

**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

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**NDoH: 12.11.2021**

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Date: 11.11.2021

Place: Pune

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**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

**COMPREHENSIVE OBJECTIONS TO JOINT COMMITTEE****REPORT DATED 18.03.2019, 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. 18 (Dinesh Kumar & Co.)****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. 18, Dinesh Kumar & Co. in the abovementioned matter against alleged illegal mining of limestone in Gir Somnath and Junagadh Districts of Gujarat and imposition of illegal environment compensation first to the tune of Rs. 1,15,74,733 vide Report dated Damage Assessment Report dated July 2019 and then later revised by the IIT Report dated to Rs. 32,94,068/-. The present Objections of the answering Respondent may be read in continuation of the Reply dated 19.12.2018 and Miscellaneous Application 184/2018 dated 19.12.2018 which was filed pursuant to the notices issued to the Respondents. That the Answering Respondent's MA 184/2018 and Reply dated 19.12.2018 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. 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 5 ha and less area as well as existing mines, are required to obtain prior Environment Clearance 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 as violation cases. 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 729 of the Reply by R-21, 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 137 /2017) reaffirmed the Judgement dated 30.06.2020. That it is submitted that the said Judgement of this Hon'ble Tribunal has now attained finality by 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 M oEF (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 1543 (Colly)**.

2. In this regard, it is submitted that after the judgment of Hon'ble Supreme Court of India dated 27.01.2012 in Deepak Kumar vs. State of Haryana (2012) 4 SCC case , there was lot of confusion about application and obtaining of prior EC for major minerals and by that time neither GPCB nor other Government authorities were clear about the issue. The Respondent mine applied for EC on 11.05.2010 as a measure of abundant precaution, well before the aforementioned deadline of 31.03.2016. The Respondent unit has applied for EC multiple times since then on 17.01.2015, 13.07.2018 and 17.06.2021. 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).
3. That this Hon'ble Tribunal vide order dated 15.02.2019 had directed the constitution of a Joint Committee comprising of the Gujarat State Environmental Impact Assessment Authority (SEIAA), Gujarat Pollution Control Board (GPCB) and 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 Environment Clearance (hereinafter referred to as 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 Hon'ble Tribunal on 01.05.2019 which gave the factual details of the Respondents.
4. That subsequently, on the basis of the observations stated in the Jt. 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 GPCB (hereinafter known as the '2<sup>nd</sup> Committee') comprising of the Regional Officer, GPCB Junagadh, Environmental Engineer (Unit Head), GPCB Junagadh Secretary, State Expert Appraisal Committee(SEAC) Gujarat, District Geologist, Junagadh & Gir Somnath and the Central Pollution Control Board (CPCB) in July 2019. The Report of the 2<sup>nd</sup> Committee 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 of this Hon'ble Tribunal 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.

5. At the very outset it is submitted that there is complete clarity in law with regard to requirement of an EC to be obtained by mines relating to "major minerals", which has been completely misunderstood and misinterpreted by the Joint Committee Report dated 18.03.2019, Damage Assessment Report by the 2<sup>nd</sup> 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. 18 that the Joint Committee Report, 2<sup>nd</sup> Committee and IIT Gandhinagar have failed to appreciate. Hereinunder, all necessary documents viz OM's, circulars and the evolution of the legal position are described below in order to object to the findings of the Committee Reports.

**A. RESPONDENT UNIT IS A MAJOR MINERAL MINE LEASE OF 5 HA**

6. It is submitted that the present Respondent No. 18, Dinesh Kumar, was granted lease in respect of 5 ha in Village Khorasa, Taluka Maliya Hativa, Junagarh District of the State of Gujarat vide order dt. 22.01.1979 of the Industries, Mines and Powers department, Govt of Gujarat. The mining lease was executed on 14.05.1979 for a period of 20 years. That subsequently on 21.12.2002 mining lease was extended for a period of 20 years. That the said mining lease was executed on 15.11.2003. The answering Respondent has been excavating limestone from the said mine mainly for the purpose of catering to the increasing demand for limestone for construction activities in Saurashtra and Kutch and only after securing all the necessary requisite approvals, clearances and permissions required by law.
7. The answering Respondent submits that the EIA Notification, 1994 and subsequently the EIA Notification, 2006, did not require any Environment Clearance to be obtained by the Units by virtue of being a major mineral mine of 5 ha until 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 Environmental Impact Assessment

Notification, 2006 and the requirement of obtaining Environment Clearance **1546**  
for mining projects of major mineral operating in lease area of 5 ha.

**B. NO REQUIREMENT OF ENVIRONMENT CLEARANCE (EC) AS  
PER EIA NOTIFICATION, 1994**

8. 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 obtain EC as it was a pre-existing project and did not involve any expansion or modernisation. A copy of the EIA Notification, 1994 and Notification dated 04.05.1994 is marked and annexed as **ANNEXURE R/2 (Colly)**.
9. 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. 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/3**.
10. Further, vide Circular dated 12.02.2002 the MoEF&CC had answered certain queries with respect to the EIA Notification, 1994, wherein it 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 (ML) 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.” True Copy of the Circular dated 12.02.2002 is marked and annexed as **ANNEXURE R/4**.

11. 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 judgement).
12. That the MoEF & CC issued a 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 clarifies 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 (EC) AS PER 1548  
EIA NOTIFICATION, 2006**

13. 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 *inter alia*, all new projects or activities listed in the Schedule to the Notification would require a prior EC. 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 EC from SEIAA. It is submitted that the mining lease of 5 ha of the answering Respondent would continue to be exempted from the Requirement of prior EC by virtue of being a pre-existing mining lease. That the EIA Notification of 2006 exempts pre-existing mining lease from the requirement of prior EC unless the said lease is up for renewal or there is increase in production capacity or change in product mix. It is therefore clear that the said lease of the present Respondent was out of the purview of the new EIA Notification, 2006 at the time of its implementation. A copy of the relevant extracts of the EIA Notification dated 14.09.2006 is appended as **ANNEXURE R-5**.

14. 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. Mining of limestone, was categorised as a non-coal mining lease and EC under EIA Notification, 2006 would be required for mining leases with an area less than 50 Ha and more than or equal to 5 Ha. A copy of the EIA Amendment notification dated 01.12.2009 is appended as **ANNEXURE R-6**.

15. That subsequently vide letter dated 21.10.2010, MoEF&CC ( Respondent No. 1 herein) clarified that EC to mining leases of 5 ha of major minerals

would be required only at the time of renewal of their mining lease. Thus, the mining lease of the answering Respondent, despite being a major mineral mine of 5 Ha, was exempted from the requirement of EC since the lease was not up for renewal. True Copy of the letter of MoEF&CC dated 21.10.2010 is marked and annexed as **ANNEXURE R-7**.

16. That on 11.05.2010 the answering Respondent applied for EC despite the EIA Notification of 2006 not being applicable to it, as a matter of abundant precaution. That SEAC vide letter dated 17.08.2010 acknowledged the said EC Application of the answering Respondent and requested to make a brief presentation regarding the same before the Committee. Subsequently, the answering Respondent was granted the TOR on 13.10.2010. In pursuance to the grant of TOR, the answering Respondent again applied for EC on 19.10.2010. That the answering Respondent made numerous attempts to communicate with SEIAA however SEIAA did not consider the said proposal without communicating cogent reasons for the same to the answering Respondents. A copy of the cover letter submitting EC Application dated 11.05.2010, Copy of letter dated 17.08.2010 by SEAC, TOR application dated 13.10.2010 and acknowledgement for EC Application dated 19.10.2010 is marked and annexed as **ANNEXURE R-8 (Colly)**.

17. That the EIA Notification, 2006 was amended vide notification dated 04.04.2011, 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 those mines which were of 5 ha or 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**

18. On 27.02.2012, the Hon'ble Supreme Court in the case of Deepak Kumar etc. v. State of Haryana & Ors. (2012) 4 SCC 629 held among other things that "leases of minor minerals including their renewal for an area 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.

19. 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 2006 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 EC. However, it is important to emphasize that the Respondent herein having a pre-existing lease area of 5 Ha of a major mineral continued to be 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**.

20. 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 important to reiterate that although the Respondent mine of 5 ha is covered under the EIA Notification 2006 however it continues to remain exempted from applying for EC as the lease of the Respondent mine was not up for renewal. A copy of the EIA Amendment Notification dated 09.09.2013 is appended as **ANNEXURE R-11**

21. 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 stated that prior EC was 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. 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-12**

22. It is submitted that the answering Respondent made another attempt to obtain prior EC on 17.01.2015 as a matter of abundant precaution despite being exempted from the requirement of EC under EIA Notification, 2006. However, the said Application was also not considered due to an administrative issue which arose after the dissolution of State Expert Appraisal Committee. True copy of the cover letter dated 17.01.2015 submitting EC Application is marked and appended as **ANNEXURE R-13**.

23. In the meantime, in one case of 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. Therefore, it is clear and that the mine of the present Respondent did not have to obtain any EC unless they sought renewal of the mining lease or if there was an increase in production capacity. True Copy of the Clarification dated 08.01.2016 is appended herein as **ANNEXURE R- 14**.

24. 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 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 projects, 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. A copy of the EIA Amendment notification dated 15.01.2016 is appended as **Annexure R-15.**

25. 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) observed with regard to major minerals in Para 19, "...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." Further, in Para 21 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 clearly indicates that till the said date i.e., 19.02.2016 no MoEF&CC Notification was placed for the minor and major minerals to be at par and that there was no express requirement for pre-existing mines of major minerals of 5 ha to obtain EC before the time of renewal or in accordance with Para 2 of the EIA Notification, 2006. This affirms the position of the Respondent mine in the present case. A copy of the relevant

paras of the Order dated 19.02.2016 of this Hon'ble Tribunal in **Jatinder Singh v. UOI** has been appended as **ANNEXURE R-16**. **1554**

26..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 mines of major minerals were not impacted by this judgment and the timeline set for obtaining EC.

27. That 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 six 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 marked and appended as **ANNEXURE R/17 (Colly)** and final Order dated 13.10.2017 in **Puducherry Environment Protection Association v. Union of India (W.P. No. 11189 of 2017)**, **ANNEXURE R/18** respectively.

It is reiterated that the answering Respondent had applied for EC on 17.01.2015, much before the abovementioned Judgement of the Hon'ble Supreme Court. That the answering Respondent made multiple attempts to contact the authorities for processing its EC Application however the same was not considered due to reasons best known to the requisite authorities.

28. 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 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. This was also in consonance with the Judgment dated 04.05.2016 in Naresh Zargar which stated the same position albeit in case of minor minerals.
29. That lastly, the Judgment dated 18.08.2020 in Review Application in Tamil Nadu Small Mine Owners Federation v. UOI & Ors. (RA No. 07 of 2020 in OA 136/2017) this Hon'ble Tribunal dismissed the review application and upheld Judgement 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.
30. 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 by the dismissing the said Appeal.
31. That it is amply clear that the answering 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 vide EC Applications dated 11.05.2010 and 17.01.2015, prescribed as per the latest position of law. **1556**

32. It is pertinent to highlight that the Public hearing for the mine of the answering Respondent was conducted on 07.04.2021 and villagers who participated in the public hearing unanimously supported restarting the mining activities of the answering Respondent due to the economic opportunities it had created in the past for the nearby villages. It also records that mining pits would be utilised for storing water which would further the sources of water availability for the villagers. True copy of the Public hearing dated 07.04.2021 is marked and appended as **ANNEXURE R/19**.

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

33. That it is submitted that the Joint Committee in its Report dated 18.03.2019 has noted that the answering Respondent has not obtained CTE & CTO. That it is submitted that in this instance, the Joint Committee has again failed to appreciate the factual development of events which led to processing of the CTE/CTO Applications of the answering Respondent.

34. That it is pertinent to highlight herein that the MoEF&CC had 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

**ANNEXURE R-20.**

35. That it is submitted 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 not processed the 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.

36. It is submitted that the answering Respondent thus applied for CTE on 04.02.2021 after grant of its TOR. That GPCB has finally granted the CTE to the answering Respondent on 05.03.2021. True Copy of the CTE is marked and appended as **ANNEXURE R-21.**

**D. RESPONDENT NO. 18 APPLIED FOR EC WITHIN THE PRESCRIBED WINDOW PERIOD**

37. It is submitted that in view of the above sequence of legal developments, it is clear that for existing mines of major minerals of 5 ha, EC was required only at the time of renewal of mining lease. That the requirement for EC for pre-existing mining leases of 5 ha was required only at the time of expansion / modernization of the mining activity or renewal of mining lease, 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 changed after the Judgements 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 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. **1558**

38.. It is reiterated that the mine of the answering Respondent herein applied for EC on 11.05.2010 well before the aforementioned deadline of 31.03.2016. That subsequently, the Respondent herein was granted the TOR on 13.10.2010. In pursuance to the grant of TOR, the present Respondent applied for EC on 19.10.2010 as per the TOR. That despite multiple attempts by the present Respondent to communicate with SEIAA no updates were communicated to the present Respondent regarding the EC Application status. Eventually, due to reasons known only to the SEIAA, the EC proposal of the answering Respondent was not considered. Subsequently, the unit has applied for EC multiple times on 17.01.2015, 13.07.2018 and 02.09.2020. That even the second Application dated 17.01.2015 was rejected for no fault of the answering Respondent. Consequently, the present Respondent yet again applied for EC on 13.07.2018 but SEIAA adopted an incorrect position of law and asked the present Respondent to reapply as a violation category on 31.12.2018. True Copy of acknowledgement slip of TOR dated 13.07.2018 and the letter dated 31.12.2018 of SEIAA is marked and appended as **ANNEXURE R-22 (Colly)**.

39. 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. Therefore, the application for EC submitted by the Respondent Unit on two occasions i.e., 11.05.2010 and 17.01.2015 which have been acknowledged by the competent authorities, both fall within deadline set by this Hon'ble Tribunal.

40. 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 has not considered the EC applications dated 11.05.2010 and 17.01.2015 of the answering Respondent. The answering Respondent was thus compelled to reapply for EC as a violation category and therefore, another TOR Application was submitted on 02.09.2020 and subsequently the Terms of Reference were granted afresh by SEIAA recently on 04.12.2020 upon recommendation of SEAC. It is submitted that the wrongful delisting of the Respondent Unit's EC application had resulted in a 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. That the answering Respondent in pursuance of the TOR granted on 04.12.2020 has applied for EC on 17.06.2021. However, the said Application of EC has not been processed by SEIAA due to pendency of the present Application. A copy of the TOR Application dated 04.12.2020 and acknowledgement slip of EC Application dated 17.06.2021 is marked and appended as **ANNEXURE R-23 (Colly)**.

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

41. 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 six 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 and 09.09.2019 and the latest 07.07.2021 lay down the procedure to be followed which consideration of violation cases.

42. 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.

43. 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.

44. That in the case of the answering Respondent, the SEIAA did not consider the EC proposal of the Respondent and directed the answering Respondent to apply as a violation category. Be that as it may, the answering Respondent has now been finally granted the TOR on 04.12.2020.

45. That it is submitted that 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.

46. 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.

47. 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. True Copy of the SOP dated 07.07.2021 is marked and appended as **ANNEXURE R-24**.

48. That it is submitted that the imposition of Environmental Compensation by the Hon'ble Tribunal 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. That the Answering Respondent seeks to place 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.

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

49. 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 Consent Applications due to confusion in the respective Departments on the applicability of EIA, 2006.

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 TOR application was delisted on 31.12.2018. It is submitted that Annexure-C of the said report further notes that the unit had applied for EC before 31.03.2016 and a legal case has been filed against the Respondent by the GPCB on 21.02.2019 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 of 5 ha as well as the procedure to be followed in case of violation cases under mining.

**G. OBJECTIONS TO 2<sup>ND</sup> COMMITTEE REPORT ON DAMAGE ASSESSEMNT DATED JULY, 2019**

50. That it is submitted that the 2nd 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. (Kindly Refer to Page 929 of the Damage Assessment Report).
51. That it is submitted that the second Committee arbitrarily and mechanically calculated the compensation of Rs. 1,15,74,733/- for the present Respondent despite acknowledging absence of any damage of the environment. It had 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.
52. That it is submitted that the Report has explicitly noted that the method of mining used by the Respondent No. 18 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)

53. That it is submitted that the 2nd 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 2016 to 2019.

54. It is submitted that there are serious flaws associated with the criteria for imposing the damages and the methodology adopted by the 2nd 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 2<sup>nd</sup> Committee in its Damage Assessment Report.

**Erroneous use of the CPCB Guidelines for Environmental Compensation**

55. 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 1,15,74,733 ( Page 932 of the Damage Assessment Report) on the basis of Guidelines of CPCB on Assessment of Environmental Compensation (Deterrent Penalty Factor). The first method of Environmental Compensation devised by CPCB in OA 593/ 2017, which 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. Thus, it cannot be used as a method for devising environment compensation. Moreover, it is related to relating to penal action for failure to

set up and maintain Sewage Treatment Plants (STPs), CEPTs and EPTs and recovery of compensation for such failure. It is humbly submitted that the directions of the NGT in OA 593/2017 were issued for discharge of STPs, CEPTs and EPTs, untreated effluents in water bodies leading to contamination of water. 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.

1. 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; **1566**
- 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 the mine of Dinesh Kumar and Co., 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. PI is calculated as a sum of water pollution score, air pollution score and hazardous waste generation. 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. It is submitted that on account of no effluent discharge, the PI must be taken to be 0 especially when the Committee in its report has observed that there is no instance of water pollution and/ or hazardous pollution (Please refer Pg. 21 of the Committee Report)

**Erroneous Use Of SEAC-SEIAA, Gujarat Guidelines**

56. 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

57. The criteria for determining compensation is arbitrary and vague. To establish the vague and arbitrary nature of compensation proffered, the cost of sapling is fixed at Rs 100 each, while Gardener's salary is fixed at Rs 5000 p/m (Please refer to Page 926). 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.

### **Inadequacy in Institutional Capacity**

58. That it is submitted that the Committee members 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 935). 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. Hence, it is submitted that the assessment be carried out in a scientific manner, through proper institutional capacity without prejudice to the Respondent.

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

59. That it is submitted that 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 objecting to the assessment by the 2<sup>nd</sup> Committee as being arbitrary and further stating that no adverse ecological damage has occurred as a result of the mining operations of the present Respondent ( See Pg No.1097-1099) .

60. That it is submitted that despite the said observation, IIT Gandhinagar relied upon the findings of the 2<sup>nd</sup> Committee and merely calculated the damages on the basis of the average of the three computations arrived by the 2<sup>nd</sup> Committee. That the Final Project Report imposed an arbitrary and unjustified sum of Rs. 66,34,530 on the present Respondent.

61. It is submitted 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.
62. 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 1097 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.
63. 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 water sprinklers are used for dust suppression, trees have been planted along the periphery during mining and vehicles used for transportation of mined material have been installed with muffler machinery which is lubricated periodically.
64. 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 IIT Gandhinagar have failed to understand the applicability for prior EC for major mineral mines of 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 baseless calculations and criteria for determining the amount of compensation to be imposed on the Present Respondent.

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

66. It is submitted that the EC Application filed on 17.06.2021 has not been processed by SEIAA despite there being no legal bar to processing the application of my client. That the answering Respondent vide Notice dated 13.09.2021 clarified that in the absence of any interim orders of this Hon'ble Court, the statutory process under EIA Notification 2006 for processing EC Applications cannot be halted. True Copy of Notice dated 13.09.2021 to the Gujarat State Level Appraisal committee is marked and appended as **ANNEXURE R-25**.

67. 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 SEIAA to process EC

application of the present Respondent in accordance with the law which has **1571**  
been suspended due to the pendency of this matter thereby violating the  
established principle of law, also mentioned in the Order dated 21.09.2021  
of this Hon'ble Tribunal.

Date: 11.11.2021  
Place: Pune

**DRAWN AND FILED BY:**



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

**1572**

**IN THE MATTER OF:**

Protection of Environment & Ors

..Applicants

Versus

Union of India & Ors.

..Respondents

**AFFIDAVIT**

I, Mr. Ashokbhai Vinodbhai Jimuliya, resident of Jaidev Palace, Somnath Society, Behind Padam Transport, 6 ft Road, Veraval, District- Gir Somnath 362255, presently at Gujarat, authorized signatory of M/s Dinesh Kumar and Company do hereby solemnly affirm and declare as under:

1. That I am the authorized signatory of Respondent No. 18 in the above-mentioned Application and as such I am well conversant with the facts and circumstances of the case and I am competent to swear the present affidavit.
2. That the contents of the accompanying application have been drafted by the counsel under my instructions and the contents are true and correct to the best of my knowledge and nothing material has been concealed there from.



Verification:

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.

Identify the Deponent who has signed/out T. in my presence

*Neelam Sharma*

20 SEP 2021

*Dineshkumar & Co.*

*20.09.2021*

DEPONENT

ATTESTED

NOTARY (Govt. of India)  
Neelam Sharma  
Advocate  
In No. 105/A, Gate No. No. 11,  
Palais House Courts,  
New Delhi-110001  
(M): 9899408301

*Dineshkumar & Co.*

*20.09.2021*

DEPONENT

20 SEP 2021

Annexure R-1  
(copy) 1573

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.

.....].  
[Dr Dhananjaya Y Chandrachud]

.....].  
[M R Shah]

Signature valid  
New Delhi;  
Digitally signed by  
Sanjay Kumar  
Date: 2021.07.  
16:47:18  
Reason: S-



**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

				<p>Note: (1) Mineral prospecting is exempted (2) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI</p>
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**66.** By this, all mining activities either major or minor, having extent equal to or less than 100 hectares was classified as Category "B" and time for filing Environment Clearance was taken away. So that makes mandatory for all mining operations, to file their application for Environment Clearance immediately.

**67.** MoEF & CC issued another Office Memorandum No. 22-10/2019-IA. III, dated 9.9.2019 regarding consideration of Category "B" violation proposal at State level as per Notification dated 14.3.2017 which reads as follows:

*"Office Memorandum*

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

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

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

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

*Further, Ministry vide Notification S.O. 1030(E) dt.8.3.2018 amended the Notification S.O. 804(E) dt. 14.3.2017 and delegated the power to the States for appraisal of category B proposals which are under violation of EIA Notification.*

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

*The Hon'ble High Court of Madras vide order dt. 14.3.20-18 was of the view that it will serve the ends of justice if time is extended by 30 days from the date of delivery of the order, thereby extending the time till 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 Hih Court (14.3.2018 - 13.4.208) to submit proposals under violation of EIA Notification. The Ministry has issued OM dt. 16.3.2018 for the compliance of the order dt. 14.3.2018 of Hon'ble High Court of Madras.

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

It is possible that there may be certain category B proposals which were submitted at SEIAA during or prior to the violation window period but not under violation category and later during the appraisal by State Level Expert Appraisal Committee identified as violation proposals.

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

**68.** The Principal Bench of the National Green Tribunal, New Delhi in *NARESH ZARGAR v. STATE OF MADHYA PRADESH* (O.A. No. 34 of 2016 dated 4.5.2016) along with connected cases, after considering the scope of the application and also scope of the judgment of the Hon'ble Supreme Court in *DEEPAK KUMAR's* case and also the decision of the National Green Tribunal in *HIMMAT SINGH SHEKHAWAT v. STATE OF RAJASTHAN* (O.A. No. 123 of 2014 dated 13.1.2015) observed that the existing mining lease holders should have complied with the requirement of obtaining Environment Clearance from the competent authority in accordance with law and three months time was given for filing application for obtaining Environment Clearance and the same was directed to be disposed of within a period of six months from 13.1.2015. Since the same could not be complied with, certain applications have been filed for extension of time and also for reviewing the order in O.A. No. 123 of 2014 etc and the Tribunal by order dated 13.1.2015 held that no mining activity, including existing units, would be permitted to go on, without taking Environment Clearance and disposed of all the applications as follows:

*"We hereby quash and direct the State of Madhya Pradesh ad all other concerned States including Rajasthan not to issue such circulars and any other circular in variation and/or in derogation of the orders of the Tribunal.*

*All the district level authorities DEIAA and DEAC are directed to dispose of all the applications pending with them by 31<sup>st</sup> May, 2016 positively. We will not grant any extension of time for this purpose hereafter.*

*All the mines owners which of them have not submitted the applications as on 31<sup>st</sup> March, 2016 to SEIAA, DEIAA ad DEAC shall be shut down forthwith and will not be permitted to carry on any mining activity in any manner whatsoever*

*The applications which are deficient and where the applications have not submitted all requisite documents, such applicants are hereby granted last opportunity of 1 week to submit the documents. In the event they fail to submit such document and make applications complete and errorless in all respects then after the stated period of 1 week they shall also be liable to be shut down without*

any further notice. If they comply with this direction, they would so be entitled to the advantage upto 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*

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

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.

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**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.

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† Southern Zone, Chennai

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(2) पैरा 3 में,—

(i) मद (क) में, "और 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 प्रविष्टियों के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् "20: 5 हेक्टर से अधिक के लिए पट्टे सहित खनन परियोजनाएं (मृत्त खनिज)।";

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

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

[सं. जेड-12013/4/89-1 ए-1]

के. के. बक्शी, अपर सचिव

टिप्पणी:—मूल नियम, कां.आं. 60(अ) दिनांक 27 जनवरी, 1994 द्वारा जारी किया गया था; नपश्चान् कां.आं. 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 I,—

(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 I, 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.

- (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 बॉडी में जल की मात्रा और गुणवत्ता ;
- (3) भूमि पर छोड़े जाने वाले अपशिष्ट जल की मात्रा और भूमि की किस्म ;
- (छ) (1) आवश्यक आवाह शोधन योजना सहित अवाश्यक 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 स्तर ।
- (ख) परिवर्ती शोर स्तर ।
- (ग) शोर और कंपन नियंत्रण के प्रस्तावित उपाय ।
- (घ) अवतलन समस्या, यदि कोई हो, और उसके नियंत्रण के उपाय ।
8. बिजली की आवश्यकता, जिसमें आपूर्ति के स्रोत का उल्लेख हो, यदि कैप्टिव बिजली इकाई लगाने का प्रस्ताव हो तो पूरा पर्यावरणीय ब्यौरा धराल से भेजें ।
9. लगाया जाने वाला चरम श्रमिक बल, जिसमें निम्न ब्यौरा दिया जाए :
- अपशिष्ट जल/वायु/मृदा जनित रोगों के कारण क्षेत्र में स्थानिक स्वास्थ्य समस्याएं ।
- विद्यमान और प्रस्तावित स्वास्थ्य देखभाल प्रणाली ।
10. (क) विस्थापित होने वाले गांवों और लोगों की संख्या
- (ख) पुनर्वास बृहत् योजना ।
11. जोखिम निर्धारण रिपोर्टें तथा विषय 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 रिपोर्टें ;
- (घ) विविधत भरी हुई प्रस्तावनी ।
13. पर्यावरणीय प्रबन्ध कक्ष का ब्यौरा ।

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

कर दिया जायेगा और परियोजना को भी नहीं रोकना पड़ेगा, यदि कोई भी, को हमारी जोखिम और लागत पर वापस लिया जा सकेगा ।

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

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

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

अनुसूची-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, उरुकुट और अनुभवों पर स्थिति-विज्ञानी या पर्यावरणविद या तकनीकी व्यावसायिक या सुसंगत विकास क्षेत्र में बृहत् प्रबंधकीय अनुभव का होगा ।
3. प्रभाव निर्धारण अभिकरण/केन्द्र/राज्य का प्रतिनिधि सदस्य-सचिव के रूप में कार्य करेगा ।
4. अध्यक्ष और सदस्य प्रतिनिधियों के रूप में विविध रूप में नामनिर्दिष्ट व्यक्तियों को छोड़कर दीयक्तित्व शून्यता 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 ;

project be rejected and the clearance given, if any, to the project is likely to be revoked at our risk and cost.

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Signature of the applicant  
with name and full address.

## 6. Solid wastes :

- (a) Nature and quantity of solid wastes generated.  
(b) Solid waste disposal method:

Date.  
Place:

Given under the seal of  
Organisation on behalf of  
whom the applicant is  
signing.

## 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:

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.

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

-TRUE COPY-

## 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.

*For Hindustan Copper Ltd.*

ANNEXURE R-4

1590

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

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**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(H), 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/naphtha &amp; gas based);</p> <p>≥ 50 MW (Pet coke diesel and all other fuels -)</p>	<p>&lt; 500 MW (coal/lignite/naphtha &amp; gas based);</p> <p>&lt;50 MW</p> <p>≥ 5MW (Pet coke ,diesel and all other fuels )</p>	General Condition shall apply

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साधारण जानकारी के लिए अपने वेबसाइट पर कार्यवाहियों को प्रदर्शित भी करेगी। कार्यवाहियों पर टीका-टिप्पणियों को, यदि कोई हों, संबंधित विनियामक प्राधिकरणों और संबंधित आवेदक को प्रत्यक्षतः भेजी जा सकेगी।

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### 7.0 लोक सुनवाई को पूरा करने के लिए कालावधि

7.1 लोक सुनवाई आवेदक से अनुरोध पत्र की प्राप्ति की तारीख से पैंतालीस दिन की अवधि के भीतर पूरी की जाएगी। इसके पश्चात् संबंधित राज्य प्रदूषण नियंत्रण बोर्ड या संघ राज्यक्षेत्र प्रदूषण नियंत्रण समिति लोक सुनवाई के पूरा होने के आठ दिनों के भीतर संबंधित विनियामक प्राधिकरण को लोक सुनवाई की कार्यवाहियों को भेजेगी। उसी तरह एक प्रति परियोजना प्रस्तावक को भी भेजी जाएगी। आवेदक, उन समुत्थानों को संबोधित करते हुए कार्रवाई योजना और वित्तीय आबंटन मद-वाद के साथ लोक सुनवाई में व्यक्त चिंताओं को सम्मिलित करते हुए लोक सुनवाई और लोक परामर्श के पश्चात् तैयार की गई अंतिम पर्यावरणीय समाघात रिपोर्ट या प्रारूप पर्यावरण समाघात निर्धारण रिपोर्ट पर अनुपूरक रिपोर्ट की प्रति के साथ संबंधित विनियामक प्राधिकरण की, अनुमोदित लोक सुनवाई कार्यवाहियों की एक प्रति प्रत्यक्षतः भी अग्रेषित करेगा।

7.2 यदि राज्य प्रदूषण नियंत्रण बोर्ड या संघ राज्यक्षेत्र प्रदूषण नियंत्रण समिति, नियत पैंतालीस दिनों के भीतर लोक सुनवाई करने में असफल रहती है तो केन्द्रीय सरकार, पर्यावरण और वन मंत्रालय, प्रवर्ग 'क' परियोजना या क्रियाकलाप के लिए और प्रवर्ग ख परियोजना या क्रियाकलाप के लिए और राज्य सरकार या संघ राज्यक्षेत्र प्रशासन, राज्य पर्यावरणीय समाघात निर्धारण प्राधिकरण के अनुरोध पर, किसी अन्य अभिकरण या प्राधिकरण को इस अधिसूचना में अधिकथित प्रक्रिया के अनुसार प्रक्रिया को पूरा करने के लिए नियोजित करेगी।”;

### VIII परिशिष्ट 5 के पैरा 3 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :-

“3. जहां कोई लोक परामर्श आज्ञापक नहीं है वहां आकलन अनुसूची की मद 8 के अलावा सभी परियोजनाओं और क्रियाकलापों की दशा में विहित आवेदन प्ररूप 1 और ईआईए रिपोर्ट के आधार पर किया जाएगा। अनुसूची की मद 8 की दशा में इसके विलक्षण परियोजना चक्र को ध्यान में रखते हुए संबद्ध पर्यावरणीय निर्धारण समिति या राज्य पर्यावरणीय निर्धारण समिति प्ररूप 1 प्ररूप - 1क और धारणा योजना के आधार पर सभी प्रवर्ग ख परियोजनाओं या क्रियाकलापों का आकलन करेगी और परियोजना के लिए पर्यावरणीय अनापत्ति देने या अन्यथा के अनुमोदन के बारे में सिफारिश करेगी और पर्यावरणीय अनापत्ति के लिए शर्तों का भी अनुबंध करेगी।”

[सं. जे-11013/56/2004-1 ए II(1)]

जी. के. पाण्डेय, सलाहकार

**टिप्पण :** मूल नियम भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उपखंड (ii) में अधिसूचना संख्या का.आ. 1533 (अ) तारीख 14 सितंबर, 2006 द्वारा प्रकाशित किए गए थे और उनको का.आ. 1737 (अ) तारीख 11 अक्टूबर, 2007 द्वारा संशोधित किया गया।

## 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 1598 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:—

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(1)	(2)	(3)	(4)	(5)
"1(a)	(i) Mining minerals.	of ≥50 ha of mining lease area in respect of non-coal mine lease.  >150 ha of mining lease area in respect of coal mine lease.  Asbestos mining irrespective of mining area.	<50 ha ≥5 ha of mining lease area in respect of non-coal mine lease.  ≤150 ha ≥5 ha of mining lease area in respect of coal mine lease.	General Condition shall apply.  Note: Mineral prospecting is exempted.”;
	(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.";

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**(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	

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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."

1607

**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

1608

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~~ 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****1610**

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(1)]

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.

**IMMEDIATE**  
**BY SPEED POST**

**F. No. J-11011/81/2003-IA-II (I)**  
**Government of India**  
**Ministry of Environment & Forests**  
**(IA Division)**

Paryavaran Bhawan  
CGO Complex, Lodhi Road  
New Delhi – 110 003.  
E-mail: [plahujarai@yahoo.com](mailto:plahujarai@yahoo.com)  
Tele: 011-2436 3973  
Dated: October 21<sup>st</sup>, 2010

To,  
The Chief Secretary,  
State Government of Jharkhand,  
Project Building, Dhurwa, Ranchi - 834004

**Sub: Environmental clearance to the mining leases of 5 ha (major minerals and mining leases of minor mineral of 5 ha which have been operating before 14.9.2006 - applicability of EIA Notification, 2006.**

Sir,

The undersigned is directed to refer to the above subject. The Ministry vide circular no. J-15012/35/2007-IA-II (M) - Part dated 2.07.2007 clarified the applicability of EIA Notification, 2006 on the mining leases of 5 ha regarding major and minor minerals which have been operating before 14.09.2006. As per the above circular, it was clarified that all such projects which have been operating without any environmental clearance would obtain environmental clearance at the time of their lease renewal even if there is no increase either in the term area or production. A copy of the above circular is enclosed for ready reference.

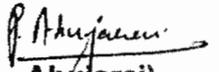
2. The findings of the report of the Committee for investigation into the proposal submitted by the Orissa mining company for bauxite in Niyamgiri under the Chairmanship of Dr. N.C. Saxena inter alia has brought out that M/s Vedanta Alluminium Limited (VAL) is sourcing the bauxite from 14 mines, 11 of which do not have requisite environmental clearance. All these mines are located in the State of Jharkhand as may be seen from the enclosed list.

3. The Ministry issued a show cause notice to M/s Vedanta Alluminium Limited vide letter of even no. dated 31<sup>st</sup> August, 2010 for non-compliance of environmental clearance conditions for 1 million MTPA refinery and 75 MW Captive Power Plant. While responding to the show cause notice issued, M/s VAL have clarified that the requirement for environmental clearance for the mines has come into force only after the issuance of the EIA Notification, 1994. The mines operating before 1994 have neither increased the capacity nor the mining area. According to M/s Vedanta Alluminium Limited, therefore, no environmental clearance is required in such cases, none of the mines from which M/s VAL are sourcing the bauxite have increased their capacity or lease area after 1994, the parties are having the mining lease and operating the mine prior to 1994 and in some of the cases, the lease has been expired and the application for renewal has been submitted, however, no renewal has been granted till date and therefore, the lease is deemed to have been extended.

4. It is noted that some of the mines have applied to this Ministry for obtaining environmental clearance. Most of the mines in question appears to be operating under the deemed renewal. As per the directions of the Supreme Court and the clarificatory OM issued by the Ministry dated 2<sup>nd</sup> July, 2007 all such projects, which have been operating without any environmental clearance would obtain environmental clearance at the time of their renewal of their mining lease.

5. In view of the above, it is requested that all the concerned Departments may be directed that the project proponent of the concerned mines shall obtain environmental clearance at the time of renewal of mine lease under the provisions of EIA Notification, 2006, otherwise, punitive action will need to be taken under the Environment (Protection) Act, 1986 for violating its provision and the EIA Notification, 2006.

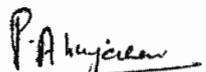
6. This issues with the approval of the Competent Authority.

  
(Dr. P.L. Ahujarai)  
Scientist -F

Encl: as above

Copy to:-

1. The Secretary (Ministry of Mines), Shastri Bhawan, Government of India, New Delhi.
2. The Secretary, Department of Environment & Forest, Govt. of Jharkhand, Nepal House, Ranchi.
3. The Chief Conservator of Forests, Ministry of Environment & Forests, Regional Office, (EZ) A-3, Chandrashekharpur, Bhubaneswar-715023.
4. The Chairman, Central Pollution Control Board Parivesh Bhavan, CBD-cum-Office Complex, East Arjun Nagar New Delhi – 110 032.
5. The Chairman, Jharkhand State Pollution Control Board, T.A Division Building (Ground Floor) HEC Campus, Dhurwa, Ranchi -834004.
6. Guard File/Monitoring File/Record File.
7. Ministry's Website

  
(Dr. P. L. Ahujarai)  
Scientist 'F'

-TRUE COPY-

To,  
The Secretary,  
State Level Expert Appraisal Committee,  
New Sachivalay,  
Gandhinagar (Gujarat)

Date: 11/05/2010

ANNEXURE R-8  
1613  
(Colly)

Sub: - Submission of application for Prior Environmental Clearance - Form I along with Copy of Mining Scheme of mining project of Khorasha Limestone Mine over an area of 5.00 hect.(survey no.02(Part)) near Village - Khorasha, Taluka - Mahiyahatina, District- Junagarh (Gujarat) in favor of M/s Dinesh Kumar & Company.

Dear Sir,

As per legislative requirement and new EIA Notification 14<sup>th</sup> Sept..2006 I am submitting Form I along with copy of Mining Scheme for seeking Environmental Clearance for the above quoted mine.

Kindly do the needful at an earliest & oblige.

Thanking you.

Yours sincerely

For M/s Dinesh Kumar & Company

સહી. જુજીવણ,  
Signatory authority

11.5.10  
વન અને પર્યાવરણ વિભાગ  
સચિવાલય, ગાંધીનગર

Enclosures:

As above.

1. FORM-I & APPROVED MINING SCHEME - 3 Copy
2. CD (PROJECT) - 1 Ng.



HARDIK SHAH  
SECRETARY

State Level Expert Appraisal Committee

STATE LEVEL EXPERT APPRAISAL  
COMMITTEE, GUJARAT.

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

Phone : 079 -23232152, 23241514

Fax : 079 -23222784.

1614

34

Ref. No.: EIA-10-2010- 688-E. *157401* Date: August 17, 2010.

*Sub: Environmental Clearance under the EIA Notification, 2006.*

Dear Sir,

This refers to your application dated 12-05-2010 submitted to the State Level Expert Appraisal Committee, Forests & Environment Department, Government of Gujarat, regarding the subject mentioned above.

It is proposed to consider the said proposal in the next meeting of the State Level Expert Appraisal Committee, Gujarat, to be held on 26<sup>th</sup> Aug, 2010 at 4:30 PM in the Conference Room of Gujarat Pollution Control Board, Sector 10-A, Gandhinagar

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

With regards,

Yours sincerely,

(Hardik Shah)

Secretary, State Level Expert Appraisal Committee

To,

Ashok Kumar Jimuliya

Khorasha Gir Limestone Mine

M/s Dinesh Kumar & Company

Main Bazar, P.O. Prabhash Patan ,

Via Veraval - 362268

Dist : Junagadh.

Mo : 9824623377, Fax : 6294-2489672



**HARDIK SHAH  
SECRETARY**

**State Level Expert Appraisal Committee**

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

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

Phone : 079 -23232152, 23241514

Fax : 079 -23222784.

Email : ms-gpcb@gujarat.gov.in

Ref. No.: EIA-10-2010-688-E. 60286 Date: October 8, 2010.

13 OCT 2010

To,  
Ashok Kumar Jimuliya  
Khorasha Gir Limestone Mine  
M/s Dinesh Kumar & Company  
Main Bazar, P.O. Prabhash Patan ,  
Via Veraval – 362268  
Dist : Junagadh.  
Mo : 9824623377, Fax : 0294-2489672

**Sub: Environment Clearance under the EIA Notification 2006 for your proposed project  
Nr. Village khorasa Gir, Ta:Maliyahatina, Dist: Junagadh.**

Dear Sir.

This refers to your application on the subject mentioned above and the meeting held with the State Level Expert Appraisal Committee, Gujarat, on 27<sup>th</sup> Aug, 2010. The relevant information furnished in Form I and presentation made before the SEAC was considered and the additional information required was communicated to you by the SEAC immediately after the said presentation. However, a copy of the same is attached herewith for further necessary action at your end. You may please furnish the desired information / documents to enable us to process the application further.

With regards,

Yours sincerely,

(Hardik Shah)

Secretary, State Level Expert Appraisal Committee

Encl : As above.

It is lime stone mining project with a 5.00 Ha lease area. The project proponent has applied for enhancing production of lime stone from from 6000 tons/annum to 20500 tons/annum. Being a mining project with mining lease area less than 50 ha, the project falls under Category B of project activity 1(a) as per the EIA Notification 2006. Five year mining plan for the period 2009-10 to 2013-14 has been approved on 16/9/2009. Total water requirement (drinking + green belt development + dust suppression) will be 3 KL/day. The method of mining will be manual open cast by maintaining the bench height of 1.5 m without drilling and blasting.

The presentation by the project proponent included location map, highlights of the mine, features around the project, salient features of the project, key plan, surface geological plan, geological sections, method of mining, land use pattern of ML area upto lease period, surface layout plan, lay out sections, land use pattern of ML area upto mine closure stage, conceptual plan & sections, topography, water environment, water requirement, air environment, noise environment, environmental management plan, proposed socio-economic upliftment activities, afforestation, disaster management plan, monitoring schedule for environmental parameters, cost of environmental protection measures etc.

The committee noticed that Kalipath river is passing nearby site at a distance of only about 50 m and hence asked the project proponent to take all necessary measures for ensuring that contaminated runoff from mine terrain will not lead to the Kalipath river. After deliberations, the project proponent was asked to include the following additional TOR for the EIA study to be done covering 10 km aerial coverage around the mine lease periphery :

1. Certificate obtained from forest department regarding distance of the mine area from the boundary of Gir National Park, Gir Wild Life Sanctuary & lion corridor / eco-sensitive zone and their no objection for the proposed mining activities. A satellite image showing aerial distance of the mine area from the Gir National Park and Wild Life Sanctuary should also be incorporated.
2. Undertaking stating that drilling and blasting operations shall not be carried out in any case.
3. Copies of all requisite permissions including permissions from District Collector, Commissioner of Geology & Mining, Indian Bureau of Mines, GPCB etc. to be incorporated.

4. Land use plan of the mine lease area should be prepared to encompass pre-operational, operational and post operational phases.
5. Land use of the study area delineating forest area, agricultural area, waste land, grazing land, human settlements, water bodies etc. based on satellite imagery.
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 for ensuring that contaminated runoff from mine terrain will not lead to the Kalipath river, in any case.
7. Air quality modeling should be carried out for prediction of impact of the project on the air quality of the area. It should also take in to account the impact of movement of vehicles for transportation of mineral. The details of the model used and the input parameters used for modeling should be provided. The air quality contours may be shown on the location map clearly indicating the location of site, location of sensitive receptors, if any, and habitation.
8. Significance of dust fall and details of mitigation measures for SPM control at mine site.
9. The impact due to fugitive emissions including that because of transport activities and the mitigation measures thereof need to be elaborated.
10. Dust suppression measures & control measures at worker level & proposed PPE to workers.
11. Impact on local transport infrastructure due to the project. Projected increase in truck traffic as a result of the project in the present road network and whether it is capable of handling the increased load. Arrangement for improving the infrastructure like road etc. if any should be covered.
12. 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.
13. Details of the water conservation measures proposed to be adopted in the project may be highlighted.
14. Detailed overburden and mine rejects management plan.
15. Detailed write up and drawing of mine closure plan. Provision for compaction of back filling layer. Water reservoirs to be constructed after closure of mine should be in proper shape and having proper fencing.
16. The reclamation plan, post mine land use and progressive green belt development plan along with year wise financial outlay shall be included.
17. 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 ground water. In the case of intersection of ground water with working level, a detailed hydro geological study should be undertaken and report should be furnished.

18. Detailed survey of flora and fauna in the study area and impacts of the project on the same along with mitigation measures.
19. 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.
20. Details of the basic amenities and infrastructure facilities 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.
22. A detailed greenbelt development plan and socio-economic upliftment activities to be incorporated in the EMP.
23. Any litigation pending against the project and / or any direction / order passed by any Court of Law against the project, if so, details thereof.
24. Letter / NOC from the gram panchayat regarding mine operation and no damage due to blasting operations.
25. A tabular chart for the issues raised and addressed during public hearing/consultation should be provided

The draft EIA report also covering the above TOR shall be prepared and submitted to the Gujarat Pollution Control Board for conducting the public hearing / consultation process as per the provisions of the EIA Notification, 2006. The project shall be appraised after receipt of the final EIA report.

# DINESHKUMAR & COMPANY

**MINES OWNER & MINERALS MERCHANTS**

1619

## REGISTER OFFICE

Main Bazar,  
Prabhash Patan.  
Via : Veraval  
Pin : 362 268  
Phone (O)(02876) 31354. 31055  
(R) 32727  
Fax- No. - 40258

## WORKS

At. Khorasa (Gir)  
P.o. Sherbaug, Gadu.  
Taluko - Maliya Hatina  
Dist Junagadh

Date: 19.10.2010

Ref. No

To,  
The Secretary,  
State Level Expert Appraisal Committee,  
New Sachivalay,  
GANDHINAGAR.

SUB :- EC for mining lease

REF :- Our application date 11.05.2010

REF :- EIA/1012010-688-B-157401-17.08.2010

Dear Sir,

As per new EIA-Notification 14.10.2006 I have submitted Form 1 along with copy of mining scheme for seeking environmental clearance for the Khorasa lime stone mine DINESHKUMAR AND COMPANY.

I request you to grant EC for the Khorasa lime stone mine, the meeting held on 26.08.2010 at Conference room of GPCB Sector 10-A, Gandhinagar.

Waiting your favourable reply.

Yours faithfully,

**FOR, DINESHKUMAR & CO.**

*Corjimulfer*

**PARTNER**

**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)".

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(III) In the Schedule, -

(i) against item 1(a), -

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

"General conditions shall apply.

Note:

- (i) Prior environmental clearance is as well required at the stage of renewal of mine lease for which application should be made up to one year prior to date of renewal.
- (ii) Mineral prospecting is exempted."

(ii) against item 7(f), -

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

"(i) All New State Highway Projects".

(iii) against item 8(a), -

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

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

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

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

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

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.

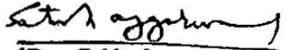
3. In order to ensure compliance of the above referred order of the Hon'ble Supreme Court dated 27.2.2012, it has now been decided that all mining projects of minor minerals including their renewal, irrespective of the size of the lease would henceforth require prior environment clearance. Mining projects 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."**

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-

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.”.
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[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.

NOTIFICATION

New Delhi, the 7th October, 2014

ANNEXURE R-12

**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 :—

1628

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>

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

Dineshkumar and company  
Main bazar, prabhas patan,  
Dist. Gir somnath  
Dt. 17/01/2015

**1630**

To,  
The Secretary  
S.E.A.C. Sector 10-A,  
Environment building,  
Gujarat pollution control board,  
Gandhinagar.

Sub:- matter of seeking the environment clearance for the lime stone major mineral mines and add in B2 category as per the EIA notification of 14<sup>th</sup> sep. 2006  
At. Khorasa Ta. Maliya Hatina Dist. Junagadh  
Ref.:- Geologist , the geology and mining department At. Junagadh Dist. Junagadh

Sir,

As per the above subject application for E.C. and required document is attached with the Form B that I informed you.

Enclosures,  
(1) request latter of to grant E.C.  
(2) Form-1  
(3) request latter of the add in B2 category

Thanking you,

Your sincerely

For M/S Dinesh kumar and company

Ashok V. Jimuliya  
Signatory authority

Seal and Sign of  
Geologist and mining department  
At. Junagadh

**-TRUE COPY-**

Annexure - IV  
Annexure-I

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:-

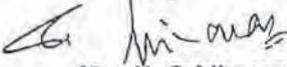
- (i) After the amendment vide S.O. 2601 (E) dated 7<sup>th</sup> October 2014, all new mining operations are required to obtain Prior Environmental Clearances.
- (ii) After the amendment vide S.O. 2601 (E) dated 7<sup>th</sup> October 2014, Environmental Clearances are required for mining of major minerals 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





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)

**-TYPED COPY-**

## MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

## NOTIFICATION

1635

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.

5. **Tenure:** The maximum tenure of expert members shall be for two terms of three years each.
6. The Expert Members may not be removed prior to expiry of the tenure without cause and proper enquiry.

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**APPENDIX VIII****(See paragraph 6)****FORM 1 M****APPLICATION FOR MINING OF MINOR MINERALS UNDER CATEGORY 'B2' FOR LESS THAN AND EQUAL TO FIVE HECTARE****(II) Basic Information**

- (viii) Name of the Mining Lease site:
- (ix) Location / site (GPS Co-ordinates):
- (x) Size of the Mining Lease (Hectare):
- (xi) Capacity of Mining Lease (TPA):
- (xii) Period of Mining Lease:
- (xiii) Expected cost of the Project:
- (xiv) Contact Information:

**Environmental Sensitivity**

Sl. No.	Areas	Distance in kilometer / Details
1.	Distance of project site from nearest rail or road bridge over the concerned River, Rivulet, Nallah etc.	
2.	Distance from infrastructural facilities Railway line National Highway State Highway Major District Road Any Other Road Electric transmission line pole or tower Canal or check dam or reservoirs or lake or ponds In-take for drinking water pump house Intake for Irrigation canal pumps	
3.	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	
4.	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests	
5.	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	
6.	Inland, coastal, marine or underground waters	
7.	State, National boundaries	
8.	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas	
9.	Defence installations	
10.	Densely populated or built-up area, distance from nearest human habitation	
11.	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)	
12.	Areas containing important, high quality or scarce resources (ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)	
13.	Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)	
14.	Areas susceptible to natural hazard which could cause the project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)	

15.	Is proposed mining site located over or near fissure / fracture for ground water recharge	
16.	Whether the proposal involves approval or clearance under the following Regulations or Acts, namely:- (a) The Forest (Conservation) Act, 1980; (b) The Wildlife (Protection) Act, 1972; (c) The Coastal Regulation Zone Notification, 2011. If yes, details of the same and their status to be given.	
17.	Forest land involved (hectares)	
18.	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 or directions of the Court, if any, and its relevance with the proposed project.	

(Signature of Project Proponent  
Along with name and address)

#### APPENDIX – IX

[See paragraph 7(i) (B)]

#### EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE

The following cases shall not require prior environmental clearance, namely:-

1. Extraction of ordinary clay or sand, manually, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs.
2. Extraction of ordinary clay or sand, manually, by earthen tile makers who prepare earthen tiles.
3. Removal of sand deposits on agricultural field after flood by farmers.
4. Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.
5. Community works like de-silting of village ponds or tanks, construction of village roads, ponds, bunds undertaken in Mahatama Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes, and community efforts.
6. Dredging and de-silting of dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management.
7. Traditional occupational work of sand by Vanjara and Oads in Gujarat *vide* notification number GU/90(16)/MCR-2189(68)/5-CHH, dated the 14<sup>th</sup> February, 1990 of the Government of Gujarat.
8. Digging of well for irrigation or drinking water.
9. Digging of foundation for buildings not requiring prior environmental clearance.
10. Excavation of ordinary earth or clay for plugging of any breach caused in canal, nala, drain, water body, etc., to deal with any disaster or flood like situation upon orders of District Collector or District Magistrate.
11. Activities declared by State Government under legislations or rules as non-mining activity with concurrence of the Ministry of Environment, Forest and Climate Change, Government of India.

#### APPENDIX - X

[See paragraph 7 (iii) (a)]

#### PROCEDURE FOR PREPARATION OF DISTRICT SURVEY REPORT

The main objective of the preparation of District Survey Report (as per the Sustainable Sand Mining Guideline) is to ensure the following:

Identification of areas of aggradations or deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining in that area.

The report shall have the following structure:

1. Introduction
2. Overview of Mining Activity in the District
3. The List of Mining Leases in the District with location, area and period of validity
4. Details of Royalty or Revenue received in last three years
5. Detail of Production of Sand or Bajari or minor mineral in last three years
6. Process of Deposition of Sediments in the rivers of the District
7. General Profile of the District
8. Land Utilization Pattern in the district: Forest, Agriculture, Horticulture, Mining etc.

9. Physiography of the District
10. Rainfall: month-wise
11. Geology and Mineral Wealth

In addition to the above, the report shall contain the following:

- (a) District wise detail of river or stream and other sand source.
- (b) District wise availability of sand or gravel or aggregate resources.
- (c) District wise detail of existing mining leases of sand and aggregates.

A survey shall be carried out by the DEIAA with the assistance of Geology Department or Irrigation Department or Forest Department or Public Works Department or Ground Water Boards or Remote Sensing Department or Mining Department etc. in the district.

#### Drainage system with description of main rivers

S. No.	Name of the River	Area drained (Sq. Km)	% Area drained in the District

#### Salient Features of Important Rivers and Streams:

S. No.	Name of the River or Stream	Total Length in the District (in Km)	Place of origin	Altitude at Origin

Portion of the River or Stream Recommended for Mineral Concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)

#### Mineral Potential

Boulder (MT)	Bajari (MT)	Sand (MT)	Total Mineable Mineral Potential (MT)

#### Annual Deposition


S. No.	River or Stream	Portion of the river or stream recommended for mineral concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)
Total for the District						

A Sub-Divisional Committee comprising of Sub-Divisional Magistrate, Officers from Irrigation department, State Pollution Control Board or Committee, Forest department, Geology or mining officer shall visit each site for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof.

#### Methodology adopted for calculation of Mineral Potential:

The mineral potential is calculated based on field investigation and geology of the catchment area of the river or streams. As per the site conditions and location, depth of minable mineral is defined. The area for removal of the mineral in a river or stream can be decided depending on geo-morphology and other factors, it can be 50 % to 60 % of the area of a particular river or stream. For example in some hill States mineral constituents like boulders, river born Bajri, sand up

to a depth of one meter are considered as resource mineral. Other constituents like clay and silt are excluded as waste while calculating the mineral potential of particular river or stream.

The District Survey Report shall be prepared for each minor mineral in the district separately and its draft shall be placed in the public domain by keeping its copy in Collectorate and posting it on district's website for twenty one days. The comments received shall be considered and if found fit, shall be incorporated in the final Report to be finalised within six months by the DEIAA.

The District Survey Report shall form the basis for application for environmental clearance, preparation of reports and appraisal of projects. The Report shall be updated once every five years.

#### APPENDIX - XI

[See paragraph 7 (iii) (b)]

#### PROCEDURE FOR ENVIRONMENTAL CLEARANCE FOR MINING OF MINOR MINERALS INCLUDING CLUSTER

The following policy shall be followed for environmental clearance of mining of minor minerals including cluster situation:-

- (1). The data provided by the States (Sustainable Sand Mining Guidelines) shows that most of the mining leases for minor minerals are of lease area less than 5 hectare. It is also reported that in hill States getting a stretch in river with area more than 5 hectare is very uncommon. So the size of lease for minor minerals including river sand mining will be determined by the States as per their circumstances.
- (2). The mining of minor minerals is mostly in clusters. The Environment Impact Assessment or Environment Management Plan are required to be prepared for the entire cluster in order to capture all the possible externalities. These reports shall capture carrying capacity of the cluster, transportation and related issues, replenishment and recharge issues, geo-hydrological study of the cluster area. The Environment Impact Assessment or Environment Management Plan shall be prepared by the State or State nominated Agency or group of project proponents in the Cluster or the project proponent in the cluster.
- (3). There shall be one public consultation for entire cluster after which the final Environment Impact Assessment or Environment Management Plan report for the cluster shall be prepared.
- (4). Environmental clearance shall be applied for and issued to the individual project proponent. The individual lease holders in cluster can use the same Environment Impact Assessment or Environment Management Plan for application for environmental clearance. The cluster Environment Impact Assessment or Environment Management Plan shall be updated as per need keeping in view any significant change.
- (5). The details of cluster Environment Impact Assessment or Environment Management Plan shall be reflected in each environmental clearance in that cluster and DEAC, SEAC, and EAC shall ensure that the mitigative measures emanating from the Environment Impact Assessment or Environment Management Plan study are fully reflected as environmental clearance conditions in the environmental clearance's of individual project proponents in that cluster.
- (6). A cluster shall be formed when the distance between the peripheries of one lease is less than 500 meters from the periphery of other lease in a homogeneous mineral area.
- (7). Form 1M, Pre-Feasibility Report and mine plan for Category 'B2' projects for mining of minor minerals shall be prepared by the Registered Qualified Person or Accredited Consultants of Quality Council of India, National Accreditation Board for Education and Training. The Environment Impact Assessment or Environment Management Plan for Category 'A' and Category 'B1' projects shall be prepared by the accredited consultants of Quality Council of India, National Accreditation Board for Education and Training.
- (8). The SEIAAs shall have supervisory jurisdiction over the DEIAAs and decisions of DEIAA shall be reviewed by the SEIAA without prejudice to any provisions under any existing law.

#### Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation

Area of Lease (Hectare)	Category of Project	Requirement of EIA / EMP	Requirement of Public Hearing	Requirement of EC	Who can prepare EIA/ EMP	Who will apply for EC	Authority to appraise/ grant EC	Authority to monitor EC compliance
<b>EC Proposal of Sand Mining and other Minor Mineral Mining on the basis of individual mine lease</b>								
0 - 5ha	'B2'	Form -1M, PFR and Approved Mine Plan	No	Yes	Project Proponent	Project Proponent	DEAC/ DEIAA	DEIAA SEIAA SPCB CPCB MoEFCC Agency

> 5 ha and < 25 ha	‘B2’	Form –I, PFR and Approved Mine Plan and EMP	No	Yes	Project Proponent	Project Proponent	SEAC / SEIAA	nominated by MoEFCC
≥ 25ha and < 50ha	‘B1’	Yes	Yes	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	
≥ 50 ha	‘A’	Yes	Yes	Yes	Project Proponent	Project Proponent	EAC/ MoEFCC	
<b>EC Proposal of Sand Mining and other Minor Mineral Mining in cluster situation</b>								
Cluster area of mine leases up to 5 ha	‘B2’	Form –IM, PFR and Approved Mine Plan	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA/	DEIAA SEIAA SPCB CPCB MoEFCC Agency nominated by MoEFCC
Cluster area of Mine leases > 5 ha and < 25 ha with no individual lease > 5 ha	‘B2’	Form –I, PFR and Approved Mine Plan and one EMP for all leases in the Cluster	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA/	
Cluster of mine leases of area ≥ 25 hectares with individual lease size < 50ha	‘B1’	Yes	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	SEAC/ SEIAA	
Cluster of any size with any of the individual lease ≥ 50ha	‘A’	Yes	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	EAC/ MoEFCC	

#### APPENDIX - XII

[See paragraph 10 (iv)]

#### PROCEDURE FOR MONITORING OF SAND MINING OR RIVER BED MINING

1. The security feature of Transport Permit shall be as under:

- (a) Printed on Indian Banks’ Association (IBA) approved Magnetic Ink Character Recognition (MICR) Code paper.
- (b) Unique Barcode.
- (c) Unique Quick Response (QR) code.
- (d) Fugitive Ink Background.
- (e) Invisible Ink Mark.
- (f) Void Pantograph.
- (g) Watermark.

2. Requirement at Mine Lease Site:

- (a) Small Size Plot (Up to 5 hectare): Android Based Smart Phone.

- (b) Large Size Plots (More than 5 hectare): CCTV camera, Personal Computer (PC), Internet Connection, Power Back up.
- (c) Access control of mine lease site.
- (d) Arrangement for weight or approximation of weight of mined out mineral on basis of volume of the trailer of vehicle used.

3. Scanning of Transport Permit or Receipt and Uploading on Server:

- (a) Website: Scanning of receipt on mining site can be done through barcode scanner and computer using the software;
- (b) Android Application: Scanning on mining site can be done using Android Application using smart phone. It will require internet availability on SIM card;
- (c) SMS: Transport Permit or Receipt shall be uploaded on server even by sending SMS through mobile. Once Transport Permit or Receipt get uploaded, an unique invoice code gets generated with its validity period.

4. Proposed working of the system:

The State Mining Department should print the Transport Permit or Receipt with security features enumerated at Paragraph 1 above and issue them to the mine lease holder through the District Collector. Once these Transport Permits or Receipts are issued, they would be uploaded on the server against that mine lease area. Each receipt should be preferably with pre-fixed quantity, so the total quantity gets determined for the receipts issued.

When the Transport Permit or Receipt barcode gets scanned and invoice is generated, that particular barcode gets used and its validity time is recorded on the server. So all the details of transporting of mined out material can be captured on the server and the Transport Permit or Receipt cannot be reused.

5. Checking On Route:

The staff deployed for the purpose of checking of vehicles carrying mined mineral should be in a position to check the validity of Transport Permit or Receipt by scanning them using website, Android Application and SMS.

6. Breakdown of Vehicle:

In case the Vehicle breakdown, the validity of Transport Permit or Receipt shall be extended by sending SMS by driver in specific format to report breakdown of vehicle. The server will register this information and register the breakdown. The State can also establish a call centre, which can register breakdowns of such vehicles and extend the validity period. The subsequent restart of the vehicle also should be similarly reported to the server or call centre.

7. Tracking of Vehicles:

The route of vehicle from source to destination can be tracked through the system using check points, RFID Tags, and GPS tracking.

8. Alerts or Report Generation and Action Review:

The system will enable the authorities to develop periodic report on different parameters like daily lifting report, vehicle log or history, lifting against allocation, and total lifting. The system can be used to generate auto mails or SMS. This will enable the District Collector or District Magistrate to get all the relevant details and shall enable the authority to block the scanning facility of any site found to be indulged in irregularity. Whenever any authority intercepts any vehicle transporting illegal sand, it shall get registered on the server and shall be mandatory for the officer to fill in the report on action taken. Every intercepted vehicle shall be tracked.

The monitoring of mined out mineral, environmental clearance conditions and enforcement of Environment Management Plan will be ensured by the DEIAA, SEIAA and the State Pollution Control Board or Committee. The monitoring arrangements envisaged above shall be put in place not later than three months. The monitoring of enforcement of environmental clearance conditions shall be done by the Central Pollution Control Board, Ministry of Environment, Forest and Climate Change and the agency nominated by the Ministry for the purpose.”.

[No. Z-11013/98/2014-IA-II (M)]

MANOJ KUMAR SINGH, Jt. Secy.

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

1. S.O. 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. 2204 (E ) dated the 19th July 2013;
7. S.O. 2555 (E ) dated the 21st August, 2013;
8. S.O. 2559 (E) dated the 22nd August, 2013;
9. S.O. 2731 (E) dated the 9th September, 2013;
10. S.O. 562 (E) dated the 26th February, 2014;
11. S.O. 637 (E) dated the 28th February, 2014;
12. S.O. 1599 (E) dated the 25th June, 2014;
13. S.O. 2601 (E) dated the 7th October, 2014;
14. S.O. 2600 (E) dated the 9th October, 2014
15. S.O. 3252 (E) dated the 22nd December, 2014;
16. S.O. 382 (E) dated the 3rd. February, 2015;
17. S.O. 811 (E) dated the 23rd March, 2015;
18. S.O. 996 (E) dated the 10th April, 2015;
19. S.O. 1142 (E ) dated the 17th April, 2015;
20. S.O. 1141 (E) dated the 29th April, 2015;
21. S.O. 1834 (E) dated the 6th July, 2015.

-TRUE COPY-

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

1646

.....

**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)**

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-**

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE  
NOTIFICATION

New Delhi, the 14th March, 2017

ANNEXURE R-17

(Colly)  
1654

**S.O. 804(E).**—Whereas, a draft notification under sub-section (1), and clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986) was published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii), *vide* number S.O. 1705(E), dated the 10<sup>th</sup> May, 2016, as required by sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, for finalising 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 under the Environment Impact Assessment Notification, 2006 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;

2. And whereas, copies of the said notification were made available to the public on the 10<sup>th</sup> May, 2016;

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

4. Whereas, subject to the provisions of the Environment (Protection) Act, 1986, under sub-section (1) of section 3 of the Act, the Central Government has the power 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;

5. Whereas, section 5 of the Environment (Protection) Act, 1986 empowers the Central Government to give directions which reads as “Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this 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;

6. Whereas the Ministry of Environment, Forest and Climate Change issued Office Memoranda dated 12.12.2012 and 27.06.2013 to establish a process for grant of environmental clearance to cases of violation.

7. Whereas, the Hon'ble High Court of Jharkhand had passed an order dated the 28<sup>th</sup> November, 2014 in W.P. (C) No. 2364 of 2014 in the matter of Hindustan Copper Limited *Versus* Union of India in which the High Court held that the conditions laid down under Office Memorandum dated 12<sup>th</sup> December, 2012 in paragraph No. 5 (i) and 5 (ii) were illegal and unconstitutional and had further held that action for alleged violation would be an independent and separate proceeding and therefore, consideration of proposal for environment clearance could not await initiation of action against the project proponent. The Hon'ble Court further ruled that the proposal for environment clearance must be examined on its merits, independent of any proposed action for alleged violation of the environmental laws;

8. And whereas, Hon'ble National Green Tribunal, Principal Bench *vide* its order dated 7<sup>th</sup> July, 2015 in Original Application No. 37 of 2015 and Original Application No. 213 of 2015 had also held that the Office Memoranda dated 12<sup>th</sup> December, 2012 and 24<sup>th</sup> June, 2013 on the subject of consideration of proposals for Terms of Reference or Environment Clearance or Coastal Regulation Zone Clearance involving violations of the Environment (Protection) Act, 1986 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 had quashed the same;

9. And whereas, the Ministry of Environment, Forest and Climate Change and State Environment Impact Assessment Authorities have been receiving certain proposals under the Environment Impact Assessment Notification, 2006 for grant of Terms of References and Environmental Clearance for projects 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;

10. Whereas, the Ministry of Environment, Forest and Climate Change deems it necessary for the purpose of protecting and improving the quality of the environment and abating environmental pollution that all entities not complying with environmental regulation under Environment Impact Assessment Notification, 2006 be brought under compliance with in the environmental laws in expedient manner;

11. And whereas, the Ministry of Environment, Forest and Climate Change deems 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 will be more damaging to the environment and in furtherance of this objective, the Government of India deems it essential to establish a process for appraisal of such cases of violation for prescribing adequate environmental safeguards to entities and the process should be such that it deters violation of provisions of Environment Impact Assessment Notification, 2006 and the pecuniary benefit of violation and damage to environment is adequately compensated for;

12. And whereas, Hon'ble Supreme Court in *Indian Council for Enviro-Legal Action Vs. Union of India* (the Bichhri village industrial pollution case), while delivering its judgment on 13<sup>th</sup> February, 1996, analyzed all the relevant provisions of law and concluded that damages may be recovered under the provisions of the Environment (Protection) Act, 1986 (1996 [3] SCC 212). The Hon'ble Court observed that ..... section 3 of the Environment (Protection) Act, 1986 expressly empowers the Central Government [or its delegate, as the case may be] to "take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment.....". Section 5 clothes the Central Government [or its delegate] with the power to issue directions for achieving the objects of the Act. Read with the wide definition of "environment" in Section 2 (a), Sections 3 and 5 clothe the Central Government with all such powers as are "necessary or expedient for the purpose of protecting and improving the quality of the environment". The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. In the present case, the said powers will include giving directions for the removal of sludge, for undertaking remedial measures and also the power to impose the cost of remedial measures on the offending industry and utilize the amount so recovered for carrying out remedial measures..... Hon'ble Court has further observed that levy of costs required for carrying out remedial measures is implicit in Sections 3 and 5 which are couched in very wide and expansive language. Sections 3 and 5 of the Environment (Protection) Act, 1986, apart from other provisions of Water and Air Acts, empower the Government to make all such directions and take all such measures as are necessary or expedient for protecting and promoting the 'environment', which expression has been defined in very wide and expansive terms in Section 2 (a) of the Environment (Protection) Act. This power includes the power to prohibit an activity, close an industry, direct to carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry. The question of liability of the respondents to defray the costs of remedial measures can also be

looked into from another angle, which has now come to be accepted universally as a sound principle, viz., the "Polluter Pays" Principle. "The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution".

13 (1). Now, therefore, in exercise of the powers conferred by sub-section (1) and sub clause (a) of clause (i) and clause (v) of sub-section (2) of section 3 of the 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 directs 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 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 may be, duly constituted by the Central Government under sub-section (3) of Section 3 of the said Act, shall be considered a case of violation of the Environment Impact Assessment Notification, 2006 and will be dealt strictly as per the procedure specified in the following manner:-

(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 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.

(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.

(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.

14. The projects or activities which are in violation as on date of this notification only will be eligible to apply for environmental clearance under this notification and the project proponents can apply for environmental clearance under this notification only within six months from the date of this notification.

[F. No. 22-116/2015-IA-III]

MANOJ KUMAR SINGH, Jt. Secy.

**-TRUE COPY-**

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 तुकसान 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 सिफोरिश 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

**टिप्पणः** 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 previous" 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)

//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-

**Public Hearing Proceedings**

It is hereby informed that as per the Ministry of Environment, Forests & Climate Change, Government of India, New Delhi vide its Notification no. S.O. 1533 dated September 14, 2006. Public Hearing was fixed for the project covered under Category B, M/s. Khorasa Lime Stone Mines (Lessee M/s. Dinesh kumar & Co.) (Lease Area 5.00.00 Ha) for proposed mining project of production of Limestone mining 1,20,876 MTPA at Survey no.2/P, Village: Khorasa, Ta: Maliya Hatina, Dist: Junagadh as mentioned in their request application.

A copy of the draft Environment Impact Assessment report and the Summary of 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, Junagadh
2. District Development Office, Junagadh
3. District Industries Centre, Junagadh
4. Taluka Development Office, Maliya-Hatina, Dist. Junagadh
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 MoEFCC (Ministry of Environment, Forests and Climate Change, GOI, Indira Paryavaran Bhavan, JorBagh Road, New Delhi 110003) for the matter falling under **Category B** of schedule of the aforesaid Notification. The Public Hearing was scheduled on **07/04/2021** at 11:30 Hrs. at Shri Bhootnath Mahadev Temple Hall, vill: Khorasa (Gir), Ta: Maliya- Hatina, Dist: Junagadh.

An advertisement in English was published in "**The Times of India**" dated **06/03/2021** and in Gujarati "**Gujarat Samachar**" dated **06/03/2021**.

**Mr. Saurabh Parghi**, Collector & District Magistrate, Junagadh 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, C-2 and the response of same is attached in Annexure D-1, D-2. Representations to welcome the project received during public hearing are attached as Annexure C-3 to C-8.

**Place: Khorasa (Gir)**  
**Date: 07/04/2021**  
**Dist.: Junagadh**

  
**Signature: (M. R. Macwana)**  
Regional Officer, GPCB, Junagadh  
as the representative of  
Member Secretary, GPCB

  
**(Dr. Sourabh Pardi)**  
Collector & District Magistrate  
Junagadh

## જાહેર સુનાવણીની કાર્યવાહી

1680

આથી જાણાવવામાં આવે છે કે ભારત સરકારના પર્યાવરણ, વન અને જળ વાયુ પરિવર્તન મંત્રાલય, નવી દિલ્હીના નોટીફિકેશન ક્રમાંક એસ.ઓ. ૧૫૩૩ તા. ૧૪/૦૮/૨૦૦૬ અનુસાર મેસર્સ ખોરાસા લાઈમસ્ટોન માર્બલ્સ (લીઝી: દિનેશકુમાર એન્ડ કંપની (માઈન લીઝ એરિયા: ૫.૦૦.૦૦ હેક્ટર), સર્વે નં. ૨/પી, ગામ: ખોરાસા, તાલુકો: માળિયા હાટીના, જિલ્લો: જુનાગઢ દ્વારા ૧,૨૦,૮૪૬ મેટ્રિક ટન/વર્ષ ક્ષમતાથી લાઈમસ્ટોન માર્બલીંગના દરખાસ્ત માટેની પરિયોજના (પ્રોજેક્ટ) ની કેટેગરી “બી” પ્રકારના પ્રોજેક્ટ માટેની જાહેર સુનાવણી તેઓની વિનંતીના આધારે રાખવામાં આવેલ.

પ્રસ્તાવિત પર્યાવરણની અસરોના આંકલન અહેવાલ, પર્યાવરણ વ્યવસ્થાપન યોજના સહીતની નકલ, તેની સુધારા નોંધની નકલ, પુનઃસ્થાપના અંગેની યોજના અને પર્યાવરણની અસરોના આંકલન અહેવાલના સાર રુપ નકલ નીચેના અધિકારીઓને અથવા તેઓની કચેરીએ મોકલી આપવામાં આવેલ, જેથી તે અહેવાલ જાહેર જનતા માટે કચેરીના સમય દરમિયાન અવલોકન-નિરીક્ષણ અર્થે ઉપલબ્ધ કરાવી શકાય.

૧. જિલ્લા કલેક્ટરશ્રીની કચેરી, જુનાગઢ
૨. જિલ્લા વિકાસ અધિકારીની કચેરી, જુનાગઢ
૩. જિલ્લા ઉદ્યોગ કેન્દ્ર, જુનાગઢ
૪. તાલુકા વિકાસ અધિકારીની કચેરી, માળિયા-હાટીના, જિ. જુનાગઢ
૫. અધિક અગ્ર મુખ્ય વન સંરક્ષકશ્રી (સી), પર્યાવરણ, વન અને જળ વાયુ પરિવર્તન મંત્રાલય, ભારત સરકારની પ્રાદેશિક કચેરી (પશ્ચિમ ઝોન), કેન્દ્રીયપર્યાવરણ ભવન, ઈ - ૫, અરેરા કોલોની, લીન્ક રોડ - ૩, રવિશંકરનગર, ભોપાલ - ૪૬૨ ૦૧૬.
૬. પ્રાદેશિક કચેરી, ગુજરાત પ્રદૂષણ નિયંત્રણ બોર્ડ, સેન્ટ આન્સ ચર્ચની સામે, સ્ટેશન રોડ, જુનાગઢ - ૩૬૨ ૦૦૧

અન્ય સંબંધિત વ્યક્તિઓ કે જેઓ પર્યાવરણની દ્રષ્ટિએ સંબંધિત છે તેઓને પણ તેમના પ્રતિભાવો લેખીત સ્વરુપે સંબંધિત અધિકારીશ્રીને પહોંચાડવા વિનંતી કરાયેલ. તેઓને તેમના મંતવ્યો સંબંધિત નિયંત્રણ કચેરીને પહોંચાડવા માટે પણ જાણાવાયેલ.

કેન્દ્ર સરકારના વન, પર્યાવરણ અને જળ વાયુ પરિવર્તન મંત્રાલય, ભારત સરકાર, ઈન્દિરા પર્યાવરણ ભવન, જોર બાગ રોડ, નવી દિલ્હી - ૧૧૦૦૦૩ ના નોટીફિકેશન અનુસાર સદર બાબત ઉપરોક્ત નોટીફિકેશનના શીડ્યુલના કેટેગરી - બી માં આવે છે, તેથી જાહેર સુનાવણીનું આયોજન તા. ૦૭/૦૪/૨૦૨૧ ના રોજ સવારના ૧૧=૩૦ કલાકે, શ્રી ભૂતનાથ મંદિર નાં હોલ, ગામ: ખોરાસા (ગીર), તાલુકો: માળિયા હાટીના, જિ. જુનાગઢ મુકામે કરાયેલ.

ઉપરોક્ત બાબતની જાહેરાત તા. ૦૬/૦૩/૨૦૨૧ ના રોજ અંગ્રેજીમાં “ધ ટાઈમ્સ ઓફ ઈન્ડિયા” માં અને ગુજરાતીમાં “ ગુજરાત સમાચાર”માં રોજ પ્રકાશિત કરાયેલ.

શ્રી સૌરભ પાર્ધી, કલેક્ટર અને જિલ્લા મેજિસ્ટ્રેટશ્રી જુનાગઢ દ્વારા જાહેર લોકસુનાવણીનું અધ્યક્ષ સ્થાન સંભાળવામાં આવેલ તથા તેનું નિરીક્ષણ કરવામાં આવેલ.

જાહેર લોક સુનાવણીમાં ભાગ લેનારની હાજરી દર્શાવતી વિગતોનું પત્રક બિડાણ - એ તરીકે આ સાથે સામેલ છે.

ભાગ લેનાર વ્યક્તિઓ દ્વારા ઉપસ્થિત કરાયેલ મહત્વના મુદ્દાઓ તથા પ્રશ્નોનો નો સારાંશ અને પ્રોજેક્ટના પ્રતિનિધિ દ્વારા અપાયેલ ઉત્તરોનું પત્રક અંગ્રેજી તથા ગુજરાતી ભાષામાં બિડાણ - બી અને બિડાણ - બી ૧ તરીકે આ સાથે સામેલ છે. હિત ધરાવતા વ્યક્તિઓ દ્વારા લેખીતમાં લોક સુનાવણી પહેલા અને લોક સુનાવણી સમયે મળેલ રજુઆતો બિડાણ - સી-૧, સી-૨ તથા રજુઆતોના અરજદાર દ્વારા આપવામાં આવેલ પ્રત્યુત્તરો આ સાથે બિડાણ - ડી-૧, ડી-૨ તરીકે સામેલ છે. પ્રોજેક્ટ ને આવકારતી રજુઆતો બીડાણ સી -૩ થી સી -૮.

તારીખ: ૦૭/૦૪/૨૦૨૧  
સ્થળ: ખોરાસા (ગીર)  
જિ. જુનાગઢ

(એમ. આર. મકવાણા)  
પ્રાદેશિક અધિકારી, ગુ.પ્ર.નિ.બોર્ડ, જુનાગઢ  
સભ્ય સચિવશ્રી, ગુ.પ્ર.નિ.બોર્ડના પ્રતિનિધિ  
તરીકે

(ડૉ. સૌરભ પાર્ધી)  
કલેક્ટર અને જિલ્લા મેજિસ્ટ્રેટ,  
જુનાગઢ

**ANNEXURE - A**

As per the Ministry of Environment, Forests & Climate Change, Government of India, New Delhi vide its notification no. S. O. 1533 dated 14/09/2006, Public Hearing is fixed M/s Khorasa Limestone Mines C/O Dinesh Kumar and Company (Limestone Mine Lease Area 5.00.00 Ha) for proposed production of Rate of Mining-1,20,846 MTPA at Survey no. 2/P, Village: Khorasa (Gir), Taluka: Maliya Hatina, Dist. Junagadh, covered under Category "B".

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The statement showing Participants present during the Public Hearing held on **07<sup>th</sup> April 2021 at 11:30 Hrs.**, Venue: Shri Bhootnath Mahadev Temple Hall, Village: Khorasa (Gir), Ta. Maliya Hatina, Dist. Junagadh is as under:

ભારત સરકારના પર્યાવરણ, વન અને જળ વાયુ પરિવર્તન મંત્રાલય, નવી દિલ્હીના જાહેરનામા નં. એસ. ઓ. ૧૫૩૩ તા. ૧૪/૦૯/૨૦૦૬ મુજબ મેસર્સ ખોરાસા લાઇમસ્ટોન માઇન્સ સી/ઓ દિનેશકુમાર એન્ડ કંપની (લાઇમસ્ટોન માઇન લીઝ એરીયા ૫.૦૦.૦૦ હેક્ટર), સર્વે નંબર- ૨/પી, ગામ: ખોરાસા, તાલુકો: માળીયા હાટીના, જિલ્લો: જુનાગઢ દ્વારા ૧,૨૦,૮૪૬ એમટીપીએ માઇનીંગના દરખાસ્ત માટેની પરિયોજના (પ્રોજેક્ટ) કેટેગરી "બી" માટેની લોકસુનાવણી નું આયોજન કરવામા આવેલ છે. તારીખ: ૦૭-૦૪-૨૦૨૧ના રોજ સવારે ૧૧:૩૦ કલાકે શ્રી ભુતનાથ મહાદેવ મંદિરનો હોલ, ગામ: ખોરાસા(ગીર), તાલુકો: માળીયા હાટીના, જિલ્લો: જુનાગઢ ખાતે યોજાયેલ ઉપરોક્ત પ્રોજેક્ટ માટેની લોકસુનાવણીમાં હાજર રહી ભાગ લેનારની યાદી.

Sr. no/ક્રમ	Name and Designation /નામ અને હોદ્દો	Organization/સંસ્થા	Sign/સહી
૧.	કુમારની લાખરો ગોષ્ઠી	ખોરાસા (ગીર)	કુમારની લાખરો
૨.	પરમાર રમેશ હીરા	ખોરાસા (ગીર)	પરમાર રમેશ હીરા
૩.	જેસાળવા ભાઈ	ખોરાસા (ગીર)	જેસાળવા
૪.	શ્રી ગામીડ શામલાદેવી નાંચા	જુપારા	શ્રી ગામીડ
૫.	ગાડા જાનકીમાધવભાઈ	જુપારા	ગાડા
૬.	એચાલા રામચંદ્ર રાજુ	શાંતિપુર	એચાલા

Sr. no/ક્રમ	Name and Designation /નામ અને હોદ્દો	Organization/સંસ્થા	Sign/સહી
૭	નાથા પરબલ ઠાકોર નાથા પરબલ ઠાકોર	ખોરાસા (મીર)	નાથા પરબલ
૮	શિવલ સમાજી ગોવિંદભાઈ	શાળિપર /	
૯	જીવપાનરેલુ વાઘનાભાઈ	મેઘુપુ	જીવપાનરેલુ
૧૦	રમેશભાઈ ભાયાભાઈ સાયડા	ખોરાસા (મીર)	રમેશભાઈ સાયડા
૧૧	રમાશિષ વાઘ. વાડલા	ખોરાસા (મીર)	રમે વાઘ. વાડલા મ. પં. મળી શ. ... સી. રમેશભાઈ
૧૨	શાલ્કે ગણાજી ભટ્ટ	ભટ્ટ	
૧૩	મધુભાઈ ભાગ્યાભાઈ	ખોરાસા	
૧૪	મોદન વઘા પટ્ટા	ખોરાસા	
૧૫	મુસામી. જયેશ. ભરણ	ખોરાસા	મુસામી. જયેશ. ભરણ
૧૬	બાબુ વરણ મોઠેર	ખોરાસા	
૧૭	રફિક બા. અલી	અમદાવાદ	CB
૧૮	જલ મલ Kesar Kalam	Ahmedabad	

Sr. no/ક્રમ	Name and Designation /નામ અને હોદ્દો	Organization/સંસ્થા	Sign/સહી
૧૬.	પુષ્પા. જોષી	ગૃહ સંસ્થા	
૨૦.	આનંદલાલ જોષી	જી.સી.સી.	
૨૧.	રિશ્મી સોન. જોષી	વડોદરા	
૨૨.	Jimbay N. Jimalyer	J. 71101 (Kajimay)	જે.વી. જોષી
૨૩.	Abhishek A. Jimalyer	Veraval	AAJ
૨૪.	સુરેશ જોષી	સુરેશ જોષી	સુરેશ
૨૫.	સંદેશ સુરેશભાઈ મકવાણા.	ભાવનગર	C.S.M.
૨૬.	કમલ જોષી ૫૨૨૧૧૨	૫૨૨૧૧૧૧૨	13-17-P.
૨૭.	પરિણા જોષી સંદેશ	૫૨૨૧૧૧૧૨	P.B.C.

**Annexure-B**

As per the Ministry of Environment, Forests & Climate Change, Government of India, New Delhi, vide its Notification no. S. O. 1533 dated 14/09/2006, Public Hearing is scheduled for the project covered under **Category B**, M/s. Khorasa Lime Stone Mines (Lessee M/s. Dinesh kumar & Company) (Mine Lease area 5.00.00 Ha) for proposed production 1,20,846 MTPA at Survey No.2/P, Village: Khorasa, Ta: Maliya Hatina, Dist: Junagadh as mentioned in their request application. Public Hearing is carried out on **07/04/2021** at **11:30 Hrs.** at Shri Bhootnath Mahadev Temple Hall, Vill: Khorasa (Gir), Ta: Maliya Hatina, Dist: Junagadh.

**M. R. Macwana, Regional Officer, GPCB, Junagadh & representative of Member Secretary, GPCB** welcomed all present in the Public Hearing. He outlined the project details and added that it was as per the advertisement of public notice in "**The Times of India**" dated **06/03/2021** in English and in "**Gujarat Samachar**" dated **06/03/2021** in Gujarati. He also mentioned that the documents related to the project were displayed at the various places mentioned in the advertisement. He also mentioned that after the presentation is over, the forum would be opened to the concern of the local affected people of the area.

Representative of the project proponent gave a brief introduction of the project and said about the Environmental Management. He also explained technical details for the proposed project in brief.

After the presentation, **M. R. Macwana, Regional Officer, GPCB, Junagadh** opened the Public hearing after due permission from **Shri Saurabh Parghi, Chairman of the Public hearing & Collector, Junagadh** for open discussion.

**Points raised by the participants, either in writing or orally and response of project proponent during Public Hearing are as under:**

No.	Name and Address of participant	Details of representation	Answer given by Project Proponent
1.	Mr. Ashishbhai Ladhhabhai Ladani Former Sarpanch Village: Khorasa	On behalf of the village Khorasa, I would like to represent that if lease starts its operation and the limestone is being excavated. So, the water from surroundings and roadside can be diverted into the mine-pits and the mines shall be deepened so that more quantity of water can get stored and which shall be beneficial for the farmers of khorasa village. In the summer season, they face problem for 2 months; and due to the mines the problem will be solved and the ground water level also rises. We insist that the limestone mines gets started; education and tree plantation shall be promoted; and	As per the approved mining plan, after leaving earmarked safety barrier, the other area will be excavated periodically; and as the mining would proceed the area would get deepened further and the water conservation would increase. The water which gets collected in the mining pits can be used by farmers if it is in excess after utilization of dust suppression. The company doesn't have problem with this. Further, if the water gets stored throughout the year, then

		after the limestone being excavated the storage of water quantity would increase and the water level rises due to which the problem of water during the summer times gets solved.	the ground water level will rise further.  As per the Corporate Environment Responsibility, funds shall be allocated to green belt development and education.
2.	Mr. Rambhai Jotva Village: Shantipura	In this region and in nearby areas also, there are mines and if it gets operational then nearby people may get employment and the water gets collected and it will turn out to be helpful to the farmers too.	---
3.	Mr. Khimjibhai Rambhai Barad Village: Supasi	Mainly I have three points to represent. There are leases in this region and most of the people are engaged in the labour work, transportation and farming.  20 years back, there was no water available for the farming and currently the water is present in the summer times also; and it is because of the water being stored into the excavated area of the mines and because of that the water storage has been increased.  If the mines get operational then the truck driver also gets the employment and their problem gets solved.	The total capacity for mining is 1,20,846 MT/Annum and for that; approximately 40-45 trucks will be required daily for the transportation and the company will ensure that maximum locals shall be given priority for the transportation business.
4.	Mr. Ranabhai Rambhai Jotva Village: Supasi	I own trucks and truck driver are affected due to the recession and since long time the mines are not operational so the truck driver faces the problem so this company shall be granted E.C so that they can start excavating and everyone gets business and employment and	--

	the farmers also gets benefits and the company is not causing any harm to the environment.	
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In the end, Regional officer Shri M. R. Macwana announced that if there are no further representations, then with the permission of Chairman of the forum the public hearing is announced finished.



(M. R. Macwana)

Regional Officer, Junagadh  
& Representative of the Member  
Secretary, GPCB.



(Dr. Sourabh Pardhi)

Collector  
& District Magistrate,  
Junagadh

Place: Khorasa (Gir)  
Dist.: Junagadh  
Date: 07/04/2021

## Annexure - B1

ભારત સરકારનાં પર્યાવરણ, વન અને જળ વાયુ પરિવર્તન મંત્રાલય, નવી દિલ્હી નાં જાહેરનામા ક્રમાંક નં. એસ. ઓ. ૧૫૩૩ તારીખ: ૧૪/૦૮/૨૦૦૬ અનુસાર “કેટેગરી-બી” માં આવરી લેવાયેલ મેસર્સ ખોરાસા લાઈમસ્ટોન માર્બલ્સ (લીઝી: દિનેશકુમાર એન્ડ કંપની), (માર્બલ લીઝ એરિયા: ૫.૦૦.૦૦ હેક્ટર), સર્વે નં. ૨/પી, ગામ: ખોરાસા, તાલુકો: માળિયા: હાટીના, જિલ્લો: જુનાગઢ ની વાર્ષિક ૧,૨૦,૮૪૬ મેટ્રિક ટન લાઈમસ્ટોન માર્બલિંગ ની દરખાસ્ત માટેની પરિયોજના (પ્રોજેક્ટ) માટેની જાહેર સુનાવણી તા. ૦૭/૦૪/૨૦૨૧ ના રોજ સવારના ૧૧=૩૦ કલાકે, શ્રી ભૂતનાથ મંદિર નાં હોલ, ગામ: ખોરાસા (ગીર), તાલુકો: માળિયા હાટીના, જિ: જુનાગઢ ખાતે રાખવામાં આવેલ.

એમ. આર. મકવાણા, પ્રાદેશિક અધિકારી, જુનાગઢ અને સભ્ય સચિવશ્રી, ગુજરાત પ્રદૂષણ નિયંત્રણ બોર્ડનાં પ્રતિનિધિએ લોક સુનાવણી માં ઉપસ્થિત સૌને આવકાર્યો. તેઓએ ઈ.આઈ.એ. નોટીફિકેશન અંતર્ગત વિવિધ જોગવાઈઓ અને લોક સુનાવણી બાબત સંક્ષિપ્તમાં માહિતી આપી. વધુમાં, શ્રી એમ. આર. મકવાણા એ જણાવ્યું કે આ લોક સુનાવણી અંગેની જાહેરાત અંગ્રેજી અખબાર “ધ ટાઈમ્સ ઓફ ઈન્ડિયા” માં તારીખ: ૦૬/૦૩/૨૦૨૧ અને ગુજરાતી અખબાર “ગુજરાત સમાચાર” માં તારીખ: ૦૬/૦૩/૨૦૨૧ નાં રોજ આપવામાં આવેલ. તેમણે એમ પણ જણાવ્યું કે પ્રસ્તાવિત પ્રોજેક્ટ ને લગતા દસ્તાવેજો જાહેરાતમાં દર્શાવ્યા મુજબનાં સ્થળો પર નિદર્શિત કરવામાં આવેલ. વધુમાં, તેઓએ જણાવેલ કે પ્રોજેક્ટ અંગેની રજુઆત (પ્રેઝન્ટેશન) પૂરૂ થયા બાદ આ મંચ સ્થાનિક અસરગ્રસ્ત લોકો માટે ખૂલ્લો મુકાશે.

પ્રોજેક્ટ પ્રપોનન્ટ નાં પ્રતિનિધિ દ્વારા પ્રસ્તાવિત પ્રોજેક્ટ અંગે ગુજરાતી ભાષામાં વિસ્તૃત માહિતી (પ્રેઝન્ટેશન દ્વારા) આપવામાં આવી.

ત્યારબાદ પ્રાદેશિક અધિકારી શ્રી એમ. આર. મકવાણા દ્વારા સ્થાનિક અસરગ્રસ્ત લોકોની રજુઆત માટે શ્રી સૌરભ પારધી, કલેક્ટર જિલ્લા મેજસ્ટ્રેટ, લોક સુનાવણી કાર્યક્રમનાં અધ્યક્ષ અને કલેક્ટરશ્રી- જુનાગઢ ની પરવાનગીથી લોક સુનાવણીનો મંચ ચર્ચા માટે ખુલ્લો મુકવામાં આવ્યો.

લોક સુનાવણી દરમિયાન ભાગ લેનાર દ્વારા ઉઠાવવામાં આવેલ મૌખિક અને લેખીત રજુઆત/મુદ્દાઓ અને પ્રોજેક્ટ પ્રપોનન્ટનાં પ્રતિનિધિ દ્વારા આપવામાં આવેલ જવાબ નીચે મુજબ છે.

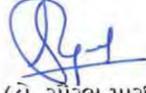
ક્રમ	રજુઆત કરનારનું નામ અને સરનામું	રજુઆતની વિગત	પ્રોજેક્ટ પ્રપોનન્ટ દ્વારા આપવામાં આવેલ જવાબ
૧	શ્રી આશિષભાઈ લાધાભાઈ લાડાની માજી સરપંચ ગામ: ખોરાસા	આ ખોરાસા લીઝ છે, તેમાંથી લાઈમસ્ટોન નીકાળે, લાઈમસ્ટોનનો ખાડો વધુમાં વધુ ઊંડો થાય અને ફરતે પાળો બાંધી તેમાં રસ્તા નું પાણી ડાયવર્ટ કરવામાં આવે તો પાણીનો સંગ્રહ થાય. ઉનાળાના બે મહિના દરમિયાન અહિયાં પાણીની સમસ્યા થાય છે. જો પાણી નો સ્ત્રોત હોય, એમાં પાણી સંગ્રહ થાય તો ખોરાસાના ખેડૂતોને વધુ માં વધુ ફાયદો થાય. કાયમ માટે પાણીના સ્તર ઊંચા આવે અને લોકોને લાભ થાય.  અમારો આગ્રહ છે કે શિક્ષણ, વૃક્ષારોપણ થાય અને નાનામાં નાના માણસને ફાયદો થાય.	લીઝનો જે અપ્રૂવડ માર્બલિંગ પ્લાન છે, તે મુજબ સેફ્ટી બેરીયર છોડી સમયાંતરે ખનન કરવામાં આવશે અને જેમ જેમ માર્બલિંગ થશે તેમ તેમ ખાડો ઊંડો થશે અને તેમ પાણીનો સંગ્રહ વધશે. જે પણ પાણી ભરાશે તેનો માર્બલિંગમાં ઉપયોગ થયા પછી જે પાણી બચશે, તે ખેડૂતો વાપરે તેમાં કંપની તરફથી કઈ વાંધો નથી અને ઉપરાંત વર્ષ દરમિયાન ખાડામાં પાણી ભરાયેલું રહેશે તો આસ પાસના પાણીના સ્તર ઊંચા જશે,  જે વૃક્ષારોપણ અને સામાજિક શિક્ષણની વાત કરી તેમાં કંપની તરફથી કોર્પોરેટ એન્વાયરનમેન્ટ રીસપોન્સીબીલીટી અંતર્ગત યોગ્ય ફાળવણી કરવામાં આવશે.

૨	શ્રી રામ ભાઈ જોટવા ગામ: શાંતિપુરા	આ વિસ્તારમાં અને નજીકમાં પણ માર્ઈન્સ આવેલી છે, તે ચાલુ થાય તો આજુ બાજુના લોકોને રોજગારી મળે અને આ માર્ઈન્સ ઊંડી કરવામાં આવે જેથી પાણીનો સંગ્રહ થાય અને ખેડૂતોને ફાયદો થાય એવી અમારી નમ્ર વિનંતી છે.	---
૩.	શ્રી ખીમજીભાઈ રામભાઈ બારડ ગામ: સુપાસી	મારા મુખ્યત્વે ત્રણ મુદ્દા છે; આ વિસ્તારમાં ખાણની લીઝ છે, અહીંની વધારે પડતી વસ્તી મંજુરી તેમજ ટ્રક ટ્રાન્સપોર્ટેશનથી સંકળાયેલી છે અને ખેડૂત વર્ગ છે; આજથી ૨૦ વર્ષ પહેલા ખેતી માટે પાણી નહોતું, તે અત્યારે ઉનાળામાં પણ રહે છે તેનું કારણ એ છે કે આ ખાડા ઊંડા થયા, એના લીધે પાણી નો સંગ્રહ વધારે થાય છે. દિનેશકુમાર એન્ડ કંપનીની લાઈમસ્ટોન ખાણથી ટ્રક ટ્રાન્સપોર્ટેશન વાળાને પણ ધંધો રોજગાર મળી રહે, અને તેનાથી ટ્રક ડ્રાઈવરો ની તકલીફ ઓછી થાય.	આપે જે ટ્રાન્સપોર્ટેશનની વાત કરી છે, તેમાં ફૂલ પ્રોડક્શન કેપેસિટી ૧,૨૦,૮૪૬ ટન વાર્ષિક છે. દૈનિક લગભગ ૪૦ થી ૫૦ ટ્રક દ્વારા ટ્રાન્સપોર્ટેશન થશે અને કંપની તરફથી એ ધ્યાન રાખવામાં આવશે કે મહત્તમ સ્થાનિક ટ્રાન્સપોર્ટેસને ફાળવણી કરવામાં આવે.
૪.	શ્રી રાણાભાઈ રામભાઈ જોટવા ગામ: સુપાસી	મારી પાસે ટ્રકો છે, ટ્રક ડ્રાઈવરને હમણાં મંદી છે ઘણા સમયથી માર્ઈન્સ બંધ છે તેનાથી ટ્રક માલિક, ડ્રાઈવર લોકોને તકલીફ પડી રહી છે. અને આ કંપની ને ઈ.સી આપી માર્ઈન્સ શરુ થઈ જાય તો બધાને ધંધો અને રોજગાર મળે અને ખેડૂતોને પણ ફાયદો થાય અને પર્યાવરણ ને કઈ નુકસાનકર્તા નથી.	---

અંતમાં, પ્રાદેશિક અધિકારી શ્રી એમ. આર. મકવાણા દ્વારા હવે કોઈ રજુઆત ન હોય લોકસુનાવણી અધ્યક્ષશ્રીની મંજુરીથી પૂર્ણ જાહેર કરવામાં આવી.

સ્થળ: ખોરાસા (ગીર)  
જિલ્લો: જુનાગઢ  
તારીખ : ૦૭/૦૪/૨૦૨૧

  
(એમ. આર. મકવાણા)  
પ્રાદેશિક અધિકારી  
અને સભ્ય સચિવશ્રી  
ગુજરાત પ્રદૂષણ નિયંત્રણ બોર્ડનાં પ્રતિનિધિ

  
(ડો. સોરભ પાર્થી)  
જિલ્લા કલેક્ટર  
અને જિલ્લા મેજસ્ટ્રેટ  
જિ: જુનાગઢ

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**

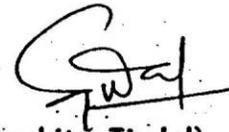
**Subject: EIA Notification dated 14<sup>th</sup> September, 2006 - Interim Operational Guidelines till 13<sup>th</sup> September, 2007 in respect of Categories of Projects which were not in EIA Notification, 1994.**

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....

- 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-


**GUJARAT POLLUTION CONTROL BOARD**

PARYAVARAN BHAVAN

**1691**

Sector-10-A, Gandhinagar 382010

Phone : (079) 23222425

(079) 23222152

Fax : (079) 23232156

Website : www.gpcb.gov.in

**Application For CTE After TOR**

File No : GPCB/ (PCB ID. - 80989)

CTE-45499

To,

 M/s. **DINESHKUMAR AND COMPANY,**

, Dineshkumar and Company, Khorasa Limestone mines, 2/P, Khorasa, tal-Maliya Hatina, dist-Junagadh, Dineshkumar and Company, Khorasa Limestone mines, 2/P, Khorasa, tal-Maliya Hatina, dist-Junagadh,

City : Khorasa ,

Dist : Junagadh ,

Taluka : Malia

 Sub: **Consent to Establish (After obtaining Terms Of Reference For Environment Clearance) under Section 25 of Water Act 1974 and Section 21 of Air Act 1981.**

 Ref: (1) Your online application No. 190194 dated 04/02/2021

(2) TOR issued by State Authority vide their letter no. SEIAA/GUJ/TOR/1(a)/1490/2020 Dated 04/12/2020

Sir,

Without prejudice to the powers of this Board under the Water (Prevention and Control of Pollution) Act-1974, the Air Act-1981 and the Environment (Protection) Act-1986 and without reducing your responsibilities under the said Acts in any way, this is to inform you that this Board grants **Consent to Establish (After obtaining Terms Of Reference For Environment Clearance) under Section 25 of Water Act 1974 and Section 21 of Air Act 1981** for manufacturing of products as mentioned into the application of Environment Clearance (EC) for which TOR is granted vide letter under reference no (2) above.

**Consent To Establish Is Granted Subject To The Following Conditions: -**

- 1) The validity period of this CTE shall be Seven Years from the issue of this order.
- 2) Applicant shall strictly comply with all conditions stipulated by competent authority in the order of Environment Clearance to be issued in reference to TOR issued vide letter under reference No. : 2 above.
- 3) The applicant shall however , not without the prior concern of the Board. Bring into use any new or altered outlet for the discharge of effluent or gaseous emission or sewage waste from the proposed industrial plant. The applicant is required to make applications to this Board for this purpose in the prescribed forms under the provisions of the water Act - 1974, the Air - 1981 and the Environment (Protection) Act - 1986.


 For and on behalf of  
Gujarat Pollution Control Board



 M. R. Macwana  
ROH - Junagadh

---

**Acknowledgement Slip for TOR application**

1 message

monitoring-ec@nic.in <monitoring-ec@nic.in>  
To: [dineshkumarandcompanyvt@gmail.com](mailto:dineshkumarandcompanyvt@gmail.com)  
Cc: [monitoring-ec@nic.in](mailto:monitoring-ec@nic.in)

Fri, Jul 13, 2018 at 2:07 PM

**Acknowledgement Slip for TOR**

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

Following should be mentioned in further correspondence

1. Proposal No. : SIA/GJ/MIN/28163/2018
2. Category of the Proposal : Non-Coal Mining
3. Project/Activity applied for : 1(a) Mining of minerals
4. Name of the proposal : M/S. DINESHKUMAR AND CO.
5. Date of submission for TOR : 13 Jul 2018
6. Name of the Project proponent along with contact details-----
  - a) Name of the proponent : M/S. DINESHKUMAR AND CO.
  - b) Mobile No. : 9824623327
  - c) State : Gujarat
  - d) District : Junagarh
  - e) Pincode : 363670



STATE LEVEL ENVIRONMENT  
IMPACT ASSESSMENT  
AUTHORITY  
GUJARAT

1693

S. M. SAIYAD, IFS  
MEMBER SECRETARY  
SEIAA (GUJARAT)

Government of Gujarat

No. SEIAA/GUJ/ToR/1(a)/1413/2018

Date: 31 DEC 2018

By R P A D

Time Limit

Sub: Delisting of Application for the Terms of Reference of M/s. Dineshkumar & Company at S. No. 2/P, Vil. Khorasa Gir, Ta. Maliya Hatina, Junagadh.

Dear Sir,

This has reference to your online application 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 04-12-2018 had recommended to the SEIAA, Gujarat based on its meeting held on 27-11-2018.

The proposal was considered by SEIAA, Gujarat in its meeting held on 13-12-2018 at Gandhinagar. After careful consideration, the SEIAA hereby delist the application of the above project for the following.

1. The project proponent has violated the provisions of EIA Notification 2006 by carrying out mining activity without obtaining prior EC.

With regards.

Yours sincerely,

(S. M. SAIYAD)  
Member Secretary

Encl: As Above

Issued to:

M/s. Dineshkumar & Company  
Mines Owners and Minerals Merchant,  
Main Bazar, Prabhas Patan,  
Veraval, Gir Somnath.

Copy to:-

1. The Secretary, SEAC, C/O. G.P.C.B. Gandhinagar - 382010.
2. The Member Secretary, Gujarat Pollution Control Board, Gandhinagar-382010...for necessary action.

(S. M. SAIYAD)  
Member Secretary

-TRUE COPY-

Dr. K. RAMESH, IFS  
MEMBER SECRETARY  
SEIAA (GUJARAT)



ANNEXURE R-23  
STATE LEVEL ENVIRONMENT  
IMPACT ASSESSMENT  
AUTHORITY (Colly)  
GUJARAT

Government of Gujarat

No. SEIAA/GUJ/TOR/1(a)/1490/2020

Date: 4 DEC 2020  
By R P A D  
1694  
Time Limit

Sub: Terms Of Reference to M/s. Khorasa Limestone Mines C/o. Dinesh Kumar and Company (Limestone Mine Lease Area: 5.00.00 Ha) at S. No. 2/P, Vi. Khorasa, Ta. Maliya Hatina, Junagadh.

Ref: Your Proposal No: SIA/GJ/MIN/53482/2020.

Dear Sir,

This has reference to your online application dated 02/09/2020 along with Form-I submitted to SEIAA. The project activity is covered in 1(a) and is of 'B' Category.

The SEAC, Gujarat vide their letter dated 09/11/2020 had recommended to the SEIAA, Gujarat, to grant the Terms Of Reference for the above-mentioned project based on its meeting held on 16/10/2020.

The proposal was considered by SEIAA, Gujarat in its meeting held on 23/11/2020 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, 2006. The copy of Terms Of Reference is attached herewith.

With regards,  
Yours sincerely,

(Dr. K. RAMESH)  
Member Secretary

Encl: As Above

Issued to:

M/s. Khorasa Limestone Mines  
C/o. Dinesh Kumar and Company  
Mines Owner and Minerals Merchant,  
Main bazar, Prabhas Patan,  
Taluka- Veraval, Gir Somnath



**Terms of Reference (TOR) under violation to EIA Notification 2006 to M/S Khorasa Limestone Mines C/O Dinesh Kumar and Company, Dist: Junagadh (Gujarat).**

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

- I. This office received an application from the following Project Proponent on 02.09.2020 for obtaining Terms of Reference under violation to EIA Notification 2006.

1695

Application No	Name of Project	S. No.	Village	Taluka	Dist	Lease Area	Validity of lease	ROM	Nearest Human Habitat	End Use	Investment in Rs	Date of Application Received by SEAC
SIA/GJ/MIN/53482/2020	Khorasa Limestone Mines C/O M/s. Dinesh Kumar and Company	S. NO. 2/P	Khorasa	Maliyathana	Junagadh	5.00 Ha	Order No. MCR/152-001-M-178-CHH dated 21.12.2002	1,20,846 TPA	Khorasa 140 meter	Cement Mill	51 Lakh	02.09.2020

- II. 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 100 Hectares, it falls under category B1 vide amended EIA notification dated 14.08.2018.
- III. During SEAC meeting on 16.10.2020, it is noted by the committee that MOEF&CC issued OM dated 09/09/2019 and as per OM, it is noted as below:

**Para 7:** "Proposals involving violation of EIA Notification which had applied during the window (14.03.2017 to 13.09.2017 and 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 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"

**Para 8:** It is possible that there may be certain category B proposals which were submitted at SEIAA during or prior to violation window period but not under violation category and later during the appraisal by state level expert appraisal committee (SEAC) identified as violation proposals.

**Para 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 provision of Ministry's Notification dated 14.03.2017 & 08.03.2018 by 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 details above.

- IV. Accordingly, it is noted by the committee that PP has submitted application addressed to Member Secretary, SEAC on 17.01.2015 which was forwarded through the office of the district geologist.
- V. Considering above and OM dtd. 09.09.2019, committee unanimously decided to recommend ToR-Violation to the aforementioned proposal under category 1(a) to SEIAA as per the TOR approved during its 97<sup>th</sup> meeting held on 24<sup>th</sup> August 2018 including indicative guideline for assessment of ecological damage.

Project proponent may be asked to submit the draft EIA report covering all the TOR (copy attached) and it shall be submitted to the GPCB for conducting the public hearing / consultation process as per the provisions of the EIA Notification, 2006.



**TERMS OF REFERENCE FOR THE PROJECTS FALLING UNDER CATEGORY 1 (a), (MINING SECTOR) INCLUDING PROJECT SPECIFIC TOR FOR VIOLATION OF EIA NOTIFICATION 2006.**

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.
6. Details about the land proposed for mining activities should be given with information as to whether mining conforms to the land use policy of the State, land diversion for mining should have approval from State land use board or the concerned authority.
7. It should be clearly stated whether the proponent Company has a well laid down Environment Policy approved by its Board of Directors? If so, it may be spelt out in the EIA Report with description of the prescribed operating process/procedures to bring into focus any infringement/deviation/ violation of the environmental or forest norms/ conditions? The hierarchical system or administrative order of the Company to deal with the environmental issues and for ensuring compliance with the EC conditions may also be given. The 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, may also be detailed in the EIA Report.
8. Issues relating to Mine Safety, including subsidence study in case of underground mining and slope study in case of open cast mining, blasting study etc. should be detailed. The proposed safeguard measures in each case should also be provided.
9. The study area will comprise of 10 km zone around the mine lease from lease periphery and the data contained in the EIA such as waste generation etc. should be for the life of the mine / lease period.
10. Land use of the study area delineating forest area, agricultural land, grazing land, wildlife sanctuary, national park, migratory routes of fauna, water bodies, human settlements and other ecological features should be indicated. Land use plan of the mine lease area should be prepared to encompass preoperational, operational and post operational phases and submitted. Impact, if any, of change of land use should be given.
11. Details of the land for any Over Burden Dumps outside the mine lease, such as extent of land area, distance from mine lease, its land use, R&R issues, if any, should be given.
12. A Certificate from the Competent Authority in the State Forest Department should be provided, confirming the involvement of forest land, if any, in the project area. In the event of any contrary claim by the Project Proponent regarding the status of forests, the site may be inspected by the State Forest Department along with the Regional Office of the Ministry to ascertain the status of forests, based on which, the Certificate in this regard as mentioned above be issued. In all such cases, it would be desirable for representative of the State Forest Department to assist the Expert Appraisal Committees.
13. Status of forestry clearance for the broken up area and virgin forestland involved in the Project including deposition of net present value (NPV) and compensatory afforestation (CA) should be indicated. A copy of the forestry clearance should also be furnished.
14. Implementation status of recognition of forest rights under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 should be indicated.
15. The vegetation in the RF / PF areas in the study area, with necessary details, should be given.
16. A study shall be got done to ascertain the impact of the Mining Project on wildlife of the study area and details furnished. Impact of the project on the wildlife in the surrounding and any other protected area and accordingly, detailed mitigative measures required, should be worked out with cost implications and submitted.
17. Location of National Parks, Sanctuaries, Biosphere Reserves, Wildlife Corridors, Ramsar site Tiger/ Elephant Reserves/(existing as well as proposed), if any, within 10 km of the mine lease should be clearly indicated, supported by a location map duly authenticated by Chief Wildlife Warden. Necessary clearance, as may be

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applicable to such projects due to proximity of the ecologically sensitive areas as mentioned above, should be obtained from the Standing Committee of National Board of Wildlife and copy furnished.

18. A detailed biological study of the study area [core zone and buffer zone (10 km radius of the periphery of the mine lease)] shall be carried out. Details of flora and fauna, endangered, endemic and RET Species duly authenticated, separately for core and buffer zone should be furnished based on such primary field survey, clearly indicating the Schedule of the fauna present. In case of any scheduled-I fauna found in the study area, the necessary plan alongwith budgetary provisions for their conservation should be prepared in consultation with State Forest and Wildlife Department and details furnished. Necessary allocation of funds for implementing the same should be made as part of the project cost.
19. Proximity to Areas declared as 'Critically Polluted' or the Project areas likely to come under the 'Aravali Range', (attracting court restrictions for mining operations), should also be indicated and where so required, clearance certifications from the prescribed Authorities, such as the SPCB or State Mining Department should be secured and furnished to the effect that the proposed mining activities could be considered.
20. Similarly, for coastal Projects, A CRZ map duly authenticated by one of the authorized agencies demarcating LTL, HTL, CRZ area, location of the mine lease w.r.t CRZ, coastal features such as mangroves, if any, should be furnished. (Note: The Mining Projects falling under CRZ would also need to obtain approval of the concerned Coastal Zone Management Authority).
21. R&R Plan/compensation details for the Project Affected People (PAP) should be furnished. While preparing the R&R Plan, the relevant State/National Rehabilitation & Resettlement Policy should be kept in view. In respect of SCs /STs and other weaker sections of the society in the study area, a need based sample survey, family-wise, should be undertaken to assess their requirements, and action programmes prepared and submitted accordingly, integrating the sectoral programmes of line departments of the State Government. It may be clearly brought out whether the village(s) located in the mine lease area will be shifted or not. The issues relating to shifting of village(s) including their R&R and socio-economic aspects should be discussed in the Report.
22. One season (non-monsoon) (i.e. March-May (Summer Season); October-December (post monsoon season) ; December-February (winter season) primary baseline data on ambient air quality as per CPCB Notification of 2009, water quality, noise level, soil and flora and fauna shall be collected and the AAQ and other data so compiled presented date-wise in the EIA and EMP Report. Site-specific meteorological data should also be collected. The location of the monitoring stations should be such as to represent whole of the study area and justified keeping in view the pre-dominant downwind direction and location of sensitive receptors. There should be at least one monitoring station within 500 m of the mine lease in the pre-dominant downwind direction. The mineralogical composition of PM10, particularly for free silica, should be given.
23. Air quality modeling should be carried out for prediction of impact of the project on the air quality of the area. It should also take into account the impact of movement of vehicles for transportation of mineral. The details of the model used and input parameters used for modeling should be provided. The air quality contours may be shown on a location map clearly indicating the location of the site, location of sensitive receptors, if any, and the habitation. The wind roses showing pre-dominant wind direction may also be indicated on the map.
24. The water requirement for the Project, its availability and source should be furnished. A detailed water balance should also be provided. Fresh water requirement for the Project should be indicated.
25. Necessary clearance from the Competent Authority for drawl of requisite quantity of water for the Project should be provided.
26. Description of water conservation measures proposed to be adopted in the Project should be given. Details of rainwater harvesting proposed in the Project, if any, should be provided.
27. Impact of the Project on the water quality, both surface and groundwater, should be assessed and necessary safeguard measures, if any required, should be provided.
28. Based on actual monitored data, it may clearly be shown whether working will intersect groundwater. Necessary data and documentation in this regard may be provided. In case the working will intersect groundwater table, a detailed Hydro Geological Study should be undertaken and Report furnished. The Report inter-alia, shall include details of the aquifers present and impact of mining activities on these aquifers. Necessary permission from Central Ground Water Authority for working below ground water and for pumping of ground water should also be obtained and copy furnished.
29. Details of any stream, seasonal or otherwise, passing through the lease area and modification / diversion proposed, if any, and the impact of the same on the hydrology should be brought out.
30. Information on site elevation, working depth, groundwater table etc. Should be provided both in AMSL and bgl. A schematic diagram may also be provided for the same.
31. A time bound Progressive Greenbelt Development Plan shall be prepared in a tabular form (indicating the linear and quantitative coverage, plant species and time frame) and submitted, keeping in mind, the same will have to be executed up front on commencement of the Project. Phase-wise plan of plantation and compensatory



- afforestation should be charted clearly indicating the area to be covered under plantation and the species to be planted. The details of plantation already done should be given. The plant species selected for green belt should have greater ecological value and should be of good utility value to the local population with emphasis on local and native species and the species which are tolerant to pollution.
32. Impact on local transport infrastructure due to the Project should be indicated. Projected increase in truck traffic as a result of the Project in the present road network (including those outside the Project area) should be worked out, indicating whether it is capable of handling the incremental load. Arrangement for improving the infrastructure, if contemplated (including action to be taken by other agencies such as State Government) should be covered. Project Proponent shall conduct Impact of Transportation study as per Indian Road Congress Guidelines.
33. Details of the onsite shelter and facilities to be provided to the mine workers should be included in the EIA Report.
34. Conceptual post mining land use and Reclamation and Restoration of mined out areas (with plans and with adequate number of sections) should be given in the EIA report.
35. Occupational Health impacts of the Project should be anticipated and the proposed preventive measures spell out in detail. Details of pre-placement medical examination and periodical medical examination schedules should be incorporated in the EMP. The project specific occupational health mitigation measures with required facilities proposed in the mining area may be detailed.
36. Public health implications of the Project and related activities for the population in the impact zone should be systematically evaluated and the proposed remedial measures should be detailed along with budgetary allocations.
37. Measures of socio economic significance and influence to the local community proposed to be provided by the Project Proponent should be indicated. As far as possible, quantitative dimensions may be given with time frames for implementation.
38. Detailed environmental management plan (EMP) to mitigate the environmental impacts which should inter-alia include the impacts of change of land use, loss of agricultural and grazing land, if any, occupational health impacts besides other impacts specific to the proposed Project.
39. Public Hearing points raised and commitment of the Project Proponent on the same along with time bound Action Plan with budgetary provisions to implement the same should be provided and also incorporated in the final EIA/EMP Report of the Project.
40. Details of litigation pending against the project, if any, with direction /order passed by any Court of Law against the Project should be given.
41. The cost of the Project (capital cost and recurring cost) as well as the cost towards implementation of EMP should be clearly spelt out.
42. A Disaster management Plan shall be prepared and included in the EIA/EMP Report.
43. Benefits of the Project if the Project is implemented should be spelt out. The benefits of the Project shall clearly indicate environmental, social, economic, employment potential, etc.
44. Besides the above, the below mentioned general points are also to be followed:-
1. Executive Summary of the EIA/EMP Report
  2. All documents to be properly referenced with index and continuous page numbering.
  3. Where data are presented in the Report especially in Tables, the period in which the data were collected and the sources should be indicated.
  4. Project Proponent shall enclose all the analysis/testing reports of water, air, soil, noise etc. using the MoEF&CC/NABL accredited laboratories. All the original analysis/testing reports should be available during appraisal of the Project.
  5. Where the documents provided are in a language other than English, an English translation should be provided.
  6. The Questionnaire for environmental appraisal of mining projects as devised earlier by the Ministry shall also be filled and submitted.
  7. While preparing the EIA report, the instructions for the Proponents and instructions for the Consultants issued by MoEF&CC vide O.M. No. J-11013/41/2008-IA.11(I) dated 4th August, 2009, which are available on the website of this Ministry, should be followed.
  8. Changes, if any made in the basic scope and project parameters (as submitted in Form-I and the PFR for securing the TOR) should be brought to the attention of MoEF&CC with reasons for such changes and permission should be sought, as the TOR may also have to be altered. Post Public Hearing changes in structure and content of the draft EIA/EMP (other than modifications arising out of the P.H. process) will entail conducting the PH again with the revised documentation.
  9. As per the circular no. J-11011/618/2010-IA.11(I) dated 30.5.2012, certified report of the status of compliance of the conditions stipulated in the environment clearance for the existing operations of the project, should be obtained from the Regional Office of Ministry of Environment, Forest and Climate Change, as may be applicable.

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10. The EIA report should also include (i) surface plan of the area indicating contours of main topographic features, drainage and mining area, (ii) geological maps and sections and (iii) sections of the mine pit and external dumps, if any, clearly showing the land features of the adjoining area.

Beside above standard TOR, following additional TORs are recommended:

- 1699
1. Project site specific details such as distance of the project site from nearest (1) Village (2) Water Body / Pond / 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.
  3. 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.
  - 4.
  5. 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 opinion of the district geologist regarding compliance of all the conditions in lease deed and copy of renewed lease (if any) etc. to be incorporated.
  - 6.
  7. 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.
1. **Specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan.**
8. Ecological damage shall be assessed with respect to air, water, land and other project & location specific environment attributes. The collection and analysis of data shall be done by an environment laboratory duly notified under Environment (Protection) Act, 1986, or an environment laboratory accredited by NABL, or a laboratory of a council of Scientific and Industrial Research (CSIR) institution working in the field of environment.
  9. The Environment Management Plan shall be prepared which shall comprise of the remediation plan and community & natural resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation. The remediation plan and the natural & community resource augmentation plan prepared shall be included as an independent chapter in the EIA report.
  10. The project proponent shall be required to submit a bank guarantee considering 4% of the project cost (i.e. double than the highest percentage mentioned in CER vide OM of MOEF&CC dated 01/05/2018) or amount comes from the an indicative guideline after assessing the environmental damage as mentioned in Annexure A, whichever is higher with the GPCB prior to the grant of Environmental Clearance. The quantum shall be recommended by the SEAC and finalized by the regulatory authority. The bank guarantee shall be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after recommendation by regional office of the Ministry followed by recommendations of the SEAC and approval of the regulatory authority.
  11. Gujarat Pollution Control Board shall initiate credible legal action against the project proponent under the provisions of the Environment (Protection) Act, 1986, and further no consent to operate to be issued till the project is granted Environmental Clearance.
  12. A notarized undertaking stating that (1) Any such violation shall not be repeated in future, (2) All the statutory requirements shall be fully complied with and (3) A status quo shall be maintained at the project site and remaining activity shall be carried out only after obtaining Environmental Clearance from SEIAA.
  13. Applicability of CRZ Notification, 2011 shall be verified for the project and if found applicable, due procedure shall be followed as per the CRZ Notification, 2011.

2. **Project Specific Conditions:**

Honorable supreme court vide judgment dated 2nd August 2017 with writ petition (Civil) No 114 of 2014 in the matter of common cause versus union of India and others has passed order interpreting section 21(5) of the MMDR Act and directed payment of 100% Penalty for illegal mining operation with reference to the relevant statutes, which inter alia include Environment (Protection) Act 1986, the Water (Prevention and Control of Pollution) Act 1974 and Air (Prevention and Control of pollution) Act 1981, The Forest (Conservation) Act 1980 and the Mines and Minerals (Development & Regulation) Act 1957. In this context In order to additionally comply with the direction of Hon'ble Supreme Court dated 02/08/2017 vide writ petition (Civil) NO 114 of 2014 Following additional conditions in TOR are required to address and comply.

1. The project proponent shall give an undertaking by way of affidavit to comply with all the statutory requirements and judgment of Hon'ble Supreme Court dated 2<sup>nd</sup> August 2017 in Writ Petition (Civil) No: 114 of 2014 in the matter of common cause versus Union of India and others before grant of TOR/EC. The undertaking inter alia include commitment of PP not to repeat any such violation in future.
2. In case of violation of above undertaking, the TOR/EC shall be liable to be terminated forthwith.



3. The Environmental Clearance will not be operational till such time the project proponent complies with all the statutory requirements and judgment of Hon'ble Supreme Court dated 2nd August 2017 in Writ Petition (Civil) No 114 of 2014 in the matter of Common Cause versus Union of India and others.
4. State government concerned shall ensure that mining operation shall not commence till entire compensation levies, if any, for illegal mining paid by the Project proponent through Their respective department of Mining and Geology in strict compliance of judgment of Hon'ble Supreme Court dated 2nd August 2017 in Writ Petition (Civil) No 114 of 2014 in the matter of Common Cause versus Union of India and others.

1700

3. Validity of ToR:

- The ToR prescribed for the project will be valid for a period of four years for submission of EIA & EMP report vide amended EIA Notification 2006, S.O. 751(E) dtd 17.02.2020. 751(E)
- The above-mentioned project specific TORs/additional TORs and the model TORs available in the MoEFCC's sector specific EIA Manual for Mining Projects shall be considered as generic TORs for preparation of the EIA report in addition to all the relevant information as per the generic structure of EIA given in Appendix III in the EIA Notification, 2006. The project shall be appraised on receipt of the final EIA report.



**Annexure A**

An indicative guideline for assessing the amount of remediation plan and natural and community resource augmentation plan is as under :

EMP Sub-Components									
AP	WP	SHW	TP	NV	GB	HG	RH/OHS	SC	SR/S
Air Pollution	Water Pollution	Solid & Haz. Waste	Transportation	Noise & Vibration	Greenbelt	Hydro-Geology	Risk Hazards/ Occupational Health & Safety	Soil Conservation	Corporate Social Responsibility

**1701**

Following model calculation shall be used to conclude cost in RS per Day.

Attributes	Cost Estimation	Rs. Per day
AP	<ul style="list-style-type: none"> <li>Water requirement per day for sprinkling of water to curb fugitive emission =</li> <li>Cost of 1 KL water for sprinkling =</li> </ul>	
	Total cost of AP per day	
WP	<ul style="list-style-type: none"> <li>Major water pollution envisioned                             <ol style="list-style-type: none"> <li>Explore possibility of ground water table intersection.</li> <li>Run off water outside the lease and estimate damage caused considering period of violation in RS.Per day</li> </ol> </li> </ul>	
SHW	<p><b>When there is an overburden</b></p> <ol style="list-style-type: none"> <li>For 1 Ha Lease area equivalent to 10,000 M2 ( 1 Ha land area)* overburden bed height* Sp Gr of mineral = Tonnage of OB</li> <li>Over burden Tonnage per day: Tonnage of OB/No of working days in a year = MTPD.</li> <li>Over Burden * Rs ABC Per Ton handling charge= Rs Per Day assuming fresh-first year mining</li> </ol>	
	<p><b>When there is no Overburden, only mining waste handling charges are to be considered.</b></p> <ol style="list-style-type: none"> <li>Annual Rate of Mining * Avg Percentage of Mining waste per MT * Handling charge in Rs per MT /Nos of days in a year assuming fresh-first year mining</li> </ol>	
TP	<ul style="list-style-type: none"> <li>Nos. of covered truck plying from the mine lease to main road carrying minerals per day.</li> <li>Water sprinkling required (KLPD)to curb fugitive emission due to vehicle movement</li> </ul>	
	<ul style="list-style-type: none"> <li>Cost of Water sprinkling in Rs. Per day:</li> <li>Compensatory tree plantation to encounter vehicular emission in Nos of tree for five year.</li> <li>Cost of Tree plantation in Rs per Day.</li> </ul>	
NV	<ul style="list-style-type: none"> <li>Existence of properties/env. entities within 500 meter of blasting site and if damaged due to blasting.</li> <li>Nos of such properties/env. Entities.</li> <li>Built up area of each property/env. Entities</li> <li>Cost of reconstruction of properties ( total) considering current construction cost say Rs 20,000 per Sq. Meter.</li> </ul>	
GB	<ul style="list-style-type: none"> <li>Green Belt developed in 10% of leased area : Green belt area in M2.</li> <li>Presume 1 plant per 4 m2 is to be planted.</li> <li>Cost of single plant: RS ABC for 5 years.</li> </ul>	



	<ul style="list-style-type: none"> <li>Lease Area *10% GB = M2 of Green Belt.</li> <li>M2 of green belt/4 M2 : Nos of trees/plants.</li> <li>Cost of Green belt= Rs per tree * NOs of trees / 5 * 300=</li> </ul>	
HG	<ul style="list-style-type: none"> <li>No major HG issues envisioned, considering ground water is not intercepted</li> <li>If intersection of ground water is made, cost of one time remediation plan after estimating extent of contamination of ground water</li> </ul>	
RH/OHS	<ul style="list-style-type: none"> <li>For 1 Ha mine lease = Nos of worker required.</li> <li>Annual cost of health check for the workers</li> <li>Cost of health check per day:</li> <li>Cost of PPE per worker= Rs ABC</li> <li>Total cost of PPE = Nos of workers * Rs. ABC</li> <li>Total cost of PPE = health check up + PPE = RS XYZ</li> <li>Cost of OHS per day =XYZ/300 ( days ) =</li> </ul>	
SC	Cost of preservation, Handling and reuse of Top soil : Rs Per day	
CSR/SE	2% of the project cost per annum (Project cost) * 0.02 / 300 (Days) =	
	<b>Total</b>	<b>Rs PQR</b>

1702

Considering above following details shall be furnished.

- (A) Cost incurred due to EMP = Rs ( ) \* 300 ( Nos. of days ) = ( ) .  
 (B) Benefits earned due to violation= Production per annum under violation x Sale price announced x % of profit due to violation = BBB.  
 (C) Cost of Environmental Damage = (A) + (B)

Based on the affected attributes and considering environmental damage, natural resource and Community resource augmentation plan shall be prepared keeping activities mentioned in CER vide OM of MOEF&CC dated 01/05/2018 in view.

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-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/63815/2020
2. **Category of the Proposal** : Non-Coal Mining
3. **Name of the proposal** : M/s. Dinesh Kumar and Company (Khorasa Limestone Mine)
4. **Date of Receipt of Proposal** : 17 Jun 2021
5. **Date of TOR Granted** : 04 Dec 2020
6. **Date of submission for EC** : 17 Jun 2021
6. **Name of the Project proponent along with contact details**
  - a) **Name of the proponent** : M/S. DINESHKUMAR AND CO.
  - b) **State** : Gujarat
  - c) **District** : Junagarh
  - d) **Pincode** : 363670

-true copy-

**F. No. 22-21/2020-IA.III**

Government of India  
Ministry of Environment, Forest and Climate Change  
Impact Assessment Division

\*\*\*\*\*

Indira ParyavaranBhawan  
Jor Bagh Road, Aliganj  
New Delhi – 110003  
sujit.baju@gov.in

Date: 7<sup>th</sup> July, 2021**Office Memorandum**

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

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

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

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

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

5. Therefore, in compliance to the directions of the Hon'ble NGT a Standard Operating Procedure (SoP) for dealing with violation cases is required to be drawn. The Ministry is also seized of different categories of 'violation' cases which have been

pending for want of an approved structural/procedural framework based on 'Polluter Pays Principle' and 'Principle of Proportionality'. It is undoubtedly important that action under statutory provisions is taken against the defaulters/violators and a decision on the closure of the project or activity or otherwise is taken expeditiously.

6. In the light of the above directions of the Hon'ble Tribunal and the issues involved, the matter has accordingly been examined in detail in the Ministry. A detailed SoP has accordingly been framed and is outlined herein. The SoP is also guided by the observations / decisions of the Hon'ble Courts wherein principles of proportionality and polluters pay have been outlined.

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

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

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

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

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

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

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

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

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

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

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

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

**Issue 3: 'Principles of Proportionality' – to be applied:**

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

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

**Issue 4: 'Polluter pays' principle &  
&**

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

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

**Held:**

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

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

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

#### **8. Legal provisions:**

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

ii. Further, notwithstanding anything contained in any other law but subject to the provisions of the Environment Protection Act, 1986, Section 5 of the Environment (Protection) Act, 1986, provides that the Central Government may, in the exercise of powers and performance of Central Government functions under the said Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

#### **9. Definition of Violation and Non-compliance:**

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

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

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

#### 10. Standard Operating Procedure – Guiding Principles:

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

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

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

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

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

#### 11. SOP for dealing with the violation cases:

##### Step 1: Closure or Revision

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

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

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

**Step: 3: Appraisal under EIA Notification, 2006**

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

**A. If not permissible:**

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

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

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

**B. If permissible:**

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

ii. Such cases of violation shall be subject to appropriate

(a) Damage Assessment

(b) Remedial Plan and

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

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

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

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

**form/configuration/features** then the project shall be directed to be **modified so** **1710**  
**that the project would be environmentally sustainable.**

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

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

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

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

## **12. Penalty provisions for Violation cases and applications:**

### **a. For new projects:**

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

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**b. For expansion projects:**

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

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

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

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

**13. Identification of Violation cases:**

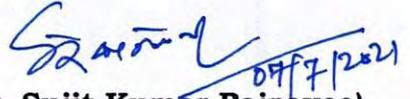
With a view to protecting the environment and to expeditiously bring violators into a regulatory regime so as to prevent & control environment damage caused by such violation & to determine whether operation of such projects is permissible and to take action stipulated under Section 15 of the Environment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

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



Environmental Clearance in terms of extant EIA Notification and shall not grant or renew CTO (Consent to Operate) unless Environment Clearance (if applicable) has been obtained.

- ii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall identify cases of violation under their respective jurisdiction, report such cases to the Ministry or State/Union Territory Level Environmental Impact Assessment Authority, as the case may be and also revoke CTO, if granted to the unit after giving an opportunity of being heard.
  - iii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall expeditiously examine the references, received from public and other bodies, relating to violations and take necessary steps as per (ii) above.
14. This is issued with the approval of the Competent Authority.

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

To

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

Copy for information:

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

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

Mr. Sanjay Upadhyay  
*Advocate, Supreme Court of India*  
*Founder and Managing Partner,*  
*Enviro Legal Defence Firm*

**THROUGH REGISTERED A.D./ E-MAIL**

**NOTICE**

Date:13/09/2021

The Member Secretary,  
Gujarat State Level Appraisal Committee  
c/o Gujarat Pollution Control Board  
Paryavaran Bhawan, Sector-10A,  
Gandhinagar, Gujarat-382010  
E-Mail: membersecretarygpcb@gmail.com;  
ms-gpcb@gujarat.gov.in.

Sir,

Under the instruction and authority of my client, Mr. Ashok V. Jimuliya registered POA holder of mine lease named M/s Dinesh Kumar & Co. we serve upon you with the present notice for the reasons enumerated below:

1. My client is the registered power of attorney holder of limestone mining lease of area measuring 5 hectares in Village Khorasa, Taluka Maliya Hatina, Junagarh District of the State of Gujarat.
2. That the environment clearance application of my client dated 17.06.2021 has been kept pending by SEIAA for almost three months without according cogent reasons for the same and despite the EC Application being made in accordance with the provisions of the Environment Impact Assessment Notification, 2006. A copy of the Acknowledgement Slip for EC application dated 17.06.2021 is marked and appended as **Annexure 1**.
3. That even after a lapse of closed to three months since the submission for EC application, his application has not been processed. That subsequently

my client has made multiple attempts to contact SEIAA, requesting the consideration of his EC proposal as per law and seek finality on the same. However, no action has been taken on the repeated requests of my clients and only oral communications have been made by your office stating that his application will not be processed due to bar on consideration of proposals during the pendency litigation against him before the Hon'ble National Green Tribunal (NGT).

4. That it is informed that the Hon'ble NGT has not placed any restriction on the consideration of proposal made by my client, and SEIAA can undertake its statutory duty without any legal bar.
5. That my client has been named as Respondent in two matters before the Hon'ble National Green Tribunal, namely, *Protection of Environment & Public Service Committee v. Union of India & Ors.* (OA 58/2018) and *Sayed Md. Sabir Usman v. Union of India & Ors* (OA No. 101/2019).

- a. In *Protection of Environment & Public Service Committee v. Union of India & Ors.* (OA 58/2018), my Client has been included in the array of parties as Respondent No. 18. The matter is still in its initial stages and the Hon'ble Tribunal is yet to receive an Ecological Damage Report in terms of Order dated 15.06.2020.

It is important to note that the Hon'ble NGT has not made any observations on the question of violation by my client and has only considered and highlighted the observations made by the Joint Committee which submitted a Damage Assessment Report. Further, the Observations of the Committee and the assessment of damage itself are under challenge and have not been granted any finality by the Hon'ble NGT.

Further, my client will be challenging the findings of the Damage Assessment Report before the Hon'ble NGT.

A bare perusal of all the Orders passed by the Hon'ble Tribunal will make it clear that the Hon'ble Tribunal has not passed any direction with reference to consideration of proposals for EC under the EIA. Further, the matter has not been listed for the past one year due to the ongoing pandemic situation. A Summary of all the Orders passed by

the Hon'ble Tribunal along with all the Orders in the matter has been marked and appended as **Annexure 2**.

- b. In *Sayyed Md. Sabir Usman v. Union of India & Ors* (OA No. 101/2019), my client has been included in the array of parties as Respondent No. 61. This matter raised the same issues as in the previous matter and only adds a few more respondents. My client is awaiting the listing of the matter which has not been listed over the past year. A Summary of all the Orders passed by the Hon'ble Tribunal in the instant matter along with along with all the Orders passed by the Hon'ble Tribunal has been marked and appended as **Annexure 3**.

A bare perusal of the Orders passed by the Hon'ble Tribunal, makes it clear that the SEIAA has nowhere been restricted from undertaking its statutory obligations under EIA, 2006 and the SEIAA can easily consider the applications for EC as a case of lateral entry in view of the O.M. dated 09.09.2019.

6. At this point it is important to state and submit on record that my client has undertaken the process of application of EC numerous times in the past, which have been delisted/ rejected due to confusion on the applicability of EIA, 2006.
  - a. That my client had applied for Environment Clearance as early as on 11.05.2010. Subsequently, he was granted the TOR on 13.10.2010. In pursuance to the grant of TOR, he applied for EC on 19.10.2010 as per the TOR. That despite multiple attempts by my client to communicate with SEIAA, he did not get any update on the proposal for consideration of the EC proposal. Eventually, due to reasons known only to the SEIAA, the EC proposal got delisted. No communication for reasons for delisting has been received by my Client.
  - b. That subsequently, my client submitted another application dated 17.01.2015 for grant of EC which also got delisted due to administrative issue which arose after the dissolution of State Expert

Appraisal Committee. Due to this, my client had to apply for EC yet again on 13.07.2018. To the dismay of my Client, even the EC Application dated 13.07.2018 was unjustly delisted by SEIAA on 31.12.2018 by adopting an incorrect position of law and directing my client to reapply as a violation case since he was operating its mining lease without EC. It is important to add here that the position of law was clarified by way of O.M. dated 09.09.2019.

- c. That SEIAA had delisted the proposal without taking into consideration that my client had already applied for EC on two previous occasions which were delisted/rejected for no fault of his and without according cogent reasons in law for the same. SEIAA also failed to take into consideration the exemption granted to mining of major minerals from taking EC as per EIA, 1994 as well as EIA, 2006 by virtue of it being a mining lease of area less than 5 ha.
- d. That it was only after the EIA Amendment Notification dated 07.10.2014, the law included major mineral mines of less than 5 ha within the ambit of the EIA Notification. However, even the same would only be applicable to my client at the time of renewal of its mining lease or in compliance of Para 2 of the EIA Notification, 2006. Despite the said position of law exempting fresh EC Applications for major minerals of lease area 5 ha or less, my client as a measure of abundant precaution had applied for EC on 11.05.2010 and subsequently on 17.01.2015 submitted Form-I under the EIA, 2006 to SEIAA for grant of EC. Thus, SEIAA has failed to take into consideration that earlier two applications were much prior to the deadline of 31.03.2016, set by the Hon'ble Tribunal order dated 04.05.2016 in the case of Naresh Zargar v. State of Madhya Pradesh & Ors. (OA 34/2016) further upheld vide order dated 30.06.2020 in Tamil Nadu Small Miners Association v. UOI & Ors. (OA 136 of 2017).

- 7. Be that as it may, my Client re-applied for grant of TOR on 02.09.2020 as a violation category (although it is a case of lateral entry) and received TOR on 04.12.2020. Subsequently, he has followed all the conditions under the

- TOR and the public hearing has already been conducted on 07.04.2021 and the proposal for EC has been submitted on 17.06.2021.
8. Further, my client has also obtained the Consent to Establish from the Gujarat Pollution Control Board on 05.03.2021.
  9. That after a lapse of over almost three months, the Undersigned has not received any update or any decision on the processing of the proposal and is only being told that the proposals will not be considered till the disposal of matters before the Hon'ble National Green Tribunal.
  10. In the meanwhile, the proceedings under section 15 and 19 as per EIA Amendment Notification dated 14.03.2017 regarding consideration of violation case against the undersigned have also concluded on 15.05.2019 and the conditions have been complied with as per the final Order dated 15.05.2019.
  11. That the statutory process as prescribed in the Environment Impact Assessment Notification of 2006 cannot be on hold unless there is a legal bar to the same. In the case of my client as well, no restriction has been imposed on SEIAA by the Hon'ble National Green Tribunal on the consideration of the EC proposal of my client.
  12. That in view of the above stated paragraphs, it is stated that the statutory process for consideration of EC Application of my client cannot be halted in the absence of any direction by the Hon'ble NGT to the contrary and thus the delay in processing of his EC application is unjustified and without any basis in law causing huge financial losses. That despite there being no legal bar to processing the application of my client, to act in accordance with the mandate of the law and process the Application of my client unless there is any legal bar restricting it from processing the Application under EIA, 2006. There are a catena of judgments that affirm that statutory processes can continue despite judicial proceeding unless expressly stayed.
  13. That this is the fourth attempt by my client to get his EC Application processed and SEIAA has delayed processing the same without according any cogent reasons based in law. That since 2010, my client has made multiple attempts to get his EC Application processed in accordance with the established procedure of law however, it has either been delisted without

according any reasons or due to an incorrect position of law. This has resulted in an irreparable economic loss and mental trauma to my client, who is already burdened by the economic losses due to non-operation of his mine, ongoing pandemic and has to cater to the needs of his family and employees as well.

That under the circumstances, I hereby call upon you to take immediate action for processing the EC application in accordance with law. You are requested to state the legal bar, if any, in writing which restricts it from processing my clients EC Application as per the statutory mandate prescribed in the EIA, 2006.

A copy of this Notice has been retained in our office for further action.

**Kindly comply with this notice**



**On Behalf of:** Ashok V. Jimuliya

M/s Dinesh Kumar & Co

Main Bazar, Prabhash Patan, Veraval,

Gujarat: 362368

Phone No: 02876-3135

**-TRUE COPY-**

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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. 18)

1 message

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ELDF <eldflegal@gmail.com>

Thu, Nov 11, 2021 at 11:45 AM

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>

Respected Sir/Ma'am

Please find the attachment of the in O.A. No. 58 of 2018 (Objections on behalf of the Respondent No. 18) Serve to Mr. Nitin Lonkar Advocate for the Applicant, Mr. Maulik Nanavati, Advocate for R-3 & 4, Mr. Ardhendumauli Kumar Prasad, Advocate for R-8, Mr. R.P. Gupta and GPCB.

--

Sameer Maher

Clerk

Enviro Legal Defence Firm

29, Presidential Estate LGF,

Nizamuddin East New Delhi – 110013

Ph.No. 011-40573181

 [OBJECTION.pdf](#)