

Dated: 19th April, 2010

OFFICE MEMORANDUM

Sub: Procedure for conduct of public hearing by the State / Union Territory Pollution Control Boards/Committees (SPCBs / UTPCCs) under the Environment Impact Assessment (EIA) Notification, 2006- Instructions regarding.

The Environment Impact Assessment (EIA) Notification, 2006 issued by the Ministry of Environment & Forests provides for public hearing to address the concerns of local affected persons and others who have plausible stake in the environment impacts of the project. Public hearing is one of the mandatory requirements for category 'A' or category 'B' projects listed in the schedule of the EIA Notification, 2006, requiring prior environmental clearance. A structured Public Consultation process has been put in place for conducting public hearing. Detailed procedure has been laid for conduct of public hearing by the State Pollution Control Boards to arrange in a systematic, time bound and transparent manner ensuring widest possible public participation. Further, EIA Notification amended on 1st December, 2009 has prescribed an elaborate procedure by replacing the earlier Appendix -IV regarding the procedure for conduct of public hearing.

2.0 The Hon'ble High Court of Delhi in Writ Petition (Civil) No. 9340/2009 & CM Appeal Nos. 7127/ 2009, 12496/2009 filed by Utkarsh Mandal and Others in its order dated 26th November, 2009 made the following observations with respect to conduct of public hearing by the State Pollution Control Board:

- (i) While on this aspect this court would like to make observations. We find from the notice of the public hearing in the present case that as many as six public hearings were scheduled in regard to projects (including that of the Respondent No. 3) by the Goa SPCB on the same date and time and at the same venue. It is a matter of concern that the requirement of public hearing under the EIA Notification has been taken so lightly by the MoEF. This needs immediate correction.
- (ii) If the hearing has to have adequate publicity then the notices would have to be repeated and spread over a period of ten days so that as many people as possible are made aware of such public hearing.
- (iii) Secondly, the Executive Summary which is required to be commented by the participants of the public hearing has to be made available at least 30 days prior of the date of the public hearing.

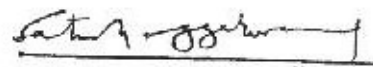
- (iv) Thirdly, there is no question of scheduling several hearings relating to different projects at the same date, time and venue. This can possibly result in avoidable chaos at such hearings. It also reduces the whole exercise to empty formality. We expect the MoEF to immediately issue necessary instructions in this regard so that public hearings in terms of Notification dated 14th September, 2006 take place with the seriousness which they deserve."

3.0 The observations made by the Hon'ble High Court of Delhi has been considered in the Ministry. The Ministry has been issuing various executive instructions relating to public hearing from time to time. The EIA Notification amended on 1st December, 2009 has prescribed an elaborate procedure for conducting public hearing. The requisite document for conduct of public hearing being made available 30 days prior to the date of public hearing is covered under the EIA Notification and for compliance by the concerned State Pollution Control Boards.

4.0 In light of the observations made by the Hon'ble Delhi High Court in its order dated 26.11.2009, all the State / Union Territory Pollution Control Boards/Committees (SPCBs/UTPCCs) are being instructed to comply with the following instructions:

- i. The State / Union Territory Pollution Control Boards/Committees (SPCBs/UTPCCs) shall clearly mention in the proceedings of the public hearing as to how adequate publicity was given to inform the local public about the public hearing and in regard to date, place and time of public hearing. Further, in the public hearing report, it shall be certified that process followed for public hearing was adequate.
- ii. The public hearings pertaining to different projects shall not be held at same venue at the same date and time. A sufficient gap of time shall be provided between different public hearings, if these are scheduled to be held on the same date and the same venue.

4.0 This issues with the approval of the Competent Authority.


(Dr. S.K. Aggarwal)
Director

To

1. Chairpersons / Member Secretaries of SPCBs / UTPCCs
2. Chairpersons / Members Secretaries of all the SEIAAs/SEACs
3. All the Officers of IA Division

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