

CHAPTER

1

1.1 Background

Article 48 A of the Constitution of India brings out that the State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife in the country. Article 51 A(g) of the Constitution of India enjoins upon the citizens of India to protect and improve the natural environment including forests, lakes and rivers and wildlife and to have compassion for living creatures. These highlight the importance the Constitution of India has assigned for the protection and safeguard of environment and natural resources.

The impact of efforts to achieve rapid economic growth and development and continuing pressures of demand generated by those sections of society who are economically more advanced and impose great strain on the supply of natural resources, has been recognized as one of the environmental problems in India. The Ministry of Environment, Forest and Climate Change (MoEF&CC) is the nodal agency for the planning, promotion, co-ordination and overseeing of the implementation of India's environmental and forestry policies and programmes. In recognition of the need for environmental protection, the MoEF&CC has taken various regulatory and promotional measures.

1.2 Environment Impact Assessment and Environmental Clearance

Environment Impact Assessment (EIA) is a process used to identify the environmental impacts of a project prior to its approval. EIA systematically examines both beneficial and adverse consequences of the proposed project and ensures that the environmental impact and the mitigation measures are taken into account during the project design. There are many benefits of considering environmental effects and mitigation early in the project planning cycle, such as protection of the environment, optimum utilization of resources and saving overall time and cost of the project. Properly conducted EIA also lessens conflicts by promoting community participation, informs decision-makers, and helps lay the base for environmentally sound projects.

EIA in India commenced in 1976-77 when the erstwhile Planning Commission asked the then Department of Science and Technology to examine river-valley projects from an environmental perspective. This was subsequently extended to cover those projects which required approval of the Public Investment Board. These were administrative decisions and lacked the legislative support. The Government of India (GoI) enacted the Environment (Protection) Act on 23rd May 1986. MoEF&CC made EIA and Environmental Clearance (EC) mandatory for certain development projects through its notification of

January 1994 under the Environment (Protection) Act, 1986. Subsequently, keeping in view the experience gained in EC process over a period of one decade, MoEF&CC brought out EIA Notification in September 2006.

EIA exercise is to be carried out before any project is undertaken. The process of granting EC for the projects has been defined in EIA Notification 2006. This comprises of four stages namely Screening, Scoping, Public Consultation and Appraisal, all of which may not apply in each cases. This has been summarized in **Annexure I**.

1.3 Categorisation of projects and Appraisal Committees

The EIA Notification 2006 has classified projects under two Categories - A and B, based on the spatial extent of potential impacts and potential impacts on human health and natural and manmade resources, as given in the Schedule of the EIA Notification.

New projects or activities and expansion and modernization of existing projects or activities, listed in the Schedule to EIA Notification 2006, require prior EC from the concerned regulatory authority, which is MoEF&CC for projects falling under Category 'A' in the Schedule and at State level, the State Environment Impact Assessment Authority (SEIAA) for projects falling under Category 'B' in the said Schedule.

The MoEF&CC grants EC on the recommendations of sector specific Expert Appraisal Committees (EACs). The various specialized EAC¹ constituted by MoEF&CC are (a) Coal Mining; (b) Industrial Projects; (c) Infrastructure and Miscellaneous Projects and Coastal Regulation Zone (CRZ); (d) Mining Projects; (e) New Construction Projects and Industrial Estates; (f) Nuclear Projects; (g) River Valley and Hydroelectric Projects; and (h) Thermal Projects.

The SEIAA makes its decision on the recommendations of a State or Union Territory Level Expert Appraisal Committee (SEAC). The SEAC at the State or the Union Territory level is constituted by the Central Government in consultation with the concerned State Government or the Union Territory Administration, with identical composition. In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project is appraised at Centre as Category 'B' project.

These Committees are constituted by the Central Government and consist of professionals and experts in the field of Environment Quality, Sectoral Experts in Project Management, EIA Process Experts, Risk Assessment Experts, Life Science Experts in Floral and Faunal Management, Forestry and Wildlife Experts and Environmental Economics Experts with experience in project appraisal, fulfilling the eligibility criteria laid down in Appendix VI of the EIA Notification.

¹ There is one more EAC for Defence Projects. However, the details of Defence projects, constitution of EAC and minutes of meeting of this EAC are not kept in public domain.

1.4 Category-wise Environment Clearance granted by MoEF&CC

The sector wise EC granted by MoEF&CC for Category A projects during the calendar years 2008 to 2015 (upto July 2015) are given in Table 1.1. These details were provided by the National Informatics Centre (NIC) Cell of MoEF&CC (August 2015)². The observations on this are brought out in para 2.11 of Chapter 2.

Table 1.1: Sector wise EC granted by MoEF&CC

Sector	2008	2009	2010	2011	2012	2013	2014	2015 ³	Total
Coal Mining Projects	73	60	33	25	25	45	43	39	343
Industrial Projects	785	539	295	219	265	233	143	171	2,650
Infrastructure and Miscellaneous Projects and CRZ	184	110	99	80	123	102	62	84	844
Mining Projects (Non coal)	199	180	85	58	69	87	225	89	992
New Construction and Industrial Estate Project	580	252	139	63	81	209	108	70	1502
Nuclear Power Projects	1	1	1	0	4	1	0	0	8
River Valley and Hydroelectric Projects	11	11	10	11	4	10	3	8	68
Thermal Power Projects	83	69	75	48	46	15	17	13	366
Total	1,916	1,222	737	504	617	702	601	474	6,773

The analysis in the subsequent Chapters is based on the figure of 6,773 ECs which contain the sector wise, State wise and year wise details.

1.5 Organisational set-up

MoEF&CC is headed by the Secretary who reports to the Minister in charge of MoEF&CC. The Impact Assessment Division of MoEF&CC is entrusted with the task of appraisal of various projects pertaining to Industry, Coal Mining, Infrastructure/Construction, Non-Coal Mining, River Valley and Thermal Power Sectors. The ECs are approved/rejected by the Minister, MoEF&CC based on the recommendations of sector specific EAC. The Monitoring Cell at MoEF&CC and its 10 Regional Offices (ROs) monitor the compliance of EC conditions. CPCB along with State Pollution Control Boards/Union Territory Pollution Control Committees (SPCBs/UTPCCs) are responsible for implementation of legislations relating to prevention and control of environmental pollution.

1.6 Post Environmental Clearance Monitoring

After examining various aspects of a project, MoEF&CC grants EC subject to implementation of the stipulated environmental safeguards. In order to ensure adequacy of these safeguards and to undertake mid-course corrections required, if any, the MoEF&CC undertakes monitoring of cleared projects. It is mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior

² MoEF&CC had been repeatedly requested to confirm the figures of projects granted EC. In October 2016, MoEF&CC mentioned that 4,534 ECs had been granted during 2008 to July 2015 without the sector wise and year wise details.

³ Upto July 2015.

EC terms and conditions in hard and soft copies to the regulatory authority concerned, on 1st June and 1st December of each calendar year. The latest such compliance report should also be displayed on the web site of the concerned regulatory authority.

1.6.1 Regional Offices of MoEF&CC

Monitoring of cleared projects is undertaken by the ROs of MoEF&CC. Initially, GoI set up five ROs in 1986 at Bengaluru, Bhopal, Bhubaneswar, Lucknow and Shillong with a Headquarter unit at New Delhi to monitor and evaluate ongoing forestry development projects and schemes with special emphasis on conservation of forest land and to advise the State/ Union Territory Governments in preparation of proposals involving diversion of forest land for non-forestry purposes under the provisions of the Forest (Conservation) Act, 1980. In view of the increasing work relating to all aspects of environmental management including pollution control and environmental management of projects and activities in the country and in view of Hon'ble Supreme Court's observation of 2011, five more ROs were established subsequently at Chandigarh (1988), Ranchi (2013) and Dehradun, Nagpur and Chennai (2014-15). Thus, 10 ROs are presently functioning under MoEF&CC.

1.6.2 Central Pollution Control Board

The Central Pollution Control Board (CPCB), a statutory organisation, was constituted in September, 1974 under the Water (Prevention and Control of Pollution) Act, 1974. Further, CPCB was entrusted with the powers and functions under the Air (Prevention and Control of Pollution) Act, 1981. It serves as a field formation and also provides technical services to the Ministry regarding the provisions of the Environment (Protection) Act, 1986. Functions of the CPCB, are (i) to promote cleanliness of streams and wells in different areas of the States by prevention, control and abatement of water pollution; and (ii) to improve the quality of air and to prevent, control or abate air pollution in the country. Air Quality Monitoring is an important part of the air quality management. One of the mandates of CPCB is to collect, collate and disseminate technical and statistical data relating to water pollution. Water Quality Monitoring (WQM) and Surveillance are under the ambit of CPCB.

1.6.3 State Pollution Control Boards/Union Territory Pollution Control Committees

State Pollution Control Boards (SPCBs) are implementing various environmental legislations in the States, mainly including Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981, Water (Prevention and Control of Pollution) Cess Act, 1977 and some of the provisions under Environment (Protection) Act, 1986 and the rules framed there under, such as Biomedical Waste (Management & Handling) Rules, 1998, Hazardous Waste (Management & Handling) Rules, 2000, Municipal Solid Waste Rules, 2000 etc.

CPCB has delegated its powers and functions from time to time under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 to various Union Territories Pollution Control Committees (UTPCCs).

1.7 Why we chose the topic

The importance of EIA in harmonizing developmental efforts with conservation of environment and ecology has been emphasized nationally and internationally. The Convention on Biological Diversity (CBD)⁴ recognizes impact assessment as an important tool for ensuring that development is planned and implemented with biodiversity in mind.

Over the years, there were a number of issues regarding delay in grant of ECs, quality of the EIA reports, assessment of impact of the projects on environment, effectiveness of public consultation, monitoring of the compliance of the environment clearance conditions. There have also been a number of Court Judgments, Parliamentary questions and amendments to the EIA notification with regard to the EC process and post clearance monitoring.

In view of the above, we decided to undertake this topic for Performance Audit.

1.8 Audit Objectives

Performance Audit on Environmental Clearance and Post Environmental Clearance Monitoring seeks to examine whether:

1. the process of grant of EC is in compliance with the laid down procedure, is adequate, fair and transparent.
2. there is adequate Post Environmental Clearance Monitoring to ensure that the project proponents comply with all the conditions laid down in the EC letter and commitments made in the EIA report.

1.9 Audit Scope, Methodology and Sampling

The EIA notification issued by MoEF&CC in 2006 identified 39 different types of developmental projects and activities, grouped into eight sectors⁵. The scope of our audit is as follows:

- i. With reference to Audit Objective 1, we covered projects that were granted EC by MoEF&CC between January 2011-July 2015 in all sectors except Nuclear Power Projects.
- ii. With reference to Audit Objective 2, we covered projects⁶ that were granted EC by MoEF&CC between calendar years 2008-2012 in all sectors except Nuclear Power Projects.

⁴ Signed by 150 countries including India, at the 1992 Rio Earth Summit, the Convention on Biological Diversity is dedicated to promoting sustainable development. It was conceived as a practical tool for achieving the principles of Agenda 21 of the United Nations.

⁵ 1. River Valley and Hydroelectric Projects, 2. Nuclear Power Projects, 3. Thermal Power Projects, 4. Coal Mining, 5. Non coal Mining, 6. Infrastructure, 7. Construction and 8. Industry.

We selected projects year wise, State/UT wise and sector wise based on stratified judgement sampling. Since, a project takes four to five years for operationalisation, therefore, in respect of examination of Audit Objective 2, the projects granted EC during the time frame 2008 to 2012 have been sampled. The details of sampling for Audit Objective 1 and Audit Objective 2 are given in **Annexure II**.

We examined records in MoEF&CC including its 10 Regional Offices (ROs), CPCB and 33 SPCBs/UTPCCs. We also examined compliance reports submitted by the Project Proponents (PPs) to MoEF&CC and the ROs of MoEF&CC. Joint site visits were carried out along with officials of SPCBs/UTPCCs. During the site visit, we test checked the records furnished by the PPs in relation to EIA and compliance to EC.

We held entry conference with MoEF&CC on 17 September 2015 wherein audit objectives, scope, methodology and sample were discussed. Thereafter the field audits commenced in the Ministry and 33 selected States/UTs⁷. The Exit conference was held on 28 October 2016 wherein Audit Observations and the recommendations of the PA report were discussed. The reply of the Ministry was received on 31 October 2016. The replies have been suitably incorporated in relevant Chapters. The comments furnished by the Ministry on the recommendations along with further Audit comments have been given as **Annexure III**.

1.10 Audit Criteria

The audit criteria were derived from the Environment (Protection) Act 1986, Environment Impact Assessment Notification 2006, its amendments and other related circulars, office memoranda, instructions and guidelines issued by MoEF&CC and other Regulatory Authorities.

1.11 Acknowledgement

We acknowledge the cooperation extended by MoEF&CC, Central Pollution Control Board, State Pollution Control Boards, Regional Offices and selected Project Proponents during the course of the Performance Audit.

⁶ We gave preference to those projects that were selected for Audit Objective 1 and are complete. These also include 22 projects in critically polluting areas in 16 States.

⁷ Andhra Pradesh, Assam, Andaman & Nicobar Islands, Bihar, Chandigarh, Chhattisgarh, Dadra & Nagar Haveli, Daman & Diu, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Odisha, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttarakhand, Uttar Pradesh and West Bengal.