

28/11/2019

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IN THE SUPREME COURT OF INDIA  
(CIVIL APPELLATE JURISDICTION)

Special Leave Petition (Civil) No. 10078 of 2019

**IN THE MATTER OF :**

Builder Association of India (BAI)

.....Petitioner

Versus

Union of India

.....Respondent

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FILED BY:

G. S. Makkar  
Central Government Standing Counsel  
Supreme Court of India

**IN THE SUPREME COURT OF INDIA**  
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Special Leave Petition (Civil) No. 10078 of 2019

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Builders Association of India (BAI) .....Petitioner

Versus

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**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT,**

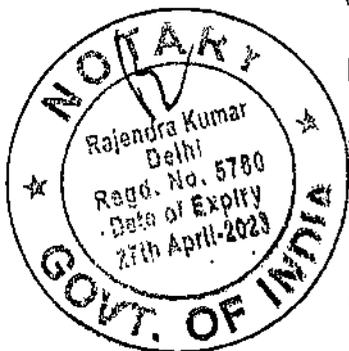
**MINISTRY OF ENVIRONMENT FOREST AND**

**CLIMATE CHANGE**

**MOST RESPECTFULLY SHOWETH:**

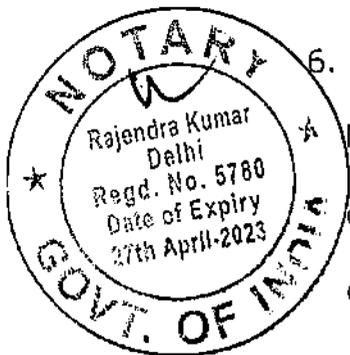
I, Subrata Bose, working as Scientist 'F', in the Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, Aliganj, New Delhi-110 003, the deponent herein, do hereby solemnly affirm and state on oath as under:

1. That the Ministry of Environment, Forest and Climate Change is the Respondent in the present case which is pending adjudication before this Hon'ble Court.
2. That I have read and understood the contents of the Writ Petition and at the outset, deny all the averments contained in the Writ Petition except those specifically admitted hereinafter. None of the averments contained in the Writ Petition and/or the documents filed by the Petitioner shall be deemed to be admitted by the Respondent merely for want of specific denial/traverse.



*J. Bose*

3. That the present Petition has been filed by the Petitioner to defined the term "built - up area" under item 8 to the schedule of the EIA Notification, 2006 on the ground that between 2006 - 2011 the local authorities as well as the Answering Respondent granted Environmental Clearance on the basis of the local Development Control Rules, since the definition of built up area was not there. As per the local Development Control Rules the built up area excluded basement and other service areas.
4. That the petitioner has stated that the Goel Ganga judgment passed by the Hon'ble Supreme Court provides that the definition of the built up area includes basement and other service areas and there is no ambiguity in the Notification dated 14.09.2006 and 04.04.2011.
5. That in exercise of the powers conferred under Environment (Protection) Act, 1986 and Environment (Protection) Rules, 1986, the central government had issued the notification for imposing certain restrictions and prohibitions on new projects or activities as indicated in the Schedule to the notification, being undertaken in any part of India vide S.O. 60(E) dated 27.01.1994. Building and construction sector was not a part of this notification.
6. That this Hon'ble Court in the matter titled "Quitely Flows the Maili Yamuna" bearing WP No. 725 of 1994, had observed in the order dated 12.12.2003, that building construction causes damage to the environment and therefore such construction projects may be considered to be brought under the EIA regime so that all such projects must take all the mitigating steps so as



*J. Bose*

to save the environment of the area in which such a project was being constructed by the project proponent.

7. That in pursuance to the directions of this Hon'ble Court in the matter titled "Quitely Flows the Maili Yamuna" bearing WP No. 725 of 1994, Building and construction activity was brought under the purview of the EIA Notification, 1994 in the year 2004. It is further submitted that the Environmental Impact Assessment (EIA) was made a statutory requirement for certain category of construction and development activities in our country through amendment in the EIA Notification, 1994 on 07.07.2004. The statutory provisions made for requirement of EIA to building construction projects are as under:

"(ii) After sub-para (f), the following shall be inserted, namely:-

"(g) any construction project falling under entry 31 of schedule-I including new township, industrial township, settlement colonies, commercial complex, hotel complexes, hospitals and office complexes for 1,000 (One Thousand) persons or below or discharging sewage of 50,000 (fifty thousand) liters per day or below or with and investment of Rs. 50,00,00,000/- (Rupees fifty crores) or below.

(h) any industrial estate falling under entry 32 of schedule-I including industrial estates accommodating industrial units in an area of 50 hectares or below but excluding the industrial estate irrespective of area if their pollution potential is high.

Explanation.-

(i) New construction projects which were undertaken without obtaining the clearance required under this notification and where construction work has not come up to the plinth level, shall require clearance under this notification with effect from the 7th day of July, 2004.

(ii) In the case of new Industrial Estate which were undertaken without obtaining the clearance required under this notification and where the construction work has not commenced or the expenditure does not exceed 25% of the total sanctioned cost shall require clearance under this notification with effect from the 7th day of July, 2004.

(iii) Any project proponent intending to implement the proposed project under sub-paras (g) and (h) in a phased manner or in modules, shall be required to submit the details of the entries project covering all phase or modules for appraisal under this notification"

*J. Nore*



II. In schedule-I after item 30 and the entry relating thereto, the following shall be inserted, namely:-

- "31. New construction projects.  
32. New industrial estates."

A copy of amendment in the EIA Notification, 1994 dated 07.07.2004 is annexed herein as **Annexure – I**.

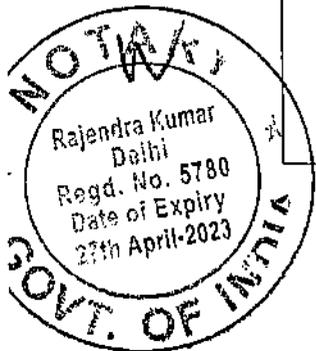
8. It is submitted that subsequently, the Central Government has taken up comprehensive review of EIA Notification, 1994 for making the process more efficient, transparent and effective and issued the EIA Notification, 2006 vide SO 1533 dated 14<sup>th</sup> September, 2006 in supersession of the notification number S.O. 60 (E) dated the 27th January, 1994. The provisions regarding building and construction sector in the EIA Notification, 2006 is as follows:

(1)	Project or Activity	Category with threshold limit		Conditions if any
		A	B	
(2)	(3)	(4)	(5)	
<b>8</b>		<b>Building or Construction projects or Area Development projects and Townships</b>		
<b>8 (a)</b>	Building and Construction projects		≥20000 sq.mtrs and <1,50,000 sq. mtrs. of built-up area#	#(built up area for covered construction; in the case of facilities open to the sky, it will be the activity area )
<b>8(b)</b>	Townships and Area Development projects.		Covering an area ≥ 50 ha and or built up area ≥1,50,000 sq. mtrs ++	++All projects under Item 8(b) shall be appraised as Category B1

A copy of the EIA Notification, 2006 is annexed herein as

**Annexure – II.**

*J. Sane*

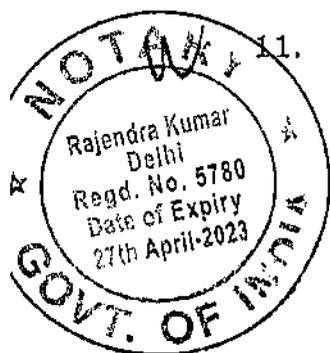


9. It is submitted that a three judge bench of this Hon'ble Court in WP (C) 202/1995 in IA Nos. 2609-2610 of 2009 in the matter of Anand Arya & Others Verses Union of India, has held that the EIA Notification dated September, 14, 2006 urgently calls for a close second look by the concerned authorities. The project/activities under items 8(a) and 8(b) of the schedule of the notification need to be described with greater precision and clarity and the definition of the built-up area with facilities open to the sky needs to be freed from its present ambiguity and vagueness.

10. It is submitted that in compliance to this observation of this Hon'ble Court, to provide clarification with regard to the term "Built-up area" used in the EIA Notification, 2006 the Ministry issued Notification vide SO 695(E) dated 04.04.2011, The words of Column 5 against Item 8(a) were replaced and substituted vide Ministry's notification S.O. 695(E) dated 04.04.2011 as under:

*"The built up area for the purpose of this Notification is defined as "the built up or covered area on all the floors put together including basement(s) and other service areas, which are proposed in the building/construction projects".*

A copy of the Notification dated 04.04.2011 is annexed herein as **Annexure – III**.



11. That The Ministry is in receipt of a reference dated 03.04.2017 from Confederation of Real Estate Developers Association of India (CREDAI) seeking clarification on above mentioned subject. The CREDAI has requested that the definition of Built Up Area (BUA) given vide notification S.O.695(E) dated 04.04.2011 should have prospective effect

*J. Bose*

12. That the ministry has issued the office memorandum dated 07.07.2017 stating that:

*"The matter has been examined in the Ministry. The BUA defined in the notification S.O. 1533 (E) dated 14th September, 2006 mentions at Item 8 (a) columns 4 and 5 "built up area for covered construction, in the case of facilities open to sky, it will be the activity area".*

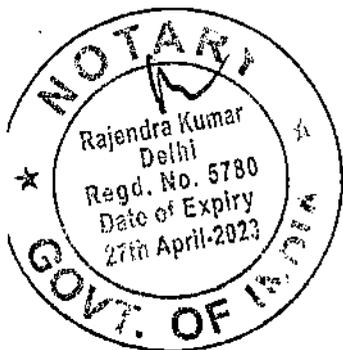
*The Ministry has further defined BUA vide its notification S.O.695 (E) dated 04.04.2011 which reads as, "the built up or covered area on all the floors put together including its basement and other service areas, which are proposed in the building or construction project.*

*The definition provided in the Ministry's notification will have its effect from the prospective date of the notification only. The projects which are not covered in the period of above notifications should be assessed as per the definition of built up area provided in the building bye-laws or Development Control Regulation (DCR) of the local authorities in the States"*

A copy of the office memorandum dated 07.07.2017 is annexed herein as **Annexure – IV**.

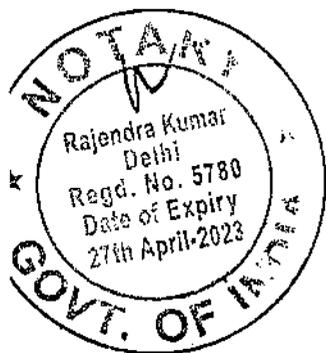
13. That this Hon'ble Court vide its judgment dated 10.08.2018 in Civil Appeal No. 10854 of 2016 in the matter of M/s Goel Ganga Developers Pvt Ltd Vs Union of India & Ors observed that from a bare perusal of the two hash tags (#) in Column 4 and 5 of Item 8(a), it is apparent that what is shown under Column 5 is actually a continuation of Column 4 and basically it describes or defines 'built up area' to mean covered construction and if the facilities are open to the sky, it will be taken to be the activity area. This by itself clearly shows that under the notification of 2006, all constructed area, which is covered and not open to the sky has to be treated as 'built up area'. There is no exception for non-FSI area. Indeed, the concept of FSI or non-FSI has no concern or connection with grant of Environmental Clearance and as far as environmental laws are concerned, all covered construction, which is not open to the sky is to be

*S. Bose*



treated as built up area in terms of the EIA Notification dated 14.09.2006. (Para 13 to 15 of the judgment)

14. That further this Hon'ble Court observed that it is not at all necessary to decide whether this notification is clarificatory or is in substitution of the original notification of 2006 because there is no ambiguity with regard to the definition of 'built up area' even under the notification of 2006 and it covers all constructed area not open to the sky. The Notification of 2011 only provides that the built up area or covered area shall be the area of all floors put together including basement(s) and other service areas. This definition also is in consonance with the concept of grant of EC for construction and it is obvious that the concept of FSI or non-FSI area is alien to environmental laws. (Para 16 of the judgment)
15. That this Hon'ble Court observed that such an Office Memorandum could not and should not have been issued. The notification dated 14.09.2006 is a statutory notification issued in terms of Rule 5(3) of the Environment (Protection) Rules, 1986 which provides that before such a notification is issued the Central Government has to give notice of its intention of issuing a notification and objections to the same are invited. No doubt the Central Government is empowered in public interest to dispense with the requirement of notice but this obviously has to be done in exceptional cases. The Notification dated 14.09.2006 was issued by the Central Government and published in the gazette after inviting objections from the public. The first clarification with regard to this notification was issued on 04.04.2011. These two decisions of the Central



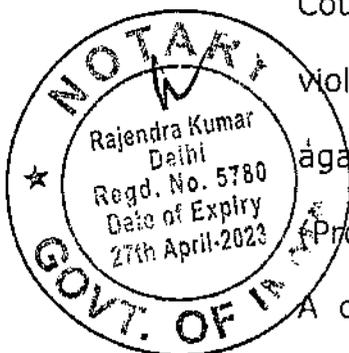
S. Bose

Government which were notified as per the provisions of law could not have been set at naught by the Joint Director even if it was issued with the approval of a higher authority. Since such decision has not been notified in the gazette the statutory notification dated 14.09.2006 and its subsequent clarification dated 04.04.2011 could not have been virtually set aside by this office memorandum. (Para 18 of the judgment).

16. That this Hon'ble Court observed that the so called office memorandum is not at all clarificatory in nature. As held by the Hon'ble Court, the notification of 2006 with regard to 'built up area' was absolutely clear and needed no clarification. The Hon'ble Court stated that they failed to understand how the concept of built up area as understood in the building bye-laws or DCR could be introduced into the notification of 2006 by this office memorandum which virtually made the notification of 2006 totally redundant. Therefore, the Hon'ble Court quashed the office memorandum dated 07.07.2017.

17. That the Answering Respondent has issued Office memorandum dated 5<sup>th</sup> March, 2019, stating that all the cases which are not in conformity in terms of definition of the built-up area given under the EIA Notification, 2006 and further elaborated by the amended notification, 2011 (as upheld by the Hon'ble Supreme Court vide its Judgment dated 10.08.2018) should be treated as violation and advised the state government to initiate action against the violators under the provisions of Environment (Protection) Act, 1986.

A copy of office Memorandum dated 05.03.2019 is annexed herein as **Annexure - V.**



*S. Bose*

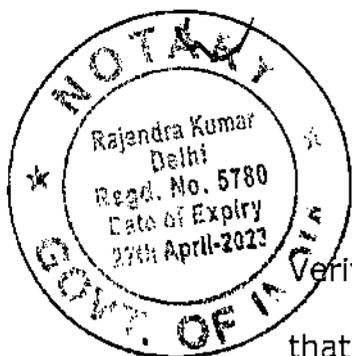
18. That this Hon'ble Court in the present matter vide its order dated 03.05.2019 stayed the Office Memorandum dated 5<sup>th</sup> March, 2019 and directed that "in the mean time, no coercive steps shall be taken"

A copy of order dated 03.05.2019 is annexed herein as **Annexure - VI.**

19. That the present additional affidavit may kindly be taken on record and into consideration and this Hon'ble Court may pass appropriate Order(s), direction(s) as deemed fit and proper under the facts and circumstances of the present case which the answering Respondent shall duly comply with.

*S. Bose*  
**DEPONENT**

(डा. सुब्रत बोस)  
(Dr. SUBRATA BOSE)  
वैज्ञानिक 'एफ'/Scientist 'F'  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
Min. of Environment, Forest and Climate Change  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi



**VERIFICATION**

Verified at New Delhi at this 22 day of January, 2020 that the contents of the above affidavit are true to my knowledge derived from the official records and also on the basis of the information received and believed to be correct. No part of it is false and no material has been concealed therefrom.

*S. Bose*  
**DEPONENT**

(डा. सुब्रत बोस)  
(Dr. SUBRATA BOSE)  
वैज्ञानिक 'एफ'/Scientist 'F'  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
Min. of Environment, Forest and Climate Change  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi  
9899448200

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTIVE WHO SEEMED PERFECT TO UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT DELHI ON..... IDENTIFIED AS.....  
2 JAN 2020  
IDENTIFIED

ATTESTED  
*L. K. Singh*  
RAJENDRA KUMAR  
NOTARY, DELHI-REGD. NO. 5780  
GOVERNMENT OF INDIA  
SUPREME COURT OF INDIA  
COMPOUND, NEW DELHI  
Register Pg./Sl. No. 22 JAN 2020

Annexure-I

## THE GAZETTE OF INDIA

## EXTRAORDINARY

## PART II – Section 3 – Sub-section (ii)

## MINISTRY OF ENVIRONMENT AND FORESTS

## NOTIFICATION

New Delhi, the 7<sup>th</sup> July, 2004

S.O.801(E), dated 7<sup>th</sup> July, 2004 - Whereas a draft of certain amendments to the notification of the Government of India in the Ministry of Environment and Forests number S.O.60 (E), dated the 27<sup>th</sup> January 1994 was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) vide number S.O.1236 (E), dated the 27<sup>th</sup> October, 2003 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of the Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 27<sup>th</sup> October, 2003;

And whereas, the Orders of the Hon'ble Supreme Court in the Writ Petition (C) No.725 of 1994 with I.A. No.20, 21, 1207, 1183, 1216 and 1251 in Writ Petition (C) No.4677 of 1985 in the matter of news item published in Hindustan Times titled "And Quiet Flows the Maily Yamuna" vs. Central Pollution Control Board and Others have been duly considered;

And whereas, the Orders of Hon'ble High Court of Madras in W.P. (C) No.33493 of 2003 and W.P. Nos.35205, 35517, 35691, 35692 and 35825 of 2003 and W.P. M.P. Nos.40556, 42562, 43720, 45348 to 45350, 42791, 42792, 43882, 43181, 43366 to 43369, 43544 and 43545 of 2003 between C.S. Kuppuraj and others Vs. the State of Tamil Nadu and others have also been duly considered;

And whereas, all objections and suggestions received have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the notification number S.O. 60 (E), dated the 27<sup>th</sup> January 1994, namely:-

In the said notification, -

- I. in paragraph 3-
  - (i) in item (a), for the letters, word and figures "Nos.3,18 and 20", the letters, word and figures "Nos.3,18,20,31 and 32" shall be substituted;

- (ii) after sub-para (f), the following shall be inserted, namely:-
- “(g) any construction project falling under entry 31 of Schedule-I including new townships, industrial townships, settlement colonies, commercial complexes, hotel complexes, hospitals and office complexes for 1,000 (one thousand) persons or below or discharging sewage of 50,000 (fifty thousand) litres per day or below or with an investment of Rs.50,00,00,000/- (Rupees fifty crores) or below.
- (h) any industrial estate falling under entry 32 of Schedule-I including industrial estates accommodating industrial units in an area of 50 hectares or below but excluding the industrial estates irrespective of area if their pollution potential is high.

Explanation.-

- (i) New construction projects which were undertaken without obtaining the clearance required under this notification, and where construction work has not come up to the plinth level, shall require clearance under this notification with effect from the 7<sup>th</sup> day of July, 2004.
- (ii) In the case of new Industrial Estates which were undertaken without obtaining the clearance required under this notification and where the construction work has not commenced or the expenditure does not exceed 25% of the total sanctioned cost, shall require clearance under this notification with effect from the 7<sup>th</sup> day of July, 2004.
- (iii) Any project proponent intending to implement the proposed project under sub-paras (g) and (h) in a phased manner or in modules, shall be required to submit the details of the entire project covering all phases or modules for appraisal under this notification”;

II. in Schedule-I, after item 30 and the entry relating thereto, the following shall be inserted, namely:-

- “31. New construction projects  
32. New industrial estates.”;

III. in Schedule-II, -

(i) in para 5, for sub-para (f), the following shall be substituted, namely:-

“(f)(i) The quantum of existing industrial effluents and domestic sewage with incremental load to be released in the receiving water body due to the proposed activities along with treatment details;

- (ii) The quantum and quality of water in the receiving water body before and after disposal of solid wastes including municipal solid wastes, industrial effluents and domestic sewage;

(iii) The quantum of industrial effluents and domestic sewage to be released on land and type of land;";

(ii) in para 6, for sub-para (a), the following shall be substituted, namely:-

"(a) Nature and quantity of solid wastes generated including municipal solid wastes, biomedical wastes, hazardous wastes and industrial wastes."

[No. Z-11011/1/2002-IA-I]  
R. Chandramohan, Jt. Secy.

**Note:** The principal notification was published in the Gazette of India vide number S.O.60 (E) dated 27-1-1994 and subsequently amended *vide*:

- 1) S.O. 356 (E) dated 4<sup>th</sup> May, 1994,
- 2) S.O 318 (E), dated 10<sup>th</sup> April, 1997,
- 3) S.O. 73 (E) dated 27<sup>th</sup> January, 2000,
- 4) S.O. 1119 (E) dated 13<sup>th</sup> December, 2000,
- 5) S.O. 737(E) dated 1<sup>st</sup> August, 2001,
- 6) S.O.1148 (E) dated 21<sup>st</sup> November, 2001,
- 7) S.O. 632 (E) dated the 13<sup>th</sup> June, 2002,
- 8) S.O. 248 (E) dated the 28<sup>th</sup> February, 2003,
- 9) S.O. 506 (E) dated the 7<sup>th</sup> May, 2003,
- 10) S.O. 891(E) dated the 4<sup>th</sup> August, 2003,
- 11) S.O. 1087(E) dated the 22<sup>nd</sup> September, 2003.

J. Bose

## Annexure-II

(Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii)  
MINISTRY OF ENVIRONMENT AND FORESTS

New Delhi 14<sup>th</sup> September, 2006

Notification

S.O. 1533 Whereas, a draft notification under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 for imposing certain restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts as indicated in the Schedule to the notification, being undertaken in any part of India<sup>1</sup>, unless prior environmental clearance has been accorded in accordance with the objectives of National Environment Policy as approved by the Union Cabinet on 18<sup>th</sup> May, 2006 and the procedure specified in the notification, by the Central Government or the State or Union territory Level Environment Impact Assessment Authority (SEIAA), to be constituted by the Central Government in consultation with the State Government or the Union territory Administration concerned under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 for the purpose of this notification, was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) vide number S.O. 1324 (E) dated the 15<sup>th</sup> September, 2005 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 15<sup>th</sup> September, 2005;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 60 (E) dated the 27<sup>th</sup> January, 1994, except in respect of things done or omitted to be done before such supersession, the Central Government hereby directs that on and from the date of its publication the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to this notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified hereinafter in this notification.

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<sup>1</sup>Includes the territorial waters

2. **Requirements of prior Environmental Clearance (EC):-** The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

- (i) All new projects or activities listed in the Schedule to this notification;
- (ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;
- (iii) Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

3. **State Level Environment Impact Assessment Authority:-** (1) A State Level Environment Impact Assessment Authority hereinafter referred to as the SEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of three Members including a Chairman and a Member - Secretary to be nominated by the State Government or the Union territory Administration concerned.

- (2) The Member-Secretary shall be a serving officer of the concerned State Government or Union territory administration familiar with environmental laws.
- (3) The other two Members shall be either a professional or expert fulfilling the eligibility criteria given in Appendix VI to this notification.
- (4) One of the specified Members in sub-paragraph (3) above who is an expert in the Environmental Impact Assessment process shall be the Chairman of the SEIAA.
- (5) The State Government or Union territory Administration shall forward the names of the Members and the Chairman referred in sub- paragraph 3 to 4 above to the Central Government and the Central Government shall constitute the SEIAA as an authority for the purposes of this notification within thirty days of the date of receipt of the names.
- (6) The non-official Member and the Chairman shall have a fixed term of three years (from the date of the publication of the notification by the Central Government constituting the authority).
- (7) All decisions of the SEIAA shall be unanimous and taken in a meeting.

4. **Categorization of projects and activities:-**

- (i) All projects and activities are broadly categorized in to two categories - Category A and Category B, based on the spatial extent of potential impacts and potential impacts on human health and natural and man made resources.

(ii) 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;

(iii) All projects or activities included as Category 'B' in the Schedule, including expansion and modernization of existing projects or activities as specified in sub paragraph (ii) of paragraph 2, or change in product mix as specified in sub paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, *will* require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory level Expert Appraisal Committee (SEAC) as to be constituted for in this notification. In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project;

#### 5. Screening, Scoping and Appraisal Committees:-

The same Expert Appraisal Committees (EACs) at the Central Government and SEACs (hereinafter referred to as the (EAC) and (SEAC) at the State or the Union territory level shall screen, scope and appraise projects or activities in Category 'A' and Category 'B' respectively. EAC and SEAC's shall meet at least once every month.

(a) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union territory Administration with identical composition;

(b) The Central Government may, with the prior concurrence of the concerned State Governments or the Union territory Administrations, constitute one SEAC for more than one State or Union territory for reasons of administrative convenience and cost;

(c) The EAC and SEAC shall be reconstituted after every three years;

(d) The authorised members of the EAC and SEAC, concerned, may inspect any site(s) connected with the project or activity in respect of which the prior environmental clearance is sought, for the purposes of screening or scoping or appraisal, with prior notice of at least seven days to the applicant, who shall provide necessary facilities for the inspection;

(e) The EAC and SEACs shall function on the principle of collective responsibility. The Chairperson shall endeavour to reach a consensus in each case, and if consensus cannot be reached, the view of the majority shall prevail.

#### 6. Application for Prior Environmental Clearance (EC):-

An application seeking prior environmental clearance in all cases shall be made in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II, after the identification of prospective site(s) for the project and/or activities to which the application relates, before commencing any construction activity, or preparation of land, at the site by the applicant. The applicant shall furnish, along with the application, a copy of the pre-feasibility project report except that, in case of construction projects or activities (item 8 of the Schedule) in addition to Form 1 and the Supplementary Form 1A, a copy of the conceptual plan shall be provided, instead of the pre-feasibility report.

## 7. Stages in the Prior Environmental Clearance (EC) Process for New Projects:-

7(i) The environmental clearance process for new projects will comprise of a maximum of four stages, all of which may not apply to particular cases as set forth below in this notification. These four stages in sequential order are:-

- Stage (1) Screening (Only for Category 'B' projects and activities)
- Stage (2) Scoping
- Stage (3) Public Consultation
- Stage (4) Appraisal

### I. 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 (SEAC) for determining whether or not the project or activity requires further environmental studies for preparation of an Environmental Impact Assessment (EIA) for its appraisal prior to the grant of environmental clearance depending up on the nature and location specificity of the project . The projects requiring an Environmental Impact Assessment report shall be termed Category 'B1' and remaining projects shall be termed Category 'B2' and will not require an Environment Impact Assessment report. For categorization of projects into B1 or B2 except item 8 (b), the Ministry of Environment and Forests shall issue appropriate guidelines from time to time.

### II. Stage (2) - Scoping:

(i) "Scoping": refers to the process by which the Expert Appraisal Committee in the case of Category 'A' projects or activities, and State level Expert Appraisal Committee in the case of Category 'B1' projects or activities, including applications for expansion and/or modernization and/or change in product mix of existing projects or activities, determine detailed and comprehensive Terms Of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought. The Expert Appraisal Committee or State level Expert Appraisal Committee concerned shall determine the Terms of Reference on the basis of the information furnished in the prescribed application Form 1/Form 1A including Terms of Reference proposed by the applicant, a site visit by a sub- group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, Terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. All projects and activities listed as Category 'B' in Item 8 of the Schedule (Construction/Township/Commercial Complexes /Housing) shall not require Scoping and will be appraised on the basis of Form 1/ Form 1A and the conceptual plan.

(ii) The Terms of Reference (TOR) shall be conveyed to the applicant by the Expert Appraisal Committee or State Level Expert Appraisal Committee as concerned within sixty days of the receipt of Form 1. In the case of Category A Hydroelectric projects Item 1(c) (i) of the Schedule the Terms of Reference shall be conveyed along with the clearance for pre-construction activities .If the Terms of Reference are not finalized and conveyed to the applicant within sixty days of the receipt of Form 1, the Terms of Reference suggested by the applicant shall be deemed as the final Terms of Reference approved for the EIA studies. The approved Terms of

Reference shall be displayed on the website of the Ministry of Environment and Forests and the concerned State Level Environment Impact Assessment Authority.

(iii) Applications for prior environmental clearance may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned at this stage itself. In case of such rejection, the decision together with reasons for the same shall be communicated to the applicant in writing within sixty days of the receipt of the application.

### III. Stage (3) - Public Consultation:

(i) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. All Category 'A' and Category B1 projects or activities shall undertake Public Consultation, except the following:-

- (a) modernization of irrigation projects (item 1(c) (ii) of the Schedule).
- (b) all projects or activities located within industrial estates or parks (item 7(c) of the Schedule) approved by the concerned authorities, and which are not disallowed in such approvals.
- (c) expansion of Roads and Highways (item 7 (f) of the Schedule) which do not involve any further acquisition of land.
- (d) all Building /Construction projects/Area Development projects and Townships (item 8).
- (e) all Category 'B2' projects and activities.
- (f) all projects or activities concerning national defence and security or involving other strategic considerations as determined by the Central Government.

(ii) The Public Consultation shall ordinarily have two components comprising of:-

- (a) a public hearing at the site or in its close proximity- district wise, to be carried out in the manner prescribed in Appendix IV, for ascertaining concerns of local affected persons;
- (b) obtain responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.

(iii) the public hearing at, or in close proximity to, the site(s) in all cases shall be conducted by the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) concerned in the specified manner and forward the proceedings to the regulatory authority concerned within 45(forty five ) of a request to the effect from the applicant.

(iv) in case the State Pollution Control Board or the Union territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period

directly to the regulatory authority concerned as above, the regulatory authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty five days..

(v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.

(vi) For obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity, the concerned regulatory authority and the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) shall invite responses from such concerned persons by placing on their website the Summary EIA report prepared in the format given in Appendix IIIA by the applicant along with a copy of the application in the prescribed form, within seven days of the receipt of a written request for arranging the public hearing. Confidential information including non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means.

(vii) After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during this process, and make appropriate changes in the draft EIA and EMP. The final EIA report, so prepared, shall be submitted by the applicant to the concerned regulatory authority for appraisal. The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.

#### IV. Stage (4) - Appraisal:

(i) Appraisal means the detailed scrutiny by the Expert Appraisal Committee or State Level Expert Appraisal Committee of the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings, submitted by the applicant to the regulatory authority concerned for grant of environmental clearance. This appraisal shall be made by Expert Appraisal Committee or State Level Expert Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited for furnishing necessary clarifications in person or through an authorized representative. On conclusion of this proceeding, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall make categorical recommendations to the regulatory authority concerned either for grant of prior environmental clearance on stipulated terms and conditions, or rejection of the application for prior environmental clearance, together with reasons for the same.

(ii) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an Environment Impact Assessment report, shall be carried out on the basis of the prescribed application Form 1 and Form 1A as applicable, any other relevant

validated information available and the site visit wherever the same is considered as necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iii) The appraisal of an application shall be completed by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within sixty days of the receipt of the final Environment Impact Assessment report and other documents or the receipt of Form I and Form I A, where public consultation is not necessary and the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee shall be placed before the competent authority for a final decision within the next fifteen days. The prescribed procedure for appraisal is given in Appendix V :

**7(ii). Prior Environmental Clearance (EC) process for Expansion or Modernization or Change of product mix in existing projects:**

All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernization of an existing unit with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product -mix shall be made in Form I and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence necessary including preparation of EIA and public consultations and the application shall be appraised accordingly for grant of environmental clearance.

**8. Grant or Rejection of Prior Environmental Clearance (EC):**

(i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.

(ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.

(iii) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the

applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iv) On expiry of the period specified for decision by the regulatory authority under paragraph (i) and (ii) above, as applicable, the decision of the regulatory authority, and the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be public documents.

(v) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping, or appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons.

(vi) Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.

#### **9. Validity of Environmental Clearance (EC):**

The "Validity of Environmental Clearance" is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 7 above, to the start of production operations by the project or activity, or completion of all construction operations in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers. The prior environmental clearance granted for a project or activity shall be valid for a period of ten years in the case of River Valley projects (item 1(c) of the Schedule), project life as estimated by Expert Appraisal Committee or State Level Expert Appraisal Committee subject to a maximum of thirty years for mining projects and five years in the case of all other projects and activities. However, in the case of Area Development projects and Townships [item 8(b)], the validity period shall be limited only to such activities as may be the responsibility of the applicant as a developer. This period of validity may be extended by the regulatory authority concerned by a maximum period of five years provided an application is made to the regulatory authority by the applicant within the validity period, together with an updated Form 1, and Supplementary Form 1A, for Construction projects or activities (item 8 of the Schedule). In this regard the regulatory authority may also consult the Expert Appraisal Committee or State Level Expert Appraisal Committee as the case may be.

#### **10. Post Environmental Clearance Monitoring:**

(i) It shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions in hard and soft copies to the regulatory authority concerned, on 1<sup>st</sup> June and 1<sup>st</sup> December of each calendar year.

(ii) All such compliance reports submitted by the project management shall be public documents. Copies of the same shall be given to any person on application to the concerned regulatory authority. The latest such compliance report shall also be displayed on the web site of the concerned regulatory authority.

**11. Transferability of Environmental Clearance (EC):**

A prior environmental clearance granted for a specific project or activity to an applicant may be transferred during its validity to another legal person entitled to undertake the project or activity on application by the transferor, or by the transferee with a written "no objection" by the transferor, to, and by the regulatory authority concerned, on the same terms and conditions under which the prior environmental clearance was initially granted, and for the same validity period. No reference to the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned is necessary in such cases.

**12. Operation of EIA Notification, 1994, till disposal of pending cases:**

From the date of final publication of this notification the Environment Impact Assessment (EIA) notification number S.O.60 (E) dated 27<sup>th</sup> January, 1994 is hereby superseded, except in suppression of the things done or omitted to be done before such suppression to the extent that in case of all or some types of applications made for prior environmental clearance and pending on the date of final publication of this notification, the Central Government may relax any one or all provisions of this notification except the list of the projects or activities requiring prior environmental clearance in Schedule I, or continue operation of some or all provisions of the said notification, for a period not exceeding one year from the date of issue of this notification.

[No. J-11013/56/2004-IA-II (I)]

(R.CHANDRAMOHAN)  
JOINT SECRETARY TO THE GOVERNMENT OF INDIA

## SCHEDULE

(See paragraph 2 and 7)

## LIST OF PROJECTS OR ACTIVITIES REQUIRING PRIOR ENVIRONMENTAL CLEARANCE

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)	Mining of minerals	<p>≥ 50 ha. of mining lease area</p> <p>Asbestos mining irrespective of mining area</p>	<p>&lt;50 ha</p> <p>≥ 5 ha .of mining lease area.</p>	<p>General Condition shall apply</p> <p><u>Note</u> Mineral prospecting (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey</p>
1(b)	Offshore and onshore oil and gas exploration, development & production	All projects		<p><u>Note</u> Exploration Surveys (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey</p>
1(c)	River Valley projects	<p>(i) ≥ 50 MW hydroelectric power generation;</p> <p>(ii) ≥ 10,000 ha. of culturable command area</p>	<p>(i) &lt; 50 MW ≥ 25 MW hydroelectric power generation;</p> <p>(ii) &lt; 10,000 ha. of culturable command area</p>	General Condition shall apply
1(d)	Thermal Power Plants	<p>≥ 500 MW (coal/lignite/naphtha &amp; gas based);</p> <p>≥ 50 MW (Pet coke diesel and all other fuels -)</p>	<p>&lt; 500 MW (coal/lignite/naphtha &amp; gas based);</p> <p>&lt;50 MW</p> <p>≥ 5MW (Pet coke ,diesel and all other fuels )</p>	General Condition shall apply

(1)	(2)	(3)	(4)	(5)
1(e)	Nuclear power projects and processing of nuclear fuel	All projects		
2		<b>Primary Processing</b>		
2(a)	Coal washeries	≥ 1 million ton/annum throughput of coal	< 1 million ton/annum throughput of coal	General Condition shall apply  (If located within mining area the proposal shall be appraised together with the mining proposal)
2(b)	Mineral beneficiation	≥ 0.1 million ton/annum mineral throughput	< 0.1 million ton/annum mineral throughput	General Condition shall apply  (Mining proposal with Mineral beneficiation shall be appraised together for grant of clearance)

3				
Materials Production				
(1)	(2)	(3)	(4)	(5)
3(a)	Metallurgical industries (ferrous & non ferrous)	<p>a) Primary metallurgical industry</p> <p>All projects</p> <p>b) Sponge iron manufacturing <math>\geq 200</math>TPD</p> <p>c) Secondary metallurgical processing industry</p> <p>All toxic and heavy metal producing units <math>\geq 20,000</math> tonnes /annum</p>	<p>Sponge iron manufacturing <math>&lt; 200</math>TPD</p> <p>Secondary metallurgical processing industry</p> <p>i.) All toxic and heavy metal producing units <math>&lt; 20,000</math> tonnes /annum</p> <p>ii.) All other non-toxic secondary metallurgical processing industries <math>&gt; 5000</math> tonnes/annum</p>	General Condition shall apply for Sponge iron manufacturing
3(b)	Cement plants	$\geq 1.0$ million tonnes/annum production capacity	$< 1.0$ million tonnes/annum production capacity. All Stand alone grinding units	General Condition shall apply

4				
Materials Processing				
(1)	(2)	(3)	(4)	(5)
4(a)	Petroleum refining industry	All projects	-	-
4(b)	Coke oven plants	≥2,50,000 tonnes/annum	<2,50,000 & ≥25,000 tonnes/annum	-
4(c)	Asbestos milling and asbestos based products	All projects	-	-
4(d)	Chlor-alkali industry	≥300 TPD production capacity or a unit located outside the notified industrial area/estate	<300 TPD production capacity and located within a notified industrial area/estate	Specific Condition shall apply  No new Mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempted from this Notification
4(e)	Soda ash Industry	All projects	-	-
4(f)	Leather/skin/hide processing industry	New projects outside the industrial area or expansion of existing units outside the industrial area	All new or expansion of projects located within a notified industrial area/estate	Specific condition shall apply
5				
Manufacturing/Fabrication				
5(a)	Chemical fertilizers	All projects	-	-
5(b)	Pesticides industry and pesticide specific intermediates (excluding formulations)	All units producing technical grade pesticides	-	-

(1)	(2)	(3)	(4)	(5)
5(c)	Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics)	All projects	-	-
5(d)	Manmade fibres manufacturing	Rayon	Others	General Condition shall apply
5(e)	Petrochemical based processing (processes other than cracking & reformation and not covered under the complexes)	Located out side the notified industrial area/ estate	Located in a notified industrial area/ estate	Specific Condition shall apply
5(f)	Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)	Located out side the notified industrial area/ estate	Located in a notified industrial area/ estate.	Specific Condition shall apply
5(g)	Distilleries	(i) All Molasses based distilleries  (ii) All Cane juice/ non-molasses based distilleries $\geq 30$ KLD	All Cane juice/non-molasses based distilleries  - $< 30$ KLD	General Condition shall apply
5(h)	Integrated paint industry	-	All projects	General Condition shall apply

(1)	(2)	(3)	(4)	(5)
5(i)	Pulp & paper industry excluding manufacturing of paper from waste paper and manufacture of paper from ready pulp with out bleaching	Pulp manufacturing and Pulp& Paper manufacturing industry	Paper manufacturing industry without pulp manufacturing	General Condition shall apply
5(j)	Sugar Industry	-	≥ 5000 tcd cane crushing capacity	General Condition shall apply
5(k)	Induction/arc furnaces/cupola furnaces STPH or more	-	All projects	General Condition shall apply
6		Service Sectors		
6(a)	Oil & gas transportation pipe line (crude and refinery/ petrochemical products), passing through national parks /sanctuaries/coral reefs /ecologically sensitive areas including LNG Terminal	All projects		

(1)	(2)	(3)	(4)	(5)
6(b)	Isolated storage & handling of hazardous chemicals (As per threshold planning quantity indicated in column 3 of schedule 2 & 3 of MSIHC Rules 1989 amended 2000)	-	All projects	General Condition shall apply
7	<b>Physical Infrastructure including Environmental Services</b>			
7(a)	Air ports	All projects	-	-
7(b)	All ship breaking yards including ship breaking units	All projects	-	-
7(c)	Industrial estates/parks/ complexes/ areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes.	If at least one industry in the proposed industrial estate falls under the Category A, entire industrial area shall be treated as Category A, irrespective of the area.  Industrial estates with area greater than 500 ha. and housing at least one Category B industry.	-Industrial estates housing at least one Category B industry and area <500 ha.  Industrial estates of area > 500 ha. and not housing any industry belonging to Category A or B.	Special condition shall apply  Note: Industrial Estate of area below 500 ha. and not housing any industry of category A or B does not require clearance.
7(d)	Common hazardous waste treatment, storage and disposal facilities (TSDFs)	All integrated facilities having incineration & landfill or incineration alone	All facilities having land fill only	General Condition shall apply

(1)	(2)	(3)	(4)	(5)
7(e)	Ports, Harbours	≥ 5 million TPA of cargo handling capacity (excluding fishing harbours)	< 5 million TPA of cargo handling capacity and/or ports/ harbours ≥10,000 TPA of fish handling capacity	General Condition shall apply
7(f)	Highways	i) New National High ways; and  ii) Expansion of National High ways greater than 30 KM, involving additional right of way greater than 20m involving land acquisition and passing through more than one State.	i) New State High ways; and  ii) Expansion of National / State Highways greater than 30 km involving additional right of way greater than 20m involving land acquisition.	General Condition shall apply
7(g)	Aerial ropeways		All projects	General Condition shall apply
7(h)	Common Effluent Treatment Plants (CETPs)		All projects	General Condition shall apply
7(i)	Common Municipal Solid Waste Management Facility (CMSWMF)		All projects	General Condition shall apply

(1)	(2)	(3)	(4)	(5)
8		<b>Building /Construction projects/Area Development projects and Townships</b>		
8(a)	Building and Construction projects		≥20000 sq.mtrs and <1,50,000 sq.mtrs. of built-up area#	#(built up area for covered construction; in the case of facilities open to the sky, it will be the activity area )
8(b)	Townships and Area Development projects.		Covering an area ≥ 50 ha and or built up area ≥1,50,000 sq .mtrs ++	**All projects under Item 8(b) shall be appraised as Category B1

Note:-**General Condition (GC):**

Any project or activity specified in Category 'B' will be treated as Category A, if located in whole or in part within 10 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as notified by the Central Pollution Control Board from time to time, (iii) Notified Eco-sensitive areas, (iv) inter-State boundaries and international boundaries.

**Specific Condition (SC):**

If any Industrial Estate/Complex / Export processing Zones /Special Economic Zones/Biotech Parks / Leather Complex with homogeneous type of industries such as Items 4(d), 4(f), 5(e), 5(f), or those Industrial estates with pre -defined set of activities (not necessarily homogeneous, obtains prior environmental clearance, individual industries including proposed industrial housing within such estates /complexes will not be required to take prior environmental clearance, so long as the Terms and Conditions for the industrial estate/complex are complied with (Such estates/complexes must have a clearly identified management with the legal responsibility of ensuring adherence to the Terms and Conditions of prior environmental clearance, who may be held responsible for violation of the same throughout the life of the complex/estate).

## APPENDIX I

(See paragraph - 6)

## FORM I

## (I) Basic Information

Name of the Project:

Location / site alternatives under consideration:

Size of the Project: \*

Expected cost of the project:

Contact Information:

Screening Category:

- Capacity corresponding to sectoral activity (such as production capacity for manufacturing, mining lease area and production capacity for mineral production, area for mineral exploration, length for linear transport infrastructure, generation capacity for power generation etc.,)

## (II) 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 thereof (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)		
1.2	Clearance of existing land, vegetation and buildings?		
1.3	Creation of new land uses?		
1.4	Pre-construction investigations e.g. bore houses, soil testing?		
1.5	Construction works?		

1.6	Demolition works?		
1.7	Temporary sites used for construction works or housing of construction workers?		
1.8	Above ground buildings, structures or earthworks including linear structures, cut and fill or excavations		
1.9	Underground works including mining or tunneling?		
1.10	Reclamation works?		
1.11	Dredging?		
1.12	Offshore structures?		
1.13	Production and manufacturing processes?		
1.14	Facilities for storage of goods or materials?		
1.15	Facilities for treatment or disposal of solid waste or liquid effluents?		
1.16	Facilities for long term housing of operational workers?		
1.17	New road, rail or sea traffic during construction or operation?		
1.18	New road, rail, air waterborne or other transport infrastructure including new or altered routes and stations, ports, airports etc?		
1.19	Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?		
1.20	New or diverted transmission lines or pipelines?		
1.21	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?		
1.22	Stream crossings?		
1.23	Abstraction or transfers of water from ground or surface waters?		
1.24	Changes in water bodies or the land surface affecting drainage or run-off?		

1.25	Transport of personnel or materials for construction, operation or decommissioning?		
1.26	Long-term dismantling or decommissioning or restoration works?		
1.27	Ongoing activity during decommissioning which could have an impact on the environment?		
1.28	Influx of people to an area in either temporarily or permanently?		
1.29	Introduction of alien species?		
1.30	Loss of native species or genetic diversity?		
1.31	Any other actions?		

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 quantities /rates, wherever possible) with source of information data
2.1	Land especially undeveloped or agricultural land (ha)		
2.2	Water (expected source & competing users) unit: KLD		
2.3	Minerals (MT)		
2.4	Construction material -- stone, aggregates, and / soil (expected source -- MT)		
2.5	Forests and timber (source -- MT)		
2.6	Energy including electricity and fuels (source, competing users) Unit: fuel (MT), energy (MW)		
2.7	Any other natural resources (use appropriate standard units)		

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 MSIHC rules) to human health or the environment (flora, fauna, and water supplies)		
3.2	Changes in occurrence of disease or affect disease vectors (e.g. insect or water borne diseases)		
3.3	Affect the welfare of people e.g. by changing living conditions?		
3.4	Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc.,		
3.5	Any other causes		

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

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		
4.2	Municipal waste (domestic and or commercial wastes)		
4.3	Hazardous wastes (as per Hazardous Waste Management Rules)		

4.4	Other industrial process wastes		
4.5	Surplus product		
4.6	Sewage sludge or other sludge from effluent treatment		
4.7	Construction or demolition wastes		
4.8	Redundant machinery or equipment		
4.9	Contaminated soils or other materials		
4.10	Agricultural wastes		
4.11	Other solid wastes		

**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		
5.2	Emissions from production processes		
5.3	Emissions from materials handling including storage or transport		
5.4	Emissions from construction activities including plant and equipment		
5.5	Dust or odours from handling of materials including construction materials, sewage and waste		

5.6	Emissions from incineration of waste		
5.7	Emissions from burning of waste in open air (e.g. slash materials, construction debris)		
5.8	Emissions from any other sources		

**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 with source of information data
6.1	From operation of equipment e.g. engines, ventilation plant, crushers		
6.2	From industrial or similar processes		
6.3	From construction or demolition		
6.4	From blasting or piling		
6.5	From construction or operational traffic		
6.6	From lighting or cooling systems		
6.7	From any other sources		

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		
7.2	From discharge of sewage or other effluents to water or the land (expected mode and place of discharge)		
7.3	By deposition of pollutants emitted to air into the land or into water		
7.4	From any other sources		
7.5	Is there a risk of long term build up of pollutants in the environment from these sources?		

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		
8.2	From any other causes		
8.3	Could the project be affected by natural disasters causing environmental damage (e.g. floods, earthquakes, landslides, cloudburst etc)?		

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	<p>Lead to development of supporting facilities, ancillary development or development stimulated by the project which could have impact on the environment e.g.:</p> <ul style="list-style-type: none"> <li>• Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.)</li> <li>• housing development</li> <li>• extractive industries</li> <li>• supply industries</li> <li>• other</li> </ul>		
9.2	Lead to after-use of the site, which could have an impact on the environment		
9.3	Set a precedent for later developments		
9.4	Have cumulative effects due to proximity to other existing or planned projects with similar effects		

(III) Environmental Sensitivity

S.No.	Areas	Name/ Identity	Aerial distance (within 15 km.) Proposed project location boundary
1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value		

2	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests		
3	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration		
4	Inland, coastal, marine or underground waters		
5	State, National boundaries		
6	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas		
7	Defence installations		
8	Densely populated or built-up area		
9	Areas occupied by sensitive man-made land uses ( <i>hospitals, schools, places of worship, community facilities</i> )		
10	Areas containing important, high quality or scarce resources ( <i>ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals</i> )		
11	Areas already subjected to pollution or environmental damage, ( <i>those where existing legal environmental standards are exceeded</i> )		
12	Areas susceptible to natural hazard which could cause the project to present environmental problems ( <i>earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions</i> )		

(IV). Proposed Terms of Reference for EIA studies

## APPENDIX II

(See paragraph 6)

FORM-1 A (only for construction projects listed under item 8 of the Schedule)

## CHECK LIST OF ENVIRONMENTAL IMPACTS

(Project proponents are required to provide full information and wherever necessary attach explanatory notes with the Form and submit along with proposed environmental management plan & monitoring programme)

## 1. LAND ENVIRONMENT

(Attach panoramic view of the project site and the vicinity)

1.1. Will the existing landuse get significantly altered from the project that is not consistent with the surroundings? (Proposed landuse must conform to the approved Master Plan / Development Plan of the area. Change of landuse if any and the statutory approval from the competent authority be submitted). Attach Maps of (i) site location, (ii) surrounding features of the proposed site (within 500 meters) and (iii) the site (indicating levels & contours) to appropriate scales. If not available attach only conceptual plans.

1.2. List out all the major project requirements in terms of the land area, built up area, water consumption, power requirement, connectivity, community facilities, parking needs etc.

1.3. What are the likely impacts of the proposed activity on the existing facilities adjacent to the proposed site? (Such as open spaces, community facilities, details of the existing landuse, disturbance to the local ecology).

1.4. Will there be any significant land disturbance resulting in erosion, subsidence & instability? (Details of soil type, slope analysis, vulnerability to subsidence, seismicity etc may be given).

1.5. Will the proposal involve alteration of natural drainage systems? (Give details on a contour map showing the natural drainage near the proposed project site)

1.6. What are the quantities of earthwork involved in the construction activity-cutting, filling, reclamation etc. (Give details of the quantities of earthwork involved, transport of fill materials from outside the site etc.)

1.7. Give details regarding water supply, waste handling etc during the construction period.

1.8. Will the low lying areas & wetlands get altered? (Provide details of how low lying and wetlands are getting modified from the proposed activity)

1.9. Whether construction debris & waste during construction cause health hazard? (Give quantities of various types of wastes generated during construction including the construction labour and the means of disposal)

## 2. WATER ENVIRONMENT

2.1. Give the total quantity of water requirement for the proposed project with the breakup of requirements for various uses. How will the water requirement met? State the sources & quantities and furnish a water balance statement.

- 2.2. What is the capacity (dependable flow or yield) of the proposed source of water?
- 2.3. What is the quality of water required, in case, the supply is not from a municipal source? (Provide physical, chemical, biological characteristics with class of water quality)
- 2.4. How much of the water requirement can be met from the recycling of treated wastewater? (Give the details of quantities, sources and usage)
- 2.5. Will there be diversion of water from other users? (Please assess the impacts of the project on other existing uses and quantities of consumption)
- 2.6. What is the incremental pollution load from wastewater generated from the proposed activity? (Give details of the quantities and composition of wastewater generated from the proposed activity)
- 2.7. Give details of the water requirements met from water harvesting? Furnish details of the facilities created.
- 2.8. What would be the impact of the land use changes occurring due to the proposed project on the runoff characteristics (quantitative as well as qualitative) of the area in the post construction phase on a long term basis? Would it aggravate the problems of flooding or water logging in any way?
- 2.9. What are the impacts of the proposal on the ground water? (Will there be tapping of ground water; give the details of ground water table, recharging capacity, and approvals obtained from competent authority, if any)
- 2.10. What precautions/measures are taken to prevent the run-off from construction activities polluting land & aquifers? (Give details of quantities and the measures taken to avoid the adverse impacts)
- 2.11: How is the storm water from within the site managed?(State the provisions made to avoid flooding of the area, details of the drainage facilities provided along with a site layout indication contour levels)
- 2.12. Will the deployment of construction labourers particularly in the peak period lead to unsanitary conditions around the project site (Justify with proper explanation)
- 2.13. What on-site facilities are provided for the collection, treatment & safe disposal of sewage? (Give details of the quantities of wastewater generation, treatment capacities with technology & facilities for recycling and disposal)
- 2.14. Give details of dual plumbing system if treated waste used is used for flushing of toilets or any other use.

### 3. VEGETATION

- 3.1. Is there any threat of the project to the biodiversity? (Give a description of the local ecosystem with it's unique features, if any)

3.2. Will the construction involve extensive clearing or modification of vegetation? (Provide a detailed account of the trees & vegetation affected by the project)

3.3. What are the measures proposed to be taken to minimize the likely impacts on important site features (Give details of proposal for tree plantation, landscaping, creation of water bodies etc along with a layout plan to an appropriate scale)

#### 4. FAUNA

4.1. Is there likely to be any displacement of fauna- both terrestrial and aquatic or creation of barriers for their movement? Provide the details.

4.2. Any direct or indirect impacts on the avifauna of the area? Provide details.

4.3. Prescribe measures such as corridors, fish ladders etc to mitigate adverse impacts on fauna

#### 5. AIR ENVIRONMENT

5.1. Will the project increase atmospheric concentration of gases & result in heat islands? (Give details of background air quality levels with predicted values based on dispersion models taking into account the increased traffic generation as a result of the proposed constructions)

5.2. What are the impacts on generation of dust, smoke, odorous fumes or other hazardous gases? Give details in relation to all the meteorological parameters.

5.3. Will the proposal create shortage of parking space for vehicles? Furnish details of the present level of transport infrastructure and measures proposed for improvement including the traffic management at the entry & exit to the project site.

5.4. Provide details of the movement patterns with internal roads, bicycle tracks, pedestrian pathways, footpaths etc., with areas under each category.

5.5. Will there be significant increase in traffic noise & vibrations? Give details of the sources and the measures proposed for mitigation of the above.

5.6. What will be the impact of DG sets & other equipment on noise levels & vibration in & ambient air quality around the project site? Provide details.

#### 6. AESTHETICS

6.1. Will the proposed constructions in any way result in the obstruction of a view, scenic amenity or landscapes? Are these considerations taken into account by the proponents?

6.2. Will there be any adverse impacts from new constructions on the existing structures? What are the considerations taken into account?

6.3. Whether there are any local considerations of urban form & urban design influencing the design criteria? They may be explicitly spelt out.

6.4. Are there any anthropological or archaeological sites or artefacts nearby? State if any other significant features in the vicinity of the proposed site have been considered.

#### 7. SOCIO-ECONOMIC ASPECTS

7.1. Will the proposal result in any changes to the demographic structure of local population? Provide the details.

7.2. Give details of the existing social infrastructure around the proposed project.

7.3. Will the project cause adverse effects on local communities, disturbance to sacred sites or other cultural values? What are the safeguards proposed?

## 8. BUILDING MATERIALS

8.1. May involve the use of building materials with high-embodied energy. Are the construction materials produced with energy efficient processes? (Give details of energy conservation measures in the selection of building materials and their energy efficiency)

8.2. Transport and handling of materials during construction may result in pollution, noise & public nuisance. What measures are taken to minimize the impacts?

8.3. Are recycled materials used in roads and structures? State the extent of savings achieved?

8.4. Give details of the methods of collection, segregation & disposal of the garbage generated during the operation phases of the project.

## 9. ENERGY CONSERVATION

9.1. Give details of the power requirements, source of supply, backup source etc. What is the energy consumption assumed per square foot of built-up area? How have you tried to minimize energy consumption?

9.2. What type of, and capacity of, power back-up to you plan to provide?

9.3. What are the characteristics of the glass you plan to use? Provide specifications of its characteristics related to both short wave and long wave radiation?

9.4. What passive solar architectural features are being used in the building? Illustrate the applications made in the proposed project.

9.5. Does the layout of streets & buildings maximise the potential for solar energy devices? Have you considered the use of street lighting, emergency lighting and solar hot water systems for use in the building complex? Substantiate with details.

9.6. Is shading effectively used to reduce cooling/heating loads? What principles have been used to maximize the shading of Walls on the East and the West and the Roof? How much energy saving has been effected?

9.7. Do the structures use energy-efficient space conditioning, lighting and mechanical systems? Provide technical details. Provide details of the transformers and motor efficiencies, lighting intensity and air-conditioning load assumptions? Are you using CFC and HCFC free chillers? Provide specifications.

9.8. What are the likely effects of the building activity in altering the micro-climates? Provide a self assessment on the likely impacts of the proposed construction on creation of heat island & inversion effects?

9.9. What are the thermal characteristics of the building envelope? (a) roof; (b) external walls; and (c) fenestration? Give details of the material used and the U-values or the R values of the individual components.

9.10. What precautions & safety measures are proposed against fire hazards? Furnish details of emergency plans.

9.11. If you are using glass as wall material provides details and specifications including emissivity and thermal characteristics.

9.12. What is the rate of air infiltration into the building? Provide details of how you are mitigating the effects of infiltration.

9.13. To what extent the non-conventional energy technologies are utilised in the overall energy consumption? Provide details of the renewable energy technologies used.

#### **10. Environment Management Plan**

The Environment Management Plan would consist of all mitigation measures for each item wise activity to be undertaken during the construction, operation and the entire life cycle to minimize adverse environmental impacts as a result of the activities of the project. It would also delineate the environmental monitoring plan for compliance of various environmental regulations. It will state the steps to be taken in case of emergency such as accidents at the site including fire.

## APPENDIX III

(See paragraph 7

## GENERIC STRUCTURE OF ENVIRONMENTAL IMPACT ASSESMENT DOCUMENT

S.NO	EIA STRUCTURE	CONTENTS
1.	Introduction	<ul style="list-style-type: none"> <li>• Purpose of the report</li> <li>• Identification of project &amp; project proponent</li> <li>• Brief description of nature, size, location of the project and its importance to the country, region</li> <li>• Scope of the study – details of regulatory scoping carried out (As per Terms of Reference)</li> </ul>
2.	Project Description	<ul style="list-style-type: none"> <li>• Condensed description of those aspects of the project (based on project feasibility study), likely to cause environmental effects. Details should be provided to give clear picture of the following: <ul style="list-style-type: none"> <li>• Type of project</li> <li>• Need for the project</li> <li>• Location (maps showing general location, specific location, project boundary &amp; project site layout)</li> <li>• Size or magnitude of operation (incl. Associated activities required by or for the project)</li> <li>• Proposed schedule for approval and implementation</li> <li>• Technology and process description</li> <li>• Project description. Including drawings showing project layout, components of project etc. Schematic representations of the feasibility drawings which give information important for EIA purpose</li> <li>• Description of mitigation measures incorporated into the project to meet environmental standards, environmental operating conditions, or other EIA requirements (as required by the scope)</li> <li>• Assessment of New &amp; untested technology for the risk of technological failure</li> </ul> </li> </ul>

3.	Description of the Environment	<ul style="list-style-type: none"> <li>• Study area, period, components &amp; methodology</li> <li>• Establishment of baseline for valued environmental components, as identified in the scope</li> <li>• Base maps of all environmental components</li> </ul>
4.	Anticipated Environmental Impacts & Mitigation Measures	<ul style="list-style-type: none"> <li>• Details of Investigated Environmental impacts due to project location, possible accidents, project design, project construction, regular operations, final decommissioning or rehabilitation of a completed project</li> <li>• Measures for minimizing and / or offsetting adverse impacts identified</li> <li>• Irreversible and Irretrievable commitments of environmental components</li> <li>• Assessment of significance of impacts (Criteria for determining significance, Assigning significance)</li> <li>• Mitigation measures</li> </ul>
5.	Analysis of Alternatives (Technology & Site)	<ul style="list-style-type: none"> <li>• In case, the scoping exercise results in need for alternatives:</li> <li>• Description of each alternative</li> <li>• Summary of adverse impacts of each alternative</li> <li>• Mitigation measures proposed for each alternative and</li> <li>• Selection of alternative</li> </ul>
6.	Environmental Monitoring Program	<ul style="list-style-type: none"> <li>• Technical aspects of monitoring the effectiveness of mitigation measures (incl. Measurement methodologies, frequency, location, data analysis, reporting schedules, emergency procedures, detailed budget &amp; procurement schedules)</li> </ul>
7.	Additional Studies	<ul style="list-style-type: none"> <li>• Public Consultation</li> <li>• Risk assessment</li> <li>• Social Impact Assessment, R&amp;R Action Plans</li> </ul>
8.	Project Benefits	<ul style="list-style-type: none"> <li>• Improvements in the physical infrastructure</li> <li>• Improvements in the social infrastructure</li> <li>• Employment potential –skilled, semi-skilled and unskilled</li> <li>• Other tangible benefits</li> </ul>

9.	Environmental Cost Benefit Analysis	If recommended at the Scoping stage
10.	EMP	<ul style="list-style-type: none"> <li>Description of the administrative aspects of ensuring that mitigative measures are implemented and their effectiveness monitored, after approval of the EIA</li> </ul>
11	Summary & Conclusion (This will constitute the summary of the EIA Report)	<ul style="list-style-type: none"> <li>Overall justification for implementation of the project</li> <li>Explanation of how, adverse effects have been mitigated</li> </ul>
12.	Disclosure of Consultants engaged	<ul style="list-style-type: none"> <li>The names of the Consultants engaged with their brief resume and nature of Consultancy rendered</li> </ul>

APPENDIX III A  
(See paragraph 7)

CONTENTS OF SUMMARY ENVIRONMENTAL IMPACT ASSESSMENT

The Summary EIA shall be a summary of the full EIA Report condensed to ten A-4 size pages at the maximum. It should necessarily cover in brief the following Chapters of the full EIA Report: -

1. Project Description
2. Description of the Environment
3. Anticipated Environmental impacts and mitigation measures
4. Environmental Monitoring Programme
5. Additional Studies
6. Project Benefits
7. Environment Management Plan

## APPENDIX IV

(See paragraph 7)

## PROCEDURE FOR CONDUCT OF PUBLIC HEARING

1.0 The Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District -wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC).

## 2.0 The Process:

2.1 The Applicant shall make a request through a simple letter to the Member Secretary of the SPCB or Union Territory Pollution Control Committee, in whose jurisdiction the project is located, to arrange the public hearing within the prescribed statutory period. In case the project site is extending beyond a State or Union Territory, the public hearing is mandated in each State or Union Territory in which the project is sited and the Applicant shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per this procedure.

2.2 The Applicant shall enclose with the letter of request, at least 10 hard copies and an equivalent number of soft (electronic) copies of the draft EIA Report with the generic structure given in Appendix III including the Summary Environment Impact Assessment report in English and in the local language, prepared strictly in accordance with the Terms of Reference communicated after Scoping (Stage-2). Simultaneously the applicant shall arrange to forward copies, one hard and one soft, of the above draft EIA Report along with the Summary EIA report to the Ministry of Environment and Forests and to the following authorities or offices, within whose jurisdiction the project will be located:

- (a) District Magistrate/s
- (b) Zila Parishad or Municipal Corporation
- (c) District Industries Office
- (d) Concerned Regional Office of the Ministry of Environment and Forests

2.3 On receiving the draft Environmental Impact Assessment report, the above-mentioned authorities except the MoEF, shall arrange to widely publicize it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities. They shall also make available the draft EIA Report for inspection electronically or otherwise to the public during normal office hours till the Public Hearing is over. The Ministry of Environment and Forests shall promptly display the Summary of the draft Environmental Impact Assessment report on its website, and also make the full draft EIA available for reference at a notified place during normal office hours in the Ministry at Delhi.

2.4 The SPCB or UTPCC concerned shall also make similar arrangements for giving publicity about the project within the State/Union Territory and make available the Summary of the draft Environmental Impact Assessment report (Appendix III A) for inspection in select offices or public libraries or panchayats etc. They shall also additionally

make available a copy of the draft Environmental Impact Assessment report to the above five authorities/offices viz, Ministry of Environment and Forests, District Magistrate etc.

### **3.0 Notice of Public Hearing:**

3.1 The Member-Secretary of the concerned SPCB or UTPCC shall finalize the date, time and exact venue for the conduct of public hearing within 7(seven) days of the date of receipt of the draft Environmental Impact Assessment report from the project proponent, and advertise the same in one major National Daily and one Regional vernacular Daily. A minimum notice period of 30(thirty) days shall be provided to the public for furnishing their responses;

3.2 The advertisement shall also inform the public about the places or offices where the public could access the draft Environmental Impact Assessment report and the Summary Environmental Impact Assessment report before the public hearing.

3.3 No postponement of the date, time, venue of the public hearing shall be undertaken, unless some untoward emergency situation occurs and only on the recommendation of the concerned District Magistrate the postponement shall be notified to the public through the same National and Regional vernacular dailies and also prominently displayed at all the identified offices by the concerned SPCB or Union Territory Pollution Control Committee;

3.4 In the above exceptional circumstances fresh date, time and venue for the public consultation shall be decided by the Member -Secretary of the concerned SPCB or UTPCC only in consultation with the District Magistrate and notified afresh as per procedure under 3.1 above.

### **4.0 The Panel**

4.1 The District Magistrate or his or her representative not below the rank of an Additional District Magistrate assisted by a representative of SPCB or UTPCC, shall supervise and preside over the entire public hearing process.

### **5.0 Videography**

5.1 The SPCB or UTPCC shall arrange to video film the entire proceedings. A copy of the videotape or a CD shall be enclosed with the public hearing proceedings while forwarding it to the Regulatory Authority concerned.

### **6.0 Proceedings**

6.1 The attendance of all those who are present at the venue shall be noted and annexed with the final proceedings.

6.2 There shall be no quorum required for attendance for starting the proceedings.

6.3 A representative of the applicant shall initiate the proceedings with a presentation on the project and the Summary EIA report.

6.4 Every person present at the venue shall be granted the opportunity to seek information or clarifications on the project from the Applicant. The summary of the public

hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the representative of the SPCB or UTPCC and read over to the audience at the end of the proceedings explaining the contents in the vernacular language and the agreed minutes shall be signed by the District Magistrate or his or her representative on the same day and forwarded to the SPCB/UTPCC concerned.

6.5 A Statement of the issues raised by the public and the comments of the Applicant shall also be prepared in the local language and in English and annexed to the proceedings:

6.6 The proceedings of the public hearing shall be conspicuously displayed at the office of the Panchyats within whose jurisdiction the project is located, office of the concerned Zila Parishad, District Magistrate and the SPCB or UTPCC. The SPCB or UTPCC shall also display the proceedings on its website for general information. Comments, if any, on the proceedings which may be sent directly to the concerned regulatory authorities and the Applicant concerned.

#### 7.0 Time period for completion of public hearing

7.1 The public hearing shall be completed within a period of 45 (forty five) days from date of receipt of the request letter from the Applicant. Therefore the SPCB or UTPCC concerned shall sent the public hearing proceedings to the concerned regulatory authority within 8(eight) days of the completion of the public hearing. The applicant may also directly forward a copy of the approved public hearing proceedings to the regulatory authority concerned along with the final Environmental Impact Assessment report or supplementary report to the draft EIA report prepared after the public hearing and public consultations.

7.2 If the SPCB or UTPCC fails to hold the public hearing within the stipulated 45(forty five) days, the Central Government in Ministry of Environment and Forests for Category 'A' project or activity and the State Government or Union Territory Administration for Category 'B' project or activity at the request of the SEIAA, shall engage any other agency or authority to complete the process, as per procedure laid down in this notification.

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APPENDIX -V  
(See paragraph 7)

PROCEDURE PRESCRIBED FOR APPRAISAL

1. The applicant shall apply to the concerned regulatory authority through a simple communication enclosing the following documents where public consultations are mandatory: -
  - Final Environment Impact Assessment Report [20(twenty) hard copies and 1 (one) soft copy]
  - A copy of the video tape or CD of the public hearing proceedings
  - A copy of final layout plan (20 copies)
  - A copy of the project feasibility report (1 copy)
2. The Final EIA Report and the other relevant documents submitted by the applicant shall be scrutinized in office within 30 days from the date of its receipt by the concerned Regulatory Authority strictly with reference to the TOR and the inadequacies noted shall be communicated electronically or otherwise in a single set to the Members of the EAC /SEAC enclosing a copy each of the Final EIA Report including the public hearing proceedings and other public responses received along with a copy of Form -1 or Form 1A and scheduled date of the EAC /SEAC meeting for considering the proposal .
3. Where a public consultation is not mandatory and therefore a formal EIA study is not required, the appraisal shall be made on the basis of the prescribed application Form 1 and a pre-feasibility report in the case of all projects and activities other than Item 8 of the Schedule .In the case of Item 8 of the Schedule, considering its unique project cycle , the EAC or SEAC concerned shall appraise all Category B projects or activities on the basis of Form 1, Form 1A and the conceptual plan and stipulate the conditions for environmental clearance . As and when the applicant submits the approved scheme /building plans complying with the stipulated environmental clearance conditions with all other necessary statutory approvals, the EAC /SEAC shall recommend the grant of environmental clearance to the competent authority.
4. Every application shall be placed before the EAC /SEAC and its appraisal completed within 60 days of its receipt with requisite documents / details in the prescribed manner.
5. The applicant shall be informed at least 15 (fifteen) days prior to the scheduled date of the EAC /SEAC meeting for considering the project proposal.
6. The minutes of the EAC /SEAC meeting shall be finalised within 5 working days of the meeting and displayed on the website of the concerned regulatory authority. In case the project or activity is recommended for grant of EC, then the minutes shall clearly list out the specific environmental safeguards and conditions. In case the recommendations are for rejection, the reasons for the same shall also be explicitly stated.

## APPENDIX VI

(See paragraph 5)

**COMPOSITION OF THE SECTOR/ PROJECT SPECIFIC EXPERT APPRAISAL COMMITTEE (EAC) FOR CATEGORY A PROJECTS AND THE STATE/UT LEVEL EXPERT APPRAISAL COMMITTEES (SEACs) FOR CATEGORY B PROJECTS TO BE CONSTITUTED BY THE CENTRAL GOVERNMENT**

1. The Expert Appraisal Committees (EAC(s) and the State/UT Level Expert Appraisal Committees (SEACs) shall consist of only professionals and experts fulfilling the following eligibility criteria:

**Professional:** The person should have at least (i) 5 years of formal University training in the concerned discipline leading to a MA/MSc Degree, or (ii) in case of Engineering /Technology/Architecture disciplines, 4 years formal training in a professional training course together with prescribed practical training in the field leading to a B.Tech/B.E./B.Arch. Degree, or (iii) Other professional degree (e.g. Law) involving a total of 5 years of formal University training and prescribed practical training, or (iv) Prescribed apprenticeship/article ship and pass examinations conducted by the concerned professional association (e.g. Chartered Accountancy ),or (v) a University degree , followed by 2 years of formal training in a University or Service Academy (e.g. MBA/IAS/IFS). In selecting the individual professionals, experience gained by them in their respective fields will be taken note of.

**Expert:** A professional fulfilling the above eligibility criteria with at least 15 years of relevant experience in the field, or with an advanced degree (e.g. Ph.D.) in a concerned field and at least 10 years of relevant experience.

**Age:** Below 70 years. However, in the event of the non-availability of /paucity of experts in a given field, the maximum age of a member of the Expert Appraisal Committee may be allowed up to 75 years

2. The Members of the EAC shall be Experts with the requisite expertise and experience in the following fields /disciplines. In the event that persons fulfilling the criteria of "Experts" are not available, Professionals in the same field with sufficient experience may be considered:

- **Environment Quality Experts:** Experts in measurement/monitoring, analysis and interpretation of data in relation to environmental quality
- **Sectoral Experts in Project Management:** Experts in Project Management or Management of Process/Operations/Facilities in the relevant sectors.
- **Environmental Impact Assessment Process Experts:** Experts in conducting and carrying out Environmental Impact Assessments (EIAs) and preparation of Environmental Management Plans (EMPs) and other Management plans and who have wide expertise and knowledge of predictive techniques and tools used in the EIA process
- **Risk Assessment Experts**
- **Life Science Experts in floral and faunal management**
- **Forestry and Wildlife Experts**

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- **Environmental Economics Expert with experience in project appraisal**
3. The Membership of the EAC shall not exceed 15 (fifteen) regular Members. However the Chairperson may co-opt an expert as a Member in a relevant field for a particular meeting of the Committee.
  4. The Chairperson shall be an outstanding and experienced environmental policy expert or expert in management or public administration with wide experience in the relevant development sector.
  5. The Chairperson shall nominate one of the Members as the Vice Chairperson who shall preside over the EAC in the absence of the Chairman /Chairperson.
  6. A representative of the Ministry of Environment and Forests shall assist the Committee as its Secretary.
  7. The maximum tenure of a Member, including Chairperson, shall be for 2 (two) terms of 3 (three) years each.
  8. The Chairman / Members may not be removed prior to expiry of the tenure without cause and proper enquiry.

J. Rose

## MINISTRY OF ENVIRONMENT AND FORESTS

## NOTIFICATION

New Delhi, the 4th April, 2011

**S.O. 695(E).**— Whereas by notification of the Government of India in the Ministry of Environment and Forests vide number S.O. 1533(E), dated the 14<sup>th</sup> September, 2006 issued under sub-section (1) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government directed that on or from the dates of its publication, the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to the said notification entailing the capacity addition with change in process and or technology shall be undertaken in any part of India only after prior environmental clearance from the Central Government or as the case may be, by the State level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act in accordance with the procedure specified therein;

And whereas, it has been decided to provide clarification with regard to the term "built up area" used in the said Notification and also to make various paras of the Notification mutually consistent and to restore the unintentional changes, which got into the Notification while making amendment vide S.O. 3067 (E) dated 1<sup>st</sup> December, 2009, in particular the entry against item no. 7(f) in the schedule to the EIA Notification, 2006 relating to highway projects and for this purpose to issue suitable amendments in the said Notification.

And whereas, clause (a) of sub-rule (3) of rule 5 of the said Environment (Protection) Rules provides that, whenever the Central Government considers that

[भाग II—खण्ड 3(ii)]

भारत का राजपत्र : असाधारण

prohibition or restrictions of any industry or carrying on any processes or operation in any area should be imposed, it shall give notice of its intention to do so;

And whereas, sub-rule (4) of rule 5 of the said Environment (Protection) Rules provides that, notwithstanding anything contained in sub-rule (3), whenever it appears to the Central Government that it is in public interest to do so, it may dispense with the requirement of notice under clause (a) of sub-rule (3);

Now therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the said Environment (Protection) Act, read with clause (d) of sub-rule (3) of rule 5 of the said Environment (Protection) Rules, the Central Government hereby makes the following amendments in the said Notification, namely:-

In the said notification, -

(I) In para 6, for the existing words "An application seeking prior environmental clearance in all cases shall be made", the following words shall be substituted, namely:-

"An application seeking prior environmental clearance in all cases shall be made by the project proponent".

(II) In para 7, in sub-para 7 in clause (i), sub para II, stage (2) - scoping, sub para (i), in the last sentence, for the words "activities listed as Category 'B' in item 8 of the schedule (Construction / Township / Commercial Complexes / Housing)", the following words shall be substituted, namely:-

"Activities listed as Category 'B' in item 8(a) of the schedule (building and construction projects)".

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(III) In the Schedule, -

(i) against item 1(a), -

in column (5), for the entries, the following entries shall be substituted, namely:-

"General conditions shall apply.

Note:

(i) 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.

(ii) Mineral prospecting is exempted."

(ii) against item 7(f), -

in column (4), for the entry "(i) All State Highway Projects; and" the following entry shall be substituted, namely:-

"(i) All New State Highway Projects".

(iii) against item 8(a), -

in column (5), for the entry, the following entry shall be substituted, namely:-

"The built up area for the purpose of this Notification is defined as "the built up or covered area on all the floors put together including basement(s) and other service areas, which are proposed in the building / construction projects"."

(IV) In Appendix V, for para 3, the following para shall be substituted, namely:-

"3. where a public consultation is not mandatory, the appraisal shall be made on the basis of prescribed application Form-1 and EIA report, in the case of all projects and activities other than item 8 of the schedule. In the case of item 8 of the schedule, considering its unique project cycle, the EAC or SEAC concerned shall appraise projects or activities on the basis of Form-1, Form-1A, conceptual plan and the EIA report [required only for projects listed under 8(b)] and make recommendations on the project regarding grant of environmental clearance or otherwise and also stipulate the conditions for environmental clearance".

[F. No. 3-101/2010-IA. II]

Dr. NALINI BHAT, Scientist 'G'

**Note:** The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide notification number S.O. 1533(E), dated the 14<sup>th</sup> September, 2006 and amended vide S.O. 1737(E), dated the 11<sup>th</sup> October, 2007 and S.O. No. 3067(E) dated 1<sup>st</sup> December, 2009.

*J. Rose*

F. No. 22-35/2017-IA.III

Government of India

Ministry of Environment, Forest and Climate Change  
(Impact Assessment Division)

\*\*\*\*\*

Indira Paryavaran Bhawan  
Jor Bag Road, Aliganj  
New Delhi - 110 003Dated: 7<sup>th</sup> July, 2017OFFICE MEMORANDUM

**Sub:** Clarification on the date of applicability of notification S.O. (E) 695 dated 04.04.2011 issued by MoEF&CC defining 'Built Up Area' of the project.

The Ministry is in receipt of a reference dated 03.04.2017 from Confederation of Real Estate Developers Association of India (CREDAI) seeking clarification on above mentioned subject. The CREDAI has requested that the definition of Built Up Area (BUA) given vide notification S.O. 695 (E) dated 04.04.2011 should have prospective effect.

2. The matter has been examined in the Ministry. The BUA defined in the notification S.O. 1533 (E) dated 14<sup>th</sup> September, 2006 mentions at item 8 (a) columns 4 and 5 "built up area for covered construction; in the case of facilities open to sky, it will be the activity area".
3. The Ministry has further defined BUA vide its notification S.O. 695 (E) dated 04.04.2011 which reads as, "the built up or covered area on all the floors put together including its basement and other service areas, which are proposed in the building or construction project."
4. The definition provided in the Ministry's notification will have its effect from the prospective date of the notification only. The projects which are not covered in the period of above notifications should be assessed as per the definition of built up area provided in the building bye-laws or Development Control Regulation (DCR) of the local authorities in the States.
5. This issues with the approval of Competent Authority.

*Ashish*  
27.07.2017  
(Dr. Ashish Kumar)  
Joint Director  
Ph.: 011-24695474  
Email: [ashish.k@nic.in](mailto:ashish.k@nic.in)

All States/UTs/SIEAAs/MoEF&amp;CC Divisions

*J. Patel*

Annexure - V

F.No. 3-10/2018-IA-III  
Government of India  
Ministry of Environment, Forest and Climate Change  
(IA Division)

Indira Paryavaran Bhawan  
Jor Bagh Road, Aliganj  
New Delhi - 110003  
Date: 5<sup>th</sup> March, 2019

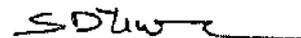
OFFICE MEMORANDUM

**Subject: Environmental Clearance to Building / construction projects - Civil Appeal No. 10854 of 2016 in the matter of M/s Goel Ganga Developers Pvt Ltd Vs Union of India and Ors - Hon'ble Supreme Court judgment dated 10.08.2018 regarding.**

The Hon'ble Supreme Court of India, in their judgment dated 10.08.2018 in Civil Appeal No. 10854 of 2016 in the matter of M/s Goel Ganga Developers Pvt Ltd Vs Union of India and Ors have observed that *"there is no ambiguity with regard to the definition of 'built-up area' even under the notification of 2006 and it covers all constructed area not open to the sky. The notification of 2011 only provides that the built up area or covered area shall be the area of all floors put together including basement(s) and other service areas. We may again re-emphasize that this definition also is in consonance with the concept of grant of EC for construction as explained above and it is obvious that the concept of FSI or non-FSI area is alien to environmental laws"*. Hence, all the cases not in conformity in respect of definition of built-up area given under the EIA Notification, 2006 and further elaborated by amended notification in 2011 (as upheld by the Hon'ble Supreme Court vide its judgment dated 10.08.2018) should be treated as violation.

2. In view of the above, it is requested that in such cases, which were granted environmental clearances (Building and Construction/Area Development and Townships Projects) between 14<sup>th</sup> September, 2006 to 4<sup>th</sup> April, 2011 and that have violated the EIA Notification, 2006, in terms of definition of built-up area in light of the above orders of Hon'ble Supreme Court, action against violators may be initiated by the concerned State Governments, under the powers delegated to them under the Environment (Protection) Act, 1986. Wherever, such violation has occurred in respect of ECs granted by the Central Government, information may be provided to this Ministry so that requisite action may be taken from this end.

3. Details of all such cases may also be advised to this office from time to time.
4. This issues with approval of the Competent Authority.

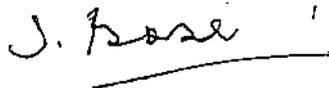


(S. D. Tiwari)

Under Secretary to the Government of India

To,

1. The Principal Secretaries of all the Environment/Environment and Forest Department
2. The Chairperson/Member Secretaries of all the SEIAAs/SEACs
3. The Chairpersons/Member Secretaries of all SPCBs/UTPCCs



GIF  
1/2/18  
11/2/18

Annexure-VI

ITEM NO.32

COURT NO.1

SECTION IX

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

Petition(s) for Special Leave to Appeal (C) No(s). 10078/2019

(Arising out of impugned final judgment and order dated 29-03-2019 in WPL No. 954/2019 passed by the High Court of Judicature At Bombay)

BUILDERS' ASSOCIATION OF INDIA

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(FOR ADMISSION and I.R. and IA No.65285/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES )

Date : 03-05-2019 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE DEEPAK GUPTAFor Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Mahesh Agarwal, Adv.  
Mr. Anshuman Srivastava, Adv.  
Mr. E. C. Agrawala, AOR

For Respondent(s)

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

Issue notice.

In the meantime, no coercive steps shall be taken.

(SUSHIL KUMAR RAKHEJA)  
AR CUM PS(ANAND PRAKASH)  
BRANCH OFFICERJ. Prasad

Signature Not Verified

Digitally signed by  
DEEPAK GUPTA  
Date: 2019.05.03  
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