

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE
O.A. No. 219 OF 2024/EZ**

In the Matter of:
Niraj Kumar & Anr.

...Applicant

-Versus-

Dhiraj Kumar & Ors.

...Respondents

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Date: 24 /01/2025.

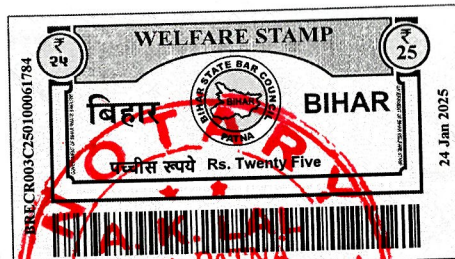
Place: Patna, Bihar.

Anamika Pandey
Adv
F/748/2009

Ms. Anamika Pandey,
Advocate,
"Hastings Chamber", 7C,
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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, EASTERN ZONE BENCH AT KOLKATA
O.A. No. 219 OF 2024/EZ

In the Matter of:
 Niraj Kumar & Anr.

...Applicant

-Versus-

Dhiraj Kumar & Ors.

...Respondents

SL No. 384 Date 24-1-28

Counter Affidavit filed on behalf of Respondent no. 7
(i.e. SEIAA, Bihar)

I, Abhay Kumar S/o Late Sheodayal Sharma aged about 50 years old, by occupation- Government Service, presently posted as Member Secretary of the State Environment Impact Assessment Authority, (SEIAA) Bihar working for gain at the "Beltron Bhawan", 2nd Floor, Shastri Nagar, Bailey Road, Patna, Bihar- 800 023, do hereby solemnly affirm and state as followed:

1. That I have made myself acquainted with the facts and circumstances of the Original Application filed by the applicant and I have thoroughly gone through all the documents pertaining to the subject matter of this instant case and I am competent to file the instant Affidavit before this Hon'ble Tribunal.

Abhay Kumar S/o Late Sheodayal Sharma
 who is identified by Advocate *A. Singh*
 solemnly affirmed and declared contents of his affidavit apart from this nothing stamp/cur etc etc. 1/5 3 & Subrule 2 rule of N.P. 1986 being etc



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2. That the Hon'ble Tribunal vide an Order dated 11th December, 2024, added SEIAA, Bihar, in the array of parties as Respondent no. 7, accordingly, directed the respondents to file their counter affidavit.
3. That it is stated that SEIAA is an instrumentality of the Central Government being created under the Environment Impact Assessment Notification 2006 (as amended from time to time) (hereinafter referred to as 'the EIA notification' for brevity) issued by the Central Government represented through the Ministry of Environment, Forest and Climate Change, Government of India, New Delhi. The said statutory notification was issued under the provisions of the Environment (Protection) Act, 1986.
4. That it is stated that role of the SEIAA is to consider and grant Environmental Clearances as per the Schedule mentioned in the EIA Notification as amended from time to time.
5. The present appeal assailing the Environmental Clearance (EC in short) is, however, vehemently contested and opposed, as the EC was granted as per the EIA Notification, 2006.
6. The Ministry of Environment and Forests issued a notification on September 14, 2006, establishing requirements for prior environmental clearance (EC) for certain new projects, or the expansion/modernization of existing ones, based on their environmental impacts. These activities, listed in the notification's schedule, must receive clearance from either the Central Government or the State Environment Impact Assessment Authority (SEIAA) before construction or land preparation begins. The notification also mandates the creation of SEIAAs in each state or Union Territory, which will consist of a Chairman, Member-Secretary, and one other



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expert. The authority's decisions must be unanimous. Additionally, projects are categorized into two groups (A and B) based on their environmental impact scope. This notification supersedes an earlier one from 1994, with the new provisions effective immediately.

Copy of the Notification S. O. 1533 dated 14-09-2006 issued by the MoEF& CC is annexed hereto and marked with the Letter R/1.

7. That thereafter for the earlier notification continued until the Ministry of Environment and Forests (MoEF) issued another office memorandum on June 24, 2013, while addressing Environmental Clearance (EC) requirements for the mining of 'brick earth' and 'ordinary earth' for small-scale activities, such as brick making and road construction, with lease areas less than 5 hectares. Following a Supreme Court order, these activities were initially categorized as Category 'B', requiring EC from SEIAAs.

However, concerns were raised about the practical difficulties in obtaining EC for small-scale operations, as they typically have minimal environmental impact. In response, MoEF established an expert committee to review these issues and, based on their recommendations, issued new guidelines:

- i. Activities involving the excavation of 'brick earth' or 'ordinary earth' up to 5 hectares may be categorized as Category 'B2', provided they follow specific environmental guidelines (e.g., no blasting, restricted excavation depth, restoration of pits).

ii. EC requirements will be stricter if the excavation site is near protected areas or results in clusters of borrow areas exceeding 5 ha.



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- iii. The clearance may be cancelled if guidelines are violated, and certain conditions apply to safeguard health and the environment.

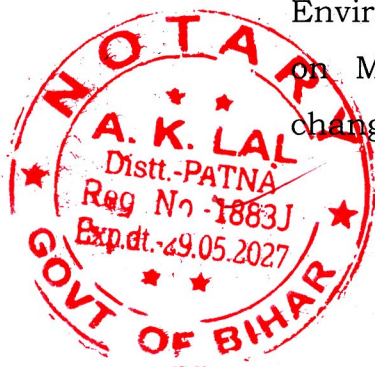
These changes in the notification and rules were aimed to streamline the process while ensuring minimal environmental impact.

Copy of the Office Memorandum No. L-11011/47/2011-IA-II(M) dated 24-06-2013 issued by the MoEF& CC is annexed hereto and marked with the Letter R/2.

8. That the Ministry of Environment, Forest and Climate Change issued a notification on January 15, 2016, amending the Environment Impact Assessment (EIA) Notification, 2006. This amendment follows the Supreme Court's ruling mandating prior environmental clearance for the mining of minor minerals, regardless of the lease area. The amendment also addresses concerns raised by State Governments and the National Green Tribunal regarding sand mining and mining leases in clusters. The Ministry, in consultation with the States, has prepared guidelines for sustainable sand mining, including provisions for environmental clearance for mining clusters, creation of District Environment Impact Assessment Authorities, and improved monitoring through information technology.

Copy of the Notification S.O. 141 (E) dated 15-01-2016 issued by the MoEF& CC is annexed hereto and marked with the Letter R/3.

9. The answering respondent would like to state that the Ministry of Environment, Forest and Climate Change issued another notification on March 28, 2020, amending and bringing certain important changes in the Environment Impact Assessment (EIA) Notification,



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2006, in line with the Mineral Laws (Amendment) Act, 2020. The Notification of 2020 permitted the state government to declare the certain categories of activities as Non-Mining Activities. The relevant portion is mentioned herein:-

“13. Activities declared by the State Government under legislations or rules as non-mining activity.”

a. Transfer of Environmental Clearances:

Successful bidders of mining leases expiring under the Mines and Minerals (Development and Regulation) Act (MMDR Act) are deemed to have acquired the previous lessee's environmental clearance for two years from the new lease commencement. They may continue mining under the same conditions until they obtain a new clearance.

b. Clarification on Mining Capacity:

The evacuation of previously mined material by the old lessee after lease expiry does not count toward the mining capacity for the new lessee.

c. Exemptions from Environmental Clearance:

Various activities, including manual extraction of clay, sand, and lime shells, community works, sand extraction for roads and pipelines, and certain rural development projects, are exempt from prior environmental clearance. These amendments helped in supporting small and new businesses while keeping the mindset of 'Make in India' thus ultimately uplifting the economy of the State while also streamlining the processes for mining operations and traditional activities, ensuring legal clarity on environmental clearances and their transfer under the new leasing system.

Copy of the Notification S.O. 1224 (E) dated 28-03-2020 issued by the MoEF&CC is annexed hereto and marked with the Letter

R/4.



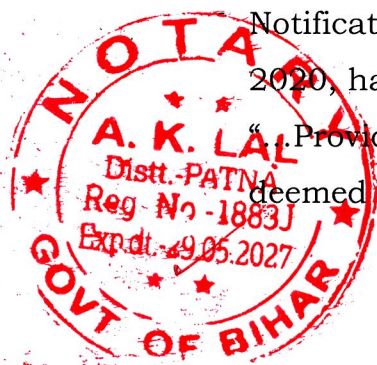
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10. The answering respondent would like to state that in view of the direction passed by the Hon'ble National Green Tribunal (NGT) vide order dated 13 September, 2018 in O.A. No. 186 of 2016. (Satendra Pandey Vs Ministry of Environment Forest & Climate Change & Anr), the use of Form-1M for accepting EC applications for minor minerals upto five hectares had been examined in the Ministry and various discussions were also held by different SEIAAs/SEACs and in consultation of the said meetings the Ministry of Environment, Forest and Climate Change issued an office memorandum on December 15, 2021, updating the Environmental Clearance (EC) application process for B2 category projects. According to the memorandum, all B2 category projects (except those under Schedule 8 of the EIA Notification 2006) must now apply for Environmental Clearance using Form-2 through the PARIVESH portal. This change follows a directive from the National Green Tribunal (NGT) and discussions with various SEIAAs/SEACs. The previous requirement to use Form 1-M for minor mineral mining projects up to five hectares is revised, and the earlier office memorandum from April 20, 2018, is modified accordingly.

Copy of the Office Memorandum F. No. 22-1/2019-IA.III (E116917) dated 15-12-2021 issued by the MoEF& CC is annexed hereto and marked with the Letter R/5.

11. The answering respondent would like to state that the Government of Bihar, Department of Mines and Geology Department vide a Notification A.N.-01/L.K. (Bricks)-42/20, 2643/Patna, dated 14-09-2020, had declared as stated below:

Provided that the quarrying for the purpose of brick kiln shall be deemed as non-mining activity for the purpose of EC and shall not



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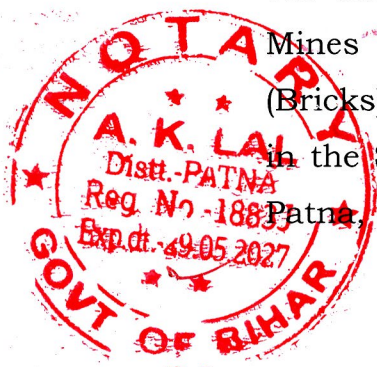
require EC if the depth of quarry is not more than one and half metre from the adjoining ground level...”.

Copy of the Government of Bihar, Department of Mines and Geology Department vide a Notification A.N.-01/L.K. (Bricks)-42/20, 2645 M./Patna, dated 14-09-2020 is annexed hereto and marked with the Letter R/6.

12. The answering respondent states that it is pertinent to mention that the establishment is governed only as per the central laws as mines and minerals falls under the List -1, Entry 54 to the Seventh Schedule of the Constitution of India 1950, which lays down inter alia:-

“...54. Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest”. Under the provisions of The Mines and Minerals (Development and Regulation) Act, 1957 [hereinafter referred to as the “Act of 1957”], brick earth is a minor mineral. Extraction of brick earth is governed by the said Act and the Rules and Regulations framed therein. State Government has been empowered to frame rules in conformity with the Central Act...”

13. The answering respondent would like to submit that vide a Writ Petition being CWJ No. 11181 of 2021, in the matter of: Abhay Kumar Vs The Union of India & Ors, the petitioner being aggrieved by the said notification of the Government of Bihar, Department of Mines and Geology Department vide a Notification A.N.-01/L.K. (Bricks)-42/20, 2643/Patna, dated 14-09-2020, challenged the same in the State of Bihar before the Hon'ble High Court of Judicature of Patna, wherein, the State Government while in consonant with the



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notification declared that E.C. was not required in cases where the mining was within the limit of 1.5 metre from the adjoining ground.

After considering various aspects the Hon'ble High Court of Judicature of Patna vide an order dated 7th March, 2024, allowed the writ petition and simultaneously also set aside the memorandum issued by the State of Bihar which stated that mining till the depth of 1.5 metre did not require E.C. in the State of Bihar.

Copy of the Order dated 07-03-2024 passed by the Hon'ble High Court of Judicature of Patna in Writ Petition being CWJ No. 11181 of 2021, in the matter of: Abhay Kumar Vs The Union of India & Ors is annexed hereto and marked with the Letter R/7.

14. In view of the said Order dated 07-03-2024 passed by the Hon'ble High Court of Judicature of Patna in Writ Petition being CWJ No. 11181 of 2021, in the matter of: Abhay Kumar Vs the Union of India & Ors, the MoEF&CC issued an office memorandum dated 9th August, 2024 office memorandum no. F. No. IA3-3/45/2021-IA.III [E-165219] dated 09-08-2024 issued by the MoEF&CC, regarding the CWJ No. 11181 of 2021, wherein mining of minor minerals have been once again being made mandatory for obtaining Environmental clearance.

Copy of the Office Memorandum no. F. No. IA3-3/45/2021-IA.III [E-165219] dated 09-08-2024 issued by the MoEF&CC is annexed hereto and marked with the Letter R/8.

15. That the respondent no. 7 submits that mining is regulated in terms of the Mines and Minerals (Development and Regulation Act), 1957 [MMDR Act] and the Mineral Concession Rule framed by the concerned State Governments. The State Government is empowered to formulate the rules for preventing illegal mining, transportation,



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and storage of minerals (including sand) by exercising the powers conferred by section 23(C) of the Mines and Minerals (Development and Regulation) Act, 1957.

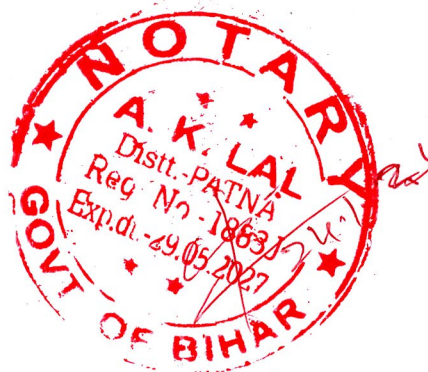
16. That the respondent no. 7 submits that as per the provisions of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act 1986. It is humbly submitted that, the State Pollution Control Board is the Nodal Agency to deal with cases related to pollution or environment management.
17. That the respondent no. 7 states and submits that the answering respondent are ready and willing to abide by the order/s direction/s made by this Hon'ble Tribunal and has taken all possible steps to comply the directions of the Hon'ble Tribunal and the Inspection Committee.
18. That I have thoroughly gone through the contents of this counter affidavit and I have fully understood the same I am competent to file and sign the instant Affidavit before this Hon'ble Tribunal.
19. I state that the statements contained in paragraph nos. 1 to 5, 12, 15 to 17 are true to my knowledge, those made in paragraph no. 6 to 11 and 13, 14 are information derived from records which I verily believe to be true and the rest are my humble submissions before this Hon'ble Court.

Abhay Kumar
DEPONENT

Prepared in my office.
Identified by me

A. Singh. Adv.
Advocate

Anomita Pandey
Adv
F/748/2009



VERIFICATION





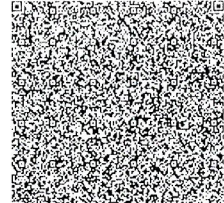



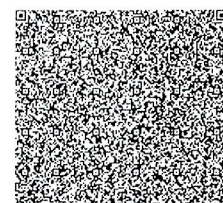
Verified at Patna, Bihar by the deponent above named on this the day of January, 2025, and say that the contents of this affidavit made in paragraph nos. 1 to 5, 12 are true to my knowledge, those made in paragraph no. 6 to 11 and 13, 14 are information derived from records which I verily believe to be true and the rest are my respectful submissions before this Hon'ble Tribunal.

Abhay Kumar
Deponent

Dated: 24/1/2025

Place: Patna

24.1.25

 	 
<p>भारत सरकार Government of India</p>	<p>सूचना / INFORMATION</p>
<p>भारतीय विशिष्ट पहचान प्राधिकरण Unique Identification Authority of India</p>	<p>■ आधार पहचान का प्रमाण है, नागरिकता या जन्मतिथि का नहीं। जन्मतिथि आधार नंबर धारक द्वारा प्रस्तुत सूचना और विनियमों में विनिर्दिष्ट जन्मतिथि के प्रमाण के दस्तावेज पर आधारित है।</p> <p>■ इस आधार पत्र को यूआईडीएआई द्वारा नियुक्त प्रमाणीकरण एजेंसी के जरिए ऑनलाइन प्रमाणीकरण के द्वारा सत्यापित किया जाना चाहिए या ऐप स्टोर में उपलब्ध एमआधार या आधार क्यूआर कोड स्कैनर ऐप से क्यूआर कोड को स्कैन करके या www.uidai.gov.in पर उपलब्ध सुरक्षित क्यूआर कोड रीडर का उपयोग करके सत्यापित किया जाना चाहिए।</p> <p>■ आधार विशिष्ट और सुरक्षित है।</p> <p>■ पहचान और पत्रों के समर्थन में दस्तावेजों को आधार के लिए नामांकन की तारीख से प्रत्येक 10 वर्ष में कम से कम एक बार आधार में अपडेट कराना चाहिए।</p> <p>■ आधार विभिन्न सरकारी और गैर-सरकारी फायदों/सेवाओं का लाभ लेने में सहायता करता है।</p> <p>■ आधार में अपना मोबाइल नंबर और ईमेल आईडी अपडेट रखें।</p> <p>■ आधार सेवाओं का लाभ लेने के लिए एमआधार ऐप डाउनलोड करें।</p> <p>■ आधार/बायोमेट्रिक्स का उपयोग न करने के समय सुरक्षा सुनिश्चित करने के लिए आधार/बायोमेट्रिक्स लॉक/अनलॉक सुविधा का उपयोग करें।</p> <p>■ आधार की ग्राहक करने वाले सहमति लेने के लिए बाध्य हैं।</p> <p>■ Aadhaar is proof of identity, not of citizenship or date of birth (DOB). DOB is based on information supported by proof of DOB document specified in regulations, submitted by Aadhaar number holder.</p> <p>■ This Aadhaar letter should be verified through either online authentication by UIDAI-appointed authentication agency or QR code scanning using mAadhaar or Aadhaar QR Scanner app available in app stores or using secure QR code reader app available on www.uidai.gov.in.</p> <p>■ Aadhaar is unique and secure.</p> <p>■ Documents to support identity and address should be updated in Aadhaar after every 10 years from date of enrolment for Aadhaar.</p> <p>■ Aadhaar helps you avail of various Government and Non-Government benefits/services.</p> <p>■ Keep your mobile number and email id updated in Aadhaar.</p> <p>■ Download mAadhaar app to avail of Aadhaar services.</p> <p>■ Use the feature of Lock/Unlock Aadhaar/biometrics to ensure security when not using Aadhaar/biometrics.</p> <p>■ Entities seeking Aadhaar are obligated to seek consent.</p>
<p>नामांकन क्रम/ Enrolment No.: 0013/66005/02993</p>	
<p>To अभय कुमार Abhay Kumar S/O: Sheo Dayal Sharma, 401,Ganga-4, Jalalpur City, Ramjaipal Road, Beily Road Patna, VTC: Dinapur-Cum-Khagaul, PO: Danapur Cantt, Sub District: Danapur, District: Patna, State: Bihar, PIN Code: 801503, Mobile: 7033039319</p>	
	
<p>आपका आधार क्रमांक / Your Aadhaar No. : 3006 3965 3108 VID : 9131 5703 9008 4400</p>	
<p>मेरा आधार, मेरी पहचान</p>	
<p>भारत सरकार Government of India</p>   <p>Aadhaar no. issued: 21/02/2015</p> <p>अभय कुमार Abhay Kumar जन्म तिथि/DOB: 17/03/1974 पुरुष/ MALE</p> <p>आधार पहचान का प्रमाण है, नागरिकता या जन्मतिथि का नहीं। इसका उपयोग सरकार (ऑनलाइन प्रमाणीकरण, या क्यूआर कोड/ऑफलाइन एक्सएमएल की स्कैनिंग) के साथ किया जाना चाहिए। Aadhaar is proof of identity, not of citizenship or date of birth. It should be used with verification (online authentication, or scanning of QR code / offline XML).</p> <p>3006 3965 3108 VID : 9131 5703 9008 4400</p> <p>मेरा आधार, मेरी पहचान</p>	<p>भारतीय विशिष्ट पहचान प्राधिकरण Unique Identification Authority of India</p>  <p>पता: आत्मज शिव दयाल शर्मा, 401 गंगा-4, जलालपुर नगर, रामजैपाल मार्ग, बेली रोड पटना, दीनापुर कम खगौल, दानापुर कस्तूर, पटना, बिहार - 801503</p> <p>Address: S/O: Sheo Dayal Sharma, 401,Ganga-4, Jalalpur City, Ramjaipal Road, Beily Road Patna, Dinapur-Cum-Khagaul, PO: Danapur Cantt, DIST: Patna, Bihar - 801503</p>  <p>3006 3965 3108 VID : 9131 5703 9008 4400</p> <p>मेरा आधार, मेरी पहचान</p>

Abhay Kumar



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help@uidai.gov.in

www.uidai.gov.in

(Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii)
MINISTRY OF ENVIRONMENT AND FORESTS

New Delhi 14th September, 2006

Notification

S.O. 1533 Whereas, a draft notification **under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 for imposing** certain restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts as indicated in the Schedule to the notification, being undertaken in any part of India¹, unless prior environmental clearance has been accorded in accordance with the objectives of National Environment Policy **as approved by the Union Cabinet on 18th May, 2006** and the procedure specified in the notification, by the Central Government or the State or Union territory Level Environment Impact Assessment Authority (SEIAA), to be constituted by the Central Government in consultation with the State Government or the Union territory Administration concerned under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 for the purpose of this notification, was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) vide number S.O. 1324 (E) dated the 15th September, 2005 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 15th September, 2005;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 60 (E) dated the 27th January, 1994, except in respect of things done or omitted to be done before such supersession, the Central Government hereby directs that on and from the date of its publication the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to this notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified hereinafter in this notification.

¹Includes the territorial waters



2. Requirements of prior Environmental Clearance (EC):- The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

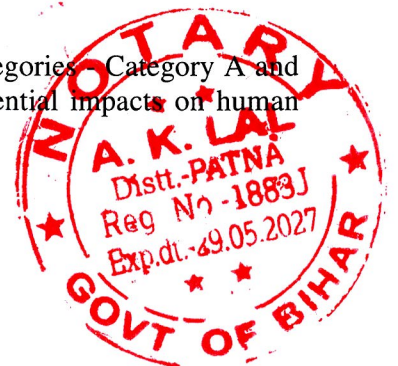
- (i) All new projects or activities listed in the Schedule to this notification;
- (ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;
- (iii) Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

3. State Level Environment Impact Assessment Authority:- (1) A State Level Environment Impact Assessment Authority hereinafter referred to as the SEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of three Members including a Chairman and a Member – Secretary to be nominated by the State Government or the Union territory Administration concerned.

- (2) The Member-Secretary shall be a serving officer of the concerned State Government or Union territory administration familiar with environmental laws.
- (3) The other two Members shall be either a professional or expert fulfilling the eligibility criteria given in Appendix VI to this notification.
- (4) One of the specified Members in sub-paragraph (3) above who is an expert in the Environmental Impact Assessment process shall be the Chairman of the SEIAA.
- (5) The State Government or Union territory Administration shall forward the names of the Members and the Chairman referred in sub- paragraph 3 to 4 above to the Central Government and the Central Government shall constitute the SEIAA as an authority for the purposes of this notification within thirty days of the date of receipt of the names.
- (6) The non-official Member and the Chairman shall have a fixed term of three years (from the date of the publication of the notification by the Central Government constituting the authority).
- (7) All decisions of the SEIAA shall be unanimous and taken in a meeting.

4. Categorization of projects and activities:-

- (i) All projects and activities are broadly categorized in to two categories - Category A and Category B, based on the spatial extent of potential impacts and potential impacts on human health and natural and man made resources.



(ii) All projects or activities included as Category 'A' in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forests (MoEF) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification;

(iii) All projects or activities included as Category 'B' in the Schedule, including expansion and modernization of existing projects or activities as specified in sub paragraph (ii) of paragraph 2, or change in product mix as specified in sub paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, will require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory level Expert Appraisal Committee (SEAC) as to be constituted for in this notification. In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project;

5. Screening, Scoping and Appraisal Committees:-

The same Expert Appraisal Committees (EACs) at the Central Government and SEACs (hereinafter referred to as the (EAC) and (SEAC) at the State or the Union territory level shall screen, scope and appraise projects or activities in Category 'A' and Category 'B' respectively. EAC and SEAC's shall meet at least once every month.

(a) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union territory Administration with identical composition;

(b) The Central Government may, with the prior concurrence of the concerned State Governments or the Union territory Administrations, constitutes one SEAC for more than one State or Union territory for reasons of administrative convenience and cost;

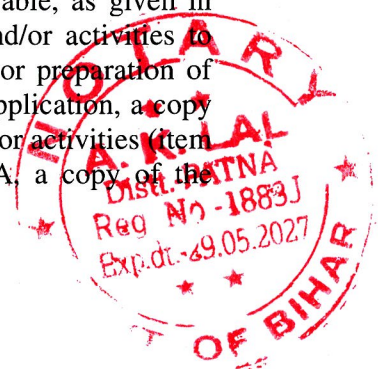
(c) The EAC and SEAC shall be reconstituted after every three years;

(d) The authorised members of the EAC and SEAC, concerned, may inspect any site(s) connected with the project or activity in respect of which the prior environmental clearance is sought, for the purposes of screening or scoping or appraisal, with prior notice of at least seven days to the applicant, who shall provide necessary facilities for the inspection;

(e) The EAC and SEACs shall function on the principle of collective responsibility. The Chairperson shall endeavour to reach a consensus in each case, and if consensus cannot be reached, the view of the majority shall prevail.

6. Application for Prior Environmental Clearance (EC):-

An application seeking prior environmental clearance in all cases shall be made in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II, after the identification of prospective site(s) for the project and/or activities to which the application relates, before commencing any construction activity, or preparation of land, at the site by the applicant. The applicant shall furnish, along with the application, a copy of the pre-feasibility project report except that, in case of construction projects or activities (item 8 of the Schedule) in addition to Form 1 and the Supplementary Form 1A, a copy of the conceptual plan shall be provided, instead of the pre-feasibility report.



7. Stages in the Prior Environmental Clearance (EC) Process for New Projects:-

7(i) The environmental clearance process for new projects will comprise of a maximum of four stages, all of which may not apply to particular cases as set forth below in this notification. These four stages in sequential order are:-

- Stage (1) Screening (Only for Category 'B' projects and activities)
- Stage (2) Scoping
- Stage (3) Public Consultation
- Stage (4) Appraisal

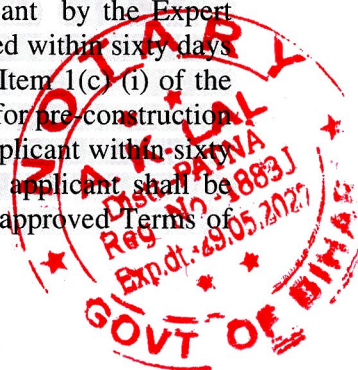
I. Stage (1) - Screening:

In case of Category 'B' projects or activities, this stage will entail the scrutiny of an application seeking prior environmental clearance made in Form 1 by the concerned State level Expert Appraisal Committee (SEAC) for determining whether or not the project or activity requires further environmental studies for preparation of an Environmental Impact Assessment (EIA) for its appraisal prior to the grant of environmental clearance depending up on the nature and location specificity of the project . The projects requiring an Environmental Impact Assessment report shall be termed Category 'B1' and remaining projects shall be termed Category 'B2' and will not require an Environment Impact Assessment report. For categorization of projects into B1 or B2 except item 8 (b), the Ministry of Environment and Forests shall issue appropriate guidelines from time to time.

II. Stage (2) - Scoping:

(i) "Scoping": refers to the process by which the Expert Appraisal Committee in the case of Category 'A' projects or activities, and State level Expert Appraisal Committee in the case of Category 'B1' projects or activities, including applications for expansion and/or modernization and/or change in product mix of existing projects or activities, determine detailed and comprehensive Terms Of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought. The Expert Appraisal Committee or State level Expert Appraisal Committee concerned shall determine the Terms of Reference on the basis of the information furnished in the prescribed application Form1/Form 1A including Terms of Reference proposed by the applicant, a site visit by a sub- group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, Terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. All projects and activities listed as Category 'B' in Item 8 of the Schedule (Construction/Township/Commercial Complexes /Housing) shall not require Scoping and will be appraised on the basis of Form 1/ Form 1A and the conceptual plan.

(ii) The Terms of Reference (TOR) shall be conveyed to the applicant by the Expert Appraisal Committee or State Level Expert Appraisal Committee as concerned within sixty days of the receipt of Form 1. In the case of Category A Hydroelectric projects Item 1(c) (i) of the Schedule the Terms of Reference shall be conveyed along with the clearance for pre-construction activities .If the Terms of Reference are not finalized and conveyed to the applicant within sixty days of the receipt of Form 1, the Terms of Reference suggested by the applicant shall be deemed as the final Terms of Reference approved for the EIA studies. The approved Terms of



Reference shall be displayed on the website of the Ministry of Environment and Forests and the concerned State Level Environment Impact Assessment Authority.

(iii) Applications for prior environmental clearance may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned at this stage itself. In case of such rejection, the decision together with reasons for the same shall be communicated to the applicant in writing within sixty days of the receipt of the application.

III. Stage (3) - Public Consultation:

(i) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. All Category 'A' and Category B1 projects or activities shall undertake Public Consultation, except the following:-

- (a) modernization of irrigation projects (item 1(c) (ii) of the Schedule).
- (b) all projects or activities located within industrial estates or parks (item 7(c) of the Schedule) approved by the concerned authorities, and which are not disallowed in such approvals.
- (c) expansion of Roads and Highways (item 7 (f) of the Schedule) which do not involve any further acquisition of land.
- (d) all Building /Construction projects/Area Development projects and Townships (item 8).
- (e) all Category 'B2' projects and activities.
- (f) all projects or activities concerning national defence and security or involving other strategic considerations as determined by the Central Government.

(ii) The Public Consultation shall ordinarily have two components comprising of:-

(a) a public hearing at the site or in its close proximity- district wise, to be carried out in the manner prescribed in Appendix IV, for ascertaining concerns of local affected persons;

(b) obtain responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.

(iii) the public hearing at, or in close proximity to, the site(s) in all cases shall be conducted by the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) concerned in the specified manner and forward the proceedings to the regulatory authority concerned within 45(forty five) of a request to the effect from the applicant.

(iv) in case the State Pollution Control Board or the Union territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period



directly to the regulatory authority concerned as above, the regulatory authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty five days,.

(v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.

(vi) For obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity, the concerned regulatory authority and the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) shall invite responses from such concerned persons by placing on their website the Summary EIA report prepared in the format given in Appendix IIIA by the applicant along with a copy of the application in the prescribed form , within seven days of the receipt of a written request for arranging the public hearing . Confidential information including non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means.

(vii) After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during this process, and make appropriate changes in the draft EIA and EMP. The final EIA report, so prepared, shall be submitted by the applicant to the concerned regulatory authority for appraisal. The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.

IV. Stage (4) - Appraisal:

(i) Appraisal means the detailed scrutiny by the Expert Appraisal Committee or State Level Expert Appraisal Committee of the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings, submitted by the applicant to the regulatory authority concerned for grant of environmental clearance. This appraisal shall be made by Expert Appraisal Committee or State Level Expert Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited for furnishing necessary clarifications in person or through an authorized representative. On conclusion of this proceeding, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall make categorical recommendations to the regulatory authority concerned either for grant of prior environmental clearance on stipulated terms and conditions, or rejection of the application for prior environmental clearance, together with reasons for the same.

(ii) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an Environment Impact Assessment report, shall be carried out on the basis of the prescribed application Form 1 and Form 1A as applicable, any other relevant



validated information available and the site visit wherever the same is considered as necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iii) The appraisal of an application shall be completed by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within sixty days of the receipt of the final Environment Impact Assessment report and other documents or the receipt of Form 1 and Form 1 A, where public consultation is not necessary and the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee shall be placed before the competent authority for a final decision within the next fifteen days. The prescribed procedure for appraisal is given in Appendix V ;

7(ii). Prior Environmental Clearance (EC) process for Expansion or Modernization or Change of product mix in existing projects:

All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernization of an existing unit with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product –mix shall be made in Form I and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence necessary including preparation of EIA and public consultations and the application shall be appraised accordingly for grant of environmental clearance.

8. Grant or Rejection of Prior Environmental Clearance (EC):

(i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.

(ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.

(iii) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the



applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iv) On expiry of the period specified for decision by the regulatory authority under paragraph (i) and (ii) above, as applicable, the decision of the regulatory authority, and the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be public documents.

(v) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping, or appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons.

(vi) Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.

9. Validity of Environmental Clearance (EC):

The “Validity of Environmental Clearance” is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 7 above, to the start of production operations by the project or activity, or completion of all construction operations in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers. The prior environmental clearance granted for a project or activity shall be valid for a period of ten years in the case of River Valley projects (item 1(c) of the Schedule), project life as estimated by Expert Appraisal Committee or State Level Expert Appraisal Committee subject to a maximum of thirty years for mining projects and five years in the case of all other projects and activities. However, in the case of Area Development projects and Townships [item 8(b)], the validity period shall be limited only to such activities as may be the responsibility of the applicant as a developer. This period of validity may be extended by the regulatory authority concerned by a maximum period of five years provided an application is made to the regulatory authority by the applicant within the validity period, together with an updated Form 1, and Supplementary Form 1A, for Construction projects or activities (item 8 of the Schedule). In this regard the regulatory authority may also consult the Expert Appraisal Committee or State Level Expert Appraisal Committee as the case may be.

10. Post Environmental Clearance Monitoring:

(i) It shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions in hard and soft copies to the regulatory authority concerned, on 1st June and 1st December of each calendar year.

(ii) All such compliance reports submitted by the project management shall be public documents. Copies of the same shall be given to any person on application to the concerned regulatory authority. The latest such compliance report shall also be displayed on the website of the concerned regulatory authority.



11. Transferability of Environmental Clearance (EC):

A prior environmental clearance granted for a specific project or activity to an applicant may be transferred during its validity to another legal person entitled to undertake the project or activity on application by the transferor, or by the transferee with a written "no objection" by the transferor, to, and by the regulatory authority concerned, on the same terms and conditions under which the prior environmental clearance was initially granted, and for the same validity period. No reference to the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned is necessary in such cases.

12. Operation of EIA Notification, 1994, till disposal of pending cases:

From the date of final publication of this notification the Environment Impact Assessment (EIA) notification number S.O.60 (E) dated 27th January, 1994 is hereby superseded, except in suppression of the things done or omitted to be done before such suppression to the extent that in case of all or some types of applications made for prior environmental clearance and pending on the date of final publication of this notification, the Central Government may relax any one or all provisions of this notification except the list of the projects or activities requiring prior environmental clearance in Schedule I, or continue operation of some or all provisions of the said notification, for a period not exceeding one year from the date of issue of this notification.



[No. J-11013/56/2004-IA-II (I)]

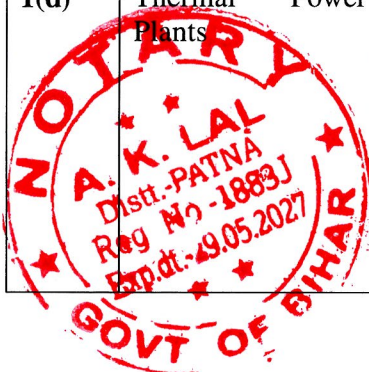
(R.CHANDRAMOHAN)
JOINT SECRETARY TO THE GOVERNMENT OF INDIA

SCHEDULE

(See paragraph 2 and 7)

LIST OF PROJECTS OR ACTIVITIES REQUIRING PRIOR ENVIRONMENTAL CLEARANCE

Project or Activity		Category with threshold limit		Conditions if any
		A	B	
1		Mining, extraction of natural resources and power generation (for a specified production capacity)		
(1)	(2)	(3)	(4)	(5)
1(a)	Mining of minerals	<p>≥ 50 ha. of mining lease area</p> <p>Asbestos mining irrespective of mining area</p>	<p><50 ha</p> <p>≥ 5 ha .of mining lease area.</p>	<p>General Condition shall apply</p> <p><u>Note</u> Mineral prospecting (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey</p>
1(b)	Offshore and onshore oil and gas exploration, development & production	All projects		<p><u>Note</u> Exploration Surveys (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey</p>
1(c)	River Valley projects	<p>(i) ≥ 50 MW hydroelectric power generation;</p> <p>(ii) ≥ 10,000 ha. of culturable command area</p>	<p>(i) < 50 MW ≥ 25 MW hydroelectric power generation;</p> <p>(ii) < 10,000 ha. of culturable command area</p>	General Condition shall apply
1(d)	Thermal Power Plants	<p>≥ 500 MW (coal/lignite/naphta & gas based);</p> <p>≥ 50 MW (Pet coke diesel and all other fuels -)</p>	<p>< 500 MW (coal/lignite/naphta & gas based);</p> <p><50 MW</p> <p>≥ 5MW (Pet coke ,diesel and all other fuels)</p>	General Condition shall apply



(1)	(2)	(3)	(4)	(5)
1(e)	Nuclear power projects and processing of nuclear fuel	All projects	-	
2		Primary Processing		
2(a)	Coal washeries	≥ 1 million ton/annum throughput of coal	<1million ton/annum throughput of coal	General Condition shall apply (If located within mining area the proposal shall be appraised together with the mining proposal)
2 (b)	Mineral beneficiation	≥ 0.1million ton/annum mineral throughput	< 0.1million ton/annum mineral throughput	General Condition shall apply (Mining proposal with Mineral beneficiation shall be appraised together for grant of clearance)



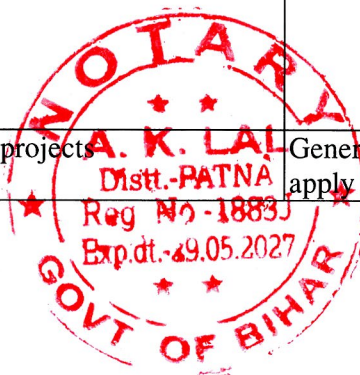
3				
Materials Production				
(1)	(2)	(3)	(4)	(5)
3(a)	Metallurgical industries (ferrous & non ferrous)	<p>a) Primary metallurgical industry</p> <p>All projects</p> <p>b) Sponge iron manufacturing ≥ 200TPD</p> <p>c) Secondary metallurgical processing industry</p> <p>All toxic and heavy metal producing units $\geq 20,000$ tonnes /annum</p> <p>-</p>	<p>Sponge iron manufacturing < 200TPD</p> <p>Secondary metallurgical processing industry</p> <p>i.) All toxic and heavy metal producing units $< 20,000$ tonnes /annum</p> <p>ii.) All other non-toxic secondary metallurgical processing industries</p> <p>> 5000 tonnes/annum</p>	General Condition shall apply for Sponge iron manufacturing
3(b)	Cement plants	≥ 1.0 million tonnes/annum production capacity	< 1.0 million tonnes/annum production capacity. All Stand alone grinding units	General Condition shall apply



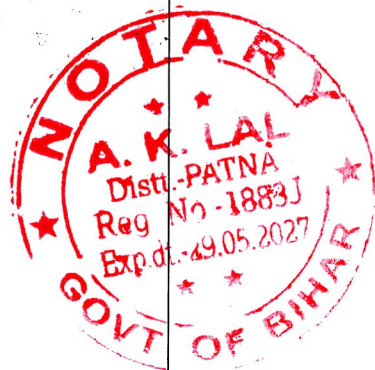
4		Materials Processing		
(1)	(2)	(3)	(4)	(5)
4(a)	Petroleum refining industry	All projects	-	-
4(b)	Coke oven plants	≥2,50,000 tonnes/annum	<2,50,000 & ≥25,000 tonnes/annum	-
4(c)	Asbestos milling and asbestos based products	All projects	-	-
4(d)	Chlor-alkali industry	≥300 TPD production capacity or a unit located out side the notified industrial area/estate	<300 TPD production capacity and located within a notified industrial area/estate	Specific Condition shall apply No new Mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempted from this Notification
4(e)	Soda ash Industry	All projects	-	-
4(f)	Leather/skin/hide processing industry	New projects outside the industrial area or expansion of existing units out side the industrial area	All new or expansion of projects located within a notified industrial area/estate	Specific condition shall apply
5		Manufacturing/Fabrication		
5(a)	Chemical fertilizers	All projects	-	-
5(b)	Pesticides industry and pesticide specific intermediates (excluding formulations)	All units producing technical grade pesticides	-	-



(1)	(2)	(3)	(4)	(5)
5(c)	Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics)	All projects -	-	-
5(d)	Manmade fibres manufacturing	Rayon	Others	General Condition shall apply
5(e)	Petrochemical based processing (processes other than cracking & reformation and not covered under the complexes)	Located out side the notified industrial area/ estate -	Located in a notified industrial area/ estate	Specific Condition shall apply
5(f)	Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)	Located out side the notified industrial area/ estate	Located in a notified industrial area/ estate	Specific Condition shall apply
5(g)	Distilleries	(i) All Molasses based distilleries (ii) All Cane juice/ non-molasses based distilleries ≥ 30 KLD	All Cane juice/ non-molasses based distilleries - < 30 KLD	General Condition shall apply
5(h)	Integrated paint industry	-	All projects	General Condition shall apply



(1)	(2)	(3)	(4)	(5)
5(i)	Pulp & paper industry excluding manufacturing of paper from waste paper and manufacture of paper from ready pulp with out bleaching	Pulp manufacturing and Pulp & Paper manufacturing industry -	Paper manufacturing industry without pulp manufacturing	General Condition shall apply
5(j)	Sugar Industry	-	≥ 5000 tcd cane crushing capacity	General Condition shall apply
5(k)	Induction/arc furnaces/cupola furnaces 5TPH or more	-	All projects	General Condition shall apply
6		Service Sectors		
6(a)	Oil & gas transportation pipe line (crude and refinery/ petrochemical products), passing through national parks /sanctuaries/coral reefs /ecologically sensitive areas including LNG Terminal	All projects -		



(1)	(2)	(3)	(4)	(5)
6(b)	Isolated storage & handling of hazardous chemicals (As per threshold planning quantity indicated in column 3 of schedule 2 & 3 of MSIHC Rules 1989 amended 2000)	-	All projects	General Condition shall apply
7		Physical Infrastructure including Environmental Services		
7(a)	Air ports	All projects	-	-
7(b)	All ship breaking yards including ship breaking units	All projects	-	-
7(c)	Industrial estates/parks/ complexes/ areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes.	If at least one industry in the proposed industrial estate falls under the Category A, entire industrial area shall be treated as Category A, irrespective of the area. Industrial estates with area greater than 500 ha. and housing at least one Category B industry.	-Industrial estates housing at least one Category B industry and area <500 ha. Industrial estates of area > 500 ha. and not housing any industry belonging to Category A or B.	Special condition shall apply Note: Industrial Estate of area below 500 ha. and not housing any industry of category A or B does not require clearance.
7(d)	Common hazardous waste treatment, storage and disposal facilities (TSDFs)	All integrated facilities having incineration & landfill or incineration alone	All facilities having land fill only	General Condition shall apply



(1)	(2)	(3)	(4)	(5)
7(e)	Ports, Harbours	≥ 5 million TPA of cargo handling capacity (excluding fishing harbours)	< 5 million TPA of cargo handling capacity and/or ports/ harbours ≥10,000 TPA of fish handling capacity	General Condition shall apply
7(f)	Highways	i) New National High ways; and ii) Expansion of National High ways greater than 30 KM, involving additional right of way greater than 20m involving land acquisition and passing through more than one State.	i) New State High ways; and ii) Expansion of National / State Highways greater than 30 km involving additional right of way greater than 20m involving land acquisition.	General Condition shall apply
7(g)	Aerial ropeways		All projects	General Condition shall apply
7(h)	Common Effluent Treatment Plants (CETPs)		All projects	General Condition shall apply
7(i)	Common Municipal Solid Waste Management Facility (CMSWMF)		All projects	General Condition shall apply



(1)	(2)	(3)	(4)	(5)
8		Building /Construction projects/Area Development projects and Townships		
8(a)	Building and Construction projects		≥20000 sq.mtrs and <1,50,000 sq.mtrs. of built-up area#	#(built up area for covered construction; in the case of facilities open to the sky, it will be the activity area)
8(b)	Townships and Area Development projects.		Covering an area ≥ 50 ha and or built up area ≥1,50,000 sq .mtrs ++	++All projects under Item 8(b) shall be appraised as Category B1

Note:-**General Condition (GC):**

Any project or activity specified in Category 'B' will be treated as Category A, if located in whole or in part within 10 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as notified by the Central Pollution Control Board from time to time, (iii) Notified Eco-sensitive areas, (iv) inter-State boundaries and international boundaries.

Specific Condition (SC):

If any Industrial Estate/Complex / Export processing Zones /Special Economic Zones/Biotech Parks / Leather Complex with homogeneous type of industries such as Items 4(d), 4(f), 5(e), 5(f), or those Industrial estates with pre –defined set of activities (not necessarily homogeneous, obtains prior environmental clearance, individual industries including proposed industrial housing within such estates /complexes will not be required to take prior environmental clearance, so long as the Terms and Conditions for the industrial estate/complex are complied with (Such estates/complexes must have a clearly identified management with the legal responsibility of ensuring adherence to the Terms and Conditions of prior environmental clearance, who may be held responsible for violation of the same throughout the life of the complex/estate).



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APPENDIX I

(See paragraph – 6)

FORM 1

(I) **Basic Information**

Name of the Project:

Location / site alternatives under consideration:

Size of the Project: *

Expected cost of the project:

Contact Information:

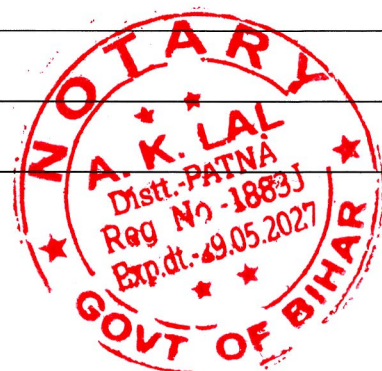
Screening Category:

- Capacity corresponding to sectoral activity (such as production capacity for manufacturing, mining lease area and production capacity for mineral production, area for mineral exploration, length for linear transport infrastructure, generation capacity for power generation etc.,)

(II) **Activity**

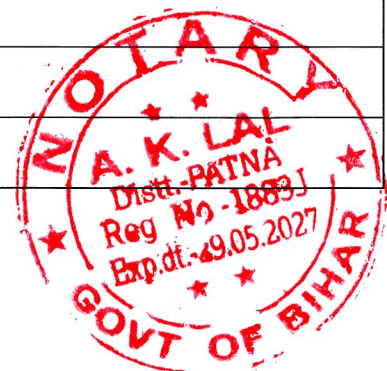
1. Construction, operation or decommissioning of the Project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, etc.)

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.1	Permanent or temporary change in land use, land cover or topography including increase in intensity of land use (with respect to local land use plan)		
1.2	Clearance of existing land, vegetation and buildings?		
1.3	Creation of new land uses?		
1.4	Pre-construction investigations e.g. bore houses, soil testing?		
1.5	Construction works?		



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1.6	Demolition works?		
1.7	Temporary sites used for construction works or housing of construction workers?		
1.8	Above ground buildings, structures or earthworks including linear structures, cut and fill or excavations		
1.9	Underground works including mining or tunneling?		
1.10	Reclamation works?		
1.11	Dredging?		
1.12	Offshore structures?		
1.13	Production and manufacturing processes?		
1.14	Facilities for storage of goods or materials?		
1.15	Facilities for treatment or disposal of solid waste or liquid effluents?		
1.16	Facilities for long term housing of operational workers?		
1.17	New road, rail or sea traffic during construction or operation?		
1.18	New road, rail, air waterborne or other transport infrastructure including new or altered routes and stations, ports, airports etc?		
1.19	Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?		
1.20	New or diverted transmission lines or pipelines?		
1.21	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?		
1.22	Stream crossings?		
1.23	Abstraction or transfers of water form ground or surface waters?		
1.24	Changes in water bodies or the land surface affecting drainage or run-off?		

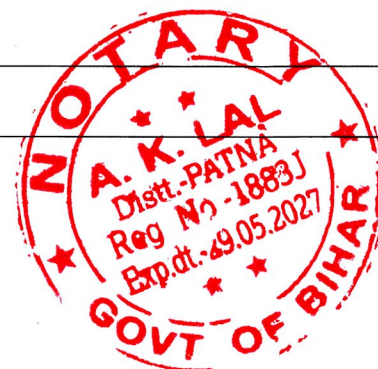


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1.25	Transport of personnel or materials for construction, operation or decommissioning?		
1.26	Long-term dismantling or decommissioning or restoration works?		
1.27	Ongoing activity during decommissioning which could have an impact on the environment?		
1.28	Influx of people to an area in either temporarily or permanently?		
1.29	Introduction of alien species?		
1.30	Loss of native species or genetic diversity?		
1.31	Any other actions?		

2. Use of Natural resources for construction or operation of the Project (such as land, water, materials or energy, especially any resources which are non-renewable or in short supply):

S.No.	Information/checklist confirmation	Yes/No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
2.1	Land especially undeveloped or agricultural land (ha)		
2.2	Water (expected source & competing users) unit: KLD		
2.3	Minerals (MT)		
2.4	Construction material – stone, aggregates, and / soil (expected source – MT)		
2.5	Forests and timber (source – MT)		
2.6	Energy including electricity and fuels (source, competing users) Unit: fuel (MT), energy (MW)		
2.7	Any other natural resources (use appropriate standard units)		

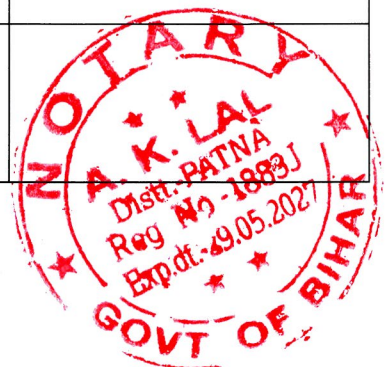


3. Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about actual or perceived risks to human health.

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
3.1	Use of substances or materials, which are hazardous (as per MSIHC rules) to human health or the environment (flora, fauna, and water supplies)		
3.2	Changes in occurrence of disease or affect disease vectors (e.g. insect or water borne diseases)		
3.3	Affect the welfare of people e.g. by changing living conditions?		
3.4	Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc.,		
3.5	Any other causes		

4. Production of solid wastes during construction or operation or decommissioning (MT/month)

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
4.1	Spoil, overburden or mine wastes		
4.2	Municipal waste (domestic and or commercial wastes)		
4.3	Hazardous wastes (as per Hazardous Waste Management Rules)		

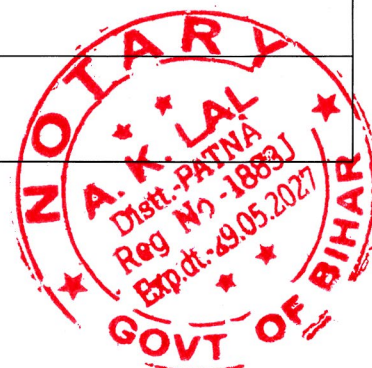


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4.4	Other industrial process wastes		
4.5	Surplus product		
4.6	Sewage sludge or other sludge from effluent treatment		
4.7	Construction or demolition wastes		
4.8	Redundant machinery or equipment		
4.9	Contaminated soils or other materials		
4.10	Agricultural wastes		
4.11	Other solid wastes		

5. Release of pollutants or any hazardous, toxic or noxious substances to air (Kg/hr)

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
5.1	Emissions from combustion of fossil fuels from stationary or mobile sources		
5.2	Emissions from production processes		
5.3	Emissions from materials handling including storage or transport		
5.4	Emissions from construction activities including plant and equipment		
5.5	Dust or odours from handling of materials including construction materials, sewage and waste		



5.6	Emissions from incineration of waste		
5.7	Emissions from burning of waste in open air (e.g. slash materials, construction debris)		
5.8	Emissions from any other sources		

6. Generation of Noise and Vibration, and Emissions of Light and Heat:

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data with source of information data
6.1	From operation of equipment e.g. engines, ventilation plant, crushers		
6.2	From industrial or similar processes		
6.3	From construction or demolition		
6.4	From blasting or piling		
6.5	From construction or operational traffic		
6.6	From lighting or cooling systems		
6.7	From any other sources		

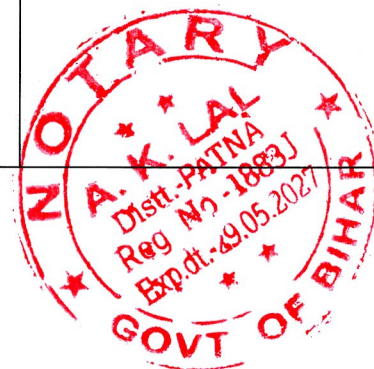


7. Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea:

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
7.1	From handling, storage, use or spillage of hazardous materials		
7.2	From discharge of sewage or other effluents to water or the land (expected mode and place of discharge)		
7.3	By deposition of pollutants emitted to air into the land or into water		
7.4	From any other sources		
7.5	Is there a risk of long term build up of pollutants in the environment from these sources?		

8. Risk of accidents during construction or operation of the Project, which could affect human health or the environment

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
8.1	From explosions, spillages, fires etc from storage, handling, use or production of hazardous substances		
8.2	From any other causes		
8.3	Could the project be affected by natural disasters causing environmental damage (e.g. floods, earthquakes, landslides, cloudburst etc)?		



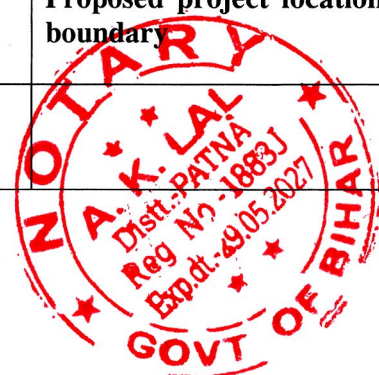
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9. Factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality

S. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
9.1	<p>Lead to development of supporting, lities, ancillary development or development stimulated by the project which could have impact on the environment e.g.:</p> <ul style="list-style-type: none"> • Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.) • housing development • extractive industries • supply industries • other 		
9.2	Lead to after-use of the site, which could have an impact on the environment		
9.3	Set a precedent for later developments		
9.4	Have cumulative effects due to proximity to other existing or planned projects with similar effects		

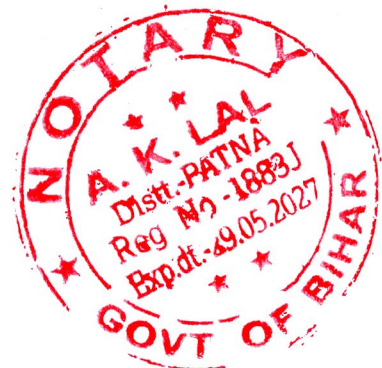
(III) Environmental Sensitivity

S.No.	Areas	Name/ Identity	Aerial distance (within 15 km.) Proposed project location boundary
1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value		



2	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests		
3	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration		
4	Inland, coastal, marine or underground waters		
5	State, National boundaries		
6	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas		
7	Defence installations		
8	Densely populated or built-up area		
9	Areas occupied by sensitive man-made land uses (<i>hospitals, schools, places of worship, community facilities</i>)		
10	Areas containing important, high quality or scarce resources (<i>ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals</i>)		
11	Areas already subjected to pollution or environmental damage. (<i>those where existing legal environmental standards are exceeded</i>)		
12	Areas susceptible to natural hazard which could cause the project to present environmental problems (<i>earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions</i>)		

(IV). Proposed Terms of Reference for EIA studies



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APPENDIX II**(See paragraph 6)****FORM-1 A (only for construction projects listed under item 8 of the Schedule)****CHECK LIST OF ENVIRONMENTAL IMPACTS****(Project proponents are required to provide full information and wherever necessary attach explanatory notes with the Form and submit along with proposed environmental management plan & monitoring programme)****1. LAND ENVIRONMENT****(Attach panoramic view of the project site and the vicinity)**

1.1. Will the existing landuse get significantly altered from the project that is not consistent with the surroundings? (Proposed landuse must conform to the approved Master Plan / Development Plan of the area. Change of landuse if any and the statutory approval from the competent authority be submitted). Attach Maps of (i) site location, (ii) surrounding features of the proposed site (within 500 meters) and (iii) the site (indicating levels & contours) to appropriate scales. If not available attach only conceptual plans.

1.2. List out all the major project requirements in terms of the land area, built up area, water consumption, power requirement, connectivity, community facilities, parking needs etc.

1.3. What are the likely impacts of the proposed activity on the existing facilities adjacent to the proposed site? (Such as open spaces, community facilities, details of the existing landuse, disturbance to the local ecology).

1.4. Will there be any significant land disturbance resulting in erosion, subsidence & instability? (Details of soil type, slope analysis, vulnerability to subsidence, seismicity etc may be given).

1.5. Will the proposal involve alteration of natural drainage systems? (Give details on a contour map showing the natural drainage near the proposed project site)

1.6. What are the quantities of earthwork involved in the construction activity-cutting, filling, reclamation etc. (Give details of the quantities of earthwork involved, transport of fill materials from outside the site etc.)

1.7. Give details regarding water supply, waste handling etc during the construction period.

1.8. Will the low lying areas & wetlands get altered? (Provide details of how low lying and wetlands are getting modified from the proposed activity)

1.9. Whether construction debris & waste during construction cause health hazard? (Give quantities of various types of wastes generated during construction including the construction labour and the means of disposal)

2. WATER ENVIRONMENT

2.1. Give the total quantity of water requirement for the proposed project with the break up of requirements for various uses. How will the water requirement met? State the sources & quantities and furnish a water balance statement.



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- 2.2. What is the capacity (dependable flow or yield) of the proposed source of water?
- 2.3. What is the quality of water required, in case, the supply is not from a municipal source? (Provide physical, chemical, biological characteristics with class of water quality)
- 2.4. How much of the water requirement can be met from the recycling of treated wastewater? (Give the details of quantities, sources and usage)
- 2.5. Will there be diversion of water from other users? (Please assess the impacts of the project on other existing uses and quantities of consumption)
- 2.6. What is the incremental pollution load from wastewater generated from the proposed activity? (Give details of the quantities and composition of wastewater generated from the proposed activity)
- 2.7. Give details of the water requirements met from water harvesting? Furnish details of the facilities created.
- 2.8. What would be the impact of the land use changes occurring due to the proposed project on the runoff characteristics (quantitative as well as qualitative) of the area in the post construction phase on a long term basis? Would it aggravate the problems of flooding or water logging in any way?
- 2.9. What are the impacts of the proposal on the ground water? (Will there be tapping of ground water; give the details of ground water table, recharging capacity, and approvals obtained from competent authority, if any)
- 2.10. What precautions/measures are taken to prevent the run-off from construction activities polluting land & aquifers? (Give details of quantities and the measures taken to avoid the adverse impacts)
- 2.11. How is the storm water from within the site managed?(State the provisions made to avoid flooding of the area, details of the drainage facilities provided along with a site layout indication contour levels)
- 2.12. Will the deployment of construction labourers particularly in the peak period lead to unsanitary conditions around the project site (Justify with proper explanation)
- 2.13. What on-site facilities are provided for the collection, treatment & safe disposal of sewage? (Give details of the quantities of wastewater generation, treatment capacities with technology & facilities for recycling and disposal)
- 2.14. Give details of dual plumbing system if treated waste used is used for flushing of toilets or any other use.

3. VEGETATION

- 3.1. Is there any threat of the project to the biodiversity? (Give a description of the local ecosystem with it's unique features, if any)



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3.2. Will the construction involve extensive clearing or modification of vegetation? (Provide a detailed account of the trees & vegetation affected by the project)

3.3. What are the measures proposed to be taken to minimize the likely impacts on important site features (Give details of proposal for tree plantation, landscaping, creation of water bodies etc along with a layout plan to an appropriate scale)

4. FAUNA

4.1. Is there likely to be any displacement of fauna- both terrestrial and aquatic or creation of barriers for their movement? Provide the details.

4.2. Any direct or indirect impacts on the avifauna of the area? Provide details.

4.3. Prescribe measures such as corridors, fish ladders etc to mitigate adverse impacts on fauna

5. AIR ENVIRONMENT

5.1. Will the project increase atmospheric concentration of gases & result in heat islands? (Give details of background air quality levels with predicted values based on dispersion models taking into account the increased traffic generation as a result of the proposed constructions)

5.2. What are the impacts on generation of dust, smoke, odorous fumes or other hazardous gases? Give details in relation to all the meteorological parameters.

5.3. Will the proposal create shortage of parking space for vehicles? Furnish details of the present level of transport infrastructure and measures proposed for improvement including the traffic management at the entry & exit to the project site.

5.4. Provide details of the movement patterns with internal roads, bicycle tracks, pedestrian pathways, footpaths etc., with areas under each category.

5.5. Will there be significant increase in traffic noise & vibrations? Give details of the sources and the measures proposed for mitigation of the above.

5.6. What will be the impact of DG sets & other equipment on noise levels & vibration in & ambient air quality around the project site? Provide details.

6. AESTHETICS

6.1. Will the proposed constructions in any way result in the obstruction of a view, scenic amenity or landscapes? Are these considerations taken into account by the proponents?

6.2. Will there be any adverse impacts from new constructions on the existing structures? What are the considerations taken into account?

6.3. Whether there are any local considerations of urban form & urban design influencing the design criteria? They may be explicitly spelt out.

6.4. Are there any anthropological or archaeological sites or artefacts nearby? State if any other significant features in the vicinity of the proposed site have been considered.

7. SOCIO-ECONOMIC ASPECTS

7.1. Will the proposal result in any changes to the demographic structure of local population? Provide the details.



7.2. Give details of the existing social infrastructure around the proposed project.

7.3. Will the project cause adverse effects on local communities, disturbance to sacred sites or other cultural values? What are the safeguards proposed?

8. BUILDING MATERIALS

8.1. May involve the use of building materials with high-embodied energy. Are the construction materials produced with energy efficient processes? (Give details of energy conservation measures in the selection of building materials and their energy efficiency)

8.2. Transport and handling of materials during construction may result in pollution, noise & public nuisance. What measures are taken to minimize the impacts?

8.3. Are recycled materials used in roads and structures? State the extent of savings achieved?

8.4. Give details of the methods of collection, segregation & disposal of the garbage generated during the operation phases of the project.

9. ENERGY CONSERVATION

9.1. Give details of the power requirements, source of supply, backup source etc. What is the energy consumption assumed per square foot of built-up area? How have you tried to minimize energy consumption?

9.2. What type of, and capacity of, power back-up to you plan to provide?

9.3. What are the characteristics of the glass you plan to use? Provide specifications of its characteristics related to both short wave and long wave radiation?

9.4. What passive solar architectural features are being used in the building? Illustrate the applications made in the proposed project.

9.5. Does the layout of streets & buildings maximise the potential for solar energy devices? Have you considered the use of street lighting, emergency lighting and solar hot water systems for use in the building complex? Substantiate with details.

9.6. Is shading effectively used to reduce cooling/heating loads? What principles have been used to maximize the shading of Walls on the East and the West and the Roof? How much energy saving has been effected?

9.7. Do the structures use energy-efficient space conditioning, lighting and mechanical systems? Provide technical details. Provide details of the transformers and motor efficiencies, lighting intensity and air-conditioning load assumptions? Are you using CFC and HCFC free chillers? Provide specifications.

9.8. What are the likely effects of the building activity in altering the micro-climates? Provide a self assessment on the likely impacts of the proposed construction on creation of heat island & inversion effects?



9.9. What are the thermal characteristics of the building envelope? (a) roof; (b) external walls; and (c) fenestration? Give details of the material used and the U-values or the R values of the individual components.

9.10. What precautions & safety measures are proposed against fire hazards? Furnish details of emergency plans.

9.11. If you are using glass as wall material provides details and specifications including emissivity and thermal characteristics.

9.12. What is the rate of air infiltration into the building? Provide details of how you are mitigating the effects of infiltration.

9.13. To what extent the non-conventional energy technologies are utilised in the overall energy consumption? Provide details of the renewable energy technologies used.

10. Environment Management Plan

The Environment Management Plan would consist of all mitigation measures for each item wise activity to be undertaken during the construction, operation and the entire life cycle to minimize adverse environmental impacts as a result of the activities of the project. It would also delineate the environmental monitoring plan for compliance of various environmental regulations. It will state the steps to be taken in case of emergency such as accidents at the site including fire.



APPENDIX III

(See paragraph 7

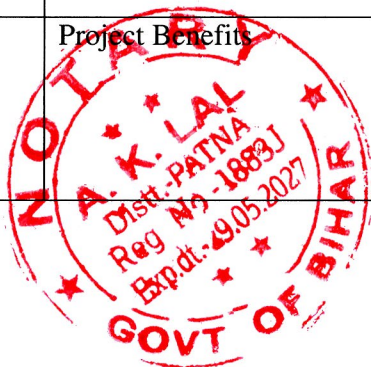
GENERIC STRUCTURE OF ENVIRONMENTAL IMPACT ASSESMENT DOCUMENT

S.NO	EIA STRUCTURE	CONTENTS
1.	Introduction	<ul style="list-style-type: none"> • Purpose of the report • Identification of project & project proponent • Brief description of nature, size, location of the project and its importance to the country, region • Scope of the study – details of regulatory scoping carried out (As per Terms of Reference)
2.	Project Description	<ul style="list-style-type: none"> • Condensed description of those aspects of the project (based on project feasibility study), likely to cause environmental effects. Details should be provided to give clear picture of the following: <ul style="list-style-type: none"> • Type of project • Need for the project • Location (maps showing general location, specific location, project boundary & project site layout) • Size or magnitude of operation (incl. Associated activities required by or for the project) • Proposed schedule for approval and implementation • Technology and process description • Project description. Including drawings showing project layout, components of project etc. Schematic representations of the feasibility drawings which give information important for EIA purpose • Description of mitigation measures incorporated into the project to meet environmental standards, environmental operating conditions, or other EIA requirements (as required by the scope) • Assessment of New & untested technology for the risk of technological failure



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3.	Description of the Environment	<ul style="list-style-type: none"> • Study area, period, components & methodology • Establishment of baseline for valued environmental components, as identified in the scope • Base maps of all environmental components
4.	Anticipated Environmental Impacts & Mitigation Measures	<ul style="list-style-type: none"> • Details of Investigated Environmental impacts due to project location, possible accidents, project design, project construction, regular operations, final decommissioning or rehabilitation of a completed project • Measures for minimizing and / or offsetting adverse impacts identified • Irreversible and Irretrievable commitments of environmental components • Assessment of significance of impacts (Criteria for determining significance, Assigning significance) • Mitigation measures
5.	Analysis of Alternatives (Technology & Site)	<ul style="list-style-type: none"> • In case, the scoping exercise results in need for alternatives: • Description of each alternative • Summary of adverse impacts of each alternative • Mitigation measures proposed for each alternative and • Selection of alternative
6.	Environmental Monitoring Program	<ul style="list-style-type: none"> • Technical aspects of monitoring the effectiveness of mitigation measures (incl. Measurement methodologies, frequency, location, data analysis, reporting schedules, emergency procedures, detailed budget & procurement schedules)
7.	Additional Studies	<ul style="list-style-type: none"> • Public Consultation • Risk assessment • Social Impact Assessment. R&R Action Plans
8.	Project Benefits	<ul style="list-style-type: none"> • Improvements in the physical infrastructure • Improvements in the social infrastructure • Employment potential –skilled; semi-skilled and unskilled • Other tangible benefits



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9.	Environmental Cost Benefit Analysis	If recommended at the Scoping stage
10.	EMP	<ul style="list-style-type: none"> Description of the administrative aspects of ensuring that mitigative measures are implemented and their effectiveness monitored, after approval of the EIA
11	Summary & Conclusion (This will constitute the summary of the EIA Report)	<ul style="list-style-type: none"> Overall justification for implementation of the project Explanation of how, adverse effects have been mitigated
12.	Disclosure of Consultants engaged	<ul style="list-style-type: none"> The names of the Consultants engaged with their brief resume and nature of Consultancy rendered



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APPENDIX III A
(See paragraph 7)

CONTENTS OF SUMMARY ENVIRONMENTAL IMPACT ASSESSMENT

The Summary EIA shall be a summary of the full EIA Report condensed to ten A-4 size pages at the maximum. It should necessarily cover in brief the following Chapters of the full EIA Report: -

1. Project Description
2. Description of the Environment
3. Anticipated Environmental impacts and mitigation measures
4. Environmental Monitoring Programme
5. Additional Studies
6. Project Benefits
7. Environment Management Plan



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APPENDIX IV
(See paragraph 7)

PROCEDURE FOR CONDUCT OF PUBLIC HEARING

1.0 The Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District -wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC).

2.0 The Process:

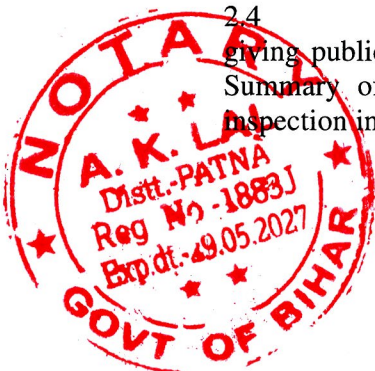
2.1 The Applicant shall make a request through a simple letter to the Member Secretary of the SPCB or Union Territory Pollution Control Committee, in whose jurisdiction the project is located, to arrange the public hearing within the prescribed statutory period. In case the project site is extending beyond a State or Union Territory, the public hearing is mandated in each State or Union Territory in which the project is sited and the Applicant shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per this procedure.

2.2 The Applicant shall enclose with the letter of request, at least 10 hard copies and an equivalent number of soft (electronic) copies of the draft EIA Report with the generic structure given in Appendix III including the Summary Environment Impact Assessment report in English and in the local language, prepared strictly in accordance with the Terms of Reference communicated after Scoping (Stage-2). Simultaneously the applicant shall arrange to forward copies, one hard and one soft, of the above draft EIA Report along with the Summary EIA report to the Ministry of Environment and Forests and to the following authorities or offices, within whose jurisdiction the project will be located:

- (a) District Magistrate/s
- (b) Zila Parishad or Municipal Corporation
- (c) District Industries Office
- (d) Concerned Regional Office of the Ministry of Environment and Forests

2.3 On receiving the draft Environmental Impact Assessment report, the above-mentioned authorities except the MoEF, shall arrange to widely publicize it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities. They shall also make available the draft EIA Report for inspection electronically or otherwise to the public during normal office hours till the Public Hearing is over. The Ministry of Environment and Forests shall promptly display the Summary of the draft Environmental Impact Assessment report on its website, and also make the full draft EIA available for reference at a notified place during normal office hours in the Ministry at Delhi.

2.4 The SPCB or UTPCC concerned shall also make similar arrangements for giving publicity about the project within the State/Union Territory and make available the Summary of the draft Environmental Impact Assessment report (Appendix III A) for inspection in select offices or public libraries or panchayats etc. They shall also additionally



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make available a copy of the draft Environmental Impact Assessment report to the above five authorities/offices viz, Ministry of Environment and Forests, District Magistrate etc.

3.0 Notice of Public Hearing:

3.1 The Member-Secretary of the concerned SPCB or UTPCC shall finalize the date, time and exact venue for the conduct of public hearing within 7(seven) days of the date of receipt of the draft Environmental Impact Assessment report from the project proponent, and advertise the same in one major National Daily and one Regional vernacular Daily. A minimum notice period of 30(thirty) days shall be provided to the public for furnishing their responses;

3.2 The advertisement shall also inform the public about the places or offices where the public could access the draft Environmental Impact Assessment report and the Summary Environmental Impact Assessment report before the public hearing.

3.3 No postponement of the date, time, venue of the public hearing shall be undertaken, unless some untoward emergency situation occurs and only on the recommendation of the concerned District Magistrate the postponement shall be notified to the public through the same National and Regional vernacular dailies and also prominently displayed at all the identified offices by the concerned SPCB or Union Territory Pollution Control Committee;

3.4 In the above exceptional circumstances fresh date, time and venue for the public consultation shall be decided by the Member –Secretary of the concerned SPCB or UTPCC only in consultation with the District Magistrate and notified afresh as per procedure under 3.1 above.

4.0 The Panel

4.1 The District Magistrate or his or her representative not below the rank of an Additional District Magistrate assisted by a representative of SPCB or UTPCC, shall supervise and preside over the entire public hearing process.

5.0 Videography

5.1 The SPCB or UTPCC shall arrange to video film the entire proceedings. A copy of the videotape or a CD shall be enclosed with the public hearing proceedings while forwarding it to the Regulatory Authority concerned.

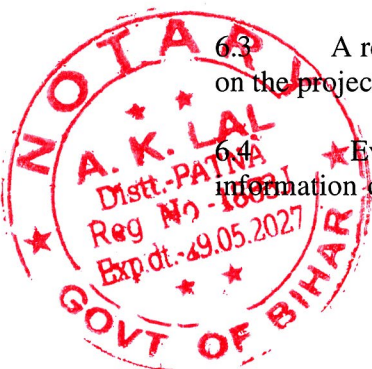
6.0 Proceedings

6.1 The attendance of all those who are present at the venue shall be noted and annexed with the final proceedings.

6.2 There shall be no quorum required for attendance for starting the proceedings.

6.3 A representative of the applicant shall initiate the proceedings with a presentation on the project and the Summary EIA report.

6.4 Every person present at the venue shall be granted the opportunity to seek information or clarifications on the project from the Applicant. The summary of the public



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hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the representative of the SPCB or UTPCC and read over to the audience at the end of the proceedings explaining the contents in the vernacular language and the agreed minutes shall be signed by the District Magistrate or his or her representative on the same day and forwarded to the SPCB/UTPCC concerned.

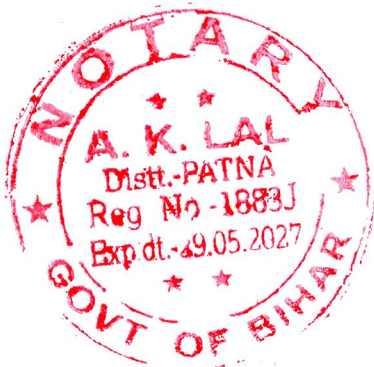
6.5 A Statement of the issues raised by the public and the comments of the Applicant shall also be prepared in the local language and in English and annexed to the proceedings:

6.6 The proceedings of the public hearing shall be conspicuously displayed at the office of the Panchyats within whose jurisdiction the project is located, office of the concerned Zila Parishad, District Magistrate, and the SPCB or UTPCC. The SPCB or UTPCC shall also display the proceedings on its website for general information. Comments, if any, on the proceedings which may be sent directly to the concerned regulatory authorities and the Applicant concerned.

7.0 Time period for completion of public hearing

7.1 The public hearing shall be completed within a period of 45 (forty five) days from date of receipt of the request letter from the Applicant. Therefore the SPCB or UTPCC concerned shall send the public hearing proceedings to the concerned regulatory authority within 8(eight) days of the completion of the public hearing. The applicant may also directly forward a copy of the approved public hearing proceedings to the regulatory authority concerned along with the final Environmental Impact Assessment report or supplementary report to the draft EIA report prepared after the public hearing and public consultations.

7.2 If the SPCB or UTPCC fails to hold the public hearing within the stipulated 45(forty five) days, the Central Government in Ministry of Environment and Forests for Category 'A' project or activity and the State Government or Union Territory Administration for Category 'B' project or activity at the request of the SEIAA, shall engage any other agency or authority to complete the process, as per procedure laid down in this notification.



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APPENDIX -V
(See paragraph 7)

PROCEDURE PRESCRIBED FOR APPRAISAL

1. The applicant shall apply to the concerned regulatory authority through a simple communication enclosing the following documents where public consultations are mandatory: -

- Final Environment Impact Assessment Report [20(twenty) hard copies and 1 (one) soft copy]
- A copy of the video tape or CD of the public hearing proceedings
- A copy of final layout plan (20 copies)
- A copy of the project feasibility report (1 copy)

2. The Final EIA Report and the other relevant documents submitted by the applicant shall be scrutinized in office within 30 days from the date of its receipt by the concerned Regulatory Authority strictly with reference to the TOR and the inadequacies noted shall be communicated electronically or otherwise in a single set to the Members of the EAC /SEAC enclosing a copy each of the Final EIA Report including the public hearing proceedings and other public responses received along with a copy of Form -1 or Form 1A and scheduled date of the EAC /SEAC meeting for considering the proposal .

3. Where a public consultation is not mandatory and therefore a formal EIA study is not required, the appraisal shall be made on the basis of the prescribed application Form 1 and a pre-feasibility report in the case of all projects and activities other than Item 8 of the Schedule .In the case of Item 8 of the Schedule, considering its unique project cycle , the EAC or SEAC concerned shall appraise all Category B projects or activities on the basis of Form 1, Form 1A and the conceptual plan and stipulate the conditions for environmental clearance . As and when the applicant submits the approved scheme /building plans complying with the stipulated environmental clearance conditions with all other necessary statutory approvals, the EAC /SEAC shall recommend the grant of environmental clearance to the competent authority.

4. Every application shall be placed before the EAC /SEAC and its appraisal completed within 60 days of its receipt with requisite documents / details in the prescribed manner.

5. The applicant shall be informed at least 15 (fifteen) days prior to the scheduled date of the EAC /SEAC meeting for considering the project proposal.

6. The minutes of the EAC /SEAC meeting shall be finalised within 5 working days of the meeting and displayed on the website of the concerned regulatory authority. In case the project or activity is recommended for grant of EC, then the minutes shall clearly list out the specific environmental safeguards and conditions. In case the recommendations are for rejection, the reasons for the same shall also be explicitly stated.



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APPENDIX VI

(See paragraph 5)

COMPOSITION OF THE SECTOR/ PROJECT SPECIFIC EXPERT APPRAISAL COMMITTEE (EAC) FOR CATEGORY A PROJECTS AND THE STATE/UT LEVEL EXPERT APPRAISAL COMMITTEES (SEACs) FOR CATEGORY B PROJECTS TO BE CONSTITUTED BY THE CENTRAL GOVERNMENT`

1. The Expert Appraisal Committees (EAC(s) and the State/UT Level Expert Appraisal Committees (SEACs) shall consist of only professionals and experts fulfilling the following eligibility criteria:

Professional: The person should have at least (i) 5 years of formal University training in the concerned discipline leading to a MA/MSc Degree, or (ii) in case of Engineering /Technology/Architecture disciplines, 4 years formal training in a professional training course together with prescribed practical training in the field leading to a B.Tech/B.E./B.Arch. Degree, or (iii) Other professional degree (e.g. Law) involving a total of 5 years of formal University training and prescribed practical training, or (iv) Prescribed apprenticeship/article ship and pass examinations conducted by the concerned professional association (e.g. Chartered Accountancy),or (v) a University degree , followed by 2 years of formal training in a University or Service Academy (e.g. MBA/IAS/IFS). In selecting the individual professionals, experience gained by them in their respective fields will be taken note of.

Expert: A professional fulfilling the above eligibility criteria with at least 15 years of relevant experience in the field, or with an advanced degree (e.g. Ph.D.) in a concerned field and at least 10 years of relevant experience.

Age: Below 70 years. However, in the event of the non-availability of /paucity of experts in a given field, the maximum age of a member of the Expert Appraisal Committee may be allowed up to 75 years

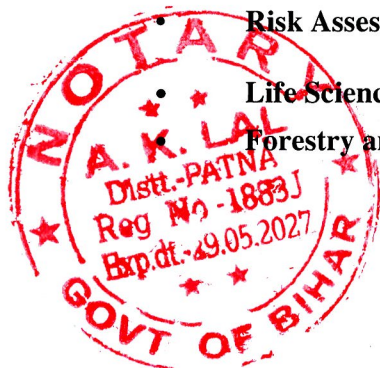
2. The Members of the EAC shall be Experts with the requisite expertise and experience in the following fields /disciplines. In the event that persons fulfilling the criteria of "Experts" are not available, Professionals in the same field with sufficient experience may be considered:

- **Environment Quality Experts:** Experts in measurement/monitoring, analysis and interpretation of data in relation to environmental quality
- **Sectoral Experts in Project Management:** Experts in Project Management or Management of Process/Operations/Facilities in the relevant sectors.
- **Environmental Impact Assessment Process Experts:** Experts in conducting and carrying out Environmental Impact Assessments (EIAs) and preparation of Environmental Management Plans (EMPs) and other Management plans and who have wide expertise and knowledge of predictive techniques and tools used in the EIA process

- **Risk Assessment Experts**

- **Life Science Experts in floral and faunal management**

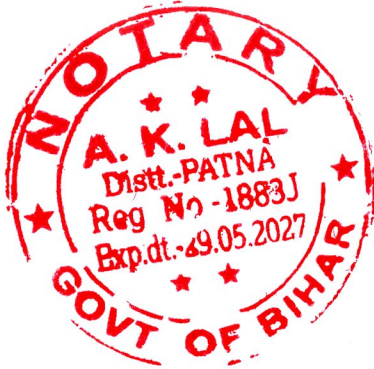
- **Forestry and Wildlife Experts**



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- **Environmental Economics Expert with experience in project appraisal**

3. The Membership of the EAC shall not exceed 15 (fifteen) regular Members. However the Chairperson may co-opt an expert as a Member in a relevant field for a particular meeting of the Committee.
4. The Chairperson shall be an outstanding and experienced environmental policy expert or expert in management or public administration with wide experience in the relevant development sector.
5. The Chairperson shall nominate one of the Members as the Vice Chairperson who shall preside over the EAC in the absence of the Chairman /Chairperson.
6. A representative of the Ministry of Environment and Forests shall assist the Committee as its Secretary.
7. The maximum tenure of a Member, including Chairperson, shall be for 2 (two) terms of 3 (three) years each.
8. The Chairman / Members may not be removed prior to expiry of the tenure without cause and proper enquiry.



No. L-11011/47/2011-IA.II(M)
Government of India
Ministry of Environment & Forests

Paryavaran Bhawan,
C.G.O. Complex, Lodhi Road,
New Delhi-110003.

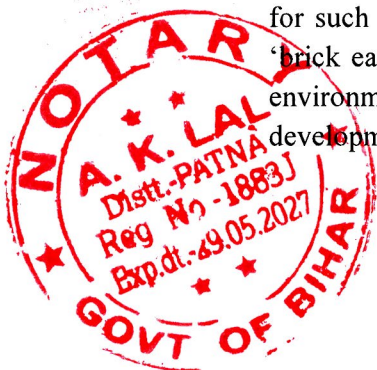
Dated: 24th June, 2013

OFFICE MEMORANDUM

Subject: Guidelines for consideration of proposals for grant of environmental clearance under EIA Notification, 2006 for mining of 'brick earth' and 'ordinary earth' having lease area less than 5 ha – regarding categorization as Category 'B2'

The Hon'ble Supreme Court, vide its order dated 27.02.2012 in I.A.No.12-13 of 2011 in SLP (C) No.19628-19629 of 2009 titled Deepak Kumar etc. Vs. State of Haryana & Ors. has inter alia ordered that leases of minor mineral including their renewal for an area less than 5 ha be granted by the State / Union Territory only after getting environment clearance (EC) from the Ministry of Environment & Forests (MoEF). In order to ensure compliance of the aforesaid order of the Hon'ble Supreme Court, MoEF issued an OM No.L-11011/47/2011-IA.II(M) dated 18.05.2012 stating inter alia that all mining projects of minor minerals including their renewal, irrespective of the size of the lease would henceforth require prior EC and that the projects of minor minerals with lease area less than 5 ha would be treated as Category "B" as defined in EIA Notification, 2006 and will be considered by the respective State Environment Impact Assessment Authorities (SEIAAs) notified by MoEF and following the procedure prescribed under the EIA Notification, 2006.

2. MoEF has received a number of representations conveying problems being faced by the brick kiln manufacturers in obtaining EC for 'brick earth' mined by them for making bricks and by the developers of road projects in respect of mining of 'ordinary earth' used for road construction. The brick kiln manufacturers have requested that as the digging of 'brick earth' for making bricks is a small scale activity requiring digging only upto a certain depth, the activity may be kept outside the purview of EC. The project proponents developing roads have represented that the 'ordinary earth' required for road construction is generally taken from the farmers / individuals along the road alignment from their borrows. It would be impractical to ask the farmers / individuals to obtain EC for such digging. In a nutshell, the arguments being put forth are that while digging of 'brick earth' for brick making and 'ordinary earth' for road making do not have serious environmental implications, the provisioning for EC for such operations is impeding these development activities because of practical problems in obtaining EC.

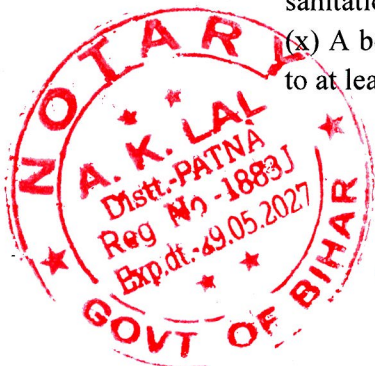


3. MoEF vide OM No.F.No.J-11013/12/2013-IA-II(I) dated 30.01.13 has constituted an Expert Committee, under the Chairmanship of Director, NEERI, Nagpur, to categorize Category "B" projects / activities into Category "B1" and "B2" under EIA Notification, 2006 and review classification of projects / activities into "A" and "B" and General conditions as contained in the aforesaid Notification. The issues raised by brick kiln manufacturers regarding 'brick earth' and road developers in respect of 'ordinary earth' were referred by MoEF to this Expert Committee to give their recommendations. The Committee deliberated upon these issues and has since given its recommendations in the matter.

4. The recommendations of the Committee have been examined by MoEF and the following has been decided:

(a) The activities of borrowing / excavation of 'brick earth' and 'ordinary earth', upto an area less than 5 ha, may be categorized under 'B2' Category subject to the following guidelines in terms of the provisions under '7.I Stage(1)-Screening' of EIA Notification, 2006:

- (i) The activity associated with borrowing/excavation of 'brick earth' and 'ordinary earth' for purpose of brick manufacturing, construction of roads, embankments etc. shall not involve blasting.
- (ii) The borrowing/excavation activity shall be restricted to a maximum depth of 2 m below general ground level at the site.
- (iii) The borrowing/excavation activity shall be restricted to 2 m above the ground water table at the site.
- (iv) The borrowing/excavation activity shall not alter the natural drainage pattern of the area.
- (v) The borrowed/excavated pit shall be restored by the project proponent for useful purpose(s).
- (vi) Appropriate fencing all around the borrowed/excavated pit shall be made to prevent any mishap.
- (vii) Measures shall be taken to prevent dust emission by covering of borrowed/excavated earth during transportation.
- (viii) Safeguards shall be adopted against health risks on account of breeding of vectors in the water bodies created due to borrowing/excavation of earth.
- (ix) Workers / labourers shall be provided with facilities for drinking water and sanitation.
- (x) A berm shall be left from the boundary of adjoining field having a width equal to at least half the depth depth of proposed excavation.



(xi) A minimum distance of 15 m from any civil structure shall be kept from the periphery of any excavation area.

(xii) The concerned SEIAA while considering granting environmental clearance for such activity for brick earth / ordinary earth will prescribe the guidelines as stated at (i) to (xi) above and specify that the clearance so granted shall be liable to be cancelled in case of any violation of above guidelines.

(b) Notwithstanding what has been stated at (a) above, the following will apply:-

- (i) No borrowing of earth / excavation of 'brick earth' or 'ordinary earth' shall be permitted in case the area of borrowing/ excavation is within 1 km of boundary of national parks and wild life sanctuaries.
- (ii) In case the area of borrowing / excavation is likely to result into a cluster situation i.e. if the periphery of one borrow area is less than 500 m from the periphery of another borrow area and the total borrow area equals or exceeds 5 ha, the activity shall become Category 'BI' Project under the EIA Notification, 2006. In such a case, mining operations in any of the borrow areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

This issues with the approval of the Competent Authority.


(Dr. Saroj)
Director

Telefax : 24364067

To

1. All the Officers of IA Division
2. Chairpersons/Member Secretaries of all the SEIAAs/SEACs
3. Chairman, CPCB
4. Chairpersons / Member Secretaries of all the SPCBs/UTPCCs

Copy to:-

1. PS to MEF
2. PPS to Secretary(E&F)
3. PPS to ADG(F)
4. PPS to ADG(WL)
5. PPS to JS(AT)
6. PPS to IG(FC)
7. Website, MoEF
6. Guard File



- 10 का.आ. 562(अ) तारीख 26 फ़रवरी 2014;
11. का.आ. 637(अ) तारीख 28 फ़रवरी 2014;
12. का.आ. 1599(अ) तारीख 25 जून 2014;
13. का.आ. 2601(अ) तारीख 7 अक्टूबर 2014;
14. का.आ. 2600(अ) तारीख 9 अक्टूबर 2014
15. का.आ. 3252(अ) तारीख 22 दिसम्बर 2014;
16. का.आ. 382(अ) तारीख 3 फरवरी, 2015;
17. का.आ. 811(अ) तारीख 23 मार्च, 2015;
18. का.आ. 996(अ) तारीख 10 अप्रैल 2015;
19. का.आ. 1142(अ) तारीख 17 अप्रैल 2015;
20. का.आ. 1141(अ) तारीख 29 अप्रैल 2015;
21. का.आ. 1834(अ) तारीख 6 जुलाई 2015;

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 15th January, 2016

S.O. 141(E).—Whereas in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), a draft notification for making certain amendments in the Environment Impact Assessment Notification, 2006, issued *vide* number S.O. 1533(E), dated the 14th September 2006, was published under sub-rule (3) of rule (5) of the Environment (Protection) Rules, 1986, *vide* number S.O. 2588(E), dated 22nd September, 2015, inviting objections and suggestions from all persons likely to be affected thereby, within a period of sixty days from the date of publication on which copies of Gazette containing the said notification were available to the public;

And whereas, copies of said notification were made available to the public on 22nd September 2015;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

And whereas, in pursuance to the order of Hon'ble Supreme Court dated the 27th February, 2012 in I.A. No.12-13 of 2011 in Special Leave Petition (C) No.19628-19629 of 2009, in the matter of Deepak Kumar etc. Vs. State of Haryana and Others etc., prior environmental clearance has now become mandatory for mining of minor minerals irrespective of the area of mining lease;

And whereas, as a result of the above said Order of Hon'ble Supreme Court, the number of cases which are now required to obtain prior environmental clearance has increased substantially;

And whereas, the Hon'ble National Green Tribunal, *vide* its order dated the 13th January, 2015 in the matter regarding sand mining has directed for making a policy on environmental clearance for mining leases in cluster for minor minerals;

And whereas, the State Governments have represented for streamlining the process of environmental clearance for mining of minor mineral;



And whereas, the Ministry of Environment, Forest and Climate Change in consultation with State Governments has prepared Guidelines on Sustainable Sand Mining detailing the provisions on environmental clearance for cluster, creation of District Environment Impact Assessment Authority and proper monitoring of sand mining using information technology and information technology enabled services to track the mined out material from source to destination;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification, namely:-

In the said notification,-

(a) in paragraph 2, after the words "in the said Schedule", the following words shall be inserted, namely:-
"and at District level, the District Environment Impact Assessment Authority (DEIAA) for matters falling under Category 'B2' for mining of minor minerals in the said Schedule";

(b) after paragraph 3, the following paragraph shall be inserted, namely:-

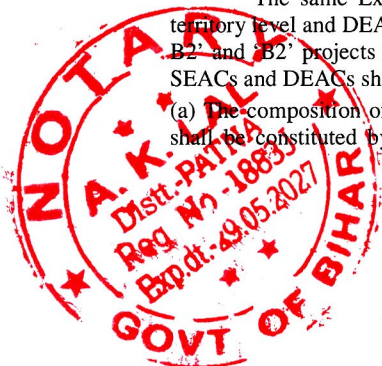
"3 A. District Level Environment Impact Assessment Authority:-

- (1) A District Level Environment Impact Assessment Authority hereinafter referred to as the DEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of four members including a Chairperson and a Member-Secretary.
 - (2) The District Magistrate or District Collector shall be the Chairperson of the DEIAA.
 - (3) The Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter of the concerned district of the State shall be the Member-Secretary of the DEIAA.
 - (4) The other two members of the DEIAA shall be the senior most Divisional Forest Officer and one expert. The expert shall be nominated by the Divisional Commissioner of the Division or Chief Conservator of Forest, as the case may be. The term and qualifications of the expert fulfilling the eligibility criteria are given in Appendix VII to this notification.
 - (5) The members of the DEIAA who are serving officers of the concerned State Government or the Union territory Administration shall be *ex-officio* members except the expert member.
 - (6) The District Level Expert Appraisal Committee hereinafter referred to as the DEAC shall comprise of eleven members, including a Chairman and a Member-Secretary.
 - (7) The senior most Executive Engineer, Irrigation Department in the district of respective State Governments or Union territory Administration shall be the Chairperson of the DEAC.
 - (8) The Assistant Director or Deputy Director of the Department of Mines and Geology or District Mines Officer or Geologist of the district shall be the Member-Secretary of the DEAC in that order.
 - (9) A representative of the State Pollution Control Board or Committee, senior most Sub-Divisional Officer (Forest) in the district, representative of Remote Sensing Department or Geology Department or State Ground Water Department, one occupational health expert or Medical Officer to be nominated by the District Magistrate or District Collector, Engineer from Zila Parishad, and three expert members to be nominated by the Divisional Commissioner or Chief Conservator of Forest, as the case may be; shall be the other members of the DEAC. The term and qualifications of the experts fulfilling the eligibility criteria are given in Appendix VII to this notification.
 - (10) The members of the DEAC who are serving officers of the concerned State Government or the Union territory Administration shall be *ex-officio* members except the expert members.
 - (11) The District Magistrate or District Collector shall notify an agency to act as Secretariat for the DEIAA and the DEAC and shall provide all financial and logistic support for their statutory functions.
 - (12) The DEIAA and DEAC shall exercise the powers and follow the procedure as specified in the said notification, as amended from time to time.
 - (13) The DEAC shall function on the principle of collective responsibility and the Chairman shall endeavor to reach a consensus in each case and if consensus cannot be reached, the view of the majority shall prevail. ";
- (c) in paragraph 4, after sub-paragraph (iii), the following sub-paragraph shall be inserted, namely:-
"(iv) The 'B2' Category projects pertaining to mining of minor mineral of lease area less than or equal to five hectare shall require prior environmental clearance from DEIAA. The DEIAA shall base its decision on the recommendations of DEAC, as constituted for this notification." ;
- (d) for paragraph 5, the following paragraph shall be substituted, namely:-

"5. Screening, Scoping and Appraisal Committees:-

The same Expert Appraisal Committees (EACs) at the Central Government, SEACs at the State or Union territory level and DEAC at the district level shall screen, scope and appraise projects or activity in category 'A', 'B1 and B2' and 'B2' projects for mining of minor minerals of lease area less than and equal to five hectare respectively. EAC, SEACs and DEACs shall meet at least once every month.

(a) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union



territory Administration with identical composition. DEAC at the district level shall be constituted by the Central Government as per the composition given in paragraph 3 A.

(b) The Central Government may with the prior concurrence of the concerned State Governments or the Union territory Administration constitute one SEAC for more than one State or Union territory for reasons of administrative convenience and cost.

(c) The EAC and SEAC shall be reconstituted after every three years.

(d) The authorised members of the EAC, SEACs and DEACs concerned, may inspect any site connected with the project or activity in respect of which the prior environmental clearance is sought for the purpose of screening or scoping or appraisal with prior notice of at least seven days to the project proponent who shall provide necessary facilities for the inspection.

(e) The EAC, SEACs and DEACs shall function on the principle of collective responsibility. The Chairperson shall endeavor to reach a consensus in each case and if consensus cannot be reached the view of the majority shall prevail.”;

(e) for paragraph 6, the following paragraph shall be substituted, namely:-

“6. Application for Prior Environmental Clearance (EC):-

An application seeking prior environmental clearance in all cases shall be made by the project proponent in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II after the identification of prospective site (s) for the project and/or activities to which the application relates; and in Form 1M for mining of minor minerals up to five hectare under Category ‘B2’ projects, as given in Appendix VIII, before commencing any construction activity, or preparation of land, or mining at the site by the project proponent. The project proponent shall furnish along with the application, a copy of the pre-feasibility project report, in addition to Form 1, Form 1A, and Form 1M; and in case of construction projects or activities (item 8 of the Schedule), a copy of the conceptual plan shall be provided instead of pre-feasibility report.”;

(f) in paragraph 7,-

(i) in sub-paragraph (i), under the heading “I. Stage (1)- Screening;”, the existing sub-paragraph shall be lettered as sub-paragraph “(A)” and after sub-paragraph as so lettered, the following sub-paragraph shall be inserted, namely:-

“(B) The cases as specified in Appendix IX shall be exempted from prior environmental clearance.”;

(ii) after sub-paragraph 7 (ii), the following sub-paragraph shall be inserted, namely:-

“7 (iii) Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minor Minerals:

(a) The prescribed procedure for preparation of District Survey Report for sand mining or river bed mining and mining of other minor minerals is given in Appendix X.

(b) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.”;

(g) in paragraph 8,-

(i) for the letters and word “EAC or SEAC”, the words and letters “EAC or SEAC or DEAC” shall be substituted;

(ii) for the words “Expert Appraisal Committee or State Level Expert Appraisal Committee” wherever they occur, the words “Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee” shall be substituted;

(h) in paragraph 9, in sub-paragraph (i),-

for the words “Expert Appraisal Committee or State Level Expert Appraisal Committee”, the words “Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee” shall be substituted;

(i) in paragraph 10, after sub-paragraph (iii), the following sub-paragraph shall be inserted, namely:-

“(iv) The prescribed procedure for sand mining or river bed mining and monitoring is given in Appendix XII.”;

(j) in paragraph 11, -

for the words “Expert Appraisal Committee or State Level Expert Appraisal Committee”, the words “Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee” shall be substituted;

(k) in the Schedule,-

(i) for item 1 (a) and the entries relating thereto, the following item and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)
“1(a)	(i) Mining of minerals	≥50 ha of mining lease area in respect of non-coal mine lease >150 ha of mining lease area in respect of coal mine lease Asbestos mining	<50 ha of mining lease area in respect of non-coal mine lease ≤150 ha of mining lease area in respect of coal mine lease	General Conditions shall apply except: (i) for project or activity of mining of minor minerals of Category ‘B2’ (up to 25 ha of mining lease area); (ii) River bed mining projects on account of inter-state boundary.



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		irrespective of mining area		<p>Note:</p> <p>(1) Mineral prospecting is exempted.”;</p> <p>(2) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.”;</p> <p>(3) The mining leases which have obtained environmental clearance under Environment Impact Assessment Notification, 1994 and Environment Impact Assessment Notification, 2006 shall not require fresh environmental clearance during renewal provided the project has valid and subsisting environmental clearance.</p>
	(ii) Slurry pipelines (coal lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive areas.	All projects.		

(i) after Appendix VI, the following appendices shall be inserted, namely:-

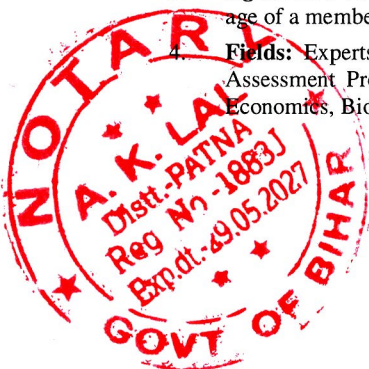
“APPENDIX VI

(See paragraph 3 A)

Qualifications and terms for the Experts in DEIAA and DEAC

- 1. Qualification:** The person should have at least (i) 5 years of formal University training in the concerned discipline leading to a MA or M Sc Degree or (ii) in case of Engineering/ Technology/ Architectural discipline, 4 years formal training course together with prescribed practical training in the field leading to a B. Tech/ B.E./ B. Arch. Degree, or (iii) Other professional degree (e.g. MBA etc.) involving a total of 5 years of formal University training and prescribed practical training, or (iv) Prescribed apprenticeship/ article ship and pass examinations conducted by the concerned professional associations (e.g. Chartered Accountancy) or (v) a University degree, followed by two years of formal training in a University or Service Academy (e.g. MBA/MPA etc.). In selecting the individual professionals, experience gained by them in their respective fields will be taken note of.
- 2. Expert:** A professional fulfilling the above eligibility criteria with at least 10 years of relevant experience in the field or with an advanced degree (e.g. Ph. D) in a concerned field with at least 5 years of relevant experience.
- 3. Age:** Below 70 years. However, in the event of non-availability of paucity of experts in a given field, the maximum age of a member may be allowed up to 75 years.

Fields: Experts in Mining, Geology, Hydrology, Remote Sensing, Environment Quality, Environment Impact Assessment Process, Risk Assessment, Life Sciences, Marine Sciences, Forestry and Wildlife, Environmental Economics, Bio-diversity, and River Ecology.



5. **Tenure:** The maximum tenure of expert members shall be for two terms of three years each.
6. The Expert Members may not be removed prior to expiry of the tenure without cause and proper enquiry.

APPENDIX VIII
(See paragraph 6)
FORM 1 M

APPLICATION FOR MINING OF MINOR MINERALS UNDER CATEGORY 'B2' FOR LESS THAN AND EQUAL TO FIVE HECTARE

(II) Basic Information

- (viii) Name of the Mining Lease site:
(ix) Location / site (GPS Co-ordinates):
(x) Size of the Mining Lease (Hectare):
(xi) Capacity of Mining Lease (TPA):
(xii) Period of Mining Lease:
(xiii) Expected cost of the Project:
(xiv) Contact Information:

Environmental Sensitivity

Sl. No.	Areas	Distance in kilometer / Details
1.	Distance of project site from nearest rail or road bridge over the concerned River, Rivulet, Nallah etc.	
2.	Distance from infrastructural facilities Railway line National Highway State Highway Major District Road Any Other Road Electric transmission line pole or tower Canal or check dam or reservoirs or lake or ponds In-take for drinking water pump house Intake for Irrigation canal pumps	
3.	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	
4.	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests	
5.	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	
6.	Inland, coastal, marine or underground waters	
7.	State, National boundaries	
8.	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas	
9.	Defence installations	
10.	Densely populated or built-up area, distance from nearest human habitation	
11.	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)	
12.	Areas containing important, high quality or scarce resources (ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)	
13.	Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)	
14.	Areas susceptible to natural hazard which could cause the project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)	



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15.	Is proposed mining site located over or near fissure / fracture for ground water recharge	
16.	Whether the proposal involves approval or clearance under the following Regulations or Acts, namely:- (a) The Forest (Conservation) Act, 1980; (b) The Wildlife (Protection) Act, 1972; (c) The Coastal Regulation Zone Notification, 2011. If yes, details of the same and their status to be given.	
17.	Forest land involved (hectares)	
18.	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (a) Name of the Court (b) Case No. (c) Orders or directions of the Court, if any, and its relevance with the proposed project.	

(Signature of Project Proponent
Along with name and address)

APPENDIX - IX

[See paragraph 7(i) (B)]

EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE

The following cases shall not require prior environmental clearance, namely:-

1. Extraction of ordinary clay or sand, manually, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs.
2. Extraction of ordinary clay or sand, manually, by earthen tile makers who prepare earthen tiles.
3. Removal of sand deposits on agricultural field after flood by farmers.
4. Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.
5. Community works like de-silting of village ponds or tanks, construction of village roads, ponds, bunds undertaken in Mahatama Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes, and community efforts.
6. Dredging and de-silting of dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management.
7. Traditional occupational work of sand by Vanjara and Oads in Gujarat *vide* notification number GU/90(16)/MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat.
8. Digging of well for irrigation or drinking water.
9. Digging of foundation for buildings not requiring prior environmental clearance.
10. Excavation of ordinary earth or clay for plugging of any breach caused in canal, nala, drain, water body, etc., to deal with any disaster or flood like situation upon orders of District Collector or District Magistrate.
11. Activities declared by State Government under legislations or rules as non-mining activity with concurrence of the Ministry of Environment, Forest and Climate Change, Government of India.

APPENDIX - X

[See paragraph 7 (iii) (a)]

PROCEDURE FOR PREPARATION OF DISTRICT SURVEY REPORT

The main objective of the preparation of District Survey Report (as per the Sustainable Sand Mining Guideline) is to ensure the following:

Identification of areas of aggradations or deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining in that area.

The report shall have the following structure:

1. Introduction
2. Overview of Mining Activity in the District
3. The List of Mining Leases in the District with location, area and period of validity
4. Details of Royalty or Revenue received in last three years
5. Detail of Production of Sand or Bajari or minor mineral in last three years
6. Process of Deposition of Sediments in the rivers of the District
7. General Profile of the District
8. Land Utilization Pattern in the district: Forest, Agriculture, Horticulture, Mining etc.



9. Physiography of the District
10. Rainfall: month-wise
11. Geology and Mineral Wealth

In addition to the above, the report shall contain the following:

- (a) District wise detail of river or stream and other sand source.
(b) District wise availability of sand or gravel or aggregate resources.
(c) District wise detail of existing mining leases of sand and aggregates.

A survey shall be carried out by the DEIAA with the assistance of Geology Department or Irrigation Department or Forest Department or Public Works Department or Ground Water Boards or Remote Sensing Department or Mining Department etc. in the district.

Drainage system with description of main rivers

S. No.	Name of the River	Area drained (Sq. Km)	% Area drained in the District

Salient Features of Important Rivers and Streams:

S. No.	Name of the River or Stream	Total Length in the District (in Km)	Place of origin	Altitude at Origin

Portion of the River or Stream Recommended for Mineral Concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)

Mineral Potential

Boulder (MT)	Bajari (MT)	Sand (MT)	Total Mineable Mineral Potential (MT)

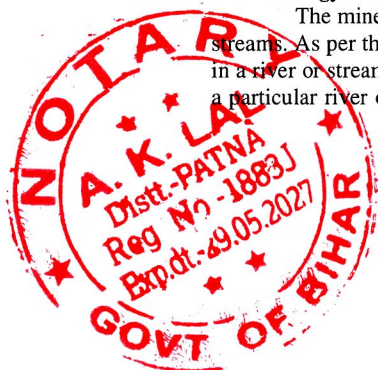
Annual Deposition

S. No.	River or Stream	Portion of the river or stream recommended for mineral concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)
Total for the District						

A Sub-Divisional Committee comprising of Sub-Divisional Magistrate, Officers from Irrigation department, State Pollution Control Board or Committee, Forest department, Geology or mining officer shall visit each site for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof.

Methodology adopted for calculation of Mineral Potential:

The mineral potential is calculated based on field investigation and geology of the catchment area of the river or streams. As per the site conditions and location, depth of minable mineral is defined. The area for removal of the mineral in a river or stream can be decided depending on geo-morphology and other factors, it can be 50 % to 60 % of the area of a particular river or stream. For example in some hill States mineral constituents like boulders, river born Bajri, sand up



to a depth of one meter are considered as resource mineral. Other constituents like clay and silt are excluded as waste while calculating the mineral potential of particular river or stream.

The District Survey Report shall be prepared for each minor mineral in the district separately and its draft shall be placed in the public domain by keeping its copy in Collectorate and posting it on district's website for twenty one days. The comments received shall be considered and if found fit, shall be incorporated in the final Report to be finalised within six months by the DEIAA.

The District Survey Report shall form the basis for application for environmental clearance, preparation of reports and appraisal of projects. The Report shall be updated once every five years.

APPENDIX - XI

[See paragraph 7 (iii) (b)]

PROCEDURE FOR ENVIRONMENTAL CLEARANCE FOR MINING OF MINOR MINERALS INCLUDING CLUSTER

The following policy shall be followed for environmental clearance of mining of minor minerals including cluster situation:-

- (1). The data provided by the States (Sustainable Sand Mining Guidelines) shows that most of the mining leases for minor minerals are of lease area less than 5 hectare. It is also reported that in hill States getting a stretch in river with area more than 5 hectare is very uncommon. So the size of lease for minor minerals including river sand mining will be determined by the States as per their circumstances.
- (2). The mining of minor minerals is mostly in clusters. The Environment Impact Assessment or Environment Management Plan are required to be prepared for the entire cluster in order to capture all the possible externalities. These reports shall capture carrying capacity of the cluster, transportation and related issues, replenishment and recharge issues, geo-hydrological study of the cluster area. The Environment Impact Assessment or Environment Management Plan shall be prepared by the State or State nominated Agency or group of project proponents in the Cluster or the project proponent in the cluster.
- (3). There shall be one public consultation for entire cluster after which the final Environment Impact Assessment or Environment Management Plan report for the cluster shall be prepared.
- (4). Environmental clearance shall be applied for and issued to the individual project proponent. The individual lease holders in cluster can use the same Environment Impact Assessment or Environment Management Plan for application for environmental clearance. The cluster Environment Impact Assessment or Environment Management Plan shall be updated as per need keeping in view any significant change.
- (5). The details of cluster Environment Impact Assessment or Environment Management Plan shall be reflected in each environmental clearance in that cluster and DEAC, SEAC, and EAC shall ensure that the mitigative measures emanating from the Environment Impact Assessment or Environment Management Plan study are fully reflected as environmental clearance conditions in the environmental clearance's of individual project proponents in that cluster.
- (6). A cluster shall be formed when the distance between the peripheries of one lease is less than 500 meters from the periphery of other lease in a homogeneous mineral area.
- (7). Form 1M, Pre-Feasibility Report and mine plan for Category 'B2' projects for mining of minor minerals shall be prepared by the Registered Qualified Person or Accredited Consultants of Quality Council of India, National Accreditation Board for Education and Training. The Environment Impact Assessment or Environment Management Plan for Category 'A' and Category 'B1' projects shall be prepared by the accredited consultants of Quality Council of India, National Accreditation Board for Education and Training.
- (8). The SEIAAs shall have supervisory jurisdiction over the DEIAAs and decisions of DEIAA shall be reviewed by the SEIAA without prejudice to any provisions under any existing law.

Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation

Area of Lease (Hectare)	Category of Project	Requirement of EIA / EMP	Requirement of Public Hearing	Requirement of EC	Who can prepare EIA/ EMP	Who will apply for EC	Authority to appraise/ grant EC	Authority to monitor EC compliance
EC Proposal of Sand Mining and other Minor Mineral Mining on the basis of individual mine lease								
0 - 5ha	'B2'	Form -1M, PFR and Approved Mine Plan	No	Yes	Project Proponent	Project Proponent	DEAC/ DEIAA	DEIAA SEIAA SPCB CPCB MoEFCC Agency



> 5 ha and < 25 ha	'B2'	Form -I, PFR and Approved Mine Plan and EMP	No	Yes	Project Proponent	Project Proponent	SEAC / SEIAA	nominated by MoEFCC
≥ 25ha and < 50ha	'B1'	Yes	Yes	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	
≥ 50 ha	'A'	Yes	Yes	Yes	Project Proponent	Project Proponent	EAC/ MoEFCC	
EC Proposal of Sand Mining and other Minor Mineral Mining in cluster situation								
Cluster area of mine leases up to 5 ha	'B2'	Form -IM, PFR and Approved Mine Plan	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA/	DEIAA SEIAA SPCB CPCB MoEFCC Agency nominated by MoEFCC
Cluster area of Mine leases > 5 ha and < 25 ha with no individual lease > 5 ha	'B2'	Form -I, PFR and Approved Mine Plan and one EMP for all leases in the Cluster	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA/	
Cluster of mine leases of area ≥ 25 hectares with individual lease size < 50ha	'B1'	Yes	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	SEAC/ SEIAA	
Cluster of any size with any of the individual lease ≥ 50ha	'A'	Yes	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	EAC/ MoEFCC	

APPENDIX - XII

[See paragraph 10 (iv)]

PROCEDURE FOR MONITORING OF SAND MINING OR RIVER BED MINING

1. The security feature of Transport Permit shall be as under:

- (a) Printed on Indian Banks' Association (IBA) approved Magnetic Ink Character Recognition (MICR) Code paper.
- (b) Unique Barcode.
- (c) Unique Quick Response (QR) code.
- (d) Fugitive Ink Background.
- (e) Invisible Ink Mark.
- (f) Void Pantograph.
- (g) Watermark.

2. Requirement at Mine Lease Site:

- (a) Small Size Plot (Up to 5 hectare): Android Based Smart Phone.



- (b) Large Size Plots (More than 5 hectare): CCTV camera, Personal Computer (PC), Internet Connection, Power Back up.
- (c) Access control of mine lease site.
- (d) Arrangement for weight or approximation of weight of mined out mineral on basis of volume of the trailer of vehicle used.

3. Scanning of Transport Permit or Receipt and Uploading on Server:

- (a) Website: Scanning of receipt on mining site can be done through barcode scanner and computer using the software;
- (b) Android Application: Scanning on mining site can be done using Android Application using smart phone. It will require internet availability on SIM card;
- (c) SMS: Transport Permit or Receipt shall be uploaded on server even by sending SMS through mobile. Once Transport Permit or Receipt get uploaded, an unique invoice code gets generated with its validity period.

4. Proposed working of the system:

The State Mining Department should print the Transport Permit or Receipt with security features enumerated at Paragraph 1 above and issue them to the mine lease holder through the District Collector. Once these Transport Permits or Receipts are issued, they would be uploaded on the server against that mine lease area. Each receipt should be preferably with pre-fixed quantity, so the total quantity gets determined for the receipts issued.

When the Transport Permit or Receipt barcode gets scanned and invoice is generated, that particular barcode gets used and its validity time is recorded on the server. So all the details of transporting of mined out material can be captured on the server and the Transport Permit or Receipt cannot be reused.

5. Checking On Route:

The staff deployed for the purpose of checking of vehicles carrying mined mineral should be in a position to check the validity of Transport Permit or Receipt by scanning them using website, Android Application and SMS.

6. Breakdown of Vehicle:

In case the Vehicle breakdown, the validity of Transport Permit or Receipt shall be extended by sending SMS by driver in specific format to report breakdown of vehicle. The server will register this information and register the breakdown. The State can also establish a call centre, which can register breakdowns of such vehicles and extend the validity period. The subsequent restart of the vehicle also should be similarly reported to the server or call centre.

7. Tracking of Vehicles:

The route of vehicle from source to destination can be tracked through the system using check points, RFID Tags, and GPS tracking.

8. Alerts or Report Generation and Action Review:

The system will enable the authorities to develop periodic report on different parameters like daily lifting report, vehicle log or history, lifting against allocation, and total lifting. The system can be used to generate auto mails or SMS. This will enable the District Collector or District Magistrate to get all the relevant details and shall enable the authority to block the scanning facility of any site found to be indulged in irregularity. Whenever any authority intercepts any vehicle transporting illegal sand, it shall get registered on the server and shall be mandatory for the officer to fill in the report on action taken. Every intercepted vehicle shall be tracked.

The monitoring of mined out mineral, environmental clearance conditions and enforcement of Environment Management Plan will be ensured by the DEIAA, SEIAA and the State Pollution Control Board or Committee. The monitoring arrangements envisaged above shall be put in place not later than three months. The monitoring of enforcement of environmental clearance conditions shall be done by the Central Pollution Control Board, Ministry of Environment, Forest and Climate Change and the agency nominated by the Ministry for the purpose.”

[No. Z-11013/98/2014-IA-II (M)]

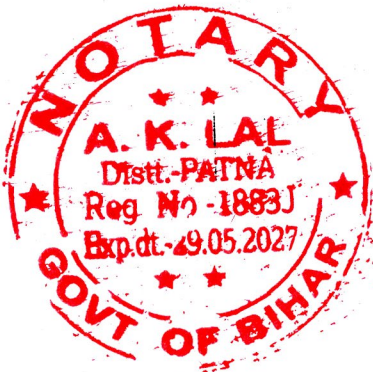
MANOJ KUMAR SINGH, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended vide the following numbers :-



- 69 -

1. S.O. 1737 (E) dated the 11th October, 2007;
2. S.O. 3067 (E) dated the 1st December, 2009;
3. S.O. 695 (E) dated the 4th April, 2011;
4. S.O. 2896 (E) dated the 13th December, 2012;
5. S.O. 674 (E) dated the 13th March, 2013;
6. S.O. 2204 (E) dated the 19th July 2013;
7. S.O. 2555 (E) dated the 21st August, 2013;
8. S.O. 2559 (E) dated the 22nd August, 2013;
9. S.O. 2731 (E) dated the 9th September, 2013;
10. S.O. 562 (E) dated the 26th February, 2014;
11. S.O. 637 (E) dated the 28th February, 2014;
12. S.O. 1599 (E) dated the 25th June, 2014;
13. S.O. 2601 (E) dated the 7th October, 2014;
14. S.O. 2600 (E) dated the 9th October, 2014
15. S.O. 3252 (E) dated the 22nd December, 2014;
16. S.O. 382 (E) dated the 3rd. February, 2015;
17. S.O. 811 (E) dated the 23rd March, 2015;
18. S.O. 996 (E) dated the 10th April, 2015;
19. S.O. 1142 (E) dated the 17th April, 2015;
20. S.O. 1141 (E) dated the 29th April, 2015;
21. S.O. 1834 (E) dated the 6th July, 2015.



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MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 28th March, 2020

S.O. 1224(E).—WHEREAS, *vide* the Mineral Laws (Amendment) Act, 2020 (2 of 2020), the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) (hereinafter referred to as MMDR Act) has been amended with effect from the 10th day of January, 2020 and, *inter alia*, new section 8B relating to the provisions for transfer of statutory clearances has been inserted;

AND WHEREAS, sub-section (2) of section 8B of the MMDR Act provides that notwithstanding anything contained in this Act or any other law for the time being in force, the successful bidder of mining leases expiring under the provisions of sub-sections (5) and (6) of section 8A and selected through auction as per the procedure provided under this Act and the rules made thereunder, shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like vested with the previous lessee for a period of two years;

AND WHEREAS, sub-section (3) of section 8B of the MMDR Act provides that notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the new lessee to continue mining operations on the land, in which mining operations were being carried out by the previous lessee, for a period of two years from the date of commencement of the new lease;

AND WHEREAS, in pursuance of the aforesaid amendment to the MMDR Act, the Central Government deems it necessary to align the relevant provisions of the notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 1533 (E), dated the 14th September, 2006 (hereinafter referred to as the EIA Notification, 2006);

AND WHEREAS, the Ministry of Environment, Forest and Climate Change is in the receipt of representations for waiver of requirement of prior environmental clearance for borrowing of ordinary earth for roads; and manual extraction of lime shells (dead shell), shrines, etc., within inter tidal zone by the traditional community;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government, after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of the rule 5 of the said rules, in public interest, and in supersession of the notification number S.O. 4307(E), dated the 29th November, 2019, hereby makes the following further amendments in the EIA Notification, 2006, namely:-

In the said notification,-

(i) in paragraph 11, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:-

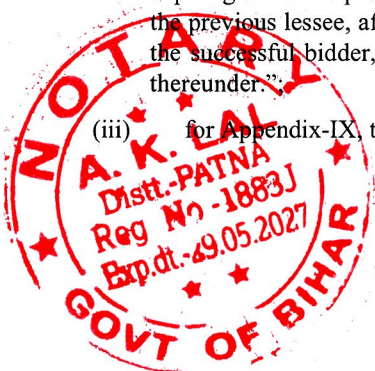
“(3) The successful bidder of the mining leases, expiring under the provisions of sub-sections (5) and (6) of section 8A of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and selected through auction as per the procedure provided under that Act and the rules made thereunder, shall be deemed to have acquired valid prior environmental clearance vested with the previous lessee for a period of two years, from the date of commencement of new lease and it shall be lawful for the new lessee to continue mining operations as per the same terms and conditions of environmental clearance granted to the previous lessee on the said lease area for a period of two years from the date of commencement of new lease or till the new lessee obtains a fresh environmental clearance with the terms and conditions mentioned therein, whichever is earlier:

Provided that the successful bidder shall apply and obtain prior environmental clearance from the regulatory authority within a period of two years from the date of grant of new lease.”;

(ii) in the Schedule, against the item 1(a), in the column (5), after clause (2) of the Note, the following clause shall be inserted, namely:-

“(3) The evacuation or removal and transportation of already mined out material lying within the mining leases expiring under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), by the previous lessee, after the expiry of the said lease, shall not form the part of the mining capacity so permitted to the successful bidder, selected through auction as per the procedure provided under that Act and the rules made thereunder.”;

(iii) for Appendix-IX, the following Appendix shall be substituted, namely:-



“APPENDIX-IX

EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE

The following cases shall not require Prior Environmental Clearance, namely:-

1. Extraction of ordinary clay or sand by manual mining, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs.
2. Extraction of ordinary clay or sand by manual mining, by earthen tile makers who prepare earthen tiles.
3. Removal of sand deposits on agricultural field after flood by farmers.
4. Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.
5. Community works, like, de-silting of village ponds or tanks, construction of village roads, ponds or bunds undertaken in Mahatma Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes and community efforts.
6. Extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc.
7. Dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management.
8. Traditional occupational work of sand by Vanjara and Oads in Gujarat vide notification number GU/90(16)/MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat.
9. Manual extraction of lime shells (dead shell), shrines, etc., within inter tidal zone by the traditional community.
10. Digging of wells for irrigation or drinking water purpose.
11. Digging of foundation for buildings, not requiring prior environmental clearance, as the case may be.
12. Excavation of ordinary earth or clay for plugging of any breach caused in canal, nallah, drain, water body, etc., to deal with any disaster or flood like situation upon orders of the District Collector or District Magistrate or any other Competent Authority.
13. Activities declared by the State Government under legislations or rules as non-mining activity.”

[F. No. Z-11013/47/2018-IA.II (M)]

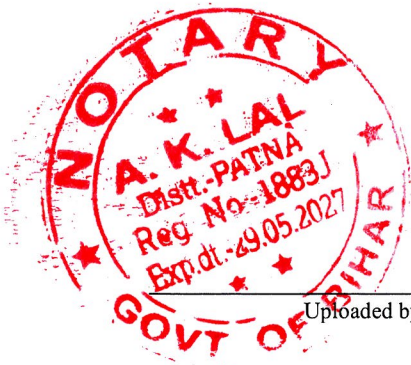
GEETA MENON, Jt. Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended vide the following numbers:-

1. S.O. 1949 (E), dated the 13th November, 2006;
2. S.O. 1737 (E), dated the 11th October, 2007;
3. S.O. 3067 (E), dated the 1st December, 2009;
4. S.O. 695 (E), dated the 4th April, 2011;
5. S.O. 156 (E), dated the 25th January, 2012;
6. S.O. 2896 (E), dated the 13th December, 2012;
7. S.O. 674 (E), dated the 13th March, 2013;
8. S.O. 2204 (E), dated the 19th July, 2013;
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13. S.O. 637 (E), dated the 28th February, 2014;



14. S.O. 1599 (E), dated the 25th June, 2014;
15. S.O. 2601 (E), dated the 7th October, 2014;
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19. S.O. 811 (E), dated the 23rd March, 2015;
20. S.O. 996 (E), dated the 10th April, 2015;
21. S.O. 1142 (E), dated the 17th April, 2015;
22. S.O. 1141 (E), dated the 29th April, 2015;
23. S.O. 1834 (E), dated the 6th July, 2015;
24. S.O. 2571 (E), dated the 31st August, 2015;
25. S.O. 2572 (E), dated the 14th September, 2015;
26. S.O. 141 (E), dated the 15th January, 2016;
27. S.O. 648 (E), dated the 3rd March, 2016;
28. S.O. 2269(E), dated the 1st July, 2016;
29. S.O. 2944(E), dated the 14th September, 2016;
30. S.O. 3518 (E), dated 23rd November 2016;
31. S.O. 3999 (E), dated the 9th December, 2016;
32. S.O. 4241(E), dated the 30th December, 2016;
33. S.O. 3611(E), dated the 25th July, 2018;
34. S.O. 3977 (E), dated the 14th August, 2018;
35. S.O. 5733 (E), dated the 14th November, 2018;
36. S.O. 5736 (E), dated the 15th November, 2018;
37. S.O. 5845(E), dated the 26th November, 2018;
38. S.O. 345(E), dated the 17th January, 2019;
39. S.O. 1960(E), dated the 13th June, 2019;
40. S.O. 236(E), dated the 16th January, 2020;
41. S.O. 751(E), dated the 17th February, 2020; and
42. S.O. 1223(E), dated the 27th March, 2020.



F.No.22-1/2019-IA.III [E116917]

Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi- 110003

Dated: 15th December, 2021

OFFICE MEMORANDUM

Sub.: EC application form for B2 category projects – reg.

The Ministry *vide* Notification dated 15th January 2016 amended the EIA Notification 2006 stating that projects regarding mining of minor minerals which fall under category B2 of the Notification shall apply through Form 1M provided in the appendix VIII of the Notification.

2. Further, the Ministry *vide* Office Memorandum dated 20th April 2018 directed that all project, other than projects covered under schedule 8 of the EIA Notification and mining of minor minerals upto five hectares, which are categorized as B2 shall apply for Environmental Clearance as per the provision of Form-2.

3. Subsequently, based on the direction of the Hon'ble National Green Tribunal (NGT) *vide* order dated 13th September, 2018 in O.A. No. 186 of 2016 (Satendra Pandey Vs Ministry of Environment Forest & Climate Change & Anr), use of Form-1M for accepting EC applications for minor minerals upto five hectares has been examined in the Ministry. The matter has also been discussed with various SEIAAs/SEACs.

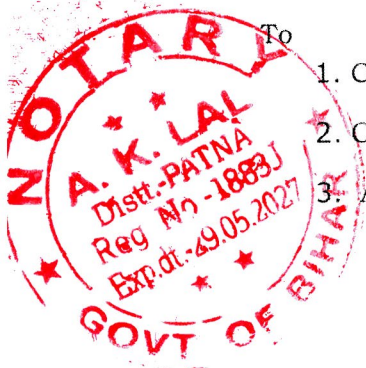
4. Based on above, the Ministry hereby directs that, henceforth, for all Category "B2" projects [other than those covered in schedule 8 of the EIA Notification 2006], the project proponents shall apply in Form-2 on PARIVESH portal along with requisite documents. On selection of category as "B2", the fields in Form-2 which may not be relevant for such projects, [i.e., EIA Report etc.] shall automatically get disabled.

5. The Office Memorandum dated 20th April 2018 shall get modified to that extent.

6. This is issued with the approval of the competent authority.


(A K Agrawal)
Director

- To
1. Chairperson/Member Secretaries of all Expert Appraisal Committees
 2. Chairperson/Member Secretaries of all SEIAAs/SEACs
 3. All Officers of IA Division



-75-

Copy for information to:

1. PS to Minister for Environment, Forest and Climate Change
2. PS to MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to AS (RA)/JS(TK)/JS(SKB)
5. Website of MoEF&CC/Guard file



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Government of Bihar
Department of Mines & Geology

NOTIFICATION

A.N.-01/L.K.(Brick)-42/20-²⁶⁴⁵.....M./ In exercise of the powers conferred by section 15 of Mines & Minerals (Development and Regulation) Act, 1957 the Governor of Bihar is hereby pleased to make the following rules to amend the Bihar Minerals (Concession, Prevention Of Illegal Mining, Transportation & Storage) Rules, 2019.

1. **Short title, extent and commencement:** – (1) These Rules may be called Bihar Minerals (Concession, Prevention Of Illegal Mining, Transportation & Storage) (Amendment) Rules, 2020.
 - (2) It shall extend to the whole of the State of Bihar.
 - (3) It shall come into force at once.
2. **Amendment in Chapter-VIII, Rule-38 (3) of Bihar Minerals (Concession, Prevention Of Illegal Mining, Transportation & Storage) Rules, 2019:- Sub-rule (3) of Rule-38 of Chapter-VIII of said Rules, 2019 shall be substituted by the following:-**

"38 (3) On an application made to the Mining Officer by an applicant and on submission of the required documents as prescribed in Rule 34 of these rules along with No Objection Certificate and Emission consent order from the Bihar State Pollution control Board and the consolidated amount of royalty as per Schedule III B of the rules, He/She shall grant a quarrying permit in form 'D' for extraction and removal of brick earth in respect of any brick kiln for a particular brick season from any specified land within the limit of his/her jurisdiction.

Provided that the quarrying for the purpose of brick kiln shall be deemed as non-mining activity for the purpose of environmental clearance and shall not require Environmental Clearance if the depth of quarry is not more than one and half meters from the adjoining ground level."

By order of the Governor of Bihar,

Sd/-

(Sushil Kumar)

Under Secretary to Govt.

Memo-no.-.....²⁶⁴⁵...../M,Patna,Dated..14/9/2020.
Copy:Forwarded to the Under Secretary, Finance Department(e-gazette cell) to Publish in extraordinary issue of the Bihar Gazette and provide 100 extra copy to department.

Sd/-

Under Secretary to Govt.



Memo-no.-.....2645...../M,Patna,Dated..14/9/2020.

Copy:Forwarded to Special Secretary, Cabinet Secretariate Department, Bihar, Patna for information and necessary actions in light of para no.-13 of minutes of Cabinet dt. 08.09.2020.

Sd/-

Under Secretary to Govt.

Memo-no.-.....2645...../M,Patna,Dated..14/9/2020.

Copy:Forwarded to All Departments/All Heads of Departments/All Commissioner/All D.M. Bihar for information and necessary actions.

Sd/-

Under Secretary to Govt.

Memo-no.-.....2645...../M,Patna,Dated..14/9/2020.

Copy:Forwarded to All Deputy Director/Assistant Director/MDO/Mines Inspector, Mines & Geology Dept. for information and necessary actions.

14/9/2020



14/9/2020
Under Secretary to Govt.

-78-

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11181 of 2021

Abhay Kumar, Son of Shri Om Prakash, Resident of Road No. 1F, Opposite Energy Park, Near Om Anand Vihar Apartment, Board Colony, Patel Nagar, District-Patna, Bihar-800023.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Environment, Forest and Climate Change, New Delhi.
2. Joint Secretary, Ministry of Environment, Forest and Climate Change, New Delhi.
3. Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
4. Under Secretary, Department of Mines and Geology, Government of Bihar, Patna.
5. Member Secretary, Bihar State Pollution Control Board, Bihar, Patna.
6. Chairman, State Environment Impact Assessment Authority, Bihar, Patna.
7. General Secretary, Bihar Bricks Manufacturing Association, Shubham-Rohit Market, Rukanpura, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Advocate Mr. Raushan Advocate Mr. Pushkar Bhardwaj, Advocate
For the UOI	:	Mr. Atul Prakash, Advocate Mr. Dr. K. N. Singh, ASG Mr. Kumar Priya Ranjan, CGC Mr. Sandeep Kumar, Advocate Mr. Vibhuti Kumar, Advocate
For the State	:	Mr. Gyan Prakash Ojha, GA-7 Mr. Ajit Kumar, AC to GA-7
For SEIAA	:	Mr. Kumar Ravish, Advocate Ms. Siddhi Aashna, Advocate
For Mines Department	:	Mr. Naresh Dixit, Spl. P.P. Mr. Sumit Shekhar Pandey, Advocate Ms. Kalpana, Advocate
For Pollution Board	:	Mr. Abhimanyu Singh, Advocate
For the Resp. No. 7	:	Mr. Manoj Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

CAV JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

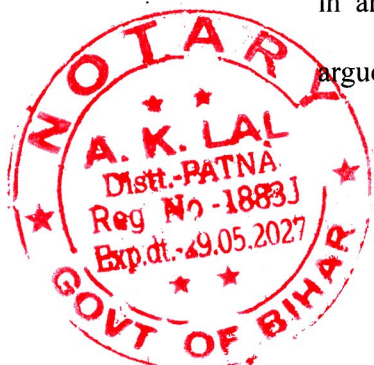


Date: 07-03-2024

The petitioner in the above case, which is filed as a public interest litigation, is aggrieved with the notification brought out at Annexure-2, by which quarrying for the purpose of brick-kiln was deemed to be a non-mining activity for the purpose of environmental clearance and also required that such clearance would be imperative only if the depth of quarry is not more than one and a half meters from the adjoining ground level.

2. Shri Abhinav Shrivastava, learned counsel for the petitioner, specifically pointed out Annexure-1 notification issued by the Ministry of Environment, Forest and Climate Change (For brevity 'MoEF&CC') dated 28.03.2020, wherein by Appendix-IX, a number of activities were held to be not requiring prior environmental clearance. Sl. No. 13 of the Appendix provided for activities which could be declared by the State Government under legislation or rules as a non-mining activity.

3. It is argued that primarily, it is beyond the power conferred on the executive government at the Centre and in any event, it results in excessive delegation. Further, it is argued that even if Sl. No. 13 is found to be in order, then,



necessarily the activities which are so declared by the State Government, can only be such activities as are covered by or similar to those described in Sl. Nos. 1 to 12. Sl. Nos. 1 to 12 are all activities which ensure preservation of a traditional occupation or a craft or skill and along with such preservation, sustenance of the livelihood of the marginalized groups in society who will be unable to procure an environmental clearance. There are absolutely no guidelines insofar as bringing in activities by the State as provided in Sl. No. 13. Specific reliance is made to Annexure-P/4 which has spoken of preservation of top soil, which is to maintain the fertility of the soil, which objective would be defeated and frustrated, if rampant brick-kilns are brought into operation.

4. Shri Abhimanyu Singh, learned Standing Counsel for the Bihar State Pollution Control Board, points out that despite absolving the brick-kilns from getting environmental clearance, they have to get a consent to establish and then a consent to operate from the Pollution Control Board, which is as per the Air (Prevention and Control of Pollution) Act, 1981.

5. The learned Government Advocate specifically points to the notification issued by the MoEF&CC,



Patna High Court CWJC No.11181 of 2021 dt.07-03-2024
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prior to Annexure-4, wherein Sl. No. 13 had required an approval from the Central Government before the State declares any activity to be one not requiring prior environmental clearance. The said rigor has been removed in Annexure-4 notification, which clearly indicates the mind of the Central Government. The intention is only to promote such activity by the State, which are considered to be imperative and expedient in development, while at the same time ensuring no environmental depredation is occasioned, as in a mining activity.

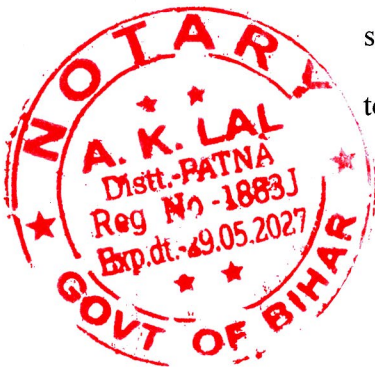
6. By Section 4 of the Mines and Mineral (Development and Regulation) Act, 1957 (For brevity 'MMDR Act), any person undertaking reconnaissance, prospecting or mining operation in any area shall do so only with a reconnaissance permit, a prospecting license or a mining lease granted under the Act and the Rules made there under. Section 15 of the MMDR Act confers power on the State Government to make Rules with respect to the grant of quarry leases/mining leases and other mineral concessions. It is also pertinent that Section 14 of the MMDR Act as it earlier stood excluded Sections 4 to 13 from application to minor minerals and the same was amended with effect from 1986 by excluding only



Sections 5 to 13. Hence Section 4 would be applicable even for minor minerals.

7. The Mines Act, 1952 and the MMDR Act are complementary enactments and one does not exclude the other. Any activity carried on involving underground excavation, including an open cast working, is brought under the Mines Act, as a 'mine' and there is no separate definition of 'mine' under the MMDR Act. *Bhagwan Dass v. State of Uttar Pradesh & Others; (1976) 3 SCC 784, Sri Tarkeshwar Sio Thakur Jiu v. Dar Dass Dey & Co. and Others; (1979) 3 SCC 106* are authorities for the proposition that despite no activities being carried on underground even an open cast working is defined under the Mines Act.

8. *Bhagwan Dass* (supra) held that the Act of 1957 and the Rules of 1963 (UP State rules) "shows that minerals need not be subterranean and that mining operations cover every operation undertaken for the purpose of 'winning' any mineral. 'Winning' does not imply a hazardous or perilous activity. The word simply means 'extracting a mineral' and is used to generally indicate any activity by which a mineral is secured. 'Extracting' in turn, means drawing out or obtaining. A tooth is 'extracted', as much as is fruit juice and as much as a

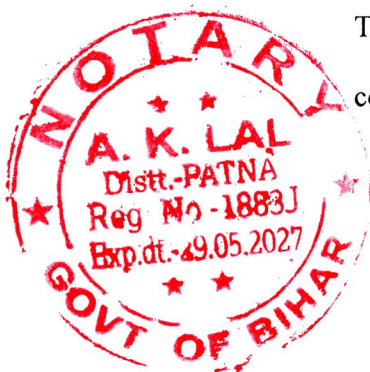


Patna High Court CWJC No.11181 of 2021 dt.07-03-2024
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mineral. Only, that the effort varies from tooth to tooth from fruit or fruit and from mineral to mineral" (sic paragraph 13).

9. *Tarkeshwar Sio Thakur Jiu* held so: "It is true that in the definition of 'mine the term 'excavation' in the ordinary sense, means 'hole' 'hollow' or 'cavity' made by digging out. But the word 'any' prefixed to 'excavation' in the context of the phrase 'for the purpose of searching for or obtaining mineral' gives it a much more extensive connotation, so that every 'excavation' be it in the shape of an open cast cavity or a subterranean tunneling, will fall within the definition of mine. Similarly, it is not a requirement of the definition of 'mining operation' that the activity for winning the mineral must necessarily be an underground activity. The essence of 'mining operations is that it must be an activity for winning a mineral, whether on the surface or beneath the surface of earth.' (sic paragraph 16).

10. In (1987) 3 SCC 208; *Joint Director of Mines Safety v. M/s. Tandur and Nayandgi Stone Quarries (P) Ltd.* held that the legislation as manifested by the scheme of the Mines Act, is primarily to ensure the safety of the workmen. The preamble of the Mines Act professes its intention to consolidate the law relating to the regulation of labour and



safety in mines while that of the MMDR Act provides for the development and regulation of mines and minerals under the control of the Union.

11. Section 4 of the MMDR Act, as we found, provides that no person shall undertake any reconnaissance, prospecting or mining operations except under and in accordance with the terms and conditions of the reconnaissance permit, a prospecting license or a mining lease. The State Government has been conferred with the power to make rules in respect of minor minerals under Section 15 of the Act. Section 15 does not grant any power to the State Government to exempt any activity which involves minor mineral quarrying; from the requirement of a permit, license or lease.

12. The power of the respective legislatures, was considered by the Hon'ble Supreme Court in (2012) 11 SCC 1; *Monnet Ispat & Energy Ltd. v. Union of India*. Entry 54 of List I and Entry 23 of List II was looked into, to find that the States power to regulate mines and mineral development is taken away to the extent of regulations made by the Union Parliament. It was held so in Paragraph 130:

The same philosophy is reflected in our Constitution. The management of the mineral resources has been left with both the Central Government and the State Governments in terms of List I Entry 54 and List II Entry 23. In the scheme of our Constitution, the State Legislatures enjoy



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the power to enact legislation on the topics of "mines and minerals development". The only fetter imposed on the State Legislatures under Entry 23 is by the latter part of the said entry which says, "subject to the provisions of List I with respect to regulation and development under the control of the Union". In other words, the State Legislature loses its jurisdiction to the extent to which the Union Government had taken over control, the regulation of mines and development of minerals as manifested by legislation incorporating the declaration and no more. If Parliament by its law has declared that regulation of mines and development of minerals should in the public interest be under the control of the Union, which it did by making declaration in Section 2 of the 1957 Act, to the extent of such legislation incorporating the declaration, the power of the State Legislature is excluded. The requisite declaration has the effect of taking out regulation of mines and development of minerals from List II Entry 23 to that extent. It needs no elaboration that to the extent to which the Central Government had taken under "its control" "the regulation of mines and development of minerals" under the 1957 Act, the States had lost their legislative competence. By the presence of the expression "to the extent hereinafter provided" in Section 2, the Union has assumed control to the extent provided in the 1957 Act. The 1957 Act prescribes the extent of control and specifies it. We must bear in mind that as the declaration made in Section 2 trenches upon the State legislative power, it has to be construed strictly. Any legislation by the State after such declaration, trespassing the field occupied in the declaration cannot constitutionally stand. To find out what is left within the competence of the State Legislature on the declaration having been made in Section 2 of the 1957 Act, one does not have to look outside the provisions of the 1957 Act but as observed in *Bajjnath Kadio*, "have to work it out from the terms of that Act". In order that the declaration made by Parliament should be effective, the making of rules or enforcement of rules so made is not decisive.

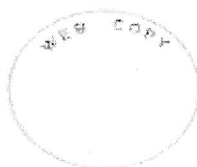
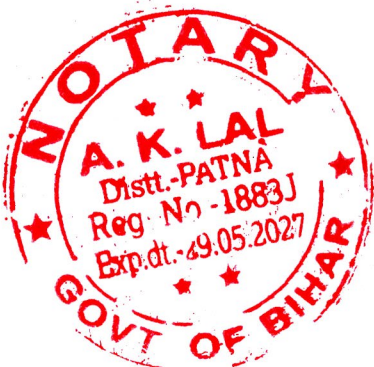
13. Hence, the power of the State is taken away
to the extent provided in the MMDR Act, as declared in Section



2 of the said Act. Section 4 is a prohibition from undertaking any reconnaissance, prospecting or mining without a permit, license or lease. Section 14 as it originally stood exempted minor minerals from Sections 4 to 13; which stood amended with effect from 10.02.1987 (Act 37 of 1986); making inapplicable only Sections 5 to 13, to minor minerals. In the teeth of Section 4, the State framing rules under Section 15 of the MMDR Act cannot altogether exempt a mining activity from being carried out without permit, license or lease.

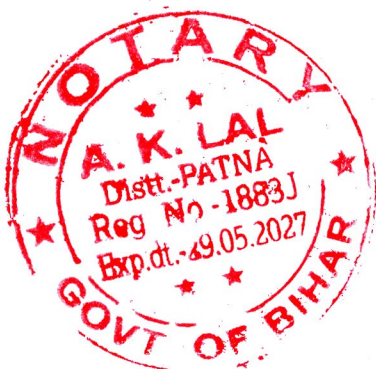
14. The State has under Section-15 of the MMDR Act brought out the Bihar Minor Mineral Concession Rules, 1972 and the Bihar Bricks Supplies and Price Control Act, 1984 along with other rules which regulate the policy of mining within the State; which cannot and do not provide for an exemption from the rigours of the MMDR Act. The subject notifications brought in by the Union Government and the State are not under the MMDR Act and we dealt with the said enactment only to emphasize that the MMDR Act read with the Mines Act require a permit even in the case of brick-kilns, where there is extraction of clay.

15. Now, we look at the notification brought out by the Central Government at Annexure-1, which specifically



affirms the Mineral Laws (Amendment) Act, 2020, amending the MMDR Act and introducing *inter alia* a new Section 8B in the MMDR Act. Sub-section (1) of Section-8B provides that notwithstanding anything contained in the Act or any other law for the time being in force, a successful bidder of mining leases, expiring under the provisions of Sub-sections (5) and (6) of Section-8A of the MMDR Act and selected through auction, shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like, vested with the previous lessee for a period of two years. Sub-section (2) again a *non obstante* clause, provides that it shall be lawful for the new lessee to continue mining operations on the land for a period of two years as done by the previous lessee.

16. It is to further the object of the aforesaid amendment to the MMDR Act, that the Central Government brought out the notification dated 28.03.2020. to align the relevant provisions of the earlier notification; S.O. 1533 (E) dated 14.09.2006, with the provisions of the MMDR Act with the Environmental Impact Assessment (EIA) Notification, 2006. The notification also refers to the representations received by the MoEF&CC for waiver of prior environmental clearance for burrowing ordinary earth for roads, manual extraction of lime

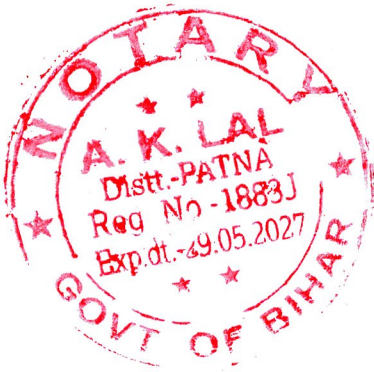


Patna High Court CWJC No.11181 of 2021 dt.07-03-2024
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shells, shrines etc., within inter tidal zones by the traditional community. Prior environment clearance is a measure brought in to preserve the environment.

17. The notification was brought out exercising the powers conferred by Section 3 (i) (ii) and (v) read with Rule-5 (iv) of the Environmental (Protection) Rules 1986, after dispensing with the requirement of notice under Rule-5(3)(a). Here, we have to immediately refer to the provisions of the Environmental (Protection) Act 1986 and the rules framed thereunder. Section-3(1) confers the Central Government with the power to take all measures, deemed necessary or expedient, to protect and improve the quality of the environment, aimed at preventing, controlling and abating environmental pollution. Clause-(5) of sub-section (2) also specifies prescription of areas in which any industry, operation or process or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards.

18. We have to specifically emphasize that the provisions of the Environment Act is to bring in measures to prevent, control and abate environmental pollution. Rule-5 of the Environment (Protection) Rules, 1986, has the nominal heading of *Prohibition and restriction on the location of*



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industries and the carrying on processes and operations in different areas' (sic) and Sub-rule (4) of rule 5 speaks of dispensing with the requirement of notice, if it appears to the Central Government to be in public interest. The notification while providing for specific environmental clearance in furtherance of the object to Environment Protection Act also provides for certain exemptions, which was the specific concern of the Central Government, while bringing out the notification dated 28.03.2020. Indubitably the power to restrict industries, brings with it the power to exempt the restrictive measures for certain activities; which should be either on the ground of such exempted industries not leading to depredation of environment or there existing any expedient circumstance akin to protection of traditional industries, protecting the masses from natural calamities or in furtherance of developmental activities.

19. We have to again emphasize that the exemption sought by the representations was insofar as extracting ordinary earth for roads, manual extraction within inter tidal zone by the traditional community and so on. Clauses-1, 2, 8 and 9 are to protect the traditional communities like the potters, earthen tile makers, Banjaras & Oads in Gujarat and traditional communities within inter tidal zones. Clauses-3,



Patna High Court CWJC No.11181 of 2021 dt.07-03-2024
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4, 5, 7 and 12 are provisions to protect farm lands from natural calamities like floods, customary extractions for community work, community works, dredging and desilting of water bodies and plugging any breach in the natural or man-made water bodies; which could lead to a disaster. Clause-6 refers to burrowing of ordinary earth for linear projects such as roads, pipelines etc. Clause-10 refers to irrigation or drinking water purpose and Clause-11 refers to digging of foundation for buildings, not requiring prior environmental clearance. Clause-13 is the objectionable clause which speaks of activities declared by the State Government under legislation or rules as non-mining activity.

20. We have to specifically notice at this juncture that earlier such notifications or legislations required the concurrence of the MoEF&CC, Government of India which has been taken away, providing *carta blanche* insofar as the State being conferred with the power of exempting mining activities. This would inherently be a further delegation of the power conferred by the Parliament on the Central Government by the Union Legislation. We have already noticed the rule making power of the Central Government, which is aimed at preserving and protecting the environment for which appropriate measures



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could be taken. While taking such appropriate measures, the Central Government, as we found, is quite competent to reckon the activities (i) carried out traditionally, (ii) for development; confined to roads, pipelines etc.; which are public utility services, (iii) protection of the masses from natural calamities, and (iv) provision of basic necessities of life, like drinking water and irrigation. Brick manufacturing does not come under any of the exempted categories as specified from the various exemptions granted under Appendix-IX or from the power sourced to the Environment Protection Act. The 'other activity', which is capable of being exempted, referred to in Clause-13 of Appendix-IX has to be akin to and take its colour and texture from the other activities mentioned under Appendix-IX as exempted activities, going by the principle of *ejusdem generis*.

21. It has also to be emphasized that the State has not been conferred with any such power of exemption by the statute; neither the MMDR Act nor the Environment Protection Act. In that circumstance the power delegated to the Union Government cannot further be delegated to the State Government on the principle of "*deligatus non protest delegare*".

22. Hence, both on the principle of *ejusdem*



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generis and more so on the principle of a delegate being prevented from further delegation, Annexure-2 notification of the State Government has to be interfered with. The amendment to Rule-38(3) of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 has to be set aside. We do so. The EIA Notification of 2006 to the extent it delegates the power to exempt, to the State by Clause-13 of Appendix-IX also is bad and the same stands set aside. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

I agree.
Harish Kumar, J:

(Harish Kumar, J)

Sujit/Ranjan

AFR/NAFR	AFR
CAV DATE	20.02.2024
Uploading Date	07.03.2024
Transmission Date	



F. No. IA3-3/45/2021-IA.III [E-165219]
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi-110 003
Dated 9th August, 2024

OFFICE MEMORANDUM

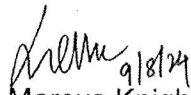
Sub: Circulation of the Judgement dated 07.03.2024 of Hon'ble High Court of Patna in C.W.J.C No. 11181 of 2021 in the matter titled Abhay Kumar vs. Union of India & Ors. – reg.

The Ministry, issued a Notification dated 15.01.2016 which was subsequently amended vide notification dated 28.03.2020. The amended notification inter-alia under clause 13 of Appendix IX provides an exemption from the requirement of obtaining Environmental Clearance to such category of cases that are specifically declared by the State Government under legislation or rules as non-mining activity.

2. The Hon'ble High Court of Patna, vide its judgment dated 07.03.2024, in C.W.J.C No. 11181 of 2021 in the matter titled Abhay Kumar vs. Union of India & Ors., has set aside clause 13 of Appendix IX in the Environmental Impact Assessment Notification, 2006.

3. The copy of the order which is self-explanatory is enclosed herewith for compliance.

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


(Dr. J. D. Marcus Knight)
Scientist E

Encl: As above.

To

1. The Chief Secretaries of all the States / UTs
2. Chairperson/ Member Secretaries of all Expert Appraisal Committees
3. Chairperson/Member Secretaries of all SEIAAs/SEACs
4. Chairpersons/Member Secretaries of all SPCBs/ UTPCCs
5. All Officers of IA Division

Copy for information to

1. PS to Hon'ble MEF&CC
2. PS to Hon'ble MoS, EF&CC
3. PPS to Secretary, EF&CC
4. PPS to SS (TK)/JS (SKB)
5. Website, MoEF&CC /Guard file



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... .. Petitioner/s

Versus

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2. Joint Secretary, Ministry of Environment, Forest and Climate Change, New Delhi.
3. Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
4. Under Secretary, Department of Mines and Geology, Government of Bihar, Patna.
5. Member Secretary, Bihar State Pollution Control Board, Bihar, Patna.
6. Chairman, State Environment Impact Assessment Authority, Bihar, Patna.
7. General Secretary, Bihar Bricks Manufacturing Association, Shubham-Rohit Market, Rukanpura, District- Patna.

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For the State	:	Mr. Gyan Prakash Ojha, GA-7 Mr. Ajit Kumar, AC to GA-7
For SEIAA	:	Mr. Kumar Ravish, Advocate Ms. Siddhi Aashna, Advocate
For Mines Department	:	Mr. Naresh Dixit, Spl. P.P. Mr. Sumit Shekhar Pandey, Advocate Ms. Kalpana, Advocate
For Pollution Board	:	Mr. Abhimanyu Singh, Advocate
For the Resp. No. 7	:	Mr. Manoj Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

CAV JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

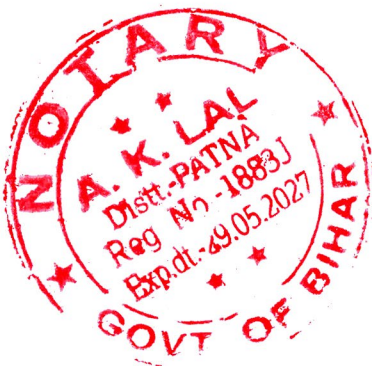


Date: 07-03-2024

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necessarily the activities which are so declared by the State Government, can only be such activities as are covered by or similar to those described in Sl. Nos. 1 to 12. Sl. Nos. 1 to 12 are all activities which ensure preservation of a traditional occupation or a craft or skill and along with such preservation, sustenance of the livelihood of the marginalized groups in society who will be unable to procure an environmental clearance. There are absolutely no guidelines insofar as bringing in activities by the State as provided in Sl. No. 13. Specific reliance is made to Annexure-P/4 which has spoken of preservation of top soil, which is to maintain the fertility of the soil, which objective would be defeated and frustrated, if rampant brick-kilns are brought into operation.

4. Shri Abhimanyu Singh, learned Standing Counsel for the Bihar State Pollution Control Board, points out that despite absolving the brick-kilns from getting environmental clearance, they have to get a consent to establish and then a consent to operate from the Pollution Control Board, which is as per the Air (Prevention and Control of Pollution) Act, 1981.

5. The learned Government Advocate specifically points to the notification issued by the MoEF&CC,



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prior to Annexure-4, wherein Sl. No. 13 had required an approval from the Central Government before the State declares any activity to be one not requiring prior environmental clearance. The said rigor has been removed in Annexure-4 notification, which clearly indicates the mind of the Central Government. The intention is only to promote such activity by the State, which are considered to be imperative and expedient in development, while at the same time ensuring no environmental depredation is occasioned, as in a mining activity.

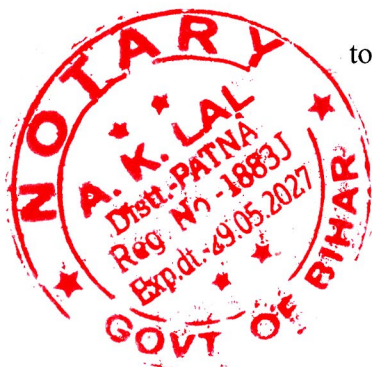
6. By Section 4 of the Mines and Mineral (Development and Regulation) Act, 1957 (For brevity 'MMDR Act), any person undertaking reconnaissance, prospecting or mining operation in any area shall do so only with a reconnaissance permit, a prospecting license or a mining lease granted under the Act and the Rules made there under. Section 15 of the MMDR Act confers power on the State Government to make Rules with respect to the grant of quarry leases/mining leases and other mineral concessions. It is also pertinent that Section 14 of the MMDR Act as it earlier stood excluded Sections 4 to 13 from application to minor minerals and the same was amended with effect from 1986 by excluding only



Sections 5 to 13. Hence Section 4 would be applicable even for minor minerals.

7. The Mines Act, 1952 and the MMDR Act are complementary enactments and one does not exclude the other. Any activity carried on involving underground excavation, including an open cast working, is brought under the Mines Act, as a 'mine' and there is no separate definition of 'mine' under the MMDR Act. *Bhagwan Dass v. State of Uttar Pradesh & Others; (1976) 3 SCC 784, Sri Tarkeshwar Sio Thakur Jiu v. Dar Dass Dey & Co. and Others; (1979) 3 SCC 106* are authorities for the proposition that despite no activities being carried on underground even an open cast working is defined under the Mines Act.

8. *Bhagwan Dass* (supra) held that the Act of 1957 and the Rules of 1963 (UP State rules) "shows that minerals need not be subterranean and that mining operations cover every operation undertaken for the purpose of 'winning' any mineral. 'Winning' does not imply a hazardous or perilous activity. The word simply means 'extracting a mineral' and is used to generally indicate any activity by which a mineral is secured. 'Extracting' in turn, means drawing out or obtaining. A tooth is 'extracted', as much as is fruit juice and as much as a



mineral. Only, that the effort varies from tooth to tooth from fruit or fruit and from mineral to mineral" (sic paragraph 13).

9. *Tarkeshwar Sio Thakur Jiu* held so: "It is true that in the definition of 'mine the term 'excavation' in the ordinary sense, means 'hole' 'hollow' or 'cavity' made by digging out. But the word 'any' prefixed to 'excavation' in the context of the phrase 'for the purpose of searching for or obtaining mineral' gives it a much more extensive connotation, so that every 'excavation' be it in the shape of an open cast cavity or a subterranean tunneling, will fall within the definition of mine. Similarly, it is not a requirement of the definition of 'mining operation' that the activity for winning the mineral must necessarily be an underground activity. The essence of 'mining operations is that it must be an activity for winning a mineral, whether on the surface or beneath the surface of earth.' (sic paragraph 16).

10. In *(1987) 3 SCC 208; Joint Director of Mines Safety v. M/s. Tandur and Nayandgi Stone Quarries (P) Ltd.* held that the legislation as manifested by the scheme of the Mines Act, is primarily to ensure the safety of the workmen. The preamble of the Mines Act professes its intention to consolidate the law relating to the regulation of labour and



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safety in mines while that of the MMDR Act provides for the development and regulation of mines and minerals under the control of the Union.

11. Section 4 of the MMDR Act, as we found, provides that no person shall undertake any reconnaissance, prospecting or mining operations except under and in accordance with the terms and conditions of the reconnaissance permit, a prospecting license or a mining lease. The State Government has been conferred with the power to make rules in respect of minor minerals under Section 15 of the Act. Section 15 does not grant any power to the State Government to exempt any activity which involves minor mineral quarrying; from the requirement of a permit, license or lease.

12. The power of the respective legislatures, was considered by the Hon'ble Supreme Court in (2012) 11 SCC 1; *Monnet Ispat & Energy Ltd. v. Union of India*. Entry 54 of List I and Entry 23 of List II was looked into, to find that the States power to regulate mines and mineral development is taken away to the extent of regulations made by the Union Parliament. It was held so in Paragraph 130:

The same philosophy is reflected in our Constitution. The management of the mineral resources has been left with both the Central Government and the State Governments in terms of List I Entry 54 and List II Entry 23. In the scheme of our Constitution, the State Legislatures enjoy



the power to enact legislation on the topics of "mines and minerals development". The only fetter imposed on the State Legislatures under Entry 23 is by the latter part of the said entry which says, "subject to the provisions of List I with respect to regulation and development under the control of the Union". In other words, the State Legislature loses its jurisdiction to the extent to which the Union Government had taken over control, the regulation of mines and development of minerals as manifested by legislation incorporating the declaration and no more. If Parliament by its law has declared that regulation of mines and development of minerals should in the public interest be under the control of the Union, which it did by making declaration in Section 2 of the 1957 Act, to the extent of such legislation incorporating the declaration, the power of the State Legislature is excluded. The requisite declaration has the effect of taking out regulation of mines and development of minerals from List II Entry 23 to that extent. It needs no elaboration that to the extent to which the Central Government had taken under "its control" "the regulation of mines and development of minerals" under the 1957 Act, the States had lost their legislative competence. By the presence of the expression "to the extent hereinafter provided" in Section 2, the Union has assumed control to the extent provided in the 1957 Act. The 1957 Act prescribes the extent of control and specifies it. We must bear in mind that as the declaration made in Section 2 trenches upon the State legislative power, it has to be construed strictly. Any legislation by the State after such declaration, trespassing the field occupied in the declaration cannot constitutionally stand. To find out what is left within the competence of the State Legislature on the declaration having been made in Section 2 of the 1957 Act, one does not have to look outside the provisions of the 1957 Act but as observed in Baijnath Kadio, "have to work it out from the terms of that Act". In order that the declaration made by Parliament should be effective, the making of rules or enforcement of rules so made is not decisive.

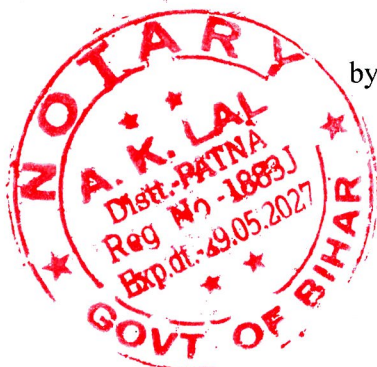
13. Hence, the power of the State is taken away to the extent provided in the MMDR Act, as declared in Section



2 of the said Act. Section 4 is a prohibition from undertaking any reconnaissance, prospecting or mining without a permit, license or lease. Section 14 as it originally stood exempted minor minerals from Sections 4 to 13; which stood amended with effect from 10.02.1987 (Act 37 of 1986); making inapplicable only Sections 5 to 13, to minor minerals. In the teeth of Section 4, the State framing rules under Section 15 of the MMDR Act cannot altogether exempt a mining activity from being carried out without permit, license or lease.

14. The State has under Section-15 of the MMDR Act brought out the Bihar Minor Mineral Concession Rules, 1972 and the Bihar Bricks Supplies and Price Control Act, 1984 along with other rules which regulate the policy of mining within the State; which cannot and do not provide for an exemption from the rigours of the MMDR Act. The subject notifications brought in by the Union Government and the State are not under the MMDR Act and we dealt with the said enactment only to emphasize that the MMDR Act read with the Mines Act require a permit even in the case of brick-kilns, where there is extraction of clay.

15. Now, we look at the notification brought out by the Central Government at Annexure-1, which specifically



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affirms the Mineral Laws (Amendment) Act, 2020, amending the MMDR Act and introducing *inter alia* a new Section 8B in the MMDR Act. Sub-section (1) of Section-8B provides that notwithstanding anything contained in the Act or any other law for the time being in force, a successful bidder of mining leases, expiring under the provisions of Sub-sections (5) and (6) of Section-8A of the MMDR Act and selected through auction, shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like, vested with the previous lessee for a period of two years. Sub-section (2) again a *non obstante* clause, provides that it shall be lawful for the new lessee to continue mining operations on the land for a period of two years as done by the previous lessee.

16. It is to further the object of the aforesaid amendment to the MMDR Act, that the Central Government brought out the notification dated 28.03.2020. to align the relevant provisions of the earlier notification; S.O. 1533 (E) dated 14.09.2006, with the provisions of the MMDR Act with the Environmental Impact Assessment (EIA) Notification, 2006. The notification also refers to the representations received by the MoEF&CC for waiver of prior environmental clearance for burrowing ordinary earth for roads, manual extraction of lime



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shells, shrines etc., within inter tidal zones by the traditional community. Prior environment clearance is a measure brought in to preserve the environment.

17. The notification was brought out exercising the powers conferred by Section 3 (i) (ii) and (v) read with Rule-5 (iv) of the Environmental (Protection) Rules 1986, after dispensing with the requirement of notice under Rule-5(3)(a). Here, we have to immediately refer to the provisions of the Environmental (Protection) Act 1986 and the rules framed thereunder. Section-3(1) confers the Central Government with the power to take all measures, deemed necessary or expedient, to protect and improve the quality of the environment, aimed at preventing, controlling and abating environmental pollution. Clause-(5) of sub-section (2) also specifies prescription of areas in which any industry, operation or process or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards.

18. We have to specifically emphasize that the provisions of the Environment Act is to bring in measures to prevent, control and abate environmental pollution. Rule-5 of the Environment (Protection) Rules, 1986, has the nominal heading of *'Prohibition and restriction on the location of*



industries and the carrying on processes and operations in different areas' (sic) and Sub-rule (4) of rule 5 speaks of dispensing with the requirement of notice, if it appears to the Central Government to be in public interest. The notification while providing for specific environmental clearance in furtherance of the object to Environment Protection Act also provides for certain exemptions, which was the specific concern of the Central Government, while bringing out the notification dated 28.03.2020. Indubitably the power to restrict industries, brings with it the power to exempt the restrictive measures for certain activities; which should be either on the ground of such exempted industries not leading to depredation of environment or there existing any expedient circumstance akin to protection of traditional industries, protecting the masses from natural calamities or in furtherance of developmental activities.

19. We have to again emphasize that the exemption sought by the representations was insofar as extracting ordinary earth for roads, manual extraction within inter tidal zone by the traditional community and so on. Clauses-1, 2, 8 and 9 are to protect the traditional communities like the potters, earthen tile makers, Banjaras & Oads in Gujarat and traditional communities within inter tidal zones. Clauses-3,



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4, 5, 7 and 12 are provisions to protect farm lands from natural calamities like floods, customary extractions for community work, community works, dredging and desilting of water bodies and plugging any breach in the natural or man-made water bodies; which could lead to a disaster. Clause-6 refers to burrowing of ordinary earth for linear projects such as roads, pipelines etc. Clause-10 refers to irrigation or drinking water purpose and Clause-11 refers to digging of foundation for buildings, not requiring prior environmental clearance. Clause-13 is the objectionable clause which speaks of activities declared by the State Government under legislation or rules as non-mining activity.

20. We have to specifically notice at this juncture that earlier such notifications or legislations required the concurrence of the MoEF&CC, Government of India which has been taken away, providing *carta blanche* insofar as the State being conferred with the power of exempting mining activities. This would inherently be a further delegation of the power conferred by the Parliament on the Central Government by the Union Legislation. We have already noticed the rule making power of the Central Government, which is aimed at preserving and protecting the environment for which appropriate measures



could be taken. While taking such appropriate measures, the Central Government, as we found, is quite competent to reckon the activities (i) carried out traditionally, (ii) for development; confined to roads, pipelines etc.; which are public utility services, (iii) protection of the masses from natural calamities, and (iv) provision of basic necessities of life, like drinking water and irrigation. Brick manufacturing does not come under any of the exempted categories as specified from the various exemptions granted under Appendix-IX or from the power sourced to the Environment Protection Act. The 'other activity', which is capable of being exempted, referred to in Clause-13 of Appendix-IX has to be akin to and take its colour and texture from the other activities mentioned under Appendix-IX as exempted activities, going by the principle of *ejusdem generis*.

21. It has also to be emphasized that the State has not been conferred with any such power of exemption by the statute; neither the MMDR Act nor the Environment Protection Act. In that circumstance the power delegated to the Union Government cannot further be delegated to the State Government on the principle of "*deligatus non protest delegare*".

22. Hence, both on the principle of *ejusdem*



generis and more so on the principle of a delegate being prevented from further delegation, Annexure-2 notification of the State Government has to be interfered with. The amendment to Rule-38(3) of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 has to be set aside. We do so. The EIA Notification of 2006 to the extent it delegates the power to exempt, to the State by Clause-13 of Appendix-IX also is bad and the same stands set aside. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

I agree.
Harish Kumar, J:

(Harish Kumar, J)

Sujit/Ranjan

AFR/NAFR	AFR
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