

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA No. 791 of 2024

Ajit Pal Singh

Applicant

Versus

Union of India

Respondent(s)

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Date 14.11.2024

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Reply on behalf of Respondent No. 4 and 5

MOST RESPECTFULLY SHOWETH:

PRELIMINARY SUBMISSIONS:

1. the Mines & Geology Department, Govt. of Haryana conducted an e-auction of Jathlana Block/YNR B-12 of district Yamunanagar having area of 101.27 hectares in Village Jathlana for extraction of minor mineral (sand) on 05/06.11.2015 and M/s P.S. Buildtech offered the highest bid of Rs. 09,34,50,000/- per annum against the reserve price of Rs. 09,34,00,000/- per annum.
2. That the highest bid offered by the M/s P.S. Buildtech (through Sh. Kulvinder Singh S/o Sh. Trilochan Singh) and the acceptance was accepted by the answering respondent and issued a Letter of Intent (LoI) vide memo no. DMG/HY/Cont/Jathalna Block/YNR B12/2015/10068 dated 30.11.2015. A copy of LoI is attached as **Annexure R-5/1.**

3. That in according to the Letter of Intent, the M/s P.S. Buildtech had executed the mining contract with the answering respondent on dated 26.07.2016.
4. That the according to the Letter of Intent, the period of the contract shall be 10 years and the same shall commence with either from the date of grant of Environmental Clearance (EC) by competent authority or an expiry of a period of 12 months from the date of issuance of Letter of Intent, whichever is earlier. The contractor i.e. M/s P. S. Buildtech obtained EC from MoEF&CC, GoI on dated 17.03.2017 with production capacity of 36 lakh TPA & Consent to Operate (CTO) from the Haryana State Pollution Control Board on dated 20.04.2017 and commenced mining operation on 28.04.2017 accordingly.
5. That the contract area of Jathlana/ YNR B-12 mining block allotted to M/s P.S. Buildtech is 101.27 hectare. As per Notifications passed by MoEF&CC applicable to the present mining site area and para no.6 of the Environmental Clearance stating life of mining as 10 years, validity of Environmental Clearance is 10 years. The contents of preliminary submissions are being reiterated.
6. That the contract of M/s P.S. Buildtech, the contractor of Jathlana Block/ YNR-B-12 was terminated on 31.03.2022 (Annexure R-5/3) by the then Director General, Mines and Geology Department, Haryana for non-deposition of government dues. The termination order dated 31.03.2022 was set aside on 25.04.2023 (Annexure R-5/4) by the Appellate Authority. Therefore, the said contract

remained un-operational for the period from 31.03.2022 to 25.04.2023.

7. That M/s P.S. Buildtech submitted mining plan dated 07.06.2023 for approval of the Competent Authority and the same was renewed/approved on 24.08.2023 by the Competent Authority.
8. That clause 3 of office memorandum of MoEF&CC, GoI (IA Division) dated 03.11.2023 stated that “in case of mining projects (item 1a of the Schedule), the validity of Environment Clearance shall be calculated from the date of execution of mining lease. The prior EC granted for mining projects shall be valid for the project life as laid down in the mining plan approved and renewed by competent authority, from time to time, subject to a maximum of 30 years, whichever is earlier: Provide that the period of validity may be extended by another 20 years, beyond 30 years, as per the provisions of the EIA Notification 2006 (copy enclosed as **Annexure R-5/2**).

REPLY ON MERITS:

1. That the contents of paragraph No. 1 does not require any reply being formal in nature.
2. That the contents of paragraph No. 2 does not require any reply being formal in nature.
3. That the contents of paragraph No. 3 are a matter of record in so far as the same refers to the provisions of the National Green Tribunal Act of 2010. The rest of the contents are denied being false. It is submitted that the applicant has not disclosed his antecedents and the bonafides

in the original application; and there is nothing to even remotely suggest that the applicant is interested in the protection of the environment.

4. That the contents of paragraph No. 4 are denied since there is no substantial question relating to the environment involved in the present case. It is submitted that as per clause 3 of office memorandum of MoEF&CC, GoI (IA Division) dated 03.11.2023 stated that "in case of mining projects (item 1a of the Schedule), the validity shall be calculated from the date of execution of mining lease. The prior EC granted for mining projects shall be valid for the project life as laid down in the mining plan approved and renewed by competent authority, from time to time, subject to a maximum of 30 years, whichever is earlier: Provide that the period of validity may be extended by another 20 years, beyond 30 years, as per the provisions of the EIA Notification 2006 (copy enclosed as **Annexure R-5/2**). Further, it is submitted that the original application is not maintainable and is liable to be rejected.
5. That the contents of paragraph No. 5 are denied since there is no substantial question relating to the environment involved in the present case. As such, present application is not maintainable and the case does not fall within the purview of Section 14 of the National Green Tribunal Act, 2010.
6. That the contents of paragraph No. 6 are denied except those are matter of record. The department takes due action on the dues as per the provisions of State Mining Rules, 2012.

7. That the reply to the contents of sub-paragraphs of Paragraph No. 7 are as follows:

- i. That the contents of sub-paragraph No. i are a matter of record.
- ii. That the contents of sub-paragraph No. ii refers to statutory provisions of MMDR Act, 1957. Hence, no reply is required.
- iii. That the contents of sub-paragraph No. iii are a matter of record in so far as the judgment of the Hon'ble Supreme Court in SLP (Civil) No. 19628-19629 of 2019 titled as Deepak Kumar v/s State of Haryana and others.
- iv. That the contents of sub-paragraph No. iv are a matter of record in so far as the notification dated 15.01.2016 vide Annexure A-1 is concerned.
- v. That the contents of sub-paragraph No. v are a matter of record. The averments made under preliminary submissions are reiterated.
- vi. That the contents of sub-paragraph No. vi are a matter of record in so far as the Notification dated 25.07.2018 is concerned. The answering respondent is committed for compliance of the Notifications passed by the MoEF&CC including the Notification referred in the para under reply.
- vii. That the contents of sub-paragraph No. vii are a matter of record in so far as the Enforcement and Monitoring Guidelines for Sand Mining, 2020 vide Annexure A-4 are concerned.

- viii. That the contents of sub-paragraph No. viii refers to the order of this Hon'ble Tribunal in OA No. 173 of 2018. Hence, no reply needs to be submitted.
 - ix. That the contents of sub-paragraph No. iv refers to the judgment of the Hon'ble High Court. Hence, no reply needs to be submitted.
 - x. That the contents of sub-paragraph No. x refers to the order of this Hon'ble Tribunal. Hence, no reply needs to be submitted.
 - xi. That the contents of sub-paragraph No. xi refers to the order of this Hon'ble Tribunal. Hence, no reply needs to be submitted.
 - xii. That the contents of sub-paragraph No. xii refers to the judgment of the Hon'ble Supreme Court. Hence, no reply needs to be submitted.
8. That the contents of paragraph No. 8 are a matter of record.
9. That in reply to the contents of paragraph No. 9 are wrong and incorrect except the fact of grant of Environmental Clearance dated 17.03.2027. The averments made under Preliminary submission are reiterated.
10. That in reply to the contents of paragraph No. 10, the averments made under Preliminary submission are reiterated.
11. That the contents of paragraph No. 11 are a matter of record. However, it is clarified that the M/s P. S. Buildtech is issuing the e-Ravaana from Haryana Mines and Geology Information System

(HMGIS) for valid transportation of mineral as per latest e-governance process of the Department.

12. That in reply to the contents of paragraph No. 12, the averments made under Preliminary submission are reiterated.

13. That the contents of paragraph No. 13 are denied being false and incorrect. The contents of preliminary submissions are being reiterated.

14. That the contents of paragraph No. 14 are denied being incorrect and baseless. The original application is without any merits.

REPLY TO THE GROUNDS:

A. to G. That the contents of paragraph No. A to G, except the reference to the judgments/orders passed by this Hon'ble Tribunal and other Courts, are denied since no ground is made out in favour of the applicant to grant any relief claimed in the Original Application and the grounds set forth are liable to be rejected. The contents of the preliminary submissions and reply on merits are reiterated in this regard.

H. That the contents of paragraph No. H are denied being incorrect and untenable. It is submitted that the balance of convenience is not in favor of the applicant and the Original Application is liable to be dismissed.

I. That the contents of paragraph No. I are denied for want of knowledge. The applicant may kindly be put to strict proof regarding the same.


LIMITATION:

The contents of the paragraph relating to limitation are denied. The applicant has alleged the expiry of Environmental Clearance on 17.03.2022. Present application has been filed almost two years after alleged cause of action. being false since the Original Application is barred by limitation. The Original Application is liable to be rejected on this score alone.

PRAYER:

In the light of the submissions made herein above, it is most respectfully prayed that there is no merit in the Original Application and the same may liable to be dismissed.

Place: New Delhi
Dated: 15.10.2024


Mining Officer, Yamunanagar
(For Respondent No.4 & 5)

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA No. 791 of 2024

Ajit Pal Singh

Applicant

Versus

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Respondent(s)

AFFIDAVIT

I, Niranjn Lal, Mining Officer, Yamunanagar, ^{presently at New Delhi} aged about 47 years do hereby solemnly affirm and state as under:

1. That I am authorized representative of the Respondent No. ⁴⁸ ~~15~~ in present case. I am well conversant with the facts and circumstances of the case therefore, I am competent to swear this affidavit.
2. That I have read the contents of accompanying reply which has been drafted under my instructions.
3. That annexures are true copy of their originals.

[Signature]
DEPONENT

15 OCT 2024

VERIFICATION

Verified that the contents of above affidavit are true and correct to my knowledge and on the basis of information derived from the Official record which I believe to be true and no material fact has been concealed therein.

I identify the deponent who has signed/Put his in my presence



Certified that the above named Deponent identify by Shri/Smt. *[Signature]* (Niranjn Lal) Solemnly affirmed before me at Delhi S. No. *[Signature]* The contents of the affidavit which have been read & explained to me are true and correct

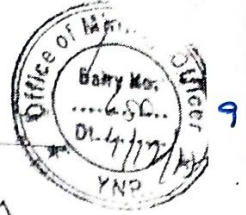
[Signature]
Notary
15 OCT 2024

[Signature]
DEPONENT

ATTESTED
[Signature]
A.N. Singh, Adv.
Notary Public
Govt. of India, New Delhi

R/311215

Director General, Mines and Geology Department Haryana
30-Bays Building, Sector-17, Chandigarh.

**Registered**

From

The Director General,
Mines & Geology Department, Haryana
30 Bays building, Sector-17,
Chandigarh.

To

Sh. Kulvinder Singh S/o Sh. Trilochan Singh,
Prop. of M/s P. S. Buildtech, 34-Vishal Nagar,
Yamuna Nagar-135001.

Memo No. DMG/HY/Cont/Jathlana Block/YNR B 12/2015/
Dated Chandigarh, the 30.11.2015

M1
[Handwritten signature]

Subject: Acceptance of the highest bid/ in respect of Sand minor mineral mines of "Jathlana Block/YNR B 12" having Tentative Area of 101.27 hectares in the district Yamuna Nagar, offered in e- auction held on 05- 06.11.2015 and issue of Letter of Intent (LoI) - regarding.

You participated in the in the e- auction held on 05.11.2015 and 06.11.2015 on the State Government web portal <https://haryanaeprocurement.gov.in> after accepting the terms and conditions of the auction notice DMG/HY/e Auction/YNR/2015/8241 dated 30.09.2015 in order to obtain mining contracts of minor mineral mines/block of the district Yamuna Nagar. You offered the highest bid of Rs. 09,34,50,000/- [Rs. Nine Crore thirty four lakhs fifty thousand only] per annum, against the Reserve Price of Rs. 09,34,00,000/- per annum, for obtaining the Mining Contract of Minor Mineral block namely 'Jathlana Block/YNR B 12' for extraction of Sand having tentative area of 101.27 hectares. The details of the khasra numbers of the tentative area under above said Mining Block is attached as Annexure 'A'.

2. You are hereby informed that the State Government has accepted the highest bid of Rs. 09,34,50,000/- [Rs. Nine Crore thirty four lakhs fifty thousand only] per annum offered by you in respect of the above said minor mineral block of 'Jathlana Block/YNR B 12' under the provisions of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals & Prevention of Illegal Mining Rules-2012 (State Rules). Accordingly, you have become the successful bidder in respect of 'Jathlana Block/YNR B 12' of the district Yamuna Nagar.

3. The State Government having accepted the aforementioned highest bid offered by you, the Department is pleased to issue this Letter of Intent (LoI) in your favour in respect of the Mining Block/area namely 'Jathlana Block/YNR B 12' subject to the following terms and conditions:

Director General, Mines and Geology Department Haryana
30-Bays Building, Sector-17, Chandigarh.

- (i) The period of contract shall be **10 years** and the same shall commence with effect from the date of grant of environmental clearance by competent authority or on expiry of a period of 12 months from the date of this communication of acceptance of highest bid/ issuance of "Letter of Intent", whichever is earlier;
- (ii) You may note that the detail of the area of the mining blocks is tentative and was notified "on as is where is basis" (refer condition no. 4 of the notice). In case of any inadvertent mistake, if any, the same would be rectified/ corrected before execution of the agreement (refer condition no. 3 of the notice).;
- (iii) No request regarding reduction in bid amount on account of reduction in land/area of the Mining block, including due to change in description of khasra numbers/location etc. at any stage will be entertained on any ground including loss/reduction of area for mining on account of compliance of applicable laws/restrictions. Needless to state that this also includes the changes, if any, as per condition no. 3 of auction notice.
- (iv) The amount of the highest successful bid i.e. **Rs. 09,34,50,000/-** [Rs. Nine Crore thirty four lakhs fifty thousand only] per annum shall be the "Annual Contract Money" payable by you as the contractor in the manner prescribed in the contract agreement to be executed on form MC-1 appended to State Rules;
- (v) The above said annual contract money shall be increased at the rate of 25% on completion of each block of three years. Accordingly, the year-wise amount of the annual contract money shall be as per details given below:

Sr. No.	Year of the Contract Period	Annual contract Money
1	First Year	Rs. 09,34,50,000/-
2	Second Year	Rs. 09,34,50,000/-
3	Third Year	Rs. 09,34,50,000/-
4	Fourth Year	Rs. 11,68,12,500/-
5	Fifth Year	Rs. 11,68,12,500/-
6	Sixth Year	Rs. 11,68,12,500/-
7	Seventh Year	Rs. 14,60,15,625/-
8	Eighth Year	Rs. 14,60,15,625/-
9	Ninth Year	Rs. 14,60,15,625/-
10	Tenth Year	Rs. 18,25,19,535/-

- (vi) As per the terms and conditions of the grant, you are liable to deposit **Rs. 02,33,62,500/-** i.e. equal to 25% of the annual bid amount as "security deposit" out of which you have already deposited an amount of **Rs. 93,45,000/-** (Rs. Ninty three lakh forty five thousand only) i.e. equal to 10% of the annual bid

Director General, Mines and Geology Department Haryana
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amount as 'initial bid security' after the conclusion of e-auction. The balance amount of Rs. 01,40,17,500/- of the bid security i.e. 15% of the annual bid amount alongwith one month's advance contract money shall be deposited before commencement of the mining operations or before expiry of the period of 12 months, whichever is earlier;

- (vii) You shall execute an Agreement Deed in Form MC-I appended to the Haryana Minor Mineral Concession, Stocking, Transportation of Mineral & Prevention of Illegal Mining Rules-2012 (the State Rules 2012) within a period of 90 days from the date of issuance of this communication/ grant of LoI;
- (viii) It may be pointed out that as per existing applicable rates the contract agreement had to be executed on **Non Judicial Stamp papers worth Rs.37,54,100/- (Rs. Thirty Seven lakh fifty four thousand one hundred only)**. However, you are aware that M/s Om Minerals, one of the LoI holders (who participated in the auctions held in December 2013) has filed a CWP No.7991 of 2014, before the Hon'ble Punjab & Haryana High Court. Further a few other similarly situated LoI holders have also filed separate CWP's before the Hon'ble Punjab and Haryana High Court challenging demand/ levy of Stamp Duty on execution of 'Contract Agreement'. The said matter is still pending for adjudication. Accordingly, the present auction was conducted subject to outcome of said cases. **Therefore, the charging of stamp duty for the execution of contract agreement shall be as per final outcome of the said CWP's.**
- (ix) The Contract Agreement would also be required to be got Registered on payment of the applicable Registration fee;
- (x) In case you fail to execute the Agreement Deed within the prescribed period of 90 days, this LoI shall be deemed to have been revoked and the amount of initial bid security deposited at the time of auction shall be forfeited. Further, the balance amount of 15% towards the bid security, amounting to Rs. 01,40,17,500/- being the 15% of the annual bid amount, shall be recovered as arrears of land revenue and, you, as the LoI holder/ defaulter, shall be debarred from participation in any future auctions for a period of 5 years;
- (xi) You shall also furnish a solvent surety for a sum equal to the amount of the annual bid for execution of the Agreement. In case the surety offered by the contractor(s) during the subsistence of the contract is not found solvent, the

Director General, Mines and Geology Department Haryana
30-Bays Building, Sector-17, Chandigarh.

contractor(s) shall offer another solvent surety and a supplementary deed shall be executed to this effect;

- (xii) After execution of Agreement, either before commencement of the mining operation or before expiry of the period of 12 months from the date of issuance of this Lol, whichever is earlier, in case of failure to deposit the balance 15% amount towards security [as required under clause (v) above] the acceptance of bid/issuance of Lol/execution of agreement shall be deemed to have been revoked and 10% amount deposited towards as initial bid security at the time of auction shall stand forfeited. Further, un-paid 15% amount towards security shall be recovered as arrears of land revenue and you shall be barred from participation in any subsequent bids for a period of 5 years;
- (xiii) You shall be liable to deposit the contract money in advance at monthly intervals as per provisions of Contract Agreement i.e. from the date of commencement of the contract Agreement;
- (xiv) You shall also deposit/ pay an additional amount equal to 10% of the due contract money along with the monthly installments towards the '**Mines and Minerals Development, Restoration and Rehabilitation Fund**'.
- (xv) You shall also be liable to pay advance income tax as per provisions of Section 206(c) of income tax act in addition to contract money, payable as per terms and conditions of contract agreement.
- (xvi) On enhancement of the contract money with the expiry of every three years period, you shall deposit the balance amount of security so as to upscale the security amount equal to 25% of the revised annual contract money as applicable for one year with respect to the next block of three years. No interest, whatsoever, shall be payable on the security amount deposited under the prescribed security head of the government;
- (xvii) You shall prepare a Mining Plan along with the Mine Closure Plan (Progressive & Final) as per chapter 10 of the State Rules for the "Mining Block" and shall not commence mining operations in any area except in accordance with such Mining Plan duly approved by an officer authorised by the Director, mines & Geology, in this behalf.
- (xviii) Further, the actual mining will be allowed to be commenced only after prior Environmental Clearance is obtained by you as the Lol holder/mining contractor

**Director General, Mines and Geology Department Haryana
30-Bays Building, Sector-17, Chandigarh.**

for the Mining Block from the Competent Authority as permitted by the competent Authority required under EIA notification dated 14/9/2006, as amended from time to time by the MoE&F, Govt and guidelines/ circulars issued in this behalf;


- (xix) The Mining contractor to whom mining rights have been granted through this contract would also be liable to pay the following to the landowners to undertake mining operations:
- (a) Annual rent in respect of the land area blocked under the concession but not being operated, and
 - (b) Rent plus compensation in respect of the area used for actual mining operations.
- (xx) The amount of annual rent and the compensation shall be settled mutually between the landowner and the mining contractor. In case of non-settlement of the rent and compensation, the same shall be decided by the District Collector concerned in accordance with the provisions contained in Chapter 9 of the "Haryana Minor Mineral Concession, Stocking, and Transportation of Minerals and Prevention of Illegal Mining Rules, 2012";
- (xxi) The total mineral excavated and stacked by the concession holder within the area granted on mining contract shall not exceed two times of the average monthly production as per approved Mining Plan at any point of time;
- (xxii) The Mining Contractor shall not stock any mineral outside the concession area granted on mining contract, without obtaining a valid license as per provisions contained in Chapter 14 of the State Rules;
- (xxiii) The contractor shall not carry out any mining operations in any reserved/ protected forest or any area prohibited by any law in force in India, or prohibited by any authority without obtaining prior permission in writing from such authority or officer authorized in this behalf. In case of refusal of permission by such authority or officer authorized in this behalf, contractor(s) shall not be entitled to claim any relief in payment of contract money on this account;
- (xxiv) Following are the general/ special conditions applicable for excavation of minor mineral(s) from river beds in order to ensure safety of river-beds, structures and the adjoining areas:

- (a) No mining would be permissible in a river-bed up to a distance of five times of the span of a bridge structure on up-stream side and ten times the span of such bridge structure on down-stream side, subject to a minimum of 250 meters on the up-stream side and 500 meters on the down-stream side;
- (b) There shall be maintained an un-mined block of 50 meters width after every block of 1000 meters over which mining is undertaken or at such distance as may be directed by the Director or any officer authorised by him;
- (c) The maximum depth of mining in the river-bed shall not exceed three meters from the un-mined bed level at any point in time with proper bench formation;
- (d) Mining shall be restricted within the central 3/4th width of the river/ rivulet;
- (e) No mining shall be permissible in an area up to a width of 500 meters from the active edges of embankments in case of river Yamuna, 250 meters in case of Tangri, Markanda and Ghaggar and 100 meters on either side of all other rivers/ rivulets. (This clause is applicable for mining outside river bed area);
- (f) Any other condition(s), as may be required by the Irrigation Department of the state from time to time for river-bed mining in consultation with the Mines & Geology Department, may be made applicable to the mining operations in river-beds.
- (xxv) A safety margin of two meters (2m) shall be maintained above the ground water table while undertaking mining and no mining operations shall be permissible below this level unless a specific permission is obtained from the competent authority in this behalf. Further, the depth of excavation of mineral shall not exceed nine meters (9m) at any point of time. (This clause is applicable for mining outside river bed area);
- (xxvi) The contractor shall not undertake any mining operations in the area granted on mining contract without obtaining requisite permission from the competent authority as required for undertaking mining operations under relevant laws;

Director General, Mines and Geology Department Haryana
30-Bays Building, Sector-17, Chandigarh.

(xxvii) The contractor shall be under obligation to carry out mining in accordance with all other provisions as applicable under the Mines Act, 1952, Mines and Minerals (Development and Regulation) Act, 1957, Indian Explosives Act, 1884, Forest (Conservation) Act, 1980 and Environment (Protection) Act, 1986 and the rules made thereunder, Wild Life (Protection) Act, 1972, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981;

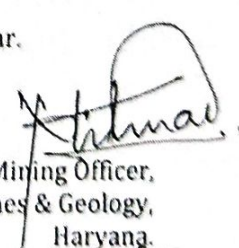
4. Accordingly, for the time being you are advised to submit the Draft Contract Agreement on Form MC-I (in Five copies) appended to the State Rules-2012, on **plain papers** along with other requisite documents including a solvent surety(s) for a sum equal to the amount of the annual bid for execution of the agreement, within a period of 90 days from the date of issue of this bid acceptance letter and the Lol. You should also furnish an affidavit to the effect that you will immediately deposit the requisite stamp duty as per out of the related Court cases as stated under para 3(viii) above.


Mining Officer,
for Director General Mines & Geology,
Haryana.

Endst.No. DMG/HY/Cont/Jathlana Block/YNR B 12/2015/10071 Dated: 30.11.2015

A copy is forwarded to the following for information and necessary action please:-

1. The Chairman, Haryana State Pollution Control Board, Panchkula.
2. The Deputy Commissioner, Yamuna Nagar.
3. The Mining Officer, Mines & Geology Department, Yamuna Nagar.


Mining Officer,
for Director General Mines & Geology,
Haryana.

File No. IA3-22/19/2023-IA.III [E226246]
Government of India
Ministry of Environment, Forest and Climate Change
(IA Division)

Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj,
New Delhi - 110003

Dated: 3rd November, 2023

OFFICE MEMORANDUM

Subject: Clarification on the time period within which the Environmental Clearance (EC) has to be transferred after transfer/ acquisition/ demerger/ change in name etc., of the Company- reg.

As per the provisions of para 11 of the Environmental Impact Assessment Notification, 2006 and subsequent amendments, a prior Environmental Clearance (EC) granted for a specific project or activity to an applicant may be transferred during its validity to another legal person entitled to undertake the project or activity on application by the transferor, or by the transferee with a written "no objection" by the transferor, to, and by the regulatory authority concerned, on the same terms and conditions under which the prior EC was initially granted, and for the same validity period. No reference to the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned is necessary in such cases.

2. The validity of EC for all projects/activities, other than mining projects, means the period from which a prior EC is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub-paragraph (iii) of paragraph 8, to the start of production operations by the project or activity or completion of all construction operations in case of construction projects relating to item 8 of the Schedule, to which the application for prior environmental clearance refers.

3. In case of the mining projects (item 1a of the Schedule), the validity shall be calculated from the date of execution of the mining lease. The prior EC granted for mining projects shall be valid for the project life as laid down in the mining plan approved and renewed by competent authority, from time to time, subject to a maximum of thirty years, whichever is earlier: Provided that the period of validity may be extended by another twenty years, beyond thirty years, as per the provisions of the EIA Notification 2006.

4. It has now been brought to notice that there is ambiguity with regard to the term validity of the prior EC within which the EC has to be transferred. The matter has been examined in the Ministry and it is clarified that the "Validity of Environmental Clearance" involves two phases of the project, which are validity of Construction or Installation Phase and validity of Operational Phase.

5. The validity of construction or installation phase means duration from the date of grant of prior EC by the Regulatory Authority for projects other than mining (item 1(a) of the Schedule) for:-

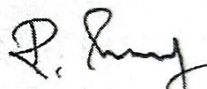
- a) Completion of all construction activities, in case of construction projects (item 8 of the Schedule), to which the application for prior-EC, refers to and, shall be limited only to such activities as may be the responsibility of the project proponent as a developer. Or;
- b) Completion of installation of plant and machinery including commencement of production/operation in all other cases (other than item 8 of the Schedule), to which the application for prior-EC, refers to.

6. The validity of Operational phase of projects, except mining (item 1a of the Schedule), shall be perpetual for the remaining life of the project in respect of the completed part of the project. In case of partial completion of a production/operation/activity/ construction, the CTO obtained shall be taken into account to ascertain the level of completion, for which the EC shall be considered to be valid for perpetuity.

7. In this regard, it is hereby clarified that subsequent to transfer/acquisition/demerger/change in name etc., of a project/unit having a valid EC, from one legal entity to another, all the accumulated environmental obligations as per the valid EC applicable at the time of such transfer shall be deemed to have been transferred to the new entity from the date of such transfer/ acquisition/demerger/change in name etc. Accordingly, as per the provisions of EIA Notification 2006 and its amendments, the transferor /transferee shall apply for transfer of EC in the laid down proforma on PARIVESH along with all the requisite documents within twelve months of such transfer/ acquisition/ demerger / change in name etc., of the Company.

8. Provided, that where the application for transfer has been filed online in the laid down proforma, after a period of twelve months but within twenty-four months from the date of change in transfer/acquisition/demerger/change in name etc., of the Company, the delay shall be condoned at the level of the Minister in charge of Environment, Forest and Climate Change, Govt. of India or Chairman, State Level Expert Appraisal Committee, as the case may be.

9. Application for transfer of EC after a period of twenty-four months from the date of transfer/ acquisition/ demerger / change in name etc., of the Company, shall be considered as a non-compliance of EC condition and action shall be initiated on the project proponent as per the existing rules.
10. The project proponents, who have not yet applied till date for transfer of EC as per the provisions of EIA Notification 2006, even after one year from the date of change in ownership and/or change in name of the Company, shall apply for the same within a period of 6 months from the date of issue of this Office Memorandum, and the same shall not be considered as non-compliance of EC condition.
11. Further, in addition to the documents required to be submitted as per the provisions of the EIA Notification 2006 for EC transfer, the applicant shall also submit the proof of submission of application to the concerned SPCB/PCCs for transfer of CTE/CTO.
12. This is issued with the approval of the Competent Authority.


(Sundar Ramanathan)
Scientist 'E'

To

1. Chairman/Member Secretary, CPCB.
2. Chairperson/Member Secretaries of all the State/UT, PCBs/PCCs
3. Chairperson/Member Secretaries of all the EACs.
4. Chairperson/Member Secretaries of all the SEIAAs/ SEACs.
5. All Officers of IA Division

Copy to:

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