  
Represented by its Secretary to Govt. of India  
Paryavaran Bhawan, C.G.O Complex,  
Lodhi Road, New Delhi – 110 003
2. Government of Andhra Pradesh,  
Represented by its Chief Secretary,  
A.P Secretariat, Hyderabad – 500 022.
3. Department of Environment & Forests.  
Government of A.P,  
Represented by its Special Chief Secretary to Govt. of A.P  
A.P Secretariat, Hyderabad – 500 022.
4. Andhra Pradesh Pollution Control Board  
Represented by its Member Secretary,  
Parayavaran Bhavan, A-3, Industrial Estate.  
Sananth Nagar, Hyderabad – 18.
5. A.P Industrial Infrastructure Corporation Ltd.

Represented by its Managing Director and Vice Chairman,  
Parisrama Bhavan, Hyderguda, Fateh Maidan Road,  
Hyderabad

6. Ms. East Coast Energy Pvt. Ltd.,  
Represented by its Managing Director.  
1<sup>st</sup> Floor, B-Block, Plot No.14,  
Factory Road adjoining to Safdarjung Hospital,  
Ring Road, New Delhi – 110 016.

RESPONDENTS

**APPEAL NO. 32 OF 2009**

**In the matter of:**

Dr. E.A.S Sarma  
14-40-411, Gokhale Road,  
Maharanipeta,  
Visakhapatnam – 530 002

... APPELLANT

**AND:**

1. Ministry of Environment and Forest:  
Through the Secretary, Government of India,  
Parayavarana Bhawan, C.G.O Complex,  
Lodhi Road, New Delhi – 110 003
2. Andhra Pradesh Pollution Control Board  
Parayavarana Bhavan, A-3, Industrial Estate,  
Sananth Nagar, Hyderabad – 18.
3. M/s. East Coast Energy Pvt. Ltd.,  
1<sup>st</sup> Floor, B-Block, Plot No.14,  
Factory Road adjoining to Safdarjung Hospital,  
Ring Road, New Delhi – 110 016.

RESPONDENTS

1. Appellant/s : Shri Ritwick Dutta, Advocate  
Shri Rahul Choudhary, Advocate  
Ms. Shibani Ghosh, Advocate
2. Representative of MoEF : Shri W.Bharat Singh,

Director, MoEF

3. Counsel for AP Pollution Control Board : Shri Swapnil Verma, Advocate for Shri Nikhil Nayyar. Adv.
4. Counsel for East Coast Energy Pvt. Ltd : Dr. A.M Singhvi, Sr. Adv. with Shri Pankaj Singh, Shri K.V Shiva Prasad, Advocate Shri Anish Patnaik, Advocate
5. Counsel for APIIC Ltd. Shri Rajagopala Rao,
6. Govt. of Andhra Pradesh (Deptt. E & F) Not Present

### ORDER

The above appeals were filed under section 11(1) of the National Environment Appellate Authority Act, 1997 by the above Appellants against order no. J-13011/36/2008-IA II (T) dated 9<sup>th</sup> April, 2009 of Respondent-1 (Ministry of Environment and Forests) conveying 'Environmental Clearance' for setting up of 2640 MW Bhavanapadu Thermal Power Project near Kakrapalli Village, Srikakulam District, Andhra Pradesh by M/s. East Coast Energy Private Ltd.. with a prayer to quash and set aside the Environmental Clearance.

2. The National Environment Appellate Authority (NEAA) registered the above Appeals as Appeal No. 16 of 12009, 1712009 and 3212009 and notices were issued to concerned parties by listing cases for hearing on admission. The Authority heard the parties on different dates as mentioned in the daily proceedings of the Authority and admitted the Appeals for hearing on merit. Accordingly, the above cases were taken up for hearing on merit on 11.08.2009, 17.08.2009, 25.08.2009, 22.10.2009, 13.11.2009, 12.01.2009, 02.03.2010, 18.03.2010, 03.05.2010, 11.05.2010 and finally on 06.06.2010. Authority also undertook site inspection during 29-30<sup>th</sup> June 2010 at the instance of the Appellants. Based on the points raised in the Appeals, documents filed by the parties to the Appeals, arguments made by the Learned Counsels for the Appellants, Appellants themselves and the Respondents, the Appeal is

considered in the succeeding paragraphs. The three appeals referred above are challenging the Environment Clearance order No.J-13011 36/2008-IA II (T), dated 9<sup>th</sup> April, 2009 issued by the Ministry of Environment and Forests in favor of M/s East Coast Energy Pvt. Ltd (ECEPL)., The grounds of appeals are common and therefore, at the instance of the Counsel for Appellants it is decided to deal with these appeals together.

### **3. GROUNDS OF APPEAL AND PRAYER :**

3.1 The appellants have preferred this appeal on the following grounds:-

- (i) The project is proposed to be located in the wetlands of Naupada swamps in Srikakulam District with host of aquatic fauna and flora like crabs and shrimps and mangrove and forms an important environmental sustainable livelihood and support system for the economy of several villages;
- (ii) It is within close proximity from Telineelapuram Pelicanery which gained global importance as a breeding ground for threatened spot-billed Pelicans and Painted Storks that through this place every year during November from places as far as Siberia and Europe. It has been accorded a status of Category A1 of Important Bird Area Site (IBAS) and poised to acquire status of "Biodiversity Heritage Site". The site is an important foraging ground and migratory path for the avifauna.
- (iii) defying the prohibitory environmental laws and coastal zone regulation, the company has gone ahead with land filling which will lead to flooding of neighborhood land of 20000 acres affecting the livelihood of around 10000 small and marginal peasants communities. However, the Ministry instead of taking penal action has asked the Project proponent to shift the site upland sufficiently away from eco-fragile marshy area.
- (iv) The fly-ash and toxicants generated by the plant will permanently damage the agriculture field and also water bodies including groundwater aquifers. The pollutants from power plant will pollute the marine organism, fisheries wealth and human beings and will

change the land use pattern and landscape causing an adverse impact on the ecology of the reason.

- (v) Objections raised by local community and common interest groups have been ignored by the Ministry.

**3.2** For the above reasons, the appellants have **prayed** for the following:-

- (i) Grant stay of operation of the Impugned Order till disposal of the appeal in the interest of justice ; and
- (ii) Quash the Impugned Order granting environment clearance on merit.

**4.** The main issue before the Authority is whether the proposed project is located in or affecting an Important Bird site or causing threat to ecosystem and affecting the livelihood of locals and is against the overall interest of people at large.

**5.** The above issue is taken up for detailed examination in succeeding paragraphs

**5.1** The appellants have cited the following points in support of their argument: -

- (i) The wetland is fragile ecosystem and is unique one. It is about 20 sq.km in area and has a wonderful and ecologically rare combination of landscape elements consisting of marshes, fresh water areas, creek and salt meadows with their own specific floral and faunal characteristics, said to be largest and pristine of this type in East Coast. Andhra Pradesh Forest Department prioritized Naupada swamps with Rank 1 status. The IPAS (Integrated Protective Areas System Development) study for Andhra Pradesh World Bank Forestry Project denotes Naupada Swamps and Lagoon and six other wetlands of diverse biological values like feeding areas for cranes, storks, cormorants and appeared to be important for networking the wetland PAs (Protective Areas),

- (ii) This wetland is a transitional **biome** between the land and the sea. Number of small streams drain into the swamp and it is also subject to tidal action through the creek. The creek discharges water into sea **during** floods. Water will be available for a period of six to seven months during monsoon **and** winter at the project site;
- (iii) The water body hosts a large **number** of aquatic fauna like crabs, shrimps, fish mollusk, turtles, Oliveridley and **Hawcks** bill, insects and more than 120 species of birds. It is a passage migrant place for birds **and** a migratory route. The water body is hardly four kilometers in radial distance from Telineelapuram pelicanery;
- (iv) Different species of vegetation **including** mangroves exist in this habitat. They are useful as shelter belt and a good productive area for fish and marine life;
- (v) Besides ecological values, this wetland also supports sustainable livelihood to the fishing villages and serves as an important water sources for all the adjoining paddy fields prior to Vamsadhara canals and even **now** also serves along with Vamsadhara canals. During dry season, some portion is utilized as a pasture land for sheep and also for pigs of surrounding villages. Women living in the adjoining villages collect grass and earn their livelihood by sale as thatching material. The women also collect shells from the area. A number of families depend on **salt** meadows; and
- (vi) The setting up of thermal plant is **bound** to cause irreparable damage to the region by destructing the habitats of various fauna; Changing land pattern and landscape causing adverse impact on the ecology of the region; damaging micro floral and faunal diversity leading to extinction of some of **the** species; depriving avian life in Telineelapuram of traditional feeding and nesting place,; causing adverse impact on human health specially on children and senior citizens. **and** causing permanent damage to the agriculture fields and various types of water bodies.

5.2. The Project Proponent (Respondent-5) has disputed the above contention of the Appellants and put forward the following points in support of his argument:.

- (i) The claim that the proposed site is fragile ecosystem and is unique one is absolutely a false statement as the authenticated map issued by NIO, Visakhapatnam is proof positive that the entire Project site is a mud land.
- (ii) The allegation that the "Project is about 20 sq.km. in an area and has a wonderful and ecologically rare combination of landscape elements consisting of marshes, fresh water areas, creek and salt meadows with their own specific floral and faunal characteristics said to be the largest and pristine of this type East Coast" is absolutely a wrong statement in view of the very fact that EIA Notification issued by the Government would mandate to conduct study of environment impact only in an area of 10 kms radius and more over the project site is not a part of 20.00 sq.km. as alleged and as such all the allegations are denied in toto. The other allegations that the "Forest Department has recognized the subject land as ecologically sensitive area" is also not correct and the letter issued by the Chief Conservator, Forest Department is proof that the subject lands are waste lands that belong to Government and as such the allegations are false and untrue.
- (iii) The allegations that the study for Andhra Pradesh World Bank Forestry Project denotes Naupada Swamps and Lagoon and six other wetlands of diverse biological values like feeding areas for cranes, storks, cormorants and appear to be important for networking the wetland Protective Areas, is irrelevant for the present case as the subject land is/was never a part of Naupada swamp nor it is ecologically sensitive area. Further, the allegation that the "wet land is a transitional biome between the land and the sea" is also untrue as the Proposed Site is situated more than 2.5 kms from the CRZ area of open sea as evidenced by a map issued by National Institute of Oceanography, as aforesaid.
- (iv) The other allegations to the effect that "number of streams drain water into the swamp which is also subject to tidal action through the creek, and creek discharges water into sea during floods and water will be available for a period of six to seven months during monsoon and winter at the Project", is absolutely a wrong statement. It is submitted that the water logging occurs during rainy season on account of improper drainage system and such fact cannot be used as trump card for alleging that the subject lands are swamp

lands. At any rate, Respondent-5, during public hearing undertook to construct proper drainage system in order to ~~bailout~~ drain water into the sea at its cost and ~~handover~~ the same to the Irrigation Department after its completion. It is submitted that the subject land is not a wet land nor a swamp land to sustain the allegations made and as such the Appellants are not entitled to ~~impose~~ irrelevant facts into the present case. In view of the said fact, all the allegations made to this effect are false and accordingly denied.

- (v) There is no migratory route in the subject lands. The Letter issued by the Principal Chief Conservator of Forests, Government of Andhra Pradesh bearing Letter No. 56010/2008-F-3, dated 3<sup>rd</sup> December, 2008, is a positive proof that there are no National Parks, Sanctuaries, Elephant/Tiger/Migratory path nor proposed within 10 kms radius of the proposed Project Site. In view of this fact, the allegations made are false and untrue.
- (vi) No mangroves exist in the Project Site under reference. The same is evidenced by the CRZ demarcation Report of NIO Vizag, wherein, it was confirmed that there were no mangroves in and around the Project site. It may not be out of place to mention that the Ministry while passing the order under challenge taken this aspect also into consideration.
- (vii) The land in question is a Government land and the Report of the Tahsildar, Santhabommali Mandal addressed to the District Collector, Srikakulam is a positive proof that the entire land covered by Project site is government Land. Further, as stated supra the water logging is due to bad drainage system and as such the allegations are denied. Further the allegations made in the same Para to the effect that during dry season some portion is utilized as a pasture land is irrelevant for the purpose of the present case. First of all, the lands are not fit for cultivation as certified by the Tahsildar, Santhabommali, as above, and as the allegations to that effect are not sustainable. Secondly, the inundation of lands occurs during rainy season on account of improper drainage system and the question of taking away the livelihood of fishermen does not arise. Further, "Jagannatha Inland Fishermen Cooperative Society" had welcomed the Project during the Public Hearing. If it is true that the proposed Project takes away the livelihood of large number of people, there would not have been overwhelming response

from the general Public during Public Hearing conducted on 23<sup>rd</sup> April, 2008 and as such, all the above allegations are false and untrue.

- (viii) The allegation about the adverse impact of pollutants of the power plant to the marine organism and to fishes and to humans is absolutely wrong in the light of technology being adopted by the Project Proponent while discharging the waste water into sea". This aspect was well considered by the Ministry while passing the order. In fact, Respondent-5 got the Marine Environment Impact studied by M/s. Indomer Coastal Hydraulics (P) Ltd., Chennai, and the study report concluded that;

*"there is no connection or coastline contamination when the warm return water is discharged at 750m distance from the sea line. The coast line of the Project region primarily consists of sandy beaches with the absence of sensitive areas like mangroves, coral reefs or Jish swamping ground within Jive Kilometers from Project Site. Thus, the return water discharged into Sea will have negligible impact on the marine environment"*

The allegation about construction activities before issuance of EC is also irrelevant for the purpose of the present case since the construction of drainage system (as promised during the Public Hearing) was carried out and the same was stopped much prior to the intervention of the Hon'ble High Court in W.P. No.27053 of 2008. Further, Respondent-5 commenced preliminary works like surveying and impart of training to the local people in order to fulfill the demands of general Public during the Public Hearing and as such allegations made to this effect are not tenable. As regards the penal action against Respondent-5, assuming without admitting it as fact, commencement of preliminary works like surveying and designing of drainage would not have any impact on the ecology and as such taking penal action against Project Proponent does not arise. It is in this context submitted that the Hon'ble High Court of Orissa in a case namely, "Centre of Environmental Law World Wide for Nature (WWF), India Vs. State of Orissa and Others" reported in AIR 1999 Orissa 15 while dealing the similar issue had held that "the

issue of taking penal action against the Project Proponent does not arise as long as such constructions if any carried out by him would not have any effect on the ecology".

- (ix) The minutes of 34<sup>th</sup> meeting of the Expert Appraisal Committee (EAC) were subsequently considered by the Ministry in its meeting held on 16<sup>th</sup> December, 2008 on the clarifications and documentary evidence produced by the Project Proponent as well as the Government of Andhra Pradesh. All the issues raised by the Sub-committee were satisfactorily clarified by Respondent-5.
- (x) The site under reference was never a wet land nor a part of Naupada swamp in Srikakulam District, Andhra Pradesh.
- (a) The letter issued by the Government of Andhra Pradesh, Environment, Forests, Science and Technology Department bearing No. 5477/CZMA/2007 dated 9<sup>th</sup> February, 2009 addressed to Secretary, MOEF, New Delhi would support this point

*“ The NIO report clearly indicates that the plant is located 3km on the landward side of the CRZ boundary of Tekkali creek. As per the approved Coastal Zone Management Plan of the area, the project site is not a part of Naupada Swamp and is not subjected to tidal action. Hence, the area is not classified as "Tidal Flat". However, seasonal flooding occurs during rainy season from the upper catchment area which is a peny-plane with narrow width between ghats and sea. The denuded hills and undulating terrain in the hinterland carry high sediment and deposits in the low lying areas ”*

- (b) The proposed site is a recognized area for conservation is also untrue, as seen from the letter dated 9<sup>th</sup> February, 2009 of Department of Environment & Forests, Science and Technology, Government of Andhra Pradesh.

*"The matter related to the Ecologically Sensitive Areas has been referred to the Principal Chief Conservator of Forests, Andhra Pradesh who has certified that there are no National Park::, Sanctuary, Elephant/Tiger Reserve/migratory path (existing as well as proposed) etc. within 10kms radius of the proposed project site. He has also certified that there are no Mangroves in the proposed project area and also as per the records of the Forest Department, the proposed area does not fall under unreserved/reserved Forest Land. It is confirmed that there are no notified Ecologically Sensitive Areas under the provisions of Wildlife (Protection) Act, 1972 in the vicinity of the proposed project site."*

Thus, the contention of the appellants regarding in-adequate EIA Report prepared for the project is baseless and contrary to the fact. In fact, the EIA Report is very comprehensive in coverage and has addressed all the aspects of environment impact of the project on the local area."

6. Hearing the long arguments of Counsels for Appellants and the Respondents, the Authority refreshed the main issue before it viz whether the proposed project is located in or affecting an Important Bird site or causing threat to ecosystem and affecting the livelihood of locals and is against the overall interests of people at large. This is discussed below.

6.1. In its meeting, the Expert Appraisal Committee (EAC), raising its concern over the ecology, directed the experts to visit the site. While the Wildlife Institute of India (WII) expert (a member of EAC) found this area of ecological importance located 2.5 Km away from Telineelapuram IBA, she suggested more realistic assessment of impacts to be done by competent agencies like BNHS and SACON. Overall the report of the experts was not favorable, yet the EAC, collectively, thought it fit to recommend the Project for clearance. It was therefore decided by the authority to summon the experts before it. Only one of the experts ( WII expert) appeared before the authority on the date of hearing when the Respondent -Ministry submitted that in view of Naupada swamp being an important bird area, the National Board for Wildlife in its meeting held on 16<sup>th</sup> September, 2009. has decided to conduct a site visit by Dr Asad Rehmani., a reputed ornithologist and conservation expert and Director Bombay Natural History

Society(BNHS) and Dr. Asha Rajvanshi of WII and their report would be considered in the next meeting of its Standing Committee and sought three months time.

6.2. The request of the Respondent Ministry was granted. But the Authority directed the Ministry to explain the reasons as to why the EC has not been kept in abeyance. In reply the Ministry stated that the site does not fall within Naupada Swamp as per approved Coastal Zone management Plan as confirmed by the Andhra Pradesh Environment & Forests, Science and Technology department vide their letter dated 9<sup>th</sup> February, 2009; that as per the affidavit of Chief secretary Government of Andhra Pradesh in WPMP no. 12234 of 2009 in Writ Petition No. 9360 of 2009 before the High Court of Andhra Pradesh, the aerial distance of the proposed site is 3.25 km. and that of Telineelapuram Bird Habitat is 3.8-4.0 Km. and that there are no conservation sites near the Project area; that as per the letter of Department of Environment & Forests, science and Technology, the area is not conducive for the visit and stay of large birds nor foraging ground for large size migratory birds such as Pelicans and Storks; that as per the report of Special Chief Secretary, Government of Andhra Pradesh, there are no National Parks/Sanctuary/Elephant/ Tiger reserve/ Migratory path etc. within 10 Km, of Project site nor the area falls under any reserve forest or eco-fragile zone etc.; that a sum of Rs 50 Lakhs has been set apart as corpus for the conservation of ecology involving BNHS and Andhra University and a conservation cell is to be set up to implement the activities; that the environment clearance provides for necessary safeguards and monitoring mechanism for the purpose ; that the work done so far by the conservation cell speaks of the intentions of the Project proponent.

In the light of above, the Authority did not find it necessary to keep the EC in abeyance.

6.3 Dr Rehmani, Director BNHS who was asked to depose before the Authority has stated that the land was, prima facie, an ecologically important wet land deserved to be declared as conservation reserve and should have not been cleared for the project. However, in view of *non reversibility* of some of the ecological impacts which had already occurred due to earth work, Project authorities will have to demonstrate utmost seriousness for reducing their ecological foot prints by ensuring strong and effective measures to reduce and remedy the impacts that could have prevented had the plant not been located here for development.

Respondents, however, pointed out certain loop holes in the written submission of Dr Rehmani. including his admission that he is not an expert on wetlands. The Authority, therefore, decided to undertake a site visit together with an expert from Ministry on 28-30<sup>th</sup> June, 2010.

Accordingly, the Authority accompanied by Dr S Kaul, an Internationally renowned expert on wetlands, visited the entire area, heard the local population including the Respondent and critically examined all the aspects raised by Appellants and the Respondent. Observations of the Authority are as follows

6.4 The site is located over 2.5 Km away from CRZ landward side. Even after leaving a stretch of 500 acres of land in southern portion thereby shifting the southern boundary of the facility by 1.35 Km, the remaining area (part of which already raised), was still found to be a marshy/ wetland except in places showing transitional character. Various reports in this regard including that of sub-committee of EAC were found to be incorrect. The Expert Appraisal Committee and in turn the MoEF has relied on these reports for granting Environment Clearance for the Project. Authority examined implications of the project (at the current stage) on the services being rendered by such wetlands to the society. As stated by the expert of BNHS and agreed to by Dr Kaul, elevation of site through excavation in several places by the Project Proponent, after the grant of EC nearly an year ago, has caused irreversible changes in the character of wetland. Its immediate implication would be flooding of agricultural fields during rains. Already, the Bhavanapadu road constructed a few years ago has aggravated this in the absence of proper culverts. Around 50 fishermen families would find insufficient catch and the extent of nursery site for fishes will get reduced. Elevated area (constituting a small proportion of total wetlands in the locality) will no longer be available as feeding ground for storks and cormorants. No significant effect on grass collection and grazing of livestock including pigs is foreseen due to this site. Indication of salt pans were not noticed on this site and were seen 2 Km away. Authority observed that progressively these wetlands have been converted for agricultural purpose and almost 10% in the locality has since been converted so far including the raised project site. Being ecologically important, there should be a total ban on further conversion.

However, the Authority in the midst of it witnessed a silver lining by way of de-silting of 3 streams running through the area over 14 Kms in length for draining the flood water in to sea by the Project Proponent. This is based on public demand during the Public Hearing and would to a large extent take care of flooding and inundation and consequential effects. However, periodical maintenance of these streams is important. Incursion of sea water to the agricultural lands through these drains, as apprehended, was found to be a remote possibility

6.5 At this stage, asking the Proporent to leave the site would serve no public interest. As against, it would result in setback to welfare activities already initiated by the Project Proponent at the instance of locals.

6.6 Representation against the project during site visit of Authority by a group of people mainly fishermen headed by an ex-MLA. was not found significant compared to the overwhelming support the project received during the Public hearing conducted on 23-04-2008 under the chairman ship of the District Collector, Srikakulam when the people welcoming the project requested for pollution control measures, safe discharge of waste water, employment to fishermen community, construction of aqua-culture ponds, training for the youth, adoption of local villages, development of infrastructure facilities, free power, drainage system in the area, opening an ITI for dropouts, proper roads and bridges in Kakarapalli village and regular meeting to monitor and review the promises made etc. And to this effect, Authority reviewed the initiatives under Corporate Social Responsibility and noted the following submission of the Respondent-Project Proponent during the hearing-

"Details of the various activities taken up by ECEPL in accordance with the commitment given during Public Hearing for the 2640 MW Bhavanapadu Thermal Power Project held on 23.04.2008.

Sl. No.	Issue raised during Public hearing	Action taken by ECEPL	Budget earmarked	Amount Spent till date (Rs.)
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- |    |   |  |              |              |
|----|---|--|--------------|--------------|
| 1. | Inundation of the neighboring villages      | As per the approval of Imgation Dept. G.O. AP diversion drain of about 14 KM of width ranging from 25 mtrs to 150 mtrs is formed. In addition to this the man made obstructions from the southern boundary of the project site upto Tekkali creek are removed and desilting is being done on regular basis.  | 66.61 Crores | 41.48 Crores |
| 2. | Employment Preference given to local people | <p>Preference is given to local people for employment. As on today more than 1250 people skilled and unskilled majority of locals which are employed through various contractors.</p> <p>During the peak corstmction period about 5000 skilled and unskilled people would be working in project site. Preference would he given to the locals as promised.</p> <p>During the operation phase of the project about 700 people would be required for operation and maintenance of the power plant. Eligible locals would be given preference. In addition about 100 people would be required towards security, house keeping etc., and preference would be given to the eligible locals.</p> |              |              |

3. <b>Training/Orientation programmes etc..</b>	ECEPL in tie up with National Academy of Construction (NAC) has trained about 79 local youth in constructional skills and these people secured jobs elsewhere. Such trainings would be conducted on regular basis.	As per note below	4.20 lakhs 1.0 lakhs 7.20 lakhs
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ECEPL is in tie up with Bhavishya Bharat Foundation which has trained 25 local unemployed youth for securing employment in paramilitary forces and defense etc., The first training was residential and for a period of 2 months is completed and the trained candidates are attending various interviews etc..

ECEPL through its CSR division is conducting regular career guidance, providing coaching for people appearing for competitive examinations etc giving training in spoken English, Computer literacy in the vicinity of the Project site.

4.	Infrastructure	ECEPL has adopted the schools in the immediate vicinity of the project site and carried out repairs/modification, of the schools provided drinking water and toilet facilities . ECEPL has strengthened the existing R&B road in Santhabommali village for a stretch of 2 KM and also provided storm water drains.	4.35 lakhs 69.00 lakhs
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|--|---|--|
| <b>5. Health</b>                         | ECEPL has organized and conducted over 35 medical camps in the vicinity of the Project site till date and this would be continued on regular basis. Three medical camps are being conducted in a month. | 17.90 lakhs  |
|  | An ambulance has been positioned at the Project site.   |  |
| <b>6. Assistance to local Fishermen</b>  | ECEPL has already committed to contribute Rs.1.10 Crores to the District Administration for welfare of the Inland Fishermen of Vadditandra Village.   | 1.10 Crores<br>(waiting for demand note from GoAP) |
| <b>7. Education</b>                      | ECEPL is distributing books and stationary in over 20 schools to over 1150 students in the vicinity of the Project site for the past two years and this would be continued.                             | 3.75 lakhs   |
|  | About 19 Tuition Centres are being set up in the vicinity of the Project site each tuition centre got about 80 students.  |  |
| <b>8. Beautification Teelineelapuram</b> | ECEPL has carried out beautification of Teelineelapuram bird nesting site and is regularly carrying out house keeping facility including maintenance watch and ward facility.                           | 2.75 lakhs   |

NOTE : As committed to MoEF, ECEPL has earmarked a budget of Rs.10.0 Crores towards CSR activities during construction phase of the Project and Rs.2.5 Crores annually towards maintenance of the same during the operation of the Project. This is in addition to the budget earmarked by ECEPL for providing the diversion drainage facility. In addition to the above ECEPL has earmarked the following budgets :

Rs.530.0 Crores towards Environmental Management of the Project.

Rs.31.0 Crores towards Environmental Monitoring during the construction of the Project.

Rs.50.0 lakhs per annum towards Conservation of Ecology of the vicinity of the Project site in accordance to the MoEF for the Project".

6.7 Carefully analyzing the pros and cons in the overall perspective, it is felt that, at this stage, an exercise of balancing 'development with conservation' is called for.

In order to strike the said balance and in the interest of justice and fair play, the Authority is inclined to agree with the views of Dr. Arsad Rahmani and Dr. Kaul that at this stage, all efforts should be made to contain the impact on ecology and on the people of area at the same time maximizing the fruits of development to the affected villages and the project be allowed to continue. The Authority has thus decided to proceed on these lines.

6.8 Environment Clearance of the Project is for 1995 acres of which 35 acres is outside in private land. About 875 acres is for the main plant, 100 acres for layout and roads, 250 acres for ash pond, 150 acres for green belt and 160 acres for jetty and conveyor belt (mostly in private lands).

To contain impact of project, the Proponent should leave 425 acres of the project area (lying near Kakrapalli village and on either side of the approach road and behind fire station) intact as wet land. Besides this, 8 acres proposed for temple tank should also be left as such. Project Proponent should reduce another 50 acres from various components abutting wet lands. Thus the total requirement within the allotted area is to be restricted to 1317 acres as against 1800 acres. This 1317 acres includes 150 acres of green belt for absorbing pollution and noise but excludes 160 acres of conveyor belt and accessory area

**6.9** Thus following further restrictions/conditions shall be adhered to-


1. No filling and raising of land beyond 1317 acres within wet lands of which 150 acres would be green belt .

2. No activity in identified 483 acres of land which includes 8 acres of proposed pond near temple.
3. Provision of continuous and appropriate employment to not less than 50 willing fishermen.
4. Inclusion of a representative of MoEF in conservation cell.
5. Setting up a committee with representative from Regional office of MoEF, State PCB and four representatives from the villages to monitor implementation of EC conditions and CSR commitments including maintenance of desilted streams

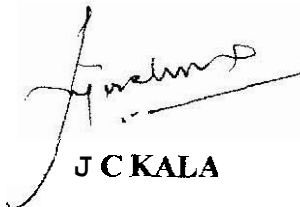
6.10 Authority is also convinced of environmental safeguards with regard to air and water, stipulated in the Clearance order as long as these are implemented faithfully.

7. **In view of above, Environment Clearance issued to the Project, with additional safeguards stipulated in par 6.1 above, is allowed to continue and the appeal is accordingly disposed with no cost.**

Further, the Authority directs Ministry of Environment and forests to undertake comprehensive survey of all wetlands in Srikakulam District for their ecological sensitiveness and pending this, no project should be cleared in such locations.



Court Master  
National Environment Appellate Authority  
T-2020th 2nd Floor Srikaj Gama Place  
New Delhi-110055



**J C KALA**  
**Member NEAA**