

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

ORIGINAL APPLICATION NO.101 OF 2019 (WZ)

IN THE MATTER OF:

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

Versus

Union of India
Through Secretary, MoEF & CC & Others ... Respondents

AFFIDAVIT-IN -REPLY OF RESPONDENT NO.45

I, Devabhai S/o. Karabhai Bhutiya, Religion: Hindu, Age: ___ years,
Residing at: Porbandar, the respondent no.45 herein, do hereby solemnly
affirm and state on oath as under:-

1. I have perused the memo of Original Application (in short the 'OA') and Interim Application (in short the 'IA') filed therewith as also the documents annexed therewith. I am duly competent to file the present affidavit-in-reply as under:-
2. By way of preliminary objections as to maintainability of the Original Application, I had already filed a Interlocutory Application No. ___ of ___ (WZ) in the Original Application No.101 of 2019 (WZ) on the grounds briefly stated as under:-
 - (i) That the Original Application is not filed in prescribed FORMS under Rule 8(1) and doesn't adhere to and fulfill the requirement of Rules 8(5) and 14 of the NGT (Practice & Procedure) Rules, 2011 (in short the 'NGT Rules, 2011') read with Section 14, 15,

and 18 of the National Green Tribunal Act, 2010 (in short the 'NGT Act, 2010');

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- (ii) That the applicants have no *locus-standi* to file the Original Application;
 - (iii) That the Original Application is barred by law of limitation prescribed under Section 14(3) and 15(3) of the NGT Act, 2010;
 - (iv) That the Original Application is filed without any cause of action;
 - (v) That the Original Application suffers from gross suppression of facts and is filed with oblique motive.

It is also submitted therein that since, the issues as raised in the Misc. Application goes to the very root of the maintainability of the Original Application and the jurisdiction of the Hon'ble Tribunal, the said issues may kindly be decided first as preliminary issues before entertaining the Original Application on its own merits. The averments made in the said Misc. Application may kindly be treated as part and parcel of the present affidavit and I carve leave to refer and rely upon the averments made therein at the time of hearing.

3. I state that the applicant/s have conveniently suppressed the relevant facts and have made false statement in the OA and therefore, before dealing with the parawise averments of the OA, it is just and necessary for me to state the correct facts, which, in seriatim are narrated as under:-

(A) FACTUAL ASPECTS ON GRANT OF LEASE:-

- | | |
|------------|---|
| 15.01.1975 | Application for mining lease by Kotkoria Rasiklal Jamnadas for mineral limestone. |
| 12.01.1976 | The order of grant of mining lease of limestone was issued in favour of Kotkoria Rasiklal Jamnadas for limestone for a period of 20 years in respect of land bearing survey |





no.78/5, admeasuring Acre-28 Guntha-00 (nearly 11.33 hectares) at Taluka: Ranavav, District: Porbandar.

31.05.1976 A mining lease (Form K) was executed in respect of the order of grant of lease dated 12.01.1976.

12.04.1993 In exercise of powers conferred under rule 37 of the Mineral Concession Rules, 1960, the mining lease was ordered to be transferred in favour of Devabhai Karabhai Bhutiya.

21.04.1993 A transfer of mining lease (Form O) was executed pursuant to order of transfer of lease order dated 12.04.1993. A map was also prepared by the DILR in respect of said leasehold land of Survey No.78/5 (paiki) admeasuring 28 Acres.

The copies of order of transfer of lease dated 12.04.1993, lease deed (transfer) dated 21.04.1993 alongwith map is produced at **ANNEXURE-R-I (Colly.)** hereto.

13.01.1995 Since the original lease granted for a period of 20 years in the year 1976 the period thereof was about to expire, the applicant filed an application in FORM-J under Rule 24(A)(1) for 'first renewal' thereof before the competent authority under the provisions of the Mineral Concessions Rules, 1960 and said lease was operated thereafter under deemed renewal.

The copies of application for renewal of lease ('first renewal') dated 13.01.1995 with relevant documents is produced at **ANNEXURE-R-II (Colly.)** hereto.

19.02.2015 Before the expiry of the 'first renewal' and in view of subsequent amendment, under Rule 24A of the Mineral Concession Rules, 1960, an application in FORM-J was made before the competent authority seeking 'second renewal' of the existing mining lease.

A copy of application for renewal ('second renewal') of lease dated 19.02.1995 is produced at **ANNEXURE-R-III** hereto.

As per the amended provisions of Section 8A of the Mines and Minerals (Development and Regulations) Act, 1957 as brought into force w.e.f. 12.01.2015, any valid and subsisting lease as granted prior to the coming into force of the said amended provisions, would be valid for a period of 50 years thus, by virtue of the said amending provisions, the answering respondent is legally entitled to continue to operate the said lease upto year 2026.

30.12.2021 In exercise of powers under section 8(A)(6) of the Mines and Minerals (Development and Regulation Act, 1957, upon proposal of the commissioner, Geology and Mining dated 06.11.2020, vide its order, the competent authority under the Industries and Mines Department, Government of Gujarat extended/renewed the period of mining lease in favour of the respondent no.45 upto 30.05.2026.

A copy of order of extension/renewal of mining lease dated 30.12.2021 is produced at **ANNEXURE-R-IV** hereto.

The mining plans were also renewed by IBM from time to time and lastly on for a period from 2021-22 to 2025-26 as required under the provisions of MMRD Act, 2015 and the Rules framed thereunder.

(B) ON THE ASPECT OF GRANT OF EC:-

12.04.2010 Application through consultant in Form-1 and Pre-Feasibility Report of mining lease was submitted for grant of EC before the State Level Expert Appraisal Committee, Gujarat (SEAC).

A copy of application dated 12.04.2010 is produced at **ANNEXURE-R-V** hereto.

15.10.2010 The said application, appears to have been registered on 24.07.2010 and the lessee i.e. the respondent no.27 herein was informed by SEAC to attend the meeting of SEAC, Gujarat on 26.10.2010 at 11:15 AM.

A copy of communication from SEAC, Gujarat dated 15.10.2010 is produced at **ANNEXURE-R-VI** hereto.

11.01.2011 The SEAC de-listed the application from the list of pending applications with the SEAC, Gujarat on the ground that mining lease falls within 10 KM distance from the boundary of Barda Wild Life Sanctuary i.e. protected area and falls in Category 'A' hence, EC is required to be obtained from EIAA at MoEF.

A copy of communication from SEAC, Gujarat dated 11.01.2011 is produced at **ANNEXURE-R-VII** hereto.

14.03.2014 Again applied for EC before SEAC, Gujarat informing that the project (mining lease) falls under Category 1(a)(4). Mining extraction of natural resources and power generation (for a specified production capacity) and Category 'B' and hence, EC has to be obtained for the project from State Level Environment Impact Assessment Authority.



A copy of letter/application dated 14.03.2014 is produced at **ANNEXURE-R-VIII** hereto.

16.07.2016 Acceptance letter for ToR application was issued SEIAA, Gujarat in respect of proposal dated 15.07.2016 regarding grant of ToR.

The copies of letter dated 16.07.2016, Acknowledgement slip for ToR dated 15.07.2016 and duly filled in APPENDIX I (Category 'B') Form are collectively produced at **ANNEXURE-R-IX (COILY.)** hereto.

14.09.2016 In the 305th meeting of the SEAC, Gujarat while referring to the Notification of MoEF dated 25.06.2014 observed that since the mining lease is located within 5 KM distance from Barda Wildlife Sanctuary, the project falls under Category A and doesn't fall under the purview of SEAC and the lessee was advised to approach Environmental Appraisal Committee at MoEF & CC, New Delhi for obtaining Environmental Clearance.

A copy of minutes of meeting of SEAC held on 14.09.2016 is produced at **ANNEXURE-R-X** hereto.

06.10.2016 The SEAC informed that the application for EC with relevant information furnished in Form I, Prefeasibility Report and presentation made was considered in the meeting held on 14th September 2016 and as general condition of EIA Notification, 2006 is applicable to the proposal, the project proponent/lessee is required to apply afresh to MoEF & CC, New Delhi under Category 'A' project.

A copy letter of SEAC dated 06.10.2016 is produced at **ANNEXURE-R-XI** hereto.

05.11.2016 Acknowledgement slip for ToR/EC was issued for submission of proposal for ToR dated 05.11.2016 in respect of request for grant of ToR.

A copy of Acknowledgement slip for ToR/EC dated 05.11.2016 is produced at **ANNEXURE-R-XII** hereto.

20.02.2017 In Letters Patent Appeal No.268 of 2017 in Special Civil Application No.19917 of 2016, on instructions, the learned Government Pleader has submitted that in all other districts, where applications are pending before the District Committee, such leases are allowed to operate lease in terms of lease deed. Thus, the Division Bench of the Hon'ble Gujarat High Court, while issuing notice, directed the respondent authorities to allow the applicant therein to carry lease in terms of the existing lease deed executed in favour of the members of the appellant-association, by issuing necessary All Time Royalty (ATR) passes. It is also made clear that such operation shall be in accordance with the terms and conditions of lease and such operations will also be subject to further orders to be passed by the Environmental Impact Assessment Committee.

The said Letters Patent Appeal was thereafter disposed of as withdrawn vide order dated 11.02.2019.

The copies of orders dated 20.02.2017 and 11.02.2019 passed in Letters Patent Appeal No.268 of 2017 are collectively produced at **ANNEXURE-R-XIII (Colly.)** hereto.

13.05.2017 Thereafter, an application for ToR/EC was filed before SEIAA/EAC and an acknowledgement slip for ToR





application was issued for submission of proposal for ToR dated 13.05.2017 in respect of request for grant of ToR.

A copy of Acknowledgement slip for ToR dated 13.05.2017 is produced at **ANNEXURE-R-XIV** hereto.

26.01.2018 Office of Geologist, Geologist and Mining Department, Porbandar informed the EAC, MoEF that the lessee (respondent no.45 herein) has paid 100% cost of legally mined mineral and no illegally mining case due upon lessee in terms of Section 21(5) of the MMDR Act, 1957. Hence, No Objection Certificate is given to the lessee for action regarding grant of Environment Clearance Certificate.

A copy of letter dated 26.01.2018 is produced at **ANNEXURE-R-XV** hereto.

11.07.2018 The application/proposal of the lessee dated 13.05.2017 was taken up in the EAC meeting and after deliberations considered to be a violation case as per Notification dated 14.03.2017 and was recommended to defer for want of information from the project proponent/lessee.

29.06.2018 The Industries and Mines Department, State of Gujarat informed that the lease period extension in terms of Section 8(A)(6) of MMRD Amendment Act, 2015 of mining lease is under consideration and order will be issued in due course.

A copy of communication dated 29.06.2018 is produced at **ANNEXURE-R-XVI** hereto.

16.07.2018 The project proponent/lessee submitted compliance as required in the 10th EAC meeting held on 11.07.2018.

A copy of compliance letter dated 16.07.2018 is produced at **ANNEXURE-R-XVII** hereto.

27.11.2018 The project was again taken up in the EAC meetings in and again deferred for want of requisite documents.

A copy of minutes of meeting of SEIAA/EAC dated 27.11.2018 is produced at **ANNEXURE-R-XVIII** hereto.

27.11.2019 The present OA/101/2019 was filed by the applicants before the Hon'ble NGT (WZ).

17.03.2020 The Hon'ble NGT (WZ) issued notice in the aforesaid OA.

18.08.2020 Pursuant to the notice issued by the Hon'ble NGT (WZ) in OA/101/2019, a closure order was issued by the GPCB for want of CCA permission from the Board and for not providing air pollution control measures.

A copy of closure order dated 18.08.2020 issued by GPCB is produced at **ANNEXURE-R-XIX** hereto.

12.10.2020 Upon request, the Geologist, Mines and Minerals Department, Porbandar, unlocked the All Time Royalty (ATR) account of the lessee, permitting lifting the earlier extracted mineral already lying at site subject to conditions contained therein.

A copy of communication dated 12.10.2020 issued by the Geologist, Mines and Minerals Department, Porbandar is produced at **ANNEXURE-R-XX** hereto.

21.12.2020 The project proponents/lessees were informed by the MoEF & CC that the proposal will be listed for consideration by the EAC in its meeting scheduled in January 2021 with separate intimation

A copy of intimation notice of MoEF &CC dated 21.12.2020 is produced at **ANNEXURE-R-XXI** hereto.

Thereafter, the case of the project proponent/lessee was taken up in meetings pursuant to agenda notices in that regard. Subsequently, the lessee requested to defer the lessee's case for the meeting of EAC to be held in 44th EAC listed at item no.44.3.7 for want of lease extension/validity document.

A copy of request letter dated 12.02.2021 is produced at **ANNEXURE-R-XXII** hereto.

Thus, the case of the respondent no.45 for grant of ToR/EC is pending consideration before SEIAA/EAC.

2020-2021 A criminal case was filed by the GPCB for breach of EIA Notification dated 14.09.2006 and Section 16 read with Section 15 and 19 of the Environment (Protection) Act, 1986 before the learned Principal Judicial Magistrate First Class at Ranava. Pursuant to order dated 12.11.2022 passed below Exh.1 in said Criminal Case No.03/2021, the lessee has deposited the amount of Rs.50,000/- awarded thereunder.

The copies of memo of Criminal Case No.03/2021 and the order dated 12.11.2022 passed thereon are collectively produced at **ANNEXURE-R-XXIII (Colly.)** hereto.

30.12.2021 In exercise of powers under section 8(A)(6) of the Mines and Minerals (Development and Regulation Act, 1957, the competent authority extended/renewed the period of mining lease in favour of the respondent no.45 upto 30.05.2026.



(C) ON THE ASPECT OF SUPPRESSION:-

The applicant/s are only meddlesome inter polar and busy body, more particularly, the applicant no.2 who, on account of personal animosity with the respondent No.45 and which has resulted into pending litigations before various forums have abused the process of the Hon'ble Tribunal by seeking to file the aforesaid Original Application, which is only in the nature of personal vendetta as demonstrated hereinafter:-

31.12.2008 By way of a registered sale deed, the land of Survey No.77 admeasuring 0-55-64 Hectares (1-Acre and 15-Gunthas) was purchased by Modhwadiya Lakhiben Bhurabhai i.e. the mother of the applicant no.2 herein.

Immediately thereafter i.e. from 2009 onwards, with the sole purpose to create an alleged right of way through the leasehold land of the respondent No.45 and to put undue pressure, proceedings before different forums viz., before the Mamlatdar under the provisions of the Mamlatdars' Courts' Act, 1906 were filed as also before the Mining Authorities, seeking information in respect of mining by the respondent No.45 through RTI applications as also before the Hon'ble High Court of Gujarat.

01.06.2009 Apprehending encroachment over the land of Survey No.78/5 (paiki) by way of alleged right of way for access to the land of Survey No.77 by Lakhiben Bhurabhai Modhwadiya i.e. the mother of (original applicant no.2 in OA) and in view of the fact that the fencing of the valid mining lease granted by the Government was broken by the original applicant no.2 and his persons, a Regular Civil Suit No.129 of 2009 was filed by the respondent no.45 before the Court of Principle Civil Judge, Porbandar,

seeking declaration and permanent injunction in regard thereto.

In the said Regular Civil Suit No. 129 of 2009, the Government authorities (the defendant Nos.2 to 5 therein) have also filed their common written statement (Exh.35) along with list of documents (Exh.37), denying existence of any type of right of way of from the leasehold land of Survey No.78/5 (paiki) admeasuring 11-33-16 Hectares (28 Acres). Further in the said suit, affidavits vide Exh: 103, 105 filed by the respondent authorities where it is categorically denied right of way in favour of defendant no.1 therein (i.e. the mother of the original applicant no.2 in OA). In the said suit the Examination in Chief of the defendant no.1 was recorded vide Exh-120 and on the same the defendant no.1 was cross examined, however, the defendant no.1 failed to prove her case by showing any evidence in regards to the existence of any right of way through the mining leasehold land of the respondent no.45.

27.04.2016 Lakhiben Bhurabhai Modwadia through her son as POA holder i.e. (original applicant no.2 in OA) also insisted on having an electric line to her premises only through the mining lease held by the respondent no.45 so as to ensure stoppage of mining activity and which led to litigation right upto Hon'ble High Court of Gujarat by filing of Special Civil Application No.7739 of 2016, wherein, the said Lakhiben has impugned the decision of the Sub-Divisional Magistrate, Kutiyana dated 28.03.2016 passed under the provisions of the Indian Telegraph Act, 1885, rejecting her application for seeking electricity connection through the leasehold land of the respondent No.45 so as to create and establish an alleged right of way through the land of Survey No.78/5 (paiki) held under lease by the respondent No.45.

29.06.2016

Lakhiben Bhurabhai Modwadia through her son as POA holder i.e. (original applicant no.2 in OA) also filed Special Civil Application No.12420 of 2016 before the Hon'ble High Court of Gujarat praying *inter-alia*:-

"6(A) *Be pleased to admit and allow this petition.*

A) B) *Be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and be pleased to direct the respondents and their agents and servants to initiate action for stopping the illegal activity of mining and blasting by the respondent no.8 at Survey No.78/5 paiki 11.33 hectares, Ranvan Village, District:Porbandar.*

B) *Issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents to remove unauthorized encroachment and the illegal mining by the respondent no.8 in the adjoining area of survey no.78/5 paiki 11.33 hectares, Ranvav Village, District:Porbandar.*

(C) *Pending admission hearing and final disposal of the petition, Your Lordship may be pleased to direct the respondent authorities to stop illegal mining and blasting of the respondent no.8 at Survey No.78/5 paiki 11.33 hectares, Ranvav Vilage, District:Porbandar.*

(D) *Your Lordships may be pleased to issue a writ of mandamus and/or any other appropriate writ, order or direction and thereby be pleased to direct the respondent authorities to register the Criminal Complaint against the respondent no.8 for doing illegal mining in accordance with law.*

(E) *Your Lordships may be pleased to issue of mandamus*





and/or any other appropriate writ, order or direction and thereby be pleased to direct the respondent authorities to recover the amount of royalty/penalty from the private respondent no.8 for illegal mining carried out till date.

(F) Any other and further relief may kindly be granted in the interest of justice."

A copy of memo of Special Civil Application No.12420 of 2016 is produced at **ANNEXURE-R-XXIV** hereto.

03.04.2018 The said Special Civil Application No.7739 of 2016 was disposed of upon concurrence amongst the electricity company and the petitioner to supply the electricity to the petitioner therein through alternative options.

A copy of dated 03.04.2018 passed in Special Civil Application No.7739 of 2016 is produced at **ANNEXURE-R-XXV** hereto.

05.03.2019 The learned Trial Court, decreed the Regular Civil No. 129 of 2009 in favor of the respondent no.45 by holding that the defendant no.1 therein (i.e. the mother of the applicant no.2 in OA) does not have any right of way through the lease hold area of the respondent no.45 and further permanently restrained the defendant no.1 therein from interfering with the possession of the respondent no.45 of the suit land i.e. the mining lease hold area.

09.12.2019 The said Special Civil Application No.12420 of 2016 was disposed of as having being infructuous in view of reply affidavits/additional affidavits filed including by the government authorities, copies whereof are collectively produced at **ANNEXURE-R-XXVI (Colly.)** hereto.

The relevant paragraphs of the order are reproduced as under:-

"3. Mr. S.N.Thakkar, learned advocate for the respondent no.8 has invited the attention of this Court to the averments made in Paragraph No.5 of additional affidavit in reply filed on behalf of respondent no.8 at page no.217 which reads as under:

" 5. I have also placed on record the list of similar lessees who have applied for NOC from the MoEF and which permission is pending from the competent authority and who are operating the leases in vicinity of the Barda Eco Sensitive Zone and Nadiyadar Forest as per the guidelines and instructions of Government of Gujarat. In any case, the answering respondent has already filed the Terms of Reference before the competent authority for seeking the NOC under the provisions of Environment Protection Act, 1986. Without prejudice to the said contention, I humbly submit that in any case, even as per the affidavit filed by the respondent no.6, no mining activity is being carried out on the lease in question since July, 2017. I state that the proceedings in respect of the petitioner's lease were last held on 27th to 29th November, 2018 before Expert Appraisal Committee of the MoEF at New Delhi and the answering respondent has been directed to produce additional details which have already been submitted to the competent authority. The respondent no.4 may kindly be called upon to clarify the said issue. So far as the allegation of environmental damage on account of running the lease without EC till July 2017 is concerned, the same is an issue which is already pending before the Expert Appraisal Committee




and which shall be considered by the said Committee in accordance with law."

4. *Learned advocate for the respondent no.8 states that any mining activity to be carried out in future shall be in accordance with law.*

5. *In view of the aforesaid statement made on oath and more particularly when no mining activity is carried out on the lease in question since 2017, the petition has become infructuous. "*

6. *In view of the aforesaid fact situation, the petition is disposed of, as having become infructuous. Notice is discharged."*

A copy of dated 09.12.2019 passed in Special Civil Application No.12420 of 2016 is produced at **ANNEXURE-R-XXVII** hereto hereto.

Further, the fact of filing of OA before the Hon'ble Tribunal on 27.11.2019 was equally suppressed from the Hon'ble High Court in the Special Civil Application.

11.02.2020

&

19.02.2020

The judgment and decree passed in Regular Civil No. 129 of 2009 above was challenged by the defendant no.1 therein before the Appellate Court and the application for injunction filed therein was rejected by the Appellate Court and confirmed by the Hon'ble High Court of Gujarat in Special Civil Application No.23130 of 2019.

The copies of order dated 11.02.2020 & modification order dated 19.02.2020 passed in Special Civil Application No.23130 of 2019 are produced at **ANNEXURE-R-XXVIII (Colly.)**.

The FORM II prescribed as per Rule 8(1) of NGT Rules, 2011 requires details of remedies exhausted, previously filed or pending with any other court. The applicants have thus, not disclosed neither the remedies availed and/or exhausted in above respect nor a declaration as required therein has been made in the Original Application. Thus, the OA suffers from gross suppression of facts and deserves to be dismissed in limine on this count alone.

(D) ON THE ASPECT OF EIA NOTIFICATIONS:-

27.01.1994 The Central Government issued an Environmental Impact Assessment Notification dated 27th January 1994 in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of Section 3 of the EP Act read with clause (d) of sub-rule (3) of Rule 5 of the EP Rules, directing that on and from the date of publication of the said notification in the Official Gazette, expansion or modernization of any activity or a new project listed in Schedule I to the said notification shall not be undertaken in any part of India, unless it has been accorded EC by the Central Government in accordance with the procedures specified in the said notification.

04.05.1994 Subsequently, an Explanatory Note was issued to this Notification wherein it was mentioned that the project proponents were required to seek Environment Clearance for proposed expansion/modernization activity, if the resultant pollution load is to exceed the existing levels. Under Clause 8 of the Explanatory Note, certain exemptions had been granted to the projects already initiated which reads as follows:



"For projects listed in Schedule - I to the notification in respect of which the required land has been acquired and all relevant clearances of the including NOC from the respective State Pollution Control Board have been obtained before 27 January, 1994 a project proponent will not be required to seek environmental clearance from the Impact Assessment Authority. However, those units who have not as yet commenced production will inform the Impact Assessment Authority."

Thus, the Environment Clearance was required only for new units and for the existing units, Environment Clearance was required only at the time of modernization or expansion and when the pollution load was increased.

14.09.2006 EIA Notification, whereunder, the projects listed in the Schedule to the Notification requires prior Environmental Clearance. They were classified into two categories viz., "A" category and "B" category. For "A" category projects, prior Environment Clearance had to be issued by MoEF & CC and for "B" category projects, Environment Clearance had to be issued by the State Environmental Impact Assessment Authority (SEIAA). "B" category projects were further divided into two categories viz., B-1 and B-2 category of which B-1 category projects require Environmental Impact Assessment Report, whereas, B-2 projects did not require the same.

02.07.2007 The MoEF & CC by their Circular issued a clarification regarding applicability of EIA Notification, 2006 for mining leases of less than 5 hectares of major minerals and mining leases of minor minerals which have been operating before 14.9.2006 which reads as follows:

CIRCULAR



Sub : Clarification regarding applicability of EIA Notification, 2006 on mining leases of 5 hectare (major minerals) and mining leases of minor minerals which have been operating before 14.9.2006 - reg. Federation of Mining Associations of Rajasthan and others have raised concerns regarding applicability of EIA Notification dated 14 September, 2006 to mining leases of 5 ha for major minerals and mining leases of minor minerals which have been in operation before the said Notification coming into force. The matter has been examined in the ministry.

It is clarified that all such mining projects which did not require environmental clearance under the EIA Notification, 1994 would continue to operate without environmental clearance till the mining lease falls due for renewal, if there is no increase in lease area and/or there is no enhancement of production. In the event of any increase in lease area and/or production, such projects would need to obtain prior environmental clearance. Further, all such projects which have been operating without any environmental clearance would obtain environmental clearance at the time of their lease renewal even if there is no increase either in terms of lease area or production.

It is clarified as per this notification that all mining projects which are in operation prior to the coming into force of EIA Notification, 2006 dated 14.9.2006 having a lease area of 5 hectares for major minerals and mining lease of minor minerals for which no Environment Clearance was required as per EIA Notification, 1994 which continue to operate without obtaining Environment Clearance till the mining lease falls due for renewal if there is no increase in lease area and/or there is no enhancement of production. In the event of any increase in lease area and/or production, such projects would need to obtain prior environmental clearance. Further, all such projects





01.11.2009

which have been operating without any environmental clearance should obtain environmental clearance at the time of their lease renewal even if there is no increase either in terms of lease area or production.

Thereafter, EIA Notification, 2009 was published, amending EIA Notification, 2006 where item 1(a) of Schedule I was replaced.

As per this amendment, mining area of non coal mine, having mining equal to or more than 50 hectares were brought under Category "A" and mining leases of non coal mining lease having extent of less than 50 hectares but more than or equal to 5 hectares was brought under Category "B" irrespective of whether it is minor or major minerals.

04.04.2011

Thereafter, EIA Notification, 2006 amended by 2009 Notification was further amended by EIA Notification, 2011 where against Item 1(a) in column (5) of Schedule I of EIA Notification, 2006, as amended by EIA Notification, 2009 the following was added:

"Prior environmental clearance is as well required at the stage of renewal of mine lease for which application should be made up to one year prior to date of renewal."

09.09.2013

Thereafter, MoEF & CC has issued an amended notification, amending EIA Notification, 2006, amending the schedule.

Under column (5) of the schedule it was made clear that prior Environment Clearance is required at the stage of renewal of mining lease for which an application shall be made up to two years prior to the date due for renewal.

07.10.2014

Later, MoEF & CC issued an amendment to the EIA Notification by which all new mining operations were required to obtain prior Environment Clearance for mining of major minerals as well including mining lease area of less than 5 Hectares at the stage of renewal of mining of lease or enhancing the production capacity.



08.01.2016

The MoEF & CC issued a clarification, stating that after 07.10.2014, all mining operations required prior Environment Clearance and for existing mines, Environment Clearance had to be obtained at the time of renewal of mining leases.

14.03.2017

In exercise of power under Section 3(1) and Section 3(2)(v) of the EP Act read with Rule 5(3)(d) of the EP Rules, the Central Government issued a notification being S.O. 804(E) which provides for grant of *ex post facto* EC for project proponents who had commenced, continued or completed a project without obtaining EC under the EP Act/EP Rules or the Environmental Impact Notification issued thereunder. Paragraphs 3, 4 and 5 of the said notification, read as hereunder:

"(3) In cases of violation, action will be taken against the project proponent by the respective State or State Pollution Control Board under the provisions of section 19 of the Environment (Protection) Act, 1986 and further, no consent to operate or occupancy certificate will be issued till the project is granted the environmental clearance.

(4) The cases of violation will be appraised by respective sector Expert Appraisal Committees constituted under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site

which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along with other actions under the law.

(5) In case, where the findings of the Expert Appraisal Committee on point at sub-para (4) above are affirmative, the projects under this category will be prescribed the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan. Further, the Expert Appraisal Committee will prescribe a specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants. The collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environmental laboratory duly notified under Environment (Protection) Act, 1986, or a environmental laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of a Council of Scientific and Industrial Research institution working in the field of environment."

28.04.2017

By virtue of the notification dated 28.04.2017 whereby the Ministry of Environment and Forest in exercise of its powers conferred by sub-section (1) and clauses (v) and (xiv) of sub-section (2) and sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 read with sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986,





notified the Barda Wildlife Sanctuary and the area around it as the Barda Wildlife Sanctuary Eco-Sensitive Zone. The map appended thereto clearly reveals that the respondent no.45 leasehold area is outside the Nadiadhar Forest as well as the Eco-Sensitive Zone of Barda Wildlife Sanctuary.

08.03.2018

MoEF & CC also issued another Notification delegating certain powers for granting Environment Clearance in respect of Category "B" project to SEIAA.

15.03.2018

MoEF & CC issued another Office Memorandum as follows:

"OFFICIAL MEMORANDUM

Sub : Implementation of Notification S.O. 1030 (E) dated 8 March, 2018 - reg. The Environment Impact Assessment Notification, 2006 under the Environment (Protection) Act, 1986 mandates the requirement of prior environmental clearance to the projects/activities listed in the schedule to the said Notification. These projects/activities have been categorized under Category "A" or "B" and require appraisal and approval by the respective regulatory authorities at the Central/State level.

The Ministry has issued a Notification number S.O. 804(E) dated 14 March, 2017 under the Environment (Protection) Act, 1986 to appraise and regularize the projects, already taken up or under implementation without obtaining the prior environmental clearance in terms of the provisions of the EIA Notification, 2006 and thus identified to be in violation of the same. The Notification enables consideration of such proposals at Central level by providing one time opportunity to submit the request in this regard within 6 months. In order to streamline and expedite consideration of proposals, it has now been decided that the projects/activities covered under category "B" shall be considered by the SEAC/SEIAAs in the respective States/UTs.

The Ministry has issued another Notification number S.O. 1030



(E) dated 8 March, 2018, amending the Notification dated 14 March, 2017 to that extent. In order to operationalize the Notification number S.O. 1030(E) dated 8 March, 2018, following directions are being issued for compliance with immediate effect. The proposals received upto 13 September, 2017 on the Ministry's portal, shall be considered by the EAC or the SEAC/SEIAA in the respective States/UTs, as the case may be, in order of their submission. All the proposals of category "B" projects/activities pertaining to different sectors, received within six months only i.e. upto 13 September, 2017 on the Ministry's portal but yet not considered by the EAC in the Ministry, shall be transferred online to the SEAC/SEIAAs in the respective States/UTs. The proposals submitted directly for consideration of EC (in place of ToR) shall also be considered on the same lines in order of their submission on the Ministry's portal. All the projects of category "B" pertaining to different sectors, although considered by the EAC in the Ministry and accorded ToR shall be appraised for grant of EC by the SEA/SEIAAs in the respective States/UTs. All projects/activities of all sectors shall be required to adhere to the directions of Hon'ble Madras High Court vide order dated 13 October, 2017 while upholding the Ministry's Notification dated 14 March, 2017.

16.03.2018

MoEF & CC issued another Office Memorandum directing the concerned authority to comply with the order of the Madras High Court as follows:

"OFFICE MEMORANDUM

Sub : Compliance of the order dated 14 March, 2018 of Hon'ble High Court of Judicature at Madras in WMP. Nos. 3361 and 3362 of 2018 and WMP. No. 3721 of 2018 in WP. No. 11189 of 2017 - reg. The Ministry has issued a Notification number S.O. 804(E) dated 14 March, 2017 under the Environment (Protection) Act,





1986 to appraise and regularize the projects already taken up or under implementation without obtaining the prior environmental clearance in terms of the provisions of the EIA Notification, 2006 and thus identified to be in violation of the same. The Notification enables consideration of such proposals at Central level by providing one time opportunity to submit the request in this regard within 6 months. Pursuant to the Ministry's Notification number S.O. 1030(E) dated 8 March, 2018 regarding consideration of proposals by the Expert Appraisal Committee or the SEAC/SEIAA depending upon the categorization of projects/activities (A or B) listed in the schedule to the Environment Impact Assessment Notification, 2006, the Ministry has issued Office Memorandum on 15 March, 2018 to operationalize the same. Hon'ble High Court of Judicature at Madras vide order dated 14 March, 2018 in WMP Nos. 3361 and 3362 of 2018 and WMP. No. 3721 of 2018 in WP. No. 11189 of 2017 has directed as under: In this view of the matter, considering that sub-clause (i)(d) of Stage III of paragraph 7(1) of parent notification as contained in item 1 No. 8(a) of the Schedule being housing projects, we deem it necessary to clarify that projects and project proponents falling under category alone shall be governed by the 'public consultation' clause in the parent notification. With regard to the prayer of MOEF for extension of time for submission of proposals by project proponents, we are of the view that it will serve the ends of justice if time is extended by 30 days from the date of delivery of this order in open court. In view of the above orders of Hon'ble High Court, following directions are being issued for compliance with immediate effect:—i. The project proponent who have not submitted the proposals within six months window i.e. upto 13 September, 2017 in pursuance of this Ministry's Notification S.O. 804(E) dated 14 March, 2017 are

required to submit the proposals within 30 days, to the EAC for category A projects or the SEAC/SEIAA in the respective States/UTs for category B projects .ii. The project proponent who have submitted the proposals on the Ministry's portal after 13 September, 2017 are also required to submit the proposals afresh within 30 days to the EAC for category A projects or the SEAC/SEIAA in the respective States/UTs for category B projects.iii. The projects/activities pertaining to all sectors shall be considered as per the directions of Hon'ble High Court of Judicature at Madras vide order dated 14th March, 2018 in WMP Nos. 3361 and 3362 of 2018 and WMP. No.3721 of 2018 in WP. No.11189 of 2017. The directions issued vide this Ministry's OM dt.15 March, 2018 shall continue to apply."

20.04.2018

MoEF & CC issued another Office Memorandum regarding the procedure for disposal of Environment Clearance application in respect of certain categories.

30.05.2018

MoEF & CC issued another Office Memorandum No. 3- regarding consideration of violation cases on the basis of the notification dated 14.3.2017 and subsequent amendment as follows:

"OFFICE MEMORANDUM

Sub : Consideration of mining proposals involving violation of the EIA Notification, 2006 under the provisions of S.O. 804(E) dated 14.3.2017 and subsequent amendments for ToR/EC - reg. In order to regularize the projects involving violation of EIA Notification, 2006 the Ministry of Environment, Forest and Climate Change has issued a Notification number S.O. 804(E) dated 14 March, 2017 and S.O. 1030(E) dated 8 March, 2018 under the Environment (Protection) Act, 1986 to appraise the projects that have not taken prior environment clearance in terms of provisions of Environment Impact Notification, 2006

amended from time to time. Such cases have been termed as case of violation of said notification.

Meanwhile, Hon'ble Supreme Court vide judgment dated 2 August, 2017 Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause v. Union of India has passed a detailed order interpreting Section 21(5) of the MMDR Act and directing payment of 100% penalty for illegal mining operations with reference to the relevant statutes which inter alia include the Environment (Protection) Act, 1986 the Water (Prevention and Control of Pollution) Act, 1974 the Air (Prevention and Control of Pollution) Act, 1981, the Forest (Conservation) Act, 1980 and the Mines and Minerals (Development & Regulation) Act, 1957.

In pursuance of the Ministry's Notification referred to in para 1 above, the proposals involving violations of the EIA NOTIFICATION, 2006 are to be appraised for grant of ToR/EC at the Central level or by the respective SEAC/SEIAA in different States/UTs levels depending upon the categorization of the project.

In pursuance of the above notifications, the ministry had invited proposals for regularization of violation during a specified time window Now, the Ministry has received a number of proposals for grant of Terms of Reference Environment Clearance to mining projects engaged in mining of major and minor minerals for regularization of the same.

In the above context, in order to additionally comply with the directions given by the Hon'ble Supreme Court as referred to in para 2 above, it has been decided to include the following additional conditions in ToRs/ECs to be issued for mining projects under the provisions of S.O. 804(E) dated 14.3.2017 and subsequent amendments:—

The project proponent shall give an undertaking by way of affidavit to comply with all the statutory requirements and



judgment of Hon'ble Supreme Court dated the 2 August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause v. Union of India before grant of ToR/EC. The understanding inter alia include commitment of the PP not to repeat any such violation in future.

In case of violation of above undertaking, the ToR/Environmental Clearance shall be liable to be terminated forthwith.

The Environmental Clearance will not be operational till such time the Project Proponent complies with all the statutory requirement and judgment of Hon'ble Supreme Court dated the 2 August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause v. Union of India.

The State Government concerned shall ensure that mining operation shall not commence till the entire compensation levied if any for illegal mining paid by the project proponent through their respective Department of Mining & Geology in strict compliance of judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause v. Union of India The direction issued vide this Ministry's OM dt.15 March 2018 and 16 March 2018 shall continue to apply."

14.08.2018

MoEF & CC by Notification, schedule in respect of mining was amended thereby all mining activities either major or minor, having extent equal to or less than 100 hectares was classified as Category "B" and time for filing Environment Clearance was taken away. That makes mandatory for all mining operations, to file their application for Environment Clearance immediately.

09.09.2019

MoEF & CC issued another Office Memorandum regarding consideration of Category "B" violation proposal at State

level as per Notification dated 14.03.2017 which reads as follows:

"OFFICE MEMORANDUM

Subject : Consideration of Category B violation proposals at the State levels per the provisions of Notification. O.804(E) dt.14.3.2017 through lateral entry - reg.

The Ministry of Environment Forest and Climate Change issued a Notification vide S.O. 804(E) dt.14.3.2017 under the Environment (Protection) Act, 1986 to appraise the projects which have started the work onsite without taking prior environmental clearance in terms of the provisions of the Environment Impact Assessment Notification, 2006. Time period of six months (14.3.2017 to 13.9.2017) was given vide aforesaid notification to the proponents to submit proposals.

Soon after the publication of aforesaid notification a PIL challenging the validity of the notification dt.14.3.2017 was filed in Hon'ble High Court of Madras. Hon'ble High Court of Madras vide order dt.7 June 2017 prohibited from taking any further action pursuant to the Notification dt.14.3.2017 and therefore appraisal process for violation cases could not be taken up further. Hon'ble High Court of Madras vide order dt.13.10.2017 vacated the order while upholding validity of the notification dt. 14.3.2017.

Pursuant to the notification dt. 14 March 2017 Ministry received a number of proposals relating to all sectors covered under category A and category B. As per the said notification all the proposals of violation, irrespective of its categories were required to be appraised at Central level by the Expert Appraisal Committee.

Further, Ministry vide Notification S.O. 1030(E) dt.8.3.2018 amended the Notification S.O. 804(E) dt. 14.3.2017 and



delegated the power to the States for appraisal of category B proposals which are under violation of EIA Notification.

Subsequently, the Ministry issued an OM dt. 15.3.2018 for the implementation of Notification S.O. 1030(E) dt. 8.3.2018. All the category proposals were transferred to the concerned State Level Environment Impact Assessment Authority.

The Hon'ble High Court of Madras vide order dt. 14.3.20-18 was of the view that it will serve the ends of justice if time is extended by 30 days from the date of delivery of the order, thereby extending the time till 13th April, 2018 providing time for violators to apply as per the provisions of Notification S.O. 804(E). Therefore, again a one month window was given from the date of order of Hon'ble High Court (14.3.2018 - 13.4.2018) to submit proposals under violation of EIA Notification. The Ministry has issued OM dt. 16.3.2018 for the compliance of the order dt. 14.3.2018 of Hon'ble High Court of Madras.

Proposals involving violation of EIA Notification, which had applied during the window (14.3.2017 to 13.9.2017 & 14.3.2018 to 13.4.2018) under violation category are being considered by the violation committee. However, in addition to such proposals, there were many category A proposals submitted in the respective sectoral committees for regular appraisal during or prior to violation window period. Sectoral committee while deliberating on the proposals identified these as violation of EIA Notification. These proposals were subsequently forwarded to the violation committee after approval by the Competent Authority and such proposals are termed as 'lateral entry proposals'.

It is possible that there may be certain category B proposals which were submitted at SEIAA during or prior to the violation window period but not under violation category and later during



the appraisal by State Level Expert Appraisal Committee identified as violation proposals.

Now a decision has been taken in the Ministry that such proposals as mentioned in para (8) above may be considered in terms of provisions of Ministry's Notification dt. 14.3.2017 & 8.3.2018 by the SEIAA. It is clarified that only those proposals maybe taken up for consideration under this provision which had been submitted to SEAC during the window or prior to it as detailed above."

The Hon'ble National Green Tribunal (SZ) in the case of Tamil Nadu Small Mine Owners Federation V/s. Secretary, Ministry of Environment Forest and Climate Change, Government of India reported in 2020 SCC OnLine NGT 162, [Decided on June 30, 2020, (Date of reserved for judgment: - 18-03-2020)], while considering the above Notifications/Circulars/Office Memorandums issued by MoEF & CC and as amended from time to time, held and gave following directions:-

"77. So under these circumstances, the application can be disposed of, giving the following directions:

- (i) The applications which are pending as on 31.3.2016 for Environment Clearance have to be treated as normal applications and not violation applications and the authorities are directed to dispose of those applications in accordance with law.*
- (ii) The persons who have not filed applications on or before 31.3.2016 and filed thereafter, can be treated as violation applications and the MoEF & CC/SEIAA is directed to dispose of those applications as violation cases in accordance with law.*
- (iii) It is also made clear that all mining leases, either major or minor, even less than 5 hectares area, has to apply and get Environment Clearance as per the amended EIA Notification dated 15.1.2016. This will apply to the existing mining leases as well. The points are answered accordingly.*



The application is disposed of as follows:

- (i) *The applicant is not entitled to get a declaration to quash Circular dated 3.4.2017 as prayed for but can be clarified as detailed as per direction No.(ii) onwards.*
- (ii) *The applications which are pending as on 31.3.2016 for Environment Clearance have to be treated as normal applications and not violation applications and the authorities are directed to dispose of those applications in accordance with law.*
- (iii) *The persons who have not filed applications on or before 31.3.2016 and filed thereafter can be treated as violation applications and the MoEF & CC/SEIAA is directed to dispose of those applications as violation cases in accordance with law.*
- (iv) *It is also made clear that all mining leases, either major or minor, even less than 5 hectares area, has to apply and get Environment Clearance as per the amended EIA Notification dated 15.1.2016. This will apply to the existing mining leases as well. Without obtaining necessary Environment Clearance irrespective of area, no mining, both minor/major, shall be permitted to operate.*

78. Considering the circumstances, there is no order as to costs.

79. The application is disposed of accordingly."

A copy of judgement in the case of Tamil Nadu Small Mine Owners Federation V/s. Secretary, Ministry of Environment Forest and Climate Change, Government of India reported in 2020 SCC OnLine NGT 162 is produced at **ANNEXURE-XXIX** hereto.

Further, the review application filed there against was dismissed by the NGT vide judgement dated 18.08.2020 passed in RA No.07 of 2020 in OA 136/2017 and the challenge thereto before the Hon'ble Supreme Court was also dismissed vide order dated 23.07.2021 passed in Civil Appeal Nos. 1789-1790 of 2021.

23.03.2020 The Ministry of Environment, Forest and Climate Change (MoEF&CC) issued a draft notification, which was duly





published in the Gazette of India Extraordinary Part II. The Notification was proposed to be issued in exercise of powers conferred by subsection (1) and clause (v) of subsection (2) of Section 3 of the EP Act for dealing with cases of violation of the notification with regard to EC. It was proposed that cases of violation would be appraised by the Appraisal Committee with a view to assess whether the project had been constructed or operated at a site which was permissible under prevailing laws and could be run sustainably on compliance of environmental norms with adequate environmental safeguards. Closure was to be recommended if the findings of the Appraisal Committee were in the negative. If the Appraisal Committee found that such unit had been running sustainably upon compliance of environmental norms with adequate environment safeguards, the unit would be prescribed appropriate Terms of Reference (TOR) after which the procedure for grant of EC would follow.

07.07.2021

By an Office Memorandum, the MoEF & CC issued Standard Operating Procedure (SOP) for identification and handling of violation cases under EIA Notification 2006, which inter alia reads as:-

"The Ministry had issued a notification number S.O.804(E), dated the 14th March, 2017 detailing the process for grant of Terms of Reference and Environmental Clearance in respect of projects or activities which have started the work on site and/or expanded the production beyond the limit of Prior EC or changed the product mix without obtaining Prior EC under the EIA Notification, 2006.





2. This Notification was applicable for six months from the date of publication i.e. 14.03.2017 to 13.09.2017 and further based on court direction from 14.03.2018 to 13.04.2018.

3. Hon'ble NGT in Original Application No. 287 of 2020 in the matter of Dastak N.G.O. v. Synochem Organics Pvt. Ltd. and in applications pertaining to same subject matter in Original Application No. 298 of 2020 in Vineet Nagar v. Central Ground Water Authority, vide order dated 03.06.2021 held that "(...) for past violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process".

4. Further, the Hon'ble National Green Tribunal in O.A. No. 34/2020 WZ in the matter of Tanaji B. Gambhire v. Chief Secretary, Government of Maharashtra, vide order dated 24.05.2021 has directed that "**.... a proper SoP be laid down for grant of EC in such cases so as to address the gaps in binding law and practice being currently followed. The MoEF may also consider circulating such SoP to all SEIAAs in the country**".

5. Therefore, in compliance to the directions of the Hon'ble NGT a Standard Operating Procedure (SoP) for dealing with violation cases is required to be drawn. The Ministry is also seized of different categories of 'violation' cases which have been pending for want of an approved structural/procedural framework based on 'Polluter Pays Principle' and 'Principle of Proportionality'. It is undoubtedly important that action under statutory provisions is taken against the defaulters/violators and a decision on the closure of the project or activity or otherwise is taken expeditiously.

6. In the light of the above directions of the Hon'ble Tribunal and the issues involved, the matter has accordingly been



examined in detail in the Ministry. A detailed SoP has accordingly been framed and is outlined herein. The SoP is also guided by the observations/decisions of the Hon'ble Courts wherein principles of proportionality and polluters pay have been outlined. "In terms of the SOP, the proposal for grant of EC in cases of violation are to be considered on merits, with prospective effect, applying principles of proportionality and the principle that the polluter pays and is liable for costs of remedial measures.

Subsequently, the Hon'ble Supreme Court, while considering the EIA Notifications/Circulars/Office Memorandums issued by MoEF & CC above, in the cases of (i) Pahwa Plastics Pvt. Ltd. V/s. Dastak NGO reported in 2022 SCC OnLine 362 and (ii) D. Swamy V/s. Karnataka State Pollution Control Board reported in 2022 SCC OnLine 1278, held and reiterated that the Environmental Act does not prohibit ex post facto EC. Some relaxations and even grant of *ex post facto* EC in accordance with law, in strict compliance with Rules, Regulations, Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with environment norms, is not impermissible.

The copies of Judgement of Hon'ble Supreme Court in the cases of (i) Pahwa Plastics Pvt. Ltd. V/s. Dastak NGO reported in 2022 SCC OnLine 362 and (ii) D. Swamy V/s. Karnataka State Pollution Control Board reported in 2022 SCC OnLine 1278 are produced at **ANNEXURE-R-XXX (Colly.)** hereto.

4. In view of the aforesaid facts and circumstances, at the outset, I deny all the averments and contentions raised in the Original Application & Interim Application, which are contrary to and inconsistent with the records of the case and the present reply. Thus, my specifically not dealing with each and every averments of the OA & IA may kindly not be construed as an admission of the same.

5. I state that I am filing the present reply only for the limited purpose of opposing the admission of the OA and the grant of the interim-relief and I reserve my right to file a further and detailed affidavit, if need arises and/or the Hon'ble Court may otherwise direct in the facts and circumstances of the case.

6. Now dealing with the parawise averments of the memo Original Application, I have to state as under:-

- 6.1. With regard to the averments made in paragraph nos. 1 & 2, the same are formal and do not require any comment, however, the applicants be put to strict proof thereof.
- 6.2. The respondent no.45 is holding a valid mining lease upto year 2026 aforesaid and has operated the same in accordance with the terms and conditions of the lease agreement with due royalty, DMF and other applicable government charges paid thereon. Thus, the averments made in paragraph no.3 alleging illegal mining are specifically denied. Further, the applicants be put to strict proof of alleged information received under the Right to Information Act whereby, alleged gross intentional violation of EIA Notification and the referred Act for illegal mining has been attributed to the respondent no.45. It is equally denied that violation is with the active aid of the officers of various government authorities and that the government machinery in various offices are trying its level best to help and facilitate developer to violate laws as falsely alleged in paragraph nos.4 & 5 and the applicants be put to strict proof in regard thereto. The applicant's have suppressed material facts before this Hon'ble Tribunal, more particularly, the applicants no.2 as demonstrated hereinbefore wherefrom, it is evident that only with a view that the respondent no.45 succumb to the pressure of applicant no.2





and give the access to his land through the mining leasehold land, various proceedings have been filed before different forums since the year 2009 including before the Hon'ble High Court of Gujarat, which are conveniently suppressed and deliberately not disclosed in the OA. Thus, the applicants have not come before the Hon'ble Tribunal with clean hands and the averments made in paragraph 6 that aggrieved by and dissatisfied with the inaction on the part of various environment protection authorities, the applicants have preferred this application is far from truth and the applicants be put to strict proof thereof.

- 6.3. The averments made in paragraph 7A(a) to (c) to 7G(a) to (k) are random and frivolous and the allegations of illegal mining relying on EIA Notifications and amendments thereto are not correct and hence denied. It is equally denied that there is any violation of CRZ Notification as falsely alleged therein.
- 6.4. The averments made in paragraph 8(a) to (f) and 9(a) to (i) are not correct and hence denied. The documents referred therein don't show any illegal mining as falsely alleged. The said paragraphs also don't mention various applications filed by applicant no.2 since the year 2009 and the response of the authorities thereto. The applicants have conveniently suppressed material facts before the Hon'ble Tribunal as aforesaid and surreptitiously refer to RTI application dated 14.08.2109 only. Nonetheless, the reply of the District Geologist, Geology & Mining Department, Porbandar dated 27.09.2019 to the said RTI application in no manner attribute any illegal mining except for providing details of mining leases held by different persons/leaseholders. The mining activities are carried out as per the terms and conditions of the mining lease agreement and the duly approved mining plans in regard thereto. The minerals





are duly royalty paid alongwith applicable government cess, tax and other charges and the operation of mine was never held to be detrimental to environment by the competent authorities in that regard. Thus, the averments made in the said paragraphs on the allegation of illegal mining are false and without any substance.

6.5. The averments made paragraph no.10(a) to (d) in support of grounds for filing the OA are not correct and hence, denied. With regard to the averments made in paragraph nos.11(a) to (j) and 12 to 15, I state that the application for grant of ToR/EC is pending consideration before SEIAA as is evident from the averments made me in paragraph 3 above under heading (B) 'ON THE ASPECT OF GRANT OF EC'. Without prejudice to the above, the notification dated 14.03.2017 and amendments thereto provides to appraise and regularize the projects already taken up or under implementation without obtaining the prior environmental clearance in terms of the provisions of the EIA Notification, 2006 and thus identified to be in violation of the same gives jurisdiction to the SEIAA/EAC to consider and determine said aspects for recommending issuance and/or grant of ToR/EC. Further, the notification dated 07.07.2021 provides for mechanism to be followed as per SOP referred therein and in terms of said SOP, the proposal for grant of EC in cases of violation are to be considered on merits, with prospective effect, applying principles of proportionality and the principle that the polluter pays and is liable for costs of remedial measures. Thus, the issue as raised in the OA is already pending consideration by the constituted competent authority i.e. SEIAA/EAC in the case of the respondent no.45 for determination and to recommend grant of ToR/EC on pending application in that regard. The said



fact was well within the knowledge of the applicant no.2 as has been brought to the notice before the Hon'ble High Court of Gujarat by way of additional affidavit dated 19.08.2019 filed therein, whereafter, the Special Civil Application No.12420 of 2016 was disposed of as infructuous. In fact, the applicants, more particularly, the applicant no.2 is duty bound and obliged to disclose the said fact before the Hon'ble Tribunal and, on the same cause, the present OA has been filed and thus, is barred by principles of *rej-judicata*. Hence, in light of such facts, at this stage, the answering respondent doesn't deal with each and every averment of said grounds and instead crave leave to refer to and rely upon the said EIA Notifications/Circulars/Office Memorandums of MoEF & CC issued from time to time at the time of hearing of the OA.

- 6.6. With regard to the averments made in paragraph no.16, it is specifically denied that there is no enmity between the applicants and any of the respondents lease mining holders as falsely stated in said paragraph. The said statement on oath is false on record and requires to be deprecated. In view of the averments made by me in paragraph 3 above under the heading (C) 'ON THE ASPECT OF SUPPRESSION', the enmity between applicant no.2 and the answering respondent no.45 is apparent.
- 6.7. The averments made in paragraph 17(a) to (g), raising substantial question of environment are not correct and hence denied. It is only with a view to *pre-empt* the proceedings before the SEIAA/EAC and suppressing the order of the Hon'ble High Court of Gujarat dated 09.12.2019 in Special Civil Application No.12420 of 2016, the present OA has been filed. The fact of filing of OA was also not brought to the notice of the Hon'ble High Court in the pending Special Civil Application. In any case,





the MoEF & CC has already provided the procedure to deal with issue of grant of EC additionally for violation cases, in such circumstances, the present OA is not competent, premature and deserves to be rejected in limine. Even Otherwise, the procedure provided under the Notifications/Office Memorandums/Circulars issued by MoEF & CC above, the concept of giving public hearing has been made available before grant of EC. In fact, the applicant no.2 has already participated in public hearing in respect of grant of EC for mining lease of respondent no.27 (Udaysing M Jethwa), which is adjoining the mining lease of the respondent no.45 and after considering the same, SEIAA/EAC recommended for issuance/grant of EC and thus, the circumstances for grant of EC, if not similar, than at least would not be different from the case of respondent no.27.

- 6.8. With regard to the averments made in paragraph no.18(a) to (m) on the aspect of *locus* of the applicants to file the OA, I state that as per the address stated in the cause title of the OA, the applicant no.1 resides at Kodinar, District Gir Somnath in the State of Gujarat whereas, the applicant no.2 resides at Porbandar in the State of Gujarat. Both the places are situated about 170 KM apart and stated to have cause of action accrued to the applicants in common on 14.08.2019 when the information was obtained under the RTI Act and through online search from websites of various government departments inviting attention of GPCB, CGM & IBM. The distance of respondent No.45 from the place of address of applicant no.1 is about 180 KM and that of applicant no.2 about 25 KM.

Further, Section 18(2) of the NGT Act, 2010 reads as under:-



Section 18(2):-Without prejudice to the provisions contained in Section 16, an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by;

- 
- (a) the person, who has sustained the injury; or
 - (b) the owner of the property to which the damage has been caused; or
 - (c) where death has resulted from the environmental damage, by all or any of the legal representatives of the deceased; or
 - (d) any agent duly authorized by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or
 - (e) any person aggrieved, including any representative body or organization; or
 - (f) the Central Government or a State Government or a Union Territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a local authority, or any environmental authority constituted or established under the Environment (Protection) Act, 1986 (29 of 1986) or any other law for the time being in force.

The applicants herein, do not fall in any of the categories/class of persons as mentioned in the in Section 18(2)(a) to (f) in as much as that (i) the applicants are not the persons who have sustained the injury; (ii) the applicants are not the owner/s of the property/properties to which the damage has been caused; (iii) it's not a case, where death has resulted from the environmental damage, nor to any of the legal representatives of the deceased; (iv) the applicants are not the agents duly authorized by such person or owner of such property or all or any of the legal representatives of the deceased and (v) the applicants are not the persons aggrieved, including any representative body or organization, as the case may be and



thus, have no *locus-standi*, to invoke the jurisdiction of the Hon'ble Tribunal.



Further, in the Original Application, the applicants, in respect of their *locus* to file the Original Application, while drawing a distinction between 'person aggrieved' and 'person injured' averred that they are affected and aggrieved due to violations of their legal rights to clean and decent life & environment and that it is not necessary to be 'injured person' to file an application or appeal before the Hon'ble Tribunal. Nonetheless, while saying so, the applicant no.2 conveniently forgets to disclose the personal animosity/grudge, the applicant no.2 had with the respondent No.45 as demonstrated above. Thus, to settle the personal scores, the applicant no.2 cannot be allowed to invoke the jurisdiction of this Hon'ble Tribunal so as to abuse the process of law. The applicant no.1, thus, is a stranger to the proceedings, had no locus and cannot be said be an 'aggrieved person' in any manner whatsoever. In any case, the said applicants do not fall in any of the categories of 'person', entitled for grant of relief or compensation or settlement of dispute, invoking the jurisdiction of the Hon'ble Tribunal under Section 18 of the NGT act, 2010 on the basis of RTI application/s dated 14.08.2019.

In view of the above, as is evident, none of the persons living in the near vicinity have raised any grievance of mining by the respondent no.45 except for applicant no.2, who carries personal grudge as demonstrated. The applicant no.1 lives almost 180 KM apart from the mines of the respondent no.45 that too in other district and thus, is a stranger to the cause as alleged in the Original Application. In such circumstances, the applicants cannot be said to be either affected and/or aggrieved person in



any manner whatsoever. Thus, the applicants have not approached the Hon'ble Tribunal with clean hands and under the guise of public spirited persons/environmentalist, private malice and vested interest is apparent.

19. The averments made in paragraph no.19 as regards the jurisdiction of the Tribunal, I state that in view of the order dated 09.12.2019 passed by the Hon'ble High Court of Gujarat in Special Civil Application No.12420 of 2016, the applicants are precluded from invoking the jurisdiction of the Hon'ble Tribunal for the same cause. In any case, the jurisdiction to grant the EC as aforesaid is already provided under the Notifications/Office Memorandums/Circulars issued by the MoEF & CC from time to time. The application for grant of EC as aforesaid is already made and pending consideration. Without prejudice, assuming the case of the respondent no.45 as a violation case then also, the Notification date 14.03.2017 and the amendments thereto provide for regularization of such mining leases/projects by the competent authority namely, the SEIAA/EAC, which is empowered to consider and determine the case of the respondent no.45 in terms of the SOP drawn in that regard in terms whereof, the proposal for grant of EC in cases of violation are to be considered on merits, with prospective effect, applying principles of proportionality and the principle that the polluter pays and is liable for costs of remedial measures. Thus, the SEIAA/EAC would decide the application for grant of EC on its own merits and invocation of the jurisdiction of the Hon'ble Tribunal by the applicants is solely with a view to *pre-empt* the said procedure for grant of EC by SEIAA/EAC and exercise of the jurisdiction by the Hon'ble Tribunal at this stage would seriously



prejudice the case of the respondent no.45 for grant of EC before the SEIAA/EAC.

6.10. The averments made in paragraph no.20(a) to (f) as regards the cause of action to file the OA, I state that in the Original Application in respect of cause of action, it is averred that the applicants have obtained the information in RTI dated 14.08.2019 and through online search from the websites of various government departments inviting attention of GPCB, CGM & IBM towards the violation of illegal mining. Thus, according to the applicants, the cause of action to file the Original Application arose on 14.08.2019, when such information was sought.



ON THE ASPECT OF CAUSE OF ACTION:-

- (i) After the purchase of property of land bearing Survey No.77 adjoining the leasehold land of respondent No.45, the applicant no.2, apart from falsely initiating various litigations, also filed RTI applications before the Forest authorities, Mamlatdar, Geologist, Deputy Collector/Collector etc. since the year 2009, seeking details, alleging illegal mining by the respondent No.45 and/or others. Thus, if at all, the cause of action has arose in favour of the said applicant, the same has 'first arose' in the year 2009 and thus, the present Original Application filed only on 27.11.2019 is barred by law of limitation having been filed after more than 10 years.
- (ii) Further, mere filing of application by the said applicants before the authorities under RTI Act *per se* would not give the applicants the cause of action to file the present Original Application nor would the same extend the period

of limitation as provided under Section 14(3) of the NGT Act, 2010. In fact, the applicants are duty bound and obliged under the law to disclose all the factual details regarding filing of different proceedings before various forums for very cause and the RTI applications made since the year 2009 and the response thereto from time to time, which has been conveniently suppressed and withheld with a view to misguide the Hon'ble Tribunal.

- (iii) If such an assertion on the cause of action as put forth by the applicants as regards web search of various departments is to be accepted in that case the concept of cause of action and limitation as provided are required to be given a go by and every application seeking information under the RTI Act or otherwise is to be treated as giving a cause of action, filed at any point of time with indefinite limitation.
- (iv) Without prejudice to the above, the Original Application in present form is not maintainable as the same doesn't adhere to the FORMS prescribed in that regard under NGT Rules, 2011 and non-disclosure of important facts within the knowledge of the applicant/s since the year, 2009 and subsequent information sought under the RTI application dated 14.08.2019 would not give fresh cause of action and would not extend limitation otherwise than provided under the provisions of the NGT Act, 2010. In the circumstances, the Original Application is barred by limitation prescribed under the NGT Act, 2010 and thus, beyond the jurisdiction of the Hon'ble Tribunal.
- (v) According to the applicants, the alleged cause of action for filing the Original Application has accrued when RTI



information was sought pursuant to application dated 14.08.2019, which was filed by applicant no.2 alone. Thus, how and in what manner, the cause has accrued in favour of applicant no.1 to file the Original Application is not born out from the averments made in the Original Application.

- (vi) Otherwise also, the parties to the Original Application are different and there is no commonality of cause of action amongst the applicants' viz.-a-viz. the parties to Original Application entitling the applicants to file the joint Application before the Hon'ble Tribunal.

In view of the above, the OA is filed without any cause of action. Hence, the averments made in made in paragraph no.20 are denied.

6.11. The averments made in paragraph no.21(A) to (E) as regards the limitation to file the OA, I state that in respect of limitation to file the Original Application it is stated that the application is made under Section 14 & 15 of the NGT Act, 2010 and limitation respectively is 6 months and 5 years and that Original Application is filed within 6 months from 14.08.2019 and thus, the same is filed within the prescribed period of limitation.

ON THE ASPECT OF LIMITATION:-

- (i) The Original Application is barred by law of limitation in view of the fact that the 'cause of action' *qua* the respondent No.45 for filing of the application assuming to have arisen, the same has 'first arose' in the year 2009, when the applicant no.2 first filed the application under the provisions of RTI Act, 2005 and continued to file as such as aforesaid, however, the same cannot be said to have extended the period of limitation as long as the applicants continue to make such applications. Thus, the right to sue



first, if at all accrued in favour of the said applicant no.2, the same has accrued in the year 2009 and therefore, successive applications filed under the RTI Act will not give fresh cause of action and/or indefinite cause beyond the period of limitation counted from said date, when such cause of action 'first arose' and accrued above. If the assertion of the applicants is to be accepted than there is no sanctity to the limitation provided under the NGT Act, 2010, which categorically records the limitation to start from the date when the cause of action 'first arose' and application shall have to be made within a period of six months from said date of cause of action for such dispute 'first arose'.

- (ii) The provision of Section 14(3) and Section 15(3) of the NGT Act, 2010 respectively provides for period of limitation for filing of application and the application for grant of compensation on the basis of cause of action 'first arose'. In the present case admittedly, the 'cause of action' has 'first arose', when the applicant no.2 has filed applications under RTI Act in the year 2009 and onwards and had informed knowledge since then. In the circumstances, it was well within the knowledge of the applicant no.2, more particularly from the response of the authorities thus, there is no question of extension of limitation from the year 2009 till the year 2019, when such similar applications were filed by the applicants under the provisions of the RTI Act, 2005. Thus, assuming that the cause of action has accrued in favour of the applicants, the same has first accrued in the year 2009 and hence, the period of limitation has already exhausted and expired and





the Original Application is barred by limitation in that regard. Thus, the averments in the Original Application that the authorities have provided information about mining without prior EC & Consents and Original Application is filed within six months from the information dated 14.08.2019 is false on record of the case. In any case, the response of the authorities under RTI Act to the application/s of the applicant/s in no manner attribute any illegal mining except for providing details of mining leases held by different persons/leaseholders.

- (iii) Further, unless the applicants show that the Original Application as filed is within the period of limitation as provided under Section 14(3) of the NGT Act, 2010, the question of invoking provision of Section 15 of the NGT, 2010 is not permissible. In any case, the Original Application, seeking compensation after 10 years from the date of cause of action, which, as aforesaid, has 'first arose' in the year 2009, invoking Section 15 of the NGT Act, 2010 is equally barred by law of limitation and has been filed without any cause of action.
- (iv) Further, according to the applicants, the alleged cause of action for filing the Original Application has first arose on 14.08.2019, when applicant no.2 has filed application for information under RTI Act, 2005. Thus, how and in what manner, the cause has accrued in favour of applicant no.1 on the basis of application dated 14.08.2019 filed by applicant no.2 alone and how the Original Application is filed within limitation is not born out from the averments made in the Original Application.



In view of the above, the OA is clearly barred by law of limitation. Hence, the averments made in paragraph no.21 are denied.

7. In light of the facts stated hereinabove, the applicants are not entitled for grant of any prayers much less the prayers made in paragraph no.22 and in respectful submission of the respondent no.45, the OA is required to be dismissed in limine.

Date : 13.01.2023

Place : _____



(ANIRUDDHA S. KULKARNI)

(Advocates for Respondent No.45)

VERIFICATION

I, Devabhai S/o. Karabhai Bhutiya, the respondent No.45, resident of Porbandar, do hereby verify that the contents of paragraphs 1, 2 and 3(A) to 3(C) are true to my personal knowledge and paragraphs 4 to 7 believed to be true on legal advice and that I have not suppressed any material fact.

Date: __. __. 2023

Place: _____



(DEPONENT)

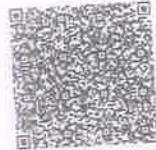
Devabhai K. Bhutiya.



ભારત સરકાર
Government of India



ભુતિયા દેવાભાઈ
Bhutiya Devabhai
જન્મ તારીખ / DOB : 28/07/1967
પુરુષ / Male



5991 6151 1092



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

ORIGINAL APPLICATION NO.101 OF 2019 (WZ)

IN THE MATTER OF:

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

Versus

Union of India
Through Secretary, MoEF & CC & Others ... Respondents

AFFIDAVIT

I, Devabhai S/o. Karabhai Bhutiya, Hindu, Adult, Indian inhabitant, residing at Porbandar, the respondent No.45, do hereby on solemn affirmation state that what is stated in paragraphs 1, 2, 3(A) to 3(C) of the reply are true to my own knowledge, what is stated in paragraphs 3(D) are based on information and belief and I believe the same to be true and correct, what is stated in paragraphs 4, 5, 6 to 6.11 and 7 contains reply to OA and submissions of law.

Solemnly affirmed at Porbandar on this 11th day of JAN, 2023



[Signature]
DEPONENT
Devabhai R. Bhutiya.

SOLEMNLY AFFIRMED
BEFORE ME

[Signature]
SAMIR B. HINDOCHA
NOTARY
GOVT. OF INDIA

11 JAN 2023

RG. SERIAL No. 192/2023
DATE 11 JAN 2023
BOOK No. 12
PAGE 37

[Signature]
SAMIR B. HINDOCHA
NOTARY
GOVT. OF INDIA



①

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

ORIGINAL APPLICATION NO.101 OF 2019 (WZ)

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Date : __.__.2023

Place : _____

(ANIRUDDHA S. KULKARNI)
(Advocate for Respondent No.45)

Annex - R-I (1000)
113-1019

Transfer of Mining Lease of Limestone in Village Banavav of Banavav Taluka at Junagadh District from Shri Basiklal Jamanadas Katkoria to Shri Devabhai Karabhai Bhatya.

Government of Gujarat,
Industries & Mines Department,
Sachivalaya, Gandhinagar,
Dated 12 APR 1993.

20/9/93
20/9/93

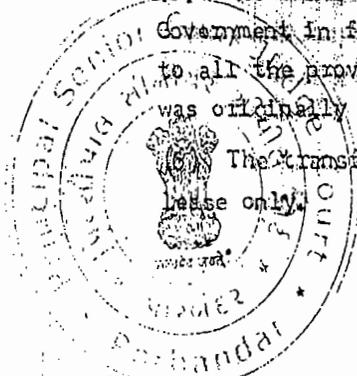
- (1) Read:- Government Order, I.M.&P.D. No.MCB/1575/(K-22)/8275/GHM, dated 12/1/76.
- (2) Government Order, Industries & Mines Department, No.MCB/1385/(K-41)/1002/GHM, dated 1/1/93.
- (3) Mining Lease deed dated the 31/5/76.
- (4) Application dated 4/2/93 from Shri Basiklal Jamanadas Katkoria and Shri Devabhai Karabhai Bhatya.
- (5) Collector Junagadh letter No.GJ/ML/175/1569, dated 19/3/93.
- (6) D.G.M.Letter No.ML/2463/Old-606, dated 30/3/93.

ORDER :-

No.MCB/1593/1074/GHM :- In exercise of the powers conferred by rule 37 of the Mineral Concession Rules,1960. Sanction is hereby accorded to transfer the Mining Lease for Limestone in Schedule mentioned below from the name of Shri Basiklal Jamanadas Katkoria to Shri Devabhai Karabhai Bhatya subject to following conditions :-

- (1) The transferee shall pay royalty for Mineral indicated in the below mentioned schedule as per the rate specified in the II Schedule of the Mines and Minerals (Regulation and Development Act,1957 (67 of 1957) as amended from time to time of dead rent at the rates specified in the III Schedule of the said Act as amended from time to time whichever is higher.
- (2) The transferee shall pay surface rent and water rate at such rate not exceeding land revenue and water rate and cesses assessable on the land.
- (3) The instrument of transfer should be registered within three calendar months from the date of its execution.
- (4) A copy of the registered documents of transfer shall be sent to the Collector of Junagadh District Junagadh and Director of Geology & Mining, Ahmedabad to the Government (one copy).
- (5) The transferee should enter into an agreement with Government in from 100 that after the transfer it will be bound to all the provisions in the lease in the same as if the lease was originally granted to him.

The transfer shall be valid for the remaining period of



प्रमाणित है

Signature

सुस्त-शास्त्री
सुस्तर निशान यने पालिय
Principal Senior Officer
Jodhpur
Jodhpur

18 JUN 20

// 2 //

[x]

- (7) The lessee shall make available to the transferee the original or certified copies of all plant and abandoned working in the area in the belt of 65 mtrs. wide surrounding it.
- (8) The transferee shall pay all arrears of Government dues which are due from the lessee.
- (9) The transferee shall pay fresh security deposit of Rs.1000/- (Rupees one thousand only).
- (10) The transferee will have to submit the I.M.M. approved mining plan for the lease.
- (11) The responsibility which may arise out of decision on pending courtcase against Revision of rate of Royalty will be binding to Shri Kathoria till the date of issue of this order and onward responsibility will be of Shri Bhutya as per condition No.5 above.

SCHEDULE

- | | |
|--|---|
| 1. Number and date of order of the sanctioning the grant of M.L. | Government Order, Industries, Mines & Energy Department, No.MCR/1575/(K-22)/3275/Chit, dated 12/1/76. |
| 2. Date of Execution | 31/5/76 |
| 3. Name of Mineral | Limestone |
| 4. Period of the lease | 20 years with effect from dated 31/5/76. |

-----	-----	-----	-----	-----
District	Talika	Village	Sr.No.	Area
Junagadh	Fanavav	Fanavav	78/5	Acres G. 28 - 00
-----	-----	-----	-----	-----

By order and in the name of the Governor of Gujarat,

Wyc
Section Officer,
Government of Gujarat,
Industries & Mines Department.

- To,
- The Collector, Junagadh District Junagadh -with reference to his letter No. GJ/ML/175/1569, dated 19/3/98.
 - The Director of Geology & Mining, Ahmedabad, with reference to his letter No. ML/2482/61d/606 dated 30/3/98.
 - The Geologist, Director of Geology & Mining, Junagadh.
 - The Revenue Department, Sachivalaya, Gandhinagar.
 - The Accountant General, Ahmedabad.
 - The Adm. Accountant General, Rajkot.
 - The Director General of Mines Safety, Dhanbad.
 - The Controller of Indian Bureau of Mines, Nagpur.
 - The Director of Mines Safety, Udaipur Region, 56, Shastri Marg, Udaipur-343 001, (Rajasthan)
 - The District Inspector of Land Records, Junagadh Dist. Junagadh.

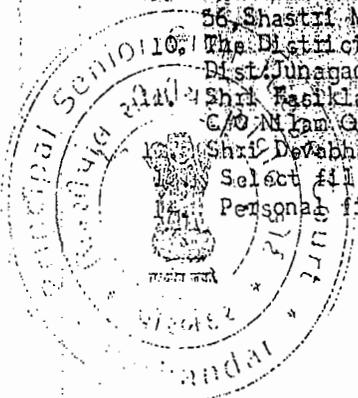
Shri Rasiklal Jamanadas Kathoria,
C/O Nilam Guest House, S.I. Road, Porbandar.
Shri Devabhai Karabhai Bhutya. Post: Porbandar.
Select file.
Personal file.

प्रभाषित ह्यु

Wyc

सुस्तर शास्त्री

सुस्तर विज्ञान मने पब्लिश पात
पोरबंदर



Registered
Principal Senior Officer
Judge Court
8 JUN

Government of Gujarat,
Industries, Mines and Power Department,
Sachivalaya, Gandhinagar,
Dated the 12th January, 1976.

ORDER :

No. MCR-1575 (K-22)/8275/CHH : In exercise of the powers conferred by Section 10 of the Mines and Minerals (Regulation and Development) Act, 1957 Government of Gujarat is pleased to sanction the grant to Shri Katkoria Rasiklal Jannadas, Near Panch Hatadi Road, Kutiyana (3 62650) District, Junagadh of a Mining lease for Limestone, for twenty years in respect of the area in the Junagadh District detailed below :-

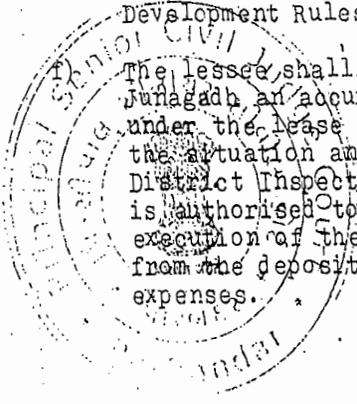
Taluka	Village	Survey Number	Area A-G
Ranavav	Ranavav	78/5	28-00

i.e. nearly 11.33 hectares.

2. The grant of the above lease is subject to the terms and conditions mentioned below :-

- a) Mining lease shall be in respect of Limestone only. If any other minerals are found in association with this mineral, they should be brought to the notice of Government and if the lessee desire to mine these minerals alongwith the mineral for which lease is granted, they should do so only after the consent of the State Government, is obtained in writing.
- b) Royalty at the rate specified for the mineral limestone in Schedule IInd of the Mines and Minerals (Regulation and Development) Act, 1957 as amended from time to time and dead rent at the rates mentioned in the IIIrd Schedule of the said Act as amended from time to time whichever is greater shall be charged, provided that the dead rent shall not be payable for first year of the lease.
- c) Surface rent and water rate at such rate not exceeding the land revenue, water rate and cesses assessable on the land shall be charged.
- d) If beryl or any other substances prescribed under section 3 of the Atomic Energy Act, 1948 (No. XXIX of 1948) is found to occur in the property under the lease, the lessee shall make available such mineral to the Government.
- e) The lease shall be subject to the provisions of (i) the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957) (ii) the Mineral Concession Rules, 1960 (iii) the Mineral Conservation and Development Rules, 1958 as amended from time to time.

The lessee shall furnish to the Collector of Junagadh an accurate map of the area sanctioned under the lease together with the description giving the situation and boundaries duly attested by the District Inspector of Land Records. The Collector is authorised to get the area demarcated before execution of the Mining lease and recover the cost from the deposit of 1000/- paid for preliminary expenses.



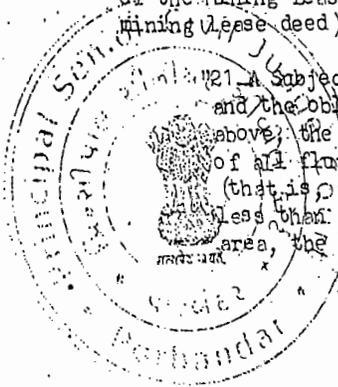
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Handwritten notes and signatures at the bottom right, including a signature and the date '18 JUN 20'.

- g) The lessees shall pay to the Collector of Junagadh necessary security deposit Rs. 1,000/- for due observance of the terms and conditions of lessee in accordance with rule 32 of the Mineral Concession Rules, 1960 before the lease is issued to him.
- h) The lessee shall submit confidentially from time to time or when required progress report to the Director of Geology and Mining, Ahmedabad-16, or an officer authorised by him along with the samples of the ores collected during the mining operations together with the analysis report.
- i) The lessee shall not use or sell the said mineral or deal with it in whatsoever manner or knowingly allow any one to use or sell the said mineral or deal with it in whatsoever manner as a minor mineral.
- j) If any bauxite is found or traced from the said areas, the lessee shall on demand by the Government or an officer authorised by the Government or the Collector, surrender the mining lease forthwith without claiming any compensation, of any kind including inter alia any claim for land, minerals, machineries, equipments, or for loss of business or trade.
- k) The lessee also undertakes that, if the limestone own by him from said land is not, required for an industrial unit to be set up by himself, he shall deliver the limestone for utilisation in any industrial plant like Cement or Soda Ash Plant or such other industrial unit as Government may directly set up or may be set up by any other party within the State of Gujarat to whom the State Government (on notice of not less than six months) may direct the lessee to deliver the limestone and in such an event, the price and other terms of such a supply arrangements on long term basis shall be mutually agreed upon between the lessee and such other party. In the event of any dispute arising between the lessee and such other party in regard to the said supply arrangements, the point at dispute shall be settled by the State Government and, in case the lessee is still aggrieved by the decision of the State Government on such point, the lessee shall have the right to appeal to the Central Government.

3. The following clause 21A over and above standard pre-emption clause in favour of the State Government, contained in the clause 21 of part VII of the model form of the Mining Lease (Form (K) shall be introduced in the Mining Lease deed).

21. A Subject to the rights of the State Government and the obligations of the lessee under clause 21 above, the lessee hereby undertakes that in respect of all flux or fettling grade limestone/dolomite (that is, with acid insolubles of Alumina and Silica less than 15 percent) he shall win from the leased area, the lessee shall:-



મહાનિત કમિ
 મુ
 જાનગઢ
 જિલ્લા વિજ્ઞાન અને
 ધારણકર

3...

મુખ્ય
 Principal Secretary
 Junagadh

- a) Offer the first option of purchase to the Hindustan Steel Limited, Ranchi, at such price and other terms as may be agreed upon between the lessee and the said Hindustan Steel Limited, in advance from year to year (such price and terms being not less favourable than those prevalent in the particular year in the market) and
- b) To the extent, the said Hindustan Steel Limited, do not exercise that first option in the particular year, offer the second option of purchase to any other steel plant in the country at such price and other terms as may be agreed upon between the lessee and such other steel plant before otherwise disposing of such limestone /Dolomite.
- c) In the event of any disagreement or dispute arising between the lessee and the said Hindustan Steel Limited, (or other Steel Plant) relating to the price or any other matters relating to the exercise of the options aforesaid the point at dispute shall be referred to the State Government for decision provided further that in case the lessee or the said Hindustan Steel Limited (or other steel plant) is still agrieved by the decision of the State Government on such point the matter shall be referred to the Secretary to the Government of India in the Ministry of Steel and Mines (Department of Mines) and the decision of the said Secretary or any officer nominated by him for the purpose, as the case may be, shall be final and binding on all concerned.



By order and in the name of the Governor of Gujarat,

J.M. Kaji

J.M. Kaji

Under Secretary to the Government of Gujarat,
Industries, Mines and Power Department.

પ્રમાણિત છે

mm

શ્રી જી. મ. કાજી
અધિકારી, ઉદ્યોગ, મિનિયમ્સ અને પાવર ડિપાર્ટમેન્ટ
ગાંધીનગર

Principal Judge
Industrial Disputes Tribunal
Gandhinagar

(G.P.B.)-(J) Qc-9-10,000-8-69.

[Price : Re. 0.30 nP.]

Form K

MODEL FORM OF MINING LEASE

(See Rule 31)

THIS INDENTURE made this 31st day of May 1966 between the Governor of Gujarat / the President of India (hereinafter referred to as "the State Government" which expression shall where the context so admits be deemed to include the successors and assigns) of the one part and

When the lessee is an individual.

Shri Kalkoria Rasiklal Jammadas Kulkarni (Name of person with address and occupation) (hereinafter referred to as "the lessee" which expression shall where the context so admits be deemed to include his heirs, executors, administrators, representatives and permitted assigns).

When the lessees are more than one individual.

(Name of person with address and occupation) and (Name of person with address and occupation) (hereinafter referred to as "the lessees" which expression shall where the context so admits be deemed to include their respective heirs, executors, administrators, representatives and their permitted assigns).

When the lessee is a registered firm.

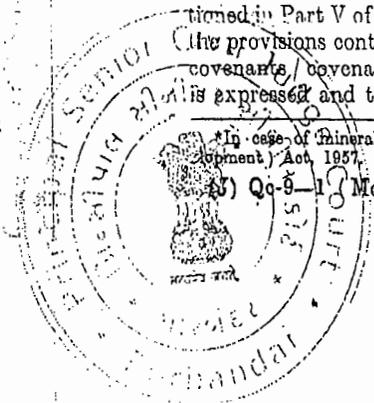
(Name and address of partner) son of of of son of of all carrying on business in partnership under the name and style of (name of the firm) registered under the Indian Partnership Act, 1932 (9 of 1932), and having their registered office at in the town of (hereinafter referred to as "the lessees" which expression where the context so admits be deemed to include all the said partners, their respective heirs, executors, legal representatives and permitted assigns).

When the lessee is a registered company.

(Name of company) a company registered under (Act under which incorporated) and having its registered office at (Address) (hereinafter referred to as the lessee which expression shall where the context so admits be deemed to include its successors and permitted assigns) of the other part.

WHEREAS THE lessee / lessees has / have applied to the State Government in accordance with the Mineral Concession Rules, 1960 (hereinafter referred to as the said rules for a mining lease for Lime Stone in respect of the lands described in Part I of the Schedule hereunder written and has / have deposited with the State Government the sum of Rs. 1000/- as security and the sum of Rs. 500/- for meeting the preliminary expenses for a mining lease (and WHEREAS the Central Government has approved the grant of the lease)* [No. M-II-152 (57) 61, dated 15th October 1963].

WITNESSETH that in consideration of the rents, and royalties covenants and agreements by and in these presents and the schedule hereunder written reserved and contained and on the part of the lessee / lessees to be paid observed and performed, the State Government (with the approval of the Central Government)* hereby grants and demises unto lessee / lessees. All those the mines beds / veins seams of Lime Stone (here state the mineral or minerals) (hereinafter and in the schedule referred to as the said minerals) situated lying and being in or under the lands which are referred to in Part I of the said schedule together with the liberties, powers and privileges to be exercised or enjoyed in connection herewith which are mentioned in Part II of the said Schedule subject to the restrictions and conditions as to the exercise and enjoyment of such liberties, powers and privileges which are mentioned in Part III of the said Schedule EXCEPT and reserving out of this demise unto the State Government the liberties, powers and privileges mentioned in Part IV of the said schedule TO HOLD the premises hereby granted and demised unto the lessee / lessees from the 31st day May 1966 for the term of twenty years thence next ensuing YIELDING AND PAYING therefore unto the State Government the several rents and royalties mentioned in Part V of the said Schedule at the respective times therein specified subject to the provisions contained in Part VI of the said Schedule and the lessee / lessees hereby covenants / covenant with the State Government as in Part VII of the said Schedule is expressed and the State Government hereby covenants with the lessee / lessees as



*In case of minerals included in the First Schedule of the Mines and Minerals (Regulation and Development) Act, 1957. (G.P.B.)-(J) Qc-9-10,000-8-69 (Mono)

Handwritten signatures and stamps including 'Principal Supt. of Mines', 'Judge Court', and '8 JUN 2016'.

in Part VIII of the said Schedule as expressed AND it is hereby mutually agreed between the parties hereto as in Part IX of the said Schedule is expressed.

IN WITNESS WHEREOF these presents have been executed in manner hereunder appearing the day and year first above written.

The Schedule above referred to As per the copy of the schedule of the lease of the land situated at ... bearing Cadastral Survey Nos. ... containing an area of ... and bounded as follows:

PART I

The Area of this lease

All that tract of lands situated at ... (Description of area or areas) in (Pargana) in ... the Registration District of ... Sub-District ... and Thana ... bearing Cadastral Survey Nos. ... containing an area of ... and bounded as follows:

Location and area of the lease.

- On the North by
- On the South by
- On the East by
- and
- On the West by

hereinafter referred to as "the said lands."

PART II

Liberties, Powers and Privileges to be exercised and enjoyed by the lessee / lessees subject to the restrictions and conditions in Part III

1. Liberty and power at all times during the term hereby demised to enter upon the said lands and to search for mine, bore, dig, drill, for win, work, dress, process, convert, carry away and dispose of the said mineral/ minerals.
2. Liberty and power for or in connection with any of the purposes mentioned in this part to sink, drive, make, maintain and use in the said lands and pits, shafts, inclines, drifts, levels, water-ways, air-ways and other works (and to use, maintain, deepen or extend any existing works of the like nature in the said lands).
3. Liberty and power for or in connection with any of the purposes mentioned in this part to erect, construct, maintain and use on or under the said lands any engines, machinery, plant, dressing floors, furnaces, coke, ovens, brickkilns, workshops, store-houses, bungalows, godowns, sheds and other buildings and other works and conveniences of the like nature on or under the said lands.
4. Liberty and power for or in connection with any of the purposes mentioned in this part to make any tramways, railways, roads, aircraft landing grounds and other ways in or over the said lands and to use, maintain and go and repass with or without horses, cattle, wagon, aircrafts, locomotives or other vehicles over the same (or any existing tramways, railways, roads and other ways in or over the said lands) on such conditions as may be agreed to.
5. Liberty and power for or in connection with any of the purposes mentioned in this part to quarry and get stone, gravel and other buildings and road materials and clay and to use and employ the same and to manufacture such clay into bricks or tiles and to use such bricks or tiles but not to sell any such material bricks or tiles.
6. Liberty and power for or in connection with any of the purposes mentioned in this part but subject to the rights of any existing or future lessees and with the written permission of Collector to appropriate and use water from any streams, water-courses, springs or other sources in or upon the said lands and to divert, step up or dam any such stream or water course and collect or impound any such water and to make construct and maintain any water-course, culverts, drains or reservoirs but not as so to deprive any cultivated lands, villages, buildings or watering places for livestock of a reasonable supply of water as before accustomed nor in any way to foul or pollute any streams or springs. Provided that the lessee / lessees shall not interfere with the navigation in any navigable stream nor shall divert such stream without the previous written permission of the State Government.

To enter upon land and search for win, work etc.

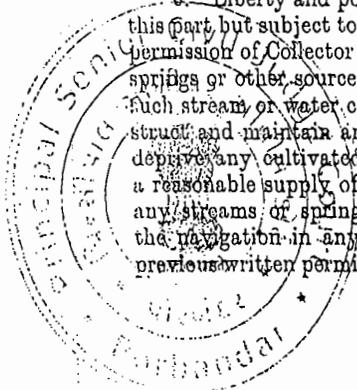
To sink drive and make pits and inclines etc.

To erect and machinery, plant, etc.

To make roads and ways etc. and existing roads and ways.

To get stone, gravel and road materials, etc.

To use water from streams, etc.



Municipal Senior Judge Court

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18 JUN 2016

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ART III clause 4-a after clause 4

The lessee/lessees shall pay such compensation as may be assessed by the chief conservator of Forests for damage caused to the K.A. in any area of the reserved forest on account of the cutting operation carried out in such area. The compensation for such damage shall be based on the value of the standing trees in the said area & twenty times the sum of annual revenue derived by Government from such land immediately before the date of lease



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Principal Senior Officer
District Court

18 JUN 2016

To use land for stacking, heaping, depositing or other purposes.

Beneficiation and conveying away of production.

To make coke to be used in case of coal only.

To clear brushwood and to fell and utilise trees, etc.

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

8. (a) Liberty and power to enter upon and use a sufficient part of the said lands to beneficiate any ore produced from the said lands and to carry away such beneficiated ore.

(b) Liberty and power upon the said lands to convert into coke any coal or coal dust produced from the said lands and to carry away such coke.

9. Liberty and power for or in connection with any of the purposes mentioned in this part and subject to the existing rights of others and save as provided in clause 3 of Part III of this Schedule to clear under-growth and brushwood and to fell and utilise any trees or timber standing or found on the said lands provided that the State Government may ask the lessee / lessees to pay for any trees or timber felled and utilised by them / him at the rates specified by the Collector or the State Government.

PART III

Restrictions and Conditions as to the Exercise of the Liberties, Powers and Privileges in Part II

No building, etc. upon certain places.

1. No building or thing shall be erected, set up or placed and no surface operations shall be carried on in or upon any public pleasure ground, burning or burial ground or place held sacred by any class of persons or any house or village site, public road or other place which the State Government may determine as public ground nor in such a manner as to injure or prejudicially effect any buildings, works, property or rights of other persons and no land shall be used for surface operations which is already occupied by persons other than the State Government for work or purposes not included in this lease. The lessee / lessees shall not also interfere with any right of way, well or tank.

Permission for surface operations in a land not already in use.

2. Before using for surface operations any land which has not already been used for such operations, the lessee / lessees shall give to Collector of the District two calendar months previous notice in writing specifying the name or other description of the situation and the extent of the land proposed to be so used and the purpose for which the same is required and the said land shall not be so used if objection is issued by the Collector within two months after the receipt by him of such notice unless the objections so stated shall on reference to the State Government be annulled or waived.

To cut trees in unreserved lands.

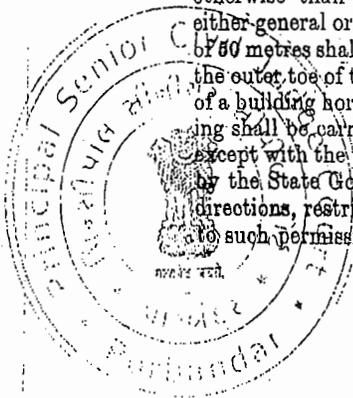
3. The lessee / lessees shall not without the express sanction of the Collector cut down or injure any timber or trees on the said lands but may without such sanction clear away any brushwood or undergrowth which interferes with any operations authorised by these presents. The Collector or the State Government may require the lessee / lessees to pay for any trees or timber felled and utilised by him / them at the rates specified by the Collector of the District.

Not to enter upon reserved forest.

4. Notwithstanding anything in this schedule contained the lessee, lessees shall not enter upon any reserved forest included in the said lands without previous sanction in writing of the District Forest Officer nor fell out and use any timber or trees without obtaining the sanction in writing of that Officer nor otherwise than in accordance with such conditions as the State Government may prescribe.

Restrictions on mining operations in certain areas, etc.

5. The lessee / lessees shall not work or carry on or allow to be worked or carried on any mining operations at or to any point within a distance of 50 metres from any railway line except with the previous written permission of the Railway Administration concerned" or under or beneath any ropeway or any ropeway trestle or station, except under and in accordance with the written permission of the authority owing the ropeway" or from any reservoir, canal or other public works such as public roads and buildings or inhabited site except with the previous written permission of the Collector or any other Officer authorised by the State Government in this behalf and otherwise than in accordance with such instructions, restrictions and conditions either general or special which may be attached to such permission. The said distance of 50 metres shall be measured in the case of railway reservoir or canal horizontally from the outer toe of the bank or the outer edge of the cutting as the case may be and in case of a building horizontally from the plinth thereof. In the case of village roads no working shall be carried on within a distance of 10 metres of the outer edge of the cutting except with the previous permission of the Collector or any other officer duly authorised by the State Government in this behalf and otherwise than in accordance with such directions, restrictions and additions, either general or special, which may be attached to such permission [No. 1 (51)1/65-M-II, dated 26th February 1969].



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Principal Senior Officer, Jharkhand, Judge Court, official stamp and signature.

68 JUN 2016

Explanation.— For the purposes of this clause the expression 'Railway Administration' shall have the same meaning as it is defined to have in the Indian Railway Act, 1890, by clause (6) of section 3 of that Act. 'Public Road' shall mean a road which has been constructed by artificially surfaced as distinct from a track resulting from repeated use. Village road will include any track shown in the revenue record as village road.

6. The lessee / lessees shall allow existing and future holders of Government licences or leases over any land which is comprised in or adjoins or is reached by the land held by the lessee / lessees reasonable facilities of access thereto ;

Facilities adjoining Government licences and leases.

PROVIDED THAT no substantial hindrance or interference shall be caused by such holders of licences or leases to the operations of the lessee / lessees under these presents and fair compensation (as may be mutually agreed upon or in the event of disagreement as may be decided by the State Government) shall be made to the lessee / lessees for all loss or damage sustained by the lessee / lessees by reason of the exercise of this liberty.

PART IV

Liberties, Powers and Privileges reserved to the State Government.

1. Liberty and power for the State Government or to any lessee or persons authorised by it in that behalf to enter into and upon the said lands and to search for win, work, dig, get raise, dress process, convert and carry away minerals other than the said minerals and any other substances and for these purposes to sink, drive, make, erect, construct, maintain and use such pits, shafts, inclines, drifts, levels and other lines, waterways, airways, water courses, drains, reservoirs, engines, machinery plant, buildings, canals, tramways, railways, roadways and other works and conveniences as may be deemed necessary or convenient.

To work other minerals.

PROVIDED THAT in the exercise of such liberty and power no substantial hindrance or interference shall be caused to or with the liberties, powers and privileges of the lessee / lessees under these presents and that fair compensation (as may be mutually agreed upon or in the event of disagreement as may be decided by the State Government) shall be made to the lessee / lessees for all loss or damage (sustained by the lessee / lessees by reason or in consequence of the exercise of such liberty and power.

2. Liberty and power for the State Government or any lessee or person authorised by it in that behalf to enter into and upon the said lands and to make upon over or through the same any railways, tramways, roadways, or pipelines for any purpose other than those mentioned in Part II of these presents and to get from the said lands stones, gravel earth and other materials for making maintaining and repairing such railways, tramways and roads or any existing railways and roads and to go and repass at all times with or without horses, cattle or other animals, carts, wagons, carriages, Locomotives or other vehicles over or along any such railways, tramways, roads, lines and other ways for all purposes and as occasion may require, provided that in the exercise of such liberty and power by such other lessee or person no substantial hindrance or interference shall be caused to or with the liberties, powers and privileges of the lessee / lessees under these presents and that fair compensation as may be mutually agreed upon or in the event of disagreement as may be decided by the State Government shall be made to the lessee / lessees for all loss or damage sustained by the lessee / lessees by reason or in consequence of the exercise by such lessee or person of such liberty and power.

To make rail-ways and roads.

PART V

Rents and Royalties reserved by this Lease

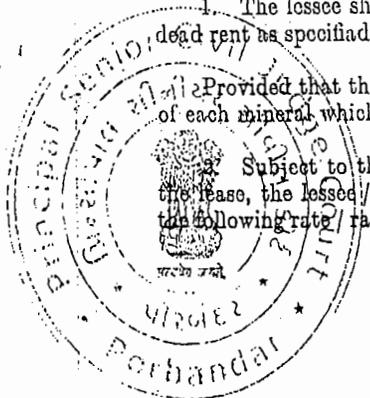
1. The lessee shall pay, for every year, except the first year of the lease yearly dead rent as specified in clause 2 of this Part in respect of each mineral :

To pay dead rent or royalty which ever is greater.

Provided that the lessee shall be liable to pay the dead rent or royalty in respect of each mineral whichever is higher in amount but not both.

Subject to the provisions of clause 1 of this Part, during the subsistence of the lease, the lessee / lessees shall pay to the State Government annual dead rent at the following rate / rates or at such revised rate / rates which may be communicated in

Rate and mode of payment of dead rent.



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Registered Principal Senior Judge Court

JUN 2016

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PART (V) Clause-1 and 2

1. The lessee shall pay for every year except the first year the lease deed rest as specified in clause 1 and 2.

Provided that where the holder of such mining lease is liable under sections of the act, to be removed or consumed by him or his employee, contractor or sub-lessee from the mine, he shall be liable to pay either such royalty or in respect of the area whichever is less.

2. subject to the provisions of clause 1 of this deed the subsistence of the lease, the lessee/lessees to the state government annual dead rent for the area specified and described in part 1 of this deed and at the time being specified in the third schedule of such manner as may be specified in the third schedule Act, in such manner as may be specified in this deed of the State Government.

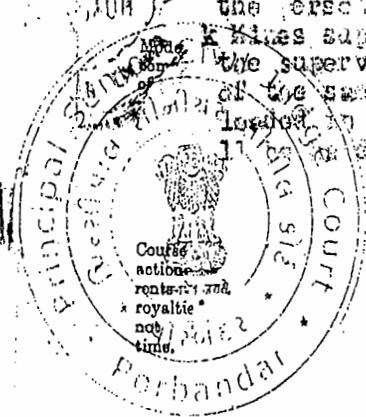
Rent, Royalty, and other payments to be made by the lessee

PART (V) Clause-4

As per G.A. No. MC-R-21 61-14623 CH. dated 5-7-1968 the surface rent in respect of the area actually under mining operations and areas utilised for machinery, labour quarters shall be equal to non-agriculture assessment i.e. at the rate of Rs. 200 per sq. metre or per hectare per annum and in respect of area occupied but unused i.e. for the remaining area shall be equal to the agriculture assessment should be paid at the rate of Rs. 100 per annum per hectare as amended from time to time.

PART IV after clause-2

The lessee/s shall maintain a pass-book in triplicate and they if his/their agent/s shall before the said removal of heavy machinery from the mining site, fill in the blanks in all the three parts of the pass and detach two parts from the pass-book and hand over to the truck driver or the person in charge of the vehicle. The third part shall be kept by the person in charge of the vehicle. The truck driver or the person in charge of the vehicle shall before the removal of the heavy machinery from the mining site, fill in the blanks in all the three parts of the pass and hand over to the truck driver or the person in charge of the vehicle. The third part of the pass shall be kept by the person in charge of the vehicle. The truck driver or the person in charge of the vehicle shall before the removal of the heavy machinery from the mining site, fill in the blanks in all the three parts of the pass and hand over to the truck driver or the person in charge of the vehicle. The third part of the pass shall be kept by the person in charge of the vehicle.



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Principal Sanyasidhar Court, Porbandar. Judge Court.

18 JUN 2016

writing to the lessee / lessees by the State Government per mineral per hectare of the lands demised and described in Part I of this Schedule :

Name of mineral	Dead rent fixed per hectare	Area of demised land Hectars	Dead rent payable	Total dead rent payable in a year
Limestone	Nil	11.33	Nil	Nil
	12.50	11.33	150.00	150.00
	25.00	11.33	300.00	500.00
	37.50	11.33	450.00	950.00

(Here insert the manner in which and the time at which the dead rent, surface rent and water rate should be paid.)

The lessee shall pay the dead rent in two half yearly instalments first day of January and first day of October every year.

3. Subject to the provision of clause 1 of this Part, the lessee / lessees shall during the subsistence of this lease pay to the State Government at such times and in such manner as the State Government may prescribe royalty in respect of any mineral / minerals removed by him / them from the leased area at the rate for the time being specified in the Second Schedule to the Mines and Minerals (Regulation and Development) Act, 1957.

4. The lessee / lessees shall pay rent and water rate to the State Government in respect of all parts of the surface of the said lands which shall from time to time be occupied or used by the lessee / lessees under the authority of these presents at the rate of Rs. ... and Rs. ... respectively per annum per hect. of the area so occupied or used and so in proportion for any area less than an hectare during the period from the commencement of such occupation or use until the area shall cease to be so occupied or used and shall as far as possible restore the surface land so used to its original condition. Surface rent and water rate shall be paid as hereinbefore detailed in clause 2. ~~PROVIDED THAT NO such rent / water rate shall be payable in respect of the occupation and use of the area comprised in any roads or ways to which the public have full right of access. Surface rent, water rate should~~

PART VI

Provisions relating to the Rents and Royalties

1. The rent, water rate and royalties mentioned in Part V of this Schedule shall be paid free from any deductions to the State Government at ... and in such manner as the State Government may prescribe PROVIDED ALWAYS and it is hereby agreed that Rs. ... the balance standing to the credit of the lessee / lessees on account of the deposit made by him / them as a licensee / licensees over an area which included the said lands shall be retained and accepted by the State Government in satisfaction of the rents and royalties mentioned in Part V until they reach that amount.

2. For the purposes of computing the said royalties the lessee / lessees shall keep a correct account of the mineral / minerals produced and despatched. The accounts as well as the weight of the mineral / minerals in stock or in the process of export may be checked by an officer authorised by the Central or State Government.

(Here specify the mode of arriving at sale price / prices at pits mouth of mineral / minerals). *As decided by Govt Dept of Geology & ...*

3. Should any rent, royalty or other sums due to the State Government under the terms and conditions of these presents be not paid by the lessee / lessees within the prescribed time, the same may be recovered on a certificate of such officer as may be specified by the State Government by general or special order, in the same manner as an arrear of land revenue.



(J) Qo-2
 2016
 Principal Engineer
 8 JUN 2016

PART VII

The Covenants of the Lessee / Lessees

1. The lessee / lessees shall pay the rent, water rate and royalties reserved by this lease at such times and in the manner provided in PARTS V & VI of these presents and shall also pay and discharge all taxes, rates, assessments and impositions whatsoever being in the nature of public demands which shall from time to time be charged, assessed or imposed by the authority of the Central and State Governments upon or in respect of the premises and works of the lessee / lessees in common with other premises and works of a like nature except demands for land revenues.

Lessee to pay rents and royalties taxes, etc.

To keep as regards product and em etc.

2. The lessee / lessees shall at his / their own expense erect and at all times maintain and keep in repair boundary marks and pillars according to the demarcation to be shown in the plan annexed to this lease. Such marks and pillars shall be sufficiently clear of the shrubs and other obstructions as to allow easy identification.

To maintain and keep boundary marks in and good order.

3. Unless the State Government for good cause permits otherwise, the lessee / lessees shall commence operation within one year from the date of execution of the lease and shall thereafter at all times during the continuance of this lease search for, win, work and develop the said minerals without voluntary intermission in a skilful and workmanlike manner and as prescribed under clause 12 hereinafter without doing or permitting to be done any unnecessary or avoidable damage to the surface of the said lands or the crops, buildings, structures or other property thereon. For the purposes of this clause operations shall include the erection of machinery laying of a tramway or construction of a road in connection with the mine.

To commence operations within a year and work in a workman like manner.

4. The lessee / lessees shall make and pay such reasonable satisfaction and compensation as may be assessed by lawful authority in accordance with the law in force on the subject for all damage, injury or disturbance which may be done by him / them in exercise of the powers granted by this lease and shall indemnify and keep indemnified fully and completely the State Government against all claims which may be made by any person or persons in respect of any such damage, injury or disturbance and all costs and expenses in connection therewith.

To indemnify Government against all claims.

To plac

5. The lessee / lessees shall during the subsistence of this lease well and sufficiently secure and keep open with timber or other durable means all pits, shafts and workings that may be made or used in the said lands and make and maintain sufficient fences to the satisfaction of the State Government round every such pit, shaft or working whether the same is abandoned or not and shall during the same period keep all workings in the said lands except such as may be abandoned accessible free from water and foul air as far as possible.

To secure and keep in good condition pits, shafts, etc.

6. The lessee / lessees shall strengthen and support to the satisfaction of the Railway Administration concerned or the State Government, as the case may be any part of the mine which in its opinion requires such strengthening or support for the safety of any railway, reservoir canal, road and any other public works or structures.

To strengthen and support the mine to necessary extent.

7. The lessee / lessees shall allow any officer authorised by the Central Government or the State Government in that behalf to enter upon the premises including any building, excavation or land comprised in the lease for the purpose of inspecting, examining, surveying, prospecting and making plans thereof sampling and collecting a data and the lessee / lessees / shall with proper person employed by the lessee / lessees and acquainted with the mines and work effectually assist the officer, agents, servants and workmen in every such section and shall afford them all facilities, information, connected with them the working of the mines which they may reasonably require and also shall and will conform to and observe all orders and regulations which the Central and State Government as the result of such inspection or otherwise may from time to time see fit to impose. [No. M-II-(69) / 44 / 61, dated 7th September 1961].

To allow inspection of working.

8. The lessee / lessees shall without delay send to the Collector a report of any accident causing death or serious bodily injury or serious injury to property or seriously affecting or endangering life or property which may occur in the course of the operations under this lease.

To report accidents.

9. The lessee / lessees shall report to the State Government the discovery in the leased area of any mineral not specified in the lease within sixty days of such discovery along with full particulars of the nature and position of each such find. If any mineral not specified in the lease is discovered in the leased area, the lessee / lessees shall not win and dispose of such mineral unless such mineral is included in the lease or a separate lease is obtained therefor.

To report discovery of other minerals.

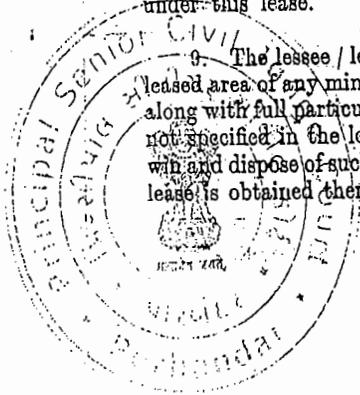
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सुखत शास्त्री

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शे. २००२



Principal Supt. Civil Judge Court

8 JUN 2016

To keep records of accounts regarding production and employees etc.

10. The lessee / lessees shall at all time during the said term keep or cause to be kept at an office to be situated upon or near the said lands correct and intelligible books of accounts which shall contain accurate entries showing from time to time —

- (1) Quantity and quality of the said mineral / minerals realised from the said lands.
- (2) Quantity of the various qualities of ores beneficiated or converted (for example coal converted into coke).
- (3) Quantities of the various qualities of the said mineral / minerals sold and exported separately.
- (4) Quantities of the various qualities of the said mineral / minerals otherwise disposed of and the manner and purpose of such disposal.
- (5) The prices and all other particulars of all sales of said mineral / minerals.
- (6) The number of persons employed in the mines or works or upon the said lands specifying nationality, qualifications and pay of the technical personnel.
- (7) Such other facts, particulars and circumstances as the Central or the State Governments may from time to time require and shall also furnish free of charge to such officers and at such times as the Central and State Governments may appoint true and correct abstract of all or any such books of accounts and such information and returns to all or any of the matters, aforesad as the State Government may prescribed and shall at all reasonable times allow such officers as the Central Government or State Government shall in that behalf appoint to enter into and have free access to the said officers for the purpose of examining and inspecting the said books of accounts, plans and records and to make copies thereof and make extracts therefrom.

To maintain plants, etc.

11. The lessee / lessees shall at all times during the said term maintain at the mine office correct intelligible up-to-date and complete plans and sections of the mines in the said lands. They shall show all the operations, and workings and all the trenches, pits and drillings made by him / them in the course of operations carried on by him / them under the lease, faults and other disturbances encountered and geological data and all such plans and sections shall be amended and filled up by and from actual surveys to be made for that purpose at the end of twelve months or any period specified from time to time and the lessee / lessees shall furnish free of charge to the Central and State Governments true and correct copies of such plans and sections whenever required. Accurate records of all trenches, pits and drillings shall show

- (a) The sub-soil and strata through which they pass.
- (b) Any mineral encountered.
- (c) Any other matter of interest and all data required by the Central and State Governments from time to time.

The lessee/ lessees shall allow any officer of the Central or the State Government, authorised in this behalf by the Central Government, to inspect the same at all reasonable times. He / they shall also supply when asked for by the State Government / the Coal Controller / the Director, Geological Survey of India / the Director, Indian Bureau of Mines, a composite plan of the area showing thickness, dip, inclination etc. of all the seams as also the quantity of reserves quality-wise.

12. The lessee / lessees shall be bound by such rules as may be issued from time to time by the Government of India under section 18 of the Mines and Minerals (Regulation and Development) Act, 1957 (Act 67 of 1957), and shall not carry on mining or other operations under the said lease in any way other than as prescribed under these rules.

To provide weighing machine.

13. Unless specifically exempted by the State Government the lessee / lessees shall provide and at all times keep at or near the pit head or each of the pit heads at which the said minerals shall be brought to bank a properly constructed and efficient weighing machine and shall weigh or cause to be weighed thereon all the said minerals from time to time brought to bank sold exported and converted and also the converted products and shall at the close of each day cause the total weights, ascertained by such means of the said minerals, ores products raise sold, exported and converted during the previous twenty-four hours to be entered in the aforesaid books of accounts. The lessee / lessees shall permit the State Government at all times during the said term to employ any person or persons to be present at the weighing of the said minerals as aforesaid and to check the accounts thereof and to check the accounts kept by the lessee / lessees. The lessee / lessees shall give ... SIX ... days previous notice in writing to the Collector of every such measuring or weighing in order that he or some officer on his behalf may be present thereat.

22/8/2016

22/8/2016

Signature

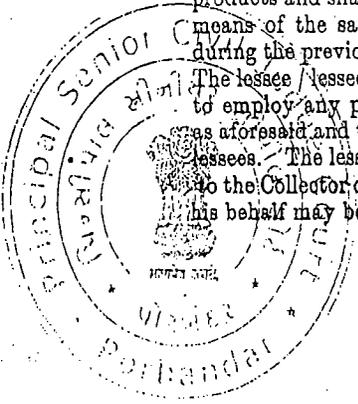
Principal Senior Judge Court

Principal Senior Judge Court

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14. The lessee / lessees shall allow any person or persons appointed in that behalf by the State Government at any time or times during the said term to examine and test every weighing machine to be provided and kept as aforesaid and the weights used therewith in order to ascertain whether the same respectively are correct and in good repair and order and if upon any such examination or testing any such weighing machine or weights shall be found incorrect or out of repair or order the State Government may require that the same be adjusted, repaired and put in order by and at the expenses of the lessee / lessees and if such requisition be not complied with within fourteen days after the same shall have been made, the State Government may cause such weighing machine or weights to be adjusted, repaired, and put in order and the expense of so doing shall be paid by the lessee / lessees to the State Government on demand and if upon any such examination or testing as aforesaid any error shall be discovered in any weighing machine or weights to the prejudice of the State Government such error shall be regarded as having existed for three calendar months previous to the discovery thereof or from the last occasion of so examining and testing the same weighing machine and weights in case such occasion shall be within such period of three months and the said rent and royalty shall be paid and accounted for accordingly.

To allow test of weighing machine.

No. 1400 of 1968

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

To pay compensation for injury of third parties

16. The lessee / lessees will exercise the liberties and powers hereby granted in such a manner as to offer no unnecessary or reasonably avoidable obstruction or interruption to the development and working within the said lands of any minerals not included in this lease and shall at all times afford to the Central and State Governments and to the holders of prospecting licences or mining leases in respect of any such minerals or any minerals within any land adjacent to the said lands as the case may be reasonable means of access and safe and convenient passage upon and across the said lands to such minerals for the purpose of getting working developing and carrying away the same provided that the lessee / lessees shall receive reasonable compensation for any damage or injury which he / they may sustain by reason or in consequence of the use of such passage by such lessees or holders of prospecting licences.

Not to obstruct working of other minerals

Less deposit

17. (1) The lessee / lessees shall not, without the previous consent in writing of the State Government,

Transfer of Lease.

(a) assign, sublet, mortgage, or in any other manner, transfer the mining lease, or any right title or interest therein, or

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

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Right

"Provided that the State Government shall not give its written consent unless—

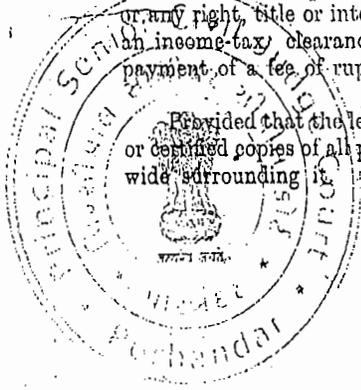
(a) the lessee has furnished an affidavit along with his application for transfer of the mining lease specifying therein the amount that he has already taken or proposes to take as consideration from the transferee ;

(b) the transfer of the mining lease is to be made to a person or body directly undertaking mining operations." [No. 1-(33) 67-M-II, dated 30th March 1968].

(2) Without prejudice to the above provisions, the lessee / lessees may, subject to the conditions specified in the proviso to rule 35, of said rules transfer this lease or any right, title or interest therein, to a person holding a certificate of approval and an income-tax clearance certificate from the Income-tax Officer concerned, on payment of a fee of rupees one hundred to the State Government :

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

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Registered
Principal Secretary
Judge Court
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8 JUN 2016

To allow test of weight of machine.

(3) The State Government may, by order in writing, determine the lease at any time if the lessee / lessees has / have in the opinion of the State Government, committed a breach of any of the above provisions or has / have transferred the lease or any right, title or interest therein otherwise than in accordance with clause (2) :

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

No to be financed or controlled by a Trust Corporation firm or person.

18. The lease shall not be controlled and the lessee / lessees shall not allow themselves to be controlled by any Trust, Syndicate Corporation, Firm or person except with the written consent of the Central Government. The lessee / lessees shall not enter into or make any arrangement compact or understanding whereby the lessee / lessees will or may be directly or indirectly financed by or under which the lessee's / lessees' operations or undertakings will or may be carried on directly or indirectly by or for the benefit of or subject to the control of any Trust, Syndicate, Corporation, Firm or person unless with the written sanction given prior to such arrangement, compact or understanding being entered into or made of the Central Government and any or every such arrangement compact or understanding as aforesaid (entered into or made with such sanction as aforesaid) shall only be entered into or made and shall always be subject to an express condition binding upon the other party or parties thereto that on the occasion of a state of emergency of which the President of India in his discretion shall be the sole judge it shall be terminable if so required in writing by the State Government and shall in the event of any such requisition being made be forthwith thereafter determined by the lessee / lessees accordingly.

To pay compensation for injury of third parties.

Not to obstruct working of other minerals.

Lessee shall deposit any additional amount necessary.

19. Whenever the security deposit of Rs. 1,000 or any part thereof or any further sum hereafter deposited with the State Government in replenishment thereof shall be forfeited or applied by the Central or State Government pursuant to the power in hereinafter declared in that behalf the lessee / lessees shall deposit with the State Government such further sum as may be sufficient with the unappropriated part thereof to bring the amount in deposit with the State Government upto the sum of Rs. 1,000.

Delivery of workings in good order to State Government after determination of lease.

Transfer of Lease.

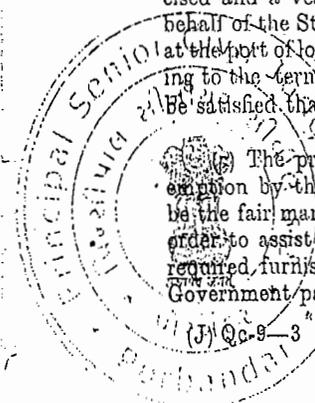
20. The lessee / lessees shall at the expiration or sooner determination of the said term or any renewal thereof deliver upto the State Government all mines, pits, shafts, inclines, drifts, levels waterways airways and other works now existing or hereafter to be sunk or made on or under the said lands except such as have been abandoned with the sanction of the State Government and in any ordinary and fair course of working all engines, machinery, plant, buildings, structures, other works and conveniences which at the commencement of the said term were upon or under the said lands and all such machinery set up by the lessee / lessees below ground which cannot be removed without causing injury to the mines or works under the said lands (except such of the same as may with the sanction of the State Government have become disused) and all buildings and structures of bricks or stone erected by the lessee / lessees above ground level in good repair, order and condition and fit in all respects for further working of the said mines and the said minerals.

Right of pre-emption.

21. (a) The State Government shall from time to time and all times during the said term have the right (to be exercised by notice in writing to the lessee / lessees) of pre-emption of the said minerals (and all products thereof) lying in or upon the said lands hereby demised or elsewhere under the control of the lessee / lessees and the lessee / lessees shall with all possible expedition deliver all minerals or products or minerals purchased by the State Government under the power conferred by this provision in the quantities at the times in the manner and at the place specified in the notice exercising the said right.

(b) Should the right of pre-emption conferred by this present provision be exercised and a vessel chartered to carry the minerals or products thereof procured on behalf of the State Government or the Central Government be detained on demurrage at the port of loading the lessee / lessees shall pay the amount due for demurrage according to the terms of the charter party of such vessel unless the State Government shall be satisfied that the delay is due to causes beyond the control of the lessee / lessees.

(c) The price to be paid for all minerals or products of minerals taken in pre-emption by the State Government in exercise of the right hereby conferred shall be the fair market price prevailing at the time of pre-emp on PROVIDED THAT in order to assist in arriving at the said fair market price the lessee / lessees shall if so required furnish to the State Government for the confidential information of the Government particulars of the quantities descriptions and prices of the said minerals



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or products thereof sold to other customers and of charters entered into for freight or carriage of the same and shall produce to such officer or officers as may be directed by the State Government original or authenticated copies of contracts and charter parties entered into for the sale or freightage of such minerals or products

(d) In the event of the existence of a state of war or emergency (of which existence the President of India shall be the sole judge and a notification to this effect in the Gazette of India shall be conclusive proof), the State Government with the consent of the Central Government shall from time to time and all times during the said term have the right (to be exercised by a notice in writing to the lessee / lessees) forthwith take possession and control of the works, plant machinery and premises of the lessee / lessees on or in connection with the said lands or operations under this lease and during such possession or control the lessee / lessees shall conform to and obey all directions given by or on behalf of the Central Government or State Government regarding the use or employment of such works, plants, premises and minerals PROVIDED THAT fair compensation which shall be determined in default of agreement by the State Government shall be paid to the lessee / lessees for all loss or damage sustained by him / them by reason or in consequence of the exercise of the powers conferred by this clause and PROVIDED ALSO that the exercise of such powers shall not determine the said term hereby granted or affect the terms and provisions of these presents further than may be necessary to give effect to the provisions of this clause:

To return

22. The lessee / lessees shall not employ, in connection with the mining operations any person who is not an Indian national except with the previous approval of the Central Government.

Employment of foreign national

23. If any of the works or matters which in accordance with the covenants in that behalf hereinbefore contained are to be carried or performed by the lessee / lessees be not so carried out or performed within the time specified in that behalf, the State Government may cause the same to be carried out or performed and the lessee / lessees shall pay the State Government on demand all expenses which shall be incurred in such carrying out or performance of the same and the decision of the State Government as to such expenses shall be final.

Recovery of expenses incurred by the State Government.

24. The lessee / lessees shall furnish—

(a) all geophysical data relating to mining fields or engineering and ground water surveys, such as anomaly maps, sections, plans, structures, contour maps, logging, collected by him / them during the course of mining operations to the Director, Geological Survey of India, Calcutta.

Furnishing of geophysical data

(b) all information pertaining to investigations of radio active minerals collected by him / them during course of mining operations to the Secretary, Department of Atomic Energy, New Delhi.

Liberty

Data or information referred to above shall be furnished every year reckoned on the date of commencement of the period of the mining lease.

PART VIII

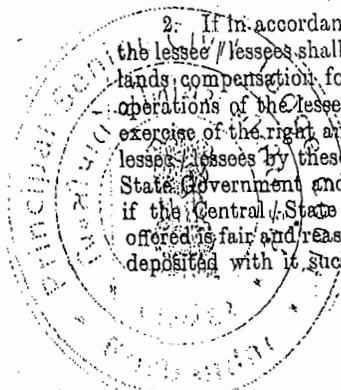
The Covenants of the State Government

1. The lessee / lessees paying the rents, water rate and royalties hereby reserved and observing and performing all the covenants and agreements herein contained on the part of the lessee / lessees to be observed and performed shall and may lawfully hold and enjoy the rights and premises hereby demised for and during the term hereby granted without any unlawful interruption from or by the State Government or any person rightfully claiming under it.

Lessee / lessees may hold and enjoy rights quietly.

2. If in accordance with the provision of Clause 4 of Part VII of this Schedule the lessee / lessees shall offer to pay to an occupier of the surface of any part of the said lands compensation for any damage or injury which may arise from the proposed operations of the lessee / lessees and the said occupier shall refuse his consent to the exercise of the right and powers reserved to the State Government and demised to the lessee / lessees by these presents and the lessee / lessees shall report the matter to the State Government and shall deposit with it the amount offered as compensation and if the Central / State Government are satisfied that the amount of compensation offered is fair and reasonable or if it is not so satisfied and the lessee / lessees shall have deposited with it such further amount as the State and Central Governments shall

Acquisition and of third parties and compensation thereof.



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Principal Senior Judge Court

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Clause 17 after sub-clause-2

Provided further that where the mortgagee is a institution or a company corporation specified in schedule-7, it shall be necessary for any such institution or company corporation to obtain the said certificate of approval and the said income-tax certificate.

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PART VII. after clause 24(b)

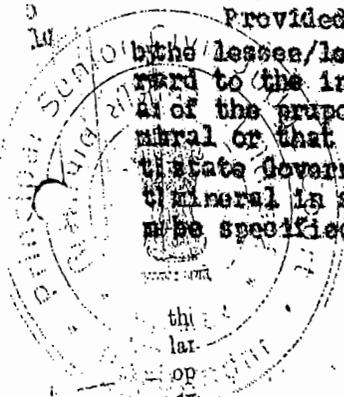
The lessee shall submit from time to time or when required progress reports, to the director of Geology and Mining or to an officer authorised by him alongwith the sample collected during the mining operation together with the report.....

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Clause-25

25 "The lessee/lessees shall not use or sell the said mineral or deal with it in whatsoever a manner or knowingly allow any one to sell the said mineral or deal, with it in whatsoever manner as a minor mineral.

Provided that if on an application made to it in this behalf by the lessee/lessees, the State Government is satisfied that in regard to the inferior quality or such mineral, it cannot be used for any of the purposes by reasons of which it cannot be called a major mineral or that there is no market for such mineral as a major mineral the State Government by order permit the lessee/lessees to dispose of such mineral in such quantity and on such terms and in such manner as may be specified therein as a minor mineral."



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Principal Secretary
Judge Court

18 JUN 2016

consider fair and reasonable the State Government shall order the occupier to allow the lessee / lessees to enter the land and to carry out such operations as may be necessary for the purpose of this lease. In assessing the amount of such compensation the State Government shall be guided by the principles of the Land Acquisition Act.

to renew

3. Where the mining lease relates to any mineral not specified in the First Schedule to the Act, it shall be renewable for one period not exceeding the period specified in sub-section (2) of section 8, at the option of the lessee / lessees :

Provided that the State Government may for reasons to be recorded in writing reduce the area applied for.

If the lease is in respect of minerals specified in the First Schedule to the Act, renewal will be subject to the prior approval of the Central Government.

If the lessee / lessees be desirous of taking a renewed lease of the premises hereby demised or of any part or parts of them for a further term from the expiration of the term hereby granted and is otherwise eligible, he / they shall prior to the expiration of the last mentioned term give to the State Government six calendar months previous notice in writing and shall pay the rents, rates and royalties hereby reserved and shall observe and perform the several covenants and agreements herein contained and on the part of the lessee / lessees to be observed and performed up to the expiration of the term hereby granted. The State Government on receipt of application for renewal, shall consider it in accordance with rule 28 of the said rules and shall pass orders as it deems fit. If renewal is granted, the State Government will at the expense of the lessee / lessees and upon his executing and delivering to the State Government if required a counterpart thereof execute and deliver to the lessee / lessees a renewed lease of the said premises or part thereof for the further term of ... years at such rents, rates and royalties and on such terms and subject to such rents, rates and royalties and on such terms and subject to such covenants and agreements, including this present covenant to renew as shall be in accordance with the Mineral Concession Rules, 1960, applicable to ... (names of minerals) on the day next following the expiration of the term hereby granted.

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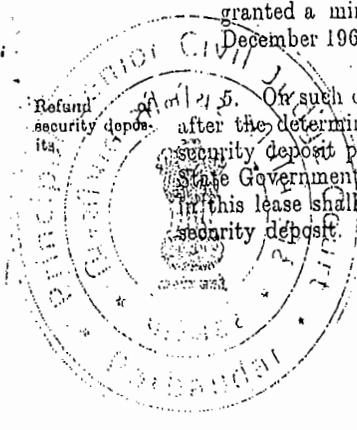
4. The lessee / lessees may at any time determine this lease by giving not less than 12 calendar months notice in writing to the State Government or to such officer, or authority as the State Government may specify in this behalf and upon the expiration of such notice provided that the lessee/lessees shall upon such expiration render and pay all rents, water rates, ... for damages and other moneys which may then be due and payable under these presents to the lessor or any other person or persons and shall deliver these presents to the State Government then this lease and the said term and the liberties, powers and privileges hereby granted shall absolutely cease and determine but without prejudice to any right or remedy of the lessor in respect of any breach of any of the covenants or agreements contained in these presents.

4A. The State Government may on an application made by the lessee permit him to surrender one or more minerals from his lease which is for a group of minerals on the ground that deposits of that mineral have since exhausted or depleted to such an extent that it is no longer possible to work the mineral economically, subject to the condition that the lessee —

(a) makes an application for such surrender of mineral at least six months before the intended date of surrender ; and

(b) gives an undertaking that he will not cause any hinderance in the working of the mineral so surrendered by any other person who is subsequently granted a mining lease for that mineral. [No. M-II-152(18)/61, dated 4th December 1962].

On such date as the State Government may elect within 12 calendar months after the determination of this lease or of any renewal thereof, the amount of the security deposit paid in respect of this lease and then remaining in deposit with the State Government and not required to be applied to any of the purposes mentioned in this lease shall be refunded to the lessee / lessees. No interest shall be paid on the security deposit.



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PART IX

General Provisions

1. In case the lessee / lessees or his / their transferee / assignee does / do not allow entry or inspection by the officers authorised by the Central or State Government under clauses (i), (j) or (l) of sub-rule (1) of rule 27 of said rules, the State Government shall give notice in writing to the lessee / lessees requiring him / them to show cause within such time as may be specified in the notice why the lease should not be determined and his / their security deposit forfeited ; and if the lessee / lessees fails / fail to show cause within the aforesaid time to the satisfaction of the State Government, the State Government may determine the lease and forfeit the whole or part of the security deposit.

Obstructions to inspection.

2. If the lessee / lessees or his / their transferee or assignee makes / make any default in payment of rent or water rate or royalty as required by section 9 of the Act or commits a breach of any of the conditions and covenants other than those referred to in covenant, above, the State Government shall give notice to the lessee / lessees requiring him / them to pay the rent, water rate, royalty or remedy the breach, as the case may be, within sixty days from the date of receipt of the notice and if the rent, water rate and royalty are not paid or the breach is not remedied within such period, the State Government may without prejudice to any proceedings that may be taken against him / them, determine the lease and forfeit the whole or part of the security deposit.

Penalty in case of default in payment royalty and breach of covenants.

3. In cases of repeated breaches of covenants and agreements by the lessee / lessees for which notice has been given by the State Government in accordance with clauses (1) and (2) aforementioned on earlier occasion, the State Government without giving any further notice, may impose such penalty not exceeding twice the amount of annual dead rent specified in clause 2, part V.

Penalty for repeated breaches of covenants.

4. Failure on the part of the lessee / lessees to fulfil any of the terms and conditions of this lease shall not give the Central or State Government any claim against the lessee/lessees or be deemed a breach of this lease, in so far as such failure is considered by the said Government to arise from force majeure, and if through force majeure the fulfilment by the lessee / lessees of any of the terms and conditions of this lease be delayed, the period of such delay shall be added to the period fixed by this lease. In this clause the expression "Force Majeure" means Act of God, war, insurrection, riot, civil commotion, strike, earthquake, tide, storm, tidal wave, flood, lightning explosion, fire, earthquake and any other happening which the lessee / lessees could not reasonably prevent or control.

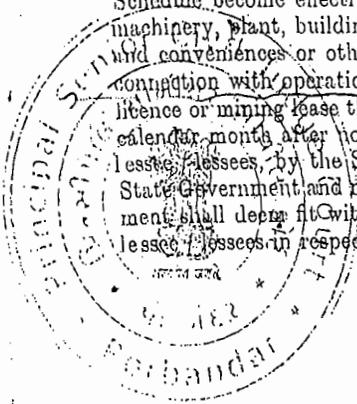
Failure to fulfil the terms of lease and the "Force Majeure"

5. The lessee / lessees having first paid and discharged the rents, rates and royalties payable by virtue of these presents may at the expiration or sooner determination of the said term or within six calendar months thereafter (unless the lease shall be determined under clauses 1 and 2 of this part and in that case at any time not less than three calendar months nor more than six calendar months after such determination) take down and remove for his/their own benefit all or any engines, machinery, plant, buildings, structures, tramways, railways, and other works erections and conveniences which may have been erected, set up or placed by the lessee/lessees in or upon the said lands and which the lessee/lessees is/are not bound to deliver to the State Government under clause 20 of part VII of this Schedule and which the State Government shall not desire to purchase.

Lessee/lessees to remove his/their properties on the expiry of lease.

6. If at the end of six calendar months after the expiration or sooner determination of the said term under the provision contained in clause 4 of part VIII of this Schedule become effective there shall remain in or upon the said land any engines, machinery, plant, buildings, structures, tramways, railways and other works erections and conveniences or other property which are not required by the lessee / lessees in connection with operations in any other lands held by him / them under prospecting licence or mining lease the same shall if not removed by the lessee / lessees within one calendar month after notice in writing requiring their removal has been given to the lessee / lessees, by the State Government be deemed to become the property of the State Government and may be sold or disposed of in such manner as the State Government shall deem fit without liability to pay any compensation or to account to the lessee / lessees in respect thereof.

Forfeiture of property left more than six months after determination of lease.



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Rajasthan
18 JUN 2016

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Office of the Collector

Junagadh Date - 5 - 1976

RECEIVED from Shri. Rasiklal Somnadas Kulkarni of Kuttiyaru of Stamp duty Rupees (606) - CERTIFIES under Sec 82 of the Bombay Stamp Act, 1958 that the full stamp duty Rs. 606/- which with this Instrument is chargeable has been paid.

Adjudication fee paid Rs. 25/-

[Signature]
Collector,
Junagadh District, Junagadh.



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Principal Senior Clerk
Judge Court

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2. The grant of the above lease is subject to the terms and conditions mentioned below :-

- a) Mining lease shall be in respect of limestone only, if any other minerals are found in association with this mineral, they should be brought to the notice of Government and if the lessee desire to mine these minerals alongwith the mineral for which lease is granted, they should do so only after the consent of the State Government, is obtained in writing.
- b) Royalty at the rate specified for the mineral limestone in Schedule land of the Mines and Minerals (Regulation and Development) Act, 1957 as amended from time to time and dead rent at the rates mentioned in the third schedule of the said Act as amended from time to time whichever is greater shall be charged, provided that the dead rent shall not be payable in first year of the lease.
- c) Surface rent and water rate at such rate not exceeding the revenue, water rate and cesses assessable on the land shall be charged.
- d) If beryl or any other substances prescribed under Section ~~3~~ of the Atomic Energy Act, 1948 (No. XXIX) of 1948) is found to occur in the property under the lease, the lessee shall make available such mineral to the Government.

The lease shall be subject to the provisions of (i) the Mines and Minerals (Regulation and Development) Act 1957 (67 of 1957) (ii) the Mineral Concession Rules, 1960 (iii) the Mineral Conservation and Development Rules, 1958 as amended from time to time.

The lessee shall furnish to the Collector of Junagadh an accurate map of the area sanctioned under the lease together with the description giving the situation and boundaries duly attested by the District Inspector of Land Records. The Collector is authorised to get the area demarcated before execution of the Mining lease and recover the cost from the deposit of Rs 500/- paid for preliminary expenses.

- e) The lessee shall pay to the collector of Junagadh necessary security deposit Rs 1000/- for due observance of the terms & conditions of lessee in accordance with rule 32 of the Mineral concession Rules, 1960 before the lease is issued to him.

- f) The lessee shall submit confidentially from time to time or when required progress report to the Director of Geology and Mining, Ahmedabad-16, or any officer authorised by him alongwith samples of the area collected during the mining operations together with the analysis report.

The lessee shall not use or sell the said mineral or deal with it in whatsoever manner or knowingly allow any one to use or sell the said mineral or deal with it in whatsoever manner as a minor mineral.

Contd on P No. 3 ..



प्रमाणित by

Ull

जु.त.शा.पं.

अंतर विज्ञान अने अतिर पत्र
पार.प.प.

Principal Senior Civil Judge

Principal Senior Civil Judge

Judge Court

Principal Senior Civil Judge

18 JUN 70

If any licensee is found or traced from the said areas the license shall be cancelled by the Government or an officer authorized by the Government or the Collector, and/or the mining lease is forfeited without claiming any compensation, of any kind including a bonus also and for land alienation, machineries, equipments or for loss of production of trees.

a) The licensee also undertakes that, if the limestone to be used in a plant or for an industrial unit to be set up by himself or shall deliver the limestone for utilization in a industrial unit like cement or soda ash plant or such other industrial unit as may be set up directly or may be set up by any other party within the State of Gujarat to whom the State Government has issued a license for the same purpose, the price of such limestone shall be agreed as to a long term basis shall be mutually agreed upon between the licensee and such other party. In the event of any dispute arising between the licensee and such other party in regard to the said price arrangement, the point of dispute shall be settled by the Government and, in case the licensee is still aggrieved by the decision of the Government on such point, the licensee shall be entitled to file a suit in the Central Government.

3. The licensee shall not be allowed to sell or dispose of the limestone in any other manner than as provided in the mining lease or otherwise as may be decided by the Government.

4. The licensee shall not be allowed to sell or dispose of the limestone in any other manner than as provided in the mining lease or otherwise as may be decided by the Government.

a) Offer of purchase of limestone to the licensee shall be made at the price and other terms as may be agreed upon between the licensee and the said Hindustan Steel Limited, in case the price to be paid for such limestone is less than the price payable to the licensee in the particular period.

b) In the event the said Hindustan Steel Limited does not offer to purchase the limestone in the particular year, then the price payable for such limestone shall be the same as that payable for such limestone in the particular year, or such other terms as may be agreed upon between the licensee and the said Hindustan Steel Limited for the purchase of such limestone in that year.

c) In the event of any disagreement or dispute arising between the licensee and the said Hindustan Steel Limited, or other steel plant relating to the price of any other matters relating to the execution of the conditions aforesaid the point of dispute shall be referred to the Government for decision provided however that in case the Government is not satisfied with the decision of the said Hindustan Steel Limited for such steel plant, the point of dispute shall be referred to the Secretary to the Government of Gujarat, Ministry of Steel and Mines (Department of Mines) and the decision of the said Secretary or any officer appointed by him for the purpose, as the case may be, shall be final and binding on the licensee.



Collector, (Vanagadh Dist.)

COLLECTOR

પ્રમાણિત થયું
Ull

શુભ-શાસ્ત્રી
અસ્તર વિગ્નાન અને પવિત્ર આત
૧૬/૫/૬૧
Registrar
Principal Senior
Judge Court

13 JUN 2016

FORM O

Model Form for Transfer of Mining Lease
(See rule 37 A)

21/4/1999
21/4/1999
20/4/99

When the Transferor is an individual

This indenture made this 21st day of APRIL 1999
Between Shri Rajesh Kumar Jaiswal, Khat, Morang, 90 Boudha, Kathmandu
(name of the person with address
and occupation (hereunder referred to as the "transferor" which
expression shall where the context so admits be deemed to include
his heirs, executors, administrators representatives and permitted assigns).

[Handwritten signature]

When the transferors are more than one individual

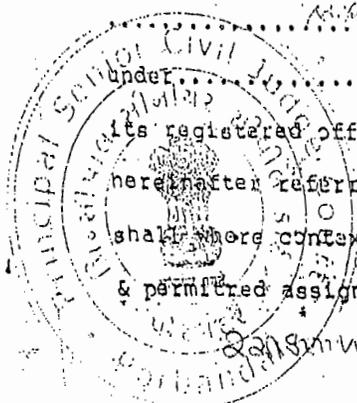
..... (Name of the person with address
and occupation) and (Name of person
with address and occupation) (hereinafter referred to as the
" transferor" which expression shall where the context so admits
be deemed to include their respective heirs, executors, administ-
rators, representatives & their permitted assigns)

When the transferor is a registered firm

..... (Name of the person with address
of all the partners) and carrying on business in partnership
under the firm name and style of
(Name of the firm) registered under the Indian Partnership Act,
1932(9 of 1932) and having their registered office at
..... (hereinafter referred to as the "transfer" which
expression where the context so admits be deemed to include all
the said partners, their respective heirs, executors, legal
representatives and permitted assigns).

Where the transferor is a registered company

..... (Name or company registered
under (Act under which incorporated) and having
its registered office at (Address)
hereinafter referred to as the " transferor " which expression
shall where context so admits be deemed to include its successors
& permitted assigns) of the first part.



Original
87257/99

[Handwritten signature]

Principal Senior Civil Judge
Kathmandu

प्रमाणित कृत
[Handwritten signature]
सुदूरपश्चिम प्रदेश
सुदूर विमान सभने पवित्र मात
धोरण ६२

And

When the transferee is an individual
Shri. Ravindra Kanchan Bhatnagar Khodiyar Bhatnagar
Chhaya. Plot. Porbandar..... (Name of person with address and
occupation) (hereinafter referred to as the "transferee" which ex-
pression "all where the context so admits be deemed to include
his heirs, executors, administrators, representative and permit-
ted assigns).

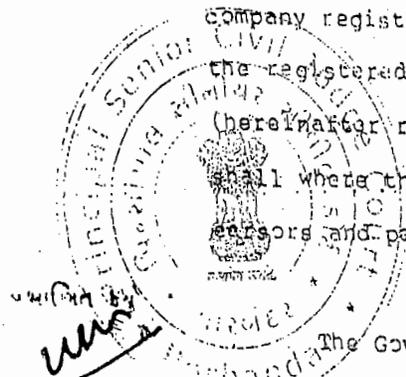
When the transferees are more than one individual
..... (Name of the person with address
and..... (Name of person with address and
occupation) hereinafter referred to as the "transferee" which
expression shall where the context so admits be deemed to include
their respective heirs, executors, administrators, representatives
and their permitted assigns).

When the transferee is a registered firm
..... (Name and address of all the
partners all carrying on business in partnership under the firm
name and style of).....
(Name of the firm) registered under the Indian Partnership Act,
1932 (9 of 1932) and having their registered office at.....
..... hereinafter referred to as the "transferee"
which expression where the context so admits be deemed to inclu-
de all the said partners; their respective heirs, executors, legal
representatives (and assigns).

When the transferee is a registered company
..... (Name of the Company) a
company registered under (Act under which incorporated) and having
the registered office at..... (Address)
(hereinafter referred to as the "transferee" which expression
shall where the context so admits be deemed to include its suc-
cessors and permitted assigns) of the second part:

And

The Government of... *Go. of Gujarat*..... (hereinafter referred
to as the 'state' which expression shall where the context



સુતરશાસ્ત્રી
સુતર વિજ્ઞાન અને ખનિજ ખાત
વેરવ ૨૨

20/5/2016
8:15 PM

18 JUN 2016

Principal Senior Civil Judge Court

... 3 ...

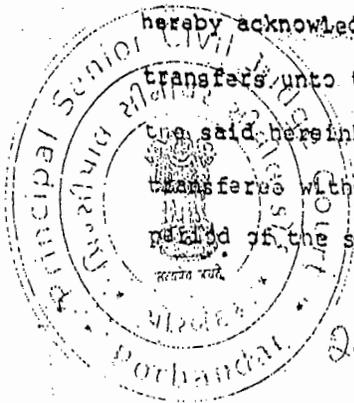
so admits be deemed to include the successors and assigns) of the third part.

Whereas by virtue of an indenture of lease dated the 31-5-1976 and registered as No. On date in the office of the Sub-Registrar of (Place) (hereinafter referred to as lease) the original where-of is attached hereto and marked 'A' entered into between the State Govt. (therein called the lessor) and the transferor (therein called the lessee), the transferor is entitled to search for, win and work the mines and minerals in respect of (name of mineral/s) in the lands described in the Schedule there and also in Schedule annexed hereto for the term and subject to the payment of rents and royalties and observance and performance of the lessee's covenant and conditions in the said deed of lease reserved and contained including a covenant not to assign the lease or any interest thereunder without the previous sanction of the State Governments.

And whereas the transferor is now desirous of transferring and assigning the lease to the transferee and the State Govt. has, at the request of the transferor, granted (with the prior approval of the Central Govt.) permission to the transferor vide order No. OER/1192/1074/CH dated 12-4-73 to such a transfer and assignment of the lease upon the condition of the transferee entering into an agreement in and containing the terms and conditions hereafter set forth.

Now the Deed witnesseth as follows.

1. In consideration of Rs. 1000/- paid by the transferee to the transferor, the receipt of which the transferor hereby acknowledges, the transferor hereby conveys, assigns and transfers unto the transferee all the rights and obligations under the said hereinbefore recited lease and to hold the same unto the transferee with effect from 01.01.73 for the unexpired period of the said lease.



Handwritten signature and name in Hindi: Jaganmohan Prasad Singh

Handwritten signature in Hindi: P. K. Singh

Handwritten text in Hindi: प्रमाणित है, अंतर प्रमाणित करने पर, प्रमाणित है

18 JUN 2016

Principal Senior Judge Court

36

... 4 ...

2. The transferee hereby covenants with the State Government that from and after the transfer and assignment of the lease the transferee shall be bound by, and be liable to perform, observe and conform and be subject to all the provisions of all the covenants, stipulations and conditions contained in said hereinbefore recited lease in the same manner in all respects as if the lease had been granted to the transferee and the lessee thereunder and he had originally executed it as such.

3. It is further hereby agreed and declared by the transferor of the one part and the transferee of the other part that:

(i) The transferor and the transferee declare that they have ensured that the mineral rights over the area for which the mining lease is being transferred vest in the State Govt.

(ii) The transferor hereby declares that he has not assigned, sublet, mortgaged or in any other manner transferred the mining lease now being transferred and that no other person or persons has any right, title or interest whereunder in the present mining lease being transferred.

(iii) The transferor further declares that he has not entered into or made any agreement, contract or understanding where by he had been or is being directly or indirectly financed to a substantial extent by or under which the transferor's operation or understandings were or are being substantially controlled by any person or body of persons other than the transferor.

(iv) The transferor further declares that he has furnished an affidavit alongwith his application for transfer of the present mining lease specifying therein the amount that he has already taken/ proposes to take as considerations from the transferee.

(v) The transferee further declares that he is financially capable of and will directly undertake mining operations.

(vi) The transferee holds a Certificate of approval and Income Tax Clearance Certificate in form 'C' from the Income Tax Officer concerned.

प्रभासित कथं
W

सुस्त-शास्त्री
अस्तर निशान अने अतिर आ
गोर-पद



Handwritten signature and date
31/5/2016

18 JUN 2016

Handwritten signature
Principal Senior Judge Court

.. 5 ..

(vii) The transferor has supplied to the transferee the original, or certified copies of all plans of abandoned workings in the area and in a belt of 65 metres wide surrounding it.

(viii) The transferee hereby further declares that as a consequence of this transfer the total areas while held by him under mineral concessions are not in contravention of section 6 of the Mines and Minerals Regulation and Development Act, 1957 or rule 35 of the Mineral concession Rules, 1950.

(ix) The transferor has paid all the rent, royalties and other dues towards Govt. till this date, in respect of this lease.

In witness whereof the parties hereto have signed on the date and years first above written.

SCHEDULE - I

Location and area of the lease.

All that tract of lands situated at Village: Ramnagar
(Description of area or areas).....Ramnagar.....in (Paragana) in
.....Ramnagar..... the Registration Distt. Junagadh.....Sub-Distt.
.....Probandar.....and Thana.. Ramnagar.....bearing Cadastral
Survey nos...78/5... containing an area of 95.00.....or there-
about delineated on the plan hereto annexed and thereon coloured...
.....and bounded as follows: -

- ON THE NORTH BY
- ON THE SOUTH BY
- ON THE EAST BY
- AND
- ON THE WEST BY

as per original lease deed of file no.

Signed by Shri. J.N. Singh, T.A.S. Collector

for and on behalf of the State Govt. in the presence of Junagadh Dist. Junagadh

1. Shri. S.K. Desai, Geologist, Junagadh

2. D.P. Madhani, Head Clerk, Junagadh

શ્રી રાજેશ્વર જીવનભાઈ કોરબલી

Signature of Transferor
in presence of witnesses.

[Signature]
COLLECTOR,

[Signature]
Geologist,
Geology and Mining Deptt
Junagadh.

[Signature]
(શ્રી દેવશંકર કોરબલી)
Signature of Transferee
in the presence of

1. Shri. J.K. R. J.

2. Valar. R. R.



[Signature]
જાનકીબેન
શ્રી રાજેશ્વર જીવનભાઈ કોરબલી

[Signature]
Principal Senior Civil
Judge Court
Junagadh

08 JUN 2016



કુટુંબ: - 21 011414
તાલુકો: - 21 011414
ગ્રામ: - પહેલંદર
તા. ૧૮-૪-૦૮

(૫)

સં. ૧૨૨૧૯
૨૦/૫/૧૬

200814

સરકારી કાર્યવાહી માટે
સરકારી કાર્યવાહી માટે

આજીવન સુધી માટે સારું કાર્યવાહી માટે:-
21 011414 તા. 21 011414 તા. 18/4/08
મ. દલાલા/કામી તાલુકામાં આજીવન સુધી માટે
જમીન જમાન સંબંધે અને તે સંબંધે (જમીન)
સંબંધે ૧૮/૪/૦૮ માં ૨૬ માસના માટે
૧૦-૪-૦૮ ૨૬ માં ૩૧ માસના માટે
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તા. ૨૦/૫/૧૬ ના દરમિયાન સંબંધે સંબંધે
કરી સંબંધે-૧૧/૫-૧૩/૧૬-૨૦/૫/૧૬ સંબંધે
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તા. ૧૮-૪-૦૮ તા. ૧૮-૪-૦૮ માં સંબંધે
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તા. ૧૮-૪-૦૮ (જામીન) સંબંધે સંબંધે
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-સંબંધે-૦૮/૫/૧૬ તા. ૧૮/૪/૦૮-૦૯/૫/૧૬
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પ્રમાણિત કર્યું
UK

સરકારી કાર્યવાહી માટે
સરકારી કાર્યવાહી માટે



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સરકારી કાર્યવાહી માટે
સરકારી કાર્યવાહી માટે

1 JUN 2016

Principal Supt
Judges Court

Dr. M. M. Yelke

द्वितीय दर्जा
1102 अ. नं. 985

जि. 15/11
HC

भा. नं. 15



11/11/11

Ravi Rambe

परी नकल

माननी कास भाटे



अदालत क्रमांक.....

अदालत आयुष्य तारीख..... 20/11/11

नकल तारीख.....

नकल तारीख.....

नकल तारीख.....

नकल ही ३१.....

मुद्रापत्र ही ३१.....

सचिवालय ३१.....

दोस्त पत्र ही ३१.....

३१.....

२०/११/११

सचिव माननीय

दस्तावेज मंत्र

पत्रिका

प्रमाणित करे

U

उच्च न्यायालय
मुख्य न्यायाधीश अने न्यायाधीश यांना
दोस्त पत्र

10 JUN 2011

Principal Senior Judge Court
Mumbai

Camp : Ranavav
Taluka : Ranavav
District : Porbandar
Date : 18/04/2008

ROJKAM

I the undersigned and mining lease holder Devabhai Kalabhai Bhutia mouje Ranavav Taluka Ranavav do hereby state that, for the purpose of taking measurement of my mining lease at Survey No 78/5 paiki, I preferred application and made payment before DILR office and in that connection, as per their oral (telephonic) message received, we remained present and carried out measurement proceedings and our lease as on 24/02/1976 and 06/01/1987 as per measurement sheet, its boundaries marks [Khambha] were not found out and hence without conducting measurement of othrt group survey numberd, boundary cannot be determined and Survey no 78 paiki 5 applicable survey No 77 for carry out measurement proceedings, they had denied to carry out the said proceedings and they made encroachment pressure despite of which after measurement proceedings of the land

was carried out with the assistance of
police bandobast, and we request to carry
out the measurement proceedings of group
and to carry out measurement proceedings at
the earliest.

Sign Illegible
Sign Illegible

Certified
Office of the geologist
Department of geology and minerals

9-27-21 = 2022
 21-5-23 (67)
 21-01-22 1105

2022
 21-5-23 (67)
 21-01-22 1105

2022
 21-5-23 (67)
 21-01-22 1105

4th USA

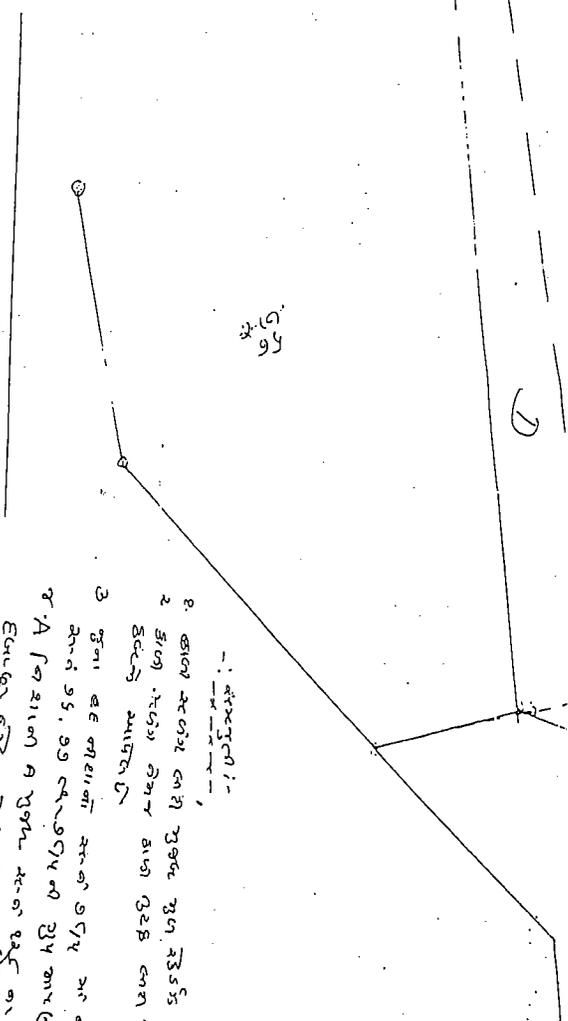
2nd USA

1st USA

3rd USA

4th USA

5th USA



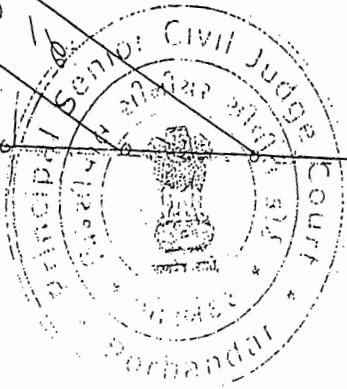
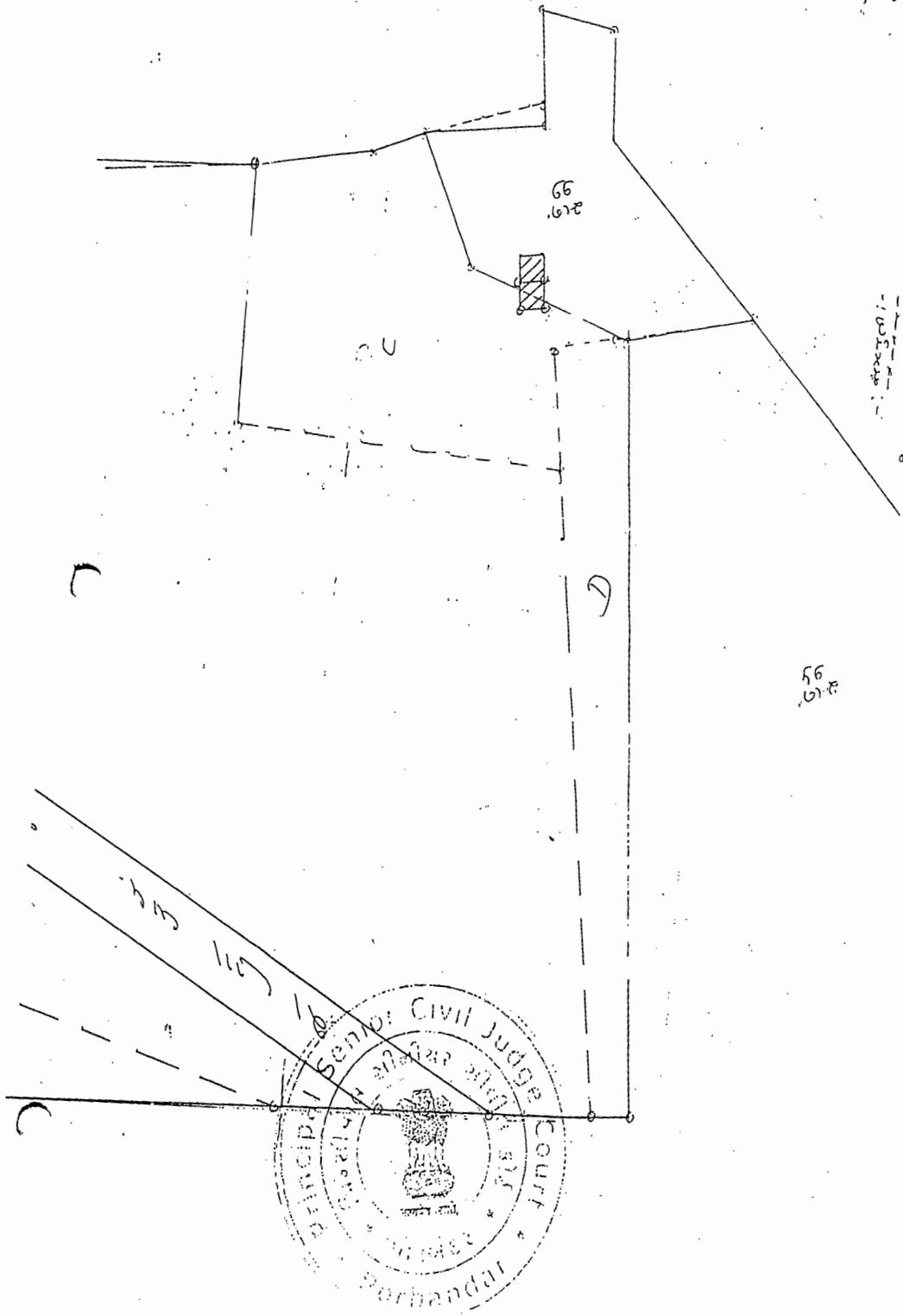
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1. 2022
2. 21-5-23 (67)
3. 21-01-22 1105
4. 2022
5. 21-5-23 (67)
6. 21-01-22 1105



18 JUN 2016

2
 Registrar
 Judge Court
 2022



18 JUN 2016
 Registrar
 Municipal Senior Civil
 Judge Court
 Kandy

Ammex-R-II

Received _____
at _____ (Place)
on _____ (date)
_____ (Initial of receiving Officer)

↓: FORM-J:-
 "TO BE SUBMITTED IN TRIPLICATE"
 (see Rule 24(A)(1))

Date: 13-1-95

To,
 The Secretary,
 Mines & Energy Department,
 Schivalaya
GANDHINAGAR

Through: The collector, Junagadh Dist., Junagadh

Dear sir,

I/We request for renewal of my mining lease under the mineral concession Rules, 1960

A sum of RS.500-00 being the application fee payable under sub-rule(3) (1) (a) of Rule 22 of the said rules has been deposited.

2: THE REQUIRED PARTICULARS ARE GIVEN BELOW:

- 1) Name of the Applicant with Complete address : SHRI DEVA KARA BHUT: "CATRAL KRUPA" SATYAM PARK, RAJIV NAGAR PORBANDAR-360575 DIST: JUNAGADH STATE: GUJARAT
- 2) Is the applicant a private individual/private company public company/Firm or association. : PRIVATE INDIVIDUAL
- 3) In case applicant is :
 - a) An individual, his Nationality : Indian
 - b) A private company, the nationality of all members of the company along with place of registration. : Not Applicable

.....2nd.....

2: 3) Contd.

c) A public company, the Nationality of Directors, the percentage of share capital held by Indian national alongwith place of incorporation. Not Applicable

d) Firm or a association the nationality of all the partners of the firm or the members of the association. Not Applicable

4: Profession or nature of business of applicant. Not Applicable

5: NO. and date of the certificate of approval If expired the particulars of the application for tis renewal. Deleted as per the central Government Notificat. 10-2-1987.

6: If on the date of application, certificate of approval has expired the full particulars of the application for its renewal. Deleted by the central Govt. vide Notificatio dt. 10-2-87

a) NO. and dare of valid clearancertificate of payment of mining dues. An Affidavit is enclosed Zerox copy.

7: b) An Affiditive, that upto date income tax return as prescribed under the income tax Act 1961 have been filed and the tax due including the tax on account of self assessment has been paid. Income Tax clearance certifiacte dt. _____ valid upto _____ is enclosed. (Zerox copy enclosed)

8: a) PARTICULARS OF THE MINING LEASE FOR WHICH RENEWAL IS DE:

DIST.	TALUKE	VILLAGE	SURVEY	AREA IN HECTS
JUNAGADH	RANAVAV	RANAVAV	78/P	28-00

B) Details of previous renewal: granted, if any Not Applicable

3

- 2) 9) period for which renewal of mining lease is required. : 20 YEAR

- 10: Whether renewal is desired for the whole or part of lease hold. : Renewal is required for whole area.

- 10: A) a) Does the applicant continue to have surface right over the area of the ~~work~~ land for which he required renewal of the mining lease. : YES

- b) If not has he obtained the consent of the owner and occupier for undertaking mining operation, if so, the consent of the owner and occupier of the land obtained in writing be filled. : Not Applicable

- 10: B) particulars of the area mineral wise in each state duly supported by affidavit for which application or any person joint in interest with him. : Area Applied for renewal is the only area of limestone.

- a) Already hold under mining lease : Only one M.L.

- b) has already applied for but not granted. : Not Applicable

- c) being applied simultaneously. : Not Applicable

- 10: C) mining plan which should include. : Detail prospecting report and mining scheme will be submitted under "mines plan Report" for next five years after grant of this renewal-
- a) The plan of the area showing the nature and extent of the mineral body spot or spots where the excavation is to done.

2)10 C) contd.

a) in the first year and six months its extent, a detailed cross-section and detailed plan of spot(s) of excavation based on prospecting data gathered by the applicant a tentative scheme of mining for the period of the lease.

b) ~~xxxxx~~ The details of geology and lithology of the area the extent of manual mining and through machines.

c) The plan of the area showing natural water courses limit of reserved and other forest areas and density of trees, assessment of impact of mining activity on forest, land surface and environment including air and water pollution and details of the scheme for restoration of the same by afforestation land reclamation use of pollution control devices.

Details covering 10(C) (b) & (d) will be submitted in future after grant of this renewal under "Mineral Report for next five years."

11: In case the renewal applied for is only for part of the lease hold.

a) The area applied for renewal:

~~Does~~ Does not Apply.

b) Description of the area applied for renewal (description should be adequate for the purpose of demarcating the plot

Does not Apply.

c) particulars of map of the lease hold with area applied for renewal clearly marked (Attached)

Does not Apply

d) particulars of existing or created dumps of ore if any.

Does not Apply.

.....5th.....

- 2) Means by which the mineral is to be raised i.e. by land labour or mechanical or electric power : By Hand Labour
- 13: Manner in which the mineral raised is to be utilised. : YES
- a) For manufacture in India : YES
- b) For export to foreign countries. : NO.
- c) In the former case the Industries in connection with it is required should be specified in the later case the countries to which the mineral will be exported and whether the mineral is to be exported after processing ~~for~~ or in raw form should be stated. : Soda ash factory of N/S Tata chemicals Ltd. Mithapur
- 14: Details of output during the last three years and phased programme for production during the next three years alongwith a layout plan for development if any. :

YEAR	production in
1992	NIL
1993	62507-30
1994	43750-50

Production of next t years will be depend a soda ash & cement Fac demand
- 15: In case of coal details of existing railway transport facility available and additional transport facility if any required. : Does not Apply-
- 16: Any other particulars which the applicant wish to furnish : NIL

I hereby declare ~~xxxx~~ that the ~~particulars~~ particulars furnished above are correct and am ready to furnished any other details, including accurate plans, as required by you before the grant & renewal of the case.

Yours faithfully

For Deva kara Bhutiya

PALCE: PORBANDAR
DATE: 21/4/95



N.B. if the application is signed by an aurtherwise agent of the applicant power of attorney should be attached.

Dava Kara Bhutiya,
"GATRAL KRUPA"
Satyam Park, Rajiv Nagar,
Porbandar-360 575
Dist: Junagadh,
(Gujarat State)
Dated:-21-8-95

To,
The Secretary,
Mines & Energy Deptt.,
Government of Gujarat,
Sachivalaya,
GANDHINAGAR.

Through :- The Collector, Mines Branch, JUNAGADH.

Sub :- Application for A Renewal of Mining Lease
for Lime-Stone S.NO. 78/P, Village ; Ranavav
Tal. : Ranavav, Dist: JUNAGADH,
(Area Acres-28-00)

Dear Sir,

I am submitted herewith my application for renewal
of Mining lease for Lime-Stone for the above mentioned
area A 28-00G Mining lease for above area was
executed on dated:-31-5-76 and lease period of 20 years
expired on date:-30-5-1996.

I have deposited an amount of Rs. 500.00 towards
towards renewal application in the state Bank of
Saurashtra, Porbandar vide Challan NO. 46 Date:-28-3-95
(Original Challan is enclosed)

Thanking you,

Yours faithfully,


(Dava Kara Bhutiya)


21-8-95

CHALAN NO.

સંખ્યા નં.

Chalan Cash paid in to the Treasury / Sub-treasury at
State/Reserve Bank of India

ખાતેની ડેપોઝી/સબ-ડેપોઝી માં જારેલી રકમ રકમનું ચલન
સ્ટેટ રીઝર્વ બેન્ક ઓફ ઇન્ડિયા

1430

To be filled in by the remitter
નાણાં મોકલનારે લખવાનું

By whom tendered (Name) નાણાં દાણે પેસા કર્યા (તેનું) નામ	SHRI DEVA KARA BHUTIYA
Name or (designation) and address of the person on whose behalf money is paid તેના તરફથી નાણાં જરૂરવામાં આવ્યા હોય તે વ્યક્તિનું નામ અથવા હોદ્દા અને સરનામું	"GATRAL KRUPA" SATYAM PARK, RAJIV NAGAR PORBANDAR. 360 575 DIST : JUNAGADH.
Full particulars of the remittance and the authority if any amount મોકલેલા નાણાંની પૂરેપૂરી વિગતો અને તેનો આધાર (જોય હોય તે રકમ)	
Fee for Ranavav Lime stone	500-00
Mining lease of Ranavav Renewal Application.	
Signature સહી	Total Ru* 500-00
(in words) Rupees Five Hundred only. અંશરમાં રૂપિયા	

To be filled in by the departmental officer or the Treasury
આધિકારી તરફથી ડેપોઝી ઓફીસરે લખવાનું

Head of Account
ખાતાનો સર્વે

Order to the Bank જેમને હુકમ

Correct; Receive and grant receipts.
ખરાબર છે નાણાં લેવા તથા તેની પડોંચ આપવી

Date 1-2-95
તારીખ

Signature and full designation of officer ordering the money to be paid in.
નાણાં લખવાનો હુકમ કરનાર અધિકારીની સહી તથા પૂરેપૂરી વિગતો

+ To be filled only in the case of remittance to bank through an officer of the Government.
જો સરકારી અધિકારી દ્વારા નાણાં મોકલવામાં આવે તો તે પ્રસંગે લખવાનું

Received payment રૂ. 500/- five hundred only Date 1-2-95

Treasurer ડેપોઝી Accountant એકાઉન્ટન્ટ ડેપોઝી ઓફીસર/એકાઉન્ટન્ટ (P.T.O.)

(viii) (A) Particular of the mining lease of which renewal is desired.

District	Taluka	Village	Survey No.	Area in Hects	Drawing No.
Porbandar	Ranavav	Ranavav	78/5/1 Paiki	10-19-18	

- (b) Details of the previous renewal Applying for 1st renewal
- (ix) Period for which renewal of mining lease is required 20 years
- (x) Whether renewal is applied for the whole or part of the leased hold. Whole Area of lease hold
- (xA) a) Does the applicant continue to have surface rights over the area of the land for which he requires renewal of the mining lease. Govt. land
- b) If not, has he obtained the consent of the owner, and the occupier for undertaking mining operations. If so, the consent of the owner and the occupier of the land be obtained in writing and be filed. Not Applicable
- (xB) Particulars of the areas mineral wise in each stat duly supported by an affidavit of which the applicant or any person joint in interest with him :
 - a) Already holds under mining leased
 - b) has already applied for but not granted: Not Applicable
 - Or
 - c) being applied for simultaneously : Not Applicable
- (xC) a mining plan of which shall include :-
 - a) the plan of the area showing the nature and extent of the mineral body, spot or spots where the excavation is to be done in the first year and its extent, a detailed cross-section and on.. prospecting data gathered by the applicant, a tentative scheme of mining (for the first five years and litho logy)
 - b) the details of geology and litho logy of the area, the extent of manual mining and through machines ;
 - c) annual programme and plan for excavation (for five years) ; and
 - d) the plan of the area showing natural water courses; limit or reserved and other forest areas and density of trees; assessment of impact of mining activity of Forest Land surface and Environment, including air and water pollution, and derails of the scheme for a forestation, Land reclamation, use of pollution control devices.Holding approved mining scheme for C.G.M. Gandhinagar of date mines planning with detailed or geolog and litho logy will be submitted aft getting grant order of renewal following th Rules details by point no. (a)(b)(c) & (has been in corporate in the mining pla and schemes approved by the C.G.M
- (xD) Is the mineral going to be used in his own industry ? If so. Give full details : Does Not Apply
- (xi) In case the renewal applied for is only for part of the lease hold :
 - a) the area applied for renewal. Does Not Apply
 - b) description for the area applied for renewal (description should be adequate) for the purpose of demarcation the plot. "
 - c) particulars of lamp of the leasehold with area applied for renewal clearly, marked on it (attached). "
 - d) particulars of existing or created dumps of ore, If any. "
- (xii) Means by which the mineral raised, i.e. by hand, labor or mechanical labor & Mechanical means also by labor

(xiii) Manner in which the mineral raised is to be Utilized :

a)	for manufacture in India,	Yes
b)	for export to foreign countries,	No
c)	in the former case the industries in connection with which it is required, should be specified.	lime stone use cement industries

in the latter case, the countries to which the mineral will be exported and weather the mineral is to be exported after processing or in raw form should be stated.

(xiv) Details of output during the last three years and phased programme for production during the next three years along with a layout plan for development, if any.

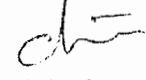
attached

(xv) In case of coal, details of existing railway transport facility available and additional transport facility, if any, required.

(xvi) Any other particulars which the applicant wishes to furnish.

We do hereby declare that the particulars furnished above are correct and read to us in any other detail, including accurate plans as required by you before the grant of renewal of lease.

Yours faithfully,

x 

Signature and designation of the applicant

Place, Porbandar
Date

N.B. If the applicant is signed by an authorized agent of the applicant, Power of Attorney should be attached.

..X.....X.....X..

CUT HERE FOR DEPOSITORS COPY WITH BANK ACKNOWLEDGEMENT

DEPOSITOR'S COPY

DATE: 07/11/2015

DEPOSIT SLIP NO.

CLIENT CODE: GEO10208

070115

CLIENT NAME: COMMISSIONER OF GEOLOGY AND MINING

GEOLOGY LESSESS CODE: ML2001008725

TYPE OF CONCESSION / TYPE OF LESSE: Mining Lease

DISTRICT NAME: Belga

TALUKA: RANAVAY

MINERAL TYPE: Iron

TYPE OF PAYMENT: Renewal Application Fees

BUDGET HEAD CODE: 055001

LEASEHOLDER NAME: SHREE DEVABHAI KALABHAI BHUTIYASHri Jayash B. Patel - Ranavay

CHEQUE NO. 185267 CHEQUE DATE: 7/11/15 AMOUNT IN Rs.: 25000

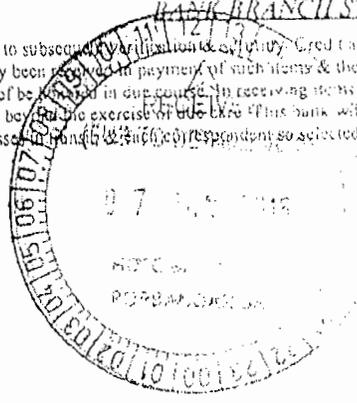
AMOUNT IN WORDS: Twenty thousand five hundred only

UTR Reference No 070115008725

[Signature]
Signature of the Depositor / Contact No.

BANK BRANCH STAMP & SIGNATURE

(Items deposited are not checked at the time of deposit & are received subject to subsequent verification by Creditor. The bank or on other bank or party is only provisional until the money has actually been received in payment of such items & the amount is not charged back. Unless the item &/or any instrument received in payment thereof be returned in due course. In receiving items for deposit the bank acts only as the depositor's collecting agent & assumes no responsibility for the exercise of the duty. This bank will not be liable for omission, default or negligence of this duly selected correspondents not for losses in funds & such (if) respondent so selected shall be liable for its own negligence.)



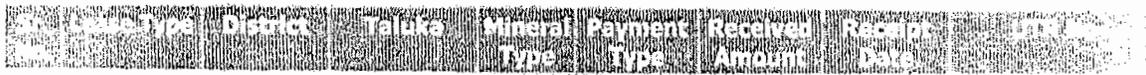


Bank Transaction Report:

Total Amount Remitted: 2500.00

Lease Holder Code: ML2001008725

Lease Holder Name: SHREE DEVABHAI KALABHAI BHUTIYASHRI JAYESH B. PATEL - RANAVAV
78./5 - 11.33



MINING LEASE	PORBANDAR	RANAVAV	LIMESTON RENEWAL	2500.00	07/01/2015	C7011500872500
			E MAJOR APPLICATION FEES			

Annex - R - IV

Government of Gujarat
Industries and Mines Department
 No. MCR/1575(K-22)/8275/CHH
 New Sachivalaya, Gandhinagar.
 Date: 30/12/2021

Read:

- (1) Industries, Mines & Power Department's (Now Industries and Mine Department) Order No. MCR/1575(K-22)/8275/CHH, Dated: 12/01/1976.
- (2) Industries, Mines Department's Order No. MCR/1593/1074/CHH, Dated: 12/04/1993.
- (3) Commissioner of Geology and Mining, Gandhinagar's Single File No. CGM/LEASE/ML/EXTENSION/2019-20/PORBANDAR-20, Dated: 06/11/2020 (I.W.D.M.S. No. 470804)
- (4) Geologist Porbandar's Letter no: BHUPO/ML/168/2906, Dated: 29/10/2021.

ORDER:

The State Government had sanctioned Mining lease at. Ranavav, Taluka- Ranavav, Dist. Porbandar, Survey no. 78/5, Area 11.33.00 Hectares for Limestone mineral to Shri Katoria Rasiklal Jamnadas for trading purpose for 20 years vide this Department's Order dated 12/01/1976 Read at no.(1). The lease agreement thereof was executed on 31/05/1976.

As per the Mineral Concession Rules, 1960, the said mining lease was transferred to Shri Devabhai Karabhai Bhutiya vide this Department's Order dated 12/04/1993 Read at no.(2).

As per the section 8 (A)(6) of the Mines and Minerals (Development and Regulation) Act-1957, the Commissioner, Geology and Mining had made a proposal dated 06/11/2020, Read at no.(3) to extend the period of lease of Shri Devabhai Karabhai Bhutiya at. Ranavav, Taluka- Ranavav, Dist. Porbandar, Survey no. 78/5, Area 11.33.00 Hectares. The matter was under consideration of the State Government and it has decided to extend the lease period up to 30/05/2026.

The mining operations in the extended period of mining shall be carried out after obtaining all statutory clearances like environment / forest clearance, approved mining plan from Indian Bureau of Mines and after obtaining requisite documents.

The lease holder shall have to execute the supplementary deed accordingly.

All the provisions in the MMDR Act. 1957 and the Minerals (Other Than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 and all other Acts/Rules as amended from time to time shall be applicable to the lessee.

The remaining terms and conditions of the earlier order will remain the same.

All terms and conditions will have to be abided by the lessee in future.

By order and in the name of Governor of Gujarat,



(Prasun Patel)
 Section Officer
 Industries and Mines Department

By R.P.A.D.

To,
 Shri Devabhai Karabhai Bhutiya
 "Gatral Krupa" Satyam Park, Rajivnagar,
 Ta-& Dist-Porabandar. Pin-360575
 Gujarat.

Copy to:

- The Commissioner of Geology & Mining, Gujarat State, Gandhinagar.
(with reference to his opinion received by Letter No. single file No. CGM/ LEASE/
ML/EXTENSION/2019-20/PORBANDAR-20, Dated: 06/11/2020. (I.W.D.M.S. No.
470804/2020)
- The Collector of Porbandar, Porbandar , Dist. Porbandar. (By R.P.A.D.)
- The Geologist, office of Geology and Mining, Porbandar , Dist. Porbandar.
(By R.P.A.D.)
- The Regional Controller of mines, Indian Bureau of Mines, Gandhinagar Region, 4th
floor, Block-2, Karma Yogi Bhavan, Sector-No.10, Gandhinagar.382010.
- The Director General of Mines safety, Dhanbad-826001.
- The Director of Mines safety, Udaipur Region, 56-Shastri Marg, Udaipur-313001.
- The Revenue Department, Block No.12, Sachivalaya, Gandhinagar.
- The District, Inspector of Land Records, Porbandar , Dist. Porbandar.
- The Accountant General, Gujarat, Ahmedabad / Rajkot.
- The Controller General, Indian Bureau of Mines, 6th floor, Block no. B&C, Indira
Bhavan, Civil lines, Nagpur-440001.
- The Forest and Environment Department, Block No.14, Sachivalaya, Gandhinagar.
- The Member Secretary, Gujarat Pollution Board, Sector No.10, Gandhinagar.
- Copy for D.S.(Mines), Industries and Mines Department, Select file.
- Copy for Dy.S.O. Select file.
- Copy for Branch select file.

04-16-98 01:36

Annex - R - VI

005

GEO - ORE

TECHNICAL CONSULTANTS



19, City Station Road, Opp. Apsara Hotel,
Udaipur - 313 001 (Raj)
Tele Fax : (0294) 2422950 (O) Tel - 2460377 (R)
Mob. No. 94141-65277
E-mail : geo_oretech@yahoo.co.in

GTC/1579/2009-2010

Dated : 12.04.2010

To

The Secretary,
Gujarat State Pollution Control Board, State Level Expert Appraisal Committee,
Sector No. 10, Block No. 14/B, New Seelima, Gandhinagar.

**Sub: Submission of Form - I & Pre-Feasibility Report of Limestone Mine,
N/v. Ranavav, S.No. 78/5 (Part), Taluka - Ranavav, Distt: Porbandar, State
Gujarat over an area of 11.33 Ha. in favour of Shri Deva Kara Bhutiya.**

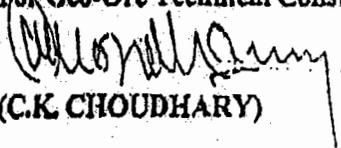
Dear Sir,

With reference to the above subject, I am enclosing herewith the above mentioned Form - I & Pre-Feasibility Report of Limestone Mine in three fair copies.

Please acknowledge it.

Thanking you,

Yours faithfully,

For Geo-Ore Technical Consultants,

(C.K. CHOUDHARY)

Encl. As above.


સહીતે ઉપરોક્ત દસ્તાવેજો
અધિકારી, ૨૦/૦૪/૨૦૧૦

Annex - R - VI

HARDIK SHAH
SECRETARY

State Level Expert Appraisal Committee

**STATE LEVEL EXPERT APPRAISAL
COMMITTEE, GUJARAT.**

Office : Gujarat Pollution Control Board,
"Paryavaran Bhavan", Sector 10-A,
Gandhinagar-382010, GUJARAT

Phone : 079 -23232152, 23241514

Fax : 079 -23222784.

Email : ms-gpcb@gujarat.gov.in

Ref. No.: EIA-10-2010-724-E. 61133

Date: October 13, 2010.

15 OCT 2010

Sub: Environmental Clearance under the EIA Notification, 2006.

Dear Sir,

This refers to your application dated 24-07-2010 submitted to the State Level Expert Appraisal Committee, Forests & Environment Department, Government of Gujarat, regarding the subject mentioned above.

It is proposed to consider the said proposal in the next meeting of the State Level Expert Appraisal Committee, Gujarat, to be held on 26th October, 2010 at 1:00 PM. in the Conference Room of Gujarat Pollution Control Board, Sector 10-A, Gandhinagar

You are, therefore, requested to attend the meeting of the State Level Expert Appraisal Committee, Gujarat, along with the concerned officers / consultant and make a brief presentation before the committee covering the relevant information including the salient features of the project, site details, environmental issues and other relevant information furnished in Form I attached with your above-mentioned application.

With regards,

Yours sincerely,

(Hardik Shah).

Secretary, State Level Expert Appraisal Committee

To,

Shri Deva Karabhai Bhutiya

Ranavav Limestone Mining Project (Lease Area : 11.33 Ha)

1, Shreeji Complex, Narsang Tekri,

Vill & Ta : Ranavav,

Dist : Porbandar



**HARDIK SHAH
SECRETARY**

State Level Expert Appraisal Committee

**STATE LEVEL EXPERT APPRAISAL
COMMITTEE, GUJARAT.**

Office : Gujarat Pollution Control Board,
"Paryavaran Bhavan", Sector 10-A,
Gandhinagar-382010, GUJARAT

Phone : 079 -23232152, 23241514

Fax : 079 -23222784.

Email : ms-gpcb@gujarat.gov.in

Ref. No.: EIA-10-2010-724-E.

70509 11 JAN 2011

To,
Shri Deva Karabhai Bhutiya
Ranavav Limestone Mining Project (Lease Area : 11.33 Ha)
1, Shreeji Complex, Narsang Tekri,
Vill & Ta : Ranavav,
Dist : Porbandar

**Sub:Environment Clearance under the EIA Notification 2006 for your proposed project
at Survey No : 78/5, Ta : Bhuj Dist : Kutch**

Dear Sir,

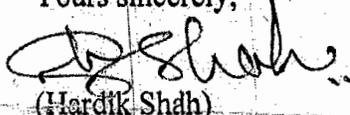
This refers to your application on the subject mentioned above and the meeting held with the State Level Expert Appraisal Committee, Gujarat, on 26th Oct, 2010. The relevant information furnished in Form I and presentation made before the SEAC was considered.

During the meeting, the committee noticed that the proposed project is situated within 10 Km distance from the boundary of the Barda Wild Life Sanctuary, Dist. Porbandar and hence you were informed that general condition is applicable to the mining projects [Category 1(a)] and as the proposed project is situated within 10 Km distance from the boundary of the Barda Wild Life Sanctuary, i.e. protected area notified under the Wild Life (Protection) Act, 1972, the proposed project falls under Category "A" and hence prior environmental clearance is required to be obtained from the EIAA at the MoEF. In view of above, file of your proposed project has been closed and de-listed from the list of pending applications with the SEAC, Gujarat.

You are hereby once again advised to apply to the EAC / EIAA at the MoEF for obtaining the prior environmental clearance for the proposed project and not to start proposed activities until requisite prior environmental clearance is obtained.

With regards,

Yours sincerely,


(Hardik Shah)

Secretary, State Level Expert Appraisal Committee

Annex-R- VIII

011

DEVABHAI KARABHAI BHUTIYA.

S.NO. 78/P, AT – RANAVAV, TA – RANAVAV, DIST – PORBANDAR.
(M) 9825209730

Date: 14-03-2014

To,

The Member secretary,

State Level Expert Appraisal committee, Gujarat

Paryavaran Bhavan,

Sector 10 A,

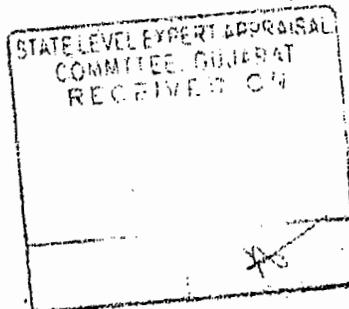
Gandhinagar.

Subject: Environment clearance under the EIA notification 2006 - Proposed project of
Devabhai Karabhai Bhutiya. For Extraction of Lime Stone from S. No.78/P, At –
Ranavav, Ta – Una, Dist – Porbandar

Respected Sir,

We **Devabhai Karabhai Bhutiya**. Proposes to do activity for Extraction of Lime stone
from S No 78/P, At – Ranavav, Ta – Ranavav, Dist – Porbandar. Total area will be 11.33 HaSo, as per EIA Notification, our project is fall under Cat 1(a)(4): Mining, extraction of
natural resources and power generation (for a specified production capacity) and Cat B.
So, we have to obtain Environmental Clearance for our project from State Level
Environment Impact Assessment Authority.We are applying for obtaining EC for our project with form 1 and related supporting
documentsWe therefore requested you to accord Environment Clearance to the project based on above
documents.

Thanking you,



Annex - R - IX (copy)

Acceptance Letter for TOR application**F.No.- SIA/GJ/83707/2016**State Environment Impact Assessment Authority
Gujarat**Deputy Secretary (Environment), Forests and Environment Department, Gandhinagar**

Dated: 16 Jul 2016

To,

DEVABHAI KARABHAI BHUTIYA
, Porbandar
Gujarat , 360550

Subject : ranavav limestone mine of devabhai k bhutiya

Sir,

This has reference to your proposal No. SIA/GJ/MIN/16774/2016 dated 15 Jul 2016 regarding grant of TORs for the above mentioned proposal.

2.0 This is to acknowledge that the proposal has been received in the SEIAA along with Form 1 and pre-feasibility report. You are requested to submit a hard copy (signed) of the documents in the SEIAA(at the address given below) within a week, along with email alert generated by the system(through speed post). Each page of the application including Annexures should be duly signed by the authorized signatory within a week.

Address:

Deputy Secretary (Environment), Forests and Environment Department, Gandhinagar

3.0 The project shall be listed for further consideration only after receiving the above desired documents in hard copy. Gujarat SEIAA shall not be responsible for the delay in listing in next agenda meeting due to non-submission of the hard copy of application form by applicant after due date.

Yours Sincerely

SEIAA, Gujarat

Note: ***This is an automatically generated email, please do not reply***

Acknowledgement Slip for TOR

This is to acknowledge that the proposal has been successfully uploaded on the portal. The proposal shall be examined by MS of SEIAA to ensure that required information has been submitted. An email will be sent for seeking additional information, if any, within 5 working days. Once verified, an acceptance letter shall be issued to the project proponent.

Following should be mentioned in further correspondence

1. **Proposal No.** :SIA/GJ/MIN/16774/2016
2. **Category of the Proposal** :Non-Coal Mining
3. **Project/Activity applied for** :1(a) Mining of minerals
4. **Name of the proposal** :ranavav limestone mine of devabhai k bhutiya
5. **Date of submission for TOR**:15 Jul 2016
6. **Name of the Project proponent along with contact details**
 - a) **Name of the proponent**:DEVABHAI KARABHAI BHUTIYA
 - b) **Mobile No.** :9825209730
 - c) **State** :Gujarat
 - d) **District** :Porbandar
 - e) **Pincode** :360550

APPENDIX I

(See Paragraph-6)

CATEGORY - B

Note : If space provided against any parameter is inadequate, Kindly upload supporting document under 'Additional Attachments if any' at the last part of the Form1. Please note that all such Annexures must be part of single pdf document.

(I) Basic Informations

S.No.	Item	Details
1.	Name of the Project	ranavav limestone mine of devabhai k bhutiya
2.	Project Sector	Non-Coal Mining
3.	Location of the project	s n 78/5 ranavav dist porbandar
4.	Shape of the project land Uploaded GPS file Uploaded copy of survey of India Toposheet	Block (Polygon) Annexure-GPS file Annexure-Survey of india toposheet
5.	Brief summary of project	Annexure-Brief summary of project
6.	State of the project	Gujarat

Details of State of the project

S.no	State Name	District Name	Tehsil Name
(1.)	Gujarat	Porbandar	Ranavav
7.	Town / Village	at ranavav s n 78/5 ta ranavav dist porbandar	
8.	Plot/Survey/Khasra No.	s n 78/5 at ranavav	
9.	S. No. in the schedule	1(a) Mining of minerals	
10.	Proposed capacity/area/length/tonnage to be handled/command area/lease area/number or wells to be drilled	120000 mta ha.	
11.	New/Expansion/Modernization	New	
12.	Category of project	B	
13.	Does it attract the general condition? If yes, please specify	No	
15.	Does it attract the specific condition?	No	
16.	Is there any litigation pending against the project?	No	
17.	Nearest railway station along with distance in kms.	ranavav, 7 km	
18.	Nearest airport along with distance in kms	porbandar, 15 km	
19.	Nearest Town/City/District Headquarters along with distance in kms	ranavav , 2 km	

20.	Distance of the project from nearest Habitation	1.1, 1.1 km
21.	Details of alternative sites examined shown on a toposheet	No
22.	Whether part of interlinked projects?	No
23.	Whether the proposal involves approval/clearance under the Forest (Conservation) Act, 1980?	No
24.	Whether the proposal involves approval/clearance under the wildlife (Protection) Act, 1972?	No
25.	Whether the proposal involves approval/clearance under the C.R.Z notification, 2011?	No
26.	Whether there is any Government Order/Policy relevant/relating to the site?	No
27.	Whether there is any litigation pending against the project and/or land in which the project is proposed to be set up?	No
28.	Project Cost (in lacs)	25
29.	Mining lease area (in ha.)	11.33

Activity

1 Construction, operation or decommissioning of the Project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, etc.)

S.No	Information/Checklist confirmation	Yes/No	Details there of (with approximate quantities/rates, wherever possible) with source of information data
1.1	Permanent or temporary change in land use, land cover or topography including increase in intensity of land use (with respect to local land use plan)	Yes	There will be a change in land use and topography because of the mining of mineral. Mined out land cannot be backfilled up to original ground level therefore mined out land will be used as water reservoir.
1.2	Clearance of existing land, vegetation and buildings?	Yes	Area is devoid of any vegetation, except scattered bushes and scrubs.
1.3	Creation of new land uses?	Yes	Quarrying will be done and after completion of mining operation, quarried area will be used as water reservoir.
1.4	Pre-construction investigations e.g. bore houses, soil	Yes	Lessee has explored the area by

Report Part 1 (FORM - B)

http://environmentclearance.nic.in/State/FORM_B_PDF.aspx?catId...

	testing?		putting trial pits and working pits and the Limestone is available of cement & Chemical grade.
1.5	Construction works?	Yes	Construction of offices, rest shelter, Store and water supply, First Aid center etc.
1.6	Demolition works?	No	No demolition is proposed at mining site.
1.7	Temporary sites used for construction works or housing of construction workers?	No	No site is proposed for housing. Local workers will be employed.
1.8	Above ground buildings, structures or earthworks including linear structures, cut and fill or excavations and fill or excavations	Yes	Above Ground Structure: Construction of offices, rest shelter, First Aid center etc. Earthworks: Excavation operations
1.9	Underground works including mining or tunneling?	No	Only open cast mining
1.10	Reclamation works?	Yes	Mined out area land cannot be backfilled up to original ground level, therefore mined out land will be used as water reservoir, which will be used by Water storage or irrigation.
1.11	Dredging?	No	There is no dredging involved in this lease area.
1.12	Offshore structures?	No	No offshore structure will be involved.
1.13	Production and manufacturing processes?	Yes	This production will cause change in land use due to excavation of ore.
1.14	Facilities for storage of goods or materials?	Yes	Temporary storage of mine out material is proposed at mine site, which will transported by trucks and tippers.
1.15	Facilities for treatment or disposal of solid waste or liquid effluents?	Yes	Solid Waste: Entire waste generated will be used for backfilling purpose, Liquid Waste: No STP & ETP required as waste water will be domestic and in small amount. The domestic waste will be treated in septic tanks and soak pits.
1.16	Facilities for long term housing of operational workers?	No	Only local labor will be employed who will go back their homes. Thus no housing facilities will be developed near mine site.
1.17	New road, rail or sea traffic during construction or operation?	No	No new roads will be constructed
1.18	New road, rail, air water borne or other transport infrastructure including new or altered routes and stations, ports, airports etc?	No	Existing facilities are sufficient no new road etc. will be required.
1.19	Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?	No	There will be no such change caused due to the proposed project.

1.20	New or diverted transmission lines or pipelines?	No	There is no proposal for new construction or diversion of any transmission lines or pipelines.
1.21	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?	No	There is no water course falling in this lease area. As ultimate depth of mining will be much higher than the ground water table, it will not cause any change to the hydrology of water courses or aquifers.
1.22	Stream crossings?	No	There is no stream (perennial or seasonal) within the lease area.
1.23	Abstraction or transfers of water from ground or surface waters?	Yes	Water for drinking and operations is required to be 5.0 KLD. Well and open dug-wells from nearby villages will be used for the required amount of water.
1.24	Changes in water bodies or the land surface affecting drainage or run-off?	No	As there is absence of any river or nala in the lease area, mining process will not affect the natural drainage in the nearby area. The extraction of Limestone will lead to formation of pits, which will hold rain water and hence will have positive impact on environment.
1.25	Transport of personnel or materials for construction, operation or decommissioning?	Yes	Limestone from mine site will be transported by road by company's own resources/ hired vehicles. There is no transport of personnel.
1.26	Long-term dismantling or decommissioning or restoration works?	Yes	Mined out land cannot be backfilled up to original ground level, therefore mined out land will be used as water reservoir.
1.27	Ongoing activity during decommissioning which could have an impact on the environment?	No	No activity of commissioning or decommissioning is proposed in this mine area.
1.28	Influx of people to an area in either temporarily or permanently?	No	All the workers engaged will be local villagers. No influx of people.
1.29	Introduction of alien species?	No	Only local species would be planted
1.30	Loss of native species or genetic diversity?	No	No significant loss of native species will occur.
1.31	Any other actions?	No	No other actions are proposed

2 Use of Natural resources for construction or operation of the Project (such as land, water, materials or energy, especially any resources which are non-renewable or in short supply):

S.No	Information/Checklist confirmation	Yes/No	Details thereof (with approximate
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			quantities/rates, wherever possible) with source of information data
2.1	Land especially undeveloped or agricultural land (ha)	Yes	The entire land is Government waste land.
2.2	Water (expected source & competing users) unit: KLD	Yes	Total water requirement is about 5.00 KLD; this water will be supplied from nearby villages.
2.3	Minerals (MT)	No	No mineral will be used
2.4	Construction material – stone, aggregates, sand / soil (expected source – MT)	No	No construction is proposed at the mine site.
2.5	Forests and timber (source – MT)	No	There is no requirement of timber.
2.6	Energy including electricity and fuels (source, competing users) Unit: fuel (MT), energy (MW)	Yes	Power is not required for the project as the mining activity will be carried out during day time. Diesel will be required for trucks as a fuel source for transportation.
2.7	Any other natural resources (use appropriate standard units)	No	No other natural resources will be required

3 Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about actual or perceived risks to human health

S.No	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
3.1	Use of substances or materials, which are hazardous (as per MSIH rules) to human health or the environment (flora, fauna, and water supplies)	No	Explosive required for blasting will be used. It will be safely stored in magazine. All the rules and regulation as defined by D.G.M.S. or any other department will be observed at the time of blasting.
3.2	Changes in occurrence of disease or affect disease vectors (e.g. Insect or water borne diseases)	No	Not envisaged.
3.3	Affect the welfare of people e.g. by changing living conditions?	Yes	Living conditions will change for better as beneficial aspects would be there due to employment generation, and through CSR
3.4	Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc.	No	Impacts of this type are not expected as mine site is far away from settlements and no unauthorized person will be allowed to enter mining area.
3.5	Any other causes	No	Not Applicable

4 Production of solid wastes during construction or operation or decommissioning (MT/month)

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S.No	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
4.1	Spoil, overburden or mine wastes	No	nil
4.2	Municipal waste (domestic and or commercial wastes)	Yes	Very insignificant Soak Pits and septic tanks are used for the treatment of domestic waste.
4.3	Hazardous wastes (as per Hazardous Waste Management Rules)	No	Hazardous wastes (as per Hazardous Waste Management Rules) will not be generated from the proposed project.
4.4	Other Industrial process wastes	No	There is no such industrial waste will be generated from mining activity.
4.5	Surplus product	No	Limestone generated is directly supplied to Soda/cement industries.
4.6	Sewage sludge or other sludge from effluent treatment	Yes	There is no any kind of sludge generation. Small quantity of Domestic waste water will be treated into septic tank followed by soak pit.
4.7	Construction or demolition wastes	No	No Construction or demolition activity will be done in proposed area
4.8	Redundant machinery or equipment	No	No redundant machinery or equipment will be left at site after closure of mining operation.
4.9	Contaminated soils or other materials	No	Very insignificant
4.10	Agricultural wastes	No	No Agricultural waste will be generated
4.11	Other solid wastes	No	No other solid waste will be produced.

5 Release of pollutants or any hazardous, toxic or noxious substances to air(Kg/hr)

S.No	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
5.1	Emissions from combustion of fossil fuels from stationary or mobile sources	Yes	There will be emissions from transportation. It is managed by the following methods:- • Proper maintenance of vehicles and machines. • PUC certified

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			vehicles will be allowed for transportation purposes.
5.2	Emissions from production processes	Yes	Dust is the main pollutant which will be generated from vehicle movement, blasting of rocks. However, proper mitigative measures such as water sprinkling and plantation would be done to control dust pollution.
5.3	Emissions from materials handling including storage or transport	Yes	There will be fugitive emission generated during material handling, drilling, blasting, transportation etc. Dust will be generated while handling material by excavators, transportation by dumpers on haul roads and unloading at mineral stacks and waste dumps, which is controlled by regular water sprinkling on the site, dispatch trucks carrying ore will be covered with tarpaulin, all service roads made boulder packed and water sprayed regularly.
5.4	Emissions from construction activities including plant and equipment	No	No construction activity is proposed in the mine lease area.
5.5	Dust or odours from handling of materials including construction materials, sewage and waste	Yes	Emission of dust due to movement of vehicles, drilling loading, unloading and blasting will produce impact on air.
5.6	Emissions from incineration of waste	No	No incineration activity will be there
5.7	Emissions from burning of waste in open air (e.g. slash materials, construction debris)	No	No waste will be burnt in open.
5.8	Emissions from any other sources	Yes	Emission from blasting.

6 Generation of Noise and Vibration, and Emissions of Light and Heat:

S.No	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
6.1	From operation of equipment e.g. engines, ventilation plant, crushers	Yes	Noise will be generated from Blasting and also from operation of machinery.
6.2	From industrial or similar processes	No	No other process is proposed in this area.
6.3	From construction or demolition	No	Construction or demolition will not be carried out for the purpose project.

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6.4	From blasting or piling	Yes	The generation of noise and vibration produced due to blasting operation will be controlled and systematic in nature.
6.5	From construction or operational traffic	Yes	Due to vehicular traffic and material transportation within lease area, noise will be generated.
6.6	From lighting or cooling systems	No	Mining will be done in day time so no lighting will be required and cooling systems are not required.
6.7	From any other sources	No	No other sources of Noise & Vibration are there.

7 Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea:

S.No	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
7.1	From handling, storage, use or spillage of hazardous materials	No	Explosives will be used, stored and transported to the working area. Proper Magazine will be provided for storage.
7.2	From discharge of sewage or other effluents to water or the land (expected mode and place of discharge)	No	Domestic waste water will be treated into septic tank followed by soak pit.
7.3	By deposition of pollutants emitted to air into the land or into water	Yes	Dust emission will be limited to the site itself which will be suppressed by regular water sprinkling.
7.4	From any other sources	No	No other sources are there
7.5	Is there a risk of long term build up of pollutants in the environment from these sources?	No	No other risks are anticipated from the proposed project.

8 Risk of accidents during construction or operation of the Project, which could affect human health or the environment

S.No	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
8.1	From explosions, spillages, fires etc from storage, handling, use or production of hazardous substances	Yes	1. There will be risk of accident by Fly-Rocks 2. There will be risk of accident by Premature Blast: Detonation of an explosive

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			charge earlier than warranted. Premature explosion may be due to carelessness, accidental percussion, a faulty fuse or degenerated explosives. 3. There will be risk of accident by Misfires: Misfire means the complete or partial failure of a blasting charge to explode as planned. 4. Danger of Toxic Fumes from Blasting.
8.2	From any other causes	No	No other sources are there.
8.3	Could the project be affected by natural disasters causing environmental damage (e.g. floods, earthquakes, landslides, cloudburst etc)?	Yes	Proposed Project is at seismic zone III

9 Factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality

S.No	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
9.1	Lead to development of supporting facilities, ancillary development or development stimulated by the project which could have impact on the environment e.g.: <ul style="list-style-type: none"> o Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.) o housing development o extractive industries o supply industries o Other 	Yes	<ul style="list-style-type: none"> • Improve socio-economic status of villages around mine area. • benefit local people due to employment • Improvement in educational facilities. • provision of health facilities
9.2	Lead to after-use of the site, which could have an impact on the environment	Yes	There would be no adverse impact on the environment as the worked out area will be converted into water reservoir for rain waters.
9.3	Set a precedent for later developments	Yes	Mined out area will be used as water reservoir.
9.4	Have cumulative effects due to proximity to other existing or planned projects with similar effects	No	There will be no cumulative effects as there are no other mines in proximity of mining lease area.

(III) Environmental Sensitivity

S.No	Areas	Name/Identity	Aerial distance (within 15km.) Proposed project location boundary

Report Part I (FORM - B)

http://environmentclearance.nic.in/State/FORM_B_PDF.aspx?cat_id...

1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	No	
2	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests	No	CRZ 17 km arabian sea
3	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	No	no such area within 15 km
4	Inland, coastal, marine or underground waters	No	CRZ 17 km West direction arabian sea
5	State, National boundaries	No	No such place is there in 15 km
6	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas	No	No such place is there in 15 km
7	Defence installations	No	No such place is there in 15 km
8	Densely populated or built-up area	No	No such area is seen within 15km from the site.
9	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)	Yes	in ranavav school, collages & Govt. Hospital in 2 km west from lease area.
10	Areas containing important, high quality or scarce resources. (ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)	No	arabian sea about 17 km west
11	Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)	No	No such place is there in 15 km
12	Areas susceptible to natural hazard which could cause the project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions) similar effects	No	sesmic zone III

(IV) PROPOSED TERMS OF REFERENCE FOR EIA STUDIES

1	Uploaded Proposed TOR File	<u>Annexure-TOR file</u>
2	Uploaded scanned copy of covering letter	<u>Annexure-scanned copy of covering letter</u>
3	Uploaded Pre-Feasibility report(PFR)	<u>Annexure-PFR</u>

(V) Undertaking

The aforesaid application and documents furnished here with are true to my knowledge

V.(I)	Name	DEVABHAI KARABHAI BHUTIYA
	Designation	owner
	Company	DEVABHAI KARABHAI BHUTIYA
	Address	Gatral Bhuwan Satyam Park rajivnagar Porbandar

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MINUTES OF THE 305th MEETING OF THE STATE LEVEL EXPERT APPRAISAL COMMITTEE HELD ON 14/09/2016 AT COMMITTEE ROOM, GUJARAT POLLUTION CONTROL BOARD, GANDHINAGAR.

The 305th meeting of the State Level Expert Appraisal Committee (SEAC) was held on 14th September 2016 at Committee Room, Gujarat Pollution Control Board, Gandhinagar. Following members attended the meeting:

1. Shri T.P. Singh, Chairman, SEAC.
2. Shri V.C.Soni, Vice Chairman, SEAC
3. Dr. Mayuri Pandya, Member, SEAC
4. Dr. V.K.Jain, Member, SEAC
5. Shri R.J.Shah, Member, SEAC

Following officers from the Geology and Mining Department attended the meeting:

1. Shri R.R.Bukhari, Royalty Inspector, Dist: Tapi
2. Shri Mann Chaudhry, Geological Assistant, Dist: Kutch
3. Shri M.B.Shah, Royalty Inspector, Dist: Chota Udepur

Sr.	District	Ordinary Clay	Marble	River bed Sand	Black trap	China Clay	Quartz	Chalk	Total
1	Ahmedabad	1	-	-	-	-	-	-	1
2	Banaskantha	--	3	-	-	-	-	-	3
3	Chotaudepur	-	-	3	-	-	-	-	3
4	Kheda	-	-	-	1	-	-	-	1
5	Mehsana	-	-	-	-	2	-	-	2
6	Panchmahal	-	-	-	-	-	1	--	1
7	Porbandar	-	-	-	-	-	-	1	1
8	Sabarkantha	-	-	-	-	1	-	-	1
9	Tapi	-	-	6	-	-	-	-	6
		1	3	9	1	3	1	1	19

All the above proposals of minor minerals which have been received by the Committee through the project proponent were taken up in the meeting.

1. ORDINARY CLAY MINING PROJECT, DIST: AHMEDABAD

of cluster formation for homogeneous minerals validated by the Asst. geologist are submitted.

In project details, Asst. geologist has validated that there is no instream mining and lease area remains dry except during monsoon season

The above proposal was categorized as B2 as per the amended EIA Notification 2016.

Considering the anticipated impacts of mining and mitigation measures proposed by the lease holder, committee unanimously decided to recommend the proposal for grant of environmental clearance to SEIAA with stipulation of standard conditions for Sand mining as approved in 232nd SEAC meeting held on 15th April 2015 with compliance of all the conditions mentioned in Sustainable sand mining management guidelines 2016 of MOEF&CC, New Delhi.

19. RIVER BED SAND MINING PROJECT, DIST: TAPI

Sr. No.	Proposal No.	Project Name	S NO	Vill, Taluka	Hectare	Rate of mining	Name of River	Nearest Habitation	Proposal use
19	SIA/GJ/MIN/48663/2016	Dhruv Stone Quarry	Opp S NO: 192, Block: A	Vill: Chinchoda Ta: Nizar	06-00 Ha	4,93,200 MTPA	Tapi	Chinchoda: 1.30 km	Construction

Shri R.R.Bukhari, Royalty Inspector, office of Geology and Mining, Dist:Tapi informed that there is no bridge piers / water intake wells / irrigation structures within 500 m distance from boundary of above lease area. He explained that sand excavation will be done up to maximum 3 m depth or water level, whichever is less. Water sprinkling will be done during loading of material. All the transportation vehicles are proposed to be covered to avoid fugitive emission of fine particles. PP informed that setback distance of 10 meter will be maintained from the river bank to prevent bank erosion. PP further mentioned that copy of mining plan is submitted to the office of the geology and Mining, dist: Tapi for approval. Also copy of prefeasibility report including mitigation measures to curb pollution and details regarding non applicability of cluster formation for homogeneous minerals validated by the Asst. geologist are submitted.

PP mentioned that district collector has cancelled their lease and they are going for appeal PP requested committee to defer their EC application to upcoming meeting. After deliberation, committee decided to defer the proposal in one of the upcoming SEAC meeting and asked PP to submit ownership of the aforementioned quarry lease.

PROPOSALS OF MAJOR MINERALS

1. Ranavav Limestone Mine (Lease area: 12.14 Ha), S NO: 78/5, Near Village: Ranavav, Ta: Ranavav, Dist: Porbandar.

Sr. no.	Proposal No.	Project Name	S NO	Vill, Taluka	Hectare	Rate of mining	Nearest Habitation
1	SIA/GJ/MIN /16707/2016	Ranavav Limestone Mine	78/5	Vill:Ranavav Ta:Ranavav	12-14	1,28,000 MTPA	Ranavav: 2 km

The project proponent has applied for their new limestone mine located at above mentioned address. The mine lease area is 12.14 Ha and proposed rate of mining is 1,28,000 MTPA. Technical presentation was made by the PP. During presentation, it was noted by the committee that proposed lease area falls within 5 km of Barda wildlife sanctuary.

Referring Notification of MOEF dated 25 June 2014, it was observed by the committee that since above proposal is located within 5 KM distance from Barda Wildlife Sanctuary, general conditions are applicable and therefore the above project falls under category A and is not coming under the purview of SEAC. Being category A project, Committee advised project proponent to approach Environmental Appraisal Committee at MOEF&CC, New Delhi for obtaining Environmental Clearance.

2. Ranavav Limestone Mine (Lease area: 12.14 Ha), S NO: 78/5, Near Village: Ranavav, Ta: Ranavav, Dist: Porbandar.

Sr. no.	Proposal No.	Project Name	S NO	Vill, Taluka	Hectare	Rate of mining	Nearest Habitation
2	SIA/GJ/MIN /16774/2016	Ranavav Limestone Mine	78/5	Vill:Ranavav Ta:Ranavav	11-33	1,20,000 MTPA	Ranavav: 2 km

The project proponent has applied for their new limestone mine located at above mentioned address. The mine lease area is 11.33 Ha and proposed rate of mining is 1,20,000 MTPA. Technical presentation was made by the PP. During presentation, it was noted by the committee that proposed lease area falls within 5 km of Barda wildlife sanctuary.

Referring Notification of MOEF dated 25 June 2014, it was observed by the committee that since above proposal is located within 5 KM distance from Barda Wildlife Sanctuary, general conditions are applicable and therefore the above project falls under category A and is not coming under the purview of SEAC. Being category A project, Committee advised project proponent to approach Environmental Appraisal Committee at MOEF&CC, New Delhi for obtaining Environmental Clearance.

3. Limestone Mine of Shree Babhubhai Kalabhai Vaja (Lease area: 01.00 Ha), S NO: 397 paiki, Village: Khorasa, Ta: Malia-Hatina, Dist: Junagadh.



HARDIK SHAH, IAS
SECRETARY

State Level Expert Appraisal Committee

Annex-R- XI

**STATE LEVEL EXPERT APPRAISAL
COMMITTEE, GUJARAT.**

Office : Gujarat Pollution Control Board,
"Paryavaran Bhavan", Sector 10-A,
Gandhinagar-382010, GUJARAT

Phone : 079 -23232152,

Fax : 079 -23222784.

Email : ms-gpcb@gujarat.gov.in

Ref. No.: SIA/GJ/MIN/16707/2014-E 2284

R.P.A.D

To,
Mr. Devabhai Karabhai Bhutiya
ranavav limestone mine of udaysinh m jethwa
Gatral Bhuwan Satyam Park
rajivnagar Porbandar 360550.

5 OCT 2016

**Sub:Environment Clearance under the EIA Notification 2006 for your proposed project
at . Survey No. 78/5, Village: Ranavav, Taluka: Ranavav, Dist.: Porbandar.**

Dear Sir,

This refers to your application on the subject mentioned above and the meeting held with the State Level Expert Appraisal Committee, Gujarat. on 14th Sep 2016. The relevant information furnished in Form I, Prefeasibility report and presentation made before the SEAC was considered. As general condition of EIA notification 2006 is applicable to your proposal No. SIA/GJ/MIN/16707/2014; you are required to apply afresh to MoEF&CC, New Delhi under category "A" project.

This is for your information and to the necessary mention please.

With regards,

Yours sincerely,

(Hardik Shah, IAS)

Secretary, State Level Expert Appraisal Committee

Encl : As above.

1. Ranavav Limestone Mine (Lease area: 12.14 Ha), S NO: 78/5, Near Village: Ranavav, Ta: Ranavav, Dist: Porbandar.

Sr. no.	Proposal No.	Project Name	S NO	Vill,Taluka	Hectare	Rate of mining	Nearest Habitation
1	SIA/GJ/MIN /16707/2016	Ranavav Limestone Mine	78/5	Vill:Ranavav Ta:Ranavav	12-14	1,28,000 MTPA	Ranavav: 2 km

The project proponent has applied for their new limestone mine located at above mentioned address. The mine lease area is 12.14 Ha and proposed rate of mining is 1,28,000 MTPA. Technical presentation was made by the PP. During presentation, it was noted by the committee that proposed lease area falls within 5 km of Barda wildlife sanctuary.

Referring Notification of MOEF dated 25 June 2014, it was observed by the committee that since above proposal is located within 5 KM distance from Barda Wildlife Sanctuary, general conditions are applicable and therefore the above project falls under category A and is not coming under the purview of SEAC. Being category A project, Committee advised project proponent to approach Environmental Appraisal Committee at MOEF&CC, New Delhi for obtaining Environmental Clearance.

Annex-R-XII

Acknowledgement Slip for TOR application

11-33-00

monitoring-ec@nic.in

Sat 11/5/2016 10:54 AM

Inbox

To: s.kumar1958@gov.in <s.kumar1958@gov.in>; devabhai2016@outlook.com <devabhai2016@outlook.com>;

c.crb.lal@nic.in <rb.lal@nic.in>; m.knight@gov.in <m.knight@gov.in>; monitoring-ec@nic.in <monitoring-ec@nic.in>; khush.singh@gov.in <khush.singh@gov.in>;

Acknowledgement Slip for TOR

This is to acknowledge that the proposal has been successfully uploaded on the portal of the Ministry. The proposal shall be examined in the Ministry to ensure that required information has been submitted. An email will be sent for seeking additional information, if any, within 5 working days. Once verified, an acceptance letter shall be issued to the project proponent.

Following should be mentioned in further correspondence

1. **Proposal No.** : IA/GJ/MIN/60158/2016
2. **Category of the Proposal** : Non-Coal Mining
3. **Project/Activity applied for** : 1(a) Mining of minerals
4. **Name of the proposal** : Ranavav Limestone Mining Project
5. **Date of submission for TOR** : 05 Nov 2016
6. **Name of the Project proponent along with contact details**
 - a) **Name of the proponent** : DEVA KARABHAI BHUTIYA
 - b) **Mobile No.** : 9825209730
 - c) **State** : Gujarat
 - d) **District** : Porbandar
 - e) **Pincode** : 360575

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO. 268 of 2017

In CIVIL APPLICATION NO. 1503 of 2017

In SPECIAL CIVIL APPLICATION NO. 19917 of 2016

With

CIVIL APPLICATION NO. 2752 of 2017

In

LETTERS PATENT APPEAL NO. 268 of 2017

=====

DAKSHIN GUJARAT OAD GNATI LEASE HOLDER
ASSOCIATION....Appellant(s)

Versus

STATE OF GUJARAT & 4....Respondent(s)

=====

Appearance:

MS SRUSHTI A THULA, ADVOCATE for the Appellant(s) No. 1

ADVANCE COPY SERVED TO GP/PP for the Respondent(s) No. 1

=====

CORAM: **HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH
REDDY**
and
HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI

Date : 20/02/2017

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH REDDY)

When this matter was listed on earlier occasion it was adjourned to enable the learned Government Pleader to obtain instructions. On instructions, it is submitted by the learned Government Pleader that there is an existing lease in favour of the members of the appellant-association. It is further represented

that as the application of the appellant is pending before the Environmental Impact Assessment committee at district level, as such appellant is not allowed to operate lease. At the same time, it is fairly submitted that in all other districts, where applications are pending before the District Committee, such lessees are allowed to operate lease in terms of lease deed.

2. In that view of the matter, issue **NOTICE** to the respondents returnable on 09.03.2017. There shall be direction to the respondents to allow the applicant to carry on lease in terms of the existing lease deed executed in favour of the members of the appellant-association, by issuing necessary All Time Royalty Passes in their favour. It is made clear that such operation shall be in accordance with the terms and conditions of lease. Such operations will also be subject to further orders to be passed by the Environmental Impact Assessment Committee. Direct service is permitted.

(R. SUBHASH REDDY, CJ)

(VIPUL M. PANCHOLI, J.)

karim

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/LETTERS PATENT APPEAL NO. 268 of 2017****With****CIVIL APPLICATION NO. 1 of 2017****With****R/MISC. CIVIL APPLICATION NO. 1542 of 2015****In****WRIT PETITION (PIL) NO. 131 of 2012**=====

DAKSHIN GUJARAT OAD GNATI LEASE HOLDER ASSOCIATION

Versus**STATE OF GUJARAT**
=====

Appearance:

MS SRUSHTI A THULA(5014) for the PETITIONER(s) No. 1

MS NISHA M THAKORE, ASSISTANT GOVERNMENT PLEADER/PP(99) for
the RESPONDENT(s) No. 1

NOTICE SERVED BY DS(5) for the RESPONDENT(s) No. 1,2,3,5

VIRAL K SHAH(5210) for the RESPONDENT(s) No. 4
=====

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE ANANT S. DAVE
and**HONOURABLE MR.JUSTICE BIREN VAISHNAV****Date : 11/02/2019****ORAL ORDER****(PER : HONOURABLE THE ACTING CHIEF JUSTICE ANANT S. DAVE)**

Learned advocate for appellant seeks permission to withdraw Letters Patent Appeal No. 268 of 2017 and Civil Application No. 1 of 2017. Permission is granted. Disposed of as withdrawn.

Misc. Civil Application No. 1542 of 2015 is ordered to be detached from the appeal.

(ANANT S. DAVE, ACJ)**(BIREN VAISHNAV, J)**

A.M. PIRZADA



Deva Bhaj <ranavavmine@gmail.com>

Acknowledgement Slip for TOR application

1 message

monitoring-ec@nic.in <monitoring-ec@nic.in>

To: s.kumar1958@gov.in, ranavavmine@gmail.com

Cc: rb.lal@nic.in, m.knight@gov.in, monitoring-ec@nic.in, khush.singh@gov.in

Sat, May 13, 2017 at 6:04 PM

Acknowledgement Slip for TOR

This is to acknowledge that the proposal has been successfully uploaded on the portal of the Ministry. The proposal shall be examined in the Ministry to ensure that required information has been submitted. An email will be sent for seeking additional information, if any, within 5 working days. Once verified, an acceptance letter shall be issued to the project proponent.

Following should be mentioned in further correspondence.

1. Proposal No. : IA/GJ/MIN/64676/2017
2. Category of the Proposal : Non-Coal Mining
3. Project/Activity applied for : 1(a) Mining of minerals
Limestone mining project of an area of 11.33.00 Ha near village: Ranavav Survey No. 78/5 Taluka Ranavav District – Porbandar, Gujarat in favor of Shri Devabhai K Bhutiya
4. Name of the proposal
5. Date of submission for TOR : 13 May 2017
6. Name of the Project proponent along with contact details
 - a) Name of the proponent : DEVABHAI K BHUTIYA
 - b) Mobile No. : 9672567222
 - c) State : Gujarat
 - d) District : Porbandar
 - e) Pincode : 360575

Annex-R-XIV

Annex-R-XIV

OFFICE OF THE GEOLOGIST
 GEOLOGY AND MINING DEPARTMENT, JILLA SEVA SADAN-1
 OPP. AIRPORT SANDIPANI ROAD, PORBANDAR
 PHONE/FAX NO (0286)2220542

No.GP/ ML/ IBM/ 228

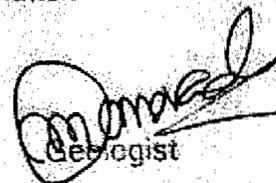
Date: 26/2/2018

Member Secretary
 EAC (Non Coal Mining)
 MoEF, Indira Paryavaran Bhawan
 Jor Bagh Road, Jor Bagh
 New Delhi

Sub: Regarding issuance of NOC in respect to settlement of amount payable against the Identified violation to get Environmental clearance as per EIA notification amendment dated 15/03/2017 for the limestone mining project of Deva kara Bhutiya having mining lease area of 11.33ha, located at Survey No. 78/5, Village: Ranavav, Taluka: Ranavav, District: Porbandar, Gujarat.

Respected Sir,

With reference to above mention subject, I would like to mention your kind attention of the fact, the lessee has paid 100% cost of legally mined Mineral and No illegally mining case due upon lessee in terms of the section 21(5) of MMDR Act-1957. Hence No Objection Certificate is given to lessee It is for your further action regarding grant of Environment Clearance Certificate. Kindly apprise us of the further progress in the matter.



Geologist

Porbandar

✓ Copy to- Devabhai Karabhai Bhutiya, Satyam Park, Rajiv Nagar Porbandar



File No. MCR-102016-568 - Chh-1
 Government of Gujarat,
 Industries and Mines Department,
 Block No. 5, 4th Floor, Sachivalaya,
 Gandhinagar,
 Date: 29/06/2018.

Annex - A

XVI

To,
 M/s. Devabhai Karabhai Bhutia,
 At. Porbandar, Gatrad Bhavn,
 Satyam Park, Rajivnagar,
 Dist. Porbandar.

Subject: Extension letter of Lease period for 11.33.00 Hectares Mines at Survey No.78/5, Limestone of Village Ranavav, Taluka: Ranavav, District: Porbandar, Gujarat State.

- Read: (1) Office of the M/s, Devabhai Karabhai Bhutia, Letter Dated 05.04.2016,
 (2) Industries and Mines Department letter No. MCR-102016-568 - Chh-1, dated 05.04.2016,
 (3) Office of the M/s, Devabhai Karabhai Bhutia, Letter Dated 22.06.2018.

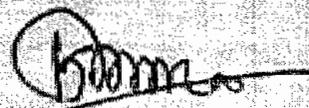
Sir,

With reference to your letter, Dated 22.06.2018, I am directed to inform you that the Lease period extension in terms of Section 8(A)(6) of the MMDR Amendment Ordinance Act, 2015 of Mining Lease of M/s. Devabhai Karabhai Bhutia, sanctioned in the 11.33.00 Hectares Mines at Survey No.78/5, Limestone of Village Ranavav, Taluka: Ranavav, District: Porbandar, Gujarat State is under consideration and orders will be issued in due course by the State Government.

2. This letter is issued in reply of your letter dated 22.06.2018.

Yours faithfully,




 (K. N. Vasava)
 Section Officer.

Industries and Mines Department

VII
Annex-R-XVII

Reference: EC/04/2018

To,
The Member Secretary (Violation Category)
Ministry of Environment Forest & Climate Change,
IA-III Division,
Jor Bagh Road, Aliganj,
New Delhi -3

Date: 16/07/2018

Sub: Submission of compliance as per the 10th EAC meeting held on 11th July 2018 towards approval of ToR for Limestone Mining Project having mine lease area of 11.33 ha located at Survey No. 78/5, N/V Ranavav, Tehsil: Ranavav, District: Porbandar, Gujarat of Sh. Deva Kara Bhutia.

Ref: 1: Online application vide proposal No. IA/GJ/MIN/64676/2017 dated 13/05/2017,
File no. 23-150/2018-IA.III (V)
2. Listed in 10th EAC Meeting (Violation category) on Agenda Item No. 10.3.2

Dear Sir

Kindly find herewith required information for the subject cited project as follows:

Point No. I: Compliance of order dated 2.8.2017 in CWP No.114/2014 of Hon'ble Supreme Court.

In compliance to the order of the Hon'ble Supreme Court on dated 02.08.2017 in WPC No. 114/2014, the proponent will pay the compensation amount as per Section 21 (5) of MMDR Act, 1957 for alleged production without Environmental Clearance.

Point No. II: Details of demand if any raised by Department of Geology & Mining, Govt. of Gujarat.

As if now, no demands have been raised by Department of Geology & Mining - Govt of Gujarat.

Point No. III: Details of payment, if any made to Department of Geology & Mining, Govt. of Gujarat.

Proponent is regularly paying royalty of the dispatched mineral from mines.

Point No. IV: Validity of Mine Lease.

As per the Government File No. MCR-102016-568-Chh1, dated 5/4/2016 the validity period of the mining lease having an area of 11.33 ha located at Survey No. 78/5, N/V Ranavav, Tehsil: Ranavav, District: Porbandar, Gujarat of Sh. Deva Kara Bhutia under section 8 A of MMDR Act, 1957 as amended by MMDR Amendment Act, 2015 is under process at the Departmental level. Necessary document is hereby enclosed as **Annexure No. I.**

Point No. 5: Status of mine whether working or not.

Presently mine is not in operation. Affidavit has already been submitted along with the ToR application in hard copy at the time of TOR presentation.

Point No. 6: Details of past production of mines since its inception, duly authenticated by Department of Mines & Geology, Govt. of Gujarat.

The production certificate has been issued by the Mining Officer, Porbandar, Department of Geology and Mining, Govt. of Gujarat from the Year April 1994 till date. Enclosed as **Annexure No. II**

Point No. 7 : NBWL Permission for Barda Wild Life Sanctuary

The application for the NBWL permission has been submitted to the Deputy Forest Officer, Porbandar and presently is under process. Attached as **Annexure - III**

Point No. 8 : Permission from DGMS (Directorate-General of Mines Safety) for State Highway 27.

Permission will be applied from DGMS for State Highway and will be submitted. Further, as per approved mining Plan **No blasting** will be done during mining operation.

On the basis of above said compliances I request you to please consider the same for the grant of ToR.

Thanking You

Your's faithfully



Deva Kara Bhutia

Annex - R - XVIII

Minutes of 15th meeting of Expert Appraisal Committee for the proposal involving violation of EIA Notification, 2006 to be held on 27th-29th November, 2018 at Conference Hall (Indus), Ground Floor, Jal Wing, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi - 110 003

Day 1: Tuesday, 27th November, 2018

Time: 10:00 AM

15.1. Opening remarks of the Chairman

15.2. Confirmation of the minutes of the 14th meeting held on 22th -24th October, 2018 at Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi

15.3. Consideration of proposals

S.NO	Proposals
15.3.1	Residential Building Project "Kent Hall Garden" at Sy. Nos. 135/2, 138 and 226/1 of Village Elamkulam, Taluk Kanayannur, District Ernakulam (Kerala) by M/s Kent Constructions Pvt. Ltd. - Further consideration of Terms of Reference. [Old Proposal No. IA/KL/NCP/65726/2017] [IA/KL/NCP/67123/2017] [F.No.23-92/2018-IA.III (V)]
15.3.1.1	M/s Kent Constructions Pvt. Ltd. has made online application vide proposal no. IA/KL/NCP/67123/2017 seeking Term of References for the above mentioned proposed project. The proposed project activity is covered under 'B' category of item 8(a) of the Schedule to the EIA Notification, 2006.
15.3.1.2	<p>Details of the project as per the submission of project proponent:</p> <p>The project involves construction of residential building by M/s Kent Constructions Pvt Ltd with total built up area of 29,687.51 sqm in total plot area of 237226.72 sqm at Sy. Nos.135/2, 138 and 226/1 of Village Elamkulam, Taluk Kanayannur, District Ernakulam (Kerala).</p> <p>M/s Kent constructions Pvt Ltd was granted building permit for construction of residential apartments comprising of 2 towers at Sy. Nos.138 and 226/1 of Village Elamkulam, Taluk Kanayannur, District Ernakulam by the Cochin Corporation. The project proponent unaware of the EIA Notification, 2006, started the construction of this project after obtaining following statutory approvals.</p> <p>(i) Building Permit from Cochin Corporation dated 22/8/2006.</p> <p>(ii) Consent to Establish from Kerala State Pollution Control Board dated 29.03.2011.</p> <p>(iii) NOC from Fire and rescue services, Govt. of Kerala.</p> <p>(iv) Height clearance approval from Southern naval Command.</p> <p>The said project/activity is covered under category B of item 8(a) of the Schedule to the EIA Notification, 2006, and requires prior EC from the SEIAA in Kerala based on the appraisal by SEAC. Due to non-existence of SEIAA/SEAC in Kerala, the proposal was appraised at central level in the Ministry.</p> <p>The construction was reported to be started in August, 2006 and completed on 18th June, 2010 in December, 2012 without obtaining the prior EC. Now the proposal has been submitted for</p>

	consideration in pursuance of the Ministry's Notification dated 14 th March, 2017 due to violation of the EIA Notification, 2006.
15.3.1.3	<p>Above proposal was considered in 6th meeting held during 20.04.2018 wherein the EAC, after deliberations, observed that many of the proceedings related to consideration of the proposal were not informed in letter and spirit. The project proponent was asked to submit the complete details in the format for further consideration of the proposal.</p> <p>The proposal was, therefore, not taken forward.</p>
15.3.1.4	<p>Observations and recommendations of committee:</p> <p>The EAC, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, confirmed the case to be of violation of the EIA Notification, 2006 and recommended for the following:</p> <p>(i) The State Government/SPCB to take action against the project proponent under the provisions of section 19 of the Environment (Protection) Act, 1986, and further no consent to operate or occupancy certificate to be issued till the project is granted EC.</p> <p>(ii) Grant of Terms of Reference for undertaking EIA and preparation of Environment Management Plan (EMP) as enumerated in Annexure.</p> <p>(iii) Assessment of ecological damage with respect to air, water, land and other environmental attributes. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited by NABL, or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment.</p> <p>(iv) Preparation of EMP comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation.</p> <p>(v) The remediation plan and the natural and community resource augmentation plan to be prepared as an independent chapter in the EIA report by the accredited consultants.</p> <p>(vi) The project proponent shall be required to submit a bank guarantee equivalent to the amount of remediation plan and natural and community resource augmentation plan with the SPCB prior to the grant of EC. The quantum shall be recommended by the SEAC and finalized by the concerned regulatory authority. The bank guarantee shall be released after successful implementation of the EMP, followed by recommendations of the SEAC and approval of the concerned regulatory authority.</p> <p>(vii) Detailed water balance statement to be submitted along with EIA/EMP report.</p>
15.3.2	<p>Proposed Synthetic Organic Chemical (Fine chemicals, Bulk drugs and Intermediates) manufacturing unit at plot no. F2 of MIDC, Chincholi, District Sholapur (Maharashtra) by M/s Challa Chlorides Pvt. Ltd. - Terms of Reference.</p> <p>[IA/MH/IND2/68692/2017 dated 12.09.2017] [F. No. 23-120/2018-IA.III (V)]</p>
15.3.2.1	<p>M/s Challa Chlorides Pvt. Ltd has made online application vide proposal no. IA/MH/IND2/68692/2017 dated 12.09.2017 seeking Term of References for the above mentioned proposed project. The proposed project activity is covered under item 5(f) of the Schedule to the EIA Notification, 2006.</p>

15.3.2.2	The project proponent requested to defer the project as they were unable to attend the 8 th EAC meeting (Violation) held on 13-14 th June 2018
15.3.2.3	<p>Observation:</p> <p>The proposal was again considered in this EAC meeting (Violation). Proponent attended the meeting and requested the committee to defer the proposal, as he was not ready with the presentation. Hence, the proposal was deferred on request of project proponent.</p>
15.3.3	<p>Expansion of Leela Hotel at Diplomatic Enclave, Africa Avenue, Netaji Nagar, Chanakyapuri, New Delhi by M/s Hotel Leela Venture Ltd. - Terms of Reference.</p> <p>[IA/DL/NCP/67057/2017 dated 31.07.2017] [F. No. 23-96/2018-IA.III (V)]</p>
15.3.3.1	M/s Hotel Leela Venture Ltd. has made online application vide proposal no. IA/DL/NCP/67057/2017 dated 31.07.2017 seeking Term of References for the above mentioned proposed project. The proposed project activity is covered under 'B' category of item 8(a) of the Schedule to the EIA Notification, 2006.
15.3.3.2	<p>Details of the project as per the submission of project proponent:</p> <p>M/s Hotel Leela venture Ltd. has enhanced the Built-up Area of Leela Hotel at Diplomatic Enclave, Africa Avenue, Netaji Nagar, Chanakyapuri, New Delhi-110023. The project has been developed on the total plot area of 12,140 m². The total built up area has been enhanced to 62,985.83 m². The development is done in accordance with Delhi Building Bye Laws, 1983.</p> <p>M/s Hotel Leela venture Ltd. has been allotted the land vide allotment cum conveyance Deed Registration no. 3682 dated 04.04.2008. The project is currently in operational phase.</p> <p>The project has been granted Consent to Establishment (CTE) by Delhi Pollution Control Committee (DPCC) vide Consent Order No. DPCC/CMC/2009/19968 dated 31/03/2009.</p> <p>The project has been granted Consent to Operate (CTO) by Delhi Pollution Control Committee vide Certificate No. O-014412 dated 10.12.2010. The CTO was renewed vide Certificate No. O-021814 dated 31.01.2014. The application for renewal of CTO has been submitted to DPCC on 20-09-2018. The Leela Palace Hotel has also been granted Platinum Rating in Indian Green Building Rating System by Indian Green Building Council. The Project is designated under Category "B" and falls under Item 8(a) (Building & Construction) of the Environmental Impact Assessment (EIA) Notification of September 14, 2006 and its amendments.</p>
15.3.3.3	The Proposal was earlier listed for Term of Reference in 7 th Meeting scheduled on 17.05.2018 the proponent has not attended the meeting and therefore was deferred.
15.3.3.4	<p>Observations and recommendations of committee:</p> <p>The EAC, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, confirmed the case to be of violation of the EIA Notification, 2006 and recommended for the following:</p> <p>(i) The State Government/SPCB to take action against the project proponent under the provisions of section 19 of the Environment (Protection) Act, 1986, and further no consent to operate or occupancy certificate to be issued till the project is granted EC.</p> <p>(ii) Grant of Terms of Reference for undertaking EIA and preparation of Environment Management Plan (EMP) as enumerated in Annexure.</p> <p>(iii) Assessment of ecological damage with respect to air, water, land and other environmental attributes. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited</p>

	<p>by NABL, or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment.</p> <p>(iv) Preparation of EMP comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation.</p> <p>(v) The remediation plan and the natural and community resource augmentation plan to be prepared as an independent chapter in the EIA report by the accredited consultants.</p> <p>(vi) The project proponent shall be required to submit a bank guarantee equivalent to the amount of remediation plan and natural and community resource augmentation plan with the SPCB prior to the grant of EC. The quantum shall be recommended by the SEAC and finalized by the concerned regulatory authority. The bank guarantee shall be released after successful implementation of the EMP, followed by recommendations of the SEAC and approval of the concerned regulatory authority.</p> <p>(vii) Certified compliance report of earlier EC to be submitted.</p> <p>(viii) Certificate from Chief Wildlife Warden that the distance from the project site to Okhla Bird Sanctuary and Asola Wildlife Sanctuary.</p>
15.3.4	<p>Manufacturing MS bars, MS angles, Flts, Fe-Mn & Si-Mn ferroalloys at Jambad P.O. Udanbad, District Giridih (Jharkhand) M/s Shivam Iron & steel Co, Ltd. - Further consideration for Terms of Reference.</p> <p>[IA/JH/IND/74090/2018 dated 09.04.2018] [F. No. 23-140/2018-IA.III (V)]</p>
15.3.4.1	<p>M/s Shivam Iron & steel Co, Ltd. has made online application vide proposal no. IA/JH/IND/74090/2018 dated 09.04.2018 seeking Term of References for the above mentioned proposed project. The proposed project activity is listed at 3(a) Metallurgical industries (ferrous & non ferrous) of EIA Notification, 2006 and the proposal was appraised at Central level.</p>
15.3.4.2	<p>Details of the project as per the submission of project proponent:</p> <p>The project involves manufacturing of TMT rods 27,000 TPA, Ferro alloys 37,400 TPA & producer gas of production capacity 8,000 Nm³/hr by M/s Shivam Iron & Steel co. Ltd in an area of 15,36,954 sqm, village - Jambad, Taluka/Mandal - Udanabad, District - Giridih, Jharkhand. The said project is covered under category A of item 3(a) of the Schedule to the EIA Notification, 2006, and requires prior EC from the MoEF&CC based on the appraisal by Expert Appraisal Committee.</p> <p>The plant/unit was earlier set up with the consent to establish dated from the State Pollution Control Board. Subsequently, the unit is reported to be in operation with consent to operate renewed from time to time by the SPCB. The chronology of events for seeking EC, deliberations by the respective authorities and the actions taken are reported to be as under:</p> <ol style="list-style-type: none"> 1) CTO -175 (C), dated 27.1.2015 from JSPCB for 170 TPD billet renewed up to 30.9.2017 1x7 TIF of capacity 16,000 TPA has been set up there after without NOC/EC 2) CTE B-2743, dated 28.04.2016 from JSPCB for 27,000 TPA Rolling mill running without CTO again capacity has been increased to 54,000 TPA with introduction of CCM and abolition of heating furnace. 3) EC has been taken vide J-11011/365/2009-IA II (I), dated 29.10.2010 but 4x6 MVA ferro alloy plant have been installed and producing Fe-Mn, Si-Mn & Fe-Cr. 4) CTO D-176 (C), dated 27.01.2015 from JSPCB for 50 TPD IF has not been in operation 5) NOC taken vide T-3865, dated 7.09.2000 for 15 TPD section mill renewed up to 30.09.2015 but there after not renewed and mean while capacity has been increased to 120 TPD.

	<p>6). 1x60 TPD sheet Re-rolling mill is running to manufacture MS and GI pipes without EC</p> <p>7) Without EC 8,000 Nm³/hr Coal gasifier is running for Re-rolling mill without EC.</p> <p>Now proposal has been submitted to the ministry for consideration in pursuance of the Ministry's Notification dated 14th March, 2017 due to violation of the EIA notification, 2006.</p>
15.3.4.3	<p>Above proposal was considered in 8th meeting held during 14.06.2018 wherein the EAC, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, the committee observed that proponent has not submitted detailed chronological events of proposal for establishing violation. Hence proposal was deferred.</p>
15.3.4.4	<p>Observation of the committee:</p> <p>Committee advised submit revised Form-1 application and accordingly PP submitted the revised Form-1 with following changes.</p> <p>The project involves manufacturing of TMT rods 54000 TPA TMT ,40000TPA section mill, 37,400TPA Ferro alloys, 20000 MS Metal sheets ,8000Nm³ /hr Coal Gasfire, 800 TPA Jigging Plant and 6400 TPA Coal Crusher and 19200 TPA GIA Pipes by M/s Shivam Iron & Steel co. Ltd in an area of 9.5 ha, village - Jambad, Taluka/Mandal - Udanabad, District – Giridih, Jharkhand. The said project is covered under category A of item 3(a) of the Schedule to the EIA Notification, 2006, and requires prior EC from the MoEF&CC based on the appraisal by Expert Appraisal Committee.</p> <p>Recommendations of committee:</p> <p>The EAC, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, confirmed the case to be of violation of the EIA Notification, 2006 and recommended for issuing Standard Term of Reference along with the following specific Term of Reference for undertaking EIA and preparation of Environment Management Plan (EMP): -</p> <p>(i) The State Government/SPCB to take action against the project proponent under the provisions of section 19 of the Environment (Protection) Act, 1986, and further no consent to operate or occupancy certificate to be issued till the project is granted EC.</p> <p>(ii) The project proponent shall be required to submit a bank guarantee equivalent to the amount of remediation plan and natural and community resource augmentation plan with the SPCB prior to the grant of EC. The quantum shall be recommended by the EAC and finalized by the regulatory authority. The bank guarantee shall be released after successful implementation of the EMP, followed by recommendations of the EAC and approval of the regulatory authority.</p> <p>(iii) Assessment of ecological damage with respect to air, water, land and other environmental attributes. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited by NABL, or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment.</p> <p>(iv) Preparation of EMP comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation.</p> <p>(v) The remediation plan and the natural and community resource augmentation plan to be prepared as an independent chapter in the EIA report by the accredited consultants.</p> <p>(vi) The PP is required to conduct public hearing as per EIA notification, 2006.</p> <p>(vii) Fresh one season base line data is to be collected.</p>

	<p>(viii) Fund allocation for Corporate Environment Responsibility (CER) shall be made as per Ministry's O.M. No. 22-65/2017-IA.III dated 1st May, 2018 for various activities therein. The details of fund allocation and activities for CER shall be incorporated in EIA/EMP report.</p> <p>(ix) Details of water balance statement .</p> <p>(x) Detailed process flow diagram.</p> <p>(xi) Details about pollution control equipment and mass balance statement.</p> <p>(xii) Detailed Hydro geological study as per the GEC-2015 guidelines.</p>
15.3.5	<p>M/s Shivam Iron & Steel Co. Ltd at BandiDighu, P.O. Chandwara, Jhumritelalya, District Koderma (Jharkhand) - Further consideration for Terms of Reference.</p> <p>[IA/JH/IND/74132/2018 dated 10.04.2018] [F. No. 23-142/2018-IA.III (V)]</p>
15.3.5.1	<p>M/s Shivam Iron & steel Co, Ltd. has made online application vide proposal no. IA/JH/IND/74132/2018 dated 10.04.2018 seeking Term of References for the above mentioned proposed project. The proposed project activity is listed at 3(a) Metallurgical industries (ferrous & non ferrous) of EIA Notification, 2006 and the proposal was appraised at Central level.</p>
15.3.5.2	<p>Details of the project as per the submission of project proponent:</p> <p>The project involves manufacturing 3 X 100 TPD DRI Kiln by M/s Shivam Iron & Steel co. ltd in an area of 9.26 ha at village- Bandi Dighu, Taluka/Mandal – Jhumri Telaiya, District – Koderma, Jharkhand.</p> <p>The said project is covered under category A of item 3(a) of the Schedule to the EIA Notification, 2006, and requires prior EC from the MoEF&CC based on the appraisal by Expert Appraisal Committee.</p> <p>Consent to Establish vide letter no B-1566 dated 30.06.2001 and Letter no N/461 dated 03.08.2005 have been obtained for 3 x 100 TPD DRI Kilns. 2X100 TPD DRI Kilns are in operation with CTO valid till 30.06.2018.</p> <p>The erection of the 3rd 100 TPD DRI kiln started late and completed by 25.01.2014. The company applied CTO for the 3rd Kiln which was denied by the Technical committee of JSPCB on 24.04.2014 and it was decided not to consider CTO as the validity of CTE was not extended beyond 30.02.2006. The committee opines that first the issue of revalidation of NOC, N-461 dated 03.08.2006 is to be considered as per law and decision w.r.t disposal of CTO application is to be taken. It is accepted that construction has been done without renewal of CTE per EIA notification, 2006.</p> <p>Now the proposal has been submitted to the Ministry for consideration in pursuance of the Ministry's Notification dated 14th March, 2017 due to violation of the EIA Notification, 2006.</p>
15.3.5.3	<p>Above proposal was considered in 8th meeting held during 14.06.2018 wherein the EAC, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, the committee observed that proponent has not submitted detailed chronological events of proposal for establishing violation. Hence proposal was deferred.</p>
15.3.5.4	<p>Observations and recommendations of committee:</p> <p>The EAC, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, confirmed the case to be of violation of the EIA Notification, 2006 and recommended for Issuing Standard Term of Reference along with the following specific Term of Reference for undertaking EIA and preparation of Environment Management Plan (EMP): -</p>

	<p>(i) The State Government/SPCB to take action against the project proponent under the provisions of section 19 of the Environment (Protection) Act, 1986, and further no consent to operate or occupancy certificate to be issued till the project is granted EC.</p> <p>(ii) The project proponent shall be required to submit a bank guarantee equivalent to the amount of remediation plan and natural and community resource augmentation plan with the SPCB prior to the grant of EC. The quantum shall be recommended by the EAC and finalized by the regulatory authority. The bank guarantee shall be released after successful implementation of the EMP, followed by recommendations of the EAC and approval of the regulatory authority.</p> <p>(iii) Assessment of ecological damage with respect to air, water, land and other environmental attributes. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited by NABL, or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment.</p> <p>(iv) Preparation of EMP comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation.</p> <p>(v) The remediation plan and the natural and community resource augmentation plan to be prepared as an independent chapter in the EIA report by the accredited consultants.</p> <p>(vi) The PP is required to conduct public hearing as per EIA notification, 2006.</p> <p>(vii) Fresh one season base line data is to be collected.</p> <p>(viii) Fund allocation for Corporate Environment Responsibility (CER) shall be made as per Ministry's O.M. No. 22-65/2017-IA.III dated 1st May, 2018 for various activities therein. The details of fund allocation and activities for CER shall be incorporated in EIA/EMP report.</p> <p>(xi) Details of water balance statement</p> <p>(x) Detailed process flow diagram</p> <p>(xi) Details about pollution control equipment and mass balance statement</p> <p>(xii) Detailed Hydro geological study as per the GEC-2015 guidelines</p>
15.3.6	<p>Limestone mining project of an area of 11.33.00 Ha near village Ranavav, Survey No. 78/5, Taluka Ranavav, District Porbandar (Gujarat) by M/s Shri Devabhai K Bhutiya - Further consideration for Terms of Reference.</p> <p>[IA/GJ/MIN/64676/2017 dated 13.05.2017] [F. No. 23-150/2018-IA.III (V)]</p>
15.3.6.1	<p>M/s Shri Devabhai K Bhutiya has made online application vide proposal no. IA/GJ/MIN/64676/2017 dated 13.05.2017 seeking Term of References for the above mentioned proposed project. The proposed project activity is covered under 'A' category of item 1(a) of the Schedule to the EIA Notification, 2006 because Barda wildlife sanctuary is located at a distance of 2.5 Km, hence general condition is applicable and the proposal was appraised at Central level.</p>
15.3.6.2	<p>Details of the project as per the submission of project proponent:</p> <p>The project involves production of Limestone of production capacity 1,94,850 MTPA by Sh. Deva Kara Bhutiya in an area of 11.33 ha at, village: Ranavav, Tehsil Ranavav, District Porbandar, Gujarat. The said project/activity is covered under category A of item 1 (a) of the Schedule to the EIA Notification, 2006, because Barda wildlife sanctuary is located at a distance of 2.5 km, hence general condition is applicable and requires prior EC from the MoEF&CC based on the appraisal by Expert Appraisal Committee. Neither Consent to Establish nor Consent to Operate has been taken from the Gujarat State Pollution Control Board.</p>

	<p>The chronology of events for seeking EC, deliberations by the respective authorities and the actions taken are reported to be as under: -</p> <ul style="list-style-type: none"> • Application for EC was submitted to MoEF&CC 13/05/2017 • Appraisal by SEAC/EAC in its meetings :- Nil • Final observations/recommendations of the SEAC/ EAC :-Nil • Action taken by the State Government/SEIAA :- Nil • Complaint case filed by the State Government/State Pollution Control Board :- Nil • Further consideration of the proposal by the SEAC and recommendations :- Nil • Final recommendations of SEIAA :- Nil • Legal interventions, if any :- Nil <p>Now the proposal has been submitted to the Ministry for consideration in pursuance of the Ministry's Notification dated 14th March, 2017 due to violation of the EIA Notification, 2006.</p>
15.3.6.3	<p>Above proposal was considered in 10th meeting held during 11.07.2018 wherein the EAC, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, confirmed the case to be of violation of the EIA Notification, 2006 and recommended to defer the proposal for want of following information from project proponent:</p> <p>(i) LOI/mine lease (second renewal) along with the valid documentary proof from the state department of Mines and Geology.</p> <p>(ii) Details of past production of mine since its inception duly authenticated by Department of Mines & Geology, State Government.</p> <p>(iii) Wild life clearance status.</p> <p>(iv) Permission from DGMS as state highway (SH-27) is passing through mine lease area.</p> <p>(v) Affidavit to be submitted regarding no drilling and blasting at the project site.</p> <p>(vi) Documents related to mining lease transfer.</p> <p>(vii) To submit the KML/Shape Files of the mine lease area at the time of presentation before EAC.</p>
15.3.6.4	<p>Observations and recommendations of committee:</p> <p>The project proponent could not submit the required documents and hence, requested to defer the proposal.</p>
15.3.7	<p>Limestone Mining Project with lease area of 12.14 Ha. at Survey No. 78/5 (Govt. Waste Land) and production capacity of 2,85,500 TPA. Near village Ranavav, Taluka Porbandar District Porbandar (Gujarat) by M/s Shri Udaysinh M. Jethwa - Further consideration for Terms of Reference</p> <p>[IA/GJ/MIN/64678/2017 dated 13.05.2017] [F. No. 23-165/2018-IA.III (V)]</p>
15.3.7.1	<p>M/s Shri Udaysinh M. Jethwa has made online application vide proposal no. IA/GJ/MIN/64678/2017 dated 13.05.2017 seeking Term of References for the above mentioned proposed project. The proposed project activity is covered under item 1(a) of the Schedule to the EIA Notification, 2006 and the proposal was appraised at Central level because general condition applies.</p>
15.3.7.2	<p>Details of the project as per the submission of project proponent:</p> <p>The project involves Mining of Limestone of production capacity 1,25,025 MTPA by Sh. Deva Kara Bhutiya (Power of Attorney Holder) of Sh. Uday Singh M. Jethwa in an area of 12.14 Ha at Village Ranavav, Tehsil Ranavav, District: Porbandar, Gujarat. The said project/activity is</p>

	<p>covered under category A of item 1 (a) of the Schedule to the EIA Notification, 2006, and requires prior EC from the MoEF&CC based on the appraisal by Expert Appraisal Committee. Neither Consent to Establish nor Consent to Operate has been taken from the Gujarat State Pollution Control Board.</p> <p>The chronology of events for seeking EC, deliberations by the respective authorities and the actions taken are reported to be as under: -</p> <ul style="list-style-type: none"> • Application for EC was submitted to MoEF&CC :- 13/05/2017 • Appraisal by SEAC/EAC in its meetings :- NA • Final observations/recommendations of the SEAC/ EAC :-NA • Action taken by the State Government/SEIAA :-NA • Complaint case filed by the State Government/State Pollution Control Board:- NA • Further consideration of the proposal by the SEAC and recommendations:- NA • Final recommendations of SEIAA :- NA • Legal interventions, if any: - NA. <p>Now the proposal has been submitted to the Ministry for consideration in pursuance of the Ministry's Notification dated 14th March, 2017 due to violation of the EIA Notification, 2006.</p>
15.3.7.3	<p>Above proposal was considered in 10th meeting held during 11.07.2018 wherein the EAC after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, confirmed the case to be of violation of the EIA Notification, 2006 and recommended to defer the proposal for want of following information from project proponent:</p> <p>(i) Submission of legal opinion of Power of Attorney.</p> <p>(ii) Details of past production of mine since its inception duly authenticated by Department of Mines & Geology, State Government.</p> <p>(iii) Status of wildlife clearance.</p> <p>(iv) Affidavit to be submitted regarding no drilling and blasting at project site.</p> <p>(v) Permission from the CGWA extraction of Ground water.</p> <p>(vi) Validity of LOI/mine lease along with the legible documentary proof.</p> <p>(vii) To submit the KML/Shape Files of the mine lease area at the time of presentation before EAC.</p>
15.3.7.4	<p>During the present meeting (15th EAC) the proponent submitted the following information:</p> <p>(i) Legal opinion on Power of Attorney.</p> <p>(ii) Details of past production certified by Mining Officer, Department of Geology and Mining, Government of Gujarat from the April, 1994 to till date.</p> <p>(iii) The application submitted to Deputy Forest Officer, Porbander for Wildlife Clearance as the Barda Wildlife Sanctuary is 1.73 km from the project site.</p> <p>(iv) Submitted affidavit regarding No Blasting to be done during mining operation.</p> <p>(v) Submitted lease validity document.</p>
15.3.7.5	<p>Observations and recommendations of committee:</p> <p>The EAC, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, confirmed the case to be of violation of the EIA Notification,</p>

	<p>2006 and recommended for issuing Standard Term of Reference along with the following specific Term of Reference for undertaking EIA and preparation of Environmental Management Plan (EMP):</p> <p>(i) The State Government/SPCB to take action against the project proponent under the provisions of section 19 of the Environment (Protection) Act, 1986, and further no consent to operate to be issued till the project is granted EC.</p> <p>(ii) The project proponent shall be required to submit a bank guarantee equivalent to the amount of remediation plan and natural and community resource augmentation plan with the SPCB prior to the grant of EC. The quantum shall be recommended by the EAC and finalized by the regulatory authority. The bank guarantee shall be released after successful implementation of the EMP, followed by recommendations of the EAC and approval of the regulatory authority.</p> <p>(iii) Assessment of ecological damage with respect to air, water, land and other environmental attributes. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited by NABL, or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment.</p> <p>(iv) Preparation of EMP comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation.</p> <p>(v) The remediation plan and the natural and community resource augmentation plan to be prepared as an independent chapter in the EIA report by the accredited consultants.</p> <p>(vi) Public Hearing (PH) to be conducted.</p> <p>(vii) Three months Baseline data to be collected.</p> <p>(viii) To submit the lease sketch/ lease co-ordinates approved by DMG, at the time of presentation before EAC for EC</p> <p>(ix) Fund allocation for Corporate Environment Responsibility (CER) shall be made as per Ministry's O.M. No. 22-65/2017-IA.III dated 1st May, 2018 for various activities therein. The details of fund allocation and activities for CER shall be incorporated in EIA/EMP report.</p> <p>(x) Detailed hydrological study to be carried out in core and buffer zone of the project as per recent GEC guidelines 2015.</p> <p>(xi) Letter from state government that the lease holder has not carried out any mining activity beyond the lease boundary.</p> <p>(xii) Certificate from Chief Wildlife Warden that the mining lease is located outside the ESZ boundary of Barda Wildlife Sanctuary.</p> <p>(xiii) Certificate from local DFO that no forest land is involved in mining lease area.</p> <p>(xiv) Submission of report in tabular form regarding issues raised during public hearing and commitment made by the PP.</p> <p>(xv) Permission from the CGWA extraction of Ground water.</p>
15.3.8	<p>Existing and proposed expansion of cosmaceutical, active pharmaceuticals and specialty chemicals manufacturing unit at Plot No. 36A/B/60/62/63/64/65 and 83 & 84, KIADB Industrial Area, Jigani village, Anekal Taluk, District Bengaluru (Karnataka) by M/s Kumar Organic Products Ltd. - Further consideration.</p> <p>[Old Proposal No. IA/KA/IND2/64539/2016 dated 06.05.2017] [IA/KA/IND2/67915/2017] [F. No. 23-47/2018-IA.III]</p>
15.3.8.1	<p>Details of the project as per the submission of project proponent</p>

	<p>The project involves manufacturing of cosmaceutical, active pharmaceuticals and specialty chemicals by M/s Kumar Organic Products Ltd (KOPL) at Plot No. 36A/B/60/62/63/64/65 and 83 & 84, KIADB Industrial Area, Jigani village, Anekal Taluk, District Bengaluru (Karnataka). The said project/activity is covered under category B of item 5(f) of the schedule to the EIA Notification, 2006, and requires prior EC from the SEIAA based on the appraisal by State Expert Appraisal Committee in Karnataka.</p> <p>The chronology of events for seeking EC, deliberations by the respective authorities and the actions taken are reported to be as under:-</p> <ul style="list-style-type: none"> • Application for EC was submitted to SEAC/SEIAA, Karnataka:- 7/4/2017 • Appraisal by SEAC in its meetings:- 19/4/2017 • Final observations/recommendations of the SEAC to the SEIAA/State Government: - SEAC in its meeting held on 19/4/2017, noted that the industry has gone for expansion in 2011 without obtaining prior EC, and also without consent to establish/operate. During the meeting, the proponent agreed the proposal involving violation of the EIA Notification, 2006. • Action taken by the State Government/SEIAA: - SEIAA in its 135th meeting held on 26-27 April, 2017 asked the project proponent to obtain EC in pursuance of the Ministry's Notification dated 14th March, 2017 due to violation of the EIA Notification, 2006. <p>The proposal was submitted to the Ministry for consideration in pursuance of the Ministry's Notification dated 14th March, 2017 due to violation of the EIA Notification, 2006.</p>
15.3.8.2	<p>Above proposal was considered in 4th & 6th EAC meeting wherein the EAC, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, confirmed the case to be of violation of the EIA Notification, 2006 and recommended for the grant of ToR.</p>
15.3.8.3	<p>KOPL has appealed to MoEF&CC to reconsider and requested EAC to absolve case of violation against the existing operations at plot 62 and plot 60/65 based on following facts:</p> <p>Appeal to absolve the case with regards to Plot 60 & 65:</p> <ul style="list-style-type: none"> • The existing facilities located on plot 65 are consented to produce Triclosan, Beta Arbutin and Noxide with a total consented capacity of 100.32 TPM in 2006. The facility has been adopting various environmental management programs and achieving highest environmental quality standards in the facility. Since the overall project cost is less than Rs 50 Cr, the facility did not attract the EIA Notification 1994. This also did not attract EIA Notification 2006 notification as the facility has obtained CFE before EIA notification 2006. Although the facility was consented to produce 100.32 TPM, the actual production capacity never exceeded 51 TPM. • The facility has obtained consent to establish and consent to operate for 100.32 TPM in 2007 with addition of new product 2,5, Dimethyl Indanone for which the consent to establish prior to EIA Notification 2006. Since the project cost is less than Rs. 5 Cr and the proposal was obtained consent to establish prior to EIA Notification 2006, this expansion proposal doesn't fall under EIA Notification 2006. • Further the production capacity was reduced from 100.32 TPM to 100.08 TPM in 2010, however new products Kopirox and Synovia are added, for which the necessary consent from KSPCB was obtained. Although there is a change in product mix scenario in 2010,

	<p>for which necessary consent was already issued by KSPCB, the overall consented production is below 2006 consent levels. As per the MoEF&CC circular dated 14th December 2006, the production mix change that was envisaged in 2010 was a permitted activity.</p> <ul style="list-style-type: none"> The actual production throughput from the facility never exceeded more than 50% of the consented valued since 2006 to till date. Therefore the overall wastewater generation and pollution load from the facility far below the consented values and hence the possible environmental impacts are insignificant. Water and wastewater generation quantities are maintained within the consented levels. <p>•</p> <p>Appeal to absolve the case with regards to Plot 62:</p> <ul style="list-style-type: none"> The existing facilities located on plot 62 has a consented capacity of 41 TPM until 2010 for which the consent for establish and consent for operation has been granted by KSPCB from time. Since the overall project cost is less than Rs. 5 Cr, the facility did not attract the EIA Notification 1994. This also didn't attract EIA Notification 2006 as the facility has obtained CFE before EIA Notification 2006 and interim guidelines and also circular dated 13th October 2006 issued by MoEF&CC. Based on the market demand, KOPL has adopted product mix change scenario in the year 2010. Among the products that were consented prior to the year EIA Notification 2006, the following products C-16 Aldehyde, Allyl Caproate and Rose Oxide were dropped and the following new products N-Oxide, Carageenan, Indanone, Ascorbyl Palmitate and Stenol were added to the list for which necessary consent from KSPCB was obtained. As per the MoEF&CC circular dated 14th December 2006, the production mix change that was envisaged in 2010 was a permitted activity. Although the consented production capacity was marginally increased from 41 TPM to 42.4 TPM in 2010 by adopting product mix-change as stated above for which necessary consent for establish and consent for operation were obtained by KSPCB, the overall production capacity has never exceeded the consented level of 2006 (41 TPM). Based on this, it is derived that the emissions and discharges from the facility are maintained within the consented levels of 2006. In addition to this, the products such Carageenan and Stenol are herbal extract based products and these products were never manufactured. Therefore these products don't fall under synthetic organic industry category. Therefore the increase in consented product quantities will not attract the EIA Notification 2006. Based on this information, KOPL appeals to MoEF&CC and concerned authorities that the current proposal doesn't fall under violation case. Although there is a change in product mix scenario in 2010, for which necessary consent was already issued by KSPCB, the overall consented production has never exceeded the 2006 consent levels. These products are environmental friendly in nature. The actual production throughput from the facility never exceeded more than 85% of the consented valued since 2006 to till date. Therefore overall wastewater generation and pollution load from the facility is far below the consented values and hence the possible environmental impacts are insignificant. Water and wastewater generation quantities are maintained within the consented levels.
15.3.8.4	<p>The Committee after detailed deliberations, observed the following:</p> <ol style="list-style-type: none"> The SEAC, Karnataka in its 135th meeting noted that: <p>“Industry has gone for expansion in 2011 and that the list of chemicals and drugs being manufactured, are required to obtain prior environmental clearance as per EIA</p>

	<p>Notification, 2006 and that they have not obtained CFE from KSPCB. In this regard, the SEAC has taken a decision to report the violation to SEIAA to initiate necessary action. Accordingly, the SEIAA had issued direction on 14.12.2016 under Section 5 of the Environment (Protection) Act, 1985. Hence, the proposal is placed again before the SEAC's meeting held on 19.04.2017 for further direction wherein, the proponent has agreed that the proposal is a violation of EIA Notification, 2006. The SEAC after discussion, decided to forward the proposal to SEIAA for further necessary action as per the Ministry's Notification 804 (E) dated 14.03.2017.</p> <p>The SEIAA perused the details and opined that as it is a case of violation, the proposal require Environmental Clearance from MoEF&CC, Gol as per Notification 804 (E) dated 14.03.2017."</p> <ol style="list-style-type: none"> 2. The EAC (Violation) has also noted that the KSPCB while considering the application for renewal for consent to operate vide letter No. PCB/175/HPI/2017-18/68 dated 14.08.2018 observed that the Industry has been operating since 1993 without Environmental Clearance certificate. Hence, KSPCB directed the Industry to obtain the EC from the competent authority for all the products within three months and to submit the same to the Board. Accordingly, the KSPCB refused the renewal of consent to operate and directed the Industry to stop the discharge of emissions and effluents. 3. The Benerghata National Park is within 6 km from the proposed project. Hence, Wildlife Clearance is to be obtained from Ministry.
15.3.8.5	<p>Observations and recommendations of committee:</p> <p>In light of the facts brought out by PP during the presentation and also the above observations of the Committee, the EAC recommended the following:</p> <p>The violation had already been established by the SIEAA and KSPCB, and thereafter referred to the Ministry for consideration under the Notification SO 804 (E) dated 14.03.2017 and the same was considered in the 6th EAC meeting held on 20.04.2018 as per the provisions of the said Notification and recommended for issue of Terms of Reference. At this stage, the project proponent appealed to the Ministry to absolve the case of violation against the M/s Kumar Organic Product Ltd. Hence the Committee recommended that the project proponent may approach to SEIAA and KSPCB for appeal in this regard.</p>
<p>Day 2: Wednesday, 28th November, 2018, Time: 10:00 AM to 10:30 AM Discussion on draft minutes of Day 1 proposals</p>	
15.4.1	<p>Expansion of existing hospital project at Kadapra Village, Pathanamthitta, Kerala by M/s St. Gregorios International Cancer Care Centre - Further consideration for Environmental Clearance [IA/KL/NCP/70240/2017 dated 25.08.2018] [F. No. 23-65/2018-IA.III]</p>
15.4.1.1	<p>M/s St. Gregorios International Cancer Care Centre has made online application vide proposal no. [IA/KL/NCP/70240/2017 dated 25.08.2018] [F. No. 23-65/2018-IA.III] seeking Environmental Clearance for the above mentioned proposed project. The Project activity covered under item of Schedule of Category 8(a) of EIA Notification, 2006.</p>
15.4.1.2	<p>Details of the project as per the submission of project proponent:</p> <ol style="list-style-type: none"> 1. Project title, location (plot No./ Village/ Tehsil/ District):- Environmental Clearance for Expansion of existing Hospital Project of M/s St. Gregorios International Cancer Care Centre at Sy. Nos. 286/2, 286/3, 286/16, Kadapra Village & Panchayat, Thiruvalla Taluk, Pathanamthitta District, Kerala

2. Salient features of the project

- Land use pattern/ Total plot area/ built up area :- Land use pattern = As per the revenue records, the land is a "Purayidam" land which can be used for residential as well as Institutional/commercial land use. Total Plot area – 3.6295 ha. Total Built-up area – 38,123.48 sq.m.
- Total water requirement and its source :- The total daily water consumption for the proposed project would be about 428 KLD (fresh water = 219 KL + Recycled water = 209 KL). The sources of water during operation phase for the project are :-
 - Stored Rain water in tanks (Non-flushing req.) (Rainy days) – Concurrent use.
 - Kerala Water Authority / Well water - (Non-flushing req.) (Non-rainy days)
 - Treated waste water from STP (Flushing Req.) (Entire year).
- Waste water generation, treatment and disposal: - The domestic sewage will be about 214 KLD which will be treated through Sewage Treatment Plant within the project premises. The treated water from STP will be used for flushing, horticulture & make-up water for cooling towers attached with HVAC plant. Also, the treated effluent of 16 KLD from the ETP would be reuse within the site.
- Municipal solid waste generated disposal facility :- Solid Waste Management
 - The Solid Waste Management Rules, 2016 will be followed in the solid waste disposal.
 - Collection & segregation within the site (bio-degradable waste (green bins), non-biodegradable waste (blue bins) and domestic hazardous waste (yellow bins).
 - The recyclable waste like packaging material, paper etc. would be sold through vendors and the area earmarked for the storage of the same.
 - The Bio-degradable waste would be disposed through the Bio-gas generation plan / bio-bin system to be installed within the site.
 - The manure generated will be utilized for green area development within the premises.
 - The domestic hazardous waste which includes discarded painted drums, pesticide cans, CFL bulbs, tube lights, used batteries etc. generated and will be collected in yellow bins and to be handed over to authorized waste pickers or waste collectors

Disposal of non-biodegradable waste

- Paper related recyclable materials are sold to vendors within the vicinity of the site.
- Other recyclable material like broken glasses, utensils etc. are sold to approved vendors.

Bio-medical Wastes:

- Bio-medical waste like infectious beddings, cotton, swabs, used syringes, discarded medicines, etc. constitute the bio-medical waste from the hospital.
- Bio-medical waste Management & Handling Rules, 2016 will be followed.
- Collection & segregation at source by providing appropriate colour coded bins / containers as per the colour coding provided in the Bio-Medical Waste (Management & Handling) Rules. The Bio-medical waste from the hospital would be outsourced through a Kerala State Pollution Control Board authorized agency (M/s Indian Medical Association Goes Eco Friendly, IMAGE).

Radio active waste management :

The use of unsealed radioisotopes regularly gives rise to radioactive waste, which has to be disposed of in a responsible and safe manner. The waste may include residual amounts of the original radionuclide, disposable containers (vials, syringes etc.) partially decayed or surplus unsealed sources.

- The radioactive waste should be segregated from the non-active waste. Lead lined waste bins with polythene linings should be used for collecting solid radioactive waste and Vials for liquid waste.
- When both lived nuclide and longer lived one are used, separate waste collection bins and storage bags should be provided for the two categories of radionuclide.

- The disposal procedures are based on the following principles.
- Dilute and dispersion for low level radioactive waste: - low activity short lived radioactive waste may be disposed off into the sewage system with adequate flushing with water.
- Delay and decay for short lived radio isotopes – waste containing short lived isotopes such as from isotope generator may stored in a special made RCC pit and release as general waste.

All the radiation safety guidelines of Atomic Energy Regulatory Board (AERB) Bhabha Atomic Research Centre (BARC) with regard to the disposal of radio active waste would be followed. A radiation safety office will be employed to ensure the radiation safety guidelines.

Hazardous waste

The hazardous wastes generated from the project site include waste oil, used batteries etc. Waste oil will be sold off to authorized recyclers while there will be buy-back arrangements with the supplier for DG Set batteries. The list of authorized recyclers for the processing of the above waste are M/s Perfact Alloys, Chengannur, M/s Peejay Enterprises, Thripunithura, M/s Excel Petrochemicals, Kochi. M/s Cee Jee Lubricants, Aluva. These companies are the approved recyclers for discarded batteries & used oil located in Kerala.

- Power requirement and source :- 3,00,000 kWh and supplied by Kerala State Electricity Board & D.G. sets (500 kVA x 4 nos.) (standby arrangement)
- Proposed energy saving measures :- By use of energy efficient lights, solar panels, solar street lights & by providing more open spaces the project would save about 22% energy.
- RWH :- The roof run-off from the site will be appropriately channelized to the storm water collection tank (2,200 KL total storage capacity) within the site and surface run-off will be connected to the external storm water drain available at site.
- Car parking :- 381 Cars + 480 two wheelers
- Investment/Cost of the project :- Rs. 96.10 Crores

Benefits of the project :- The proposed project is a hospital building project and thereby the living index of the people around the project site will definitely improve. Also there will be various ancillary activities like convenient shops, medical shop, food courts, and restaurants, transport facilities etc. attached to the project which will benefit the local people and change their living condition. Other benefits are :-

- Expansion of businesses with increased local spending on goods and services;
- An increase in business and community confidence in the continuing of prosperity for the project area;
- Financial contribution to the State government through the payment of taxes and duties thus enabling the State to invest in infrastructure development.
- The present project would provide better healthcare related facilities with supporting infrastructure facilities in the vicinity.
- Direct (about 500 nos.) and indirect employment (about 2,500 nos.) opportunities. The potential for employment and access to new services may draw people to the area around the project. There will be an increase in economic activity and employment for the local community, local skills development.
- Revenue (taxes) to the State & Central Government.
- The project proponent has carried out charity activities (Corporate Environment Responsibility) for on various developmental activities for the local community.
- Employment potential: - Direct (about 500 nos.) and indirect employment (about 2,500 nos.) opportunities.

	<p>3. Project/ activity covered under item of Schedule to the EIA Notification, 2006:- Project activity covered under item of Schedule of Category 8(a) of EIA Notification, 2006.</p> <p>4. Why appraisal/ approval is required at the Central level:- Since the tenure of SEIAA/SEAC, Kerala expired on 18/03/2018 and there was no duly constituted SEIAA/SEAC, Kerala at that time. Also, the earlier appraisal of the project was done in its 13th EAC meeting held on 18-09-2018, as per the MoEF direction further proceedings required at MoEF.</p> <p>5. National Park/ Wild Life Sanctuary in 10 km radius area:- None within the study area</p> <p>6. Eco-Sensitive Zone in 10 km radius area:- None within the study area</p> <p>7. Details of Forest land involved, if any:- None within the study area</p> <p>8. ToR Details :- The draft ToR was considered and approved by EAC in its 4th meeting held on 19th – 21st February, 2018 and the ToR letter was communicated to us by MoEF&CC vide letter dt. 19-04-2018.</p> <p>9. Details of Public Hearing and main issues raised/response of the PP:- No Public Hearing required for Construction projects</p> <p>10. If any court case pending for violation of the environmental laws (supported by an undertaking) :- No litigation pending and no violation of environmental laws.</p> <p>11. Land use planning:- The expansion project is within the existing hospital campus and the project site confirms the land use.</p> <p>12. Ground water withdrawal approval from CGWA:- As per the classification, the entire Pathanamthitta District declared as "Safe Zone" and permission is not required for ground water abstraction for domestic purposes.</p> <p>13. For other sources, firm commitment of the water supply agency:- Will be obtained.</p> <p>14. Undertaking to the effect that no activity has since been taken up :- Undertaking will be submitted during the appraisal.</p> <p>15. Appraisal by State Coastal Zone Management Authority (SCZMA) :- No approval from State Coastal Zone Management Authority is required as the project site is not attracting the CRZ Notification.</p> <p>16. Details of earlier EC, if any and compliance thereof:- Not applicable</p> <p>17. Details of earlier appraisal by EAC/ SEAC; observation and compliance:-</p> <p><u>1st time appraisal for ToR</u> The draft ToR was considered and approved by EAC in its 4th meeting held on 19th- 21st February, 2018 and the ToR letter was communicated to us by MoEF&CC vide letter dt. 19-04-2018.</p> <p><u>1st time appraisal for EC</u> 1st time appraisal by EAC for EC - 13th EAC meeting held on 18-09-2018 and reply to the queries raised by EAC was submitted through online on 02-11-2018.</p>
15.4.1.3	<p>Above proposal was considered in 13th meeting held during 18.09.2018 for EC wherein Technical presentation was made by the project proponent and the EAC <i>deferred</i> the proposal because of following short fall while appraising the project:</p> <ol style="list-style-type: none"> 1. Damage assessment computed by the PP is found to be inadequate in the areas like water, social economic and energy conservation. Proper damage assessment is to be submitted in the revised EIA report covering all the environmental attributes along with revised natural /community augmentation plan. 2. Remediation plan to be revised with a cost of Rs. Sixty lakhs.

- 3. In the case of land use/land cover the PP has cleared 56 trees prior to site preparation and has not planted trees as per MOEF guideline of one tree per 80 sqm and hence the PP needs to planted 1010 trees, which is to be included in the revised EIA report.
- 4. Compliance report as per EC BC 2017 shall be submitted.
- 5. Base line health status to be submitted.
- 6. Effluent from ETP shall be discharged into municipal sewage line with prior permission and there not to be used for any purpose within the hospital premises.

15.4.1.4

Observations and recommendations of committee:

The project proponent along with consultant made a detailed presentation in the present meeting (15th EAC meeting) on the additional information sought during the 13th EAC meeting held on 18.09.2018.

The Committee after detailed deliberations, sought the following additional information:

- (i) Revised budgetary estimation of remediation plan for implementation within a period of three years.
- (ii) Rain water harvesting details
- (iii) Details of green development plan along with budgetary allocation.
- (iv) Revised CER along with activities, timelines and budgetary requirement.
- (v) Details of Solar plant installation @ rate of 1% of total demand.

The project proponent has submitted above details after the meeting and based on the above information furnished by the project proponent, the Committee recommended the proposal for grant of Environmental Clearance subject to the following specific conditions in addition to all standard conditions applicable for such projects:

- I. EAC recommended for an amount of Rs. 29,70,000/- towards Remediation plan (Rs. 50,000/- and Rs. 32,75,000/- towards Natural and Community Resource Augmentation plan to be spend within a span of three years. The details are given below:

> Remediation plan & budgetary provisions

Sr. No.	Particulars	Revised Budget Allocation (In Rs.)
1.	Air Environment	<p>1. The dust suppression and water sprinkling system consists of water sprinkler nozzles (about ½ dozen @ Rs. 1,000 per nozzle i.e. Rs. 6,000), Online twin filtration system (Rs. 15,000), Booster pump (1 HP (@ Rs. 10,000)) ,Water distribution pipeline (LS Rs. 10,000) and water storage tank (5,000 ltr @ Rs. 25,000.). Labour cost of Rs. 10,000. The total cost on water sprinkling and dust suppression system is Rs. 76,000</p> <p>2. Wind breakers / barricades in the periphery of project site (3 m. height GI sheet) (Rs. 1,00,000).</p>

			<p>3. Vehicle check up camp (@Rs. 10,000 per camp and Rs. 20,000 annual) 4. Ambient air quality monitoring in sensitive areas (@Rs. 5,000 per month x 12 months i.e. Rs. 60,000 x 2 locations = Rs. 1,20,000)</p> <p><u>Total cost on remediation measures on Air Environment is Rs. 3,16,000/-</u></p>
2.		Ecological Environment	<p>1. Plantation with native species of flowering and fruit bearing trees to compensate the removal of trees. 560 trees within the surrounding area are proposed for plantation at a cost of @ Rs. 1,100 per plant which includes maintenance for three years. The total cost estimate for tree plantation is 560 trees x Rs. 1100 = Rs. 6,16,000.</p> <p>2. Cost of development of butterfly garden is Rs. 1,64,000 (L.S. estimate).</p> <p>3. Cost of development of medicinal garden is Rs. 1,60,000 (L.S. estimate).</p> <p>4. Rs. 50,000/- for development of panchayat park / avenue plantation towards habitat compensation.</p> <p><u>Total cost on remediation measures on Ecological Environment is Rs. 9,90,000/-</u></p>
3.		Water Environment	<p>1. Rs. 50,000/- for restoration of abandoned wells (Rs. 10,000 x 5 wells) + Rs. 50,000/- for water sampling and monitoring (Rs. 5,000 x 10 samples). Total = Rs. 1,00,000/-</p> <p>I. Rs. 2,00,000/- for rehabilitation of village pond.</p> <p>II. Rs. 60,000/- towards set up of 2 units of portable toilet at site (1 for male and 1 for female).</p> <p>III. Rs. 5,50,000 on setting up of an STP of 5 KLD capacity.</p> <p>IV. Chanalization of storm water (Rs. 4,00,000).</p> <p>V. Frequent cleaning of the vicinity of site</p>

			before monsoon (Rs. 50,000).			
			<u>Total cost on remediation measures on Water Environment is Rs. 13,60,000/-</u>			
4.	Land Environment		<p>1. Rs. 50,000/- for creating barriers to avoid erosion and to maintain its integrity so as to use it further for landscaping.</p> <p>2. Rs. 10,000 (LS) for printing & distribution of leaflets.</p> <p>3. Rs. 60,000/- for 20 bins (@Rs. 3,000 per bin).</p> <p>4. Secured intermediate leachate proof facility for storage (LS. Rs. 1,00,000).</p> <p><u>Total cost on remediation measures on Land Environment is Rs. 2,20,000/-</u></p>			
5.	Noise Environment		<p>Providing Personnel protective equipment's (PPE) to the to the Health Department of the panchayat Rs. 50,000/- (LS.)</p> <p><u>Total cost on remediation measures on Water Environment is Rs. 50,000/-</u></p>			
6.	Socio – Economic Environment		<p>1. Providing first aid kits (5 nos.) to the construction sites (public works within the panchayat) [Rs. 10,000/- (@Rs. 2,000 per kit)].</p> <p>2. Providing a wheel chair (2 nos.) + to the primary health centre within the panchayat and in consultation. [Rs. 24,000 (@Rs. 12,000 per wheel chair)</p> <p><u>Total cost estimate on remediation measures on Socio Economic Environment is Rs. 34,000/-</u></p>			
Total Fund allocated for Remediation Measures			29,70,000/-			
Year wise Implementation of Remediation plan with budgetary provisions						
S.No	Activity	1 st Year (2018-19)	2 nd Year (2019-2020)	3 rd Year (2020-21)	Total	
(In Rs)						

1.	Remediation measures on Air Environment	1,05,000	1,05,000	1,06,000	3,16,000
2.	Remediation measures on Water Environment	4,50,000	4,50,000	4,60,000	13,60,000
3.	Remediation measures on Land Environment	70,000	70,000	80,000	2,20,000
4.	Remediation measures on Noise Environment	10,000	20,000	20,000	50,000
5.	Remediation measures on Socio Environment	10,000	12,000	12,000	34,000
6.	Remediation measures on Ecology Environment	3,30,000	3,30,000	3,30,000	9,90,000
Grand Total					29,70,000/-

➤ Natural Resource Augmentation plan & budgetary provisions

Sr. No.	Activity	Year wise implementation and Budgetary provision during operation phase (in Rs)			Total budgetary provision (Rs.)
		1 st year	2 nd year	3 rd year	
1.	Development of greenery in the surrounding area and road side plantation	25,000	50,000	50,000	1,25,000
2.	Provision of drinking water facilities through construction of hand pumps / dug wells / tube wells. 5 hand pups / wells per year in the nearby villages with maintenance	50,000	75,000	75,000	2,00,000
3.	Maintenance of village road, near the panchayat office or any other badly damaged road and consultation with panchayat (7 m. carriage way (1 km. length)	2,50,000	3,50,000	4,00,000	10,00,000

4.	Construction of pipeline network in the village in association with grama panchayat and water resource department (Kerala Water Supply Authority)	1,00,000	1,50,000	2,50,000	5,00,000
5.	Provision of solar system in common areas through local administration	25,000	50,000	50,000	1,25,000
6.	Rainwater harvesting and ground water recharge development	30,000	30,000	40,000	1,00,000
7.	Construction of storm water drainages in the nearby areas	20,000	30,000	50,000	1,00,000
Total					21,50,000

➤ **Community Resource Augmentation plan & budgetary provisions**

S.No	Activity	Year wise implementation and Budgetary provision during operation phase			Total budgetary provision (Rs.)
		1 st year	2 nd year	3 rd year	
1.	Creation of irrigation facilities to the farmers supporting for irrigation	25,000	50,000	50,000	1,25,000
2.	Construction of sanitation facilities (toilet) in schools and villages (5 toilets each year)	25,000	50,000	50,000	1,25,000
3.	Periodic medical check-up camp by appointing specialist doctor for eyes, skin, heart and dental twice in a year	50,000	50,000	1,50,000	2,50,000
4	Free of cost distribution of medicine / body check up tests in the area	25,000	50,000	50,000	1,25,000
5	Training to the farmers related to healthcare	10,000	20,000	20,000	50,000

6	Assistance in development of technical skills and training to the children of farmers and fishermen	30,000	30,000	40,000	1,00,000	
7	Assistance in providing study materials, uniform, books to the poor students located nearby area	30,000	30,000	40,000	1,00,000	
8	Scholarship to the clever students for higher education	50,000	50,000	1,50,000	2,50,000	
					Total	11,25,000
Total budgetary provision made towards the implementation of Natural & Community Resources Augmentation plan						
1. Natural Resources Augmentation plan					Rs.21,50,000	
2. Community Resources Augmentation plan					Rs. 11,25,000	
Total budgetary provision					Rs. 32,75,000	
<p>II. Total budgetary provision with respect to Remediation plan and Natural & Community Resource Augmentation plan is rupees 62,45 000/-. Therefore, project proponent shall be required to submit a bank guarantee of an amount of Rupees 62,45 000/- towards Remediation plan and Natural and Community Resource Augmentation plan with the SPCB prior to the grant of EC.</p> <p>III. Remediation plan shall be completed in 3 years whereas bank guarantee shall be for 5 years. The bank guarantee shall be released after successful implementation of the EMP, followed by recommendations of the EAC and approval of the regulatory authority.</p> <p>IV. The PP shall submit the proof of credible action taken by the concerned state government/ state pollution control board under the provisions of the section 19 of the Environment Protection Act 1986 to the MoEF&CC.</p> <p>V. Fund allocation for Corporate Environment Responsibility (CER) of Rs. 1.922 crores (2% of project cost).</p> <p>VI. Approval/permission of the CGWA/SGWA shall be obtained before drawing ground water for the project activities. State Pollution Control Board (SPCB) concerned shall not issue Consent to Operate (CTO) till the project proponent obtains such permission.</p> <p>VII. The PP shall construct rain water storage tank of capacity 2,200 KL (equivalent to 11 days of daily fresh water requirement).</p>						
15.4.2	Proposed expansion of M/s Shogun Organics Ltd at Plot No. D-18, MIDC Kurkumbh, Taluka Daund, District Pune (Maharashtra) by M/s Shogun Organics Limited - Further consideration for Environmental Clearance [IA/MH/IND2/64652/2017 dated 09.04.2018] [F. No. J-11011/241/2017-IA-II(I)]					
15.4.2.1	M/s Shogun Organics Limited has made online application vide proposal no. IA/MH/IND2/64652/2017 dated 09.04.2018 for the above mentioned proposed project. The					

	proposed project activity is listed at 5(b) category A of EIA Notification, 2006 and the proposal is appraised at Central level.																												
15.4.2.2	<p>Details of the project as per the submission of project proponent:</p> <p>1. Project title, location (plot No./ Village/ Tehsil/ District):- Environmental Clearance For Expansion of M/s Shogun Organics Ltd. located at Plot no D- 18, Kurkumbh MIDC, Taluka Daund, District Pune, Maharashtra.</p> <p>2. Sallent features of the project :- The project is located in Notified Industrial Area, MIDC Kurkumbh.</p> <ul style="list-style-type: none"> • Land use pattern/ Total plot area/ built up area: - Area in sq.m. <table border="1" data-bbox="516 827 1084 1061"> <thead> <tr> <th></th> <th>Existing</th> <th>Proposed</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Total Plot Area</td> <td>1,06,384</td> <td>--</td> <td>106384</td> </tr> <tr> <td>Built-up Area</td> <td>9048.82</td> <td>3375</td> <td>12423.82</td> </tr> <tr> <td>Parking area</td> <td>3802.82</td> <td>6835.58</td> <td>10638.40</td> </tr> <tr> <td>Greenbelt Area</td> <td>7164.5</td> <td>11825</td> <td>18989.5</td> </tr> </tbody> </table> • Total water requirement and its source :- <p>Source of water – MIDC Kurkumbh.</p> <p>Water requirement : Existing – 13.8 CMD</p> <p>Proposed – 48.63 CMD</p> <p>Total – 62.43 CMD.</p> • Waste water generation, treatment and disposal :- Wastewater in CMD <table border="1" data-bbox="527 1384 1396 1464"> <tbody> <tr> <td>Sewage</td> <td>Existing 0.94.4</td> <td>Proposed 5.3</td> <td></td> </tr> <tr> <td>Industrial Effluent</td> <td>Existing 4.5</td> <td>Proposed 12.28</td> <td>Total 16.78</td> </tr> </tbody> </table> <p>The sewage effluent will be treated in an STP of 6 CMD capacity. The treated effluent will be used for gardening and the sludge will be used as a manure for developing the green belt.</p> <p>The industrial effluent will be totally recycled and it will be Zero Liquid Discharge system, wherein the entire treated effluent will be reused for cooling tower make-up.</p> <p>The effluent will be treated in an ETP having capacity of 18 CMD. The ETP comprises of aeration tank followed by evaporator with centrifuge. The distillate from the evaporator will be sent through sand filter followed by carbon filter.</p> <p>The residue from the centrifuge will be disposed through CHWTSDF, Ranjangaon.</p> • Municipal solid waste generated disposal facility :- The municipal waste will be disposed through local municipal facility. <ul style="list-style-type: none"> • Power requirement and source :- Source – MSEDCL • Existing – 95 KW • Proposed – 130 KW • Total - 225 KW • Proposed energy saving measures :- There are total 82 street lights in factory plot. Each street light is with 36 Watt LED. • RWH :- Roof top rain water harvesting has been provided over a roof top area of 1106 sq. m., a dedicated RWH tank of 100m³ capacity has been provided. • Car parking :- Area of about 10638 sq. m will be dedicated as parking area. 		Existing	Proposed	Total	Total Plot Area	1,06,384	--	106384	Built-up Area	9048.82	3375	12423.82	Parking area	3802.82	6835.58	10638.40	Greenbelt Area	7164.5	11825	18989.5	Sewage	Existing 0.94.4	Proposed 5.3		Industrial Effluent	Existing 4.5	Proposed 12.28	Total 16.78
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• **Investment/Cost of the project :- Existing Cost – 8.85 Crores**

Proposed cost – 5.65 Crores

Total Cost – 14.5 Crores

• **Benefits of the project :-**

1) The plant is located at Notified Industrial Area & the proposed activity being executed within the existing premises, no human displacement or habitat loss is envisaged.

2) Improvement in locale specific socio-economic aspects.

3) It will help in improving the infrastructural facilities

4) Company will employ around 68 number of persons. The company would try to employ the local people under skilled workers and worker section to boost the economic condition of the surrounding area.

5) Under CSR activities the company will focus on locale specific aspects such as education & skill development, Health awareness to the people, water and sanitation and various social activities.

Education & Skill development:

- Provisions of uniform, books, and stationary, necessary equipments etc, to the schools of nearby areas.

- Conduction of trainings for youth & women empowerment.

Health Awareness:

- Organize free medical checkup camp for the villagers

- Health Awareness campaigns will be organized.

6) The project will also contribute in increase in revenue in form of various taxes which will be paid to government time to time. Company will also export their products to other country that also can be benefitted to the country by increase in revenue generated from taxes

7) The CSR activities planned by company can be considerably very beneficial for health, education, development of poor people, welfare of women & labour and support to disabled persons etc.

Thus a significant benefit to the socio-economic environment is likely to be created due to the expansion project and the project will help in developing the national income.

• **Employment potential :- Existing – 27, Proposed – 41, Total – 68**

3. Project/ activity covered under item of Schedule to the EIA Notification, 2006:- The project is covered under Schedule '5 (b)', Category – 'A' of the EIA Notification, 2006.

4. Why appraisal/ approval is required at the Central level:- The project is covered under Schedule '5 (b)', Category – 'A' of the EIA Notification, 2006. As stated in the Section 4 (ii) of the EIA Notification, 2006, " All projects or activities included as Category 'A' in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forests (MoEF) on the recommendations of an Expert Appraisal Committee (EAC)" to be constituted by the Central Government for the purposes of this notification;"

5. National Park/ Wild Life Sanctuary in 10 km radius area:- There are no National Parks and Wildlife Sanctuaries within 10 km radial distance from the project site.

6. Eco-Sensitive Zone in 10 km radius area:- There are no Eco – Sensitive zones within 10 km radial distance from the project site.
7. Details of Forest land involved, if any:- It is not a forest land. The project is located in a notified Industrial Area, Kurkumbh MIDC. The land has been purchased by M/s Shogun Organics Ltd. from MIDC, Kurkumbh.
8. ToR Details :- ToR granted by MoEF under violation vide letter no – F. No J-11011/241/2007-IA II (I) dated 23rd January, 2018.
9. Details of Public Hearing and main issues raised/response of the PP:- The Public Hearing was carried out on 5th September, 2018 at site premises of M/s Shogun Organics Ltd at Plot no – D/18, MIDC Kurkumbh, Taluka – Daund, District – Pune. The details of Public hearing issues and response by PP is attached as Addendum – 1.
10. If any court case pending for violation of the environmental laws (supported by an undertaking) :- No
11. Land use planning:- Area in sq.m Existing Proposed Total
- | | Existing | Proposed | Total |
|-----------------|----------|----------|----------|
| Total Plot Area | 1,06,384 | – | 106384 |
| Built-up Area | 9048.82 | 3375 | 12423.82 |
| Parking area | 3802.82 | 6835.58 | 10638.40 |
| Greenbelt Area | 7164.5 | 11825 | 18989.5 |
12. Ground water withdrawal approval from CGWA:- Ground water will be not exploited for the said project.
13. For other sources, firm commitment of the water supply agency:- Water will be obtained from MIDC, Kurkumbh. Letter has been obtained from MIDC, Kurkumbh for providing the required quantity of water.
14. Undertaking to the effect that no activity has since been taken up :- Undertaking mentioning the same has been obtained.
15. Appraisal by State Coastal Zone Management Authority (SCZMA) :- Not applicable
16. Details of earlier EC, if any and compliance thereof:- Not applicable
17. Details of earlier appraisal by EAC/ SEAC; observation and compliance:-
- 6th reconstituted expert appraisal committee (industry) held during 5th March, 2013 – 7th March, 2013.
- MoM – ToR granted for M/s Shogun Organics Ltd.
- 1st Expert Appraisal Committee meeting dated 30-11-2015 to 01-12-2015.
- MoM - The project will be considered for taking action as per Ministry's O. M no. J-11013/41/2006-IA II (I) dated 12th December, 2012 and 27th June, 2013.
- 6th Expert Appraisal Committee (Industry-2) Meeting held during 30th March to 2nd April 2016.
- MoM - PP has again requested for amendment in TOR. The Committee was of the view that proposal shall be considered on merit of the case after finalization of procedure registered for violation.
- 1st EAC meeting for cases with respect to violation of EIA Notification.
- MoM–ToR was granted under violation cases of EIA Notification.
- 6th expert appraisal committee (Violation) held during 19th– 20th April, 2018.

	<p>MoM – Case deferred for submission of EIA report.</p> <p>• 7th expert appraisal committee (Violation) held during 17th– 18thMay, 2018.</p> <p>MoM – Case was deferred for conducting Public hearing and for submission of additional information. The compliances of the same were done, PH was carried out on 5th September, 2018, the MoM of PH and the reply of the project proponent along with the additional information sought by EAC was uploaded on the portal.</p>
15.4.2.3	<p>Above proposal was considered in 7th meeting held during 18.05.2018 wherein After detailed deliberations on the technical and public hearing issues, the EAC recommended the following:</p> <p>Public hearing: The committee noted that proposed project is located in the notified Industrial area. As per EIA notification 2006, the activities/projects located in the notified industrial areas are exempted from public hearing. However, the present proposal has been established as violation case. All such violation cases are required to undergo public hearing as per the orders of Hon'ble High court of Madras dated 13.10.2017 in WP NO.11189 of 2017 titled "Puducherry Environmental Protection Association Vs Union of India even though they are located in notified industrial areas. The committee also noted that as per the orders of Hon'ble High court of Madras dated 14.03.2018 W.M.P NoS.3361AND 3362 of 2018 and W.M.P.No 3721 of in WP NO.11189 of 2017, the public hearing in respect of category 8(a) only exempted as under ; "24 In this view of this matter, considering that sub-clause (i) (d) of stage iii of paragraph 7(i) of parent notification as contained in item No. 8(a) of the schedule being housing projects, we deem it necessary to clarify that projects and project proponents falling under this category alone shall be governed by the 'public consultation' clause in the parent notification." In view of the above observations the committee recommended that M/s Shogun Organics Ltd. is required to undertake public hearing as per the provisions EIA notification, 2006.</p> <p>The committee has sought the following additional information:</p> <ol style="list-style-type: none"> 1. Risk assessment should be made covering entire inventory, part inventory for Toxic and Fire hazards per the damage anticipated in case of solvent used for the reaction for products manufacturing and storage related. 2. Disaster management plan covering mitigation measures, sensor deployment, automatic control machines to shut the inventory as well as process in case of indication of toxic leakages. 3. Proper safety and disaster management plan should be prepared to avoid any catastrophic effect. 4. Revised water balance. 5. Green belt development plan. 6. Worst case scenario related to the Air and Water should be given in case of reactor failure or damage done for the reactor. 7. Toxicity test (bio assay) is required for the treated effluent. 8. Analytical data related to surface & groundwater was found to be not up to the mark: Ionic balance was not matching. 9. Soil analysis data to be rechecked (related to texture & CEC). 10. Impacts and the Mitigation of impacts of project activities during construction and operation on the above components, for which the study has been conducted, to be included separately in specific chapter/s; 12. Positive and Negative (if any) aspects of the project/project activities need to be assessed and included specifically in Conclusion;

	<p>13. Impacts of the project due to 'Violation' to be assessed/narrated qualitatively and quantitatively and financial analysis/assessment/commitment with Budgetary provisions to be included separately.</p> <p>14. Details of damage assessment, remediation plan and natural and community resource augmentation plan along with budgetary requirement.</p> <p>15. The details of Corporate Environment Responsibility (CER) as per ministry's office memorandum F.No. 22-65/2017-IA.III dated 1st May, 2018 based on the issues raised during the public hearing and also issues emerged during the social impact assessment studies along with time bound action plan and budgetary requirement.</p>
15.4.2.4	<p>Observations and recommendations of committee:</p> <p>The project proponent along with the consultant made a detailed presentation on the additional information sought during the last 7th EAC meeting held on 18.05.2018. The Committee after detailed deliberations deferred the proposal and sought the following additional information:</p> <ul style="list-style-type: none"> (i) The response of the project proponent to the issues raised during the public hearing should be replied appropriately and to be resubmitted and the same should be reflected in the chapter of the Environment Management Plan of Environment Impact Assessment. (ii) Revised CER based on the issues raised during the public hearing and emerged in the social impact assessment covering the activities, timelines and budgetary requirement should be submitted. (iii) The Risk Assessment report with Risk Curve in the event of explosion/accident of the inventory of Toxic and Hazardous chemicals as per the DOW index summary sheet. (iv) NOC from MIDC for the additional water requirements. (v) Certificate of acceptance by MIDC for accommodating the effluent discharge during emergency. (vi) The coverage of green belt and plantation shall be to the extent of 33% of the total plot area against the proposed green belt of 11,825 sqm area. The density of the plant to be increased as per the guidelines of the Ministry. Selection of the Trees/Plant as per the CPCB guidelines. (vii) Detailed consequences and the action plan in case of reactor failure or damage/worst case scenario (SOPs). (viii) Toxicity test report (bioassay test) of the treated effluent. (ix) Analytical data related to surface and ground water and soil. (x) The ecological impacts, mitigation and the remediation measures during construction/operation phase furnished by the PP is found to be inadequate in the following: <ul style="list-style-type: none"> a) Assessment of air pollution during earlier construction, operation and during / post expansion. b) Comparison of LULC pre construction and present. c) Ground water and surface water pollution during construction and operation. d) Land environment. e) Ecological damages of flora and fauna. f) Occupational health impacts during construction/post expansion. g) Community and natural resources augmentation plan. h) Benefits accrued due to violation

15.4.3	Colour Granite mine of over an area of 4.00 Hectares Sy. No: 185, Parlapally Village, Thimmapur Mandal, Karimnagar District, Telangana State by M/s. Sreevaree Exports-Terms of Reference [IA/TG/MIN/68517/2017 dated 12.09.2017][F. No. 23-282/2018-IA.III (V)]
15.4.3.1	M/s. Sreevaree Exports has made online application vide proposal no. IA/TG/MIN/68517/2017 dated 12.09.2017 seeking Term of References for the above mentioned proposed project. The proposed project activity is covered under 'B' category of item 1(a) of the Schedule to the EIA Notification, 2006 and the proposal was appraised at Central level as SEIAA is not functional at Telangana.
15.4.3.2	<p>Details of the project as per the submission of project proponent:</p> <ol style="list-style-type: none"> 1. Project description: The Proposal of M/s Sreevaree Exports is for Mining of colour granite from Sreevaree Exports Exports for Total Excavation 42,000 m³/annum[including 3,42,000 m³Waste for plan period of 5 years and average waste is 68,400m³/annum] from mining lease area 4.0 Ha located at Parlapally Village, Thimmapur Mandal, Karimnagar District, Telangana State by M/s Sreevaree Exports . 2. Project Background: The proposal of M/s Sreevaree Exports is for production of 42,000 m³/per annum (colour granite from Sree Venkateshwara Exports Mine (ML Area 4.0 Ha, located at Survey No.185, at Parlapally Village, Thimmapur Mandal, Karimnagar District, Telangana. The mining lease is located on Survey of India Topo-sheet no.56N/3. The area is bounded between the coordinates Latitude 18°28' 52.20"N to 18°28' 41.11"N and Longitude 79°11'50.81' E 79°11'41.80' E. 3. Category of the Project (Refer cluster certificate if applicable): copy Enclosed The said project/activity is covered under category Mining of Minerals of item 1(a) of the Schedule to the EIA Notification, 2006 as amended, and requires prior EC from the MoEF&CC/SEIAA based on the appraisal by Expert Appraisal Committee or the State Expert Appraisal Committee in different. 4. Violation Details & Sectorial EAC/SEAC Comments: [The proposed project comes under violation due to exceeding the production in the Environment Clearance of 4080 cum/annum of colour granite.] Recommendations of sectorial EAC or SEAC before submitting the application on violation portal: <ul style="list-style-type: none"> • The SEAC Telangana state considered this project in its meeting held on 02.11.2012 and SEIAA meeting held on 21.11.2012 recommended to take action accordance with OMs dt: 16.11.2009 issued by MoEF&CC, GOI, New Delhi. • The credible action was initiated by the EFS&T Department, Telangana vide order no.SEIAA/TS/KRM/-61/2016 dated:24.03.2016. • The case was filed in court of 1st additional judicial magistrate of F.C at Karimnagar, vide C.C.No.312 of 2017. 5. Application (Form-1 & PFR): Fresh application was made online vide proposal no. IA/TG/MIN/68517/2017 dated 12thSep,2017 under violation category for Term of References (ToR) in terms of provision of the Ministry's Notification S.O 804 (E) and submitted Form-1 and PFR . The proposed project activity is covered under 'Schedule Item - 1(a) Mining of Minerals of EIA Notification, 2006 and is a category 'B2' [Note: appraised at EAC (MoEF&CC) because of absence of SEIAA committee in Telangana state] [Note: The cluster details are enclosed given by ADMG]

	<p>6. Details of Minerals: The mineral is colour granite which is minor mineral before 2006.</p> <p>7. Letter of Intent (LoI)/Mining Lease Details:</p> <ul style="list-style-type: none"> • Original lease grant by DMG, Notice no:5497/R6-3/2010 dated:06.04.2011 • ADMG lease execution proceeding.no.1206/Q1/10 dated:25.02.2012 <p>8. Method of Mining & Mining Plan Details:</p> <ul style="list-style-type: none"> • The method of mining shall be open-cast semi-mechanized method. • 1st Mining scheme vide letter no: 634/QP-1/KNR/2018 dated 30-01-2018. • Modified Mining Plan vide letter no:35/MP/KMNR/2015 dated 23-02-2015. • Mining Plan vide letter no: 3256/MP/KMNR/2011 dated 23-06-2011 <p>9. Other Waste Generation, If any: [3,42,000 m³Waste for plan period of 5 years and average waste is 68,400m³/annum. The waste is dumped in the area allocated for the dumping yard.]</p> <p>10. Land Use (Forest/Agricultural/Waste): NIL – no agricultural /forest /waste land involved in mine lease area.</p> <p>11. Details of past production since inception of mine authenticated by DMG: The past production details given by ADMG are enclosed</p> <p>12. Applicability of General Condition & Status of SEIAA: This lease area does not attract any general conditions as no wild life sanctuaries or habitat, state boundaries with in 10km radius. [Status of SEIAA :SEIAA Committee tenure is over]</p> <p>13. Project Cost & Employment: Cost of the project: Rs 50 lakhs EMP cost – Rs 4.0 lakhs Recurring cost – Rs 2.17 lakhs Man power requirement – 14 persons</p> <p>14. Affidavit for SC Order 2.08.2017:Affidavit is enclosed Note: Submit affidavit to comply with all the statutory requirements and judgment of Hon'ble Supreme Court dated the 2ndAugust 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors.</p> <p>15. Status of DSR, In case of minor mineral: Not Available</p>
15.4.3.3	<p>Observations and recommendations of committee:</p> <p>EAC after detailed presentation by the PP observed that lease document submitted by the PP is for 3.3 ha whereas in application PP has mentioned mining lease area is 4.0 ha. EAC therefore deferred the proposal for want of following information:</p> <ul style="list-style-type: none"> (i) Submission of revised Form1 and PFR w.r.t proposed area , production in Cum, along with waste generated per year. (ii) Submission of kml file with coordinates authenticated by the state DMG . (iii) Declaration from state DMG that PP has not mined outside mine lease area. (iv) Permission from state DMG for storing Granite in stock yard outside mine lease area. (v) Site photograph showing EIA coordinator visited the site.

15.4.4	Colour Granite mine of over an area of 1.5 Hectares at Sy. No.: 1133 Gattubuthkur Village, Gangadhara Mandal, Karimnagar District, Telangana State by M/s. Sreevaree Exports-Terms of Reference [IA/TG/MIN/68568/2017, dated 12.09.2017] [F. No. 23-283/2018-IA.III (V)]
15.4.4.1	M/s. Sreevaree Exports has made online application vide proposal no. IA/TG/MIN/68568/2017, dated 12.09.2017 seeking Term of References for the above mentioned proposed project. The proposed project activity is covered under 'B' category of item 1(a) of the Schedule to the EIA Notification, 2006 and the proposal was appraised at Central level as SEIAA is not functional at Telangana.
15.4.4.2	<p>Details of the project as per the submission of project proponent:</p> <ol style="list-style-type: none"> 1. Project description: The Proposal of <u>M/s</u> Sreevaree Enterprises is for Mining of colour granite from Sreevaree Enterprises for Total Excavation 7,800 m³/annum [including 42,455 m³Waste for plan period and average waste is 8,491m³/annum] from mining lease area 1.5 Ha located at Gattubuthkur Village, Gangadhara Mandal, Karimnagar District, Telangana State by M/s Sreevaree Enterprises. 2. Project Background: The proposal of M/s Sreevaree Enterprises is for production of 7,800 m³/per annum (colour granite from Sree Venkateshwara Exports Mine (ML Area 1.5 Ha, located at Survey No.1133, at Gattubuthkur Villages,Gangadhara Mandal, Karimnagar District, Telanagana State. The mining lease is located on Survey of India Topo-sheet no.56N/3. The area is bounded between the coordinates Latitude 18°28'47.12"N to18°28'51.43"N and Longitude 79°00'55.17" E to 79°00'59.90" E 3. Category of the Project (Refer cluster certificate if applicable):copy enclosed The said project/activity is covered under category Mining of Minerals of item 1(a) of the Schedule to the EIA Notification, 2006 as amended, and requires prior EC from the MoEF&CC/SEIAA based on the appraisal by Expert Appraisal Committee or the State Expert Appraisal Committee in different. 4. Violation Details & Sectorial EAC/SEAC Comments: [The proposed project comes under violation due to exceeding the production in the Environment Clearance of 1091 cum/annum of colour granite.] Recommendations of sectorial EAC or SEAC before submitting the application on violation portal: <ul style="list-style-type: none"> • The SEAC Telangana state considered this project in its meeting held on 23.02.2016 and SEIAA meeting held on 21.03.2016 recommended to take action accordance with OMs dt: 12.12.2012 & 27.06.2013 issued by MoEF&CC, GOI, New Delhi. • The credible action was initiated by the EFS&T Department, Telangana vide order no.SEIAA/TS/KRM/-60/2016-3069 dated:24.03.2016. • The case was filed in court of 1st additional judicial magistrate of F.C at Karimnagar vide C.C.No.310 of 2017. 5. Application (Form-1 & PFR): Fresh application was made online vide proposal no. IA/TG/MIN/68568/2017 dated 12thSep,2017under violation category for Term of References (ToR) in terms of provision of the Ministry's Notification S.O 804 (E) and submitted Form-1 and PFR . The proposed project activity is covered under 'Schedule Item – 1(a) Mining of Minerals of EIA Notification, 2006 and is a category 'B2' [Note: appraised at EAC (MoEF&CC) because of absence of SEIAA committee in Telangana state]

	<p>[Note :The cluster details are enclosed given by ADMG]</p> <p>6. Details of Minerals: The mineral is colour granite which is minor mineral before 2006.</p> <p>7. Letter of Intent (Lol)/Mining Lease Details:</p> <ul style="list-style-type: none"> • Original lease by DMG, Proceedings no:36955/R6-3/09 dated:02.06.2010. • ADMG Execution of lease deed vide proceeding.no:8857/Q1/2009 dated 04-06-2010. From 04.06.2010 to 03.06.2030. <p>8. Method of Mining & Mining Plan Details:</p> <ul style="list-style-type: none"> • The method of mining shall be open-cast semi-mechanized method. • 1st Mining scheme vide letter no: 464/QP-1/KNR/2018 dated 30-01-2018. • Modified Mining Plan vide letter no:34/MP/KMNR/2015 dated 23-02-2015. • Mining Plan vide letter no: 6254/MP/KMNR/2011 dated 24-04-2012 <p>9. Other Waste Generation, If any: [42,455 m³ of Waste is generated for plan period and average waste is 8,491m³/annum which will be dumped in the area allocated for dump yard.]</p> <p>10. Land Use (Forest/Agricultural/Waste): NIL – no agricultural /forest /waste land involved in mine lease area.</p> <p>11. Details of past production since inception of mine authenticated by DMG: The past production details given by ADMG are enclosed</p> <p>12. Applicability of General Condition & Status of SEIAA: This lease area does not attract any general conditions as no wild life sanctuaries or habitat, state boundaries with in 10km radius. [Status of SEIAA :SEIAA Committee tenure is over]</p> <p>13. Project Cost & Employment: Cost of the project: Rs 60 lakhs EMP cost – Rs 2.65 lakhs Recurring cost – Rs 1.47 lakhs Man power requirement – 14 persons</p> <p>14. Affidavit for SC Order 2.08.2017: Affidavit is enclosed Note: Submit affidavit to comply with all the statutory requirements and judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors.</p> <p>15. Status of DSR, in case of minor mineral: Not Available Note: Submit status of DSR in case of minor mineral. If available, please submit</p>
15.4.4.3	<p>Observations and recommendations of committee:</p> <p>EAC after detailed presentation by the PP observed that PP has increased the production beyond EC capacity. EAC also observed that present application is for expansion from 1091 cum/ year to 7800 CUM/year whereas total waste generation is not mentioned in the Form 1 which is 42 ,455 CUM over the plan period. EAC therefore deferred the proposal for want of following information:</p> <p>i. Submission of revised Form1 and PFR w.r.t proposed production in Cum, along with</p>

	<p>waste generated per year.</p> <p>ii. Submission of kml file with coordinates authenticated by the state DMG .</p> <p>iii. Declaration from state DMG that PP has not mined outside mine lease area.</p> <p>iv. Permission from state DMG for storing Granite in stock yard outside mine lease area.</p> <p>v. Site photograph showing EIA coordinator visited the site</p>
15.4.5	<p>Colour Granite mine of over an area of 8.0 Ha at Sy. No: 199 Pallitham Village, Peddapalli Mandal, Peddapalli District Telangana State by M/s. Ganga Bhavani Granites- Terms of Reference.</p> <p>[IA/TG/MIN/68578/2017, dated 12.09.2017][F. No. 23-284/2018-IA.III (V)]</p>
15.4.5.2	<p>Project proponent did not attend the meeting therefore proposal was deferred.</p>
15.4.6	<p>Colour Granite mine of over an area of 3.0 Ha at Sy. No : 81 Kalawala Village, Shankarapatanam Mandal, Karimnagar District, Telangana State by M/s. Sree Venkateshwara Exports- Terms of Reference</p> <p>[IA/TG/MIN/68613/2017, dated 12.09.2017][F. No. 23-285/2018-IA.III (V)]</p>
15.4.6.1	<p>M/s. Sree Venkateshwara Exports has made online application vide proposal no. IA/TG/MIN/68613/2017, dated 12.09.2017 seeking Term of References for the above mentioned proposed project. The proposed project activity is covered under 'B' category of item 1(a) of the Schedule to the EIA Notification, 2006 and the proposal was appraised at Central level as SEIAA is not functional at Telangana..</p>
15.4.6.2	<p>Details of the project as per the submission of project proponent:</p> <p>1. Project description: The Proposal of <u>M/s Sree Venkateshwara Exports PvtLtd</u> is for Mining of <u>colour granite</u> from Sree Venkateshwara Exports for Total Excavation 10,312.5 m³/annum[including 73,462.5 m³Waste for plan period and average waste is 24500m³/annum] from mining lease area 3.0 Ha located at Kalawala Village, ShankarapatanamMandal, KarimnagarDistrict,Telangana State by M/s SreeVenkateshwara Exports Pvt Ltd.</p> <p>2. Project Background: The proposal of M/s SreeVenkateshwara Exports PvtLtd is for production of 10,312.5 m³/per annum (colour granite from SreeVenkateshwara Exports Mine(ML Area 3.0 Ha, located at Survey No.81, at Kalawala Villages, ShankarapatanamMandal, Karimnagar District, TelanaganaState. The mining lease is located on Survey of India Topo-sheet no.56N/7. The area is bounded between the coordinates Latitude 18°20'11.5668"N to 18°20'22.0060"N and Longitude 79°22'49.0757 E to 79°22'54.2436 E</p> <p>3. Category of the Project (Refer cluster certificate if applicable):Copy Enclosed The said project/activity is covered under category Mining of Minerals of item 1(a) of the Schedule to the EIA Notification, 2006 as amended, and requires prior EC from the MoEF&CC/SEIAA based on the appraisal by Expert Appraisal Committee or the State Expert Appraisal Committee in different.</p> <p>4. Violation Details & Sectorial EAC/SEAC Comments: [The proposed project comes under violation due to exceeding the production in the Environment Clearance of 4,800 cum/annum of colour granite.] Recommendations of sectorial EAC or SEAC before submitting the application on violation portal:</p>

	<ul style="list-style-type: none"> • The SEAC Telangana state considered this project in its meeting held on 23.02.2016 and SEIAA meeting held on 21.03.2016 recommended to take action accordance with OMs dt: 12.12.2012 & 27.06.2013 issued by MoEF&CC, GOI, New Delhi. • The credible action was initiated by the EFS&T Department, Telangana vide order no.SEIAA/TS/KRM/-62/2016 dated:24.03.2016. • The case was filed in court of 1st additional judicial magistrate of F.C at Huzurabad vide C.C.No.40 of 2017. Accused and paid an amount of Rs.10,000/- on 15.03.2017. <p>5. Application (Form-1 & PFR): Fresh application was made online vide proposal no. IA/TG/MIN/68613/2017 dated 12thSep,2017 under violation category for Term of References (ToR) in terms of provision of the Ministry's Notification S.O 804 (E) and submitted Form-1 and PFR . The proposed project activity is covered under 'Schedule Item – 1(a) Mining of Minerals of EIA Notification, 2006 and is a category 'B2' [Note: appraised at EAC (MoEF&CC) because of absence of SEIAA committee in Telangana state] [Note :The cluster details are enclosed given by ADMG]</p> <p>6. Details of Minerals: The mineral is colour granite which is minor mineral before 2006.</p> <p>7. Letter of Intent (LoI)/Mining Lease Details:</p> <ul style="list-style-type: none"> • Original lease by DMG, Proceedings no: 28760/R6-1/2006 dated:14.08.2007. • Transfer proceeding.no.17751/R6-3/2011 dated:05.05.2012 • Execution Transfer of mining lease vide proceedings no 4572/Q1/2011 dated: 11-06-2012 from M/s Imperial granites to M/s SreeVenkateshwara Exports valid upto 25.08.2027 <p>8. Method of Mining & Mining Plan Details:</p> <ul style="list-style-type: none"> • The method of mining shall be open-cast semi-mechanized method. • 1st Mining scheme vide letter no: 2715/QP-1/KNR/2018 dated 31-05-2018. • Modified Mining Plan vide letter no: 36/MP-KMNR/2015 dated 23-02-2015. • Mining Plan vide letter no: 8626/MP-KMNR/2012 dated 16-01-2013. <p>9. Other Waste Generation, if any: [Details of any other waste generated during activity and its mitigation measures NIL no other waste generation.</p> <p>10. Land Use (Forest/Agricultural/Waste): NIL – no agricultural /forest /waste land involved in mine lease area.</p> <p>11. Details of past production since Inception of mine authenticated by DMG: The past production details given by ADMG are enclosed</p> <p>12. Applicability of General Condition & Status of SEIAA: This lease area does not attract any general conditions as no wild life sanctuaries or habitat, state boundaries within 10km radius. [Status of SEIAA :SEIAA Committee tenure is over]</p> <p>13. Project Cost & Employment: Cost of the project: Rs 60 lakhs EMP cost – Rs 2.0 lakhs</p>
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	<p>Recurring cost – Rs 1.41 lakhs Man power requirement – 13 persons</p> <p>14. Affidavit for SC Order 2.08.2017: Affidavit is enclosed Note: Submit affidavit to comply with all the statutory requirements and judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors.</p> <p>15. Status of DSR, In case of minor mineral: Not Available Note: Submit status of DSR in case of minor mineral. If available, please submit</p>
15.4.6.3	<p>Observations and recommendations of committee:</p> <p>EAC after detailed presentation by the PP observed that PP has increased the production beyond EC capacity i.e 4800. EAC also observed that present application is for expansion from 4800 cum/ year to 10312.5 CUM/year whereas total waste generation is not mentioned in the Form 1. Credible action was initiated, but pp repeated the violation again.</p> <p>EAC therefore deferred the proposal for want of following information:</p> <ul style="list-style-type: none"> • Submission of revised Form1 and PFR w.r.t proposed production in Cum along with waste generated per year. • Submission of kml file with coordinated authenticated by the state DMG. • Declaration from state DMG that PP has not mined outside mine lease area. • EC letter and production details of two adjacent mine in the name of PP
15.4.7	<p>Road Metal and Rough Stone Quarry over an area of 15.00 Ha In Sy. No 278 of Saravaram Village, Garidepally Mandal, Nalgonda District of Telangana State by M/s Srinivasa Edifice Pvt. Ltd- Terms of Reference.</p> <p>[IA/TG/MIN/68622/2017, dated 12.09.2017][F. No. 23-286/2018-IA.III (V)]</p>
15.4.7.1	<p>M/s Srinivasa Edifice Pvt. Ltd has made online application vide proposal no. IA/TG/MIN/68622/2017, dated 12.09.2017 seeking Term of References for the above mentioned proposed project. The proposed project activity is covered under 'B' category of item 1(a) of the Schedule to the EIA Notification, 2006 and the proposal was appraised at Central level as general condition applies.</p>
15.4.7.2	<p>Project proponent did not attend the meeting therefore proposal was deferred</p>
15.4.8	<p>Road Metal and Rough Stone Quarry over an area of 4.277 Ha In Sy. No 310 of Saravaram Village, Garidepally Mandal, Nalgonda District of Telangana State by M/s Srinivasa Edifice Pvt. Ltd- Terms of Reference</p> <p>[IA/TG/MIN/68640/2017, dated 12.09.2017][F. No. 23-287/2018-IA.III (V)]</p>
15.4.8.3	<p>Project proponent did not attend the meeting therefore proposal was deferred</p>
	<p>Day 3: Thursday, 29th November, 2018, Time: 10:00 AM to 10:30 AM Discussion on draft minutes of Day 2 proposals.</p>
15.5.1	<p>Expansion of Artemis Hospital located at Sector-51, Gurgaon, Haryana by M/s Artemis Medicare Services Ltd. - Environmental Clearance</p> <p>[IA/HR/MIS/84185/2007] dated 01.11.2018, [F. No. 23-279/2018-IA.III (V)]</p>
15.5.1.1	<p>M/s Artemis Medicare Services Ltd. has made online application vide proposal no. IA/HR/MIS/84185/2007, dated 01.11.2018 seeking Environmental Clearance for the above</p>

	mentioned proposed project. The proposed project activity is covered under 'B' category of item 8(a) of the Schedule to the EIA Notification, 2006 and the proposal was appraised at Central level because of SEIAA Haryana tenure is completed. .
15.5.1.2	<p>Details of the project as per the submission of project proponent:</p> <ol style="list-style-type: none"> 1. Project title, location (plot No./ Village/ Tehsil/ District):- "Expansion of Artemis Hospital" at Sector- 51, Tehsil Gurugram, District Gurugram- 122001, Haryana 2. Salient features of the project :- <ul style="list-style-type: none"> • Land use pattern/ Total plot area/ built up area: - Land Use –Land Use of land has already been changed to Hospital use. Total plot area is 33588.908 sqm. Total Built-up area – 67444.652 Sqm (after expansion). • Total water requirement and its source :- Total water requirement after expansion is 1104 KLD in which fresh water requirement will be 590 KLD and Treated water will be 514 KLD. The fresh water is sourced from HUDA Municipal Supply/borewell (groundwater) at Artemis Hospital in operational building and same shall be followed for expansion part. • Waste water generation, treatment and disposal :- Total quantity of wastewater generation shall be 637 KLD (581 KLD from domestic uses & 56 KLD from Lab). The 581 KLD of generated sewage shall be treated in STP of 325 KLD (existing) 400 KLD (proposed) and 56 KLD from Lab shall be treated in ETP of 25 KLD (existing) & 45 KLD (proposed). The treated water generation from STP will be 552 KLD out of which 514 KLD shall be reused for domestic, flushing, Gardening, Filter backwash and excess 38 KLD shall be discharged in public sewer. The Excess treated water of 53 KLD from ETP shall also be discharged into public sewer. • Municipal solid waste generated disposal facility :- After expansion, around 1930 kg/day of municipal solid waste will be generated from the complex. Biodegradable waste of 1351 Kg/day shall be treated in organic waste converter of the complex and recyclable (483 Kg/day) and plastic waste (96 Kg/day) shall be given to approved recycler. • Biomedical waste of 298 Kg/day generated from hospital will be handed over to authorized processor. In existing agreement with M/s Vulcan Waste Management Pvt. Ltd. has already been done. • Power requirement and source :- Total power requirement after expansion will be 4500 KW which will be met by DHBVN. • Proposed energy saving measures :- Energy Saving Measures – <ul style="list-style-type: none"> • Adequate design to limit the losses in transmission and distribution system. • Use of energy efficient devices like light sources such as LED lamps. • Use of insulation on roof top to reduce air-conditioning load. • Use of capacitors at load centres to improve voltage and power factor to reduce distributional losses and also to avoid penalty by state electricity authority. • All high efficiency motors will be used in the complex. • 1% solar power provision of connected load shall be provided. • Solar lights will be installed for the streets. • Solar lights will be used for common and open areas. • Air ducts in the design to provide proper cross ventilation for reducing power consumption. • RWH :- 6 no. of RWH pits will be installed after expansion. (5 already installed + 1 proposed) • Car parking :- Total Parking provision is 668 ECS, out of which 236 ECS has already been provided.

	<ul style="list-style-type: none"> • Investment/Cost of the project :- Total cost of the project is Rs. 399 Crores. • Benefits of the project :- • Project Benefits – <ul style="list-style-type: none"> • It has provided employment to the people during construction and operation phase directly & indirectly. 300 no. of labour during construction stage. • It has led to increase in the infrastructure of the area and encouraged others for further development of the area. • Medical facility is being extended for BPL and CGHS/ECHS. • Major income source to an important section of society and also to the upcoming investors. The hospital will also have hostel facility. • Employment potential :- It has provided employment to the people during construction and operation phase directly & indirectly. 300 no. of labour during construction stage and 2512 no. of persons as staff & employee during operational phase. <p>3. Project/ activity covered under item of Schedule to the EIA Notification, 2006:- The project is an expansion of Artemis Hospital. It falls under Category B schedule 8(a) under violation category.</p> <p>4. Why appraisal/ approval is required at the Central level:- Since, the tenure of the SEAC Haryana committee was completed on 20.10.2018, therefore the case is transferred to MOEF&CC.</p> <p>5. National Park/ Wild Life Sanctuary in 10 km radius area:- There is No national park/Wild Life Sanctuary in 10 km radius of the site.</p> <p>6. Eco-Sensitive Zone in 10 km radius area:- None</p> <p>7. Details of Forest land involved, if any:- None</p> <p>8. ToR Details :- Terms of Reference was granted by SEIAA, Haryana vide letter no. SEIAA/HR/2018/829 dated 26.07.2018.</p> <p>9. Details of Public Hearing and main issues raised/response of the PP:- Not applicable</p> <p>10. If any court case pending for violation of the environmental laws (supported by an undertaking) :- Directions are issued to file a court case against the project.</p> <p>11. Land use planning:- Proposed Land Use after Expansion- Ground coverage (achieved)- 8193.479 sqm , Green Area- 10230.77 sqm , Road & Open area- 15164.66 sqm</p> <p>12. Ground water withdrawal approval from CGWA:- Permission for boring of one tubewell at Artemis Medicare Services Pvt., Ltd. Is acquired. Letter No.40-4/GUR-Artemis/CGWA/2007-1492</p> <p>13. For other sources, firm commitment of the water supply agency:- Water is sourced through HUDA Municipal supply/borewell and same shall be followed for future expansion.</p> <p>14. Undertaking to the effect that no activity has since been taken up :- The project was declared in Violation in 161 SEAC Haryana meeting dated 14.12.2017. Since then no construction activity has been initiated.</p> <p>15. Appraisal by State Coastal Zone Management Authority (SCZMA) :- Not applicable</p> <p>16. Details of earlier EC, if any and compliance thereof:- <ul style="list-style-type: none"> • Environmental Clearance granted vide letter no. 21-292/2007-IA.III dated 19.07.2007 for plot area 33,958.90 sqm and built-up area of 27,354.0 sqm for development of hospital. • Certified Compliance was received for the existing complex Vide Letter No. 4-363/2007/Vol II/RO (NZ)/ 329-330 dated 23.08.2017 and applied for latest certified compliance report. </p> <p>17. Details of earlier appraisal by EAC/ SEAC; observation and compliance:- <ul style="list-style-type: none"> • The case was appraised in 175th SEAC Haryana meeting where case was deferred due to submission of revised remediation plan alongwith cost assessment, natural and community resource augmentation plan corresponding to ecological damage and economic benefits derived due to violation duly vetted from the reputed Government Technical Institute. Now the same has been vetted by Delhi Technical University (DTU). </p>
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15.5.1.3	<p>Observations and recommendations of committee: The EAC after deliberation deferred the proposal for want of following information:</p> <ul style="list-style-type: none"> (i) Table indicating progressive construction right from beginning before issue of Environmental Clearance dated 19.07.2007 and the consumption of various construction materials including water and energy. (ii) Green belt as per MoEF&CC guidelines to be compensated in the green area. (iii) Latest certified compliance report from the Regional Office of the Ministry for the existing EC. (iv) A table indicating the Air, Water and Soil sampling stations with distances and directions as per the wind direction. (v) Detailed action plan for maintaining indoor air quality. (vi) Noise levels were exceeding the prescribed standard during the night time. A detailed action plan for the maintaining the noise quality should be submitted and a detailed action plan for reducing noise levels. (vii) Details of fauna in the buffer zone to be submitted. (viii) Baseline health survey in the core and buffer zone to be submitted. (ix) Details of primary health centers to be adopted. (x) A copy of Environmental Policy of the Hospital clearly stating that non-compliances relating to environment, if any, shall be reported to the Board of Directors. (xi) A dedicated Environment Management division with qualified Environmental Scientist/Engineer along with a requisite number of supporting staff, reporting to the Managing Director of the Hospital shall be established. (xii) Traffic analysis and the management for a radius of 5 km surrounding the project. (xiii) Environmental mitigation plan for the Impacts should be given in the separate chapter of EMP in the EIA report. (xiv) The effluent of laboratory and patient shall not be treated in ETP and not to be recycled. (xv) Arrangement with authorized recycler (MoU) for recyclable waste. (xvi) Provisions of Energy efficient motors as per ECBC 2017. (xvii) The damage assessment during the construction period (xviii) LU/LC analysis of pre and post construction (xix) The revised remediation and community and natural resource augmentation plan with budgetary provision to augment them in 3 years period shall be submitted as suggested by the committee in the meeting. (xx) Status of credible action taken against violation of EIA Notification, 2006 (xxi) Revised CER considering Greenfield project, since it is a violation case as per the MoEF&CC OM dated 01.05.2018. (xxii) Status of credible action taken against violation (xxiii) Clarification regarding submission of EIA and EMP report to SEIAA Haryana on the same date of ToR was issued i.e. 26.07.2018.
15.5.2	<p>Commercial building project at Plot No. M-1, Village Samaspur, Bindapur, Sector-51, Mayfield Garden, Gurgaon, Haryana by M/s Sunvison Builders Pvt. Ltd. - Environmental Clearance.</p> <p>[IA/HR/MIS/84395/2017] dated 02.11.2018, [F. No. 23-280/2018-IA.III (V)]</p>
15.5.2.1	<p>M/s Sunvison Builders Pvt. Ltd. has made online application vide proposal no. [IA/HR/MIS/84395/2017] dated 02.11.2018 seeking Environment Clearance for the above mentioned proposed project. The proposed project activity is covered under 'B' category of item 8(a) of the Schedule to the EIA Notification, 2006 and the proposal was appraised at Central level as tenure of SEIA Haryana is completed.</p>
15.5.2.2	<p>Details of the project as per the submission of project proponent:</p> <p>Chronology of the EC application of the project</p>

- EC application submitted to earlier SEIAA, Haryana on 09.06.2009
- Project was taken up in 23rd SEAC meeting held on 22.10.2009 wherein 15 observations were raised
- Reply submitted to SEAC on 09.02.2010
- Project was taken up for reconsideration in 31st SEAC meeting held on 17.03.2010 wherein 10 observations were raised
- Reply submitted to SEAC on 07.06.2010
- Project was taken up for reconsideration in 39th SEAC meeting held on 22.07.2010 wherein 5 observations were raised
- Reply submitted to SEAC on 30.08.2010
- Project was taken up for reconsideration in 44th SEAC meeting held on 30.09.2010 and recommended for grant of Environment Clearance with GOLD rating
- The case was recommended to SEIAA for grant of Environmental Clearance by SEAC on 31.12.2010
- The case was considered by SEIAA during the meeting held on 22.01.2011 wherein certain observations were raised
- The tenure of SEIAA/SEAC completed and the case was transferred to MoEFCC on 04.05.2011
- The case was considered during 104th EAC meeting held on 17.08.2011 wherein 9 observations were raised
- Reply was submitted to MoEFCC on 14.11.2011
- SEIAA/SEAC was reconstituted by MoEFCC on 23.03.2012 and the project was transferred back to SEIAA, Haryana on 05.06.2012
- Project was taken up during 63rd SEAC meeting held on 28.08.2012 wherein 4 observations were raised
- Reply submitted to SEAC on 06.03.2013
- Project was taken up for reconsideration during 81st SEAC meeting held on 10.05.2013 wherein 3 observations were raised
- Project was taken up for reconsideration during 95th SEAC meeting held on 27.11.2013 and it was decided to send the case to SEIAA for delisting as no reply was submitted to last SEAC queries
- Project was referred back to SEAC from SEIAA on 22.01.2014 with the instructions of site visit by committee members
- The case was taken up in 103rd SEAC meeting held on 28.04.2014 wherein a sub-committee was formed for site visit
- The site was inspected on 10.06.2014 and during inspection, it was found that the construction has been initiated at site without Environment Clearance
- The project was taken up in 114th SEAC meeting held on 22.08.2014 wherein violation of EIA notification 2006 was confirmed and the case was processed further for prosecution
- The case was taken up in 76th SEIAA meeting held on 13.10.2014 and SEIAA vide letter dated 07.11.2014 forwarded the case to Principal Secretary Environment for initiating credible action against the project proponent as per MoEFCC OM dated 12.12.2012
- The tenure of SEIAA/SEAC completed on 21.03.2015 and the case was again transferred to MoEFCC in March, 2015
- SEIAA/SEAC was reconstituted by MoEFCC on 21.08.2015 and the project was transferred back to SEIAA, Haryana
- NGT vide judgment dated 25.08.2015 quashed MoEFCC OM dated 12.12.2012 and the violation projects were put on hold
- SC vide order dated 14.09.2015 maintained status quo and put an interim stay on the above-said NGT judgment
- MoEFCC published draft notification vide S.O. 1705(E) dated 10.05.2016 for appraisal of violation projects
- MoEFCC published final notification for violation projects vide S.O. 804 (E) dated 14.03.2017 for appraisal of violation projects

- EC application re-submitted to MoEFCC on 28.07.2017 under violation category
- MoEFCC vide OM dated 15.03.2018 delegated the powers for appraisal of violation projects to State and the file has been transferred to SEIAA, Haryana

1. **Project title, location (plot No./ Village/ Tehsil/ District):-** Commercial Colony project at Plot no.M-1, Village- Samaspur, Bindapur, Sector-51, Mayfield Garden, Gurgaon, Haryana

2. **Sallent features of the project :-**

- Land use pattern/ Total plot area/ built up area: - Total Plot Area- 10,898.16sq.m. Total Built up area -32,331.99 sq. m.
- Total water requirement and its source :- Construction Phase:
Total water demand of the project was approximately 162 ML.
Operation Phase: Total water demand of the project is expected to be 101 KLD approximately;

S. No. Description Total

1.	Fresh water (KLD)	42
2.	Domestic water (KLD)	84
3.	Total water (KLD)	101
4.	STP Capacity (KL)	100

And the water requirement will be met by HUDA.

- Waste water generation, treatment and disposal :- Wastewater Generation

• Domestic Water Requirement	• 84 KLD
• Fresh	• 42 KLD
• Flushing	• 42 KLD
• Waste Water Generated (80% fresh of domestic + 100% flushing)	• 34+42= 76 KLD + 6 = 82

It is expected that the project will generate approx. 82 KLD of wastewater. The wastewater will be treated in an onsite STP of 100 KL capacity. Approx. 68.4 KLD of treated water will be generated from the STP which will be reused within the project premises for flushing and horticulture. Surplus treated water will be discharged to the external sewer

Construction Phase:

During the construction phase soak pits and septic tanks was provided for disposal of waste water. Temporary sanitary toilets were provided.

- Municipal solid waste generated disposal facility :- Operation Phase:

The total municipal (domestic) solid waste to be generated is approx. 890.56 kg/day

• Biodegradable waste	• 356.224 kg/day (Waste vegetables and foods etc.)
• Non-biodegradable waste	• 445.28 kg/day (Papers, cartons, thermocol, plastics, glass etc.)
• Inert waste	• 89.056 kg/day
• Total	• 890.56 kg/day

- Power requirement and source :- Electrical Load

Electrical load = 2,300 kW

Source: State Electricity Board

There is provision of 3 no. of DG sets of total 3,250 KVA capacity (1 × 1500 kVA + 1 × 250 kVA) and 1X1500 on standby mode for power back up in the Project.

- Proposed energy saving measures :- Energy will be saved using T-5 Lamp, LED lamps, Solar PV.
- RWH :- Rain water recharge pits (3 Nos.) will be provided
- Car parking :-

	<table border="1" data-bbox="641 585 1084 833"> <tbody> <tr> <td>• Area</td> <td>• No. of parking provided</td> </tr> <tr> <td>• Open</td> <td>• 78 ECS</td> </tr> <tr> <td>• Basement I</td> <td>• 150 ECS</td> </tr> <tr> <td>• Basement II</td> <td>• 150 ECS</td> </tr> <tr> <td>• Total parking provided</td> <td>• 378 ECS</td> </tr> </tbody> </table> <ul style="list-style-type: none"> • Investment/Cost of the project :- INR 92.9 Crore (inclusive of Land cost & Development cost) • Benefits of the project :- Direct & Indirect employment opportunities and Infrastructural Development of the Area. • Employment potential :- Construction Phase : During the construction phase, approx. 200 workers got direct employment opportunity Operational phase : On completion of project there will be regular movement of owners, visitors, staff and related personals. Total influx of population is expected to be 378ECS. <ol style="list-style-type: none"> 3. Project/ activity covered under item of Schedule to the EIA Notification, 2006:- Building and Construction project, Category 'B', Project or Activity: 8(a) 4. Why appraisal/ approval is required at the Central level:- As state SEAC/SEIAA does not exist. 5. National Park/ Wild Life Sanctuary in 10 km radius area:- None 6. Eco-Sensitive Zone in 10 km radius area:- None 7. Details of Forest land involved, if any:- None 8. ToR Details: - Terms of Reference (ToR) was granted by State Environment Impact Assessment Authority, vide Memo No: - SEIAA/HR/2018/848 dated: - 07.08.2018. 9. Details of Public Hearing and main issues raised/response of the PP:- Not applicable 10. If any court case pending for violation of the environmental laws (supported by an undertaking) :- Yes, Credible action under Environment Protection Act. 11. Land use planning:- M/s Sheetal International Pvt. Ltd. was granted license (no. 98 of 2008 dated 14.05.08) by Town & Country Planning Department, Haryana for land measuring 19.069 acre. Out of this, 2.693 acre land was sold to M/s. Sunvision Builders Pvt. Ltd. for development of a commercial project vide Conveyance Deed dated 24th Sep., 08. 12. Ground water withdrawal approval from CGWA:- Not applicable 13. For other sources, firm commitment of the water supply agency:- Water will be supplied by HUDA 14. Undertaking to the effect that no activity has since been taken up :- Project is under violation 15. Appraisal by State Coastal Zone Management Authority (SCZMA) :- Not applicable 16. Details of earlier EC, if any and compliance thereof:- None 17. Details of earlier appraisal by EAC/ SEAC; observation and compliance: 	• Area	• No. of parking provided	• Open	• 78 ECS	• Basement I	• 150 ECS	• Basement II	• 150 ECS	• Total parking provided	• 378 ECS
• Area	• No. of parking provided										
• Open	• 78 ECS										
• Basement I	• 150 ECS										
• Basement II	• 150 ECS										
• Total parking provided	• 378 ECS										
15.5.2.3	<p>Observations and recommendations of committee:</p> <p>The EAC after deliberation deferred the proposal for want of following information:</p> <ol style="list-style-type: none"> (i) All the copies of minutes of SEIAA. (ii) Date of construction was started. (iii) Copies all the necessary approvals obtained. (iv) Submission of Commitment regarding ZLD. (v) Approval letters for water supply and sewage treated water supply shall be submitted. (vi) Ambient air quality table shall be revised to include the directions along with windrose diagrams and submit reasons for higher air quality values. (vii) Scheme for implementation of indoor air quality system shall be submitted. 										

	<ul style="list-style-type: none"> (viii) Schedule I – Fauna is observed to be in buffer zone as per the list and hence suitable conservation plans shall be submitted. (ix) The Rainwater harvesting system in compliance with GEC 2015 shall be submitted apart from building guideline. (x) A commitment for providing MBBR STP system with ACF and UV filtration of adequate size shall be submitted. Confirmation for provision of dual plumbing system shall be submitted. (xi) Copy of MOU for disposal of non-biodegradable hazardous waste and recyclable waste including e-waste shall be submitted. (xii) Submit the program of greenbelt indicating the species as per the MOEF guidelines. (xiii) In ECBC compliance report 2017 specify the provision of LPD as per ECBC, the efficiency of motors as per ECBC and the proposed compliance. (xiv) Solar Power @ 1% of the demand (xxiv) Status of credible action taken against violation of EIA Notification, 2006 (xxv) Revised CER considering Greenfield project, since it is a violation case as per the MoEF&CC OM dated 01.05.2018. (xv) The revised remediation and community and natural resource augmentation plan with budgetary provision to augment them in 3 years period shall be submitted by considering following points: <ul style="list-style-type: none"> a. Air Environment: Shall submit increase in GLC during construction, impacts on occupational health of construction workers and the nearby habitats in the absence of proper mitigation measures during construction and the budget shall be revised accordingly. Cost of DG stack, AAQ monitoring shall be covered under EMP cost. b. Damage to surface water regime during construction due to effect on surface runoff by construction material and the fugitive dust. c. Non-provision of Rainwater Harvesting system during construction and subsequent damage due to stagnation and avoidance of ground water recharge. d. Since high risk of noise environment due to habitation in closer proximity additional plantation coverage/ Greenbelt coverage to mitigate the impact. e. Land Environment: Improper use of handling of topsoil and subsequent damage and surface runoffs with land use change. Solid and hazardous waste during and improper handling.
15.5.3	<p>Expansion of warehouse for storage of non-agriculture produce (Logistic) at Village Jhamuwas & Gudhi, District Mewat, Haryana by M/s Gokaldas Warehousing Corp. Ltd. - Environmental Clearance.</p> <p>[IA/HR/MIS/84477/2018]dated 02.11.2018, [F. No. 23-281/2018-IA.III (V)]</p>
15.5.3.1	<p>M/s Gokaldas Warehousing Corp. Ltd. has made online application vide proposal no. [IA/HR/MIS/84477/2018] dated 02.11.2018 seeking Environment Clearance for the above mentioned proposed project. The proposed project activity is covered under 'B' category of item 8(a) of the Schedule to the EIA Notification, 2006 and the proposal was appraised at Central level as tenure of SEIA Haryana is completed.</p>

15.5.3.2

Details of the project as per the submission of project proponent:

1. Project title, location (plot No./ Village/ Tehsil/ District):- Expansion Of Warehouse For Storage Of Non-Agriculture Produce (Logistic), Village Jhamuwas&Gudhi, District Mewat, Haryana

2. Salient features of the project :-

- Land use pattern/ Total plot area/ built up area: - Total Plot Area- 72,613sq.m. Total Built up area -34,901.44sq. m.
- Total water requirement and its source :- Construction Phase: Total water demand of the project was approximately 174 KLD. Operation Phase: Total water demand of the project is expected to be 6 KLD approximately;

S. No.	Description	Total
1.	Fresh water (KLD)	1
2.	Domestic water (KLD)	3
3.	Total water (KLD)	6

Source :- water requirement will be met by Private water tanker

- Waste water generation, treatment and disposal :- Wastewater Generation

Domestic Water Requirement	3 KLD
Fresh	1 KLD
Flushing	2 KLD
Waste Water Generated (80% fresh of domestic + 100% flushing)	0.8 + 2 = 2.8 KLD

It is expected that the project will generate approx. 3 KLD of wastewater. The wastewater will be collected in soak pits.

Construction Phase:

During the construction phase soak pits and septic tanks was provided for disposal of waste water. Temporary sanitary toilets were provided.

- Municipal solid waste generated disposal facility :- Operation Phase:

The total municipal (domestic) solid waste to be generated is approx. 17 kg/day

Biodegradable waste	10 kg/day (Waste vegetables and foods etc.)
Non-biodegradable waste	5 kg/day (Papers, cartons, thermocol, plastics, glass etc.)
Inert waste	2 kg/day
Total	17kg/day

- Power requirement and source :- Electrical Load

• Electrical load = 1,200kVA

Source: Dakshin Haryana Bijli Vitran Nigam (DHBVN).

There is a provision of 3 DG sets of 250 KVA, 200 KVA and 200 KVA for power backup.

- Proposed energy saving measures :- Energy will be saved using T-5 Lamp, LED lamps, Solar PV
- RWH :- Rain water recharge pits (6 Nos.) will be provided

	<ul style="list-style-type: none"> • Car parking :- Required Parking = 10,891.95 m² (15% of plot area) Proposed Parking (Surface Parking) = 10,928.26 m² (15.05 % of plot area) • Investment/Cost of the project :- INR 35Crore (inclusive of Land cost & Development cost) • Benefits of the project :- Direct & Indirect employment opportunities and Infrastructural Development of the Area. • Employment potential :- Construction Phase : During the construction phase, approx. 75 workers got direct employment opportunity Operational phase : On completion of project there will be regular movement of owners, visitors, staff and related personals. Total influx of population is expected to be 75 ECS. <ol style="list-style-type: none"> 3. Project/ activity covered under item of Schedule to the EIA Notification, 2006:- Building and Construction project, Category 'B',Project or Activity: 8(a) 4. Why appraisal/ approval is required at the Central level:- As state SEAC/SEIAA does not exist. 5. National Park/ Wild Life Sanctuary in 10 km radius area:- None 6. Eco-Sensitive Zone in 10 km radius area:- None 7. Details of Forest land involved, if any:- None 8. ToR Details: - Terms of Reference (ToR) was granted by State Environment Impact Assessment Authority, vide Memo No: - SEIAA/HR/2018/858 dated: - 07.08.2018. 9. Details of Public Hearing and main issues raised/response of the PP:- Not applicable 10. If any court case pending for violation of the environmental laws (supported by an undertaking) :- No 11. Land use planning:- Commercial 12. Ground water withdrawal approval from CGWA:- Not applicable 13. For other sources, firm commitment of the water supply agency:- Water will be supplied by Private water tanker 14. Undertaking to the effect that no activity has since been taken up :- Project is under violation 15. Appraisal by State Coastal Zone Management Authority (SCZMA) :- Not applicable 16. Details of earlier EC, if any and compliance thereof:- None 17. Details of earlier appraisal by EAC/ SEAC; observation and compliance:- Chronology of the EC application of the project <ul style="list-style-type: none"> • EC application submitted to MoEF&CC, New Delhi on 10.02.2018 under violation category • Again EC application was submitted to SEIAA, Haryana on 20.03.2018. Ref: MoEF&CC 8th March 2019 notification (S.O 1030 E) for violation cases. • ToR has been granted by SEIAA, Haryana in 115th Meeting on 25.07.2018. • EIA/EMP report was submitted online portal to SEIAA, Haryana on 31.08.2018 under violation category. • EIA/EMP report was submitted online portal to MoEF&CC on 02.11.2018 under violation category. • Case listed in 15th EAC meeting agenda on 29.11.2018.
15.5.3.3	<p>Observations and recommendations of committee:</p> <p>The EAC after deliberation deferred the proposal for want of following information:</p> <ol style="list-style-type: none"> (i) Date of construction was started and completed (ii) Copies all the necessary approvals obtained (iii) Parking area shall be on a paved platform and the PP shall give a commitment for the same.

- (iv) Change of Land use plan is valid for 2 yrs i.e. upto 5/08/2017 and whether extension obtained if so please submit the same.
- (v) Revised Table depicting AAQ station locations, with distance and direction w.r. to the wind rose shall be submitted
- (vi) AAQ data appears to be very high considering site location, not so closer proximity to MDR and surrounded by agricultural fields. Hence this may be rechecked and if there is no change, proper justification for the high values shall be provided.
- (vii) Conservation plan approved by local wildlife warden for the schedule-1 (common peafowl) found in buffer zone shall be submitted.
- (viii) RWH calculation in compliance with GEC 2015 shall be submitted and such water including the storm water shall be stored in adequate size tanks to be treated and reused for the requirements such as sprinkling and other uses, shall be submitted.
- (ix) Source of authorized water supplier shall be submitted.
- (x) Copies of MOU between the PP and authorized recycler shall be submitted for disposing of Non-Biodegradable and recyclable and hazardous waste.
- (xi) Table showing the compliance to ECBC-2017 norms shall be submitted.
- (xii) Three tier Green Belt plan of width 15 metres of native species of thick and foliated leaves all around the boundary shall be submitted.
- (xiii) Solar power @ 1% of demand is required and commitment for the same shall be submitted.
- (xiv) Traffic impact study considering the traffic surrounding 5KM area present and future shall be submitted.
- (xv) Status of credible action taken against violation of EIA Notification, 2006
- (xvi) Revised CER considering Greenfield project, since it is a violation case as per the MoEF&CC OM dated 01.05.2018.
- (xvii) The revised remediation and community and natural resource augmentation plan with budgetary provision to augment them in 3 years' period shall be submitted by considering following points:
- a. All ecological damage assessment shall be calculated for the total construction period of 62 months and resubmitted.
 - b. Please correct the annual average rainfall figures and workings shall be accordingly.
 - c. High sensitivity receptors shall include construction workers (Nos) apart from farm house (No. of Occupants), Gudha village (Population) i.e. habitants within 350 metres and since no control / mitigative measures must have been adopted in the absence of EC, increase in GLC of PM₁₀,2.5 needs to be estimated by modelling and considered for damage assessment and such actual damage quantum shall be submitted along with Isopleths PM₁₀, 2.5, Sox and Nox.
 - d. Further while High Degree of damage is assessed due to air pollution during construction stage, on human health of construction workers, nearby habitats (within 350m) and ecology. Hence the remediation plan shall focus on Dust suppression activity involving providing paved roads, health camps, community plants surrounding the nearby habitations like Gudha village, water sprinkling, provision of greenery in the nearby school, personal protective equipments, etc.

	<p>e. Water Environment: -Though Ground water was not used instead STP water was used, the source and arrangement shall be indicated. Damage due to waste water generated during construction, increase in suspended solid due to surface runoff from building under construction and obstruction of Rain water percolation in the absence of proper control measures during construction, water harvesting damages due to surface runoff and stagnation. The above damages needs to be accented for in the remediation budget.</p> <p>f. Improper Solid and Hazardous waste disposal and the damages cost on land and soil.</p> <p>g. Noise Environment: Budget provided for acoustic enclosure, vibration patches and low Nox burners constitute EMP cost and not remediation cost. And remediation budget should comprise of providing noise abatement measures surrounding the project.</p> <p>h. Land environment shall cover the damages due to change in land use and other surface changes and improper top soil management leading to damage assessment and remediation budget.</p> <p>i. Biological Environment shall be taken in to consideration, plantation of 900 trees instead of 250 trees in the vacant and adjustment area.</p> <p>j. Socio Economic environment shall take to account the inflow of construction worker and related load on local infrastructure and the remediation towards the same. Damage should cover occupational health and the remediation.</p> <p>k. ECBC 2017 applicable to commercial buildings has bot been implemented so far and hence high consumption of energy shall be factored into the impact and remediation worked out.</p> <p>l. Natural and community resource augmentation plan shall be revised by considering development of greenery, black topping, parks, public toilets including schools and Healthcare programs, provision of drinking water facilities (RO), Rainwater harvesting system in the nearby habitat and school, skill development, enhancement of resources in farming etc.</p>
15.5.4	<p>Expansion of Medapalli Opencast Expansion project at Ramagundam Area-I, Village Medapalli, Mandal Ramgundam, District Pedapalli, Telangana by M/s The Singareni Collieries Company Ltd. - Terms of Reference [IA/TG/CMIN/74390/2018 dated 13.04.2018] [F. No. 23-278/2018-IA.III (V)]</p>
15.5.4.1	<p>M/s The Singareni Collieries Company Ltd. has made online application vide proposal no. IA/TG/CMIN/74390/2018 dated 13.04.2018 seeking Term of References for the above mentioned proposed project. The proposed project activity is covered under 'B' category of item 1 (a) of the Schedule to the EIA Notification, 2006 and the proposal was appraised at Central level as general condition applies.</p>
15.5.4.2	<p>Details of the project as per the submission of project proponent:</p> <ol style="list-style-type: none"> 1. The Project Proponent made a detailed presentation on the salient features of Medapalli Opencast Coal Mine Expansion Project. 2. The project involves extraction of coal @ 3.0 MTPA(peak 4.09 MTPA) (Proposed for 5.00 MTPA) by M/s Singareni Collieries Company Ltd. in an area of 1145.03 hectares at Medapalli Village, Ramagundam Taluka/Mandal, Peddapalli District, Telangana (State). 3. The said project is covered under category 1 (a) of item Mining of Minerals of the Schedule to the EIA Notification, 2006, and requires prior EC from the MoEF&CC/SEIAA based on the appraisal by Expert Appraisal Committee.

	<p>4. Whether project attracts the General Condition specified in the Schedule of EIA Notification (Yes/No)? [provide name of WL/CPA/ESA/Inter-state boundary / International boundary and distance from the project]: No</p> <p>5. River Godavari forming North Eastern boundary of the block, drains the area along with its ephemeral tributaries. The Highest Flood Level (HFL) of Godavari River was recorded as 138.55 m above MSL (Corresponding to 838.55 m of assumed Level) during the monsoon on 20.10.1995. Large portion of the block is covered under this HFL of the river and the same was protected with a bund between River and mine.</p> <p>6. Details of Forest issues, if any: Nil</p> <p>7. Details of Consent to Operate: (i) Whether Consent to operate obtained (Yes/No)? Yes (ii) Date of issue : 21.04.2018 (iii) Valid up to : 31.03.2021 (iv) Submit Copies of all Consent to operate obtained since inception</p> <p>8. Mine Capacity in ROM (Run of Mine): 3.00 MTPA (Peak 4.09 MTPA) (Proposed for 5.00 MTPA)</p> <p>9. Whether the proposal is mining of Minor minerals project (Yes/No)? No</p> <p>10. Whether the proposal is mining of Major minerals project (Yes/No)? Yes</p> <p>11. No. of Mineral to be Mined with name: One (Coal)</p> <p>12. Details of mine lease: - Medapalli Mining lease (i) Date of entering into original lease deed : 20.06.1991 (ii) Date of expiry of original lease deed : 09.12.2021</p> <p>13. Details of DGMS permission, if any: - Obtained</p> <p>14. Details of past production of mine since its inception duly in tabular form: (Hard copy authenticated by Department of Mines & Geology, State Government to be submitted)</p>
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Year	EC Capacity (MTPA)	Actual Production (MTPA)	Excess production beyond the EC sanctioned capacity (MTPA)
1994-95	1.25	0	-
1995-96	1.25	0.36	-
1996-97	1.25	0.48	-
1997-98	1.25	0.56	-
1998-99	1.25	0.59	-
1999-00	1.25	0.85	-
2000-01	1.25	0.73	-
2001-02	1.25	1.00	-
2002-03	1.25	1.41	0.16
2003-04	1.25	1.44	0.19
2004-05	1.25	1.57	0.32
2005-06	1.25	1.48	0.23
2006-07	1.25	1.36	0.11
2007-08	1.25	2.50	0.16
2008-09	4.09	3.09	-
2009-10	4.09	3.32	-
2010-11	4.09	4.18	0.09
2011-12	4.09	3.57	-
2012-13	4.09	3.99	-
2013-14	4.09	2.74	-
2014-15	4.09	3.87	-
2015-16	4.09	4.59	0.50
2016-17	4.09	4.65	0.56
2017-18	4.09	4.67	0.58

15. Details of Violation (Brief description of the project activity that leads to violation of EIA Notification, 2006): Production exceeded the EC sanctioned capacity as furnished in the above table.

16. The chronology of events for seeking EC, deliberations by the respective authorities and the actions taken are reported to be as under: (Note: Do not furnish details in Annexures)

- (i) Date of application for TOR/EC submitted to MoEF&CC/SEIAA: 13.04.2018
- (ii) Date of appraisal of EAC/SEAC meetings so far: Fresh Proposal
- (iii) Observations/recommendations of the EAC/SEAC in each meeting: Not applicable
- (iv) Details of action taken by the State Government/SEIAA u/s 5/u/s 19 of the EP Act, 1986 for the alleged violation of the EIA Notification, 2006: Nil
- (v) Complaint case filed by the State Government/State Pollution Control Board: Nil
- (vi) Further consideration of the proposal by the EAC/SEAC, in case action was taken as mentioned in point (iv) and (v) above. If yes, furnish details: Nil
- (vii) Final recommendations of MOEF&CC/SEIAA in reference to point (vi) above: Not applicable
- (viii) Legal interventions, if any: Nil

Now the proposal has been submitted to the Ministry for consideration in pursuance of the Ministry's Notification dated 14th March, 2017 due to violation of the EIA Notification, 2006.

15.5.4.3	<p>Observations and recommendations of committee:</p> <p>The EAC after the presentation by the PP observed that present proposal is for regularisation of earlier EC granted vide dated 22.06.1992 & 02.07.2008 for 1.25 MTPA & 3.0 MTPA (4.09 peak) respectively. Based on the production detail PP has gone for enhanced production beyond EC capacity from 2002 to 2008, 2010-2011 and 2015-2018. Also, PP has proposed for reduction in mine lease area from 1171.55 Ha (earlier EC) to 1145.03 Ha in the present expansion proposal.</p> <p>The EAC after detailed deliberation deferred the proposal for want of following information:</p> <ul style="list-style-type: none"> (i) KML file showing earlier and present proposed mining lease area. (ii) Clarification for decrease in Mine Lease area and a table showing Pre-Mining and Present land use details for earlier EC proposal and present proposal. (iii) Comparison table for details of land use status after mine closure stage for earlier EC proposal and present proposal. (iv) Submission of affidavit in compliance of Hon'ble Supreme Court order dated 02.08.2017.
15.5.5	<p>Proposed Black Granite Quarry (M.L. Area 166.920 Ha) at Survey No. 917(Part) & 921(Part) at Mahimandalam Village, Katpadi Taluk, Vellore District, Tamil Nadu by M/s Tamil Nadu Minerals Limited - Further consideration for Terms of Reference</p> <p>[IA/TN/MIN/67985/2017 dated 06.09.2017][F. No. 23-203/2018-IA.III (V)]</p>
15.5.5.1	<p>M/s Tamil Nadu Minerals Limited has made online application vide proposal no IA/TN/MIN/67985/2017 dated 06.09.2017 seeking Term of References for the above mentioned proposed project. The proposed project activity is covered under 'A' category of item 1(a) of the Schedule to the EIA Notification, 2006 and the proposal was appraised at Central level.</p>
15.5.5.2	<p>Details of the project as per the submission of project proponent:</p> <p>1. Project description</p> <p>The Proposal of M/s Tamil Nadu Minerals Ltd, Chennai, (popularly known as TAMIN) is for Mining of Black Granite (Minor Mineral) from Mahimandalam Black Granite Quarry for Total Excavation of 1003 m³/annum. In Granite Industries excavation of Granite blocks are measured in volumetric basis, i.e., Cubic meter (m³). However, approximately 1 m³ = 4 Tons in respect of Black Granite deposits i.e., geologically called as Dolerite dyke (Minor Mineral) formation. Waste, 32432 M3 (Granite Rejects) O.B, 2580 m³ Inter Burden, 2160 m³ Top Soil etc. Nil. (As it is rocky formation)] Mining lease area is 166.92 Ha located at Sf No 917part & 921part of Mahimandalam Village, Walajah taluk (Now Katpadi Taluk), Vellore District in Tamil Nadu State by M/s Tamil Nadu Minerals Ltd.</p> <p>3. Project Background</p> <p>The proposal of M/s Tamil Nadu Minerals Ltd is for production of 1003 m³ per annum of Mining of Minor Minerals from Mahimandalam Black Granite Quarry (ML Area 166.92 Ha, located at SurveyNo.917 Part and 921 Part, at Mahimandalam Villages, Katpadi Tehsil Vellore District, Tamil Nadu,State.The mining lease is located on Survey of India Topo-sheet no. 57 O 4 and 57 O 8. The area is bounded between the coordinates Latitude 13°4'53.86"N to 13° 5'27.78"N and Longitude 79°12'0.63"E to 79°13'54.09"E</p> <p>3. Category of the Project (Refer cluster certificate if applicable)</p> <p>➤ The said project/activity is covered under category 'A' of item 1(a) Mining of MineralsoftheScheduletotheEIANotification,2006 as amended, and requires prior EC</p>

from the MoEF & CC based on the appraisal by Expert Appraisal Committee.

- Cluster certificate is not applicable for this project as there is no quarry within 500 meter radius as well as the total extent of the project is more than 25 Ha, ie., 166.92 Ha.

**4. Violation Details & Sectorial EAC/SEAC Comments:
(Chronological events of the Project)**

S. No	Year	Activity	Reference
1	13.04.2015	EC Application (before 14 th March 2017 violation notification)	IA/TN/MIN/27398/2015
2	01.05.2015	EC Application acceptance by MS	Acceptance letter
3	15.05.2015	Proposal Considered in 33 rd EAC Meeting	33 rd EAC Agenda
4	05.06.2015	ToR Issued by MoEF&CC	J-11015/131/2015-
5	Dec-2015 to Feb 2016	Baseline studies	--
6	02.12.2016	Public Hearing	Public Hearing
7	06.09.2017	EC Application as per 14 th March 2017 violation notification)	IA/TN/MIN/67985/2017
8	01.08.2018	Proposal considered in 11 th EAC meeting proposal involving in Violation	11 th EAC Agenda No 11.4.7
9	12.08.2018	Project is deferred in 11 th EAC meeting & Additional details are sought by MS	Additional submission at portal
10	10.10.2018	Additional details sought furnished & uploaded at MoEF&CC Portal	Acceptance mail received from MS on Nov 16 th 2018
11	29.11.2018	Proposal considered in 15 th EAC meeting proposal involving in Violation	15 th EAC Agenda No. 15.5.5

5. Application (Form-1 & PFR)

Fresh application was made online vide proposal no: IA/TN/MIN/67985/2018 dated: 06.09.2017 under violation category for Terms of References (ToR) in terms of provision of the Ministry's Notification S.O804 (E) and Submitted Form-1 and PFR. The proposed project activity is covered under 'Schedule 1(a) mining of Minerals Notification, 2006 and is a category 'A'.

The proposed project activity is covered under 'Schedule 1(a) Mining of Minerals Notification, 2006 and is category 'A' due to the following reasons:

1. Black Granite Quarry is over extent of 166.92 Ha.
2. Project attracts the General Conditions. (Tamil Nadu-Andhra Pradesh Interstate boundary is passing adjacent to Mine lease area towards NW direction.)

6. Details of Minerals: Number of minerals. Whether mineral is major or minor. Status of same mineral before 2006 (major or minor):

- It is a Minor Mineral quarry (Black Granite only) since 1999.

7. Letter of Intent (LoI)/Mining Lease Details:

1. Quarry lease was granted over an extent of 373.36.5 Ha. In SF. No. 917 & 927 of Mahimandalam village, Walajah Taluk, (Now Katpadi Taluk), Vellore District, Tamil Nadu for 10 years vide G.O. Ms. No. 300 Industries Department, Dated 26.06.1991, valid up to 22.11.2001.
2. TAMIN surrendered an extent of 126.36.5 Ha. to the government and the same accepted by the government vide G.O. 3D No. 17 Industrial Development, Dated 03.03.1998.
3. Subsequently TAMIN filed the renewal lease application for the remaining extent of 247.0 ha. (373.36.5 – 126.36.5 = 247.0 ha.) for 20 years vide letter date on 17.11.2000 & 28.03.2001. The mining plan of the same was approved in Director of Geology and Mining Letter RC. No. 14624/MM2/2001, Dated 16.11.2001.
4. Further, TAMIN once again requested the government to reduce the lease area by an extent of 80.08.0 ha. from 247.0 ha. (247.0 – 80.08 = 166.92 ha.) and the government have accepted and granted renewal lease for 166.92 ha. Vide G.O. 3D No. 45 Industries (MME 1) Department, Dated 20.11.2002 for 20 years. Valid up to 22.11.2022.

8. Method of Mining & Mining Plan Details:

1. Mining Plan: approved by Director of Geology and Mining Letter RC. No. 14624/MM2/2001 fated 16.11.2001 to 2006.
2. Scheme of mining-I vide Letter No. 8301/ML3/2007 dated. 17.04.2007 (deemed to approved)
3. Scheme of Mining-II Letter No. 2366/ML2/2012, dated. 21.02.2012. (deemed to approved)
4. Scheme of mining III Letter No 2366/ML2/2016, dated. 13.05.2016. period: 2016-17 to 2020-21.

Project Description:

Production Capacity	1003 m ³			
Geological Reserves	Geological reserves, the total quantity of reserves have been computed on the geological cross sections up to the economically average depth of 25 m from the top surface of the granite body works out to 86, 14,000 m ³ and the total updated geological reserves after deleting before mine plan period, during mine plan period and Scheme of mining period I and II is 81, 91,116 m ³ .			
Mineable Reserves	The total mineable reserve have been computed after deleting of reserves due to mineral lock up in benches as 84,19,563 m ³ and updated mineable reserves after deleting before mine plan period, during mine plan period and Scheme of mining period I and II is 79,96,679 m ³ .			
Saleable Reserves	The commercially viable or saleable reserve is computed at 3 % recovery, the saleable reserve was about 2, 39,901 m ³ .			
Land Use Pattern of the lease	S. No	Particulars	Extent in Ha	End of Mine Life
	1	Mine Pit area	8.86	53.0
	2	Road	1.46	4.06
	3	Afforestation	1.00	21.75
	4	Office Building	0.75	-
	5	Existing Waste Dump	5.0	2.25
	6	Proposed Waste Dump	3.11	72.84
	7	Unmined area	146.74	13.02
	Total Mine Lease area	166.92	166.92	
Method of Mining	Open cast method. Primary Cutting: Open cast, semi-mechanized mining with stages of splitting of rock mass, and separation of two vertical ends along the			

	width slide by diamond wire cutting. Separation of the horizontal and vertical planes by serial blasting simultaneously along the above two plans by using 32 mm dia blast holes charged with mild explosives like gunpowder or detonating cord. Secondary splitting: The secondary splitting to size required size involves long hole drilling up to the bottom of the separated block and mild blasting along the required planes. Secondary splitting is done by using the compressed air available at the quarry, initially widening and splitting up to 15 to 18 cm. The blocks are toppled and removed from the pit to the dressing yard by using hydraulic excavators.
Depth of Mining	25 m Above Ground-Top of the Hill- for lease period.
Main mining equipment	Hydraulic Excavator (Hitachi), Compressor Portable and tractor mounted, Crane 10- Ton Escort, Tipper, Jack Hammer and Diamond wire saw machine with accessories.
Life of the mine	20 years
Man Power	Direct – 41 Nos and Indirect – 70 Nos.
Waste Generation	The total quantity of waste generation for scheme of mining II and III is 329439 m ³ . (Scheme II – 108201 + Scheme III - 2,21,238 m ³).
Waste Management	The waste generated during the mining operation i.e., side burden, granite rejects and the non-recoverable / un-sized boulders and rubbles etc, will be dumped within the mine lease area. The existing dump area is 5.0 Ha. & proposed waste dump area in the beginning of scheme III is 3.11 Ha. and during end of the life of the mine is 75.09 Ha. The unsold blocks are kept within the boundary on the country rock area. The dumps will be maintained not exceeding 5m height and the angle of slope of dumps will be at 45° from horizontal.
Water Requirement	The Total Water requirement is 9.1 KLD Source: Private tank waters
Effluent Generation	1.4 KLD is discharged into septic tanks with soak pits.
Power Requirement	25 kVA – 2 Nos.
Project Cost	Rs. 1.0 Crore

9. Other Waste Generation, if any:

- ▶ The existing dump area is 5.0 Ha & proposed waste dump area in the beginning of scheme of Mining-III is 3.11 Ha. and during end of the life of the mine is 75.09 Ha.
- ▶ The overburden is dumped inside the mining area to stabilize slopes and reclaim low lying areas within the mine.
- ▶ Top Soil recovered will be used in the green belt areas on the North western boundary of the mine site.
- ▶ Top soil will be removed & stored on the inner boundary of the mining lease area. To improve its quality, soil stabilizers shall be mixed and leguminous plantation will be done over these stacks.
- ▶ The solid waste that is likely to be generated during the quarry activity will be stacked along the lease barrier according to the mining plan. All the care will be taken to minimize the waste generation at the source.

10. Land Use (Forest/Agricultural/Waste):

- The project Lease area is categorized as government poramboke land. Tamil Nadu Minerals Limited Obtained Lease vide G.O. 3D No. 45 Industries (MME 1) Department, Dated 20.11.2002 for 20 years. Valid up to 22.11.2022.

- No Forest/Agricultural/ Grazing land and water bodies land is involved in project lease area.

Environmental Features of the project:

The topography of the lease is hilly. The highest elevation of the lease area is 240 m to 340 m above MSL.

Environmental Features of the Project

S.No	Description	Details			
1.	Nearest Highway	State Highway NH-124, distance 4.0 km (E).			
2.	Nearest Railway Junction	Ramapuram Railway Station – 4.6 km (W)			
3.	Nearest Airport	Tirupati Airport- 70.0 Km (E)			
4.	Nearest Water Bodies /River/Sea	Ponnai River - 5.5 Km (E)			
5	Nearest Town / City	Thiruvalam – 12.13 km (N)			
6	Nearest Village	S. No.	Name of the Villages	Approximate distance & direction from project site	Population (Census 2011)
		1	Bodinattam village (in m)	56 (S)	200
		2	Ammavaripalli (in Km)	1.35 (SE)	1000
		3	Perumalkupam (in Km)	1.89 (NE)	1300
		4	Vallimalai (in Km)	3.7 (NE)	1000
7	Archeological Important Areas	None within 10 km radius			
8	National Parks/Wildlife Sanctuaries	None within 10 km radius			
9	Reserved/ Protected Forests	1. Mahimandalam RF - 2.25 Km –Aerial distance (S) 2. BasavapalleRF – 4.75 Km –Aerial distance (SW) 3. Basavapalle RF – 5.75 km –Aerial distance (NW) 4. Chilapalle RF - 6.5 Km –Aerial distance (NW)			
10	Seismic zone	Zone III			
11	Defense Installations	None			

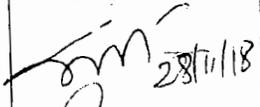
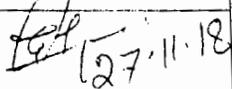
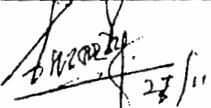
The proposed project activity is covered under 'Schedule 1(a) Mining of Minerals Notification 2006' and is a category 'A' due to the following reasons:

1. Black Granite Quarry is over extent of 166.92Ha.
2. Project also attracts the General Conditions. (Tamil Nadu-Andhra Pradesh Interstate boundary is passing adjacent to Mine lease area towards NW direction.)

15.5.5.3	<p>Observations and recommendations of committee:</p> <p>The EAC in its 11th meeting, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, observed that EIA co-ordinator did not visit the site prior, EAC took a serious note and advised the EIA co-ordinator to submit report of the site visit. EAC defer the proposal for want of following information to be submitted along with report of the site visit:</p> <ul style="list-style-type: none"> (i) DGMS permission for blasting at project site as there is large habitation/temple at the distance of 56 m. (ii) Submission of production details to be certified by Director Mines and Geology of State Government. (iii) Documents related to valid mine lease and mine plan approved by Indian Bureau of Mines. (iv) Certificate from revenue authorities that any road is not passing through mine lease area.
15.5.5.4	<p>Observations and recommendations</p> <p>The EAC after detailed presentation noted that PP has submitted affidavit in compliance of the Hon'ble Supreme Court order dated 02.08.2017, DGMS permission for blasting at project site. The EAC after detailed deliberation recommended the proposal for issuing standard Term of Reference along with the specific Term of Reference for undertaking EIA and preparation of Environmental Management Plan (EMP) subject to the submission of following:</p> <p>"Toposheet, production detail from state DMG duly signed and stamped with name of the signatory, hard copy of Annexure II duly signed by the PP and submission of kml file to the Ministry at the earliest"</p> <p>PP submitted the above information on 30.11.2018. Accordingly following specific Term of Reference are required for undertaking EIA and preparation of Environmental Management Plan (EMP) along with standard Term of Reference:</p> <ul style="list-style-type: none"> I. The State Government/SPCB to take action against the project proponent under the provisions of section 19 of the Environment (Protection) Act, 1986, and further no consent to operate to be issued till the project is granted EC. II. The project proponent shall be required to submit a bank guarantee equivalent to the amount of remediation plan and natural and community resource augmentation plan with the SPCB prior to the grant of EC. The quantum shall be recommended by the EAC and finalized by the regulatory authority. The bank guarantee shall be released after successful implementation of the EMP, followed by recommendations of the EAC and approval of the regulatory authority. III. Assessment of ecological damage with respect to air, water, land and other environmental attributes. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited by NABL, or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment. IV. Preparation of EMP comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation. V. The remediation plan and the natural and community resource augmentation plan to be prepared as an independent chapter in the EIA report by the accredited consultants. VI. Fresh base line data of one season is to be collected.

	<p>VII. Public Hearing (PH) has been conducted on dated 02.12.2016 covering all the issues, committee felt that one time PH as per the order of Hon'ble High Court of Madras has already taken care and hence repeat PH is not required.</p> <p>VIII. Fund allocation for Corporate Environment Responsibility (CER) shall be made as per Ministry's O.M. No. 22-65/2017-IA.III dated 1st May, 2018 for various activities therein. The details of fund allocation and activities for CER shall be incorporated in EIA/EMP report</p>
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Members of the EAC for the proposal involving violation of EIA Notification, 2006 present during 15th meeting held on 27th-29th November, 2018 at MoEF&CC, New Delhi and approved the above minutes.

Sl. No.	Name of the EAC member	Role/Designation	Signature
1.	Dr. S.R. Wate,	Chairman	 28/11/18
2.	Dr. G.V. Subrahmanyam	Member	 27.11.18
3.	Dr. A. L. Ramanathan	Member	
4.	Dr. M.V. Ramana Murthy,	Member	
5.	Shri K Gowarappan	Member	
6.	Dr. Dilip S. Ramteke,	Member	
7.	Dr. Poonam Kumria,	Member	
8.	Dr. Bharat Jain,	Member	
9.	Dr. Subrata Maity,	Member	 27/11
10.	Shri Raghu Kumar Kodali	Member Secretary	

AnnexureTerms of Reference for EIA and preparation of Environment Management Plan

1. Project description, its importance and the benefits.
2. Project site details (location, toposheet of the study area of 10 km, coordinates, google map, layout map, land use, geological features and geo-hydrological status of the study area, drainage).
3. Land use as per the approved Master Plan of the area, Permission/approvals required from the land owning agencies, Development Authorities, Local Body, Water Supply & Sewerage Board, etc.
4. Land acquisition status, R&R details.
5. Forest and Wildlife and eco-sensitive zones, if any in the study area of 10 km – Clearances required under the Forest (Conservation) Act, 1980, the Wildlife (Protection) Act, 1972 and/or the Environment (Protection) Act, 1986.
6. Baseline environmental study for ambient air (PM₁₀, PM_{2.5}, SO₂, NO_x & CO), water (both surface and ground), noise and soil for one month (except monsoon period) as per MoEF&CC/CPCB guidelines at Minimum 5 locations in the study area of 10 km.
7. Details on flora and fauna and socio-economic aspects in the study area.
8. Likely impact of the project on the environmental parameters (ambient air, surface and ground water, land, flora and fauna and socio-economic, etc).
9. Source of water for different identified purposes with the permissions required from the concerned authorities, both for surface water and the ground water (by CGWA) as the case may be, Rain water harvesting, etc.
10. Waste water management (treatment, reuse and disposal) for the project and also the study area.
11. Management of solid waste and the construction & demolition waste for the project vis-avis the Solid Waste Management Rules, 2016 and the Construction & Demolition Rules, 2016.
12. Energy efficient measures (LED lights, solar power, etc) during construction as well as during operational phase of the project.
13. Assessment of ecological damage with respect to air, water, land and other environmental attributes. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited by NABL, or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment.
14. Preparation of EMP comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation.

15. The remediation plan and the natural and community resource augmentation plan to be prepared as an independent chapter in the EIA report by the accredited consultants.

Contd.. (Annexure)

All the building projects including hotels, hospitals shall be prescribed with the following additional TOR points along with Specific TOR enumerated for study of ecological damages, remediation including above mentioned points for EIA and preparation of Environment Management Plan:

- (i) The EIA would study the impact of dewatering and draw up an action plan for disposal of the excess water.
- (ii) The EIA would study the impact of Demolition and conformance to the Construction and Demolition Rules under the E.P. Act, 1986.
- (iii) Certified Compliance Report issued by the MoEF&CC, Regional Office or concerned Regional Office of Central Pollution Control Board or the Member Secretary of the respective State Pollution Control Board for the conditions stipulated in the earlier environmental clearance issued for the project along with an action taken report on issues which have been stated to be partially complied or non/not complied.
- (iv) The Air Quality Index shall be calculated for base level air quality.
- (v) A detailed report on compliance to ECBC-2017 norms.
- (vi) A certificate from the local body supplying water, specifying the total annual water availability with the local authority, the quantity of water allotted to the project under consideration and the balance water available. This should be specified separately for ground water and surface water sources, ensuring that there is no impact on other users.
- (vii) An assessment of the cumulative impact of all development and increased inhabitation being carried out or proposed to be carried out by the project or other agencies in the core area, shall be made for traffic densities and parking capabilities in a 2 kms radius from the site. A detailed traffic management and a traffic decongestion plan drawn up through an organization of repute and specializing in Transport Planning shall be submitted with the EIA and the plan to be implemented to the satisfaction of all the concerned state departments and implementing agencies.
- (viii) The permission of the CGWA for abstraction of ground water if any and for basement/excavation dewatering if applicable.
- (ix) A certificate of adequacy of available power from the agency supplying power to the project along with the load allowed for the project.

- (x) A certificate from the competent authority for discharging treated effluent/ untreated effluents into the Public sewer/ disposal/drainage systems along with the final disposal point.
- (xi) A certificate from the competent authority handling municipal solid wastes, indicating the existing civic capacities of handling and their adequacy to cater to the M.S.W. generated from project.
- (xii) The Air Quality Index shall be calculated for base level air quality.

For Hospitals Only (In addition to above)

- (i) As per prescribed WHO guidelines, the proposal has to ensure that the Indoor Air Quality is maintained as per prescribed standards.
- (ii) Proposals to ensure that the parking areas are secure and do not permit entry of vehicles within the Hospital campus. Only ambulances and emergency vehicles shall be provided access into the hospital through dedicated emergency and exit gates. Battery operated vehicles shall be provided for internal movement of patients and attendants.
- (iii) A management plan for handling and disposal of biomedical wastes to the satisfaction of the State Pollution Control Board shall be drawn up in conformance to the Biomedical Waste Management Rules, 2016.
- (iv) Silence zones under the Noise Rules shall be demarcated and maintained in consultation with the District Administration. Proposals should be submitted in this regards.
- (v) Laboratory wastes shall be managed in accordance to the BMW Rules, 2016 and the atomic Energy Commission regulations as applicable. Proposals may be submitted in this regards.



Commissioner of Geology And Mining Industries and Mines Department (Govt of Gujarat)

Help Line Number : 07923254034, email us on : cgm.gmt@gmail.com
*For Cyber treasury Issues (Pending Payment) please e-mail Your QL number and

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- Daily MIS Report
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User Details

Leaseholder Code : ML2001008725
 Leaseholder Name : SHREE DEVABHAI KARABHAI BHUTIYA - Ranavav - 78./5 - 11.33
 District Name : PORBANDAR
 Mineral : Limestone Major
 Lease Royalty Balance : 349181.24 Rs.
 Taluka Name : RANAVAV
 LeaseType Name : Mining Lease
 Budget Code : 0853-00-102-02

Payment Information

Leaseholder Address * : "Gatral Bhavan" Satyam Park, Rajiv Nagar, Pobandar
 Company/Firm Name * : Deva Kara Bhutiya
 Mobile No * : 9825209730
 From Date :
 Type of Amount * : -Select-
 Amount to be Paid * :
 PINCODE * : 360577
 Email * : devabhutiya@yahoo.co.in
 To Date :
 PAN Number * : -Select-

Description * :
 (Up to of 150 Character)

Save

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GPCB

GUJARAT POLLUTION CONTROL BOARD

PARYAVARAN BHAVAN

Sector-10-A, Gandhinagar 382 010

Phone : (079) 23222425

(079) 23232152

Fax : (079) 23232156

Website : www.gpcb.gov.in

By R.P.A.D.

DIRECTIONS UNDER SECTION 31-A OF THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT - 1981

WHEREAS you are having Mine lease of M/s Devabhai Karabhai Bhutiya limestone mine at Survey No: 78/5, Vill: Ranavav, Ta: Ranavav, Dist: Porbandar.

AND WHEREAS you have started mining of Limestone mineral without obtaining prior permission of the Gujarat Pollution Control Board under The Air Act - 1981 and The Water Act - 1974 at above mentioned site.

AND WHEREAS you are required to submit an application in the prescribed form to obtain the consent of the Board. However, you have failed to apply for the same, which is a punishable offence with imprisonment for a period up to six years and also fine under Section 37 of the Air Act - 1981 and also under Section 44 of the Water Act - 1974.

AND WHEREAS during the inspection of your mine lease on dated 09/07/2020 by the authorized officer of the Board, it has been noticed that you have started mining activity without the prior CTE/CCA of the Board and not provided air pollution control measures. An appeal has been filed in Hon'ble NGT with O.A No: 101/2019(WZ) regarding illegal mining of limestone.

AND WHEREAS you are operating your mine lease without obtaining prior consent (CTE & CCA) of the Gujarat Pollution Control Board under the provisions of the Water Act - 1974 & The Air Act - 1981.

UNDER THE CIRCUMSTANCES, I M. V. PATEL, Environment Engineer of Gujarat Pollution Control Board is directed to issue the directions under Section 31-A of the Air (Prevention and Control of Pollution) Act-1981 as under:-

1. To prohibit forthwith mining of Limestone at aforesaid location.
2. To close the operation of your mine lease activity on the above mentioned site.
3. To direct the concerned authority to stop Virtual Account cum royalty pass and supply of electricity & water.

This order will be effective immediately from the date of issued.

IF the above directions are not complied, you are liable for prosecution under Section 37 of The Air (Prevention and Control of Pollution) Act-1981 which provides punishment with imprisonment for a term not less than one year and six months and may extend to six years with fine.

For and on behalf of
GUJARAT POLLUTION CONTROL BOARD

(M.V. PATEL)

ENVIRONMENT ENGINEER

NO: GPCB/PBR-C-205/ID-37291/

ISSUED TO:-

✓ M/s Devabhai Karabhai Bhutiya limestone mine

Survey No: 78/5,

Vill: Ranavav,

Ta: Ranavav, Dist: Porbandar

COPY TO: -

1. The Chairman,

Paschim Gujarat Vij. Co. Ltd,
Corporate Office, Laxminagar,
Rajkot.

2. The Dy.Engineer,(O & M),

Paschim Gujarat Vij Co.Ltd.
Porbandar,

Dist: Porbandar...With a request to disconnect the supply of electricity to the mine lease of M/s. Devabhai Karabhai Bhutiya limestone mine at Survey No: 78/5, Vill: Ranavav, Ta: Ranavav, Dist: Porbandar effective immediately from the date of issuing of this order and intimate to us accordingly.

3. To

District Collector

Collector and District magistrate office, Porbandar

District: Porbandar..... With a request to seal plant machinery/ D.G.Set in mine lease of M/s. Devabhai Karabhai Bhutiya limestone mine at Survey No: 78/5, Vill: Ranavav, Ta: Ranavav, Dist: Porbandar.

For and on behalf of
GUJARAT POLLUTION CONTROL BOARD


(M.V.PATEL)

ENVIRONMENT ENGINEER



ભૂસ્તરશાસ્ત્રીશ્રીની કચેરી

ભૂસ્તર વિજ્ઞાન અને ખનિજ ખાતુ,
કલેક્ટર કચેરી, જિલ્લા સેવા સદન-૧, એરપોર્ટ સામે,
સાંદિપની રોડ, પોરબંદર.



E-mail: - geologist-por@gujarat.gov.in, Website: - www.cgm.gujarat.gov.in

નં.ભુપો. ૧૦૨/૨૦૨૦/અકડ/ ૩૨૧૫૬

તા. ૧૨/૧૦/૨૦૨૦

શ્રી.

શ્રી દેવાભાઈ કારાભાઈ ભુતિયા

મુ. રાણાવાવ, તા. રાણાવાવ,

પોરબંદર

વિષય : એટીઆર અનલોક કરવા બાબત (ML2001008725)

સંદર્ભ : આપની તા.૧૬/૦૯/૨૦૨૦ ની લેખીત રજુઆત

ઉપરોક્ત વિષય પરત્વે જણાવવાનું કે આપશ્રીની મોજ પોરબંદર જિલ્લાના રાણાવાવ તાલુકાના રાણાવાવ ગામના સર્વે નંબર ૭૮/૫ ચૌકીમાં ૧૦.૧૯.૧૮ હેક્ટર વિસ્તારની લાઇમસ્ટોન ખનિજની માઇનિંગ લીઝનું વર્ચ્યુઅલ એકાઉન્ટ નીચે મુજબની શરતોને આધીન અનલોક કરવામાં આવે છે.

શરતો -

(૧) ઉપરોક્ત લીઝમાં ઓગસ્ટ-૨૦૨૦ અંતિત પડેલ ૬૮૪૬૧.૯૭ મે.ટન (માસિક પત્રક મુજબ)

વસતીમાં જથ્થા ઉપરાંતનું ખનિજ ઉપાડી શકાશે નહીં.

(૨) ઉપરોક્ત લીઝમાં નવું ખાણકામ કરી શકાશે નહીં.

(૩) MCR અને MCDR ના નિયમોનું ચુસ્તપણે પાલન કરવાનું રહેશે.

(૪) ઉપરોક્ત લીઝમાંથી ઉપાડેલ જથ્થાની વિગતો માસિક પત્રકમાં દર્શાવવાની રહેશે, તથા ઉક્ત જથ્થાનો બિઝનેસ પુર્ણ થયે તુરંત જ અત્રેની કચેરીને લેખીત જાણ કરવાની રહેશે.

(૫) લાન્ડ ડેવલપમેન્ટ અને પર્યાવરણ અંગે ભવિષ્યનાં કોઇ પણ ઉપસ્થિત થયે તાત્કાલીક અસરથી આપની લીઝનું કાર લોક કરવામાં આવશે.

માન. કલેક્ટરશ્રીની નોંધ પરની આજ્ઞા મુજબ

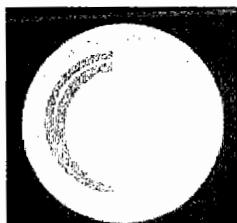
ભૂસ્તરશાસ્ત્રી

ભૂસ્તરવિજ્ઞાન અને ખનિજ ખાતુ

પોરબંદર

લોક કરવાનાં :

આજ્ઞા આજ્ઞા જાણ સારુ તેમજ ઉક્ત લીઝમાં સમયાંતરે ચેકીંગ તથા સ્થળતપાસની કામગીરી હાથ ધરી નવું ખાણકામ ના થાય તેની તકેદારી રાખવા સારુ.



OFFICE OF THE GEOLOGIST
DEPARTMENT OF GEOLOGY AND MINERALS

Collector's Office,
District Service Sadan-1,
Opposite Airport,
Sandipani Road, Porbandar,
E-mail: gealogistpor@gujarat.govt.in
website: www.cgm.gujart.gov.in

No BP/ML/AKD/2559

Date 12/02/2020

To,
Shri Devabhai Karabhai Bhutia
At Ranawav, Taluka Ranawav
Porbandar

SUB : REGARDING UNLOCKING OF ATR
(ML2001001725)

Ref : Your written representation
dated 16/09/200

With regard to the subject mentioned hereinabove, it is to inform you that the virtual account of the mining lease of limestone mineral of an area of 10.19.18 hectares of survey number 785 of village Ranawav of Saran taluka of Porbandar district of your is unlocked subject to the following conditions.

- (1) Mineral beyond the quantity of limestone of 68461.97 MT (as per monthly sheet) ending Aug-2020 in the above lease shall not be extracted.

- (2) No new mining work can be done on the above leases.
- (3) Rules of MCR and MCDR shall be strictly followed [to remain abide with].
- (4) The details of the quantity taken out from the above-mentioned lease shall be mentioned in the monthly sheet, and the said quantity should be reported in writing to the office immediately after completion of export.
- (5) ATR of you lease is locked with immediate effect, if in case of any question arises by GPCB and Environment in future.

as per the order on the note of the
Collector

Geologist
Geology and Mineral Department
Porbandar

Copy to

For information of RT Division and to keep vigilance that no new mining is carried out by carrying out periodic checking and site inspection in the said lease.

Annex-R-XXI

No. J-19-90/2020-I A.III (Part 1)
 Government of India
 Ministry of Environment, Forest and Climate Change

3rd Floor, Vayu Block,
 Indira Paryavaran Bhawan, Jor Bagh Road,
 Aliganj, New Delhi-110003
 21st December, 2020

Notice

Sub: Project proposals submitted for Environment Clearance in terms of the provisions of Ministry's Notification S.O 804 (E) dated 14.03.2017 and under consideration in the Ministry-reg.

1. WHEREAS, Ministry of Environment, Forest and Climate Change has issued a Notification Number S.O 804 (E) dated 14th March, 2017 under the Environment Protection Act, 1986 to appraise the projects that have not taken prior environmental clearance in terms of provisions of Environment Impact Notification, 2006 amended from time to time.

2. WHEREAS, your project proposal was submitted to the Ministry for consideration for Terms of Reference (ToR) /Environment Clearance (EC) under the provision of the Ministry's Notification dated 14.03.2017. Accordingly, proposal was placed before the EAC for consideration. However, the project proponent did not attend the meeting. The case is still pending in the Ministry for grant of ToRs.

3. **NOW THEREFORE**, as the project proposal under violation is pending for more than six months and project is yet to be appraised by the EAC for stipulation of ToRs, you are hereby informed in advance that your proposal will be listed once again for consideration by the EAC in its meeting scheduled in January 2021, for which a separate intimation will be issued. You are hereby directed to appear before the EAC at the said meeting, for the appraisal of the project, failing which, appropriate orders as may be deemed fit will be passed and issued under the circumstances of the case without any further notice. Also, this notice is without prejudice to any other legal action which may be taken against you.

This issues with the approval of the Competent Authority.

(AMARDEEP RAJU)
 Scientist E/Add. Director, IA.III

To,

All the Project Proponents as per the list enclosed

Copy to:

Sr PPS to Secretary (EFCCC)/Sr PPS to Add. Secretary (EFCC)/Sr PPS to JS (GM)/Sr PPS to JS (SKB)

Annex - R - XXII

Date: 12/02/2021

To
 The Member Secretary (Violation Category)
 Ministry of Environment, Forests & Climate Change,
 IA- Division, 3rd Floor, Vayu Block
 Jor-Bagh Road, Aliganj,
 New Delhi -110003

Subject: Regarding deferment of the project listed on agenda item No.44.3.7 of 44th EAC meeting (Violation Category) to be scheduled on dated 18/02/2021 for the grant of ToR for "Limestone Mining Project", Survey No.-78/5, N/v: Ranavav, Tehsil: Ranavav, District: Porbandar, Gujarat.

Reference: 1. Proposal No.: IA/GJ/MIN/64676/2017
 2. File No.: 23-150/2018-IA.III (V)

Sir,

With reference to the aforesaid subject, We would like to inform your goodself that "Limestone Mining Project", Survey No.-78/5, N/v: Ranavav, Tehsil: Ranavav, District: Porbandar, Gujarat listed on agenda item no. 44.3.7 in 44th EAC meeting (Violation category) to be scheduled on dated 18/02/2021 would hereby request you to kindly defer the above said project due to non-availability of lease validity document of the above said mining project. Further, we would like to bring in your kind notice that we have applied for the above said document to the respective department and it is still under departmental process.

Regards

Devabhai K. Bhutiya



(Lessee)

રાણાવાવના નામ. મહે.પિન્સી.જયુડી.મેજી.ફર્સ્ટ ક્લાસ સાહેબની કોર્ટમાં

ફોજદારી કેસ નં. ૪૬/૨૦૨૦

૧. ગુજરાત પ્રદુષણ નિયંત્રણ બોર્ડ ગાંધીનગર શુ
ગુજરાત પ્રદુષણ નિયંત્રણ બોર્ડ
પોરબંદર
શ્રીમતી કલ્પનાબેન નિલેષભાઈ પરમાર
કે.વ.આ. પર, ધંધો-નોકરી (પ્રાદેશીક અધિકારી પોરબંદર)
રોડ.બ્લોક નં. ૩૮, સાઈબાબા પાર્ક,
મહાત્મા ગાંધી સ્કુલની પાછળ, રાજકોટ

.....ફરીયાદી

વિરુદ્ધ

૧. દેવાભાઈ કારાભાઈ ભુતિયા લાઈન્સ રટોન માર્ઈન્સ
સર્વે નં. ૭૮/૫ એરીયા-૧૧-૩૩-૦૦ હે.
ગામ-રાણાવાવ, તા. રાણાવવા, જી. પોરબંદર
૨. દેવાભાઈ કારાભાઈ ભુતિયા
કે.વ.આ. પુખ્ત, ધંધો-માઈનીંગ
ગામ-રાણાવાવ, તા. રાણાવવા, જી. પોરબંદર



.....આરોપીઓ

બાબત : પર્યાવરણ (સુરક્ષા) અધિનિયમ-૧૯૮૬ હેઠળ કેન્દ્ર સરકાર
દ્વારા તા. ૧૪/૦૮/૨૦૦૬ ના રોજ જાહેર કરવામાં આવેલ
નોટીફિકેશન નં. એસ./ઓ ૧૫૩૩ ભંગ બદલ અધિનિયમની કલમ
-૧૬ સાથે વાંગતા કલમ-૧૫ તથા કલમ-૧૮ મુજબના ગુન્હાની
ફરીયાદ.

ઉપરોક્ત કામના અમો ફરીયાદીની માનસર નમ્ર અરજ કે. નમારી હાલની આ
ફરીયાદની દુકમ્મા હકિકત નીચે મુજબ રજુ કરવા રજા લઈએ છીએ.

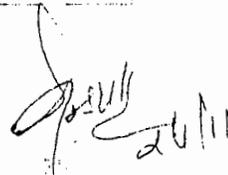
- (૧) અમો ફરીયાદી ગુજરાત પ્રદુષણ નિયંત્રણ બોર્ડની પોરબંદર ખાતેની પ્રાદેશીક કચેરીમાં
પ્રાદેશીક અધિકારી તરીકે ફરજ બજાવીએ છીએ, પર્યાવરણ(સુરક્ષા) અધિનિયમ-
૧૯૮૬ ની આઈ.પી.સી. કલમ-૨૧ મુજબ અમો જાહેર સેવક હોય જેથી હાલના
ગુન્હાની ફરીયાદ અમોએ. આરોપીએ વિરુદ્ધ દાખલ કરેલ છે.
- (૨) પાક્કી અધિનિયમ-૧૯૭૪ ની કલમ-૪ અન્વયે રાજ્ય સરકાર દ્વારા ગુજરાત
પોલ્યુશન નિયંત્રણ બોર્ડની રચના કરવામાં આવેલ છે. જે વૈદ્યાનિક અને. સ્વાયત્ત સંસ્થા

Signature
26/11

છે. બોર્ડની વડી કચેરી પર્યાવરણ ભવન, સેક્ટર નં. ૧૦ એ, ગાંધીનગર ખાતે આવેલ છે.

- (૩) એન્વાયરમેન્ટ પ્રોટેક્શન એક્ટની કલમ-૧૯૮૬ અન્વયે ભારત સરકારના નોટીફિકેશન નં.એસ./ઓ-૩૯૪(ઈ) અન્વયે અમોને ફરીયાદ દાખલ કરવા ઓર્થોરાઈઝ કરવામાં આવેલ છે. અમો અધિકૃત ઓફીસર છીએ. સદરહુ નોટીફિકેશન તા.૧૬/૦૪/૧૯૮૭ એસ/ઓ-૩૯૪(ઈ) ની નકલ આ સાથે સામેલ છે.
- (૪) ભારત સરકારના ઈ.આઈ.ઓ.નોટીફિકેશનના ભંગ બદલ જવાબદાર કંપનીના સંચાલન માટે સંચાલન માટે જવાબદાર વ્યક્તિઓ સામે કાયદાના ભંગ બદલ ફોજદારી રાહે ન્યાયીક કાર્યવાહી ચલાવવા ફરીયાદમાં જણાવેલ આરોપીઓ વિરુદ્ધની અમારી ફરીયાદ છે.
- (૫) આ કામના આરોપીઓ પ્રાઈવેટ લીમીટેડ(લાઈમ સ્ટોન માર્બલ્સ) ના નામે ચાલતી પેટ્ટી છે કે જે બોક્સાઈડ નું ઉત્પાદન કરે છે આ ઉદ્યોગ પેટ્ટી એકમ આપ નામ.સાહેબની કોર્ટના હકુમતમાં પ્રોસેક્યુટર મુકામે આવેલ છે.
- (૬) આ કામના આરોપી પેટ્ટીના એકમ તરીકે સંચાલન કરતા હોય, તેથી પેટ્ટીના એકમ રોજનું રોજ સંચાલન-વહિવટ કરે છે જેથી પેટ્ટી સામે વ્યક્તિગત તેમજ સામુહિક રીતે જવાબદાર અને જોડાયેલા છે.
- (૭) ભારત સરકારના મીનીસ્ટ્રી ઓફ એન્વાયરમેન્ટ એન્ડ ફોરેસ્ટ વિભાગના નોટીફિકેશન નં.એસ/ઓ-૧૫૩૩, તા.૧૪/૦૯/૨૦૦૬ ની જોવાઈઓના ભંગ બદલ એન્વાયરમેન્ટ પ્રોટેક્શન એક્ટ-૧૯૮૬ ની કલમ-૧૬ અન્વયે આરોપીઓ વ્યક્તિગત તેમજ સામુહિક રીતે જવાબદાર છે.
- (૮) આ કામના આરોપીએ ઈ.સી.સર્ટી મેળવ્યા વગર વર્ષવાર નીચે મુજબનું ઉત્પાદન કરેલ છે.

ક્રમ	વર્ષ	પ્રોડક્શન (મેટ્રીક ટન)
૧	૨૦૦૬-૨૦૦૭	૨૧૭૯૭.૨૮૨
૨	૨૦૦૭-૨૦૦૮	૧૦૪૮૮.૨૧૫
૩	૨૦૦૮-૨૦૦૯	૧૮૫૯૪.૪૮૫
૪	૨૦૦૯-૨૦૧૦	૫૬૮૨.૫૩૯
૫	૨૦૧૦-૨૦૧૧	૩૩૦૦
૬	૨૦૧૧-૨૦૧૨	૦
૭	૨૦૧૨-૨૦૧૩	૦
૮	૨૦૧૩-૨૦૧૪	૦
૯	૨૦૧૪-૨૦૧૫	૨૭૦
૧૦	૨૦૧૫-૨૦૧૬	૪૪૭૭૫
૧૧	૨૦૧૬-૨૦૧૭	૭૪૪૦૦
૧૨	૨૦૧૭-૨૦૧૮	૩૦૫૦૦
૧૩	૨૦૧૮-૨૦૧૯	૦


૨૫/૧૧



૧૪	૨૦૧૯-૨૦૨૦	૭૯૯૯૦
	કુલ ઉત્પાદન	૨૮૯૭૯૭.૫૨૧

આરોપીઓએ લાઇસન્સ માઈન લીઝ રીન્યુ ઈ.સી. (ઈન્વાયરમેન્ટ ક્લીયરન્સ) ઓન્વાયરમેન્ટ પ્રોટેક્શન એક્ટની કલમ-૧૯૮૬ અને ઈ.આઈ.ઓ. નોટીફિકેશન-૧૯૯૪ નો ભંગ કરેલ હોય તેમ છતા ગેરકાયદેસર ઉત્પાદન કરેલ છે.

ઉપરોક્ત રીતે આ કામના આરોપીઓએ ઉત્પાદન મેળવે છે. તે વર્ષવાર મુજબનું ડી.એ.લીસ્ટ સામેલ છે જે આરોપી કંપની દ્વારા ભુસ્તર શાસ્ત્રી પોરબંદરને આપેલું હોય જે ભુસ્તર શાસ્ત્રી દ્વારા મેળવેલ હોય જે આ કામે રજુ રાખેલ છે.

(૯) ગુજરાત પોલ્યુશન કન્ટ્રોલ બોર્ડ પ્રાદેશીક કચેરી દ્વારા ખરાઈ કરેલ પરિક્ષણ રિપોર્ટ તા.૧૪/૦૭/૨૦૨૦ ના નોટીફિકેશન નં.એસ/ઓ.-૧૫૩૩ નો સરેઆર ઉલ્લંઘન કરીને પર્યાવરણ સુરક્ષા અધિનિયમ-૧૯૮૬ ની કલમ-૧૬ સાથે વાંચતા કલમ-૧૫ અને ૧૯ મુજબનો ગુન્હો કરેલ છે. તો આરોપીઓની સામે સમન્સ કાઢી ધોરણસર કાનુની કાર્યવાહી કરવા અરજ છે.

(૧૦) અમો ફરીયાદમાં જણાવેલ અને બોર્ડમાં હસ્તક સઘળા દસ્તાવેજો દસ્તાવેજી લીસ્ટથી સામેલ રાખેલ છે.

(૧૧) આ ફરીયાદના આરોપી નં.૧ ઉદ્યોગ એકમની સામે પ્રોસેસ તથા આરોપીઓ સામે સમન્સનો હુકમ કરવા મહે. કરશો.

(૧૨) હાલની અમારી ફરીયાદમાં સાહેદો નીચે મુજબ

૧. અમો ફરીયાદી પોતે
૨. પી.બી. રસ્તાગી, ડાયરેક્ટર, પર્યાવરણ ભવન, ન્યુ દિલ્હી
૩. એમ. વી. પટેલ, ઓન્વાયરમેન્ટ એન્જીનીયર, ગાંધીનગર
૪. ભુસ્તર શાસ્ત્રી પોરબંદર

જરૂર પડ્યે નામ.કોર્ટની પરવાનગીથી વધુ સાહેદો તથા દસ્તાવેજી પુરાવા રજુ કરીશું આ સાથે વકીલપત્ર દસ્તાવેજી પુરાવાનું લીસ્ટ તથા આરોપીને આપવાની નકલો તથા જરૂરી પ્રોસેસ સ્ટેમ્પ રજુ રાખેલ છે.

એજ અરજ,
રાણાવાવ
તા.૩૧/૧૨/૨૦૨૦

x.....
Regional Officer,
C.P.C. Regional Office,
Porbandar

૧૫/૧૨/૨૦૨૦
૧૫/૧૨/૨૦૨૦
(૩૩. અમારું)

જરૂર પડ્યે

:: એકરાર ::

આથી અમો ફરીયાદી એકરાર કરીએ છીએ કે, ઉપર ફરીયાદમાં જણાવેલ તમામ હકિકતો મારી રેકર્ડ ઉપરની ઉત્તમ જાણ તથા માહિતી મુજબ સાચી અને ખરી છે.

રાજાવાવ

તા.૩૧/૧૨/૨૦૨૦

x.....

:: સોગંદનામું ::

આથી હું નીચે સહી કરનાર શ્રીમતી કલ્પનાબેન નિલેખભાઈ પરમાર, ઉ.વ.આ.પર, ધંધો-નોકરી (પ્રાદેશીક અધિકારી પોરબંદર), રહે.બ્લોક નં.૩૮, સાંઈબાબા પાર્ક, મહાત્મા ગાંધી સ્કુલની પાછળ, રાજકોટ વાળા મારી સત્ય અને ધર્મ પ્રતિજ્ઞા ઉપબર જાહેર કરું છું કે,

૧. હું ગુજરાત પ્રદુષણ નિયંત્રણ બોર્ડ પોરબંદરમાં પ્રાદેશીક અધિકારી તરીકે મારી ફરજ બજાવું છું.
૨. અમોએ આજરોજ આ કામના આરોપીઓની સામે વિગતવાર ફરીયાદ દાખલ કરેલ છે. જે અમારી ફરીયાદમાં જણાવેલ તમામ હકિકતો મારી રેકર્ડ ઉપરથી ઉત્તમ જાણ તથા માહિતી મુજબ સત્ય અને ખરી છે.

ઉપરોક્ત હકિકત ખરી છે જે મારા ધર્મના સોગંદ ઉપર જાહેર કરું છું.

રાજાવાવ

તા.૩૧/૧૨/૨૦૨૦

ઓળખાણ આજનાર

(K. D. Makwana)
(કે. ડી. મકવાણા)

એડવોકેટ-પોરબંદર

મો.નં.૮૦૮૦૨૧૪૧૫૨

x.....

(K. D. Makwana)
K. D. Makwana
Adv.

પોરબંદરના નિલેખ પરમાર
રાજકોટ
K. D. Makwana Adv.

(K. D. Makwana)
K. D. Makwana

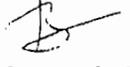
(K. D. Makwana)
K. D. Makwana
31/12/20

ફોજદારી કેસ નં. ૦૩/૨૦૨૧

આંક-૧ તળે હુકમ

ફરીયાદીની ફરીયાદ અરજી વંચાણે લીધી. તેઓના વ.શ્રી.ને સાંભળ્યા. આ કામ ફોજદારી કેસ તરીકે રજીસ્ટરે લેવું. ફરીયાદી તરફથી નકલ રજુ થયેથી આરોપીને મુદત તારીખ ૦૬/૦૨/૨૦૨૧ ના રોજ હાજર રહેવા સમજસ ઈસ્યુ કરવો.

તા.૦૪/૦૧/૨૦૨૧
રાણાવાવ


(બી.વી.ગોહિલ)
જ્યુડી.મે.જી.ફ.ક
રાણાવાવ

કો.કેસ નં.૦૩/૨૦૨૧

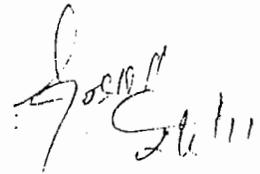
-:આંક-૧ લગત હુકમ:-

આ કામનાં ફરીયાદી ગુજરાત પ્રદુષણ નિયંત્રણ બોર્ડની પોરબંદર ખાતેની પ્રાદેશીક કચેરીમાં પ્રાદેશીક અધિકારી તરીકે ફરજ બજાવે છે. તેઓએ હાલના આરોપીઓ સામે પર્યાવરણ (સુરક્ષા) અધિનિયમ-૧૯૮૬ હેઠળ કેન્દ્ર સરકાર દ્વારા તા.૧૪/૦૯/૨૦૦૬ નાં રોજ જાહેર કરવામાં આવેલ નોટીફિકેશન નં.એસ./ઓ ૧૫૩૩ ના ભંગ બદલ અધિનિયમની કલમ-૧૬ સાથે વાંચતા કલમ-૧૫ તથા કલમ-૧૯ મુજબના ગુન્હા અવધેની ફરીયાદ દાખલ કરેલ છે. આ કામની ફરીયાદ હકીકત આરોપીઓને વાંચી સંભળાવી અને સમજાવવામાં આવેલ છે તેના જવાબમાં આરોપીઓએ સ્વેચ્છાએ ગુન્હો કબુલ કરેલ છે જે નહીં માનવા કોઈ કારણ નથી તેથી આરોપીઓને સજા કરવી જોઈએ તેવું મારૂ માનવું છે.

આરોપીઓએ સ્વેચ્છાએ ગુન્હો કબુલ કરેલ છે અને કોઈપણ જાતના લાલચ, દબાણ કે પ્રલોભન વગર ગુન્હાની કબુલાત કરેલ હોય આરોપીઓને આ પ્રથમ ગુન્હો છે આરોપીઓ સામાન્ય વર્ગના માણસ છે તેમજ ભવિષ્યમાં આવા પ્રકારનો ગુન્હો નહિ કરવાની ખાત્રી આપે છે. આરોપીઓએ તેઓને કાયદામાં જે દંડની સજા છે તે કરવા રજુઆત કરેલ છે તે સંજોગોમાં આરોપીઓના સામેના ગુન્હાની ગંભીરતા તેમજ કેસના સંજોગો વગેરે હકીકતો ધ્યાને લઈ આરોપીઓને માત્ર દંડની સજા કરવામાં આવે તો ન્યાયનો હેતુ જળવાઈ રહે તેમ છે જેથી નીચે મુજબ હુકમ કરવામાં આવે છે.

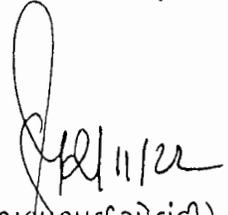
-: હુકમ :-

આ કામના આરોપી નં.૧ સંસ્થા તેમજ આરોપી નં.૨ નાઓને ક્રિમીનલ પ્રોસીયર કોડની કલમ-૨૪૮(૨) મુજબ ધી એવ્યાર્થમેન્ટ પ્રોટેક્શન એક્ટની કલમ-૧૬ સાથે વાંચતા કલમ-૧૫ અને ૧૯ મુજબના ગુન્હામાં તકસીરવાન ઠરાવી દંડ રૂપિયા ૨૫,૦૦૦/- આરોપી દીઠ કરવાનો હુકમ કરવામાં આવે છે, આરોપીઓ પાસેથી કુલ રૂપિયા ૫૦,૦૦૦ /- અંકે રૂપિયા પચાસ હજાર પુરા દંડ વસુલ કરવો, આરોપી નં.૨ દંડ ન ભરે તો ત્રણ માસની સાદી કેદની સજા ભોગવવાનો હુકમ કરવામાં આવે છે.

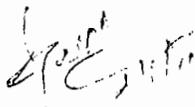
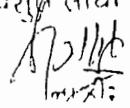



આજરોજ તા.૧૨, માહે-નવેમ્બર, સને-૨૦૨૨ ના રોજ ગુજરાત સ્ટેટ લીગલ સર્વિસ
ઓથોરીટીનો પત્ર નંબર જી.એસ.એલ.એસ.એ./૨૮૧૨/૨૦૨૨, તા.૨૯/૦૮/૨૦૨૨ માં જણાવેલ
બાબતો તેમજ નામદાર ચેરમેન શ્રી ડિસ્ટ્રીક્ટ લીગલ સર્વિસ ઓથોરીટીના ચેરમેન સાહેબના
નોટીફિકેશન/પત્ર નંબર ૫/૨૦૨૨, તા.૧૦/૦૮/૨૦૨૨ અન્વયે ખાસ સીટીંગમાં (SPECIAL
SITTING) માં આ કામ ફેસલ કરવામાં આવે છે.

તા.૧૨/૧૧/૨૦૨૨
રાણાવાવ.


(ગુલાબ ટાલાભાઈ સોલંકી)
જ્યુડીશ્યલ મેજીસ્ટ્રેટ ફર્સ્ટ ક્લાસ
રાણાવાવ.

Code no. GJ 01292

ન.મ. ના વૃત્તચરણ તા. ૧૨-૧૧-૨૦૨૨
ધી દંડની રકમ રૂ. ૨૫૦૦૦ X ૨૨ = ૫૦,૦૦૦/-
અંકે રૂ. ૫૦,૦૦૦/- માટે વસૂલી લીધા



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IN THE COURT OF PRINCIPAL JUDICIAL
MAGISTRATE FIRST CLASS, RANAVAV

Criminal Case No 3/2021

COMPLAINANT

1. Gujarat Pollution Control Board

Gandhinagar through

Gujarat Pollution Control Board

Porbandar

Smt Kalpanaben Nileshbhai Parmar

Age: 52, Occupation: Service

[Regional Officer Porbandar]

Residing at Block No 38, Saibaba Park

B/h Mahatma Gandhi School, Rajkot

V/s

1. Devabhai Karabhai Bhutia

Lime Stone Mines,

Survey No 78/5 Area 11-33-00 hector

Village Ranavav, Taluka Ranavav

District Porbandar

2. Devabhai Karabhai Bhutia

Village Ranavav, Taluka Ranavav

District Porbandar

Sub Complaint under vide Notification No

S/O 1533 for violation of section 16

read with section 15 and section 19 of
Environment [Protection] Act, 1986

We the complainant respectfully, leaves
to present our representation as follows,

1. We complainant are rendering our duty
in the office of Gujarat Pollution
Control Board at Porbandar - performing
duty as a Country Officer, Pollution
(Protection) Act - 1983 and under
section 21 of the Indian Penal Code the
present court shall be competent to
prosecute the present offence filed
against the present Accused persons
2. The Gujarat Pollution Control Board has
been constituted by the State
Government under Clause-4 of the Water
Act-1974 functioning independently.
The head office of the board is
situated at Prakash Bhawan, Sector
No.101 Gandhinagar.
3. We are authorized to file a complaint
vide Government of India Notification
No.S/O-394(E) under Section-1986 of the
Empowerment Protection Act, 1986. We

are authorized officers. A copy of said Notification dated 16/04/1987 S/O-394(E) is enclosed herewith.

4. Our complaint is against the authorized / responsible persons of the company mentioned in the complaint to initiate criminal proceedings for violating the EIA notification of the Government of India.
- 5 The accused so named working in the name of Privtae Limited (Lime Stone Mines) and doing production of Bauxcite, and the said entity situated within the jurisdiction of this Hon'ble Court at Ranavav.
6. since the accused are operating as a unit of the firm, the unit is conducting day-to-day operations so that individual as well as collective action can be taken against the firm.
7. Under Section-16 of the Environment Protection Act-1980, the accused persons are individually and collectively liable for violation of

the provisions of Notification No.S/O-1533, dated 14/09 2006 of the Ministry of Environment and Forests, Government of India.

8. The accused in this case produced annually the following without obtaining E.C. Certificate

Sr. No.	Year	Production Metric Ton
1	2006-2007	21797.282
2	2007-2008	10488.215
3	2008-2009	18594.485
4	2009-2010	5682.539
5	2010-2011	3300
6	2011-2012	0
7	2012-2013	0
8	2013-2014	0
9	2014-2015	270
10	2015-2016	44775
11	2016-2017	74400
12	2017-2018	30500
13	2018-2019	0
14	2019-2020	79990
	Total	289497.521

	Production	
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Accused though violated and continued production in gross violation of, License Mine Lease Renewal E.C. (Environment Clearance) Environment Protection Act No 1986 and E.I.A. Despite violation of Notification-1994,

Accused getting production from above work and included herwith yearwise D.A. list which was given by the accused company to Geologist Porbandar which was obtained by Geologist who maintained this work.

9. Violation of inspection report dated 1487 2020 verified by Gujarat Pollution Control Board Regional Office No.S-1533 of 2020 as per Section-15 and 19 read with Section-16 of Environment Protection Act-1986 so there is a request to issue summons against the accused and take legal action.

10. All the documents mentioned in the complaint and in the possession of the

board have been enclosed with the list of document

11. Pleased to issue process and/or summones against Accused No.1 Entity and other accused.

12. Our witnesses of the complainant are as under.

- 1. We complainant ourselves
- 2. P.S. Ratogi, Director, Environment Bhawan, New Delhi
- 3. M.V.Patel, Environment Engineer, Gandhinagar
- 4. Geologist, Porbandar

In case of required, we would give further evidence to produce documentary evidence and copies to be paid to the accused person and to produce requisite process stamp

Ranavav
31/12/2020

AFFIRMATION

We complainant are stating and submitting that, the facts stated and submitted hereinabove are true and correct.

Ranavav
31/12/2020

AFFIDAVIT

Therefore, I, the undersigned Mrs. Kalpanaben Nileshbhai Parmar, Age: 52 years, Occupation: Service (Regional Officer Porbandar), Residing at Block No.38, Saibaba Park, Behind Mahatma Gandhi School, Rajkot declare my truth and religion that,

1. I am doing my duty as Regional Officer in Gujarat Pollution Control Board Porbandar.
2. We had today filed a detailed complaint against the accused in this case. All the facts stated in our complaint are true and correct to the best of my knowledge and information on record.

The above fact is true which I declare under the oath of my religion.

Ranavav
31/12/2020

Identified by

[K.K.Makwana]
Advocate-Porbandar
Mobile No 8780214152

CRIMINAL CASE NO 03/2021

ORDER PASSED BELOW EXHIBIT: 1

Compliant is taken into consideration and heard advocate this matter shall be taken into register and on production of copy, summons be issued upon accused person on fixed date 06/02/2021

04/01/2021 [B.V.Gohil]
Ranavav Judicial Magistrate First Class
Ranavav

CRIMINAL CASE NO 03/2021

ORDER PASSED BELOW EXHIBIT: 1

The complainant of this work is working as a Regional Officer in the Regional Office of Gujarat Pollution Control Board at Porbandar. They have issued notification for violation of this 1533, a complaint has been filed under Section-15 and Section-19 read with Section-16 of the Act. The name of the village, the accused has admitted the crime, which there is no reason to deny, I assume that he should be punished.

Accused have voluntarily confessed to the crime and without any inducement, pressure or greed these are the first offenses of the accused. In the circumstances that the accused have requested to be punished which is prescribed in the law in the circumstances the seriousness in front of the accused person the circumstances

// ORDER //

Accused No. 1 Organization and Accused No. 2 shall under section 248[2] of the

Criminal Procedure Code and under section-16 section-15 and section-19 of the Environment Protection Act, a fine of Rs. 25,000/- per accused as fine and to recover a sum of Rs. 50,000/- from accused persons failing which if accused person no.2 to undergo simple imprisonment for three months if he does not pay the fine.

Sd/-

Today on 12th November, 2022 Gujarat State
Legal Service authorities letter no
GSLSA/2812/2022 dated 29/09/2022 with the
facts stated and Chairman Shri District
Legal Service Authority Chairman Sahib's
notification letter no 5/2022 dated
10/08/2022 in special sitting this matter
is disposed of.

12/11/2022 [Gulab Tabhabhai Solanki]
Ranavav Judicial Magistrate First Class
Ranavav Code No GJ-01292

Date 12/11/2012
Penalty Amount Rs. 25,000/- x 2 = 50,000/-
In words Rupees Fifty thousand charged

Nazir

- 5 4) The District Collector,
Porbandar-District,
Jilla Sewa Sadan,
District-Porbandar,
- 6 5) Geology Officer,
Mines and Geology Science Department
Sandipani Road,
Jilla Sewa Sadan,
Porbandar.
- 7 6) Deputy Forest Conservator(Sarankshar),
Forest Department Porbandar,
Forest Colony, Oppo. Ram Temple,
Chowpati Ground,
Porbandar,
- 8 7) Dewabhai Karabhai Bhutiya,
Resi. Satyam Park, Garbi Chowk,
Rajiv Nagar,
Porbandar-Taluka.
Porbandar. Respondents

TO,
THE HON'BLE CHIEF JUSTICE
AND THE OTHER JUDGES OF
THE GUJARAT HIGH COURT
SOLA, AHMEDABAD.

The humble petition of
the petitioner above named:

MOST RESPECTFULLY SHEWETH THAT:

1. The petitioner is a national and citizen of India and he is entitled for the protection of his fundamental right guaranteed under the Constitution of India. Petitioner has preferred this petition, as petitioner is aggrieved and harassed by the blasting and illegal mining carried out by the respondent no.4, whom lease boundaries are adjacent to the petitioner agriculture land and house and due to blasting and mining petitioner house is badly damaged with cracks on the walls and roof and which endangers the life of the petitioner and his family.

Remy M. Shiwani

to take the suitable steps against the lease holder of survey no. 78/5, Shri Deva Kara Bhutiya, respondent no. 7, whom had violated all the norms of maintaining 50 meters distance from the forest for mining and had carried out mining within the 50 meters from the forest boundaries and said person in past had also violated the norms. The said Nadiyadhar forest is now listed in Eco sensitive zone, declared by the Government of India. The letter dated 18.11.2015 with the spot Rojkam are Annexed hereto and marked as **Annexure A** to this petition.

2.6 Petitioner states that aggrieved and harassed by the said illegal mining and blasting petitioner had made representation to the various authorities, since 2009-10. Petitioner states that as per the knowledge received on application made under the Right to Information to the petitioner that permission to respondent no.7 for mining on lease in question is never been renewed since after 1995. Petitioner states that the respondent no.7 was informed by the Geologist, Geological Science and Mines department vide their letter dt.03.01.2009 to stop the mining until he obtained No Objection Certificate from the Forest and Environment department, but the respondent no.7, had continued excavating mining and violated all the norms of mining that 75 meters distance is required to be maintained from the highway road and

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had excavated mining very nearer i.e till 30 meters from the road at Porbandar – Jamnagar, Highway.

2.7 Petitioner submits that petitioner had made his representation vide dt. 13.05.2015, question no.22, to the Swagat Program and the petitioner was replied by the Geologist, Porbandar vide their reply dt. 28.05.2015 informing the petitioner that respondent no.2 was granted permission for mining lease contract in the year 31.05.1976 for period of 20 years and the respondent had applied for the first renewal of the said lease on dt. 24.04.1995 and for the second renewal on dt. 19.02.2015. It is further stated by the Geologist that the renewal permission is in progress and till than as par the Minerals Concession Rules 1960- Rule-24A(6) lease is continue is to considered. The reply of representation letter dt.25.05.2015 is Annexed here to and marked as Annexure –B to this petition.

2.8 The Geologist in his reply had also stated that the respondent no.2 had made application for NOC to the Forest and Environment department, but till date the concerned department had not given the NOC to the respondent no.2 for Mining.

2.9 Petitioner states that the Geologist has further stated in his reply that during their spot inspection on dated 22.05.2015, they found new fresh excavation on lease area on survey no. 78/5 paki 11.33 hectare, with machinery they found and no blasting was there. The

[Handwritten Signature]

lease holder had excavated 15 meters towards the Jamnagar -Ranavav highway from his lease area, and between the Jamnagar -Ranavav highway and in the excavated area water pipe line and sewer pipe line work is under progress by the Gujarat Pani Puravtha Board.

2.10 Petitioners states that on receipt of the above reply dt.

28.05.2015 by the Geologist, Porbandar, petitioner had applied under Right to Information, seeking information from the Geology Science and Mining Department, Porbandar, that as the excavation work in progress whether any renewal permission is granted by the authorities, after obtaining the NOC from the Forest and Environment department, Porbandar and the Gujarat Pollution Control Board. Petitioner states that petitioner was replied by letter dt. 17.11.2015 that the renewal permission to lease holder Deva Kara Bhutiya was not granted and according to the Notification dt.12.01.2015 they have to proceed. The letter dt. 17.11.2015 is Annexed and the reply dt. 17.06.2016, dt.16.06.2016, are hereto and marked as Annexure C-colly to this petition.

2.11 Petitioner states that the Mamlatdar, Kutiyana, under the collusion and with a view to favour the respondent no.8 had manipulated the facts and forwarded the respondent no. 8, renewal application to the Deputy Collector, with his positive opinion vide letter dt. 13.01.2015. The Deputy Collector thereafter vide his letter dt. 23.10.2015 had sought explanation with detail

Ram M. Shivani

report from the Mamlatdar. The letter dt. 23.10.2015 and dt. 13.01.2015 are Annexed hereto and marked as **Annexure D-colly** to this petition.

2.12. Petitioner states that petitioner had made complaint to on dated 19.03,2015 on the Swagat Programme, that the respondent no. 8, had violated the norms of maintaining 75 meters of distance from the Ranavav-Bhanwad highway, and excavated till 5 meters from the road. The petitioner was replied by the Executive Engineer of Road and building department that the respondent no. 8, had excavated till 30 meters from the road. The letter dt. 19.03.2015 and the letter dt. 28.10.2015 of the Deputy Executive Engineer of the Water resources board are Annexed hereto and marked as **Annexure E-colly** to this petition.

2.13. Petitioner submits that vide letter dt. 16.12.2015 Deputy Forest officer, Porbandar Forest Department had informed the Porbandar and Dawarka Collector about the notification dt. 24.09.2015 by the Chief Wildlife Warden and the Senior Chief Forest Sarankshan wildlife, Gujarat State Gandhinagar, that No, NOC for the mining can be granted till 10 Kilometers of the Forest and the Eco sensitive zone. The letter dt. 16.12.2015 with the notification dt. 24.09.2015 and other notifications are Annexed hereto and marked as **Annexure -F colly** to this petition.

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2.14 Petitioner states that petitioner had made several times representation before the various authorities from post to pillar, since last 2009-10, but the respondent authorities under the influence and in the collusion with the respondent no. 2, has not taken any preventive steps to stop the illegal mining and to register the complaint against the respondent no. 2. The district Collector vide on dt. 03.07.2009 had informed the Geology Science and Mining Department that the respondent no. 2 shall not be permitted for mining till he obtained the NOC from the Chief Forest conservator wildlife officer, Gandhinagar, Gujarat, pursuant to the resolution of the Forest and Environment department. The letter dt. 03.07.2009 with 15.05.2007 and the various representations of the petitioner are Annexed hereto and marked as **Annexure G-colly and H-colly** to this petition.

3. Petitioner submits that petitioner had made all representations to the respondent authorities since 2009-10 and though the mining and the blasting by the private respondent is illegal and disturbing the surrounding environment and the adjoining forest, which is declared in Eco Sensitive Zone by the government, respondent no. 2, with the collusion of the Geologist and mining department and others is continuing mining by violating all the norms of lease contract, which itself is not renewed since 1996 and till date respondent no. 2, had not obtained any NOC from the Forest department. Petitioner

2 Remy M. Nigal

urges this Hon'ble court's, intervention for direction to the respondent authorities to initiate an action against the respondent no. 2 and to stop the activity of illegal mining.

4. The petitioner has not filed any other application or petitions either before this Hon'ble court or any other court of India including Supreme Court of India.

5. The petitioner reserves his right to amend, alter, delete or modify the present petition as and when necessary.

6. The petitioner prays this Hon'ble court that:

A) Be pleased to admit and allow this petition,

A) B) Be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and be pleased to direct the respondents and their agents and servants to initiate action for stopping the illegal activity of mining and blasting, by the respondent no. 2 at survey no. 78/5 paiki 11.33 hectares, Ranavav village, Porbandar-district,

B) Issue a Writ of mandamus or any other appropriate writ, order or direction, directing the respondents to remove unauthorised encroachment and the illegal mining by the respondent no. 2, in the adjoining area of the survey no. 78/5 paiki 11.33 hectares, Ranavav village, Porbandar-district,

C) Pending admission hearing and final disposal of the petition, Your Lordship may be pleased to direct the

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respondent authorities, to stop illegal mining and blasting of the respondent no. 7, at survey no. 78/5 paiki-11.33 hectares, Ranavav village-Porbandar-district,

D) Your Lordships may be pleased to issue writ of mandamus and /or any other appropriate writ, order or direction and thereby be pleased to direct the respondent authorities to registered the Criminal complaint against the respondent no. 7, for doing illegal mining, in accordance to law;

E) Your Lordships may be pleased to issue writ of mandamus and /or any other appropriate writ, order or direction and thereby be pleased to direct the respondent authorities to recover the amount of royalty/ penalty from the private respondent no. 7, for illegal mining carried out till date;

F) Any other and further relief may kindly be granted in the interest of justice.

AND FOR THIS ACT OF KINDNESS AND JUSTICE THE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY.

Place: Ahmedabad

Sandhya D. Natani
Sandhya D. Natani.

Date: 29/6/2016

Advocates for the Petitioner.

Romy M. ...

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

DISTRICT: PORBANDAR
SPECIAL CIVIL APPLICATION NO. OF 2016

Lakhiben Bhurabhai Modhwadiya,
(Through her Son:
Dilip Bhura bhai Modhwadiya,Petitioner

Versus

State of Gujarat & others.Respondents.

AFFIDAVIT

I, Dilip Bhura Modhwadiya , age-43, hindu-male, power of attorney holder of the Lakhiben Bhurabhai Modhwadiya, hindu , female-age-65 , herein do hereby solemnly affirmed and state as under:

I am applicant herein being conversant with the facts and circumstances of the case, for filing this application. I state that what is stated in this application from Para 1-5 is facts and undertaking and para-6 is the prayer of the petition. I state that the annexure annexed with the application are true copies of their originals.

What is stated herein above is true to the best of my knowledge and belief and I believe the same to be true, and correct.

Solemnly affirmed at Ahmedabad on this / 06 / 2016.

Identified by me.

Read over and explained to

The deponent by me.

Deponent.

Annex - R - ~~XXV~~

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 7739 of 2016

=====

LAKHIBEN BHURABHAI MODHWADIYA

Versus
STATE OF GUJARAT

=====

Appearance:

MS SANDHYA D NATANI(3678) for the PETITIONER(s) No. 1

MR PREMAL R JOSHI(1327) for the RESPONDENT(s) No. 3

MR S N THAKKAR(901) for the RESPONDENT(s) No. 4

MR UTKARSH SHARMA AGP for the Respondent No. 1 - 2

NOTICE SERVED(4) for the RESPONDENT(s) No. 1,2,5,6

UNSERVED EXPIRED (N)(9) for the RESPONDENT(s) No. 7

=====

CORAM: HONOURABLE MR.JUSTICE A.J. SHASTRI

Date : 03/04/2018

ORAL ORDER

1. The present petition under Articles 226 and 227 of the Constitution of India is filed for the purpose of seeking the following reliefs :-

"6(A) Your Lordships may be pleased to issue writ of mandamus and/or any other appropriate writ, order or direction and thereby be pleased to quash and set aside impugned order dated 28.03.2016 at Annexure-A, and further be pleased to direct the respondents nos. 2 and 3 to immediately supply the electric/power connection to the petitioner house permanently, as the basic requirement and very essential for the livelihood and in the interest of justice, therein forthwith.

(B) Pending, admission hearing and final disposal of the petition, Your Lordship may be pleased to direct the respondent's nos. 2 and 3 to give immediate supply of the electric/power connection to the petitioner house as the basic requirement and a very essential for livelihood and in the interest of justice, therein forth with.

(C) Any other and further relief may kindly be granted in the interest of justice."

2. For seeking the main relief for quashing and setting aside the impugned order dated 28.03.2016 it was contended by the petitioner that for the purpose of daily house use and for his land bearing Survey No. 77 and Survey No 64 at Village Ranavav, the petitioner has applied for electricity connection and such application was made on 04.07.2015 before respondent no. 3 - Company and in turn respondent no. 3 Company, namely PGVCL has directed the petitioner to deposit an amount of Rs.26,982/- with respect to such electricity connection and its process. The said amount was already deposited in the office for 208 meter of electric line which would supposed to have been passed through the adjoining neighbor whose land is situated. On account of that, respondent no. 4 has raised an objection not to lay down any electric line across his land and for laying down the poles the excavation has to be conducted. The petitioner also noticed that the adjacent neighbours also raised an objection before the office of respondent no. 3, which has ultimately constrained the petitioner to request the authority to make an application before the Sub-Divisional Magistrate, Kutiyana for seeking appropriate direction under Section 16 of the Indian Telegraphics Act, 1985. Surprisingly to the petitioner, the Sub-Divisional Magistrate, Kutiyana without considering the merit of the case had passed an order on 28.03.2016 and has directed that

so long as the Civil Suit No. 23 of 2015 is pending before the Principal Civil Judge, Ranavav Court, by way of action would be binding to the petitioner as well as the respondents and in turn has refrain from granting any electric connection which had led the petitioner to approach this Court by way of the present petition under Article 226 of the Constitution of India.

3. The main plank of the argument of the petitioner is that the electric supply is the essential supply and once the process has been commenced and the petitioner has paid the amount as directed by the respondent no. 3 – PGVCL, it was rather the legal obligation to supply the electric connection irrespective of the objection and it has also been argued that the Civil Suit will take so many years and till then, under the guise of the Civil Suit, the petitioner cannot be deprived of the electricity supply. It has also been contended that the Civil Suit and the grievance contained ought to have been examined in detail since interim relief was sought under Order 39 Rule 1 and Rule 2 of the Code of Civil Procedure read with Section 151 of the Code of Civil Procedure with a request that the petitioner would be restrained from using the passage from respondent no. 4 land and on the contrary, after hearing, the learned Civil Judge has observed categorically in para 7 that in the order that in the above land in question, the electric line and the State Road shall not be obstructed in any way and for the said purpose the concerned department has to see that in the said

amount there is a Hayat Gada Marg and in the said Survey number there is also another Hayat Gada Marg and the request of the respondent no. 4 came to be rejected vide order dated 09.08.2010. This order has been challenged by the respondent no. 4 before the Additional District Judge, Porbandar by way of Civil Misc. Application No. 28 of 2010 wherein also the said application came to be rejected by the learned Additional District Judge, Porbandar on 09.06.2011 and despite the aforementioned situation the learned District Magistrate, has not applied its mind, had not examined in detail the affairs of the Civil Suit, resultantly, the impugned order reflects clear non application of mind and hence deserves to be corrected. Even another Civil Suit No. 146 of 2010 preferred by respondent no. 4 in which there is no interim relief granted in favour of respondent no. 4 was simply because the suit is pending, the request cannot be turned down by the District Magistrate. Based upon these contentions, the present petition is filed before this Court in which on 05.05.2016, the Court was pleased to issue notice made it returnable on 28.06.2016. From time to time, the matter got adjourned and ultimately, has come up for consideration before this Court on 03.04.2018 in which all the respective respondents have also represented themselves.

4. Learned advocate Mr. Premal Joshi, appearing for respondent no. 3 – PGVCL had submitted an affidavit-in-reply wherein in para 6 and 7 has observed as under :-

"6. I state and submit that during the hearing before the Sub-Divisional Magistrate on behalf of the deponent Company 4 (four) other options were also given for supply of electricity to the land of the petitioner. Even those land owners also objected to the same.

7. I state and submit that as per the direction of the Honourable Court, the petitioner is ready and willing to erect electricity pole to supply electricity to the petitioner subject to payment of difference of amount by the petitioner to the deponent company towards laying down the electricity line and electricity pole."

4.1. It has been submitted before the Court that respondent no. 3 - PGVCL being a public body cannot deny the request of power supply to any one and also cannot show any discrimination. It has been in terms stated that the respondent no. 3 company is ready and willing to supply the electricity connection in accordance with law to the petitioner. It is further stated that the learned Sub-Divisional Magistrate tried the case and after hearing the parties by way of impugned order dated 26.03.2016 passed an order to the effect that the parties shall be governed by the outcome of the Regular Civil Suit and therefore, the supply could not be affected from the land of respondent no. 4. However, as noticed from the affidavit which has been dated 26.03.2018 it has been stated that there are other four options available with the deponent company through which the power supply can be given to the petitioner. Though the land owners have objected to the same, but there is no legal hitch nor any suit proceedings which are pending nor any preventive orders are also passed. As a result of this, irrespective of the controversy with regard

to respondent no. 4 the other option can be availed by respondent no. 3 - Company to supply the electricity to the petitioner. No doubt the order is passed to the effect that the party shall be governed by the out come of the Regular Civil Suit No. 23 of 2015 which was other suit, but irrespective of that the other available route through which electricity line can be applied by respondent no. 3 Company. With this positive observation made in the affidavit, a query was put up to the learned advocate as to whether the petitioner is inclined to avail the other alternative mode of electricity as other options are also available to them. Under the instructions, learned advocate for the petitioner has stated that ultimately, the petitioner is inclined to have the electricity supply either from one mode or the other mode but the supply should be affected as the petitioner has already paid the amount. On this issue, learned advocate for the petitioner has drawn attention to page 12 of the petition compilation in which in an order of Sub-Divisional Magistrate, four options are categorically narrated in the order in which, it was stated by learned advocate Mr. Joshi that options nos. 2 and 3 are very much viable through which the electricity connection can be given to the petitioner. In fact, it has been suggested that from Survey No. 64, even the electricity poles are very much in existence through which at minimum expenses, the supply can be affected. After verifying the fact by both the sides, ultimately, it was agreed that either of the options i.e. option no. 2 and/or option no. 3 reflecting in order, respondent no. 3 - Company

may lay down the supply line. Resultantly, in view of the specific affidavit submitted by respondent no. 3 company, the supply may be given to the petitioner pursuant to the request made by her.

4.2. So far as the statutory obligations of electricity supply of the company is concerned, the Apex Court in the case of **Shri Chandu Khamaru v. Smt. Nayan Malik & Ors.**, reported in **AIR 2011 SC 2897** has observed that the respondent has the authority as also have the corresponding statutory obligation to supply the electricity under the Electricity Act, and the persons like the petitioners have the right to ask for electricity and therefore, when such statutory right is being exercised, there is a corresponding obligation upon the company to supply and simply because of some dispute is existing denial cannot be made by the company. Same view is being taken almost in the case of **Vasava Virsing Himatbhai v. Indian Oil Corporation** reported in **(2016) 2 GLR 1747** in which in para 8 the Court has analyzed the effect of Section 43 and has observed that Section 43 has imposed statutory duty on the distribution of the licensee to supply the electricity to the owner and occupier of any premises located in the area of supply of electricity of such licensee. As a result of this, considering this fact of provisions and the statutory obligation when two other options are very much available it was not just and proper on the part of the electricity company to deny the electricity supply to

the petitioner. On the contrary, the Sub-Divisional Magistrate, ought to have taken care of these propositions of law but however be that as it may, since two other options are very much available irrespective of the order dated 28.03.2016, the present petition can be disposed of upon concurrence of the respective sides on the following terms.

5. The petitioner shall approach respondent no. 3 Company with a request to forthwith supply the electricity to its premises and upon such approach by the petitioner, after completing all lawful process, respondent no. 3 is directed to supply electricity forthwith to the petitioner through alternative mode which are suggested herein before irrespective of the order dated 28.03.2016.

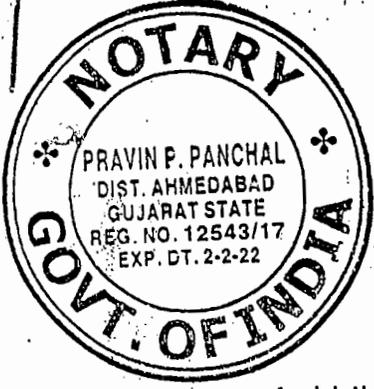
5.1. Since the petition is disposed of upon such concurrence to supply the electricity to the petitioner through alternative options which are available reflecting in the order, the Court has refrain from commenting upon the impugned order dated 28.03.2016 and irrespective of this order, respondent no. 3 Company is directed to act upon the supply of electricity line through alternative option.

6. With these observations and directions, the present petition stands disposed of with no order as to costs. Liberty to apply in case of any difficulty.

Direct Service is permitted.

(A.J. SHASTRI, J.)

/phalguni/

Amner-R- XXVI

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
 DISTRICT: PORBANDAR
 SPECIAL CIVIL APPLICATION NO.12420 OF 2016

Lakhiben Bhurabhai Modhwadiya ... Petitioner
 Versus
 State of Gujarat and Ors. ... Respondents

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO.8

I, Devabhai son of Karabhai Bhutiya, Religion: Hindu, Aged: 50 Years, Residing at: Porbandar, the respondent No.8 herein, do hereby solemnly affirm and state on oath as under:-

1. I state that I have perused the memo of petition and the documents annexed therewith and being conversant with the facts and circumstances of the case, I am duly competent to file the present affidavit-in-reply and have to state as under:-
2. At the outset, the petition suffers from suppression of material facts including non-disclosure of filing of Special Civil Application No.7739 of 2016, wherein, the petitioner has impugned the decision of the Sub-Divisional Magistrate, Kutiyana dated 28.03.2016 passed under the provisions of the Indian Telegraph Act, 1885, rejecting her application for seeking electricity connection through the leasehold land of the respondent No.8 so as to create and establish an alleged right of way through the land of Survey No.78/5 (paiki) held under lease by the respondent No.8. I crave leave to refer to and rely upon the said proceedings at the time of hearing of the present petition. I state that the petitioner is only a meddlesome interloper and a busy body who, on account of personal animosity with the answering

Devabhai K. Bhutiya



- 31.05.1976 which empowered and authorized the said lessee to carry out mining of limestone over the said leasehold area. Subsequently, the said leasehold was transferred in my favour under an order dated 12.04.1993 for the purpose of quarrying limestone etc., subject to the terms and conditions contained therein. The map prepared by the DILR and other relevant documents sanctioned by the competent authority in respect of said leasehold land of Survey No.78/5 (paiki) admeasuring 28 Acres, evidencing the holding of the area under the lease deed are collectively produced at **ANNEXURE-R-I (Colly.)** hereto.
- 3.2 Subsequent thereto, since the original lease granted for a period of 20 years in the year 1976 the period thereof was about to expire, the applicant filed an application dated 13.01.1995 for renewal of the said lease in the prescribed form and said lease was operated thereafter under deemed renewal. A copy of the said renewal application is annexed hereto and marked as **ANNEXURE-R-II.**
- 3.3 It appears that much subsequently i.e. after a period of more than 15 years of the answering respondent having acquired the leasehold rights on land bearing Survey No.78/5 (paiki), the land of Survey No.77 admeasuring 0-55-64 Hectares (1-Acre and 15-Gunthas) was purchased by Modhwadiya Lakhiben Bhurabhai i.e. the petitioner herein from one Odedara Parbatbhai Rambhai under a registered sale deed dated 31.12.2008. At this stage, it is pertinent to note that prior to the aforesaid sale in favour of the petitioner, the said Odedara Parbatbhai Rambhai had sold the very same land in favour of one Chhotalal Shamjibhai Mashroo vide registered sale deed dated 20.07.1992. Thereafter,

Devabhai K. Bhutiy



the said Chhotalal Shamjibhai Mashroo sold the very same parcel of land in favour of Sakarben Laxmanbhai Keshwala vide registered sale deed dated 25.03.2003. It further appears that in respect of the said parcel of land of Survey No.77, litigations also ensued *inter-se* between the said parties.

3.4 It further appears that in the proceedings being RRT Revision Case No.89 of 2010, the State Government vide its order dated 19.05.2010 cancelled the revenue Entry Nos.14510 as also 15267 and 15272 on the ground of breach of the provisions of the Bombay Prevention of the Fragmentation and Consolidation of Holdings Act, 1947, which according to the best of my knowledge, in absence of any challenge thereto has attained finality and on the basis of the said order, the Entry No.16365 was also effected in the revenue records on 25.06.2010. Thus, more particularly, when the Entry No.15410 in respect of sale deed dated 31.12.2008 for land of Survey No.77 in favour of the petitioner is already rejected and cancelled in view of breach of the provisions of the Bombay Prevention of the Fragmentation and Consolidation of Holdings Act, 1947, the petitioner would have no *locus standi* whatsoever to file the present petition and hence the present petition deserves to be rejected on this ground alone. Annexed hereto and marked as **ANNEXURE-R-III (Colly.)** are the copies of the order dated 19.05.2010 and the revenue Entry No.16365 dated 25.06.2010.

3.5 I state that as aforesaid, initially the said lease under transfer as currently held by the answering respondent, was granted for a period of 20 years and therefore, before expiry of said term of lease, an application dated 13.01.1995 was made in the

Derabhai. K. Bhutia



prescribed form by the answering respondent under Rule 24(A)(1) for 'first renewal' thereof before the competent authority under the provisions of the Mineral Concessions Rules, 1960. Thus, in absence of any decision, the said lease was operated during the period under deemed renewal.

- 3.6 I state that before the expiry of the 'first renewal' and in view of subsequent amendment, under Rule 24A of the Mineral Concession Rules, 1960, an application dated 19.02.2015 was made by the respondent No.8 before the competent authority seeking 'second renewal' of the existing mining lease, which is pending consideration. Annexed hereto and marked as **ANNEXURE-R-IV (Colly.)** are the copies of the application dated 19.02.2015. I further state that as per the amended provisions of Section 8A of the Mines and Minerals (Development and Regulations) Act, 1957 as brought into force w.e.f. 12.01.2015, any valid and subsisting lease as granted prior to the coming into force of the said amended provisions, would be valid for a period of 50 years thus, by virtue of the said amending provisions, the answering respondent is legally entitled to operate the said lease and carry out excavation of limestone upto 2026. I crave leave to refer to and rely upon the relevant provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and the Mineral Concession Rules, 1960 in that regard at the time of hearing of the petition.

4. In view of the above, now dealing with the parawise averments of the petition, I have to state as under:-

- 4.1 At the outset, I deny all the averments and contentions raised in the memo of petition, which are contrary to and inconsistent

Devabhai K.B



with what is stated above and that may be stated hereinafter and my specifically not dealing with each and every averment of the petition may kindly not be construed as an admission of the same and I reserve my right to file a further and detailed affidavit-in-reply, if need arises and/or as this Hon'ble Court may otherwise direct in the facts and circumstances of the case.

- 4.2 With regard to the averments made in paragraph No.1 in respect of the allegations of blasting and illegal mining made by the petitioner and that the house of the petitioner at her agricultural land is damaged and/or the said activity in any way endangers the life of the petitioner and his family, the same are specifically denied and the petitioner is put to strict to proof thereof. As aforesaid, the said allegations even otherwise, are bereft of any substance inasmuch as the leasehold area in question was held and operated during the period 1976 to 1993 by one Rasiklal Jamnadas Katkoriya who had carried out the mining of limestone in the said area and subsequent thereto the said mining of limestone was continued by the answering respondent upon transfer of the said lease in favour of the answering respondent in the year 1993. It was much subsequent thereto that the petitioner purchased the aforesaid parcel of land under a sale deed dated 31.12.2008 and constructed the residential house on the said agricultural land, the title whereof in any case is under a cloud. However, the petitioner by way of this petition has sought to create an impression as if the petitioner's house was already existence and/or that by subsequent mining activity carried out by the answering respondent, the damage if any has occurred. In any case, I deny that any damage of the nature as specified

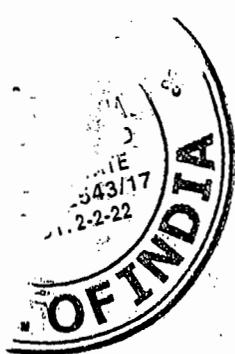
Derabhai K. Bhutiyar



in para 1 has occurred or as alleged and the petitioner is put to strict proof thereof. On the contrary, the respondent is entitled to carry out the mining of limestone under a valid and authorized lease granted by the Government of Gujarat and the petitioner is not justified in seeking the reliefs as prayed for. Further, as per the documents produced by the petitioner herself, no blasting activity admittedly is being carried out by the answering respondent even as per the documents produced on record and which therefore clearly exposes the falsity of the case put forth by the petitioner and hence the said petition deserves to be rejected on this ground also. In fact, said averments are made only with a view to misguide the Hon'ble Court by suppressing material facts so also the animosity which the petitioner had with the answering respondent since the answering respondent had objected to the petitioner creating a right of way through the answering respondent's leasehold land. In fact, the petitioner is only a rank trespasser and an encroacher upon the answering respondent's leasehold area and the Collector also directed the Mamlatdar to the said effect. Copies of the said orders of the said competent authority are annexed hereto and marked as **ANNEXURE-R-V (Colly.)**. I therefore, deny that there is any infringement of any of the rights of the petitioner much less the fundamental rights of the petitioner as is falsely alleged in said paragraph.

- 4.3 With regard to the averments made in paragraph Nos.2 to 2.3, the same are not wholly correct and hence are denied. It is specifically denied that the petitioner is carrying out any illegal mining and/or blasting at the leasehold land resulting into any

Derabhai R. Bhutia



damage to the petitioner's house at any time at the land of Survey No.77 and/or at Survey No.64 as is falsely alleged. It is only for the reason that the petitioner has sought to create an alleged right of way to its land of Survey No.77 through the leasehold land of Survey No.78/5 (paiki), which was objected by me since the beginning and as a counter-blast to the said objection, the petitioner has engineered and initiated proceedings one way or other objecting to the mining activities by making false representations before the authorities. I deny that there is any illegal mining activity being carried out by the answering respondent. On the contrary, the said mining activity of mining of limestone is being carried out under a validly issued lease deed and which is operated in accordance with the provision of the Act and the Rules. I submit that since past 8 years the said lease of Survey No.78/5 (paiki) is being operated without any blasting being carried out by the answering respondent and therefore the said allegations made by the petitioner are only baseless, false and without any substance whatsoever.

- 4.4 With regard to the averments made in paragraph No.2.4, I deny that the respondent No.8 has carried out any mining very near to the forest boundary of the Nadiyadhar Forest or as alleged and the petitioner is put to strict proof thereof. In any case, I submit that the petitioner has deliberately for the purposes of misleading of this Hon'ble Court, while referring to vide communication dated 20.04.2009 not produced the said order, a copy whereof is annexed hereto and marked as **ANNEXURE-R-VI**. I state that the said order was passed levying a penalty of

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Rs.25,000/- upon the answering respondent solely for the reason that the rubble that had occurred on account of the mining/blasting activity has fallen into the forest area and which penalty amount has already been paid by the answering respondent. In any case, it is humbly submitted that the said solitary episode of the year 2009 certainly cannot have any bearing in respect of the reliefs prayed for in the petition.

- 4.5 With regard to the averments made in paragraph No.2.5, regarding spot rojkam referred therein indicating carrying out of mining activities within 50 meters of the forest area is an absolutely incorrect recording of the fact in as much as that since the year 1994, I have been requesting the authorities for measurement of the leasehold area and for demarcation of the same. Copies of the said letters addressed to the Forest Authority from time to time are annexed hereto and marked as **ANNEXURE-R-VII (Colly.)**.

With regard to the averment that the Nadiyadhar Forest is now listed in the Eco Sensitive Zone, I humbly state that said issue has now been settled and put to rest by virtue of the notification dated 28.04.2017 whereby the Ministry of Environment and Forest in exercise of its powers conferred by sub-section (1) and clauses (v) and (xiv) of sub-section (2) and sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 read with sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, notified the Barda Wildlife Sanctuary and the area around it as the Barda Wildlife Sanctuary Eco-Sensitive Zone. A copy of the said notification dated 28.04.2017 is annexed hereto and marked as **ANNEXURE-R-VIII**. The map appended thereto

Devabhai K. Bhutia



clearly reveals that the ^{respondent's} petitioner's leasehold area is outside the Nadiadhar Forest as well as the Eco-Sensitive Zone of Barda Wildlife Sanctuary and hence in view of the said notification, the question of making false and baseless imputations against the petitioner clearly does not arise. A copy of the duly authenticated map which clearly reflects that the answering respondent's leasehold area is outside the Barda Eco-Sensitive Zone as well as Nadiadhar Forest, is annexed hereto and marked as **ANNEXURE-R-IX**. I further state that solely with a view to dispel any doubts in respect of the leasehold area of the answering respondent being covered by the Barda Eco-Sensitive Zone and/or the Nadiadhar Forest, the answering respondent had also filed an application before the competent authority of the MoEF under the provisions of the Right to Information Act, 2005 seeking clarification in respect of the answering respondent's leasehold area being covered by the notification dated 28.04.2017 of the Central Government. It is submitted that the said competent authority vide its letter dated 27.06.2017, clarified that there is no restriction whatsoever under the Indian Forest Act, or the Wildlife Protection Act for operating the lease outside the limit as specified in the notification dated 28.04.2017. A copy of the said reply given by the competent authority under the provisions of the Right to Information Act, is annexed hereto and marked as **ANNEXURE-R-X**. In light of the aforesaid notification and the clarification given by the competent authority, the allegations made by the petitioner that the mining activity of the petitioner is illegal for the reason being carried out in the vicinity of the forest

Derabhai. K. Bhutia



area/Eco-Sensitivity Zone, is absolutely baseless and warrants no consideration.

- 4.6 The averments made in paragraph No.2.8 to 2.13 of the petition are denied and it is submitted that even as per the guidelines issued by the Government of Gujarat in respect of all leases granted prior to 04.08.2006 if the said leases are in operation, the same shall not be closed for want of NOC provided that the concerned lessees make applications in the prescribed format seeking the NOC from the competent State/Central Authority as the case may be. I state that as per the said guidelines, numerous lessees in the said region have applied to the competent authority for the NOC and being identically placed with the case of the answering respondent's, are also operating their mines as on date. A copy of the list of such lessees who have applied for the NOC from the MoEF and which permission is pending from the competent authority and who are operating the said leases in the vicinity of Barda Eco-Sensitive Zone and Nadiyadhar Forest as per the guidelines and instruction of the Government of Gujarat are annexed hereto and marked as **ANNEXURE-R-XI**. So being the case, it is evident that the petitioner has only made a bald allegation the answering respondent may not operate the lease for the area in question without a validly issued NOC from the MoEF and the said issue clearly does not arise in the peculiar facts of the present case. I humbly submit that the petitioner seems to be in the habit of making false and reckless allegations against the answering respondent without ascertaining the factual and legal position

Darabhai R. Bhutia



and solely with a view to mislead this Hon'ble Court and hence a serious view may kindly be taken of the said fact.

- 4.7 The averments made in paragraphs 2.14 and 3 of the said petition are devoid of substance, far from truth and denied and I reiterate that in the entire State of Gujarat the existing leases are being operated within the vicinity of the forest area as per the guidelines/instructions of the State Government and therefore the question of seeking closure of the answering respondent's mines at Survey No.78/5 (paiki) admeasuring 11.33 hectares of Village: Ranavav District: Porbandar clearly does not arise since as aforesaid, the answering respondent has already filed the Terms of Reference (ToR) before the competent authority seeking the NOC under the provisions of the Environment Protection Act. I state that for those applicants who have been carrying on the mining activity without an Environmental Clearance being issued, the Central Government (Ministry of Environment) in exercise of powers conferred by sub-Section (1) and sub-clause (a) of Clause (i) and Clause (v) of sub-section 2 of Section 3 of the Environmental (Protection) Act 1986, read with Clause (d) of sub-rule (3) of Rule 5 of the Environment (Protection) Rules 1986, vide Notification dated 14.3.2017, directed the constitution of Expert Appraisal Committee for considering the cases where Terms of Reference have been filed by the project proponents. A copy of the said notification dated 14.3.2017 is annexed hereto and marked as **ANNEXURE-R-XII**. So being the case, the petitioner is not justified in seeking any injunctive reliefs from this Hon'ble Court, pending the decision of the competent authority on the Terms of

Devabhai K. Bhutia



Reference in respect of valid and subsisting lease which has been in existence since 1976. So being the case, the aforesaid petition, being a bundle of misstatements and a clear case of an attempt to settle personal scores under the guise of a petition under Article 226 of the Constitution of India, the same deserves to be rejected with exemplary cost.

Solemnly affirmed at Abad on 20th day of Nov, 2017.

IDENTIFIED BY ME

ADVOCATE/PERSON

Name.....
Welfare No.....

Devesh Chandra Bhutiy
(DEPONENT)



RG. SERIAL No. 684
DATE 20/11/2017
BOOK No. 7
PAGE No. 128

Pravin P. Panchal
20/11/2017

PRAVIN P. PANCHAL
NOTARY
GOVT. OF INDIA
20 NOV 2017

SOLEMNLY AFFIRMED
BEFORE ME
Pravin P. Panchal
20/11/2017
PRAVIN P. PANCHAL
NOTARY
GOVT. OF INDIA
20 NOV 2017

O/C

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
DISTRICT: PORBANDAR**

SPECIAL CIVIL APPLICATION NO. 12420 OF 2016

Lakhiben Bhurabhai Modhwadiya ... Petitioner
Versus
State of Gujarat and Others ... Respondents

Additional Affidavit-In-Reply on behalf of Respondent No.8

I, Devabhai S/o. Karabhai Bhutiya, Religion: Hindu, Age: 50 years, Residing at: Porbandar, the respondent no.8 herein, do hereby solemnly affirm and state on oath as under:-

1. I state that I have filed the affidavit in reply dated 20th November, 2017 opposing the petition and also exposing the falsity of the case put forth before this Hon'ble Court by the petitioner herein. I have perused the copies of the affidavits filed on behalf of the respondent no.6 as well as the respondent no.4.
2. I reiterate of the averments made in the affidavit in reply dated 20th November, 2017. I submit that I am seeking to file to present additional affidavit solely for the purpose of bringing on record certain additional facts for the kind consideration of this Hon'ble Court.
3. I state that as stated in my reply dated 20.11.2017, the petitioner has sought to create an impression that the mining activities carried on by me have caused damage to her house. However, the fact remains that the lease in question

admeasuring 11.33 hectares has been in existence since 1976 whereat mining of limestone is being carried out since then. The said existing lease was purchased by me in the year 1993 and since then the mining of limestone is being carried out. The petitioner, solely with view to mislead this Hon'ble Court has suppressed the fact that the petitioner had purchased agricultural land of Survey No.77 on 31.12.2008 much later and had constructed the house thereon. The entire petition therefore seeks to create an impression as if the petitioner's house has been in existence and it is the answering respondent's subsequent mining activities that are causing damage to petitioner's house which allegation, in any case is far from truth and even as per the record it is evident that no blasting activities are being carried on by me for mining of limestone since the year 2009.

4. So far as the second allegation made by the petitioner of the petitioner's lease being part of the Eco Sensitive Zone is concerned, I humbly submit that vide notification dated 28.04.2017, the Government of India, MoEF had declared the limits of the Barda Wildlife Sanctuary as also the Barda Wildlife Sanctuary Eco Sensitive Zone in exercise of powers conferred under sub-section (i) and clauses (v) and (xiv) of sub-section (2) and sub-section (3) of Section 3 of the Environment Protection Act, 1986 and the lease in question does not fall within the Sanctuary/the Eco Sensitive Zone. The copy of the said notification has already been produced by me at **Annexure-R-10** to the affidavit filed by me before this

Hon'ble Court and the said contention has not been disputed by the Geologist or the GPCB.

5. It is therefore an undisputed fact that the mining which was being carried out by me was not within the limits of the Eco Sensitive Zone as sought to be portrayed before this Hon'ble Court by the petitioner. So far as the third allegation is concerned i.e. the mining being carried out by me without EC being granted by the competent authority is concerned, I humbly submit that as stated in the affidavit-in-reply, at the earlier point of time the Government of Gujarat had itself permitted mining operations to all leases granted prior to 04.08.2006 provided that the said leases are in operation and the said leases were not to be closed for want of NOC provided the concerned lessees make the applications in the prescribe format seeking the NOC from the competent State/Central authority. I have also placed on record the list of similar lessees who have applied for the NOC from the MoEF and which permission is pending from the competent authority and who are operating the leases in the vicinity of the Barda Eco Sensitive Zone and Nadiyadar Forest as per the guidelines and instructions of Government of Gujarat. In any case, the answering respondent has already filed the Terms of Reference before the competent authority for seeking the NOC under the provisions of the Environment Protection Act, 1986. Without prejudice to the said contention, I humbly submit that in any case, even as per the affidavit filed by the respondent No.6, no mining activity is being carried out on the lease in question since July, 2017. I state that the proceedings in

respect of the petitioner's lease were last held on 27th to 29th November, 2018 before Expert Appraisal Committee of the MoEF at New Delhi and the answering respondent has been directed to produce additional details which have already been submitted to the competent authority. The respondent No.4 may kindly be called upon to clarify the said issue. So far as the allegation of environmental damage on account of running the lease without EC till July 2017 is concerned, the same is an issue which is already pending before the Expert Appraisal Committee and which shall be considered by the said committee in accordance with law.

6. I humbly submit that the petitioner is a known extortionist in the area and under the guise of RTI application is only wanting to harass lessees like the answering respondents and the aforesaid petition is only a vindictive stand of the petitioner since there has been ongoing dispute between the petitioner and the answering respondent in respect of purported right of way which the petitioner has been claiming through my limestone lease, consequent upon purchase of his land on 31.12.2008 which is adjacent to my leasehold land. Copies of some of the applications filed by the petitioner under the provision of RTI Act against similar lessees are annexed hereto and marked as **Annexure-I** (Colly). The petition being filed for wreaking personal grievance and for settling personal scores, with the respondent No.8, and being based on a bundle of misstatements, the same is only a gross abuse of process of law and hence the said petition only warrants rejection by this Hon'ble Court.

Solemnly affirmed at Ahmedabad on 19th day of August, 2019.

DEPONENT

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

DISTRICT: PORBANDAR

SPECIAL CIVIL APPLICATION NO. 12420 OF 2016



Lakhiben Bhurabhai Modhwadiya ...Petitioner

Versus

State of Gujarat & Ors. ...Respondents

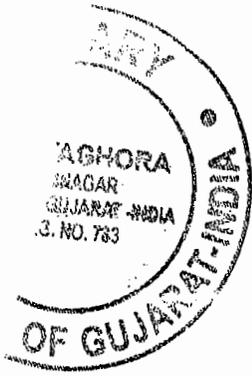
AFFIDAVIT ON BEHALF

OF RESPONDENT NO. 6

I, Undersigned Shri Mehul Keshavlal Dave, I/C Geologist of Geology and mining office of Porbandar Aged:54, , do hereby solemnly affirm and state on oath as under:-

1. I say and submit that I have perused the copy of the petition filed by the petitioner in the above petition and I am conversant with the facts and circumstances leading to the filing of the present petition and therefore I am in a position to depose what is stated here under and I am authorized to file

(Mhul)



the present Affidavit-in-Reply on behalf of the captioned respondent.

2. It is submitted that I do not admit any of the allegations averments and contentions raised in the petition and the same are here by denied categorically unless and until, the same are admitted specifically herein.
3. I say and submit that I am filing the present affidavit in reply with a view to bring on record certain fact relating to the present petition and to oppose the present petition and I reserve my right to file the detailed affidavit as and when necessary.
4. I say and submit that none of the fundamental rights of the petitioner have been violated because of any action or inaction on the part of the present respondents and therefore, the present petition is not maintainable in law and the same deserves to be dismissed in limine.
5. I say and submitted that the lease permission was granted to the petitioner

(Signature)

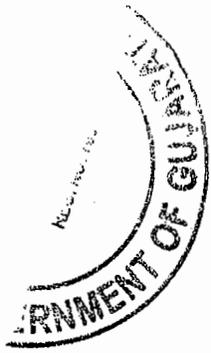


on 31.05.1976. The petitioner was working on the said lease since then. It is further submitted that on 21.06.2017 IBM (Indian Bureau of Mines) issued a notice to the petitioner contending that the petitioner does not possess Mining Plan neither they have submitted Monthly Return nor they are having full time Mining engineer and full time Geologist. The above conditions are required to be fulfilled for having lease permission in the said area. The copy of the notice dated 21.06.2017 is annexed herewith and marked as **Annexure R-I**.

6. In view of the above notice from IBM (Indian Bureau of Mines) respondent authority locked petitioner's mining lease online account on 28.07.2017. The copy of the said order is annexed herewith and marked as **Annexure R-II**.

7. It is respectfully submitted that so far as aspect of issuing Environment Clearance Certificate is concerned, the answering respondent had gathered information from the officer of the Forest Department, whereby it was

A handwritten signature or set of initials, possibly "M.R.", written in dark ink.



10. In view of what is enumerated hereinabove and what may be urged at the time of hearing, the present petition under reply being devoid of merits, misconceived on law as well as on facts, deserves to be dismissed.

VERIFICATION

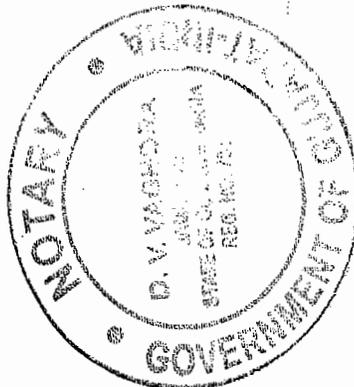
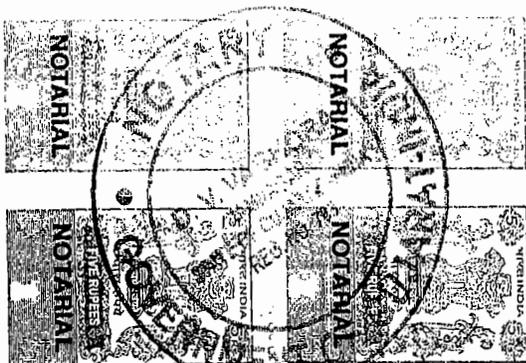
1. What is stated in paragraphs are statements of facts derived from the relevant record and files and are true to the best of my knowledge and I believe the same to be true.

2. All the documents enclosed with the affidavit in reply are the true copies of their originals.

SOLEMNLY AFFIRMED AT JAMNAGAR ON THIS 10TH DAY OF APRIL, 2019 AT JAMNAGAR.

Identified by
SP Solanki
sd/4
6/2534/2005


MEHUL K. DAVE
DEPONENT



SOLEMNLY AFFIRMED BEFORE ME


D.V. VAGHORA
NOTARY
NO. 1361/14 DL 10/1

संयुक्त प्रशासन
संयुक्त प्रशासन

भारत सरकार
मान्य मंत्रालय
भारतीय खान भूरो
देशीय खान निरीक्षण का कार्यालय
समवेत एच. ई. ई. १२ ए. एच. ई. २
गान्धीनगर, गुजरात-३६० ०१२



Government of India
Ministry of Mines
Indian Bureau of Mines
Office of the Regional Controller of Mines
Kamrajji Bhawan, 4th Floor, Block-2, Sector 10A,
Gandhinagar (Gujarat)-360010

मित: ganchinagar_bmi@gmail.com

Mine code-38GUJ08250

Date-21/6/2017

विविध संख्या: Guj Por/Lst/55/704

पेसिड :- Sri Deva Karo Shrivastava,

R/o 1, Shree J Complex, Nassang Tehsil,
Dist-Portlandar, Gujarat

विषय: गुजरात राज्य के पोर्लंदर जिले में रामाबाब पॉपुलेशन ने अपनी एमावाब गुना एक्टर बाप, सर्वे कर
785001, क्षेत्रफल 11.33 हेक्टर में खनिज संरक्षण एवं विकास नियमावली, 2017 के नियमों का उल्लंघन हेतु।

सूचना

उपरोक्त खान का निरीक्षण अधोहस्ताक्षर द्वारा दिनांक 01/6/2017 को किया गया था तथा खनिज

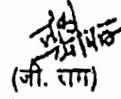
संरक्षण एवं विकास नियमावली 2017 के निम्नलिखित उपबन्धों का उल्लंघन हुआ है।

नियम	उल्लंघन के प्रकार का विस्तृत विवरण
Rule 11(1)	No holder of a mining lease shall commence or carry out mining operations in any area except in accordance with the mining plan approved, modified or reviewed by the Indian Bureau of Mines. <i>In your case, it was observed during inspection that Mining Operations were being carried out without approved Mining Plan/Review of Mining Plan etc. Last area of excavation/workings is seem to be within 7.5m of statutory barrier or outside ML. The last scheme of mining was approved vide this office letter no 687 (23) M/15/2002 MCO/M/NDP dated 09/12/2002 for the period of 2001-07 to 2005-06 & presently mine is working without approved MP/MS. The boundary of lease pillars were not available/erected as per statutes & DGPS survey of lease area as per CCOM Circular 02/2010 is not done & reported to this office till date. The suspension of mining order was already issued by this office vide letter no Sus GujPor/Lst/224 dated 02/12/2011 & still not revoked.</i>
Rule 45(5)(b) & 45(5)(c)	The holder of a mining lease shall submit online returns in respect of each mine to the Regional Controller or any other authorised official of the Indian Bureau of Mines in the following manner. (b) a monthly return which shall be submitted before the 10 th day of every month in respect of the preceding month in electronic form along with a signed print copy of the same if it is not digitally signed, in the prescribed form. (c) an annual return which shall be submitted before the 1st day of July each year for the preceding financial year in electronic form along with a signed print copy of the same if it is not digitally signed, in the prescribed form. <i>In your case, you have not submitted the online returns from 2011-12 onwards to this office till. Therefore, you are directed to submit aforesaid return in online system immediately through www.ibm.gov.in/index.php/auth/login.</i>

Rule 26(2)	A yearly report before 1 st July of every year setting forth the extent of protective and rehabilitation work carried out as envisaged in the approved progressive mine closure plan has not been submitted to this office.
Rule 33	The owner, agent, mining engineer or manager of mine shall submit the digital copy along with a print copy of the Surface Geological plan & section on or before the 30 th June of every year. In your case, you have not submitted the aforesaid updated plan & section maintained under rule 32 of MCDR, 2017 to this office till date
Rule 55(1)(3)	A full time Mining Engineer and Geologist have not been employed for the purpose of carrying out mining operations in accordance with these rules.

04. इस संदर्भ में आपका ध्यान आकर्षित किया जाता है कि उपरोक्त नियमों का उल्लंघन खनिज संरक्षण एवं विकास नियमावली, 2017 के नियम 62 के अंतर्गत दंडनीय अपराध है तथा इन नियमों के उल्लंघन की अनुपालना नहीं होने पर खनिज संरक्षण एवं विकास नियमावली 2017 के नियम 11 (2) 45(7) के अंतर्गत खदान की सारी संक्रियाएं बंद की जा सकती है, और / या आपके विरुद्ध अभियोग दायर किया जा सकता है, और / या राज्य सरकार से खदान की सारी संक्रियाएं बंद करने और / या आपके विरुद्ध अभियोग दायर करने की सिफारिश की जा सकती है।
05. अतः आपको यह निर्देशित किया जाता है कि आप इस पत्र के जारी होने की तिथि से 30 दिन के भीतर उपरोक्त नियमों के उल्लंघन की अनुपालना इस कार्यालय में दर्ज करावें।

भवदीय


(जी. राम)

वरिष्ठ सहायक खान नियंत्रक,
भारतीय खान ब्यूरो, गांधीनगर

का.प्र.

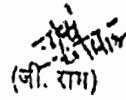
पहले 1 प्रति पर नहीं है।

01. खान नियंत्रक (उ.आ.), भारतीय खान ब्यूरो, उदयपुर को सूचनार्थ प्रेषित।
02. आयुक्त, भूविज्ञान एवं खनन विभाग/निदेशालय, गांधीनगर, गुजरात सरकार को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित। तथा इस कार्यालय द्वारा जारी उपरोक्त निलंबन पत्र की अनुपालना रिपोर्ट की जानकारी दें।
03. उप महानिदेशक (सांख्यिकी), खान एवं खनिज प्रभाग, भारतीय खान ब्यूरो, नागपुर, यह पत्र क्षेत्रीय खान नियंत्रक, भारतीय खान ब्यूरो, गांधीनगर के अनुमोदन के बाद ही जारी किया जा रहा है।


22-6-17

जारी किया/ISSUED

का.प्र.


(जी. राम)

वरिष्ठ सहायक खान नियंत्रक,
भारतीय खान ब्यूरो, गांधीनगर



Annexure R-II

મુસ્તરશાહીની કચેરી
મુસ્તર વિભાગ અને પ્રનિજ ખાતું
જીલ્લા સેવા મંદન-૧, શંદીપની રોડ, ખેરપોષ્ટનીઆમે, પોરબંદર

ક્રીનં-10205/220482

સુપો/એમએલ/અકક/૨૫૨૭ ની ૨૫૨૮

તા. ૨૮/૭/૨૦૧૭

પ્રતિ,

શ્રી દેવાભાઈ કાસભાઈ ભુતિયા
ગુપ્તજી ભવન, રાજીવ નગર
પોરબંદર

વિષય: એટીઆર લોક કરવા બાબત (M/2001002725)

જ્ય ભારત સાથે ઉપરોક્ત વિષય પરત્વે જણાવવાનું કે આપની મોજે સજાવાવ તાલુકો તા સજાવાવ જી.પોરબંદર ના સર્વેનંબર ૭૮/૫ માં ૧૧.૩૩.૦૦.૬૬૨૨ વિસ્તારની લાઇમસ્ટોન પ્રનિજની માઈનીંગલીઝનું એટીઆર નીચેના કારણોસર લોક કરવામાં આવે છે.

ભારતીય ખાણ વ્યૂરો, ગાંધીનગર ના નોટીસ નં. GJ/Por/Lst-55/704
તા. ૨૧/૦૬/૨૦૧૭ ની અન્વયે -

ઉપરોક્ત કારણોસર આપની માઈનીંગલીઝનું એટીઆર લોક કરવામાં આવે છે.
(માન કલેક્ટરશ્રીએ ક્રમલ ઉપર મંજૂરી આપેલ છે.)

મુસ્તરશાહી
મુસ્તર વિભાગ અને પ્રનિજ ખાતું

પોરબંદર
૨૮/૭/૨૦૧૭

નકલ સવિનય રવાના

(૧) ભારતીય ખાણ વ્યૂરો, ક્ષેત્રીય ખાણ નિયંત્રણ કાર્યાલય, કર્મચોગી ભવન, સેક્ટર-
૧૦એ, બ્લોક નં-૨, ગાંધીનગર તરફ ખાણ સૂત્ર...

MK

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 12420 of 2016

LAKHIBEN BHURABHAI MODHWADIYA

Versus

STATE OF GUJARAT & 7 other(s)

Appearance:

MS SANDHYA D NATANI(3678) for the Petitioner(s) No. 1

ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP(99) for the
Respondent(s) No. 1MR.DHAWAN JAYSWAL, ASSISTANT GOVERNMENT PLEADER(1) for the
Respondent(s) No. 1,2,3

MR S N THAKKAR(901) for the Respondent(s) No. 8

MR VAIBHAV A VYAS(2896) for the Respondent(s) No. 4

NOTICE SERVED BY DS(5) for the Respondent(s) No. 5,6,7

CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA

Date : 09/12/2019

ORAL ORDER

1. By this petition under Article 226 of the Constitution of India, the petitioner has prayed for the following relief(s):-

"6(A) Be pleased to admit and allow this petition.

A) B) Be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and be pleased to direct the respondents and their agents and servants to initiate action for stopping the illegal activity of mining and blasting by the respondent no.8 at Survey No.78/5 paiki 11.33 hectares, Ranvan Village, District:Porbandar.

B) Issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents to remove unauthorized encroachment and the illegal mining by the respondent no.8 in the adjoining area of survey no.78/5 paiki 11.33 hectares, Ranvav Village, District:Porbandar.

(C) Pending admission hearing and final disposal of the petition, Your Lordship may be pleased to direct the respondent authorities to stop illegal mining and blasting of the respondent no.8 at Survey No.78/5 paiki 11.33 hectares, Ranvav Vilage, District:Porbandar.

(D) Your Lordships may be pleased to issue a writ of mandamus and/or any other appropriate writ, order or direction and thereby be pleased to direct the respondent authorities to register the Criminal Complaint against the respondent no.8 for doing illegal mining in accordance with law.

(E) Your Lordships may be pleased to issue of mandamus and/or any other appropriate writ, order or direction and thereby be pleased to direct the respondent authorities to recover the amount of royalty/penalty from the private respondent no.8 for illegal mining carried out till date.

(F) Any other and further relief may kindly be granted in the interest of justice."

2. Heard Ms.Sandhya Natani, learned advocate for the petitioner, Mr.Dhawan Jayswal, learned Assistant Government Pleader for the respondent nos.1 to 3 and 5 to 7, Mr.Vaibhav Vyas, learned advocate for the respondent no.4 and Mr.S.N.Thakkar, learned advocate for the respondent no.8.

3. Mr.S.N.Thakkar, learned advocate for the respondent no.8 has invited the attention of this Court to the averments made in Paragraph No.5 of additional affidavit-in-reply filed on behalf of respondent no.8 at page no.217 which reads as under:-

" 5. I have also placed on record the list of similar lessees who have applied for NOC from the MoEF and which permission is pending from the competent authority and who are operating the leases in the

vicinity of the Barda Eco Sensitive Zone and Nadiyadar Forest as per the guidelines and instructions of Government of Gujarat. In any case, the answering respondent has already filed the Terms of Reference before the competent authority for seeking the NOC under the provisions of Environment Protection Act, 1986. Without prejudice to the said contention, I humbly submit that in any case, even as per the affidavit filed by the respondent no.6, no mining activity is being carried out on the lease in question since July, 2017. I state that the proceedings in respect of the petitioner's lease were last held on 27th to 29th November, 2018 before Expert Appraisal Committee of the MoEF at New Delhi and the answering respondent has been directed to produce additional details which have already been submitted to the competent authority. The respondent no.4 may kindly be called upon to clarify the said issue. So far as the allegation of environmental damage on account of running the lease without EC till July 2017 is concerned, the same is an issue which is already pending before the Expert Appraisal Committee and which shall be considered by the said Committee in accordance with law."

4. Learned advocate for the respondent no.8 states that any mining activity to be carried out in future shall be in accordance with law.

5. In view of the aforesaid statement made on oath and more particularly when no mining activity is carried out on the lease in question since 2017, the petition has become infructuous.

6. In view of the aforesaid fact situation, the petition is disposed of, as having become infructuous. Notice is discharged.

(BHARGAV D. KARIA, J)

GIRISH

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 23130 of 2019

LAKHIBEN BHURABHAI MODHWADIYA

Versus

DEVA KARABHAI BHUTIYA

Appearance:

MS SANDHYA D NATANI(3678) for the Petitioner(s) No. 1

MR ROHAN SHAH for the Respondent(s) No. 2

MR S N THAKKAR(901) for the Respondent(s) No. 1

CORAM: HONOURABLE MR.JUSTICE R.P.DHOLARIA

Date : 11/02/2020

ORAL ORDER

Heard learned advocate Ms. Sandhya Natani for the petitioner.

2. The petitioner - original defendant No.5 has challenged judgment and decree dated 05.03.2019 passed in Regular Civil Suit No. 129 of 2009 by learned Principal Civil Judge, Porbandar.

3. The plaintiff instituted a suit for declaration and permanent injunction seeking to restrain defendant No.5 to use the right of ingress and egress leading to her land passing through revenue survey No. 78/5 for which he is leaseholder. In the aforesaid suit, after conclusion of trial & hearing, since the learned trial court has permanently restrained by way of issuance of permanent injunction, there would be no fun in granting ex-parte or ad-interim suspension thereof in the pending consideration of appeal. The matter may be different while considering the appeal in its entirety. If the appellate court comes to different finding, then the learned trial court can take different view upon appreciation of evidence on record. The permanent injunction granted by-parte by holding full-fledge trial cannot be suspended pending consideration of appeal.

4. In view of aforesaid factual position, the learned trial court rightly dismissed the suit. No case is made out for interference invoking the provisions of Article 227 of the Constitution of India. Unless the appeal is considered on merits in its entirety, such sort of prayer cannot be granted. Hence, this petition is dismissed.

5. This Court however directs to expedite the hearing of the appeal.

(R.P.DHOLARIA, J)

chandrashekhar

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 23130 of 2019**

**[On note for speaking to minutes of order dated 11/02/2020 in
R/SCA/23130/2019]**

=====

LAKHIBEN BHURABHAI MODHWADIYA

Versus

DEVA KARABHAI BHUTIYA

=====

Appearance:

MS SANDHYA D NATANI(3678) for the Petitioner(s) No. 1

for the Respondent(s) No. 2,3,4,5

MR S N THAKKAR(901) for the Respondent(s) No. 1

=====

CORAM: HONOURABLE MR.JUSTICE R.P.DHOLARIA

Date : 19/02/2020

ORAL ORDER

1. Considering the averments made in the Note for Speaking to Minutes, the same is allowed.
2. In line no.11 of paragraph-3 of order dated 11.02.2020, the words "trial court" be substituted and be read as words "appellate court" and in line no.1 and 2 of paragraph-4, the words "the learned trial court rightly dismissed the suit" be substituted and be read as words "the learned Appellate Court rightly dismissed the Exh 5 application."
3. Accordingly, the Note for Speaking to Minutes stands disposed of.

(R.P.DHOLARIA, J)

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Annex-A-XXIX



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2020 SCC OnLine NGT 162

In the National Green Tribunal[±]

(BEFORE K. RAMAKRISHNAN, MEMBER (JUDICIAL) AND SAIBAL DASGUPTA, EXPERT MEMBER)

Tamil Nadu Small Mine Owners Federation Rep. by its General
 Secretary Mr. J. Mohan Kumar ... Applicant;

Versus

Secretary, Ministry of Environment Forest and Climate Change,
 Government of India and Others ... Respondents.

Original Application No. 136 of 2017 (SZ)

Decided on June 30, 2020, [Date of reserved for judgment : - 18-03-2020]

Advocates who appeared in this case:

- Mr. Sanjay Upadhyay & Mr. Sai Sathya Jith, for the Applicant(s);
- Mr. G.M. Syed Nurullah Sheriff, for R1 & R2;
- Mr. M. Mani Gopi, for R3 & R4.

JUDGEMENT/ORDER

K. RAMAKRISHNAN, MEMBER (JUDICIAL):— The above case has been filed by the applicant who is a federation of small mine owners by name Tamil Nadu Small Mine Owner's Federation, represented by its General Secretary, seeking the following reliefs:

- "(a) to call for the records pertaining to the letter bearing No. Z-11013/24/2017-1A.II(M) dated 3.4.2017 issued by the 1st respondent herein and quash the same as being violative of the EIA Notification 2006 dated 15.1.2016 as amended from time to time.
- (b) Direct the 1st respondent to formulate an appropriate scheme containing uniform practice for grant of environmental clearance for both minor and major minerals.
- (c) declare that the existing mines in operation prior to the EIA Notification dated 7.10.2014 shall be required to obtain Environmental Clearance only at the time of renewal or expansion or increase in production capacity (or) alternative;
- (d) issue appropriate directions directing the respondents and such other authorities who may be involved in the process to expedite the process of grant of environmental clearance to the lessees of major minerals mining in a lease area of less than 5 HA by fixing a time limit thereof without reference to Notification S.O. 804(E) Ministry of Environment, Forests & Climate Change dated 14.3.2017."

2. It is alleged in the application that members of the applicant federation were involved in carrying out business of small mines, concerned with quarrying of major minerals like Limestone and Magnesite etc. Mining of major minerals and regulation thereof was governed by the provisions of Mines and Minerals (Development and Regulation) Act, 1957. The provisions of the said Act deal with general restrictions on prospective undertaking of mining operation, procedure for obtaining prospecting license or mining leases in respect of lands in which the minerals vest in the Government.

3. After passing of the Environment (Protection) Act, 1986 and framing of the Rules thereunder, the first respondent - MoEF & CC issued various notifications, regulating the mining of minerals. As per the Notifications issued from time to time since 1994, mining activity required obtaining Environmental Clearance for the projects as listed in

Schedule 1 to the Notification of the year 1994. However, the Notification of the year 1994 did not deal with mining projects of minor minerals. On the other hand, it dealt only with mining projects concerning major minerals with leases more than 5 Hectares.

4. By a subsequent notification viz., EIA Notification, 2006 dated 14.9.2006, the projects listed in the Schedule to the Notification require prior Environmental Clearance. They were classified into two categories viz., "A" category and "B" category. For "A" category projects, prior Environment Clearance had to be issued by MoEF & CC and for "B" category projects, Environment Clearance had to be issued by the State Environmental Impact Assessment Authority (SEIAA). "B" category projects were further divided into two categories viz., B-1 and B-2 category of which B-1 category projects require Environmental Impact Assessment Report, whereas, B-2 projects did not require the same.

5. As per the decision of the Hon'ble Supreme Court in *DEEPAK KUMAR v. STATE OF HARYANA*, ((2012) 4 SCC 629), even mining activities in respect of minor minerals below 5 Hectares have to obtain Environment Clearance which includes their renewal as well.

6. In order to implement the aforesaid direction of the Hon'ble Supreme Court, the MoEF & CC issued an Office Memorandum dated 18.5.2012, produced as Annexure - I, by which the mining projects of minor minerals were directed to obtain prior Environment Clearance. When a clarification was sought for by the Member Secretary, SEIAA, Karnataka, as to whether mining projects of major minerals of the size of the lease area less than 5 Hectares would be covered by the order of the Hon'ble Supreme Court in *DEEPAK KUMAR v. STATE OF HARYANA*, ((2012) 4 SCC 629), the MoEF & CC issued a Clarification dated 4.1.2013, produced as Annexure - II, wherein they had stated that there was no need to obtain prior Environment Clearance for mining projects of major minerals with lease area of less than 5 Hectares either from the State or Central Government and that the only requirement must be to obtain "consent to operate" from the State Pollution Control Board under the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974. There was no further notification/office memorandum/circular issued by MoEF & CC or the Central/State Governments, making prior Environment clearance mandatory for mining projects of major minerals with lease area less than 5 Hectare. All the notifications issued from time to time only dealt with non-coal mining projects in respect of minor minerals only.

7. Later, MoEF & CC issued an amendment to the EIA Notification dated 7.10.2014 by which all new mining operations were required to obtain prior Environment Clearance for mining of major minerals as well including mining lease area of less than 5 Hectares at the stage of renewal of mining of lease or enhancing the production capacity, evidenced as Annexure - III. Environment Clearance in respect of minor minerals with less than 5 Hectares and implementation of the directions issued in *DEEPAK KUMAR v. STATE OF HARYANA*, ((2012) 4 SCC 629) along with challenge to Notification dated 9.9.2013 issued by the MoEF and certain other memorandums again were considered in *HIMMAT SINGH SHEKHASWAT v. STATE OF RAJASTAN* (O.A. No. 123 of 2014) by the National Green Tribunal, Principal Bench, New Delhi) and the Principal Bench by its order dated 13.1.2015 issued several directions including expeditious disposal of the applications for prior Environment Clearance made in respect of minor minerals of lease area with less than 5 Hectares. There was no issue relating to mining projects of major minerals regarding obtaining of prior Environment Clearance for the lease area less than 5 Hectares was raised or decided by the National Green Tribunal in that case.

8. Thereafter, M/s. Ahunik Cement, having a mining lease of major minerals with a

lease area of less than 5 Hectares, sought for a clarification from MoEF & CC regarding the requirement of prior Environment Clearance in cases where mining operations were being carried even prior to the amended Notification dated 7.10.2014. The MoEF & CC issued a clarification dated 8.1.2016, evidenced by Annexure - IV, stating that after 7.10.2014, all mining operations required prior Environment Clearance and for existing mines, Environment Clearance had to be obtained at the time of renewal of mining leases. It was further clarified that mines of major minerals with the lease area of less than 5 Hectares which were operating before 7.10.2014 may continue the mining operations with the consented capacity and should not enhance the production capacity without prior Environment Clearance. The industries were however, advised to submit their applications for Environment Clearance without waiting for renewal and the SEIAA was requested to consider the same on priority basis and till such time the same was granted, the existing mining operations were permitted to continue within the existing consented capacity.

9. Thereafter, the MoEF & CC issued an amended EIA Notification dated 15.1.2016, evidenced by Annexure - V, dealing with process of granting Environmental Clearance for mining minor minerals, including sand mining and constitution of a District Environment Impact Assessment Authority. It referred to the judgment in *DEEPAK KUMAR v. STATE OF HARYANA*, ((2012) 4 SCC 629) and the order of the National Green Tribunal, Principal Bench, New Delhi in *HIMMAT SINGH SHEKHAWAT's* case dated 13.1.2015 relating to mining of minor minerals. Appendix VII to XII of the amended Notification only dealt with minor minerals only and there was no mention of major minerals anywhere in the Notification.

10. In *JATINDER SINGH v. UNION OF INDIA* (O.A. No. 495 of 2015), Principal Bench of the National Green Tribunal, New Delhi was dealing with the lease of minor minerals and by judgment dated 19.2.2016, after considering the directions given by the Hon'ble Supreme Court to the Central Empowerment Committee and its report on matters connected therewith, observed in para 21 that MOEF & CC is likely to issue a notification shortly, placing both minor and major minerals at par in relation to requirement for obtaining Environment Clearance prior to carrying on mining activity, irrespective of the size of lease area. But in the concluding part of the judgment, Principal Bench of the National Green Tribunal held that it would be mandatory for all the applicants to seek Environment Clearance for carrying on mining activity of minor or major minerals, even if the lease area is less than 5 Hectares and that MoEF & CC/SEIAA would adopt uniform practice for issuing Environment Clearance in this regard. The Hon'ble Principal Bench of the National Green Tribunal observed that the judgment in *DEEPAK KUMAR's* case would apply to both minor and major minerals.

11. It is submitted by the applicant that lessees of major minerals having mining lease of less than 5 Hectares were never put on notice about this judgment by the authorities in the State of Tamil Nadu. The MoEF & CC did not issue any notification/circular/advisory of the judgment dated 19.2.2016 that it has become mandatory for the mining leases even of major minerals less than 5 Hectares to obtain an Environment Clearance. However, out of abundant caution, the mining lease holders of major minerals, having mining lease area of less than 5 Hectares, have submitted their application for the grant of Environment Clearance to SEIAA as early as in January, 2016 and SEIAA did not pass any orders on the same.

12. While so, the District Authorities orally informed during the month of January, 2017 to stop their mining operations forthwith, quoting the MoEF & CC Notification dated 15.1.2016. Though the lessees of major minerals of less than 5 Hectares informed the authorities that those notifications did not apply to major minerals and they were governing in respect of minor minerals and not dealing with the mining operation of major minerals of less than 5 hectares without obtaining Environment Clearance, they did not respond to the same. Even if mines were to function, they did

not issue any transport permit which effectively puts a curb on all mining activities relating to major minerals in the State of Tamil Nadu.

13. Thereafter, several representations were made to respondents 3 and 4 stating that MoEF & CC had not issued any amended notification or letters or circulars, indicating that the lessees of major minerals mining in a lease area of less than 5 Hectares ought to obtain Environment Clearance and they may be permitted to operate and one such representation dated 6.1.2017 was produced as Annexure - VI. Though the lessees of mining lease of major minerals of area of less than 5 Hectares were prepared to apply for Environment Clearance, but they wanted some time for that purpose if it is mandatory. Annexure-VII representation dated 18.1.2017 was also submitted for this purpose.

14. In the mean time, the Commissioner of Geology and Mining, Government of Tamil Nadu who is the third respondent in the application, directed the major minerals lease holders, having less than 5 Hectares of area, to obtain Environment Clearance on or before 11.1.2017, failing which the mining activities were to be stopped. On account of the oral directions given, the members of the applicant federation had stopped their activities, leaving lot of people out of employment. They also submitted representation dated 6.1.2017 produced as Annexure - VIII to MoEF & CC and Annexure IX representation dated 18.2.2017 to Chief Secretary, Government of Tamil Nadu stating that obtaining of prior Environment Clearance would apply only to new units and not to the existing leases who were already operating mining projects and in any event, they had also applied for Environment Clearance based on the order of the Hon'ble National Green Tribunal dated 19.2.2016 and therefore their mining activities should be permitted and transport permits will have to be issued. They also submitted Annexure - IX representation dated 18.2.2017 to the Principal Secretary, Industries Department as well as Commissioner of Geology and Mining, Government of Tamil Nadu.

15. Representatives of the applicant federation met the authorities of MOEF&CC at New Delhi on 3.3.2017 and requested for clarification regarding the requirement of Environment Clearance for major minerals. They orally clarified that mines operating prior to 7.10.2014 having lease area of less than 5 Hectares do not require Environment Clearance and they may continue mining operations as such and Environment Clearance will be required only at the time of renewal or expansion or new license. They also mentioned that they are prepared to issue necessary clarification, if the State Government made any official request for such clarification. Thereafter, they filed Annexure - XI representation dated 13.3.2017 to Principal Secretary, Industries Department for making such request for clarification. However, contrary to the oral clarification given by MoEF & CC, informed the Secretary, Industries Department by its clarificatory letter dated 3.4.2017 that as per Notification dated 15.1.2016, all mining leases (major mineral as well as minor mineral) operating in the country were required to obtain Environment Clearance after 15.1.2016. It is also mentioned in the letter that such mines (including less than 5 Hectares) which were in operation prior to 15.1.2016 were required to stop their mining activity and apply to MoEF & CC at Central Level, SEIAA at State Level and District Environment Impact Assessment Agency at District Level for seeking Environment Clearance. The clarification also stated that mining leases that continue to operate without obtaining Environment Clearance after 15.1.2016 shall be considered as violation cases and the same shall be dealt with in accordance with the violation policy under the EIA Notification, 2006. The MoEF & CC clarification dated 3.4.2017 was produced as Annexure - XII.

16. According to the applicant, clarification dated 3.4.2017 was against law and was issued arbitrarily, without considering the precedents on this aspect. The

applicant did not apply for environment Clearance, as they were under the impression that it was not mandatory but they were prepared to apply for Environment Clearance in accordance with law but should not be taken as violation case, as mentioned in the impugned clarification dated 3.4.2017 of the MoEF & CC. The SEIAA has rejected the application for Environment Clearance filed by some of members of the applicant federation stating that it was a case of violation on the basis of the letter dated 3.4.2017 of the MoEF & CC on the ground that the mining leases were continuing to operate after 15.1.2016 without Environment Clearance and shall be considered as violative cases and one such order dated 26.4.2017 was produced as Annexure - XIII. The MoEF & CC Notification dated 4.3.2017 is produced as Annexure - XIV.

17. It is also mentioned that rejection orders passed by SEIAA were referred to in the order of the National Green Tribunal dated, 18.4.2017 passed in M.A. No. 260 of 2017 in O.A. No. 123 of 2014 wherein the Tribunal has directed the State Government to ensure that no mining activity is permitted to carry on without obtaining prior Environment Clearance. According to the applicant, that order was also passed without application of mind, as the issue regarding mining of major minerals of lease area of less than 5 Hectares was not the subject matter in that case. So petitioner filed the above application seeking the above reliefs.

18. First respondent - MoEF & CC filed reply statement contending as follows:

"It is respectfully submitted that in the present case the applicant has inter alia alleged that the respondent Ministry has not framed any guidelines or issued any circular till date to prescribe the procedure for grant of environmental clearance to lessees of major minerals mining in a lease area of less than 5 ha.

That the Ministry had mandated the requirement of prior Environmental Clearance in respect of non coal mine leases of less than 5 hectare for all new projects and cases of lease renewal vide its notification S.O. 2601(E) dated 7.10.2014. That further, vide notification S.O. 141(E) dated 15.1.2016 the Ministry stipulated for all the mining leases (major mineral as well as minor mineral) operating in the country to obtain Environmental Clearance after 15.1.2016 as per the provisions contained in Environmental Impact Assessment Notification, 2006.

That it is humbly submitted that the above mentioned notifications made it clear that no mining lease shall operate without prior EC and all such mines (including less than 5 Hectares) which were in operation before 15.1.2016 are required to stop their mining activity and apply to MoEF & CC at Central Level/State Environment Impact Assessment Agency at State Level/District Environment Impact Assessment Agency at District level for seeking EC.

That the mine leases which continued to operate without obtaining EC after 15.1.2016 are considered as violation cases and are required to be dealt in accordance with the violation policy under Environmental Impact Assessment Notification, 2006 as amended. The S.O. 804(E) dated 14.3.2017 is notified by the Ministry of Environment, Forest and Climate Change to deal with such violation cases.

The Hon'ble High Court of Madras vide judgment dated 13.10.2017 in W.P. No. 11189 of 2017, PUDUCHERRY ENVIRONMENT PROTECTION ASSOCIATION v. UNION OF INDIA has upheld the violation Notification No. S.O. 804(E) dated 14.3.2017 and further held that "the notification does not compromise with the need to preserve environmental purity, but only allows those industries and/or projects which might otherwise have been given prior environmental clearance to operate on the conditions imposed by the authorities concerned, including their liability under the principle "polluter pays".

That the respondent Ministry has issued Sustainable Sand Mining Management Guidelines, 2016 to ensure inter alia that sand and gravel mining is done in

environmentally sustainable and socially responsible manner, ensure conservation of the river equilibrium and its natural environment by protection and restoration of the ecological system, to ensure that rivers are protected from bank and bed erosion beyond its stable profile. The above mentioned guidelines were issued with one of the objectives being that each lease holder should be given the opportunity to self regulate to the extent that it can demonstrate compliance with legislation and regulations. That where self regulation fails to deliver compliance with legislation and regulations increased formal enforcement and monitoring should be implemented with punitive measures applied in line with the legal frame work.

That it is submitted that the notifications brought out by the Ministry to cover all the mining leases under the ambit of EIA Notification, 2006 are in line with the directions passed by Hon'ble Supreme Court/Hon'ble High Court/Hon'ble National Green Tribunal from time to time."

19. Second respondent filed counter statement contending as follows:

"It is respectfully submitted that the EIA Notification, 2006 mandates prior Environmental Clearance for new projects or activities including expansion or modernization of existing projects listed in its Schedule. The Category "A" projects shall obtain EC from the Central Government and Category "B" projects from the concerned State Level Environment Impact Assessment Authority/Union Territory Environment Impact Assessment Authority. For the proposed mining project, the proponent shall submit application seeking Environmental Clearance for the proposed quarry along with Form - 1, precise area communication from the District Collector, Mining plan approved by the Department of Geology and Mining, Mining lease deed, prefeasibility report and other essential documents. The proposal will be placed before the State Expert Appraisal Committee for screening, scoping and appraisal. Based on the recommendations of SEAC, the proposal is placed before the State Environment Impact Assessment Authority for the consideration of issue of Environmental Clearance. After detailed discussion and based of the document furnished, Environmental Clearance is issued by the Authority.

It is respectfully submitted that the Ho'ble Supreme Court, vide its order dated 27.2.2012 in I.A. No. 12-13 of 2011 in SLP(C) No. 19628-19629 of 2009 in the case of Deepak Kumar v. State of Haryana has inter alia ordered that leases of minor minerals including their renewal for an area less than 5 ha be granted by the State/Union Territory only after getting environment clearance from the Ministry of Environment & Forests. In order to ensure compliance of the aforesaid order of the Ho'ble Supreme Court, MoEF issued an O.M. No. L-11011/47/2011-IA.II(M) dated 18.5.2012 stating inter alia that all mining projects of minor minerals including their renewal, irrespective of the size of the lease would henceforth require prior EC and that the projects of minor minerals with lease area less than 5 ha would be treated as Category "B" as defined in EIA Notification, 2006 and will be considered by the respective State Environment Impact Assessment Authorities notified by MoEF.

It is respectfully submitted that Hon'ble National Green Tribunal Principal Bench, New Delhi order dated 4.5.2016 on the Original Application No. 34 of 2016 filed by Naresh Zargar v. State of Madhya Pradesh has given certain directions inter alia that "all the mine owners which of them have not submitted the application as on 31st March, 2016 to SEIAA, DEIAA and DEAC shall be shut down forthwith and will not be permitted to carry on any mining activity in any manner whatsoever". Further, the above Hon'ble NGT order was communicated to the respective Deputy Director/Assistant Director, Department of Geology and mining vide SEIAA letter Dt.26.9.2016 to reexamine the proposals seeking Environmental Clearance for the existing quarries considering the above Hon'ble NGT order with an intimation to the

proponent.

It is respectfully submitted that the Ministry of Environment, Forest and Climate Change vide Notification dated 14.3.2017 has stated that the cases of violations will be dealt strictly as per the procedure specified in the following manner:

"In case the project or activities require prior environmental clearance under EIA Notification 2006 from the concerned Regulatory Authority are brought for environmental clearance after starting the construction work, or have undertaken expansion, modernization and change in product mix without prior EC, these projects shall be treated as cases of violations and in such cases even Category B projects which re granted environmental clearance by the SEIAA constituted under sub section (3) section 3 of the Environment (Protection) Act, 1986 shall be appraised for grant of environmental clearance only by the Expert Appraisal Committee and environmental clearance will be granted at the Central Level."

Further the projects are activities were are in violation as on date of this notification only will be eligible to apply for Environmental Clearance under this notification and the project proponent can apply for Environmental Clearance under this notification only within six month from the case of the notification.

It is respectfully submitted that MoEF & CC vide its letter Z-11013/24/20176/ - IA.II(M) dt.3.4.2017 has clarified stating that no mining lease shall operate without Environmental Clearance and shall all mines (including less than 5 Hectare) which were in operation before 15.1.2016 are required to stop their mining activity and apply to MoEF & CC/SEIAA/DEIAA for seeking EC. The proponent with mining lease continues to operate without obtaining EC after 15.1.2016 shall be considered as violation cases and the same shall be dealt in accordance with the violation policy under EIA Notification, 2006 as amended.

It is respectfully submitted that The Hon'ble NGT (PB) in its order dt.18.4.2017 in M.A. No. 260 of I2017 in OI.A. No. 123 of I014 filed by Himmat Singh Shekhawat against State of Rajasthan & others has directed that "the State Government again to expedite the compliance to the law as expeditiously as possible and to ensure that no mining activity is permitted to be carried on without obtaining prior Environmental Clearance."

It's respectfully submitted that the existing quarry under operation without obtaining Environmental Clearance and continues to operate without obtaining EC after 15.1.2016, it shall be considered as per the violation case as per MoEF & CC letter Z-11013/24/20176/IA.II(M) dt.3.4.2017. All the existing quarries applied for Environmental Clearances were communicated stating that their application seeking Environmental clearance could not be processed at SEIAA-TN and requested the applicant to submit the proposal seeking EC to MoEF & CC the guidelines. Further, it was also informed that their application seeking EC is closed and recorded.

It is respectfully submitted that the Hon'ble High Court of Madras in the W.P. No. 11180 of 2017 in its order dated 13.10.2017 stated that the submission of the learned Additional Solicitor General that a public hearing can be read into paragraph 5 of the impugned Ministry of Environment, Forest and Climate Change Notification 14.3.2017 and this shall certainly and clearly be a one time measure."

20. Respondents 3 and 4 filed their counter as follows:

"It is submitted that the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter called as the Act of 1957) provides inter alia for general restrictions on undertaking prospecting and mining operations, the procedure for obtaining prospecting licences or mining leases in respect of the land in which the minerals vests in the Government, and the rule making power for regulating the

grant of prospecting licences and mining leases in respect of minor minerals.

It is submitted that with the passage of time and development of law, the Union of India, Ministry of Environment Forest and Climate Change issued various Notifications and Circulars to impose restrictions and prohibitions on the expansion and modernization of any activity or new projects in respect of mining of major and minor minerals.

It is submitted that the Environment (Protection) act, 1986 and Environment (Protection) Rules, 1986 were enacted and came into force on 19th November, 1986. The object of this act of 1986 is not provide for the protection and improvement of environment and for matters connected therewith. Under provisions of the Act and Rules of 1986, Ministry of Environment Forest and Climate Change issued various other Notifications regulating the mining of major and minor minerals, specifically stating the procedures that were required to be complied by persons intending to carry on such mining activity and for which the authorities to regulate the same.

It is submitted that prior to the year 1994, there was no specific regime to get Environmental Clearance for mining activities. The Notification issued by Ministry of Environment Forest and Climate Change on 27th January, 1994 in exercise of the powers vested in it under sub rule 3 of Rule 5 of the Rues of 1986 and sub section (1) and Clause (V) of sub section (2) of Section 3 of the Act of 1986 prescribed the requirement and procedure for seeking Environment Clearance for the major minerals mining projects with lease area of more than 5 hectares. In exercise of its statutory powers afore indicated the Central Government on 14th September, 2006 issued a Notification i.e., Environmental Clearance Regulation, 2006. In terms of this Notification, the projects as stated in the Schedule to this notification required prior Environmental Clearance as per the procedure. The projects have been categorised into two kinds i.e., category "A" and category "B" under Clause 2 of the Notification. Projects under Category "A" were required to take prior Environment Clearance by Ministry of Environment Forest and Climate Change. For category "B" projects, Environmental clearance has to be given by State Environment Impact Assessment Authority subsequently in respect of "B-2" category of project i;e., Minor minerals by district Environment Impact Assessment authority with effect from 15.1.2016.

It is submitted that from this Entry in the Schedule to the Notification of 2006, the projects in respect of non coal mine leases, where the area is more than 50 hectares would require prior Environmental Clearance from Ministry of Environment Forest and Climate Change, while the projects of less than 50 hectares and more than 5 hectares of mining area would require prior Environmental Clearance fro State Environment Impact Assessment Authority. The procedure for taking prior Environmental Clearance under both these categories is more or less the same except that the agency which gives the clearance is different. Clause 7 of the Notification of 2006 specifies the stages through which such projects for grant of Environmental Clearance are required to be passed and processed. They include screening, scoping, public consultation and appraisal upon which the Expert Appraisal Committee would make a recommendation to the MoEF/SEIAA as the case may be which would then grant or refuse the Environmental Clearance to the project in question. Under the head "screening" this clause 7 also provides for a further bifurcation of projects falling under Category "B" into "B-1" and "B-2". The relevant part of Clause 7 dealing with this aspect reads as under:

"Stage (1) - Screening

In case of category "B" projects or activities this stage will entail the scrutiny of an application seeking prior environmental clearance made in Form 1 by the concerned State Level Expert Appraisal Committee for determining whether or

not the project or activity requires further environmental studies for preparation of an Environmental Impact Assessment for its appraisal prior to the grant of environmental clearance depending upon the nature and location specify of the project. The projects requiring an environmental Impact Assessment report shall be termed Category "B-1" and 30 remaining projects shall be termed Category "B-2" and will not require an Environment Impact Assessment report.;For categorization of projects into B-1 or 2 except item 8(b) the Ministry of Environment and Forests shall issue appropriate guidelines from time to time."

It is submitted that in terms of the above, at the stage of screening, the State Level Expert Appraisal committee has to determine whether or not the project requires further environmental studies for preparation of an Environmental Impact Assessment report for its appraisal, prior to the grant of Environment Clearance, depending upon the nature and location specificity of the project. The Category "B-1" projects requires Environmental Impact Assessment report for Environment Clearance for the projects comes under Category "B-2" does not require environmental Impact Assessment report for Environmental Clearance. The Hon'ble Supreme Court in I.A. Nos. 12-13 of 2011 in S.L.P.(C). No. 19628-19629 of 2009, Deepak Kumar v. State of Haryana, has directed all the State and Union Territories that leases of minor mineral including the renewal for an area of less than five hectares be granted only after getting Environmental Clearance from the Ministry of Environment and Forest and Climate Change.

It is submitted that accordingly vide Office Memorandum dated 8.12.2012 issued by the MoEF, it was decided by MoEF that all the mining projects for minor minerals, including their renewal, irrespective of the size of the lease would henceforth require prior Environmental Clearance. Wherever the area was less than five hectares be granted they would be treated as category "B" projects in terms of Notification of 2006 and should be processed accordingly.

It is respectfully submitted that the National Green Tribunal Principal Bench, New Delhi in its order dated 19.2.2016 in O.A. No. 495 of 2015 in the case of Jatinder Singh issued the following directions among others which reads as follows:—

a. "It shall be mandatory for all the applicants to seek EC for carrying on of mining activity of minor or major minerals even if the lease area is less than 5 ha. In other words, MoEF, SEIAA and all other authorities would adopt uniform practice for issuance of EC in regard to the mining area of less than 5 ha notwithstanding the fact that environment impact of mining of minor minerals is no way less than that of the mining of major minerals. The judgment of the Supreme Court in the Deepak Kumar v. State of Haryana (2012) 4 SCC 629 is applicable to both minor and major minerals."

It is respectfully submitted that further the National Green Tribunal, Principal Bench, New Delhi in its order dated 4.5.2016 in O.A. No. 34 of 2016 in the case of Naresh Zargar issued the following directions among others which reads as follows:

- i. "We hereby quash and direct the State of Madhya Pradesh and all other concerned States including Rajasthan not to issue such circulars and any other circular in variation and/or in derogation of the orders of the Tribunal.*
- ii. All the district level authorities DEIAA and DEAC are directed to dispose of all the applications pending with them by 31st May, 2016 positively. We will not grant any extension of time for this purpose hereafter.*
- iii. All the mines owners which of them have not submitted the applications as on 31st March, 2016 to SEIAA, DEIAA and DEAC shall be shut down forthwith and will not be permitted to carry on any mining activity in any*

manner whatsoever.

- iv. The applications which are deficient and where the applicants have not submitted all requisite documents such applicants are hereby granted last opportunity of 1 week to submit the documents. In the event they fail to submit such document and make applications complete and errorless in all respects then after the stated period of 1 week they shall also be liable to be shut down without any further notice. If they comply with this direction, they would also be entitled to the advantage upto 31st May, 2016.*
- v. All the State Authorities are directed to upload on their respective websites, details of the applications pending before them as on 31st March, 2016. They will also separately classify the applications which are deficient in any respect whatsoever. With the above directions this application is hereby disposed."*

It is respectfully submitted that in order to comply with the directions of the Hon'ble Supreme Court of India and the National Green Tribunal Principal Bench, New Delhi, the Commissioner of Geology and Mining vide letter No. 6731/LC/2015 dt.11.1.2017 issued directions to all the District Collectors and the District Officers of the Department of Geology and Mining to ensure the compliance of the directions of the Supreme court of India and National Green Tribunal in letter and spirit accordingly the issuance of transport permit were stopped for mining and quarrying leases which are not having Environment clearances. However, in the interest of the public, in the interest of existing mining industries, in the interest of the State Revenue and in the interest of employment, the State of Tamil Nadu filed a Miscellaneous Application No. 260 of 2017 in O.A. No. 123 of 2014 in the matter of Himmat Singh Shekawat before the National Green Tribunal, Principal Bench, New Delhi.

It is respectfully submitted that the National Green Tribunal Principal Bench, New Delhi in its order dt.18.4.2017 in M.A. No. 260 of 2017 and O.A. No. 123 of 2014 in the matter of Himmat Singh Shekawat v. State of Tamil Nadu issued the following directions among others as follows:

"Following the dictum of the Hon'ble Supreme Court of India laid down in the case of Deepak Kumar v. State of Haryana (2012) 4 SCC 629, the Tribunal had passed a detailed judgment in the case of Himmat Singh Shekawat v. State of Rajasthan decided on 13th January, 2015 vide this judgment, the Tribunal had issued large number of directions in paragraph 83 of the judgment. The Tribunal had quashed the Notification issued by the Union of India dated 9th September, 2013 enunciating that the prescribed procedure was contrary to law and therefore, liable to be quashed. Along with this, even the Office Memorandums issued on 24th June, 2013 and 24th December, 2013 were held to be invalid and inoperative being beyond the power of delegated legislation. It was specifically directed that in light of the judgment of the Hon'ble Supreme Court of India and the order of the Tribunal, mine holders would be required to obtain EC irrespective of the fact that whether the area involved is more than or less than 5 ha. Certain other directions were also issued permitting the existing mine operators to go on till the specified time and subject to the conditions stated in the judgment.

The State Governments, SEIAA and other agencies involved in the process of granting EC were provided with a time bound programme under the said judgment. In terms of Clause 9 of the said judgment the applications were required to be dealt with and appropriate orders passed thereupon as early as possible and not later than six months from the date of pronouncement of the judgment. After pronouncement of the said judgment, which as per the submissions made at the

bar has already attained finality certain applications had been filed for extension of time for compliance of these conditions. Vide order dated 24th July, 2015 the extension of time was granted keeping in view the peculiar facts and circumstances stated before the Tribunal, particularly that there were large number of applications to be dealt with by the agencies and they require further time. After the grant to the extension in terms of these orders, applications were again moved seeking further extension of time for compliance of the directions contained in the judgment. These applications were dismissed by order of the Tribunal dated 4th May, 2016 & 26th May, 2016. The Tribunal had passed reasoned orders while declining further extension of time as the stakeholders had failed to take requisite steps in accordance with the judgment and the law in force.

The judgment of the Tribunal was pronounced on 13th January, 2015 and now more than a period of two years has already been passed but the State of Tamil Nadu still has to take primary steps in accordance with the judgment of the Tribunal and the mandate of the Hon'ble Supreme Court of India laid down in Deepak Kumar's case. Inaction on the part of the State and its instrumentalities cannot be taken as ground for extending the period for compliance. This in fact tantamount to taking benefit of one's own wrong. There is nothing stated in the application as to what steps the State Government and its authorities and instrumentalities have taken in the provided period of two years. No explained circumstances have been stated in the application which would justify the ground of extension of time to the State as opposed to the application filed by other States and mine holder, which were rejected by the Tribunal vide its orders dated 4th May, 2016 & 26th May, 2016. Vide these orders a clear deadline of 31st December, 2015 was provided and we see no reason to grant any further relaxation thereto. We may also notice that the grounds of unemployment or loss of revenue to the State were within the notice of the State as back as on 13th January, 2015. Nothing prevented the State and its agencies from taking all requisite steps within the time provided in the judgment and in any case by December, 2015. Sufficient time has been granted for compliance and such non compliance remains entirely unexplained, much less justified by proper grounds and reasoning. Economic reasons cannot entirely frustrate the environmental protection. The principle of sustainable development requires a balanced approach. We cannot therefore permit that mining activities should continue to cause irretrievable damage to the environment and ecology just for economic reasons. Grant of prior EC to carry on mining activity is not only the requirement of the judgment of the Hon'ble Supreme court of India and this Tribunal but even Rule 42 referred. The State Government's rules also mandate that the prior EC should be taken before commencement of such activity. The contentions raised on behalf of the State Government are devoid of any merit and they only exhibit inaction and apathy on the part of the State to comply with the judgment and the law that it has itself enacted for the protection of environment and ecology.

We direct the State Government again to expedite the compliance to the law as expeditiously as possible and to ensure that no mining activity is permitted to be carried on without obtaining prior EC. Nothing prevents the State from considering such applications with priority."

It is respectfully submitted that Ministry of Environment Forest and climate Change issued a notification vide S.O. 804(E) dt.143.2017 to bring such projects and activities in compliance with the environmental laws at the earliest point of time, rather than leaving them unregulated and unchecked. As such units are more polluting if they are not brought under the environment compliance regime but the process for such violators has to be stringent and punitive under the above notification it is made clear that all the cases of violation irrespective of category

will be appraised as category "A" projects by respective sector Expert Appraisal Committee at Central Level. So violation cases can only be appraised at the level of Ministry.

In these circumstances, it is respectfully submitted that the Puducherry Environment Protection Association rep. by its Honorary President R. Kothandaraman filed a Public Interest Petition W.P. No. 11189 of 2017 before the Hon'ble Division Bench of the High Court of Madras with a prayer to declare the impugned notification dated 14.3.2017 issued by the respondent Ministry of Environment Forest and Climate Change in S.O. 804(E) as arbitrary, illegal and violative of Articles 14, 21 of the Constitution of India and the Environment (Protection) Act, 1986 and to stay the impugned notification dt.14.3.2017 issued by the respondent Ministry of Environment Forest and Climate Change pending disposal of the writ petition."

21. Applicant filed common rejoinder to the reply affidavits filed by respondents, reiterating their earlier contentions that the existing mining leases of major minerals, having an extent of less than 5 Hectares, do not require any Environment Clearance and they need to apply at the time of their renewal. Further, none of the decisions relied on by the official respondents deal with the mining activity of major minerals, having an extent of less than 5 Hectares and those decisions were relating to mining of minor minerals where directions have been given to the effect that Environment Clearance is required irrespective of the area of operation. Further, they also contended that the authorities have wrongly construed the decisions of the Apex Court as well as the National Green Tribunal in this regard. Further, even as per Notification dated 15.1.2016 which makes the Environment Clearance mandatory for mining activity, irrespective of the lease area and irrespective of whether it is minor or major also did not mention anything about the existing mining leases of major minerals of less than 5 Hectares. However, the minors of major minerals having less than 5 Hectares area also filed applications for getting Environment Clearance on the basis of the direction given by the MoEF & CC and also on the basis of the directions given by the Apex Court as well as National Green Tribunal, directing that no mining activities shall be permitted without getting prior Environment Clearance within the time granted by the Tribunal and as such they cannot be treated as violators. Even in one of the cases, the MoEF & CC had undertaken that they would issue notification or clarification in this aspect but no such notification had come but instead they issued a circular dated 3.4.2017, treating all applications which were filed after 15.1.2016, as violation cases and directed the respective SEIAA to consider the same as per the notification issued by the MoEF & CC in respect of dealing with violation cases and not having Environment Clearance. So that is illegal.

22. Heard Mr. Sanjay Upadhayay, learned counsel appearing for the applicant, Mr. G.M. Syed Nurullah Sheriff, learned counsel appearing for respondents 1 and 2 and Mr. Mani Gopi, learned counsel appearing for respondents 3 and 4.

23. Learned counsel appearing for applicant submitted that till EIA Notification 1994, there was no regulation of mining leases, whether minor or major. They were regulated by the Mines and Minerals (Development and Regulation) Act, 1957. As per the provisions of that Act, procedures have been provided for obtaining mining license and mining leases in respect of the land in which the minerals vests in the Government and only after passing of Environment Protection Act, 1986 and the Rules framed thereunder, the first respondent MoEF & CC issued various Notifications, regulating the mining of minerals. For the first time, the mining activities were brought under the regulation and obtaining Environment Clearance as per EIA Notification, 1994 and they did not deal with mining projects of minor minerals but they only deal with mining projects of major minerals with lease area of more than 5 Hectares which may obtain prior Environment Clearance for the commencement of

new projects or for expansion or involving any modernisation, affecting pollution loads etc as provided under the notification. So there was no provision for obtaining Environment Clearance for mining leases of major minerals, having extent of less than 5 Hectares. Even the decision of the Apex court in *DEEPAK KUMAR's* case and subsequent decisions of the National Green Tribunal did not deal with mining lease of major minerals having area of less than 5 Hectare. Those decisions only considered the necessity of obtaining Environment Clearance in respect of minor minerals irrespective of the area of operation, considering its impact on environment and over exploitation of natural resources. Till 2016, when EIA Notification dated 15.1.2016 was issued, there was no necessity for obtaining any Environment Clearance for mining activities of major minerals of less than 5 Hectares. Only in 2016 Notification, it was made mandatory for all mining leases of non coal products, less than 5 Hectares had to obtain Environment Clearance. But there was no mention about the existing mining leases of major minerals less than 5 Hectares in that notification as well and representations were made by the mining lease holders of such category to the Government to issue necessary clarification and in all the clarifications issued, they had only mentioned that only those leases which were come into existence after the notification dated 7.10.2014 alone require prior Environment Clearance and not in respect of the existing leases of major minerals of lease area less than 5 ha. They had undertaken before the Tribunal that they would be issuing a further clarification on this aspect, regulating the mining lease, both minor and major in an uniform method applicable to the entire country. But such clarification had not been issued so far. But to their surprise, the MoEF & CC issued a clarification dated 3.4.2017 stating that all those who did not apply for Environment Clearance after 15.1.2016 after coming into force of EIA Notification, 2016 will have to be treated as violation cases, without considering the fact that there was no clarification issued by the MoEF & CC in respect of mining leases of major minerals, having an extent of less than 5 Hectares, though requests and representations had been made by the lease holders time and again. So according to the learned counsel appearing for the applicant, the Circular dated 3.4.2017 is illegal and the applications filed by the members of applicant federation have to be treated as regular applications and not violation application and direction to that extent has to be issued.

24. On the other hand, Mr. G.M. Syed Nurullah Sheriff, learned counsel submitted that the EIA Notification, 2006 did not specify or distinguish mining lease as minor or major and as such the notification covered all mining lease of non-coal products upto 50 Hectares which includes the lease area of less than 5 Hectares as well. Further, as per the directions of the Hon'ble Supreme Court, the mining activities in the country had been stopped, as there was a direction by the Apex Court that mining activities, irrespective of minor or major and irrespective of area of operation, should not be allowed to continue without obtaining Environment Clearance. It was reiterated by the orders of the National Green Tribunal also in several cases. So under these circumstances, in order to provide a clarity on this aspect, MoEF & CC issued a Circular dated 3.4.2017, directing SEIAA to consider the application filed by the lease holders irrespective of the area after 15.1.2016 as violation cases. Though several opportunities had been given, none of the members of the applicant federation had filed any such application. So there was no illegality committed by the MoEF & CC in issuing the Circular and the SEIAA complying with the direction and treating the pending applications filed after 15.1.2016 as violation cases, directing the members of the applicant federation to make their applications as violation cases to the Central Government as per the directions of MoEF & CC. as such cases have to be dealt with by them.

25. Counsel appearing for Respondents 3 and 4 also supported the submissions made by counsel appearing for MoEF & CC.

26. The points arise for consideration are:

- (i) Whether the mining lease of major minerals having extent of less than 5 Hectares require Environment Clearance after EIA Notification, 2016 dated 15.1.2016?
- (ii) Whether the Circular dated 3.4.2017 issued by MoEF & CC is liable to be set aside for any of the reasons stated by the applicants in their application?
- (iii) Whether the applications filed by the members of the applicant federation after 15.1.2016 have to be treated as violation cases or any cut off date has to be fixed by the Tribunal for enabling the parties to file their application in view of the circumstances mentioned by them in this application?
- (iv) Reliefs to which parties are entitled to.

27. Points 1 to 3 : - The grievance of the applicant was that there was no clarification issued by the MoEF & CC in respect of obtaining Environment Clearance for the existing mining leases of major minerals, having an extent of less than 5 Hectares, though as per 2016 Notification, all mining areas, both minor and major, irrespective of extent of lease, was regulated and further, to their surprise, according to the applicant, the MoEF & CC, by their Circular dated 3.4.2017, directed SEIAA to treat all the applications which were pending with them, filed after 15.1.2016, after coming into force of EIA Notification, 2016, will have to be treated as violation cases and the same will have to be forwarded to the Ministry, as per the guidelines issued by MoEF & CC in dealing with violation cases. So they are aggrieved by this order.

28. It is an admitted fact that till 1994, the mining leases, both minor and major, were governed by the provisions of Mines and Minerals (Development and Regulation) Act, 1957. So there was no provision for obtaining Environment Clearance for mining leases under the provisions of the above said Act. They were governed by the procedure of obtaining mining license and mining leases from the respective Departments for the purpose of undertaking mining project. It is an admitted fact that for the first time, the mining activities were brought under the regime of obtaining Environment Clearance on the basis of the various notifications issued by the MoEF & CC in this regard, invoking power under Section 3 of the Environment (Protection) Act, 1986. First of such Notification was issued as EIA Notification, 1994, dated 27.1.1994, whereby mining activities were brought under the regime of obtaining Environment Clearance vide Item No. 20 of Schedule I attached to that Notification, which reads as follows:

"Mining projects (with leases more than 5 hectares)

29. There also there was no difference between "major" and "minor" minerals. But Environment Clearance was made mandatory only for mining projects which were having area more than 5 Hectares. So mining projects, having less than 5 Hectares area, were not governed by this Notification. But they were governed by the Mines Minerals (Regulation and Development) Act, 1957. Subsequently, an Explanatory Note dated 4.5.1994 was issued to this Notification wherein it was mentioned that the project proponents were required to seek Environment Clearance for proposed expansion/modernization activity, if the resultant pollution load is to exceed the existing levels. Under Clause 8 of the Explanatory Note, certain exemptions had been granted to the projects already initiated which reads as follows:

"For projects listed in Schedule - I to the notification in respect of which the required land has been acquired and all relevant clearances of the State Government including NOC from the respective State Pollution Control Board have been obtained before 27th January, 1994 a project proponent will not be required to seek environmental clearance from the Impact Assessment Authority. However, those units who have not as yet commenced production will inform the Impact Assessment Authority."



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30. So from this it is clear that Environment Clearance was required only for new units and for the existing units, Environment Clearance was required only at the time of modernization or expansion and when the pollution load was increased.

31. As per Circular No. J-20012/11/98IA II(M) dated 12.2.2002, the MoEF & CC had issued certain clarification to the EIA Notification dated 27.1.1994 where they stated as follows:

"Attention is invited to the EIA Notification of 27th January, 1994 and subsequent amendments thereof wherein thirty categories of projects which include mining of major minerals with lease area more than 5 ha are required to obtain environmental clearance from this Ministry and also to Press Note No. J-11016/12/94-IA.II(M) of 31.8.1994 and Circular No. J-11011/20/97-IA.II (I) dated 17.5.1999 clarifying applicability of the Notification to renewal cases for mining and expansion of existing projects.

In respect of mining proposals, the following issues have been brought to the attention of this Ministry:

Whether applications for site/environmental clearance are required to be forwarded by the State Governments to MoEF.

Whether public hearing is required for obtaining site clearance and whether an Environmental Impact Assessment report is required to be submitted to the concerned SPCB/PCC for arranging such public hearing.

Whether four seasons baseline data is a pre-requisite for preparation of EIA report.

Whether environmental clearance is required at the time of renewal of mining lease or for operating mines when (i) there is no increase in the lease area and production (ii) there is increase in production without change in the lease area (iii) there is increase in lease area without change in production and (iv) there is upgradation in mining technology.

In this context, the requisite clarifications are

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d. Environmental Clearance is not required at the time of renewal of mining lease if there is no increase in the originally sanctioned lease area and/or production. The proponent should, however, seek prior environmental clearance from the Central Government for expanding production and/or mining lease are irrespective of the quantum of increase in size of ML area/production or investment involved. The above provisions will apply to existing operating mines even when no renewal of mining lease is involved."

32. As per this Circular, it has been clarified that EIA Notification, 1994 will apply to mining activities of major minerals with lease area having more than 5 Hectares and under Clause (d), Environmental Clearance is not required at the time of renewal of mining lease if there is no increase in the originally sanctioned lease area and/or production. The proponent should, however, seek prior environmental clearance from the Central Government for expanding production and/or mining lease are irrespective of the quantum of increase in size of ML area/production or investment involved. The above provisions will apply to existing operating mines even when no renewal of mining lease is involved. So it is made clear by this clarification that when there is expansion, increase in the production level, then Environment Clearance must be obtained even before renewal of mining lease.

33. The question regarding Environment Clearance in respect of mining lease was considered by the Apex Court in *M.C. MEHTA v. UNION OF INDIA*, ((2004) 12 SCC 118. The Apex Court had considered the applicability of EIA Notification dated 27.1.1994 wherein it has been observed that the said Notification applies to mining

projects (major minerals) with leases of more than 5 hectares and ultimately came to the conclusion in para 77 that they are unable to accept the contention that the notification dated 27th January, 1994 would not apply to leases which come up for consideration for renewal after issue of the notification. The notification mandates that the mining operation shall not be undertaken in any part of India unless environmental clearance by the Central Government has been accorded. The clearance under the notification is valid for a period of five years and held in that case that no mining operation can commence without obtaining environment impact assessment in terms of the notification and ultimately the court has held as follows:

The order dated 6th May, 2002 as clarified hereinbefore cannot be vacated or varied before consideration of the report of the Monitoring Committee constituted by this judgment.

The notification of environment assessment clearance dated 27th January, 1994 is applicable also when renewal of mining lease is considered after issue of the notification.

On the facts of the case, the mining activity on areas covered under Section 4 and/or of Punjab Land Preservation Acts, 1900 cannot be undertaken without approval under the Forest (Conservation) Act, 1980.

No mining activity can be carried out on area over which plantation has been undertaken under Aravalli project by utilization of foreign funds.

The mining activity can be permitted only on the basis of sustainable development and on compliance of stringent conditions.

The Aravalli hill range has to be protected at any cost. In case despite stringent condition, there is an adverse irreversible effect on the ecology in the Aravalli hill range area, at a later date, the total stoppage of mining activity in the area may have to be considered. For similar reasons such step may have to be considered in respect of mining in Faridabad District as well.

MOEF is directed to prepare a short term and long term action plan for the restoration of environment quality of Aravalli hills in Gurgaon district having regard to what is stated in final report of CMPDI within four months.

Violation of any of the conditions would entail the risk of cancellation of mining lease. The mining activity shall continue only on strict compliance of the stipulated conditions.

34. That was a case where the question of applicability of 1994 Notification was considered in respect of existing mining leases and contention of minors that it will not be applicable for renewal, was rejected.

35. On the basis of the above judgment, MoEF & CC had issued a further Circular No. J-20012/11/98-IA.II(M) dated 28.10.2004 regarding the applicability of EIA Notification 1994 in respect of mining lease of major minerals of more than 5 hectares as follows:

"The EIA Notification, 1994 as amended from time to time shall include:

(i) Mining projects of major mineral with more than 5 ha lease area, which have started production or increased their production and/or lease area on or after 27.1.1994.

(ii) In addition, all mining projects of major mineral of more than 5 ha lease area which have so far not obtained an environmental clearance under the EIA Notification, 1994 shall do so at the time of renewal of their lease in the context of the SC judgment dated 18.3.2004 in W.P.4677/1985 - M.C. Mehta v. UOI."

36. Thereafter, the EIA Notification, 1994 was replaced by EIA Notification 2006 dated 14.9.2006. Mining project was included as Item No. 1(a) in the Schedule to the

Notification which reads as follows:

Project or Activity		Category with threshold limit		Conditions if any
		A	B	
1		Mining, extraction of natural resources and power generation (for a specified production capacity)		
1	2	3	4	5
1(a)	(i) Mining of minerals (ii) Slurry pipelines (coal lignite and through national parks/sanctuaries/coral reefs, ecologically sensitive areas	>100 ha. Of mining lease area in respect of non coal mine lease. >150 ha of mining lease area in respect of coal mine lease Asbestos mining irrespective of mining area. All projects	<100 ha of mining lease area in respect of non coal mine lease. <150 ha of mining lease area in respect of coal mine lease	General conditions shall apply except: (i) for project or activity of mining of minor minerals of Category "B-2" (upto 25 ha of mining lease area); (ii) for project or activity of mining of minor minerals of Category "B-1" in case of cluster of mining lease area; and (iii) River bed mining project on account of inter state boundary

37. As per this Notification, the mining activities have been classified as Category "A" and Category "B" and under Category "A" mining leases in respect of non coal mining lease having more than 100 ha, in respect of coal mine lease above 150 ha area, all such mining, irrespective of mining area were brought under Category "A". Mining lease in respect of non coal mining area having extent equal to and less than 100 ha and in respect of coal mine lease having extent equal to and less than 150 ha were brought under Category "B". Further, certain exceptions were provided under column (5) where it was mentioned that general conditions shall apply except (i) for project or activity of mining of minor mineral of Category "B-2" (upto 25 ha of mining lease area); (ii) for project or activity of mining of minor minerals of Category "B-1" in case of cluster of mining lease area; and (iii) river bed mining projects on account of inter state boundary. Certain procedures were provided for obtaining Environment Clearance for mining of minor minerals including clusters.

38. Here also nothing was mentioned about the mining of major minerals having extent of less than 5 hectares. But a reading of clause would go to show that mining

lease area in respect of non coal mine having an extent of equal to and less than 100 ha were brought under the regime of Environment Clearance.

39. Thereafter, the MoEF & CC by their Circular No. J-15012/35/2007-IA.II(M)-Part dated 2.7.2007 issued a clarification regarding applicability of EIA Notification, 2006 for mining leases of less than 5 hectares of major minerals and mining leases of minor minerals which have been operating before 14.9.2006 which reads as follows:

CIRCULAR

Sub : Clarification regarding applicability of EIA Notification, 2006 on mining leases of 5 hectare (major minerals) and mining leases of minor minerals which have been operating before 14.9.2006 - reg.

Federation of Mining Associations of Rajasthan and others have raised concerns regarding applicability of EIA Notification dated 14th September, 2006 to mining leases of 5 ha for major minerals and mining leases of minor minerals which have been in operation before the said Notification coming into force. The matter has been examined in the ministry.

It is clarified that all such mining projects which did not require environmental clearance under the EIA Notification, 1994 would continue to operate without obtaining environmental clearance till the mining lease falls due for renewal, if there is no increase in lease area and/or there is no enhancement of production. In the event of any increase in lease area and/or production, such projects would need to obtain prior environmental clearance. Further, all such projects which have been operating without any environmental clearance would obtain environmental clearance at the time of their lease renewal even if there is no increase either in terms of lease area or production. It is clarified as per this notification that all mining projects which are in operation prior to the coming into force of EIA Notification, 2006 dated 14.9.2006 having a lease area of 5 hectares for major minerals and mining lease of minor minerals for which no Environment Clearance was required as per EIA Notification, 1994 which continue to operate without obtaining Environment Clearance till the mining lease falls due for renewal if there is no increase in lease area and/or there is no enhancement of production. In the event of any increase in lease area and/or production, such projects would need to obtain prior environmental clearance. Further, all such projects which have been operating without any environmental clearance should obtain environmental clearance at the time of their lease renewal even if there is no increase either in terms of lease area or production. So it was clarified by this circular that the existing lease areas of major minerals having less than 5 hectares which were in operation prior to 14.9.2006 for which no environment Clearance was contemplated as per EIA Notification, 1994 were permitted to continue and they need to obtain Environment Clearance only at the time of renewal even if there was no increase in the area or enhancement of production.

40. Thereafter, EIA Notification, 2009 was published on 1.11.2009 amending EIA Notification, 2006 where item 1(a) of Schedule I was replaced as follows:

(1)	(2)	(3)	(4)	(5)
1(a)	(i) mining of mineral (ii) Slurry pipelines (coal lignite and other ores) passing through national parks/sanctuaries/coral reefs, ecologically sensitive areas	>50 ha of mining lease area in respect of non coal mine lease >150 ha of mining lease area in	<50 ha >5 ha of mining leases area in respect of non coal mine lease. <150 ha > 5 ha of mining lease area in	General condition shall apply Note Mineral prospecting is exempted

		respect of local mine lease Asbestos mining irrespective of mining area. All projects	respect of coal mine lease	
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41. As per this amendment, mining area of non coal mine, having mining lease area equal to or more than 50 hectares were brought under Category "A" and mining leases of non coal mining lease having extent of less than 50 hectares but more than or equal to 5 hectares was brought under Category "B" irrespective of whether it is minor or major minerals. So here also mining leases major minerals of less than 5 hectares was not brought under the regime of obtaining Environment Clearance.

42. Thereafter, EIA Notification, 2006 amended by 2009 Notification was further amended by EIA Notification, 2011 dated 4.4.2011 where against Item 1(a) in column (5) of Schedule I of EIA Notification, 2006, as amended by EIA Notification, 2009 the following was added:

"Prior environmental clearance is as well required at the stage of renewal of mine lease for which application should be made up to one year prior to date of renewal."

43. There it was made clear that prior Environment Clearance is required at the stage of renewal of mining lease for which application should be made one year prior to the date of renewal. There also mining lease major minerals having less than 5 hectares does not require Environment Clearance. But a time limit was provided as to when application for Environment Clearance is to be made in case of renewal of lease.

44. The scope of obtaining Environment Clearance in respect of mining/quarrying of minor minerals, boulders, gravel and sand having mining lease of less than 5 hectares has been considered by the Apex Court in the decision reported in *DEEPAK KUMAR v. STATE OF HARYANA*, (2012) 4 SCC 629). The Hon'ble Supreme Court has considered all the notifications issued and also considered the recommendation made by MoEF & CC on the basis of study conducted by the Expert Appraisal Committee appointed by them and held that the mining area having less than 5 hectares of minor minerals was brought under the regime of obtaining Environment Clearance. It was held in the decision that irrespective of the lease area Environment Clearance has to be obtained. A direction was issued as follows:

"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."

45. So it was made clear by this decision that irrespective of lease area for the purpose of operation of mining of minor minerals Environment Clearance has to be obtained and no renewal can be granted without getting Environment Clearance.

46. Thereafter, an Official Memorandum No. L-11011/47/2011-IA.II(M) dated 18.5.2012 was issued by the MoEF & CC on the basis of the orders passed by the Hon'ble Supreme Court dated 27.2.2012 in *DEEPAK KUMAR v. STATE OF HARYANA*, (2012) 4 SCC 629). There also it was clarified that all mining projects of minor minerals including renewal irrespective of the size of the lease would henceforth require prior environment clearance. Mining projects with lease area upto less than 50 ha including projects of minor mineral with lease are less than 5 ha would be treated as category "B" as defined in the EIA Notification, 2006 and will be considered by the respective SEIAAs notified by MoEF and following the procedure prescribed under EIA Notification, 2006. Here also nothing was mentioned about the obtaining of

Environment Clearance in respects of mining lease of major minerals having less than 5 hectares area. In this notification, a mention was made regarding the order of the Hon'ble Supreme Court dated 16.4.2012 where the Supreme Court has observed as follows:

"All the same, liberty is granted to the applicants before us to approach the Ministry of Environment and Forests for permission to carry on mining below five hectares and in the event of which Ministry will dispose of all the applications within ten days from the date of receipt of the applications in accordance with law."

47. In the Office Memorandum, the MoEF & CC directed the respective SEIAs to deal with the application of the applicants referred to above and pass appropriate orders in compliance with the direction of the Hon'ble Supreme Court within the time prescribed by the Hon'ble Apex Court.

48. Thereafter, MoEF & CC has issued another Office Memorandum No. J-11013/182/2012-IA.II(M) dated 4.1.2013 which reads as follows:

OFFICE MEMORANDUM

Subject : Clarification with regard to applicability of provisions of EIA Notification, 2006 for mining of major minerals in areas less than 5 hectare - regarding.

Reference is invited to your letter no. SEIAA 1 Misc.2013 dated 2.1.2013 addressed to this Ministry seeking the clarification with regard to applicability of provisions of EIA Notification, 2006 for mining of major minerals in areas less than 5 hectare.

Reference is also invited to the order of Hon'ble Supreme Court dated 27.2.2012 in I.A. no. 12-13 of 2011 in SLP (C) no. 19628-19629 f 2009 in the matter of Deepak Kumar v. State of Haryana, directing inter alia as under:

"We in the meanwhile, order that leases of minor mineral including their renewal for an area of less than 5 ha be granted by the States/UTs only after getting environmental clearance from the MoEF".

It is clarified that the mining projects of major minerals of the size of the lease areas less than 5 ha. will not be under the purview of the above referred order of the Hon'ble Supreme Court dated 27.2.2012 and the O.M. No. L-11011/47/2011-IA-II (M) dated 18.5.2012 issued by the MoEF. Hence, there is no need of prior environmental clearance for the mining projects of major minerals of lease area less than 5 ha as per EIA Notification, 2006 either from the State Government or the Central Government. However, such mining operations shall need to obtain the consent to operate from the State Pollution Control Board under the provisions of Air Act, 1980 and Water Act, 1974."

49. There also they have clarified that mining projects of major minerals of the size of lease area less than 5 Hectares will not be under the purview of the above referred order of the Hon'ble Supreme Court dated 27.2.2012 and O.M. No. L-11011/47/2011-IA-II(M) dated 18.5.2012. So they have categorically stated in this Office Memorandum that there is no need for prior Environment Clearance for the mining projects of major minerals of lease area less than 5 hectares as per EIA Notification, 2006 and subsequent amended Notification and Official Memorandum either from the State Government or the Central Government. However, it was clarified further that such mining operations shall need to obtain the consent to operate from the State Pollution Control Board under the provisions of Air (Prevention and Control of Pollution) Act, 1980 and Water (Prevention and Control of Pollution) Act, 1974 respectively. So it is also clear from this that none of the earlier notifications which cover the mining projects of major minerals, having mining lease extent of less than 5 hectares.

50. Thereafter, MoEF & CC has issued an amended notification, amending EIA Notification, 2006 dated 9.9.2013, amending the schedule where the mining of



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minerals as Item 1(a) which reads as follows:

(1)	(2)	(3)	(4)	(5)
1(a)	(i) Mining of minerals (ii) Slurry pipelines (cost lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive areas.	>50 ha of mining lease area in respect of non coal mine lease >150 ha of mining lease area in respect of coal mine lease. Asbestos mining irrespective of mining are.	<50 ha of mining lease area in respect of minor minerals mine lease; and <50 ha >5 ha of mining lease area in respect of other non coal mine lease <150 ha >5 ha of mining lease area in respect of coal mine lease	General Conditions shall apply except for project or activity of less than 5 ha of mining lease area for minor minerals; Provided that the above exception shall not apply for project or activity if the sum total of the mining lease area of the said project or activity and that of existing operating mines and mining projects which were accorded environment clearance and are located within 500 metres from the periphery of such project or activity equals or exceeds 5 ha. Note: Prior environmental clearance is required at the stage of renewal of mine lease for which an application shall be made up to two years prior to the date due for



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				<p>renewal. Further, a period of two years with effect from the 4th April, 2011 is provided for obtaining environmental clearance for all those mine leases which were operating as on the 4th April, 2011 with requisite valid environmental clearance and which have fallen due for renewal on or after 4th November, 2011 : Provided that no fresh environmental clearance shall be required for a mining project or activity at the time of renewal of mining lease which has already obtained environmental clearance under this notification. (ii) Mineral prospecting is exempted.</p>
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51. There it was specifically mentioned that under Category "B" less than 50 hectares of mining lease area in respect of minor minerals mine lease and less than and equal to 50 hectares and more than and equal to 5 hectares mining lease area in respect of other non coal mine lease. It is also made clear under column (5) of the schedule that prior Environment Clearance is required at the stage of renewal of mining lease for which an application shall be made upto two years prior to the date due for renewal. Further, a period of two years with effect from the 4th April, 2011 is provided for obtaining environmental clearance for all those mine leases which were

operating as on the 4th April, 2011 with requisite valid environmental clearance and which have fallen due for renewal on or after 4th November, 2011. Here also it was made clear that Environment Clearance is required only at the time of renewal that too in respect of minor minerals. There was nothing mentioned about the mining lease of major minerals of less than 5 hectares area.

52. Thereafter, the EIA Notification, 2006 was further amended as per Notification dated 7.10.2014. There also the schedule to the Notification was amended in respect of mining of minerals as Item 1(a) which reads as follows:

(1)	(2)	(3)	(4)	(5)
1(a)	(i) mining of minerals (ii) Slurry pipelines (coal lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive areas.	>50 ha of mining lease are in respect of non coal mine lease. >150 ha of mining lease area in respect of coal mine lease. Asbestos mining irrespective of mining area All projects	<50 ha of mining lease area in respect of non coal mine lease. <150 ha of mining lease area in respect of coal mine lease	General conditions shall apply except for project or activity of less than 5 ha of mining lease area; Provided that the above exception shall not apply for project or activity if the sum total of the mining lease area of the said project or activity and that of existing operating mines and mining projects which were accorded environment clearance and are located within 500 metres from the periphery of such project or activity equals or exceeds 5 ha. Note: (i) Prior environmental clearance is required at the stage of renewal of mine lease for which an



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				<p>application shall be made up, to two years prior to the date due for renewal. Provided that no fresh environmental clearance shall be required for a mining project or activity at the time of renewal of mining lease which has already obtained environmental clearance under this notification. (ii) Mineral prospecting is exempted</p>
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53. There mining lease less than 50 hectares in respect of non coal mine were brought under Category "B" and general conditions are exempted in respect of projects or activity of less than 5 hectares of mining lease area. Here also it was mentioned by way of note that prior Environment Clearance is required at the stage of renewal of mining lease for which an application shall be made up to two years prior to the date due for renewal. In column (3) there was no distinction in respect of nature of mineral as to whether minor or major. But that represents non coal mine lease and coal mine lease. But in column (5) it was mentioned that general condition shall apply except for project or activity of less than 5 ha of mining lease area. Environment Clearance was also necessitated only at the time of renewal.

54. Thereafter, EIA Notification 2006 was further amended by Notification dated 15.1.2016 where they have given the reason for the present amendment and also prescribed the procedure for considering the Environment Clearance, depending upon the category in which they fall. The schedule 1(a) was amended as follows:

(1)	(2)	(3)	(4)	(5)
1(a)	(i) mining of minerals (ii) Slurry pipelines (coal lignite and other ores) passing through national parks or sanctuaries or coral reefs,	>50 ha of mining lease area in respect of non coal mine lease >150 ha of mining lease area in respect of coal mine lease Asbestos mining	<50 ha of mining lease area in respect of non coal mine lease. < 50 ha of mining lease area in respect of local mine lease	General conditions shall apply except; (i) for project or activity of mining of minor minerals of category 'B-2' (upto 25 ha of mining lease area); (ii) River



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	<p><i>ecologically sensitive areas.</i></p>	<p><i>irrespective of mining area All projects</i></p>	<p><i>bed — mining projects on account of inter state boundary.</i> <i>Note:</i> <i>(1) Mineral prospecting is exempted</i> <i>(2) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.</i> <i>(3) The mining lease which have obtained environmental clearance under Environment Impact Assessment Notification, 1994 and Environment Impact Assessment Notification 2006 shall not require fresh environmental clearance during renewal provided the project has valid and subsisting environmental clearance.</i></p>
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55. The Tamil Nadu Government, Industries (MMC.1) Department had issued a Government Order G.O.(Ms) No. 105 dated 14.7.2016, extending the time for producing Environment Clearance from 450 days, by ten months and amended Rule 41 and 42 of Tamil Nadu Minor Mineral Concession Rules, 1959 accordingly.

56. Thereafter MoEF & CC had issued a further Notification dated 14.3.2017, after considering several decisions of various High Courts and the Apex Court and also

National Green Tribunal and issued guidelines as to how violations have to be considered and provided procedure for the same and granted six months time for filing application for Environment Clearance from the date of notification.

57. The Ministry had issued further clarification regarding obtaining Environment Clearance on the basis of the request made by the Principal Secretary, Industries Department, Chennai vide Letter No. Z-11013/24/2017-IA.II(M) dated 3.4.2017 which is under challenge as follows:

Sub : Requirement of Environmental Clearance for major minerals below 5 hectares - re.

Ref : Your letter no. Nil dt.13.3.2017

Sir,

Kindly refer to above seeking clarification on requirement of Environmental Clearance for major minerals below 5 hectare.

In this regard, I am directed to refer to the notification S.O. 14(E) dated 15.1.2016 and inform that all the mining leases (major mineral as well as minor mineral) operating in the country are required to obtain Environmental Clearance (EC) after 15.1.2016 as per the provisions contained in Environmental Impact Assessment Notification, 2006 as amended. Further, no mining lease shall operate without prior EC and all such mines (including less than 5 hectares) which were in operation before 15.1.2016 are required to stop their mining activity and apply to MoEF & CC at Central Level/State Environment Impact Assessment Agency at State Level/District Environment Impact Assessment Agency at District level for seeking Environment Certificate. The mine leases which continue to operate without obtaining Environment certificate after 15.1.2016 shall be considered as violation cases and the same shall be dealt in accordance with the violation policy under Environmental Impact Assessment Notification, 2006 as amended."

58. As per this letter, it was clarified that any mining activity, either major or minor, including less than 5 hectares will be treated as violation cases, if Environment Clearance was not obtained after 15.1.2016 as per amended notification.

59. The Hon'ble Supreme Court in *COMMON CAUSE v. UNION OF INDIA* (W.P.(C) No. 114 of 2014 and *PRAFULLA SAMANTRA v. UNION OF INDIA* (W.P.(C) No. 194 of 2014 by common order dated 2.8.2017 considered the scope of obtaining Environment Clearance and made the following conclusion and clarification:

"Conclusions on the issues of mining without an EC or FC or both

To avoid any misunderstanding, confusion or ambiguity, we make the following very clear:

A mining project that has commenced prior to 27th January, 1994 and has obtained a No Objection Certificate from the SPCB prior to that date is permitted to continue its mining operations without obtaining an EC from the Impact Assessment Agency. However, this is subject to any expansion (including an increase in the lease area) or modernization activity after 27th January, 1994 which would result in an increase in the pollution load. In that event, a prior EC is required. However, if the pollution load is not expected to increase despite the proposed expansion (including an increase in the lease area) or modernization activity, a certificate to this effect is absolutely necessary from the SPCB, which would be reviewed by the Impact Assessment Agency.

The renewal of a mining lease after 27th January, 1994 will require an EC even if there is no expansion or modernization activity or any increase in the pollution load.

For considering the pollution load the base year would be 1993 - 94 which is to say that if the annual production after 27th January, 1994 exceeds the annual production of 1993 - 94, it would be treated as an expansion requiring an EC.

There is no doubt that a new mining project after 27th January, 1994 would require a prior EC.

Any iron ore or manganese ore extracted contrary to EIA 1994 or EIA 2006 would constitute illegal or unlawful mining (as understood and interpreted by us) and compensation at 100% of the price of the mineral should be recovered from 2000-2001 onwards in terms of Section 21(5) of the MMDR Act, if the extracted mineral has been disposed of. In addition, any rent, royalty or tax for the period that such mining activity was carried out outside the mining lease are should be recovered.

With effect from 14th September, 2006 all mining projects having a lease area of 5 hectares or more are required to have an EC. The extraction of any mineral in such a case without an EC would amount to illegal or unlawful mining attracting the provisions of Section 21(5) of the MMDR Act.

For a mining lease of iron ore or manganese ore of less than 5 hectares area, the provisions of EIA 1994 will continue to apply subject to EIA 2006.

Any mining activity carried on or after 7th January, 1998 without an EC amounts to illegal or unlawful mining in terms of the provisions of Section 21(5) of MMDR Act attracting 100% recovery of the price of the extracted mineral that is disposed of.

In the event of any overlap, that is, illegal or unlawful mining without an EC or without an EC or without both would attract only 100% ad not 200% compensation. In other words, only one set of compensation would be payable by the mining lease holder.

No mining lease holder will be entitled to the benefit of any payments made towards NPV or additional NPV or penal compensatory afforestation."

60. MoEF & CC also issued another Notification dated 8.3.2018 delegating certain powers for granting Environment Clearance in respect of Category "B" project to SEIAA.

61. MoEF & CC issued another Office Memorandum No. Z-11013/22/2017-IA.II(M) dated 15.3.2018 as follows:

"OFFICIAL MEMORANDUM

Sub : Implementation of Notification S.O. 1030 (E) dated 8th March, 2018 - reg.

The Environment Impact Assessment Notification, 2006 under the Environment (Protection) Act, 1986 mandates the requirement of prior environmental clearance to the projects/activities listed in the schedule to the said Notification. These projects/activities have been categorized under Category "A" or "B" and require appraisal and approval by the respective regulatory authorities at the Central/State level.

The Ministry has issued a Notification number S.O. 804(E) dated 14th March, 2017 under the Environment (Protection) Act, 1986 to appraise and regularize the projects, already taken up or under implementation without obtaining the prior environmental clearance in terms of the provisions of the EIA Notification, 2006 and thus identified to be in violation of the same. The Notification enables consideration of such proposals at Central level by providing one time opportunity to submit the request in this regard within 6 months.

In order to streamline and expedite consideration of proposals, it has now been decided that the projects/activities covered under category "B" shall be considered by the SEAC/SEIAAs in the respective States/UTs. The Ministry has issued another Notification number S.O. 1030 (E) dated 8th March, 2018, amending the Notification dated 14th March, 2017 to that extent.

In order to operationalize the Notification number S.O. 1030(E) dated 8th March, 2018, following directions are being issued for compliance with immediate effect.

The proposals received upto 13th September, 2017 on the Ministry's portal, shall

be considered by the EAC or the SEAC/SEIAA in the respective States/UTs, as the case may be, in order of their submission.

All the proposals of category "B" projects/activities pertaining to different sectors, received within six months only i.e. upto 13th September, 2017 on the Ministry's portal but yet not considered by the EAC in the Ministry, shall be transferred online to the SEAC/SEIAAs in the respective States/UTs.

The proposals submitted directly for consideration of EC (in place of ToR) shall also be considered on the same lines in order of their submission on the Ministry's portal.

All the projects of category "B" pertaining to different sectors, although considered by the EAC in the Ministry and accorded ToR shall be appraised for grant of EC by the SEA/SEIAAs in the respective States/UTs.

All projects/activities of all sectors shall be required to adhere to the directions of Hon'ble Madras High Court vide order dated 13th October, 2017 while upholding the Ministry's Notification dated 14th March, 2017."

62. MoEF & CC issued another Office Memorandum No. Z-11013/22/2017-IA(M) dated 16.3.2018 directing the concerned authority to comply with the order of the Madras High Court as follows:

"Office Memorandum

Sub : Compliance of the order dated 14th March, 2018 of Hon'ble High Court of Judicature at Madras in WMP. Nos. 3361 and 3362 of 2018 and WMP. No. 3721 of 2018 in WP. No. 11189 of 2017 - reg.

The Ministry has issued a Notification number S.O. 804(E) dated 14th March, 2017 under the Environment (Protection) Act, 1986 to appraise and regularize the projects already taken up or under implementation without obtaining the prior environmental clearance in terms of the provisions of the EIA Notification, 2006 and thus identified to be in violation of the same. The Notification enables consideration of such proposals at Central level by providing one time opportunity to submit the request in this regard within 6 months.

Pursuant to the Ministry's Notification number S.O. 1030(E) dated 8th March, 2018 regarding consideration of proposals by the Expert Appraisal Committee or the SEAC/SEIAA depending upon the categorization of projects/activities (A or B) listed in the schedule to the Environment Impact Assessment Notification, 2006, the Ministry has issued Office Memorandum on 15th March, 2018 to operationalize the same.

Hon'ble High Court of Judicature at Madras vide order dated 14th March, 2018 in WMP Nos. 3361 and 3362 of 2018 and WMP. No. 3721 of 2018 in WP. No. 11189 of 2017 has directed as under:

In this view of the matter, considering that sub-clause (i)(d) of Stage III of paragraph 7(1) of parent notification as contained in item 1 No. 8(a) of the Schedule being housing projects, we deem it necessary to clarify that projects and project proponents falling under category alone shall be governed by the 'public consultation' clause in the parent notification.

With regard to the prayer of MOEF for extension of time for submission of proposals by project proponents, we are of the view that it will serve the ends of justice if time is extended by 30 days from the date of delivery of this order in open court.

In view of the above orders of Hon'ble High Court, following directions are being issued for compliance with immediate effect:—

- i. The project proponent who have not submitted the proposals within six months window i.e. upto 13th September, 2017 in pursuance of this Ministry's*

Notification S.O. 804(E) dated 14th March, 2017 are required to submit the proposals within 30 days, to the EAC for category A projects or the SEAC/SEIAA in the respective States/UTs for category B projects.

ii. The project proponent who have submitted the proposals on the Ministry's portal after 13th September, 2017 are also required to submit the proposals afresh within 30 days to the EAC for category A projects or the SEAC/SEIAA in the respective States/UTs for category B projects.

iii. The projects/activities pertaining to all sectors shall be considered as per the directions of Hon'ble High Court of Judicature at Madras vide order dated 14th March, 2018 in WMP Nos. 3361 and 3362 of 2018 and WMP. No. 3721 of 2018 in WP. No. 11189 of 2017.

The directions issued vide this Ministry's OM dt.15th March, 2018 shall continue to apply."

63. MoEF & CC issued another Office Memorandum No. 22-8/2018-IA. III dated 20.4.2018 regarding the procedure for disposal of Environment Clearance application in respect of certain categories.

64. MoEF & CC issued another Office Memorandum No. 3-50/2017-IA. III(Pt) dated 30.5.2018 regarding consideration of violation cases on the basis of the notification dated 14.3.2017 and subsequent amendment as follows:

"Office Memorandum

Sub : Consideration of mining proposals involving violation of the EIA Notification, 2006 under the provisions of S.O. 804(E) dated 14.3.2017 and subsequent amendments for ToR/EC - reg.

In order to regularize the projects involving violation of EIA Notification, 2006 the Ministry of Environment, Forest and Climate Change has issued a Notification number S.O. 804(E) dated 14th March, 2017 and S.O. 1030(E) dated 8th March, 2018 under the Environment (Protection) Act, 1986 to appraise the projects that have not taken prior environment clearance in terms of provisions of Environment Impact Notification, 2006 amended from time to time. Such cases have been termed as case of violation of said notification.

Meanwhile, Hon'ble Supreme Court vide judgment dated 2nd August, 2017 Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause v. Union of India has passed a detailed order interpreting Section 21(5) of the MMDR Act and directing payment of 100% penalty for illegal mining operations with reference to the relevant statutes which inter alia include the Environment (Protection) Act, 1986 the Water (Prevention and Control of Pollution) Act, 1974 the Air (Prevention and Control of Pollution) Act, 1981, the Forest (Conservation) Act, 1980 and the Mines and Minerals (Development & Regulation) Act, 1957.

In pursuance of the Ministry's Notification referred to in para 1 above, the proposals involving violations of the EIA NOTIFICATION, 2006 are to be appraised for grant of ToR/EC at the Central level or by the respective SEAC/SEIAA in different States/UTs levels depending upon the categorization of the project.

In pursuance of the above notifications, the ministry had invited proposals for regularization of violation during a specified time window Now, the Ministry has received a number of proposals for grant of Terms of Reference Environment Clearance to mining projects engaged in mining of major and minor minerals for regularization of the same.

In the above context, in order to additionally comply with the directions given by the Hon'ble Supreme Court as referred to in para 2 above, it has been decided to include the following additional conditions in ToRs/ECs to be issued for mining projects under the provisions of S.O. 804(E) dated 14.3.2017 and subsequent



amendments:—

The project proponent shall give an undertaking by way of affidavit to comply with all the statutory requirements and judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause v. Union of India before grant of ToR/EC. The understanding inter alia include commitment of the PP not to repeat any such violation in future.

In case of violation of above undertaking, the ToR/Environmental Clearance shall be liable to be terminated forthwith.

The Environmental Clearance will not be operational till such time the Project Proponent complies with all the statutory requirement and judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition k(Civil) No. 114 of 2014 in the matter of Common Cause v. Union of India.

The State Government concerned shall ensure that mining operation shall not commence till the entire compensation levied if any for illegal mining paid by the project proponent through their respective Department of Mining & Geology in strict compliance of judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause v. Union of India The direction issued vide this Ministry's OM dt.15th March 2018 and 16th March 2018 shall continue to apply."

65. MoEF & CC by Notification dated 14.8.2018 schedule in respect of mining, amended as follows:

Project or Activity		Category with threshold limit		Conditions if any
		A	B	
1		Mining, extraction of natural resources and power generation (for a specified production capacity)		
1	2	3	4	5
1(a)	(i) Mining of minerals (ii) Slurry pipelines (coal lignite and through national parks/sanc tuaries/coral reefs, ecologically sensitive areas	>100 ha. Of mining lease area in respect of non coal mine lease. >150 ha of mining lease area in respect of coal mine lease Asbestos mining irrespective of mining area All projects	<100 ha of mining lease area in respect of non coal mine lease. < 150 ha of mining lease area in respect of coal mine lease	General conditions shall apply except : (i) for project or activity of mining of minor minerals of Category "B-2" (upto 25 ha of mining lease area); (ii) for project or activity of mining of minor minerals of Category "B-1" in case of cluster of mining lease area; and (iii) River bed mining project on account of inter state boundary

				Note: (1) Mineral prospecting is exempted (2) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI
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66. By this, all mining activities either major or minor, having extent equal to or less than 100 hectares was classified as Category "B" and time for filing, Environment Clearance was taken away. So that makes mandatory for all mining operations, to file their application for Environment Clearance immediately.

67. MoEF & CC issued another Office Memorandum No. 22-10/2019-IA. III, dated 9.9.2019 regarding consideration of Category "B" violation proposal at State level as per Notification dated 14.3.2017 which reads as follows:

"Office Memorandum

Subject : Consideration of Category B violation proposals at the State levels per the provisions of Notification. O.804(E) dt.14.3.2017 through lateral entry-reg.

The Ministry of Environment Forest and Climate Change issued a Notification vide S.O. 804(E) dt.14.3.2017 under the Environment (Protection) Act, 1986 to appraise the projects which have started the work onsite without taking prior environmental clearance in terms of the provisions of the Environment Impact Assessment Notification, 2006. Time period of six months (14.3.2017 to 13.9.2017) was given vide aforesaid notification to the proponents to submit proposals.

Soon after the publication of aforesaid notification a PIL challenging the validity of the notification dt.14.3.2017 was filed in Hon'ble High Court of Madras. Hon'ble High Court of Madras vide order dt.7 June 2017 prohibited from taking any further action pursuant to the Notification dt.14.3.2017 and therefore appraisal process for violation cases could not be taken up further. Hon'ble High Court of Madras vide order dt.13.10.2017 vacated the order while upholding validity of the notification dt. 14.3.2017.

Pursuant to the notification dt. 14 March 2017 Ministry received a number of proposals relating to all sectors covered under category A and category B. As per the said notification all the proposals of violation, irrespective of its categories were required to be appraised at Central level by the Expert Appraisal Committee.

Further, Ministry vide Notification S.O. 1030(E) dt.8.3.2018 amended the Notification S.O. 804(E) dt. 14.3.2017 and delegated the power to the States for appraisal of category B proposals which are under violation of EIA Notification.

Subsequently, the Ministry issued an OM dt. 15.3.2018 for th implementation of Notification S.O. 1030(E) dt. 8.3.2018. All the category proposals were transferred to the concerned State Level Environment Impact Assessment Authority.

The Hon'ble High Court of Madras vide order dt. 14.3.20-18 was of the view that it will serve the ends of justice if time is extended by 30 days from the date of delivery of the order, thereby extending the time till 13th April, 2018 providing time

for violators to apply as per the provisions of Notification S.O. 804(E). Therefore, again a one month window was given from the date of order of Hon'ble Hih Court (14.3.2018 - 13.4.2018) to submit proposals under violation of EIA Notification. The Ministry has issued OM dt. 16.3.2018 for the compliance of the order dt. 14.3.2018 of Hon'ble High Court of Madras.

Proposals involving violation of EIA Notification, which had applied during the window (14.3.2017 to 13.9.2017 & 14.3.2018 to 13.4.2018) under violation category are being considered by the violation committee. However, in addition to such proposals, there were many category A proposals submitted in the respective sectoral committees for regular appraisal during or prior to violation window period. Sectoral committee while deliberating on the proposals identified these as violation of EIA Notification. These proposals were subsequently forwarded to the violation committee after approval by the Competent Authority and such proposals are termed as 'lateral entry proposals'.

It is possible that there may be certain category B proposals which were submitted at SEIAA during or prior to the violation window period but not under violation category and later during the appraisal by State Level Expert Appraisal Committee identified as violation proposals.

Now a decision has been taken in the Ministry that such proposals as mentioned in para (8) above may be considered in terms of provisions of Ministry's Notification dt. 14.3.2017 & 8.3.2018 by the SEIAA. It is clarified that only those proposals may be taken up for consideration under this provision which had been submitted to SEAC during the window or prior to it as detailed above."

68. The Principal Bench of the National Green Tribunal, New Delhi in *NARESH ZARGAR v. STATE OF MADHYA PRADESH* (O.A. No. 34 of 2016 dated 4.5.2016) along with connected cases, after considering the scope of the application and also scope of the judgment of the Hon'ble Supreme Court in *DEEPAK KUMAR's* case and also the decision of the National Green Tribunal in *HIMMAT SINGH SHEKHAWAT v. STATE OF RAJASTHAN* (O.A. No. 123 of 2014 dated 13.1.2015) observed that the existing mining lease holders should have complied with the requirement of obtaining Environment Clearance from the competent authority in accordance with law and three months time was given for filing application for obtaining Environment Clearance and the same was directed to be disposed of within a period of six months from 13.1.2015. Since the same could not be complied with, certain applications have been filed for extension of time and also for reviewing the order in O.A. No. 123 of 2014 etc and the Tribunal by order dated 13.1.2015 held that no mining activity, including existing units, would be permitted to go on, without taking Environment Clearance and disposed of all the applications as follows:

"We hereby quash and direct the State of Madhya Pradesh ad all other concerned States including Rajasthan not to issue such circulars and any other circular in variation and/or in derogation of the orders of the Tribunal.

All the district level authorities DEIAA and DEAC are directed to dispose of all the applications pending with them by 31st May, 2016 positively. We will not grant any extension of time for this purpose hereafter.

All the mines owners which of them have not submitted the applications as on 31st March, 2016 to SEIAA, DEIAA ad DEAC shall be shut down forthwith and will not be permitted to carry on any mining activity in any manner whatsoever

The applications which are deficient and where the applications have not submitted all requisite documents, such applicants are hereby granted last opportunity of 1 week to submit the documents. In the event they fail to submit such document and make applications complete and errorless in all respects then after the stated period of 1 week they shall also be liable to be shut down without

any further notice. If they comply with this direction, they would so be entitled to the advantage upto 31st May, 2016.

All the State Authorities are directed to upload on their respective websites, details of the applications pending before them as on 31st March, 2016. They will also separately classify the applications which are deficient in any respect whatsoever

With the above directions this application is hereby disposed."

69. So it is clear from this that those mine owners who have not submitted their application as on 31.3.2016 were directed not to carry on their mining activity in any manner whatsoever and directed the authorities to dispose of the applications in accordance with law. In *HIMMAT SINGH SHEKHAWAT v. STATE OF RAJASTHAN* (O.A. No. 123 of 2014 dated 4.5.2016) in respect of extension application with respect to State of Rajasthan, directed that no mining activities should be permitted to be carried on without obtaining prior Environment Clearance.

70. In *JATINDER SINGH v. UNION OF INDIA* (O.A. No. 495 of 2015 dated 19.2.2016) the Principal Bench of the National Green Tribunal, while considering the EIA Notification dated 4.4.2011, considered all the existing notifications as on date issued by the MoEF & CC and disposed of the case as follows:

"Notification of 2006 is primarily of a mandatory character and is enforceable in terms of its provisions. Every applicant and authority is obliged to comply with the said Notification. This aspect need not detain us any further as it is a settled position of law as far as the Tribunal is concerned. After deliberating on the law in relation thereto, the Tribunal had clearly held that the Notification of 2006 does not leave any scope for default or non-compliance or discretionary enforcement. [Reference can be made to the judgment of the Tribunal in the cases of S.P. Muthuraman v. Union of India, 2015 ALL (I) NGT REPORTER (2) (DELHI) 170, Lokendra Kumar v. State of U.P. 2015 ALL (I) NGT REPORTER (1) (DELHI) 194 and Krishan Lal Gera v. State of Haryana 2015 ALL (I) NGT REPORTER (2) (DELHI) 286].

Despite the fact that the Notification of 2006 is mandatory still it lacks implementation and enforcement mechanism. It requires better and more specific time schedule in light of the principle of Sustainable Development and the need for expeditious disposal of such applications. We have already noticed that the role of the State Government is neither defined nor postulated in the Notification of 2006 but remains a matter that falls in the grey area. The need for States participation is indicated in the object of the Act of 1986 and the federal structure of the Indian Constitution.

Till all these deficiencies are removed and suggestions of the CEC are implemented in their true spirit and substance, it would be inevitable for the Tribunal to issue interim directions, particularly, in light of the judgments of the Supreme Court as referred in the above cases and the recommendations of the CEC to fill the gaps temporarily till a proper Notification is issued by MoEF providing due mechanism in this regard. It is a settled canon of law that the Courts and the Tribunals could issue interim directions keeping in view the gaps in the provisions of an Act including imposition of a prohibition where the facts and circumstances of a case so demand. Reference can be made to the judgment of the Tribunal in the case of Court on its own Motion v. State of Himachal Pradesh, 2014 ALL (I) NGT REPORTER (1) (DELHI) 66.

In light of the above discussion we dispose of this application with the following directions:

It shall be mandatory for all the applicants to seek EC for carrying on of mining activity of minor or major minerals, even if the lease area is less than 5 ha. In other words, MoEF, SEIAA and all other authorities would adopt uniform practice for

issuance of EC in regard to the mining area of less than 5 ha notwithstanding the fact that environmental impact of mining of minor minerals is no way less than that of the mining of major minerals. The judgment of the Supreme Court in the Deepak Kumar v. State of Haryana (2012) 4 SCC 629 is applicable to both minor and major minerals.

Every effort should be made by all concerned authorities not to encourage grant of EC for mining activity where the area is less than 5 ha. However, for providing clarity, we further observe that where for reasons of necessity for geographical, ecological and other reasons, if it is necessary to grant EC, for carrying on of mining activity of minor and major minerals in an area less than 5 ha, a special report in that behalf shall be invited from the concerned State authority and EC would be granted for specific reasons to be recorded in that behalf and then the Application would be considered for grant/refusal of EC.

MoEF in consultation with the State Government shall constitute a District Committee which would submit its report to MoEF prior to preparation of ToR, in regard to the contents of the application, the physical location of mining site, environmental concerns and the scope of ToR. This report shall be taken into consideration by MoEF and/or SEIAA before issuing ToR at the time of consideration of the EIA report.

*The State Government should submit its mining plan in consonance with the **provisions of Act of 1957, Mineral Concession Rules, 1960** and the same should be approved by MoEF and other concerned ministries in accordance with law.*

Every applicant shall be granted permission for mining only after the mining plan submitted by the applicant to the Central Government has been approved in accordance with Rule 22 and in consultation with the Director General of Police, Secretary In-charge of mining and the Chief Scientist and Scientist-in-Charge of Central Institute of Mining and Fuel Research, Regional Centre, Roorkee, an expert body in the field of mining which shall issue guidelines within the six weeks of the pronouncement of the judgment, providing proper mechanism for supervision and ensuring the implementation of judgment and taking appropriate action in accordance with law post issuance of order granting consent to operate and EC.

MoEF shall also re-examine in consultation with expert bodies to ensure reduction of time taken in issuance of EC, particularly, in light of the judgment afore referred. All the mining authorities and MoEF/SEIAA would give due consideration to the applicants applying for mining lease or grant of EC, who have been found guilty of illegal, unauthorised and unscientific mining, violating the terms and conditions of the orders by which consent to operate and/or EC has been granted. Normally, it should be taken as a disability for renewal and/or granting of mining lease or such consent orders. Wherever the government or the authority takes a decision to the contrary, it will be an obligation to record specific reasons in that behalf.

The application is disposed of with no orders as to costs."

71. It is clear from the above that the Principal Bench of the National Green Tribunal, after considering all the aspects, came to the conclusion that till the directions are issued by the MoEF & CC in respect of regulating the mining of minerals, both minor and major, irrespective of its extent regarding obtaining Environmental Clearance, thought it necessary to issue interim directions. Till that date, no mining activities, either minor or major, without getting Environmental Clearance, should not be permitted to operate, irrespective of its area of operation. So it cannot be said that the Tribunal had wrongly applied the dictum laid down in *DEEPAK KUMAR's* case for major minerals as well, cannot be accepted.

72. The Hon'ble High Court of Madras had considered the scope of the violation

notification dated 14.3.2017 of the MoEF & CC, referred to above in *PUDUCHERRY ENVIRONMENT PROTECTION ASSOCIATION v. THE UNION OF INDIA* (W.P. No. 11189 of 2017 dated 13.10.2017) and disposed of the case, recording the submission of the Additional Solicitor General that this is intended as one time measure and not to ratify future violation cases.

73. Even if the National Green Tribunal had wrongly decided any case, applying the principles laid down in *DEEPAK KUMAR's case*, may be applicable to major minerals as well, unless it is set aside or reviewed, the same has to be followed by this Tribunal, as there was a declaration issued by the National Green Tribunal in respect of regulation of mining activities both minor and major.

74. So under these circumstances, the submission made by the learned counsel appearing for the applicant that the observation made by the Principal Bench of the National Green Tribunal, making applicable the dictum laid down in *DEEPAK KUMAR's case* to major minerals as well is not correct, and cannot be accepted.

75. Further, it is clear from the observations made above that even in 2014, when 2006 Notification was amended, the distinction between major and minor minerals was taken away and any mining lease of non coal product, having less than 5 hectares, has been brought under the regime of Environment Clearance. Further, as per 2016 Notification, the time limit for filing application provided for the purpose of renewal, has been taken away perhaps, for the reason that by amending the Mines and Minerals (Development and Regulation) Act, 1957, the period of lease has been extended upto 50 years from 20 years. That may be reason why the MoEF & CC has thought that existing mines also has to obtain Environment Clearance after 15.1.2016 and they need not wait for renewal. Further, the National Green Tribunal in the decision stated supra, has categorically stated that no mining activity should be carried out in India without obtaining Environment Clearance that includes the existing mining leases as well, irrespective of its character viz., minor or major and it is further held that those minors who have not filed application prior to 31.3.2016 were completely debarred from operating mining operations. So under these circumstances, the cut off date for filing the application has to be limited upto 31.3.2016 and those minors who have filed application thereafter, will be treated as violators and their applications will have to be treated as violation applications and disposes of in accordance with law. Further, the notification dated 14.3.2017, providing one time measure for violation cases has been upheld by the Madras High Court also in the decision in *PUDUCHERRY ENVIRONMENT PROTECTION ASSOCIATION case* cited supra. Further it was admitted in the application itself that when the cement company wanted some clarification in this regard, MOEFF&CC vide their letter dated 8-1-2016 informed them to apply for environment clearance without waiting for renewal.

76. So, under these circumstances, we find no reason to set aside the Office Memorandum dated 3.4.2017 in toto. However, we can clarify that those persons who have already filed application for Environment Clearance as on 31.3.2016 cannot be treated as violator, as the Principal Bench of the National Green Tribunal had permitted them to comply with application and consider those applications in accordance with law. Only those persons who have filed application thereafter will have to be treated as violator. Merely because the mining activities of the members of the applicant federation have come to a standstill, is not a ground to dilute the procedure for obtaining Environment Clearance, even in respect of mining activities of major minerals of less than 5 hectares.

77. So under these circumstances, the application can be disposed of, giving the following directions:

(i) The applications which are pending as on 31.3.2016 for Environment Clearance

have to be treated as normal applications and not violation applications and the authorities are directed to dispose of those applications in accordance with law.

- (ii) The persons who have not filed applications on or before 31.3.2016 and filed thereafter, can be treated as violation applications and the MoEF & CC/SEIAA is directed to dispose of those applications as violation cases in accordance with law.
- (iii) It is also made clear that all mining leases, either major or minor, even less than 5 hectares area, has to apply and get Environment Clearance as per the amended EIA Notification dated 15.1.2016. This will apply to the existing mining leases as well. The points are answered accordingly.

Point No. 4;—

The application is disposed of as follows:

- (i) The applicant is not entitled to get a declaration to quash Circular dated 3.4.2017 as prayed for but can be clarified as detailed as per direction No.(ii) onwards.
- (ii) The applications which are pending as on 31.3.2016 for Environment Clearance have to be treated as normal applications and not violation applications and the authorities are directed to dispose of those applications in accordance with law.
- (iii) The persons who have not filed applications on or before 31.3.2016 and filed thereafter can be treated as violation applications and the MoEF & CC/SEIAA is directed to dispose of those applications as violation cases in accordance with law.
- (iv) It is also made clear that all mining leases, either major or minor, even less than 5 hectares area, has to apply and get Environment Clearance as per the amended EIA Notification dated 15.1.2016. This will apply to the existing mining leases as well. Without obtaining necessary Environment Clearance irrespective of area, no mining, both minor/major, shall be permitted to operate.

78. Considering the circumstances, there is no order as to costs.

79. The application is disposed of accordingly.

† Southern Zone, Chennai

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Annex - R-XXX (colly)



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2022 SCC OnLine SC 362

In the Supreme Court of India

(BEFORE INDIRA BANERJEE AND J.K. MAHESHWARI, JJ.)

Pahwa Plastics Pvt. Ltd. and Another ... Appellants;

Versus

Dastak NGO and Others ... Respondents.

Civil Appeal No. 4795 of 2021

Decided on March 25, 2022

The Judgment of the Court was delivered by

INDIRA BANERJEE, J.:— This appeal under Section 22 of the National Green Tribunal Act, 2010, is against an order dated 3rd June 2021 passed by the Principal Bench of the National Green Tribunal (NGT) in O.A No. 287/2020 at New Delhi, *inter alia*, holding that establishments such as the manufacturing units of the Appellants, which did not have prior Environmental Clearance (EC) could not be allowed to operate.

2. The question of law involved in this appeal is, whether an establishment employing about 8000 workers, which has been set up pursuant to Consent to Establish (CTE) and Consent to Operate (CTO) from the concerned statutory authority and has applied for ex post facto EC can be closed down pending issuance of EC, even though it may not cause pollution and/or may be found to comply with the required pollution norms.

3. With increasing industrialization and the establishment of factories which emitted smoke and other pollutants, there was worldwide concern for protection of environment. In June 1972, the United Nations Conference on the Human Environment was held in Stockholm, where decisions were taken to take appropriate steps for preservation of the natural resources of the earth, which, among other things, included preservation of the quality of air and water by controlling pollution.

4. In 1974, Parliament enacted the Water (Prevention and Control of Pollution) Act, 1974, with a view to prevent and control water pollution and to maintain and restore wholesomeness of water.

5. In furtherance of the decisions taken at Stockholm, Parliament enacted the Air (Prevention and Control of Pollution) Act, 1981, hereinafter referred to as "the Air Pollution Act", to provide for prevention, control and abatement of air pollution.

6. The Air Pollution Act provides for the constitution of a Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCB) to deal with the problem of air pollution. Section 16 of the Air Pollution Act enables the Central Pollution Control Board to take steps to improve the quality of air and to prevent, control or abate air pollution in the country. Section 17 of the Air Pollution Act enables the State Pollution Control Boards to plan comprehensive programmes for the prevention, control or abatement of air pollution, *inter alia*, by laying down standards for emission of air pollutants.

7. Section 18 of the Air Pollution Act enables the Central Government to give directions by which the CPCB is to be bound. Similarly, every SPCB is to be bound by directions in writing as might be given by the CPCB or the State Government.

8. Where a notification is issued under the Air Pollution Act, placing an area within the control area of air pollution, permission is necessary to set up and operate any factory or plant thereat. No person operating any factory or plant in any air pollution control area is to discharge or cause or permit to be discharged the emission of any air pollutants, in excess of the standards laid down by the SPCB under Clause (q) of sub-

Section (1) of Section 17.

9. The Environment (Protection) Act, 1986, hereinafter referred to as "the EP Act" was also enacted pursuant to the decisions taken at the United Nations Conference on the Human Environment, held in Stockholm in June, 1972. As per the Statement of Objects and Reasons for enactment of the EP Act, the said Act has been prompted by concern over the environment, that has grown all over the world since the 60s.

10. Sub-section (1) of Section 3 of the EP Act empowers the Central Government to take all such measures as it might deem necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and reducing environmental pollution.

11. Sub-section (2) of Section 3 of the EP Act enables the Central Government to take, inter alia, the following measures:

"(i) co-ordination of actions by the State Governments, officers and other authorities—

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

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

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

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

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

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

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

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

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

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

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

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

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

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

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

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

of this Act.”

12. Sub-section (3) of Section 3 of the EP Act provides as follows:

“3. Power of Central Government to take measures to protect and improve environment.—

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

13. Subject to the provisions of the EP Act, the Central Government has power under sub-Section (1) of Section 3, to take all such measures, as it deems necessary or expedient, for the purpose of protecting and improving the quality of environment and preventing, controlling or reducing environmental pollution.

14. Section 5 of the EP Act provides that notwithstanding anything contained in any other law, but subject to the provisions of the EP Act, the Central Government may, in exercise of its powers and performance of its functions under the EP Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

15. In exercise of powers conferred by Sections 6 and 25 of the EP Act, the Central Government has made the Environment (Protection) Rules, 1986, hereinafter referred to as “the EP Rules”.

16. The Central Government issued an Environmental Impact Assessment Notification dated 27th January 1994 in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of Section 3 of the EP Act read with clause (d) of sub-rule (3) of Rule 5 of the EP Rules, directing that on and from the date of publication of the said notification in the Official Gazette, expansion or modernization of any activity or a new project listed in Schedule I to the said notification shall not be undertaken in any part of India, unless it has been accorded EC by the Central Government in accordance with the procedures specified in the said notification.

17. In exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of Section 3 of the EP Act read with clause (d) of sub-rule (3) of Rule 5 of the EP Rules and in supersession of notification number S.O. 60 (E) dated 27th January 1994, except in respect of things done or omitted to be done before such supersession, the Central Government issued a notification dated 14th September 2006, being Notification S.O. 1533 (E) requiring prior environmental clearance from the Central Government or as the case may be, by the State-Level Environment Assessment Authority, duly constituted by the Central Government under sub-section (3) of Section 3 of the EP Act.

18. In terms of the said notification dated 14th September 2006, the process of environmental clearance for new projects was to comprise of a maximum of four stages, all of which might not apply to particular cases. The stages were (1) Screening, (2) Scoping, (3) Public Consultation and (4) Appraisal.

19. In the meanwhile, by a notification being S.O. 327 (E) dated 10th April 2001, published in the Gazette of India on 12th April 2001, the Central Government has

delegated the powers vested in it under the EP Act, to the Chairpersons of the respective State Pollution Control Boards/Committees to issue directions to any industry or any local or other authority to prevent violation of the Rules.

20. The Appellants carry on business, *inter alia*, of manufacture and sale of basic organic chemicals, namely, Formaldehyde. The Appellant No. 1, M/s. Pahwa Plastics Private Limited has two manufacturing units, one at village Kharawar in Rohtak, hereinafter referred to as the "Rohtak Unit" and the other at village Jathlana, Jagadhri in Yamuna Nagar in Haryana, hereinafter referred to as the "Yamuna Nagar Unit". The Appellant No. 2 has a manufacturing unit at village Ghespur in Yamuna Nagar, Haryana which is hereinafter referred to as the "Yamuna Nagar Unit". The manufacturing units established, run and operated by the respective Appellants fall in the category of Micro, Small and Medium Enterprise (MSME) as defined under the Micro, Small and Medium Enterprises Development Act, 2006, hereinafter referred to as "the MSME Act".

21. On or about 31st March 2014, the Appellant No. 1, M/s. Pahwa Plastics Ltd. applied for Consent to Establish (CTE) its Yamuna Nagar unit for manufacture of Formaldehyde.

22. By a communication No. HSPCB/Consent/ : 2846616YAMCTE 3087415 dated 2nd June 2016, the Haryana State Pollution Control Board (HSPCB) granted Consent to Establish (CTE) to the Appellant No. 1 M/s. Pahwa Plastics Private Limited in respect of its Yamuna Nagar Unit. The CTE was to remain valid for 60 months from the date of its issue, to be extended for another year at the discretion of the Board or till the time the unit started its trial production, whichever was earlier.

23. Some of the terms and conditions on which CTE was granted are set out hereinbelow:

"3. The officer/official of the Board shall have the right to access and inspection of the industry in connection with the various processes and the treatment facilities being provided simultaneously with the construction of building/machinery. The effluent should conform the effluent standards as applicable.

4. That necessary arrangement shall be made by the industry for the control of Air Pollution before commissioning the plant. The emitted pollutants will meet the emission and other standards as laid/will be prescribed by the Board from time to time.

5. The applicant will obtain consent under section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 and under section 21/22 of the Air (Prevention & Control of Pollution) Act, 1981 as amended to-date-even before starting trial production.

6. The above Consent to Establish is further subject to the conditions that the unit complies with all the laws/rules/decisions and competent directions of the Board/Government and its functionaries in all respect before commissioning of the operation and during its actual working strictly.

8. The Electricity Department will give only temporary connection and permanent connection to the unit will be given after verifying the consent granted by the Board, both under Water Act and Air Act.

12. That there is no discharge directly or indirectly from the unit or the process into any interstate river or Yamuna River or River Ghaggar.

13. That the industry or the unit concerned is not sited within any prohibited distances according to the Environmental Laws and Rules, Notification, Orders and Policies of Central Pollution Control Board and Haryana State Pollution Control

Board.

17. In case of change of name from previous Consent to Establish granted, fresh Consent to Establish fee shall be levied.

18. Industry should adopt water conservation measures to ensure minimum consumption of water in their Process. Ground water based proposals of new industries should get clearance from Central Ground Water Authority for scientific development of previous resources.

19. That the unit will take all other clearances from concerned agencies, whenever required.

20. That the unit will not change its process without the prior permission of the Board.

21. That the Consent to Establish so granted will be invalid, if the unit falls in Aravali Area or non conforming area.

22. That the unit will comply with the Hazardous Waste Management Rules and will also make the non-leachate pit for storage of Hazardous waste and will undertake not to dispose off the same except for pit in their own premises or with the authorized disposal authority.

23. That the unit will submit an undertaking that it will comply with all the specific and general conditions as imposed in the above Consent to Establish within 30 days failing which Consent to Establish will be revoked."

24. By another communication No. HSPCB/Consent/ : 2846618YAMCTO3098246 dated 26th March 2018, HSPCB granted consent to the Appellant No. 1 to operate its Yamuna Nagar Unit from 8th February 2018 to 31st March 2022.

25. By an order No. HSPCB/YMN/2242, dated 31st March 2010, the Appellant No. 2, M/s. Apcolite Polymer Private Limited was granted CTE to establish its Yamuna Nagar Unit for manufacture of Formaldehyde with the manufacturing capacity of 80 tonnes per day.

26. By another communication Nos. HSPCB/Consent/ : HSPCB/YMN/DLC/2011/4027 & HSPCB/YMN/DLC/2011/4029 dated 16th January 2012, HSPCB granted the Appellant No. 2, M/s. Apcolite Polymers Private Limited, Consent to Operate (CTO) its Yamuna Nagar Unit. The CTO has been extended from 1st April 2016 till 31st March 2026, by a letter dated 13th March 2016. The CTO is valid till March 2026.

27. By a communication No. HSPCB/Consent/ : 2846616YAMCT OHWM2630357 dated 13th March 2016, HSPCB granted consent for emission of AIR to Appellant No. 2, M/s. Apcolite Polymers Private Limited in respect of its Yamuna Nagar Unit on, inter alia, the terms and conditions specified in the said letter, some of which are extracted hereinbelow:—

"10. The air pollution control equipment of such specification which shall keep the emissions within the emission standard as approved by the State Board from time to time shall be installed and operated in the premises where the industry is carrying on/proposed to carry on its business.

11. The existing air pollution control equipment if required shall be alerted or replaced in accordance with the direction on the Board.

12. All solid wastes arising in the factory premises shall be properly graded and disposed of by:—

(i) In case of Land fill material, care should be taken to ensure that the material does not give rise to leachate which may percolate in ground water of carried away with storm run off.

(ii) Composting in case of bio degradable materials.



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(iii) If the method of incineration is used for the disposal of solid waste the consent application should be processed separately and it should be taken up which consent is granted.

13. The industry shall submit an undertaking to the effect that the above conditions shall be complied with by them.

14. The applicant shall submit its undertaking to the effect that the above conditions shall be complied with by them.

15. The applicant shall make an application for grant of fresh consent at least 90 days before the date of expiry of this consent.

18. There should not be any fugitive emission from the premises.

19. The liquid effluent arising out of the operation of the air pollution control equipment shall also be treated in a manner and to the standards stipulated in the consent granted under Water (Prevention & Control of Pollution) Act, 1974 by this Board.

21. If the industry fails to adhere to any of the condition of this consent order the consent so granted shall automatically lapse.

33. The industry shall submit Environment Audit report once in a year.

38. In case of by passing the emissions, the consent shall be deemed revoked."

28. It is the case of the Appellants that at the time when CTE was granted to the Appellants, it was thought that EC was not required for units which manufactured Formaldehyde. Even HSPCB itself was not sure of whether EC was required for such units.

29. Mr. Gupta argued that the Appellants were *bona fide* under the impression that the Appellants were not required to obtain prior EC for setting up this establishment to manufacture Formaldehyde. On the basis of CTE granted by HSPCB, the Appellants set up their units taking huge loans from banks for which repayments have to be paid in installments.

30. In exercise of power under Section 3(1) and Section 3(2)(v) of the EP Act read with Rule 5(3)(d) of the EP Rules, the Central Government issued a notification being S.O. 804(E) dated 14th March 2017 which provides for grant of *ex post facto* EC for project proponents who had commenced, continued or completed a project without obtaining EC under the EP Act/EP Rules or the Environmental Impact Notification issued thereunder. Paragraphs 3, 4 and 5 of the said notification, read as hereunder:

"(3) In cases of violation, action will be taken against the project proponent by the respective State or State Pollution Control Board under the provisions of section 19 of the Environment (Protection) Act, 1986 and further, no consent to operate or occupancy certificate will be issued till the project is granted the environmental clearance.

(4) The cases of violation will be appraised by respective sector Expert Appraisal Committees constituted under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along with other actions under the law.

(5) In case, where the findings of the Expert Appraisal Committee on point at

sub-para(4) above are affirmative, the projects under this category will be prescribed the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan. Further, the Expert Appraisal Committee will prescribe a specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants. The collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environmental laboratory duly notified under Environment (Protection) Act, 1986, or a environmental laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of a Council of Scientific and Industrial Research institution working in the field of environment."

31. The Notification of 2017 is a valid statutory notification issued by the Central Government in exercise of power under Sections 3(1) and 3(2)(v) of the EP Act read with Rule 5(3)(d) of the EP Rules in the same manner as the EIA Notification dated 27th January 1994 and the Notification dated 14th September 2006.

32. Section 21 of the General Clauses Act, 1897 provides that where any Central Act or Regulations confer a power to issue notifications, orders, rules or bye-laws, that power includes the power, exercisable in like manner, and subject to like sanction and conditions, if any, to add to, amend, vary or rescind any notification, order, rule or bye-law so issued. The authority, which had the power to issue Notifications dated 27th January 1994 and 14th September 2006 undoubtedly had, and still has the power to rescind or modify or amend those notifications in like manner. As held by this Court in *Shree Sidhballi Steels Ltd. v. State of Uttar Pradesh*¹, power under Section 21 to amend, vary or rescind notifications, orders, rules or bye-laws can be exercised from time to time having regard to the exigency.

33. Puducherry Environment Protection Association filed a Writ Petition being W.P. No. 11189 of 2017 in the High Court of Madras assailing the said notification dated 14th March 2017. By a judgment and order dated 13th October 2017, a Division Bench of the High Court refused to interfere with the said notification, holding that the impugned notification did not compromise with the need to preserve environmental purity.

34. The Ministry of Environment, Forest and Climate Change (MoEF&CC) issued a draft notification dated 23rd March 2020 which was duly published in the Gazette of India Extraordinary Part II. The Notification was proposed to be issued in exercise of powers conferred by subsection (1) and clause (v) of sub-section (2) of Section 3 of the EP Act for dealing with cases of violation of the notification with regard to EC. It was proposed that cases of violation would be appraised by the Appraisal Committee with a view to assess whether the project had been constructed or operated at a site which was permissible under prevailing laws and could be run sustainably on compliance of environmental norms with adequate environmental safeguards. Closure was to be recommended if the findings of the Appraisal Committee were in the negative. If the Appraisal Committee found that such unit had been running sustainably upon compliance of environmental norms with adequate environment safeguards, the unit would be prescribed appropriate Terms of Reference (TOR) after which the procedure for grant of EC would follow.

35. On 10th November 2020, the Department of Environment and Climate Change of the Government of Haryana issued an order which is extracted hereinbelow for convenience:

"Whereas the process of manufacturing of Formaldehyde is covered under the provisions of 5(f) of Schedule of Environment Impact Assessment Notification (EIA),

2006 of Government of India, and requires the prior Environmental Clearance (EC) from the competent authority State Environment Impact Assessment Authority (SEIAA)/Ministry of Environment, Forest and Climate Change, Government of India, before establishment and operation of such units, besides other mandatory clearance, as applicable;

Whereas, it has come to the notice of Government that around 15 such units have been permitted to establish/operate in the State of Haryana, without obtaining the necessary Prior Environmental Clearances, but with the Consent of the Haryana State Pollution Control Bureau (HSPCB), which misinterpreted the category of such units and on realising the requirement of EC in these cases, has revoked its consents issued earlier to these units recently;

Whereas, some of these units approached the Government explaining their hardship due to such sudden revocation of their consents and have sought time for obtaining the necessary EC from the competent authority as the process is likely to take a minimum of 6 months to one year period, and to allow them to operate with all pollution control measures, following the pollution control norms applicable, and,

Whereas, the Government has carefully considered their request and the competent authority has decided that these units shall be allowed to continue their operations for a period of six months, without prejudice to any legal action taken against the violations committed by them, by the competent authorities, with the conditions that they will immediately apply for Environmental Clearance from the competent authority and provide the proof of such application within 60 days from the issuance of this communication to Environment and Climate Change Department and to Haryana State Pollution Control Board.

Therefore, it is ordered accordingly."

36. Referring to the Counter Affidavit filed by HSPCB before the NGT, Mr. Gupta pointed out that, since HSPCB itself was under the misconception that prior EC was not necessary for units such as the Yamunanagar units of the Appellants Nos. 1 and 2 respectively. HSPCB took a policy decision to allow the units which did not have prior EC to operate for six months, on condition that they would apply for EC within sixty days.

37. The Appellants duly applied for EC in respect of their manufacturing units. After scrutinizing their applications and after finding the units suitable for grant of EC in terms of the prevailing guidelines, the Expert Appraisal Committee constituted by the MoEF&CC conducted a public hearing to finalize the cases of the Appellants for issuance of Terms of Reference (TOR).

38. By an Office Memorandum, being F. No. 22-21/2020-1A III, dated 7th July 2021, the MoEF&CC issued Standard Operating Procedure (SOP) for identification and handling of violation cases under EIA Notification 2006.

39. The said Office Memorandum, inter alia, reads:

"The Ministry had issued a notification number S.O.804(E), dated the 14th March, 2017 detailing the process for grant of Terms of Reference and Environmental Clearance in respect of projects or activities which have started the work on site and/or expanded the production beyond the limit of Prior EC or changed the product mix without obtaining Prior EC under the EIA Notification, 2006.

2. This Notification was applicable for six months from the date of publication i.e. 14.03.2017 to 13.09.2017 and further based on court direction from 14.03.2018 to 13.04.2018.

3. Hon'ble NGT in Original Application No. 287 of 2020 in the matter of Dastak N.G.O. v. Synochem Organics Pvt. Ltd. and in applications pertaining to same subject matter in Original Application No. 298 of 2020 in Vineet Nagar v. Central Ground Water Authority, vide order dated 03.06.2021 held that "(...) for past

violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process".

4. Further, the Hon'ble National Green Tribunal in O.A. No. 34/2020 WZ in the matter of Tanaji B. Gambhire v. Chief Secretary, Government of Maharashtra, vide order dated 24.05.2021 has directed that"**.... a proper SoP be laid down for grant of EC in such cases so as to address the gaps in binding law and practice being currently followed. The MoEF may also consider circulating such SoP to all SEIAAs in the country**".

5. Therefore, in compliance to the directions of the Hon'ble NGT a Standard Operating Procedure (SoP) for dealing with violation cases is required to be drawn. The Ministry is also seized of different categories of 'violation' cases which have been pending for want of an approved structural/procedural framework based on 'Polluter Pays Principle' and 'Principle of Proportionality'. It is undoubtedly important that action under statutory provisions is taken against the defaulters/violators and a decision on the closure of the project or activity or otherwise is taken expeditiously.

6. In the light of the above directions of the Hon'ble Tribunal and the issues involved, the matter has accordingly been examined in detail in the Ministry. A detailed SoP has accordingly been framed and is outlined herein. The SoP is also guided by the observations/decisions of the Hon'ble Courts wherein principles of proportionality and polluters pay have been outlined."

40. The SOP formulated by the said Office Memorandum dated 7th July 2021 refers to and gives effect to various judicial pronouncements including the judgment of this Court in *Alembic Pharmaceuticals Ltd. v. Rohit Prajapati*².

41. In terms of the SOP, the proposal for grant of EC in cases of violation are to be considered on merits, with prospective effect, applying principles of proportionality and the principle that the polluter pays and is liable for costs of remedial measures.

42. By an order dated 9th July 2021, the MoEF&CC confirmed the minutes of an earlier meeting of the Expert Appraisal Committee and recommended issuance of terms of reference to the Appellant No. 1, M/s. Pahwa Plastics Private Limited for expansion of its Formaldehyde Manufacturing unit from 60 TPD to 150 TPD.

43. In the meanwhile, on or about 26th November 2020, the Respondent No. 1, a Non-Governmental Organisation (NGO) hereinafter referred to as "Dastak" filed an application being O.A. No./287/2020 before the NGT praying that the order dated 10th November 2020 passed by the State of Haryana be quashed and units which were operating without EC be closed. The NGT disposed of the said application of Dastak by the impugned order dated 3rd June 2021.

44. A Public Interest Litigation being W.P. (MD) No. 11757 of 2021 (*Fatima v. Union of India*) was filed before the Madurai Bench of the Madras High Court challenging the said Memorandum dated 7th July 2021. By an interim order dated 15th July 2021 a Division Bench of the Madras High Court admitted the Writ Petition and stayed the said memorandum.

45. The Madurai Bench of the Madras High Court observed and held:—

"This writ petition has been filed as a public interest litigation challenging the validity of the office memorandum dated 07.07.2021, issued by the respondent.

2. We have heard Mr. A. Yogeshwaran, learned counsel appearing for the writ petitioner and Mr. L. Victoria Gowri, learned Assistant Solicitor General of India, accepts notice for the respondent.

3. The impugned office memorandum is challenged as being wholly without jurisdiction, contrary to the Environment Impact Assessment Notification, 2006, ultra vires the powers of the respondent under the Environment (Protection) Act, 1986 and violative of the various principles enunciated by the Hon'ble Supreme

Court, while interpreting Article 21 and Article 48-A of the Constitution of India.

4. Further, it is submitted that the impugned notification is in gross violation of the undertaking given before the Hon'ble Full Bench of this Court in W.P. No. 11189 of 2017, wherein, the Court took note of the submissions made on behalf of the Government of India, that the notification impugned therein is only a one-time measure. Further, it is submitted that the respondent failed to see that concept of ex-post facto approval is alien to environment jurisprudence and it is anathema to the Environment Impact Assessment Notification, 2006.

5. Further, it is submitted that the impugned notification is in gross violation of the judgment of the Hon'ble Supreme Court in the case of Alembic Pharmaceuticals Ltd. v. Rohit Prajapati, 2020 SCC OnLine SC 347 and the orders passed by the National Green Tribunal, Principal Bench, New Delhi, in the case of S.P. Muthuraman v. Union of India, 2015 SCC OnLine NGT 169.

6. Identical grounds were considered by us in a challenge to an office memorandum dated 19.02.2021, which provided a procedure for granting post facto clearance under Coastal Regulation Zone (CRZ) Notification 2011, on the ground that despite no such provisions in the notification and being contrary to the earlier judgments and undertaking. The said writ petition in W.P(MD). No. 8866 of 2021 was admitted and by order dated 30.04.2021, the said office memorandum dated 19.02.2021 has been stayed.

7. The core issue in this writ petition is whether the Government of India could have issued the office memorandum and brought about the Standard Operating Procedure for dealing with violators, who failed to comply with the mandatory condition of obtaining prior environment clearance under the Environment Impact Assessment Notification 2006, read with the provisions of Environment (Protection) Act, 1986. This issue was considered by the Hon'ble Supreme Court in Alembic Pharmaceuticals Ltd. (cited supra), and it was held that such office memorandum in the nature of circular is without jurisdiction. The operative portion of the judgment reads as follows:

"...What is sought to be achieved by the administrative circular dated 14 May 2002 is contrary to the statutory notification dated 27 January 1994. The circular dated 14 May 2002 does not stipulate how the detrimental effects on the environment would be taken care of if the project proponent is granted an ex post facto EC. The EIA notification of 1994 mandates a prior environmental clearance. The circular substantially amends or alters the application of the EIA notification of 1994. The mandate of not commencing a new project or expanding or modernising an existing one unless an environmental clearance has been obtained stands diluted and is rendered ineffective by the issuance of the administrative circular dated 14 May 2002. This discussion leads us to the conclusion that the administrative circular is not a measure protected by Section 3. Hence there was no jurisdictional bar on the NGT to enquire into its legitimacy or vires. Moreover, the administrative circular is contrary to the EIA Notification 1994 which has a statutory character. The circular is unsustainable in law."

8. Despite the above decision, once again the Government of India, Ministry of Environment, Forest and Climate Change have chosen to adopt the route of issuing the office memorandum and virtually setting at naught the provisions of the Environment Impact Assessment Notification and the Environment (Protection) Act.

9. Before the Hon'ble First Bench, a public interest litigation was filed by the Puducherry Environment Protection Association, challenging the notification dated 14.03.2017, on identical grounds and the Hon'ble First Bench by judgment dated 13.10.2017, recorded the submissions of the learned Assistant Solicitor General of India that the said notification was a one-time measure and accordingly, disposed

of the writ petition.

10. Once again, the Ministry of Environment, Forest and Climate Change have issued the impugned office memorandum. Thus, from what we have noted above, we are of the clear view that the petitioner has made out a prima facie case for entertaining the writ petition. Accordingly, the writ petition is **admitted** and there shall be an order of interim stay."

46. It is true that in the case of *Puducherry Environment Protection Association v. Union of India*², the Division Bench of Madras High Court took note of and recorded the submission made on behalf of the Union of India that the relaxation was a one time relaxation. In view of such submission, this Court held that a one time relaxation was permissible.

47. It is, however, well settled that words and phrases and/or sentences in a judgment cannot be read in the manner of a statute, and that too out of context. The observation of the Division Bench that a one time relaxation was permissible, is not to be construed as a finding that relaxation cannot be made more than once. If power to amend or modify or relax a notification and/or order exists, the notification and/or order may be amended and/or modified as many times, as may be necessary. A statement made by counsel in Court would not prevent the authority concerned from making amendments and/or modifications provided such amendments and/or modifications were as per the procedure prescribed by law.

48. The Division Bench of Madras High Court fell in error in staying the said office memorandum, by relying on observations made by this Court in *Alembic Pharmaceuticals Ltd.* (supra), in the context of a circular which was contrary to the statutory Environment Impact Notification of 1994. The attention of the High Court was perhaps not drawn to the fact that the notification of 7th July 2021 was in pursuance of the statutory notification of 2017 which was valid. The judgment of this Court in *Alembic Pharmaceuticals Ltd.* (supra), was clearly distinguishable and could have no application to the office memorandum dated 7th July 2021 which was issued pursuant to the notification dated 14th March 2017.

49. The Appellants have already applied for EC. The Expert Appraisal Committee of the MoEF&CC has, after scrutinizing the application of the Appellants and finding them eligible for grant of EC, recommended their cases for grant of Terms of Reference (ToR). ToR was granted to the Appellants and a public hearing had also been conducted. Only last procedural step of issuance of EC is left.

50. It is claimed that the units of the Appellants are totally non-polluting units having "Zero Trade discharge". They have been in operation for many years. In the reply affidavit filed by the State before the NGT, it was mentioned that the units were operating in good faith with valid CTOs granted by the HSPCB. It was stated that the units were not causing pollution hazards. The only thing against the units was the procedural lapse of not obtaining EC.

51. By a communication No. F. No. IA-J-110011/185/2020-IA-II(I) dated 20th July 2021 issued to the Appellant No. 1, the MoEF&CC rejected the proposal for terms of reference on the purported ground that the activity of the Appellant No. 1 was covered under category "A" of item 5(f) "Synthetic Organic Chemicals" of the Schedule to the EIA Notification, 2006. A similar communication was issued in respect of M/s. Apcolite Polymers Pvt. Ltd. Significantly, by an order dated 9th July 2021, the MoEF&CC had confirmed the minutes of an earlier meeting of the Expert Appraisal Committee and recommended issuance of ToR to the Appellant No. 1, as observed above. The proposal for Terms of Reference has obviously been rejected at the final stage after the public hearing, by reason of the impugned order dated 3rd June 2021 passed by the NGT on the application of Dastak, which is under appeal.

52. This appeal was listed for admission on 30th September 2021, along with an

application for interim relief being I.A. No. 110064 of 2021 praying for orders permitting the Appellants to operate their units during the pendency of the appeal. The appeal was heard at length at the admission stage and reserved for judgment along with the interim application by an order dated 30th September 2021.

53. After receiving the communication dated 20th July 2021 rejecting the proposal for Terms of Reference, the Appellants requested HSPCB to forward to the Appellants the proceedings of public hearing in respect of the manufacturing units of the Appellants. By a communication No. HSPCB/YR/2021/2830 dated 15th February 2022, HSPCB forwarded proceedings of the public hearing in respect of the Yamuna Nagar unit of the Appellant No. 1. By another Communication No. HSPCB/YR/29021/2829 dated 15th February 2022 the HSPCB forwarded to the Appellant No. 2 the proceedings of the public hearing held on 3rd February 2022 in connection with the Yamuna Nagar Unit of the Appellant No. 2.

54. The manufacturing units of the Appellants appoint about 8,000 employees and have a huge annual turnover. An establishment contributing to the economy of the country and providing livelihood ought not to be closed down only on the ground of the technical irregularity of not obtaining prior Environmental Clearance irrespective of whether or not the unit actually causes pollution.

55. In *Electrosteel Steels Limited v. Union of India*⁴, this Court held:—

"82. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down for the technical irregularity of shifting its site without prior environmental clearance, without opportunity to the establishment to regularize its operation by obtaining the requisite clearances and permissions, even though the establishment may not otherwise be violating pollution laws, or the pollution, if any, can conveniently and effectively be checked. The answer has to be in the negative.

83. The Central Government is well within the scope of its powers under Section 3 of the 1986 Act to issue directions to control and/or prevent pollution including directions for prior Environmental Clearance before a project is commenced. Such prior Environmental Clearance is necessarily granted upon examining the impact of the project on the environment. Ex-Post facto Environmental Clearance should not ordinarily be granted, and certainly not for the asking. At the same time ex post facto clearances and/or approvals and/or removal of technical irregularities in terms of Notifications under the 1986 Act cannot be declined with pedantic rigidity, oblivious of the consequences of stopping the operation of a running steel plant.

84. The 1986 Act does not prohibit ex post facto Environmental Clearance. Some relaxations and even grant of ex post facto EC in accordance with law, in strict compliance with Rules, Regulations Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with, or can be made to comply with environment norms, is in over view not impermissible. The Court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the project and others dependent on the project, if such projects comply with environmental norms.

88. The Notification being SO 804(E) dated 14th March, 2017 was not an issue in Alembic Pharmaceuticals (supra). This Court was examining the propriety and/or legality of a 2002 circular which was inconsistent with the EIA Notification dated 27th January, 1994, which was statutory. Ex post facto environmental clearance should not however be granted routinely, but in exceptional circumstances taking

into account all relevant environmental factors. Where the adverse consequences of ex post facto approval outweigh the consequences of regularization of operation of an industry by grant of ex post facto approval and the industry or establishment concerned otherwise conforms to the requisite pollution norms, ex post facto approval should be given in accordance with law, in strict conformity with the applicable Rules, Regulations and/or Notifications. **Ex post facto approval should not be withheld only as a penal measure.** The deviant industry may be penalised by an imposition of heavy penalty on the principle of 'polluter pays' and the cost of restoration of environment may be recovered from it.

96. The appeals are allowed. The impugned order is set aside. The **Respondent No. 1 shall take a decision on the application of the Appellant for revised EC in accordance with law, within three months from date. Pending such decision, the operation of the steel plant shall not be interfered with on the ground of want of EC, FC, CTE or CTO.**"

56. As held by this Court in *Electrosteel Steels Limited* (supra) ex post facto Environmental Clearance should not ordinarily be granted, and certainly not for the asking. At the same time ex post facto clearances and/or approvals and/or removal of technical irregularities in terms of a Notification under the EP Act cannot be declined with pedantic rigidity, oblivious of the consequences of stopping the operation of mines, running factories and plants.

57. The 1986 Act does not prohibit ex post facto Environmental Clearance. Grant of ex post facto EC in accordance with law, in strict compliance with Rules, Regulations, Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with, or can be made to comply with environment norms, is in our view not impermissible. The Court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the project and others dependent on the project, if such projects comply with environmental norms.

58. As held by a three Judge Bench of this Court in *Lafarge Umiam Mining Private Limited v. Union of India*²:—

"119. The time has come for us to apply the constitutional "doctrine of proportionality" to the matters concerning environment as a part of the process of judicial review in contradistinction to merit review. It cannot be gainsaid that utilization of the environment and its natural resources has to be in a way that is consistent with principles of sustainable development and intergenerational equity, but balancing of these equities may entail policy choices. In the circumstances, barring exceptions, decisions relating to utilisation of natural resources have to be tested on the anvil of the well-recognized principles of judicial review. Have all the relevant factors been taken into account? Have any extraneous factors influenced the decision? Is the decision strictly in accordance with the legislative policy underlying the law (if any) that governs the field? Is the decision consistent with the principles of sustainable development in the sense that has the decision-maker taken into account the said principle and, on the basis of relevant considerations, arrived at a balanced decision? Thus, the Court should review the decision-making process to ensure that the decision of MoEF is fair and fully informed, based on the correct principles, and free from any bias or restraint. Once this is ensured, then the doctrine of "margin of appreciation" in favour of the decision-maker would come into play."

59. In *Alembic Pharmaceuticals Ltd.* (supra), this Court observed:—

"27. The concept of an ex post facto EC is in derogation of the fundamental principles of environmental jurisprudence and is an anathema to the EIA notification

dated 27 January 1994. It is, as the judgment in *Common Cause* holds, detrimental to the environment and could lead to irreparable degradation. The reason why a retrospective EC or an ex post facto clearance is alien to environmental jurisprudence is that before the issuance of an EC, the statutory notification warrants a careful application of mind, besides a study into the likely consequences of a proposed activity on the environment. An EC can be issued only after various stages of the decision-making process have been completed. Requirements such as conducting a public hearing, screening, scoping and appraisal are components of the decision-making process which ensure that the likely impacts of the industrial activity or the expansion of an existing industrial activity are considered in the decision-making calculus. Allowing for an ex post facto clearance would essentially condone the operation of industrial activities without the grant of an EC. In the absence of an EC, there would be no conditions that would safeguard the environment. Moreover, if the EC was to be ultimately refused, irreparable harm would have been caused to the environment. In either view of the matter, environment law cannot countenance the notion of an ex post facto clearance. This would be contrary to both the precautionary principle as well as the need for sustainable development."

60. Even though this Court deprecated ex post facto clearances, in *Alembic Pharmaceuticals Ltd.* (supra), this Court did not direct closure of the units concerned but explored measures to control the damage caused by the industrial units. This Court held:—

"However, since the expansion has been undertaken and the industry has been functioning, we do not deem it appropriate to order closure of the entire plant as directed by the High Court."

61. The Notification being SO. 804(E) dated 14th March 2017 was not in issue in *Alembic Pharmaceuticals Ltd.* (supra). In *Alembic Pharmaceuticals Ltd.* (supra) this Court was examining the propriety and/or legality of a 2002 circular which was inconsistent with the EIA Notification dated 27th January 1994, which was statutory. The EIA Notification dated 27th January 1994 has, as stated above, been superseded by the Notification dated 14th September 2006.

62. There can be no doubt that the need to comply with the requirement to obtain EC is non-negotiable. A unit can be set up or allowed to expand subject to compliance of the requisite environmental norms. EC is granted on condition of the suitability of the site to set up the unit, from the environmental angle, and also existence of necessary infrastructural facilities and equipment for compliance of environmental norms. To protect future generations and to ensure sustainable development, it is imperative that pollution laws be strictly enforced. Under no circumstances can industries, which pollute, be allowed to operate unchecked and degrade the environment.

63. *Ex post facto* environmental clearance should not be granted routinely, but in exceptional circumstances taking into account all relevant environmental factors. Where the adverse consequences of denial of *ex post facto* approval outweigh the consequences of regularization of operations by grant of *ex post facto* approval, and the establishment concerned otherwise conforms to the requisite pollution norms, *ex post facto* approval should be given in accordance with law, in strict conformity with the applicable Rules, Regulations and/or Notifications. The deviant industry may be penalised by an imposition of heavy penalty on the principle of 'polluter pays' and the cost of restoration of environment may be recovered from it.

64. The question in this case is, whether a unit contributing to the economy of the country and providing livelihood to hundreds of people, which has been set up pursuant to requisite approvals from the concerned statutory authorities, and has

applied for *ex post facto* EC, should be closed down for the technical irregularity of want of prior environmental clearance, pending the issuance of EC, even though it may not cause pollution and/or may be found to comply with the required norms. The answer to the aforesaid question has to be in the negative, more so when the HSPCB was itself under the misconception that no environment clearance was required for the units in question. HSPCB has in its counter affidavit before the NGT clearly stated that a decision was taken to regularize units such as the Apcolite Yamuna Nagar and Pahwa Yamuna Nagar Units, since requisite approvals had been granted to those units, by the concerned authorities on the misconception that no EC was required.

65. It is reiterated that the 1986 Act does not prohibit *ex post facto* EC. Some relaxations and even grant of *ex post facto* EC in accordance with law, in strict compliance with Rules, Regulations, Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with environment norms, is not impermissible. As observed by this Court in *Electrosteel Steels Limited (supra)*, this Court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the units and dependent on the units in their survival.

66. *Ex post facto* EC should not ordinarily be granted, and certainly not for the asking. At the same time *ex post facto* clearances and/or approvals cannot be declined with pedantic rigidity, regardless of the consequences of stopping the operations. This Court is of the view that the NGT erred in law in directing that the units cannot be allowed to function till compliance of the statutory mandate.

67. Accordingly, the appeal is allowed. The impugned order is set aside in so far as the same is applicable to the units of the Appellants established and operated pursuant to CTE and CTO from the HSPCB in respect of which applications for *ex post facto* EC have been filed. The Respondent shall take a decision on the applications of the Appellants for EC in accordance with law within one month from date. Pending decision, the operation of the Pahwa Yamuna Nagar Unit and the Apcolite Yamuna Nagar Unit, in respect of which consents have been granted and even public hearing held in connection with grant of EC, shall not be interfered with.

68. The Appellants will be allowed to operate the units. Electricity, if disconnected, shall be restored subject to payment of charges, if any. If the application for EC is rejected on the ground of any contravention on the part of the Appellants, it will be open to the Respondents to disconnect the supply of electricity.

69. The Union of India had proceeded with the application for EC and even public hearing had been held. Counsel appearing on behalf of the Union of India contended that the Appellant had not submitted its final application for EC, after public hearing. It is not clear what more was required of the Appellants. Be that as it may, the Union of India shall, within three working days from the date of receipt of a copy of this judgment and order, inform the Appellants in writing of whether anything further is required to be done by the Appellants, and if so what is required to be done. The Appellants shall, within a week thereafter do the needful. The final decision on the application of the Appellants for EC shall be taken within three weeks thereafter.

70. The application being I.A. No. 110064/2021 and other pending applications, if any, in this appeal are disposed of accordingly.

¹ (2011) 3 SCC 193

² 2020 SCC OnLine SC 347

³ 2017 SCC OnLine Mad 7056

⁴ 2021 SCC OnLine SC 1247



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⁵ (2011) 7 SCC 338

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2022 SCC OnLine SC 1278

In the Supreme Court of India

(BEFORE INDIRA BANERJEE AND J.K. MAHESHWARI, JJ.)

D. Swamy ... Appellant;

Versus

Karnataka State Pollution Control Board and Others ...
Respondents.

Civil Appeal No. 3132 of 2018

Decided on September 22, 2022

The Judgment of the Court was delivered by

INDIRA BANERJEE, J.:— This appeal, under Section 22 of the National Green Tribunal Act 2010, is against a final order dated 10th May 2017 passed by the National Green Tribunal, Southern Zone, Chennai, dismissing the Application No. 169 of 2016 (SZ) filed by the Appellant under Section 18(1) read with Section 14 of the National Green Tribunal Act 2010, whereby the Appellant had prayed for a direction for closure of the Common Bio-Medical Waste Treatment Facility run by the Respondent No. 3, on the ground of alleged non-compliance of the provisions of the Environmental Impact Assessment Notification 2006, hereinafter referred to as "the 2006 EIA Notification" as amended on 17th April 2015.

2. In the meanwhile, by a notification being S.O. 327 (E) dated 10th April 2001, published in the Gazette of India on 12th April 2001, the Central Government has delegated the powers vested in it under the Environment (Protection) Act, 1986 (EP Act) to the Chairpersons of the respective State Pollution Control Boards/Committees to issue directions to any industry or any local or other authority to prevent violation of the Rules.

3. On or about 25th February 2012, the Respondent No. 3 applied to the Respondent No. 1, Karnataka State Pollution Control Board (hereinafter referred to as "KSPCB") for consent to establish a Common Bio-Medical Waste Treatment Facility over the land bearing Survey No. 82 and 38/2 at Gujjegowdanapura village, Jayapura Hobli, Mysore Taluk and District.

4. By a letter dated 24th November 2012, the Respondent No. 1 KSPCB accorded consent to the Respondent No. 3 to establish the Common Bio-Medical Waste Treatment Facility under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 for collection, reception, transportation, treatment and disposal of Bio-Medical Waste. The said consent was valid for a period of five years.

5. It appears that M/s Shree Consultant who had been operating a Common Bio-Medical Waste Treatment Facility at Survey No. 25 at Mysore and had been collecting Bio-Medical Waste from four districts could not collect Bio-Medical Waste from the district of Hassan because of the Common Bio-Medical Waste Treatment Facility established by the Respondent No. 3.

6. M/s Shree Consultant filed appeals bearing Nos. 48 and 49 of 2012 before the Karnataka State Environment Appellate Authority, Bangalore challenging the consent granted to the Respondent No. 3 to establish the Common Bio-Medical Waste Treatment Facility. The Karnataka State Environment Appellate Authority, Bangalore granted an interim stay of the order granting consent to the Respondent No. 3 to establish the Common Bio-Medical Waste Treatment Facility. Ultimately however, the appeal was dismissed by a common judgment and order dated 20th April 2013.

7. M/s Shree Consultant filed Appeal Nos. 46-47 of 2013 before the National Green Tribunal, Southern Zone, Chennai against the common judgment and order dated 20th April 2013 passed by the Karnataka State Environment Appellate Authority, Bangalore in Appeal Nos. 48-49 of 2012.

8. By a judgment and order dated 28th November 2013, the Principal Bench of the National Green Tribunal at New Delhi held that Bio-Medical Waste Treatment Plants were required to obtain an Environmental Clearance (EC) from the Ministry of Environment and Forests, Government of India, hereinafter referred to as "MoEF&CC", in terms of Entry 7(d) of the Notification dated 14th September 2006. The National Green Tribunal had also directed the parties who had been running Common Bio-Medical Waste Treatment Facilities to apply to the MoEF&CC for EC.

9. On 26th February 2014, the Central Pollution Control Board issued guidelines for Common Bio-Medical Waste Treatment Facilities. On 14th July 2014, the National Green Tribunal, Southern Zone, Chennai passed a judgment and order dismissing Appeal Nos. 46-47 of 2013 filed by M/s Shree Consultant and held that the Respondent No. 1 had rightly given consent to the Respondent No. 3 for establishing its Common Bio-Medical Waste Treatment Facility.

10. On 4th March 2015, the Respondent No. 3 applied for grant of consent to operate the Common Bio-Medical Waste Facility under the provisions of the relevant Water Pollution and Air Pollution Acts.

11. On 17th April 2015, MoEF&CC amended the Notification dated 14th September 2006, in view of the Judgment dated 28th November 2013 passed by the National Green Tribunal, Principal Bench, New Delhi in Appeal No. 63 of 2012. By the amendment Entry 7(da) was inserted after Entry 7(d) in the Schedule. Entry 7(da) provided that Common Bio-Medical Waste Treatment Facilities would be required to obtain EC from the Ministry of Environment and Forest.

12. It appears that on 13th July 2015, the villagers of the Gujgegowdanapura, Manadalli, Harohalli, Chunchunarayahundi, Kallahalli, Arinakere, Mahadevpura at Jayapura Hobli, Mysore made a representation to the Respondent No. 1 seeking an order banning the establishment of Common Bio-Medical Waste Treatment Facility by the Respondent No. 3.

13. Thereafter, the Respondent No. 1 issued notices to the Common Bio-Medical Waste Treatment Facility of the Respondent No. 3, calling upon it to submit a report of compliance of pollution norms.

14. On 1st December 2015, the State Level Environment Impact Assessment Authority, Karnataka (SEIAA) issued directions to the Respondent No. 1 under Section 5 of the Environment (Protection) Act, 1986 to issue consent for operation of the Common Bio-Medical Waste Treatment Facility and other projects attracting the 2006 EIA Notification and the amendments thereto.

15. By its letter dated 28th December 2015, the Respondent No. 1 instructed all the concerned officers of the KSPCB that application for consent to establish or operate projects attracting the 2006 EIA Notification and amendments thereto were to be received by the KSPCB only if EC was attached to the application.

16. On 19th January 2016, the Respondent No. 3 resubmitted its application for consent to operate the Common Bio-Medical Waste Treatment Facility, which had earlier been returned by the Respondent No. 1. On 11th February 2016, the Respondent No. 1 granted the Respondent No. 3 consent to operate its Common Bio-Medical Waste Treatment Facility at Gujgegowdanapura village, Jayapura Hobli in Mysore district. The said consent was valid for the period from 1st July 2015 to 30th June 2016.

17. The Appellant filed Appeal No. 3 of 2016 before the Karnataka State Environment Appellate Authority under Section 28 of the Water (Prevention and

Control of Pollution) Act, 1974 challenging the consent to the Respondent No. 3 to operate the Common Bio-Medical Waste Treatment Facility. Very soon thereafter the MoEF&CC revised the Bio-Medical Waste (Management and Handling) Rules 1998 under Section 6, 8 and 25 of the EP Act.

18. The Appeal No. 3 of 2016 filed by the Appellant before the Karnataka State Environment Appellate Authority, against the consent order dated 11th February 2016 passed by the Respondent No. 1 came to be withdrawn by the Appellant because the said appeal had become infructuous in view of the expiration of the period of consent to operate granted to the Respondent No. 3 on 30th June 2016.

19. By an order dated 17th August 2016, the National Green Tribunal, Southern Zone, Chennai directed that the application for renewal of consent to operate, pending before the Respondent No. 1 might be processed in accordance with law subject to the final order passed by the Tribunal.

20. Pursuant to the aforesaid order dated 17th August 2016, the Respondent No. 1 renewed the consent order to operate the Common Bio-Medical Waste Treatment Facility in favour of the Respondent No. 3 which was valid for the period from 17th August 2016 to 30th June 2021.

21. In exercise of power under Section 3(1) and Section 3(2)(v) of the EP Act read with Rule 5(3)(d) of the EP Rules, the Central Government issued a Notification being S.O. 804(E) dated 14th March 2017 which provides for grant of ex post facto EC for project proponents who had commenced, continued or completed a project without obtaining EC under the EP Act/EP Rules or the Environmental Impact Notification issued thereunder. Paragraphs 3, 4 and 5 of the said notification, read as hereunder:

"(3) In cases of violation, action will be taken against the project proponent by the respective State or State Pollution Control Board under the provisions of section 19 of the Environment (Protection) Act, 1986 and further, no consent to operate or occupancy certificate will be issued till the project is granted the environmental clearance.

(4) The cases of violation will be appraised by respective sector Expert Appraisal Committees constituted under subsection (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along with other actions under the law.

(5) In case, where the findings of the Expert Appraisal Committee on point at sub-para(4) above are affirmative, the projects under this category will be prescribed the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan. Further, the Expert Appraisal Committee will prescribe a specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants. The collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environmental laboratory duly notified under Environment (Protection) Act, 1986, or a environmental laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of a Council of Scientific and Industrial Research institution working in the field of environment."

22. The Notification of 2017 is a valid statutory notification issued by the Central Government in exercise of power under Sections 3(1) and 3(2)(v) of the EP Act read

with Rule 5(3)(d) of the EP Rules in the same manner as the EIA Notification dated 27th January 1994 and the Notification dated 14th September 2006.

23. Section 21 of the General Clauses Act, 1897 provides that where any Central Act or Regulations confer a power to issue notifications, orders, rules or bye-laws, that power includes the power, exercisable in the like manner, and subject to like sanction and conditions, if any, to add to, amend, vary or rescind any notification, order, rule or bye-law so issued. The authority, which had the power to issue Notifications dated 27th January 1994 and 14th September 2006 undoubtedly had, and still has the power to rescind or modify or amend those notifications in like manner. As held by this Court in *Shree Sidhali Steels Ltd. v. State of Uttar Pradesh*¹, power under Section 21 of the General Clauses Act to amend, vary or rescind notifications, orders, rules or bye-laws can be exercised from time to time having regard to the exigency.

24. Puducherry Environment Protection Association filed a Writ Petition being W.P. No. 11189 of 2017 in the High Court of Madras assailing the said notification dated 14th March 2017. By a judgment and order dated 13th October 2017, a Division Bench of the High Court refused to interfere with the said notification, holding that the impugned notification did not compromise with the need to preserve environmental purity.

25. The MoEF&CC issued a draft Notification dated 23rd March 2020 which was duly published in the Gazette of India Extraordinary Part II. The Notification was proposed to be issued in exercise of powers conferred by subsection (1) and clause (v) of subsection (2) of Section 3 of the EP Act for dealing with cases of violation of the notification with regard to EC. It was proposed that cases of violation would be appraised by the Appraisal Committee with a view to assess whether the project had been constructed or operated at a site which was permissible under prevailing laws and could be run sustainably on compliance of environmental norms with adequate environmental safeguards. Closure was to be recommended if the findings of the Appraisal Committee were in the negative. If the Appraisal Committee found that such unit had been running sustainably upon compliance of environmental norms with adequate environment safeguards, the unit would be prescribed appropriate Terms of Reference (TOR) after which the procedure for grant of EC would follow.

26. The appeal has been opposed by the KSPCB. On behalf of the KSPCB, it is submitted that the appeal is liable to be dismissed on the ground of delay of 62 days in filing the appeal. Reasons for the delay, it is submitted, does not make out sufficient cause for the inordinate delay. It is next contended that there is no substantial question of law of general importance involved in this appeal. The appeal is liable to be dismissed on that ground. It is also contended that the appeal suffers from suppression of facts. On behalf of KSPCB, it is contended that the 2015 amendment dated 17th April 2015 to the EIA Notification is prospective in the light of the law laid down in *Narmada Bachao Andolan v. Union of India*². The Respondent No. 3 had applied to the KSPCB for consent to operate before the EIA Notification dated 17th April 2015, for no prior ECI was required for projects which came to existence after 14th September 2006 but before 17th April 2015.

27. On 21st December 2016, the Central Pollution Control Board, MoEF&CC, Government of India issued revised guidelines for Common Bio-Medical Wastes Treatment and Disposal Facility.

28. By final judgment and order dated 10th May 2017, which is impugned in this appeal, the National Green Tribunal has dismissed the appeal filed by the Appellant, with the observation that the Respondent No. 3 could not be directed to be closed down for want of EC.

29. By an Office Memorandum, being F. No. 22-21/2020-1A III, dated 7th July 2021, the MoEF&CC issued Standard Operating Procedure (SoP) for identification and

handling of violation cases under 2006 EIA Notification.

30. The said Office Memorandum, inter alia, reads:

"The Ministry had issued a notification number S.O.804(E), dated the 14th March, 2017 detailing the process for grant of Terms of Reference and Environmental Clearance in respect of projects or activities which have started the work on site and/or expanded the production beyond the limit of Prior EC or changed the product mix without obtaining Prior EC under the EIA Notification, 2006.

2. This Notification was applicable for six months from the date of publication i.e. 14.03.2017 to 13.09.2017 and further based on court direction from 14.03.2018 to 13.04.2018.

3. Hon'ble NGT in Original Application No. 287 of 2020 in the matter of Dastak N.G.O. v. Synochem Organics Pvt. Ltd. and in applications pertaining to same subject matter in Original Application No. 298 of 2020 in Vineet Nagar v. Central Ground Water Authority, vide order dated 03.06.2021 held that "(...) for past violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process".

4. Further, the Hon'ble National Green Tribunal in O.A. No. 34/2020 WZ in the matter of Tanaji B. Gambhire v. Chief Secretary, Government of Maharashtra, vide order dated 24.05.2021 has directed that "... a proper SoP be laid down for grant of EC in such cases so as to address the gaps in binding law and practice being currently followed. The MoEF may also consider circulating such SoP to all SEIAAs in the country".

5. Therefore, in compliance to the directions of the Hon'ble NGT a Standard Operating Procedure (SoP) for dealing with violation cases is required to be drawn. The Ministry is also seized of different categories of 'violation' cases which have been pending for want of an approved structural/procedural framework based on 'Polluter Pays Principle' and 'Principle of Proportionality'. It is undoubtedly important that action under statutory provisions is taken against the defaulters/violators and a decision on the closure of the project or activity or otherwise is taken expeditiously.

6. In the light of the above directions of the Hon'ble Tribunal and the issues involved, the matter has accordingly been examined in detail in the Ministry. A detailed SoP has accordingly been framed and is outlined herein. The SoP is also guided by the observations/decisions of the Hon'ble Courts wherein principles of proportionality and polluters pay have been outlined."

31. The SoP formulated by the said Office Memorandum dated 7th July 2021 refers to and gives effect to various judicial pronouncements including the judgment of this Court in *Alembic Pharmaceuticals Ltd. v. Rohit Prajapati*³.

32. In terms of the SoP, the proposal for grant of EC in cases of violation are to be considered on merits, with prospective effect, applying principles of proportionality and the principle that the polluter pays and is liable for costs of remedial measures.

33. A Public Interest Litigation being W.P. (MD) No. 11757 of 2021 (*Fatima v. Union of India*) was filed before the Madurai Bench of the Madras High Court challenging the said Memorandum dated 7th July 2021. By an interim order dated 15th July 2021 a Division Bench of the Madras High Court admitted the Writ Petition and stayed the said memorandum.

34. The Madurai Bench of the Madras High Court observed and held:—

"This writ petition has been filed as a public interest litigation challenging the validity of the office memorandum dated 07.07.2021, issued by the respondent.

2. We have heard Mr. A. Yogeshwaran, learned counsel appearing for the writ petitioner and Mr. L. Victoria Gowri, learned Assistant Solicitor General of India, accepts notice for the respondent.

3. The impugned office memorandum is challenged as being wholly without jurisdiction, contrary to the Environment Impact Assessment Notification, 2006, ultra vires the powers of the respondent under the Environment (Protection) Act, 1986 and violative of the various principles enunciated by the Hon'ble Supreme Court, while interpreting Article 21 and Article 48-A of the Constitution of India.

4. Further, it is submitted that the impugned notification is in gross violation of the undertaking given before the Hon'ble Full Bench of this Court in W.P. No. 11189 of 2017, wherein, the Court took note of the submissions made on behalf of the Government of India, that the notification impugned therein is only a one-time measure. Further, it is submitted that the respondent failed to see that concept of ex-post facto approval is alien to environment jurisprudence and it is anathema to the Environment Impact Assessment Notification, 2006.

5. Further, it is submitted that the impugned notification is in gross violation of the judgment of the Hon'ble Supreme Court in the case of Alembic Pharmaceuticals Ltd. v. Rohit Prajapati, 2020 SCC OnLine SC 347 and the orders passed by the National Green Tribunal, Principal Bench, New Delhi, in the case of S.P. Muthuraman v. Union of India, 2015 SCC OnLine NGT 169.

6. Identical grounds were considered by us in a challenge to an office memorandum dated 19.02.2021, which provided a procedure for granting post facto clearance under Coastal Regulation Zone (CRZ) Notification 2011, on the ground that despite no such provisions in the notification and being contrary to the earlier judgments and undertaking. The said writ petition in W.P(MD). No. 8866 of 2021 was admitted and by order dated 30.04.2021, the said office memorandum dated 19.02.2021 has been stayed.

7. The core issue in this writ petition is whether the Government of India could have issued the office memorandum and brought about the Standard Operating Procedure for dealing with violators, who failed to comply with the mandatory condition of obtaining prior environment clearance under the Environment Impact Assessment Notification 2006, read with the provisions of Environment (Protection) Act, 1986. This issue was considered by the Hon'ble Supreme Court in Alembic Pharmaceuticals Ltd. (supra), and it was held that such office memorandum in the nature of circular is without jurisdiction. The operative portion of the judgment reads as follows:

"...What is sought to be achieved by the administrative circular dated 14 May 2002 is contrary to the statutory notification dated 27 January 1994. The circular dated 14 May 2002 does not stipulate how the detrimental effects on the environment would be taken care of if the project proponent is granted an ex post facto EC. The EIA notification of 1994 mandates a prior environmental clearance. The circular substantially amends or alters the application of the EIA notification of 1994. The mandate of not commencing a new project or expanding or modernising an existing one unless an environmental clearance has been obtained stands diluted and is rendered ineffective by the issuance of the administrative circular dated 14 May 2002. This discussion leads us to the conclusion that the administrative circular is not a measure protected by Section 3. Hence there was no jurisdictional bar on the NGT to enquire into its legitimacy or vires. Moreover, the administrative circular is contrary to the EIA Notification 1994 which has a statutory character. The circular is unsustainable in law."

8. Despite the above decision, once again the Government of India, Ministry of Environment, Forest and Climate Change have chosen to adopt the route of issuing the office memorandum and virtually setting at naught the provisions of the Environment Impact Assessment Notification and the Environment (Protection) Act.

9. Before the Hon'ble First Bench, a public interest litigation was filed by the

Puducherry Environment Protection Association, challenging the notification dated 14.03.2017, on identical grounds and the Hon'ble First Bench by judgment dated 13.10.2017, recorded the submissions of the learned Assistant Solicitor General of India that the said notification was a one-time measure and accordingly, disposed of the writ-petition.

10. *Once again, the Ministry of Environment, Forest and Climate Change have issued the impugned office memorandum. Thus, from what we have noted above, we are of the clear view that the petitioner has made out a prima facie case for entertaining the writ petition. Accordingly, the writ petition is **admitted** and there shall be an order of interim stay."*

35. It is true that in the case of *Puducherry Environment Protection Association v. Union of India*⁴, the Division Bench of Madras High Court took note of and recorded the submission made on behalf of the Union of India that the relaxation was a one time relaxation. In view of such submission, this Court held that a one time relaxation was permissible.

36. It is, however, well settled that words and phrases and/or sentences in a judgment cannot be read in the manner of a statute, and that too out of context. The observation of the Division Bench that a one time relaxation was permissible, is not to be construed as a finding that relaxation cannot be made more than once. If power to amend or modify or relax a notification and/or order exists, the notification and/or order may be amended and/or modified as many times, as may be necessary. A statement made by counsel in Court would not prevent the authority concerned from making amendments and/or modifications provided such amendments and/or modifications were as per the procedure prescribed by law.

37. The Division Bench of Madras High Court fell in error in staying the said office memorandum, by relying on observations made by this Court in *Alembic Pharmaceuticals Ltd.* (supra), in the context of a circular which was contrary to the statutory Environment Impact Notification of 1994. The attention of the High Court was perhaps not drawn to the fact that the notification of 7th July 2021 was in pursuance of the statutory notification of 2017 which was valid. The judgment of this Court in *Alembic Pharmaceuticals Ltd.* (supra), was clearly distinguishable and could have no application to the office memorandum dated 7th July 2021 which was issued pursuant to the notification dated 14th March 2017.

38. In *Electrosteel Steels Limited v. Union of India*⁵, this Court held:—

"82. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down for the technical irregularity of shifting its site without prior environmental clearance, without opportunity to the establishment to regularize its operation by obtaining the requisite clearances and permissions, even though the establishment may not otherwise be violating pollution laws, or the pollution, if any, can conveniently and effectively be checked. The answer has to be in the negative.

83. *The Central Government is well within the scope of its powers under Section 3 of the 1986 Act to issue directions to control and/or prevent pollution including directions for prior Environmental Clearance before a project is commenced. Such prior Environmental Clearance is necessarily granted upon examining the impact of the project on the environment. ExPost facto Environmental Clearance should not ordinarily be granted, and certainly not for the asking. At the same time ex post facto clearances and/or approvals and/or removal of technical irregularities in terms of Notifications under the 1986 Act cannot be declined with pedantic rigidity, oblivious of the consequences of stopping the operation*

of a running steel plant.

84. **The 1986 Act does not prohibit ex post facto Environmental Clearance.** Some relaxations and even grant of ex post facto EC in accordance with law, in strict compliance with Rules, Regulations Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with, or can be made to comply with environment norms, is in over view not impermissible. The Court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the project and others dependent on the project, if such projects comply with environmental norms.

88. The Notification being SO 804(E) dated 14th March, 2017 was not an issue in Alembic Pharmaceuticals (supra). This Court was examining the propriety and/or legality of a 2002 circular which was inconsistent with the EIA Notification dated 27th January, 1994, which was statutory. Ex post facto environmental clearance should not however be granted routinely, but in exceptional circumstances taking into account all relevant environmental factors. Where the adverse consequences of ex post facto approval outweigh the consequences of regularization of operation of an industry by grant of ex post facto approval and the industry or establishment concerned otherwise conforms to the requisite pollution norms, ex post facto approval should be given in accordance with law, in strict conformity with the applicable Rules, Regulations and/or Notifications. **Ex post facto approval should not be withheld only as a penal measure.** The deviant industry may be penalised by an imposition of heavy penalty on the principle of 'polluter pays' and the cost of restoration of environment may be recovered from it.

96. The appeals are allowed. The impugned order is set aside. **The Respondent No. 1 shall take a decision on the application of the Appellant for revised EC in accordance with law, within three months from date. Pending such decision, the operation of the steel plant shall not be interfered with on the ground of want of EC, FC, CTE or CTO.**

39. The proposition of law enunciated/re-enunciated by this Court in *Electrosteel Steels Limited* (supra) was reiterated in *Pahwa Plastics Pvt. Ltd. v. Dastak NGO*⁶

40. As held by this Court in *Electrosteel Steels Limited* (supra) ex post facto EC should not ordinarily be granted, and certainly not for the asking. At the same time ex post facto clearances and/or approvals and/or removal of technical irregularities in terms of a Notification under the EP Act cannot be declined with pedantic rigidity, oblivious of the consequences of stopping the operation of mines, running factories and plants.

41. The EP Act does not prohibit ex post facto Environmental Clearance. Grant of ex post facto EC in accordance with law, in strict compliance with Rules, Regulations, Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with, or can be made to comply with environment norms, is in our view not impermissible. The Court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the project and others dependent on the project, if such projects comply with environmental norms.

42. In *Lafarge Umiam Mining Private Limited v. Union of India*², a three-Judge Bench of this Court held:—

"119. The time has come for us to apply the constitutional "doctrine of proportionality" to the matters concerning environment as a part of the process of judicial review in contradistinction to merit review. It cannot be gainsaid that utilization of the environment and its natural resources has to be in a way that is

consistent with principles of sustainable development and intergenerational equity, but balancing of these equities may entail policy choices. In the circumstances, barring exceptions, decisions relating to utilisation of natural resources have to be tested on the anvil of the well-recognized principles of judicial review. Have all the relevant factors been taken into account? Have any extraneous factors influenced the decision? Is the decision strictly in accordance with the legislative policy underlying the law (if any) that governs the field? Is the decision consistent with the principles of sustainable development in the sense that has the decisionmaker taken into account the said principle and, on the basis of relevant considerations, arrived at a balanced decision? Thus, the Court should review the decision-making process to ensure that the decision of MoEF is fair and fully informed, based on the correct principles, and free from any bias or restraint. Once this is ensured, then the doctrine of "margin of appreciation" in favour of the decision-maker would come into play."

43. In *Alembic Pharmaceuticals Ltd.* (supra), this Court observed:—

"27. The concept of an ex post facto EC is in derogation of the fundamental principles of environmental jurisprudence and is an anathema to the EIA notification dated 27 January 1994. It is, as the judgment in *Common Cause* holds, detrimental to the environment and could lead to irreparable degradation. The reason why a retrospective EC or an ex post facto clearance is alien to environmental jurisprudence is that before the issuance of an EC, the statutory notification warrants a careful application of mind, besides a study into the likely consequences of a proposed activity on the environment. An EC can be issued only after various stages of the decision making process have been completed. Requirements such as conducting a public hearing, screening, scoping and appraisal are components of the decision-making process which ensure that the likely impacts of the industrial activity or the expansion of an existing industrial activity are considered in the decision-making calculus. Allowing for an ex post facto clearance would essentially condone the operation of industrial activities without the grant of an EC. In the absence of an EC, there would be no conditions that would safeguard the environment. Moreover, if the EC was to be ultimately refused, irreparable harm would have been caused to the environment. In either view of the matter, environment law cannot countenance the notion of an ex post facto clearance. This would be contrary to both the precautionary principle as well as the need for sustainable development."

44. Even though this Court deprecated ex post facto clearances, in *Alembic Pharmaceuticals Ltd.* (supra), this Court did not direct closure of the units concerned but explored measures to control the damage caused by the industrial units. This Court held:—

"However, since the expansion has been undertaken and the industry has been functioning, we do not deem it appropriate to order closure of the entire plant as directed by the High Court."

45. The Notification being SO. 804(E) dated 14th March 2017 was not in issue in *Alembic Pharmaceuticals Ltd.* (supra). In *Alembic Pharmaceuticals Ltd.* (supra) this Court was examining the propriety and/or legality of a 2002 circular which was inconsistent with the EIA Notification dated 27th January 1994, which was statutory. The EIA Notification dated 27th January 1994 has, as stated above, been superseded by the Notification dated 14th September 2006.

46. There can be no doubt that the need to comply with the requirement to obtain EC is non-negotiable. A unit can be set up or allowed to expand subject to compliance of the requisite environmental norms. EC is granted on condition of the suitability of the site to set up the unit, from the environmental angle, and also existence of

necessary infrastructural facilities and equipment for compliance of environmental norms. To protect future generations and to ensure sustainable development, it is imperative that pollution laws be strictly enforced. Under no circumstances can industries, which pollute, be allowed to operate unchecked and degrade the environment.

47. *Ex post facto* environmental clearance should ordinarily not be granted routinely, but in exceptional circumstances taking into account all relevant environmental factors. Where the adverse consequences of denial of *ex post facto* approval outweigh the consequences of regularization of operations by grant of *ex post facto* approval, and the establishment concerned otherwise conforms to the requisite pollution norms, *ex post facto* approval should be given in accordance with law, in strict conformity with the applicable Rules, Regulations and/or Notifications. In a given case, the deviant industry may be penalised by an imposition of heavy penalty on the principle of 'polluter pays' and the cost of restoration of environment may be recovered from it.

48. It is reiterated that the EP Act does not prohibit *ex post facto* EC. Some relaxations and even grant of *ex post facto* EC in accordance with law, in strict compliance with Rules, Regulations, Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with environment norms, is not impermissible. As observed by this Court in *Electrosteel Steels Limited* (supra), this Court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the units and dependent on the units for their survival.

49. *Ex post facto* EC should not ordinarily be granted, and certainly not for the asking. At the same time *ex post facto* clearances and/or approvals cannot be declined with pedantic rigidity, regardless of the consequences of stopping the operations.

50. In our considered view, the NGT rightly found that when the Bio-Medical Waste Treatment facility of the Appellant was being operated with the requisite consent to operate, it could not be closed on the ground of want of prior Environmental Clearance. The issues raised/involved in this appeal are squarely covered by the judgment of this Court in *Electrosteel Steels Limited* (supra) and *Pahwa Plastics Pvt. Ltd.* (supra). This Court cannot lose sight of the fact that the operation of a Bio-Medical Waste Treatment Facility is in the interest of prevention of environmental pollution. The closure of the facility only on the ground of want of prior Environmental Clearance would be against public interest. There are no grounds to interfere with the judgment and order of the NGT in appeal as rightly argued by KSPCB and the Respondent No. 3. The appeal is barred by delay. In any case, the appeal does not raise any substantial question of law. The appeal is therefore dismissed.

¹ (2011) 3 SCC 193

² (2000) 10 SCC 664

³ 2020 SCC OnLine SC 347

⁴ 2017 SCC OnLine Mad 7056

⁵ 2021 SCC OnLine SC 1247

⁶ 2022 SCC OnLine SC 362

⁷ (2011) 7 SCC 338