

**BEFORE THE HONOURABLE NATIONAL GREEN
TRIBUNAL, SOUTHERN ZONE AT CHENNAI**

APPEAL NO.30/2024

BETWEEN

M/s. Srimex Mines &
Minerals, Rep. by its
Proprietor,

...Appellant

AND

The Ministry of Environment, Forest and Climate
Change, & 2 others

...Respondents

**REPLY FILED BY THE STATE ENVIRONMENT
IMPACT ASSESSMENT AUTHORITY (SEIAA) (R2)**

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Chennai,
11.07.2024



Counsel for the 2nd Respondent

**BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE AT CHENNAI**

APPEAL NO.30/2024

BETWEEN

M/s. Srimex Mines & Minerals,
Rep. by its Proprietor,
Sri. B. Janga Reddy,
H.No. 9-7-199, Street No. 2,
Maruthi Nagar,
Opp. Santosh Nagar Colony,
Champapet, Hyderabad – 500 059

...Appellant

AND

1. The Ministry of Environment, Forest and Climate Change,
Rep. by its Secretary,
Indira Paryavaran Bhavan,
Jorbagh Road,
New Delhi – 110 003
2. State Environment Impact Assessment Authority (SEIAA),
Rep. by its Member Secretary,
305, Maithrivihar,
Ameerpet, Hyderabad
3. The District Forest Officer,
Office of the District Forest Officer,
Rangareddy,
Telangana

...Respondents




**MEMBER SECRETARY
SEIAA, TELANGANA
Block No.305, Maitri Vihar,**

REPLY FILED BY THE 2ND RESPONDENT

1. The 2nd Respondent hereby denies all the averments, allegations and statements contained in the above Appeal No. 30/2024 except those that are admitted herein.
2. It is submitted that the above appeal has been preferred as against the rejection order dated 19.07.2023 of this Respondent thereby refusing to grant Environmental Clearance to the Appellant for mining of Quartz and Feldspar in an extent of about 12.95 hectares in Sy. No. 22 of Cheepunuthala Village, Talakondapalli Mandal, Rangareddy District, Telangana.
3. It is respectfully submitted that the project proponent namely the Appellant herein obtained the Terms of Reference (Violations) from this Respondent on 30.05.2022 for preparation of the EIA report. The process of public hearing was undergone on 29.07.2022 and the final EIA report along with the minutes of the public hearing were taken into consideration by this Respondent.
4. It is also submitted that the Telangana State Pollution Control Board had initiated credible action against the Appellant as per the procedure laid down for violation cases by filing a complaint before the Hon'ble I Class Judicial Magistrate Court, Kalwakurthy under Section 19 of the Environmental (Protection) Act, 1986.
5. It is respectfully submitted that the proposal was taken into consideration in the meeting held on 12.06.2023 by the State Level Expert Appraisal Committee and it was observed as follows: -




**MEMBER SECRETARY
SEIAA, TELANGANA
Block No.305, Maltri Vihar,
Hyderabad-500 083**

“The nearest village is Silapuram (V) which is existing at a distance of 1.0 km and Water pond (NE) of Cheepununtala (V) exists at a distance of 1.0 km; Padkal RF exists at a distance of 15 mts from the mine lease area.

The proponent submitted a copy of lr. dt.18.05.2023 issued by the District Forest Officer, Rangareddy wherein it was mentioned that Padkal Reserve Forest block was notified under Section 18 of Hyderabad Forest Act and published under notification No. (21), dt.29th Farvadi, 1345 Fasli comprising forest in Sy.No.277 & 274 of Padkhal village, Sy.No.22 is excluded as per Gazette notification in this Reserve forest, there is no objection and the copy of the same is enclosed.”

6. It is respectfully submitted that the State Level Expert Appraisal Committee recommended for the issuance of the Environmental Clearance subject to approval by this Respondent and subject to submission of Bank Guarantee for an amount of Rs. 6,47,000/- and penalty of Rs. 1,65,539/- as per the procedure laid down for violation cases.

7. It is respectfully submitted that the above proposal along with the recommendation of the SEAC was placed in the SEIAA(2nd Respondant) meeting dated:15.07.2023, during which it was noted that “as per the KML Map in Parivesh Portal, it was noticed that the entire mining lease area is falling within the Padkal reserve forest but the project proponent stated that the boundary of the lease area is at the distance of 15 meters from the reserve forest [KML is the Keyhole Markup Language, a file format that displays



A handwritten signature in blue ink, appearing to read "Rajesh".

MEMBER SECRETARY
SEIAA, TELANGANA
Block No.305, Maitri Vihar,

geographic data in earth browsers like google earth, google maps, etc.]

8. It is respectfully submitted that as per siting guidelines of this Respondent, the minimum distance to be maintained is 50 mtrs. from the boundary of mining lease area to the boundary of reserve forest. Since the project was not fulfilling the guidelines as mentioned above, hence the proposal was rejected.
9. It is respectfully submitted that the averments regarding alleged investment / expenses incurred by the Appellant cannot be the criteria for the consideration of the grant of Environmental Clearance and it is only based on the environmental norms that such application needs to be decided. Therefore, the averments regarding investment have no relevance.
10. It is respectfully submitted that it is the own admission of the project proponent that the boundary of the mining lease area is at a distance of 15 mtrs. from the reserve forest and therefore the grounds raised by the Appellant are not available to the Appellant to be canvassed since the distance is a prohibited distance. In the EIA report submitted by the Appellant it is stated that Padkal Reserve Forest is adjacent to the Mining Lease area and in the Presentation given on 12/06/2023 before the SEAC it is stated that "Padkal Reserve Forest 15 m Forest NOC obtained (Rc No.704/2021/S6 dt. 18.05.2023)




**MEMBER SECRETARY
SEIAA, TELANGANA
Block No.305, Maitri Vihar,
Ameerpet, Hyderabad-500 083**

11. It is respectfully submitted that the acceptance of the recommendation made by SEAC or sending back the proposal to SEAC for reconsideration are all matters within the discretion of this Respondent. On the face of it, it could be seen that siting criteria is not met & there was no point in sending the proposal for reconsideration to SEAC, as the recommendation had been made without taking note of the siting criteria and the mining area is situated within the Padkal Reserve Forest & Project Proponent also stated that the mining area is at a distance of 15 m which is a prohibited distance from the Reserve Forest and therefore this Respondent had deemed it fit to reject the proposal for Environmental Clearance which is in compliance with the norms and standards and no fault can be found with this Respondent for such rejection.

12. It is therefore respectfully submitted that in view of the above circumstances, the appeal of the appellant is without any basis or merits and therefore liable to be dismissed.

13. It is respectfully submitted that pursuant to orders passed on 02.02.2024 by the Hon'ble Supreme Court of India in W.P. (C) No.1394 of 2023 granting stay of the operations of the OM dated 07.07.2021 and 28.01.2022 of MOEF&CC, there is no scope as of now for considering the violation cases.

It is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss the above Appeal No. 30/2024 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.



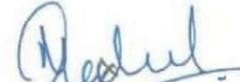
A handwritten signature in blue ink, appearing to read "Rashid", written over a horizontal line.

**MEMBER SECRETARY
SEIAA, TELANGANA
Block No.305, Maitri Vihar.**

Dated at Hyderabad on this the 11th day of July, 2024



Counsel for 2nd Respondent



2nd Respondent

VERIFICATION

**MEMBER SECRETARY
SEIAA, TELANGANA
Block No.305, Maitri Vihar,
Ameerpet, Hyderabad-500 083**

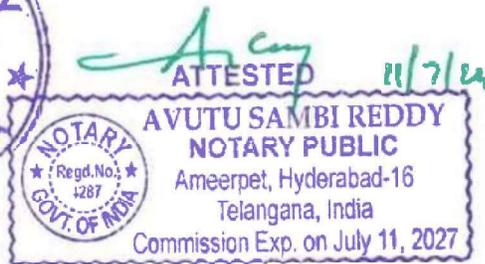
We, the State Level Environment Impact Assessment Authority, Telangana, represented by its Member Secretary, the 2nd respondent in the above Appeal No:30 of 2024 do hereby verify that what are all stated above are true and correct to the best of my knowledge, belief and information.

Verified at Hyderabad on this the 11th day of July, 2024



2nd Respondent

**MEMBER SECRETARY
SEIAA, TELANGANA
Block No.305, Maitri Vihar,
Ameerpet, Hyderabad-500 083**



F. No. 22-21/2020-IA.III
Government of India
Ministry of Environment, Forest and Climate Change
Impact Assessment Division

Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj
New Delhi - 110003
sujit.baju@gov.in

Date: 7th July, 2021

Office Memorandum

Subject: Standard Operating Procedure (SoP) for Identification and handling of violation cases under EIA Notification 2006 in compliance to order of Hon'ble National Green Tribunal in O.A. No.34/2020 WZ - Regarding.

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. Vs Synochem Organics Pvt. Ltd. &Ors. and in applications pertaining to same subject matter in Original Application No. 298 of 2020 in Vineet Nagar Vs. Central Ground Water Authority &Ors., 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 vs. Chief Secretary, Government of Maharashtra and ors., 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.

7. Relevant Court Cases on the issue: It is noted that while deciding issues related to violations of the Environment Protection Act, 1986 on account of running the project/activity without prior environmental clearance or in excess of capacity allowed in such clearances, **the Hon'ble courts have, inter-alia, deliberated on various facets involving 'violation' cases and have enunciated principles of 'Proportionality' and 'Polluter Pays' in various decisions viz. Industrial Council for Enviro-Legal Action Vs Union of India (the Bichhri village industrial pollution case) (1996 SCC [3] 212); Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. (C.A. No. 1526 of 2016, order dated 1.4.2020) and Hindustan Copper Limited Vs Union of India in (W.P. (C) No. 2364 of 2014, order dated 28.11.2014).** The salient extracts of the judgements are as under:

Issue 1: Proposal for grant of Environmental Clearance in violation cases - to be considered on merits:

i. Hon'ble High Court of Jharkhand in the matter of Hindustan Copper Limited Vs Union of India in W.P. (C) No. 2364 of 2014, vide order dated 28.11.2014

Held: "(...) action for alleged violation would be an independent and separate proceeding and therefore, consideration of proposal for environment clearance cannot await initiation of action against the project proponent."

"(...) the proposal of the petitioner company for environmental clearance must be examined on its merits, independent of any proposed action for the alleged violation of the environmental laws."

ii. Hon'ble Madras High Court in the matter of Puducherry Environment Protection Association Vs The Union of India in W.P. No. 11189 of 2017, vide order dated 13.10.2017

Held "27. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down only because of failure to obtain prior environmental clearance, even though the establishment may not otherwise be violating

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pollution laws or the pollution, if any, can conveniently and effectively be checked. **The answer necessarily has to be in the negative.**

"29. It is reiterated that protection of environment and prevention of environmental pollution and degradation are non-negotiable. At the same time, the Court cannot altogether ignore the economy of the Nation and the need to protect the livelihood of hundreds of employees employed in projects, which as stated above, otherwise comply with or can be made to comply with norms."

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Issue 2: Environmental Clearance - Prospective & not ex-post facto:

Hon'ble Supreme Court in the matter of Common Cause Vs Union of India in W.P. (C) No. 114 of 2014, vide order dated 2.8.2017

Held: "(...) an EC will come into force **not earlier than the date of its grant.**"

Issue 3: 'Principles of Proportionality' - to be applied:

Hon'ble Supreme Court in the matter of Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. in C.A. No. 1526 of 2016, vide order dated 1.4.2020

Held: "(...) **this Court must take a balanced approach** which holds the industries to account for having operated without environmental clearances in the past without ordering a closure of operations. The directions of the NGT for the revocation of the ECs and for closure of the units do not accord **with the principle of proportionality**"

Issue 4: 'Polluter pays' principle &

&

Issue 5: Costs for remedial measures implicit in Sections 3 & 5 of Environment (Protection) Act, 1986.

Hon'ble Supreme Court in the matter of Indian Council for Enviro- Legal Action Vs Union of India (the Bichhri village industrial pollution case) in (1996 SCC [3] 212)

Held:

a) The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. The said powers will **include giving directions ...** and also the power to **impose the cost of remedial measures** on the offending industry and utilize the amount so recovered for carrying out remedial measures.....

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b) **Levy of costs required for carrying out remedial measures is implicit in Sections 3 and 5** which are couched in very wide and expansive language. Sections 3 and 5 of the Environment (Protection) Act, 1986, apart from other provisions of Water and Air Acts, empower the Government to make all such directions and take all such measures as are necessary or expedient for protecting and promoting the 'environment', which expression has been defined in very wide and expansive terms in Section 2 (a) of the Environment (Protection) Act. This power includes the power to prohibit an activity, close an industry, direct to carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry.

c) The question of liability of the respondents to defray the costs of remedial measures can also be looked into from accepted universally sound principle, viz., the **"Polluter Pays" Principle**. "The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution".

8. Legal provisions:

i. The Environment (Protection) Act, 1986 mandates the Central Government to take all measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution (reference sub-section (1) of Section 3 of Environment (Protection) Act, 1986). Further, clause (xiv) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 specifies that the measures stipulated under sub-section (1) of Section 3 of the Environment (Protection) Act 1986 includes 'such other matters as the Central Government deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act'.

ii. Further, notwithstanding anything contained in any other law but subject to the provisions of the Environment Protection Act, 1986, Section 5 of the Environment (Protection) Act, 1986, provides that the Central Government may, in the exercise of powers and performance of Central Government functions under the said 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.

9. Definition of Violation and Non-compliance:

The Standard Operating Procedure (SoP) considers 'Violation' & 'Non-compliance' from the following perspective:

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i. "Violation" means cases where projects have either started the construction work or installation or excavation, whichever is earlier, on site or have expanded the production capacity and / or project area beyond the limit specified in the Environmental Clearance (Prior-EC) without obtaining Prior-EC or change of scope without prior approval from the Ministry.

ii. "Non-compliance" means non-compliance of terms and conditions prescribed by the Regulatory Authority in the Prior Environment Clearance accorded to the project.

10. Standard Operating Procedure - Guiding Principles:

i. Without prejudice to any other consequences, **action has to be initiated under section 15 read with section 19** of The Environment (Protection) Act, 1986 against **all violations.**

ii. Projects not allowable/permissible, for grant of EC, as per extant regulations: **To be demolished.**

iii. Projects allowable/permissible, if prior EC had been taken as per extant regulations: **To be closed until EC is granted (if no prior EC has been taken) or to revert to permitted production level (in case prior EC has been granted).**

iv. **Polluter pays:** Violators to pay for violation period - proportionate to the scale of project and extent of commercial transaction.

v. Setting up a mechanism for reporting of violation to the regulatory authority(ies).

11. SOP for dealing with the violation cases:

Step 1: Closure or Revision

Sl no.	Status of EC	Actions
1.	If no prior EC has been taken	Order to close its operation
2.	If prior EC is available for existing/old unit	Order to revert the activity/production to permissible limits.
3.	If prior EC was not required for earlier production level but is now required	Restrict the activity/production to the extent to which prior EC was not required.

Step 2: Action under Environment (Projection) Act, 1986

Action under section 15 read with section 19 of the Environment (Protection) Act, 1986 shall be initiated against the violators.

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Step: 3: Appraisal under EIA Notification, 2006

The permissibility of the project shall be examined from the perspective of whether such activity/project was at all eligible for the grant of prior EC.

A. If not permissible:

i. The project shall be **ordered for the demolition/closure after issuing show cause notice and providing an opportunity of hearing.**

*Ex. If a red industry is functioning in a CRZ-I area which means that the activity was, in the first place, not permitted at the time of commencement of project. Therefore, the activity is not permissible and therefore it shall be **closed & demolished.***

ii. Respective regulatory authorities shall issue directions under section 5 of the Environment (Protection) Act, 1986 for such closure & demolition of the project/activity.

B. If permissible:

i. As per extant regulations at the time of scoping, if it is viewed that the project activity is otherwise permissible, Terms of Reference (TOR) shall be issued with directions to complete the impact assessment studies & submit Environmental Impact Assessment (EIA) report & Environmental Management Plan (EMP) in a time bound manner.

ii. Such cases of violation shall be subject to appropriate

(a) Damage Assessment

(b) Remedial Plan and

(c) Community Augmentation Plan by the Central level Sectoral Expert Appraisal Committees or State/Union Territory Level Expert Appraisal Committees, as the case may be.

iii. The Competent Authority shall issue directions to the project proponent, under section 5 of the Environment (Protection) Act, 1986 on case to case basis mandating payment of such amount (as may be determined based on Polluters Pay principle) and undertaking activities relating to Remedial Plan and Community Augmentation Plan (to restore environmental damage caused including its social aspects).

iv. Upon submission of the EIA & EMP report, the project shall be appraised by the Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, as if it was a new proposal. If, on examination of the EIA/EMP report, the project is considered permissible for operation as per extant regulations, the requisite Environmental Clearance shall be issued **which shall be effective from the date of issue.**

v. However, during appraisal after examination if it is found that even though the project may be permissible but not environmentally sustainable in its present

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form/configuration/features then the project shall be directed to be modified so that the project would be environmentally sustainable.

vi. If, however, it is not considered appropriate to issue EC, the project shall be directed to be **demolished/ closed**. If such proposal is a case of expansion, the project shall be directed to revert back to the extent of activity for which EC had been granted earlier or to revert back to the extent of activity for which EC was not required (as the case may be).

vii. Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, may insist upon public hearing to be conducted for such categories of projects for which the EIA Notification 2006, as amended from time to time, requires the public hearing to be conducted.

viii. The project proponent will be required to submit a **bank guarantee equivalent to the amount of Remediation Plan and Natural & Community Resource Augmentation Plan with Central / the State Pollution Control Board (depending on whether it is appraised at Ministry or by SEIAA)**. The quantification of such liability will be recommended by Expert Appraisal Committee and finalized by Regulatory Authority. The bank guarantee shall be deposited prior to the grant of environmental clearance and **will be released after successful implementation of the Remediation plan and Natural & Community Resource Augmentation Plan**.

Note - The activities, as per above clauses, shall be undertaken simultaneously wherever feasible. Environmental Clearance, if granted, to such projects or activities, after due appraisal of EIA/EMP report, **shall be effective only from the date of issuance of such clearance** and shall be subject to compliance of obligations towards Damage Assessment, Remedial Plan & Community Augmentation Plan, etc. finalized in each case.

12. Penalty provisions for Violation cases and applications:

- a. **For new projects:**
- i. **Where operation has not commenced:** 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report; [Ex: Rs.1 lakh for project cost of Rs.1 Cr]
 - ii. **Where operations have commenced without EC:** 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report **PLUS** 0.25% of the total turnover during the period of violation. [Ex: For Rs.100 Cr project cost and Rs.100 Cr total turnover, the penalty shall be Rs.1 Cr + Rs.0.25 Cr = Rs.1.25 Cr]

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b. **For expansion projects:**

- i. **Where operation/production with expanded capacity has not commenced:**
1% of the project cost, attributable to the expansion, incurred up to the date of filing of application along with EIA/EMP report.
- ii. **Where operation/production with expanded capacity have commenced:**
1% of the project cost (attributable to the expansion activity) incurred upto the date of filing of application along with EIA/EMP report PLUS 0.25% of the total turnover (attributable to the expanded activity/capacity) involved during the period of violation.

12.1. Without prejudice to obligation as per (a) & (b) above, where the project or activity is considered for appraisal as above & the project proponent fails to provide required information or requisite documents or complete the requisite study for the purpose of EIA/EMP reports or does not furnish such reports within such period, as specified by the appraisal committee, without reasonable cause, it shall be inferred that the project proponent is not serious enough and the project or activity shall be directed to be demolished / closed.

12.2. The percentage rates, as above, shall be halved if the project proponent *suo-moto* reports such violations without such violations coming to the knowledge of the Government either on inquiry or complaint.

12.3. The penalty, as above, shall be in addition to liability for carrying out various remedial measures which shall be worked out based on the damage assessment for quantifying the environmental damage caused due to unauthorized project activity [as per Step 3 enumerated above].

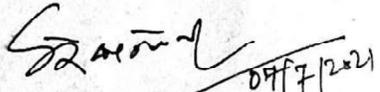
13. Identification of Violation cases:

With a view to protecting the environment and to expeditiously bring violators into a regulatory regime so as to prevent & control environment damage caused by such violation & to determine whether operation of such projects is permissible and to take action stipulated under Section 15 of the Environment (Protection) Act, 1986 for contravention of the provisions of the said Act, Rules, orders and directions, it is expedient to also identify the cases of violation, examine and appraise such projects so as to refrain them from causing further environmental damage and also to compensate for causing damage to the environment. Therefore, in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986, the Central Government hereby directs that:-

- i. State Pollution Control Boards & Union Territory Pollution Control Committees, before grant or renewal of Consents under Water(Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981, shall ensure that the project proponents applies for or possess valid Prior

Sd/-

- Environmental Clearance in terms of extant EIA Notification and shall not grant or renew CTO (Consent to Operate) unless Environment Clearance (if applicable) has been obtained.
- ii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall identify cases of violation under their respective jurisdiction, report such cases to the Ministry or State/Union Territory Level Environmental Impact Assessment Authority, as the case may be and also revoke CTO, if granted to the unit after giving an opportunity of being heard.
 - iii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall expeditiously examine the references, received from public and other bodies, relating to violations and take necessary steps as per (ii) above.
14. This is issued with the approval of the Competent Authority.


 (Dr. Sujit Kumar Bajpayee)
 Joint Secretary (IA)

To

1. Chairperson/Member Secretary of Central Pollution Control Board
2. Chairperson/Member Secretaries of all the SEIAAs/SEACs
3. Chairman/Members of all the Expert Appraisal Committees
4. Chairman/Members of all the State Pollution Control Boards and Union Territory Pollution Control Committees

Copy for information:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS for Environment, Forest and Climate Change
3. PPS to Secretary(EF&CC)
4. PPS to AS(RS) / AS (RA)/ AS (UD)/ JS(JT) / JS (MP)/ JS (NPG)
5. All the officers of IA Division
6. Website of MoEF&CC/PARIVESH/Guard file

Copy (by email) also forwarded to the Registrar, NGT, in compliance to instruction given in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors.(order dated 24.05.2021).

Annexure - II

F. No. 22-21/2020-IA.III [E 138949]
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

16

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi-110 003

Dated 28th January, 2022

OFFICE MEMORANDUM

Sub.: Observation of Hon'ble Supreme Court with reference to the SoP dated 7th July 2021 for identification and handling of violation cases under EIA Notification 2006 - reg.

The Ministry issued a Standard Operating Procedure dated 7th July 2021 bearing the file number 22-21/2020-IA.III, for identification and handling of violation cases under EIA Notification 2006 in compliance to order of the Hon'ble National Green Tribunal in Appeal No. 34/2020 (WZ) titled Tanaji B. Gambhire Vs Chief Secretary, Government of Maharashtra. The copy of the SoP is enclosed for ready reference.

2. The SoP was challenged in the Madurai Bench of the High Court of Madras in the matter W.P.(MD) No. 11757 of 2021 titled Fatima Vs Union of India and was interim stayed vide order dated 15th July 2021.

3. Recently, in the Order dated 09th December 2021 in the matter of Civil Appeal Nos. 7576-7577 of 2021 in Electrosteel Steels Limited Vs Union of India and Ors., the Hon'ble Supreme Court of India has *inter-alia* observed the following:

"93. The interim order passed by the Madras High Court appears to be misconceived. However, this Court is not hearing an appeal from that interim order. The interim stay passed by the Madras High Court can have no application to operation of the Standard Operating Procedure to projects in territories beyond the territorial jurisdiction of Madras High Court. Moreover, final decision may have been taken in accordance with the Orders/Rules prevailing prior to 7th July, 2021."

4. The copy of the order which is self-explanatory is enclosed herewith for necessary action.

5. This is issued with the approval of the competent authority.


(A K Agrawal)
Director

Encl: As above.

To

1. Chairperson/ Member Secretaries of all Expert Appraisal Committees
2. Chairperson/Member Secretaries of all SEIAAs/SEACs
3. All Officers of IA Division

Copy for information to

1. PS to Hon'ble MEF&CC
2. PS to Hon'ble MoS, EF&CC
3. PPS to Secretary, EF&CC
4. PPS to AS (TK)/JS (SKB)
5. Website, MoEF&CC /Guard file

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 1394/2023

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VANASHAKTI

Petitioner(s)

VERSUS

UNION OF INDIA
(FOR ADMISSION
ORDERS/DIRECTIONS)

and

IA

Respondent(s)
No.257416/2023-APPROPRIATE

Date : 02-01-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s)

Mr. Gopal Sankaranarayanan, Sr. Adv.
Mr. Vanshdeep Dalmia, AOR
Ms. Anisha Jian, Adv.
Ms. Tanya Shrivastava, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1. Issue notice returnable in four weeks.
2. Until further orders, there shall be stay of operation of the office Memoranda dated 7th July, 2021 and 28th January, 2022 issued by the Ministry of Environment, Forest and Climate Change.

(ASHA SUNDRIYAL)
ASTT. REGISTRAR-cum-PS

(BEENA JOLLY)
COURT MASTER (NSH)

F. No. IA3-3/4/2024-IA.III [E 230791]
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi-110 003

Dated: 8th January, 2024

OFFICE MEMORANDUM

Sub: Stay imposed by Hon'ble Supreme Court with reference to the SOP dated 7th July 2021 and OM dated 28th January 2022 - reg.

The Ministry issued a Standard Operating Procedure (SOP) dated 7th July 2021 bearing the file number 22-21/2020-IA.III, for identification and handling of violation cases under EIA Notification 2006 in compliance to order of the Hon'ble National Green Tribunal in Appeal No. 34/2020 (WZ) titled Tanaji B. Gambhire Vs Chief Secretary, Government of Maharashtra.

2. The SoP was challenged in the Madurai Bench of the High Court of Madras in the matter W.P.(MD) No. 11757 of 2021 titled Fatima Vs Union of India and was interim stayed vide order dated 15th July 2021.

3. Subsequently, in the Order dated 9th December 2021 in the matter of Civil Appeal Nos. 7576-7577 of 2021 in Electrosteel Steels Limited Vs Union of India and Ors., the Hon'ble Supreme Court of India *inter-alia* observed the following:

"93. The interim order passed by the Madras High Court appears to be misconceived. However, this Court is not hearing an appeal from that interim order. The interim stay passed by the Madras High Court can have no application to operation of the Standard Operating Procedure to projects in territories beyond the territorial jurisdiction of Madras High Court. Moreover, final decision may have been taken in accordance with the Orders/Rules prevailing prior to 7th July, 2021."

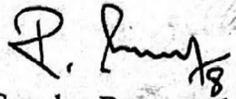
4. In this regard, the Ministry issued an OM dated 28th January, 2022 for circulating the above order of the Hon'ble Supreme Court to all the EACs and SEIAAs/SEACs. In view of the above observations of the Hon'ble Supreme Court, violation proposals

pertaining to all the States except the State of Tamil Nadu were being appraised at the Central level and the respective SEIAAs/SEACs.

5. However, the Hon'ble Supreme Court in W.P.(C) No. 1394/2023 titled Vanashakti vs. Union of India, has stayed the operation of both the Office Memoranda dated 7th July 2021 and dated 28th January 2022 issued by this Ministry.

6. The copy of the order which is self-explanatory is enclosed herewith for necessary action.

7. This is issued with the approval of the competent authority.


(Sundar Ramanathan)
Scientist E

Encl: As above.

To

1. Chairperson/ Member Secretaries of all Expert Appraisal Committees
2. Chairperson/Member Secretaries of all SEIAAs/SEACs
3. All Officers of IA Division

Copy for information to

1. PS to Hon'ble MEF&CC
2. PS to Hon'ble MoS, EF&CC
3. PPS to Secretary, EF&CC
4. PPS to AS (TK)/JS (SKB)
5. Website, MoEF&CC /Guard file

ITEM NO.56

SECTION PIL-W ^{REVISED}

COURT NO.3
 SUPREME COURT OF INDIA
 RECORD OF PROCEEDINGS

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Writ Petition(s)(Civil) No(s). 1394/2023

VANASHAKTI

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(IA No. 257416/2023 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 02-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
 HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s)

Mr. Gopal Sankaranarayanan, Sr. Adv.
 Mr. Vanshdeep Dalmia, AOR
 Ms. Anisha Jian, Adv.
 Mr. Sarthak Dora, Adv.
 Ms. Trisha Chandran, Adv.

For Respondent(s)

Mr. Tushar Mehta, Solicitor General
 Ms. Aishwarya Bhati, A.S.G.
 Mr. Gurmeet Singh Makker, AOR
 Mr. Ketan Paul, Adv.
 Ms. Ruchi Kohli, Adv.
 Ms. Swarupama Chaturvedi, Adv.
 Mr. Rajat Nair, Adv.

Mr. Puneet Bali, Sr. Adv.
 Mr. Akhil Anand, Adv.
 Mr. Samit Shukla, Adv.
 Mr. Himanshu Vij, Adv.
 Ms. Saakshi Saboo, Adv.
 Mr. Anuj Salva, Adv.
 M/S. D.S.k. Legal, AOR

Mr. T. V. S. Raghavendra Sreyas, AOR
 Mr. Naveen Hegde, Adv.
 Mr. A Yogeswaran, Adv.
 Ms. B Poongkhulali, Adv.
 Mr. Siddharth Vasudev, Adv.

Mr. Vanshdeep Dalmia, AOR

Mr. Anisha Jain, Adv.
Mr. Sarthak Dosa, Adv.

Mr. Guru Krishna Kumar, Sr. Adv.

Mr. Saket Mone, Adv.

Ms. Anshula Vijay Kumar Grover, AOR

Mr. Abhishek Salian, Adv.

Ms. Nitika Grover, Adv.

Mr. Devansh, Adv.

Mr. Atmaram Nadkarni, Sr. Adv.

Mr. Kunal Mimani, AOR

Mr. Samit Shukla, Adv.

Mr. Kunal Vajani, Adv.

Ms. Sakshi Saboo, Adv.

Mr. Anuj Savla, Adv.

Mr. Shubhang Tandon, Adv.

Ms. Shraddha Chiramia, Adv.

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UPON hearing the counsel the Court made the following
O R D E R

I.A. Nos. 25197, 25309 and 25150 of 2024

1. The application (IA No. 25150 of 2024) for intervention is allowed.
2. The applicant(s) approached this Court seeking modifications/alterations of the order dated 02nd January, 2024.
3. Vide order dated 2nd January, 2024, we had granted stay of operation of the Office Memoranda dated 07th July, 2021 and 28th January, 2022 issued by the Ministry of Environment, Forest and Climate Change.
4. Mr. A.N.S. Nadkarni and Mr. Puneet Bali, learned senior counsels appearing for the applicant(s) submit that though their projects had acquired environmental clearances much prior to the Office Memoranda dated 07th July, 2021 and only certain modifications/alterations are required therein, the

same cannot be considered in view of the order dated 2nd January, 2024.

5. We clarify that our orders dated 02nd January, 2024 would not come in the way of the competent authorities in considering the proposals for modifications/alterations in the Environmental Clearances if area of such projects had any valid environmental clearances prior to 07th July, 2021.

6. Needless to state that such applications for modification/alteration would be considered by the competent authorities strictly in accordance with law as it existed prior to 07th July, 2021.

7. We further clarify that our order should not be construed as having stayed any proceedings before any High Courts touching the subject matter of the Office Memoranda, referred to above.

8. The applications are, accordingly, disposed of.

I.A. Nos. 13975, 16527, 21877, 21878 and 24981 of 2024

1. Mr. Gopal Sankaranarayanan, learned senior counsel appearing for the petitioner-Vanashakti seeks four weeks' time to file reply affidavit to these applications.

2. List these applications alongwith main matter after four weeks.

(DEEPAK SINGH)
COURT MASTER (SH)

(ANJU KAPOOR)
COURT MASTER (NSH)