

## BEFORE THE NATIONAL GREEN TRIBUNAL

## WESTERN ZONE BENCH, AT PUNE

## ORIGINAL APPLICATION NO. 58 OF 2018

**IN THE MATTER OF:**

Protection of Environment &amp; Public Service Committee Applicants

Versus

Union of India &amp; Ors. Respondents

**INDEX**

<b>S.No.</b>	<b>Particulars</b>	<b>Page No.</b>
1.	Comprehensive Objections to Joint Committee Report dated 18.03.2021, Damage Assessment Report of July 2019 and Final Project Report by IIT Gandhinagar dated 21.09.2021 in Original Application No. 58 of 2018 on behalf of Respondent No. 20 (M/s Gorakhmadhi Limestone Mines)	<b>1755-1801</b>
2.	Affidavit	<b>1802</b>
3.	<b>Annexure R-1 (COLLY)-</b> A copy of the Order dated 23.07.2021 by Hon'ble Supreme Court in Tamil Nadu Small Mine Owners Federation vs MoEF&CC (CA No. 1789-1790 of 2021) which upheld the Judgement dated 30.06.2020 and 18.08.2020 by the National Green Tribunal in OA 136/2017 in Tamil Nadu Small Mine Owners Federation vs MoEF&CC. Relevant excerpts of Judgement by this Hon'ble Tribunal dated 30.06.2020 in Tamil Nadu Small Mine Owners Federation vs UOI (OA 136/2017) which sets 31.3.2016 as the cut-off date for valid and regular Application.	<b>1803-1809</b>
4.	<b>Annexure R-2-</b> A Copy of the relevant extracts of the Judgement dated 02.08.2017 in Common Cause vs. Union of India (2017) 9 SCC 499	<b>1810-1813</b>
5.	<b>Annexure R-3-</b> Letter dated 10.12.2005 submitted for renewal of only 4.36 Ha area of mines, its receipt dated 23.1.2005, Final Mine Closure Letter dated 01.08.2007,	<b>1814-1823</b>

	SEAC MoM dated 09.10.2018 and True English translation of Collector Junagarh letter dated 25.04.2007 have been marked and appended as Annexure R-3 (Colly)	
6.	<b>Annexure R-4 (Colly)</b> - A copy of the EIA Notification, 1994 and amendment Notification dated 04.05.1994.	<b>1824-1831</b>
7.	<b>Annexure R-5-</b> - A copy of the MoEF&CC Explanatory Note dated 04.05.1994 on the EIA Notification, 1994 exempting prior EC for projects which had been initiated or had commenced production before 27.01.1994.	<b>1832-1833</b>
8.	<b>Annexure R-6-</b> A copy of the MoEF&CC Circular dated 12.02.2002 clarifying that prior EC is required at the time of renewal only if there is increase in the originally sanctioned lease area or production.	<b>1834-1836</b>
9.	<b>Annexure R-7-A</b> copy of relevant extracts of EIA Notification, 2006	<b>1837-1839</b>
10.	<b>Annexure R-8-</b> A copy of the EIA Amendment Notification dated 01.12.2009 introducing different area categorisation in Category B projects for non-coal mine lease and coal mine lease	<b>1840-1853</b>
11.	<b>Annexure R-9-</b> A copy of the EIA Amendment Notification dated 04.04.2011 where note was added stating that prior EC is required at the stage of renewal of a mine lease for which application should be made upto one year prior to the date of renewal	<b>1854-1857</b>
12.	<b>Annexure R-10</b> - A copy of the O.M dated 18.05.2012 issued by the MoEF&CC clarifying that mining projects (new projects, expansion or modernisation of existing projects as also at the stage of renewal of mine lease) with lease area of 5 Ha and above, irrespective of mineral (major or minor) is required to have prior Environmental Clearance and all mining projects of minor minerals including their renewal , irrespective of the size of the lease area less than 5 ha would be treated as Category B	<b>1858-1859</b>

13.	<b>Annexure R-11</b> - A copy of O.M dated 04.01.2013 issued by the MoEF&CC clarifying that mining projects of major mineral of the size of the lease area less than 5 Ha will not be under the purview of the Order of the Hon'ble Supreme Court dated 27.02.2012 as well as O.M dated 18.05.2012 issued by the Ministry	<b>1860-1862</b>
14.	<b>Annexure R- 12</b> - True copy of EIA Amendment Notification dated 09.09.2013 wherein all leases of minor mineral less than 50 ha were included in Category B. Further, in respect of mining leases of other non-coal mines, which are more than and equal to 5 ha and less than and equal to 50 ha are also categorised as Category B	<b>1863-1864</b>
15.	<b>Annexure R- 13</b> - True copy of EIA Amendment notification dated 07.10.2014 where all non-coal mining leases less than and equal to 50 ha were covered within Category B. A note was added to column 5 which stated that prior EC was required at the stage of renewal of mine lease.	<b>1865-1866</b>
16.	<b>Annexure R-14 (COLLY)-</b> A Copy of the letter dated 13.04.2015 submitting EC Application, EC Acknowledgement Slip dated 22.12.2015, Copy of the Email dated 27.12.2015 to GPCB and Copy of EC Application dated 07.01.2016	<b>1867-1872</b>
17.	<b>Annexure R- 15</b> - Copy of the Clarification dated 08.01.2016 issued by MoEF & CC stating that mines of major minerals with the mine lease area less than 5 ha which were operating before 07.10.2014 may continue the mining operations with consented capacity and shall not enhance production capacity without prior EC.	<b>1873-1877</b>
18.	<b>Annexure R- 16</b> - True copy of the EIA Amendment Notification dated 15.01.2016 reiterating the position that within Category B all non-coal mining leases below 50 ha shall require prior EC.	<b>1878-1881</b>
19.	<b>ANNEXURE R-17-</b> A copy of the Order dated 19.02.2016 of this Hon'ble Tribunal in Jatinder Singh v. UOI. ( OA No 495/2015) wherein a specific Notification is sought in case	<b>1882-1912</b>

	of major minerals and EC requirement from the MOEF&CC.	
20.	<b>Annexure R-18-</b> A copy of the Tamil Nadu Government Order dated 14.07.2016 stating that no EC is needed for the mines of major minerals less than 5 ha.	<b>1913-1917</b>
21.	<b>Annexure R-19-</b> A Copy of the EC Acknowledgement Slip received by the Respondent No 20 for grant of EC dated 13.09.2016	<b>1918.</b>
22.	<b>Annexure R-20-</b> A copy of the timeline details showing the date of submission of Proposal no. 59300 on 28.09.2016 for grant of TOR	<b>1919.</b>
23.	<b>Annexure R-21-</b> A Copy of the relevant extracts of the Minutes of the 309 <sup>th</sup> Meeting of the SEAC held on 13.10.2016 for consideration for grant of TOR by the present Respondent.	<b>1920-1925</b>
24.	<b>Annexure R-22-</b> A copy of the_ relevant extracts of the Minutes of the 319 <sup>th</sup> Meeting of SEAC held on 28.12.2016 recommending TOR to the present Respondent.	<b>1926-1930</b>
25.	<b>Annexure R-23-</b> A copy of letter dated 30.01.2017 from SEIAA to GHCL Gorakhamadhi granting TOR to the present Respondent	<b>1931.</b>
26.	<b>Annexure R-24 (Colly) -</b> True copy of Notification dated 14.03.2017 issued by the MoEF&CC wherein it was directed that the projects that had started the work on site without obtaining the EC were required to apply for the same within 6 months, i.e., by 13.09.2017 and Notification dated 08.03.2018 whereby the Ministry granted power to SEIAA for appraisal of violation cases involving Category B projects.	<b>1932-1936</b>
27.	<b>Annexure R- 25 -</b> A copy of the Order of the Madras High Court dated 13.10.2017 in Puducherry Environment Protection Association v. Union of India (W.P. No. 11189 of 2017)	<b>1937-1957</b>
28.	<b>Annexure R-26 -</b> True copy of the O.M.'s dated 15.03.2018 for the implementation of the earlier Notification dated 14.03.2017 and 08.03.2018	<b>1953-1954</b>

29.	<b>Annexure R-27-</b> A Copy of the minutes of the Public hearing dated 09.03.2018	<b>1955.</b>
30.	<b>Annexure R-28-</b> A copy of letter dated 30.10.2018 by the SEIAA to Answering Respondent wherein the EC application submitted in terms of TOR dated 30.01.2017 was not considered.	<b>1956.</b>
31.	<b>Annexure R-29-</b> Copy of the Representations dated 03.11.2018 and 24.11.2018 by the Answering Respondent to SEIAA.	<b>1957-1958</b>
32.	<b>Annexure R-30-</b> True copy of the O.M dated 09.09.2019 stating that only those proposals for EC would be considered by SEIAA as per Notification of 14.03.2017 and 08.03.2018, which are Category B and have been filed either during the violation window period as Lateral Entry Projects.	<b>1959-1960</b>
33.	<b>Annexure R-31-</b> A copy of the Acknowledgement Slip dated 20.11.2019 for the EC Application submitted on 13.04.2019	<b>1961.</b>
34.	<b>Annexure R-32-</b> True Copy of the MoEF&CC Clarification dated 21.11.2006 clarifying that grant of Consent under Water and Air Act are separate legal requirement from prior EC under EIA Notification, 2006.	<b>1962-1963</b>
35.	<b>Annexure R-33-</b> A copy of the CTE dated 04.12.2007 issued by GPCB to the present Respondent.	<b>1964-1965</b>
36.	<b>Annexure R-34-</b> A copy of CCA dated 02.01.2012 issued by GPCB to the present Respondent.	<b>1966-1968</b>
37.	<b>Annexure R35-</b> A copy of rejection Order dated 06.09.2016 by GPCB.	<b>1969.</b>
38.	<b>Annexure R36 (COLLY)-</b> A copy of Representation dated 24.06.2017 to GPCB for renewal of CCA and show cause notice dated 05.07.2017.	<b>1970-1972</b>
39.	<b>Annexure R-37 -</b> A copy of letter dated 08.07.2017 for grant of renewal of CCA for Respondent mine	<b>1973.</b>
40.	<b>Annexure R-38-</b> A copy of letter dated 23.10.2018 to DG, Mines Safety, Jharkhand as well as DG, Mines Safety Ahmedabad region giving a notice of temporary discontinuance of mines at Gorakmadhi Limestone Mine	<b>1974-1975</b>

41.	<b>ANNEXURE R-39</b> -True Copy of the photos of plantation around the Gorakhamadhi limestone mine	<b>1976-1983</b>
42.	<b>ANNEXURE R-40 (COLLY)</b> True Copy of the Award by Federation of Indian Mineral Industry and Ministry of Mines for sustainable mining activities.	<b>1984-1985</b>

**43. Proof of Service Dated 08.12.2021****1986.****DATE: 08.12.2021****PLACE: PUNE****Drawn and Filed By:**

Sanjay Upadhyay, Salik Shafique and Mansi Bachani

Advocates for the Respondent No. 20

(M/s Gorakhamadhi Limestone Mines)

29, Presidential Estate Nizamuddin East, New Delhi -110013

E-mail: [salik@Eldfindia.com](mailto:salik@Eldfindia.com), +91- 8527929297

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, AT PUNE  
ORIGINAL APPLICATION NO. 58 OF 2018**

**IN THE MATTER OF:**

Protection of Environment & Public Service Committee

Applicants

Versus

Union of India & Ors.

Respondents

**OBJECTIONS TO JOINT COMMITTEE REPORT DATED 18.03.2021,  
DAMAGE ASSESSMENT REPORT DATED JULY, 2019 AND FINAL  
PROJECT REPORT DATED 21.09.2021 IN ORIGINAL APPLICATION  
NO. 58 OF 2018 ON BEHALF OF RESPONDENT NO. 20 (M/S  
GORAKHMADHI LIMESTONE MINES)**

**MOST RESPECTFULLY SHOWETH:**

1. That the present Objections to the Joint Committee Report dated 18.03.2021, Damage Assessment Report dated July 2019 and Final Project Report dated 21.09.2021 is filed by Respondent No. 20, Gorakhmadhi Limestone Mines of GHCL in the abovementioned matter against alleged illegal mining of limestone in Gir Somnath and Junagadh districts of Gujarat and imposition of an arbitrary, unjustified penalty of Rs. 4,50,00,000/- by the Damage Assessment Report dated July 2019 and Rs. 2,57,98,333/- by the Final Project Report dated 21.09.2021 . The same may be read in continuation of

the Reply dated 17.01.2019 which was filed pursuant to the notices issued to the Respondents. That the Answering Respondent's Reply, apart from challenging the said Application on limitation, clarified that it is operating with a valid lease with all necessary approvals, clearances and permissions putting forward the position with regard to requirement of prior Environmental Clearance (EC) for mining leases of major minerals with lease area less than 5 ha. It is important to emphasise that there is no Rejoinder to the above said Reply by the Applicant. However, it is pertinent to add that one of the delisting order by the SEIAA dated 30.10.2018 for EC application made on 23.06.2018 was challenged by way of an Appeal No. 10 of 2019 (WZ) on 24.01.2019 before the National Green Tribunal which was rejected vide Order dated 27.03.2019 on procedural grounds with the liberty to seek a fresh TOR in accordance with law. Thereafter, the most significant recent development in this regard is the Judgement dated 30.06.2020 by this Hon'ble Tribunal in Tamil Nadu Small Mine Owners Federation v. UOI & Ors. (OA 136/2017) which held that all mining leases, whether of major or minor minerals, including those of lease area less than 5 ha area as well as existing mines, are required to obtain prior EC under the EIA Notification, 2006 as amended on 15.01.2016. Further, this Hon'ble Tribunal vide the same judgement also held that all those EC applications which are pending as on or before 31.03.2016 should be treated as normal applications and not violation cases, whereas those applications filed after 31.03.2016 can be treated as violation applications. It is pertinent to note that the said Judgment is also in conformity with the Judgment dated 04.05.2016 of Naresh Zargar vs State of Madhya Pradesh stating the same in para no 22 ( See Page 622 of the Reply by R-20, of the answering Respondent ). Further, this Hon'ble Tribunal vide its judgment dated 18.08.2020 in the Review Application in

Tamil Nadu Small Mine Owners Federation v. UOI & Ors. (RA No. 17 of 2020 in OA 136/2017) reaffirmed the Judgement dated 30.06.2020 (2020 SCC Online NGT 162). That it is submitted that the said Judgement of this Hon'ble Tribunal has now attained finality vide the Hon'ble Supreme Court vide Order dated 23.07.2021 in Tamil Nadu Small Mine Owners Federation vs MoEF (CA No. 1789-1790 of 2021) wherein it held that there is no error apparent in NGT Orders dated 30.06.2020 and 18.08.2020 and disposed of the Civil Appeal. A copy of the Order dated 23.07.2021 in Tamil Nadu Small Mine Owners Federation vs MoEF (CA No. 1789-1790 of 2021) and relevant excerpts of the Tamil Nadu Small Mine Owners Federation vs UOI & Ors. ( OA No. 136 of 2017) are marked and appended as **ANNEXURE R/1 (COLLY)**.

2. It is submitted that the Respondent Company GHCL Limited, which is engaged in the business of production and sale of "Soda Ash", was granted ten (10) valid leases by the State of Gujarat for extracting limestone which is a major mineral for captive consumption in its production of "Soda Ash".

After the coming into force of the Environment Impact Assessment Notification, 2006 on 14.09.2006 ( hereinafter the "EIA 2006") under the Environmental Protection Act, 1986 (hereinafter 'EPA, 1986'), which required the owners of all mines of a mining area of extent more than 5 Hectares to apply and obtain prior Environmental Clearance in accordance with the Notification of 2006, the Respondent Company applied and obtained Environmental Clearances in respect of all the mines operated by it where the mining area was more than 5 Hectares.

Since, only eight (8) out of ten (10) mines that were being operated by the Company were larger than 5 Hectares, the Company applied for and obtained prior Environmental Clearances in respect of the eight (8)

limestone mines operated by it as detailed here-in-below in accordance with the prevalent law:

Sr. No	Description of the Limestone Mine	Area in Hectares	Environmental Clearance Details
1.	Sutrapada C & F Block bearing Survey Nos. 1976, 1951, 1594, 1556p	84.0232	No. J-15012/17/99-IA.II(M) dated 11.02.2000
2.	Harnasa bearing Survey Nos. 9, 242, 248, 271/2	141.8528	No. J-11015/336/2006 - IA.II(M) dated 20.08.2007
3.	Nakhada bearing Survey Nos. 101/1/p	63.7763	No. J-11015/114/2007-IA.II(M) dated 31.07.2008
4.	Rangpur bearing Survey Nos. 129/p	88	No. J-11015/506/2007-IA.II(M) Date:- 26.03.2015
5.	Dhamanva-Gabha bearing Survey Nos. 130/p, 239/p	60.712	No. J-11015/97/2007-IA.II(M) dated 25.07.2008
6.	Ajotha bearing Survey Nos.102, 108/2, 139, 155/2, 156, 233, 389/p	41.2299	No.SEIAA/GUJ/EC/1(a)/49/2009 DATED 09.04.2009
7.	Meghpur bearing Survey Nos.347/p	10.5218	No.SEIAA/GUJ/EC/1(B)/108/2008 DATED 25.09.2008
8.	Bhimdeol bearing Survey Nos.88/p	56.3517	No.J-11015/238/2003-IA.II(M) dated 06.10.2006

Since, the limestone mine, which is arrayed as Respondent No. 20 is a mine with a mining area of less than 5 Hectares when the said amendment was made applicable under the EIA Notification, 2006, the Respondent did not

apply for prior Environmental Clearance under the EIA 2006 as the said EIA 2006 did not apply to or cover a mine of an area of less than 5 Hectares. However, the Company had made necessary applications to Gujarat Pollution Control Board (for short "GPCB") for issue of No Objection Certificate (for short "NOC") and operating the mines on the basis of Consent to Operate (for short "CTO") also known as Consolidated Consent and Authorization (for short "CCA") issued by GPCB.

Therefore, the allegation that Respondent No. 20 was operating the mine without Environmental Clearance is prima face false and baseless as the Respondent Company, which had applied for and obtained Environmental Clearances under the EIA 2006 for eight (8) out of ten (10) mines operated by it, had no reason why it should not apply and secure the Environmental Clearance for Respondent No.20, if the same was the requirement under the 'EIA 2006'.

3. In this regard, it is further submitted that after the judgment of Hon'ble Supreme Court of India in Deepak Kumar case, there was lot of confusion about application and obtaining of prior EC for major mineral mine less than 5 ha and by that time neither GPCB nor other Government authorities had clarity about the issue, however, the Respondent Mine applied for EC as early as on 13.04.2015, uploaded on the website on 14.10.2015, as a measure of abundant precaution, well before the aforementioned deadline. The Respondent unit has applied for EC multiple times on 22.12.2015, 13.09.2016 and 28.09.2016, 23.06.2018, 22.11.2019. That it is submitted that the Respondent Unit applied for prior EC well within the deadline prescribed under the Judgement of Hon'ble NGT in Tamil Nadu Small Mine Owners Federation v. UOI & Ors. (OA 136/2017) as well as Naresh Zargar v. State of Madhya Pradesh & Ors. (OA 34/2016). ). It is also pertinent to add that even the Hon'ble Supreme Court in Common Cause vs. Union of India (2017) 9 SCC 499 in para 188(6) , clearly noted that only those leases which are more than 5 ha would require a prior EC. The relevant portion of

the Judgement dated 02.08.2017 in Common Cause vs. Union of India (2017) 9 SCC 499 is extracted and appended as **ANNEXURE R-2**.

4. That this Hon'ble Tribunal vide order dated 15.02.2019 had directed constitution of a Joint Committee comprising of the Gujarat State Environmental Impact Assessment Authority (SEIAA), Gujarat Pollution Control Board (GPCB) and Ministry of Environment, Forest and Climate Change (MoEF&CC) [hereinafter referred to as the Joint Committee] to submit a Report on the issues raised in the present Application concerning requirement of prior EC for the mines dealing with major minerals, and directing action to be taken in case of violation of the law. That the Joint Committee Report dated 18.03.2019 was received by the Tribunal on 19.03.2019 which was considered by the Tribunal on 01.05.2019 which gave the factual details of the Respondents.
5. That subsequently on the basis of the observations stated in the Joint Committee Report dated 18.03.2019 this Hon'ble Tribunal vide its order dated 01.05.2019 directed that damages on account of (i) NPV of ecological services foregone forever (ii) Cost of damage to environment and pristine ecology (iii) cost of mitigation and restitution of environment and (iv) deterrent environmental compensation distinct from the earlier three heads, be assessed and a report be submitted before 24.07.2019 with regard to Environmental Compensation to be paid by the Respondent Mines. That in compliance of the abovementioned order, another Committee was formed by the Gujarat Pollution Control Board (GPCB) comprising Regional Officer, GPCB Junagadh, Environmental Engineer (Unit Head), GPCB Junagadh Secretary, State Expert Appraisal Committee, SEAC, Gujarat & District Geologist, Junagadh & Gir Somnath & CPCB (herein after referred as the '2<sup>nd</sup> Committee'). It is submitted that the said 2<sup>nd</sup> Committee submitted a

Damage Assessment Report in July, 2019. The said Report expressed few shortcomings in their own methodology due to which this Hon'ble Tribunal on 15.06.2020 directed CPCB and GPCB to engage any independent agency or IIT and submit report regarding the damage assessed by the Committee. The GPCB in pursuance of the said Order awarded the Terms of Reference to IIT, Gandhinagar to carry detailed assessment for calculating the NPV of ecological services forever forgone, overall cost of damage to the pristine ecology and identify cost of mitigation and restitution of environment in Junagadh and Gir Somnath mining area. It is submitted that IIT Gandhinagar submitted the Final Project Report to this Hon'ble Tribunal on 21.09.2021.

6. At the very outset, it is submitted that there is no clarity in law with regard to requirement of an EC to be obtained by mines relating to "major minerals" having mining lease area less than 5 ha, which has been completely misunderstood and misinterpreted by the Joint Committee report dated 18.03.2019, Damage Assessment Report by the second Committee as well as by IIT Gandhinagar in their Final Project Report. Therefore, it is important to elucidate in detail the legal and factual developments with respect to requirement of EC for Respondent No. 20 that the Joint Committee Report, 2<sup>nd</sup> Committee and IIT Gandhinagar Report have failed to appreciate. Hereinunder, all necessary documents viz Notifications, OM's, circulars and the evolution of the legal position are described in order to object to the findings of the Committee's Reports.

#### **RESPONDENT UNIT IS A MAJOR MINERAL MINE LEASE WITH AREA LESS THAN 5 HA**

1. It is submitted that the present Respondent No. 20, M/s Gorakhmadhi Limestone Mine, owned by the Gujarat Heavy Chemicals Ltd. (GHCL) was initially a Limestone mine extending to 8.73 ha at Survey No. 408/6/P in

Gorakhmadhi Village, Taluka Sutrapada, District Junagadh in Gujarat in the year of 1986. The mining lease granted earlier in favour of the Gujarat Industrial Investment Corporation Ltd. on 11.08.1986 for a period of 20 years, was transferred to GHCL on 26.10.1993. Later on GHCL submitted Application dated 10.12.2005 for renewal of the mining lease along with the requisite documents with District Collector, Junagadh, for renewal of only part of the mining lease measuring 4.36 ha out of the initial 8.73 ha of lease area. The said surrender of the part of the mining lease was made due to exhaustion of the minerals in the said area. The present Respondent had reiterated the same in the letter dated 30.04.2007 addressed to the Joint Secretary, Industries and Mines Department of Gujarat, wherein it had been stated that the Limestone reserve was exhausted before the proposal for surrender of the mine, . Further, Indian Bureau of Mines (IBM), Ministry of Mines had also approved the Final Mine Closure Plan vide letter dated 01.08.2007 for the Respondent No. 20 over the 4.3711 ha lease area surrendered. Therefore, it is amply clear that since 2005, the present Respondent had surrendered 4.3711 ha of lease area and stopped all operations at said area and retained only 4.36 ha. Since the Application dated 10.12.2005 for renewal of mining lease was submitted for the Mine within the stipulated time frame, and was not disposed of by the State Government before the date of expiry of the lease, the period of the lease was deemed to be extended till the passing of orders of the State Government as per Rule 24A (6) of the Mineral Concession Rules, 1960. Therefore, the extended mining lease was for 4.36 ha lease area retained by the Answering Respondent. It is submitted that various Minutes of Meetings (MoMs) of SEAC dated 09.10.2018 also clearly mentioned the area of Respondent's mine as 4.36 ha. A letter of Collector Junagarh dated

25.04.2007 to the Commissioner, Department. Of Geology & Mines, Gandhinagar also clearly mentioned that the Respondent Company had filed an application for renewal of only 4.36 Ha lease area and recommended for the renewal of only 4.36 ha lease area. True copy of letter dated 10.12.2005 submitted for renewal of only 4.36 Ha area of mines, its receipt dated 23.1.2005, Final Mine Closure Letter dated 01.08.2007, SEAC Minutes of Meeting dated 09.10.2018 and English translation of Collector Junagarh letter dated 25.04.2007 have been marked and appended as **ANNEXURE R-3 (Colly)**.

2. The Respondent Unit submits that neither the EIA Notification, 1994, nor EIA Notification, 2006, required any Environment Clearance to be obtained by the Unit by virtue of being a major mineral mine of less than 5 ha lease area till the renewal of mining lease or if the lease area is increased. The said position has been contested in the context of minor minerals as well as major minerals by both the Hon'ble Supreme Court and this Hon'ble Tribunal. It is also submitted that for a fair assessment of Environmental Compensation, if any, it is crucial to understand the progression of the law under the EIA Notification, 1994 and 2006 and the requirement of obtaining EC for mining projects of major mineral operating in lease areas less than 5 ha.

### **NO REQUIREMENT OF ENVIRONMENT CLEARANCE AS PER EIA NOTIFICATION, 1994**

It is submitted that the EIA Notification, 1994, was enacted on 27.01.1994 wherein the Schedule-I to the Notification provided a list of projects requiring EC from the Central Government. Item 20 of Schedule-I covered "Mining projects (with leases more than 5 hectares)", however the same was later amended vide Notification dated 04.05.1994 whereby "Mining projects (major minerals) with leases more than 5 hectares" was substituted as Item

20. It is also important to point out that the EIA, 1994 was applicable for any new project or expansion or modernisation of any existing industry. It is submitted that the mining lease of the Answering Respondent was expressly exempted from obtaining EC as it was a pre-existing project and did not involve any expansion or modernisation. A copy of the EIA Notification, 1994 and a copy of amendment Notification dated 04.05.1994 have been appended herein as **ANNEXURE R-4 (COLLY)**.

3. The MoEF&CC vide its Explanatory Note dated 04.05.1994, made certain clarifications regarding the EIA Notification, and categorically exempted those projects which had already been initiated/ commenced production before 27.01.1994. It was further explained vide Explanatory Note dated 04.05.1994 that only in case of expansion and modernisation of existing projects, if it was certified from the State Pollution Control Boards that the “Pollution Load” would not increase, the project proponent under Schedule-I would not be required to obtain EC, else the project would require an EC. Therefore, the Respondent Mine, a mine for the Major Mineral Limestone, which was neither due for renewal of mining lease nor sought to expand or modernise the mine, was not covered within the ambit of the EIA Notification, 1994. A copy of the Explanatory Note dated 04.05.1994 has been appended herein as **ANNEXURE R-5**.

4. Further, vide Circular dated 12.02.2002 the MoEF&CC had answered certain queries with respect to the EIA Notification, 1994, wherein it was clarified that “Environmental Clearance is not required at the time of renewal of mining lease if there is no increase in the originally sanctioned lease area/ or production.” It further stated that the proponent should seek prior environmental clearance from the Central Government for expanding production and /or mining lease area irrespective of the quantum of increase

in size of ML area/ production or investment involved. The above provisions will apply to existing operating mines even when no renewal of mining lease is involved. A copy of the Circular dated 12.02.2002 is appended herein as **ANNEXURE R-6.**

5. Further, in the landmark decision of M.C. Mehta v. Union of India &Ors. ((2004) 12 SCC 118) vide Order dated 18.03.2004, the Apex Court also confirmed that for existing mining lease which have not obtained Environment Clearance, the same needs to be obtained only at the time of the renewal of the mining lease or expansion / modernization of the mining activity (Paras 72, 77, 95 of the M.C. Mehta judgment).
6. That the MoEF & CC issued Circular dated 28.10.2004 in view of the Judgment dated 18.03.2004 of this Hon'ble Court in MC Mehta vs Union of India ((2004) 12 SCC 118) , stating that mining projects of major minerals with more than 5 ha lease area which have started production or increased their production and / or lease area on or after 27.01.1994 as well as those seeking renewal of lease, are covered under EIA Notification, 1994. It is submitted that the EIA Notification, 1994 read along with these Circulars amply clarify that the EIA Notification, 1994, did not require the present Respondent Mine to obtain an Environment Clearance unless it sought to either expand/ modernise the mine or seek renewal of its mining lease as more than 5 ha.

#### **NO REQUIREMENT OF ENVIRONMENT CLEARANCE AS PER EIA NOTIFICATION, 2006**

7. It is submitted that on 14.09.2006, the EIA Notification, 2006, replaced the earlier EIA Notification dated 27.01.1994 and stated categorically that all new projects or activities listed in the schedule to the notification would require a prior EC. The Mining of minerals was included as Item 1(a) in the

Schedule to the Notification. It clearly stated that more than or equal to 50 Ha of mining lease area would be a Category A project and less than 50 Ha but more than or equal to 5 Ha of mining lease area would be Category B project and would require an EC from the SEIAA. The lease area of the Respondent No. 20 4.36 Ha which is clearly less than 5 Ha and EIA Notification, 2006 was not applicable to the mines belonging to Respondent No 20. It was therefore clear that the said lease was out of the purview of the EIA Notification, 2006 when it came to be implemented. A copy of the relevant extracts of EIA Notification dated 14.09.2006 is appended as **ANNEXURE R-7.**

8. Subsequent to the parent EIA Notification, 2006, the EIA notification was amended on 01.12.2009 which introduced a different area categorisation in Category B projects for non-coal mine lease and coal mine lease. However, it is important to note that in this case of limestone mining lease i.e., non-coal mine lease the area continued to be less than 50 Ha and more than or equal to 5 Ha where the EIA Notification 2006 would be applicable. A copy of the EIA Amendment notification dated 01.12.2009 is appended as **ANNEXURE R-8.**

9. Subsequently, vide notification dated 04.04.2011 yet again the notification was amended and a Note was added to the column after the phrase “General Conditions shall apply” which stated that “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”. The above amendment made it clear that any mining lease less than 5 Ha did not require prior EC and those mines which were greater than 5 ha, which did not have the EC would require the same, only when the lease was due for

renewal. A copy of the EIA Amendment notification dated 04.04.2011 is appended as **ANNEXURE R-9**.

10. On 27.02.2012, the Hon'ble Supreme Court in the case of Deepak Kumar etc. v. State of Haryana & Ors. held among other things that "leases of minor minerals including their renewal for an area of less than 5 ha be granted by the States/UTs only after getting environmental clearance from the MoEF". It is important to note that the Deepak Kumar case did not deal with the issue of major minerals.

11. In pursuance of the said Judgment, the Office Memorandum dated 18.05.2012 was issued by the MoEF& CC which clarified two things, first that EIA Notification as amended requires mining projects (new projects, expansion or modernisation of existing projects as also at the stage of renewal of mine lease) with lease area of 5 Ha and above, irrespective of mineral (major or minor) to have prior Environmental Clearance. However, it is important to emphasize that the Respondent herein having a lease area of less than 5 Ha of a major mineral was thus excluded from the purview of the EIA Notification, 2006.

Second, the above O.M further stated that all mining projects of minor minerals including their renewal, irrespective of the size of the lease area less than 5 ha would be treated as Category B as defined in the EIA Notification, 2006 and will be considered by the respective SEIAAs for grant of Environmental Clearance. It is important to note that the area relaxation post the Deepak Kumar Judgment was limited to minor minerals only. A copy of the O.M dated 18.05.2012 issued by the MoEF&CC is appended as **ANNEXURE R-10**.

12. That it is submitted that exemption from application of Deepak Kumar Judgement on mining leases of major minerals less than 5 ha is further

buttressed by the fact that on 04.01.2013, the MoEF&CC issued an Office Memorandum as a “Clarification letter with regard to applicability of provisions of EIA Notification, 2006 for mining of major minerals in areas less than 5 Ha” where it clarifies that mining projects of major mineral of the size of the lease area less than 5 Ha will not be under the purview of the Order of the Hon’ble Supreme Court dated 27.02.2012 as well as O.M dated 18.05.2012 issued by the Ministry. It further clarified that hence there is no need for prior EC for mining leases of major minerals for areas less than 5 ha as per the EIA Notification either from the Central Government or the State Government. A copy of the O.M dated 04.01.2013 issued by the MoEF & CC is appended as **ANNEXURE R-11**.

13. An important Amendment was again made on 09.09.2013 in Item 1(a) of Schedule to the EIA Notification wherein all leases of minor mineral less than 50 ha were included in Category B, along with mining leases of other non-coal mines, which are more than and equal to 5 ha and less than and equal to 50 ha. It is clear from the above that the Respondent mine being less than 5 ha falling in the category of ‘other non-coal mines’ i.e., Major Minerals is yet again not covered within the ambit of the Schedule to the EIA Notification, 2006. A copy of the EIA Amendment Notification dated 09.09.2013 is appended as **ANNEXURE R-12**.

14. That another significant Amendment to Item 1(a) of the Schedule to the EIA Notification, 2006, was brought vide Notification dated 07.10.2014 wherein all non-coal mining leases less than and equal to 50 ha were covered within Category B, however, the General Conditions were not applicable to mining leases less than 5 ha. A note added to column 5 again stated that prior EC was required at the stage of renewal of mine lease for which an Application shall be made upto two years prior to the date due for renewal. This

essentially meant that the lease area of the Respondent mine, for the first time, was brought within the purview of the EIA Notification, 2006, as the criteria of exemption for less than 5 Ha was removed except for the applicability of the General Conditions, however the same was required at the time of renewal of lease area as stated above. It is however pertinent to point out that the Schedule has to be read with Para 2 of the EIA Notification, 2006, which clearly states as follows:

**2. Requirements of prior Environmental Clearance (EC): -**

*The following projects or activities shall require prior environmental clearance from the concerned regulatory authority.....*

*(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.*

It is therefore clear, that only new projects or those existing projects which entail expansion or modernisation or any change in product-mix or those whose mining lease is due for renewal would require a prior Environment Clearance. It is submitted that the answering Respondent's mine does not

fall in any of the above-mentioned categories. A copy of the EIA Amendment notification dated 07.10.2014 is appended as **ANNEXURE R-13**.

15. Subsequently, a judgment dated 13.01.2015 of this Hon'ble Tribunal in the case of Himmat Singh Shekhawat v. State of Rajasthan was passed giving directions in relation to mining of 'minor minerals' and especially sand mining, for expediting the process of disposal of applications seeking Environment Clearance. The reason why it is important to mention this is that this Judgment is wrongly interpreted in some cases to ascertain legality of "major minerals".

16. That despite categorical exemption from requirement of EC, the Respondent as a measure of abundant precaution, submitted an application in prescribed form on 13.04.2015 for grant of EC which was duly acknowledged by the Department. However, the application for EC was not processed and the Respondent was directed to submit a fresh application. In compliance of this the Respondent submitted a fresh application for grant of Terms of Reference (TOR) on 22.12.2015 to SEIAA through the Online State Portal. That the said Application for EC was accepted and the answering Respondent was asked to submit the hard copy of the EC Application along with annexures on 07.01.2016. A Copy of the letter submitting EC Application on 13.04.2015, uploaded on 14.10.2015, Acknowledgement Slip dated 22.12.2015 received by the Respondent, e-mail dated 27.12.2005 of GPCB and copy the letter dated 07.01.2016 filing hard copies with acknowledgment has been marked and appended collectively as **Annexure R-14** (Colly).

17. In the meantime, in case of one M/s Adhunik Cement having a lease of major minerals with less than 5 ha lease area, a Clarification was sought

from MoEF&CC regarding requirement of prior EC in cases where mining operations are being carried out even prior to the EIA Amendment Notification dated 07.10.2014. It clarified that after 07.10.2014 all new mining operations require prior EC and the existing mines are required to obtain EC at the time of renewal of the mining lease. It was further clarified that mines of major minerals with the mine lease area of less than 5 ha which were operating before 07.10.2014 may continue the mining operations with consented capacity and shall not enhance production capacity without prior EC. Therefore, it is clear that the Respondent mine did not have to obtain any EC unless they sought renewal of the mining lease or increase in production capacity. Copy of the Clarification dated 08.01.2016 is appended herein as **ANNEXURE R-15**.

18. Further, an Amendment to the EIA Notification dated 15.01.2016 was issued by the MoEF&CC pursuant to both Deepak Kumar case on minor minerals as well as pursuant to the Ld. NGT case of Himmat Singh Shekhawat v. State of Rajasthan dated 13.01.2015 on sand mining (again minor mineral) which reiterated the position that within Category B, all non-coal mining leases below 50 ha, shall require prior EC. It is important to add that the Note with regard to renewal of mining lease as a pre-condition to EC was removed. This was done primarily due to the Amendment to the Mines and Minerals (Development and Regulation) Act, 2015 which automatically increased the terms of mining leases to 50 years. Here again para 2 of the EIA notification becomes the guiding principle for obtaining EC i.e., new, expansion or change in product mix will require prior EC. The amended EIA Notification dated 15.01.2016 throughout dealt with minor mineral such as sand mining, environmental clearance for cluster and constitution of District Level Environment Impact Assessment Authority and nowhere dealt in any

manner for EC requirement of major mineral having area less than 5 ha. A copy of the EIA Amendment notification dated 15.01.2016 is appended as

**Annexure R-16.**

19. That more significantly on 19.02.2016, while originally dealing with minor minerals, the three judge bench of this Hon'ble Tribunal in the case of Jatinder Singh v. UOI (OA 495 of 2015) in detail *inter alia* observed the issue of legal regime relating to the requirement of obtaining EC for major minerals having mining lease area less than 5 ha.

20. That the above-mentioned case was originally filed as W.P. (Civil) 688 of 2013 titled as Jatinder Singh & Anr. Vs. UOI & Ors. before the Hon'ble Supreme Court of India. During the pendency of the above-mentioned case, Hon'ble Supreme Court had directed the "Central Empowerment Committee (hereinafter referred to as the CEC)" to submit a detailed report in relation to the various interim applications, writ petitions that have been filed before the Hon'ble Supreme Court of India. (Para 7, page 7)

The CEC after holding its meetings submitted a report to the Hon'ble Supreme Court of India. This Hon'ble Tribunal in its said judgment dated 19.02.2016 has reproduced the relevant discussions, conclusions and recommendations submitted by CEC the before Hon'ble Supreme Court of India.

The CEC while concluding its report, has submitted under Para 52 (iv) of the report, for consideration of Hon'ble Supreme Court of India, the aspect of environment clearances of major minerals having mining lease areas of less than 5 hectares in following manner:

*"presently the environmental clearances are required for all mining projects of minor minerals irrespective of the lease areas whereas the environmental clearances for major minerals having mining lease areas*

*of less than 5 hectares is not required. This Hon'ble Court may consider directing MOEF to review the present scheme of things particularly considering that the environmental impact of mining of major minerals is in no way less than, if not more, than that of the mining of minor minerals”.*

While dismissing the Writ Petition (Civil) 688 of 2013, the Hon'ble Supreme Court in its order dated 28.10.2013 has observed that the CEC in Para 52 of its Report made certain suggestions for consideration of this court and MOEF shall file its response to such suggestions.

Thereafter Hon'ble Supreme Court of India vide its order dated 05.10.2015 has transferred the case for further proceedings to this Hon'ble Tribunal and the said case was re-numbered as OA No. 495 of 2015 before this Hon'ble Tribunal.

The MOEF&CC -Respondent No. 1 herein, in terms of the order dated 28.10.2013 of Hon'ble Supreme Court of India had filed an affidavit submitting its reply to the report of the CEC. This Hon'ble Tribunal has in detail dealt with the submissions forwarded by MOEF in response to CEC recommendations. While dealing with issue of ECs for major minerals having mining lease areas of less than 5 hectares this Hon'ble Tribunal under Para 13 (page 17) of its order dated 19.02.2016 has mentioned as such:

*“It is submitted by MOEF that presently ECs are required for all mining projects of minor minerals irrespective of their lease areas, whereas, EC for lease for mining in areas of major minerals of less than 5 hectares in case of mining of major minerals is not required.”*

Under Para 19 (page 24) this Hon'ble Tribunal observed that “ Last recommendation made by authority (CEC) is that the MOEF should review

the present schemes and consider requirement of EC for mining of major minerals in areas less than 5 ha. This is acceptable to MOEF and according to them a Notification in this regard is likely to be issued”.

*Further, in Para 21, page 27 it states, “...MoEF has agreed that it is likely to issue a Notification shortly, placing both minor and major minerals at par in relation to requirement of obtaining EC prior to carrying on mining activity irrespective of the size of lease area...”*

This Hon’ble Tribunal while disposing the OA 465 of 2015 inter alia made the following directions (Para 25(a), Page 28-29):

*“ It shall be mandatory for all the applicants to seek EC for carrying on mining activity of minor or major minerals, even if the lease area is less than 5 ha..... ”*

21. That the above clearly indicates that admittedly till the said date i.e., 19.02.2016 there was no schemes and/or regime for applying/obtaining EC for major minerals having mining lease areas of less than 5 ha, and also there was no MoEF&CC Notification placed for the minor and major minerals to be at par and that there was no express requirement for existing mines of major minerals less than 5 ha to obtain EC before the time of renewal or in accordance with Para 2 of the EIA Notification, 2006. This affirms the positions of the Respondent mine in the present case. A copy of the Order dated 19.02.2016 of this Hon’ble Tribunal in *Jatinder Singh v. UOI* has been appended as **ANNEXURE R-17**.

22. Further, on 04.05.2016, this Hon’ble Tribunal in the case of *Naresh Zargar v. State of Madhya Pradesh & Ors.* (OA 34/2016) held again in the specific context of Minor Minerals that all such mines which did not submit their Environment Clearance applications on 31.03.2016 to SEIAA, DEIAA and DEAC shall be shut down forthwith. This was once again restricted to minor

minerals. It is submitted that the Respondent's mine of major minerals were not impacted by this judgment and the timeline set for obtaining EC.

23. Here, it is also worth mentioning that in the context of Tamil Nadu, the Tamil Nadu Government Industries Department had issued a G.O. 105 dated 14.07.2016 categorically reaffirming that no Environment Clearance was needed thus far for the mines of major minerals less than 5 ha. This also affirms the position of the Respondent mine in the present case. A copy of the said Tamil Nadu Government Order dated 14.07.2016 has been appended as **ANNEXURE R-18**.

24. That in the meantime, the answering Respondent continuously tried to contact SEIAA for grant of EC, after its second application on 28.12.2015 and subsequent submission of hard copies on 07.01.2016. Thereafter despite continuous follow up with the SEIAA, the Application for TOR was not processed by the SEIAA.

25. That subsequently, after a lapse of nine months the Respondent was intimated orally to reapply for EC without giving any reason after its second application made on 28.12.2015 and subsequent submission of hard copies on 07.01.2016. In pursuance to this, and being left with no alternative, the Respondent submitted his third application for EC on 13.09.2016. A Copy of Acknowledgement Slip received by the Respondent has been marked and appended as **ANNEXURE R-19**.

26. That subsequently, the Application dated 13.09.2016 was again not considered by SEIAA for reasons best known to them. Thus, the Answering Respondent was again communicated orally to reapply once again and the answering Respondent was forced to reapply for grant of TOR fourth time on 28.09.2016 through the online State portal. A copy of the timeline details

showing the date of submission of Proposal no. 59300 for grant of TOR is marked and appended as **ANNEXURE R-20**.

27. That subsequently, the SEAC on 13.10.2016 vide its 309<sup>th</sup> Meeting considered the proposal for grant of TOR made by the Respondent and decided to categorise the project as a B2 category and sought additional documents. The relevant extracts of the Minutes of the 309<sup>th</sup> Meeting of the SEAC held on 13.10.2016 has been marked and appended as **ANNEXURE R-21**.

28. That it is submitted that subsequently, the Respondent submitted the additional documents on 24.12.2016 in terms of directions issued vide the Meeting dated 13.10.2016 of the SEAC. However, the SEAC on 28.12.2016 during its 319<sup>th</sup> Meeting completely changed its stance regarding the proposal and now recategorized the proposal as a category B1 proposal. A copy of the relevant extracts of the Minutes of the 319<sup>th</sup> Meeting of SEAC has been marked and appended as **ANNEXURE R-22**.

29. That it is submitted that such somersault by the SEAC of recategorizing the proposal from a category B2 to category B1 shows the lack of clarity and confusion which prevailed in the SEIAA regarding the proposals. This confusion has led to the Respondents not being granted EC despite multiple attempts and wrongful categorisation of the Respondent as a violation category.

30. That during the SEAC meeting held on 28.12.2016, the Respondent was granted the TOR for preparing the EIA report. That in view of recommendation of TOR by the SEAC, the SEIAA accorded the TOR to the Answering Respondent on 30.01.2017. A copy of letter according the TOR to the Answering Respondent has been marked and appended as **ANNEXURE R-23**.

31. That in the meanwhile, the MoEF&CC issued a Notification dated 14.03.2017 which deals with violation cases. It was directed that the projects that had started the work on site without obtaining the EC were required to apply for the same within 6 months i.e., by 13.09.2017, and that all violation cases irrespective of the category of the project as per the EIA Notification were to be considered at the Central level by the Expert Appraisal Committee at MoEF&CC. It is submitted that the above notification did not apply to the Respondent Mine. The operation of this Notification was stayed by the Hon'ble Madras High Court vide order dated 07.06.2017 in Puducherry Environment Protection Association v. Union of India (W.P. No. 11189 of 2017), however, the said Stay order was vacated by the same Court vide order dated 13.10.2017. The said Notification was later amended by the MoEF&CC vide Notification dated 08.03.2018, whereby the Ministry granted power to SEIAA for appraisal of violation cases involving Category B projects. A copy of the notification dated 14.03.2017 and notification dated 08.03.2018 is appended as **ANNEXURE R-24 (Colly)** and Order dated 13.10.2017 in Puducherry Environment Protection Association v. Union of India (W.P. No. 11189 of 2017) is appended as **ANNEXURE R-25** respectively.

32. That on 15.03.2018, MoEF&CC issued an Office Memorandum for implementation of Notification dated 08.03.2018 with specific directions to SEAC/SEIAA for consideration of proposals of Category B projects/activities pertaining to different sectors. It further stated that all projects/ activities were required to adhere to the directions of the Hon'ble Madras high Court vide Order dt. 13.10.2017 upholding the MoEF&CC Notification dated 14.03.2017. True copy of Notification dated 15.03.2018 whereby the Ministry directs implementation of Notification dated

14.03.2017 and 08.03.2018 has been marked and appended as **ANNEXURE R-26.**

33. In the interim, the Hon'ble Supreme Court in the landmark judgment of Common Cause v. Union of India & Ors. (W.P.(C) 114 of 2014) dated 02.08.2017 held that all mining projects having a lease area of 5 hectares or more are required to have an Environment Clearance, and any extraction in such cases without an EC would amount to illegal or unlawful mining. Here, once again, it was amply clear that the requirement for an EC was not extended to major mineral mines with area less than 5 ha. (Kindly refer to Para 188). A copy of relevant excerpts of the order dated 02.08.2017 of Hon'ble Supreme Court of India has been annexed as **ANNEXURE R-2.**

34. That the Public hearing was conducted by the answering Respondent on 09.03.2018 wherein more than 95% of the villagers from villages within 10 kms of the Gorakhmadhi mine attended the meeting and appreciated the developmental opportunities created due to the working of the mine. A copy of the minutes of the public hearing dated 09.03.2018 is appended as **ANNEXURE R-27.**

35. That in the meanwhile the Answering Respondent submitted draft EIA on 23.06.2018 in terms of the TOR dated 30.01.2017. That the SEAC vide its 439<sup>th</sup> Meeting held on 09.10.2018 and SEIAA vide its 120<sup>th</sup> Meeting held on 24.10.2018 considered the EC proposal made by the Answering Respondent and wrongly decided to not consider the said application on the ground that it failed to apply for TOR for violation case in line of the Notification of 14.03.2017 by MoEF&CC and 08.03.2018. The SEIAA issued a letter dated 30.10.2018 to the Respondent which delisted the proposal for EC made by the Respondent. A copy of letter dated 30.10.2018 by the SEIAA to

Answering Respondent delisting the EC application has been marked and appended as **ANNEXURE R-28**.

36. It is submitted that the SEAC and SEIAA wrongly assumed the applicability of EIA Amendment Notification dated 14.03.2017 and considering the Answering respondent as a violation case. It is submitted that till 15.01.2016, the Answering Respondent was not required to obtain an Environment Clearance. Further, as per the latest settled law, all EC proposals for major mineral mining leases with area less than 5 ha which are submitted before 31.03.2016 will be considered as regular proposals.

37. That the Answering Respondent made several attempts to clarify the correct position of law with respect to applicability of EIA for mining leases of major mineral with lease area less than 5 ha. The Answering Respondent submitted representations dated 03.11.2018 and 24.11.2018 which are collectively marked and appended as **Annexure R-29 (COLLY)**.

38. That subsequently an Office Memorandum was issued by the MoEF&CC dated 09.09.2019 stating that only those proposals for EC would be considered by SEIAA as per Notification of 14.03.2017 and 08.03.2018, which are Category B and have been filed either during the violation window period (14.03.2017 to 13.10.2017 and 14.03.2018 to 13.04.2018) or prior to this window also known as lateral entry proposals. A copy of the O.M. dated 09.09.2019 is appended as **ANNEXURE R-30**.

39. That upon receiving no response to the representations made by the Answering Respondent, the Answering Respondent was again compelled to apply for EC for the fourth time which was acknowledged by SEIAA on 20.11.2019. A copy of Acknowledgement Slip dated 20.11.2019 has been marked and appended as **ANNEXURE R-31**.

40. That it is submitted that the SEIAA instead of appraising the Application of EC as a regular case in terms of OM dated 09.09.2019, has kept the application pending stating that the Respondent has to apply for TOR under violation.
41. That this Hon'ble Tribunal in its Judgment dated 30.06.2020 in Tamil Nadu Small Mine Owners Federation v. UOI & Ors. (OA 136/2017) held that all mining leases, whether major or minor minerals, including those of less than 5 ha area as well as existing mines, are required to obtain Environment Clearance under the EIA Notification, 2006 as amended on 15.01.2016. It was further held that all those Environment Clearance applications which are pending as on or before 31.03.2016 should be treated as normal applications and not violation cases whereas those applications filed after 31.03.2016 can be treated as violation applications.
42. That lastly, the Judgment dated 18.08.2020 in Review Application in Tamil Nadu Small Mine Owners Federation v. UOI & Ors. (RA No. 17 of 2020 in OA 136/2017) this Hon'ble Tribunal dismissed the review application and upheld Judgment dated 30.06.2020. It reaffirmed that the Notification dated 15.01.2016 did not make any distinction between major minerals and minor minerals of lease area less than 5 ha.
43. That it is submitted that the Hon'ble Supreme Court in *Tamil Nadu Small Mine Owners Federation vs MoEF (CA No. 1789-1790 of 2021)* has granted finality to the issue and made the direction made by the Tribunal final and binding.
44. That it is amply clear that the Respondent was mandated to apply for EC within the deadline dated 31.03.2016 set under Tamil Nadu Small Mine Owners Federation v. UOI & Ors. to be considered as normal applications.

That a perusal of this Order makes it amply clear that the Respondent had applied well within the time limit prescribed as per the latest position of law.

45. It is pertinent to note that, as the mining area was less than 5 Hectares, the answering respondent did not apply for prior Environmental Clearance under the 'EIA 2006', as it was not applicable to mines of an area less than 5 ha. That it was only after the Amendment to the EIA Notification dated 07.10.2014, wherein all non-coal mining leases less than and equal to 50 ha were covered within Category B, did the Respondent Unit require an EC in law provided it came within the provisions of para 2 of the EIA Notification which categorically states that only new projects or those existing projects which entail expansion or modernisation or any change in product-mix or those whose mining lease is due for renewal would require a prior Environment Clearance. Since, the Respondent Unit did not seek to renew lease, expand or modernize the mine, there was no immediate requirement for EC. However, despite the same, the answering Respondent applied for EC on 13.04.2014, 22.12.2005 and conveyed by SEAC by their e-mail dated 28.12.2005, which was duly accepted. Further on 13.04.2015 for abundant precaution, well before the window provided by all the subsequent O.Ms on the subject, the Respondent unit again applied for EC. That a combined reading of the Judgement of the Hon'ble Supreme Court and this Tribunal in *Tamil Nadu Small Mine Owners Federation v. UOI & Ors.* and the OM dated 09.09.2019 is enough to clarify that the application for EC made by the Answering Respondents must be considered as a regular application for EC and be granted EC. However, as per the current status of the EC proposal, the proposal is not being considered and the Respondent is directed to apply as a violation category.

**STATUS OF CONSENT UNDER WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974 AND AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981**

46. That it is submitted that the Joint Committee in its Report dated 18.03.2019 has noted that the Respondent has not obtained CCA and his application for CCA renewal has been rejected. That it is submitted that in this instance, the Joint Committee has again failed to appreciate the factual development of events which led to rejection of CCA renewal application.

47. That the MoEF&CC issued a clarificatory circular dated 21.11.2006 on environment clearance stating that "Consent to Establish (NOC) and prior Environment Clearance are separate legal requirements. Further, NOCs required under Water and Air Acts are mandatory requirement under those Acts and will have to be taken as required and will not be linked to environment clearance. True Copy of the MoEF&CC Clarification dated 21.11.2006 is marked and annexed as **ANNEXURE R-32**.

48. That it is submitted that the Respondent had obtained CCA on 04.12.2007 which was valid till 16.08.2011. A copy of the CCA dated 04.12.2007 issued by GPCB is appended as **ANNEXURE R-33**. That subsequently, the Respondent had obtained timely renewal of CCA from the GPCB on 02.01.2012 valid till 24.07.2016 for mining of 17400 MT/year of Limestone. A copy of CCA dated 02.01.2012 issued by GPCB is appended as **ANNEXURE R-34**.

49. That it is submitted that subsequently, the Answering Respondent submitted Application for CCA Renewal on 03.08.2016 which was wrongly rejected by the GPCB vide Rejection Order dated 06.09.2016 on the ground that the Respondent had started mining operations without obtaining EC without considering the legal position regarding the requirement of EC for mining

leases less than 5 ha. Area and despite the MoEF&CC clarification dated 21.11.2006 which categorically states that Consent under Water and Air Act and prior EC under EIA Notification, 2006 are separate, independent legal requirements and there is no requirement to link the same. A copy of rejection Order dated 06.09.2016 has been marked and appended as **ANNEXURE R-35**.

50. That it is submitted that subsequently, the Answering Respondent reapplied for renewal of CCA to the GPCB on 07.09.2016 and submitted his representation dated 24.06.2017 for grant of Renewal of CCA. However, despite the said Representation by the present Respondent clarifying that it has applied for EC within the time limit specified by the Hon'ble Tribunal in its Judgement dated 04.05.2016. However, the GPCB instead of considering the renewal application issued a Show Cause Notice dated 05.07.2017. A copy of Representation dated 24.06.2017 and show cause notice dated 05.07.2017 has been marked and appended as **ANNEXURE R-36 (COLLY)**.

51. That it is submitted that the Answering Respondent has made several attempts to process the application for CCA Renewal which has been rejected by the GPCB on the ground that the Respondent has not obtained EC under EIA, 2006. A copy of letter dated 08.07.2017 for grant of renewal of CCA for Respondent mine has been marked and appended as **ANNEXURE R-37**.

52. That it is reiterated that grant of Consents under Water and Air Act were separate legal requirements and not dependent on grant of EC under EIA, 2006. That it is further submitted that GPCB has without any basis in law has been rejecting consent applications of the present Respondent and such act is violative of the statutory mandate for SPCBs to process Consent

Applications as per procedure established under the Water Act and Air Act. That the Answering Respondent being left with no other option and due to the pendency of the EC application submitted letter to DG, Mines Safety, giving a notice of temporary discontinuance of mines at Gorakhmadhi Limestone Mine w.e.f. 01.07.2018. A copy of letter dated 23.10.2018 has been marked and appended as **ANNEXURE R-38**.

**RESPONDENT NO. 20 APPLIED FOR EC WITHIN PRESCRIBED WINDOW**

53. It is submitted that in view of the above sequence of legal developments, it is clear that it was only after the EIA Amendment Notification dated 07.10.2014 that express requirement for Major Mineral mines of less than 5 ha lease area to obtain an Environment Clearance for their operation however, the General Conditions were not applicable to mining leases less than 5 ha. A Note added to column 5 again stated that prior EC was required only at the stage of renewal of mine lease for which an Application shall be made upto two years prior to the date due for renewal. This essentially meant that the lease area of the Respondent mine, for the first time, was brought within the purview of the EIA Notification, 2006, as the criteria of exemption for less than 5 Ha was removed except for the applicability of the General Conditions, however the same was required at the time of renewal of lease area as stated above. Further, as settled by the Hon'ble Apex Court in Common Cause v. UOI (CWP 114 of 2014), any existing mines are required to obtain EC only at the time of renewal of the mining lease (para 186 (2)). Further in Para 186 (6) it categorically states that with effect from 14.09.2006 all mining projects having a lease area of 5 Ha or more are required to have an EC. In fact, it clarifies in Para 114 that post EIA 2006, every mining lease holder having a lease area of 5 Ha or more and

undertaking mining operations in respect of major minerals (with which we are concerned ) was obliged to get an EC in terms of EIA 2006. It is therefore clear from the above that or expansion / modernization of the mining activity, and since the answering respondent did not fall in any of these categories, there was no immediate requirement for EC. This position of law was further clarified after the Judgements dated 30.06.2020 and 18.08.2020 in Tamil Nadu Small Mine Owners Federation v. UOI & Ors. (OA 137/2017) which held that all mining leases, whether major or minor minerals, including those of less than 5 ha area as well as existing mines, are required to obtain Environment Clearance under the EIA Notification, 2006 as amended on 15.01.2016. It was further held that all those Environment Clearance applications which are pending as on or before 31.03.2016 should be treated as normal applications and not violation cases whereas those applications filed after 31.03.2016 can be treated as violation applications.

54. However, the Respondent mine as a matter of abundant precaution had applied for Environment Clearance on 13.04.2015 which was duly acknowledged by the concerned authorities, well before the aforementioned deadline of 31.03.2016. Subsequently, the Respondent unit has applied for EC multiple time since then on 22.12.2015, 13.09.2016, 28.09.2016, 23.06.2019 and 22.11.2019. That Application dated 22.12.2015 was not considered for reasons known only to the concerned authorities. That subsequently the 3<sup>rd</sup> Application dated 13.09.2016 was not considered on the ground that the Respondent is required to apply for TOR. That as per the directions the Answering Respondent again applied for grant of TOR on 28.09.2016.

55. It is submitted that in response thereto SEAC called the Respondent in its meeting dated 13.10.2016 wherein the Respondent Unit was categorised as a

B2 category industry after considering the scale and details of the project at length. It is submitted that the law governing B2 category projects under the EIA Notification, 2006, stipulates that such projects are entirely exempted from obtaining an Environment Impact Assessment Report, Terms of Reference for the said EIA Report, and also do not need to conduct Public Consultation. The said law governs the Respondent Unit. However, SEAC vide its meeting dated 28.12.2016 chose to re-categorise the Respondent Unit as a B1 category project without any reasoning except citing the MoEF&CC OM dated 24.12.2013 wherein no reference has been made to major mineral mines of less than 5 ha lease area. This was a clear misapplication of mind by the SEIAA, without upholding the principles of Natural Justice and the reasons thereof, were not provided to the Respondent.

56. The SEIAA consequently granted ToR to the present Respondent on 30.01.2017. However, despite the grant of ToR on 30.01.2017 and subsequent public hearing on 09.03.2018 it is submitted that the answering respondent was not granted EC, compelling the Unit to discontinue mining operations. It is reiterated that vide letter dated 23.10.2018, the answering respondent gave the Respondent No. 2, D.G., Mines, a notice of temporary discontinuance of mines w.e.f. 01.07.2018.

57. That the Respondent maintains the position that it did not require an EC and had applied only for abundant precaution, well within the timeline prescribed by this Hon'ble Tribunal's Judgement dated 30.06.2020 and 18.08.2020 in Tamil Nadu Small Mine Owners Federation v. UOI & Ors. (OA 136/2017) which held that all mining leases, whether major or minor minerals, including those of less than 5 ha area as well as existing mines, are required to obtain EC under the EIA Notification, 2006 as amended on

15.01.2016. It was further held that all those EC applications which are pending as on or before 31.03.2016 should be treated as normal applications and not violation cases whereas those applications filed after 31.03.2016 can be treated as violation applications. Therefore, the application for EC submitted by the Respondent Unit on two occasions i.e., 13.04.2015 and 22.12.2015, and hard copy submitted on 07.01.2016 which has been acknowledged by the competent authorities, both fall within deadline set by this Hon'ble Tribunal.

58.It is submitted that it is clear from the above that even with the assumption without admission that the Respondent Unit is a violator it has complied with all Ministry mandates. Despite the same, SEIAA had delisted the Respondent's application for EC before itself on 30.10.2018. The answering Respondent was compelled to reapply for EC as a violation category and therefore, another EC Application was submitted on 13.04.2019 and subsequently SEIAA on 26.11.2019 directed the present Respondent to apply for TOR under violation category. It is submitted that the wrongful delisting of the Respondent Unit's multiple EC application has resulted in re-application, however, as stated earlier the Respondent Unit had previously applied in the stipulated time period in compliance of the statutory provisions, mandates as well as the latest Judgements of this Hon'ble Tribunal.

**EVEN IF IT IS ASSUMED WITHOUT ADMITTING THAT THE RESPONDENT IS A VIOLATION CASE, VIOLATION PROCEEDINGS WILL BE CONDUCTED SEPARATELY**

59.It is submitted that the MoEF&CC notification dated 14.03.2017 which deals with violation cases, states that in case of violation, action will be taken against the project proponent by the respective State or SPCB, and

further, no consent to operate or occupancy certificate will be issued till the project is granted EC. It was directed that the projects that had started the work on site without obtaining the EC were required to apply for the same within 6 months, i.e., by 13.09.2017, and that all violation cases irrespective of the category of the project as per the EIA Notification were to be considered at the Central level by the Expert Appraisal Committee at MoEF&CC. The Notification dated 14.03.2017 and along with the subsequent Notifications dated 08.03.2018, 30.05.2018 and 09.09.2019 and the latest 07.07.2021 lay down the procedure to be followed which consideration of violation cases.

60. That on 08.03.2018, the MoEF&CC issued a Notification in which amended the Notification dated 14.03.2017. The Notification states that the appraisal of the violation cases of Category B was given to SEAC/SEIAA and not required to be appraised at Central Level. Subsequently, an O.M. dated 15.03.2018 was issued by the MoEF&CC to operationalize the Notification dated 08.03.2018. The O.M. states that all proposals of category B projects pertaining to different sectors received within six months only i.e., upto 13.09.2017 on Ministry portal, but yet not considered by the EAC in the Ministry, shall be transferred online to the SEAC/SEIAAs in the respective States/UTs.

61. Further, an OM dated 09.09.2019 was issued by MoEF&CC regarding violation cases pending before concerned Central and State Appraisal Authorities. It provides that the proposals which were submitted to the respective committees for regular appraisal during or prior to the violation window periods (which were from 14.03.2017 to 13.09.2017 & 14.03.2018 to 13.04.2018) and which, while deliberating on the proposal were identified as violation cases, such proposals were forwarded to violation committee

and termed as “lateral entry proposals”. The said OM lays down that such “lateral entry proposals” are required to be considered in terms of provision of notification dated 14.03.2017 amended vide notification dated 08.03.2018 by SEIAA.

62. That it is submitted that recently, the MoEF & CC vide its OM dated 07.07.2021 has laid down the Standard Operating Procedure to be followed while considering violation cases. It provides a three-step process to be followed by the respective SEIAA and SPCB while considering such cases. It is submitted that the first and second step include Closure and action under Section 15 and 19 respectively. It is submitted that the first two steps as per the SOP have been initiated by the Gujarat SEIAA and GPCB.

63. That it is submitted that the third step involves Appraisal of the EC proposal as per the EIA, 2006. It is submitted that, if the activity is found to be a permissible activity, the violation case is subject to appropriate damage assessment; remedial plan and community augmentation plan by the SEIAA which is to be complied by the Project Proponent. It is submitted that in addition to these steps, the SOP also provides for mechanism for calculation of penalty for violation cases. That it is submitted that with respect to cases where operations have commenced without EC, the penalty is 1% of total project cost incurred up to date of filing of application along with EIA/EMP report plus 0.25% of total turnover during the period of violation.

64. That it is submitted that the existing procedure for consideration of violation cases under Notification dated 14.03.2017 and its subsequent Amendments and especially OM dated 07.07.2021 is laid down to determine and comply with the exact same violations which has been alleged against the Respondent i.e., mining without EC. That it is submitted that the

Respondents if found guilty of violation by the SPCB will be tried as per this procedure and only then will be allowed to continue its mining operations.

65. That it is submitted that the imposition of Environmental Compensation by the NGT in the present matter will lead to the Respondent being tried twice for the same offence which is violative of the fundamental right to protection against double jeopardy and double payment of compensation.

66. That the Answering Respondent seeks to leave of this Hon'ble Tribunal to further place its specific objections to Joint Committee Report dated 18.03.2019, 2<sup>nd</sup> Committee Report of July, 2019 and Final Project Report prepared by IIT Gandhinagar dated 21.09.2021

**I. OBJECTIONS TO THE JOINT COMMITTEE REPORT DATED 18.03.2019**

67. It is submitted that the first Jt. Committee Report mentions about the status of Environment Clearance (EC) application and Consent to Establish / Consent to Operate (CTE/ CTO) Applications submitted by the answering Respondent among others. It is submitted that the report fails to establish any offence against the answering Respondent, as it only mentions the date of application and the current status. Further, it also fails to take into account the multiple applications made for grant of EC as well as for renewal of Consolidated Consent & Authorisation due to confusion in the respective Departments on the applicability of EIA, 2006.

68. That it is submitted that the Jt Committee Report in Annexure-B states that the project has applied for Regular EC when instead it should have applied under Violation category and therefore, the EC application was delisted on 30.10.2018. It is submitted that Annexure-C of the said report further notes that a legal case has been filed against the Respondent by the GPCB on 06.02.2019 under violation category. The statements mentioned in the report clearly do not establish any offence against the Respondent, as it has failed

to appreciate the legal developments which have taken place with regard to mines of lease area less than 5 ha as well as the procedure to be followed in case of violation cases under mining.

## **II. OBJECTIONS TO 2<sup>ND</sup> COMMITTEE REPORT ON DAMAGE ASSESSEMENT DATED JULY, 2019-**

69. That it is submitted that the 2<sup>nd</sup> Committee has categorically observed that no damage has occurred on account of, “(i) ecological services forgone forever (ii) cost of damage to environment and pristine ecology. (Refer to Page 929 of the Damage Assessment Report).
70. That it is submitted that the second Committee arbitrarily and mechanically calculated the compensation of Rs. 4,50,00,000 for the present Respondent despite acknowledging absence of any damage of the environment. It also recommended a detailed assessment of the damages for the ecological services foregone forever and damage to environment and pristine ecology through an expert agency like NEERI, IIT or any other technical institute of repute in consultation with CPCB and GPCB.
71. That it is submitted that the Report has explicitly noted that the method of mining used by the Respondent No. 20 i.e., open cast mining has not caused any damage to the extent that can create visible impact on the surroundings and the nearby people. (Kindly refer pg 934)
72. That it is submitted that the 2<sup>nd</sup> Committee has observed that there is no mining activity being undertaken at the time of inspection, which was earlier noted in the Joint Committee Report dated 18.03.2019 which stated that mining activity was stopped by June, 2018 (Kindly see Annexure A of Report dated 18.03.2019). Thus, in view of the above observations of the committee as well as the legal and factual developments the Committee has wrongly assumed violation on part of Respondent Mine from the year 1994

to 2019 which in fact the answering Respondent did not require and EC till 31.03.2016 and the mining activities were stopped in 2017-2018.

73. It is submitted that there are serious flaws associated with the criteria for imposing the damages and the methodology adopted by the 2<sup>nd</sup> Committee for assessing the damages. The criteria for imposition of damages include damages for restitution and mitigation of environment and deterrent environment compensation. Additionally, there are serious laches in the methodologies adopted by the Damage Assessment Report as well as the Final Project Report.

**A. Erroneous use of the CPCB Guideline for Environmental Compensation**

74. The Committee in its wisdom decided to use three methods so as to arrive at a suitable compensation mechanism for mitigation and restitution of Environment. The Respondent Company has been fined Rs 45,000,000( Page 29 of the Joint Committee Report) on the basis of Guidelines of CPCB on Assessment of Environmental Compensation (Deterrent Penalty Factor). The first method relates to Environmental Compensation w.r.t. NGT's directions in Paryavaran Suraksha Samiti & Anr. v. Union of India & Ors. (O.A. 593/2017) relating to penal action for failure to set up and maintain STPs, CEPTs and EPTs and recovery of compensation for such failure. It is humbly submitted that the said method of Environmental Compensation devised by CPCB was only an interim measure, the legality of which has not been discussed nor a judgment to that effect has attained finality at any forum. Further, these directions were issued for discharge of STPs, CEPTs and EPTs, untreated effluents in water bodies leading to contamination of water. That this has no relevance to the Respondent as

there is no generation of Industrial Waste Water, therefore no occasion has arisen for discharge of water and setting up of STPs, CEPTs and EPTs.

75. That it is submitted that for calculating Environmental Compensation, the method used is  $EC = PI \times N \times R \times S \times LF$ .

Here,

EC = Environment Compensation in rupees.

PI = Pollution Index

N = Number of days of violation

R = Factor in rupees for EC.

S = Factor for scale of operation

LF = Location factor.

In this,  $PI = f$  (Water Pollution Score, Air Pollution Score & HW Generation Score). PI is arrived after considering quantity & quality of emissions/effluents generated, types of hazardous waste generated and the consumption of resources. Pollution Index is a number from 0 to 100 and increasing value of PI denotes the increasing degree of pollution hazard from the industrial sector. The cases where EC has to be considered are listed as below;

- a) Discharge in violation of consent conditions, mainly prescribed standards/consent limits;
- b) Not complying with the directions issued, such as direction for closure due to non-installation of OCEMs, non-adherence to the action plans submitted etc;
- c) Intentional avoidance of date submission or data manipulation by tempering the Online Continuous Emission/Effluent Monitoring systems;
- d) Accidental discharges lasting for short durations resulting into damage to the environment;

e) Intentional discharge to the environment - land, water and air resulting into acute injury or damage to the environment;

f) Injection of treated/partially treated/untreated effluents to ground water.

That it is submitted that the Respondent does not fall in any of the cases as listed out by CPCB here-in-above- (a) to (f) for levying Environmental Compensation (EC). Further, it is submitted that no test has been conducted for Gorakhmadi mine which could conclusively prove effluent discharge in water. Therefore, the Committee recommendation to levy maximum compensation on the basis of the above-mentioned formula is totally out of context. Further, it is submitted that PI is taken to be 60 on account of no effluent discharge. The limestone industry has been put in the red category with the PI range to be taken from 60-100. With no effluent discharge and water quality conforming to ISO certified standards, the Committee in its wisdom has decided to put the PI at 60. We feel on account of no effluent discharge, the PI must be taken to be 0.

76.It is submitted that the Damage Assessment Report on Page No. 53 under ‘Compensation Cost Assessment as per Methodology for Assessing Environmental Compensation, CPCB’ mentions 6000 days as ‘number of days in violation’ which is completely baseless and just the total of number of days of the entire period of operation of the mining lease when in fact, the Respondent did not require to obtain mining lease till 31.03.2016.

77.Finally, it is submitted that the use of formula which is regarding discharge of effluents cannot be applied for calculation of environmental compensation for violation cases when there is no effluent discharge in the first place.

**B. ERRONEOUS USE OF SEAC-SEIAA, GUJARAT  
GUIDELINES**

78.It is humbly submitted that another formula devised through a Resolution in the 417<sup>th</sup> Meeting of SEAC- Gujarat dated 18.07.2018 has been incorrectly employed to calculate environmental compensation. The formula assesses ecological damage and remediation plan through the following attributes:

1. Air Pollution
2. Water Pollution
3. Solid and Hazardous Waste
4. Transportation
5. Noise and Vibration
6. Greenbelt
7. Hydro-Geology
8. Risk Hazard/Occupational Health and Safety
9. Soil Conservation
10. Corporate Environmental Responsibility

The criteria for determining compensation are arbitrary and vague. To establish the vague and arbitrary nature of compensation proffered, the cost of the sapling is fixed at Rs 100 each, while Gardener's salary is fixed at Rs 5000 p/m (Please refer to Page 23 of the Damage Assessment Report). Thus, it is submitted that arbitrary and vague costs have been used to determine compensation. These costs are not just indicative, the final value of compensation has been devised by incorporating such arbitrary costs.

79. That it is submitted that SEIAA has made its own formula for calculation of environmental compensation. That in view of the different formulas and procedure employed by the respective SEIAAs across the country, the MoEF & CC issued the OM dated 07.07.2021 which lays down detailed procedure for calculation of environmental compensation in case of violation. That it is

submitted that in view of the OM dated 07.07.2021, the SEIAA Resolution on calculation of environmental compensation becomes infructuous.

**C. Erroneous use of Damage Assessment cost as per Resolution passed by Industries and Mines Department, Government of Gujarat.**

80. That it is submitted that the 2<sup>nd</sup> Committee has incorrectly relied upon the formula derived by Industries and Mines Department, Government of Gujarat.
81. That it is submitted that the said formula was formulated as per NGT directions in NGT Bar Association vs Virender Singh in OA 360/2015 which was regarding illegal mining of sand without any mining lease. This Hon'ble NGT directed that the State of Gujarat must take steps to recover an amount representing damage to environment to be separately accounted and used for restoration of damage to environment in addition to the compounding fee.
82. That it is submitted that the instant formula is not applicable to the answering Respondent as it is a valid mine lease holder which has undertaken mining lease strictly within the mine lease area. It is not a case of illegal mining being undertaken without mine lease.
83. That in exercise of the power under Sec 23C of the MMDR Act, 1957 the State Government can make rules to prevent "illegal mining". That "illegal mining" has been defined under Rule 2(c) of the Mineral Concession Rules, 2016 as 'any reconnaissance or prospecting or mining operation undertaken by any person or a company in any area without holding a mineral concession.' That it further makes it clear that violation of any rules, other than the rules made under section 23C, within the mining lease area by a holder of a mining lease shall not include illegal mining; and (b) any area

granted under a mineral concession shall be considered as an area held with lawful authority by the holder of such mineral concession, while determining the extent of illegal mining.

That it is submitted that the holder of a valid mining lease cannot be treated as an illegal miner.

84. That this scheme of law has further been made clear after the latest amendment to the MMDR Act dated 28.03.2021 which has made amendment to the Penalty provision for illegal mining operations under Section 21. That it is submitted that the amendment adds an Explanation to Section 21 providing that the expression “raising, transporting or causing to raise or transport any mineral without any lawful authority” occurring in this section, shall mean raising, transporting or causing to raise or transport any mineral by a person without prospecting licence, mining lease or composite licence or in contravention of the rules made under section 23C.

85. That the recent amendment reiterates the point that the Answering Respondent does not fall within the purview of illegal mining undertaken within mining lease and therefore, the application of a formula for calculation of Env. compensation on the basis of mineral extraction from a mine lease area after paying due royalties to the State is improper and devoid of any logic.

#### **D. Inadequacy in Institutional Capacity**

86. That it is submitted that the Committee members of the Damage Assessment Committee have come to the unanimous conclusion that the committee lacks the required institutional capacity to determine Environmental Compensation in the Report itself (Refer to Page 32). Hence, it has decided to levy the maximum penalty arrived at through the three formulas. No detailed investigations were conducted by the Committee, either. The

question thus, arises, whether the Committee can justifiably determine the Compensation amount in this regard. Any amount imposed without proper institutional capacity to undertake the task would be infructuous.

87. That it is submitted that the issues raised by the Answering Respondent has been highlight by the Final Project Report by IIT Gandhinagar which states that the maximum financial penalty calculated and imposed on the present Respondent by the Damage Assessment Committee is arbitrary and impractical (Please Refer Page no. 1098). It has further highlighted that there is absence of a consistent thumb rule for the methodology adopted for imposition of damage, the penalty levied is four to five times of the earned value which was very less as the mineral production was limited and for a small duration of time. Moreover, it highlights that the environmental damage on the ground have been less obvious than its socio-economic as well as ecological benefits such as lake or water body creation and agricultural land forms.

#### **OBJECTIONS TO THE CRITERIA AND METHODOLOGY ADOPTED BY IIT GANDHINAGAR IN THE FINAL PROJECT REPORT**

88. That it is reiterated that GPCB in pursuance of the Order dated 15.06.2020 awarded the Terms of Reference to IIT, Gandhinagar to carry detailed assessment for calculating the NPV of ecological services forever forgone, overall cost of damage to the pristine ecology and identify cost of mitigation and restitution of environment in Junagadh and Gir Somnath mining area.

89. That the Final Project Report submitted by IIT Gandhinagar on 21.09.2021 at the outset states that the imposition of highest penalty on the present Respondent is arbitrary and unjustified. However, it is surprising that despite such an observation, the Final Project Report continues to adopt the same baseless calculations and criteria for determining the amount of

compensation and has imposed damages to the tune of Rs. 2,57,98,333 by simply averaging the compensation mentioned in GPCB report of July 2019 on the Present Respondent and this Hon'ble Tribunal may take note of the same.

90. That in the absence of any significant environment damage as observed in both the Reports, there is no basis in law or facts for imposition of compensation for mitigation and restitution of environment on the present Respondent.

91. It is pertinent to highlight that, IIT Gandhinagar, in its final Project report has submitted that environmental, ecological and overall socio-economic impact in the core and buffer zone of limestone mining area seems to have positive effects. (Key findings at Pg 3 of the Final Project Report). Remote sensing data collected by IIT Gandhinagar highlights that barren land has reduced over the years and there has been an increase in the vegetation around the said area of mining. The water samples collected from quarry pits were of a superior quality than water samples of bore-well and open-well. Further, the quarry pits filled with water are being used by the nearby inhabitants for various activities and facilitates rain water harvesting in the region. It is submitted that in view of the abovementioned observations of the Final Project Report failing to establish any basis in facts for calculation of damages for restitution and mitigation of environment, the imposition of cost for the same on the present Respondent is arbitrary and unjustified.

92. That the present Respondent is conscious of its duty towards the environment and has been implementing measures for undertaking mining operations in a sustainable manner. It is submitted that small scale machinery was utilised to reduce the impact of noise pollution and water sprinklers were used to mitigate sources of air pollution. Moreover, the

present Respondent has undertaken plantation and development of green belt around the mine area at Gorakmadhi. True Copy of the photos of plantation around the Gorakmadhi limestone mine is marked and annexed as **ANNEXURE R-39**.

93.It is further submitted that the present Respondent has undertaken sustainable mining practices as envisaged under Mineral Conservation and Development Rules, 2017 which has been recognised by the Federation of Indian Mineral Industry and Ministry of Mines in the year 2018 and 2019 for undertaking eco-friendly and sustainable mining operations. It is thus surprising that in the absence of any significant environmental damage from the operations of the present Respondent and despite the above-mentioned mitigation and restitution measures being implemented, the Damage Assessment Report as well as the Final Project Report has imposed the cost of mitigation and restitution of environment. True Copy of the award by Federation of Indian Mineral Industry and Ministry of Mines is marked and annexed as **ANNEXURE R-40 (Colly)**.

94.It is reiterated that the criteria of restitution and mitigation of damages is not justified as there cannot be any cost for restitution and mitigation in the absence of any significant damages to the environment. Further, both the Damage Assessment Committee as well as IIT Gandhinagar have failed to understand the applicability for prior EC for major mineral mines less than 5 ha. That the imposition of highest penalty on the present Respondent is arbitrary has been affirmed by IIT Gandhinagar in its Final Project Report and this Hon'ble Tribunal may take note of the same. However, it is surprising that despite such an observation, the Final Project Report continues to adopt the same unreasonable and inaccurate calculations and

criteria for determining the amount of compensation to be imposed on the Present Respondent.

More importantly, the present Respondent employs thousands of people, and with the adverse impact of Covid-19, it is significant that it should not be tied up with procedural delays that would adversely impact their livelihoods.

95. That this Hon'ble Tribunal may also take note of the Judgment dated 31.8.2021 in the matter of Sanghar Zuber Ismail v. MoEF&CC [(2021) SCC Online SC 669] of the Hon'ble Supreme Court with regard to constitution of Committees by this Hon'ble Tribunal.

96. In light of the above, it is submitted that this Hon'ble Tribunal may set aside the assessment done by the Damage Assessment Committee and IIT Gandhinagar, which is not in accordance with law as it currently stands and due to the fact that no damage has been done to the environment. Moreover, in view of the socio-economic hardships being faced as a result of the closure of the mining operations of the present Respondent as highlighted by the Applicant himself as well as in the Damage Assessment and Final Project Report, this Hon'ble Tribunal may Order SEAC /SEIAA to process EC application of the present Respondent in accordance with the law.

**DATE: 08.12.2021**

**PLACE: PUNE**

**Drawn and Filed By:**



Sanjay Upadhyay, Salik Shafique and Mansi Bachani

Advocates for the Respondent No. 20 (M/s Gorakhmadhi Limestone Mines)

29, Presidential Estate Nizamuddin East, New Delhi -110013

E-Mail: salik@eldfindia.com,+91- 8527929297

**BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN BENCH**  
**AT PUNE**

**ORIGINAL APPLICATION NO. 58 OF 2018**

**IN THE MATTER OF:**

Protection of Environment and Public Service Committee .... APPLICANT

VERSUS

Union of India & Ors. ... RESPONDENTS

**AFFIDAVIT**

I, Ranjan Tiwari, S/o Sh. H.C. Tiwari, aged around 50 years, R/o C-901, Shiksha Niketan Apartment, Sector-5, Vasundhara, Ghaziabad-201012 (U.P.), presently at New Delhi, do hereby solemnly affirm and declare as under:

1. I am the Dy. General Manager-Legal of the Respondent No. 20 and as such I am authorised to file this affidavit. I am fully conversant with the facts and proceedings of the case and I am competent to swear this Affidavit.
2. I have read and understood the contents of the accompanying Objections drafted by my counsel under my instructions and state that the facts stated therein are true to my knowledge derived from records of the case and submissions made therein are based on advice received, which I believe to be true and correct and nothing material has been concealed there from.

*Ranjan Tiwari*  
DEPONENT

01 OCT 2021

Verified at New Delhi on this ..... day of ..... , 2021 that the contents of the above affidavit are true and correct to the best of my knowledge and no part of it is false and nothing material has been concealed there from.

*Ranjan Tiwari*  
DEPONENT

I identified the deponent who has signed/put in my presence

**NOTARY**  
SHAHJAHAN  
DELHI  
Reg. No. 100998  
Exp. 23/09/2024  
GOVT OF INDIA

**CERTIFIED THAT THE DEPONENT**  
Shri/Smt./M...  
S/o W/o D/o...  
Identified...  
has solemnly...  
on...  
that the contents...  
have been read & explained to me...  
true and correct to this knowledge

*[Signature]*  
Notary Public

**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELLATE JURISDICTION**  
**Civil Appeal Nos 1789-1790 of 2021**

**Tamil Nadu Small Mine Owners Federation**

**.... Appellant(s)**

**Versus**

**The Secretary, Ministry of Environment  
Forest and Climate Change & Ors**

**....Respondent(s)**

**ORDER**

- 1 There is no error in the orders of the National Green Tribunal dated 30 May 2020 and 18 August 2020 in Original Application No 136 of 2017 and Review Application No 7 of 2020 respectively.
- 2 The appeals are accordingly dismissed.
- 3 Pending application, if any, stands disposed of.

.....J.  
**[Dr Dhananjaya Y Chandrachud]**

.....J.  
**[M R Shah]**



**2020 SCC OnLine NGT 162**

**In the National Green Tribunal<sup>±</sup>**

(BEFORE K. RAMAKRISHNAN, MEMBER (JUDICIAL) AND SAIBAL DASGUPTA, EXPERT MEMBER)

Tamil Nadu Small Mine Owners Federation Rep. by its General Secretary Mr. J. Mohan Kumar ... Applicant;

*Versus*

Secretary, Ministry of Environment Forest and Climate Change, Government of India and Others ... Respondents.

Original Application No. 136 of 2017 (SZ)

Decided on June 30, 2020, [Date of reserved for judgment : - 18-03-2020]

Advocates who appeared in this case:

Mr. Sanjay Upadhyay & Mr. Sai Sathya Jith, for the Applicant(s);

Mr. G.M. Syed Nurullah Sheriff, for R1 &R2;

Mr. M. Mani Gopi, for R3 & R4.

**JUDGEMENT/ORDER**

**K. RAMAKRISHNAN, MEMBER (JUDICIAL):**— The above case has been filed by the applicant who is a federation of small mine owners by name Tamil Nadu Small Mine Owner's Federation, represented by its General Secretary, seeking the following reliefs:

- "(a) to call for the records pertaining to the letter bearing No. Z-11013/24/2017-1A.II(M) dated 3.4.2017 issued by the 1<sup>st</sup> respondent herein and quash the same as being violative of the EIA Notification 2006 dated 15.1.2016 as amended from time to time.*
- (b) Direct the 1<sup>st</sup> respondent to formulate an appropriate scheme containing uniform practice for grant of environmental clearance for both minor and major minerals.*
- (c) declare that the existing mines in operation prior to the EIA Notification dated 7.10.2014 shall be required to obtain Environmental Clearance only at the time of renewal or expansion or increase in production capacity (or) alternative;*
- (d) issue appropriate directions directing the respondents and such other authorities who may be involved in the process to expedite the process of grant of environmental clearance to the lessees of major minerals mining in a lease area of less than 5 HA by fixing a time limit thereof without reference to Notification S.O. 804(E) Ministry of Environment, Forests & Climate Change dated 14.3.2017."*

**2.** It is alleged in the application that members of the applicant federation were involved in carrying out business of small mines, concerned with quarrying of major minerals like Limestone and Magnesite etc. Mining of major minerals and regulation thereof was governed by the provisions of Mines and Minerals (Development and Regulation) Act, 1957. The provisions of the said Act deal with general restrictions on prospective undertaking of mining operation, procedure for obtaining prospecting license or mining leases in respect of lands in which the minerals vest in the Government.

**3.** After passing of the Environment (Protection) Act, 1986 and framing of the Rules thereunder, the first respondent - MoEF & CC issued various notifications, regulating the mining of minerals. As per the Notifications issued from time to time since 1994, mining activity required obtaining Environmental Clearance for the projects as listed in

any further notice. If they comply with this direction, they would so be entitled to the advantage upto 31<sup>st</sup> May, 2016.

All the State Authorities are directed to upload on their respective websites, details of the applications pending before them as on 31<sup>st</sup> March, 2016. They will also separately classify the applications which are deficient in any respect whatsoever

*With the above directions this application is hereby disposed."*

**69.** So it is clear from this that those mine owners who have not submitted their application as on 31.3.2016 were directed not to carry on their mining activity in any manner whatsoever and directed the authorities to dispose of the applications in accordance with law. In *HIMMAT SINGH SHEKHAWAT v. STATE OF RAJASTHAN* (O.A. No. 123 of 2014 dated 4.5.2016) in respect of extension application with respect to State of Rajasthan, directed that no mining activities should be permitted to be carried on without obtaining prior Environment Clearance.

**70.** In *JATINDER SINGH v. UNION OF INDIA* (O.A. No. 495 of 2015 dated 19.2.2016) the Principal Bench of the National Green Tribunal, while considering the EIA Notification dated 4.4.2011, considered all the existing notifications as on date issued by the MoEF & CC and disposed of the case as follows:

*"Notification of 2006 is primarily of a mandatory character and is enforceable in terms of its provisions. Every applicant and authority is obliged to comply with the said Notification. This aspect need not detain us any further as it is a settled position of law as far as the Tribunal is concerned. After deliberating on the law in relation thereto, the Tribunal had clearly held that the Notification of 2006 does not leave any scope for default or non-compliance or discretionary enforcement. [Reference can be made to the judgment of the Tribunal in the cases of S.P. Muthuraman v. Union of India, 2015 ALL (I) NGT REPORTER (2) (DELHI) 170, Lokendra Kumar v. State of U.P. 2015 ALL (I) NGT REPORTER (1) (DELHI) 194 and Krishan Lal Gera v. State of Haryana 2015 ALL (I) NGT REPORTER (2) (DELHI) 286].*

*Despite the fact that the Notification of 2006 is mandatory still it lacks implementation and enforcement mechanism. It requires better and more specific time schedule in light of the principle of Sustainable Development and the need for expeditious disposal of such applications. We have already noticed that the role of the State Government is neither defined nor postulated in the Notification of 2006 but remains a matter that falls in the grey area. The need for States participation is indicated in the object of the Act of 1986 and the federal structure of the Indian Constitution.*

*Till all these deficiencies are removed and suggestions of the CEC are implemented in their true spirit and substance, it would be inevitable for the Tribunal to issue interim directions, particularly, in light of the judgments of the Supreme Court as referred in the above cases and the recommendations of the CEC to fill the gaps temporarily till a proper Notification is issued by MoEF providing due mechanism in this regard. It is a settled canon of law that the Courts and the Tribunals could issue interim directions keeping in view the gaps in the provisions of an Act including imposition of a prohibition where the facts and circumstances of a case so demand. Reference can be made to the judgment of the Tribunal in the case of Court on its own Motion v. State of Himachal Pradesh, 2014 ALL (I) NGT REPORTER (1) (DELHI) 66.*

*In light of the above discussion we dispose of this application with the following directions:*

*It shall be mandatory for all the applicants to seek EC for carrying on of mining activity of minor or major minerals, even if the lease area is less than 5 ha. In other words, MoEF, SEIAA and all other authorities would adopt uniform practice for*

*issuance of EC in regard to the mining area of less than 5 ha notwithstanding the fact that environmental impact of mining of minor minerals is no way less than that of the mining of major minerals. The judgment of the Supreme Court in the Deepak Kumar v. State of Haryana (2012) 4 SCC 629 is applicable to both minor and major minerals.*

*Every effort should be made by all concerned authorities not to encourage grant of EC for mining activity where the area is less than 5 ha. However, for providing clarity, we further observe that where for reasons of necessity for geographical, ecological and other reasons, if it is necessary to grant EC, for carrying on of mining activity of minor and major minerals in an area less than 5 ha, a special report in that behalf shall be invited from the concerned State authority and EC would be granted for specific reasons to be recorded in that behalf and then the Application would be considered for grant/refusal of EC.*

*MoEF in consultation with the State Government shall constitute a District Committee which would submit its report to MoEF prior to preparation of ToR, in regard to the contents of the application, the physical location of mining site, environmental concerns and the scope of ToR. This report shall be taken into consideration by MoEF and/or SEIAA before issuing ToR at the time of consideration of the EIA report.*

*The State Government should submit its mining plan in consonance with the **provisions of Act of 1957, Mineral Concession Rules, 1960** and the same should be approved by MoEF and other concerned ministries in accordance with law.*

*Every applicant shall be granted permission for mining only after the mining plan submitted by the applicant to the Central Government has been approved in accordance with Rule 22 and in consultation with the Director General of Police, Secretary In-charge of mining and the Chief Scientist and Scientist-in-Charge of Central Institute of Mining and Fuel Research, Regional Centre, Roorkee, an expert body in the field of mining which shall issue guidelines within the six weeks of the pronouncement of the judgment, providing proper mechanism for supervision and ensuring the implementation of judgment and taking appropriate action in accordance with law post issuance of order granting consent to operate and EC.*

*MoEF shall also re-examine in consultation with expert bodies to ensure reduction of time taken in issuance of EC, particularly, in light of the judgment afore referred. All the mining authorities and MoEF/SEIAA would give due consideration to the applicants applying for mining lease or grant of EC, who have been found guilty of illegal, unauthorised and unscientific mining, violating the terms and conditions of the orders by which consent to operate and/or EC has been granted. Normally, it should be taken as a disability for renewal and/or granting of mining lease or such consent orders. Wherever the government or the authority takes a decision to the contrary, it will be an obligation to record specific reasons in that behalf.*

*The application is disposed of with no orders as to costs."*

**71.** It is clear from the above that the Principal Bench of the National Green Tribunal, after considering all the aspects, came to the conclusion that till the directions are issued by the MoEF & CC in respect of regulating the mining of minerals, both minor and major, irrespective of its extent regarding obtaining Environmental Clearance, thought it necessary to issue interim directions. Till that date, no mining activities, either minor or major, without getting Environmental Clearance, should not be permitted to operate, irrespective of its area of operation. So it cannot be said that the Tribunal had wrongly applied the dictum laid down in DEEPAK KUMAR's case for major minerals as well, cannot be accepted.

**72.** The Hon'ble High Court of Madras had considered the scope of the violation

notification dated 14.3.2017 of the MoEF & CC, referred to above in *PUDUCHERRY ENVIRONMENT PROTECTION ASSOCIATION v. THE UNION OF INDIA* (W.P. No. 11189 of 2017 dated 13.10.2017) and disposed of the case, recording the submission of the Additional Solicitor General that this is intended as one time measure and not to ratify future violation cases.

**73.** Even if the National Green Tribunal had wrongly decided any case, applying the principles laid down in *DEEPAK KUMAR's case*, may be applicable to major minerals as well, unless it is set aside or reviewed, the same has to be followed by this Tribunal, as there was a declaration issued by the National Green Tribunal in respect of regulation of mining activities both minor and major.

**74.** So under these circumstances, the submission made by the learned counsel appearing for the applicant that the observation made by the Principal Bench of the National Green Tribunal, making applicable the dictum laid down in *DEEPAK KUMAR's case* to major minerals as well is not correct, and cannot be accepted.

**75.** Further, it is clear from the observations made above that even in 2014, when 2006 Notification was amended, the distinction between major and minor minerals was taken away and any mining lease of non coal product, having less than 5 hectares, has been brought under the regime of Environment Clearance. Further, as per 2016 Notification, the time limit for filing application provided for the purpose of renewal, has been taken away perhaps, for the reason that by amending the Mines and Minerals (Development and Regulation) Act, 1957, the period of lease has been extended upto 50 years from 20 years. That may be reason why the MoEF & CC has thought that existing mines also has to obtain Environment Clearance after 15.1.2016 and they need not wait for renewal. Further, the National Green Tribunal in the decision stated supra, has categorically stated that no mining activity should be carried out in India without obtaining Environment Clearance that includes the existing mining leases as well, irrespective of its character viz., minor or major and it is further held that those minors who have not filed application prior to 31.3.2016 were completely debarred from operating mining operations. So under these circumstances, the cut off date for filing the application has to be limited upto 31.3.2016 and those minors who have filed application thereafter, will be treated as violators and their applications will have to be treated as violation applications and disposed of in accordance with law. Further, the notification dated 14.3.2017, providing one time measure for violation cases has been upheld by the Madras High Court also in the decision in *PUDUCHERRY ENVIRONMENT PROTECTION ASSOCIATION case* cited supra. Further it was admitted in the application itself that when the cement company wanted some clarification in this regard, MOEFF&CC vide their letter dated 8-1-2016 informed them to apply for environment clearance without waiting for renewal.

**76.** So, under these circumstances, we find no reason to set aside the Office Memorandum dated 3.4.2017 in toto. However, we can clarify that those persons who have already filed application for Environment Clearance as on 31.3.2016 cannot be treated as violator, as the Principal Bench of the National Green Tribunal had permitted them to comply with application and consider those applications in accordance with law. Only those persons who have filed application thereafter will have to be treated as violator. Merely because the mining activities of the members of the applicant federation have come to a standstill, is not a ground to dilute the procedure for obtaining Environment Clearance, even in respect of mining activities of major minerals of less than 5 hectares.

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

- (i) The applications which are pending as on 31.3.2016 for Environment Clearance

have to be treated as normal applications and not violation applications and the authorities are directed to dispose of those applications in accordance with law.

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

Point No. 4;—

The application is disposed of as follows:

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

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

**79.** The application is disposed of accordingly.

— — —

† Southern Zone, Chennai

**Disclaimer:** While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.

COMMON CAUSE v. UNION OF INDIA

499

**(2017) 9 Supreme Court Cases 499**

(BEFORE MADAN B. LOKUR AND DEEPAK GUPTA, JJ.)

- a* Writ Petition (C) No. 114 of 2014  
 COMMON CAUSE .. Petitioner;  
*Versus*  
 UNION OF INDIA AND OTHERS .. Respondents.  
*With*
- b* Writ Petition (C) No. 194 of 2014  
 PRAFULLA SAMANTRA AND ANOTHER .. Petitioners;  
*Versus*  
 UNION OF INDIA AND OTHERS .. Respondents.
- Writ Petitions (C) No. 114 of 2014 with  
 No. 194 of 2014, decided on August 2, 2017
- c* **A. Mines and Minerals — Illegal mining — Ambit of expression “illegal mining” — Held, illegal mining does not only mean mining outside lease area — Illegality can take place even inside lease area — Purpose of MMDR Act is to ensure scientific mining, balanced utilisation of natural resources and protection and preservation of environment by adhering to statutory provisions — Non-adherence would attract penalty and termination of lease — Adherence to statutory provisions necessarily implies adherence to provisions of Environment (Protection) Act, 1986, laws pertaining to air and water pollution and Forest Conservation Act, 1980 besides adherence to mining statutes — Submission against interpreting “illegal mining” with such wide ambit on ground that definition of “illegal mining” was inserted vide R. 2(ii-a), Mineral Concession Rules, 1960, by Noti. dt. 26-7-2012 and thus present case not covered, not tenable**
- e* — Mineral Concession Rules, 1960 — Rr. 2(ii-a), 22, 22-A, 27 and 37 — Mines and Minerals (Development and Regulation) Act, 1957 — Ss. 21, 4-A, 2, 3, 4, 5, 6, 8, 10, 12, 13, 18 and 23-C — Mineral Conservation and Development Rules, 1988 — Rr. 9, 10, 13, 31, 37, 38 and 41 — Environment (Protection) Act, 1986 — S. 3 — Forest (Conservation) Act, 1980 — S. 2 — Words and
- f* Phrases — “Illegal mining” (Paras 84 and 128 to 130)
- B. Mines and Minerals — Illegal mining — Suspension of illegal mining leases in Odisha — Directions issued**
- g* — IAs Nos. 45 (filed by Zenith Mining), 47 (filed by *K*) and IA No. 66 (filed by *J*) dismissed as they did not have forest clearance (FC) or environmental clearance (EC) or both
- *S* (IA No. 9) actually had a working lease and has wrongly been included as a non-operational lease — Thus said IA also dismissed but as infructuous — However, State Government directed to ensure about valid statutory clearances
- h* — All other IAs disposed of in terms of present order — Clarified that only after compliance with statutory requirements and full payment of compensation and other dues, mining leaseholders can restart their mining operations —

***Conclusions on the issues of mining without an EC or FC or both***

**188.** To avoid any misunderstanding, confusion or ambiguity, we make the following very clear:

- a* (1) A mining project that has commenced prior to 27-1-1994 and has obtained a no-objection certificate from SPCB prior to that date is permitted to continue its mining operations without obtaining an EC from the Impact Assessment Agency. However, this is subject to any expansion (including an increase in the lease area) or modernisation activity after 27-1-1994 which would result in an increase in the pollution load. In that event, a prior EC is required. However, if the pollution load is not expected to increase despite the proposed expansion (including an increase in the lease area) or modernisation activity, a certificate to this effect is absolutely necessary from SPCB, which would be reviewed by the Impact Assessment Agency.
- b*
- c* (2) The renewal of a mining lease after 27-1-1994 will require an EC even if there is no expansion or modernisation activity or any increase in the pollution load.
- (3) For considering the pollution load the base year would be 1993-94, which is to say that if the annual production after 27-1-1994 exceeds the annual production of 1993-94, it would be treated as an expansion requiring an EC.
- d*
- (4) There is no doubt that a new mining project after 27-1-1994 would require a prior EC.
- (5) Any iron ore or manganese ore extracted contrary to EIA 1994 or EIA 2006 would constitute illegal or unlawful mining (as understood and interpreted by us) and compensation at 100% of the price of the mineral should be recovered from 2000-2001 onwards in terms of Section 21(5) of the MMDR Act, if the extracted mineral has been disposed of. In addition, any rent, royalty or tax for the period that such mining activity was carried out outside the mining lease area should be recovered.
- e*
- (6) With effect from 14-9-2006 all mining projects having a lease area of 5 ha or more are required to have an EC. The extraction of any mineral in such a case without an EC would amount to illegal or unlawful mining attracting the provisions of Section 21(5) of the MMDR Act.
- f*
- (7) For a mining lease of iron ore or manganese ore of less than 5 ha area, the provisions of EIA 1994 will continue to apply subject to EIA 2006.
- (8) Any mining activity carried on after 7-1-1998 without an FC amounts to illegal or unlawful mining in terms of the provisions of Section 21(5) of the MMDR Act attracting 100% recovery of the price of the extracted mineral that is disposed of.
- g*
- (9) In the event of any overlap, that is, illegal or unlawful mining without an FC or without an EC or without both would attract only 100% compensation and not 200% compensation. In other words, only one set of compensation would be payable by the mining leaseholder.
- h*

570

SUPREME COURT CASES

(2017) 9 SCC

(10) No mining leaseholder will be entitled to the benefit of any payments made towards NPV or additional NPV or penal compensatory afforestation.

a

**Violation of Section 6 of the MMDR Act**

**189.** We have examined the report of CEC with regard to the alleged violation of Section 6 of the MMDR Act and find that there have been several amendments to Section 6 relating to the maximum area for which a mining lease may be granted to a person. The following is the result of the amendments:

b

1. From 1-6-1958 to 11-9-1972—maximum lease area 10 sq miles.

2. From 12-9-1972 to 9-2-1987—maximum lease area 10 sq km or 1000 ha in any one State.

3. From 10-2-1987 to 17-12-1999—maximum lease area 10 sq km or 1000 ha in any part of the country.

4. From 18-12-1999 till date—maximum lease area 10 sq km or 1000 ha in one State.

c

**190.** While the word “person” has not been defined in the MMDR Act, a reading of Section 5 thereof indicates that the State Government shall not grant a mining lease to any person unless such person is an Indian national or a company as defined in the Companies Act, 1956 and subsequently in the Companies Act of 2013.

d

**191.** Sub-section (2) of Section 6 of the MMDR Act provides that a person acquiring by, or in the name of, another person a mining lease which is intended for him/her shall be deemed to be acquiring it himself/herself.

**192.** For the purposes of determining the total area that can be acquired for mining operations, Section 6(3) of the MMDR Act provides that the area held under a mining lease by a person as a member of a cooperative society, company or other corporation or a Hindu Undivided Family or a partner of a firm shall be deducted from the area referred to so that the sum total of the area held by such person under a mining lease only as such member or partner or individually may not in any case exceed the total area specified.

e

**193.** In this background, CEC examined the case of seven mining leaseholders. They are:

f

1. Essel Mining and Industries Limited

2. Rungta Mines Limited

3. Rungta Sons Pvt. Limited

4. Bonai Industrial Company Limited

g

5. Feegrade & Co. Pvt. Limited

6. M/s Mangilal Rungta

7. Jindal Steel & Power Limited

**194.** As far as Essel Mining and Industries Ltd. is concerned we propose to deal with this mining leaseholder on another occasion since even CEC has placed this mining leaseholder in a special category.

h

578

SUPREME COURT CASES

(2017) 9 SCC

**229.** We would also like to hear the learned counsel for all the parties with regard to setting up of an Expert Committee presided over by a retired Judge of this Court to identify the lapses that have occurred over the years that have enabled rampant illegal and unlawful mining in Odisha and to recommend preventive measures not only to the State of Odisha but generally to all other States where mining activities are proceeding on a large scale. For the present, we pass no direction with regard to any investigation by CBI.

*a*

**230.** We direct the Union of India to have a fresh look at the National Mineral Policy, 2008 which is almost a decade old, particularly with regard to conservation and mineral development. The exercise should be completed by 31-12-2017.

*b*

**231.** The Chief Secretary of Odisha should file an affidavit as indicated by us within a period of six weeks and in any case on or before 30-9-2017. The Registry will list these petitions along with the affidavit immediately after its receipt for our consideration.

*c*

**232.** All other pending IAs are disposed of in terms of our orders.

\_\_\_\_\_

*d**e**f**g**h*

**True Copy/-**

GHCL Limited

Work:GHCL/Min: <sup>163</sup> /2005-06

Dt. 0/12/2005

The District Collector  
Mining Branch, Rang mahal.  
Limda Chowk  
Dist. JUNAGADH

Sub : Application For The Renewal of Mining Lease  
GORAKHMADHI Lime stone ( Block-A) Mines at Village- Gorakhamadhi  
Sy.Nos- 408/6/p. Taluka.-SUTRAPADA Dist..JUNAGADH State.-GUJARAT.

Dear sir

We are submitting an application for Renewal of Mining Lease in triplicate for Gorakhamadhi Limestone( Block-A) Mines ,at village Gorakhamadhi Sy.No.408/6/p,Over. 04-36-00 Hects Part Area ( Out of 08-73-13 Hects, M.L Area) Taluka..SUTRAPADA. ,Dist - Junagadh with following enclosures.

1. Application for Renewal of M. L, in form J - (in triplicate).
2. Challans No. 03 Date-7/12/2005 for, Rs.2500/, (enclosed Original challan, )
3. Copy of Registrar of Co- for the change of Co. name as GHCL LTD.
4. Copy of Certificate of Incorporation .
5. No Dues Clearance Certificate.
6. Income Tax clearance Affidavit.
7. Affidavit with the List of M.L/ P. L-Granted & Applied to G H C L,
8. IBM letters of Approval of Mining plan & Mining scheme of the Mine-Gorakhamadhi - A
9. Map of the lease hold area .
10. Letter of Power of attorney for the applicant.

Kindly do the needful at the earliest.

Thanking You,  
for GHCL LTD.

*P. Sarkar*  
(P.Sarkar)  
GM ( Mines & Agent of mines)

Enc- a/a in triplicate

Works : Sutrapada, Dist. Junagadh, Gujarat - 382 275. Tel. : (02078) 263401-03, 263851-56 Fax : 02676 -263480/83 Website : www.ghclindia.com  
Regd. Office : GHCL House, Sweetie Society, Opp. Punjabi Hall, Navrangpura, Ahmedabad - 380 009. Tel. : (079) 26427518/818 Fax : 079-26423823  
Head Office : B-38, Institutional Area, Sector-1, NOIDA-201 301 (U.P) Tel. : (0120) 2535335 Fax : 0120-2535209



A Daimia Brothers Enterprise

No. GJ/ML/Renew/1401/2072  
District Department of Geologist and Minerals  
Junagadh Dt. 25-4-07

To  
The Commissioner  
The Department of Geologist and Minerals  
Block No.1/2, 7<sup>th</sup> Floor,  
Udyog Bhavan – Gandhinagar

Subject: To send proposal for renewal of mining lease application.  
Shri GHCL Ltd, Sutrapada

It is hereby stated that on the above subject, that the lease renewal application of Shri Gujarat Heavy Chemicals Ltd, Veraval for mining lease has been submitted on 19/12/05 under the rules of MCR 1960 along with supporting documents in the following details.

Village	Taluka	Survey No	Area in Hectors	Mineral
Gorakhmadhi	Sutrapada	408/6	08-73-11 04-36-00	Limestone

Above mining lease has been approved/granted for a period of 20 years vide Government's Order No MCR-1586-(G-93225 dated 11/8/1986, for a period of 20 years from 5/1/87 to the date of approval/grant. The leaseholder has applied for renewal on 19/12/05 as it expires on the date which the leaseholder has applied for one year ago.

Regarding the above lease renewal application, vide their letter no Land-C-999-2006 dated 9/5/06 to Mamlatdar, Sutrapada, Assistant Collector asked to submit opinion about vacant land and vide their letter no Land-C-1970-06 dated 29/1/07 the following facts are stated:

- (1) GHCL Limited, Sutrapada has been allotted the land Hector 08-73-11 Sq meter in Survey No 408 of Gorakhmadhi village in Sutrapada Taluka for the period of 20 years. It has been demanded to renew the mining lease of Hector 04-36-00 Sq meters of land from the total land Hector 08-73-11 Sq meter for mining.
- (2) No wire, telephone or electricity passes through the demanding land. There is no forest in the vicinity, as well as there is no any settlement / resident.

- (3) The land in demand is about 12 kilometers away from Gorakhmadhi village and 20 kilometers away from the Municipality and 15 kilometer from the costal beach.
- (4) There is no temple, mosque or cemetery in or around the land in question.
- (5) On 18/12/06, I along with Mamlatdar Shri Sutrapada, inspected the site of the demanded land in the presence of the representative of the Company. At present there is no mining work is carried out in the land in question. Nor does mining seems to have been done in the recent past. The requested area is open except for mining.

The technical opinion of the said application has been sent by Letter No GJ/ML/Renew/1401/206 dated 16/1/06.

Thus, keeping in view all the above facts, the M/s. GHCL Ltd, Gorakhmadhiv village, of Sutrapada, land bearing survey no 408/6 Hector 8-73-11 lands was granted for mining purpose in 1987 for 20 years lease for mining purpose. Out of that land Hector 4-36-00, if the lease is renewed on lease of 20 years as per the existing rules of the government, there is no problem for the same.

The accompanying opinions are found in the application chapter and other documents nut are included from Page No 1 to \_\_\_\_\_ , which is good to know.

Enclosure – As above.

Collector  
Junagadh

CC:  
Deputy Secretary,  
Industries and Mining Department,  
Sachivalaya, Gandhinagar – for inf.

GOVERNMENT OF INDIA  
MINISTRY OF MINES  
INDIAN BUREAU OF MINES  
OFFICE OF THE REGIONAL CONTROLLER OF MINES

1817

No.: 682(23)CLP-109/2007-MCCM(N)Udp.

Sector - 11, Hiran Magari,  
Udaipur - 313 002 (Raj.)

Dated : 01 AUG 2007

To : M/s. Gujarat Heavy Chemicals Ltd.  
 Village & Taluka - Sutrapada,  
Distt. Junagadh - 362 275 (Guj.)

Sub: Approval of Final Mine Closure Plan in respect of Gorakhmadhi Limestone Mine (Block - A) of M/s. Gujarat Heavy Chemicals Ltd. over an area of 4.3711 Ha. near Vill. Gorakhmadhi, Taluka - Sutrapada, Distt. Junagadh (Gujarat), submitted under Rule 23 C of Mineral Conservation and Development Rules, 1988.

Ref: 1) Your RQP's letters dated 4.5.2007 & 17.7.2007.

2) This Office letters of even number dated 14.6.2007.

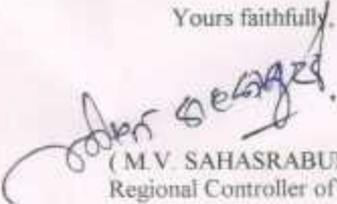
Sir,

In exercise of the powers conferred by the sub-Rule (2) of Rule 23 C of Mineral Conservation and Development Rules, 1988, I hereby approve the Final Mine Closure Plan in respect of your **Gorakhmadhi Limestone Mine (Block-A), covering an area of 4.3711 Ha. in Vill. Gorakhmadhi, Taluka Sutrapada, District Junagadh, Gujarat State.** This approval is subject to the following conditions:

- 1) That the Final Mine Closure Plan is approved without prejudice to any other laws applicable to the mine/area from time to time whether made by the Central Government, State Government or any other authority.
- 2) That this approval of the Final Mine Closure Plan does not in any way imply the approval of the Government in terms of any other provisions of the Mines & Minerals (Development & Regulation) Act, 1957 or the Mineral Concession Rules, 1960 or any other laws including Forest (Conservation) Act, 1980, Environment (Protection) Act, 1986 and the rules made there under.
- 3) That the Final Mine Closure Plan is approved without prejudice to any other order or direction from any court of competent jurisdiction.
- 4) That the yearly report indicating the extent of protective and rehabilitative works carried out as envisaged in the approved Final Mine Closure Plans as required under Rule 23 E shall be submitted before 1<sup>st</sup> July of every year.

Yours faithfully,

Encl: One copy of approved  
 Final Mine Closure Plan.

  
 (M.V. SAHASRABUDHE)  
 Regional Controller of Mines

Copy for information to:

1. The Director, Directorate of Mines & Geology, Govt. of Rajasthan, Udaipur, along with a copy of approved Final Mine Closure Plan is requested to ensure that the determination of aforesaid lease is not accepted until and until a certificate issued by the Indian Bureau of Mines under Rule 29 A(2) of Mineral Concession Rules, 1960 to the effect that protective, reclamation and rehabilitative works as envisaged in the approved Final Mine Closure Plan are carried out.
2. The Director, Directorate of Mines Safety, Udaipur, along with a copy of approved Final Mine Closure Plan.
3. Shri H.C. Shrivastava, RQP, R-416, Jaishree Colony, Udaipur (Raj).

1818

( M.V. SAHASRABUDHE )  
Regional Controller of Mines

*(Handwritten signature)*  
(M.V. SAHASRABUDHE)

**Minutes of the 439<sup>th</sup> meeting of the State Level Expert Appraisal Committee held on 09/10/2018 at GEER Foundation, Sector 9,Indroda Park, Gandhinagar**

The 439<sup>th</sup> meeting of the State Level Expert Appraisal Committee (SEAC) was held on 09<sup>th</sup> October 2018 at GEER Foundation, Sector 9,Indroda Park, Gandhinagar. Following members attended the meeting:

1. *Dr. Dinesh Misra, Chairman, SEAC*
2. *Shri S. C. Srivastav, Vice Chairman, SEAC*
3. *Shri A.K.Muley,Member,SEAC*
4. *Shri V N Patel, Member, SEAC*
5. *Shri R.J.Shah, Member, SEAC*
6. *Shri R.I.Shah, Member, SEAC*

Following proposals of minor minerals have been considered during SEAC meeting.

**1. RIVERBED SAND MINING PROJECT,DIST: VADODARA**

Proposal No	Project Name	S NO	Village	Taluka	District	Lease Area in Hectare	Rate of mining	Nearest Habitation	Name of the river/ Mineral	Proposed Use
SIA/GJ/MIN / 73489 /2018	Bankimbhai Jayantilal Bhatt	86,85 ne lagu orsang nadi patt paiki	Suskal	Pavijetpur	Chotaud epur	10.00 Ha Existing	6,39,997 MTPA	Suskal: 550 Meter	Orsang	Constructio n

Representative of Project proponent informed that proposal for mining is for expansion of production from 48,000 MTPA (4000 MTPM) to 6,39,997 MTPA. Mineral reserve is 2090400 MT.Previous EC was obtained by the PP vide letter of SEIAA dated SEIAA/GUJ/EC/1(a)/4099/2015 dated 30/11/2015.PP has submitted that there is no public complaints, no litigation pending against the mine before any court. Compliance report previous EC conditions is submitted by the PP validated by the district geologist and DEE, RO-GPCB. He informed that mining operation is semi mechanized. It is informed that ordinary sand will be re-deposited in monsoon every year. There is no bridge piers / water intake wells / irrigation structures within 500 m distance from boundary of above lease area. He explained that sand excavation will be done up to maximum 3 m depth. Mining will not intersect water table. Water sprinkling will be done during loading of material. Consumption of water is proposed to be 6 KLPD. Source of water will be by tankers from nearby villages.LOI is issued in the name of PP asking PP to submit EC for further action. Manpower requirement will be 4 to 5. All the transportation vehicles will be covered to avoid fugitive emission of fine particles. PP

**439<sup>th</sup> meeting of SEAC-Gujarat, Dated 09.10.2018**

water table. Water sprinkling will be done during loading of material. Consumption of water is proposed to be 6 KLPD. Source of water will be by tankers from nearby villages. Letter of renewal of lease Issued by the office of collector dated 24/02/2016 is submitted by the PP mentioning validity of lease is for 10 years from 08.11.2012. Manpower requirement will be 4 to 5. All the transportation vehicles will be covered to avoid fugitive emission of fine particles. PP informed that setback distance of 10 meter will be maintained from the river bank to prevent bank erosion. It is noted that PP has submitted copies of approved mining plan, prefeasibility report including mitigation measures to curb pollution and details regarding non applicability of cluster formation for homogeneous minerals validated by the Geologist. In project details, Geologist has validated that lease area is in dry river bed.

The above proposal falls under category B2 as per the amendment of EIA Notification 2016 dated 15/01/2016.

Project cost is 30 lacs. PP has proposed activities like provision of drinking water in villages and schools by furnishing, hand pumps/dug well/water tank or funds, health camps and free medicines, educational support for poor students and sanitation facilities covered under CER. A fund earmarked is RS 60,000 per annum. Recurring budgetary provision for EMP is Rs. 60,000 Per Annum.

Considering anticipated impacts of mining and mitigation measures proposed by the lease holder, committee unanimously decided to recommend the proposal for grant of environmental clearance to SEIAA for the above proposal, subject to the strict implementation of conditions mentioned in sustainable Sand mining management guideline 2016 published by MOEF&CC, New Delhi and standard conditions for Sand mining project as approved during 12<sup>th</sup> SEIAA meeting held on 16/09/2017 with following project specific conditions

1. PP shall develop green belt and plant trees of 120 nos. for the first year which shall be grown and shall be maintained for subsequent years.
2. Transportation route for vehicles carrying mineral shall have least minimum pass near human habitation.
3. PP shall pursue CER activities as proposed in declaration.

### **MAJOR MINERAL PROPOSALS**

3. **M/S Gorakhmadi Limestone Mining, Lease Area 4.36 Hectare, SNO:408/6P ,Vill: Gorakhmandli, Ta: Sutrapada , Dist :Gir Somnath for mining of limestone at 13,680 MTPA (Proposal NO: SIA/GJ/MIN/ 27869 / 2016).**

Proposal No	Project Name	S NO	Village	Taluka	District	Lease Area in Hectare	Rate of mining	Nearest Habitation	Name of the mineral
SIA/GJ/MIN/ 27869 / 2016	GORAKHMADI LIMESTONE MINE	408/6P	Gorakhmandli	Sutrapada	Gir SOMnath	4.36 Ha	13,680 MTPA	Gorakhmandli:	Limestone

**Category of the Projects: 1(a)**

- Terms of Reference (TOR) accorded to M/S Gorakhmadi Limestone Mine (Mining Lease Area 4.36 Ha), Vill: Gorakhmandli, Ta: Sutrapada, Dist: Gir Somnath on 30/01/2017.
- Public Hearing was conducted on 09/03/2018.
- Final EIA report was submitted on 06/07/2018 prepared by m/s N.S.Enviro – tech laboratories & consultant, accredited by NABET accreditation no. NABET/EIA/1619/IA/0019 valid for 15 Aug, 2019 for the category 1(a) with study period is March. 2017 to May 2017.

**Project details:****The detail of project is as under:**

Name of Project Proponent	M/s GHCL Ltd.,
Project Activity	Limestone Mining
Lease Area	4.36 Hect.
Proposed Production	Proposed Production- As per ToR-17,500TPA, As per new Approved Mining Plan -13,680 TPA.
Location	Village: Gorakhmandi & Ttaluka - Sutrapada, District – Gir- somnath (Gujarat)
Latitude (N)	20°54'37.63"to20°54'38.25"
Longitude (E)	70°31'18.91" to 70°31'18.68"
Topo sheet no.	41L / 9
Air Link	Diu Airport is situated at a distance of 47.0 Km towards in SE direction from Mining Lease area. Keshod Airport is situated at a distance of 52.0 Km towards in NNW direction from Mining Lease area.
Railway Link	The Nearest Railway Station is at Veraval at a distance of 16 kms towards WNW from Mine Site. Veraval railway station lies on Somnath-Ahmedabad railway line having a number of trains to different destination in India.
Road Link	Ajotha- Virodhar State Highway-6 is 0.7km towards S (approx.) and NH-8E is 1.0km towards S from Mine site .

Basic Amenities	<ul style="list-style-type: none"> <li>• The nearest police station is at Gorkhamadi.</li> <li>• The Controlling office of Deptt. of Mines is at Gir Somnath.</li> <li>• Telephone facility &amp; Post Office is at village Gorkhmandi.</li> <li>• Nearest Health facility is available at village Gorkhmandi.</li> </ul>
Reserves	55764 Tones (UNFC code 111)
Mineable Reserve, (as per approved Mining Plan)	26240 Tones (UNFC Code 111)
Mineable Reserve,	26240 Tones (UNFC Code 111)
Life of Mine	2 Yrs.
Elevation	Varies from Highest –46 mRL to Lowest – 37 mRL
Present Working Depth	32 mRL
Ultimate Working Depth	28 mRL
Ground Water Table	Pre Monsoon: 8 to 13 mRL (20m bgl-15 mbgl) Post Monsoon: 13 to 18 mRL (15m bgl-10 mbgl)
National Parks, Sanctuaries, Biosphere Reserves, Wildlife corridors, Tiger/ Elephant reserves	No National Parks, Sanctuaries, Biosphere Reserves, Wildlife corridors, Tiger / Elephant reserves existing within 10 km of the mine lease area.
TOPOGRAPHY	The terrain of the area is more or less flat with minor undulations, the slope generally being towards south –west in southern portion and towards eastern in northern portion.
DRAINAGE	Mining lease area is devoid of perennial water course or major surface water bodies or nallahs. The Hiran Seasonal River flowing at a distance of 9.0Km towards W direction from Mining Lease area and Saraswati Seasonal River flowing towards S direction from Mining Lease area. The general natural drainage of the area is from East to West direction.
METHOD OF MINING	Opencast Manual mining Method
BENCH PARAMETER	Bench Height – 1.5 m max. Bench Width – More then bench height.
EXTENT OF MECHANISATION	Mining operation will be carried out by manual using tools like Air Compressor -1, Hydraulic Rock Breaker-1, JCB loader-1, Tippers-4 etc.
MAN POWER	<ol style="list-style-type: none"> <li>1. Mines Manager--01</li> <li>2. Assistant Mines Manager – 01</li> <li>3. Mines Foreman-01</li> <li>4. Mining Mate -01</li> <li>5. Labors &amp; others - 22</li> </ol> Total 26 Persons will be employed.

The meeting was concluded with thabnks to Chair and Members.

1.	Dr. Dinesh Misra,Chairman,SEAC	
2.	Shri S. C. Srivastav,Vice Chairman,SEAC	
3.	Shri V.N.Patel,Member, SEAC	
	Shri A K Muley, Member,SEAC	
5.	Shri R.J.Shah, Member,SEAC	
6.	Shri R.I.Shah, Member,SEAC	

**True Copy/-**

- (घ) जल गुणवत्ता ;
- (ङ) पिछले 15 वर्षों में भूमि जल की गुणवत्ता और मात्रा में देखे गए परिवर्तन तथा वर्तमान चार्जिंग और निकासी के ब्यौरे ;
- (च) (1) शोधन ब्यौरे सहित छोड़े जाने वाले अपशिष्ट जल की मात्रा ;
- (2) ठोस अपशिष्टों के ब्ययन से पूर्व और पश्चात अभिग्राही बाँधी में जल की मात्रा और गुणवत्ता ;
- (3) भूमि पर छोड़े जाने वाले अपशिष्ट जल की मात्रा और भूमि की किस्म ;
- (छ) (1) आवश्यक आनाहू शोधन योजना सहित जलाशय जल गुणवत्ता के ब्यौरे ;
- (2) कमांड क्षेत्र विकास योजना
6. ठोस अपशिष्ट :
- (क) उत्पन्न ठोस अपशिष्टों की प्रकृति और मात्रा ;
- (ख) ठोस अपशिष्ट निपटान का तरीका ।
7. शोर और कंपन :
- (क) शोर और कंपन के स्रोत ।
- (ख) परिवर्षी शोर स्तर ।
- (ग) शोर और कंपन नियंत्रण के प्रस्तावित उपाय ।
- (घ) श्रवणक्षमता समस्या, यदि कोई हो, और उसके नियंत्रण के उपाय ।
8. बिजली की आवश्यकता, जिसमें आपूर्ति के स्रोत का उल्लेख हो, यदि कैपिटल बिजली इकाई लगाने का प्रस्ताव हो तो पूरा पर्यावरणीय ब्यौरा प्रलग से भेजे ।
9. लगाया जाने वाला चरम श्रमिक बल, जिसमें निम्न ब्यौरा दिया जाए :  
— अपशिष्ट जल/वायु/मृदा जनित रोगों के कारण क्षेत्र में स्थानिक स्वास्थ्य समस्याएँ ।  
— विद्यमान और प्रस्तावित स्वास्थ्य देखभाल प्रणाली ।
10. (क) विस्थापित होने वाले गाँवों और लोगों की संख्या  
(ख) पुनर्वास बृहत् योजना ।
11. जोखिम निर्धारण रिपोर्ट तथा विपदा प्रबन्ध योजना ।
12. (क) पर्यावरणीय प्रभाव मूल्यांकन रिपोर्ट (पर्यावरण और वन मंत्रालय द्वारा) ;
- (ख) पर्यावरणीय प्रबन्ध योजना (समय-समय पर जारी मार्ग-दर्शक सिद्धांतों के अनुसार तैयार) ;
- (ग) विस्तृत व्यावहारिकता रिपोर्ट ;
- (घ) विविधत भरी हुई प्रभाववली ।
13. पर्यावरणीय प्रबन्ध कक्ष का ब्यौरा ।

इसमें यह बताना देना है कि ऊपर दिए गए प्रांकड़े और सूचना मेरी सर्वोत्तम जानकारी और विश्वास के अनुसार सही हैं और मुझे इस बात की जानकारी है कि यदि प्रस्तुत किए गए प्रांकड़े/सूचना का कोई भाग किसी भी समय मिथ्या या भ्रामक पाया जाता है तो परियोजना को नार्मल

कर दिया जायेगा और परियोजना को दी गई प्रनापत्ति, यदि कोई हो, को हमारी जोखिम और लागत पर वापस लिया जा सकेगा ।

तारीख : प्रावेदक के हस्ताक्षर  
स्थान : (नाम और पूरे पते सहित)

प्रावेदक जिस संगठन की ओर से हस्ताक्षर कर रहा है उस संगठन की मोहर

टिप्पण : ऐसे मकों की बाबत जिसके लिए परियोजना प्रस्तावक की घोषणा के अनुसार प्रांकड़े अपेक्षित नहीं हैं या उपलब्ध नहीं हैं तो परियोजना पर उसी आधार पर विचार किया जाएगा ।

प्रसूची-3

[पैरा-3 का उप-पैरा (iii) (क) देखिए]

पर्यावरणीय प्रभाव निर्धारण के लिए विशेष समितियों की संरचना

1. केन्द्र और राज्य स्तर पर विकास परियोजनाओं का मूल्यांकन और निर्धारण निम्न प्रकार से गठित विशेष समितियों द्वारा किया जाएगा, जिसमें प्रत्येक क्षेत्र के विशेषज्ञ होंगे :—

1. पारिस्थितिक तंत्र प्रबंध
  2. वायु/जल प्रदूषण नियंत्रण
  3. जल संसाधन प्रबंध
  4. वनस्पतिजात/प्राणिजात संरक्षण और प्रबंध
  5. भूमि प्रयोग योजना
  6. सामाजिक विज्ञान/पुनर्वास
  7. परियोजना मूल्यांकन
  8. पारिस्थितिकी
  9. पर्यावरणीय स्वास्थ्य
  10. विषय क्षेत्र विशेषज्ञ
  11. गैर-सरकारी संगठनों के प्रतिनिधि/पर्यावरणीय मुद्दों से संबंधित व्यक्ति ।
2. अध्यक्ष, उरुहट और अनुसूची परित्यक्ति-विज्ञानी या पर्यावरणीय या तकनीकी व्यावसायिक या सुसंगत विकास क्षेत्र में बृहत् प्रबंधकोय अनुभव का होगा ।
3. प्रभाव निर्धारण अधिकरण/केन्द्र/राज्य का प्रतिनिधि सदस्य-सचिव के रूप में कार्य करेगा ।
4. अध्यक्ष और सदस्य प्रतिनिधियों के रूप में विनिश्चित रूप में नामनिश्चित व्यक्तियों को छोड़कर दैयक्तिक हृतियत से कार्य करेंगे ।
5. किसी समिति में 15 से अधिक सदस्य नहीं होंगे ।

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 27th January, 1994

S.O. 60(E).—Whereas a notification under clause (a) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 inviting objections from the public within sixty days from the date of publication of the said notification, against the intention of the Central Government to impose restrictions and prohibitions on the expansion and modernization of any activity or new projects being undertaken in any part of India unless environmental clearance has been accorded by the Central Government or the State Government in accordance with the procedure specified in that notification was published as S.O. No. 80(E) dated 28th January, 1993;

And whereas all objections received have been duly considered;

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 directs that on and from the date of publication of this notification in the Official Gazette, expansion or modernization of any activity if pollution load is to exceed the existing one, or new project listed in Schedule I to this notification, shall not be undertaken in any part of India unless it has been accorded environmental clearance by the Central Government in accordance with the procedure hereinafter specified in this notification;

## 2 Requirements and procedure for seeking environment clearance of projects:

I(a) Any person who desires to undertake any project in any part of India or the expansion or modernisation of any existing industry or project listed in the Schedule shall submit an application to the Secretary, Ministry of Environment and Forests, New Delhi.

The application shall be made in the proforma specified in Schedule II to this notification and shall be accompanied by a detailed project report which shall, inter alia, include an Environmental Impact Assessment Report and an Environment Management Plan prepared in accordance with the guidelines issued by the Central Government in the Ministry of Environment and Forests from time to time.

(b) Case rejected due to submission of insufficient or inadequate data and Action Plans may be reviewed as and when submitted with complete data and Action Plans. Submission of incomplete data for the second time would itself be a sufficient reason for the Impact Assessment Agency to reject the case summarily.

## II In case of the following site specified projects :

- (a) mining;
- (b) pit-head thermal power stations;
- (c) hydro-power, major irrigation projects and/or their combination including flood control;
- (d) ports and harbours (excluding minor ports).

The project authorities will intimate the location of the project site to the Central Government in the Ministry of Environment and Forests while initiating any investigation and surveys. The Central Government in the Ministry of Environment & Forests will convey a decision regarding suitability or otherwise of the proposed site within a maximum period of thirty days. The said site clearance will be granted for :

- a sanctioned capacity or for any mining lease;
- 500 ha or above area, if so required, for prospecting and exploration of minerals.

and it will be valid for a period of five years for commencing the construction, operation or mining.

III (a) The summary feasibility report submitted with the application shall be evaluated and assessed by the Impact Assessment Agency at the Central Government in consultation with a Committee of experts, having a composition as specified in Schedule-III of this Notification. The Impact Assessment Agency (IAA) would be the Union Ministry of Environment and Forests. The Committee of Experts mentioned above shall be constituted by the Impact Assessment Agency concerned or such other body under Central Government authorised by Impact Assessment Agency in this regard.

(b) The said Committee of experts shall have full right of entry and inspection of the site or, as the case may be, factory premises at any time prior to during or after the commencement of the operations relating to the project.

(c) The Impact Assessment Agency will prepare a set of recommendations based on technical assessment of documents and data, furnished by the project authorities supplemented by data collected during visits to sites or factories and interaction with affected population and environmental groups. Summary feasibility reports, along with the detailed Environmental Management Plans, the recommendation and the conditions subject to which environmental clearance is given shall be made available to the concerned parties or environmental groups on request. Comments of the public may be solicited, if so recommended by IAA within 30 days of receipt of proposal, in public hearings arranged for the purpose after giving one month notice of such hearings in at least two newspapers.

Public shall be provided access to the summary of the project reports and Environmental Management Plans at the Headquarters of the Impact Assessment Agency.

The assessment shall be completed within a period of three months on receipt of the requisite documents and data from the project authorities and completion of public hearing were required and decision conveyed within a maximum of 30 days thereafter. No work, preliminary or otherwise, relating to the setting up of the project may be undertaken till the environmental site clearance is obtained.

IV. In order to enable the Impact Assessment Agency concerned to monitor effectively the implementation of the recommendations and conditions subject to which the environmental clearance has been given, the project authorities concerned shall submit a half-yearly report to the concerned agency. Impact Assessment Agency will make compliance reports publicly available.

V. If no comments from the Impact Assessment Agency received within the time limit, the project would be deemed to have been approved as proposed by project authorities.

## 3. Nothing contained in this Notification shall apply to:

(a) any time falling under entry Nos. 3, 18 and 20 of the Schedule-I to be located or proposed to be located in the areas covered by the Notification's SO No. 102(E) dated 1st February, 1989; S.O. 114(E) dated 20th February, 1991 and S.O. No. 319(E) dated 7th May, 1992

(b) any item falling under entry Nos. 1, 2, 3, 4, 5, 7, 9, 10, 12, 13, 14, 16, 17, 19, 25 and 27 of Schedule-I if the investment is less than Rs. 50 crores.

(c) any item reserved for Small Scale Industrial sector with investments less than Rs. 1 crore.

4 Concealing factual data or submission of false, misleading data/reports, decisions or recommendations would lead to the project being rejected-approval, if granted earlier on the basis of false data, would also be revoked. Misleading and wrong information will cover the following:

- False information.
- False data.
- Engineering reports.
- Concealing of factual data
- False recommendations or decisions.

[No. Z-12013/4/89-IA-I]  
R. RAJAMANI, Secy. (E&F)

## SCHEDULE—I

(See paras 1 and 2)

## LIST OF PROJECTS REQUIRING ENVIRONMENTAL CLEARANCE FROM THE CENTRAL GOVERNMENT

1. Nuclear Power and related projects such as Heavy Water Plants, nuclear fuel complex, rare earths.
2. River Valley projects including hydel power, major irrigation and their combination including food control.
3. Ports, Harbours, Airports (except minor ports and harbours).
4. Petroleum Refineries including crude and product pipelines.
5. Chemical Fertilizers (Nitrogenous and Phosphatic) other than single superphosphate).
6. Pesticides (Technical).
7. Petrochemical complexes (Both Olefinic and Aromatic) and Petro-chemical intermediates such as DMT, Caprolactam LAB etc. and production of basic plastics such as LLPDE, HPDE, PP PVC.
8. Bulk drugs and pharmaceuticals
9. Exploration for oil and gas and their production, transportation and storage.
10. Synthetic Rubber.
11. Asbestos and Asbestos products.
12. Hydrocyanic acid and its derivatives.
- 13 (a) Primary metallurgical industries (such as production of Iron and Steel, Aluminium, Copper Zinc, Lead and Ferror Alloys).
- (b) Electric arc furnaces (Mini Steel Plants).
14. Chlor alkali industry.
15. Integrated paint complex including manufacture of resins and basic raw materials required in the manufacture of paints.
16. Viscose Staple fibre and filament yarn.
17. Storage batteries integrated with manufacture of oxides of lead and lead antimony alloy.
18. All tourism projects between 200m—500 meters of High Water Line and at locations with an elevation of more than 1000 meters with investment of more than Rs. 5 crores.
19. Thermal Power plants.
20. Mining projects (with leases more than 5 hectares).
21. Highway Projects.
22. Tarrred Roads in Himalayas and or Forest areas.
23. Distilleries.
24. Raw Skins and Hides.
25. Pulp, paper and newsprint.
26. Dyes.
27. Cement.
28. Foundries (Individual).
29. Electroplating.

## SCHEDULE—II

[See Sub-para I(a) of Para 3]

## APPLICATION FORM

1. (a) Name and Address of the project proposed :
  - (b) Location of the projects:
    - Name of the place:
    - District, Tehsil:
    - Latitude/Longitude:
    - Nearest Airport/Railway Station :
  - (c) Alternate sites examined and the reasons for selecting the proposed site :
  - (d) Does the site conform to stipulated land use as per local land use plan:
2. Objectives of the project:
3. (a) Land Requirement:
  - Agriculture Land :
  - Forest land and Density of vegetation.
  - Other (specify):
  - (b) (i) Land use in the Catchment [within 10 Kms. radius of the proposed site:
  - (ii) Topography of the area indicating gradient, aspects and altitude ;
  - (iii) Erodability classification of the proposed land ;
  - (c) Pollution sources existing in 10 km. radius and their impact on quality of air, water & land:
  - (d) Distance of the nearest National Park/Sanctuary/Biosphere Reserve/Monuments/heritage site/Reserve Forest:
  - (e) Rehabilitation on plan for quarries/borrow areas:
  - (f) Green belt plan:
  - (g) Compensatory afforestation plan:
4. Climate and Air Quality:
  - (a) Windrose at site;
  - (b) Max./Min./Mean annual temperature
  - (c) Frequency of inversion:
  - (d) Frequency of cyclones/tornadoes/cloud burst :
  - (e) Ambient air quality data:
  - (f) Nature & concentration of emission of SPM, Gas (Co, Co<sub>2</sub>, NO<sub>x</sub>, CH<sub>4</sub> etc.) from the project :
5. Water balance :
  - (a) Water balance at site :
  - (b) Lean season water availability:
    - Water Requirement :
  - (c) Source to be tapped with competing users (River, lake, Ground, Public supply):
  - (d) Water quality :
  - (e) Changes observed in quality and quantity of ground water in the last 15 years and present charging & extraction details:
  - (f) (i) Quantum of waste water to be released with treatment details :
  - (ii) Quantum of quality of water in the receiving body before and after disposal of solid wastes:
  - (iii) Quantum of waste water to be released on land and type of land :

- (g) (i) Details of reservoir water quality with necessary Catchment Treatment Plan ;  
(ii) Command Area Development Plan ;
6. Solid wastes :
- (a) Nature and quantity of solid wastes generated.  
(b) Solid waste disposal method:
7. Noise and Vibrations:
- (a) Sources of noise and Vibrations ;  
(b) Ambient noise level:  
(c) Noise and Vibration control measures proposed ;  
(d) Subsidence problem if any with control measures:
8. Power requirement indicating source of supply : Complete environmental details to be furnished separately, if captive power unit proposed:
9. Peak labour force to be deployed giving details of:
- Endemic health problems in the area due to waste water/air/soil borne diseases;  
— Health care system existing and proposal :
10. (a) Number of village and population to be displaced :  
(b) Rehabilitation Master Plan :
11. Risk assessment report and Disaster Management Plan:
12. (a) Environmental Impact Assessment } Report  
(b) Environment Management Plan: } prepared as per  
(c) Detailed Feasibility Report : } guidelines of  
(d) Duly filled in questionnaire } time to time
13. Details of Environmental Management Cell:
- I hereby give an undertaking that the data and information given above are true to the best of my knowledge and belief and I am aware that if any part of the data/information submitted is found to be false or misleading at any stage, the project be rejected and the clearance given, if any, to the project is likely to be revoked at our risk and cost.
- Signature of the applicant  
with name and full address.
- Date,  
Place:
- Given under the seal of  
Organisation on behalf of  
whom the applicant is  
signing.
- In respect to item for which data are not required or is not available as per the declaration of project proponent, the project would be considered on that basis.
- SCHEDULE III**  
[See sub-para III(a) of Para 3]
- COMPOSITION OF THE EXPERT COMMITTEES FOR ENVIRONMENTAL IMPACT ASSESSMENT**
1. The evaluation and assessment of development projects at the Central or State level will be undertaken by Experts Committees consisting of experts in each discipline constituted as under:
- (i) Eco-System Management  
(ii) Air/Water Pollution Control  
(iii) Water Resource Management  
(iv) Flora/Fauna conservation and management  
(v) Land Use Planning  
(vi) Social Sciences/Rehabilitation  
(vii) Project Appraisal  
(viii) Ecology  
(ix) Environmental Health  
(x) Subject Area Specialists  
(xi) Representatives of NGOs/persons concerned with environmental issues.
2. The Chairman will be outstanding and experienced ecologist or environmentalist or technical professional or wide managerial experience in the relevant development sector.
3. The representative of Impacts Assessment Agency/Central/State will act as a Member-Secretary.
4. Chairman and Members will serve in their individual capacities except those specifically nominated as representatives.
5. The Membership of a Committee shall not exceed 15.

(2) पैरा 3 में,—

(i) मद (क) में, “और का. आ. सं. 319 (अ) 7 मई, 1992” अक्षर, शब्द, कोष्ठक और अंकों के स्थान पर “का. आ. सं. 416 (अ) तारीख 20 जून, 1991 और का. आ. सं. 319(अ) तारीख 7 मई, 1992” अक्षर, शब्द, कोष्ठक और अंक रखे जाएंगे ;

(ii) मद (ख) में, “19, 25” अंकों के स्थान पर “19, 21, 25” अंक रखे जाएंगे ;

(3) अनुसूची 1 में, मद 20 और उससे संबंधित प्रतिष्ठियों के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् “20. 5 हेक्टर से अधिक के लिए पट्टे सहित खनन परियोजनाएँ (मृद्य च्वनिज)।” ;

(4) अनुसूची 3 की, मद 1 में प्रारंभिक पैरा के स्थान पर निम्नलिखित रखा जाएगा:—

“1. समितियों का गठन निम्नलिखित क्षेत्रों के विधेयों से होगा :” ।

[सं. जेड-12013/4/89-I ए-1]

के. के. बक्शी, अपर सचिव

टिप्पणी:—मूल नियम, का०आ० 60(अ) दिनांक 27 जनवरी, 1994 द्वारा जारी किया गया था; तदनुसार का०आ० 230(अ) दिनांक 17 मार्च, 1994 द्वारा संशोधित किया गया ।

## MINISTRY OF ENVIRONMENT AND FORESTS

### NOTIFICATION

New Delhi, the 4th May, 1994

S.O. 356(E).—Whereas by notification of the Government of India in the Ministry of Environment and Forests No. S.O. 60(E), dated the 27th January, 1994 (hereinafter referred to as the said notification), issued under 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 imposed certain restrictions and prohibitions on the expansion and modernization of any activity or the undertaking of any project, unless environmental clearance has been granted by that Government ;

And whereas the Central Government is of the opinion that the said notification should be amended ;

And whereas sub-rule 4 of rule (5) of the Environment (Protection) Rules, 1986 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) ;

And whereas the Central Government is of the opinion that it is in public interest to dispense with the requirement of notice under clause (a) of sub-rule (3) of rule 5 for amending the said notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with sub-rules (3) and (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification, namely:—

2. In the said notification,—

(1) in paragraph 2,—

(a) in sub-paragraph 1,—

(i) in item (a), for the words “a detailed project report which shall, inter alia, include an Environmental Impact Assessment Report and an Environment Management Plan”, the words “a project report which shall, inter alia, include an Environmental Impact Assessment Report/Environment Management Plan” shall be substituted;

(ii) in item (b).—

(I) for the words “Action Plans” in both the places where they occur, the word “Plan” shall be substituted;

(II) for the words “incomplete data for”, the words “incomplete data or plans for” shall be substituted;

(b) in sub-paragraph II,—

(i) after item (d), the following item shall be inserted, namely:—

“(e) prospecting and exploration of major minerals in areas above 500 hectares.”;

(ii) for the portion beginning with the words “The said site clearance” and ending with the words “construction, operation or mining”, the following shall be substituted, namely:—

“The said site clearance shall be granted for a sanctioned capacity and shall be valid for a period of five years for commencing the construction, operation or mining.”;

(c) in sub-paragraph III.—

(i) in item (a).—

(I) for the words “The summary feasibility report”, the words “The reports” shall be substituted,

- (II) for the words "Agency at the Central Government in consultation with", the words "Agency, and if deemed necessary it may consult", shall be substituted.
- (III) the word "concerned" shall be omitted;
- (ii) in item (c), for the portion beginning with the words "The Impact Assessment Agency" and ending with the words "environmental site clearance is obtained", the following shall be substituted, namely:—
- "(c) The Impact Assessment Agency shall prepare a set of recommendations based on technical assessment of documents and data, furnished by the project authorities, supplemented by data collected during visits to sites or factories, if undertaken, and interaction with affected population and environmental groups, if necessary. Summary of the reports, the recommendation and the conditions, subject to which environmental clearance is given, shall be made available subject to the public interest to the concerned parties or environmental groups on request. Comments of the public may be solicited, if so decided by the Impact Assessment Agency, within thirty days of receipt of proposal, in public hearings, arranged for the purpose, after giving thirty days notice of such hearings in at least two newspapers. Public shall be provided access subject to the public interest to the summary of the reports|Environmental Management Plans at the Headquarters of the Impact Assessment Agency.
- The assessment shall be completed within a period of ninety days from receipt of the requisite documents and data from the project authorities and completion of public hearing, where required, and decision conveyed within thirty days thereafter.
- The clearance granted shall be valid for a period of five years from commencement of the construction or operation.
- III A. No construction work, preliminary or otherwise, relating to the setting up of the project may be undertaken till the environmental and site clearance is obtained.
- (d) for sub-paragraph IV, the following sub-paragraph shall be substituted, namely:—
- "IV. In order to enable the Impact Assessment Agency to monitor effectively the implementation of the recommendations and conditions subject to which the environmental clearance has been given, the project authorities concerned shall submit a half yearly report to the Impact Assessment Agency. Subject to the public interest the Impact Assessment Agency shall make compliance reports publicly available.";
- (2) in paragraph 3,—
- (i) in item (a), for the letters, words, brackets and figures "and S.O. No. 319 (E) dated 7th May, 1992" the letters, words, brackets and figures "S.O. No. 416(E) dated 20th June, 1991 and S.O. No. 319 (E) dated the 7th May, 1992" shall be substituted;
- (ii) in item (b), for figures "19, 25", the figures "19, 21, 25" shall be substituted;
- (3) in Schedule 1, for item 20 and entries relating thereto, the following shall be substituted, namely:
- "20. Mining projects (major minerals) with leases more than 5 hectares.";
- (4) in Schedule III, in item 1, for opening paragraph, the following shall be substituted :—
- "1. The Committees will consist of experts in the following disciplines :"

[No. Z-12013|4|89-IA-II]

K. K. BAKSI, Addl. Secy.

Footnote : The principal notification was issued vide No. S.O. 60(E) dated 27th January, 1994 and subsequently amended vide No. (1) S.O. 230(E), dated the 17-3-1994.

(2) पैरा 3 में,—

(j) मद (क) में, "ओर का. ग्रा. सं. 319 (अ) 7 मई, 1992" अक्षर, शब्द, कोष्ठक और अंकों के स्थान पर "का. ग्रा. सं. 416 (अ) तारीख 20 जून, 1991 और का. ग्रा. सं. 319(अ) तारीख 7 मई, 1992" अक्षर शब्द, कोष्ठक और अंक रखे जाएंगे ;

(ii) मद (ख) में, "19, 25" अंकों के स्थान पर "19, 21, 25" अंक रखे जाएंगे ;

(3) अनुसूची 1 में, मद 20 और उससे संबंधित प्रतिष्ठियों के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् "20. 5 हेक्टर से अधिक के लिए पट्टे सहित खनन परियोजनाएँ (मुख्य चनित्र) ।" ;

(4) अनुसूची 3 की, मद 1 में आरम्भिक पैरा के स्थान पर निम्नलिखित रखा जाएगा:—

"1. समितियों का गठन निम्नलिखित क्षेत्रों के विशेषज्ञों से होगा :"

[सं. जेड-12013/4/89-I ए-1]

के. के. बक्शी, अपर सचिव

टिप्पणी :—मूल नियम, का०आ० 60(अ) दिनांक 27 जनवरी, 1994 द्वारा जारी किया गया था; तदनुषंगान् का०आ० 230(अ) दिनांक 17 मार्च, 1994 द्वारा संशोधित किया गया ।

## MINISTRY OF ENVIRONMENT AND FORESTS

### NOTIFICATION

New Delhi, the 4th May, 1994

S.O. 356(E).—Whereas by notification of the Government of India in the Ministry of Environment and Forests No. S.O. 60(E), dated the 27th January, 1994 (hereinafter referred to as the said notification), issued under 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 imposed certain restrictions and prohibitions on the expansion and modernization of any activity or the undertaking of any project, unless environmental clearance has been granted by that Government ;

And whereas the Central Government is of the opinion that the said notification should be amended ;

And whereas sub-rule 4 of rule (5) of the Environment (Protection) Rules, 1986 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) ;

And whereas the Central Government is of the opinion that it is in public interest to dispense with the requirement of notice under clause (a) of sub-rule (3) of rule 5 for amending the said notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with sub-rules (3) and (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification, namely:—

2. In the said notification,—

(1) in paragraph 2,—

(a) in sub-paragraph 1,—

(i) in item (a), for the words "a detailed project report which shall, inter alia, include an Environmental Impact Assessment Report and an Environment Management Plan", the words "a project report which shall, inter alia, include an Environmental Impact Assessment Report Environment Management Plan" shall be substituted;

(ii) in item (b).—

(I) for the words "Action Plans" in both the places where they occur, the word "Plan" shall be substituted;

(II) for the words "incomplete data for", the words "incomplete data or plans for" shall be substituted;

(b) in sub-paragraph II,—

(i) after item (d), the following item shall be inserted, namely:—

"(e) prospecting and exploration of major minerals in areas above 500 hectares.":

(ii) for the portion beginning with the words "The said site clearance" and ending with the words "construction, operation or mining", the following shall be substituted, namely:—

"The said site clearance shall be granted for a sanctioned capacity and shall be valid for a period of five years for commencing the construction, operation or mining.":

(c) in sub-paragraph III,—

(i) in item (a).—

(I) for the words "The summary feasibility report", the words "The reports" shall be substituted,

- (II) for the words "Agency at the Central Government in consultation with", the words "Agency, and if deemed necessary it may consult", shall be substituted.
- (III) the word "concerned" shall be omitted;
- (ii) in item (c), for the portion beginning with the words "The Impact Assessment Agency" and ending with the words "environmental site clearance is obtained", the following shall be substituted, namely:—
- "(c) The Impact Assessment Agency shall prepare a set of recommendations based on technical assessment of documents and data, furnished by the project authorities, supplemented by data collected during visits to sites or factories, if undertaken, and interaction with affected population and environmental groups, if necessary. Summary of the reports, the recommendation and the conditions, subject to which environmental clearance is given, shall be made available subject to the public interest to the concerned parties or environmental groups on request. Comments of the public may be solicited, if so decided by the Impact Assessment Agency, within thirty days of receipt of proposal, in public hearings, arranged for the purpose, after giving thirty days notice of such hearings in at least two newspapers. Public shall be provided access subject to the public interest to the summary of the reports|Environmental Management Plans at the Headquarters of the Impact Assessment Agency.
- The assessment shall be completed within a period of ninety days from receipt of the requisite documents and data from the project authorities and completion of public hearing, where required, and decision conveyed within thirty days thereafter.
- The clearance granted shall be valid for a period of five years from commencement of the construction or operation.
- III A. No construction work, preliminary or otherwise, relating to the setting up of the project may be undertaken till the environmental and site clearance is obtained.
- (d) for sub-paragraph IV, the following sub-paragraph shall be substituted, namely:—
- "IV. In order to enable the Impact Assessment Agency to monitor effectively the implementation of the recommendations and conditions subject to which the environmental clearance has been given, the project authorities concerned shall submit a half yearly report to the Impact Assessment Agency. Subject to the public interest the Impact Assessment Agency shall make compliance reports publicly available.";
- (2) in paragraph 3,—
- (i) in item (a), for the letters, words, brackets and figures "and S.O. No. 319 (E) dated 7th May, 1992" the letters, words, brackets and figures "S.O. No. 416(E) dated 20th June, 1991 and S.O. No. 319 (E) dated the 7th May, 1992" shall be substituted;
- (ii) in item (b), for figures "19, 25", the figures "19, 21, 25" shall be substituted;
- (3) in Schedule 1, for item 20 and entries relating thereto, the following shall be substituted, namely;
- "20. Mining projects (major minerals) with leases more than 5 hectares.";
- (4) in Schedule III, in item 1, for opening paragraph, the following shall be substituted:—
- "1. The Committees will consist of experts in the following disciplines :"

[No. Z-12013|4|89-IA-II]

K. K. BAKSI, Addl. Secy.

Footnote : The principal notification was issued vide No. S.O. 60(E) dated 27th January, 1994 and subsequently amended vide No. (1) S.O. 230(E), dated the 17-3-1994.

**EXPLANATORY NOTE REGARDING THE IMPACT ASSESSMENT  
NOTIFICATION**

**DATED 4<sup>th</sup> MAY, 1994**

**1. EXPANSION AND MODERNIZATION OF EXISTING PROJECTS.**

A project proponent is required to seek environmental clearance for a proposed expansion/modernization activity if the resultant pollution load is to exceed the existing levels. The words "Pollution Load" will in this context cover emissions, liquid and solid or semi-solid wastes generated. A project proponent may approach the concerned State Pollution Control Board (SPCB) for certifying whether the proposed modernization/expansion activity as listed in Schedule-I to the notification is likely to exceed the existing pollution load or not. If it is certified that no increase is likely to occur in the existing pollution load due to the proposed expansion or modernization, the project proponent will not be required to seek environmental clearance, but a copy of such certificate issued by the SPCB will have to be submitted to the Impact Assessment Agency (IAA) for information. The IAA will however, reserve the right to review such cases in the public interest if material facts justifying the need for such review come to light.

**2. AVAILABILITY OF SUMMARY FEASIBILITY REPORT, EIA/EMP REPORT ETC. TO CONCERNED PARTIES OR GROUPS**

The Project proponent will have to submit an executive summary incorporating in brief the essence of project details and findings of environmental impact assessment study which could be made available to concerned parties or environmental groups on request.

**3. CLARIFICATION ABOUT CONCERNED PARTIES OR ENVIRONMENTAL GROUPS**

The concerned parties or environmental groups will be the bonafide residents located or around the project site or site of displacement or site of alleged adverse environmental impact.

The concerned parties or environmental groups will be the bonafide residents located at or around the project site or site of displacement or site of alleged adverse environmental impact.

**4. PUBLIC HEARING**

Public hearing could be called for in case of projects involving large displacement or having severe environmental ramification

**5. PUBLIC INFORMATION REQUIRED FOR SITE CLEARANCE/ PROJECT CLEARANCE.**

(a) Site Clearance

Site clearance will be given for site specific project as mentioned in para (2) (ii) of the notification. Project proponents will be required to furnish information according to the environmental appraisal questionnaires for site clearance, as may be prescribed by the IAA from time to time. Additional information whenever required by the IAA will be communicated immediately to the project proponents who will then be required to furnish the same within the time frame specified.

(b) Project clearance

In addition to the application form as mentioned in Schedule – II to the notification, project proponents are required to furnish the following information for environmental appraisal.

- (i) EIA/EMP report ( 20 copies)

- (ii) Risk Analysis report (20 copies): however, such reports are normally not required for a particular category of project, project proponent can state so accordingly, but the IAA's decision in this regard will be final:
- (iii) NOC from the State Pollution Control Board:
- (iv) Commitments regarding availability of water and electricity from the competent authority:
- (v) Summary of Project report/feasibility report (one copy):
- (vi) Filled in questionnaire (as prescribed by the IAA from time to time) for environmental appraisal of the project:
- (vii) Comprehensive rehabilitation plan, if more than 1000 people are likely to be displaced, otherwise as summary plan would be adequate.

As a Comprehensive EIA report will normally take at least one year for its preparation, project proponents may furnish Rapid EIA report to the IAA based on one season data (other than monsoon), for examination of the project Comprehensive EIA report may be submitted later, if so asked for by the IAA.

The requirement of EIA can be dispensed with by the IAA, in case of project which are unlikely to cause significant impacts on the environment. In such case, project proponents will have to furnish full justification for such exemption for submission of EIA. Where such exemption is granted project proponents may be asked to furnish such additional information as may be required.

#### **6. SUBMISSION OF INSUFFICIENT OR INADEQUATE DATA**

Regarding cases liable to be rejected due to inadequacy of data, it is clarified that the IAA will make such rejection within 30 days from the date of submission of the proposal. While rejecting a proposal due to insufficient or inadequate data after the first evaluation, the IAA may also stipulate additional requirement of information/clarification for impact assessment purpose if deemed essential due to the specific nature of location of the proposal whose data as prescribed is not available, the IAA can examine the project on the basis of available data.

#### **7. APPLICATION FORM**

(i) In order to remove any hardship to the project proponent in providing any information, the project proponent may, where some information is not available or would cause inordinate delay, mention this in their application form. The IAA may consider the project proposal based on the information available.

(ii) Quality and quantity of ground water.

If 15 years data on the quantity and quality variation of groundwater is not available with the concerned Department or Authorities, the project proponent may mention this accordingly in the application form prescribed in Schedule- II to the notification. Further, in case of projects where groundwater is not to be used and effluent are not to be discharged on the land, the requirement of groundwater variation data for the previous 15 years will be dispensed with.

(iii) A project proponent may write the words Not Applicable while filling the application form as mentioned in Schedule –II to the notification in respect of times which are not relevant for the purpose of the proposed project.

#### **8. EXEMPTION FOR PROJECTS ALREADY INITIATED**

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

**True Copy/-**

*For Hindustan Copper Ltd.*

**1834**

**ANNEXURE R-6**

No.J-20012/11/98-IA II(M)  
Government of India  
Ministry of Environment & Forests

Paryavaran Bhawan,  
CGO Complex, Lodi Road,  
New Delhi - 110 003.

Tel. No 4361760

**February 12, 2002**

**CIRCULAR**

Attention is invited to the EIA Notification of 27th January, 1994 and subsequent amendments thereof wherein thirty categories of projects, which include mining of major minerals with lease area more than 5 ha., are required to obtain environmental clearance from this Ministry and also to Press Note No. J-11016/12/94-IA.II(M) of 31.08.1994 and Circular No J - 11011/20/97-IA.II(I) dated 17.05.1999 clarifying applicability of the Notification to renewal cases for mining and expansion of existing projects.

2 In respect of mining proposals, the following issues have been brought to the attention of this Ministry:

- a. Whether applications for site/environmental clearance are required to be forwarded by the State Governments to MOEF?
- b. Whether public hearing is required for obtaining site clearance and whether an Environmental Impact Assessment report is required to be submitted to the concerned SPCB/PCC for arranging such public hearing?
- c. Whether four seasons baseline data is a pre-requisite for preparation of EIA report?
- d. Whether environmental clearance is required at the time of renewal of mining lease or for operating mines when (i) there is no increase in the lease area and production; (ii) there is increase in production without change in the lease area; (iii) there is increase in lease area

without change in production; and (iv) there is upgradation in mining technology?

- 3 In this context, the requisite clarifications are as follows
- a All mining proposals seeking site/Environmental clearance should be routed through the Department of the State Government dealing with the mining sector. However, in case of Central public sector projects, the proposals are to be routed through the concerned Administrative Ministry of Government of India. Further, it is clarified that if a proposal has been forwarded by the State Government/Administrative Ministry at the Centre to the Ministry of Environment and Forests at the stage of site clearance, there is no need to route proposals for environmental clearance through the concerned State Government/Administrative Ministry.
  - b Public hearing is not required for obtaining site clearance either for mining or for prospecting/exploration of major minerals. Site clearance granted by MoEF allows the proponent to carry out survey and investigations at the mine site but does not permit any construction work, preliminary or otherwise, relating to the project nor does it permit setting up of infrastructure facilities at the mining site. However, public hearing is required to obtain environmental clearance. This should be conducted as per procedure laid down in Notification No. S.O. 318(E) dated 10th April, 1997 and within the time limit set out in Notification No. S.O. 1148(E) dated 21st November, 2001.
  - c For environmental appraisal, it is sufficient to prepare a rapid Environmental Impact Assessment (EIA) report based on preproject baseline data of one complete season (other than monsoon) only. Comprehensive EIA report, which is prepared based on four seasons data is not needed unless specifically called for by the Ministry.
  - d Environmental clearance is not required at the time of renewal of mining lease if there is no increase in the originally sanctioned lease area and/or production. The proponent should, however, seek prior environmental clearance from the Central Government for expanding production and/or mining lease area irrespective of the quantum of increase in size of ML area/production or investment involved. The

above provisions will apply to existing operating mines even when no renewal of mining lease is involved.

(Dr. V. Rajagopalan)  
Joint Secretary to the Government of India

Copy to

1. Secretary, Department of Mines, Ministry of Coal & Mines, Shastri Bhavan, New Delhi.
2. Chairman, State Pollution Control Boards
3. Chairman, Pollution Control Councils
4. Secretary, Department of Mines & Geology, State Governments
5. CCF, Regional Offices
6. Federation of Indian Mineral Industries

**True Copy/-**

**MINISTRY OF ENVIRONMENT AND FORESTS**  
**NOTIFICATION**

New Delhi, the 14th September, 2006

**S.O. 1533(E).**—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 18th 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 15th 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.

---

<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;

## 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)
I(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>
I(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>
I(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
I(d)	Thermal Power Plants	<p>≥ 500 MW (coal/lignite/naptha &amp; gas based);</p> <p>≥ 50 MW (Pet coke diesel and all other fuels -)</p>	<p>&lt; 500 MW (coal/lignite/naptha &amp; gas based);</p> <p>&lt;50 MW</p> <p>≥ 5MW (Pet coke ,diesel and all other fuels )</p>	General Condition shall apply

True Copy/-

## MINISTRY OF ENVIRONMENT AND FORESTS

## NOTIFICATION

New Delhi, the 1st December, 2009

S.O. 3067(E).— Whereas, 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), a draft notification for making certain amendments in the Environment Impact Assessment notification, 2006 issued vide no. S.O. 1533 (E), dated the 14<sup>th</sup> September, 2006, was published under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, vide number S.O. 195 (E), dated the 19<sup>th</sup> January, 2009, inviting objections and suggestions from all the persons likely to be affected thereby, within a period of 60 days from the date of publication of the said notification in the Gazette of India;

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, the Central Government hereby makes the following amendments in the said notification, namely:-

In the said notification, -

**I in para 3, for sub-para (7), the following shall be substituted, namely:—**

"(7) All decisions of the SEIAA shall be taken in a meeting and shall ordinarily be unanimous:

Provided that, in case a decision is taken by majority, the details of views, for and against it, shall be clearly recorded in the minutes and a copy thereof sent to MoEF."

**II in para 4, in sub-para (iii), for the words and letters "In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project", the words and letters "In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be considered at the Central Level as a Category 'B' project" shall be substituted.**

**III in para 7(i), in sub-para III relating to Stage (3) - Public Consultation, in clause (i),—**

(i) after item (c), the following item shall be inserted, namely:—

“(cc) maintenance dredging provided the dredged material shall be disposed within port limits.”;

(ii) for item (d), the following item shall be substituted, namely:—

“(d) All Building or Construction projects or Area Development projects (which do not contain any category ‘A’ projects and activities) and Townships (item 8(a) and 8(b) in the Schedule to the notification).”.

**IV In para 10 relating to Post Environmental Clearance Monitoring,-**

(a) the existing sub-para (i) shall be renumbered as sub-para (ii) and before sub-para (ii) as so re-numbered, the following sub-para shall be inserted namely;

“(i) (a) In respect of Category ‘A’ projects, it shall be mandatory for the project proponent to make public the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the district or State where the project is located and in addition, this shall also be displayed in the project proponent’s website permanently. (b) In respect of Category ‘B’ projects, irrespective of its clearance by MoEF / SEIAA, the project proponent shall prominently advertise in the newspapers indicating that the project has been accorded environment clearance and the details of MoEF website where it is displayed. (c) The Ministry of Environment and Forests and the State/Union Territory Level Environmental Impact Assessment Authorities (SEIAAs), as the case may be, shall also place the environmental clearance in the public domain on Government portal. (d) The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.”;

(b) existing sub-para (ii) shall be renumbered as sub-para (iii).

**V in the Schedule,—**

(i) for item 1(a) and the entries relating thereto, the following item and entries shall be substituted, namely:—

4372 GI/09-3

(1)	(2)	(3)	(4)	(5)
"1(a)	(i) Mining minerals. of	<p>≥50 ha of mining lease area in respect of non-coal mine lease.</p> <p>&gt;150 ha of mining lease area in respect of coal mine lease.</p> <p>Asbestos mining irrespective of mining area.</p>	<p>&lt;50 ha ≥5 ha of mining lease area in respect of non-coal mine lease.</p> <p>≤150 ha ≥5 ha of mining lease area in respect of coal mine lease.</p>	<p>General Condition shall apply.</p> <p>Note: Mineral prospecting is exempted.”;</p>
	(ii) Slurry pipelines (coal lignite and other ores) passing through national parks/ sanctuaries/ coral reefs, ecologically sensitive areas.	All projects.		

(ii) against item 1(c), for the entries in column (5), the following entries shall be substituted, namely:—

**“General Condition shall apply.**

Note: Irrigation projects not involving submergence or inter-state domain shall be appraised by the SEIAA as Category 'B' Projects.”;

(iii) against item 1(d),—

(a) in column (3), for the entries, the following entries shall be substituted, namely—

- “≥ 500 MW (coal/lignite/naphtha and gas based);
- ≥ 50 MW (Pet coke, diesel and all other fuels including refinery residual oil waste except biomass);

≥ 20 MW (based on biomass or non hazardous municipal solid waste as fuel).”;

**(b) in column (4), for the entries, the following entries shall be substituted, namely:—**

“<500MW (coal/lignite/naphtha and gas based);  
<50 MW ≥ 5 MW (Pet coke, diesel and all other fuels including refinery residual oil waste except biomass);  
<20MW > 15MW (based on biomass or non hazardous municipal solid waste as fuel).”;

**(c) in column (5), for the entries, the following entries shall be substituted, namely:—**

“General Condition shall apply.

Note:

- (i) Power plants up to 15 MW, based on biomass and using auxiliary fuel such as coal / lignite / petroleum products up to 15% are exempt.
- (ii) Power plants up to 15 MW, based on non-hazardous municipal waste and using auxiliary fuel such as coal / lignite / petroleum products up to 15% are exempt.
- (iii) Power plants using waste heat boiler without any auxiliary fuel are exempt.”;

**(iv) against item 3(a), in column (5), for the entries, the following entries shall be substituted, namely:—**

“General condition shall apply.

Note:

- (i) The recycling industrial units registered under the HSM Rules, are exempted.
- (ii) In case of secondary metallurgical processing industrial units, those projects involving operation of furnaces only such as induction and electric arc furnace, submerged arc furnace, and cupola with capacity more than 30,000 tonnes per annum (TPA) would require environmental clearance.
- (iii) Plant / units other than power plants (given against entry no. 1(d) of the schedule), based on municipal solid waste (non-hazardous) are exempted.”.

- (v) against item 4(b), in column (5), for the entry, the following entry shall be substituted, namely:—

“General conditions shall apply.”;

- (vi) against item 4(d),—

- (a) in column (4), for the entry, the following entry shall be substituted, namely:—

(i) All projects irrespective of the size, if it is located in a Notified Industrial Area/Estate.

(ii) < 300 tonnes per day (TPD) and located outside a Notified Industrial Area/ Estate.”;

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

“General as well as specific conditions shall apply.

No new Mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempt from the notification.”;

- (vii) against item 4(f), in column (5), for the existing entry, the following entry shall be substituted, namely:—

“General as well as specific conditions shall apply.”;

- (viii) against item 5(a),—

- (a) in column (3), for the existing entry, the following entry shall be substituted, namely:—

“All projects except Single Super Phosphate.”;

- (b) in column (4), for the entry, the following entry shall be substituted, namely:—

“Single Super Phosphate.”;

- (ix) against item 5(e), in column (5), for the existing entry, the following entry shall be substituted, namely:—

"General as well as specific conditions shall apply.";

- (x) against item 5(f), in column (5), for the existing entry, the following entry shall be substituted, namely:—

"General and specific conditions shall apply." ;

- (xi) item 5(k) and the entries relating thereto shall be omitted;

- (xii) against item 7(a),—

- (a) in column (3), for the entry, the following entry shall be substituted, namely:—

"All projects including airstrips, which are for commercial use.";

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

"Note:

Air strips, which do not involve bunkering/ refueling facility and or Air Traffic Control, are exempted.";

- (xiii) against item 7(c), in column (5), for the entry, the following entry shall be substituted, namely:—

"General as well as specific conditions shall apply.

Note:

1. Industrial Estate of area below 500 ha. and not housing any industry of Category 'A' or 'B' does not require clearance.
2. If the area is less than 500 ha. but contains building and construction projects > 20,000 Sq. mtr. and or development area more than 50 ha it will be treated as activity listed at serial no. 8(a) or 8(b) in the Schedule, as the case may be.";

**(xiv) against item 7(e),—**

**(a) in column (2), for the entry, the following entry shall be substituted, namely:—**

“Ports, harbours, break waters, dredging.”

**(b) in column (5), for the entry, the following entry shall be substituted, namely:—**

“General Condition shall apply.

Note:

1. Capital dredging inside and outside the ports or harbors and channels are included;
2. Maintenance dredging is exempt provided it formed part of the original proposal for which Environment Management Plan (EMP) was prepared and environmental clearance obtained.”;

**(xv) against item 7(f),**

**(a) in column (4), for the entry, the following entry shall be substituted namely:-**

- “(i) All State Highway Projects; and
- (ii) State Highway expansion projects in hilly terrain (above 1,000 m AMSL) and or ecologically sensitive areas.”;

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

“General Condition shall apply.

Note:

Highways include expressways.”;

**(xvi) against item 7(g),—**

**(a) in column (3), for the entry, the following entry shall be substituted, namely:—**

- "(i) All projects located at altitude of 1,000 mtr. and above.  
(ii) All projects located in notified ecologically sensitive areas.";

**(b) in column (4), for the entry, the following entry shall be substituted, namely:—**

"All projects except those covered in column (3).";

**(xvii) after the Schedule, in the 'Note', for sub-heading relating to 'General Condition (GC)', the following shall be substituted, namely:—**

**"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 Wildlife (Protection) Act, 1972; (ii) Critically polluted areas as identified by the Central Pollution Control Board from time to time; (iii) Eco-sensitive areas as notified under section 3 of the Environment (Protection) Act, 1986, such as, Mahabaleshwar Panchgani, Matheran, Pachmarhi, Dahanu, Doon Valley, and (iv) inter-State boundaries and international boundaries:

Provided that the requirement regarding distance of 10 km of the inter-State boundaries can be reduced or completely done away with by an agreement between the respective States or U.Ts sharing the common boundary in case the activity does not fall within 10 kilometres of the areas mentioned at item (i), (ii) and (iii) above."

**VI in the Appendix I, in Form I,—**

**(a) for item (I) relating to the Basic Information, the following shall be substituted, namely:—**

**"(I) Basic Information**

Serial Number	Item	Details
1.	Name of the project/s	
2.	S. No. in the schedule	

3.	Proposed capacity/area/length/tonnage to be handled/command area/lease area/number of wells to be drilled	
4.	New/Expansion/Modernization	
5.	Existing Capacity/Area etc.	
6.	Category of Project i.e. 'A' or 'B'	
7.	Does it attract the general condition? If yes, please specify.	
8.	Does it attract the specific condition? If yes, please specify.	
9.	Location	
	Plot/Survey/Khasra No.	
	Village	
	Tehsil	
	District	
	State	
10.	Nearest railway station/airport along with distance in kms.	
11.	Nearest Town, city, District Headquarters along with distance in kms.	
12.	Village Panchayats, Zilla Parishad, Municipal Corporation, Local body (complete postal addresses with telephone nos. to be given)	
13.	Name of the applicant	
14.	Registered Address	
15.	Address for correspondence :	
	Name	
	Designation (Owner/Partner/CEO)	
	Address	
	Pin Code	
	E-mail	
	Telephone No.	
	Fax No.	
16.	Details of Alternative Sites examined, if any. Location of these sites should be shown on a topo sheet.	Village-District-State 1. 2. 3. "
17.	Interlinked Projects	
18.	Whether separate application of interlinked project has been submitted?	
19.	If yes, date of submission	
20.	If no, reason	

21.	Whether the proposal involves approval/clearance under: if yes, details of the same and their status to be given. (a) The Forest (Conservation) Act, 1980 ? (b) The Wildlife (Protection) Act, 1972 ? (c) The C.R.Z Notification, 1991 ?	
22.	Whether there is any Government Order/Policy relevant/relating to the site?	
23.	Forest land involved (hectares)	
24.	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (a) Name of the Court (b) Case No. (c) Orders/directions of the Court, if any and its relevance with the proposed project.	

**(b) the following shall be inserted at the end, namely:—**

"I hereby given undertaking that the data and information given in the application and enclosures are true to the best of my knowledge and belief and I am aware that if any part of the data and information submitted is found to be false or misleading at any stage, the project will be rejected and clearance give, if any to the project will be revoked at our risk and cost.

Date: \_\_\_\_\_  
Place: \_\_\_\_\_

Signature of the applicant  
With Name and Full Address  
(Project Proponent / Authorised Signatory)

**NOTE:**

1. The projects involving clearance under Coastal Regulation Zone Notification, 1991 shall submit with the application a C.R.Z map duly demarcated by one of the authorized agencies, showing the project activities, w.r.t. C.R.Z (at the stage of TOR) and the recommendations of the State Coastal Zone Management Authority (at the stage of EC). Simultaneous action shall also be taken to obtain the requisite clearance under the provisions of the C.R.Z Notification, 1991 for the activities to be located in the CRZ.
2. The projects to be located within 10 km of the National Parks, Sanctuaries, Biosphere Reserves, Migratory Corridors of Wild Animals, the project proponent shall submit the map duly authenticated by Chief Wildlife Warden showing these features vis-à-vis the project location and the

- recommendations or comments of the Chief Wildlife Warden thereon (at the stage of EC)."
3. All correspondence with the Ministry of Environment & Forests including submission of application for TOR/Environmental Clearance, subsequent clarifications, as may be required from time to time, participation in the EAC Meeting on behalf of the project proponent shall be made by the authorized signatory only. The authorized signatory should also submit a document in support of his claim of being an authorized signatory for the specific project."

**VII for Appendix IV, the following shall be substituted, namely:—**

**"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 covering more than one District or State or Union Territory, the public hearing is mandated in each District, State or Union Territory in which the project is located 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 official language of the state**/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 following authorities or offices, within whose jurisdiction the project will be located:

- (a) District Magistrate/**District collector/Deputy commissioner/s**
- (b) Zila Parishad or Municipal Corporation **or Panchayats Union**

- (c) District Industries Office
- (d) Urban Local Bodies (ULBs) / PRIs Concerned/**Development authorities**
- (e) 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 Regional Office of 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.

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 any other suitable location etc. They shall also additionally make available a copy of the draft Environmental Impact Assessment report to the above five authorities/offices as given in para 2.2.

### 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 / Official State Language. 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. In places where the newspapers do not reach, the Competent Authority should arrange to inform the local public about the public hearing by other means such as by way of beating of drums as well as advertisement / announcement on radio / television.

3.3 No postponement of the date, time, venue of the public hearing shall be undertaken, unless some untoward emergency situation occurs and then only on the recommendation of the concerned District Magistrate/District collector/Deputy commissioner, 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/**District Collector/Deputy Commissioner** and notified afresh as per procedure under 3.1 above.

#### 4.0 Supervision and Presiding over the Hearing:

4.1 The District Magistrate / District Collector / Deputy Commissioner 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 Persons 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 **local/vernacular** language and the agreed minutes shall be signed by the District Magistrate/**District Collector/Deputy Commissioner** 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 or the Official State language, as the case may be, 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 / **District collector / Deputy Commissioner**, 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, 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 forty five days from date of receipt of the request letter from the applicant. Thereafter the SPCB or UTPCC concerned shall sent the public hearing proceedings to the concerned regulatory authority within eight days of the completion of the public hearing. ***Simultaneously, a copy will also be provided to the project proponent.*** 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 incorporating the concerns expressed in the public hearing along with action plan and financial allocation, item-wise, to address those concerns."

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."

### VIII 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 the 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 all Category B projects or activities on the basis of Form 1, Form 1A and the conceptual plan and make recommendations on the project regarding grant of environmental clearance or otherwise and also stipulate the conditions for environmental clearance."

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

G. K. PANDEY, Advisor

**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.

## ANNEXURE R-9

**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

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)".

12449711-2

## (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. III]

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.

**ANNEXURE R-10**

No. L-11011/47/2011-IA.II(M)  
**Government of India**  
**Ministry of Environment & Forests**

Paryavaran Bhavan,  
 C.G.O. Complex, Lodi Road,  
 New Delhi-110003.  
 Telefax: 24362434

Dated the 18<sup>th</sup> May, 2012

**OFFICE MEMORANDUM**

**Sub: Order of Hon'ble Supreme Court dated 27.2.2012 in I.A. no. 12-13 of 2011 in SLP (C) no. 19628-19629 of 2009 in the matter of Deepak Kumar etc. Vs State of Haryana and Ors. – Implementation thereof - Regarding.**

Reference is invited to the above mentioned order of the Hon'ble Supreme Court directing inter-alia as under:

**"We in the meanwhile, order that leases of minor mineral including their renewal for an area of less than 5 ha be granted by the States / UTs only after getting environmental clearance from the MoEF."**

2. The Environment Impact Assessment (EIA) Notification, 2006, as amended, requires mining projects (new projects, expansion or modernization of existing projects as also at the stage of renewal of mine lease) with lease area of 5 ha and above, irrespective of the mineral (major or minor) to obtain prior environment clearance under the provisions thereof. Mining projects with lease area of 5 ha and above and less than 50 ha are categorized as category 'B' whereas projects with lease area of 50 ha and above are categorized as category 'A'. The category 'A' projects are considered at the central level in the Ministry of Environment & Forests while category 'B' projects are considered by the respective State/UT Level Environment Impact Assessment Authority, notified by MoEF under the EIA Notification, 2006.

3. In order to ensure compliance of the above referred order of the Hon'ble Supreme Court dated 27.2.2012, it has now been decided that all mining projects of minor minerals including their renewal, irrespective of the size of the lease would henceforth require prior environment clearance. Mining projects with lease area up to less than 50 ha including projects of minor mineral with lease area less than 5 ha would be treated as category 'B' as defined in the EIA Notification, 2006 and will be considered by the respective SEIAAs notified by MoEF and following the procedure prescribed under EIA Notification, 2006.

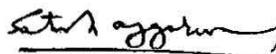
4. Further, the Hon'ble Supreme Court in its order dated 16.4.2012 in the above mentioned matter and the linked applications has observed as under:

**"All the same, liberty is granted to the applicants before us to approach the Ministry of Environment and Forests for permission to carry on mining below five hectares and in the event of which Ministry will dispose of all the applications within ten days from the date of receipt of the applications in accordance with law."**

-2-

Accordingly, the respective SEIAAs in dealing with the applications of the applicants referred to in the above mentioned order shall ensure that the directions of the Hon'ble Supreme Court are effectively complied with and the applications of such applicants are disposed of within the time limit prescribed by the Hon'ble Court in accordance with law.

This issues with the approval of the Competent Authority.

  
(Dr. S.K. Aggarwal)  
Director

**To**

1. The Secretary, Ministry of Mines, Shastri Bhawan, New Delhi.
2. The Chief Secretaries of all the States / UTs
3. Chairpersons / Member Secretaries of all the SEIAAs/SEACs
4. Chairman, CPCB
5. Chairpersons / Member Secretaries of all SPCBs / UTPCCs

**Copy to:-**

1. PS to MEF
2. PPS to Secretary (E&F)
3. PPS to JS(RG)
4. All the Officers of IA Division
5. Website, MoEF
6. Guard File

**True Copy/-**

**No. J-11013/102/2012--IA. II (M)****ANNEXURE R-11**

Government of India

Ministry of Environment, &amp; Forest and Climate Change

Impact Assessment Division

Paryavarn Bhavan

CGO Complex, Lodi Road,

New Delhi – 110 0003.

Tel. No 4361760

Dated: January 4<sup>th</sup>, 2013**OFFICE MEMORANDUM**

**Subject: Clarification with regard to applicability of provision of EIA Notification, 2006 for mining of major minerals in areas less than 5 hectare – regarding**

Reference is invited to your letter no. SEIAA 1 Misc. 2013 dated 02.01.2013 addressed to this Ministry seeking the clarification with regard to applicability of provisions of EIA Notification, 2006 for mining of major minerals in areas less than 5 hectare.

Reference is also invited to the order of Hon'ble Supreme court dated 27.02.2012, in I.A. no. 12-13 of 2011 in SLP (C) no. 19628-19629 of 2009 in the matter of Deepak Kumar etc. vs. State of Haryana and Ors. Directing inter-alia as under:

“We in the meanwhile, order that lease of minor mineral including their renewal for an area of less than 5 h. be granted by the States / UTs only after getting environmental Clearance from the MoEF.

It is clarified that the mining projects of major minerals of the size of the lease area less than 5 ha. will not be under the purview of the above referred order of the Hon’ble Supreme Court dated 27.02.2012 and the O.M. No. L-11011/47/2011-IA-II (M), dated 18.05.2012 issued by the MoEF hence, there is no need of prior environmental clearance for the mining projects of major minerals of lease area less than 5 ha as per E.A Notification, 2006, either from the State Government the Central Government. However, such mining operation shall need to obtain the present to operate from the state pollution control board under the provision of the Act, 1980 and Water Act, 1974.

Sd/-

(Neeraj Khatri)

Deputy Director

To,  
Member Secretary  
SEIAA, Karnataka  
Department of Ecology & Environment  
Room No. 709, 7<sup>th</sup> Floor, IV Gate  
M.S. Building, Bangalore - 560001

No. L-11013/182/2012-IA-II(M)  
Government of India  
Ministry of Environment & forest  
IA-II(M) Division

Paryawaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi - 110003.  
Dated: January 4, 2013

OFFICE MEMORANDUM

Subject: Clarification with regard to applicability of provisions of EIA Notification, 2006 for mining of major minerals in areas less than 5 hectare - regarding.

Reference is invited to your letter no. SEIAA 1 Misc 2013 dated 02.01.2013 addressed to this Ministry seeking the clarification with regard to applicability of provisions of EIA Notification, 2006 for mining of major minerals in areas less than 5 hectare

Reference is also invited to the Order of Hon'ble Supreme Court dated 27.2.2012, in I.A. no. 12-13 of 2011 in SLP (C) no. 19628-19629 of 2009 in the matter of Deepak Kumar etc. vs. State of Haryana and Ors., directing inter-alia as under:

"We in the meanwhile, order that leases of minor mineral including their renewal for an area of less than 5 ha be granted by the States / UTs only after getting environmental clearance from the MoEF"

It is clarified that the mining projects of major minerals of the size of the lease area less than 5 ha, will not be under the purview of the above referred order of the Hon'ble Supreme Court dated 27.2.2012 and the O.M. No. L-11011/47/2011-IA-II (M), dated 18-05-2012 issued by the MoEF. Hence, there is no need of prior environmental clearance for the mining projects of major minerals of lease area less than 5 ha as per EIA Notification, 2006, either from the State Government or the Central Government. However, such mining operations shall need to obtain the consent to operate from the State Pollution Control Board under the provisions of Air Act, 1980 and Water Act, 1974.

*Neera Khatri*  
(Neera Khatri)  
Deputy Director

To:  
Member Secretary  
SEIAA, Karnataka  
Department of Ecology & Environment  
Room No. 709, 7<sup>th</sup> Floor, IV Gate  
M.S. Building, Bangalore - 560001

T.C  
*[Signature]*

TRUE COPY  
*[Signature]*

**True Copy/-**

## ANNEXURE R-12

[भाग II-खण्ड 3(ii)]

भारत का राजपत्र : असाधारण

3

3. का.आ. 695(अ), तारीख 4 अप्रैल, 2011;
4. का.आ. 2896 (अ), तारीख 13 दिसंबर, 2012; और
5. का.आ. 674(अ), तारीख 13 मार्च, 2013

**MINISTRY OF ENVIRONMENT AND FORESTS**  
**NOTIFICATION**

New Delhi, the 9<sup>th</sup> September, 2013

**S.O. 2731(E).**—In exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendment to the notification of the Government of India, in the Ministry of Environment and Forests number S.O. 1533(E), dated 14th September, 2006 after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of the said rule 5 in public interest, namely:—

In the said notification, in the Schedule, for item 1(a) and entries relating thereto, the following item and entries shall be substituted, namely:—

(1)	(2)	(3)	(4)	(5)
"1(a)	(i) Mining of minerals.	<p>≥50 ha of mining lease area in respect of non-coal mine lease.</p> <p>&gt;150 ha of mining lease area in respect of coal mine lease.</p> <p>Asbestos mining irrespective of mining area.</p>	<p>&lt;50 ha of mining lease area in respect of minor minerals mine lease; and</p> <p>≤ 50 ha ≥5 ha of mining lease area in respect of other non-coal mine lease.</p> <p>≤ 150 ha &gt;5 ha of mining lease area in respect of coal mine lease.</p>	<p>General Conditions shall apply except for project or activity of less than 5 ha of mining lease area for minor minerals:</p> <p>Provided that the above exception shall not apply for project or activity if the sum total of the mining lease area of the said project or activity and that of existing operating mines and mining projects which were accorded environment clearance and are located within 500 metres from the periphery of such project or activity equals or exceeds 5 ha.</p> <p><b>Note:</b></p> <p>(i) Prior environmental clearance is required at the stage of renewal of mine lease for which an application shall be made up to two years prior to the date due for renewal. Further, a period of two years with effect from the 4th April, 2011 is provided for obtaining environmental clearance for all those mine leases, which were operating as on the 4th April, 2011 with requisite valid environmental clearance and which have fallen due for renewal on or after 4th November, 2011:</p>
				<p>Provided that no fresh environmental clearance shall be required for a mining project or activity at the time of renewal of mining lease, which has already obtained</p>

	(ii) Slurry pipelines (coal lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive areas.	All projects.		environmental clearance under this notification.  (ii) Mineral prospecting is exempted.”.
--	---	---------------	--	---

[No. Z-11013/271/2012-IA-II (M)]

AJAY TYAGI, Jt. Secy.

**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 14th September, 2006 and subsequently amended as follows:-

1. S.O. 1737 (E) dated the 11th October, 2007;
2. S.O. 3067 (E) dated the 1st December, 2009;
3. S. O. 695 (E) dated the 4th April, 2011;
4. S.O. 2896 (E) dated the 13th December, 2012; and
5. S.O. 674 (E) dated the 13th March, 2013.

**True Copy/-**

NOTIFICATION

New Delhi, the 7th October, 2014

1865

ANNEXURE R-13

**S.O. 2601(E).**—In exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendment to the notification of the Government of India, in the Ministry of Environment and Forests number S.O. 1533(E) dated the 14th September, 2006 after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of the said rule 5 in public interest, namely :—

In the said notification, in the Schedule, for item 1(a) and entries relating thereto, the following item and entries shall be substituted, namely :—

(1)	(2)	(3)	(4)	(5)
“1(a)	(i) Mining of minerals.	<p>≥50 ha of mining lease area in respect of non-coal mine lease.</p> <p>&gt;150 ha of mining lease area in respect of coal mine lease.</p>	<p>&lt;50 ha of mining lease area in respect of non-coal mine lease.</p> <p>≤ 150 ha of mining lease area in respect of coal mine lease.</p>	<p>General Conditions shall apply except for project or activity of less than 5 ha of mining lease area:</p> <p>Provided that the above exception shall not apply for project or activity if the sum total of the mining lease area of the said project or activity and that of existing operating mines and mining projects which were accorded environment clearance and are located within 500 metres from the periphery of such project or activity equals or exceeds 5 ha.</p> <p><b>Note:</b></p> <p>(i) Prior environmental clearance is required at the stage of renewal of mine lease for which an application shall be made up to two years prior to the date due for renewal.</p>

		Asbestos mining irrespective of mining area.		Provided that no fresh environmental clearance shall be required for a mining project or activity at the time of renewal of mining lease, which has already obtained environmental clearance under this notification.
	(ii) Slurry pipelines (coal lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive areas.	All projects.		(ii) Mineral prospecting is exempted. ”

[F. No. Z-11013/271/2012-IA-II (M)]

AJAY TYAGI, Jt. Secy.

**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 14th September, 2006 and subsequently amended as follows:—

1. S.O. 1737(E), dated the 11th October, 2007;
2. S.O. 3067(E), dated the 1st December, 2009;
3. S.O. 695(E), dated the 4th April, 2011;
4. S.O. 2896(E), dated the 13th December, 2012;
5. S.O. 674(E), dated the 13th March, 2013;
6. S.O. 2559(E), dated the 22nd August, 2013;
7. S.O. 2731(E), dated the 9th September, 2013;
8. S.O. 562(E), dated the 26th February, 2014;
9. S.O. 637(E), dated the 28th February, 2014; and
10. S.O. 1599(E), dated the 25th June, 2014

GHCL Limited



GHCL/MIN/ 2015-16

Date : 13.04.2015

The Geologist  
Dept. of Geology & Mining  
Veraval, Dist. Gir-Somnath  
(Gujarat)

Sub: Submission of Application for Prior Environmental Clearance-Form-I alongwith Pre Feasibility Report (PFR) of mining project of Gorakhmadi Limestone Lease Area.(ML area-1.36 Hectares & Survey No.408/6P), Near Village - Gorakhmadi, Taluka-Sutrapada, District: Gir-Somnath(Gujarat) in favour of M/s GHCL Ltd., At & Post : Sutrapada, Pin - 362 275 - Gujarat

Dear Sir,

As per legislative requirement and EIA Notification dtd 14.09.2006, I am submitting Form-I and PFR for seeking Environmental Clearance for the above said mine.

Thanking you,

Yours faithfully,  
For GHCL Limited

P. Sarkar  
(Authorized Signatory)  
Power of Attorney Holder  
M/s GHCL Ltd.,  
Sutrapada,  
District : Gir-Somnath

- Encl: 1. Form - I & PFR (Hard copy)  
2. Form - I & PFR (Soft copy-CD)  
3. Copy of Approved Mining Plan

સ્વામી શાખા ૩૩/૦૫/૨૬  
લુહાર વિજ્ઞાન અને ખનિજ ખાતુ  
પ્લોટ નં. ૩૬, રાજનગર સોશાયટી,  
પુર્વમથ બાયપાસ, વેરાવળ  
પિ. ગીર સોમનાથ

12/24/2015

Gmail - Acknowledgement Slip for EC application

2



gujarat industries <gujchemheavy@gmail.com>

**Acknowledgement Slip for EC application**

2 messages

monitoring-ec@nic.in <monitoring-ec@nic.in>  
 To: gujchemheavy@gmail.com  
 Cc: monitoring-ec@nic.in

Tue, Dec 22, 2015 at 12:10 PM

**Acknowledgement Slip for EC application(Resubmission)**

This is to acknowledge that the proposal has been successfully uploaded on the State portal. The proposal shall be examined in the state authority to ensure that required information has been submitted. An email will be sent seeking additional information, if any, within 20 working days. Once verified, an acceptance letter shall be issued to the project proponent.

Following should be mentioned in further correspondence

- 1. Proposal No. : SIA/GJ/MIN/31751/2015
- 2. Category of the Proposal : Non-Coal Mining
- 3. Name of the proposal : Gorakhmadi Limestone Mine Area
- 4. Date of submission for EC : 22 Dec 2015
- 5. Name of the Project proponent along with contact details
  - a) Name of the proponent : GUJARAT HEAVY CHEMICALS
  - b) State : Gujarat
  - c) District : Gir Somnath
  - d) Pincode : 382275

monitoring-ec@nic.in <monitoring-ec@nic.in>  
 gujchemheavy@gmail.com  
 Cc: monitoring-ec@nic.in

Tue, Dec 22, 2015 at 1:30 PM

**Acknowledgement Slip for EC application(Resubmission)**

This is to acknowledge that the proposal has been successfully uploaded on the State portal. The proposal shall be examined in the state authority to ensure that required information has been submitted. An email will be sent seeking additional information, if any, within 20 working days. Once verified, an acceptance letter shall be issued to the project proponent.

Following should be mentioned in further correspondence

- 1. Proposal No. : SIA/GJ/MIN/31755/2015
- 2. Category of the Proposal : Non-Coal Mining
- 3. Name of the proposal : Kodira Limestone Mine Area



M C Upadhyay

1870

3

From: N.S.Enviro-Tech Laboratories Consultant [nsenvirotech@gmail.com]  
 Sent: 04 January 2016 12:16  
 To: mcupadhyay@ghcl.co.in  
 Subject: Fwd: Acceptance Letter for TOR Application(SEIAA)

----- Forwarded message -----

From: gujarat industries <gujchemheavy@gmail.com>  
 Date: Monday, January 4, 2016  
 Subject: Fwd: Acceptance Letter for TOR Application(SEIAA)  
 To: [n.s.envirotech@gmail.com](mailto:n.s.envirotech@gmail.com)

----- Forwarded message -----

From: <darpanajs@gmail.com>  
 Date: Sun, Dec 27, 2015 at 8:29 PM  
 Subject: Acceptance Letter for TOR Application(SEIAA)  
 To: [gujchemheavy@gmail.com](mailto:gujchemheavy@gmail.com)  
 Cc: [monitoring-ec@nic.in](mailto:monitoring-ec@nic.in)

Acceptance Letter for EC

F.No.- SIA/GJ/166312/2015 - Major

State Environment Impact Assessment Authority  
Gujarat

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

Dated: 27 Dec 2015

To,

GUJARAT HEAVY CHEMICALS

, 721

Gujarat , 362275

Subject : Gorakhamadhi Limestone Mine Area

Sir,

This has reference to your proposal No. SIA/GJ/MIN/31751/2015 dated 22 Dec 2015 regarding grant of Environmental/CRZ Clearance for the above mentioned proposal.  
 2.0 This is to acknowledge that the soft copies of EIA/EMP/other reports along with the proceedings of Public Hearing have been received in the SEIAA. You are requested to submit a hard copy (signed) of the documents in the SEIAA(at the address given below) within a week, along with email alert generated by the system(through speed post).

Address:

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

3.0 The proposal shall be included in the agenda for its consideration by the respective SEAC for grant of EC/CRZ Clearance after receipt of the hard copy along with email alert. The hard copy of the same can also be submitted by hand in the SEIAA in between 3PM to 4PM on each working day. You are requested to visit portal of the SEIAA at

[http://environmentclearance.nic.in/state\\_portal1.aspx](http://environmentclearance.nic.in/state_portal1.aspx) to check its inclusion in the agenda. Once the proposal is included in agenda for a meeting, you may circulate hard copies of documents to the Chairman and Members of SEAC within a week of uploading of agenda on SEIAA's portal.

4.0 This should be clearly mentioned that EIA/EMP reports have been prepared by the accredited consultants along with his accreditationNumber.

Yours Sincerely

04-01-2016

SEIAA, Gujarat

**1871**

--  
Dear sir,

Thank you

Warm Regard

N.S.Naruka  
CEO

N.S. ENVIRO-TECH LABORATORIES & CONSULTANT,  
A-8, Neha Medical Building, Opp. ESI Hospital, Hatwara Road,  
Sodala, Jaipur. (Raj.). Mob. no. 9829930877, 9414542177.

o/c ✓

1872

3

**GHCL Limited**



Date 07.01.2016

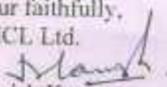
**The Member Secretary,  
Gujarat Pollution Control Board,  
Sector-10 A, Gandhinagar**



Through:- Monitoring EC (SEIAA), Gandhinagar

Sub:- Gorakhamadhi Limestone Mine Area

Respected Sir,  
With reference to you Email dated 27.12.2015, we are hereby submitting hard copy of the documents pertaining to our **Gorakhamadhi limestone mine** for grant of EC.  
Kindly acknowledge the receipt of the same and grant us EC for the same at an earliest.

Thanking you,  
Your faithfully,  
GHCL Ltd.  
  
Manish Kumar  
DGM(Mines)

Encl:- 1. Form I and prefeasibility report and copy of Mining scheme.  
2. Copy of your Email letter.

**True Copy/-**

Regd. Office : "GHCL House", Opp. Punjabi Hall, Nr. Navrangpura Bus-Stand, Navrangpura, Ahmedabad-380 009. (India)  
Phone : +91-79-26427818. Fax : +91-79-26423623, Website : ghclindia.com



Annexure - IV  
Annexure

By Speed Post

No. Z-11013/6/2015-IA.II (M)  
Government of India  
Ministry of Environment, Forest and Climate Change  
Impact Assessment Division  
\*\*\*

27

Indira Paryavaran Bhavan,  
Vayu Wing, 3<sup>rd</sup> Floor, Aliganj,

Dated : 8<sup>th</sup> January, 2016

To,

**M/s Adhunik Cement Ltd.**  
(A subsidiary of Dalmia Cement (Bharat) Ltd.),  
11<sup>th</sup> & 12<sup>th</sup> Floors, Hansalaya Building  
15, Barakhamba Road, New Delhi

**Sub: Clarification on applicability of EIA Notification, 2006 on the requirement of Environmental Clearance for Mining Area less than 5 ha (Major Mineral) in case of Adhunik Cement Ltd. (ACL), located at village Thangskai, Jaintia Hills District, Meghalaya- regarding.**

Sir,

This is in reference to your letter No. NIL dated 01.06.2015 w.r.t seeking clarification on the requirement of Environmental Clearance for Mining of Major Mineral in the Mine lease area of less than 5ha which are under operation prior to Amendment in EIA Notification, 2006 S.O. 2601 (E) dated 07.10.2014. A personal hearing was granted to you on 18.08.2015 and the matter was deliberated in details.

2. The matter has been examined by the Ministry and the clarifications are as follows:-

- (i) After the amendment vide S.O. 2601 (E) dated 7<sup>th</sup> October 2014, all new mining operations are required to obtain Prior Environmental Clearances.
- (ii) After the amendment vide S.O. 2601 (E) dated 7<sup>th</sup> October 2014, Environmental Clearances are required for mining of major minerals with the mining lease area less than 5ha for operating mines at the stages of renewal of mine leases.
- (iii) The mines of major minerals with the mine lease area of less than 5 ha which were operating before 7<sup>th</sup> October, 2014, may continue the mining operations with the consented capacity and shall not enhance the production capacity without prior EC.

However, for sustainably and environmental concerns you are advised to submit the application for TOR to the concerned authority for grant of EC and not wait for renewal of mine lease.

28

3. SEIAA is requested to consider the case for grant of Environmental Clearance of the already operating mines and grant Environmental Clearance as per the provision of EIA Notification, 2006 on priority and till such time EC is granted you may continue Mining within existing consented capacity provided you apply for TOR within next 6 months.

4. This issues with the approval of Competent Authority.

  
(Dr. U. Sridharan)  
Director (S)

Copy to:

1. **The Additional Principal Chief Conservator of Forests (C)**, Ministry of Environment, Forest and Climate Change, Regional Office (NEZ), Law-U-Sib, Lumbatngen, Near MTC Workshop, Shillong, Meghalaya for your kind information.
2. **The Chairman, SEIAA**, Meghalaya, 'ARDEN' Lumpynggad, Shillong-793014, Meghalaya

  
(Dr. U. Sridharan)  
Director (S)

**TRUE COPY**



**By Speed Post**

No. - 11013/6/2015- IA. II (M)

Government of India

Ministry of Environment, Forest and Climate Change

Impact Assessment Division

Indira Paryavarn Bhavan

Vayu Wing, 3<sup>rd</sup> Floor, Aliganj,

Dated: 8<sup>th</sup> January, 2016

To,

**M/s Adhunik Cement Ltd.**

(A Subsidiary of Dalmia Cement (Bharat) Ltd.),

11<sup>th</sup> & 12<sup>th</sup> Floors, Hansalaya Building

15, Barakhamaba Road, New Delhi

**Sub: Clarification on applicability of EIA Notification, 2006 on the requirement of Environmental Clearance for Mining Area less than 5 ha (Major Mineral) in case of Adhunik Cement Ltd. (ACL), located at village Thangskai, Jaintia Hills District, Meghalaya – regarding.**

This is in reference to your letter No. NIL dated 01.06.2015 w.r.t. seeking clarification on the requirement of Environmental Clearance for Mining of Major Mineral in the Miner lease area of less than 5ha which are under operation prior to Amendment in EIA Notification, 2006 S.O. 2601 (E) dated 07.10.2014 A personal hearing was granted to you on 18.08.2015 and the matter was deliberated in details.

2. The matter has been examined by the Ministry and the clarifications are as follow:-

- (i) After the amendment vide S.O. 2601 (E) dated 7<sup>th</sup> October 2014, all new mining operations are required to obtain Prior Environmental Clearance.
- (ii) After the amendment vide S.O. 2601 (E) dated 7<sup>th</sup> October 2014, Environmental Clearances are required for mining of major minerals with the mining lease area less than 5ha for operating mines at the stages of renewal of mine leases.
- (iii) The mines of major minerals with the mine lease area of less than 5ha which were operating before 7<sup>th</sup> October, 2014, may continue the mining operations with the consented capacity and shall not enhance the production capacity without prior EC.

However, for sustainably and environmental concerns you are advised to submit the application for TOR to the concerned authority for grant of EC and not wait for renewal of mine lease.

3. SEIAA is requested to consider the case for grant of Environmental clearance of the already operating mines and grant Environmental Clearance as per the provision of EIA Notification, 2006 on priority and till such time EC is granted you may continue mining with existing consented capacity provided you apply for TOR within next 6months.

4. This issues with the approval of Competent Authority.

Sd/-  
(Dr. U. Sridharan)  
Director (S)

**Copy to:**

1. The Additional Principal Chief Conservator of Forests (C) Ministry of Environment, Forest and Climate Change, Regional Office (NEZ), Law-U-Sib, Lumbatngen, Near MTC Workshop, Shillong, Meghalaya for your kind information.
2. The Chairman, SEIAA, Meghalaya 'ARDEN' Lumpyngad, Shillong – 793014.

Sd/-  
(Dr. U. Sridharan)  
Director (S)

**True Typed Copy/-**

## MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

## ANNEXURE R-16

## NOTIFICATION

New Delhi, the 15th January, 2016

**S.O. 141(E).**—Whereas 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), a draft notification for making certain amendments in the Environment Impact Assessment Notification, 2006, issued *vide* number S.O. 1533(E), dated the 14<sup>th</sup> September 2006, was published under sub-rule (3) of rule (5) of the Environment (Protection) Rules, 1986, *vide* number S.O. 2588(E), dated 22<sup>nd</sup> September, 2015, inviting objections and suggestions from all persons likely to be affected thereby, within a period of sixty days from the date of publication on which copies of Gazette containing the said notification were available to the public;

And whereas, copies of said notification were made available to the public on 22<sup>nd</sup> September 2015;

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

And whereas, in pursuance to the order of Hon'ble Supreme Court dated the 27<sup>th</sup> February, 2012 in I.A. No.12-13 of 2011 in Special Leave Petition (C) No.19628-19629 of 2009, in the matter of Deepak Kumar etc. Vs. State of Haryana and Others etc., prior environmental clearance has now become mandatory for mining of minor minerals irrespective of the area of mining lease;

And whereas, as a result of the above said Order of Hon'ble Supreme Court, the number of cases which are now required to obtain prior environmental clearance has increased substantially;

And whereas, the Hon'ble National Green Tribunal, *vide* its order dated the 13<sup>th</sup> January, 2015 in the matter regarding sand mining has directed for making a policy on environmental clearance for mining leases in cluster for minor minerals;

And whereas, the State Governments have represented for streamlining the process of environmental clearance for mining of minor mineral;

And whereas, the Ministry of Environment, Forest and Climate Change in consultation with State Governments has prepared Guidelines on Sustainable Sand Mining detailing the provisions on environmental clearance for cluster, creation of District Environment Impact Assessment Authority and proper monitoring of sand mining using information technology and information technology enabled services to track the mined out material from source to destination;

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, the Central Government hereby makes the following amendments in the said notification, namely:-

**In the said notification,-**

(a) in paragraph 2, after the words “in the said Schedule”, the following words shall be inserted, namely:-  
“and at District level, the District Environment Impact Assessment Authority (DEIAA) for matters falling under Category ‘B2’ for mining of minor minerals in the said Schedule”;

(b) after paragraph 3, the following paragraph shall be inserted, namely:-

**“3 A. District Level Environment Impact Assessment Authority:-**

- (1) A District Level Environment Impact Assessment Authority hereinafter referred to as the DEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of four members including a Chairperson and a Member-Secretary.
- (2) The District Magistrate or District Collector shall be the Chairperson of the DEIAA.
- (3) The Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter of the concerned district of the State shall be the Member-Secretary of the DEIAA.
- (4) The other two members of the DEIAA shall be the senior most Divisional Forest Officer and one expert. The expert shall be nominated by the Divisional Commissioner of the Division or Chief Conservator of Forest, as the case may be. The term and qualifications of the expert fulfilling the eligibility criteria are given in Appendix VII to this notification.
- (5) The members of the DEIAA who are serving officers of the concerned State Government or the Union territory Administration shall be *ex-officio* members except the expert member.
- (6) The District Level Expert Appraisal Committee hereinafter referred to as the DEAC shall comprise of eleven members, including a Chairman and a Member-Secretary.
- (7) The senior most Executive Engineer, Irrigation Department in the district of respective State Governments or Union territory Administration shall be the Chairperson of the DEAC.
- (8) The Assistant Director or Deputy Director of the Department of Mines and Geology or District Mines Officer or Geologist of the district shall be the Member-Secretary of the DEAC in that order.
- (9) A representative of the State Pollution Control Board or Committee, senior most Sub-Divisional Officer (Forest) in the district, representative of Remote Sensing Department or Geology Department or State Ground Water Department, one occupational health expert or Medical Officer to be nominated by the District Magistrate or District Collector, Engineer from Zila Parishad, and three expert members to be nominated by the Divisional Commissioner or Chief Conservator of Forest, as the case may be, shall be the other members of the DEAC. The term and qualifications of the experts fulfilling the eligibility criteria are given in Appendix VII to this notification.
- (10) The members of the DEAC who are serving officers of the concerned State Government or the Union territory Administration shall be *ex-officio* members except the expert members.
- (11) The District Magistrate or District Collector shall notify an agency to act as Secretariat for the DEIAA and the DEAC and shall provide all financial and logistic support for their statutory functions.
- (12) The DEIAA and DEAC shall exercise the powers and follow the procedure as specified in the said notification, as amended from time to time.
- (13) The DEAC shall function on the principle of collective responsibility and the Chairman shall endeavor to reach a consensus in each case and if consensus cannot be reached, the view of the majority shall prevail.”;

(c) in paragraph 4, after sub-paragraph (iii), the following sub-paragraph shall be inserted, namely:-

“(iv) The ‘B2’ Category projects pertaining to mining of minor mineral of lease area less than or equal to five hectare shall require prior environmental clearance from DEIAA. The DEIAA shall base its decision on the recommendations of DEAC, as constituted for this notification.”;

(d) for paragraph 5, the following paragraph shall be substituted, namely:-

**“5. Screening, Scoping and Appraisal Committees:-**

The same Expert Appraisal Committees (EACs) at the Central Government, SEACs at the State or Union territory level and DEAC at the district level shall screen, scope and appraise projects or activity in category ‘A’, ‘B1 and B2’ and ‘B2’ projects for mining of minor minerals of lease area less than and equal to five hectare respectively. EAC, SEACs and DEACs 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. DEAC at the district level shall be constituted by the Central Government as per the composition given in paragraph 3 A.

(b) The Central Government may with the prior concurrence of the concerned State Governments or the Union territory Administration 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, SEACs and DEACs concerned, may inspect any site connected with the project or activity in respect of which the prior environmental clearance is sought for the purpose of screening or scoping or appraisal with prior notice of at least seven days to the project proponent who shall provide necessary facilities for the inspection.

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

(e) for paragraph 6, the following paragraph shall be substituted, namely:-

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

An application seeking prior environmental clearance in all cases shall be made by the project proponent 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; and in Form 1M for mining of minor minerals up to five hectare under Category ‘B2’ projects, as given in Appendix VIII, before commencing any construction activity, or preparation of land, or mining at the site by the project proponent. The project proponent shall furnish along with the application, a copy of the pre-feasibility project report, in addition to Form 1, Form 1A, and Form 1M; and in case of construction projects or activities (item 8 of the Schedule), a copy of the conceptual plan shall be provided instead of pre-feasibility report.”;

(f) in paragraph 7,-

(i) in sub-paragraph (i), under the heading “I. Stage (1)- Screening:”, the existing sub-paragraph shall be lettered as sub-paragraph “(A)” and after sub-paragraph as so lettered, the following sub-paragraph shall be inserted, namely:-

“(B) The cases as specified in Appendix IX shall be exempted from prior environmental clearance.” ;

(ii) after sub-paragraph 7 (ii), the following sub-paragraph shall be inserted, namely:-

**“7 (iii) Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minor Minerals:**

(a) The prescribed procedure for preparation of District Survey Report for sand mining or river bed mining and mining of other minor minerals is given in Appendix X.

(b) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.”;

(g) in paragraph 8,-

(i) for the letters and word “EAC or SEAC”, the words and letters “EAC or SEAC or DEAC” shall be substituted;

(ii) for the words “Expert Appraisal Committee or State Level Expert Appraisal Committee” wherever they occur, the words “Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee” shall be substituted;

(h) in paragraph 9, in sub-paragraph (i),-

for the words “Expert Appraisal Committee or State Level Expert Appraisal Committee”, the words “Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee” shall be substituted;

(i) in paragraph 10, after sub-paragraph (iii), the following sub-paragraph shall be inserted, namely:-

“(iv) The prescribed procedure for sand mining or river bed mining and monitoring is given in Appendix XII.”;

(j) in paragraph 11, -

for the words “Expert Appraisal Committee or State Level Expert Appraisal Committee”, the words “Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee” shall be substituted;

(k) in the Schedule,-

(i) for item 1 (a) and the entries relating thereto, the following item and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)
“1(a)	(i) Mining of minerals	≥50 ha of mining lease area in respect of non-coal mine lease  >150 ha of mining lease area in respect of coal mine lease  Asbestos mining	<50 ha of mining lease area in respect of non-coal mine lease  ≤150 ha of mining lease area in respect of coal mine lease	General Conditions shall apply except:  (i) for project or activity of mining of minor minerals of Category ‘B2’ (up to 25 ha of mining lease area);  (ii) River bed mining projects on account of inter-state boundary.

		irrespective of mining area		<p><b>Note:</b></p> <p>(1) Mineral prospecting is exempted. ”;</p> <p>(2) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.”;</p> <p>(3) The mining leases which have obtained environmental clearance under Environment Impact Assessment Notification, 1994 and Environment Impact Assessment Notification, 2006 shall not require fresh environmental clearance during renewal provided the project has valid and subsisting environmental clearance.</p>
	(ii) Slurry pipelines (coal lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive areas.	All projects.		

(l) after Appendix VI, the following appendices shall be inserted, namely:-

**“APPENDIX VII**

**(See paragraph 3 A)**

**Qualifications and terms for the Experts in DEIAA and DEAC**

- Qualification:** The person should have at least (i) 5 years of formal University training in the concerned discipline leading to a MA or M Sc Degree or (ii) in case of Engineering/ Technology/ Architectural discipline, 4 years formal 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. MBA etc.) 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 associations (e.g. Chartered Accountancy) or (v) a University degree, followed by two years of formal training in a University or Service Academy (e.g. MBA/MPA etc.). 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 10 years of relevant experience in the field or with an advanced degree (e.g. Ph. D) in a concerned field with at least 5 years of relevant experience.
- Age:** Below 70 years. However, in the event of non-availability of paucity of experts in a given field, the maximum age of a member may be allowed up to 75 years.
- Fields:** Experts in Mining, Geology, Hydrology, Remote Sensing, Environment Quality, Environment Impact Assessment Process, Risk Assessment, Life Sciences, Marine Sciences, Forestry and Wildlife, Environmental Economics, Bio-diversity, and River Ecology.

**True Copy/-**

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

.....

**Original Application No. 495 of 2015**

**In the matter of :**

1. Jatinder Singh

Son of Shri Jawahar Singh  
House No. 121, HUDA, Secote- 15  
Sonapat, District Sonapat,  
Haryana

2. Jagjit Singh

Son of Shri Mittersain  
Resident of Village Post Office Jakholi,  
District Sonapat,  
Haryana- 131001

....Applicant

Versus

1. Union of India

Through Secretary  
Ministry of Environment and Forest  
Paryavaran Bhawan  
Lodhi Road  
New Delhi- 110003

2. State of Haryana

Through Financial Commissioner  
Principal Secretary to Government of Haryana  
Mines & Geology Department- Government of Haryana  
Civil Secretariat  
Chandigarh

..... Respondents

**Counsel for Applicant:**

Ms. S. Usha Reddy, Adv.

**Counsel for Respondents No. 1:**

Mr. Balendu Shekhar, Adv. for MoEF & CC  
Mr. A.D.N. Rao, and Mr. Sudipto Sircar, Advs. As Amicus curiae

**JUDGMENT**

**PRESENT :**

**Hon'ble Mr. Justice Swatanter Kumar (Chairperson)**

**Hon'ble Mr. Justice U.D.Salvi, (Judicial Member)**

**Hon'ble Mr. Justice M.S. Nambiar (Judicial Member)**

**Hon'ble Prof. A.R Yousuf (Expert Member)**

**Hon'ble Mr. Bikram Singh Sajwan (Expert Member)**

---

**Reserved on: 11<sup>th</sup> January, 2016**  
**Pronounced on: 19<sup>th</sup> February, 2016**

---

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

Writ Petition No. 688 of 2013 titled as *Jatinder Singh & Anr v. Union of India & Ors.* was filed before the Hon'ble Supreme Court of India challenging the constitutionality of and for striking down the EIA Notification dated 4<sup>th</sup> April, 2011 (for short 'Notification of 2011') issued by Ministry of Environment, Forests & Climate Change (for short MOEF). The petitioners were erstwhile holders of mineral contract and mineral concessions, severally or jointly, in the district Kurukshetra and district Saharanpur falling in the States of Haryana and Uttar Pradesh respectively.

2. Civil Writ Petition No. 20134 of 2004 titled as *Vijay Bansal v. State of Haryana* as well as Civil Writ Petition No. 4758 of 2008 titled as *Chandi Mandir Stone Crushers Company v. State of Haryana & Ors.* were filed before the High Court of Punjab and Haryana with a prayer that the Court should pass directions to stop and investigate the indiscriminate and callous mining operations in the lower Shivalik Hills in district Panchkula. It was averred in these Writ Petitions that keeping in view the physical features of the region particularly districts Panchkula, Ambala and Yamunanagar, the Punjab Land Preservation Act, 1900 (for short 'PLPA 1900') was enacted to notify the areas for conservation of sub-soil water and

prevention of erosion. Reports were filed before the Court to show that indiscriminate and illegal mining was going on in these areas. It was prayed in these Writ Petitions that various regulatory measures should be taken to curb illegal mining. It has been averred that despite an unequivocal prohibition against mining in the subject area imposed by the Forest Department on the recommendations made by the committee constituted to conduct survey and submit report on the areas feasible for mining, the entire area has become a den of the 'mining mafia' who operates under the alleged political patronage and minerals worth crores of rupees are being illegally extracted in connivance with and/or tacit support of enforcement authorities/agencies, including the District Administration.

3. These Writ Petitions had been contested by various authorities and the Punjab and Haryana High Court vide a detailed Judgement dated 15<sup>th</sup> May, 2009 disposed of the Writ Petitions with certain directions. The direction contained in para 57 of the Judgment reads as under:

“[57]To sum up, both these petitions are disposed of with the following consolidated directions:-

(i) the lands/areas forming part of the notification under section 3 of the Punjab Land Preservation Act, 1900 and in respect of which restrictions have been imposed under Section 4 of the said Act are declared to be "forest lands" for the purposes of the Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980. It is, accordingly, directed that these areas shall not be used for 'non forest purposes' including the mining of 'major' or 'minor' minerals;

(ii) Notification dated 14.9.2006 issued by the Central Govt. in exercise of its powers under the Environment (Protection) Act, 1986 governs all the 'mining activities'

irrespective of the fact that the 'minerals' are 'major' or 'minor' and is, thus, fully applicable in respect of the 'mining areas' in the Shivalik ranges of Himalayas, including those falling in District Panchkula. No mining activity shall be carried out in these areas without the 'prior environmental clearance', save beyond the maximum period granted hereinafter for obtaining such 'prior environmental clearance'.

(iii) the State of Haryana and the State Level Expert Appraisal Committee are directed to enforce the Notification dated 14.9.2006 qua all the 'mining areas' and monitor the mining operations regularly and vigorously so as to bring them in conformity with the terms and conditions imposed while granting the prior environmental clearance;

(iv) Notification dated 14.9.2006 is directed to be applied qua those 'mining areas' also where the 'mining activities' used to be undertaken prior to its issuance and every new contract/licence/lease permitting the 'mining' shall be taken as a 'new activity' for the purpose of the said notification;

(v) it is also directed that wherever the 'total mining area' is a homogeneous or otherwise identifiable piece of 50 hectares or above, the Notification dated 14.9.2006 shall be enforceable even if such mining area has been divided into zones or quarrying plots of smaller sizes.

(vi) the State of Haryana is directed to apply to the 'Expert Appraisal Committee' for determining the Terms of Reference (TOR) and get the Environment Impact Assessment Report (EIAR) prepared for the entire 'mining area' falling within the fragile Shivalik ranges of Himalayas and then complete the process of 'public consultation', prescribed as Stage No.III in the Central Govt. notification dated 14.9.2006 and thereafter get a final Environment Impact Assessment Report prepared. The State Government shall submit the application, complete in all respects, before 31st August, 2009;

(vii) we also direct that no public auction shall be held and no licence/contract/lease or right for extraction of minerals from the Shivalik ranges of Himalayas shall be granted by the State of Haryana until the final 'Environment Impact Assessment Report' is prepared and made available as a public document to the prospective bidders;

(viii) every successful bidder shall be required, and be under a legal obligation, to apply along with a copy of the final Environment Impact Assessment Report and obtain the 'prior environmental clearance', and then abide by the Terms and Conditions as may be imposed by the 'Expert Appraisal Committee'. No lease/licence/contract shall

attain finality unless 'prior environmental clearance' is granted and the project proponent undertakes the responsibility to comply with the terms and conditions as may be imposed by the Expert Appraisal Committee. The Project Proponents/ successful bidders shall apply for 'prior environmental clearance' within one month from the date of auction;

(ix) the Govt. of Haryana shall be entitled to recover the expenditure incurred by it in the compliance of stage Nos.(I) to (III) (whichever is applicable) prescribed in the Central Govt. notification dated 14.9.2006 for obtaining the 'prior environmental clearance' including the expenditure incurred on 'public consultation' or the preparation of the tentative and/or final 'Environment Impact Assessment Report', proportionately from the successful bidders;

(x) the Expert Appraisal Committee is directed to prepare the final Environment Impact Assessment Report (EIAR) within a period of six months from the date of receipt of the application from the State Government and thereafter to grant or reject the 'prior environmental clearance' within a period of two months from the date of receipt of the application of the project proponent/successful bidders;

(xi) having regard to all the attending circumstances and to obviate varied hardships caused to the general public, labour and the State, we direct that the mining activities may continue till 28th February, 2010, however, only on the basis of the contract/licence granted to the highest bidders through a transparent 'public auction' held after wide publicity and subject to the terms and conditions, as are imposed while granting a five-year contract and further subject to strict compliance of such terms and conditions;

(xii) we clarify that the State of Haryana shall not stand absolved of its legal obligation on mere successful accomplishment of the Fourth Stage enumerated in the Central Govt. notification dated 14.9.2006 and it shall continue to enforce the measures contained in the Forest Department's notifications dated 27.11.1997 and 28.11.1997 (Annexures P-2 & P-3) issued under Sections 3 and 4 of the Punjab Land Preservation Act, 1990, respectively.”

4. MoEF had issued a Notification dated 14<sup>th</sup> September, 2006 (for short 'Notification of 2006') notifying that various activities and projects covered under the category 'A' and/or 'B' of the

said Notification would require prior Environmental Clearance (for short 'EC'). In terms of the said Notification of 2006, under Entry 1 (a), projects in relation to mining of minerals which are equal to or more than 50 hectare would fall under category 'A' and thus, would be required prior EC from MoEF. The projects of mining in an area more than 5 hectares but less than 50 hectares for non-coal mining activities, with which we are concerned in the present case were to fall under category 'B' and required the EC from the State Environment Impact Assessment Authority (for short 'SEIAA'). This entry does not reflect as to whose responsibility it is to seek prior EC. The Schedule as appended to the Notification of 2006 only refers to the word "project or activity and conditions to govern such Clearance". Under Para 2 of the Notification of 2006, the project or activities shall require prior EC from the concerned regulatory authority. However other provisions of this Notification do refer to the Project Proponent.

5. Vide Notification of 2011, para 6 was amended to substitute the words "*an application seeking prior Environmental Clearance in all cases shall be made*" by the words "*an application seeking prior Environmental Clearance in all cases shall be made by the Project Proponent*". The petitioners who were aggrieved from this amendment filed this Writ Petition before the Hon'ble Supreme Court of India. According to them the onus to apply for EC was upon the State which grants mining leases for extraction of minor minerals to the parties.

Further it was contended that the Notification of 2011 was in conflict with the judgment dated 15<sup>th</sup> May, 2009 of the Hon'ble Punjab and Haryana High Court. *Inter alia* it also raised other grounds for quashing the Notification of 2011 while stating that the areas could not be subjected to artificial divisions for the purposes of preparation of Environmental Impact Assessment Report (for short 'EIA Report') and therefore, it was only for the State Government to obtain the EC.

6. The Punjab and Haryana High Court had passed various directions but upon the cumulative reading of the directions, it cannot be contended that the Punjab and Haryana High Court has placed the entire onus of seeking EC upon the State Government. On the contrary, under direction VIII, the Punjab and Haryana High Court has specifically directed that every bidder shall be required and be under a legal obligation to apply for EC along with a copy of the final EIA Report and abide by the terms and conditions imposed after obtaining EC. However, this and any other contention raised on behalf of the Petitioners should not detain us any further as Writ Petition No. 688 of 2013 came up for hearing before the Supreme Court and parties were heard at length.

7. During the pendency of this Writ Petition before the Hon'ble Supreme Court of India, Hon'ble Supreme Court vide its order dated 18<sup>th</sup> September, 2013 had directed the Central Empowerment Committee (for short 'CEC') to submit a detailed

report in relation to the various Interim Applications, Writ Petitions that have been filed before the Hon'ble Supreme Court of India including the appeal against the judgment of the Punjab and Haryana High Court dated 15<sup>th</sup> May, 2009. The CEC in furtherance to the said order held meetings on 4<sup>th</sup> October, 2013 and 10<sup>th</sup> October, 2013 where it heard the parties, including the petitioners in those cases and submitted the report to the Court, including its comments with reference to the Notification of 2011. Relevant discussions, conclusions and recommendations submitted by the CEC before the Hon'ble Supreme Court of India can be appropriately reproduced on this matter:

44. The CEC is of the view that the EIA Notification, 2006 provides a detailed and comprehensive procedure for examination of proposals seeking grant of environmental clearances. A uniform process / procedure has been prescribed and is being followed in all the States / Union Territories for all the 39 types of project / activities covered in the said Notification. Any interpretation of the EIA Notification, 2006 leading to a separate procedure for grant of the environmental clearance under the said Notification for the mining of the minor minerals in the State of Haryana may not be desirable.

45. The "Environment Impact Assessment Guidance Manual for Mining of Minerals" published by the MoEF during the February, 2010 (refer Annexure R-4 of this Report) provides detailed guidelines regarding the process and contents in respect of the applications to be filed for seeking environment clearances, determination of Terms of References (TORs), preparation of draft Environment Impact Assessment (EIA) Report including Environment Management Plan (EMP), process of public consultation, preparation of final EIA Report and EMP, appraisal of projects by the EAC / SEAC and grant or rejection of the environmental clearance by the MoEF / SEIAA.

46. The EIA Notification, 2006 read with the said Manual for Mining Projects provides for carrying out of comprehensive environment impact assessment studies in the mining lease area (core area) and the areas falling within a distance of 10 kms and 5 kms from the boundaries of the mining lease areas of Category 'A' and Category 'B 2' projects respectively (buffer zone).

47. On perusal of the EIA Notification, 2006 and the above said Manual for Mining of Minerals particularly the Form-I given at Appendix-I of the said Notification (in which the applications seeking environmental clearances are required to be filed), generic structure of environment impact assessment document at Appendix-III of the said Notification and Annexure 1 of the above said Manual for Mining of Minerals captioned "Terms of Reference (TOR) for Environmental Impact Assessment for Mining of Minerals Sector" it is seen that for determining the Terms of Reference for the EIA studies the specific details of the mining lease such as the level and scale of production, method of working, number and type of plants and machineries that will be deployed, extent of annual production of minerals and over burden dump, location of over burden dump and mode of transportation as provided in the approved Mining Plan are required and which can be provided only after the Mining Plan for the respective lease area is prepared (and approved).

48. The CEC, agreeing with the stand taken by the MoEF and also by the State of Haryana is of the view that the applications seeking determination of the Terms and Reference (TORs) for the EIA studies and environmental clearances are, in terms of the EIA Notification, 2006, necessarily required to be filed by the project proponent (and not by the State Government). For carrying out detailed EIA study it is necessary to have a clear recognition of the project proponent, the project area and scope and extent of the proposed mining areas and which will inter alia include details of the mining lease boundaries and buffer zone around it, details provided in the Mining Plan (and approved by the competent authority) such as the details of available mining reserves, extent of mining, place for over burden dumping and other relevant details. The EIA studies which will ascertain the cumulative impact of the proposed mining project along with that of the other existing mining leases and the other projects / activities in

the study area and suggest mitigative measures to contain their impact are required to be done with reference to the mining project under consideration for grant of the environmental clearance. The holding of public auction and preparation of Mining Plan by the successful bidder(s) is a pre-requisite for determining the Terms of Reference (TORs) for carrying out the EIA studies and preparation of EIA Report in accordance with the scheme of things as provided in the EIA Notification, 2006. The CEC also agrees with the MoEF that the state being the owner of the minerals and being responsible for approval of the Mining Plan for the minor minerals and ensuring compliances of the stipulated conditions should not play the role of the project proponent itself.

49. The CEC disagreeing with the petitions in Writ Petition (Civil) No. WP (C) No. 688 of 2013 is of the view that the Notification dated 4th April, 2011 issued by the MoEF is in conformity with the EIA Notification, 2006. What was implicit in the said Notification has been made explicit by Notification dated 4.4.2011. It would not be out of place to mention that while the petitioners have challenged vires of Notification dated 4.4.2011 inter alia on the ground that because of the existing state of flux no mining lease has been auctioned in the State of Haryana during the last four years and which has affected their livelihood adversely, they chose to remain silent regarding environmental clearances granted by the MoEF during May / June, 2010 in favour of M/s S.S. & Company (refer Annexure R- 5 (Colly) of this Report) for mining of 20 million metric tones of minor minerals in Districts Sonapat and Panipat on the basis of the applications filed by the project proponents (and not by the State Government). The CEC is constrained to observe whether the process of this Hon'ble Court is being misused to ensure continued stalemate regarding the process of grant of the environmental clearance and consequent shortage of construction material and which enables the few operating mines to conveniently sale their production at substantially higher rates in and around Haryana.

50. As stated earlier, this Hon'ble Court by its order dated 10.1.2011 has dismissed the SLP (C): CC No. 20308/2010 filed by the MoEF against the impugned order dated 6.11.2009 of the Hon'ble High Court on the ground of delay and also on merits stating that the said order (applicable for the State of Punjab) is consistent with the Hon'ble High

Court's order dated 15.5.2009 in respect of the State of Haryana (the subject matter of the present SLPs).

51. In the above background the CEC recommends that this Hon'ble Court may consider directing that applications seeking grant of prior environmental clearances for the mining of minor minerals, in terms of the EIA Notification dated 14.9.2006, are required to be made by the project proponents and not by the State of Haryana and that the mining operations shall however continue to be permissible only after the environmental clearances are granted by the competent authority. However, if this Hon'ble Court decides that in terms of the EIA Notification dated 14.9.2006 the applications seeking grant of the environmental clearances for the mining of minor minerals in the State of Haryana shall be made by the State Government and that the auction for the minor minerals shall be held only after preparation of the final EIA Report by the State of Haryana, in that case this Hon'ble Court may consider (a) directing that the same procedure will be followed uniformly in all the States / Union Territories for obtaining environmental clearances; and (b) setting aside the Notification dated 4.4.2011 issued by the MoEF.

52. The CEC, before concluding, would like to submit the following even though not directly related with the present matter for the consideration of this Hon'ble Court;

i) this Hon'ble Court may consider directing that the applications seeking grant of environmental clearances for the mining of minor minerals as well as that for major minerals should be accepted by the competent authority (MoEF in respect of Category 'A' projects and State Environment Impact Assessment Authority for Category 'B' projects) only through the concerned Departments of the respective State Governments and who should verify the details provided in the application and draft EIA Report. During the meetings convened by the concerned authorities for finalizing the Terms of Reference for the EIA studies as well as that for appraisal, the representative(s) of the concerned Department of the State Government should invariably be invited as a "Special Invitee". This will help towards ensuring that the environmental clearances are not obtained by the project proponents on the basis of factually incorrect information and that the cumulative impact of all the mining projects located in the project study area (10 kms around the mining leases of 50 hectares and above and

5 kms around the mining leases of 5-50 hectares) gets properly reflected in the EIA studies;

ii) 'while grant of the environmental clearances for the mining leases of less than 50 hectare are presently considered by the statutory authorities constituted under the sub-section (3) of Section 3 of the Environmental (Protection) Act, 1986, namely State Environment Impact Assessment Authorities, the environmental clearances for mining leases of 50 hectares and above are considered by the MoEF. It may be desirable to also consider setting up of statutory authority(ies) for dealing with the mining projects with lease areas of 50 hectares and above;

iii) the environmental clearances are invariably granted stipulating a large number of conditions to mitigate and contain the adverse environmental impact of mining in and around the mining lease areas. A monitoring mechanism regarding compliance of the stipulated conditions has also been prescribed. However, effective steps to ensure timely action against the erring project proponent are by and large lacking and which defeats the very purpose of the entire process of the environmental clearances prescribed in the EIA Notification, 2006. This Hon'ble Court may consider directing the MoEF to take immediate remedial measures in this regard so that the stipulated conditions do not remain only on paper and the mining is actually carried out in the field in an environmentally

sustainable manner; and

iv) presently the environmental clearances are required for all mining projects of minor minerals irrespective of the lease areas whereas the environmental clearances for major minerals having mining lease areas of less than 5 hectares is not required. This Hon'ble Court may consider directing MoEF to review the present scheme of things particularly considering that the environmental impact of mining of major minerals is in no way less than, if not more, than that of the mining of minor minerals.

This Hon'ble Court may please consider the above Report and may please pass appropriate order in the matter.

8. After submission of the report by the CEC before the Hon'ble Supreme Court of India and upon hearing the parties, the

Supreme Court dismissed the Writ Petition vide its order dated 28<sup>th</sup> October, 2013 and passed certain further directions in relation to the report of the CEC. Order dated 28<sup>th</sup> October, 2013 reads as under:

ITEM NO.302

COURT NO.5

SECTION X

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

W R I T P E T I T I O N ( C I V I L ) N O ( s ) . 6 8 8 O F 2 0 1 3

JATINDER SINGHAND ANR

Petitioner(s)

VERSUS

UNION OF INDIA AND ANR

Respondent(s)

(With office report)

Date: 28/10/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK  
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR  
HON'BLE MR. JUSTICE FAKKIR MOHAMED  
IBRAHIM KALIFULLA

For Petitioner(s)

Mr. V. Giri, Sr. Adv.  
Mrs. S. Usha Reddy, Adv.

For Respondent(s)

Mr. Narender Hooda, Sr. Adv.  
Dr. Monika Gosain, Adv.

UPON hearing counsel the Court made the following

O R D E R

We have heard learned counsel for the parties.

In this writ petition, the petitioners have prayed for a declaration or any other writ declaring that the Notification dated 4th April, 2011 issued by the respondent No. 10 is unconstitutional. The objection to the said Notification by the petitioners is that the application for environmental clearance should be made by the State which grants lease of the mines and not by the project proponent.

Under the Environment Protection Act and the Rules made thereunder it is for the Central Government to issue the Notification for environmental clearance and if the Central Government has in the Notification provided that the project proponent will apply for environmental clearance and not the State which grants lease of mines, we fail to appreciate as to how the Notification issued by the Central Government is unconstitutional or ultra vires. We, therefore, do not find any merit in the writ petition and, accordingly, dismiss the same.

In para 52 of the Report of the Central Empowered Committee, some suggestions have been made for consideration of this Court. The Ministry of Environment and Forests will file its response to the suggestions by 18.11.2013.

List the matter on 18th November, 2013 for the aforesaid purpose.

The Supreme Court of India in this order found no merit in any of the contentions raised by the petitioners. However, in relation to the recommendations made by the CEC in its report dated 17<sup>th</sup> October, 2013, comments of MoEF were invited and the matter was to be heard regarding the same only.

9. The Supreme Court of India in its order dated 10<sup>th</sup> January, 2011 while dismissing the appeal referred to the judgment of the Punjab and Haryana High Court dated 15<sup>th</sup> May, 2009.

10. It is thereafter vide its order dated 5<sup>th</sup> October, 2015 the Hon'ble Supreme Court of India transferred the case to this Tribunal for hearing the parties and with a further direction

that the same may be disposed of expeditiously. This is how Writ Petition No. 688 of 2013 along with the CEC report, came to be admitted and was re-numbered as Original Application No. 495 of 2015 before the National Green Tribunal and we heard the parties on the matters in issue.

11. From the records before the Tribunal, it appears that the State of Haryana had filed its counter affidavit in the Writ Petition No. 688 of 2013, but it has offered no comments on the recommendations of the CEC. During the course of arguments, no objections were raised in that behalf. MoEF had filed an affidavit submitting its reply to the report of the CEC in terms of the order of the Hon'ble Supreme Court of India dated 28<sup>th</sup> October, 2013. CEC submitted that applications seeking grant of EC for mining of minor and major minerals should be accepted by the competent authority only through the concerned departments of the respective State Government who should verify the details provided in the application and draft EIA Report. The representatives of the concerned State Department should invariably be invited as a "Special Invitee" at the time of finalisation of the Terms of Reference (for short 'ToR'). The joint action by the State and the Centre would ensure that the EC are not obtained by the Project Proponent on the basis of factually incorrect information. However, too much involvement of the State Government would raise an issue of proper coordination amongst the concerned departments of the State Government.

12. According to the MoEF, the suggestions of the CEC were being examined by the Ministry including the setting up of a Decision Support System (DSS) which would enable verification of information data contained in the EIA Report. However, no further or formal view of the Ministry has been placed on record.

13. The grant of EC for mining lease in an area less than 50 hectares is to be given by statutory authority constituted under Sub-Section 3 of Section 3 of Environmental Protection Act, 1986 (for short 'Act of 1986'). It is submitted on behalf of MoEF that the Notification of 2006 deals with the process of grant of EC and is a complete document in itself providing comprehensive mechanism right from filing of the application till the grant or refusal of the EC. It deals with all the stages of Scoping, Screening, Public Consultation and Appraisal. However, with regard to the suggestion of CEC for constitution of exclusive independent regulatory body, it was submitted by MoEF that it is examining under the Act of 1986 in terms of the judgment of the Hon'ble Supreme Court of India dated 6<sup>th</sup> January, 2014 in Interim Application Nos. 1868, 2091, 2225-2227, 2380, 2568 and 2397 Writ Petition (Civil) No. 202 of 1995 titled *T.N.Godavarman Thirumulpad v Union of India & Ors* for setting up an independent regulator under section 3 (3) of the Act of 1986. MoEF also stated that the EC which is granted stipulate a large number of conditions to mitigate and control the adverse environmental impact of mining in and

around the mining lease areas. It was noticed by the CEC that although the monitoring mechanism regarding compliance of the stipulated conditions provides further effective steps to ensure timely action against the erring project proponent but they are by and large lacking and this defeats the purpose of the entire process of granting the EC. In this regard the MoEF stated that the Project Proponent is required to submit half-yearly compliance report in relation to compliance of stipulated conditions but that in our considered view is not effective and adequate by itself. It is further submitted by MoEF that presently ECs are required for all mining projects of minor minerals irrespective of their lease areas, whereas, EC for lease for mining in areas of major minerals of less than 5 hectares in case of mining of major minerals is not required. It is submitted by CEC that similar condition should be imposed and this disparity between minor mineral and major mineral needs to be examined to bring uniformity. This matter has been examined by MoEF and mining projects of major minerals having mining lease area of less than 5 ha should require prior EC. Necessary Notification in this regard shall be issued soon.

14. From the above recommendations and suggestions made by the parties before the Tribunal, it is clear that implementation of conditions and supervisory role of the regulatory body, post EC is a matter of serious concern. The disparity between requirement of prior EC for mining of minor

and major minerals in areas of less than 5 hectares is not founded on any rational basis.

15. The role of the State Government or its departments and extent thereto in granting or refusing EC, particularly, at the stage of appraisal and preparation of ToR is a matter which remains part of the grey area in view of the existing statutory provisions. The monitoring of implementation of the conditions stipulated in EC and the mechanism for disposal of EC application do require a re-look to save the time and to ensure appropriate and effective outcomes in accordance with law. The Punjab & Haryana High Court, in the case of *Vijay Bansal v. State of Haryana (supra)* and *M/s Chandi Mandir Stone Crushers Company v. State of Haryana & Ors. (supra)* vide its judgment dated 15<sup>th</sup> May, 2009 had dealt with two questions, one relating to indiscriminate and unsustainable mining in the Shivalik hills and the other in relation to clause 14 of the auction notice. In *M/s Chandi Mandir Stone Crushers Company v. State of Haryana & Ors. (supra)* the auction notice was also impugned to the extent that it entails pre-payment of 25 per cent of the total bid amount irrespective of grant or refusal of EC. In this judgment, the Punjab and Haryana High Court had passed certain directions with reference to the Notification of 2006 with the intent to expedite the disposal of applications for obtaining the EC. Besides prohibiting any mining activity in the area without prior EC, the Court also directed that every successful bidder shall be required and be under a legal obligation to apply for obtaining the prior EC along with the copy of the EIA Report referred to in the

order. This judgment of the Punjab and Haryana High Court was assailed in Special Leave Petition No. 729-731 of 2011 before the Supreme Court of India. A Writ Petition No. 688 of 2013 titled as *Jatinder Singh v. Union of India* was filed directly before the Supreme Court of India under Article 32 of the Indian Constitution, wherein challenge was raised to the Notification of 2011 issued by MoEF on the ground that the same was unconstitutional along with a prayer that the State Government should be required to seek prior EC.

16. Still another SLP came up before the Supreme Court against an interim order dated 6<sup>th</sup> November, 2009 passed by the Punjab & Haryana High Court titled as *Union of India v. Pratap Singh Sandhu and Ors.* Special Leave Petition (Civil) 1639 of 2011. The Supreme Court vide its order dated 10<sup>th</sup> January, 2011, while referring to the directions issued by the Punjab & Haryana High Court in that case, proceeded to dismiss the SLP both, on the ground of delay as well as on merits. It may be noticed here that the Supreme Court while passing the above order also noticed that the directions issued by the Punjab & Haryana High Court in the case of *Vijay Bansal (supra)* are consistent with the order dated 06<sup>th</sup> November, 2009 and did not find it appropriate to interfere. It will be useful at this stage to reproduce the order of the Supreme Court dated 10<sup>th</sup> January, 2011 which reads as under:

**“ORDER**

Feeling aggrieved by interlocutory order dated 6.11.2009 passed by the Division Bench of the Punjab and Haryana High Court, the

Union of India through Ministry of Environment and Forests has filed this petition under Article 136 of the Constitution.

It has also filed an application for condonation of 279 days delay. We have heard Shri Haris Beeran and carefully perused the record. In our considered view, the explanation given by the petitioner for delayed filing of the special leave petition is wholly unsatisfactory. The only averment contained in the application is that while appraising the projects in July, 2010, the Expert Appraisal Committee for Environmental Impact Assessment of Mining Projects had made certain observations and an affidavit to this effect was filed in the High Court on 18.9.2010. This type of assertion cannot be treated as sufficient cause for condonation of 279 days delay.

Even on merits, we are convinced that the petitioner's challenge to the directions given by the High Court is thoroughly misconceived and ill-advised and we do not find any valid ground to entertain the same. While examining the prayer made in the writ petition filed by respondent No.1 by way of public interest litigation that the lease for mining minerals should be given by the State Government only after obtaining environmental clearance in terms of the Central Government Notification dated 14.9.2006 issued under the Environment (Protection) Act, 1986, the Division Bench of the High Court gave the following directions:

(1) The Department of Industries and Commerce, Government of Punjab shall within four weeks from today file applications for grant of environmental clearance in Form-I of Appendix-I to notification dated 14.09.2006 in respect of districts Roper, Mohali and Patiala and two months in so far as other districts in the State of Punjab are concerned. Director, Industries and Commerce, Govt. of Punjab, who is present in person shall be personally responsible to ensure that all steps requisite for making the applications for mining areas measuring more than 5 hectares and less than 50 hectares are taken and applications presented without any deficiencies and supported by all information, material and data.

(2) On receipt of the applications from the Director, Department of Industries & Commerce, Punjab, the State Environmental Impact Assessment Authority shall process and forward the same to the State Expert Appraisal

Committee within 10 days thereafter. The Member Secretary to the State Expert Appraisal Committee shall be responsible for adhering to the time schedule prescribed for this purpose and ensure that the entire process requisite for forwarding of the applications to the Committee is completed well in time.

(3) On receipt of the applications duly forwarded to it, the State Expert Appraisal Committee shall screen the same and complete a comprehensive study for environmental assessment within a period of 60 days and forward the terms of reference to the applicant/industries department for getting the study conducted by an expert of their choice. The Director, Department of Industries & Commerce would do well to start the process of identifying an expert well in advance to ensure that there is no delay in the conduct of the studies by him once the reference is received back from the committee mentioned above.

(4) The Environmental impact study to be conducted by the expert shall be completed within 90 days from the date reference is made and submitted to the Punjab Pollution Control Board who shall conduct the requisite consultation in terms of the notification and the provisions of the Act and submit the result of the same back to the State Environmental Impact Assessment Authority within a period of 45 days.

(5) The State Environment Impact Assessment Authority shall finally appraise the project and submit its recommendations to the State Expert Appraisal Committee within 60 days thereafter. The State Environmental Impact Assessment Authority would then pass appropriate orders on the said recommendations within 30-40 days from the date of recommendations are received.

(6) The above process shall be completed by the authorities and the agencies concerned within the time frame given for the purpose which would roughly consume nearly nine months or so.”

17. When Interlocutory Application Nos. 7-9 & 10-12 in Special Leave Application (Civil) 729-731 of 2011 titled as *Union of India v Vijay Bansal & Ors (supra)* came up for hearing before the Supreme Court on 18<sup>th</sup> September, 2013, it directed the CEC to submit its

report in the matter. The Writ Petition No. 688 of 2013 was also directed to be tagged with this matter.

18. When the matter came up for hearing on 28<sup>th</sup> October, 2013, the Supreme Court of India dismissed the Writ Petition No. 688 of 2013. The order which we have already reproduced clearly states that the Notification of 2011 was neither unconstitutional nor *ultra vires* and that the EC has to be obtained by the project proponent or the State which grants the mining lease. In the meanwhile, in terms of the order dated 18<sup>th</sup> September, 2013 passed in *Union of India v Vijay Bansal & Ors (supra)*, the CEC had filed its report and noticing the recommendations made by the CEC in para 52 of the report, the Supreme Court directed MoEF to file its response to the suggestions of the CEC. The matter remained pending before the Supreme Court for this purpose alone. Thereafter, despite the disposal of all the petitions which also related to consideration of the CEC report the matter was transferred to this Tribunal by the Hon'ble Supreme Court of India.

The case of *Vijay Bansal (supra)* was not specifically disposed of by the Supreme Court of India and remained tagged with the Writ Petition where CEC report was filed.

19. In furtherance to the order of the Supreme Court, MoEF had filed its affidavit on 10<sup>th</sup> January, 2014 before the Supreme Court. Now, we would examine the primary suggestions made by the CEC and response thereto provided by MoEF. In relation to role of the State Government in consideration and disposal of application for EC, the CEC has suggested that applications for prior EC for

mining of minor and major minerals should be accepted by the Competent Authority in terms of the Notification of 2006 only through the concerned department of the State Governments. The State Government should be invited as a special invitee in the meetings to ensure that EC is not obtained on the basis of factually incorrect information and the cumulative impact of all the mining projects in the area gets reflected in the study. The response of MoEF to this suggestion is that the applications are to be filled in Form I, which contains necessary details. The information involved is multidisciplinary and therefore, involves various departments of the State Government. This would raise question of proper coordination among various departments of the State Government. According to MoEF, it is examining the feasibility of setting up of Decision Support System (DSS) which would verify the veracity of the information and data contained in EIA Report. The Notification of 2006 lays down a valid process for grant of EC and stated that the concerned regulatory authority in this regard is the Central Government, i.e. MoEF for category 'A' projects and SEIAA for category 'B' projects. The second suggestion by the CEC is the desirability for MoEF to consider setting up of a statutory regulatory authority for dealing with mining lease having an area of 50 ha and above.

According to MoEF, there is a complete mechanism in place to deal with grant of EC in accordance with law as provided under Notification of 2006 and there is no need to create such statutory authority. However, MoEF has also stated that in terms of the

order dated 6<sup>th</sup> January, 2014 of the Supreme Court passed in the case of *T.N. Godavarman Vs U.O.I (Supra)*, it is considering the matter in relation to setting up of an independent regulator. CEC recommended that there should be an authority for providing effective mechanism to deal with erring project proponents and MoEF should take immediate remedial measures in that regard. To this, the response of MoEF is that the conditions stipulated in the EC are monitored by the Regional Offices. It is mandatory for project proponent to submit half yearly compliance report which has to be displayed on the website of the concerned regulatory authority. Last recommendation made by the authority is that the MoEF should review the present schemes and consider requirement of EC for mining of major minerals in areas less than 5 ha. This is acceptable to MoEF and according to them a Notification in this regard is likely to be issued.

20. From the above it is evident that in relation to two issues, MoEF is *ad idem* with the recommendations of the CEC, i.e., there must be a complete mechanism in accordance with law for obtaining EC for mining of minor and major minerals in areas less than 5 ha and the other in relation to creating a regulatory body.

21. Illegal, unscientific and unauthorised mining is a matter of serious concern in the present day. There are large number of cases pending before the Tribunal as well as before the Supreme Court of India where indiscriminate and rampant illegal mining is the very cause of action. The matters in relation to mining in Haryana are also pending before the Tribunal. In fact, in those

cases which even include District Kurukshetra, Panchkula and Yamunanagar, specific instances have been given of illegal, unscientific and unregulated mining. The judgment of the Punjab and Haryana High Court in the case of *Vijay Bansal (supra)* is another example of illegal mining. The mining activity had been carried out as recorded in these orders, either without obtaining prior EC or in violation to the conditions imposed in the EC or order granting consent to establish/operate. It is undisputable that there is lack of proper supervision and overseeing of implementation of the conditions stated in these consents. The function of a regulatory authority is twofold. Firstly, it must impose such conditions as would be necessary in the interest of environment and ecology to carry on scientific mining, while on the other, it must perform its supervisory role in ensuring the implementation of the conditions of EC and other consents during the period they are in force. Failure in performance of either would result in failure of executive function and degradation of environment. There has to be a proper mechanism in place for stringent implementation/regulation of the orders passed by these authorities. In terms of the federal structure of our Constitution, the State and Centre both are responsible for carrying on of such activities. The Mines and Minerals (Development and Regulation Act) of 1957 (for short 'Act of 1957') and The Mineral Concession Rules, 1960 are central legislations. In terms of Section 15 of the Act of 1957, the State Government is empowered to frame rules for regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor

minerals and for the purposes connected therewith. Under the provisions of the statute and the Rules framed there-under, a miner would make an application for the grant of the mining lease to the State Government in Form-I through such officer/authority as specified by the State Government in this behalf. On receipt of the application for the grant of a mining lease, the State Government shall take decision to grant precise area for the said purpose and communicate such decision to the applicant. On receipt of communication from the State Government of the precise areas to be granted, the applicant shall submit a mining plan within a period of six months or such other period as may be allowed by the State Government, to the Central Government for its approval. The duly approved plan shall then be submitted to the State Government for grant of mining lease in terms of Rule 22 of the Mineral Concession Rules, 1960. Notification of 2006 which has been issued under the provisions of the Act of 1986 does not attribute any specific role to the State Government while considering application for grant of EC by SEIAA or MoEF in relation to the project falling under category 'A' and/or 'B'. Participation of the State Government through its concerned Department would be appropriate not only in the scheme of law but even for verification and other related purposes. While the application for grant of EC either for mining of minor or major minerals is being considered by the competent authorities, input from the concerned Departments of the State in regard to the essential ingredients would help not only in protecting the

environment, but, even in proper enforcement of the provisions of the Notification of 2006. MoEF has agreed that it is likely to issue a Notification shortly, placing both minor and major minerals at par in relation to requirement for obtaining EC prior to carrying on mining activity irrespective of the size of lease area. Grant of mining lease for minor minerals is a prerogative of the State but there must be some uniformity in approach and application of such provisions. It would be quite appropriate for both SEIAA and MoEF to call for a report prior to the stage of preparation of ToR from the concerned department of the State Government and submission of such report would not bind the concerned authorities under the Act of 1986, in view of the provisions contained in the Act of 1986 but it would be a valuable contribution in regard to the verification of the facts and the real position existing on the site as well as verification of some basic data stated by the applicant in his application.

22. Notification of 2006 is primarily of a mandatory character and is enforceable in terms of its provisions. Every applicant and authority is obliged to comply with the said Notification. This aspect need not detain us any further as it is a settled position of law as far as the Tribunal is concerned. After deliberating on the law in relation thereto, the Tribunal had clearly held that the Notification of 2006 does not leave any scope for default or non-compliance or discretionary enforcement. [Reference can be made to the judgment of the Tribunal in the cases of *S.P. Muthuraman Vs. Union of India*, 2015 ALL (I) NGT REPORTER (2) (DELHI) 170, *Lokendra Kumar Vs. State of U.P. & Ors.* 2015 ALL (I) NGT

REPORTER (1) (DELHI) 194 and *Krishan Lal Gera v State of Haryana & Ors.* 2015 ALL (I)NGT REPORTER(2)(DELHI)286].

23. Despite the fact that the Notification of 2006 is mandatory still it lacks implementation and enforcement mechanism. It requires better and more specific time schedule in light of the principle of Sustainable Development and the need for expeditious disposal of such applications. We have already noticed that the role of the State Government is neither defined nor postulated in the Notification of 2006 but remains a matter that falls in the 'grey area'. The need for State's participation is indicated in the object of the Act of 1986 and the federal structure of the Indian Constitution.

24. Till all these deficiencies are removed and suggestions of the CEC are implemented in their true spirit and substance, it would be inevitable for the Tribunal to issue interim directions, particularly, in light of the judgments of the Supreme Court as referred in the above cases and the recommendations of the CEC to fill the gaps temporarily till a proper Notification is issued by MoEF providing due mechanism in this regard. It is a settled canon of law that the Courts and the Tribunals could issue interim directions keeping in view the gaps in the provisions of an Act including imposition of a prohibition where the facts and circumstances of a case so demand. Reference can be made to the judgment of the Tribunal in the case of *Court on its own Motion Vs. State of Himachal Pradesh & Ors.* 2014 ALL (I) NGT REPORTER (1) (DELHI) 66.

25. In light of the above discussion we dispose of this application with the following directions:

- a. It shall be mandatory for all the applicants to seek EC for carrying on of mining activity of minor or major minerals, even if the lease area is less than 5 ha. In other words, MoEF, SEIAA and all other authorities would adopt uniform practice for issuance of EC in regard to the mining area of less than 5 ha notwithstanding the fact that environmental impact of mining of minor minerals is no way less than that of the mining of major minerals. The judgment of the Supreme Court in the *Deepak Kumar Vs State of Haryana* (2012) 4 SCC 629 is applicable to both minor and major minerals.
- b. Every effort should be made by all concerned authorities not to encourage grant of EC for mining activity where the area is less than 5 ha. However, for providing clarity, we further observe that where for reasons of necessity for geographical, ecological and other reasons, if it is necessary to grant EC, for carrying on of mining activity of minor and major minerals in an area less than 5 ha, a special report in that behalf shall be invited from the concerned State authority and EC would be granted for specific reasons to be recorded in that behalf and then the Application would be considered for grant/refusal of EC.
- c. MoEF in consultation with the State Government shall constitute a District Committee which would submit its report to MoEF prior to preparation of ToR, in regard to

the contents of the application, the physical location of mining site, environmental concerns and the scope of ToR. This report shall be taken into consideration by MoEF and/or SEIAA before issuing ToR at the time of consideration of the EIA report.

- d. The State Government should submit its mining plan in consonance with the provisions of Act of 1957, Mineral Concession Rules, 1960 and the same should be approved by MoEF and other concerned ministries in accordance with law.
- e. Every applicant shall be granted permission for mining only after the mining plan submitted by the applicant to the Central Government has been approved in accordance with Rule 22 and in consultation with the Director General of Police, Secretary In-charge of mining and the Chief Scientist and Scientist-in-Charge of Central Institute of Mining and Fuel Research, Regional Centre, Roorkee, an expert body in the field of mining which shall issue guidelines within the six weeks of the pronouncement of the judgment, providing proper mechanism for supervision and ensuring the implementation of judgment and taking appropriate action in accordance with law post issuance of order granting consent to operate and EC.
- f. MoEF shall also re-examine in consultation with expert bodies to ensure reduction of time taken in issuance of

EC, particularly, in light of the judgment afore referred. All the mining authorities and MoEF/SEIAA would give due consideration to the applicants applying for mining lease or grant of EC, who have been found guilty of illegal, unauthorised and unscientific mining, violating the terms and conditions of the orders by which consent to operate and/or EC has been granted. Normally, it should be taken as a disability for renewal and/or granting of mining lease or such consent orders. Wherever the government or the authority takes a decision to the contrary, it will be an obligation to record specific reasons in that behalf.

26. The application is disposed of with no orders as to costs.

**Swatanter Kumar**  
**Chairperson**

**U.D.Salvi**  
**Judicial Member**

**M.S.Nambiar**  
**Judicial Member**

**A.R Yousuf**  
**Expert Member**

**Bikram Singh Sajwan**  
**Expert Member**

New Delhi,  
19<sup>th</sup> February, 2016

**-TRUE COPY-**

**ABSTRACT**

Industries - Mines and Minerals - Tamil Nadu Minor Mineral Concession Rules (TNMMCR), 1959 - Time limit prescribed for submission of approved Mining Plan and Environmental clearance - Rule 42 of the Tamil Nadu Minor Mineral Concession Rules, 1959 - Amendment Notification - Issued.

**Industries (MMC.1) Department****G.O. (Ms) No. 105****Dated:14.07.2016**

திருவள்ளூர் ஆண்டு 2047

வரும், ஆனி திங்கள் 30,

**Read:**

1. G.O.Ms.No.79, Industries (MMC1) Department, dated: 06.04.2015.
2. G.O.Ms.No.256, Industries (MMC1) Department, dated: 29.10.2015.
3. G.O.Ms.No.12, Industries (MMC1) Department, dated: 27.01.2016.
4. G.O.Ms.No.72, Industries (MMC1) Department, dated: 13.05.2016.
5. Tamil Nadu Granite Quarry Owners and Exporters Association's representation dated 20.06.2016
6. Government letter No. 8114/ MMC1/ 2016-1. Industries Department, dated 02.07.2016.
7. From the Commissioner of Geology and Mining, Letter No. 6731/LC/2015, dated 12.07.2016

**ORDER:**

The Government have introduced Rules 41 and 42 in Tamil Nadu Minor Mineral Concession Rules, 1959 prescribing a time limit of 90 days for submission of mining plans and 180 days for submission of Environmental clearance in respect of the existing quarry leases for minor minerals vide Government Order 1<sup>st</sup> read above.

3) The Government have amended the said rules in the Government Orders 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> read above extending the time limit for production of mining plan and Environment clearance up to 450 days. The time limit for production of environmental clearance expires on 14.07.2016.

4) The Government of India has notified 31 major minerals as minor minerals on 10.02.2015 and the above said 31 minerals have been incorporated in Tamil Nadu Minor Mineral Concession Rules, 1959 by introducing Rule 43 for the purpose of grant of quarry lease for the above said minor minerals vide G.O.(Ms).No.70, Industries (MMC1) Department dated 22.04.2016.

5) Meanwhile, the Tamil Nadu Granite Quarry Owners and Exporters Association in the reference 7<sup>th</sup> read above have requested the Government for an additional time limit for submission of Environment Clearance for the existing lessees of Minor minerals prescribed in rules 41 & 42 of Tamil Nadu Minor Minerals Concession Rules (TNMMCR), 1959. Hence, the CGM was requested to offer his remarks on the above request of the Association in the reference 6<sup>th</sup> read above.

6) Accordingly, the CGM in his letter dated 13.7.2016 has sent a proposal for granting additional limit for submitting Environment Clearance as per rules 41 and 42 of TNMMCR, 1959 as follows:

- (I) The total number of existing leases for the minerals declared as minor minerals such as Quartz and Feldspar (289), Fireclay (48), Silica sand (33), Gypsum (15) and steatite (7) are totaling about 392. Earlier these minerals were major minerals and most of their lease areas were below 5.00.0 hectares for which environment clearance was not required from State Environment Impact Assessment Authority.
- (II) As all the above minerals are now listed as minor mineral and requires environment clearance for operating the quarry, the 392 existing minor mineral lessees have to approach the SEIAA for obtaining Environment clearance. Therefore, the time limit for submission of mining plan and Environment clearance for the above said minor minerals are required to be extended for a considerable period enabling the lessees for obtaining the environment clearance from State Environment Impact Assessment Authority. For this purpose, the time limit has to be extended for a further period of at least ten months.
- (III) Further, the Tamil Nadu Granite Quarry Owners and Exporters Association in their representation dated 20.06.2016 have stated that as per Rule 41 and 42 of the Tamil Nadu Minor Mineral Concession Rules, 1959 the time limit for submission of Environmental Clearance was extended for a period of 450 days which ends on 14.07.2016. In this regard, they have stated that the State Environment Impact Assessment Authority is yet to conduct its first meeting and to process the pending application for issuing of Environment clearance due to the election Conducted in

the state and it appears that it will take some more months for the State Environment Impact Assessment Authority to start its function and to issue approval. Therefore they have requested to extend the time limit for a further period of one year from 14.07.2016 for submission of environmental clearance.

(iv) In this connection, the following points are placed for consideration:

- a) A total number of 3095 leases exist in respect of minor minerals such as Rough stone, Granite, Earth/Gravel, / Savudu / Clay, Pebbles etc. Apart from this, there are 392 number of existing leases for newly included minor minerals such as quartz and feldspar, silica sand, Gypsum, Fireclay etc.
- b) In respect of Granite, there are 893 existing leases in which 148 number of quarry leases have obtained Environment clearance from State Environment Impact Assessment Authority. In the remaining 745 existing quarry leases, 169 quarry leases alone are under operation for which 132 cases are pending for Environment clearance from State Environment Impact Assessment Authority.
- c) Similarly in respect of Rough stone, there are 1742 existing leases in which 856 numbers of quarry leases have obtained Environment clearance from State Environment Impact Assessment Authority. In the remaining 856 existing quarry leases, 587 quarry leases alone are under operation for which 487 cases are pending for Environment clearance from State Environment Impact Assessment Authority.
- d) In respect of newly included minor minerals, all the 392 cases have to obtain environment clearances.

7) It has been proposed by the CGM that under the circumstances stated above, since the time limit granted under Rule 42 of Tamil Nadu Minor Mineral Concession Rules, 1959 for submission of environmental clearance pertaining to the existing lease hold areas for minor minerals including granite comes to an end on 14.07.2016 and in the light of introducing Rule 43 for the purpose of grant of quarry leases for the said 31 minor minerals vide G.O(Ms)No.70 Industries MMC1 Department dated 22.04.2016 and all the existing leases for the said minor minerals will attract environmental clearance irrespective of size of the area, it is just necessary that reasonable time has to be provided to the existing lease holders for production of environmental clearance pertaining to their lease hold areas and therefore it is requested that a time period of further six months may be provided to the lease holders for

production of environmental clearance in respect of the existing lease hold areas for minor minerals including Granite.

8) As such the Commissioner of Geology and Mining has requested the Government to consider the above and to issue suitable amendment in this regard.

9) The Government after careful examination of the proposal of the CGM decided to extend the time limit prescribed under rule 42 of the TNMMCR, 1959 vide G.O. (Ms) No. 72, Industries (MMC.I) Department, Dated: 13.5.2016 for an additional period of six months (180 days) by way of an amendment to rule 42 of Tamil Nadu Minor Mineral Concession Rules, 1959 suitably.

10) The Notification appended to this order will be published in the Tamil Nadu Government Extraordinary Gazette. The Works Manager, Government Central Press is requested to supply 100 copies of the Notification to this Department, and a copy each to the Commissioner of Geology and Mining and all the District Collectors.

(BY ORDER OF THE GOVERNOR)

(BY ORDER OF THE)

**C.V.SANKAR**

**ADDITIONAL CHIEF SECRETARY TO GOVERNMENT**

To  
 The Works Manager, Government Central Press, Chennai-600 079.  
 The Principal Secretary to Government,  
 Public Works Department, Chennai - 600 009.  
 The Principal Secretary to Government,  
 Environment and Forest Department, Chennai-600 009 and Forest Department.  
 The Commissioner of Geology and Mining, Guindy, Chennai-600 032.  
 The Chairman and Managing Director,  
 Tamil Nadu Minerals Ltd., Chennai-600 005.  
 The Principal Chief Conservator of Forest, Chennai-600 006.  
 The Special Commissioner of Town & Country Planning, Chennai-600 002.  
 All District Forest Officers, through PCCF, Chennai-600 006.  
 All District Collectors (through Commissioner of Geology and Mining)

**Copy to:**

The Law Department, Chennai-600 009.  
 The Public Works Department, Chennai-600 009.  
 All Sections in Mines wing, Industries Department, Chennai-600 009.  
 Industries (OP.II) Department, Chennai-600 009.

SF/SC

// Forwarded / By order //

SECTION OFFICER

12/05/16

AppendixNOTIFICATION

In exercise of the powers conferred by sub-sections (1) and (1-A) of section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957), the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Minor Mineral Concession Rules, 1959.

AMENDMENT

In the said rules, in rule 42, in clause (iii), for the expression "four hundred and fifty days", the expression "six hundred and thirty days" shall be substituted.

**C.V.SANKAR**  
**ADDITIONAL CHIEF SECRETARY TO GOVERNMENT**

// Forwarded / By order //

14.07.16  
SECTION OFFICER

14/7/16

6-30  
A/C/O  
1/1

**-TRUE COPY-**

VIX0015

Gmail - Acknowledgement Slip for EC application



gujarat industries &lt;gujchemheavy@gmail.com&gt;

## Acknowledgement Slip for EC application

monitoring-ec@nic.in <monitoring-ec@nic.in>  
 To: gujchemheavy@gmail.com  
 Cc: monitoring-ec@nic.in

Tue, Sep 13, 2016 at 4:57 PM

### Acknowledgement Slip for EC application

This is to acknowledge that the proposal has been successfully uploaded on the State portal. The proposal shall be examined in the state authority to ensure that required information has been submitted. An email will be sent seeking additional information, if any, within 20 working days. Once verified, an acceptance letter shall be issued to the project proponent.

Following should be mentioned in further correspondence

- |   |   |
|---|---|
| 1. Proposal No.   | : SLA/GJ/IND/5533/2016                                    |
| 2. Category of the Proposal                                 | : Non-Coal Mining   |
| 3. Name of the proposal                                     | : Gorakhpada (Block-A) Limestone Mine, Survey No. 4/53/EP |
| 4. Date of submission for EC                                | : 13 Sep 2016   |
| 5. Name of the Project proponent along with contact details |   |
| a) Name of the proponent                                    | : GUJARAT HEAVY CHEMICALS                                 |
| b) State  | : Gujarat   |
| c) District   | : Junagadh  |
| d) Pincode  | : 362275  |

**-TRUE COPY-**

**TimeLine Details**

Proposal received date at each stage of flow.

<b>Submitted by Proponent</b>	<b>Query for Shortcoming(if any) by SEIAA</b>	<b>Resubmission of Proposal by Proponent</b>	<b>Accepted by SEIAA and forwarded to SEAC</b>	<b>Query for Shortcoming(if any) by SEAC</b>	<b>Resubmission of Proposal by Proponent</b>	<b>Accepted by SEAC</b>	<b>Forwarded to SEIAA for EC</b>	<b>EC Letter Uploaded On</b>	<b>EC Granted</b>
28/09/2016		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

**MINUTES OF THE 309<sup>th</sup> MEETING OF THE STATE LEVEL EXPERT APPRAISAL COMMITTEE HELD ON 13/10/2016 AT COMMITTEE ROOM, GUJARAT POLLUTION CONTROL BOARD, GANDHINAGAR.**

The 309<sup>th</sup> meeting of the State Level Expert Appraisal Committee (SEAC) was held on 13<sup>th</sup> October 2016 at Committee Room, Gujarat Pollution Control Board, Gandhinagar. Following members attended the meeting:

1. Shri T.P. Singh, Chairman, SEAC.
2. Shri V.C. Soni, Vice Chairman, SEAC
3. Dr. V.K. Jain, Member, SEAC
5. Shri R.J. Shah, Member, SEAC
6. Shri Hardik Shah, IAS, Secretary, SEAC

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

1. Shri M.B. Shah, Royalty Inspector, Dist: Chota Udepur

Sr.	District	China Clay	Quartz	Black Trap	Ordinary Clay	Riverbed Sand	Dolomite	Bentonite	Total
1	Mehsana	3	-	-	-	-	-	-	3
2	Panchmahal	-	1	-	-	-	-	-	1
3	Vadodara	-	-	1	3	-	-	-	4
4	Chotaudepur	-	-	-	-	2	1	-	3
5	Ahmedabad	-	-	-	1	-	-	-	1
6	Tapi	-	-	-	-	3	-	-	3
7	Surendranagar	-	-	1	-	-	-	-	1
8	Kutch	-	-	-	-	-	-	1	1
	Total	3	1	2	4	5	1	1	17

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

**1. CHINA CLAY MINING PROJECT, DIST: MEHSANA**

1.	SIA/GJ/MIN/16704/2016	Amrapali China Clay Mining & Development Corporation	41-42-00	Mehsana	Chinaclay
----	-----------------------	--	----------	---------	-----------

Project proponent /Geologist remained absent to represent the above proposal before the committee. Committee noted that above proposal was also scheduled for appraisal on 14/09/2016 wherein PP remained absent. After deliberation, committee unanimously decided to close the proposal and delist from pending application list of SEAC.

19. Plan for periodic medical examination of the mine workers.
20. Details of the basic amenities, infrastructure facilities, PPEs etc. to be provided to the mine workers.
21. Detailed Mitigation Plan and the Environmental Management Plan with respect to all likely impacts of the project activities. Total capital cost and recurring cost/annum earmarked for environment pollution control measures.
22. An action plan showing list of the activities along with the fund allocation shall be submitted based on the socio-economic profile of the surrounding villages and need base field assessment.
23. Details regarding existing green belt development activity carried out during past years. A detailed future greenbelt development plan including type of species, number of trees, budgetary allocation, etc.
24. Details of fencing, tree plantation done in the existing mined area.
25. Any litigation pending against the project and / or any direction / order passed by any Court of Law against the project, if so, details thereof.
26. (a) Does the company have a well laid down Environment Policy approved by its Board of Directors? If so, it may be detailed. (b). Does the Environment Policy prescribe for standard operating process / procedures to bring into focus any infringement / deviation / violation of the environmental or forest norms / conditions ? If so, it may be detailed.
27. What is the hierarchical system or administrative order of the company to deal with the environmental issues and for ensuring compliance with the EC conditions. Details of this system may be given.
28. Does the company have a system of reporting of non compliances / violations of environmental norms to the Board of Directors of the company and / or shareholders or stakeholders at large? This reporting mechanism should be detailed.

Upon submission of the above details, committee decided to consider the proposal in one of the upcoming SEAC meeting.

**3. Kodidra Limestone Mining Lease Area,(Lease Area: 04.70 Ha), S NO: 81/2, Vill:Kodidra,Ta:Veraval,Dist:GirSomnath.(ProposalNO: SIA/GJ/MIN/59297/2016).**

The project proponent has applied for their existing Limestone mine located at S NO: 81/2, Vill : Kodidra, Ta:Veraval,Dist:GirSomnath. The mine lease area is 04.70 Ha and proposed rate of mining is 28,000 MTPA. Mining process include manual open cast semi mechanized mining with drilling and blasting. The proposal falls in project / activity no. 1(a) of the Schedule of the EIA Notification, 2006 and as the lease area is less than 50 Hectares, it falls under category B.

The technical presentation of the project included detailed lease status, details of mining method, google image of site, Environmental setting of the project, Mining

details, Environment management plan with impacts and its mitigation measures, local geology etc.

After detailed deliberation, considering the scale of project, Proposal is categorized as "B2" and following additional details were sought.

1. Project site specific details such as distance of the project site from the nearest (1) Village (2)Water Body : River / Creek / Nallah / Lake / Pond / Reservoir / Canal (3) National Highway(4) State Highway (5) Railway line (6) Heritage site (7) National Park / Wild Life Sanctuary /Reserve Forest / Protected Forest. A map indicating the aerial distance of the lease area from these entities.
2. Copies of all requisite permissions including permissions from District Collector, Commissioner, Geology & Mining, Indian Bureau of Mines, GPCB, Copy of valid renewed lease and / or lease renewal status from department of Industries and Mine, Government of Gujarat etc.
3. Current operational status of the mine.
4. Land use plan of the mine lease area should be prepared to encompass pre-operational, operational and post operational phases.
5. Approved mining plan including progressive mine closure plan including details of cluster for homogeneous mineral within 500 meter radius of the lease boundary and details of EC status of each lease included in a cluster.
6. Details of peripheral drains to arrest the inflow of surface runoff in the quarry area and garland drains for arresting run off from the overburden / reject dumps. Specific measures to ensure that contaminated runoff from mine terrain will not lead to the rivers / natural drains / adjoining farms, in any case.
7. Technical justification for no requirement of blasting. Notarized undertaking stating that no blasting shall be carried out for entire period of mining.
8. Impact due to fugitive emissions including that because of transportation activities and the mitigation measures thereof need to be elaborated.
9. Dust suppression measures & control measures at worker level & proposed PPE to workers.
10. Detailed overburden and mine rejects management plan.
11. Detailed write up and drawing of mine closure plan. Water reservoirs to be constructed after closure of mine should be in proper shape and having proper fencing.
12. Details on back filling system of the exhausted mine. Details on compaction of back filling layer.
13. The reclamation plan, post mine land use and progressive green belt development plan along with year wise financial outlay shall be included.

14. The water requirement for the project along with the source and availability as well as necessary permissions from the competent authority for drawl of groundwater, if any. Justification for water consumption with regard to domestic consumption, plantation and dust suppression use keeping rate of mining and vehicles movements per day in a view.
15. Details of the water conservation measures proposed to be adopted in the project should be highlighted.
16. Information on site elevation, working depth, ground water table should be provided. Based on actual monitored data, it may clearly be shown whether working will intersect groundwater.
17. Check list of flora and fauna in the study area and impacts of the project on the same along with mitigation measures.
18. Occupational health impact of the project especially during manual operations in the work area and the mitigation measures proposed along with the commitment of the project proponent for implementation of the mitigation measures.
19. Plan for periodic medical examination of the mine workers.
20. Details of the basic amenities, infrastructure facilities, PPEs etc. to be provided to the mine workers.
21. Detailed Mitigation Plan and the Environmental Management Plan with respect to all likely impacts of the project activities. Total capital cost and recurring cost/annum earmarked for environment pollution control measures.
22. An action plan showing list of the activities along with the fund allocation shall be submitted based on the socio-economic profile of the surrounding villages and need base field assessment.
23. Details regarding existing green belt development activity carried out during past years. A detailed future greenbelt development plan including type of species, number of trees, budgetary allocation, etc.
24. Details of fencing, tree plantation done in the existing mined area.
25. Any litigation pending against the project and / or any direction / order passed by any Court of Law against the project, if so, details thereof.
26. (a) Does the company have a well laid down Environment Policy approved by its Board of Directors? If so, it may be detailed. (b). Does the Environment Policy prescribe for standard operating process / procedures to bring into focus any infringement / deviation / violation of the environmental or forest norms / conditions ? If so, it may be detailed.
27. What is the hierarchical system or administrative order of the company to deal with the environmental issues and for ensuring compliance with the EC conditions. Details of this system may be given.

28. Does the company have a system of reporting of non compliances / violations of environmental norms to the Board of Directors of the company and / or shareholders or stakeholders at large? This reporting mechanism should be detailed.

Upon submission of the above details, committee decided to consider the proposal in one of the upcoming SEAC meeting.

**4. Moraj Lime Stone Mines of M/S Sorath Minerals.(Lease Area: 16.1874 Ha), S NO: 87 P, Vill: Moraj, Ta: Veraval, Dist:GirSomnath.(Proposal NO: SIA/GJ/MIN/17299/ 2016).**

The project proponent has applied for their existing Limestone mine (Lease Area: 16.1874)located at S NO: 87 P, Vill: Moraj, Ta: Veraval, Dist:GirSomnath for expansion of production from 1,00,000 MTPA to 10,00,000 MTPA.

The mine lease area is 16.1874 Ha and proposed rate of mining is 10,00,000 MTPA. Mining process include manual open cast semi mechanized mining with drilling and blasting. The proposal falls in project / activity no. 1(a) of the Schedule of the EIA Notification, 2006 and as the lease area is less than 50 Hectares, it falls under category B.

The technical presentation of the project included detailed lease status, details of mining method, google image of site, Environmental setting of the project, Mining details, Environment management plan with impacts and its mitigation measures etc.

After detailed deliberation, considering the scale of project, Proposal is categorized as "B1" and following Standards TOR recommended for the EIA study to be done considering 10 Km radius from the periphery of the mine lease area including additional project specific TOR.

1. Year-wise production details since 1994 should be given, clearly stating the highest production achieved in any one year prior to 1994. It may also be categorically informed whether there had been any increase in production after the EIA Notification 1994 came into force, w.r.t. the highest production achieved prior to 1994.
2. A copy of the document in support of the fact that the Proponent is the rightful lessee of the mine should be given.
3. All documents including approved mine plan, EIA and Public Hearing should be compatible with one another in terms of the mine lease area, production levels, waste generation and its management, mining technology etc. and should be in the name of the lessee.
4. All corner coordinates of the mine lease area, superimposed on a High Resolution Imagery/ toposheet, topographic sheet, geomorphology and geology of the area should be provided. Such an Imagery of the proposed area should clearly show the land use and other ecological features of the study area (core and buffer zone).
5. Information should be provided in Survey of India Toposheet in 1:50,000 scale indicating geological map of the area, geomorphology of land forms of the area, existing minerals and mining history of the area, important water bodies, streams and rivers and soil characteristics.

- 3) Copies of all requisite permissions including permissions from District Collector, Commissioner of Geology & Mining, Indian Bureau of Mines, GPCB, current lease renewal status from Industries and Mine department, Government of Gujarat with copy of renewed lease (if any) etc. to be incorporated.
- 4) Approved mining plan including progressive mine closure plan shall be provided with EIA report. Letter of approval of IBM shall also be incorporated with compliance of all the recommendations mentioned in approved mining plan.

The draft EIA report also covering the above TOR shall be prepared and submitted to the GPCB for conducting the public hearing / consultation process as per the provisions of the EIA Notification, 2006. The project shall be appraised after submission of the final EIA report.

Meeting was concluded with thanks to the Chair and Members

1	Shri T. P. Singh, Chairman, SEAC	
2	Shri V. C. Soni, Vice Chairman, SEAC	
3	Shri R. J. Shah, Member, SEAC	
4	Dr. V. K. Jain. Member, SEAC	
5	<i>Shri Hardik Shah, Secretary, SEAC</i>	

**-TRUE COPY-**

**MINUTES OF THE 319<sup>th</sup> MEETING OF THE STATE LEVEL EXPERT APPRAISAL COMMITTEE HELD ON 28/12/2016 AT COMMITTEE ROOM, GUJARAT POLLUTION CONTROL BOARD, GANDHINAGAR.**

The 319<sup>th</sup> meeting of the State Level Expert Appraisal Committee (SEAC) was held on 23<sup>rd</sup> November 2016 at Committee Room, Gujarat Pollution Control Board, Gandhinagar. Following members attended the meeting:

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

Sr. No	District	Riverbed Sand	Black trap	Bentonite	Silica sand	Marble	Total
1	Tapi	3	-	-	-	-	3
2	Bharuch	-	-	-	2	-	2
3	Kachchh	-	-	4	-	-	4
4	Vadodara	1	1	-	-	-	2
5	Banaskantha	3	-	-	-	1	4
Total		7	1	4	2	1	15

Above proposals of minor minerals which have been received by the Committee through the project proponent were considered in the meeting for appraisal.

**1. RIVERBED SAND MINING PROJECT, DIST: TAPI**

Sr No	Proposal No.	Date of Receipt:	Project Name	S NO	Village	Taluka	District	Lease Area in Hectare	Rate of mining	Nearest Habitation	Name of the river	Proposed Use
1	SlA/GI/ MIN/ 48657/2016	08/12/2016	River bed sand mining project of Sarojben Arvindhbai Solanki	Opp S NO: 46	Ubhad	Nizar	Tapi	09-90-00 Ha. New	65,000 MTPM	Ubhad: 0.65 km	Tapi	Construction

Shri A.V.Solanki, representative of the project proponent with their consultant Shri B.R.Solanki remained present before the committee and represented above proposal. He informed that there is no bridge piers / water intake wells / irrigation structures within 500 m distance from boundary of above lease area. He explained that sand excavation will be done up to maximum 1.5 m depth. Water sprinkling will be done during loading of material. All the transportation vehicles are proposed to be covered to avoid fugitive emission of fine particles. PP informed that setback distance of 10 meter will be maintained from the river bank to prevent bank erosion. PP further mentioned that copy of mining plan under approval, prefeasibility report including mitigation measures to curb pollution and details regarding non applicability of cluster formation for homogeneous minerals validated by the Asst. geologist are submitted.

## 14. ORDINARY SAND MINING PROJECT, DIST: VADODARA

Sr No	Proposal No.	Application received	Project Name	S NO	Village	Taluka	District	Lease Area in Hectare	Rate of mining	Nearest Habitation	Name of the river	Proposed Use
14	SIA/GJ/MIN/59159/2016	13/12/2016	Madhuben Gemabhai Oad	Opp S NO:290,6,7,8,Narmada Nadi Patt Paiki	Fatepur	Karjan	Vadodara	09-90-00 Existing	7,40,000 MTPA	Fatepur:0.60 km	Narmada	construction

Shri Rakeshbhai G. Oad, representative of the PP remained present along with their consultant. During presentation, PP informed that there is no bridge piers / water intake wells / irrigation structures within 500 m distance from boundary of above lease area. He explained that sand excavation will be done up to maximum 1.5 m depth. Water sprinkling will be done during loading of material. All the transportation vehicles are proposed to be covered to avoid fugitive emission of fine particles. PP informed that setback distance of 10 meter will be maintained from the river bank to prevent bank erosion and there is no applicability of cluster situation. PP further mentioned that copy of mining plan is submitted for approval to office of geology and Mining department, Dist: Vadodara. PP informed committee that proposal is not an instream mining and lease area is located in dry river bed.

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

## 15. BLACK TRAP MINING PROJECT, DIST: VADODARA

Sr No	Proposal No.	Application received	Project Name	S NO	Village	Taluka	District	Lease Area in Hectare	Rate of mining	Nearest Habitation	Proposed Use
15	SIA/GJ/MIN/60006/2016	21/11/2016	Jagat Minerals Pvt. Limited	59, 59/1	Udalpur	Savli	Vadodara	06.86.00 Existing	3,00,000 MTPA	Udalpur: 1.2 km	Construction

Shri Chaganbhai Patel, representative of the PP with their consultant Shri Abhishek Kumar Singh remained present. Shri Abhishek Kumar Singh represented above proposal before the committee. He informed that method of basalt removal involves open cast mining with drilling, controlled blasting and sizing of mineral. Top soil will be stacked separately for green belt development whereas overburden will be removed, stacked and refilled in mined out pits. The proposal does not involve intersection of ground water table. No wastewater generation is envisaged from mining activities. Domestic wastewater will be disposed off through septic tank– soak pit. Arrangement will be made to prevent contamination of surface runoff. Proposed air pollution control measures include use of only controlled blasting, water

sprinkling on haul roads, tree plantation in periphery and road sides, etc. Water will be procured from nearby tube wells through tankers. He further mentioned that blasting will be done through certified personnel through competent authority. Mined out pit will be secured with wired fence to prevent casualty. It is proposed to convert mined out pits into water reservoir.

After detailed deliberation and considering the mitigation measures proposed by the lease holder, Committee unanimously decided to recommend the above proposal for grant of environmental clearance to SEIAA with stipulation of standard conditions for Non Sand mining as approved in 232<sup>nd</sup> SEAC meeting held on 15<sup>th</sup> April 2015 (Annexure III) with specific condition of compliance of all the conditions mentioned in amendment in EIA Notification 2006 on 15/01/2016.

### **MAJOR MINERAL PROPOSALS**

#### **1. Somnath Hydrates Lime And Chemical Industries Pvt Ltd,(Lease Area: 15-13-52 Ha), S NO: 42/1/P,Vill:Kherali,Ta:Veraval, Dist: Gir\_Somnath (Proposal NO: SIA/GJ/MIN/17787/ 2016).**

The project proponent applied for their new Limestone mine (Lease Area: 15-13-52 Ha)located at S NO: S NO: 42/1/P, Vill:Kherali, Ta:Veraval, Dist: Gir\_Somnath for production of 2,08,208 MTPA.The proposal falls in project / activity no. 1(a) of the Schedule of the EIA Notification, 2006 and as the lease area is less than 50 Hectares, it falls under category B.

The technical presentation of the project included details of mine lease executed,related to surrounding entities,google image of site,environmental sensivity, geology of area,details of terrain and drainage,resource requirement of project,process of mining, mining details and environmental management plan etc.

After detailed deliberation, considering the scale of project, Proposal is categorized as "B1" and committee unanimously decided to recommend Standards TOR as per **Annexure I** for the EIA study to be done considering 10 Km radius from the periphery of the mine lease area including following additional TOR to SEIAA.

1. Project site specific details such as distance of the project site from nearest (1) Village (2)Water Body : River / Creek / Nallah / Lake / Pond / Reservoir / Canal (3) National Highway (4) State Highway (5) Railway line (6) Heritage site (7) National Park / Wild Life Sanctuary /Reserve Forest / Protected Forest shall be included in the rapid EIA report to be prepared covering one season (other than monsoon) data. A map indicating the aerial distance of the lease area from these entities.
2. Distance of nearby mining lease areas from the periphery of the proposed project including a map covering distance of 1 Km from the periphery of the proposed project. In case of no mining lease areas are existing within 500 meter periphery of the proposed project, certificate of the concerned geologist in this regard.
3. Copies of all requisite permissions including permissions from District Collector, Commissioner of Geology & Mining, Indian Bureau of Mines, GPCB, current lease

renewal status from Industries and Mine department, Government of Gujarat copy of renewed lease etc. to be incorporated.

4. Approved mining plan including progressive mine closure plan shall be provided ..... EIA report. Letter of approval of IBM shall also be incorporated with compliance of all the recommendations mentioned in approved mining plan.

Validity of ToR:

- The ToR prescribed for the project will be valid for a period of three years for submission of EIA & EMP report. ToR will lapse after three years from date of issue.
- The period of validity could be extended for a maximum period of one year provided an application is made by the applicant to the Regulatory Authority, at least three months before the expiry of valid period together with an updated Form-I, based on proper justification and also recommendation of the SEAC.

The draft EIA report also covering the above TOR shall be prepared and submitted to the GPCB for conducting the public hearing / consultation process as per the provisions of the EIA Notification, 2006. The project shall be appraised after submission of the final EIA report.

2. **Gorakhmadhi Limestone Mining Lease Area,(Lease Area: 04.36 Ha), S NO: 408/ 6P,Vill:Gorakhmadhi,Ta:Sutrapada, Dist: Gir Somnath. (Proposal NO: SIA/GJ/MIN/59300/2016).**

The project proponent applied for their existing Limestone mine located at S NO: 408/ 6P, Vill: Gorakhmadhi, Ta:Sutrapada, Dist: Gir Somnath on 29/09/2016. The mine lease area is 04.36 Ha and proposed rate of mining is 17,500 MTPA. Mining process include manual open cast semi mechanized mining with drilling and blasting. The proposal falls in project / activity no. 1(a) of the Schedule of the EIA Notification, 2006 and as the lease area is less than 50 Hectares, it falls under category B.

After technical presentation during SEAC meeting on 13/10/2016, committee sought additional information from the project proponent considering the proposal under "B2" category. Project proponent submitted additional information on 03/12/2016. During SEAC meeting, It was informed to the committee by secretarial staff that during SEIAA meeting held on 27/12/2016, two major mineral mining proposals namely "Kherajbha Karubha Ker", ( 4.90 Ha), Lime stone mining project and "Patel Jayantibhai Dwarkadas", ( 2.00 Ha), Bauxite mining project under category 1(a) were referred back to SEAC for verification of categorization of the project keeping OM issued by MoEF&CC vide no J-13012/12/2013-IA-II(I) dated 24/12/2013 as same were categorized under "B2" category. After deliberation, referring to OM issued by MoEF&CC vide no J-13012/12/2013-IA-II(I) dated 24/12/2013 for categorization of category "B" projects/activities in category "B1" and "B2" and keeping mining of major mineral proposal in a view, it was unanimously decided by the committee to categorize this proposal under "B1" category and recommend for grant of TOR to SEIAA as per Annexure I for the EIA study to be done considering 10 Km radius from the periphery of the mine lease area including following additional TOR to SEIAA.

1. Project site specific details such as distance of the project site from nearest (1) Village (2) Water Body : River / Creek / Nallah / Lake / Pond / Reservoir / Canal (3) National Highway (4) State Highway (5) Railway line (6) Heritage site (7) National Park / Wild Life Sanctuary / Reserve Forest / Protected Forest shall be included in the rapid EIA report to be prepared covering one season (other than monsoon) data. A map indicating the aerial distance of the lease area from these entities.
2. Distance of nearby mining lease areas from the periphery of the proposed project including a map covering distance of 1 Km from the periphery of the proposed project. In case of no mining lease areas are existing within 500 meter periphery of the proposed project, certificate of the concerned geologist in this regard.
3. Copies of all requisite permissions including permissions from District Collector, Commissioner of Geology & Mining, Indian Bureau of Mines, GPCB, current lease renewal status from Industries and Mine department, Government of Gujarat with copy of renewed lease etc. to be incorporated.
4. Approved mining plan including progressive mine closure plan shall be provided with EIA report. Letter of approval of IBM shall also be incorporated with compliance of all the recommendations mentioned in approved mining plan.

Validity of ToR:

- The ToR prescribed for the project will be valid for a period of three years for submission of EIA & EMP report. ToR will lapse after three years from date of issue.
- The period of validity could be extended for a maximum period of one year provided an application is made by the applicant to the Regulatory Authority, at least three months before the expiry of valid period together with an updated Form-I, based on proper justification and also recommendation of the SEAC.

**3. Kodidra Limestone Mining Lease Area, (Lease Area: 04.70 Ha), S NO: 81/2, Vill: Kodidra, Ta: Veraval, Dist: GirSomnath. (Proposal NO: SIA/GJ/MIN/59297/2016).**

The project proponent has applied for their existing Limestone mine located at S NO: 81/2, Vill : Kodidra, Ta: Veraval, Dist: GirSomnath. The mine lease area is 04.70 Ha and proposed rate of mining is 28,000 MTPA. Mining process include manual open cast semi mechanized mining with drilling and blasting. The proposal falls in project / activity no. 1(a) of the Schedule of the EIA Notification, 2006 and as the lease area is less than 50 Hectares, it falls under category B.

After technical presentation during SEAC meeting on 13/10/2016, committee sought additional information from the project proponent considering the proposal under "B2" category. Project proponent submitted additional information on 03/12/2016. During SEAC meeting, It was informed to the committee by secretarial staff that during SEIAA meeting held on 27/12/2016, two major mineral mining proposals namely "Kherajbha Karubha Ker", ( 4.90 Ha), Lime stone mining project and "Patel Jayantibhai Dwarkadas", ( 2.00 Ha), Bauxite mining project under category 1(a) were referred back to SEAC for verification of categorization of the project keeping OM issued by MoEF&CC vide no J-13012/12/2013-IA-II(I) dated 24/12/2013 as same were categorized under "B2" category. After deliberation, referring to OM issued by MoEF&CC vide no J-13012/12/2013-IA-II(I) dated 24/12/2013 for categorization of category "B" projects/activities in category "B1" and "B2" and keeping mining of

7

G. J. DAVE  
MEMBER SECRETARY  
SEIAA (GUJARAT)



STATE LEVEL ENVIRONMENT  
IMPACT ASSESSMENT  
AUTHORITY  
GUJARAT

Government of Gujarat

No. SEIAA/GUJ/TOR/1(a)/41/2017

Date: 30 JAN 2017

By R P A 13

Time Limit

Sub: Terms Of Reference for the Gorakhpada Limestone Mining Lease Area, (Lease Area: 04.36 Ha), S NO: 408/ 6P, VIII: Gorakhpada, Ta: Sutrapada, Dist: Gir Somnath.

Re: Your Proposal No: SIA/GJ/MIN/58309/2016 and File No: SIA/GJ/97408/2016.

Dear Sir,

This has reference to your online application (Proposal No: SIA/GJ/MIN/58309/2016) along with Form-I submitted to SEIAA. The subject activity is covered in T(a) and is of 'B' Category.

The SEAC, Gujarat vide their letter dated 17/01/2017 had recommended to the SEIAA, Gujarat, to grant the Terms Of Reference for the above-mentioned project based on its meeting held on 28/12/2016. The proposal was considered by SEIAA, Gujarat in its meeting held on 21/01/2017 at Gandhinagar. After careful consideration, the SEIAA hereby accords Terms Of Reference to above project under the provisions of EIA Notification dated 14<sup>th</sup> September, 2009. The copy of Terms Of Reference is attached herewith.

With regards,  
Yours sincerely

  
(G. J. DAVE)  
Member Secretary

Encl: As Above

Issued to:  
Mr. Manish Kumar,  
M/s. GHCL Ltd.  
B-7, Sarajay Nagar, GHCL Colony,  
Sutrapada, Gir Somnath

Copy to:-  
The Secretary, SEAO, O.G. G.P.C.B. Gandhinagar - 382010.

  
(G. J. DAVE)  
Member Secretary

  
(MEMBER SECRETARY)  
State Level Environment  
Impact Assessment Authority  
(SEIAA - Gujarat)  
Gandhinagar, Gandhinagar,  
Sector 10-A, Gandhinagar-382010

अधिसूचित प्रयोगशाला या राष्ट्रीय जांच और अशांकन प्रत्यायन बोर्ड द्वारा प्रत्यायित प्रयोगशाला या वैज्ञानिक और औद्योगिक अनुसंधान परिषद् की पर्यावरण के क्षेत्र में कार्य कर रही प्रयोगशाला द्वारा किया जाएगा।";

(घ) उपपैरा (6) के स्थान पर निम्नलिखित उपपैरा रखा जाएगा, अर्थात्:-

"(6) विशेषज्ञ मूल्यांकन समिति, यथास्थिति, राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति पर्यावरणीय प्रबंधन योजना, सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना से मिलकर बनने वाली पर्यावरणीय प्रबंधन योजना को उपदर्शित करेगी, जो कि मूल्यांकन किए गए पर्यावरणीय नुकसान और पर्यावरणीय अनापत्ति की शर्त के उल्लंघन के कारण उद्भूत आर्थिक फायदे की तत्स्थानी होगी।";

(ङ) उपपैरा (7) के स्थान पर निम्नलिखित उपपैरा रखा जाएगा, अर्थात्:-

"(7) परियोजना प्रस्तावक से सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना की रकम के समतुल्य बैंक प्रत्याभूति को राज्य प्रदूषण नियंत्रण बोर्ड के पास प्रस्तुत करने की अपेक्षा होगी और राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति द्वारा या प्रवर्ग 'क' परियोजना के लिए मात्रा की सिफारिश विशेषज्ञ मूल्यांकन समिति द्वारा की जाएगी और इसको विनियामक प्राधिकरण द्वारा अंतिम रूप दिया जाएगा तथा बैंक प्रत्याभूति को पर्यावरणीय अनापत्ति अनुदत्त करने से पूर्व जमा किया जाएगा और उसे मंत्रालय के प्रादेशिक कार्यालय, विशेषज्ञ मूल्यांकन समिति, यथास्थिति, राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति तथा विनियामक प्राधिकरण के अनुमोदन के पश्चात् सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना के सफलतापूर्वक कार्यान्वयन के पश्चात् निर्मुक्त किया जाएगा।";

[फा. सं. जेड-11013/22/2017-आईए-II(एम)]

जानेश भारती, संयुक्त सचिव

टिप्पण: मूल अधिसूचना का.आ. 804(अ), तारीख 14 मार्च, 2017 द्वारा प्रकाशित की गई थी।

## MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

### NOTIFICATION

New Delhi, the 8<sup>th</sup> March, 2018

**S.O. 1030(E).** —Whereas, the Ministry of Environment, Forest and Climate Change *vide* notification number S.O.804(E), dated the 14<sup>th</sup> March, 2017 (hereinafter referred to as the said notification) has notified the process for appraisal of projects for grant of Terms of Reference and Environmental Clearance, which have started the work on site, expanded the production beyond the limit of environmental clearance or changed the product mix without obtaining prior environmental clearance as mandated under the Environment Impact Assessment Notification, 2006 [S.O.1533 (E), dated the 14<sup>th</sup> September, 2006];

And whereas, the Ministry of Environment, Forest and Climate Change (hereinafter referred to as the Ministry) in the said notification *inter alia*, directed *vide* sub-paragraph (2) of paragraph 13, that in case the projects or activities requiring prior environmental clearance under Environment Impact Assessment Notification, 2006 from the concerned Regulatory Authority, are brought for environmental clearance after starting the construction work, or have undertaken expansion, modernization, and change in product- mix without prior environmental clearance, these projects shall be treated as cases of violations and in such cases, even Category B projects which are granted environmental clearance by the State Environment Impact Assessment Authority constituted under sub-section (3) section 3 of the Environment (Protection) Act, 1986 shall be appraised for grant of environmental clearance only by the Expert Appraisal Committee and environmental clearance will be granted at the Central level;

And whereas, the Ministry has received a number of proposals relating to all sectors covered under category A and category B, for consideration in pursuance of the said notification;

And whereas, the Ministry is in receipt of representations from the public representatives and Industrial Associations, requesting delegation of powers to the respective States to deal with the violation cases for operational reasons and expediting the proposals;

And whereas, the National Green Tribunal, Principal Bench at New Delhi *vide* their order dated the 27<sup>th</sup> November, 2017 in similar matters in OA No.570/2016 titled M/s Anjli Infra Housing LLP Vs Union of India & others, OA No.576/2016 in the matter of M/s Ankur Khusal Construction LLP Vs Union of India & others and OA No.579/2016 in the matter of Anjli Infra Housing LLP Vs Union of India & others, has passed directions for consideration of the projects at the State level and pass appropriate orders in regard to grant/refusal of the environmental clearance in accordance with law;

And whereas, in view of the above, the Central Government finds it necessary to amend the said notification number S.O.804(E), dated the 14<sup>th</sup> March, 2017 by dispensing with the requirement of notice referred to in clause (a) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 regarding inviting objections and suggestions from persons likely to be affected thereby, in public interest;

Now, therefore, in exercise of the powers conferred by sub-section (1), sub-clause (a) of clause (i) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification by dispensing with the requirement of notice referred to in clause (a) of sub-rule (3) of rule 5 of the said rules, in public interest, namely:-

In the said notification, in paragraph 13, -

(a) for sub-paragraph (2), the following sub-paragraph shall be substituted, namely:-

“(2) In case the projects or activities requiring prior environmental clearance under the Environment Impact Assessment Notification, 2006 from the concerned regulatory authority are brought for environmental clearance after starting the construction work, or have undertaken expansion, modernisation, and change in product-mix without prior environmental clearance, these projects shall be treated as cases of violations and the projects or activities covered under category A of the Schedule to the Environment Impact Assessment Notification, 2006, including expansion and modernisation of existing projects or activities and change in product mix, shall be appraised for grant of environmental clearance by the Expert Appraisal Committee in the Ministry and the environmental clearance shall be granted at Central level, and for category B projects, the appraisal and approval thereof shall vest with the State or Union territory level Expert Appraisal Committees and State or Union territory Environment Impact Assessment Authorities in different States and Union territories, constituted under sub-section (3) of section 3 of the Environment (Protection) Act, 1986.”;

(b) for sub-paragraph (4), the following sub-paragraph shall be substituted, namely:-

“(4) The cases of violations will be appraised by the Expert Appraisal Committee at the Central level or State or Union territory level Expert Appraisal Committee constituted under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can run sustainably under compliance of environmental norms with adequate environmental safeguards, and in case, where the findings of Expert Appraisal Committee for projects under category A or State or Union territory level Expert Appraisal Committee for projects under category B is negative, closure of the project will be recommended along with other actions under the law.”;

(c) for sub-paragraph (5), the following sub-paragraph shall be substituted, namely:-

“(5) In case, where the findings of the Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee on point at sub-paragraph (4) above are affirmative, the projects will be granted the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan and the Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee, will prescribe specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants, and the collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or a environmental laboratory accredited by the National Accreditation Board

for Testing and Calibration Laboratories, or a laboratory of the Council of Scientific and Industrial Research institution working in the field of environment.”;

(d) for sub-paragraph (6), the following sub-paragraph shall be substituted, namely:-

“(6) The Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee, as the case may be, shall stipulate the implementation of Environmental Management Plan, comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefit derived due to violation as a condition of environmental clearance.”;

(e) for sub-paragraph (7), the following sub-paragraph shall be substituted, namely:-

“(7) The project proponent will be required to submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by the Expert Appraisal Committee for category A projects or by the State or Union territory level Expert Appraisal Committee for category B projects, as the case may be, and finalised by the concerned Regulatory Authority, and the bank guarantee shall be deposited prior to the grant of environmental clearance and released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after recommendation by regional office of the Ministry, Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee and approval of the Regulatory Authority.”.

[F.No.Z-11013/22/2017-IA-II (M)]

GYANESH BHARTI, Jt. Secy.

**Note:** The principal notification was published vide number S.O.804(E), dated the 14<sup>th</sup> March, 2017.

### आदेश

नई दिल्ली, 8 मार्च, 2018

**का.आ. 1031(अ).**—केन्द्रीय सरकार ने पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उप नियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1), उपधारा (2) के खंड (i) के उपखंड (क) और खंड (v) के अधीन जारी भारत सरकार की, पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय में अधिसूचना संख्या का.आ.804(अ) तारीख 14 मार्च, 2017 (जिसे इसमें इसके पश्चात् उक्त अधिसूचना कहा गया है) द्वारा उन परियोजनाओं का जिन्होंने पूर्व पर्यावरण अनापत्ति प्राप्त किए बिना कार्य आरंभ कर दिया है और ऐसे मामलों को उल्लंघन माना गया है, का मूल्यांकन करने के लिए प्रबंध किया है।

और उपर्युक्त अधिसूचना के पैरा 13 के उपपैरा (1) द्वारा निर्देश दिया गया है कि यथास्थिति केन्द्रीय सरकार से अथवा उपर्युक्त अधिनियम के अधीन केन्द्रीय सरकार द्वारा विधिवत रूप से गठित राज्य पर्यावरण समाघात निर्धारण प्राधिकरण से, पूर्व पर्यावरणीय स्वीकृति प्राप्त किए बिना भारत के किसी भी भाग में प्रक्रिया या प्रौद्योगिकी अथवा दोनों में परिवर्तन सहित अतिरिक्त क्षमता के लिए शुरू की गई पर्यावरण समाघात निर्धारण अधिसूचना, 2006 [का.आ.1533(अ) तारीख 14 सितंबर, 2006] के अधीन पूर्व पर्यावरणीय स्वीकृति की अपेक्षा वाली परियोजनाओं अथवा क्रियाकलापों या मौजूदा परियोजनाओं अथवा क्रियाकलापों के विस्तार या आधुनिकीकरण को पर्यावरण संघात निर्धारण अधिसूचना, 2006 के उल्लंघन का मामला माना जाएगा;

और उपर्युक्त अधिसूचना में यह और उपबंध है कि ऊपर उल्लिखित परियोजनाओं और क्रियाकलापों से उपर्युक्त अधिसूचना के पैरा 13 के उपपैरा (2) से (7) में विनिर्दिष्ट प्रक्रिया के अनुसार सख्ती से निपटा जाएगा;

और पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उपर्युक्त अधिसूचना के पैरा 13 के उप पैरा (4) के अनुसरण में सभी क्षेत्रों में उल्लंघन के मामलों का मूल्यांकन करने और केन्द्रीय सरकार को सिफोरिशें करने के लिए विभिन्न क्षेत्रों के विशेषज्ञों से मिलकर बनने वाली भारत सरकार, पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय, संख्यांक का.आ.1805(अ), तारीख 6 जून, 2017 की अधिसूचना द्वारा एक विशेषज्ञ मूल्यांकन समिति (ईएसी) का गठन किया गया था ;

और इस प्रकार गठित की गई विशेषज्ञ मूल्यांकन समिति में, श्री एस.के.श्रीवास्तव, वैज्ञानिक ई को उक्त समिति के सदस्य सचिव के रूप में पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय के प्रतिनिधि रूप में नामनिर्देशित किया गया था।

और प्रशासनिक तथा प्रचालन संबंधी कारणों से, अतिक्रमण मामलों में कार्यवाई करने के लिए गठित की गई विशेषज्ञ मूल्यांकन समिति के सदस्य सचिव के रूप में यथास्थिति श्री एस.के.श्रीवास्तव, वैज्ञानिक ई के साथ वैज्ञानिक ई या वैज्ञानिक एफ या वैज्ञानिक जी का नामांकन प्रतिस्थापित करना समीचीन हुआ है;

और अतः अब, केन्द्रीय सरकार पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और उक्त अधिसूचना सं० का.आ.804(अ) तारीख 14 मार्च, 2017 के पैरा 13 के उपपैरा (4) के अनुसरण में भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii), तारीख 6 जून, 2017 में प्रकाशित भारत सरकार की पर्यावरण वन और जलवायु परिवर्तन मंत्रालय संख्या का.आ.1805(अ), तारीख 6 जून, 2017 के आदेश में निम्नलिखित संशोधन करती है, अर्थात्:--

उक्त आदेश की सारणी में, क्रम सं० 11 के सामने, स्तंभ (2) में प्रविष्टियों के स्थान पर, निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात्:—

"वैज्ञानिक ई या वैज्ञानिक एफ या वैज्ञानिक जी, यथास्थिति, पर्यावरण, वन और जलवायु परिवर्तन, मंत्रालय, जोरबाग रोड, नई दिल्ली-3।

[फा.सं.जेड-11013/22/2017-आईए-11(एम)]

जानेश भारती, संयुक्त सचिव

**टिप्पण:** मूल आदेश सं. का.आ.1805(अ) तारीख 6 जून, 2017 द्वारा प्रकाशित किया गया था।

#### ORDER

New Delhi, the 8<sup>th</sup> March, 2018

**S.O. 1031(E).**—Whereas, by the notification of the Government of India in the Ministry of Environment, Forest and Climate Change number S.O. 804(E), dated the 14<sup>th</sup> March, 2017, issued under sub-section (1), sub-clause (a) of clause (i) 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 (hereinafter referred to as the said notification), the Central Government has established an arrangement to appraise the projects, which have started the work without obtaining prior environmental clearance and such cases have been termed as cases of violation;

And whereas, vide sub-paragraph (1) of paragraph 13 of the said notification, it has been directed that the projects or activities or the expansion or modernisation of existing projects or activities requiring prior environmental clearance under the Environment Impact Assessment Notification, 2006 [S.O.1533(E), dated the 14<sup>th</sup> September, 2006] entailing capacity addition with change in process or technology or both, undertaken in any part of India without obtaining prior environmental clearance from the Central Government or by the State Environment Impact Assessment Authority, as the case may be, duly constituted by the Central Government under the said Act, shall be considered a case of violation of the Environment Impact Assessment Notification, 2006;

And whereas, the said notification further provides that the projects and activities referred above, shall be dealt strictly as per the procedure specified in sub-paragraph (2) to (7) of paragraph 13 of the said notification;

And whereas, in exercise of the power conferred by sub-section (3) of section 3 of the Environment (Protection) Act, 1986 and in pursuance of sub-paragraph (4) of paragraph 13 of the said notification, an Expert Appraisal Committee (EAC) was constituted by notification of the Government of India in the Ministry of Environment, Forest and Climate Change vide number S.O.1805(E), dated the 6<sup>th</sup> June, 2017 comprising members with expertise in different sectors to appraise and make recommendations to the Central Government as cases of violation in all the sectors;

And whereas, in this Expert Appraisal Committee so constituted, Shri S K Srivastava, Scientist E was nominated as representative of the Ministry of Environment, Forest and Climate Change as Member Secretary of the said Committee;

And whereas, due to administrative and operating reasons, it has become expedient to replace the nomination of Shri S. K. Srivastava, Scientist E with the Scientist E or Scientist F or Scientist G, as the case may be, as Member Secretary of the Expert Appraisal Committee constituted to deal with violation cases;

And now, therefore, in exercise of the powers conferred by sub-section (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) and in pursuance of sub-paragraph (4) of paragraph 13 of the said notification number S.O.804(E), dated the 14<sup>th</sup> March, 2017, the Central Government hereby makes the following amendments in the order of the Government of India in the Ministry of Environment, Forest and Climate Change number S.O.1805(E), dated the 6<sup>th</sup> June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 6<sup>th</sup> June, 2017, namely:-

In the said order, in the Table, against serial number 11, for the entries in column (2), the following entries shall be substituted, namely:-

“Scientist E or Scientist F or Scientist G, as the case may be, Ministry of Environment, Forest and Climate Change, Jorbagh Road, New Delhi-3”.

[F. No. Z-11013/22/2017-IA-II (M)]

GYANESH BHARTI, Jt. Secy.

**Note:** The principal order was published vide number S.O.1805(E), dated the 6<sup>th</sup> June, 2017.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.08.2017

DELIVERED ON : 13.10.2017

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.SUNDAR

W.P. No.11189 of 2017

and

WMP.No.12134/17

Puducherry Environment Protection Association,  
rep by its Honorary President  
R.Kothandaraman,  
No.18, S.V.Kovil Street,  
Koodapakkam and Post,  
Puducherry-605 502. .. Petitioner

Vs.

The Union of India,  
rep by its Secretary to the Government,  
Ministry of Environment, Forest and Climate Change,  
Paryavaran Bhawan,  
Jor Bagh,  
New Delhi-110 003. .. Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration declaring the impugned notification dated 14.3.2017 issued by the respondent in S.O.804(E) as arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India and the Environment (Protection) Act, 1986.

For Petitioner : Mr.A.Yogeswaran

For Respondent : Mr.G.Rajagopalan,  
Additional Solicitor General  
assisted by Mr.S.Rathnasabapathy

ORDER

M.SUNDAR, J.

This writ petition has been filed as a Public Interest Litigation. In the instant writ petition, a notification dated 14.03.2017 bearing reference S.O.804(E) made by the Union of India, (hereinafter referred to as 'UOI' for brevity) has been

assailed.

2 Bare minimum facts essential for understanding and appreciating this order are set out infra under the caption 'Facts in a nutshell'.

Facts in a nutshell :

3(a) Notification dated 14.03.2017 bearing reference S.O.804(E) made by the UOI which has been assailed in the instant writ petition, is hereinafter referred to as the 'impugned notification'.

3(b) The impugned notification has been made by the UOI under Section 3(1) and 3(2)(v) of the Environment (Protection) Act, 1986 (29 of 1986) (hereinafter referred to as 'E.P. Act' for brevity) read with Rule 5(3) of the Environment (Protection) Rules, 1986 (hereinafter referred to as 'E.P. Rules' for the sake of brevity). To simplify and encapsulate the core issue, it can be stated that vide the impugned notification, UOI has made a provision for grant of ex post facto environmental clearance for project proponents, who have commenced, continued or completed a project without obtaining clearance under the E.P. Act and the Environment Impact Assessment (hereinafter referred to as 'EIA' for brevity) notification issued under it.

3(c) The petitioner contends that when originally the notification was issued on 27.1.1994, the cut-off date to permit the violators to set their house in order was extended three times. Firstly upto 31.3.1999, secondly upto 30.6.2001 and thirdly upto 31.3.2003 by successive notifications dated 5.11.1998, 27.12.2000 and 14.5.2002 respectively.

3(d) The petitioner would contend that the second notification was issued on 14.9.2006. Under this notification, again the dates for project proponents who have violated various provisions of the E.P. Act and EIA notification thereunder, was successively extended on 16.11.2010, 12.12.2012, 27.6.2013, 10.5.2016 and now vide the impugned notification dated 14.3.2017. In other words, the impugned notification is the fifth opportunity for project proponents to set their house in order.

3(e) The petitioner has predicated the instant writ petition on the pivotal point that 'prior' clearance is imperative and non negotiable, whereas the impugned notification provides for ex post facto clearance, which according to the writ petitioner is impermissible.

3(f) We now proceed to discuss the submissions and contentions under the head 'discussion'.

Discussion :

4(a) As the impugned notification provides for ex post facto clearance, the same is being assailed by the writ petitioner primarily on three grounds and the same are as follows :

- (1) Public hearing which is non negotiable

has been given a go-by;

(ii) Scoping leading to EIA has been given a go-by; and

(iii) Environmental clearance is based on precautionary principle and the impugned notification militates against this basic principle.

4(b) In support of the above said challenge to the impugned notification on the aforesaid three points, learned counsel for the writ petitioner Mr. Yogeswaran relied on several judgments and judgments pressed into service are as follows :

(i) Sreeranganathan K.P. Vs. Union of India [Appeal Nos. 172, 173, 174 of 2013 (SZ) and Appeal Nos. 1 and 19 of 2014 (SZ), dated 28.5.2014] (Before the National Green Tribunal, Southern Zone, Chennai); public hearing

(ii) Indian Council for Enviro-Legal Action and others Vs. Union of India [(1996) 3 SCC 212];

(iii) S. Nandakumar Vs. Secretary to Government of Tamil Nadu and others [W.P. Nos. 10641 to 10643 of 2009, etc., dated 22.4.2010] (Madras High Court); public hearing

(iv) Utkarsh Mandal Vs. Union of India [W.P. (Civil) No. 9340 of 2009, dated 26.11.2009] (Delhi High Court);

(v) S.P. Muthuraman Vs. Union of India [Original Application No. 37 of 2015 and another, dated 7.7.2015] (National Green Tribunal, Principal Bench, New Delhi);

(vi) Research Foundation for Science Technology National Resource Policy Vs. Union of India [(2005) 10 SCC 510];

(vii) Consumer Action Group and another Vs. State of Tamil Nadu and others, [(2000) 7 SCC 425]; and

(viii) Lafarge Umiam Mining Private Limited Vs. Union of India and others [(2011) 7 SCC 338]

4(c) Judgments that were pressed into service are to buttress the aforesaid three points of attack. While Sreeranganathan K.P., S. Nandakumar, Utkarsh Mandal, Research Foundation for Science Technology National Resource Policy and Consumer Action Group and another judgments were pressed into service to buttress the submission that public hearing is extremely sanctus and non negotiable, S.P. Muthuraman judgment was pressed into service to buttress the submission that ex post facto clearance takes away scoping and the resultant EIA. Lafarge Umiam Mining Private Limited judgment was pressed into service for both the above points, namely, public hearing is sanctus / non negotiable and ex post facto clearance takes

away scoping and the resultant EIA. All judgments proceed on the premise that such environmental clearances are based on precautionary principle. Indian Council for Enviro-Legal Action judgment was pressed into service for polluter pays principle.

4(d) We heard the learned Additional Solicitor General Mr.G.Rajagopalan.

4(e) Learned Solicitor submits that the writ petitioner has misread the impugned notification qua public hearing and scoping leading to EIA point. In support of his submission, learned Solicitor took us through the impugned notification and submitted that the EIA authority, being the Expert Appraisal Committee would assess the project and the work done by the project proponent. In case of the finding / opinion of the Expert Appraisal Committee being in the negative, all actions as per law, including penal action under Section 19 of the E.P. Act would be initiated and no consent to operate or occupy will be issued and closure of the project will be ensured.

4(f) Only in cases where findings of the Expert Appraisal Committee are in the affirmative, projects will be referred under appropriate terms of reference for undertaking assessment of environment impact, ecological damage, etc., In support of this submission, learned Solicitor laid emphasis on paragraph 5 of the impugned notification.

4(g) For the sake of convenience, we deem it appropriate to extract paragraphs 3, 4 and 5 of the impugned notification, which read as follows :

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

(4) The cases of violation will be appraised by respective sector Expert Appraisal Committees constituted under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along with other actions under the law.

(5) In case, where the findings of the

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

4(h) We put it to learned Solicitor that paragraph 5 does not specifically provide for public hearing. To this, it was represented by learned Solicitor that when EIA is done, it will include public hearing and that it can be read into paragraph 5. We record this submission. Therefore, this puts to rest the point of public hearing and scoping leading to EIA.

4(i) With regard to precautionary principle, faced with the situation that ex post facto clearance and regularization dates have been repeatedly extended time and again by series of notifications, learned Additional Solicitor General at the bar, on instructions, submits that this impugned notification shall clearly and certainly be only a one time measure. We record this submission also. Notwithstanding the above submissions, learned Additional Solicitor General pressed into service a judgment of a learned Single Judge of this court in M/s.Hyundai Motors India Ltd. Vs. Union of India [2015-2-L.W. 641] to drive home the principle that ex post facto approvals are permissible in law.

4(j) The aforesaid case law does not help the respondent as it was rendered on an entirely different realm qua facts. That would be evident from the fact that the aforesaid Hyundai judgment refers to the celebrated Escorts Ltd. judgment in Life Insurance Corporation of India Vs. Escorts Ltd. [(1986) 1 SCC 264] in paragraph 32 of Hyundai Motors India Ltd.'s case. To be noted, Escorts judgment is a judgment of a Constitution Bench. To put it in nutshell, the ratio laid down in Escorts

judgment is when the law provides for some form of consent, it can either be 'prior consent' or 'ex post facto consent', but when the law specifically uses the expression 'prior consent', the consent cannot be ex post facto. It is clearly articulated in paragraph 63 of the Escorts judgment, which reads as follows :

"63. We have already extracted Section 29(1) and we notice that the expression used is "general or special permission of the Reserve Bank of India" and that the expression is not qualified by the word "previous" or "prior". While we are conscious that the word "prior" or "previous" may be implied if the contextual situation or the object and design of the legislation demands it, we find no such compelling circumstances justifying reading any such implication into Section 29(1). On the other hand, the indications are all to the contrary. We find, on a perusal of the several, different sections of the very Act, that the Parliament has not been unmindful of the need to clearly express its intention by using the expression "previous permission" whenever it was thought that "previous permission" was necessary. In Sections 27(1) and 30, we find that the expression "permission" is qualified by the word "previous" and in Sections 8(1), 8(2) and 31, the expression "general or special permission" is qualified by the word "previous", whereas in Sections 13(2), 19(1), 19(4), 20, 21(3), 24, 25, 28(1) and 29, the expressions "permission" and "general or special permission" remain unqualified. The distinction made by Parliament between permission simpliciter and previous permission in the several provisions of the same Act cannot be ignored or strained to be explained away by us. That is not the way to interpret statutes. The proper way is to give due weight to the use as well as the omission to use the qualifying words in different provisions of the Act. The significance of the use of the qualifying word in one provision and its non-use in another provision may not be disregarded. In our view, the Parliament deliberately avoided the qualifying word previous in Section 29(1) so as to invest the Reserve Bank of India with a certain degree of elasticity in the matter of granting permission to non-resident companies to purchase shares in Indian companies. The object of the Foreign Exchange Regulation Act, as already explained by us, undoubtedly, is to earn, conserve, regulate and store foreign exchange. The entire scheme and design of the Act is directed towards that end. Originally the Foreign

Exchange Regulation Act, 1947 was enacted as a temporary measure, but it was placed permanently on the Statute Book by the Amendment Act of 1957. The Statement of Objects and Reasons of the 1957 Amendment Act expressly stated, "India still continues to be short of foreign exchange and it is necessary to ensure that our foreign exchange resources are conserved in the national interest". In 1973, the old Act was repealed and replaced by the Foreign Exchange Regulation Act, 1973, the long title of which reads: "An Act to consolidate and amend the law regulating certain payments, dealings in foreign exchange and securities, transactions indirectly affecting foreign exchange and the import and export of currency and bullion, for the conservation of foreign exchange resources of the country and the proper utilisation thereof in the interest of the economic development of the country." We have already referred to Section 76 which emphasises that every permission or licence granted by the Central Government or the Reserve Bank of India should be animated by a desire to conserve the foreign exchange resources of the country. The Foreign Exchange Regulation Act is, therefore, clearly a statute enacted in the national economic interest. When construing statutes enacted in the national interest, we have necessarily to take the broad factual situations contemplated by the Act and interpret its provisions so as to advance and not to thwart the particular national interest whose advancement is proposed by the legislation. Traditional norms of statutory interpretation must yield to broader notions of the national interest. If the legislation is viewed and construed from that perspective, as indeed it is imperative that we do, we find no difficulty in interpreting "permission" to mean "permission", previous or subsequent, and we find no justification whatsoever for limiting the expression "permission" to "previous permission" only. In our view, what is necessary is that the permission of the Reserve Bank of India should be obtained at some stage for the purchase of shares by non-resident companies."

4(k) The above proposition laid down by the Constitution Bench of Hon'ble Supreme Court in the celebrated Escorts judgment governs the field and is therefore clearly indisputable.

4(l) This takes us back to the impugned notification. It is the fervent submission of the learned Solicitor that this is only an attempt to balance development on one hand and

environment protection on the other. Learned Solicitor, as set out supra would assert that this will clearly and certainly be a one time measure.

4(m) After meeting the matter on merits qua challenge to the impugned notification on the above said three points, learned Solicitor did assail the locus of the writ petitioner. Considering the nature of the matter and the wider ramifications it has, coupled with the fact that this is a public interest litigation and in the light of the trajectory the hearing has taken, we are not going into the aspect of the locus of the petitioner entity.

4(n) We are convinced that paragraphs 3,4 and 5 of the impugned notification alluded to supra coupled with the two undertakings made on instructions by learned Additional Solicitor General that (a) public hearing can be read into paragraph 5 of the impugned notification and (b) this shall certainly and clearly be a one time measure, this writ petition can be closed and disposed of recording the above submissions. We do so.

CONCLUSION :

5 We record the submissions of the learned Additional Solicitor General that (a) public hearing can be read into paragraph 5 of the impugned notification and (b) this shall certainly and clearly be a one time measure.

DECISION :

6 This writ petition is disposed of on the above terms. No costs. Consequently, connected WMP.No.12134 of 2017 is closed.

Consequently, Connected WMP.12134 of 2017 is closed.

I have gone through the draft judgment prepared by my esteemed brother, Sundar, J. and I am in full agreement with him.

2. This writ petition has been filed by way of public interest, inter alia, challenging a notification, being S.O.804(E), dated 14.3.2017, to the extent the said notification provides:

"13. (1) to (3) ...

(4) The cases of violation will be appraised by respective sector Expert Appraisal Committees constituted under subsection (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental

safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along with other actions under the law."

3. The grounds on which the notification has been challenged have elaborately been enumerated by Sundar, J. and the same are not reiterated, to avoid prolixity. The thrust of the objection to the impugned notification is to the decision to recommend closure of the projects only in case the Expert Appraisal Committee is of the view that the project has not been constructed at a site, which, under prevailing laws, is permissible or expansion that has been done cannot be run sustainably in compliance with the environmental norms and with adequate environmental safeguards.

4. There is increasing concern over environmental degradation the world over. Pollution and consequential concentration of harmful chemicals in the atmosphere by reason of emission of green house gases by reason of use of motors and machines are assuming alarming proportions. Pulmonary disorders as a result of pollution have become a life threatening health hazard.

5. The anxiety to protect the environment has led to deliberations and discussions at the National as also International levels. Under the aegis of the United Nations, a Conference on the Human Environment was held in Stockholm way back in June, 1972.

6. The Environment (Protection) Act, 1986, hereinafter referred to as "the 1986 Act", has been enacted as a consequence of decisions taken at the United Nations Conference on Human Environment held in Stockholm in June, 1972, in which India participated, with a view to take appropriate steps for protection and improvement of environment.

7. The statement of objects and reasons for enactment of the 1986 Act declares that the Act has been prompted by concern over the state of environment that has grown the world over since the sixties. The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentration of harmful chemicals in the ambient atmosphere, growing risks of environmental accidents and threats to life support systems.

8. The resolve to protect and enhance the environmental quality found expression in the decisions taken at the United Nations Conference on the Human Environment held in Stockholm in June, 1972. Government of India participated in the conference and strongly voiced the environmental concerns. While measures had been taken before and after the conference, the need for a general legislation to implement the decisions

of the conference was felt.

9. Section 3(1) of the 1986 Act empowers the Central Government to take all such measures as it might deem necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.

10. Sub-section (2) of Section 3 of the 1986 Act enables the Central Government to take, inter alia, the following measures:

"(i) co-ordination of actions by the State Governments, officers and other authorities—  
(a) under this Act, or the rules made thereunder;  
or (b) under any other law for the time being in force which is relatable to the objects of this Act;

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever: Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of

environmental pollution;

(x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

(xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act."

11. Sub-section (3) of Section 3 of the 1986 Act provides as follows:

"Section 3(3). The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures."

12. Subject to the provisions of the 1986 Act, the Central Government has power under sub-section (1) of section

3 to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environment pollution.

13. Section 5 of the 1986 Act provides that notwithstanding anything contained in any other law, but subject to the provisions of the 1986 Act, the Central Government may in exercise of its powers and performance of its functions under the 1986 Act issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

14. In exercise of such power conferred on the Central Government, the Ministry of Environment, Forest and Climate Change issued Office Memoranda dated 12<sup>th</sup> December 2012 and 27<sup>th</sup> June 2013 requiring environmental clearance in respect of projects.

15. By an order dated 28<sup>th</sup> November 2014 in the case of Hindustan Copper Limited v. Union of India, being W.P.(C) No.2364 of 2014, the High Court of Jharkhand held that the conditions laid down under Office Memorandum dated 12<sup>th</sup> December 2012 in paragraph 5(i) and 5(ii) were illegal and unconstitutional.

16. The High Court held that action for the alleged violation would have to be an independent and separate proceeding. Consideration of a proposal for environment clearance could not await initiation of action against the project proponent. The High Court also held that the proposal for environment clearance must be examined on its merits, independent of any proposed action for the alleged violation of the environmental laws.

17. It appears that National Green Tribunal (Principal Bench) also passed an order dated 7<sup>th</sup> July 2015 in Original Application No.37 of 2015 and Original Application No.213 of 2015 holding that the Office Memoranda dated 12<sup>th</sup> December 2012 and 24<sup>th</sup> June 2013 with regard to consideration of proposals for Terms of Reference or Environment Clearance or Coastal Regulation Zone Clearance involving violations of the 1986 Act or Environment Impact Assessment Notification, 2006, Coastal Regulation Zone Notification, 2011 could not alter or amend the provisions of the Environment Impact Assessment Notification, 2006 and quashed the same.

18. The Ministry of Environment, Forest and Climate Change and the State Environment Impact Assessment Authorities had been receiving proposals under the Environment Impact Assessment Notification, 2006 for grant of Terms of Reference and Environmental Clearance for projects which had started the work on site, expanded production beyond the limit of environmental clearance or changed the product mix without obtaining prior environmental clearance.

19. The Ministry of Environment, Forest and Climate Change deemed it necessary that all entities not complying

with the environmental regulation under Environment Impact Assessment Notification, 2006, be brought to comply with the environmental laws in expedient manner, for the purpose of protecting and improving the quality of the environment and reducing environmental pollution.

20. The Ministry of Environment, Forest and Climate Change deemed it necessary to bring such projects and activities in compliance with the environmental laws at the earliest point of time, rather than leaving them unregulated and unchecked, which would be more damaging to the environment.

21. In furtherance of this objective, the Government of India deemed it essential to establish a process for appraisal of cases of violation of norms, and prescribing such adequate environmental safeguards that would deter violation of the provisions of Environment Impact Assessment Notification, 2006 and ensure that damage to environment was adequately compensated for.

22. In *Indian Council for Enviro-Legal Action v. Union of India*, reported in (1996) 3 SCC 212, the Supreme Court analyzed relevant provisions of environmental laws and concluded that damages might be recovered under the provisions of the 1986 Act, inter alia, to implement measures that were necessary or expedient for protecting and promoting the environment. The Supreme Court affirmed that the power of the Central Government under Section 3 of the 1986 Act was wide and included the power to prohibit an activity, close an industry, direct to carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry. The question of liability of the respondents to defray the costs of remedial measures could also be looked into from the principle "polluter pays".

23. This principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution.

24. In exercise of power under Section 3(1)(a)(i) and Section 3(2)(v) of the 1986 Act read with Rule 5(3)(d) of the Environment (Protection) Rules, 1986, the Central Government has issued the impugned notification directing that the projects or activities or the expansion or modernization of existing projects or activities requiring prior environmental clearance under the Environment Impact Assessment Notification, 2006 entailing capacity addition with change in process or technology or both, undertaken in any part of India without obtaining prior environmental clearance from the Central Government or by the State Level Environment Impact Assessment Authority, as the case might be, duly constituted by the Central Government under sub-section (3) of section 3 of the 1986 Act shall be considered a case of violation of the

Environment Impact Assessment Notification, 2006 and would be dealt with strictly as per the procedure specified in the said notification.

25. Paragraphs 13(2) to 13(7) read as follows:

"(2) In case the projects or activities requiring prior environmental clearance under Environment Impact Assessment Notification, 2006 from the concerned Regulatory Authority are brought for environmental clearance after starting the construction work, or have undertaken expansion, modernization, and change in product-mix without prior environmental clearance, these projects shall be treated as cases of violations and in such cases, even Category B projects which are granted environmental clearance by the State Environment Impact Assessment Authority constituted under subsection (3) Section 3 of the Environment (Protection) Act, 1986 shall be appraised for grant of environmental clearance only by the Expert Appraisal Committee and environmental clearance will be granted at the Central level.

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

(4) The cases of violation will be appraised by respective sector Expert Appraisal Committees constituted under subsection (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along with other actions under the law.

(5) In case, where the findings of the Expert Appraisal Committee on point at sub-para (4) above are affirmative, the projects under this category will be prescribed the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan. Further, the Expert Appraisal Committee will prescribe a specific Terms of Reference for the project on assessment of ecological damage,

remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants. The collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environmental laboratory duly notified under Environment (Protection) Act, 1986, or a environmental laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of a Council of Scientific and Industrial Research institution working in the field of environment.

(6) The Expert Appraisal Committee shall stipulate the implementation of Environmental Management Plan, comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefit derived due to violation as a condition of environmental clearance.

(7) The project proponent will be required to submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by Expert Appraisal Committee and finalized by Regulatory Authority and the bank guarantee shall be deposited prior to the grant of environmental clearance and will be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after the recommendation by regional office of the Ministry, Expert Appraisal Committee and approval of the Regulatory Authority."

26. There can be no doubt that the need to comply with the requirement to obtain environmental clearance is non-negotiable. Environmental clearance ensures compliance of environmental laws. A project can be set up or allowed to expand subject to compliance of the requisite norms. The environmental clearance is subject to the satisfaction of the existence of necessary infrastructural facilities and equipment for compliance of environmental norms. To protect the future generations, it is imperative that pollution laws be strictly enforced. Under no circumstances, can industries which pollute be allowed to operate and degrade the environment?

27. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down only because of failure to obtain prior environmental clearance,

even though the establishment may not otherwise be violating pollution laws or the pollution, if any, can conveniently and effectively be checked. The answer necessarily has to be in the negative.

28. The Central Government is well within the scope of its powers under Section 3 of the 1986 Act to issue directions to control and/or prevent pollution including directions for prior environmental clearance before a project is commenced. Such prior environmental clearance is necessarily granted upon examining the project from the angle of environmental pollution. However, one time relaxation and that too only in cases where the projects are otherwise in compliance with or can be made to comply with the pollution norms is, in my view, not impermissible. The notification ought not to be interfered with.

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

30. The impugned notification does not compromise with the need to preserve environmental purity, but only allows those industries and/or projects which might otherwise have been given prior environmental clearance, but omitted to obtain environmental clearance to operate, on the conditions imposed by the authorities concerned, including their liability under the principle "polluter pays".

Sd/-

Assistant Registrar (CS III)

सत्यमेव जयते

//True Copy//

Sub Assistant Registrar

TO  
The Secretary to the Government,  
The Union of India,  
Ministry to Environment, Forest and Climate Change,  
Paryavaran Bhawan,  
New Delhi-110 003

+3cc to Mr.S.Rathnasabapathy, Advocate, S.R.No.73617

W.P.No.11189 of 2017

SKV (CO)  
<https://hcservices.ecourts.gov.in/hcservices/>  
GN(02/11/2017)

**True Copy/-**

**F. No.Z-11013/22/2017-IA.II (M)**  
**Government of India**  
Ministry of Environment, Forest and Climate Change  
(Impact Assessment Division)

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

Dated: 15<sup>th</sup> March, 2018

**OFFICE MEMORANDUM**

**Sub: Implementation of Notification S.O.1030 (E) dated 8<sup>th</sup> March, 2018 - reg.**

The Environment Impact Assessment (EIA) Notification, 2006 under the Environment (Protection) Act, 1986 mandates the requirement of prior environmental clearance to the projects/activities listed in the schedule to the said Notification. These projects/activities have been categorized under category 'A' or 'B' and require appraisal and approval by the respective regulatory authorities at the Central/State level.

2. The Ministry has issued a Notification number S.O.804(E) dated 14<sup>th</sup> March, 2017 under the Environment (Protection) Act, 1986 to appraise and regularize the projects, already taken up or under implementation without obtaining the prior environmental clearance in terms of the provisions of the EIA Notification, 2006 and thus identified to be in violation of the same. The Notification enables consideration of such proposals at Central level by providing one-time opportunity to submit the request in this regard within 6 months.

3. In order to streamline and expedite consideration of proposals, it has now been decided that the projects/activities covered under category 'B', shall be considered by the SEAC/SEIAAs in the respective States/UTs. The Ministry has issued another Notification number S.O.1030 (E) dated 8<sup>th</sup> March, 2018, amending the Notification dated 14<sup>th</sup> March, 2017 to that extent.

4. In order to operationalize the Notification number S.O.1030 (E) dated 8<sup>th</sup> March, 2018, following directions are being issued for compliance with immediate effect: -

- i. The proposals received up to 13<sup>th</sup> September, 2017 on the Ministry's portal, shall be considered by the EAC or the SEAC/SEIAA in the respective States/UTs, as the case may be, in order of their submission.
- ii. All the proposals of category 'B' projects/activities pertaining to different sectors, received within six months only i.e. up to 13<sup>th</sup> September, 2017 on the Ministry's portal, but yet not considered by the EAC in the Ministry, shall be transferred online to the SEAC/SEIAAs in the respective States/UTs.
- iii. The proposals submitted directly for consideration of EC (in place of ToR), shall also be considered on the same lines, in order of their submission on the Ministry's portal.
- iv. All the projects of category 'B' pertaining to different sectors, although considered by the EAC in the Ministry and accorded ToR, shall be appraised for grant of EC by the SEAC/SEIAAs in the respective States/UTs.

- v. All projects/activities of all sectors, shall be required to adhere to the directions of Hon'ble Madras High Court vide order dated 13<sup>th</sup> October, 2017 while upholding the Ministry's Notification dated 14<sup>th</sup> March, 2017.

  
(Sharath Kumar Pallerla)  
Scientist "F" / Director

To,

1. The Chairman of all the SEAC/SEIAA of States/UTs
2. The Member Secretary of all the SEAC/SEIAA of States/UTs

**Copy for information to:**

1. PS to Minister for Environment, Forest and Climate Change
2. PS to MoS for Environment, Forest and Climate Change
3. PPS to Secretary (EF&CC)
4. PPS to AS (AKJ)/AS (AKM)
5. PS to JS (GB)/JS (JT)
6. All officers in IA Division
7. Website, MoEF&CC
8. Guard File

1955

**ANNEXURE R-27**

Public Hearing Proceedings

It is hereby informed that as per the Ministry of Environment, Forest & Climate Change, Government of India, New Delhi vide its Notification no. S.O. 1533 dated September 14, 2006. Public Hearing was fixed for the following project covered under Category B, M/s. Gorakhamadhi Lime Stone Mining Lease Area (Lease Area 04.36 Ha) for proposed rate of mining is 17500 MTPA at Survey no. 408/6P, Village: Gorakhamadhi, Taluka: Sutrapada, Dist. Gir-Somnath as mentioned in their request application.

A copy of the draft Environment Impact Assessment report and the Summary Environment Impact Assessment Report was sent to the following authorities or offices to make available the draft EIA Report for the inspection to the public during normal office hours, till the Public Hearing is over.

1. The District Collector Office, Dist. Gir-Somnath
2. District Development Office, Veraval, Dist. Gir-Somnath
3. District Industry Centre, Veraval, Dist. Gir-Somnath
4. Taluka Development Office, Sutrapada, Dist. Gir-Somnath
5. Additional Principal Chief Conservator of Forests ( C ), Ministry of Environment, Forests & Climate Change, Government of India, Regional Office (West Zone), Kendriya Paryavaran Bhavan, E- 5, Arera Colony, Link Road 3, Ravisankar Nagar, Bhopal 462 016
6. Regional Office, GPCB, Opp. Saint Anne's Church, Pankaj Bunglow, Station road, Junagadh-362 001

Other concerned persons having plausible stake in the environmental aspects were requested to send their response in writing to the concerned regulatory authorities. They were requested to send their comments to the regulatory authorities as under:

Central Government in MoEF (Ministry of Environment and Forests, GOI, CGO Complex, Lodi Road, New Delhi 110003) for the matter falling under **Category B** of schedule of the aforesaid Notification.

The Public Hearing was scheduled on 09/03/2018 at 12:00 Hrs. at near Government Model School Ground, Rampara road, Village: Gorakhamadhi, Tal. Sutrapada, Dist. Gir-Somnath.

An advertisement in English was published in "The Times of India" dated 03/02/2018 and in Gujarati "Divya Bhaskar" dated 02/02/2018.

Shri H. R. Modi, Additional Collector & Additional District Magistrate, Gir-Somnath has supervised and presided over the entire public hearing process.

A statement showing participants present during the public hearing is enclosed herewith as Annexure -A.

A statement showing silent points highlighting issues raised by the participants and responded by the representative of applicant during the public hearing in English & Gujarati languages are enclosed herewith as annexure B & B1.

The copies of responses received in writing from persons having plausible stake in environmental aspects before & during the public hearing and the replies by the applicant to the same are enclosed herewith as annexure C-1 to C-7 & D-1 to D-7.

Thirty-three written representations received welcoming the project & same are enclosed herewith as annexure 1 to 33.

Signature:  
Place: Gorakhamadhi  
Date: 09/03/2018

  
(M. R. Macwana)  
Regional Officer, GPCB,  
Junagadh as representative of the  
Member Secretary, GPCB.

  
(H. R. Modi)  
Additional Collector  
& Additional District Magistrate  
Dist.: Gir-Somnath

**True Copy/-**



STATE LEVEL ENVIRONMENT  
IMPACT ASSESSMENT  
AUTHORITY  
GUJARAT

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

Government of Gujarat

No. SEIAA/GUJ/EC/1(a)/1162/2018

Date: 30 OCT 2018

By R P A D

Time Limit

Sub: Delisting of Application for the Environment Clearance of M/s. Gorakhmandli Limestone Mine at S. No. 408/6P, Vil. Gorakhmandli, Ta. Sutrapada, Gir Somnath.

Dear Sir,

This has reference to your online application vide no SIA/GJ/MIN/27869/2016 along with Form-1 submitted to the SEIAA. The project activity is covered in 1(a) and is of 'B' Category.

The SEAC, Gujarat vide their letter dated 12-10-2018 had recommended to the SEIAA, Gujarat, to delist the application for the above-mentioned project based on its meeting held on 09-10-2018 in view of the violation of EIA Notification, 2006.

The proposal was considered by SEIAA, Gujarat in its meeting held on 24-10-2018 at Gandhinagar. After careful consideration, the SEIAA hereby delist the application of the above project as recommended by SEAC, Gujarat for the following reason.

1. PP have failed to apply for TOR for violation case in line to Notification issued by MoEF&CC dated 14/03/2017 and 08/03/2018

With regards,  
Yours sincerely,

(S. M. SAIYAD)  
Member Secretary

Encl: As Above

Issued to:

M/s. Gorakhmandli Limestone Mine  
Mr. Manish Kumar,  
B-7, Sanjay Nagar, GHCL Colony,  
Sutrapada, Gir Somnath







**F. No. 22-10/2019-IA.III**  
Government of India  
Ministry of Environment, Forest and Climate Change  
Impact Assessment Division  
\*\*\*\*\*

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

Date: 9<sup>th</sup> September, 2019

**OFFICE MEMORANDUM**

**Subject: Consideration of Category B violation proposals at the State level as per the provisions of Notification S.O 804 (E) dated 14.03.2017 through lateral entry - regarding.**

The Ministry of Environment Forest and Climate Change issued a Notification vide S.O 804 (E) dated 14<sup>th</sup> March 2017 under the Environmental (Protection) Act, 1986 to appraise the projects, which have started the work onsite without taking prior environmental clearance in terms of the provisions of the Environment Impact Assessment (EIA) Notification, 2006. Time period of six months (14.03.2017 to 13.09.2017) was given vide aforesaid Notification to the proponents to submit proposals.

2. Soon after the publication of aforesaid notification, a PIL challenging the validity of the Notification dated 14.03.2017 was filed in Hon'ble High Court of Madras. Hon'ble High Court of Madras vide Order dated 7<sup>th</sup> June, 2017 prohibited from taking any further action pursuant to the Notification dated 14.03.2017 and therefore appraisal process for violation cases could not be taken up further. Hon'ble High Court of Madras vide order dated 13.10.2017 vacated the order while upholding validity of the Notification dated 14.03.2017.

3. Pursuant to the notification dated 14<sup>th</sup> March 2017, Ministry received a number of proposals relating to all sectors covered under category A and category B. As per the said notification all the proposals of violation, irrespective of its categories were required to be appraised at Central level by the Expert Appraisal Committee (EAC).

4. Further, Ministry vide Notification S.O 1030 (E) dated 08.03.2018 amended the Notification S.O 804 (E) dated 14.03.2017 and delegated the power to the States for appraisal of category B proposals which are under violation of EIA Notification.

5. Subsequently, the Ministry issued an OM dated 15.03.2018 for the implementation of Notification S. O 1030 (E) dated 08.03.2018. All the category B proposals were transferred to the concerned State Level Environment Impact Assessment Authority (SEIAA).

6. The Hon'ble High Court of Madras vide order dated 14.03.2018 was of the view that it will serve the ends of justice if time is extended by 30 (thirty) days from the date of delivery of the order, thereby extending the time till 13<sup>th</sup> April 2018, providing time for violators to apply as per the provisions of Notification S.O 804 (E). Therefore, again a one-month window was given from the date of order of Hon'ble High court (14.03.2018-13.04.2018) to submit proposals under violation of EIA Notification. The Ministry has issued OM dated 16.03.2018 for the compliance of the order dated 14.03.2018 of Hon'ble High court of Madras.

7. Proposals involving violation of EIA Notification, which had applied during the window (14.03.2017 to 13.09.2017 & 14.03.2018 to 13.04.2018) under violation category are being considered by the violation committee. However, in addition to such proposals, there were many category A proposals submitted in the respective sectoral committees for regular appraisal during or prior to violation window period. Sectoral committee while deliberating on the proposals, identified these as violation of EIA Notification. These proposals were subsequently forwarded to the violation committee after approval by the Competent Authority and such proposals are termed as "lateral entry proposals".

8. It is possible that there may be certain category B proposals which were submitted at SEIAA during or prior to the violation window period but not under violation category and later during the appraisal by State Level Expert Appraisal committee (SEAC) identified as violation proposals.

9. Now, a decision has been taken in the Ministry that such proposals as mentioned in para (8) above, may be considered in terms of provisions of Ministry's Notification dated 14.03.2017 & 08.03.2018 by the SEIAA. It is clarified that only those proposals may be taken up for consideration under this provision which had been submitted to SEAC during the window or prior to it as detailed above.

10. This issues with the approval of the competent authority.



**(Sharath Kumar Pallerla)**  
**Director, IA (Policy) Division**

To

1. All the officers of IA Division
2. Chairperson/Member Secretaries of all the SEIAAs/SEACs
3. Chairman of all the Expert Appraisal Committees
4. Chairman, CPCB
5. Chairpersons/Member Secretaries of all SPCBs/UTPCCs

Copy for information:

1. PS to Minister for Environment, Forest and Climate Change
2. PS to MoS (EF&CC)
3. PPS to Secretary(EF&CC)
4. PPS to AS(AKJ) / AS (AKM)
5. PPS to JS (GB)/ JS(JT)
6. Website, MoEF&CC
7. Guard file

**True Copy/-**

**Acknowledgement Slip for EC application**

This is to acknowledge that the proposal has been successfully uploaded on the portal of the Ministry. The proposal shall be examined in the Ministry to ensure that required information has been submitted. An email will be sent seeking additional information, if any, within 20 working days. Once verified, an acceptance letter shall be issued to the project proponent.

Following should be mentioned in further correspondence

1. **Proposal No.** : SIA/GJ/MIN/34711/2015
2. **Category of the Proposal** : Non-Coal Mining
3. **Name of the proposal** : GORAKHMADHI LIMESTONE
4. **Date of Receipt of Proposal** : 20 Nov 2019
5. **Date of TOR Granted** : 30 Jan 2017
6. **Date of submission for EC** : 20 Nov 2019
6. **Name of the Project proponent along with contact details**
  - a) **Name of the proponent** : GUJARAT HEAVY CHEMICALS
  - b) **State** : Gujarat
  - c) **District** : Gir Somnath
  - d) **Pincode** : 362275

**True Copy/-**

F.No.J-11013/41/2006-IA-II (I)  
Government of India  
Ministry of Environment and Forest  
IA Division

Paryavaran Bhawan, CGO Complex  
Lodi Road, New Delhi-110 003

Dated the November 21, 2006

**CIRCULAR**

**Subject: EIA Notification dated 14<sup>th</sup> September, 2006 - Interim Operational Guidelines till 13<sup>th</sup> September, 2007 in respect of Categories of Projects which were not in EIA Notification, 1994.**

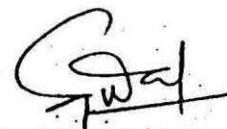
Pursuant to the new Environment Impact Assessment Notification of 14<sup>th</sup> September 2006 (EIA 2006) replacing the EIA Notification of 27<sup>th</sup> January 1994 and its various amendments (EIA 1994) and in terms of the provisions of Para 12 of EIA 2006, the Ministry had earlier issued Interim Operational Guidelines on 13<sup>th</sup> October 2006. Further to these guidelines, the following guidelines are issued for the Categories of Projects, which did not require EIA Clearance under EIA Notification, 1994 and now require the same under EIA Notification, 2006:

- i. No NOC from the State Government/SPCB is required for Environmental Clearance Process. Consent to Establish (NOC) and prior Environmental Clearance are separate legal requirements, any project proponent has to fulfill. NOCs required under Water and Air Acts are mandatory requirement under those Acts and will have to be taken as required and do not require to be linked to environmental clearance.
- ii. Such projects for which NOCs issued before 14<sup>th</sup> September, 2006 will not be required to take Environmental Clearance under the EIA Notification, 2006.

Contd....

-2-

- iii. Applications received for NOC by the State Pollution Control Boards before 14<sup>th</sup> September 2006 may be considered as per provisions of the said Acts. However, they will have to obtain the environmental clearance from the relevant Authority by 30<sup>th</sup> June 2007, if the category requires EIA Clearance as per the new Notification. In such cases, the unit can meanwhile carry on with the commencement of their project activities. Projects not seeking clearance under EIA Notification, 2006 by 30<sup>th</sup> June 2007 will be treated as violation cases under Section 15 of Environment (Protection) Act, 1986.
- iv. Applications received for NOC after 14<sup>th</sup> September 2006 will have to obtain EIA Clearance from the relevant Authority before starting the project activities. Application for EC (TORs / Scoping) may be submitted simultaneously to the relevant Authority/ies.



(Sanchita Jindal)  
Additional Director

To:

1. All State Environment Departments
2. All State Pollution Control Boards
3. All Officers of IA Division, MoEF
4. UT Administrations

Copy to:

1. PPS to Secretary (E&F)
2. PPS to AS (CC)
3. PPS to JS (CC-II)

**True Copy/-**

Evaluating unlicensed DynamicPDF feature. Click here for details. [4:0:eval]



**GUJARAT POLLUTION CONTROL BOARD**  
Paryavaran Bhavan

Sector-10-A, Gandhinagar - 382 010. Phone : 23222756, 23222095, 23222096  
Gram : CLEANWATER Fax : (079) 23232156 • Website : www.gpcb.gov.in

In exercise of the power conferred under section-25 of the Water (Prevention and Control of Pollution) Act-1974, under section-21 of the Air (Prevention and Control of Pollution)-1981 and Authorization under rule 3(c) & 5(5) of the Hazardous Waste (Management and Handling) Rules'1989 & as amended up to year 2003 framed under the Environment (Protection) Act-1986.

And whereas Board has received consolidated consent application letter No. Nil dated **10/08/06** for the Consolidated Consent and Authorization (CC & A) of this Board under the provisions/rules of the aforesaid acts. Consents & Authorization are hereby granted as under:

**CONSENTS :**

(Under the provisions /rules. of the aforesaid environmental acts)

To;

**M/s. G. H. C. L. LIMITED,**  
(Mining lease)  
Sr. No. 408/6,  
Vill; Gorakhmadi,  
Tal; Veraval,  
Dist; Junagadh.

1. **Consent Order No.: 9875 date of Issue: 03/12/20/07.**
2. The consents shall be valid up to **16/08/2011** for emission due to operation of industrial plant for mining of the following items/products:

Sr. No.	Product	Quantity
1.	Limestone Mining	17,400 tons/annum.

3. There shall be no flue gas emission.
- 3.1. There shall be no process emission.
- 3.2. The concentration of the following parameters in the ambient air within the premises of the industry shall not exceed the limits specified hereunder.

PARAMETER	PERMISSIBLE LIMIT
Suspended Particulate matter	200 Microgram Per cubic meter
Oxides of Sulphur	80 Microgram Per cubic meter
Oxides of Nitrogen	80 Microgram Per cubic meter
RSPM	100 Microgram Per cubic meter

- 3.3 The concentration of suspended Particulate Matter in ambient air at a distance of 40 meters from crusher/quarry shall not exceed 600 microgram /M<sup>3</sup>
- 3.4 The applicant shall install & operate following measures so that the emission of particulate matter shall not exceed the concentration mentioned at above.
  - a. Water spraying system.
  - b. Hood for screening classifier & crusher.
  - c. Construction of wind breaking walls.
  - d. Construction of metalled road within premises.
  - e. Regular cleaning & wetting at ground within premises.
  - f. Dust suppression system.
  - g. Green belt of 10-meter width all along the periphery.

**GUJARAT POLLUTION CONTROL BOARD**

Paryavaran Bhavan

Sector-10-A, Gandhinagar - 382 010. Phone : 23222756, 23222095, 23222096  
Gram : CLEANWATER Fax : (079) 23232156 • Website : www.gpcb.gov.in

- 3.5. The applicant shall provide portholes, ladder, platform etc at chimney(s) for monitoring the air emissions and the same shall be open for inspection to/and for use of Board's staff. The chimney(s) vents attached to various sources of emission shall be designed by numbers such as S-1, S-2, etc. and these shall be painted/displayed to facilitate identification.
- 3.6. The industry shall take adequate measures for control of noise levels from its own sources within the premises so as to maintain ambient air quality standards in respect of noise to less than 75dB(a) during day time and 70 dB (A) during night time. Daytime is reckoned in between 6a.m. and 10 p.m. and nighttime is reckoned between 10 p.m. and 6 a.m.
- 4 GENERAL CONDITIONS: -**
- 4.1 Any change in personnel, equipment or working conditions as mentioned in the consents form/order should immediately be intimated to this Board.
- 4.2 Applicant shall also comply with the general conditions given in annexure I.
- 4.3 Applicant shall strictly obey the under taking given that they are not covered under Water Act-1974 & **Hazardous waste (M&H) rules-1989.**
- 4.4 Industry shall have to display the relevant information with regard to hazardous waste as indicated in the Hon. Supreme order in W.P. No.657 of 1995 dated 14<sup>th</sup> October 2003.
- 4.5 Industry shall have to display on-line data outside the main factory gate with regard to quantity and nature of hazardous chemicals being handled in the plant, including wastewater and air emissions and solid hazardous waste generated within the factory premises.

For and on behalf of  
Gujarat Pollution Control Board

(J.K.VYAS)  
Environmental Engineer

NO: PC/CCA-JNG-137/33595

Issued to:

M/s. G. H. C. L. LIMITED,

Vill; Gorakhmadi,

Tal; Veraval,

Dist; Junagadh.

4 DEC 2007

**True Copy/-**

Evaluating unlicensed DynamicPDF feature. Click here for details. [4:0:eval]

Phone : (078) 21052195  
Fax : (078) 21052195  
Website : www.gspcb.gov.in  
**BY R.P.A.D.**

In exercise of the power conferred under Section-25 of the Water (Prevention & Control of Pollution) Act-1974, under Section-21 of the Air (Prevention & Control of Pollution) Act-1981 and Authorization under rule 5(4) of the Hazardous Waste (Management Handling & Trans boundary Movement) Rules 2008 framed under the Environmental (Protection) Act-1986

And whereas Board has received consolidated consent re-application inward ID No. **36557** dated **25-07-2011** for the **Consolidated Consent and Authorization (CC & A)** of this Board under the provisions/rules of the aforesaid Acts. Consents & Authorization are hereby granted as under

**CONSENTS AND AUTHORIZATION:**

(Under the provisions/Rules of the aforesaid environmental acts)

To,  
**M/S. GHCL LTD. (Lime Stone Mines at Gorakhamdhi),**  
Sr. No 408/6/P,  
Village – Gorakhamdhi,  
Tal: Sutrapada,  
Dist: Junagadh.

1. **Consent Order No. AW-44927** date of Issue: **26/12/2011.**
2. The consents shall be valid up to **24/07/2016** for the use of outlet for the discharge of trade effluent & emission due to operation of industrial plant for manufacture of the following items/products

Sr. No.	Product	Quantity
1	Limestone Mining	17,400 MT/year

**SPECIFIC CONDITIONS (If applicable) :**

- Unit shall have to obtain environment clearance from the competent Authority and shall have to comply with the provision of Environmental Clearance Notification
- Unit shall have to strictly implemented all the conditions stipulated of the explosives license
- Unit shall comply all the conditions stipulated in Industries & Mines Department

**3. CONDITIONS UNDER THE WATER ACT:**

- 3.1 The quantity of trade effluent from the vehicle washing shall Nil
- 3.2 The quantity of Sewage from the factory shall not exceed **1000 Lit/Day**

**TRADE EFFLUENT:**

- 3.3 Domestic effluent shall be disposed off through septic tank/soak pit system
- 3.4 Source of Raw water shall be rain water harvesting water collected in mine out pit.
- 3.5 Proper measures should be taken to check and avoid the soil erosion as well as uncontrolled flow of mine water into the natural streams
- 3.6 Mining lease area is **03:19:70** Hectar.
- 3.7 Proper measures shall be taken for rain water harvesting.
- 3.8 Industry should ensure that hydrology & drainage pattern in the region is not disturb

**4. CONDITIONS UNDER THE AIR ACT:**

- 4.2 There shall be no flue gas emission.

*Clean Gujarat Green Gujarat*

A. Previous Consent-Reject / CCA Order / NOC Order (C&A) Uploaded in XGN on 22/07/2016 17:35:27 from IP No: 103.36.123.196.  
B. 26093-Ghcl Ltd ( Lime Stone Mines At Gorakhamdhi ) accepts the LEGAL responsibility and undertakes that the furnished information is CORRECT & ACCURATE.

Evaluating unlicensed DynamicPDF feature. Click here for details. [4:0:eval]

- 4.3 There shall be no process emission.
- 4.4 The applicant shall install & operate air pollution control system in order to achieve norms prescribed below.
- Water sprinkler installed on surface miner itself.
  - Water spraying system
  - Dust suppression system
  - Construction of metal / pucca road within premises
  - Regular cleaning and wetting at ground within premises.
  - Green belt Width all along the periphery as per EC & approved mining plan by IBM
  - All tippers are being completely covered with hydraulic cover or tarpaulin during transportation of lime stone
  - All roads of transportation route are being regularly cleaned by sweeping machine
- 4.5 The concentration of the following parameters in the ambient air within the premises of the industry shall not exceed the limits specified hereunder

PARAMETERS	PERMISSIBLE LIMIT	Time waited average
Particulate Matter(Size less than 10 Micron) or PM <sub>10</sub>	100 Microgram/M <sup>3</sup>	24 hours
	60 Microgram/M <sup>3</sup>	Annual
Particulate Matter(Size less than 2.5 Micron) or PM <sub>2.5</sub>	60 Microgram/M <sup>3</sup>	24 hours
	40 Microgram/M <sup>3</sup>	Annual
SO <sub>2</sub>	80 Microgram/M <sup>3</sup>	24 hours
	50 Microgram/M <sup>3</sup>	Annual
NO <sub>2</sub>	80 Microgram/M <sup>3</sup>	24 hours
	40 Microgram/M <sup>3</sup>	Annual

- 4.6 Industry shall ensure that the disturbed land is reclaimed and restored the originality as per the approved mining plan.
- 4.7 The plan of restoration should also include beautification of the reclaim site with appropriate measures like a forestation and green belt development as per the EC conditions & approved mining plan.
- 4.8 The overburden shall be handled and managed in a proper way. It has to be stored at an appropriate site and should be used in reclamation once excavation. Excavation is completed the topsoil which is removed while mining should inwardly come at the top while reclaiming.
- 4.9 In case the deforestation is involved a detailed programmer for compensatory a forestation shall have be delineated and implemented along with the excavation programmer.
- 4.10 Proper care is taken while carrying out excavation and water shall be sprinkled for dust suppression.
- 4.11 The closed conveyer belt should be provided for internal transpiration to ensure that dust do not escape in to the atmosphere.
- 4.12 The transport vehicle shall be covered properly.
- 4.13 All vehicles and other plant equipment and machines should be maintained properly to reduce the wear and tear and control the emission.
- 4.14 Plantation in periphery of the site and alongside of the road shall be carried out escaping of the dust particles and prevention of air pollution.
- 4.15 Industry is required to maintain three ambient air quality measuring stations within 120 degree angle between stations.
- 4.16 The industry shall take adequate measures for control of noise levels from its own sources within the premises so as to maintain ambient air quality standards in respect of noise to less than 75dB(a) during day time and 70dB(A) during night time. Daytime is reckoned in between 6 a.m. and 10 p.m. and nighttime is reckoned between 10 p.m. and 6 a.m.
5. **AUTHORISATION FOR THE MANAGEMENT & HANDLING OF HAZARDOUS WASTES Form-2 (See rule 5(4))**

Form for grant of authorization for occupier or operator handling hazardous waste

*Clean Gujarat Green Gujarat*

A. Previous Consent-Reject / CCA Order / NOC Order (C&A) Uploaded in XGN on 22/07/2016 17:35:27 from IP No: 103.36.123.196.  
 B. 26093-Ghcl Ltd ( Lime Stone Mines At Gorakhmadhi ) accepts the LEGAL responsibility and undertakes that the furnished information is CORRECT & ACCURATE.

Evaluating unlicensed DynamicPDF feature. Click here for details. [4:0:eval]

5.1 There shall be no generation no industrial wastewater & Hazardous waste from manufacturing process and other ancillary operations as per your undertaking

**6 GENERAL CONDITIONS: -**

- 6.1 Any change in personnel, equipment or working conditions as mentioned in the consents form/order should immediately be intimated to this Board
- 6.2 Applicant shall also comply with the general conditions given in annexure I
- 6.3 The waste generator shall be totally responsible for (i.e. collection, storage, transportation and ultimate disposal) of the waste generated
- 6.4 Records of waste generation, its management and annual return shall be submitted to Gujarat Pollution Control Board in Form-4 on or before 30<sup>th</sup> day of June following to the financial year to which that return relates.
- 6.5 In case of any accident, details of the same shall be submitted in Form -- 14 to Gujarat Pollution Control Board
- 6.6 As per "Public liability Insurance Act - 91" company shall get Insurance policy, if applicable.
- 6.7 Empty drums and containers of toxic and hazard material shall be treated as per guidelines published for "Management & Handling of discarded containers" Record of the same shall be maintained and forwarded to Gujarat Pollution Control Board regularly.
- 6.8 In case of any kind of hazardous wastes shall be imported without prior approval of the appropriate authority.
- 6.9 In case of transport of hazardous wastes to a facility for (i.e. treatment, storage and disposal) existing in a State other than the State where hazardous wastes are generated, the occupier shall obtain "No Objection Certificate" from the State Pollution Control Board or Committee of the concerned State of Union Territory Administration where the facility exists
- 6.10 Unit shall take all concrete measures to show tangible results in waste generation, reduction, avoidance, reuse and recycle. Actions taken in this regard shall be submitted within three months and also along with Form-4
- 6.11 Industry shall have to display the relevant information with regard to hazardous waste as indicated in the Hon Supreme Court's order in W.P. No.657 of 1995 dated 14<sup>th</sup> October 2003
- 6.12 Industry shall have to display on-line data outside the main factory gate with regard to quantity and nature of hazardous chemicals being handled in the plant, including wastewater and air emissions and solid hazardous waste generated within the factory premises

For and on behalf of  
Gujarat Pollution Control Board

  
(R. V. PATEL)  
Environmental Engineer

NO: GPCB/CCA-JNG-137/ID-26093/ 1-10-2012

Issued to:-

M/S. GHCL LTd. (Lime Stone Mines at Gorakhmadhi),  
Sr. No 408/6/P,  
Village – Gorakhmadhi,  
Tal: Sutrapada,  
Dist: Junagadh.

Copy to - The Regional Officer, G.P.C Board, Junagadh, -With a request to carry out monitoring sampling and inspection.

35



### Gujarat Pollution Control Board

Paryavaran Bhavan, Sector-10/A,  
Gandhinagar - 382010  
Ph: 23222756

26093

REJECTION ORDER

BY. R.P.A.D.

In exercise of the power conferred by clause (b) of sub-section (1) of section 27 of the Water (Prevention and control of Pollution) Act, 1974 and sub-section (4) of section 21 of the Air (Prevention and control of Pollution) Act, 1981 and Rule 6 of Hazardous Waste Management Handling & Trans-boundary Movement) Rules 2008, framed under Environment (Protection) Act -1986. This Board is empowered to reject the CCA

The CCA applied for vide Inward application No : 111389, Dated 03/08/16 by M/s. Ghcl Ltd (Lime Stone Mines At Gorakhmadi 0 for the industrial plant located at S. NO. 408/6/P, GORAKHMADHI, City : GORAKHMADHI, Dist : Gir Somnath for the manufacture of products mentioned in the application is hereby refused by the Board by the following reasons :

#### Reasons for Rejection

1 You have started production activities without obtaining the Environmental Clearance from the competent authority.

#### Specific Reason :

Please note that to operate an industrial plant without prior consent under the Water Act-1974 and Air Act-1981 and Authorization under the Hazardous Waste Rules are an Offence punishable under the Water, Air & EPA 1986

Hence you are directed to comply above reasons and re apply for obtaining valid CCA.

For and on behalf of  
Gujarat Pollution Control Board

( Chirag Bhimani, Unit Head)

NO. PCB / JUN / CCA / 368678 - 06/09/2016

#### ISSUED TO :-

Ghcl Ltd (Lime Stone Mines At Gorakhmadi 0,  
S. NO. 408/6/P, GORAKHMADHI,  
City : GORAKHMADHI,, Tal : Sutrapada, SIDC : Not In Gidc  
Dist : Gir Somnath , Phone : 9328849666

Copy to :

- 1) The Regional Office, PCB Board , Junagadh
- 2) NOC rejection file.

GHCL Limited



June 24, 2017

GHCL/ENV/GPCB/2017-18

Unit Head  
Gujarat Pollution Control Board  
Sector 10-A, Paryavaran Bhavan  
Gandhinagar - 382010 (Gujarat)

Sub: Environmental Clearance application for Gorakhmadi Limestone Mines (Area- 4.36 hectare)  
Ref: 1) Proposal No. SIA/GJ/MIN/59300/2016  
2) CCA renewal re-apply dated 07.09.16  
3) TOR vide letter SEIAA/GUJ/TOR/1(a)/41/2017 dated 30.01.2017

Sir,

This has reference to above; we would like to submit details to your good offices with respect operation activity without obtaining Environmental Clearance in Gorakhmadi

1) *Chronological event for grant of EC:*

1.1) Application for prior environmental clearance Form I was submitted to Geologist office on 13.04.15 as suggested by department of Geology & Mining.

1.2) Geologist office directed us to apply through SEIAA in Dec 2015 & subsequently EC online application was made on 22.12.15 (Ref: F.NO- SIA/GJ/167012/2015).

1.3) SEIAA returned file to proponent & subsequently application was again made on 07.01.16. No further communication was received from SEIAA in this regard and on enquiring personally we were asked to reapply. Accordingly on line application was made on 13.09.16. We had already submitted our EC application before 31/03/16 to SEIAA as per National tribunal order. We would like to re-emphasize that EC application process started on 13.04.15 & EC for Gorakhmadi Mines is still awaited. CCA renewal (*Re-apply*) application dated 07.09.16 is also held up due to pending EC application status of Gorakhmadi Limestone Mines. -Annexure-1

2) *Project consideration under category B1:*

2.1) MOM of Expert appraisal committee dated 13.10.16 clearly stated that project was categorized under Category B2 considering scale of project.

2.2) Earlier this mine was categorised under B2 category and final presentation under this category was held in front of State level Expert appraisal committee on 28.12.2016. But later the committee decided to put the mine in B1 category and issued TOR on 30.01.2017. Annexure1

We have entrusted job to M/S N.S. Envirotech, Jaipur for carrying out EIA study as per TOR dated 30.01.17. Consultant is likely to submit EIA report in the month of June for public hearing.

Works : Sutrapada, Dist. Junagadh, Gujarat - 362 275 Tel: (02876) 263401-3, 263531-5 Fax: 263480, 263483  
Regd. Office: GHCL House, Swastik Society, Oppo Punjabi Hall, Navrangpura, Ahmedabad-380 009, Tel: 079-26427519/818, Fax: 079-26423623

Head Office : B-38 Institutional Area, Sector-1, Noida - 201 301 (U.P.) Tel: (0120) 2535335 Fax: (0120) 3548709



**GHCL Limited**



3) **CCA renewal application**

4.1) CCA renewal application was made on 03/08/16 by M/s GHCL Ltd but CCA renewal application was rejected on 06/09/16 vide letter PCB/IUN/CCA/368678-06.09.16 stating production activity started without obtaining Environmental Clearance. — Annexure 2

4.2) CCA renewal application was again made on 07.09.16 stating that EC application was already initiated on 13.04.15 as per New notification which was declared by NGT on 31.05.16 for mining activity less than 5 ha. - Annexure 3

Earlier also you have served a closure notice to us for Kodidra mine for working without EC. But as we have applied for EC before NGT order dated 31.05.2016 hence your goodself has considered our case and withdrawn closure notice. Copy enclosed as Annexure no. 4. It is the same case with our Gorakhmadi mine. In the view of the above we request your goodself to consider our CCA renewal application & permit us to continue the operation activity as we have already applied for EC before 31.03.16 as per NGT order dated 31.05.16. Matter was also intimated to Regional Office

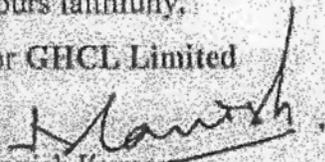
Operation activity is bringing economic benefits to the state by the way of royalty for mineral. The mining operations is providing employment in near by villages where most of the local people are benefited. Mining activity is expected to have positive impact on socio-economic life of people living in nearby villages.

We would like to re-emphasize that as a Responsible Corporate Body, we are committed to protect the environment in totality and take all the preventive measures as per the statutory norms.

Thanking you,

Yours faithfully,

For GHCL Limited

  
Manish Kumar  
GM - Mining

cc  
Member Secretary  
Gujarat Pollution Control Board  
Sector 10-A, Paryavarni Bhawan  
Gandhinagar - 382010 (Gujarat)

Works : Sutrapada, Dist. Junagadh, Gujarat- 362 275 Tel: (02876) 263461-3, 263351-5, Fax: 263460, 263483  
Regd Office: GHCL House, Swastik Society, Oppo Punjabi Hall, Navrangpura, Ahmedabad-380 009, Tel: 079-26427519/818, Fax: 079-26423623  
Head Office : B-38 Institutional Area, Sector-1, Noida - 201 301 (U.P.) Tel: (0120) 2535335, Fax: (0120) 2535209

  
A Group of Companies Enterprise

True Copy/-

**Gujarat Pollution Control Board**  
**Paryvaran Bhawan**  
**Sector -10 A, Gandhinagar 382 010**  
**Phone : (079) 23222425**  
**(079) 23232152**  
**Fax : (079) 23232156**  
**Website: [www.gpcb.gov.in](http://www.gpcb.gov.in)**  
**BY R P AD**

No. GPCB/CCA-JNG-137(3)/ID 26093

Notice for strict action Under Section 31(A) of Air Pollution (prevention and Control) Act 1981 and Air Pollution(prevention and Control) Rule 1982 on the principal of natural Justice.

1) You M/s GHCL Ltd., (Limestone Gorakhamdi) survey no. 408/6p, Gorakhamdi 362275 Tal. Sutrapada, Dist. Gir Somnath is running an industry.

2) As per Air Act 1981, the officer from the Board have inspected your industry on 10/05/2017 under section 24 and found the following details.

i) EC has not been obtained by Industry  
ii) Organization has not obtained CCA renewal and mining was found continued during inspection.

iii) No organization can do mining after 31/05/2016 without obtaining EC as per Honorable NGT order dated 4/5/2015.

a) As the above act is very serious and hence the board wants to take a strict action against you like closure of mine, disconnection of electricity and water supply etc. by issue of order.

After getting details from you on the point no(a) as shown above of the notice and by using principal of natural Justice the board hereby gives an opportunity of being heard within 3 working days in writing.

With this it is to inform you that you may submit your points with supporting documents within 3 days of this notice in writing for the non compliance observed by Board during their inspection on 10/5/2017.

In view of the above ,I Chirag Bhimani, on behalf of the Unit head of Gujarat Pollution Control Board state that under section 31(A) of Air Act-1981 inform that if you fail to submit your point within prescribed time limit, it is to be presumed by us that you have not say in this regard and hence under section 31(A) of Air Act 1981 following order may be issued and for that you will be responsible which may please be noted.

**True Copy/-**

1973

ANNEXURE R-37

***GHCL Limited***



GHCL/ENV/GPCB/2017-13

July 8, 2017

Shri Chirag Bhimani  
Gujarat Pollution Control Board  
Sector 10-A, Paryavaran Bhavan  
Gandhinagar - 382010 (Gujarat)

Sub: Notice dtd 05.07.17  
Ref: GPCB/CCA.JNG-137(3)/I.D.26093 dated 05.07.2017. PCB-ID 26093

Sir,

This is with reference to the subject matter, we would request you to note the following points with respect to the subject notice.

*1) EC clearance is not obtained*

1. Application for prior environmental clearance Form I was submitted to Geologist office on 13.04.15 as suggested by department of Geology & Mining.
2. Geologist office directed us to apply through SEIAA in Dec 2015 & subsequently EC online application was made on 22.12.15 (Ref: F.NO- SIA/GJ/167012/2015).
3. SEIAA returned file to proponent & subsequently application was again made on 07.01.16. No further communication was received from SEIAA in this regard and on enquiring personally we were asked to reapply. Accordingly on line application was made on 15.09.16. We had already submitted our EC application before 31/03/16 to SEIAA as per National tribunal order. We would like to re-emphasize that EC application process started on 13.04.15 & EC for Gorakhmadi Mines is still awaited. CCA renewal (Re-apply) application dated 07.09.16 is also held up due to pending EC application status of Gorakhmadi Limestone Mines.
4. Project consideration under category B1:  
A) MOM of Expert appraisal committee dated 13.10.16 clearly stated that project was categorized under Category B2 considering scale of project.  
B) Earlier this mine was categorised under B2 category and final presentation under this category was held in front of State level Expert appraisal committee on 28.12.2015. But later the committee decided to put the mine in B1 category and issued TOR on 30.01.2017.

Works: Sutrapada, Dist. Chh-Samnath, Gujarat- 362 275 Tel: (079) 253101-3, 263551-5 Fax: (079) 263102, 263103  
Regd Office: GHCL House, Swastik Society, Upper Punjabi Hall, Navrangpura Ahmedabad-380 009, Tel: 079  
26427519/818 Fax: 079- 26123623  
Head Office: H-38 Institutional Area, Sector-1, Noida- 201 301 (U.P.) Tel: (0120) 2532135 Fax: (0120) 2530310



**True Copy/-**

जे.ए.ए.

**GHCL Limited**



GHCL/MIN/ 69 /2018-19

23.10.2018

**The Director General of Mines Safety  
Office of the Director General of Mines Safety,  
Eastern Railway  
Dhanbad- 826 001  
Jharkhand**

Sub:- Submission of notice of temporarily discontinuance of Gorakhmadi Limestone mine

Dear Sir,

Please find enclosed herewith Notice of temporarily discontinuance of Gorakhmadi Limestone mine of M/S GHCL Ltd., in Form – I.

This is for your information and record please.

Thanking you,

Your faithfully,  
For GHCL Ltd.,

**Manish Kumar  
GM (MINING) & AGENT OF MINES**

Encl: - As above

**Cc:- Director of Mines Safety,  
Ahmedabad Region  
No.30, Sahajanand Villa-II  
New C.G.Road, Chandkheda  
Ahmedabad-382424**

**District Magistrate  
Gir-Somnath district, Veraval.**

**Form I**

(See Regulations Nos. 3, 6, 7 &amp; 8)

**NOTICE OF TEMPORARILY DISCONTINUANCE OF MINES**

From: Manish Kumar, Agent (Mines)  
GHCL Ltd, Sutrapada - 362 275, Gujarat.

To

1. The Director General of Mines Safety, Dhanbad, E.Rly.
2. The Director of Mines Safety, Ahemadabad region, Gujarat -382 424

Sir ,

I have to furnish the following particulars in respect of temporarily discontinuance of Gorakhmadi limestone mine (Name) Limestone (Mineral) Mines of M/s.GHCL Ltd;(Owner)

- 
1. \*In case of CHANGE OF NAME OF MINE : N.A.
  2. (a) Situation of mine:  
Village: Gorakhmadi, Police Station : Sutrapada  
Sub-Division (Taluka) Sutrapada District:- Gir-Somnath, State- Gujarat.  
\*(b) In case of a NEW MINE, particulars of situation of mine :  
Post Office:- N.A, Telegraph Office: N.A  
Railway station:-N.A , Rest House :- N.A  
(Give distances there from): N.A Means of traveling: N.A
  3. (a) Name and postal address of (ii) Present/Previous\*  
Present Owner:- Mr. Raman Chopra, E.D.(Finance).  
B-38, Institutional area , Sector-1,Noida-201 301 (U.P.)  
(b) Managing Agent , if any -  
(c) Agent: Mr. Manish Kumar, GHCL Ltd., Sutrapada -362 275,Gujarat.  
(d) Manager:  
\*(e) In case of change, date of change: N.A
  - \*4. (a) Name and qualifications etc. of Manager/Asstt. Manager/Underground  
Manager/ Engineer/Surveyor N.A.  
  
(i) whose appointment is terminated: **N.A.**  
(ii) Appointment of Manager:  
  
(b) Date of termination: **N.A.**
  - \*5. Date on which it is intended to open/re-open/abandon/discontinue the mine: 01.07.2018.

Date: 23.10.2018

Yours faithfully,

Signature

Designation : Owner/ **Agent** /Manager

**True Copy/-**

**PLANTATION AT GORAKHMADHI LIMESTONE MINES OFFICE AREA**



1977

GREENBELT AREA AT GORAKHMADHI LIMESTONE MINES. COORDINATES: 20°54'38.52"N 70°31'17.70"E



1978



GREEN BELT AREA AT GORAKHMADHI LIMESTONE MINES. COORDINATES: 20°54'37.98"N 70°31'16.96"E

RECLAMATION AT GORAKHMADHI LIMESTONE MINES, 20°54'41.76"N 70°31'16.91"E





SHOT ON MI A1  
MI DUAL CAMERA

SAROO PLANTS AT GORAKHMADHI LIMESTONE MINES. COORDINATES: 20°54'37.70"N 70°31'16.15"E

**GORAKHMADHI LIMESTONE MINES RECLAIMED AREA 20°54'40.41"N 70°31'14.89"E**



1982

GORAKHMADHI LIMESTONE MINES RECLAIMED AREA 20°54'41.81"N 70°31'12.80"E



**1983**

**GORAKHMADHI LIMESTONE MINES RECLAIMED AREA 20°54'42.07"N 70°31'14.32"E**



**True Copy/-**

1984

**Bhimdeol Limestone Mine of M/S GHCL Ltd,  
has bagged Award from  
Federation of Indian Mineral Industry (FIMI)**

**ANNEXURE R-40(Colly)**



for

**Socio-Economic development of the Post community and Eco friendly Mining  
on 24/09/2019 at New Delhi**

by

**Shri Pralhad Joshi, Hon'ble Minister of Mines, Coal & Parliamentary affairs,  
Govt. Of India.**

## Award to Limestone mines of GHCL Ltd., at MEMC final day function.

Prize distribution ceremony of 26<sup>th</sup> Mines Environment and Mineral conservation week celebration 2018-19 was held at Ahmadabad on 20.07.2019 hosted by GMDC Limited. Shri Anil Mukim, Secretary, Ministry of Mines was the Chief Guest of the function. About 75 Mines of Gujarat region participated in the celebration in different categories.

Limestone Mines of GHCL Limited under A2 category bagged 10 awards in different activities at mines.

Besides this one special award on mine reclamation was announced by Regional Controller of Mines, Indian Bureau of Mines, Gandhinagar for GHCL Limited and appreciated our mines for the way we have carried out reclamation over mined out area in mines.

It was indeed a great moment for us to bag this special award.

The prize won by us is as below.

1. Rehabilitation and rehabilitation- 1<sup>st</sup> prize.
2. Publicity and propaganda- 1<sup>st</sup> prize.
3. Afforestation- 2<sup>nd</sup> prize
4. Mineral Beneficiation- 2<sup>nd</sup> prize
5. Sustainability Development- 2<sup>nd</sup> prize
6. Mineral Conservation- 2<sup>nd</sup> prize
7. Waste Dump Management- 3<sup>rd</sup> prize
8. Systematic and scientific development- 3<sup>rd</sup> prize
9. Mineral Conservation- 3<sup>rd</sup> prize
10. Overall- 3<sup>rd</sup> prize

### **Special Prize**

11. **Special contribution in reclamation and rehabilitation in Gujarat Region.**





ENVIRO LEGAL DEFENCE FIRM &lt;eldflegal@gmail.com&gt;

---

**Service in Protection of Environment and Public Service Committee vs Union of India O.A. No. 58 of 2018 (Comprehensive Objections on behalf of the Respondent No. 20)**

1 message

ELDF &lt;eldflegal@gmail.com&gt;

Wed, Dec 8, 2021 at 12:38 PM

To: nitinlonkar@gmail.com, maulik@nanavatico.com, maulik@nanavatilegal.com, Ardhendumauli Prasad <mail@ardhendumauli.com>, legal.gpcb@gmail.com, Shri R P Gupta <secy-moef@nic.in>, "cc: salik shafique" <salik@eldfindia.com>, Mansi Bachani <mansi@eldfindia.com>, Admin <admin@eldfindia.com>

Dear Sir/Madam,

Please find the Attached Comprehensive Objections to the Joint Committee Report dated 18.03.2021, Damage Assessment Report of July 2019 and Final Project Report by IIT Gandhinagar dated 21.09.2021 in Original Application No. 58 of 2018 on behalf of Respondent No. 20 (M/s Gorakhamadhi Limestone Mines).

Thanking You,

 **08.12.2021- Objections to Committee Report o...**

Tilak Singh

-----  
Enviro Legal Defence Firm  
29, Presidential Estate LGF,  
Nizamuddin East New Delhi – 110013  
Ph.No. 011-40573181