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State Environment Impact Assessment Authority
West Bengal
Minutes of SEIAA Meeting
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Subject:- 22nd meeting of SEIAA
Venue:- Conference Room of Environment Department, Prani Sampad Bhavan, 5th Floor, LB – Block, Sector – III, Salt Lake, Kolkata – 700106
From :- 23 Mar 2021
To :- 23 Mar 2021

(1) Temple Project: “Chaitanya Chandrodya Mandir and Indian Educational & Cultural Centre” (a.k.a Temple of Vedic Planetarium – TOVP) at Mayapur, Dist. – Nadia, PIN: 741313, West Bengal by **International Society of Krishna Consciousness (ISKCON)**.

Proposal No. :- SIA/WB/NCP/22935/2018, **File No. :** EN/T-II-1/045/2018, **Type-** ToR

INTRODUCTION

The project proponent made online application vide proposal no. SIA/WB/NCP/22935/2018 dated **04 Jun 2018** along with the copies of EIA/EMP seeking Terms of reference (TOR) under the provisions of the EIA Notification, 2006 for the above mentioned proposed project. The proposed project activity is listed at S.No. 8(a) Building and Construction projects under Category **B** of EIA Notification, 2006 and the proposal is appraised at state level.

PROJECT DETAILS

The project of **International Society of Krishna Consciousness (ISKCON)** located in as follows :

S. No.	State	District	Tehsil
(1.)	West Bengal	Nadia	Nabadwip

The salient features of the project submitted by the project proponent is available at Report under online proposal no. SIA/WB/NCP/22935/2018.

DELIBERATION IN SEIAA

SEIAA considered the recommendations of SEAC for issuance of ToR.

RECOMMENDATIONS OF SEIAA

ToR given by SEAC vide Memo No. 686-2N-66/2015(E) dated 05.12.2018 is hereby approved.

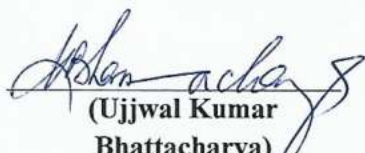
Conclusion

Recommended for ToR.


MISCELLANEOUS :

Preparation of Reasoned Order in pursuant to the Order of Hon'ble Calcutta High Court dated 24.02.2021 in WPA 589 of 2021 regarding the proposed project application by M/s. Sheela Foam Limited.

A copy of the reasoned order is enclosed as Annexure 1.


(Ujjwal Kumar
Bhattacharya)
Chairman


(Prof. Madhumita Roy)
Member


(K. Balamurugan)
Member Secretary

STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY

Pranisampad Bhawan, 5th floor, LB 2, Sector-III, Salt Lake, Kolkata – 700 106e-mail: environmentwb@gmail.comWeb Portal: www.environmentwb.gov.in

No. 562 / EN / T – II – 1/081/2019

Date: 23rd March, 2021

Reasoned order in pursuant to order of Hon'ble Calcutta High Court in the Circuit Bench, Jalpaiguri dated 24.02.2021 in WPA No. 589 of 2021 Sheela Foam Limited & Anr Vs State of West Bengal and Ors.

Background

The project proponent M/s. Sheela Foam Ltd. applied for Terms of Reference (ToR) vide SIA/WB/ IND2/42231/2019 under 5(f) category of EIA Notification, 2006 and its subsequent amendments on 17.10.2019. The application was made in the 'Expansion' category for *'proposed expansion of manufacturing of PU Foams'* of M/s Sheela Foam Ltd. at Kanchan Jangha Integrated Park, Siliguri, West Bengal for obtaining Terms of Reference (ToR). The project proponent withdrew the application on 03.12.2019 as they had no prior Environment Clearance (EC) and the proposal had to be dealt as a 'New' case. Approval was accorded for withdrawal of their application by the State Level Environment Impact Assessment Authority, West Bengal (SEIAA, W.B.).

Thereafter, the project proponent M/s. Sheela Foam Ltd. applied for ToR vide SIA/WB/IND2/48079/2019 under 5(f) category of EIA Notification, 2006 and its subsequent amendments on 10.12.2019. The application was made in the 'New' category for *'proposed expansion of manufacturing of PU Foams from 300 TPM to 600 TPM'* of M/s Sheela Foam Ltd. at Kanchan Jangha Integrated Park, Siliguri, West Bengal for obtaining ToR.

SEIAA, W.B. forwarded the proposal to SEAC for appraisal on 18.12.2019. SEAC requested the project proponent for presentation of their proposal on 18.01.2020 in order to appraise the same. During the presentation SEAC observed that the project is an existing one and operational for manufacturing of 300 TPM of PU Foam. SEAC vide its Memo No. 59-2N-75/2019(E) dated 03.02.2020 requested the project proponent to submit additional documents.

Subsequently, the project proponent submitted the documents to SEAC on 04.02.2020. SEAC in its 1st reconstituted committee meeting held on 24.07.2020 noted that the project proponent had already started operation of their existing plant for manufacture of 300 TPM of PU Foams without obtaining EC and referred to SEIAA, W.B. for taking appropriate action as it was a violation case.

SEIAA, W.B. in its 6th meeting of the reconstituted committee held on 15.09.2020 noted that the project proponent had started the operation of the existing plant without obtaining Environmental Clearance. Therefore, the industry committed violation of EIA, Notification 2006 and its amendments. SEIAA, W.B. decided to

reject the application for EC based on the recommendations made by SEAC and requested WBPCB to take appropriate action in this regard.

Thereafter, closure order of the industry was issued by WBPCB *vide* Memo No. 69-2N-75/2019(E) dated 10.02.2021.

The project proponent after closure of their industry filed a writ petition in the Hon'ble Calcutta High Court in the Circuit Bench at Jalpaiguri *vide* WPA No. 589 of 2021. The Hon'ble High Court *vide* Order dated 24.02.2021 quashed and set aside the order of SEIAA, W.B. dated 24.09.2020 and the closure order of WBPCB dated 10.02.2021. The Hon'ble High Court further directed SEIAA, W.B. to grant an opportunity of hearing to the petitioner upon notice of 7 days and thereafter pass a reasoned order within a period of 4 weeks from date. The reasoned order is required to be communicated to the petitioner within a week of passing of the same.

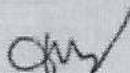
Pursuant to the said Order of the Hon'ble High Court, in the Circuit Bench at Jalpaiguri dated 24.02.2021, SEIAA, W.B. discussed the matter in its 20th meeting held on 08.03.2021 and scheduled a hearing of the project proponent on 18.03.2021. The project proponent *vide* its letter dated 16.03.2021 (received *via* email) expressed their inability to attend the hearing. SEIAA, W.B. further communicated to the project proponent *vide* its letter no. 516/EN/T-II-1/081/2019 dated 17.03.2021 to attend online hearing on 22.03.2021 in case they were not able to attend the hearing in person.

On 22.03.2021 a written representation was submitted by the project proponent to SEIAA, W. B.

Hearing

On 22.03.2021 the project proponent attended the hearing before the SEIAA, W.B. represented by Mr. Mahesh N Gopalasamudram, Chief Operating Officer, Mr. Vipul Kundalia, Advocate & Ms. Pallavi Rao, Advocate by video conferencing through Google meet at 3:00 p.m. In the hearing, the project proponent explained their written representation submitted on 22.03.2021 and stated the following:

- a) The project proponent has come to learn that the said project falls under Category A, sl. No.5(e) i.e. Petrochemical based processing (processes other than cracking & reformation and not covered under the complexes) of the Schedule of EIA Notification, 2006 and have submitted their application to MOEF &CC on 16.03.2021.
- b) To adjourn the passing of the Reasoned Order by SEIAA, W.B. until the decision of MOEF &CC.
- c) The project proponent also volunteered to give an undertaking to SEIAA, W.B. that they would not take up the issue of adherence to the timeline fixed by the Hon'ble Calcutta High Court if SEIAA, W.B. agrees to their request for not taking any action in next three weeks.



Documents considered by SEIAA

Sl. No.	Date	Activity / Documents	Annexure
1.	01.12.2014	Consent to Establish from WBPCB vide Memo No. 139/COE/OR/DIC/JAL : for manufacturing of Coir Mattress, PU Mattress, Spring Mattress, Industrial Grade, Sofa N Bed at Vill - Jhanjhupara, PO - Fatapukur, Rajganj, Dist - Jalpaiguri	A
2.	02.12.2014	An EC was issued vide No. 3006/EN/T-II-1/077/2011 for the integrated industrial township. In the EC it was mentioned that the township shall include only non-polluting industries , warehouses; retail, hotel and social infrastructure like school, educational institute, nursing home, health care centre etc.	B
3.	30.09.2015	Consent to Operate from WBPCB vide Memo No. C971/WPB/SRO/JAL/S.476-2015: for Mattress, Cushion etc. (25000 Kg/m.)	C
4.	25.01.2018	Consent to Establish from WBPCB vide Memo No. N172/WPB/SRO/NOC/Jal/S-685-2017(Sr_nc_o/17/0974) : for manufacture of (i) PU Foam Block - 300 MT/month, (ii) PU sheet / Cushion Rolls - 180 MT/month, (iii) PU cover mattress - 300 Pcs/month, (iv) Coir cover mattress - 7000 Pcs/month, (v) Spring Mattress - 300 Pcs/month, (vi) Sofa cum Bed / Bolster - 50 Pcs/month, (vii) PUF Pillow - 300 Pcs/month, (viii) PUF Pillow Moulded - 140 Pcs/month at Kanchan Jangha Integrated Hub, Vill - Jhanjhupara, PO - Fatapukur, PS - Rajganj, Dist - Jalpaiguri	D
5.	12.09.2018	Consent to Operate from WBPCB vide Memo No. C215/WPB/SRO/JAL/S-476-2015(Sr_co_o/15/0269)	E
6.	19.11.2019	Minutes of 67 th meeting of State Level Environment Impact Assessment Authority (SEIAA)	F
7.	03.12.2019	Withdrawal of application for proposal no. SIA/WB/IND2/42231/2019 made physically to SEIAA	G
8.	10.12.2019	Application for ToR for expansion made by the applicant to SEIAA through online portal	H

Sl. No.	Date	Activity / Documents	Annexure
		of MoEF&CC(PARIVESH)	
9.	10.12.2019	Pre-Feasibility report annexed with ToR application for expansion dated 10.12.2019	I
10.	13.01.2020	Acknowledgement through e_mail	J
11.	03.02.2020	Necessary clarification/information sought from SEAC	K
12.	15.06.2020	Withdrawal letter from WBPCB vide No. 07-WPB/SRO/Jal/S-476-2015 to withdraw Consent to Operate from WBPCB vide Memo No. C215/WPB/SRO/JAL/S-476-2015(Sr_co_o/15/0269)	L
13.	13.06.2019	Notification vide no. S.O. 1960(E) of MoEF&CC regarding Item 6(b)	M
14.	07.07.2020	Approval by SEIAA for withdrawal application for proposal no. SIA/WB/IND2/42231/2019	N
15.	24.09.2020	Rejection letter from SEIAA vide No. 1226/EN/T-II-1/081/2019	O
16.	10.02.2021	Closure Order by WBPCB vide Memo No. 69-2N-75/2019(E)	P
17.	24.02.2021	Copy of Order of Hon'ble Calcutta High Court dated 24.02.2021 in WPA 589 of 2021	Q
18.	08.03.2021	20 th meeting held and SEIAA scheduled a hearing of the project proponent on 18.03.2021	R
19.	16.03.2021	Letter of the project proponent expressing their inability to attend the meeting.	S
20.	17.03.2021	Letter issued by SEIAA to the project proponent for attending the hearing online on 22.03.2021	T
21.	21.03.2021	Written submission made by project proponent received on 22.03.2021	U
22.	22.03.2021	Hearing conducted through Google meet	V

Observations

- I. M/s. Sheela Foam Pvt. Ltd. had started operation within the township area before Environmental Clearance (EC) was issued to Kanchan Jangha Industrial Township on 02.12.2014. Meanwhile, the applicant status changed from M/s. Sheela Foam Pvt. Ltd. to M/s. Sheela Foam Ltd. The project proponent M/s. Sheela Foam Ltd. applied for ToR vide SIA/WB/IND2/42231/2019 under 5(f) category of EIA Notification, 2006 and its

subsequent amendments on 17.10.2019. The project proponent applied through PARIVESH portal for obtaining ToR in the 'Expansion' category for 'proposed expansion of manufacturing of PU Foams' by M/s Sheela Foam Ltd. The said online 'Expansion' proposal for ToR (SIA/WB/IND2/42231/2019) was withdrawn as for any online application for 'Expansion' in the portal of MoEF&CC (PARIVESH) uploading of earlier EC is a mandatory requirement. Therefore, any proposal under 'Expansion' category without earlier EC is invalid. When M/s. Sheela Foam Ltd. applied for ToR on 10.12.2019, it was already an existing manufacturing unit falling under 5(f) category operating without EC. The project proponent had to withdraw the application on 03.12.2019 as they had no prior EC and the proposal had to be dealt as a 'New' case. Approval was accorded for withdrawal of their application by SEIAA, W.B. subsequently based on their request.

From the above details, it can be inferred that the project proponent was already an existing manufacturing unit of PU Foams operating without EC and hence their application in the 'expansion' category could not be accepted in the MoEF&CC portal and subsequently they had to apply in the 'new' category.

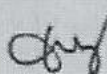
- II. From the portal of West Bengal Industrial Infrastructure Development Corporation (WBIIIDC), the reference of the above mentioned Industrial Township / park could not be found. As per the EIA Notification, 2006 as amended vide S.O. No 1533 in August 2015, 4th column of schedule no. 5(f) mentions that "synthetic organic chemical industry (i) located in a notified industrial area / estate (ii) small units as defined in column 5" should be considered as Category B projects.

The original EC issued for the integrated township vide No. 3006/EN/T-II-1/077/2011 dated 02.12.2014 was issued only for non-polluting industries. However, the said application made by M/s Sheela Foam Ltd. was for proposed expansion of manufacturing of PU Foams from 300 TPM to 600 TPM at Kanchan Jangha Integrated Park, Siliguri, West Bengal, is a highly polluting industry and falls under category 5(f) of the EIA Notification.

Hence, the original EC issued for the proposed integrated industrial township is not valid for the said project since the project involves polluting industry by manufacturing of PU Foams.

- III. As stated in the online application of the project proponent dated 10.12.2019, 'Toluene di isocyanate (TDI) is used as raw material which will be stored in isolated and dedicated iron tanks. There will be 2 nos. of tank of 30 MT capacity'. The tanks will be erected within the factory premises and the material will be used as a raw material for the manufacturing process.

Although the project proponent had used the term 'Isolated' in their application form, the present project is not a case of Isolated Storage of



Hazardous Chemicals as submitted by the project proponent before the Hon'ble High Court.

The said application was, therefore, rightly made under schedule 5(f) since 6(b) is neither relevant for the said project nor does it exists any longer.

- IV. The Consent to Establish and Consent to Operate are given by WBPCB under the provision of Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981. The projects falling under the schedule of EIA Notification, 2006 [issued under Environment (Protection) Act, 1986], have to take prior EC before starting their construction/activity. Since the Consent to Establish for manufacture of 300 TPM PU Foams was given on 25.01.2018, therefore, the project proponent was required to obtain the EC from SEIAA, W.B. prior to obtaining Consent to Establish and Consent to Operate from WBPCB in order to carry out the manufacturing activity of PU Foam.

The Office Memorandum of MoEF&CC *vide* no. J-11013/41/2006-IA.II(I) dated 27.06.2013 clearly states that "In case of operation without a valid EC/CRZ Clearance, the production will need to stop till the required EC/CRZ Clearance is obtained".

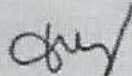
Since, the project was an existing one manufacturing PU Foam without obtaining EC, thereby violating the mandate as per category 5(f) of EIA Notification 2006, the said project falls within the violation case.

- V. The project proponent M/s. Sheela Foam Ltd. applied for ToR *vide* SIA/WB/IND2/48079/2019 under 5(f) category of EIA Notification, 2006 and its subsequent amendments on 10.12.2019. The application was made in the 'New' category for 'proposed expansion of manufacturing of PU Foams from 300 TPM to 600 TPM' of M/s Sheela Foam Ltd. at Kanchan Jangha Integrated Park, Siliguri, West Bengal for obtaining ToR.

The project proponent in their application in Form-I tried to establish their project as an expansion project. However, as per available records and MoEF&CC interpretation, it falls under 'new' category since they had been operating in manufacturing PU Foams prior to their application.

Therefore, SEIAA, W.B. has to consider the entire project in totality and not as an expansion proposal only.

- VI. The SEIAA, W.B. also noted that the provision for dealing with the violation cases does not exist at present as the violation window is closed by MoEF&CC.

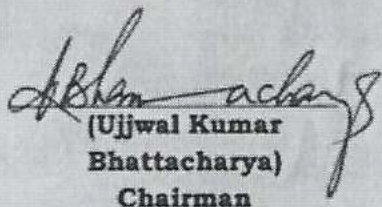


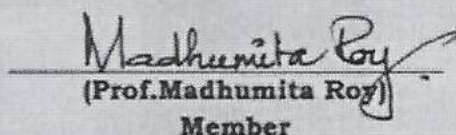
Decision

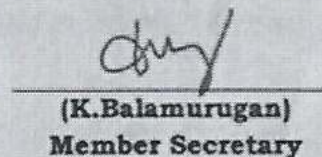
On the date of application for EC for expansion, the project proponent had already commenced operation for production of PU Foam along with other related products without obtaining EC which is a mandatory requirement for operating such units as per category 5(f) of EIA Notification, 2006 and its subsequent amendments. Thus, project proponent has violated the provisions of the EIA notification, 2006 and its subsequent amendments.

Based on the observations and findings, the SEIAA, W.B. has no other option but to reject the application made by the project proponent dated 10.12.2019 as it is a clear violation of EIA Notification, 2006 and its subsequent amendments.

As the proposed project is dealing with a highly toxic chemical namely 'Toluene di isocyanate' (TDI) as a major raw material for the existing production of PU foam (300 TPM), the environmental and health safeguards are absolutely essential and mitigation required wherever warranted while processing such proposals for environmental clearance which would otherwise frustrate the basic mandate of EIA notification. SEIAA, W.B. had to examine the project proposal in totality and not merely as an expansion of their existing facility. It is reiterated that SEIAA, W.B. after considering all the documents and available records of the project proponent hereby rejects the application of expansion of EC submitted by the project proponent on 10.12.2019 and thereby directs West Bengal Pollution Control Board to take appropriate action.


(Ujjwal Kumar
Bhattacharya)
Chairman


(Prof. Madhumita Roy)
Member

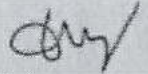

(K. Balamurugan)
Member Secretary

No. 562/1(2) / EN / T - II - 1/ 081/2019

Date: 23rd March, 2021

Copy forwarded to: -

1. M/s. Sheela Foam Ltd.,
Kanchanjanga Integrated Hub,
Jhajhupura, P.O. - Fatapukur, P.S. - Rajgung, Dist. - Jalpaiguri,
PIN - 735134.
2. Member Secretary, WBPCB & Secretary, SEAC.


(K. Balamurugan, IFS)
Member Secretary, SEIAA