

Public Consultation Process in a nutshell

Public Consultation (PC) is currently the best opportunity and the biggest platform available for local communities and for all those with a stake in the environment of the region in which a TPP is being proposed, to get queries clarified and to express concerns and record their opposition to the project, if it legitimately impacts their rights. The outcome of the public consultation process depends both on the number of participants and on effective participation by the public. The queries, concerns and protests of the public are to be noted and, if found correct, may be used by the Regulatory Authorities to reject the application.

The PC is conducted after the Project Proponent/Applicant submits the draft EIA to the MoEF or SEIAA and simultaneously submits a letter to the relevant SPCB to conduct the PC.

Within 45 days of receiving the letter, the SPCB must complete the PC process and submit a report to the MoEF/SEIAA. If the SPCB does not complete the PC process within the time frame, the MoEF/SEIAA can appoint another agency to conduct the hearing.

The Project Proponent/Applicant must take these viewpoints into consideration and revise the draft EIA accordingly. The grant of EC/rejection of application by the Regulatory Authority will be based on the Final EIA submitted.

The Public Consultation is in two parts:

- 1) Public Hearing:** This is a mandatory meeting conducted by government officials for all TPPs, irrespective of their capacity and location. Here, the Project Proponent/Applicant explains the project to the people present. It is the forum for the people to individually and collectively query and voice apprehensions/concerns about the project. The proceedings are to be recorded by the officials.
- 2. Written Response:** Members of the public can also send in writing their queries and concerns about the project to the SPCB and the Regulatory Authority.

Structure and Intent of PC

Publicity

Advertisements announcing the Public Consultation (Public Hearing and Written Response) should be clear and appropriate.

Advertisements should be placed in one English daily and one Regional Language Daily in circulation in that district.

Public Hearing

Notice period

The SPCB has to give at least one month's notice to the public about an upcoming hearing.

Venue

1. The venue for the public hearing should be close to the project site. A National Green Tribunal (NGT) Order says that as far as possible, the hearing venue should be within 1 km of the project site. (*Krishi Vigyan Arogya Sanstha & Anr Vs MoEF & Ors*)
2. The venue chosen should be the closest available one to the project site¹. For example, if there is a suitable venue two kilometres from the site, the SPCB cannot choose another venue which is further away
3. If the venue is not close to the project site, the Project Proponent has to arrange to transport the public to the venue. Even if the Project Proponent is organising transport, the public hearing cannot be held too far away²

Mandatory presence of Government Officials

1. District Magistrate / District Collector/ Deputy Commissioner or their representatives not below the rank of an Additional District Magistrate
2. Representative/s of the SPCB

Public Participation

1. Local communities and members of the public wishing to participate.

Local body representatives can be present at a public hearing. Display of party flags or slogans not permitted
- NGT judgment
(in *Ossie Fernandes & Another vs MoEF & Others*)

1 Jeet Singh Kanwar & Anr. v. Union of India and Ors.(10-2011 (T))

2 Krishi Vigyan Arogya Sanstha & Ors. v.MOEF & Ors.(7-2011 (T)) + Ossie Fernandes & Ors. v. MOEF & Ors. [12-2011 (Ap)]

2. No quorum for attendance required.
3. Presence of all those at the venue should be noted.
4. Public should have access to the dais in case they wish to approach the officials present. (The dais area cannot be cordoned off).

Recording of proceedings

The SPCB should make arrangements for the public hearing to be video graphed. SPCB officials to accurately record the minutes of meeting.

Complaints

Any erroneous or changed fact about the project or its impact in the documents presented ahead of the hearing or in the minutes recorded and read out at the hearing can be reported by the public to the officials present at the public hearing.

Any procedural lapses in the conduct of the public hearing can be reported to the MoEF/SEIAA along with a demand for a fresh hearing.

Written Response

During the one month notice period given for the public hearing, written responses from the public will be received by the SPCB.

The e-mail and postal address for receipt of written response should be advertised in the SPCB's Public Consultation advertisement. These responses are collated by the SPCB and included in the Public Consultation Report submitted to the MoEF/SEIAA.

The MoEF/SEIAA should reach the responses received as part of the Public Consultation process to the Project Proponent/Applicant through the 'quickest available means'. The written responses received will be part of the Public Hearing Report submitted by the SPCB, and should be available in the offices of the Panchayat, Zila Parishad, District Magistrate and the SPCB, apart from the SPCB website.

Time Frame in Public Consultation

Step 1

DAY 1: Proponent requests SPCB to conduct Public Consultation

Simultaneously, the Executive Summary of EIA in English and local language and Draft EIA to be submitted to

- MoEF& its Regional Office
- State Pollution Control Board
- District Magistrate/ District Collector/ Deputy Commissioner
- Zila Parishad/Municipal Corporation/ Panchayat Union
- District Industries Office
- Urban Local Body/ Panchayat/ Development Authority

Step 2

Before DAY 7: SPCB announces details of Public Consultation

- I. Public Hearing
 - II. Written Response
- I. Public Hearing:
 - Details of the public hearing to be advertised in a vernacular and English daily
 - In places where newspapers do not reach, details to be advertised through Radio/TV & through 'Beating of Drums'
 - Summary of Draft EIA to be available in SPCB Website & MoEF website
 - Draft EIA & Executive Summary of Draft EIA to be available as hard/ soft copy at the offices mentioned in Step 1 and in locations indicated in the newspaper advertisement/ announcements
 - II. Written Response:
 - Address and email address to which written responses can be sent to be mentioned in Public Hearing advertisement /announcement
 - Written responses are accepted for 1 month, till the date of the public hearing
 - All the offices mentioned in Step 1 should also invite written response

Step 3

BEFORE DAY 45: SPCB to complete PC and submit report to MoEF/ SEIAA

I. Public Hearing Process:

1. District Magistrate/ Deputy Commissioner/ District Collector to be present at venue
2. SPCB to note the names of all the participants, take down minutes and record proceedings and ensure fair opportunity for all to participate meaningfully
3. Project Proponent to present important details of the proposed project (especially social & environmental impacts) & the Executive Summary of Draft EIA
4. Participants to ask questions and voice legitimate concerns, if any
5. Project Proponent to respond with clarifications and proposed mitigation measures.
6. SPCB to read out and explain in local language the recorded minutes with corrections if required and agreed to by all
7. District Magistrate/ Deputy Commissioner/ District Collector to sign the minutes at venue
8. SPCB to submit Public Hearing Report to MoEF/ SEIAA

II. Public Hearing Report consists of:

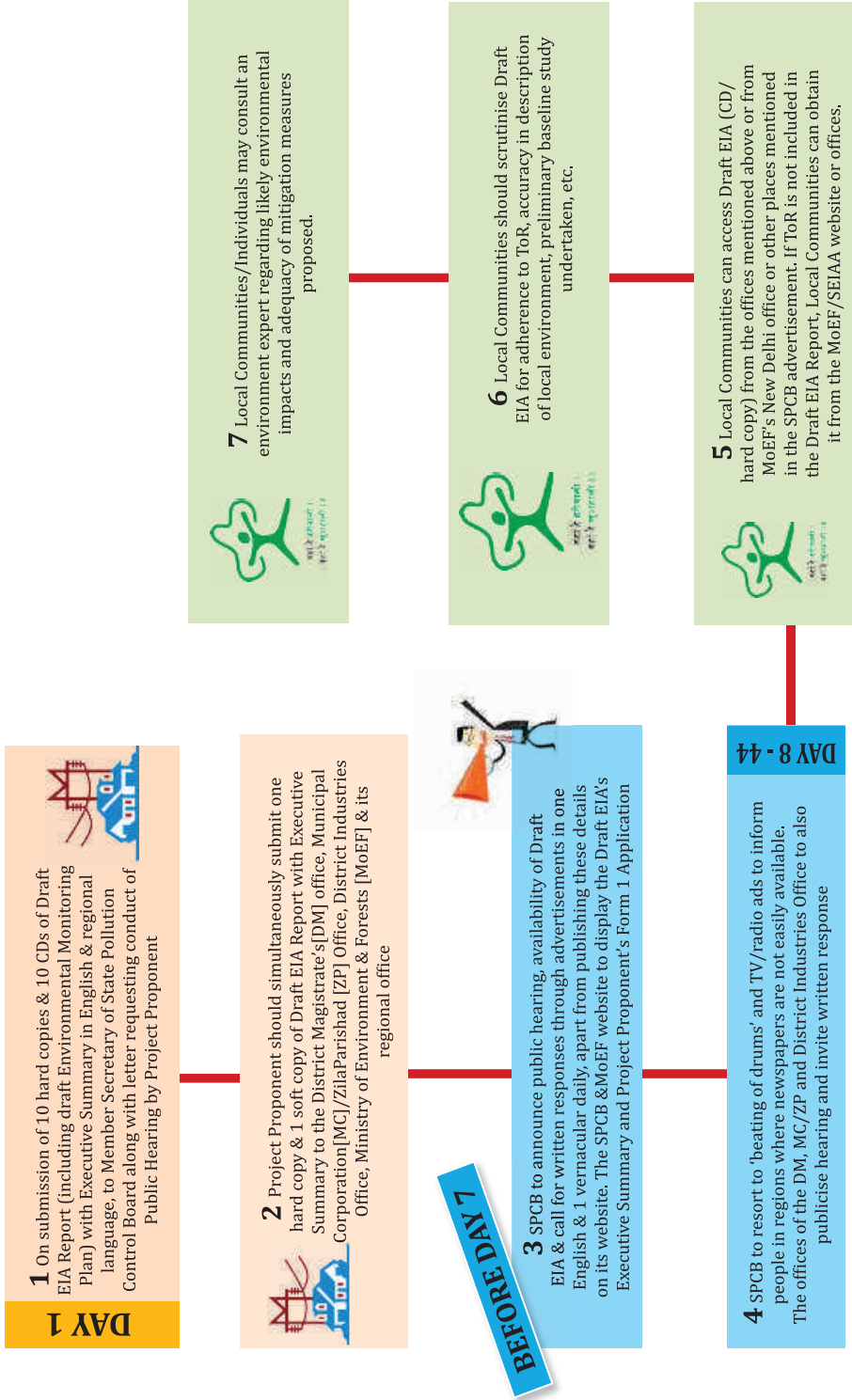
- Summary of the Public Hearing
- Statement in tabular form of each and every issue raised by the public and the corresponding reply/response of the Project Proponent
- Copy of the video recording of the Public Hearing
- Written responses received about the project
- Details of publicity measures undertaken for the hearing by the SPCB, which should certify that the process followed was adequate

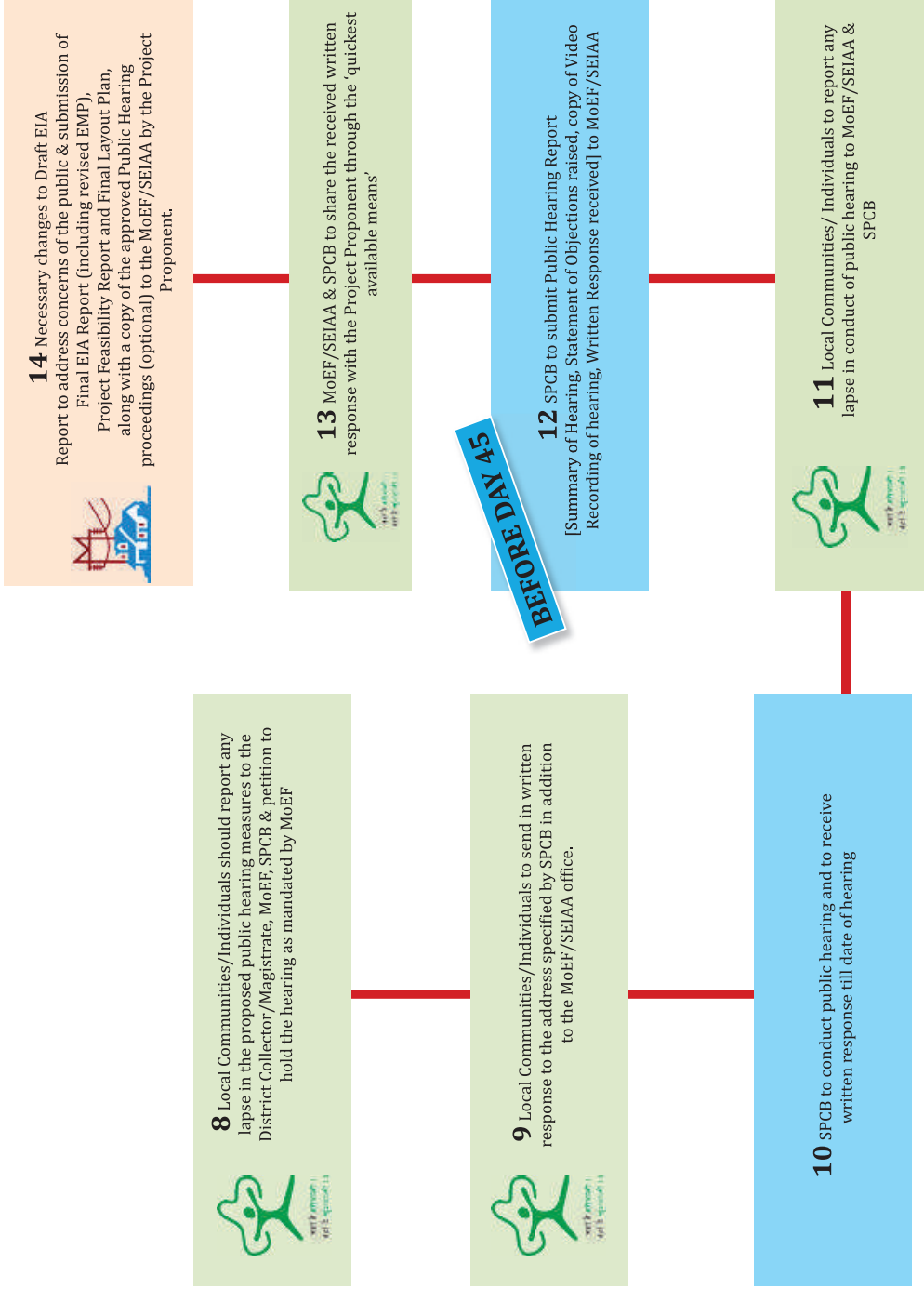
III. Availability of Public Hearing Report:

The report should be conspicuously displayed in English & Regional Language in:

- Panchayat
- Zila Parishad
- District Magistrate
- State Pollution Control Board
- State Pollution Control Board website

Public consultation process for a power plant





FAQs (Frequently Asked Questions)

1. Can I attend the Public Hearing and also send in a Written Response?

Yes, you can.

2. I am not residing near the proposed project site - can I still participate at a Public Hearing and voice my concerns?

Yes, you can, as long as you have valid social and environmental concerns to make!

3. I don't have a core environmental issue to be raised in a Public Hearing. Instead, I want to raise queries about social and employment-related issues. Can I do it?

Yes, the public hearing is intended to focus on the environmental impacts of a proposed project. However, the word 'environment' is to be interpreted broadly and issues concerning social as well as economic (including livelihood) impacts are part of EIA studies. They can, therefore, be raised during public hearings. Social Impact Assessment and Rehabilitation and Resettlement Plan are part of EIA studies and issues concerning these can be raised during the hearing.

The word 'Environment' should be interpreted broadly and issues of social & economic impact and livelihood can be raised at public hearings

4. Who can send Written Responses about a project?

Anybody who has a plausible stake in the environmental aspects of the project or activity, like activists and media personnel, apart from local communities, can send in written responses.

5. What should be done if a project has been awarded EC without holding a Public Hearing?

A petition has to be filed against the EC at the National Green Tribunal. This has to be done within 30 days of the communication of EC, extendable to 90 days if there is a justifiable reason for delay.

6. Can the Public Hearing of two projects be held simultaneously at the same time and same venue?

No, this is not allowed, as per an Office Memorandum issued by the MOEF in April 2010.³

7. Can a Public Hearing be postponed?

Yes, but only when there is an emergency. Otherwise, the public hearing date, time and venue cannot be changed.

³ http://envfor.nic.in/divisions/iass/Cir/pub_hear_EIA.pdf

- A hearing can be postponed only on the recommendation of the District Magistrate/ District Collector /Deputy Commissioner.
- The postponement should then be announced through advertisements in the same English and regional language daily that the scheduled hearing was announced. It should also be prominently displayed at all offices identified by the SPCB.
- The fresh date, time and venue for public consultation should then be decided by the Member-Secretary of SPCB only in consultation with the District Magistrate/District Collector/Deputy Commissioner and notified afresh.
- Due to a local situation, if the public hearing cannot be held in the stipulated manner, the SPCB will then report it to the MoEF/ SEIAA which may, after due consideration, decide that the public consultation in that particular case need not include the public hearing.
- However, a recent NGT order has said that in a situation where the people are aggressive and agitated, the public hearing should be cancelled and held later in order to ensure that proper representation is made.

8. Can the people demand postponement of the public hearing?

Yes, but only if there have been any procedural lapses in conducting the hearing - like the venue being too far or the Draft EIA not available in notified places. The people can make a joint representation to the District Magistrate/ Collector or Deputy Commissioner.

10 hard & soft copies each of the Draft EIA should be available one month before the public hearing at the offices of District Magistrate, Collector, Deputy Commissioner, Zila Parishad/ Municipal Corporation/ Panchayat Union, apart from the District Industries Office & MoEF Regional Office

9. Is there a regulation on how many people can talk at a public hearing?

No, there is no limit! All those who are present at the hearing should be given an opportunity to voice their views.

10. Is there a fixed time limit for the public hearing?

No! As long as there are public queries to be answered, the hearing should continue.

11. A project has been proposed in a highly polluted area. Can I then ask about the total impact of all the polluting projects in a public hearing for one project?

Yes, you can! The EIA study includes an assessment of the cumulative impact of projects-proposed and upcoming- in the project area. Issues related to the Cumulative Impact of these projects should be allowed in a public hearing.

12. If the project site is in the boundary of two states, where should the public hearing be held?

In such a case, the hearing should be jointly organised for both the states by the respective SPCBs.

13. Is there a way to find how the SPCB publicised a public hearing?

Yes! This information should be available in the Public Hearing Report. An Office Memorandum issued by the MoEF in April 2010 requires the SPCB to mention in the Public Hearing Proceedings how adequate measures were taken to inform the local people about the hearing time, venue and date. The SPCB should also certify that the process followed for the hearing was adequate.⁴

Assert Your Rights in Public Hearings

Assert your rights in Public Hearings!

1. Upon announcement of a public hearing, access the draft EIA and Summary of draft EIA.
2. Obtain a copy of the Terms of Reference issued by the MoEF/ SEIAA for the project.
3. Ensure that the draft EIA has been done according to the prescribed ToR.
4. At the hearing, insist that the proponent's presentation is made in the local language for all participants to understand.
5. Ask for specific details about the plant- focus on the social, economic and environmental impact of the project
6. As the public hearing comes to a close, ensure that your concerns have been duly recorded in the minutes- which should be read out and explained in the local language.
7. Obtain a copy of the public hearing proceedings to make sure your concerns have been noted.
8. Access a copy of the Final EIA to make sure that the concerns of the local people and the responses given by the proponent have been included.
9. Ensure that all the new assurances made by the proponent in the public hearing are reflected in the Final EIA and Revised Project Feasibility Report. For example: If a project proponent agrees at a public hearing to give piped water supply to project affected communities, there should be a budgetary allocation for this in the Final EIA.

⁴ http://envfor.nic.in/divisions/iass/Cir/pub_hear_EIA.pdf

TIMELY INTERVENTIONS

I Before Submission of Application

II On Submission of Form 1

III On issue of Terms of Reference

IV On announcement of Public Hearing

V On completion of Public Consultation & submission of Final EIA

VI On issue of Environmental Clearance

I. Before Submission of Application

HOW TO FIND OUT ABOUT NEW PROJECTS / EXPANSION

- **Check newspapers constantly**-including regional and business papers for announcements on new projects
- **Watch out for and enquire about large-scale land acquisitions** - especially in the coastal areas. Find out the owner/s and for what purpose the land is being bought
- **Track supply announcements and check websites** of fuel supply company and the power generator for any announcement of a project or expansion plan, if fuel supply has been assured to a particular power company
- **Follow Public Sector Power Producers** like NTPC (<http://www.ntpc.co.in/>) and NLC (<http://www.nlcindia.com/>), which have several power plants. Read their Annual General Body Meetings and website for new project/ expansion announcements
- **Read the Annual Policy Notes** of the State Energy Department and Electricity Boards, which are available on their respective websites, for any plans of new projects/ expansions
- **Check the Annual General Body Meeting Proceedings & Websites of private sector power producers** for any project announcement:
Reliance (<http://www.reliancepower.co.in/>), Adani (<http://www.adanipower.com/>), Tata Power (<http://www.tatapower.com/>), Lanco (<http://www.lancogroup.com/>)

WHAT YOU CAN DO

1. **Form or be part of an organised association or union** to oppose the plant or its objectionable aspects. Either be part of an existing group, like a farmers'/ fishermen's association, trade union, active NGO or form a group of potentially impacted people. Mobilise support from local people and voice your concerns as a group
2. **Associate/ link up with a group that has been fighting the established plant** to oppose the proposed plant/ expansion
3. **Compile a list of the problems faced by the local people** because of the existing plant. Also, access compliance reports submitted by the Project Proponent to the MoEF/SPCB and check for any lapses in the EC condition
4. **Calculate and report the cumulative impact on your environment**, if there are other polluting industries already in your neighbourhood, to the public and the authorities
5. **Write collectively to your Panchayat leader/ MoEF** about the plant and your objections to it
6. **Urge the Panchayat Leader to not issue an NoC** for the project in your area, or to issue it with conditions specified by you
7. **Get Acknowledgments** for all letters and mail

II. On Submission of Form 1

OBTAIN DOCUMENTS

1. **Form 1** will broadly mention:
 - Current use of land
 - Survey numbers
 - Utilisation of Natural Resources
 - Functioning of the PlantThese will give an idea about the extent of land to be acquired and its size, likely pollutants and impact of the plant.
2. **Pre- Feasibility Report** will mention:
 - Critical Pollutants
 - Project Size
 - Cost
 - Environment Mitigation Cost
 - Socio-economic Mitigation Cost

WHAT YOU CAN DO - NEW TPPs

1. **Study Form 1 and Pre-Feasibility report** for likely environmental & socio-economic impact of the plant
2. **Check Form 1** for misrepresentation or errors w.r.t
 - Project Site,
 - Land Classification
 - Flora and Fauna
 - Water Bodies
 - Other Important Features
3. **Check Pre-feasibility Report** to evaluate socio-economic impact/ community needs, including adequacy of mitigation costs
4. **Bring to the notice** if information is incorrect **and lobby MoEF** to undertake ground verification of site conditions
5. **Check if CRZ Clearance is required** from the minutes of the monthly meetings of State Coastal Zone Management Authority in the MoEF website, and if yes, check if CRZ clearance has been recommended and issued following CRZ norms
6. **File a case with National Green Tribunal** if CRZ clearance has been issued contrary to norms and corrective action is not taken by the MoEF

WHAT YOU CAN DO - TPP EXPANSION

1. **Access Compliance Reports** submitted by the Project Proponent to the MoEF/ SPCB
2. **Check the EC Conditions of the existing plant** for any lapses
3. **Record in writing to the Panchayat and MoEF** about lapses, if any, in EC conditions

III. On issue of Terms of Reference

OBTAIN DOCUMENTS

1. **ToR** issued by MoEF/SEIAA: The ToR will give a basic idea of the expected impact of the plant, and studies that have been included to assess the extent of impact

Note: The time frame for issue of ToR by the MoEF/SEIAA is 60 days. If timely action is not taken, the Project Proponent is permitted to use the 'proposed' ToR as submitted with Form 1 to conduct EIA studies. After the ToR is issued, EIA will take around three months to prepare
2. **Agenda & Minutes of SEAC/EAC meeting** will reveal the experts view on the project, the decisions taken and information on the project developments
3. **Site Visit Report** will give information about the potential impact of the plant as observed during the site visit by the EAC/SEAC team

WHAT YOU CAN DO - NEW TPPs

1. **Track EAC/ SEAC meetings** to find out if MoEF/ SEIAA is following deadline for issue of ToR
2. **Check availability of issued ToR and**, if unavailable, **demand immediate uploading** in MOEF/SEIAA website
3. **Use the period for preparation of EIA** by Project Proponent to understand the impact of project as suggested by conditions in the ToR and mobilise local and neighbourhood support to object to the polluting aspects of the plant
4. **Check the area of proposed study in ToR, and verify** if study has been done
5. **Study the Site Visit Report** to understand the project concerns
6. **Check the ToR issued** for inclusion of concerns of the Site Visit Report
7. **Demand the re-issue of a customised ToR**, by MoEF/ SEIAA, if concerns of Site Visit Report are not addressed

WHAT YOU CAN DO - TPP EXPANSION

1. **Petition the MoEF** if the ToR does not include a mechanism to assess the functioning of the existing plant for adherence to conditions in EC & CRZ Clearance*
2. **Study the adherence of the existing plant** to the conditions mandated in the EC**

*ToR should require details of ash pond and action plan for study of heavy metals in and around the existing ash pond

**Under RTI, it is possible to obtain the Quarterly Report submitted by the Project Proponent to SPCB, the Half Yearly Report submitted to Regional Office of MOEF, and the Annual Environmental Statement submitted to SPCB and the Consent-to-Operate Conditions

IV On announcement of Public Hearing

OBTAIN DOCUMENTS

1. **Draft EIA Report, Executive Summary of the EIA** in English & Regional Language submitted by the Project Proponent

Note:

- Both documents should have been submitted as hard & soft copies and available as such
 - Draft EIA Report will detail the studies undertaken, methodology used, mitigation measures to be adopted, and activities proposed as CSR etc
 - Environmental Management Plan in the Draft EIA Report will address various mitigation measures with a break-up of mitigation costs
 - Disaster Management Plan, which is part of the Environmental Management Plan, will be detailed based on process activity, the kind of hazardous chemicals to be handled, the emergency preparedness & response
2. **ToR** (accessed in Stage II): The ToR will specify studies to be undertaken

WHAT YOU CAN DO – NEW TPPs

1. **Petition the District Collector, Magistrate / Deputy Commissioner for suitable and timely corrections to hold the public hearing as mandated**, if there are procedural lapses in announcing the public hearing, in publicity to be given in newspapers, in making Draft EIA Report available, or if the venue for the hearing is too far from project site
2. **Check if all the prescribed studies have been undertaken properly by** comparison of Draft EIA Report with the ToR
3. **Check the chapter sequence of the Draft EIA Report** for compliance to format as specified in EIA Notification 2006
4. **Consult an environmental expert** to check if the mitigation measures proposed are adequate
5. **Report to the MoEF/SEIAA** immediately if there is no original primary data*
6. **Write your objections & concerns** about the plant to the District Environment Engineer of the region**
7. **Make a checklist of objections** to be made at the public hearing
8. **Ensure high participation of locals** in the public hearing
9. **Urge your Panchayat Leader** to join in opposing the plant or in objecting to its worrying aspects
10. **Report immediately to the MoEF/ SEIAA and demand a fresh hearing or approach the NGT** if mandated procedures were not adopted in the public hearing

*According to an NGT judgment (*Vinod R. Patel Vs Gujarat State Level Environment Impact Assessment Authority*), it is necessary for a Project Proponent & EIA consultant to conduct preliminary socio-economic data surveys

** This can be done till the date of public hearing. Remember to make a representation as a group

WHAT YOU CAN DO - TPP EXPANSION

1. **Check and report immediately to the MoEF** if Draft EIA Report has not truthfully reported the functioning of the existing units
2. **Urge local community members** to participate in the public hearing
3. **Detail the problems** faced by the existing plant at the Public Hearing
4. **Ensure recording** in minutes of concerns expressed at the Public Hearing

V On completion of Public Hearing and submission of Final EIA

OBTAIN DOCUMENTS

1. **Minutes of the Public Hearing** compiled by the SPCB
2. **Written Responses** received and responded to in Final EIA by Project Proponent
3. **Final EIA & Revised Project Feasibility Report** submitted by Project Proponent*
4. **Report of MoEF/ SEIAA on the EIA's adherence to ToR:** The MoEF/ SEIAA Report will reveal inadequacies, if any, in the Final EIA. This can be used as an input for communities to file a petition if & when EC is granted
5. **Minutes of the EAC/ SEAC meeting** concerning the project

* The Final EIA should detail and address the people's concerns in the Public Consultation. The Revised Project Feasibility Report should include the additional activities and budgetary allocations undertaken to mitigate the environmental impact, including those highlighted at the hearing

WHAT YOU CAN DO

1. **Ensure proper recording** of the concerns of the people in the Public Hearing Report
2. **Compare the responses** given by the Project Proponent in the public hearing minutes & Public Consultation Report
3. **Compare the public hearing minutes and written responses** with the Final EIA and **verify** if the concerns of the people have been addressed by the Project Proponent*

4. **Check if additional measures have been included** in the Feasibility Report and funds allocated for it to ensure that the Project Proponent has seriously planned to incorporate additional mitigation measures recorded in public hearing minutes and written responses
5. **Compare Final & Draft EIA Report** and intimate MoEF/ SEIAA of discrepancies if any**
6. **Check the Public Hearing Report** and intimate MoEF of omissions of people's concerns, if any
7. **Scrutinise the minutes** of the EAC/ SEAC meeting for concerns raised by the committee and suitability of response of Project Proponent***
8. **Check the break-up** of mitigation measures and associated costs, in EMP Chapter, in Draft EIA Report and Final EIA reports****
9. **Check and demand speedy implementation** of agreed CSR measures, associated costs and implementation plans
10. **Demand "Public Disclosure"** of possible emergencies and preparedness

*Final EIA should address concerns of the people including allocation of mitigation measures & costs

**No new or additional studies have been included and no change in the baseline data in Final EIA

***Observations of the EAC/SEAC revealing a bias towards the proponent is an input for the local communities to oppose to it by writing to the MoEF or filing a petition with the NGT

****There should be some incremental increase in mitigation measures & cost in the Final EIA from the Draft EIA Report

VI On issue of Environmental Clearance

OBTAIN DOCUMENTS

1. **Environment Clearance** issued by MoEF/SEIAA*
2. **Compliance Report** submitted by Project Proponent to MoEF/SEIAA
3. **Inspection Report** of the SPCB
4. **Annual Fly Ash Utilisation Report** submitted by Project Proponent to the Central Electricity Authority, SPCB & MoEF
5. **'Consent to Establish' & 'Consent to Operate'** issued by the SPCB

*The conditions in the EC are an indicator of MoEF's concerns and checks / measures introduced for mitigation. These can be the focus areas for monitoring of the plant

WHAT YOU CAN DO

1. **File a petition with NGT** if the local community believes with reason that the EC should not have been issued*
2. **Report to MoEF** and, if required, file a petition with the NGT if the Inspection and/or Compliance Reports show a violation of EC conditions
3. **Notify** the same to **the MoEF, its Regional Office and lodge a complaint with the SPCB** if the conditions in the 'Consent-to-Establish' issued by SPCB are not aligned with or if there is any deviation to the EC conditions

*Any procedural lapse in the earlier stages will serve as inputs for the petition

1. SUCCESSFUL INTERVENTIONS AGAINST POWER PLANTS

Bakreshwar Thermal Power Station (BKTPS in short)

Specifics	Power Plant details
Name of Power plant	Bakreshwar Thermal Power Station
Location	Birbhum District, West Bengal
Project Proponent	West Bengal Power Development Corporation Ltd
Plant Capacity	1050 MW
Reason for opposition	<ul style="list-style-type: none">The power plant was polluting the waters of river Chandrabhaga due to discharge of fly ash affecting the aquatic life, agriculture and health of the people in the area.
Result	<ul style="list-style-type: none">To impose penalty/compensation for restoration/reclamation of river ChandrabhagaTo direct the West Bengal State Pollution Control Board to monitor the activities of the project proponent to ensure that they comply to our directions, the MoEF guidelines on Fly ash utilization and directions of the Central Pollution Control Board.

BKTPS is a coal-fired power Plant with five units located in the Birbhum District of West Bengal with a power generating capacity of 1050 MW with five units.

Mr. Subhas Datta, an environmental activist and public spirited person filed this application on dated 27.10.2014 alleging pollution of water of river Chandrabhaga due to discharge of fly ash laden water from the ash pond to the river thereby affecting the aquatic life, agriculture and health of the people in the area. A large number of photographs were filed by him in support of his allegation that the river water had lost its natural character due to discharge of fly ash water and dumping of fly ash in the river banks in violation of the Air Act 1981, the Water Act 1974 and the Environment (Protection) Act, 1986 and also non-implementation of MoEF guidelines issued from time to time on utilization of fly ash.

The court directed the Member Secretary of the West Bengal PCB to submit a status report in respect of the Thermal Power Plant on the followings:-

“i) Violation of general and specific conditions of Environmental clearance & consent to operate including Air, Water and Environment Protection Act;

ii) Violation of MoEF Notifications of 1999 and amendments of 2003 & 2009 on Fly ash disposal & management.

iii) About water quality of river Chandrabhaga in upstream and downstream and discharge point of fly ash contaminated water and extent of contribution of the power plant relating to pollution of river water quality and also the sediment load of river.

NGT sought to impose a Rs. 5 crore penalty on the power plant. However, the NGT stated on finding that the TPP authority removed ash from the river bed which has resulted in the river bed being restored to its natural texture and colour. The river bio-diversity has been found restoring slowly. Hence, the NGT stated

- On the issue of imposition of penalty/compensation of Rs.5.00 crores on the project proponent on the principle of ‘Polluter Pay’ for causing environmental degradation, the TPP had made efforts to clean the river-bed and had spent Rs.3,94,86,978/- for the purpose.
- In order to achieve zero discharge from the ash pond into the river Chandrabhaga, an amount of Rs.2,50,00,000/- was made to complete the unfinished work of clariflocculator Stage-II.
- Work order for construction of a 2nd Ash Pond valued at Rs. 155.00 crores was expected to be completed by March 2017.

As the project proponent has already carried out the mitigation measures by undertaking the necessary works and, as per the report of State Pollution Control Board, there has been significant improvement, the court accepted the environment restoration activities done by the power plant and to take a decision not to impose any penalty/compensation on the project proponent. Project proponent was directed to pay litigation cost of Rs. 50,000/- to the petitioner, Mr. Subhas Datta within six weeks.

Also, the Court directed the following to the power plant:

- (i) The project proponent shall ensure that the second ash pond under construction shall be made operational by March, 2017 positively failing which the project proponent shall mandatorily switch over to dry disposal of ash with 100% utilization, or shut down two of its units of the Plant.
- (ii) The new clariflocculator shall be made ready and operational within six months in order to achieve zero liquid discharge.
- (iii) Until the new clariflocculator is established, ash pond overflow shall be discharged by conforming to the disposal standards.
- (iv) The flood plain of both the rivers shall not be used for dumping flyash.
- (v) Apart from the above, the project proponent shall also meticulously implement the other recommendations of the Pollution Control Board.

2. Sompeta Thermal Power Plant

Specifics	Power Plant Details
Name of power plant	Sompeta Thermal Power Plant
Location	Sompeta, Srikakulam in Andhra Pradesh
Project Proponent	Nagarjuna Construction Company (NCC)
Plant Capacity	2640 MW
Reason for opposition	<ul style="list-style-type: none"> • Plant site in wetland and nesting habitat for migratory birds • Misrepresentation of facts in EIA • No access to EIA report ahead of public hearing
Result	Clearance suspended by the National Green Tribunal in May 2012, project said to be relocated

In 2008, the State government of Andhra Pradesh permitted Nagarjuna Construction Company to construct a 2,640 MW thermal power plant in Sompeta, Andhra Pradesh.

The Expert Appraisal Committee did not issue the Terms of Reference at the first instance noting that the project land involved marshy sites, and asked the Project Proponent to find an alternate site away from the mudflats, conforming to CRZ Regulations. The Project Proponent informed the EAC that the project site was neither a wetland nor in the CRZ area, and the information provided by it earlier was based on errors. The site visit report by a sub-committee of the EAC stated that the project area was dry, agricultural land. Based on the site visit report, a TOR was issued in May 2009, after asking the Project Proponent to exclude a specific area of 400 acres. The public hearing was conducted in August, and environmental clearance granted by MoEF in December. Subsequently, in early 2010, petitions were filed at the National Environmental Appellate Authority (NEAA) against the clearance.

Due to the massive land acquisition involved in the project, residents were aware of the project. Their concerns were initially voiced by a regional NGO, Paryavarana Parikakshana Samithi (PPS), which wrote letters to the SPCB, Regional MoEF offices and the Chief Minister. An overwhelming majority of the public is said to have opposed the plant at the public hearing. The primary objection of the people was about the falsification of facts regarding the type of land.

The state government allotted land to NCC based on a report by the Collector of Srikakulam about the government lands to be alienated to the company. This excluded 44.6 ha of land

under agriculture and the area within the Coastal Regulation Zone. Later in 2009, through another order, these were included in the area to be allotted to the company. The Collector's report failed to disclose three lift irrigation projects operating there. This despite the fact that in 2003, the government had issued an instruction to all the District Collectors to notify all lands with water bodies and include them in the village 'Prohibitory Order Books' so that such land could be excluded from diversion and damage. The Collector's report suppressed this fact and described the land in question as "wasteland" and "non-cultivable", in order to pave the way for allotting it to NCC.

The plant site was a nesting and feeding habitat for migratory birds from Australia and Siberia, which visit the area for six months and within a wetland where no industrial activity can be permitted under the Environment Protection Act (EPA), 1986.

The project- if implemented- would have affected the villages of Rushikudda, Gollagunda, Baruvapeta and Benkili which are inhabited by both peasants and fishermen.

Local communities opposed the clearance issued for the project claiming it was granted based on misleading facts. PPS filed a petition against the Environment Clearance, claiming that it was granted based on misleading facts in the EIA.

Meanwhile, in July 2010, the Project Proponent initiated land acquisition which resulted in a fight between the Project Proponents and police on one side, and more than a thousand villagers on the other. The local police opened fire on the farmers and fishermen, killing two fishermen. In addition, 150 people were injured, including 45 policemen.

Two days after the police firing, the NEAA cancelled the environmental clearance for the project, stating that:

"On inspection, the Authority found this land a typical wetland of great ecological importance and a source of water for nearby villages upon which three important lift irrigation projects of the Government depend. The reports of various agencies including that of sub-committee of EAC was found misleading", (Paragraph-6) and " the Authority has no doubt that the area in question is a typical wetland of great ecological significance and despite no law prohibiting its use for power plant, will not permit its use for that purpose" (Paragraph-9)."

Following the NEAA order, the Project Proponents filed six review petitions, which were transferred to the National Green Tribunal. In May 2012, the NGT suspended the clearance issued to the project⁵. The bench noted that the baseline data was collected before the TOR

5 <http://epaper.timesofindia.com/Default/Scripting/ArticleWin.asp?From=Archive&Source=Page&Skin=ETNEW&BaseHref=ETD/2012/05/24&PageLabel=17&EntityId=Ar01702&ViewMode=HTML>

was issued, and the time for several surveys were not specified in the EIA report. The tribunal also noted that in the public hearing process, the people were deprived of information about the project as there was no access to the EIA Report. Based on these observations, the NGT asked that the EC for the project remain suspended.⁶ Meanwhile, the Project Proponent company announced that the project has been relocated to Krishnampatnam.⁷

3. Chettinad Power Plant

Specifics	Power Plant Details
Name of power plant	Chettinad Power Plant
Location	Tarangambadi Taluk, Nagapattinam District, Tamil Nadu
Project Proponent	Chennai Power Corporation Private limited
Plant Capacity	1320 MW (Original capacity proposed was 1200 MW)
Reason for opposition	<ul style="list-style-type: none"> • Non-adherence of ToR conditions in Draft EIA • Collection of baseline data before award of ToR & after public hearing • Discrepancies between Draft & Final EIA
Result	NGT suspended clearance, which was later re-issued with additional conditions; the NGT judgment also spelt out suggestions for conducting public hearing

The Project Proponent submitted the application in October 2009, for which Terms of Reference for EIA studies was issued in January 2010. Subsequently, a draft EIA was submitted in April 2010, and the public hearing held in May.

The project was proposed in Nagapattinam, where several such projects were lined up for clearance. Coastal Action Network (CAN), a network of NGOs, filed a writ petition with the Madras High Court seeking to change the venue of the public hearing, as the venue proposed was within the plant premises where they feared intimidation by the Project Proponent. The Division Bench of the Court permitted the hearing to be conducted at the appointed time and venue, directing the Project Proponent to offer transport facility for the participants. It also announced a committee to monitor the hearing and submit a report.

The hearing was held on the announced date, and Environmental Clearance accorded in January 2011, after the EAC's appraisal of the project.

⁶ <https://www.elaw.org/system/files/SompetaJudgment.pdf>

⁷ http://www.infrawindow.com/news/national-green-tribunal-cancels-clearances-to-sompeta-power-project_3502/

Coastal Action Network, citing several procedural lapses by the Project Proponent in the EIA process, approached the National Green Tribunal, New Delhi. CAN claimed that several modifications/additions were made to the Final EIA, in comparison with the Draft EIA and falsely mentioned the project region as semi-arid. From government records it could be inferred that the proposed land was a 'wetland'. CAN also claimed that the project would severely affect agriculture in the area.

In order to verify the observations about the discrepancies about the Draft & Final EIA, the Principal Bench of the NGT requested the MoEF for a copy of the Draft EIA. The ministry responded that there was no record of the document. Using a copy of the Draft EIA submitted by the appellant, the Bench noted that the following issues were modified or partially dealt in the Final EIA report as compared to the Draft EIA:

1. Details of land acquisition were not provided fully, including the names of families and details of compensation paid/proposed to be paid per acre of land
2. CSR Component - Concept proposal with budget was not part of the Draft EIA
3. Detailed study on marine ecology - Both the EIA reports provided only a generic executive summary without management plan and budget
4. Ambient Air Quality - Data on PM2.5 & Hg were not present in Draft EIA
5. Fuel Analysis -Data on heavy metals were not present in Draft EIA

However, the Bench observed that these discrepancies would not have any substantial impact on the environment, and noted that procedural lapses alone cannot be a reason for setting aside the grant of Environmental Clearance. Other important observations made by the Bench were:

- Baseline data for terrestrial ecology was collected before award of ToR and did not fully comply with it. Dataset was updated/ modified in the final EIA report that was used for appraisal by EAC.
- Though the ToR required a report on Marine Ecology, an extremely generic executive summary of no relevance, devoid of any material facts was annexed to the EIA report. It was not available at the time of the public hearing or subsequent EAC appraisal.
- Both EIAs did not include primary or secondary data about the presence of Olive Ridley Turtles, though a report by the TN Fisheries Department mentioned the project site stretch as a nesting site.

- The Project Proponent had proposed the use of a blend of indigenous and imported coal in the EIAs, but while presenting the project to the EAC, the Project Proponent mentioned the use of imported coal only. The EC mentioned the use of coal with up to 34 percent ash value- this could have been fully domestic coal too (whose ash value is 30 percent), whose impact of air quality will differ from imported coal.
- The EIA did not specify the source of water in the construction phase.

Following these observations, the Bench ordered the suspension of environmental clearance for the project till the Final EIA report was updated about both terrestrial and marine ecology. The updated EIA was ordered to be uploaded on the MOEF website and objections/ suggestion invited. The EAC was asked to appraise the project along with public feedback, and upload its recommendation on awarding the EC on the MoEF website.⁸

When the Project Proponent submitted the revised EIA, the EAC observed that it did not comply with all the conditions stipulated by the NGT. It demanded that a study on the impact of the project on Olive Ridley turtles be submitted, along with a long-term plan for preserving turtles. The revised EIA report- the EAC stated- should be submitted as an affidavit signed by a competent authority in the Project Proponent organisation and notarised. Upon the submission of the affidavit, clearance was issued stipulating thirteen additional conditions than given in the original clearance.

NGT on Public Hearings

“On viewing the video CDs in majority of the cases which have come up for our consideration, we felt the public hearing was a mockery. The PH is worthless except mere recording of “support” or “oppose””

⁸ <http://www.indiankanoon.org/doc/5723251/>

FAQS (Frequently Asked Questions)

1 General

(a) Industry Classification

Q: How are TPPs classified among industries?

A: The Ministry of Environment & Forests (MoEF) has classified TPPs as one of the 17 Red Category industries. Red Category denotes heavily polluting industry.

For obtaining EC:

- Category A projects are -
 - ≥ 500 MW Coal/Lignite/Naphtha & Gas Based Fuel
 - ≥ 50 MW Petcoke, Diesel and all Other Fuels, including Refinery Residual Oil Waste (excluding Biomass)
 - ≥ 20 MW Biomass Based or Non-Hazardous MSW (Municipal Solid Waste) as Fuel
- Category B projects are -
 - < 500 MW Coal/Lignite/Naphtha & Gas Based Fuel
 - <50 MW or ≥ 3 MW Petcoke, Diesel and all Other Fuels, including Refinery Residual Oil Waste (excluding Biomass)
 - < 20 MW or ≥ 15 MW Biomass Based or Non-Hazardous MSW (Municipal Solid Waste) as Fuel

(b) Siting of Plants

Q: Why is there a proliferation of TPPs along the coast?

A: Situating a plant along the coast provides two important benefits to the Project Proponent:

1. Easy transport of imported coal through ports and captive jetties.
2. Easy availability of seawater for on-site seawater desalination technology for both once-through cooling and for boiler-feed water generation. This reduces fresh water requirement for running the thermal power plant.

Q: Is there any regulation on where TPPs can be situated?

A: Yes. There are three sets of criteria to be observed for situating TPPs. These are:

1. Criteria listed in the EIA Notification, 2006
2. Industry Siting Guideline of the Central Pollution Control Board (CPCB)
3. Siting Rules of the State Pollution Control Board (SPCB)

According to the EIA Notification 2006, TPPs with a capacity of less than 500 MW- which are awarded EC by the State Environment Impact Assessment Authority (SEIAA) - will have to seek clearance from the MoEF if they are to be situated within 10 kms of

- Protected Areas notified under the Wild Life (Protection) Act, 1972
- Critically Polluted Areas as notified by the Central Pollution Control Board from time to time
- Notified Eco-sensitive Areas
- Inter-State Boundaries and International Boundaries

As of October 2013, the CPCB has marked the following areas as critically polluted:

- Ankleshwar (Gujarat)
- Chandrapur (Maharashtra)
- Pali (Rajasthan)
- Vatva (Gujarat)
- Vellore (Tamil Nadu)
- Najafgarh Drain Basin (Delhi)
- Jodhpur (Rajasthan)

TPPs cannot be situated in these areas.

Besides these, State Governments also have a list of places where development activities are restricted.

The **Tamil Nadu** SPCB has passed an order banning heavily polluting industries (which includes TPPs) from being situated within 1 km from the embankment of certain rivers (mentioned in the link provided below) and within 5 kms from the embankment of river Cauvery & its tributaries, Pennaiyar, Palar, Vaigai and Tamrabarani

{<http://www.tnpcb.gov.in/GO1.html>

<http://www.pcboac.tn.nic.in/Docu/GOs.pdf>}

The **Andhra Pradesh** SPCB has stated that the distance between the boundary of the site for any industry and the boundary of the National Highway should be 100 m, State Highway-50 m and Village Roads 25 m. These guidelines, however, are not applicable to plots located in industrial estates.⁹

In **Karnataka**, no new industry can be set up within 1.5 km from the embankment of

- Cauvery, Kabini, Arkavathy, Shimsha, Pennar, Hemavathy, Lakshmanthirtha, Gundal river, Lokapavani, Palar, Thungabhadra, Krishna, Bheema, Varada, Ghataprabha, Malaprabha, Vedavathi, Karanja, Hagari
- All west flowing streams/rivers
- All those streams/rivers carrying water either seasonally or throughout the year
- All Major Dams
- Drinking surface water sources
- All major irrigation canals
- If any water body is a source of drinking water, then a distance, to where the discharge of pollutants will not affect the water, will be stipulated
- TPPs are not permitted within municipal/ city limits and residential areas¹⁰

For further details on siting guidelines, please check with the respective State Pollution Control Boards.

Q: What is the CEPI (Comprehensive Environment Pollution Index)? How does it impact the location of TPPs?

A: CEPI is a number to characterize the environmental quality of a given location. CEPI scores are calculated from time-to-time by the CPCB to identify critically polluted areas and industrial clusters, by monitoring their air, land and water.

CEPI Score is an important tool to identify those clusters where industrial development activities have been restricted due to their pollution levels. In 2010, the MoEF imposed a moratorium on the consideration of projects for EC, if they were located in 43 critically polluted areas. It has been reduced to 7 clusters as of September 2013. TPPs cannot be located in those places where the moratorium is imposed.

⁹ <http://www.appcb.ap.nic.in/cm/siting.htm>

¹⁰ <http://kspcb.gov.in/sitingguidelines.html>

(c) Transportation of Coal

Q: How is coal usually transported to power plants from the port?

A: By road, rail or through closed conveyor belts. If transportation of coal entails a long distance, the Project Proponent is expected to assess the possibility of rail transportation to the site. Wagon loading at source should preferably be through silo/conveyor belt.

Environmental Clearance & EIA Process For A New Plant

(a) Public Consultation Process

See Chapter on Effective Participation in the Public Consultation Process

(b) Before Environmental Clearance

Q: What activities, with respect to project land, can the Project Proponent engage in, before EC?

A: Activities permitted before an EC according to a circular by the MoEF¹¹:

- Fencing of the site to prevent it from being encroached
- Construction of temporary sheds for guards

Q: How long does it usually take for a plant to get EC?

A: It depends on the size of the plant. Usually 1 to 1½ years is the time for a plant to obtain EC after filing of Application. The following are the time-bound activities according to the EIA Notification:

Issuance of ToR: To be issued within 60 days of Application submission by Project Proponent.

Conducting of Public Hearing: The Public Hearing Report to be submitted to the MoEF/SEIAA by the SPCB within 45 days of receiving request for hearing from the Project Proponent.

Issuance of EC: To be conveyed to Project Proponent with 135 days of Final EIA being submitted by Proponent

(c) Coal Mix & Coal Linkage

Q: What should the Project Proponent do if the particular coal mix, for which EC has been obtained, is to be changed?

A: Project Proponent has to apply for a fresh EC for the new fuel mix. (This is stipulated under EIA Notification [2 (iii)])

¹¹ <http://envfor.nic.in/downloads/public-information/Act-prior-EC.pdf>

Q: Can Project Proponent establish coal linkage before obtaining EC?

A: Yes! In fact, it is a prerequisite for granting EC. The status of the Forest & Environmental Clearance of the coal source- be it the linked coal mine or coal block - should also be specified in the EIA. If imported coal is to be used, the MoU between the coal supplier and Project Proponent is required to be included in the EIA.¹²

The coal linkage can be through a specific mine, a basket of mines or through a dedicated coal block accorded by Standing Linkage Committee of the Ministry of Coal or the Fuel Supply Agreement.

Q: If the quality/type of coal (i.e. coal parameters), different to the one based on which the EC was issued, is required, what should the Project Proponent do?

A: If the coal parameters have changed, the Project Proponent should bring it to the attention of the MoEF, which will assess and incorporate new and additional conditions, if required.

(d) Public Authorities in the EIA Process

Q: Which Public Authorities/Government Offices are involved in the EC Process?

A: MoEF and SEIAA are the Regulatory Authorities that issue the EC. Category A projects are awarded clearance by the MoEF, while the SEIAA issues clearance for Category B projects.

SPCB is entrusted the task of conducting the Public Consultation by the MoEF and submitting the Public Consultation Report

Q: Is the SEIAA a State or Central Government Body?

A: It is a Central Government Body! However, its Member Secretary and Chairman are nominated by the respective State Government. The Member Secretary has to be a serving officer of the concerned State Government.

(e) Documents to be available in Regional Language

Q: What are the documents in the EIA process that, additionally to English, are to be available in the Regional (local) Language?

A: They are

1. The Executive Summary of Draft EIA, ahead of the public hearing

12 <http://moef.nic.in/downloads/public-information/Coal-blocks.pdf>

2. A Statement of Issues raised by the public and responses given by the Project Proponent at the Public Hearing. This is compiled by the State Pollution Control Board

(f) Site Visit

Q: Who will visit the project site for any survey or study?

A: Accredited EIA Consultants will conduct surveys of the proposed project site and its neighbouring areas. According to an NGT order¹³, EIA Consultants should gather some primary material about the socio-economic data in the area and carry out a preliminary survey to understand the basic needs of the people in the project area to form the Environment Management Plan.

The ToR will stipulate the distance around the project site for survey for the EIA.

Q: When can EAC/SEAC members make a site visit?

A: The sub-committee of the EAC/ SEAC can make a site visit at any stage of the EC Process. It is commonly done before the ToR is issued and/or after the Draft EIA is submitted.

(g) Terms of Reference (ToR)

Q: Who draws up the ToR and the extent of the EIA?

A: The EAC/ SEAC!

The ToR, issued by EAC/SEAC, spells out the parameters of the EIA (e.g. the duration of the study (number of seasons), extent of study (number of kilometres around the proposed plant site) etc.

(h) Final EIA

Q: What is the allowable extent of difference between the Draft EIA and Final EIA?

A: The Final EIA cannot be drastically different from the Draft. Only those changes necessitated as part of the Public Consultation are permissible.

The EIA that is made ready and available before the Public Hearing is called the Draft EIA. It should cover all baseline study information, mitigation measures and any specialized study stipulated in the ToR.

The EIA revised and submitted after the Public Consultation Process, to include the concerns of the public and additional measures to address these concerns, is the Final

13 <http://www.indiankanoon.org/doc/161693875/>

EIA. No change in baseline data or inclusion of specialized study information, as directed in ToR, can be incorporated after the Public Consultation Process.

Q: Is the current environmental state of a project site studied?

A: Yes! The state of the environment of the proposed project site and its neighbourhood is studied as part of the baseline study undertaken by the accredited EIA consultant. The study area to be considered for the EIA study is spelt out in the ToR issued by the MoEF/SEIAA. The EIA will contain the assessment of different components of the environment, called the 12 Functional Areas, including the ambient air, noise, groundwater, biology, land, socio-economic aspects.

Q: How long does it usually take to conduct the EIA Study?

A: That depends on the extent of study specified in the ToR. The EIA study will take at least 3 months (1 season) or up to 1 year.

Q: Is the Final EIA available for public scrutiny?

A: An MoEF circular issued in August 2013 requires the MoEF/SEIAA to upload the Final EIA before the EC is issued. If there is any objectionable part in the Final EIA, the public can report it to the MoEF, or petition the NGT.

(i) EIA Consultant

Q: What is the need and what are the responsibilities of the EIA Consultant?

In order to assess the environmental impacts of a proposed plant, the Project Proponent has to engage the services of a consultant accredited by National Accreditation Board of Education and Training/Quality Council of India (NABET/QCI).

The EIA for a project not done by an accredited consultant will not be considered for clearance. A Consultant, entrusted with the task of conducting an EIA for a TPP, should be accredited for that specific sector.

The list of accredited consultants is found at: <http://nabet.qci.org.in/environment/pop.asp?file=documents/Annexure7.pdf>

Q: What is the composition and role of the EIA Consultant Team for a project?

A: The EIA Consultant Team for a project is headed by an EIA Coordinator knowledgeable about the EIA process, rules and acts, sector knowledge, likely environmental impacts related to the sector, and the leadership quality required to plan, select and guide an EIA Team.

Apart from the EIA Coordinator, the Team will contain Functional Area Experts (FAE) for 12 specific areas.

The areas include:

1. Land Use
2. Air Pollution Monitoring, Prevention and Control
3. Meteorology, Air Quality Modeling and Prediction
4. Water Pollution Monitoring, Prevention and Control
5. Ecology and Biodiversity
6. Noise and Vibration
7. Socio-Economic Aspects
8. Hydrology, Ground Water and Water Conservation
9. Geology
10. Soil Conservation
11. Risks and Hazards Management
12. Solid and Hazardous Waste Management (including municipal solid wastes)

The minimum qualifications for an Expert are given in: http://nabet.qci.org.in/environment/pop.asp?file=documents/EIA_Scheme.pdf&heading=About%20EIA%20Consultant%20Organizations%20Scheme

A team member, with the necessary qualification criteria, can be both the EIA Coordinator and a Functional Area Expert. An expert can opt to be an FAE for a maximum of 4 domains, or as an EIA Coordinator for a maximum of 5 sectors.

(j) After issue of EC

Q: Once the EC has been issued, can a Project Proponent start the construction of the plant?

A: No! The Project Proponent has to apply for Consent to Establish with the respective SPCB. Upon obtaining it, the construction of the plant can commence.

Before starting operations in the plant, the Consent to Operate has to be obtained from the SPCB.

(k) Chimney Height

Q: Are there any norms for Chimney Heights?

A: The required stack height for TPPs has been notified under the Environment Protection Act, 1986.

Plant Capacity : Chimney Height

≥500 MW : 275 meters

210 MW- 500 MW : 220 meters

Less than 210 MW : $H = 14 Q^{0.3}$ (where Q is emission rate of SO₂ in kg/hr, and H is stack height in meters).

(l) Permitted Pollution Levels

Q: What are the permitted pollution levels for TPPs ?

A: The standards for discharge of environmental pollutants have been specified in notifications issued over time under the Environment Protection Act, 1986. A compilation of the different parameters can be found in the annexures of the Technical EIA Guidance Manual for Thermal Power Plants. The manual can be found here: http://environmentclearance.nic.in/writereaddata/Form-1A/HomeLinks/TGM_Thermal%20Power%20Plants_010910_NK.pdf

(m) Land Acquisition

Q: At what stage can the Project Proponent acquire land for the project?

A: Land acquisition can begin even before the Project Proponent submits an application for EC. However, it is not mandatory for the Project Proponent to buy all the land required for the project site at this stage. This is an area that an accredited EIA Consultant Organization should probe for likely Socio-Economic issues and Resettlement & Rehabilitation.

Q: How is the rate for the required project land to be decided?

Under the recent legislation, Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013, there is a formula for compensation calculation and the District Collector only has to ensure that the procedure is followed.

Existing Plants

Q: What is the difference between a greenfield EIA and brownfield EIA?

If the proposed project is a new one in a location, then it is called a Greenfield project. Such a project demands baseline study of the project area and the expected change after its operation with impact assessment and required mitigation measures.

A brownfield project is an expansion in an already operating site. For such projects, the baseline study should cover effectiveness of existing mitigation measures, including the compliance status of all EC conditions, and expected change with comprehensive impact assessment and required mitigation measures.

Q: How are established plants monitored?

A: The SPCB should conduct periodic inspections of all industries, including TPPs, to ascertain if they are functioning according to permitted emission levels and adhering to other conditions stipulated in the EC.

The Project Proponent has to submit the following Compliance Reports:

- Quarterly Monitoring Report to the SPCB
- Half Yearly Compliance Status Report to the Regional Office of MoEF
- An Annual Report has to be submitted to Central Electricity Authority in a specified format (under the Fly Ash Utilization Rule), with a copy sent to SPCB
- Yearly Environmental Statement to SPCB
- Additional reports asked for by SPCB (based on public complaints)

Q: What should the Compliance Reports contain? How can one access them?

A: EC for every TPP contains specific conditions that have to be adhered to and corroborated in the Compliance Reports submitted to the MoEF/ SEIAA.

These reports are to be available in public domain and the latest Compliance Report should be on the MoEF/ SEIAA website.

The MoEF/ SEIAA must make available copy of any Compliance Report on request from the public.

Q: What are the other documents that the public can access?

- a) Quarterly Compliance Report submitted to SPCB
- b) Annual Environmental Statement submitted to SPCB
- c) Annual Fly Ash Utilization Report submitted to Central Electricity Authority with copies to SPCB & MoEF

Other Clearances

(a) Coastal Regulation Zone (CRZ) Clearance

Q: What is CRZ Clearance and its relevance to the EIA Process?

Projects situated in close proximity to the coast require CRZ Clearance. The CRZ Notification of 2011 specifies where a CRZ Clearance is required. If the site of a proposed TPP lies within the CRZ, then the EC for the project will be subject to the recommendations of the State Coastal Zone Management Authority for CRZ Clearance. The minutes of the meeting of the State Coastal Zone Management Authority- uploaded on its website- will reveal if a project has been recommended CRZ clearance.

(b) Forest Clearance

Q: Who issues Forest Clearance?

A: Forest Clearance is issued by the Central Government under Section 2 of the Forest Conservation Act, 1980, when a project uses Forest Land.

(c) Further Clearances

Q: Apart from EC of the MoEF, what other clearances are required?

A: Some of the other clearances required include:

1. NoC from the Panchayat for setting up a TPP within its limits
2. Consent to Establish and Consent to Operate from the concerned SPCB
3. Approval for drawing water from the state water authority if the source is from a perennial river
4. Clearance for the chimney height to be obtained from the Airport Authority of India
5. Permission from the Indian Railways for railway siding/Right of Way for railway track

REDRESS

Q: Where should complaints about any aspect of the EC process of a plant be made?

A: Any violation at any stage of the EIA process can be reported to the MoEF. If the EC has been awarded for a project with violations, it should be challenged at the National Green Tribunal.

Q: Where should complaints about an existing TPP be made if conditions regarding employment, CSR and others are not followed?

A: If the conditions stipulated in the EC are not followed, it should immediately be brought to the notice of the MoEF and the SPCB.

Q: What is the National Green Tribunal (NGT)?

A: The NGT is a quasi-judicial body established to adjudicate cases relating to environmental protection, conservation of forests and other natural resources. New Delhi is the principal place of sitting of the Tribunal and Bhopal (Central Zone), Pune (Western Zone), Kolkata (Eastern Zone) and Chennai (Southern Zone) are the other four places of sitting of the Tribunal.

Q: Is there a time limit for filing petitions with the NGT?

A: Yes! Petitions to the NGT are time-barred, and allowed to be filed within 30 days of the cause of action, extendable to 90 days with sufficient justification for delay. This means that a person appealing against the EC issued to any project must, except under exceptional circumstances, do so within 30 days of the issue of the EC.

Application for EC/EIA Documents through RTI

Stage	Document Available to Public (on request)	Send RTI Application to (Project Capacity is < 500 MW)			Send RTI Application to (Project Capacity is ≥ 500 MW)		
		PIO	AA	2 nd Appeal	PIO	AA	2 nd Appeal
Before issue of ToR	<ol style="list-style-type: none"> 1. Form 1, including Proponent's ToR 2. Pre Feasibility Report 3. Additional Information from Project Proponent 4. SEIAA/ MoEF's Letter for date of SEAC/EAC Meeting 5. Minutes of the SEAC/ EAC Meeting 6. Site Visit Report of SEAC/ EAC, if held 	SEIAA	SEIAA	CIC	MoEF	MoEF	CIC
On issue of ToR	7. ToR issued by SEIAA/MoEF						
On announcement of Public Consultation	<ol style="list-style-type: none"> 8. Draft EIA by Project Proponent 9. Executive Summary of Draft EIA by Project Proponent 						
On completion of Public Consultation	<ol style="list-style-type: none"> 10. Collated Written Response 11. Public Hearing Report 12. Videotape of Public Hearing 	SPCB	SPCB	SIC	SPCB	SPCB	SIC

Stage	Document Available to Public (on request)	Send RTI Application to (Project Capacity is < 500 MW)			Send RTI Application to (Project Capacity is ≥ 500 MW)		
		PIO	AA	2 nd Appeal	PIO	AA	2 nd Appeal
Before grant of EC / rejection of Application	13. Final EIA by Project Proponent 14. SEIAA/ MoEF observations on the Final EIA's adherence to TOR 15. Minutes of SEAC/ EAC Meeting with Project Proponent 16. Recommendations to issue/ reject EC by SEAC/ EAC	SEIAA	SEIAA	CIC	MoEF	MoEF	CIC
On granting of EC	17. Environmental Clearance 18. Compliance Reports of Project Proponent	SEIAA	SEIAA	CIC	MoEF	MoEF	CIC
	19. SPCB's Inspection Reports	SPCB	SPCB	SIC	SPCB	SPCB	SIC

2.7.2 Addresses & Payment Modes for RTI Application

Authority	Address	Accepted Payment Mode	Application Fee	Appeal Fee ²⁰
MoEF	Paryavaran Bhavan CGO Complex, Lodhi Road, New Delhi - 110 003 Phone: 11-24362064	Cash, Postal Order, DD & cheque in favour of PAO MOEF New Delhi	Rs 10	None
SEIAA, Andhra Pradesh	Payavaran Bhawan, A-III, Industrial Estate, Sanath Nagar, Hyderabad – 500018, Phone:040-23887594	Cash	Public Authority Village: No fee Mandal: Rs 5 Others: Rs 10	None
SEIAA, Andhra Pradesh. Karnataka	7th Floor, M.S. Building, 4th Phase, Bangalore- 560 001. Karnataka Phone: 080-22032497	Postal Order	Rs. 10	None

14 No fee for applications by persons Below Poverty Line. A copy of the BPL card should be attached with the application in this case

Authority	Address	Accepted Payment Mode	Application Fee	Appeal Fee ²⁰
SEIAA, Kerala	Pallimukku, Pettah PO, Trivandrum-695024, Kerala. Phone: 0471-2742264	Court Fee Stamp, Bankers Cheque in favour of State Public Information Officer, Department of Environment & Climate Change	Rs. 10	None
SEIAA, Tamil Nadu	3 rd Floor, Panagal Maligai, No 1, Jeenis Road, Saidapet, Chennai: 600015, Tamil Nadu Phone:044-24359974	Court Fee Stamp, Demand Draft	Rs. 10	None

Frequently Asked Questions on RTI

1. What is the Right to Information (RTI) Act?
2. Who are public authorities?
3. Who is responsible to provide the information sought?
4. How is an RTI application different from a letter/petition written to a public authority?
5. Is there a word limit for an RTI application?
6. What should I do under RTI to obtain information?
7. What can be obtained using RTI?
8. What information cannot be obtained using RTI?
9. What language can I ask for information in?
10. How can I view/copy the information required?
11. How should the Authorities provide the sought information?
12. Is there a template to request information under RTI?
13. Can I file an RTI online?
14. What is the time frame for receiving a response?
15. Can an RTI application be returned because it was not addressed to the appropriate public authority?
16. Do I have to pay a fee for obtaining information?
17. What if there is no response for my RTI application?
18. What if the information received is wrong/ incomplete?
19. Can I be refused information?

20. **What can I do if I am not satisfied with the response of the Appellate Authority?**
21. **Is the SIC/CIC bound to issue an order in a time limit?**
22. **What happens to an officer who does not provide the requested information?**

1. What is the Right to Information Act?

The Right to Information Act was passed in 2005 in order to bring more transparency and accountability in the working of the state and central government. It guarantees all citizens of India the right to access information from public authorities in both governments.

2. Who are public authorities?

Public authorities refer to all authorities, bodies, and institutions of self-government formed by the Constitution, a law by the Parliament or the State Legislature. It also includes all bodies which are owned, controlled and financed substantially by the government, and NGOs which are substantially financed by funds provided by the government.

3. Who is responsible for providing the information sought?

The Public Information Officer, who has been appointed in every public authority for this purpose, should provide the information required. So, RTI applications should be addressed to him/her. At a sub-district or sub-divisional level in public authorities, an Assistant PIO is appointed to receive applications/ appeals and forward them to the PIO.

4. How is an RTI application different from a letter/petition written to a public authority?

Unlike a regular letter/ petition for information, the RTI Act obligates the public authority to respond to the request in a time-bound manner.

There is a provision to penalize the officer who does not provide correct information within the specified deadline, and initiate disciplinary action against him/her, if required.

Also, the nature of information that you can obtain, using RTI, is vast. According to the Act, any information that can be provided to the Parliament and the State Legislatures can be made available to the people using RTI.

A person seeking any information need not give a reason for requesting information, nor is she/he required to share personal details except her/his contact address.

5. Is there a word limit for an RTI application?

Yes! It should not exceed five hundred words, including the address of the Central Public Information Officer and that of the applicant but excluding annexures.

Your application cannot be rejected information because it exceeds 500 words.

6. What should I do under RTI to obtain information?

A simple letter seeking the information you want should be made to the public authority concerned, along with a standard fee. The Application should be addressed to the Public Information Officer of the relevant Public Authority. He/She is the official who has been given the responsibility of receiving and processing RTI requests. The name of the Public Information Officer (PIO) is not required for this purpose. The application can be addressed simply to the PIO. If you are unable to write a letter, the concerned PIO should assist you in writing the application.

7. What can be obtained using RTI?

Under the RTI, you can obtain any of the following:

- Documents, Records, Memos, E-Mails, Opinions, Advices, Press Releases, Orders, Log Books, Contracts, Reports, Papers, Circulars, Samples, Models.
- Data in electronic form, facsimile copy of document.
- Microfilm, microfiche or copy of images in the microfilm.

8. What information cannot be obtained using RTI?

Information that cannot be obtained includes that:

- i which can affect India's integrity and sovereignty
- ii which relates to the security, strategic, scientific and economic interests of India, or which is in relation with a foreign state or which can incite violence
- iii which has been banned from publishing by any court, law or tribunal
- iv whose disclosure will amount to contempt of court
- v whose disclosure will cause a breach of privilege in the Parliament or State Legislature
- vi which includes trade secrets and intellectual property, the disclosure of which will harm the competitive position of a third party, unless this disclosure serves a greater public interest

- vii which is available to a person in his fiduciary relationship, unless this disclosure serves a greater public interest
- viii which has been received in confidence from a foreign government
- ix whose disclosure can endanger life or safety of any person
- x which can impede the investigation process or apprehension or prosecution of offenders
- xi Cabinet papers on decisions till the decision has been made public
- xii which relates to personal information which has no relationship to any public activity or interest, or would cause invasion of privacy

9. What language can I ask for information in?

Information can be asked in English, Hindi or in the official language of the region where the application is filed.

10. How can I view/copy the information required?

The RTI Act specifies that you can:

- Inspect the required documents, manuscripts & records
- Take notes, copies of certified documents or copies of their extracts
- Take certified samples of the material
- Obtain information in CDs, floppies, tapes, video cassettes, print outs (when information is stored on a computer) or any electronic mode

11. How should the authorities provide the sought information?

The information sought should be provided in the form that you want it in, unless it will 'disproportionately divert the resources of the public authority'. Or if it is detrimental to the safety of the record to provide it in the form you have asked.

12. Is there a template to request information under RTI?

No! There is no specific format for an RTI application. But an applicant is required to include the following details:

- Date of Application
- Address of PIO concerned
- Applicant's address
- Information Sought (It is advisable that this is asked in numbered form or as a table form as responses will also have to be given that way)

- Form in which the information is sought- print out, CD, e-mail
- Affix/ attach payment
- Mention mode of payment
- Signature

Several state and central government authorities have prescribed sample formats for RTI requests. The Ministry of Environment & Forests has specified a format here: http://envfor.nic.in/sites/default/files/app_pro.pdf

The Central Information Commission also has an appeal format. It is, however, not mandatory to follow it and an application/appeal cannot be denied information for that reason.

13. Can I file an RTI online?

This depends on the public authority concerned. The Central Government has recently launched an online RTI portal- <http://rtionline.gov.in/>

This portal allows you to file RTI applications with select Central Government Ministries.

A few states are said to be in the process of launching a website for this.

If the information sought concerns the life and liberty of a person, the requested information has to be provided in 48 hours

14. What is the time frame for receiving a response?

Information should be provided by the PIO within 30 days of receiving the RTI request.

If the application is submitted to an APIO, then an additional 5 days will be taken to provide the response.

If the information sought concerns the life and liberty of a person, the requested information has to be provided in 48 hours.

15. Can an RTI application be returned because it was not addressed to the appropriate public authority?

No! Under the Act, the PIO to which you addressed the request for information, should forward the application to the appropriate PIO, within five days of receiving the request.

16. Do I have to pay a fee for obtaining information?

Yes! The state government decides the fee that a public authority of the state can charge for providing information. The Central Government has

Keep a copy of your RTI application before you send it! Send RTI applications by Registered Post for acknowledgment of receipt

announced a fee of Rs 10 per application. *Please check Table II (above) for the fee charged by different state governments and how they can be paid.*

If you possess a Below Poverty Line card, you need not pay the RTI fee, and should attach a copy of the card along with the request for information.

Apart from the application fee, the public authority can also charge you for providing the information sought in printed or electronic forms. This depends on the volume of data requested. Usually, information that runs to several pages is charged at Rs 2 per page. Any additional fees required for the information will be detailed by the PIO in his response.

If the information is not provided within the stipulated 30 days, then the information has to be provided free of charge.

17. What if there is no response for my RTI application?

Then you should prefer an appeal. This appeal must be made to the Appellate Authority, who has been given the task of processing RTI appeals in every public authority. The appeal must be made within 30 days after the time by which you should have ideally received a response for your application- that is, the appeal should be filed between 30 and 60 days after your RTI application reached the public authority.

18. What if the information received is wrong/ incomplete?

You should appeal to the Appellate Authority. The appeal must be made within 30 days of receiving the response. If there is a justifiable reason for delay, the appeal can be filed even after the allowed time period.

19. Can I be refused information?

Yes! Certain information need not be shared using the RTI. In that case, information can be refused. You can still appeal against the refusal, if you think the information should be accessible under the RTI Act.

This appeal must be made to the Appellate Authority within 30 days of receiving a response.

When the PIO rejects information for your request, reasons for the refusal, how you can appeal against the refusal and the Appellate Authority to whom the appeal must be sent should also be mentioned in his/her response.

20. What can I do if I am not satisfied with the response of the Appellate Authority?

In this case, you may file a second appeal with the Central/State Information Commission concerned. The appeal has to be filed within 90 days of the expiry of the response period for the RTI appeal, or within 90 of receiving a response for the appeal. Appeals can be accepted even after this time period if a valid justification for delay has been provided.

21. Is the SIC/CIC bound to issue an order in a time limit?

No, there is no time limit for the SIC/CIC order.

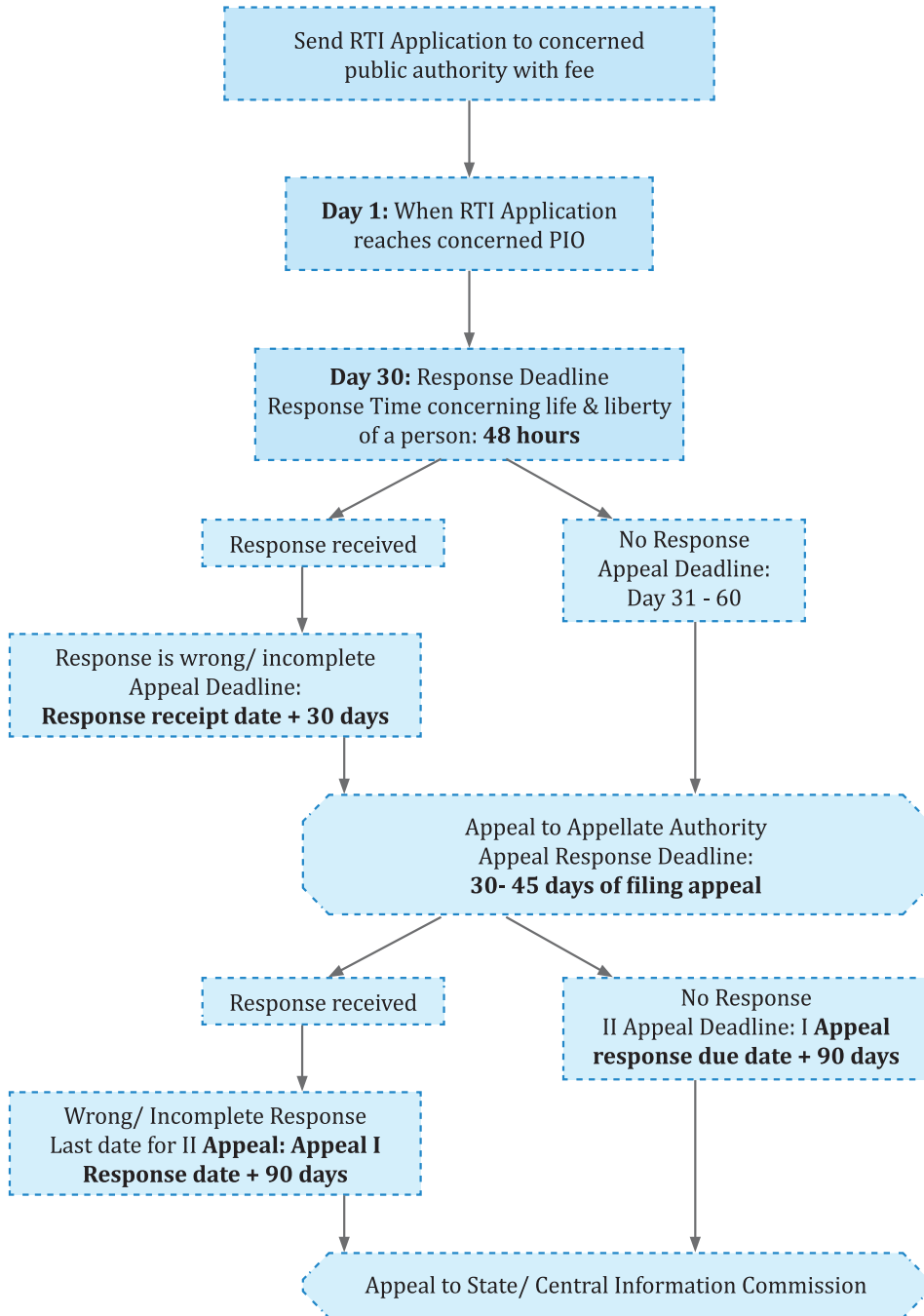
22. What happens to an officer who does not provide the requested information?

If the CIC/ SIC finds that a PIO has

- unreasonably refused to receive the RTI application
- unreasonably refused to provide the information in the time specified
- delayed information
- knowingly given wrong, incomplete, misleading information
- destroyed the information requested
- obstructed providing the information in any way

it can impose a penalty of Rs 250 daily on the PIO till he/she provides receives the application or provides the information, as the case may be. The maximum fine that can be imposed is Rs 25,000.

RTI Flowchart



Central Government's Appeal Format

1. Name and address of the appellant
2. Name and address of the Central Public Information Officer to whom the application was addressed
3. Name and address of the Central Public Information Officer who gave reply to the Application
4. Name and address of the First Appellate Authority
5. Who decided the First Appeal?
6. Particulars of the application
7. Particulars of the order(s) including number, if any, against which the appeal is preferred
8. Brief facts leading to the appeal
9. Prayer or relief sought
10. Grounds for the prayer or relief
11. Any other information relevant to the appeal
- I 2. Verification/authentication by the appellant

Note:

It is not mandatory to follow this template and an application/appeal cannot be denied information for not following it

Link: This appeal format was part of the Right to Information Rules, 2012. It can be found here:http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1_35_2009-IR-1.pdf

