

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SZ) CHENNAI**

Original Application No. 56 of 2022

Stanley Joseph & another

:::

Applicants

Vs.

Union of India & Others

:::

Respondents

**Additional Report filed by the Senior Environmental
Engineer, Kerala State Pollution Control Board, District
Office, Kottayam, on behalf of the Additional
6th respondent in the above Case.**



**Adv. T. NAVEEN (K/273/2000)
Standing Counsel for the addl. 6th respondent**

"In the said notification, after paragraph 9 and before paragraph 10, the following shall be inserted, namely:-

'9A. Notwithstanding anything contained in this notification, the validity of prior environmental clearance granted under the provisions of this notification in respect of the projects or activities whose validity is expiring in the Financial Year 2020-2021 shall be deemed to be extended till the 31st March, 2021 or six months from the date of expiry of validity, whichever is later. Such extension is subject to same terms and conditions of the prior environmental clearance in the respective clearance letters, to ensure uninterrupted operations of such projects or activities which have been stalled due to the outbreak of Corona Virus (COVID-19) and subsequent lockdown (total or partial) declared for its control.' "

Subsequently, the MoEF&CC has issued another notification dated 18-1-2021 stipulating among others, as follows:

"(ii) for paragraph 9A, the following paragraph shall be substituted namely:-

'9A. Notwithstanding anything contained in this notification, the period from the 1st April, 2020 to the 31st March, 2021 shall not be considered for the purpose of calculation of the period of validity of Prior Environmental Clearance granted under the provisions of this notification in view of outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control, however, all activities undertaken during this period in respect of the Environmental Clearance granted shall be treated as valid.' "

A true copy of the notification dated 18-1-2021 issued by the MoEF&CC is produced herewith and marked as **Annexure R-6(h)**. The Director of Mining and Geology vide his letter dated 22-2-2021 has also issued directions to various District Offices informing that the lease/permits of quarry are extended for a period of one year. In view of the above Notifications and the stand taken by the Directorate of Mining and Geology, Ext.R6(b) consent variation order was issued giving validity upto 31-1-2022, as evident from Annexure R6(e).

4. It is respectfully submitted that, as per the records the 4th respondent has stopped its operation before November, 2021, during the period in which the EC issued to the Unit was valid in view of the notifications issued by MoEF&CC. Since the consent issued by the Board



to the 4th respondent was during the currency of a valid environmental clearance, there was no occasion for the Board to initiate any action against the 4th respondent Unit. That part, the Unit had stopped operation of the quarry before the expiry of the consent issued by the Board.

All the facts stated above are true to the best of my knowledge, information and belief.

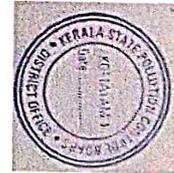
Dated this the 12th day of September, 2023.



Senior Environmental Engineer
Kerala State Pollution Control Board
District Office, Kottayam.



T.NAVEEN
Standing Counsel for K.S.P.C.B.



प्रयोग करते हुए, लोकहित में उक्त नियमों के नियम 5 के उपनियम (3) के खंड (क) के अधीन नोटिस की अपेक्षा से अभिमुक्ति के पश्चात् भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उपखंड (ii) में प्रकाशित भारत सरकार की अधिसूचना संख्यांक का.आ. 1533(अ), तारीख 14 सितम्बर, 2006 में निम्नलिखित और संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में, पैरा 9 के पश्चात् और पैरा 10 के पहले निम्नलिखित अंतःस्थापित किया जाएगा, अर्थात् :-

"9क. इस अधिसूचना में अंतर्विष्ट किसी बात के होते हुए भी, परियोजनाओं और क्रियाकलापों के संबंध में इस अधिसूचना के प्रावधानों के अधीन स्वीकृत की गई पूर्व पर्यावरणीय अनापत्तियों की विधिमान्यता जिसकी विधिमान्यता वित्तीय वर्ष 2020-2021 में समाप्त हो रही है, को 31 मार्च, 2021 या विधिमान्यता समाप्ति की तारीख से छह मास, जो भी बाद में हो, तक विस्तारित किया जाना समझा जाएगा। ऐसा विस्तार संबंधित अनापत्ति पत्रों में पूर्व पर्यावरणीय अनापत्ति उन्हीं निबंधनों और शर्तों के अधीन है कि ऐसी परियोजनाओं और क्रियाकलापों का अविच्छिन्न संचालन जो कोरोना वायरस (कोविड-19) के प्रकोप और तत्पश्चात् इसके नियंत्रण के लिए घोषित लॉकडाउन (पूर्ण या आंशिक) के कारण रूके हुए हैं, सुनिश्चित किया जा सके।

[फा. सं. 22-25/2020-आई.ए. III]

गीता मेनन, संयुक्त सचिव

टिप्पण : मूल अधिसूचना भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii) संख्यांक का.आ. 1533(अ), तारीख 14 सितंबर, 2006 द्वारा प्रकाशित की गई थी और अधिसूचना संख्यांक का.आ. 3752 (अ), तारीख 20 अक्टूबर, 2020, द्वारा अंतिम रूप से संशोधित की गई थी।

Annex - R6(g)

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 27th November, 2020

S.O. 4254(E).—Whereas, the Central Government in the erstwhile Ministry of Environment and Forests, in exercise of its powers under sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 has published the Environment Impact Assessment Notification, 2006 (hereinafter referred to as the said notification) vide number S.O.1533(E), dated the 14th September, 2006, making the requirement of prior environmental clearance from the concerned regulatory authority mandatory for all new projects or activities listed in the Schedule to the said notification, their expansion and modernization and/or change in product mix, as the case may be, before any construction work or preparation of land by the project management except for securing the land;

And whereas, in view of the outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control, implementation of projects or activities in the field has been affected. Ministry is in receipt of number of requests for extension of the validity of prior environmental clearances beyond the maximum period allowed in the said Notification, as the COVID19 pandemic has not yet come to an end. The matter has been examined in the Ministry and the concern is genuine keeping in view the fact that due to lockdowns (total or partial), continuation of activities in the field may be difficult.

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 rule 5 of the said rules in public interest, hereby makes the following further amendments in the notification of Government of India, in the erstwhile Ministry of Environment and Forests, vide number S.O. 1533 (E), dated the 14th September, 2006, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (II), namely:-

In the said notification, after paragraph 9 and before paragraph 10, the following shall be inserted, namely:-

"9A. Notwithstanding anything contained in this notification, the validity of prior environmental clearances granted under the provisions of this notification in respect of the projects or activities whose validity is expiring in the Financial Year 2020-2021 shall be deemed to be extended till the 31st March, 2021 or six months from the date of expiry

R6(2)/2

of validity, whichever is later. Such extension is subject to same terms and conditions of the prior environmental clearance in the respective clearance letters, to ensure uninterrupted operations of such projects or activities which have been stalled due to the outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control".

[F. No. 22-25/2020-IA.III]

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 was last amended vide the notification number S.O. 3752(E), dated the 20th October, 2020.

अतः अब, केंद्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के (4) खंड के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उप-धारा (1) की उप-धारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, लोक हित में उक्त नियमों के नियम 5 के उप-नियम (3) के खंड (क) के अधीन नोटिस की अपेक्षा अभिमुक्ति के पश्चात भारत के राजपत्र असाधारण, भाग- II, खंड 3, उपखंड (II), में प्रकाशित, भारत सरकार की तत्कालीन पर्यावरण और वन मंत्रालय अधिसूचना का.आ.1533 (अ), तारीख 14 सितंबर, 2006, में निम्नलिखित और संशोधन करती है, अर्थात्: -

उक्त अधिसूचना में,

(i) उप शीर्ष II "चरण (2)_विस्तारण", के अधीन पैरा 7 के उप पैरा 7(i) में, खंड (viii) के पश्चात निम्नलिखित खंड अंतःस्थापित किया जाएगा अर्थात्: -

"(ix) उपरोक्त में अंतर्विष्ट किसी बात के होते हुए, 1 अप्रैल 2020 से 31 मार्च 2021 की अवधि में कोरोना वायरस (कोविड-19) के प्रकोप को देखते हुए और तत्पश्चात इसके नियंत्रण के लिए घोषित लॉकडाउन (कुल या आंशिक) की दृष्टि में इस अधिसूचना के उपबंधों के अधीन मंजूर संदर्भ की शर्तों की विधिमान्यता की अवधि की गणना के प्रयोजन के लिए विचार नहीं किया जाएगा, तथापि उक्त संदर्भ की शर्तों के संबंध में इस अवधि के दौरान अपनाए गए सभी क्रियाकलाप विधिमान्य समझे जाएंगे।";

(ii) पैरा 9 क के स्थान पर, निम्नलिखित पैरा रखा जाएगा, अर्थात्: -

"9 क. इस अधिसूचना में अंतर्विष्ट किसी बात के होते हुए, 1 अप्रैल 2020 से 31 मार्च 2021 की अवधि में कोरोना वायरस (कोविड-19) के प्रकोप को देखते हुए और तत्पश्चात इसके नियंत्रण के लिए घोषित लॉकडाउन (कुल या आंशिक) की दृष्टि में इस अधिसूचना के उपबंधों के अधीन मंजूर पूर्व पर्यावरणीय अनापत्ति की विधिमान्यता की अवधि की गणना के प्रयोजन के लिए विचार नहीं किया जाएगा, तथापि उक्त पर्यावरणीय अनापत्ति के संबंध में इस अवधि के दौरान अपनाए गए सभी क्रियाकलाप विधिमान्य समझे जाएंगे।";

[फा. सं. 22-25/2020-आईए. III]

गीता मेनन, संयुक्त सचिव

टिप्पण : मूल अधिसूचना भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (ii) संख्या का.आ. 1533 (अ), तारीख 14 सितंबर, 2006 द्वारा प्रकाशित की गई थी और अधिसूचना अधिसूचना संख्या का.आ. 4254 (अ), तारीख 27 नवंबर, 2020 द्वारा अंतिम बार संशोधन किया गया था।

Annexure - RS (h)

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 18th January, 2021

S.O. 221(E).—Whereas, the Central Government in the erstwhile Ministry of Environment and Forests, in exercise of its powers by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 has published the Environment Impact Assessment Notification, 2006 (hereinafter referred to as the said notification) vide number S.O.1533(E), dated the 14th September, 2006, making the requirement of prior environmental clearance from the concerned regulatory authority mandatory for all new projects or activities listed in the Schedule to the said notification, their expansion and modernisation and/or change in product mix, as the case may be, before any construction work or preparation of land by the project management except for securing the land;

And whereas, in view of the outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control, implementation of projects or activities in the field has been affected. Ministry of

Environment, Forest and Climate Change is in receipt of number of requests for extension of the validity of prior environmental clearances beyond the maximum period allowed in the said notification, as the COVID-19 pandemic has not yet come to an end. The matter has been examined in the said Ministry and the concern is genuine keeping in view the fact that due to lockdowns (total or partial), continuation of activities in the field has been difficult.

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 rule 5 of the said rules in public interest, hereby makes the following further amendments in the notification of Government of India, in the erstwhile Ministry of Environment and Forests, number S.O. 1533 (E), dated the 14th September, 2006, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (II), namely:-

In the said notification, -

- (i) in paragraph 7, in sub-paragraph 7(i), under sub-heading II. "Stage (2) – Scoping", after clause (viii), the following clause shall be inserted, namely:-

"(ix). Notwithstanding anything contained above, the period from the 1st April, 2020 to the 31st March, 2021 shall not be considered for the purpose of calculation of the period of validity of Terms of Reference granted under the provisions of this notification in view of outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control, however, all activities undertaken during this period in respect of the said Terms of Reference shall be treated as valid."

- (ii) for paragraph 9A, the following paragraph shall be substituted namely:-

"9A. Notwithstanding anything contained in this notification, the period from the 1st April, 2020 to the 31st March, 2021 shall not be considered for the purpose of calculation of the period of validity of Prior Environmental Clearances granted under the provisions of this notification in view of outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control, however, all activities undertaken during this period in respect of the Environmental Clearance granted shall be treated as valid."

[F.No.22-25/2020-IA.III]

GEETA MENON, Joint 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 was last amended vide the notification number S.O. 4254(E), dated the 27th November, 2020.