

BEFORE THE HON’BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 579 OF 2024
IN
ORIGINAL APPLICATION NO. 580 OF 2024

IN THE MATTER OF: -

Yasveer Singh ...Applicant

-Versus-

State of Uttar Pradesh & Ors. ...Respondent (s)

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Date: 11.07.2026
Place: New Delhi

DRAWN AND FILED BY:



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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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IN THE MATTER OF: -

Yasveer Singh

...Applicant

-Versus-

State of Uttar Pradesh & Ors.

...Respondent (s)

**REPLY ON BEHALF OF RESPONDENT NO. 8 – M/S ROYAL
CONSTRUCTION COMPANY TO THE CALCULATION OF THE
ENVIRONMENTAL COMPENSATION BY THE UTTAR PRADESH
POLLUTION CONTROL BOARD IN COMPLIANCE WITH THE
ORDER DATED 27.02.2026**

MOST RESPECTFULLY SHOWETH: -

1. That the above-captioned Original Applications have been preferred by the Applicant raising misleading and baseless allegations regarding illegal mining activities being allegedly carried out by the Respondent No. 8 – M/s Royal Construction Company (hereinafter “**answering Respondent**”) outside the sanctioned mining lease area and through the use of heavy machines, in violation of the conditions of the Environmental Clearances.
2. That this Hon'ble Tribunal, vide order dated 20.12.2024, constituted a Joint Committee comprising the District Magistrate, Baghpat and the Uttar Pradesh Pollution Control Board with a direction to visit the site and submit a factual report. Since the exercise was confined to verification of the facts as alleged by the Applicant, no notice was issued to the Respondents at that stage.
3. That the Joint Committee carried out its inspection on 07.01.2025 and submitted its Compliance Report dated 20.01.2025. The Report noted that during the inspection, both the mining leases of the answering Respondent -

Gata No. 706, Kotana Khadar, Tehsil Baraut, District Baghpat, Uttar Pradesh (hereinafter “**Kotana Khadar**”) and Gata No. 1/2, Chhaprauli Khadar, Tehsil Baraut, District Baghpat, Uttar Pradesh (hereinafter “**Chhaprauli Khadar**”) were found to be closed in compliance with the Order dated 10.12.2024 passed by this Hon'ble Tribunal in O.A. No. 1190/2024 titled *Ajayveer Singh v. State of U.P. & Ors.* and no signs of mining outside the sanctioned area were found in either lease. Regular monitoring had been carried out when the projects were operational, and fines of Rs. 10,29,720/- (Kotana Khadar) and Rs. 14,27,377/- (Chhaprauli Khadar) were imposed and deposited by the answering Respondent whenever deviations from the project boundary were observed.

4. That on 31.01.2025, this Hon'ble Tribunal considered the Joint Committee Report dated 20.01.2025 and issued notice to the Respondents with a direction to file their Objections to the said Report. This Hon'ble Tribunal also observed that the Report did not disclose the levy of any Environmental Compensation for the damage caused to the environment on account of the alleged illegal sand mining.
5. That on 07.05.2025, the Uttar Pradesh Pollution Control Board filed its Response submitting that on 18.03.2025, a Show Cause Notice was issued to the answering Respondent regarding imposition of Environmental Compensation of Rs. 17,55,891/- for illegal sand mining at Chhaprauli Khadar and Rs. 6,81,710/- for illegal mining at Kotana Khadar. As per the said Show Cause Notice, the Mining Department, Baghpat had provided details of alleged violations found during the inspection of Kotana and Chhaprauli Khadar to the UPPCB vide emails dated 11.02.2025 and 14.02.2025. Taking into account the said violations, the Environmental Compensation had been calculated by the Board on the basis of the

methodology submitted by the CPCB dated 29.01.2020 in O.A. No. 360/2015, National Green Tribunal Bar Association v. Virender Singh (Gujarat), read with directions dated 11.06.2021 issued under Section 5 of the Environment (Protection) Act, 1986.

6. That subsequently, the said Show Cause Notice was confirmed vide letter dated 25.04.2025 and Environmental Compensation aggregating to Rs. 24,37,601/- (Rs. 17,55,891/- + Rs. 6,81,710/-) was imposed upon the answering Respondent.
7. That on 03.12.2025, the answering Respondent filed its Reply to the Original Applications, submitting that the Environmental Clearances granted to it for mining leases had been set aside by this Hon'ble Tribunal by Judgment dated 06.08.2025 in Original Application No. 1190 of 2024, Ajayveer Singh v. State of Uttar Pradesh & Ors. (hereinafter "**Ajayveer Singh Judgment**"). The Respondent was also restrained from carrying out further mining activities. This Judgment has been challenged before the Hon'ble Supreme Court in Civil Appeal No. 12932 of 2025, *Royal Construction Company v. State of Uttar Pradesh & Ors.*, and on 07.11.2025, the Hon'ble Supreme Court was pleased to stay the said NGT Judgment pending further hearing. True copy of the Judgment dated 06.08.2025 of this Hon'ble Tribunal in Original Application No. 1190 of 2024, Ajayveer Singh v. State of Uttar Pradesh & Ors. is annexed herewith as **ANNEXURE R/1**.

True copy of the Order dated 07.11.2025 of the Hon'ble Supreme Court in Civil Appeal No. 12932 of 2025, *Royal Construction Company v. State of Uttar Pradesh & Ors.* is annexed herewith as **ANNEXURE R/2**.

That the answering Respondent has also filed its Objections dated 03.12.2025 to the Joint Committee Report dated 20.01.2025 submitting *inter*

alia that the Show Cause Notices dated 18.03.2025 and 02.05.2025 were challenged before the Hon'ble High Court of Judicature at Allahabad in Writ-C No. 9939/2025 and the said Petition was disposed of vide Order dated 10.10.2025 (further corrected vide Order dated 16.10.2025) with liberty to the answering Respondent to file its Reply to the said Notices.

True copy of the Writ-C No. 9939/2025 is annexed at Annexure R/4, Pages 201 – 225 of the Objections dated 03.12.2025 filed by R8 to the Compliance Report.

True copy of the Orders dated 10.10.2025 and 16.10.2025 are annexed at Annexure R/5, Page 234 and Annexure R/6, Page 2345 of the Objections dated 03.12.2025 filed by R8 to the Compliance Report respectively.

8. That on 04.12.2025, this Hon'ble Tribunal took note of the UPPCB's submission that while the Writ-C No. 9939/2025 was pending against the Show Cause Notice dated 18.03.2025, the final order imposing Environmental Compensation was passed by the UPPCB on 25.04.2025, which was not challenged by the answering Respondent. Further, the Environmental Compensation could not be recovered by the UPPCB in view of the Judgment of the Hon'ble Supreme Court in Civil Appeal Nos. 757-760 of 2013, *Delhi Pollution Control Committee v. Lodhi Property Co. Ltd.* Accordingly, this Hon'ble Tribunal directed UPPCB to place on record the details of calculation of Environmental Compensation by way of an affidavit.
9. That in pursuance thereof, UPPCB filed its Affidavit dated 13.02.2026 reiterating the submissions made in its previous Reply dated 07.05.2025 and the same are not being reiterated for brevity.
10. That the present Reply is being filed in pursuance of the liberty granted by this Hon'ble Tribunal vide Order dated 27.02.2026 whereby the answering

Respondent was granted time to file Response to the calculation of Environmental Compensation by UPPCB.

11. That at the outset, it is submitted that the issues regarding *alleged* illegal mining by the answering Respondent and imposition and determination of the Environmental Compensation for the past violations are pending before the Hon'ble Supreme Court in the case of Civil Appeal No. 12932 of 2025, *Royal Construction Company v. State of Uttar Pradesh & Ors.* and this alone is a ground to adjourn this case sine die.
12. That vide Ajayveer Singh Judgment dated 06.08.2025, this Hon'ble Tribunal restrained the answering Respondent from undertaking mining operations while holding that the mining permissions were granted to the answering Respondent in the absence of a valid District Survey Report (DSR). More importantly, this Hon'ble Tribunal directed UPPCB to collect the relevant material such as quantum of mineral extracted, sale price of minerals, etc. and determine the amount of Environmental Compensation for the period of past violations after giving due opportunity of hearing to the concerned parties. Relevant portion of Judgment dated 06.08.2025 is reproduced below for convenience: -

“124. In the result, respondent 6 is restrained from carrying out mining activities in respect of the mining leases in question having obtained the said mining permission in absence of any valid DSR in respect of the questioned areas..... For the purpose, we **direct UPPCB to collect the relevant material that is quantum of mineral extracted by respondent 6, the sale price of mineral and other relevant material/information and then determine the amount of environmental compensation for the period of past violations in respect of illegal mining causing damage to environment after giving due opportunity of hearing to the concerned parties in accordance with law and recover the same expeditiously. The**

amount of environmental compensation so computed and recovered from respondent 6 shall be utilised for rejuvenation/restoration of damage caused to environment in accordance with Rejuvenation Plan which shall be prepared within two months by a Committee comprising District Magistrate, Baghpat; UPPCB; and Central Pollution Control Board wherein District Magistrate, Baghpat shall be the Nodal Authority.”

(Emphasis supplied)

As already noted above, the aforesaid Judgment has been stayed by the Hon’ble Supreme Court vide Order dated 07.11.2025 in Civil Appeal No. 12932 of 2025 Royal Construction Company v. State of Uttar Pradesh & Ors. till the next date of hearing.

13. Therefore, the determination of Environmental Compensation for the alleged past violations, including the violations noted in the Show Cause Notice dated 18.03.2025, is already sub-judice before the Hon’ble Supreme Court. Any determination or recovery of Environmental Compensation from the answering Respondent at this stage would be a clear contempt of the Order/stay of the Hon’ble Supreme Court.
14. That furthermore, since this Hon’ble Tribunal has issued directions in the Ajayveer Judgment dated 06.08.2025 regarding a fresh and comprehensive imposition and determination of the Environmental Compensation, it is submitted that the Show Cause Notices (being administrative in nature) automatically stand subsumed in the Judicial direction of this Hon’ble Tribunal and therefore cannot be enforced separately. In other words, the imposition and determination of environmental compensation for the mining leases of the answering Respondent would now be governed by the Ajayveer Singh Judgment and not the UPPCB Show Cause Notices.

15. That it is also respectfully submitted that permitting recovery of Environmental Compensation based on the Show Cause Notice, even though subsequent direction passed by this Hon'ble Tribunal have been stayed by the Hon'ble Supreme Court would be incongruent and against the settled principles of law.
16. That notwithstanding the above, the Objections to the calculation of Environmental Compensation by UPPCB has *already* been submitted by the answering Respondent in the case of Sachin Tyagi vs Ritesh Sharma & Ors. (Original Application No. 756/2023) which was registered pursuant to a Letter Petition submitted by the residents of Village Hathwala, District Panipat alleging illegal mining from the bed of River Yamuna using JCBs and dumpers. Significantly, both the present OA as well as OA 756/2023 Sachin Tyagi vs Ritesh Sharma & Ors.) pertains to the mining leases of the answering Respondent and involve common and overlapping issues regarding alleged illegal mining by the answering Respondent and the Environmental Compensation to be imposed qua the same.
17. That on 10.12.2024, this Hon'ble Tribunal constituted a Joint Committee in the Sachin Tyagi matter to ascertain the extent of illegal sand mining by the answering Respondent in that matter. The Joint Committee in its Report dated 01.04.2025, observing that sand mining by answering Respondent from 25.10.2023-12.12.2024 was within sanctioned limit for both 2023 and 2024. However, based on the satellite images for 18.06.2024, which showed mining outside the lease area of the answering Respondent, the Joint Committee erroneously concluded that involvement of M/s Royal Construction Co. in the illegal mining cannot be ruled out. A copy of the Report of the Joint Committee is annexed as Annexure R/1, Page 182 – 190 of Objections dated

03.12.2025 filed by R8 to the Joint Committee Report dated 20.01.2025 in the present matter.

18. That considering the Joint Committee Report in Sachin Tyagi, this Hon'ble Tribunal, vide Order dated 07.08.2025, directed UPPCB to calculate Environment Compensation taking into account the extent of illegal sand mining reflected in therein.
19. That pertinently, UPPCB filed its Reply Affidavit dated 18.09.2025 submitted that Environmental Compensation against the answering Respondent has already been calculated pursuant to this Hon'ble Tribunal's Orders in the present matter - Yashveer Singh vs State of Uttar Pradesh (OA 579/2024 and 580/2024) - vide Show Cause Notice dated 18.03.2025, which was confirmed vide Order dated 25.04.2025. Accordingly, UPPCB relied on the Show Cause Notice dated 18.03.2025 as well as the Order dated 25.04.2025 which was issued based on the directions in the present matter.
20. That UPPCB further noted that Show Cause Notice dated 02.05.2025 had been issued to the answering Respondent regarding Environmental Compensation of Rs. 7,61,265/- for excess sand mining of 578m³ at Chhaprauli Khadar, as alleged in the Joint Committee Report filed in the Sachin Tyagi matter. However, the said Show Cause Notice dated 02.05.2025 does not form a part of the subject matter of the present OA as it has been issued pursuant to the Sachin Tyagi Joint Committee Report and has not been relied upon by UPPCB in its Reply in the present OA.
21. That on 29.01.2026, this Hon'ble Tribunal granted the answering Respondent three weeks' time to file Objections to the EC calculation. Accordingly, the answering Respondent filed its detailed Objections dated 19.03.2026

responding to the EC calculation contained in the Show Cause Notice dated 18.03.2025 and Order dated 25.04.2025.

22. That since the answering Respondent has already filed detailed Objections to the calculation of the Environmental Compensation (given in the Show Cause Notice dated 18.03.2025 read with Order dated 25.04.2025) in Sachin Tyagi vs Ritesh Sharma & Ors. (OA No. 756/2023) and since the said Show Cause Notice and Order dated 25.04.2025 are common to both proceedings, the answering Respondent craves leave to rely upon the same Objections in the present OA, without repeating the detailed submissions herein for the sake of brevity.

Date: 11.07.2026

Place: New Delhi

DRAWN AND FILED BY:



Surya Gupta & Satvika Krishnan

Advocates for Respondent No. 8

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SETTLED BY:

Mr. Sanjay Upadhyay

[Senior Advocate]

**BEFORE THE HON'BLE NATIONAL GREEN BENCH
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 756 OF 2023**

IN THE MATTER OF:

Yasveer Singh

...Applicant

-Versus-

State of Uttar Pradesh & Ors.

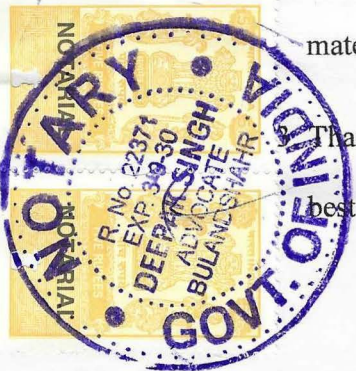
...Respondent(s)

AFFIDAVIT

I, Dayachand Bargoti, son of Late Shri Harswarup, aged about 52 years, R/o House No. 5, New Break Point Restaurant, Near Bhoor Chauraha, Yamunapuram, Bulandshahr, Uttar Pradesh-203001, present at New Delhi, am the sole proprietor of Royal Construction Company and the authorized signatory do hereby solemnly affirms and declares as under:

1. That I am fully conversant of the facts and circumstances of the matter and am competent to swear this affidavit.
2. The contents of the accompanying Reply are true and current to the best of my knowledge and have been drafted by the counsel on my instructions and nothing material has been concealed therefrom.

That the Annexures in the accompanying Reply are true and correct to the best of my knowledge.



Dayachand
DEPONENT

VERIFICATION:

Verified at on this day of July, 2026 that the contents of the above affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

ATTESTED
Deepak Singh
DEEPAK SINGH
Notary
Bulandshahr (U.P.)

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

ORIGINAL APPLICATION NO. 1190/2024
(I.A. NO. 475/2024)

IN THE MATTER OF:

AJAYVEER SINGH
S/o Gyan Chand
R/o Gram Nangla Jamalpur Mazra,
Panchli Khurd, Panchli Khurd,
Meerut, Uttar Pradesh-250002

...Applicant

Verses

1. **STATE OF UTTAR PRADESH**
Through Secretary
Department of Geology & Mining,
Khanij Bhawan 27/8,
Raja Mohan Rai Marg,
Lucknow, Uttar Pradesh-226001
2. **U.P. STATE POLLUTION CONTROL BOARD**
Through Member Secretary
Building No. TC-12V,
Vibhuti Khand, Gomti Nagar,
Lucknow, Uttar Pradesh-226010
3. **STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (SEIAA), U.P.**
Through Member Secretary
Director of Environment, U.P.V,
Vineet Khand-1, Gomti Nagar,
Lucknow, Uttar Pradesh-226010
4. **DISTRICT MAGISTRATE, BAGHPAT**
Collectorate, Baghpat
5. **UNION OF INDIA**
Through Ministry of Environment, Forest and Climate Change (MoEF)
Paryavaran Bhawan,
Jor Bagh Road, New Delhi-110003
6. **ROYAL CONSTRUCTION COMPANY**
Village Chhaprauli Khadar,
Tehsil Baraut, District Baghpat,

Uttar Pradesh
 Khasra Gata No. 1/2
 Proprietor: Shri Dayachand Bargoti
 Son of Harshroop, Resident of House No. 5,
 Nai Break Point Restaurant, Near Yamunapur,
 Bulandshahar,
 Uttar Pradesh-203001

...Respondents

COUNSELS FOR RESPONDENT(S):

Mr. Sanjay Upadhyay, Senior Advocate with Mr. Saumitra Jaiswal, Mr. Rohit Sthalekar, Mr. Surya Gupta and Ms. Anukriti Bajpai, Advocates for Respondent No. 6
 Ms. Suhasini Sen, Ms. Masooma Rizvi and Ms. Surbhi, Advocates for MoEF&CC
 Ms. Priyanka Swami, Advocate for SEIAA UP
 Mr. Mukesh Verma and Ms. Vatsala Tripathi, Advocates for DM, Baghpat
 Mr. Amit Shukla, Mr. Amit Kumar, Mr. Atul Mishra and Mr. Chaitanya Kansra, Advocates for UPPCB

CORAM:

HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER

RESERVED ON: MAY 13, 2025
PRONOUNCED ON: AUGUST 06, 2025

JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. The Original Application (hereinafter referred to as '**OA**') has been filed by Ajayveer Singh, resident of State of Haryana and claims to be deeply concerned with regard to environmental issues particularly alleged damage caused to the environment due to illegal mining and in violation of environmental laws. He has invoked jurisdiction of Tribunal under Section 14 read with Section 18 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**'). The applicant has challenged the e-auction cum e-tender inviting notice dated 09.11.2022 (page 97 of paper book) as corrected vide e-auction cum e-tender notice

dated 18.11.2022 (page 96 of paper book) initiated by District Magistrate, Baghpat in respect to certain areas in villages Chhaprauli Khadar and Kotana Khadar for sand mining without preparing a valid District Survey Report (hereinafter referred to as ‘**DSR**’) in the light of the mandate under Environment Impact Assessment Notification dated 14.09.2006 (hereinafter referred to as ‘**EIA 2006**’) as amended from time to time read with Sustainable Sand Mining Management Guidelines 2016 (hereinafter referred to as ‘**SSMG-2016**’) and Enforcement and Monitoring Guidelines for Sand Mining 2020 (hereinafter referred to as ‘**EMGSM-2020**’).

2. Applicant has further assailed subsequent e-auction cum e-tender notice for village Kotana Khadar issued on 02.01.2023 (page 102 of paper book), for village Kotana Khadar dated 02.01.2023 (page 107 of paper book) as corrected by corrigendum dated 02.01.2023 (page 108 of paper book), for villages Badrakha Khadar and Gauripur Khadar dated 03.04.2023 (page 109 of paper book) and villages Badrakha Khadar and Gauripur Khadar dated 03.04.2023 (page 115 of paper book). It is said that all subsequent actions taken by District Magistrate, Ghaziabad with regard to these sand mining activities are illegal and in violation of environmental laws.

3. The facts in brief stated in OA are that DSR in respect of District Baghpat was prepared in November 2017 showing mining queries in the district with location, area and period of validity as under:

Table 15: List of Proposed Mining Quarries in the District with Location, Area and Period of Validity

Sr. No.	Mauza	Gata No.	Area
1.	Gauripur	1/2/1	34.65 Acres (14.02 Ha)
2.	Badarakha Khadar	1/2	20.00 Acres (8.09 Ha)
3.	Chhaprauli Khadar	1/2	50.00 Acres (20.23 Ha)

4.	Sankroud Khadar	634 Mi	48 Acres (19.42 Ha)
5.	Subhanpur	212, 216-224, 231-246, 378, 379, 381-385, 391,392	39.55 Acres (16.00 Ha)

Table 16: List of running short term Sand permit in the District with Location, Area and Period of Validity

Sr. No.	Mauza	Area (Ha)	Period
1.	Badarakha	5.0 Ha	Six months
2.	Sisna	5.0 Ha	Six months

4. Record shows the total potential area for sand mining in District Baghpat on the banks of Yamuna River was 960 hectares with minable mineral potential as 34560000 MT and total existing/proposed area for sand mining in Baghpat was 87.76 hectares. It is mentioned in the summary of DSR of 2017 that total stretch of Yamuna River is almost 16 km² out of which 15-20% in stream cannot be mined in the lean season. Area of existing proposed mining lease area is 87.76 hectares therefore, remaining area needs to be explored and this area may be further assessed for development based on various ecological, environmental, social and political issues. It can be further developed as potential area for revenue generation. No further DSR study was conducted for the period of DSR. It was prepared only for 5 years and ignoring this e-auction cum e-tender notice has been issued on 09.11.2022 as corrected on 18.11.2022. DSR of 2017 expired in 2022 but without preparing fresh DSR, e-auction cum e-tender notice has been issued by District Magistrate, Baghpat which is illegal.

5. In Respect of District Saharanpur, this Tribunal in **OA No. 188/2023, Gaurav Kumar vs. State of Uttar Pradesh & Ors.** vide judgment dated 02.09.2024 (annexure-8 at page 273) declared e-auction notice dated 13.02.2023 illegal and set aside the same including

consequential action for want of a valid and final DSR for District Saharanpur. Supreme Court also in ***The State of Bihar vs. Pawan Kumar & Ors., Civil Appeal Nos. 3661-3662 of 2020*** vide judgment dated 10.11.2021 has held that preparation of DSR is mandatory and valid DSR is such as is assessed and recommended by concerned Environmental Assessment Committee and approved by concerned Environment Impact Assessment Authority constituted under EIA 2006.

6. In ***OA No. 140/2021, Raj Kumar vs. State of U.P. & Ors.***, this Tribunal in its order dated 06.05.2022 has held that replenishment study has to be undertaken prior to auction in terms of para 5.1 of EMGSM 2020.

7. Supreme Court in ***Deepak Kumar vs. State of Haryana & Ors., (2012) 4 SCC 629*** has observed that all mining leases irrespective of the size of the area would have to obtain prior Environmental Clearance (hereinafter referred to as '**EC**') before grant of mining leases.

8. In the light of judgment in ***Deepak Kumar vs. State of Haryana (supra)***, Ministry of Environment, Forest and Climate Change, New Delhi (hereinafter referred to as '**MoEF&CC**') issued SSMG-2016. It provided that preparation of DSR is an important initial step which includes identification of area of aggradation/deposition where mining can be allowed; identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited and use of satellite imagery for identifying areas of sand deposit and quantity.

9. In ***OA No. 38/2022 (CZ), Ajit Kumar vs. State of Madhya Pradesh & Ors.***, Central Zonal Bench of this Tribunal in its order dated 17.10.2022 has held that notice inviting tender issued before finalisation and approval of DSR for District Raisen by State Environment Impact

Assessment Authority, Madhya Pradesh (hereinafter referred to as '**SEIAA MP**') is irregular and void having no effect and in violation of Guidelines, hence stands cancelled.

10. Applicant has prayed for quashing of e-auction cum e-tender notice dated 09.11.2022 as corrected vide corrigendum dated 18.11.2022 pursuant whereof the auction has been settled in favour of respondent 6 i.e., M/s. Royal Construction Company and a direction to State Government to get a fresh DSR for District Baghpat prepared as per SSMG-2016 and EMGSM-2020 after conducting replenishment study before proceeding for e-auction cum e-tender of sand mining. Applicant has also prayed for quashing all mining auction notices issued by District Magistrate, Baghpat without having any valid DSR.

11. **Tribunal's Order dated 30.09.2024:** Tribunal took notice of the complaint made by the applicant in its order dated 30.09.2024 and after being *prima-facie* satisfied that a substantial question relating to environment has arisen out of implementation of the Statutes mentioned in Schedule I of NGT Act, 2010 and in particular, Environment (Protection) Act, 1986 (hereinafter referred to as '**EP Act, 1986**') issued notice to the respondents directing them to file their replies at least one week before next date of hearing.

Reply affidavit dated 26.11.2024 filed by District Magistrate, Baghpat:

12. Pursuant to order dated 30.09.2024 passed by this Tribunal, District Magistrate, Baghpat i.e., respondent 4 put in appearance and filed its reply affidavit dated 26.11.2024 vide e-mail dated 04.12.2024. It is said that in the Notifications dated 15.01.2016 and 20.01.2016, DSR was to be prepared separately for each sub-mineral and it was required to be updated every 05 years. Pursuant to the above instructions of

MoEF&CC, District Level Environment Impact Assessment Authority (hereinafter referred to as '**DEIAA**') and District Expert Appraisal Committee (hereinafter referred to as '**DEAC**') were constituted vide Office Memorandum dated 22.02.2016. DSR was appraised and recommended by DEAC in its meeting dated 16.11.2017 and the same was approved on 18.11.2017. Department of Geology and Mining, Government of Uttar Pradesh vide order dated 01.06.2020 constituted a Technical Committee for examining pending proposals for proposed/amendment/combination of areas in DSR received from districts and new proposals. Secretary, Department of Geology and Mining, Uttar Pradesh Government vide letter dated 12.06.2020 issued directions regarding modification in DSR and it mentioned that as per clause 4(1)(1) of EMGSM 2020, DSR for sand mining shall be prepared before auction/e-auction/grant of mining lease/Letter of Intent by mining or Department dealing with mining activities in respective States.

13. Director, Geology and Mining vide letter dated 02.11.2021 constituted a District Level Committee. The District Level Committee on 06.12.2021 conducted on site assessment/inspection of plot no. 1/2, area 9.570 hectares of village Chhaprauli Khadar. Vide office letter dated 25.04.2022, a proposal was forwarded to Director, Geology and Mining, UP for amendment/combination in DSR of plot no. 1/2, area 9.570 hectares of village Chhaprauli Khadar of sub mineral ordinary sand area of District Baghpat. By letter dated 01.06.2022, Geology and Mining Department, Government of UP granted consent to include plot no. 1/2, area 9.570 hectares of village Chhaprauli Khadar, sub mineral ordinary sand area of District Baghpat in DSR and directions were given to take further action regarding arrangement of mining areas from the District

level and this was communicated by Director, Geology and Mining's letter dated 02.06.2022.

14. Further District Level Committee, constituted vide office order dated 02.11.2021 by Director, Geology and Mining, after conducting enquiry proposed amendment/addition in DSR of village Kotana Khadar, plot no. 706, area 12.245 hectares vide letter dated 04.06.2022. This was also consented by Geology and Mining Section vide letter dated 28.10.2022 communicated by Director, Geology and Mining vide letter dated 31.10.2022.

15. Earlier, EC was granted by District Environment Impact Assessment Authority, Baghpat (hereinafter referred to as '**DEIAA Baghpat**') but as per the clarification issued by MoEF&CC vide letter dated 04.12.2023, now SEIAA was competent to grant approval of DSR.

16. Since DSR was allowed to be amended/upgraded by Geology and Mining Department of the Government and the letters issued by Director, Geology and Mining, hence e-auction cum e-tender notice dated 09.11.2022 was issued for sub mineral sand available in plot no. 1/2, area 9.570 hectares of village Chhaprauli Khadar and notice dated 09.11.2022 read with 02.01.2023 were issued for e-auction cum e-tender in respect of sand available in plot no. 706, area 12.245 hectares of village Kotana Khadar. Pursuant to e-auction cum e-tender notice dated 09.11.2022, respondent 6 i.e., M/s. Royal Construction Company submitted highest bid of 102 per cubic meter in respect of village Chhaprauli Khadar, plot no. 1/2, area 9.570 hectares and consequently, Letter of Intent was issued on 31.12.2022 in favour of respondent 6 i.e., M/s. Royal Construction Company, Devi Pura-2, Bulandshahar through its proprietor Dayachand Bargoti (annexure-19 at page 657). Respondent

6 for the above area of village Chhaprauli Khadar has been granted EC by State Environment Impact Assessment Authority, Madhya Pradesh (hereinafter referred to as '**SEIAA MP**') on 07.10.2023 (annexure-21 at page 666) and Uttar Pradesh Pollution Control Board (hereinafter referred to as '**UPPCB**') has issued Consent to Establish (hereinafter referred to as '**CTE**') vide letter dated 10.05.2023 (annexure-22 at page 677). UPPCB has also granted a Consolidated Consent to Operate and Authorisation (hereinafter referred to as '**CCA (Consolidated Consent and Authorisation)**') under Section 25 of Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as '**Water Act, 1974**') and Section 21 of Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as '**Air Act, 1981**') vide its letter dated 29.11.2023 (annexure-20 at page 661) which is valid for the period from 29.11.2023 to 31.12.2027. Lease deed was executed in respect of the mining at plot no. 1/2, area 9.570 hectares of village Chhaprauli Khadar on 25.10.2023 and the mining permission was granted by District Magistrate, Baghpat vide letter dated 25.10.2023 (annexure-23 at page 681).

17. Similarly, in respect of village Kotana Khadar, pursuant to notice dated 02.01.2023, respondent 6 submitted highest bid at the rate of 135 per cubic meter. Respondent 6 was granted EC by SEIAA UP vide letter dated 23.11.2023 (annexure-23 at page 695) and Letter of Intent was issued by District Magistrate, Baghpat on 01.02.2023 (annexure-24 at page 691). CTE in respect of sand mining in village Kotana Khadar was issued by UPPCB vide letter dated 14.12.2023 (annexure-27 at page 722) and Consolidated Consent to Operate was issued 20.12.2023 (annexure-25 at page 716). Lease agreement was executed on 12.01.2024.

18. Under Rule 41(c) of Uttar Pradesh Minor Mineral (Concession) Rules, 2021, the lessee is permitted to carry out mining with the help of

machines leaving the river water stream while in EC dated 07.10.2023, the mining in village Chhaprauli Khadar has been allowed as open cast semi mechanized method. Director, Geology and Mining, UP vide letter dated 12.02.2024 has required the procedure to be followed as per the Guidelines issued by MoEF&CC in respect of DSR. Director, Geology and Mining vide letter dated 30.07.2024 informed Member Secretary, SEIAA UP that draft DSR of District Baghpat was examined by Technical Committee constituted by State Government and the Committee constituted at the Directorate level on 23.07.2024. A draft DSR has been approved by SEIAA UP in its meeting dated 21.08.2024.

Reply Affidavit dated 04.12.2024 filed by respondent 2 (UPPCB):

19. Respondent 2 i.e., UPPCB has also filed its reply affidavit dated 04.12.2024 annexing therewith a joint Report dated 14.11.2024 prepared by UPPCB in consultation with the officers of Mining Department which contains the facts similar to what has been stated by District Magistrate, Baghpat in its reply, hence, we are not repeating the same.

Counter Affidavit dated 28.11.2024 filed by SEIAA UP:

20. On behalf of SEIAA UP, Counter Affidavit dated 28.11.2024 has been filed wherein it has referred to the provisions of EIA 2006 wherein prior EC is mandatory before establishment or expansion of any project or activity which is listed in the Schedule of the said Notification. It has also referred to the letter dated 04.12.2023 of MoEF&CC clearly stating that submission of DSR to SEAC for examination and evaluation, SEIAA for approval is mandatory. DSR of District Baghpat was considered by SEAC-1 and 2 on 07.08.2024 and it was recommended for approval. SEIAA UP agreed with the recommendation of SEAC in its meeting dated 21.08.2024 and communicated its approval by letter dated 02.09.2024.

Reply Affidavit dated 13.12.2024 filed by MoEF&CC:

21. MoEF&CC i.e., respondent 5 has filed its reply affidavit dated 13.12.2024 stating that State Department of Mines and Geology is the Nodal Authority in State for dealing with the allotment of mining leases under Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as '**MMDR Act, 1957**'). MoEF&CC vide Notification dated 20.04.2022 has delegated power to grant EC to all minor mineral (including sand) mining project irrespective of mining lease area and less than 250 hectares mining lease area in respect of major mineral mining leases to concerned SEIAA. EMGSM-2020 and SSMG-2016 have been issued focusing on the effective monitoring of sand mining since from the identification of sand mineral sources to its dispatch and end-use by consumers and the general public. The document serves as a guideline for collection of critical information for enforcement of regulatory provisions and also highlights the essential infrastructural requirements necessary for effective monitoring for sustainable sand mining. EMGSM-2020 and SSMG-2016 both are to be read together but in case, any ambiguity or variation, EMGSM-2020 shall prevail. By notification dated 25.07.2018 in Appendix-X, MoEF&CC has laid down a detailed procedure for preparation of DSR for sand mining or river bed mining as well as procedure for preparation of DSR for minor minerals other than sand mining or river bed mining. State Pollution Control Board is the Nodal Authority in the State for dealing with cases related to pollution or environment management coming under the purview of Water Act, 1974; Air Act, 1981; and EP Act, 1986.

22. **Tribunal's Order dated 10.12.2024:** Tribunal considered the matter on 10.12.2024 and found that admittedly, there was no DSR prepared after the one prepared on 18.11.2017 before initiating e-auction

cum e-tender proceedings for allocation of sand mining and this was not consistent with the environmental laws, hence, the mining activities in violation of valid DSR were illegal and consequently, stayed further action in pursuance to the impugned auctioned notices.

I.A. No. 669/2024 filed by respondent 6:

23. Project proponent i.e., respondent 6 filed *I.A. No.669/2024* seeking vacation of the interim order dated 10.12.2024. By a detailed order dated 19.12.2024, this *I.A. No.669/2024* was rejected by Tribunal. It appears that the matter was taken by respondent 6 before Supreme Court in ***Civil Appeal No. 2218-2219 of 2025, Royal Construction Company vs. State of Uttar Pradesh & Ors.*** and the same was dismissed as withdrawn by Supreme Court's order dated 17.02.2025.

Reply Affidavit dated 17.02.2025 filed by respondent 6:

24. Thereafter, respondent 6 has also filed its detailed Reply Affidavit dated 17.02.2025 stating that applicant has no *locus standi* hence is not aggrieved person to maintain this OA in terms of Section 18(2)(e) of NGT Act, 2010. The OA is barred by limitation prescribed under Section 14(3) of NGT Act, 2010. Applicant has challenged EC and consent without filing an Appeal though the said orders are appealable and, therefore, the present OA in fact is an Appeal, though clothed as OA, hence not maintainable. Respondent 6 has further observed that the mining areas have incorporated in DSR dated 18.11.2017 in accordance with law and since EC has been granted, it means that the amended DSR stood approved by SEAC and SEIAA UP also, hence there was no invalidity and, in any case, the approval of SEIAA made mandatory by MoEF&CC's letter dated 04.12.2023 cannot be applied retrospectively; allegations of illegal mining are incorrect; respondent 6 has obtained all the request necessary permissions and, hence OA is liable to be rejected.

25. We propose to refer in detail the stand taken by respondent 6 on the above aspects while discussing the relevant issues on merits.

26. The basic issue which has arisen in this OA relates to grant of mining lease in respect of certain areas which were not included within approved DSR dated 18.11.2017 and the question is whether all subsequent proceedings resulting in mining leases and the activity of mining in those areas is valid and permissible in accordance with the provisions of environmental Statutes, particularly, Environment (Protection) Act, 1986 (hereinafter referred to as '**EP Act, 1986**') read with various guidelines and orders issued thereunder.

27. In our view, the following issues would be required to be adjudicated by Tribunal to decide this OA:

- (I) Whether OA filed by the applicant is competent on account of his locus standi to bring this OA before Tribunal?
- (II) Whether the reliefs prayed in OA are within the period of limitation prescribed under respective provisions of NGT Act, 2010?
- (III) Whether applicant should have filed Appeal instead OA and therefore, OA is not maintainable?
- (IV) Whether the auction of mining lease, lease agreement and the mining activities allowed to respondent 6 are founded on a valid DSR prepared in accordance with the provisions of Environment Impact Assessment Notification dated 14.09.2006 as amended from time to time (hereinafter referred to as '**EIA 2006**') read with SSMG-2016 and EMGSM-2020?

- (V) Whether the applicant is entitled for any relief and, if so, what order would be appropriate to be passed in this OA?

ISSUE I:

28. Raising a serious question of the *locus standi* of the applicant, Learned Senior Counsel appearing for respondent 6 has contended that there is nothing to show that applicant is an “aggrieved person” within the meaning of Section 18(2)(e) of NGT Act, 2010. It is urged that OA has been filed ostensibly to raise the cause of environment but it is unclear as to how the applicant who is resident of State of Haryana is affected by the mining operations being undertaken in the State of Uttar Pradesh. There is serious doubt upon the *bone-fide* of applicant. Applicant has stressed also upon the alleged suppressed crucial facts with respect of DSR dated 18.11.2017. Between 2020-2022, Uttar Pradesh State Government surveyed and incorporated almost 65 additional vacant mining areas including the mining areas of respondent 6 in DSR dated 18.11.2017 but the applicant has chosen to target only respondent 6 and this is nothing but sheer misuse of the process of Tribunal for ulterior motive rather than a genuine concern for environment. Reliance has been placed by Learned Senior Counsel on the question of “locus standi” on the observations made by Supreme court in ***State of Uttar Pradesh & Ors., vs. Uday Education and Welfare Trust and Anr., (2022) SCC OnLine SC 1469*** and this Tribunal’s judgment dated 15.05.2023 in ***Appeal No. 05/2021 (EZ), Anand Kumar Jha vs. Union of India & Ors.***

29. From OA, we find that applicant has disclosed his address as Gram Nangla Jamalpur Mazra, Panchli Khurd, Meerut, Uttar Pradesh. Mining activities of two villages in District Baghpat of State of U.P. are in issue before us. The address of the applicant on affidavit accompanying OA

also is of District Meerut. It is true that in para 3, it is said that the applicant is resident of State of Haryana but if the applicant is also residing, may be for sometime, in other places, that by itself, cannot be determination of the issue of locus standi. District Baghpat is adjoining District Meerut and both are parts of NCR Delhi.

30. Moreover, applicant claims that he is deeply concerned about the state of affairs regarding illegal mining and compliance of laws and regulations pertaining to environment. The term 'aggrieved' in Section 18(2)(e) has to be read along with Sections 14 and 15 of NGT Act, 2010 which talks of relief, compensation or settlement of dispute. Any person, who finds that there is violation of environmental laws causing damage to environment can claim to have sufficient interest in the subject and in our view, would be an "aggrieved person" under Section 18(2)(e) competent to initiate proceedings before Tribunal invoking its jurisdiction under Sections 14 and 15. For this purpose, any personal injury to such person is not necessary. The mere fact that applicant has initiated proceedings in respect of mining activities, allowed to be conducted by respondent 6 and not others, cannot validate the activities of respondent 6 if the same are otherwise invalid and in violation of environmental laws.

31. **We accordingly answer issue I against respondent 6** and hold that OA is not incompetent for want of 'locus standi' on the part of the applicant.

ISSUE II:

32. Learned Senior Counsel appearing for respondent 6 contended that applicant has invoked jurisdiction of Tribunal under Section 14 read with Section 18 of NGT Act, 2010 as is clearly mentioned in OA. The period of limitation under Section 14(3) is only six months when 'cause of action

first arose'. In the present case, e-tender cum e-auction notice was issued from June 2022 to January 2023 which included the first e-tender cum e-auction notice dated 09.11.2022. OA however, has been presented before Tribunal on 20.09.2024 i.e., with a delay of more than 500 days hence it is hopelessly barred by limitation. It is said that even the maximum condonable period of delay under Section 14(3) is only 60 days and beyond that there is no power of condonation, therefore, OA in the present case, is barred by limitation. In support of the submissions that Tribunal does not have power to condone delay beyond the maximum permissible period prescribed in Statute, Learned Senior Counsel Shri Upadhyay has placed reliance on the judgments in **Raza Ahmad vs. State of Chhatisgarh & Ors. (2022) 18 SCC 809**; **Raza Ahmad vs. State of Chhatisgarh & Ors.** (2022 SCC OnLine NGT 3275); **Consumer Federation Tamil Nadu vs. Union of India & Others** (2012 SCC OnLine NGT 57), **Mehnatkash Mazdoor Kishan Ekta Sangathan vs. Union of India & Others** (2012 SCC OnLine NGT 76), **Rana Sengupta vs. UOI & Ors.** (2013 SCC OnLine NGT 31), **Green Tribunal in Souhardha Charitable Club vs. SEIAA, Kerala and Others** (2017 SCC Online NGT 1277; judgments dated 13.11.2014 in **M.A. No. 118/2014 in OA 63/2014 (WZ)**, **Geeta Bhadrassen Vadhai vs. MoEF & Ors.** and dated 12.08.2013 in **OA No. 11/2013, Aradhana Bhargav & Ors. vs. MoEF & Ors.**

33. *Prima-facie*, the submission based on the provisions contained in Section 14(3) to the extent that 6 months period of limitation from the date when 'cause of action first arose' is provided therein and the maximum condonable delay is 60 days is in terms of the Statute. We also cannot dispute that if the maximum period of condonable delay is provided in special Statute and if there is delay beyond that, the same cannot be condoned by this Tribunal.

34. However, from the perusal of the prayers made in OA, we find that though the applicant has mentioned only Section 14 of NGT Act, 2010 in OA but the prayers made show that the same fall within the purview of Section 15 and, therefore, limitation prescribed under Section 15(3), in our view, is attracted.

35. To show that present OA falls within Section 15, we find it necessary to reproduce the prayers made in OA:

- “a. Direct the State Government to prepare a fresh District Survey Report (DSR) for District Baghpat, complying with all applicable laws and notifications, including the 2020 Sand Mining Guidelines and MoEF Notifications dated 15.01.2016 and 25.07.2018;*
- b. Direct the State Government to conduct a replenishment study with the assistance of a reputed remote sensing agency prior to auctioning mining leases for minor minerals in District Baghpat, particularly in riverbed areas like Kotana Khadar and Chhaprauli Khadar;*
- c. Quash the e-auction and e-tender notice No. 213/2022-23 on 9th November 2022 for sand mining in the Chhaprauli Khadar area located in the riverbed of District Baghpat. A subsequent clarification letter No. 237/2022-23, dated 18th November 2022, which was conducted without a valid and finalized District Survey Report (DSR) as required under the law;*
- d. Quash the mining auction notices issued by District Baghpat, as they were issued without a valid DSR, violating legal and environmental norms; e. Stay the ongoing and future auction processes initiated through the notices issued on by the District Magistrate of Baghpat until a fresh DSR is prepared and approved, and all required environmental clearances are obtained; f. Impose costs on the Respondents for violations of environmental laws, noncompliance with MoEF Guidelines, and the environmental harm caused by the unauthorized auctioning of mining sites.”*

36. A perusal of the prayers show that applicant has specifically sought several reliefs which include preparation of a valid DSR in accordance with relevant laws including SSMG-2016 and EMGSM-2020 and the

notifications of MoEF&CC dated 15.01.2016 and 25.07.2018; direction for conducting replenishment study, and to quash e-auction and e-tender notices in respect of sand mining in Chhaprauli Khadar area located in river bank of District Baghpat including its clarification dated 18.11.2022 and the mining auction notices issued in District Baghpat without valid DSR. Applicant has also prayed for award of cost on the respondents for violation of environmental laws, non-compliance of MoEF&CC guidelines and causing harm to environment by conducting unauthorised auctioning of mining sites.

37. The scope of Section 14 and 15 are different. We may find it appropriate to reproduce Sections 14 and 15:

“14. Tribunal to settle disputes.- (1) *The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.*

(2) *The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.*

(3) *No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:*

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

15. Relief, compensation and restitution-(1) *The Tribunal may, by an order, provide-*

a) **relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I** (including accident occurring while handling any hazardous substance);

b) **for restitution of property damaged;**

c) **for restitution of the environment** for such area or areas, as the Tribunal may think fit.

(2) The relief and Compensation and restitution of property and environment referred to in clauses (a), (6) and (c) of sub-section of (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991).

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the' applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may, be, compensation or relief received from, any other Court or authority.”

38. It is true that in OA, there is no mention of Section 15 of NGT Act, 2010 whereunder OA has been filed and applicant has chosen to mention only Section 14 read with Section 18. Section 18 provides procedure for filing application before Tribunal.

39. However, non-mention of Section 15 will not deprive the Tribunal to consider the present OA thereunder. Mere non-mention of appropriate or wrong mention of a provision will not deprive a Court to examine the matter under an applicable provision, if the power thereunder is available.

40. Supreme Court considered a similar situation in ***Mantri Techzone Private Limited vs. Forward Foundation and Others, (2019) 18 SCC 494***, and in para 50, observed as under:

“50. ...It is well-settled principle of law that non-mention of or erroneous mention of the provision of law would not be of any relevance, if the court had the requisite jurisdiction to pass an order. It would be a mere irregularity and would not vitiate the application or the judicial order of the Tribunal.”

41. The same law is well attracted in the present case also. Merely for the reason that Section 15 has not been mentioned by the applicant in OA, if the relief claim thereunder brings the OA within the purview of Section 15, Tribunal is empowered to proceed to adjudicate the matter with reference to Section 15 irrespective of the fact that Section 15 is not mentioned in OA since non-mention or erroneous mention of the provision is of no relevance and if the Court has requisite jurisdiction, it can proceed with the matter.

42. Section 14 provides jurisdiction over all civil cases where the substantial question relating to environment (including enforcement of any legal right of environment) is involved and has arisen due to implementation of Enactments specified in Schedule I. Thus, where abstract question which must be substantial relating to environment has arisen due of implementation of Enactments specified in Schedule I, the same has to be adjudicated and the dispute has to be settled by Tribunal in exercise of powers conferred under Section 14.

43. Section 15 deals with a different situation and confer power upon Tribunal to pass order providing relief, compensation to the victims of pollution and other environmental damage arising under the Enactments specified in Schedule I of NGT Act, 2010 and restitution of property or environment damaged. Where a relief is claimed in respect of environmental damage which has arisen due to the implementation of the Enactments specified in Schedule I, Section 15(1)(a) is attracted.

44. The scope of Sections 14 and 15 is different and both are independent provisions. This aspect has been considered by Supreme Court in **Mantri Techzone Pvt. Ltd. vs. Forward Foundation & Ors.** (*supra*) and we find it appropriate to reproduce paragraphs 41 to 45 as under:

“41. The jurisdiction of the Tribunal is provided under Sections 14, 15 and 16 of the Act. Section 14 provides the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment) is involved. However, such question should arise out of implementation of the enactments specified in Schedule I.

42. The Tribunal has also jurisdiction under Section 15(1)(a) of the Act to provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I. Further, under Section 15(1)(b) and 15(1)(c), the Tribunal can provide for restitution of property damaged and for restitution of the environment for such area or areas as the Tribunal may think fit. It is noteworthy that Section 15(1)(b) & (c) have not been made relatable to Schedule I enactments of the Act. Rightly so, this grants a glimpse into the wide range of powers that the Tribunal has been cloaked with respect to restoration of the environment.

43. Section 15(1)(c) of the Act is an entire island of power and jurisdiction read with Section 20 of the Act. The principles of sustainable development, precautionary principle and polluter pays, propounded by this Court by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever the environment and ecology are being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of the environment.

44. The NGT Act being a beneficial legislation, the power bestowed upon the Tribunal would not be read narrowly. An interpretation which furthers the interests of environment must be given a broader reading. (See Kishore Lal v. Chairman, Employees’ State Insurance Corpn. (2007) 4 SCC 579, para 17). The existence of the Tribunal without its broad restorative powers under Section 15(1)(c) read with Section 20 of the Act, would render it ineffective and toothless, and shall betray the legislative intent in setting up a specialized Tribunal specifically to address environmental concerns. The Tribunal, specially constituted with Judicial Members as well as with Experts in the field of environment, has a legal obligation to provide for preventive and restorative measures in the interest of the environment.

45. Section 15 of the Act provides power & jurisdiction, independent of Section 14 thereof. Further, Section 14(3) juxtaposed with Section 15(3) of the Act, are separate provisions for filing distinct applications before the Tribunal with distinct periods of limitation, thereby amply demonstrating that jurisdiction of the Tribunal flows from these Sections (i.e. Sections 14 and 15 of the Act) independently. The limitation provided in Section 14 is a period of 6 months from the date on which the cause of action first arose and whereas in Section 15 it is 5 years. Therefore, the legislative intent is clear to keep Section 14 and 15 as self contained jurisdictions.”

45. In the present case, applicant is not merely seeking adjudication of a substantial question relating to environment arising due to implementation of Enactments under Schedule I only, but seeks several reliefs in respect of the damage caused to environment arising out of implementation of enactments mentioned in Schedule I which includes EP Act, 1986 and the Rules, Regulations and Orders issued thereunder by the Statutory authorities.

46. Now applying Section 15(1) and (3), it is obvious that even if it is found that the ‘first cause of action arose’ in June 2022 or 09.11.2022 when e-auction cum e-tender notice was published by District Magistrate, Baghpat in respect of certain areas in villages Chhaprauli Khadar and Kotana Khadar. OA having been presented before Tribunal on 25.09.2024 i.e., within the period of 05 years, hence, cannot be said to be barred by limitation and we answer this question by holding that OA is not barred by limitation prescribed under Section 15(3) of NGT Act, 2010. **Issue II is answered accordingly against the respondents and in particular respondent 6.**

ISSUE III:

47. Applicant has not challenged EC under Water Act, 1974 which is appealable under Section 16(h). He has challenged e-auction cum e-

tender notice in respect thereof and the subsequent proceedings and in respect to e-auction cum e-tender notice, no Appeal is provided under Section 16 and nothing has been shown to us. We, therefore, do not find that for not filing the Appeal, OA is not maintainable and **this question III is answered against respondents particularly respondent 6.**

ISSUE IV:

48. The facts on record available clearly show that a valid DSR approved by competent Environment Impact Assessment Authority in respect of District Baghpat was approved on 18.11.2017 and its validity period was 05 years. It is also not in dispute that the areas in respect whereof mining leases have been granted to respondent 6 pursuant to the impugned auction notices i.e., in respect of villages “Chhaprauli Khadar” and “Kotana Khadar” of District Baghpat were not included in DSR dated 18.11.2017 and no study in respect of the said area was conducted when the above DSR dated 18.11.2017 was approved by the concerned Environment Impact Assessment Authority under the provisions of EIA 2006 read with SSMG-2016 and EMGSM-2020.

49. The facts on record also show that the mining leases of villages “Chhaprauli Khadar” and “Kotana Khadar” of District Baghpat were subsequently included in DSR dated 18.11.2017 at the instance of the authorities of State Government and Mining Department without having on record any appraisal by the concerned Environment Appraisal Committee or approval by the concerned Environment Impact Assessment Authority under the provisions of EIA 2006 read with SSMG-2016 and EMGSM-2020.

50. There is a suggestion on the part of Learned Counsel for respondent 6 that the inclusion of two questioned villages for auction of mining

leases, even without approval of concerned Environment Impact Assessment Authority must be treated to be valid as there is no provision which require such approval.

51. **We may first examine as to what is the procedure prescribed for preparation of DSR under the provisions of environmental laws and whether such approval of DSR by Competent Environment Impact Assessment Authority is mandatory.**

52. EIA 2006 has been issued by Government of India in exercise of powers conferred by Section 3(1) and (2)(v) of EP Act, 1986 read with Rule 5(3)(d) of Environment (Protection) Rules, 1986 (hereinafter referred to '**EP Rules, 1986**').

53. Para 2 of EIA 2006 imposes condition of requirement of prior EC and reads as under:

"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."

54. Para 3 talks of constitution of State Level Environment Impact Assessment Authority (SEIAA).

55. Para 4 of EIA 2006 categorizes projects and activities and reads as under:

“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 manmade 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;”**

56. Paras 5, 6 and 7 concerned with the procedure of grant of prior EC and read as under:

“5. Screening, Scoping and Appraisal Committees:

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

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

(b) The Central Government may, with the prior concurrence of the concerned State Governments or the Union territory Administrations,

constitutes one SEAC for more than one State or Union territory for reasons of administrative convenience and cost;

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

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

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

6. Application for Prior Environmental Clearance (EC):

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

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

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

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

I. Stage (1) - Screening:

In case of Category 'B' projects or activities, this stage will entail the scrutiny of an application seeking prior environmental clearance made in Form 1 by the concerned State level Expert Appraisal Committee (SEAC) **for determining whether or not the project or activity requires further environmental studies for preparation of an Environmental Impact Assessment (EIA) for its appraisal prior to the grant of environmental clearance depending up on the nature and location specificity of the project.** The projects requiring an Environmental Impact Assessment report shall be termed Category 'B1' and remaining projects shall be

termed Category 'B2' and will not require an Environment Impact Assessment report. **For categorization of projects into B1 or B2 except item 8 (b), the Ministry of Environment and Forests shall issue appropriate guidelines from time to time.**

II. Stage (2) - Scoping:

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

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

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

III. Stage (3) - Public Consultation:

(i) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the

*environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. **All Category 'A' and Category B1 projects or activities shall undertake Public Consultation, except the following:***

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

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

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

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

(iv) in case the State Pollution Control Board or the Union territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period directly to the regulatory authority concerned as above, the regulatory authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty five days,.

(v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the

concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.

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

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

IV. Stage (4) - Appraisal:

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

(ii) **The appraisal of all projects or activities which are not required to undergo public consultation, or submit an Environment Impact Assessment report, shall be carried out on the basis of the prescribed application Form 1 and Form 1A as applicable, any other relevant validated information available and the site visit wherever the same is considered as necessary**

by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iii) The appraisal of an application shall be completed by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within sixty days of the receipt of the final Environment Impact Assessment report and other documents or the receipt of Form 1 and Form 1 A, where public consultation is not necessary and the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee shall be placed before the competent authority for a final decision within the next fifteen days. The prescribed procedure for appraisal is given in Appendix V;

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

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

57. Para 8 talks of the final stage of grant or rejection of prior EC and reads as under:

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

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

(ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty five

days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.

(iii) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

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

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

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

58. Para 9 of EIA 2006 deals with the validity of EC, i.e., the tenure etc.

and reads as under:

“9. Validity of Environmental Clearance (EC):

The “Validity of Environmental Clearance” is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 7 above, to the start of

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

59. Para 10 of EIA 2006 talks of monitoring of post EC stages and says:

“10. Post Environmental Clearance Monitoring:

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

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

60. A prior EC granted to a project or activity is transferable, subject to certain conditions. This aspect is dealt with, in para 11, as under:

“11. Transferability of Environmental Clearance (EC):

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

61. EIA 2006, initially contained **a Schedule** and **six Appendixes**. **Appendix I** is a format of Form-1 and **Appendix II** is a format of Form-1A which are referred in para 6 of EIA 2006. These are the formats of application to be submitted by a proponent for grant of prior EC. **Appendix III** contains a chart giving generic structure of environmental impact assessment document with reference to para 7 and **Appendix III A** provides contents of summary environmental impact assessment and it is also in reference to para 7 of EIA 2006. **Appendix III has 12 items** comprising EIA structure and the contents thereof are also separately detailed as under:

“GENERIC STRUCTURE OF ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENT

S. NO.	EIA STRUCTURE	CONTENTS
1	Introduction	• Purpose of the report • Identification of project & project proponent • Brief description of nature, size, location of the project and its importance to the country, region • Scope of the study – details of regulatory scoping carried out (As per Terms of Reference)
2	Project Description	• Condensed description of those aspects of the project (based on project feasibility study), likely to cause environmental effects. Details should be provided to give clear picture of the following: • Type of project • Need for the project • Location (maps showing general location, specific location, project boundary & project site layout) • Size or magnitude of operation (incl. Associated activities required by or for the project) • Proposed schedule for approval and implementation • Technology and process description

		• <i>Project description. Including drawings showing project layout, components of project etc. Schematic representations of the feasibility drawings which give information important for EIA purpose</i> • <i>Description of mitigation measures incorporated into the project to meet environmental standards, environmental operating conditions, or other EIA requirements (as required by the scope)</i> • <i>Assessment of New & untested technology for the risk of technological failure</i>
3	<i>Description of the Environment</i>	• <i>Study area, period, components & methodology</i> • <i>Establishment of baseline for valued environmental components, as identified in the scope</i> • <i>Base maps of all environmental components</i>
4	<i>Anticipated Environmental Impacts & Mitigation Measures</i>	• <i>Details of Investigated Environmental impacts due to project location, possible accidents, project design, project construction, regular operations, final decommissioning or rehabilitation of a completed project</i> • <i>Measures for minimizing and/or offsetting adverse impacts identified</i> • <i>Irreversible and Irretrievable commitments of environmental components</i> • <i>Assessment of significance of impacts (Criteria for determining significance, Assigning significance)</i> • <i>Mitigation measures</i>
5	<i>Analysis of Alternatives (Technology & Site)</i>	• <i>In case, the scoping exercise results in need for alternatives:</i> • <i>Description of each alternative</i> • <i>Summary of adverse impacts of each alternative</i> • <i>Mitigation measures proposed for each alternative and</i> • <i>Selection of alternative</i>
6	<i>Environmental Monitoring Program</i>	• <i>Technical aspects of monitoring the effectiveness of mitigation measures (incl. Measurement methodologies, frequency, location, data analysis, reporting schedules, emergency</i>

		<i>procedures, detailed budget & procurement schedules)</i>
7	<i>Additional Studies</i>	• <i>Public Consultation</i> • <i>Risk assessment</i> • <i>Social Impact Assessment. R&R Action Plans</i>
8	<i>Project Benefits</i>	• <i>Improvements in the physical infrastructure</i> • <i>Improvements in the social infrastructure</i> • <i>Employment potential –skilled; semi-skilled and unskilled</i> • <i>Other tangible benefits</i>
9	<i>Environmental Cost Benefit Analysis</i>	• <i>If recommended at the Scoping stage</i>
10	<i>EMP</i>	• <i>Description of the administrative aspects of ensuring that mitigative measures are implemented and their effectiveness monitored, after approval of the EIA</i>
11	<i>Summary & Conclusion (This will constitute the summary of the EIA Report)</i>	• <i>Overall justification for implementation of the project</i> • <i>Explanation of how, adverse effects have been mitigated</i>
12	<i>Disclosure of Consultants engaged</i>	• <i>The names of the Consultants engaged with their brief resume and nature of Consultancy rendered</i>

62. Summary of Environmental Impact Assessment should contain details given in Appendix III A of EIA report, on seven aspects, as under:

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

63. **Appendix IV**, with reference of para 7, provides procedure for conduct of public hearing.

64. **Appendix V**, with reference to para 7, provides procedure for appraisal of Environment Impact Assessment Report and other documents and talks of following steps:

“PROCEDURE PRESCRIBED FOR APPRAISAL

1. The applicant shall apply to the concerned regulatory authority through a simple communication **enclosing the following documents where public consultations are mandatory:**

- Final Environment Impact Assessment Report [20(twenty) hard copies and 1 (one) soft copy]]
- A copy of the video tape or CD of the public hearing proceedings
- A copy of final layout plan (20 copies)
- A copy of the project feasibility report (1 copy)

2. The Final EIA Report and the other relevant documents submitted by the applicant shall be scrutinized in office within 30 days from the date of its receipt by the concerned Regulatory Authority strictly with reference to the TOR and the inadequacies noted shall be communicated electronically or otherwise in a single set to the Members of the EAC/SEAC enclosing a copy each of the Final EIA Report including the public hearing proceedings and other public responses received along with a copy of Form -1 or Form 1A and scheduled date of the EAC/SEAC meeting for considering the proposal.

3. Where a public consultation is not mandatory, and therefore a formal EIA study is not required, the appraisal shall be made on the basis of the prescribed application Form 1 and a pre-feasibility report in the case of all projects and activities other than Item 8 of the Schedule. In the case of Item 8 of the Schedule, considering its unique project cycle, the EAC or SEAC concerned shall appraise all Category B projects or activities on the basis of Form 1, Form 1A and the conceptual plan and stipulate the conditions for environmental clearance. As and when the applicant submits the approved scheme/building plans complying with the stipulated environmental clearance conditions with all other necessary statutory approvals, the EAC/SEAC shall recommend the grant of environmental clearance to the competent authority.”

4. Every application shall be placed before the EAC/SEAC and its appraisal completed within 60 days of its receipt with requisite documents/details in the prescribed manner.

5. The applicant shall be informed at least 15 (fifteen) days prior to the scheduled date of the EAC/SEAC meeting for considering the project proposal.

6. The minutes of the EAC/SEAC meeting shall be finalised within 5 working days of the meeting and displayed on the website of the concerned regulatory authority. In case the project or activity is recommended for grant of EC, then the minutes shall clearly list out the specific environmental safeguards and conditions. In case the recommendations are for rejection, the reasons for the same shall also be explicitly stated.”

65. **Appendix VI**, with reference to paragraph 5 of EIA 2006 gives composition of sector/project specific Expert Appraisal Committee for

category A projects and the State/UT Level Expert Appraisal Committees for category B projects to be constituted by Central Government.

66. Schedule gives the list of projects or activities which would require prior EC and covers the following projects/activities:

“1. Mining, extraction of natural resources and power generation (for a specified production capacity)

1(a) Mining of minerals

1(b) Offshore and onshore oil and gas exploration, development & production

1(c) River Valley projects

1(d) Thermal Power Plants

1(e) Nuclear power projects and processing of nuclear fuel

2. Primary processing

2(a) Coal washeries

2(b) Mineral beneficiation

3. Materials Production

3(a) Metallurgical industries (ferrous & non-ferrous)

3(b) Cement plants

4. Materials Processing

4(a) Petroleum refining industry

4(b) Coke oven plants

4(c) Asbestos milling and asbestos based products

4(d) Chlor-alkali industry

4(e) Soda ash industry

4(f) Leather/skin/hide processing industry

5. Manufacturing/Fabrication

5(a) Chemical fertilizers

5(b) Pesticides industry and pesticide specific intermediates (excluding formulations)

5(c) Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics)

5(d) Manmade fibres manufacturing

5(e) Petrochemical based processing (processes other than cracking & reformation and not covered under the complexes)

5(f) Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)

5(g) Distilleries

5(h) Integrated paint industry

- 5(i) Pulp & paper industry excluding manufacturing of paper from waste paper and manufacture of paper from ready pulp without bleaching
- 5(j) Sugar industry
- 5(k) Induction/arc furnaces/cupola furnaces 5TPH or more

6. Service Sectors

- 6(a) Oil & gas transportation pipeline (crude and refinery/petrochemical products), passing through national parks/sanctuaries/coral reefs/ecologically sensitive areas including LNG Terminal.
- 6(b) Isolated storage & handling of hazardous chemicals (As per threshold planning quantity indicated in column 3 of schedule 2 & 3 of MSIHC Rules 1989 amended 2000)

7. Physical Infrastructure including Environmental Services

- 7(a) Air ports
- 7(b) All ship breaking yards including ship breaking units
- 7(c) Industrial estate/parks/complexes/areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes.
- 7(d) Common hazardous waste treatment, storage and disposal facilities (TSDFs)
- 7(e) Forts, Harbours, break waters, dredging.
- 7(f) Highways
- 7(g) Aerial ropeways
- 7(h) Common Effluent Treatment Plants (CETPs)
- 7(i) Common Municipal Solid Waste Management Facility (CMSWMF)

8. Building /Construction projects/Area Development projects and Townships

- 8(a) Building and Construction projects
- 8(b) Townships and Area Development projects.”

67. For the purpose of present case, we are concerned with Item 1(a) of Schedule which deals with ‘**mining of minerals**’ and initially reads as under:

(1)	(2)	(3)	(4)	(5)
1(a)	Mining of minerals	≥ 50 ha of mining lease area Asbestos mining irrespective of mining area	<50 ha ≥ 5 ha of mining lease area	General Condition shall apply <u>Note</u> Mineral prospecting (not involving drilling) are exempted provided the concession areas have got previous

				clearance for physical survey
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68. At the end of the Schedule, there is a note containing certain conditions as ‘General and Specific Conditions’ and read as under:

“Note:

General Condition (GC):

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

Specific Condition (SC):

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

69. EIA 2006 has been amended for umpteen times and upto July 20, 2022, there are more than 75 amendments in total but all are not relating to Item 1(a) or to various conditions stated in paras 1 to 12 of EIA 2006. Hence, we are referring hereinafter only such amendments whereby changes were made in para 1 to 12 or addition of paragraphs made in EIA 2006 and/or in the Schedule, Item 1(a), or any such amendment which is relevant for the project/activities under Item 1(a), as under:

A. Notification dated 01.12.2009 published in Gazette of India Extraordinary of the same date.

a) In **para 3** of EIA 2006 **sub-para (7) was substituted** as under:

“(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.”

- b) In **para 4, sub-para (iii) certain words and letters were changed** and the amended provision reads as under:

*“4(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 fulfil 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 and SEAC, a Category ‘B’ project shall be considered at the Central Level as a Category ‘B’ project.**”*

- c) In **para 7(i) (III) relating to Stage (3) after sub-clause (c), the following was inserted:**

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

- d) In **para 10 clause (i) was renumbered as (ii) and before such renumbered (ii), a sub-para (i)(a) and (b) was inserted** as under:

*“(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)."

e) In the Schedule, **General Condition was substituted** as under:

“General Condition (GC):

Any project or activity specified in Category ‘B’ will be treated as Category A, if located in whole or in part within 10 km from the boundary of: (i) Protected areas notified under the Wild Life (Protection) Act, 1972; (ii) Critically polluted areas as 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.T.s 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.”

f) Amendment was also made in **Appendix I whereby Form-1 item**

(I) relating to Basic Information, was substituted by a new format and in **Appendix IV the procedure for conduct of public hearing was completely substituted.**

g) In **Appendix V, para 3** was substituted as under:

“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.”

B. Notification dated 04.04.2011 published in Gazette of India Extraordinary dated 06.04.2011:

- a) Para **6** was amended by substituting certain words and amended para 6 reads as under:

“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, before commencing any construction activity, or preparation of land, at the site by the applicant. **The applicant shall furnish, along with the application, a copy of the pre-feasibility project report** except that, in case of construction projects or activities (item 8 of the Schedule) in addition to Form 1 and the Supplementary Form 1A, a copy of the conceptual plan shall be provided, instead of the pre-feasibility report.”

- b) In **para 7, sub-para II, Stage (2), clause (i)** was amended by **substituting certain words** as under:

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

- c) In the **Schedule, Item 1(a), the existing entry was substituted** by the following:

“(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.”

C. Notification dated 25.01.2012 published in Gazette of India Extraordinary of the same date:

a) **In Appendix V, para 3 was also substituted** as under:

“3. Where a public consultation is not mandatory, the appraisal shall be made on the basis of prescribed application Form-1 and environment impact assessment report, in the case of all projects and activities (other than item 8 of the schedule), except in case where the said project and activity falls under category ‘B2’, and in the case of items 8(a) and 8(b) of the Schedule, considering their unique project cycle, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall appraise projects or activities on the basis of Form-1, Form-1A, conceptual plan and the environment impact assessment 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.”

70. Some amendments were made in EIA 2006 in view of the judgments of Supreme Court rendered in the meantime, therefore, it is necessary to refer such judgments here at.

71. In ***Deepak Kumar & Others vs. State of Haryana & Others (supra)*** (decided on 27.02.2012), effect of mining of minor minerals and its regulation was considered in the context of auction notices issued by Department of Mines and Geology, Government of Haryana. Supreme Court, however, extended its scope of direction, Pan India. Background facts are, that auction notice dated 3.6.2011, issued by Department of Mines and Geology, Haryana proposing to auction extraction of minor minerals, boulders, gravel and sand quarries of an area, not exceeding 4.5 hectares in District of Panchkula, was challenged. Further, auction

notices dated 08.08.2011, in the district of Panchkula, Ambala and Yamuna Nagar exceeding 5 hectares and above, quarrying minor mineral, road metal and masonry stone mines in the District of Bhiwani, stone and sand mines in the district of Mohindergarh, slate stone mines in the district of Rewari, and also in the districts of Kurukshetra, Karnal, Faridabad and Palwal, with certain restrictions for quarrying in the riverbeds of Yamuna, Tangri, Markanda, Ghaggar, Krishnavati River basin, Dohan River Basin etc., were also challenged. It was also brought to the notice of Supreme Court that similar illegal mining is going on in various districts of Rajasthan and Uttar Pradesh. **It was pointed out that under EIA 2006, EC is required only when mining is permitted in an area not less than 5 ha. Auction notices permitting mining in area less than 5 ha were challenged on the ground that in order to escape from environment study under EIA 2006, bigger areas have been divided in smaller areas of less than 5 ha and that is how illegal mining is being permitted causing damage to environment.** Supreme Court noticed the stand taken by MoEF in its affidavit dated 23.11.2011 that where mining area is homogenous, physically proximate and identifiable piece of land of 5 hectares or more, it should not be broken into smaller sizes to circumvent EIA 2006. There was a Committee of Minor Minerals which had recommended minimum lease size of 5 hectares for minor minerals for undertaking scientific mining for the purpose of integrating and addressing environmental concerns. Court said that minor minerals, boulders, gravel and sand quarries etc., in the places notified in auction notices, including the riverbeds of Yamuna, Tangri, Markanda, Ghaggar, Krishnavati River basin, Dohan River Basin etc., **would result in environmental degradation and threat to biodiversity, damage to riverine vegetation, cause erosion, pollute water resources etc.** There was nothing on record to come to otherwise

conclusion. It further shows that sand mining on either side of river upstream and instream, is one of the causes for environmental degradation and also threat to biodiversity over the years; India's rivers and riparian ecology had been badly affected at alarming rate due to unrestricted sand mining which has caused damage to ecosystem of rivers and safety of bridges, weakening of riverbeds, destruction of natural habitats of organisms living on the riverbeds. It would also affect fish breeding and migration, spells disaster for conservation of many bird species, and had increased saline water in rivers. Commenting on the loss to the environment due to mining of minerals within or near streambeds or inside streambeds, Court observed, that **extraction of alluvial material from within or near a streambed has direct impact on stream's physical habitat characteristics. These characteristics include bed elevation, substrate composition and stability, instream roughness elements, depth, velocity, turbidity, sediment transport, stream discharge and temperature. If these habitat characteristics are altered, the same can have deleterious impact on both, instream biota and the associated riparian habitat. It is true that demand for sand had continued and would continue to increase, day by day, due to ongoing construction of new infrastructures and expansion of existing ones.** It is continuous process, placing immense pressure on the supply of sand resource. This has, and would, encourage mining activity which are bound to go on, legally or illegally, without any restriction. Lack of proper planning and sand management cause disturbance of marine ecosystem and would upset, the ability of natural marine processes to replenish the sand. Court expressed its anguish in the manner auction notices which were published by State of Haryana, permitting quarrying, mining and removal of sand from upstream and instream of several rivers which may have serious environmental impact

on ephemeral, seasonal and perennial rivers and riverbeds, and sand extraction may have an adverse effect on biodiversity as well. This may also lead to bed degradation and sedimentation having a negative effect on the aquatic life. Some of the rivers mentioned in the auction notices are on the foothills of fragile Shivalik Hills. Shivalik Hills are the source of rivers like Ghaggar, Tangri, Markand, etc. River Ghaggar is a seasonal river which rises up, in the outer Himalayas, between Yamuna and Satluj and enters Haryana near Pinjore, District Panchkula, which passes through Ambala and Hissar and reaches Bikaner in Rajasthan. River Markanda is also a seasonal river like Ghaggar, which also originates from the lower Shivalik Hills and enters Haryana near Ambala. During monsoon, this river swells up into a raging torrent, notorious for its devastating power, as also River Yamuna. Court found that without conducting any study on the possible environmental impact, on/in the riverbeds, and elsewhere, the auction notices were issued. Court said that, when extraction of alluvial material within or near a riverbed has an impact on river's physical habitat characteristics, like river stability, flood risk, environmental degradation, loss of habitat, decline in biodiversity, it is not an answer to say that extraction is in blocks of less than 5 ha, separated by 1 km, since their collective impact may be significant, hence the necessity of a proper environmental assessment plan. **MoEF brought to the notice of Court that it had come across several instances across the Country regarding damage to lakes, river beds and ground water leading to drying up of water beds and causing water scarcity on account of quarrying/mining leases and mineral concessions granted under rules, by Provincial Governments.** State Government paid less attention on environmental aspect of minor minerals on the pretext that area was small but ignored the fact that collective impact in a particular area, over a period of time, was or would be significant. For

taking note of these aspects, MoEF constituted, a Core Group under Chairmanship of Secretary (Environment and Forest) to look into the environmental aspects associated with mining of minor minerals, vide order dated 24.03.2009. The Core Group considered matter on following aspects: (i) Need to relook the definition of minor mineral, (ii) Minimum size of lease for adopting eco-friendly scientific mining practices, (iii) Period of lease, (iv) Cluster of mine approach for addressing and implementing EMP in case of small mines, (v) Depth of mining to minimise adverse impact on hydrological regime, (vi) Requirement of mine plan for minor minerals, similar to major minerals and, (vii) Reclamation of mined out area, post mine land use, progressive mine closure plan etc.

The Core Group examined the matter and submitted a Draft report to MoEF which was considered and discussed on 29.01.2010 and, thereafter, final report was circulated to all the State Governments vide MoEF's DO letter dated 01.06.2010. The Ministry of Mines, Government of India also prepared draft rules called "Minor Minerals (Conservation and Development) Rules 2010", and also sent communication dated 16.05.2011, called "Environmental Aspects of Quarrying and of Minor Minerals-Evolving of Model Guidelines" along with a draft model guideline, calling for inputs, before 30.06.2011. In view of above, Court noticed that it is absolutely necessary to have an effective frame work of mining plan which will take care of all environmental issues, evolve a long term rational and sustainable natural resource base and also bio assessment protocol. Quarrying of river sand is an important economic activity of the Country with river sand, forming a crucial raw material for infrastructural development and construction industry, but excessive instream sand and gravel mining causes degradation of rivers. Instream mining lowers the stream bottom of rives which may lead to bank erosion. Depletion of sand in the streambed and

along coastal areas causes deepening of rivers which may result in destruction of aquatic and riparian habitats as well. Extraction of alluvial material from within or near a streambed has a direct impact on stream's physical habitat characteristics. Sand mining, therefore, may have an adverse effect on bio-diversity as loss of habitat caused by sand mining will affect various species of flora and fauna and may also destabilise soil structure of river banks and often leaves isolated islands.

72. In these circumstances, **Supreme Court said that Government of India's recommendations made in March 2010 followed by Model Rules 2010 must be given effect so as to inculcate spirit of Article 48(A), Article 51 (A)(g) read with Article 21 of Constitution. Court, therefore, issued directions to all States and Union Territories, MoEF and Ministry of Mines to give effect to the recommendations made by MoEF in its Report of March 2010 and the model guidelines framed by Ministry of Mines, within a period of six months from the date of judgment i.e., 27.02.2012 and submit compliance. Court also directed Government of India to take steps to bring into force Minor Minerals Conservation and Development Rules, 2010 at the earliest. Various State Governments and Union Territories were also directed to take steps to frame necessary rules under Section 15 of MMRD Act, 1957, taking into consideration recommendations of MoEF in its Report of March 2010 and Model Guidelines framed by Ministry of Mines, Government of India.**

73. The details of recommendation made by MoEF are reproduced in para 19 of the judgment and key recommendations contained in MoEF's DO letter dated 01.06.2010 are mentioned in para 22 of judgment. **Supreme Court specifically directed that lease of minor minerals**

including renewal of an area of less than 5 ha would be granted by concerned authorities only after getting EC from MoEF.

74. Amendments were made in EIA 2006 after the judgment in **Deepak Kumar vs. State of Haryana (supra)** and **Goa Foundation vs. Union of India & Others, (2014) 6 SCC 590** and have reflections of the said judgements. Subsequent amendments made in EIA 2006 are as under:

A. Notification dated 13.12.2012 published in Gazette of India Extraordinary of the same date:

- a) In the **Schedule Item 1(a) in Column V, following entries were substituted:**

“In the Schedule to the said notification against item (a), in column (5) for the entries, the following entries shall be substituted namely,

“General conditions shall apply.

Note:

- (i) Prior environment 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 the 4th November, 2011.*
- (ii) Mineral prospecting is exempted.”*

B. Notification dated 13.03.2013 published in Gazette of India Extraordinary of the same date:

- a) The amendment was made in Schedule item 1(a) column 5 and following proviso was inserted under note (i):

“Provided that no fresh environment clearance shall be required for a mining project or activity at the time of renewal of mining lease, which has already obtained environment clearance, under this notification”.

C. Notification dated 19.07.2013 published in Gazette of India Extraordinary of the same date:

- a) It inserted para 11 A as under:

“11A. Preparation and Presentation of Environmental Impact Assessment (EIA) report and Environmental Management Plan (EMP).-

The Environmental consultant organization which are accredited for a particular sector or area and the category of project for that sector or area with the Quality Council of India (QCI) or National Accreditation Board for Education and Training (NABET) or any other agency as may be notified by the Ministry of Environment and Forests from time to time shall be allowed to prepare the Environmental Impact Assessment report and Environmental Management Plan of a project in that sector and category and to appear before the concerned Expert Appraisal Committee (EAC) or the State Expert Appraisal Committee (SEAC).”

D. Notification dated 22.08.2013 published in Gazette of India Extraordinary of the same date:

- a) In **para 7 sub-paragraph II, item (i) of EIA 2006 was substituted** as under:

*“(i) **“Scoping” refers to the process** by which the Expert Appraisal Committee in the case of Category ‘A’ projects activities, and State level Expert Appraisal Committee in the case of Category ‘B1’ projects or activities, including applications for expansion or modernization or change in product mix of existing projects or activities, **determine detailed and comprehensive Terms of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report** in respect of the project or activity for which prior environmental clearance is sought and the Expert Appraisal Committee or State level Expert Appraisal Committee concerned shall determine the terms of reference on the basis of the information furnished in the prescribed application Form 1 or Form 1A including terms of reference proposed by the applicant, a site visit by a sub-group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned:*

Provided that the following shall not require Scoping-

- (i) all projects and activities listed as Category ‘B’ in item 8 of the Schedule (Construction or Township or Commercial Complexes or Housing);*
- (ii) all Highway expansion projects covered under entry (ii) of column (3) and column (4) under sub-item (f) of item 7 of the Schedule:*

Provided further that-

- A. the projects and activities referred to in clause (i) shall be apprised on the basis of Form I or Form IA and the conceptual plan;
- B. The projects referred to in clause (ii) shall prepare EIA and EMP report on the basis of model TOR specified by Ministry of Environment and Forests;”

E. Notification dated 09.09.2013 published in Gazette of India Extraordinary dated 10.09.2013:

a) In the schedule item 1(a), amendment by substitution with regard to item and entry was made as under:

(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 irrespective of mining area.	<50 ha of mining lease area in respect of minor minerals mine lease; and ≤50 ha ≥ 5 ha of mining lease area in respect of other non-coal mine lease. ≤ 150 ha>5 ha of mining lease area in respect of coal mine lease.	General Conditions shall apply except for project or activity of less than 5 ha of mining lease area for minor minerals: 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. Note: (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: 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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75. Thereafter, two **OMs dated 24.06.2013 and 24.12.2013** were issued by MoEF&CC. OM dated 26.06.2013 lays down guidelines regarding categorization of mining projects of brick earth and ordinary earth having lease area less than 5 Ha as category B2 subject to stipulation stated therein. We are not giving details of this OM not being relevant for our purposes.

76. MoEF&CC issued OM dated 24.12.2013 in the light of the reports submitted by Expert Committee constituted vide OM dated 30.01.2013 with regard to categorization of category B projects/activities into B1 and B2 as per Schedule to EIA 2006 and its amendments. With regard to mining of minerals, para 2 of the said OM said as under:

“2. In compliance with such a requirement under the EIA Notification and to examine other issues, the MoEF had constituted vide O.M. No. J-11013/12/2013-IA-II(I) dated 30.01.2013, an Expert Committee, under the Chairmanship of Director, NEERI, Nagpur. The Committee

has since submitted its report. The recommendations of the Committee have been examined by MOEF and the **following has been decided w.r.t. categorization of Category 'B' projects/activities into Category 'B1' & 'B2' listed in the Schedule of EIA Notification, 2006 and its amendments:**

I. Mining of Minerals

Mining of minor minerals

As of now, mining projects of minor minerals with less than 50 ha of mining lease area are **categorized as Category 'B'** as per Notification S.O.2731(E) dated 9th September, 2013. Also vide OM No.L-11011/47/2011-IA.II(M) dated 24.06.2013, guidelines have been issued regarding categorization of mining projects of 'brick earth' and 'ordinary earth' having lease area less than 5 ha as category 'B2' subject to stipulations stated therein.

In the above backdrop, the projects of mining of minor minerals, categorized as Category 'B' are hereby categorized as 'B2' as per the following:

- (i) 'Brick earth'/'Ordinary earth' mining projects having lease area less than 5 ha will be considered for granting EC as per the aforesaid guidelines issued by MOEF on 24.6.2013.
- (ii) 'Brick earth'/'Ordinary earth' mining projects with mining lease area ≥ 5 ha but < 25 ha and all other minor mineral mining projects with mining lease area < 25 ha, except for river sand mining projects will be appraised as Category 'B2' projects. These projects will be appraised based on following documents:
 - (a) Form -1 as per Appendix-I under EIA Notification, 2006
 - (b) Pre-feasibility report of the project
 - (c) Mining plan approved by the authorized agency of the concerned State Government

Provided, in case the mining lease area is likely to result into a cluster situation, i.e., if the periphery of one lease area is less than 500 m from the periphery of another lease area and the total lease area equals or exceeds 25 ha, the activity shall become Category 'B1' Project under the EIA Notification, 2006. In such a case, mining operations in any of the mine lease areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

- (iii) No river sand mining project, with mine lease area less than 5 ha, may be considered for granting EC. The river sand mining projects with mining lease area ≥ 5 ha but < 25 ha will be categorized as 'B2'. In addition to the requirement of documents, as brought out above under sub-para (ii) above for appraisal, such projects will be considered subject to the following stipulations:
 - (a) The mining activity shall be done manually.
 - (b) The depth of mining shall be restricted to 3m/water level, whichever is less.
 - (c) For carrying out mining in proximity to any bridge and/or embankment, appropriate safety zone shall be worked out on case to case basis to the satisfaction of SEAC/SEIAA, taking into account the structural parameters, locational aspects, flow

- rate, etc., and no mining shall be carried out in the safety zone so worked out.
- (d) No in stream mining shall be allowed.
 - (e) The mining plan approved by the authorized agency of the State Government shall inter-alia include study to show that the annual replenishment of sand in the mining lease area is sufficient to sustain the mining operations at levels prescribed in the mining plan and that the transport infrastructure is adequate to transport the mines material. In case of transportation by road, the transport vehicles will be covered with taurpoline to minimize dust/sand particle emissions.
 - (f) EC will be valid for mine lease period subject to a ceiling of 5 years.

Provided, in case the mining lease area is likely to result into a cluster situation i.e. if the periphery of one lease area is less than 1 km from the periphery of another lease area and total lease area equals or exceeds 25 ha, the activity shall become Category ‘B1’ Project under the EIA Notification, 2006. In such a case, mining operations in any of the mine lease areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

II. Other projects or activities

The guidelines for categorizing some of the other category of projects or activities into ‘B1’ or ‘B2’ out of the category ‘B’ projects listed in schedule to EIA Notification, 2006, as amended from time to time, are as follows. These projects will be appraised based on Form-1 as per Appendix-I under EIA Notification, 2006, as amended and prefeasibility report of the project.

S.N. of Schedule	Activities	Category B2	Category B1
1 (d)	Thermal Power Plants	Thermal power plants based o coal/ lignite/ naphtha and gas of capacity ≤ 5 MW	Thermal power plants based on coal/ llignite/ naphtha and gas of capacity > 5 MW and < 500 MW.
2 (b)	Mineral Beneficiation	The mineral beneficiation activity listed in the Schedule as Category ‘B’, with throughput ≤ 20,000 TPA, involving only physical beneficiation.	All other mineral beneficiation activity falling in the Schedule as Category ‘B’.
3 (a)	Metallurgical Industries (ferrous & non-ferrous)	All non toxic secondary metallurgical processing industries involving operation of furnaces only, such as induction and electric arc furnaces, submerged arc	All other non toxic secondary metallurgical processing industries falling in the Schedule as Category ‘B’.

		<i>furnaces, and cupola with capacity > 30,000 TPA but < 60,000 TPA provided that such projects are located within the notified Industrial Estates.</i>	
<i>3 (b)</i>	<i>Cement Plants</i>	<i>All stand-alone grinding units listed in the Schedule as Category ‘B’ subject to the condition that transportation of raw material and finished products shall be primarily* through Railways.</i>	<i>All stand-alone grinding units listed in the Schedule as Category ‘B’ where the transportation of raw material and finished products is not primarily through Railways.</i>
<i>4 (d)</i>	<i>Chlor Alkali Industry</i>	<i>All Chlor Alkali plants with production capacity < 300 TPD (located within notified industrial area) listed in the Schedule as Category ‘B’.</i>	<i>All Chlor Alkali plants with production capacity < 300 TPD (located outside notified industrial area) listed in the Schedule as Category ‘B’.</i>
<i>4 (f)</i>	<i>Leather/Skin/Hide Processing Industry</i>	<i>All new or expansion projects of leather production without tanning, located within a notified industrial area/estate, listed in the Schedule as Category ‘B’</i>	<i>All others projects listed in the Schedule as Category ‘B’.</i>
<i>5 (a)</i>	<i>Chemical Fertilizers</i>	<i>Single Super Phosphate (SSP) plants involving only the activity of granulation of SSP powder.</i>	<i>All other Single Super Phosphate (SSP) plants listed in the Schedule as Category ‘B’.</i>
<i>5 (d)</i>	<i>Manmade Fibres Manufacturing</i>	<i>All manmade fibre manufacturing units producing fibres from granules or chips.</i>	<i>All other manmade fibre manufacturing units listed in the Schedule as Category ‘B’</i>
<i>7 (g)</i>	<i>Aerial Ropeways</i>	<i>All Aerial Ropeway projects, listed in the Schedule as Category ‘B’, should be categorized as Category B2.</i>	

**transportation by railways should not be less than 90% of the traffic (inward and outward put together)*

77. The said Office Memorandums were challenged in **OA 343/2013, Ranbir Singh vs. State of H.P. & Ors.** and **OA 279/2013, Promila Devi vs. State of H.P. & Ors.** filed at Circuit Bench, Shimla. Vide order dated 28.03.2014, Tribunal stayed operation of OM dated 24.12.2013. Relevant extract of the order dated 28.03.2014 reads as under:

“The Ministry of Environment & Forest (MoEF) has not been able to explain as to how the Office Memorandum dated 24th December, 2013 in conformity with the order of the Hon’ble Supreme Court in Deepak Kumar’s case, order of the NGT and the Notification dated 9th September, 2013 issued by the MoEF itself. We do not think that the MoEF could have issued such memorandum.

The Notification issued by the MoEF is an act of subordinate legislation and was issued in exercise of statutory powers. The Office Memorandum is an administrative order and cannot frustrate the legislative act.

In fact, it falls beyond the scope of administrative powers. Consequently, we stay the operation and effect of the order of Office Memorandum dated 24th December, 2013. In so far as it relates to the minor minerals like sand etc., list these matters on 30th May, 2014 for hearing.”

78. The above OAs were disposed of finally vide judgment dated 13.01.2015 along with some other matters with the following directions:

“83. In light of the above discussion and particularly keeping in view the persistent conflict between the State Regulations and the Central Notifications, it is imperative for us to issue directions specially to provide for an interim period, during which appropriate steps should be taken to comply with the Judgment of the Hon’ble Supreme Court and to issue Notifications which are necessary in that regard. Therefore, we pass the following order and directions:

- I. For the reasons afore recorded, **we hold and declare that the Notification dated 9th September, 2013 is invalid and inoperative for non-compliance of the statutorily prescribed procedure under the Environment (Protection) Rules, 1986 and for absence of any justifiable reason for dispensation of such procedure.***
- II. **We also hold and declare that the Office Memorandums dated 24th June, 2013 and 24th December, 2013 to the extent afore-indicated are invalid and inoperative being beyond the power of delegated legislation.***
- III. All the Office Memorandums and Notifications issued by MoEF i.e. 1st December, 2009, 18th May, 2012 and 24th June, 2013 and 24th December, 2013 (except to the extent afore-stated) are operative*

and would apply to the lease mine holders irrespective of the fact that whether the area involved is more or less than 5 hectares.

- IV. We further hold that the existing mining lease right holders would also have to comply with the requirement of obtaining Environmental Clearance from the competent authorities in accordance with law. However, all of them, if not already granted Environmental Clearance would be entitled to a reasonable period (say three months) to submit their applications for obtaining the same, which shall be disposed of expeditiously and in any case not later than six months from pronouncement of this judgment.
- V. **All the States and the Ministry of Environment and Forest shall ensure strict compliance to the directions issued by the Hon'ble Supreme Court in the case of Deepak Kumar (supra).** We direct Secretary, Ministry of Environment and Forest to hold a meeting with the State of Rajasthan, Himachal Pradesh and Karnataka to bring complete uniformity in application of the above referred Notifications and Office Memorandums including the Notification of 2006.
- VI. We direct that in the meeting it shall also disused and appropriate recommendations be made and placed before the Tribunal, as to whether riverbed mining covering an area of less than 5 hectares can be permitted, if so, the conditions and regulatory measures that need to be adopted in that behalf.
- VII. **We direct that the District Environmental Committees constituted by the respective State Governments shall not discharge any functions and grant approval as contemplated under the Notification of 2006.**
- VIII. **Secretary, Ministry of Environment and Forest along with such experts and the States afore-referred will also consider the possibility of constituting the branches of SEIAA at the district or at least, division levels, to ensure easy accessibility to encourage the mine holders to take Environmental Clearance expeditiously.**
- IX. It is stated before us that in large number of cases, particularly in relation of State of Rajasthan, persons carrying on mining activity of minor minerals, non-coal mining and brick earth and ordinary earth have applied for obtaining Environmental Clearances in accordance with the terms and conditions of the Notification of 2006. Let all such applications be dealt with and orders passed by the concerned authorities at the earliest and in any case not later than six months from today.
- X. We direct the respondent authorities, particularly SEIAA, to dispose of the application of all these private respondents who have already filed applications seeking Environmental Clearance as expeditiously as possible, in any case not later than three months from today. Thus, Appeal No. 23/2014 and M.A. No. 469/2014, M.A No. 488/2014, 489/2014, 479/2014, 480/2014, 473/2014, 470/2014, 471/2014 and 469/2014 stand disposed

of with the above directions. Till the grant of environmental clearance they would not carry out any activity of marble mining.

XI. We dispose of Original Application No. 123/13 with a direction that SEIAA shall consider the applications filed for seeking Environmental Clearance in accordance with law and observations made in this judgment, expeditiously, and in any case within a period of three months from today.

XII. In the meanwhile, no State shall permit carrying on of sand mining or minor mineral extraction on riverbed or otherwise without the concerned person obtaining Environmental Clearance from the competent authority.

XIII. We direct the Ministry of Environment and Forest to issue comprehensive but self-contained Notification relating to all minor mineral activity on the riverbed or otherwise, to avoid unnecessary confusion, ambiguities and practical difficulties in implementation of the environmental laws.

XIV. In light of the judgment of the Supreme Court and what has emerged from the various cases that are subject matter of this Judgment, we direct the Ministry of Environment and Forest to formulate a uniform cluster policy in consultation with the States for permitting minor mineral mining activity including, its regulatory regime, in accordance with law.”

79. OM dated 24.12.2013 was held bad so far as it imposed complete prohibition on grant of mining permission for area less than 5 ha. This was observed by Tribunal in para 64 as under:

“64....it is clear that no Environmental Clearance would be granted for extraction of minor minerals, sand mining from any riverbed where the area is less than 5 hectares. This will amount to total prohibition of carrying on of minor mineral activity of extraction of sand from riverbed anywhere in the country. Such prohibition, as we have already noticed, cannot be imposed in exercise of executive powers in face of the Notification of 2006 which places no such restriction.

xxx.....xxx.....xxx

Therefore, we find that this restriction is without any basis and is incapable of being imposed through an Office Memorandum. The minor mineral mining activity, other than sand mining, on riverbed was permitted in the sense that for such activity even areas less than 5 hectares could be considered for grant of Environmental Clearance.”

80. Thus, from the above, it is evident that this Tribunal reiterated and directed MoEF&CC to act strictly as per the directions issued by Supreme Court in **Deepak Kumar vs. State of Haryana (supra)** with respect of permitting mining as per EIA 2006.

81. Now, we re-join the amendments of EIA 2006 commencing from Notification dated 25.06.2014 as under:

A. Notification dated 25.06.2014 published in Gazette of India Extraordinary of the same date:

a) **General conditions under the note** after the Schedule in EIA 2006 **was substituted** as under:

“Any project or activity specified in category ‘B’ will be appraised at the Central level as Category ‘A’, if located in whole or in part within 5 km. from the boundary of: (i) Protected areas notified under the Wildlife (Protection) Act, 1972 (53 of 1972); (ii) Critically polluted areas as identified by the Central Pollution Control Board constituted under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) from time to time; (iii) Eco-sensitive areas as notified under sub-section (2) of section 3 of the Environment (Protection) Act, 1986, and (iv) inter-State boundaries and international boundaries; provided that for River Valley Projects specified in item 1(c), Thermal Power Plants specified in item 1(d), Industrial estates/parks/complexes/areas, export processing zones (EPZs), Special Economic Zones (SEZs), biotech parks, leather complexes specified in item 7(c) and common hazardous waste treatment, storage and disposal facilities (TSDFs) specified in item 7(d), the appraisal shall be made at Central level even if located within 10km.

Provided further that the requirement regarding distance of 5 km or 10 km, as the case may be, of the inter-State boundaries can be reduced or completely done away with by an agreement between the respective States or the Union Territories sharing the common boundary in case the activity does not fall within 5km or 10 km, as the case may be of the areas mentioned at item (i), (ii) and (iii) above.”

B. Notification dated 07.10.2014 published in Gazette of India Extraordinary of the same date:

“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	≥ 50 ha of mining lease area in respect of non-coal mine lease.	<50 ha of mining lease area in respect of non-coal mine lease.	General Conditions shall apply except for project or activity of less than 5 ha of mining lease area:

		<i>>150 ha of mining lease area in respect of coal mine lease.</i>	<i>≤ 150 ha of mining lease area in respect of coal mine lease.</i>	<i>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.</i> Note: <i>(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.</i>
	<i>(ii) Slurry pipelines (coal lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive areas.</i>	<i>Asbestos mining irrespective of mining area.</i>	<i>All projects.</i>	<i>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.</i> <i>(ii) Mineral prospecting is exempted.”</i>

C. Notification dated 09.10.2014 published in Gazette of India Extraordinary of the same date:

- a) In Appendix VI following amendment was made:
- “(i) in paragraph 2, for the words “Public Administration or Management”, the words “Public Administration or Management covering various developmental sectors and environmental issues”;

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

“4. The Chairperson shall be an eminent person having experience in environmental policy related issues, in management or in public administration dealing with various developmental sectors”.

D. Notification dated 03.02.2015 published in Gazette of India Extraordinary of the same date:

a) Amendment was made **in para 7(i)** as under:

*“(a) in **sub-paragraph II relating to Stage (2)-Scoping, in clause (i), in the first proviso, for item (ii) the following items shall be substituted, namely:***

“(ii) all Highway projects in border States covered under entry (i) of column (3) and entry (i) of column (4) against item 7 (f) of the Schedule;

(iii) All Highway expansion projects covered under entry (ii) of column (3) and entry (ii) of column (4) against item 7 (f) of the Schedule;

*(b) in **sub-paragraph III relating to Stage (3)-Public Consultation, in clause (i), after sub-clause (f), the following sub-clause shall be inserted, namely:***

“(g) all linear projects such as Highways, pipelines, etc., in border States.”

E. Notification dated 23.03.2015 published in Gazette of India Extraordinary of the same date:

a) Hereby existing **paragraph 11 was renumbered as sub-paragraph (1) and sub-paragraph (2) was inserted** which reads as under:

“(2) Where an allocation of coal block is cancelled in any legal proceeding; or by the Government in accordance with law, the environmental clearance granted in respect of such coal block may be transferred, subject to the same validity period as was initially granted, to any legal person to whom such block is subsequently allocated, and in such case, obtaining of “no objection” from either the holder of environment clearance or from the regulatory authority concerned shall not be necessary and no reference shall be made to the Expert Appraisal Committee or the State Level Expert Appraisal Committee concerned.”

F. Notification dated 10.04.2015 published in Gazette of India Extraordinary of the same date:

- a) In **paragraph 7 sub-paragraph (i), in sub-heading II clauses (i) and (ii) as existing were substituted and the existing clause (iii) was renumbered as clause (ii).** The substituted clause (i) reads as under:

“(i) “Scoping” refers to the process to determine detailed and comprehensive Terms of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought. Standard TOR developed by the Ministry in consultation with the sector specific Expert Appraisal Committees shall be the deemed approved TOR for the projects or activities. The standard Terms of Reference are displayed on the website of the Ministry of Environment, Forest and Climate Change.”

G. Notification dated 29.04.2015 published in Gazette of India Extraordinary on 30.04.2015:

- a) Hereby **existing paragraph 9 was renumbered as sub-paragraph (i) with certain amendments of the words therein** and the amended sub-paragraph (i) reads as under:

“(i) Validity of Environmental Clearance (EC):

*The “**Validity of Environmental Clearance**” is meant the **period** from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 7 above, to the start of production operations by the project or activity, or completion of all construction operations in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers. The prior environmental clearance granted for a project or activity shall be valid for a period of ten years in the case of River Valley projects (item 1(c) of the Schedule), project life as estimated by Expert Appraisal Committee or State Level Expert Appraisal Committee subject to **a maximum of thirty years for mining projects and seven years in the case of all other projects and activities.***

(Emphasis added)

H. Notification dated 31.08.2015 published in Gazette of India Extraordinary on 18.09.2015:

- a) Herein **in para 9(ii), in the first proviso, the words “period of 7 years” was substituted by the words “period of three years”** and the amended proviso reads as under:

*“Provided that this period of validity may be extended by the regulatory authority concerned by a maximum **period of three years** if an application is made to the regulatory authority by the applicant within the validity period, together with an updated Form I, and Supplementary Form IA, for Construction projects or activities (item 8 of the Schedule).”*

(Emphasis added)

I. Notification dated 14.09.2015 published in Gazette of India Extraordinary on 18.09.2015:

a) In para **7 sub-paragraph (III) relating to Stage (3)-Public**

Consultation, in clause (i), after sub-clause (g), sub-clause (h)

was inserted as under:

“(h) all standalone palletization plants, which were in existence and in operation on or before the 27th day of May, 2014 and have valid consent to establish and consent to operate from the concerned State Pollution Control Board or the Union Territory Pollution Control Committee.”

82. Then came the most important notification dated 15.01.2016 published in Gazette of India (Extraordinary) of the same date amending certain provisions of EIA 2006. This Notification was issued to make amendments in the light of Supreme Court’s judgment in **Deepak Kumar vs. State of Haryana & Ors. (supra)** wherein, it was held that in the matter of mining, prior EC would be mandatory for mining of mineral irrespective of the area of mining lease. The amendments made by this Notification, in brief, may be referred as under:

J. Notification dated 15.01.2016 published in Gazette of India Extraordinary of the same date:

a) In **paragraph 2, certain words were inserted** and the amended

paragraph of EIA 2006 reads as under:

“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, 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”

(Emphasis added)

- b) In paragraph 3 of EIA 2006, **para 3A was inserted and para 5 and 6 were substituted** as under:

“3A. 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.”*

- e) **In paragraph 7 under the heading “I. Stage (1)-Screening”, the existing paragraph was renumbered as “(A)” and, thereafter, following paragraph (B) was inserted:**

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

- f) **In para 7(ii), the following sub-paragraph (iii) was inserted:**

“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, 9 and 11**, after the words EAC or SEAC or Expert Appraisal Committee or State Level Expert Appraisal Committee, the **words DEAC or District Level Expert Appraisal Committee were inserted** so as to bring the same in conformity with this amended notification.

h) In **paragraph 10, after sub-paragraph (iii), following sub-paragraph (iv) was inserted:**

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

i) **In para 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”** were substituted.

j) In the Schedule, item 1(a) and entries were substituted as under:

(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 irrespective of mining area.	<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 minor minerals of Category ‘B2’ (upto 25 ha of mining lease area); (ii) River bed mining projects on account of inter-state boundary. 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.”;

	(ii) Slurry pipelines (coal lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive areas.	All projects.		(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.
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k) After Appendix VI, appendix VII to XII were inserted. Appendix VII lays down qualifications and terms for the experts in DEIAA and DEAC; Appendix VIII contains form I M i.e., the format application for mining of minor minters under Category ‘B2’ for less than and equal to 5 ha and it required following information:

- “(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 kilometre /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	

	<i>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</i>	
3.	<i>Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value</i>	
4.	<i>Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests</i>	
5.	<i>Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration</i>	
6.	<i>Inland, coastal, marine or underground waters</i>	
7.	<i>State, National boundaries</i>	
8.	<i>Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas</i>	
9.	<i>Defence installations</i>	
10.	<i>Densely populated or built-up area, distance from nearest human habitation</i>	
11.	<i>Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)</i>	
12.	<i>Areas containing important, high quality or scarce resources (ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)</i>	
13.	<i>Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)</i>	
14.	<i>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)</i>	
15.	<i>Is proposed mining site located over or near fissure/fracture for ground water recharge</i>	
16.	<i>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</i>	

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.	

l) Appendix IX provided exemption of certain cases from requirement of EC and reads as under:

“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 14th 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.”*

m) Appendix X lays down procedure for preparation of DSR and reads as under:

“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	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)

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.”

- n) Appendix XI lays down procedure for environmental clearance for mining of minor minerals including cluster and read as under:

“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
EC Proposal of Sand Mining and other Minor Mineral Mining on the basis of individual mine lease								
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	nominate d 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	
EC Proposal of Sand Mining and other Minor Mineral Mining in cluster situation								
Cluster area of mine leases up to 5 ha	‘B2’	Form – 1M, 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 nominate d by MoEFCC

Cluster area of Mine leases > 5 ha and < 25 ha with no individual lease > 5 h	'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/ MoEF CC	

o) Appendix XII lays down procedure for monitoring of sand mining or river bed mining and said as under:

- “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.”.

83. Notification dated 15.01.2016, therefore, introduced provisions relating to DSR. Para 7(iii) of EIA 2006 clearly talks of preparation of DSR for sand mining or river bed mining or mining of other minor minerals and Appendix-X provided clearly that a survey shall be carried out by 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. It is further provided therein that DSR 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 the collectorate and posting it on district's website for 21 days. The comments received shall be considered and if find fit, shall be incorporated in final report to be finalised within 06 months by DEIAA. DSR shall form the basis for application for EC, preparation reports and appraisal of projects. DSR shall be updated once in every 05 years.

84. The provisions of Appendix-X are clear to show that a DSR has to be approved finally by the competent Environment Impact Assessment Authority and that is the basis for application for EC, preparation of reports and appraisal of projects. In other words, DSR has to be approved by Environment Impact Assessment Authority which is a Competent

Authority. Once approved, it is valid for 5 years since the Report is required to be updated once every 5 years.

85. The above procedure clearly shows that the recommendations after survey/investigation etc. have to be submitted by District Authorities/State Government authorities but ultimate approval has to be granted by the competent Environment Impact Assessment Authority and it is only such DSR which is approved by such authority which can be said to be a valid DSR. Such DSR cannot be changed, alter or modified by State authorities and no such power has been conferred upon them under EIA, 2006 or under any other provision.

86. In **Satendra Pandey vs. MoEF&CC & Another, OA 186/2016** filed on 18.04.2016, validity of Notifications dated **15.01.2016** and **20.01.2016** amending EIA 2006 were challenged and a direction was sought that DEIAA should not function in the manner as provided in the said notifications.

87. When the above matter was pending, some further amendments were made in EIA 2006, as under:

A. Notification dated 03.03.2016 published in Gazette of India Extraordinary of the same date:

a) Here **paragraph 13 was inserted** in EIA 2006 which reads as under:

“13. Preparation and presentation of Environment Impact Assessment (EIA) report and Environment Management Plan (EMP).- The Environmental consultant organisations which are accredited for a particular sector and the category of project for that sector with the Quality Council of India (QCI) or National Accreditation Board for Education and Training (NABET) or any other agency as may be notified by the Ministry of Environment, Forest and Climate Change from time to time shall be allowed to prepare the Environmental Impact Assessment report and Environmental Management Plan of a project in that sector and category and to appear before the concerned Expert Appraisal Committee (EAC) or the State Expert Appraisal Committee

(SEAC). The Ministry will also prepare a panel of national level reputed educational and research institutions to work as Environmental Consultant Organisations”.

B. Notification dated 01.07.2016 published in Gazette of India Extraordinary of the same date:

a) **Amendment in Schedule in item 1(a), column 5 and entry (ii)**

was made as under:

“In the said notification,-

(a) in the Schedule, in item 1(a), in column (5), entry (ii) shall be renumbered as entry (iii) and before entry (ii) as so renumbered, the following entry shall be inserted, namely:-

“(ii) for project or activity of mining of minor minerals of Category ‘B1’ in case of cluster of mining lease area;”;

b) **In Appendix IX, following amendment was made:**

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

“(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 which shall be applicable to the mine leases or quarry licenses granted on and after 9th September, 2013.”;

(ii) after the Table relating to “Schematic Presentation of Requirements on Environment Clearance of Minor Minerals including cluster situation” and before Appendix XII, the following Note shall be inserted at the end, namely:

“Note. - (1) In the State of Rajasthan, for mining of minor minerals, in situation of a large number of leases or quarry licenses of very small size (up to one hectare each) in contiguous area, the Mines and Geology Department of the State Government shall, -

(A) define the size of cluster as per local situation for effective formulation and implementation of mine plan and Environment Management Plan;

(B) prepare mine plan and an Environment Management Plan for the cluster;

(C) prepare a Regional Mine Plan and Regional Environment Management Plan including all the clusters in that contiguity.

(D) provide for mobilisation of funds from the Project Proponents in predetermined proportion for implementation of cluster and Regional Environment Management Plan.

(2) The District Mineral Fund can also be used to augment the fund for implementation of Environment Management Plans.

(3) *The Environment Management Plan shall be prepared and presented within ninety days from the date of publication of this notification in the Official Gazette for environment clearance granted on or after 15th January, 2016 to any lease in that cluster. The recommendation of the State Expert Appraisal Committee and approval of the State Environment Impact Assessment Authority shall be granted within sixty days of presentation of the Environment Management Plan.*

(4) *The **implementation of the Environment Management Plan shall begin within six months from the date of publication of this notification in the Official Gazette.** The Environment Management Plan shall be monitored at the interval of six months by the concerned State Environment Impact Assessment Authority.*

(5) ***The leases not operative for three years or more and leases which have got environmental clearance as on 15th January, 2016 shall not be counted for calculating the area of cluster, but shall be included in the Environment Management Plan and the Regional Environmental Management Plan.***

C. Notification dated 14.09.2016 published in Gazette of India Extraordinary on 15.09.2016:

- a) **Paragraph 9 of EIA was substituted** by this notification as under:

“9. Validity of Environmental Clearance (EC):

(i) *The “Validity of Environmental Clearance” is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub-paragraph (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 (item 8 of the Schedule), to which the application for prior environmental clearance refers. **The prior environmental clearance granted for a project or activity shall be valid for a period of ten years in the case of River Valley projects [item 1(c) of the Schedule], project life as estimated by the Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee subject to a maximum of thirty years for mining projects and seven years in the case of all other projects and activities.***

(ii) *In the case of Area Development projects and Townships [item 8(b)], the validity period of seven years shall be limited only to such activities as may be the responsibility of the applicant as a developer:*

*Provided that this **period of validity** with respect to sub-paragraphs (i) and (ii) above **may be extended by the regulatory authority concerned by a maximum period of three years if an application is made to the regulatory authority by the applicant within the validity period, together with an updated Form I, and Supplementary Form IA, for Construction projects or activities (item 8 of the Schedule):***

Provided further that the regulatory authority may also consult the Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee, as the case may be, for grant of such extension.

(iii) Where the application for extension under sub-paragraphs (i) and (ii) above has been filed-

(a) within thirty days after the validity period of Environmental Clearance, such cases shall be referred to concerned Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee and based on their recommendations, the delay shall be condoned at the level of the Joint Secretary in the Ministry of Environment, Forest and Climate Change or Member Secretary, State Level Expert Appraisal Committee or Member Secretary, District Level Expert Appraisal Committee, as the case may be;”

D. Notification dated 23.11.2016 published in Gazette of India Extraordinary of the same date:

a) Here **sub-paragraph (ii) of Paragraph 7 was substituted** as under:

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

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

(b) Any change in configuration of the plant from the environmental clearance conditions during execution of the project after detailed engineering **shall be exempt from the requirement of environmental clearance, if there is no change in production and pollution load.** The project proponent shall inform the Ministry of Environment, Forest and Climate Change/ State Level Environment Impact Assessment Authority and the concerned State Pollution Control Board.

(c) Any change in product-mix, change in quantities within products or number of products in the same category for which environmental clearance has been granted **shall be exempt from the requirement of prior environmental clearance provided that there is no change in the total capacity sanctioned in prior environmental clearance granted earlier under this notification and there is no increase in pollution load.** The project proponent shall follow the procedure for obtaining **No Increase in Pollution Load** certificate from the concerned State Pollution Control Board as per the provisions given in Appendix –XIV.”

- b) This notification also **inserted Appendix XIII** giving details of process for obtaining “no increase in pollution load” certificate-permission from the State PCB.

E. Notification dated 25.07.2018 published in Gazette of India Extraordinary of the same date:

- a) This amendment notification was issued in view of the judgment dated 11.04.2018 and 19.06.2018 passed by High Court of Jharkhand (at Ranchi) in **Writ Petition (PIL) No. 1806 of 2015, Court on its Own Motion Versus the State of Jharkhand & Others and W.P. (PIL) No. 290 of 2013, Hemant Kumar Shilkarwar Versus the State of Jharkhand & Others.** Appendix X of EIA 2006 was substituted.
- b) **Appendix X was substituted by this amendment and the substituted appendix X reads as under:**

“APPENDIX - X
[See paragraph 7 (iii) (a)]
I. PROCEDURE FOR PREPARATION OF DISTRICT SURVEY
REPORT FOR SAND MINING OR RIVER BED MINING

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 Bajri 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 District Environment Impact Assessment Authority 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
(1)			
(2)			

Salient Features of Important Rivers and Streams:

S. No.	Name of the River	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)
(1)						
(2)						
Total for the District						

A Sub-Divisional Committee comprising of (i) Sub-Divisional Magistrate, (ii) Officers from (a) Irrigation department, (b) State Pollution Control Board or Committee, (c) Forest department, (d) 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 in the district and its draft shall be placed in the public domain by keeping its copy in Collectorate and posting it on the district’s website for twenty-one days. The comments received shall be considered and if found correct, shall be incorporated in the final Report to be finalised within six months by the District Environment Impact Assessment Authority.

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.

II. PROCEDURE FOR PREPARATION OF DISTRICT SURVEY REPORT OF MINOR MINERALS OTHER THAN SAND MINING OR RIVER BED MINING

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 for minor minerals other than sand mining or River bed mining shall be as per structure mentioned below:

- FORMAT FOR PREPARATION OF DISTRICT SURVEY REPORT FOR MINOR MINERALS OTHER THAN SAND MINING OR RIVER BED MINING

- (1) Introduction;*
- (2) overview of Mining Activity in the District;*
- (3) general Profile of the District;*
- (4) geology of the District;*
- (5) drainage of Irrigation pattern;*
- (6) land Utilisation Pattern in the District: Forest, Agricultural, Horticultural, Mining etc.;*
- (7) surface Water and Ground Water scenario of the district;*
- (8) rainfall of the district and climatic condition;*
- (9) details of the mining leases in the District as per the following format: -*

Sl. No.	Name of the Mineral	Name of the Lessee	Address & Contact No. of Lessee	Mining lease Grant Order No. & date	Area of Mining lease (ha)	Period of Mining lease (Initial)		Period of Mining lease (1 st /2 nd ...renewal)	
						From	To	From	To
1	2	3	4	5	6	7	8	9	10

Date of commencement of Mining Operation	Status (Working/Non - Working/Temp. Working for dispatch etc.)	Captive / Non-Captive	Obtained Environmental Clearance (Yes/No), If Yes Letter No with date of grant of EC.	Location of the Mining lease (Latitude & Longitude)	Method of Mining (Opencast/U nderground)
11	12	13	14	15	16

- (10) details of Royalty or Revenue received in last three years;*

- (11) details of Production of Minor Mineral in last three years;
- (12) mineral Map of the District;
- (13) list of Letter of Intent (LOI) Holders in the District along with its validity as per the following format :-
- (14) total Mineral Reserve available in the District;

Sl. No.	Name of the Mineral	Name of the Lessee	Address & Contact No. of Letter of Intent Holder	Letter of Intent Grant Order No. & date	Area of Mining lease to be allotted	Validity of Lol	Use (Captive/ Non-Captive)	Location of the Mining lease (Latitude & Longitude)
1	2	3	4	5	6	7	8	9

- (15) quality /Grade of Mineral available in the District;
- (16) use of Mineral;
- (17) demand and Supply of the Mineral in the last three years;
- (18) mining leases marked on the map of the district;
- (19) details of the area of where there is a cluster of mining leases viz. number of mining leases, location (latitude and longitude);
- (20) details of Eco-Sensitive Area, if any, in the District;
- (21) impact on the Environment (Air, Water, Noise, Soil, Flora & Fauna, land use, agriculture, forest etc.) due to mining activity;
- (22) remedial Measures to mitigate the impact of mining on the Environment;
- (23) reclamation of Mined out area (best practice already implemented in the district, requirement as per rules and regulation, proposed reclamation plan);
- (24) risk Assessment & Disaster Management Plan;
- (25) details of the Occupational Health issues in the District. (Last five-year data of number of patients of Silicosis & Tuberculosis is also needs to be submitted);
- (26) plantation and Green Belt development in respect of leases already granted in the District;
- (27) any other information.

The District Environment Impact Assessment Authority (DEIAA) based on the nature and type of minor mineral in the District may include the additional parameters in the District Survey Report in consultation with the Department of Mines and Geology of the concerned State Government.

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”;

F. Notification dated 14.08.2018 published in Gazette of India Extraordinary of the same date:

- a) In the Schedule, for item 1(a), 1(c), and the Schematic Presentation of Requirements on Environmental Clearance of

Minor Minerals including cluster situation in Appendix-XI and entries relating thereto, the following item and entries shall be substituted, namely:

Project or Activity		Category with threshold limit		Conditions if any
		A	B	
1		Mining, extraction of natural resources and power generation (for a specified production capacity)		
(1)	(2)	(3)	(4)	(5)
1(a)	(i) Mining of minerals 			

			Irrigation system	Requirement of EC	
			(a) Minor Irrigation system (≤ 2000 Ha)	Exempted	
			(b) Medium irrigation system (> 2000 and < 10,000 ha.)	Required to prepare EMP and to be dealt at State Level (B2 category) .	General Condition shall apply. Note:- (i) Category ‘B’ river valley projects falling in more than one state shall be appraised at the central Government Level. (ii) Change in irrigation technology having environmental benefits (eg. From flood irrigation to Drip irrigation etc.) by an existing project, leading to increase in Culturable Command Area but without increase in dam height and submergence, will not require amendment/ revision of EC.
			(c) Major irrigation system (≥10,000 to < 50,000 ha.)	Required to prepare EIA/EMP and to be dealt at State Level (B1 category) .	

Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation in Appendix-XI:

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
EC Proposal of Sand Mining and other Minor Mineral Mining on the basis of individual mine lease								

0 – 5ha	‘B2’	Form – 1M, PFR and Approved Mine Plan	No	Yes	Project Proponent	Project PropONENT	DEAC / DEIAA	DEIAA SEIAA SPCB CPCB MoEFC C Agency nominated by MoEFC C
> 5 ha and < 25 ha	‘B2’	Form –I, PFR and Approved Mine Plan and EMP	No	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	
≥25ha and ≤100ha	‘B1’	Form –I, PFR, DSR and Approved Mine Plan and EIA and EMP	Yes	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	
>100 ha	‘A’	Form –I, PFR, DSR and Approved Mine Plan and EIA and EMP	Yes	Yes	Project Proponent	Project Proponent	EAC/ MoEF CC	
EC Proposal of Sand Mining and other Minor Mineral Mining in cluster situation								
Cluster area of mine leases up to 5 ha	‘B2’	Form – 1M, PFR, DSR and Approved Mine Plan	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project PropONENT	DEAC / DEIAA/	DEIAA SEIAA SPCB CPCB MoEFC C Agency nominated by MoEFC C
Cluster area of Mine leases > 5 ha and < 25 ha with no individual lease > 5 ha	‘B2’	Form –I, PFR, DSR 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 ≤ 100ha	‘B1’	Form –I, PFR, DSR and Approved Mine Plan and one EIA/EMP for all leases in the Cluster	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project PropONENT	SEAC/ SEIAA	
Cluster of	‘A’	Form –I, PFR,	Yes	Yes	State, State	Project PropONENT	EAC/ MoEF	

any size with any of the individual lease ≥50ha		DSR and Approved Mine Plan and one EIA/EMP for all leases in the Cluster			Agency, Group of Project Proponents, Project Proponent	nt	CC	
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88. OA 186/2016, *Satendra Pandey vs. MoEF & Ors. (supra)* along with OA 200/2016, *Rajeev Suri vs. Union of India*; OA 580/2016, *Badal Singh vs. Union of India & Ors.*; OA 102/2017, *Nature Club of Rajasthan (NGO) vs. Union of India & Ors.*; OA 404/2016, *Naresh Zargar vs. Ministry of Environment & Forest and Anr.*; OA 405/2016, *Rajeev Suri vs. Union of India & Anr.* and OA 520/2016, *Vikrant Tongad vs. Union of India* were decided vide judgment dated 13.09.2018. Tribunal found both the above notifications, partly, inconsistent with Supreme Court’s judgment in ***Deepak Kumar & Others vs. State of Haryana & Others (supra)***. The exemption granted to leases upto 5 hectares in regard to procedure of appraisal by DEIAA was not upheld. The relevant extract of the judgment reads as under:

“9. Upon consideration of the fact and circumstances set out in the original application and upon hearing the Ld. Counsel for parties, we find that the impugned Notification dated 15th January, 2016 is not consistent with the decision of the Hon’ble Supreme Court in the case of *Deepak Kumar (supra)*. We find substance in the submissions of the Ld. Counsel for the applicant that while breaking category B of the mines to B-1 & B-2 may not per se be bad, it certainly dilutes the stringent requirement of lease areas upto 25 ha being exempted from the necessity of submitting EIA and EMP for grant of Environmental Clearance. It is undisputed that the impugned Notification is issued with the object to comply with the directions passed in the case of *Deepak Kumar (supra)*. This case had arisen as the EIA Notification dated 14th September, 2006 was being flouted by breaking homogenous areas into pieces of less than 5 ha in the States of Uttar Pradesh, Rajasthan and Haryana, as the notification then did not require Environmental Clearance for areas less than 5 ha. The Hon’ble Supreme Court after noting the serious deleterious effect of quarrying, mining and removal of sand in-stream and up-stream of rivers to the environment, in paragraphs 9 and 10 (of SCC), held as follows:

“9. Extraction of alluvial material from within or near a streambed has a direct impact on the stream’s physical habitat characteristics. These characteristics include bed elevation, substrate composition and stability, in-stream roughness elements, depth, velocity, turbidity, sediment transport, stream discharge and temperature. Altering these habitat characteristics can have deleterious impacts on both in-stream biota and the associated riparian habitat. The demand for sand continues to increase day by day as building and construction of new infrastructures and expansion of existing ones is continuous thereby placing immense pressure on the supply of the sand resource and hence mining activities are going on legally and illegally without any restrictions. Lack of proper planning and sand management cause disturbance of marine ecosystem and also upset the ability of natural marine processes to replenish the sand.

10. We are expressing our deep concern since we are faced with a situation where the auction notices dated 3-6-2011 and 8-8-2011 have permitted quarrying mining and removal of sand from in-stream and upstream of several rivers, which may have serious environmental impact on ephemeral, seasonal and perennial rivers and river beds and sand extraction may have an adverse effect on biodiversity as well. Further it may also lead to bed degradation and sedimentation having a negative effect on the aquatic life. The rivers mentioned in the auction notices are on the foothills of the fragile Shivalik hills. Shivalik hills are the source of rivers like Ghaggar, Tangri, Markanda etc. River Ghaggar is a seasonal river which rises up in the outer Himalayas between Yamuna and Satluj and enters Haryana near Pinjore, District Panchkula, which passes through Ambala and Hissar and reaches Bikaner in Rajasthan. River Markanda is also a seasonal river like Ghaggar, which also originates from the lower Shivalik hills and enters Haryana near Ambala. During monsoon, this stream swells up into a raging torrent, notorious for its devastating power, as also, river Yamuna.

11. We find that it is without conducting any study on the possible environmental impact on/in the river beds and elsewhere the auction notices have been issued. **We are of the considered view that when we are faced with a situation where extraction of alluvial material within or near a riverbed has an impact on the rivers physical habitat characteristics, like river stability, flood risk, environmental degradation, loss of habitat, decline in biodiversity, it is not an answer to say that the extraction is in blocks of less than 5 hectares, separated by 1 km, because their collective impact may be significant, hence the necessity of a proper environmental assessment plan.”**

10. The Hon’ble Supreme Court also took note of the fact that the MoEF&CC had constituted a Core Group under the Chairmanship of the Secretary (Environment & Forest) to look into the environment aspects associated with mining of the minor minerals vide order dated 24th March, 2009 with specific terms and conditions. The Core Group

after consideration of various issues including cluster of mine approach for addressing and implementing EMP in case of small mines, submitted a report on 29th January, 2010 with the recommendation to permit mining of minor minerals under strict regulatory regime and carried out only under an approved framework of mining plan which should provide for reclamation and rehabilitation of mine areas. For smaller mine lease areas a cluster approach was recommended. It was directed that the States should adopt the recommendations and the model guidelines framed by the Ministry of Mines, namely the Model Rules, 2010.

11. In pursuance of the directions, the impugned Notification dated 15th January, 2016 was ultimately issued. The MoEF&CC Notification dated 14th December, 2006 as it stood earlier prescribed for two categories of projects and activities as Category A and Category B based on the spatial extent of potential impacts, potential impacts on human health and natural and man-made resources. Stage (1)-Screening that provides for Category 'B' projects or activities, entail scrutiny of an application seeking prior Environment Clearance made in Form 1 by the concerned State Level Expert Appraisal Committee (SEAC) for determining whether or not the project or activity requires further environmental studies for preparation of EIA for appraisal prior to grant of Environment Clearance depending upon the nature and location specificity of the project. It further provides that the project requiring EIA report would be termed as Category 'B-1' and remaining projects as Category 'B-2' that would not require EIA report. Discretion to make such categorization was left upon the MoEF&CC and to issue appropriate guidelines from time to time. **This provision was a subject matter of challenge in the case of Himmat Singh Shekhawat v. State of Rajasthan, 2015 ALL (I) NGT Reporter (1) DEL 44 by which it was upheld as having been issued by the Ministry as a Subordinate Legislation. However, the office memorandums dated 24th June, 2013 and 24th December, 2013 prohibiting grant of Environment Clearance to the mine areas of less than 5 ha was quashed as being in conflict with the aforesaid provision.**

12. **The only contention that require for us to consider in this case is as to whether the Notification dated 15th January, 2016 would satisfy the spirit of the directions issued in the case of Deepak Kumar (supra). As already noted, EIA Notification dated 14th September, 2006 under the Schedule provided thereto require all mining lease area of equal to and up to 50 ha to seek Environment Clearance requiring to submit EIA for appraisal from the SEIAA.**

13. The impugned Notification dated 15th January, 2016, however, would clearly indicate that Category B has been split into category B1 and B2 and again, **category B2 has been further split into areas of 0-5 ha and 5-25 ha. While 0-5 ha has been exempted from the requirement of EIA/Public Consultation, such exemption has also been provided even for mining areas of 5 ha to 25 ha with the DEAC and the DEIAA as the prescribed authority for evaluation and grant of Environmental Clearance.** Category B-1 being mining areas of 25 ha to 50 ha, the authorities prescribed are the SEAC and SEIAA. For falling in excess of 50 ha being Category-A, it is the EAC and the MoEF&CC.

14. **The procedure for grant of the Environment Clearance by the DEIAA for areas between 0 to 5 ha falling under Category 'B-2' is found prescribed in paragraphs 6, 7(iii) (a) and 7(iii) (b) of the impugned Notification read with appendices VIII, X and XI. The Schematic Presentation of Requirement of Environment Clearance of Minor Minerals including cluster situation provided in a table to Appendix XI would substantiate indubitably that even for areas between 5 to 25 ha, no EIA and Public Hearing is required and in cluster situation also, the requirement of EIA and Public Hearing have been exempted.**

15. **Introduction of such procedure, in our view, is clearly not consistent with the directions contained in the case of Deepak Kumar (supra) and the spirit behind such direction. By the provision, mining area upto from 5 ha to 25 ha has been completely exempted from the EIA and Public Consultation. For areas of 5 ha and below, apart from the exemption, it has been made only subject to a separate procedure of preparing a District Survey Report (DSR). These provisions quite apparently are more minecentric rather than striving a balance between mining and environment especially with regard to Form-1M which needs to be made more elaborate incorporating environment related aspects.**

16. **The Sustainable Sand Mining Management Guidelines, 2016 prepared by the MoEF&CC has also deprecated the procedure as will appear from below which is contained in the chapter on "The Issues and Management of Mining in Cluster":-**

*"It is seen that the categorization of mines into 'B1' and 'B2' category in which Category 'B2' leases are being exempted from the requirement of Environment Impact Assessment, Environment Management Plan, and Public Consultation for grant of EC, in many cases now the mining leases are being given for 25 hectares or less. **This defeats the purpose and intent of Hon'ble Supreme Court Judgment** which orders environment clearance for all mining leases irrespective of size. The environment clearance without Environment Impact Assessment, Environment Management Plan, and Public Consultation does not serve the purpose of environment clearance which is to ensure environmentally sustainable and socially responsible mining. So if a cluster or individual lease size exceeds 5 hectare, the EIA/EMP should be completed in the process of grant of prior environment clearance."*

17. **Thus, even according to the Sustainable Sand Mining Management Policy issued by the MoEF&CC by dispensing with Public Hearing, the judgment of the Hon'ble Supreme Court in the case of Deepak Kumar (supra) will stand defeated.**

18. **We also find that parameters for consideration while preparing District Mining Plan (DMP) and District Survey Report (DSR) are only for the purpose of ascertaining whether an area is fit for mining which are quite different from the parameters laid down for EIA. The consideration of the view point of the public by keeping DSR in public domain is not a**

substitute of Public Hearing for consideration of the view point of the public for EIA.

19. With specific reference to mining in cluster, the Report of the Committee of Secretaries, Ministry of Environment, Forest and Climate Change, 2010 recommended as follows:

“Considering the nature of occurrence of minor mineral, economic condition of the lessee and the likely difficulties to be faced by Regulatory Authorities in monitoring the environmental impacts and implementation of necessary mitigation measures, it may be desirable to adopt cluster approach in case of smaller mine leases being operated presently.”

20. This report which is a part of the Sustainable Sand Mining Management Guidelines, 2016 finds reinforcement in the Chapter “The Issues and Management of Mining in Cluster” referred to earlier where it has inter-alia been recommended as under:

“The Hon’ble Supreme Court, NGT, SEAC/EAC and the Project Proponents have raised issue of cluster in mine lease allotment and environment clearance for the same, so following conditions need to be ensured for cluster of mines:

1. To address the concern of adverse impact of minor mineral mining on environment it is proposed that all mining activity including river sand mining (above 5 hectare individual or cluster) will need to prepare Environment Impact Assessment Report and Environment Management Plan before grant of environment clearance. These reports (EIA/EMP) can be prepared by the State or State nominated Agency/ the Project Proponent (s).
2. **As can be seen from the data provided by the States 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.
3. The EIA Notification, 2006 does not provide for cluster EC, it provides for issuance of EC to individual project proponents and the same has also been upheld in the judgment of Hon’ble Supreme Court in Vijay Bansal vs. State of Haryana case. So EC will have to be applied for and issued to the individual project proponent.
4. **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.**
5. 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.*
- 6. *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.*
 - 7. *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.*
 - 8. *The details of cluster Environment Impact Assessment or Environment Management Plan shall be reflected in each environmental clearance in that cluster and District Expert Appraisal Committee (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.*
 - 9.
 - 10.
 - 11.”

21. Dispensing with the requirement of Public Hearing which forms a part of the Public Consultation under Stage-III of the Environmental Clearance process under EIA Notification, 2006 for areas measuring 0 to 25 ha for individual mine areas and in cluster situation where public hearing has been provided, has resulted in gross dilution of EIA Notification dated 14th September, 2006. Such dilution would, in our view, result in its misuse by unscrupulous elements and the situation would revert back to the lawless state prevailing prior to the decision in the case of Deepak Kumar (supra). Stringent measures are, therefore, necessary if the rampant exploitation of the minor minerals is to be curbed. This apparently was also the view of the Hon’ble Supreme Court in the case of Deepak Kumar (supra).

22. For all these reasons, **we direct that the procedure laid down in the impugned Notification be brought in consonance and in accord with the directions passed in the case of Deepak Kumar (supra)** by (i) providing for EIA, EMP and therefore, Public Consultation for all areas from 5 to 25 ha falling under Category B-2 at par with Category B-1 by SEAC/SEIAA as well as for cluster situation wherever it is not provided; (ii) Form-1M be made more comprehensive for areas of 0 to 5 ha by dispensing with the requirement for Public Consultation to be evaluated by SEAC for recommendation of grant EC by SEIAA instead of DEAC/DEIAA; (iii) if a cluster or an individual lease size exceeds 5 ha the EIA/EMP be made applicable in the process of grant of prior environmental clearance; (iv) EIA and/or EMP be prepared for the entire cluster in terms of recommendation 5 (supra) of the Guidelines for the purpose of recommendations 6, 7 and 8 thereof; (v) revise the procedure to also incorporate procedure with respect to annual rate of replenishment

and timeframe for replenishment after mining closure in an area; (vi) the MoEF&CC to prepare guidelines for calculation of the cost of restitution of damage caused to mined-out areas along with the Net Present Value of Ecological Services forgone because of illegal or unscientific mining.

23. We have permitted retention of 0-5 ha as a category keeping in view that some States grant isolated single lease of 5 ha and less not falling in cluster situation for which stringent requirements in Form-1M will serve the purpose of providing safeguards for protection of the environment and sustainable mining of minor minerals. This is particularly true in smaller and mountainous States as will also appear from condition no. 2 under “The Issues and Management of Mining in Cluster” referred to earlier in para 20 of this order.

24. It is reiterated that any attempt to split the lease area for the purpose of avoiding the applicable regulatory regime shall be viewed seriously. This in our view will be in the interest of the environment as deliberated in detail in the case of Deepak Kumar (*supra*) and would also satisfy the Precautionary Principle and the Principle of Sustainable Development contemplated under Section 20 of the National Green Tribunal Act, 2010.

25. The MoEF&CC shall, therefore, take appropriate steps to revise the procedure laid down in the impugned Notification dated 15th January, 2016 in terms of the above directions and observations so that it is conformity with the letter and spirit of the directions passed by the Hon’ble Supreme Court in Deepak Kumar (*supra*).”

89. In OA 360/2015, *National Green Tribunal Bar Association vs. Virender Singh (State of Gujarat)* with OA 366/2015, *National Green Tribunal Bar Association vs. Dr.Sarvabhoun Bagali (State of Karnataka)*, OA 368/2015, *National Green Tribunal Bar Association vs. Dr.Sarvabhoun Bagali (State of Maharashtra)*; OA 173/2018 (Earlier O.A. No. 89/2017 (EZ), *Sudarsan Das vs. State of West Bengal &Ors.*; OA 874/2018, *In Re: News item published in “The Tribune” Authored by Arun Sharma Titled “Mounds of sand on Sutlej banks, mining mafia digs in”*; OA 44/2016, *Mushtakeem vs. MoEF&CC & Ors.*; OA 517/2015, *Sandeep Kumar vs. MoEF&CC & Ors.*; OA 550/2015, *Virender Kumar vs. MoEF&CC & Ors.*; OA 530/2016, *Sandeep Kumar vs. MoEF&CC & Ors.*; OA 272/2016, *M/s Ganga Yamuna Mining Co. vs. State of Haryana & Ors.*; OA 481/2016, *Joginder Singh vs. MoEF&CC & Ors.*; OA 540/2015, *Ved*

Pal Singh vs. MoEF&CC & Ors.; OA 90/2016, *Chander Mohan Uppal vs. State of U.P. & Ors. and Execution Application No. 40/2017 in OA 517/2015, Sandeep Kumar vs. MoEF&CC & Ors.*, the issue of unregulated sand mining in various States was considered. Vide order dated 05.04.2019, Tribunal issued following directions:

- “a) MoEF&CC may now take necessary steps in the matter in terms of order dated 04.09.2018 in Sudarsan Das (supra) latest by June 30, 2019 and file compliance report by 15.07.2019, as already directed.*
- b) The States of West Bengal, Gujarat, Karnataka, Maharashtra, Punjab, Uttar Pradesh, Haryana, Madhya Pradesh, Andhra Pradesh, Bihar, Uttarakhand, Jammu and Kashmir, Goa, Kerala, Telangana and Tamil Nadu and Himachal Pradesh may take steps in terms of orders dated 04.09.2018 in Sudarsan Das v. State of West Bengal & ors, 05.09.2018 in, 13.9.2018 in Mushtakeem v. MoEF&CC & Ors. and 16.01.2019 in Compliance of Municipal Solid Waste Management Rules, 2016. The Chief Secretaries may monitor and furnish reports as earlier directed.*
- (c) The States of West Bengal, Gujarat, Karnataka, Maharashtra, Punjab, Uttar Pradesh, Haryana, Madhya Pradesh, Andhra Pradesh, Bihar, Uttarakhand, Jammu and Kashmir, Goa, Kerala, Telangana and Tamil Nadu and Himachal Pradesh may review monitoring mechanism in terms of directions of the Tribunal and guidelines of MoEF&CC.*
- (d) The Director Indian School of Mines, Dhanbad may appear in person on 26.07.2019 to explain why action be not taken for violation of order of this Tribunal.*
- (e) The State of West Bengal, Gujarat, Karnataka, Maharashtra, Punjab, Uttar Pradesh, Haryana, Madhya Pradesh, Andhra Pradesh, Bihar, Uttarakhand, Jammu and Kashmir, Goa, Kerala, Telangana and Tamil Nadu and Himachal Pradesh may send further action taken reports by 30.06.2019.*
- (f) The Committee in terms of para 59 above may furnish its report within three months to the Tribunal by email at ngt.filing@gmail.com.”*

90. Some further amendments were made in EIA 2006 as under:

A. Notification dated 16.01.2020 published in Gazette of India Extraordinary of the same date:

- a) **Paragraph 7 (ii) clause (c) was substituted** as under:

“(c) Any change in raw material-mix or product-mix, change in quantities within products or number of products in the same category

for which prior environmental clearance has been granted, shall be exempted from the requirement of prior environmental clearance provided there is no increase in pollution load and the resultant increase in production is not more than 50 percent of the production capacity permitted in the earlier environmental clearance and the project proponent shall follow the procedure for obtaining 'No Increase in Pollution Load' certificate from the concerned State Pollution Control Board or Union Territory Pollution Control Committee, as the case may be, as per the provisions given in Appendix –XIII”;

B. Notification dated 17.02.2020 published in Gazette of India Extraordinary on 18.02.2020:

a) Hereby **paragraph 7 sub-paragraph (i) for sub-heading “(II)**

Stage (2)-Scoping” and entries thereto were substituted by

the following:

“II. Stage (2)-Scoping:

- (i) “Scoping” refers to the process to determine detailed and comprehensive Terms of Reference (ToR) addressing all relevant environmental concerns for the preparation of an Environmental Impact Assessment and Environment Management Report in respect of the project or activity for which Prior Environmental Clearance is sought.*
- (ii) **All projects or activities listed under Category “B2” of the schedule shall not require Scoping.***
- (iii) Sector specific Standard Terms of References developed by the Ministry of Environment, Forest and Climate Change, from time to time shall be displayed on its website.*
- (iv) The Standard Terms of References shall be issued to the following projects or activities through online mode, on acceptance of application within 7 working days, without referring to EAC or SEAC by the Ministry or SEIAA, as the case may be:*
 - (a) All Highway projects in Border States covered under entry (i) and (ii) of column (3) and (4) against item 7(f) of the Schedule;*
 - (b) All projects or activities proposed to be located in industrial estates or parks (item 7(c) of the Schedule) approved by the concerned authorities, and which are not disallowed in such approvals; and*
 - (c) All expansion proposals of existing projects having earlier Prior Environmental Clearance:*

Provided that EAC or SEAC may recommend additional specific Terms of Reference in addition to the Standard ToR, if found necessary, for a project or activity, within 30 days from the date of acceptance of application.

- (v) *All new projects or activities other than specified in sub-paragraph (iv) above, shall be referred to the EAC or SEAC by the Regulatory Authority, as the case may be, within 30 days from the date of application, for recommending the specific ToR in addition to the Standard ToR, deemed necessary. In case, the regulatory authority does not refer the matter to the EAC or SEAC, as the case may be, within 30 days of date of application in Form-I, sector specific Standard ToR shall be issued, online, on 30th day, by the Regulatory Authority.*
- (vi) *Applications for Terms of Reference may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned. In case of such rejection, the decision together with reasons for the same after due personal hearing shall be communicated to the applicant in writing within sixty days of the receipt of the application.*
- (vii) ***The project proponent shall prepare the EIA report based on the sector specific Standard ToR as well as additional specific ToR, if any, stipulated by the EAC or SEAC.***
- (viii) ***The Terms of Reference for the projects or activities except for River valley and Hydroelectric projects, issued by the regulatory authority concerned, shall have the validity of four years from the date of issue. In case of the River valley and Hydro-electric projects, the validity will be for five years."***

C. Notification dated 28.03.2020 published in Gazette of India Extraordinary of the same date:

- a) By this notification, **after sub-paragraph (2) of paragraph 11 of EIA 2006, sub-paragraph (3) was inserted** as under:

*"(3) The successful bidder of the mining leases, expiring under the provisions of sub-sections (5) and (6) of section 8A of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and selected through auction as per the procedure provided under that Act and the rules made thereunder, **shall be deemed to have acquired valid prior environmental clearance vested with the previous lessee for a period of two years, from the date of commencement of new lease and it shall be lawful for the new lessee to continue mining operations as per the same terms and conditions of environmental clearance granted to the previous lessee on the said lease area for a period of two years from the date of commencement of new lease or till the new lessee obtains a fresh environmental clearance with the terms and conditions mentioned therein, whichever is earlier:***

Provided that the successful bidder shall apply and obtain prior environmental clearance from the regulatory authority within a period of two years from the date of grant of new lease."

- b) In the Schedule, against item 1(a), in the column (5), after clause (2) of the Note, the following clause shall be inserted, namely:

“(3) The evacuation or removal and transportation of already mined out material lying within the mining leases expiring under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), by the previous lessee, after the expiry of the said lease, shall not form the part of the mining capacity so permitted to the successful bidder, selected through auction as per the procedure provided under that Act and the rules made thereunder.”;

- c) For Appendix-IX, the following Appendix shall be substituted, namely:

“APPENDIX-IX
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 by manual mining, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs.*
- 2. Extraction of ordinary clay or sand by manual mining, 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 or bunds undertaken in Mahatma Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes and community efforts.*
- 6. Extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc.*
- 7. Dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management.*
- 8. Traditional occupational work of sand by Vanjara and Oads in Gujarat vide notification number GU/ 90(16)/MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat.*
- 9. Manual extraction of lime shells (dead shell), shrines, etc., within inter tidal zone by the traditional community.*
- 10. Digging of wells for irrigation or drinking water purpose.*
- 11. Digging of foundation for buildings, not requiring prior environmental clearance, as the case may be.*
- 12. Excavation of ordinary earth or clay for plugging of any breach caused in canal, nallah, drain, water body, etc., to deal with any disaster or flood like situation upon orders of the District*

Collector or District Magistrate or any other Competent Authority.

13. *Activities declared by the State Government under legislations or rules as non-mining activity.”*

D. Notification dated 21.05.2020 published in Gazette of India Extraordinary of the same date:

a) Hereby minor **amendments** were made in **paragraph 3, 5 and**

Appendix VI in item 7 of EIA 2006 as under:

“(i) in paragraph 3, in sub-paragraph (6), the following proviso shall be inserted, namely:-

“Provided that wherever considered necessary and expedient, the Central Government may extend the term for a further period not exceeding six months.”

(ii) in paragraph 5, for sub-paragraph (c), the following sub-paragraph shall be substituted, namely:-

“(c) The Expert Appraisal Committee and State Level Expert Appraisal Committee shall be reconstituted after every three years:

Provided that wherever considered necessary and expedient, the Central Government may extend the term for a further period not exceeding six months.”

(iii) in the APPENDIX VI, in item 7, the following proviso shall be inserted, namely: -

“Provided that wherever considered necessary and expedient, the Central Government may extend the term of such member for a further period not exceeding six months.”

E. Notification dated 20.10.2020 published in Gazette of India Extraordinary dated 22.10.2020:

a) In paragraph 3 (vi) proviso, the word **“six months”** were substituted by **“twelve months”** and similar amendments were made in para 5 sub-para (c) proviso and Appendix VI item 7 proviso.

F. Notification dated 27.11.2020 published in Gazette of India Extraordinary of the same date:

a) After paragraph 9, another **paragraph 9A was inserted** as under:

“9A. Notwithstanding anything contained in this notification, the validity of prior environmental clearances granted under the

provisions of this notification in respect of the projects or activities whose validity is expiring in the Financial Year 2020-2021 shall deemed to be extended till the 31st March, 2021 or six months from the date of expiry of validity, whichever is later. Such extension is subject to same terms and conditions of the prior environmental clearance in the respective clearance letters, to ensure uninterrupted operations of such projects or activities which have been stalled due to the outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control”.

G. Notification dated 18.01.2021 published in Gazette of India Extraordinary of the same date:

a) This notification was necessitated on account of the conditions arose due to outbreak of Corona Virus and subsequent lockdown by the Government of India.

b) Taking into situation as arisen on account of the above cause, **in para 7 sub-para 7(i) under sub-heading (ii), “Stage 2-Scoping”, after clause (viii), clause (ix) was inserted** as under:

“(ix). Notwithstanding anything contained above, the period from the 1st April, 2020 to the 31st March, 2021 shall not be considered for the purpose of calculation of the period of validity of Terms of Reference granted under the provisions of this notification in view of outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control, however, all activities undertaken during this period in respect of the said Terms of Reference shall be treated as valid.”;

c) Further **paragraph 9A was substituted** as under:

“9A. Notwithstanding anything contained in this notification, the period from the 1st April, 2020 to the 31st March, 2021 shall not be considered for the purpose of calculation of the period of validity of Prior Environmental Clearances granted under the provisions of this notification in view of outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control, however, all activities undertaken during this period in respect of the Environmental Clearance granted shall be treated as valid.”.

91. OA 360/2015, *National Green Tribunal Bar Association vs. Virender Singh (State of Gujarat) (supra)* and other connected matters were finally decided vide judgment dated 26.02.2021. The issues were formulated in

para 24 of order dated 26.02.2021 and relevant directions were issued thereafter which are reproduced as under:

“24. In view of resume of above orders and responses, the issue which survives for consideration is enforcement of the 2016 and 2020 guidelines, read with orders dated 19.2.2020, 14.10.2020, 4.11.2020 and observations herein, by evolving appropriate comprehensive monitoring mechanism, with designated accountable officers, grievance redressal mechanism, envisaging strict action against violators, including assessment and recovery of compensation for the violations, seizure of vehicles and review at higher levels in the State.

Compensation

*25. In the light of discussion in para 12 above, having regard to the totality of the situation, **we accept the report of the CPCB and direct that the scale of compensation calculated with reference to approach II be adopted by all the States/UTs.** Though compensation assessment for damage to the environment is a dynamic concept, depending on variables, floor level formula can be worked out to avoid arbitrariness inherent in unguided discretion. **The CPCB may issue an appropriate statutory direction for the facility of monitoring and compliance to the Environment Secretaries of all the States/UTs who may forthwith evolve an appropriate mechanism for assessment and recovery of compensation in all Districts of the State. The recovered compensation may be kept in a separate account and utilized for restoration of environment by preparing an appropriate action plan under the directions of the Environment Secretary with the assistance of such individual/ institutions as may be considered necessary.***

Interaction for Effective enforcement

26. The above discussion shows that the problem has defied solution and unless tackled seriously, damage to the environment will continue. Clear road map is thus required with effective monitoring mechanism. Report of the Oversight Committee for UP and affidavit of the State of MP, the report from Rajasthan and some other States also show that effective mechanism is lacking. For clarity on all issues, periodic interaction of stake holders, particularly the enforcement authorities is required. This will also facilitate engagement of accredited agencies/experts for preparing DSRs/replenishment studies. In the Central Government, the concerned authorities include Mining Ministry, Environment Ministry, Jalshakti Ministry and CPCB. In States, Departments of Mining, Environment, SEIAA, PCB and District Magistrates.

Enforcement of Monitoring Mechanism and review by the Chief Secretary at State level and Secretary MoEF&CC at National level.

*27. **We direct all the States/UTs to strictly follow the SSMG-2016 read with EMGSM-2020 reinforced by mechanism for preparation of DSRs (in terms of directions of this Tribunal dated 14.10.2020 in Pawan Kumar, supra and 04.11.2020 in***

Rupesh Pethe, supra), Environment Management Plans, replenishment studies, mine closure plans, grant of EC (in terms of direction dated 13.09.2018 in Satendra Pandey, supra), assessment and recovery of compensation (as per discussion in Para 25), seizure and release of vehicles involved in illegal mining (in terms of order dated 19.02.2020 in Mushtakeem, supra), other safeguards against violations, grievance redressal, accountability of the designated officers and periodical review at higher levels. As already noted, EMGSM-2020 contemplates extensive use of digital technology, including remote sensing.

28. We further direct that periodic inspection be conducted by a five-members Committee, headed and coordinated by the SEIAA and comprising CPCB (wherever it has regional office), State PCB and two expert members of SEAC dealing with the subject. Where CPCB regional office is not available, if MoEF&CC regional office is available, its Regional Officer will be included in the Committee. Where neither CPCB nor MoEF&CC regional office exists, Chairman, SEIAA will tie up with the nearest institution of repute such as IIT to nominate an expert for being included in the Committee. Such inspection must be conducted at least thrice for each lease i.e. after expiry of 25% the lease period, then after 50% of the period and finally six months before expiry of the lease period for midway correction and assessment of damage, if any. The reports of such inspections be acted upon and placed on website of the SEIAA. Every lessee, undertaking mining, must have an environment professional to facilitate sustainable mining in terms of the mining plan and environmental norms. This be overseen by the SEIAA. Environment Departments may also develop an appropriate mobile App for receiving and redressing the grievances against the sand mining, including connivance of the authorities and also a mechanism to fix accountability of the concerned officers. Recommendations of the Oversight Committee for the State of UP quoted earlier may be duly taken into account.

The mechanism must provide for review at the level of the Chief Secretary at least once in every quarter, in a meeting with all concerned Departments in the State. The Chief Secretary UP may ensure further action in the light of the report of the Oversight Committee.

Similarly, at National level, such review needs to be conducted atleast once in a year by the Secretary, Environment in coordination with the Secretaries Mining and Jalshakti Ministries the CPCB.

Publication of Annual Reports

29. We further direct all the States/UTs to publish their annual reports on the subject and such annual reports may be furnished to MoEF&CC by 30th April every year giving status till 31st March. First such report as on 31.03.2022 may be filed with the MoEF&CC by all the States/UTs on or before 30.04.2022. The report may also be simultaneously posted on the website of the Environment Department of the States/UTs. Based on such reports, MoEF&CC may consider supplementing its Guidelines from time to time. The MoEF&CC may prepare a consolidated report considering the reports from the States/UTs and publish its own report on the subject, preferably by

31st May every year.

Interaction at National Level

30. We direct the Secretary MoEF to convene a meeting in coordination with the CPCB and Mining and Jalshakti Ministries of Central Government and such other experts/individuals at National level and representatives of States within three months for interaction on the subject which may be followed by such meetings being convened by the Chief Secretaries in all States in next three months. Holding of such meetings will provide clarity on enforcement strategies and help protection of environment. All the applications are disposed of. Individual issues may be gone into in accordance with the mechanism to be involved as above."

92. Besides, some directions were also issued to concerned State Governments which we are omitting.

93. Some further amendments were made in EIA 2006 vide Notification dated 02.03.2021 and onwards as under:

A. Notification dated 02.03.2021 published in Gazette of India Extraordinary of the same date:

a) Amendments were made in para 2, 7 and Appendix XIII besides others. The relevant amendments made in paras 2, 7 and Appendix XIII are as under:

"1. in paragraph 2, for clauses (ii) and (iii), the following clause shall be substituted, namely: -

"(ii) Expansion, modernisation or any change in the product mix or raw material mix in existing projects or activities, listed in the Schedule to this notification, resulting in capacity beyond the threshold limits specified for the concerned sector in the said Schedule, subject to conditions and procedure provided in the sub-paragraph (ii) of paragraph 7";

2. in paragraph 7, -

A. in the heading, the words "for New Projects" shall be omitted;

B. in the sub-paragraph (i), the words "For new projects or activities listed in the Schedule to this notification:" shall be inserted as heading to the sub-paragraph;

C. in the sub-paragraph (ii), -

(I) in the clause (a), after the words "application shall be appraised accordingly for grant of environmental clearance", the following

words shall be inserted, namely: - “in respect of projects or activities other than falling in clause (b) and (c)”;

(II) for clauses (b) and (c), the following clauses shall be substituted, namely: -

‘(b) Existing projects (having Prior Environmental Clearance) with no increase in pollution load: Any increase in production capacity in respect of processing or production or manufacturing sectors (listed against item numbers 2, 3, 4 and 5 in the Schedule to this notification) with or without any change in (i) raw material-mix or (ii) product-mix or (ii) quantities within products or (ii) number of products including new products falling in the same category or (iv) configuration of the plant or process or operations in existing area or in areas contiguous to the existing area (for which prior environmental clearance has been granted) shall be exempt from the requirement of Prior Environmental Clearance provided that there is no increase in pollution load (derived on the basis of such Prior Environmental Clearance):

Provided that such exemption shall be applicable only consequent to –

- A. the project proponent furnishing information regarding such changes along with no increase in pollution load certificate, from the environmental auditor or reputed institutions empanelled by the State Pollution Control Board or Union Territory Pollution Control Committee or Central Pollution Control Board or Ministry of Environment, Forest and Climate Change, as per the procedure laid down in Appendix-XIII, on PARIVESH portal as well as to the concerned State Pollution Control Board or Union Territory Pollution Control Committee.*

Note: If on verification, the State Pollution Control Board or Union Territory Pollution Control Committee, as the case may be, after giving the project proponent the opportunity of being heard, holds that such change or expansion or modernisation results in increase in pollution load, the exemption claimed under this clause shall not be valid and it shall be deemed that the project proponent was always liable to obtain prior environmental clearance, in respect of such change or expansion or modernisation, as per the clause (a) and the provisions of Environment (Protection) Act, 1986 shall apply accordingly;

- B. installation and implementation of Online Continuous Monitoring System (OCMS) with at least 95% uptime, connected to the servers of the Central Pollution Control Board and State Pollution Control Board or Union Territory Pollution Control Committee concerned to report the quantity and quality, of emission and discharges:*

Provided further that the provisions of this clause shall not be applicable if such change or increase results in change in category of project or activity from Category-‘B2’ to either Category-‘A’ or Category ‘B1’.

(c) Any change in configuration of the plant or activity from the environmental clearance conditions during execution of the project

after detailed engineering, in respect of projects or activities, falling in any item of the Schedule to this notification, shall not require prior environmental clearance, if there is no change in production capacity and there is no increase in pollution load subject to furnishing particulars of such changes on PARIVESH portal in the format as may be provided by the Government from time to time, before implementing such changes whereupon a system generated acknowledgement will be issued by the concerned Regulatory Authority.

Explanation:- *For the purpose of this sub-paragraph, “Pollution load” shall be determined on the basis of multiplication of quantity and concentration of different components and parameters (as provided or referred in the Prior Environment Clearance or the Environment Impact Assessment Report (EIA) and Environment Management Plan based on which such Prior Environment Clearance has been granted), in respect of emissions, effluents or discharge, solid, industrial hazardous waste and such other parameters notified under the Environment (Protection) Rules, 1986 as amended from time to time.’*

4. for Appendix-XIII, the following Appendix shall be substituted, namely:-

“Appendix-XIII

Verification of No Increase in Pollution Load

The instant amendment in EIA Notification exempts the requirement of Prior Environmental Clearance for any increase in production capacity in respect of processing or production or manufacturing sectors (listed against item numbers 2,3, 4 and 5 in the Schedule to this notification) with or without any change in (i) raw material-mix or (ii) product-mix or (ii) quantities within products or (ii) number of products including new products falling in the same category or (iv) configuration of the plant or process or operations in existing area or in areas contiguous to the existing area specified in the environmental clearance of the project. This facility is available to those units which have obtained prior environmental clearance under EIA Notification, 1994 and EIA Notification, 2006. To claim exemption from obtaining Prior Environment Clearance in respect of such cases, the project proponent shall follow the following process: -

- 1. The project proponent is required to obtain a certificate of ‘no increase in the pollution load’ from the environmental auditors or reputed institutions, to be empanelled by the State Pollution Control Board or Central Pollution Control Board or Ministry of Environment, Forest and Climate Change (hereinafter referred to as the Ministry).*
- 2. A copy of ‘no increase in pollution load’ certificate and intimation, as provided by the Ministry from time to time on PARIVESH portal, shall be uploaded by the unit for which system generated acknowledgement shall be issued online;*
- 3. The unit shall inform the State Pollution Control Board or Union Territory Pollution Control Committee, as the case may be, in specified format along with-*

- i. 'no increase in pollution load' certificate from the Environmental Auditor or reputed institutions empanelled by the State Pollution Control Board or Pollution Control Committee or Central Pollution Control Board or Ministry;
 - ii. last Consent to Operate certificate for the project or activity; and
 - iii. online system generated acknowledgement of uploading of intimation and 'no increase in pollution load' certificate on PARIVESH Portal;
4. The information so received shall be examined by the State Pollution Control Board or Union Territory Pollution Control Committee, as the case may be, who shall take decision on such information, received from the project proponent.
 5. If on verification the State Pollution Control Board or Union Territory Pollution Control Committee, as the case may be, holds that the change or expansion or modernisation will result or has resulted in increase in pollution load, the exemption claimed under this clause shall not be valid and it shall be deemed that the project proponent was liable to obtain Prior Environmental Clearance before under taking such changes or increase, as per the clause (a) of sub-paragraph (ii) of paragraph 7 of this notification and the provisions of Environment (Protection) Act, 1986 shall apply accordingly.

Note: For removal of doubts, it is clarified that it shall be the responsibility of the project proponent to satisfy itself about 'no increase in pollution load' as a result of changes, expansion or modernisation, as the case may be, before under taking such changes or increase, and the project proponent shall be liable for action under the provisions of the Environment (Protection) Act, 1986 if on verification of facts or claim it is found that such change or expansion or modernisation involves increase in pollution load.”.

B. Notification dated 18.03.2021 published in Gazette of India Extraordinary of the same date:

- a) Amendments were made in para 7 of EIA 2006 and the same are as under:

“In the said notification, in paragraph 7, in sub-paragraph 7(i), under the sub-heading number II, Stage (2) – Scoping, after the serial number (ix), the following shall be inserted, namely: -

“(x) Notwithstanding anything contained above, the projects where construction and commissioning of proposed activities have not been completed within the validity period of the Environmental Clearance (EC) and a fresh application for EC has been submitted due to expiry of the said period of the EC, the concerned Expert Appraisal Committee or State Level Expert Committee, as the case may be, may exempt the requirement of public hearing subject to the condition that the

project has been implemented not less than fifty percentage in its physical form or construction.”.

D. Notification dated 16.06.2021 published in Gazette of India Extraordinary of the same date:

a) sub-paragraph (iii a) was inserted in para 4 of EIA 2006 which is as under:

“(i) In paragraph 4 after sub-paragraph (iii), the following shall be inserted, namely: -

(iii a) Such Category ‘B’ projects, as notified by the Central Government on account of exigencies such as pandemics, natural disasters, or to promote environmentally friendly activities under National Programmes or Schemes or Missions, shall be considered at the Central level as Category ‘B’ projects;”

E. Notification dated 13.07.2021 published in Gazette of India Extraordinary of the same date:

a) This amendment was necessitated on account of Supreme Court’s judgment dated 07.02.2018 in **Goa Foundation versus M/s. Sesa Sterlite Ltd. & Others, Special Leave to Appeal (Civil) No. 32138 of 2015**. Para 11 sub-para (3) was substituted as under:

“(3) The prior Environmental Clearance vested with the previous lessee shall be deemed to have been transferred during its validity period in terms of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) as amended by the Mines and Minerals (Development and Regulation) Amendment Act, 2021 (16 of 2021) to the successful bidder of the mining leases, from the date of commencement of new lease for the remaining validity period (calculated from the date from which the said Environmental Clearance was initially granted), subject to the new lessee registering online on PARIVESH portal along with an undertaking to comply with all the conditions of the transferred Environmental Clearance”.

F. Notification dated 12.04.2022 published in Gazette of India Extraordinary of the same date:

a) The amendment was made in para 9 of EIA 2006 as under:

“(i) in paragraph 9,-

(a) for sub paragraphs (i) and (ii), the following sub-paragraphs shall be substituted, namely: -

(i) The “Validity of Environmental Clearance” is meant the period from which a prior Environmental Clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted

under sub-paragraph (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: Provided that in the case of mining projects or activities, the validity shall be counted from the date of execution of the mining lease.

(ii) The prior environmental clearance granted for an existing or new project or activity shall be valid for a period of, -

(a) thirteen years in the case of River Valley projects or activities [item 1(c) of the Schedule];

(b) fifteen years in the case of Nuclear power projects or activities and processing of nuclear fuel [item 1(e) of the Schedule];

(c) ten years in the case of all other projects and activities other than the Mining projects and River Valley Projects and Nuclear power projects referred to in clauses (a) and (b).

(iii) In the case of Area Development projects and Townships [item 8(b)], the validity period of ten years shall be limited only to such activities as may be the responsibility of the applicant as a developer:

Provided that the period of validity of Environmental Clearance with respect to the Projects and Activities listed in this sub-paragraph and sub-paragraphs (ii) may be extended in respect of valid Environmental Clearance, by the regulatory authority concerned by a maximum period of two years in the case of River Valley projects, five years in the case of Nuclear power projects and processing of nuclear fuel and one year in the case of all other projects, if an application is made in the laid down proforma to the regulatory authority by the applicant within the validity period of the existing Environment Clearance:

Provided further that the regulatory authority may also consult the concerned Expert Appraisal Committee before grant of such extension.

(iv) The prior Environmental Clearance 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 of Environmental Clearance with respect to projects or activities included in this sub-paragraph may be extended by another twenty years, beyond thirty years, subject to the condition that the adequacy of the existing environmental safeguards laid down in the existing Environmental Clearance shall be examined by concerned Expert Appraisal Committee every five years beyond thirty years, on receipt of such application in the laid down proforma from the Project Proponent within the maximum validity period of Environmental Clearance of thirty years, and subsequently on receipt of such application in the laid down proforma from the Project Proponent within the validity period of the extended Environment Clearance, every five years for

incorporating such additional environment safeguards in the Environmental Management Plan , as may be deemed necessary, till the validity of the mining lease or end of life of mine or fifty years, whichever is earlier.”;

(b) for the brackets, figures and words “(iii) Where the application for extension under sub-paragraphs (i) and (ii) has been filed”, the following shall be substituted, namely: -

“(v) Where the application for extension under sub-paragraphs (ii), (iii) and (iv) has been filed in the laid down proforma”.”

G. Notification dated 20.04.2022 published in Gazette of India Extraordinary of the same date:

a) Herein amendment was made in para 4 as also in Schedule as under:

“(1) in paragraph 4, for sub-paragraph (iii a), the following shall be substituted, namely: -

(iii a) Such Category ‘B’ projects, relating to the National defence or strategic or security importance or those as notified by the Central Government on account of exigencies such as pandemics, natural disasters or to promote environmentally friendly activities under National Programmes or Schemes or Missions or such projects which are inordinately delayed beyond the stipulated timeline as laid down in this notification and also meet the criteria as laid down in this regard from time to time, shall be considered at the Central level as Category ‘B’ projects;

(2) in the Schedule, – (i) against item 1(a), –

(a) in column (3), –

(A) for $\rightarrow$ 100 ha. of mining lease area in respect of non-coal mining lease, the following shall be substituted, namely: –

“ $\rightarrow$ 250 ha mining lease area in respect of major mineral mining lease other than coal”;

(B) for the symbol, figures and letters “ $\rightarrow$ 150 ha”, the symbol, figures and letters “ $\rightarrow$ 500 ha” shall be substituted;

(b) in column (4),–

(A) for “ $\leq$ 100 ha of mining lease area in respect of non-coal mine lease”, the following shall be substituted, namely: –

“All mining lease area in respect of minor mineral mining leases and $\leq$ 250 ha mining lease area in respect of major mineral mining lease other than coal”;

(B) for the symbols, figures and letters “ $\leq$ 150 ha”, the symbols, figures and letters “ $\leq$ 500 ha” shall be substituted;”

H. Notification dated 09.05.2022 published in Gazette of India Extraordinary of the same date:

a) Amendment was made in the Schedule as well as Appendix IV as under:

“(A) In the Schedule, -

(i) against item 1(a), in column (5), for the portion beginning with the words “General Conditions shall apply except.” and ending with the words “on account of inter-state boundary”, the following shall be substituted, namely: -

“General Conditions shall apply except for mining of minor minerals.”;

(B) in Appendix IV, -

(i) in paragraph 3, after sub-paragraph 3.3, the following sub-paragraph shall be included namely:-

“3.3 (a) In the event of any such postponement referred to in sub-paragraph 3.3, the time duration for convening the rescheduled public hearing should not be less than forty-five days from the date of first advertisement already published in accordance to para 3.1 for initial date of public hearing and it shall be ensured that a minimum notice period of fifteen days shall be provided to the public before the re-scheduled date of the public hearing, for furnishing the responses in writing: Provided that SPCB or UTPCC along with concerned authorities, as mentioned at para 2.2, shall ensure that all requisite documents are available to public in accordance with sub-paragraphs 2.3 and 2.4 from the date of first advertisement published for the initial date of public hearing till convening of the rescheduled public hearing.”;

(ii) in paragraph 4.0, -

(a) after the words “his or her representative not below the rank of an Additional District Magistrate”, the words “or any other District Level Officer authorised by him or her in this behalf” shall be inserted;

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

“Provided that in case the project or activity is confined to the territorial jurisdiction of one sub-division, the District Magistrate/District Collector/Deputy Commissioner, as the case may be, may alternatively authorise any officer not below the rank of Sub-Divisional Magistrate to supervise and preside over the entire public hearing process assisted by a representative of SPCB or UTPCC, as the case may be.”.

Guidelines issued in respect of sand mining pursuant to Supreme Court judgment in *Deepak Kumar vs. State of Haryana (supra)* and this Tribunal in OA 173/2018, *Sudarsan Das vs. State of West Bengal & Ors. (supra)* and OA 360/2015, *National Green Tribunal Bar Association vs. Virender Singh (State of Gujarat) NGT Bar (supra)* etc.

SUSTAINABLE SAND MINING MANAGEMENT GUIDELINES-2016 (SSMG-2016):

94. MoEF&CC enacted environmental and pollution control legislations to prevent indiscriminate exploitation of natural resources and to promote integration of environmental concerns in developmental projects and in furtherance thereof, EIA 2006 was issued, making environmental impact assessment mandatory for certain categories of developmental projects. An inroad was caused by Supreme Court giving interpretation to the provisions of EIA 2006 relating to mining in ***Deepak Kumar & Others vs. State of Haryana & Others (supra)***. Court directed that irrespective of the area, EIA should be mandatory in respect of mining activities. This resulted in increase number of projects for environmental impact assessments to very large extent, causing it necessary for MoEF&CC to decentralize the power, pursuant where to, amendment notifications dated 15.01.2016 and 20.01.2016 were issued in respect of mining of minor minerals and constitution of District Level Environment Impact Assessment Authority and District Level Environment Appraisal Committee by making amendment in EIA 2006. Ministry recognized mining of sand and gravel as very important construction materials and, therefore, its availability must be ensured being vital for development of infrastructure of the country. For sand and gravel, the important source is river. Thus, extraction of sand and gravel from river bodies had to be regulated by adoption of required environmental safeguards.

95. Consequently, MoEF&CC issued on 15.01.2016, Guidelines namely **SSMG-2016**. The foundation and objective of the Guidelines are mentioned as under:

“The Guidelines has been based on the following principles:

- *Uncontrolled sand mining is not sustainable.*
- *Compliance with present and future legislation and regulations on the subject is mandatory and not voluntary.*
- *Each lease holder should be given the opportunity to self-regulate to the extent that it can demonstrate compliance with legislation and regulations.*
- *Where self- regulation fails to deliver compliance with legislation and regulations, increased formal enforcement and monitoring should be implemented with punitive measures applied in line with the legal framework.*
- *There is a need to protect the environment and the right of the population to live in clean and safe surroundings, with the need to use natural resources in a way that will make a positive and sustainable contribution to the economy.*

The main objectives of the Guidelines

- *To ensure that sand and gravel mining is done in environmentally sustainable and socially responsible manner.*
- *To ensure availability of adequate quantity of aggregate in sustainable manner.*
- *To improve the effectiveness of monitoring of mining and transportation of mined out material.*
- *Ensure conservation of the river equilibrium and its natural environment by protection and restoration of the ecological system.*
- *Avoid aggradation at the downstream reach especially those with hydraulic structures such as jetties, water intakes etc.*
- *Ensure that the rivers are protected from bank and bed erosion beyond its stable profile.*
- *No obstruction to the river flow, water transport and restoring the riparian rights and instream habitats.*
- ***Avoid pollution of river water*** *leading to water quality deterioration.*
- ***To prevent depletion of ground water reserves*** *due to excessive draining out of ground water.*
- ***To prevent ground water pollution by prohibiting sand mining on fissures where it works as filter prior to ground water recharge.***
- *To maintain the river equilibrium with the application of sediment transport principles in determining the locations, period and quantity to be extracted.*
- *Streamlining and simplifying the process for grant of environmental clearance (EC) for sustainable mining.”*

96. **Effect of sand and gravel mining** was stated as under:

- a) Extraction of bed material in excess of replenishment by transport from upstream causes the bed to lower (degrade) upstream and downstream of the site of removal.*
- b) In-stream habitat is impacted by increase in river gradient, suspended load, sediment transport and sediment deposition. Excessive sediment deposition for replenishment increases turbidity which prevents penetration of light required for photosynthesis and reduces food availability of aquatic fauna.*
- c) Riparian habitat including vegetative cover on and adjacent to the river banks it controls erosion, provide nutrient inputs into the stream and prevents intrusion of pollutants in the stream through runoff. Bank erosion and change of morphology of the river can destroy the riparian vegetative cover.*
- d) Bed degradation are responsible for channel shifting, causing loss of properties and degradation of landscape, it can also undermine bridge supports, pipe lines or other structures.*
- e) Degradation may change the morphology of the river bed, which constitutes one aspect of the aquatic habitat.*
- f) Degradation can deplete the entire depth of gravelly bed material, exposing other substrates that may underlie the gravel, which could in turn affect the quality of aquatic habitat. Lowering of ground water table in the flood plain because of lowering of riverbed level as well as river water level takes place because of extraction and draining out of excessive ground water from the adjacent areas. So, if a floodplain aquifer drains to the stream, groundwater levels can be lowered as a result of bed degradation.*
- g) Lowering of the water table can destroy riparian vegetation.*
- h) Excessive pumping of ground water in the process of mining in abandoned channels depletes ground water causing scarcity of irrigation and drinking water. In extreme cases it may create ground fissures and subsidence in adjacent areas.*
- i) Flooding is reduced as bed elevations and flood heights decrease, reducing hazard for human occupancy of floodplains and the possibility of damage to engineering works.*
- j) The supply of overbank sediments to floodplains is reduced as flood heights decrease.*
- k) An un-scientific and unregulated sand and gravel mining tends to increase channel bank scouring and erosion. This causes a large degree of meandering of rivers and sometimes it could be in kms.*
- l) Rapid bed degradation may induce bank collapse and erosion by increasing the heights of banks.*
- m) Polluting ground water by reducing the thickness of the filter material especially if mining is taking place at top of recharge fissures.*
- n) Choking of sand layer which acts as filter for ingress of ground water from river by dumping of finer material, compaction of filter zone due to movement of heavy vehicles. It also reduces the permeability and porosity of the filter material.*
- o) Removal of gravel from bars may cause downstream bars to erode if they subsequently receive less bed material than is carried downstream from them by fluvial transport.*
- p) Ecological effects on bird nesting, fish migration, angling, etc.*
- q) Indiscrete mining activities lead to increased concentration of suspended sediment in the river which in turn causes siltation of water resources projects.*
- r) Un-scientific and unregulated sand and gravel mining leads to the severe health hazards like air quality degradation and dust fog.*

- s) Direct destruction from heavy equipment operation; discharges from equipment and refueling.
- t) Biosecurity and pest risks.
- u) Impacts on coastal processes.

The other deleterious impacts of indiscrete mining include

Loss of riparian habitat resulting from direct removal of vegetation along the stream bank to facilitate the use of a dragline or through the process of lowering the water table, bank undercutting, and channel incision. The physical composition and stability of substrates are altered as a result of in-stream mining and most of these physical effects may exacerbate sediment entrainment in the channel.

Furthermore, the process of in-stream mining and gravel washing produces fine sediments under all flow conditions, resulting in a deposition of fine sediment in riffles as well as other habitats at low discharge. Excess sediment is considered the greatest pollutant in waters and constitutes one of the major environmental factors in the degradation of stream fisheries.

However, in-stream mining may contribute additional sediment to downstream reaches due to the disruption of substrate stability. Once sediment enters the stream, it is best to let natural geomorphological and hydrological processes reach a dynamic equilibrium, rather than further exacerbating the situation by additional disturbance.

All other things being equal:

- a) Extracting gravel from an excavation that does not penetrate the water table and is located away from an active stream channel should cause little or no change to the natural hydrological processes unless the stream captures the pit during periods of flooding.
- b) In-stream extraction of gravel from below the water level of a stream generally causes more changes to the natural hydrologic processes than limiting extraction to a reference point above the water level.**
- c) In-stream extraction of gravel below the deepest part of the channel (the thalweg) generally causes more changes to the natural hydrological processes than limiting extraction to a reference point above the thalweg.
- d) Excavating sand and gravel from a small straight channel with a narrow floodplain generally will have a greater impact on the natural hydrological processes than excavations on a braided channel with a wide floodplain.
- e) Extracting sand and gravel from a large river or stream will generally create less impact than extracting the same amount of material from a smaller river or stream.
- f) Over-extraction of gravel can destabilise channels and banks, and/or affect the ecologic functioning of rivers particularly if undertaken at the wrong time, or in the wrong place, or in a way that damages the river bed or margins."**

97. In order to understand the details of Guidelines, it will be appropriate to notice herein the processes under the Guidelines mentioned on pages 21 to 23, as under:

*“The broad principle on which any sustainable sand mining Guidelines/policy can be based is that river/natural resources must be utilized for the benefit of the present and future generation, so **river resources should be prudently managed and developed.** The **preparation of District Survey Report is an important initial step.**”*

The Processes under the Guidelines:

- (a) *Identification of areas of aggradation/deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited. Use of satellite imagery for identifying areas of sand deposit and quantity be done.*
- (b) Calculation of annual rate of replenishment and allowing time for replenishment after mining in area.**
- (c) *Identifying ways of scientific and systematic mining.*
- (d) *Identifying measures for protection of environment and ecology.*
- (e) *Determining measures for protection of bank erosion.*
- (f) *A bench mark (BM) with respect to mean sea level (MSL) should be made essential to in-mining channel reaches (MCR). Below which no mining shall be allowed.*
- (g) *Identifying steps for conservation of mineral.*
- (h) *Permanent gauging facilities (for discharge and sediment both) should be made compulsory for the sites having excessive mining in consultation with Central Water Commission or any competent State Agency.*
- (i) *Implementing safeguards for checking illegal and indiscrete mining.*

Following the above processes, to begin with it is important to prepare a survey document mapping the status of sand sources in a district. This survey should be conducted and report be prepared for each district. Though it is an acceptable fact that rivers cut across districts and States and every river is an ecosystem in itself. But, keeping in view the fact that the district is the most established unit of administration at which this kind of survey, planning and monitoring can be ensured effectively, it is proposed that every district will prepare this document taking the river stretch in that district as an ecological unit and inventorising other sources of sand in the district.

Besides, the production of aggregate in a particular area is a function of availability of natural resources, the size of the population, the economy of the area and various developmental and infrastructural works being undertaken in the area.

The natural resources must be utilized in environment friendly manner in scientific and systematic way and with the objective of sustainable development the policy on the subject should have provisions for protection of environment & ecology. These factors can

be accounted for in a most efficient manner at district level.

*The sustainable mining plan needs to be dynamic. **A survey should be carried out by the District Environment Impact Assessment Authority (DEIAA) with the assistance of Geology Department, Irrigation Department, Forest Department, Public Works Department, Ground Water Boards, Remote Sensing Department and Mining Department etc. in the district at regular intervals.***

The survey shall contain:

1. District wise detail of river or stream and other sand source.
2. District wise availability of sand or gravel or aggregate resources.
3. District wise detail of existing mining leases of sand and aggregates.

Based on this survey document, the action plan shall divide the river/stream/other sources of the District into the following categories:

1. River/Stream beds sections/other sources suitable for extraction of sand and aggregates.
2. River/Stream beds sections/other sources prohibited for extraction of sand and aggregates.

The river/streams/other sources of sand and aggregate are studied on following parameters:

a) Geomorphological studies

- i) Place of origin
- ii) Catchment area.
- iii) General profile of river stream.
- iv) Annual deposition factor.
- v) Replenishment.
- vi) Total potential of minor mineral in the river bed.

b) Geological studies

- ii) Lithology of catchment area.
- iii) Tectonics and structural behavior of rocks.

c) Climatic Factors

- ii) Intensity of rainfall.
- iii) Climate Zone.
- iv) Temperature variation

The following points to be considered while selecting the river/stream for mining besides the above parameters:

- i) A stable river is able to constantly transport the flow of sediments produced by watershed such that it's dimensions (width and depth) pattern and vertical profile are maintained without aggrading (building up) or degrading (scouring down).
- ii) The amount of boulders, cobbles, pebbles, and sand deposited in river bed equals to the amount delivered to the river from catchment area and from bank erosion minus amount transported downstream each year.

- iii) *It is compulsive nature of river to meander in their beds and therefore they will have to be provided with adequate corridor for meandering without hindrance. Any attempt to diminish the width of the corridor (floodway) and curb the freedom to meander would prove counterproductive.*
- iv) *Erosion and deposition is law of nature. The river stream has to complete its geomorphological cycles from youth, mature to old age.*
- v) *River capturing is unavoidable.*
- vi) *Fundamentally the lowest point of any stream is fixed by sea level.*

This survey document should be prepared in the district based on direct and indirect benefits of mining and identification of the potential threats to the river/stream beds in the district.

Besides, calculating the carrying capacity of the river/stream beds/other sources to find out maximum quantity available to be allowed for removal each year from the sources, it should also provide various measures to regulate sand and aggregate mining in a systemic way.

It has to provide for environmentally safe depth of mining and safeguards of banks by prescribing safe distance from banks. It is required that there should be a Sub-Divisional Committee which should visit each site and make recommendation. The Committee should comprise 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.”

98. In the said Guidelines, other details with respect of cluster of mines are as under:

“The Hon’ble Supreme Court, NGT, SEAC/EAC and the Project Proponents have raised issue of cluster in mine lease allotment and environment clearance for the same, so **following conditions need to be ensured for cluster of mines:**

1. *To address the concern of adverse impact of minor mineral mining on environment it is proposed that **all mining activity including river sand mining (above 5 hectare individual or cluster) will need to prepare Environment Impact Assessment Report and Environment Management Plan before grant of environment clearance.** These reports (EIA /EMP) can be prepared by the State or State nominated Agency / the Project Proponent (s).*
2. *As can be seen from the data provided by the States 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.

3. The EIA Notification, 2006 does not provide for cluster EC, it provides for issuance of EC to individual project proponents and the same has also been upheld in the judgment of Hon'ble Supreme Court in *Vijay Bansal vs. State of Haryana* case. So EC will have to be applied for and issued to the individual project proponent.
4. **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.**
5. 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.
6. 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.
7. 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.
8. The details of cluster Environment Impact Assessment or Environment Management Plan shall be reflected in each environmental clearance in that cluster and District Expert Appraisal Committee (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.
9. As the sand is mostly mined from rivers and majority of the rivers which are important source of sand also form boundary between States, so because of General Conditions most of the sand mining projects become Category 'A' project. **So the General Conditions will not apply in case of river sand and gravel mining projects on account of being in 5 kilometer of inter-state boundary.**

10. The Committee headed by the District Magistrate or District Collector will be empowered to appraise and grant EC for mining leases up to 5 ha in case of individual lease and up to 25ha in case of cluster for sand mining.
11. In case the mining leases are in cluster (if periphery of one lease is within 500 meters), following are the categorization of projects:-
 - Category ‘B2’ Project: Cluster area of mine leases up to 5 ha and to be dealt at DEIAA/DEAC level
 - Category ‘B2’ Project: Cluster area of Mine leases > 5 ha and < 25 ha with no individual lease > 5 ha and to be dealt at DEIAA/DEAC level
 - Category ‘B1’ Project: Cluster of mine leases of area > 25 hectares with individual lease size < 50ha and to be dealt at SEIAA/SEAC level
 - Category ‘A’ Project: Cluster of any size with any of the individual lease >50ha and to be dealt at MoEFCC/EAC level.

The schematic presentation of requirements on Environmental Clearance of Sand Mining including cluster situation is detailed as below:-

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
EC Proposal of Sand Mining in cluster situation								
Cluster area of mine leases up to 5 ha	'B2'	Form-1M, 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 Proponen	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/ MoEFC C	

99. With regard to mining plan and violation of impact of sand mining, the Guidelines said as under:

“MINING PLAN

The Environment Clearance shall be given to only those mining leases which have mine plan approved by the Competent Authority designated by the States. Modification of the mining plan during operation will also need approval of the Competent Authority. The Mining Plan shall be prepared by the Recognised Qualified Persons (RQP). The person to be recognized for preparing the mining plan should be a holding a degree of Mining Engineering, Environmental Engineering or a post graduate degree in Geology granted by a University established or incorporated by or under a Central Act or a State Act including any institutions recognized by the UGC or any equivalent qualification granted by any University or institution outside India and have a professional experience of three years of working in a supervisory capacity in the field of mining after obtaining a degree. The States will devise their own mechanism of selection and empanelment of RQPs. A mining plan should be valid for a period of 5 years, which can be renewed further.

EVALUATING THE IMPACT OF SAND MINING

To assess the impact of mining and effect of remedial measures can be assessed through monitoring. This is also required for mid-course corrections. Monitoring will provide data to evaluate the upstream and downstream effects of sand and gravel extraction activities, and long-term changes. A brief report summarizing the annual results of the physical and biological monitoring should document the evolution of the sites over time, and the cumulative effects of sand and gravel extraction. The summary should also recommend any modification of extraction rates needed to minimize impacts of extraction.

Sand Replenishment, Geomorphology and Hydrology:

Physical monitoring requirements of sand and gravel extraction activities should include surveyed channel cross-sections, longitudinal profiles, bed material measurements, geomorphic maps, and discharge and sediment transport measurements. The physical data will illustrate bar replenishment and any changes in channel morphology, bank erosion, or particle size.

In addition to local monitoring for replenishment at specific mining sites, monitoring of the entire reach through the estuary will provide information on the cumulative response of the system to sand and gravel extraction. For example, it is important for downstream bars and the estuary to receive sufficient sand and gravel to maintain estuarine structure and function. Because the elevation of the bed of the channel is variable from year to year, a reach-based approach to monitoring will provide a larger context for site-specific changes. If long-term monitoring data show that there is a reach-scale trend of bed lowering (on bars or in the thalweg), the extraction could be limited.

Cross-sections:

Surveyed channel cross-sections should be located at permanently documented sites upstream, downstream and within the extraction area. Cross-sections intended to show reach- scale changes should be consistently located over geomorphic features such as at the head of riffles, across the deepest part of pools, or across particular types of channel bars.

Cross-section spacing should be close enough to define the morphology of the river channel. Crosssection data should be surveyed in March or April to evaluate changes that may occur during the flooding season.

Cross-section data should be collected over the reach to the estuary, and locally upstream, downstream, and within each mining site. This long-term monitoring data should be collected and analyzed even if no mining occurs in order to understand and estimate the sand budget of the river reach.

Photo-documentation:

Photographs of the project sites should be taken prior to excavation to document the baseline conditions, and again during each monitoring session. Photos should be taken twice a year. Photos of structures nearby like outfalls/off-takes, intakes, bridges and other structures may also be regularly taken.

Groundwater Level:

Monitoring wells should be established adjacent to each off-channel floodplain excavation to record changes in ground water levels. Measurements should be taken monthly. This should help analyse surface water and ground water interaction along the reach.

Extent and Quality of Riparian Vegetation:

Document the extent and quality of riparian vegetation, including successional status, and any increase in disturbance indicators (non-native plants). The extent of riparian habitat can be determined utilising aerial photos. Habitat quality data, i.e., successional status and species composition, must be determined through field reconnaissance.

Riparian Vegetation Maps:

Develop yearly maps of the sensitive habitat areas and document their aerial extent over time. These maps may be combined with the geomorphic maps. Monitor sites identified as sensitive for disturbance in excess of expected geomorphic trends - i.e., massive bank wasting up or downstream from an active mine site. Monitor sand and gravel mining impacts which may translate up and downstream, causing accelerated erosion of sensitive zones and impacting the ability of new habitat to form due to excessive scour or sedimentation.

This monitoring/documentation should be done by the EC holders and will be regularly checked and assessed by the DEIAA for corrective steps in time. The DEIAA should review the status of

monitoring and documentation data of each mining site especially for sand mining once in a year.”

EMGSM-2020:

100. To give effect to the directions issued by this Tribunal vide order dated 04.09.2018 in *Sudarsan Das vs. State of West Bengal (supra)*, order dated 05.09.2018 in OA 44/2016, *Mushtakeem vs. MoEF & Ors. (supra)*, order dated 10.09.2018 in OA 304/2015, *Jai Singh vs. Union of India & Ors. (supra)* and order dated 05.04.2019 in OA 360/2015, *National Green Tribunal Bar Association vs. Union of India & Ors. (supra)*, MoEF&CC issued **EMGSM-2020** in January 2020.

40. The preparation of DSR is an independent exercise and it is in this context, in EMGSM-2020, para 4.1.1, it is categorically mentioned that preparation of DSR is an important initial step before grant of mining lease/Letter of Intent. The para reads as under:

“ 4.1.1 Preparation of District Survey Report.

*“Sustainable Sand Mining Guidelines, 2016” issued by MoEF&CC requires **preparation of District Survey Report (DSR), which is an important initial step before grant of mining lease/LoI.** The guidelines emphasize detailed procedure to be followed for the purpose of identification of areas of aggradation/deposition where mining can be allowed and identification of areas of erosion and proximity to infrastructural structures and installation where mining should be prohibited. Calculation of annual rate of replenishment, allowing time for replenishment after mining, identification of ways of scientific and systematic mining; identifying measures for protection of environment and ecology and determining measures for protection of bank erosion, benchmark (BM) with respect to mean Sea Level (MSL) should be made essential in mining channel reaches (MCR) below which no mining shall be allowed.*

The Hon’ble NGT in its Judgment dated 08.12.2017 in the matter of Anjani Kumar vs State of Uttar Pradesh & Ors. inter-alia mentioned the following regarding sand mining in the Uttar Pradesh.

“It states that the main object of preparation of District Survey Report is to ensure identification of areas of aggradation/deposition where mining can be allowed and identification of areas of erosion and proximity to infrastructural structures and installation where mining should be prohibited and calculation of annual rate of

replenishment and allowing time for replenishment after mining area. Thus, the environmental protection requires a strictly regulated mining in terms of area, quantity as well as most importantly replenishment thereof.”

“The data collection and declared for preparation of DSR shall take precedence over other data and would form the foundation for providing mining lease in terms of Appendix- x to the Notification dated 15th January 2016 must be prepared by the statutory authority stated therein i.e. DEIAA prior to awarding of permits for carrying on mining activity in any part of the State of UP.”

The Hon’ble High Court of Jharkhand at Ranchi in its orders dated the 11th April 2018 and 19th June 2018 in W.P. (PIL) No. 1806 of 2015, in the matter of Court on its Own Motion Versus the State of Jharkhand & Others with W.P. (PIL) No. 290 of 2013, in the matter of Hemant Kumar Shilkarwar Versus the State of Jharkhand & Others, has inter-alia directed the preparation of District Survey Report for minor minerals other than Sand and Bajri or delegation of the powers for preparation of format of District Survey Report of minor minerals other than sand and Bajri to the State Government and/or District Environment Impact Assessment Authority and District Expert Appraisal Committee. To comply with the direction of Hon’ble High Court the Ministry has issued S.O. 3611(E) dated 25.07.2018, wherein, the procedure of preparation of DSR is mentioned. But it is felt that still there is other information that needs to be reported in DSR to make it a comprehensive DSR.

Therefore, preparation of District Survey Report is a very important step and sustainable sand mining in any part of the country will depends on the quality of District Survey Report.

Considering the importance of district survey report, the Ministry of Environment Forest and climate change, after consultation with experts dealing with mining-related matters, formulated the following guidelines for the preparation of comprehensive District Survey Report for sand mining.

- a) District Survey Report for sand mining shall be prepared before the auction/e-auction/grant of the mining lease/Letter of Intent (LoI) by Mining department or department dealing the mining activity in respective states.**
- b) The first step is to develop the inventory of the River Bed Material and Other sand sources in the District. In order to make the inventory of River Bed Material, a detailed survey of the district needs to be carried out, to identify the source of River Bed Material and alternative source of sand (M-Sand). The source will include rivers, de-siltation of reservoir/dams, Patta lands/Khatedari Land, M-sand etc.

The revenue department of Kerala already conducted river mapping and sand auditing of around 20 rivers of Kerala which is a good example wherein the profile of rivers was created at regular intervals and aggradation/deposition was identified along with water level. In the same study, benchmarks were also created at a

prominent location at regular interval for future surveying. Such study helps the mining departments to identify the source of sand.

Thus, it is proposed that for preparation of district survey report, the auditing of rivers needs to be carried out. There is already a provision under MMDR Act 2015 for National Mineral Exploration Trust (MET) wherein a 2% of royalty amount to be deposited in the trust. This fund is used for mineral exploration in the country. The Sand Auditing is also a sort of identification of mineral and State Government may request Central Govt. for proving funds for river auditing. The Central Govt. (Ministry of Mines) may also explore the possibilities for providing the funds for river auditing. The other option is that State Govt. may conduct such studies by its own fund and the same may be recovered from the leaseholders to whom the mining lease will be allocated.

c) District Survey Report is to be prepared in such a way that it not only identifies the mineral-bearing area but also define the mining and no mining zones considering various environmental and social factors.

d) Identification of the source of Sand & M-Sand. The sources may be from Rivers, Lakes, Ponds, Dams, De-silting locations, Patta land/Khtedari lands. The details in case of Rivers such as [name, length of river, type (Perennial or Non-Perennial), Villages, Tehsil, District], in case of Lakes, Ponds, Dams, De-silting locations [Name, owned/maintained by (State Govt./PSU), area, Villages, Tehsil, District] in case of Patta land/Khtedari lands [Owner Name, Sy No, Area, Agricultural/Non-Agricultural, Villages, Tehsil, District], in case of M-Sand Plant [Owner Name, Sy No, Area, Quantity/Annum, Villages, Tehsil, District], needs to be recorded as per format given in **Annexure-I**.

e) Defining the sources of Sand/M-Sand in the district is the next step for identification of the potential area of deposition/aggradation wherein mining lease could be granted. Detailed survey needs to be carried out for quantification of minerals. The purpose of mining in the river bed is for channelization of rivers so as to avoid the possibility of flooding and to maintain the flow of the rivers. For this, the entire river stretch needs to be surveyed and original ground level (OGL) to be recorded and area of aggradation/deposition needs to be ascertained by comparing the level difference between the outside riverbed OGL and water level. Once the area of aggradation/deposition are identified, then the quantity of River Bed Material available needs to be calculated. The next step is channelization of the river bed and for this central $\frac{3}{4}$ th part of the river, width needs to be identified on a map. Out of the $\frac{3}{4}$ th part area, where there is a deposition/aggradation of the material needs to be identified. The remaining $\frac{1}{4}$ th area needs to be kept as no mining zone for the protection of banks. The specific gravity of the material also needs to be ascertained by analyzing the sample from a NABL accredited lab. **Thus, the quantity of material available in metric ton needs to be calculated for mining and no mining zone.**

Note: As physical survey with conventional method is time-consuming, use of unmanned aerial vehicle (UAV) may be explored

to carry out the survey and finalizing the original ground level and for developing a 3D model of the area.

- f) The permanent boundary pillars need to be erected after identification of an area of aggradation and deposition outside the bank of the river at a safe location for future surveying. The distance between boundary pillars on each side of the bank shall not be more than 100 meters.
- g) Identifying the mining and no mining zone shall follow with defining the area of sensitivity by ascertaining the distance of the mining area from the protected area, forest, bridges, important structures, habitation etc. and based on the sensitivity the area needs to be defined in sensitive and non-sensitive area.
- h) Demand and supply of the Riverbed Material through market survey needs to be carried out. In addition to this future demand for the next 5 years also needs to be considered.
- i) It is suggested that as far as possible the sensitive areas should be avoided for mining, unless local safety condition arises. Such deviation shall be temporary & shall not be a permanent feature.
- j) The final area selected for the mining should be then divided into mining lease as per the requirement of State Government. It is suggested the mining lease area should be so selected as to cover the entire deposition area. Dividing a large area of deposition/aggradation into smaller mining leases should be avoided as it leads to loss of mineral and indirectly promote illegal mining.
- k) Cluster situation shall be examined. A cluster is formed when one mining lease of homogenous mineral is within 500 meters of the other mining lease. In order to reduce the cluster formation mining lease size should be defined in such a way that distance between any two clusters preferably should not be less than 2.5 Km. Mining lease should be defined in such a way that the total area of the mining leases in a cluster should not be more than 10 Ha.
- l) The number of a contiguous cluster needs to be ascertained. Contiguous cluster is formed when one cluster is at a distance of 2.5 Km from the other cluster.
- m) **The mining outside the riverbed on Patta land/Khatedari land be granted when there is possibility of replenishment of material. In case, there is no replenishment then mining lease shall only be granted when there is no riverbed mining possibility within 5 KM of the Patta land/Khatedari land.** For government projects, mining could be allowed on Patta land/Khatedari land but the mining should only be done by the Government agency and **material should not be used for sale in the open market.** Cluster situation as mentioned in para k above is also applicable for the mining in Patta land/Khatedari land.

- n) *The State Government should define the transportation route from the mining lease considering the maximum production from the mines as at this stage the size of mining leases, their location, the quantity of mineral that can be mined safely etc. is available with the State Government. It is suggested that the transportation route should be selected in such a way that the movement of trucks/tippers/tractors from the villages having habitation should be avoided. The transportation route so selected should be verified by the State Government for its carrying capacity.*
- o) *Potential site for mining having its impact on the forest, protected area, habitation, bridges etc, shall be avoided. For this, a sub-divisional committee may be formed which after the site visit shall decide its suitability for mining. The list of mining lease after the recommendation of the Committee needs to be defined in the following format given in as **Annexure-II**. The Sub-Divisional Committee after the site visit shall make a recommendation on the site for its suitability of mining and also records the reason for selecting the mining lease in the Patta land. The details regarding cluster and contiguous cluster needs to be provided as in **Annexure-III**. The details of the transportation need to be provided as in **Annexure IV**.*
- p) **Public consultation-***The Comments of the various stakeholders may be sought on the list of mining lease to be auctioned. The State Government shall give an advertisement in the local and national newspaper for seeking comments of the general public on the list of mining lease included in the DSR. The DSR should be placed in the public domain for at least one month from the date of publication of the advertisement for obtaining comments of the general public. The comments so received shall be placed before the sub-divisional committee for active consideration. **The final list of sand mining areas** [leases to be granted on riverbed & Patta land/Khatedari land, de siltation location (ponds/lakes/dams), M-Sand Plants (alternate source of sand)] **after the public hearing needs to be defined in the final DSR in the format as per Annexure-V**. The details regarding cluster and contiguous cluster needs to be provided in **Annexure-VI**. The details of the transportation need to be provided in **Annexure-VII**.”*

101. The above discussion including EIA 2006 read with EMGSM-2020 clearly shows that DSR for sand mining or river bed mining and mining of other minor mineral has to be prepared as per the procedure given in Appendix-X.

102. Appendix X says, “**The District Survey Report shall form the basis for application for environmental clearance, preparation of reports and appraisal of projects...**”. The said provision has been maintained in EIA 2006 as subsequently amended by notification dated

25.07.2018 whereby Appendix X was substituted but with regard to DSR, it clearly says, “***The District Survey Report shall form the basis for application for environmental clearance, preparation of reports and appraisal of projects***”.

103. The manner of preparation of DSR and the aspects required to be considered including replenishment study is also provided in the provisions of EIA 2006 as well as the directions contained in SSMG-2016 and EMGSM-2020. It is not disputed before us that SSMG-2016 and EMGSM-2020, being directions issued under EP Act, 1986, are statutory and have to be implemented and followed in letter and spirit.

104. Supreme Court in ***State of Bihar & Ors. vs. Pawan Kumar & Ors., Civil Appeal No. 3661-3662 of 2020***, in its order dated 18.01.2022, has also observed that when draft DSRs are prepared by State Government authorities, the same shall be examined and evaluated by State Expert Appraisal Committee (hereinafter referred to as ‘SEAC’) and it shall submit its Report to SEIAA which shall consider the matter and grant approval and only thereafter, DSR shall be taken to be valid for mining activities. Supreme Court in para 14 has observed as under:

*“14. ... We had noticed that unless the detailed DSRs are prepared by the Sub-Divisional Committees by undertaking site visits and using the modern technology and **unless the same are examined by SEAC and SEIAA, it will not be appropriate to carry out the mining activities...**”*

105. So far as this Tribunal is concerned, we find that repeatedly it has been held that preparation of DSR and replenishment study is a condition precedent for considering application for prior EC. It is obvious for the reason that EIA 2006 itself says that DSR is the basis for application for grant of prior EC and application without DSR means an incomplete document and such an application cannot be processed or proceeded

further. Incomplete information or incomplete documents would render an application for grant of prior EC liable to be rejected as held by Supreme Court judgment in ***Hanuman Laxman Aroskar vs. UoI & Others (2019) 1 SCC 401***. It was an appeal taken to Supreme Court, from a judgment/order dated 21.08.2018 passed by this Tribunal in ***Appeal No. 5/2018*** (earlier *Appeal No. 61/2015/WZ*), ***Federation of Rainbow Warriors vs. Union of India & Ors. and Appeal No. 6/2018, Hanuman Laxman Aroskar vs. Union of India***, wherein grant of EC for development of green field International Airport at Mopa, Goa, was challenged. Project was in category 'A' hence as per EIA 2006 'Prior EC' was to be granted by MoEF. EC was granted on 28.10.2015. It was challenged by M/s. Federation of Rainbow Warriors in *Appeal No. 61/2015* at Tribunal's Western Zonal Bench, Pune. Another *Appeal No. 1/2016* was filed by Hanuman Laxman Aroskar at NGT, Western Zonal Bench, Pune. Both these appeals were transferred to Principal Bench at New Delhi and numbered as *Appeal No. 5 and 6 of 2018* respectively. One of the issues raised before Supreme Court was; PP did not give complete information in Form 1 submitted to the Competent Authority for grant of EC; PP is duty bound to make a proper disclosure and highest level of transparency is required; and there was concealment of certain facts by leaving certain columns blank or by not giving required details. It was contended that for these reasons, application for EC ought to have been rejected. Supreme Court considered scheme of EIA 2006 in detail. Going into historical backdrop of EIA 2006, Court said that by Constitution (Forty-second Amendment) Act 1976 w.e.f. 03.01.1977, Article 48A was inserted to the Constitution which mandates that State shall endeavor to protect and improve environment and safeguard forests and wildlife of the country; Article 51A(g) of Constitution places a corresponding duty on every citizen to protect and improve natural environment including

forests, lakes, rivers and wild life and to have compassion for living creatures; following decisions taken at United Nations Conference on Human Environment held at Stockholm (Stockholm Conference) in June 1972, in which India also participated, Parliament enacted EP Act, 1986 to protect and improve environment and prevent hazards to human beings, other living creatures, plants and property; on 27.01.1994, MoEF&CC, in exercise of powers under Section 3(1) read with (2)(v) of EP Act, 1986 and Rule 5(3)(d) of EP Rules, 1986, issued notification, S.O. 60(E), 1974, imposing restrictions and prohibitions on the expansion and modernization of any activity or new project unless an EC was granted under the procedure stipulated in the notification; Notification contemplated that any person undertaking a new project or expanding and modernizing an existing project, would submit an application to the Secretary, MoEF; application to be made in accordance with Schedule, also provided that, it shall accompany project report including EIA Report, an Environment Management Plan (hereinafter referred to as **‘EMP’**) and other details as per the Guidelines issued by Government from time to time; Competent Impact Assessment Agency would then evaluate application and submit report; and if necessary, it is also empowered to constitute a Committee of Experts which would have a right of entry into and inspection of the site during or after the commencement of the preparations relating to the project; concealment of any factual data or submitting false or misleading information would make the application liable for rejection and would lead to cancellation of any EC already granted on that basis; EIA 1994 was superseded by EIA 2006; real distinction between EIA 1994 and EIA 2006 is that in the later EC must be granted by Regulatory Authority prior to commencement of any construction work or preparation of land; EIA 2006 divides all projects in Category A and Category B projects; under EIA 1994, PP was

required to submit application along with all reports including EIA report but under EIA 2006 prior to preparation of EIA report by PP, the authority concerned would formulate comprehensive Terms of Reference (hereinafter referred to as **‘ToR’**) on the basis of information furnished by PP addressing all relevant environmental concerns; this would form the basis for preparation of EIA Report; a pre-feasibility Report is also required to submit with the application unless exempted in the Notification; under EIA 1994, final approval was granted by Impact Assessment Authority but under Notification of 2006, final regulatory approval is granted by MoEF&CC or SEIAA, as the case may be; but approval is to be based on recommendations of EAC functioning in MoEF&CC or State Expert Appraisal Committees (SEACs) which are constituted for that specific purpose; thus the salient objective which underlies EIA 2006 is protection, preservation and continued sustenance of environment when the execution of new projects or the expansion or modernization of existing projects is envisaged; it imposes certain restrictions and prohibitions based on the potential environmental impact of projects unless ‘Prior EC’ has been granted by the authority concerned.

106. Supreme Court said that **an application must be submitted prior to the commencement of any construction activity or preparation of the land at the site.** The process to obtain EC comprised broadly 4 stages i.e. (i) Screening, (ii) Scoping, (iii) Public Consultation and (iv) Appraisal. The step of screening is restricted to Category B projects. It entails an examination of whether the proposed project or activity requires further environmental studies for preparation of an EIA for its appraisal prior to grant of EC. The projects requiring an EIA are further categorized as Category B1 projects and remaining projects are

categorized as Category B2 projects. Category B2 projects do not require an EIA. The categorization is in accordance with the guidelines issued by MoEF&CC in this regard from time to time. The stage of scoping requires formulation of comprehensive ToR so as to address all relevant environmental concerns for the preparation of EIA. Amongst other things, information furnished by applicant in Form 1 and Form 1A along with the proposed ToR forms the basis for preparation of ToR. Public consultation at the third stage is attracted in all Category A and Category B1 projects. Summary of EIA is prepared in the format given in Appendix IIIA on the basis of ToR furnished to the applicant. This stage involves the process by which concerns of local affected persons and others who have plausible stake in the environmental impact of the project or activity are ascertained with a view of taking into account all the material concerns in the project or activity design as appropriate. The stage of appraisal involves detailed scrutiny by EAC or SEAC of all documents submitted by applicant for the grant of EC. The appraisal is carried out in a transparent manner in a process to which PP is also invited for furnishing clarification in person or through an authorized representative. The scheme requires Regulatory Authority to examine documents strictly with reference to ToR and if there is any inadequacy to communicate to EAC or SEAC within 30 days of receipt of the documents; recommendations made by EAC or SEAC are then required to be considered by MoEF&CC or concerned SEIAA who are supposed to communicate their decision to PP within 45 days of receipt of the recommendations. Ordinarily Regulatory Authorities are supposed to accept recommendations of EAC or SEAC. In case of disagreement, Regulatory Authority is required to seek a reconsideration of recommendations by the concerned recommending body. Importance of

provisions of EIA 2006 in reference to protection of environment has been stressed upon by Supreme Court in **para 56** of the report (**SCC**) as under:

*“The 2006 notification embodies the notion that the development agenda of the nation must be carried out in compliance with norms stipulated for the protection of the environment and its complexities. It serves as a balance between development and protection of the environment: there is no trade-off between the two. **The protection of the environment is an essential facet of development. It cannot be reduced to a technical formula.** The notification demonstrates an increasing awareness of the complexities of the environment and the heightened scrutiny required to ensure its continued sustenance, for today and for generations to come. It embodies a commitment to sustainable development. In laying down a detailed procedure for the grant of an EC, the 2006 notification attempts to bridge the perceived gap between the environment and development.”*

107. Court also observed that under EIA 2006, process of obtaining an EC commences from the production of information stipulated in Form 1/Form 1A; crucial information regarding particulars of proposed project is sought to enable EAC or SEAC to prepare comprehensive ToR which applicant is required to address during the course of preparation of EIA. Relevant observations in para 60 of judgment are as under:

“60. Under the 2006 Notification, the process of obtaining an EC commences from the production of the information stipulated in Form 1/Form 1A.

.....

.....

Some of the information sought is produced thus:

60.1. Construction, operation or decommissioning of the project involving actions, which **will cause physical changes in the locality (topography, land use, changes in water bodies, etc.).**

60.2. Use of natural resources for construction or operation of the project (such as land, **water**, materials or energy, especially any resources which are non- renewable or in short supply).

60.3. Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about the actual or perceived risks to human health.

60.4 Production of solid wastes during construction, operation or decommissioning.

60.5. Release of pollutants or any hazardous, toxic or noxious substances to air.

60.6. Generation of noise and vibration, and emissions of light and heat.

60.7. Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea.

60.8. Risk of accidents during construction or operation of the project, which could affect human health or the environment.

60.9. **Environment sensitivity which includes**, amongst other things, the furnishing of the following details:

60.9.1. **Areas protected under international and national legislation.**

60.9.2. **Ecologically sensitive areas**

60.9.33 **Areas used by protected, important or sensitive species of flora or fauna.”**

(Emphasis added)

108. The importance of correctness and transparency of the information and that any false statement or concealment of the same would be fatal, was particularly stressed by Court in para 62 of judgment, observing:

“62. The information provided in Form 1 serves as a base upon which the process stipulated under the 2006 notification rests. An applicant is required to provide all material information stipulated in the form to enable the authorities to formulate comprehensive ToR and enable persons concerned to provide comments and representations at the public consultation stage. The depth of information sought in Form 1 is to enable the authorities to evaluate all possible impacts of the proposed project and provide the applicant an opportunity to address these concerns in the subsequent study. Missing or misleading information in Form 1 significantly impedes the functioning of the authorities and the process stipulated under the notification. For this reason, any application made or EC granted on the basis of a defective Form 1 is liable to be rejected immediately. Clause (vi) of paragraph 8 of the notification provides thus:

“Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application

liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.”

(Emphasis added)

109. Supreme Court also referred and approved two judgments of this Tribunal in **Save Mon Region Federation vs. Union of India, 2013 (1) All India NGT Reporter 1** and **Shreeranganathan K P vs. Union of India 2014 SCC online NGT 15** wherein, on the basis of information furnished in Form 1, the deficiencies in EIA Report, process of appraisal etc., were considered in detail to find out whether EC was granted in accordance with law or not. Court distinguished an earlier judgment in **Lafarge Umiam Mining Private Limited vs. Union of India 2011 (7) SCC 338** observing that it was the case under EIA 1994 when provisions of EIA 2006 were not applicable. Court said that decision was based on facts of that case, summarized by Court in **Hanuman Laxman Aroskar (supra)** in para 138 of judgment. It was also held that, relevant material, if has been excluded for consideration or extraneous circumstances were brought in mind, there was a failure to observe binding norms under EIA 2006 and consequential serious flaw in the decision-making process, would amount to an illegal exercise and failure of statutory duty, so as to vitiate EC. In para 157 of judgment, importance of the correct and complete disclosure of information by PP in his application, Form 1 and Form 1A, and further consideration by Competent Authority has been discussed, as under:

“The 2006 Notification must hence be construed as a significant link in India’s quest to pursue the SDGs. Many of those goals, besides being accepted by the international community of which India is a part, constitute a basic expression of our own constitutional value system. Our interface with the norms which the international community has adopted in the sphere of environmental governance is hence as much a reflection of our own responsibility in a context which

*travels beyond our borders as much as it is a reflection of the aspirations of our own Constitution. **The fundamental principle which emerges from our interpretation of the 2006 Notification is that in the area of environmental governance, the means are as significant as the ends. The processes of decision are as crucial as the ultimate decision. The basic postulate of the 2006 Notification is that the path which is prescribed for disclosures, studies, gathering data, consultation and appraisal is designed in a manner that would secure decision making which is transparent, responsive and inclusive.***

(Emphasis Added)

110. Further, in para 158 of the judgment, in **Hanuman Laxman Aroskar (supra)**, Court observed:

*“Repeatedly, it has been urged on behalf of the State of Goa, MoEFCC and the concessionaire that the **need for a new airport** is paramount with an increasing volume of passengers and **consequently the flaws in the EIA process should be disregarded.** The need for setting up a new airport is a matter of policy. The role of the decision-makers entrusted with authority over the EIA process is to ensure that every important facet of the environment is adequately studied and that the impact of the proposed activity is carefully assessed. **This assessment is integral to the project design because it is on that basis that a considered decision can be arrived at as to whether necessary steps to mitigate adverse consequences to the environment can be strengthened.**”*

(Emphasis Added)

111. Supreme Court ultimately held that report of EIA based on incomplete information supplied by PP is vitiated. In para 159, it is said:

*“In the present case, as our analysis has indicated, **there has been a failure of due process commencing from the non-disclosure of vital information by the project proponent in Form 1. Disclosures in Form 1 are the underpinning for the preparation of the ToR. The EIA report, based on incomplete information has suffered from deficiencies which have been noticed in the earlier part of this judgment including the failure to acknowledge that within the study area contemplated by the Guidance manual, there is a presence of ESZs.**”*

(Emphasis Added)

112. Manner in which application submitted for grant of EC has to be dealt with by SEIAA or MoEF, has been considered in **Bengaluru Development Authority v. Sudhakar Hegde & Ors.; (2020) 15 SCC**

63. Supreme Court had an appeal arising from NGT's judgment dated 08.02.2019, whereby EC granted to appellant (BDA) for development of an eight lane Peripheral Ring Road connecting Tumkur Road to Hosur Road, a length of 65 kilometers was quashed, on the ground that report was based on primary data collected more than three years prior to submission to SEIAA. Tribunal directed that PP will not proceed on the basis of EC, which was quashed. Three issues were raised before Supreme Court. For our purpose, relevant question is, "whether EIA 2006 was followed or not". In para 87 of judgment, Court said that

*"appraisal by SEAC is structured and defined by EIA Notification, 2006. At this stage, **SEAC is required to conduct "a detailed scrutiny" of the application and other documents including EIA report submitted by applicant for grant of an EC.** Court also said that upon completion of appraisal processes, SEAC makes "categorical recommendations" to SEIAA either for grant of a 'Prior EC' on stipulated terms and conditions or rejection of the application. The **recommendations made by the SEAC for the grant of EC, are normally accepted by the SEIAA and must be based on "reasons".**"*

(Emphasis Added)

113. DSR which is prepared as per the procedure prescribed and after collecting all the relevant material and considering all relevant aspects, is a basic document which must accompany application submitted for grant of prior EC. The appraisal Committee has to examine the application along with relevant documents filed with the application. When a valid DSR prepared as per prescribed procedure itself is not made part of application, the question of its appraisal does not arise and, therefore, appraisal made on incomplete document filed with application is no appraisal in the eyes of law and it will vitiate the ultimate action i.e., recommendation by SEAC and approval granted by concerned authority for EC. The contention that grant of EC must be treated as approval of amended DSR, even if not approved specifically by concerned Environment Impact Assessment Authority, thus, cannot be accepted.

114. The importance of DSR and replenishment study was also considered by this Tribunal in **OA 557/2017, Anjani Kumar (supra)** and other connected matters i.e., OA 615/2017, *Ram Pal Singh vs. MoEF&CC*, OA 616/2017, *Devendra Singh Parmar vs. State of Uttar Pradesh*, OA 624/2017, *Pawan Kumar Mishra vs. State of Uttar Pradesh*, OA 631/2017, *Rakesh vs. Union of India*, OA 633/2017, *Gram Panchayat, Imaliya vs. MoEF&CC*, OA 625/2017, *Prem Chandra Agrahari vs. State of Uttar Pradesh*, OA 634/2017, *Brajbhushan Singh Yadav vs. MoEF&CC*, OA 636/2017, *Sanjay Pratap Singh vs. State of Uttar Pradesh*, OA 639/2017, *Anil kumar vs. State of Uttar Pradesh*, OA 647/2017, *Pragati Kumar vs. MoEF&CC*, OA 648/2017, *Pravesh vs. MoEF&CC* and OA 326/2017, *Pravin Kumar Singh vs. Union of India*. A three Members Bench vide judgment dated 08.12.2017 considered the validity of sand mining policy dated 14.08.2017 issued by State of UP in the light of provisions of EP Act, 1986 and SSMG-2016. After referring to Supreme Court judgment in **Deepak Kumar & Others vs. State of Haryana & Others (supra)**, Tribunal referred to SSMG-2016 and observed that there is a greater emphasis therein in preparation of DSR which shall be harbinger for further action. Tribunal discussed the importance of DSR in paras 30 to 36 as under:

“30. From the extracted portion, it could well be understood that to begin with the process prescribed for preparing of survey document mapping the status of the sand sources in a District is an integral but an essential part. The Survey has to be conducted and report be prepared for each District. It must also be noticed that while taking into consideration the fact that rivers cut across districts and States and every river is an ecosystem in itself but keeping in mind the fact that district is a most established unit of administration conduct of survey, planning and monitoring can be ensured effectively, the scheme proposed that every district will prepare this document (District Survey Report) taking river stretch in that district as an ecological and inventorising other sources of sand in the district. **Besides the object of insisting upon preparation of District Survey Report as a first important initial step is to take into account the production of aggregate in a particular area of sand and gravel is relatable to availability of natural**

resources, the size of population, the economy of the area and various developmental and infrastructural works being undertaken in that area. There is a clear mandate that the natural resources must be utilized in environment friendly manner “in scientific and systematic way and with the objective of sustainable development the policy on the subject should have provisions for protection of environment and ecology”. It had to be accounted for in a most efficient manner at a district level itself.

31. The sustainable mining plan must be dynamic and for this purpose, survey should be carried out by the District Environment Impact Assessment Authority (DEIAA) with the assistance of Geology Department, Irrigation Department, Forest Department, Public Works Department, Ground Water Boards, Remote Sensing Department and Mining Department etc. in the district at regular intervals.

32. The State Government was required to incorporate in the Survey Report:

- a) District wise detail of the 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.

33. Based on the Survey Report relating in collection of the data, from the above points the survey document has to be prepared which must be the basis for action plan and divide the river/ stream/ other sources of the District into 2 categories namely

- a) River/ Stream beds sections/ other sources suitable for extraction of sand and aggregates.
- b) River/ Stream beds sections/ other sources prohibited for extraction of sand and aggregates.

34. There is a clear requirement that the geomorphological study must also form the integral part of this exercise regarding place of origin, catchment area, general profile of the river stream, annual deposition factor, replenishment and total potential of minor mineral in the river bed. Geological study should contain lithology of catchment area and tectonics and structural behavior of rocks and climate factors like rainfall, climate zone and temperature variation.

The river/stream for mining be considered/selected following parameters in the said Guidelines which are as under:

- i). A stable river is able to constantly transport the flow of sediments produced by watershed such that it's dimensions (width and depth) pattern and vertical profile are maintained without aggrading (building up) or degrading (scouring down).
- ii). The amount of boulders, cobbles, pebbles, and sand deposited in river bed equals to the amount delivered to the river from catchment area and from bank erosion minus amount transported downstream each year.

iii).It is compulsive nature of river to meander in their beds and therefore, they will have to be provided with adequate corridor for meandering without hindrance. Any attempt to diminish the width of the corridor (flood way) and curb the freedom to meander would prove counterproductive.

iv).Erosion and deposition is law of nature. The river stream has to complete its geomorphological cycles from youth, mature to old age.

v).River capturing is unavoidable.

vi).Fundamentally the lowest point of any stream is fixed by sea level.

This survey document should be prepared in the district based on direct and indirect benefits of mining and identification of the potential threats to the river/stream beds in the district.

Besides, calculating the carrying capacity of the river/stream beds/other sources to find out maximum quantity available to be allowed for removal each year from the sources, it should also provide various measures to regulate sand and aggregate mining in a systemic way.

It has to provide for environmentally safe depth of mining and safeguards of banks by prescribing safe distance from banks. IT is required that there should be a Sub-Divisional Committee which should visit each site and make recommendation. The Committee should comprise 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.”

35. Among other information, the District Survey Report has to record details of the protection of sand or bajiri or minor minerals in the last 3 years, process of deposition of sediments in the rivers of District, general profile of the District. Whether the river is stable and able to constantly transport the flow of sediments produced by watershed such that its dimensionswidth and depth pattern and vertical profile are maintained without aggrading- building up or degrading- scouring down?

36.What should be the content of District Survey Report is spelled out and a method to be adopted for calculating the mineral potential is also prescribed?”

115. Thereafter, Tribunal examined the correctness of Sand Mining Policy dated 14.08.2017 prepared by State Government and said as under:

“80. It is evident that the Hon’ble Supreme Court emphasized the absolute necessity to have an effective framework of mining plan which will take care of environmental issues and also evolve a long term “rational and sustainable” use of sustainable use of natural resource base. In view of such clear mandate the State of UP was required to give due regard and implement the recommendations made by MoEF in continuation of its earlier recommendation issued in the year 2010. Consequently, the Sustainable Sand Mining Management Guidelines, 2016 of MoEF gain importance. We have referred to it which is at annexure A.

81. The main objective of the Guidelines is to ensure “sustainable sand mining and maintain the ecology of the river and other sand resource”. The object would turn nugatory if due regard is not given. The Said Sand and Gravel Mining Guidelines provide a detailed procedure and safeguards for sustainable sand mining. It is material to note that great emphasis is laid in the guidelines for preparation of District Survey Report which is prescribed as an important initial step before formulating a mining policy. We have noticed that the State of UP is feeling comfortable for having issued Sand Mining Policy on 14.08.2017 prescribing certain guidelines and procedures even in those guidelines preparation of survey report documents, mapping, the status of sand resources in district is an integral and essential part.

82. The process involved in the preparation of District Survey Report is detailed as hereunder:-

District Survey Report

“The processes under the Guidelines:

- (a) Identification of areas of aggradation/deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited. Use of satellite imagery for identifying areas of sand deposit and quantity be done.*
- (b) Calculation of annual rate of replenishment and allowing time for replenishment after mining in area.*
- (c) Identifying ways of scientific and systematic mining.*
- (d) Identifying measures for protection of environment and ecology.*
- (e) Determining measures for protection of bank erosion.*
- (f) A bench mark (BM) with respect to mean sea level (MSL) should be made essential to inmining channel reaches (MCR). Below which no mining shall be allowed.*
- (g) Identifying steps for conservation of mineral.*
- (h) Permanent gauging facilities (for discharge and sediment both) should be made compulsory for the sites having excessive mining in consultation with Central Water Commission or any competent State Agency.*
- (i) Implementing safeguards for checking illegal and indiscrete mining.”*

“The river/stream/other sources of sand and aggregate are studied on following parameters:

a) Geomorphological Studies.

- i) Place of origin
- ii) Catchment area
- iii) General profile of river stream.
- iv) Annual deposition factor.
- v) Replenishment.
- vi) Total potential of minor mineral in the river bed.

b) Geological studies

- i) Lithology of catchment area.
- ii) Tectonics and structural behaviour of rocks.

c) Climate Zone.

- i) Intensity of rainfall
- ii) Climate zone.
- iii) Temperature variation.”

83. It is important to note that above process shall be for preparing district report. We **accept applicant's contention that it is so fundamental in nature that there must be in its place the DSR before formulation of any mining policy in order to ensure safe and suitable sand mining.**

84. We are clear in our mind that the Sand Mining Policy will be will be basically flawed if it permits tenders auction if it is issued before the identification of river/ stream beds section/other sources which should be prohibited zones for extraction of sand and aggregates. Likewise the policy will defeat in its objective before identifying the measures for protection of environment and ecology in relevant districts while sand mining is carried on and safeguards for checking illegal and indiscrete mining in an area is preventive.

85. We can notice that the Government of India acknowledging the relevance of District Survey Report in ensuring formulation of safe sustainable mining plan has incorporated and amended to sand mining management guidelines, 2006 in 2006 notification vide amendment dated 15.01.2016 for recognizing the importance of a District Survey Report by the said amendment in para 7(iii) incorporated which reads “Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minor Minerals” in 2006 Notification besides other amendments. Relevant portion of the amendment is at annexure 2.

86. While giving the procedure for preparation of District Survey Report in appendix-X, Central Government in 2006 Notification has reiterated the laudable objective and essentiality of preparation of District Survey Report i.e. to identify areas of aggradations or depositions where mining could be allowed and identification of areas of erosion and proximity to infrastructural structure and installations where mining could be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining in that area.

87. Appendix-X is therefore relevant that requires survey report shall be carried out by the District Environment Impact Assessment Authority i.e. 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 in the District. This bring to surface the undoubtable importance of the District Survey Report and the onerous responsibility of DEIAA.

88. **It is not in dispute, in the instance cases, the State of UP has not waited for the report of DEIAA while issuing E-Notice for E-Tender for E-Biding in respect of various rivers for grant of mining lease. It has proceeded on its own volition on the basis of so called survey reports given to it by District Magistrate regarding evaluation of quantity and quality of minerals said to have been done by the District Officer.** In other words they have by their own mechanism collected the evaluation and used it as a prior material information for issuing E-Notice inviting E-Tender for E-Biding.

89. It is not in dispute that the said report was not in public domain for 21 days before issuing E-Tender/ E-Notice because that is different report than the District Survey Report referred to in the aforesaid guidelines issued by MoEF and the mandate of amended rules framed by the State Government under the provisions of MMRD Act. Therefore we are satisfied that the issuance of E-Notice by E-Tender on an in-sufficient material information of vital importance relating to environment when the State Government issues E-Notice inviting E-Tender for E-Biding for grant of mining lease. We may observe without expressing opinion on the competence of the State Government to issue E-Tender inviting E-Notice for E-Biding which is under the provisions of Rule made under the provisions of MMRD Act which is not a schedule statute in the NGT Act we have examined its ultimate effect and the basis on which it is issued for ascertainment of its effect on the environment. In this regard the material on the basis on which such mining policy 2017 was framed for grant of mining lease needs a thorough judicial scrutiny.

90. The State of UP has not disputed as on the date of issuance of impugned E-Notices inviting E-Tender for E-Biding the District Survey Report was not in existence and same was not prepared by the DEIAA and that only material at had was survey report of evaluation submitted by District Officer that to be survey conducted during rainy season were there could not have been a realistic evaluation of quality and quantity of the minerals the importance of District Survey Report which we have held is of significance.

91. MoEF&CC vide notification dated 15th January, 2016 had amended the regulation/notification dated 14th September, 2006 in relation to carrying on of mining activities as stated above in terms of the Judgment of the Hon'ble Supreme Court in the case of Deepak Kumar and Himmat Singh Sekhawat judgment of this Tribunal and even in terms of the Notification of 2006 obtaining the prior Environmental Clearance to the carrying on of mining activity is held to be mandatory. Even the Notification of 15th January, 2006 does not change that status. In fact the Mining Rules framed by the State of UP in terms of U.P. Minor Mineral Concessions Rules 2017 it is mandatory to obtain environment Clearance prior to carrying on of any mining activity under the lease granted to minor-mineral by the State Government. In that sense we are examining the Mining Policy

2017 of the State of UP and the E-Notice issued only from the point of view of environmental protection. Rule 34 of the said Rules mandates that there should be sufficient safeguards provided for environmental protection and in that sense DSR is initial step. *Stricto senso* we are not concerned with the tenders invited by the State Government under its mining policy which does not fall within the scope of jurisdiction of this Tribunal. However, the State in terms of its constitutional obligations contained in Article 48(A) read with the Principle of Sustainable Sand Mining, the very foundation of the Sand Mining Policy, 2017 of the State and the Judgment of the Tribunal, is obliged to provide due protection and safeguards for the environment protection before it can generate revenue by utilization of its natural resources. The State Government holds these assets in public interest. The Doctrine of Public Trust requires the State Government to ensure that the natural resources including sand mining is not permitted to be wasted opposed to the Principle of intergenerational equity. The mining policy does have deficiencies and does not incorporate all the provisions of Environmental protection as contemplated in the minor mineral rules of the State of UP. We are not concerned whether the State ought or ought not have invited tenders on the basis of so called surveys conducted under the mining rules but we are certainly concerned with that no environmental degradation is permitted as a result of indiscriminate unregulated mining without compliance to the laws enforce. Obtaining prior Environmental Clearance is not optional therefore, all other laws in other fields than environment must tilt in favour of the environmental laws and non should be permitted to carry on the activity of extraction of minor minerals including sand unless the requirement of environmental laws are fully satisfied.

92. The E-tender cum E- Auction in terms of Rule 23(iv) does give the power to the District officer to get evaluated for quality and quantity of the minerals for fixing the minimum bid. This exercise squarely falls within the ambit of commercial policy of the State Government under the provisions of the Mining Policy and but cannot form an exception to compliance of the environmental laws as contemplated under the Mining Rules of 2017 as well as Appendix- x. Appendix-x while refereeing to Sustainable Sand Mining Guidelines also directs to ensure providing of the details as contemplated under the said Appendix. It states that the main object of preparation of District Survey Report is to ensure identification of areas of aggradation/deposition where mining can be allowed and identification of areas of erosion and proximity to infrastructural structures and installation where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining area. Thus, the environmental protection requires a strictly regulated mining in terms of area, quantity as well as most importantly replenishment thereof.

93. It is true that under the Mining Policy/Rules the State is empowered to conduct survey for the purpose of inviting bids opine. **The preparation of DSR and obtaining of Environmental Clearance is also a condition precedent to carrying on mining activity.** It is for the State Government to ensure that there is no conflict between the two and they are balanced so as to ensure that neither there is scope for illegal mining nor there should environmental degradation.

94. ***The information or data collected by the authorized officer of the State Government under Mining Act for inviting tenders would not be and cannot be the base for compliance of Appendix- x as it is not a substitute for the District Survey Report referred to which must be prepared by District Environment Impact Assessment Authority the body in terms of Appendix-x. In light of the above discussion we pass the following orders and directions:***

1. *We have already held that we are not concerned in deciding the merit or otherwise of the Mining Policy, 2017 framed by the State of UP and inviting of e-tender and e-auction as it falls beyond the jurisdiction of this Tribunal.*
2. ***The data collection and declared for preparation of DSR shall take precedent over other data and would form the foundation for providing mining lease in terms of Appendix- x to the Notification dated 15th January, 2016 must be prepared by the statutory authority stated therein i.e. DEIAA prior to awarding of permits for carrying on mining activity in any part of the State of UP.***
3. ***Upon finalization of the DSR in the manner prescribed 21 days notice shall be provided and objections if any file shall be considered in accordance with law.***
4. ***Obtaining of Environmental Clearance shall be a condition precedent to the carrying on of the mining activity/execution of the lease. This be so for the environmental laws afore-referred and even stipulated in the Rule 34(iv) of the Mining Rule, 2017.***
5. *The State Government and all its agencies and instrumentalities would ensure that the protection and replenishment of natural resources including sand is duly provided for in the mining lease that would be granted by the State Government as required under Appendix-x to the notification dated 15th January, 2016.*
6. *The State Government and its instrumentalities shall also ensure that the terms and conditions of the Mining Lease would contain all the relevant clauses as stated in Appendix-x and Notification dated 15th January, 2016 for carrying out sustainable mining.*

95. *With the above directions, Original Application No. 557/2017 is deposed of along with connected Original Application No. 615 of 2017, Original Application No. 616 of 2017, Original Application No. 624/2017, Original Application No. 631 of 2017, Original Application No. 633 of 2017, Original Application No. 625/2017, Original Application No. 634 of 2017, Original Application No. 636/2017, Original Application No. 639 of 2017, Original Application No. 647 of 2017, Original Application No. 648 of 2017 and Original Application No.326 of 2017 with no order as to costs.*

96. *In view of the above all the miscellaneous applications are disposed of as the main applications stands disposed of.”*

116. It is evident that in OA 360/2015, *National Green Tribunal Bar Association vs. Virender Singh (State of Gujarat) (supra)*, Tribunal clearly said that provisions of SSMG-2016 and EMGSM-2020 shall be reinforced by mechanism provided therein for preparation of DSRs, strictly.

117. The above discussion shows that before an application for EC is submitted, a valid DSR in respect to the areas for which mining is to be considered or duly included in DSR is a mandatory requirement and such DSR which is finally approved by the competent Environment Impact Assessment Authority has to be considered and not something which has been prepared by the State Government or its authorities or by Mining Department at their own level without having any approval from the concerned Environment Impact Assessment Authority.

118. Recently, this issue has been considered by Supreme Court in ***State of Uttar Pradesh & Anr. vs. Gaurav Kumar and Ors., Civil Appeal No. 14170/2024 with Civil No.14933/2024 and 14000/2024*** and in the judgment dated 08.05.2025 in paras 19.2, 20 and 21, Supreme Court has said as under:

*“19.2 We have also noted that the NGT has been taking a consistent stand about the mandatory requirement of a DSR being a condition precedent to carry mining activity. (Anjani Kumar v. State of U.P., 2017 SCC OnLine NGT 979). Further, **the decision of the NGT that DSR should be the basis for an application for grant of an EC and that an application without DSR is incomplete cannot be processed or proceeded further is correct in law.** (Raza Muzaffar Bhat v. SEIAA, J&K, Appeal No. 24/2022, NGT, Principal Bench). We may add that **a ‘draft DSR’ is virtually a non-existing DSR for purpose of grant of environmental clearance.***

20. Conclusion: Having considered the regulatory regime introduced from time to time, increasing the width as well as the depth of scrutiny

before granting an environmental clearance for sand mining, we are of the opinion that **there is a mandatory requirement of preparation of a DSR. The DSR shall form the basis for application of environmental clearance. It shall also be the basis for preparation of reports and also appraisal of the projects.** Another important facet of DSR is that it shall be prepared for all the districts and the draft is to be placed in the public domain. There is a requirement for keeping a copy of DSR in Collectorate. It must also be posted on the district's website for 21 days. After comments are received, they shall be considered and if found correct, they will be incorporated in the final report. **The final DSR will then be finalized within 6 months by the DEIAA.** The lifetime of the report is five years. **After five years the existing DSR will not be tenable and a new DSR will have to be prepared and finalized.** The purpose and object of prescribing a lifetime of five years for subsistence of a DSR is for the reason that the position of ecology and the environment is rapidly changing and the position that exists five years back, may not subsist for later days. It is true that it might have changed even before the expiry of five years but a reasonable estimate, to work as a benchmark is a policy consideration. **As a precautionary principle, it is not only legal and valid but is also mandatory. It must be enforced strictly and with all vigor.**

21. We conclude by holding that:

(i). A District Survey Report is a document of seminal importance as it enables informed decision making.

(ii). **Preparation of a DSR as per the procedure prescribed for its preparation under Appendix X, read with para 7(iii)(a), is required to be followed meticulously.**

(iii). **A valid and a subsisting DSR alone can be the basis for an application for grant of EC. A draft DSR is untenable for grant of an EC.**

(iv). Preparation of reports and appraisal of projects by DEIAA and DEAC shall be on the basis of a valid and a subsisting DSR.

(v). DEIAA and DEAC are recognized as the authorities fastened with the statutory duty of preparing the DSR every five years and this duty compels them to have a comprehensive and a real time perspective of the environment position of the district including its ecosensitivity and other fragilities.”

119. Various facts placed before us by Learned Counsel for respondent 6 to demonstrate that at the different level of Mining Department of State

Government, the issue of inclusion of mining leases of villages in question was considered and allowed to be included in approved DSR dated 18.11.2017 would be of no consequences since approved DSR could not have been altered, changed or modified by any authority of State Government or State Government itself since its approval is required by statutory body constituted under EIA 2006 read with EP Act, 1986 i.e., concerned EAC and Environment Impact Assessment Authority which is mandatory.

120. In the present case, from the facts noticed above, it is evident that DSR approved by DEIAA i.e., before the judgment in ***Satendra Pandey vs. Ministry of Environment, Forest and Climate Change & Another (supra)*** on 18.11.2017, had not considered gata numbers in respect whereof, mining has been allowed to respondent 6. Subsequently, State Authorities on their own sought to modify or amend the said DSR without getting any appraisal from SEAC and approval from SEIAA UP and allowed mining on the questioned gata numbers to respondent 6.

121. Thus, here is a case where gata number in question, over which mining has been allowed to respondent 6, was never subject matter of any survey which was validly approved by concerned Environment Impact Assessment Authority and not a part of any valid DSR when mining lease was granted and mining operations were allowed to respondent 6.

122. Learned Senior Counsel for respondent 6 submitted that once EC has been granted it means that survey reports of the Committee etc. have been examined by SEIAA UP and, thereafter, EC has been granted, therefore, the formalities of preparation of DSR must be taken to have been observed or completed but we do not find ourself in agreement with

the above submission for the reasons discussed above. Preparation of DSR is an important step before grant of mining lease and letter of intent and it is an independent exercise. If DSR has not been prepared in accordance with the procedure prescribed in law, grant of mining lease in violation thereof *ex-facie* violates EMGSM-2020, para 4.1.1 which clearly prohibits even holding of any auction, e-auction, tender etc. or grant of Letter of Intent before preparation of DSR in accordance with the procedure prescribed. We also refer herein the procedure prescribed for preparation of DSR in EMGSM-2020, para 4.1.1(p) which provides for public consultation in respect to mining areas required to be included in DSR.

123. In view of above discussion, it is clear that mining leases allowed to respondent 6 in respect of villages Chhaprauli Khadar and Kotana Khadar of District Baghpat on the basis of inclusion of the said areas in the approved DSR dated 18.11.2017 on the basis of order/direction of State Government and its authorities without any approval by competent Environment Impact Assessment Authority i.e., EIAA was clearly illegal and such mining activities cannot be allowed to continue.

124. In the result, respondent 6 is restrained from carrying out mining activities in respect of the mining leases in question having obtained the said mining permission in absence of any valid DSR in respect of the questioned areas. For the mining activities carried out by respondent 6 illegally on the basis of illegal mining permissions, it will also be liable to pay environmental compensation. For the purpose, we direct UPPCB to collect the relevant material that is quantum of mineral extracted by respondent 6, the sale price of mineral and other relevant material/information and then determine the amount of environmental compensation for the period of past violations in respect of illegal mining

causing damage to environment after giving due opportunity of hearing to the concerned parties in accordance with law and recover the same expeditiously. The amount of environmental compensation so computed and recovered from respondent 6 shall be utilised for rejuvenation/restoration of damage caused to environment in accordance with Rejuvenation Plan which shall be prepared within two months by a Committee comprising District Magistrate, Baghpat; UPPCB; and Central Pollution Control Board wherein District Magistrate, Baghpat shall be the Nodal Authority.

125. With the above directions, this OA is disposed of. Pending IA also shall stand disposed of.

PRAKASH SHRIVASTAVA,
CHAIRPERSON

SUDHIR AGARWAL,
JUDICIAL MEMBER

DR. A. SENTHIL VEL,
EXPERT MEMBER

August 06, 2025
Original Application No.1190/2024
(I.A. No. 475/2024)
R



ITEM NO.8

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 12932/2025

ROYAL CONSTRUCTION COMPANY

VERSUS

Appellant(s)

25151997

STATE OF UTTAR PRADESH & ORS.

Respondent(s)

FOR ADMISSION

IA No. 267716/2025 - EXEMPTION FROM FILING O.T.

IA No. 267713/2025 - STAY APPLICATION

Date : 07-11-2025 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE K. VINOD CHANDRAN

Certified to be true copy
Assistant Registrar (Judl.)11.11.2025
Supreme Court of India

For Appellant(s) :

Mr. Sanjay Upadhyay, Sr. Adv.

Mr. Shubham Upadhyay, AOR

Mr. Surya Gupta, Adv.

Ms. Anukriti Bajpai, Adv.

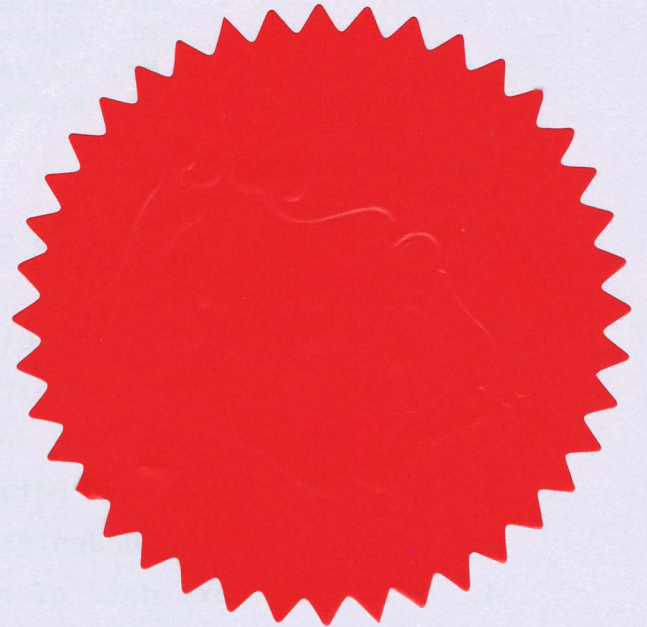
For Respondent(s) :

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

1. Issue notice, returnable in four weeks.
2. Dasti service, in addition, is permitted.
3. In addition to the usual mode, liberty is granted to the petitioner(s) to serve notice through the Central Agency/Standing Counsel for the respondent(s).
4. Till the next date of hearing, there shall be stay of impugned order passed by the National Green Tribunal.

(NARENDRA PRASAD)
DEPUTY REGISTRAR(ANJU KAPOOR)
ASSISTANT REGISTRAR

S212183



2

A1-No 24822/12

Urgent Fee: Rs 5/-

Certification Fee Rs 10/-

No. of Folio 1 Rs 1

Total Cost Rs 16

- (a) application filed on 12/11/12
 (b) the date given to receive copy 12/11/12
 (c) date on which copy is made ready 12/11/12
 (d) the date on which the copy is received by the applicant or sent to the applicant

SEALED IN MY PRESENCE

Branch Officer Pu/11/12
 Supreme Court of India



Service in Yasveer Singh Vs. State of Uttar Pradesh & Ors. [OA 579 and 580 of 2024]

1 message

ELDF <eldflegal@gmail.com>Sat, Jul 11, 2026 at 2:56 PM

To: Kailash Pandey <advkpandey78@gmail.com>, mrclegal65@gmail.com, priyanka swami <advpriyankaswami@gmail.com>, pradeepmisra@yahoo.com, Mukesh Verma <mvermadv@gmail.com>

Cc: Surya Gupta <surya@eldfindia.com>, Satvika Krishnan <satvika@eldfindia.com>

Dear Sir/Ma'am,

Please find attached copy of the Reply Affidavit on behalf of Respondent No. 08 M/s Royal Construction Company in the abovementioned case.

Thanks & Regards

--
Sameer Manher
Clerk
Enviro Legal Defence Firm
29, Presidential Estate LGF,
Nizamuddin East New Delhi – 110013
Ph. No. 011-40573181

Reply.pdf
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