BEFORE THE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH, PUNE

NOTARY ARUN WADKAR PANAJI - GOA Reg. No. 382 Exp. Dt. 19/09/2029 GOVT. OF GOA (INDIA)

Appeal No. 15/2025 (WZ)

(Earlier Diary No. 270143700861/2024)

Vijay Ravalnath Gaonkar & Anr. .. Appellants

Versus

Salgaoncar Shipping Company Pvt. Ltd.

& Ors. .. Respondents

AFFIDAVIT IN REPLY OF RESPONDENT NO. 1

I, Sandeep Naik, son of Shri Madhukar Naik, 45 years of age, having office at Salgaocar Bhavan, Altinho, Panaji, Goa, the Authorized Representative of the Respondent No. 1 herein, do hereby on solemn affirmation state and submit as under:

1. I say that I have read and understood the contents of the Appeal No. 15/2025 (WZ). I am filing the present Affidavit in Reply to deal with the afore-mentioned Appeal.

2. I say that I am the Director of this Respondent and I am duly authorized by the Resolution adopted by the Board of Directors of this Respondent in their meeting as held on 18 Feb 2025 to represent this Respondent in the present matter. I say that I have access to all the records maintained by this Respondent pertaining to the present matter and therefore I am competent to swear this affidavit on behalf of this Respondent.

Annexed hereto and marked as Annexure A is a copy of the Board Resolution adopted by the Board of Directors of this Respondent in their meeting as held on 18th Feb 2025.



3. I deny all and singular the averments/ contentions of the Appellants in the said Appeal. Nothing stated in the said Appeal is admitted or be deemed to be admitted although the same may have escaped a specific denial.

4. At the outset, I crave leave to raise the following preliminary objections, which are urged in the alternate and without prejudice to one another:

<u>Preliminary Objections</u>

a) The appeal is barred by res-judicata/constructive res-judicata in as much as the issues raised by the Appellants in the present appeal, particularly,

pertaining to alleged past pollution by the erstwhile lessees, were also raised in PIL Writ Petition No. 1/2008 before the Hon'ble High Court of Bombay at Goa and the said petition has been disposed of by Judgment & Order dated 30.01.2025 by the Hon'ble High Court of Bombay at Goa. I say that though this Respondent was not a party to the said PILWP No.1/2008, and not involved therein, the Judgement and Order dated 30.01.2025 in PIL Writ Petition No. 1/2008, and the Interim Orders passed therein, clearly reveal that the issue of alleged pollution is reversed and the costs are recovered from the erstwhile mining lessees. Therefore, I say that the said issue cannot be re-agitated before this Hon'ble Court in the present Appeal. Moreover, vide an order dated 16.01.2023 passed in an STM (Application No.1101 of 2020(F) in the said PILWP/1/2008, the Hon'ble High Court in paragraph 7 recorded as follows: "***Learned Counsel for the petitioners states that all the issues***

NOTARY ARUN WADKAR PANAJI - GOA Reg. No. 382 EXP. 31/2025 INDIA

concerning the petitioner are sorted out. *However, the learned Advocate General and the learned Counsel appearing on behalf of the mining companies state that the issue of liability of the mining companies to pay for the work of de-siltation survives. Accordingly, on that date, we propose to consider this issue and if possible to dispose of the PIL."* ***(Emphasis provided)***. I therefore state that the Appellant cannot reagitate the issues as raised in the PILWP No.1/2008, which were 'sorted out' as recorded by the Hon'ble High Court in its order dated 16.01.2023. For this reason alone, the present appeal is liable to be dismissed. ***Annexed hereto and marked as Annexure-B is the copy of the Judgment and Order dated 30.01.2025 of the Hon'ble High Court of Bombay at Goa and copy of the order dated 16.01.2023 of the Hon'ble High Court of Bombay at Goa.***

NOTARY
ARUN WADKAR
PANAJI - GOA
Regd. No. 382
(GOA)

b) This Respondent has secured the Block-II-Sirigao-Mayem Mineral Block ("**Block-II**") in the e-auction held by the State of Goa. Prior to securing this block, this Respondent was neither engaged in any mining activity nor held or operate any mining concession/lease in Goa or elsewhere in India. Therefore, the appeal which is founded on a primary contention that the past performance has not been assessed while granting Environmental Clearance to this Respondent, is devoid of merit and liable to be dismissed.



5. I say that the appeal has been filed raising certain allegedly important issues pertaining to Environmental Law. For the sake of ready reference, the said allegedly important issues pertaining to Environmental Law are reproduced herein below:

A. *Whether an iron-ore mine operative since 1949, can be considered as a fresh grant ignoring*

almost seven decades of mining including the havoc caused by it to the surrounding villages and also ignoring the specific queries in Terms of Reference (ToR) i.e. the EIA Notification, 2006?

B. *Whether such an iron ore mine (mentioned above) the EIA process should take into consideration "prior environmental performance" including violations, pollution and damage caused (studies carried out by independent scientific bodies like NEERI which report was accepted by Bombay High Court at Goa and Goa State Pollution Control Board, Tata Energy Research Institute (TERI), Water Resources Department, Dept. of Mines & Geology, Goa University etc.) in the past before granting a fresh Environmental Clearance (EC)?*

C. *Whether cumulative impact assessment of two mining blocks within 1 km with one mining block adjacent to present project is to be carried out as envisaged in the EIA Notification, 2006 (Para 6,*

S. No. 9 of Form – I at Appendix – I)? Both the two neighbouring mining blocks are as old a present one and have equally devasted the ecology and environment.

6. I say that before adverting to the issues raised in the Appeal, this Respondent is setting out relevant factual background which may be necessary for determination of the issues as involved in the matter, which is as under:



a) This Respondent has not been engaged in any mining activity in the State of Goa, or for that matter, in India, in the past, prior to Block-II. This Respondent, has for the first time, secured Block-II in an e-auction held by the State of Goa in December 2022. It is submitted that this is a crucial factor which this Hon'ble Tribunal is required to consider while adjudicating the issues raised in the Appeal. The Appeal alleges seven decades of mining activities that are alleged to

(8).

not have been considered while granting the EC to this Respondent for Block-II.

b) The State of Goa held an e-auction for Block-II pursuant to the directions of the Hon'ble Supreme Court of India.

c) It is pertinent to note that all mining operations in the State of Goa had come to a complete halt pursuant to the judgment of the Hon'ble Supreme Court in Goa Foundation v. Union of India & Ors., Writ Petition (Civil) No. 435 of 2012, as reported in (2014) 6 SCC 590 ("**Goa Foundation-I**")

Annexed hereto and marked as Annexure-C is the copy of the Judgment in Goa Foundation-I.

d) I say that ultimately, the Hon'ble Supreme Court in Goa Foundation- I held that the deemed mining leases of the erstwhile lessees expired on

22.11.1987 and the period of First Renewal of 20 years expired on 22.11.2007.

e) I say that thereafter, second renewals were granted to the erstwhile mining lessees by the State of Goa. The said second renewals were challenged before the Hon'ble Supreme Court in case bearing No. SLP (Civil) No. 32138/2015, in the matter of Goa Foundation v/s Sesa Sterlite Ltd and Others as reported in 2018 4 SCC 218 (**"Goa Foundation-II").**

f) Vide Judgment & Order dated 07.02.2018 in Goa Foundation-II, the Hon'ble Supreme Court quashed the second renewals in respect of 88 mining leases and directed the State of Goa to grant fresh mining leases in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957. In the said order dated 07.02.2018, the Hon'ble Supreme Court held thus:

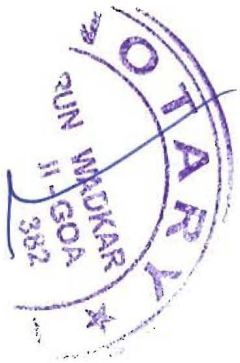
"57. There is no doubt that the renewal of a lease is virtually the same as the grant of a fresh lease but a converse direction to grant a mining lease cannot be understood to mean granting a renewal of a mining lease. Obviously, the grant of a fresh lease is not the same as the renewal of a lease and when the Court in Goa Foundation (I) required the State of Goa to grant a fresh lease, it did not require the State to renew the existing (expired) lease. The Court could have explicitly declared and directed the State of Goa to grant a second renewal of the mining leases rather than to say it in a roundabout manner that it should do so by granting a fresh lease equivalent to a renewal. We simply cannot accept the submissions made by the learned counsel for the mining leaseholders in this regard.

58. That apart, as we have already noted above, the context and material on record disabuse the thought that the Court in Goa Foundation (I) did not mandate the grant of fresh mining leases in accordance with law.

59. The learned counsel for the mining leaseholders contended that the very same learned Judges that decided Goa Foundation (I) permitted the State Government in Common Cause v. Union of India to consider granting a second renewal of mining leases under Section 8(3) of the MMDR Act. Therefore, the requirement in Goa Foundation (I) for the grant of "fresh leases" must be understood in a manner similar to what was directed in Common Cause. We are unable to accept this contention. The direction given in Common Cause was an interim direction and not a final direction as in

Goa Foundation (I). Moreover, the facts in both cases are not at all similar so as to warrant a similar order being passed or understood. Finally, the fact that the same set of learned Judges thought it fit to direct the grant of "fresh leases" in one set of cases and thought it fit to direct consideration of a "second renewal" in another set of cases indicates that the learned Judges were aware of the difference in directions. Therefore, when the learned Judges directed the grant of "fresh leases" in Goa Foundation (I) it was a deliberate and conscious decision distinct and different from granting a second renewal of expired mining leases."

*"**154.7.** The State of Goa should take all necessary steps to grant fresh mining leases in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957. The Ministry of Environment and Forests should also take all necessary steps to grant fresh environmental clearances to those who are successful in obtaining fresh mining leases. The exercise should be completed by the State of Goa and the Ministry of Environment and Forests as early as reasonably practicable."*



Annexed hereto and marked as Annexure-D is the copy of the Judgment of the Hon'ble Supreme Court in Goa Foundation-II.

g) I say that the T.C. No. 05/1949 and T.C. No. 13/1949 were also a part of the said 88 mining leases, whose second renewals were quashed by the Hon'ble Supreme Court in Goa Foundation - II. As such, the observations of the Hon'ble Apex Court squarely covered the said T.C. No. 05/1949 and T.C. No. 13/1949.

h) I say that it is under these circumstances and the directions of the Hon'ble Supreme Court of India that the State of Goa decided to conduct an e-auction of Mining Blocks, including mining Block-II.



i) State of Goa identified 04 iron ore mineral blocks for an e-auction, and issued a Notice Inviting Tender dated 30.09.2022 for e-auction of Block II (inter alia). This Respondent participated in the said e-auction, and was declared as a preferred bidder on 22.12.2022. A letter of Intent

was issued to this Respondent for Block II on 13.01.2023.

Annexed hereto and marked as Annexure E is copy of the letter dated 13.01.2023.

j) The said Block-II qualifies as a Category B project under the Environment Impact Assessment Notification, 2006.

k) Accordingly, this Respondent applied in the prescribed Form I for grant of the EC for Block-II.

l) I say that in the said Form-I, this Respondent has stated that the Block-II is New Project because of the observations of the Hon'ble Supreme Court in Goa Foundation-II judgment, as quoted above. It is also pertinent to state that the Hon'ble High Court of Bombay at Goa in the matter of Sociedade de Fomento Industrial Pvt Ltd and Anr. v/s State of Goa reported in **2023 1 HCC**

(Bom) 108 has held that the successful bidders of e-auction cannot get benefit of the existing EC as held by the erstwhile mining lessees in terms of amended Section 8B of the MMDR Act. The relevant extract from the said judgment and order is as follows:

"4. The Petitioners raise the above issue in the context of a notice inviting tender (NIT) dated 25.01.2023 for the auction of mineral block described Block-VI – Cudnem- Cormolem Mineral Block. The Petitioners argue that Section 8B of the MMDR applies only to the valid ECs concerning the mining leases whose terms may have expired but not to ECs expressly cancelled by the Ministry of Environment and Forests (MoEF) based on the judicial orders in GF-I and GF-II. The Petitioners argue that such specifically in validated and cancelled ECs do not revive under Section 8B of MMDR. Therefore, the Petitioners contend that Respondent Nos.1 and 2 were not justified in representing in the NIT that Section 8B of the MMDR Act shall apply to Block VI, implying that successful auction bidders would not be required to obtain a fresh EC for commencing mining operations for this Block."

"93. This conscious decision of the Hon'ble Supreme Court in GF-I judgment which was reiterated in GF-II judgment, cannot be bypassed by regarding the ECs which were

explicitly cancelled by the MoEF order dated 23.04.2018 as valid only to grant new lessees/successful auction bidders the benefit of Section 8B of the MMDR Act, 1957. As noted earlier, the proper construction of Section 8B of the MMDR Act, 1957 indicates that only valid ECs were to stand transferred and vested in the new lessees/successful auction purchasers. ....
"94. For all the above reasons, we allow this Petition and make the Rule absolute in terms of prayer clause (A) quoted in paragraph 5 of this judgment and order. However, we clarify that fresh ECs will have to be obtained even by the successful bidders to Block -VII or other Blocks to which the decisions of the Hon'ble Supreme Court in GF-I and GF-II apply or to mining blocks in respect of which the ECs were cancelled by the MoEF by order dated 23.04.2018".

A copy of the Judgment and Order of the Hon'ble High Court of Bombay at Goa in the matter of Sociedade de Fomento Industrial Pvt Ltd and Anr. v/s State of Goa as reported in 2023 1 HCC (Bom) 108 is annexed hereto as Annexure F.

m) It is in view of the above observations of the Hon'ble Supreme Court in Goa Foundation-II and the Hon'ble High Court of Bombay at Goa in

Sociedade de Fomento Industrial Pvt Ltd and Anr. v/s State of Goa that it was necessary for this Respondent to obtain a fresh EC for Block-II. It is in the context of the observations of the Hon'ble Supreme Court and the Hon'ble High Court as stated hereinabove, particularly the directions necessitating successful bidders to apply for a fresh EC, that the Block-II project was categorized as a New Project in Form I. This Respondent made true and correct disclosures in Form I and did not suppress any information or material as alleged in the Appeal.

n) Thereafter, this Respondent made a presentation before Goa State Expert Appraisal Committee ("SEAC") on 31.05.2023 and 12.07.2023. The SEAC after considering the application and all other material before it, determined the Terms of Reference ("ToR") in respect of which the Respondent No. 1 was required to submit an

Environment Impact Assessment Report ("EIA Report").

o) I say that thereafter the Goa State Environment Impact Assessment Authority (Goa SEIAA) in its 109th meeting held on 28.07.2023, unanimously recommended to grant the ToR to this Respondent. I say that vide communication dated 18.10.2023, the Goa SEIAA communicated the approved ToR to the Respondent No. 1.

Annexed hereto and marked as Annexure G-Colly is a copy of the minutes of meeting dated 28.07.2023 and letter of Goa SEIAA dated 18.10.2023.



p) I say that this Respondent thereafter applied to Goa SEIAA for issuance of Corrigendum to the ToR, in prescribed Form-9, for correction of the company name in the approved ToR by adding the word "Pvt". I crave leave to refer to and rely upon the said Form-9, if necessary.

q) I say that vide letters dated 20.10.2023 and 16.11.2023, this Respondent applied to the Goa SEIAA for correction of the company name in the approved ToR by adding the word "Pvt". in the name of the Company.

r) I say that the Goa SEAC approved the correction to the name of the Company in the approved ToRs in its 197th meeting held on 01.11.2023. The Goa SEIAA approved the correction to the name of the Company in the approved ToRs in its 119th meeting as held on 18th November 2023. The same was communicated to this Respondent vide a letter dated 24.11.2023 of the Goa SEIAA.

Annexed hereto and marked as Annexure H Colly is a copy of the minutes of Goa SEAC dated 01.11.2023 and a copy of the letter dated 24.11.2023 of the Goa SEIAA.

s) I say that thereafter, this Respondent conducted the EIA study for the Block-II project and prepared its Draft EIA Report.

t) On 23.01.2024, the same was submitted along with the Draft Environment Management Plan to Respondent No. 3 for conducting a public hearing.

u) I say that the public hearing was held on 19.6.2024, from 10.30 am onwards till 3.30 pm, wherein ample opportunity was granted to Public to raise their objections/suggestions/viewpoints, if any. This Respondent received a copy of the proceedings of public hearing from the Respondent No. 3 vide an email dated 21.6.2024. Thereafter, vide another communication dated 24.6.2024, the Respondent No.3 forwarded the copies of the objections received to the grant of EC.

v) I say that vide communication dated 03.7.2024, this Respondent submitted its clarifications/ comments to the objections as received for Block-II during public hearing.

w) I say that after taking into account all the reasonable and material suggestions, this Respondent vide its communication dated 12th July 2024 submitted the final EIA Report and Environmental Management Plan to the Goa SEIAA.

x) It is most pertinent to note that the EIA Report made it evident that there were existing mining pits in Block-II. For this, this Respondent places reliance on the following averments in the EIA Report:

(i) Page 15: Details of Active Pits provided in Table 2.7 as follows:

"

Sl. No.	*Pit ID*	*Area Covered by Pit (Ha)*	*Pit Dimensions (L*W*D)*
1	*Pit-1 Active*	*29.53*	*730x400x80*

2	*Pit-2 Active*	*34.68*	*1070x450x115*
3	*Pit-3 Reclaimed and rehabilitated*	*17.31*	*240x810x39*

"

(ii) Page 16: Details of year wise production and development for the mining plan period as follows:

"

Sr. No.	*Year*	*Pit ID*	*Total Over Burden/ Waste Quantity (t)*	*Total ROM Quantity (t)*
1	*Year1*	*Pit-1*	*291360.00*	*480000.00*
2	*Year2*	*Pit-1 & Pit-2*	*212600.00*	*580000.00*
3	*Year3*	*Pit-2*	*1463100.00*	*700000.00*
4	*Year4*	*Pit-1 & Pit-2*	*468500.00*	*830000.00*
5	*Year5*	*Pit-1 & Pit-2*	*489800.00*	*1000000.00*
		TOTAL	*2925360.00*	*3590000.00*

"

(iii) Page 16: Mine Design Parameters stated as follows:

"2.6.2.1.5 Mine design parameters: There are 3 pits within the mineral block area..."

y) I say that from the above extracts of the Final EIA Report, it was clear that there were existing

mining pits in Block-II, which made it evident that the area was previously worked on by the erstwhile lessee.

z) Moreover, this Respondent's responses to the objections in public hearing were also made a part of the EIA Report.

aa) I say that the members of the State Environmental Assessment Committee visited the site of Block- II and conducted an inspection on 01.08.2024.

bb) I say that in the 214th meeting of the Goa- SEAC held on 09.08.2024, the Goa- SEAC was pleased to approve the grant of EC to the Block-II, after due consideration of all relevant material.

Annexed hereto and marked as Annexure J is the copy of 24th meeting of the Goa-SEAC.

cc) I say that in the 130th meeting of the Goa-SEIAA held on 04.09.2024, the Goa-SEIAA was pleased to approve the grant of EC to the Block-II after due consideration of all the relevant material.

Annexed hereto and marked as Annexure K is the copy of 130th meeting of the Goa-SEIAA.

dd) I say that vide a letter dated 11.10.2024, this Respondent addressed a communication dated 11.10.2024 to the Goa-SEIAA seeking modification/correction to the EC, which included correction in the Project category (to be changed to Category B which was wrongly recorded as Category A) and validity, which was wrongly recorded as upto 09/10/2024.

Annexed hereto and marked as Annexure L is the copy of the said letter dated 11.10.2024 as addressed by this Respondent to Goa SEIAA.

ee) Vide an order dated 26.11.2024, the Goa SEIAA was pleased to issue a corrigendum to the EC changing the validity as wrongly recorded and revising the typographical error of recording the Project as Category A instead of Category B Project.

Annexed hereto and marked as Annexure M is the copy of the order dated 26.11.2024 of the Goa SEIAA.

7. The above process clearly reveals that EC has been granted to this Respondent by following all the established norms and practices and also following the due procedure of law. It is submitted that the authorities have duly considered all relevant material for grant of the EC. In fact, perusal of the Appeal Memo reveals that no grounds are made out to challenge the EC or the process of granting EC that would require this Hon'ble Tribunal to interfere with the

decision to grant EC. The Appeal is repetitive in nature and there are bald allegations pertaining to alleged historical environmental degradation in the past. The Appellants have failed to show any connection of this Respondent with the said alleged past environmental degradation. Further, the Appellants have suppressed the PILWP/1/2008 and the final judgment and order passed therein by the Hon'ble High Court, which clearly has closed the entire chapter of environmental issues on account of mining activities of the erstwhile mining lessees. I therefore say that the appeal has no merits and is liable to be dismissed.



8. With regard to the Appellants' primary submission that the Block-II has been wrongly classified as a fresh grant despite the same having been previously worked on vide T.C. No. 05/1949 and T.C. No. 13/1949 by the erstwhile mining lessee, it is submitted that in view of the

judgments of the Hon'ble Supreme Court in Goa Foundation-I and Goa Foundation-II, as well as the judgment of the Hon'ble High Court of Bombay at Goa in Sociedade de Fomento Industrial Pvt Ltd and Anr. v/s State of Goa, particularly, the necessity of obtaining a fresh EC in terms of the directions contained therein for newly auctioned mining leases, it is submitted that the Block-II project was rightly classified as a New project and/or a fresh grant. Without prejudice, it is respectfully submitted that the present project of this Respondent has been treated as a new project/fresh grant in view of Clause 2 of the EIA Notification 2006, which contemplates the following categories "*(i) all new projects or activities listed in the Schedule*"; (ii) "*Expansion or modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector*", and (iii) " *Any change in product-mix in an existing*

manufacturing unit beyond the specified range."

In the present case, the Respondent's project squarely falls under sub-clause (i), as it constitutes a new project in view of the observations of the Hon'ble Supreme Court, and in view of the fact that the same was granted to this Respondent pursuant to an e-auction process. In any case, it is submitted that the process of obtaining Environmental Clearance for a new project entails more comprehensive procedure as prescribed under the EIA Notification, 2006, and ensures a thorough and transparent appraisal.



9. With regard to the Appellants' submission that the alleged "prior environmental performance," including purported violations or environmental damage were not considered before the grant of the present EC, it is respectfully submitted that this Respondent is, for the first time, undertaking mining operations in the State of Goa under the

present project in Block-II. This Respondent had no prior involvement in any mining activity within the State before acquiring Block-II on 15.12.2022. Accordingly, there arises no question of attributing any "prior environmental performance" or past non-compliance to this Respondent. It is further submitted that matters pertaining to alleged historical violations or environmental damage by erstwhile lessees have already been duly addressed and adjudicated upon by the Hon'ble High Court in PILWP/1/2008, which now stands disposed of. It is further submitted that Block-II constitutes a distinct and independent mining lease, demarcated and created by the State of Goa as part of its process of forming and e-auctioning mining blocks. The said Block-II, therefore, represents a new and separate mining block, distinct from any earlier leases. In this context, the question of assessing this Respondent's "past performance" in relation to Block-II does not

arise, as the present operations are being undertaken for the first time pursuant to a fresh grant.

10. With regard to the Appellants' contention on the aspect of cumulative impact assessment of two adjoining mining blocks, it is submitted that the EIA report for Block-II was strictly carried out in accordance to the approved ToRs as issued by the authorities. It is submitted that this Respondent is legally bound to adhere to the ToRs and cannot independently expand or alter the scope of assessment. The EIA Report was in conformity with the approved ToRs covering all environmental parameters prescribed, including baseline data, air quality, water quality, soil, ecology, socio-economic aspects and mitigation measures. Further, at the time of filing of Form I for Block-II, the adjoining mining blocks (being Block I and Block III) had not yet received any Environmental Clearances and were not in

operation. Therefore, there was no statutory requirement or factual basis to identify the cumulative effects of the said Blocks I and III in Form I. Moreover, Block-II is an independent mining block, with its own defined lease boundary, environmental baseline and operational parameters as per the approved Mining Plan. As such, the contention of the Appellants to the contrary is entirely baseless.

11. In view of the above, it is submitted that the Appeal is entirely without merit, and liable to be dismissed.

12. Without prejudice to the above, I crave leave to furnish a paragraph-wise reply to the memo of appeal as hereunder;

13. With reference to contents of paragraph 1, this Respondent does not offer any comments thereto as the same is a matter of record.

14. With reference to contents of paragraph 2, I deny the contents of the same in the manner as stated. I deny that the Appellants are residing with the families in the village of Sirigao for several generations. I deny that the Appellants have actively pursued the authorities for responsible mining. I deny that the environment in Sirigao village was damaged or that its amelioration was possible after 50 years of mining for the reasons attributable to the Appellants.

15. With reference to contents of paragraph 3, I deny the contents thereof in the manner as stated. I deny that there is any infirmity or irregularity in the EC granted to this Respondent. I say that the EC was granted by following due process of law and therefore the appeal is liable to be dismissed.

16. With reference to contents of paragraph 4, I deny that any of the questions as stated in the said

paragraph 4 arise for consideration in this Appeal. I repeat and reiterate that the questions as raised in the said paragraph delve into historical facts which are not germane for the purpose of determining this appeal. Moreover, the Appellants have suppressed that all the issues pertaining to alleged environmental damage due to erstwhile mining lessees have been decided by the Hon'ble High Court in its Judgment & Order dated 30.01.2025 passed in PILWP No. 1/2008 and therefore, the same cannot be reagitated in this Appeal. I reiterate that all the relevant issues were considered by GSEIAA and Goa-SEAC prior to grant of the EC.

17. With reference to contents of paragraph 5, I deny the contents thereof in the manner as stated therein. I say that the said Block-II was for the first time formed by the State of Goa while undertaking the process for e-auction. Prior to e-auction, there was no such mineral Block-II in

existence. Thus, after the e-auction, the mining lease granted to this Respondent is a fresh mining lease/a new mining lease. This Respondent, for the first time, has secured the said mining lease of Block-II. Apart from the said Block-II, this Respondent has never held or operated or conducted any mining activity in any other mining block or lease or concession either in Goa or anywhere else. Therefore, there is no question of this Respondent having any history of causing environmental damage on account of its past activities. Therefore, I specifically deny that the consideration of past environmental records and compliance history of an agency or an entity, "prior environmental performance" can be looked into in the present matter. I say that the paragraph 5 demonstrates that the appeal is totally misconceived because in the said paragraph 5, the Appellants have made specific statement that past environmental compliance or violation should be taken into consideration

otherwise the objectives of granting EC are frustrated. Since this Respondent was never engaged in any past mining activities, there is no question of evaluating its past performance. The entire appeal proceeds on a premise that this Respondent has done violations in the past. Therefore, the entire appeal is misconceived and liable to be rejected at the threshold.

18. With reference to contents of paragraph 6, 7 and 8, the contents thereof are denied.

19. With reference to contents of paragraph 9, I say that the contents thereof are totally misleading and denied. I deny that the original Portuguese mining concessions were granted for small scale manual mining for lumpy iron ore. I say that the statement that original title of concession granted by the Portuguese regime did not contain survey numbers, is a totally misleading statement because the survey was promulgated after Goa's

liberation in the year 1961. The survey numbers were granted after promulgation of survey in the 1970s. Further, I say that the erstwhile title of concessions granted by the Portuguese were abolished. Thereafter, the said title of concessions were governed by the MMDR Act, 1957 and were treated as Deemed Mining Lease under the said Act. The Appellants appear to have made misleading statements in the said paragraph. I however say that the entire paragraph 9 is required to be discarded because the same is totally irrelevant for a Mineral Block which came into existence in the year 2023 and which has been auctioned and granted as a fresh Mining Lease in form of Block-II.

20. With reference to contents of paragraph 10, I deny the contents thereof in the manner as stated therein. I say that the contents of paragraph 10 are totally irrelevant to the present proceedings. I say that in paragraph 10, the Appellants have

stated about mines operated by M/s. Chowgule and Co. Pvt. Ltd. I say that this Respondent has no connection with the said M/s. Chowgule and Co. Pvt. Ltd. I say that the alleged problems are already remedied and have been considered by the Hon'ble High Court in PILWP No. 1/2008. I say that in view of this fact, this Hon'ble Tribunal ought not to reconsider the said issues. The said issues are totally irrelevant for the present proceedings because the present proceedings challenge the EC granted to this Respondent in the year 2024 in respect of a new Mining Lease secured by this Respondent in e-auction conducted in the year 2023.

21. With reference to contents of paragraph 11, the contents thereof are historical facts, which are totally irrelevant for the present matter. The said paragraph pertains to an Order issued in the year 1990 to M/s. Chowgule & Co. Pvt. Ltd. in respect of T.C. No. 5/1949. I once again repeat and

reiterate that this Respondent has no connection whatsoever with the said M/s. Chowgule & Co. Pvt. Ltd. Said Order of the year 1990, referred in the said paragraph 11 has no connection with grant of EC to this Respondent in respect of a new mining lease of Block-II. At any rate, as and by way of abundant caution, entire paragraph 11 is denied by this Respondent.

22. With reference to the contents of paragraph 12, the contents thereof describe what was lying within the said T.C. No. 5/1949 held by M/s. Chowgule & Co. Pvt. Ltd. I once again repeat and reiterate that this Respondent has no connection with M/s. Chowgule & Co. Pvt. Ltd. Further, this Respondent also states that the entire paragraph 12 is irrelevant for the present proceedings. However, as and by way of abundant caution, I deny the contents of paragraph 12.



23. With reference to the contents of paragraph 13, I once again state that the contents of the said paragraph 13 pertain to certain incident that took place in respect of the mining activities by M/s. Chowgule & Co. Pvt. Ltd. I repeat and reiterate that this Respondent has no connection with the said incident or with M/s. Chowgule & Co. Pvt. Ltd. I say that this Respondent was not conducting any mining activity in the year 1995. I say that the contents of entire paragraph 13 do not concern this Respondent and the same are irrelevant for the present proceedings. However, as and by way of abundant caution, I deny the contents of entire paragraph 13.



24. With reference to the contents of paragraph 14, I say that the said paragraph contains a patently false statement. For the sake of brevity, the statement is reproduced hereunder:

"The TERI report was submitted to the Government in November 1997, which

clearly establish that Sirigao village was one of the worst affected by mining operation by leaseholders (including Respondent No. 1)" Emphasis provided

The above statement is patently false because prior to securing the said Block-II, this Respondent was not engaged in any mining activity in Sirigao or elsewhere. The said TERI report does not name Respondent No. 1 at all. I therefore deny entire paragraph 14 as it is patently false. I say that the Appeal should be dismissed because of this false statement.

25. With reference to the contents of paragraph 15, I say that the contents thereof are totally irrelevant for the present proceedings. The contents of paragraph 15 are in respect of T.C. No. 13/1949 and an incident of an alleged collapse of huge mining dump in the said T.C. No. 13/1949 in the year 1999. I say that this Respondent has no connection with the said T.C. No. 13/1949 and

did not carry out any mining activity in the said T.C. No. 13/1949. I once again reiterate that prior to securing Block II in e-auction, this Respondent did not hold any mining lease in Goa or in India, nor did it operate or do mining activities in Goa or India. However, as and by way of abundant caution, I deny the contents of entire paragraph 15.

26. With reference to the contents of paragraph 16, I deny the contents thereof in the manner stated. I say that the contents of the said paragraph do not pertain to any activities by this Respondent. I say that the said joint inspection was not carried out in connection with, or for reasons attributable to this Respondent. As this Respondent did not operate any mining lease or conduct any mining activity prior to securing Block II, there is no question of there being any siltation in river for the reasons attributable to this Respondent.

However, as and by way of abundant caution, I deny the contents of entire paragraph 16.

27. With reference to the contents of paragraph 17, the contents thereof pertain to EC granted to M/s. Chowgule & Co. Pvt. Ltd. and certain conditions in the said EC of M/s Chowgule & Co. Pvt. Ltd. This Respondent is not aware of any such EC or the conditions therein. At any rate, said EC referred to in paragraph 17 does not pertain to this Respondent. I therefore deny entire paragraph 17 and state that the contents thereof are totally irrelevant for the present proceedings.

28. With reference to the contents of paragraphs 18 and 19, the contents thereof are matters of record before the Hon'ble High Court of Bombay at Goa. I say that the Judgment & Order dated 30.01.2025 passed in PILWP No. 1/2008 and interim orders therein, as annexed at Annexure B

herein, clearly shows that all the work of de-siltation is completed by the Water Resources Department of the State of Goa and therefore all the issues raised in this Appeal pertaining to environment are redressed. Thus, I submit that the Appeal, which raises historical issues pertaining to mining activities undertaken prior to the Goa Foundation-II Judgment, is liable to be dismissed.

29. With reference to the contents of paragraphs 20 to 23, I deny the contents thereof in the manner stated. I once again repeat and reiterate that the contents of the said paragraphs 20 to 23 are irrelevant for the present proceedings. I repeat and reiterate that this Respondent was not connected with the issues raised in the said paragraphs because prior to securing Block II in electronic auction, this Respondent did not do any mining activity, nor hold any mining lease or concession either in Sirigao village or other part

of Goa or rest of India. I therefore deny the contents of paragraphs 20 to 23.

30. With reference to the contents of paragraph 24, I say that the said Shah Commission Report does not name this Respondent at all. This is because at that point of time, this Respondent was not involved in any mining activity. I say that Shah Commission Report is mischievously relied upon by the Appellants despite of full knowledge that it does not refer to this Respondent at all, for misleading this Hon'ble Tribunal and gaining sympathy and to create a prejudice against this Respondent. I therefore state that the contents of paragraph 24 are totally irrelevant for the present proceedings.



31. With reference to the contents of paragraph 25, I deny that any letter dated 31.10.2024 was written to the Directorate of Mines & Geology. At any rate, perusal of said paragraph 25 reveals that the

said letter was allegedly written for exclusion of 15 temples and 10 places of religious attachment. The issue of exclusion cannot be entertained by this Hon'ble Tribunal because the prerogative to fix mining lease boundaries is with the State Government under the MMDR Act. The said decision to demarcate mining lease cannot be subject matter of an Appeal before this Hon'ble Tribunal. At any rate, as stated in paragraph 27 of the Appeal, the challenge to grant of lease is pending before the Hon'ble High Court of Bombay at Goa in PILWP No. 32/2023. I therefore submit that this Hon'ble Tribunal should refrain from deciding the said issue.

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32. With reference to the contents of paragraph 26, the contents thereof are matters of record before the Hon'ble Supreme Court and therefore no comments are offered by this Respondent. It is submitted that said Judgment in Goa Foundation-II has directed the Government to

grant mining lease by conducting e-auction. I say that this Respondent secured mineral block-II mining lease in the e-auction conducted by the State of Goa in compliance with the Goa Foundation-II Judgment. I say that this Respondent has thereafter obtained a fresh EC to operate the said Block-II.

33. With reference to the contents of paragraph 27, I deny that the Government auctioned T.C. Nos. 5/1949 and 13/1949. I say that the auction was conducted for Block-II, which had different boundaries. I say that Block-II is a new mining lease secured by this Respondent. I say that the Appellants are trying to unnecessarily mix the 2005 EC of M/s Chowgule & Co. Pvt. Ltd. with the EC granted to this Respondent. I say that the impugned EC is a fresh EC granted to this Respondent which has no connection with the EC as granted to M/s. Chowgule & Co. Pvt. Ltd. in 2005. I say that the Goa SEIAA has given due

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consideration to all the aspects that are relevant for grant of EC. I therefore deny the contents of paragraph 27 in the manner stated.

34. With reference to the contents of ground (A), I deny the contents thereof. In this regard I say that this Respondent has secured the said Mining Lease for the first time under the e-auction held in December 2023. Thus, the said Mining Lease is a fresh grant to this Respondent. I once again repeat and reiterate that this Respondent does not have any connection whatsoever with the holders of erstwhile mining concessions/ deemed mining leases which lapsed prior to e-auction. I therefore say that there is absolutely no infirmity either in the categorization of the proposed mining activity as a fresh grant or consideration by the authorities of the proposal submitted by this Respondent as a fresh grant/new project. It is submitted that Clause 7(i) of the EIA Notification 2006 provides only the following



(81).

categories under Clause 2: (i) all new projects or activities listed in the Schedule to this notification; (ii) expansion and modernization of existing projects or activities listed in the Schedule to this notification with the addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization; (iii) any change in product-mix in an existing manufacturing unit included in Schedule beyond the specified ranged. I say that the Block-II project is a new project under the purview of the EIA Notification. In view of this, I deny that there was any infirmity by the EAC in recommending this Respondent's proposal for grant of EC. I deny that there was any false categorization of the proposed mining activity as a fresh grant. I specifically deny that specific ToRs were avoided by this Respondent. I say that the pollution/damage caused to the agricultural

fields has been considered by the Hon'ble High Court of Bombay at Goa in PILWP/1/2008 and dealt with. Because of this, I say that there is no question of consideration of any issues pertaining to past mining leases as those issues have been fully addressed in the said PILWP/1/2008. I deny that there is any damage caused to ground water because of the mining activities by this Respondent. This Respondent has submitted ground water levels in the wells in the vicinity in its EIA report which shows that there is sufficient ground water available. This data was considered by SEIAA and therefore, there is no merit in ground A as set out in the Appeal. I therefore specifically deny that the EIA Report is based on misrepresentation or willful suppression of information or one sided declaration of Respondent No. 1 of what is required to be produced for the purpose of EIA Report or EMP.



35. With reference to the contents of ground B, the said ground is not tenable in law at all. I say that this Respondent has applied for a fresh EC. I say that this Respondent has not applied for transfer of EC from the erstwhile mining lessee to this Respondent. Therefore, there is no question of reviewing the 2005 EC granted to the erstwhile mining lessee. However, it must be noted that ground B of the appeal acknowledges that there were ECs obtained by the erstwhile mining lessees as well. I further say that the alleged 2005 ECs belong to the erstwhile mining leases and this Respondent has no connection of whatsoever nature with erstwhile mining lessees and therefore, this Respondent could not have been expected to be in possession of the said documents. I submit that the allegations in ground B pertaining to declaration of Mine Closure with reference to 2005 EC may at the highest may amount to a breach by the erstwhile lessees and cannot be connected to this

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Respondent at all. I therefore deny the contents of ground B in its entirety in the manner as stated.

36. With respect to contents of ground E, I deny the contents thereof in the manner as stated. I say that the said Ground E is framed on the basis of certain directions passed in PILWP/1/2008 by the Hon'ble High Court of Bombay at Goa. In this regard, I say that this Respondent was not a party to the said PILWP/1/2008 because prior to December 2023, this Respondent had no connection of whatsoever nature with any activities conducted therein. The observations made in the said PILWP are in respect of the activities of the erstwhile mining lessees and cannot be attributed to this Respondent. At any rate, the said PILWP 1/2008 has come to an end vide Judgment and Order dated 30.01.2025 and therefore I say that the issues in the said PILWP are now put to rest. I say that the orders as

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annexed at Annexure B herein make it evident that all the issues of pollution have been dealt with and sorted out as submitted by the Petitioner in PILWP/1/2008. I submit that the said issues cannot now be reagitated before this Hon'ble Tribunal.

37. With regard to grounds E, F and G, the contents thereof are denied. It is reiterated that the NEERI study was commissioned pursuant to the orders of the Hon'ble High Court in PILWP/1/2008, which PIL has been disposed of by the Hon'ble High Court vide its order dated 30.01.2025. Moreover, the said study did not pertain to Block II which has been newly created when Government of Goa decided to e-auction the same. Furthermore, the historical alleged illegalities cannot be attributed to this Respondent who is for the first time carrying out mining operations in the State of Goa pursuant to e-auction of Block-II. I say that the EIA Report

and Environment Management Plan of this Respondent adequately addressed all environmental parameters as material to the operation of Block-II and the same has been considered by the authorities when granting the EC.

38. With reference to ground H, the contents thereof are denied. It is denied that this Respondent suppressed any information in violation of EIA Notification. With regard to alleged non-disclosure of NEERI Report, it is submitted that the said study of NEERI was commissioned pursuant to orders of the Hon'ble High Court in PILWP/1/2008, and pertained to mining leases that existed prior to 2012. The same does not relate to this Respondent, or Block II which came into existence only recently with the Government's decision to conduct electronic auction. Moreover, to the best knowledge of this Respondent, following the NEERI Report, the



Goa State Pollution Control Board directed the erstwhile leaseholders to implement specific measures such as construction of recharge trenches, slope stabilization etc., and the subsequent investigations of the Water Resources Department in May 2010 confirmed that the 80% of the wells in Sirigao had been rejuvenated due to recharge measures undertaken by the erstwhile lease holders. It is reiterated that NEERI report had no bearing on the EIA study of newly formed Block II, and there is no case of non-disclosure and/or suppression of the same. With regard to allegation of involvement of forest land, it is submitted that no forest land is involved within the Block II. With regard to survey number 84 of Maem Village, a clarification was received from office of Principal Chief conservator of forest that "the lease boundary of the Mining Block-II of Sirigao-Mayam Mineral Block, falls outside the Proposed Reserved Forests notified within the Survey No. 84, in Mayem Village of Bicholim

Taluka". ***Annexed hereto and marked as Annexure N is the copy of the clarification as received from the Principal Chief Conservator of Forest in this regard.*** With regard to the alleged non-disclosure of Communidade land in Survey No. 84, 93 and 6, it is submitted that this Respondent received the land schedule details in geological report and Form 1 & XIV at the time of purchase of tender documents. As per the said documents, the said survey Nos. 84, 93 and 6 belong to a private respondent i.e. the erstwhile lease holder. With regard to alleged non- disclosure of DMG memorandum restricting the trips, it is submitted that contrary to the allegation made, the EC categorically restricts trips to 20 to 40 per hour per operator on route.



39. With reference to ground I, I deny the contents there in the manner as stated. I deny that the EAC miserably failed in appraising the project of

the Respondent No. 1 as required by law or otherwise. I specifically deny that there was blatant violation of dereliction of statutory duty or obligation under EIA Notification 2006 by the EAC. I say that the EAC has done the appraisal as required by law and by following the procedure and therefore the appraisal by EAC cannot be faulted. I say that the EAC has duly considered the objections raised during Public Hearing and the response by the Project Proponent. Thus, this Respondent specifically denies the contents of Ground I in the manner as stated.



40. With regard to ground J, the contents thereof are denied. The ToR for this Respondent was approved by the Goa SEAC and Goa-SEIAA. The said approved ToRs did not include any specific requirement or directive for a cumulative environmental impact assessment. The EIA study of this Respondent was conducted in accordance

to the approved ToRs as required under the EIA Notification.

41. With regard to ground K, the contents thereof are denied. It is submitted that at the time of Form I submission for Block II, the adjoining blocks, i.e. Block I, III had not yet received Environmental Clearance and were not in operation. Hence there was no statutory and/or factual basis to disclose the same. Moreover, there is no requirement of filing of para 9 and 9.4. of Form I specifically for mining related project. With regard to alleged cumulative impact studies, it is reiterated that the EIA Report of this Respondent was in accordance to ToRs, which did not require a cumulative impact assessment.



42. With reference to Ground L, the contents thereof are denied as being incorrect and misconceived. It is submitted that the erstwhile mining lessees had commenced mining operations for the first

time within their respective T.C. areas, and prior thereto, the said lands remained undisturbed. Consequently, the initial ore-to-waste ratio would have been higher, since removal of the overburden was necessary to access the ore body. However, as per the Approved Mining Plan pertaining to Block II, the ore-to-waste ratio is 1:081 considering that the ore body is already exposed within the existing pit. Therefore, the question of the ore-to-waste ratio being 1:4 does not arise. Moreover, as per the Geological Report prepared by the Directorate of Mines & Geology (DMG), Government of Goa, and made available to this Respondent along with the tender documents of Block II, the ore to waste ratio for Block-II is clearly stated and the report at Page 19 specifies that:

"...mineable ore reserves of 14.539 million tonnes against waste handling of 25.0 million tonnes, with an overall stripping ratio of 1:1.72 (Ore: waste)."

Annexed hereto and marked as Annexure O is the copy of the relevant extract of the Geological Report as provided to this Respondent along with the Tender Documents of Block II.

43. With reference to ground M, I say that the venue of public hearing was decided by Goa State Pollution Control Board. I say that various objections and representations made during the personal hearing were received and duly responded to. These responses have been considered by the authority while recommending grant of EC. I specifically deny that there is any land grabbing by this Respondent specifically in respect of Survey Nos. 84, 93 and/or 6 of Sirigao village. I say that Mining Lease Deed specifically mentions the survey No. 84, 93 and 6 to be a part of the Mining Lease Area of Block-II. It is denied that the said area belongs to Communidade, and it is reiterated that as per



information provided to this Respondent at the time of tender documents, the said survey nos. belong to private party, i.e. erstwhile lease holder. Therefore, there is no question of this Respondent grabbing any land. I further say that wherever required, this Respondent shall acquire the surface rights by following due process of law. I therefore submit that ground M is devoid of merit and therefore liable to be rejected.

44. With reference to ground N, I deny the contents thereof in the entirety because the same is not applicable in the present matter. I say that this Respondent has not applied for transfer of EC. I say that this Respondent has applied for fresh EC. I say that the Hon'ble High Court of Bombay at has ruled that previous EC cannot be transferred to new lessee. Thus, there is no question of transfer of EC of the erstwhile mining leases unto this Respondent. I further say that the mining lease boundary of Block II are different than the

erstwhile mining leases. Thus, this Respondent has applied for a fresh EC. Therefore, there is no merit in Ground N and the same is liable to be rejected.

45. With reference to ground O, I specifically deny the contents thereof in the manner stated. I say that the said Ground O alleges that the erstwhile TC Nos granted in 1949 were granted without consulting the local villagers. In this regard, I submit firstly that in 1949, the title of concession was granted by erstwhile Portuguese regime; secondly, that for demarcation of mining lease, what is relevant is concentration of mineral in the area. Thirdly, I say that law does not prescribe any consultation of public for determination of boundaries of a mining lease. At any rate, the environmental clearance granted to this Respondent has laid out sufficient safeguards in respect of habitation and temples by prescribing certain buffer zone to be maintained. Further, the

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approved Mining plan obtained by this Respondent also discloses that this Respondent has not proposed to work in the areas where buffer zone is prescribed. It is also pertinent to mention that the issue of grant of mining lease is pending before the Hon'ble High Court of Bombay at Goa in PILWP/32/2023 and since the said issue does not fall within the scope of adjudication in the present proceedings before this Hon'ble Tribunal, it is humbly submitted that the same may not be gone into in the context of the present matter.

46. I reiterate that the EC has been granted to this Respondent in accordance with the applicable laws, and after considering all relevant environmental considerations.

47. In view of the afore stated facts and submissions, I say that the Appeal as filed is devoid of merit and liable to be dismissed.

48. I say that the contents of paragraphs 1, 2, 3, 4(b), 6(a), 6(b), 6(g)-part, 6(i), 6(j), 6(k), 6(m)-part, 6(n), 6(o), 6(p), 6(q), 6(r), 6(s), 6(t), 6(u), 6(v)-6(z), 6(aa), 6(bb), 6(cc), 6(dd), 6(ee), 9(part), 10(part), 12, 13, 14, 15, 16(part), 17, 18, 19, 20(part), 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34(part), 35, 36(part), 37(part), 38, 39, 40, 41, 42, 43, 44, 45(part), 46 of the accompanying Affidavit in Reply are based on records as maintained by the office of Respondent No. 1, and/or true to the best of my knowledge and belief and the contents of the remaining paragraphs, viz. 4(a), 5, 6(c), 6(d), 6(e), 6(f), 6(g)-part), 6(h), 6(l), 6(m)(part), 7, 8, 9(part), 10(part), 11, 16(part), 20(part), 28, 34(part), 36(part), 37(part), 45(part), 47 are in the nature of legal submissions, which I believe to be true.



1456

Solemnly affirmed at Panaji Goa

On this 04th day of November 2025

DEPONENT.

Identified by me:

(Adv. for Respondent No. 1)

SOLEMNLY AFFIRMED AND VERIFIED
BEFORE ME Sandeep Naik
WHO IS IDENTIFIED BEFORE ME
BY Aadhaar No 7824 8794 3811
WHOM I KNOW
SERIAL No. 5857 DATED 4/11/2025

NOTARIAL NOTARIAL NOTARIAL
NOTARIAL NOTARIAL NOTARIAL

ARUN WADKAR
NOTARY AT TISWADI TALUKA
STATE OF GOA-INDIA
REG. No. 382/14
DATED 19/9/2014

Annexure - A

SALGAOCAR SHIPPING CO. PVT. LTD.

Salgaocar Bhavan, Altinho, Panaji, Goa – 403001
CIN: U13100GA1975PTC000223
Tel: +91-832-2460500 Email: - info@smilindia.com

CERTIFIED TRUE COPY OF RESOLUTION PASSED IN THE EIGHTH MEETING OF THE BOARD OF DIRECTORS OF SALGAOCAR SHIPPING COMPANY PRIVATE LIMITED, FOR THE FINANCIAL YEAR 2024-25, HELD AT SALGAOCAR BHAVAN, ALTINHO, PANAJI-GOA, ON 18TH FEBRUARY 2025, AT 04.00 P.M

It was brought to the notice of the Board of Directors that it is necessary to nominate an Authorised Representative to appear in matters pertaining to "Block-II Sirigao Mayem Mineral Block", acquired by the Company being a Successful Bidder in the E-auction conducted by the State of Goa.

The matter was discussed and upon motion passed unanimously:

"RESOLVED THAT Mr. Sandeep Madhukar Naik, Director, be and is hereby authorized to take necessary actions as required in order to safeguard and defend the interest of the Company, with regard to the above said matter."

"RESOLVED FURTHER THAT the Board do and hereby appoint, nominate and constitute Mr. Sandeep Madhukar Naik, Director, as an Authorised Representative of the Company to institute and/or defend before any Court of Law/ Statutory Authority/Quasi-Judicial Authorities/Administrative Authority/ Tribunal/ National Green Tribunal, Police Authority, Revenue Authority/ Collector, Legal proceedings, Judicial & Quasi Judicial including but not limited to suits, criminal cases/arbitration cases/petitions, appeals, writs, revision, review, applications/all matters on behalf of the Company and/or against the Company and for this purpose to appear, verify, sign, affirm, declare, make, present, and/or present pleadings, petitions, submit, and file all necessary Notices/replies/plaints/Petitions, written statements/ undertakings, complaints, papers and documents, affidavits, statements and vakalatnamas, engage counsel and tender evidence both oral and documentary including to make statements on oath and in that connection to do all necessary and incidental acts on behalf of the Company with regard to the above."

CERTIFIED TRUE COPY
SALGAOCAR SHIPPING COMPANY PRIVATE LIMITED

DIRECTOR
DIN: 08429006

SALGAOCAR SHIPPING COMPANY PVT. LTD.

ra

Annexure - B

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. Sirigao 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 secures 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 vies 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 certainly 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, takes, 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 difficultly 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) lying 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 order

reads thus:-

"NOTICE CUM ORDER

Whereas on the basis of crdible 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

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. Tow 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, GoI.

- 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 Poira 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 Poira 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 Tow 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 manganeferous clay. The manganeferous 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 manganeferous 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 watt 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 soll 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 PMKKKY.' 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

fund is completely different as mining activity by its very nature has impact on the people living within the vicinity and it is for this reason that the fund is created. If the argument of Mr Diniz, learned Senior Advocate is to be accepted then we will have to go to the extent of saying that the DMF is created to indemnify the mining companies for the pollution caused by them.

33. In addition to the principle of polluter pays which has become the law of the land, as held the Supreme Court, apart from the constitutional mandate to improve and protect the environment there are plenty of post independence legislations like The Environment Protection Act, the Air (Prevention and Control of Pollution Act, 1981, the Water (Prevention and Control of Pollution) Act, 1974 and the MMDR Act to address the environmental concerns. The mining lease executed between the mining companies and the State which is in Form 'K' of the Mineral Concession Rules, 1960 fastens the liability on the mining companies for all the damage caused by them as a result of their mining activities. The relevant covenant reads thus:-

> *"4. The lessee/lessees shall make and pay such reasonable satisfaction and compensation as may be assessed by lawful authority in accordance with the law force on the subject for all damage, injury or*

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 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 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.**

Signed by: SUCHITRA NANDAN SINGBAL
Designation: Personal Assistant
Date: 16/04/2025 18:12:13

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

STAMP NUMBER (APPLICATION) NO.1101 OF 2020 (F)
IN
MISC. CIVIL APPLICATION NO.354 OF 2017
IN
PIL WRIT PETITION NO.1 OF 2008

THE STATE OF GOA THROUGH ITS CHIEF SECRETARY AND 7 ORS., ...**Petitioners**

Versus

VILLAGERS OF THE SHIRGAO VILLAGE ... **Respondent**

Mr D. Pangam, Advocate General with Mr Deep Shirodkar, Additional Government Advocate for the Applicant-State.

Mr Abhinandan Patil, Contractor present in person.

Mr A. F. Diniz, Senior Advocate with Mr Ryan Menezes, Advocate for the Respondent No.6.

Mr S. D. Lotlikar, Senior Advocate with Ms S. Kenny, Advocate for the Respondent No.7.

Mr Sudin Usgaonkar, Senior Advocate with Ms Pooja Naik, Advocate for the Respondent No.8.

Ms Norma Alvares with Mr Om D'Costa, Advocates for the original petitioners in MCA No.354/2017.

CORAM: M.S. SONAK &
BHARAT P. DESHPANDE,JJ.

DATED : 16th JANUARY, 2023

P. C.

1. Mr Abhinandan Patil, Proprietor of Abhinandan Buildcon (Contractor) has filed an affidavit stating that the works awarded to him (tender work) concerning 'Savat Khajan' is completed.

2. The Executive Engineer Works Division-VI, Water Resources Department also filed a status report confirming the above position. The report states that the work is finally completed. The shifting of the excavated earth (debris) is in progress and may take another 10 days considering the site condition and the nature of the soil(marshy). Mr Patil states that the work of shifting will indeed be completed within 15 days from today.

3. Mr Patil points out that in terms of the orders made by this Court, he was required to give additional performance security in an amount of ₹5,00,000/-. Now that the work is completed, we direct the State (WRD) to forthwith release this amount to Mr Patil(Contractor).

4. The learned Advocate General states that the DSLR will now start the demarcation work within 15 days from today and try to conclude it at the earliest.

5. Misc. Civil Application bearing No. 1101 of 2020(F) in Misc. Civil Application No. 354 of 2017 is disposed of. Similarly, the Misc. Civil Application No. 354 of 2017 is also disposed of.

6. Place the PILWP No.1 of 2008 for final hearing on 22/02/2023 subject to overnight part heard.

7. Learned Counsel for the petitioners states that all the issues concerning the petitioner are sorted out. However, the learned Advocate General and the learned Counsel appearing on behalf of the mining companies state that the issue of liability of the mining companies to pay for the work of de-siltation survives. Accordingly, on that date, we propose to consider this issue and if possible to dispose of the PIL.

8. The Contractor Mr Abhinandan Patil need not to appear any further in this matter.

BHARAT P. DESHPANDE, J **M.S. SONAK, J.**

MEENA VISHAL BHOIR Digitally signed by MEENA VISHAL BHOIR Date: 2023.01.17 10:53:27 +0530

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Annexure - C

(2014) 6 Supreme Court Cases 590

(BEFORE A.K. PATNAIK, S.S. NIJJAR AND F.M. IBRAHIM KALIFULLA, JJ.)

GOA FOUNDATION .. Petitioner;

Versus

UNION OF INDIA AND OTHERS .. Respondents.

Writ Petition (C) No. 435 of 2012† with Nos. 99, 184 of 2013, Transferred Cases Nos. 131-36 and 138-43 of 2013,
decided on April 21, 2014

A. **Environment Protection and Pollution Control — Mining — Illegal and uncontrolled and unmonitored mining affecting environment and revenue — Expired mining leases in State of Goa — Continuance of, in violation of Ss. 8(2) & (3), MMDR Act — Impermissibility and consequential remedial measures**

— S. 8(2) of MMDR Act permitting only one time renewal option for a period not exceeding 20 yrs (availing said option, present leases renewed from 22-11-1987 to 22-11-2007) — S. 8(3) permitting a second renewal for specified minerals (that is those not mentioned in Sch. I Pts. A & B, MMDR Act) but conditions in S. 8(3) for second renewal not having been fulfilled (that is State Government not having formed any opinion nor recording the same that the second renewal is in the interest of mineral development) — Held, said illegal mining leases cannot continue beyond 22-11-2007 neither under S. 8(2) nor under S. 8(3), MMDR Act — Therefore, impugned orders suspending said leases and keeping in abeyance their environmental clearances (that is impugned orders dt. 10-9-2012 and 14-9-2012 of State Government and MoEF respectively), held, were proper — Said orders directed to continue till issue of grant of fresh leases by State Government and environmental clearances by MoEF had been duly decided as per law — Mines and Minerals (Development and Regulation) Act, 1957, Ss. 8(2), 8(3) and Sch. I Pts. A, B & C (Paras 24 to 28, 82, 87.1 and 89)

B. **Environment Protection and Pollution Control — Mining — Illegal and uncontrolled/unmonitored mining affecting environment and revenue — Expired mining leases in State of Goa — Minerals excavated after expiration of lease — Sale proceeds after e-auction of said minerals as per directions of Supreme Court — Manner of utilisation and appropriation of said sale proceeds — Directions issued**

— State Government (under supervision of Monitoring Committee) directed to make the following payments (after duly calculating the same): (a) Average/approximate costs (not actual costs) of excavation of minerals to lessees, (b) 50% of wages and DA to eligible workers as per S. 25-C, ID Act who suffered due to suspension of mining leases by State Government, (c) 50% of claim towards storage charges of Marmagao Port Trust for storage of minerals after 5-10-2012 (that is, date from which Supreme Court suspended mining leases) — After said payments 10% of balance amount directed to be paid to Goa Iron Ore Permanent Fund for the purpose of sustainable

† Under Article 32 of the Constitution of India

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development and intergenerational equity — And the rest of balance amount directed to be appropriated by State Government as owners of said ore — Labour Law — Industrial Disputes Act, 1947 — S. 25-C — Compensation under, for affected eligible workers, for suspension of mining leases under directions of Government/Court — Entitlement to (Paras 85, 86 and 88.8)

C. **Mines and Minerals — Mineral Concession Rules, 1960 — Rr. 24-A(8), (6), (9), (4), (5) and R. 42-A(9) — Deemed renewal of mining leases if applications for renewal are not disposed of within stipulated time under R. 24-A(8) — Such applications having been made and such time having expired, mining leases, held, had been duly renewed up to 21-11-2007 — Thus, finding of Shah Commission that continuance of leases up to 21-11-2007 was without valid renewal, is not correct (Paras 20 to 23)**

D. **Mines and Minerals (Development and Regulation) Act, 1957 — Ss. 8(3) & (2) — Renewal of mining lease under R. 8(3) — General principle of R. 24-A(6) of 1960 Rules (that there cannot be any hiatus in mining), held, is inapplicable to said renewal without express orders of State Government recording reasons for said renewal — Mineral Concession Rules, 1960, R. 24-A(6) (Para 28)**

Goa Foundation v. *Union of India*, (2014) 6 SCC 738, *relied on*

TISCO Ltd. v. *Union of India*, (1996) 9 SCC 709, *affirmed*

Goa Foundation v. *Union of India*, WP (C) No. 435 of 2012, order dated 5-10-2012 (SC), *vacated*

Vassudeva Madeva Salgaocar v. *Union of India*, (1985) 1 Bom CR 36; *Shantilal Khushaldas and Bros. (P) Ltd.* v. *Union of India*, WP No. 177 of 1990, decided on 20-6-1997 (Bom); *Shantilal Khushaldas and Bros. (P) Ltd.* v. *Union of India*, SLP (C) No. 23827 of 1997, order dated 2-3-1998 (SC); *State of U.P.* v. *Lalji Tandon*, (2004) 1 SCC 1, *referred to*

E. **Public Accountability, Vigilance and Prevention of Corruption — Commissions of Inquiry Act, 1952 — Ss. 8-B and 8-C — Principles of natural justice under — Non-compliance with — Effect on Inquiry Commission report — Extent to which findings in report may be relied on**

— Shah Commission inquiring into illegal mining in State of Goa giving its report without giving any opportunity of hearing to lessees of alleged illegal mining — Central Government and State Government pleading that they would not take any action against said lessees on basis of said findings prior to giving an opportunity of hearing to lessees — Therefore, Shah Commission Report not quashed (as prayed for by the lessees) — At the same time, the prosecution of mining leases cannot be directed on the basis of the findings in the Report of the Justice Shah Commission, if they have not been given the opportunity of being heard and to produce evidence in their defence and not allowed the right to cross-examine and the right to be represented by a legal practitioner before the Commission as provided in Ss. 8-B and 8-C — However, the legal and environmental issues raised in the Report of the Justice Shah Commission can be examined and on the basis of the said findings on these issues the reliefs prayed for from both sides can be considered — Administrative Law — Natural Justice — Audi Alteram Partem — Right to Hearing — Reasonable Opportunity/Right of Representation (Para 14)

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Kiran Bedi v. *Committee of Inquiry*, (1989) 1 SCC 494; *State of Bihar* v. *Lal Krishna Advani*, (2003) 8 SCC 361; *Union of India* v. *Tulsiram Patel*, (1985) 3 SCC 398 : 1985 SCC (L&S) 672, *referred to*

F. **Environment Protection and Pollution Control — Mining — Mining waste — Dumping of, outside leased area, held, is not permissible under MMDR Act and Rules made thereunder — Clarified that even if land outside the mining area is privately owned mineral wastes cannot be dumped there without prior environmental clearance under R. 5(3) of 1986 Rules**

— Expert Committee directed to submit its report within six months on how the mining dumps in the State of Goa should be dealt with — Environment (Protection) Rules, 1986 — R. 5(3) — Mines and Minerals (Development and Regulation) Act, 1957 — Ss. 9, 4 and 3(d) — Mineral Concession Rules, 1960 — R. 64-C and R. 31 r/w Form K — Terms of lease deed under Form K and principles of dumping of mineral waste under R. 64-C — Clarified — None of said provisions, held, permits dumping of mineral waste outside leased area — Mineral Conservation and Development Rules, 1988 — R. 16 — Forest (Conservation) Act, 1980, S. 2 (Paras 30 to 37, 87.2 and 88.11)

Central Bank of India v. *Workmen*, AIR 1960 SC 12, *relied on*

Samaj Parivartana Samudaya v. *State of Karnataka*, (2013) 8 SCC 154, *referred to*

G. **Environment Protection and Pollution Control — Mining — Safety/ prohibition zones around natural parks, wildlife sanctuaries and protected areas — Extent of prohibition zones for State of Goa, considering its local needs for development, occupational structure and geographical availability of land**

— Reiterating direction of Supreme Court in *T.N. Godavarman Thirumulpad*, (2010) 13 SCC 740, all mining within a distance of 1 km from national parks and sanctuaries, held, are prohibited — Regarding extension of safety zones to 10 kms at six proposed sites, MoEF directed to proceed as per statutory procedure and consider the objections of State Government in this regard (that is regarding needs of local people, development needs, availability of land and geographical constraints peculiar to State of Goa) — Environment (Protection) Rules, 1986 — Rr. 5(1)(viii) & (x) and Rr. 5(2) & (3) — Environment (Protection) Act, 1986 — S. 3(2)(v) — Wildlife (Protection) Act, 1972 — S. 5-C(2)(b) — Constitution of India, Arts. 21 and 32 (Paras 38 to 53, 87.3, 87.4 and 88.1)

Noida Memorial Complex near Okhla Bird Sanctuary, In re, (2011) 1 SCC 744, *relied on*

T.N. Godavarman Thirumulpad v. *Union of India*, (2010) 13 SCC 740, *explained* and *relied on*

Goa Foundation v. *Union of India*, (2011) 15 SCC 791, *explained*

T.N. Godavarman Thirumulpad v. *Union of India*, (2002) 10 SCC 634, *referred to*

H. **Mines and Minerals — Mineral Concession Rules, 1960 — Rr. 37(1)(a) and 38 — Violation of, by mining lessees by resorting to illegal transfers and amalgamations — Clarified that iron ore mines (not being specified in Sch. I Pt. A or B but being specified in Pt. C, MMDR Act) could**

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not be transferred without the previous written consent of State Government — Further clarified that amalgamation of mines is not permitted, if the State Government has not recorded its reasons for said amalgamation — And that the period of such amalgamation cannot exceed the period of lease whose term expires first — State Government, therefore, directed to initiate action against all mining lessees who had violated Rr. 37 and 38, MC Rules so that there is no loss of revenue and mining is effectively controlled — Mines and Minerals (Development and Regulation) Act, 1957 — Sch. I Pts. A, B and C — Transfer of Property Act, 1882 — Ss. 10 and 11 — Statutory bars on transfer of property

I. **Mines and Minerals — Mineral Concession Rules, 1960 — R. 37 — Intent of rule-making authorities under, explained — The intent is to ensure that there is no loss of revenue and mining is effectively controlled**

Held :

The Justice Shah Commission has found in its Report that in the State of Goa, 16 companies/firms/individuals are carrying out mining operations under different leases granted to them as a single unit as if the leases are amalgamated. CEC has reported that there are several complaints received by the State Government that the leases have been operated by persons other than the lessees. As per Rule 37(1)(*a*) of the MC Rules, 1960 the lessee cannot assign, sub-let, mortgage, or in any other manner, transfer the mining lease, or any right, title or interest therein, without the previous consent in writing of the State Government in the case of those minerals which are not specified in Part A and Part B of the First Schedule to the MMDR Act. Since iron ore is specified in Part C of the First Schedule to the MMDR Act, the previous consent in writing of the State Government is necessary before any such transfer is made by a mining lessee. (Paras 54 to 57)

The intent of the rule-making authority in making these provisions in Rule 37 of the MC Rules, 1960 is that the liabilities and conditions in a mining lease are also enforceable against the transferee and that the transferee pays his dues towards income tax regularly. Rule 37, therefore, cannot be allowed to be violated by the lessees with impunity and the State Government cannot overlook transfers by saying that the transfers of the mining leases are part of the mining practice in the State of Goa. If these violations of Rule 37 of the MC Rules, 1960 are allowed, there shall be substantial leakage of revenue and mining operations cannot be effectively regulated and controlled by the State Government. The State Government, therefore, must initiate action against those mining leases who violate Rule 37 of the MC Rules, 1960. (Para 60)

Rule 38 of the MC Rules, 1960 provides that the State Government may, in the interest of mineral development and with reasons to be recorded in writing, permit amalgamation of two or more adjoining leases held by a lessee, provided that the period of amalgamated leases shall be co-terminus with the lease whose period will expire first. If the State Government has not permitted amalgamation of adjoining leases in the interest of mineral development and has not recorded the reasons for such permission, the State Government cannot allow the amalgamation of the leases. The State Government will initiate action against those mining lessees who violate Rules 37 and 38 of the MC Rules, 1960. (Para 61)

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J. Environment Protection and Pollution Control — Mining — Illegal and uncontrolled/unmonitored mining affecting environment and revenue — Monitoring and regulatory mechanism — Need of strict implementation of statutory provisions and powers by regulatory bodies — Directions issued to regulatory bodies

— Judicial notice taken of fact that Goa (Prevention of Illegal Mining, Storage and Transportation of Minerals) Rules, 2013 has adequate provisions to deal with illegal mining and that the regulatory bodies have failed in their endeavour to restore the environment from the damage caused by mining — State of Goa directed to enforce provision of MMDR Act and Rules made there under and to strictly enforce 2013 Rules — Goa State Pollution Control Board also directed to exercise the immense powers conferred under S. 33-A, 1974 Act and 31-A, 1981 Act — Further directed that as and when Regulator as directed in *T.N. Godavarman Thirumulpad*, (2014) 4 SCC 61, is appointed, it would carry out its functions as per order passed under S. 3(3), Environment (Protection) Act, 1986 — Mines and Minerals (Development and Regulation) Act, 1957 — S. 23-C — Air (Prevention and Control of Pollution) Act, 1981 — S. 31-A — Water (Prevention and Control of Pollution) Act, 1974, S. 33-A (Paras 62, 63, 69 to 71, 75 to 78 and 88.6)

K. Environment Protection and Pollution Control — Mining — Sustainable development — Illegal and uncontrolled/unmonitored mining affecting environment and revenue — Rationale why mining cannot be totally prohibited in State of Goa, explained — Goa is heavily dependent upon iron ore mining for its revenue and employment — People have taken bank loans, purchased trucks and many people depend upon mining for their livelihood — Therefore, mining cannot be totally prohibited in Goa (Paras 77, 78, 88.9 and 88.10)

L. Constitution of India — Arts. 21 and 32 — Sustainable development — Goa Iron Ore Permanent Fund — In future, lessees directed to deposit 10% of their sale proceeds from iron ore towards said fund in the interest of sustainable development and inter-generational equity as the damage caused cannot be rectified by regulation/monitoring alone — CEC directed to submit a comprehensive scheme within six months in this regard — Environment Protection and Pollution Control — Polluter pays principle (Paras 77, 78, 88.9 and 88.10)

M. Constitution of India — Arts. 21 and 32 — Sustainable development — Cap on annual excavation of iron ore in State of Goa — Based on reports of experts, and until a final report by Expert Committee, a cap of 20 Million MT on said excavation fixed — Expert Committee directed to submit said report within 12 months — Environment Protection and Pollution Control — Sustainable development (Paras 88.4 and 88.5)

T.N. Godavarman Thirumulpad v. *Union of India*, (2014) 4 SCC 61; *Lafarge Umiam Mining (P) Ltd.* v. *Union of India*, (2011) 7 SCC 338, *considered*

Goa Foundation v. *Union of India*, (2014) 6 SCC 738; *Goa Foundation* v. *Union of India*, WP (C) No. 435 of 2012, order dated 18-11-2013 (SC); *Samaj Parivartana Samudaya* v. *State of Karnataka*, (2013) 8 SCC 154, *referred to*

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Report of Expert Committee, Reports of ISM, Dhanbad and Neeri, *referred to*

N. Environment Protection and Pollution Control — Mining — Mining leases — Mode by which should be granted — Whether State Government should be directed to grant said leases only by way of auction — Held, it is for the State Government to decide as a matter of policy, in what manner the leases are to be granted — MMDR Act does not prohibit the State from holding auction — The State Government may also adopt any other method — But said methods must conform to Constitution and law and are subject to judicial review — Mines and Minerals (Development and Regulation) Act, 1957 — Ss. 4 to 11 — Constitution of India — Arts. 21, 32 and 39(b) — Government Grants, Largesse, Public Property and Premises — Allotment/Grant/Lease/Licence of land — Mode of grant of

(Paras 79 to 81 and 87.5)

Natural Resources Allocation, In re, Special Reference No. 1 of 2012, (2012) 10 SCC 1, *relied on*

Centre for Public Interest Litigation v. *Union of India*, (2012) 3 SCC 1, *referred to*

SS-D/53204/C

Advocates who appeared in this case :

A.N.S. Nadkarni, Advocate General, Suryanarayana Singh, Additional Advocate General, Datta Prasad Lawande, Government Advocate, Nikhil D. Pai and Ms Neha Umesh Kholkar, Additional Government Advocates, Mukul Rohatgi, Senior Advocate [Prashant Bhushan, Amit Sharma, Yashraj Singh Deora, M/s K.J. John & Co., Harish Pandey, P.S. Sudheer, M/s Mitter & Mitter Co., A. Venayagam Balan, Abhijat P. Medh, P.V. Yogeswaran, Ms Jyoti Mendiratta, Ms Madhu Sikri, Dr (Ms) Vipin Gupta, Ninad Laud, Ms Aparna Singhal, Mahesh Agarwal, E.C. Agarwala, Ms Sudha Gupta, M/s Parekh & Co., Shadman Ali, D.S. Mahra, Yashraj Singh Deora, Mohan Pandey, Shreekant N. Terdal, M/s J.S. Wad & Co., Abhijit Gosavi, Jayant Mohan, Harish Pandey, M/s K.J. John & Co., Chander Shekhar Ashri, Mohit Abraham, Shiv Kr. Suri, P.S. Sudheer, T. Mahipal, Parijat Sinha, S.M. Walawaikar, Rameshwar Prasad Goyal, M.P. Jha, Siddharth Bhatnagar, Ms A. Subhashini, Bhavanishankar V. Gadnis, A. Venayagam Balan, Prafulla Hede, Advocates] for the appearing parties.

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1. (2014) 6 SCC 738, *Goa Foundation* v. *Union of India* 599*d-e*, 600*a-b*, 626*d-e*, 628*f*, 635*d-e*, 635*f*, 636*h*
2. (2014) 4 SCC 61, *T.N. Godavarman Thirumulpad* v. *Union of India* 632*b-c*
3. (2013) 8 SCC 154, *Samaj Parivartana Samudaya* v. *State of Karnataka* 609*d*, 632*g*
4. WP (C) No. 435 of 2012, order dated 18-11-2013 (SC), *Goa Foundation* v. *Union of India* 626*d-e*
5. (2012) 10 SCC 1, *Natural Resources Allocation, In re, Special Reference No. 1 of 2012* 634*b-c*, 634*e*
6. (2012) 3 SCC 1, *Centre for Public Interest Litigation* v. *Union of India* 633*e-f*
7. WP (C) No. 435 of 2012, order dated 5-10-2012 (SC), *Goa Foundation* v. *Union of India* 599*a*, 635*d*, 638*f-g*
8. (2011) 15 SCC 791, *Goa Foundation* v. *Union of India* 613*c*, 613*f*, 614*a*, 614*b*, 614*f*, 617*b*, 617*g-h*, 618*a*, 618*d*, 618*d-e*, 637*c*
9. (2011) 7 SCC 338, *Lafarge Umiam Mining (P) Ltd.* v. *Union of India* 632*c-d*
10. (2011) 1 SCC 744, *Noida Memorial Complex near Okhla Bird Sanctuary, In re* 616*g-h*

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11. (2010) 13 SCC 740, *T.N. Godavarman Thirumulpad* v. *Union of India* 613*f-g*, 614*g*, 617*b*, 617*b-c*, 617*c-d*, 617*f*, 637*b-c*
12. (2004) 1 SCC 1, *State of U.P.* v. *Lalji Tandon* 606*g-h*
13. (2003) 8 SCC 361, *State of Bihar* v. *Lal Krishna Advani* 600*e-f*
14. (2002) 10 SCC 634, *T.N. Godavarman Thirumulpad* v. *Union of India* 614*a*
15. SLP (C) No. 23827 of 1997, order dated 2-3-1998 (SC), *Shantilal Khushaldas and Bros. (P) Ltd.* v. *Union of India* 597*c*, 597*d*
16. WP No. 177 of 1990, decided on 20-6-1997 (Bom), *Shantilal Khushaldas and Bros. (P) Ltd.* v. *Union of India* 597*b-c*, 597*c*
17. (1996) 9 SCC 709, *TISCO Ltd.* v. *Union of India* 607*a*, 608*b*
18. (1989) 1 SCC 494, *Kiran Bedi* v. *Committee of Inquiry* 600*e-f*
19. (1985) 3 SCC 398 : 1985 SCC (L&S) 672, *Union of India* v. *Tulsiram Patel* 600*e-f*
20. (1985) 1 Bom CR 36, *Vassudeva Madeva Salgaocar* v. *Union of India* 596*f*
21. AIR 1960 SC 12, *Central Bank of India* v. *Workmen* 611*f-g*

The Judgment of the Court was delivered by

A.K. PATNAIK, J.— This batch of writ petitions and transferred cases relate to mining in the State of Goa and as issues raised are common to the writ petitions and the transferred cases, the cases have been analogously heard and are being disposed of by this common judgment.

Facts relating to mining in Goa

2. Prior to 19-12-1961 when Goa was a Portuguese territory, its Portuguese Government had granted mining concessions in perpetuity to concessionaires. On 19-12-1961, Goa was liberated and became part of the Indian Union and on 1-10-1963, the Mines and Minerals (Development and Regulation) Act, 1957 (for short "the MMDR Act") was made applicable to the State of Goa. On 10-3-1975, the Controller of Mining Leases issued a Notification calling upon every lessee and sub-lessee to file returns under Rule 5 of the Mining Leases (Modification of Terms) Rules, 1956 and sent copies of the notification to the concessionaires in Goa. Aggrieved, the concessionaires moved the Bombay High Court, Goa Bench, and by judgment dated 29-9-1983, in *Vassudeva Madeva Salgaocar* v. *Union of India*[1], the Bombay High Court restrained the Union of India from treating the concessions as mining leases and from enforcing the notification against the concessionaires.

3. Parliament thereafter passed the Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987 (for short "the Abolition Act") which received the assent of the President on 23-5-1987. Section 4 of the Abolition Act abolished the mining concessions and declared that with effect from the 20th day of December, 1961, every mining concession will be deemed to be a mining lease granted under the MMDR Act and that the provisions of the MMDR Act will apply to such mining lease. Section 5 of the Abolition Act further provided that the concession holder shall be deemed to have become a holder of the mining lease under

1 (1985) 1 Bom CR 36

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the MMDR Act in relation to the mines in which the concession relates and the period of such lease was to extend up to six months from the date when the Abolition Act received President's assent i.e. up to 22-11-1987. On 14-10-1987, sub-rules (8) and (9) were inserted in Rule 24-A of the Mineral Concession Rules, 1960 (for short "the MC Rules") which deal with renewal of mining leases in Goa, Daman and Diu.

4. The Abolition Act was challenged by the lessees before the Bombay High Court in a writ petition. The High Court passed an interim order permitting the lessees to carry on mining operations and the mining business in the concessions for which renewal applications had been filed under Rule 24-A of the MC Rules. Subsequently, the High Court held in its judgment dated 20-6-1997[2] that the Abolition Act was valid but Section 22(*i*)(*a*) of the Abolition Act would operate prospectively and not retrospectively. The concessionaires filed special leave petition against the judgment dated 20-6-1997[2] before this Court. On 2-3-1998[3], this Court passed an interim order permitting the concessionaires to carry on mining operations and mining business in the mining areas for which renewal applications have been made on the condition that the lessee pays to the Government dead rent from the date of commencement of the Abolition Act. Subsequently, this Court granted leave in the special leave petition and continued the aforesaid interim order[3].

The Justice Shah Commission and its Report

5. As reports were received from various State Governments of widespread mining of iron ore and manganese ore in contravention of the provisions of the MMDR Act, the Forest (Conservation) Act, 1980, the Environment (Protection) Act, 1986 and other rules and guidelines issued thereunder, the Central Government appointed the Justice Shah Commission under Section 3 of the Commissions of Inquiry Act, 1952 by Notification dated 22-11-2010. Paras 2 and 3 of the Notification, which are relevant, are extracted hereinbelow:

> "**2.** The terms of reference of the Commission shall be—
>
> (*i*) to inquire into and determine the nature and extent of mining and trade and transportation, done illegally or without lawful authority, of iron ore and manganese ore, and the losses therefrom; and to identify, as far as possible, the persons, firms, companies and others that are engaged in such mining, trade and transportation of iron ore and manganese ore, done illegally or without lawful authority;
>
> (*ii*) to inquire into and determine the extent to which the management, regulatory and monitoring systems have failed to deter, prevent, detect and punish offences relating to mining, storage, transportation, trade and export of such ore, done illegally or without lawful authority, and the persons responsible for the same;

2 *Shantilal Khushaldas and Bros. (P) Ltd.* v. *Union of India*, WP No. 177 of 1990, decided on 20-6-1997 (Bom)

3 *Shantilal Khushaldas and Bros. (P) Ltd.* v. *Union of India*, SLP (C) No. 23827 of 1997, order dated 2-3-1998 (SC)

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(*iii*) to inquire into the tampering of official records, including records relating to land and boundaries, to facilitate illegal mining and identify, as far as possible, the persons responsible for such tampering; and

(*iv*) to inquire into the overall impact of such mining, trade transportation and export done illegally or without lawful authority, in terms of destruction of forest wealth, damage to the environment, prejudice to the livelihood and other rights of tribal people, forest dwellers and other persons in the mined areas, and the financial losses caused to the Central and State Governments.

3. The Commission shall also recommend remedial measures to prevent such mining, trade, transportation and export done illegally or without lawful authority."

6. The Justice Shah Commission visited Goa and issued notices under Section 4 of the Commissions of Inquiry Act, 1952 calling for information from the authorities concerned and the lessees and submitted its interim report on 15-3-2012 to the Ministry of Mines, Union of India. On 7-9-2012, the Justice Shah Commission Report on Goa was tabled in Parliament along with an Action Taken Report of the Ministry of Mines and on 10-9-2012 the State Government of Goa passed an Order suspending all mining operations in the State of Goa with effect from 11-9-2012. Pursuant to this Order of the State Government, on 11-9-2012 and 12-9-2012 the District Magistrates of the State of Goa banned transportation of iron ore in their respective districts and the Director of Mines and Geology ordered for verification of mineral ore which was already extracted. On 13-9-2012, the Director of Mines and Geology, Government of Goa issued show-cause notices to 40 mining leases. On 14-9-2012, the Ministry of Environment and Forests of the Union of India also directed that all environmental clearances granted to mines in the State of Goa be kept in abeyance.

7. On the basis of findings in the Report of the Justice Shah Commission on illegal mining in the State of Goa, Goa Foundation has filed Writ Petition (C) No. 435 of 2012 as public interest litigation praying for directions to the Union of India and the State of Goa to take steps for termination of the mining leases of lessees involved in mining in violation of the Forest (Conservation) Act, 1980, the Mines and Minerals (Development and Regulation) Act, 1957, the Mineral Concessions Rules, 1960, the Environment (Protection) Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 as well as the Wild Life (Protection) Act, 1972. Goa Foundation has prayed that a direction be issued to the respondents to prosecute all those who have committed offences under the different laws and are involved in the pilferage of State revenue through illegal mining activities in the State of Goa including the public servants who have aided and abetted the offences. Goa Foundation has also sought for appointment of an independent authority with full powers to take control, supervise and regulate mining operations in the State of Goa and to ensure the implementation of the laws. Besides, the

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aforesaid main reliefs, Goa Foundation has also prayed for some incidental and consequential reliefs.

8. On 5-10-2012, this Court issued notice in *Goa Foundation* v. *Union of India*[4] to the respondents and directed the Central Empowered Committee (for short "CEC") to submit its report on the writ petition and also directed that till further orders, all mining operations in the leases identified in the report of the Justice Shah Commission and transportation of iron ore and manganese ore from those leases, whether lying at the mine-head or stockyards, shall remain suspended, as recommended in the report of the Justice Shah Commission.

9. Different mining lessees of the State of Goa and the Goa Mining Association also filed writ petitions in the Bombay High Court, Goa Bench for a declaration that the report of the Shah Commission is illegal and for quashing the findings in the Report of the Justice Shah Commission and also for quashing the Order dated 10-9-2012 of the Government of Goa suspending mining operations in the State of Goa and the Order dated 14-9-2012 of the Ministry of Environment and Forests, Government of India, directing that the environmental clearances granted to the mines in the State of Goa be kept in abeyance. These writ petitions have been transferred to this Court for hearing along with the hearing of Writ Petition (Civil) No. 435 of 2012 filed by Goa Foundation.

10. The writ petitions and the transferred cases were heard during September, October and November 2013. On 11-11-2013[5], an order was passed by this Court directing that the inventory of the excavated mineral ores lying in different mines/stockyards/jetties/ports in the State of Goa made by the Department of Mines and Geology of the Government of Goa be verified and thereafter the whole of the inventoried mineral ores be sold by e-auction and the sale proceeds (less taxes and royalty) be retained in separate

4 WP (C) No. 435 of 2012, order dated 5-10-2012 (SC), wherein it was directed:

"1. Issue notice. Dasti service in addition.

2. The Central Empowered Committee (CEC) is directed to submit its report on this writ petition, which is essentially based on the report of Justice M.B. Shah (a former Judge of this Court), Chairman of the Commission of Enquiry for illegal mining of iron ore and manganese. The Secretaries of the Ministries of Mines and Forest and Environment, Union of India, and the Chief Secretary of the State of Goa are directed to furnish all information that CEC may require for making its report for the Court in light of the Shah Commission's Report.

3. A preliminary report from CEC should reach this Court within four weeks from today. Put up on receipt of the report from CEC. Till further orders, all mining operations in the leases identified in the Shah Commission's Report and transportation of iron ore and manganese ore from those leases, whether lying at the mine-head or stockyards, shall remain suspended, as recommended in the Commission's Report.

4. IAs Nos. 2580 and 2669 of 2009 in Writ Petition (Civil) No. 202 of 1995 may also be listed along with this writ petition."

5 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 738

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fixed deposits (leasewise) by the State of Goa till the Court delivers the judgment in these matters on the legality of the leases from which the mineral ores were extracted. The Court has also directed that this entire process of verification of the inventory, e-auction and deposit of sale proceeds be monitored by a Monitoring Committee appointed by the Court. By the said order dated 11-11-2013[5], this Court also constituted an Expert Committee to conduct a macro-EIA study on what should be the ceiling of annual excavation of iron ore from the State of Goa considering its iron ore resources and its carrying capacity, keeping in mind the principles of sustainable development and intergenerational equity and all other relevant factors. On 11-11-2013 the case was also reserved for judgment.

Challenge to the Report of the Justice Shah Commission

11. As we have already noticed, in the cases transferred from the Bombay High Court to this Court, the mining lessees have prayed for quashing the Report of the Justice Shah Commission. Mr K.K. Venugopal, learned Senior Counsel appearing for the mining lessees, submitted that the Justice Shah Commission did not issue any notice under Section 8-B of the Commissions of Inquiry Act, 1952 to the mining lessees giving a reasonable opportunity of being heard in the inquiry and to produce evidence in their defence. He further submitted that the Justice Shah Commission also did not permit the mining lessees to cross-examine the witnesses, to address the Commission and to be represented by legal practitioners before the Commission contrary to the provisions of Section 8-C of the Commissions of Inquiry Act, 1952. He submitted that even otherwise there is gross breach of the principles of natural justice and fair play by the Justice Shah Commission and, therefore, the Report of the Commission was violative of Article 14 of the Constitution. He submitted that the Report of the Justice Shah Commission should, therefore, be quashed. In support of this submission, he relied on the decisions of this Court in *Kiran Bedi* v. *Committee of Inquiry*[6], *State of Bihar* v. *Lal Krishna Advani*[7] and *Union of India* v. *Tulsiram Patel*[8].

12. Mr Mohan Parasaran, learned Solicitor General for the Union of India, on the other hand, submitted that as the Notification dated 22-11-2010 of the Central Government appointing the Justice Shah Commission under Section 3 of the Commissions of Inquiry Act, 1952 would show, reports were received from various State Governments of widespread mining of iron ore and manganese ore in contravention of the MMDR Act, the Forest (Conservation) Act, 1980 and the Environment (Protection) Act, 1986 or other rules and licences issued thereunder and for this reason, the Central Government appointed the Justice Shah Commission for the purpose of making inquiry into these matters of public importance. He submitted that

5 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 738
6 (1989) 1 SCC 494
7 (2003) 8 SCC 361
8 (1985) 3 SCC 398 : 1985 SCC (L&S) 672

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after the Justice Shah Commission submitted the Report pointing out various illegalities, the Union Government has kept the environment clearances in abeyance and it will take legal action on the basis of its own assessment of the facts and not on the basis of the facts as found in the Justice Shah Commission's Report.

13. Similarly, Mr Atmaram N.S. Nadkarni, the Advocate General appearing for the State of Goa, submitted that after going through the Report of the Justice Shah Commission, the State Government has suspended all mining and transportation of ores and no legal action will be taken against the mining lessees on the basis of the findings in the Justice Shah Commission's Report unless due opportunity is given to the mining lessees to place their defence against the findings of the Justice Shah Commission.

14. We find that Section 8-B of the Commissions of Inquiry Act, 1952 provides that if a person is likely to be prejudicially affected by the inquiry, the Commission shall give to that person a reasonable opportunity of being heard and to produce evidence in his defence and Section 8-C of the Commissions of Inquiry Act, 1952 provides that every such person will have a right to cross-examine and the right to be represented by a legal practitioner before the Commission. As the State Government of Goa has taken a stand before us that no action will be taken against the mining lessees only on the basis of the findings in the Report of the Justice Shah Commission without making its own assessment of facts and without first giving the mining lessees the opportunity of hearing and the opportunity to produce evidence in their defence, we are not inclined to quash the Report of the Justice Shah Commission on the ground that the provisions of Sections 8-B and 8-C of the Commissions of Inquiry Act, 1952 and the principles of natural justice have not been complied with. At the same time, we cannot also direct prosecution of the mining lessees on the basis of the findings in the Report of the Justice Shah Commission, if they have not been given the opportunity of being heard and to produce evidence in their defence and not allowed the right to cross-examine and the right to be represented by a legal practitioner before the Commission as provided in Sections 8-B and 8-C respectively of the Commissions of Inquiry Act, 1952. We will, however, examine the legal and environmental issues raised in the Report of the Justice Shah Commission and on the basis of our findings on these issues consider granting the reliefs prayed for in the writ petition filed by Goa Foundation and the reliefs prayed for in the writ petitions filed by the mining lessees, which have been transferred to this Court.

Whether the leases held by the mining lessees have expired

15. According to the Justice Shah Commission Report, prior to 7-1-1993, sub-rule (4) of Rule 24-A of the MC Rules provided that the renewal application of the lessee is required to be disposed of within six months from the date of its receipt and sub-rule (5) of Rule 24-A provided that if the

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application is not disposed of within stipulated time, the same shall be deemed to have been refused. The Justice Shah Commission has found that the applications of several mining leases for renewal were not disposed of within the stipulated time and there was no provision in the MC Rules to condone the delay and, therefore, these leases are in contravention of the MC Rules and are void and have no effect as provided in Section 19 of the MMDR Act.

16. CEC in its report has stated that under Section 4 of the Abolition Act, the concessions were abolished from 23-5-1987 and treated as deemed leases under the MMDR Act and the period of deemed leases under Section 5 of the Abolition Act was extended up to six months with effect from the date of assent to the Abolition Act (23-5-1987) i.e. up to 22-11-1987. CEC has further stated that by Notifications dated 20-11-1987 and 20-5-1988, however, the Government of Goa allowed extension of six months each (totalling one year) for making applications for the first renewal of deemed mining leases and this one year period expired on 22-11-1988. CEC has further stated that as per the information provided to CEC, out of 595 mining concessions abolished and converted into deemed mining leases under Section 4 of the Abolition Act, as many as 379 deemed mining lease-holders have filed applications for the first renewal of the mining leases before 22-11-1988 and 59 such lessees have filed applications for the first renewal of the deemed mining leases after 22-11-1988 i.e. beyond the time-limit permitted under Rule 24-A(8) of the MC Rules.

17. In reply, the learned counsel for the lessees and Mr Arvind Datar, learned Senior Counsel appearing for the State of Goa, submitted that sub-rules (4) and (5) of Rule 24-A of the MC Rules did not apply to the State of Goa. They submitted that sub-rules (8) and (9) of Rule 24-A of the MC Rules apply specifically to the State of Goa and sub-rule (8) of Rule 24-A of the MC Rules provides that an application for the first renewal of the deemed mining lease referred to in Section 4 of the Abolition Act shall be made to the State Government in Form J before the period of six months of the mining lease as provided in Section 5(1) of the Abolition Act. They submitted that the proviso to sub-rule (8) of Rule 24-A of the MC Rules conferred power on the State Government to extend time for making such application up to a total period not extending one year. They submitted that, by two Notifications, the State Government extended time for a period of one year up to 22-11-1988 and within this period most of the lessees have applied for the first renewal of the deemed mining lease. The learned counsel for the lessees and the learned counsel for the State of Goa submitted that sub-rule (9) of Rule 24-A of the MC Rules makes it clear that if an application for first renewal is made within the time referred to in sub-rule (8) of Rule 24-A of the MC Rules or within the time allowed by the State Government under the proviso to sub-rule (8) of Rule 24-A of the MC Rules, the period of that lease shall be deemed to have been extended by a further period till the State Government passes orders thereon.

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18. For easy reference, Chapter II containing Sections 4 and 5 of the Abolition Act is extracted hereinbelow:

"CHAPTER II

ABOLITION OF MINING CONCESSIONS AND DECLARATION AS MINING LEASES UNDER THE MINES AND MINERALS ACT

4. ***Abolition, etc., of mining concessions.***—(1) Every mining concession specified in the First Schedule shall, on and from the appointed day, be deemed to have been abolished, and shall, without effect from that day, be deemed to be a mining lease granted under the Mines and Minerals Act, and the provisions of that Act shall, save as otherwise provided in this Act, apply to such mining lease.

(2) Every mining concession specified in the Second Schedule shall, on and from the day next after the date of grant of the said concession and specified in the corresponding entry in the eighth column of the said Schedule, be deemed to have been abolished, and shall, with effect from that day, be deemed to be a mining lease granted under the Mines and Minerals Act, and the provisions of that Act shall, save as otherwise provided in this Act, apply to such mining lease.

(3) If, after the date of assent, the Central Government is satisfied, whether from any information received by it or otherwise, that there has been any error, omission or misdescription in relation to the particulars of any mining concession or the name and residence of any concession holder specified in the First or the Second Schedule, it may, by notification, correct such error, omission or misdescription, and on the issue of such notification, the First or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.

5. ***General effect of declaring the mining concessions to be mining leases.***—(1) Where a mining concession has been deemed to be a mining lease under Section 4, the concession holder shall, on and from the day mentioned in that section, be deemed to have become the holder of such mining lease under the Mines and Minerals Act in relation to the mine to which the mining concession relates, subject to the condition that the period of such lease shall, notwithstanding anything contained in that Act, extend up to a period of six months from the date of assent.

(2) On the expiry of the period of any mining lease under sub-section (1), it may, if so desired by the holder of such lease and on an application being made by him in accordance with the provisions of the Mines and Minerals Act and the rules made thereunder, be renewed on such terms and conditions, and up to the maximum period, for which such lease can be renewed under the provisions of that Act and the rules made thereunder."

19. For easy reference, Rule 24-A of the MC Rules is also extracted hereinbelow:

"**24-A.** ***Renewal of mining lease.***—(1) An application for the renewal of a mining lease shall be made to the State Government in Form J, at least twelve months before the date on which the lease is due to expire, through such officer or authority as the State Government may specify in this behalf.

(2) The renewal or renewals of a mining lease granted in respect of a mineral specified in Part A and Part B of the First Schedule to the Act may

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be granted by the State Government with the previous approval of the Central Government.

(3) The renewal or renewals of a mining lease granted in respect of a mineral not specified in Part A and Part B of the First Schedule to the Act may be granted by the State Government:

Provided that before granting approval for second or subsequent renewal of a mining lease, the State Government shall seek a report from the Controller General, Indian Bureau of Mines, as to whether it would be in the interest of mineral development to grant the renewal of the mining lease.

Provided further that in case a report is not received from Controller General, Indian Bureau of Mines in a period of three months of receipt of the communication from the State Government, it would be deemed that the Indian Bureau of Mines has no adverse comments to offer regarding the grant of the renewal of mining lease.

(4) An application for the renewal of a mining lease shall be disposed of within a period of six months from the date of its receipt. (*Omitted*)

(5) If an application is not disposed of within the period specified in sub-rule (4) it shall be deemed to have been refused. (*Omitted*)

(6) If an application for the renewal of a mining lease made within the time referred to in sub-rule (1) is not disposed of by the State Government before the date of expiry of the lease, the period of the lease shall be deemed to have been extended by a further period till the State Government passes order thereon.

(7) *Omitted.*

(8) Notwithstanding anything contained in sub-rule (1) and sub-rule (6) an application for the first renewal of a mining lease, so declared under the provisions of Section 4 of the Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987, shall be made to the State Government in Form J before the expiry of the period of mining lease in terms of sub-section (1) of Section 5 of the said Act, through such office or authority as the State Government may specify in this behalf:

Provided that the State Government may, for reasons to be recorded in writing and subject to such conditions as it may think fit, allow extension of time for making of such application up to a total period not exceeding one year.

(9) If an application for first renewal made within the time referred to in sub-rule (8) or within the time allowed by the State Government under the proviso to sub-rule (8), the period of that lease shall be deemed to have been extended by a further period till the State Government passes orders thereon.

(10) The State Government may condone delay in an application for renewal of mining lease made after the time-limit prescribed in sub-rule (1) provided the application has been made before the expiry of the lease."

20. Sub-rule (8) of Rule 24-A of the MC Rules has been inserted by G.S.R. 855(E), dated 14-10-1987 and this sub-rule (8) of Rule 24-A of the MC Rules provides that notwithstanding anything contained in sub-rule (1) and sub-rule (6), an application for the first renewal of a deemed mining lease, referred to in Section 4 of the Abolition Act, shall be made to the State Government in Form J before the expiry of the six months' period of deemed

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mining lease as provided in Section 5(1) of the Abolition Act. The proviso to sub-rule (8) of Rule 24-A of the MC Rules, however, empowers the State Government to extend the time for making such application up to a total period not extending one year. In exercise of these powers in the proviso to sub-rule (8) of Rule 24-A of the MC Rules, the State Government of Goa has, in fact, extended time for making applications for first renewal up to 22-11-1988, by two Notifications dated 20-11-1987 and 20-5-1988.

21. Sub-rule (9) of Rule 24-A of the MC Rules, which was also inserted by G.S.R. 855(E), dated 14-10-1987, reads as follows:

> "In an application for first renewal made within the time referred to in sub-rule (8) or within the time allowed by the State Government under the proviso to sub-rule (8), the period of that lease shall be deemed to have been extended by a period of one year from the date of expiry of lease or date of receipt of application, whichever is later, provided that the period of deemed extension of lease shall end with the date of receipt of the orders of the State Government thereon, if such orders are made earlier."

Sub-rule (9) was substituted by G.S.R. 724(E) dated 27-9-1994 by the existing sub-rule (9) (extracted above at para 19) to provide that if an application for first renewal is made within the time referred to in sub-rule (8) or within the time allowed by the State Government under the proviso to sub-rule (8), the period of that lease shall be deemed to have been extended by a further period till the State Government passes orders thereon. In our considered opinion, the intention of the rule-making authorities is very clear from sub-rule (9) as was originally inserted by G.S.R. 855(E), dated 14-10-1987 and sub-rule (9) as was substituted by G.S.R. 724(E), dated 27-9-1994, that until orders were passed by the State Government on an application for first renewal of a lease filed by a lessee within the time allowed, the lease was deemed to have been extended.

22. The lessees have contended that they had filed their applications by 22-11-1988 i.e. the date up to which the State Government had allowed time under the proviso to sub-rule (8) of Rule 24-A of the MC Rules. The State Government has also taken the stand that most of the applications for first renewal were filed within the time allowed by the State Government and this stand is also supported by the facts found by CEC. The result is that most of the mining leases in which the State Government has not passed orders are deemed to have been extended under sub-rule (9) of Rule 24-A of the MC Rules. Hence, the finding in the Justice Shah Commission Report that the applications for renewal were not disposed of within the stipulated time and the leases are in contravention of the MC Rules is, thus, not correct. This opinion of the Justice Shah Commission, as we have noticed, was based on sub-rules (4) and (5) of Rule 24-A of the MC Rules, which were applicable generally to an application for renewal of mining leases, stood excluded to the extent that specific provisions have been subsequently made by the rule-making authorities in sub-rules (8) and (9) of Rule 24-A of the MC Rules in respect of the deemed leases in Goa.

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23. Mr Prashant Bhushan, learned counsel for Goa Foundation, however, submitted that sub-section (2) of Section 8 of the MMDR Act prior to its amendment provided that a mining lease may be renewed for only ten years and, therefore, if the deemed mining leases of the lessees expired on 22-11-1987, even if the lease was renewed on the application of first renewal made by the lessees in Goa, the period of lease under the first renewal would expire on 21-11-1997 and after 21-11-1997, there can be no deemed extension. Alternatively, he submitted that sub-section (2) of Section 8 of the MMDR Act as amended by Act 25 of 1994 provided that the mining lease may be renewed for a maximum period not exceeding twenty years. He submitted that as the deemed mining leases expired on 22-11-1987, the lessees would be entitled to a renewal for a maximum period of twenty years up to 21-11-2007 and after 21-11-2007, the lessees would not be entitled to any renewal and hence the lessees were not entitled to operate the lease beyond 21-11-2007.

24. The learned counsel for the lessees, on the other hand, submitted that sub-section (3) of Section 8 of the MMDR Act makes it clear that notwithstanding anything contained in sub-section (2) of Section 8 of the MMDR Act, the State Government can authorise renewal of a mining lease in respect of minerals not specified in Part A and Part B of the First Schedule for a further period or periods not exceeding twenty years in each case. They submitted that iron ore is specified in Part C in the First Schedule and hence the State Government can authorise renewal of the mining lease in respect of iron ore for a period or periods not exceeding twenty years in each case. They also referred to sub-rule (3) of Rule 24-A which provided that renewal or renewals of a mining lease granted in respect of a mineral not specified in Part A and Part B of the First Schedule to the MMDR Act may be granted by the State Government provided that before granting approval for second or subsequent renewal of a mining lease, the State Government shall seek a report from the Controller General, Indian Bureau of Mines, as to whether it would be in the interest of mineral development to grant the renewal of the mining lease. The learned counsel for the lessees submitted that as the application of the lessees for renewal of mining leases have not been disposed of by the State Government before the date of expiry of lease, the period of lease shall be deemed to have been extended by a further period till the State Government passes orders thereon as provided in sub-rule (6) of Rule 24-A of the MC Rules. They submitted that it will be clear from sub-rule (6) of Rule 24-A of the MC Rules that the intention of rule-making authorities is that there may not be any hiatus in mining, and mineral development in the country may continue without break, without any loss to the economy and loss of revenue to the Government. They cited the judgment of this Court in *State of U.P.* v. *Lalji Tandon*[9], in which this Court has held that there is a difference between an extension of lease and renewal of lease and whereas in the case of extension of lease it is not necessary to have a

9 (2004) 1 SCC 1

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fresh deed of lease executed, in case of renewal of lease, a fresh deed of lease shall have to be executed between the parties. They also cited *TISCO Ltd.* v. *Union of India*[10] in support of their argument that under sub-section (3) of Section 8 of the MMDR Act, the Government can renew the mining lease for a further period if it was in the interest of mineral development.

25. Mr Nadkarni, learned Advocate General for the State of Goa, submitted that the then State Government of Goa allowed the working of the mines from 2007 till 2012 based on deemed extension status but it has been decided by the State Government now in the Goa Mining Policy of 2013 that no mine can be allowed on deemed extension basis. The clear stand of the State Government of Goa in the résumé of arguments filed by the learned Advocate General Mr Nadkarni is that the deemed extension status would not mean that a mine can be allowed to run indefinitely without a decision on the renewal application.

26. Section 8 of the MMDR Act is extracted hereinbelow:

> "**8.** ***Periods for which mining leases may be granted or renewed.***—(1) The maximum period for which a mining lease may be granted shall not exceed thirty years:
>
> Provided that the minimum period for which any such mining lease may be granted shall not be less than twenty years;
>
> (2) A mining lease may be renewed for a period not exceeding twenty years.
>
> (3) Notwithstanding anything contained in sub-section (2), if the State Government is of opinion that in the interests of mineral development it is necessary so to do, it may, for reasons to be recorded, authorise the renewal of a mining lease in respect of minerals not specified in Part A and Part B of the First Schedule for a further period or periods not exceeding twenty years in each case.
>
> (4) Notwithstanding anything contained in sub-section (2) and sub-section (3), no mining lease granted in respect of mineral specified in Part A or Part B of the First Schedule shall be renewed except with the previous approval of the Central Government."

27. Sub-section (1) of Section 8 of the MMDR Act, which provides the maximum and minimum periods for which a mining lease may be granted will not apply to deemed mining leases in Goa because sub-section (1) of Section 5 of the Abolition Act provides that the period of such deemed mining leases will extend up to six months from the date of assent notwithstanding anything contained in the MMDR Act. In other words, notwithstanding anything contained in sub-section (1) of Section 8 of the MMDR Act, the period of a deemed mining lease in Goa was to expire on 22-11-1987 (six months from the date of assent). Under sub-section (2) of Section 8 of the MMDR Act, a mining lease may be renewed for a period not exceeding twenty years. Sub-section (3) of Section 8, however, provides that notwithstanding anything contained in sub-section (2), if the State Government is of the opinion that in the interest of mineral development, it is

10 (1996) 9 SCC 709

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necessary so to do, it may for reasons to be recorded, authorise the renewal of a mining lease in respect of minerals not specified in Part A and Part B of the First Schedule for a further period or periods not exceeding twenty years in each case. Thus, renewal beyond the first renewal for a period of twenty years is conditional upon the State Government forming an opinion that in the interest of mineral development, it is necessary to do so and also conditional upon the State Government recording reasons for such renewal of a mining lease in respect of iron ore which is not specified in Part A and Part B of the First Schedule. In *TISCO Ltd.* v. *Union of India*[10], this Court has held (at SCC p. 720, para 34) that the language of sub-section (3) of Section 8 is quite clear that ordinarily a lease is not to be granted beyond the time specified in sub-section (2) and only if the Government is of the view that it would be in the interest of mineral development, it is empowered to renew lease of a lessee for a further period after recording sound reasons for doing so. This Court has further held in the aforesaid case that this measure has been incorporated in the legislative scheme as a safeguard against arbitrariness and the letter and spirit of the law must be adhered to in a strict manner.

28. The MC Rules have been made under Section 13 of the MMDR Act by the Central Government and obviously could not have been made in a manner inconsistent with the provisions of the Act. Sub-rule (6) of Rule 24-A of the MC Rules provides that:

> "**24-A. (6)** If an application for renewal of a mining lease made within the time referred to in sub-rule (1) is not disposed of by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended by a further period till the State Government passes order thereon."

This sub-rule cannot apply to a renewal under sub-section (3) of Section 8 of the MMDR Act because the renewal under this provision cannot be made without express orders of the State Government recording reasons for renewal in the interest of mineral development. In other words, so long as there is a right of renewal in the lessee which in the case of a mining lease is for a maximum period of twenty years, the provision regarding deemed extension of a lease can operate, but if the right of renewal of a mining lease is dependent upon the State Government forming an opinion that in the interest of mineral development it is necessary to do so and the State Government recording reasons therefor, a provision regarding deemed extension till orders are passed by the State Government on the application of renewal cannot apply. We are, therefore, of the opinion that sub-rule (6) of Rule 24-A of the MC Rules will apply to a case of first renewal under sub-section (2) of Section 8 of the MMDR Act other than a case covered under sub-rule (9) of Rule 24-A of the MC Rules, but will not apply to renewal under sub-section (3) of Section 8 of the MMDR Act. In our view, the deemed mining leases of the lessees in Goa expired on 22-11-1987 under

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sub-section (1) of Section 5 of the Abolition Act and the maximum of 20 years renewal period of the deemed mining leases in Goa as provided in sub-section (2) of Section 8 of the MMDR Act read with sub-rules (8) and (9) of Rule 24-A of the MC Rules expired on 22-11-2007.

Whether dump can be kept beyond the lease area?

29. The Report of the Justice Shah Commission states that about 2796.24 ha of area have been found to be under encroachment by the mining lessees out of which about 578.42 ha have been found to have been illegally used for extraction/removal of iron ore. CEC in its report has stated that CEC visited some of the areas stated to be under encroachments and a number of lease-holders have filed representations against the findings of the Shah Commission stating that they are not involved in any encroachment. According to Goa Foundation, this was a gross illegality committed by the mining lessees.

30. Mr A.D.N. Rao, Amicus Curiae, referred to Section 9 of the MMDR Act to submit that any removal of minerals from the leased area can be made by holder of a mining lease only on payment of royalty. He submitted that the waste material and overburden, therefore, cannot be dumped outside the leased area without payment of royalty. He referred to para 48 of the judgment of this Court in *Samaj Parivartana Samudaya* v. *State of Karnataka*[11] in which this Court has observed that dumping of mining waste (overburden dumps) also constitutes mining operations within the meaning of Section 3(*d*) of the MMDR Act and, therefore, the use of forest land for such activity would require clearances under the Forest (Conservation) Act, 1980. He submitted that in the event dumping of mining waste outside the leased area is to be done, it can only be done after clearance is obtained under the Forest (Conservation) Act, 1980.

31. The learned counsel appearing for the mining lessees submitted that the lessees have actually used areas outside the mining lease which are also owned mostly by the lessees for clearing the dump and this was permissible under the Mineral Conservation and Development Rules, 1988 (for short "the MCD Rules") and the MC Rules. In particular, they referred to Rule 16 of the MCD Rules, which provides for separate stacking of non-saleable minerals, such as overburden and waste material obtained during mining operation, on the ground earmarked for the purpose, which should be away from the working pit. They also referred to Rule 64-C of the MC Rules which provides that on removal of tailings or rejects from the leased area for dumping outside leased area, such tailings or rejects are not liable for payment of royalty. The State Government has supported this stand of the mining lessees that dumping of the overburden and mining waste outside the lease area was permissible under the MC Rules and the MCD Rules.

32. Sections 4(1) and 9(2) of the MMDR Act, Rule 64-C of the MC Rules and Rule 16 of the MCD Rules are extracted below:

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"**4.** ***Prospecting or mining operations to be under licence or lease.***— (1) No person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or, as the case may be, a mining lease, granted under this Act and the rules made thereunder:

Provided that nothing in this sub-section shall affect any prospecting or mining operations undertaken in any area in accordance with the terms and conditions of a prospecting licence or mining lease granted before the commencement of this Act which is in force at such commencement:

Provided further that nothing in this sub-section shall apply to any prospecting operations undertaken by the Geological Survey of India, the Indian Bureau of Mines, the Atomic Minerals Directorate for Exploration and Research of the Department of Atomic Energy of the Central Government, the Directorates of Mining and Geology of any State Government (by whatever name called), and the Mineral Exploration Corporation Limited, a Government company within the meaning of Section 617 of the Companies Act, 1956:

Provided also that nothing in this sub-section shall apply to any mining lease (whether called mining lease, mining concession or by any other name) in force immediately before the commencement of this Act in the Union Territory of Goa, Daman and Diu.

* * *

9. ***Royalties in respect of mining leases.***—(1) * * *

(2) The holder of a mining lease granted on or after the commencement of this Act shall pay royalty in respect of any (mineral removed or consumed by his agent, manager, employee, contractor of sub-lessee) from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral."

"**64-C.** ***Royalty on tailings or rejects.***—On removal of tailings or rejects from the leased area for dumping and not for sale or consumption, outside leased area such tailings or rejects shall not be liable for payment of royalty:

Provided that in case so dumped tailings or rejects are used for sale or consumption on any later date after the date of such dumping, then, such tailings or rejects shall be liable for payment of royalty."

"**16.** ***Separate stacking of non-saleable minerals.***—(1) The overburden and waste material obtained during mining operations shall not be allowed to be mixed with non saleable or sub grade minerals/ores. They shall be dumped and stacked separately on the ground earmarked for the purpose.

(2) The ground selected for dumping of overburden, waste material, the sub-grade or non-saleable ores/minerals shall be away from working pit. It shall be proved for absence or presence of underlying mineral deposits before it is brought into use for dumping.

(3) Before starting mining operations, the ultimate size of the pit shall be determined and the dumping ground shall be so selected that the dumping is not carried out within the limits of the ultimate size of the pit except in cases where concurrent backfilling is proposed."

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33. Under Section 4 of the MMDR Act, a person who holds a mining lease granted under the MMDR Act and the Rules made thereunder is entitled to carry on mining operations in accordance with the terms of the lease in the leased area and may carry on all other activities connected with mining within the leased area. Rule 31 of the MC Rules prescribes that the lease deed will be in Form K or in a form near thereto. Part I of Form K delineates the area of the lease and Part II of Form K authorises the activities that can be done by the lessee in the leased area. Thus, a holder of a mining lease does not have any right to dump any reject, tailings or waste in any area outside the leased area of the mining lease on the strength of a mining lease granted under the MMDR Act and the Rules made thereunder. Such area outside the leased area of the mining lease may belong to the State or may belong to any private person, but if the mining lease does not confer any right whatsoever on the holder of a mining lease to dump any mining waste outside the leased area, he will have no legal right whatsoever to remove his dump, overburden, tailings or rejects and keep the same in such area outside the leased area. In other words, dumping of any waste materials, tailings and rejects outside the leased area would be without a valid authorisation under the lease deed.

34. Moreover, Section 9(2) of the MMDR Act makes the holder of a mining lease granted on or after the commencement of the Act liable to pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area. Thus, the moment the mineral is removed or consumed from the leased area, the holder of a mining lease has to pay royalty. By virtue of Section 9 of the MMDR Act, tailings and rejects excavated during mining operations being minerals will also be exigible to royalty the moment they are removed from the leased area.

35. Rule 64-C of the MC Rules states that on removal of tailings or rejects from the leased area for dumping and not for sale or consumption, outside leased area such tailings or rejects shall not be liable for payment of royalty. Rule 64-C of the MC Rules, therefore, exempts the removal of tailings or rejects from the leased area for the purpose of dumping and not for the purpose of sale or consumption from the levy of royalty. Rule 64-C of the MC Rules does not authorise dumping of tailings or rejects in any area outside the leased area. This Court has held in *Central Bank of India* v. *Workmen*[12] that "if a rule goes beyond what the section contemplates, the rule must yield to the statute". In our view, if Rule 64-C of the MC Rules suggests that tailings or rejects can be dumped outside the leased area, it must give way to Section 4 of the MMDR Act, which does not authorise dumping of minerals outside the leased area and must give way to Section 9 of the MMDR Act which does not authorise removal of minerals outside the leased area without payment of royalty. We, therefore, hold that dump cannot be kept by the lessees beyond the leased area.

12 AIR 1960 SC 12

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36. Rule 16 of the MCD Rules provides that the overburden and waste material obtained during mining operations shall be dumped and stacked separately on the ground earmarked for the purpose and the ground selected for dumping of overburden, waste material shall be away from working pit. There is nothing in sub-rules (1), (2) and (3) of Rule 16 of the MCD Rules, which provides that such overburden or waste material obtained from mining operations shall be kept "outside the leased area". On the other hand, clause (7) of Part II of Form K provides as follows:

> "**7.** ***To use land for stacking, heaping, depositing purposes.***—Liberty and power to enter upon and use a sufficient part of the surface of the said lands for the purpose of stacking, heaping, storing or depositing therein any produce of the mines or works carried on and any tools, equipment, earth and materials and substances dug or raised under the liberties and powers mentioned in this part."

The expression "said lands" in clause (7) of Part II of Form K quoted above refers to the area of the lease in Part I of Form K and, therefore, is confined to the leased area. Rule 16 of the MCD Rules, therefore, cannot be read to permit dumping of overburden and waste materials obtained from mining operations outside the leased area.

37. The learned counsel for the lessees, however, submitted that many of these areas in which they have dumped the overburdens, tailings and rejects are lands owned by them and by virtue of their ownership right they could dump the mining waste on their own lands. This contention of the learned counsel appearing for the lessees loses sight of the fact that most of these lands are located in forest areas where non-forest activity, such as mining, is prohibited under Section 2 of the Forest (Conservation) Act, 1980 without the prior permission of the Central Government. Moreover, the notification issued under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 requiring prior environmental clearance covers the activity of mining. Sub-rule (3) of Rule 5 empowers the Central Government to impose prohibition or restrictions on the location of an industry or the carrying on of processes and operations in an area for the purpose of protecting the environment. Inasmuch as the activity of dumping mineral wastes will pollute the environment, it will come within the meaning of activity of mining included in the Schedule to the notification issued under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986. Thus, for dumping of mining waste on a private land, a prior clearance of the Central Government under the notification issued under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 would be necessary. We, therefore, do not find any merit in the contention of the learned counsel for the lessees that they can dump mining waste outside the leased area.

Within what distance from the boundaries of National Parks and Wildlife Sanctuaries, is mining not permissible in the State of Goa?

38. The Justice Shah Commission has stated in its Report that the National Board for Wildlife (NBWL) adopted "the Wild Life Conservation

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Strategy, 2002" and took a decision in its meeting held on 21-1-2002 under the chairmanship of the Prime Minister to notify the areas within 10 km from the boundaries of national parks and sanctuaries as eco-fragile zones under Section 3(*v*) of the Environment (Protection) Act and Rule 5 sub-rules (1)(*viii*) and (*x*) of the Environment (Protection) Rules and this decision has been communicated on 5-2-2002 to the Chief Wildlife Warden, Government of Goa and the State Government has been requested to list out such areas and furnish a detailed proposal for their notification as eco-sensitive areas under the Environment (Protection) Act, 1986. The Justice Shah Commission has found that this has not been done till date but the Government of Goa has allowed mines to operate.

39. In this context, the Justice Shah Commission Report has referred to the order dated 4-12-2006 of this Court in *Goa Foundation* v. *Union of India*[13] by which this Court had directed MoEF to refer to the Standing Committee of the National Board for Wildlife, under Sections 5-B and 5-C(2) of the Wild Life (Protection) Act, the cases in which environmental clearance has already been granted where activities are within 10 km zone. According to the Report of the Justice Shah Commission, in spite of the clear provisions of Section 3(2)(*v*) of the Environment (Protection) Act, 1986 and the EIA notifications, conferring the jurisdiction, power and authority on the Central Government (MoEF) to grant or refuse prior environment clearance for any iron ore mining activity within 10 km of national parks, sanctuaries and protected areas and despite provisions in Section 5-C(2)(*b*) of the Wild Life (Protection) Act, 1972 putting a restriction on mining activities inside national parks, sanctuaries and other protected and eco-sensitive areas, mining activities have been permitted within 10 km and inside the national parks, sanctuaries and protected areas.

40. The Report of the Justice Shah Commission further states that out of the environmental clearances, the clearances with regard to 74 mining leases should have been placed before the Standing Committee of the National Board for Wildlife in accordance with the order dated 4-12-2006[13] of this Court. The Report of the Justice Shah Commission further states that there has been a total failure on the part of MoEF in not considering this issue while granting the environmental clearances.

41. The Justice Shah Commission in its Report has further stated that in the order dated 4-8-2006 of this Court in *T.N. Godavarman Thirumulpad* v. *Union of India*[14], this Court has taken a view that 1 km from the boundaries of national parks and sanctuaries would be a safety zone, subject to the orders that may be made in IA No. 1000 regarding Jamua Ramgarh Sanctuary and the State will not grant any temporary working permit (TWP) in these safety zones comprising 1 km from the boundaries of national parks and sanctuaries and yet some of the mines within 1 km from the boundaries of national parks and sanctuaries have been allowed in the State of Goa.

13 (2011) 15 SCC 791
14 (2010) 13 SCC 740

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42. CEC in its report is of the view that had MoEF implemented this Court's orders dated 14-2-2000[15] and 4-12-2006[13], the unregulated and environmentally unsustainable manner in which mining has taken place in Goa would have been avoided. CEC has suggested that all environmental clearances granted for mining leases located up to a distance of 10 km from the boundaries of national parks and wildlife sanctuaries should be directed to be kept in abeyance and the environmental clearances should be directed to be considered by the Standing Committee of the National Board for Wildlife in accordance with this Court's order dated 4-12-2006[13] and the Additional Principal Chief Conservator of Forests, Regional Office, MoEF, Bangalore, should be directed to verify, after examining the EIA/EMP reports and other relevant details, whether the mining operations will have adverse impact on the flora, fauna and wildlife habitat and whether the distance of the national parks/wildlife sanctuaries and that the status of the "forest" have been correctly stated in the EC/application for taking a decision regarding ECs and only after considering the recommendations of the Standing Committee of the National Board of Wildlife and the report of the Additional Principal Chief Conservator of Forests (Central) and other relevant information/details, this Court may take a decision.

43. Mr Prashant Bhushan, learned counsel appearing for Goa Foundation, submitted that there should be no mining activity within any national parks/wildlife sanctuaries or within 10 km from the boundaries of national parks and wildlife sanctuaries so that the flora, fauna and wildlife habitat of national parks and wildlife sanctuaries are protected.

44. The learned counsel for the lessees, on the other hand, stated that so far as the State of Goa is concerned, on the one side, there is a coastal regulation zone in which mining is not permitted and, on the other side, are the national parks and wildlife sanctuaries in which again mining is not permitted and as a consequence a very small strip of land is available for mining. They submitted that there is no basis for presuming that an area outside the limits of a national park or a wildlife sanctuary is required to be maintained as a buffer zone. They submitted that by the order dated 4-12-2006 of this Court passed in *Goa Foundation* v. *Union of India*[13], this Court did not finally fix the buffer zone of 10 km from the boundaries of national parks and wildlife sanctuaries, but granted a last opportunity to the States to submit their recommendations for eco-sensitive zone and that the issue is still pending in IA No. 1000 in Writ Petition No. 202 of 1995 in *T.N. Godavarman Thirumulpad* v. *Union of India*. They further argued that by the order dated 4-8-2006[14], this Court had only directed that no mining would be permitted by temporary working permits within 1 km from the national parks and wildlife sanctuaries and by the said order, absolute ban has not been imposed against mining even within 1 km from the boundaries of national

15 *T.N. Godavarman Thirumulpad* v. *Union of India*, (2002) 10 SCC 634

13 *Goa Foundation* v. *Union of India*, (2011) 15 SCC 791

14 *T.N. Godavarman Thirumulpad* v. *Union of India*, (2010) 13 SCC 740

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parks and wildlife sanctuaries. They argued that for declaration of eco-sensitive zone, a notification under Section 3 of the Environment (Protection) Act, 1986 is mandatory and till date no such notification has been issued for the State of Goa delineating any eco-sensitive zone and in the absence of such a notification mining activities cannot be prohibited beyond the boundaries of a national park/wildlife sanctuary.

45. Mr Nadkarni, learned Advocate General appearing for the State of Goa, submitted that presently the State of Goa is not permitting mining inside any national park or wildlife sanctuary. He submitted that each of the seven wildlife sanctuaries in the State of Goa have got revenue villages and local habitation of people inside the sanctuaries and before notifying the buffer zone around a wildlife sanctuary the consequences of the restrictions of the buffer zone on the local population and on the local development have to be weighed. He submitted that the State Government is of the considered opinion that while evolving a conservation strategy, the following peculiar local constraints in the State of Goa have to be considered:

(*i*) The State of Goa is the third smallest State in the Union; with a total geographical area of only 3702 sq m; and out of that, an area of 1440 sq m is under "forest" (protected/reserved/private) which is almost about 38% of the total geographical area;

(*ii*) Out of the said area under "forest" nearly 62% i.e. 75.35 sq m has been declared as "national park", and/or "wildlife sanctuary";

(*iii*) An area of approximately or more than 70 sq km falls under the "coastal regulation zone" (CRZ). Indeed, CRZ runs into 106 km, of the coastal belt of the State of Goa;

(*iv*) In fact, the total land mass available to the State of Goa, free from various restrictions, would further be reduced by 196.80 sq km i.e. up to 5.32%, on account of rivers, lakes and other water bodies;

(*v*) Indeed, approximately 40% of the land is under agriculture which the Government has decided not to be diverted under any circumstances;

(*vi*) Further, the State Government has also directed that no "forest land" is to be diverted for any mining purpose.

He submitted that considering all these constraints, the State Government has recommended that an area up to 1 km from the boundaries of national parks/wildlife sanctuaries should be treated as safety zones but even in these safety zones mining activity should be prohibited in a phased manner in 5 to 10 years.

46. Mr Mohan Parasaran, learned Solicitor General, submitted that the Principal Chief Conservator of Forests and Chief Wildlife Warden, Government of Goa, vide his letter dated 2-5-2013 has submitted six proposals for declaration of eco-sensitive zones around six protected areas in the State of Goa (national parks/wildlife sanctuaries) and the proposals were referred to a committee constituted under the chairmanship of Dr Rajesh Gopal, Additional Director General of Forests and Member Secretary of National Tiger Conservation Authority, with the following terms of reference:

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(*i*) The Committee will undertake a site-specific site survey of all six protected areas in Goa, with reference to studying the topography and report on the existing natural boundaries around that is outside each protected area. Such boundaries could include inter alia rivers, hills, etc.

(*ii*) The Committee will draw up a definition of what could constitute a credible natural boundary, always keeping in mind that the object is to protect the flora, fauna and biodiversity in the PA from biotic pressure.

(*iii*) The Committee will submit its views on whether any of the natural boundaries of the PAs in Goa could be an effective boundary of a robust eco-sensitive zone around the PA.

Mr Parasaran submitted that the Committee has submitted its report on 18-10-2013 and the report has been considered by the Ministry of Environment and Forests and by Office Memorandum dated 24-10-2013, the Ministry of Environment and Forests has not accepted the recommendation of the Government of Goa regarding buffer zone and instead accepted the recommendation of the Committee to define the eco-sensitive zones in site-specific manner subject to the relevant Court orders on the subject and that a draft notification defining eco-sensitive zones around each of the six protected areas would be issued for stakeholder consultations.

47. We have considered the submissions of the learned counsel for the parties and we find that presently no mining operations are being carried on inside any national park or wildlife sanctuary, and the State of Goa has taken a stand before us that it will not permit any mining operations inside any national park or wildlife sanctuary. Hence, the only question that we have to decide is whether mining could have been permitted or could be permitted within a certain distance from the boundaries of the national park or wildlife sanctuary in the State of Goa.

48. This Court in exercise of its power under Article 32 of the Constitution can direct the State to prohibit mining activities in an area adjacent to a national park or a wildlife sanctuary for the purpose of protecting the flora, fauna and wildlife habitat of the national park/wildlife sanctuary because these constitute part of the natural environment necessary for healthy life of persons living in the State of Goa. The right to life under Article 21 of the Constitution is a guarantee against the State and for enforcing this fundamental right of persons the State, which alone has a right to grant mining leases of the mines located inside the State, can be directed by the Court by an appropriate writ or direction not to grant mining leases or not to allow mining that will be violative under Article 21 of the Constitution. *Noida Memorial Complex near Okhla Bird Sanctuary, In re*[16] a three-Judge Bench (Forest Bench) of this Court has observed: (SCC pp. 776-77, para 74)

> "*74.* ... Environment is one of the facets of the right to life guaranteed under Article 21 of the Constitution. Environment is, therefore, a matter directly under the Constitution and if the Court

16 (2011) 1 SCC 744

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perceives any project or activity as harmful or injurious to the environment it would feel obliged to step in."

Thus, the submissions of the learned counsel for the lessees that until a notification is issued under the Environment (Protection) Act, 1986 and the Rules made thereunder prohibiting mining activities in an area outside the boundaries of a national park/wildlife sanctuary, no mining can be prohibited by this Court is misconceived.

49. We may now examine whether this Court has by the orders passed on 4-8-2006[14] and 4-12-2006[13], prohibited mining activities around national parks or wildlife sanctuaries. When we read the order of this Court passed on 4-8-2006 in *T.N. Godavarman Thirumulpad* v. *Union of India*[14], we find that the Court while considering the question of grant of temporary working permits for mining activities in national parks, sanctuaries and forest areas, directed that temporary working permits shall be granted only where the conditions stipulated in the said order are satisfied. Conditions (*ii*) and (*iii*) stipulated in the order dated 4-8-2006[14] are extracted hereinbelow: (SCC p. 743, para 19)

> "*19.* ... (*ii*) The mine is not located inside any national park/ sanctuary notified under Sections 18, 26-A or 35 of the Wild Life (Protection) Act, 1972;
>
> (*iii*) The grant of TWP would not result in any mining activity within the safety zone around such areas referred to in (*ii*) above (as an interim measure, one kilometre safety zone shall be maintained subject to the orders that may be made in IA No. 1000 regarding Jamua Ramgarh Sanctuary);"

It would, thus, be clear that this Court was of the opinion that grant of temporary working permits should not result in any mining activities within the safety zones around a national park or wildlife sanctuary and as an interim measure, one kilometre safety zone was to be maintained subject to the orders that may be made in IA No. 1000 in Jamua Ramgarh Sanctuary. This order dated 4-8-2006[14] has not been varied subsequently nor any orders made in IA No. 1000 regarding Jamua Ramgarh Sanctuary saying that temporary working permits can be granted within one kilometre safety zone beyond the boundaries of a national park or wildlife sanctuary. The result is that the order passed by this Court saying that there will be no mining activity within one kilometre safety zone around national park or wildlife sanctuary has to be enforced and there can be no mining activities within this area of one kilometre from the boundaries of national parks and wildlife sanctuaries in the State of Goa.

50. When, however, we read the order dated 4-12-2006 of this Court in *Goa Foundation* v. *Union of India*[13], we find that the Court has not prohibited any mining activity within 10 kilometre distance from the boundaries of the

14 *T.N. Godavarman Thirumulpad* v. *Union of India*, (2010) 13 SCC 740
13 *Goa Foundation* v. *Union of India*, (2011) 15 SCC 791

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national parks or wildlife sanctuaries. The relevant portion of the order dated 4-12-2006[13] is quoted hereinbelow: (SCC pp. 792-93, paras 4-5)

> "*4.* The Ministry is directed to give a final opportunity to all States/ Union Territories to respond to its Letter dated 27-5-2005. The State of Goa also is permitted to give appropriate proposal in addition to what is said to have already been sent to the Central Government. The communication sent to the States/Union Territories shall make it clear that if the proposals are not sent even now within a period of four weeks of receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21-1-2002, namely, notification of the areas within 10 km of the boundaries of the sanctuaries and national parks as eco-sensitive areas with a view to conserve the forest, wildlife and environment and having regard to the precautionary principles. If the States/Union Territories now fail to respond, they would do so at their own risk and peril.
>
> *5.* MoEF would also refer to the Standing Committee of the National Board for Wildlife, under Sections 5-B and 5-C(2) of the Wild Life (Protection) Act, the cases where environment clearance has already been granted where activities are within 10 km zone."

It will be clear from the order dated 4-12-2006[13] of this Court that this Court has not passed any orders for implementation of the decision taken on 21-1-2002 to notify areas within 10 km of the boundaries of national parks or wildlife sanctuaries as eco-sensitive areas with a view to conserve the forest, wildlife and environment. By the order dated 4-12-2006[13] of this Court, however, the Ministry of Environment and Forests, Government of India, was directed to give a final opportunity to all States/Union Territories to respond to the proposal and also to refer to the Standing Committee of the National Board for Wildlife the cases in which environment clearance has already been granted in respect of activities within the 10 km zone from the boundaries of the wildlife sanctuaries and national parks. There is, therefore, no direction, interim or final, of this Court prohibiting mining activities within 10 km of the boundaries of national parks or wildlife sanctuaries.

51. Apart from the powers of the Court to give a direction prohibiting mining activities up to a certain distance from the boundaries of national parks or wildlife sanctuaries, the Central Government has powers under Rule 5 of the Environment (Protection) Rules, 1986 to prohibit carrying on of mining operations in areas which are proximate to a wildlife sanctuary or a national park. Rule 5 of the Environment (Protection) Rules, 1986 is extracted hereinunder:

> "**5.** ***Prohibitions and restrictions on the location of industries and the carrying on 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—

13 *Goa Foundation* v. *Union of India*, (2011) 15 SCC 791

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(*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 factors as may be considered by the Central Government to be relevant to the protection of the environment in an area.

(2) While prohibiting or restricting the location of industries and carrying on of processes and operations in an area, the Central Government shall follow the procedure hereinafter laid down.

(3)(*a*) Whenever it appears to the Central Government that it is expedient to impose prohibition or restrictions on the location of an industry or the carrying on of processes and operations in an area, it may by notification in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time, give notice of its intention to do so.

(*b*) Every notification under clause (*a*) shall give a brief description of the area, the industries, operations, processes in that area about which such notification pertains and also specify the reasons for the imposition of prohibition or restrictions on the location of the industries and carrying on of processes or operations in that area.

(*c*) Any person interested in filing an objection against the imposition of prohibition or restriction on carrying on of processes or operations as notified under clause (*a*) may do so in writing to the Central Government within sixty days from the date of publication of the notification in the Official Gazette.

(*d*) The Central Government shall, within a period of one hundred and twenty days from the date of publication of the notification in the Official Gazette, consider all the objections received against such notification and may within one hundred and eighty days from such day of publication impose prohibition or restrictions on location of such industries and the carrying on of any process or operation in an area.

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(4) Notwithstanding anything contained in sub-rule (3), whenever it appears to the Central Government that it is in public interest to do so, it may dispense with the requirement of notice under clause (*a*) of sub-rule (3)." *a*

52. Sub-rule (1) of Rule 5 lists the number of factors, which the Central Government has to take into consideration while prohibiting or restricting the carrying on of processes and operations in different areas. Sub-rule (2) of Rule 5 provides that before prohibiting the processes and operations in the area the Central Government has to follow the procedure laid down in *b* sub-rule (3). The procedure in sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 includes giving notice of the intention of the Central Government to prohibit the carrying on of processes and operations in the reserved area, giving brief description of the area, the operations and processes in that area relating to which the notification pertains and also specifying the reasons for the imposition of the prohibition on carrying on of *c* the processes or operations in that area, and an opportunity to the persons interested in filing an objection against the imposition of such prohibition on carrying on of processes or operations by the Central Government. These procedural checks have been made in Rule 5 because a notification issued by the Central Government prohibiting an operation or a process will have serious consequences on the rights of different persons. For example, persons *d* who are carrying on the process or operation and those who are directly or indirectly employed in the process or the operation may be affected by the proposed prohibition of the process or the operation in the entire area. Therefore until the Central Government takes into account various factors mentioned in sub-rule (1), follows the procedure laid down in sub-rule (3) and issues a notification under Rule 5 prohibiting mining operations in a *e* certain area, there can be no prohibition under law to carry on mining activity beyond 1 km of the boundaries of national parks or wildlife sanctuaries.

53. In fact, we find that the process of issuing a notification under Rule 5 of the Environment (Protection) Rules, 1986 prohibiting mining activities in eco-sensitive zones around the national parks or wildlife sanctuaries in the State of Goa has now been initiated. The Government of Goa vide Letter *f* dated 2-5-2013 submitted the following six proposals for declaration of eco-sensitive zones around protected areas in the State of Goa to the Ministry: (*i*) Cotigao Wildlife Sanctuary; (*ii*) Netravali Wildlife Sanctuary; (*iii*) Bhagwan Mahaveer Wildlife Sanctuary and Bhagwan Mahaveer National Park; (*iv*) Madei Wildlife Sanctuary; (*v*) Bondla Wildlife Sanctuary; and (*vi*) Dr Salim Ali Bird Sanctuary. These six proposals were referred to a committee *g* constituted under the chairmanship of Dr Rajesh Gopal, Additional Director General of Forests and Member-Secretary of National Tiger Conservation Authority, with specified terms of reference and the Committee gave its findings and the Ministry of Environment and Forests, Government of India by the Office Memorandum dated 24-10-2013 have accepted the findings of the Committee and rejected the proposals of the Government of Goa. It is *h* also stated in the Office Memorandum dated 24-10-2013 of the Ministry of

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Environment and Forests, Government of India that a draft notification defining eco-sensitive zones around each protected area is being issued for stakeholder consultations. This notification will have to be issued under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986, and after objections are received, the Central Government will have to consider the same and thereafter take the decision regarding imposition of prohibition of mining activities in the eco-sensitive areas within the period stipulated in sub-rule 3(*b*) of Rule 5 of the Environment (Protection) Rules, 1986. At this stage, we can only direct the Ministry of Environment and Forests to follow the procedure and issue the notification of eco-sensitive zones under Rule 5 of the Environment (Protection) Rules, 1986 within six months.

Whether there has been a violation of Rules 37 and 38 of the MC Rules by the mining lessees in the State of Goa?

54. The Justice Shah Commission has found in its Report that in the State of Goa, 16 companies/firms/individuals are carrying out mining operations under different leases granted to them as a single unit as if the leases are amalgamated. The Shah Commission has referred to Rule 38 of the MC Rules which provides that the State Government may, in the interest of mineral development and with reasons to be recorded in writing, permit amalgamation of two or more adjoining leases held by a lessee provided that the period of amalgamated leases shall be co-terminus with the lease whose period will expire first. The Justice Shah Commission is of the opinion that as amalgamation of two leases can only be permitted by the State Government for reasons to be recorded in writing, and no such permission has been taken from the State Government for the amalgamation of different leases as a single unit, the lessees who are operating different leases as a single unit have violated Rule 38 of the MC Rules.

55. CEC in its report, however, has not stated about any violation of Rule 38 of the MC Rules and has instead stated that Rule 37 of the MC Rules which provides that the lessee shall not, without the previous consent in writing of the State Government assign, sub-let, mortgage, or in any other manner, transfer the mining lease, or any right, title or interest therein, has been violated by several lessees. CEC has reported that there are several complaints received by the State Government that the leases have been operated by the persons other than the lessees. CEC has observed in its report that Rule 37 itself provides that in such cases of violation of Rule 37, the State Government may determine the mining lease, but the State Government has taken no action and has taken a stand that working of the mining leases by a person other than lease-holder is a prevailing mining practice in Goa and these facts are in the knowledge of the Government. Mr Prashant Bhushan, learned counsel for Goa Foundation, submitted that in all these cases the violation should be identified by a committee headed by the Chief Secretary, Goa, and those lessees who have been found to have violated Rule 37 of the MC Rules, should be penalised by determination of the leases.

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56. Rules 37 and 38 of the MC Rules are extracted hereinbelow:

"**37.** ***Transfer of lease.***—(1) The lessee shall not, without the previous consent in writing of the State Government and in the case of mining lease in respect of any mineral specified in Part A and Part B of the First Schedule to the Act, without the previous approval of the Central Government:

(*a*) assign, sub-let, mortgage, or in any other manner, transfer the mining lease, or any right, title or interest therein, or

(*b*) enter into or make any bona fide arrangement, contract, or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or undertakings will or may be substantially controlled by, any person or body of persons other than the lessee:

Provided further that where the mortgagee is an institution or a Bank or a Corporation specified in Schedule V, it shall not be necessary for the lessee to obtain any such consent of the State Government.

(1-A) The State Government shall not give its consent to transfer of mining lease unless the transferee has accepted all the conditions and liabilities which the transferor was having in respect of such mining lease.

(2) Without prejudice to the provisions of sub-rule (1) the lessee may, subject to the conditions specified in the proviso to Rule 35, transfer his lease or any right, title or interest therein to a person who has filed an affidavit stating that he has filed an up-to-date income tax return, paid the income tax assessed on him and paid the income tax on the basis of self-assessment as provided in the Income Tax Act, 1961 (43 of 1961), on payment of a fee of five hundred rupees to the State Government:

Provided that the lessee shall make available to the transferee the original or certified copies of all plans of abandoned workings in the area and in a belt 65 metres wide surrounding it:

Provided further that where the mortgagee is an institution or a Bank or a Corporation specified in Schedule V, it shall not be necessary for any such institution or Bank or Corporation to meet with the requirement relating to income tax:

Provided further that the lessee shall not charge or accept from the transferee any premium in addition to the sum spent by him, in obtaining the lease, and for conducting all or any of the operations referred to in Rule 30 in or over the land leased to him;

(3) The State Government may, by order in writing determine any lease at any time if the lessee has, in the opinion of the State Government, committed a breach of any of the provisions of sub-rule (1) or sub-rule (1-A) or has transferred any lease or any right, title, or interest therein otherwise than in accordance with sub-rule (2):

Provided that no such order shall be made without giving the lessee a reasonable opportunity of stating his case.

38. ***Amalgamation of leases.***—The State Government may, in the interest of mineral development and with reasons to be recorded in writing, permit amalgamation of two or more adjoining leases held by a lessee:

Provided that the period of amalgamated leases shall be co-terminus with the lease whose period will expire first:

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Provided further that prior approval of the Central Government shall be required for such amalgamation in respect of leases for minerals specified in Part A and Part B of the First Schedule to the Act."

57. It will be clear from sub-rule (1)(*a*) of Rule 37 that the lessee cannot assign, sub-let, mortgage, or in any other manner, transfer the mining lease, or any right, title or interest therein, without the previous consent in writing of the State Government in the case of those minerals which are not specified in Part A and Part B of the First Schedule to the Act. Since iron ore is specified in Part C of the First Schedule to the Act, the previous consent in writing of the State Government is necessary before any such transfer is made by a mining lessee. Sub-rule (1-A) of Rule 37 further states that the State Government shall not give its consent to transfer of a mining lease unless the transferee has accepted all the conditions and liabilities which the transferor was having in respect of such mining lease. Sub-rule (3) of Rule 37 further provides that the State Government may, by order in writing determine any lease at any time if the lessee has, in the opinion of the State Government committed a breach of any of the provisions of sub-rule (1) or sub-rule (1-A) of Rule 37 of the MC Rules. These provisions have been made in Rule 37 to ensure that all the conditions and liabilities to which a lessee is subjected to under a mining lease are also accepted by the transferee.

58. Sub-rule (2) of Rule 37 further provides that without prejudice to the provisions of sub-rule (1), the lessee may transfer his lease or any right, title or interest therein to a person who has filed an affidavit stating that he has filed up-to-date income tax returns, paid the income tax assessed on him and paid the income tax on the basis of self-assessment as provided in the Income Tax Act, 1961. This provision is meant to ensure that the transferee of a mining lease is an income tax assessee and is paying his income tax assessed on him and due from him on the basis of self-assessment.

59. Sub-rule (3) of Rule 37 empowers the State Government to determine any lease at any time if the lessee has, in the opinion of the State Government, committed a breach of any of the provisions of sub-rule (1) or sub-rule (1-A) or has transferred any lease or any right, title, or interest therein otherwise than in accordance with sub-rule (2) after giving the lessee a reasonable opportunity of stating his case.

60. The intent of the rule-making authority in making these provisions in Rule 37 is that the liabilities and conditions in a mining lease are also enforceable against the transferee and that the transferee pays his dues towards income tax regularly. Rule 37, therefore, cannot be allowed to be violated by the lessees with impunity and the State Government cannot overlook transfers by saying that the transfers of the mining leases are part of the mining practice in the State of Goa. In our view, if these violations of Rule 37 are allowed, there shall be substantial leakage of revenue and mining operations cannot be effectively regulated and controlled by the State Government. The State Government, therefore, must initiate action against those mining leases who violate Rule 37 of the Rules.

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61. Rule 38 of the MC Rules provides that the State Government may, in the interest of mineral development and with reasons to be recorded in writing, permit amalgamation of two or more adjoining leases held by a lessee, provided that the period of amalgamated leases shall be co-terminus with the lease whose period will expire first. If the State Government has not permitted amalgamation of adjoining leases in the interest of mineral development and has not recorded the reasons for such permission, the State Government cannot allow the amalgamation of the leases.

Was there a complete lack of control on production and transportation of mineral from the mining leases in the State of Goa?

62. CEC in its report has stated that in the State of Goa, there is no system of periodic verification of the quantity of iron ore produced in the mining leases, the payments of royalty, the permits issued for transportation of mineral by the Mining Department, the transit permits issued by the Forest Department nor any reconciliation of the quantity of the mineral stated to have been produced in the mining lease with the quantity of the mineral for which royalty has been paid and transit permits have been issued, and there is no verification of the transit permits at the check posts and no verification of the quantity of the mineral exported/domestically used vis-à-vis the quantity legally produced. According to CEC, in the absence of such checks/verifications/controls, illegal mining can easily be undertaken and the actual quantity of iron ore produced and transported from the mining leases may not be accounted for by the State of Goa or by the lessees, resulting in leakage of revenue. CEC in its report has given a chart to show the difference of figures in the iron ore exported as provided by the Goan Mineral Ore Exporters' Association and the total iron ore produced in the State of Goa as per reports compiled by the Indian Bureau of Mines, which is extracted hereinbelow:

Year	*Goan Iron Ore Exports*	*Total production*	*(in lakh MT) Excess of exports over production*
2006-2007	308.940	277.931	31.009
2007-2008	334.334	300.091	34.253
2008-2009	380.752	315.994	64.758
2009-2010	456.869	331.649	125.22
2010-2011	468.464	328.059	140.405
Total	*1949.359*	*1553.724*	*395.645*

According to CEC, there is every reason to believe that the excess quantity of 395.645 lakh MT, as shown in the aforesaid chart, is illegally mined ore.

63. We entirely agree with the CEC report that in the absence of proper checks, verifications and controls, there is bound to be illegal mining, storage and transportation of minerals, but we find that after the CEC report, the Goa (Prevention of Illegal Mining, Storage and Transportation of Minerals) Rules,

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2013 have been framed by the State Government under Section 23-C of the MMDR Act. A reading of these Rules shows that several provisions have been made in these Rules to prevent illegal mining and to regulate the sale, export and transit of ore, storage of mineral and transportation and winning of mineral. The Rules also provide for establishment of check posts, barriers and weighbridges and inspection of minerals in transit. Moreover, these Rules empower any person authorised by the Government to enter, inspect, search and seize articles. These Rules will have to be strictly enforced by the State Government and we hope that by such strict enforcement of these Rules, the mining, storage and transportation of minerals in the State of Goa will get controlled and regulated and the leakages and evasion of revenue will, to a large extent, be prevented.

To what extent mining has damaged the environment in Goa and what measures are to be taken to ensure intergenerational equity and sustainable development?

64. Mr Prashant Bhushan, learned Senior Counsel appearing for Goa Foundation, relying on the Report of the Justice Shah Commission, submitted that substantial damage has been caused to the eco-sensitive zone in Goa by excavating large quantities of iron ore through mining and as suggested by the Justice Shah Commission action should be taken in this regard. He submitted that the conditions stipulated in the EIA clearances imposed by the Chief Wildlife Warden, Goa, have not been implemented. He submitted that the environmental clearance system has actually collapsed resulting in amassing of wealth by certain individuals and companies at the cost of the environment and the ecosystem. He submitted that principles of sustainable development and intergenerational equity which were part of the fundamental right under Article 21 of the Constitution, require that a cap should be put on the annual excavation of iron ore from different mines in the State of Goa, after taking into account the need to conserve iron ore resources for future generations and the carrying capacity of the State of Goa for mining and transportation of mineral ores.

65. The learned counsel appearing for the lessees, on the other hand, submitted that there are adequate provisions in the MCD Rules for preventing damage to the environment and for restoration of the environment. They referred to Rules 23-A, 23-B, 23-D and 23-E of the MCD Rules which relate to the mine closure plan which must provide for protective measures including reclamation and rehabilitation work. They submitted that the holder of the mining lease, therefore, has to take all the protective measures including reclamation and rehabilitation work before abandoning the mine. They submitted that Chapter V of the MCD Rules also contains various provisions which a holder of mining lease has to comply and these provisions include precautions for protection of environment and controlling of pollution while conducting mining operations in the area.

66. In reply to the submissions of Mr Bhushan that there should be a cap on the annual excavation of mineral ore in the State of Goa to ensure that

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future generations are not denied the mineral resources, Mr Mukul Rohatgi, learned Senior Counsel appearing for Sesa Goa Ltd., relied on a publication of the British Geological Survey and submitted that there would never be any scarcity of mineral resources and there would be enough for the future generations. He submitted that Sesa Goa Ltd. has also taken steps to reclaim the land which was damaged through mining operation and produced photographs to show how reclamation and rehabilitation work has been done after mining was over in any area.

67. Mr N.S. Nadakarni, learned Advocate General for the State of Goa, submitted that in the Goa Mineral Policy of 2013, the State Government has proposed a capping of the mineral ores to be excavated annually in the State of Goa based on the carrying capacity of public roads and the need to protect intergenerational equity. He submitted that as per the Goa Mineral Policy of 2013, until the road capacity in Goa improves, there should be a gross capping at 45 MT per annum.

68. After considering the aforesaid submissions of the learned counsel for the parties, we took the view that a Committee of Experts must conduct a macro-EIA study and propose ceiling of the annual excavation of iron ore from the State of Goa, considering its iron ore resources and its carrying capacity and keeping in mind the principles of sustainable development and intergenerational equity and all other relevant factors. Accordingly, by orders dated 11-11-2013[5] and 18-11-2013[17], we constituted an Expert Committee comprising Prof. C.R. Babu (Ecologist), Dr S.C. Dhiman (Geologist/

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17 *Goa Foundation* v. *Union of India*, WP (C) No. 435 of 2012, order dated 18-11-2013 (SC), wherein it was directed:

> "These matters have been listed for the limited purpose of finalising the names of the Expert Committee which is to conduct the Macro Environmental Impact Assessment study as per the directions in our order dated 11-11-2013. The Expert Committee will consist of:
>
> (*i*) Dr C.R. Babu, Head of the Centre for Environmental Management of Degraded Ecosystems, Delhi University—(Ecologist).
>
> (*ii*) Dr S.C. Dhiman, Geologist/Hydrogeologist, Former Chairman of the Central Ground Water Board/Authority—(Geologist).
>
> (*iii*) Prof. B.K. Mishra, Director of the Institute of Minerals and Materials Technology, a CSIR Institution formerly called the Regional Research Laboratory, Bhubaneshwar—(Mineralogist).
>
> (*iv*) Prof. S. Parameswarappa, Former PCCF (Karnataka), Director ICFRE—(An expert on Forestry).
>
> (*v*) A representative of Department of Mines, Government of Goa not less than the rank of Joint Secretary to be nominated by the Chief Secretary, Goa.
>
> (*vi*) A representative of Ministry of Environment and Forests, Government of India not less than the rank of Joint Secretary to be nominated by the Secretary, Ministry of Environment and Forests, Government of India."

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Hydrogeologist), Prof. B.K. Mishra (Mineralogist), Prof. S. Parameswarappa (Forestry), Shri Parimal Rai (nominee of the Ministry of Environment and Forests, Government of India). This Expert Committee has submitted an interim report dated 14-3-2014. In this report, the Expert Committee has indicated that the economy of Goa depends on tourism and iron ore mining, besides agriculture, horticulture and minor industries, but in recent years, while there has been increase in the growth rate in tourism and mining, there has been a decline in the growth rate of agriculture and fishing.

69. The Expert Committee has in particular highlighted the damage that has been done by increase in the production of iron ore through mining to the environment in Goa in the following words:

> "The production of iron ore has jumped from 14.6 million tons in 1941 to 41.17 million tons in 2010-2011. In 1980s the production was about 10 MT per annum. The quantum jump in iron ore production in Goa was essentially due to steep rise in exports of fines and other low grade ore of 42% Fe content to China. This has led to massive negative impacts on all ecosystems leading to enhanced air, water, and soil pollution affecting quality of life across Goa. This is evident by three important reports i.e. (*i*) Areawise Environmental Quality Management (AEQM) Plan for the Mining belt of Goa by Tata Energy Research Institute, New Delhi and Goa (1997) and it was submitted to the Directorate of Planning, Statistics, and Evaluation, Government of Goa, (*ii*) Environmental and Social Performance Indicators and Sustainability Markers in Minerals Development Reporting Progress towards Improved Ecosystem Health and Human Well-being, Phase III by TERI and International Development Research Centre, Ottawa, Canada (2006) and (*iii*) the Regional Environmental Impact Study of Iron Ore Mining in Goa region sponsored by MoEF, New Delhi (2014) by Indian School of Mines. Besides the above three main reports, a number of scientific research papers on the impact of iron ore mining on the environment and ecology of diverse ecosystems were published by scientists working at Goa University and NIO.
>
> These reports and publications substantiate that the mining, particularly the enhanced level of annual production contributed to adverse impacts on the ecological systems, socio-economics of Goa and health of people of Goa leading to loss of ecological integrity. This is due to enhanced levels of pollutants, particularly RSPM and SPM, sedimentation of materials from dumps and iron ore in rivers, estuaries and shallow depth (20 m) of sea water, agricultural fields, high concentration of Fe and Mn in surface waters and their bioaccumulation."

The Expert Committee has also studied the sustainability of iron ore mining in Goa and after analysing the existing data from TERI Report, 1997, ISM, Dhanbad Report, 2013, Pollution Control Board, Goa (Annual Report) and relevant literature relating to sustainability and after adopting the Folchi method has given the opinion that mining at the rate of 20 to 27.5 million

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tons per annum appears sustainable in the State of Goa. However, in its summary of recommendations, the Expert Committee has made these recommendations:

> "*10.* To eliminate the element of subjectivity, due to the time constraints and limitation of available authentic time series data relating to mineral resources and environmental impact of mining in the State of Goa, this Committee suggests that mining be permitted to be carried out at the level of 20 million tons per annum with adequate monitoring of impacts on different ecological and environmental parameters, which will also help this Committee in its future appraisal.
>
> *11.* Till the scientific study by this Committee is completed, which may take about 12 months more, the mining activity at levels as directed by the Hon'ble Supreme Court, be strictly monitored and regulated by the Department of Mines and Geology and the State Pollution Control Board of the State of Goa, in consultation with other statutory bodies such as Indian Bureau of Mines, Ministry of Environment and Forests (Government of India) and others."

It, thus, appears that the Expert Committee has suggested that for the time being annual excavation of 20 million tons of iron ore may be permitted in Goa with adequate monitoring impacts on different ecological and environmental parameters, which will also help the Expert Committee in its future appraisal. Regarding the authorities or agencies which should strictly monitor and regulate the mining activities in Goa, the Expert Committee has recommended that the Department of Mines and Geology of Government of Goa and the Goa State Pollution Control Board in consultation with other statutory bodies such as Indian Bureau of Mines, Ministry of Environment and Forests (Government of India) should carry on such monitoring and regulation strictly. The Expert Committee, however, has said nothing about how the mining dumps inside or outside the leased areas noticed by the Justice Shah Commission are to be dealt with presumably because in our order dated 11-11-2013[5] we had not issued any direction in this regard. We think that we should seek the opinion of the Expert Committee in this regard.

70. We find that the State Government has also engaged the services of NEERI for macro-level EIA study for clusters of iron ore mines in the State of Goa, but NEERI in its preliminary report has not recommended as to what should be the total quantum of annual production of iron ore in Goa in future. We also find that the Ministry of Environment and Forests, Government of India had entrusted the Indian School of Mines (ISM), Dhanbad to carry out a regional environment impact assessment study of mining in Goa region and ISM, Dhanbad has submitted its report proposing a cap of 24.995 MT per annum on the basis of the carrying capacity of the existing infrastructure of

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Goa. The relevant portion of the report of ISM, Dhanbad, is extracted hereinbelow:

a "***20.7.4.7: Cluster-wise capping on transport***

The cap of 24.995 MTPA proposed in the aforementioned section is dependent primarily on the existing infrastructure and must be followed based on the spatial variations. To present an overall capacity of mining in North Goa and South Goa, the road capacity has been taken as a parameter. The capacity was arrived at 13.685 MTPA for North Goa and

b 11.31 MTPA for South Goa. The cap proposed will not include the mines lying within the buffer zones as these have imposed restriction of phasing out in time-bound period. Further, this cap can be represented into a cluster-wise scenario to decipher how much each cluster will be able to transport under the existing transport facilities. The values are presented in table below.

c

20.7.19: Cluster-wise capping on transport based on existing transport facilities

Cluster	*Routes*	*Capacity of the routes (MTPA)*	*Capacity of the cluster (MTPA)*
d Adwalpal-Bicholim	Adwalpale to Sirsai Jetty	0.81	5.875
	Shrigao to Sirsai Jetty	1.26	
	Shrigao to Kalvin Jetty	1.16	
	Dahbdhaba to Sarmanas Jetty	2.645	
Velguem-Pissurlem	Sonshi to Amona Jetty	2.11	7.9
e	Sanquelim to Amona Jetty	0.52	
	Honda to Navelim (Maina)	1.32	
	Sonshi to Khazan Jetty	1.32	
	Ambesi to Cotambi Jetty	1.29	
	Digneum to Surla Jetty	1.34	
f Codli-Costi	Codli to Amona Jetty	1.94	4.69
	Codli to Capxem Jetty	1.24	
	Costi to Sanvordem	1.51	
Collem	Collem to Amona Jetty	1.94	2.76
	Shigao to Sanvordem	0.82	
g Tollem	Tollem to Shelvona Jetty	1.71	1.71
Maina-Sulcorna	Sulcorna to Shelvona Jetty	1.02	2.06
	Maina to Shelvona	1.04	
Total capacity of the region			24.995

h Thus, the cumulative ore transportation capacity of the existing road networks is 24.995 MTPA."

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71. We, therefore, find that the Expert Committee as well as ISM, Dhanbad, after considering the available data and after considering the adverse impact on environment and the limited carrying capacity of the transport system in Goa, are of the opinion that a cap between 20 to 27.5 million tons per annum should be fixed for excavation of iron ore in the State of Goa. In its recommendations, however, the Expert Committee has suggested that till the scientific study by the Expert Committee is completed in about 12 months or so, and more of data including impacts on different ecological environmental parameters is available through monitoring of the impacts by different agencies including the Goa State Pollution Control Board, 20 million tons per annum should be fixed as the annual excavation of iron ore in Goa. Even this mining of 20 million tons per annum in the State of Goa, according to the Expert Committee, has to be strictly monitored and regulated by the Department of Mines and Geology, Government of Goa and the Goa State Pollution Control Board in consultation with other statutory bodies such as the Indian Bureau of Mines, the Ministry of Environment and Forests (Government of India) and others. It was the responsibility of the Government of Goa, Department of Mines, to enforce the provisions of the MMDR Act, the MC Rules and the MCD Rules, but as we have already noticed, this responsibility was not properly discharged. We hope that in future, it will enforce the provisions of the MMDR Act, the MC Rules, the MCD Rules and the Goa (Prevention of Illegal Mining, Storage and Transportation of Minerals) Rules, 2013.

72. The Goa State Pollution Control Board has immense powers under the Water (Prevention and Control of Pollution) Act, 1974 (for short "the 1974 Act") to prevent pollution of water. Section 33-A of the 1974 Act which confers on the State Pollution Control Board the power to give directions is quoted hereinbelow:

> "**33-A.** ***Power to give directions***.—Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or 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*) the stoppage or regulation of supply of electricity, water or any other service."

73. Similarly, the Air (Prevention and Control of Pollution) Act, 1981 (for short "the 1981 Act") confers immense powers on the State Pollution Control Board to prevent air pollution. Section 31-A of the 1981 Act which

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confers powers on the State Pollution Control Board to give directions is quoted hereinbelow:

"**31-A.** ***Power to give directions.***—Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or 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*) the stoppage or regulation of supply of electricity, water or any other service."

74. It will be clear from the aforesaid provisions of Section 33-A of the 1974 Act and Section 31-A of the 1981 Act that the Goa State Pollution Control Board had powers to issue any direction including the power to close, prohibit or regulate mining operations or even to stop or regulate supply of electricity, water or any other service with a view to prevent water pollution or air pollution. Yet, from the report of the Expert Committee as well as the reports of ISM, Dhanbad and NEERI, it is clear that iron ore production in Goa has led to massive negative impacts on all ecosystems leading to enhanced air, water and soil pollution affecting quality of life across Goa. The Goa State Pollution Control Board in its note filed in Writ Petition (C) No. 435 of 2012, however, states:

"*Details of monitoring of water quality (with regards to mining leases) from 2007 to 2012* — The Board conducts inspections during the monsoon and other seasons also to verify the discharge of surface runoff/discharge from the pit outside the mining lease and also collects samples for analysing in the Board Laboratory. Wherever the parameters exceed the prescribed limits necessary directions are issued to the mining units to take remedial measures for controlling the waste water being discharged into the water bodies/fields without treatment. Directions are also issued to provide settling ponds, arrestor walls, filter beds so as to ensure that no untreated waste water is discharged into the water bodies/fields.

Details of monitoring of air quality (with regards to mining leases) from 2007 to 2012 — The Board is presently carrying out the periodic monitoring of Air Quality in pre-selected areas throughout the State to comply with one of the mandates of the Central Pollution Control Board (CPCB) under National Ambient Monitoring Programme (NAMP) at 16 stations."

75. We do not agree with Mr Arvind Datar, learned Senior Counsel for the Goa State Pollution Control Board, that sincere efforts were made by the

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Pollution Control Board to monitor the water quality and air quality in the mining areas. Rather, it appears that the Goa State Pollution Control Board, though conferred with immense statutory powers, has failed to discharge its statutory functions and duties. We hope that in future the Goa State Pollution Control Board exercises strict vigil and monitors the water quality and air quality in accordance with the provisions of the two Acts and if necessary, exercises the powers conferred on it to close down mining operation of a lessee, if the lessee does not conform to the air emission and water discharge standards while carrying on mining operations and does not take other preventive measures as directed by the State Pollution Control Board.

76. Regarding the regulation by the Ministry of Environment and Forests, in our order dated 6-1-2014 passed in *T.N. Godavarman Thirumulpad* v. *Union of India*[18], we have already directed the Union of India to appoint a Regulator with offices in as many States as possible under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 as directed in the order in *Lafarge Umiam Mining (P) Ltd.*[19] As and when the Union of India appoints a Regulator under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 with an office for Goa in compliance with the aforesaid direction of this Court, the Regulator so appointed will carry out its functions in accordance with the order passed under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986.

77. The regulatory and monitoring measures enforced by the Departments of Mines and Geology, the Goa State Pollution Control Board and the Regulator appointed by the Central Government under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 cannot, however, restore entirely the environment that is damaged in course of mining operations. The Expert Committee has, therefore, recommended that a permanent fund for intergenerational equity and sustainability of mining for all times to come named as "Goan Iron Ore Permanent Fund" be created and an expert group may be constituted by the State for working out the details of this fund. Mr Harish Salve, learned Amicus Curiae, submitted that as the lessees of mining leases earn out of the sale proceeds of the iron ore excavated by them, they should be directed to contribute 10% of the sale proceeds of all iron ore excavated in the State of Goa and sold by them towards the Goan Iron Ore Permanent Fund. He cited the judgment of this Court in *Samaj Parivartana Samudaya* v. *State of Karnataka*[11] in which this Court has similarly directed for creation of a Special Purpose Vehicle out of 10% of the sale proceeds of the ore sold by e-auction. There is a lot of force in the aforesaid submission of Mr Salve.

78. We find from the report of the Expert Committee that the State of Goa heavily depends on iron ore mining for revenue as well as employment.

18 (2014) 4 SCC 61

19 *Lafarge Umiam Mining (P) Ltd.* v. *Union of India*, (2011) 7 SCC 338

11 (2013) 8 SCC 154

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The legislative policy behind the MMDR Act made by Parliament is mineral development through mining. The State Government of Goa has also adopted the executive policy to encourage mining of minerals in Goa. Moreover, as Mr Ravi Shankar Prasad, learned Senior Counsel appearing for 33 Panchayats, has submitted about 1.5 lakh people are directly employed in mining in Goa and large number of persons have taken bank loans and purchased trucks for transportation of iron ore. Hence, people who earn their livelihood through work in connection with mining will be seriously affected if mining is totally banned to protect the environment. 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 intergenerational equity and the State of Goa in consultation with CEC will frame a comprehensive scheme in this regard and submit the same to this Court within six months.

Whether in future the mining leases are to be auctioned or have to be granted in accordance with the policy of the State and the provisions of the MMDR Act and the MC Rules?

79. Mr Prashant Bhushan, learned counsel for Goa Foundation, submitted that in Article 39(*b*) of the Constitution, it is provided that the ownership and control of the material resources of the community should be so distributed so as to best subserve the common good and, therefore, the State cannot distribute the material resource of the community in any way it likes. He submitted that in *Centre for Public Interest Litigation* v. *Union of India*[20], a two-Judge Bench of this Court has held relying on Article 39(*b*) of the Constitution that the State is the legal owner of the natural resources as a trustee of the people and although it is empowered to distribute the same, the process of distribution must be guided by the constitutional principles including the doctrine of equality and larger public good. He submitted that in the aforesaid case, the two-Judge Bench has further held that a duly publicised auction conducted fairly and impartially is perhaps the best method for discharging this burden and methods like "first-come-first-served" when used for alienation of natural resources/public property are likely to be misused by unscrupulous people who are only interested in garnering maximum financial benefit and have no respect for the constitutional ethos and values. He relied on the conclusion of the two-Judge Bench of this Court in the aforesaid case that while transferring or alienating the natural resources, the State is duty-bound to adopt the method of auction

20 (2012) 3 SCC 1

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by giving wide publicity so that all eligible persons can participate in the process. He submitted that as the MMDR Act does not prohibit the State from holding auction of the mining leases, this Court should direct that in future the mining leases must be auctioned by the State Government.

80. The learned counsel for the lessees and the learned Advocate General, on the other hand, submitted that the MMDR Act and the MC Rules have made specific provisions regarding the manner in which the State is to grant mining leases and it is for the State to take decisions on grant of mining leases in accordance with the policy and the provisions of the MMDR Act and the MC Rules. They cited the opinion of the Constitution Bench of this Court in *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*[21] that auction despite being a more preferable method of alienation/ allotment of natural resources, cannot be held to be a constitutional requirement or limitation for alienation of all natural resources and, therefore, every method other than auction cannot be struck down as ultra vires the constitutional mandate.

81. We are of the considered opinion that it is for the State Government to decide as a matter of policy in what manner the leases of these mineral resources would be granted, but this decision has to be taken in accordance with the provisions of the MMDR Act and the Rules made thereunder and in consonance with the constitutional provisions and the decision taken by the State of Goa to grant a mining lease in a particular manner or to a particular party can be examined by way of judicial review by the Court. To quote the opinion of four Judges out of five Judges expressed by D.K. Jain, J. in *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*[21]: (SCC pp. 98-99, para 149)

> "*149.* ... Alienation of natural resources is a policy decision, and the means adopted for the same are thus, executive prerogatives. However, when such a policy decision is not backed by a social or welfare purpose, and precious and scarce natural resources are alienated for commercial pursuits of profit maximising private entrepreneurs, adoption of means other than those that are competitive and maximise revenue may be arbitrary and face the wrath of Article 14 of the Constitution. Hence, rather than prescribing or proscribing a method, we believe, a judicial scrutiny of methods of disposal of natural resources should depend on the facts and circumstances of each case, in consonance with the principles which we have culled out above. Failing which, the Court, in exercise of power of judicial review, shall term the executive action as arbitrary, unfair, unreasonable and capricious due to its antimony with Article 14 of the Constitution."

21 (2012) 10 SCC 1

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Whether suspension of mining operations in the State of Goa by Order dated 10-9-2012 of the Government of Goa and the suspension of the environmental clearances granted to the mines in the State of Goa by Order dated 14-9-2012 were legal and valid?

82. As we have held that the deemed mining leases of the lessees in Goa expired on 22-11-1987 and the maximum period (20 years) of renewal of the deemed mining leases in Goa has also expired on 22-11-2007, mining by the lessees in Goa after 22-11-2007 was illegal. Hence, the Order dated 10-9-2012 of the Government of Goa suspending mining operations in the State of Goa and the Order dated 14-9-2012 of MoEF, Government of India, suspending the environmental clearances granted to the mines in the State of Goa, which have been impugned in the writ petitions in the Bombay High Court, Goa Bench (transferred to this Court and registered as transferred cases) cannot be quashed by this Court. The Order dated 10-9-2012 of the Government of Goa and the Order dated 14-9-2012 of MoEF will have to continue till decisions are taken by the State Government to grant fresh leases and decisions are taken by MoEF to grant fresh environmental clearances for mining projects.

83. On 5-10-2012, this Court while issuing notice in *Goa Foundation* v. *Union of India*[4] also passed orders that all mining operations in the leases identified in the report of the Justice Shah Commission and transportation of iron ore and manganese ore from those leases, whether lying at the mine-head or stockyards, shall remain suspended. Thereafter on 11-11-2013[5], this Court passed an order that the inventory of the excavated mineral ores lying in different mines/stockyards/jetties/ports in the State of Goa made by the Department of Mines and Geology of the Government of Goa be verified and thereafter the whole of the inventoried mineral ores be sold by e-auction and the sale proceeds (less taxes and royalty) be retained in separate fixed deposits (leasewise) by the State of Goa till this Court delivers judgment in these matters on the legality of the leases from which the mineral ores were extracted. In our order passed on 11-11-2013[5], we had also directed that this entire process of verification of the inventory, e-auction and deposit of sale proceeds be monitored by a Monitoring Committee appointed by the Court. The Monitoring Committee comprising Dr U.V. Singh (Additional Principal Chief Conservator of Forests, Karnataka), Shri Shaikh Naimuddin (former Member of Central Board of Direct Taxes) and Parimal Rai (nominee of Government of Goa) have in the meanwhile monitored the e-auction.

84. We extract hereinbelow the relevant portion of the interim report dated 12-3-2014 of the Monitoring Committee:

> "After the two e-auctions, the total ore auctioned is about 1.62 million MT and the total value realised is Rs 260.68 crores approximately. As directed by this Hon'ble Court, the State Government

4 WP (C) No. 435 of 2012, order dated 5-10-2012 (SC)

5 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 738

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has been requested to maintain separate accounts, leasewise, and keep the sale proceeds as fixed deposits in nationalised banks.

The process of transportation of ore for export has not yet been initiated because of the storage charges being demanded from the successful bidder by the Marmagao Port Trust (MPT). As a result, the process of e-auction is likely to slow down. The extent of storage charges demanded is as per Annexure MC III."

85. As we have held that renewal of all the deemed mining leases in the State of Goa had expired on 22-11-2007, the mining lessees will not be entitled to the sale value of the ores sold in e-auction but they will be entitled to the approximate cost (not actual cost) of the extraction of the ores. On account of suspension of mining operations in the State of Goa, the workers who were employed by the lessees claim that they have not been paid their wages. Under Section 25-C of the Industrial Disputes Act, 1947, when a workman whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid off, he is entitled to be paid by the employer for all the days which he is so laid off, except for such weekly holidays as may intervene, compensation which shall be equal to 50% of the total of the basic wages and dearness allowance that would have been payable to him had he not been so laid-off. Following this principle of lay-off compensation, we hold that workers who could not be paid wages by the lessees will have to be paid compensation at the rate of 50% of their basic wages and dearness allowance during the period of non-employment on account of suspension of mining operations. Moreover, Marmagao Port Trust will have to be paid 50% of their charges for storage of the mineral ores after 5-10-2012.

86. The entire sale value of the stock of mineral ores sold by e-auction, less the average cost of excavation, 50% of the wages and allowances and 50% of the storage charges to be paid to Marmagao Port Trust is thus due to the State Government which is the owner of the mineral ores which have been sold by e-auction. The State Government will set aside 10% of this balance amount for the Goan Iron Ore Permanent Fund for the purpose of sustainable development and intergenerational equity. This entire exercise of calculating the average cost of extraction of ores to be paid to the mining lessees, 50% of the basic wages and dearness allowance to be paid to the workers, 10% of the balance amount towards the Goan Iron Ore Permanent Fund and the balance amount to be appropriated by the State Government will be done by the Director of Mines and Geology, Government of Goa, under the supervision of the Monitoring Committee. Till this exercise is over and the report of the Monitoring Committee is filed, the Monitoring Committee will continue and their members will be paid their remuneration allowances as directed in the order dated 11-11-2013[5].

5 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 738

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87. In the result, we declare that:

87.1. The deemed mining leases of the lessees in Goa expired on 22-11-1987 and the maximum of 20 years renewal period of the deemed mining leases in Goa expired on 22-11-2007 and consequently mining by the lessees after 22-11-2007 was illegal and hence the impugned Order dated 10-9-2012 of Government of Goa and the impugned Order dated 14-9-2012 of MoEF, Government of India are not liable to be quashed.

87.2. Dumping of minerals outside the leased area of the mining lessees is not permissible under the MMDR Act and the Rules made thereunder.

87.3. Until the order dated 4-8-2006[14] of this Court is modified by this Court in IA No. 1000 in *T.N. Godavarman Thirumulpad* v. *Union of India*, there can be no mining activities within one kilometre from the boundaries of national parks and sanctuaries in Goa.

87.4. By the order dated 4-12-2006 in *Goa Foundation* v. *Union of India*[13], this Court has not prohibited mining activities within 10 kilometres' distance from the boundaries of the national parks or wildlife sanctuaries.

87.5. It is for the State Government to decide as a matter of policy in what manner mining leases are to be granted in future but the constitutionality or legality of the decision of the State Government can be examined by the Court in exercise of its power of judicial review.

88. And we direct that:

88.1. MoEF will issue the notification of eco-sensitive zones around the national park and wildlife sanctuaries of Goa after following the procedure discussed in this judgment within a period of six months from today.

88.2. The State Government will initiate action against those mining lessees who violate Rules 37 and 38 of the MC Rules.

88.3. The State Government will strictly enforce the Goa (Prevention of Illegal Mining, Storage and Transportation of Minerals) Rules, 2013.

88.4. The State Government may grant mining leases of iron ore and other ores in Goa in accordance with its policy decision and in accordance with the MMDR Act and the Rules made thereunder in consonance with the constitutional provisions.

88.5. Until the final report is submitted by the Expert Committee, the State Government will, in the interests of sustainable development and intergenerational equity, permit a maximum annual excavation of 20 million MT from the mining leases in the State of Goa other than from dumps.

88.6. The Goa Pollution Control Board will strictly monitor the air and water pollution in the mining areas and exercise powers available to it under the 1974 Act and the 1981 Act including the powers under Section 33-A of

14 *T.N. Godavarman Thirumulpad* v. *Union of India*, (2010) 13 SCC 740
13 *Goa Foundation* v. *Union of India*, (2011) 15 SCC 791

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the 1974 Act and Section 31-A of the 1981 Act and furnish all relevant data to the Expert Committee.

88.7. The entire sale value of the e-auction of the inventoried ores will be forthwith realised and out of the total sale value, the Director of Mines and Geology, Government of Goa, under the supervision of the Monitoring Committee will make the following payments:

(*a*) Average cost of excavation of iron ores to the mining lessees;

(*b*) 50% of the wages and dearness allowance to the workers in the muster rolls of the mining leases who have not been paid their wages during the period of suspension of mining operations;

(*c*) 50% of the claim towards storage charges of Marmagao Port Trust.

Out of the balance, 10% will be appropriated towards the Goan Iron Ore Permanent Fund and the remaining amount will be appropriated by the State Government as the owner of the ores.

88.8. The Monitoring Committee will submit its final report on the utilisation and appropriation of the sale proceeds of the inventoried ores in the manner directed in this judgment within six months from today.

88.9. Henceforth, the mining lessees of iron ore will have to pay 10% of the sale price of the iron ore sold by them to the Goan Iron Ore Permanent Fund.

88.10. The State Government will within six months from today frame a comprehensive scheme with regard to the Goan Iron Ore Permanent Fund in consultation with CEC for sustainable development and intergenerational equity and submit the same to this Court within six months from today; and

88.11. The Expert Committee will submit its report within six months from today on how the mining dumps in the State of Goa should be dealt with and will submit its final report within twelve months from today on the cap to be put on the annual excavation of iron ore in Goa.

89. With the aforesaid declarations and directions, Writ Petition (C) No. 435 of 2012 is allowed. The transferred cases and IA filed by Marmagao Port Trust as well as other IAs also stand disposed of. The interim order dated 5-10-2012[4] of this Court is vacated. These matters will be listed as and when the Monitoring Committee and the Expert Committee submit their final reports and the State Government submits the scheme for the Goan Iron Ore Permanent Fund. The parties shall bear their own costs.

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4 *Goa Foundation* v. *Union of India*, WP (C) No. 435 of 2012, order dated 5-10-2012 (SC)

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Annexure - D

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(BEFORE MADAN B. LOKUR AND DEEPAK GUPTA, JJ.)

GOA FOUNDATION .. Petitioner;

Versus

SESA STERLITE LIMITED
AND OTHERS .. Respondents.

SLP (C) No. 32138 of 2015† with Nos. 32699-727 of 2015,
WPs (C) Nos. 711 and 720 of 2015, decided on February 7, 2018

A. **Mines and Minerals — Mines and Minerals (Development and Regulation) Act, 1957 — Ss. 8(2), (3), 10-B and 11 — Mining leases declared to be illegal in *Goa Foundation*, (2014) 6 SCC 590 — Grant of second renewal — Impermissibility of — State of Goa should have granted fresh mining leases instead of granting a second renewal — Such second renewal, held, illegal in view of *Goa Foundation*, (2014) 6 SCC 590 — Second renewal of mining leases set aside — Consequential directions issued**

— Court in *Goa Foundation case* was aware and conscious of illegal and indiscriminate mining for which it did not interfere with State Government's Order dt. 10-9-2012 suspending said mining leases and MoEF's Order dt. 14-9-2012 keeping in abeyance environmental clearance — Thus Court never intended renewal of said illegal mining leases but instead intended that State should grant of fresh mining leases — When Court declared that State Government should decide in what manner mining leases are to be granted in future, it was explicit and related to grant of fresh mining leases and not a second renewal — Subsequent events like dismissal of IAs also confirm this intention — (Paras 37 to 46)

— Though renewal of lease is a fresh lease, the converse is not true — When Court directed grant of "fresh leases" in *Goa Foundation case*, it was a deliberate and conscious decision, distinct and different from granting a second renewal of expired mining leases — (Paras 57 and 59)

— Though State of Goa at first correctly understood judgment in *Goa Foundation case*, it was overtaken by erroneous interpretation of said judgment given in *Lithoferro*, 2014 SCC OnLine Bom 997 on 13-8-2014 — High Court in said judgment incorrectly understood judgment in *Goa Foundation case* — Decision in *Lithoferro case* set aside — (Paras 47 to 53, 153 and 153.5)

— Consequential directions in view of illegal grant of mining leases — Time given to mining leaseholders to stop mining by 16-3-2018 — Authorities directed to grant fresh mining leases and fresh environmental clearances

† Arising from the Judgment and Order in *Lithoferro* v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32 (Bombay High Court, Panaji Bench, WP No. 293 of 2014, dt. 13-8-2014)

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— [Ed.: *See* Shortnotes *E* and *G* for illegality on account of lack of fresh environmental clearances] — Investigation reports should be given by various investigating teams entrusted with said task and State of Goa should implement said reports unless there are very good reasons for rejecting them — Government take steps for recovery of amounts due from mining leaseholders — Property Law — Transfer of Property Act, 1882 — Ss. 105 and 111 — Though renewal of lease is a fresh lease, the converse is not true — Public Accountability, Vigilance and Prevention of Corruption — Government Grants, Largesse, Public Property and Premises — Illegal mining (Paras 37 to 60 and 154.1)

The Central Government on 2-11-2010 appointed Justice M.B Shah, a former Judge of the Supreme Court as Commission of Inquiry under Section 3, Commissions of Inquiry Act, 1952 to inquiry into large-scale illegal mining of iron ore and manganese ore. Pursuant to the reports of the said Commission, with respect to illegal mining in the State of Goa, the State Government of Goa, by order dated 10-9-2012, suspended all mining operations with effect from 11-9-2012. The Ministry of Environment and Forests (MoEF), by its order dated 14-9-2012, kept in abeyance the environmental clearances granted to 137 mining leases.

A PIL was filed in the Supreme Court for terminating the said mining leases. Several writ petitions were also filed in the High Court for quashing the two orders, that is, order dated 10-2-2012 suspending the mining leases and order dated 14-9-2012 keeping in abeyance the environmental clearances.

The Supreme Court in *Goa Foundation*, (2014) 6 SCC 590 declared the said mining leases to be illegal and further held that no second renewal of mining leases was permissible without express order in terms of Section 8(3), MMDR Act. And that only fresh mining leases as per law could be granted.

However, the High Court vide its order in *Lithoferro*, 2014 SCC OnLine Bom 997, wrongly interpreted the above order of the Supreme Court and held that renewal of a lease is also a fresh grant.

The Central Government contemplated introduction of Section 10-B, in the MMDR Act which provided that leases in respect of notified minerals could be granted only by way of e-auction by way of competitive bidding. The Ordinance relating to the above amendment was promulgated by the President of India on 12-1-2015. And the Goa Government in great haste also completed the process of second renewal of mining leases on same date, that is on 12-1-2015. To support its said illegal action, the Goa Government had also in great haste, formulated the Goa Grant of Mining Leases Policy, 2014. Thereafter the Goa Government requested the MoEF to lift the abeyance order dated 14-9-2012 in respect of 88 mining leases. MoEF by three orders dated 20-3-2015 lifted the said abeyance order with certain conditions (See paras 31 to 35 for the said conditions).

Thus the following three broad issues arise for consideration in the present case. Firstly, whether second renewal of mining leases was valid. Secondly, whether environmental clearances could have been given in present case. And thirdly, whether the impugned order in *Lithoferro case* was erroneous.

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Answering the first two issues in the negative and the third issue in the affirmative, the Supreme Court held as above and below.

There is no doubt that the renewal of a lease is virtually the same as the grant of a fresh lease but a converse direction to grant a mining lease cannot be understood to mean granting a renewal of a mining lease. Obviously, the grant of a fresh lease is not the same as the renewal of a lease and when the Court in *Goa Foundation case* required the State of Goa to grant a fresh lease, it did not require the State to renew the existing (expired) lease. The Court could have explicitly declared and directed the State of Goa to grant a second renewal of the mining leases rather than to say it in a roundabout manner that it should do so by granting a fresh lease equivalent to a renewal. (Para 57)

When the Judges directed the grant of "fresh leases" in *Goa Foundation case* it was a deliberate and conscious decision, distinct and different from granting a second renewal of expired mining leases. (Para 59)

Goa Foundation v. *Union of India*, (2014) 6 SCC 590; *Goa Foundation* v. *Union of India*, (2015) 1 SCC 153, *relied on*

DDA v. *Durga Chand Kaushish*, (1973) 2 SCC 825, *explained* and *distinguished*

Provash Chandra Dalui v. *Biswanath Banerjee*, 1989 Supp (1) SCC 487; *M.C. Mehta* v. *Union of India*, (2004) 12 SCC 118; *State of W.B.* v. *Calcutta Mineral Supply Co. (P) Ltd.*, (2015) 8 SCC 655 : (2015) 4 SCC (Civ) 395; *Common Cause* v. *Union of India*, (2014) 14 SCC 155, *distinguished*

Lithoferro v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32, *reversed*

Goa Foundation v. *Union of India*, (2014) 6 SCC 738; *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590 (footnote 17); *State of M.P.* v. *Krishnadas Tikaram*, 1995 Supp (1) SCC 587; *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590 (footnote 4); *Gajraj Singh* v. *STAT*, (1997) 1 SCC 650, *referred to*

B. Constitution of India — Arts. 14, 39(b), 298, 299 and Preamble — Mode of alienation of natural resource — Freedom available to executive in this regard and scope of judicial review — Principles reiterated

— Alienation through competitive bidding or auction, reiterated, as per law laid down in *Natural Resources Allocation*, (2012) 10 SCC 1, though the preferable mode of allocation, is not mandatory or a constitutional obligation, other than cases of allocation of spectrum as held in *Centre for Public Interest Litigation*, (2012) 3 SCC 1 — There is no constitutional imperative in economic policies — Art. 14 does not predefine any economic policy as a constitutional mandate — Alienation of natural resources is a policy decision, and means adopted for same executive prerogative

— Decision to not auction a natural resource is liable to challenge and subject to restricted and limited judicial review under Art. 14 of the Constitution

— In case of alienation to private party for commercial pursuit for maximising profits, auction is more preferable method — But decision to not auction a natural resource and sacrifice maximisation of revenues might be

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justifiable if decision is taken for social good or public good or common good such as when alienation is to provide affordable housing to members of SCs or STs or to implement housing schemes for Below the Poverty Line (BPL) families — If not for social good, public good or common good, it cannot be dissipated in favour of a private entrepreneur virtually free of cost or for a consideration not commensurate with its worth without attracting Arts. 14 and 39(b) (Paras 61 to 80.5 and 154.2)

Natural Resources Allocation, In re, Special Reference No. 1 of 2012, (2012) 10 SCC 1; *Ajar Enterprises (P) Ltd.* v. *Satyanarayan Somani*, (2018) 12 SCC 756; *Balco Employees' Union* v. *Union of India*, (2002) 2 SCC 333, *relied on*

Centre for Public Interest Litigation v. *Union of India*, (2012) 3 SCC 1, *held, clarified*

Manohar Lal Sharma v. *Union of India*, (2014) 9 SCC 516, *referred to*

Kasturi Lal Lakshmi Reddy v. *State of J&K*, (1980) 4 SCC 1, *cited*

C. **Constitution of India — Arts. 14, 39(b), 298, 299 and Preamble — Grant of mining leases concerned by State of Goa — Financial/economic necessity vis-à-vis sustainable development, environmental and ecological protection — Hasty decision to grant renewal of mining leases to benefit a few private persons and some royalty to State and said grants not conducive to interest of mineral development and against Goa Mineral Policy causing damage to environment and ecology and affecting health of people of Goa — Held, arbitrary and unjust — Second renewal of mining leases, set aside**

— Virtual chaos projected by State of Goa for suspension of mining leases could be an exaggeration but that is why issue of arbitrariness of policy decision is left open in present case — Nevertheless, decision of State of Goa to quickly renew mining leases while ostensibly complying with requirement of S. 8(3), MMDR Act and thereby jettisoning rule of law was unjustified — Second renewal of mining leases was unduly hasty, without considering relevant material and not in interests of mineral development — It only augmented revenues of State which is outside purview of S. 8(3), MMDR Act — Second renewal granted by State of Goa, set aside — (Paras 127, 128 and 154.3)

— Goa Grant of Mining Leases Policy, 2014 — Relevant that decision of State of Goa to not auction grant of mining leases was flawed in that it did not serve common or public or social good but primarily assisted in filling coffers of private entrepreneurs — It was extracted primarily for export to China and Japan without any value addition to domestic industry — (Paras 93 to 97)

— Decision of the Bombay High Court — It seemed as if High Court was not alive to possibility of auction of mining leases — It categorised mining leases on basis of those who had paid stamp duty and those who had not and granted relief on that basis — (Paras 89 to 92)

— Mines and Minerals — Mines and Minerals (Development and Regulation) Act, 1957, Ss. 8(2) & (3), 10-B and 11 (Paras 82 to 97, 127, 128 and 154.3)

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D. **Constitution of India — Arts. 14, 39(b), 298, 299 and Preamble — Grant of mining leases concerned by State of Goa — Held, arbitrary and unjust — Sole beneficiaries of rapacious, chaotic, unregulated and illegal mining in Goa were mining leaseholders/private entities — Some others like barge owners, truck owners, etc. were also collateral beneficiaries — Surely, all this cannot be ignored or brushed aside particularly since exploitation of mineral resources for five years had no element of social or public purpose, no concern for society and no regard for the environment and laws (Paras 82 to 85)**

E. **Constitution of India — Arts. 14, 39(b), 298, 299 and Preamble — Grant of mining leases concerned by State of Goa — Complete disregard of environmental laws — Vishwanath Anand Expert Appraisal Committee report discussed — Said report highlights damage to environment and ecology by mining leaseholders and complete indifference by all concerned towards all environmental laws — Leases did not even get clearance from Central Ground Water Board for which there were serious consequences like groundwater got depleted at much faster rate than expected and its quality also deteriorated (Paras 86 to 88)**

F. **Constitution of India — Arts. 14, 39(b), 298, 299 and Preamble — Grant of iron ore mining leases by State of Goa — Non-application of mind, undue haste and against interest of mineral development of State**

— During second renewal of mining leases concerned State of Goa ignored relevant factors and showed undue haste — All mining leaseholders had committed illegality — Instead of waiting for report of teams proving said illegality, State of Goa renewed their mining leases in violation of Grant of Mining Leases Policy — Undue haste was also showed by State of Goa to renew said mining leases so as to defeat Central Government's proposed policy of granting mining leases by way of competitive bidding through e-auction — Ordinance of Central Government in this regard was made known to public on 5-1-2015 and it was promulgated on 12-1-2015 — Within said seven days, State of Goa, granted second renewal to as many as 56 mining leases

— Concept of mineral development encompasses concept of captive mining — State Government should have applied its mind to requirement of different industries and principles of equitable distribution — Admittedly, iron ore is not extracted in Goa for import substitution or value addition but only as a last option, that is, export — Matters of interests of mineral development should be considered holistically and not in an isolationist manner — Therefore, while said miners contributed virtually nothing to domestic industry, they made considerable profits through exports — Though this might contribute to foreign exchange reserves, real-time damage to environment, ecology and health of Goan people is incalculable — Export benefits cannot be weighed against said damage — No social or public purpose attached to said mining operations — Only objective was profit maximization — This certainly cannot

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be described as being "in the interests of mineral development" — Mines and Minerals — Mines and Minerals (Development and Regulation) Act, 1957 — Ss. 8(2) & (3), 10-B and 11 — Mineral Concession Rules, 1960, Rr. 37 and 38 (Paras 108 to 121)

Natural Resources Allocation, In re, Special Reference No. 1 of 2012, (2012) 10 SCC 1, *relied on*

Sandur Manganese and Iron Ores Ltd. v. *State of Karnataka*, (2010) 13 SCC 1, *distinguished*

T.N. Godavarman Thirumulpad v. *Union of India*, (2010) 13 SCC 740; *Goa Foundation* v. *Union of India*, (2011) 15 SCC 791; *State of Assam* v. *Om Prakash Mehta*, (1973) 1 SCC 584; *Quarry Owners' Assn.* v. *State of Bihar*, (2000) 8 SCC 655; *CIT* v. *Anjum M.H. Ghaswala*, (2002) 1 SCC 633; *Sube Singh* v. *State (NCT of Delhi)*, (2004) 6 SCC 440; *State of U.P.* v. *Singhara Singh*, AIR 1964 SC 358 : (1964) 1 Cri LJ 263 (2) : (1964) 4 SCR 485; *Tisco Ltd.* v. *Union of India*, (1996) 9 SCC 709, *cited*

G. **Environment Law — Environmental Clearance/NOC/Environment Impact Assessment — Grant of/Quashment of/Irregularity in/Judicial review — Deemed environmental clearance (EC) — When invalid — MoEF granted deemed environmental clearance (EC) in 2014-2015 in violation of environmental law and against ruling in *Goa Foundation*, (2014) 6 SCC 590, set aside — Judicial review — Approach — Holistic approach is required for issues impacting society — Larger context of constitutionalism, rule of law, environmental jurisprudence as well as fundamental right of people of Goa to have clean air and protection of fragile ecology must be considered — One or two violations here and there may be wished away as inconsequential, but multiple violations by several persons can result in serious problems — Governance dehors interests of people not proper — Uncomfortable decisions are inevitable for balancing rights and equities**

— Some mining leaseholders had environmental clearances under EIA 1994 while others under EIA 2006 — Pursuant to requests made by State of Goa, MoEF granted EC to them notwithstanding that fresh leases could only have been permitted in view of ruling in *Goa Foundation case* and no renewals were permissible and thus fresh leases required fresh ECs

— Clarified, for renewal of mining leases in 2014-2015, lessees having valid environmental clearance (EC) under EIA 1994 also required fresh EC under 2006 EIA — Moreover EC under EIA 1994 is valid for 5 yrs and EC under EIA 2016 is valid for estimated project life or a maximum of 30 yrs — 37 mining leases which had EC under EIA 2006, thus though seemingly protected were actually not in view of ruling in *Goa Foundation case* that no second renewals were permissible, and only fresh renewals were permissible — Hence, fresh EC in terms of EIA 2006 was required (Paras 129 to 150 and 154.4)

Goa Foundation v. *Union of India*, (2014) 6 SCC 590; *Goa Foundation* v. *Union of India*, (2014) 6 SCC 738; *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590 (footnote 17); *M.C. Mehta* v. *Union of India*, (2004) 12 SCC 118; *Common Cause* v. *Union of India*, (2017) 9 SCC 499; *Ambica Quarry Works* v. *State of Gujarat*, (1987) 1 SCC 213; *Rural Litigation and Entitlement Kendra* v. *State of U.P.*, 1989 Supp (1) SCC 504; *State of M.P.* v. *Krishnadas Tikaram*, 1995 Supp (1) SCC 587, *relied on*

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S.N. Mohanty v. *Union of India*, 2012 SCC OnLine Del 4000, *distinguished*

H. **Constitution of India — Art. 145(3) — Request for reference to a Bench of nine Judges, rejected (Para 152)**

Property Owners' Assn. v. *State of Maharashtra*, (2013) 7 SCC 522 : (2013) 3 SCC (Civ) 603, *referred to*

SS-D/59847/C

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1. (2018) 12 SCC 756, *Ajar Enterprises (P) Ltd.* v. *Satyanarayan Somani* 255*c-d*
2. (2017) 9 SCC 499, *Common Cause* v. *Union of India* 274*e*, 274*f-g*, 275*c*, 275*d-e*, 277*c*, 278*e*
3. (2015) 8 SCC 655 : (2015) 4 SCC (Civ) 395, *State of W.B.* v. *Calcutta Mineral Supply Co. (P) Ltd.* 247*a*
4. (2015) 1 SCC 153, *Goa Foundation* v. *Union of India* 243*g*, 244*a*
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8. (2014) 6 SCC 590, *Goa Foundation* v. *Union of India* 227*g*, 230*c-d*, 231*f-g*, 232*a*, 232*e-f*, 233*e-f*, 233*g*, 234*f-g*, 240*e*, 241*b-c*, 241*c-d*, 241*e*, 242*c-d*, 242*e*, 242*f-g*, 243*c-d*, 243*g*, 244*a*, 244*c*, 244*d-e*, 245*d-e*, 245*e-f*, 245*g*, 245*g-h*, 246*a-b*, 246*b*, 247*b-c*, 247*d*, 247*d-e*, 247*e*, 247*e-f*, 247*g*, 248*a*, 248*a-b*, 248*c*, 253*e*, 253*f*, 262*f-g*, 265*c-d*, 266*c-d*, 266*e*, 272*f*, 272*g*, 273*b*, 274*a-b*, 276*a*, 279*d-e*, 279*e*, 279*f*, 280*a-b*, 280*b*, 280*b-c*
9. (2014) 6 SCC 590 (footnote 17), *Goa Foundation* v. *Union of India* 230*d*, 272*g*

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10. (2014) 6 SCC 590 (footnote 4), *Goa Foundation* v. *Union of India* 242*b-c*
11. 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32, *Lithoferro* v. *State of Goa* **(reversed)** 231*b*, 231*b-c*, 232*a-b*, 232*f*, 233*a-b*, 234*d-e*, 241*d*, 241*f-g*, 244*c*, 244*d*, 245*b*, 245*e*, 261*g*, 268*c*, 279*d*, 279*d-e*, 280*b*
12. (2013) 7 SCC 522 : (2013) 3 SCC (Civ) 603, *Property Owners' Assn.* v. *State of Maharashtra* 279*c-d*
13. (2012) 10 SCC 1, *Natural Resources Allocation, In re, Special Reference No. 1 of 2012* 249*c-d*, 249*d*, 249*g*, 250*b*, 250*e*, 251*c*, 251*f*, 252*f-g*, 253*a-b*, 253*e*, 254*a-b*, 254*g*, 255*d*, 256*b-c*, 265*d-e*, 266*a*, 266*b*, 270*a*
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15. 2012 SCC OnLine Del 4000, *S.N. Mohanty* v. *Union of India* 278*f-g*
16. (2011) 15 SCC 791, *Goa Foundation* v. *Union of India* 258*e*, 259*d*, 259*f*
17. (2010) 13 SCC 740, *T.N. Godavarman Thirumulpad* v. *Union of India* 240*b*, 258*f-g*, 259*d*
18. (2010) 13 SCC 1, *Sandur Manganese and Iron Ores Ltd.* v. *State of Karnataka* 263*e-f*, 264*f-g*, 265*a*
19. (2004) 12 SCC 118, *M.C. Mehta* v. *Union of India* 246*g*, 274*d-e*, 274*e-f*, 275*c*, 275*d-e*, 277*a*, 278*d-e*, 279*a-b*
20. (2004) 6 SCC 440, *Sube Singh* v. *State (NCT of Delhi)* 264*c*
21. (2002) 2 SCC 333, *Balco Employees' Union* v. *Union of India* 256*a*
22. (2002) 1 SCC 633, *CIT* v. *Anjum M.H. Ghaswala* 264*c*
23. (2000) 8 SCC 655, *Quarry Owners' Assn.* v. *State of Bihar* 264*a*
24. (1997) 1 SCC 650, *Gajraj Singh* v. *STAT* 247*a*
25. (1996) 9 SCC 709, *Tisco Ltd.* v. *Union of India* 264*d*, 268*e*
26. 1995 Supp (1) SCC 587, *State of M.P.* v. *Krishnadas Tikaram* 232*a-b*, 274*e-f*
27. 1989 Supp (1) SCC 504, *Rural Litigation and Entitlement Kendra* v. *State of U.P.* 274*e*
28. 1989 Supp (1) SCC 487, *Provash Chandra Dalui* v. *Biswanath Banerjee* 246*f-g*
29. (1987) 1 SCC 213, *Ambica Quarry Works* v. *State of Gujarat* 274*e*
30. (1980) 4 SCC 1, *Kasturi Lal Lakshmi Reddy* v. *State of J&K* 251*b*
31. (1973) 2 SCC 825, *DDA* v. *Durga Chand Kaushish* 246*e*
32. (1973) 1 SCC 584, *State of Assam* v. *Om Prakash Mehta* 263*g-h*
33. AIR 1964 SC 358 : (1964) 1 Cri LJ 263 (2) : (1964) 4 SCR 485, *State of U.P.* v. *Singhara Singh* 264*c*

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The Judgment of the Court was delivered by

MADAN B. LOKUR, J.— Rapacious and rampant exploitation of our natural resources is the hallmark of our iron ore mining sector coupled with a total lack of concern for the environment and the health and well-being of the denizens in the vicinity of the mines. The sole motive of mining leaseholders seems to be to make profits (no matter how) and the attitude seems to be that if the rule of law is required to be put on the backburner, so be it. Unfortunately, the State is unable to firmly stop violations of the law and other illegalities, perhaps with a view to maximise revenue, but without appreciating the long-term impact of this indifference. Another excuse generally put forth by the State is that of development, conveniently forgetting that development must be sustainable and equitable development and not otherwise.

2. Effective implementation and in some instances circumvention of the mining and environment related laws is a tragedy in itself. Laxity and sheer apathy to the rule of law gives mining leaseholders a field day, being the primary beneficiaries, with the State being left with some crumbs in the form of royalty. For the State to generate adequate revenue through the mining sector and yet have sustainable and equitable development, the implementation machinery needs a tremendous amount of strengthening while the law enforcement machinery needs strict vigilance. Unless the two marry, we will continue to be mute witnesses to the plunder of our natural resources and left wondering how to retrieve an irretrievable situation.

3. The Government of India appears to have received information of large-scale illegal mining of iron ore and manganese ore in different States in contravention of the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (the MMDR Act); the Forest (Conservation) Act, 1980; the Environment (Protection) Act, 1986 and other rules and guidelines issued on the subject from time to time.

4. Acting on this information, the Government of India appointed Justice M.B. Shah, a former Judge of this Court as a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952 by a Notification dated 22-11-2010. The terms of reference of the Commission for the State of Goa were as follows:

> "2. The terms of reference of the Commission shall be—
>
> (*i*) to inquire into and determine the nature and extent of mining and trade and transportation, done illegally or without lawful authority, of iron ore and manganese ore, and the losses therefrom; and to identify, as far as possible, the persons, firms, companies and others that are engaged in such mining, trade and transportation of iron ore and manganese ore, done illegally or without lawful authority;
>
> (*ii*) to inquire into and determine the extent to which the management, regulatory and monitoring systems have failed to deter, prevent, detect and punish offences relating to mining, storage,

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transportation, trade and export of such ore, done illegally or without lawful authority, and the persons responsible for the same;

(*iii*) to inquire into the tampering of official records, including records relating to land and boundaries, to facilitate illegal mining and identify, as far as possible, the persons responsible for such tampering; and

(*iv*) to inquire into the overall impact of such mining, trade, transportation and export, done illegally or without lawful authority, in terms of destruction of forest wealth, damage to the environment, prejudice to the livelihood and other rights of tribal people, forest dwellers and other persons in the mined areas, and the financial losses caused to the Central and State Governments.

3. The Commission shall also recommend remedial measures to prevent such mining, trade, transportation and export done illegally or without lawful authority."

5. Justice Shah visited Goa and after calling for and receiving information from the authorities concerned as well as the mining leaseholders, he submitted a report on 15-3-2012 and another on 25-4-2012 to the Ministry of Mines in the Government of India. The reports were tabled in Parliament on 7-9-2012 along with an Action-Taken Report and as a result, the Government of Goa passed an order dated 10-9-2012 suspending all mining operations in the State with effect from 11-9-2012. The Ministry of Environment and Forests (MoEF) of the Government of India acted similarly and kept in abeyance the environmental clearances granted to 139 mines (actually 137 mines—there is some duplication) in the State of Goa by an order dated 14-9-2012.

6. Subsequent to the reports given by Justice Shah, a writ petition was filed by Goa Foundation in this Court being WP (C) No. 435 of 2012. The writ petition was a public interest litigation praying, inter alia, for directions to the Union of India and the State of Goa to take steps to terminate the mining leases where mining was carried out in violation of various statutes.

7. Similarly, several mining leaseholders preferred writ petitions in the Bombay High Court for a declaration that the reports given by Justice Shah are illegal and also for quashing the orders dated 10-9-2012 and 14-9-2012 whereby mining operations were suspended and environmental clearances were kept in abeyance. The writ petitions filed in the High Court were transferred to this Court for hearing along with WP (C) No. 435 of 2012.

8. This Court heard all these matters and rendered its decision in *Goa Foundation* v. *Union of India*[1] on 21-4-2014. Among other conclusions arrived at, it was held by the Court that all the iron ore and manganese ore leases had expired on 22-11-2007. Consequently, any mining operation carried out by the mining leaseholders after that date was illegal. It was also held that all the mining leaseholders had enjoyed a first deemed renewal of the mining lease and for a second renewal an express order was required to be passed in view

1 (2014) 6 SCC 590

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of and in terms of Section 8(3) of the MMDR Act. For a second renewal of the mining lease, it was held that the State Government must apply its mind and record reasons for renewal being in the interest of mineral development and the necessity to renew the mining lease. Any decision taken by the State Government should also be in conformity with the constitutional provisions. The decision taken by the State of Goa to grant a mining lease in a particular manner or to a particular party could be examined by way of judicial review. It was also held that the orders dated 10-9-2012 and 14-9-2012 are not liable to be quashed and that they would continue till decisions are taken to grant fresh leases and fresh environmental clearances for mining projects.

Goa Mineral Policy, 2013

9. During the pendency of the proceedings before the Court, the State of Goa announced the draft Goa Mineral Policy on 21-8-2012. After suggestions, etc. were received, the Mineral Policy was finalised and gazetted on 28-9-2013.

10. A few salient features of the Mineral Policy may be mentioned. It is stated in the Preamble to the Mineral Policy:

> "The Goan economy is heavily dependent on the iron ore industry insofar as the major share of the regional income from the mineral industry and its allied activities like transport and trade is concerned."
>
> "However, during the period from 2006-2007 to 2011-2012, due to huge spurt in demand of low grade ore in international market followed by *illegalities and irregularities* in the previous regulatory regime, the State has witnessed the peak of *chaotic and unregulated mining* without any concern for fragile ecology and environment of the State or for the general well-being of an average Goan. It has resulted in massive export of unaccounted ore from unidentified sources like dumps and tailings. The *reckless exploitation* without any concern for sustainability that the State has witnessed in last five years has serious implications. Minerals are a finite and non-renewable natural resource and must be exploited wisely in the larger interest of the State.
>
> It is high time that the new Government that has received an unprecedented mandate from the people of Goa should take note that dependence on mining presents extreme externalities and *the State has to tread cautiously promoting a sustainable extraction regime to facilitate systematic, scientific and planned utilisation of mineral resources* and to streamline mineral based development of the State, keeping in view, protection of environment, health and safety of the people in and around the mining areas rather than race to bottom." (emphasis supplied)

11. Notwithstanding this serious indictment of the pre-existing "policy" for mining natural resources in Goa, the Mineral Policy did not address itself to the allocation or distribution of the natural resources in any of its 20 paragraphs and many sub-paragraphs. The topics dealt with in the Mineral Policy include objectives and parameters, sustainable mining and mineral conservation, mineral administration, regulation of mines and minerals, pollution and its social impact and policy highlights. Some of the other topics dealt with in the Mineral Policy include capping, based on carrying capacity of public roads and

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to protect intergenerational equity, mines safety and rehabilitation of affected people, stakeholder participation (including corporate social responsibility), welfare and social responsibilities and establishment of the Goa Minerals Development Fund, etc.

12. However, what is of some significance is that Paras 1.4.4 and 1.4.5 of the Mineral Policy state that Goan iron ore is low grade, that is, having low iron (or Fe) content and that its extraction provides no or minimal domestic value addition. Almost all the iron ore extracted in Goa is exported and we were informed that only one mining leaseholder captively consumes Goan extracted iron ore. Paras 1.4.4 and 1.4.5 of the Mineral Policy read as follows:

> "1.4.4. *No domestic value addition.*—The nature of Goan iron ore is such that value addition opportunities in the domestic market are minimal. The Chinese and Japanese use Goan iron ore for blending purposes to bring down the average cost of iron ore, whereas Indian steel producers have a wide range of high grade fines to choose from. *Despite the closure of mining operations in the neighbouring State of Karnataka, Goan iron ore is not used in Indian Steel Industry due to its low Fe content.*
>
> 1.4.5. *Low grade v/s high grade.*—Goan iron ore has always been of low grade Fe content in comparison with that of Odisha, Jharkhand and Karnataka. *The low grade of ore has been competitive in global markets, because of the non-reliance on railways and close distances of mines to ports thereby reducing the overall cost.* The high silica presence in Goan ore also is a favourable factor for preference for Goan ore over Australian and Brazilian low grade ore." (emphasis supplied)

13. It appears from the above that the extraction of iron ore in Goa is geared only towards export and not for domestic purposes because of the low Fe content and high silica presence.

Vishwanath Anand Expert Appraisal Committee

14. During the pendency of the writ petition in the Court, the MoEF constituted an Expert Appraisal Committee (EAC) on 21-3-2013 with Shri Vishwanath Anand, former Secretary in the MoEF as the Chairman to specifically look into issues related to illegal mining in the State of Goa. The terms of reference of the EAC were as follows:

> (*a*) To examine the information/documents submitted by each of the 139 project proponents in response to the aforesaid direction dated 14-9-2012 under the Environment (Protection) Act, 1986 for keeping environment clearance in abeyance and making case-by-case recommendations to the MoEF;[2]
>
> (*b*) To evaluate status of compliance with respect to conditions stipulated as part of environment clearance;
>
> (*c*) * * *

2 Actually 137 project proponents — there is some duplication.

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(*d*) To examine the observations relating to MoEF in Justice Shah Commission Report on illegal mining of iron and manganese ore in the State of Goa and make appropriate recommendations.

15. The EAC gave its report sometime in October 2013 with regard to 137 mining leases. Very briefly, the EAC found that many of the mining leaseholders had: (*i*) no approval from the National Board of Wildlife; or (*ii*) indulged in excess mining; or (*iii*) indulged in dump mining; or (*iv*) intersected groundwater level; or (*v*) no clearance from the Central Ground Water Board to draw groundwater; or (*vi*) no forest clearance. We may also note that the EAC also recommended the revocation of environmental clearance granted to several mining leaseholders for a variety of reasons.

16. The Mineral Policy and the report of the EAC were perhaps placed before the Court in the writ petition filed by Goa Foundation and the transferred cases, but not dealt with, except for a brief mention of the Mineral Policy.

17. All the cases before the Court were heard quite extensively in September, October and November 2013. Judgment was reserved on 11-11-2013[3] and pronounced on 21-4-2014[1]. Some of the conclusions arrived at by the Court relevant for our discussions have already been mentioned above.

18. At this stage, it may be mentioned that on 11-11-2013[3] read with an order dated 18-11-2013[4] this Court constituted an Expert Committee: (*Goa Foundation case*[3], SCC pp. 743-44, para 12)

> "*12.* ... [to] conduct a macro EIA study on what should be the ceiling of annual excavation of iron ore from the State of Goa considering its iron ore resources and its carrying capacity keeping in mind the principles of sustainable development and intergenerational equity and all other relevant factors."

The members of the Expert Committee were:

1. Dr C.R. Babu (Ecologist),
2. Dr S.C. Dhiman (Geologist/Hydrogeologist),
3. Prof. B.K. Mishra (Mineralogist),
4. Prof. S. Parameswarappa (Forestry),
5. Shri Parimal Rai (nominee of the Ministry of Environment and Forests, Government of India).

19. The Expert Committee submitted an Interim Report dated 14-3-2014 to the Court after considering reports prepared by the Tata Energy Research Institute (TERI), New Delhi (1997); TERI and International Development Research Centre, Ottawa, Canada (2006); MoEF (2014); research papers prepared by the Goa University and the National Institute of Oceanography; Indian Institute of Technology (Indian School of Mines), Dhanbad (2013); Pollution Control Board, Goa (Annual Report) and other literature. It noted

3 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 738
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
4 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590 (footnote 17)

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large-scale degradation of the environment in Goa due to mining operations. A Final Report was also submitted by the Expert Committee to the Court on or about 12-4-2015—it was obviously not available to the Court.

Other proceedings in the High Court

20. Quite independent of the cases pending in this Court, writ petitions were filed by several mining leaseholders in the Bombay High Court praying either for consideration of their application for a second renewal of the mining lease or for the grant of a mining lease on second renewal. The High Court heard those writ petitions and delivered its judgment on 13-8-2014[5]. In the course of its judgment, the High Court referred to the Mineral Policy and observed: (*Lithoferro case*[5], SCC OnLine Bom para 3)

> "The State Government also framed Goa Mineral Policy, 2013, which was duly gazetted on 28-9-2013 and was placed on record before the Supreme Court in Writ Petition (C) No. 435 of 2012. The State Government, in terms of this policy, in principle, agreed to renew 28 leases. These leaseholders were also asked to pay stamp duty. In some cases, after payment of the stamp duty, decision under Section 8(3) of the MMDR Act was taken to renew the leases and that decision is also gazetted. Thus, the petitions are classified in three categories mentioned hereinbelow:
>
> (A) Where there is notification issued in the Official Gazette after taking a decision for renewal;
>
> (B) Where there is a decision for renewal and there is stamp duty collected; and
>
> (C) Where there are renewal applications made and are still pending.
>
> All the petitioners initially sought directions to the State Government to decide their applications for renewal filed in the year 2007. However, the petitions which fell in the first two categories were subsequently amended and directions were sought against the Government to execute second renewal lease deeds."

21. In its decision, the High Court held:

> (*i*) The decision of this Court (in *Goa Foundation*[1]) is not an impediment on the State of Goa in considering the applications filed by the petitioners before the High Court for a second renewal of the mining lease. On the contrary, the decision casts an obligation on the Government of Goa to consider all the applications for renewal under Section 8(3) of the MMDR Act;
>
> (*ii*) Consideration of the applications should be in accordance with the Mineral Policy, the provisions of the MMDR Act and the Rules made thereunder and in accordance with constitutional provisions;

5 *Lithoferro* v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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(*iii*) The expression "fresh leases" occurring in para 67(82) of the decision of this Court (in *Goa Foundation*[1]) is an affirmation of the law that the renewal of a lease is also a fresh grant.

For arriving at this conclusion, the High Court placed reliance on *State of M.P.* v. *Krishnadas Tikaram*[6].

22. The High Court finally held: (*Lithoferro case*[5], SCC OnLine Bom para 16)

"*16.* In the case in hand, admittedly, all the petitioners have made applications for second renewal within the time-limit i.e. before expiry of the term of first renewal of the mining leases. The mining plans for the second renewal, thereafter, came to be approved by the IBM. The IBM also recorded its subjective satisfaction that the same is in the interest of mineral development. Thus, there is enough material on record to show that the Government agreed to grant the second renewal of mining leases under Section 8(3) of the MMDR Act and thereafter amended the Stamp Act and directed some of the petitioners to pay the stamp duty and even accepted the same. Thus, the Government gave promise that the mining leases would be executed under Section 8(3) and pursuant to the promise, the petitioners altered their position by depositing the huge stamp duty. Therefore, it is now not open for the Government to resile from the promise as it is estopped by the doctrine of promissory estoppel from doing so. The petitioners legitimately expected that after payment of the stamp duty, the Government would execute the second leases under Section 8(3) of the MMDR Act. In our considered opinion, the principle of promissory estoppel is squarely applicable to the facts of the present case. The Government is reluctant to execute the lease deeds under Section 8(3) only on the ground that it is not open for it to do so in the light of the Apex Court judgment[1] in Writ Petition (C) No. 435 of 2012. We have already held that the Supreme Court judgment[1] in Writ Petition (C) No. 435 of 2012 is not an impediment in the Government's way in executing the leases in terms of Section 8(3) of the MMDR Act."

23. In view of the above conclusions, the High Court passed the following orders: (*Lithoferro case*[5], SCC OnLine Bom para 18)

"(I) The respondent State of Goa is directed to execute the lease deeds under Section 8(3) of the MMDR Act in favour of the petitioners leaseholders who/which have already paid the stamp duty pursuant to the orders of the Government, in accordance with the Goa Mineral Policy, 2013 placed before the Supreme Court in Writ Petition (Civil) No. 435 of 2012 and subject to the conditions laid down by the Apex Court in the said writ petition.

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
6 1995 Supp (1) SCC 587
5 *Lithoferro* v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32

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(II) So far as the petitioners leaseholders who/which have not paid the stamp duty are concerned, the respondent State of Goa is directed to decide their renewal applications under Section 8(3), as expeditiously as possible, and preferably within a period of three months from the date of receipt of copy of this order."

24. Two petitions for special leave have been filed directed against the judgment and order passed by the High Court on 13-8-2014[5] being SLP (C) No. 32138 of 2015 and SLPs (C) Nos. 32699-727 of 2015 and these are also before us.

Goa Grant of Mining Leases Policy, 2014

25. Keeping in mind the orders and directions passed by this Court and the High Court, the State of Goa formulated the Goa Grant of Mining Leases Policy, 2014. We were informed by the learned Additional Solicitor General that the Grant of Mining Leases Policy was approved by the Council of Ministers of the Goa State Cabinet on 1-10-2014. It was issued on 4-11-2014 and placed on the website of the Directorate of Mines and Geology of the Government of Goa on the same day. However, it was gazetted on 20-1-2015 with two paragraphs deleted from the document issued on 4-11-2014. The two deleted paragraphs are indicated below.

26. The Grant of Mining Leases Policy makes for some very important and interesting reading and includes an impassioned plea for rejecting the process of competitive bidding of mining leases *for the time being*. It also contains the statement made by the Chief Minister on the floor of the Goa State Legislative Assembly. While the Grant of Mining Leases Policy is a large document, it is necessary to read relevant extracts from it since it indicates the factors that went into taking the policy decision and also to appreciate if there was any violation of Article 14 of the Constitution. The relevant extracts read as under:

> "*Background.*—In accordance with the directions contained in the judgment and order of the Hon'ble Supreme Court dated 21-4-2014[1] in Writ Petition (Civil) No. 435 of 2012, the Hon'ble Supreme Court has declared that all the mining leases in the State of Goa have expired on 22-11-2007. ...
>
> It has further been directed by the Hon'ble Supreme Court that it is for the *State Government to decide as a matter of Policy, in what manner mining leases are to be granted in the future.* ...
>
> The Hon'ble Supreme Court has in its judgment and order dated 21-4-2014[1] clearly held that the action of allowing the mines to be run on deemed extension basis from the years 2007 to 2012 was completely illegal and has further declared that the so-called deemed mining leases in the State of Goa have expired in the year 2007. ...

5 *Lithoferro* v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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Few things emerge out of the Hon'ble Supreme Court's order. In the first place, the mining leases have been held to have expired in the year 2007. *In the second place, the State Government has been directed, in accordance with its policy to grant fresh leases in the State.*

With these, the options available with the State Government are as follows—

> The State Government can directly auction the leases in order to secure the best returns for the grant of leases by way of a competitive bidding process,
>
> (*a*) The State Government can also form a State Corporation and undertake the mining activities through the State Mineral Development Corporation.
>
> (*b*) The State Government could also proceed to grant fresh leases, in terms of the MMRD Act by the following the process of preferential grant of leases to certain persons as specified in the MMRD Act.
>
> (*c*) Yet another option available to the State Government was to decide the renewal applications which were pending since the year 2006 and which had remained without any disposal.
>
> Each of the aforesaid modes has its own merits and demerits. ...

While the State Government was in the process of deliberating on all these issues at various levels, the judgment and order of the Hon'ble High Court in writ petition filed by certain leaseholders came to be delivered on 13-8-2014[5] whereby the Hon'ble High Court has directed the execution of the lease deeds under Section 8(3) of the MMRD Act in favour of the leaseholders who have already paid the stamp duty pursuant to Orders of the State Government in accordance with the Goa Mineral Policy, 2013, placed before the Hon'ble Supreme Court and subject to the conditions. ...

This judgment and order of the Hon'ble High Court virtually leaves no choice to the State Government, thereby to completely abandon the process of competitive bedding [bidding] for earning the best revenue to the State Government. While this was the position taken by the State Government in the Goa Mineral Policy, 2013, and the Hon'ble High Court has interpreted the Order[1] of the Hon'ble Supreme Court in Writ Petition (Civil) No. 435 of 2012, *the State Government in view of Hon'ble High Court order, has for the present ruled out the process of going for competitive bidding*. The State Government is considering actively, within its constitutional powers and functions, to come out with regulatory and controlling measures and levy and collect appropriate returns having regard to the fact that the soil comprising the land belongs to the State. ... The State Government has also commenced the inquiry and investigation into the violations of matters

5 *Lithoferro* v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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under Rules 37 and 38 of the Mineral Concession Rules, 1960 as directed by the Hon'ble Supreme Court. ...

As is seen from the aforesaid, the judgment and order of the Hon'ble High Court is an intervening circumstance inasmuch as it directs the execution of lease deeds in 28 cases and consideration of the application under Section 8(3) by the State Government in the other cases. ...

In the considered opinion of the State Government, it would be futile to challenge the judgment of the Hon'ble High Court before the Hon'ble Apex Court as that would once again delay the commencement of the mining operations. As a matter of fact, a substantial portion of the State's Revenue comes from the mining sector. The State has been virtually starved of funds for undertaking many activities including Infrastructural Projects; and on account of the stopping of the mining operation, the State had to walk a tight-rope as there has been no Revenue coming from one of the major source of Revenue. ...

Having regard to the aforesaid, the State Government thought it proper to act in accordance with the directions of the Hon'ble Supreme Court *by balancing the equities, needs; as also to subserve the public interest and by having sustainable development by protecting the ecological and all other factors.*

Policy Framework.—The State Government has been considering and deliberating the entire matter, and thought it proper having regard to the facts that:

(*a*) The mining leaseholders had applied for the second renewal well within time.

(*b*) The fact that the applications of the mining leaseholders for the second renewal were not disposed of by the then State Government and for which the leaseholders cannot be blamed.

(*c*) Having further regard to the fact that 27 mining leaseholders despite the closure of the mining operations, when called by the State to do so within the period, have paid the stamp duty; as also, other levies.

(*d*) Such payments helped the State Government to override the financial crisis at that point of time.

(*e*) Having regard to the fact that a large number of labour staff employed with these leaseholders.

(*f*) That mining leaseholders concerned have invested heavily into the development of mines; as also, into the machinery such as ripper dozers, cranes, wheel loader, beneficiation plants, etc.

(*g*) Other methods are not as suitable as this method for various reasons listed [in] Hon'ble Chief Minister statement to the House listed above.

The State Government after having considered the matter from every possible angle, has decided to exercise its power under Section 8(3) of the Mines and Minerals (Development and Regulations) Act, 1957, and *to*

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consider each of the cases on their own merits and subject to compliance with the conditions which may be laid down by the State Government including for strict pollution control measures, and thereafter take a decision on the renewal in terms of Section 8(3) of the MMRD Act, 1957, complying fully with the procedure laid down therein.

Though the State Government has in principle decided to follow the route of the renewal of lease under Section 8(3) of the MMRD Act, it shall be subject to the following—

Unless and until the inquiry initiated pursuant to the judgment and order of the Hon'ble Supreme Court of India against those mine leaseholders found to be violating either Rule 37 or Rule 38 of the Mineral Concession Rules, 1960, or otherwise indicted in the Report of the Justice Shah Commission/PAC report or found to be engaged in, any kind of illegality of whatsoever nature such as illegal sale of ore, sale of royalty challan without ore, encroachment of adjoining areas outside the lease overproduction in excess of the limit specified in the environmental clearance; those which have undertaken unscientific mining operations; those who have violated or have not paid the royalty amount; those who have reused old royalty challans for defrauding; and those involved in illegal mining activities *shall not be considered for renewal of the mining leases.*

For this purpose, *presently the inquiries are in progress* at various levels and fora including the investigation by the SIT Team, by the Team of Chartered Accountants which have been set up by the State Government and after the inquiry is complete or during the course of the inquiry where it is found that any violations have taken place, *such persons shall not be considered for grant/renewal of the leases. ...*

Those mining leaseholders who have paid stamp duty, in which there are no violations found in terms of Mr Justice Shah Inquiry/Public Accounts Committee Report, shall be considered for renewal. (Deleted from the Gazetted Policy).

The formation of the entire Policy is aimed that it is required to balance various interests having regard to the Principle of Sustainable Development; but by keeping in mind the commercial interest of the present State of economy, the interest of the labour class, the interest of the working class including other staff, the interest of the market in the mining localities, the interest of the public sector, the interest of the existing mining leaseholders and the overall welfare needs of the State; and require all urgent infrastructural development. By balancing all these interests the present Policy has been formulated by the State Government.

The above Policy is in principle decision of the State Government and will be vetted for exact legal requirements from specific necessities as also from financial viewpoints and notified thereafter."[7] (Deleted from the Gazetted Policy.) (emphasis supplied)

7 <http://www.goadmg.gov.in/Uploads/288.pdf>.

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27. Around this time, and pursuant to the Budget Speech given by the Hon'ble Minister of Finance of the Government of India on 10-7-2014 it appears that steps were being taken by the Ministry concerned in the Government of India to amend the MMDR Act.[8] In fact a draft Mines and Minerals (Development and Regulation) Act, 2014 was prepared on or about 16-11-2014 and uploaded on the website of the Ministry of Mines on 17-11-2014. This information was placed before us from the response given by the Hon'ble Minister of Mines to Unstarred Question No. 2485 to be answered in the Lok Sabha on 8-12-2014. The question was:

> (*a*) whether the Government proposes to formulate a new policy on grant of mining leases for various minerals by amending the Mines and Minerals (Development and Regulation) Act, 1957;
>
> (*b*) if so, the details thereof along with the time by which the new policy is likely to be implemented;

And the answer was:

> (*a*) & (*b*): Yes Madam. The Ministry has drafted the Mines and Minerals (Development and Regulation) (MMDR) (Amendment) Bill, 2014, which has been uploaded on the website of the Ministry on 17-11-2014, calling for comments/suggestions on the draft Bill. The last date for receipt of the comments/suggestions is 10-12-2014. Based on the comments/suggestions received the draft Bill will be finalised and taken forward for introduction in Parliament.
>
> The Bill is designed to put in place mechanisms for: (*i*) improved transparency in the allocation of mineral resources; (*ii*) obtaining for the Government its fair share of the value of such resources; (*iii*) attracting private investment and the latest technology; and (*iv*) eliminating delay in administration, so as to enable expeditious and optimum development of the mineral resources of the country.

28. What was the nature of the proposed amendments? As far as we are concerned, the introduction of Section 10-B in the MMDR Act (relating to competitive bidding) is significant and this reads:

> "**10-B.** ***Mining leases for notified minerals.***—(1) Notwithstanding anything contained elsewhere in this Act, but subject to the provisions of Section 10-A and Section 17-A, the procedure for obtaining a mining lease for notified minerals in respect of land in which the minerals vest in the Government shall be as laid down in this section.
>
> (2)-(3) * * *
>
> (4) For the purpose of granting a mining lease in respect of any notified mineral in such notified area, the State Government shall select, through

8 "122. It is my Government's intention to encourage investment in mining sector and promote sustainable mining practices to adequately meet the requirements of industry without sacrificing environmental concerns. The current impasse in mining sector, including, iron ore mining, will be resolved expeditiously. *Changes, if necessary, in the MMDR Act, 1957 would be introduced to facilitate this.*" (emphasis supplied)

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auction by a method of competitive bidding, including e-auction, an applicant who satisfies the eligibility conditions.

(5) The Central Government shall prescribe the terms and conditions, and procedure, subject to which the auction will be conducted, including the bidding parameters for the selection, which could include a share in the production of the mineral, or any payment linked to the royalty payable, or any other relevant parameter, or any combination or modification of them.

(6)-(7) * * *"

[Iron ore was proposed as a notified mineral in the draft statute.]

29. Immediately after 4-11-2014 (the date on which the Grant of Mining Leases Policy was uploaded on the website of the Government of Goa) the State Government commenced granting a second renewal of the mining leases from 5-11-2014 onwards and that process was completed on 12-1-2015. The following table gives the dates of second renewal of 88 mining leases granted by the State Government on or before 12-1-2015:

Sl. No.	*Date of renewal order*	*Number of renewal orders passed*
1.	5-11-2014	5
2.	6-11-2014	5
3.	7-11-2014	3
4.	10-12-2014	3
5.	24-12-2014	10
6.	1-1-2015	3
7.	2-1-2015	3
8.	5-1-2015	2
9.	6-1-2015	22
10.	9-1-2015	1
11.	12-1-2015	31
	Total = 88	

30. The date of 12-1-2015 is significant since on that date the President promulgated the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015 (which was later enacted by Parliament) whereby the grant of mining leases for notified minerals was through competitive bidding or the auction process. It is important to mention here that the approval of the Ordinance by the Cabinet of the Government of India became public knowledge on 5-1-2015[9] and it is within a week from that date that the Government of Goa granted a second renewal to 25 mining leases and to make

9 <http://www.businesstoday.in/current/economy-politics/narendra-modi-cabinet-approves-ordinance-for-mines-auction/story/214253.html>.

<https://timesofindia.indiatimes.com/business/india-business/Cabinet-approves-ordinance-for-mines-auction/articleshow/45765290.cms>.

<http://www.financialexpress.com/economy/reforms-cabinet-approves-ordinance-for-mines-auction/26342/>.

<http://www.livemint.com/Politics/VDXphnUmPYGbN4lmzEBsIK/Govt-passes-executive-order-to-auction-minerals.html>.

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matters worse, a second renewal was granted to 31 mining leases on 12-1-2015, the day the Ordinance came into force making a total of 56 renewals of mining leases.

Environmental clearance and orders dated 20-3-2015

31. Following the renewal of 88 mining leases, the State of Goa requested the MoEF by Letters dated 7-1-2015 and 5-2-2015 to lift the abeyance order of 14-9-2012 on the environmental clearances. Consequently, the MoEF passed three orders on 20-3-2015 (the actual sequence of the orders is not very clear).

32. The first order of 20-3-2015 was in the form of a letter addressed to the Principal Secretary, Environment, Government of Goa and it recorded that MoEF had considered all the 139 cases in which the abeyance order has been passed and had taken into account the request of the State Government, the recommendation of the EAC and the directions of this Court. It was noted that the EAC had observed that there were violations of the following nature:

(*i*) no clearance from the National Board of Wildlife and non-compliance with orders of this Court on the subject;

(*ii*) excess production;

(*iii*) dump mining;

(*iv*) intersecting groundwater table and drawal of groundwater without permission of the Central Ground Water Board;

(*v*) No forest clearance obtained where required;

(*vi*) Encroachment and false information/concealment of fact.

It was stated that the MoEF had decided to refer the cases to the appropriate authorities (including the State Government) for taking action on the violations. Accordingly, a request was made to examine the report of the EAC and take appropriate action against the lessees concerned.

33. The second order passed on 20-3-2015 was an Office Memorandum to the effect that if a project proponent has a valid and subsisting environmental clearance for a mining project under the Environment Impact Assessment Notification of 27-1-1994 (EIA 1994) or Environment Impact Assessment Notification of 14-9-2006 (EIA 2006), it will not be required to obtain a fresh environmental clearance at the time of renewal of the mining lease. This was subject to the maximum period of validity of 30 years for the environmental clearance for a mining lease.

34. The third order passed on 20-3-2015 related to lifting the abeyance order dated 14-9-2012 on the environmental clearance of the mining leases for iron ore and manganese ore. The cases of all 139 mining leases in which the abeyance order was passed were considered and the abeyance order lifted in respect of 72 cases. The details in this regard are given in the table below:

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Number	*Remarks*	*Remaining*
	Total mines = 139	
2	Inadvertent repetitions	137
2	Already withdrawn	135
12	Fully located in protected area (abeyance order cannot be lifted)	123
6	Partly located in protected area (abeyance order cannot be lifted)	117
23	Within 1 km of protected area (awaiting modification of order dated 4-8-2006[10] passed by this Court)	94
22	Not having any forest clearance and will be considered only after clearance is obtained	72
35	Environmental clearance already granted under EIA Notification of 27-1-1994 and no fresh clearance is required in view of Office Memorandum dated 20-3-2015. Abeyance order lifted.	37
37	Environmental clearance already granted under EIA Notification of 14-9-2006. Abeyance order lifted.	0
	Abeyance order lifted on 20-3-2015 for 72 mines out of 139	

35. The third order of 20-3-2015 also placed certain additional specific conditions while lifting the abeyance order. These additional conditions were:

1. The State Government of Goa shall develop and implement a credible mechanism to regularly monitor and ensure that capping of 20 MTPA on the mining leases in the State of Goa is implemented as per the directions of the Hon'ble Supreme Court in its order dated 21-4-2014[1] and any further order in the matter of *Goa Foundation* v. *Union of India* in WP No. 435 of 2012.

2. No mining shall be allowed in the forest land for which FC [forest clearance] is not available.

3. The mining of dumps is not permitted unless mentioned in approved mine plan and environmental clearance letter.

4. Dumping of material outside the mine lease is not permitted unless mentioned in approved mine plan and environmental clearance letter.

5. Prior permission be obtained from Central Ground Water Board for drawal of groundwater and intersection of groundwater table as applicable.

6. Violations will be dealt as per the existing law and lifting of abeyance of EC will not in any manner affect that.

7. If any violation is observed in future the environmental clearance will be cancelled as per rules.

10 *T.N. Godavarman Thirumulpad* v. *Union of India*, (2010) 13 SCC 740
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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8. The State Government will take action in cases of violation under Sections 15/19 of the Environment (Protection) Act, 1986 as noted and recommended in EAC Report.

9. Project proponent will file six monthly compliance to the Regional Officer, MoEFCC and the State Pollution Control Board.

Questions for consideration

36. Broadly speaking, on the basis of the submissions and documents placed before us, the questions raised by the Goa Foundation, the State of Goa, the Union of India and the mining leaseholders are threefold:

36.1. (*a*) *Relatable to the second renewal of the mining leases*: (*i*) In view of the decision in *Goa Foundation*[1] only fresh leases were to be granted by the State of Goa and not second renewals. (*ii*) For granting fresh leases, the State of Goa should have introduced competitive bidding or the auction process. (*iii*) Assuming the decision to grant a second renewal to the mining leaseholders was valid, the second renewals were not in accordance with law and should be set aside.

36.2. (*b*) *Relatable to the grant of environmental clearances*: In view of the decision in *Goa Foundation*[1] fresh environmental clearances were required to be obtained by the mining leaseholders.

36.3. (*c*) The impugned judgment and order passed by the High Court in *Lithoferro*[5] on 13-8-2014 was erroneous and deserves to be set aside.

Whether fresh mining leases were required to be granted?

37. The controversy in this regard has arisen in view of what is stated in para 82 of the decision in *Goa Foundation*[1]. It was stated as follows: (SCC p. 635)

> "82. As we have held that the deemed mining leases of the lessees in Goa expired on 22-11-1987 and the maximum period (20 years) of renewal of the deemed mining leases in Goa has also expired on 22-11-2007, mining by the lessees in Goa after 22-11-2007 was illegal. Hence, the Order dated 10-9-2012 of the Government of Goa suspending mining operations in the State of Goa and the Order dated 14-9-2012 of MoEF, Government of India, suspending the environmental clearances granted to the mines in the State of Goa, which have been impugned[5] in the writ petitions in the Bombay High Court, Goa Bench (transferred to this Court and registered as transferred cases) cannot be quashed by this Court. *The Order dated 10-9-2012 of the Government of Goa and the Order dated 14-9-2012 of MoEF will have to continue till decisions are taken by the State Government to grant fresh leases and decisions are taken by MoEF to grant fresh environmental clearances for mining projects*." (emphasis supplied)

38. The issue that arose for discussion before us was the meaning and intention of the Court in the context of grant of "fresh leases" for mining

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

5 *Lithoferro* v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32

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projects. Did the Court literally mean that a fresh mining lease was required to be granted or was a second renewal sufficient compliance?

39. As the abovequoted paragraph indicates, the Court was aware and conscious of the fact that the mining leases had expired on 22-11-2007 and the mining operations thereafter carried out by the mining leaseholders was illegal. For this reason, the Court held that the suspension order passed by the State of Goa on 10-9-2012 and the abeyance order passed by the MoEF on 14-9-2012 did not require any interference.

40. Since the mining operations carried out after 22-11-2007 were illegal, the Court, in subsequent paragraphs of the judgment noted (as a follow up) that an order was passed on 5-10-2012[11] suspending transportation of iron ore and manganese ore from those leases identified by the Justice Shah Commission. Thereafter on 11-11-2013[3] it was directed that an inventory be made of the excavated mineral ores and the inventoried mineral ores be sold by e-auction under the supervision of a Monitoring Committee.

41. Further, it was held by the Court on 21-4-2014[1] that from the e-auction-sale of the mineral ores, the mining leaseholders would be entitled to the average cost (not the actual cost) of extraction, the workers would be entitled to 50% wages and allowances on the principle of laid-off compensation and the Marmagao Port Trust would be entitled to 50% of the storage charges. Out of the balance amount, 10% would be appropriated to the Goan Iron Ore Permanent Fund for the purpose of sustainable development and intergenerational equity and the remaining amount would be appropriated by the State who is the owner of the mineral ores illegally excavated by the mining leaseholders and sold by e-auction.

42. With this in mind, the Court declared in para 87.5 of the Report: (*Goa Foundation case*[1], SCC p. 637)

> "*87.5. It is for the State Government to decide as a matter of policy in what manner mining leases are to be granted in future* but the constitutionality or legality of the decision of the State Government can be examined by the Court in exercise of its power of judicial review." (emphasis supplied)

It was then directed by the Court in para 88.4 of the Report as follows: (*Goa Foundation case*[1], SCC p. 637)

> "*88.4.* The State Government *may grant mining leases* of iron ore and other ores in Goa in accordance with its policy decision and in accordance with the MMDR Act and the Rules made thereunder in consonance with the constitutional provisions." (emphasis supplied)

11 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590 (footnote 4)
3 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 738
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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43. The Court was quite obviously aware that it was concerned, inter alia, with the second renewal of mining leases and yet it chose to recount the factual situation, make a declaration and pass a direction without adverting to the possibility of a second renewal of a mining lease. The Court was also conscious that the mining leaseholders had carried out indiscriminate and illegal mining for about five years (from November 2007 to September 2012) and had made profits out of the illegal mining. The Court, in our opinion, was rather charitable in not penalising the mining leaseholders for the illegal mining carried out by them. But be that as it may, quite clearly, the sequence of events from September 2012 onwards, the appointment of a Monitoring Committee to dispose of the illegally mined ore, the declaration and direction unmistakably point to the intention of the Court to end the sordid chapter of illegal mining by the leaseholders and start on a clean slate. Viewed in this perspective, we have no doubt that the Court really did intend the State of Goa to consider the grant of fresh leases in accordance with law.

44. In this context, the declaration of the Court in *Goa Foundation*[1] in para 87.5 of Report is also quite clear, namely: (SCC p. 637)

> "*87.5.* It is for the State Government to decide as a matter of policy in what manner mining leases are to be granted in future...."

The declaration was explicit and related to the grant of mining leases and not a second renewal.

45. Similarly, the direction given in para 88.4 of the Report is that: (SCC p. 637)

> "*88.4.* The State Government may grant mining leases of iron ore and other ores in Goa in accordance with its policy decision...."

was equally explicit and related to the grant of mining leases and not a second renewal.

46. Subsequent events confirm our impression and view. The decision of the Court to e-auction the mined mineral ore was sought to be recalled through IA No. 86 of 2014 filed by M/s Bandekar Brothers Private Ltd. The applicant prayed for a direction to restrain the authorities from e-auctioning the iron ore mined by it prior to 22-11-2007 and that the mined ore should be released to the applicant with the right to dispose of the same. A Bench of three learned Judges (other than those that decided *Goa Foundation*[1]) noted[12] that: (*Goa Foundation case*[12], SCC pp. 158-59, para 9)

> "*9.* The submissions advanced on behalf of the applicant were premised merely on the assertion, that the mineral ore which the applicant was claiming a right over, had been legitimately mined before 22-11-2007, and therefore, the applicant had an absolute and legitimate ownership over the

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
12 *Goa Foundation* v. *Union of India*, (2015) 1 SCC 153

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same. We may note, that the above position was emphasised, stressed and persistently reiterated to make the stand absolutely crystal clear."

The learned Judges considered the submissions and held by an order dated 14-10-2014[12] that the direction in *Goa Foundation*[1] was clear and categorical that the iron ore vested in the State Government and therefore the application deserved dismissal. In other words, the mining leaseholders deserved no latitude for the illegal mining and all issues needed to be dealt with strictly.

47. There is additional material to support the view that the Court had intended the State of Goa to grant fresh mining leases rather than grant a second renewal.

48. From a reading of the decision rendered by the Bombay High Court in *Lithoferro*[5] [subject-matter of SLP (C) No. 32138 of 2015 and SLPs (C) Nos. 32699-727 of 2015] it is evident that the State of Goa understood the decision of this Court in *Goa Foundation*[1] to mean that fresh mining leases were required to be granted on the basis of a policy yet to be framed by the State of Goa and the issue of second renewals did not survive consideration. The contention of the learned Advocate General of the State of Goa in this regard is recorded by the High Court in the following words: (*Lithoferro case*[5], SCC OnLine Bom para 5)

> "5. ... The learned Advocate General [of the State of Goa] took us through the judgment[1] of the Apex Court in Writ Petition (C) No. 435 of 2012 and relied upon the observations of the Supreme Court in paras 67, 68, 69 and 70. The learned Advocate General submitted that the Hon'ble Supreme Court has held that the deemed mining leases of the lessees in Goa expired on 22-11-1987 and the maximum of 20 years' renewal period of the deemed mining leases in Goa as provided under sub-section (2) of Section 8 of the MMDR Act, read with sub-rules 8 and 9 of Rule 24-A of the MC Rules expired on 22-11-2007. *The learned Advocate General submitted that in view of these findings of the Supreme Court, there is no question of renewal of the mining leases. The learned Advocate General submitted that in terms of the Supreme Court decision, it is for the State Government to grant fresh leases in accordance with the policy which is yet to be framed.* The learned Advocate General submitted that the Supreme Court has kept Writ Petition (C) No. 435 of 2012 pending and, therefore, it is for the petitioners to approach the Supreme Court and seek appropriate orders. *The learned Advocate General submitted that the orders on which the petitioners rely, at the most show that the Government in principle has agreed for renewal of the leases for a further period of 20 years and the same was not a final decision. He submitted that in terms of the said*

12 *Goa Foundation* v. *Union of India*, (2015) 1 SCC 153
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
5 *Lithoferro* v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32

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decision of the Apex Court, it is for the State Government to frame a fresh mining policy and after framing the same, to decide granting of fresh mining leases." (emphasis supplied)

49. While considering the submissions of the learned Advocate General and the learned counsel, the High Court noted that this Court was alive to the fact that the State of Goa had granted in-principle second renewal to 28 mining leases and had collected renewal fees or stamp duty from 27 mining leases (presumably out of the 28 mining leases) as stated in the brief resume filed by the State of Goa in this Court. The High Court noted: (*Lithoferro case*[5], SCC OnLine Bom para 7)

> "7. ... (II) In the brief resume presented by the State of Goa and placed on record of the Supreme Court, in Writ Petition (C) No. 435 of 2012, it is inter alia, mentioned thus:
>
> > '... Presently in the State of Goa, it is found that the applications for renewal were filed well within time as contemplated by Rule 24-A of the Mineral Concession Rules, 1960. Presently, the State has ordered renewal of 28 mining leases, granted in-principle approvals and has collected renewal fees/stamp duty from 27 mining leases.' "

50. In other words, notwithstanding the in-principle grant of second renewal of 28 mining leases and collection of renewal fees or stamp duty, this Court in *Goa Foundation*[1] consciously required the State of Goa to grant fresh leases. What is equally significant is that the State of Goa also understood the decision of the Court in the same manner and intended to act on that basis.

51. Unfortunately, the State of Goa was overtaken by the events in that the High Court delivered its judgment in *Lithoferro*[5] on 13-8-2014 and while doing so, it misunderstood or incorrectly appreciated the decision of this Court in *Goa Foundation*[1] and disagreed with the view of the State of Goa. While this Court had required the State of Goa to grant fresh mining leases and the State of Goa was willing to comply with this direction, the High Court instead directed it to execute mining leases under Section 8(3) of the MMDR Act in respect of those who had paid the renewal fees or stamp duty. The High Court also directed the State of Goa to decide their pending second renewal applications within a period of three months keeping in mind the provisions of Section 8(3) of the MMDR Act (presumably after paying the renewal fees or stamp duty in terms of the Government Order of 21-2-2013). The understanding by the High Court of the decision of this Court in *Goa Foundation*[1] is totally incorrect.

52. It appears from the contents of the Grant of Mining Leases Policy that in view of the decision of this Court in *Goa Foundation*[1] the State was actively considering a policy for granting fresh mining leases by considering several

5 *Lithoferro* v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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factors. However, the decision and directions of the High Court supervened leaving no choice, according to the State, but to completely abandon the process of grant of fresh mining leases through the process of competitive bidding for earning revenue and justify the abandonment.

53. As per the Grant of Mining Leases Policy, the State of Goa therefore had two realistic options before it: (*i*) To implement the judgment and order of this Court in *Goa Foundation*[1] (as understood by the State of Goa) and grant fresh mining leases in the manner felt appropriate and in accordance with law; (*ii*) To abide by the judgment of the High Court (and its understanding of the judgment of this Court in *Goa Foundation*[1] while rejecting its understanding by the State of Goa) and grant second renewal to the mining leases in terms of Section 8(3) of the MMDR Act. The State of Goa appears to have taken the view that challenging the decision of the High Court (and therefore abiding by the decision of this Court) would delay the commencement of mining operations. The State took into consideration that a substantial portion of its revenue comes from the mining sector and that the State had been virtually starved of funds on account of stoppage of mining operations. Therefore, the State decided to grant a second renewal to the mining leases and not grant fresh leases. This is quite apparent from the contents of the Grant of Mining Leases Policy wherein the above facts and conclusions have been stated in greater detail. Was this decision correct?

54. The learned counsel for the mining leaseholders submitted that the renewal of a mining lease is equivalent to or amounts to the grant of a fresh lease and therefore when the mining leases were renewed, it amounted to the grant of a fresh lease in compliance with the directions of this Court. Reliance was placed upon *DDA* v. *Durga Chand Kaushish*[13] wherein this Court held: (SCC p. 829, para 7)

> "7. ... A renewal of a lease is really the grant of a fresh lease. It is called a "renewal" simply because it postulates the existence of a prior lease which generally provides for renewals as of right. In all other respects, it is really a fresh lease."

55. Reference was also made to *Provash Chandra Dalui* v. *Biswanath Banerjee*[14] in which it was held in para 14 of the Report that there is a distinction between extension of a lease and renewal of a lease. We do not find any relevance of this to our discussion. Reference was also made to the view expressed in *M.C. Mehta* v. *Union of India*[15] wherein this Court noted that it is settled law that grant of renewal is a fresh grant and must be consistent with law.

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
13 (1973) 2 SCC 825
14 1989 Supp (1) SCC 487
15 (2004) 12 SCC 118

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56. Finally reliance was placed on *State of W.B.* v. *Calcutta Mineral Supply Co. (P) Ltd.*[16] in which decision it was noted in para 31 of the Report that the renewal of a lease is a fresh grant. This decision also refers to *Gajraj Singh* v. *STAT*[17] wherein this Court observed in para 38 of the Report that the grant of renewal is a fresh grant though it breathes life into the operation of the previous lease or licence granted.

57. There is no doubt that the renewal of a lease is virtually the same as the grant of a fresh lease but a converse direction to grant a mining lease cannot be understood to mean granting a renewal of a mining lease. Obviously, the grant of a fresh lease is not the same as the renewal of a lease and when the Court in *Goa Foundation*[1] required the State of Goa to grant a fresh lease, it did not require the State to renew the existing (expired) lease. The Court could have explicitly declared and directed the State of Goa to grant a second renewal of the mining leases rather than to say it in a roundabout manner that it should do so by granting a fresh lease equivalent to a renewal. We simply cannot accept the submissions made by the learned counsel for the mining leaseholders in this regard.

58. That apart, as we have already noted above, the context and material on record disabuse the thought that the Court in *Goa Foundation*[1] did not mandate the grant of fresh mining leases in accordance with law.

59. The learned counsel for the mining leaseholders contended that the very same learned Judges that decided *Goa Foundation*[1] permitted the State Government in *Common Cause* v. *Union of India*[18] to consider granting a second renewal of mining leases under Section 8(3) of the MMDR Act. Therefore the requirement in *Goa Foundation*[1] for the grant of "fresh leases" must be understood in a manner similar to what was directed in *Common Cause*[18]. We are unable to accept this contention. The direction given in *Common Cause*[18] was an interim direction and not a final direction as in *Goa Foundation*[1]. Moreover, the facts in both cases are not at all similar so as to warrant a similar order being passed or understood. Finally, the fact that the same set of learned Judges thought it fit to direct the grant of "fresh leases" in one set of cases and thought it fit to direct consideration of a "second renewal" in another set of cases indicates that the learned Judges were aware of the difference in directions. Therefore when the learned Judges directed the grant of "fresh leases" in *Goa Foundation*[1] it was a deliberate and conscious decision distinct and different from granting a second renewal of expired mining leases.

16 (2015) 8 SCC 655 : (2015) 4 SCC (Civ) 395
17 (1997) 1 SCC 650
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
18 (2014) 14 SCC 155

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60. In our opinion, the direction in *Goa Foundation*[1] is quite clear and instead of considering the grant of a second renewal of the mining leases, the State of Goa was required to consider the grant of fresh mining leases. Therefore the decision of the State of Goa to grant a second renewal of the mining leases is erroneous, contrary to the decision in *Goa Foundation*[1] and must be and is quashed.

Whether the State of Goa should have auctioned the mining leases?

61. As mentioned in the Grant of Mining Leases Policy there were several options available to the State of Goa. It took the view that all its options were foreclosed post the decision of the High Court and it was obliged to grant a second renewal of the mining leases. We have already held that this was not so and that the decision to grant a second renewal of the mining leases was erroneous and fresh leases were required to be granted in accordance with the decision in *Goa Foundation*[1]. In view of our conclusion, the discussion on whether the State of Goa should have auctioned the mining leases through a process of competitive bidding is now rendered academic. However, since detailed submissions were made by the learned counsel on both sides, including by the learned Additional Solicitor General, we propose to express our views on the subject.

62. The discussion on the question of auction being the only method of allocation or disposal of natural resources arose due to the view expressed by this Court in *Centre for Public Interest Litigation* v. *Union of India*[19]. In that decision (hereafter referred to as *CPIL*—although this case is generally referred to as the *2G scam case*) the Court dealt with the question of following a non-discriminatory policy for alienation of natural resources. While doing so it was observed that an auction is "perhaps the best method for discharging this burden" and concluded by holding that "while transferring or alienating the natural resources, the State is duty-bound to adopt the method of auction by giving wide publicity so that all eligible persons can participate in the process". This led to the belief that the view of this Court was that natural resources should be alienated or disposed of only by auction and by no other method. The Court held in paras 95 and 96 of the Report as follows: (*Centre for Public Interest case*[19], SCC pp. 59-60)

> "*95.* This Court has repeatedly held that wherever a contract is to be awarded or a licence is to be given, the public authority must adopt a transparent and fair method for making selections so that all eligible persons get a fair opportunity of competition. To put it differently, the State and its agencies/instrumentalities must always adopt a rational method for disposal of public property and no attempt should be made to scuttle the claim of worthy applicants. When it comes to alienation of scarce natural

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
19 (2012) 3 SCC 1

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resources like spectrum, etc. it is the burden of the State to ensure that a non-discriminatory method is adopted for distribution and alienation, which would necessarily result in protection of national/public interest.

96. In our view, a duly publicised auction conducted fairly and impartially is perhaps the best method for discharging this burden and the methods like first-come-first-served when used for alienation of natural resources/public property are likely to be misused by unscrupulous people who are only interested in garnering maximum financial benefit and have no respect for the constitutional ethos and values. *In other words, while transferring or alienating the natural resources, the State is duty-bound to adopt the method of auction by giving wide publicity so that all eligible persons can participate in the process.*" (emphasis supplied)

63. In *Manohar Lal Sharma* v. *Union of India*[20] a Bench of three Judges of this Court paraphrased the above passages and observed that the view expressed in *CPIL*[19] necessitated a reference by the President of India to this Court under Article 143(1) of the Constitution being *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*[21].

64. What was the advisory opinion given by this Court in *Natural Resources Allocation*[21]? Among the questions referred for opinion were the following: (SCC p. 41, para 1)

Question 1. Whether the only permissible method for disposal of all natural resources across all sectors and in all circumstances is by the conduct of auctions?

Question 2. Whether a broad proposition of law that only the route of auctions can be resorted to for disposal of natural resources does not run contrary to several judgments of the Supreme Court including those of the larger Benches?

65. In the Reference, it was submitted before the Constitution Bench that paras 94 to 96 in *CPIL*[19] laid down the ratio vis-à-vis disposal of natural resources. It was argued that "these paragraphs lay down, as a proposition of law, that all natural resources across all sectors, and in all circumstances are to be disposed of by way of public auction, and on the other [hand], it was urged that the observations therein were made only qua spectrum".

66. The submissions made by the learned counsel were then discussed and thereafter this Court recorded its conclusions between paras 82 and 84 of *Natural Resources Allocation*[21]. In para 84, it was held: (SCC p. 72)

"*84.* Thus, having come to the conclusion *that 2G case*[19] *does not deal with modes of allocation for natural resources, other than spectrum*, we shall now proceed to answer the first question of the Reference pertaining to

20 (2014) 9 SCC 516
19 *Centre for Public Interest Litigation* v. *Union of India*, (2012) 3 SCC 1
21 (2012) 10 SCC 1

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other natural resources, as the question subsumes the essence of the entire reference, particularly the set of first five questions." (emphasis supplied)

67. Thereafter, while answering the first question in the Reference, the Court considered the issue from various perspectives. It first dealt with the issue in the context of Article 14 and Article 39(*b*) of the Constitution and concluded in para 120 of the Report that the disposal of natural resources for revenue maximisation through auctions is not a constitutional mandate. It was held: (*Natural Resources Allocation case*[21], SCC p. 88)

"*120.* Therefore, in conclusion, the submission that the mandate of Article 14 is that any disposal of a natural resource for commercial use must be for revenue maximisation, and thus by auction, is based neither on law nor on logic. *There is no constitutional imperative in the matter of economic policies—Article 14 does not predefine any economic policy as a constitutional mandate.* Even the mandate of Article 39(*b*) imposes no restrictions on the means adopted to subserve the public good and uses the broad term "distribution", suggesting that the methodology of distribution is not fixed. Economic logic establishes that alienation/allocation of natural resources to the highest bidder may not necessarily be the only way to subserve the common good, and at times, may run counter to public good. Hence, it needs little emphasis that disposal of all natural resources through auctions is clearly not a constitutional mandate." (emphasis supplied)

68. The issue was then considered from the standpoint of legitimate deviations from an auction. After adverting to several decisions of this Court where auctions were not the favoured method of allocation of natural resources, it was held between paras 129 and 131 of the Report as follows: (*Natural Resources Allocation case*[21], SCC p. 92)

"*129.* Hence, it is manifest that there is no constitutional mandate in favour of auction under Article 14. The Government has repeatedly deviated from the course of auction and this Court has repeatedly upheld such actions. The judiciary tests such deviations on the limited scope of arbitrariness and fairness under Article 14 and its role is limited to that extent. *Essentially, whenever the object of policy is anything but revenue maximisation, the executive is seen to adopt methods other than auction.*

130. A fortiori, besides legal logic, mandatory auction may be contrary to economic logic as well. Different resources may require different treatment. Very often, exploration and exploitation contracts are bundled together due to the requirement of heavy capital in the discovery of natural resources. *A concern would risk undertaking such exploration and incur heavy costs only if it was assured utilisation of the resource discovered: a prudent business venture would not like to incur the high costs involved in exploration activities and then compete for that resource in an open auction.* The logic is similar to that applied in patents. Firms are given incentives to invest in research and development with the promise of

21 *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1

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exclusive access to the market for the sale of that invention. Such an approach is economically and legally sound and sometimes necessary to spur research and development. Similarly, bundling exploration and exploitation contracts may be necessary to spur growth in a specific industry.

131. Similar deviation from auction cannot be ruled out when the object of a State policy is to promote domestic development of an industry, like in *Kasturi Lal case*[22] discussed above. However, these examples are purely illustrative in order to demonstrate that *auction cannot be the sole criterion for alienation of all natural resources*." (emphasis supplied)

69. Finally, the issue was considered from the point of view of the potential of abuse in allocation of natural resources other than through auction and in this context it was held in para 135 of the Report: (*Natural Resources Allocation case*[21], SCC pp. 93-94)

"*135.* Therefore, a potential for abuse cannot be the basis for striking down a method as ultra vires the Constitution. *It is the actual abuse itself that must be brought before the court for being tested on the anvil of constitutional provisions.* In fact, it may be said that even auction has a potential of abuse, like any other method of allocation, but that cannot be the basis of declaring it as an unconstitutional methodology either. These drawbacks include cartelisation, the "winner's curse" (the phenomenon by which a bidder bids a higher, unrealistic and unexecutable price just to surpass the competition; or where a bidder, in case of multiple auctions, bids for all the resources and ends up winning licences for exploitation of more resources than he can pragmatically execute), etc. However, all the same, auction cannot be called ultra vires for the said reasons and continues to be an attractive and preferred means of disposal of natural resources especially when revenue maximisation is a priority. Therefore, *neither auction, nor any other method of disposal can be held ultra vires the Constitution, merely because of a potential abuse.*" (emphasis supplied)

70. The conclusion arrived at by the Constitution Bench was then recorded between paras 148 and 150 of the Report in the following words: (*Natural Resources Allocation case*[21], SCC pp. 98-99)

"*148.* In our opinion, *auction despite being a more preferable method of alienation/allotment of natural resources*, cannot be held to be a constitutional requirement or limitation for alienation of all natural resources and therefore, every method other than auction cannot be struck down as ultra vires the constitutional mandate.

149. Regard being had to the aforesaid precepts, we have opined that auction as a mode cannot be conferred the status of a constitutional principle. *Alienation of natural resources is a policy decision, and the means adopted for the same are thus, executive prerogatives. However,*

22 *Kasturi Lal Lakshmi Reddy* v. *State of J&K*, (1980) 4 SCC 1

21 *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1

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when such a policy decision is not backed by a social or welfare purpose, and precious and scarce natural resources are alienated for commercial pursuits of profit maximising private entrepreneurs, adoption of means other than those that are competitive and maximise revenue may be arbitrary and face the wrath of Article 14 of the Constitution. Hence, rather than prescribing or proscribing a method, we believe, a judicial scrutiny of methods of disposal of natural resources should depend on the facts and circumstances of each case, in consonance with the principles which we have culled out above. Failing which, the Court, in exercise of power of judicial review, shall term the executive action as arbitrary, unfair, unreasonable and capricious due to its antimony with Article 14 of the Constitution.

150. In conclusion, our answer to the first set of five questions is that auctions are not the only permissible method for disposal of all natural resources across all sectors and in all circumstances." (emphasis supplied)

71. It is therefore more than explicit that there is no constitutional requirement (let alone a mandate) for allocation of natural resources through the auction method (other than spectrum) but at the same time the auction process should not be given a go-by without any justification—the decision to give a go-by is judicially reviewable though the scope of judicial review might be rather restricted. The melting pot of allocation of a natural resource, a social or welfare purpose and adherence to the requirements of Articles 14 and 39(*b*) of the Constitution in matters of policy was a great leap forward fashioned by the Constitution Bench. Consequently, while there is no mandate, constitutional or otherwise, that natural resource allocation must be only by auction, it is certainly "a more preferable method". There are exceptions, such as when the natural resource allocation is for a "social or welfare purpose". On the other hand if the natural resource allocation is "for commercial pursuits of profit maximising private entrepreneurs" dehors any social or welfare purpose, then judicial review would be permissible and Article 14 of the Constitution would be attracted and if the executive action is found to be arbitrary, it would be struck down. Therefore, when it comes to natural resource allocation, the executive has a somewhat limited elbow room.

72. In his concurring opinion, Khehar, J. took the view (in para 186 of the Report) that: (*Natural Resources Allocation case*[21], SCC p. 137)

"*186.* ... when natural resources are made available by the State to private persons for commercial exploitation exclusively for their individual gains, *the State's endeavour must be towards maximisation of revenue returns.*" (emphasis supplied)

The learned Judge concluded his opinion by agreeing that an auction is one of the price recovery mechanisms, but not the only one for allocation of natural resources. "That should not be understood to mean that it can never be a

21 *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1

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valid method for disposal of natural resources." (SCC p. 144, para 199) It was further held that natural resources cannot be alienated by way of largesse—there must be a reciprocal consideration either in the form of earning revenue or subserving the common good or both. The learned Judge had this to say: (*Natural Resources Allocation case*[21], SCC pp. 143-44)

> "*199.* The policy of allocation of natural resources for public good can be defined by the legislature, as has been discussed in the foregoing paragraphs. Likewise, policy for allocation of natural resources may also be determined by the executive. The parameters for determining the legality and constitutionality of the two are exactly the same. In the aforesaid view of the matter, there can be no doubt about the conclusion recorded in the main opinion that auction which is just one of the several price recovery mechanisms, cannot be held to be the only constitutionally recognised method for alienation of natural resources. That should not be understood to mean that it can never be a valid method for disposal of natural resources (refer to paras 186 to 188 of my instant opinion).
>
> *200.* I would, therefore, conclude by stating that *no part of the natural resource can be dissipated as a matter of largesse, charity, donation or endowment, for private exploitation. Each bit of natural resource expended must bring back a reciprocal consideration. The consideration may be in the nature of earning revenue or may be to "best subserve the common good". It may well be the amalgam of the two. There cannot be a dissipation of material resources free of cost or at a consideration lower than their actual worth.* One set of citizens cannot prosper at the cost of another set of citizens, for that would not be fair or reasonable." (emphasis supplied)

73. This issue was considered in *Goa Foundation*[1] as well. The Court adverted to *Natural Resources Allocation*[21] in para 81 of the Report and pithily expressed its view that the manner of granting a mining lease is a policy decision of the State Government, but the decision can be examined by way of judicial review. It was held: (*Goa Foundation case*[1], SCC p. 634)

> "*81.* We are of the considered opinion that it is for the State Government to decide as a matter of policy in what manner the leases of these mineral resources would be granted, but this decision has to be taken in accordance with the provisions of the MMDR Act and the Rules made thereunder and in consonance with the constitutional provisions and the decision taken by the State of Goa to grant a mining lease in a particular manner or to a particular party can be examined by way of judicial review by the Court." (emphasis supplied)

It was then declared in para 87.5 of the Report that: (SCC p. 637)

> "*87.5.* It is for the State Government to decide as a matter of policy in what manner mining leases are to be granted in future *but*

21 *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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the constitutionality or legality of the decision of the State Government can be examined by the Court in exercise of its power of judicial review." (emphasis supplied)

74. Similarly, in *Manohar Lal Sharma*[20] this Court adverted to the issue and noted the following in para 98 of the Report: (SCC p. 563)

"*98.* The Constitution Bench [*Natural Resources Allocation*[21]] clarified that the statement of law in *2G case*[19] [*CPIL*] that while transferring or alienating the natural resources, the State is duty-bound to adopt the method of auction was confined to the specific case of spectrum and not for dispensation of all natural resources. The Constitution Bench said that findings of this Court in *2G case*[19] were limited to the case of spectrum and not beyond that and that it did not deal with the modes of allocation for natural resources other than spectrum."

75. The Court in *Manohar Lal Sharma*[20] also referred to the views expressed by Khehar, J. and held, in para 104 of the Report: (SCC p. 568)

"*104.* In light of the above legal position, the argument that auction is the best way to select private parties as per Article 39(*b*) does not merit acceptance."

76. This Court then exercised its power of judicial review and considered the merits of the explanation given by the Central Government for not adopting the competitive bidding route for the allocation of coal blocks. The various submissions made, the various hurdles faced (including objections of the State Governments) as well as the impracticality of opening up the allocation of coal blocks to competitive bidding were considered and then it was held (after opening the window of Article 14 of the Constitution) in para 110 of the Report: (*Manohar Lal Sharma case*[20], SCC pp. 570-71)

"*110.* The above facts show that it took almost 8 years in putting in place allocation of captive coal blocks through competitive bidding. During this period, many coal blocks were allocated giving rise to present controversy, which was avoidable because competitive bidding would have brought in transparency, objectivity and very importantly given a level playing field to all applicants of coal and lowered the difference between the market price of coal and the cost of coal for the allottee by way of premium which would have accrued to the Government. Be that as it may, once it is laid down by the Constitution Bench of this Court in *Natural Resources Allocation*[21] that the Court cannot conduct a comparative study of various methods of distribution of natural resources and cannot mandate one method to be followed in all facts and circumstances, then if the grave situation of shortage of power prevailing at that time necessitated private

20 *Manohar Lal Sharma* v. *Union of India*, (2014) 9 SCC 516
21 *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1
19 *Centre for Public Interest Litigation* v. *Union of India*, (2012) 3 SCC 1

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participation and the Government felt that it would have been impractical and unrealistic to allocate coal blocks through auction and later on in 2004 or so there was serious opposition by many State Governments to bidding system, and the Government did not pursue competitive bidding/public auction route, then in our view, the administrative decision of the Government not to pursue competitive bidding cannot be said to be so arbitrary or unreasonable warranting judicial interference. It is not the domain of the Court to evaluate the advantages of competitive bidding vis-à-vis other methods of distribution/disposal of natural resources. *However, if the allocation of subject coal blocks is inconsistent with Article 14 of the Constitution and the procedure that has been followed in such allocation is found to be unfair, unreasonable, discriminatory, non-transparent, capricious or suffers from favouritism or nepotism and violative of the mandate of Article 14 of the Constitution, the consequences of such unconstitutional or illegal allocation must follow.*" (emphasis supplied)

77. More recently in *Ajar Enterprises (P) Ltd.* v. *Satyanarayan Somani*[23] this Court once again examined the issue of distribution of natural resources and held: (SCC p. 785, para 49)

"*49.* Undoubtedly, disposal of natural resources by auction is not a mandatory principle for, as the Constitution Bench held[21], individual statutes may provide for modalities of transfer by alternate modes which subserve public interest. ... The choice of methods is not left to the unbridled discretion of a public authority. Where a public authority exercises an executive prerogative, it must nonetheless act in a manner which would *subserve public interest and facilitate the distribution of scarce natural resources in a manner that would achieve public good.* Where a public authority implements a policy, which is backed by a constitutionally recognised social purpose intended to achieve the welfare of the community, the considerations which would govern would be different from those when it alienates natural resources for commercial exploitation. When a public body is actuated by a constitutional purpose embodied in the Directive Principles, the considerations which weigh with it in determining the mode of alienation should be such as would achieve the underlying object. *In certain cases, the dominant consideration is not to maximize revenues but to achieve social good such as when the alienation is to provide affordable housing to members of the Scheduled Castes or Tribes or to implement housing schemes for Below the poverty line (BPL) families. In other cases where natural resources are alienated for commercial exploitation, a public authority cannot allow them to be dissipated at its unbridled discretion at the cost of public interest.*" (emphasis supplied)

23 (2018) 12 SCC 756

21 *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1

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The window is now more than ajar.

78. Till fairly recently, policy matters particularly of economic policy were hands-off as far as the courts were concerned.[24] But the recent decisions of this Court, including by the Constitution Bench in its advisory jurisdiction, have partially modified this theory and kept open the window to judicially review such a policy if it does not serve the common good as understood in Article 39(*b*) of the Constitution, if it violates Article 14 of the Constitution and alienates natural resources for maximising profits of private entrepreneurs while sidelining Article 39(*b*) of the Constitution. "The legislature and the executive are answerable to the Constitution and it is there where the judiciary, the guardian of the Constitution, must find the contours to the powers of disposal of natural resources, especially Article 14 and Article 39(*b*) [of the Constitution].[25] (SCC p. 77)"

79. Notwithstanding this, a court must exercise restraint and not set aside Government Policy only because it disagrees with it or because a better policy could be framed or simply because it has the power to set aside the policy. Policies framed by the State, after due consideration, must be respected and given enough elbow room and flexibility for implementation. Of course, there would be occasions when the implementation of a policy has teething problems or some lacuna is discovered at a slightly later stage, but that does not mean that policy itself is defective. Therefore, courts must be very cautious and circumspect in diluting or setting aside a policy and must do so only if it is constitutionally unavoidable, otherwise good governance could be a casualty.

80. The conclusions that could be drawn from all these decisions are:

80.1. It is not obligatory, constitutionally or otherwise, that a natural resource (other than spectrum) must be disposed of or alienated or allocated only through an auction or through competitive bidding;

80.2. Where the distribution, allocation, alienation or disposal of a natural resource is to a private party for a commercial pursuit of maximising profits, then an auction is a more preferable method of such allotment;

80.3. A decision to not auction a natural resource is liable to challenge and subject to restricted and limited judicial review under Article 14 of the Constitution;

80.4. A decision to not auction a natural resource and sacrifice maximisation of revenues might be justifiable if the decision is taken, inter alia, for the social good or the public good or the common good;

80.5. Unless the alienation or disposal of a natural resource is for the common good or a social or welfare purpose, it cannot be dissipated in favour of a private entrepreneur virtually free of cost or for a consideration not commensurate with its worth without attracting Article 14 and Article 39(*b*) of the Constitution.

24 *BALCO Employees' Union* v. *Union of India*, (2002) 2 SCC 333 at paras 46 and 47
25 *Natural Resource Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1, para 95

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Whether the decision of the State of Goa forsaking the auction route is arbitrary?

81. Keeping in mind the broad principles identified above, the question that arises for our consideration is whether the State of Goa was justified in not adopting the auction route for the grant of mining leases and simply granting a second renewal. For a better understanding of this issue, it would be worthwhile to again refer to the Goa Mineral Policy, the report of the EAC, the Grant of Mining Leases Policy and the decision of the Bombay High Court, which documents were relied upon by the learned Additional Solicitor General.

(i) Goa Mineral Policy

82. The Mineral Policy makes it very clear that during the period from about 2006 till about 2012 (for about 5 years) extraction of iron ore in Goa was nothing but a free-for-all situation. Illegalities and irregularities were committed in abundance by all concerned, particularly the mining leaseholders. The Mineral Policy records that the State witnessed the peak of chaotic and unregulated mining. The thought of protecting and preserving the environment, concern for the fragile ecology of Goa was far from the thoughts of the stakeholders—even the well-being of the average Goan was not taken into consideration by the stakeholders. A reading of the initial paragraphs of the Mineral Policy suggests that nothing short of rapacious mining was going on in Goa. Who were the beneficiaries of all this rapaciousness? Could all this be ignored?

83. The Mineral Policy informs us that the beneficiaries of the rapaciousness were not the domestic industry and certainly not the average Goan. The reason for this is spelt out in the Mineral Policy itself. Iron ore from Goa is not suitable for the Indian industry due to the low Fe content and the high silica presence. Therefore, there is no value addition to the Indian industry and the iron ore was mined only for export — mainly to China and also to Japan. With a port in the vicinity, Goan iron ore was an attractive buy for the global market and the spin-offs benefited those in the port, transporters and barge owners, etc. The primary beneficiary of this was, of course, the mining leaseholder, a private entity, and the price was paid by the average Goan who had to suffer a polluted environment and witness the damage to the State's ecology.

84. If the issues mentioned in the Mineral Policy are objectively considered in strict monetary terms, the only conclusion that can be drawn is that the extraction of iron ore was for commercial purposes and maximising the revenues of private entrepreneurs and not necessarily the State of Goa. The natural resource was exploited by some mining leaseholders for making profits and nothing else. There were some collateral beneficiaries as well, and they too were commercially driven entities such as barge owners, truck owners, etc. Under these circumstances, the question that arises is whether the mining leaseholders should have been given a second renewal of the mining lease virtually for a song, that is, payment only of royalty, when they were driven only by a profit motive or whether the mining leases ought to have been

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auctioned? Unfortunately, the Mineral Policy did not advert to or even consider any solution that would break from the past.

85. As far as the environment, the fragile ecology of Goa and the well-being of the average Goan and the rule of law is concerned, the Mineral Policy categorically states that the State had witnessed, from 2006-2007 till 2011-2012 the peak of chaotic and unregulated mining without any concern for the fragile ecology and environment of the State or for the general well-being of an average Goan. Surely, all this cannot be ignored or brushed aside particularly since the exploitation of mineral resources for five years had no element of social or public purpose, no concern for society and no regard for the environment and the laws.

(ii) Vishwanath Anand Expert Appraisal Committee

86. A reading of the report of the EAC is disturbing and acutely highlights the damage to the environment and ecology by the mining leaseholders. The complete indifference by all concerned is evident from a careful reading of the report. We propose to refer to and quote in extenso the "summary of observations" and the "concluding remarks" from the report of the EAC since they are self-explanatory:

"Summary of Observations

I. The absence of specific conditions highlighting the mandatory requirement to obtain prior approval of the Standing Committee of the NBWL [National Board for Wild Life] in the EC [Environmental Clearance] has led to misinterpretation of the legal requirement. There has been an inordinate delay of more than 5 years before effective action against defaulting units were initiated by the Ministry for non-compliance of the Hon'ble Supreme Court order dated 4-12-2006[26].

II. Out of 137 ECs, the requirement of obtaining approval of the Standing Committee of the NBWL under the WL (P) Act, 1972 [Wild Life (Protection) Act] has not been complied with in 123 cases where the distances are less than 10 km from the nearest PA [protected area].

III. In respect of 10 cases approval of the Standing Committee of the NBWL is not mandatory as the mine leases are located beyond 10 km from nearest PA.

IV. Contrary to the directions of the Hon'ble Supreme Court dated 4-8-2006[10] in Writ Petition (Civil) No. 202 of 1995; ECs have been accorded to 41 mines located within 1 km from the nearest PA.

V. In respect of 20 cases mine leases were renewed under the MMDR Act, 1957 prior to grant of FCs [Forest Clearance].

VI. In 29 cases, project proponents have furnished wrong information about distance from the nearest PAs.

26 *Goa Foundation* v. *Union of India*, (2011) 15 SCC 791
10 *T.N. Godavarman Thirumulpad* v. *Union of India*, (2010) 13 SCC 740

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VII. Non-compliance of various EC conditions such as excess production/unauthorised dump mining/drawal of groundwater without prior approval of CGWB/encroachment; have also been reported in respect of working mines.

Concluding Remarks

A reading of our observations and recommendations would show that *without exception, every proponent to whom an environment clearance was issued has either violated its conditions or has furnished information in the application which has been distant from the truth.* There are basically two types of violations; one that cannot be legally condoned and those that can be rectified with remedial measures. This is the reason why the Committee has recommended that all ECs for mines located within one km from PAs should be revoked and in cases where untruthful information was furnished in the application for EC, such mines should not be allowed to reopen. In the case of those mines which have been closed for more than five years, their reopening has not been recommended without their applying de novo for a fresh environmental clearance as micro environmental conditions on the ground would have changed during the period they remained closed. However, when one looks at the manner in which the directives dated 4-8-2006[10] and 4-12-2006[26] of the Supreme Court have been implemented one cannot help but feel that there is the absence of a bridge mechanism within the Ministry to ensure and oversee that directives of the courts are complied with due diligence and seriousness.

There are two factors which stand out; in some ECs as mentioned in this report, the condition was inserted that the project proponent should seek approval of the CWLW [Chief Wild Life Warden], in others it was stated that approval of the competent authority/Standing Committee of the NBWL should be obtained and in a third category no condition at all was imposed, even though some of these ECs pertain to the same meeting and timelines between 2005 and 2007. It is strange that officials concerned in the MoEF were not aware that other than the Standing Committee of the NBWL no other person was authorised to grant the permission envisaged by the order dated 4-12-2006[26] of the Supreme Court. This is not to state that any discrepancy in the EC letter would absolve the project proponent from complying with the law of the land. This has resulted in creating ambiguity amongst many of the project proponents and it was not until 1-1-2009, that the MoEF issued a public notice clarifying the position.

Considering that some of the project proponents may have been misguided by the ambivalence of the MoEF in not clearly delineating the legal position, it is suggested that in the case of those project proponents who did not conceal facts in their applications but did not apply for permission to the Standing Committee of the NBWL, their applications may be considered for being placed before the Standing Committee of the

10 *T.N. Godavarman Thirumulpad* v. *Union of India*, (2010) 13 SCC 740
26 *Goa Foundation* v. *Union of India*, (2011) 15 SCC 791

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NBWL. However this can in no way be construed as a justification on the part of the project proponents for not complying with the requirements of the law. It must be noted for example that in those cases where mining has intersected the groundwater, approval of the CGWB [Central Ground Water Board] had not been taken by the project proponents as was required by the EC. Similarly, there are cases where mining operations have taken place without obtaining an FC.

* * *

As regards violations of the conditions of the ECs and where environmental damage has been caused, the proponents concerned should be made accountable and the MoEF should examine as to how some monetary damages can be levied through due legal process based on the polluter must pay principle, the proceeds of which could be used for environmental rehabilitation.

There are concerns about the carrying capacity of the area with regard to its ability to sustain the extent and quantum of mining that has taken place there. It is recommended that a carrying capacity study should be commissioned for the area, or if another study by a nationally recognised institution is coming to fruition the result of that should be acted upon. Such a study should also take into account the impact of mining on the hydrology of the region and the extent of pollution caused to surface and groundwater. This study should be compared to the earlier 10 years' baseline data to determine the impact of mining on the biodiversity and hydrology of the area in the last decade. Based on the finding of this, a specific policy for mining of iron ore in the region may be developed. Such a policy along with a proper control and monitoring mechanism is necessary in order to avoid a situation such as the one under question. It would hopefully also ensure that mining in this region is carried out in accordance with best sectoral practices using appropriately clean technologies." (emphasis supplied)

87. The report of the EAC reveals that there is not a single environment-related or mining-related law or legal requirement that was not violated by one or the other mining leaseholder. Quite clearly, the rule of environmental law in Goa had gone with the wind.

88. There was one extremely important requirement relating to extraction of groundwater—that is, clearance from the Central Ground Water Board—but even that was ignored. During the course of submissions, we were informed that there is plenty of groundwater available in Goa. However, what seems to have been overlooked is that with the intersection of groundwater levels with mining operations, the groundwater would get depleted much faster than expected or the quality of the groundwater would deteriorate. It is for this reason that MoEF insisted that clearance for drawal of groundwater must be taken from the Central Ground Water Board and care taken in respect of the intersection of groundwater level with mining operations (this happened in 46 cases). Unfortunately, no heed was paid to these requirements by the State of Goa or any of the mining leaseholders and not one mining leaseholder has any

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clearance (where required) from the Central Ground Water Board, or at least none was brought to our notice.

(iii) Decision of the Bombay High Court

89. The High Court essentially created two classes of applicants for the grant of a mining lease — those in whose favour an in-principle decision had been taken for a second renewal of the mining lease and who had paid the necessary stamp duty in terms of the government order of 21-2-2013 and those who had not yet paid the requisite stamp duty.

90. As regards the first category, the High Court directed execution of the mining lease in their favour in accordance with the provisions of Section 8(3) of the MMDR Act. This was on the belief that the applicants had applied for the second renewal within the prescribed time period; the Indian Bureau of Mines had approved the mining plans of these applicants; the Indian Bureau of Mines was subjectively satisfied that the second renewal was in the interest of mineral development; and that in view of the principles of promissory estoppel these applicants were entitled to a second renewal of their mining lease since they had altered their position to their detriment by paying the stamp duty demanded.

91. As regards the second category (those who had not paid the stamp duty), the High Court directed the State of Goa to decide their second renewal application within a period of three months keeping in mind the provisions of Section 8(3) of the MMDR Act (and the requirement to pay the stamp duty).

92. The decision of the High Court does not at all discuss the options available to the State of Goa, namely, second renewal of the mining leases versus auction of a natural resource. In fact it appears that the High Court was not at all alive to the possibility of an auction of the mining leases, notwithstanding the view canvassed by the learned Advocate General of the State of Goa.

(iv) Goa Grant of Mining Leases Policy, 2014

93. The Grant of Mining Leases Policy announced and issued on 4-11-2014 is perhaps the most important document in the entire scheme of things and that is the reason it was read out extensively by the learned Additional Solicitor General and that is why we have chosen to quote it extensively.

94. A consideration of the contemporaneous facts beginning with the Budget Speech given by the Hon'ble Minister of Finance of the Government of India on 10-7-2014 makes it clear that an amendment to the MMDR Act was to be effected sooner than later. The Grant of Mining Leases Policy overlooks that and proceeds on the basis that the judgment of the High Court delivered on 13-8-2014[5] left the Government of Goa with no choice but to abandon the grant of mining leases through competitive bidding, even though that might be the most appropriate method of obtaining the best revenue for the public good. The Government of Goa had therefore "for the present" ruled out the process of going in for competitive bidding keeping also in mind that the

5 *Lithoferro* v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32

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State was virtually starved of funds and had to balance the equities and needs of all, including the labour class, working class and other staff, markets in mining localities, public sector, mining leaseholders, welfare needs of the State, environment and fragile ecology of the State and general well-being of the average Goan.

95. The State of Goa was also alive to the fact that many (if not all) mining leaseholders had violated the terms of the mining lease or some statutory obligation. Therefore, it was decided to categorise the offenders as follows:

Category I — Will be those mining leases which have no violations or very minimal violation of any provision/condition of applicable laws/rules, orders/permissions, etc. or those which cannot otherwise be referred to as "violations".

Category II — Are those mining leases which have been found to have violated the Provisions of the Mineral Concession Rules including Rules 37 and 38 and other matters as mentioned in the Public Accounts Committee Report/Justice Shah Commission Report. In this category, the State Government will consider each of the cases on its own merits; and wherever the violations are noticed subject to the same being remedied by paying appropriate penalty/fines including those of forfeiture, the State Government shall pass appropriate orders in accordance with law.

Category III — Mining leases will be those which are found to have violated substantially any provision/condition of applicable laws/rules/orders/permissions, etc. and in which cases the State Government shall determine the lease/reject their "Application for the Second Renewal".

96. The offences ranged, amongst others, from illegal sale of ore, sale of royalty challan without ore, encroachment of adjoining areas outside the lease, overproduction in excess of the limit specified in the environmental clearance, unscientific mining operations, violations with respect to payment of royalty amount, re-use of old royalty challans for defrauding, illegal mining activities, etc. etc. None of these are "minimal" violations. However, and this is important, the Grant of Mining Leases Policy made it clear that the following shall not be considered for renewal of mining leases:

(*i*) Those facing an inquiry initiated pursuant to the orders of this Court in para 88.2 of *Goa Foundation*[1] for the violation of Rules 37 and 38 of the Mineral Concession Rules, 1960;

(*ii*) Those indicted by the Justice M.B. Shah Commission; and

(*iii*) Those indicted by the Public Accounts Committee.

The Grant of Mining Leases Policy stated that inquiries are already in progress "at various levels and fora" including a Special Investigating Team and a team of Chartered Accountants. We dare say that violations pointed out by the EAC ought also to have been taken into consideration.

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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97. Be that as it may, there is no doubt that iron ore mining in Goa was solely for commercial purposes — it was extracted primarily for export to China and Japan without any value addition to the domestic industry. True, this brought in considerable foreign exchange — nevertheless iron ore extraction gave insignificant value addition (if at all) to Indian industry. The only advantage that iron ore extraction gave to the State was in terms of royalty, but the larger benefit accrued to the private mining leaseholder who could obtain a mining lease on renewal virtually free and without any social or welfare purpose. In other words, the State sacrificed maximising revenue for no apparent positive reason, virtually surrendering itself to the commercial and profit-making motives of private entrepreneurs and ignoring the interests of Goan society in general. Therefore, in principle, the decision of the State of Goa to not auction the grant of mining leases was flawed in that it did not serve the common or public or social good but primarily assisted in filling the coffers of private entrepreneurs. We are not inclined to go so far as to describe the decision as arbitrary since it is not necessary to do so.

98. However, we make it clear that we have dealt with this issue because it was canvassed before us. We are not inclined to quash the decision of the State of Goa of not going in for competitive bidding for the grant of fresh mining leases since it is not necessary in view of our conclusion that fresh mining leases were required to be granted by the State of Goa.

99. At this stage we must refer to a submission made by Mr C.U. Singh learned counsel appearing for some of the mining leaseholders. He submitted that prior to 12-1-2015 the MMDR Act did not permit the auction of mining leases. Therefore, even if the State of Goa was desirous of introducing competitive bidding for grant of fresh mining leases it could not have done so. He drew our attention to Section 11 of the MMDR Act (as it stood prior to its amendment in 2015) which provided a preferential right for obtaining a prospecting licence or mining lease to the holder of a reconnaissance permit or prospecting licence. He submitted, placing reliance on *Sandur Manganese and Iron Ores Ltd.* v. *State of Karnataka*[27] that since the MMDR Act is a complete code in itself, the method or procedure for grant of a lease cannot travel outside the confines of the statute and the Mineral Concession Rules, 1960 framed thereunder. Reference was made to paras 40 to 43 of the judgment: (SCC pp. 25-26, paras 40-43)

> "*40.* In view of the specific parliamentary declaration as discussed and explained by this Court in various decisions, there is no question of the State having any power to frame a policy dehors the MMDR Act and the Rules.
>
> *41.* In *State of Assam* v. *Om Prakash Mehta*[28] this Court in SCC para 12 held that the MMDR Act, 1957 and the MC Rules, 1960 contain a complete code in respect of the grant and renewal of prospecting licences as well

27 (2010) 13 SCC 1
28 (1973) 1 SCC 584

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as mining leases in lands belonging to the Government as well as lands belonging to private persons.

42. Again this Court in *Quarry Owners' Assn.* v. *State of Bihar*[29] held that both the Central and the State Government act as mere delegates of Parliament while exercising powers under the MMDR Act and the MC Rules.

43. It is not open to the State Government to justify grant based on criteria that are dehors the MMDR Act and the MC Rules. The exercise has to be done strictly in accordance with the statutory provisions and if there is any deviation, the same cannot be sustained. It is the normal rule of construction that when a statute vests certain power in an authority to be exercised in a particular manner then the said authority has to exercise it only in the manner provided in the statute itself. This principle has been reiterated in *CIT* v. *Anjum M.H. Ghaswala*[30] SCC at p. 644; *Sube Singh* v. *State (NCT of Delhi)*[31] and *State of U.P.* v. *Singhara Singh*[32]." (emphasis supplied)

Reference may also be made to para 44 of the Report that reads thus: (SCC p. 26)

"*44.* Mr Harish N. Salve and Mr Dushyant Dave, by drawing our attention to the decision of this Court in *Tisco Ltd.* v. *Union of India*[33], submitted that inasmuch as this Court had upheld the grants based on "captive consumption", there is no flaw or error in the recommendation of the State Government dated 6-12-2004. A perusal of the above decision clearly shows that it concerned with Section 8(3) of the MMDR Act which requires consideration of the extremely general criterion of the interests of mineral development before granting second renewal of a mining lease. Unlike in Section 11(3), no further criteria were specified and it was in this background, this Court upheld on the facts of that case that relevant material taken into account by the Committee set up by the Central Government rightly included "captive consumption". In view of the factual situation, the said decision can have no bearing on initial grants of mining lease where the only permissible criteria are the matters set out in Section 11(3) of the MMDR Act."

100. The controversy in *Sandur Manganese*[27] related to the grant of mining leases contrary to the provisions of Section 11 of the MMDR Act in that a non-statutory criterion was taken into consideration dehors Section 11 of the MMDR Act for evaluating the applications and seeking approval of the Central Government for granting a mining lease. This was held to be impermissible and

29 (2000) 8 SCC 655
30 (2002) 1 SCC 633
31 (2004) 6 SCC 440
32 AIR 1964 SC 358 : (1964) 1 Cri LJ 263 (2) : (1964) 4 SCR 485
33 (1996) 9 SCC 709
27 *Sandur Manganese and Iron Ores Ltd.* v. *State of Karnataka*, (2010) 13 SCC 1

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it may be so. In any event, para 44 of the Report makes it clear that there is a distinction between the requirements of Section 11(3) of the MMDR Act and Section 8(3) of the MMDR Act. *Sandur Manganese*[27] is not applicable to the facts of the present case.

101. Similarly, reference was made to the Statement of Objects and Reasons for the Bill introduced in 2015 to amend the MMDR Act. It was stated therein that:

> "The present legal framework of the MMDR Act, 1957, does not permit the auctioning of mineral concessions."

102. This submission need not detain us since we are not required to adjudicate whether the State of Goa should have auctioned the mining leases or not. The State of Goa decided to renew the mining leases and we are only called upon to decide: (*i*) Whether the policy decision not to auction the grant of mining leases was arbitrary (we have already held that we are not required to express a final opinion on this). We may, however, recall *en passant* that the Goa Grant of Mining Leases Policy proceeded on the basis that the auction of mining leases was permissible and that had the sanction of the Court in *Goa Foundation*[1]. It may be added that the MMDR Act did not prohibit the auction of mining leases. (*ii*) Whether the second renewals were in accordance with law and the constitutional principles.

103. We may also note that the Constitution Bench in *Natural Resources Allocation*[21] referred to the submission that if auction were the only method of allocating natural resources (as it appears from *CPIL*[19]) then the mandate would create a conflict with some statutes including the MMDR Act. The Constitution Bench dealt with this submission in para 83 of the Report by observing: (SCC p. 72)

> "*83.* Moreover, if the judgment in *2G case*[19] is to be read as holding auction as the only permissible means of disposal of all natural resources, it would lead to the quashing of a large number of laws that prescribe methods other than auction e.g. the MMDR Act."

However, the Constitution Bench did not advert to the consequence vis-à-vis the MMDR Act of holding that auction was not mandated as the only method of allocating a natural resource. Since the question does not arise in these cases, we decline to go into this issue—we need not finally adjudicate whether the State of Goa should have auctioned the mining leases but we are called upon to decide whether the grant of second renewals was valid in law.

27 *Sandur Manganese and Iron Ores Ltd.* v. *State of Karnataka*, (2010) 13 SCC 1
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
21 *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1
19 *Centre for Public Interest Litigation* v. *Union of India*, (2012) 3 SCC 1

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Judicial review of renewals

104. In view of decisions of this Court, including in *Natural Resources Allocation*[21] it is permissible for this Court to judicially review, to a limited and restricted extent, the Grant of Mining Leases Policy, among other things, if it falls foul of Article 14 read with Article 39(*b*) of the Constitution and if it ignores the common or public or social good but benefits private entrepreneurs, particularly when it involves the natural resources, by sacrificing the maximisation of revenue for the State.

105. In *Natural Resources Allocation*[21] the Constitution Bench observed that: (SCC pp. 98-99, para 149)

> "*149.* ... Alienation of natural resources is a policy decision, and the means adopted for the same are thus, executive prerogatives. However, when such a policy decision is not backed by a social or welfare purpose, and precious and scarce natural resources are alienated for commercial pursuits of profit maximising private entrepreneurs, adoption of means other than those that are competitive and maximise revenue may be arbitrary and face the wrath of Article 14 of the Constitution."

106. Similarly in *Goa Foundation*[1] this Court declared that: (SCC p. 637, para 87.5)

> "*87.5.* It is for the State Government to decide as a matter of policy in what manner mining leases are to be granted in future but the constitutionality or legality of the decision of the State Government can be examined by the Court in exercise of its power of judicial review."

107. Despite the dicta of the Constitution Bench and the declaration made by this Court in *Goa Foundation*[1] we do not propose to judicially review the Grant of Mining Leases Policy but to consider on merits whether the grant of second renewal to the mining leases was in accordance with the Grant of Mining Leases Policy and the law.

108. In our opinion, in renewing the mining leases, the State of Goa completely ignored several relevant and important and significant factors giving the impression that the renewals were not quite fair or reasonable.

109. For one, the State ignored the fact that every single mining leaseholder had committed some illegality or the other in varying degrees. To identify these illegalities (although they had already been identified by the Justice Shah Commission and by the EAC), a Special Investigating Team had been set up as also a team of Chartered Accountants. Instead of waiting for a report from any one of these teams, the State acted in violation of the Grant of Mining Leases Policy and renewed the mining leases. Why was the report from the Special Investigating Team not awaited or called for and examined? In the Grant of Mining Leases Policy it was clearly and explicitly stated (as mentioned above) as follows:

21 *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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"Unless and until the inquiry initiated pursuant to the judgment and order of the Hon'ble Supreme Court of India against those mine leaseholders found to be violating either Rule 37 or Rule 38 of the Mineral Concession Rules, 1960, or otherwise indicated in the Report of the Justice Shah Commission/PAC Report or found to be engaged in, any kind of illegality of whatsoever nature such as illegal sale of ore, sale of royalty challan without ore, encroachment of adjoining areas outside the lease overproduction in excess of the limit specified in the environmental clearance; those which have undertaken unscientific mining operations; those who have violated or have not paid the royalty amount; those who have reused old royalty challans for defrauding; and those involved in illegal mining activities *shall not be considered for renewal of the mining leases.*

For this purpose, presently the inquiries are in progress at various levels and fora including the investigation by the SIT Team, by the Team of Chartered Accountants which has been set up by the State Government and *after the inquiry is complete or during the course of the inquiry where it is found that any violations have taken place, such persons shall not be considered for grant/renewal of the leases.*" (emphasis supplied)

110. Unfortunately, the undue haste in which the State acted gives the impression that it was willing to sacrifice the rule of law for the benefit of the mining leaseholders and the explanation of satisfying the needs of some sections of society for their livelihood (after keeping them in the lurch for more than two years) was a mere fig leaf. The real intention of the second renewal was to satisfy the avariciousness of the mining leaseholders who were motivated by profits to be made through the exploitation of natural resources.

111. The undue haste also needs to be looked at in the context of the statement made in the final paragraph of the Grant of Mining Leases Policy to the effect that this Policy is an in-principle decision and would be notified after it is vetted for legal requirements "from specific necessities as also from financial viewpoints". In other words, the Grant of Mining Leases Policy as published on 4-11-2014 was not a final policy statement but only an intent that would take final shape after due vetting. The Grant of Mining Leases Policy was eventually published on 20-1-2015 but it was acted upon even before it was gazetted.

112. A partial explanation for this hurry, if we may venture to suggest, is that the State of Goa was aware (like everybody else) on 17-11-2014 if not earlier, of the policy of the Government of India to auction the grant of mining leases which policy was made available in the public domain on that date and suggestions invited. It is on 17-11-2014 that the draft Mines and Minerals (Development and Regulation) Act, 2014 was published on the website of the Ministry of Mines of the Government of India. The policy of the Government of India proposed to introduce Section 10-B by way of an amendment to the MMDR Act and the proposed amendment made it very clear that if it were to be accepted, auction of mining leases in respect of notified minerals (including iron ore) would become a reality if not an obligation. It appears that to circumvent this rather uncomfortable policy, the State pressed the accelerator on the renewal of mining leases from December 2014 onward to

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benefit mining leaseholders. So much so that in respect of 5 mining leases, the State overstepped the law and granted a second renewal in early January 2015 to some entities without even waiting for any approval or deemed approval of the mining plan from the Indian Bureau of Mines or any other authority.

113. This sequence of events acquires further significance when it is recalled that an Ordinance to amend the MMDR Act was made known to the general public on 5-1-2015 and promulgated by the President on 12-1-2015 thereby mandating competitive bidding or auction for the grant of mining leases. The State of Goa perhaps anticipated this in view of the publication of the draft Mines and Minerals (Development and Regulation) Act, 2014 and therefore hurried into the second renewal of mining leases (notwithstanding the Grant of Mining Leases Policy) to defeat the introduction of the auction process. In fact in the period from 5-1-2015 to 12-1-2015 the Government of Goa granted a second renewal to as many as 56 mining leases and from 17-11-2014 the State of Goa granted a second renewal to as many as 75 mining leases. The sudden spurt of renewal of mining leases is beyond comprehension. The judgment and order of the High Court in *Lithoferro*[5] cannot be used as a shield for explaining the haste.

114. These facts must also be appreciated in the context that mining operations were suspended in Goa with effect from 10-9-2012 due to an order passed by the State of Goa. Therefore, mining operations having been suspended for more than two years, the State could have certainly waited for a few weeks more and taken an informed and reasoned decision on granting a second renewal to mining leases — but waiting for a few weeks could have led to an uncomfortable situation that would have compelled the State of Goa to auction the mining leases, hence the haste.

115. This Court held in *TISCO Ltd.* v. *Union of India*[33] that for the purposes of Section 8(3) of the MMDR Act[34] the concept of "mineral development" encompasses the concept of captive mining, an assessment of its requirement

5 *Lithoferro* v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32

33 (1996) 9 SCC 709

34 "**8.** ***Periods for which mining leases may be granted or renewed.***—(1) The maximum period for which a mining lease may be granted shall not exceed thirty years:

Provided that the minimum period for which any such mining lease may be granted shall not be less than twenty years.

(2) A mining lease may be renewed for a period not exceeding twenty years.

(3) Notwithstanding anything contained in sub-section (2), if the State Government is of opinion that in the interests of mineral development it is necessary so to do, it may, for reasons to be recorded, authorise the renewal of a mining lease in respect of minerals not specified in Part A and Part B of the First Schedule for a further period or periods not exceeding twenty years in each case.

(4) Notwithstanding anything contained in sub-section (2) and sub-section (3), no mining lease granted in respect of mineral specified in Part A or Part B of the First Schedule shall be renewed except with the previous approval of the Central Government."

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by different industries as well as the principle of equitable distribution [under Article 39(*b*) of the Constitution]. It is not at all clear from the records before us that the State had applied its mind to these and other factors including the report of Justice Shah, the report of the EAC, the absence of any value addition to the domestic industry and the degradation of the environment as noted by the Expert Committee appointed by this Court in concluding that a second renewal was "in the interests of mineral development". Mere reliance on the acceptance or deemed acceptance of the Indian Bureau of Mines is not enough, as imagined by the State of Goa. The matter of "interests of mineral development" has to be considered holistically and not in an isolationist manner.

116. In this context, it is also necessary to point out that the National Mineral Policy, 2008 provided that: "To maximise gains from the comparative advantage which the country enjoys intra se mineral development will be prioritised in terms of import substitution, value addition and export, in that order." Admittedly, iron ore is not extracted in Goa for import substitution, or value addition for domestic industry, but only for the last option, that is, export. Can it reasonably be said that the export of iron ore is in the interest of mineral development? We were informed that only one of the mining leaseholders captively consumes the extracted iron ore and it is evident from the Mineral Policy that despite mining operations having closed down for some period in other States, iron ore from Goa was not used in the domestic steel industry. Therefore, it is not at all clear who, other than the mining leaseholders making exports, was benefited by resumption of mining operations in Goa through a second renewal.

117. The Mineral Policy clearly suggests that for a period of five years between 2006 and 2012 the mining leaseholders committed various illegalities and irregularities in the mining process. This is an indication of their exploitative and rapacious attitude having little or no concern for the environment, the fragile ecology of Goa or even the health and well-being of the average Goan. This irreparable damage was being caused by the mining leaseholders without any benefit to the domestic industry. Therefore, while the mining leaseholders may have contributed virtually nothing to the domestic industry, they might have made considerable profits through exports and might have also benefited the foreign exchange reserves of the country, but the real-time damage to the quality of health and life of the average Goan and damage to the environment and ecology of Goa is nevertheless incalculable or at least considerable — and export benefits cannot be weighed against health or the environment.

118. What is unfortunate about the entire commercial activity of the mining leaseholders is that there was no social or public purpose attached to the mining operations. There was one and only one objective behind the mining activity and that was profit maximisation. The renewal of the mining leases would give considerable profits to the mining leaseholders well beyond the benefits that could accrue to the State or to the average resident of Goa. It was observed

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by Khehar, J. in *Natural Resources Allocation*[21] that material resources of the country should not be dissipated free of cost or at a consideration lower than their actual worth. This was not kept in mind and mining leases were renewed for a small payment of stamp duty and royalty. It is therefore clear that the considerations that weighed with the State were not for the people of Goa but were for the mining leaseholders. This certainly cannot be described as being "in the interests of mineral development".

119. With the mining leaseholders violating virtually every applicable law or legal requirement, it is clear that the rule of law was not their concern. The list of violations and their variety was documented by the EAC and it makes for some very sad reading. To make matters worse, it was clearly mentioned in the Grant of Mining Leases Policy that a Special Investigating Team and a team of Chartered Accountants would look into all the violations but the State chose not to wait for any of the reports. There is no explanation for this.

120. In this background, there is little to suggest that the State considered the requirements of Section 8(3) of the MMDR Act in that the interests of mineral development were secondary while granting the second renewal of mining leases. The entire exercise undertaken by the State was a hasty charade, regardless of violations of the law by the mining leaseholders, without any benefit to the Indian industry and without any concern for the health of the average Goan.

121. The undue haste with which the State granted the second renewal of mining leases particularly after the amendments proposed to the MMDR Act were placed in the public domain by the Government of India (relating to the auction of mining leases) is a clear indication that the decision of the State was not based on relevant material and not necessarily triggered by the interests of mineral development. The very large number of renewals granted over a comparatively brief period is a clear indication that the State did not have "mineral development" in mind but had some other non-statutory interests while taking its decision to grant a second renewal to the mining leases. The haste with which the State took its decision also needs to be understood in the background of the fact that mining had been suspended by the State in September 2012 that is more than two years prior to the grant of second renewals. The urgency suddenly exhibited by the State therefore seems to be make-believe and motivated rather than genuine.

122. Facts from the record also disclose some interesting information regarding the second renewal of mining leases. The Table below indicates that except 13 mining leases, all the others were renewed after publication of the draft Mines and Minerals (Development and Regulation) Act, 2014 on 17-11-2014. The Table is given below and is self-explanatory:

21 *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1

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Period	*Mining leases renewed*
Between 5-11-2014 and 17-11-2014	13
Between 10-12-2014 and 2-1-2015	19
Between 5-1-2015 and 12-1-2015	56
Total	88
On 12-1-2015	31

123. Of the 13 mining leases renewed in November 2014, it is found that according to the State of Goa all of them are Category I violators (except Geetabala M.N. Parulekar who is a Category II violator). However, it was pointed out by the learned counsel appearing on behalf of Goa Foundation that the report of the Vishwanath Anand EAC indicates that a recommendation was made to revoke the environmental clearance in respect of 6 mining leaseholders; additionally, none of the mining leaseholders had approval from the National Board for Wild Life (where required); all of them (except 2) had mined in excess of the permissible limit under the environmental clearance; all of them had indulged in dump mining; some of them were guilty of encroachments; in almost every case the mining activity intersected groundwater level and none of the mining leaseholders had permission for groundwater withdrawal. These cannot be described as minor violations but were actually multiple violations in almost all cases. How could the State of Goa and MoEF overlook these recommendations and multiple violations?

124. It may be recalled that the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015 came into force on 12-1-2015 and on that day as many as 31 mining leases were renewed. In respect of 5 mining leases renewed in January 2015 the report from the Indian Bureau of Mines was called for in January 2015 itself and the mining leases were renewed without receipt of the report from the Indian Bureau of Mines and before expiry of the mandatory period for submitting the report in terms of the second proviso to Rule 24-A(3) of the Mineral Concession Rules, 1960. In other words, without even receipt of any report from the Indian Bureau of Mines and even before the expiry of the statutory waiting period, the State of Goa renewed some mining leases. This is patently illegal.

125. We were informed by the learned Additional Solicitor General that of the 88 mining leases that were renewed, 38 of them are not working for a variety of reasons—making their renewal an empty exercise.

126. These facts are mentioned in the context of the undue haste shown by the State of Goa in granting a second renewal to the mining leases keeping the following dates in mind:

17-11-2014 — The draft Mines and Minerals (Development and Regulation) Act, 2014 was uploaded on the website of the Ministry of Mines of the Government of India.

5-1-2015 — Approval of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015 by the Cabinet of the Government of India became public knowledge.

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12-1-2015 — President of India promulgated the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015.

127. It is possible that the State did have some serious governance issues to contend with as mentioned in the Grant of Mining Leases Policy, namely, since iron ore mining had been suspended for more than two years, the State faced a lack of funds resulting in its having difficulty in undertaking infrastructure projects and other activities. The State had also to contend with the adverse effects faced by a large population that was directly or indirectly dependent on the mining sector. Additionally, the transport sector was affected as well as barges used for transport through rivers from jetties. The stoppage of mining operations therefore affected several categories of stakeholders including small business or small commercial ventures and workers/labour. The Grant of Mining Leases Policy also noted that there was a tremendous loss of foreign exchange of about $8 billion through exports and more than Rs 850 crores towards loans/advances on the mining sector for a variety of activities as well as about Rs 1000 crores towards housing, business and other loans. Overall there was a slump in economic activity which also had an impact on the education sector, etc.

128. The State has projected virtual chaos (which could be an exaggeration) but that is why we have left open the issue of arbitrariness of the policy decision. Nevertheless the State is bound by the law, however uncomfortable it might be in granting a second renewal in terms of Section 8(3) of the MMDR Act. Therefore, on an overall consideration of all aspects of the case, we are of the opinion that the decision of the State of Goa to quickly renew the mining leases while ostensibly complying with the requirements of Section 8(3) of the MMDR Act and thereby jettisoning the rule of law was unjustified.

Whether fresh environmental clearances were required to be obtained by the mining leaseholders?

129. The question whether the mining leaseholders required fresh environmental clearances arises in the context of para 82 of the decision rendered in *Goa Foundation*[1] quoted above. It must be stated that some mining leaseholders had environmental clearances under EIA 1994 while others under EIA 2006. Notwithstanding this, since we have held that fresh mining leases were required to be granted, it follows that fresh environmental clearance is required to be obtained by those who are granted a fresh mining lease.

130. That apart, the materials before the Court while deciding *Goa Foundation*[1] included the report of the Justice Shah Commission, the report of the EAC and the report of the Expert Committee constituted by the Court by orders dated 11-11-2013[3] and 18-11-2013[4]. On a combined reading of the material before it, the Court took a broad view that large-scale mining of iron ore led to several adverse impacts including those related to the environment,

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
3 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 738
4 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590 (footnote 17)

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ecology and health of the people of Goa and that these illegalities and irregularities were committed by almost all (if not all) mining leaseholders as reported by the EAC. The Court also accepted the view of the Expert Committee that the ecology of Goa was being degraded through indiscriminate mining and placed a cap on the annual excavation of iron ore. It was noted that mining by the lessees in Goa after 22-11-2007 was illegal and that mining operations were suspended by the State of Goa on 10-9-2012 and environmental clearances granted to the mines were kept in abeyance by the MoEF on 14-9-2012. Considering all this, as well as the law laid down in *Goa Foundation*[1] to the effect that there is no automatic second renewal of a mining lease but that a second renewal must be granted in accordance with the provisions of Section 8(3) of the MMDR Act, the Court used the expression "grant fresh environmental clearances for mining projects" in the passage referred to above.

131. We have already adverted to the report of the EAC. As far as the Expert Committee set up by the Court is concerned, it had furnished an Interim Report dated 14-3-2014 in which it noted large-scale degradation of the environment and recommended placing an annual cap between 20 and 27.5 million tonnes on the extraction of iron ore in Goa. The Expert Committee noted the following (which makes for some very depressing reading):

> "The production of iron ore has jumped from 14.6 million tons in 1941 to 41.17 million tons in 2010-2011. In 1980s the production was about 10 MT/annum. *The quantum jump in iron ore production in Goa was essentially due to steep rise in exports of fines and other low grade ore of 42% Fe content to China. This has led to massive negative impacts on all ecosystems leading to enhanced air, water, and soil pollution affecting quality of life across Goa.* This is evident by three important reports i.e. (*i*) Areawise Environmental Quality Management (AEQM) Plan for the Mining belt of Goa by Tata Energy Research Institute, New Delhi and Goa (1997) and it was submitted to the Directorate of Planning, Statistics, and Evaluation, Government of Goa, (*ii*) Environmental and Social Performance Indicators and Sustainability Markers in Minerals Development Reporting Progress towards Improved Ecosystem Health and Human Well-being, Phase III by TERI and International Development Research Centre, Ottawa, Canada (2006), and (*iii*) the Regional Environmental Impact Study of Iron Ore Mining in Goa region sponsored by MoEF, New Delhi (2014) by Indian School of Mines. Besides the above three main reports, a number of scientific research papers on the impact of iron ore mining on the environment and ecology of diverse ecosystems were published by scientists working at Goa University and NIO.
>
> *These reports and publications substantiate that the mining, particularly the enhanced level of annual production contributed to adverse impacts on the ecological systems, socioeconomics of Goa and health of people of Goa leading to loss of ecological integrity.* This is due to

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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enhanced levels of pollutants, particularly RSPM and SPM, sedimentation of materials from dumps and iron ore in rivers, estuaries and shallow depth (20 m) of sea water, agricultural fields, high concentration of Fe and Mn in surface waters and their bioaccumulation." (emphasis supplied)

132. Faced with this material evidence before it, the Court took the view in *Goa Foundation*[1] that fresh environmental clearances must be obtained. Unfortunately however, the State of Goa was more concerned with earning revenue rather than the health of the people of Goa or enforcing the rule of law and therefore gave a complete go-by to the directions of this Court and to the concerns of the citizens of Goa and requested the MoEF to lift the abeyance on the environmental clearances.

133. Acting on the request made by the State of Goa by Letters dated 7-1-2015 and 5-2-2015, the MoEF passed three orders on 20-3-2015. We have already adverted to the contents of the orders passed on 20-3-2015.

134. The first order of 20-3-2015 is essentially a communication documenting the variety of illegalities and irregularities committed by the mining leaseholders and that the Government of India would be referring the cases for appropriate action and also requesting the Principal Secretary, Environment in the Government of Goa to take necessary action.

135. The second order of 20-3-2015 is an office memorandum to the effect that a project proponent will not be required to obtain a fresh environmental clearance at the time of renewal of the mining lease. This is misleading information and contrary to the decision of this Court in *M.C. Mehta* v. *Union of India*[15] as well as the decision rendered in *Common Cause* v. *Union of India*[35].

136. It was held in *Ambica Quarry Works* v. *State of Gujarat*[36], *Rural Litigation and Entitlement Kendra* v. *State of U.P.*[37] and *State of M.P.* v. *Krishnadas Tikaram*[6] (which decisions were followed in *M.C. Mehta*[15]) that the renewal of a lease, whether under the provisions of the Forest (Conservation) Act, 1980 or otherwise cannot be granted without the leaseholder complying with the necessary statutory requirements particularly since the grant of renewal is a fresh grant and must be consistent with law. The principle of compliance with statutory provisions at the stage of renewal of a lease was re-affirmed in *Common Cause*[35] in paras 105 and 106 of the Report. In para 188(2) of the Report it was categorically held as follows: (SCC p. 569)

> "*188.* ... (2) The renewal of a mining lease after 27-1-1994 will require an EC even if there is no expansion or modernisation activity or any increase in the pollution load."

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
15 (2004) 12 SCC 118
35 (2017) 9 SCC 499
36 (1987) 1 SCC 213
37 1989 Supp (1) SCC 504
6 1995 Supp (1) SCC 587

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137. The third order of 20-3-2015 is extremely cryptic in the matter of lifting the abeyance order of 14-9-2012 on environmental clearances. While dealing with 35 mining leases for which environmental clearance had been granted under EIA 1994 and 37 mining leases for which environmental clearance had been granted under EIA 2006, the following is stated:

> "It has been decided in the Ministry that the EC issued under 1994 Notification in case they are valid and subsisting *would not require fresh EC at the time of renewal* [O.M. L-11011/15/2012-IA-II (M) dated 20-3-2015]. Therefore it has been decided to lift abeyance on the 72 cases of which 35 cases had been granted EC under the provisions of EIA Notification 1994 and 37 cases had been granted EC under EIA Notification 2006." (emphasis supplied)

138. As mentioned above and as held in *M.C. Mehta*[15] and *Common Cause*[35], the renewal of a lease after 27-1-1994 would require an environmental clearance. Therefore, a mining leaseholder having a valid environmental clearance obtained under the EIA 1994 would still require a fresh environmental clearance for renewal of the mining lease in 2014-2015 as the case may be. That being so there is no doubt at all that the 35 cases referred to in the third order of 20-3-2015 who had an environmental clearance under EIA 1994 did require a fresh environmental clearance at the time of renewal of the mining lease. Since they did not have such a fresh environmental clearance the renewal of these 35 mining leases is clearly bad in law. Moreover, as held in *M.C. Mehta*[15] and *Common Cause*[35] the validity of an environmental clearance granted under EIA 1994 is only for five years. Therefore all environmental clearances granted under EIA 1994 had lost their validity before 2015, EIA 1994 having been replaced by EIA 2006.

139. As regards the 37 mining leases that had obtained environmental clearance under EIA 2006, since the validity of the environmental clearance is for the estimated project life or a maximum of 30 years in terms of Para 9 of EIA 2006 therefore no violation can be found on the ground of validity for the time period. To this limited extent, no interference is necessary at this stage in respect of these 37 mining leases. We make it clear, however, that this is subject to our conclusion that fresh mining leases were required to be granted by the State of Goa. Consequently, a mining leaseholder obtaining a fresh mining lease would require a fresh environmental clearance in terms of EIA 2006.

140. What is disturbing is that notwithstanding several and various violations, the MoEF granted environmental clearance to 72 mining leases. It seems to us that the MoEF acted without any application of mind in lifting the order placing all the environmental clearances in abeyance. Since the entire exercise carried out by the MoEF on 20-3-2015 was mechanical, at the behest of the State of Goa, without due application of mind, without considering the multiple illegalities and irregularities committed by the mining leaseholders

15 *M.C. Mehta* v. *Union of India*, (2004) 12 SCC 118
35 *Common Cause* v. *Union of India*, (2017) 9 SCC 499

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or passing on the buck to the State of Goa and without considering relevant material such as the report of the EAC and the Expert Committee appointed by this Court, the exercise of lifting the abeyance order on 20-3-2015 by the MoEF must be held void and as directed by the Court in *Goa Foundation*[1] all the mining leaseholders must obtain fresh environmental clearance for their mining project.

141. We were informed by the learned Additional Solicitor General that show-cause notices have now been issued to some mining leaseholders demanding huge amounts—some running into hundreds of crores of rupees towards value of *ore extracted in excess of the environmental clearance.* We were handed over some sample show-cause notices (about 12) issued in September and October 2017 and the figures are quite staggering—the demand raised being about Rs 1500 crores! Similarly, from the Summary of Mining Audit Report submitted by the auditors (and handed over to us by the learned Additional Solicitor General—for the period July 2016 to December 2016) the amount demanded (including interest) by the State of Goa from the mining leaseholders through show-cause notices issued is about Rs 1500 crores! And without making any serious attempt to recover such huge amounts, the State of Goa has granted second renewal of mining leases and the MoEF played ball by lifting the abeyance order in respect of the environmental clearances. The inferences that can be drawn are quite obvious.

142. We must emphasise that issues impacting society are required to be looked at holistically and not in a disaggregated manner. An overall perspective is necessary on such issues including issues that impact on the environment and the people of a community or a region or the State. It is for this reason that it is necessary to look at them broadly otherwise if that broader perspective is lost, everyone will be a loser and no one will be a real beneficiary. One or two violations here and there may be wished away as inconsequential, but multiple violations by several persons can result in serious problems. As the novelist and philosopher Ayn Rand had said: We can evade reality, but we cannot evade the consequences of evading reality. Therefore, there is no doubt that the Mineral Policy, the Grant of Mining Leases Policy, the amendment to the MMDR Act, the report of the EAC and the report of the Expert Committee must be considered in the larger context of constitutionalism, the rule of law, environmental jurisprudence as well as the fundamental right of the people of Goa to have clean air and protection of the fragile ecology. Governance cannot and should not be carried out dehors the interests of the people and some uncomfortable decisions may be inevitable for balancing the equities.

143. Finally, a controversy (wholly unnecessary in our view) was raised with regard to the period of validity of the environmental clearance granted under EIA 1994. Firstly, in the view that we have taken, the validity period of an environmental clearance under EIA 1994 is academic since a fresh environmental clearance was necessary at the time of renewal of a lease. Secondly, the period of validity of an environmental clearance was considered

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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in *M.C. Mehta*[15] and it was clearly held that it is valid for 5 years only. In para 77 of the Report it was observed: (SCC p. 180)

> "*77.* We are unable to accept the contention that the Notification dated 27-1-1994 would not apply to leases which come up for consideration for renewal after issue of the notification. The notification mandates that the mining operation shall not be undertaken in any part of India unless environmental clearance by the Central Government has been accorded. *The clearance under the notification is valid for a period of five years.* In none of the leases the requirements of the notification were complied with either at the stage of initial grant of the mining lease or at the stage of renewal. Some of the leases were fresh leases granted after issue of the notification. Some were cases of renewal. No mining operation can commence without obtaining environmental impact assessment in terms of the notification." (emphasis supplied)

144. A similar view was expressed in para 87 in *Common Cause*[35]. Any contrary view expressed in any notification issued by MoEF (including the Notification of 15-1-2016) cannot overrule the decisions of this Court and is void to the extent that it does so.

145. It was submitted that all relevant notifications on the subject had not been placed before the Court and hence an erroneous conclusion was arrived at with respect to EIA 1994. We propose to deal with the notifications placed before us.

146. The Notification of 27-1-1994 (EIA 1994) deals with site clearance in Para 2.II(*d*). This provides, inter alia, that site clearance will be granted for a mining operation by the Central Government and that site clearance will be valid for a period of five years for commencing the operation or mining. Paras 2.III(*a*) and 2.III(*c*) of the Notification deal with the procedure for obtaining environmental clearance, but do not provide for the validity period of the environmental clearance.

147. A Notification of 4-5-1994 refers to the Notification of 27-1-1994 and substitutes Para 2.III(*c*) therein and provides that the environmental clearance "shall be valid for a period of five years from commencement of the construction or operation". What this provides, therefore, is that if environmental clearance is granted on a particular date and the mining operation starts on a later date, then the validity of the environmental clearance commences from the later date and is valid for five years from that date. This was reiterated in the Notification of 10-4-1997.

148. The validity of an environmental clearance is specifically provided for in EIA 2006 in Para 9 thereof. As far as we are concerned, it provides that in respect of mining operations, the environmental clearance would be valid for the "project life as estimated by Expert Appraisal Committee or State Level

15 *M.C. Mehta* v. *Union of India*, (2004) 12 SCC 118
35 *Common Cause* v. *Union of India*, (2017) 9 SCC 499

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Expert Appraisal Committee subject to a maximum of thirty years for mining projects...".

149. For no apparent reason and after EIA 2006, the issue of the validity of an environmental clearance granted under EIA 1994 was raked up and a notification was issued by the MoEF on 21-8-2013 in which it was noted that the Notification of 4-5-1994 provided that "the clearance granted shall be valid for a period of five years from commencement of the construction or operation". Another Notification of 21-8-2013 goes on to say that the intent of the Central Government has been and has always been that the validity of the environmental clearance is for five years "for" commencement of the construction or operation and not that the environment clearance is only for five years "from" the commencement of construction or operation. Therefore, the Central Government clarified in the Notification of 21-8-2013 that the expression "for a period of five years" shall mean "for a period of five years for commencement of the construction or operation and not five years from commencement of the construction or operation". We do not see how this controversy really arises or its relevance to the present case, but we refer to it since submissions were made to explain the distinction between "for" five years and "from" five years in respect of the validity of an environmental clearance.

150. It is perhaps sought to be contended that if environmental clearance is granted and mining operations commence within the five year period, then the environmental clearance under EIA 1994 is valid till the project or the mining lease period is over. We cannot see how such an inference can be drawn. Moreover, this submission overlooks the decisions in *M.C. Mehta*[15] and *Common Cause*[35] which accept the view that the validity of an environmental clearance granted under EIA 1994 is only five years as also the view that a valid environmental clearance is necessary for the renewal of a mining lease. No notification of the MoEF can overrule decisions of this Court. As far as EIA 2006 is concerned this submission is academic and not relevant since Para 9 of EIA 2006 provides that the environmental clearance would be valid for the estimated project life subject to a maximum of 30 years.

151. The learned counsel for the mining leaseholders also relied upon a decision of the Delhi High Court in *S.N. Mohanty* v. *Union of India*[38] to contend that notwithstanding a Notification issued by MoEF on 4-4-2011 it was not obligatory for a mining leaseholder to obtain a fresh environmental clearance at the time of renewal of a lease, if the environmental clearance was subsisting. In that case, the petitioner had an environmental clearance obtained under EIA 2006 on 15-1-2007 and the first renewal of the mining lease was due on 2-4-2012. In that context, it was submitted that it was not necessary for the

15 *M.C. Mehta* v. *Union of India*, (2004) 12 SCC 118
35 *Common Cause* v. *Union of India*, (2017) 9 SCC 499
38 2012 SCC OnLine Del 4000

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petitioner to obtain environmental clearance for renewal of the mining lease. The Delhi High Court took the view that: (SCC OnLine Del para 22)

> "22. ... if a person has a valid and subsisting EC [environmental clearance] at the point of time he seeks a renewal of the mining lease, he would still be required to obtain another EC prior to the grant of renewal by the respondents. That, in our view, is not the intent and purport of the Supreme Court directions in *M.C. Mehta*[15]."

This question does not arise in the context of EIA 1994.

152. One final submission before us was that these cases be referred to a Bench of nine learned Judges since the constitutional validity of the Goa, Daman & Diu Mining Concessions (Abolition & Declaration of Mining Leases) Act, 1987 was under challenge in some cases and the decision in those cases would perhaps render the present proceedings infructuous. In some of these pending cases, this Court had passed an order on 29-10-2002 to await the decision of nine learned Judges in *Property Owners' Assn.* v. *State of Maharashtra*[39]. We are not at all inclined to accept this request and mention it only to reject it.

***Correctness of the decision of the High Court in Lithoferro*[5]**

153. As far as the SLPs are concerned [SLP (C) No. 32138 of 2015 and SLPs (C) Nos. 32699-727 of 2015] we set aside the judgment and order dated 13-8-2014[5] of the High Court in view of our conclusion that the State of Goa was required to grant fresh licences in terms of the decision of this Court in *Goa Foundation*[1]. The High Court proceeded on the erroneous basis that it could direct the State of Goa to grant a second renewal of the mining leases notwithstanding the direction in *Goa Foundation*[1].

Conclusions and directions

154. In view of our discussion, we arrive at the following conclusions:

154.1. As a result of the decision, declaration and directions of this Court in *Goa Foundation*[1], the State of Goa was obliged to grant fresh mining leases in accordance with law and not second renewals to the mining leaseholders.

154.2. The State of Goa was not under any constitutional obligation to grant fresh mining leases through the process of competitive bidding or auction.

154.3. The second renewal of the mining leases granted by the State of Goa was unduly hasty, without taking all relevant material into consideration and ignoring available relevant material and therefore not in the interests of mineral development. The decision was taken only to augment the revenues of the State which is outside the purview of Section 8(3) of the MMDR Act. The second

15 *M.C. Mehta* v. *Union of India*, (2004) 12 SCC 118
39 (2013) 7 SCC 522 : (2013) 3 SCC (Civ) 603
5 *Lithoferro* v. *State of Goa*, 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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renewal of the mining leases granted by the State of Goa is liable to be set aside and is quashed.

154.4. The Ministry of Environment and Forests was obliged to grant fresh environmental clearances in respect of fresh grant of mining leases in accordance with law and the decision of this Court in *Goa Foundation*[1] and not merely lift the abeyance order of 14-9-2012.

154.5. The decision of the Bombay High Court in *Lithoferro* v. *State of Goa*[5] (and batch) giving directions different from those given by this Court in *Goa Foundation*[1] is set aside.

154.6. The mining leaseholders who have been granted the second renewal in violation of the decision and directions of this Court in *Goa Foundation*[1] are given time to manage their affairs and may continue their mining operations till *15-3-2018*. However, they are directed to stop all mining operations with effect from *16-3-2018* until fresh mining leases (not fresh renewals or other renewals) are granted and fresh environmental clearances are granted.

154.7. The State of Goa should take all necessary steps to grant fresh mining leases in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957. The Ministry of Environment and Forests should also take all necessary steps to grant fresh environmental clearances to those who are successful in obtaining fresh mining leases. The exercise should be completed by the State of Goa and the Ministry of Environment and Forests as early as reasonably practicable.

154.8. The State of Goa will take all necessary steps to ensure that the Special Investigating Team and the Team of Chartered Accountants constituted pursuant to the Goa Grant of Mining Leases Policy, 2014 give their report at the earliest and the State of Goa should implement the reports at the earliest, unless there are very good reasons for rejecting them.

154.9. The State of Goa will take all necessary steps to expedite recovery of the amounts said to be due from the mining leaseholders pursuant to the show-cause notices issued to them and pursuant to other reports available with the State of Goa including the report of Special Investigating Team and the Team of Chartered Accountants.

155. The writ petitions and SLPs are disposed of in accordance with the above conclusions and directions.

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1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
5 2014 SCC OnLine Bom 997 : (2015) 3 AIR Bom R 32

Annexure - E

Government of Goa
Directorate of Mines & Geology
Institute Menezes Braganza, Panaji-Goa
Website: www.dmg.goa.gov.in e-mail: auction-dmg@goa.gov.in
No.DMG 25/Auction Cell/LOI-function/2023/3780 Date:13/01/2023

To,
Salgaocar Shipping Company Private Limited.
Salgaocar Bhavan, Altinho,
Panjim 403001 Goa, India.

Sub: Letter of intent with reference to e-auction dated December 15, 2022 for grant of a mining lease for Block II - Sirigao-Mayem Mineral block for Iron Ore mineral in Sirigao & Mayem village, Bicholim Taluka, North Goa District on 171.2472 Hectare Area.

1. Background:

1.1 Government of Goa, pursuant to the Mines and Minerals (Development and Regulation) Act, 1957 (the "**Act**") and the Mineral (Auction) Rules, 2015 as amended from time to time (the "**Auction Rules**"), issued the notice inviting tender dated September 30, 2022 to commence the auction process for grant of mining lease for **Block II - Sirigao-Mayem Mineral block** located in North Goa. The e-auction process was conducted in accordance with the tender document for the said mineral block and **Salgaocar Shipping Company Private Limited** was declared as the 'Preferred Bidder' under Rule 9(9)(iii) of Auction Rules, having quoted a Final Price Offer of **99.25%** (Ninety nine point two five percent).

1.2 As required under Rule 10(1) of the Auction Rules and the tender document for the said mineral block, **Salgaocar Shipping**

Company Private Limited has made payment of the first instalment, being 20% (twenty per cent) of the upfront payment of Rs. 7,54,44,823 (Rupees Seven Crore Fifty Four Lakh Forty Four Thousand Eight Hundred Twenty Three) through e-Challan (e-Challan No. 20230000059094) dated January 3, 2023, which was received at Goa.

2. Grant of Letter of Intent

2.1. Accordingly, pursuant to Rule 10(2) of the Auction Rules and the terms of the Tender Document, the Government of Goa is issuing this letter of intent for grant of Mining Lease for **Block II - Sirigao-Mayem Mineral block** for Iron Ore in Sirigao & Mayem village, Bicholim Taluka, North Goa District on 171.2472 Hectare Area to **Salgaocar Shipping Company Private Limited** for a period of 50 (fifty) years.

3. Conditions

3.1. This letter of intent and the subsequent grant of aforementioned mining lease shall be subject to the provisions of the Act and the Rules made thereunder, as amended from time to time, and the **Salgaocar Shipping Company Private Limited** shall be designated as the 'Successful Bidder' and subsequently granted the mining lease only upon satisfactory completion of all the requirements under the Acts and Rules made thereunder.

The State Government may impose such other conditions in the Mine Development and Production Agreement (MDPA) and/or Mining Lease as may be considered by the State Government to be in the interest of mineral development and in public interest.

Salgaocar Shipping Company Private Limited shall be bound by (i) the enactment, bringing into effect, adoption, promulgation,

amendment, modification or repeal of any Applicable Laws (including the Act and Rules) occurring at any time, including prior to or after the Bid Due Date; (ii) any amendments made by the State Government to this effect in the Tender Document, the letter of intent, the MDPA and/or the mining lease deed at any time, including prior to or after the Bid Due Date.

3.2. For reference, the requirements under the Auction Rules for designation of **Salgaocar Shipping Company Private Limited** as the "successful bidder" and subsequent grant of the mining lease are reiterated below. It is clarified that the requirements mentioned below are only for reference and in the event of any change in the Act or the Rules made thereunder, the requirements under the modified Act or the Rules made thereunder, as the case may be, shall be applicable.

(a) Designation as the "Successful Bidder":

Salgaocar Shipping Company Private Limited shall be considered to be the "Successful Bidder" upon:

(i) continuing to be in compliance with all the terms and conditions of eligibility;

(ii) payment of the second instalment being 20% (twenty per cent) of the upfront payment;

(iii) furnishing an irrevocable and unconditional performance security to the State Government from an Acceptable Bank and payable at Goa, pursuant to the Auction Rules;

(iv) satisfying the conditions specified in clause (b) of sub-section (2) of Section 5 of the Act with respect to a mining plan : and

(b) Signing of the Mine Development and Production Agreement

Salgaocar Shipping Company Private Limited shall sign the Mine Development and Production Agreement with the Government of Goa upon obtaining all consents, approvals, permits, no-objections and the like as may be required under applicable laws for commencement of mining operations.

(c) Grant of Mining Lease

Subsequent to signing of the Mine Development and Production Agreement, **Salgaocar Shipping Company Private Limited** shall make payment of the third instalment being 60% (sixty per cent) of the upfront payment and thereafter the Government of Goa shall grant the aforementioned mining lease.

3.3. The State Government reserves the right, but not the obligation, to appropriate and dispose of (whether by way of sale, auction or such other means as the State Government may, in its sole discretion, determine) all or any part of the dumps presently located within the Mineral Block. Provided that such right shall be exercised by the State Government no later than 12 (twelve) months from the date of issuance of this Letter of Intent. It is clarified that the Successful Bidder shall, in accordance with Applicable Law, be entitled to dispose of only such part of the dumps in respect of which the State Government does not exercise the aforesaid right.

4. Validity

4.1. This Letter of Intent shall be valid only if **Salgaocar Shipping Company Private Limited** ensures that the Bid Security is valid until the Performance Security is furnished to the Government of Goa failing which this letter of intent shall become invalid from the

date of expiry of the Bid Security.

4.2. This letter of intent is valid for a period of 3 (three) years from the date of its issuance, within which time all the above conditions must be fulfilled and the Mining Lease deed must be executed between the **Salgaocar Shipping Company Private Limited** and the Government of Goa. In case there is a delay in execution of Mining Lease Deed due to reasons beyond the control of the Preferred Bidder, then it may submit an application to Government of Goa, requesting for further extension

4.3. If the Government of Goa is satisfied that there is a delay in execution of Mining Lease Deed due to reasons beyond the control of the Preferred Bidder and a longer period is required to enable the Preferred Bidder to satisfy all or any of the above conditions, it may extend the validity of this letter of intent for such period or periods as the Government of Goa may specify. Provided that: (a) this letter of intent shall be extended for a maximum period of 2 (two) years; and (b) the total period for which this letter of intent would remain valid must not exceed 5 (five) years from the date of issuance.

Kindly return the duplicate copy of this letter of intent duly signed by authorized signatory in token of having accepted the above terms and conditions. The accepted copy of Letter of Intent along with Board resolution should be submitted latest by **January 27, 2023.**

(Dr. S. Shanbhogue)
Director

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Annexure - F

(2023) 1 High Court Cases (Bom) 108
2023 SCC OnLine Bom 929
HIGH COURT OF BOMBAY

(2J)

(BEFORE M.S. SONAK AND VALMIKI SA MENEZES, JJ.)

SOCIEDADE DE FOMENTO INDUSTRIAL PRIVATE LIMITED AND ANOTHER .. Petitioners;

Versus

STATE OF GOA AND OTHERS .. Respondents.

WP No. 400 of 2023 (Filing No.) and Misc. Civil Appln. No. 548 of 2023 (Filing No.), decided on April 26, 2023

A. **Mines and Minerals — Mines and Minerals (Development and Regulation) Act, 1957 — S. 8-B — Effect of S. 8-B upon environmental clearances (ECs) for mining leases considering decisions of Supreme Court — Examination of — Period of which mining lease may be granted or renewed — Whether State through its notice inviting tender, can waive or represent requirement of obtaining a fresh environmental clearance would not apply to new leases/successful auction bidders given provisions of substituted S. 8-B of the Mines and Minerals Act — Held, nothing in S. 8-B suggests that an invalid or cancelled approval or clearance would either stand revived or legalised and then be transferred or vested in a new lessee, therefore, based upon provisions of S. 8-B, the State cannot contend that ECs that were expressly cancelled by MoEF based on judicial decisions in *Goa Foundation (1)* and *Goa Foundation (2)*, stand revived, and shall be transferred and vested in the new lessee/successful auction bidders, thereby obviating the necessity for such new lessee/successful auction bidders from obtaining fresh ECs — Further held, Statement of Objects and Reasons to the Mineral Laws (Amendment) Bill, 2021 seeks to provide that all the valid rights, approvals, clearances, etc. granted to the lessee in respect of a mine shall continue to be valid even after the expiry or termination of the lease and such clearances shall be transferred and vested to the successful bidder of the mining lease**

B. **Constitution of India — Art. 226 — Maintainability of writ petition — Standing/locus standi — Whether petitioners have locus standi to file petition — Held, petitioners have locus standi to file petition as they have a real and substantial interest in subject-matter of this petition and issues raised therein, therefore, petitioners cannot be non-suited for want of locus standi**

The primary issue in this petition concerns the effect of Section 8-B of the Mines and Minerals (Development and Regulation) Act, 1957 upon the environmental clearances (ECs) for mining leases that were the subject-matter of the decisions of the Supreme Court in *Goa Foundation (1)* and *Goa Foundation (2)*. Petitioners raises issue in the context of a notice inviting tender for the auction of mineral block. Petitioners contending that Section 8-B of the MMDR Act applies only to the valid ECs concerning the mining leases whose terms may have expired but not to ECs expressly cancelled by the Ministry of Environment and Forests. Petitioners contending that such specifically invalidated and cancelled ECs do not revive under Section 8-B, therefore, Respondents 1 and 2 were not justified in representing in the NIT that Section 8-B shall apply to block, implying

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that successful auction bidders would not be required to obtain a fresh EC for commencing mining operations of this block.

Held :

The Statement of Objects and Reasons to the Mineral Laws (Amendment) Bill, 2021 seeks to provide that all the valid rights, approvals, clearances, etc. granted to the lessee in respect of a mine shall continue to be valid even after the expiry or termination of the lease and such clearances shall be transferred and vested to the successful bidder of the mining lease. Nothing in Section 8-B suggests that an invalid or cancelled approval or clearance would either stand revived or legalised and then be transferred or vested in a new lessee. Therefore, based upon provisions of Section 8-B, the State cannot contend that ECs that were expressly cancelled by MoEF based on judicial decisions *Goa Foundation (1)* and *Goa Foundation (2)* stand revived and shall be transferred and vested in the new lessee/successful auction bidders, thereby obviating the necessity for such new lessee/successful auction bidders from obtaining fresh ECs. "This conscious decision of the Supreme Court in *Goa Foundation (1) case* which was reiterated in *Goa Foundation (2) case*, cannot be bypassed by regarding the ECs which were explicitly cancelled by the MoEF order dated 23-4-2018 as valid only to grant new lessees/successful auction bidders the benefit of Section 8-B of the MMDR Act, 1957. As noted earlier, the proper construction of Section 8-B of the MMDR Act, 1957 indicates that only valid ECs were to stand transferred and vested in the new lessees/successful auction-purchasers." (Para 93)

Goa Foundation v. *Union of India*, (2014) 6 SCC 590 and *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218, *followed*

State of Kerala v. *James Varghese*, (2022) 9 SCC 593; *State of T.N.* v. *State of Kerala*, (2014) 12 SCC 696; *Vedanta Ltd.* v. *Director of Mines & Geology*, 2019 SCC OnLine Bom 13248; *Lithoferro* v. *Director of Mines and Geology*, 2022 SCC OnLine Bom 1684; *Sociedade Zarapkar and Parkar Limitada* v. *State of Goa*, Petition for Special Leave to Appeal (C) Nos. 19694 of 2022, *followed*

Common Cause v. *Union of India*, (2016) 11 SCC 455, *referred to*

Pune Municipal Corpn. v. *State of Maharashtra*, (2007) 5 SCC 211, *distinguished*

The petitioners have locus standi to file the petition. They have a real and substantial interest in the subject-matter of this petition and the issues raised therein. Petitioners cannot be non-suited for want of locus standi. "Therefore, this petition cannot be rejected on the ground that the petitioner lacks locus standi or that this petition was premature." (Para 82)

The court noted that no clearance was obtained from the Central Ground Water Board for groundwater extraction. In the context of the submission that there is plenty of groundwater available in Goa, the court observed that what seems to have been overlooked was that with the intersection of groundwater levels with mining operations, the groundwater would get depleted much faster than expected or the quality of the groundwater would deteriorate. The court noted that, unfortunately, no heed was paid to these requirements by the State of Goa or any of the mining leaseholders, and no one mining leaseholder has any clearance (where required) from the Central Ground Water Board. (Para 90)

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Advocates who appeared in this case :

S.S. Kantak, Senior Advocate (Parag Rao, Yashraj Deora Singh, Ms Linette Rodrigues, Preetam Talaulikar, Akhil Parrikar, Ms Neha Kholkar, and Ms Saicha Desai, Advocates), for the Petitioners;

D.J. Pangam, Advocate General, and Deep Shirodkar, Additional Government Advocate, for the State;

P. Faldessai, Deputy Solicitor General of India and Raviraj Chodankar, Central Government Standing Counsel for Union of India;

Ms Norma Alvares (Om D'Costa, Advocate), for the Applicant/Intervenor in MCA No. 548 of 2023 (F).

Chronological list of cases cited ***on page(s)***

1. (2022) 9 SCC 593 : (2022) 4 SCC (Civ) 725, *State of Kerala* v. *James Varghese* 128
2. 2022 SCC OnLine Bom 3420, *Lithoferro* v. *Director of Mines and Geology* 131
3. (2021) 7 SCC 206 : (2021) 3 SCC (Civ) 809 : (2021) 3 SCC (Cri) 158, *Vedanta Ltd.* v. *State of Goa* 130
4. 2019 SCC OnLine Bom 13248, *Vedanta Ltd.* v. *Director of Mines & Geology* 129
5. (2018) 4 SCC 218, *Goa Foundation* v. *Sesa Sterlite Ltd.* 110, 112, 115, 117, 119, 123, 124, 125, 127, 128, 130, 131, 132, 134, 136, 137
6. (2016) 11 SCC 455, *Common Cause* v. *Union of India* 131, 132
7. (2014) 12 SCC 696, *State of T.N.* v. *State of Kerala* 128
8. (2014) 6 SCC 590, *Goa Foundation* v. *Union of India* 110, 113, 115, 117, 119, 122, 124, 125, 126, 128, 129, 131, 132, 134, 136, 137
9. 2014 SCC OnLine Bom 997, *Lithoferro* v. *State of Goa* 119
10. (2011) 15 SCC 791, *Goa Foundation* v. *Union of India* 120
11. (2010) 13 SCC 740, *T.N. Godavarman Thirumulpad* v. *Union of India* 120
12. (2007) 5 SCC 211, *Pune Municipal Corpn.* v. *State of Maharashtra* 135

JUDGMENT

1. Heard Mr S.S. Kantak, learned Senior Advocate who appears along with Mr Parag Rao, learned counsel for the petitioners, Mr D.J. Pangam, learned Advocate General who appears along with Mr Deep Shirodkar, learned Additional Government Advocate for the State, Mr P. Faldessai, learned Deputy Solicitor General of India and Ms Norma Alvares along with Mr Om D'Costa, learned counsel for the intervenor.

2. Rule. The rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.

3. The primary issue in this petition concerns the effect of Section 8-B of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) upon the environmental clearances (ECs) for mining leases that were the subject-matter of the decisions of the Supreme Court in *Goa Foundation* v. *Union of India*[1], (GF I) and *Goa Foundation* v. *Sesa Sterlite Ltd.*[2] (GF II).

4. The petitioners raise the above issue in the context of a notice inviting tender (NIT) dated 25-1-2023 for the auction of mineral block described Block

1 (2014) 6 SCC 590
2 (2018) 4 SCC 218

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VI — Cudnem-Cormolem Mineral Block. The petitioners argue that Section 8-B of the MMDR Act applies only to the valid ECs concerning the mining leases whose terms may have expired but not to ECs expressly cancelled by the Ministry of Environment and Forests (MoEF) based on the judicial orders in *GF I case*[1] and *GF II case*[2]. The petitioners argue that such specifically invalidated and cancelled ECs do not revive under Section 8-B of the MMDR Act. Therefore, the petitioners contend that Respondents 1 and 2 were not justified in representing in the NIT that Section 8-B of the MMDR Act shall apply to Block VI, implying that successful auction bidders would not be required to obtain a fresh EC for commencing mining operations for this block.

5. Based on the above arguments, the petitioners have applied for the following substantive relief:

> "(A) Issue a writ of mandamus or a writ in the nature of mandamus or any appropriate writ order or direction, commanding Respondent 2 to forthwith delete the words 'Section 8-B of the MMDR Act shall be applicable to these block' appearing under caption list of mineral blocks for auction in the NIT as well as at the appropriate places in the tender document pertaining to Block VI and also to delete the words 'obtained by the previous lessee' in Part B of the summary of mineral block provided along with the NIT under caption details/status, at Sr. No. 3 including at the appropriate places in the tender document pertaining to Block VI."

6. There are a few relevant facts in which the above issue/challenge arises, which are not seriously contested. On 22-8-2007, some leases in Block-VI were granted ECs under EIA Notification, 2006. Para 9 of EIA Notification, 2006 indicates the term of the ECs as the estimated project life or a maximum of 30 years. However, after Justice M.B. Shah Commission Report concerning large-scale illegalities, including environmental violations by the mining industries in Goa, was tabled in Parliament on 7-9-2012, the State of Goa by order dated 10-9-2012 suspended all iron ore mining operations pending further orders. MoEF followed suit and kept in abeyance ECs of iron ore mines, including the ECs, for leases in Block VI in the State of Goa by order dated 14-9-2012.

7. The Supreme Court examined the legality and validity of the above orders dated 10-9-2012 and 14-9-2012 in *GF I case*[1]. All challenges to the same were rejected in judgment and order dated 21-4-2014. Accordingly, the Supreme Court inter alia observed, "the order dated 10-9-2012 of the Government of Goa and the order dated 14-9-2012 of MoEF will have to continue till decisions are taken by the State Government to grant fresh leases and *decisions are taken by MoEF to grant fresh environmental clearances for mining projects*". (See para 82 of the SCC report in *GF I case*[1].)

8. The State then formulated the "Goa Grant of Mining Leases Policy, 2014" and, based upon the same, commenced granting a second renewal of mining leases from 5-11-2014 onwards. That process was completed on 12-1-2015. Accordingly, such second renewals were given to 88 mining leases. Significantly, on 12-1-2015, the President promulgated Mines and Minerals

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(Development and Regulation) Amendment Ordinance, 2015 (which was later enacted by the Parliament) whereby the grant of mining leases notified mineral was to be through competitive bidding or auction process.

9. Following the renewal of 88 mining leases, the State requested the MoEF by letters dated 7-1-2015 and 5-2-2015 to lift the ECs abeyance order dated 14-9-2012. As a result, by three separate orders dated 20-3-2015, the MoEF raised the abeyance on ECs regarding 88 mining leases.

10. The second renewal orders issued by the State Government and three orders dated 20-3-2015 of the MoEF raising the EC abeyances were challenged in *GF II case*[2] directly before the Supreme Court. By judgment and order dated 7-2-2018, the Supreme Court struck down the State's second renewal order and MoEF's orders dated 20-3-2015.

11. Accordingly, by its order dated 23-4-2018, the MoEF cancelled the ECs granted to 88 mining leases covered by the Supreme Court's decision in *GF II case*[2]. Neither mining lessees nor the State challenged the MoEF's order dated 23-4-2018, cancelling the ECs issued by the MoEF on 22-8-2007. Accordingly, the petitioners and Goa Foundation (intervenor) contend that this order of cancellation of ECs has attained finality.

12. The Parliament enacted Mineral Laws (Amendment) Act, 2020 introducing Section 8-B with limited retrospective effect from 10-1-2020 (the date of the Ordinance). This provision was to apply only to the mining leases covered by Sections 8-A(5) and (6). This provision transfers all valid approvals, rights, clearances, and licences of a previous lessee to a new lessee for a period of two years.

13. The Parliament, by the MMDR (Amendment) Act, 2021, which entered into force on 28-3-2021, substituted the amended Section 8-B by removing the validity period of two years regarding valid approvals, rights, clearances, and licences. The substituted Section 8-B transferred and vested in the new lessee the valid approvals, rights, clearances and licences. As a result, new lessees could operate mining leases based on valid approvals, rights, clearances, and licences granted to former lessees.

14. Based upon the amended/substituted Section 8-B of the MMDR Act, the State contends that even the cancelled ECs concerning the leases in Block VI would stand revived and transferred and vested in the new lessees/successful auction bidders in terms of NIT dated 25-1-2023. The petitioners and the intervenor/respondent Goa Foundation contested this position and argued that the amended/substituted Section 8-B of the MMDR Act would not apply to ECs that were expressly cancelled under the decision of the Supreme Court in *GF II case*[2].

15. The petitioners also contend that the State has correctly represented in NIT that new lessees/successful auction bidders for Block VII Cudnem mineral block would require a fresh EC. The petitioners contend that there is no difference between Blocks VI and VII so far as fresh ECs are concerned.

2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218

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Therefore, the State has applied unequal yardsticks violating Article 14 of the Constitution.

16. Thus, as pointed out earlier, the main issue in this petition is whether the State, through its NIT, can waive or at least represent that the requirement of obtaining a fresh EC would not apply to new lessees/successful auction bidders given the provisions of substituted Section 8-B of the MMDR Act.

17. The above issue will have to be examined inter alia in the context of the Mineral Laws (Amendment) Act, 2020, the MMDR (Amendment) Act, 2021, the 2021 amendment to the EIA Notification, 2006 and the decisions of the Supreme Court in *GF I case*[1] and *GF II case*[2].

18. The Statement of Objects and Reasons (SOR) to the Mineral Laws (Amendment) Bill, 2020 inter alia provides that the mining lease for 334 mines of iron ore, manganese ore, and chromite was expiring on 31-3-2020, out of which 46 were working non-captive mines. It was observed that some States had initiated action to auction these blocks. However, mines allotted through auction could start mining operations only after obtaining as many as 20 different clearances from government agencies. This process was causing an inordinate delay in commencing mining operations and subsequent production of the minerals. Therefore, to overcome these difficulties in the mining sector, it has become necessary to facilitate the seamless transfer of all valid rights, approvals, clearances, licences and the like for a period of two years to a new lessee in case of minerals other than coal, lignite and atomic minerals.

19. Accordingly, consistent with the above objective expressed in SOR, Section 8-B was introduced in the MMDR Act, 1957, which provides that notwithstanding anything contained in the Act or any other law for the time being in force, the successful bidder of the mining lease expiring under the provisions of sub-sections (5) and (6) of Section 8-A and selected through auction as per the procedure provided under the Act and rules made thereunder acquired all valid rights, approvals, licences and the like vested with the previous lessee for a period of two years: provided that subject to such condition as may be prescribed the new lessee shall apply and obtain all necessary rights, approvals, clearances, licences and the like within a period of two years from the date of grant of a new lease.

20. Section 8-B of the MMDR Act was further amended/substituted by the MMDR (Amendment) Act, 2021. The SOR to the 2021 Amendment Bill inter alia provides that in order to fully harness the potential of the mineral sector, increase employment and investment in the mining sector, including coal, increase the revenue to the States, increase the production and time-bound operationalisation of mines, maintain continuity in mining operations after the change of lessee, increase the pace of exploration and auction of mineral resources and resolve long pending issues that have slowed the growth of the sector, it is felt necessary to further amend the said Act. The SOR adds that the MMDR Amendment Bill, 2021 seeks to provide that all the valid rights, approvals, clearances, licences, and the like granted to a lessee in respect of a

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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mine shall continue to be valid even after the expiry or termination of the lease and such clearances shall be transferred and vested to the successful bidder of the mining lease. This will ensure continuity in mining operations even with the change of lessee and conservation of minerals and avoid the repetitive and redundant process of obtaining clearances again for the same mine.

21. Accordingly, amended Section 8-B was substituted with a new Section 8-B. Since the State Government's entire case is based on substituted Section 8-B and the amendment to EIA Notification, 2006, the provisions of substituted Section 8-B are transcribed below for the convenience of reference:

> "8-B. (1) Notwithstanding anything contained in this Act or any other law for the time being in force, all valid rights, approvals, clearances, licences and the like granted to a lessee in respect of a mine (other than those granted under the provisions of the Atomic Energy Act, 1962 and the rules made thereunder) shall continue to be valid even after expiry or termination of lease and such rights, approvals, clearances, licences and the like shall be transferred to, and vested; subject to the conditions provided under such laws; in the successful bidder of the mining lease selected through auction under this Act:
>
> Provided that where on the expiry of such lease period, mining lease has not been executed pursuant to an auction under provisions of sub-section (4) of Section 8-A, or lease executed pursuant to such auction has been terminated within a period of one year from such auction, the State Government may, with the previous approval of the Central Government, grant lease to a government company or corporation for a period not exceeding ten years or till selection of new lessee through auction, whichever is earlier and such government company or corporation shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like vested with the previous lessee:
>
> Provided further that the provisions of sub-section (1) of Section 6 shall not apply where such mining lease is granted to a Government company or corporation under the first proviso:
>
> Provided also that in case of atomic minerals having grade equal to or above the threshold value, all valid rights, approvals, clearances, licences and the like in respect of expired or terminated mining leases shall be deemed to have been transferred to, and vested in the government company or corporation that has been subsequently granted the mining lease for the said mine.
>
> (2) Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the new lessee to continue mining operations on the land till expiry or termination of mining lease granted to it, in which mining operations were being carried out by the previous lessee."

22. Thus, the 2020 and 2021 amendments seek to impart continuity to all valid rights, approvals, clearances, licences and the like granted to a previous

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lessee. The 2020 amendment, however, was restricted, and the rights, approvals, clearances, licences, etc. obtained by the earlier lessee could be used or operated by the new lessee for only two years. However, the 2021 amendment removes this two-year ceiling. There is also some difference in the language used in Section 8-B, introduced by the 2020 amendment and Section 8-B, as substituted by the 2021 amendment.

23. Section 8-B, as introduced by the 2020 amendment, applied to leases expiring under the provisions of Sections 8-A(5) and 8-A(6). It provided a deeming fiction for the continuance of earlier rights, approvals, clearances, licences, etc. for two years. Within that period, new lessees were expected to obtain fresh approvals, clearances, licences, etc. However, Section 8-B, as substituted by the 2021 amendment, is not restricted to leases expiring under sub-sections (5) and (6) of Section 8-A. Further, the substituted Section 8-B purports to transfer and vest all valid rights, approvals, clearances, licences and the like granted to the previous lease in new lessees/successful auction bidders.

24. But significantly, even the substituted Section 8-B refers to "all valid rights, approvals, clearances, licences and the like granted to a lessee in respect of a mine...." The emphasis is on the word "valid". Nothing in Section 8-B, as initially enacted or substituted by the 2021 Amendment Act, suggests that an invalid or cancelled approval or clearance would either stand revived or legalised and then be transferred or vested in a new lessee. Therefore, upon a plain reading of Section 8-B substituted by the 2021 Amendment Act, it is apparent that what was intended to be transferred or vested in the new lessee were all valid rights, approvals, clearances, licences and the like granted to the previous lessee in respect of a mine. Incidentally, even the SORs to the two Amendment Acts explicitly refer to "valid rights, approvals, clearances, licences and the like granted to the lessee in respect of a mine".

25. Further, the substituted Section 8-B provides that such valid rights, approvals, clearances, licences, etc. shall continue to be valid even after expiry or termination of the lease and such rights, approvals, clearances, licences and the like shall be transferred to and vested; subject to the conditions provided under such laws; in the successful bidder of the mining lease selected through auction under this Act. The expression "continue to be valid" presupposes that such approvals, clearances, licences, etc. were valid on the date of transfer and vesting.

26. Section 8-B does not contemplate either revival of approvals, clearances, or licences that may have lapsed under the provisions under which they were issued or cancelled, withdrawn or struck down for some reasons, and such orders have been attained finality for want of challenge or failure of the challenge. Only what is transferred and vested in the new lessee are all valid approvals, clearances, licences, etc. Therefore, based upon provisions of Section 8-B, the State cannot contend that ECs that were expressly cancelled by MoEF based on judicial decisions *GF I case*[1] and *GF II case*[2] stand revived and shall be transferred and vested in the new lessee/successful auction bidders,

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218

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thereby obviating the necessity for such new lessee/successful auction bidders from obtaining fresh ECs.

27. Ministry of Environment, Forest and Climate Change (MoEF), vide Notification dated 13-7-2021, has substituted sub-para (3) of Para 11 in the EIA Notification, 2006, with the following, namely:

> "(3) The prior environmental clearance vested with the previous lessee shall be deemed to have been transferred during its validity period in terms of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) as amended by the Mines and Minerals (Development and Regulation) Amendment Act, 2021 (16 of 2021) to the successful bidder of the mining leases, from the date of commencement of new lease for the remaining validity period (calculated from the date from which the said environmental clearance was initially granted), subject to the new lessee registering online on PARIVESH portal along with an undertaking to comply with all the conditions of the transferred environmental clearance".

28. The above Notification dated 13-7-2021 refers to the *GF II case*[2] and amendments introducing Sections 8-A and 8-B to the MMDR Act, 1957. The recitals to this notification refer to aligning the relevant provisions of EIA Notification, 2006 with the amended of the MMDR Act, 1957. Therefore, if Section 8-B of the MMDR Act refers to "valid" ECs, the above notification, while aligning, cannot be said to have referred to invalid, lapsed or cancelled ECs. Further, we cannot ignore that the MoEF's cancellation of the ECs order dated 23-4-2018 was virtually in deference to or in compliance with the Supreme Court's observations and directions in *GF I case*[1] and *GF II case*[2] decisions. Indeed, by amending a notification, the MoEF could not have intended to revive ECs cancelled based upon the observations or directions of the Supreme Court. Therefore, as a constitutional court, we cannot support such a strained construction mainly because it would have the effect of reviving ECs adversely commented upon by the Supreme Court in *GF I case*[1] and *GF II case*[2]. Besides, such a strained construction would defy the express directions in *GF I case*[1] and *GF II case*[2] about the 88 leases not commencing operations until the MoEF issued fresh ECs.

29. Further, even the EIA Notification dated 13-7-2021 amending the EIA Notification, 2006 provides that prior environmental clearance vested with the previous lessee shall be deemed to have been transferred during its validity period to the successful bidder of the mining leases, from the date of commencement of the new lease for the remaining validity period (calculated from the date from which the said environmental clearance was initially granted) subject to new lessee complying with certain conditions.

30. Thus only those ECs vested with the previous lessee shall be deemed to have been transferred to the new lessee. Therefore, if on the date of transfer, an EC that was earlier granted to the previous lessee was not in force either because its validity period had expired or because the same was cancelled or struck down, there is no question of such EC being vested in the earlier lessee on the date of transfer. So also, there is no question of some divested or cancelled

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EC being transferred or deemed to have been transferred to the new lessee or successful bidder of the mining lease.

31. The amended provisions, including SORs or recitals to the EIA Notification, 2021, unmistakably indicate that the amendment's object was to ensure continuity in mining operations even with the change of lessee and to avoid repetitive and redundant for obtaining clearances again for the same mine. Thus, the valid approvals, clearances, licences, etc. granted to the lessee in respect of a mine were to inure for the benefit of the new lessee/ successful auction bidder, who could then immediately continue with the mining operations based upon such approvals, clearances, licences and the like seamlessly, provided of course such approvals, clearances, licences and the like were valid and existing at the time of transfer and vesting.

32. The above amendments were inter alia necessary because even the renewal of a mining lease was invariably regarded as a grant of a fresh mining lease. Based upon this principle, upon the expiry of the term of the mining lease and at the stage of even grant of renewal, fresh ECs had to be necessarily obtained even though the earlier ECs may have been entirely valid. Similarly, getting a fresh EC was necessary if the lease was terminated and a fresh lease was to be granted. Such fresh ECs had to be obtained even though the ECs granted to the former lessee were entirely valid, both regarding their intrinsic merit and validity period. To obviate this repetitive and redundant process of obtaining the ECs again for the same mine, amendments were made to Section 8-B and EIA Notification, 2006 so that the transfers and operations could be seamless.

33. However, these amendments neither suggest nor can be interpreted to indicate that the ECs whose validity period had already expired or, more importantly, the ECs that were already cancelled because they were found to be infirm and illegal by the Supreme Court would also stand revived, transferred and vested in the new lessee/successful bidders as a consequence of the amendments. Such a construction would then amount to the legislature, or even the executive overturning the Supreme Court's judicial decision in a specific case without even bothering to remove the fundamental basis of such a decision or correcting the errors pointed out by the court. Such a construction would even defy the doctrine of separation of powers, which is now accepted as one of the facets of the rule of law. The rule of law, in its turn, is now accepted as a constituent of Article 14 of the Constitution.

34. The plain wording of the amendments does not support the State's interpretation. Without Parliament having ever stated so, the State virtually seeks to read the amendment to Section 8-B as some sort of legislative overruling of the decision in *GF I case*[1] and *GF II case*[2]. In *GF II case*[2], the Supreme Court found several faults in the ECs issued to the 88 mining leases that benefited from the second renewal order of the State Government. Not only did the Supreme Court strike down the second renewal order in respect of the 88 leases, but further, the Supreme Court pointed out several illegalities in the

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218

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issue of the ECs. Therefore, an interpretation that is not supported by the text or the context and further that nullifies express directions of the Supreme Court cannot be accepted.

35. Based upon the State Government's request, the MoEF, which had kept in abeyance the environmental clearances by order dated 14-9-2012, lifted such abeyance order on 20-3-2015. However, the Supreme Court explicitly ruled that the order dated 20-3-2015 lifting the earlier order dated 14-9-2012 keeping in abeyance the ECs was void. Thus the earlier order dated 14-9-2012, keeping in abeyance the ECs dated 22-8-2007 granted to mines in Block VI, was revived. As if this was not sufficient, the MoEF, by a specific order dated 23-4-2018, cancelled the environmental clearance dated 22-8-2007.

36. Thus as of the date of coming into force of Section 8-B in the MMDR Act, 1957 or, more pertinently, as of the date of publication of NIT in 2023, EC dated 22-8-2007 was no longer in force. Consequently, the said EC was no longer a valid EC that could, in terms of Section 8-B of the MMDR Act, 1957, have been transferred and vested to a new lessee or a successful bidder at the proposed auction through NIT. The State was obliged to state this position clearly in the NIT or at least not represent or suggest that no fresh EC was necessary for operating the mines in Block VI of the NIT.

37. In doing so, the State perhaps seeks to ignore or downplay the "rapacious and rampant exploitation" of Goa's natural resources "iron ore mining sector" coupled with a total lack of concern for the environment and the health and well-being of the denizens in the vicinity of the mines. These are the words with which the Supreme Court commenced its judgment in *GF II case*[2]: (SCC p. 226, para 1)

> "1. Rapacious and rampant exploitation of our natural resources is the hallmark of our iron ore mining sector coupled with a total lack of concern for the environment and the health and well-being of the denizens in the vicinity of the mines. The sole motive of mining leaseholders seems to be to make profits (no matter how) and the attitude seems to be that if the Rule of law is required to be put on the backburner, so be it. Unfortunately, the State is unable to firmly stop violations of the law and other illegalities, perhaps with a view to maximise revenue, but without appreciating the long term impact of this indifference. Another excuse generally put forth by the State is that of development, conveniently forgetting that development must be sustainable and equitable development and not otherwise."

38. In *GF II case*[2], the questions which arose for consideration were set out in para 36, and the same read as follows: (SCC p. 241, paras 36-36.3)

> "*Questions for consideration*
>
> *36. Broadly speaking, on the basis of the submissions and documents placed before us, the questions raised by the Goa Foundation, the State of Goa, the Union of India and the mining leaseholders are threefold*:

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36.1. (*a*) *Relatable to the second renewal of the mining leases*: (*i*) In view of the decision in *GF I case*[1] only fresh leases were to be granted by the State of Goa and not second renewals. (*ii*) For granting fresh leases, the State of Goa should have introduced competitive bidding or the auction process. (*iii*) Assuming the decision to grant a second renewal to the mining leaseholders was valid, the second renewals were not in accordance with law and should be set aside.

36.2. (*b*) *Relatable to the grant of environmental clearances*: In view of the decision in *GF I case*[1] fresh environmental clearances were required to be obtained by the mining leaseholders.

36.3. (*c*) The impugned judgment and order passed by the High Court in *Lithoferro* v. *State of Goa*[3], on 13-8-2014 was erroneous and deserves to be set aside."

40. On the first question, referred to in para 36.1 above, the Supreme Court held that the direction in *GF I case*[1] was quite clear. Therefore, instead of considering a second renewal of the mining lease, the State of Goa was required to consider a fresh mining lease. Accordingly, the decision of the State of Goa to grant a second renewal to the 88 mining leases was held to be erroneous, contrary to the decision in *GF I case*[1] and the same was quashed.

41. In the context of the second question referred to in Para 36.2 above, relatable specifically to the grant of environmental clearances, the Supreme Court took cognizance of a report of the Vishwanath Anand Expert Appraisal Committee (EAC). In para 86, the Supreme Court held that "a reading of the report of the EAC is disturbing and acutely highlights the damage to the environment and ecology by the mining leaseholders. The complete indifference by all concerned is evident from a careful reading of the report." The Supreme Court then referred to and quoted in extenso "summary of observations" and the "concluding remarks" from the report of EAC since, according to the Supreme Court, they were self-explanatory.

42. The discussion on the ECs issue is found in paras 86, 87 and 88 from *GF II case*[2], transcribed below for the convenience of reference: (SCC pp. 258, 259, 260 and 261, paras 86, 87 and 88)

> "*86.* A reading of the report of the EAC is disturbing and acutely highlights the damage to the environment and ecology by the mining leaseholders. The complete indifference by all concerned is evident from a careful reading of the report. We propose to refer to and quote in extenso the 'summary of observations' and the 'concluding remarks' from the report of the EAC since they are self explanatory:
>
> "*Summary of observations*
>
> (I) The absence of specific conditions highlighting the mandatory requirement to obtain prior approval of the Standing

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
3 2014 SCC OnLine Bom 997
2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218

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Committee of the NBWL (National Board for Wildlife) in the EC (environmental clearance) has led to misinterpretation of the legal requirement. There has been an inordinate delay of more than 5 years before effective action against defaulting units were initiated by the ministry for non-compliance of the Hon'ble Supreme Court order dated 4-12-2006 *Goa Foundation* v. *Union of India*[4].

(II) Out of 137 ECs, the requirement of obtaining approval of the Standing Committee of the NBWL under the WL (P) Act, 1972 [Wild Life (Protection) Act] has not been complied with in 123 cases where the distances are less than 10 km from the nearest PA (protected area).

(III) In respect of 10 cases approval of the Standing Committee of the NBWL is not mandatory as the mine leases are located beyond 10 km from nearest PA.

(IV) Contrary to the directions of the Hon'ble Supreme Court dated 4-8-2006 in *T.N. Godavarman Thirumulpad* v. *Union of India*[5]; ECs have been accorded to 41 mines located within 1 km from the nearest PA.

(V) In respect of 20 cases mine leases were renewed under the MMDR Act, 1957 prior to grant of FCs (forest clearance).

(VI) In 29 cases, project proponents have furnished wrong information about distance from the nearest PAs.

(VII) Non-compliance of various EC conditions such as excess production/unauthorised dump mining/drawal of groundwater without prior approval of CGWB/encroachment; have also been reported in respect of working mines.

Concluding remarks

A reading of our observations and recommendations would show that without exception, every proponent to whom an environment clearance was issued has either violated its conditions or has furnished information in the application which has been distant from the truth. There are basically two types of violations; one that cannot be legally condoned and those that can be rectified with remedial measures. This is the reason why the committee has recommended that all ECs for mines located within one km from PAs should be revoked and in cases where untruthful information was furnished in the application for EC, such mines should not be allowed to reopen. In the case of those mines which have been closed for more than five years, their reopening has not been recommended without their applying de novo for a fresh environmental clearance as micro environmental conditions on the ground would have changed during the period they remained closed. However, when one looks at the manner in which the

4 (2011) 15 SCC 791
5 (2010) 13 SCC 740

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directives dated 4-8-2006 and 4-12-2006 of the Supreme Court have been implemented one cannot help but feel that there is the absence of a bridge mechanism within the Ministry to ensure and oversee that directives of the courts are complied with due diligence and seriousness.

There are two factors which stand out; in some ECs as mentioned in this report, the condition was inserted that the project proponent should seek approval of the CWLW (Chief Wildlife Warden), in others it was stated that approval of the competent authority/Standing Committee of the NBWL should be obtained and in a third category no condition at all was imposed, even though some of these ECs pertain to the same meeting and timelines between 2005 and 2007. It is strange that officials concerned in the MoEF were not aware that other than the Standing Committee of the NBWL no other person was authorised to grant the permission envisaged by the order dated 4-12-2006 of the Supreme Court. This is not to state that any discrepancy in the EC letter would absolve the project proponent from complying with the law of the land. This has resulted in creating ambiguity amongst many of the project proponents and it was not until 1-1-2009, that the MoEF issued a public notice clarifying the position.

Considering that some of the project proponents may have been misguided by the ambivalence of the MoEF in not clearly delineating the legal position, it is suggested that in the case of those project proponents who did not conceal facts in their applications but did not apply for permission to the Standing Committee of the NBWL, their applications may be considered for being placed before the Standing Committee of the NBWL. However this can in no way be construed as a justification on the part of the project proponents for not complying with the requirements of the law. It must be noted for example that in those cases where mining has intersected the groundwater, approval of the CGWB (Central Groundwater Board) had not been taken by the project proponents as was required by the EC Similarly, there are cases where mining operations have taken place without obtaining a FC.

* * *

As regards violations of the conditions of the ECs and where environmental damage has been caused, the proponents concerned should be made accountable and the MoEF should examine as to how some monetary damages can be levied through due legal process based on the polluter must pay principle, the proceeds of which could be used for environmental rehabilitation.

There are concerns about the carrying capacity of the area with regard to its ability to sustain the extent and quantum of mining that has taken place there. It is recommended that a carrying capacity

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study should be commissioned for the area, or if another study by a nationally recognised institution is coming to fruition the result of that should be acted upon. Such a study should also take into account the impact of mining on the hydrology of the region and the extent of pollution caused to surface and groundwater. This study should be compared to the earlier 10 years' baseline data to determine the impact of mining on the biodiversity and hydrology of the area in the last decade. Based on the finding of this, a specific policy for mining of iron ore in the region may be developed. Such a policy along with a proper control and monitoring mechanism is necessary in order to avoid a situation such as the one under question. It would hopefully also ensure that mining in this region is carried out in accordance with best sectoral practices using appropriately clean technologies.' (emphasis supplied by us).

87. The report of the EAC reveals that there is not a single environment-related or mining-related law or legal requirement that was not violated by one or the other mining leaseholder. Quite clearly, the Rule of environmental law in Goa had gone with the wind.

88. There was one extremely important requirement relating to extraction of groundwater — that is, clearance from the Central Groundwater Board — but even that was ignored. During the course of submissions, we were informed that there is plenty of groundwater available in Goa. However, what seems to have been overlooked is that with the intersection of groundwater levels with mining operations, the groundwater would get depleted much faster than expected or the quality of the groundwater would deteriorate. It is for this reason that MoEF insisted that clearance for drawal of groundwater must be taken from the Central Groundwater Board and care taken in respect of the intersection of groundwater level with mining operations (this happened in 46 cases). Unfortunately, no heed was paid to these requirements by the State of Goa or any of the mining leaseholders and not one mining leaseholder has any clearance (where required) from the Central Groundwater Board, or at least none was brought to our notice".

43. The Supreme Court, after referring to the EAC report, proceeded to consider whether fresh ECs were required to be obtained by the 88 mining leaseholders claiming the benefit of second renewal. In para 129, the Supreme Court noted the specific direction in para 82 of *GF I case*[1] that such fresh environmental clearance had to be obtained. Further, the Supreme Court pointed out that some leaseholders had ECs under EIA Notification, 1994 and others under EIA Notification, 2006. Notwithstanding this, since in *GF I case*[1], it was already directed that fresh environmental clearance must be obtained, the Supreme Court held that this direction had to be complied with by those who were granted a fresh mining lease.

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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44. In para 130 of *GF II case*[2], the Supreme Court observed, "that apart, the materials before the court while deciding the Goa Foundation included the report of the Justice Shah Commission, report of the EAC and the report of expert committee constituted by the court by orders dated 11-11-2013 and 18-11-2013. On a combined reading of the material before it, the court took a broad view that large-scale mining of iron ore led to several adverse impacts including those related to the environment, ecology and health of the people of Goa and that these illegalities and irregularities were committed by almost all (if not all) mining leaseholders as reported by the EAC. The court also accepted the view of the Expert Committee that the ecology of Goa was being degraded through indiscriminate mining and placed a cap on the annual excavation of iron ore. It was noted that mining by the lessees in Goa after 22-11-2007 was illegal and that mining operations were suspended by the State of Goa on 10-9-2012 and environmental clearances granted to the mines were kept in abeyance by the MoEF on 14-9-2012. Considering all this, as well as the law laid down in GF to the effect that there is no automatic second renewal of a mining lease but that a second renewal must be granted in accordance with the provisions of Section 8(3) of the MMDR Act, the court used the expression "grant fresh environmental clearances for mining projects" in the passage referred to above.

45. Thus the Supreme Court in *GF II case*[2], in clear and unambiguous terms, held that fresh ECs were a must for mining leases in the State of Goa affected by the decision in *GF I case*[1] and *GF II case*[2]. This reiteration in *GF II case*[2] was based not only upon the explicit direction in *GF I case*[1] but also material in the form of the Justice Shah Commission report, report of EAC, and report of the expert committee constituted by the court. This direction was also based upon the Supreme Court taking a broad view that large-scale mining of iron ore led to several adverse impacts, including those related to the environment, ecology and health of the people of Goa and that almost all committed these illegalities and irregularities (if not all) mining leaseholders as reported by the EAC. All this is evident from the expression "that apart", with which para 130 of *GF II case*[2] proceeds.

46. Therefore, to now say that Section 8-B of the MMDR Act, 1957 or the EIA Notification of 13-7-2021 virtually does away with and nullifies all these clear and specific findings and directions of the Supreme Court in *GF I case*[1], and *GF II case*[2] is a contention that cannot be accepted. Neither do the provisions of Section 8-B support such a construction nor can it be said that Parliament intended to legislatively overrule or reverse the specific directions issued by the Supreme Court about obtaining fresh ECs. As noted earlier, such express directions were first given in *GF I case*[1]. Moreover, they were reiterated in *GF II case*[2] when the State Government and MoEF attempted to wriggle out from such directions on the specious plea that a second renewal was granted and earlier orders, keeping in abeyance the environmental clearances lifted.

47. In *GF II case*[2], the Supreme Court, after referring to the EAC report, referred to the Expert Committee Report, which Supreme Court observed,

2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218

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makes for some very depressing reading. This is the discussion in para 131 of the *GF II case*[2], transcribed below for the convenience of reference: (SCC pp. 273 and 274, para 131)

> "*131.* We have already adverted to the report of the EAC. As far as the Expert Committee set up by the court is concerned, it had furnished an interim report dated 14-3-2014 in which it noted large-scale degradation of the environment and recommended placing an annual cap between 20 and 27.5 million tonnes on the extraction of iron ore in Goa. The Expert Committee noted the following (which makes for some very depressing reading):
>
> > 'The production of iron ore has jumped from 14.6 million tons in 1941 to 41.17 million tons in 2010-2011. In 1980s the production was about 10 MT/annum. The quantum jump in iron ore production in Goa was essentially due to steep rise in exports of fines and other low grade ore of 42% Fe content to China. This has led to massive negative impacts on all ecosystems leading to enhanced air, water, and soil pollution affecting quality of life across Goa. This is evident by three important reports i.e. (*i*) Areawise Environmental Quality Management (AEQM) Plan for the mining belt of Goa by Tata Energy Research Institute, New Delhi and Goa (1997) and it was submitted to the Directorate of Planning, Statistics, and Evaluation, Government of Goa; (*ii*) Environmental and Social Performance Indicators and Sustainability Markers in Minerals Development Reporting Progress towards Improved Ecosystem Health and Human Well-being, Phase III by TERI and International Development Research Centre, Ottawa, Canada (2006); and (*iii*) the Regional Environmental Impact Study of Iron Ore Mining in Goa region sponsored by MoEF, New Delhi (2014) by Indian School of Mines. Besides the above three main reports, a number of scientific research papers on the impact of iron ore mining on the environment and ecology of diverse ecosystems were published by scientists working at Goa University and NIO.
>
> These reports and publications substantiate that the mining, particularly the enhanced level of annual production contributed to adverse impacts on the ecological systems, socio-economics of Goa and health of people of Goa leading to loss of ecological integrity. This is due to enhanced levels of pollutants, particularly RSPM and SPM, sedimentation of materials from dumps and iron ore in rivers, estuaries and shallow depth (20 m) of sea water, agricultural fields, high concentration of Fe and Mn in surface waters and their bioaccumulation. (emphasis supplied)."

48. In para 132 of the *GF II case*[2], the Supreme Court held that faced with all this material evidence before it, the court took the view in *GF I case*[1] that fresh ECs must be obtained. In the context of an attempt by the State of Goa to bypass this direction, the Supreme Court at para 132 observed: "Unfortunately

2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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however, the State of Goa was more concerned with earning revenue rather than the health of the people of Goa or enforcing the rule of law and therefore gave a complete go-by to the directions of this Court and to the concerns of the citizens of Goa and requested the MoEF to lift the abeyance on the environmental clearances."

49. The Supreme Court, in para 135 of *GF II case*[2], also made scathing observations about misleading information contrary to some earlier decisions of the Supreme Court, resulting in the lifting of order keeping in abeyance of environmental clearances. The Supreme Court held that the order dated 20-3-2015 lifting abeyance was "cryptic" and issued "without application of mind". The observations in paras 137 and 140 of the *GF II case*[2] are relevant and transcribed below for the convenience of reference: (SCC pp. 275 and 276, paras 137 and 140)

> "*137.* The third order of 20-3-2015 is extremely cryptic in the matter of lifting the abeyance order of 14-9-2012 on environmental clearances. While dealing with 35 mining leases for which environmental clearance had been granted under EIA Notification, 1994 and 37 mining leases for which environmental clearance had been granted under EIA Notification, 2006, the following is stated:
>
> > 'It has been decided in the Ministry that the EC issued under 1994 notification in case they are valid and subsisting would not require fresh EC at the time of renewal [OM L-11011-15-2012-IA-II (M)] dated 20-3-2015. Therefore it has been decided to lift abeyance on the 72 cases of which 35 cases had been granted EC under the provisions of EIA Notification 1994 and 37 cases had been granted EC under EIA Notification, 2006.' (emphasis supplied).
>
> *140.* What is disturbing is that notwithstanding several and various violations, the MoEF granted environmental clearance to 72 mining leases. It seems to us that the MoEF acted without any application of mind in lifting the order placing all the environmental clearances in abeyance. Since the entire exercise carried out by the MoEF on 20-3-2015 was mechanical, at the behest of the State of Goa, without due application of mind, without considering the multiple illegalities and irregularities committed by the mining leaseholders or passing on the buck to the State of Goa and without considering relevant material such as the report of the EAC and the Expert Committee appointed by this Court, the exercise of lifting the abeyance order on 20-3-2015 by the MoEF must be held void and as directed by the court in *GF I case*[1] all the mining leaseholders must obtain fresh environmental clearance for their mining project."

50. The Supreme Court at para 142 of the *GF II case*[2] emphasised that issues impacting society must be looked at holistically and not in a disaggregated manner. An overall perspective was necessary on such matters,

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218

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including issues that impact the environment and the people of a community, region, or State. For this reason, it was essential to look at them broadly; otherwise, if that broader perspective was lost, everyone would be a loser, and no one would be a real beneficiary. One or two violations here and there may be wished away as inconsequential, but multiple violations by several persons can result in serious problems. The court quoted the novelist and philosopher Ayn Rand: We can evade reality, but we cannot evade the consequences of evading reality.

51. Therefore, the Supreme Court ruled that there was no doubt that the Mineral Policy, the Grant of Mining Leases Policy, the amendment to the MMDR Act, the report of the EAC and the report of the Expert Committee must be considered in the larger context of constitutionalism, the rule of law, environmental jurisprudence as well as the fundamental right of the people of Goa to have clean air and protection of the fragile ecology. The court ruled that governance cannot and should not be carried out dehors the interests of the people and some uncomfortable decisions may be inevitable for balancing the equities.

52. Finally, in *GF II case*[2], the Supreme Court held that the second renewal of the mining leases granted by the State of Goa was liable to be quashed and set aside. Further, the court reiterated that the MoEF was obliged to grant fresh environmental clearances in respect of the fresh mining leases in accordance with law and the decision in *GF I case*[1] and not merely lift the abeyance order of 14-9-2012. Therefore, the mining leaseholders who had been granted the second renewal in violation of the decision and directions of this Court in *GF I case*[1] were given time to continue their mining operations till 15-3-2018. However, after this date, they were directed to stop all mining operations "until fresh mining leases (not fresh renewals or other renewals) are granted and fresh environmental clearances are granted." Yet the State is bent on defying this clear and unambiguous direction a second time.

53. The Supreme Court directed that the State of Goa should take all necessary steps to grant mining leases in accordance with the MMDR Act, 1957. Further, the MoEF was also directed to take all necessary steps "to grant fresh environmental clearances to those who are successful in obtaining fresh mining leases". Finally, this exercise was directed to be completed by the State of Goa and MoEF as reasonably practicable.

54. The learned Advocate General, however, stressed upon para 139 of the *GF II case*[2] to urge that whatever may have been the directions of the Supreme Court in *GF I case*[1] and *GF II case*[2], given the parliamentary amendment to Section 8-B and the EIA Notification dated 13-7-2021, fresh ECs were no longer essential for mines holding ECs under EIA, 2006. He submitted that Parliament is sovereign and supreme in such matters, and the command of the Parliament must be obeyed.

55. Para 139 of *GF I case*[1] reads as follows: (SCC p. 275, para 139)

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590

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"*139.* As regards the 37 mining leases that had obtained environmental clearance under EIA Notification, 2006, since the validity of the environmental clearance is for the estimated project life or a maximum of 30 years in terms of para 9 of EIA Notification, 2006 therefore no violation can be found on the ground of validity for the time period. To this limited extent, no interference is necessary at this stage in respect of these 37 mining leases. We make it clear, however, that this is subject to our conclusion that fresh mining leases were required to be granted by the State of Goa. Consequently, a mining leaseholder obtaining a fresh mining lease would require a fresh environmental clearance in terms of EIA Notification, 2006."

56. The learned Advocate General submitted that the Supreme Court had expressly held that the ECs under EIA Notification, 2006 for the estimated project life or a maximum of 30 years in terms of para 9 of EIA Notification, 2006 were valid in the above para. He submitted that the Supreme Court also found it unnecessary to interfere with the ECs for 37 mining leases that had obtained environmental clearances under EIA Notification, 2006. Therefore, based upon such reading of para 139, the learned Advocate General submitted that ECs granted under EIA Notification, 2006 were valid and in terms of amended Section 8-B of the MMDR Act, 1957, such valid ECs would continue to remain valid and stand transferred and vested to the new lessee/successful auction bidder. Therefore, he submitted that there was no longer any requirement for obtaining a fresh environmental clearance. He submitted that even specific directions in *GF I case*[1] and *GF II case*[2] would no longer apply, given the legislative introduction and amendment to Section 8-B of the MMDR Act. The Advocate General submitted that Parliament is "sovereign" and "supreme" in such matters and, therefore, notwithstanding any judicial decision, the command of the Parliament will have to be abided by. He submitted that the State of Goa was not some island to which the parliamentary legislation was inapplicable.

57. With respect, we cannot agree with the learned Advocate General's broad based contention. Firstly para 139 has to be read in its entirety. Secondly, para 139 has to be read along with the other paras commencing from 129 to 142 of the decision in *GF II case*[2]. Thirdly, the last four lines of 139 also cannot be ignored where the Supreme Court has clarified that its observations in the preceding lines of para 139 are subject to the court's consideration that fresh mining leases were required to be granted by the State of Goa and consequently, the mining leaseholders obtaining a fresh mining lease would require a fresh environmental clearance in terms of EIA Notification, 2006. Therefore, it almost appears that the Supreme Court was conscious of potential attempts at misinterpretation and clarified that the lines now quoted by the learned Advocate General were subject to the specific direction for obtaining fresh ECs.

2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218

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58. Under our constitutional scheme, it is the Constitution itself that is supreme. Therefore, the argument based upon the sovereignty that Parliament undoubtedly has cannot persuade us to hold that explicit judicial directions in *GF I case*[1], equally explicitly reiterated in *GF II case*[2], can now be ignored by the State Government relying upon amendment to Section 8-B or amendment to EIA Notification, 2006. Moreover, even the argument of supremacy of Parliament overlooks the doctrine of separation of powers, acknowledged as an essential facet of the rule of law. The rule of law, in turn, is a crucial constituent of Article 14 of the Constitution. But, as noted earlier, even the text of Section 8-B or the Notification dated 13-7-2021 does not support such a broad construction. Even otherwise, it is well settled that legislative or executive powers cannot be employed to overrule or reverse judicial orders without bothering to cure the defects or remove the fundamental basis of judicial decisions.

59. In *State of Kerala* v. *James Varghese*[6] and *State of T.N.* v. *State of Kerala*[7], the Supreme Court has explained that even without the express provision of the separation of powers, the doctrine of separation of powers is an entrenched principle in the Constitution of India. This doctrine informs the Indian constitutional structure and is essential to the rule of law. In other words, the doctrine of separation of powers though not expressly engrafted in the Constitution, its sweep, operation and visibility are apparent from the scheme of the Indian Constitution.

60. The two decisions hold that the independence of courts from the executive and legislature is fundamental to the rule of law and one of the basic tenets of the Indian Constitution. Separation of judicial power is a significant principle under the Constitution of India. Accordingly, breaching the separation of judicial power may negate equality under Article 14. Separation of powers between three organs — the legislature, executive and judiciary, is also nothing but the consequence of principles of equality enshrined in Article 14 of the Constitution of India. The court held that legislation could be invalidated based on a breach of the separation of powers since such a breach negates equality under Article 14 of the Constitution.

61. In *GF I case*[1] and *GF II case*[2], the Supreme Court pointed out several reasons based upon which the direction was issued for fresh mining leases to obtain fresh ECs. In particular, the *GF II case*[2] gives several reasons supporting this direction, including but not limited to materials like the Justice Shah Commission Report, EAC Report, and Expert Committee Report. The Supreme Court refers to accepting the broad view in such matters. Based upon a combined reading of material before it, the Supreme Court took into consideration several impacts, including those related to environment ecology and the health of the people of Goa, and these illegalities and irregularities were committed by almost all (if not all) mining leaseholders as reported by the EAC.

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
6 (2022) 9 SCC 593 : (2022) 4 SCC (Civ) 725
7 (2014) 12 SCC 696
2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218

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62. Therefore, the direction for obtaining fresh ECs was not connected solely with the direction to obtain fresh mining leases (and not fresh renewal or other renewal). Still, this direction was based upon all such material referred to in great detail by the Supreme Court in *GF I case*[1] and *GF II case*[2]. Therefore, merely because the law may have been amended by the introduction of Section 8-B, explicit direction for obtaining fresh environmental clearance cannot be said to have been nullified by such amendment. Besides, upon properly construing the amended clause, it is clear that only valid ECs could be continued, transferred, and vested in the new lessee. Accordingly, even Section 8-B as it now stands does not contemplate either validation or continuance of ECs which, upon adjudication, were found to be legally infirm or all ECs that were explicitly cancelled by the MoEF based upon observations of the Supreme Court in *GF I case*[1] and *GF II case*[2]. This also substantially answers the learned Advocate General's argument about the State of Goa being converted into an island where the provisions of Section 8-B of the MMDR Act would not apply. Section 8-B would undoubtedly apply to the State of Goa. But the provision applies only to transferring and vesting valid ECs to the new lessees/successful bidders, not where ECs are cancelled or struck down by judicial orders. By the proposed construction, the State wishes to read into the provision something Parliament did not say or intend to say.

63. Mr Kantak pointed out that in the context of amendment to the MMDR Act by which Section 8-A was introduced, the State Government, by communication dated 19-11-2019, agreed that some of the mining lessees would be entitled to the benefit of the extended lease term i.e. from 1987 to 2037 (for 50 years) in terms of Section (A)(3) of the MMDR Act, 1957. However, by pointing out the specific directions in *GF I case*[1] and *GF II case*[2] decisions, the State Government declined to extend the benefit of Section 8-A to such mining lessees.

64. Therefore, when applying provisions of Section 8-A of the MMDR Act, 1957, the State Government did not consider itself bound by the amended provisions but chose to follow explicit directions issued by the Supreme Court in *GF I case*[1] and *GF II case*[2] judgments. These explicit directions required the State Government to consider cases of mining leases in the State of Goa for the grant of fresh leases and not renewal or extension of their term. However, when it comes to the application of Section 8-B of the MMDR Act, at least in the context of Block VI mines, the State Government wants to rely upon its peculiar interpretation of Section 8-B, notwithstanding the explicit directions in *GF I case*[1] and *GF II case*[2] judgments that such mines cannot operate without obtaining fresh ECs.

65. Incidentally, the State Government's order dated 19-11-2019 in the context of Section 8-A was challenged in *Vedanta Ltd.* v. *Director of Mines & Geology*[8]. The Petitioners raised contentions almost similar to what are now raised by the State in this matter. There, the State defended its order by raising arguments similar to what are now raised by the present petitioners and

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
8 2019 SCC OnLine Bom 13248

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intervenors. Accordingly, this petition was dismissed by the Division Bench by order dated 25-11-2019.

66. The learned Advocate General's contention in defence of the State Government's order dated 19-11-2019 refusing to apply provisions of Section 8-A of the MMDR Act is set out in para 5 of this Court's order dated 25-11-2019 and reads as follows:

> "Shri Pangam, however, points out that the decision of the Supreme Court in *GF II case*[2] judgment is quite clear inasmuch as all mining operations in the State of Goa ordered to be stopped with effect from 16-3-2018 until fresh mining leases or other renewals and fresh environmental clearances are granted."

67. The Division Bench, in its order dated 25-11-2019, while dismissing the WP No. 1005 of 2019, also observed the following in para 9 as follows:

> "*9.* Secondly, we note that the directions of the Supreme Court in *GF II case*[2] are quite clear in that the State of Goa has been directed to take all necessary steps to grant the "fresh mining leases" in accordance with the provisions of the MMDR Act, 1957. The Ministry of Environment and Forests is also directed to take all necessary steps to grant "fresh environmental clearances" to those who are successful in obtaining "fresh mining leases". The Supreme Court, in the same judgment has also directed the State of Goa to stop all mining operations with effect from 16-3-2018 until "fresh mining leases (not fresh renewals or other renewals)" are granted and "fresh environmental clearances are granted". Faced with such clear and categorical directions, we agree with the learned Advocate General that the State of Goa had no option but to reject the representation made by the petitioner, for the present. There is accordingly, no case is made out to interfere with the impugned communication."

68. Vedanta Limited and another instituted the petition(s) for Special Leave to Appeal (C) Nos. 29211 of 2019 to challenge this Court's order dated 25-11-2019 in WP No. 1005 of 2019. However, the same was dismissed by the Supreme Court by order dated 7-9-2021. Similarly, the Review Petition (C) Diary No. 41515 of 2019 in SLP (C) No. 32138 of 2015 instituted by the State of Goa to challenge the decision in *GF II case*[2] was also dismissed by the Supreme Court as barred by limitation and also on merits. Again, this is clear from the Supreme Court's order dated 9-7-2021.

69. The Supreme Court's order dated 9-7-2021 *Vedanta Ltd.* v. *State of Goa*[9] dismissing the review petition against the *GF II case*[2] judgment is transcribed below for the convenience of reference: (*Vedanta Ltd.* v. *State of Goa*, SCC p. 208, paras 1, 2, 3 and 4)

> "The Judgment of the Court was delivered by:

2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218
9 (2021) 7 SCC 206 : (2021) 3 SCC (Civ) 809 : (2021) 3 SCC (Cri) 158

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Dr D.Y. Chandrachud, J.— The review petitions have been preferred by the State of Goa (Diary No 41515 of 2019 and Diary No 41517 of 2019, both with a delay of 650 days and Diary No 41453 of 2019 and Diary No 41545 of 2019, both with a delay of 651 days) and by Vedanta Limited (formerly known as M/s Sesa Sterlite Limited) (Diary No 18430 of 2020, Diary No 18435 of 2020, Diary No 18438 of 2020 and Diary No 18447 of 2020, all four with a delay of 907 days) against the judgment of a two-Judge Bench of this Court in *Goa Foundation* v. *Sesa Sterlite Ltd.*[2], (hereinafter referred to as '*GF II case*[2]'), pronounced on 7-2-2018.

2. In accordance with Rule 2 of Order 47 of the Supreme Court Rules, 2013, an application for review of a judgment has to be filed within thirty days of the date of the judgment or order that is sought to be reviewed. No cogent grounds have been furnished for the delay between 20 and 26 months by the two parties in filing their applications for review. The Judges comprising the two-Judge Bench in *GF II case*[2], Madan B. Lokur and Deepak Gupta, JJ., retired from this Court on 30-12-2018 and 6-5-2020, respectively. The State of Goa preferred its four review petitions in the month of November 2019, after Justice Madan B. Lokur, J's retirement, while Vedanta Limited preferred its four review petitions in the month of August 2020, right after Deepak Gupta, J's retirement. Such practice must be firmly disapproved to preserve the institutional sanctity of the decision-making of this Court. The review petitioners were aware of the decision of this Court.

3. Keeping in mind the above, we are inclined to dismiss these review petitions on the ground of limitation alone. However, in any event, we also find that no legitimate grounds for review of the judgment in *GF II case*[2] have been made out, and dismiss these review petitions on merits as well.

4. Pending application(s), if any, are disposed of."

70. Some of the erstwhile mining lessees made yet another attempt to bypass the explicit directions in *GF I case*[1] and *GF II case*[2] once again by relying upon Sections 8 and 8-A of the MMDR Act, 1957 and the decision of the Supreme Court in *Common Cause* v. *Union of India*[10]. The erstwhile lessees contended that irrespective of the directions in *GF II case*[2] and by virtue of the provisions in Sections 8 and 8-A of the MMDR Act, as interpreted in *Common Cause case*[10], they were eligible and entitled to treat the original lease period as being of 50 years to be reckoned from 1987 and up to 2037. After the State Government did not accept such contentions, erstwhile mining lessees instituted several petitions, including WP No. 255 of 2022, *Lithoferro* v. *Director of Mines and Geology*[11]. This batch of petitions was disposed of

2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
10 (2016) 11 SCC 455
11 2022 SCC OnLine Bom 3420

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by the Division Bench of this Court vide judgment and order dated 7-10-2022 (See *Lithoferro* v. *Director of Mines and Geology*[11]).

71. Before the court, the petitioners, by relying upon Sections 8 and 8-A of the MMDR Act, 1957, urged that notwithstanding the specific directions in *GF I case*[1] and *GF II case*[2], under Sections 8 and 8-A of the MMDR Act, 1957, their lease terms stood extended up to 2037. Additionally, the petitioners placed strong reliance on *Common Cause case*[10].

72. In the above batch of petitions, the submissions on behalf of the Goa Foundation (intervenor) and the State of Goa are recorded in para 21 of the judgment and order dated 7-10-2022. One of the contentions on behalf of the Goa Foundation and the State of Goa was that the declaration in para 87.1 of the *GF I case*[1] judgment was conclusive. The Goa Foundation and the State of Goa also contended that the directions for grant of "fresh lease" in the *GF I case*[1] judgment "was deliberate and conscious decision distinct and different, from granting of second renewal of expired leases in other States and, therefore, Goa has not been discriminated."

73. The Division Bench of this Court, in its judgment and order dated 7-10-2022, after considering the several arguments which were advanced before it dismissed all the writ petitions by erstwhile mining lessees. The Division Bench in para 38 specifically concurred with the order dated 25-11-2019 passed by the Coordinate Bench of this Court in WP No. 1005 of 2019 filed by M/s Vedanta Ltd. and another. The Division Bench squarely rejected the erstwhile lessees' contentions about specific directions in *GF I case*[1] and *GF II case*[2] judgments being watered down by the 2015 amendment to the MMDR Act, 1957. The Division Bench noted that the *GF II case*[2] judgment not only reinforced the directions issued in *GF I case*[1] but, in para 154.6, held and directed the mining leaseholders to stop all mining operations until fresh mining and environmental clearances are granted.

74. The special leave petition against the above judgment and order dated 7-10-2022 passed by the Division Bench in *Lithoferro case*[11] and other batch petitions was dismissed by the Supreme Court on 21-11-2022 (*Sociedade Zarapkar and Parkar Limitada* v. *State of Goa*, Petition for Special Leave to Appeal (C) No(s). 19694 of 2022).

75. Thus, in the context of amended provisions of Sections 8 and 8-A of the MMDR Act, 1957, even the State Government supported the Goa Foundation's contention that specific directions in *GF I case*[1] and *GF II case*[2] judgments would prevail and that such directions were not watered down by the amended provisions. However, in the context of amended provisions of Section 8-B of the MMDR Act, 1957, the State of Goa contends that this provision would prevail over the express directions in the *GF I case*[1] and the *GF II case*[2] judgments that fresh ECs must be obtained before the commencement of any mining operations. This is notwithstanding the position that Section 8-B of the MMDR

10 *Common Cause* v. *Union of India*, (2016) 11 SCC 455
1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218

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Act, 1957 contemplates only the transfer and vesting of "valid" ECs and not ECs already cancelled by the MoEF based upon scathing observations made by the Supreme Court in the *GF II case*[2] judgment. Therefore, Mr Kantak and Ms Alvares are justified in pointing out the contradictions in the stance of the State Government.

76. Mr Kantak also pointed out that regarding Block VII (Cudnem Mineral Block), two lessees had obtained ECs under the EIA Notification, 2006. However, regarding Block VII, the State had not applied Section 8-B, and the interpretation now put forth. The State was quite clear that fresh EC would be necessary for Block VII even though it had EC under EIA, 2006. But when it comes to Block VI, the State contends that no fresh EC was necessary. Mr Kantak submitted that this amounts to arbitrariness violating Article 14 of the Constitution.

77. The learned Advocate General acknowledged that fresh EC would be necessary for leases included in Block VII even though such leases had been environmental clearance under EIA Notification, 2006. However, he submitted that this was because some of the areas in this block were affected by the provisions of the Forest (Conservation) Act, 1980. Incidentally, this was not the stance of the Director & ex-officio Joint Secretary (Mines and Geology), Government of Goa, in his affidavit dated 6-3-2023. In para 25 of his affidavit, the Director has pleaded that in relation to clearances granted under 2006 notification, Section 8-B applies and such clearances were transferred and vested in the successful bidder.

78. Thus, on affidavit, the Director & ex-officio Joint Secretary (Mines) states that the directions of the Supreme Court regarding obtaining fresh ECs would not apply to ECs granted under EIA Notification, 2006 because, to such ECs provisions of Section 8-B of the MMDR Act, 1957 would apply. This was perhaps the State Government's understanding of the position. However, the learned Advocate General, during the course of his arguments, did not endorse the Director's line (as he was undoubtedly entitled to) but submitted across the Bar that the provisions of Section 8-B were not applied to Block-VII (Cudnem) even though ECs had been issued the EIA Notification, 2006 because of some forest issues. All that we think is that such contradictions would be minimised if Section 8-B is construed to apply to the continuance of valid ECs and not ECs that are cancelled based upon the scathing observations of the Supreme Court. That we believe is the proper and lain construction of Section 8-B of the MMDR Act.

79. The learned Advocate General argued that the petitioners had no locus standi to maintain this petition or, in any case, this petition was premature. He submitted that even after the auction if the petitioners were indeed successful, the petitioners might have to obtain a fresh EC. However, the learned Advocate General submitted that there was no cause of action or good reason to interfere with the impugned endorsement made in the NIT at this stage or for this reason.

80. The petitioners have evinced interest in participating in the tender/auction process. The decision on the bid to be offered would, to some extent, depend upon whether fresh EC is required or not. Apart from the fact that

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obtaining a fresh EC would involve greater expenses that would have to be factored in, getting a fresh EC would imply the application of different time schedules and timelines for payment of bid amounts and the commencement of mining operations.

81. Mr Kantak has pointed out how different timelines and schedules would apply to cases where fresh ECs must be obtained. Mr Kantak also pointed out how an applicant stands to forfeit a substantial amount if mining operations are not commenced within the timeline indicated. Finally, Mr Kantak pointed out that if, after being declared a successful bidder, the petitioners cannot begin the mining operations for want of fresh EC, the petitioners would stand to forfeit the substantial amount or be involved in unnecessary and avoidable litigation.

82. According to us, the petitioners cannot be non-suited for want of locus standi. The petitioners have a real and substantial interest in the subject-matter of this petition and the issues raised therein. The Goa Foundation that has intervened in this petition has also contended that fresh EC is a must in such matters. Considering the zeal with which the Goa Foundation has pursued the mining issue, the petitioners are justified in anticipating that the Goa Foundation would move the courts to ensure that the successful bidder obtains a fresh EC before any mining operations are commenced. Therefore, this petition cannot be rejected on the ground that the petitioner lacks locus standi or that this petition was premature.

83. The learned Advocate General also pointed out that this petition is mala fide because the petitioners have restricted the relief to Block VI of NIT and not other blocks. Mr Kantak submitted that the petitioners were interested in bidding for Block VI, not other blocks. Therefore, the relief was claimed only in respect of Block VI. Mr Kantak, however, submitted that there was no mala fide involved, and once the court declares the law, the same would apply in respect of other blocks if similarly placed.

84. No mala fide could be inferred because the petitioners restrict the relief to the block in which the petitioners have evinced interest. However, if fresh ECs are required for other blocks, then obviously, the law will also apply to such blocks. Even without any legal intervention, the State has not exempted the Block VII mines from the requirement of obtaining fresh EC.

85. As noted earlier, MoEF, based upon the observations of the Supreme Court in *GF I case*[1] and *GF II case*[2], cancelled the ECs vide order dated 23-4-2018. Earlier, the MoEF had, by order dated 14-9-2012, kept in abeyance such ECs. This order was effectively withdrawn, or abeyance was lifted vide order dated 20-3-2015. However, this order dated 20-3-2015 was declared void and vitiated by non-application of mind by the Supreme Court in *GF II case*[2].

86. Thus, even as of date, the MoEF order dated 23-4-2018 stands. Even if it is assumed that this order does not stand, the MoEF order dated 14-9-2012 stands after the order dated 20-3-2015 rejecting this order was declared void

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218

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by the Supreme Court. Accordingly, there was no valid EC that could have been continued or which could have been transferred and vested in the new lessee. Mr Kantak relied on *Pune Municipal Corpn.* v. *State of Maharashtra*[12] to submit that executive orders do not carry any brand of invalidity on their forehead. Therefore, if any executive order aggrieves the party, such party must challenge the same and get the same declared void or otherwise struck down.

87. The learned Advocate General, however, contended that the MoEF order dated 23-4-2018 was only an executive or statutory order that would fall in line with Section 8-B of the MMDR Act, 1957. Accordingly, he contended that the MoEF order dated 23-4-2018 would not override or affect parliamentary legislation in Section 8-B, which contains a non-obstante clause.

88. As noted earlier, nothing in Section 8-B of the MMDR Act, 1957 revives ECs that are already cancelled. Section 8-B refers only to valid rights, approvals, clearances, licences, etc. Further, Section 8-B provides that such valid clearances shall continue to be valid after the expiry or termination of the mining lease. The expression "continue to be valid" presupposes that EC was valid on the date of transfer and vesting. Therefore, this is not a case of an executive or statutory order overriding the parliamentary legislation. Instead, this is a case where proper construction of Section 8-B of the MMDR Act, 1957 would result in the harmonious implementation of the directions of the Supreme Court in *GF I case*[1] and *GF II case*[2] judgments, the MoEF's executive or statutory orders and the provisions of the parliamentary legislation.

89. In *GF I case*[1] and *GF II case*[2] judgments, the Supreme Court relied upon the Justice Shah Commission's report, the Committee experts comprising Dr C.R. Babu (Ecologist), Dr S.C. Dhiman (Geologist/Hydrogeologist), Prof. B.K. Mishra (Mineralogist), Prof. S. Parameswarappa (Forestry), Shri Parimal Rai (nominee of the Ministry of Environment and Forests, Government of India), NEERI report for macro level EIA study in the State of Goa, data submitted by various agencies including Goa State Pollution Control Board, etc. based upon all this material directly concerned with the degradation of the environment in Goa due to rampant illegal mining, the court concluded that the entire State of Goa and its people were victims of rapacious and rampant exploitation of our natural resources was the hallmark of iron ore mining sector coupled with a total lack of concern for the environment and the health and well-being of the denizens in the vicinity of the mines. The court referred to the report of EAC, which reveals that there was not a single environment-related or mining-related law or legal requirement that was not violated by one or the other mining leaseholder.

90. The Supreme Court noted that "quite clearly, the rule of environmental law in Goa had gone with the wind." The court noted that no clearance was obtained from the Central Groundwater Board for groundwater extraction. In the context of the submission that there is plenty of groundwater available in Goa, the court observed that what seems to have been overlooked was that with the intersection of groundwater levels with mining operations, the groundwater

12 (2007) 5 SCC 211

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would get depleted much faster than expected or the quality of the groundwater would deteriorate. The court noted that, unfortunately, no heed was paid to these requirements by the State of Goa or any of the mining leaseholders, and no one mining leaseholder has any clearance (where required) from the Central Groundwater Board.

91. The Supreme Court noted that even the State of Goa was alive to the fact that many (if not all) mining leaseholders had violated the terms of the mining lease or some statutory obligation. The offences ranged, amongst others, from illegal sale of ore, sale of royalty challan without ore, encroachment of adjoining areas outside the lease, overproduction in excess of the limit specified in the environmental clearance, unscientific mining operations, violations concerning payment of royalty amount, reuse of old royalty challans for defrauding, illegal mining activities, etc.

92. The Supreme Court also noted that iron ore production in the State of Goa jumped from 14.6 million tons in 1941 to 41.17 million tons in 2010-2011. The court noted that in the 1980s, the production was about 10 MT/per annum. This has led to massive negative impacts on all ecosystems leading to enhanced air, water, and soil pollution, affecting the quality of life across Goa. The court quoted expert committees' notings that various reports and publications substantiate that the mining, particularly the enhanced annual production contributed to adverse impacts on the ecological systems, socio-economics of Goa and health of the people of Goa, leading to loss of ecological integrity. This is due to enhanced levels of pollutants, particularly RSPM and SPM, sedimentation of materials from dumps and iron ore in rivers, estuaries and shallow depths (20 m) of seawater, agricultural fields, high concentration of Fe and Mn in surface waters and their bio-accumulation. Faced with this material evidence before it, the court took the view in *GF I case*[1] that fresh environmental clearance must be obtained.

93. This conscious decision of the Supreme Court in *GF I case*[1] judgment which was reiterated in *GF II case*[2] judgment, cannot be bypassed by regarding the ECs which were explicitly cancelled by the MoEF order dated 23-4-2018 as valid only to grant new lessees/successful auction bidders the benefit of Section 8-B of the MMDR Act, 1957. As noted earlier, the proper construction of Section 8-B of the MMDR Act, 1957 indicates that only valid ECs were to stand transferred and vested in the new lessees/successful auction-purchasers. If the State Government's interpretation is to be accepted, then the ECs issued in 2007, based upon which the mining industry in the State of Goa virtually caused havoc by rapacious and rampant exploitation regardless of any concern for environment, health and well-being of the citizens, would have to be revived and transferred to the new lessees/successful bidders. The impact of rapacious and rampant exploitation, including several severe environmental violations by the mining industry between 2007 and 2012, would have to be ignored. This, according to us, would not be a proper mode of construing provisions of Section 8-B of the MMDR Act, 1957. In any case, based upon strained construction

1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
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suggested by the State of Goa, express directions of the Supreme Court in *GF I case*[1] and *GF II case*[2] judgments cannot be nullified or ignored.

94. For all the above reasons, we allow this Petition and make the Rule absolute in terms of prayer clause (A) quoted in para 5 of this judgment and order. However, we clarify that fresh ECs will have to be obtained even by the successful bidders to Block VII or other blocks to which the decisions of the Supreme Court in *GF I case*[1] and *GF II case*[2] apply or to mining blocks in respect of which the ECs were cancelled by the MoEF by order dated 23-4-2018.

95. The petition is accordingly disposed of. The miscellaneous civil application is also allowed and disposed of accordingly. No costs.

96. All concerned can act on the authenticated copy of this order.

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1 *Goa Foundation* v. *Union of India*, (2014) 6 SCC 590
2 *Goa Foundation* v. *Sesa Sterlite Ltd.*, (2018) 4 SCC 218

Annexure - G(colly)

MINUTES OF THE 109TH GOA STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (GOA-SEIAA) MEETING HELD ON 28/07/2023 AT 10:00 A.M. IN THE CONFERENCE ROOM OF THE 4TH FLOOR, DEMPO TOWER, PATTO, PANAJI-GOA.

The 109th meeting of the Goa - SEIAA *(hereinafter referred as 'Authority')* was held on 28th July 2023 at 10:00 am in the conference room, 4th floor, Dempo Tower, Patto, Panaji. The list of members present during the meeting is annexed *(refer Annexure - 1)*.

At the outset, Chairman welcomed Authority members and briefed about the agenda items *(refer Annexure - 2)* to be taken up for discussion / deliberations and appropriate decision. Accordingly, the same were considered as detailed below.

1. **To decide on application received from Meeravati Velip locating at Survey No. 30/1, village Gokuldem, Quepem taluka, South Goa for prior Environmental Clearance.**

The Project Proponent Smt. Meeravati Velip along with her consultant Mr. Omkar Jog appeared before the Authority and explained the details of the project.

Decision: As per the Authority's site inspection held on 21/02/2023 the Authority had noted that the proposed access road towards the quarry involves extensive hill cutting Therefore, the Authority decided to refer back the matter to Goa State Expert Appraisal Committee to re-inspect the site to verify **whether hill cutting is required** and convey Committee's considered opinion to this Authority

2. **To decide on TOR application received from M/s Salgaocar Shipping Company Limited for Block II –Sirigao-Mayem Mineral Block bearing Survey No. 1, 2, 3, 4, 5, 6, 7, 46, 47, 48, 84, 90, 91, 92, 93, 94, 95, 96, 97, 98 & 12, 47, 60, 61, 62, 79, 80, 84, road, 48, 56, 57, 58 & 59 at Bicholim Goa.**

The representative of M/s Salgaocar Shipping Company Limited Shri. Nitin Sood along with their consultant appeared before the Authority and explained the details of the project.

Decision: After discussion and considering recommendation by the Goa-SEAC the Authority, members unanimously decided to grant the following ToR:-

1. Year-wise production details since 1994 should be given, clearly stating the highest production achieved in any one year prior to 1994. It may also be categorically informed whether there had been any increase in production after the EIA Notification 1994 came into force, w.r.t. the highest production achieved prior to1994.
2. A copy of the document in support of the fact that the Proponent is the rightful lessee of the mine should be given.

3. All documents including approved mine plan, EIA and Public Hearing should be compatible with one another in terms of the mine lease area, production levels, waste generation and its management, mining technology etc. and should be in the name of the lessee.

4. All corner coordinates of the mine lease area, super imposed on a High Resolution Imagery/toposheet, topographic sheet, geomorphology and geology of the area should be provided. Such an Imagery of the proposed area should clearly show the land use and other ecological features of the study area (core and buffer zone).

5. Information should be provided in Survey of India Toposheet in 1:50,000 scale indicating geological map of the area, geomorphology of land forms of the area, existing minerals and mining history of the area, important water bodies, streams and rivers and soil characteristics.

6. Details about the land proposed for mining activities should be given with information as to whether mining conforms to the land use policy of the State; land diversion for mining should have approval from State land use board or the concerned authority.

7. ItshouldbeclearlystatedwhethertheproponentCompanyhasawellLaiddownEnvironmentPolicyapprovedbyitsBoardofDirectors? If so, it may be spelt out in the EIA Report with description of the prescribed operating process/procedures to bring into focus any infringement/ deviation/ violation of the environmental or forest norms/ conditions? The hier archical system or administrative order of the Company to deal with the environmental issues and for ensuring compliance with the EC conditions may also be given. The system of reporting of non-compliances / violations of environmental norms to the Board of Directors of the Company and/ or share holders or stakeholders at large, may also be detailed in the EIA Report.

8. Issues relating to Mine Safety, including subsidence study in case of underground mining and slope study in case of open cast mining, blasting study etc. should be detailed. The proposed safeguard measures in each case should also be provided.

9. The study rea will comprise of 10km zone around the mine lease from lease periphery and the data contained in the EIA such as waste generation etc. should be for the life of the mine/lease period.

10. Land use of the study rea delineating forest area, agricultural land, grazing land, wildlife sanctuary, national park, migratory routes of fauna, water bodies, human settlements and other ecological features should be indicated. Land use plan of the mine lease area should be prepared to encompass preoperational, operational and post operational phases and submitted. Impact, if any, of change of land use should be given.

11. Details of the land for any Over Burden Dumps outside the mine lease, such as extent of land area, distance from mine lease, its land use, R&R issues, if any, should be given.

12. A Certificate from the Competent Authority in the State Forest Department should be provided, confirming the involvement of forest land, if any, in the project area. In the event of any contrary claim by the Project Proponent regarding the status of forests, the site may be inspected by the State Forest Department along with the Regional Office of the Ministry to ascertain the status of forests, based on which, the Certificate in this regard as mentioned above be issued. In all such cases, it would

be desirable for representative of the State Forest Department to assist the Expert Appraisal Committees.

13. Status of forestry clearance for the broken up area and virgin forestland involved in the Project including deposition of net present value (NPV) and compensatory afforestation (CA) should be indicated. A copy of the forestry clearance should also be furnished.

14. Implementationstatusofrecognitionofforestrightsunderthe ScheduledTribesandother Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006should be indicated.

15. The vegetation in the RF / PF areas in the study area, with necessary details, should be given.

16. A study shall be got done to ascertain the impact of the Mining Project on wildlife of the study area and details furnished. Impact of the project on the wild life in the surrounding and any other protected area and accordingly, detailed mitigative measures required, should be worked out with cost implications and submitted.

17. Location of National Parks, Sanctuaries, Biosphere Reserves, Wildlife Corridors, Ramsar site Tiger/ Elephant Reserves/(existing as well as proposed), if any, within 10 km of the mine lease should be clearly indicated, supported by a location map duly authenticated by Chief Wildlife Warden. Necessary clearance, as may be applicable to such projects due to proximity of the ecologically sensitive areas as mentioned above, should be obtained from the Standing Committee of National Board of Wildlife and copy furnished.

18. A detailed biological study of the study area [core zone and buffer zone (10km radius of the periphery of the mine lease)] shall be carried out. Details of flora and fauna, endangered endemic and RET Species duly authenticated, separately for core and buffer zone should be furnished based on such primary field survey, clearly indicating the Schedule of the fauna present .Incase of any scheduled-I fauna found in the study area, the necessary plan along with budgetary provisions for their conservation should be prepared in consultation with State Forest and Wildlife Department and details furnished. Necessary allocation of funds for implementing the same should be made as part of the project cost.

19. Proximity to Areas declared as 'Critically Polluted' or the Project areas likely to come under the 'Aravali Range', (attracting court restrictions for mining operations), should also be indicated and where so required, clearance certifications from the prescribed Authorities, such as the SPCB or State Mining Department should be secured and furnished to the effect that the proposed mining activities could be considered.

20. Similarly, for coastal Projects, A CRZ map duly authenticated by one of the authorized agencies demarcating LTL, HTL, CRZ area, location of the mine lease w.r.t CRZ, coastal features such as mangroves, if any, should be furnished. (Note The Mining Projects falling under CRZ would also need to obtain approval of the concerned Coastal Zone Management Authority).

21. R&R Plan/compensation details for the Project Affected People (PAP)should be furnished. While preparing the R&R Plan, the relevant State/National Rehabilitation &Resettlement Policy should be kept in view. In respect of SCs /STs and other weaker sections of the society in the study area, a need based sample survey, family-wise, should be undertaken to assess the irrequirements, and action programmes

prepared and submitted accordingly, integrating the sectoral programmes of line departments of the State Government. It may be clearly brought out whether the village(s) located in the mine lease area will be shifted or not. The issues relating to shifting of village(s) including their R&R and socio-economic aspects should be discussed in the Report.

22. One season (non-monsoon) [i.e. March-May (Summer Season); October-December (post monsoon season) ; December-February (winter season)]primary baseline data on ambient air quality as per CPCB Notification of 2009, water quality, noise level, soil and flora and fauna shall be collected and the AAQ and other data so compiled presented date-wise in the EIA and EMP Report. Site-specific meteorological data should also be collected. The location of the monitoring stations should be such as to represent whole of the study area and justified keeping in view the pre-dominant downwind direction and location of sensitive receptors. There should be at least one monitoring station within 500 m of the mine lease in the pre-dominant downwind direction. The mineralogical composition of PM10, particularly for free silica, should be given.

23. Air quality modeling should be carried out for prediction of impact of the project on the air quality of the area. It should also take into account the impact of movement of vehicles for transportation of mineral. The details of the model used and input parameters used for modeling should be provided. The air quality contours may be shown on a location map clearly indicating the location of the site, location of sensitive receptors, if any, and the habitation. The wind roses showing pre-dominant wind direction may also be indicated on the map.

24. The water requirement for the Project, its availability and source should be furnished. A detailed water balance should also be provided. Fresh water requirement for the Project should be indicated.

25. Necessary clearance from the Competent Authority for drawl of requisite quantity of water for the Project should be provided.

26. Description of water conservation measures proposed to be adopted in the Project should be given. Details of rainwater harvesting proposed in the Project, if any, should be provided.

27. Impact of the Project on the water quality, both surface and groundwater, should be assessed and necessary safeguard measures, if any required, should be provided

28. Based on actual monitored data, it may clearly be shown whether working will intersect ground water. Necessary data and documentation in this regard may be provided. In case the working will intersect groundwater table, a detailed Hydro Geological Study should be undertaken and Report furnished. The Report inter-alia, shall include details of the aquifers present and impact of mining activities on these aquifers. Necessary permission from Central Ground Water Authority for working below ground water and for pumping of ground water should also be obtained and copy furnished.

29. Details of any stream, seasonal or otherwise, passing through the lease area and modification / diversion proposed, if any, and the impact of the same on the hydrology should be brought out.

30. Information on site elevation, working depth, groundwater table etc. Should be provided both in AMSL and bgl. As chematic diagram may also be provided for the same.

31. A time bound Progressive Green belt Development Plan shall be prepared in a tabular form (indicating the linear and quantitative coverage, plant species and time frame) and submitted, keeping in mind, the same will have to be executed upfront on commencement of the Project. Phase-wise plan of plantation and compensatory afforestation should be charted clearly indicating the area to be covered under plantation and the species to be planted. The details of plantation already done should be given. The plant species selected for green belt should have greater ecological value and should be of good utility value to the local population with emphasis on local and native species and the species which are tolerant to pollution

32. Impact on local transport infrastructure due to the Project should be indicated Projected increase in truck traffic as a result of the Project in the present road network (including those outside the Project area) should be worked out, indicating whether it is capable of handling the incremental load. Arrangement for improving the infrastructure, if contemplated (including action to be taken by other agencies such as State Government)should be covered. Project Proponent shall conduct Impact of Transportation study as per Indian Road Congress Guidelines.

33. Details of the onsite shelter and facilities to be provided to the mine workers should be included in the EIA Report.

34. Conceptual post mining land use and Reclamation and Restoration of mined out areas (with plans and with adequate number of sections) should be given in the EIA report.

35. Occupational Health impacts of the Project should be anticipated and the proposed preventive measures spelt out in detail. Details of pre-placement medical examination and periodical medical examination schedules should be incorporated in the EMP. The project specific occupational health mitigation measures with required facilities proposed in the mining area may be detailed.

36. Public health implications of the Project and related activities for the population in the impact zone should be systematically evaluated and the proposed remedial measures should be detailed along with budgetary allocations.

37. Measures of socio economic significance and influence to the local community proposedtobeprovidedbytheProjectProponentshouldbeindicated.Asfaraspossible, quantitative dimensions may be given with time frames for implementation.

38. Detailed environmental management plan (EMP) to mitigate the envuronmental impacts which, should inter-alia include the impacts of change of land use, loss of agricultural and grazing land, if any, occupational health impacts besides other impacts specific to the proposed Project.

39. Public Hearing points raised and commitment of the Project Proponent on the same along with time bound Action Plan with budgetary provisions to implement the same should be provided and also incorporated in the final EIA/EMP Report of the Project.

40. Details of litigation pending against the project, if any, with direction/ order passed by any Court of Law against the Project should be given.

41. The cost of the Project (capital cost and recurring cost) as well as the cost towards implementation of EMP should be clearly spelt out.

42. A Disaster management Plan shall be prepared and included in the EIA/EMP Report.

43. Benefits of the Project if the Project is implemented should be spelt out. The benefits of the Project shall clearly indicate environmental, social, economic, employment potential, etc.

44. Besides the above, the below mentioned general points are also to be followed:-

a) Executive Summary of the EIA/EMP Report

b) All documents to be properly referenced with index and continuous page numbering

c) Where data are presented in the Report especially in Tables, the period in which the data were collected and the sources should be indicated.

d) Project Proponent shall enclose all the analysis/testing reports of water, air, soil, noise etc. using the MoEF&CC/ NABL accredited laboratories. All the originalanalysis/testingreportsshouldbeavailableduringappraisaloftheProject.

e) Where the documents provided are in a language other than English, an English translation should be provided.

f) The Questionnaire for environmental appraisal of mining projects as devised earlier by the Ministry shall also be filled and submitted.

g) While preparing the EIA report, the instructions for the Proponents and instructions for the Consultants issued by MoEF&CC vide O.M. No. J-11013/41/2006-IA.II (I) dated 4th August, 2009, which are available on the website of this Ministry, should be followed.

h) Changes, if any made in the basic scope and project parameters (as submitted in Form-I and the PFR for securing the TOR) should be brought to the attention of MoEF&CC with reasons for such changes and permission should be sought, as the TOR may also have to be altered. Post Public Hearing changes in structure and content of the draft EIA/EMP (other than modifications arising out of the P.H. process) will entail conducting the PH again with the revised documentation.

i) As per the circular no. J-11011/618/2010-IA.II (I) dated 30.5.2012, certified report of the status of compliance of the conditions stipulated in the environment clearance for the existing operations of the project, should be obtained from the Regional Office of Ministry of Environment, Forest and Climate Change, as may be applicable.

3. **To decide on TOR application received from M/s Rajaram Bandekar Mines Private Limited for Block III –Monte De Sirigao Mineral Block bearing 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 at Bicholim Goa.**

The representative of M/s Rajaram Bandekar Mines Private Limited Shri Vasu Nair and Shri Sujay C Parrikar along with their consultant appeared before the Authority and explained the details of the project.

Decision: After discussion and considering recommendation by the Goa-SEAC the Authority, members unanimously decided to grant the following ToR:-

1. Year-wise production details since 1994 should be given, clearly stating the highest production achieved in any one year prior to 1994. It may also be categorically

informed whether there had been any increase in production after the EIA Notification 1994 came into force, w.r.t. the highest production achieved prior to1994.

2. A copy of the document in support of the fact that the Proponent is the rightful lessee of the mine should be given.

3. All documents including approved mine plan, EIA and Public Hearing should be compatible with one another in terms of the mine lease area, production levels, waste generation and its management, mining technology etc. and should be in the name of the lessee

4. All corner coordinates of the mine lease area, super imposed on a High Resolution Imagery/toposheet, topographic sheet, geomorphology and geology of the area should be provided. Such an Imagery of the proposed area should clearly show the land use and other ecological features of the study area (core and buffer zone).

5. Information should be provided in Survey of India Toposheet in 1:50,000 scale indicating geological map of the area, geomorphology of land forms of the area, existing mineral sand mining history of the area, important water bodies, streams and rivers and soil characteristics.

6. Details about the land proposed for mining activities should be given with information as to whether mining conforms to the land use policy of the State: land diversion for mining should have approval from State land use board or the concerned authority.

7. It should be clearly stated whether the proponent Company has a well laid down Environment Policy approved by its Board of Directors? If so, it may be spelt out in the EIA Report with description of the prescribed operating process/procedures to bring into focus any infringement/ deviation/ violation of the environmental or forest norms/ conditions? The hierarchical system or administrative order of the Company to deal with the environmental issues and for ensuring compliance with the EC conditions may also be given. The system of reporting of non-compliances violations of environmental norms to the Board of Directors of the Company and/or shareholders or stakeholders at large, may also be detailed in the EIA Report.

8. Issues relating to Mine Safety, including subsidence study in case of underground mining and slope study in case of open cast mining, blasting study etc. should be detailed. The proposed safe guard measures in each case should also be provided

9. Thestudyreawillcompriseof10kmzonearoundthemineleasefromleaseperipheryand the data contained in the EIA such as waste generation etc. should be for the life of the mine/lease period

10. Land use of the study rea delineating forest area, agricultural land, grazing land, wildlife sanctuary, national park, migratory routes of fauna, water bodies, human settlements and other ecological features should be indicated. Land use plan of the mine lease area should be prepared to encompass preoperational, operational and post operational phases and submitted. Impact, if any, of change of land use should be given.

11. Details of the land for any Over Burden Dumps outside the mine lease, such as extent of land area, distance from mine lease, its land use, R&R issues, if any, should be given.

12. A Certificate from the Competent Authority in the State Forest Department should be provided, confirming the involvement of forest land, if any, in the project area. In

the event of any contrary claim by the Project Proponent regarding the status of forests, the site may be inspected by the State Forest Department along with the Regional Office of the Ministry to ascertain the status of forests, based on which, the Certificate in this regard as mentioned above be issued. In all such cases, it would be desirable for representative of the State Forest Department to assist the Expert Appraisal Committees

13. Status of forestry clearance for the broken up area and virgin forestland involved in the Project including deposition of net present value (NPV) and compensatory afforestation (CA) should be indicated. A copy of the forestry clearance should also be furnished.

14. Implementationstatusofrecognitionofforestrightsunder the Scheduled Tribesandother Traditionalforest Dwellers (Recognition of Forest Rights) Act,2006 should be indicated.

15. The vegetation in the RL PF areas in the study area, with necessary details, should be given.

16. A study shall be got done to ascertain the impact of the Mining Project on wildlife of the study area and details furnished. Impact of the project on the wild life in the surrounding and any other protected area and accordingly, detailed mitigative measures required, should be worked out with cost implications and submitted.

17. Location of National Parks, Sanctuaries, Biosphere Reserves, Wildlife Corridors, Ramsar site Tiger/ Elephant Reserves/(existing as well as proposed), if any, within 10 km of the mine lease should be clearly indicated, supported by a location map duly authenticated by Chief Wildlife Warden. Necessary clearance, as may be applicable to such projects due to proximity of the ecologically sensitive areas as mentioned above, should be obtained from the Standing Committee of National Board of Wildlife and copy furnished.

18. A detailed biological study of the study area [core zone and buffer zone (10km radius of the periphery of the mine lease)] shall be carried out. Details of flora and fauna, endangered endemic and RET Species duly authenticated, separately for core and buffer zone should be furnished based on such primary field survey, clearly indicating the Schedule of the fauna present. In case of any scheduled- I fauna found in the study area, the necessary plan along with budgetary provisions for their conservation should be prepared in consultation with State Forest and Wildlife Department and details furnished. Necessary allocation of funds for implementing the same should be made as part of the project cost.

19. Proximity to Areas declared as 'Critically Polluted' or the Project areas likely to come under the 'Aravali Range', (attracting court restrictions for mining operations), should also be indicated and where so required, clearance certifications from the prescribedAuthorities,suchastheSPCBorStateMiningDepartmentshouldbesecuredandfurnished to the effect that the proposed mining activities could be considered.

20. Similarly, for coastal Projects, A CRZ map duly authenticated by one of the authorized agencies demarcating LTL, HTL, CRZ area, location of the mine lease w.r.t CRZ, coastal features such as mangroves, if any, should be furnished. (Note: The Mining Projects falling under CRZ would also need to obtain approval of the concerned Coastal Zone Management Authority).

21. R&R Plan/compensation details for the Project Affected People (PAP) should be furnished. While preparing the R&R Plan, the relevant State/National Rehabilitation

& Resettlement Policy should be kept in view. In respect of SC's /STs and other weaker sections of the society in the study area, a need based sample survey, family-wise, should be undertaken to assess their requirements, and action programmes prepared and submitted accordingly, integrating the sectoral programmes of line departments of the State Government. It may be clearly brought out whether the village (s) located in the mine lease area will be shifted or not. The issues relating to shifting of village(s) including their R&R and socio-economic aspects should be discussed in the Report.

22. One season (non-monsoon) [i.e. March-May (Summer Season); October-December (post monsoon season) , December-February (winter season)]primary baseline data on ambient air quality as per CPCB Notification of 2009, water quality noise level, soil and flora and fauna shall be collected and the AAQ and other data so compiled presented date-wise in the EIA and EMP Report. Site-specific meteorological data should also be collected. The location of the monitoring stations should be such as to represent whole of the study area and justified keeping in view the pre-dominant downwind direction and location of sensitive receptors. There should be at least one monitoring station within 500 m of the mine lease in the pre-dominant downwind direction. The mineralogical composition of PM10, particularly for free silica, should be given.

23. Air quality modeling should be carried out for prediction of impact of the project on the air quality of the area. It should also take into account the impact of movement of vehicles for transportation of mineral. The details of the model used and input parameters used for modeling should be provided. The air quality contours may be shown on a location map clearly indicating the location of the site, location of sensitive receptors, if any, and the habitation. The wind roses showing pre-dominant wind direction may also be indicated on the map.

24. The water requirement for the Project, its availability and source should be furnished. A detailed water balance should also be provided. Fresh water requirement for the Project should be indicated.

25. Necessary clearance from the Competent Authority for drawl of requisite quantity of water for the Project should be provided.

26. Description of water conservation measures proposed to be adopted in the Project should be given. Details of rainwater harvesting proposed in the Project, if any, should be provided.

27. Impact of the Project on the water quality both surface and groundwater, should be assessed and necessary safeguard measures, if any required, should be provided

28. Based on actual monitored data, it may clearly be shown whether working will intersect ground water. Necessary data and documentation in this regard may be provided. In case the working will intersect groundwater table, a detailed Hydro Geological Study should be undertaken and Report furnished. The Report inter-alia, shall include details of the aquifers present and impact of mining activities on these aquifers. Necessary permission from Central Ground Water Authority for working below ground water and for pumping of ground water should also be obtained and copy furnished.

29. Details of any stream, seasonal or otherwise, passing through the lease area and modification – diversion proposed, if any, and the impact of the same on the hydrology should be brought out

30. Information on site elevation, working depth, groundwater table etc. Should be provided both in AMSL and bgl. A schematic diagram may also be provided for the same.

31. A time bound Progressive Green belt Development Plan shall be prepared in a tabular form (indicating the linear and quantitative coverage, plant species and time frame) and submitted, keeping in mind, the same will have to be executed upfront on commencement of the Project. Phase-wise plan of plantation and compensatory afforestation should be charted clearly indicating the area to be covered under plantation and the species to be planted. The details of plantation already done should be given. The plant species selected for green belt should have greater ecological value and should be of good utility value to the local population with emphasis on local and native species and the species which hare tolerant to pollution

32. Impact on local transport infrastructure due to the Project should be indicated. Projected increase in truck traffic as a result of the Project in the present road network (including those outside the Project area) should be worked out, indicating whether it is capable of handling the incremental load. Arrangement for improving the infrastructure, if contemplated (including action to be taken by other agencies such as State Government) should be covered. Project Proponent shall conduct Impact of Transportation study as per Indian Road Congress Guidelines.

33. Details of the onsite shelter and facilities to be provided to the mine workers should be included in the EIA Report.

34. Conceptual post mining land use and Reclamation and Restoration of mined out areas (with plans and with adequate number of sections) should be given in the EIA report.

35. Occupational Health impacts of the Project should be anticipated and the proposed preventive measures spelt out in detail. Details of pre-placement medical examination and periodical medical examination schedules should be incorporated in the EMP. The project specific occupational health mitigation measures with required facilities proposed in the mining may be detailed.

36. Public health implications of the Project and related activities for the population in the impact zone should be systematically evaluated and the proposed remedial measures should be detailed along with budgetary allocations.

37. Measures of socio economic significance and influence to the local community proposed to be provided by the Project Proponent should be indicated. As far as possible, quantitative dimensions may be given with time frames for implementation.

38. Detailed environmental management plan (EMP) to mitigate the environmental impacts which, should inter-alia include the impacts of change of land use, loss of agricultural and grazing land, if any, occupational health impacts besides other impacts specific to the proposed Project.

39. Public Hearing points raised and commitment of the Project Proponent on the same along with time bound Action Plan with budgetary provisions to implement the

same should be provided and also incorporated in the final EIA/EMP Report of the Project.

40. Details of litigation pending against the project, if any, with direction/ order passed by any Court of Law against the Project should be given.

41. The cost of the Project (capital cost and recurring cost) as well as the cost towards implementation of EMP should be clearly spelt out.

42. A Disaster management Plan shall be prepared and included in the EIA/EMP Report.

43. Benefits of the Project if the Project is implemented should be spelt out. The benefits of the Project shall clearly indicate environmental, social economic employment potential, etc.

44. Besidestheabove,thebelowmentionedgeneralpointsarealsotobefollowed:-

a) Executive Summary of the EIA/EMP Report

b) All documents to be properly referenced with index and continuous page numbering.

c) Where data are presented in the Report especially in Tables, the period in which the data were collected and the sources should be indicated.

d) Project Proponent shall enclose all the analysis/testing reports of water, air, soil, noise etc, using the MoEF&CC/ NABL accredited laboratories. All the original analysis/testing reports should be available during appraisal of the Project.

e) Where the documents provided are in a language other than English, an English translation should be provided

f) The Questionnaire for environmental appraisal of mining projects as devised earlier by the Ministry shall also be filled and submitted.

g) While preparing the EIA report, the instructions for the Proponents and instructions for the Consultants issued by MoEF&CC vide O.M. No. J-11013/41/2006-IA.II (I) dated 4th August, 2009, which are available on the website of this Ministry, should be followed.

h) Changes, if any made in the basic scope and project parameters (as submitted in Form-I and the PFR for securing the TOR) should be brought to the attention of MoEF&CC with reasons for such changes and permission should be sought, as the TOR may also have to be altered. Post Public Hearing changes in structure and content of the draft EIA/EMP (other than modifications arising out of the P.H. process) will entail conducting the PH again with the revised documentation.

i) As per the circular no. J-11011/618/2010-IA.II (I) dated 30.5.2012, certified report of the status of compliance of the conditions stipulated in the environment clearance for the existing operations of the project, should be obtained from the Regional Office of Ministry of Environment, Forest and Climate Change, as may be applicable.

4. **<u>To decide on application received from Deltin Town bearing Survey No. Survey No. 243/1A, 263/1, 264/1, 265/1, 265/2, 265/25, 265/26, 266/1, 267/1, 267/1-A, 268/1, 268/2, 268/3, 268/4, 269/1, 280/1, 280/1-A and 280/1-B at Dhargalim village, Pernem Goa for prior Environmental Clearance.</u>**

The representative of Deltin Town Shri. Premanand Gawas (Sr.Manager) appeared before Authority and explained the details of the project.

Decision: After scrutinizing and perusing the documents submitted by the Project Proponent and considering recommendation given by the Goa State Expert Appraisal Committee, the Authority decided to grant Environment Clearance to this proposal under following **General and Specific conditions.**

a) Proponent needs to comply to the following "General Conditions" during construction phase:

b) The Project Proponent should use Ready-Mixed Concrete (RMC) to minimize air / water/ land pollution and water usage during theconstruction phase.

c) Project Proponent should adopt roof-top rainwater harvesting/ conservation measures to optimally utilize the water availability by constructing sumps for collection of rainwater as per the site-specific location details provided.

d) Project Proponent should not disturb the natural drainage and as far as possible maintain the original topography while designing for landscape development by planting local plant species and which are not alien to the prevailing environment.

e) Project Proponent should clarify any issue related to public objections, if any, and should not conceal the scientific facts in light of the proposed developmental activity vis-a-vis its land use categorization/ zoning.

f) This Environmental Clearance is issued subject to obtaining NOC from the Forestry & Wildlife angle including clearance from the Standing Committee of the National Board for wildlife, if applicable. The grant of environmental clearance does not necessarily imply that Forestry & Wildlife clearance has been granted to the project, which has to be dealt separately by the competent authorities in accordance with law.

g) The construction gross built up area of proposed construction is 326391.30 Sq.mts shall be in accordance with the existing FSI/ FAR norms of the local body and planning authorities and it should ensure the same along with survey number before approving layout plan and before according commencement certificate to proposed work.

h) All required sanitary and hygienic measures should be in place before starting construction activities and to be maintained throughout the construction phase.

i) 'Consent to Establish' shall be obtained from the Goa State Pollution Control Board (GSPCB) under Air Act and Water Act, as applicable, failing which the Environmental Clearance herein shall be deemed to be withdrawn and a copy shall be submitted to the Authority within 30 days ofstarting construction work at site.

j) Project proponent shall not make any change in the Surface Layout Plan/ Civil Plan submitted to the Authority without its prior permission. In case of any change(s) in the scope of the project and/or otherwise, the project proponent needs to inform this Authority.

k) CNG powered generating sets to be used during construction.

l) Provision shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crècheand first aid room etc. The safe disposal of waste water and solid waste generated during the construction phase should be ensured.

m) Arrangements shall be made that waste water and storm water do not get mixed.

n) All the top soil excavated during construction activities should be stored if or use in horticulture/ landscape development within the project site.

o) Additional soil for leveling of the proposed site shall be generated within the sites (to the extent possible) so that natural drainage system of the area is protected and

improved.

p) Green-belt development shall be carried out considering CPCB guidelines including selection of plant species and in consultation with the State Forest/ Agriculture Department.Construction spoils, including bituminous material and other hazardous materials must not be allowed to contaminate water courses and the dump sites for such materials must be secured so that they should not leach into ground water.

q) Any hazardous waste generated during construction phase should be disposed off as per applicable rules and norms with necessary authorizationof the GSPCB.

r) Vehicles hired for bringing construction material to the site should be in good condition and should have a pollution check certificate and should conform to applicable air and noise emission standard and should be operated during non-peak hrs.

s) Ambient noise levels should conform to residential standards both during day and night Incremental pollution load on the ambient air and noise quality should be closely monitored during construction phase. Adequate measures should be made to reduce ambient air and noise level construction phase, so as to conform to the stipulated standard by CPCB/ GSPCB.

t) The approval of competent authority shall be obtained for structural safety of the buildings due to any possible earthquakes, adequacy of fire fighting equipment etc as per National Building Code (NBC) including measures from lighting.

u) Storm water controlled and its re-use as per Central Ground Water Board (CGWB) and Bureau of Indian Standards (BIS) for various applications.

v) Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices referred.

w) Use of glass may be reduced upto 40% to reduce electricity consumption and load on air-conditioning. If necessary, use high quality double glass with special reflective coating in windows.

x) Roof should meet prescriptive requirement as per energy conservationbuilding code by using appropriate thermal insulation material.

y) Energy conservation measures like installation of only for LEDs' for the lighting the areas outside the building should be integral part of the project design and should be in place before project commissioning. Used of LED's, if any, should be properly collected and disposed off / sent for recycling as per the prevailing guidelines / rules of the regulatory authority to avoid mercury contamination.

z) Noise should be controlled to ensure that it does not exceed the prescribed standards. During night time the noise levels measured at the boundary of the building shall be restricted to the permissible levels to comply with the prevalent regulations.

aa. Traffic congestion near the entry and exit points from the roads adjoining the proposed project site must be avoided by providing separate entry and exit gate Parking should be fully internalized and no public place shouldbe utilized.

ab. The Project Proponent will lay a direct line for disposal to sewerage network of common STP or else Project Proponent shall make suitable provision for sewage disposal by providing Sewage Treatment Plant on site. The STP should be certified by independent expert and adequacy report in this regard should be submitted to GSPCB before the project is commissioned for operation. Necessary measures to be made to mitigate the odour problem from STP. Sewage Treatment Plant should be with operation and maintenance after commissioning/ completion of project with minimum period of 5 years.

ac. Opaque wall should meet prescriptive requirement as per energy conservation board which is proposed to mandatory for all air conditioned spaces while it is aspiration

for non- air conditioned spaces by use of appropriate thermal insulation material to fulfill requirement.

ad. The buildings should have adequate distance between them to allow movement of fresh air and passage of natural light, air and ventilation.

ae. Regular supervision of the above and other measures for monitoring should be in placed all through the construction phase so as to avoid disturbance to the surroundings.

af Under the provisions of Environment Protection Act 1986, legal action shall be initiated against the Project Proponent if it was found that construction of the project has been started without obtaining EC

ag. Six monthly compliance reports should be submitted to the MoEF&CC with copy to the Goa-SEIAA and GSPCB in hard as well as soft copy format for the period upto the Project completion.

aa) <u>Project Proponent should implement Dust mitigation measures forconstruction activities such as:</u>

bb) Roads leading to or at construction sites must be paved and blacktopped (i.e metalic roads). No excavation of soil shall be carried out without adequate mitigation measures in place.

cc) No loose soil or sand or construction and demolition waste or any other construction material that causes dust shall be left uncovered.

dd) Wind-breakers of appropriate height i.e 1/3rd of the building height andmaximum upto 10 meters shall be provided.

ee) Water sprinkling system shall be put in place.

ff) Dust mitigation measures shall be displayed prominently at the construction site for easy public viewing.

gg) New serial No. '107' has been inserted which relates to mandatory implementation of dust mitigation measures for all construction and demolition activities.

hh) Grinding and cutting of building materials in ope area shall be prohibited.

ii) Construction material and waste should be stored only within earmarked area and roads side storage of construction material and waste shall be prohibited.

jj) No uncovered vehicles carrying construction material and waste shall be permitted.

kk) Construction and demolition waste processing and disposal site shall be identified and required dust mitigation measures shall be notified at the site.

ll) **Further**, the Committee decided to direct the Project Proponent to comply with the following **<u>"General Conditions" during post-construction phase:-</u>**

mm) Separate funds shall be allocated for implementation of environmental protection measures / EMP along with item wise breaks-up. The funds earmarked for the environment protection measures shall not be diverted for other purposes.

nn) The Project Proponent shall upload the status of the compliance of the stipulated EC conditions, including results of monitoring data on theirwebsite and shall update the same periodically. It shall simultaneously be sent to the Regional Office of the MoEF & CC, the respective Zonal office,CPCB and the GSPCB. The pollutant

levels in respect of SPM, RSPM, SO_2 and NO_x (*ambient levels as well as D.G. stack emissions*) shall be monitored.

oo) The Project Proponent should provide facilities for storage and segregation of waste generated in three separate streams i.e bio-degradable, Non bio-degradable and domestic hazardous waste in suitable bins and handover segregated wastes to authorized waste pickers or waste collectorsas per the directions or notifications by the local Authorities and Goa State Pollution Control Board.

pp) Disposal of muck during construction phase should not create any adverse effect on the neighbouring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in approved site with the approval of competent authority.

qq) Project Proponent shall store separately construction and demolition waste, as and when generated, in their own premises and shall be disposed of as per the Construction and Demolition Waste Management Rules 2016.

rr) The Project Proponent store horticultural waste and garden waste in their own premises and shall be disposed as per the directions of the localbodies.

ss) The Project Proponent in partnership with local bodies shall ensure segregation of waste at source by the generators as prescribe in the rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorized waste pickers or the Authorized recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio - methanation within the premisesas far as possible. The residual waste shall be given to the waste collectoror ageney as directed by the local body.

tt) Noise should be controlled to ensure that it does not exceed the prescribed standards both during day & night time.

uu) The ground water drawl from existing/proposed bore wells if any should be done only with the prior permission of Ground Water Board. The ground water level and its quality should also be monitored regularly both during construction and operation phase in consultation with Ground Water Board.

vv) Energy Conservation measures such as solar lighting for common area, solar water heating system, LED's for lighting of areas, LED lights for signage, solar inverters on the etc should be adopted.

ww) Used LED lights should be properly collected and disposed off / sent for recycling as per the prevailing guidelines / rules of the regulatory authority to avoid mercury contamination.

xx) A Report on energy conservation measures conforming to energy conservation norms finalized by Bureau of energy Efficieney should be prepared incorporating details about building materials and technology, R & U factors etc and submit to the State Expert Appraisal Committee and a copy to GSPCB in three months time.

yy) Further this EC is issued without prejudice to the action initiated in the Environment (*Protection*) Act or any court case pending in the court of law.As such, it does not mean that the PP has not violated any environmental laws in the past and whatever decision under the said Act by the Hon'ble Court will be binding on the PP. Hence, this environmental clearance does not give immunity to the PP in the case complaint is filed against, if any, or action initiated under the said Act.

zz) **Specific Conditions**

- The approach road leading to the site should be constructed prior to commencement of any construction activity at site as per the regulations of the Town & Country Planning Department.

- Project Proponent should prioritize the issues related to health and hygiene in complying with the matters related to waste disposal and treatment / air and water pollution / waste-water management

- Project Proponent needs to ensure that no treated water or any wastesewage shall be discharged into any water body. E-waste shall be disposed through Authorized vendor as per E-waste (*Management and Handling*) Rules, 2011.

- Project Proponent (PP) should necessarily make appropriate provision while constructing the roof-tops at the time of construction stage only to enable installation of solar panels towards south facing walls as and when made applicable in future.

- The Project Proponent shall utilise fly ash bricks in masonry works

- At least 20% of the open spaces as required by the local building bye-laws shall be previous. Use of Grass pavers, paver blocks with at least 50% opening, landscape etc. would be considered as previous surface.

- Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC. Outdoor and common area lighting shall be LED. Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass etc, shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.

- Use of water saving devices/ fixtures (viz. low flow flushing systems; useof low flow faucets tap aerators etc) for water conservation shall be incorporated in the building plan.

- Separation of grey and black water should be done by the use of dual plumbing system. In case of single stack system separate re circulation lines for flushing by giving dual plumbing system be done.

- The project proponent will provide landscape bed of 600mm wide X 600mm deep along the periphery of the plot to carry out plantation of trees.The treated water will be pumped through high flow drips on these beds to prevent outflow of treated sewage water outside the premises.

- Areas which are marked as No Development Zone (NDZ) should be clearlymarked on site and no construction shall be carried out in the said NDZ. Land Profile of NDZ shall not be altered.

- No construction shall be done over the portion of land, shown as openspace in the site plan.

- Project Proponent should obtain all the requisite permissions / NOCs / Licenses etc from all the competent authorities before commencement of any activity at site.

- *Solar power generation* - Every major consumer of conventional powerwill have to generate and opt for certain percentage of power generation from the non-conventional sources. In this context, Project Proponent (PP) should necessarily make appropriate provision while constructing the roof-tops at the time of construction stage to enable installation of solar panels including battery storage system. In addition south facing walls to be utilized to installed solar panels to harness optimum solar energy. Use of solar panels may be done to the extend possible like installing solar street lights. Project Proponent should installed after checking feasibility solar plus hybrid conventional source as source of energy. PP shouldensure storage of solar and release in the grid during peak hours.

- Solar based electric power shall be provided to each unit for at-least two bulbs / lights and one fan. As proposed central lighting and street lighting shall also be based on solar power.

- This Environmental Clearance is issued subject to land use verification. Local authority/ planning authority should ensure this with respect to Rules, Regulations, Notifications, Government Resolutions, Circulars, etc. issued if any, from time to time. Judgments / Orders issued by Hon'ble High Court, NGT, Supreme Court regarding DCR provisions, environmental issues applicable in this matter should be verified by the competent authorities.
- Project Proponent should ensure and ascertain that 'civil plans' which were submitted to the Committee/ Authority during the process of project appraisal be submitted to other line Departments/ agencies concerned while seeking NOC/ Consents/ Permissions, as applicable. If any discrepancy is found in the plans submitted or details provided may be reported to this Authority. This environmental clearance is issued with respect to the environmental considerations and it does not mean that Goa-SEIAA approved the proposed land.
- A complete set of all the documents submitted to Goa-SEIAA should be forwarded local authority, GSPCB and Planning authority.
- **Green Building norms should be followed with a minimum 3 star GRIHA/IGBC/ASSOCHAM GEM rating and Gold rating should be followed up.**
- The Project Proponent shall use construction debris for land filling wherever applicable and dispose the C & D waste in compliance to the Construction and Demolition Waste Management Rules.
- Bore well water is not to be used for construction phase, only used for drinking purpose and Project Proponent should maintain the meter reading on regular basis.
- Project Proponent should install Bio-gas plant to treat the Bio degradable waste.
- Building should be constructed as per National Building Code 2016 part-IV.
- Project Proponent should do Corporate Social Responsibility and Corporate Environmental Responsibility as recommended / approved by Goa - SEAC/ Goa SEIAA.
- As per office memorandum issued by MoEF&CC dated 1st May 2018,some of the activities which can be carried out in CER, are infrastructure creation for Drinking Water Supply, Sanitation, Health, Education, Skill Development, Roads, Cross Drains, Electrification including Solar Power, Solid Waste Management Facilities, Scientific Support and Awareness to Local Farmers to increase yield of crop and fodder, Rain Water Harvesting, Soil Moisture Conservation Works, Avenue Plantation, Plantation in Community areas, etc
- E-waste generated in the complex should be managed as per CPCB guidelines on E-waste management.
- No ready mix plant is permitted on site

5. **To decide in compliance of the order dated 21/06/2023 passed by the Hon'ble High Court of Bombay at Goa, in PIL Writ Petition No. 1093 of 2023(F).**

The Complainant Shri. Rohan Naik along with his Adv. Vishal Sawant and Dr. Raju Prabhu appeared before the Authority.

Deliberation: The High Court of Bombay of Goa in P.I.L. Writ Petition No. 1093 of 2023 (F) through its Order dated 21/06/2023 had directed the Goa State Environment Impact Assessment Authority to decide on the complaint filed by the petitioner within a period of three months and give opportunities to the petitioners and affected parties to appear and argue the matter and if found necessary to inspect the site in order to find out the allegations of breach of Environmental Clearance and its conditions. In view of above both the parties were present for the hearing on 28/07/2023 in which the Chairman of Authority requested the complainant to put up their grievances before the Authority Adv Vishal Sawant informed the Authority that Dr Raju Prabhu is violating the conditions granted in the Environmental Clearance by this Authority. Further, Dr Raju Prabhu denied all the allegations made by the Complainant.

Decision: After hearing both the parties, the Authority decided to inspect the site on 04/08/2023 at 11. 00 am along with an Officer from Directorate of Mines & Geology to find out the allegations of breach of Environmental Clearance and its conditions.

6. **Any other matter with permission of the chair.**

i. **To decide on application received from Smart City for proposed Redevelopment of Fisherman's Wharf at Ribandar under the Smart City Mission**

Decision: After scrutinizing the reply submitted by the Project Proponent regarding dredging and maintenance dredging for the proposed project the Authority decided to grant the Environmental Clearance

ii. **To decide on letter No. 6/FCA-85/ML-3/FeMn79/DCFS/TECH/2023-24/550 dated 28/06/2023 received from The Office of The Conservator of Forest, South Goa Division Margao Goa.**

Decision: After going through the above mentioned letter, the Authority observed that the sought information is for the period from 1999 to 2005. The EIA Notification came into force in the year 2006 and the Goa State Environment Impact Assessment Authority was constituted in the year 2010. As per Environment Impact Assessment Notification S.O. 60(E) dated 27/01/1994, the Ministry was appropriate Authority to grant the Environmental Clearance prior to 2006 therefore it may be conveyed to the Conservator of Forest that the information may be sought from the Secretary MoEF&CC

The meeting ended with thanks to chair.

(Smt. Reshma Mathew)
Member, Goa-SEIAA

(Shri. Suhas Godse)
Chairman, Goa-SEIAA

(Dr. Sneha S. Gitte, IAS)
Member Secretary, Goa-SEIAA

Place: Patto-Panaji
Date: 28th July 2023

Annexure - 1

Shri. Suhas Godse	Chairman, Goa-SEIAA
Dr. Sneha S. Gitte, IAS	Member Secretary, Goa-SEIAA
Smt. Reshma Mathew	Member, Goa-SEIAA

Annexure - 2

AGENDA OF THE 109TH GOA STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (GOA–SEIAA) MEETING ON 28/07/2023 AT 10.00 A.M. IN THE CONFERENCE ROOM OF THE 4TH FLOOR, DEMPO TOWER, PATTO, PANAJI-GOA.

1. To decide on application received from Meeravati Velip locating at Survey No. 30/1, village Gokuldem, Quepem taluka, South Goa for prior Environmental Clearance.
2. To decide on TOR application received from Salgaocar Shipping Company Limited for Block II –Sirigao-Mayem Mineral Block bearing Survey No. 1, 2, 3, 4, 5, 6, 7, 46, 47, 48, 84, 90, 91, 92, 93, 94, 95, 96, 97, 98 & 12, 47, 60, 61, 62, 79, 80, 84, road, 48, 56, 57, 58 & 59 at Bicholim Goa.
3. To decide on TOR application received from Rajaram Bandekar Mines Private Limited for Block III –Monte De Sirigao Mineral Block bearing 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 at Bicholim Goa.
4. To decide on application received from Deltin Town bearing Survey No. Survey No. 243/1A, 263/1, 264/1, 265/1, 265/2, 265/25, 265/26, 266/1, 267/1, 267/1-A, 268/1, 268/2, 268/3, 268/4, 269/1, 280/1, 280/1-A and 280/1-B at Dhargalim village, Pernem Goa for prior Environmental Clearance..
5. To decide in compliance of the order dated 21/06/2023 passed by the Hon'ble High Court of Bombay at Goa, in PIL Writ Petition No. 1093 of 2023(F).
6. Any other matter with permission of the chair.

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GOA STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY
Constituted by the Ministry of Environment, Forest and Climate Change,
Government of India
C/o Department of Environment and Climate Change
4th Floor, Dempo Towers, Patto Panaji Goa - 403001.
e-mail: goaseac@gmail.com

No.115.3/2023-24/GSEIAA/Project-Prop/166 Date: 18/10/2023

To,

Salgaocar Shipping Company Limited.
Salgaocar Bhavan, Plot No. 15,
Althino, Panjim, North Goa,
GOA-403001.

Sub:- Issuance of Terms of Reference - (ToR) for Salgaocar Shipping Company Limited for Block-II – Sirigao - Mayem Mineral Block, over an extent of 171.2472 Ha in Survey No. 1, 2, 3, 4, 5, 6, 7, 46, 47, 48, 84, 90, 91, 92, 93, 94, 95, 96, 97, 98 & Road, 12, 47, 60, 61, 62, 79, 80, 84, Road, 48, 56, 57, 58 & 59 located in Sirigao & Mayem Villages respectively of Bicholim Taluka North Goa District- reg.

Ref : Proposal No: SIA/GA/MIN/428213/2023 dated 06/05/2023.
Project Category: Covered under schedule B1.

Sir,

With reference to your Proposal No.SIA/GA/MIN/428213/2023 matter pertaining to issuance of Terms of Reference (ToR's) for conducting the Environment Impact Assessment (EIA) study in plot / survey No. 1, 2, 3, 4, 5, 6, 7, 46, 47, 48, 84, 90, 91, 92, 93, 94, 95, 96, 97, 98 & Road, 12, 47, 60, 61, 62, 79, 80, 84, Road, 48, 56, 57, 58 & 59, Sirigao & Mayem Villages respectively of Bicholim Taluka of North Goa District, Goa.

The Goa SEAC in its 184th meeting held on 12th July 2023 recommended the said proposal to Goa State Environment Impact Assessment Authority (SEIAA) for grant of ToR.

Further, Goa State Environment Impact Assessment Authority (SEIAA) in its 109th meeting held on 28th July 2023 considered Committee's recommendation and decided to grant ToR.

In this regard it is decided to issue the Standard Terms of reference for conducting EIA study

Accordingly the ToR's is enclosed herewith **(refer Annexure - 1)** to enable the Project Proponent (PP) to initiate EIA study.

Yours faithfully

(Dr. Sneha S. Gitte, IAS)
Director (Envt. &CC) &
Member Secretary, Goa-SEIAA

Encl: As Above.

Annexure - I

TERMS OF REFERENCE (TOR)

1. Year-wise production details since 1994 should be given, clearly stating the highest production achieved in any one year prior to 1994. It may also be categorically informed whether there had been any increase in production after the EIA Notification 1994 came into force, w.r.t. the highest production achieved prior to1994.

2. A copy of the document in support of the fact that the Proponent is the rightful lessee of the mine should be given.

3. All documents including approved mine plan, EIA and Public Hearing should be compatible with one another in terms of the mine lease area, production levels, waste generation and its management, mining technology etc. and should be in the name of the lessee.

4. All corner coordinates of the mine lease area, super imposed on a High Resolution Imagery/toposheet, topographic sheet, geomorphology and geology of the area should be provided. Such an Imagery of the proposed area should clearly show the land use and other ecological features of the study area (core and buffer zone).

5. Information should be provided in Survey of India Toposheet in 1:50,000 scale indicating geological map of the area, geomorphology of land forms of the area, existing mineral sand mining history of the area, important water bodies, streams and rivers and soil characteristics.

6. Details about the land proposed for mining activities should be given with information as to whether mining conforms to the land use policy of the State; land diversion for mining should have approval from State land use board or the concerned authority.

7. It should be clearly stated whether the proponent Company has a well laid down Environment Policy approved by its Board of Directors? If so, it may be spelt out in the EIA Report with description of the prescribed operating process/procedures to bring into focus any infringement/ deviation/ violation of the environmental or forest norms/ conditions? The hierarchical system or administrative order of the Company to deal with the environmental issues and for ensuring compliance with the EC conditions may also be given. The system of reporting of non-compliances / violations of environmental norms to the Board of Directors of the Company and/or shareholders or stakeholders at large, may also be detailed in the EIA Report.

8. Issues relating to Mine Safety, including subsidence study in case of underground mining and slope study in case of open cast mining, blasting study etc. should be detailed. The proposed safe guard measures in each case should also be provided.

9. The study rea will comprise of 10 km zone around the mine lease from lease periphery and the data contained in the EIA such as waste generation etc. should be for the life of the mine/lease period

10. Land use of the study rea delineating forest area, agricultural land, grazing land, wildlife sanctuary, national park, migratory routes of fauna, water bodies, human settlements and other ecological features should be indicated. Land use plan of the mine lease area should be prepared to encompass preoperational, operational and post operational phases and submitted. Impact, if any, of change of land use should be given.

11. Details of the land for any Over Burden Dumps outside the mine lease, such as extent of land area, distance from mine lease, its land use, R&R issues, if any, should be given.

12. A Certificate from the Competent Authority in the State Forest Department should be provided, confirming the involvement of forest land, if any, in the project area. In the event of any contrary claim by the Project Proponent regarding the status of forests, the site may be inspected by the State Forest Department along with the Regional Office of the Ministry to ascertain the status of forests, based on which, the Certificate in this regard as mentioned above be issued. In all such cases, it would be desirable for representative of the State Forest Department to assist the Expert Appraisal Committees.

13. Status of forestry clearance for the broken up area and virgin forestland involved in the Project including deposition of net present value (NPV) and compensatory afforestation (CA) should be indicated. A copy of the forestry clearance should also be furnished.

14. Implementation status of recognition of forest rights under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 should be indicated.

15. The vegetation in the RF / PF areas in the study area, with necessary details, should be given.

16. A study shall be got done to ascertain the impact of the Mining Project on wildlife of the study area and details furnished. Impact of the project on the wild life in the surrounding and any other protected area and accordingly, detailed mitigative measures required, should be worked out with cost implications and submitted.

17. Location of National Parks, Sanctuaries, Biosphere Reserves, Wildlife Corridors, Ramsar site Tiger/ Elephant Reserves/(existing as well as proposed), if any, within 10 km of the mine lease should be clearly indicated, supported by a location map duly authenticated by Chief Wildlife Warden. Necessary clearance, as may be applicable to such projects due to proximity of the ecologically sensitive areas as mentioned above, should be obtained from the Standing Committee of National Board of Wildlife and copy furnished.

18. A detailed biological study of the study area [core zone and buffer zone (10km radius of the periphery of the mine lease)] shall be carried out. Details of flora and fauna, endangered endemic and RET Species duly authenticated, separately for core and buffer zone should be furnished based on such primary field survey, clearly indicating the Schedule of the fauna present. In case of any scheduled- I fauna found in the study area, the necessary plan along with budgetary provisions for their conservation should be prepared in consultation with State Forest and Wildlife Department and details furnished. Necessary allocation of funds for implementing the same should be made as part of the project cost.

19. Proximity to Areas declared as 'Critically Polluted' or the Project areas likely to come under the 'Aravali Range', (attracting court restrictions for mining operations), should also be indicated and where so required, clearance certifications from the prescribed Authorities, such as the SPCB or State Mining Department should be secured and furnished to the effect that the proposed mining activities could be considered.

20. Similarly, for coastal Projects, A CRZ map duly authenticated by one of the authorized agencies demarcating LTL, HTL, CRZ area, location of the mine lease w.r.t CRZ, coastal features such as mangroves, if any, should be furnished. (Note: The Mining Projects falling under CRZ would also need to obtain approval of the concerned Coastal Zone Management Authority).

21. R&R Plan/compensation details for the Project Affected People (PAP) should be furnished. While preparing the R&R Plan, the relevant State/National Rehabilitation & Resettlement Policy should be kept in view. In respect of SCs /STs and other weaker sections of the society in the study area, a need based sample survey, family-wise, should be undertaken to assess their requirements, and action programmes prepared and submitted accordingly, integrating the sectoral programmes of line departments of the State Government. It may be clearly brought out whether the village (s) located in the mine lease area will be shifted or not. The issues relating to shifting of village(s) including their R&R and socio-economic aspects should be discussed in the Report.

22. One season (non-monsoon) [i.e. March-May (Summer Season); October-December (post monsoon season) ; December-February (winter season)]primary baseline data on ambient air quality as per CPCB Notification of 2009, water quality, noise level, soil and flora and fauna shall be collected and the AAQ and other data so compiled presented date-wise in the EIA and EMP Report. Site-specific meteorological data should also be collected. The location of the monitoring stations should be such as to represent whole of the study area and justified keeping in view the pre-dominant downwind direction and location of sensitive receptors. There should be at least one monitoring station within 500 m of the mine lease in the pre-dominant downwind direction. The mineralogical composition of PM10, particularly for free silica, should be given.

23. Air quality modeling should be carried out for prediction of impact of the project on the air quality of the area. It should also take into account the impact of movement of vehicles for transportation of mineral. The details of the model used and input parameters used for modeling should be provided. The air quality contours may be shown on a location map clearly indicating the location of the site, location of sensitive receptors, if any, and the habitation. The wind roses showing pre-dominant wind direction may also be indicated on the map.

24. The water requirement for the Project, its availability and source should be furnished. A detailed water balance should also be provided. Fresh water requirement for the Project should be indicated.

25. Necessary clearance from the Competent Authority for drawl of requisite quantity of water for the Project should be provided.

26. Description of water conservation measures proposed to be adopted in the Project should be given. Details of rainwater harvesting proposed in the Project, if any, should be provided.

27. Impact of the Project on the water quality, both surface and groundwater, should be assessed and necessary safeguard measures, if any required, should be provided.

28. Based on actual monitored data, it may clearly be shown whether working will intersect ground water. Necessary data and documentation in this regard may be provided. In case the working will intersect groundwater table, a detailed Hydro Geological Study should be undertaken and Report furnished. The Report inter-alia, shall include details of the aquifers present and impact of mining activities on these aquifers. Necessary permission from Central Ground Water Authority for working below ground water and for pumping of ground water should also be obtained and copy furnished.

29. Details of any stream, seasonal or otherwise, passing through the lease area and modification / diversion proposed, if any, and the impact of the same on the hydrology should be brought out.

30. Information on site elevation, working depth, groundwater table etc. Should be provided both in AMSL and bgl. Aschematic diagram may also be provided for the same.

31. A time bound Progressive Green belt Development Plan shall be prepared in a tabular form (indicating the linear and quantitative coverage, plant species and time frame) and submitted, keeping in mind, the same will have to be executed upfront on commencement of the Project. Phase-wise plan of plantation and compensatory afforestation should be charted clearly indicating the area to be covered under plantation and the species to be planted. The details of plantation already done should be given. The plant species selected for green belt should

have greater ecological value and should be of good utility value to the local population with emphasis on local and native species and the species which hare tolerant to pollution

32. Impact on local transport infrastructure due to the Project should be indicated. Projected increase in truck traffic as a result of the Project in the present road network (including those outside the Project area) should be worked out, indicating whether it is capable of handling the incremental load. Arrangement for improving the infrastructure, if contemplated (including action to be taken by other agencies such as State Government) should be covered. Project Proponent shall conduct Impact of Transportation study as per Indian Road Congress Guidelines.

33. Details of the onsite shelter and facilities to be provided to the mine workers should be included in the EIA Report.

34. Conceptual post mining land use and Reclamation and Restoration of mined out areas (with plans and with adequate number of sections) should be given in the EIA report.

35. Occupational Health impacts of the Project should be anticipated and the proposed preventive measures spelt out in detail. Details of pre-placement medical examination and periodical medical examination schedules should be incorporated in the EMP. The project specific occupational health mitigation measures with required facilities proposed in the mining may be detailed.

36. Public health implications of the Project and related activities for the population in the impact zone should be systematically evaluated and the proposed remedial measures should be detailed along with budgetary allocations.

37. Measures of socio economic significance and influence to the local community proposed to be provided by the Project Proponent should be indicated. As far as possible, quantitative dimensions may be given with time frames for implementation.

38. Detailed environmental management plan (EMP) to mitigate the environmental impacts which, should inter-alia include the impacts of change of land use, loss of agricultural and grazing land, if any, occupational health impacts besides other impacts specific to the proposed Project.

39. Public Hearing points raised and commitment of the Project Proponent on the same along with time bound Action Plan with budgetary provisions to implement the same should be provided and also incorporated in the final EIA/EMP Report of the Project.

40. Details of litigation pending against the project, if any, with direction/ order passed by any Court of Law against the Project should be given.

41. The cost of the Project (capital cost and recurring cost) as well as the cost towards implementation of EMP should be clearly spelt out.

42. A Disaster management Plan shall be prepared and included in the EIA/EMP Report.

43. Benefits of the Project if the Project is implemented should be spelt out. The benefits of the Project shall clearly indicate environmental, social, economic, employment potential, etc.

44. Besides the above, the below mentioned general points are also to be followed:-

a) Executive Summary of the EIA/EMP Report

b) All documents to be properly referenced with index and continuous page numbering.

c) Where data are presented in the Report especially in Tables, the period in which the data were collected and the sources should be indicated.

d) Project Proponent shall enclose all the analysis/testing reports of water, air, soil, noise etc. using the MoEF&CC/ NABL accredited laboratories. All the original analysis/testing reports should be available during appraisal of the Project.

e) Where the documents provided are in a language other than English, an English translation should be provided.

f) The Questionnaire for environmental appraisal of mining projects as devised earlier by the Ministry shall also be filled and submitted.

g) While preparing the EIA report, the instructions for the Proponents and instructions for the Consultants issued by MoEF&CC vide O.M. No. J-11013/41/2006-IA.II (I) dated 4th August, 2009, which are available on the website of this Ministry, should be followed.

h) Changes, if any made in the basic scope and project parameters (as submitted in Form-1 and the PFR for securing the TOR) should be brought to the attention of MoEF&CC with reasons for such changes and permission should be sought, as the TOR may also have to be altered. Post Public Hearing changes in structure and content of the draft EIA/EMP (other than modifications arising out of the P.H. process) will entail conducting the PH again with the revised documentation.

i) As per the circular no. J-11011/618/2010-IA.II (I) dated 30.5.2012, certified report of the status of compliance of the conditions stipulated in the environment clearance for the existing operations of the project, should be obtained from the Regional Office of Ministry of Environment, Forest and Climate Change, as may be applicable.

Minutes of the 197th Meeting of Goa State Expert Appraisal Committee (Goa-SEAC) held on the 01th November 2023 at 03.30 p.m. in the conference hall, 4th Floor, Dempo Towers, Patto - Panaji, Goa.

The 197th meeting of the Goa-SEAC was held on 01st November 2023 in the Conference room 4th floor of the Dempo Towers, Patto - Panaji at 03.30 p.m. under the Chairmanship of Shri. Gautam Desai. The list of members who attended the meeting is at *"Annexure - I"*

The meeting has been conducted at conference hall. The Chairman welcomed the members and requested to proceed as per the agenda items *as per Annexure - 2*.

1. **To decide on application received from Raj Housing Development Private Limited for proposed construction of a residential project "Raj Enclave" located in P.T. Sheet No. 8 of Chalta No. 01 in Mapusa Municipal Council area of Bardez Taluka, North Goa for prior Environmental Clearance.**

The representative of Raj Housing Development Private Limited, Anup K. Desai (Manager) along with his consultant Omkar Jog appeared before the Committee and explained the details of the project.

Decision: After Scrutinizing the documents submitted by the Project Proponent the Committee decided to recommend the Authority for grant of Environmental Clearance under following General conditions.

a. The Project Proponent should use Ready-Mixed Concrete (RMC) to minimize air/water/land pollution and water usage during the construction phase.

b. Project Proponent should adopt roof-top rainwater harvesting/conservation measures to optimally utilize the water availability by constructing sumps for collection of rainwater as per the site-specific location details provided.

c. Project Proponent should not disturb the natural drainage and as far as possible maintain the original topography while designing for landscape development by planting local plant species and which are not alien to the prevailing environment.

d. Project Proponent should clarify any issue related to public objections, if any, and should not conceal the scientific facts in light of the proposed developmental activity vis-à-vis its landuse categorization/ zoning.

e. This Environmental Clearance is issued subject to obtaining NOC from the Forestry & Wildlife angle including clearance from the Standing Committee of the National Board for wildlife, if applicable. The grant of environmental clearance does not necessarily imply that Forestry & Wildlife clearance has

been granted to the project which has to be dealt separately by the competent authorities in accordance with law.

f. The construction gross built up area of proposed construction is **30252.35 sq. mts** shall be in accordance with the existing FSI / FAR norms of the local body and planning authorities and it should form the same along with survey number before approving layout plan and before according commencement certificate to proposed work.

g. All required sanitary and hygienic measures should be in place before starting construction activities and to be maintained throughout the construction phase.

h. "Consent to Establish" shall be obtained from the Gujarat State Pollution Control Board (GSPCB) under Air Act and Water Act, as applicable. Failing which the Environmental Clearance herein shall be deemed to be withdrawn and a copy shall be submitted to the Authority within 30 days of starting construction work at site.

i. Project proponent shall not make any change in the Surface Layout Plan / Civil Plan submitted to the Authority without its prior permission. In case of any changes(s) in the scope of the project and/or otherwise, the project proponent needs to inform this Authority.

j. Provision shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, creche and first aid room etc. The safe disposal of waste water and solid waste generated during the construction phase should be ensured.

k. Arrangements shall be made that waste water and storm water do not get mixed.

l. All the top soil excavated during construction activities should be stored for use in horticulture / landscape development within the project site.

m. Additional soil for levelling of the proposed site shall be generated within the sites (to the extent possible) so that natural drainage system of the area is protected and improved.

n. Green-belt development shall be carried out considering CPCB guidelines including selection of plant species and in consultation with the State Forest / Agriculture Department.

o. Construction spoils, including bituminous material and other hazardous materials must not be allowed to contaminate water courses and the dump sites for such materials must be secured so that they should not leach into ground water.

p. Any hazardous waste generated during construction phase should be disposed off as per applicable rules and norms with necessary authorisation of the GSPCB.

q. Vehicles hired for bringing construction material to the site should be in good condition and should have a pollution check certificate and should conform to applicable air and noise emission standard and should be operated during non-peak hrs.

r. Ambient noise levels should conform to residential standards both during day and night. Incremental pollution load on the ambient air and noise quality should be closely monitored during construction phase. Adequate measures should be made to reduce ambient air and noise level construction phase, so as to conform to the stipulated standard by GPCB/GSPCB.

s. The approval of competent authority shall be obtained for structural safety of the buildings due to any possible earthquakes, adequacy of fire fighting equipment etc., as per National Building Code (NBC) including measures from lightning.

t. Storm water controlled and its re-use as per Central Ground Water Board (CGWB) and Bureau of Indian Standards (BIS) for various applications.

u. Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices referred.

v. Use of glass may be reduced upto 40% to reduce electricity consumption and load on air-conditioning. If necessary, use high quality double glass with special reflective coating in windows.

w. Roof should meet prescriptive requirement as per energy conservation building code by using appropriate thermal insulation material.

x. Energy conservation measures like installation of only for LEDs' for the lighting the areas outside the building should be integral part of the project design and should be in place before project commissioning. Used of LEDs, if any, should be properly collected and disposed off/ sent for recycling as per the prevailing guidelines/rules of the regulatory authority to avoid mercury contamination.

y. Noise should be controlled to ensure that it does not exceed the prescribed standards. During night time the noise levels measured at the boundary of the building shall be restricted to the permissible levels to comply with the prevalent regulations.

z. Traffic congestion near the entry and exit points from the roads adjoining the proposed project site must be avoided by providing separate entry and exit gate. Parking should be fully internalized and no public place should be utilized.

aa. The Project Proponent will lay a direct line for disposal to sewerage network of common STP or else Project Proponent shall make suitable provision for sewage disposal by providing Sewage Treatment Plant on site. The STP should be certified by independent expert and adequacy report in this regard should be submitted to GSPCB before the project is commissioned for operation. Necessary measures to be made to mitigate the odour problem from STP. Sewage Treatment Plant should be with operation and maintenance after commissioning/ completion of project with minimum period of 5 years.

bb. Opaque wall should meet prescriptive requirement as per energy conservation board which is proposed to mandatory for all air conditioned spaces while it is aspiration for non- air conditioned spaces by use of appropriate thermal insulation material to fulfill requirement.

cc. The buildings should have adequate distance between them to allow movement of fresh air and passage of natural light, air and ventilation.

dd. Regular supervision of the above and other measures for monitoring should be in place all through the construction phase, so as to avoid disturbance to the surroundings.

ee. Under the provisions of Environment Protection Act 1986, legal action shall be initiated against the Project Proponent if it was found that construction of the project has been started without obtaining EC

ff. Six monthly compliance report should be submitted to the MoEF&CC with copy to the Goa SEIAA and GSPCB in hard as well as soft copy format for the period upto the Project completion

2. **Project Proponent should implement Dust mitigation measures for construction activities such as:**

a) Roads leading to or at construction sites must be paved and blacktopped (for metalic roads).

b) No excavation of soil shall be carried out without adequate mitigation measures in place.

c) No loose soil or sand or construction and demolition waste or any other construction material that causes dust shall be left uncovered.

d) Wind-breakers of appropriate height i.e 1/3rd of the building height and maximum upto 10 meters shall be provided.

e) Water sprinkling system shall be put in place.

f) Dust mitigation measures shall be displayed prominently at the construction site for easy public viewing.

g) New serial No. "107" has been inserted which relates to mandatory implementation of dust mitigation measures for all construction and demolition activities.

h) Grinding and cutting of building materials in ope area shall be prohibited.

i) Construction material and waste should be stored only within earmarked area and roads side storage of construction material and waste shall be prohibited.

j) No uncovered vehicles carrying construction material and waste shall be permitted.

k) Construction and demolition waste processing and disposal shall be managed as per construction and demolition waste Management rules 2016.

3. **Further**, the Committee decided to direct the Project Proponent to comply with the following **"General Conditions" during post-construction phase:-**

a) Separate funds shall be allocated for implementation of environmental protection measures (EMP along with item wise breaks-up. The funds earmarked for the environment protection measures shall not be diverted for other purposes.

b) The Project Proponent shall upload the status of the compliance of the stipulated EC conditions, including results of monitoring data on their website and shall update the same periodically. It shall simultaneously be sent to the

Regional Office of the Mid Level Committee to the State Level PCB and the GSPCB. The pollutant level in the form of SPM, RSPM, SO2 and NOx, *ambient levels as well as those of process stacks* shall be monitored.

c) The Project Proponent should provide facilities for storage and segregation of waste generated in three separate streams i.e. bio-degradable, Non bio-degradable and domestic hazardous waste in suitable bins and handover segregated waste to authorized waste pickers or waste collectors as per the directions or notifications by the local Authorities and Goa State Pollution Control Board.

d) Disposal of muck during construction phase should not create any adverse effect on the neighbouring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in approved site with the approval of competent authority.

e) Project Proponent shall store separately construction and demolition waste as and when generated, in their own premises and shall be disposed of as per the Construction and Demolition Waste Management Rules 2016.

f) The Project Proponent store horticultural waste and garden waste in their own premises and shall be disposed as per the directions of the local bodies.

g) The Project Proponent in partnership with local bodies shall ensure segregation of waste at source by the generators as prescribe in the rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorized waste pickers or the Authorized recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio- methanation within the premises as far as possible. The residual waste shall be given to the waste collector or agency as directed by the local body.

h) Noise should be controlled to ensure that it does not exceed the prescribed standards both during day & night time.

i) The ground water drawl from existing/proposed bore wells if any should be done only with the prior permission of Ground Water Board. The ground water level and its quality should also be monitored regularly both during construction and operation phase in consultation with Ground Water Board.

j) Energy Conservation measures such as solar lighting for common area, solar water heating system, LED's for lighting of areas, LED lights for signage, solar inverters on the etc should be adopted.

k) Used LED lights should be properly collected and disposed off/sent for recycling as per the prevailing guidelines / rules of the regulatory authority to avoid mercury contamination.

l) A Report on energy conservation measures conforming to energy conservation norms finalized by Bureau of energy Efficiency should be prepared incorporating details about building materials and technology, R & U factors etc and submit to the State Expert Appraisal Committee and a copy to GSPCB in three months time.

m) Further this EC is issued without prejudice to the action initiated in the Environment (*Protection*) Act or any court case pending in the court of law. As such, it does not mean that the PP has not violated any environmental laws.

in the past and whatever decision under the said Act by the Hon'ble court will be binding on the PP. Hence this environmental clearance does not give immunity to the PP in the case of complaint related to any of the action initiated under the said Act.

4. **Specific Conditions**

a. The approach road leading to the site should be constructed prior to commencement of any construction activities as per the requirement of the Town & Country Planning Department.

b. Project Proponent should prioritize the issues related to health and hygiene in complying with the matters related to waste disposal and treatment air and water pollution waste water management.

c. Project Proponent needs to ensure that no treated water or any waste water shall be discharged into any water body. E-waste shall be disposed only to Authorized vendor as per E-waste (*Management and Handling*) Rules, 2011.

d. Project Proponent (PP) should necessarily make appropriate provision while constructing the roof-tops at the time of construction stage only to enable installation of solar panels towards south facing walls as and when made applicable in future.

e. The Project Proponent shall utilise fly ash bricks in masonry works.

f. At least 20% of the open spaces as required by the local building bye-laws shall be previous. Use of Grass pavers, paver blocks with at least 50% opening, landscape etc. would be considered as previous surface.

g. Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC. Outdoor and common area lighting shall be LED. Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass etc. shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.

h. Use of water saving devices/ fixtures (viz. low flow flushing systems, use of low flow faucets tap aerators etc) for water conservation shall be incorporated in the building plan.

i. Separation of grey and black water should be done by the use of dual plumbing system. In case of single stack system separate re-circulation lines for flushing by giving dual plumbing system be done.

j. The project proponent will provide landscape bed of 600mm wide X 600mm deep along the periphery of the plot to carry out plantation of trees. The treated water will be pumped through high flow drips on these beds to prevent outflow of treated sewage water outside the premises.

k. Areas which are marked as No Development Zone (NDZ) should be clearly marked on site and no construction shall be carried out in the said NDZ. Land Profile of NDZ shall not be altered.

l. No construction shall be done over the portion of land, shown as open space in the site plan.

m. Project Proponent should obtain all the requisite permissions/ NOC / Licences etc from all the competent authorities before commencement of any activity at site.

n *Solar power generation* - Every major consumer of conventional power will have to generate and opt for certain percentage of power generation from the non-conventional sources. In this context Project Proponent (PP)'s should necessarily make appropriate provision while constructing the roof-tops at the time of construction stage to enable installation of solar panels, including battery storage system. In addition, south facing walls to be utilized to installed solar panels to harness optimum solar energy. Use of solar panels may be done to the extend possible like installing solar street lights. Project Proponent should installed after checking feasibility solar plus hybrid conventional sources as source of energy. PP should ensure storage of solar and release in the grid during peak hours.

o. Solar based electric power shall be provided to each unit for atleast two bulbs/ lights and one fan. As proposed central lighting and street lighting shall also be based on solar power.

p. This Environmental Clearance is issued subject to land use verification. Local authority/planning authority should ensure this with respect to Rules, Regulations, Notifications, Government Resolutions, Circulars, etc. issued if any, from time to time. Judgments / Orders issued by Hon'ble High Court, NGT, Supreme Court regarding DCR provisions, environmental issues applicable in this matter should be verified by the competent authorities.

q. Project Proponent should ensure and ascertain that 'civil plans' which were submitted to the Committee/ Authority during the process of project appraisal be submitted to other line Departments' agencies concerned while seeking NOC/ Consents/ Permissions, as applicable. If any discrepancy is found in the plans submitted or details provided may be reported to this Authority. This environmental clearance is issued with respect to the environmental considerations and it does not mean that Goa-SEIAA approved the proposed land.

r. A complete set of all the documents submitted to Goa-SEIAA should be forwarded local authority, GSPCB and Planning authority.

s. In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by the Goa-SEAC.

t. A copy of the environmental clearance letter shall be sent by PP to the concerned Municipality and planning authority as applicable, from which suggestions/representation, if any, were received while processing the proposal. The EC letter shall also be put on the company's website by PP within one week time period from date of issue of environmental clearance.

u The environmental statement for each financial year ending 31st March in Form-V is to be submitted to the GSPCB as prescribed under the Environment (*Protection*) Rules 1986 (as amended) and subsequently shall also be put on the company's website along with the status of the compliance of the EC conditions and shall also be sent to the respective Regional Office of the

MoEF&CC

v. The Project Proponent shall use construction debris for land filling wherever applicable and dispose the Construction & Demolition waste in compliance to the Construction and Demolition Waste Management Rules. The Project Proponent shall indicate disposal of Construction & Demolition Debris on the site indicated viz. Porvorim & Perem, denote the Survey Nos. Village etc. as clarified by Project Proponent during SEAC meeting held on 04.10.2018.

w. Bore well water is not to be used for construction phase only used for drinking purpose and PP should maintain the meter reading on regular basis.

x. Project Proponent should install Biogas plant to treat the Bio degradable waste.

y. Building shall be constructed as per Green Building norms of GRIHA, ASSOCHAM, GEM/IGBC with rating standard of 3 star & of Mixed respectively.

z. Building should be constructed as per National Building Code 2016 part-IV.

aa. Project Proponent should do Corporate Social Responsibility and Corporate Environmental Responsibility as recommended/approved by Govt. SEAC Goa SEIAA.

bb. As per office memorandum issued by MoEF&CC dated 1st May 2018, some of the activities which can be carried out in CER, are infrastructure creation for Drinking Water Supply, Sanitation, Health, Education, Skill Development, Roads, Cross Drains, Electrification including Solar Power, Solid Waste Management Facilities, Scientific Support and Awareness to Local Farmers to increase yield of crop and fodder, Rain Water Harvesting, Soil Moisture Conservation Works, Avenue Plantation, Plantation in Community areas, etc.

2. **To decide on application received from** Orange Lox Steels Pvt. Ltd for production of 43200 TPA of MS Ingots/Billets, runners and risers using induction furnance of capacity 12 MT/Hr and production of 54000 TPA of MS Rolling Material such as CTD Bars, TMT Bars, MS Rounds, MS Squares, Miss Rolls & End Cuttings by using Reheating Furnance of capacity 10MT/hour on plot No. L-25 &L-26 of Cuncolim Industrial Estate, Cuncolim Goa.

The representative of Orange Lox Steel Pvt. Ltd, Omkar Ivg appeared before the Committee and explained details of the project.

After going through the Goods and Service tax statement certified by Chartered Accountant made by the Project Proponent, the Committee has learnt that annual production has not exceeded 30k TPA.

As referred to the EIA Notification 2006, if a production capacity is less then 30k TPA, then the respective Industry is exempted from obtaining of EC.

Decision: In view of the above, the Committee has collectively decided to make the Authority to be aware that the Project is not coming attracting the EIA Notification 2006 which is issued by MoEF&CC.

However, if Expansion/Modification or any change in Product-mix happens, then the respective Project Proponent has to obtain EC from competent Authority.

3. **To decide on application for corrigendum in ToR received received from Salgaocar Shipping Company Limited for Block II –Sirigao-Mayem Mineral Block bearing Survey No. 1, 2, 3, 4, 5, 6, 7, 46, 47, 48, 84, 90, 91, 92, 93, 94, 95, 96, 97, 98 & 12, 47, 60, 61, 62, 79, 80, 84, road, 48, 56, 57, 58 & 59 at Mayem village, Bicholim Goa.**

The representative of Salgaocar Shipping Company Limited for Block II –Sirigao-Mayem Mineral Block, Sandeep Naik (Sr. Manager) appeared before the Committee and explained details of the project.

After Scrutinising the Corrigendum application submitted by Project Proponent, the Committee were convinced that the Legal name of the Organisation is "Salgaocar Shipping Company Private Limited".

Decision: In view of the above, the Committee has decided to recommend the Authority to grant ToR as per the Legal name which is mentioned in the Corrigendum application.

Dr. Benjamin Braganca ----------

Shri. Sanjay Amonkar ----------

Dr. Subhash H. Bhosale

Dr. Dipak C.S. Gaitonde

Dr. Chandrashekher U. Rivonker

Shri. Gautam Vikas Desai
(Chairman Goa-SEAC)

Shri. Sanjeev Joglekar
(Member Secretary Goa-SEAC)

Place: Patto-Panaji
Date:01st November 2023

Annexure 1

The list of members who attended the meeting

Shri Gautam Vikas Desai	Chairman (Goa - SEAC)
Shri. Sanjeev Joglekar	Member Secretary (Goa - SEAC)
Dr. Benjamin Braganca	Expert Member (Goa - SEAC)
Shri. Sanjay Amonkar	Expert Member (Goa - SEAC)
Dr. Subhash H. Bhosale	Expert Member (Goa - SEAC)
Dr. Dipak C.S. Gaitonde	Expert Member (Goa - SEAC)
Dr. Chandrashekher U. Rivonker	Expert Member (Goa - SEAC)

Annexure - 2

1. To decide on application received from Raj Housing Development Private Limited for proposed construction of a residential project "Raj Enclave" located in P.T. Sheet No. 8 of Chalta No. 01 in Mapusa Municipal Council area of Bardez Taluka, North Goa for prior Environmental Clearance.

2. To decide on application seeking [illegible] for [illegible] productions of [illegible] [illegible] [illegible]

1728

GOA STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY
Constituted by the Ministry of Environment, Forest and Climate Change,
Government of India
C/o Department of Environment and Climate Change
4th Floor, Dempo Towers, Patto Panaji Goa - 403001.
e-mail: goaseac@gmail.com

No. 115/3/2023-24/GSEIAA/Project-Prop/204 Date: 24/11/2023

CORRIGENDUM

Sub: Corrigendum in ToR issued dated 18/10/2023 -Reg.

Read: No.115/3/2023-24/GSEIAA/Project-Prop/166, dated 18/10/2023.

Ref : Proposal No. SIA/GA/IND1/305890/2023, dated 20/10/2023.

With reference to the above subject matter your application dated 06/05/2023 for Corrigendum in ToR No.115/3/2023-24/GSEIAA/Project-Prop /166 dated 18/10/2023 was discussed in 119th Goa SEIAA meeting held on 18th November 2023. The Authority decided to grant ToR as per the legal name mentioned in the Corrigendum application i.e "Salgaocar Shipping Company Private Limited" in place of "Salgaocar Shipping Company Limited"

Rest of the content of the said ToR letter dated 18/10/2023 remains the same.

(Dr. Sneha S. Gitte, IAS)
Director (Envt. & CC) &
Member Secretary, Goa-SEIAA

To,
Salgaocar Shipping Company Private Limited
Salgaocar Building, Plot No.15,
Altinho, Panaji, North – Goa,
403001.

Minutes of the 214th Meeting of the Goa State Expert Appraisal Committee (Goa-SEAC) held on the 09th August 2024 at 03.00 p.m. in the Conference hall of the Department of Environment & Climate Change 4th Floor, Dempo Towers, Patto - Panaji, Goa.

The 214th meeting of the Goa-SEAC was held on 09th August 2024 in the Conference hall of the Department of Environment & Climate Change 4th floor of the Dempo Towers, Patto - Panaji at 03.00 p.m. under the Chairmanship of Er. Pascoal Barbosa Noronha.

The list of members who attended the meeting is at "*Annexure – I*".

The Chairman welcomed the members and requested to proceed as per the agenda items.

1. **To discuss the site inspection reports amongst the Expert Members filed by the Expert Members who attended the site inspections.**

   Decision: The inspection reports prepared by SEAC members who attended the site inspections in regards to Salgaocar Shipping Company Limited and Oil and Natural Gas Corporation Ltd. were discussed in detail and were deliberated.

2. **To decide on application received from Salgaocar Shipping Company Limited for Block II –Sirigao-Mayem Mineral Block bearing Survey No. 1, 2, 3, 4, 5, 6, 7, 46, 47, 48, 84, 90, 91, 92, 93, 94, 95, 96, 97, 98 & Road, located at Sirigao village of Bicholim taluka, North Goa and plot bearing Survey No. 12, 47, 60, 61, 62, 79, 80, 84, road, 48, 56, 57, 58 & 59 located at Mayem village at Bicholim taluka, North Goa for prior Environmental Clearance.**

   Decision: The Authority after scrutinizing and perusing the documents submitted by the Project Proponent decided to grant the Environmental Clearance under following conditions:

a) The Environmental Clearance to the aforementioned project is under provisions of EIA Notification, 2006. It does not tantamount to approvals/consent/permissions etc. required to be obtained under any other Act/Rule/regulation. The Project Proponent is under obligation to obtain approvals /clearances under any other Acts/ Regulations or Statutes, as applicable, to the project.

b) The PP is under obligation to implement commitments made in the Environment Management Plan, which forms part of this EC.

c) The Project Proponent shall prominently advertise it at least in two local newspapers of the District or State, of which one shall be in the vernacular language within seven days indicating that the project has been accorded Environment Clearance and the details of MoEF&CC website where it is displayed.

d) The copies of the Environmental Clearance shall be submitted by the Project Proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn must display the same for 30 days from the date of receipt.

f) The Project Proponent to explore the possibility of using atleast 20% Green Energy Vehicles within 10 years of operation in consultation with stake holders.

g) A cumulative impact assessment of mines has been factored in the EIA report submitted by them, the findings of the same shall be complied and implemented strictly.

h) NOC from the Concerned Local Authority, shall be obtained before drawing the ground water for the project activities. State Pollution Control Board / Pollution Control Committees shall not issue the Consent to Operate (CTO) under Air (Prevention and Control of Pollution) Act and Water (Prevention and Control of Pollution) Act till the Project Proponent shall obtain such permission.

i) The Project Proponent shall also organize employment-based apprenticeship/ internship training program every year with appropriate stipend for the youth and other programs to enhance the skill of the local people. The data should be maintained for the training imparted to the persons and the outcome of the training, for the assessment of the training program should be analyzed periodically and improved accordingly. The preference shall be given to the local people for the purpose of employment as committed before the SEAC.

j) The Project Proponent should periodically monitor and maintain the health records of the mine workers digitally prior to mining operations, at the time of operation of mine and post mining operations. Regular surveillance on occupational health shall be carried out every year for mine workers. PP shall also organize medical camp for the benefit of the local people and also the monitor the health impacts due to mining activity.

k) The mining lease holders shall, after ceasing mining operations, undertake regrassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc. The implementation report of the above said condition shall be submitted to this Authority/ Ministry's Regional Office.

l) The Hon'ble Supreme Court has imposed a capping on mining of iron ore to 20 MTPA for the entire State of Goa. Accordingly, the Project Proponent shall first obtain the necessary permission from the Competent Authority with regard to the amount of mineral they can mine per year, before starting its mining operation.

m) The Project Proponent to submit the copy of permission obtained for carrying out common boundary working from the Directorate General of Mines Safety (Govt. of India).

n) The Project Proponent to use local available tippers for system of transportation.

o) The mined out pits will be converted into water reservoirs, pond with other ecotourism facilities like water sports, boating, fishing etc., Pisciculture in mine pits will be developed and also the local community will be involved for cage fishing to make it a commercially viable venture.

p) The ecology restoration or mine reclamation activities should be as per the plan submitted to and approved by Indian Bureau of Mines (Govt. of India) and in future, research institutes to be involved to devise the ecology restoration or mine reclamation plan including local research institute.

dd) The Project Proponent needs to explore the possibility of using advanced/ latest mining technologies available so as to minimize the ecological impacts.

ee) This Environmental Clearance (EC) is subject to orders/ judgment of Hon'ble Supreme Court of India, Hon'ble High Court, Hon'ble NGT and any other Court of Law, Common Cause Conditions as may be applicable.

ff) The Project proponent complies with all the statutory requirements and judgment of Hon'ble Supreme Court dated 2nd August, 2017 in Writ Petition (Civil) No. 114 of 2014 in matter of Common Cause versus Union of India & Ors before commencing the mining operations.

gg) The State Government concerned shall ensure that mining operation shall not be commenced till the entire compensation levied, if any, for illegal mining paid by the Project Proponent through their respective Department of Mining & Geology in strict compliance of Judgment of Hon'ble Supreme Court dated 2nd August, 2017 in Writ Petition (Civil) No. 114 of 2014 in matter of Common Cause versus Union of India & Ors.

hh) The Project Proponent shall follow the mitigation measures provided in MoEFCC's Office Memorandum No. Z-11013/57/2014-IA.II (M), dated 29th October, 2014, titled "Impact of mining activities on Habitations-Issues related to the mining Projects wherein Habitations and villages are the part of mine lease areas or Habitations and villages are surrounded by the mine lease area".

ii) The State Pollution Control Board/Committee shall be responsible for display of this EC letter at its Regional office, District Industries Centre and Collector's office/ Tehsildar's Office for 30 days.

jj) The Project Proponent should widely advertise about the grant of this EC letter by printing the same in at least two local newspapers, one of which shall be in vernacular language of the concerned area. The advertisement shall be done within 7 days of the issue of the clearance letter mentioning that the instant project has been accorded EC and copy of the EC letter is available with the State Pollution Control Board/Committee and web site of the Ministry of Environment, Forest and Climate Change (www.parivesh.nic.in). A copy of the advertisement may be forwarded to the concerned Authority/MoEFCC Regional Office for compliance and record.

kk) The Project Proponent shall inform this Authority/ MoEF&CC for any change in ownership of the mining lease. In case there is any change in ownership or mining lease is transferred, PP needs to apply for transfer of EC as per provisions of the para 11 of EIA Notification, 2006 as amended from time to time.

ll) 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.

mm) Effective safeguard measures for prevention of dust generation and subsequent suppression (like regular water sprinkling, metalled road construction etc.) shall be carried out in areas prone to air pollution wherein high levels of PM10 and PM2.5 are evident such as haul road, loading and unloading point and transfer points. The Fugitive dust emissions from all sources shall be regularly controlled by installation of required equipments/ machineries and preventive maintenance. Use of suitable water-soluble chemical dust suppressing agents may be explored for better effectiveness of dust control

the villages is not disturbed; by orienting the floodlights/ masks away from the villagers and keeping the noise levels well within the prescribed limits for day /night hours.

uu) The Project Proponent shall take measures for control of noise levels below 85 dBA in the work environment. The workers engaged in operations of HEMM, etc. should be provided with ear plugs /muffs. All personnel including laborers working in dusty areas shall be provided with protective respiratory devices along with adequate training, awareness and information on safety and health aspects. The PP shall be held responsible in case it has been found that workers/ personals/ laborers are working without personal protective equipment.

vv) The Project Proponent shall adhere to approved mining plan, inter alia, including, total excavation (quantum of mineral, waste, over burden, inter burden and top soil etc.); mining technology; lease area; scope of working (method of mining, overburden & dump management, O.B& dump mining, mineral transportation mode, ultimate depth of mining, concurrent reclamation and reclamation at mine closure; land-use of the mine lease area at various stages of mining scheme as well as at the end-of-life; etc.).

ww) The land-use of the mine lease area at various stages of mining scheme as well as at the end-of-life shall be governed as per the approved Mining Plan. The excavation vis-a-vis backfilling in the mine lease area and corresponding afforestation to be raised in the reclaimed area shall be governed as per approved mining plan. PP shall ensure the monitoring and management of rehabilitated areas until the vegetation becomes self-sustaining. The compliance status shall be submitted half-yearly to this Authority/MoEFCC and its concerned Regional Office.

xx) The Overburden (O.B.), waste and topsoil generated during the mining operations shall be stacked at earmarked OB dump site(s) only and it should not be kept active for a long period of time. The physical parameters of the OB / waste dumps / topsoil dump like height, width and angle of slope shall be governed as per the approved Mining Plan and the guidelines/circulars issued by D.G.M.S. The topsoil shall be used for land reclamation and plantation.

yy) The slope of dumps shall be vegetated in scientific manner with suitable native species to maintain the slope stability, prevent erosion and surface run off. The selection of local species regulates local climatic parameters and help in adaptation of plant species to the microclimate. The gullies formed on slopes should be adequately taken care of as it impacts the overall stability of dumps. The dump mass should be consolidated with the help of dozer/ compactors thereby ensuring proper filling/ leveling of dump mass. In critical areas, use of geo textiles/ geo-membranes / clay liners / Bentonite etc. shall be undertaken for stabilization of the dump.

zz) Catch drains, settling tanks and siltation ponds of appropriate size shall be constructed around the mine working, mineral yards and Top Soil/OB/Waste dumps to prevent run off of water and flow of sediments directly into the water bodies (Nallah/ River/ Pond etc.). The collected water should be utilized for watering the mine area, roads, green belt development, plantation etc. The drains/sedimentation sumps etc. shall be de-silted regularly, particularly after monsoon season, and maintained properly.

aaa) Check dams of appropriate size, gradient and length shall be constructed around mine pit and OB dumps to prevent storm run-off and sediment flow into adjoining water bodies. A safety margin of 50% shall be kept for designing of sump structures over and above peak rainfall (based on 50 years data) and maximum discharge in the mine and its adjoining

which may have been disturbed due to other mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc.

lll) This Authority may alter/modify the above conditions or stipulate any further condition in the interest of environment protection.

mmm) Concealing factual data failure to comply with any or submission of false/ fabricated data and of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environment (Protection) Act, 1986.

nnn) The above conditions will be enforced inter-alia, under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the Public Liability Insurance Act, 1991 along with their amendments and rules made there under and also any other orders passed by the Hon'ble Supreme Court of India/High Court and any other Court of Law relating to the subject matter.

ooo) Any appeal against this Environmental Clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

ppp) The project proponent must ensure that the socio-cultural including the religious sentiments of the surrounding villagers does not hamper due to unwanted restrictions.

qqq) 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. Adequate measure must be in place to prevent any such incidences. Efforts must be made to support agriculture practices wherever possible on a proactive basis.

rrr) Wildlife conservation is of utmost importance. The location of mines and surrounding areas support variety of wildlife species. Project proponent must prepare wildlife management plan, in consultation with the wildlife experts/department of forest and adhere to all the recommendations made and implement in letter and spirit. If the excercise is given to the forest department, the proponent must monitor the preparation and implementation. The same must be reported the compliance reports.

sss) To promote academic, scientific and industry collaboration to improve the mining operations, and to take corrective measures, the project proponent may identify local academic/research institutions as potential collaborators to undertake research activities of mines, ecological and social relevance

ttt) To protect and enhance biodiversity of the mine and surrounding areas, the project proponent may collaborate with local Biodiversity Management Committees (BMC) in developing biodiversity parks, nurseries etc.

uuu) Efforts need to be made to identify wildlife movement corridors based on the historical data within the mine site and take corrective measures, if any.

vvv) Support the locals in alternative livelihoods development by promoting eco-tourism related capacity building etc.

www) Dust suppression plan must be in place, covering both within and outside along the roads passing through the villages. Drivers must be trained both on traffic and environmental safeguards. Speed governors must be fitted to the trucks. Speed must not exceed 40 kms per hour as most of the roads leading to the jetties are passing through the villages.

xxx) Online senser based Air Monitoring Stations be installed along the transportation routes in consultation with GSPCB and integrated with server of GSPCB and software of DMG.

Accordingly the Authority and the Committee has recommended the following fee:-

1. The Chairman State Environment Impact Assessment Authority and the State Expert Appraisal Committee Rs.10,000/- *(Rupees Ten Thousand Only)* be paid for each sitting and inspection respectively.

2. Non official members of SEIAA Rs.7,500/- *(Rupees Seven Thousand Five Hundred Only)* for each sitting and inspection. Expert members of SEAC' for each sitting and inspection Rs.7,500/- *(Rupees Seven Thousand Five Hundred Only)* and also for inspections per tour.

The Authority noted that an amount of 1,64,00,415/- (*Rupees One Crore Sixty Four Lakhs Four Hundred Fifteen Only*) is available in the account of Authority and was also of the view that sufficient funds are available with the Authority which can meet this expenditure of enhanced sitting fees and revenue collection shall be taken up vigorously soon as the enhancement would give a boost and encourage such revenue and there would not be any Financial burden on the State exchequer.

The meeting ended with vote of thanks to the chair.

Mr. Sanjay Jahagirdar

Shri. Prasad Shashikant Rangnekar

Dr. Nitin S. Sawant

Dr. Subhash H. Bhosale

Shri. Sanjay Amonkar

Shri. SujeetKumar Mariappa Dongre.

Er. Pascoal Barbosa Noronha
(Chairman Goa-SEAC)

Shri. Sanjeev Joglekar
(Member Secretary Goa-SEAC)

Place: Patto-Panaji
Date:09th August 2024

Annexure - K

सत्यमेव जयते

Government of India
Ministry of Environment, Forest and Climate Change
(Issued by the State Environment Impact Assessment Authority (SEIAA), GOA)
***

Minutes of 130TH GOA SEIAA MEETNG State Environment Impact Assessment Authority meeting held from 04/09/2024 to 04/09/2024 **Date:** 24/09/2024

MoM ID: EC/MOM/SEIAA/390813/9/2024

Agenda ID: EC/AGENDA/SEIAA/390813/9/2024

Meeting Venue: DEPARTMENT OF ENVIRONMENT

Meeting Mode: Physical

Date & Time:

04/09/2024	11:05 AM	01:05 PM

1. Opening remarks

The 130th meeting of the Goa - SEIAA (*hereinafter referred as 'Authority'*) was held on 04th September 2024 at 10:00 am in the conference room, of the Department of Environment & Climate Change, 4th floor, Dempo Tower, Patto, Panaji.

2. Confirmation of the minutes of previous meeting

N/A

3. Details of proposals considered by the committee

Day 1 -04/09/2024

3.1. Agenda Item No 1:

3.1.1. Details of the proposal

BLOCK-II - SIRIGAO-MAYEM MINERAL BLOCK by **SALGAOCAR SHIPPING COMPANY PRIVATE LI MITED** located at **NORTH GOA,GOA**			
Proposal For		Fresh EC	
Proposal No	**File No**	**Submission Date**	**Activity (Schedule Item)**
SIA/GA/MIN/486962/202	115/3/2023-24/GSEIAA/Project-P	12/07/2024	Mining of minerals (1(a))

4	rop/		

3.1.2. Deliberations by the committee in previous meetings

Date of SEAC 1 :26/07/2024 **Deliberations of SEAC 1 :**

3.1.3. Deliberations by the SEIAA in current meetings

Decision: After scrutinizing and perusing the documents submitted by the Project Proponent, the Authority decided to grant the Environmental Clearance

3.1.4. Recommendation of SEIAA

Approved

3.1.5. Details of Environment Conditions

3.1.5.1. Specific

N/A

3.1.5.2. Standard

1(a)	**Mining of minerals**
Statutory compliance	
1.	This Environmental Clearance (EC) is subject to orders/ judgment of Hon'ble Supreme Court of India, Hon'ble High Court, Hon'ble NGT and any other Court of Law, Common Cause Conditions as may be applicable.

4. Any Other Item(s)

N/A

5. List of Attendees

Sr. No.	Name	Designation	Email ID	Remarks
1	Er Pascoal Barbosa Noronha	Chairman, SEAC	pas**********@gmail.com	
2	Johnson B Fernandes	Member Secretary, SEIAA	joh*********@gmail.com	
3	Dr Dipak C S Gaitonde	SEIAA Member	dip*****@yahoo.com	

MINUTES OF THE 130TH GOA STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (GOA-SEIAA) MEETING HELD ON 04/09//2024 AT 10:00 A.M. IN THE CONFERENCE HALL OF THE DEPARTMENT OF ENVIRONMENT & CLIMATE CHANGE, 4TH FLOOR, DEMPO TOWER, PATTO, PANAJI-GOA.

The 130th meeting of the Goa - SEIAA (*hereinafter referred as 'Authority'*) was held on 04th September 2024 at 10:00 am in the conference room. of the Department of Environment & Climate Change, 4th floor, Dempo Tower, Patto, Panaji. The list of members present during the meeting is annexed (*refer Annexure - 1*).

At the outset, Chairman welcomed Authority members and briefed about the agenda items (*refer Annexure - 2*) to be taken up for discussion / deliberations and appropriate decision. Accordingly, the same were considered as detailed below.

1. **To decide on application received from Salgaocar Shipping Company Limited for Block II –Sirigao-Mayem Mineral Block bearing Survey No. 1, 2, 3, 4, 5, 6, 7, 46, 47, 48, 84, 90, 91, 92, 93, 94, 95, 96, 97, 98 & Road, located at Sirigao village of Bicholim taluka, North Goa and plot bearing Survey No. 12, 47, 60, 61, 62, 79, 80, 84, road, 48, 56, 57, 58 & 59 located at Mayem village at Bicholim taluka, North Goa for prior Environmental Clearance.**

The representative of Salgaonkar Shipping Company Limited Shri Sandeep Naik along with his EIA consultant Mr. M.S. Raju (Mineral Engineering Services, QCI-NABET ORG000756) appeared before the Authority and explained the details of the project.

Decision: After scrutinizing and perusing the documents submitted by the Project Proponent, the Authority decided to grant the Environmental Clearance under following General and Specific conditions:

a) The Environmental Clearance to the aforementioned project is under provisions of EIA Notification, 2006. It does not tantamount to approvals/consent/permissions etc. required to be obtained under any other Act/Rule/regulation. The Project Proponent is under obligation to obtain approvals /clearances under any other Acts/ Regulations or Statutes, as applicable, to the project.

b) The PP is under obligation to implement commitments made in the Environment Management Plan, which forms part of this EC.

c) The Project Proponent shall prominently advertise it at least in two local newspapers of the District or State, of which one shall be in the vernacular language within seven days indicating that the project has been accorded Environment Clearance and the details of MoEF&CC website where it is displayed.

d) The copies of the Environmental Clearance shall be submitted by the Project Proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn must display the same for 30 days from the date of receipt.

e) The Project Proponent shall have a well laid down environmental policy duly approved by the Board of Directors (in case of Company) or competent authority, duly prescribing standard operating procedures to have proper checks and balances and to bring into focus any infringements / deviation / violation of the environmental / forest / wildlife norms / conditions.

f) Action plan for implementing EMP and environmental conditions along with responsibility matrix of the Project Proponent (during construction phase) and authorized entity mandated with compliance of conditions (during operational phase) shall be prepared. The year wise funds earmarked for environmental protection measures shall be kept in separate account and not to be diverted for any other purpose. Six monthly progress of implementation of action plan shall be reported to the Authority/Ministry/Regional Office along with the Six-Monthly Compliance Report.

g) Concealing factual data or submission of false fabricated data may result in revocation of this Environmental Clearance and attract action under the provisions of Environment (Protection) Act, 1986.

h) The Authority/ Regional Office of this MoEF&CC shall monitor compliance of the stipulated conditions. The project Authorities should extend full cooperation to the Officer (s) by furnishing the requisite data /information/monitoring reports.

i) Any appeal against this EC shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

j) This issue with an approval of the Competent Authority.

Specific Conditions

a) The instant Environmental Clearance (EC) is subject to the outcome of the WP 592 of 2022 (MSPL v. State of Goa & Ors.) regarding challenging the constitutionality of the tender documents of Phase I auction of Goa mines and PIL WP 2029/2023 (F) (Suresh Govind Gaonkar & Ors v. Directorate of Mines and Geology & Ors) regarding challenging the state's decision to go ahead with the auction of the mining block.

b) The PP shall comply with all action plans made for public hearing concerns and make regular maintenance and record the progressive activity outcomes. The Project Proponent shall ensure that the activities proposed under the Public Hearing are different from the CSR activities.

c) The Project Proponent shall create awareness among the local people working within the project area as well as its surrounding area on the ban of Single Use Plastic (SUP) in order to ensure the compliance of Notification published by MoEF&CC on 12/08/2021. A report, along with photographs, on the measures taken shall also be included in the six monthly compliance reports.

d) The Project Proponent should adopt the proper mitigation measures as proposed under EMP. The adoption of mitigation measures and monitoring of the same as proposed in the EMP shall be done under the supervision of the qualified environmental personnel. The implementation status of the same shall be submitted to this Authority/Ministry's Regional Office.

e) The Project Proponent shall manage the accredited NABL certified agencies for carrying out monitoring of air and water quality parameters on routine basis.

f) The Project Proponent to explore the possibility of using atleast 20% Green Energy Vehicles within 10 years of operation in consultation with stake holders.

g) NOC from the Concerned Local Authority, shall be obtained before drawing the ground water for the project activities, State Pollution Control Board / Pollution Control Committees shall not issue the Consent to Operate (CTO) under Air (Prevention and Control of Pollution) Act and Water (Prevention and Control of Pollution) Act till the Project Proponent shall obtain such permission.

h) The Project Proponent shall also organize employment-based apprenticeship/ internship training program every year with appropriate stipend for the youth and other programs to enhance the skill of the local people. The data should be maintained for the training imparted to the persons and the outcome of the training, for the assessment of the training program should be analyzed periodically and improved accordingly. The preference shall be given to the local people for the purpose of employment as committed by PP.

i) The Project Proponent should periodically monitor and maintain the health records of the mine workers digitally prior to mining operations, at the time of operation of mine and post mining operations. Regular surveillance on occupational health shall be carried out every year for mine workers. PP shall also organize medical camp for the benefit of the local people and also the monitor the health impacts due to mining activity.

j) The mining lease holders shall, after ceasing mining operations, undertake regrassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc. The implementation report of the above said condition shall be submitted to this Authority/ Ministry's Regional Office.

k) The Hon'ble Supreme Court has imposed a capping on mining of iron ore to 20 MTPA for the entire State of Goa. Accordingly, the Project Proponent shall first obtain the necessary permission from the Competent Authority with regard to the amount of mineral they can mine per year, before starting its mining operation.

l) The Project Proponent to submit the copy of permission obtained for carrying out common boundary working from Directorate General of Mines Safety (Govt. of India).

m) The Project Proponent to use local available Tippers/ Trucks for system of transportation.

n) The mined out pits will be converted into water reservoirs, pond with other ecotourism facilities like water sports, boating, fishing etc., Pisciculture in mine pits will be developed and also the local community will be involved for cage fishing to make it a commercially viable venture.

o) The ecology restoration or mine reclamation activities should be as per the plan submitted to and approved by Indian Bureau of Mines (Govt. of India) and in future, research institutes to be involved to devise the ecology restoration or mine reclamation plan including local research institute.

p) Regular monitoring and analysis of discharge water and at upstream and downstream of Mapusa/Asnora river and other water bodies needs to be carried out quarterly through NABL/MoEF&CC accredited laboratory.

q) Extensive native fruit bearing plantation shall be carried out in all safety zones with density of 1500 trees/ha.

r) The Project Proponent needs to complete the entire peripheral plantation under green belt, safety barrier plantation and gap plantation within five years from the start of mining operations. The Project Proponent should plant quality sapling of appropriate height of

native and fruit bearing species. In case of tall transplants (seedlings) the seedlings should have proper root stock with root biomass commensurate with seedling height to ensure good growth after plantation. Plantation shall be undertaken in consultation with the State Forest Department/ Bio Diversity Board/Village Biodiversity Committee. The Project Proponent shall make the actual count on the saplings planted and continuously monitored its survival rate. In case of failure to achieve 80% survival rate, action plan for achieving the target survival rate shall be submitted to this Authority/ Ministry's Regional Office.

s) 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.

t) The Project Proponent needs to regularly spray with water to arrest the generation of dust on the haul roads within the mining lease area. The main haul road adjacent to mining lease boundary should be provided with water tankers for the dust suppression.

u) The Project Proponent to explore the possibility of replacing the existing trucks of 10.5tons with higher capacity trucks of 25 tones in consultation with the stake holders and the interest of the local community.

v) Fugitive dust monitoring during transportation shall be monitored regularly at all the sensitive receptors and report shall be submitted quarterly to this Authority/ Regional Office. Regular sprinkling shall be done on roads to suppress the dust at the source.

w) The Project Proponent shall adhere to the pollution control measures suggested by the State Central Pollution Control Board in the environmental guidelines for crushing/screening activity.

x) **The wheel washing facility for the ore transport vehicles shall be provided at the exit point of the mine.**

y) The Project Proponent needs to strengthen the settling pond with proper stone pitching in line with the design of settling pond considering the annual rainfall, flow rate, catchment area and its discharge.

z) The catch drains and siltation ponds needs to be regularly maintained to arrest silt and sediments flow from dumps.

aa) The Project Proponent shall be responsible to develop Green Belt, plantation for ecology restoration by planting native species and also involving local community.

bb) Wild Life Conservation Plan prepared in consultation with Forest Department and submitted to DCF North Goa Division to be implemented.

cc) The Project Proponent needs to explore the possibility of using advanced/ latest mining technologies available so as to minimize the ecological impacts.

dd) This Environmental Clearance (EC) is subject to orders/ judgment of Hon'ble Supreme Court of India, Hon'ble High Court, Hon'ble NGT and any other Court of Law, Common Cause Conditions as may be applicable.

ee) The Project proponent complies with all the statutory requirements and judgment of Hon'ble Supreme Court dated 2nd August, 2017 in Writ Petition (Civil) No. 114 of 2014 in matter of Common Cause versus Union of India & Ors before commencing the mining operations.

ff) The State Government concerned shall ensure that mining operation shall not be commenced till the entire compensation levied, if any, for illegal mining paid by the Project Proponent

through their respective Department of Mining & Geology in strict compliance of Judgment of Hon'ble Supreme Court dated 2nd August, 2017 in Writ Petition (Civil) No. 114 of 2014 in matter of Common Cause versus Union of India & Ors.

gg) The Project Proponent shall follow the mitigation measures provided in MoEFCC's Office Memorandum No. Z-11013/57/2014-IA.II (M), dated 29th October, 2014, titled "Impact of mining activities on Habitations-Issues related to the mining Projects wherein Habitations and villages are the part of mine lease areas or Habitations and villages are surrounded by the mine lease area".

hh) The State Pollution Control Board shall be responsible for display of this EC letter at its Regional office, District Industries Centre and Collector's office/ Mamlatdar's Office for 30 days.

ii) The Project Proponent should widely advertise about the grant of this EC letter by printing the same in at least two local newspapers, one of which shall be in vernacular language of the concerned area. The advertisement shall be done within 7 days of the issue of the clearance letter mentioning that the instant project has been accorded EC and copy of the EC letter is available with the State Pollution Control Board/Committee and web site of the Ministry of Environment, Forest and Climate Change (www.parivesh.nic.in). A copy of the advertisement may be forwarded to the concerned Authority/MoEFCC Regional Office for compliance and record.

jj) The Project Proponent shall inform this Authority/ MoEF&CC for any change in ownership of the mining lease. In case there is any change in ownership or mining lease is transferred. PP needs to apply for transfer of EC as per provisions of the para 11 of EIA Notification, 2006 as amended from time to time.

kk) 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.

ll) Effective safeguard measures for prevention of dust generation and subsequent suppression (like regular water sprinkling, metalled road construction etc.) shall be carried out in areas prone to air pollution wherein high levels of PM10 and PM2.5 are evident such as haul road, loading and unloading point and transfer points. The Fugitive dust emissions from all sources shall be regularly controlled by installation of required equipments/ machineries and preventive maintenance. Use of suitable water-soluble chemical dust suppressing agents may be explored for better effectiveness of dust control system. It shall be ensured that air pollution level conform to the standards prescribed by the MoEFCC/ State Pollution Control Board.

mm) In case, immediate mining scheme envisages intersection of ground water table, then Environmental Clearance shall become operational only after receiving formal clearance from CGWA. In case, mining operation involves intersection of ground water table at a later stage, then PP shall ensure that prior approval from CGWA and MoEFCC/SEIAA is in place before such mining operations. The permission for intersection of ground water table shall essentially be based on detailed hydro-geological study of the area.

nn) The Project Proponent shall regularly monitor and maintain records w.r.t. ground water level and water quality in and around the mine lease by establishing a network of existing wells as well as new piezo-meter installations during the mining operation in consultation with Central Ground Water Authority/State Ground Water Department. The Report on changes in Ground water level and quality shall be submitted on six-monthly basis to the Regional

PPP

Office of the Ministry, CGWA and State Groundwater Department / State Pollution Control Board.

oo) The Project Proponent shall undertake regular monitoring of natural water course/ water resources/springs and perennial nallahs existing/ flowing in and around the mine lease including upstream and downstream. Sufficient number of gullies shall be provided at appropriate places within the lease for management of water. The parameters to be monitored shall include their water quality vis-à-vis suitability for usage as per SPCB/CPCB criteria and flow rate. It shall be ensured that no obstruction and/ or alteration be made to water bodies during mining operations without justification and prior approval of SEIAA/ MoEF&CC. The monitoring of water courses/ bodies existing in lease area shall be carried out four times in a year viz. pre- monsoon (April May), monsoon (August), post-monsoon (November) and winter (January) and the record of monitored data may be sent regularly to this Authority Ministry of Environment, Forest and Climate Change and its Regional Office, Central Ground Water Authority and Regional Director, Central Ground Water Board, State Pollution Control Board and Central Pollution Control Board, Clearly showing the trend analysis on six-monthly.

pp) The Project Proponent shall plan, develop and implement rainwater harvesting measures on long term basis to augment ground water resources in the area in consultation with Central Ground Water Board/ State Groundwater Department. A report on amount of water recharged needs to be submitted to this Authority/ Regional Office MoEFCC annually.

qq) Industrial waste water (workshop and waste water from the mine) should be properly collected and treated so as to conform to the notified standards prescribed from time to time. The standards shall be prescribed through Consent to Operate (CTO) issued by concerned State Pollution Control Board (SPCB). The workshop effluent shall be treated after its initial passage through Oil and grease trap.

rr) The water balance/water auditing shall be carried out and measure for reducing the consumption of water shall be taken up and reported to this Authority/ Regional Office of the MoEF&CC and the State Pollution Control Board/Committee.

ss) The illumination and sound at night at project sites disturb the villages in respect of both human and animal population. Consequent sleeping disorders and stress may affect the health in the villages located close to mining operations. Habitations have a right for darkness and minimal noise levels at night. PPs must ensure that the biological clock of the villages is not disturbed; by orienting the floodlights/ masks away from the villagers and keeping the noise levels well within the prescribed limits for day /night hours.

tt) The Project Proponent shall take measures for control of noise levels below 85 dBA in the work environment. The workers engaged in operations of HEMM, etc. should be provided with ear plugs /muffs. All personnel including laborers working in dusty areas shall be provided with protective respiratory devices along with adequate training, awareness and information on safety and health aspects. The PP shall be held responsible in case it has been found that workers/ personals/ laborers are working without personal protective equipment.

uu) The Project Proponent shall adhere to approved mining plan, inter alia, including, total excavation (quantum of mineral, waste, over burden, inter burden and top soil etc.); mining technology; lease area; scope of working (method of mining, overburden & dump management, Over Burden (O.B.) & dump mining, mineral transportation mode, ultimate depth of mining, concurrent reclamation and reclamation at mine closure; land-use of the mine lease area at various stages of mining scheme as well as at the end-of-life; etc.)

vv) The land-use of the mine lease area at various stages of mining scheme as well as at the end-of-life shall be governed as per the approved Mining Plan. The excavation vis-à-vis backfilling in the mine lease area and corresponding afforestation to be raised in the reclaimed area shall be governed as per approved mining plan. PP shall ensure the monitoring and management of rehabilitated areas until the vegetation becomes self-sustaining. The compliance status shall be submitted half-yearly to this Authority/MoEFCC and its concerned Regional Office.

ww) **The Overburden (O.B.), waste and topsoil generated during the mining operations shall be stacked at earmarked OB dump site(s) only and it should not be kept active for a long period of time. The physical parameters of the OB / waste dumps / topsoil dump like height, width and angle of slope shall be governed as per the approved Mining Plan and the guidelines/circulars issued by D.G.M.S. The topsoil shall be used for land reclamation and plantation.**

xx) The slope of dumps shall be vegetated in scientific manner with suitable native species to maintain the slope stability, prevent erosion and surface run off. The selection of local species regulates local climatic parameters and help in adaptation of plant species to the microclimate. The gullies formed on slopes should be adequately taken care of as it impacts the overall stability of dumps. The dump mass should be consolidated with the help of dozer/ compactors thereby ensuring proper filling/ leveling of dump mass. In critical areas, use of geo textiles/ geo-membranes / clay liners / Bentonite etc. shall be undertaken for stabilization of the dump.

yy) Catch drains, settling tanks and siltation ponds of appropriate size shall be constructed around the mine working, mineral yards and Top Soil/OB/Waste dumps to prevent run off of water and flow of sediments directly into the water bodies (Nallah/ River/ Pond etc.). The collected water should be utilized for watering the mine area, roads, green belt development, plantation etc. The drains/sedimentation sumps etc. shall be de-silted regularly, particularly after monsoon season, and maintained properly.

zz) Check dams of appropriate size, gradient and length shall be constructed around mine pit and OB dumps to prevent storm run-off and sediment flow into adjoining water bodies. A safety margin of 50% shall be kept for designing of sump structures over and above peak rainfall (based on 50 years data) and maximum discharge in the mine and its adjoining area which shall also help in providing adequate retention time period thereby allowing proper settling of sediments/ silt material. The sedimentation pits/ sumps shall be constructed at the corners of the garland drains.

aaa) As presented by the PP the iron ore extracted from the mine will be transported to the Sinquerim Jetty. This transportation route is fully dedicated to Block – II Sirigao Mayem Mineral Block. The distance of the dedicated road is 4.21kms (approx.) and 7.5m width (approx.) whereas 0.62 kms (approx.) is a public road with 4m width (approx.).The pollution due to transportation load on the environment will be effectively controlled and water sprinkling will also be done regularly. Vehicular emissions shall be kept under control and regularly monitored. Project Proponent should obtain valid Pollution Under Control (PUC) certificate for all the vehicles from authorized pollution testing centers.

bbb) The Plantation programme to be carried out as per the approved mining plan.

ccc) The Project Proponent shall make provision for the housing for workers/labourers or shall construct labour camps within/outside (company owned land) with necessary basic infrastructure/ facilities like fuel for cooking, mobile toilets, mobile STP, safe drinking water,

medical health care creche for kids etc. The housing may be provided in the form of temporary structures which can be removed after the completion of the project related infrastructure. The domestic waste water should be treated with STP in order to avoid contamination of underground water.

(ddd) The Project Proponent shall submit the times bound action plan to this Authority within 6 months from the date of issuance of Environmental Clearance for undertaking the activities committed during public consultation by the Project Proponent in terms of the provisions of the MoEF&CC Office Memorandum No.22-65/2017-IA.III dated 30 September 2020. The action plan shall be implemented within three years of commencement of the project.

(eee) The Project Proponent shall prepare digital map (land use & land cover) of the entire lease area once in five years purpose of monitoring land use pattern and submit a report to this Authority Concerned Regional Office of the MoEF&CC

(fff) The Project Proponent should inform to this Authority/Regional Office regarding date of financial closures and final approval of the project by the Concerned Authorities and the date of start of land development work.

(ggg) The Project Proponent shall submit six monthly compliance reports on the status of the implementation of the stipulated environmental safeguards to this Authority & its Concerned Regional Office, and the State Pollution Control Board.

(hhh) A separate "Environmental Management Cell" with suitable qualified manpower should be set-up under the control of a Senior Executive. The Senior Executive shall directly report to Head of the Organization. Adequate number of qualified Environmental Scientists and Mining Engineers shall be appointed and submit a report to this Authority.

(iii) This Authority shall randomly monitor compliance of the stipulated conditions. The project authorities should extend full cooperation to this Authority/ Officer(s) by furnishing the requisite data / information / monitoring reports.

(jjj) In pursuant to Ministry's O.M No. 22-34/2018-IA.III dated 16.01.2020 to comply with the direction made by Hon'ble Supreme Court on 8.01.2020 in W.P. (Civil) No 114/2014 in the matter Common Cause vs Union of India, the mining lease holder shall after ceasing mining operations, undertake regrassing the mining area and any other area which may have been disturbed due to other mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc.

(kkk) This Authority may alter/modify the above conditions or stipulate any further condition in the interest of environment protection.

(lll) Concealing factual data failure to comply with any or submission of false/ fabricated data and of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environment (Protection) Act, 1986.

(mmm) The above conditions will be enforced inter-alia, under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the Public Liability Insurance Act, 1991 along with their amendments and rules made there under and also any other orders passed by the Hon'ble Supreme Court of India/High Court and any other Court of Law relating to the subject matter.

nnn) Any appeal against this Environmental Clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

ooo) The project proponent must ensure that the socio-cultural including the religious sentiments of the surrounding villagers does not hamper due to unwanted restrictions.

ppp) 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. Adequate measure must be in place to prevent any such incidences. Efforts must be made to support agriculture practices wherever possible on a proactive basis.

qqq) Wildlife conservation is of utmost importance. The location of mines and surrounding areas support variety of wildlife species. Project proponent must prepare wildlife management plan, validate it through the wildlife experts/department of forest and adhere to all the recommendations made and implement in letter and spirit. If the excercise is given to the forest department, the proponent must monitor the preparation and implementation. The same must be reported the compliance reports.

rrr) To promote academic, scientific and industry collaboration to improve the mining operations, and to take corrective measures, the project proponent may identify local academic/research institutions as potential collaborators to undertake research activities of mines, ecological and social relevance

sss) To protect and enhance biodiversity of the mine and surrounding areas, the project proponent may collaborate with local Biodiversity Management Committees (BMC) in developing biodiversity parks, nurseries etc.

ttt) Efforts need to be made to identify wildlife movement corridors based on the historical data within the mine site and take corrective measures, if any.

uuu) Support the locals in alternative livelihoods development by promoting eco-tourism related capacity building etc.

vvv) Dust suppression plan must be in place, covering both within and outside along the roads passing through the villages. Drivers must be trained both on traffic and environmental safeguards. Speed governors must be fitted to the trucks. Speed must not exceed 40 kms per hour as most of the roads leading to the jetties are passing through the villages.

www) Online senser based Air Monitoring Stations be installed along the transportation routes in consultation with GSPCB and integrated with server of GSPCB and software of DMG.

xxx) A mandatory 50 meter buffer shall be maintained as per MMDR and Mines Act 1957.

yyy) The Project Proponent shall abide by all the Circulars, Office Memorandum, Orders issued by the Directorate of Mines and Geology on transportation of Ore and Minerals.

zzz) PP should plant grasses/ vegetation to check the surface runoff.

aaaa) As assured by the PP there should be no spillage of ore on the roads, Vehicle shall not be driven outside the road (shoulders) in order to control the dust pollution and the ore to be transported will be covered by proper tarpaulin sheets (250 GSM or more) to avoid the spillage.

bbbb) Width of the road utilized for transportation should be such that two vehicle (trucks/tippers) should be able to move or cross each other's comfortably.

(cccc) Maintenance of the road from the mining lease to the jetty will be the responsibility of PP. The PP shall bear the cost of constructing, widening and strengthening of the public road which is utilized for the transportation of ore.

(dddd) The vehicle transporting the ore should not be parked on the road (utilized by public) and allow the flow of traffic on the remaining part of the road during break hours (1 pm. to 2 pm.) Unless and until unavoidable situation arises.

(eeee) Wherever possible the PP should carry out the plantation of native trees along the transport route in consultation with Biodiversity Board Committee or Forest Department.

(ffff) Certain amount of funds to be allocated for the safety of the villagers due to the mining activity under CSR.

(gggg) Leak proof or spillage proof Trucks / Tipper shall be used for the transportation of the ore.

(hhhh) He should ensure that there is no spillage of ore, while transferring the ore from the trucks to th. barges railway wagon ships etc.

(iiii) **In addition to the above, as directed by the Hon'ble High Court of Bombay for the transportation of the ore from the source to the jetty the SOP stipulated by GSPCB strictly to followed: by the PP.**

I. **The transporter will first approach the Directorate of Mines and Geology for approval of the route of transportation.**

II. **In their application they shall indicate the approximate width of the road and facts about number of houses along the route and availability of alternate route.**

III. **The Directorate of Mines and Geology will examine the applications and decide upon the route to be allowed for transportation.**

IV. **Upon such approval, the transporter will apply to the GSPCB for setting up monitoring stations on the route.**

V. **After the GSPCB sets up the stations, the transporter upon receiving transit permit shall ensure that all conditions of transportation are adhered and complied.**

VI. **All trucks shall be registered with the Department and fitted with GPS.**

VII. **GEL shall continuously monitor vehicle spewed and any violation (above 40 km/hr) shall entail penalty i.e. trucks shall be blocked for 3 days and further as per the Order dated 26/04/2016.**

VIII. **GEL shall ensure on the Bhumija portal VTS System that the total number of trips shall be restricted per operator on the route to min 20 and maximum 40 per hour.**

IX. **Intimation about permitted transport shall be made to SP North, SP South and SP Traffic, informing them that transporter has to strictly follow the Goa (Prevention of Illegal Mining, Storage.**

X. **The timing of the Ore Transportation along the designated route should be from 8am to 1pm with a break from1pm to 2pm and then transportation can continue from 2pm to 5:45pm from the source location.**

(jjjj) Mask/helmet/Goggles and other safety equipments should be provided to the workers.

kkkk) PP to explore the possibilities of having exclusive road for transportation of ore within 2.5 years from commencement of operation which has been agreed by PP.

Additional Conditions

a) A distance of 150m has to be maintained from UPL to new Lairaee temple.

b) A safe distance of more than 50m shall be maintained from UPL to Sidhivinak Ganesh Mandir.

c) PP to undertake slope stability study and action thereof.

d) Barricading of 8-10m height to be done along the stretch facing the temple/habitation.

e) Retaining wall to be constructed to check the surface runoff and to prevent the runoff of drain water into fields.

f) Road width should be 7.5m along all the transportation route and wherever not possible Flag man to be kept to control the traffic.

g) PP to train all truck drivers utilized for transporting the ore and the list of trained drivers to be submitted this Authority.

h) Flag man on both sides of railway underpass at Poira (minimum 3 people).

i) PP to install wheel washing facility at the Goshala point (leading to the public road)& at the unloading point at the jetty, which should be utilized by all vehicles transporting the ore.

j) Geo tagging of trees/samplings planted to be done and to be monitored periodically.

k) Activities to be undertaken under CSR/CER should be submitted to this Authority.

The meeting ended with thanks to chair.

(Dr. Dipak C.S. Gaitonde)
Member, Goa-SEIAA

(Dr. Purushottam Raya Pednekar.)
Chairman, Goa-SEIAA

(Shri. Johnson B. Fernandes)
Member Secretary, Goa-SEIAA

Place: Patto-Panaji
Date: 04th September 2024

Annexure - 1

Dr. Purushottam Raya Pednekar,	Chairman, Goa-SEIAA
Shri. Johnson B. Fernandes	Member Secretary, Goa-SEIAA
Dr. Dipak C.S. Gaitonde	Member, Goa-SEIAA

Annexure – 2

AGENDA OF THE 130TH GOA STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (GOA–SEIAA) MEETING ON 04/09/2024 AT 10:00 A.M. IN THE CONFERENCE ROOM OF THE 4th FLOOR, DEMPO TOWER, PATTO, PANAJI-GOA.

1. To decide on application received from Salgaocar Shipping Company Limited for Block II –Sirigao-Mayem Mineral Block bearing Survey No. 1, 2, 3, 4, 5, 6, 7, 46, 47, 48, 84, 90, 91, 92, 93, 94, 95, 96, 97, 98 & Road, located at Sirigao village of Bicholim taluka, North Goa and plot bearing Survey No. 12, 47, 60, 61, 62, 79, 80, 84, road, 48, 56, 57, 58 & 59 located at Mayem village at Bicholim taluka, North Goa for prior Environmental Clearance.
2. Any other matter with permission of the chair.

Signature Not Verified
Digitally Signed by : Johnson B Fernandes
Member Secretary, SEIAA
Date: 03/10/2024

Annexure - L

SALGAOCAR SHIPPING CO. PVT. LTD.

Salgaocar Bhavan, Altinho, Panaji, Goa – 403001
CIN: U13100GA1975PTC000223
Tel: +91-832-2460500 Email: - info@smilindia.com

October 11/2024

To,
The Director (Environment) and Member Secretary,
Goa State Environment Impact Assessment Authority,
4th Floor, Dempo Tower, Patto,
Panjim Goa-403001

11/10/2024

Dear Sir,

REQUEST FOR CORRIGENDUM TO ENVIRONMENTAL CLEARANCE FOR BLOCK II SIRIGAO MAYEM MINERAL BLOCK

We acknowledge the receipt of the Environmental Clearance (EC) for our project Block II Sirigao Mayem Mineral Block, vide File No: 115/3/2023-24/GSEIAA/Project-Prop/113 dated 09/10/2024.

We request you to make modifications in certain points/clauses in relation to the said EC as under and issue a corrigendum after rectifications:

Page No	Point No	EC Condition	Modifications
2	11	Validity of EC is **upto** 09/10/2024 from which the prior Environmental clearance is granted by the regulatory authority.	Validity of EC accorded shall be for a period of thirty years or life of the mine whichever is earlier from the date its issue.
5	7	Category of Project i.e. 'A' or 'B' – mentioned as **'A'**	The category should be corrected to **Category B.**

Kindly issue the necessary corrigendum incorporating the above, at the earliest and oblige.

Thanking you,

Yours Faithfully,

SALGAOCAR SHIPPING COMPANY PRIVATE LIMITED

AUTHORISED SIGNATORY

SALGAOCAR SHIPPING COMPANY PVT. LTD.

Annexure - M

GOA STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY
Constituted by the Ministry of Environment, Forest and Climate Change,
Government of India
C/o Department of Environment and Climate Change
4th Floor, Dempo Towers, Patto Panaji Goa - 403001.
e-mail: goaseac@gmail.com

No: 115/3/2023-24/GSEIAA/Project-Prop/146 Date: 26/11/2024

CORRIGENDUM

Sub: Corrigendum in Environmental Clearance dated 09/10/2024 -Reg.

Read: Environmental Clearance identification No. EC24B0000GA5365792N dated 09/10/2024.
Ref : Proposal No. SIA/GA/MIN/486962/2024 dated 12/07/2024.

With reference to the above subject matter, your letter dated 11/10/2024 for Corrigendum in Environmental Clearance identification No. EC24B0000GA5365792N dated 09/10/2024 was discussed in 137th Goa SEIAA meeting held on 6th November 2024. The Authority decided to grant Corrigendum as follows:-

I. Page No. 2 point No.11 shall be read as "Validity of Environmental Clearance accorded shall be for a period of thirty years or life of the mine whichever is earlier from the date of its issue".

II. Page No.5 point No.7 "Category of the project 'A' or 'B' "the Category shall be read as 'B' ".

Rest of the content of the said EC letter dated 09/10/2024 remains the same.

(Shri. Johnson B. Fernandes)
Director, (Environment),
Member Secretary, Goa-SEIAA

To,
Salgaocar Shipping Company Private Limited,
Salgaocar Bhavan, Altinho,
Panaji, North Goa,
403001.

GOVERNMENT OF GOA
Office of the Principal Chief Conservator of Forests
"Goa Van Bhawan"Forest Department
Altinho, Panaji, Pin 403001

Ph: - 0832-2492548, 2492231 **Email: dcfme-forest.goa@nic.in**

No. 6-13(GEN)-2023-24-FD/Vol. XXVII/1103 Dated: 19/06/2024
20

To
The Director
Directorate of Mines & Geology
Menezes Braganza Hall, Ground Floor
Panaji-Goa

Sub: Status of land schedule in respect of mining block-II auctioned during the 1st NIT in the State of Goa-reg.

Ref: 1. DMG letter no. 03/35/2023/Major/Mines/2618 dated 06/12/2023
2. This office letter no. 6-13(GEN)-2023-24-FD/Vol. XXVII/978 dated 11.06.2024
3. DMG Letter no. 03/163/2023/Major/Mines/629 dated 12.06.2024
4. This office letter no. 6-13(GEN)-2023-24-FD/Vol. XXVII/1003 dated 13.06.2024

Sir,

In continuation to this office letter dated 13.06.2024, in the above mentioned subject I am directed to inform that the lease boundary of the Mining Block-II of Sirigao-Mayam Mineral Block, as per the Mining Lease Plan shared by your vide letter no. 03/163/2023/Major/Mines/629 dated 12.06.2024, falls outside the Proposed Reserved Forests notified within the Survey No. 84, in Mayem Village of Bicholim Taluka.

Yours faithfully,
19/6/2024
Dy. Conservator of Forest
Monitoring & Evaluation

Copy for information to
1. The Dy. Conservator of Forests, Working Plan Division, Goa Van Bhawan, Altinho, Panaji-Goa.
2. The Dy. Conservator of Forests, North Goa Division, Ponda-Goa.

"Swachh Bharat, Swachh Goa"
"Clean India,Clean Goa"

Annexure - O

GEOLOGICAL REPORT OF IRON ORE RESERVE AND RESOURCE IN THE BLOCK-II - SIRIGAO-MAYEM MINERAL BLOCK GOIGONEM T.C.NO.13/1949 & CUPLEIGAICHO GUER DONGOR T.C.NO.5/1949) Mining Lease No.07/AMLG(ML-2)/CCPL/17 OVER AN AREA OF 171.2472 Ha. IN SIRIGAO & MAYEM VILLAGES OF BICHOLIM TALUKA OF NORTH GOA DISTRICT, GOA

[Prepared as per Minerals (Evidence of Mineral Contents) Amendment Rules, 2021 Schedule-I (d), PART IV- A Template]

Prepared by

Sudhir Mandrekar, Assistant Geologist and other officers of Directorate of Mines and Geology, Goa, Institute Menezes Braganza, Ground Floor, Panaji-403001

(From data/information made available by lessee to department)

September

2022

GEOLOGICAL REPORT OF IRON ORE RESERVE AND RESOURCE IN THE BLOCK-II - SIRIGAO-MAYEM MINERAL BLOCK GOIGONEM T.C.NO.13/1949 & CUPLEIGAICHO GUER DONGOR T.C.NO.5/1949) Mining Lease No.07/AMLG(ML-2)/CCPL/17 OVER AN AREA OF 171.2472 Ha. IN SIRIGAO & MAYEM VILLAGES OF BICHOLIM TALUKA OF NORTH GOA DISTRICT, GOA

		Low –Grade Ore	1.713	+ 45 % - 54%
		Sub Total	5.003	
		Grand Total	**23.584**	

4.5 Ore to Waste Ratio

Based on the ultimate pit design, the summary of computed mining blocks gives mineable ore reserves of 14.539 million tonnes against waste handling of 25.0 million tonnes, with an overall stripping ratio of 1:1.72 (Ore:waste). Upto the Conceptual period (lease period) only 3.881 million tonnes of ROM will be mined against handling of 11.012 million tonnes of waste with an overall stripping ratio of 1:2.83 (Ore:waste).