

Executive Summary

Environment Impact Assessment is a planning tool to integrate environment concerns into developmental process from the initial stage of planning. The Ministry of Environment, Forests and Climate Change made Environmental Clearance for certain development projects mandatory through its notification of January 1994 which was revised in September 2006.

The Performance Audit on 'Environmental Clearance and Post Clearance Monitoring' seeks to examine whether the process of grant of Environmental Clearance is carried out in a timely and transparent manner and its compliance with the prescribed process; and that the Project Proponents complied with the conditions attached to the Environmental Clearances.

We sampled 216 projects which had been granted Environmental Clearance between calendar years 2011 to July 2015 to examine the process of grant of Terms of Reference and Environmental Clearance at the Ministry and 352 projects which had been granted Environmental Clearance between calendar years 2008 to 2012 to check the post Environmental Clearance monitoring.

Environment Impact Assessment process

The database for the projects granted Environmental Clearance by the Ministry as initially received from the National informatics Centre cell (August 2015) and that provided by the Ministry later in October 2016 differed significantly. There were discrepancies such as inclusion of Category B projects along with Category A projects, sectoral misclassification, wrong depiction of location of projects. The database did not contain the time taken at each stage of EIA process.

(Paragraph 2.2)

The process of grant of Environmental Clearance included grant of Terms of Reference, public consultation, assessment of Environment Impact Assessment report and grant of Environmental Clearance by the Ministry. Out of 216 projects only in 14 *per cent* of the projects the Terms of Reference was granted within the prescribed time limit of 60 days, in others there were delays upto 365 days. In 11 *per cent* cases, the Environmental Clearance was granted within the prescribed time limit of 105 days, in other projects there were delays at various stages like scrutiny of the Final Environment Impact Assessment reports, appraisal of the application by the Expert Appraisal Committee, placing the recommendations of the Expert Appraisal Committee before the Competent Authority, conveying the recommendations of Expert Appraisal Committee and the decision of the Ministry to the Project Proponent.

(Paragraph 2.3)

In 25 *per cent* cases, the Environment Impact Assessment reports did not comply with Terms of Reference and in 23 *per cent* cases they did not comply with the generic structure of the report. Cumulative impact studies before preparing the Environment Impact Assessment reports was not made a mandatory requirement, thus the impact of a number of projects in a region on the ecosystem was not known. Ministry had not followed due process in issue of Office Memoranda and the Office Memoranda so issued had the effect of diluting the provisions of original notification.

(Paragraphs 2.5, 2.6 and 2.7)

The Ministry has not yet appointed Regulator at the National level as observed by the Supreme Court (July 2011) to carry out an independent, objective and transparent appraisal and approval of the projects for Environmental Clearances and to monitor the implementation of the conditions laid down in the Environmental Clearance.

(Paragraph 2.11)

There was non-uniformity in the terms and conditions of the Environmental Clearance for similar kind of projects. The Environment Impact Assessment reports were found prepared by non-accredited consultants.

(Paragraphs 2.12 and 2.13)

There was no provision for the Project Proponents to fulfill their commitments in a time bound manner and to ensure that the concerns of the local people were included in the final Environment Impact Assessment report/Environmental Clearance letter. The public hearing process did not have quorum requirement and qualification of residency to participate in the public hearing process. Commitments made by Project Proponents in Environment Impact Assessment report during public hearing was also not monitored. Besides, the reservations expressed during the public hearings were not included in the Environment Impact Assessment reports.

(Paragraph 2.14)

Compliance to General Conditions of Environment Clearance

In respect of 13 general Environmental Clearance conditions, non-compliance in the sampled projects ranged from four to 56 *per cent*.

(Paragraph 3.1)

There was shortfall of expenditure on Environment Management Plan activities (26 *per cent* cases), Enterprise Social Responsibility activities (20 *per cent* cases) and development of green belt (47 *per cent* cases). Time bound action plan for implementing the Environment Management Plan was not made in 64 *per cent* of the cases.

(Paragraphs 3.2 and 3.4)

In 56 *per cent* of the cases approval of the Competent Authority was not obtained for the actual number of trees cut by the Project Proponents. Ground water was used without permission of the Competent Authority in 19 *per cent* of the cases. The scope of

work was changed after obtaining the Environmental Clearance in 10 *per cent* of the cases.

(Paragraphs 3.5, 3.6 and 3.7)

The annual environmental audit report was not submitted by Project Proponents to State Pollution Control Boards/Union Territory Pollution Control Committees in 19 *per cent* of the cases and in seven *per cent* of the cases construction/operations was commenced before grant of Environmental Clearance.

(Paragraphs 3.8 and 3.9)

Compliance to Specific Conditions of Environment Clearance

In respect of 18 specific Environmental Clearance conditions, non-compliance in the sampled projects ranged from 5 to 57 *per cent*.

(Paragraph 4.1)

There was absence of preparation and maintenance of action plan for conservation of flora and fauna in 57 *per cent* of the cases. Construction of Rain Water Harvesting structure was not done in 29 *per cent* of the cases. Shortfall in relief and rehabilitation measures for people affected by projects was observed in 22 *per cent* of the cases.

(Paragraphs 4.5, 4.8 and 4.10)

Improper storage of fly ash was noticed in 33 *per cent* of the cases. Non-utilisation of fly ash generated was also noticed in 21 *per cent* of the cases.

(Paragraphs 4.13 and 4.16)

Consolidation and compilation of muck in the designated muck dumping sites was not done in 33 *per cent* of the cases. Implementation of Catchment Area Treatment in Irrigation projects was not carried out in 56 *per cent* of the cases.

(Paragraphs 4.17 and 4.20)

Monitoring of compliance of EC by Project Proponents

There were non-compliance in setting up of separate monitoring cell with adequate manpower in 98 projects. In 71 projects there were shortfalls in monitoring of environmental parameters by the Project Proponents. There were inadequacies in monitoring by third party/agencies in 201 projects.

(Paragraphs 5.2, 5.4 and 5.5)

Action plan for Critically Polluted Areas

The Ministry did not carry out biennial environmental quality monitoring in Critically Polluted Areas through a third party for computing Comprehensive Environmental Pollution Index.

(Paragraph 6.2)

State Pollution Control Boards of five States had not prepared action plans and eight States did not monitor the implementation of action plans. The third party monitoring of implementation of action plan was not done by 10 State Pollution Control Boards.

(Paragraphs 6.3 and 6.7)

Monitoring of compliance of ECs by Regional Offices of the Ministry

There were only 15 scientists available for monitoring of Environmental Clearance conditions against sanctioned strength of 41. Regional Offices have not been delegated the powers to take action against the defaulting PPs and they had to report the violations of the Environmental Clearance conditions to the Ministry.

(Paragraph 7.5 and 7.6)

The Ministry did not have a database of cases received by it where the violations were reported by Regional Offices. No penalty was imposed by the Ministry for violating conditions of Environmental Clearance in the last two years.

(Paragraphs 7.8)

Monitoring of compliance of Environmental Clearances by State Pollution Control Boards/Union Territory Pollution Control Committees

Clear cut responsibilities were not assigned to State Pollution Control Boards/Union Territory Pollution Control Committees under Environment Impact Assessment Notification 2006 regarding post Environmental Clearance monitoring.

(Paragraph 8.2)

State Pollution Control Boards/Union Territory Pollution Control Committees were not able to ensure that projects were running with valid Consent to Establish in 11 cases and without Consent to Operate in four cases.

(Paragraph 8.4)

24 State Pollution Control Boards/Union Territory Pollution Control Committees did not have in place sufficient infrastructure and manpower for monitoring despite having sufficient funds.

(Paragraph 8.6)

Conclusion

The existing processes for grant of Environmental Clearance suffered from various procedural deficiencies. There were delays at each stage of the Environment Impact Assessment process. Each project is treated as a single project for Environment Impact Assessment but cumulative Environment Impact Assessment which is critical in evaluating impact on environment, was found to be lacking. There were variations in the database for the projects granted Environmental Clearance by the Ministry as initially received from the National Informatics cell and that provided by the Ministry. A National Regulator to oversee the entire process of grant of Environmental Clearance and

monitoring is yet to be appointed despite directions of the Hon'ble Supreme Court. Environmental Clearances were granted to the Project Proponents without checking the compliance of the conditions mentioned in the previous Environmental Clearances and recommendations of the Regional Office.

The Ministry did not compile information about closed/non-operational projects which indicated poor coordination among the Ministry, State Pollution Control Boards/Union Territory Pollution Control Committees and Project Proponents. Mechanism to ensure redressal of the concerns of the public in the final Environment Impact Assessment report/EC letter and implementation of the commitments made by the PP during public consultation in a time bound manner were also not firmly in place. Besides, shortcomings were noticed in the conduct of public hearings.

There were shortages in compliance of 13 general conditions prescribed in the Environmental Clearances by the Project Proponents. The non-compliances noticed were non fulfillment of the Environment Management Plan commitments, maintaining sufficient greenbelt, activities under Enterprise Social Responsibility, change in scope of the projects without requisite approvals and commencement of construction/operations before grant of Environmental Clearance.

There were shortages in compliance to 18 specific conditions prescribed in Environmental Clearances by Project Proponents. The non-compliances noticed were non preparation and implementation of the Emergency Preparedness Plan, allocation of funds for Action plan for conservation of flora and fauna non consultation with the State Forest and Wildlife Department, non installation of Effluent Treatment Plants and Sewage Treatment Plants at project premises, non implementation of Occupational Health Surveillance programme etc. In Thermal Power Plants, environmentally safe practices of storage of fly ash were not adhered to, coal of more than permitted ash content was being used, fugitive emission of fly ash was not properly controlled and the fly ash generated was not being fully utilized.

In spite of the conditions mentioned in the Environmental Clearance, the Project Proponents showed poor monitoring of environmental parameters. The Ministry/Central Pollution Control Board did not undertake environmental quality monitoring in Critically Polluted Areas due to non-finalization of the firms for the same. Project Proponents were also not uploading half yearly compliance report on their website. There was wide gap between the sanctioned strength *vis a vis* men in position of scientists in all the Regional Offices.

Regional Offices had not been delegated powers to take action against the defaulting Project Proponents. No penalty was imposed by the Ministry for violating conditions of Environmental Clearance in the last two years. State Pollution Control Boards/Union Territory Pollution Control Committees had not been carrying out post Environmental Clearance monitoring due to lack of clear cut responsibility assigned to them under Environment Impact Assessment Notification 2006.

Recommendations

Based on the audit findings, the following recommendations are made:

- i. MoEF&CC may take suitable action in consultation with NIC for revalidation of database and arrive at correct picture of the projects which have been granted EC by the Ministry.
- ii. In order to increase transparency and fairness in grant of EC, MoEF&CC may streamline the processes including adhering to the timelines as per the EIA Notification.
- iii. MoEF&CC, while scrutinising the EIA reports, may ensure that they are as per the ToR, comply with the generic structure, baseline data is accurate and concerns raised during the public hearing are adequately addressed.
- iv. MoEF&CC may evaluate the entire process of EIA by involving all stakeholders, following legal processes and make suitable amendments in EIA Notification 2006 rather than resorting to Office Memorandums.
- v. MoEF&CC may grant fresh EC to the PPs only after verifying the compliance to the earlier EC conditions.
- vi. MoEF&CC may adhere to its circular of 2010 on EC of coal linked mine for Thermal and Metallurgical projects so that firm coal linkage is available and the status of environment and forestry clearance of the coal sources i.e. the linked coal mine/coal block is known.
- vii. MoEF&CC may consider bringing conditions of EC compatible with the nature and type of project in order to avoid non-uniformity in similar kind of projects.
- viii. The EIA reports/EC letters should clearly mention cost of activities under EMP and ESR along with the timelines for their implementation.
- ix. MoEF&CC may consider making EMP/EC condition(s) more specific for the area to be developed under Green belt and species to be planted in consultation with Forest/Agriculture Department along with post EC Third Party evaluation.
- x. MoEF&CC may consider endorsing copy of EC letter issued to each project to the Central Ground Water Board/State Agencies to ensure monitoring of Ground Water extraction.
- xi. MoEF&CC should work out strategies in co-ordination among ROs, CPCB, SPCBs/UTPCCs and other Departments of State Governments to strictly monitor the compliance of condition mentioned in the EC periodically.
- xii. MoEF&CC and SPCBs may consider adopting risk based approach to monitor the conditions stipulated in the ECs of the project and devise schedule for percentage check of six-monthly compliance reports and environment statements.
- xiii. MoEF&CC may consider bringing suitable condition by mentioning the name and number of post/posts to be engaged by the proponent for implementation and monitoring of environmental parameters.

- xiv. MoEF&CC may consider bringing the mandatory EC conditions on installation of monitoring stations and frequency of monitoring of various environment parameters in respect of air, surface water, ground water noise, etc.
- xv. MoEF&CC may in consultation with SPCBs introduce a system of surprise check by the SPCBs at premise of PPs to verify the third party testing of environmental parameters.
- xvi. MoEF&CC may issue advisory to the State Government regarding implementation and monitoring of the action plan of critically polluted area at regular intervals.
- xvii. MoEF&CC may put in place mechanism to ensure that the compliance reports are regularly and timely received and uploaded by PPs and the Ministry on their websites.
- xviii. MoEF&CC may take expeditious measure to have the requisite number of scientists in place in the respective ROs.
- xix. MoEF&CC should evolve a system by delegating powers to ROs for taking action against the defaulting PPs.
- xx. MoEF&CC should have a system in place where the reports of violation received from ROs are compiled and constantly monitored in coordination with the ROs for ensuring that the PPs comply with EC conditions and take action as per law.
- xxi. MoEF&CC may issue directive to the State Government to frame modalities clearly delegating responsibility of monitoring the compliance to EC letter and commitments made in the EIA reports.
- xxii. MoEF&CC may issue advisory to SPCBs/UTPCCs for periodical monitoring after grant of CTE and CTO to Project Proponents.
- xxiii. MoEF&CC may advise the State Governments to strengthen the infrastructure and manpower of SPCBs so that they properly monitor the EC conditions of the project running in their jurisdictions.