



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE

ORIGINAL APPLICATION NO. 101 OF 2019 (WZ)

IN THE MATTER OF

Mr. Sayyed Mohammad Sabir Usman & Anr. ...Applicants

Versus

Union of India Through
Secretary, MoEF & CC and ors. ...Respondents

AFFIDAVIT-IN-REPLY ON BEHALF OF RESPONDENT NO. 32

I Yunus, S/o A. Habib Hamdani, aged 75 years,
residing at Baykot, Ahuja Bhavan, Votaval,
do hereby state on solemnly affirmation as under:

1. That, I have read and understood the contents of the Application filed by the Applicants and the allegations pertaining to the answering respondents are denied as hereunder.
2. It is submitted that the Respondent is filling the present Affidavit for the limited purpose of opposing the admission of the present Application and crave leave of this Hon'ble Court to file further Affidavit when necessary.
3. Before dealing with the main submissions, contentions and allegations of the Applicants in the Application, I submit before this Hon'ble Court a few points of preliminary contentions as to the maintainability of the present Application, as on hearing of the said preliminary contentions, the Application of the Applicant is likely to be dismissed of in lime line.

Yunus





3.1. It is pertinent to note that that Respondent No.24 has duly fulfilled their obligation by remitting the imposed penalty, thereby addressing the violation attributed to them under the Environmental Impact Assessment (EIA) Notification of 2006. The payment made by Respondent No.32 stands as a clear and unequivocal acknowledgment of their responsibility in rectifying the purported violation. A copy of the payment of receipt dated 09.09.2023 is annexed herewith as **Annexure-A**.



3.2. That it is crucial to emphasize that, as on the date of this submission, there exists no ongoing violation on the part of Respondent No.32 concerning the provisions outlined in the EIA Notification of 2006. Furthermore, there is no documented evidence implicating Respondent No.32 in illicit extraction activities. The absence of records establishes a lack of substantiated claims against Respondent No.32 for unlawful extraction. The Industries and Mines Department, responsible for industrial information, has not provided any additional details or evidence against Respondent No.32. This lack of information raises questions about why Respondent No.32 is being implicated in the petition. The inclusion of Respondent No.32 lacks a clear and justifiable basis, as the current record fails to establish a legal or factual foundation for attributing alleged illegal extraction activities on them.

3.3. Thus, from the above preliminary contentions, it is clear that based on such contentions alone the name of the Respondent no. 32 need to be deleted in the captioned matter.

[Handwritten signature]



4. At the outset, I deny all the allegations, averments, contentions, and submissions of the Applicants in the Application save and except what has been expressly admitted by me here in below. I further say that the said denial may kindly be treated as specific denial of all the allegations, averments, contentions, and submissions of the Applicants in the Application as if they all are specifically dealt with and traversed. I reiterate that my further reply to the contents of the Application hereinafter would be without prejudice to what is stated hereinabove.

5. I now crave leave of this Hon'ble Court to deal with the present Application by replying in general sense and will not deal with each and every allegation and contention and also not deal with the same by giving reply in seriatim. However, it is stated that non dealing of any of the contention or allegation in the Application will not amount to accepting the same, as the same is denied in totality.

5.1. I state and submit that on 12.09.2017, Respondent No. 32 initiated the regulatory process by formally submitting an application seeking Environmental Clearance (EC) for the project in question. Further on the 28.01.2019, the regulatory authority issued Terms of Reference (TOR), thereby outlining the parameters for subsequent assessments. Subsequently, the project underwent through an Environmental Impact Assessment (EIA) conducted with due diligence to evaluate and quantify the potential environmental repercussions associated with the proposed project between the months of October and December 2021.





A copy of TOR issued on 26.01.2019 is annexed herewith as

Annexure-B.

5.2. Further I state and submit that pursuant to the aforementioned Public Hearing held on the 11.10.2022, the Gujarat Pollution Control Board (GPCB) has initiated criminal proceedings against Respondent No. 32 before the Learned Judicial Magistrate Court situated at the Talala Taluka. This regulatory intervention underscores a credible action by the GPCB in response to violation attributed under the Environmental Impact Assessment (EIA) notification of 2006.



5.3. I state and submit that in connection with the aforementioned legal proceedings, an order was issued by the Hon'ble Court on the 09.09.2023. Pursuant to this the Hon'ble Court ordered to endure the punishment of remaining in the court until the rising of the court following a penalty of Rs. 30,000 was imposed on Respondent No. 32 and that was duly adhered to. That in compliance with the directive of the Hon'ble court as per its order dated 09.09.2023, the amount of Rs. 15,000 was paid by the lease holder while the remaining sum of Rs. 15,000 was paid by the in-charge. In adherence to the Hon'ble courts order dated 09.09.2023, the present respondent expeditiously paid the aggregate amount of Rs. 30,000 on the same day i.e. 09.09.2023. A copy of order dated 09.09.2023 issued by the Hon'ble Court is annexed herewith as **Annexure-C.**



5.4. I state and submit that notwithstanding the applicant's contentions against the project proponent, which relate to alleged violations of laws, Respondent No. 32 has unequivocally demonstrated compliance by promptly adhering to the court-ordered penalty associated with the same violation. This action serves as a testament to a proactive approach in addressing and rectifying regulatory concerns in a timely manner.

5.5. I state and submit that in accordance with the report on damage assessment due to illegal mining of limestone, as submitted by the Gujarat Pollution Control Board, Gandhinagar, the State Level Expert Appraisal Committee, Gujarat, the Office of Geology and Mining, and the District Magistrates of Porbandar, Rajkot, Junagadh, Devbhumi Dwarka, and Jamnagar Districts (hereinafter collectively referred to as the "Joint Committee"), it has been duly observed during the inspection that there is no ongoing mining activity by Respondent No. 32. Furthermore, the Joint Committee has provided remarks indicating the absence of visible signs of damage to vegetation, crops, and horticulture plantations. Moreover, it has been observed that there is no evidence of harm to the village habitation. Considering the absence of blasting or extensive mechanization needs, it is determined that these mines do not present a substantial risk of pollution. This conclusion is drawn from the thorough evaluation undertaken by the Joint Committee, as detailed in the previously mentioned report. For the ready reference of the court the relatable portion of the report is reproduced below:





"24. M/S. YUNUS ABDUL HABIB LIMESTONE MINE
Survey No. 189, Village-Semarvav, Taluka-Talal,
District- Gir Somnath

"Remarks:

.....During the inspection of all the above 26 mine leases, surrounding areas and along transport routes, no visible signs of any damage on vegetation, crops and horticulture plantation was observed. Looking at the method and extent of mining in the past and the distance of nearest village habitation, no damage has been observed on the village habitation. Since, there is no blasting or large scale mechanization requirement, there is no significant pollution potential from these mines, except dust generation from mineral transport activities."



6. I state and submit that the inspection revealed no ongoing illegal mining activities by Respondent No. 32, and it has been noted that there is no observable damage to vegetation, crops, or village habitation. Furthermore, that Respondent No. 32 has already complied with the order passed by Learned Judicial Magistrate Court and paid the penalty imposed on 09.09.2023.
7. It is therefore submitted that it is clear that the Applicant has not provided any supplementary details or evidence implicating Respondent No. 32 in the extant matter. The paucity of information from the Industries and Mines Department creates ambiguity regarding the rationale behind implicating and joining Respondent No. 32 as a party in the ongoing petition. Given the absence of tangible evidence or corroborative information, it is submitted with due respect that the inclusion of Respondent No. 32 as a party in

Usha Kusarwa



7

the present petition lacks a clear and justifiable foundation. The current evidentiary record does not establish any legal or factual basis for attributing the alleged illegal extraction activities to Respondent No. 32.

8. In the view of the above submissions, I humbly request to the Hon'ble court that the prayer made by the Applicants is not maintainable and the name of Respondent no. 32 needs to be deleted from the captioned matter.



What is stated hereinabove is true to the best of my knowledge and information and belief.

Solemnly affirmed, on oath on this 22 day of February, 2024 at Varanasi.

[Signature]
[Signature]

Deponent

Book No. 36
Page No. 118
Serial No. 530
Date 22-02-2024



Yunus A. Habib Hamdani
SOLEMNLY AFFIRMED
BEFORE ME

[Signature]
USHA K. KUSAKIYA
NOTARY
GOVT. OF INDIA

R.H.D. NO. 3360/3, dated 07.11.33] M.M. 204 e.

RECEIPT BOOK

Date: 09.09.2023

No.52

Received from (2) Irfan Yunushbhai Hamdani
an amount of RS. 15,000/- on account of fine
imposed under the confession made for the
offence of sections 15, 16, 17 of the
Environment Protection Act in Criminal Case No.
553/2022.

Sd/- illegible

Registrar

Principal Civil Judge and
Judi. Magistrate F.C. Court

Talala

9

R., H. D., No. 3360/3, dated 7-11-33 J M. M. 204 e.

RECEIPT BOOK

Date 21/11/33 201

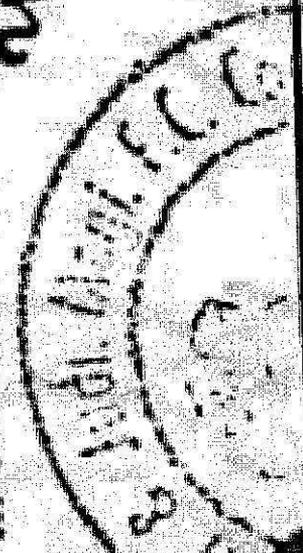
No. 51 1 33 AM 10

RECEIVED FROM 21/11/33 201 33 AM 10

an amount of Rs. 2,000/-
on account of fine imposed on 21/11/33 201 33 AM 10

in criminal case No. 21/11/33

RECEIVED FROM
PRINCIPAL MAGISTRATE JUDGE &
JUDI MAGISTRATE F C COURT
TALAGA



R.H.D. NO. 3360/3, dated 07.11.33] M.M. 204 e.

RECEIPT BOOK

Date: 09.09.2023

No.51

Received from (1) Lime Stone Mines of Yunushbhai Abdulbhai Habib Hamdani an amount of RS. 15,000/- on account of fine imposed under the confession made for the offence of sections 15, 16, 17 of the Environment Protection Act in Criminal Case No. 553/2022.

Sd/- illegible

Registrar

Principal Civil Judge and
Judi. Magistrate F.C. Court

Talala

3482

Aman-B
10

S. M. SAIYAD, IFS
MEMBER SECRETARY
SEIAA (GUJARAT)



STATE LEVEL ENVIRONMENT
IMPACT ASSESSMENT
AUTHORITY
GUJARAT

Government of Gujarat

No. SEIAA/GUJ/TOR/1(a)/ 155 /2019

Date: 28 JAN 2019

By R.P.A.D

Sub: Terms Of Reference to M/s. Samarvav Limestone Mine (Lease Area: 04.90 Ha) at Survey No. 189/P, Vil. Samarvav, Ta. Talala, Gir Somnath.

Time Limit

Ref: Your Proposal No: SIA/GJ/MIN/66954/2018.

Dear Sir,

This has reference to your online application dated 12/09/2017 along with Form-I, PFR & Approved Mine Plan submitted to SEIAA. The project activity is covered in 1(a) and is of 'B' Category.

The SEAC, Gujarat vide their letter dated 09/01/2019 had recommended to the SEIAA, Gujarat, to grant the Terms Of Reference for the above-mentioned project based on its meeting held on 03/01/2019.

The proposal was considered by SEIAA, Gujarat in its meeting held on 09/01/2019 at Gandhinagar. After careful consideration, the SEIAA hereby accords Terms Of Reference to above project under the provisions of EIA Notification dated 14th September, 2006. The copy of Terms Of Reference is attached herewith.

With regards,
Yours sincerely,

(S. M. SAIYAD)
Member Secretary

Encl: As Above

Issued to:
Shri Yunus Abdul Habib Hamdani
M/s. Samarvav Limestone Mine
Rajmahal Road, Opp. Musafir Khana,
Vip - Veraval, Gir Somnath.



Terms Of Reference (TOR) to M/S Samarvav Limestone Mine (Lease Area 4.90Ha); Survey NO: 189/P, Village: Samarvav, Ta: Talala, Dist: Gir Somnath (Gujarat).

Category of the Projects: 1(a)

It is a limestone mining project and located at Survey NO: 189/P, Village: Samarvav, Ta: Talala, Dist: Gir Somnath (Gujarat).

TOR File NO.	Name of Project	SNO	Village	Ta	Dist	Lease Area in Ha	ROM	Nearest Human Habitation	Mineral
SIA/GJ/MIN/26389/2018	Samarvav Limestone Mine	189 P	Samarvav	Talala	Gir Somnath	4.90 HA	27018 MTPA	Devadi: 550meter	Limestone
SIA/GJ/MIN/20296/2018									

- I. Proposed production of Limestone is 27018 MTPA. The proposal falls in project / activity no. 1(a) of the Schedule of the EIA Notification, 2006 and as the lease area is less than 100 Hectares, it falls under category B1 vide amended EIA notification dated 14.08.2018.
- II. The project proponent submitted application along with Form-I, PFR & Approved Mine plan vide proposal no SIA/GJ/MIN/26389/2018 on 12/09/2017.
- III. PP along with consultant represented proposal before the SEAC on 04/12/2018. During presentation, date of lease allotment to the first lessee and renewal thereon was discussed along with production taken. PP mentioned that they have produced mineral without obtaining prior environmental clearance.
- IV. It is noted that the project proponent has initiated the mining operation at the lease without obtaining prior Environmental Clearance which is in violation of the provisions of EIA notification, 2006. Thus Proposal attracts the provisions of MoEFCC Notification dated 14/03/2017 and its amendment dated 08/03/2018 as well as the MoEFCC's Office Memorandum F.No.Z-11013/22/2017-IA.II(M) dated 16/03/2018 published by MoEFCC in context to the order dated 14/03/2018 of the Hon'ble High Court of Judicature at Madras in WMP Nos.3361 & 3362 of 2018 and WMP No. 3721 of 2018 in WP No. 11189 of 2017.
- V. In view of above, TOR to the aforementioned proposal under category 1(a) are prescribed as approved during its 97th meeting held on 24th August 2018 including indicative guideline for assessment of ecological damage.
- VI. Project proponent may be asked to submit the draft EIA report covering all the TOR and it shall be submitted to the GPCB for conducting the public hearing / consultation process as per the provisions of the EIA Notification, 2006.



12

TERMS OF REFERENCE FOR THE MINING PROPOSALS FALLING UNDER CATEGORY 1(i) OF EIA NOTIFICATION 2006 WHICH ARE UNDER VIOLATION

For Mining proposals under category 1(a) vide amended notification dated 08.03.2018 of MOEF&CC, New Delhi, following TOR are accorded along with an indicative guideline for assessing the environmental damage.

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 to 1994.
 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, superimposed 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. 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 safeguard measures in each case should also be provided.
 9. The study area 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 area 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 visit the Expert Appraisal Committees.
- 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.



13

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 wildlife 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 (10 km 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 programme 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 groundwater. Necessary data and documentation in this regard may be provided. In case the working will intersect groundwater table, n



14

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 Greenbelt 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 up front 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 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:-
 1. Executive Summary of the EIA/EMP Report
 2. All documents to be properly referenced with index and continuous page numbering.
 3. Where data are presented in the Report especially in Tables, the period in which the data were collected and the sources should be indicated.
 4. 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.

15

5. Where the documents provided are in a language other than English, an English translation should be provided.
6. The Questionnaire for environmental appraisal of mining projects as devised earlier by the Ministry shall also be filled and submitted.
7. While preparing the EIA report, the instructions for the Proponents and Instructions for the Consultants issued by MoEF&CC vide O.M. No. J-11013/41/2008-IA.II(I) dated 4th August, 2009, which are available on the website of this Ministry, should be followed.
8. 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/EEMP (other than modifications arising out of the P.H. process) will entail conducting the PH again with the revised documentation.
9. 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.
10. The EIA report should also include (i) surface plan of the area indicating contours of main topographic features, drainage and mining area, (ii) geological maps and sections and (iii) sections of the mine pit and external dumps, if any, clearly showing the land features of the adjoining area.

Beside above standard TOR, following additional TORs are recommended:

1. Project site specific details such as distance of the project site from nearest (1) Village (Habitation) (2) Water Body River / Creek / Nallah / Lake / Pond / Check dam / Reservoir / Canal / French well / Percolation Well (3) National Highway / Bridge Pier (4) State Highway / Bridge Pier (5) Railway line / Bridge (6) Heritage site (7) National Park / Wild Life Sanctuary / Reserve Forest / Protected Forest shall be included in the rapid EIA report to be prepared covering one season (other than monsoon) data. A map indicating the aerial distance of the lease area from these entities.
2. Distance of nearby mining lease areas from the periphery of the proposed project including a map covering distance of 1 Km from the periphery of the proposed project. In case of no mining lease areas are existing within 500 meter periphery of the proposed project, certificate of the concerned geologist in this regard. (i) Commissioner of Geology & Mining, Indian Bureau of Mines, GPCB, current lease renewal status from Industries and Mine department, Government of Gujarat with opinion of the district geologist regarding compliance of all the conditions in lease deed and copy of renewed lease (if any) etc. to be incorporated.
3. Approved mining plan including progressive mine closure plan shall be provided with EIA report. Letter of approval of IBM shall also be incorporated with compliance of all the recommendations mentioned in approved mining plan.
4. Specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan for the proposals under violation of EIA Notification 2006.
 1. Ecological damage shall be assessed with respect to air, water, land and other project & location specific environment attributes. The collection and analysis of data shall be done by an environment laboratory duly notified under Environment (Protection) Act, 1986, or an environment laboratory accredited by NABL, or a laboratory of a council of Scientific and Industrial Research (CSIR) institution working in the field of environment.
 2. The Environment Management Plan shall be prepared which shall comprise of the remediation plan and community & natural resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation. The remediation plan and the natural & community resource augmentation plan prepared shall be included as an independent chapter in the EIA report.
 3. The project proponent shall submit bank guarantee to Gujarat Pollution Control Board prior to grant of environmental clearance equivalent to the amount of remediation plan and Natural & Community



16

augmentation plans as per the amount assessed in below mentioned table as per the indicative guidelines OR equivalent to the CER amount as per the MOEF&CC's office Memorandum No: F NO 22-65/2017-IA-III dated 01/05/2018, whichever is higher. The amount shall be recommended by the SEAC and finalized by the SEIAA. The bank guarantee shall be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after recommendation by regional office of the Ministry followed by recommendations of the SEAC and approval of the SEIAA.

4. The proposals under violation shall pursue CER activities for the amount double than that arise from the actual provision as per the MOEF&CC's office Memorandum No: F NO 22-65/2017-IA-III dated 01/05/2018 and it shall be incorporated in the EIA report.
5. Bank Guarantee shall be released only after
 1. Successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after recommendation by regional office of the Ministry, State Level Expert Appraisal Committee and approval of the SEIAA.
 2. Compliance of all the CER activities for the amount double than that arise from the actual provision
6. Gujarat Pollution Control Board shall initiate credible legal action against the project proponent under the provisions of the Environment (Protection) Act, 1986, and further no consent to operate to be issued till the project is granted Environmental Clearance.
7. A notarized undertaking stating that (1) Any such violation shall not be repeated in future, (2). All the statutory requirements shall be fully complied with and (3). A status quo shall be maintained at the project site and remaining activity shall be carried out only after obtaining Environmental Clearance from SEIAA.
8. Applicability of CRZ Notification, 2011 shall be verified for the project and if found applicable, due procedure shall be followed as per the CRZ Notification, 2011.

5. Project Specific Conditions:

Honorable supreme court vide judgment dated 2nd August 2017 with writ petition (Civil) No 114 of 2014 in the matter of common cause versus union of India and others has passed order interpreting section 21(5) of the MMDR Act and directed payment of 100% Penalty for illegal mining operation with reference to the relevant statutes, which inter alia include Environment (Protection) Act 1986, the Water (Prevention and Control of Pollution) Act 1974 and Air (Prevention and Control of pollution) Act 1981, The Forest (Conservation) Act 1980 and the Mines and Minerals (Development & Regulation) Act 1957. In this context In order to additionally comply with the direction of Hon'ble Supreme Court dated 02/08/2017 vide writ petition (Civil) NO 114 of 2014 Following additional conditions in TOR are required to address and comply.

1. The project proponent shall give an undertaking by way of affidavit to comply 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 the matter of common cause versus Union of India and others before grant of TOR/EC. The undertaking inter alia include commitment of PP not to repeat any such violation in future.
2. In case of violation of above undertaking, the TOR/EC shall be liable to be terminated forthwith.
3. The Environmental Clearance will not be operational till such time 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 the matter of Common Cause versus Union of India and others.
4. State government concerned shall ensure that mining operation shall not commence till entire compensation levies, if any, for illegal mining paid by the Project proponent through Their respective department of Mining and Geology in strict compliance of judgment of Hon'ble Supreme Court dated 2nd August 2017 in Writ Petition (Civil) No 114 of 2014 in the matter of Common Cause versus Union of India and others.

6. Validity of ToR:

- The ToR prescribed for the project will be valid for a period of three years for submission of EIA & EMP report. ToR will lapse after three years from date of issue.

17

The period of validity could be extended for a maximum period of one year provided an application is made by the applicant to the Regulatory Authority, at least three months before the expiry of valid period together with an updated Form-I, based on proper justification and also recommendation of the SEAC.

The above mentioned project specific TORs/additional TORs and the model TORs available in the MoEFCC's sector specific EIA Manual for Mining Projects shall be considered as generic TORs for preparation of the EIA report in addition to all the relevant information as per the generic structure of EIA given in Appendix III in the EIA Notification, 2006. The project shall be appraised on receipt of the final EIA report.

INDICATIVE GUIDELINE FOR ASSESSMENT OF ECOLOGICAL DAMAGE:
Assessment of ecological damage and remediation plan shall address the following attributes:

EMP Sub-Components									
AP	WP	SHW	TP	NV	GB	HG	RH/OHS	SC	CER
Air Pollution	Water Pollution	Solid & Haz. Waste	Transportation	Noise & Vibration	Greenbelt	Hydro-Geology	Risk Hazards/ Occupational Health & Safety	Soil Conservation	Corporate Environmental Responsibility

Salient Feature of the Project:

Type of Mineral	
Lease Area (In Sq. Meter)	
Quantity of Mineral In MT	
No. of working days	
Price of Mineral in Rupees per MT	
Total cost of Mineral in Rs	

Attributes	Scope of Environmental benefits earned	EMP COST	
			Total cost (Rs.)
AP	Water requirement per day for sprinkling of water to curb fugitive emission In KL (0.1 Liters per sq.m.) Cost of 1 KL water for sprinkling in Rupees		
WP	Major water pollution envisioned : 1. Ground water table intersection if any.2. Run off water outside the lease and estimated damage caused considering period of violation in RS. Per day		
SHW	When there is an overburden, Quantity of Over Burden in MT * 10 Rs. Per MT O.B.handling charges * 2 (Lifting and shifting frequency) When there is no Overburden, only mining waste handling charges are to be considered. Mine waste in MT * 10 Rs Per MT of mineral waste handling *2 (Lifting and shifting frequency)		
NV	• Existence of House properties/env. entities within 500 meter of blasting site and if damaged due to blasting. • Nos of such properties/env. Entities. • Built up area of each property/env. Entities • Cost of reconstruction of properties (total) considering current construction cost per Sq. Meter.		
GB	Green Belt developed in 10% of leased area Green belt area in M2. Presume 1 plant per 4 m2 is to be planted. Cost of single plant Total cost of green belt		
HG	No major HG issues envisioned, considering no ground water interception If intersection of ground water is made, cost of one time remediation plan after estimating extent of contamination of ground water		

18

RH/OHS	• Health Expenditure: Nos of workers * Rs 1000 PPE expenditure No of workers * Rs 300 Total expenditure for health and safety for workers * Nos of year		
CER	10% of Mineral Value		
SC	Cost of preservation, Handling and reuse of Top soil : (Cost of Soil preservation is assumed to be Rs 10,000 per 1 Hectare)		
Total Assessed Env. Damage Cost in Rupees			
Environmental Damage Cost in % of Mineral Value	(Total Assessed Env. Damage Cost in Rupees/Value of Mineral in Rs.) * 100		

Note:

For the aforementioned assessment, following basis are taken:

1. Quantity of water sprinkling for curbing fugitive emission is assumed as 0.1 Liters per sq.m.
2. Cost of water availability is to be considered on prevailing local market
3. Over burden removal and its shifting are considered as two separate activities.
4. For damage of house, entire construction of house considering built up area and local prevailing rate of construction are to be considered.
5. For green belt 1 plant is assumed in 4 sq. meter area and 10% of lease area is proposed to be developed as green belt.
6. It is assumed that One Hectare mine requires 2 workers.
7. Cost of health check up per worker is Rs 1000/- or prevailing local marker rate.
8. Cost of PPE per worker is Rs 300/- or prevailing local marker rate.
9. Cost of preservation, handling and restoration for 1 Ha lease is Rs. 10,000/-.

The project proponent shall submit bank guarantee to Gujarat Pollution Control Board prior to grant of environmental clearance equivalent to the amount of remediation plan and Natural & Community augmentation plan as per the amount assessed in aforementioned table as per the indicative guideline above OR equivalent to the CER amount as per the MOEF&CC's office Memorandum No: F NO 22-65/2017-IA-III dated 01/05/2018, whichever is higher.

The proposals under violation shall pursue CER activities for the amount double than that arise from the actual provision as per the MOEF&CC's office Memorandum No: F NO 22-65/2017-IA-III dated 01/05/2018 and it shall be incorporated in the EIA report.

Bank Guarantee shall be released only after

1. Successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after recommendation by regional office of the Ministry, State Level Expert Appraisal Committee and approval of the SEIAA.
2. Compliance of all the CER activities for the amount double than that arise from the actual provision.

ક્રિમિનલ કેસ નંબર :- 553/2022

આંક - 01 લાગત હુકમ

આ કામ ના આરોપીઓ (1) લાઇમ સ્ટોન માઇન્સ ઓફ યુનુસભાઇ અબ્દુલભાઇ હબીબ હમદાણી અને (2) ઇરફાન યુનુસભાઇ હમદાણી ના ઉપર પર્યાવરણ (સુરક્ષા) અધિનિયમ 1986 ની કલમ 15, 16, 19 અન્વયે ભારત સરકાર ના નોટિફિકેશન ના ભંગ બદલ ફરિયાદ થતા મુજબ નો ગુનો કરેલ છે. સબબ આજ રોજ આરોપીઓ તેમના વી. વકીલ શ્રી સાથે હાજર છે. ફરિયાદી ના વી. વકીલ શ્રી એ અગાઉ આરોપી જો કબૂલાત કરતા હોય તો સમર્થન આપેલ છે. અને જણાવેલ છે કે આરોપીઓ એ ગુનો કબૂલ કરી શકે છે. આરોપી એ આજ રોજ નેશનલ લોક અદાલત સ્પેશિયલ સીટિંગ માં ગુના ને કબૂલાત કરેલ છે. અને ઓછામાં ઓછી સજા કરવા અરજ કરેલ છે. જે આંક - 09 10 થી કબૂલાત રેકર્ડ ઉપર રજૂ છે. સબબ કામે, સબબ કાયદા ની જોગવાઈ જોતા, કલમ 15 માં સજા ની જોગવાઈ આપેલ છે તે મુજબ 5 વર્ષ સુધી ની સજાની જોગવાઈ અથવા તો એક લાખ રૂપિયા સુધીનો દંડ અથવા તો બંને થઈ શકે છે. આજ રોજ નેશનલ લોક અદાલત છે. અને સ્પેશિયલ સીટિંગ માં આરોપીએ એ ઓછામાં ઓછી સજા કરવા અરજ કરેલ છે. અને હવે પછી આવી કોઈ પ્રવૃત્તિ નહિ કરે તેની બાંહેધરી આપે છે તેવા કિસ્સા માં નામદાર કોર્ટ દ્વારા સબબ આરોપીઓ ની કબૂલાત ગ્રાહ્ય રાખેલ છે. અને જો મહત્તમ સજા કરવા માં આવે તો, લોક અદાલત નો ઉદ્દેશ પૂર્ણ થઈ શકે નહિ જેથી ઓછામાં ઓછી સજા મુજબ ની અરજ પણ ગ્રાહ્ય રાખવામાં આવે છે. જેથી ન્યાય ના હિત માં નીચે મુજબ ની સજા નો હુકમ કરવામાં આવે છે.

હુકમ

આરોપીઓ ને કબૂલાત ના આધારે તકસીરવાન ઠરાવતા આરોપી દીઠ રૂ. 15000/- ગણી કુલ બે આરોપી હોય, કુલ રૂપિયા 30,000/- (ત્રીસ હજાર રૂપિયા) નો દંડ કરવામાં આવે છે અને કોર્ટ ઉઠતા સુધી ની સજા (till the rise of the court) કરવાનો હુકમ કરવામાં આવે છે.

હુકમ આજ રોજ નેશનલ લોક અદાલત ના દિવસે, સ્પેશિયલ સીટિંગ માં વાંચી સંભળાવી જાહેર કર્યો.

તા.09-09-2023

(એસ.આઈ.ચૌહાણ)
જ્યુડી.મેજી.ફર્સ્ટ.ક્લાસ, તાલાલા.

Criminal Case No. 553/2022Order below Ex. 1:

Due to breach of the notification of the Central Government, the complaint has been made against the accused of this case namely (1) Lime Stone Mines of Yunusbhai Abdulbhai Habib Hamndani and (2) Irfan Yunusbhai Hamdani and thereafter, offence has been registered against them under Sections 15, 16 and 17 of the Environment Protection (Safety) Act 1986. Today, the accused are present with their learned advocate. Learned advocate for the complainant has given support if the accused are making confession and stated that the accused can confess their offence. Today, the accused have confessed the offence today in special sitting of National Lok Adalat and requested to pass minimum sentence. Such confession has been produced on record vide Ex. 09 and 10. In this case, while considering the provisions of the Act, the provision of sentence is made in Section 15 and the provision of sentence is for 5 years or fine of Rs. 1 lac or both. Today, National Lok Adalat is arranged and in such

special sitting, the accused have requested to pass minimum sentence and are giving an undertaking that they will not do such any of any activities and thus in such case, the Hon'ble Court has accepted their confession and if maximum sentence will be passed then the purpose of Lok Adalat would not be satisfied and therefore, their request to pass minimum sentence is accepted and in the interest of justice, the below mentioned order of sentence is passed.

ORDER

On the basis of the confessions made, the accused are held guilty and they are ordered to pay fine of Rs. 30,000/- (Rupees Thirty thousand only) each of Rs. 15,000/- and are sentenced to sit till the rise of the court.

This order is pronounced, declared and read in the today in the special sitting of the National Lok Adalat.

Date: 09.09.2023

(S. I. Chauhan)

Judicial Magistrate First Class,

Talala