

IN THE NATIONAL GREEN TRIBUNAL, WESTERN ZONE
BENCH, PUNE

Appeal No. 167 of 2024 (WZ)



Vijay Ravalnath Gaonkar & Anr.

... Appellants

V/s

Rajaram Bandekar (Sirigao)

Mines Pvt. Ltd. & Ors.

... Respondents

AFFIDAVIT IN REPLY ON BEHALF OF THE GOA STATE
POLLUTION CONTROL BOARD.

MAY IT PLEASE YOUR HONOUR:

I, Mr. Sanjeev Joglekar, major of age, Indian National, Senior
Environmental Engineer, presently holding charge of Member Secretary

Sanjeev Joglekar

of the Goa State Pollution Control Board, residing at Porvorim, Goa, do hereby on solemn affirmation states and submit as under:

1. I am presently holding charge as the Member Secretary, of the Goa State Pollution Control Board, and I have been authorised to file the present Affidavit in reply on behalf of the Respondent Board.
2. At the very outset, Respondent Board denies all the averments, allegations and contentions raised by the Appellant *in toto*, save and what are matter(s) of record. Nothing stated in the present appeal shall be deemed to be admitted by Respondent Board unless specifically admitted hereinafter.
3. I say that I am filing the present Affidavit-in-Reply for the purpose bringing certain facts on record before this Hon'ble Tribunal and opposing the reliefs sought by the Appellant. Nothing in the aforementioned Appeal filed by the Appellant may be deemed to have been admitted for mere want of specific denial. Nothing may be deemed to have been admitted for want of *traverse seriatim*.

L.S.P.S.



4. I say that the Appellant has challenged the Environmental Clearance dated 09.09.2024 (EC) issued by the Goa State Environmental Impact Assessment Authority (GSEIAA) for mining of Iron Ore (0.5 MTPA) in the mine lease area of 95.6712 hectares at Block III Monte De Sirigao Mineral Block of M/s. Rajaram Bandekar (Sirigao) Mines Pvt. Ltd., located in Sirigao & Mayem Villages of Bicholim Taluka of North Goa, Goa.

5. I say that in so far as the grounds in the present appeal pertaining to the conduct of the Public Hearing for the Block III Monte De Sirigao Mineral Block of M/s. Rajaram Bandekar (Sirigao) Mines Pvt. Ltd., located at Bicholim Taluka of North Goa, Goa, it is stated thus;

- a) The Public Hearing in respect of Block III Monte De Sirigao Mineral Block at Bicholim was conducted on 18/01/2024 strictly in accordance with the provisions of the Environmental Impact Assessment(EIA) Notification, 2006.

J. Singh

- b) The Public Hearing was conducted at a site located approx. 12 Km away for the village as this was the only feasible site that could be identified for the conduct of the Public Hearing.
- c) The Public Hearing was conducted till such time as all the public present and those who wish to speak were able to do so. In terms of the EIA Notification 2006, the minutes were also finalised on the same date.
- d) The Project Proponent's representative collated all the queries raised to him during the Public Hearing and replied collectively.
- e) The views/ objections/suggestions of all the individuals present at the Public Hearing were considered and the recorded; draft minutes were read out and explained to the public in Konkani and subsequently after recording suggestions/ corrections from the participants present; the final minutes of the said Public Hearing were signed by the District Collector and representative of the Respondent Board.



Lsing

f) The participants present at the Public Hearing were requested to file their written views/ objections/suggestions within 7 days to the Respondent Board if desired.

g) The final corrected copy of the minutes as finalised for the Public Hearing was uploaded on the Boards website.

6. I say that upon receipt of the Environmental Clearance dated 09/09/2024 issued by the GSEIA to M/s. Rajaram Bandekar (Sirigao) Mines Pvt. Ltd., in respect of Block III Monte De Sirigao Mineral Block, mining unit; the Respondent Board has conducted site inspections and has after following detailed procedures and assessment; granted the said Mine unit Consent to Establish under the Water (Prevention and Control of Pollution) Act, 1974 and under the Air (Prevention and Control of Pollution) Act, 1981, vide order dated 11/11/2024 and thereafter has granted the said mine unit Consent to Operate under the Water (Prevention and Control of Pollution) Act, 1974 and under the Air (Prevention and Control of Pollution) Act, 1981 vide order dated 03/01/2025.

↓
15/10/24

Annexed herewith and marked as 'Exhibit A Colly' are copies of the Consent to Establish order dated 11/11/2024, Consent to Operate order dated 03/01/2025.

7. I deny that the Environmental Public Hearing conducted has aforesated violated established norms.
8. I deny that contents of Ground J of the present Appeal that the Public Hearing conducted as aforesated violate several established norms.
9. I state that in so far as the issue pertaining to the pollution issues and water problems faced by the affected villagers of Sirigao that were subject matter of PILWP/1/2008 before the Hon'ble High Court of Bombay at Goa as well as the subsequent directions thereto; the Hon'ble High Court of Bombay at Goa vide judgement dated 30/01/2025 was pleased to dispose off the said PIL Writ Petition by issuing certain directions for compliance.

Isinc



Annexed herewith and marked as 'Exhibit B' is the copy of
Judgement dated 30/01/2025 passed in PILWP/1/2008.

I say that whatever has been stated herein above is based on
the records available in the office of this Respondent Board to
which I have access and which I believe to be true.

Solemnly affirmed at Panaji Goa
On this ^{17th} day of July, 2025.



L. Sina
DEPONENT

Member Secretary
Goa State Pollution Control Board

SOLEMNLY AFFIRMED AND VERIFIED BEFORE ME
M. Sanjeev Joglekar

WHO IS IDENTIFIED BEFORE ME

BY ADV. Personally known

SERIAL NO. 560 DATED: 17/07/2025

VALID UPTO 19.05.2029

JOAQUIM GODINHO NOTARY PANAJI, GOA

J. Godinho
17/07/2025

JOAQUIM GODINHO

Advocate
& Notary

Navelkar Trade Centre
C/S-3, 2nd Floor, M.G. Road
Panjim-Goa. Ph.: 2422119



GOA STATE POLLUTION CONTROL BOARD

गोंयराज्यप्रदूषणनियंत्रणमंडळ

(An ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 Certified Board)

Phone Nos: 0832- 2407700,
2407701, 2407702,
2407703
Tel/Fax No: 0832-2407700



Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in

No.12/2024-PCB/2411934/R00016301

Date: 11/11/2024

Consent To Establish under Section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981.

[To be referred as Water Act and Air Act Rules respectively]

CONSENT TO ESTABLISH is hereby granted to:

Block III Monte De Sirigao Mineral Block

(M/s. Rajaram Bandekar (Sirigao) Mines Private Limited)

Mine Lease area of 95.6712 Ha

(Represented by: Shri. Balkrishna Vasant Kamat)

(Red Category)

Survey no-. 47, 52, 53, 54, 56, 57, 58, 59, 60, 61, 62, 63, 64, 69,
70, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 94, 95, 79
& Road of Village Sirigao & in Survey No. 84 of Village Mayem.

Located in the area declared under the provisions of the Water Act & Air Act, subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1. This Consent to Establish is valid up to commissioning of the mining unit or 5 years whichever is earlier.

2. This Consent to Establish is valid for the activity of:

Sr. No	Description	Quantity/ Capacity
1.	Mobile Crushing & Screening	500000 MT/Year
2.	Iron Ore	500000 MT/Year

3. CONDITIONS REQUIRED TO BE COMPLIED UNDER THE WATER ACT:

(i) The daily quantity of industrial effluent from the mining block shall not exceed NIL

- (ii) The daily quantity of domestic effluent from the various facilities proposed within the mining block shall not exceed **2.4 KLD**
- (iii) **Domestic Effluent treatment and Disposal:-**
The domestic wastewater shall be treated in a properly designed septic tank and discharged on land for percolation through soak pit of adequate size within the mining block.
- (iv) A good house-keeping shall be maintained within the mining block premises. All pipes, valves and drains shall be maintained in leak-proof condition. Floor washings shall be maintained to the effluent collection system only and shall not be allowed to find way in open areas.
- (v) The rain accumulated mining pit water if any should be routed through settling ponds and filter beds and meets the standards as below and results shall be submitted to the Board office in the event of discharge before the 15th of every month:

pH	Between	5.5 & 9.0
Suspended Solids (non-rainy day)	Not to exceed	50 mg/l
Suspended Solids (rainy day)	Not to exceed	100 mg/l
Iron	Not to exceed	3 mg / l
Manganese	Not to exceed	2 mg / l
Oil & Grease	Not to exceed	10g/l

- (vi) The mining unit shall provide with adequate size wheel washing station with tyre sprinkler.
- (vii) During monsoon, rain water runoff should be diverted into the settling ponds/mining pits.
- (viii) To prevent siltation of rivers/ nallahs/ fields catch drains, toe wall, filter bed, check dam, garland drains, arrest wall and siltation/settling ponds shall be maintained around reject dumps for settlement of suspended particles and to prevent siltation.
- (ix) The mining unit should meet the water requirements of the nearby villages if required.
- (x) Water Quality Monitoring locations as stated in the table below shall be established along with the Board Officials or Regular monitoring of ground water level and quality & surface water quality should be carried out monthly through NABL/MoEF&CC accredited laboratory in all seasons and the results have to be submitted to the Board office by the 15th of every month

Sr. No	Surface water monitoring locations
1.	Final surface water discharge point 01 from mine lease (Sirigao village)
2.	Final surface water discharge point 02 from mine lease (Sirigao village)
3.	Upstream Bicholim river
4.	Downstream Bicholim river

- (ii) The daily quantity of domestic effluent from the various facilities proposed within the mining block shall not exceed **2.4 KLD**
- (iii) **Domestic Effluent treatment and Disposal:-**
The domestic wastewater shall be treated in a properly designed septic tank and discharged on land for percolation through soak pit of adequate size within the mining block.
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3.	Upstream Bicholim river
4.	Downstream Bicholim river

5.	Upstream Assonora River
6.	Downstream Assonora River
7.	Upstream Mapusa River
8.	Downstream Mapusa River
9.	Mayem lake
10.	Culvert near Chimulwada Mayem
Ground water monitoring locations	
1	Mayem village
2	Sirigao village
3	Assonora village
4	Mulgao village
5	Sinquerim village

- (xi) The mining unit should maintain the pumping schedule for pumping the rain accumulated water from the mining pit.
- (xii) The mining unit shall strive to implement suitable conservation measures to augment ground water resources wherever possible in the area.
- (xiii) The mining unit should maintain a pumping Log book in the following format:

Sr. No.	Capacity of the pump (litres/minute)	Date	Start time	Start time R.L.	End time	End time R.L.	Duration of pumping (in minutes)	Qty. of water pumped in KLD	Remarks

- (xiv) The mining unit should stack their ore and/or ore over burden as per the approved mining plan.

(xv) **Non-Hazardous Solid Waste:**

All the Solid wastes arising in the premises shall be properly classified and disposed off to the satisfaction of the Board. The total quantity shall be segregated and treated as follows:

Sr. no.	Solid waste	Quantity & Disposal
1.	Overburden	As per IBM approved plan

4. **CONDITIONS STIPULATED UNDER AIR ACT:**

- (i) Ambient Air Quality Monitoring stations as stated in the table below should be established along with the Board Officials in the core zone as well as in the buffer zone for monitoring Particulate Matter, PM10, PM2.5, NOx and SO₂. Location of the ambient air quality stations and the frequency of monitoring should be twice a week for the core zone and the buffer zone from a laboratory recognized by Ministry of

Environment, Forest & Climate Change under the Environment Protection Act, 1986 and results shall be submitted regularly to this Board.

Sr. No	Buffer zone monitoring locations
1.	Sirigao village 01
2.	Sirigao village 02
3.	Mayem village
Core zone monitoring locations	
1.	Sirigao 01
2.	Sirigao 02

- (ii) Applicant shall achieve following Quality fugitive emission standards in the core zone:

Fugitive Emission Standards	
Particulate matter	1200 $\mu\text{g}/\text{m}^3$
Fugitive emission shall be monitored in the predominant downwind direction at a distance 25.0 ± 2.0 meters from the source of fugitive emission as per following:	
Area	Monitoring location
Mine face/ benches	Drilling, excavation and loading applicable for operating benches above water table
Haul roads/ service roads	Haul roads to ore processing plant, waste dumps and loading areas and service road
Crushing plant	Run-off mine unloading at hopper, crushing areas, screens and transfer points
Screening plant	Screens, conveying and transportation of ore discharge points
Ore storage & loading	Intermediate stock bin/ pile areas, ore stock bin/ pile areas, wagon/ truck loading areas
Waste dump	Active waste/ reject dumps

- (iii) The monitoring standards in Buffer zone would be as per the table below:

SO ₂	Not to Exceed (Annual Average)	50 $\mu\text{g}/\text{m}^3$
	Not to Exceed (24 hours)	80 $\mu\text{g}/\text{m}^3$
NO _x	Not to Exceed (Annual Average)	40 $\mu\text{g}/\text{m}^3$
	Not to Exceed (24 hours)	80 $\mu\text{g}/\text{m}^3$
PM ₁₀	Not to Exceed (Annual Average)	60 $\mu\text{g}/\text{m}^3$
	Not to Exceed (24 hours)	100 $\mu\text{g}/\text{m}^3$
PM _{2.5}	Not to Exceed (Annual Average)	40 $\mu\text{g}/\text{m}^3$
	Not to Exceed (24 hours)	60 $\mu\text{g}/\text{m}^3$

All other parameters should meet the standards specified in NAAQS notification dated 18th November 2009 for the relevant industry

- (iv) The Project Proponent shall install a minimum of 3 (three) Ambient Air Quality Monitoring Stations in consultation with CPCB/SPCB with 1 (one) in upwind and 2 (two) in downwind direction based on long term climatological data about wind direction such that an angle of 120° is made between the monitoring locations to monitor critical parameters, relevant for mining operations, of air pollution viz. PM10, PM2.5, NO2, CO and SO2 etc. as per the methodology mentioned in NAAQS Notification No. B-29016/20/90/PC1/I, dated 18.11.2009 covering the aspects of transportation and use of heavy machinery in the impact zone.
- (v) The mining unit shall install CCTV Camera at exit gate from mine towards the jetty to monitor if the trucks are properly covered with tarpaulin before exit and should be connected online to GSPCB, within one month of receipt of this Consent to Establish
- (vi) The trucks/tippers engaged in transportation of ore shall have with atleast six inches free board after filling the cargo box to avoid spillage.
- (vii) All trucks/ tippers engaged in the transportation of ore shall be covered with tarpaulin and the tarpaulin shall be properly fastened to the cargo box to ensure the ore does not get air borne or spill on the road.
- (viii) In case of break down of loaded trucks / tippers, unloading of ore at the road side shall be strictly avoided.
- (ix) The roads in mining areas shall be sprinkled with water to suppress dust pollution.
- (x) The mining unit shall provide wheel washing facility for the ore transport vehicles shall be provided at the exit point of the mine.
- (xi) To take up afforestation in abandoned mining areas and on reject dumps located within lease area.
- (xii) Spillage of ore on the public roads shall be removed immediately on occurrence.
- (xiii) The mining company should submit details regarding transportation of ore in the following format every month

Sr. No.	Source	Destination	Qt	No. of trips (tipper trucks)	Route (names of villages through which transportation takes place)	Remarks

- (xiv) The mining unit shall take adequate measures for control of noise levels from its own sources within the premises in respect of noise. The limits are as follows:

Category of Area/ Zone	Limits in dB (A) Leq	
	Day time	Night time
Industrial Area	75	70
Commercial Area	65	55
Residential Area	55	45
Silence Zone	50	40

Day time is reckoned between 6 a.m. to 10 p.m. and night time is reckoned between 10 p.m. to 6 a.m.

5. GENERAL CONDITIONS:

- (i) Trees shall be planted and maintained around the mining lease area. The mining unit shall develop greenbelt as per approved mining plan
- (ii) The domestic waste water shall be treated in a properly designed septic tank and discharged on land for percolation through soak pit of adequate size.
- (iii) The applicant shall not change or alter the quantity, the rates of discharge, temperature and the mode of disposal of the effluent without previous written permission of the Board
- (iv) The applicant shall provide facilities for collection of the samples to the Board staff.
- (v) The mining unit shall discharge the treated effluents preferably on land for irrigation/ gardening/ lawn within their own premises or re-use after suitable treatment.
- (vi) Stack heights for a (Diesel generator set(s) shall be as follows:
Diesel Generator set(s): The minimum height of the stack to be provided with each generator shall be as per the formula $H = h + \sqrt[3]{KVA}$ where H = total height of the stack in meters, h = height of the building in meters where the generators is installed and KVA = total generator capacity of the set in KVA.
- (vii) The generator shall be installed in a closed area with a silencer and suitable noise absorption systems so as to comply with the ambient noise level standards as mentioned below:
The ambient noise level shall not exceed 75 dB (A) at a distance of 5 meters from the source.
- (viii) The applicant shall provide ports in the chimney / stack and facilities such as ladder, platform etc. as per the directions of Pollution Control Board for monitoring the air emissions and the same shall be open for inspection and use the Board's staff. The chimney / stack attached to various sources of emissions shall be designated by numbers such as S-1, S-2, etc. and these shall be painted/ displayed to facilitate identification.
- (ix) The mining unit shall implement the following Rules and Regulations notified by the Ministry of Environment and Forests, Govt. of India.
 - a) Hazardous and other Wastes (Management and Transboundary Movement) Rules, 2016 as amended thereafter;
 - b) Manufacture, storage and Import of Hazardous Chemicals Rules, 1989;
 - c) Rules for the Manufacture, Use, Import and Storage of Hazardous Micro - organism / - Genetically Engineered Organisms or Cell, 1989.
- (x) There shall not be any perceptible odour outside the mining unit premises.
- (xi) All the Rules and Regulations notified by the Ministry of Environment and Forests, Govt. of India in respect of noise pollution control measures shall be followed to avoid nuisance to public.

- (xii) Notwithstanding anything contained in this conditional letter of consent, the Board hereby reserves its right and powers under section 27(2) of the Water (Prevention and Control of Pollution) Act 1974 and under section 21(4) of the Air (Prevention and Control of Pollution) Act 1981 to review any or all the conditions imposed hereby.
- (xiii) Any change in the details made after the submission of the application/ after obtaining the Consent to Establish shall be brought to the notice of the Board immediately.
- (xiv) The mining unit should obtain permission from the Forest Department/ Wild Life Board wherever applicable.
- (xv) The mining unit should implement rain water harvesting and ground water re-charge measures in consultation and approval of the Water Resource Department, Government of Goa and Directorate of Industries, Trade and Commerce, Government of Goa, before submitting an application for Consent to Operate.
- (xvi) The mining unit shall apply for Consents to Operate of the Board as required under section 25(1) (b & c) of the Water (Prevention and Control of Pollution) Act, 1974 and under section 21 of the Air (Prevention and Control of Pollution) Act, 1981 in the prescribed application form, 45 days before commissioning of the plant
- (xvii) This Consent to Establish is granted without any prejudice to any of the permission(s) required under any law, by laws and regulations in force and this Consent to Operate is confined to matters arising out of the Air Act and Water Act only.
- (xviii) Reliable flow meter shall be installed to maintain record of water consumption / waste water consumption per day. This records so maintained shall be made available to the Board officials whenever required.
- (xix) The mining unit shall submit the details of the Public Liability Insurance Policy under the PLI Act 1991, to the Board office as applicable.
- (xx) The mining unit shall submit returns for disposal of batteries under the Battery Waste Management Rules 2022 as amended thereafter, if applicable.
- (xxi) The mining unit shall submit returns for disposal of e - waste under the E- Waste Management Rules 2022as amended thereafter, if applicable.
- (xxii) The mining unit shall submit returns for disposal of plastic waste under the Plastic Waste Management Rules 2016, as amended thereafter, if applicable.
- (xxiii) **The unit shall comply with the Guidelines and DUST Mitigation measures in handling Construction material and C & D waste issued by central Pollution Control Board and are placed on Board website goaspcb.gov.in.**
- (xxiv) **The unit has to obtain no objection certificate from the Central Ground water Authority, or the concerned state authority for any ground water abstraction, if applicable.**

- (xxv) Effective safeguard measures for prevention of dust generation and subsequent suppression shall be carried out in areas prone to air pollution where in high levels of PM₁₀ and PM_{2.5} are evident such as haul road loading and unloading point and transfer point. The fugitive dust emissions from all sources shall be regularly controlled by installation of required machinery and preventive maintenance.
- (xxvi) The waste dump slopes shall be covered with laterite material and then with biodegradable geotextile mats to prevent the soil erosion of the dump slopes so as to facilitate the growth of native species.
- (xxvii) The mining unit shall regularly spray with the water to arrest the generation of dust on the haul roads within the mining lease area. The main haul road should be provided with water tankers for dust suppression
- (xxviii) Those mines having part forest and part non-forest areas and have not obtained forest clearance, consent to operate should be limited to non-forest area
- (xxix) Other related permissions as applicable in the EC has to be obtained from the competent authorities before the commencement of the mining operations
- (xxx) The mining unit shall submit the year wise production & developmental plan duly approved by the IBM before the commencement of the mining operations
- (xxxi) There should be shoulders/small pillars on both side of the road so that the running trucks so not ply over the soil lying on the road side.
- (xxxii) Proper spillage control mechanism should be done for the plying trucks. Also Proper garland drains should be maintained to prevent direct runoff from the mine to the nearby agricultural field and river.
- (xxxiii) The Project Proponent must ensure that the silt and mine water does not flow into the agricultural lands which have been revived and are being cultivated by the locals.
- (xxxiv) Dust suppression plan must be in place, covering both within and outside along the roads passing through the villages.
- (xxxv) Water sprinkling must be carry out all along the transport route to prevent fugitive dust emissions.
- (xxxvi) The PP to continuously monitor Ambient Air Quality along the transport route and at the mine site and the results of such monitoring to be displayed electronically in front of the main entry and exit gate. The location of the same shall be in consultation with GSPCB.
- (xxxvii) The lease holder shall obtain the valid Environmental Clearance, Lease from DMG and the permission from any other related authority all the time during its operation.

(xxxviii) The lease-holder is mandated to comply with all the conditions referred in the Environmental Clearance (EC) issued by the Ministry of Environment, Forest and Climate Change vide its EC128/3/2023-24/GSEIAA/GSEAC dated-09/09/2024

(xxxix) The Project Proponent shall submit six monthly compliance reports on the status of the implementation of the stipulated environmental safeguards to the MOEFCC & its concerned Regional Office, Central Pollution Control Board and State Pollution Control Board.

To,
Block III Monte De Sirigao Mineral Block
(M/s. Rajaram Bandekar (Sirigao) Mines Private Limited)
(Represented by: Shri. Balkrishna Vasant Kamat)
Survey no-. 47, 52, 53, 54, 56, 57, 58, 59, 60, 61, 62, 63, 64, 69,
70, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 94, 95, 79
& Road of Village Sirigao & in Survey No. 84 of Village Mayem Goa.

Copy to:-

1. Directorate of Mines & Geology, Ground Floor, Institute Menezes Braganza, Panaji-Goa.
2. Ministry of Environment, Forest and Climate Change, IA Division, Indira Paryavaran Bhawan, Jor Bagh, New Delhi- 110003.
3. Accounts Section.
4. Concerned File.
5. Guard File

Received Consent fee of: The Capital Investment of the mining unit is Rs. 11,15,23,275/-
(Crores)

Receipt no.	Amount	Date
8528	53742/-	14/10/2024

Shamila Dos
Milagres
Monteiro

Digitally signed by
Shamila Dos
Milagres Monteiro
Date: 2024.11.11
11:49:15 +05'30'

(Dr. Shamila Monteiro)
Member Secretary
Goa State Pollution Control Board

Goa State Pollution Control Board

CUSTOMER FEEDBACK

Dear Citizen / Customer,

We appreciate you for sparing a few minutes for giving us your valuable feedback on our services

Name.....

.....
Contact

.....

.....

Address.....

.....

.....

Email..... Date.....

.....

Name of the service

availed.....

.....

Are you aware that service standards are included in the Citizen's Charter as available on Board's website
: www.goaspcb.gov.in?Yes No

If yes, is the Citizen Charter simple and easy to understand?

Yes No

Description of service delivery parameters (Consents/Authorisation/RTI's/Complaints etc.)	Excellent	Good	Fair	Average	Poor	Reason for grading
Time taken to deliver service in comparison to service standards mentioned in Citizen's Charter						
Quality of service (accuracy, completeness)						
Knowledge of dealing hand / staff regarding services/schemes						
Courtesy of staff						
Board's response in view of your query/requirement is to your satisfaction						
Date of your visit to the office and your overall experience						

Suggestions for improvement, if any

Near Pilerne Industrial Estate, Opp.- Saligao Seminary, Saligao-Bardez Goa-403511

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.....
.....
.....

Signature & date

To,
The Member Secretary,
Goa State Pollution Control Board,
Near Pilerne Industrial Estate,
Opposite Saligao Seminary, Saligao, Bardez, Goa. 403511

- ❖ Please note that your feedback is considered essential for overall improvement and development of Board functions in service of environment.

GOA STATE POLLUTION CONTROL BOARD

गोंयराज्यप्रदूषणनियंत्रणमंडळ

(An ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 Certified Board)

Phone Nos: 0832- 2407700,
2407701, 2407702,
2407703



Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in

No.12/2024-PCB/2509119/R00017060

Date: 03/01/2025

Consent to Operate under Section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization under Rule 6(i) of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules 2016, as amended thereafter

[To be referred as Water Act and Air Act and HW (M & T) Rules respectively]

CONSENT TO OPERATE & AUTHORIZATION is hereby granted to:

**Block III Monte De Sirigao Mineral Block
(M/s. Rajaram Bandekar (Sirigao) Mines Private Limited)
Mine Lease area of 95.6712 Ha
(Represented by: Shri. Balkrishna Vasant Kamat)
(Red Category)**

Survey No. 47, 52, 53, 54, 56, 57, 58, 59, 60, 61, 62, 63,
64, 69, 70, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 94,
95, 79 & Road of Village Sirigao & in Survey No. 84 of Village Mayem.
Bicholim – Goa.

Located in the area declared under the provisions of the Water Act, Air Act and Authorization under the provisions of HW (M & T) Rules, subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1. This Consent to Operate & Authorization **is valid for a period of six month from the date of issue of this consent**

2. This Consent to Operate & Authorization is valid for the operation of:

Sr. No	Description	Quantity/ Capacity
1.	Iron Ore	500000 MT/Year
2.	Mobile Crushing & Screening	500000 MT/Year

3. **CONDITIONS REQUIRED TO BE COMPLIED UNDER THE WATER ACT:**

(i) The daily quantity of industrial effluent from the mining block shall not exceed **NIL**.

- (ii) The daily quantity of domestic effluent from the various facilities proposed within the mining block shall not exceed **2.4 KLD.**
- (iii) **Domestic Effluent treatment and Disposal:-**
The domestic wastewater shall be treated in a properly designed septic tank and discharged on land for percolation through soak pit of adequate size within the unit premises.
- (iv) A good house-keeping shall be maintained within the unit premises. All pipes, valves and drains shall be maintained in leak-proof condition. Floor washings shall be maintained to the effluent collection system only and shall not be allowed to find way in open areas.
- (v) The rain accumulated mining pit water if any should be routed through settling ponds and filter beds and meets the standards as below and results shall be submitted to the Board office in the event of discharge before the 15th of every month:

pH	Between	5.5 & 9.0
Suspended Solids (non-rainy day)	Not to exceed	50 mg/l
Suspended Solids (rainy day)	Not to exceed	100 mg/l
Iron	Not to exceed	3 mg / l
Manganese	Not to exceed	2 mg / l
Oil & Grease	Not to exceed	10g/l

- (vi) The mining unit shall provide with adequate size wheel washing station with tyre sprinkler.
- (vii) During monsoon, rain water runoff should be diverted into the settling ponds/mining pits.
- (viii) To prevent siltation of rivers/ nallahs/ fields catch drains, toe wall, filter bed, check dam, garland drains, arrest wall and siltation/settling ponds shall be maintained around reject dumps for settlement of suspended particles and to prevent siltation.
- (ix) The mining unit should meet the water requirements of the nearby villages if required.
- (x) Water Quality Monitoring locations as stated in the table below shall be established along with the Board Officials for Regular monitoring of ground water level and quality & surface water quality should be carried out monthly through NABL/MoEF&CC accredited laboratory in all seasons and the results have to be submitted to the Board office by the 15th of every month

Sr. No	Surface water monitoring locations
1	Final surface water discharge point 01 from mine lease (Sirigao village)
2	Final surface water discharge point 02 from mine lease (Sirigao village)
3	Upstream Bicholim river
4	Downstream Bicholim river
5	Upstream Assonora River

6	Downstream Assonora River
7	Upstream Mapusa River
8	Downstream Mapusa River
9	Mayemlake
10	Culvert near ChimulwadaMayem
Ground water monitoring locations	
1	Mayem village
2	Sirigao village
3	Assonora village
4	Mulgao village
5	Sinquerim village

(xi) The mining unit should maintain the pumping schedule for pumping the rain accumulated water from the mining pit.

(xii) The mining unit shall strive to implement suitable conservation measures to augment ground water resources wherever possible in the area.

(xiii) The mining unit should maintain a pumping Log book in the following format:

Sr. No.	Capacity of the pump (litres/min)	Date	Start time	Start time RL	End time	End time RL	Duration of pumping (in minutes)	Qty. of water pumped in KLD	Remarks

(xiv) The mining unit should stack their ore and/or ore over burden as per the approved mining plan.

(xv) **Non-Hazardous Solid Waste:**

All the Solid wastes arising in the premises shall be properly classified and disposed off to the satisfaction of the Board. The total quantity shall be segregated and treated as follows:

Sr. no.	Solid waste	Quantity & Disposal
1.	Overburden	As per IBM approved plan

4. **CONDITIONS STIPULATED UNDER AIR ACT:**

(i) The mining unit shall maintain and operate air pollution control system of adequate capacity for the following equipments:

Sr. No.	Name of Equipments/ Installation	No of Installation	Capacity	SO ₂ Kg/Hr	NO _x	HC	CO	PM
					(g/kw-hr)			
1.	D.G. set	01	630 KVA	6.12	9.2	1.3	3.5	0.3

- (ii) The mining unit shall erect the stack(s) of the following specifications:

Sr. No	Stack attached to	Height
1.	D.G. set (630 KVA)	12mtrs

- (iii) The mining unit shall observe the following standards:-

Sr. No	Type of fuel	Quantity /hr
1.	H.S.D. (for D.G. set of 630 KVA)	85ltrs/hr

- (iv) The Stack Port Hole and Platform is to be designed as per CPCB guidelines Method 1 Part I of Stack Monitoring – Material & methodology for isokinetic sampling
- (v) The mining unit should comply with all the standards for D.G. Sets prescribed at Sr. no. 94, 95 and 96 of Schedule I of the Environment (Protection) Rules, 1986.
- (vi) The unit should carry out emission monitoring from the stacks once every year from a laboratory recognized by Ministry of Environment and Forest under the Environment Protection Act, 1986 and the result shall be submitted to this Board by the 15th of subsequent month.
- (vii) Ambient Air Quality Monitoring stations as stated in the table below should be established along with the Board Officials in the core zone as well as in the buffer zone for monitoring Particulate Matter, PM10, PM2.5, NO_x and SO₂. Location of the ambient air quality stations and the frequency of monitoring should be twice a week for the core zone and the buffer zone from a laboratory recognized by Ministry of Environment, Forest & Climate Change under the Environment Protection Act, 1986 and results shall be submitted regularly to this Board.

Sr. No	Buffer zone monitoring locations
1	Sirigao village 01
2	Sirigao village 02
3	Mayem village
Core zone monitoring locations	
1	Sirigao village 01
2	Sirigao village 02

- (viii) Applicant shall achieve following Qualityfugitive emission standards in the core zone:

Fugitive Emission Standards	
Particulate matter	1200 µg/m ³
Fugitive emission shall be monitored in the predominant downwind direction at a distance 25.0±2.0 meters from the source of fugitive emission as per following:	
Area	Monitoring location
Mine face/ benches	Drilling, excavation and loading applicable for operating benches above water table

Haul roads/ service roads	Haul roads to ore processing plant, waste dumps and loading areas and service road
Crushing plant	Run-off mine unloading at hopper, crushing areas, screens and transfer points
Screening plant	Screens, conveying and transportation of ore discharge points
Ore storage & loading	Intermediate stock bin/ pile areas, ore stock bin/ pile areas, wagon/ truck loading areas
Waste dump	Active waste/ reject dumps

The monitoring standards in Buffer zone would be as per the table below:

SO ₂	Not to Exceed (Annual Average)	50 µg/ m ³
	Not to Exceed (24 hours)	80 µg/ m ³
NO _x	Not to Exceed (Annual Average)	40 µg/ m ³
	Not to Exceed (24 hours)	80 µg/ m ³
PM ₁₀	Not to Exceed (Annual Average)	60 µg/ m ³
	Not to Exceed (24 hours)	100 µg/ m ³
PM _{2.5}	Not to Exceed (Annual Average)	40 µg/ m ³
	Not to Exceed (24 hours)	60 µg/ m ³

All other parameters should meet the standards specified in NAAQS notification dated 18th November 2009 for the relevant industry

- (ix) The Project Proponent shall install a minimum of 3 (three) Ambient Air Quality Monitoring Stations in consultation with CPCB/SPCB with 1 (one) in upwind and 2 (two) in downwind direction based on long term climatological data about wind direction such that an angle of 120° is made between the monitoring locations to monitor critical parameters, relevant for mining operations, of air pollution viz. PM₁₀, PM_{2.5}, NO₂, CO and SO₂ etc. as per the methodology mentioned in NAAQS Notification No. B-29016/20/90/PCI/I, dated 18.11.2009 covering the aspects of transportation and use of heavy machinery in the impact zone.
- (x) The mining unit shall install CCTV Camera at exit gate from mine towards the jetty to monitor if the trucks are properly covered with tarpaulin before exit and should be connected online to GSPCB, within one month of receipt of this Consent to operate.
- (xi) The trucks/tippers engaged in transportation of ore shall have with atleast six inches free board after filling the cargo box to avoid spillage.
- (xii) All trucks/ tippers engaged in the transportation of ore shall be covered with tarpaulin and the tarpaulin shall be properly fastened to the cargo box to ensure the ore does not get air borne or spill on the road.
- (xiii) In case of breakdown of loaded trucks / tippers, unloading of ore at the road side shall be strictly avoided.
- (xiv) The roads in mining areas shall be sprinkled with water to suppress dust pollution.
- (xv) The mining unit shall provide wheel washing facility for the ore transport vehicles shall be provided at the exit point of the mine.

- (xvi) To take up afforestation in abandoned mining areas and on reject dumps located within lease area.
- (xvii) Spillage of ore on the public roads shall be removed immediately on occurrence.
- (xviii) The mining company should submit details regarding transportation of ore in the following format every month

Sr. No.	Source	Destination	Qty.	No. of trips (tipper/trucks)	Route (names of villages through which transportation takes place)	Remarks

- (xix) The mining unit shall take adequate measures for control of noise levels from its own sources within the premises in respect of noise. The limits are as follows:

Category of Area/ Zone	Limits in dB (A) Leq	
	Day time	Night time
Industrial Area	75	70
Commercial Area	65	55
Residential Area	55	45
Silence Zone	50	40

Day time is reckoned between 6 a.m. to 10 p.m. and night time is reckoned between 10 p.m. to 6 a.m.

5. **CONDITIONS REQUIRED TO BE COMPLIED UNDER THE HAZARDOUS AND OTHER WASTES (MANAGEMENT AND TRANSBOUNDRY MOVEMENT) RULES 2016, AS AMENDED THEREAFTER.**

- (i) The unit is hereby granted authorization to operate a facility for collection, storage and disposal of hazardous wastes as specified below:

Sr. No.	Category	Type of waste	Quantity	Mode of disposal
1.	5.1	Used /Spent Oil	7.5 TPA	To recycler registered with SPCB and having valid authorization of SPCB
2.	5.2	Wastes or residues containing oil	2.8 TPA	To be sent to CHWTSDF operated M/s. Ponda Envocare Ltd. at Pissurlem IDC for incineration
3.	3.3	filters contaminated with oil	0.5 TPA	To recycler registered with SPCB and having valid authorization of SPCB.

- (ii) *The authorization shall comply with the provisions of the Environment (Protection) Act, 1986 and the rule made there under.*
- (iii) The person authorized shall not rent, lend, sell or transfer or otherwise transport the hazardous waste without obtaining prior permission of the Goa State pollution Control Board.
- (iv) Any unauthorized change in personnel, equipment or working conditions as mentioned in the hotel unit by the person authorized shall constitute a breach of his authorization.

- (v) It is a duty of the authorized person to take permission of the Goa State Pollution Control Board to close down the facility.
- (vi) The inner bottom surfaces of the tank shall be impervious enough to prevent leakage or seepage of these wastes into the sub surface soil or ground water.
- (vii) The occupier shall maintain a manifest system as per Rule 19 for disposal of hazardous wastes to ensure that these wastes are delivered to the designated facility preventing pilferage and clandestine disposal due to unforeseen events that may occur during transit.
- (viii) The manifest shall be endorsed by the dispatcher, transporter and receiver of hazardous wastes. The endorsed copy shall be furnished to the Goa State Pollution Control Board.
- (ix) Under any circumstances the hazardous waste shall not be disposed to unauthorized facilities.
- (x) The occupier shall maintain the records for generation, storage and disposal of hazardous waste in Form 3 of as per Hazardous And Other Waste (Management & Transboundary Movement) Rules 2016 as amended thereafter.
- (xi) The occupier shall furnish monthly returns for collection, storage and disposal of hazardous waste through online OCCMS systems.
- (xii) The unit shall put up a board (minimum size 6x4 Feet) at prominent location near the main gate providing details as follows in English and Konkani languages:-
- Hazardous Waste category number.
 - Hazardous Waste quantity number.
 - Treatment facility for each category.
 - Mode of disposal for each category.
 - Hazardous Waste Authorization number, date and validity period.
 - Water Consent number, date and validity period.
 - Air Consent number, date and validity period.
 - Quantity and Nature of Hazardous Chemicals being used.
- (xiii) The occupier shall ensure that the Hazardous Wastes are not allowed to be stored for more than 90 days.
- (xiv) The unit shall submit online annual returns in prescribed format on or before 30th June of every year.

6. **GENERAL CONDITIONS:**

- (i) The unit shall not change or alter the quantity, quality of discharge, temperature or the mode of the effluent/ emission or hazardous wastes or control equipment's provided for without previous permission of the Board.
- (ii) The unit shall provide facility for collection of samples of effluent, air emissions and hazardous wastes to the Board staff.
- (iii) An application in prescribed form along with the prescribed fees for renewal of Consent shall be submitted at least 60 days before the expiry of validity of this Consent. An application for

renewal of Consent submitted after expiry of the validity shall accompany with penalty of 50% of the Consent fees in addition to the prescribed consent fees.

- (iv) The Board shall be forthwith informed of any accident or unforeseen event involving discharge of any poisonous, noxious or polluting matter into a stream or well or on land or into the atmosphere, as result of such discharge water/ air is being polluted.
- (v) This Consent to Operate is granted without any prejudice to any other permissions(s) required under any laws, by – laws and regulations in force. This Consent to Operate is confined to matters arising out of the Air Act and Water Act only.
- (vi) The Board reserves the right to amend or add any conditions in this consent and the same shall be binding on the applicant.
- (vii) The unit shall submit to this office, the Environmental Statement Report in Form V for the Financial Year ending April to March by 30th September of the succeeding year as per the provisions of the rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
- (viii) This Consent does not entitle the party to commence activities until and unless all the other Permissions as required under the relevant statutes are obtained by the party and this Consent to Operate is confined to matters arising out of the Air Act and Water Act only.
- (ix) The unit shall bear the cost of analysis / monitoring in case of complaints received by the Board / re-inspections due to non-compliances observed by the Board & monitoring carried by the Board.
- (x) The unit shall submit the details of the Public Liability Insurance Policy under the PLI Act 1991, to the Board office as applicable.
- (xi) The unit shall submit returns for disposal of batteries under the Battery Waste Management Rules 2016 as amended thereafter, if applicable.
- (xii) The unit shall submit returns for disposal of e - waste under the E- Waste Management Rules 2016 as amended thereafter, if applicable.
- (xiii) The unit shall submit returns for disposal of plastic waste under the Plastic Waste Management Rules 2016 as amended thereafter, if applicable.
- (xiv) **The unit shall comply with the Guidelines and DUST Mitigation measures in handling Construction material and C & D waste issued by central Pollution Control Board and are placed on Board website goaspcb.gov.in.**
- (xv) **The unit has to obtain no objection certificate from the Central Ground water Authority, or the concerned state authority for any ground water abstraction, if applicable.**
- (xvi) **Effective safeguard measures for prevention of dust generation and subsequent suppression shall be carried out in areas prone to air pollution where in high levels of PM₁₀ and PM_{2.5} are evident such as haul road loading and unloading point and transfer**

point. The fugitive dust emissions from all sources shall be regularly controlled by installation of required machinery and preventive maintenance.

- (xvii) The waste dump slopes shall be covered with laterite material and then with biodegradable geotextile mats to prevent the soil erosion of the dump slopes so as to facilitate the growth of native species.
- (xviii) Those mines having part forest and part non-forest areas and have not obtained forest clearance, consent to operate should be limited to non-forest area
- (xix) Other related permissions as applicable in the EC has to be obtained from the competent authorities before the commencement of the mining operations
- (xx) The mining unit shall submit the year wise production & developmental plan duly approved by the IBM before the commencement of the mining operations
- (xxi) There should be shoulders/small pillars on both side of the road so that the running trucks so not ply over the soil lying on the road side.
- (xxii) Proper spillage control mechanism should be done for the plying trucks. Also Proper garland drains should be maintained to prevent direct runoff from the mine to the nearby agricultural field and river.
- (xxiii) The project proponent has to comply with the operational Consent conditions referred in the Consent to Establish.
- (xxiv) The mining unit shall regularly spray with the water to arrest the generation of dust on the haul roads within the mining lease area. The main haul road should be provided with water tankers for dust suppression
- (xxv) The unit has to obtain registration / membership with the CHWTSDF operated by the M/s. Ponda Envocare at Pissurlem for the disposal of hazardous waste within 30 days of receipt of this consent.
- (xxvi) The mining unit has to register with the GIEMA (Goa industries Environment Management Association) within 30 days of receipt of this consent, if applicable.
- (xxvii) The lease holder shall obtain the valid Environmental Clearance, Lease from DMG and the permission from any other related authority all the time during its operation.
- (xxviii) The lease-holder is mandated to comply with all the conditions referred in the Environmental Clearance (EC) issued by the Ministry of Environment, Forest and Climate Change vide its EC file no EC128/3/2023-24/GSEIAA/GSEAC dated-09/09/2024
- (xxix) The Project Proponent shall submit six monthly compliance reports on the status of the implementation of the stipulated environmental safeguards to the MOEFCC & concerned Regional Office, Central Pollution Control Board and State Pollution Control Board.

(xxx) The unit shall install an online dust monitoring station having specification as below at the boundary of the unit in consultation with the Board and connect the same to the board's server within one month of the receipt of this consent and submit compliance report to the Board.

- a) United States Environmental Protection Agency (USEPA) approved Technology (Measurements as per NAAQS Notification 18th November, 2009) Schedule VII, see rules 3(3B) under EPA Rules 1986
- b) Technical Inspection Association (TUV) certified or Monitoring Certification Scheme (MCERTS) certified (QAL1)
- c) The system should comply with testing/calibration protocol as per International Standards and of the central pollution Control Board.
- d) The system should comply to Circulars issued by the Board vide no 3/71/23-PCB/LAB/20651 dated 21/12/2023 and 3/71/23-PCB/lab/3884 dated 23/05/2024.

(xxxii) The unit shall install an online noise monitoring station having specification as below at the boundary of the unit in consultation with the Board and connect the same to the board's server within one month of the receipt of this consent and submit compliance report to the Board.

- a) Certified by IEC 61672-1 (2013) CLASS 1 Standards
- b) Class 1 Type for Omni directional
- c) Dynamic Span-120dB or more (20-140dB)A/C
- d) Data measurement-Leq(A)dB, Lmax, Lmin, Lpeak, L10, L50 & L90
- e) The system should comply with testing/calibration protocol as per International Standards and of the central pollution Control Board.
- f) The system should comply to Circulars issued by the Board vide no 3/71/23-PCB/LAB/20651 dated 21/12/2023 and 3/71/23-PCB/lab/3884 dated 23/05/2024.

(xxxiii) The unit has to submit the details of three sampling stations in Core Zone and Buffer Zone in respect of Air Monitoring and Surface Water Monitoring.

To,

Block III Monte De Sirigao Mineral Block

(M/s. Rajaram Bandekar (Sirigao) Mines Private Limited)

Mine Lease area of 95.6712 Ha

(Represented by: Shri. Balkrishna Vasant Kamat)

Survey No. 47, 52, 53, 54, 56, 57, 58, 59, 60, 61, 62, 63,

64, 69, 70, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 94,

95, 79 & Road of Village Sirigao & in Survey No. 84 of Village Mayem

Bicholim - Goa.

Copy to:-

1. Directorate of Mines & Geology, Ground Floor, Institute Menezes Braganza, Panaji-Goa.
2. Ministry of Environment, Forest and Climate Change, IA Division, Indira Paryavaran Bhawan, Jor Bagh, New Delhi- 110003.
3. Accounts Section.
4. Concerned File.
5. Guard File

Received Consent fee of: **The Capital Investment of the mining unit is Rs. 11,15,23,275/-**

Receipt no.	Amount	Date
80841	156880/-	19/11/2024

Shamila Dos
Milagres
Monteiro

Digitally signed by
Shamila Dos Milagres
Monteiro
Date: 2025.01.03
12:25:39 +05'30'

(Dr. Shamila Monteiro)
Member Secretary
Goa State Pollution Control Board

Goa State Pollution Control Board

QEHS-CIE-F(06-03)

CUSTOMER FEEDBACK

Dear Citizen / Customer,

We appreciate you for sparing a few minutes for giving us your valuable feedback on our services

Name.....

Contact

Address:.....

Email..... Date.....

Name of the service availed.....

Are you aware that service standards are included in the Citizen's Charter as available on Board's website :www.goaspcb.gov.in?Yes No

If yes, is the Citizen Charter simple and easy to understand?

Yes No

Description of service delivery parameters (Consents/Authorization/RTI's/Complaints etc.)	Excellent	Good	Fair	Average	Poor	Reason for grading
Time taken to deliver service in comparison to service standards mentioned in Citizen's Charter .						
Quality of service (accuracy, completeness)						
Knowledge of dealing hand / staff regarding services/schemes						
Courtesy of staff						
Board's response in view of your query/requirement is to your satisfaction						
Date of your visit to the office and your overall experience						

Suggestions for improvement, if any

.....
.....

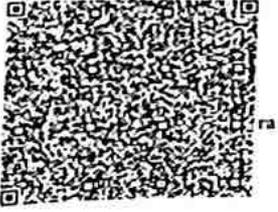
Signature & date

To,
The Member Secretary,
Goa State Pollution Control Board,
Near Pilerne Industrial Estate,
Opposite Saligao Seminary, Saligao, Bardez, Goa. 403511

- ❖ Please note that your feedback is considered essential for overall improvement and development of Board functions in service of environment.

Near Pilerne Industrial Estate, Opp.- Saligao Seminary, Saligao-Bardez Goa-403511

2025:BHC-GOA:730-DB

PILWP-1-08 WITH WP-214-2020-MINING (J).DOC

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO.1/2008

VILLAGERS OF THE SHIRGAO
VILLAGE, C/o Nilu Mukund
Gaonkar, Vadacha Wada, at
Shrigao Goa.

... PETITIONER

Versus

1. SIRIGAO NAGARIK
SANGHATANA, Sirigao-Goa.
2. STATE OF GOA through its
Chief Secretary having its
office at the Secretariat,
Porvorim - Goa.
3. DEPUTY COLLECTOR/SDO,
Bicholim Goa.
4. EXECUTIVE ENGINEER/
CANAL OFFICER, Works
Division/Water Resources
Department, Panaji Goa.
5. GOA STATE POLLUTION
CONTROL BOARD, Panaji Goa.
6. M/S. BANDEKAR COMPANY
PVT.LTD., Sirigao Goa.
7. M/S. CHOWGULE AND
COMPANY PVT. LTD., Sirigao
Goa.
8. M/S DEMPO MINING
CORPORATION LTD.,
Bicholim Goa.

9. UNION OF INDIA, through
Department of Mines Safety,
Margao-Goa.

10. THE SECRETARY, Ministry
of Environment & Forests,
Panjavaran Bhavan, CGO
Complex, Lodi Road, New
Delhi - 110 003.

... RESPONDENTS

**WITH
WRIT PETITION NO.214/2020**

RAJARAM BANDEKAR
(SIRIGAO) MINES PRIVATE
LIMITED, a Company set up
under the Companies Act,
1956, with its Registered
Office at 601, 6th floor, Dr.
Ozler Forum, near St.
Andrews' Church, Vasco-Da-
Gama, Goa 403802.
(represented herein by its
duly authorised General
Manager, Mr. Felix Fernandes,
major, resident of House No.
217, Mangor Hill, Vasco, Goa.

... PETITIONER

Versus

1. THE STATE OF GOA,
through
its Chief Secretary,
Secretariat, Alto Porvorim,
Bardez, Goa.

2. DIRECTOR OF MINES &
GEOLOGY, Directorate of
Mines & Geology,
Government of Goa, Menezes
Braganza Institute, Panaji,
Goa, 403001.

3. THE NORTH GOA DISTRICT
MINERAL FOUNDATION, a
Trust established under
Section 9B(1) of the Mines
and Minerals (Development
and Regulation) Act, 1957,
(represented by its Chairman,
District Magistrate (North),
Panaji, Goa.

... RESPONDENTS

Ms Norma Alvares, Amicus Curiae with Ms M. Simoes and Mr Om
D'Costa, Advocates for the Petitioner in PIL WP No.1/2008.

Mr. Devidas Pangam Advocate General with Mr. Deep Shirodkar,
Additional Government Advocate for Respondent Nos. 2 to 4 in
PILWP 1/2008 and with Ms. Maria Simone Judith Correia, Additional
Government Advocate for Respondent Nos. 1 and 2 in WP 214/2020.
Mr. Manish Salkar, Advocate for Respondent No.5 in PILWP 1/2008.

Mr. A. F. Diniz, Senior Advocate, along with Mr. Ryan Menezes and
Ms. S. Alvares, Advocates for Respondent No. 6 in PILWP 1/2008 and
for the Petitioner in WP 214/2020.

Mr. S. D. Lotlikar, Senior Advocate, along with Mr. T. Sequeira and
Ms. Sailee Kenny, Advocates for Respondent No. 7 in PILWP 1/2008.

Mr. Sudin Usgaonkar, Senior Advocate along with Ms. T. Mashelkar,
Advocate for Respondent No. 8 in PILWP 1/2008.

CORAM: M. S. KARNIK &
NIVEDITA P. MEHTA, JJ.

Reserved on: 17th JANUARY 2025

Pronounced on: 30th JANUARY 2025

JUDGMENT: (Per M. S. Karnik, J.)

1. The PIL Writ Petition No.1/2008 and Writ Petition No.214/2020 raise issues which are inter-linked and hence disposed of by a common judgment. The PIL Writ Petition raises several issues one of which was about desilting of agricultural fields, savat khazan, kharat khazan and poi/rivulet. The grievance in the PIL Writ Petition is that as a result of pumping from the working mining pit and discharge of water into the fields canals/rivulet, considerable environmental damage was caused to the agricultural fields thereby degrading the soil fertility as a result of silt deposition from the mining overburdens. Considerable expenditure had to be incurred to desilt the agricultural fields and the rivulet. The question is whether the expenditure incurred towards desilting is to be recovered from the mining companies (respondents no.6 to 8) or from the District Mineral Foundation Trust towards which the mining companies are making regular contributions pursuant to its establishment.

2. The challenge in Writ Petition No.214/2020 is to the proviso to Rule 13(1)(b) of the Goa District Mineral Foundation (Trust) Rules, 2018 (said Rules). The challenge in brief is that the impugned proviso is ultra

vires Section 9B of the Mines and Minerals (Development & Regulation) Act, 1957 (MMRD). Firstly, we deal with the challenge in this Writ Petition.

3. According to Mr A. F. Diniz, learned Senior Advocate for the petitioner submitted that in view of the proviso to Section 9B(3), only the Central Government can give directions regarding the composition and utilization of funds by the District Mineral Foundation Trust (DMFT). The impugned proviso made by the State Government, is therefore, ultra vires the rule-making powers conferred upon the State Government. Mr Diniz submits that in any case, the proviso is illegal, arbitrary, unreasonable, null and void. He submits that the entire purpose of establishing DMF is to take up, inter alia, environmental preservation and pollution control measures incidental to mining activities in a specified area. He submits that if some measures are necessary on account of mining pollution, then, the funds from DMF ought to be allowed to be used for the said purpose. He submits that the proviso to the extent it excludes the activities meant to be taken up under the "polluter pays principle" is ex facie illegal, unreasonable, arbitrary and unconstitutional. He

submits that excluding this class of activities amounts to discrimination and therefore the impugned proviso is liable to be declared as ultra vires and struck down.

4. The brief facts giving rise to the challenge are set out hereafter. The petitioner is a company set up under the Companies Act, 1956. The petitioner is the beneficiary of Title of Mining Concession bearing number T/C 4/1949 in Sirigao (Shirgao), Goa, granted by the erstwhile Portuguese regime. Consequent upon the Goa, Daman and Diu Mining concessions (Abolition and Declaration as Mining Leases) Act, 1987, the mining concessions in Goa were deemed as Mining Leases and the petitioner as lessee thereof.

5. In view of the judgment of the Hon'ble Supreme Court in *Goa Foundation V/s. Union of India & Ors.* dated 21.04.2014 passed in Writ Petition No.435/2012, the Mines & Mineral (Development & Regulation) Act 1957 (MMDR Act) was amended inter alia adding Section 9B thereto, which Section reads as follows:

"9B. District Mineral Foundation.- (1) In any district affected by mining related operations, the State Government shall, by notification, establish a trust, as a non-profit

body, to be called the District Mineral Foundation.

(2) The object of the District Mineral Foundation shall be to work for the interest benefit of persons, and areas affected by mining related operations in such manner as may be prescribed by the State Government.

(3) The composition and functions of the District Mineral Foundation shall be such as may be prescribed by the State Government.

[Provided that the Central Government may give directions regarding composition and utilisation of fund by the District Mineral Foundation.]

(4) The State Government while making rules under sub-sections (2) and (3) shall be guided by the provisions contained in article 244 read with Fifth and Sixth Schedules to the Constitution relating to administration of the Scheduled Areas and Tribal Areas and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007).

(5) The holder of a mining lease or a composite licence granted on or after the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, other than those covered under the provisions of sub-section (2) of section 10-A, shall, in addition to the

royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount which is equivalent to such percentage of the royalty paid in terms of the Second Schedule, not exceeding one-third of such royalty, as may be prescribed by the Central Government.

(6) The holder of a mining lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 [and those covered under the provisions of sub-section (2) of section 10-A], shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount not exceeding the royalty paid in terms of the Second Schedule in such manner and subject to the categorisation of the mining leases and the amounts payable by the various categories of lease holders, as may be prescribed by the Central Government."

6. The State Government framed the Goa District Mineral Foundation Rules, 2016 (the 2016 Rules) under Section 9-B of the MMDR Act. The 2016 Rules were thereafter repealed and replaced by the Goa District Mineral Foundation (Trust) Rules, 2018 (2018 Rules), which came into force w.e.f. 10.01.2019.

7. In view of Section 9B of the MMDR Act, the petitioner has paid a sum of Rs.92,44,000/- to respondent no.3, the District Mineral Fund Trust (DMFT) during the short periods in the year 2016-2017 and 2017-2018 during which the petitioner operated its mining lease. Other mining lessees within the State of Goa have also paid various amounts to the DMFT. The total amount paid by mining lessees in the State of Goa to the DMFT runs into several hundred crores of rupees. The mining operations in the State of Goa were banned w.e.f. 15.03.2018.

8. A brief reference to the PIL petitioner needs a mention at this stage. In 2008, Public Interest Litigation Writ Petition No.1/2008 (*Villagers of Shirgao Village V/s. Shirgao Nagarik Sanghatana & Others*, (connected PIL petition) was registered in this Court pursuant to a letter by certain persons allegedly from the village of Shirgao, claiming inter alia that the village fields were affected by mining operations of the petitioner and two other mining companies, Respondents No. 7 & 8 in Writ Petition No. 214 of 2020 i.e. Chowgule and Co. Pvt. Ltd. (reflected in the petition as Chowgule Mining Co. Pvt. Ltd.) and Dempo Mining Corporation Ltd. (now Sesa Mining Corporation

Ltd.).

9. According to Mr Diniz, learned Senior Advocate, the petitioner as well as other mining companies, paid handsome compensation to the agriculturists regularly for several years apart from the contribution to the DMFT. At one stage, the three Companies even cultivated the village fields and produced two bumper crops to the knowledge of the Zonal Agricultural Officer and proved that the fields were cultivable and that the concerned persons were deliberately keeping them fallow so as to avail of crop loss compensation from the companies. The petitioner jointly with other two mining companies has supplied Sintex water storage tanks to each household and also drinking water meters and paid water consumption bills over several years.

10. Pursuant to the order passed in Goa Foundation case by the Hon'ble Supreme Court, mining in Goa came to a standstill. After resumption of mining in 2017, an application bearing MCA No.354/2017 was filed in the said petition seeking various reliefs, including de-siltation of the fields 'Sawat Khazan'. On 04.09.2018, this Court recorded the communication issued by the competent authority requesting the

identification of fields, rivulets, etc. that could be taken up for desiltation in Shirgao village so that the work could be carried out under the District Mineral Foundation Funds.

11. The Proviso to Rule 13(1)(b) is relied upon by the respondent-State to contend that the activities relating to the 'polluter pays principle' are excluded from the activities of the DMFT. Rule 13 of the 2018 Rules containing the said proviso which is under challenge reads thus:-

"13. Scope of the District Mineral Foundation Trust.- *The District Mineral Foundation Trust shall work for the interest and benefits of person, and areas affected by the mining related operations and in particular shall focus on the following areas, as per priorities determined in the Perspective and annual District Mineral Foundation plans.*

(1) High priority areas.- *(a) Drinking water supply-Centralized purification systems, water treatment plants. permanent/temporary water distribution network including standalone facilities for drinking water, laying of piped water supply system.*

(b) Environment preservation and pollution control measures-*Effluent treatment plants,*

prevention of pollution of streams, lakes, ponds, ground water, other water sources in the region, measure for controlling air and dust pollution caused by mining operations and dumps, mine drainage system, mine pollution prevention technologies, and measures for working or abandoned mines and other air, water & surface pollution control mechanisms required for environment friendly and sustainable mine development.

However activities meant to be taken up under the "polluter pays principle" or as per the obligations of the industries under the environment management plan or mines management plan should not be taken up under District Mineral Foundation Trusts.

(c) **Health care-** The focus must be on creation of primary/secondary health care facilities in the affected areas. The emphasis should not be only on the creation of the health care infrastructure, but also on provision of necessary staffing, equipment and supplies required for making such facilities effective. To that extent, the effort should be to supplement and work in convergence with the existing health care infrastructure of the local bodies, State and Central Government. The

expertise available with the National Institute of Miners' Health may also be drawn upon to design special infrastructure needed to take care of mining related illnesses and diseases. Group Insurance Scheme for health care may be implemented for mining affected persons.

(d) **Education-** The focus must be on augmentation and development of resources and infrastructure for improving both secondary and elementary education. This may include construction of school buildings, Additional class rooms, Laboratories, Libraries, Art and crafts room, Toilet blocks, Drinking water provisions, Residential Hostels for students/teachers in remote areas, sports infrastructure, engagement of teachers/other supporting staff, e-learning setup, other arrangement of transport facilities (bus/van/cycles//rickshaws/etc.) and nutrition related programmes.

(e) **Welfare of Women and Children-** Special programmes for addressing problems of maternal and child health, malnutrition, infectious diseases, etc. can be taken up under the PMKKKY.

(f) **Welfare of aged and disabled people-** Special programmes for welfare of aged and disabled

people.

(g) **Livelihood & Skill development-** Skill development for livelihood support, income generation and economic activities for local eligible persons particularly around local resources such as agri-based, forest resources, horticulture etc. The projects//schemes may include training, development of skill development centers, self-employment schemes, support to vulnerable sections such as women//women groups/tribal groups, support to self help groups, placement oriented training to youth and provision of forward and backward linkages for such self-employment economic activities.

(h) **Sanitation-** Collection, transportation & disposal of waste, cleaning of public places, provision of proper drainage & Sewage Treatment Plant, provision for disposal of fecal sludge, provision of toilets and other related activities.

(2) **Other priority Areas.-** (a) Physical infrastructure - Providing required physical infrastructure road, bridges, railways and waterways projects with priority in directly affected areas.

(b) **Irrigation-** Developing alternate sources of

irrigation, adoption of suitable and advanced irrigation techniques.

(c) Energy and Watershed Development-
Development of alternate source of energy (including micro-hydel) and rainwater harvesting systems, augmentation of integrated watershed management practices, development of orchards, integrated farming and economic forestry and restoration of catchments.

(d) Any other measures for enhancing environmental quality in mining district.

In addition to the above, the scope will include implementing the objectives specified in Pradhan Mantri Khanij Kshetra Kalyan Yojana which are not specifically enlisted herein;"

(emphasis supplied)

12. Mr Diniz, learned Senior Advocate submits that the said proviso to Rule 13(1)(b) to the extent that it excludes activities under the 'Polluter Pays Principle' from the scope of activities of the Mineral Foundation is ultra vires, illegal and void. He submits that the exclusion of the activities under the Polluter Pays Principle is ultra vires Section 9B of the MMDR Act and defeats the very purpose and intent thereof. He further

submits that the said exclusion directly conflicts with the powers of the Mineral Foundation under the Goa Mineral Ore Permanent Fund Scheme including Clause 8 thereof and the objects and functions of the Goa Mineral Ore Permanent Fund Trust and as also defeats the very intent and purpose for which the funds are to be collected and utilized under Section 9B of the MMDR Act as also the judgment of the Hon'ble Supreme Court in Writ Petition No. 435/2012.

13. The learned Senior Advocate submits that the funds of the Mineral Foundation are contributed by the mining lessees themselves precisely for the purpose of remedying or mitigating, any environmental problems that may arise due to mining operations, and the Mineral Foundation is duty bound to utilize the funds so contributed towards the purposes visualized under Section 9B of the MMDR Act and to advance its purpose rather than stultifying it, and by making the said exclusion, the very purpose for which the Fund is created and contributions received from the mining companies, will be defeated.

14. The learned Senior Advocate submitted that the Rules have misconstrued the concept of "polluter pays principle" vis-a-vis the mining operations including that of the Petitioner that are/were being conducted with all

permissions and in accordance with applicable laws.

15. Learned Senior Advocate relied upon the following decisions in support of his submissions:

(i) ***Asnew Drums Private Ltd. & Ors. v/s. Maharashtra State Finance Corporation & Ors. - 1971 (3) SCC 602.***

(ii) ***State of T.N. & Anr. v/s. P. Krishnamurthy & Ors. - (2006) 4 SCC 517*** in support of his submissions.

16. Mr S. D. Lotlikar, learned Senior Advocate appearing on behalf of respondent no.7 in PIL Writ Petition No.1/2008 submitted that the respondent no.7/mining company has strictly adhered to the measures suggested by the concerned respondents. Our attention was invited to the various reports submitted and the prompt response of the mining companies to contend that not only have the mining companies contributed to the DMFT but on its part over and above these contributions have gone out of its way to help the agriculturists. It is submitted that the mining companies themselves have undertaken agriculture in the so-called affected areas which resulted in yield of bumper crops consistently. This submission was made by Mr Lotlikar to bring home the point as regards the allegation made that the lands

are adversely affected is only with a view to arm-twist the mining companies into paying more compensation. Mr Lotlikar submitted that the PIL Writ Petition is a mischievous attempt to squeeze the mining companies into paying compensation which they are not liable to. It is submitted that the 2016 Rules contemplated restoring of the ecology. The 2018 Rules virtually negate whatever is provided in the 2016 Rules which is impermissible. The 2018 Rules cannot be read in such a manner. It is moreover submitted that the 2018 Rules have been given retrospective operation as recovery is sought to be made from the mining companies for the alleged damage caused to the environment even before the 2018 Rules came into force. It is therefore submitted that the PIL Writ Petition is devoid of any merits and should be dismissed.

17. Mr Sudin Usgaonkar, learned Senior Advocate appearing on behalf of respondent no.8 in PIL Writ Petition No.1/2008 submitted that respondent no.8 has filed several replies dated 29.03.2008, 13.07.2009, 04.09.2017, 18.04.2018 and 25.09.2019 in the PIL Writ Petition refuting the contentions of the PIL Petitioners as well as those of the State Government. The gist of the arguments of Mr Usgaonkar is that respondent no.8 on its part has contributed to the DMFT and not only that, but the respondent no.8 has taken adequate measures to

curtail pollution, covering trucks, non-user of the old road and use of dedicated route by the mining company. The concern of drying of water source, lack of water was addressed by making adequate provisions for water, the de-siltation was done, the foundation was created for alternate water provision and even cultivation was done by the mining companies to help the agriculturists. It is therefore submitted that not only does the contribution to the DMFT secure the interest of the villagers but over and above that the respondent no.8 has taken adequate measures as directed from time to time to resolve the problems. Mr Usgaonkar submitted that the PIL Writ Petition cannot be converted into a suit for recovery. It is submitted that assuming without admitting, the respondent no.8 is liable to compensate in view of the polluter pays principle, the quantification of the damages to the extent the respondent no.8 is liable is a fact-finding exercise which requires evidence and hence cannot be the scope of a Writ Petition under Article 226 of the Constitution of India. Mr Usgaonkar submitted that there are several disputed questions of fact and even respondent no.8 has a right to cross-examine the experts who have submitted the report which aspects cannot be gone into by this Court hearing a Public Interest Litigation. It is submitted that the respondent no.8 has raised objections to the report of NIRI i.e. the one

submitted under the supervision of Shri Chachadi. Respondent no.8 has also complied with the bio-remediation as indicated. Mr Usgaonkar, learned Senior Advocate submitted that respondent no.8 has been responsible and has attended all meetings with the Collector to survey the area for de-siltation (savat khazan). It is further submitted that a detailed reply was filed on 25.09.2019 which mentions about the geographical features of the land and agricultural fields not affected by mining activities or water discharge from mining dumps. It is submitted that the iron ore is located far away from the savat khazan. It is pointed out that the mining dump was covered with geo-textile mat and plantation was done. Further it is submitted that water from the mining area/dump was taken to the mineral pits and agricultural fields were not affected by the mining activities. Learned Senior Advocate relied upon the letter of the Zonal Agricultural Officer (ZAO) to submit that the letter clearly indicated that siltation due to mining cannot be ascertained. Reliance is then placed on the certificate of analysis of the ITA Lab (Goa) Pvt. Ltd. dated 22.03.2019 giving soil composition. It is therefore submitted by learned Senior Advocate that there is absolutely no material to justify the report assessing damage to the extent of Rs.2 crore or for that matter any higher quantum and hence not only respondent no.8 is

not liable to pay its share of damages as ascertained, but is entitled to refund of the amount deposited pursuant to the interim orders passed by this Court.

18. Heard learned Senior Advocate at length. We have also heard Ms. Norma Alvares, learned Amicus Curiae who meticulously invited our attention to the relevant materials on record while adhering her submissions. Shri Pangam, the learned Advocate General apart from the oral submissions invited our attention to the affidavit in replies in opposition of the Writ Petition and in support of the PIL Petition.

19. In order to properly appreciate the submissions advanced it will be apposite to understand the purpose of creation of Goa Iron Ore Permanent Fund as well as the concept of 'Polluter Pays Principle' expounded by the Hon'ble Supreme Court. The Hon'ble Supreme Court by an order dated 21.01.2016 in **IA Nos.87, 88 and 90 in Writ Petition (Civil) No.435/2012 - Goa Foundation v/s. Union of India & Ors.**, observed thus:-

“ After having heard, we are of the view that the purpose for creation of Goa Iron Ore Permanent Fund as was noted in paragraphs 77 and 78 of our judgment in the Goa Foundation Case was mainly intended for maintaining intergenerational equity and sustainability of mining for all times to come.

However, much we looked into the various materials brought to our notice we are afraid that there was any comprehensive scheme formulated which would meet the requirement for which the said Fund was directed to be created. At this stage, learned Advocate General for the State of Goa came forward to suggest that if the State Government is directed to prepare a Scheme, the State is too willing to prepare the Scheme and submit before this Court. Since the whole of the mining operations pertaining to this case is with reference to the mines situated in the State of Goa, we feel that it will be better in the interest of the State of Goa as well as mining operations by directing the State of Goa to prepare a comprehensive Scheme.

With that view, while we direct the State of Goa to prepare a Scheme exclusively concentrating on the aspect of intergenerational equity vis-a-vis sustainable development of mines in the State of Goa, we also permit the petitioner to forward its suggestion to the State Government to enable the State Government to frame the Scheme. Any such suggestions shall be forwarded within a week's time from this date. If any comprehensive Scheme is framed by the State Government, the same shall be forwarded to the Central Empowered Committee and

the Central Empowered Committee is directed to examine the same and submit its Report. The Report of the Central Empowered Committee and the Scheme shall be filed before this Court within a period of six weeks from the date of communication of this order."

20. In **Vellore Citizens' Welfare Forum v/s. Union of India & Ors. - (1996) 5 SCC 647** the Hon'ble Supreme Court made following observations in the context of the polluter pays principle. The relevant paras 10 to 19 read thus:-

"10. The traditional concept that development and ecology are opposed to each other, is no longer acceptable. "Sustainable Development is the answer. In the international sphere, "Sustainable Development" as a concept came to be known for the first time in the Stockholm Declaration of 1972. Thereafter, in 1987 the concept was given a definite shape by the World Commission on Environment and Development in its report called "Our Common Future". The Commission was chaired by the then Prime Minister of Norway, Ms. G.H. as "Brundtland Report". In 1991 the World Conservation Union, United Nations Environment Programme and Worldwide Fund for Nature, jointly came out with a

document called "Caring for the Earth" which is a strategy for sustainable living. Finally, came the Earth Summit held in June 1992 at Rio which saw the largest gathering of world leaders ever in the history -deliberating and chalking out a blueprint for the survival of the planet. Among the tangible achievements of the Rio Conference was the signing of two conventions, one on biological diversity and another on climate change. These conventions were signed by 153 nations. The delegates also approved by consensus three non-binding documents namely, a Statement on Forestry Principles, a declaration of principles on environmental policy and development initiatives and Agenda 21, a programme of action into the next century in areas like poverty, population and pollution. During the two decades from Stockholm to Rio "Sustainable Development" has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. "Sustainable Development" as defined by the Brundtland Report means "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". We have no hesitation in holding that "Sustainable Development"

as a balancing concept between ecology and development has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists.

11. Some of the salient principles of "Sustainable Development", as culled out from Brundtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Natural Resources, Environmental Protection, the Precautionary Principle, Polluter Pays Principle, Obligation to Assist and Cooperate, Eradication of Poverty and Financial Assistance to the developing countries. We are, however, of the view that "The Precautionary Principle" and "The Polluter Pays Principle" are essential features of "Sustainable Development". The "Precautionary Principle" - in the context of the municipal law - means :

(i) Environment measures - by the State Government and the statutory authorities - must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing,

measures to prevent environmental depredation.

(iii) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.

12. "The Polluter Pays Principle" has been held to be a sound principle by this Court in *Indian Council for Enviro-Legal Action v. Union of India*. The Court observed: (SCC p.246, para 65)

"... we are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country."

The Court ruled that : (SCC p.246, para 65)

"Once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on".

Consequently the polluting industries are

"absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas". The "Polluter Pays Principle" as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

13. The Precautionary Principle and the Polluter Pays Principle have been accepted as part of the law of the land. Article 21 of the Constitution of India guarantees protection of life and personal liberty. Articles 47, 48-A and 51-A(g) of the Constitution are as under :

"47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health. - The State shall regard the raising of the level of nutrition and the

standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

48-A. Protection and improvement of environment and safeguarding of forests and wildlife. - The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

51-A. (g) To protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures."

Apart from the constitutional mandate to protect and improve the environment there are plenty of post-independence legislations on the subject but more relevant enactments for our purpose are : The Water (Prevention and Control of Pollution) Act, 1974 (the Water Act), The Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment (Protection) Act, 1986 (the Environment Act). The Water Act provides for

the constitution of the Central Pollution Control Board by the Central Government and the constitution of one State Pollution Control Boards by various State Governments in the country. The Boards function under the control of the Governments concerned. The Water Act prohibits the use of streams and wells for disposal of polluting matters. It also provides for restrictions on outlets and discharge of effluents without obtaining consent from the Board. Prosecution and penalties have been provided which include sentence of imprisonment. The Air Act provides that the Central Pollution Control Board and the State Pollution Control Boards constituted under the Water Act shall also perform the powers and functions under the Air Act. The main function of the Boards, under the Air Act, is to improve the quality of the air and to prevent, control and abate air pollution in the country. We shall deal with the Environment Act in the later part of this judgment.

14. In view of the above-mentioned constitutional and statutory provisions we have no hesitation in holding that the Precautionary Principle and the Polluter Pays Principle are part of the environmental law of the country.

15. Even otherwise once these principles are accepted as part of the Customary International Law there would be no difficulty in accepting them as part of the domestic law. It is almost an accepted proposition of law that the rules of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law. To support we may refer to Justice H.R. Khanna's opinion in A.D.M. v. Shivakant Shukla, Jolly George Varghese case and Gramophone Co. case.

16. The Constitutional and statutory provisions protect a person's right to fresh air, clean water and pollution-free environment, but the source of the right is the inalienable common law right of clean environment. It would be useful to quote a paragraph from Blackstone's commentaries on the Laws of England (Commentaries on the Laws of England of Sir William Blackstone) Vol.III, fourth edition published in 1876. Chapter XIII, "Of Nuisance" depicts the law on the subject in the following words :

"Also, if a person keeps his hogs, or other noisome animals, or allows filth to accumulate

on his premises, so near the house of another, that the stench incommodes him and makes the air unwholesome, this is an injurious nuisance, as it tends to deprive him of the use and benefit of his house. A like injury is, if one's neighbour sets up and exercises any offensive trade; as a tanner's, a tallow-chandler's, or the like; for though these are lawful and necessary trades, yet they should be exercised in remote places; for the rule is, 'sic utere tuo, ut alienum non leadas'; this therefore is an actionable nuisance. And on a similar principle a constant ringing of bells in one's immediate neighbourhood may be a nuisance.

... With regard to other corporeal hereditaments; it is a nuisance to stop or divert water that used to run to another's meadow or mill; to corrupt or poison a watercourse, by erecting a dye-house or a lime-pit, for the use of trade, in the upper part of the stream; to pollute a pond, from which another is entitled to water his cattle; to obstruct a drain; or in short to do any act in common property, that in its consequences must necessarily tend to the prejudice of one's neighbour. So closely

does the law of England enforce that excellent rule of gospel-morality, of 'doing to others, as we would they should do unto ourselves'."

17. Our legal system having been founded on the British Common law the right of a person to pollution-free environment is a part of the basic jurisprudence of the land.

18. The Statement of Objects and Reasons to the Environment Act, inter alia, states as under :

"The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentrations of harmful chemicals in the ambient atmosphere and in food-chains, growing risks of environmental accidents and threats to life-support systems. The world community's resolves to protect and enhance the environmental quality found expression in the decisions taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972. Government of India participated in the Conference and strongly voiced the environmental concerns. While several measures have been taken for

environmental protection both before and after the Conference, the need for a general legislation further to implement the decisions of the Conference has become increasingly evident.

Existing laws generally focus on specific types of pollution or on specific categories of hazardous substances. Some major areas of environmental hazardous are not covered. There also exist uncovered gaps in areas of major environmental hazards. There are inadequate linkages in handling matters of industrial and environmental safety. Control mechanisms to guard against slow, insidious build-up of hazardous substances especially new chemicals in the environment, are weak. Because of a multiplicity of regulatory agencies, there is need for an authority which can assume the lead role for studying, planning and implementing long-term requirements of environmental safety and to give direction to, and coordinate a system of speedy and adequate response to emergency situations threatening the environment.

In view of what has been stated above,

there is urgent need for the enactment of a general legislation on environmental protection which inter alia, should enable coordination of activities of the various regulatory agencies, creation of an authority or authorities with adequate powers for environmental protection, regulation of discharge of environmental pollutants and handling of hazardous substances, speedy response in the event of accidents threatening the environment and deterrent punishment to those who endanger human environment, safety and health".

Sections 3, 4, 5, 7 and 8 of the Environment Act which are relevant are as under :

"3. Power of Central Government to take measures to protect and improve environment. - (1) Subject to the provisions of this Act, the Central Government shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all

or any of the following matters, namely -

(i) coordination of actions by the State Governments, officers and other authorities -

(a) under this Act, or the rules made thereunder; or

(b) under any other law for the time being in force which is relatable to the objects of this Act;

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for the emission or discharge of environmental pollutants from various sources whatsoever :

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources ;

(v) restriction of areas in which any industries, operations or processes or class of industries,

operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;

(x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry

out the functions entrusted to such environmental laboratories and institutes under this Act;

(xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

(3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under Section 5) of the Central Government under this act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the

Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

4. Appointment of officers and their powers and functions. - (1) Without prejudice to the provisions of sub-section (3) of section 3, the Central Government may appoint officers with such designations as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

(2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Central Government or, if so directed by that Government, also of the authority or authorities, if any, constituted under sub-section (3) of section 3 of any other authority or officer.

5. Power to give directions. - Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in

writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

Explanation. - for the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct -

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

7. Persons carrying on industry, operation etc., not to allow emission or discharge of environmental pollutants in excess of the standards. - No person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed.

8. Persons handling hazardous substances to comply with procedural safeguards. - No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed".

19. Rule 3(1), 3(2), and 5(1) of the Environment (Protection) Rules, 1986 (the Rules) are as under:

"3. Standards for emission or discharge of environmental pollutants. - (1) For the purposes of protecting and improving the quality of the environment and preventing and abating environmental pollution, the standards for emission or discharge of environmental pollutants from the industries, operations or processes shall be as specified in Schedule I to IV.

3. (2) Notwithstanding anything contained in sub-rule(1), the Control Board or a State Board may specify more stringent standards from those provided in Schedules I to IV in respect of any specific industry, operation or process depending upon the quality of the recipient system and after recording reasons therefor in writing.

5. Prohibition and restriction on the location of industries and the carrying on of processes and operations in different areas. - (1) The Central Government may take into consideration the following factors while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas -

(i) Standards for quality of environment in its various aspects laid down for an area.

(ii) The maximum allowable limits of concentration of various environment pollutants (including noise) for an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation proposed to be prohibited or restricted.

(iv) The topographic and climatic features of an area.

(v) The biological diversity of the area which, in the opinion of the Central Government needs to be preserved.

(vi) Environmentally compatible land use.

(vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted.

(viii) Proximity to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or a sanctuary, National Park, game reserve or closed area notified as

such under the Wild Life (Protection) Act, 1972 or places protected under any treaty, agreement or convention with any other country or countries or in pursuance of any decision made in any international conference, association or other body.

(ix) Proximity to human settlements.

(x) Any other factor as may be considered by the Central Government to be relevant to the protection of the environment in an area".

(emphasis supplied by us)

21. Before we proceed to deal with the challenge to the proviso to the 2018 Rules, it is relevant to notice at this stage the grievance raised by the PIL petitioner. The petition raised several issues, one of which was about desilting of the agricultural fields 'Savat Khazan' and 'Kharat Khazan' and the poi/rivulet. The petition relied upon the Order dated 28.11.2005 passed by the Deputy Collector by which the three mining companies were directed to carry out desiltation of the three items, which was not done. It would be pertinent to reproduce a notice cum order dated 28.11.2005 of the Deputy Collector and SDO, Bicholim, Goa which has an important bearing for a decision in the present matter. The orde

reads thus:-

"NOTICE CUM ORDER

Whereas on the basis of credible Information received by this office, it is seen that the agricultural properties of the Sirigao Village namely Savat Knazan and Kharat Khazan land are affected by mining silt of the above mining companies.

And whereas several meetings were held in the office of the Deputy Collector of the above mining companies for making efforts to desilt the said paddy fields presently covered under the mining silt. The villagers/ agriculturists have agreed to keep the land fallow for the present season so as to enable desiltation of the paddy fields by the mining companies.

And whereas during the meetings held in this office, the mining companies have agreed in principle that there exists mining silt in the agricultural paddy fields, which is requires to be removed by the mining companies.

And whereas the ZAO Bicholim and AE WRD have also participated in the meeting opined that the productivity of the paddy field is badly affected by the mining silt and removal of the silt from the

paddy field is urgently required.

And whereas the mining companies were directed to prepare an estimate and submit the time bound programme of desiltation and to submit the periodical bar chart of the area-wise work to be undertaken, of the land to be desilted.

The mining companies represented by their respective managers however did not submit the bar chart of the desiltation programme on the appointed date but informed that the joint site inspections have been done in that directions and estimate is under preparation.

Upon hearing the applicants and the representatives of the mining company following have been decided for taking action by the mining companies.

- 1. That the M/s Bandekar Mines shall fix reading gauge in the Dhonachi Tali on or before 5th December 2005 and to give the compliance. The AE WRD to monitor the periodical changes in the water level of the Dhonachi tali.*
- 2. That the mining companies shall commence the desiltation of the paddy fields namely Sawat Khazan, Kharat Khaza including Poi (water*

pond) of Sirigao Village from 10th December 2005 onward.

3. That the Periodical Bar Chart / plan showing the execution of work to be undertaken should be submitted to this office by 9th December 2005 at 9.30 a.m. in the meeting to be attended by the ZAO Bicholim, AE WRD, Bicholim Mamlatdar Bicholim and the representatives of all the mining companies.

4. That the review meeting on the progress of work executed for desiltation of paddy fields will be now on 23/12/2005. Parties to come with the progress report for the meeting.

That the AE WRD and the 240, Bicholim should monitor and give timely guidance for the desilation work and ensure the quality of work from the point of maintaining the fertility of the land.

That the Mamlatdar of Bicholim shall assist the mining companies, in the event there is any doubt about the rights of the parties to the paddy fields.

That the cultivators and the Mining companies are free to discuss on the quantum of

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compensation payable towards the crop loss due to mining silt In the event they are not able to come to arrive at an amicable agreement, the issue shall be referred to the ZAO Bicholim.

Take notice that in the default of taking action as per the above directions, action as provided under section 33 of LRC will be initiated against the above named mining companies and cost of desiltation will be recovered from these mining companies as an arrears of land revenue.

Parties shall therefore appear before the undersigned on 9th December 2005 at 9.30 a.m. without fail for giving explanation on above points.

Given under my hand and seal of this Court on this 28th November 2005

*sd/-
(Arvind V. Bugde)
Deputy Collector & SDO
Bicholim Goa."*

22. Further, the Goa State Pollution Control Board (GSPCB) conducted inspection and submitted its Report dated 01.02.2008 which refers to pumping from the working mining pit and discharge of the water into the

fields and the canal/river. The inspection report reads thus:-

" INSPECTION REPORT

As directed by the Member secretary, the undersigned Keshav Fadke (JEE), Nandan Prabhudessai (JEE) along with Sunny Pirankar (JLA) inspected the Mines at Sirigao Village of Bicholim Taluka, of M/s. Rajaram Bandekar (Sirigao) Mines Pvt Ltd., M/s Chowgule & Co. Pvt. Ltd. And M/s. Dempo Mining Co Ltd And the village and the locations in the vicinity of the on 01/02/2008.

I INSPECTION OF VILLAGE

Mr Nillu Mukund Gaonkar, Mr Eknath Gaonkar and Mr Digambar Gaonkar were present during the inspection and showed the locations which were effected due to mining activity in the Village.

Dhondachi Tali - Water level was 70cms in the said Tali during inspection

During inspection it was observed that some part of the agricultural fields in the Sirigao Village were being cultivated. Cultivation activity was in progress during inspection. Major part of the field area is silted. Sample of the silt from the fields was collected

The springs (Ayurvedic Spring & Kasavachi Tali) were shown by the villagers during the inspection. It

was noticed during the inspection that the said springs had dried up. In the Akvarachi Tali the water is only in the central part of the Tali.

The villagers than showed us the wells in the residential area in the vicinity of the mine. On inspection of the well the same were observed to be dried up.

The villagers then showed the Sirgao Creek (Manaswada) where they alleged that mining company was discharging the water sample was collected from the Sirigao Creek (Manaswada). Silt sample was also collected from this creek.

II INSPECTION OF MINES

1. M/s. Rajaram Bandekar (Sirigao) Mines Pvt. Ltd.,

- The mine was in operation during the inspection.
- The unit has obtained Consent to Establish from GSPCB The unit has also obtained Environmental Clearance from the Ministry of Environment and Forest, Government of India However the Mining Company has not obtained Consent to Operate under Water and Air Act from the Board.
- Unit has a dry screening plant within the lease area and the same was not in operation during the inspection.
- Pumping from the working mining pit was in progress. The same is discharged in the non working mining pit where hydrated lime is added. The part of the said water is then pumped in the settling pond for recharging the wells and the remaining is

discharged in the Sirigao River after passing through series of filter beds.

Sample was collected at the final discharge point into the Sirigao river. However it was observed that trucks were being washed along the length of the drain, upstream of the collection point.

The mine officials were present during collection of samples. Two samples were collected at each location and one sample collected during inspection was offered to the Mining Company officials, however they refused to accept the same.

2. M/s. Dempo Mining & Co. Pvt. Ltd., Bicholim Iron Ore Mine

- The mine was in operation during the inspection.
- The unit has obtained Consent to operate under Water And Air Act from GSPCB. The unit has obtained Environmental Clearance from the Ministry of Environment and Forest, Government of India,
- The Mine has Five Leases out of which Mandoor Baga Lease is in the Mandoor, Sirigao, Mayem Village.
- Pumping from the working mining pit was in progress located in the above said lease. The same is discharged in the settling pond (field). The part of the said water is then discharged in the fields after addition of Hydrated Lime and Magnasol (flocculant) and the remaining water drains into the rivulet of Sirigao River.
- Samples were collected from these locations.

The mine officials were present during collection of samples. Two samples were collected at each location and one Sample collected during inspection was offered to the Mining Company officials, however they refused to. accept the same.

3. M/s. Chowgule & Co. Pvt. Ltd., Sirigao Iron Ore Mine

- The mine was in operation during the inspection.
- The unit has obtained Consent to operate under Water Act and applied for renewal of Consent under the Air Act from GSPCB. The unit has obtained Environmental Clearance from the MoEF, Gol.
- Unit has a dry screening plant within the lease area and the same was not in operation during the inspection.
- The lease has two pit, Sirigao Pit and the Poirra Pit.
- The Water from the Sirigao pit is discharged at three locations
 - The water is discharged into three settling ponds which are in series. The water is than further drained into the Poirra Khorjuem Canal.
 - The official of M/s Chowgule and Co Shri Ramesh Chodankar, Mines Manager informed that water is being discharged into settling pond for recharging of wells and partly into the Vazracho nallah. Filter beds have not been provided at the discharge point. The filter beds are provided beyond the Panchayat office which is about 100 meters from the discharge point.

- Shri Ramesh Chodankar further informed that the water is discharged behind the Lairai Temple drain for recharging the Water Table in the area and the same flows back into the mining pit.

- Samples were collected from these locations

- The Water from the Poira pit is discharged at following two locations. However no pumping was in progress during inspection.

The water is discharged into settling ponds and further through the filter beds into Goinguinim Canal.

The water is discharged into other settling pond into the Peira Khorjuem Canal.

The mine officials were present during collection of samples. Two samples were collected at each location and one sample collected during inspection was offered to the Mining Company officials, however they refused to accept the same."

23. By Order dated 16.6.2008 passed in PIL Petition this Court appointed NEERI, Nagpur as Commissioner/Expert Consultant to examine three issues, one of which was about the damage to agricultural fields. The NEERI submitted its Report dated 19.03.2009, of which the Executive Summary inter alia observes that the silt deposition from the mining overburdens has degraded

the soil fertility in the agricultural fields. It is significant to carefully analyze this inspection report which reads thus:-

"INSPECTION REPORT

Assessment of depletion of ground water sources and land degradation in Sirigaon village and mitigation measures

EXECUTIVE SUMMARY

The present study is an outcome of the directives of the Honourable Mumbai High Court at Goa (PIL No. 1/2008) to focus on the alleged depletion of water resources, degradation of agricultural fields' vis-à-vis the mining activity in Sirigaon village (Bicholim Taluka) in the North Goa district.

The study area (60 sq. km) has been delineated on the basis of watershed and covers the working mining pits of the three mining companies namely M/s. Dempo Mining Corporation Pvt Ltd., M/s. Rajaram Bandekar (Sirigaon) Mines Pvt. Ltd. and M/s. Chowgule and Company Pvt. Ltd. It covers most of the dug wells in the Sirigaon village.

The study area is covered by the Survey of India (Sol) toposheet No. 48E/14/SE (scale 1:25,000). The

elevation in the village outside the mining pit varies from 0.095 m to 8.639 m.

The topography in the nearby Sirigaon village has been altered significantly due to the open cast mining activity. The topographic highs which were present earlier have now been removed during the mining activity and large depressions have been created in the form of Mine pits. In view of the sustained mining activity, depressions have been created with the bottom level varying between - 20 m (amsl) to - 43 m (amsl).

Goa receives rainfall from the southwest monsoon and spans four months i.e. from June to September. The rainfall data for the last five years indicate that the average annual rainfall is approximately 2846 mm out of which 2785 mm is contributed by the south west monsoon.

The geology of the study area comprises of laterites followed by manganeseiferous clay. The manganeseiferous clay is underlain by iron ore formation. The thickness of laterites varies from 3 m to 15 m as evident in the lithologs provided by M/s. Chowgule & Company Private limited and M/s. Rajaram Bandekar (Sirigaon) Mines Pvt. Ltd. The laterites are followed by manganeseiferous clay which

is followed by limonitic clays.

The iron ore formations underlie the clay formations. The iron ore formations vary from friable ore to powdery ore. At places, friable ore is followed by powdery ore though friable ore is absent at many places and only powdery ore is encountered. The available lithologs provided by M/s. Chowgule and Company Pvt. Ltd. indicates that the thickness of the powdery ore zone varies from 10 m to 32 m in one of their drilling sites.

The top lateritic formation constitutes the unconfined aquifer in the study area. The zone comprising the ore body serves as the confined aquifer. The unconfined aquifer is tapped for extraction of water. All the dug wells located in the Sirigaon village are tapping the unconfined aquifer only.

Field visits were undertaken for assessing the water resources in the village in the months of August, October and December 2008. Inspection was made for design and implementation of the recharge structures for augmentation of water resources in the month of January 2009. Observation well network was established for measurement of water levels and collection of samples for physicochemical

and heavy metal analysis. It is observed that the water table in August 2008 varied from 0.50 m to 6.55 m. In October 2008 and December 2008, it varied from 0.90m to 10.30m and 2.70 m to 9.70m respectively. The groundwater scenario was worse in December 08, when almost all the dug wells in Sirigaon village had dried up. However, the wells from neighboring villages 14 had water column even in the month of December, 08.

The mine pit water levels for all the three mines is below-20 m (amsl). The flow direction is indicative of water flow from the aquifer to the mine pit. Water seepage to the pit from the mine waste on the village side is also noticed during the field visits. Schematic diagram of ground water profile in the Sirigaon and mine area is presented in the Figure.

The deepening of the mines has led to loss of recharge area for the dug wells seated at the foot hills of the plateau. Hence, the water scarcity in the village dug wells is attributed to the loss of recharge area as well as the deepening of the mine.

Water samples were collected from the mining pit of the three companies and dug wells of the Sirigaon village. The water samples were analysed for physicochemical parameters and heavy metals

levels. The analysis results indicate that the water quality is within permissible limits (BIS 10500:1991) for drinking water as well as for irrigation purpose as per the guidelines (BIS 11624:1986)

Groundwater balance study was carried out for the Sirigaon village. It is established that the requirement of the village can be met by undertaking artificial recharge scheme in a holistic way. Roof top rain water harvesting, water absorption trench, sub-surface dykes and bentonite grout have been proposed for artificial recharge and control of water seepage to the mine pits.

The State Government has provided organized piped water supply scheme to the Sirigaon village.

Artificial recharge schemes have been commissioned recently on a small scale by M/s. Rajaram Bandekar Mines Pvt. Ltd. and M/s. Chowgule and Company Pvt. Ltd. During the field visits it was observed that the recharge to the nearby dug wells was very insignificant.

Roof top rainwater harvesting is proposed as Priority I to address the water Bcarcity problem in the village. Creation of recharge trench and control of mine scarelly Pepage are advocated as Priority.

Aquifer storage, recover (ASR) by construction of sub-surface dyke is proposed as Priority III. It is suggested that the artificial recharge of ground water is initiated stepwise. Roof top rainwater harvesting, if not adequate, is to be followed by the construction of recharge trench. Priority III (ASR) is the last alternative.

An estimated cost of Rs. 660.25 lakhs will be incurred towards installation of the comprehensive recharge schemes to address the water scarcity in the village. The estimate includes the cost towards DPR preparation, maintenance charges and the post-project monitoring charges.

Soil samples were collected from the silt affected area as well as the control sites. The collected soil samples were characterized for various physico-chemical and microbiological parameters (such as bulk density, texture, pH, exchangeable calcium, magnesium, sodium, potassium, available N, P, K, heavy metals and enumeration of different soil microbes).

The soil analysis results indicate that the silt deposition from the mining overburdens has degraded the soil fertility in the agricultural fields of Sirigaon village.

Proper slope stabilization needs to be carried out in the mining areas to minimize runoff of the over burden dump material to the nearby agricultural fields.

Integrated Biotechnological Approach (IBA) is suggested as mitigation measures for restoring the soil quality of the silt affected area. The cost estimate for remediation of silt affected soil by implementation of IBA technology has been worked out to be approximately 1.8 lakhs per hectare area which includes the materials cost, land preparation cost and labour cost etc."

24. Vide directions dated 03.3.2010 to all three mining companies, the GSPCB inter alia directed that the remediation of the silted soil be done. This Court vide Order dated 08.07.2010 issued certain directions to the GSPCB, the relevant ones being as under:-

"10. As far as the aforesaid objection is concerned, we feel that the Pollution Control Board will have to conduct regular inspection and monitoring to ascertain the compliance with the directions issued on 3rd March, 2010. In case the Pollution Control Board finds that the concerned Companies or concerned persons are slow in implementing the directions, the Pollution Control Board will have to

issue further directions specifying the time limit for compliance with directions. As of today, it is not possible to fix an outer limit for compliance with the said directions. Pollution Control Board is seized of the matter and it is expected that the Pollution Control Board will take action and will issue necessary further directions in case requirement of issuing such directions arises on the basis of inspection and monitoring.

11. We direct that the directions contained in Order dated 23rd February, 2010 as well as in the earlier Orders passed by this Court will continue to operate till further orders. We direct the Pollution Control Board to file compliance report in this Court as regards the compliance by the Mining Companies of the directions issued under Section 33(A) of the Water (Prevention and Control of Pollution), Act, 1974. The compliance report shall be filed within a period of three months from today. We direct the Pollution Control Board to file compliance report as regards compliance with what is stated in paragraph 4 of the Order dated 23rd February, 2010. The compliance report shall be filed by the Pollution Control Board by 31st August, 2010.

12. On application made by the parties to the

Petition, Registry is directed to make available copies of the compliance reports submitted by the Goa Pollution Control Board subject to payment of necessary copying charges. As and when reports are submitted by the Goa Pollution Control Board, the parties to the Petition will be free to apply to this Court for seeking necessary directions. We make it clear that copies of the reports filed by the parties to the Petition shall be supplied free of costs to the learned Amicus Curiae appointed to espouse the cause of the Petitioner."

25. The Zonal Agricultural Officer by letter dated 04.12.2018 made certain recommendations including desiltation of water resources, fields, demarcation of paddy fields, etc. Vide Order dated 07.03.2019 in MCA No. 354/2017, this Court directed the Sarpanch and Zonal Agricultural Officer to inspect the site and report on two questions, first of which was whether there was any mining silt still at the site. The Zonal Agricultural Officer submitted a Report dated 22.03.2019 inter alia stating that content of iron and manganese is observed to be high. The soil health card from five locations show that the iron, manganese and sulphur concentration is very high. The Mines Department, along with its Affidavit dated 15.04.2019, produced on record the Certificates of Analysis which show extremely high levels of Iron. This

Court vide Order dated 18.12.2019 directed the exercise of desiltation to be carried out. The State Government appointed an agency to carry out the desiltation work. The expenditure incurred should be borne by the Mining Companies or the DMFT towards which the mining companies were making contribution is the question which this Court is to decide as per the interim order. As an interim measure, this Court directed part of the expenditure be paid by Mining Companies and the rest from DMF fund till the decision on the issue of liability to pay.

26. Now let us go back to the challenge in the Writ Petition No. 214 of 2020 to the proviso of Rule 13 of 2018 Rules. Section 9B of the MMDR Act, 1957 which provides for the establishment of the District Mineral Foundation (DMF) introduced in the statute books by virtue of the Mines and Minerals (Development and Regulation) Amendment Act, 2015. The Statement of object and reasons contained in the bill so far as it pertains to the establishment of the DMFT, records the salient feature of the said Amendment bill as follows - "Safeguarding interest of affected persons: There is provision to establish District Mineral Foundation in the districts affected by mining related activities." In our opinion, the DMFT was established solely in order to secure socio economic justice to the persons affected by mining

activities. We have already reproduced Section 9B herein before. The DMF Rules, 2016 were framed by the Government of Goa under Section 9B as stated herein before.

27. Before we proceed further with the challenge to the proviso of the DMF Rules, 2018, it would be pertinent to note the factors which lead to the creation of the DMF fund and the exclusion of the activities covered under the 'polluter pays principle'. The DMF Rules, 2016 were framed by the Government of Goa under section 9B of the MMDR Act. The said Rules were not in consonance with the model forms issued by the Central Government and therefore did not in so many words exclude the activities covered under the 'Polluter pays principle'. Neither was a trust created for the discharge of functions under section 9B of the MMDR Act, hence Goa Foundation filed a PIL WP bearing No. 30/2017 challenging the said Rules and the constitution of the DMF. In accordance with the orders passed therein, the Goa District Mineral Foundation (Trust) Rules, 2018 came to be notified which repealed the 2016 DMF Rules.

28. If we notice sub-section (2) of section 9B, it provides that the object of DMF is to work for the intent and benefit of persons affected by mining in the manner prescribed by the State Government. Sub-section (3)

thereof provides that the DMF shall function in the manner prescribed by the State Government and the proviso to sub-section (3) provides that the Central Government may give directions regarding composition and utilisation of funds by the District Mineral Foundation. Further, section 20A of the MMDR Act empowers the Central Government to issue directions to the State Government as may be required for the conservation of mineral resources, or any policy matter in the national interest, and for the scientific and sustainable development and exploitation of mineral resources. A careful perusal of Section 9B and the relevant provisions of the Act leaves us in no manner of doubt that the State Government is empowered to make its own Rules for the user of the said fund. Powers of the Central Government to issue directions to the State Government with respect to the utilisation of the funds is in addition to the powers conferred on the State Government.

29. In fact, by an order dated 16/09/2015, the Central Government in exercise of powers under Section 20A directed as follows;

"NOW THEREFORE the Central Government in exercise of powers conferred under section 20A of the MMDR Act, 1957, in national interest hereby

directs the concerned State Governments to incorporate the 'Pradhan Mantri Khanji Kshetra Kalyan Yojana' (the details of which are annexed herewith) into the rules framed by the District Mineral Foundations and to implement the said Scheme."

30. A perusal of the guidelines which have been incorporated into the DMF Rules 2018 makes it clear that the guidelines as well as the DMF Rules 2018, contemplate the utilisation of the funds of the DMF for ensuring socio economic justice for the persons affected by the mining activities. The DMF funds are to be utilized towards making provisions for drinking water supply, education, health care, welfare of Women and Children, welfare of aged and disabled people, livelihood and skill development, sanitation, providing required physical infrastructure such as roads, bridges, railways and waterways projects with priority in directly affected areas, Irrigation, Energy and Watershed Development and Environment preservation and pollution control measures. However, the PMKKY scheme specifically records that 'Activities meant to be taken up under the 'polluter pays principle' should not be taken up under the PMKKY.' The State of Goa being in agreement with the same has incorporated the same into its own Rules in the form of the proviso/second unnumbered paragraph in

Rule 13(1)(b) of the DMF Rules of 2018.

31. It is significant to note that sub section 4 of Section 9B of the MMDR Act provides that whilst making the rules, the State Government shall be guided by the provisions contained in Article 244 read with Fifth and Sixth Schedules to the Constitution of India relating to administration of the Scheduled Areas and Tribal Areas and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007). This fortifies the fact that the DMF Fund is solely constituted to secure socio-economic justice to the persons affected by mining and not for the benefit of the mining companies or to condone the environmental pollution/damage caused by the mining companies.

32. Section 9B is a beneficial legislation which aims at improving the lives of persons affected by mining and does not seek to take away the mining companies strict liability and duty to indemnify for pollution caused by it. It is at this juncture that we must be conscious of what the 'polluter pays principle' is. The polluter pays principle which has become a part of the law of the land demands that the financial cost of preventing or remedying damage caused by pollution should lie with

the undertakings which cause the pollution, or produces the goods which cause the pollution. Under the principle it is not the role of the Government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident on the tax payer. The responsibility of repairing the damage is personally that of the offending industry. When the activity carried out is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. Mining activity by its very nature is a polluting activity. Not only does it pollute the environment but it has an impact on the people living within the vicinity of the mine or are displaced as a result of the mining activities. Accepting the arguments of Mr Diniz, learned Senior Advocate that the contribution made by the mining companies towards the DMF fund covers pollution caused by the mining activities will lead to disastrous consequences. The argument that 'pollution is incidental to mining activity and it is for this purpose the DMF fund is created and therefore the expenses caused due to pollution should be paid from the DMF fund', is completely misconceived. As indicated earlier, the purpose of constituting the DMF

disturbance which may be done by him/them in exercise of the powers granted by this lease and shall indemnify and keep indemnified fully and completely the State Government against all claims which may be made by any person or persons in respect of any such damage, injury or disturbance and all costs and expenses in connection therewith.

15. The lessee/lessees shall make and pay reasonable satisfaction and compensation for all damage, injury or disturbance or person or property which may be done by or on the part of lessee/lessees in exercise of the liberties and power granted by these presents and shall at all times save harmless and keep indemnified the State Government from and against all suits, claims and demands which may be brought or made by any person or persons in respect of any such damage, injury or disturbance."

34. Section 9B in no manner seeks to do away with the inherent liability fastened on the mining companies by virtue of the environmental jurisprudence developed by the Supreme Court or under the Central legislations. The argument of the mining companies that the alleged polluting incident having taken place prior to the coming into force of the 2018 Rules, hence the rules cannot be

made retrospectively applicable to apply the polluter pays principle, is without any merit. The polluter pays principle is always a part of the environmental jurisprudence and has been succinctly expounded by the Hon'ble Supreme Court. The liability is already fastened on the mining companies in view of the Mineral Concession Rules, 1960 and in terms of the well-settled legal principles. The damage caused by the mining companies as a result of their mining activities has to be made good by them. The constitution of the DMFT is for the purpose set out in the Rules which is completely different from the liability on the mining companies for the environmental damage caused by them as a result of the mining activities. For the aforesaid reasons, the proviso/second un-numbered paragraph in Rule 13(1)(b) of DMF Rules 2018 cannot be said to be ultra vires the parent Act. The said Rules cannot be read down in the manner prayed for by Mr A. F. Diniz, learned Senior Advocate as that would amount to the Rule travelling beyond the scope and ambit of the parent Act. The Goa Iron Ore Permanent Fund (GIOPF) was contributed by the Government of Goa in compliance with the directions of the Hon'ble Supreme Court passed in Goa Foundation-I. Following observations are relevant :-

"We cannot, therefore, prohibit mining altogether, but if mining has to continue, the lessees who

benefit the most from mining, must contribute from their sale proceeds to the Goan Iron Ore Permanent Fund for sustainable mining. Accordingly, in exercise of our powers under Article 32 read with Article 21 of the Constitution, we direct that henceforth 10% of the sale proceeds of iron ore excavated in the State of Goa and sold by the lessees must be appropriated towards the Goan Iron Ore Permanent Fund for the purpose of sustainable development and inter-generational equity and the State of Goa in consultation with the CEC will frame a comprehensive scheme in this regard and submit the same to this Court within six months."

35. As is evident, the GIOPF is constituted for a different purpose i.e. inter-generational equity whilst the DMF is constituted for a socio-economic cause i.e. the improvement of the lives of the persons affected by mining operations. Hence the mere fact that the mining companies in Goa are additionally required to make a contribution towards the GIOPF, the same in no manner makes their contribution towards the DMF excessive or unnecessary.

36. We need to notice a significant aspect that in the interlocutory applications bearing Nos.87, 88 and 90 filed by some of the mining companies before the Hon'ble

Supreme Court in Goa Foundation-I, wherein the mining companies in Goa submitted that they need not contribute towards the GIOPF after coming into force of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, the Supreme Court expressed that "the purpose for creation of the GIOPF as was noted in paragraphs 77 and 78 of our judgment in the Goa Foundation case was mainly intended for maintaining the intergenerational equity and sustainability of mining for all times to come." The said interlocutory applications were withdrawn by the mining companies.

37. In our considered opinion, there is no conflict with the two distinct funds created, the object of which is completely different and distinct i.e. in the ultimate aid of addressing the environmental concerns which stem from the basis that mining activity by its very nature is a polluting activity which not only pollutes the environment but it has an impact on the people living in the mining areas or are displaced as a result of the mining activities.

38. We find no merit in the Writ Petition No.214/2020 in its challenge to the Proviso to Rule 13(1)(b) of the Goa Mineral Foundation (Trust) Rules, 2018. Consequently, Writ Petition No.214/2020 is dismissed. The Rule is discharged.

39. Now let us deal with the Public Interest Litigation (Writ Petition) No.1/2008.
40. So far as the liability of the mining companies to pay the damages arrived at, which is seriously contested by the learned Senior Advocates appearing for the mining companies, it would be material to set out some facts which may bear repetition but necessary to deal with the submissions in context.
41. The PIL Writ Petition was registered as Public Interest Litigation Writ Petition based on a letter received by this Court from the villagers of Sirigao in the year 2005. The petition raised several issues, one of which was about desilting of agricultural fields (savat khazan, kharat khazan) and poi/rivulet. Reliance was placed on the order dated 28.11.2005 of the Deputy Collector by which the three mining companies (respondents no.6, 7 and 8) were directed to carry out desiltation of the three items, which was not done. The GSPCB conducted inspection and submitted its report dated 01.02.2008 which refer to pumping water from working mining pit and discharge of the water into the fields and the canal/river. By order dated 16.06.2008, this Court appointed NIRI, Nagpur as Commissioner/Expert Consultant to examine three issues, one of which was about the damage to the agricultural fields. The NEERI

submitted its Report dated 19.03.2009, of which the Executive Summary inter alia observes that the silt deposition from the mining overburdens, has degraded the soil fertility in the agricultural fields. We have reproduced the contents of these letters/reports in the earlier part of this judgment.

42. The GSPCB also issued directions dated 03.03.2010 to all three mining companies inter alia directing that remediation of the silted soil be done. This Court passed an order dated 08.07.2010 issuing 'Rule' and issued certain directions to the GSPCB.

43. The ZAO by letter dated 04.12.2018 made certain recommendations including desiltation of water resources, fields, demarcation of paddy fields, etc. By order 07.03.2019 in Misc. Civil Application No.354/2017, this Court directed the Sarpanch and the ZAO to inspect the site and report on two questions, one of which was whether there was any mining silt still at the site. The ZAO submitted a report dated 22.03.2019 which inter alia states that content of iron and manganese is observed to be high. The soil health card from five locations show that the iron, manganese and sulphur concentration is very high. The Mines Department, along with its Affidavit dated 15.4.2019, produced on record the Certificates of Analysis which show extremely high levels of Iron.

44. This Court by order dated 18.12.2019 directed that desiltation be carried out. The three mining companies (Respondents No. 6 to 8) were directed to contribute Rs. 65,00,000/- each while the District Mineral Foundation was to contribute Rs. 2,00,00,000/- upfront, to enable the work to commence. It was made clear that the issue whether the mining companies should be made to bear the full expenditure or whether not to make any contribution towards the work, would be decided at the time of final hearing of the petition.
45. The work was tendered and awarded by the Water Resources Department to M/s Abhinandan Buildcon by Work Order dated 24.01.2020. By order dated 25.04.2022 in Misc. Civil Application No.1101/2020, the State was permitted to withdraw Rs.1 crore out of the amounts deposited by the mining companies. The order dated 16.01.2023 in Stamp Number (Application) No.1101/2020 recorded that the work entrusted to M/s. Abhinandan Buildcon had been completed. The tenor of the order is all issues concerning the petitioners are sorted out and the matter was kept for further consideration to decide the issue of liability of the mining companies to pay for the work.
46. After the work was completed, the State filed Misc. Civil Application No.2805/2023 to withdraw the balance

amount. By order dated 03.01.2024 passed in the said application, this Court permitted the State to withdraw the balance amount of Rs.97,50,000/- from the amounts which were deposited by the mining companies. The issue therefore which now survives for consideration is whether the mining companies should be made liable to bear the entire expenditure incurred in relation to the subject work. Learned Senior Advocates for the mining companies resisted their liability to pay the amounts mainly on the following grounds:

- (i) they have already contributed to the DMF and hence they should not be directed to pay the amounts;
- (ii) Kharat Khazan was never the subject matter of the petition;
- (iii) they are not responsible for the siltation and hence they cannot be liable for the contribution; and
- (iv) they have already carried out the work of Savat Khazan.

47. So far as the ground (i) is concerned, it is pertinent to note that the DMF was constituted in 2016 and the contributions were made only thereafter. The pollution activity i.e. the subject matter of the petition is in relation to the acts of the mining companies prior to 2016. As such the contribution made to the DMFT from

the year 2016 is for the purpose for which the DMFT is created and is not to be utilized in view of our detailed findings hereinbefore in relation to the activities which are covered by the 'polluter pays principle'. The silt deposition in the area was on account of the mining activities for which the mining companies are liable. There are reports indicating that such silt deposition has degraded the soil fertility in the agricultural fields. We have referred to various reports of the experts which clearly indicate without a manner of doubt that the mining companies were responsible for the silt deposition. The exercise of desiltation is carried out pursuant to the orders passed by this Court. The expenditure was determined for such desiltation work which was carried out by an agency appointed by the State. The only question was whether the expenditure incurred has to be at the cost of the mining companies or the DMF. We have no manner of doubt that it is the mining companies who will have to bear the expenditure of desiltation applying the 'polluter pays principle' and having regard to the purpose for which the DMF was constituted which surely is not for the benefit of the mining companies.

48. So far as the second ground is concerned, i.e. the submission that 'Kharat Khazan' is not the subject matter of the petition, it is necessary to refer to the relevant

portion of paragraph 5 of the Letters Petition which is as under:

“Dy Collector cum SDM at Bicholim was pleased to passed an order in Case No. 37/MINES/SHIRGAO/275/2004/1040 observing that the Mining Companies have agreed in principle that there exist mining silt in the agriculture fields which is required to be removed by mining companies. And ZAO Bicholim and AE WRD have opined that the productivity of the paddy field is badly affected by the mining silt and removal of the silt from paddy field is urgently required...”

directed that the mining companies should take immediate action and their failure to comply with direction, action as provided under section 33 of LRC will be initiated against the said mining Companies. But till date no company had complied with the said Order. And now villagers are running into crises due to no agriculture produce.”

49. A reference to the order dated 28.11.2005 of the Deputy Collector issuing directions is relevant reading thus:

“Whereas on the basis of credible information received by this office, it is seen that the agricultural properties of the Sirigao Village namely Savat Khazan and Kharat Khazan land are affected by mining silt of the above mining companies...”

...And whereas during the meetings held in this

office, the mining companies have agreed in principle that there exists mining silt in the agricultural paddy fields, which is requires to be removed by the mining companies.

And whereas the ZAO Bicholim and AE WRD have also participated in the meeting opined that the productivity of the paddy field is badly affected by the mining silt and removal of the silt from the paddy field is urgently required...

Upon hearing the applicants and the representatives of the mining company following have been decided for taking action by the mining companies...

2. That the mining companies shall commence the desiltation of the paddy fields namely Savat Khazan, Kharat Khazan including Poi (water pond) of Sirigao Village from 10th December 2005 onward.

Take notice that in the default of taking action as per the above directions, action as provided under section 33 of LRC will be initiated against the above named mining companies and cost of desiltation will be recovered from these mining companies as an arrears of land revenue..."

50. The said order of the Deputy Collector was not challenged by any of the companies who agreed to

comply with the directions. The order categorically refers to the 'Kharat Khazan' as well. It directed the companies to desilt the Kharat Khazan and Poi and not just the Savat Khazan. The PIL Petitioner at paragraph 5 has complained of non-compliance of the directions. The contentions of the mining companies that 'Kharat Khazan' is not a part of the petition is therefore without any merit.

51. The third contention of the learned Senior Advocates for the mining companies is that the mining companies are not responsible for the desiltation and hence they are not responsible to pay. A reference to the order dated 28.11.2005 of the Deputy Collector makes it amply clear that:-

(i) there exists mining silt in the agricultural paddy fields, which is required to be removed by the mining companies and

(ii) mining companies agreed that the silt is to be removed by them.

In the face of this order and the facts emerging from the record which are so glaring, the contentions of the learned Senior Advocates that the mining companies are not responsible for the siltation is without any merit.

52. As regards the fourth and the last contention that the work of desiltation was already carried out by the mining companies earlier, the observations relied upon by the mining companies are based on the inspection report dated 17.03.2008. The said report refers to the work being done only on Savat Khazan, for which also 10,000 sq.mtrs. was not undertaken. Admittedly, no work was undertaken in relation to the Kharat Khazan and Poi.

53. As regards the Savat Khazan also, apart from the fact that the work was done in the year 2008-09, in 2019 when inspections were held as per the directions of this Court vide order dated 07.03.2019, it was found that the fields did have silt accumulated and high amount of Iron and Manganese contents were found which required desilting. It was then that this Court by order dated 18.12.2019 ordered that desiltation be done. From the Plan at page 332 in Misc. Civil Application No.354/2017, the Reports and the affidavits of the mining companies itself (one of which is at pages 370 to 377 in MCA 354/2017), it is clear that the pits and the area where the dumps/overburden are stacked is at a higher level. The water flowing from the said areas and the water which is pumped out carry the silt and mineral with it which then gets deposited in the fields and the water bodies, which is a continuous process. Hence, the work which was

purportedly done in 2008-09 was not done properly and even otherwise, the silt from the leases/dumps/overburden of the mining companies continued to get deposited in the water bodies and the fields in question. The reports indicate that the fields have very high iron and manganese contents. The mining companies are responsible for the same and cannot evade/avoid liability in respect of the same. The report of the experts in no uncertain terms states that the fields have very high Iron and Manganese contents. It is the responsibility of the mining companies to make good the expenditure incurred. The reports are already on record pursuant to the orders passed by this Court. The interim orders passed by this Court were duly complied by the mining companies. The only issue therefore remained was whether the contribution made from the DMF fund in fact the liability of the mining companies. We hold that it is the liability of respondents no.6, 7 and 8 i.e. the mining companies to bear the expenditure of Rs.2 crore paid by DMFT as well. There is no dispute that the expenditure is incurred. There are no disputed questions of fact involved in this petition, the question involved which we have already answered.

54. We direct respondents no.6, 7 and 8 to jointly pay/reimburse an amount of Rs.2 crore (Rupees Two Crores only) to the District Mineral Foundation Trust

desiltation work which was done in terms of the directions of this Court vide order dated 18.12.2019 within a period of six months from the date of uploading of this order.

55. Rule issued in the Public Interest Litigation (Writ Petition) No.1/2008 is disposed of in the aforesaid terms. Misc. Applications, if any, do not survive and are also disposed of.

56. We cannot but appreciate the efforts of Ms Norma Alvares, learned Senior Advocate in consistently and continuously assisting this Court appearing as an Amicus Curiae from the year 2008 onwards. We must also record that Ms Norma Alvares was ably assisted by Mr Om D'Costa in the PIL Writ Petition No.1/2008 at the time of hearing.

NIVEDITA P. MEHTA, J.

M. S. KARNIK, J.