

**NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI**

OA No. 626 of 2023

Balbir Sandhu

Petitioner

Versus

Union of India and others

Respondents

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PLACE: NEW DELHI

DATED: 06.10.2025

  
(ANSHUL MANGLA)

P/2238/2011

Advocate

House No. 477, Sector 12, Panchkula

82830-97167

[anshul.mangla16@gmail.com](mailto:anshul.mangla16@gmail.com)

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Additional reply on behalf of Respondent No.  
8 i.e. M/s Maa Vaishno Minerals, Karnal.

**RESPECTFULLY SHOWETH:**

1. That the aforesaid matter was taken up for hearing on 06.08.2025 wherein the following Order was passed by this Hon'ble Tribunal:

*1. In this original application (OA), Tribunal is examining the limited issue as to whether mining plan by memo dated 26.06.2023 could be issued by Director, Mines and Geology, Haryana in absence of DSR and Replenishment Study. On this limited issue, Tribunal on 12.10.2023 had issued notice to respondent nos. 5 and 8 only.*

*2. Learned Counsel appearing for respondent no.8 submits that rejoinder filed by the applicant has been uploaded only yesterday and seeks four weeks' time to examine the same.*

*3. List for hearing on 30.10.2025.*

2. That the respondent is filing the additional reply in response to the Rejoinder dated 04.08.2025 submitted by the applicant as well as keeping in view the limited issue framed by this Hon'ble Tribunal as per the Order dated 06.08.2025.

3. That the contents of the present additional reply may kindly be read as part and parcel of the reply dated 18.07.2024 submitted by the Respondent No. 8.

**REPLY TO THE PRELIMINARY SUBMISSIONS AND OBJECTIONS:**

- A. That the contents of paragraph No. A is an admission on the part of the applicant in so far as the approval of DSR by DEIAA on 10.08.2017 and uploading of the DSR on official website on 24.05.2018 are concerned. Hence, no reply is required to that extent. The rest of the contents are denied being false.

It is submitted that the approval dated 10.08.2017 granted by DEIAA was with respect to the "Draft" District Survey Report which was yet to be uploaded on the official website for a mandatory period of 21 days for the purpose of seeking comments/suggestions/objections from the public. As per the Letter dated 12.01.2018 (Annexure R-8/5), the Draft District Survey Report was finalized on 12.01.2018; and as per document vide Annexure R-8/6, it was uploaded on 24.05.2018. Since, the District Survey Report is a public document, the period of its validity must be reckoned from 24.05.2018.

**In so far as the issue regarding the approval of the Mining Plan by way of Memo dated 26.06.2023 (Annexure A-8) is concerned,** it is submitted that the approval of the mining

plan is granted as per the Minor Mineral Rules framed by the State Government as per Section 15 read with Section 23 C of MMDR Act, 1957.

In the present case, the approval of the mining plan is governed by the provisions of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012. In this regard, **Rule 66 & 70** are reproduced herein below for ready reference:

**66. Mining Plan** - Any mining operations under a mineral concession granted under these rules shall be undertaken by the mineral concession holder in accordance with a duly approved 'Mining Plan':  
Provided that the State Government may exempt certain specified nature of mining activities from the requirements of preparation of a mining plan.

**70. Requirements of a Mining Plan** - (1) Every mineral concession holder shall prepare a Mining Plan along with the Mine Closure Plan (Progressive & Final) and shall not commence mining operations in any area except in accordance with such Mining Plan duly approved by an officer authorized by the Director in this behalf. The plan shall also contain the conceptual plan of the mining area and take into consideration the following aspects:

- (i) Level of Production;
- (ii) Level of Mechanisation;
- (iii) Type of Machinery used;
- (iv) Quantity of diesel/ energy fuel consumption;
- (v) Number of trees uprooted due to proposed mining operations.

(2) Where the mining operations have already been undertaken under an existing mineral concession before the commencement of these rules, the holder of such mineral concession shall also submit

*a Mining Plan along with Mine Closure Plan within a period of ninety days from the commencement of these rules for approval by the authorized officer.*

*(3) Every mining plan or scheme of mining submitted for approval under these rules shall be accompanied with a non-refundable fee of Rs. 5,000 for every square kilometre or part thereof in respect of the mining area covered under the mining plan.*

*(4) Every mining plan shall contain all plans, sections serially numbered or suitably indexed. The tracings or copies of such plans and sections duly certified for its correctness by the owner, agent, mining engineer or manager or geologist, by the mining engineer/ geologist appointed by the concession holder, shall be kept at the site office of the minor mineral mine/ concession area.*

*(5) A mining plan shall incorporate the following as a minimum:*

*(i) the plan of the area under concession delineated on a map with boundaries duly marked along with the positions of boundary pillars with GPS readings;*

*(ii) the plan of the area under concession showing the nature and extent of the mineral body/ spot or spots where the mining operations are proposed to be undertaken;*

*(iii) the plan of the area showing natural water courses, limits of reserves and other forest areas and density of trees, if any, assessment of impact of mining activity on forest, land surface and environment including air and water pollution i.e. the environment management plan;*

*(iv) details of the geology and lithology of the area including the estimated mineral reserves of the area;*

*(v) extent of manual mining or mining with the use of machinery and mechanical devices;*

*(vi) tentative scheme of mining and annual programme and plan for excavation/ production from year-to-year for a period of five years as part of the Mining Plan;*

*(vii) proposed method of mining/ development of mines, use of explosives and blasting operations, if any, stacking and disposal of minerals, mine-drainage pattern, handling of the overburden, location of electronic weigh bridges, and mineral processing, if any;*

*(viii) progressive and final mine closure plan;*

*(ix) details of scheme of restoration/ rehabilitation of the area through afforestation, land reclamation, use of pollution control devices and such other measures as may be directed by the State Government from time to time.*

*(6) In addition to the requirements stipulated under sub-rule (4) above, every mining plan shall delineate the approach in respect of environmental safeguards and restoration and rehabilitation measures of the area with regard to the following, among others:*

*(i) precautions for the protection of environment and control of pollution while undertaking mining operations in the area granted on contract lease/ contract;*

*(ii) control of air pollution due to dust, exhaust emissions or fumes during mining or processing operations for minor mineral and related activities and containing the same within permissible limits specified under any environmental laws for the time being in force;*

*(iii) precautions to prevent or reduce the discharge of toxic and objectionable liquid effluents from minor mineral quarry, workshop or processing plant within the permissible limits. No such toxic affluent shall be discharged in any water body or in the sub-soil through a bore-hole;*

*(iv) abatement of and control over the noise arising out of mining and processing operations for minor minerals so as to keep the same within the permissible limits;*

*(v) prevention and containment of any damage to the flora of the area held under concession and the nearby area, scheme*

*of undertaking plantation to compensate for any unavoidable damage and maintenance of the same during the subsistence of the concession period;*

*(vi) removal and stacking of any top soil or over-burden or waste rock and nonsaleable minor mineral excavated/ generated during the mining operations and utilisation of the same for restoration and rehabilitation of the area;*

*(vii) plan for phased restoration, reclamation and rehabilitation of land affected by mining operations.*

*(7) The mining plan, once approved, shall be valid for the mineral concession period, unless revised and modified and got approved during the concession period.*

*(8) The owner, agent, mining engineer or manager of every mine shall review the mining plan after every five years and shall submit scheme of mining for the next five years of the concession period, as the case may be, to the authorized officer for his approval.*

**In so far as the issue regarding approval of the mining plan in the absence of replenishment study is concerned,**

it is submitted that the mining plan was approved by the Competent Authority on the basis of the Replenishment Study Report, 2022 duly approved by the Competent Authority. The replenishment study report is appended alongwith the Reply dated 18.07.2024 (at running Page No. 538-579).

**In so far as the issue regarding approval of the mining plan in the absence of DSR is concerned,**

it is submitted that the e-auction notice dated 18.08.2022 (Annexure A-6) as well as Letter of Intent dated 06.10.2022 (Annexure A-7) were issued during the validity of the DSR.

It is further submitted that the mining plan was prepared and approved as per the State Mining Rules, 2012 on the basis of the details of the mining block provided in the Letter of Intent dated 06.10.2022 as well as on the basis of the replenishment study report. Since the process of preparation and approval of the mining plan is an ongoing process, the expiry of the DSR, as in the present case, shall have no bearing on the approval of the mining plan. Furthermore, as per **Chapter 4.3 of Enforcement and Monitoring Guidelines for Sand Mining, 2020** (Annexure A-4), the consideration for approval of mining plan have been enshrined; and the District Survey Report is not a consideration for the said purpose.

It is shall be imperative to state that as per the Notification dated 15.01.2016 (Annexure A-1) and Notification dated 25.07.2018 (Annexure A-3), it is mentioned that *The District Survey Report shall form the basis for application for Environmental Clearance, preparation of reports and appraisal of projects.*

In this regard, it is submitted that the validity of the District Survey Report is to be taken into consideration at the time of grant of environmental clearance in terms of Notification dated 14.09.2006. In this regard, a copy of Notification dated 14.09.2006 is attached herewith as **Annexure R-8/12.**

The bare perusal of Paragraph No. 7 of the Notification dated 14.09.2006 shall reveal that the stages in the grant of Environmental Clearance are related to the purposes set forth in the Notification dated 15.01.2016 and 25.07.2018 with respect to the District Survey Report. Hence, for all means

and purposes, in the present case, the validity of the DSR shall have no bearing on the approval of the mining plan.

- B. That the contents of paragraph No. B are general in nature. Hence, no reply is being submitted.
- C. That the contents of paragraph No. C are a matter of record in so far as e-auction dated 23.08.2022, LOI dated 06.10.2022, e-auction notice dated 30.05.2023 and approval of mining plan are concerned. The rest of the contents are denied being false and contrary to record. It is submitted the LOI dated 06.10.2022 was issued with respect to Bailgarh North Mining Block which was auctioned in pursuance of E-auction Notice dated 26.07.2022 (Annexure R-8/7) read with corrigendum dated 18.08.2022 (Annexure A-6). In so far as the e-auction notice dated 30.05.2023 (Annexure A-9) is concerned, the same is wholly unrelated to the e-auction notice dated 26.07.2022, corrigendum dated 18.08.2022 and LOI dated 06.10.2022 since the mining blocks sought to be auctioned were different.
- D. That the contents of paragraph No. D are denied being false and contrary to be record. In this regard, the contents of preceding paragraph are reiterated. It is further submitted that the approval of the mining plan vide Letter dated 26.06.2023 is wholly unrelated to the e-auction notice dated 30.05.2023.
- E. That the contents of paragraph No. E, in so far as the same refers to the e-auction notice dated 30.05.2023 is concerned,

no specific reply is being submitted in view of the Order dated 06.08.2025 passed by this Hon'ble Tribunal. However, the contents of the paragraph are denied in so far as the reference to the approval of the mining plan dated 26.06.2023 is concerned. In this regard, the contents of paragraph No. A of the present reply are reiterated.

- F. That the contents of paragraph No. F are denied and the contents of the reply dated 18.07.2024 by Respondent No. 8 are reiterated.
- G. That the contents of paragraph No. G are not related to Respondent No. 8. Hence, no reply is being submitted.
- H. That the contents of paragraph No. H are denied being false and baseless. The contents of reply dated 18.07.2024 are reiterated.
- I. That the contents of paragraph No. I are not related to the answering respondent and no reply is being submitted.
- J. That the contents of paragraph No. J are denied being false and baseless. It is submitted that the approval to the final DSR was granted on 12.01.2018 and the final DSR was uploaded on the website on 24.05.2018. Hence, the DSR was valid till 23.05.2023. The e-auction notice dated 26.07.2022 and LOI dated 06.10.2022 were issued during the validity of the DSR. In so far as the mining plan is concerned, the same was prepared on the basis of the replenishment study report which included the data for pre-monsoon survey (May, 2022)

and post-monsoon survey (October, 2022). The approval of the mining plan dated 26.06.2023 was granted on the basis of the aforesaid replenishment study report which was prepared during the validity of the DSR; and the approval was granted as per the Haryana State Mining Rules, 2012. Furthermore, Chapter 4.3 of EMGSM, 2020 does not envisage the validity of DSR as one of the considerations while granting approval to the mining plan. In this regard, the contents of paragraph No. A are reiterated.

- K. That the contents of paragraph No. K are denied for want of knowledge in so far as the proceedings in OA No. 593 of 2023 pending adjudication before this Hon'ble Tribunal are concerned. The rest of the contents are a matter of record. It is submitted that after the receipt of Letter dated 20.11.2023, the answering respondent had submitted a Letter dated 23.11.2023 to the Director, Mines & Geology Department, Haryana requesting for issuance of directions to the Irrigation & Water Resources Department, Haryana to grant to NOC. As per the knowledge of the answering respondent, the matter is pending consideration at the level of the Department. It is further submitted that the same is not related to the subject matter of the present *lis*.
- L. That the contents of paragraph No. L are denied being false and baseless. The original application is liable to be rejected and there is no violation of any law or judgment in the present case.

**REPLY TO THE PARAWISE REPLY TO THE PRELIMINARY SUBMISSIONS AND OBJECTIONS:**

1.to 23. That in response to the contents of paragraph No. 1 to 23, the contents of the preliminary submissions by way of reply dated 18.07.2024 are reiterated.

**REPLY TO THE PARAWISE REPLY TO REPLY ON MERITS:**

1.to 16. That in response to the contents of paragraph No. 1 to 16, the contents of parawise reply to reply on merits as per reply dated 18.07.2024 are reiterated.

**REPLY TO PARAWISE REPLY TO THE GROUNDS:**

In this regard, the contents of the paragraph No. A to G of the reply dated 18.07.2024 by Respondent No. 8 are reiterated.

**REPLY TO THE REPLY ON LIMITATION:**

In this regard, the contents of the limitation clause of the reply dated 18.07.2024 by Respondent No. 8 are reiterated.

**PRAYER:**

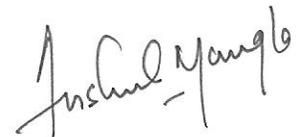
The Original Application may kindly be dismissed.

NEW DELHI

Respondent No. 8

DATED: 06/10/2025.

Through Counsel



(ANSHUL MANGLA, ADV.)

P/2238/2011.

NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI

OA No. 626 of 2023

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AFFIDAVIT

I, Manoj Kumar S/o Sh. Radhe Shyam R/o House No. 676, Urban Estate, near Government Girls School, Sector 13, Karnal, District Karnal, Haryana do, hereby, solemnly affirm and declare as under:-

1. That the deponent is the proprietor of respondent No. 8 and is competent to file the accompanying additional reply on behalf of respondent No. 8.
2. That the contents of the accompanying additional reply are true and correct to the best of the knowledge of the deponent and have been drafted by the Counsel on the instructions of the deponent and nothing material has been concealed therefrom.

Identify the deponent/executorant who has signed/Thumb marked in my presence

Signature

CHANDIGARH

DATED: 6-10-25

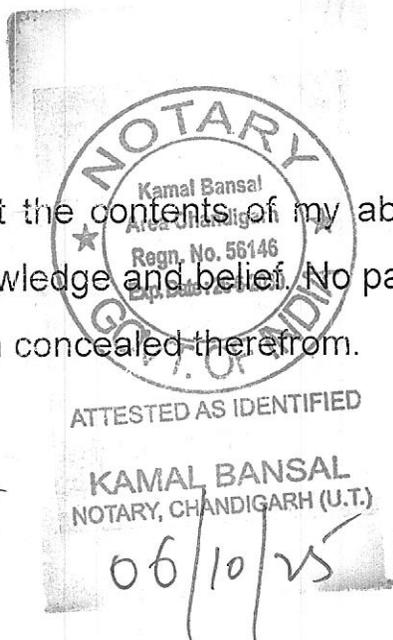
DEPONENT

Verification:-

Verified that the contents of my above affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

CHANDIGARH

DATED: 6-10-25



DEPONENT

**MINISTRY OF ENVIRONMENT AND FORESTS  
NOTIFICATION**

New Delhi, the 14th September, 2006

**S.O. 1533(E).**—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 India<sup>1</sup>, 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 15<sup>th</sup> 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 27<sup>th</sup> 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.

<sup>1</sup>Includes 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, 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 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 I 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 I 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

**1. 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 I 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 Form 1/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 I and Form IA 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 I and Form IA, 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 1<sup>st</sup> June and 1<sup>st</sup> 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 web site 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 27<sup>th</sup> 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.