

**Presented on: 11/08/2022**  
**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT CHENNAI**

**Original Application No. 142 of 2020 (SZ)**

Renny Jacob George: Applicant

vs.

Kerala State Pollution Control Board and others : Respondents

**ADDITIONAL AFFIDAVIT FILED BY THE APPLICANT IN THE**  
**ABOVE CASE**



**K.K. ASHKAR (K/371/04) &**  
**ASHIRA MOHAMED ASHROF (K/1224/03)**  
COUNSELS FOR THE PETITIONER

**aash associates**

First Floor, Metro Palace,  
North Railway Station Road, Kochi-18  
Ph: 9497887794, 9496937784, 9894912199  
**aashassociates@hotmail.com**

## BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT CHENNAI

## Original Application No. 142 of 2020 (SZ)

Renny Jacob George: Applicant

vs.

Kerala State Pollution Control Board and others : Respondents

INDEX		
Sl.No.	Description	Page Nos
1.	Additional affidavit filed by the Applicant	1
2.	<b>Annexure-A28:</b> True copy of the Office Memorandum No. J-15012/35/2007-IA.II (M)Part dated 02/07/2007 issued MoEF.	2
3.	<b>Annexure-A29:</b> True copy of the stop memo notice dated 29/06/2015 issued by the 6 <sup>th</sup> Respondent geologist to 8 <sup>th</sup> Respondent along with its English Translation.	3-4
4	<b>Annexure-A30:</b> True copy of the memorandum of writ petition in W.P. (C) No. 2783/16 filed by the 8 <sup>th</sup> respondent before Kerala High Court.	5-12
5	<b>Annexure-A31 :</b> True copy of the Environmental Clearance No.55 dated 10.08.2015 issued by Kerala State Environment Impact Assessment Authority to the 8 <sup>th</sup> respondent on behalf of M/s Pee Gee Aggregates Private Ltd.	13-21
6	<b>Annexure-A32:</b> True copy of the letter dated 03.07.2015 made by the 8 <sup>th</sup> respondent to a EIA project consultant.	22
7	<b>Annexure-A33:</b> True copy of the order dated 08.01.2020 issued by Supreme Court in Common Cause v. Union of India.	23-26
8	<b>Annexure-A34:</b> True copy of the Office Memorandum F. No.22-34/2018-IA.III dated 16.01.2020 issued by MoEF&CC.	27-28
9	<b>Annexure-35:</b> True copy of the Office Memorandum J. No.11013/41/2006-IA.II(I) dated16.11.2020 issued by MoEF&CC.	29-30
10	<b>Annexure-36:</b> True copy of the Office Memorandum F. No.22-21/2020-IA.III dated 07.07.2021 issued by MoEF&CC.	31-39

Dated this the 11<sup>th</sup> day of August 2022

K.K. Ashkar

Counsel for the 1<sup>st</sup> Respondent/Applicant

**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT CHENNAI**

**Original Application No. 142 of 2020 (SZ)**

Renny Jacob George: Applicant

vs.

Kerala State Pollution Control Board and others : Respondents

**AFFIDAVIT**

I, Renny Jacob George, aged 42 years, S/o. George Mathai, Ovumannil House, Nooronmavu P.O., Anicadu, Pathanamthitta District, Pin-689 589, Kerala, do hereby solemnly affirm and state as follows:

1. I am the applicant in the above Original Application. The above original application is filed under section 15 (1) (C) of the NGT Act for restitution of environment which has been damaged by the mining operation conducted by the 8<sup>th</sup> Respondent and other ancillary reliefs.
2. I am producing 8 documents as Annexure-A28 to Annexure-A35 in the above case which is essential for the adjudication of the above case.
3. The documents produced along with this affidavit may be accepted on the files of the above Original Application as Annexure-A28 to Annexure-A35.
4. The documents produced along with this affidavit are true copy of the original documents.

All the facts stated above are true and correct.

Dated this the 11<sup>th</sup> day of August 2022

Deponent: Renny Jacob George



Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 20<sup>th</sup> day of July 2022 at my office at Ernakulam

  
K.K. ASHKAR  
Advocate

**Annexure-A28****By Speed Post**

No. J-15012/35/2007-IA.II(M)-Part  
**Government of India**  
**Ministry of Environment & Forests**  
 (IA Division)

Paryavaran Bhavan,  
 C.G.O. Complex, Lodi Road,  
 New Delhi-110003.  
 Telefax: 24362434

Dated the 2<sup>nd</sup> July, 2007**CIRCULAR**

**Sub: Clarification regarding applicability of EIA Notification, 2006 on mining leases of 5 hectare (major minerals) and mining leases of minor minerals which have been operating before 14.9.2006 – Regarding.**

Federation of Mining Associations of Rajasthan and others have raised concerns regarding applicability of EIA Notification dated 14<sup>th</sup> September, 2006 to mining leases of 5 ha for major minerals and mining leases of minor minerals which have been in operation before the said Notification coming into force. The matter has been examined in the Ministry.

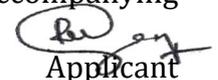
It is clarified that all such mining projects which did not require environmental clearance under the EIA Notification, 1994 would continue to operate without obtaining environmental clearance till the mining lease falls due for renewal, if there is no increase in lease area and / or there is no enhancement of production. In the event of any increase in lease area and or production, such projects would need to obtain prior environmental clearance. Further, all such projects which have been operating without any environmental clearance would obtain environmental clearance at the time of their lease renewal even if there is no increase either in terms of lease area or production.

(S.K. Aggarwal)  
 Director

To

1. Secretary (Environment) of all State / UT Governments  
 Member Secretary of State / UT Pollution Control Boards / Committees
3. PS to MOS (E), PPS to Secretary (E&F), PPS to SS, PS to JS(JM)
4. All Officers of IA Division.

This is the true copy of the Original Document marked as Annx-A28 in the accompanying affidavit

  
 Applicant

**Annexure -A29(1)**

60

Ext. PL3

മൈനീംഗ് & ജിയോളജി വകുപ്പ്  
ജില്ലാ കാര്യാലയം, പത്തനംതിട്ട  
മിനി സിവിൽ സ്റ്റേഷൻ, ആറന്മുള പീ.ഒ.  
ഫോൺ: 0468-2317119  
ഇമെയിൽ: geo.pat.dmg@kerala.gov.in

തീയതി: 29.06.2015

നം: 642/ഡിപിറ്റിംഗ്/E/15.

സീനിയർ ജിയോളജിസ്റ്റ്  
പത്തനംതിട്ട.

ശ്രീ. നവീൻ മാത്യു ഫിലിപ്പ്  
തെക്കേക്കരപ്പാലം  
മല്ലപ്പള്ളി

സർ,

വിഷയം: രജിസ്ട്രേഷൻ ചെയ്ത ക്രൈം യൂണിറ്റ് - രജിസ്ട്രേഷൻ - സംബന്ധിച്ച്

- സൂചന: (1) 30.3.2015ലെ 86/2015-16/RMCU/PTA/3308/M3/15 നമ്പർ രജിസ്ട്രേഷൻ  
(2) മൈനീംഗ് & ജിയോളജി ഡയറക്ടറുടെ 18.6.2015 ലെ 896/എ03/15 നമ്പർ കത്ത്.

മേൽ സൂചനകൾ ശ്രദ്ധിക്കുക. മല്ലപ്പള്ളി താലൂക്കിൽ ആനിക്കാട് വില്ലേജിൽ സ.നം. 328/6, 329/9, 10, 327/1, 325/1,2, 305/10-11 ന് ചുറ്റ 5.1962 ഹെക്ടർ സ്ഥലത്ത് അനുവദിച്ചിരുന്ന ക്ഷാമിയിൽ ലിസ്റ്റ് ഉൾപ്പെടുത്തി കോമ്പൗണ്ട് ചെയ്താണ് സൂചന (1) പ്രകാരമുള്ള രജിസ്ട്രേഷൻ റാങ്കുകൾക്ക് അനുവദിച്ചിരുന്നത്. എന്നാൽ സൂചന (2) പ്രകാരം 5 ഹെക്ടറിൽ മുകളിലുള്ള ലിസ്റ്റുകൾക്ക് പരിസ്ഥിതി മൂല്യനിർണ്ണയം ഇല്ലാതെ അനുമതി പുതുക്കി നൽകുകയോ, കോമ്പൗണ്ടിംഗിനു വേണ്ടി രണ്ടാം ഗഡു നോയൽറ്റി ഈടാക്കുകയോ വേണ്ടാതെ നൽകിയിട്ടുണ്ട്. ആയതിനാൽ സൂചന (1) പ്രകാരം കോമ്പൗണ്ട് ചെയ്ത ലിസ്റ്റുകളിൽ മേൽ സർവ്വേ നമ്പരിൽപ്പെട്ട ലിസിൻ തുടർ ചെന്ന പ്രവർത്തനങ്ങൾ നടത്തുവാൻ പാടില്ലാതെന്നും, ടി ലിസ്റ്റ് വേലിക്കെട്ടി വേർതിരിച്ച് പ്രവേശനം തടയണമെന്നും ഇതിനാൽ നിർദ്ദേശിക്കുന്നു.



വിശ്വസ്തതയോടെ,  
  
സീനിയർ ജിയോളജിസ്റ്റ്

This is the true copy of the Original Document marked as Annx-A29 in the accompanying affidavit

*[Signature]*  
Applicant

**Annexure -A29(2)**

Mining & Geology Department  
District Office, Pathanamthitta  
Mini Civil Station, Aranmula P.O.  
Phone: 0468-2317119  
e-mail: [geo.pat.dmg@kerala.gov.in](mailto:geo.pat.dmg@kerala.gov.in)  
Dated: 29.06.2015

No.642/DOPTA/E/15.

Senior Geologist,  
Pathanamthitta

Shri. Naveen Mathew Philip,  
Thekkenedumplackal,  
Mallappally.

Sir,

Subject:- Registered Metal Crusher Unit- Regarding registration.

Reference: 1. Registration No,86/2015-16/RMCPU/PTA/3308/M3/15  
dated 30.03.2015.

2. Letter No.896/M.3/15 dated 18.06.2015 issued by Director  
of Mining and Geology.

Please take note the reference cited above. The registration vide reference cited 1<sup>st</sup> above have been granted to you by compounding the quarrying lease issued to you in property having an extent of 5.1962 hectares comprised in Sy. No.328/6,329/9,10, 327/1, 325/1,2 and 305/10-11 of Anicadu Village, Mallappally Taluk. But as per reference cited 2<sup>nd</sup> above, it is directed not to renew permit for quarrying leases exceeding 5 hectares or to receive 2<sup>nd</sup> instalment of royalty, without Environmental Clearance. Therefore, you are hereby directed not to conduct any mining operations in the property comprised in the above sy. Numbers as per the lease compounded vide reference cited 1<sup>st</sup> above and you are also directed to restrict access to said property by providing fencing on the boundaries.

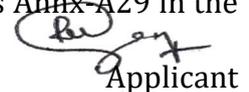
Yours truly,

Sd/-

Office Seal

Senior Geologist

This is the true English translation of the Original Document marked as Annex-A29 in the accompanying affidavit

  
Applicant

**Annexure A30-(1)**

**BEFORE THE HONOURABLE HIGH COURT OF KERALA  
AT ERNAKULAM  
(Special Original Jurisdiction)**

W.P.(Civil) No. 2783 of 2016

Naveen Mathew Philip .. Petitioner

Vs.

The State of Kerala & others .. Respondents

**INDEX**

Sl. No.	Description	Page
1	Synopsis	1
2	Writ Petition( C)	2 - 6
3	Affidavit	7
4.	<u>Exhibit P-1</u> :- True copy of the Location sketch for petitioner's unit.	8
5	<u>Exhibit P-2</u> : True copy of the quarrying lease dated 18.11.2005 regarding 1.0183 Hectares	9 - 16
6	<u>Exhibit P3</u> : True copy of the quarrying lease regarding 5.19.6 Hectares dated 22.2.2008	17 - 25
7	<u>Exhibit P-4</u> : True copy of the quarrying lease transferred in the name of the petitioner dated <del>20.7.2010</del> 24.9.2009.	26 - 27
8	<u>Exhibit P-5</u> : True copy of the explosives license in the name of the petitioner dated 14.2.2013	28 - 31
9	<u>Exhibit P-6</u> : True copy of the Latest license having currency issued by the Grama Panchayath dated 29.03.2012	32 - 33
10	<u>Exhibit P-7</u> : True copy of the Consent to operate mineral sand unit dated 19.7.2010	34 - 38
11	<u>Exhibit P-8</u> : True copy of the Consent to operate the stone quarry dated 16.6.2008.	39 - 41

*Bejay*

**BEFORE THE HONOURABLE HIGH COURT OF KERALA  
AT ERNAKULAM  
(Special Original Jurisdiction)**

**W.P.(Civil) No.                      of 2016**

Naveen Mathew Philip                      ..                      Petitioner

**Vs.**

The State of Kerala & others                      ..                      Respondents

**SYNOPSIS**

Petitioner is conducting a stone quarry, stone crushing unit and mineral sand production units. He obtained Consent from the Pollution Control Board and having Explosives license, quarrying lease and also license from Panchayat. Though petitioner is not required to obtain environmental clearance as per rules in vogue, petitioner has applied for environmental clearance as early on 03.07.2015 and limited the quarrying operations to an area less than 2 hectares. However, ignoring all the above, 2<sup>nd</sup> respondent has interdicted quarrying by Exhibit P-13. Though petitioner enlightened the 2<sup>nd</sup> respondent about Exhibit P-14 judgment, 2<sup>nd</sup> respondent is not ready to vary Exhibit P-13. Hence this writ petition.

Dated this the 21<sup>st</sup> day of January, 2016.

(P. Haridas)  
Counsel for the Petitioner



2 -

**BEFORE THE HONOURABLE HIGH COURT OF KERALA  
AT ERNAKULAM  
(Special Original Jurisdiction)**

W.P.(Civil) No.                      of 2016

**PETITIONER:**

Naveen Mathew Philip, S/o Philip Mathew, aged 31,  
Thekkenedumplackal, Mallappally West, Pathanamthitta District

**RESPONDENTS:**

1. The State of Kerala, represented by Secretary, Department of Mining and Geology, Government Secretariat, Thiruvananthapuram, Pin-695001
2. Director, Mining and Geology, mining and Geology Directorate, Kesavadasapuram, Pattom P.O., Thiruvananthapuram, Pin.695004
3. Geologist, District Office, Department of Mining and Geology, Pathanamthitta. Pin-689645.

**WRIT PETITION (CIVIL) FILED UNDER ARTICLE 226  
OF THE CONSTITUTION OF INDIA**

Address for services of all notices and process to the petitioner is that of his Counsel, Sri.P.Haridas, Sikky Ravishankar, Shijin P.C M/s.Cherian & Haridas, Advocates, Varikkamankal Shree Meru, Padam Road, Vaduthala P.O., Kochi - 682 023.

Address for service of all notices and process to the respondents are as shown above.

**STATEMENT OF FACTS**

1. The petitioner is conducting a concern under the name and style 'Philips Grano Products'. Actually the property having 6.26 Hectares, 3 units are functioning viz., a stone quarry, as crushing unit and a unit producing mineral sand. The units are situated in a vast area of lush greenery and in the surroundings, the population is very thin. True copy



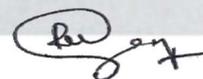
3.

of the Location sketch for petitioner's unit is produced herewith and marked as Exhibit P-1. A petitioner invested substantial amount by taking loan. Nearly 50 lakhs is payable as EMI.

2. However, petitioner has limited the mining operation in an area having less than 2 hectares.
3. The business was originally started by the petitioner's father Philip Mathew in the property owned by him. True copy of the quarrying lease dated 18.11.2005 regarding 1.0183 Hectares is produced herewith and marked as Exhibit P-2. True copy of the quarrying lease regarding 5.19.6 Hectares dated 22.2.2008 is produced herewith and marked as Exhibit P-3. After the death of the petitioner's father, the business devolved upon the petitioner, his mother Mary Philip and sister Niya Sara Philip. They executed a transfer of lease deed dated 20.1.2010 in favour of the petitioner. As per the request of the legal heirs, the quarrying lease was transferred in the name of the petitioner by the Director of Mining and Geology (LC), Thiruvananthapuram vide his proceedings No. 325/2009-10/7023/M3/2009 dated 24.9.2009, true copy of which is produced herewith and marked as Exhibit P-4. True copy of the explosives license in the name of the petitioner dated 18.02.2015 is produced herewith and marked as Exhibit P-5. True copy of the Latest license having currency issued by the Grama Panchayath is produced herewith and marked as Exhibit P-6. The petitioner obtained consent to operate the quarry, crusher and mineral sand granite from the 3<sup>rd</sup> respondent. True copy of the Consent to operate mineral sand unit dated 19.7.2010 is produced herewith and marked as Exhibit P-7. True copy of the Consent to operate the stone quarry dated 16.6.2008 is produced herewith and marked as Exhibit P-8. Later, the same was renewed from time to time. Now it has been renewed on 11-11-2014. The renewed integrated consent to operate is produced herewith and marked as Exhibit P-9. The local authority also

has issued license under 'D & O' Rules. True copy of the license is produced herewith and marked as Exhibit P-10.

4. While so, on 03.07.2015 itself, petitioner has given work order to an accredited agency for preparation of mining plan and obtaining environmental clearance. True copy of the work orders dated 03.07.2015 is produced herewith and marked as Exhibit P-11.
5. Petitioner has limited his operation to a limited area of less than 2 hectares. In this context, it is submitted that persons similarly situated like petitioner were interdicted by the respondent. Hence they filed WP(C) No. 25146/2014 and 29813/2014 before this Honourable Court. The 2<sup>nd</sup> respondent has filed an affidavit stating that mining can be permitted in limited areas enumerating five conditions and this Honourable Court was pleased to direct to regulate the activities in terms of the said conditions. True copy of the judgment in WP(C) No. 25146/2014 and 29813/2014 dated 20.12.2014 is produced herewith and marked as Exhibit P-12. While so, ignoring all the above facts two ill-motivated persons filed WP(C) 39189/2015, alleging want of environmental clearance to the petitioner.
6. While so, 3<sup>rd</sup> respondent has issued a communication to petitioner interdicting the mining operations. True copy of the communication of 3<sup>rd</sup> respondent dated 29.06.2015 is produced herewith and marked as Exhibit P-13.
7. It is submitted that this Honourable Court was pleased to permit similarly situated persons to undertake quarrying in a limited area of 2 hectares. One of such judgments in WP(C) No. 19259/2015 dated 07.09.2015 is produced herewith and marked as Exhibit P-14.
8. Though the petitioner has enlightened the 2<sup>nd</sup> respondent regarding Exhibit P-14 and similar judgments, the 2<sup>nd</sup> respondent is not ready to withdraw or vary Exhibit P-13.



**Annexure A30-(6)**

Under such circumstances, the petitioner is left with no other alternative remedy than to approach this Honorable Court under Article 227 of the Constitution of India, on the following among other:

**GROUND**

- A. Exhibit P-13 is opposed to law and was passed without hearing the petitioner, violative of principles of natural justice and liable to be quashed.
- B. Petitioner is having all requisites, license and permissions to conduct mining operations and to run a quarry. Hence he is entitled to conduct quarrying operations.
- C. The government has promulgated Minor Mineral Concession Rules, 2015 effective from 07.02.2015. Rule 33 of rules prescribes environmental clearance only for issuance of fresh quarrying lease and for renewal of quarrying leases. The Minor Mineral Concession Rules does not mandate environmental clearance for existing quarrying leases. Hence Exhibit P-11 is illegal and without jurisdiction.
- D. This Honourable Court in *All Kerala River Protection Council, Aluva Vs State of Kerala and others* (2015(2) KHC 359) has approved Kerala Minor Mineral Concession rules, 2015. Hence it is illegal for the respondents to insist for environmental clearance for conducting quarrying operations on the basis of an existing lease. On that account also, Exhibit P-13 is liable to be quashed.
- E. The respondents ought to have taken note of the fact that petitioner has already taken steps for environmental clearance and ought not to have insisted for environmental clearance to conduct quarrying on the strength of a valid lease.
- F. The respondents ought to have taken note of Exhibit P-14 judgment and revoked Exhibit P-13.



6

**Annexure A30-(7)**

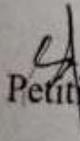
On these and other grounds which may be permitted to be urged at the time of hearing, it is most humbly prayed that this Honourable Court may be pleased to:

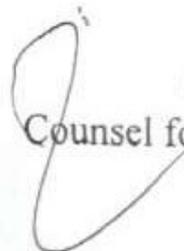
- (a) Call for records leading to passing of Exhibit P-13 and may quash the same by issuing a writ of certiorari
- (b) Issue a writ of Mandamus commanding the 2<sup>nd</sup> respondent to receive royalty from the petitioner and for quarrying from the limited area demarcated by 2<sup>nd</sup> respondent and to issue passes for transporting the same.
- (c) Pass such other orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case.

**INTERIM RELIEF**

For the reasons stated in the Writ Petition, it is most humbly prayed that this Honorable Court may be pleased to pass an order directing the 2<sup>nd</sup> respondent to receive royalty from the petitioner and for quarrying from the limited area demarcated by 2<sup>nd</sup> respondent and to issue passes for transporting the same.

Dated this the 21<sup>st</sup> day of January 2016.

  
Petitioner.

  
(P. HARIDAS)  
Counsel for the petitioner



7

**BEFORE THE HONOURABLE HIGH COURT OF KERALA  
AT ERNAKULAM  
(Special Original Jurisdiction)**

W.P.(Civil) No.                      of 2016

Naveen Mathew Philip                      ..                      Petitioner

Vs.

The State of Kerala & others                      ..                      Respondents

**AFFIDAVIT**

I, Naveen Mathew Philip, S/o Philip Mathew, aged 31, Thekkenedumplackal, Mallappally West, Pathanamthitta District, do hereby solemnly affirm and state as follows:

1. I am the petitioner herein and I am conversant with the facts of the case.
2. The averments made in the Writ Petition are true and the same may be read as part of this affidavit. To the best of my belief, the grounds urged in the Writ Petition are sustainable.
3. Unless the reliefs prayed for in the Writ Petition are granted, I will be put to irreparable injury and loss.
4. I have not filed any other Writ Petition for the same reliefs earlier.
5. The Exhibits produced along with the Writ Petition are the true copies of their originals.

All the facts stated above are true and correct.

Dated this the 21<sup>st</sup> day of January 2016.

  
Deponent

Solemnly affirmed and signed before me by the deponent, who is personally known to me on this the 21<sup>st</sup> day of January 2016 at my office at Ernakulam.

(P. Haridas)  
Advocate

This is the true copy of the Original Document marked as Annx-A30 in the accompanying affidavit

  
Applicant

**Annexure A31-(1)**

सत्यमेव जयते

Validity expires on 9-8-2020

**Proceedings of the State Environment Impact Assessment Authority  
Kerala**

Present : Prof. (Dr.) K.P. Joy, Chairman, Dr. J. Subhashini, Member, Sri. P. Marapandiyar, I.A.S Member Secretary.

Sub: SEIAA- Environmental Clearance for the proposed quarry project in Sy. Nos. 131/1, 137/1, 137/4-2, 137/2, 137/3, 137/4-5-2, 137/4-5, 137/4-3, 137/4-4, 137/4-6-3, 137/4-6-1, 137/4-6-4, 137/4-5-1, 136/5, 136/29, 131/2-3, 136/7, 138/1-2, 138/1-6, 132/5-3, 136/3, 132/3, 132/5-1, 132/5, 138/1, 138/1-3, 136/31, 136/30, 137/9, 138/7-1, 132/6, 132/6-1, 132/6-8, 136/20, 136/28, 128/3-2, 137/6, 137/7, 137/10, 138/1-5, 138/1-4, 137/4-6-2, 137/4-1, 136/25, 131/2-2, 131/3, 131/6-2, 136/24, 137/5, 137/8, 136/4, 130/3, 131/7, 131/4, 132/2-1, 132/5-2, 136/32, 135/1, 138/6, 137/4-6 and 128/3-1 at Kottangal Village & Panchayath, Mallappally Taluk, Pathanamthitta District, Kerala by M/s Peege Aggregates Pvt. Ltd.,- Granted . Orders issued.

**STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY**

**No.244/SEIAA/EC4/974/2014**

**dated, Thiruvananthapuram 10-8-2015**

- Read:-
1. Application dated 28-2-2014 submitted by Sri.Naveevn Mathew Philip, Managing Director, M/s Peegee Aggregates Pvt Ltd, 11/165, Thekkenedumplackal, Mallappally West P.O, Pathanamthitta district
  2. Minutes of the 26<sup>th</sup> meeting of SEAC held on 20/21-3-2014
  3. Minutes of the 32<sup>nd</sup> meeting of SEAC held on 12/13-8-2014
  4. Minutes of the 39<sup>th</sup> meeting of SEAC held on 14/15-5-2015
  5. Minutes of the 39<sup>th</sup> meeting of SEIAA held on 18-6-2015

**Environmental Clearance No. 55**

Sri. Naveen Mathew Philip, Managing Director of M/s Peege Aggregates Pvt. Ltd., vide his application received on 01.03.2014, has sought Environmental Clearance under EIA Notification, 2006 for the quarry project in Sy. Nos. 131/1, 137/1, 137/4-2, 137/2, 137/3, 137/4-5-2, 137/4-5, 137/4-3, 137/4-4, 137/4-6-3, 137/4-6-1, 137/4-6-4, 137/4-5-1, 136/5, 136/29, 131/2-3, 136/7, 138/1-2, 138/1-6, 132/5-3, 136/3, 132/3, 132/5-1, 132/5, 138/1, 138/1-3, 136/31, 136/30, 137/9, 138/7-1, 132/6, 132/6-1, 132/6-8, 136/20, 136/28, 128/3-2, 137/6, 137/7, 137/10, 138/1-5, 138/1-4, 137/4-6-2, 137/4-1, 136/25, 131/2-2, 131/3, 131/6-2, 136/24, 137/5, 137/8, 136/4, 130/3, 131/7, 131/4, 132/2-1, 132/5-2, 136/32, 135/1, 138/6, 137/4-6 and 128/3-1 at Kottangal Village & Panchayath, Mallappally Taluk,

*(Signature)*

**Annexure A31-(2)**

Pathanamthitta District, Kerala for an area of 9.90 hectares. The project comes under Category B, Activity 1(a), (i) as per the Schedule of EIA Notification 2006 (since it is below 50 hectares) and as per OM. No. L-11011/47/2011-IA.II (M) dated 18<sup>th</sup> May 2012 of Ministry of Environment and Forests. It is further categorized as Category B2 as per the O.M. No. J-13012/12/2013-IA-II (I) dt. 24.12.2013 of Ministry of Environment and Forests, since the area of the project is below 25 hectares. The present land use is rocky land with quarrying activities. The current proposal is for the new quarry and mineral specific. Hence no alternate site was examined. Forest land is not involved in the project. Other details of the project are as follows:

Name of project		M/s Peege Aggregates Pvt. Ltd.
Brief description of the project		Quarry project with an area of 9.90 ha. & production capacity of 3,50,000 MTA
Category/Subcategory & Schedule		Category B/B2 & Schedule 1 (a)
Location Sy no/ district, Taluk/ village etc.		Survey Nos. 131/1, 137/1, 137/4-2, 137/2, 137/3, 137/4-5-2, 137/4-5, 137/4-3, 137/4-4, 137/4-6-3, 137/4-6-1, 137/4-6-4, 137/4-5-1, 136/5, 136/29, 131/2-3, 136/7, 138/1-2, 138/1-6, 132/5-3, 136/3, 132/3, 132/5-1, 132/5, 138/1, 138/1-3, 136/31, 136/30, 137/9, 138/7-1, 132/6, 132/6-1, 132/6-8, 136/20, 136/28, 128/3-2, 137/6, 137/7, 137/10, 138/1-5, 138/1-4, 137/4-6-2, 137/4-1, 136/25, 131/2-2, 131/3, 131/6-2, 136/24, 137/5, 137/8, 136/4, 130/3, 131/7, 131/4, 132/2-1, 132/5-2, 136/32, 135/1, 138/6, 137/4-6, 128/3-1, Kottangal Village & Panchayat, Mallappally Taluk, Pathanamthitta District, Kerala
GPS co-ordinates		Latitude (N) 9 <sup>o</sup> 26' 33.15" to 9 <sup>o</sup> 26' 18.96" Longitude (E) 76 <sup>o</sup> 42' 15.72" to 76 <sup>o</sup> 42' 01.30"
for Mining projects	Extent of area (in hectares)	9.90 ha.
	Minimum and maximum height of excavation (MSL)	65 m. MSL and 140 m. MSL
	Life of mine proposed	30 years
	Ultimate depth of mining (in MSL)	65 m. MSL
	Distance from the adjacent quarry	101 m., N
	Capacity of production	3,50,000 MTA
	Details of project cost	Rs. 10 Crores
Env Mgmt plan/ Eco restoration plan (brief details)	At the end of life of mine, excavated pit will be backfilled and reclaimed & rehabilitated by plantation with native species so as to restore the natural ecosystem.	

<b>ABOUT THE PROJECT</b>	
<b>Environmental Parameters Considered</b>	
<b>WATER</b>	
Water requirement & sources	The total water requirement is about 17 KLD in which 2 KLD is for domestic which would be sourced from open well, 12 KLD for dust suppression system in mine as well as ancillary unit (M Sand & Crusher Unit) and 3 KLD for plantation purposes and will be sourced from storm water pond. The source of water is from storm water pond / well.
RWH units proposed	Yes, Rain water collection pond
Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?	No impoundment, damming, culverting, realignment or other changes to the hydrology of surface water courses.
Water quality meeting requirements	Water quality meeting requirements after the treatment of water (filtration, disinfection & sedimentation).
Does it have provisions for use of recycled water	No
<b>LAND</b>	
Proximity to forest lands	No
Access road to the site – Width & Condition	7 m. tarred road, NW
Storage of explosives /hazardous substances	Yes, Explosives will be stored as per Explosives Act/Rules.
Facility for solid waste mgmt	The municipal solid waste will be suitably disposed.
Proneness of the area for landslides	No
Significant land disturbance resulting in erosion, subsidence & instability	No
Top soil, overburden etc.	Top soil – 49,500 cu.m. Overburden – 74,250 cu.m.
<b>AIR</b>	
Likely emissions affecting environment	Diesel engine emissions & emissions from movement of vehicles like dumpers, trucks, tankers etc. will also generate.
<b>ENERGY</b>	
Energy requirement	The total power requirement will be 75 kW for compressors, which will be drawn from diesel engine.
Energy sources	From diesel engine.
Extent of usage of alternative energy resources	No
<b>BIODIVERSITY</b>	

**Annexure A31-(4)**

	Presence of any endangered species or red listed category	No
	Loss of native species and genetic diversity	Yes, For the quarrying activity all of native tree species, shrubs, herbs, climber etc. existing at site will be cleared.
	Likely displacement of fauna	No
	Any introduction of alien / invasive species	No
<b>SOCIAL ASPECTS</b>		
	Proximity to nearest habitation	101 m. , N
	CSR related to the project / allocation / time frame (details mandatory )	As a part of Corporate Social Responsibility, it is proposed to spend minimum of Rs. 9.70 lakhs for different activities as mentioned in consultation with local Panchayat authorities.  <b>Bio-diversity fund</b> - As part of Access and Benefit Share (ABS), 1 percent of annual profit of the firm would be given to Biodiversity Management Committee of the Panchayath through the concerned Grama Panchayath towards the restoration of biodiversity loss due to the quarrying activities.
<b>GENERAL</b>		
	Eeco restoration programmes	The year wise programme of afforestation for the life of mine, about 9,500 trees will be planted. The main aim of the green belt development is to restore the ecosystem to its original form to a maximum possible extent by designing the green cover with the same native species.

**OTHER DETAILS OF THE PROJECT PROPOSAL**

1.	Details of Authorised Signatory	Mr. Naveen Mathew Philip Managing Director M/s Peege Aggregates Pvt. Ltd. 11/165, Thekkenedumplackal Mallappally West P.O. Pathanamthitta, Kerala - 689585. Tel. No. 0469-2682784; Mob. No. 09446187347; Email : naveen.peege@gmail.com
2.	Details of NABET approved EIA consultant organisation	M/s Enkay Enviro Services Pvt. Ltd. 24-B, DaduMarg



		GopalBari, Ajmer Road Jaipur, Rajasthan-302001. Tel. No: 0141- 4013 996/4023996/4016996; Fax; 0141-4026996; Email: info@enkayenviro.com
--	--	--

2. The proposal was considered in the 26<sup>th</sup> meeting of SEAC held on 20<sup>th</sup> and 21<sup>st</sup> March 2014 as agenda item no.26.12. The Committee deferred the case for site visit in order to ascertain the width of approach road, topography of the land, especially the eastern slope, proximity of the project site to the nearby temple and school and also the nature of land as to whether quarrying could be permitted after ascertaining how the proponent possessed the land. The proponent was also directed to provide the following to SEAC for further consideration of the proposal:

1. Former title deeds of the land so as to substantiate how they possessed the land and to ascertain for what purpose the land should be utilized.
2. Assurance in the form of affidavit that the approach road to the project site shall be maintained in such a way so as to facilitate smooth movement of trucks and other vehicles.
3. Fresh consent from Sri. Arun Philip Elias for conducting mining activities in Sy. Nos. which are part of the present proposal and are owned by him (especially Sy. Nos. 128/3-2, 137/4-6-2, 137/4-1 and 136/25).
4. 'One and the Same certificate' from the concerned Village Office to prove that Mathew Naveen and Naveen Mathew Philip is one and the same person.

Field inspection was conducted on 7<sup>th</sup> August 2014. The proposal was again placed in the 32<sup>nd</sup> SEAC and deferred for the proponent to submit the following documents:

1. Former title deed of the land.
2. Certificate from revenue official regarding whether the land has been assigned to individuals under any particular scheme.

The proponent has submitted the additional documents sought by 32<sup>nd</sup> SEAC. As per the Kerala Minor Mineral Concession Rules-2015, the proponent has also submitted the approved mining plan. The proposal was placed in the 39<sup>th</sup> meeting of SEAC held. The proponent along with his consultant attended the meeting and the consultant made a brief power-point presentation. The total area of the project is 17.2397ha. The land use consists of mixed vegetation, plantation with exposed rocks. The proposed project is a new one and some abandoned quarries are there adjacent to the proposed area. An existing crusher and M-sand unit are interlinked with the project which requires 20,000KLD of water. The project proponent informed that water retention pond for RWH will be constructed at the southern side of the proposed area.

3. The Committee appraised the proposal based on Mining Plan, Prefeasibility report, report of the field visit conducted on 17-06-2014 and other documents submitted.

along with the application and recommend for issuance of Environmental Clearance with the following specific conditions in addition to the general conditions stipulated for mining projects

- Reclamation and eco-restoration should be done by planting indigenous species.
- Since the site marked for storing overburden is sloppy, proper protective structure to prevent erosion should be constructed.

4. The Authority considered the proposals as appraised and decided to grant E.C subject to the specific conditions, recommended for by SEAC, on production of cluster condition certificate from District Geologist Pathanamthitta and an affidavit of the proponent that the mining area is having a minimum distance of 200 meters from notified P.As W.L.S and ESAs and on CSR. The documents called for having been submitted and on being satisfied that there are no other quarry in operation within 500 meters of this quarry, and there is no notified Protected Areas, Wild Life Sanctuaries, or Ecologically Sensitive Areas within 200 meters from the periphery of the mining area and there is proper undertaking that the committed CSR activities will be implemented, the State Environmental Impact Assessment Authority, Kerala hereby accord environmental clearance under the EIA notification 2006, for the quarry project of M/SPeege Aggregates Pvt. Ltd., in Sy. Nos. 131/1, 137/1, 137/4-2, 137/2, 137/3, 137/4-5-2, 137/4-5, 137/4-3, 137/4-4, 137/4-6-3, 137/4-6-1, 137/4-6-4, 137/4-5-1, 136/5, 136/29, 131/2-3, 136/7, 138/1-2, 138/1-6, 132/5-3, 136/3, 132/3, 132/5-1, 132/5, 138/1, 138/1-3, 136/31, 136/30, 137/9, 138/7-1, 132/6, 132/6-1, 132/6-8, 136/20, 136/28, 128/3-2, 137/6, 137/7, 137/10, 138/1-5, 138/1-4, 137/4-6-2, 137/4-1, 136/25, 131/2-2, 131/3, 131/6-2, 136/24, 137/5, 137/8, 136/4, 130/3, 131/7, 131/4, 132/2-1, 132/5-2, 136/32, 135/1, 138/6, 137/4-6 and 128/3-1 at Kottangal Village & Panchayath, Mallappally Taluk, Pathanamthitta District, for an area of 9.90 hectares, with the following specific conditions, in addition to the general conditions stipulated for mining projects as appended hereto:

- Reclamation and eco-restoration should be done by planting indigenous species.
- Since the site marked for storing overburden is sloppy, proper protective structure to prevent erosion should be constructed.

5. The clearance issued will also be subject to full and effective implementation of all the undertakings given in the application form, mitigation measures as assured in Chapter 4 of the Environment Management Plan and the mining features including progressive mine closure plan as submitted with the application and relied on for grant of this clearance. The above undertakings and the conditions and undertakings in Chapter 4 (Mining), Chapter 5 (Blasting), Chapter 6 (Mine Drainage), Chapter 7 (stacking of mineral rejects and disposal of wastes) Chapter 11 (EMP) of the Mining Plan and the entire Progressive Mine Closure Plan as submitted will be deemed to be part of these proceedings as conditions as undertaken by the proponent, as if incorporated herein.

6. Validity of the environmental clearance will be five years from the date of this clearance, subject to earlier review in the event of violation or non-compliance of any of the conditions stipulated herein.

7. Compliance of the conditions herein will be monitored by the Directorate of Environment and Climate Change or its agencies and also by the regional office of the Ministry of Environment & Forests, Govt. of India, Bangalore.

i) Necessary assistance for entry and inspection should be provided by the project proponent and those who are engaged or entrusted by him to the staff for inspection or monitoring.

(ii) Instances of violation if any shall be reported to the District collector, Pathanamthitta to take legal action under the Environment (Protection) Act 1986.

iii) The given address for correspondence with the authorised signatory of the project is Sri. Naveen Mathew Philip, Managing Director, M/s Peege Aggregates Pvt. Ltd., 11/165, Thekkenedumplackal, Mallappally West P.O., Pathanamthitta, Kerala - 689585.

Sd/-  
P.MARA PANDIYAN, I.A.S.,  
Member Secretary (SEIAA)  
&  
Principal Secretary  
Environment & Forests Department.  
Government of Kerala.

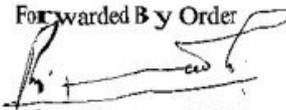
To,

Sri. Naveen Mathew Philip,  
Managing Director,  
M/s Peege Aggregates Pvt. Ltd.,  
11/165, Thekkenedumplackal,  
Mallappally West P.O.,  
Pathanamthitta, Kerala - 689585

Copy to;

1. MoEF Regional Office, Southern Zone, Kendriya Sadan, 4<sup>th</sup> Floor, E & F Wing, II block, Koramangala, Bangalore-560034.
2. Principal Secretary to Government, Environment Department
3. The District Collector, Pathanamthitta
4. The Director, Department of Environment & Climate Change
5. The Director, Mining and Geology Department, Government of Kerala
6. The Secretary Kottangal Grama Panchayat, Mallappally Taluk, Kulathoor P.O., Pathanamthitta district-686547
7. Chairman, SEIAA
8. Website
- ✓ 9. Stock File
10. O/C.



Forwarded By Order  
  
Administrator, SEIAA



## STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY KERALA

GENERAL CONDITIONS (for mining projects)

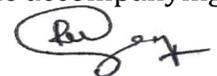
- (i) Rain Water Harvesting facility should be installed as per the prevailing provisions of KMBR/KPBR, unless otherwise specified.
- (ii) Environment Monitoring Cell as agreed under the affidavit filed by the proponent should be formed and made functional.
- (iii) Suitable avenue trees should be planted along either side of the tarred road and open parking areas, if any, including of approach road and internal roads.
- (iv) Maximum possible solar energy generation and utilization shall be ensured as an essential part of the project.
- (v) Sprinklers shall be installed and used in the project site to contain dust emissions.
- (vi) Eco-restoration including the mine closure plan shall be done at the own cost of the project proponent.
- (vii) At least 10 percent out of the total excavated pit area should be retained as water storage areas and the remaining area should be reclaimed with stacked dumping and overburden and planted with indigenous plant species that are eco-friendly.
- (viii) Corporate Social Responsibility (CSR) agreed upon by the proponent should be implemented
- (ix) The lease area shall be fenced off with barbed wires to a minimum height of 4ft around, before starting of mine
- (x) Warning alarms indicating the time of blasting (to be done at specific timings) has to be arranged as per stipulations of Explosive Department.
- (xi) Control measures on noise and vibration prescribed by KSPCB should be implemented.
- (xii) Quarrying activities should be limited to day time as per KSPCB guidelines.
- (xiii) Blasting should be done in a controlled manner as specified by the regulations of Explosives Department or any other concerned agency.
- (xiv) A licensed person should supervise/ control the blasting operations.
- (xv) Access roads to the quarry shall be tarred to contain dust emissions that may arise during transportation of materials.
- (xvi) Overburden materials should be managed within the site and the old quarries, if any, should be reclaimed and restored.
- (xvii) Height of benches should not exceed 5 m and width should not be less than 5 m.
- (xviii) Mats to reduce fly rock blast to a maximum of 10 PPV should be provided.
- (xix) Maximum depth of mining from general ground level at site shall not exceed 10m
- (xx) No mining operations should be carried out at places having a slope greater than 45°.
- (xxi) Acoustic enclosures should have been provided to reduce sound amplifications in addition to the provisions of green belt and hollow brick envelop for crushers so that the noise level is kept within prescribed standards given by CPCB/KSPCB.
- (xxii) The workers on the site should be provided with the required protective equipment such as ear muffs, helmet, etc.
- (xxiii) Garland drains with clarifiers to be provided in the lower slopes around the core area to channelize storm water.
- (xxiv) The transportation of minerals should be done in covered trucks to contain dust emissions.
- (xxv) The proponent should plant trees at least 5 times of the loss that has been occurred while clearing the land for the project.
- (xxvi) Disposal of spent oil from diesel engines should be as specified under relevant Rules/ Regulations.
- (xxvii) Explosives should be stored in magazines in isolated place specified and approved by the Explosives Department.
- (xxviii) A minimum buffer distance of 100m from the boundary of the quarry to the nearest dwelling unit or other structures, not being any facility for mining shall be provided
- (xxix) 200 m buffer distance should be maintained from forest boundaries.
- (xxx) Consent from Kerala State Pollution Control Board under Water and Air Act(s) should be obtained before initiating activity.
- (xxxi) All other statutory clearances should be obtained, as applicable, by project proponents from the respective

**Annexure A31-(9)**

- competent authorities including that for blasting and storage of explosives.
- (xxxii) In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Authority.
- (xxxiii) The Authority reserves the right to add additional safeguard measures subsequently, if found necessary, and to take action including revoking of the environment clearance under the provisions of the Environment (Protection) Act, 1986, to ensure effective implementation of the suggested safeguard measures in a time bound and satisfactory manner.
- (xxxiv) The stipulations by Statutory Authorities under different Acts and Notifications should be complied with, including the provisions of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act 1981, the Environment (Protection) Act, 1986, the Public Liability (Insurance) Act, 1991 and EIA Notification, 2006.
- (xxxv) The project proponent should advertise in at least two local newspapers widely circulated in the region, one of which (both the advertisement and the newspaper) shall be in the vernacular language informing that the project has been accorded Environmental Clearance and copies of clearance letters are available with the Department of Environment and Climate Change, Govt. of Kerala and may also be seen on the website of the Authority at [www.seiaakerala.org](http://www.seiaakerala.org). The advertisement should be made within 10 days from the date of receipt of the Clearance letter and a copy of the same signed in all pages should be forwarded to the office of this Authority as confirmation.
- (xxxvi) A copy of the clearance letter shall be sent by the proponent to concerned Grama Panchayat/ District Panchayat/ Municipality/ Corporation/ Urban Local Body and also to the Local NGO, if any, from whom suggestions / representations, if any, were received while processing the proposal. The Environmental Clearance shall also be put on the website of the company by the proponent.
- (xxxvii) The proponent shall submit half yearly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well as by e-mail) and upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the respective Regional Office of MoEF, Govt. of India and also to the Directorate of Environment and Climate Change, Govt. of Kerala.
- (xxxviii) The details of Environmental Clearance should be prominently displayed in a metallic board of 3 ft x 3 ft with green background and yellow letters of Times New Roman font of size of not less than 40. Sign board with extent of lease area and boundaries shall be depicted at the entrance of the quarry, visible to the public
- (xxxix) The proponent should provide notarized affidavit (indicating the number and date of Environmental Clearance proceedings) that all the conditions stipulated in the EC shall be scrupulously followed.
- (xl) The above conditions shall prevail notwithstanding anything to the contrary, in consistent, or simplified, contained in any other permit, license on consent given by any other authority for the same project




This is the true copy of the Original Document marked as Annx-A31 in the accompanying affidavit

  
Applicant

**Annexure A32**

TIN : 32030517519  
CSTNO.32030517519C

Ph : 0469 - 2685256 (O)  
2682784  
Fax :  
E-mail: philipsgrano@gmail.com



**PHILIPS GRANO PRODUCTS**  
Noorommavu P.O., Mallappally, Pathanamthitta - 689 589, Kerala, India.

03-07-2015

To

METAMORPHOSIS Project Consultants Pvt. Ltd.  
PRUTI BHAVAN200, 1st & 2nd Floor,  
1st Cross, 40th Main,  
Behind Central Silk Board,  
BTM Layout II Stage, Bengaluru-560 068, Karnataka, INDIA.

Dear Sir,

Sub:- Work order for consultation and preparation of Mining Plan for obtaining Environmental Clearance-reg  
Ref:- Quotation dated 04-07-2015

With reference to the above matter and further discussion with Mr Dr Shantha Thimmaiah, We hereby place our work order for consultation and preparation of Mining Plan for obtaining the environmental Clearance for our quarry at Anicadu Village, Mallappally Taluk in Pathanamthitta District and we have send a token of advance Rs 4,00,000/- (By RTGS through South Indian Bank LTD, Mallappally on 30-07-2015) towards your cost. Kindly do the needful at the earliest.

Thanking You

Yours Faithfully

For Philips Grano Products

Naveen Mathew Philip  
Proprietor

This is the true copy of the Original Document marked as Annx-A32 in the accompanying affidavit

Applicant

1

ITEM NO.1 COURT NO.1 SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 114/2014

COMMON CAUSE

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

WITH

(1) I.A. NO.30915/2019 AND 153946/2019(APPLNS. FOR DIRECTIONS AND SEEKING LEAVE TO PLACE ON RECORD ADDL. DOCUMENTS ON B/O MIDEAST INTEGRATED STEELS LTD.)

(2) I.A. NO.186816/2019 (APPLICATION FOR DIRECTIONS) ON BEHALF OF M/S SARDA MINES PRIVATE LIMITED

(3) I.A. NO.157835/2019 (APPLICATION FOR DIRECTIONS) ON BEHALF OF ORISSA MINING CORPORATION LIMITED

"ONLY" IN W.P.(C) NO. 114/2014 ARE LISTED TODAY.

THE NAMES OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST:MR. HARISH N. SALVE, SR. ADVOCATE (A.C.) MS. APARAJITA SINGH, SR. ADVOCATE (A.C.) MR. A.D.N. RAO, ADVOCATE (A.C.) MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.)MR. PRASHANT BHUSHAN MR. B.K. PRASADMR. GURMEET SINGH MAKKER MS. KIRTI R. MISHRAMR. MR. L.R. SINGH, ADVOCATES. )

Date : 08-01-2020 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE B.R. GAVAI  
HON'BLE MR. JUSTICE SURYA KANTCounsel for the parties

Mr. Harish N. Salve, Sr. Adv. (A.C.) (N.P.)

Ms. Aparajita Singh, Sr. Adv. (A.C.)

Mr. ADN Rao, Adv. (A.C.)

Mr. Siddhartha Chowdhury, Adv. (A.C.)

Mr. Prashant Bhushan, AOR  
Mr. Pranav Sachdeva, Adv.  
Mr. Hemant Pothula, Adv.

Mr. B.K. Prasad, AOR

Ms. Pinky Anand, ASG  
Ms. V. Mohna, Sr. Adv.  
Mr. Atulesh Kumar, Adv.  
Mr. Raj Bahadur, Adv.  
Mr. R.R. Rajesh, Adv.  
Mr. D.V. Rao, Adv.  
Mr. Tarkeshwar Nath, Adv.  
Ms. Saudimini Sharma, Adv.  
Mr. Hemand Arya, Adv.

Mr. Mukesh Kumar Maroria, AOR

Mr. Atmaran N.S. Nadkarni, ASG  
Ms. Chinmayee Chandra, Adv.  
Mr. S.S. Rebello, Adv.  
Ms. Arzu Paul, Adv.  
Mr./Ms. Neeleshwar Pavani, Adv.  
Ms. Riya Soni, Adv.  
Ms. Shivikka Agrawal, Adv.  
Mr. Gurmeet Singh Makker, AOR

Ms. Kirti R. Mishra, AOR  
Ms. Apurva Upmanya, Adv.

Mr. Vikas Singh, Sr. Adv.  
Mr. L.R. Singh, AOR  
Mr. Satwik Misra, Adv.  
Ms. Udit Singh, Adv.  
Ms. Deepeika Kalia, Adv.  
Ms. Shweta Priya, Adv.  
Mr. Vivek Singh, Adv.

Mr. Mahesh Jethmalani, Sr. Adv.  
Mr. Parag Tripathi, Sr. Adv.  
Mr. Gopal Jain, Sr. Adv.  
Mr. Navin Kumar, AOR  
Mr. Manish Kharbanda, Adv.  
Mr. Saurabh Ajay Gupta, Adv.  
Ms. Natasha Sehrawat, Adv.  
Mr. Pranav Sood, Adv.  
Ms. Priya Singh, Adv.  
Mr. Karanveer Singh, Adv.  
Ms. Nikita Mehta, Adv.  
Mr. Vineet Kumar, Adv.

Mr. Raj Kumar Mehta, AOR  
Ms. Himanshi Andley, Adv.



UPON hearing the counsel the Court made the following  
O R D E R

In the course of hearing, this Court on 16.01.2019 passed an order taking cognizance of the deleterious effect of mining on vegetation, after mining activities are over. In particular, it is observed that an area which is mined results in complete elimination of grass which in turn denies fodder to the herbivores. The only solution can be re-grassing of such mined areas. It is not in dispute that re-grassing technology is available in this country.

We see no reason why the area which has been mined should not be restored so that grass and other vegetations including trees can grow in the mining area for the benefits of animals.

We are of the view that this can be achieved by directing the Union of India to impose a condition in the mining lease and a similar condition in the environmental clearance and the mining plan to the effect that the mining lease holders shall, after ceasing mining operations, undertake re-grassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc.

The Union of India may devise appropriate methods for ensuring compliance of this condition after the mining activity is over at the cost of the mining lease holders. This condition shall be in addition to those conditions which have already been imposed for achieving the same purpose under the mine closure plan. This condition shall not be imposed in derogation of any conditions



which are already in force.

Order accordingly.

The Union of India will report the action taken within a period of three weeks from today.

List the matter thereafter.

I.A. NOS.38915/2019 AND 153946/2019 (APPLNS. FOR DIRECTIONS AND SEEKING LEAVE TO PLACE ON RECORD ADDL. DOCUMENTS ON B/Q MIDEAST INTEGRATED STEELS LTD.

Arguments concluded.

Orders reserved.

I.A. NO.186810/2019 (APPLICATION FOR DIRECTIONS) ON BEHALF OF M/S SARDA MINES PRIVATE LIMITED

Arguments concluded.

Orders reserved.

I.A. NO.157625/2019 (APPLICATION FOR DIRECTIONS) ON BEHALF OF ORISSA MINING CORPORATION LIMITED

Issue notice returnable after two weeks.

In the meantime, the respondent(s) may file their respective reply affidavits, if any.

(SANJAY KUMAR-II)  
COURT MASTER (SN)

(INDU KUMARI POKHRIYAL)  
ASSISTANT REGISTRAR

This is the true copy of the Original Document marked as Annx-A34 in the accompanying affidavit

  
Applicant

**Annexure-A34-(1)**

**F. No. 22-34/2018-IA.III**  
 Government of India  
 Ministry of Environment, Forest and Climate Change  
 (Impact Assessment Division)

Indira Paryavaran Bhawan  
 Jor Bagh Road, Aliganj,  
 New Delhi-110003

E-mail: sharath.kr@gov.in  
 Tel: 011-24695319

Dated: 16<sup>th</sup> January, 2020

**OFFICE MEMORANDUM**

**Sub.: Additional Environment Clearance condition for mining projects – reg.**

The Ministry of Environment, Forest and Climate Change has issued the standard EC conditions for coal and non coal mining sectors vide OM no 22-34/2018-IA.III dated 9<sup>th</sup> August 2018 and 8<sup>th</sup> January 2019.

2. The Hon'ble Supreme Court vide order dated 08.01.2020 in W.P. (Civil) No.114/2014 in the matter of Common Cause vs. Union of India has directed that the area which has been mined should be restored so that grass and other vegetation including trees can grow in the mining area for the benefit of animals.

3. In view of the above, as directed by the Hon'ble Supreme Court, an additional condition as stipulated in the order be included in all the Environmental Clearances already granted to mining projects and to be granted henceforth.

*"The mining lease holders shall, after ceasing mining operations, undertake re-grassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc."*

3.1 Necessary communication may be issued to the project proponents under intimation to respective regulatory authorities.

4. This issues with the approval of competent authority.

  
 (Sharath Kumar Pallerla)  
 Director (IA-Policy)

To

1. Chairman, Central Pollution Control Board (CPCB).
2. Chairman of all the Expert Appraisal Committees



**Annexure-A34-(2)**

3. Chairperson/Member Secretaries of all the SEIAAs/SEACs
4. All the Officers of I.A. Division
5. Chairpersons/Member Secretaries of all SPCBs/UTPCCs

**Copy for information to:**

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary(EF&CC)
4. PPS to AS (RSP) / AS (RA)
5. PS to JS (GM)/ JS (AKN)/JS (SKB)
6. Website, MoEF&CC
7. Guard file.

*Accepted*  
*16/11/2020*  
(Sharath Kumar Pallerla)  
Director (IA-Policy)

This is the true copy of the Original Document marked as Annx-A34 in the accompanying affidavit

Page 2 of 2  
*[Signature]*  
Applicant

No. J-11013/41/2006-IA.II(I)  
**Government of India**  
**Ministry of Environment & Forests**

**Annexure-35(1)**

Paryavaran Bhavan,  
 C.G.O. Complex, Lodi Road,  
 New Delhi-110003.  
 Telefax: 24362434

Dated the 16<sup>th</sup> November, 2010

**Office Memorandum**

- Sub: 1. Consideration of proposals involving violation of the Environment (Protection) Act, 1986 or Environment Impact Assessment (EIA) Notification, 2006 / the CRZ Notification, 1991, there under – Regarding.**  
**2. Corporate Environment Policy - Regarding.**

The Environment Impact Assessment (EIA) Notification, 2006 requires all new projects or activities and or expansion and modernization of those existing projects or activities listed in the schedule to the said Notification with capacity beyond the threshold limits prescribed there under, to obtain prior environmental clearance under the provisions thereof.

2. Instances have come to the notice of the Ministry of Environment & Forests where substantial physical progress relating to construction of the project has been made at site and significant investments have been made for setting up of new projects as also for the expansion components of various existing projects such as thermal power plants, integrated steel plants, mining projects etc. without obtaining a requisite prior environmental clearance as is mandated under the EIA Notification, 2006.

3. As per the existing practice being followed in the Ministry for considering such violation cases as and when these are submitted for environmental clearance, while environmental clearance is granted to deserving projects prospectively, based on their merit, in accordance with the recommendation of the Expert Appraisal Committees, simultaneously the concerned State Governments, under the powers delegated to them under the Environment (Protection) Act, 1986 are requested to initiate action against such units for the period these units have operated in violation of the said Act as per the procedure laid down.

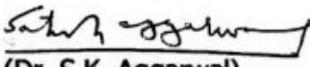
4. The matter has been considered in the Ministry and it has been decided to follow the following procedure henceforth to deal with such cases of violations:

- (i) All such cases of violations which are submitted to the Ministry of Environment & Forests / SEIAs for environmental clearance would be referred to the respective Expert Appraisal Committee (EAC) / SEACs for their consideration based on the merit of the proposal. After the EAC / SEAC have made its recommendations on the project, the proposal will be processed on file for obtaining the approval of the Competent Authority.



- (ii) After the Competent Authority has approved the proposal for grant of environmental clearance, MoEF / SEIAA will send a communication to the project proponent informing that although the proposal has been approved by the Competent Authority, formal environmental clearance will be issued to the project only after the matter relating to the violations have been put up to the Board of Directors of the Company or to the Managing Committee / CEO of the Society, Trust, partnership / individually owned concern for consideration of its environment related policy / plan of action as also a written commitment in the form of a formal resolution to be submitted to MoEF / SEIAA to ensure that violations of the Environment (Protection) Act etc. will not be repeated. For the purpose, a time limit of 90 days will be given to the project proponent. In the meantime, the project will be delisted. In the eventuality of not having any response from the project proponent within the prescribed limit of 90 days, it will be presumed that it is no longer interested in pursuing the project further and the project file will be closed, where after the procedure for obtaining environmental clearance will have to be initiated de-novo by such project proponents.
- (iii) The respective State Government will be informed of the violation cases for their initiating legal action against the Company as per the procedure prescribed.
- (iv) The details of the project proponents and a copy of the commitment etc. mentioned at para 4(ii) above will be put on the website of MoEF / SEIAA for information of all / stakeholders.

This issues with the approval of the Competent Authority.

  
(Dr. S.K. Aggarwal)  
Director

To

**All the Officers of IA Division**

**Copy to:-**

1. All SEIAAs / SEACs
2. All SPCBs / UTPCCs
3. PS to MEF
4. PPS to Secretary (E&F)
5. PPS to AS(JMM)
6. PS to Advisor (NB)
7. Website of MoEF

This is the true copy of the Original Document marked as Annx-A35 in the accompanying affidavit

  
Applicant

**F. No. 22-21/2020-IA.III**  
 Government of India  
 Ministry of Environment, Forest and Climate Change  
 Impact Assessment Division

\*\*\*\*\*

Indira ParyavaranBhawan  
 Jor Bagh Road, Aliganj  
 New Delhi - 110003  
 sujit.baju@gov.in

Date: 7<sup>th</sup> July, 2021

**Office Memorandum**

**Subject: Standard Operating Procedure (SoP) for Identification and handling of violation cases under EIA Notification 2006 in compliance to order of Hon'ble National Green Tribunal in O.A. No.34/2020 WZ - Regarding.**

The Ministry had issued a notification number S.O.804(E), dated the 14<sup>th</sup> March, 2017 detailing the process for grant of Terms of Reference and Environmental Clearance in respect of projects or activities which have started the work on site and/or expanded the production beyond the limit of Prior EC or changed the product mix without obtaining Prior EC under the EIA Notification, 2006.

2. This Notification was applicable for six months from the date of publication i.e. 14.03.2017 to 13.09.2017 and further based on court direction from 14.03.2018 to 13.04.2018.

3. Hon'ble NGT in Original Application No. 287 of 2020 in the matter of Dastak N.G.O. Vs Synochem Organics Pvt. Ltd. &Ors. and in applications pertaining to same subject matter in Original Application No. 298 of 2020 in Vineet Nagar Vs. Central Ground Water Authority &Ors., vide order dated 03.06.2021 held that "(...) **for past violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process**".

4. Further, the Hon'ble National Green Tribunal in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors., vide order dated 24.05.2021 has directed that "**...a proper SoP be laid down for grant of EC in such cases so as to address the gaps in binding law and practice being currently followed. The MoEF may also consider circulating such SoP to all SEIAAs in the country**".

5. Therefore, in compliance to the directions of the Hon'ble NGT a Standard Operating Procedure (SoP) for dealing with violation cases is required to be drawn. The Ministry is also seized of different categories of 'violation' cases which have been

*[Handwritten signature]*

*[Handwritten signature]*

pending for want of an approved structural/procedural framework based on 'Polluter Pays Principle' and 'Principle of Proportionality'. It is undoubtedly important that action under statutory provisions is taken against the defaulters/violators and a decision on the closure of the project or activity or otherwise is taken expeditiously.

6. In the light of the above directions of the Hon'ble Tribunal and the issues involved, the matter has accordingly been examined in detail in the Ministry. A detailed SoP has accordingly been framed and is outlined herein. The SoP is also guided by the observations / decisions of the Hon'ble Courts wherein principles of proportionality and polluters pay have been outlined.

**7. Relevant Court Cases on the issue:** It is noted that while deciding issues related to violations of the Environment Protection Act, 1986 on account of running the project/activity without prior environmental clearance or in excess of capacity allowed in such clearances, **the Hon'ble courts have, *inter-alia*, deliberated on various facets involving 'violation' cases and have enunciated principles of 'Proportionality' and 'Polluter Pays' in various decisions viz. Industrial Council for Enviro-Legal Action Vs Union of India (the Bichhri village industrial pollution case) (1996 SCC [3] 212); Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. (C.A. No. 1526 of 2016, order dated 1.4.2020) and Hindustan Copper Limited Vs Union of India in (W.P. (C) No. 2364 of 2014, order dated 28.11.2014).** The salient extracts of the judgements are as under:

**Issue 1: Proposal for grant of Environmental Clearance in violation cases – to be considered on merits:**

**i. Hon'ble High Court of Jharkhand in the matter of Hindustan Copper Limited Vs Union of India in W.P. (C) No. 2364 of 2014, vide order dated 28.11.2014**

*Held: "(...) action for alleged violation would be an independent and separate proceeding and therefore, consideration of proposal for environment clearance cannot await initiation of action against the project proponent."*

*"(...) the proposal of the petitioner company for **environmental clearance must be examined on its merits, independent of any proposed action for the alleged violation of the environmental laws.**"*

**ii. Hon'ble Madras High Court in the matter of Puducherry Environment Protection Association Vs The Union of India in W.P. No. 11189 of 2017, vide order dated 13.10.2017**

*Held "27. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down only because of failure to obtain prior environmental clearance, even though the establishment may not otherwise be violating*

SA

*(Signature)*

pollution laws or the pollution, if any, can conveniently and effectively be checked. **The answer necessarily has to be in the negative.**"

"29. It is reiterated that protection of environment and prevention of environmental pollution and degradation are non-negotiable. At the same time, the Court cannot altogether ignore the economy of the Nation and the need to protect the livelihood of hundreds of employees employed in projects, which as stated above, otherwise comply with or can be made to comply with norms."

**Issue 2: Environmental Clearance – Prospective & not ex-post facto:**

**Hon'ble Supreme Court in the matter of Common Cause Vs Union of India in W.P. (C) No. 114 of 2014, vide order dated 2.8.2017**

*Held: "(...) an EC will come into force **not earlier than the date of its grant.**"*

**Issue 3: 'Principles of Proportionality' – to be applied:**

**Hon'ble Supreme Court in the matter of Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. in C.A. No. 1526 of 2016, vide order dated 1.4.2020**

*Held: "(...) **this Court must take a balanced approach** which holds the industries to account for having operated without environmental clearances in the past without ordering a closure of operations. The directions of the NGT for the revocation of the ECs and for closure of the units do not accord **with the principle of proportionality**"*

**Issue 4: 'Polluter pays' principle &**

**Issue 5: Costs for remedial measures** implicit in Sections 3 & 5 of Environment (Protection) Act, 1986.

**Hon'ble Supreme Court in the matter of Indian Council for Enviro- Legal Action Vs Union of India (the Bichhri village industrial pollution case) in (1996 SCC [3] 212)**

**Held:**

a) The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. The said powers will **include giving directions ...** and also the power to **impose the cost of remedial measures** on the offending industry and utilize the amount so recovered for carrying out remedial measures.....

SA

Bejay

b) **Levy of costs required for carrying out remedial measures is implicit in Sections 3 and 5** which are couched in very wide and expansive language. Sections 3 and 5 of the Environment (Protection) Act, 1986, apart from other provisions of Water and Air Acts, empower the Government to make all such directions and take all such measures as are necessary or expedient for protecting and promoting the 'environment', which expression has been defined in very wide and expansive terms in Section 2 (a) of the Environment (Protection) Act. This power includes the power to prohibit an activity, close an industry, direct to carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry.

c) The question of liability of the respondents to defray the costs of remedial measures can also be looked into from accepted universally sound principle, viz., the **"Polluter Pays" Principle**. "The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution".

#### **8. Legal provisions:**

i. The Environment (Protection) Act, 1986 mandates the Central Government to take all measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution (reference sub-section (1) of Section 3 of Environment (Protection) Act, 1986). Further, clause (xiv) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 specifies that the measures stipulated under sub-section (1) of Section 3 of the Environment (Protection) Act 1986 includes 'such other matters as the Central Government deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act'.

ii. Further, notwithstanding anything contained in any other law but subject to the provisions of the Environment Protection Act, 1986, Section 5 of the Environment (Protection) Act, 1986, provides that the Central Government may, in the exercise of powers and performance of Central Government functions under the said Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

#### **9. Definition of Violation and Non-compliance:**

The Standard Operating Procedure (SoP) considers 'Violation' & 'Non-compliance' from the following perspective:

SZ

Signature

i. "Violation" means cases where projects have either started the construction work or installation or excavation, whichever is earlier, on site or have expanded the production capacity and / or project area beyond the limit specified in the Environmental Clearance (Prior-EC) without obtaining Prior-EC or change of scope without prior approval from the Ministry.

ii. "Non-compliance" means non-compliance of terms and conditions prescribed by the Regulatory Authority in the Prior Environment Clearance accorded to the project.

**10. Standard Operating Procedure – Guiding Principles:**

i. Without prejudice to any other consequences, **action has to be initiated under section 15 read with section 19** of The Environment (Protection) Act, 1986 **against all violations.**

ii. Projects not allowable/ permissible, for grant of EC, as per extant regulations: **To be demolished.**

iii. Projects allowable/ permissible, if prior EC had been taken as per extant regulations: **To be closed until EC is granted (if no prior EC has been taken) or to revert to permitted production level (in case prior EC has been granted).**

iv. **Polluter pays:** Violators to pay for violation period - proportionate to the scale of project and extent of commercial transaction.

v. Setting up a mechanism for reporting of violation to the regulatory authority(ies).

**11. SOP for dealing with the violation cases:**

**Step 1: Closure or Revision**

Sl no.	Status of EC	Actions
1	If no prior EC has been taken	Order to <b>close</b> its operation
2.	If prior EC is available for existing/old unit	Order to <b>revert the activity/production to permissible limits.</b>
3.	If prior EC was not required for earlier production level but is now required	<b>Restrict the activity/production</b> to the extent to which prior EC was not required.

**Step 2: Action under Environment (Projection) Act, 1986**

Action under section 15 read with section 19 of the Environment (Protection) Act, 1986 shall be initiated against the violators.

*Signature*

**Step: 3: Appraisal under EIA Notification, 2006**

The permissibility of the project shall be examined from the perspective of whether such activity/project was at all eligible for the grant of prior EC.

**A. If not permissible:**

i. The project shall be **ordered for the demolition/closure after issuing show cause notice and providing an opportunity of hearing.**

*Ex. If a red industry is functioning in a CRZ-I area which means that the activity was, in the first place, not permitted at the time of commencement of project. Therefore, the activity is not permissible and therefore it shall be **closed & demolished.***

ii. Respective regulatory authorities shall issue directions under section 5 of the Environment (Protection) Act, 1986 for such closure & demolition of the project/activity.

**B. If permissible:**

i. As per extant regulations at the time of scoping, if it is viewed that the project activity is otherwise permissible, Terms of Reference (TOR) shall be issued with directions to complete the impact assessment studies & submit Environmental Impact Assessment (EIA) report & Environmental Management Plan (EMP) in a time bound manner.

ii. Such cases of violation shall be subject to appropriate

(a) Damage Assessment

(b) Remedial Plan and

(c) Community Augmentation Plan by the Central level Sectoral Expert Appraisal Committees or State/Union Territory Level Expert Appraisal Committees, as the case may be.

iii. The Competent Authority shall issue directions to the project proponent, under section 5 of the Environment (Protection) Act, 1986 on case to case basis mandating payment of such amount (as may be determined based on Polluters Pay principle) and undertaking activities relating to Remedial Plan and Community Augmentation Plan (to restore environmental damage caused including its social aspects).

iv. Upon submission of the EIA & EMP report, the project shall be appraised by the Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, as if it was a new proposal. If, on examination of the EIA/EMP report, the project is considered permissible for operation as per extant regulations, the requisite Environmental Clearance shall be issued **which shall be effective from the date of issue.**

v. However, during appraisal after examination if it is found that even though the project may **be permissible but not environmentally sustainable in its present**

SA

Bejay

**form/configuration/features** then the project shall be directed to be **modified so that the project would be environmentally sustainable.**

vi. If, however, it is not considered appropriate to issue EC, the project shall be directed to be **demolished/ closed. If such proposal is a case of expansion, the project shall be directed to revert back to the extent of activity for which EC had been granted earlier or to revert back to the extent of activity for which EC was not required (as the case may be).**

vii. Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, may insist upon public hearing to be conducted for such categories of projects for which the EIA Notification 2006, as amended from time to time, requires the public hearing to be conducted.

viii. The project proponent will be required to **submit a bank guarantee equivalent to the amount of Remediation Plan and Natural & Community Resource Augmentation Plan with Central / the State Pollution Control Board (depending on whether it is appraised at Ministry or by SEIAA).** The quantification of such liability will be recommended by Expert Appraisal Committee and finalized by Regulatory Authority. The bank guarantee shall be deposited prior to the grant of environmental clearance and **will be released after successful implementation of the Remediation plan and Natural & Community Resource Augmentation Plan.**

**Note** - The activities, as per above clauses, shall be undertaken simultaneously wherever feasible. Environmental Clearance, if granted, to such projects or activities, after due appraisal of EIA/EMP report, **shall be effective only from the date of issuance of such clearance** and shall be subject to compliance of obligations towards Damage Assessment, Remedial Plan & Community Augmentation Plan, etc. finalized in each case.

## **12. Penalty provisions for Violation cases and applications:**

### **a. For new projects:**

- i. **Where operation has not commenced:** 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report; [Ex: Rs.1 lakh for project cost of Rs.1 Cr]
- ii. **Where operations have commenced without EC:** 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report **PLUS** 0.25% of the total turnover during the period of violation. [Ex: For Rs.100 Cr project cost and Rs.100 Cr total turnover, the penalty shall be Rs.1 Cr + Rs. 0.25 Cr = Rs.1.25 Cr]

SL

Bej

**b. For expansion projects:**

- i. **Where operation/production with expanded capacity has not commenced:**  
1% of the project cost, attributable to the expansion, incurred up to the date of filing of application along with EIA/EMP report.
- ii. **Where operation/ production with expanded capacity have commenced:**  
1% of the project cost (attributable to the expansion activity) incurred upto the date of filing of application along with EIA/EMP report PLUS 0.25% of the total turnover (attributable to the expanded activity/capacity) involved during the period of violation.

12.1. Without prejudice to obligation as per (a) & (b) above, where the project or activity is considered for appraisal as above & the project proponent fails to provide required information or requisite documents or complete the requisite study for the purpose of EIA/EMP reports or does not furnish such reports within such period, as specified by the appraisal committee, without reasonable cause, it shall be inferred that the project proponent is not serious enough and the project or activity shall be directed to be demolished / closed.

12.2. The percentage rates, as above, shall be halved if the project proponent *suo-moto* reports such violations without such violations coming to the knowledge of the Government either on inquiry or complaint.

12.3. The penalty, as above, shall be in addition to liability for carrying out various remedial measures which shall be worked out based on the damage assessment for quantifying the environmental damage caused due to unauthorized project activity [as per Step 3 enumerated above].

**13. Identification of Violation cases:**

With a view to protecting the environment and to expeditiously bring violators into a regulatory regime so as to prevent & control environment damage caused by such violation & to determine whether operation of such projects is permissible and to take action stipulated under Section 15 of the Environment (Protection) Act, 1986 for contravention of the provisions of the said Act, Rules, orders and directions, it is expedient to also identify the cases of violation, examine and appraise such projects so as to refrain them from causing further environmental damage and also to compensate for causing damage to the environment. Therefore, in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986, the Central Government hereby directs that:-

- i. State Pollution Control Boards & Union Territory Pollution Control Committees, before grant or renewal of Consents under Water(Prevention & Control of Pollution) Act, 1974 & Air (Prevention& Control of Pollution) Act, 1981, shall ensure that the project proponents applies for or possess valid Prior

**Annexure-36(9)**

Environmental Clearance in terms of extant EIA Notification and shall not grant or renew CTO (Consent to Operate) unless Environment Clearance (if applicable) has been obtained.

- ii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall identify cases of violation under their respective jurisdiction, report such cases to the Ministry or State/Union Territory Level Environmental Impact Assessment Authority, as the case may be and also revoke CTO, if granted to the unit after giving an opportunity of being heard.
- iii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall expeditiously examine the references, received from public and other bodies, relating to violations and take necessary steps as per (ii) above.

14. This is issued with the approval of the Competent Authority.

  
(Dr. Sujit Kumar Bajpayee)  
Joint Secretary (IA)

To

1. Chairperson/Member Secretary of Central Pollution Control Board
2. Chairperson/Member Secretaries of all the SEIAAs/SEACs
3. Chairman/Members of all the Expert Appraisal Committees
4. Chairman/Members of all the State Pollution Control Boards and Union Territory Pollution Control Committees

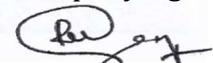
Copy for information:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS for Environment, Forest and Climate Change
3. PPS to Secretary(EF&CC)
4. PPS to AS(RS) / AS (RA)/ AS (UD)/ JS(JT) / JS (MP)/ JS (NPG)
5. All the officers of IA Division
6. Website of MoEF&CC/PARIVESH/Guard file

Copy (by email) also forwarded to the Registrar, NGT, in compliance to instruction given in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors.(order dated 24.05.2021).

Page 9 of 9

This is the true copy of the Original Document marked as Annx-A36 in the accompanying affidavit

  
Applicant