

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

Original Application No. 07/2023(WZ)

Dattatraya Phalke

Applicant

Versus

Union of India & Ors

Respondent(s)

AFFIDAVIT-IN-REPLY ON BEHALF OF

RESPONDENT NOS.4 to 7

Samir Premvir Mane, Age: 42 years, Tahsildar Ajara,

Taluka Ajara, Dist. Kolhapur, do hereby state on solemn
affirmation as under –

1. I say that, I have been authorized to file this Reply on
behalf of the Respondent Nos. 4 to 7 to the original
application. This reply is based upon the record that was
made available to me. Nothing in this Affidavit be treated as
an admission of something stated in the original application

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Samir

unless it is clarified, or otherwise explained. I may be permitted to file further Affidavit(s) if the circumstances so require.

I say that the Applicant has objected to the mining operations of the respondent No.9 on land Gat No.80 and 95 village Jadhawadi, Tal. Ajara, Dist. Kolhapur. I say that temporary permitted land is Gavai Pad and has uneven topography.

The Original Application alleges that the Respondent No.9 has deliberately not obtained prior Environmental Clearance (EC) for the project on the aforementioned lands and has excavated more than 20,000 brass of stone, Murum, sand, etc. This makes their activity to be illegal mining. Therefore, the applicant has prayed for direction to impose Exemplary Environmental Compensation in terms of the formula derived by the Central Pollution Control Board (CPCB) in O.A.No.593/2017 in the matter of 'Paryavaran Suraksha Samiti & another Vs. Union of India and others'.

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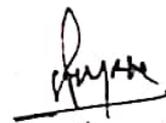
3. I say and submit that, Environmental Clearance (EC) is not required for temporary permit. Also, CTO and CTE are not concerned with present Respondents. The temporary permit granted by Respondent is as per the rules and regulations and provisions of Maharashtra Minor Mineral Rules, 2013.

I say that the project proponent has extracted 8,862 brass in Gat no.95 and 7,195 brass in Gat no.80 situated at Adhewadi, Tal- Ajara, Dist-Kolhapur. This is against 10,000 brass permitted in each of the above Gat nos; it is clear from the ETS measurement of the said Gat nos carried out by the Director of Geology and Mining Department of Government of Maharashtra.

I say that it would not be out of place to put on record a brief history of the legal position in this regard. Before 2013, the following rules were in operation in the State of Maharashtra, pertaining to the minor minerals.

a) The Rules Regulating the Working of Minor Minerals, 1954.

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- b) The Bombay Minor Mineral Extraction Rules, 1955.
- c) The Maharashtra Minor Mineral Extraction (Vidarbha Region) Rules, 1966.

4. I say that on 14.09.2006, the Central Government issued a Notification bearing No.SO 1533(E). This

notification makes it obligatory to obtain EC with regard to the projects and activities mentioned in para 2 and the Schedule Appended to the said notification. As per this notification, no EC was required if mining was undertaken

in an area of less than 5 Hectare. However, it was brought to

the notice of the Hon'ble Supreme Court that the Department of Mines and Geology, Govt. of Haryana issued

an Auction Notice dated 03.06.2011 proposing to auction

the Excavation of Minor Minerals, Boulders, Gravels, and

Sand quarries of an area not exceeding 4.5 hectares, the

Hon'ble Supreme Court took the view that EC is necessary

even if mining is undertaken in an area less than 5 hectares.

In 'Deepak Kumar Vs. State of Haryana : (2012) 4 SCC 629,

the Hon'ble Supreme Court directed all the States, Union



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Territories, MoEA and the Ministry of Mines to give effect to the recommendations made by MoEF in its Report of March, 2010 and the Model Guidelines framed by the Ministry of Mines.

5. Then the State Government took into account the law on the point and the Judgement of Apex Court in 'Deepak Kumar's Case and brought into effect the Notification No. Gavkhani-10/0812/CR-613/KH i.e. Maharashtra Minor Mineral Extraction (Development & Regulation) Rules, 2013. These Rules envisaged granting quarries and Quarry Permits. The provisions of Rule 11 insisted for EC Certificate to be accompanied by Application of Quarry Lease. Chapter IV deals with the grant of quarry permits. Rule 59 empowers the Competent Officers to grant short-term permits for Minor Minerals. Rule 61 deals with application for quarry permits. None of the provisions of this Chapter insist for prior EC in case of grant of quarry permit (temporary permit). The said notification is dated 18.07.2013.

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6. The State Government issued a Clarification dated 12.12.2013 that there is no requirement for EC in respect of quarry permit (temporary permit) permit granted under Chapter IV of the Maharashtra Minor Mineral Rules, 2013 . Hereto annexed and marked as **EXHIBIT 'R-1'** is the copy of the Chapter IV of 2013 Rules and marked as **EXHIBIT 'R-2'**, the Clarification dated 12.12.2013.

7. I state that Chapter IV, Rule 58 and 59 deal with short-term permits for Minor Minerals.

8. I say that in exercise of the powers under Chapter IV of the Respondent No.4 granted a quarry permit (temporary Permit) to the Respondent No.9 for construction of road National Highway No.548H and extraction and removal of minor minerals are used for development of national highway work for public purpose.

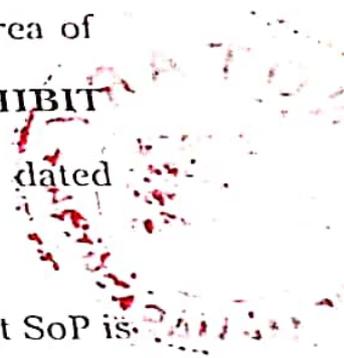
9. In view of the above legal position, no prior EC was insisted.

10. I say that the MoEF has issued a notification dated 28.03.2020. Under this Notification, no EC is required in

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case of linear projects. It is submitted that, this notification came into effect of Deepak Kumar Judgement. This notification is annexed herewith and marked as **EXHIBIT 'R-3'**. Pursuant to this Notification, MoEF has issued office memorandum dated 08.08.2022 laying down SoP for carrying out excavation of Ordinary Earth borrow area of linear projects. Hereto annexed and marked as **EXHIBIT 'R-4'** is the copy of the Office Memorandum dated 08.08.2022 and the SoP.



11. I say that, henceforth my office will ensure that SoP is followed in letter and spirit.

12. I say that by letter dated 24.03.2022, the State Government has directed all the Divisional Commissioners and all the District Collectors that no quarry permit (temporary permit) be given in view of the pendency of the issue before NGT. The said direction is at **EXHIBIT 'R-5'**. This letter was challenged by Orange City Stone Crusher Owners' Association, Nagpur by way of WP No.2153 of 2022 and by Judgement and Order pronounced on 14.10.2022 a

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Division Bench of Hon'ble High Court of Judicature at Bombay has set aside the said communication dated 24.03.2022. Resultantly, the State Government is required to go by the Rules of 2013. Copy of the said Judgement dated 14.10.2022 delivered in WP No.2153 of 2022 is annexed herewith and marked as **EXHIBIT 'R-6'**. The net result of the aforesaid Judgement of the Bombay High Court is that for quarry permits (temporary permits), No Environment Clearance is necessary.



13. In view of the aforementioned Judgement of the Hon'ble High Court of Bombay, the State Government has issued a Circular dated 13.10.2022, thereby clarifying that no separate Environmental Clearance is necessary for linear projects. The said Circular dated 13.10.2022 is annexed herewith and marked at **EXHIBIT 'R-7'**.

14. I submit that Rules of 2013 have neither been stayed nor have they been set aside by any competent authority. Further, by letter dated 20.10.2022, all the Divisional Commissioners & Collectors have been directed to grant

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quarry permit (temporary permit) The said letter dated 20.10.2022 is annexed herewith and marked at **EXHIBIT 'R-8'**.

15. I say that, consent to establish and consent to operate are granted by MPCB. Therefore, it will answer any allegations regarding this.

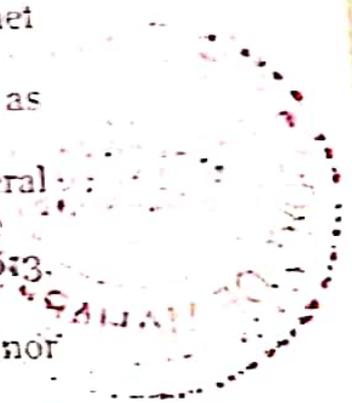
16. I say that the project proponent has extracted 8,862 brass in Gat no.95 and 7,195 brass in Gat no.80 situated at Jullhewadi, Tal- Ajara, Dist-Kolhapur. This is against 10,000 brass permitted in each of the above Gat nos; it is clear from the ETS measurement of the said Gat nos carried out by the Director of Geology and Mining Department of Government of Maharashtra. Documents to that effect are at **EXHIBIT 'R-9'**.

17. I submit that, the provision of Rule 66(1) of the Maharashtra Minor Mineral Rule, 2013 permits extraction of up to 6 m for quarry permit (temporary Permit). There is no violation of this provision which is clear from ETS measurement.

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18. The said Circular dated 12.12.2013 wherein it is recorded that Chapter IV of Maharashtra Minor Mineral Excavation (Development & Regulation) Rules, 2013, does not have a provision for obtaining approval from the State Level Committee for such permits. However, for clarification on that regard, the matter was brought before the Cabinet on 12.12.2013. According to the decision taken by the Cabinet in the said meeting, the explanation is being given as follows:- "As per Chapter-IV Maharashtra Minor Mineral Excavation (Development & Regulation) Rules, 2013, provision has been made for issuance of temporary minor mineral permits by the competent authority. For issuance of such minor mineral permits, there is no need to have Environmental Clearances." The above explanation is not applicable for mining of the sand. By Circular dated 12.12.2013 the prior Environmental Clearance for excavation of minor minerals was not necessary for obtaining temporary permits.



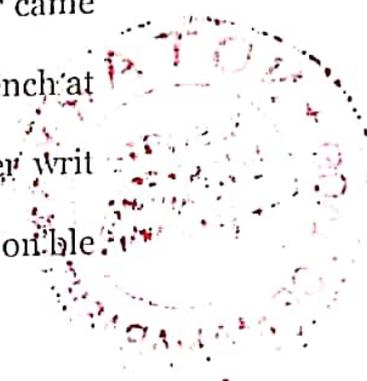
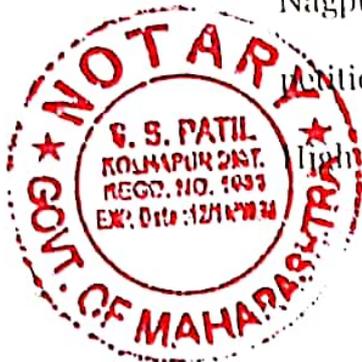
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19. The Government further issued a clarificatory order, the Government of Maharashtra has issued next Circular dated 24.03.2022 prescribing for prior Environmental Clearance to be obtained in case of temporary permit to be obtained by the Project Proponent. The said Circular came to be challenged before the High Court of Bombay, Bench at Nagpur in Writ Petition No.2153 of 2022 with other Writ Petitions, wherein vide order dated 14.10.2022, the Hon'ble

High Court has observed and directed as follows:-

"28. We have already seen that there is no requirement of Rules 59 and 61 that environmental clearance certificate be submitted along with the application made for grant of a quarry permit and, therefore, Page 4 of 7 the direction given through an executive order that for grant of a quarry permit, environmental clearance certificate be submitted, clearly runs contrary to the provisions made in Rules 59 and 61. Further, we have already seen that Rules, 2013 govern the subject of "quarry leases" and



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"quarry permits" prescribing different requirements for their grants. When these provisions of Rules, 2013 govern the field, there can be no executive clarification or communication issued, which is inconsistent with or contrary to these Rules, as noted in the case of *Rashtriya Shikshan Sangh (supra)*. Then, in the case of *Shri Rajiv Babasaheb Waman (supra)*, it appears, the application of the Rules, 2013 to the subject of "quarry leases" and "quarry permits" was not brought to the notice of the National Green Tribunal and what was brought to its notice was only the office communication dated 12.12.2013. This communication being in the nature of executive instruction and not having any force of law was found foul of the directions contained in the case of *Deepak Kumar (supra)*, by the NGT, and not without any reasons. The NGT was not aware of Rules, 2013 having been framed and governing the field. Had the fact of framing of Rules, 2013 been brought to the



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notice of the NGT, perhaps the things would have been different. Anyway, the judgment of the NGT has now been stayed in relation to appellants therein by the Supreme Court. But, the fact remains that what was not considered by National Green Tribunal was that there was in place a new regulatory mechanism governing the subjects of quarry leases and quarry permits, which did not require, for, granting a quarry permit, any environmental clearance certificate though it required one for granting a quarry lease under the Rules, 2013. The office communication dated 12.12.2013, we must say, only clarifies what is already prescribed in Rules 59 and 61 of the Rules, 2013 governing the subject of grant of quarry permits and, therefore, it continues to hold the field. These facts were not noticed by the National Green Tribunal and that was the reason why following observations came in paragraph 8 of its judgment in the case of Shri Rajiv Babasaheb Waman (supra) which read



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thus: "8.....It is duty of the State of Maharashtra to issue clarification in view of the fact that its circular is resting in defiance of judgment of the Hon'ble Supreme Court to the detriment of environment and rule of law. The Chief Secretary, Maharashtra may ensure further remedial action in this regard". 29. It is obvious that the direction so given by the National Green Tribunal was only in the context of the office communication dated 12.12.2013 and not upon consideration of the requirements of relevant Rules, i.e. Rules 59 and 61 governing the subject of quarry permits. This direction, therefore, would not come in the way of authorities considering the issue of grant of quarry permits in terms of Rule 59 read with Rule 61 of the Rules, 2013. Even otherwise, if the direction given by the National Green Tribunal was to be implemented by the Chief Secretary, he ought to have considered the real impact of the relevant words which required him to ensure further remedial

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action in the matter". It would then mean that doing something which was in the nature of suitably amending the Rules 59 and 61 of Rules, 2013 was required, if thought fit, which was not done. Page 5 of 730. The above discussion would lead us to find that no executive instruction which is contrary to the requirements of Rules 59 and 61 of Rules, 2013 could have been issued by the State Government, as it has done vide its impugned communication dated 21st March, 2022, in the name of issuing of a clarification. If any clarification was to be issued, it must have been by following the well settled principles of law stated in the judgment of the coordinate Division Bench of this Court in the case of Rashtriya Shikshan Sangh (supra) and by suitably amending Rules 59 and 61 of Rules, 2013, if thought fit. The direction issued by National Green Tribunal appears to have been misconstrued by the State Government and the result is of issuance of the impugned communication in the



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name of clarification which is contrary to the Rules of 59 and 61 of Rules, 2013 and which violates the settled principles of law. Such a communication, therefore, cannot stand the scrutiny of law and is required to be quashed and set aside as being illegal 31. Shri Bhandarkar, learned counsel has referred to the Notification dated 20th March, 2020 in order to support his contention that the short term permits for extraction of minor minerals have been exempted from the requirement of submission of environmental clearance certificate. He has placed reliance upon Item VIII in Appendix IV to the Notification dated 20th March, 2020. Item VIII relates to traditional occupational work of sand by Vanjara and Oads in Gujarat. It is, therefore, clear that this notification does not support the argument that even in the notification dated 20th March, 2020 issued by the Ministry of Environment of Forest and Climate Change, there is an exemption granted to a quarry



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permit from the requirement of submission of prior environmental clearance. Be that as it may, we have already found that the impugned communication dated 24th March, 2022 is bad in law, for the reasons stated earlier. 32. We thus find that there is substance in these petitions and they deserve to be allowed. 33.

The petitions are allowed and the impugned communication dated 24th March, 2022 is hereby quashed and set aside."

20. It is, therefore, apparent that the Circular dated 24.03.2022 stood quashed by the Hon'ble High Court of Bombay by the above order and it is also apparent that the order dated 17.02.2022 passed by this Tribunal in Original Application No.68 of 2020 also came to be challenged before the Hon'ble Supreme Court in Civil Appeal (Diary) No.29623 of 2022 as well as Civil Appeal (Diary) No.25543 of 2022, which have been admitted and the operation and execution of the order dated 17.02.2022 has been stayed. Therefore, it



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is quite apparent that the order of this Tribunal dated 17.02.2022 directing for prior Environmental Clearance be obtained even for temporary permits for excavation of minor minerals, has been stayed by the Hon'ble Supreme Court. Therefore, the position of law as on date would be as it stood prior to the passing of the order of the Hon'ble Supreme Court, which appears that no Environmental Clearance would be required for seeking temporary permit for excavation of minor minerals as that would be required only in cases of quarry leases.

21. The action of granting quarry permit (temporary permit) is granted as per The Maharashtra Minor Mineral Rules, 2013. Therefore, O.A. may be dismissed.

22. If any more information is required, then the office of the Collector is ready to submit.

Date: 03/07/2023

Place : Pune

DEPONENT

Ajara

Tahsildar Ajara Dist. Kolhapur

तहसिलदार आजरा

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Advocate



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महाराष्ट्र सरकार

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Verification

I, Samir Premvir Mane, Age: 42 years, Tahsildar Ajara, Taluka Ajara, Dist. Kolhapur, do hereby state that I have read the above content of the aforesaid Affidavit in Para No.1 to 15 and that it is true to the best of my knowledge and belief.

Hence, verified this at Wadhinglaj on 3rd day of July, 2023.

Affiant

I know Affiant

[Signature]
Scribe
(Dharmaji Patil)

[Signature]

Tahsildar Ajara Dist. Kolhapur

तहसिलदार आजरा

SOLELY affirmed before me
by Samir Premvir Mane Tahsildar
who is identified before me Figure Dist. Kolhapur
by Ramesh Patil, Wadhinglaj
whom I personally know
this 3rd day of July 2023



S. S. PATIL
Advocate & Notary
1813/1, 'Kedar Villa' Azad Road,
Near Church, Vakil Colony,
WADHINGLAJ, Dist. Kolhapur
Mob. 9960004951 / 8275170051

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REVENUE AND FORESTS DEPARTMENT
World Trade Centre, Cuffe Parde, Mumbai 400 005.
Dated the 18th July 2013.

NOTIFICATION

MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957.

No. Gaukhani-10/0812/C.R. 613/kh.--In exercise of powers conferred by section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules, for regulating the extraction of Minor Minerals namely:-

CHAPTER-I

GENERAL

1. **Short title and commencement.**- (1) These rules may be called the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013.

(2) These rules shall come into effect from the date as may be specified by the Government in the Official Gazette.

2. **Definitions.**-In these rules, unless the context requires otherwise,

(a) 'Act' means the Mines and Minerals (Regulations and Development) Act, 1957 (67 of 1957);

(b) "Appellate Authority" means the Government or any authority vested with such powers under these rules or any other authority empowered by the Government to perform such functions;

(c) "Assessee" means a person or a lessee holding a mining lease or a short term permit and includes any other person who has excavated, removed or used or is excavating, removing, processing or using minor mineral or minerals;

(d) "Assessing Authority" means Collector or Additional Collector or Sub Divisional Officer or Tahsildar or District Mining Officer or Executive Engineer;

(e) "Assessment Year" means the period beginning from the first day of April and ending on the thirty first day of March of the following year;

(f) "Brick earth" means earth used for making bricks, Kavelus and earthen pots and shall include all types of earth used for construction of dams, buildings, canals, roads, rail embankments and other identical purposes;

(g) "Building stone" means any rock or mineral which is used as building or construction material and includes such Minerals as specified in the Schedule appended to the Act;

(h) "Competent Authority" means,-

(i) for the purpose of Chapter IV of these rules,-

(a) in the case of quarries situated on the lands owned by the Public Works Department

and Water Resources Department of Government, the Executive Engineer of the concerned Division in case of the permits upto a maximum of 25,000 brass for the use of Departmental work only;

(b) the Tahsildar, where minor minerals are to be extracted and removed from any land within the limits of their respective jurisdiction in quantities not exceeding 500 brass;

(c) Sub-Divisional Officer of Revenue Department, where minor minerals are to be extracted and removed from any land within the limits of their respective jurisdiction in quantities not exceeding 2000 brass;

(d) the Collector or Additional Collector of the District where minor minerals are to be extracted and removed from any land within that district, in quantities not exceeding 25000 Brass;

(ii) For the purpose of auction of minor mineral, Competent Officer means the Collector or Additional Collector; and

(iii) any other officer appointed by the Government by notification in the Official Gazette;

(i) "Directorate" means the Directorate of Geology and Mining, in the State of Maharashtra.

(j) "dead rent" means the minimum guaranteed amount of royalty per year payable as per rules of agreement under a mining lease;

(k) "Excavation" means digging and or collecting of minor minerals from any land or nala or rive or creek;

(l) "Forms" means forms appended to these rules;

(m) "Government" means the Government of Maharashtra;

(n) "Minor Minerals" means the minor minerals declared from time to time by the Central Government by notification in the *Official Gazette* under the Act;

(o) "Royalty" means the charge payable to the Government in respect of the ore or mineral excavated, removed or utilised from any land;

(p) "section" means a section of the Act;

(q) "specified minor mineral" means limestone, limeshell, bentonite, fuller's earth or such other mineral as may be specified by the Central Government in the *Official Gazette*, from time to time, and the threshold value of the minor mineral specified by notification issued by Indian Bureau of Mines;

(r) "quarry lease" means a lease to mine, quarry, bore, dig, search for, win, work and transport or carry away any minor mineral specified therein;

(s) "quarry license or lease" means a license granted under these rules wherein a licensee is required to pay fixed annual license fee exclusive or inclusive of royalty, as the case may be;

(t) "quarry permit" means a permit granted under Chapter-IV of these rules to extract and

remove any minor mineral in specified quantities and specified time;

(u) the words and expressions used in these rules but not defined hereinabove shall have the same meanings as respectively assigned to them under the Act.

CHAPTER – II

PROCEDURE FOR GRANT OF QUARRY LEASE

3. **Prospecting to precede mining operation** . - (a) No lease shall be granted by the State Government unless it is satisfied that there is evidence to show that the area for which the lease is applied for has been prospected earlier for minor minerals or the existence of minor minerals therein has been established otherwise.

(b) No mining lease shall be granted unless the District Mining Officer confirms the existence of minor mineral in the applied area. Mining lease shall be granted directly if the District Mining Officer reports that there is no need for prospecting for minor mineral in the area in question.

4. **Period for which prospecting license may be granted or renewed**.- The period for which a prospecting license may be granted shall not exceed two years.

5. **Scheme of prospecting**.- (1) Every holder of a prospecting license for minor mineral shall submit to the State Government or any person authorised in this behalf by the Government within a period of sixty days from the date of execution of the prospecting license a scheme of prospecting indicating the manner in which he proposes to carry out the prospecting operation in the area covered by the license and the scheme shall incorporate the following, namely:-

(a) Particulars of the area;

(b) The scale of the plan and the area of geological mapping;

(c) The number of pits, trenches, and bore holes which he proposes to put in the area and the locations thereof;

(d) The particulars of the machinery to be used;

(e) The details of exploratory mining to be undertaken;

(f) The number of samples proposed to be drawn and tested;

(g) Baseline information of prevailing environmental conditions before the beginning of the prospecting operations;

(h) Any other matter relevant for the preparation of a scheme of prospecting, as directed by the State Government or any person so authorised, from time to time by a general or special order.

(2) The prospecting scheme under sub-rule (1) shall be prepared by a recognised person or a geologist or a mining engineer employed under the rule.

6. **Modification of scheme of prospecting**.- (1) A prospecting scheme prepared and submitted

under rule 5 may be modified at any time on geological considerations by the holder of a prospecting license during continuance of the prospecting license.

(2) Any modification carried out under sub-rule (1) shall be intimated to the Government or any person authorised in this behalf by the Government, by the holder of a prospecting license within a period of fifteen days.

7. Prospecting operations to be carried out in accordance with scheme of prospecting.

Every holder of a prospecting license for minor mineral shall carry out the prospecting operations in accordance with the scheme of prospecting submitted under rule 5 or with such modifications, if any, as intimated under rule 6 or as directed by the Government or any Officer authorised by the Government in this behalf.

8. Report of prospecting operations - (1) Every holder of a prospecting license for minor mineral specified or ornamental stones or non-specified mineral shall submit to the Government or any Officer authorized in this behalf by the Government an annual report for the previous year in **Form- A** so as to reach them by the 30th April every year:

Provided that, a report in Form-A shall be submitted within a period of three months after the completion or abandonment of the prospecting operations or the expiry of the prospecting license, whichever is earlier.

(2) The Officer authorised in this behalf by the Government shall forward a copy of the Annual Report in **Form-A**, received under sub-rule (1) to the Director of Geology and Mining within a period of thirty days from the date of such receipt.

9. Mode of granting quarry lease.-(1) Subject to the provisions of these rules, mineral concessions for quarry lease may be granted by the Competent Authority either on receipt of application or by way of public auction.

(2) A quarry lease may be granted for quarry operation on the conditions of payment of lease money including royalty, dead rent, surface rent, water rates payable to Government and the lessee shall have the right of quarry and disposing the extracted minor minerals.

10. Restriction on grant of quarry lease -(1) Except with the prior approval of the Government, no quarry lease shall be granted to any person other than an Indian national as defined in the Explanation to sub-section (1) of section 5 of the Act.

(2) Except with the prior approval of the Directorate, no quarry lease shall be granted in respect of any specified minor mineral.

(3) Except with the prior approval of the Government no quarry lease shall be granted in respect of land notified by the Government as reserved for public utility or for any other special purposes like areas of historical, geological and archeological interest.

(4) No quarry lease shall be granted in the areas under the jurisdiction of the local bodies such as *Gram Sabha*, municipality or corporation or any metropolitan authority as the case may be

shall be handed over to the Forests Department or any other authority as may be nominated by the State Government.

(iv) Restore, to the extent possible, other flora destroyed by prospecting or mining operation.

CHAPTER IV

Grant of Quarry Permits for Minor Minerals

58. *District Committee*:- There shall be a committee in every district under the Chairmanship of District Collector to prepare the District Mining Plan and ensure that the short term quarry permits are granted in accordance with the District Mining Plan. The District Level Committee shall consist of the following:-

- | | | |
|---|----------------------|--------------|
| (i) District Collector | ...Chairman; | |
| (ii) District level Officer of the
Maharashtra Pollution Control Board | ...Member; | |
| (iii) Deputy Conservator of Forest | ...Member; | |
| (iv) District level Officer of the Ground
and Development Agency | ...Member; | Water Survey |
| (v) District Mining Officer | ...Member-secretary. | |

59. *Grant of short term permits for minor minerals*:- (1) Notwithstanding anything contained in the foregoing rules, the Competent Officer, on an application made to him may grant a quarry permit to any person to extract or remove from any specified land within the limits of his jurisdiction any minor mineral not exceeding in quantity as mentioned under any one permit on payment of advance royalties calculated at the rate specified by the Government, from time to time, and on such rents and fees assessable for such extraction:

Provided that, no permits shall be granted in case of any specified minor mineral without prior approval of the Director.

(2) The Competent Officer shall grant permit for specific time and specific volume.

(3) The Competent Officer may refuse to grant such permit for reasons to be recorded in writing.

60. *Grant of Quarry permits by Revenue officers over lands in charge of Water Resources Department, Public Works Department*:- In case of lands in charge of Departments other than Revenue Department that is, Water Resources Department, Public Works Department, quarry permits over such lands shall be granted by the Competent Officer only after obtaining No-

Objection Certificate (N.O.C.) from concerned Executive Engineer in case of Water Resources Department and Public Works Departments and Divisional Forest Officer of the Forests Department.

61. Application for quarry permits.- (1) An application for quarry permits shall be made in **Form-P** to the Competent Officer and shall contain the following particulars,-

(a) Name, address, profession, nationality of the applicant.

(b) Name and quantity of the minor mineral for which the permit is required.

(c) Description of land, such as location, survey number from which the minor mineral is to be extracted.

(2) Every application for quarry permit shall be accompanied by the certified true copies of relevant extracts of the record of rights in respect of lands from where the applicant proposes to extract the mineral.

(3) The application shall be accompanied with the consent letter from the occupant of land in case land is belonging to individual.

(4) Every such application shall be affixed with court-fee stamp of rupees ten.

62. Application or Processing fee.- The application shall be accompanied with the processing fee as follows:-

(i) for permit for quantity 500 brass and below ... five hundred rupees;

(ii) for permit for quantity 501 brass to 2000 brass ... two thousand rupees;

(iii) for permit for quantity 2001 brass to 25000 brass rupees five thousand.

In case of refusal of grant of permit applied for, the fee shall not be refunded.

63. Acknowledgement of application.- The receipt of an application for a quarry permit shall be acknowledged in **Form-Q** within three days on the receipt of application and the entry of such application shall be made in the register in **Form-R**.

64. Register of quarry permits.- A register of quarry permit shall be maintained by the Competent Officer and separate register shall be maintained for each type of minor mineral.

65. Disposal of application for quarry permit.- (i) On receipt of application the Competent Officer after verification of necessary documents grant or refuse the permit as he may deem fit, within within a period of thirty days from the date of such application. In no case the applicant shall start work unless he remits full amount of royalty and other assessable rents, taxes for such permit in advance and also unless he is issued the requisite permit by the Competent Officer.

(ii) If the application for quarry permit is for the same area in which case document in earlier case have been verified in the recent past, the Competent Officer is at liberty to consider the application without conducting any fresh enquiries and grant or refuse the application after considering the other factors in this matter.

66. *Conditions on which quarry permit shall be granted.-* (1) Every quarry permit granted under rule 59 and 60 shall contain a condition that at no time the depth of the pit below the surface exceeds six meters.

(2) Any quarry permit granted under rule 59 and 60 may contain such other conditions as the Competent Officer granting permit may deem necessary in regard of following matters:-

(a) The limit, mode and place of payment of rent and royalties.

(b) Compensation for damage to the land covered by the permit.

(c) Felling of trees.

(d) Restriction of surface operation in any area specified by any authority

(e) Entering and working in any reserved area.

(f) Reporting of accident

(g) Indemnity to Government against claims of third parties.

(h) Period within which the minor mineral shall be extracted and removed.

(i) Forfeiture of property left after cancellation or expiry of permit.

(3) No other mineral except that for which the permit is granted shall be extracted and removed without proper sanction being obtained from the Competent Officer.

(4) If any minor mineral or major mineral other than for which permit has been issued is found during quarry it shall be reported to Competent Officer within a week's time after such recovery.

(5) The permit holder shall maintain complete and correct accounts of the mineral excavated, quantity removed from the permit area, sale vouchers, register of labour employed and wages paid etc. and royalty and other charges leviable for this purpose.

(6) The permit holder shall immediately report all accidents to the Competent Officer and the District Magistrate and District Superintendent of Police of the District in which the area is situated.

(7) The permit holder shall have no right over the quarry material and other property lying in the permit area after the expiry of the permit.

(8) The permit holder shall not cut or damage any trees without prior sanction or without payment of compensation as may be fixed by the Divisional Forest Officer or such officer authorised by him in this behalf.

(9) The permit holder shall not carry quarry operation within a distance of fifty meters of any public roads, public buildings or temples, rivers, *nallahs*, reservoirs, burial grounds and railway tracks etc. and cause any damage to any public or private properties.

(10) The permit holder shall allow any officer authorised by the Director of Geology and Mining and local revenue or forest authority in whose jurisdiction the land is situated to enter into and inspect any time the quarry operations and check the accounts and verify the details of

dispatches, sales etc. from the account books maintained by the permit holder as per conditions (5) above at or near the area under permit.

(11) If any excess quantity over permitted limit is found to be removed the material shall be confiscated and permit holder shall be liable for punishment under the provisions of the Maharashtra Land Revenue Code, 1966 and the Mines and Minerals (Development and Regulation) Act, 1957.

(12) If any breach of these conditions is detected, the permit shall be cancelled and material lying at site shall be confiscated.

(13) As soon as removal of the material granted under the permit is over, the permit holder shall surrender the permit to the Competent Officer and furnish to him complete statement showing the quantity removed, details of transport and parties to whom this material has been sold and prices obtained therefor and shall produce any details, books etc. for the scrutiny by the Competent Officer as may be called for by him.

(14) The permit holder shall issue along-with every dispatch of mineral outside the area granted under permit (for any mode of transport) Transit Pass in **Form-O** which shall be in accordance with the provisions prescribed under these rules.

(15) The permit holder shall submit within 10th day of the following months to the concerned Revenue authority or Mining Officer, a monthly statement of the quantity removed from the site, name of the permit holder and sale price at the site etc, in **Form-M**.

67. General Conditions.- (1) All necessary statutory clearances shall be obtained before start of mining operations.

(2) Mining shall be limited to day time only

(3) No mining shall be carried out in the safety zone of any bridge and/or embankment.

(4) No mining shall be carried out in the vicinity of natural or manmade archeological sites.

(5) The lease holder shall obtain necessary prior permission of the competent authorities for drawal of requisite quantity of water (surface water and groundwater), if required for the project.

(6) Waste water, if any, shall be properly collected and treated so as to conform to the standards prescribed by Ministry of Environment and Forest or CPCB.

(7) No wildlife will be infringed.

(8) Transportation of materials shall be done by covering the trucks or tractors with tarpaulin or other suitable mechanism so that no spillage of mineral or dust takes place.

(9) Measures shall be taken for control of noise level to the limits prescribed by CPCB.

क्रमांक : गौखनि-१०/०८१२/प्र.क्र. ६१३/ख
 महसूल व वन विभाग
 हैद्राबाद हाऊस,
 शिबीर कार्यालय नागपूर
 दिनांक : १२.१२.२०१३

प्रति,

सर्व विभागीय आयुक्त
 सर्व जिल्हाधिकारी.

विषय :- महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम,
 २०१३ अनुसार कार्यवाही करण्याबाबत...

संदर्भ : शासन अधिसूचना समक्रमांक दि.१८ .०७.२०१३ व दि. २४.१०.२०१३

संदर्भाधीन दिनांक १८.७.२०१३ च्या शासन अधिसूचनेन्वये "महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३" प्रसिध्द करण्यात आले असून ते दिनांक २४.१०.२०१३ च्या अधिसूचनेन्वये राज्यात दिनांक २४.१०.२०१३ पासून लागू करण्यात आले आहेत. राज्यात पायाभूत सुविधा उभारण्यासाठी गौण खनिजांची आवश्यकता व पारंपारिक व्यावसायिकांच्या समोर उजेगार विषयक निर्माण झालेल्या अडचणी विचारात घेऊन नियमात अशाष्ट कालावधी व त्रिशष्ट क्षेत्रात त्रिशष्ट परिमणानासकै गौण खनिजाचे उत्खनन करण्यास परवानगी देण्याचे अधिकार सक्षम प्राधिकार्यांना देण्यात आले आहेत. मात्र, असे परवाने देतांना राज्यस्तरीय पर्यावरण समितीकडून अनुमती आवश्यक आहे काय अशी पृच्छा काही क्षेत्रीय कार्यालयाकडून करण्यात आली होती.

१. "महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३" मधील प्रकरण ४ मध्ये परवान्यासाठी राज्यस्तरीय समितीकडून पर्यावरण अनुमती घेण्याबाबतची तरतूद नाही. तथापि, त्यादृष्टीने स्पष्टीकरण करण्यासाठी सदर बाब दिनांक १३.१२.२०१३ रोजी मंत्रिमंडळाच्या विचारार्थ सादर करण्यात आली होती. सदर बैठकीत मंत्रिमंडळाने घेतलेल्या निर्णयानुसार खालीलप्रमाणे स्पष्टीकरण करण्यात येत आहे :-

"महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३" मधील प्रकरण ४ अनुसार सक्षम प्राधिकार्यांनी तात्पुरते गौण खनिज उत्खनन परवाने देण्याची तरतूद करण्यात आली आहे. त्याप्रमाणे तात्पुरते गौण खनिज उत्खनन परवाने देण्याकरीता पर्यावरण अनुमतीची आवश्यकता राहणार नाही".

३. बरील स्पष्टिकरण वाळू / रेती उत्खननासाठी लागू होणार नाही. वाळू/रेती निर्गतीसाठी उक्त नियमाच्या प्रकरण ५ तसेच शासन निर्णय क्रमांक : गौखनि-१०/०५१२/प.क्र. ३००/ख, दिनांक १२.०३.२०१३ मधील तरतुदीनुसार पर्यावरण अनुमती घेणे अनिवार्य राहिल.

४. उक्त परवान्यांचे संनियंत्रण करण्यासाठी जिल्हास्तरावर जिल्हाधिकार्यांच्या अध्यक्षतेखाली समिती स्थापन करण्यात आली असून, त्यात महाराष्ट्र प्रदूषण नियंत्रण मंडळाचा जिल्हास्तरीय अधिकारी, उपवनसंरक्षक, भूजल सर्वेक्षण व विकास यंत्रणेचा जिल्हास्तरीय अधिकारी व जिल्हा खनिकर्म अधिकारी यांचा सामावेश करण्यात आला आहे. सदर समिती उक्त नियमातील तरतुदींचे फाटेकोर पालन होत आहे, याबाबत आवश्यक काळजी घेणार आहे. तरी "महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३" अनुसार सक्षम प्राधिकार्याने गौण खनिज उत्खननाकरिता गौण खनिजाचे खाण परवाने देण्याची कार्यवाही विनाविलंब सुरू करावी.

भा. आ. गुडे
(मा. आ. गुडे)
उप सचिव

प्रत,

प्रधान सचिव, पर्यावरण विभाग, मंत्रालय, मुंबई-४०० ०३२.

मा. मंत्री (महसूल) यांचे खाजगी सचिव, मंत्रालय, मुंबई-४०० ०३२.

मा. राज्यमंत्री (महसूल) यांचे खाजगी सचिव, मंत्रालय, मुंबई-४०० ०३२.

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
NOTIFICATION

New Delhi, the 28th March, 2020

S.O. 1224(E).—WHEREAS, *vide* the Mineral Laws (Amendment) Act, 2020 (2 of 2020), the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) (hereinafter referred to as MMDR Act) has been amended with effect from the 10th day of January, 2020 and, *inter alia*, new section 8B relating to the provisions for transfer of statutory clearances has been inserted;

AND WHEREAS, sub-section (2) of section 8B of the MMDR Act provides that notwithstanding anything contained in this Act or any other law for the time being in force, the successful bidder of mining leases expiring under the provisions of sub-sections (5) and (6) of section 8A and selected through auction as per the procedure provided under this Act and the rules made thereunder, shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like vested with the previous lessee for a period of two years;

AND WHEREAS, sub-section (3) of section 8B of the MMDR Act provides that 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, in which mining operations were being carried out by the previous lessee, for a period of two years from the date of commencement of the new lease;

AND WHEREAS, in pursuance of the aforesaid amendment to the MMDR Act, the Central Government deems necessary to align the relevant provisions of the notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 1533 (E), dated the 14th September, 2006 (hereinafter referred to as the EIA Notification, 2006);

AND WHEREAS, the Ministry of Environment, Forest and Climate Change is in the receipt of representations for waiver of requirement of prior environmental clearance for borrowing of ordinary earth for roads; and manual extraction of lime shells (dead shell), shrines, etc., within inter tidal zone by the traditional community;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government, after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of the rule 5 of the said rules, in public interest, and in supersession of the notification number S.O. 4307(E), dated the 29th November, 2019, hereby makes the following further amendments in the EIA Notification, 2006, namely:-

In the said notification,-

(i) in paragraph 11, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:-

“(3) The successful bidder of the mining leases, expiring under the provisions of sub-sections (5) and (6) of section 8A of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and selected through auction as per the procedure provided under that Act and the rules made thereunder, shall be deemed to have acquired valid prior environmental clearance vested with the previous lessee for a period of two years, from the date of commencement of new lease and it shall be lawful for the new lessee to continue mining operations as per the same terms and conditions of environmental clearance granted to the previous lessee on the said lease area for a period of two years from the date of commencement of new lease or till the new lessee obtains a fresh environmental clearance with the terms and conditions mentioned therein, whichever is earlier:

Provided that the successful bidder shall apply and obtain prior environmental clearance from the regulatory authority within a period of two years from the date of grant of new lease.”;

(ii) in the Schedule, against the item 1(a), in the column (5), after clause (2) of the Note, the following clause shall be inserted, namely:-

“(3) The evacuation or removal and transportation of already mined out material lying within the mining leases expiring under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), by the previous lessee, after the expiry of the said lease, shall not form the part of the mining capacity so permitted to the successful bidder, selected through auction as per the procedure provided under that Act and the rules made thereunder.”;

(iii) for Appendix-IX, the following Appendix shall be substituted, namely:-

"APPENDIX-IX"

EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE

The following cases shall not require Prior Environmental Clearance, namely:-

1. Extraction of ordinary clay or sand by manual mining, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs.
2. Extraction of ordinary clay or sand by manual mining, by earthen tile makers who prepare earthen tiles.
3. Removal of sand deposits on agricultural field after flood by farmers.
4. Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.
5. Community works, like, de-silting of village ponds or tanks, construction of village roads, ponds or bunds undertaken in Mahatma Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes and community efforts.
6. Extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc.
7. Dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management.
8. Traditional occupational work of sand by Vanjara and Oads in Gujarat vide notification number GU/90(16)/MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat.
9. Manual extraction of lime shells (dead shell); shrines, etc., within inter tidal zone by the traditional community.
10. Digging of wells for irrigation or drinking water purpose.
11. Digging of foundation for buildings, not requiring prior environmental clearance, as the case may be.
12. Excavation of ordinary earth or clay for plugging of any breach caused in canal, nallah, drain, water body, etc., to deal with any disaster or flood like situation upon orders of the District Collector or District Magistrate or any other Competent Authority.
13. Activities declared by the State Government under legislations or rules as non-mining activity."

[F. No. Z-11013/47/2018-IA.II (M)]

GEETA MENON, Jt. Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended vide the following numbers:-

1. S.O. 1949 (E), dated the 13th November, 2006;
2. S.O. 1737 (E), dated the 11th October, 2007;
3. S.O. 3067 (E), dated the 1st December, 2009;
4. S.O. 695 (E), dated the 4th April, 2011;
5. S.O. 156 (E), dated the 25th January, 2012;
6. S.O. 2896 (E), dated the 13th December, 2012;
7. S.O. 674 (E), dated the 13th March, 2013;
8. S.O. 2204 (E), dated the 19th July, 2013;
9. S.O. 2555 (E), dated the 21st August, 2013;
10. S.O. 2559 (E), dated the 22nd August, 2013;
11. S.O. 2731 (E), dated the 9th September, 2013;
12. S.O. 562 (E), dated the 26th February, 2014;
13. S.O. 637 (E), dated the 28th February, 2014;

14. S.O. 1599 (E), dated the 25th June, 2014;
15. S.O. 2601 (E), dated the 7th October, 2014;
16. S.O. 2600 (E), dated the 9th October, 2014;
17. S.O. 3252 (E), dated the 22nd December, 2014;
18. S.O. 382 (E), dated the 3rd February, 2015;
19. S.O. 811 (E), dated the 23rd March, 2015;
20. S.O. 996 (E), dated the 10th April, 2015;
21. S.O. 1142 (E), dated the 17th April, 2015;
22. S.O. 1141 (E), dated the 29th April, 2015;
23. S.O. 1834 (E), dated the 6th July, 2015;
24. S.O. 2571 (E), dated the 31st August, 2015;
25. S.O. 2572 (E), dated the 14th September, 2015;
26. S.O. 141 (E), dated the 15th January, 2016;
27. S.O. 648 (E), dated the 3rd March, 2016;
28. S.O. 2269(E), dated the 1st July, 2016;
29. S.O. 2944(E), dated the 14th September, 2016;
30. S.O. 3518 (E), dated 23rd November 2016;
31. S.O. 3999 (E), dated the 9th December, 2016;
32. S.O. 4241(E), dated the 30th December, 2016;
33. S.O. 3611(E), dated the 25th July, 2018;
34. S.O. 3977 (E), dated the 14th August, 2018;
35. S.O. 5733 (E), dated the 14th November, 2018;
36. S.O. 5736 (E), dated the 15th November, 2018;
37. S.O. 5845(E), dated the 26th November, 2018;
38. S.O. 345(E), dated the 17th January, 2019;
39. S.O. 1960(E), dated the 13th June, 2019;
40. S.O. 236(E), dated the 16th January, 2020;
41. S.O. 751(E), dated the 17th February, 2020; and
42. S.O. 1223(E), dated the 27th March, 2020.

F. No. 3-70/2020-1A.III [141127]
Government of India
Ministry of Environment, Forest and Climate Change
(IA Division)

Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj,
New Delhi - 110003

Dated: 8th August, 2022

OFFICE MEMORANDUM

Subject: Clarification on the applicability of EIA Notification 2006 for excavation of Ordinary Earth from borrow area for linear projects - reg.

The Ministry, vide Notification S.O. 1224 (I) dated 28.03.2020, amended the appendix IX of EIA Notification to inter-alia provide exemption from Environmental Clearance (EC) for "*extraction or sourcing or borrowing of ordinary earth for linear projects such as roads, pipelines etc.*"

2. Subsequently, the above mentioned Notification was challenged before the National Green Tribunal, Principal Bench in Original Application No. 190/2020 in the matter of Noble M. Paikada Vs. Union of India & Ors., wherein the Hon'ble Tribunal while disposing of the application vide order dated 28/10/2020, *inter-alia* held that "*....the exemption should strike balance and instead of being blanket exemption, it needs to be hedged by appropriate safeguards such as the process of excavation and quantum....*" and directed to revisit the impugned notification dated 28.03.2020.

3. Subsequently vide order dated 31/05/2022, the Hon'ble NGT in M.A. No. 07/2022(WZ) & M.A. No. 08/2022(WZ) in Original Application No. 68/2020(WZ) titled Shri Rajiv Babasaheb Waman & Ors. vs. Ministry of Environment, Forest & Climate Change & Ors inter-alia held that "*... that excavation of earth and mining of sand and other minor minerals being hazardous activity having serious adverse impact on environment in view of 'Precautionary' and 'Sustainable Development' principles, such activity cannot be left unregulated by statutory enforceable mechanism. Blanket exemption is against ecologically sustainable development norms and judgment of Hon'ble Supreme Court...*"

4. The matter was referred to the concerned Expert Appraisal Committee (EAC) for deliberation. After due deliberation, the EAC was of the opinion that if such linear project has obtained EC based on EIA studies incorporating such sourcing of construction material or other activities, necessary safeguards are already incorporated in the EC appraisal process. However, if such sourcing of material is not considered in the EIA or such linear project does not attract provisions of EC, then

such individual activities will be subject to extant environmental regulations as per EIA Notification 2006, as amended and/or applicable environmental safeguard related directions issued by the State Government /SPCB which need to be observed while sourcing construction material

5 Based on the recommendations of the FAC and keeping in view the direction of Hon'ble NG1, the matter has been examined by the Ministry in detail and it has been decided that the exemption from FC provided vide S.O. 1224 (I) dated 28.03.2020 for "extraction or sourcing or borrowing of ordinary earth for linear projects such as roads, pipelines etc." shall be subject to Standard Operating Procedure (SOP) as enclosed to this Office Memorandum.

6 This is issued with the approval of the Competent Authority

Encl. as above


(Sundar Ramanathan)
Scientist 'F'

To

1. Chairman and Member Secretaries of SEIAA/ SEACs.
2. Chairman, Central Pollution Control Board (CPCB).
3. Chairpersons/ Member Secretaries of all SPCBs/UTPCCs
4. All the Officers of I.A. Division

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to DGF&SS (EF&CC)
5. PPS to AS(TK)/PPS to JS (SKB)
6. Website, Mo:EF&CC/Guard file

SOP for Borrow Area Identification; its operation, safety and redevelopment

The activity relates to identification of borrow areas to obtain earth/soil materials; its operation, safety and redevelopment shall be carried out as per the following criteria:

1. Selection of site, operation and site-specific measures to adopt

- i. Environmental issues like siting, borrow pit location, soil erosion aspects, accumulation of run off and associated problems, disposal of debris by local community in open borrow area, transport of borrow earth to construction site, preservation of top soil of 15m depth and reuse for plantation, reinstatement of borrow pits and sites shall be considered before selection of site.
- ii. Guidelines, Manuals, Notifications etc issued by various agencies from time to time like IRC, MoRTH, MoEFCC etc shall be followed.
- iii. For selection of the site for the borrow area, agricultural land, cut material available from other road construction projects, dredging material from dredging operations of ponds, lakes, rivers and canals, material from barren land or land without tree cover outside the road RoW, material from excavation of proposed culverts can be considered. Provided further that, highly productive top-soil shall be stored separately and used for planation activity.
- iv. Borrowing shall be avoided on the lands close to toe line, irrigated agricultural lands, grazing land, lands within settlements, 1 Km from environmentally sensitive areas such as Reserve Forests, Protected Forests, Sanctuary, National Parks, Conservation Reserve, Wetlands etc, unstable and fragile side-hills, streams and seepage areas, areas supporting rare plants/ animal species. It should be ensured that unsuitable soft rock is not prominent within the proposed depth of excavation which will render rehabilitation difficult.

2. The General Guidelines

- i. The preservation of topsoil will be carried out in stockpile.
- ii. A 15 cm topsoil will be stripped off from the borrow pit and this will be stored in stockpiles in a designated area for height not exceeding 2m and side slopes not steeper than 1:2 (Vertical: Horizontal).
- iii. Preservation of Top Soil of 15cm depth and its reuse for plantation
- iv. Validation of the work of re-use of Top Soil by the AE/IE. Competent authority to check the re-use anytime if warranted.
- v. Borrowing of earth will be carried out up to a depth of 2m from the existing ground level.
- vi. Borrowing of earth will not be done continuously throughout the stretch.
- vii. Ridges of not less than 8m widths will be left at intervals not exceeding 300m.
- viii. Small drains will be cut through the ridges, if necessary, to facilitate drainage.
- ix. Depends upon the location of borrow areas, the safeguard measures & management specific treatment as a particular borrow area depending upon its

location viz Agriculture Land, Elevated Land, Waterbody, near Settlement and along the alignment.

3. Re-development of Borrow Areas

The objective of the rehabilitation programme is to return the borrow pit sites to a safe and secure area, which the general public should be able to use safely. Securing borrow pits in a stable condition is fundamental requirement of the rehabilitation process. This could be achieved by filling the borrow pit approximately to the road level. Following measures shall be taken for Rehabilitation:

- i. Borrow pits shall be backfilled with rejected construction wastes (unserviceable materials) including fly ash, compacted and will be given a turbing or vegetative cover on the surface. If this is not possible, then excavation slope should be smoothened, and depression is filled in such a way that it looks more or less like the original ground surface.
- ii. During works execution, the Contractor shall ensure preservation of trees during piling of materials; spreading of stripping material to facilitate water percolation and allow natural vegetation growth; re-establishment of previous natural drainage flows; improvement of site appearance; digging of ditches to collect runoff; and plantation may be carried out wherever feasible or pit may be developed for water storage as per Amrit Sarovar Scheme of MoRTH

4. Development of Amrit Sarovar

Under Amrit Sarovar Programme, water bodies are being developed by MoRT&H/NHA/other road development agencies and the desilting of existing water body is also being taken up for water harvesting and re-charge of ground water. The earth available from development of such water bodies is to be utilised for road works and plantations as per suitability of soil. The State Authorities have already been advised not to levy any royalty for borrowing of earth for development of water bodies under Amrit Sarovar Programme.



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Ex-R5

महाराष्ट्र शासन
महसूल व वन विभाग

मंत्रालय मुख्य इमारत, पहिला मजला मादाम काम मार्ग, हुतात्मा राजगुरु चौक
मंत्रालय, मुंबई-४०००३२.

दूरध्वनी क्र.०२२-२२०४८२४७

Email ID : dokh.rfd@maharashtra.gov.in

क्रमांक: गौखनि-१०/१२२१/प्र.क्र.३२०/ख-२

दिनांक: २४ मार्च, २०२२

प्रति,

विभागीय आयुक्त (सर्व)

जिल्हाधिकारी (सर्व).

विषय:- गौण खनिज- संकिर्ण

गौण खनिजाचे तात्पुरते परवाने निर्गमित करण्याच्या कार्यवाहीबाबत.

संदर्भ:- १) महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३

२) शासन क्र.गौखनि/१०/०२१२/प्र.क्र.६१३/ख, दि.१२.१२.२०१३ चे सूचना पत्र

३) राष्ट्रीय हरीत न्यायाधिकरण खंडपीठ पुणे यांचे न्यायालय दावा अर्ज

क्र.६८/२०२० (W.Z.) निर्णय दि.१७.०२.२०२२.

“महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३ मधील प्रकरण ४ अनुसार सक्षम प्राधिकाऱ्यांनी तात्पुरते गौण खनिज उत्खनन परवाने देण्याची तरतुद देण्यात आली आहे. त्याप्रमाणे तात्पुरते गौण खनिज उत्खनन परवाने देण्याकरीता पर्यावरण अनुमतीची आवश्यकता राहणार नाही.” असे संदर्भाधीन क्र.२ मधील दिनांक १२.१२.२०१३ च्या पत्रान्वये सर्व विभागीय आयुक्त व सर्व जिल्हाधिकारी यांना सूचना देण्यात आल्या आहेत.

तथापि, संदर्भाधीन क्र.३ मधील दिनांक १७.०२.२०२२ च्या मा. राष्ट्रीय हरीत न्यायाधिकरणाच्या आदेशाचे अवलोकन केले असता, पर्यावरण अनुमती शिवाय तात्पुरते गौण खनिज उत्खनन परवाने देण्यात येवू नयेत, असे आदेश दिलेले असल्याने मा. राष्ट्रीय हरीत न्यायाधिकरण यांनी पारित केलेल्या आदेशाची अवहेलना होणार नाही, याची दक्षता घ्यावी, ही विनंती.



(रमेश चव्हाण)

सह सचिव, महसूल व वन विभाग

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2153 OF 2022

Orange City Stone Crusher Owners
Association, Nagpur, Registration
No. MH/650/1999/NP/23/8/1999
through its Secretary
Shri Arvind S/o Janrao Gajbhiye,
aged about 55 years,
Occupation : Business,
R/o. 8-Rasta Chowk, Laxmi Nagar,
Nagpur.

.... PETITIONER

// **VERSUS** //

- 1) State of Maharashtra,
through the Principal Secretary,
Revenue Department, Room No.20,
Annex building, Mantralaya,
Mumbai-440032.
- 2) The District Collector,
Collectorate, Civil Lines,
Nagpur.
- 3) The District Mining Officer,
Collectorate Compound,
Civil Lines, Nagpur.
- 4) Joint Secretary,
Revenue and Forest Department,
Mantralaya, Main Building,
1st Floor, Madam Kama Road,
Hutatma Rajguru Square,
Mantralaya, Mumbai-32.
- 5) Sub Divisional Officer,
Umred, Tahsil Umred,
District : Nagpur.

- 6) Tahsildar, Umred,
Tahsil Umred, District : Nagpur. RESPONDENTS

WITH

WRIT PETITION NO. 2163 OF 2022

Akhil Maharashtra Quarry and
Crusher Owner's Federation,
through its Working President,
Mr. Keshav S/o. Shankarrao Thakre,
Aged about 60 years,
Office at : Sanskrutik Sankul,
Jhansi Rani Square,
Nagpur – 440012. PETITIONER

// VERSUS //

- 1) State of Maharashtra,
through its Joint Secretary,
Ministry of Revenue and Forest,
703/4, 1st Floor, Mantralaya Extension,
Mumbai-400032.
- 2) The Collector,
Ravindranath Tagore Marg,
Civil Lines, Nagpur – 40001,
Maharashtra.
- 3) The Divisional Commissioner,
Ravindranath Tagore Marg,
Civil Lines, Nagpur – 40001,
Maharashtra.
- 4) State Level Environment Impact
Assessment Authority,
through its Chairman, 601,
6th Floor, NKM International House,
behind LIC Yogakshema Building,
177 Babubhai Chinoy Marg,
Nariman Point, Mumbai – 400020,
Maharashtra.

- 5) Sub-Divisional Officer,
Sub-Divisional Office, VCA Stadium
Complex, 129, Civil Lines, Nagpur.
- 6) Tahsildar (Nagpur City),
Tahsil Office, Akashwani Square,
New Collector Compound,
Civil Lines, Nagpur.

.... RESPONDENTS

WITH

WRIT PETITION NO. 2731 OF 2022

M/s. Shlok Stone Crusher,
Through its Proprietor,
Ms. Nikita Gopal Chouksay,
aged about : Major,
Having its registered Office at
Shop No.110, Mouraya-1 Apartment,
Ganesh Nagari, Near Patel Petrol,
Koradi Road, Nagpur-441111
Maharashtra

.... PETITIONER

// VERSUS //

- 1) The State of Maharashtra,
Through the Secretary,
Revenue & Forest Department,
Room No. 456/461 Annex,
Hutatma Rajguru Chowk,
Madam Cama Road, Mantralaya,
Mumbai-400032.
- 2) District Collector, Nagpur,
Collectorate, Civil Lines,
Nagpur-440001, Maharashtra.
- 3) Sub-Divisional Officer,
Umred, Tehsil Umred,
District – Nagpur.
- 4) The Tehsildar (Umred),
Umred, Tehsil Umred,
District – Nagpur.

- 5) Maharashtra Pollution Control Board,
Through the Regional Officer,
Udyog Bhavan, 5th Floor,
Near Sales Tax Office, Civil Lines,
Nagpur – 440001.
- 6) State Environment Impact Assessment
Authority, through the Chairman,
601, 6th Floor, NKM International House,
behind LIC Yogakshema Building,
177 Babubhai Chinoy Marg,
Nariman Point, Mumbai-400020.
- 7) District Mining Officer,
Collectorate Compound,
Civil Lines, Nagpur-440001,
Maharashtra.

.... RESPONDENTS

WP No.2153/2022

Mr. S.K.Mishra, Senior Advocate with Mr. Kaustabh
Deogade for the petitioner.
Ms. N.P.Mehta, AGP for respondent nos. 1 to 6.

WP No.2163/2022

Mr. S.P. Bhandarkar, Advocate with Advocate Manish
Shukla, Advocate for the petitioner.
Ms. N.P.Mehta, AGP for respondent nos. 1 to 6.

WP No. 2731/2022

Mr. Ganesh H. Barange, Advocate for the petitioner.
Ms. N.P. Mehta, AGP for respondent 1 to 4 and 7.
Mr. S.S.Sanyal, Advocate for respondent no.5..

CORAM : SUNIL B. SHUKRE
AND ANIL L. PANSARE, JJ.
RESERVED ON : 10.10.2022
PRONOUNCED ON 14.10.2022

JUDGMENT (Per Sunil B. Shukre, J.)

Heard. Rule. Rule made returnable
forthwith. Heard finally by consent.

2. A short question involved in all these petitions is - whether it is permissible for the State Government to require a person interested in obtaining quarry permit under Rule 59 of the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013 (for short Rules, 2013) to submit environmental clearance as a condition precedent by issuing an executive instruction in the nature of impugned communication dated 24th March, 2022?

3. The brief facts leading to filing of these petitions are stated as under:-

a) The petitioners in Writ Petition No.2153/2022 and Writ Petition No.2163/2022 are the associations of stone crusher owners, the petitioner in Writ Petition No.2731/2022 is an individual, who runs

a proprietary concern engaged in the business of extraction and removal of minor minerals in specified quantities for short terms. The members of both the associations who have filed Writ Petition No.2153/2022 and Writ Petition No.2163/2022 are also engaged in similar business. Their grievance is common.

b) According to the petitioners, till very recently they used to be granted quarry permits for extraction and removal of minor minerals from the specified area and for a temporary period of time, not more than 30 days at a time, under Rule 59 of the Rules, 2013, without submitting environmental clearance certificate, but, with the issuance of communication dated 24th March, 2022 by respondent no.4, the quarry permits are not being issued to them unless they first submitted environmental clearance certificate from the Competent Authority. Their contention is that quarry permits are different than quarry leases, in the sense that quarry leases are granted usually for five years initially, which period is extendable further up to twenty years thereby making the quarry leases as long term grants but, in case of quarry permits, the permission is granted only for a period of 30 days at a time and it is limited to the areas specified in the permit itself. They further submit that it is this difference which has led to prescription of a

condition of environmental clearance certificate to be obtained by the quarry owner for obtaining a quarry lease under the Rules, 2013 and prescribing no such requirement in case of a quarry permit issued under Rules, 2013.

c) The petitioners submit that Rules, 2013 have been framed following directions of the Apex court in the case of *Deepak Kumar and others Vs. State of Haryana reported in (2012) 4 SCC 629* and, therefore, it is now the Rules, 2013 which would govern the issue. The petitioners also contend that in any case, executive instructions cannot supersede the Rules, 2013 framed under Section 15 of the Mines and Minerals Extraction (Development and Regulation) Act, 1957 (for short, "Act, 1957").

4. The respondents have submitted common reply to these petitions. The stand taken by the State Government, as seen from the reply, is that even in the opinion of the State Government, for issuance of a quarry permit under Rule 59 of the Rules 2013, it is not necessary to obtain prior environmental clearance, the permit being for a short term. The reply also gives an explanation about the issuance of the impugned communication. According to State Government, the

impugned communication has been issued by it in view of the directions given by the National Green Tribunal passed on 17th February, 2022 in OA No.63/2020 (WZ).

5. Shri Mishra, learned Senior Advocate appearing for the petitioner in Writ Petition No.2153/2022 submits that the National Green Tribunal has not considered the nature of the directions issued by the Supreme Court in the case of *Deepak Kumar (supra)* and thus, has held *per incuriam* that it is the duty of the State of Maharashtra to issue a suitable clarification in view of the fact that its Circular dated 12.12.2013 which clarified that for grant of temporary quarry permits there was no requirement of prior submission of environmental clearance certificate goes against the judgment of the Supreme Court in the case of *Deepak Kumar (supra)*. He also submits that the judgment of the National Green Tribunal (NGT) has been stayed in relation to the appellants therein by Supreme Court by its order dated 9.9.2022 passed in Civil Appeal Diary No.(S) 25543/2022.

6. The learned Senior Advocate further submits that in *Deepak Kumar (supra)* the Supreme Court had directed all the State Governments and Union Territories

to take immediate steps to frame necessary rules under Section 15 of the Act, 1957 taking into consideration the recommendations of MoEF made in its report of March 2010 and it had further directed that *in the meanwhile the leases of minor miners* including their renewal for an area of less than five hectares shall be granted by States/Union Territories only after getting environmental clearance from MoEF.

7. The learned Senior Advocate further submits that in compliance with these directions, the State Government has framed Rules, 2013 by issuing a Notification dated 18th July, 2013. He submits that the direction of the Supreme Court regarding submission of prior environmental clearance from MoEF in case of leases of minor minerals has been implemented by the State Government by framing Rules, 2013 and this requirement of submission of prior environmental clearance certificate has been clearly prescribed in Clause (f) of Rule 11 (5) of the Rules, 2013, which provides for making an application for grant of query lease and the manner in which the application should be made. He further submits that in case of quarry permits which are different from quarry leases, there is no such requirement of prior submission of environmental clearance certificate as can be seen from Rule 59 of the Rules, 2013

and the Rule 59 still governs the field as it has not been struck down or declared invalid by any Court. He further submits that in any case the direction given by the Apex Court requiring the prior submission of environmental clearance certificate was only in respect of leases of minor minerals and these directions having been already complied with by the State Government, now the issue involved here would be entirely governed by Rules, 2013.

8. The learned Senior Advocate further submits that the impugned communication has been issued by respondent no.6 and it is in the nature of an executive instruction. He further submits that when an executive instruction is issued in conflict with a statutory provision or any Rule having force of law, it would be the latter which would prevail. He places reliance upon the view taken by another coordinate bench of this Court of which one of us was part, in the case of *Rashtriya Shikshan Sangh and others Vs. State of Maharashtra and others in Writ Petition No.10347/2012 decided on 26th February 2022*.

9. The argument so advanced on behalf of the petitioner in Writ Petition No.2153/2022 is adopted by the learned counsel appearing for the petitioners in Writ

Petition Nos.2163/2022 and 2731/2022. Shri Bhandarkar, learned counsel for the petitioner in Writ Petition No.2163/2022 has added that in case of traditional occupation of work of sand by Vanjara and Oads, the Central Government has granted exemption from submission of any environmental clearance certificate for grant of mining lease, vide it's notification dated 28.3.2020.

10. The learned AGP for the State Government submits that the impugned communication has been issued by respondent no.6 only to give effect to the directions of the National Green Tribunal but, the stand of the Government as stated in paragraph 5 of its reply is that as per the policy of the Government wherever any short term temporary permits for extraction of minor minerals are to be issued, there would be no requirement of submission of any prior environmental clearance certificate and the policy has remained as it is. He also does not dispute the fact that the interim direction given by the Apex Court in the case of *Deepak Kumar* (supra) was there only till the time the rules were framed under Section 15 of the Act, 1957 by the State Governments and the Union Territories and in this case rules have been framed, and the direction of submission of prior environmental clearance certificate for operation of lease

of minor minerals has also been incorporated in the Rules, 2013. He further submits that the quarry permit not being the same as quarry lease, there would be no requirement of prior submission of environmental clearance certificate for its grant.

11. In order to answer the question framed earlier, the arguments submitted on behalf of both sides would have to be considered by examining the background of Rules, 2013 and the nature of the provisions made therein, insofar as they govern the issue involved in the present cases.

12. In the case of *Deepak Kumar* (supra) the validity of the auction notice dated 3.6.2011 proposing to auction the extraction of minor minerals, boulders, gravel and sand quarries of an area not exceeding 4.5 hectares in the district of Panchkula, and auction notices dated 8.8.2011 for extraction of minor minerals in the districts of Panchakula, Ambala and Yamnuna Nagar exceeding five hectares was in question. One of the auction notices, which referred to mining leases of less than five hectares stated that the area envisaged under mining leases being of five hectors, no environmental clearance was required to be obtained as per MoEF Notification dated 14.9.2006. The Apex Court while

deciding the question, took into consideration recommendations made by the Ministry of Environment and Forest (MoEF) and stated in its report. One of the recommendations dealt with depth of mining and emphasised on the need for preparing a detailed hydrogeological report while stating that from the point of view of mineral conservation, it may not be desirable to impose blanket ban on mining operation below groundwater table. The recommendation was to the effect that it was only after a detailed hydrogeological report was prepared in respect of any mining operation for minor minerals that a decision regarding restrictions to be placed as regards depth of mining of any area, based upon the findings of study, should be taken on case to case basis.

13. Taking into consideration various recommendations made in the report of MoEF, the Supreme Court observed that operation of mines of minor minerals needs to be subjected to strict regulatory measures and that it was also felt necessary to have a relook at the definition of, "minor minerals" per se. It was further observed that there was necessity of preparation of "comprehensive mines plan" for contiguous stretches of mineral deposits by the respective State Governments and they may also be

encouraged to make inclusion of the plan by its appropriate incorporation in the Mineral Concession Rules, 1960 framed by the Ministry of Mines.

14. With the above referred observations, the Supreme Court issued a direction to the Central Government to take steps to bring into force the Minor Minerals Conservation and Development Rules, 2010 at the earliest and further directed the State Governments and Union Territories to take immediate steps to frame necessary rules under Section 15 of the Act, 1957 taking into consideration the recommendations of MoEF given in its report of March 2010 and model guidelines framed by the Ministry of Mines, Government of India. It further directed that in the meanwhile, leases of minor minerals including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting Environmental Clearance from MoEF. These directions have appeared in para 28 and 29 of the judgment, which are reproduced for the sake of convenience, as follows:

"28. The Central Government also should take steps to bring into force the Minor minerals Conservation and Development Rules, 2010 at the earliest. The State

Governments and UTs also should take immediate steps to frame necessary rules under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 taking into consideration the recommendations of MoEF in its Report of March 2010 and model guidelines framed by the Ministry of Mines, Government of India. Communicate the copy of this order to MoEF, Secretary, Ministry of Mines, New Delhi; Ministry of Water Resources, Central Government Water Authority; the Chief Secretaries of the respective States and Union Territories, who would circulate this order to the Departments concerned”.

“29. We, in the meanwhile, order that leases of minor minerals including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting environmental clearance from MoEF. Ordered accordingly.”

15. It would be clear from the above referred directions that the State of Maharashtra, which is one of the States covered by the directions given in paragraph

28, was required to take immediate steps to frame necessary Rules by exercising its powers under Section 15 of the Act of 1957. It would be further clear from the directions contained in paragraph 29 that no lease of minor minerals including the renewal of lease granted for an area of less than five hectares shall be granted without prior submission of environmental clearance obtained from MoEF till the rules were framed, which is evident from the words, "We, *"in the meanwhile"* and *"leases of minor minerals"*.

16. The Rules 2013, as stated earlier, have been framed by issuing Notification dated 18th July, 2013 in compliance with the directions contained in paragraph 28 of the Judgment of *Deepak Kumar* (supra). These Rules have been framed in exercise of powers conferred upon the State Government under Section 15 of the Act, 1957. Now, the incidental question is whether Rules, 2013 give effect to the interim direction of the Apex Court regarding granting of lease of minor minerals and renewal of such a lease for an area of less than five hectares only upon submission of environmental clearance certificate obtained from MoEF or not.

17. The answer to the said question lies in the provisions made in Chapter II of the Rules, 2013.

Chapter II of the Rules, 2013 deals with the procedure for grant of quarry lease. Rule 11 provides for application of quarry lease and the requirements to be fulfilled while making the application. It prescribes various requirements including requirement of submission of documents. The documents which are required to be submitted are enumerated in sub-rule (5) of Rule 11 of the Rules, which reads as under:

“11.Application of quarry lease.

11(1)....

11(2)....

11(3)...

11(4)....

11(5) Every application for grant or renewal of quarry lease shall be in addition to the documents mentioned above shall be accompanied with,

(a)Mining dues clearances certificate.

(b)Record of rights of the area applied for.

(c)A map showing the location of the area.

(d)Approved Mining plan and progressive mine closure plan for the area in case of renewal.

(e) Solvency Certificate of the applicant issued from a revenue officer not below the rank of Tahsildar.

(f) Environment Clearance Certificate issued from the appropriate authority in case of renewal, if environment clearance period expires for the period requested for extraction”.

18. It would be clear from the list of documents prescribed in the above referred Rule that an application for grant of quarry lease must be accompanied by all these documents and one of them is the document of environment clearance certificate issued by the appropriate authority (Clause f). That means that no quarry lease can be granted as per Rule 11 (5), unless all the documents listed therein including the environmental clearance certificate, are submitted along with the application for grant of quarry lease. This Rule, thus, incorporates the interim direction given by the Apex Court regarding necessity of prior submission of environmental clearance certificate for grant of lease of minor minerals irrespective of the size of the area leased. Therefore, the incidental question posed by us earlier has to be answered as in the affirmative and we do so.

19. The next incidental question that arises is - as to by which regimen now the issue of exploitation and extraction of minor minerals is governed? Considering the fact that there was a direction issued by the Apex Court to all the State Governments and Union Territories to frame necessary rules under Section 15 of the Act, 1957, the fact that the interim direction was issued to cover the period of interregnum till the necessary rules were framed and also the fact that now the rules, which are Rules, 2013 for the State of Maharashtra, have been indeed framed as per Notification dated 13th July, 2018, the issue of exploitation and extraction of minor minerals would be governed by the regulatory mechanism prescribed in the Rules, 2013. We, therefore, answer the next incidental question accordingly.

20. After having found out the regimen by which the issue of exploitation and extraction of minor minerals is governed, we think that now, it would be easier for us to make an attempt to answer the question framed by us at the beginning of the judgment and which is the cause of the common grievance raised in these petitions. For this purpose, let us look into the relevant provisions of Rules, 2013.

21. Upon consideration of the relevant provisions of Rules, 2013, we find that these Rules contemplate two kinds of regulatory measures for exploitation and extraction of minor minerals. One is that of "quarry lease" and the other is of "quarry permit". Both these measures are defined in Rule 2 (r) and Rule 2 (t) respectively. Their definitions read as under:

"Rule 2 (r) "Quarry lease" means a lease to mine, quarry, bore, dig, search for, win, work and transport or carry away any minor mineral specified therein;"

"Rule 2 (t) "Quarry permit" means a permit granted under Chapter-IV of these rules to extract and remove any minor mineral in specified quantities and specified time".

22. It would be clear from the above definitions that under the Rules, 2013 distinction has been made between 'quarry lease' which is not granted under Chapter IV and 'quarry permit' which is granted under Chapter IV of the Rules, 2013. It would also be clear that a "quarry lease" is about full exploitation of a minor mineral right from searching for it through its excavation and mining to its transportation and includes

such operations as, mining, quarrying, boring, digging, searching for, winning and transporting; while a "quarry permit" is about obtaining a mined minor mineral and includes only limited operations like extraction and removal of the minor mineral.

23. A further consideration of the relevant provisions made in Rule, 2013 shows that the subject of grant of 'quarry lease' has been dealt with in Chapter II of the Rules, 2013 and the relevant provision for the purpose of these petitions is to be found in Clause (f) of Rule 11 (5) about which, we have already made detailed discussion in the earlier paragraph. Considering the requirements stated in Rule 11, in particular the one prescribed in clause (f) of sub-rule (5) of Rule 11, we find that prior submission of environmental clearance certificate along with the application made for grant of 'quarry lease' is a *sine qua non* of the grant of a quarry lease. Without submission of this certificate and so also the other documents listed in Rule 11 (5), no quarry lease can be granted by the Government to the interested person. Chapter II, however, nowhere refers to grant of a quarry permit as defined in Rule 2 (t). In fact, the definition of quarry permit itself indicates that it is something which is granted for limited operations under Chapter IV of Rules, 2013. This would necessitate us to

examine the relevant Rules enabling the State Government to grant a quarry permit. The Rules as contained in Rules 59 and 61 being relevant are reproduced as under:

"Rule 59 :Grant of Short term permits for minor minerals:

*(1) Notwithstanding anything contained in the foregoing rules, the Competent Officer, on an application made to him may grant a quarry permit to any person to extract or remove from any specified land within the limits of his jurisdiction any minor mineral not exceeding in quantity as mentioned under any one permit on payment of advance royalties * [at the rate specified in Schedule I] and on such rents and fees accessible for such extraction;*

Provided that, no permits shall be granted in case of any specified minor mineral without prior approval of the Director.

(2) The Competent Officer shall grant permit for specific time and specific volume.

(3)The Competent Officer may refuse to grant such permit for reasons to be recorded in writing.

Substituted for the words "calculated at the rate specified by the Government, from time to time, by

Notification No.Gaukhani.10/1012/C.R.603/kh, dated 11.05.2015”.

“Rule 61 : Application for quarry permits.

(1) An application for quarry permits shall be made in Form-P to the Competent Officer and shall contain the following particulars,

(a) Name, address, profession, nationality of the applicant.

(b) Name and quantity of the minor mineral for which the permit is required.

(c) Description of land, such as location, survey number from which the minor mineral is to be extracted.

(2) Every application for quarry permit shall be accompanied by the certified true copies of relevant extracts of the record of rights in respect of lands from where the applicant proposes to extract the mineral.

(3) The application shall be accompanied with the consent letter from the occupant of land in case land is belonging to individual.

(4) Every such application shall be affixed with court-fee stamp of rupees ten”.

24. It can be seen from the above referred Rules that there is no stipulation made therein regarding prior submission of environmental clearance certificate issued by the competent authority. They also show that the permit granted for extraction and removal of minor minerals is of short term and is restricted to the specified land with ceiling put on the quantity of minerals to be extracted and removed and is also confined to specific time and volume. It can be further seen that unlike Rule 11 (5), Rule 61, which is about the manner in which the application for quarry permit is to be made and the documents to be submitted along with the application, does not specify the requirement of submission of environmental clearance certificate along with application made in terms of Rule 61.

25. Thus, the discussion so far made would show that the rule making authority has made a distinction between "quarry lease" and "quarry permit" and the distinction shows that while "quarry lease" is for a longer period time, with wider scope of operations, the "quarry permit" is for a very short and temporary period of time, is confined to limited operations and is intended to achieve the object of urgent and immediate need of minor minerals for various developmental works by striking a balance between the need of protection of

environment and the need for undertaking developmental works which are in larger public interest. For grant of “quarry permit” under Rule 59, there is another distinguishing feature from that of “quarry lease” granted under Chapter II of the Rules, 2013, and it is that there is no requirement of prior submission of environmental clearance certificate. This distinguishing feature of “quarry permit” in particular, we must say, has rational and proximate relation with the purpose for which a “quarry permit” is granted, the purpose of obtaining an already mined mineral and serves the object of meeting an urgent and immediate need of the minor mineral for various developmental works. When an already mined mineral is to be extracted and removed from a limited area and in specific volume and for specific time, the rationale behind no requirement of prior submission of environmental clearance certificate would be one of sustainable development where environment and development both go hand in hand. This conclusion answers the main question involved here and, we do answer accordingly.

26. Coming back to the Rules, 2013, we may add here that the Rules, 2013 which have been framed in compliance with the directions of the Apex Court in the case of *Deepak Kumar* (supra) have not been questioned

for their vires and validity so far. That means, the Rules, 2013 govern the subject of exploitation, extraction and removal of minor minerals by providing a detailed regulatory mechanism. These Rules being in the nature of subordinate legislation have the force of law and would prevail upon any executive instruction, which is contrary to any of the provisions made in the Rules. It also means that by an executive diktat, the State Government or any of its officers cannot make any attempt to supersede these Rules. The only permissible act that can be done by the State Government is that of filling up of the gaps left in the subordinate Legislation by issuing necessary executive instructions. A coordinate bench of this Court in the case of *Rashtriya Shikshan Sangh* (supra) has held that the power of the State Government to issue executive directions is confined to filling up of the gaps or covering the area which otherwise has not been covered by existing statutory Rules and such instructions or orders must be subservient to the statutory Rules. The view so expressed follows the law settled in this regard by the Supreme Court in the cases of *R.N. Nagarajan Vs. State of Mysore*, AIR 1966 SC 1942 and *Ram Javva Kapoor Vs. State of Punjab*, AIR 1955 SC 549. The relevant observations made in the case of *Rashtriya Shikshan*

Sangh (supra), as they appear in paragraph 14, are reproduced thus:

"14. The power of the State Government to issue executive directions is confined to filling up the gaps or covering the area which ordinance has not been covered by the existing statutory Rules, and such instructions or orders must be subservient to the statutory Rules. The executive power of the State under Article 162 of the Constitution of India is co-extensive with the legislative power, and when the field of law is occupied by a Legislative Act, the exercise of executive power is not available. The Government cannot supersede statutory Rules by administrative instructions. Still, if the Rules are silent on any particular point, the Government can fill the gaps by framing Rules and issuing instructions not inconsistent with the already framed Rules. In *R.N.Nagarajan v. State of Mysore*, AIR 1966 SC 1942 the Supreme Court has observed that it is necessary to mention that if there is a statutory rule or an Act on the matter, the executive must abide by that Act or Rule and it cannot in exercise of the executive power under Article 162 the Constitution ignore or act contrary to that Rule. A Constitution Bench of the Supreme

Court in *Ram Javya Kapoor v. State of Punjab*, AIR 1955 SC 549, held :

“The State in exercise of its executive powers is charged with the responsibility and duty of carrying on the general administration of the State so long as the State Government does not go against the provisions of the Constitution or any law the width and amplitude of its executive powers cannot be circumscribed. If there is no enactment covering a particular aspect certainly the Government can carry on the administration by issuing administrative directions or instructions until the Legislature makes a law in that behalf”.

27. In the cases before us, there was a communication issued by the State of Maharashtra on 12.12.2013 which stated that in case of grant of short term quarry permits under Chapter IV of Rules, 2013, there would be no need for prior submission of environmental clearance certificate. This communication was not inconsistent with or contrary to Rules 59 and 61 of the Rules, 2013, rather, it was clarificatory in nature. However, this is not so in case of communication dated 24th March,

2022, which is impugned in all these petitions. By this communication issued by respondent no.6, it is directed that no quarry permit referred to in the communication dated 12.12.2013 be issued without prior submission of environmental clearance certificate in view of the directions given by the National Green Tribunal in the case of *Shri Rajiv Babasaheb Waman and others Vs. Ministry of Environment, Forest and Climate Change and others in OA 68/2020*. The direction so given afresh by an executive instruction contained in this communication, in our considered view, cannot and would not prevail over the Rules 59 and 61 of the Rules, 2013, for the reasons stated in the ensuing paragraphs.

28. We have already seen that there is no requirement of Rules 59 and 61 that environmental clearance certificate be submitted along with the application made for grant of a quarry permit and, therefore, the direction given through an executive order that for grant of a quarry permit, environmental clearance certificate be submitted, clearly runs contrary to the provisions made in Rules 59 and 61. Further, we have already seen that Rules, 2013 govern the subject of "quarry leases" and "quarry permits" prescribing different requirements for their grants. When these provisions of Rules, 2013 govern the field, there can be no executive clarification or communication issued,

which is inconsistent with or contrary to these Rules, as noted in the case of *Rashtriya Shikshan Sangh (supra)*. Then, in the case of *Shri Rajiv Babasaheb Waman (supra)*, it appears, the application of the Rules, 2013 to the subject of “quarry leases” and “quarry permits” was not brought to the notice of the National Green Tribunal and what was brought to its notice was only the office communication dated 12.12.2013. This communication being in the nature of executive instruction and not having any force of law was found foul of the directions contained in the case of *Deepak Kumar (supra)*, by the NGT, and not without any reasons. The NGT was not aware of Rules, 2013 having been framed and governing the field. Had the fact of framing of Rules, 2013 been brought to the notice of the NGT, perhaps the things would have been different. Anyway, the judgment of the NGT has now been stayed in relation to appellants therein by the Supreme Court. But, the fact remains that what was not considered by National Green Tribunal was that there was in place a new regulatory mechanism governing the subjects of quarry leases and quarry permits, which did not require, for, granting a quarry permit, any environmental clearance certificate though it required one for granting a quarry lease under the Rules, 2013. The office communication dated 12.12.2013, we must say, only clarifies what is already prescribed in Rules 59 and 61 of the Rules, 2013 governing the subject of grant of quarry permits and,

therefore, it continues to hold the field. These facts were not noticed by the National Green Tribunal and that was the reason why following observations came in paragraph 8 of its judgment in the case of *Shri Rajiv Babasaheb Waman* (supra) which read thus:

"8.....It is duty of the State of Maharashtra to issue clarification in view of the fact that its circular is rusting in defiance of judgment of the Hon'ble Supreme Court to the detriment of environment and rule of law. The Chief Secretary, Maharashtra may ensure further remedial action in this regard".

29. It is obvious that the direction so given by the National Green Tribunal was only in the context of the office communication dated 12.12.2013 and not upon consideration of the requirements of relevant Rules i.e. Rules 59 and 61 governing the subject of quarry permits. This direction, therefore, would not come in the way of authorities considering the issue of grant of quarry permits in terms of Rule 59 read with Rule 61 of the Rules, 2013. Even otherwise, if the direction given by the National Green Tribunal was to be implemented by the Chief Secretary, he ought to have considered the real impact of the relevant words which required him to

ensure "*further remedial action in the matter*". It would then mean that doing something which was in the nature of suitably amending the Rules 59 and 61 of Rules, 2013 was required, if thought fit, which was not done.

30. The above discussion would lead us to find that no executive instruction which is contrary to the requirements of Rules 59 and 61 of Rules, 2013 could have been issued by the State Government, as it has done vide its impugned communication dated 24th March, 2022, in the name of issuing of a clarification. If any clarification was to be issued, it must have been by following the well settled principles of law stated in the judgment of the coordinate Division Bench of this Court in the case of *Rashtriya Shikshan Sangh* (supra) and by suitably amending Rules 59 and 61 of Rules, 2013, if thought fit. The direction issued by National Green Tribunal appears to have been misconstrued by the State Government and the result is of issuance of the impugned communication in the name of *clarification* which is contrary to the Rules of 59 and 61 of Rules, 2013 and which violates the settled principles of law. Such a communication, therefore, cannot stand the scrutiny of law and is required to be quashed and set aside as being illegal.

31. Shri Bhandarkar, learned counsel has referred to the Notification dated 20th March, 2020 in order to support his contention that the short term permits for extraction of minor minerals have been exempted from the requirement of submission of environmental clearance certificate. He has placed reliance upon Item VIII in Appendix IV to the Notification dated 20th March, 2020. Item VIII relates to traditional occupational work of sand by Vanjara and Oads in Gujarat. It is, therefore, clear that this notification does not support the argument that even in the notification dated 20th March, 2020 issued by the Ministry of Environment of Forest and Climate Change, there is an exemption granted to a quarry permit from the requirement of submission of prior environmental clearance. Be that as it may, we have already found that the impugned communication dated 24th March, 2022 is bad in law, for the reasons stated earlier.

32. We thus find that there is substance in these petitions and they deserve to be allowed.

33. The petitions are allowed and the impugned communication dated 24th March, 2022 is hereby quashed and set aside.

34. Rule is made absolute in the above terms.

No costs.

(ANIL L. PANSARE, J.)

(SUNIL B. SHUKRE, J.)

Ambulkar, PS

34. Rule is made absolute in the above terms.

No costs.

(ANIL L. PANSARE, J.)

(SUNIL B. SHUKRE, J.)

Ambulkar, PS

महाराष्ट्र गौण खनिज उत्खनन
(विकास व विनियमन) नियम, २०१३
मधील अल्प मुदतीच्या परवाण्याबाबत
कार्यवाहीबाबत निर्देश.

महाराष्ट्र शासन
महसूल व वन विभाग

शासन परिपत्रक क्रमांक : गौखनि-१०/१०२२/प्र.क्र.२९२/ख-२

हुतात्मा राजगुरु चौक, मादाम कामा मार्ग,

मंत्रालय, मुंबई - ४०००३२

दिनांक : १३ ऑक्टोबर २०२२

संदर्भ :- १) महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३
२) शासन परिपत्रक क्रमांक गौखनि-१०/१०१२/प्र.क्र.६०३/ख, दि. ०१.११.२०२१.

प्रस्तावना :-

खाण व खनिज (विकास व विनियमन) अधिनियम, १९५७ च्या मलम १५(१)(३) अन्वये प्रदान करण्यात आलेल्या अधिकाराचा वापर करून महाराष्ट्र शासनाने महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३ तयार करण्यात आले आहेत. सदर नियमातील गौण खनिजासाठी अल्प मुदतीचे परवाने देण्याबाबत तसेच सदर परवाने निर्गमित करण्यास असलेले सक्षम प्राधिकारी याबाबत तरतूद करण्यात आली आहे.

याबाबत मा. राष्ट्रीय हरीत लवादाने दिलेला निर्णय व त्यानंतर केंद्र शासनाच्या पर्यावरण, वन व वातावरणीय बदल मंत्रालयाने दिनांक ८ ऑगस्ट २०२२ रोजी दिलेले कार्यालयीन ज्ञापन व त्यानंतर मा. मुंबई उच्च न्यायालयाच्या नागपूर खंडपीठाने दिलेल्या निकालानुसार सर्व यंत्रणाना, सर्व क्षेत्रीय अधिकारी व कर्मचारी यांना दिनांक १४/०९/२०२२ रोजी सूचना देण्यात आल्या होत्या. तथापि, याबाबत काही जिल्हयामधील अधिकाऱ्यांना याबाबत संभ्रम असल्याचे नमूद करून सदर परवाने देत नाहीत, अशी बाब शासनाच्या निर्दर्शनास आलेली आहे. त्या अनुषंगाने गौण खनिजाचे linear project साठी अल्प मुदतीचे अथवा जास्त कालावधीचे परवाने देण्याबाबत क्षेत्रीय स्तरावरील अधिकारी, कर्मचाऱ्यांना निर्देश देण्याची बाब शासनाच्या विचाराधीन होती. त्याबाबत शासन खालील प्रमाणे निर्देश देत आहेत.

शासन परिपत्रक :-

अ) पर्यावरण, वन व वातावरणीय बदल मंत्रालयाच्या दिनांक २८/०३/२०२० रोजीच्या अधिसूचनेतील परिशिष्ट ९ मधील बाबीसाठी पर्यावरण अनुमतीची गरज नाही असे स्पष्टपणे नमुद केले आहे. यामध्ये अ.क्र. ६ वर (Extraction or sourcing or borrowing of ordinary earth for the linear projects such as road, pipelines etc.) असे नमूद आहे. तथापि याबाबत ही मा. राष्ट्रीय हरीत

न्यायालयाच्या दिनांक ७ मार्च २०२२ रोजीच्या आदेशाच्या अनुषंगाने शासनाने दि. २४/०३/२०२२ च्या पत्रान्वये यासाठीचे परवाने ही पर्यावरण अनुमती शिवाय देता येणार नाही, असे कळविले होते. परंतु त्यानंतर मा. राष्ट्रीय हरीत न्यायालयाच्या निर्णयाचा परामर्श घेऊन व Expert Appraisal Committee चा सल्ला घेऊन केंद्र शासनाच्या पर्यावरण, वन व वातावरणीय बदल मंत्रालयाने दि.०८.०८.२०२२ रोजी स्पष्ट सूचना दिलेल्या आहेत. त्या सूचना मधील परिच्छेद ५ हा आदेश स्वरूपातील आहे. त्याचे अवलोकन व पालन करणे सर्व क्षेत्रीय अधिकारी/ कर्मचारी यांच्यावर बंधनकारक करण्यात येत आहे.

याचाच अर्थ की linear projects साठी आवश्यक असणारी Earth / Soil material साठी परवाने देतांना पर्यावरण अनुमती स्वतंत्रपणे लागणार नाही. तथापि, केंद्र सरकारच्या दि. ०८/०८/२०२२ च्या जापनातील परिशिष्ट मधील (SOP- Standard Operating Procedure) चे अनुपालन करणे क्षेत्रीय अधिकारी / कर्मचारी यांना बंधनकारक आहे. या निर्देशांचे पालन करून क्षेत्रीय स्तरावरील संबंधित अधिकारी/ कर्मचारी यांनी असे परवाने देण्याची कार्यवाही करावी व याबाबतच्या प्रक्रिये संबंधी पूर्वी दिलेल्या सूचना एकत्रितपणे पुन्हा स्पष्ट करण्यात येत आहे.

- ब) १) महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३ मधील तरतूदीनुसार गौण खनिजासाठी अर्ज व त्याबाबतचे प्रक्रिया शुल्क भरून देण्याची कार्यवाही करण्यात यावी.
- २) सदर नियमाच्या नियम ५९ खाली गौण खनिज परवाना देण्यासाठी सक्षम प्राधिकारी यांनी अर्ज प्राप्त झाल्याच्या ३० दिवसांच्या आत परवाने निर्गमित करण्याबाबतची कार्यवाही करण्यात यावी.
- ३) तसेच सदर नियमानुसार अल्प / तात्पुरत्या मुदतीचे परवाने देण्यास सक्षम असलेल्या सक्षम प्राधिकारी यांनी ज्या क्षेत्रातून परवाना देत आहे ते क्षेत्र जिल्हा खाणकाम योजनेत अंतर्भाव करण्यात आले असल्याचे खात्री केल्यानंतरच परवाने देण्याची कार्यवाही करावी.
- ४) मुख्य नियम-४६ मधील उपनियम (१) अन्वये जमिनीच्या भूखंडाचा विकास करताना नियोजन प्राधिकरणाने मंजूर केलेल्या भूखंडाचा विकास आराखडा/बांधकाम परवाना यामध्ये अंतर्भूत गौण खनिज उत्खननाचे परिमाण, इत्यादी बाबी विचारात घेऊन स्वामित्वधनाची आकारणी करण्यात यावी.
- ५) गौण खनिजाचे अल्प / तात्पुरते परवाना देण्यास सक्षम असलेल्या अधिकारी यांनी खालीलप्रमाणे परिमाण विचारात घेऊनच आदेश निर्गमित करण्यात यावेत :-

अ.क्र.	सक्षम प्राधिकारी	परिमाण (ब्रास)
१	तहसिलदार	५००
२	उप विभागीय अधिकारी	२०००
३	जिल्हाधिकारी	१. २५००० २. अधिसूचीत केलेल्या कोणत्याही महत्वाच्या सार्वजनिक प्रकल्पासाठी १००००० पेक्षा अधिक नाही.

पृष्ठ ३ पैकी २

सदर शासन परिपत्रक महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आले असून त्याचा संकेतांक २०२२१०१३१८१५२६९११९ असा आहे. हे परिपत्रक डिजीटल स्वाक्षरीने साक्षांकित करून काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

RAMESH SHIVAJI
CHAVAN

Digitally signed by RAMESH SHIVAJI CHAVAN
DN: cn=RAMESH SHIVAJI CHAVAN, o=GOVERNMENT OF MAHARASHTRA, ou=REVENUE
DEPARTMENT, postalCode=400022, st=Maharashtra
c=IN, email=RAMESH.SHIVAJI.CHAVAN@MAHARASHTRA.GOV.IN
Date: 2022.10.10 12:48:49 +05'30'

(रमेश चव्हाण)

शासनाचे सह सचिव

प्रत,

१. मा. राज्यपाल यांचे प्रधान सचिव, राजभवन, मलबार हिल, मुंबई.
२. मा. मुख्यमंत्री, महाराष्ट्र राज्य यांचे प्रधान सचिव, मंत्रालय, मुंबई.
३. मा. विधानसभा अध्यक्ष यांचे खाजगी सचिव, विधानमंडळ, मुंबई.
४. मा. विधानपरिषद सभापती यांचे खाजगी सचिव, विधानमंडळ, मुंबई.
५. मा. मंत्री, महसूल यांचे खासगी सचिव, मंत्रालय, मुंबई.
६. मा. राज्यमंत्री (महसूल) यांचे खाजगी सचिव, मंत्रालय, मुंबई.
७. सर्व मा. मंत्री / मा. राज्यपाल यांचे खाजगी सचिव, मंत्रालय, मुंबई.
८. सर्व मा. विधानसभा / विधानपरिषद सदस्य.
- ९) सर्व मंत्रालयीन विभाग
१०. सर्व विभागीय आयुक्त.
११. सर्व जिल्हाधिकारी.
१२. सर्व उपविभागीय अधिकारी.
१३. सर्व तहसिलदार.
१४. संचालक, भूविज्ञान व खनिकर्म संचालनालय, नागपूर.
१५. निवडनरती.



545

EX-R8

महाराष्ट्र शासन
महसूल व वन विभाग

मुख्य इमारत, १ ला मजला, मादाम कामा मार्ग,
हुतात्मा राजगुरु चौक, मंत्रालय, मुंबई ४०० ०३२.

दुरध्वनी क्रमांक - ०२२-२२०४८२४७

ई मेल - deskkh2-rfd@mah.gov.in

क्र.गौखनी-१०/१२२१/प्र.क्र.३२०/ख-२

दिनांक - २० ऑक्टोबर, २०२२.

प्रति.

१. विभागीय आयुक्त (सर्व)
२. जिल्हाधिकारी (सर्व).

विषय:- गौण खनिज-संकिर्ण

गौण खनिजाचे तातपुरते परवाने निर्गमित करण्याच्या कार्यवाहीबाबत

संदर्भ :- १. महसूल व वन विभाग क्र.गौखनि-१०/०८१२/प्र.क्र.६१३/ख-२, दि.१२.१२.२०१३
चे पत्र२. मा.राष्ट्रीय हरीत न्यायाधिकरण, खंडपीठ पुणे, मूळ अर्ज क्र.६८/२०२०(WZ),
दि.१७.०२.२०२२ चे आदेश

३. सम क्रमांक दि.२४.०३.२०२२ चे पत्र

४. सम क्रमांक दि.१४.०९.२०२२ चे पत्र

५. महसूल व वन विभाग क्र.गौखनि-१०/०९२२/प्र.क्र.२६३/ख-२, दि.१५.०९.२०२२
चे पत्र६. मा. सर्वोच्च न्यायालय, नवी दिल्ली, सिव्हील डायरी नं. (एस).२९६२३/२०२२,
दि.१४.१०.२०२२ चे आदेश७. मा. मुंबई उच्च न्यायालय, खंडपीठ नागपूर यांनी याचिका क्र.२१५३/२०२२,
२१६३/२०२२ व २७३१/२०२२ मध्ये दिलेले दि. १४.१०.२०२२ चे आदेश८. महसूल व वन विभाग क्र.गौखनि-१०/०८२२/प्र.क्र.२५१/ख-२, दि.०१.०९.२०२२
चे पत्र९. पर्यावरण, वन व वातावरणीय बदल विभाग, भारत सरकार, क्र. Z-११०१३/४७/
२०१८-IA.II(M), दि. २८.०३.२०२० ची अधिसूचना१०. पर्यावरण, वन व वातावरणीय बदल विभाग, भारत सरकार, क्र.३-७०/२०२०
IA.III(१४११२७), दि. ०८.०८.२०२२ चे कार्यालयीन जापन

मा.राष्ट्रीय हरीत न्यायाधिकरणाने मूळ अर्ज क्रमांक ६८/२०२० मध्ये दिनांक १७.०२.२०२२ रोजी दिलेल्या आदेशाचे अवलोकन केले असता, पर्यावरण अनुमती शिवाय तातपुरते गौण खनिज उत्खनन परवाने देण्यात येवू नयेत, असे आदेश दिलेले असल्याने मा. राष्ट्रीय हरीत न्यायाधिकरण यांनी पारीत केलेल्या आदेशाची अवहेलना होणार नाही, याची दक्षता घेण्याच्या सूचना संदर्भाधीन क्रमांक ३ दिनांक २४.०३.२०२२ अन्वये संबंधीताना देण्यात आल्या आहेत.

०२. श्री. रसिका दत्तात्रय गावडे व इतर यांनी मा.राष्ट्रीय हरीत न्यायाधिकरण, खंडपीठ पुणे, मूळ अर्ज क्र.६८/२०२०(WZ) मधील दिनांक १७.०२.२०२२ चे आदेशाविरुद्ध मा. सर्वोच्च न्यायालयात दाखल केलेल्या सिव्हील अपिल डायरी नं(एस) २९६२३/२०२२ मध्ये मा. सर्वोच्च न्यायालयाने दिनांक १४.१०.२०२२ रोजी खालीलप्रमाणे आदेश दिले आहेत.

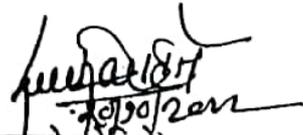
“Application for exemption -----.

Operation of the impugned order shall remain stayed until further orders.”

०३. मा. मुंबई उच्च न्यायालय, खंडपीठ नागपूर येथे दाखल याचिका क्र.२१५३/२०२२, २१६३/२०२२ व २७३१/२०२२ मध्ये मा. उच्च न्यायालयाने दिनांक १४.१०.२०२२ रोजी आदेश पारित केले असून, सदर आदेशामध्ये महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३ अन्वये गौण खनिजाच्या तात्पुरते परवाने देण्याबाबतच्या नियम ५९ व ६१ चे सविस्तर विवेचन करून शासनाचे संदर्भाधीन क्रमांक ३ दिनांक २४.०३.२०२२ पत्र रद्द केले आहे.

०४. मा. सर्वोच्च न्यायालयात दाखल केलेल्या सिव्हील अपिल डायरी नं(एस) २९६२३/२०२२, दिनांक १४.१०.२०२२ रोजीचे आदेश विचारात घेता, सध्या:स्थितीत मा.राष्ट्रीय हरीत न्यायाधिकरणाने मूळ अर्ज क्रमांक ६८/२०२० मध्ये दिनांक १७.०२.२०२२ च्या आदेशास पुढील आदेशापर्यंत दिलेली स्थगिती तसेच मा. मुंबई उच्च न्यायालय, खंडपीठ नागपूर यांनी याचिका क्र.२१५३/२०२२, २१६३/२०२२ व २७३१/२०२२ मध्ये दिलेल्या दिनांक १४.१०.२०२२ च्या आदेशान्वये शासनाचे संदर्भाधीन क्रमांक ३ दिनांक २४.०३.२०२२ चे पत्र रद्द केलेले असल्यामुळे तत्पुर्वीचे गौण खनिजाचे तात्पुरते परवाने देण्याबाबतचे शासन निर्णय, परिपत्रक व पत्रान्वये तसेच संदर्भाधीन क्रमांक १ दिनांक १२.१२.२०१३ च्या पत्रान्वये देण्यात आलेल्या सूचना कायम राहत असून त्यानुषंगाने संबंधीत सर्व शासकीय विभागांनी गौण खनिज उत्खननाबाबतचे अल्प/तात्पुरते परवाने देण्याची कार्यवाही करावी.

०५. तसेच, केंद्र शासनाच्या पर्यावरण, वन व वातावरणीय बदल मंत्रालयाच्या संदर्भाधीन क्रमांक ९ दिनांक २८.०३.२०२० रोजीच्या अधिसूचनेतील परिशिष्ट ९ मध्ये क्रमांक ६ वर नमूद केलेल्या (Extraction or sourcing or borrowing of ordinary earth for the linear projects such as road, pipelines, etc). बाबीसाठी गौण खनिज उत्खननास परवानगी देताना पर्यावरण, वन व वातावरणीय बदल मंत्रालय, भारत सरकार यांनी संदर्भाधीन क्रमांक १०, दिनांक ०८.०८.२०२२ च्या कार्यालयीन ज्ञापनाव्दारे (Office Memorandum) दिलेल्या स्पष्टीकरणानुसार (SOP-Standard Operating Procedure) संबंधीत सर्व शासकीय विभागांनी कार्यवाही करण्याबाबत संदर्भाधीन क्रमांक ४, दिनांक १४.०९.२०२२ अन्वये देण्यात आलेल्या सूचना कायम राहतील याची संबंधीत क्षेत्रीय यंत्रणानी नोंद घ्यावी, ही विनंती


(स.गो.माहिते)

कक्ष अधिकारी, महसूल व वन विभाग



547

Ex-Rg

महाराष्ट्र शासन

उपसंचालक यांचे प्रादेशिक कार्यालय, भूविज्ञान आणि खनिकर्म संचालनालय,
उद्योग भवन, नागाळा पार्क, कोल्हापूर - 416003

दुरध्वनी क्र. 0231-2652151

ई-मेल - dgmkop@rediffmail.com

क्र. खप्र/59/20/2023/201

दि. /03/2023

प्रति,

02 MAR 2023

जिल्हा खनिकर्म अधिकारी,
जिल्हाधिकारी कार्यालय, कोल्हापूर

विषय :- गौण खनिज खाणपट्ट्याची ईटीएस मोजणी अहवाल.

उपरोक्त विषयास अनुसरून आपण विनंती केलेनुसार या कार्यालयातील श्री. इसाक शेख, भौ.मा.प्र.सहा. व श्री. श्रीकांत खराडे, भौ.मा.प्र.सहा. यांनी कोल्हापूर जिल्हयातील मौ. अर्जुनी, ता. कागल व मौजे जाधेवाडी, ता. आजरा, जि. कोल्हापूर येथील गौण खनिज खाणपट्ट्याची ईटीएस मशिनद्वारे संबंधीत तलाठी/मंडळ अधिकारी यांनी दाखविलेल्या हद्दीप्रमाणे आहे त्या स्थितीत माहे दि. 23/2/2023 ते 24/02/2023 या कालावधीत मोजणी केली असून त्याचे एकुण 03 मोजणी नकाशे व पंचनामे या कार्यालयास सादर केले आहे.

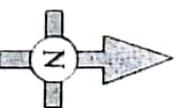
तरी सदर मुळ 03 मोजणी नकाशे व मुळ पंचनामे यासोबत पुढील कार्यवाहीस्तव आपलेकडे पाठविणेत येत आहेत.

सहपत्र - वरीलप्रमाणे


(प्रशांत कोरे)
वरिष्ठ भूवैज्ञानिक,
उपसंचालकांकरीता
कोल्हापूर.

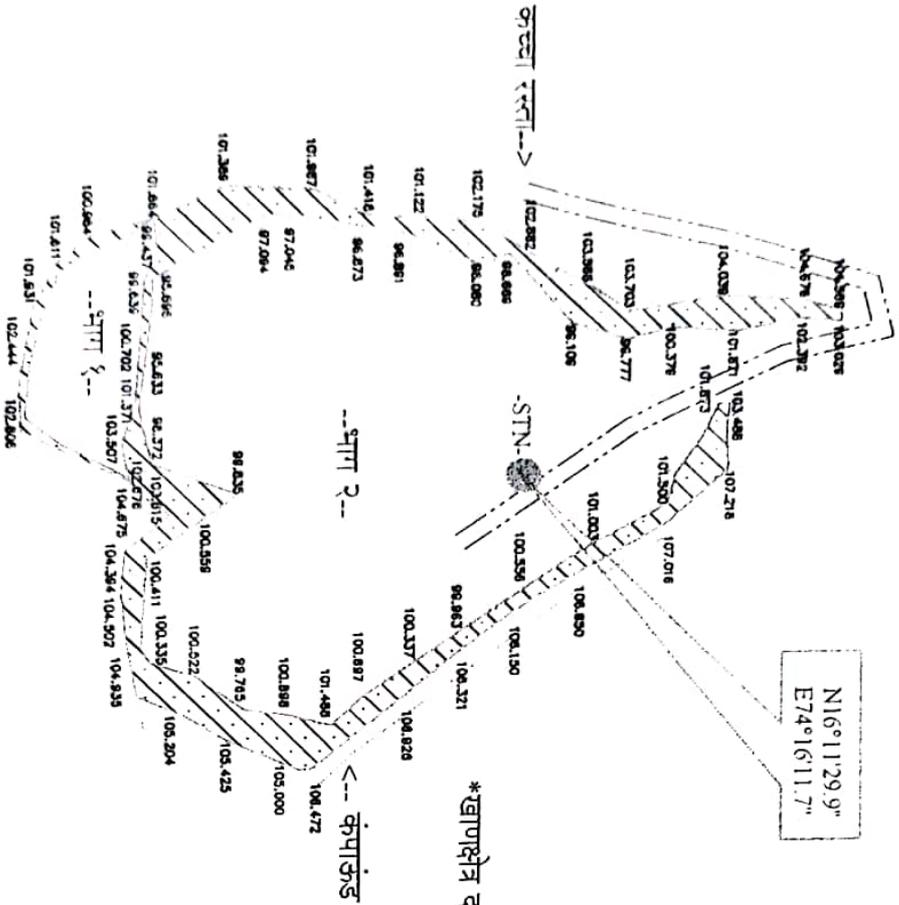

21/3/2023

परवानाधारक :- श्री. राजेंद्रसिंग भांभू इन्फ्रा प्रा. लि. रा. जयपुर-राजस्थान
 # जमिनमालक :- श्री. पांडुरंग धोंडिबा रावण
 मौजे जाधेवाडी, ता. आजरा, जि. कोल्हापूर, ग. नं. १५
 (गाँव खनिज परवाना क्षेत्र)



प्रमाण १ : १०००

मोजणी दिनांक : ०५/०२/२०२३



*घाणक्षेत्र दाखविणारे : १) श्री. रमेश दिनकर यादव (तलाठी सज्जा भादवण)

२) श्री. प्रविण सदाशिव खरात (मंडळ अधिकारी उजुर)

३) श्री. डी. डी. कोळी (नायब तहसिलदार आजरा)

४) श्री. मनोज कुमार (कंपनीचे प्रतिनीधी)

उत्खननाचा तपशील

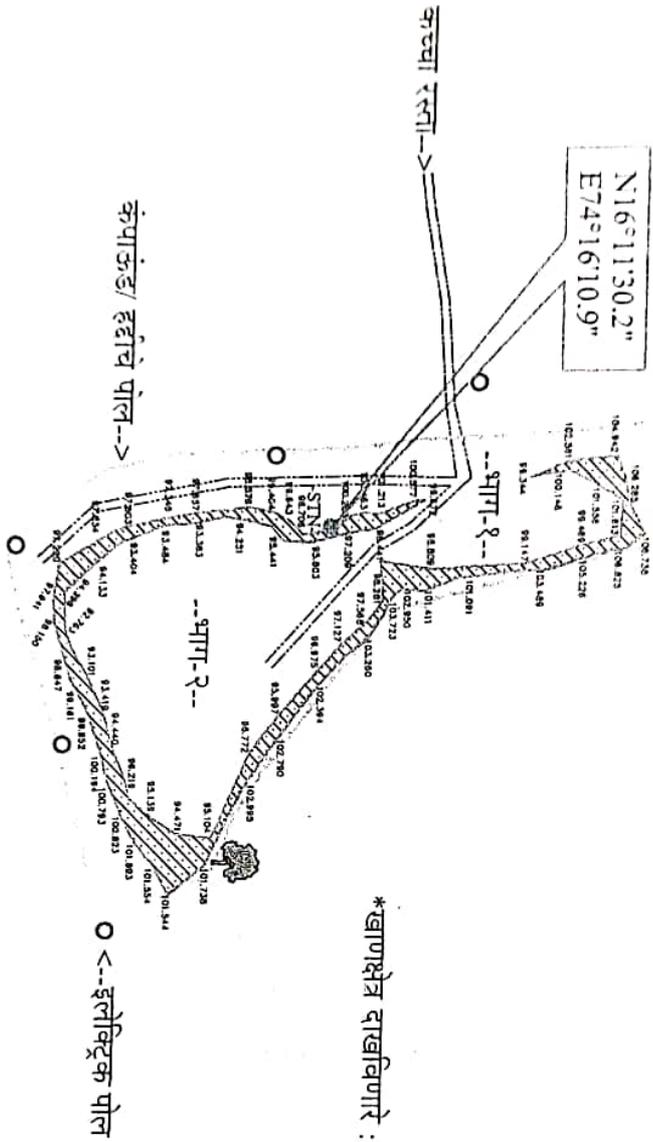
अ.क्र.	विषय	गाँव खनिज	सरसरी क्षेत्र	सरसरी उंची	परिमाण
१	भाग १	मुखम	३३० चौ. मी.	०.६३ मी.	७३ ब्रास
२	भाग २	टाड	३,१३६ चौ. मी.	३.९० मी.	४,३२२ ब्रास
				एकूण	४,३९५ ब्रास

*मोजणी करणारे : १) इसाक शेख
 (भौ. मा. प्र. स)

Isaac Shekh

२) श्रीकांत खराडे
 (भौ. मा. प्र. स)

परवानाधारक :- श्री.राजेंद्रसिंग भांभू इन्फ्रा प्रा.लि. रा.जयपूर-राजस्थान
 # जमीनमालक :- श्री.पांडुरंग धोंडिवा रावण
 मोजे जाधेवाडी, ता.आजरा, जि.कोल्हापूर, ग.नं. १५
 (गांण खनिज तात्पुरता परवाना क्षेत्र)

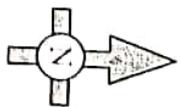


*खाणक्षेत्र दाखविणारे :

- १) श्री.रमेश दिनकर यादव (तलावी सज्जा भादवण)
- २) श्री.प्रविण सदाशिव खरात (मंडळ अधिकारी उमर)
- ३) श्री.डी.डी.कोळी (नायब तहसिलदार आजरा)
- ४) श्री.मनोज कुमार (कंपनीचे प्रतिनिधी)

प्रमाण १ : २०००

मोजणी दिनांक : २४/०२/२०२३



उत्खननाचा तपशील

अ.क्र.	विषय	गांण खनिज	सरासरी उत्खननाचे क्षेत्र	सरासरी उंची	एकूण उत्खनन
१	भाग १	दगाड	१.०२ चौ.मी.	४.१३ मी.	१,३१६ ब्रास
२	भाग २	दगाड	४.१७९ चौ.मी.	५.११ मी.	७,५४६ ब्रास
				एकूण	८,८६२ ब्रास

*मोजणी करणारे :

१) इसाक शेख
 (भा.मा.प्र.स)

(Signature)

२) श्रीकांत खराडे
 (भा.मा.प्र.स)

निवडणुका नायक तरावित्कार लो. आगरा यांचे समोर.

भाष्टी येथे एनेड मोजे गांधेबाई गा. आगरा मी. डोल्हापूर येथील आग्रये-सहिलारी पदुन जाग दि. २४/०२/२०२३ इय रोजी मा. निवडणुका नायक तरावित्कार आगरा यांनी जाग रोजी मोजे गांधेबाई गा. आगरा येथील जाट नं. ५५ येथील उल्लवन्न डेले लोखण एस त्या मोजणीमाय डोल्हापूर यांच्या येथाना लोखण लोखणिले वदुन भाष्टी येथे निवडणुका नायक तरावित्कार आगरा, मंडल अधिष्ठाती भाग उल्लवन्न, कलाही, डोल्हापूर व मो. पारिले स्वधोडिगलने चे रोजेवरी व राजेंद्र सिंह मोठे, इन्फा माय. ति. यांचे प्रतिनिधी व एस मोजणी उर्ध्वारी यांच्या उपाध्ये व आमच्या लोखण डिड स्वडिनी १०.४५ वा. उल्लवन्न डेलेल्ला जाट नं. ज्या चलुंमिना खानिले लोखणे.

- १. मोजे हिलगे गा. गडाहेल्ल रद्द
- २. पारियम. श्री ईश्वर व समाप्ता सावेत यांची शेती
- ३. उल्लवन्न. श्री वल्लु इन्फा सावेत यांची शेती
- ४. उल्लवन्न. श्री विष्णु लुमाना घोखणडर यांची रद्द.

जाग रोजी जाट नं. ५५ मध्ये उल्लवन्न डेले जागे वदुने उपाध्ये रहुन उल्लवन्न डेले जागेची पटाणी डेली. त्यामध्ये उल्लवन्न साविले आसलेले त्यांचे मोजमाय एस हाटे मोजेलेल्लि मासिले, साराधुन व खनिडर्न संचालनासक डोल्हापूर यांच्या मदतीने सामज्या सदस मोजमाय घेगेत आले मोजमाय डेलेनेही लकर जाट नं. मध्ये उपनीये प्रतिनिधी व संवर्धन शेतकरी हे साराधुन मोजमाय जागत रोजे. सदर मोजमाय बाबत त्यांची मोजणीची पहात आगरा एलडन नसलेले रोजी उपन डेले सदच्या येथेनामा सर्वांना जापुन काविले गो लोखण जोड पदुन येथेनामा जाग दि. २४/०२/२०२३ र रोजी लडाणी ११-२० वा. पालु डेडन ११-५० वा. पूर्वी डेलेत आला

Review
10/11/23
नी प्रतिनिधी

समोर.

गांधेबाई
पूर

नि. ना. तरावित्कार
पडिला

नाखणी
डोल्हापूर
मो. पारिले

१) लोखण...
२) लोखण...
(साचेन गोविंद कुकरलसिध)