

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
APPEAL NO. 19 OF 2025

IN THE MATTER OF:

VIJAYKUMAR KARSANBHAI GADHAVI AND ORS. APPELLANTS
VERSUS
UNION OF INDIA AND ORS. RESPONDENTS

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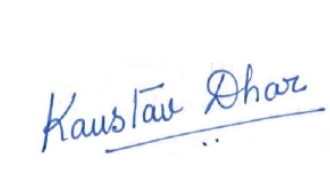
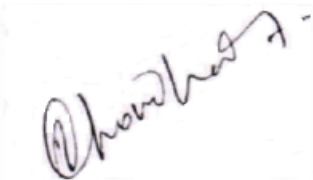
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THROUGH



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**REJOINDER ON BEHALF OF THE APPELLANT TO THE REPLY AFFIDAVIT
DATED 22.03.2025 FILED BY RESPONDENT NO. 4, GHCL.**

MOST RESPECTFULLY SHOWETH:

1. That the above-mentioned Appeal was filed under Section 16(h) read with Section 20 of the National Green Tribunal Act, 2010 challenging the Environmental Clearance dated 12.12.2024 pertaining Proposal No. IA/GJ/IND3/408164/2022 granted by the Ministry of Environment Forest and Climate Change to Greenfield Chemical Complex Ltd. for the proposed production of 11,00,000 TPA capacity of Light Soda Ash (LSA), 5,00,000 TPA capacity of Dense Soda Ash (DSA) and 2,00,000 TPA capacity of Sodium Bicarbonate (SBC). That the impugned project site which is located near village Bada, Taluka – Mandvi, District Kutch in Gujarat falls under Category 'A' project and is listed at Schedule 4(e) i.e., a soda ash industry and 1(d) of EIA Notification 2006 and has been granted EC in blatant violation of the EIA Notification 2006, Technical EIA Guidance Manuals for Soda Ash Industry, 2010, Species Best Interest Principle and the Precautionary Principle.
2. That the instant Rejoinder is filed in response to the Reply Affidavit dated 22.03.2025 filed by Respondent No. 4, Greenfield Chemical Complex Ltd (GHCL). At the outset, the Appellants deny all the averments made by Respondent No. 4 and nothing should be assumed to be admitted for want of specific traverse and all averments in the Reply Affidavit should be assumed to be denied unless specifically admitted or part of the record. The Appellants reiterate all the facts

and submissions made in the Appeal to be true and correct and the same may be read as part of the instant rejoinder and are not all being repeated for the sake of brevity.

PRELIMINARY SUBMISSIONS:

- i. The Appellants herein submit that the impugned project is proposed to come up in the Gulf of Kachchh in CRZ IA area which is also a Critically Vulnerable Coastal Area (CVCA). That the area is not only highly ecologically sensitive but also an extremely rich in biodiversity and hence a very fragile landscape. That the proposed area is known to be one of the few nesting sites for Green Sea Turtles and Olive Ridley Turtles. Additionally, it is a habitat of several Schedule I species of the Wildlife (Protection) Act, 1972 which includes Indian Monitor Lizard, Black Shoulder Kite, Eurasian Spoonbill, Indian Peafowl, Marsh Harrier, Oriental Honey Buzzard, Gugal. The Appellants herein submit in this regard that the Schedule I species under the Wildlife (Protection) Act, 1972 are accorded the highest level of protection. Despite this, a project of such nature has been permitted within such highly ecologically sensitive area. It is crucial to note that the entire Gulf of Kachchh is declared as CVCA area and that no construction is permitted in a CVCA area. In this regard, the Appellants respectfully submit that the Hon'ble Supreme Court, in the matter titled **Kapico Kerala Resorts (P) Ltd. v. State of Kerala**, reported in **(2020) 3 SCC 18**, vide its judgment dated 10.01.2020, has made an observation that under Para 8(V)(4) of the CRZ Notification, 2011, certain ecologically sensitive coastal areas including the Gulf of Kachchh were to be declared as CVCAs. It is pertinent to note that the 2011 Notification states that Gulf of Kachchh 'shall be declared' as CVCA upon the formulation and notification of appropriate guidelines by the MoEF&CC in consultation with relevant stakeholders. It further required that Integrated Management Plans be prepared for such areas. In contrast, Para 3.1 of the CRZ Notification, 2019, categorically states that the Gulf of Kachchh 'shall be treated' as a CVCA, thereby conferring such status on

the region *ipso facto*, that is, irrespective of whether any guidelines, CZMP Maps, or Integrated Management Plans have been prepared or notified. Thus, the effect of the 2019 Notification is that the Gulf of Kachchh enjoys *de jure* status as a CVCA by statutory declaration alone. Consequently, any developmental or construction activity proposed within this ecologically sensitive zone is prohibited. The relevant extracts of the judgment are reproduced hereby:

*39. Therefore, it is not as though the reduction of the distance parameter to 20 m from HTL is intended to confer a benefit upon persons like the appellants. Moreover, even the CRZ 2019 Notification places Vembanad Lake in the category of CVCA in Para 3.1 but with a different reach. **There is a world of difference between the 2011 and 2019 Notifications, insofar as CVCAs are concerned. This can be summarised as follows:***

39.1. In Para 8(V)(4) of the CRZ 2011 Notification, areas to be declared as CVCAs were identified but Para 8(V)(4)(b) mandated that those identified areas can be declared as CVCAs through a process of consultation. Para 8(V)(4)(c) required guidelines to be developed and notified by MoEF in consultation with the stakeholders, for identifying, planning, notifying and implementing CVCAs. Integrated management plans were also required to be prepared for CVCAs under Para 8(V)(4)(d) of the 2011 Notification.

39.2. But under Para 3.0 of the CRZ 2019 Notification, certain coastal areas are accorded special consideration for the purpose of protecting the critical coastal environment and the difficulties faced by local communities. Para 3.1 identifies the critically vulnerable coastal areas. They include Vembanad Lake. While the words contained in Para 8(V)(4)(b) of the 2011 Notification are: "... shall be declared as CVCA through a process of consultation with the fisher and other communities inhabiting the area ...", the words contained in Para 3.1 of the 2019 Notification are "... shall be treated as CVCA and managed with the involvement of coastal communities including fisher folk".

*40. Therefore, for the appellants, the situation has gone from bad to worse. **Under the 2011 Notification the areas identified in the Notification had to be declared as CVCAs only through a process of consultation with local fisher, etc. Guidelines are to be put in place for identifying, notifying and implementing CVCA but the 2019 Notification straightaway treats the named areas as CVCAs and vests their management with the authority with the involvement of coastal communities. Therefore, the alternatives claimed by the appellants also do not appear to be viable for them.***

41. Hence, in the light of our finding: (i) that the substantial issues that arose in common for both the islands have already been answered in Vaamika Island [Vaamika Island (Green Lagoon Resort) v. Union of India, (2013) 8 SCC 760] , and (ii) that the distinguishing features sought to be projected, are not so material as to take a different view than the one taken therein, the appeals are liable to be dismissed. Accordingly, all the appeals are dismissed. There shall be no order as to costs."

Thus, it is submitted that the impugned project, which is proposed to be established within the Gulf of Kachchh region, therefore falls squarely within a designated CVCA area. As such, it is legally impermissible under the CRZ Notification, 2019, for any construction or industrial activity to be undertaken in this area, especially when the objective of CVCA designation is to ensure heightened protection of fragile ecosystems and to prevent any form of ecological degradation. Therefore, the mere absence of finalized CZMP Maps or Management Plans cannot be cited as a justification to dilute the statutory protection afforded to this region. The legal position, as clarified by the Hon'ble Supreme Court and mandates that the entire Gulf of Kachchh be treated as a CVCA, and no project or construction can be permitted within this area, rendering the present project unsustainable in law.

Copy of the Judgment titled Kapico Kerala Resorts (P) Ltd. v. State of Kerala, (2020) 3 SCC 18 is annexed herewith as **ANNEXURE A/1.**

- ii. The Appellants herein submit that CSIR-NEERI does not possess any valid NABET accreditation required for conducting EIA for soda ash plants. The Appellants assert that CSIR-NEERI conducted the EIA for the proposed project despite not being a NABET-accredited EIA consultant organization for soda ash projects/activities, constituting a clear violation of the EIA Consultants Accreditation Scheme. In this regards, it is pertinent to note that this Hon'ble Tribunal in the matter titled **Sreeranganathan K.P vs. Union of India & Ors. 2014 SCC OnLine NGT 5631** has quashed the impugned EC vide judgment dated 28.05.2014. That grievances raised therein were that an airport was proposed to set up in on the banks of the holy river Pampa,

Arunmula Village in an ecologically sensitive and environmentally diverse and rich area. The issues raised were that the EC was granted without considering the deleterious effects of the airport on the pristine environment of the area. Also, the EIA Report submitted was inadequate, incorrect, misleading, fraud as prepared by a non-accredited agency. Further issues pertain that the public hearing conducted for the purpose of the setting up the airport was conducted in a clandestine and undemocratic manner in violation of EIA Notification, 2006 and the impugned EC dated 18.11.2013 was granted without any application of mind of the EAC and MoEFCC. The observations and directions of this Hon'ble Court was further upheld by the Hon'ble Supreme Court whereby vide order dated 21.11.2014 it refused to let the proposed Aranmula International Airport take off in Kerala, dismissing a petition filed by the project proponent challenging the cancellation of its environmental clearance by this Hon'ble Tribunal:

"81. The EIA study which is a part of the proceedings can be undertaken only by an accredited agency of the MoEF. It is for the project proponent themselves to arrange for the EIA study through an accredited agency and to submit the report to the Ministry. The public hearing and eliciting the response of the general public are integral parts of the proceedings before the report is submitted for clearance. It was after strictly adhering to all the statutory requirements that the report was prepared and decided upon by the statutory agencies.

[...]

111. At the time of presentation, there was no QCI implemented accredited Scheme (NABET) and all the consultants enlisted and approved by the first respondent were eligible for conducting EIA. The Office Memorandum issued by Government of India, MoEF clearly provides accreditation of the EIA Consultants and after the review of the accreditation progress by the QCI/NABET, the competent authority has approved a list of 265 consultants, wherein said Enviro Care India Pvt. Ltd., is arrayed as Sl. No. 73 and they are permitted to appear before State Level Expert Appraisal Committee/State Environment Impact Assessment Authority (SEAC/SEIAA) for Category "B" Projects and the EAC for Category "A" Projects till 30th June 2011. These 265 Consultants will also be permitted to certify various documents, as consultants, such as EIA/EMP. The MoEF after evaluating the EIA Report submitted by Enviro Care India Pvt. Ltd. is completely aware that the said agency is competent to prepare an EIA report since the said agency already submitted EIA reports for Chennai, Raipur and Vadodara Airports. Hence the statement to the effect that EIA has not been prepared by an accredited agency and the EIA submitted by the

present Respondent is inadequate, misleading and is a fraud perpetrated by this Respondent, is totally false, misleading and is denied in toto.

151. (i) A person who has merely applied for certain sectors cannot be said to have blanket power to prepare EIA reports and appear in respect of all categories and sectors without reference to the category applied for and the consequent accreditation. Whether the consultant had prepared the EIA report for those sectors earlier had no relevance and it is open to the 5th respondent/consultant to challenge the issue as to whether the accreditation is legal or not in the present petition. It is not correct to state that at the time of presentation, there was no QCI implemented accreditation scheme. From 2009, the Ministry has imposed guidelines on preparation of EIA and presentation to EAC. The fact that the 5th respondent/consultant was found in the list of 255 applicants would not entitle him to certify the reports pertaining to the sectors unconnected to their application.

*vi. As per the scheme of accreditation of EIA consultants, an EIA consultant can apply to a maximum of 5 sectors for accreditation. It is candidly admitted by the 5th respondent/consultant that though he applied for the 5 sectors, his application did not include airport projects. The only explanation tendered by the 5th respondent/consultant is that in view of commercial reasons he did not apply for accreditation for airport sector though he has sufficient experience in the field. This explanation cannot be accepted even for a moment. Admittedly, the 5th respondent/consultant has not applied for accreditation for airport projects falling under Category A. **Mere pendency of an application for accreditation for Category B projects would not cloth him with a right to make a study, field survey and preparation of EIA reports in respect of the airport projects which according to notification is categorized as Category A. If this contention has to be accepted, the very purpose of importance and significance of placing airport projects under Category A itself would be defeated. It is contended by the 5th respondent/consultant that the guidelines manual is only recommendatory and not mandatory. But that is not the case in so far as EIA Notification, 2006 is concerned.** Much was contended by the 5th respondent/consultant that he has completed studies on two green field airports at Raipur and Vadodara and he was the consultant for the construction in phase II of Chennai airport and his experience in the field would speak volumes of his competence. This contention has to be rejected for two reasons. **Firstly, the competence of the 5th respondent/consultant has to be tested from the view point of EIA Notification, 2006 which governs the field. While airport project is categorized as A to which neither the 5th respondent/consultant has applied for nor was granted any projects under Category A and in particular the airport projects. On the contrary, he applied twice and obtained accreditation only for the projects under Category B. Hence, he is incompetent.** Secondly, in so far as the alleged experience of the 5th respondent/consultant is concerned, there are no materials placed before the Tribunal to indicate the nature of works that was*

undertaken by the 5th respondent/consultant in respect of the three airport projects. Even assuming that the 5th respondent/consultant had experience, that would not qualify him as a competent consultancy agency in view of the mandatory provisions of the EIA Notification, 2006. Hence, it has got to be held that the 5th respondent/consultant was not competent to make a study and prepare an EIA report for the airport project. As rightly pointed out by the appellants, the EAC at the time of meeting never considered this vital aspect of the matter, but has recommended for the issuance of EC. This would certainly shake the very bottom of the recommendation made by the EAC since it was based on the EIA report given by the 5th respondent/consultant, an incompetent agency.

163. Thus, in the instant case, even without a final EIA report, the other materials were taken up for appraisal and hence, both the appraisal by EAC and consequent clearance by MoEF have to be termed as faulty.

164. The EIA report did not assess the impact of the proposed activity of the 3rd respondent/project proponent on land, water air, environment and ecology of the area and it did not provide the required details in these respect as mandated by law, thereby enabling the EAC to make a scrutiny and take an independent decision on the issues of environment. The inadequacy of the EIA report is demonstrated by the fact that it has not considered details about the flora and fauna. The EIA report did not provide any details about the flora in the region except stating that there are no endangered species in the area. A report of the Salim Ali Foundation clearly states that there are more than 212 species of plants. The report also states that there are more than 60 species of fishes and more than 80 species of birds. But, the EIA report did not reflect the same. The EIA has not made any attempt, whatsoever to characterize the ecology of the area including wildlife that inhabits forested lands which required to be cleared for providing a long runway at the proposed airport. The crucial aspects relating to filling up of paddy lands and its impact on the environment were not considered though objections were raised in that regard.

That in the present Appeal, it is respectfully submitted that CSIR-NEERI did not possess the requisite NABET accreditation to conduct an Environmental Impact Assessment study specifically for the Soda Ash plant sector. As per the Quality Council of India (QCI) – NABET list dated July 2020, CSIR-NEERI was clearly not accredited for undertaking EIA studies for projects falling under the Soda Ash sector. In contrast, the same list confirms that T.R. Associates held valid accreditation for this specific sector. Despite in full awareness of NEERI's lack

of sector-specific accreditation, the project proponent, for reasons best known to them, proceeded with the engagement of CSIR-NEERI for conducting the EIA. It is further submitted that the EIA Report prepared by CSIR-NEERI was presented before the public during the public hearing conducted on 17.10.2022. During this hearing, several objections were raised not only by the Appellants but also by other participant, highlighting concerns about the credentials of the EIA consultant and the adequacy of the report. Subsequently, during the 72nd meeting of the EAC held on 02.01.2024, a direction was issued mandating that a new NABET-accredited consultant—namely, T.R. Associates—would revalidate the EIA prepared by CSIR-NEERI by conducting one season's data collection. It is submitted that, if the entire process of preparation of collection of data and preparation of EIA report is illegal, same cannot be validated by another agency. Moreover, there exists no legal provision under any established law or regulation that permits a new NABET-accredited consultant to "revalidate" or certify the EIA study and baseline data originally prepared and collected by a non-accredited consultant. In the absence of such statutory backing, such revalidation is irregular and undermines the integrity of the EIA process. The Appellants contend that since NEERI lacked the requisite accreditation at the time of preparing the EIA report, it renders the entire EIA process invalid, non-compliant, and devoid of legal sanctity. This legal position has been recognized and upheld by this Hon'ble Tribunal in the precedent-setting Aranmula Airport Case, wherein the Tribunal categorically observed and directed that an EIA prepared by a non-accredited consultant cannot form the basis for granting environmental clearance and is, therefore, liable to be set aside.

Copy of the judgment titled Sreeranganathan K.P vs. Union of India & Ors. 2014 SCC OnLine NGT 5631 is annexed herewith as **ANNEXURE A/2.**

- iii. The Addendum EIA report on the basis of which clearance is granted was not before public. It is submitted that the Public Hearing was conducted on the basis of EIA report which was not prepared by accredited agency and can't be

legally valid. The Addendum EIA Report prepared by the new consultant, T.R. Associates, was never made available to the public for review or comments through a fresh public hearing. This omission constitutes a direct and substantive violation of the mandatory public consultation process outlined under the EIA Notification, 2006, which requires that the EIA Report forming the basis for environmental clearance must be subjected to public scrutiny. The final EIA report is required to incorporate the comments of the public received during public consultation process.

- iv. The Appellants herein submit that the proposed project has been duly recommended by the Gujarat Coastal Zone Management Authority (GCZMA). It is crucial to note that the GCZMA recommendation was issued vide its letter dated 26.12.2023, and was the same was relied upon by the EAC during its 87th meeting held on 21.10.2024, this alone does not constitute compliance with the applicable statutory procedure. It is pertinent to note that the Office Memorandum issued by the MoEFCC dated 29.11.2022 lays down a specific procedure for obtaining CRZ Clearance for activities permissible under the CRZ Notification. Paragraph 6 of the said OM categorically mandates that all Category 'A' projects falling within CRZ areas shall be appraised by the respective Sectoral EACs:

"6. The Category 'A' projects requiring comments of the CRZ Sector shall be forwarded along with all the statutory documents as mentioned in Para 2(i) before consideration of the project by Sectoral EACs. The Sectoral EAC shall appraise the project for composite EC and CRZ Clearance based on the comments of the CRZ Sector and CZMA Recommendations. In cases, the Sectoral EAC is same for appraisal of projects for both EC and CRZ clearance, the comments of the CRZ sector need not be required"

The OM further stipulates that upon receipt of the recommendation from the concerned SCZMA, the proposal must be forwarded to the sector-specific EAC, which is required to conduct a detailed scrutiny and deliberation before issuing its recommendation for CRZ clearance. Only thereafter may the MoEFCC issue the final CRZ clearance. Importantly, it is evident, that as per information

available on the Parivesh portal, a distinct Sectoral EAC for CRZ projects exists. This CRZ-specific EAC is entrusted with appraising projects such as laying of pipelines, facilities for intake and outfall of cooling water, among others. However, in the present case, the proposal in question was never presented before the CRZ EAC. As such, there was no appraisal by the competent sector-specific committee mandated to consider such projects. The omission of this crucial step, the lack of scrutiny and recommendation by the CRZ EAC, amounts to a substantive violation of the OM dated 29.11.2022. Instead of following the prescribed procedure, the CRZ clearance was granted solely based on the recommendation of the GCZMA, and the project was then presented before an EAC dealing with Industry-3 sector projects — a committee which does not have the jurisdiction to appraise CRZ-specific components. This procedural bypassing renders the grant of CRZ clearance legally untenable and in direct contravention of the applicable regulatory framework. That such a procedural lapse unequivocally reflects a non-application of mind on the part of the EAC handling Industry-3 sector projects in its appraisal of the present proposal. The EAC, which is specifically designated to assess projects falling under the Industry-3 category, was not the competent authority to appraise the CRZ components of the proposal. Upon receipt of the recommendation from the GCZMA, the Industry-3 EAC ought to have recognized that the proposal involved activities that squarely fell within the jurisdiction of the CRZ-specific EAC, particularly given that the project includes components such as pipeline laying and marine discharge structures, which are expressly listed under the domain of the CRZ EAC. That, instead of transferring the proposal to the CRZ Sectoral EAC for appropriate technical scrutiny, the Industry-3 EAC proceeded to appraise the project on the basis of the GCZMA's recommendation alone. This action is procedurally flawed and substantively irregular, as it bypassed the mandatory evaluation process laid down in the Office Memorandum dated 29.11.2022. The failure to ensure that the proposal was examined by the appropriate Sectoral EAC for CRZ matters not only undermines the sanctity of

the appraisal mechanism but also raises serious concerns about the due diligence exercised by the EAC in this case. In this regards, this Hon'ble Tribunal in the matter titled **Pranjal Karera vs. Union of India & Ors. 2024 SCC OnLine NGT 2546** has categorically held that the proposals shall be examined by sector specific EACs:

"31. It is further contended that by allowing the Category 'A' projects to be appraised at the SEAC level, substantially dilutes the standard of assessment, evaluation and appraisal of violation projects that were initially sought to be done by sector specific Expert appraisal committees which are only available at the central level. The sector specific EACs constitute of experts in the particular sector and opposed to the SEACs at the state level which do not constitute experts from a particular sector, but comprises of a homogeneous mix of experts and professionals from different sectors. Since building and construction projects located in a CPA/SPA have a higher and larger magnitude in terms of the potential adverse impact on the environment, an expert scrutiny with a higher level of expertise is needed for appraisal of building and construction projects in CPA/SPA areas.

32. Sectoral specific EAC for Infrastructural projects would be much better suited to appraise the Environmental Impact Assessment Report (EIA)/ Environmental Management Plan (EMP) submitted by the project proponent, as the said sector specific EAC would include all expert members qua the Building sector. It is submitted that the said Building sector specific would correctly and more accurately identify the possible ramifications on the Environment damage and recommend measures to mitigate the same.

38. Hon'ble the Supreme Court of India, in re-construction of park at Noida Okhla Bird Sanctuary (2011), 1SCC Page 744, felt the need of the entries in the schedule to the EIA 2006 and described the ambiguity while considering the issue as to whether general condition apply to building and construction projects directed that the question of application of the general condition to the projects activities listed in the schedule also needs to be put beyond any debate or dispute and referred the construction of the park project to MoEF&CC to appraised by Sectoral Specific Expert Appraisal Committee at Central Level considering the importance of location of the project near the Okhla Bird Sanctuary, an ecologically protected area and thereby indirectly applied general condition to the project. The EIA 2006 categorizes projects activities into Category A and B. Category A projects are appraised at Central Level by Sectoral Specific EAC, while Category B Projects are appraised at State Level by SEAC and not by a Sectoral Specific SEAC.

39. The classification is based on potential environmental impacts, with projects having higher environmental impacts assessed at central level and those with lesser impacts are assessed at the state level.

*Building and construction projects which are located within 5 km within of (i) Ecologically protected areas (ii) CPA/SPA (iii) Eco-sensitive areas (iv) Inter-state boundaries and international boundaries and have a higher and larger magnitude in terms of potential adverse impacts on the environmental and therefore, **a greater level of in-depth scrutiny is needed for appraisal of such building and construction projects and for which sectoral specific appraisal is needed at central level by sectorial specific experts who are part of sectorial specific EAC. There are eight (8) sectoral specific EAC at central level and each of the sectoral specific EAC appraises and deals with specific project activity as per the EIA 2006.***

*40. In view of the above submissions, arguments and records and notification, we are of the view that after quashing the notification dated 22.12.2014, vide order dated 06.03.2024, in W.P.(C) No. 3097/2016, GC is undisputedly applicable and all such projects in **Schedule 8 of EIA 2006 located within 5 km. of ecologically protected areas, CPA/SPA, eco-sensitive areas, inter-state boundaries and international boundaries are to be appraised and evaluated at the central level by sector specific EAC.***

41. Accordingly, we direct the MoEF&CC to strictly enforce the notification dated 14.09.2006 attached to Category 8 in the note general conditions and we direct the MoEF&CC to appraise all those building and construction projects that are located in whole or in part within 5 km. of the protected area notified under the Wildlife (Protection) Act, 1972, critically polluted areas and severely polluted areas as identified by the CPCB, eco-sensitive areas notified under Section 3(2) of the Environment (Protection) Act, and the projects located at inter-state boundaries as Category A projects and to be appraised by the central level by the Sectoral Expert Appraisal Committee."

- v. The Appellants submit that it is absolutely crucial to note that as a result of the proposed project, the already endangered Sea Turtles, the Coral Reefs as well as other Wildlife present in the area will be exposed to several direct and indirect threat and these threats have been grossly overlooked by the project proponent as well as the Expert Appraisal Committee while appraising the project and by the MoEFCC while granting the clearance:

I. Direct Impact on the Turtles, Coral Reefs and Sand Dunes:

- a. Entrapment of Sea Turtles and Coral Reefs - the intake of large volumes of seawater carries the risk of sucking or entrapping in marine organisms, such as green sea turtles, coral polyps, and other aquatic life forms, through the pipelines. This process could lead to

significant mortality rates among these species, causing irreversible damage to the biota and ecological health of the area. It is imperative to acknowledge the long-term detrimental impacts these activities could have on the Gulf of Kachchh, a region already recognized for its ecological sensitivity which has been completely overlooked by all the authorities as well as the project proponent.

- b. Sand Dune erosion and changes in dune morphology - It is pertinent to note that the intake and out take pipelines which will be laid through underground tunnel will massively disturb the sand dunes and the forest thereby posing both direct and indirect impacts. That the underground pipelines significantly impact sand dunes, primarily through increased erosion and habitat disruption. Pipeline construction and maintenance activities significantly destabilize the sand, leading to dune erosion and changes in dune morphology. Further, it is crucial to note that the movements of heavy equipment will significantly disturb the riverbed and will change the dune morphology thereby leading to major dune erosions.
- c. Rising the temperature of the Sea water - The significant consequences of seawater intake and hot water discharge on the spawning of coral reefs and aquatic life has been completely overlooked. This region is home to diverse and fragile marine ecosystems, including coral reefs and aquatic species that are highly susceptible to environmental disturbances. The proposed activities pose severe risks to the spawning processes of coral reefs, which are essential for maintaining marine biodiversity. The thermal discharge of hot water into the ecosystem could alter water temperatures, disrupting the delicate balance required for coral reproduction and the survival of other marine species. The effluent discharged into the sea would be 5°C warmer than the surrounding seawater, posing a serious threat to marine ecosystems. This temperature increase

could cause irreversible damage, affecting thousands of marine species. Sea turtles, which migrate to the Gulf of Kachchh for nesting, would be particularly vulnerable. A rise in seawater temperature combined with the release of toxic effluents could lead to the complete destruction of their habitat.

II. Indirect impact on the Turtles, Coral Reefs and Sand Dunes:

- d. Serious Threat to Algal Communities within the Sand Dune Ecosystem - It is to be noted that the proposed project area is rich in algae which form an essential part of the turtles' natural diet. Thereby allowing the industrial activity in this ecologically sensitive area poses a significant threat to this delicate balance. The construction and operation of such projects as well as the intake and out take pipelines beneath the sand dunes will significantly disrupt the marine environment, leading to the degradation or complete loss of algae beds. This, in turn, would severely impact the availability of food for the turtles and could result in habitat displacement, or increased mortality among hatchlings. The approval of industrial operations in this region, therefore, risks irreversible damage to a key marine ecosystem that is indispensable to the survival of endangered turtle species.

PARA-WISE RESPONSE TO THE REPLY AFFIDAVIT:

1. That the contents of Para No. 1 to 4 require no response as these are factual averments relating to the filing of the Reply Affidavit by Respondent No.4.
2. That the contents of Para No. 5 that the antecedents of Appellants are questionable are denied in its entirety. The contentions with regard to the livelihood of Appellant No. 3 who runs a shop in Mumbai does not take away his right as a resident of Bada Village, Kachchh District, Gujarat to question the highly polluting industry which is proposed to come up within the vicinity affecting not only the life of the villagers but also the turtles and coral reefs for which the area is best known. It is submitted that the Appellants have filed the present Appeal

with a clear and bona fide intent. The Appellants No. 1 to 5 are longstanding residents of Village Bada, located in District Kuchhch, Gujarat, where the impugned project has been granted Environmental Clearance. As residents of the region, they are directly and adversely affected by the proposed project. The adverse impacts of the project on the environment, specifically to the green sea turtles and coral reefs, makes them stakeholders with a legitimate interest in challenging the approval of the project. The Appellants are not only directly affected but are also public-spirited individuals with a deep concern for environmental conservation and the protection of community rights. Their involvement in this matter stems from a genuine commitment to safeguarding the ecological balance as the project is proposed to come up in the Gulf of Kuchhch area which is extremely fragile in biodiversity and is one of the nesting sites for Green Sea Turtle and Olive Ridley Turtles in India. The Appellants in this regard submits that this Hon'ble Tribunal in the matter titled **Save Mon Region Federation vs. Union of India and Ors. (Appeal No. 39 of 2012)** has held that:

"18. Law gives a right to 'any person' who is 'aggrieved' by an order to prefer an appeal. The term 'any person' has to be widely construed. It is to include all legal entities so as to enable them to prefer an appeal, even if such an entity does not have any direct or indirect interest in a given project. The expression 'aggrieved' again, has to be construed liberally. The framers of law intended to give the right to any person aggrieved, to prefer an appeal without any limitation as regards his locus or interest".

That it is clear from the above cited judgment that any person aggrieved may approach the Hon'ble Tribunal to initiate action on bona fide ground to agitate his grievance as to protect the natural environment. That in the present case, the Appellants are being aggrieved with the threat or damage caused to the environment and the endangered species i.e., Sea Turtles as a result of the activities undertaken by the Respondent No. 4 and hence can very well espouse the cause before this Hon'ble Tribunal.

Copy of the the judgment titled Save Mon Region Federation vs. Union of India and Ors. (Appeal No. 39 of 2012) is annexed herewith as **ANNEXURE A/3.**

3. The contents of paragraphs No. 6 and 7 of the Reply Affidavit are denied except which are matter of record. The allegation made by Respondent No. 4 that the Appellants have alleged misrepresentation and submission of incomplete information with the intent to present an incorrect factual position before this Hon'ble Tribunal is baseless and incorrect. The Appellants respectfully submit that the subject matter and cause of action in Writ Petition No. 85/2022, filed before the Hon'ble High Court of Gujarat, were prior to the grant of the impugned EC. It is further submitted that in the said Writ Petition No. 85/2022, the alleged grievances pertained specifically regarding the legality of the notice dated 26.09.2022, which scheduled the public hearing for 17.10.2022 without ensuring the mandatory 30 days gap between the issuance of the notice and the date of final hearing. The challenge was based on the contention that such scheduling was illegal, arbitrary, irrational, and violative of fundamental rights, and thus warranted being quashed and set aside. However, the present Appeal concerns the manner in which the public hearing was actually conducted. Thus, it is pertinent to point out that the said Writ Petition which was filed for very limited relief had attained finality and the subject matter specific to the Writ Petition also stands decided. The grounds raised in the present Appeal are not a repetition or continuation of those earlier proceedings of the mentioned Writ Petition. The Appellants have raised issues regarding procedural lapses and substantive irregularities in the conduct of the public hearing itself, which are entirely independent of the grounds raised in the earlier Writ Petition. The Appellants herein submit that the forum for public hearing is meant to facilitate consultation and participatory decision-making, and is expected to offer a platform for the communities to voice their objections. However, the manner in which the hearing was conducted has raised serious questions about its fairness. Despite the overwhelming opposition, the public hearing was forcefully carried out amidst heavy police presence. Security forces were reportedly equipped with tear gas shells, water cannons, and lathis, creating an atmosphere of intimidation and fear. Such measures not only suppressed peaceful dissent but also compromised the participatory spirit of the communities.

As a result, the hearing concluded under coercive circumstances, raising doubt on the fairness of the public hearing process and the extent to which the concerns of the affected communities were genuinely considered.

4. That the contents of Para No. 8 of the Reply Affidavit wherein the Respondent No. 4 submits that the Appellants have purposefully suppressed the 84th and 87th minutes of the EAC is denied in its entirety. The Appellants respectfully submit that the EAC, during its 80th meeting held on 07.06.2024, after detailed deliberations, recommended the project in question for the grant of Environmental Clearance. Upon reviewing the official records available on the Parivesh Portal, the Appellants observed that the timeline for the project explicitly reflects the 80th EAC meeting on 07.06.2024 as the last meeting wherein the project was considered. Notably, there is no reference or documentation available on the timeline of the project regarding any subsequent deliberations in the 84th and 87th EAC meetings in connection with the said project. Thus, it is absolutely incorrect to state that the Appellants have purposefully suppressed the minutes of 84th and 87th. In this context, the Appellants further submit that they have made numerous representations to the EAC, repeatedly requesting that a site inspection be conducted in the presence of members from the affected communities. This site inspection was carried out without any notice to, or consultation with the affected community members of the village, who had consistently and actively sought to be involved in such an important process. It is of critical importance to highlight that the findings of the site inspection, as well as the recommendations made by the sub-committee, are entirely silent on the presence of the nesting sites of Green Sea Turtles and other Schedule-I wildlife species within the proposed project area which has been categorically recorded by the Forest Department. Moreover, the sub-committee also fails to address or assess the potential direct and indirect impacts of the project's intake and outfall pipelines on coral ecosystems and marine fauna, including sea turtles. This omission demonstrates a clear lack of due diligence and reflects the non-application of mind by the sub-committee in evaluating the ecological implications of the project before recommending it for

approval. That the Appellants herein list out that the sub-committee has failed to look into the following two important aspects:

i. **Non-disclosure of the presence of Kali Talavi pond in Survey**

No. 459 – it is submitted that the project proponent has wilfully not disclosed the presence of Kali Talavi Pond in Sy. No. 459. That neither the sub-committee report makes any mention about the same. It is pertinent to note that Kali Talavi is falling within the proposed project side. That the Appellants have raised the issue persistently in the public hearing as well as through several representations. That based on the representations of the Appellants, the EAC directed the Project Proponent in its 74th EAC Minutes of the Meeting to respond to the contentions raised by the Appellants in its representation. That the Project proponent in its EDS Reply dated 28.03.2024 has deliberately conceal regarding the presence of Kali Talavi pond in Survey No. 459. That the project proponent has wilfully mislead by replying that:

"It is requested to note that in the 7/12 document of Survey no. 459, it is mentioned that the land use type is 'Po.Kh.A' which means that the particular land is not suitable for cultivation due to its poor quality. In the name of farm, it is written as Talavdi. The 7/12 document of Survey no. 459 is attached as Annexure-14 for your reference."

In this regards, the Appellants herein submit that land allotment letter dated 23.07.2024 issued by the Collector and District Magistrate, Kutch-Bhuj states that the survey no. 459 is Talavi pond and has incorrectly misrepresented as cultivation land. That the Sub-committee report is also silent with regard to the presence of Kali Talavi within the proposed project land.

Copy of the relevant extracts of the EDS Reply dated 28.03.2024 is annexed herewith as **ANNEXURE A/4.**

True translated copy of the land allotment order dated 23.07.2024 issued by the Collector and District Magistrate, Kutch-Bhuj is annexed herewith as **ANNEXURE A/5.**

ii. **Non-disclosure of the presence of pond in Survey No. 548 adjacent to the project area in violation of the siting criteria**

– that the project proponent has also did not disclose the presence of another pond situated in Survey No. 548. That the land allotment letter of dated 23.07.2024 issued by the Collector and District Magistrate, Kutch-Bhuj. Further, the land allotment map also clearly shows the presence of “Talab” in Survey No. 548 and 459 which has been concealed by the Respondent No. 4 and the same has been overlooked by the Sub-Committee inspection. That the letter clearly states that the project proponent has sought to acquire the pond however, the land allotment letter states that the same is rejected:

"Regarding Survey No. 548, the total area is 7.74.82 acres, out of which 2.67.38 acres were requested. However, the road and pond land were excluded, and 0.68.00 acres were allocated"

Copy of land allotment map is annexed herewith as **ANNEXURE A/6.**

iii. **Violation of the Siting Criteria Circular of Gujarat Pollution**

Control Board dated 05.06.2022 – it is pertinent to note that as per the siting criteria, red category industry shall maintain a minimum distance of 500 meters from any river/lake/natural stream. However, in the present case, there is an absolute violation of the siting criteria. The pond at survey no. 459 falls within the proposed project area whereas the pond in the survey no. 548 falls adjacent to the boundary wall of the project area. Furthermore, there are many streams which falls within the proposed project area. Thus, it is evident that the siting criteria is blatantly violated by the project proponent.

Copy of the Siting Criteria Circular of Gujarat Pollution Control Board dated 05.06.2022 is annexed herewith as **ANNEXURE A/7.**

Copy of the screenshot of the timeline of the project in Parivesh Portal taken by the Appellants on 19.05.2025 is annexed herewith as **ANNEXURE A/8.**

Copy of relevant extracts of the 84th EAC minutes of the meeting is annexed herewith as **ANNEXURE A/9.**

Copy of relevant extracts of the 87th EAC minutes of the meeting is annexed herewith as **ANNEXURE A/10.**

5. The contents of paragraph No. 9 of the Reply Affidavit are wholly denied as being baseless and without merit. The Appellants categorically deny any allegation of wilful or deliberate concealment of facts in the present proceedings before this Hon'ble Tribunal. All relevant and material documents have been duly placed on record in support of the averments made in the Appeal, ensuring full transparency and good faith in the conduct of the case.
6. The contents of Paragraphs No. 10 and 11 of the Reply Affidavit are categorically denied. The allegation made by Respondent No. 4 that the Appellants are acting as proxies of the Vipasana Meditation Centre is entirely baseless, unsubstantiated, and devoid of any merit. The Appellants unequivocally assert their independent standing and interest in the present proceedings, which arise solely from their status as longstanding residents of Village Bada and their direct and legitimate concern over the adverse environmental impacts of the impugned project. It is submitted that the RTI Application dated 28.06.2024, as referred to by Respondent No. 4, was not filed by any of the Appellants in the present case. There is no material on record to suggest or establish any connection between the Appellants and the said RTI Application. Additionally, the letter allegedly circulated on the website of the Vipasana Meditation Centre does not contain any reference to or mention of the any of the Appellants, either individually or collectively. The attempt to draw a connection between the Appellants and the Vipasana Meditation Centre is a deliberate mischaracterization intended to divert attention from the

substantive issues raised in the present Appeal. It is pertinent to emphasize that the Appellants have no role in, nor any association with, the protests or representations made by the Vipasana Meditation Centre. Similarly, the said Centre is not in any way connected either directly or indirectly with the filing or subject matter of the present Appeal. The Appellants' involvement in these proceedings is purely in their individual capacity as affected parties and environmentally concerned citizens, acting in good faith and in public interest.

7. The contents of Paragraph No. 12 of the Reply Affidavit, wherein Respondent No. 4 has raised issues pertaining to the purchase of land admeasuring 21.19 acres in Survey No. 426 of Village Bada, are wholly irrelevant and extraneous to the present proceedings. The said dispute regarding land ownership or transaction is entirely separate and distinct in nature, and does not fall within the scope of issues contemplated under Schedule I of the National Green Tribunal Act, 2010, which outlines the specific environmental matters that fall within the jurisdiction of this Hon'ble Tribunal. That the present Appeal has been filed by the Appellants strictly within the ambit of environmental concerns arising from the grant of Environmental Clearance to the impugned project. The allegations made by the Appellants are centred on procedural and substantive lapses in the environmental appraisal and clearance process. It is, therefore, submitted that any reference to private land transactions or civil disputes relating to Survey No. 426 has no bearing on the subject matter of the present Appeal. The inclusion of such unrelated contentions by Respondent No. 4 appears to be a diversionary tactic aimed at discrediting the Appellants and distracting from the core environmental issues raised before this Hon'ble Tribunal. Accordingly, such contentions deserve to be disregarded in their entirety as they fall outside the jurisdictional purview of this Tribunal and have no nexus to the grounds raised in the Appeal.
8. That the contentions raised in Para No. 13 of the Reply Affidavit has been appropriately addressed and replied in Para No. 6 of this Rejoinder and hence, the same shall not be repeated for the sake of brevity.

9. That the contents of Para No. 14 states that the intake and outtake pipelines falls within the CRZ IA which is a permissible activity as per CRZ Notification, 2011. The Appellants in this regard submits that it is crucial to consider that the entire project area squarely falls within CRZ IA, as the intake and outfall pipelines are an integral and inseparable component of the proposed industrial activity. These pipelines are not merely ancillary infrastructure but are central to the functioning of the project. Specifically, the intake pipeline is designed to draw seawater, which serves as a critical raw material for the industrial process, while the outfall pipeline is intended for the discharge of effluents generated by the industry. That without the functioning of these pipelines, the industry would be rendered entirely inoperative, even for a moment, underscoring their essential nature. Therefore, it would be incorrect and misleading to assess the project in isolation from the pipelines or to treat them as separate from the main industrial facility. Furthermore, the mere possibility of extending the pipeline and constructing the factory slightly away from the immediate CRZ IA zone does not mitigate or alter the actual environmental impact caused by the project. The ecological footprint, particularly with respect to marine ecosystems, Schedule-I species, such as sea turtles which are endangered in nature as well as coral reefs, remains substantial and direct due to the operation of these pipelines within the ecologically sensitive CRZ IA zone. Thus, any attempt to disassociate the pipelines from the overall environmental assessment of the project would result in a gross misrepresentation of its true ecological consequences. It is crucial to note here that the intake of large volumes of seawater carries the risk of sucking or entrapping in marine organisms, such as green sea turtles, coral polyps, and other aquatic life forms, through the pipelines. This process could lead to significant mortality rates among these species, causing irreversible damage to the biota and ecological health of the area.
10. That the contents of Para No. 15 and 16 of the Reply Affidavit has been appropriately addressed and replied in Para No. 2 of this Rejoinder and hence, the same shall not be repeated for the sake of brevity. Additionally, the Appellants herein submit that the judgments relied upon by the Respondent No. 4 in Para No.

16 of the Reply Affidavit is not applicable in the present case. The Appellants No. 1 to 5 are longstanding residents of Village Bada, located in District Kutchhch, Gujarat, where the impugned project has been granted Environmental Clearance. As residents of the region, they are directly and adversely affected by the proposed project. The adverse impacts of the project on the environment, specifically to the green sea turtles and coral reefs, makes them stakeholders with a legitimate interest in challenging the approval of the project.

11. The contents of Paragraph No. 17 are a matter of record, however, it is denied that any development by the State can be justified while disregarding the significant and irreversible environmental impact resulting from the establishment of the project. That the Hon'ble Supreme Court in plethora of judgments has consistently upheld the principle that environmental protection must take precedence over other considerations, including economic development and individual rights. That the Hon'ble Supreme Court has highlighted the importance of wildlife and biodiversity and need to protect the same. In the matter titled **Re: T.N. Godavarman Thirumulpad vs. UOI & Ors. WP (C) No. 202 of 1995** Hon'ble Supreme Court vide its recent order dated 03.06.2022 has categorically stated:

"18. A situation may arise where there may be irreparable damage to the environment after an activity is allowed to go ahead and if it is stopped, there may be irreparable damage to economic interest. This Court held that in case of a doubt, protection of environment would have precedence over the economic interest. It was further held that precautionary principle requires anticipatory action to be taken to prevent harm and that harm can be prevented even on a reasonable suspicion. Further, this Court emphasises in the said judgment that it is not always necessary that there should be direct evidence of harm to the environment."

The Appellants further submit that the judgment passed in the matter titled **Centre for Environmental Law, World Wide Fund India vs. Union of India, (2013) 8 SCC 234** wherein the Hon'ble Supreme Court has specifically stated that Courts must follow an "eco-centric approach" and shift from anthropogenic approach and hence apply the "species best interest standard" and take all steps to safeguard the interest of species and prevent species from going extinct. But

the approach taken by the EAC and MoEFCC in considering the project is not in consonance with the co-centric approach and certainly not in the interest of the Green Sea Turtles and Olive Ridleys. Furthermore, the Hon'ble Supreme Court in **State of Uttaranchal vs. Balwant Singh Chaufal & Ors., (2010) 3 SCC 402** vide order dated 18.01.2010 reiterated that the directions of the court should meet the requirements of public interest, environmental protection, elimination of pollution and sustainable development. While ensuring sustainable development, it must be kept in view that there is no danger to the environment or to the ecology:

*"2. ... 'The basic insight of ecology is that all living things exist in interrelated systems; nothing exists in isolation. **The world system is weblike; to pluck one strand is to cause all to vibrate; whatever happens to one part has ramifications for all the rest. Our actions are not individual but social; they reverberate throughout the whole ecosystem.**'*

The Court in that case gave emphasis that the directions of the court should meet the requirements of public interest, environmental protection, elimination of pollution and sustainable development. While ensuring sustainable development, it must be kept in view that there is no danger to the environment or to the ecology.

26. ... In the same vein, the fourth principle says:

*'Man has special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat which are now gravely imperilled by a combination of adverse factors. **Nature conservation including wildlife must, therefore, receive importance in planning for economic developments.**'*

12. That the Respondent No. 4 in Para no. 18 of the Reply Affidavit has submitted that the project proponent has written to the Respondent no. 1, MoEFCC seeking clarification for the appointment of CSIR-NEERI for preparation of EIA/EMP. The Appellants herein submit that CSIR-NEERI does not possess any valid NABET accreditation required for conducting EIA for soda ash plants. The Appellants assert that CSIR-NEERI conducted the EIA for the proposed project despite not being a NABET-accredited EIA consultant organization for soda ash projects/activities, constituting a clear violation of the EIA Consultants Accreditation Scheme. In this regards, it is pertinent to note that this Hon'ble Tribunal in the matter titled **Sreeranganathan K.P vs. Union of India & Ors.**

2014 SCC OnLine NGT 5631 has quashed the impugned EC vide judgment dated 28.05.2014. That grievances raised therein were that an airport was proposed to set up in on the banks of the holy river Pampa, Arunmula Village in an ecologically sensitive and environmentally diverse and rich area. The issues raised were that the EC was granted without considering the deleterious effects of the airport on the pristine environment of the area. Also, the EIA Report submitted was inadequate, incorrect, misleading, fraud as prepared by a non-accredited agency. Further issues pertain that the public hearing conducted for the purpose of the setting up the airport was conducted in a clandestine and undemocratic manner in violation of EIA Notification, 2006 and the impugned EC dated 18.11.2013 was granted without any application of mind of the EAC and MoEFCC. The observations and directions of this Hon'ble Court was further upheld by the Hon'ble Supreme Court whereby vide order dated 21.11.2014 it refused to let the proposed Aranmula International Airport take off in Kerala, dismissing a petition filed by the project proponent challenging the cancellation of its environmental clearance by this Tribunal:

*"81. The EIA study which is a part of the proceedings can be undertaken only by an accredited agency of the MoEF. It is for the project proponent themselves to arrange for the EIA study through an accredited agency and to submit the report to the Ministry. The public hearing and eliciting the response of the general public are integral parts of the proceedings before the report is submitted for clearance. It was after strictly adhering to all the statutory requirements that the report was prepared and decided upon by the statutory agencies.
[...]*

111. At the time of presentation, there was no QCI implemented accredited Scheme (NABET) and all the consultants enlisted and approved by the first respondent were eligible for conducting EIA. The Office Memorandum issued by Government of India, MoEF clearly provides accreditation of the EIA Consultants and after the review of the accreditation progress by the QCI/NABET, the competent authority has approved a list of 265 consultants, wherein said Enviro Care India Pvt. Ltd., is arrayed as Sl. No. 73 and they are permitted to appear before State Level Expert Appraisal Committee/State Environment Impact Assessment Authority (SEAC/SEIAA) for Category "B" Projects and the EAC for Category "A" Projects till 30th June 2011. These 265 Consultants will also be permitted to certify various documents, as consultants, such as EIA/EMP. The MoEF after evaluating the EIA Report submitted by Enviro Care India Pvt. Ltd. is completely aware that the said agency is competent to prepare an EIA report since the

said agency already submitted EIA reports for Chennai, Raipur and Vadodara Airports. Hence the statement to the effect that EIA has not been prepared by an accredited agency and the EIA submitted by the present Respondent is inadequate, misleading and is a fraud perpetrated by this Respondent, is totally false, misleading and is denied in toto.

151. (i) A person who has merely applied for certain sectors cannot be said to have blanket power to prepare EIA reports and appear in respect of all categories and sectors without reference to the category applied for and the consequent accreditation. Whether the consultant had prepared the EIA report for those sectors earlier had no relevance and it is open to the 5th respondent/consultant to challenge the issue as to whether the accreditation is legal or not in the present petition. It is not correct to state that at the time of presentation, there was no QCI implemented accreditation scheme. From 2009, the Ministry has imposed guidelines on preparation of EIA and presentation to EAC. The fact that the 5th respondent/consultant was found in the list of 255 applicants would not entitle him to certify the reports pertaining to the sectors unconnected to their application.

*vi. As per the scheme of accreditation of EIA consultants, an EIA consultant can apply to a maximum of 5 sectors for accreditation. It is candidly admitted by the 5th respondent/consultant that though he applied for the 5 sectors, his application did not include airport projects. The only explanation tendered by the 5th respondent/consultant is that in view of commercial reasons he did not apply for accreditation for airport sector though he has sufficient experience in the field. This explanation cannot be accepted even for a moment. Admittedly, the 5th respondent/consultant has not applied for accreditation for airport projects falling under Category A. **Mere pendency of an application for accreditation for Category B projects would not cloth him with a right to make a study, field survey and preparation of EIA reports in respect of the airport projects which according to notification is categorized as Category A. If this contention has to be accepted, the very purpose of importance and significance of placing airport projects under Category A itself would be defeated. It is contended by the 5th respondent/consultant that the guidelines manual is only recommendatory and not mandatory. But that is not the case in so far as EIA Notification, 2006 is concerned.** Much was contended by the 5th respondent/consultant that he has completed studies on two green field airports at Raipur and Vadodara and he was the consultant for the construction in phase II of Chennai airport and his experience in the field would speak volumes of his competence. This contention has to be rejected for two reasons. **Firstly, the competence of the 5th respondent/consultant has to be tested from the view point of EIA Notification, 2006 which governs the field. While airport project is categorized as A to which neither the 5th respondent/consultant has applied for nor was granted any projects under Category A and in particular the airport projects. On the contrary, he applied twice and obtained accreditation only for the projects under Category B. Hence,***

he is incompetent. Secondly, in so far as the alleged experience of the 5th respondent/consultant is concerned, there are no materials placed before the Tribunal to indicate the nature of works that was undertaken by the 5th respondent/consultant in respect of the three airport projects. Even assuming that the 5th respondent/consultant had experience, that would not qualify him as a competent consultancy agency in view of the mandatory provisions of the EIA Notification, 2006. Hence, it has got to be held that the 5th respondent/consultant was not competent to make a study and prepare an EIA report for the airport project. As rightly pointed out by the appellants, the EAC at the time of meeting never considered this vital aspect of the matter, but has recommended for the issuance of EC. This would certainly shake the very bottom of the recommendation made by the EAC since it was based on the EIA report given by the 5th respondent/consultant, an incompetent agency.

163. Thus, in the instant case, even without a final EIA report, the other materials were taken up for appraisal and hence, both the appraisal by EAC and consequent clearance by MoEF have to be termed as faulty.

164. The EIA report did not assess the impact of the proposed activity of the 3rd respondent/project proponent on land, water air, environment and ecology of the area and it did not provide the required details in these respect as mandated by law, thereby enabling the EAC to make a scrutiny and take an independent decision on the issues of environment. The inadequacy of the EIA report is demonstrated by the fact that it has not considered details about the flora and fauna. The EIA report did not provide any details about the flora in the region except stating that there are no endangered species in the area. A report of the Salim Ali Foundation clearly states that there are more than 212 species of plants. The report also states that there are more than 60 species of fishes and more than 80 species of birds. But, the EIA report did not reflect the same. The EIA has not made any attempt, whatsoever to characterize the ecology of the area including wildlife that inhabits forested lands which required to be cleared for providing a long runway at the proposed airport. The crucial aspects relating to filling up of paddy lands and its impact on the environment were not considered though objections were raised in that regard.

That in the present Appeal, it is respectfully submitted that CSIR-NEERI did not possess the requisite NABET accreditation to conduct an Environmental Impact Assessment study specifically for the Soda Ash plant sector. As per the Quality Council of India (QCI) – NABET list dated July 2020, CSIR-NEERI was clearly not accredited for undertaking EIA studies for projects falling under the Soda Ash sector. In contrast, the same list confirms that T.R. Associates held valid

accreditation for this specific sector. Despite in full awareness of NEERI's lack of sector-specific accreditation, the project proponent, for reasons best known to them, proceeded with the engagement of CSIR-NEERI for conducting the EIA. It is further submitted that the EIA Report prepared by CSIR-NEERI was presented before the public during the public hearing conducted on 17.10.2022. During this hearing, several objections were raised not only by the Appellants but also by other participant, highlighting concerns about the credentials of the EIA consultant and the adequacy of the report. Subsequently, during the 72nd meeting of the EAC held on 02.01.2024, a direction was issued mandating that a new NABET-accredited consultant—namely, T.R. Associates—would revalidate the EIA prepared by CSIR-NEERI by conducting one season's data collection. In this regard, the Appellants submit that the Addendum EIA Report prepared by the new consultant, T.R. Associates, was never made available to the public for review or comments through a fresh public hearing. This omission constitutes a direct and substantive violation of the mandatory public consultation process outlined under the EIA Notification, 2006, which requires that the EIA Report forming the basis for environmental clearance must be subjected to public scrutiny. Moreover, there exists no legal provision under any established law or regulation that permits a new NABET-accredited consultant to "revalidate" or certify the EIA study and baseline data originally prepared and collected by a non-accredited consultant. In the absence of such statutory backing, such revalidation is irregular and undermines the integrity of the EIA process. The Appellants contend that since NEERI lacked the requisite accreditation at the time of preparing the EIA report, it renders the entire EIA process invalid, non-compliant, and devoid of legal sanctity. This legal position has been recognized and upheld by this Hon'ble Tribunal in the precedent-setting Aranmula Airport Case, wherein the Tribunal categorically observed and directed that an EIA prepared by a non-accredited consultant cannot form the basis for granting environmental clearance and is, therefore, liable to be set aside.

13. Further, the Appellants herein submit that as per the EIA Notification, 2006, the Stage II i.e., Scoping refers to the process to determine detailed and comprehensive ToR addressing all relevant environmental concerns for the preparation of the EIA Report. That once the standard ToR is granted to the project, the Project Proponent shall carry out the EIA Study based on the standard ToR granted:

"II. Stage (2) – Scoping:

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 (EIA) Report in respect of project or activity for which environmental clearance is sought. Standard ToR developed by the Ministry in consultation with the sector specific Expert Appraisal Committees shall be the deemed approval ToR for the projects or activities. The standard Tor are displayed on the website of the MoEFCC: Provided that the Expert Appraisal Committee or State Expert Appraisal Committee may finalize amendment, if found necessary for a project within thirty days of the acceptance of application Form I or Form IA. **These standard TOR shall enable project proponent to commence preparation of and Environment Impact Assessment Report after successful online submission and registration of the application:** Provided further that, the Expert Appraisal Committee or State Expert Appraisal Committee may stipulate additional ToR, if found necessary, within thirty days of the acceptance of application in the specified Form I or Form IA and the project proponent shall carry out the EIA study based on the standard ToR as well as additional ToR, if any, stipulated by EAC/SEAC".

The Appellants herein present a date-wise sequence of events that clearly demonstrates the Project Proponent issued the work order to CSIR-NEERI well before the ToR were granted. However, as per the EIA Notification, 2006, an EIA study can only be undertaken after the grant of ToR. Despite this, Respondent No. 4, instead of appointing a NABET-accredited consultant post-ToR as would be expected of a prudent entity, chose to proceed with CSIR-NEERI for reasons best known to them.

- i. **05.06.2018** – Respondent No. 4 accepted that it awarded work order to NEERI for preparation of EIA Study much before the proposal for EC was submitted and ToR was granted. (Para 19 of the Reply Affidavit by R4).
- ii. **December, 2019** – NABET QCI for the first time provided accreditation for soda ash to T.R. Associates vide letter dated 27.01.2023. (Para 61 of the Reply Affidavit by R4).
- iii. **11.07.2020** – official list of NABET-accredited Consultant Organizations reveals that CSIR-NEERI did not possess accreditation from the National Accreditation Board for Education and Training (NABET) for conducting EIA studies in the specific sector of Soda Ash Plants. That the same list pertains the details of T.R. Associates which is duly accredited by NABET for soda ash sector.
- iv. **July, 2021** - Project Proponent submitted its application for the grant of ToR in July 2021. (Para 23 of the Reply Affidavit by R4).
- v. **06.08.2021** - That despite being fully aware of this accreditation status, the Project Proponent wilfully proceeded to engage CSIR-NEERI for the preparation of the EIA Report, without disclosing the ineligibility of CSIR-NEERI in their EDS (Essential Details Sought) Reply dated 06.08.2021.
- vi. **10.08.2021** - The MoEFCC granted the standard ToR on 10.08.2021 under Item 4(e) of the EIA Notification, 2006, which pertains specifically to Soda Ash Plants.
- vii. **17.10.2022** – this issue was categorically raised by the Appellants as well as other participants and a formal complaint was lodged with the Quality Council of India.
- viii. **23.12.2022** – Subsequent to the complaint, the NABET issued a disqualification order against CSIR-NEERI on 23.12.2022. The order barred CSIR-NEERI from conducting any EIA studies for Soda Ash Plants and also prohibited it from applying for accreditation in the said sector for a period of six months.

- ix. **02.01.2024** - During the 72nd meeting of the Expert Appraisal Committee (EAC) held on 02.01.2024, the committee took cognizance of the fact that the EIA/EMP report had been prepared by CSIR-NEERI, an entity which, at that point, was not accredited by QCI/NABET for the soda ash sector. and thereby directed TR Associates to revalidate the EIA Report prepared by NEERI by collecting with one season fresh non-monsoon data.

That the Appellants herein submit that the EIA Notification, 2006 clearly states that it is only after the grant of ToR that the preparation of the EIA Report commenced. That this Hon'ble Tribunal in the matter titled **Sreeranganathan K.P vs. Union of India & Ors. 2014 (Supra)** has held:

"162. (5) As could be seen from the EIA Notification, 2006, there is a mandate for the preparation of a draft EIA report initially and after finalization of ToR and summing up of such draft EIA report has to be necessarily placed during Public Consultation as required under paragraph 7".

It is of critical importance to highlight that, as of 11.07.2020, the official list of NABET-accredited Consultant Organizations reveals that CSIR-NEERI did not possess accreditation from the National Accreditation Board for Education and Training (NABET) for conducting EIA studies in the specific sector of Soda Ash Plants. That the same list pertains the details of T.R. Associates which is duly accredited by NABET for soda ash sector. That the project proponent has appointed NEERI on 05.06.2018 much prior to the grant of ToR for reasons best known to them. That at the time of grant of ToR on 10.08.2021, the NABET list clearly shows that T.R. Associates is accredited to conduct EIA for soda ash sector. Despite being fully aware, the project proponent did not appoint them. This deliberate attempt is a matter of grave concern and raises questions about the transparency and due diligence exercised by the Project Proponent. A prudent and responsible industry, upon reviewing the list dated 11.07.2020, should have immediately engaged a consultant possessing the requisite accreditation—namely, T.R. Associates. Instead, for reasons best known to the Project Proponent, CSIR-

NEERI continued to be involved in the EIA process despite lacking the mandated accreditation for Soda Ash Plants.

Copy of the List of Accredited EIA Consultant Organizations (ACOs) as on July 2020 is annexed herewith as **ANNEXURE A/11**.

14. That the contents of the Para No. 19 are denied. The Appellants herein submit that the oceanographic baseline data for the proposed project has been conducted by CSIR-National Institute of Oceanography (NIO). It is essential to note that the National Accreditation Board for Education and Training (NABET), vide letter dated 21.05.2012 has explicitly rejected the accreditation of NIO. It is pertinent to note that the QCI-NABET's rejection letter dated 21.05.2012 mandated NIO to take up marine components of EIAs only with accredited EIA consultants. However, in the present case, NIO has partnered with CSIR-NEERI, whose accreditation has been disqualified for six months by NABET due to violations in conducting EIA studies. Thus, the oceanographic baseline data collected by CSIR-NIO lacks credibility, as NABET's letter dated 21.05.2012 mandated NIO to work only with accredited EIA consultants, yet NIO partnered with CSIR-NEERI, which lacks NABET accreditation for conducting EIA for a soda ash plant. This association between two entities, one unaccredited and the other disqualified, raises serious concerns about the credibility and legality of the oceanographic studies conducted for this project. By conducting the study in collaboration with a disqualified consultant, NIO has acted in direct contravention of the stipulations outlined in the NABET letter and the EIA Notification, 2006. Such a blatant violation undermines the validity and reliability of the oceanographic baseline data collected by NIO. Consequently, this data cannot and should not be relied upon for assessing the project, as it is tainted with procedural lapses and breaches of regulatory mandates. Furthermore, it is pertinent to note that the project proponent has awarded the work order to NEERI on 05.06.2018 as submitted by the project proponent in Para No. 19 of the Reply Affidavit. That the project proponent has appointed NEERI on 05.06.2018 much prior to the grant of ToR for reasons best known to them. That at the time of grant of ToR on 10.08.2021, the NABET list clearly shows that T.R. Associates is

accredited to conduct EIA for soda ash sector. Despite being fully aware, the project proponent did not appoint them. This deliberate attempt is a matter of grave concern and raises questions about the transparency and due diligence exercised by the Project Proponent.

15. That the contents of the Para No. 20 are denied in its entirety. The findings of the ZSI Report of April 2019 stating the sporadic nesting habitats of turtles is in complete contrast to the RTI Reply dated 23.03.2022 received from the Forest Range Officer Mandvi, Kutch West Forest Division which clearly shows year wise data from 2011 to 2021 with regard to the number of eggs found, as well as the details of number the of dead turtles found between 2019 to 2022 which clearly makes it evident about the presence of turtles along the coast of Mandvi and Bada i.e., the proposed project site. The data thus serves as evidence confirming the presence of Green Sea Turtles and Olive Ridleys, along with their nesting sites along the coasts of Mandvi and Bada. Additionally, the RTI response includes a list of wild animals rescued from in and around Bada, such as Nilgai, Sarus Crane, Crocodiles, Striped Hyena, Peacocks, and others. The Appellants herein reproduces the tables as provided in the RTI Response:

Details of turtle eggs hatched on the beach of Mandvi Taluka

SN	Year	No. of Eggs found	Details of the birth and release of the hatchlings into the sea.
1	2020-2021	574	487
2	2019-2020	285	247
3	2018-2019	787	504
4	2017-2018	108	81
5	2016-2017	329	290
6	2015-2016	558	472
7	2014-2015	1266	1112
8	2013-2014	1452	1163
9	2012-2013	1789	1392
10	2011-2012	1400	1157

Details of Turtles found dead on the beach

<u>SN</u>	<u>Date</u>	<u>Place</u>	<u>Number</u>	<u>Name</u>
1	09.04.2019	On the beach of Modhwa	1	Green sea turtle
2	01.05.2019	Mandvi Windfarm Beach	1	Green sea turtle
3	16.06.2019	Mandvi Windfarm Beach	1	Green sea turtle
4	25.07.2021	On the shore of Dharbadi	1	Green sea turtle
5	25.08.2021	Mandvi Windfarm Beach	1	Green sea turtle
6	03.10.2021	On the beach of Kathada	1	Green sea turtle
7	08.03.2022	Mandvi Windfarm Beach	1	Green sea turtle

16.Further, the Appellants herein submit that in November 2022, the Forest Department, Kachhch identified a nesting site of the Green Sea Turtle along the Bada coastline and took appropriate steps to safeguard it. Subsequently, on 17.12.2022, the Department successfully facilitated the release of at least 85 hatchlings into the sea, thereby officially confirming the occurrence of nesting activity in the area. This significant conservation event underscores the ecological importance of the coastal stretch as an active breeding ground for a Schedule I protected species under the Wildlife Protection Act, 1972. Furthermore, following the discovery of the turtle nest in Bada, several additional nests were subsequently identified along the same coastal stretch, all within a 10-kilometre radius of the proposed project site. These findings further reaffirm the area's critical role as a nesting and breeding habitat for the endangered Green Sea Turtle and highlight the urgent need for its protection from industrial disruption. However, in stark contradiction, the ZSI Report of 2019 fails to acknowledge the presence of any endangered species, i.e., Green Sea Turtle and Olive Ridley Turtle, in the proposed project area.

Copy of the images showing the Forest Department identifying, safeguarding and releasing of hatchlings in the proposed project area are annexed as **ANNEXURE A/12.**

Furthermore, an RTI Application dated 10.01.2025 was filed before the Range Forest Officer, Mandvi-Kachchh, seeking information regarding the presence of turtle eggs along the seashore of the Mandvi Range. In response, the Public Information Officer (PIO) issued a reply dated 06.02.2025 (erroneously typed as 06.02.2024), which clearly affirms the presence of turtles on the Mandvi seashore. This official response substantiates the ecological significance of the proposed project area and directly contradicts the Respondent's claim regarding the absence of turtle nesting activity.

SN	Information Sought	Response Received
1.	Provide details of turtle eggs hatched on the seashore in Mandvi Range area from the year 2011/2012 to 2023/2024:	8682
2.	Provide details of turtles found dead on the seashore in Mandvi Range area from the year 2011/2012 to 2023/2024:	33
3.	Provide the species of turtles:	Green Sea Turtle

Thus, the RTI reply demonstrates that a total of 8,682 turtle eggs were recorded between 2011 and 2024, and 33 dead turtles were found along the seashore of Mandvi. These figures, officially provided by the Forest Department, establish the presence of turtles in the proposed project area. Accordingly, the findings of the ZSI Report, the EIA Report prepared by CSIR-NEERI, the GUIDE Report, and the NIO Report, each of which deny the presence of turtles, stand contradicted and are rendered inaccurate in light of the data provided by Forest Department.

True translated copy of the RTI Application filed on 10.01.2025 and RTI Response Received on 06.02.2025 are annexed herewith as **ANNEXURE A/13.**

17. Furthermore, the Annexures on sea turtle surveys conducted by the Zoological Society of India clearly state that they did not monitor any sea turtle nesting during the majority of the known peak nesting season. As they state on page 2 of their report (annexed as ANNEXURE A/30 of the Appeal), peak nesting starts in July; however, they did not begin their surveys until the last week of September. Peak

nesting ends in November, and they carried out their surveys until the end of March. Thus, 4 out of the 6 months during which nest monitoring took place were known to be definitively in the off-season with respect to sea turtle nesting habits in the area. Furthermore, 3 months of peak nesting season (July, August, and September) were excluded from the monitoring effort. Thus, it cannot be considered surprising that in the EIA reports, no sea turtle or nest sighting is recorded, and the lack of turtle presence during their sampling period cannot be used as evidence that the project site is not important habitat for sea turtles given that they did not look when sea turtles would be most likely to be using the site.

18. That the contents of Para Nos. 21 to 24 of the Reply Affidavit has been appropriately addressed and replied in Para No. 12 and 13 of this Rejoinder and hence, the same shall not be repeated for the sake of brevity.

19. That the contents of Para No. 25 of the Reply Affidavit has been addressed in Para Nos. 15 to 17 of this Rejoinder and hence, the same shall not be repeated for the sake of brevity. Further, the Respondent No. 4 submitted that out of the 23 km study area, only 2 km falls in project area. The Appellants in this regard submit that a 10 km radius is prescribed in EIA notifications as the standard area within which the potential environmental impacts of a project are to be assessed and the RTI Reply of the Forest Department evidently states that eggs of turtles and dead turtles are witnessed in the proposed project area as well as within 10 km radius of the project site between 2012 to 2021.

20. That the contents of the Para Nos. 26 to 33 wherein the Respondent No. 4 states that the public hearing has been conducted in accordance with law and that the protests were fuelled by the Appellants there spreading false information about the project proponent is absolutely baseless, without any merit and hence is denied in its entirety. The public hearing witnessed strong opposition, however, the public hearing was forcefully held and concluded in the presence of large number of police with tear gas shells, water cannons, lathis. The intent of the regulation is to ensure that the voices and concerns of these communities are meaningfully integrated into any developmental decision-making processes affecting the region.

In the present case, the proposed project has faced substantial opposition from the local communities residing along the coastline, who have expressed serious concerns regarding its potential ecological and marine impacts. The public hearing forum, is meant to facilitate consultation and participatory decision-making, is expected to offer a platform for the communities to voice their objections. However, the manner in which the hearing was conducted has raised serious questions about its fairness. Despite the overwhelming opposition, the public hearing was forcefully carried out amidst heavy police presence. Security forces were reportedly equipped with tear gas shells, water cannons, and lathis, creating an atmosphere of intimidation and fear. Such measures not only suppressed peaceful dissent but also compromised the participatory spirit. As a result, the hearing concluded under coercive circumstances, raising doubt on the fairness of the public hearing process and the extent to which the concerns of the affected communities were genuinely considered. The public hearing was concluded without completing the due procedure laid down in Appendix IV of the EIA Notification, 2006 in Para No. 6.0 which requires reading of the minutes of the public hearing, allowing all the members present during the public hearing ask their queries and answer the questions of the affected communities. Further, the available video recordings of the public hearing stand as compelling evidence of this procedural lapse. These recordings substantiate the claim that the public hearing ended without due process and that the concerns of the affected stakeholders were not read out or validated in their presence. The Appellants respectfully submit that the transcripts of the video recordings be directed to the Gujarat Pollution Control Board for submission to the record. Alternatively, the Appellants humbly reserve the right to place this evidence before this Hon'ble Tribunal to demonstrate the non-compliance with the statutory requirements under the EIA Notification, 2006.

21. That the contents of Para No. 34 to 37 of the Reply Affidavit has been addressed in Para No. 12 of this Rejoinder and hence, the same shall not be repeated for the sake of brevity. In addition to this, the Appellants herein submit that the first Public

Hearing for the project was scheduled to take place on 06.04.2022 but the hearing was cancelled. Thereafter, a second public hearing was scheduled to take place on 17.10.2022. The public hearing witnessed strong opposition, however, the public hearing was forcefully held and concluded in the presence of large number of police with tear gas shells, water cannons, lathis. The intent of the regulation is to ensure that the voices and concerns of these communities are meaningfully integrated into any developmental decision-making processes affecting the region. In the present case, the proposed project has faced substantial opposition from the local communities residing along the coastline, who have expressed serious concerns regarding its potential ecological and marine impacts. The public hearing forum, is meant to facilitate consultation and participatory decision-making, is expected to offer a platform for the communities to voice their objections. However, the manner in which the hearing was conducted has raised serious questions about its fairness. Despite the overwhelming opposition, the public hearing was forcefully carried out amidst heavy police presence. Security forces were reportedly equipped with tear gas shells, water cannons, and lathis, creating an atmosphere of intimidation and fear. Such measures not only suppressed peaceful dissent but also compromised the participatory spirit. As a result, the hearing concluded under coercive circumstances, raising doubt on the fairness of the public hearing process and the extent to which the concerns of the affected communities were genuinely considered.

22. The Appellants respectfully submit that the contents of Para No. 38 is a matter of record and requires no response. However, it is submitted that the Forest Clearance granted is without any merit and application of mind.

23. The contents of Paragraph No. 39 are denied except which are the matter of record. The Appellants submit that one of the major concerns consistently raised by the local community relates to the potential threat to sea turtles, other Schedule-I species, and the adverse impact on coral reefs. Despite repeated representations, these critical environmental issues were not adequately considered by the Expert Appraisal Committee (EAC) while recommending the

impugned project for appraisal. Notably, the documents including Form-I, the EIA Report, the oceanographic study by the National Institute of Oceanography (NIO), and the report by the Zoological Survey of India (ZSI) — have all incorrectly concluded that the proposed project site is not a turtle nesting area. These conclusions starkly contradict the findings of the Forest Department, which has consistently documented the presence of sea turtles at the site over several years. That the RTI Reply dated 23.03.2022 received from the Forest Range Officer Mandvi, Kutch West Forest Division which clearly shows year wise data from 2011 to 2021 with regard to the number of eggs found, as well as the details of number the of dead turtles found between 2019 to 2022 which clearly makes it evident about the presence of turtles along the coast of Mandvi and Bada i.e., the proposed project site. It is submitted that there has been deliberate concealment of material information in Form A Part II which forms the very basis of the approval. In this regard, the Appellants submit that the Hon'ble Supreme Court in the matter titled **Hanuman Laxman Aroskar vs. Union of India & Ors.** reported in **(2019) 15 SCC 401** has emphasized on the importance of the Form 1 and that failure to disclose information in Form I defeats the purpose of the EIA Notification, 2006. The relevant part of the judgment is reproduced hereunder:

60. Under the 2006 Notification, the process of obtaining an EC commences from the production of the information stipulated in Form 1/Form 1-A. Crucial information regarding the particulars of the proposed project is sought to enable EAC or SEAC to prepare comprehensive ToR which the applicant is required to address during the course of the preparation of the EIA. Some of the information sought is produced thus:

61.1. EAC or SEAC, as the case may be, formulates comprehensive ToRs on the basis of the information furnished in Form 1 which addresses all possible environmental concerns. It is on the basis of ToR, that further studies and the EIA are carried out on the impact of the proposed project on the environment.

61. Under the 2006 Notification, EC process is based on the information provided by the applicant in Form 1. That the information provided in Form 1 is crucial can be borne from the following circumstances:

...

61.2. At the appraisal stage, the regulatory authority examines the documents submitted by the applicant "strictly with reference to ToR" and communicates any inadequacy to EAC or SEAC.

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 Para 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."

....

82. The failure on part of a project proponent to disclose material information in Form 1 as stipulated under the 2006 Notification has a cascading effect on the salient objective which underlies the 2006 Notification. The 2006 Notification represents an independent code with the avowed objective of balancing the development agenda with the protection of the environment. An applicant cannot claim an EC, under the 2006 Notification, based on substantial or proportionate compliance with the terms stipulated in the notification. The terms of the notification lay down strict standards that must be complied with by an applicant seeking an EC for a proposed project. The burden of establishing environmental compliance rests on a project proponent who intends to bring about a change in the existing state of the environment. Whereas, in the present case, there has thus been a patent failure on the part of the project proponent to make mandatory disclosures stipulated in Form 1 under the 2006 Notification that must have consequences in law. There can be no gambles with the environment: a "heads I win, tails you lose" approach is simply unacceptable; unacceptable if we are to preserve environmental governance under the rule of law.

24. That the contents of the Para No. 40 is denied by the Appellants which states that the proposed project site is considered most favourable due to least ecological,

biodiversity, environmental and wildlife impact compared to the rest of the sites. It is absolutely crucial to note that as a result of the proposed project, the already endangered Sea Turtles, the Coral Reefs as well as other Wildlife present in the area will be exposed to several direct and indirect threat and these threats have been grossly overlooked by the project proponent as well as the Expert Appraisal Committee while appraising the project and by the MoEFCC while granting the clearance:

a) Direct Impact on the Turtles, Coral Reefs and Sand Dunes:

- i. Entrapment of Sea Turtles and Coral Reefs - the intake of large volumes of seawater carries the risk of sucking or entrapping in marine organisms, such as green sea turtles, coral polyps, and other aquatic life forms, through the pipelines. This process could lead to significant mortality rates among these species, causing irreversible damage to the biota and ecological health of the area. It is imperative to acknowledge the long-term detrimental impacts these activities could have on the Gulf of Kachchh, a region already recognized for its ecological sensitivity which has been completely overlooked by all the authorities as well as the project proponent.
- ii. Sand Dune erosion and changes in dune morphology - It is pertinent to note that the intake and out take pipelines which will be laid through underground tunnel will massively disturb the sand dunes and the forest thereby posing both direct and indirect impacts. That the underground pipelines significantly impact sand dunes, primarily through increased erosion and habitat disruption. Pipeline construction and maintenance activities significantly destabilize the sand, leading to dune erosion and changes in dune morphology. Further, it is crucial to note that the movements of heavy equipment will significantly disturb the riverbed and will change the dune morphology thereby leading to major dune erosions.
- iii. Rising the temperature of the Sea water - The significant consequences of seawater intake and hot water discharge on the spawning of coral reefs and aquatic life has been completely overlooked. This region is home to diverse

and fragile marine ecosystems, including coral reefs and aquatic species that are highly susceptible to environmental disturbances. The proposed activities pose severe risks to the spawning processes of coral reefs, which are essential for maintaining marine biodiversity. The thermal discharge of hot water into the ecosystem could alter water temperatures, disrupting the delicate balance required for coral reproduction and the survival of other marine species. The effluent discharged into the sea would be 5°C warmer than the surrounding seawater, posing a serious threat to marine ecosystems. This temperature increase could cause irreversible damage, affecting thousands of marine species. Sea turtles, which migrate to the Gulf of Kachchh for nesting, would be particularly vulnerable. A rise in seawater temperature combined with the release of toxic effluents could lead to the complete destruction of their habitat.

b) Indirect impact on the Turtles, Coral Reefs and Sand Dunes:

- iv. Serious Threat to Algal Communities within the Sand Dune Ecosystem - It is to be noted that the proposed project area is rich in algae which form an essential part of the turtles' natural diet. Thereby allowing the industrial activity in this ecologically sensitive area poses a significant threat to this delicate balance. The construction and operation of such projects as well as the intake and out take pipelines beneath the sand dunes will significantly disrupt the marine environment, leading to the degradation or complete loss of algae beds. This, in turn, would severely impact the availability of food for the turtles and could result in habitat displacement, or increased mortality among hatchlings. The approval of industrial operations in this region, therefore, risks irreversible damage to a key marine ecosystem that is indispensable to the survival of endangered turtle species.

25. That the contents of Para No. 41 requires no response as these are factual averments relating to the EDS sought by the EAC and response given by the Respondent No.4.

26. That the Respondent No. 4 in Para No. 42 submitted that another report was prepared by Gujarat Institute of Dessert Ecology on the conservation and management plan of the significant species. That in this regards, the appellants herein submit that the same report clearly states: (Copy of the Report is annexed as Annexure R/26 Pg. No. 1675 of the Counter Affidavit filed by R4)

"1. Reconnaissance Survey:

A reconnaissance survey was conducted during March and April, 2022 in core and buffer areas of the proposed Greenfield Chemical Complex project site to take a note of existing flora, fauna and eco-sensitivity zone status.

3. Intensive Survey:

Intensive Field Surveys were carried out from March to April, 2022 for the data collection and existing flora and fauna within the core and buffer zone of the study area".

The Appellants in this regard submit that a study conducted by Satish Bhaskar, who is a pioneer of sea turtle biology and conservation of India in his paper titled **"The Distribution and Status of Sea Turtles in India"** whereby he has conducted a study regarding the presence of Green Sea Turtles and Olive Ridley in the Gulf of Kutch in Gujarat and has given the finding that the nesting season is from July to early November: (Copy of the study is annexed as ANNEXURE A/25 Pg. Pg 357 of the Appeal)

"The best nesting locations on the west coast of India exist in Gujarat, where the olive ridley nests everywhere on the available sandy beaches but the most favored beach is a 2.5 km beach on uninhabited Bhaidar Island in the Gulf of Kutch, where on a peak night 70 ridleys nested. The green turtle (Chelonia mydas) is found to nest commonly in Kutch District and on the western and southern shores of the Saurashtra Peninsula.

All the figures relating to nesting densities and numbers given above are lower than the true figures for an entire nesting season because:-

(a) The survey covered the period August-October whereas, the nesting season for the olive ridley starts in June and ends about early November, and that for the green turtle spans at least July to January.

(b) Many olive ridley nests would have gone unnoticed for reasons stated earlier".

It is important to emphasize that the survey was conducted primarily during the off-season—specifically in the months of March and April—thereby excluding the critical nesting and migratory periods, which span from June to November for Olive Ridley turtles and from June to January for Green Sea Turtles. This significant omission undermines the credibility of the report’s conclusions regarding the presence of sea turtles at the site, rendering them unreliable for informed decision-making.

27. That the contents of Para No. 43 to 51 of the Reply Affidavit has been appropriately addressed and replied in Para No. 12 and 13 of this Rejoinder and hence, the same shall not be repeated for the sake of brevity. Additionally the Appellants herein submit that it is crucial to emphasize that T.R. Associates has not conducted a fresh Environmental Impact Assessment (EIA) study. The T.R. Associates in the ADS Reply dated 30.01.2024 has given the undertaking thereby categorically stating that they have only prepared an addendum report by adding their observations and findings. It is to be noted that the T.R. Associates have merely reviewed the EIA report previously prepared by NEERI and subsequently drafted an addendum to the existing EIA report. This approach fundamentally undermines the integrity of the EIA process. That the EIA Notification, along with the Office Memorandum (OM) of 2009, does not provide any provision for preparing an addendum based solely on the review of an earlier EIA report, particularly one prepared by a non-accredited consultant, NEERI. By bypassing the mandate for a comprehensive and independent EIA study, and directing T.R. Associates to conduct a trend analysis of the previous baseline data, EAC has failed to adhere to the procedural and regulatory framework, thereby compromising the credibility and legitimacy of the entire EIA process.

28. That the contents of the Para No. 52 requires no response as the same is not a subject matter of the present Appeal filed by the Appellants.

29. That the contents of Para No. 53 to 56 of the Reply affidavit are denied except which are matter of record. The Appellants herein submit that the impugned

project is proposed to come up in the Gulf of Kachchh in CRZ IA area which is also a Critically Vulnerable Coastal Area (CVCA). That the area is not only highly ecologically sensitive but also an extremely rich in biodiversity and hence a very fragile landscape. That the proposed area is known to be one of the few nesting sites for Green Sea Turtles and Olive Ridley Turtles. Additionally Furthermore, it a habitat of several Schedule I species of the Wildlife (Protection) Act, 1972 which includes Indian Monitor Lizard, Black Shoulder Kite, Eurasian Spoonbill, Indian Peafowl, Marsh Harrier, Oriental Honey Buzzard, Gugal. The Appellants herein submit in this regard that the Schedule I species under the Wildlife (Protection) Act, 1972 are accorded the highest level of protection. Despite this, a project of such nature has been permitted within such highly ecologically sensitive area. It is crucial to note that the entire Gulf of Kachchh is declared as CVCA area and that no construction is permitted in a CVCA area. In this regard, the Appellants respectfully submit that the Hon'ble Supreme Court, in the matter titled **Kapico Kerala Resorts (P) Ltd. v. State of Kerala**, reported in **(2020) 3 SCC 18**, vide its judgment dated 10.01.2020, has made an observation that under Para 8(V)(4) of the CRZ Notification, 2011, certain ecologically sensitive coastal areas including the Gulf of Kachchh were to be declared as CVCAs. That the 2011 Notification states that Gulf of Kachchh shall be declared as CVCA upon the formulation and notification of appropriate guidelines by the MoEF&CC in consultation with relevant stakeholders. It further required that Integrated Management Plans be prepared for such areas. In contrast, Para 3.1 of the CRZ Notification, 2019, categorically states that the Gulf of Kachchh shall be treated as a CVCA, thereby conferring such status on the region *ipso facto*, that is, irrespective of whether any guidelines, CZMP Maps, or Integrated Management Plans have been prepared or notified. Thus, the effect of the 2019 Notification is that the Gulf of Kachchh enjoys *de jure* status as a CVCA by statutory declaration alone. Consequently, any developmental or construction activity proposed within this ecologically sensitive zone is prohibited:

39. Therefore, it is not as though the reduction of the distance parameter to 20 m from HTL is intended to confer a benefit upon persons like the appellants. Moreover, even the CRZ 2019 Notification places Vembanad Lake in the category of CVCA in Para 3.1 but with a different reach. **There is a world of difference between the 2011 and 2019 Notifications, insofar as CVCAs are concerned. This can be summarised as follows:**

39.1. In Para 8(V)(4) of the CRZ 2011 Notification, areas to be declared as CVCAs were identified but Para 8(V)(4)(b) mandated that those identified areas can be declared as CVCAs through a process of consultation. Para 8(V)(4)(c) required guidelines to be developed and notified by MoEF in consultation with the stakeholders, for identifying, planning, notifying and implementing CVCAs. Integrated management plans were also required to be prepared for CVCAs under Para 8(V)(4)(d) of the 2011 Notification.

39.2. But under Para 3.0 of the CRZ 2019 Notification, certain coastal areas are accorded special consideration for the purpose of protecting the critical coastal environment and the difficulties faced by local communities. Para 3.1 identifies the critically vulnerable coastal areas. They include Vembanad Lake. While the words contained in Para 8(V)(4)(b) of the 2011 Notification are: "... shall be declared as CVCA through a process of consultation with the fisher and other communities inhabiting the area ...", the words contained in Para 3.1 of the 2019 Notification are "... shall be treated as CVCA and managed with the involvement of coastal communities including fisher folk".

40. Therefore, for the appellants, the situation has gone from bad to worse. **Under the 2011 Notification the areas identified in the Notification had to be declared as CVCAs only through a process of consultation with local fisher, etc. Guidelines are to be put in place for identifying, notifying and implementing CVCA but the 2019 Notification straightaway treats the named areas as CVCAs and vests their management with the authority with the involvement of coastal communities.** Therefore, the alternatives claimed by the appellants also do not appear to be viable for them.

41. Hence, in the light of our finding: (i) that the substantial issues that arose in common for both the islands have already been answered in *Vaamika Island [Vaamika Island (Green Lagoon Resort) v. Union of India, (2013) 8 SCC 760]*, and (ii) that the distinguishing features sought to be projected, are not so material as to take a different view than the one taken therein, the appeals are liable to be dismissed. Accordingly, all the appeals are dismissed. There shall be no order as to costs."

Thus, it is submitted that the impugned project, which is proposed to be established within the Gulf of Kachchh region, therefore falls squarely within a

designated CVCA area. As such, it is legally impermissible under the CRZ Notification, 2019, for any construction or industrial activity to be undertaken in this area, especially when the objective of CVCA designation is to ensure heightened protection of fragile ecosystems and to prevent any form of ecological degradation. Therefore, the mere absence of finalized CZMP Maps or Management Plans cannot be cited as a justification to dilute the statutory protection afforded to this region. The legal position, as clarified by the Hon'ble Supreme Court and mandates that the entire Gulf of Kachchh be treated as a CVCA, and no project or construction can be permitted within this area, rendering the present project unsustainable in law. Further, the Appellants submit that none of the cases relied upon by the Respondent No. 4 deals with industrial intake and outfall channels for raw materials and dumping of effluents which would leads to entrapment of turtles and coral reefs in the intake pipe thereby posing a threat to the life of the turtles.

30. Further, the Respondent No. 4, also contends that the proposed project is permissible under the CRZ Notification, 2011 and claims that it has been duly recommended by the Gujarat Coastal Zone Management Authority (GCZMA). It is submitted, however, that while the GCZMA recommendation was indeed issued vide its letter dated 26.12.2023, and was relied upon by the EAC during its 87th meeting held on 21.10.2024, this alone does not constitute compliance with the applicable statutory procedure. It is pertinent to note that the Office Memorandum OM issued by the MoEFCC dated 29.11.2022 lays down a specific procedure for obtaining CRZ Clearance for activities permissible under the CRZ Notification. Paragraph 6 of the said OM categorically mandates that all Category 'A' projects falling within CRZ areas shall be appraised by the respective Sectoral EACs:

"6. The Category A projects requiring comments of the CRZ Sector shall be forwarded along with all the statutory documents as mentioned in Para 2(i) before consideration of the project by Sectoral EACs. The Sectoral EAC shall appraise the project for composite EC and CRZ Clearance based on the comments of the CRZ Sector and CZMA Recommendations. In cases, the Sectoral EAC is same for appraisal of projects for both EC and CRZ clearance, the comments of the CRZ sector need not be required"

The OM further stipulates that upon receipt of the recommendation from the concerned SCZMA, the proposal must be forwarded to the sector-specific EAC, which is required to conduct a detailed scrutiny and deliberation before issuing its recommendation for CRZ clearance. Only thereafter may the MoEFCC issue the final CRZ clearance. Importantly, it is evident, that as per information available on the Parivesh portal, a distinct Sectoral EAC for CRZ projects exists. This CRZ-specific EAC is entrusted with appraising projects such as laying of pipelines, facilities for intake and outfall of cooling water, among others. However, in the present case, the proposal in question was never presented before the CRZ EAC. As such, there was no appraisal by the competent sector-specific committee mandated to consider such projects. The omission of this crucial step, the lack of scrutiny and recommendation by the CRZ EAC, amounts to a substantive violation of the OM dated 29.11.2022. Instead of following the prescribed procedure, the CRZ clearance was granted solely based on the recommendation of the GCZMA, and the project was then presented before an EAC dealing with Industry-3 sector projects — a committee which does not have the jurisdiction to appraise CRZ-specific components. This procedural bypassing renders the grant of CRZ clearance legally untenable and in direct contravention of the applicable regulatory framework. That such a procedural lapse unequivocally reflects a non-application of mind on the part of the EAC handling Industry-3 sector projects in its appraisal of the present proposal. The EAC, which is specifically designated to assess projects falling under the Industry-3 category, was not the competent authority to appraise the CRZ components of the proposal. Upon receipt of the recommendation from the GCZMA, the Industry-3 EAC ought to have recognized that the proposal involved activities that squarely fell within the jurisdiction of the CRZ-specific EAC, particularly given that the project includes components such as pipeline laying and marine discharge structures, which are expressly listed under the domain of the CRZ EAC. That, instead of transferring the proposal to the CRZ Sectoral EAC for appropriate technical scrutiny, the Industry-3 EAC proceeded

to appraise the project on the basis of the GCZMA's recommendation alone. This action is procedurally flawed and substantively irregular, as it bypassed the mandatory evaluation process laid down in the Office Memorandum dated 29.11.2022. The failure to ensure that the proposal was examined by the appropriate Sectoral EAC for CRZ matters not only undermines the sanctity of the appraisal mechanism but also raises serious concerns about the due diligence exercised by the EAC in this case. In this regards, this Hon'ble Tribunal in the matter titled **Pranjal Karera vs. Union of India & Ors. 2024 SCC OnLine NGT 2546** has categorically held that the proposals shall be examined by sector specific EACs:

"31. It is further contended that by allowing the Category 'A' projects to be appraised at the SEAC level, substantially dilutes the standard of assessment, evaluation and appraisal of violation projects that were initially sought to be done by sector specific Expert appraisal committees which are only available at the central level. The sector specific EACs constitute of experts in the particular sector and opposed to the SEACs at the state level which do not constitute experts from a particular sector, but comprises of a homogeneous mix of experts and professionals from different sectors. Since building and construction projects located in a CPA/SPA have a higher and larger magnitude in terms of the potential adverse impact on the environment, an expert scrutiny with a higher level of expertise is needed for appraisal of building and construction projects in CPA/SPA areas.

32. Sectoral specific EAC for Infrastructural projects would be much better suited to appraise the Environmental Impact Assessment Report (EIA)/ Environmental Management Plan (EMP) submitted by the project proponent, as the said sector specific EAC would include all expert members qua the Building sector. It is submitted that the said Building sector specific would correctly and more accurately identify the possible ramifications on the Environment damage and recommend measures to mitigate the same.

38. Hon'ble the Supreme Court of India, in re-construction of park at Noida Okhla Bird Sanctuary (2011), 1SCC Page 744, felt the need of the entries in the schedule to the EIA 2006 and described the ambiguity while considering the issue as to whether general condition apply to building and construction projects directed that the question of application of the general condition to the projects activities listed in the schedule also needs to be put beyond any debate or dispute and referred the construction of the park project to MoEF&CC to appraised by Sectoral Specific Expert Appraisal Committee at Central Level considering the importance of location of the project near the

*Okhla Bird Sanctuary, an ecologically protected area and thereby indirectly applied general condition to the project. **The EIA 2006 categorizes projects activities into Category A and B. Category A projects are appraised at Central Level by Sectoral Specific EAC, while Category B Projects are appraised at State Level by SEAC and not by a Sectoral Specific SEAC.***

*39. The classification is based on potential environmental impacts, with projects having higher environmental impacts assessed at central level and those with lesser impacts are assessed at the state level. Building and construction projects which are located within 5 km within of (i) Ecologically protected areas (ii) CPA/SPA (iii) Eco-sensitive areas (iv) Inter-state boundaries and international boundaries and have a higher and larger magnitude in terms of potential adverse impacts on the environmental and therefore, **a greater level of in-depth scrutiny is needed for appraisal of such building and construction projects and for which sectoral specific appraisal is needed at central level by sectoral specific experts who are part of sectoral specific EAC. There are eight (8) sectoral specific EAC at central level and each of the sectoral specific EAC appraises and deals with specific project activity as per the EIA 2006.***

*40. In view of the above submissions, arguments and records and notification, we are of the view that after quashing the notification dated 22.12.2014, vide order dated 06.03.2024, in W.P.(C) No. 3097/2016, GC is undisputedly applicable and all such projects in **Schedule 8 of EIA 2006 located within 5 km. of ecologically protected areas, CPA/SPA, eco-sensitive areas, inter-state boundaries and international boundaries are to be appraised and evaluated at the central level by sector specific EAC.***

41. Accordingly, we direct the MoEF&CC to strictly enforce the notification dated 14.09.2006 attached to Category 8 in the note general conditions and we direct the MoEF&CC to appraise all those building and construction projects that are located in whole or in part within 5 km. of the protected area notified under the Wildlife (Protection) Act, 1972, critically polluted areas and severely polluted areas as identified by the CPCB, eco-sensitive areas notified under Section 3(2) of the Environment (Protection) Act, and the projects located at inter-state boundaries as Category A projects and to be appraised by the central level by the Sectoral Expert Appraisal Committee."

Copy of the MoEFCC OM dated 29.11.2022 is annexed herewith as **ANNEXURE A/14.**

Copy of the screenshot of the Parivesh Portal showing Sectoral EAC for CRZ is annexed herewith as **ANNEXURE A/15.**

31. That the contents of Para Nos. 58 to 67 of the Reply Affidavit has been appropriately replied in Para Nos. 12, 13 and 14 of this Rejoinder and the same is not repeated for the sake of brevity. Additionally, the Appellants respectfully submit that the contention raised by Respondent No. 4 in Para No. 59 of their reply — that NEERI holds accreditation for the "Chlor-Alkali" sector and that such accreditation purportedly covers the production of soda ash — is untenable and misleading. This assertion does not hold merit in the present case. Firstly, it is imperative to note that the National Accreditation Board for Education and Training (NABET) under the Quality Council of India (QCI) has itself categorically disqualified NEERI from conducting Environmental Impact Assessment (EIA) studies for the soda ash sector. NEERI does not possess any valid accreditation under the specific sector code applicable to soda ash production as per the July, 2020 list of accredited EIA consultants published by NABET. This makes it abundantly clear that NEERI is not authorized to undertake or submit EIA studies for projects in this particular industrial category. Secondly, the Respondent's attempt to conflate the Chlor-Alkali sector with the soda ash sector is fundamentally flawed as NABET maintains distinct and sector-specific accreditation categories, precisely to ensure that consultants possess the requisite technical expertise, experience, and sectoral knowledge. If, as the Respondent claims, accreditation for the Chlor-Alkali sector were sufficient to cover the soda ash sector, then there would have been no requirement for NABET to issue separate accreditation to other entities, such as T.R. Associates, specifically for the soda ash sector. Therefore, the fact that T.R. Associates has been granted separate and explicit accreditation for the soda ash sector further reinforces the position that Chlor-Alkali accreditation does not extend to soda ash-related projects. By allowing NEERI, which lacks the requisite accreditation, to conduct and submit an EIA for a soda ash plant, the statutory accreditation framework established by NABET QCI is being circumvented and undermined. In light of the above, the EIA report prepared by NEERI for the present project is legally unsustainable and liable to be rejected on grounds of non-compliance with mandatory accreditation

requirements. That the Hon'ble Supreme Court in the **Aranmula Airport Case (Supra)** has taken the same stand:

"151. (i) A person who has merely applied for certain sectors cannot be said to have blanket power to prepare EIA reports and appear in respect of all categories and sectors without reference to the category applied for and the consequent accreditation."

32. That the contents of the Para No. 63 of the Reply Affidavit are denied. The Respondent No. 4 relies upon the OM dated 08.06.2022 which states that at the time of application for EC, in case of baseline data is older than three years, but less than five years old in case of HEP and River Valley projects, or less than four years in case of any other projects, the same shall be considered subject to the condition that it is revalidated with one season fresh non-monsoon data collected after three-years of the initial baseline data. In this regards, the Appellants herein submit that it is crucial to note that in the present case, the revalidation of one season fresh-non monsoon data has been done by T.R. Associates upon the initial baseline data which has been collected by CSIR-NEERI, a non-accredited consultant. Given that the disqualification of NEERI as well as not being an accredited Consultant to conduct EIA for Soda Ash Sector, any baseline data collected or EIA prepared by NEERI is fundamentally flawed and legally unsound. Such data and reports should not have been relied upon in the assessment process. However, the EAC instead of rejecting the EIA Report, allowed the newly appointed EIA consultant, T.R. Associates, to validate NEERI's baseline data by merely collecting additional data for one season and conducting a limited one-month baseline study which is nowhere mentioned in the EIA Notification, 2006. This approach is deeply concerning, as it does not address the inherent deficiencies and lack of credibility in the original data collected by NEERI. By opting for this minimal validation process, the EAC has failed to uphold the rigorous standards required for an Environmental Impact Assessment, in absolute violation of the EIA Notification 2006, undermining the integrity and reliability of the entire evaluation.

That no fresh screening and scoping has been done by the T.R. Associates is itself a gross violation of the EIA Notification.

33. That the contents of Para No. 66 of the Reply Affidavit has been appropriately replied in Para Nos. 11 of this Rejoinder and hence, the same shall not be repeated for the sake of brevity.

34. That the contents of Para No. 68 and 69 where the Respondent No. 4 states that the corals are found in the southern part of the Gulf whereas the project is proposed to come up in the northern part are denied in its entirety. The Appellants in this regards submits that a study titled **"New Discovery of Coral Rubbings in the North-Western Gulf of Kachchh, Gujarat, Western India – GIS Based Evaluation"** published in 2011 by Ocean University in China categorically gave the finding with regard to the presence of coral reefs in Mandvi. That the Table No. 1 of the study gives geographical coordinates where corals are found in Mandvi Village:

*"The available reefs are grouped into fringing reefs, platform reefs and patch reefs (Bahuguna and Nayak, 1998). The reported coral sites are along the Jamnagar coast of Sau-rashtra Peninsula (south of the Gulf) (Pillai and Patel, 1988; Choudhury and Panigrahy, 1991); Mungra (Jodiya) (Deshmukhe et al., 2000) in the eastern part of the Gulf, and Mandvi and Mundra of Kachchh coast (north and north east of the Gulf) (Devassy et al., 1978; Bahuguna and Nayak, 1998; Deshmukhe et al., 2000). Remote sensing observations on the coral reefs have also explicitly revealed the existence of corals in Saurashtra (Jam-nagar) coast. **The ICMAM (Integrated Coastal and Marine Area Management) studies in 1998, 1999 and 2000 at the Gulf revealed the existence of live coral polyps in Mungra, Mundra and Mandvi of the Kachchh coast (De-vassy, 1987; Santhanam et al., 1994; Rajkumar et al., 2009; Deshmukhe et al., 2000).**"*

Copy of the report titled "New Discovery of Coral Rubbings in the North-Western Gulf of Kachchh, Gujarat, Western India – GIS Based Evaluation" published in 2011 is annexed herewith as **ANNEXURE A/16.**

Furthermore, the Gujarat Ecology Commission also gave the similar finding with regard to the presence of coral reefs in seashores of Mandvi:

"Coral reefs of Gujarat coast are fringing type and are the most northern coral reefs in India. The estimated reef area in India is 2,374.9 km² of which 352.5 Km² are in the Gulf of Kachchh (GoK), Gujarat. Marine National Park of GoK, Kuchchh coastal region (Mundra, Mandvi and Kandla) and Saurashtra coast (Dwarka, Veraval and Mahuva) were reported as rich sites for coral reef resources in the Gujarat coast. Good live coral cover and species diversity Index were reported in Pirotan Island and Lakupoint (Poshitra) respectively (Kumar et al., 2014). Totally fifty four hard coral species recorded till date in the Gujarat coast based on the available literature. The age of coral reefs in the GoK varied from 5240 years before present (B.P.) at Salaya to approximately 45,000 years B.P. at Okha."

Copy of the article published by Gujarat Ecology Commission on 26.04.2014 is annexed herewith as **ANNEXURE A/17.**

35. That the contents of Para No. 70 to 74 are denied except which a matter of record is. The Respondent No. 4 states that NIO has undertaken marine EIA of the proposed Soda Ash Project in collaboration with CSIR-NEERI, which is an accredited institute and the same is denied in its entirety. The Appellants herein submit that the NABET through its letter dated 21.05.2012 has explicitly rejected the accreditation of NIO thereby mandating NIO to take up marine components of EIAs only with accredited EIA consultants. However, in the present case, NIO has partnered with CSIR-NEERI, who itself is not NABET accredited to conduct EIA for Soda Ash Plants and whose accreditation has been disqualified for six months by NABET due to violations in conducting EIA studies, despite not being a NABET accredited consultant. Thus, the oceanographic baseline data collected by CSIR-NIO lacks credibility, as NABET's letter dated 21.05.2012 mandated NIO to work only with accredited EIA consultants, yet NIO partnered with CSIR-NEERI, which lacks NABET accreditation for conducting EIA for a soda ash plant. This association between two entities, one unaccredited and the other disqualified, raises serious concerns about the credibility and legality of the oceanographic studies conducted for this project. By conducting the study in collaboration with a disqualified consultant, NIO has acted in direct contravention of the stipulations outlined in the

NABET letter and the EIA Notification, 2006. Thus, the Appellants herein submit that it is not a hyper technical ground but a clear and blatant violation which undermines the validity and reliability of the oceanographic baseline data collected by NIO. Furthermore, the Appellants submit that the Respondent No. 4 has relied upon on certain judgments passed by this Hon'ble Tribunal, wherein the NIO was directed to conduct impact analysis studies, is inapplicable to the facts of the present case. It is important to underscore that those cases involved instances where NIO was appointed by the Hon'ble Tribunal itself to carry out limited and specific scientific or impact analysis studies. Such appointments were made by this Hon'ble Tribunal in its discretion to obtain independent expert opinion, and do not equate to NIO independently preparing and submitting an EIA report as a project consultant. In stark contrast, the present matter concerns a situation where NIO has conducted the marine EIA study for the impugned project in the capacity of an environmental consultant, despite the fact that NIO has been disqualified by the NABET in the year 2012 from carrying out EIA studies. This disqualification renders any such report prepared by NIO not only procedurally defective but also legally invalid. It is further submitted that the judgments cited by the Respondent No. 4 do not deal with or address the core issue involved in the present matter, i.e., whether a disqualified and non-accredited institution like NIO can validly conduct and submit a marine EIA under the statutory framework governed by the EIA Notification, 2006. Therefore, those judgments have no persuasive relevance in the present context and cannot be relied upon to justify the marine EIA report submitted by NIO.

36. The Appellants deny the contents of Para Nos. 75 to 78 of the reply, except to the extent that they are matters of record. Respondent No. 4 has claimed that baseline studies were conducted by CSIR-NEERI between December 2019 and February 2020. In this regard, the Appellants clarify that the Respondent's contention pertains only to terrestrial baseline data. However, the concern raised by the Appellants specifically relates to the marine baseline data, which was collected by the National Institute of Oceanography (NIO) between October 2018 and March

2019. It is submitted that Respondent No. 4 has thereby attempted to mislead this Hon'ble Tribunal by conflating the two distinct datasets. Crucially, the project proponent submitted its application for EC only on 30.11.2022, more than three years after the marine data was collected. This substantial time gap renders the oceanographic baseline data scientifically outdated and environmentally irrelevant. Such reliance on old data is in direct violation of the Office Memorandum dated 08.06.2022 issued by the MoEFCC. Therefore, the marine baseline data relied upon in the present case is invalid for the purpose of environmental appraisal and vitiates the entire clearance process. It is thus crucial to note that the public hearing was conducted on 17.10.2022 is thus based on the old expired marine data collected by NIO which is in contravention to the EIA Notification, 2006. Thereafter, the Respondent No. 4 relies upon the OM dated 08.06.2020 which states that if baseline data is older than three years but less than four years, the same shall be considered by EAC subject to the condition that it is revalidated with one season non-monsoon data. In this regards the Appellants herein submit that there is no legal provision under any established law or regulation that permits a new NABET-accredited consultant to "revalidate" or certify the EIA study and baseline data originally prepared and collected by a non-accredited consultant. In the absence of such statutory backing, such revalidation is irregular, and undermines the integrity of the EIA process. The Appellants contend that since NEERI lacked the requisite accreditation at the time of preparing the EIA report, it renders the entire EIA process invalid, non-compliant, and devoid of legal sanctity. This legal position has been recognized and upheld by this Hon'ble Tribunal in the precedent-setting **Aranmula Airport Case**, wherein the Tribunal categorically observed and directed that an EIA prepared by a non-accredited consultant cannot form the basis for granting environmental clearance and is, therefore, liable to be set aside. Further, the Appellants herein submit that it is crucial to note that in the present case, the revalidation of one season fresh-non monsoon data has been done by T.R. Associates upon the initial baseline data which has been collected by CSIR-NEERI, a non-accredited consultant. Given that the disqualification of NEERI

as well as not being an accredited Consultant to conduct EIA for Soda Ash Sector, any baseline data collected or EIA prepared by NEERI is fundamentally flawed and legally unsound. Such data and reports should not have been relied upon in the assessment process. However, the EAC instead of rejecting the EIA Report, allowed the newly appointed EIA consultant, T.R. Associates, to validate NEERI's baseline data by merely collecting additional data for one season and conducting a limited one-month baseline study which is nowhere mentioned in the EIA Notification, 2006.

37. The contents of Para Nos. 79 & 80 are denied wherein the Respondent No. 4 submitted that the EIA Technical Guidance Manual is not mandatory and hence suggestive in nature. It is pertinent to note that guidelines are issued to accompany an Act and hence are to be read and interpreted in conjunction with the Act itself, meaning they are binding and should be considered as part of the law. This ensures a consistent application of the law and prevents any ambiguity or confusion regarding its implementation. That Guidelines, when issued by an appropriate authority, are considered part of the legal framework and are not mere suggestions or recommendations. They are intended to provide practical guidance for implementing the Act and are expected to be followed by those subject to the law. That the Guidelines are not separate entities but are designed to be integrated with the Act. They clarify, elaborate, or provide specific details on how the Act's provisions should be applied. In this regards, it is pertinent to note that this Hon'ble Tribunal in the matter titled **Sreeranganathan K.P vs. Union of India & Ors. 2014 SCC OnLine NGT 5631** has held:

"It is contended by the 5th respondent/consultant that the guidelines manual is only recommendatory and not mandatory. But that is not the case in so far as EIA Notification, 2006 is concerned."

The Appellants further submit that the Project Proponent has, at no stage, provided any detailed justification or reasoning in any stage of the appraisal process for its failure to adhere to the mandatory siting guidelines laid down in the

EIA Manual, 2010. The said Manual categorically stipulates that no construction activity related to industrial projects should be undertaken within a distance of 0.5 kilometres from the coast. Despite this, the project in the present case has been proposed to be located at a distance of merely 287 meters from the coast—well within the restricted zone of 500 meters. This constitutes a gross and deliberate violation of the prescribed siting criteria. The Project Proponent, instead of following the ecologically sensitive and precautionary guidelines intended to safeguard the coastal ecosystem, has adopted an anthropocentric approach. By consciously disregarding the siting criteria, the Project Proponent has undermined the very object of the EIA Manual 2010. That the Hon'ble Supreme Court in the matter titled **Centre for Environmental Law, World Wide Fund India vs. Union of India, (2013) 8 SCC 234** wherein the Hon'ble Supreme Court has specifically stated that Courts must follow an "eco-centric approach" and shift from anthropogenic approach and hence apply the "species best interest standard" and take all steps to safeguard the interest of species and prevent species from going extinct.

38. The contents of Para Nos. 81 & 87 of the Reply Affidavit has been appropriately replied in Para Nos. 29 and 30 of the Rejoinder and the same is not repeated for the sake of brevity.

39. That the contents of Para No. 82 to 91 are denied except which are a part of record. The Respondent No. 4 has submitted that it has passed through several statutory authorities like ZSI, GUIDE, CSIR-NEERI, T.R. Associates to assess the ecological impact and compliance with environmental regulations. The Appellants respectfully submit that all the studies conducted by the aforementioned authorities are riddled with irregularities and suffer from serious procedural and substantive deficiencies:

- i. **ZSI Study** - It is important to highlight that the turtle study conducted as part of the EIA, carried out by scientists from the Zoological Society of India (ZSI), involved surveys only once every two weeks, as noted on Page 8 of the ZSI Report included in the EIA (Annexure A/30 Pg. 397 of Appeal). This

infrequent survey schedule makes it highly probable that several potential nesting events were overlooked. Chapter 13, Sea Turtles and their Nesting Habitats in Gujarat from the book titled Marine Turtles of the Indian-Subcontinent by United Nations Development Programme and Wildlife Institute of India clearly indicates that the stretch of beach from Bada to Mandvi (inclusive of Layja Nana) is the most important nesting area, and where the majority of nests are found for the entire coast. (Annexure A/33, Pg. 454 of Appeal). Furthermore, RTI Reply dated 23.03.2022 received from the Forest Range Officer Mandvi, Kutch West Forest Division which clearly shows year wise data from 2011 to 2021 with regard to the number of eggs found, as well as the details of number the of dead turtles found between 2019 to 2022 which clearly makes it evident about the presence of turtles along the coast of Mandvi and Bada i.e., the proposed project site. The data thus serves as evidence confirming the presence of Green Sea Turtles and Olive Ridleys, along with their nesting sites along the coasts of Mandvi and Bada. Additionally, the RTI response includes a list of wild animals rescued from in and around Bada, such as Nilgai, Sarus Crane, Crocodiles, Striped Hyena, Peacocks, and others. (Annexure A/26, Pg. 372 of Appeal).

- ii. **GUIDE Study** – The Report (Annexure R/26 Pg. No. 1675 of the Counter Affidavit filed by R4) states that reconnaissance survey was conducted during March and April, 2022 in core and buffer areas and Intensive Field Surveys were carried out from March to April, 2022 for the data collection and existing flora and fauna. The Appellants in this regard submit that a study conducted by Satish Bhaskar, who is a pioneer of sea turtle biology and conservation of India in his paper titled **“The Distribution and Status of Sea Turtles in India”** whereby he has conducted a study regarding the presence of Green Sea Turtles and Olive Ridley in the Gulf of Kutch in Gujarat and has given the finding that the nesting season is from July to early November. (ANNEXURE A/25 Pg. Pg 357 of the Appeal). It is important to emphasize that the survey was conducted primarily during the off-

season—specifically in the months of March and April—thereby excluding the critical nesting and migratory periods, which span from June to November for Olive Ridley turtles and from June to January for Green Sea Turtles. This significant omission undermines the credibility of the report's conclusions regarding the presence of sea turtles at the site, rendering them unreliable for informed decision-making.

- iii. **CSIR-NEERI** - CSIR-NEERI does not possess any valid NABET accreditation required for conducting EIA for soda ash plants. The Appellants assert that CSIR-NEERI conducted the EIA for the proposed project despite not being a NABET-accredited EIA consultant organization for soda ash projects/activities, constituting a clear violation of the EIA Consultants Accreditation Scheme. It is crucial to note that the NABET, a constituent of the Quality Council of India, has disqualified the NEERI from conducting environment impact assessment (EIA) studies for soda ash projects for six months. It has also barred NEERI from applying for accreditation for the soda ash sector for six months. NABET's disqualification order for NEERI was issued on December 23, 2023. That NEERI was debarred from applying for accreditation for this sector for six months effective December 23, 2023
- iv. **T.R. Associates** - during the 72nd meeting of the EAC held on 02.01.2024, a direction was issued mandating that a new NABET-accredited consultant—namely, T.R. Associates—would revalidate the EIA prepared by CSIR-NEERI by conducting one season's data collection. There is no provision under EIA Notification to revalidate data or study conducted non accredited agency. In this regard, it is further submitted by the Appellants that the Addendum EIA Report prepared by the new consultant, T.R. Associates, was never made available to the public for review or comments through a fresh public hearing. This omission constitutes a direct and substantive violation of the mandatory public consultation process outlined

under the EIA Notification, 2006, which requires that the EIA Report forming the basis for environmental clearance must be subjected to public scrutiny.

40. That Respondent No. 4, in Paras 92 to 102 of its reply, has contended that there is no incorrect or misleading information furnished in Form I, Part A and B. In support of this contention, Respondent No. 4 has relied upon the findings of the report by the ZSI, the EIA Report prepared by CSIR-NEERI, and the study conducted NIO, all of which purportedly conclude that there is no presence of turtle populations in the proposed project area. The Appellants categorically deny the contentions raised by Respondent No. 4. It is submitted that a detailed reply to these assertions has already been provided in Para No. 15 of the present Rejoinder, and the same is not being reiterated here for the sake of brevity. In addition, the Appellants respectfully submit that the presence of turtle populations in the proposed project area is clearly evidenced by the RTI response received from the Forest Department. The said response records multiple instances of turtle eggs and dead turtles in the vicinity of the proposed site between the years 2011 and 2021. Furthermore, the Appellants have relied upon several credible scientific and academic publications which conclusively establish that the proposed project site serves as a testing ground for both Green Sea Turtles and Olive Ridley Turtles. These findings categorically contradict the assertions made by Respondent No. 4 and underscore the ecological sensitivity of the project area. The Appellants herein further submit that in November 2022, the Forest Department, Kachhch identified a nesting site of the Green Sea Turtle along the Bada coastline and took appropriate steps to safeguard it. Subsequently, on 17.12.2022, the Department successfully facilitated the release of at least 85 hatchlings into the sea, thereby officially confirming the occurrence of nesting activity in the area. This significant conservation event underscores the ecological importance of the coastal stretch as an active breeding ground for a Schedule I protected species under the Wildlife Protection Act, 1972. Furthermore, following the discovery of the turtle nest in Bada, several additional nests were subsequently identified along the same coastal stretch, all within a 10-kilometre radius of the proposed project site. These findings

further reaffirm the area's critical role as a nesting and breeding habitat for the endangered Green Sea Turtle and highlight the urgent need for its protection from industrial disruption. However, in stark contradiction, the EIA Report and the ZSI Report fails to acknowledge the presence of any endangered species, i.e., Green Sea Turtle and Olive Ridley Turtle, in the proposed project area. This Hon'ble Tribunal in the matter titled **Sreeranganathan K.P. vs. Union of India & Ors.** (supra) had struck down the EC granted on the ground amongst others that the project proponent had concealed material facts and had submitted false information in the Form I:

"153.

xi) It is quite evident from the available materials, the 3rd respondent/project proponent, while making an application for the airport project in Form I has provided false data about the ecology in the area, resources to be used and overall impact on the environment and presence of wetland or forests.

...

154. Hence, it is held that the Form I in the application filed by the 3rd respondent / project proponent before the 1st respondent / MoEF for the Aranmula airport project was inchoate and invalid for false and suppression of materials and suppression of materials and for inadequacy.

....

162. The application filed by the project proponent seeking EC in Form I for the proposed airport did not reveal the true, correct and complete disclosure of factual details and it also suffered by suppression of facts and with false statements as detailed infra".

41. The contents of Para Nos. 103 to 109 has been appropriately replied in Para Nos.

3, 20 and 21 of the Rejoinder and the same is not repeated for the sake of brevity.

42. That the Respondent No. 4 in Para No. 110 to 115 of the Reply Affidavit submitted that the EAC has appraised the proposed project in accordance with law. The Appellants, however, respectfully submit that there exist multiple instances which clearly demonstrate that the EAC has appraised the impugned project without proper application of mind. The following instances, inter alia, are indicative of such non-application of mind by the EAC:

i. The EIA report is prepared by NEERI which is a non-accredited consultant.

That the finding and direction issued by the EAC in its 72nd Meeting

demonstrates a clear non-application of mind. Given that the disqualification of NEERI is still in effect, any baseline data collected or EIA prepared by NEERI is fundamentally flawed and legally unsound. Such data and reports should not have been relied upon in the assessment process. However, the EAC instead of rejecting the EIA Report, allowed the newly appointed EIA consultant, T.R. Associates, to validate NEERI's baseline data by merely collecting additional data for one season and conducting a limited one-month baseline study which is nowhere mentioned in the EIA Notification, 2006. That there are no available provisions of law which states that a new consultant can be appointed at a later stage to revalidate a study conducted by a Non-NABET accredited consultant. The EAC has failed to consider that when the ToR was granted in August 2021, the NABET List of July, 2020 was in the knowledge of the project proponent which clearly shows that T.R. Associates holds accreditation for soda ash sector. But instead of appointing T.R. Associates like a prudent man, it continued with NEERI which is non-accredited.

- ii. That the Office Memorandum issued by the MoEFCC dated 29.11.2022 lays down a specific procedure for obtaining CRZ Clearance for activities permissible under the CRZ Notification. Paragraph 6 of the said OM categorically mandates that all Category 'A' projects falling within CRZ areas shall be appraised by the respective Sectoral EACs. The OM mandates that upon receiving recommendations from the SCZMA, proposals involving CRZ components must be forwarded to the sector-specific EAC—specifically the CRZ EAC—for detailed scrutiny before any CRZ clearance is granted by the MoEFCC. Notably, the Parivesh portal confirms the existence of a distinct CRZ EAC entrusted with appraising projects such as pipeline laying and marine intake/outfall facilities. However, in the present case, the proposal was never placed before the CRZ EAC. Instead, it was appraised by the Industry-3 EAC, which lacks jurisdiction over CRZ-specific components. That, instead of transferring the proposal to the CRZ Sectoral EAC for

appropriate technical scrutiny, the Industry-3 EAC proceeded to appraise the project on the basis of the GCZMA's recommendation alone. This action is procedurally flawed and substantively irregular, as it bypassed the mandatory evaluation process laid down in the Office Memorandum dated 29.11.2022.

43. In this regard, the Appellants herein submit that the matter titled **Samata v. Union of India (Appeal No. 9 of 2011)**, This Tribunal has held:

"9) It is a well settled law that a decision taken must reflect the consideration of the materials available before the decision maker and the opinion formed on such material and the failure to give reasons for accepting or rejecting the projects would vitiate the decision taken on the ground of non-application of mind to relied materials and for arbitrariness. Therefore, the recommendation to approve the project given to the MoEF by the EAC was arbitrary. Hence, for all the reasons stated above, the EC granted by the 1st respondent vide its letter dated 15.3.2010 to the 3rd respondent has to be quashed.

It is a mandatory requirement and also a duty of the EAC to whom the task of evaluation has been delegated to indicate its decision that the objections and concerns raised at the public hearing and the response of the Project Proponent thereon were considered and as to what reasons those objections and concerns were accepted or negated. In the said decision, it has been unambiguously held that the failure to give such reasons and render the decision vulnerable to attack on the ground of being vitiated due to non-application of mind to relevant consideration and therefore, arbitrary."

44. Furthermore, the Appellants submit that in the matter titled **Sreeranganathan K.P vs. Union of India & Ors. 2014 SCC OnLine NGT 5631** this Tribunal has held:

"161. (iv) From the minutes of the EAC and order of the MoEF granting the EC, it is clear that both the bodies have not applied their mind independently and have not collected any inputs so as to arrive at a proper decision. The authorities simply relied on the data provided by the project proponent and the State Government, but have not taken any step to independently verify the veracity of the claim. The minutes of the meeting of the EAC and the order of the MoEF would reveal that they have simply reiterated the

contentions of the project proponent as well as the State Government believing the entire version as true and thus it would be quite clear that the EC has been granted without assessing the actual environment impact since sufficient materials were not placed to ascertain the same"

*185. It is not as if the Tribunal is unmindful of its duty that a balance has to be struck between ecology and development in order to uphold the principles of sustainable development and precautionary principle as envisaged under section 20 of the NGT Act, 2010. Needless to say, striking a balance between the ecology and development is a difficult task. But, at the same time, it cannot be forgotten that for one's sake other should not be sacrificed. A balance has to be struck whereby a compromise is made in order to achieve the development without causing environmental degradation and damaging ecology. Ordinarily, the contention put forth by the learned counsel for the appellants that if not the environmental issues and concerns were not considered, the conditions specified in respect of the particular project would not have been attached to the EC. **But, in the instant case, all mandatory principles and guidelines as envisaged by the EIA Notification, 2006 have been violated by (1) Form I along with the application for EC. (2) incompetency of the consultant who prepared the EIA which is the basis for the grant of EC, (3) public hearing and public consultation and (4) non-application of mind and lack of due diligence."***

45. That the Respondent No. 4, under the heading 'Para-wise Reply' in Paras 1 to 32, has responded to the Appeal filed by the Appellants. In this regard, the Appellants respectfully submit that all the contentions raised by Respondent No. 4 in Para Nos. 1 to 32 have already been appropriately addressed and replied in detail in Paras 1 to 44 of the present Rejoinder and are not reiterated here for the sake of brevity. At the outset, the Appellants categorically deny all averments made by Respondent No. 4 in Paras 1 to 32, and no part thereof shall be deemed admitted merely due to the absence of a specific denial. All statements made in the Reply Affidavit are deemed to be denied unless specifically admitted or forming part of the record.

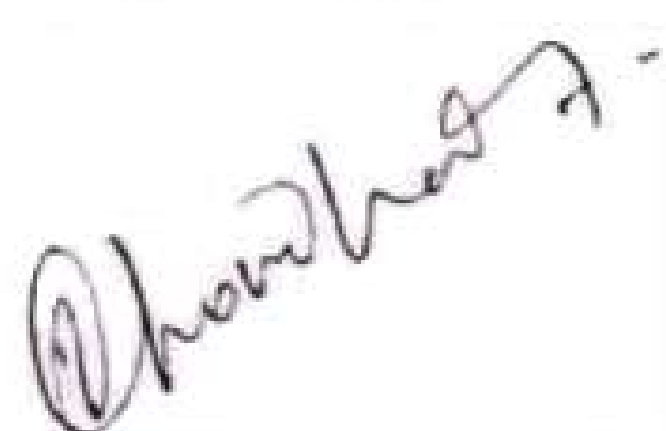
46. Thus, in the light of the above facts, circumstances and submissions, the Hon'ble Tribunal shall be pleased enough to allow the prayers of the Appeal.

47. Pass any other order as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.



APPELLANT NO. 1

THROUGH



RAHUL CHOUDHARY



KAUSTAV DHAR

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Email: litigation@dclawchambers.com

Place: Pune/Delhi

Date: 09.06.2025

VERIFICATION

Verified by Vijaykumar Karsanbhai Gadhavi, S/o Karsanbhai Gadhavi, aged about 63 years, R/o Village - Panchotiya Vadi Vistar, P.O. Mota Layja, Mandvi, Pin code - 370465, do hereby verify that the contents of Paragraphs 1 to 47 are true to my personal knowledge and nothing material has been concealed therefrom.



APPELLANT No.1

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
APPEAL NO. 19 OF 2025**

IN THE MATTER OF:

VIJAYKUMAR KARSANBHAI GADHAVI AND ORS.

....APPELLANTS

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

AFFIDAVIT

NOTARIAL REGISTER

SR. No. :.....1426.....

DATE :.....07 JUN 2025

I, Vijaykumar Karsanbhai Gadhave, S/o Karsanbhai Gadhave, aged about 63 years, R/o Village - Panchotiya Vadi Vistar, P.O. Mota Layja, Mandvi, Pincode - 370465, do hereby solemnly affirm and state as follows:

1. I am the Appellant No. 1 In the above titled Appeal and conversant with the facts and circumstances of the case and competent to swear this Affidavit.
2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.




DEPONENT

VERIFICATION

Verified at Delhi on this ____ day of _____, 2025 that the contents of the above mentioned Affidavit are true and correct and nothing material has been concealed therefrom.



SOLEMNLY AFFIRMED
BEFORE ME

BHARAT H. MEHTA
ADVOCATE & NOTARY
LAYJA ROAD,
MANDVI - KACHCHH




DEPONENT

07 JUN 2025

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2020
Jan. 10

(BEFORE ROHINTON FALI NARIMAN, ANIRUDDHA
BOSE AND V. RAMASUBRAMANIAN, JJ.)

a

KAPICO KERALA RESORTS PRIVATE LIMITED

.. Appellant;

3-Judge

Versus

Bench

STATE OF KERALA AND OTHERS

.. Respondents.

Civil Appeals Nos. 184-86 of 2020[†] with
No. 187 of 2020[‡], decided on January 10, 2020

b

A. Environment Law — Water/River/Coastal Pollution — Coastal Areas/ Wetlands/Coastal Regulation Zone Notifications — CRZ Notification of 1991 — Nedyathuruthu and Vettila Thuruthu, backwater islands of Kerala — Inclusion of Nedyathuruthu Island within CRZ, applicability of CRZ Notification of 1991, prohibition of construction and removal of encroachment — Judgment rendered in *Vaamika Island*, (2013) 8 SCC 760, inter alia qua Vettila Thuruthu Island — Applicability of, to project proponent in respect of Nedyathuruthu Island (i.e. appellant known as “Kapico”) — Dismissal of a special leave petition by a speaking or reasoned order, as in the present case in *Vaamika Island*, (2013) 8 SCC 760 — Bindingness of

c

High Court, in the impugned judgment, compartmentalised the issues arising for consideration into 2 parts, the first dealing with issues in common for Vettila Thuruthu Island and Nedyathuruthu Island and the next dealing with issues peculiar to each of them — Held, the decision in *Vaamika Island case* was rendered at the stage of special leave petitions and though the Court refused leave, it went on to affirm the findings of High Court, recording detailed reasons therefor — Further, the appellants cannot escape the findings recorded in the said case and once it is found that the main issues arose in common for both the islands and dealt with in common by High Court, had received a seal of approval from Supreme Court by a reasoned order — Further, there is no scope for revisiting the same on the basis of certain minor ancillary issues not specifically dealt with, in the judgment — Thus, appeals dismissed in light of the findings: (i) that the substantial issues that arose in common for both the islands have already been answered in *Vaamika Island*, (2013) 8 SCC 760, and (ii) that the distinguishing features sought to be projected, were not so material as to take a different view than the one taken therein — Constitution of India

d

e

f

Arts. 136 and 141 — Dismissal of SLP with reasoned order — Extent to which binding (Paras 20 to 34)

Held :

g

There is a distinction between the dismissal of a special leave petition by a non-speaking order where no reasons are recorded and the dismissal of a special

[†] Arising out of SLPs (C) Nos. 34143-145 of 2013. Arising from the Judgment and Common Order in *Kapico Kerala Resorts (P) Ltd. v. Supt. of Police* [Kerala High Court. WP (C) No. 28485 of 2011, dt. 25-7-2013] sub nom *Ratheesh K.R. v. State of Kerala* [Kerala High Court. WP (C) No. 19564 of 2011, dt. 25-7-2013], 2013 SCC OnLine Ker 14359 : (2013) 4 K.L.J. 120

h

[‡] Arising out of SLP (C) No. 21927 of 2014

KAPICO KERALA RESORTS (P) LTD. v.
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- a leave petition by a speaking or reasoned order. In both cases, the doctrine of merger would not apply. But in cases falling under the latter category, the reasons stated by the Court would attract the applicability of Article 141 of the Constitution, if a point of law has been declared therein. If what is stated in the order of the Supreme Court (before the grant of leave) happen to be findings recorded by the Supreme Court, not amounting to a declaration of law, the findings so recorded would bind only the parties thereto. (Para 24)
- b *Khoday Distilleries Ltd. v. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd.*, (2019) 4 SCC 376, *relied on*
Kunhayammed v. State of Kerala, (2000) 6 SCC 359, *followed*
Abhai Maligai Partnership Firm v. K. Santhakumaran, (1998) 7 SCC 386; *Khoday Distilleries Ltd. v. Mahadeswara S.S.K. Ltd.*, (2012) 12 SCC 291 : (2013) 4 SCC (Cri) 649 : (2013) 3 SCC (L&S) 450, *referred to*
It is no doubt true that the decision in *Vaamika Island*, (2013) 8 SCC 760 was rendered at the stage of special leave petitions. Obviously Court refused leave,
- c but went on to affirm the findings of the High Court, recording detailed reasons therefor. The opinion expressed in paras 27 and 28 of *Vaamika Island case*, does not give any room for escape even for the appellants. (Para 25)
Vaamika Island (Green Lagoon Resort) v. Union of India, (2013) 8 SCC 760, *explained and affirmed*
Piedade Filomena Gonsalves v. State of Goa, (2004) 3 SCC 445, *cited*
- d Even according to the appellants, some of those common issues, such as salinity, filtration ponds, cadastral maps, CVCA, etc. are dealt with by the reported decision. The contention that these common issues are dealt with in passing, in the judgment of the Supreme Court and that therefore, they are entitled to be reagitated, cannot be accepted. (Para 26)
- e Both Vettila Thuruthu and Nedyathuruthu Islands are admittedly backwater islands nestled in Vembanad Lake. In *Vaamika Island case*, Court has indicated that Vembanad Lake is an ecologically sensitive area and that considering the socio-economic importance of this waterbody, it had been scheduled under “vulnerable wetlands to be protected” and declared as CVCA. (Para 31)
- f **B. Environment Law — Water/River/Coastal Pollution — Coastal Areas/Wetlands/Coastal Regulation Zone Notifications — CRZ Notifications of 1991 and 2011 qua critically vulnerable coastal area (CVCA) — Differences between, summarised**
- Held, under the 2011 Notification the areas identified in the Notification had to be declared as CVCAs only through a process of consultation with local fisher, etc. and guidelines are to be put in place for identifying, notifying and implementing CVCA but the 2019 Notification straightaway treats the named areas as CVCAs and vests their management with the authority with the
- g involvement of coastal communities (Paras 39 to 40)
Ratheesh K.R. v. State of Kerala, 2013 SCC OnLine Ker 14359 : (2013) 4 K.L.J. 120, *affirmed*
Kapico Kerala Resorts (P) Ltd. v. Ratheesh K.R., RP No. 776 of 2013 in WP (C) No. 19564 of 2011, order dated 10-12-2013 (Ker); *Vaamika Island (Green Lagoon Resort) v. Union of India*, 2013 SCC OnLine SC 1437; *Kapico Kerala Resorts (P) Ltd. v. Ratheesh K.R.*, 2014 SCC OnLine SC 1779; *S. Jagannath v. Union of India*, (1997) 2 SCC 87, *referred to*
- h Appeals dismissed VN-D/63527/C

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Advocates who appeared in this case :

Sanjay Parikh, Pallav Shishodia, Dr A.M. Singhvi, Senior Advocates, for the appearing parties

Chronological list of cases cited

	<i>on page(s)</i>	
1. (2019) 4 SCC 376. <i>Khoday Distilleries Ltd. v. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd.</i>	30e	a
2. 2014 SCC OnLine SC 1779, <i>Kapico Kerala Resorts (P) Ltd. v. Ratheesh K.R.</i>	22d	
3. (2013) 8 SCC 760. <i>Vaamika Island (Green Lagoon Resort) v. Union of India</i>	22a, 22c-d, 28a-b, 28b, 28d, 28f-g, 28g, 28g-h, 29a b, 30a, 30b, 30e-f, 30f, 31e, 31f, 32b-c, 32c, 32d-e, 32h, 34g	b
4. 2013 SCC OnLine Ker 14359 : (2013) 4 KLJ 120. <i>Ratheesh K.R. v. State of Kerala</i>	20e-f, 21a, 21b, 21c, 21c, 21g, 22a, 22c, 22d e, 26b, 26g h, 27a, 28b, 29b, 30f-g	c
5. 2013 SCC OnLine SC 1437. <i>Vaamika Island (Green Lagoon Resort) v. Union of India</i>	21g h	
6. RP No. 776 of 2013 in WP (C) No. 19564 of 2011, order dated 10-12-2013 (Ker). <i>Kapico Kerala Resorts (P) Ltd. v. Ratheesh K.R.</i>	20e f, 22c d	d
7. (2012) 12 SCC 291 : (2013) 4 SCC (Cri) 649 : (2013) 3 SCC (L&S) 450. <i>Khoday Distilleries Ltd. v. Mahadeswara S.S.K. Ltd.</i>	30d e	
8. (2004) 3 SCC 445. <i>Piedade Filomena Gonsalves v. State of Goa</i>	31h	
9. (2000) 6 SCC 359. <i>Kunhayammed v. State of Kerala</i>	30b c, 30d e, 30e	
10. (1998) 7 SCC 386. <i>Abbai Maligai Partnership Firm v. K. Santhakumaran</i>	30d e	
11. (1997) 2 SCC 87. <i>S. Jagannath v. Union of India</i>	25h, 29f	e

The Judgment of the Court was delivered by

V. RAMASUBRAMANIAN, J. Leave granted. Challenging a common order passed by the Kerala High Court, first in a batch of writ petitions¹ and then in a batch of review petitions², prohibiting them from carrying on the activity of development of a resort, in a backwater island, namely, Nedyathuruthu Island in Vembanad Lake, Alappuzha District of the State of Kerala, on the basis of Kerala Coastal Zone Management Plan (hereinafter “KCZMP”) and the Coastal Regulation Zone Notifications, the project proponent has come up with the above appeals.

2. The High Court was concerned, in the batch of cases, about the development of resorts in two backwater islands, by name Vettila Thuruthu and Nedyathuruthu, located in Vembanad Lake, Panavally Panchayat, in Alappuzha District of the State of Kerala.

1 *Ratheesh K.R. v. State of Kerala*, 2013 SCC OnLine Ker 14359 : (2013) 4 KLJ 120

2 *Kapico Kerala Resorts (P) Ltd. v. Ratheesh K.R.*, RP No. 776 of 2013 in WP (C) No. 19564 of 2011, order dated 10-12-2013 (Ker)

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- 3.** By a common order passed on 25-7-2013¹, the High Court disposed of seven writ petitions, five of which related to Nedyathuruthu Island and the other two related to Vettila Thuruthu Island. Out of the 5 writ petitions which related to Nedyathuruthu Island, 3 were by (i) a group of traditional fishermen, (ii) a public welfare society, and (iii) a trade union of fishermen and workers, all opposing the construction of the resort in the island. The other 2 writ petitions were by the proponent of the project, by name Kapico Kerala Resorts Pvt. Ltd., referred to in the impugned judgment¹ as “the company”, seeking police protection for the completion of construction and also challenging the inclusion of the island in the Coastal Zone Management Plan prepared in pursuance of the CRZ Notification of 1991. Similarly, out of the two writ petitions which related to Vettila Thuruthu Island, one was by the Society opposing the development and the other was by the proponent of the project, by name Vaamika Island (Green Lagoon Resort), referred to as “the island owners” in the impugned judgment¹.

- 4.** The effect of the order of the High Court dated 25-7-2013¹ was: (i) to reject the writ petitions filed by the project proponents in respect of both the islands, and (ii) to allow the writ petitions filed either by the local fishermen or by the trade union or by the Society, with the following directions:

- 4.1.** That the action initiated by the authorities under the Land Conservancy Act, against the project proponent in respect of Nedyathuruthu Island (which is the appellant in these appeals and which is known as “Kapico”) for the removal of encroachments in Nedyathuruthu Island should be proceeded further in accordance with law.

- 4.2.** That the Government of India/Authority should ensure that the encroachments made in Nedyathuruthu Island are removed within three months.

- 4.3.** That the project proponent in respect of Nedyathuruthu Island, namely, Kapico and the project proponent in respect of Vettila Thuruthu Island namely, Vaamika, shall not carry out any further constructions.

- 4.4.** That the Government of India/Authority should take action for the removal of unauthorised structures put up by the island owners, namely, Vaamika.

- 4.5.** That the authorities should take action in regard to the unnumbered buildings found in Vettila Thuruthu Island.

- 5.** As against the common order passed by the High Court on 25-7-2013¹ in those 7 writ petitions (5 relating to Nedyathuruthu and 2 relating to Vettila Thuruthu), two appeals by special leave were first filed by Vaamika Island (Green Lagoon Resort), in respect of the project in Vettila Thuruthu Island. These two special leave petitions in SLPs (C) Nos. 24390-391 of 2013 first came up for hearing on 1-8-2013³ and after hearing the petitioner, this

¹ *Rathieesh K.R. v. State of Kerala*, 2013 SCC OnLine Ker 14359 : (2013) 4 K LJ 120
³ *Vaamika Island (Green Lagoon Resort) v. Union of India*, 2013 SCC OnLine SC 1437

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Court reserved judgment. Thereafter, by a reasoned judgment delivered on 8-8-2013, *Vaamika Island (Green Lagoon Resort) v. Union of India*⁴, this Court dismissed the special leave petitions, thereby giving its imprimatur to the impugned judgment¹ of the High Court. Therefore, the dispute with regard to the construction of the resort in Vettila Thuruthu attained finality and the project got buried deep under the seabed without any necessity for any further clearance from anyone.

6. However, insofar as Nedyathuruthu Island is concerned, the appellant in these appeals filed, in the first instance, three special leave petitions, SLPs (C) Nos. 34143-145 of 2013, on 7-8-2013 (after judgment was reserved in the special leave petitions in relation to Vettila Thuruthu Island). Apart from filing three special leave petitions, the appellants herein also moved the High Court of Kerala by way of 6 petitions of review (5 by the company and 1 by its Director) in Review Petitions Nos. 776 to 780 and 843 of 2013. These petitions for review were filed in October 2013. But by the time the petitions for review came up for hearing, the common judgment¹ of the High Court had already been confirmed by this Court in *Vaamika Island*⁴ on 8-8-2013. Therefore, applying the doctrine of merger, the High Court dismissed the review petitions by its order dated 10-12-2013². Challenging the dismissal of only one of those 6 review petitions, namely, RP No. 776 of 2013 [which arose out of WP (C) No. 19564 of 2011] the appellants came up in April 2014, with a separate special leave petition in SLP (C) No. 21927 of 2014. The same got tagged⁵ along with the first 3 special leave petitions arising out of the original order dated 25-7-2013¹.

7. Thus, we have on hand, four appeals, filed by the proponents of the project for the construction of a resort in Nedyathuruthu Island. These appeals arise respectively out of:

7.1. The dismissal of a writ petition filed by the project proponent challenging the inclusion of Nedyathuruthu Island within CRZ and seeking a declaration that the CRZ Notification of 1991 is not applicable to the Island.

7.2. The dismissal of the writ petition filed by the project proponent seeking police protection for completing the construction of the resort.

7.3. The order passed in the writ petition filed by a society, directing the proceedings for the removal of encroachments to be continued.

7.4. The dismissal of a petition for review of an order passed in a writ petition filed by the local fishermen claiming rights over the stake nets in the Island, directing the demolition of the constructions put up by the project proponent and also directing the proceedings for removal of encroachments to be continued.

4 (2013) 8 SCC 760

1 *Ratheesh K.R. v. State of Kerala*, 2013 SCC OnLine Ker 14359 : (2013) 4 KJ 120

2 *Kapico Kerala Resorts (P) Ltd. v. Ratheesh K.R.*, RP No. 776 of 2013 in WP (C) No. 19564 of 2011, order dated 10-12-2013 (Ker)

5 *Kapico Kerala Resorts (P) Ltd. v. Ratheesh K.R.*, 2014 SCC OnLine SC 1779

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Pleadings in the substantial writ petition

- a **8.** As stated earlier, the appellants herein were the petitioners in 2 writ petitions before the High Court. But the writ petition in which substantial reliefs were claimed by the appellants before the High Court, was the one in WP (C) No. 4808 of 2012. Briefly stated, the claim of the appellants in WP (C) No. 4808 of 2012 was:
 - b **8.1.** That CRZ Notification of 1991 does not apply to islands like Nedyathuruthu and that islands which dot the backwaters of Kerala were brought within the purview of the Regulations, for the first time only by the CRZ Notification of 2011.
 - 8.2.** That since the appellants obtained NOC on 2-8-1996 and building permit on 10-10-2007 from the Gram Panchayat, CRZ Notification of 2011 cannot be applied to their case.
 - c **8.3.** That CRZ Notification of 1991 categorises small islands under CRZ IV and there is no prohibition for construction of buildings, as standards are yet to be evolved.
 - 8.4.** That the distance from HTL in respect of small islands is required to be decided based on case-to-case study.
 - d **8.5.** That the land of the appellant falls under Category IV and hence, in the absence of any special demarcation of small islands, none of the restrictions can apply.
 - 8.6.** That CZMP for Kerala under the 1991 Notification was prepared in a haphazard and hasty manner.
 - 8.7.** That KCZMA was constituted by Notification dated 26-11-1998, with a mandate to formulate area-specific management plans, but no such plans were formulated.
 - e **8.8.** That in the absence of any area-specific criteria for determination of CRZ, the 1991 Notification is not applicable to backwater islands.
 - 8.9.** That Annexure I of the 1991 Notification classifies small islands as falling under Category IV, and CRZ II and CRZ III relate only to areas distinct from islands.
 - f **8.10.** That since the average width of the backwater island where the appellants had completed construction, is only 20-60 m, the extension of the restriction relating to Category III will be violative of the right conferred under Article 300-A.
 - 8.11.** That even if the 1991 Notification applies to small islands, Annexure I of the notification specifically requires HTL to be ascertained depending upon the size of the islands based upon integrated management study, but the same has not been carried out.
 - g **9.** It appears that in the earliest counter-affidavit filed on behalf of the Kerala Coastal Zone Management Authority to the writ petition (WP No. 19564 of 2011) filed by the local traditional fishermen, they took a stand:
 - h **9.1.** That Vembanad Lake falls under CRZ IV.

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9.2. That Nediyathuruthu Island falls under CRZ III.

9.3. That Nediyathuruthu Island has CRZ landward of HTL up to 100 m.

9.4. That the construction of a resort required clearance under CRZ Notifications of 1991 and 2011. a

9.5. That Vembanad Kayal (lake) is declared as critically vulnerable coastal area.

9.6. That though Panavally Gram Panchayat does not have sea front, it has water bodies with tidal influence.

9.7. That the panchayat was not competent to issue building permit when CRZ notification was applicable. b

10. However, in the counter-affidavit filed in WP (C) No. 4808 of 2012, the Kerala Coastal Zone Management Authority took a stand that the island falls under CRZ I. The distinction between CRZ I and CRZ III under the 1991 Notification was (i) that the areas which are ecologically sensitive and important, such as national parks/marine parks, sanctuaries, reserve forests, wildlife habitats, mangroves, corals/coral reefs, areas close to breeding and spawning grounds of fish and other marine life, areas of outstanding natural beauty/historically/heritage areas, areas rich in genetic diversity, areas likely to be inundated due to rise in sea level consequent upon global warming and such other areas as may be declared by the Central Government or authorities concerned and the areas between LTL and HTL fall under CRZ I, while (ii) areas that are relatively undisturbed and those which do not belong to either Category I or II, but which include coastal zones in rural areas and also areas within municipal limits or other legally designated urban areas which are not substantially built up, fall under CRZ III. c

11. Insofar as the restrictions/regulation of activities in CRZ I/CRZ III are concerned, the impact on the appellants was just the same, in the light of the specific stand taken by the Coastal Zone Management Authority. While no new construction except those indicated in the notification are permitted in CRZ I, areas up to 200 m from the HTL were to be earmarked as “no development zone” in CRZ III. Since the counter-affidavit of the Coastal Zone Management Authority proceeded specifically on the basis that Nediyathuruthu Island has CRZ landward of HTL up to 100 m, the contradiction in the stand taken by the Coastal Zone Management Authority would not inure to the benefit of the appellant. d

Findings of the High Court on merits

12. In the common order covering both the islands, essence, the High Court held: e

12.1. That both Nediyathuruthu and Vettala Thuruthu Islands are backwater islands of Kerala and hence, covered by CRZ Notification of 1991.

12.2. That though the requirement for the conduct of a salinity test, for classifying an area as CRZ, was introduced only in the year 2002 by way of an amendment, the authority had asserted to have carried out salinity test on the basis of 5 ppt (parts per thousand). f

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12.3. That the permit issued to the appellant made it mandatory for them to be compliant with the CRZ Notification of 1991 and hence, they cannot attack the CZMP on the ground that salinity test was not done during the driest period as prescribed in the 2002 Amendment.

12.4. That the words “small islands” included in CRZ IV in the Notification of 1991, are intended to cover small marine islands in the vicinity of Andaman and Nicobar and Lakshadweep, but are not intended to cover backwater islands which are influenced by the tidal effect contemplated in the notification.

12.5. That backwater islands which have mangroves and areas close to breeding and spawning of fish and other marine life will fall under CRZ I.

12.6. That CRZ Notification of 1991 clearly takes within its sweep, the coastal stretches of the backwater islands, along with the coastal stretches of the sea.

12.7. That in view of the development of environmental jurisprudence and the law governing the field, the restriction and regulation of the right to property through procedure established by law, cannot be taken to be a negation of the right guaranteed under Article 300-A.

12.8. That the specific stand of the authority is that Nedyathuruthu is a low lying area likely to be inundated due to rise in sea level.

12.9. That filtration ponds, by their very nature, lie adjacent to backwaters and Nedyathuruthu is an island with filtration ponds.

12.10. That having regard to the low width, that is a little over 50 m which cannot be developed, the entire area has been marked as filtration pond.

12.11. That in a writ petition under Article 226, the High Court cannot interfere with such a classification.

12.12. That under the 1991 Notification, coastal stretches of seas, estuaries, creeks, rivers and backwaters influenced by tidal action in the landward side up to 500 m will fall within coastal regulation zone.

12.13. That the distance from HTL was to apply on both sides of the rivers, creeks, backwaters.

12.14. That though the distance could be modified, on a case-to-case basis for reasons to be recorded, the distance cannot be modified to less than 100 m or the width of the waterbody.

12.15. That by an amendment in 1994, the distance of 100 m was reduced to 50 m, but this Court struck down the same.

12.16. That therefore, the plan prepared by KCZMA in 1995 had to be modified to be in tune with the judgment.

12.17. That even according to the company, the width of the island, where the construction exists, is between 20 to 60 m.

12.18. That in *S. Jagannath v. Union of India*⁶, this Court held the filtration ponds to be an ecologically polluting feature, but the same cannot go to the

⁶ (1997) 2 SCC 87

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rescue of the appellants, when the island is a backwater island falling under CRZ I.

12.19. That there was no requirement for an island-specific study, in view of the fact that the island in question is not a marine island but only a backwater island. a

12.20. That the failure to obtain a cadastral map cannot be fatal.

13. For coming to the aforesaid conclusions, the High Court solicited the assistance of one Dr K.V. Thomas, a scientist and who was the head of the Marine Sciences Division in the Centre for Earth Science Studies, Akkulam, Thiruvananthapuram. It appears from the impugned order¹ that the High Court put to Dr K.V. Thomas, specific questions as to: b

13.1. Whether HTL can be found only on the sea coast and not in the other parts.

13.2. The test carried out for fixing HTL. c

13.3. How Nedyathuruthu was identified as containing a filtration pond.

14. It appears from the impugned order that the learned counsel appearing for the appellants, was also permitted to put questions to Dr K.V. Thomas. Thereafter, the appellants filed an affidavit of objections, to the statements made by Dr Thomas. This affidavit of objections merely highlighted the discrepancies and errors in the statement of Dr Thomas. There was no objection to the very procedure adopted by the High Court in soliciting the opinion of Dr Thomas. Nor was any objection made to his statements as being biased. d

Findings of the High Court on encroachments

15. Apart from soliciting an expert opinion on the technical issues raised in the writ petitions, the High Court also got a survey carried out by the Deputy Surveyor of Alappuzha in the presence of the District Collector, so as to find out (i) the extent of the property in the possession of the appellants, and (ii) the exact extent of the island. This was done by the High Court in the light of a specific allegation made by the local fishermen and the Society that the appellants were also guilty of encroachments. Pursuant to the order passed by the High Court to that effect on 22-11-2012, a survey and measurement was done and a report submitted. As per the report, there was an encroachment, which led to a notice being issued under Section 11 of the Kerala Land Conservancy Act, 1957. After the report was filed, the appellants filed an interlocutory application in IA No. 16744 of 2012 seeking clarification. The High Court then left it open to the appellants to impugn the correctness of the report of the survey, before a competent forum. In other words, without sealing the fate of the appellants on the issue of encroachments, solely on the basis of the report of the survey conducted under the supervision of the court, the High Court gave a lease of life to the appellants to agitate the same in a separate proceeding. Keeping these findings of the High Court in mind, let us now see the grounds of attack to the impugned order¹. e
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¹ *Ratheesh K.R. v. State of Kerala*, 2013 SCC OnLine Ker 14359 : (2013) 4 KJ 120

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Rival contentions

- a** 16. Assailing the impugned order¹ of the High Court, it is contended by Dr A.M. Singhvi, learned Senior Counsel:
- 16.1. That without conducting a salinity test under the CRZ Notification of 1991 at any point of time, a finding was arrived at as though the salinity of the land was 5 ppt and that therefore, the land constituted backwaters directly influenced by the tidal effect of the sea.
- b** 16.2. That the finding about the existence of filtration ponds on the appellant's land, which is an inherent feature of CRZ I, is flawed inasmuch as most of the maps depict the area as having coconut plantations, which cannot co-exist along with a filtration pond.
- 16.3. That no State other than the State of Kerala included filtration ponds as a feature of CRZ, though a scientific Sub-Committee of the KCZMA itself
- c** found no scientific basis for defining and characterising filtration ponds.
- 16.4. That there were fatal errors in the CZMP, which were not rectified even after the Ministry of Environment and Forests pointed out several discrepancies and even after a Committee of Experts chaired by Dr M.S. Swaminathan found the plan to be replete with errors.
- d** 16.5. That the High Court could not have proceeded on the ipse dixit of a so-called expert by name Dr K.V. Thomas who was called suo motu and whose statements were taken on record as the gospel truth.
- 16.6. That the Guidelines of the MoEF requiring demarcation of HTL and LTL after physical verification were not followed and microlevel cadastral maps were not drawn by the State of Kerala.
- e** 16.7. That since the appellant's land is a 5 ha island falling within the definition of "small islands" in CRZ IV, an island-specific study was mandatory, before deciding the classification, but the same was not done.
- 16.8. That the categorisation of the island as critically vulnerable coastal area (CVCA), is flawed, as no notification by MoEF as required by CRZ 2011, was ever issued and the mandatory sequence for identifying and notifying
- f** CVCA was not followed.
- 16.9. That as many as twelve permissions/approvals obtained by the appellant from various authorities and the completion of 75% of the construction of the resort, were not given due weightage by the High Court.
- g** 17. Mr Sanjay Parikh, learned Senior Counsel appearing for the private parties and Mr Pallav Shishodia, learned Senior Counsel appearing for the State of Kerala and KCZMA raised a preliminary objection to a detailed deliberation on the merits of the case. This was on the ground that the common order impugned in these appeals has already attained finality with the dismissal of the special leave petitions through a reasoned judgment of this Court in relation to Vettala Thuruthu Island. It is also contended by them that the appellants
- h** cannot now blow hot and cold, after having agreed to take refuge under

¹ *Ratheesh K.R. v. State of Kerala*, 2013 SCC OnLine Ker 14359 : (2013) 4 K LJ 120

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Notification dated 14-3-2017 issued by MoEF (which is in the nature of a scheme for regularisation) and after having moved an application under the said notification. They contended that in any case, the order of the High Court was justified on merits and that there is no reason for this Court to take a different view from the one taken in *Vaamika Island*⁴.

18. However, Dr A.M. Singhvi, learned Senior Counsel for the appellants, contended that the decision of this Court in *Vaamika Island*⁴ was confined only to the facts relating to Vettila Thuruthu Island and that, since Vettila Thuruthu Island and Nedyathuruthu Island (to which the present appeals relate) had different features, the correctness of the order¹ of the High Court in relation to Nedyathuruthu Island required to be gone into independently. The distinguishable features, according to him are:

18.1. That Vettila Thuruthu was obviously covered by CRZ 2011 Notification, as the building permit for the appellant therein (*Vaamika*) was granted on 30-4-2012.

18.2. That though the contentions relating to salinity, filtration ponds, the opinion of Dr K.V. Thomas, the lack of cadastral maps and the identification of the area as CVCA are dealt with in the judgment of this Court in *Vaamika Island*¹, in passing, in two paragraphs, the substantive factual issues are not covered.

18.3. That the finding of existence of mangroves in Vettila Thuruthu Island and the absence of such a finding in relation to Nedyathuruthu, is a significant distinction.

18.4. That the distance through backwaters from Vettila Thuruthu to the appellants' land is about 4.3 km and Vettila Thuruthu Island, as seen from Map 32-A, is closer to Arabian Sea than Nedyathuruthu.

18.5. That the building permit issued to the appellant was on 10-10-2007, long before the issue of CRZ 2011.

18.6. That the draft KCZMP 2018 and relevant map of KCZMP 2009 make it clear that Vettila Thuruthu is directly influenced by tidal effects and has been shown as inter-tidal zone, which is absent in Nedyathuruthu.

18.7. That the issue relating to island-specific studies/small island was not dealt with in *Vaamika Island*⁴ and it is a significant distinguishing feature.

Preliminary issue — whether the judgment in Vaamika Island⁴ is distinguishable

19. In the light of the rival contentions, it is necessary for us to first deal with the preliminary issue, keeping in mind the fact that the judgment in *Vaamika Island*¹ is not under review before us. The correctness of the view expressed therein, has not been doubted and a reference made to us. Therefore, it cannot be our endeavour to undertake a research with magnifying glasses to find out

⁴ *Vaamika Island (Green Lagoon Resort) v. Union of India*, (2013) 8 SCC 760

¹ *Ratheesh K.R. v. State of Kerala*, 2013 SCC OnLine Ker 14359 : (2013) 4 KJ 120

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a minuscule differences between the 2 sets of cases. Our endeavour can only be to find out, if the major issues raised in both cases were substantially the same. If the answer is yes, the appeals are liable to be thrown out. If no, the arguments on merits have to be considered independent of the decision in *Vaamika*⁴. Therefore, let us now see what were the issues considered by the High Court as having arisen in these cases and how the High Court answered them.

b ***The issues dealt with by the High Court***

c **20.** The High Court, in the impugned judgment¹, compartmentalised the issues arising for consideration into 2 parts, the first dealing with issues in common for Vettala Thuruthu and Nedyathuruthu and the next dealing with issues peculiar to each of them. The High Court took up for consideration, from para 31 onwards of its judgment, common issues arising in respect of both the islands. After dealing with and answering the common issues, from para 31 up to para 85, the High Court independently dealt with (i) the issue of encroachments allegedly made by the appellant in para 86; and (ii) the issue relating to some specific reliefs sought by the local fishermen and a trade union in two separate writ petitions against the appellant in paras 87 to 89. Thereafter, *d* the High Court dealt with other issues.

21. In brief, the common issues formulated by the High Court in respect of both the islands are:

e **21.1.(a)** Whether the islands in the backwaters of Kerala are covered under the CRZ Notification of 1991 and whether the failure to conduct salinity test as required by the amendment made in 2002, vitiated the stand of the KCZMA?

21.2.(b) Whether the islands would fall under CRZ IV and what are its effect on the property rights and the doctrine of legitimate expectation?

21.3.(c) Whether the identification of the island as a filtration pond, on the basis of maps drawn to the scale of 1:12,500 using satellite images without any field check, is correct?

f **21.4.(d)** Whether filtration ponds are an anathema in the light of the decision of this Court in *S. Jagannath v. Union of India*⁶?

21.5.(e) Whether there is any reliable material to classify the areas as filtration ponds?

21.6.(f) Whether there must be island-specific study?

21.7.(g) Whether cadastral map is a must and its absence fatal?

g **22.** The findings on all these issues went against the appellants as well as the proponent of the project in Vettala Thuruthu Island. We have recorded the gist of those findings of the High Court, in para 12 above.

h ⁴ *Vaamika Island (Green Lagoon Resort) v. Union of India*, (2013) 8 SCC 760

¹ *Rathiesh K.R. v. State of Kerala*, 2013 SCC OnLine Ker 14359 : (2013) 4 K LJ 120

⁶ (1997) 2 SCC 87

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23. As we have indicated elsewhere, the decision of this Court in *Vaamika Island*⁴ is sought to be distinguished on the basis of seven identifiable features, some of which, according to the appellants, are covered in the decision in *Vaamika Island*⁴, only in passing reference. According to Dr Singhvi, learned Senior Counsel, the issues relating to salinity, filtration ponds, the opinion of Dr K.V. Thomas, the lack of cadastral maps and the identification of the lake as CVCA, are all mentioned in paras 23 and 24 of the decision of this Court in *Vaamika Island*⁴, only in passing. It is his contention that these two paragraphs of the decision of this Court in *Vaamika Island*⁴, seek to decide these issues summarily without any reasoning and that therefore, this Court is entitled to decide those issues independently in relation to Nedyathuruthu Island. Let us now see if this contention is valid.

24. As pointed out by this Court in *Kunhayammed v. State of Kerala*⁷, there is a distinction between the dismissal of a special leave petition by a non-speaking order where no reasons are recorded and the dismissal of a special leave petition by a speaking or reasoned order. In both cases, the doctrine of merger would not apply. But in cases falling under the latter category, the reasons stated by the Court would attract the applicability of Article 141 of the Constitution, if a point of law has been declared therein. If what is stated in the order of the Supreme Court (before the grant of leave) happen to be findings recorded by the Supreme Court, not amounting to a declaration of law, the findings so recorded would bind only the parties thereto. Though the views expressed in *Kunhayammed*⁷ were thought of to be in conflict with the views expressed in certain other decisions (*Abhai Maligai Partnership Firm v. K. Santhakumaran*⁸), and the issue was referred⁹ to a larger Bench for an authoritative pronouncement, this Court has now clarified in *Khoday Distilleries Ltd. v. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd.*¹⁰, that *Kunhayammed*⁷ lays down the correct law.

25. It is no doubt true that the decision in *Vaamika Island*⁴ was rendered at the stage of special leave petitions. Obviously this Court refused leave, but went on to affirm the findings of the High Court, recording detailed reasons therefor. The opinion expressed in paras 27 and 28 of *Vaamika Island*⁴, does not give any room for escape even for the appellants before us. Paras 27 and 28 of the decision in *Vaamika Island*⁴ read as follows: (SCC p. 768)

“27. We are of the considered view that the above direction was issued by the High Court¹ taking into consideration the larger public interest and to save Vembanad Lake which is an ecologically sensitive area, so proclaimed nationally and internationally. Vembanad Lake is presently undergoing severe environmental degradation due to increased human intervention and,

⁴ *Vaamika Island (Green Lagoon Resort) v. Union of India*, (2013) 8 SCC 760

⁷ (2000) 6 SCC 359

⁸ (1998) 7 SCC 386

⁹ *Khoday Distilleries Ltd. v. Mahadeshwara S.S.K. Ltd.*, (2012) 12 SCC 291 : (2013) 4 SCC (Cri) 649 : (2013) 3 SCC (L&S) 450

¹⁰ (2019) 4 SCC 376

¹ *Ratheesh K.R. v. State of Kerala*, 2013 SCC OnLine Ker 14359 : (2013) 4 KJ 120

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a as already indicated, recognising the socio-economic importance of this waterbody, it has recently been scheduled under “vulnerable wetlands to be protected” and declared as CVCA. We are of the view that the directions given by the High Court are perfectly in order in the abovementioned perspective.

b 28. Further, the directions given by the High Court in directing demolition of illegal construction effected during the currency of the 1991 and 2011 CRZ notifications are perfectly in tune with the decision of this Court in *Piedade Filomena Gonsalves v. State of Goa*¹¹, wherein this Court has held that such notifications have been issued in the interest of protecting environment and ecology in the coastal area and the construction raised in violation of such regulations cannot be lightly condoned.”

c 26. The appellants cannot also escape the findings recorded by this Court in other paragraphs, on the common issues. Even according to the appellants, some of those common issues, such as salinity, filtration ponds, cadastral maps, CVCA, etc. are dealt with by this Court in paras 23 and 24 of the reported decision. The contention that these common issues are dealt with in passing, in the judgment of this Court and that therefore, they are entitled to be reargued, cannot be accepted.

d 27. If detailed reasons given by the High Court or a subordinate court, find acceptance by this Court, in specific terms, the question of scrutinising them for finding out whether they were in the passing or in detailed focus, does not arise. Such an exercise would tantamount to reviewing the decision.

e 28. Each and every particular issue dealt with by the High Court as common to both the islands, was considered by this Court in *Vaamika Island*⁴ and a finding recorded. In particular:

28.1. Map No. 32-A of CZMP as well as the techniques employed to ascertain whether the constructions were made in violation of CRZ 1991 as well as 2011, were found by this Court in para 25, not to be suffering from any illegality.

f 28.2. KCZMP was held by this Court in para 23 of *Vaamika*⁴ to have been prepared based on the guidelines of MoEF, taking care of the maps prepared by the Survey of India (Government of India) and cadastral maps prepared by the Survey Department of the Government of Kerala.

28.3. It was also pointed out in para 23 that the area between LTL and HTL is also CRZ I and filtration ponds are shallow water bodies and hence, they fall under CRZ I as per notification.

g 28.4. In para 24, this Court specifically concurred with the view of the High Court that islands could be coastal stretches of rivers or backwaters or backwater islands and that they are clearly covered by CRZ I and not under CRZ III or CRZ IV.

h ¹¹ (2004) 3 SCC 445

⁴ *Vaamika Island (Green Lagoon Resort) v. Union of India*, (2013) 8 SCC 760

28.5. In para 24 this Court also endorsed the view of the High Court that even before the salinity test was incorporated in the year 2002, reliance was placed on that test, on the basis of 5 ppt which was made as per standard measurements in parts per thousand.

29. The first distinction sought to be made by the appellants between their case and the case relating to Vettila Thuruthu is that the building permit issued to Vaamika was post 2011 Notification. But this distinction will not go to the rescue of the appellants, in view of the fact that the categorisation under CRZ I under the 1991 Notification was upheld by this Court and this is why this Court found the constructions made even in Vettila Thuruthu as violative of both the notifications, namely 1991 and 2011 Notifications (para 24 of *Vaamika Island*¹).

30. In any case, the appellants *herein* obtained NOC on 2-8-1996 and the building permit on 10-10-2007. In para 26 of its decision in *Vaamika Island*², this Court recorded the fact that the Director of Panchayats vide Letters dated 7-3-1995 and 17-7-1996 had directed all panchayats to strictly follow the provisions of CRZ notification and that it was found to have been violated while granting permission. This finding hits at the very root of the contention that the appellants' permit will not be affected, as it was pre-2011 Notification. In the teeth of the letters of the Director of Panchayats dated 7-3-1995 and 17-7-1996, addressed to all the panchayats, advising them to follow the provisions of CRZ notification, NOC and building permit obtained, respectively on 2-8-1996 and 10-10-2007, by the appellants were clearly illegal.

31. Both Vettila Thuruthu and Nediyaathuruthu Islands are admittedly backwater islands nestled in Vembanad Lake. In para 27 of the judgment in *Vaamika Island*³, this Court has indicated that Vembanad Lake is an ecologically sensitive area and that considering the socio-economic importance of this waterbody, it had been scheduled under "vulnerable wetlands to be protected" and declared as CVCA. We do not know how this finding can be held to be applicable only to Vettila Thuruthu Island.

32. According to the appellants, CRZ 2011 prescribes a procedure for identifying, planning and implementing CVCA. To begin with, guidelines may have to be framed by MoEF in consultation with the stakeholders. According to the appellants, the process of consultation with the local fishers and other communities and the process of identification and planning of CVCA, the process of preparation of integrated management plan, etc. were not even undertaken and hence, Vembanad Lake though listed in Para 8(V)(4)(b) of CRZ 2011 Notification as CVCA, cannot be taken to be a notified CVCA.

33. But the above contentions are already dealt with by the High Court in paras 120-122 of its judgment. In para 121 of its judgment, the High Court recorded a specific finding that when the whole of Vembanad Lake is included as a CVCA, subject to a process, the Court has to take a view which serves the object of the area being treated as ecologically sensitive and hence, a CVCA. It is with particular reference to this finding that this Court held in para 27 of *Vaamika Island*⁴ that the whole of Vembanad Lake is to be seen as CVCA.

¹ *Vaamika Island (Green Lagoon Resort) v. Union of India*, (2013) 8 SCC 760

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34. Once we find that the main issues arising in common for both the islands and dealt with in common by the High Court, had received a seal of approval from this Court by a reasoned order, there is no scope for revisiting the same on the basis of certain minor ancillary issues not specifically dealt with, in the judgment. Therefore, we hold that the distinctions sought to be made out by the appellants are not substantial and hence, we are not inclined to revisit the issues already clinched by this Court.

Alternative submissions

35. Dr A.M. Singhvi, learned Senior Counsel for the appellants, made two alternative submissions without prejudice. The first is that by a Notification dated 14-3-2017, a window of opportunity akin to regularisation has been provided to those who made developments without complying with statutory requirements. According to him, the appellants availed this opportunity and the terms of reference were granted on 5-4-2018. KCZMA also considered the application of the petitioner in its meeting held on 7-7-2018 and took a decision to inform MoEF of the complete details of the case. Therefore, it was contended by the learned Senior Counsel that the appellants should be allowed at least the benefit of the said notification.

36. We have perused the Notification dated 14-3-2017. The primary object of the said Notification appears to be to address the issue as to how to deal with the projects and activities carried out without obtaining prior environmental clearance. The notification seeks to declare the projects and activities requiring prior environmental clearance under EIA Notification, 2006, but carried out without obtaining such clearance, as cases of violation of the EIA Notification, 2006 and it seeks to provide an opportunity to those violators to avail the benefit of a one-time clearance. The Notification dated 14-3-2017 does not deal with cases of violation of CRZ notifications. Therefore, we cannot say anything on the application of the appellants under the said Notification. In any case, the issue does not arise out of the lis before us.

37. The second alternative prayer made by the appellants without prejudice, is on the basis of the CRZ Notification 2019 issued on 18-1-2019. According to the learned Senior Counsel for the appellants, the 2019 Notification permits construction and operation, so long as it is 20 m from HTL. According to the appellants, even if all the constructions put up by them are now demolished, the appellants will be entitled to build once again, approximately 60% of the area covered by the existing superstructures.

38. But the above argument does not carry any weight. Para 10.2 of the CRZ 2019 Notification states that all inland islands in the coastal backwaters and islands along the mainland coast shall be covered by the Notification. It further states that in view of the unique coastal systems of backwater islands and islands along the mainland coast, along with space limitations in such coastal stretches, CRZ of 20 m from the HTL on the landward side shall uniformly apply. However, Para 10.2(ii) states that activities shall be regulated as under:

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38.1. Existing dwelling units of local communities may be repaired or reconstructed within 20 m from HTL of these islands, but no new construction shall be permitted in this zone.

38.2. Foreshore facilities such as fishing jetty, fish drying yards, net mending yard, fishing processing by traditional methods, boat building yards, ice plant, boat repairs and the like may be taken up in CRZ limits subject to environmental safeguards.

39. Therefore, it is not as though the reduction of the distance parameter to 20 m from HTL is intended to confer a benefit upon persons like the appellants. Moreover, even the CRZ 2019 Notification places Vembanad Lake in the category of CVCA in Para 3.1 but with a different reach. There is a world of difference between the 2011 and 2019 Notifications, insofar as CVCAs are concerned. This can be summarised as follows:

39.1. In Para 8(V)(4) of the CRZ 2011 Notification, areas to be declared as CVCAs were identified but Para 8(V)(4)(b) mandated that those identified areas can be declared as CVCAs through a process of consultation. Para 8(V)(4)(c) required guidelines to be developed and notified by MoEF in consultation with the stakeholders, for identifying, planning, notifying and implementing CVCAs. Integrated management plans were also required to be prepared for CVCAs under Para 8(V)(4)(d) of the 2011 Notification.

39.2. But under Para 3.0 of the CRZ 2019 Notification, certain coastal areas are accorded special consideration for the purpose of protecting the critical coastal environment and the difficulties faced by local communities. Para 3.1 identifies the critically vulnerable coastal areas. They include Vembanad Lake. While the words contained in Para 8(V)(4)(b) of the 2011 Notification are: "... shall be declared as CVCA through a process of consultation with the fisher and other communities inhabiting the area ...", the words contained in Para 3.1 of the 2019 Notification are "... shall be treated as CVCA and managed with the involvement of coastal communities including fisher folk".

40. Therefore, for the appellants, the situation has gone from bad to worse. Under the 2011 Notification the areas identified in the Notification had to be declared as CVCAs only through a process of consultation with local fisher, etc. Guidelines are to be put in place for identifying, notifying and implementing CVCA but the 2019 Notification straightaway treats the named areas as CVCAs and vests their management with the authority with the involvement of coastal communities. Therefore, the alternatives claimed by the appellants also do not appear to be viable for them.

41. Hence, in the light of our finding: (i) that the substantial issues that arose in common for both the islands have already been answered in *Vaamika Island*¹, and (ii) that the distinguishing features sought to be projected, are not so material as to take a different view than the one taken therein, the appeals are liable to be dismissed. Accordingly, all the appeals are dismissed. There shall be no order as to costs.

¹ *Vaamika Island (Green Lagoon Resort) v. Union of India*, (2013) 8 SCC 760

2014 SCC OnLine NGT 5631

Before the National Green Tribunal Southern Zone, Chennai
 (BEFORE M. CHOCKALINGAM, J.M. AND R. NAGENDRAN, E.M.)

Appeal No. 172 of 2013 (SZ)

In the matter of:

Sreeranganathan K.P., Sreepadam Vadakkkekkottaram (H)
 Aranmula P.O., Pathanamthitta District Kerala ... Appellant;

Versus

1. The Union of India Rep. by its Secretary Ministry of Environment and Forests CGO Complex, New Delhi
2. The State of Kerala Rep. by its Principal Secretary Environment Department Thiruvananthapuram
3. Kerala State Pollution Control Board Rep. by its Member Secretary Pattom, P.O., Thiruvananthapuram
4. M/s. K.G.S. Aranmula Airport Ltd., No. 43, Besant Avenue Road Adyar, Chennai-600020 ... Respondents.

Appeal No. 173 of 2013 (SZ)

In the matter of:

Padmakumar S/o. Achuthan Nair Keechemparambil House
 Aranmula P.O., Pathanamthitta District Kerala State, PIN: 689533 ... Appellant;

Versus

1. Government of India, Ministry of Environment and Forests Rep. by its Director Parayavaran Bhavan, C.G.O. Complex Lodhi Road, New Delhi-110003
2. The Managing Director M/s. K.G.S. Ltd., Bhasanth Avenue Road Adyar, Chennai Tamil Nadu-600020 ... Respondents.

Appeal No. 174 of 2013 (SZ)

In the matter of:

Aranmula Heritage Village Action Council Represented by its Patron Kummanam Rajashekharan Thekkenada, Aranmula-P.O. Pathanamthitta District ... Appellant;

Versus

1. State of Kerala, represented by its Chief Secretary Kerala State Government Secretariat Thiruvananthapuram - 695001
2. Secretary to Government, Revenue Department, Kerala Government Secretariat Thiruvananthapuram - 695001
3. Secretary to Government, Industries Department, Kerala Government Secretariat Thiruvananthapuram - 695001
4. Secretary to Government, Agriculture Department, Kerala Government Secretariat Thiruvananthapuram - 695001
5. Secretary to Government, Irrigation Department, Kerala Government Secretariat Thiruvananthapuram - 695001
6. Secretary to Government Environment Department Kerala

Government Secretariat Thiruvananthapuram - 695001

7. Agriculture Officer, Krishi Bhavan Aranmula, Pathanamthitta-689533
8. Agriculture Officer, Krishi Bhavan Mallapuzhassery, Pathanamthitta-689533
9. Village Officer, Aranmula, Pathanamthitta-689533
10. Village Officer, Krishi Bhavan Mallapuzhassery, Pathanamthitta-689533
11. Village Officer, Kidanganoor, Pathanamthitta-689514
12. Tahsildar, Kozhenchery, Pathanamthitta-689641
13. District Collector, Pathanamthitta-689645
14. Revenue Divisional Officer, Adoor Pathanamthitta-691523
15. Union of India, Represented by its Secretary, Ministry of Civil Aviation, New Delhi-110001
16. Secretary, Ministry of Defence, New Delhi-110001
17. Secretary, Ministry of Environment and Forests, Paryavaran Bhavan, New Delhi-110001
18. M/s. KGS Aranmula International Air Port Ltd. Registered Office, KGS Corporate House, No. 43, Basant Avenue Road, Adayar, Chennai-600020
19. K.J. Abraham @ Kalamannil Abraham, Kalamannil Veedu, Kozhenchery Village, Pathanamthitta-689641
20. Expert Appraisal Committee, Ministry of Environment and Forest Paryavaran Bhavan, New Delhi-110001
21. Taluk Land Board, Kozhencherry, Represented by its Chairman, Collectorate, Pathanamthitta ... Respondents.

Appeal No. 1 of 2014 (SZ)

In the matter of:

P. Prasad, aged 45 years S/o Parameswaran Nair R. Ravindran Smarakam, Kannankara Pathanamthitta, Kerala ... Appellant(s);
Versus

1. The Union of India represented by Secretary Department of Environment and Forest New Delhi
2. The Director, Parayavaran Bhavan CGO Complex, Lodhi Road New Delhi-3
3. M/s. KGS Aranmula International Airport Limited Registered Office, KGS Corporate House No. 43, Basant Avenue Road Adayar, Chennai-600020

Represented by its Managing Director

4. Kerala State Pollution Control Board Represented by its Secretary Office of Kerala State Pollution Control Board Pattom P.O., Thiruvananthapuram-695004
5. Shri. C.P. Mohammed M.L.A. Chairman, Committee of Environment Kerala Legislature Kerala Legislature Complex Thiruvananthapuram
6. State of Kerala represented by Secretary, Department of Revenue Secretariat, Thiruvananthapuram ... Respondent(s).

Appeal No. 19 of 2014 (SZ)

In the matter of:

K.K. Royson (Former President, Pathanamthitta District Panchayat)
Kaithavana Malayil House Thekkamala PO, Kozhencherry
Pathanamthitta (District) Kerala-689654 ... Appellant(s);

Versus

1. The Government of India represented by Secretary Ministry of Environment and Forests (IA-III Division) Parayavaran Bhavan, CGO Complex, Lodhi Road New Delhi-110003
2. State of Kerala represented by Secretary, Department of Environment Government Secretariat Thiruvananthapuram-695001
3. M/s. KGS Aranmula International Airport Limited Registered Office, KGS Corporate House No. 43, Basant Avenue Road Adayar, Chennai-600020 Represented by its Managing Director
4. Kozhencherry Charitable Education Society Represented by its Chairman K.J. Abraham, Kalamannil House Kozhencherry, Pathanamthitta Kerala-689641
5. Enviro Care India Private Ltd. Represented by its Chairman, 43, 2nd Street, Harvey Nagar Madurai, Tamil Nadu-625016
6. Kerala State Pollution Control Board Represented by its Secretary Pattom P.O., Thiruvananthapuram-695004
7. The District Collector Pathanamthitta, District Collectorate Pathanamthitta, Kerala-689645 ... Respondent(s).

Appeal Nos. 172, 173, 174 of 2013 (SZ) and Appeal Nos. 1 and 19 of 2014 (SZ)

Decided on May 28, 2014

Counsel appearing:

M/s. T. Mohan and A. Yogeshwaran, Advocates for appellant

M/s. C. Sangamithirai, Advocate for respondent No. 1, Shri K.P. Dhandapani, Advocate General, State of Kerala assisted by Shri Rohan D. Alexander, Government Pleader attached to Advocate General and Suvitha A.S., Special Government Pleader for respondent No. 2 Shri M. Ajay, Advocate for respondent No. 3. Shri T.R. Rajagopalan, Senior Advocate for Shri Sathish Parasaran, Advocate for respondent No. 4.

Counsel appearing:

M/s. Ashok M. Cherian, K. Janardhan Shenoy, Advocates for appellant

Smt. C. Sangamithirai, Advocate for respondent No. 1, Shri T.R. Rajagopalan, Senior Advocate assisted by Shri. Sathish Parasaran, Advocate for respondent No. 2

Counsel appearing:

M/s. R. Krishnaraj, Advocate for Shri Ramesh Kumar Chopra, Counsel for appellant

Shri K.P. Dhandapani, Advocate General, Kerala assisted by Shri Roshan D. Alexander and Smt. Suvitha, A.S. Advocates for respondent No. 1 to-respondent No. 14 and respondent No. 21, Smt. C. Sangamithirai, Advocate for respondent No. 17 and respondent No. 20, Shri T.R. Rajagopalan, Senior Advocate assisted by Shri. Sathish Parasaran, Advocate for respondent No. 18

Counsel appearing:

Shri Ranjith Thamman, Senior Advocate for Shrimathi Rema Smrithi, and Shrimathi Mallika Srinivasan, Advocates for appellant

Smt. C. Sangamithirai, Advocate for R-1 and R-2, Shri T.R. Rajagopalan, Senior Advocate assisted by Shri Sathish Parasaran, Advocate for respondent No. 3, Shri M.

Ajay, Advocate for respondent No. 4, Shri K.P. Dhandapani, Advocate General, Kerala assisted by Shri. Roshan D. Alexander, and Smt. Suvitha A.S., Advocates for respondent No. 5 and respondent No. 6

Counsel appearing:

Shri. Jacob Alex, Advocate for appellant

Smt. C. Sangamithirai, Advocate for respondent No. 1, Shri K.P. Dhandapani, Advocate General assisted by Shri Roshan D. Alexander and Smt. Suvitha, A.S. Advocates for respondent No. 2, Shri T.R. Rajagopalan, Senior Advocate for Shri Sathish Parasaran, Advocate for respondent No. 3 and respondent No. 7, Shri P.S. Raman, Senior Advocate assisted by Shrimathi Pushpa Menon, Advocate for respondent No. 5, Shri M. Ajay, Advocate for respondent No. 6

COMMON JUDGMENT

M. CHOCKALINGAM, JUDICIAL MEMBER)

Appeal No. 172 of 2013 (SZ)

This appeal has been preferred by the appellant herein against the order of the 1st respondent, Ministry of Environment and Forests (for short 'MoEF') dated 18.11.2013, granting Environmental Clearance (for short 'EC') to the 4th respondent, KGS Aranmula Air Port Ltd., to set up an airport at Mallappuzhasserry, Aranmula and Kidangannur villages in Kozencherry taluk of Pathanamthitta District, Kerala. A writ petition has also been filed in W.P. (C). No. 6004 of 2012 challenging the notification issued by the 2nd respondent, the State of Kerala declaring the area as an industrial area and the said writ petition is still pending before the Hon'ble High Court of Kerala. The brief facts of the appeal filed herein are stated as follows:

2. The proposed airport is being set up by the 4th respondent on the banks of the holy river Pampa, in an ecologically sensitive and environmentally diverse and rich area. Aranmula is a declared heritage site and gets its name from the centuries old Aranmula Parthasarathy temple and it attracts a large number of devotees. The Aranmula village is situated at the beautiful wetland eco-system on the banks of the holy river Pampa represents the epitome of Kerala culture and also the apex heritage of Kerala.

3. Mallappuzhasserry, Aranmula and Kidangannur villages where the airport is to be set up are agricultural villages with paddy being the principal crop and the wetlands in the area are major bio-diversity hotspots. The 1st respondent, without considering the deleterious effects of the airport on the pristine environment of the area, has granted the impugned EC to the 4th respondent. The Environment Impact Assessment (for short 'EIA') submitted by the 4th respondent is inadequate, incorrect, misleading and it is a fraud perpetrated by the 4th respondent. The EIA has not been prepared by an accredited agency. The public hearing conducted for the purpose of the setting up the airport was conducted in a clandestine and undemocratic manner in violation of EIA Notification, 2006 and the impugned EC dated 18.11.2013 was granted without any application of mind.

4. The area is rich in bio-diversity. The region is the home to hundreds of plants, animal and species. The EIA report submitted by the 4th respondent to the 1st respondent for obtaining the EC did not provide any details about the flora and fauna in the region except to state that there are no endangered species in the area. The 1st respondent without considering the falsity of the statement listing only 22 species of plants and a few grasses as the flora in the region, has granted the impugned clearance. The report of the Salim Ali Foundation clearly states that more than 212 species of plants were recorded in a span of 4 days spent in the field making direct observations. The report further states that 27 of these species were endemic to the

Western Ghats, 110 are economically important and 88 were wetland species. The Salim Ali Foundation in addition clearly states that more than 60 species of fishes and more than 80 species of birds were recorded. The EIA report submitted by the Project Proponent did not reflect any of these facts and instead falsely stated that 34 species of birds were identified and baldly went on to state that there were no endangered species of flora and fauna in the area. The paddy fields and wetlands in Mallappuzhaserry, Aranmula and Kidangannur where the proposed project is to be set up serve as the flood plains of the river Pampa. These wetlands minimize damage to the surrounding areas by serving as a natural flood control mechanism. On the onset of monsoon in the month of June, when the water begins to drain into river Pampa, a large number of fishes migrate upwards against the paddy fields and wetlands which serve as a nursery and hatchery for the fish species. The EIA report had not considered these aspects and the 1st respondent erred in granting the impugned clearance when the very eco system of the area was incorrectly assessed by the EIA report based on which the impugned EC was granted. The EIA did not attempt to characterize the ecology of the area including wildlife inhabited in forest land to locate the runway at the proposed project location. The EIA stated that very limited field studies were made on the ecology of the area and the information allegedly collected from the field studies referred to in the EIA report is lacking in all requisite details. It is impossible to identify and understand the potential impact of the proposed airport without knowing the identity of a single mammal or bird species inhabiting that land for giving clearance to the proposed project. The EIA report relied on by the 1st respondent/MoEF while granting the impugned EC did not even conform to the MoEF's EIA Guidance Manual for Air Ports which states *inter alia* as follows and none of the criteria was met by the EIA prepared in the instant case based on which the 1st respondent granted the impugned EC.

“Airport operations may cause change in local eco-systems, threaten, endangered species and disturb the movements and breeding patterns of local wildlife. Airports are located within a variety of settings (both urban and rural) which support habitats and species of their own, some of which will have direct interaction with those located on the airport and vice versa. Some local areas designated for their nature conservation value will be affected. The biological environment of the airport should hence be seen as an integral component of the wider landscape scale ecological network. To accomplish this, base line data from field observations for various terrestrial and aquatic systems are to be generated; comparison of the data with authentic past records to understand changes is undertaken; environmental components like land, water, flora and fauna are characterized and the impact of airport development on vegetation structure in and around the project site is to be understood.

Data on sensitive habitats, wild and endangered species in the project area also is to be collected from Zoological Survey of India, Botanical Survey of India, Wildlife Institute of India and the Ministry of Earth Sciences. Wildlife symbolizes the functioning efficiency of the entire eco-system. Just as wild flora needs special treatment for preservation and growth, wild fauna as well deserves specific conservatory pursuits for posterity. As per Wildlife Act, 1972 the various wild animals are enlisted in the schedules of the Wildlife Act based on the intensity of threat to them as rare, endangered, threatened, vulnerable etc. Primary data on survey of the wild animals and birds in the study area is collected and identified with the classification into various schedules taken from secondary data.

5. The 1st respondent has failed to consider the impact of filling in paddy lands and wet lands in the area on ground water table. The wetlands and paddy fields serve as a natural reservoir when water level rises in Pampa River and also functions as a natural

irrigation system. It helps to maintain the ground water level, ponds and tanks in the surrounding villages. Destruction of paddy fields by the 4th respondent will affect the ground water table in the area. Due to the filling of 500 acres of lands allegedly acquired by the 4th respondent, the deleterious effects will be felt in all surrounding wetlands as the water path would be blocked leading to the destruction of the intricate natural system.

6. The 4th respondent has provided false information about the number of persons likely to be displaced as a result of the present project. The EIA report is based on woefully inadequate study on the impact of the project in this regard. The EIA report has not provided any details regarding the sociological impact on account of the project activities assessed and the impugned EC has been granted without even assessing this aspect. The 4th respondent has willfully concealed the fact that a huge number of people will have to be evacuated from the area to facilitate the project and has not addressed the rehabilitation and relocation issues involved with such huge displacement. The evacuation of people historically, culturally and economically connected with the region is violation of the right to life as guaranteed by the Article 21 of the Constitution of India.

7. The respondents have not assessed the impact of exploitation of water resources by the proposed airport. While the EIA report in paragraph 2.8.2 under 'Water' contained the information that the total requirement of raw water for this air port will be 7.55. KLD which will be met from the bore wells and municipal water supply, the EIA report does not discuss the impact of such large scale extraction of water on the water table in the area, especially in the light of the fact that the recharge areas are and have to an extent already been filled up illegally prior to the grant of EC.

8. A four lane approach road is proposed from Alkkara junction to the terminal building for which land needs to be acquired. Similarly, road from Parumootampadi junction to Alkkara junction is also required to be widened for smooth vehicular traffic to the proposed airport. However, the environmental, socio-economic and other impacts of the said road construction have not been addressed by the 4th respondent and the 1st respondent has mechanically granted the impugned clearance. The land use classification as per the EIA states that the Government has recognized the location of this project site as unclassified land while admittedly, paddy lands have to be filled up and the area is covered by the paddy lands and wetlands. The clearance granted was thus based on false information in the EIA report in this respect.

9. The EIA in paragraph 2.6(a) and 2.6(c) read under the captions 'Archaeological Monuments' and 'Cultural Monuments' states that there are no archeological monuments in the 10 km radius. The Aranmula village itself is a heritage village and got its name from the century's old Aranmula Parthasarathy temple on the banks of the holy river Pampa which attracts large number of devotees. The temple has fine murals from the 18th century and the entire region is replete with temples of importance. The Pampa River runs within a few hundred meters of the alleged boundary of the project site described in the EIA. Even according to the 4th respondent and Annexure-A1 of the EC, it is an admitted fact that the Aranmula village is declared as heritage village for its peculiar metal mirror 'Aranmula Kannadi' which is unique, patented product which is produced exclusively from Aranmula village by a family of local craftsmen. The representatives of the mirror making family has approached the Hon'ble High Court of Kerala against the proposed project on the ground that filling up of the paddy lands in that area will seriously affect the making of this metal mirror. They have also stated that the mud and clay collected from the paddy lands is one of the main ingredients in the process of making Aranmula metal mirror. The 1st respondent, being aware of all the facts did not address any such issues in the EC and

instead, falsely stated that this project has no connection with the Aranmula metal mirror.

10. The EIA report does not deal with the quantum of materials needed for filling in the 500 acres of land required for the project. However, the impugned EC, in specific condition No. (iii) states that the soil required for the land filling shall be met from the elevated area of about 14.5 acres available within the site itself. The 1st respondent has not considered the fact that the 4th respondent even prior to the grant of EC altered the nature of the land and did not take any action against the 4th respondent.

11. There is no information in the EIA that would allow one to independently verify where exactly the boundary of the airport would be located and where key components of the airport such as runway would be located. It has been mentioned in Figure 1.2 of the EIA report purport to show the site of the proposed airport and Figure 1.4 which describes the overall plan of the airport including the 2300 m runway. There is no conceivable way that a 2300 m runway as depicted in Figure 1.4 of the EIA would ever fit into the boundary of the site as depicted in Figure 1.2 of the EIA. The maximum lateral distance between the boundaries indicated in Figure 1.2 when measured with Google Earth is only 515 m. The proposed runway of 2300 m and 2800 m in future could not possibly fit into the site as per Figure 1.2 of the EIA report in respect of which the EIA study has been done. The 1st respondent blindly granted the present clearance without even ascertaining the extent of the project boundaries claimed by the 4th respondent.

12. The public hearing was not conducted in a proper manner. The access to the public hearing was not facilitated by the project proponent or other stake holders as a result of which a majority of the people who are likely to be affected due to the setting up of the 4th respondent project were not provided with an opportunity to voice their grievances. The law requires that the project proponent submits copies of the draft EIA report with the generic structure given in Appendix III including a summary of the EIA report in English and in the local language prepared strictly in accordance with the terms of reference communicated after scoping. In the instant case, the 4th respondent applied on 02.02.2011 for conducting the mandatory public hearing. The alleged publication in the dailies did not contain all required information as mandated by the Appendix VI of the EIA Notification, 2006. Even as on date, the EIA is not available for viewing or downloading from the 1st respondent's website. The public hearing was scheduled on 10.03.2011. It was rescheduled to 29.04.2011 and again to 10.05.2011 and that the change in the dates was neither publicized as required in law nor published in any local dailies and this fact was brought forth from the minutes of the public hearing held on 10.05.2011. This is in violation of EIA Notification, 2006 as per clause 3.3 of Annexure IV. Even the time limit between the postponed dates was short of the minimum 30 days as mandated and never publicized and as a result of which the public was prevented from effective participation in the public hearing process. As could be seen from the minutes of the public hearing in Annexure A-4, only 26 persons were able to participate in the public hearing. The tenor of the serious protests held by the people directly affected in the area is not reflected in the public hearing which was also not conducted at the project site or anywhere in close proximity. In the matter of *S. Nandakumar v. the Secretary to Government, Tamil Nadu*, in W.P. No. 10641 of 2009 the Hon'ble High Court of Madras by its order dated 22.04.2010 observed as follows:

"33. The public consultative process is, therefore, an essential component in the process of EIA. It is essentially an embodiment of the principles of natural justice. The importance of conducting public hearing in a peaceful atmosphere with opportunity to all the local affected persons and others, who have plausible stake in

the environment impacts of the project is evident by the fact that the notification wanted District Magistrate or any other officer not below the rank of an Additional District Magistrate to supervise the conduct of the public hearing. Similarly, while conducting appraisal of the application and the documents submitted by the applicant for EC, the EAC has to consider the outcome of the public consultations, including report of the public hearing proceedings. Therefore, public hearing occupies a pivotal position in the matter of EIA.

34. When the notification itself indicates the manner and method of conducting public hearings, the statutory authorities are expected to conduct the hearing by giving reasonable opportunity to all the local affected persons and others who have interest in the particular project or activity. Such public hearings should not be a make belief affair just to comply with the requirements of the notification. It is the responsibility of the District Magistrate or officers of equal status to see that all the affected persons are given audience. The panel of officers conducting the public hearing must remember that such hearings are conducted only to record the views of the affected persons. The statutory panel should hear the views of the affected persons and not those who have assembled in the meeting hall at the behest of the developer with a hidden agenda to block or prevent the opposition to the project. The regulation, therefore, provides for recording the attendance of those who are present at the venue and such attendance register should be forwarded with the minutes of the proceedings. Therefore, the attempt should be to conduct the hearing in an open and transparent manner with an opportunity to express even the dissenting views without fear. The authorities owe a duty to the society to conduct such meetings in the manner prescribed by the statute and if necessary, by taking police assistance. The minutes of the hearing should contain a true note of what has transpired in the meeting. The consultative process is an essential facet of the EIA study and therefore, any violation of the mandatory procedure in the matter of conducting public hearing and recording the views or objections of the affected persons would give the aggrieved a cause of action to challenge the legality and correctness of the public hearing proceedings, without waiting for the final outcome of the impact assessment proceedings.”

13. In the light of the above judgment describing the importance of the public hearing in the clearance process and the facts of the present case make it evident that the entire process was farce and the 1st respondent has not considered any of these facts while granting the impugned clearance.

14. According to EIA Notification, airports are Category-A projects and only duly accredited EIA consultants can appear before the EAC or prepare the EIA report. The present agency is found in Serial No. 47 of the QCI list (in Annexure-A-5) and as per the accreditation, Enviro Care India Private Limited is authorized only to carry out EIA preparation for Category B projects and the 1st respondent has not considered even this aspect while granting the impugned clearance. The 4th respondent has submitted false information in the application in Form I submitted to the 1st respondent for the purpose of obtaining clearance. The 4th respondent has provided false data about the ecology in the area, the resources to be used for the project and overall impact on the environment, including the location of protected nearby area and the presence of wetlands or forests. The 4th respondent has provided false data even about the basic information of the project in many of the items in the application form and the 1st respondent has not considered these aspects while granting the impugned EC. Instead, additional “terms of reference” was given and based on the incompetent terms of reference to assess the real environmental impact, the EIA study was conducted and report was prepared and it completely failed to address all the real

environmental issues in the area.

15. In accordance with the draft policy of the Ministry of Civil Aviation, no green field airport is permitted within the aerial distance of 150 km of an existing airport without studying the impact of the new airport on the existing airport. However, no such study has been conducted in the instant case. The proposed airport is located between two international airports at Trivandrum and Cochin and the distance between these two international airports and the proposed airport is less than 150 km. The proposed airport is also located at a distance of 44 km from the INS Garuda airfield. The communication from the Ministry of Defence dated 05.04.2010 clearly states that the ministry objected to the setting up of the proposed airport as it would severely restrict the airspace available for military flying operations. The communication further states that the UAV operations would not only hamper flight operations but also compromise safety.

16. The EAC has recommended the present project for clearance during the 115th meeting held during 16th and 17th August, 2012. It can be seen from the minutes of the meeting that the EAC has discussed a total of 50 items on its agenda. The EAC could not have discussed in detail the various aspects relating to the project as observed in the matter of *Utkarsh Mandal v. Union of India* (W.P. (C). No. 9340 of 2009 by the Hon'ble High Court of Delhi in paragraph 45. The bare perusal of the minutes of the EAC meeting would indicate that none of the issues raised was considered by it.

17. The Wetland (Conservation and Management) Rules, 2010 of the State of Kerala clearly includes in rule 2(g) "creeks" within the definition of wetlands. The Kozhithodu which faces obliteration due to the proposed construction is a creek and is protected under these rules. The classification of lands as 'industrial area' was done without following the due process of law. There are no industries in the area and the present classification has been made with the sole reason of facilitating the 4th respondent's project. The conditions contained in the impugned clearance have no bearing on the factual matrix of the situation and show the non application of mind on the part of the 1st respondent. The respondents have not seen that the Hon'ble Supreme Court of India has held in the matter of *Karnataka Industrial Areas Development Board v. Sri C. Kenchappa* in Appeal (Civil) No. 7405 of 2000 dated 12.05.2006, wherein it was held that in future, before acquisition of lands for development, the consequence and adverse impact of development on environment must be properly comprehended and the lands be acquired for development only if the project does not impair the ecology and environment. The action of the respondents is in direct violation of the above orders. The 1st respondent's clearance is contrary to the Precautionary Principle and Principles of Sustainable Development vide also reaffirmed by the Hon'ble Supreme Court of India in *Research Foundation for Science, Technology and Natural Resources Policy v. Union of India* (AIR 2007 SC (Supp) 852 prescribing the 'precautionary principle' and 'sustainable development' in *Vellore Citizens' Forum v. Union of India* and *Andhra Pradesh State Pollution Control Board v. Prof. M.V. Naidu* reported in (1999) 1 SCR 235.

18. The 4th respondent has commenced the airport construction work even prior to the EC being granted in violation of the EIA Notification, 2006 and the letter dated 12.04.2010 of the 4th respondent stands as evidence for which the 4th respondent is liable to be prosecuted. On 13.07.2013, more than 70 Members of the Legislative Assembly of the State of Kerala submitted a representation to the Prime Minister of India opposing the project. The 1st respondent has not considered the impact of pollution from the airport and the impact of noise on animal and avian lives nor the pollution during combustion of fuel.

19. Hence, the appellant herein seeks to quash the EC granted by the 1st respondent in the impugned order dated 18.11.2013, to remove all constructions made and to restore the area to its original pristine state, initiate and direct the 1st respondent to initiate appropriate action against the 4th respondent, EIA consultant as per law for providing false and misleading data in the EIA report and to direct the 4th respondent to pay compensation for the damages caused to the area and restore the ecology of the region.

Appeal No. 173 of 2014 (SZ)

20. This appeal has been filed by the appellant herein in his capacity as a social worker as well as a political activist in Pathanamthitta District in Kerala State. He is an ex-Member of Legislative Assembly, Kerala representing Konni Constituency. He is a native of Aranmula in Pathanamthitta District. He is the Secretariat Member of the Patthanamthitta District Committee of Communist Party of India (Marxist) which is a recognized political party in India. This appeal has been filed aggrieved by the EC granted by the 1st respondent/MoEF to the 2nd respondent, the Managing Director, KGS Limited, Chennai-20 in Tamil Nadu. Only two respondents have been arrayed by the appellant in this appeal. The facts of the cases that could be made out from the averments of the appeal grounds can be stated as follows:

21. An application was submitted by the 2nd respondent to the 1st respondent seeking EC under section 3 of the Environmental Protection Act in Form I for developing an international airport on a stretch of land in Kozhencherry Taluk. The proposal involves development of airport at Mallapuzhasserry Aranmula, Kindangannur villages in Kozhencherry Taluk in Patthanamthitta District of Kerala State on a plot area of 500 acres to cater Airbus A-300 aircraft. The airport is proposed to be constructed on land mentioned in Annexure A2 herein which contains paddy land and wetland acquired by the K.J. Abraham, Kozhencherry in the name of a charitable society by name Mt. Zion Charitable Society and reclaimed by him in violation of Kerala Land Utilisation Order, 1967, Kerala Conservation of Paddy Land and Wetland Act, 2008 and Kerala Land Conservancy Act, 1957. The land also comprises of 8.87 acres of Government land encroached upon by the said K.J. Abraham. He had also illegally filled up a natural water course locally known as *Valiyathodu* which is also known as for some distance as *Kozhithode* and which is a tributary to River Pampa. The total length of *Kozhithode* is 12 km. extending from Prakkanam near Pathanamthitta town to River Pampa at Aranmula. The paddy land filled and reclaimed unauthorized by K.J. Abraham is part of a large extent of *puncha* paddy land (*Padashekham*) which are in low lying land that get water logged during monsoon, where paddy is cultivated and drained after monsoon. During the season of cultivation the field will be marshy. *Puncha* paddy fields are thus wetlands and they also serve as flood plains of nearby river and provide to maintain waterbed for the locality as in the case of wetland which is not used for paddy cultivation. The stretch of paddy field proposed to be reclaimed for the said purpose serve for natural flood control in the area when the river Pampa overflows in monsoon seasons. Even without any cultivation in the said land, maintenance of the said lands in its nature as low lying wetland is essential for controlling the flush of water in river Pampa during monsoon as the river hits the plains at the area mentioned above. Protection of the said area of low lying wetland is essential to maintain water bed so as to provide water in wells of the nearby villages.

22. The revenue authorities have already initiated proceedings against the unauthorized reclamation of paddy land and wetland, as also the encroachment of Government land and for filling natural water streams vide Annexure-A3(a) and Annexure—A4 filed herein which would prove that K.J. Abraham had acquired the land

and reclaimed it violating the law of the land. When application dated 28.06.2010 was submitted by the 2nd respondent, no land was in their possession or ownership. The land reclaimed by K.J. Abraham in the name of Mt. Zion Charitable Society is said to have been transferred in favour of the 2nd respondent on 20.12.2010. Annexures-A3 and A4, however, go to show that no mutation with regard to the said land has been so far effected in favour of the 2nd respondent. On submitting the application for EC, the EAC in its 91st meeting held on 21st-23rd September 2010 finalized the Terms of Reference (for short 'ToR') for the proposed airport and also decided to conduct a public hearing as per the provisions of EIA Notification, 2006. Advertisements regarding the public hearing for the comments on the proposed project were published in '*Malayala Manorama*' and '*Mathrubhoomi*', Malayalam dailies and in '*The Hindu*' English daily. The hearing as notified in the said dailies did not take place on the date thus notified and the same was postponed to 29.04.2011 and on this day also the hearing was not held. The hearing took place on 10.05.2011. The dates of postponement of the hearing were not published in any newspaper after 06.02.2011 and hence, the public at large had no information of the hearing scheduled on 10.05.2011. As there was no proper notice for the hearing, only a few persons and organizations took part in the hearing. The views of the public at large were, therefore, not reflected in the so called public hearing purportedly held on 10.05.2011.

23. The EAC in its 107th meeting held on 15th - 16th December, 2011 without any detailed discussion and without proper consideration of the facts and circumstances recommended the grant of EC for the proposed airport at Aranmula. Meanwhile, 'Salim Ali Foundation' a registered charitable trust with a mission 'Biodiversity Conservation and Food Security' conducted a thorough study on the impacts of the proposed airport on the bio-diversity and ecology of the wetlands and paddy lands in Aranmula and its adjoining villages along with analyses of the tangible and intangible benefits of the ecosystem. It analyzed (i) EIA conducted by Enviro Care India Pvt. Ltd., for KGS Aranmula Airport Ltd., who proposed the airport, (ii) the need for an airport at Aranmula, and (iii) the inevitable need for restoring the paddy land. The Legislative Committee for Environment of the Kerala Legislature had unanimously recommended against establishing an airport at Aranmula considering the adverse impact it would cause to the environment and ecology of the State. The 1st respondent has not considered the findings of the Salim Ali Foundation and has consciously avoided answers the aspects pointed out therein which are major concerns of the public and are most relevant while deciding upon granting EC to a major project like constructing an airport. While issuing the EC, the 1st respondent has failed to take into account the need for an airport at Aranmula at the cost of environment and ecology of more than three agrarian villages in Kerala, which are having great traditions. The 1st respondent failed to see that Aranmula is located almost at the middle of the International Airports at Cochin and at Trivandrum with a distance of 128 km, 135 km, respectively. If the proposed airport at Aranmula is expected to serve Pathanamthitta, Kottayam, Idukki and Alappuzha districts, the people from every part of the said districts can reach either the international at Cochin or at Trivandrum within not more than 2 hours by road and roads are made available to have easy access to the international airports to cater the needs of the people from the districts to whom the proposed airport is expected to serve.

24. The 1st respondent has not taken into account the need of the land necessary to be acquired for providing infrastructural facilities such as roads leading to the airport from various places. It has also not considered the competitive impact of the new international airport at Aranmula upon the existing international airports causing its impacts upon the environment and ecology of the State including the natural

resources already invested to construct them. A localized impact assessment on the environment and ecology while implementing the project is insufficient while granting EC for a major project like the one in hand. The negative externality that would be caused to the society as whole while implementing the proposed airport project was not assessed by the 1st respondent. The EC has been granted on the assumption that only a minimum extent of 500 acres of land is required for runway, apron, taxiway etc., and the remaining area will be preserved in its natural form. However, the report of feasibility study conducted by the Airports Authority of India has noted that the developers aim for an ultimate operation of wide bodied aircraft which requires more extent of land and with the present availability of land, the proposed airport can cater only to smaller aircrafts and only for daytime operations. It also mentions the necessity to level the hillocks around the airport site so as to enable the safe landing of aircrafts. Leveling of hillocks is further necessitated when capacity of the airport is required to be increased in future. While EC has been granted by the 1st respondent for establishing the present airport at Aranmula, it has not taken into account the future requirements for expansion of the airport and impacts of such requirements on the environment and ecosystem. The number of families who will be displaced from their abode is much more than what has been stated by the 2nd respondent in the application for EC as well as in the subsequent statements.

25. Hence, the appellant herein seeks the indulgence of this Tribunal to set aside the EC granted to the proposed international airport at Aranmula and for directing the 1st respondent not to grant EC to the proposed international airport at Aranmula.

Appeal No. 174 of 2013 (SZ)

26. This appeal has been filed by the appellant herein, an action council formulated by the Aranmula, Mallapuzhassery and Kidanganloor villages of Kozhenchery Taluk of Pathanamthitta District. The action council has been formulated for resisting the illegal move of the respondents in setting up an airport and other construction by reclaiming the paddy land which will cause serious environmental damage to the entire area and also the residents of the locality. The 17th respondent arrayed in this appeal is the Ministry of Environment and Forests (MoEF) of the Central Government. The 18th respondent arrayed in this appeal is KGS Aranmula International Airport Ltd., having its registered office at Chennai in Tamil Nadu and the 19th respondent is K.J. Abraham of Kozhenchery village in Patthanamthitta District in the State of Kerala. The 20th respondent arrayed in this appeal is the Expert Appraisal Committee, MoEF, New Delhi. This appeal has been filed seeking the indulgence of the Tribunal to set aside the EC granted by the 17th respondent, directions for 17th and 20th respondents to conduct a proper public hearing as prescribed in the matter of granting EC to 18th respondent and for directions to the Government of Kerala to complete the proceedings initiated against the 19th respondent for restoring 49.725 acres of paddy land reclaimed to its original form. The brief statement of facts as could be seen from the appeal grounds can be stated as follows:

27. From the reading of the discussions of facts by the 17th respondent which led to the granting of the clearance would clearly show that the 17th respondent proceeded on the precincts that the entire land in question is either the land already reclaimed or partly developed. This impression was made on the 17th respondent by the State Government as well as the 18th respondent by twisting and suppressing the material facts. In the application submitted before the 17th respondent, the 18th respondent has made a false assertion stating that no reclamation is required for the construction of the proposed Aranmula Airport which is a false statement. As per the documents produced by the appellant, in which it can be seen that an extent of 211 acres out of

the total 248 acres of land which has been purchased by the 18th respondent and earmarked for the construction of the airport is either paddy land or wetland. This fact is supported by the revenue as well as agriculture officers of that are, who are officers of the Government. The Government, instead of submitting these facts before the 17th respondent has actually suppressed the facts and has taken an illegal stand to the effect that the properties placed before the 17th respondent as the site for the airport has already been reclaimed and reclamations cannot have any legal implication as it was done prior to 2008, in which year the Act had not come into force. This is an illegal stand taken by the State. It is so because, even prior to 2008 which year the Act was promulgated, Kerala Land Utilization Order was in force and any change in the nature of the land can be made only with the prior permission from the Government. It is an admitted fact that it is under this Land Utilization Order, the 19th respondent has submitted necessary application for getting permission to fill paddy field in an extent of 8 acres and it was suppressed before the 17th respondent that the authorities have permitted the 19th respondent to reclaim the paddy land for construction of an airstrip as part of the Aeronautical College of the 19th respondent under this order. It was by misusing the permission; the 19th respondent instead of filling 8 acres of land has filled an extent of 49.72 acres of paddy fields. The Revenue Officers of the State Government have initiated legal action against the 19th respondent for restoring the above paddy fields to its original form under the Land Utilization Order. In such circumstances, when the officers of the Government have initiated proceedings which are still pending under the Land Utilization Order against the illegal filling and reclamation of the paddy fields by the 19th respondent, the Government cannot take a stand that since the reclamation has been made by the 19th respondent prior to 2008 and there is no illegality committed.

28. Though the 18th respondent has submitted before the 17th respondent that altogether they are in possession of 350 acres of land earmarked for the purpose of the airport, the revenue officials have informed the appellant that only 248.37 acres of lands stand mutated in the name of the 18th respondent and out of the total 248.37 acres of land (99.35.20 ha), 85.74.02 ha of land is paddy field/wetland and only 13.61.00 ha is dry land. In effect, the application which was considered by the 17th respondent is for a proposal to construct an airport in the paddy field and which can be done only by reclaiming the land. The proposed airport cannot be set up in 33.7 acres of dry land and the airport can be set up only by reclaiming the remaining portion of the paddy land converting the same as dry land. The application submitted by the 18th respondent states that the area in which airport is proposed to be set up is 16, 250M² which comes around 41 acres and even for constructing the terminal building the available dry land will not suffice. The 17th respondent was misled by the 18th respondent and also the Government in granting permission to the 18th respondent to construct an airport in a paddy field. From the stipulation in Clause (iii) of the EC granted to the 18th respondent, the contention of this appellant that the 17th respondent has proceeded with the assumption that the proposed airport site is a dry land stands proved. Moreover, in this stipulation, it is clearly stated that only the area required for the runway with 1000 m × 150 m (37.07 acres) shall be filled within the site itself and that almost 80% of the soil from the only elevated area has already been utilized for illegal reclamation done by the 19th respondent against which action was already been initiated by the revenue officials for restoring the same to its original form of paddy field. The requirement of filling 37 acres at a height of one meter cannot be completed utilizing the remaining soil in the elevated area of 14.5 acres mentioned

in the stipulation. From the stipulation, it is very clear that the intention of the 17th respondent is only to permit the 18th respondent to fill the dry land at a height of one meter to make it an elevated portion for the construction of the runway and all these stipulations were made on the assumption that the entire land is a dry land.

29. Moreover, in the stipulation, it has been stated that necessary permission for leveling should be taken as drawn from Kerala Paddy and Wetland Act into the operation as the filling of paddy land can be made only after obtaining exemption/permission from the Government of Kerala under Section 10 of Act subject to regulation by imposing conditions and on recommendations from the monitoring committees as constituted under the Act. The officers of the Government have informed the appellant that the local or state level committee has not made any such recommendation to the Government till date for converting the paddy land which forms part of the land earmarked for setting up the airport. The State Legislative Committee on Environment has also observed in the report that the reclamation which was already made by the 19th respondent has adversely affected the cultivation of that locality and came to a standstill because of the illegal reclamation of 49.725 acres of land by the 19th respondent. Besides that, the appellant has also filed a writ petition in W.P.(C) No. 8794 of 2013 before the Hon'ble High Court of Kerala for directions to the State Government to take action against the 18th and 19th respondents under the Kerala Wetland and Paddy Act, 2008 and thereby restoring the land to its original form. Matters being so, the State Government will not be able to grant permission to the 18th respondent to fill up the land for reclaiming the paddy field for the construction of the airport. In such circumstances, the permission of the Government is a pre-requisite for the 18th respondent to submit an application for EC before the 17th respondent. The application submitted without the necessary exemption/permission from the State Government under the Kerala Paddy and Wetland Act, 2008 is defective and therefore, the grant of clearance made by the 17th respondent on this defective application itself is illegal. The permission of the Government under the Kerala Paddy and Wetland Act, 2008 is a pre-requisite for the consideration of the applicant by the 17th respondent for the grant of EC is evident from the fact that Column No. 22 of the Form I is concerning the existence of a Government order/policy relevant relating to the site in question. So, the application submitted without exemption from the State Government permitting the 18th respondent to fill paddy land should not have been considered by the 17th respondent as 211 acres of land out of the total extent of 248 acres which is in the possession of the 18th respondent and projected as the site of the proposed airport remains as a paddy field and airport cannot be constructed in 37 acres of land which includes the illegally filled land. In such circumstances, the 18th respondent has falsely stated that no Act or order or policy is applicable in the case of the site in hand. The Government has also supported this suppression made by the 18th respondent in the application submitted before the 17th respondent. In the application submitted before the 17th respondent, the 18th respondent has made a false statement that no reclamation is required and the 18th respondent has presented the property before the 17th respondent as developed/semi developed property. This stand taken by the State Government contending that the reclamations have already been made prior to 2008 and therefore, there is no illegality in the reclamation done by the 19th respondent since it was prior to the promulgation of the Act, 2008 cannot be accepted since the Land Utilization Order was in force and it was by this order several actions have already been initiated against the 19th respondent by the officials of the Government

against the reclamation of 49.725 acres of land. The orders passed by the revenue officials directing the reclaimed land of 49.725 acres to be restored to its original form have not been subjected to legal scrutiny till this date. This legal situation is applicable to the 18th respondent also and in such circumstance, the 17th respondent ought not to have granted EC.

30. The 18th respondent has suppressed the fact that Kerala Land Reforms Act is applicable to the case in hand. As per this Act, no person is entitled to hold any land in excess of the ceiling limit prescribed under this Act and the permission from the Government is required to hold any land in excess of the ceiling limit which can be granted under section 81(3) of the Act in public interest. The appellant has already filed an application before the Government requesting the Government to conduct a public hearing to ascertain the public interest before granting exemption to the 18th respondent and the appellant herein has also filed a writ petition in W.P. (C) No. 14220 of 2013 for a direction to Government to conduct a public hearing with due notice to the residents of the 13 *Grama Panchayat* and Pathanamthitta Municipality before granting exemption to the 18th and 19th respondents which is the subject matter before the Land Board. It is an admitted fact that the application submitted by the 18th respondent before the Government for exemption is not yet allowed by the Government. Hence, the holding of the land by the 18th respondent is illegal even now. The 18th respondent was holding the land which is projected as the site for the proposed airport at the time of making an application before the 17th respondent and in effect, the 17th respondent was granted EC to the 18th respondent for setting up an airport in the property which is illegally held by the 18th respondent. In such circumstance, the proposed land cannot be treated as land owned by the 18th respondent and the clearance by the 17th respondent permitting the 18th respondent to set up an airport is illegal and without jurisdiction.

31. From the clearance issued by the 17th respondent, it is clear that the 17th respondent has not independently assessed the veracity of the claims made by the 18th respondent and the State Government. The reports of the Legislative Committee for Environment and the Salim Ali Foundation were not properly analyzed. There is no independent assessment or appraisal of the various contentions and submissions made by the 18th respondent and the State Government. The 17th respondent has simply reiterated the various contentions and submissions of the 18th respondent and the State Government and simply accepted the report of the EAC and granted license. The 17th respondent is, therefore, not justified in granting EC especially when the Writ Petition (C) No. 8794 of 2013 are pending before the Hon'ble High Court of Kerala filed by the appellant herein in this behalf.

32. Hence, based on the above averments the appellant in this appeal has sought for the indulgence of the Tribunal to set aside the impugned EC dated 18.11.2013 granted to the 17th respondent, the MoEF, to direct the 17th and 20th respondents to conduct a proper public hearing as prescribed in the matter of granting EC to the 18th respondent for setting up an airport and to direct the Government of Kerala to complete the proceedings initiated against the 19th respondent for restoring 49.725 acres of paddy land reclaimed to its original form.

Appeal No. 1 of 2014

33. This appeal has been filed by the appellant herein challenging the EC granted to the 3rd respondent namely KGS Aranmula International Airport Limited, Chennai by the 1st and 2nd respondents, namely the MoEF dated 18.11.2013. The Kerala State Pollution Control Board and the Secretary to Government, Department of Revenue of

the State of Kerala are arrayed as 4th and 6th respondents, respectively. The 5th respondent, Chairman, Committee of Environment, Kerala Legislature, Kerala is deleted. The facts of the case of this appellant as averred in the appeal grounds raised can be briefly stated thus:

34. The 3rd respondent herein as per letter dated 24.6.2011 and subsequent letters has sought EC under the EIA Notification, 2006 for the proposal of the 3rd respondent to establish an international airport at Aranmula in Pathanamthitta district, Kerala. The land proposed for construction of the airport and other buildings are part of a large extent of paddy fields "*Nilam*" covering more than 1200 acres. It is humbly submitted that paddy fields "*Nilam*" apart from providing paddy/rice for human consumption, serves for the upkeep of ecology in the area. Paddy lands, "*Nilams*" serves as reservoirs of rainwater which ensure the availability of ground water in the area, apart from providing drinking and irrigation water in the nearby wells. "*Nilams*" also serve as the breeding ground of a large number of fauna which are necessary for the upkeep of the local ecology. Moreover, *Nilams* also serve as the wind regulators for the local area. As stated in the objects and reasons of the Kerala Conservation of Paddy and Wetland Act 2008, there are indiscriminate and unregulated filling up of paddy land in the State of Kerala, which apart from resulting in food insufficiency has also adversely affecting the entire ecology and environment of the State of Kerala often called as 'Gods Own country'. Further, the proposed site for the airport is along the banks of one of the major rivers of Kerala, *Pampa* and is situated in an ecologically sensitive and environmentally diverse and rich area. Aranmula is home to the famous ancient "Parthasarathy" temple which is a protected monument by the Archeological Survey of India and which attracts lakhs of devotees across the country. The temple apart from the ancient architecture marvel is also home to 18th century murals that are well preserved and is recognized by the United Nations Development Program (UNDP). The temple by itself is surrounded by wetlands and the customs and traditions associated with the temple and its surrounding areas mirror the upkeep of the ecology of the wetland therein. The 3rd respondent has continued to refill the wetland more specifically the water body, *Karimaram* channel which an effective water reservoir is collecting all the excess water during flooding of the river *Pampa* and this is running through the specified area. In consequence, the entire area has become prone to frequent flooding due to the unnatural filling up of the land and has resulted in serious ecological imbalance. Till the enactment of the Kerala Conservation of Paddy and Wetland Act, 2008 as aforesaid, the filling up of paddy lands in the State of Kerala was regulated by the Kerala Land Utilization Order 1967, which was enacted under the Essential Commodities Act. As per the said order, for converting a paddy land for any other purpose, previous sanction from the District Collector was necessary as can be seen from clause VI of the Kerala Land Utilization Order. As per clause VII of the Kerala Land Utilization Order the District Collector has power to ensure that the illegal conversion of the paddy land is restored to paddy cultivate paddy in the area. Likewise, under the Kerala Conservation of Paddy and Wetland Act there is total prohibition of conversion or reclamation of any paddy land and Sec. 13 enables the District Collector to restore the land, illegally reclaimed or converted. The Conservation of Paddy and Wetland Act as the name suggests was enacted seeing the urgent need to put in place legislation that would restrict the rampant conversion of wetlands and paddy lands resulting in widespread loss of ecological balance. The aims and objects of the Act state clearly that the legislation is enacted primarily to promote growth in agricultural sector and preserve the ecological balance of the State of Kerala. The conservation and preservation of wetlands and paddy fields are hand in glove with maintenance of ecological balance. India is a signatory to the *Ramsar* Convention on Wetlands and the *Ashtamudi* wetland which is a designated wetland under the

Convention comes within the vicinity of the area proposed for this illegal airport by the 3rd Respondent. The 1st and 2nd respondents are bound to follow the conditions under the Convention which includes detailed studies to be conducted and measures to be undertaken to conserve the biodiversity of the wetland. The 1st and 2nd respondents have very clearly ignored this fact while giving the impugned clearance to the 3rd respondent. The fact that the land in which the proposed Aranmula Airport is to be established is a paddy land and there is total prohibition of converting any paddy land in the State of Kerala except for governmental public purposes. This aspect is totally suppressed in the proposal for EC made by the 3rd respondent. Though these aspects were clearly and unambiguously brought to the notice of respondents 1 and 2, these aspects which are of critical importance for considering the environmental clearance is seen ignored (Annexure A1).

35. The land measuring an extent of more than 350 acres, which is now proposed by the 3rd respondent for establishing the airport, was originally owned by one K.J. Abraham @ Kalamannil Abraham, Kalamannil House, Kozhenchery, Pathanamthitta. He had purchased about 350 acres of land in the name of two registered societies in which he was the Chairman and his family members are the office bearers. The aforesaid K.J. Abraham acquired vast extent of paddy field in Aranmula, Mallapuzhassery and Kidangannur village right from 2004 onwards. At that time the land purchased by K.J. Abraham was coming under the provisions of the Kerala Land Utilization Order 1967. The aforesaid K.J. Abraham proposed to the local *Panchayat* that he is intending to start an Aeronautical College and sought permission from the local *Panchayat* to reclaim 8 acres of paddy land. The local *Panchayat* without any authority whatsoever under any provision of law, arbitrarily issued permission for the reclamation of paddy land. On the basis of the alleged illegal permission granted by the local *Panchayat*, Shri. K.J. Abraham illegally filled up an extent of 49.725 acres of paddy land. This act *prima facie* was done in violation of the Kerala Land Utilization Order and Kerala Conservation of Paddy and Wetland Act 2008. This paddy land reclamation resulted in mass public protest by the local people. The illegal land filling by the said person also resulted in filling up of irrigation canals which in turn caused flooding and other adverse effects to the nearby paddy fields. Vide letter dated 26.10.07 the Revenue Divisional Officer in his letter to the *Tahsildar* has explicitly stated that the aforesaid K.J. Abraham had illegally reclaimed 3.56 hectares of land and has also trespassed into 8.87 acres of Government land. It is further stated in the above letter that the reclamation of the *Nilams*/paddy fields is done by mining ordinary earth which is a minor mineral from his 5.92 Acres of land in Sy. No. 392/2. No sanction for mining ordinary earth is also obtained by the said K.J. Abraham. The letter dated 03.05.2008 of the Revenue Divisional Officer to the Circle Inspector of Police Aranmula and true copy of letter dated 09.02.2009 of the Assistant Engineer, Minor Irrigation Department to K.J. Abraham is evidencing the above fact. As can be seen from the letter, the Revenue Divisional Officer had directed the Sub Inspector of Police to ensure that there is no illegal filling up of paddy land. By another letter from the Irrigation Department, the said K.J. Abraham was directed to restore the land and the report of the Agricultural Officer would show that paddy cultivation has become impossible in large extent of paddy land because of the illegal filling and encroachment into government land. The above facts will show that there has been widespread illegal filling up of paddy land by the said K.J. Abraham and also encroachment in the irrigation canal. This will show that there is illegal filling up of a big canal to 800 m and the encroachment in the government land by the said K.J. Abraham. This will also show that an estimate of Rs. 19 lakhs as on 19.11.2009 is required for restoring the irrigation canal.

36. It is also clear from the letter dated 03.08.2008 that proceedings under the

Kerala Land Utilization Order was initiated by the District Collector for restoring the illegally filled up paddy land. As per letter dated 22.10.2012, the Assistant Director, Agriculture also informed the Principal Agricultural Officer, Pathanamthitta of the above illegality of filling up of paddy land. This also shows that out of the 315 acres of land possessed by the said Shri K.J. Abraham, about 70 acres are partially and illegally filled up, adversely affecting the irrigation facilities to the rest of the paddy lands. It is also reported that during the rainy season, when the holy river 'Pampa' starting from Sabarimala flows with full capacity, the flood like situation is prevented because the water flows to the paddy fields at Aranmula. Since the free flow of water through Kozhithodu is obstructed, the flood like situation in the area cannot be ruled out. It is also reported that because of the reclamation of paddy land, the ground water table in the area will be lowered and there is possibility of natural disaster as well as drinking water scarcity. Thus, it is clear that there has been illegal filling up of paddy land resulting in environmental degradation. The Joint Land Revenue Commissioner, State of Kerala in his report dated 25.08.2012 has highlighted the illegalities in filling up of paddy land and has recommended a vigilance enquiry into the entire incident. Thus, it is absolutely clear that the major portion of the land now proposed by the 3rd respondent for establishing the Aranmula airport is still paddy land, and the balance portion is wetland. These are illegally filled up in violation of the Kerala Land Utilization Order as well as Kerala Conservation of Paddy and Wetland Act, 2008. It is clear that the revenue authorities are taking action to restore the paddy land, illegally filled up, to its original state. The fact that if the actions against illegal conversion of the paddy land are brought to logical conclusion by revenue authorities, the already filled up lands will become paddy fields again was not even considered. This vital aspect is suppressed by the 3rd respondent while submitting an application for EC before the MoEF. As a matter of fact, the District Collector Pathanamthitta has informed the Additional Chief Secretary, Department of Industries by letter dated 23.7.2012 that almost the entire land possessed by the 3rd respondent which was obtained from aforesaid K.J. Abraham are paddy lands. The Legislative Committee on Environment of the Kerala Legislature Assembly in its report has clearly and in unambiguous terms found that major portion of land held by the 3rd respondent is paddy land and that the committee cannot agree with the development activity that would destroy water resources, acres of paddy fields which are cultivated for centuries and also would destroy the biodiversity of the area. The legislative committee has also observed that action for the illegally converting paddy land under the Land Utilization Order and Kerala Conservation of Paddy and Wetland Act should be taken. The Environment Committee of the Kerala Legislative Assembly had filed the report after eliciting views of at least 3000 people in the locality whereas the alleged public hearing held for obtaining the EC was attended by just about 80 persons including the officials. Moreover, the entire aspect regarding the illegal filling up of paddy land was enquired by the Joint Land Revenue Commissioner, State of Kerala who filed a report on the land issues connected with Aranmula Airport. This will show that there has been illegal conversion of paddy land as well as illegal filling up of *poramboke*/government '*thodu*'. The Land Revenue Commissioner has recommended a vigilance inquiry into the whole issue. The Government of Kerala has filed a report before the MoEF. As can be seen from 2nd page of Annexure A XIV, the government has reported that the allegations made regarding the illegal filling up of paddy land etc., if true, is very grave and that could erode the validity of the environment impact assessment study. However, in spite of Annexure A XIV, not even an enquiry is made regarding the alleged illegal filling up of paddy land and also the proposal for filling up of about 350 acres of paddy land, before issuing EC. In fact, the Government of Kerala has itself brought to the notice of the Union of India that a portion of paddy land has been filled up, and this

can have adverse environmental impact. It is not known whether the agency which conducted the EIA considered this aspect. It is proven that filling up of wetland can adversely affect ground water recharge which would in turn disturb the agricultural activities of the nearby areas. Further, it is true that earth is required for filling up of wetlands to make it suitable for the project. This ought to have been identified before hand and EIA should have looked into that aspect also. However, these aspects were totally ignored while passing EC order.

37. The Kerala State Assembly has got 140 elected members of legislature. Majority of the MLAs of Kerala Legislative Assembly cutting across political affiliations i.e. 72 MLAs have addressed a letter to the Hon'ble Prime Minister of India, stating that there has been illegal filling up of wetland, paddy field as well as canals and that the majority of the MLAs of Kerala Legislature has submitted to the Hon'ble Prime Minister that the project has no moral, legal or scientific ground for existence and it is an impractical project which would cause irreversible damage to the environment. Hence the majority of the MLAs of Kerala Legislative Assembly as well as retired Judges of Hon'ble Supreme Court and High Court of Kerala, religious leaders of all faiths, political leaders of all political parties as well as former diplomats had requested for rejecting the proposal of the airport. These documents will clearly show that the land in which the proposed airport is to be established is a paddy land. These are ignored while granting the impugned EC. In the State of Kerala filling up of paddy land for governmental public purpose is illegal. Annexure AI in the impugned EC mentions that the paddy fields have to be filled for run way, apron, taxi way etc. The Chief Operating Officer of the 3rd respondent admits that about 350 acres of uncultivated paddy land is to be filled up for providing public utility service as part of the project. In the feasibility study conducted by the Airport Authority of India, New Delhi (AAI) it is clearly mentioned that on the date of visit of the Expert Committee i.e., on 15.10.2009, filling up of land for the purpose of runway is going on. Admittedly, the aforesaid filling up activity is done in paddy land, which was prohibited under Sec. 3 of the Kerala Conservation of Paddy and Wetland Act. The photographs attached to Annexure A XVII feasibility study would show the illegality perpetuated even after Kerala Conservation of Paddy and Wetland Act 2008 has come into force. As per the copy of the letter dated 10.06.2009 issued by KITCO Limited to the Hon'ble Chief Minister of Kerala, it is necessary to convert 350 acres of paddy land to cater the requirement of the proposed project. Thus, it is absolutely clear that the land proposed is a paddy field and under the present enactment namely Kerala Conservation of Paddy and Wetland Act 2008, there is an absolute and total prohibition of conversion or reclamation of paddy land. Sec. 2(xii) defines paddy land as all types of land situated in the State where paddy is cultivated at least once in a year or suitable for paddy cultivation but uncultivated and left fallow. Thus, the entire land proposed for the project is a paddy land as defined under Sec. 2(xii) of the Kerala Conservation of Paddy and Wetland Act. Sec. 3 prohibits reclamation or conversion of paddy land except under Sec. 10 which provides for grant of exemption. However, Sec. 10 does not enable the government to grant exemption from the provisions of the Act except for any public purpose. Public purposes defined under Sec. 2(xiv) is that the schemes undertaken or financed by the State or Central Governments or statutory bodies or other schemes specified by the government. Thus, only if the project is financed or undertaken by the State Government, the exemption can be granted. In Annexure AI, in order to overcome the Kerala Conservation of Paddy and Wetland Act, the State Government has observed that since approximately 100 acres of land is notified as industrial area and since the reclamation was before 2008, the Kerala Conservation of Paddy and Wetland Act 2008 is not applicable. Both these grounds do not stand scrutiny of law. The notification SRO. No. 185/2011 declaring that the area is an industrial area has absolutely no relevance vis-a-vis the Kerala Conservation of Paddy

and Wetland Act 2008. Once it is found that the land is a paddy land as defined under Sec. 2(xii) of the Kerala Conservation of Paddy and Wetland Act, there is no escape from the provisions of the Kerala Conservation of Paddy and Wetland Act. The 2nd reason stated is that reclamation was done prior to the coming into force of Kerala Conservation of Paddy and Wetland Act 2008. This itself is not correct in view of the report of the KITCO (Annexure A XVIII), feasibility study of the AAI as well as the letter of the 3rd respondent Annexure A XVI, which will show that even after commencement of the Kerala Conservation of Paddy and Wetland Act, the paddy lands need to be converted or reclaimed and are being reclaimed as can be seen in the photographs of Annexure A XVII report of the AAI. Apart from that, even if the reclamation of paddy land is made prior to 2008, the law that is applicable is the Kerala Land Utilization Order 1967. It is abundantly clear from documents contained in Annexure A II to X that actions are being initiated by revenue authorities against illegal reclamation of the paddy land both under the Kerala Land Utilization Order as well as under the Kerala Conservation of Paddy Land Act. Hence, the observation made in EC (Annexure AI) that since the area is declared as an industrial area and the reclamation if done before the commencement of the 2008 Act, is not legally sustainable is not tenable. Even in the said observation of the State Government, in Annexure AI paragraph VII(1), it is admitted that paddy field is left fallow and natural irrigation facilities have been encroached upon and blocked at several places by K.J. Abraham who had allegedly sold the property to the 3rd respondent. Hence, the observation in Annexure AI that the Kerala Conservation of Paddy and Wetland Act will not be applicable is not correct.

38. The proposal involves development of an airport in Pathanamthitta district in a plot of area 500 acres. It is revealed that in the meeting held on 21 to 23 September 2010, the ToR was finalized. In the said ToR, the issue regarding filling up of paddy land was not one of the points to be noted. When there was newspaper report and complaints, the project was again reconsidered by the EAC in September 2011. Thereafter, the EAC noticed that there is allegation of inclusion of wetlands and conversion of paddy lands in the project. This was put to the proponent as well as the government. On the basis of the reply filed by the government as well as the proponent it was found that there is no paddy cultivation for past 10 years which is not factually correct. Moreover, even if there is no cultivation of paddy for ten years, it does not take the land out of the purview of Kerala Conservation of Paddy and Wetland Act. As can be seen from relevant pages of the note file of the Government of Kerala (Annexure A XX) in reply to the enquiry made by the MoEF, based on the article in 'The Hindu', the Additional Secretary has given his observation. As can be seen from Annexure A XX it was mentioned that the enquiry report of the Directorate of Environment and Climate Change does not reveal reclamation of wetland. As for the reclamation of the land where paddy cultivation was there ten years also it requires statutory clearance, it is for the proponent to get the clearance. All these should be examined as a part of EIA Process. However, as can be seen from EC (Annexure A I) none of these aspects was examined. In para 52 of the Annexure A XX, it is admitted that the promoters without obtaining clearance have filled up wetland. It is also reported that commencement of the work without getting clearance from the MoEF is illegal. It is also admitted that filling up of wetland has environmental impact and that the agency which conducted the environmental study has not considered this aspect. The MoEF was requested to consider this aspect. Further in paragraph 54, it is also admitted that ordinary earth is required for further filling up of wetland to make it suitable for the project and the EIA should have considered that aspect also. This was also not considered while issuing EC. Moreover, the fact that there is no paddy cultivation and the paddy land is left fallow and uncultivated does not mean that the

land goes out of the definition of the paddy land under the Kerala Conservation of Paddy and Wetland Act and also loses the character of natural paddy land except that there is no cultivation of paddy, a paddy land even if left uncultivated for 10 years, serves all other ecological purposes including serving the upkeep of the ground water table, breeding ground and fauna and the balancing factor of the local environment. However, as can be seen from Annexure A XIX, the EAC has brushed aside these allegations even though it is clearly found that filling is required for development of runway, taxi way etc., and the details of area required to be filled, were not addressed in the EIA. However, accepting a vague reply from the 3rd respondent, the EAC recommended the proposal for EC. Thus, it is clear that the ToR, was finalized without including the question regarding the existence of paddy fields and filling up of the same.

39. As can be seen from the feasibility study prepared by the AAI, in the suggestion and recommendation in clause VI, it is clearly stated that as the possible approach would be from 34N, the hillocks situated near the area can be obstruction for navigation aids. Hence, action to acquire and level the hillocks should be initiated. However, in the ToR as well as in EC, the environment impact of removing of these hillocks is clearly omitted.

40. The proposal made by the 3rd respondent in Form No. 1 would show that there is no necessity for making any new roads or other transportation facility for the purpose. However, as can be clearly seen from the report of the AAI, there is not even an approach road to the site in question where the airport is proposed. The documents produced before the Central Government would show that there is necessity to provide four lane road from the proposed site of airport to a distance of more than 8 km in two directions. Thus, the proposal of the airport and the construction of at least four lane new roads to a distance of 16 km is an integral part of the project. Without roads or other transport facilities, functioning of an airport is impossible. For construction of the aforesaid roads, large extent of paddy fields and wetlands have to be reclaimed and filled up. Apart from causing environmental disaster in the area, the filling up of paddy land needs ordinary earth. Thus, the social impact of the establishment of the airport by the 3rd respondent especially the necessity of road connectivity should have been a critical item of ToR, which is not included in ToR, nor is this aspect considered in the EC.

41. The MoEF, as per Notification No. SO 1533 dated 14.09.2006, has issued the notification, prescribing the procedure for getting EC. As a part of the screening, scoping and appraisal of the project, there is a procedure called "public consultation". As can be seen from clause III (ii), the public consultation shall ordinarily have two parts. (i) Public hearing at the site and (ii) responses in writing from other concerned persons having stake in the environment. Appendix 4 of the said notification prescribes the procedure for public hearing. As can be seen from clause 2.3 and 2.4, on receipt of the draft EIA report, the authority shall arrange wide publicity of the report to elicit the views of the public. The State Pollution Control Board has also a duty to conduct a public hearing. Clause 3 of the appendix to the notification shows that the Pollution Control Board has to advertise in two daily news papers, the exact date, time and venue of the conduct of public hearing and minimum notice period of 30 days shall be provided for furnishing the responses. Clause 3.2 shows that the advertisement shall inform the public about the place where the public could access the report before the public hearing. Clause 3.3 provides that no postponement of the date or time or venue of the public hearing shall be undertaken unless the emergency contingencies mentioned in the clause happen. Clause 3.4 provides that, if the public hearing is adjourned, the procedure prescribed under clause 3.1 has to be again undertaken.

42. In the present case, there had been hasty attempts to conduct the alleged public hearing with the sole purpose of ensuring that the procedure is complied with in a mechanical manner, without holding on to the spirit of the necessity of public hearing. This is clear from the following facts: On 02.02.2011, the 3rd respondent requested the Kerala State Pollution Control Board to arrange public hearing on the basis of the EIA report. The next day, in the Pollution Control Board letter dated on 03.02.2011, the Secretary of the Kerala State Pollution Control Board wrote to the District Collector for arranging a public hearing on behalf of the Board. The District Collector immediately made arrangements for public hearing to be held on 10.03.2011 at Collectorate Conference Hall, Pathanamthitta.

- I. As can be seen from Annexure A XXI the public hearing is related to the environmental issues of water, air and sound pollution by construction of the airport in 347 acres of land. No agenda on reclamation of paddy lands or use of illegally filled up paddy lands.
- II. The public hearing notice does not make any mention of the conversion of paddy land for the purpose of construction as well as leveling of hillocks and using of ordinary earth, a minor mineral, for filling purpose. It does not mention the issue relating to construction of four lane roads for 16 km.
- III. On 04.03.2013, the Pollution Control Board in its attempt to ensure hasty public hearing, requested the Chief Electoral Officer to permit conduct of the public hearing on 10.03.2011 itself. The Chief Electoral Officer informed the Pollution Control Board that the public hearing has to be deferred till the election process is over. The said information is issued as per letter dated 07.03.2011 of the Electoral Officer to the Secretary of the Pollution Control Board.
- IV. The Pollution Control Board by letter dated 24.03.2011 in its anxiety to hold public hearing at the earliest again wrote to the District Collector to conduct the public hearing immediately after the election was over i.e., on 13.04.2011, though the election process would be over only after counting and declaration of result.
- V. The 3rd respondent met the Chief Electoral Officer and obtained permission to conduct the public hearing after the poll process was over on 13.4.2011.
- VI. The Pollution Control Board requested the District Collector to convene the Public Hearing on 29.04.2011 at 11 am in the Office of the District Collector. The newspaper publication was made in 'The Hindu' daily on 27.03.2011 that the Public Hearing for construction of new airport at Aranmula would be held on 29.4.2011. As can be seen from newspaper report dated 27.03.2011 in Annexure A XXII, the advertisement did not reveal whether it was an advertisement in accordance with the prescribed procedure for public hearing for the purpose of EC. In contrast to Annexure A XXI newspaper advertisement did not reveal the purpose of public hearing. It only said the postponed public hearing for construction of airport will be held on 29.4.2011. The said advertisement itself is faulty.
- VII. However, no public hearing was held on 29.04.2011 also because of inconvenience of the District Collector. The local land owners have, in the meanwhile, filed objection before the District Collector regarding the aforesaid project. As per the document in Annexure A XXIII, the paddy land is proposed to be filled up for the purpose of airport is not mentioned.
- VIII. Since the Public Hearing on 29.04.2011 was not held, the Pollution Control Board by letter dated 06.05.2011 informed the District Collector that the Public Hearing should be held on 10.05.2011 at 11 am in the conference hall of the Collectorate and the details regarding the public hearing should be published. However, to the knowledge of the Appellant, no newspaper advertisement

regarding the public hearing scheduled to be held on 10.5.2011 as mandated in the notification of the Union Ministry was published.

43. The appellant is an environmentalist who campaigns against illegal and disastrous exploitation of environment and is in the forefront of the people's agitation against Aranmula Airport and also a member of Wildlife Board constituted by the State Government. In Pathanamthitta District the contest between the rival political fronts was very intense and one of the major issues was the proposed Aranmula airport. The election process in the State of Kerala started on the first week of March 2011 the polling was held on 13.04.2011. The counting of votes was posted on 11.05.2011. This means that on 10.05.2011 - the penultimate day of counting many of the persons who are involved in political activities like the appellant were in the midst of arranging the party workers as the counting agents and other work in the connection of election process. Apart from that, the politically conscious Kerala people were all eagerly waiting for the election results. It is at the midst of this highly contested election, an excuse of public hearing was conducted in order to complete the formalities prescribed without complying with the spirit of the purpose of public hearing. As a matter of fact, the appellant was present for the public hearing on 10.3.2011 as well as 29.04.2011. On both these days the public hearing was adjourned. There was no newspaper advertisement regarding the public hearing on 10.05.2011. The conduct of the public hearing on the penultimate day of counting of votes in the ballot boxes in a politically conscious state is solely for the purpose of avoiding public participation in the public hearing. This is abundantly clear from the fact that in the alleged public hearing held on 10.05.2011 the total number of participants was only 80 persons, whereas in the public hearing conducted by the Environment committee of the Kerala Legislative Assembly on the same issue more than 3000 persons participated.

44. The illegality of public hearing without proper newspaper advertisement can be seen from the copy of the minutes prepared by the Pollution Control Board as per the document in Annexure A XXV. As can be seen from Annexure A XXV, there is no mention regarding the newspaper advertisement of the public hearing held on 10.05.2011. It also shows that only 80 persons including officials participated. Even the copy of minutes of the proceedings would show that many of the participants had raised the issue of illegal reclamation of paddy land though it was ignored as not part of agenda. Hence, it is absolutely clear that the public hearing held on 05.10.2011 is a farce and without proper notice.

45. A reading Annexure AI of EC would show that the proponent had got ownership and title over 350 acres of land in the aforesaid area. This is the impression one gathers from the list of survey number and lands given as annexure to Form No. I. However, this list is the list of lands notified as industrial zone. It has nothing to do with ownership of 3rd respondent. In fact, the majority of land mentioned in annexure to Form No. I belong to other persons. Moreover, (i) the claim of the proponent/3rd respondent is that they purchased the land as aforesaid from one K.J. Abraham. It is pertinent to note that under Sec. 83 of the Kerala Land Reforms Act, no person can hold any property in excess of the ceiling area. Sec. 82 of the Kerala Land Reforms Act provides that the maximum land that can be held is 15 acres and the balance excess land automatically vest with the government by fiction of law. In the present case the person who allegedly sold the subject matter of land to the 3rd respondent was holding land far above the ceiling area. The land board has booked a ceiling case under the Kerala Land Reforms Act against the aforesaid person. Under Sec. 84 of the Kerala Land Reforms Act, any voluntary transfer of property, by any person holding excess land, is invalid. Hence, the 3rd respondent who claims to be the transferee from the aforesaid K.J. Abraham cannot have even title or ownership over the property. Thus Annexure AI and the entire process is based on a wrong factual assumption that the

3rd respondent has title to the aforesaid property. This made abundantly clear by the letter issued by the government to the Department of Environment. Annexure AXXVII admits that the land is excess land under the Land Reforms Act. However, it says that exemption can be granted under the Land Reforms Act regarding the ceiling area. It is brought to the notice of the tribunal that no such exemption can be granted under Sec. 81(3) of the Land Reforms Act for various reasons especially in favour of 3rd respondent who is not even an owner of the land.

46. The details given by the 3rd respondent in Form I are misleading and incorrect and for that reason alone the grant of EC is liable to be rejected. As can be seen from the details mentioned in Annexure A XXVII they are either absolutely false or half true. The details are given below.

- I. In column 3 of clause 1.0, it is stated that the proposed area is only 16,250 square meters, which is absolutely false. The area covers at least 10 times the area mentioned in the said entry. In clause 22 of the same table, it is wrongly mentioned that there is no government order or relevant policy relating to the site. As can be seen from Annexure A II to XIV there are various reports of the government and government officials regarding the illegal reclamation of paddy land.
- II. *Entry in clause 24(c) that there is no order or direction of the court is absolutely false.*
- III. *In clause II serial No. 1.1 it is wrongly stated that no permanent or temporary change in land use, land cover or topography including increase in the intensity of land use will be there by construction of the proposed airport. This is absolutely false since large areas of paddy land and wetland will be converted and used and there will be total change in the land use pattern, the land cover and the topography of the land. This will also cause increase in the intensity of land use. Likewise, the documents produced in the above application would show that there is thick vegetation and also there will be threat to the biodiversity in the entire paddy land. Clause 1.2 sways that the vegetation and buildings will be relocated. Likewise, clause 1.3 falsely says that there is no creation of new land uses. Clause 1.10, falsely says that no reclamation work in the project is necessary. This is only to mislead the authority, especially to show that there is no paddy land in the area, which is factually incorrect.*
- IV. *Clause 1.17 wrongly says that no new road for traffic is necessary and already roads exist. This is factually incorrect. There is not even a approach road to the site. Moreover when the operation of the airport commences there will be at least two four lane roads having 8 kilometers length each.*
- V. *The answer to clause 1.24 that there will be no change in the water bodies or land surface affecting drainage or runoff is wrong.*
- VI. *Clause 2.1 falsely says that there is no undeveloped or agricultural land in the project site. The last page of Form No. 1 deals with the pattern of land. It is wrongly stated in serial No. 1 that the land in which the project is proposed is not covered by any local legislation for ecological, land scale and other related value. As a matter of fact, the land is clearly covered by the Kerala Conservation of Paddy and Wetland Act, the Kerala Land Utilization Order as well as the wetlands under the RAMSAR convention. It is also wrongly stated that the Pampa River is 2 kilometers away from the project. Pampa River is laying very adjacent to the project.*
- VII. *Answer to clause No. 8, 9 and 10 are also false. Hence it is absolutely clear that application has been filed by the 3rd respondent suppressing material facts. The resultant ToR prepared by the EAC and Annexure AI ecological clearance is also*

illegal.

47. The objections of Salim Ali Foundation were totally ignored. Salim Ali Foundation, Ayyappankavu Road, Kanimangalam, Thrissur, which is an organization functioning for the protection of ecology has filed a detailed report regarding the potential ecological, social and economic impacts of the proposed project. The Salim Ali Foundation has pointed out various environment disasters that may occur in the area if the aforesaid project is implemented. This includes the loss of intangible values of wetlands and paddy lands in the proposed site as well as adjoining area. It also points out in paragraph 37 to 42 the net physical value of the land which will be lost by the starting of the proposed project. The total benefits of the paddy fields and wetlands from the proposed airport area will be about Rs. 335 to 440 crore per year because of loss and damage. It also points out the total lack of application of mind in preparation of the Environment Impact Assessment report. However, in the EC, nothing is mentioned about the findings of the report. It brushed aside the said report, on the basis of an observation by the State Government that there is no wetland as mentioned in the report. In the observation of the government extracted from EC, it is wrongly stated that report has confused paddy land and wetland. At any rate, since the land which is proposed to be used for the said project is a paddy land which not only serves as a food production area but also serves for the recharge of ground water level and upkeep of the local ecology, the question regarding NPV at least have been addressed.

48. It is clear from the various reports and documents produced as Annexure All to VI that the tributary of Pampa River, Valiya Thodu as well as Kozhithode which serve as the irrigation water source to the entire paddy fields have been encroached and filled up by the proponent and his predecessor in interest. Steps have been taken under the Kerala Land Conservancy Act for recovering the aforesaid Government land. However, the Environment Impact Assessment Report ignores these allegations also.

1. As a matter of fact, the appellant herein has filed W.P. (c). No. 15101/2013 before the Hon'ble High Court of Kerala seeking direction to restore the illegally filled up paddy land, now in possession of 3rd respondent and which is proposed for the construction of airport.

49. Hence, the appellant herein has sought for the indulgence of the Tribunal to:

- (i) *Call for records leading to the EC given by the MoEF, Union of India as per letter dated 18.11.2013 in favour of the 3rd respondent.*
- (ii) *Direct the respondents to remove all constructions made, excavate the paddy lands and wetlands filled in, remove any and all obstructions to the flow of water and restore the area to its original pristine state. Direct the 3rd Respondent to restore the Karimaram Chaal to its original flow.*
- (iii) *Declare that the ToR finalized which resulted in Annexure AI does not cover the core environmental issues relating to the establishment of the proposed Aranmula Airport.*
- (iv) *Declare that the public hearing alleged to have been held for the purpose of considering the EC for establishment of the Aranmula Airport is invalid and insufficient.*

Appeal No. 19 of 2014 (SZ)

50. The appellant herein is a social worker and a resident of Kozhencherry Taluk of Pathanamthitta District in the State of Kerala, where the proposed Aranmula Airport Project is to be located. He earlier served as the President of the Pathanamthitta District Panchayat and is a Member of Kerala Pradesh Congress Committee at present. The appellant is an activist for protection of environment and promoting paddy cultivation in the Aranmula locality. He is deeply aggrieved by the EC issued to the

proposed airport and its allied activities as it will seriously affect the life and livelihood of the people living in Kozhencherry Taluk in particular and Pathanamthitta district in general as it will result in environmental degradation, stoppage of paddy cultivation in *puncha padashekham* (paddy fields) in Aranmula and depletion of ground water. He files this appeal challenging the EC granted to the Aranmula Air Port Project as a person affected by the project and the negative impact on paddy land, depletion of ground water and environmental degradation will directly affect him as also a committed social and political worker, several other persons affected by the project are also complaining to him about the ill consequences of the project. The appellant has arrayed the MoEF as the 1st respondent, State of Kerala as the 2nd respondent, K.G.S. Aranmula Airport Ltd., as the 3rd respondent, Kozhencherry Charitable Education Society as the 4th respondent, who was subsequently given up during the proceedings of the appeal before this Tribunal, Enviro Care India Pvt. Ltd., as the 5th respondent, Kerala State Pollution Control Board as the 6th respondent and the District Collector, Pathanamthitta District in Kerala State as the 7th respondent. The short facts of the case leading to the filing of this appeal as could be gathered from the grounds of the appeal filed herein can be stated thus:

51. The impugned EC is issued without considering several environmental, ecological and social aspects. Conversion of *puncha* (paddy fields), its consequences etc., were not even adverted to by the 1st respondent/MoEF. Similarly, the aspects relating to leveling of neighboring hills and the development of airport, allied buildings, construction of road etc., etc., were not addressed. The 3rd respondent/K.G.S. Aranmula Airport Pvt. Ltd., suppressed several vital details in the application made seeking EC. The EIA report prepared by the 5th respondent/Enviro Care Pvt. Ltd., is legally defective and is factually inadequate. The EIA report was not prepared by the competent persons and *ex facie*, the impugned EC is bad for non consideration of relevant aspects and irrelevant considerations. The details given in the application form in Form I seeking EC did not reveal that the proposed construction of the project is going to be made in paddy land and that the land use is to be changed or that there will be reclamation of paddy land. Suppression of this vital aspect has resulted in fundamental error of EC as at no point of time, the respondents considered the fact of reclamation of paddy land and its consequential impact on the ecology and environment in its proper perspective. There was also no impact assessment study relating to conversion of paddy lands. Rice is a major wetland crop and paddy fields in Kerala are typical wetland eco-systems that serve numerous important ecological and environmental functions and conversion of paddy fields involves irreversible transformation of the wetland agro-ecosystems. The Aranmula *puncha* and other paddy fields in adjacent villages from the flood plains of river Pampa and they serve as natural flood control mechanism. None of these aspects was considered by the 1st respondent/MoEF while issuing the impugned EC.

52. In a letter dated 01.06.2013, (Annexure A14), the 2nd respondent/State of Kerala specifically brought to the notice of the 1st respondent/MoEF about some grave issues raised in the report of the Salim Ali Foundation (Annexure A2), which if true, will erode the validity of the EIA study and requested to examine those issues before granting EC and none of these issues was addressed in the impugned EC by the 1st respondent/MoEF due to non application of mind. While the letter dated 01.06.2013 of the 2nd respondent was referring to the impugned EC for extracting the views of the 2nd respondent/State of Kerala the land in question as wetlands, instead of advertent to the expression used in that latter, the 1st respondent/MoEF ought to have considered the true nature and significance of the land in question. The 1st

respondent/MoEF proceeded on the wrong premise that the reclamation of paddy land by the prior owner, the 4th respondent/Kozhancherry Educational Charitable Trust is legal and valid. Till the date of judgment dated 24.02.2005 in W.P.(C). No. 3917 of 2005 of the Hon'ble Kerala High Court, (Annexure A3), the 4th respondent namely the Kozhencherry Education Trust, the previous owner had no permission to reclaim the paddy land and even subsequent to that date also, no permission was issued by any competent authority to the 4th respondent to reclaim the paddy land in controversy and contrarily, the competent authorities found that the reclamation of paddy land by the 4th respondent was illegal and ordered to be restored. The legal effect and consequences of those proceedings were not enquired into by the 1st respondent/MoEF. The observations of the AAI (Annexure A16) following the inspection held on 02.07.2012 would show that there are obstacles to the proposed runway approach due to location of a hill and rubber plantation and require to be removed after obtaining environmental clearances and these aspects have not been considered by the MoEF/1st respondent while issuing EC. The issues relating to leveling of the nearby hills were not made a subject matter for enquiry.

53. There is total non application of mind while permitting reclamation of paddy land for the purpose of runway as the length, orientation etc., were not finalized. As per the paragraphs 2.2.1 in Annexure A6 and Annexure A20, the proposed length of the runway is 2800 m in Phase I. In Annexure A11, the 3rd respondent/Aranmula Airport Pvt. Ltd., claimed that the construction of runway to a distance of 1500 m has been already completed and in addition to the existing runway to extend it to another 1000 m. Whereas, after quoting the letter from the 3rd respondent/Aranmula Airport Pvt. Ltd., the 1st respondent/MoEF has recorded in paragraph 6(iii) of the EC that the previous owner had filled the runway of 1000 × 150 m for airstrip and the only area required for runway 1000 × 150 m will be filled and accorded permission to reclaim 1000 × 150 m. According to the impugned EC, the length of the runway is 2000 m and it is all the more relevant to state that according to the original project report prepared by the Consultant (KITCO), the proposed length of runway is 3100 m. Going by the documents on record, there is no certainty on the actual length of the runway and the required area of paddy land to be reclaimed. But, as per the observations made by the AAI (Annexure A16) it is recommended for displacing the threshold of runway by 285 m in view of the obstacle reported due to the existence of temple mast. As such, the 1st respondent ought not to have given any permission to reclaim paddy land before finalization of runway orientation and ascertaining its actual length. The issuance of clearance to fill the paddy land at 1000 m and therefore, issuance of piecemeal EC without taking the proposed project as a whole or considering cumulative effect of the project are illegal.

54. Majority of the Members of the Kerala Legislative Assembly and Assembly Committee for Environment pointed out that the proposed airport project that is going to be established in the paddy land to be reclaimed would cause severe environmental degradation. But, none of the aspects pointed out therein were considered in its proper perspective by the 1st respondent/MoEF while issuing the impugned EC.

55. The issuance of SRO No. 185/2011 dated 24.02.2011 referred to in paragraph 7 (i) of the EC itself is illegal as the EC is not preceded by the EC as required in paragraph 7(c) of the Schedule to the EIA Notification dated 14.09.2006. Moreover, no specific permission is granted to reclaim any paddy land by any of the competent authorities and the reclamation already made by the 4th respondent is illegal. Even assuming that the SRO No. 185/2011 dated 24.0.2011 whereby certain areas are declared as industrial area is valid, still permission under Kerala Conservation of Paddy Land and Wetland Act, 2008 is required for filling up any paddy land. In the instant

case, no such permission is given to 3rd respondent for filling up paddy land. On this count also, the EC given for filling up the paddy land is illegal and unsustainable.

56. The public hearing that preceded the grant of EC was not conducted in accordance with law. As per the minutes with covering letter dated 13.05.2011 (Annexure A7), initially the public notice of hearing was published in the newspapers on 06.02.2011 after scheduling the date of hearing as 10.03.2011. Later, it was postponed to 29.04.2011 and was ultimately held on 10.05.2011. No notice was issued for the public hearing as required in paragraph 3 of the Appendix IV of EIA Notification, 2006 for the public hearing held on 10.05.2011. Since no proper notice was given, the participation of project affected people in the public hearing was very low and the entire proceedings were concluded within 120 minutes. The appellant was denied the opportunity to participate in the public hearing for want of proper information/notice while hundreds of people participated in the public hearing conducted by the Kerala State Legislative Assembly Committee on Environment.

57. From the reading of the application made by the 3rd respondent seeking EC in Form I dated 28.06.2010 (Annexure A4) and the copy of the ToR finalized by the EAC on 13.10.2010 (Annexure A5) with regard to the proposed airport project of the 3rd respondent, there was complete suppression of the fact of the establishment of the proposed airport project required filling of paddy land. The report of the Salim Ali Foundation (Annexure A2), report of the Kerala State Legislative Assembly Committee on Environment regarding Aranmula Greenfield International Airport (Annexure A17) and the letter dated 13.07.2013 submitted by the 72 Members of the Kerala State Legislative Assembly to the Hon'ble Prime Minister of India would show that the issue of paddy land reclamation is very vital to the aspects relating to the EC and is the root cause of public opposition to the project. In the circumstances, the 1st respondent/MoEF ought to have ascertained the ground situation by obtaining a proper local inspection report before according any clearance which would have revealed the significance of Aranmula paddy land and the hollowness of the claim by the 3rd respondent.

58. By the letter dated 26.06.2012 of the State of Kerala/2nd respondent addressed to the 1st respondent/MoEF, it has been categorically informed that the portion of land which was paddy land and has been filled, which can have environmental impact. No clearance has been taken for filling up paddy land. According the Kerala State Paddy and Wetland (Conservation) Act, 2008, prior sanction of the Committee authorized for filling such areas is required. But, this crucial aspect was not even probed by the EAC or by the 1st respondent/MoEF. The EIA report was not prepared in accordance with "Environmental Impact Assessment Manual for Airports (Annexure A19) and the EIA Report for the construction of new airport at Aranmula prepared by the 5th respondent/Enviro Care India Pvt. Ltd., (Annexure A20) are factually misleading.

59. As per the Office Memorandum of the 1st respondent/MoEF bearing No. F. No. J-11013/77/2004-IA II (I) dated 30th September 2011 (Annexure A24), the application for accreditation submitted by the 5th respondent/Enviro Care India Pvt. Ltd., was rejected by the Quality Council of India. But, however, as per Office Memorandum of the 1st respondent/MoEF bearing F. No. J-11013/77/2004-IA II(I) dated 30.06.2011 (Annexure 23), the Consultants whose application for accreditation was pending were permitted to submit report/certify documents to appear only upto September 2011. As such, the EAC went wrong in considering the EIA report prepared by the 5th respondent/Enviro Care India Pvt. Ltd., in September 2011, December 2011 and in August 2012 as per the extract of the minutes of the 105th, 107th and 115th meetings of EAC (Annexure A8-A9), respectively and the EAC ought to have rejected the

application made by the 3rd respondent seeking EC in Form I dated 28.06.2010 (Annexure A4) and the EIA report for the construction of new airport at Aranmula prepared by the 5th respondent/Enviro Care India Pvt. Ltd., (Annexure A20) as the application of the 5th respondent/Enviro Care India Pvt. Ltd., seeking accreditation was rejected by the Quality Council of India at the time when they considered the EIA report. Hence, the 1st respondent/MoEF was completely wrong in issuing the EC based on the EIA report prepared by an incompetent agency.

60. The validity of the EIA report prepared by a Consultant is subject to and is dependent on its accreditation/recognition by the Quality Council India. Pursuant to the Office Memorandum of the 1st respondent/MoEF bearing No. F. J-11013/77/2004-IA II (I) dated 02.12.2009 (Annexure 21) and subsequent office memorandums, applications seeking accreditation of Quality Control of India were submitted in early 2010. In view of elaborate procedure for processing the applications, the application submitted by the 5th respondent/Enviro Care India Pvt. Ltd., was processed only between June-September 2011 and this would not mean that EIA report prepared by the 5th respondent/Enviro Care India Pvt. Ltd., is valid irrespective of accreditation. If the 5th respondent/Enviro Care India Pvt. Ltd., is incompetent to submit a report after September 2011, then it is only to be found that they were incompetent throughout. In complete violation of Chapter 12 of Environmental Impact Assessment Manual for Airports (Annexure A19) and Appendix III of the EIA Notification, 2006, the 5th respondent/Enviro Care India Pvt. Ltd., refused to disclose the names of the consultants with their brief resume in the copy of the summary of EIA report circulated by the 3rd respondent/K.G.S. Aranmula Airport Ltd., (Annexure A6) as well as the Environmental Impact Assessment Report for the construction of new airport at Aranmula prepared by the 5th respondent/Enviro Care India Pvt. Ltd., (Annexure A20) and the persons who prepared the EIA report in respect of the airport project in question were not experts in the relevant sector. Even in 2013 as is evident from minutes of the 94th Accreditation Committee Meeting of the Quality Council of India, dated 8th January 2013 (Annexure A25), the 5th respondent/Enviro Care India Pvt. Ltd., is neither competent to prepare an EIA report for Category A projects nor having any experts in its roll to conduct study in the airport sector and on this count of incompetency/want of expertise of persons who prepared the report also, the same is liable to be set aside.

61. No final report as required under the relevant law was prepared by the 3rd and 5th respondents (K.G.S. Aranmula Airport Ltd., and Enviro Care India Pvt. Ltd., respectively). In view of total absence of details of paddy land for reclamation for the proposed airport project, the 1st respondent/MoEF ought to have ordered to conduct a final EIA study with special reference to the paddy land reclamation and other allied aspects. The 1st respondent/MoEF has therefore went wrong in clearing the project without a final EIA report that covers all relevant environmental aspects.

62. As is evident from the reply made by the representative of the 3rd respondent/K.G.S. Aranmula Airport Ltd., (referred to in Annexure A7 'Notes of Public Hearing') they already committed to undertake a comprehensive environmental impact assessment study in continuation of EIA report for the construction of new airport at Aranmula prepared by the 5th respondent/Enviro Care India Pvt. Ltd., (Annexure A20). The 3rd respondent/K.G.S. Aranmula Airport Ltd.,). The 1st respondent/MoEF was wrong in issuing the impugned EC without obtaining the final EIA report. The terms of reference are insufficient and inadequate. The same went wrong in identifying the significance of *puncha* land where the proposed project was sought to be established.

Similarly, the significance of environmental and biological etc., of the area were not even adverted to. The same is vitiated by complete non application of mind.

63. Hence, the appellant herein seeks the intervention the Tribunal:

- i) *To set aside the EC granted to the proposed international airport at Aranmula;*
- ii) *To set aside the application made by the 3rd respondent seeking EC in Form I dated 28.06.2010 (Annexure A4) and the copy of the Terms of Reference finalized by the EAC on 13.10.2010 (Annexure A5); and the Environmental Impact Assessment Report for the construction of new airport at Aranmula prepared by the 5th respondent/Enviro Care India Pvt. Ltd., (Annexure A20);*
- iii) *To direct the respondents to conduct the public hearing for the proposed Aranmula Airport Project in accordance with law after finalizing fresh terms of reference.*

64. The 1st respondent, namely the MoEF, per contra, stated in the reply affidavit and which can be treated as reply to the other appeals also, as follows:

65. According to Form I and EIA report submitted by the project proponent, the site is situate almost 2 km from Pampa River. There is a small rivulet namely *Kozhithodu* passing through the project site which starts from uphill areas and joins the Pampa River. Due to poor maintenance over the years, it is blocked at various points creating small water bodies in different parts of the project site. The proponent informed that there is no wetland and due to blockage of the rivulet water logging occurs and forms a few shallow water bodies in the project area. The Minor Irrigation Department of Kerala was entrusted to study and streamline the flow of rivulet and the department has studied and has suggested measures to maintain the rivulet. Conditions have been stipulated in the clearance to implement the measures suggested by the Minor Irrigation Department in letter and spirit. Based on the complaints against the inclusion of wetland and paddy fields in the project and public objections for conversion, a factual report was sought from the Environment Department of Government of Kerala and the project proponent. In the reply dated 01.03.2012, the proponent has stated that the Government has notified 500 acres of land for development of the airport. There is no paddy cultivation for the past ten years. Further, according to the letter dated 26.06.2012 of the State Government, 500 acres of land was declared as an industrial area vides notification in SRO. No. 185/2011 dated 24.02.2011.

66. The Government of Kerala, in its letter dated 01.06.2013, has stated that some factual mistakes in the report of Salim Ali Foundation are worth noting and the report says that there are extensive wetlands in the village. However, there is no identified wetland in Aranmula village as per the report of the Centre for Earth Science Studies which prepared the list of wetlands in Kerala. As per the definition of the Kerala Conservation of Paddy and Wetlands Act, 2008, paddy land is not wetland and the provisions of the Central Wetland Act are also similar.

67. The averment that the EIA study has not covered flora and fauna is denied. The 1st respondent/MoEF states that the same is covered under Chapter-III of EIA report. The location of the site with respect to Vembanad Kol, Ramsar site and Silent Valley were sought and the Proponent has informed that the site is not located in the upstream of Vembanad and neither silent valley nor ecological diversity areas are located anywhere near the site. The proponent had informed that only minimum area required for runway, apron, taxiway etc., would be filled and the remaining area would be preserved in its natural form. The previous owner had filled the runway of 1000 × 150 m for airstrip and hence only the area required for runway 1000 × 150 m would be filled with 1 m height and the soil required for land filling would be met from elevated area of about 14.5 acres available within the site itself. When a contour map

was called for confirming the availability of source for soil within the site, as per the contour map submitted, the level of elevated area varies from 3 m to 11.5 m with average height of 3.5 m. The soil available in 14.5 acres is 205375 m³ as against the 1,50,000 m³. Further, the EAC has suggested the following condition in the above EC:

“(iii) Though the site is not a wetland, in view of the presence of various plants and species, the proponent shall fill only minimum area required for the runway, apron, taxiway etc., and the remaining area will be preserved in its natural form as committed. Only the area required for runway 1000 × 150 m shall be filled with 1 m height. The soil required for land filling shall be met from elevated area of 14.5 acres available within the site itself. Necessary permission for leveling should be taken.”

68. Denying the allegation with regard to the rehabilitation and resettlement, the 1st respondent/MoEF would state that as per letter dated 26.06.2012 of the State Government; the project proponent has stated that seven houses in the proposed area may require rehabilitation, which they have already purchased. The approach road is proposed from Aikkara junction to the terminal building of KGS Aranmula Airport for which the land is to be acquired. Similarly, the road from Parumootupadi junction to Aikkara junction is also to be widened for smooth vehicular traffic to the proposed airport.

69. The ministry brought the accreditation for the consultants to ensure the quality of EIA report and Environment Management Plans (EMP). According to Office Memorandum dated 30.12.2010, 265 consultants including Enviro Care India Pvt. Ltd., were permitted to certify various documents as consultants such as EIA/EMP and appear before the State Level Expert Appraisal Committee/State Environment Impact Assessment Authority for Category-B projects and the EAC for Category-A projects till 30.06.2011. The ToR for the project was accorded on 13.10.2010. Public hearing was conducted on 10.05.2011 and the proponent has submitted the final EIA on 26.06.2011 after incorporating the issues raised during the public hearing within 30.06.2011.

70. The project was considered by the EAC in its meeting held from 21st - 23rd September, 2010 and the ToR was finalised including the conduct of public hearing. The ToR for the project was accorded on 13.10.2010. Public hearing was held on 10.05.2011 at Pathanamthitta District Collectorate. Major issues raised during the public hearing were regarding filling up of paddy fields, restoration of *Kozhithodu*, the tributary of Pampa River etc. The project proponent has committed that minimum area required for runway, apron, taxiway etc., will be filled and the remaining area will be preserved in its natural form while *Kozhithodu* will be maintained in consultation with the Minor Irrigation Department of the State of Kerala. The proposal along with the final EIA report and the minutes of the public hearing were examined by the EAC in its meeting held on 21st - 23rd September, 2011. After deliberation, the EAC sought additional information viz., Noise level modeling impact analysis especially on traffic, waste water treatment and disposal, energy conservation risk management, EMP etc. The details submitted by the project proponent were examined by the EAC in the meeting held on 15th - 16th December, 2011 and the EAC recommended the proposal for grant of EC subject to certain environmental safeguards. While processing the proposal for EC, news items alleging inclusion of wetlands and conversion of paddy fields in the project area had come to the notice and a report in this regard was sought from the State Government and the project proponent. The project proponent submitted reply in letter dated 01.03.2012 according to which the Government has notified 500 acres of land for development of airport and there is no paddy cultivation in the area for the past ten years. However, the project proponent was asked to submit the details of wetlands/water bodies or land having the characteristics of wetlands at

or in the vicinity of project site along with their conservation plan and the project required soil filling which was not properly addressed in the EIA report to submit supplementary information reading the details of area requiring filling, source of filling material, it's likely impacts of environment and drainage system, the project proponent submitted the details and the proposal was again referred to the EAC to examine the details submitted by the project proponent. The EAC in the meeting held on 16th - 17th August, 2012 after deliberations stipulated conditions. As regards the commencement of land filling work even before the grant of EC as alleged in the news reports, there were no developmental works at that site by then. However, the original owner of the site had carried out minor developmental works.

71. All issues have been considered by EAC and MoEF and there have been representations, news items, joint petitions from MLAs and a report from the Salim Ali Foundation against the project. Major allegations are inclusion of wetlands and conversion of paddy fields, filling up of wetlands and paddy fields that will disturb the ecosystems and environmental balance of the area, the project proponent facing criminal and vigilance cases, violation of Central and State Acts like Kerala Land Reforms Act, 1963 (in regard to the land ceiling provision), Kerala Conservation of Paddy Land and Wetland Act, 2008, findings of the Legislative Committee, commencement of the land filling work at the site prior to EC, non-obtaining of no objection certificate from the Defence, competition to existing airports, inadequate EIA, non-inclusion of source of earth for filling the land, 212 species of plants including 27 that are endemic and 110 that are economically important have been recorded in the area and these are said to have been affected. The comments on the above representations/issues were sought from the project proponent and the State Government of Kerala. The project proponent replied in the letters dated 20.06.2011, 01.03.2012 and 23.08.2012. The comments were also received from the Principal Secretary, Environment Department, Government of Kerala vide letters dated 26.06.2012, 01.06.2013, and 21.08.2013 and from the Additional Chief Secretary, Environment Department, Government of Kerala vide letter dated 13.09.2013. The following issues are noted from the letter of the project proponent:

- (i) *There are no developmental works at this site by them. However, the original owner of the site had carried out minor developmental works. The semi-developed site was purchased from Mt. Zion Educational Trust.*
- (ii) *Ministry of Defence has granted NOC vide letter No. 19(79)/11 (DN-11Ops) (669) dated 24.08.2011.*
- (iii) *There is a small rivulet Kozhithodu passing through the project site. This rivulet collects water from uphill areas and joins with Pampa River. Due to poor maintenance over the years, it is blocked at various points causing small water bodies in different parts of the project site. The Minor Irrigation Department of the Kerala was entrusted with the study to streamline the flow of rivulet and the Department has studied and suggested measures to maintain the rivulet. It is noted from the report of the Minor Irrigation Department of Kerala that after due alterations that are suggested and carried out in the Kozhithodu, the water logging in the upstream paddy fields will not occur.*
- (iv) *Only minimum area required for the runway, apron, taxiway etc., would be filled and the remaining area will be preserved in its natural form. The previous owner had filled the runway of 1000 × 150 m for airstrip. Therefore, only the area required for runway 1000 × 150 m will be filled to a height of one meter and the soil required for land filling will be met from the elevated area of 14.5 acres available within the site itself. When a contour map was called for confirming the availability of source for soil within the site, as per the contour map submitted, the level of elevated area varies from 3 m to 11.5 m with*

average height of 3.5 m. The soil available in 14.5 acres is 205375 m³ as against the 1,50,000 m³

- (v) Aranmula is declared by the UNDP as a 'heritage village' due to Uthirattadhi Boat Race and Aranmula mirror which are unique to this village and not based on environmental or physical features. This airport once commissioned will showcase these unique cultural aspects globally and will ensure international visibility ensuring tourist flow.

72. The following are noted from the letters of the Government of Kerala:

- (i) The State Government vide Notification in SRO No. 185/2011 dated 24.02.2011 had declared approximately 500 acres of land as industrial area, the reclamation was done during pre 2008 period when the Kerala Paddy Land and Wetland Conservation Act was not in force there and hence, the above Act is not applicable. The ecological damages which have already set in unmindful river sand mining during the last three decades that lowered the bed of Pampa River to almost below sea level, among other environmental facts causing degradation, resulted in lowering the ground water table in the riparian areas. Putting the blame of lowering the ground water table on the reclaimed portion of the paddy field would be illogical. The paddy field is left fallow and the natural irrigation facilities have been encroached upon or blocked at several places.
- (ii) No instance or details of the criminal/vigilance cases referred to have been furnished. Further in the order dated 29.03.2012 in Writ Petition (C) No. 3407 of 2012 filed before the Hon'ble High Court of Kerala by the Project Proponent, it has been directed that the Police Department shall maintain law and order at the work site, if disturbance of any nature is caused for any of the works done by the petitioner. Moreover, the Application No. 38 of 2013 (SZ) filed by Aranmula Heritage Village Action Council represented by its Patron Shri Kummanam Rajasekharan, who is also the signatory in the instant petition was withdrawn and the Tribunal awarded a cost of Rs. 25,000/- payable by the applicant to the respondent's side.
- (iii) The Legislative Committee on Environment has not categorically expressed any reservation against the project as such, but also on the other hand, it has recommended that the excess land notified in industrial area except the land under the process of KGS Group may be denotified urgently and orders issued.
- (iv) The report of Salim Ali Foundation says that there are extensive wetlands in the village, but there is no identified wetland in Aranmula Village as per the report of the Centre for Earth Science Studies which prepared the wetlands in Kerala. As per the definition of the Kerala Conservation of Paddy and Wetlands Act, 2008, paddy land is not wetland. The provisions of the Central Wetland Act are also similar.
- (v) The State Government would like to have modern infrastructure facilities in the State with least disturbance to environment and as such the State Government is in favour of the project. The objections against the vital infrastructure and employment generating development projects, which would be a boon to the educated unemployed in the State and such employment generating projects in a State like Kerala with its teeming educated unemployed cannot but be welcomed in the larger public interest and the economic interest of the country, of course, subject to all environmental protection measures as per law. The State Government has decided to take 10% equity in this project vide G.O. (Ms).No. 4/2013/Trans dated 16.01.2013.

73. As regards the allegation by the Salim Ali Foundation that the EIA report is inadequate, did not recognize the fertile, wetlands on the flood plains of River Pampa and presence of endemic and economically important species in the area, non-

inclusion of source for filling the land, the EAC has suggested ToRs and the EIA has been prepared as per the ToRs. The EAC has sought additional information on noise level modeling, analysis of impact, traffic management, NOC from Civil Aviation etc., before recommending the project. The ministry has also called for additional information on the details of the area required to be filled, source of material, likely impact and referred back to EAC. The EAC again in August 2012 examined and recommended. The EIA study covered the flora and fauna under Chapter III of the EIA report.

74. The 1st respondent, therefore, concludes that the EAC after due consideration of the relevant documents submitted by the Project Proponent and additional clarifications furnished in response to its observations, recommended for the grant of EC to the project and accordingly, the MoEF granted necessary EC for the project as per the provisions of the EIA Notification, 2006 and its subsequent amendments subject to strict compliance of the terms and conditions.

75. At the outset the 2nd respondent/Secretary to Government, Environment Department, Kerala Government took preliminary objection with regard to the maintainability of the appeal on the grounds of jurisdiction and *locus standi* and submits that the above appeal is not maintainable either in law or on the facts and circumstances of the case. The appellant has no locus standi to file the above appeal and the tribunal has no jurisdiction to decide the same in an application filed by the Appellant.

76. The interim order has been passed not in accordance with the procedure established by law. The appellant herein is a total stranger to the EC proceedings and does not have any right under the statute to challenge the same. In the present appeal, the appellant has not revealed complete facts, suppressed material facts and therefore the appeal itself is liable to be dismissed at the threshold itself. The issue regarding the construction of Airport at Aranmula by the 4th respondent and the allied issues are already pending consideration of the Hon'ble High Court of Kerala in W.P.(C) No. 6004/2013 filed by the appellant along with others and also in W.P.(C) No. 8794/2013, W.P.(C) No. 14220/2013, W.P.(C) No. 15101/2013 as well as D.B.P. No. 145/2013 pending before the Hon'ble High Court of Kerala. The grounds raised and the reliefs sought for in the above Writ Petitions and the present appeal relates to the same and the identical matter.

77. The EIA is the important management tool for integrating environmental concerns in development process and for improved decision making. The very EIA notification issued by MoEF on 14.09.2006 as S.O. 1533 purports to impose certain restrictions and prohibitions on new projects or activities or on the expansion of the existing projects or activities based on their potential environmental impacts as indicated in the schedule to the notification, and as per the procedure specified therein. Environment Impact Assessment Notification of 2006 has categorized the developmental projects in two categories, i.e., Category A and Category B. The 'Category A' projects are appraised at national level by EAC. The MoEF has constituted the State Level Environment Impact Assessment Authority (SEIAA) and State Level Expert Appraisal Committee (SEAC) to decentralize the environmental clearance process. These institutions are responsible for appraising certain categories of projects, termed as 'Category B' projects, which are below a prescribed threshold level. 'Scoping' is the primary essential element of consideration of the application for prior EIA clearance by which the EAC determine detailed and comprehensive Terms of Reference (ToR) addressing all relevant environmental concerns for preparation of the EIA report in respect of the project for which environmental clearance is sought. Approved ToR shall be displayed in the website of the MoEF. Therefore, the State Government has no role in the environmental clearance regime.

78. The policy understood as declared by MoEF is that the infrastructure shortages of one country has impeded its investment flow and constrained economic growth. Therefore, for ensuring sustainability of the growth process, it is imperative to remove the infrastructure constraints particularly in energy, roads, ports, airports and urban and rural infrastructure. Thus, projects such as airports are possible and necessary as sustainable development projects in the economic interest of the country. In the case of Kerala such development projects compatible to environmental protection are warranted in consideration of the growing unemployment as well.

79. The Environment Policy of the State (2009) unequivocally declares the matter of environmental considerations in the development process of the State as follows:

'1.7. The policy has been designed to suit the specific local conditions of the state of Kerala and to help reorient its development in conformity with environmental perspectives so as to make the development sustainable.'

1.8. This policy document provides a frame work within which conservation and development can be achieved simultaneously with a view to maximise the quality of life for everyone in the state, optimising the ecological load on the natural systems as well as building up the state's economy while minimising environmental degradation.'

80. Thus, the environmental fall out, if any, of the airport project at Aranmula can be minimised or prevented by appropriate interventions by the measures depicted in EC granted by the MoEF. In the EC itself several measures are prescribed for mitigation and minimising the probable environmental fallouts. There are well settled substantive and procedural guidelines for environmental clearance. It is understood that the application for EC was processed by the 1st respondent as per the usual procedure for clearance. The EC will not be accorded to development projects that may result in irredeemable environmental degradation. So also, the developmental activities facilitating employment generation in the State having high educated unemployed and unlikely to create large scale environmental impacts or which could be mitigated cannot but be implemented. The MoEF has notified the EIA Notification 2006, under the Environmental (Protection) Act 1986 encompassing environmental conservation, sustainable development, generational equity etc. It is the Expert Advisory Committee constituted as per the provisions of the above notification recommended to the Ministry as early as on 16.12.2011 that the application for prior EC for the Aranmula Airport project is eligible for clearance subject to certain conditions. The recommendation of Expert Advisory Committee was after consideration of the duly prepared EIA report and following the due procedure.

81. The EIA study which is a part of the proceedings can be undertaken only by an accredited agency of the MoEF. It is for the project proponent themselves to arrange for the EIA study through an accredited agency and to submit the report to the Ministry. The public hearing and eliciting the response of the general public are integral parts of the proceedings before the report is submitted for clearance. It was after strictly adhering to all the statutory requirements that the report was prepared and decided upon by the statutory agencies. It is the decision of the EAC what matters. It was 24 months after the EAC report; the decision was taken on environment clearance to the project. The Ministry took the final decision in further consultation with the EAC on all aspects including the petitions received and reports in media against the project. The EAC had as early as on 15/16.12.2011 had taken the decision based on the EIA study Report, which duly considered the environmental/ecological aspects as per the ToR. The EIA report is the *sine qua non* in EIA clearance procedure. It is understood that the MoEF has taken the decision only on objective, statutory and policy considerations, and not overwhelmed by any extraneous considerations. The environmental and ecological considerations to be

apprised in such projects are a function of the EAC. This project appraisal was duly and repeatedly complied with. Thereafter, decision favourable to the project was taken but with conditions what was intimated much earlier. In the appraisal of airport projects the EAC is required to consider the required general information at the outset. All the required environmental and ecological aspects of the project will be duly appraised by the EAC. The EIA was on the basis of probable impacts assessed on *in situ* spatial and temporal considerations and not on what the site was a few decades back. In the case of this project the EIA report which is the statutory material on the environmental/ecological status of the location had been considered by the EAC of MoEF and decision communicated to the Ministry. The MoEF has accorded final clearance to the project after religiously following the procedure contemplated. It is worthwhile to extract a portion of the same for reference:

'Regarding the allegation by the Salim Ali Foundation that the EIA report is inadequate, did not recognise the fertile wetlands on the flood plains of river Pampa, and presence of endemic and economically important species in the area, non inclusion of source of earth for filling the land, it is stated that EAC has suggested ToRs and the EIA has been prepared as per the ToR. EAC has sought additional information on noise level modelling, analysis of impact, traffic management, NOC from Civil Aviation etc., before recommending the project. Ministry has also called for additional information on details of the area in August 2012, source of material, likely impacts and referred back to EAC. EAC again in August 2012 examined and recommended. It is noted that EIA study covered the flora and fauna under Chapter—III of the EIA report'.

82. As regards the contentions of the appellant based on report of Salim Ali Foundation, the circumstances under which such a study was commissioned and the agency to which it is submitted etc., are conspicuously not disclosed in the appeal. It is not an accredited agency to conduct EIA study for environmental clearance. The appellant is estopped from producing or relying on the Salim Ali Foundation report in impugning the EC granted by the MoEF. In so far as his main objection to EC is that the agency that prepared the EIA is not an accredited one by the Ministry of Environment & Forests. The Salim Ali Foundation (Annexure A2) report is prepared only in just 4 days. More importantly, the very report the appellant relies to bring home and to prove his allegations against the EC is seen to have been prepared with the active involvement of the appellant himself as is duly acknowledged in the Salim Ali Foundation Report (at page no. 12 of Annexure. A2). In page No. 5 of Annexure A2 also, it is stated that 'the map was prepared by Shri. Sreeranganathan of Aranmula' (appellant). Annexure A2 has no evidentiary value and cannot be relied on. Annexure A2 may be rejected outright as biased. The EC (Annexure A1) would reveal that the apprehensions and the allegations are unfounded. Those not covered by the actual project particulars as given in Annexure A1 need not be taken for consideration, for whatever works and activities not categorically cleared at the site as per EC have not been considered for EC and cannot be implemented. It is after a detailed study in which environmental and ecological considerations were duly considered and appraised and that the representations against the project were duly examined that the MoEF has accorded final EC to the project. The date of receipt of application for EC was 27.06.2011. It is seen that the EAC had recommended the project for EC on 16.12.2011 itself. Thereafter, the case has again been recommended on 17.08.2012. It is only after 2 years of the date of receipt for clearance, i.e., on 18.11.2013 that the final clearance was given by the Ministry. It is to be pointed out that the environmental and ecological considerations have been duly taken care of in the EIA in all the matters related to the environmental aspects of the project, what holds the field is the EC.

83. The project site was a paddy land years ago and now waterlogged. A portion

thereof has been reclaimed during the pre 2008 periods when the Kerala Paddy land and Wetland Conservation Act, 2008 was not there. The Principal Agricultural Officer Pathanamthitta has reported that due to the increased seepage from the Pampa Irrigation Canal there is permanent water logging in the paddy fields of Aranmula, Kidangannoor and Mezhuveli villages which resulted in a situation where paddy fields became unfit for cultivation. The biodiversity of the area is typical of the middle stream of river Pampa. There are no endemic species in Aranmula puncha (fields). It is due to the environmental degradation of Pampa river and encroachment of canals and streams that connected the paddy fields which were spawning grounds of fishes, to the river that the native aquatic biodiversity dwindled. It is submitted that all the relevant environmental concerns expressed in the EIA report and the petitions filed against granting clearance have been duly taken care of and remedies were stipulated in the final Environmental Clearance. The MoEF has consented the project with 20 specific conditions, ensuring mitigation of the environmental concerns so far raised, with other 7 conditions on maintenance of the rivulet, (Kozhithodu), passing through the site. The rivulet portion coming under runway is directed to be constructed with three spans of 15 m × 3.2 m vent. As for biodiversity, the condition is as follows:

‘Though the site is not a wetland, in view of the presence of various plant species proponent shall fill only minimum area required for runway, apron, taxiway etc. and the remaining area will be preserved in its natural form as committed. Only the area required for runway 1000 × 150 m shall be filled with 1 m height. The soil required for land filling shall be met from elevated area of about 14.5 acres available within the site itself. Necessary permission for levelling shall be taken’.

84. Thus, the project has been environmentally cleared only with stringent impact minimisation conditions, and makes those justifiable in the context of the verifiable ground situations. The clearance stipulations take due care of the environmental and ecological implications if any that may manifest. Whatever environmental concerns now being raised against the project had been flagged in the public hearing and duly recorded. Initially there was not much opposition at the local level and it is subsequent to the public hearing that the opposition to the project was orchestrated. All the aspects that had to be appraised have been duly considered and mitigation or remedial actions stipulated in Annexure A1. It may be seen from Annexure A1 that all the objections and media reports against the project subsequent to the public hearing on environmental matters had been duly examined by the Ministry in consultation with the EAC and appropriate impact minimisation measures suggested to be implemented.

85. The statement that the proposed airport area is ‘mainly paddy land and wetland,’ which essentially is the flood plains of river Pampa’ is not fully correct and hence denied. Wetlands cannot be reclaimed, whereas paddy lands may be filled up for public purpose in accordance with the procedure in the 2008 Act. A place cannot be paddy land and wetland at the same time. Due to the ecological damages already set in, in river Pampa nearby now there is no regular flooding of the plains as earlier, as the flood water confines to the river channel itself, and such paddy fields are unable to function in such situations as flood plains of the river. As regards loss of ecosystem services, the site is now a degraded land. That the fallow land by its ecosystem services would sustain a larger section of the people than ‘the meager benefits of a few people for their comforts’ is only an unduly speculative and biased approach. It may be noted that it is the owners of the paddy fields (who apparently had no benefits out of the land) that sold it by their own for non-agricultural activities.

86. The contention that the airport being set up at Aranmula for which EC is given is on the banks of river pampa is not fully correct. It is true that the river is near to the site. The Aranmula Parthasarathy temple referred in the memorandum comes in between the site and the river. The site has no special significance than any other

similar paddy fields in the surrounding areas left fallow. The further contention that the project site is a 'pristine environmental area' is not correct. It was a fallow paddy land now abandoned and waterlogged. It is not a paddy field where paddy cultivation is going on. Paddy cultivation had been discontinued in the entire area for years due to various reasons. It is on consideration that it is a project that does not create irreparable environmental damages that the EAC of the MoEF has recommended the project with conditions and all necessary conditions incorporated in the EC. The appellant has no case that the conditions and mitigation measures enumerated in the EC are ineffective or insufficient to remediate the probable environmental impacts at the site.

87. The Kerala State Biodiversity Board has reported that there are no endemic species in this area. The Board also has proposed mitigatory measures which could take care of the probable ecosystem impacts. The repeated reference to 'wetlands' in the Salim Ali Foundation Report (Annexure A2) report might be with reference to the rivulet. Wetland does not include paddy land and river. No such wetlands have been identified here in the wetland map specially prepared for the purpose of the Wetland Conservation Rules 2010. As per Section 2(xii) of the Kerala Conservation of Paddy land and wetlands Act, 2008, '*Paddy land*' means *all types of land situated in the State where paddy is cultivated at least once in a year or suitable for paddy cultivation but uncultivated and left fallow, and includes its allied constructions like bunds, drainage channels, ponds and canals. It may be the ponds (Chaal, Thalakkulam etc.,) in the vast paddy fields which are natural or constructed water storage and drainage structures forming part of the paddy land that is being mistaken as 'wetlands'.* The intangible ecosystem services of wetlands as mentioned in Annexure A2 report seem wholly irrelevant at the site. The contention that the project area could fetch fish worth Rs. 335 - 440 Crore per year from paddy fields which would be dry at some spells (if the drainage system functions) and flooded at other by the river waters are not correct and hence denied. The other statements on dislocation of families, loss and damage to ancestral heritage, etc. are not borne out by facts and cannot refute a scientifically prepared EIA report following the ToR.

88. The environmental safeguards stipulated by the MoEF in the EC would enable the proposed project with the least disturbance to the ecology and providing more tangible social and economic benefits than leaving the land fallow. The airport projects get EC, on being assessed by experts and decided by the Ministry of Environment and that the impacts as identified that will not cause grave environmental problems could be mitigated. The comparative benefits are what matters in such cases. The State Government would like to have modern infrastructure facilities in the state having appreciable employment generation opportunities with least disturbance to environment and as such the state Government has recommended the project. In this context, it is relevant to point out that the Ministry has already granted EC to the Greenfield Airport at Kannur. The objection against the vital infrastructure and employment generating development project which would be a boon the educated unemployed in the state, on arbitrary environmental considerations is ill-advised and baseless. Such employment generating projects in a state like Kerala with its teeming educated unemployed cannot but be welcomed also in the larger public interest and the economic interest of the country, subject of course to all environmental protection measures as per law. While recognizing that environmentally disagreeable activities in ecologically pristine locations shall not be permitted, the environmental fall out of this project, if at all any, can be duly mitigated, through balanced and nuanced measures, creating an enabling process to promote the environmentally sound development project that benefit local livelihoods and economy, than leaving the once fertile paddy lands fallow and abandoned causing more grave environmental problems. The comparative gains of the proposed project would favour its establishment for which

the central Government has already consented under the relevant statutes with necessary conditions.

89. In consonance with the avowed policy of State Government for Care and Development, State Government is keen to ensure that the development needs of the State are complimentary to the appurtenant environmental considerations. There cannot be development ignoring environment and State cannot develop until it grows sustainably incorporating environmental concerns in developmental aspects. Towards this end, greater scientific rigour has been incorporated into environment impact assessment of projects. A project environmentally cleared following all the statutory proceedings and extra examination in further consultation with the EAC of the MoEF may not be assailed on biased, arbitrary and speculative considerations. The second respondent is of the stand that the project could be allowed at the site complying with all the environmental and other conditions stipulated in the EC. Hence, the 2nd respondent herein prays that the impugned EC may be upheld and to dismiss appeal.

90. The 6th respondent, namely the Secretary to Government, Environment Department of the State of Kerala would state in reply to Appeal No. 174 of 2014 (SZ) and adopted in other appeals as well as below:

91. By virtue of Annexure A1 order, the 18th respondent/MoEF accorded EC for the Airport project as per the provisions of EIA Notification, 2006. The Appellant also further seeks for a direction against respondents 17 and 20 to conduct a public hearing. The appellant also seeks for a direction directing the State Government to complete the proceedings initiated against 19th respondent, namely K.J. Abraham of Kozhencherry Village in Pathanamthitta District in the State of Kerala for restoring the reclaimed paddy land. All the allegations raised in the memorandum of appeal are denied except to the extent to which they are admitted hereunder.

92. At the outset the 6th respondent/Secretary to Government, Environment Department, Kerala Government took preliminary objection with regard to the maintainability of the appeal on the grounds of jurisdiction and *locus standi* and submits that the above appeal is not maintainable either in law or on the facts and circumstances of the case. The appellant has no *locus standi* to file the above appeal and the tribunal has no jurisdiction to decide the same in an application filed by the Appellant. The appellant herein is a total stranger to Annexure A1 proceedings and does not have any right under the statute to challenge the same. In the present appeal, the appellant has not revealed complete facts, suppressed material facts and therefore the appeal itself is liable to be dismissed at the threshold itself. The issue regarding the construction of airport at Aranmula by the 18th respondent is already pending consideration of the Hon'ble High Court of Kerala in W.P.(C) No. 8794/2013 and W.P.(C) No. 14220/2013 filed by the appellant herein before the Hon'ble High Court of Kerala and also in W.P.(C) No. 6004/2013, W.P.(C) No. 15101/2013 as well as D.B.P. No. 145/2013 pending before the Hon'ble High Court of Kerala. The grounds raised and the reliefs sought for in the above Writ Petitions and the present appeal relates to the same and identical matter.

93. Moreover, the appellant herein has already filed an application in Application No. 38 of 2013 (SZ) before this Tribunal to stop all construction activities in Aranmula in which contentions regarding filling up of wetland, proceedings under Land Reforms Act etc. were advanced. However, after hearing the State, the appellant withdrawn the application in which he was directed to pay cost of Rs. 25,000/- to the respondents. The appellant has also filed writ petition Nos. 8794/2013 and 14220/2013 before the Hon'ble High Court of Kerala raising various contentions including direction against Government of India not to grant EC also the State Government to resume excess land. It is submitted that appellant is abusing the process of the Court under the garb

of a public spirited person before this Tribunal which is the creation of a Statute. Primarily, the appellant has no *locus standi* to challenge the present order. Secondly, the prayers raised in the appeal cannot be brought under the jurisdiction of this Tribunal as per Section 16 of the National Green Tribunal Act.

94. The impugned EC has been issued by Government of India after analyzing the pros and cons of the project. The EIA report, which is in fact the primary requirement for obtaining EC, had been placed before the Government of India on 16.12.2011. However, the final clearance was issued by the Ministry only on 18.11.2013, i.e., only after two years of the date of receipt of EIA that the final clearance was given by the Ministry. Therefore, the challenge raised against Annexure A1 on the grounds like non-application of mind is absolutely false and hence denied.

95. The EC is self-explanatory. In the opening paragraph itself, it is stated that the proposal has been appraised as per the prescribed procedure in the light of the provisions of the EIA Notification, 2006 on the basis of mandatory documents. As per Annexure A1, the EAC met on 21st to 23rd September 2011, 15th to 16th December 2011 and 15th to 16th August 2011. It was also explained in Annexure A1 that the project was considered by the EAC in its meeting held on 21st to 23rd September 2011 and the ToR was finalized including the public hearing. It was also stated in Annexure A1 that ToR for the project was accorded on 13.10.2010 and public hearing was conducted on 10.05.2011 at District Collectorate, Pathanamthitta. It is stated in the EC that major issues in public hearing were about filling up of paddy field, restoration of Kozhythodu a tributary of Pampa River etc. As per the EC, the Project Proponent committed the minimum area required for runway, apron, taxi way etc., and the remaining area will be preserved in its natural form while Kozhythodu will be maintained in consultation with the Minor Irrigation Department, Government of Kerala. It was stated in the EC that representations, news items, joint petition from MLAs and also a report from Salim Ali Foundation against the project were considered and comments on the issues projected in the representations were sought from the project proponent and Government of Kerala. Comments were provided promptly by Government of Kerala and the issues raised in the representations were considered by Government of India before issuing the EC. The EC was issued only after considering the various objections raised against the project. Therefore, the primary argument of the appellant that the EC was issued without considering the various allegations against the project is not correct.

96. The Government of India has issued the EC considering the fact that the EAC after due consideration of the relevant documents submitted by the project proponent have recommended for the grant of EC for the project. The EC was issued subject to the strict compliance of the terms and conditions set forth therein. Accordingly, the EC depicts in paragraph 10, twenty specific conditions and in paragraph 11, thirty one general conditions. Among the specific conditions, Government of India has directed conditions to prevent any degradation to environment. The specific conditions stipulated as per paragraph 10 of EC are as follows:

- (i) *The consent to establish shall be obtained from the Kerala State Pollution Control Board and a copy shall be submitted to the Ministry before starting construction work at the site.*
- (ii) *Despite the proponent informed absence of any wet land, the Minor Irrigation Department of the State of Kerala was entrusted to study and streamline flow of Kozhithodu riverlet and on the result of such study, the measures recommended by the department to maintain the riverlet (rivulet) was directed to be carried out with (in) letter and spirit.*
- (iii) *Despite the finding of absence of any wet land, in view of the presence of various plant species proponent was directed to fill only minimum area required*

for runway, apron, taxi way etc. and the remaining area was directed to be preserved in its natural form. (Area required for runway = 1000×150 metres at 1 metre height). Soil required for filling shall be met from the elevated area within the site itself and necessary permission for leveling should be taken.

- (iv) Prohibition of disposal of solid or liquid waste in Kozhithodu.*
- (v) State Government shall consider the observation of 'Legislative Committee on Environment' about de-notification of excess land except land under the possession of the KGS Group and appraise the Ministry.*
- (vi) Project proponent shall have a master plan for the project and other related facilities. Other facilities shall be considered by the competent authority after a cumulative Environment Impact Assessment is carried out.*
- (vii) Commitments like Maintenance of Kozhithodu, minimum filling of site etc. made through public hearing shall be strictly complied with.*
- (viii) Sewage and other liquid flow generated from the airport should be treated as per the norms laid down from the Pollution Control Board and recycled. Auto conservation fixtures shall be provided.*
- (ix) Solid waste generated shall be properly collected, segregated and disposed as per the provisions of Solid Waste Management and Handling Rules 2000.*
- (x) Recommendations of Environmental Impact Assessment (EIA), Environmental Management Plan (EMP) and Disaster Management Plan shall be strictly complied with.*
- (xi) Installation and operation of DG Sets, if any, shall comply with the guidelines of Central Pollution Control Board.*
- (xii) Energy Conservation Measures shall be taken up as per Energy Conservation Building Code (ECBC) 2009.*
- (xiii) Parking provision shall be provided as per National Building Code of India 2005.*
- (xiv) Switches used for outdoor lighting, generally do not take variation and hence the timer should be used as sensitive to season variations and on the basis of actual length of day/night.*
- (xv) All cooling equipments should meet the minimum efficiency requirements as specified in Energy Conservation Building Code 2007.*
- (xvi) Terminal building shall incorporate features of local architecture in and around area as well as special measures to highlight the Indian antiquity through a museum like corner depicting the same.*
- (xvii) Land use around the airport complex shall be recollected through a plan to control unauthorized development, which may create problems in the operation of the airport.*
- (xviii) Necessary permission shall be obtained for flowing of ground water from competent authority prior to the construction or operation of the project.*
- (xix) Legal action shall be initiated against the project proponent if it was found that construction was started without obtaining Environmental Clearance.*
- (xx) Project proponent will set up separate environmental management cell for effective implementation of the stipulated environmental safeguards under the supervision of a senior executive.*

97. Therefore, the EC was issued after considering the entire objections raised from various quarters and after incorporating preventive and mitigating measures to ensure least environmental degradation.

98. As per Section 16 of the National Green Tribunal Act, the Tribunal can exercise its appellate jurisdiction only in the circumstances enumerated under Sections 16(a) to 16(i) of the Act. The prayers sought by the appellant as prayers b and c at

paragraph 7 of page 32 of the memorandum of appeal cannot be considered in an appeal filed under Section 16 exercising the appellate jurisdiction of the Hon'ble National Green Tribunal. As regards prayer (a) sought by the appellant, such prayer cannot be raised by a person like the appellant as per Section 18 of the NGT Act, 2010. The appellant has not sustained any injury by virtue of Annexure A1. No damage has been caused to appellant's property, no death has been resulted from damage if any, appellant is not an agent duly authorized by any owner of such property or any of the legal representatives of the deceased, appellant is not at all a person aggrieved. Though the appellant purports to challenge the order granting environmental clearance, majority of the averments pertains to disputes relating to the nature of the land, filling of the land, application of Conservation of Paddy Land and Wet Land Act, 2008, invocation of Kerala Land Reforms Act, nature of public hearing etc. None of the grounds raised on the basis of nature of land, application of various state statutes like Conservation of Paddy Land and Wet Land Act, 2008, application Kerala Land Reforms Act etc. cannot be agitated and maintained in the present appeal since such matters are not covered under the NGT Act, 2010. Moreover, all the allegations pertaining to the state statutes and nature of land etc., are repeatedly alleged and agitated by the appellant before the Hon'ble High Court of Kerala in W.A. No. 8794/2013 as well as in W.P.(C) No. 14220/2013.

99. As per *Bhopal Gas Peedith Mahila Sangathan v. Union of India*, (2012) 8 SCC 326, the Hon'ble Supreme Court has declared that only those environmental issues and matters covered under the National Green Tribunal Act, Schedule-1 should be instituted and litigated before the National Green Tribunal. It has been declared that such approach is necessary to avoid likelihood of conflict of orders between the High Courts and NGT. However the Hon'ble Supreme Court did not transfer a case which required administrative supervision connected to Bhopal Gas tragedy to the NGT in the above case. Therefore, the issues raised in the appeal need not be considered by this Tribunal since the appellant has already invoked the Hon'ble High Court of Kerala on the same and similar set of facts regarding allegation of operation of State statutes. As already pointed out appellant cannot agitate any contentions against the EC since he is not a person aggrieved as per the Act.

100. The appellant has not raised any grounds against the conditions on which EC has been given. On the other hand, the allegations raised by the appellant revolves around factors regarding reclamation of land, application of Kerala Land Utilization order, finding regarding non existence of any wetland, application of Conservation of Paddy Land and Wet Land Act, actual extent of land possessed by the proponent, exemption under the Kerala Land Reforms Act etc. Primarily, in the matter of grant of EC, the pivotal issue is the report of the EAC. The report of the committee cannot be assailed on the basis of any authority or organization who are not competent to comment on ecological matters. It is pertinent to point out that the EAC has already been apprised of the fact that the project site was in paddy land, which required reclamation. The aspect that the proposed site is a paddy land is already intimated to EAC as reflected in EC. Further, the 6th respondent/Department of Environment, State of Kerala had corresponded with EAC, the 17th respondent i.e., Department of Environment of Forest, Government of India. By the letter dated 26.06.2012, the 6th respondent had categorically informed that it is to be examined by the Government of India that whether the mitigative measures, if any suggested would be sufficient. Apart from the above, as regards the alleged depletion of ground water level due to filling it was reported that there were water recharge methods. These factors have been duly included in the final environmental clearance issued and the EC permits reclamation of paddy land with necessary permission to the extent of 1000 × 150 meter × 1 meter (height) in addition to the land already filled up and sold by the 19th

respondent. Therefore, the Government of India has duly considered the representations, petitions, comments etc., received for and against the project, and the important environmental concerns were addressed as reflected in the EC. The appellant has no case that the specific conditions as per paragraph 10 and general conditions as per paragraph 11 thereto are not sufficient or relevant so as to mitigate the probable environmental degradation.

101. The allegation raised by the appellant that Government of India has proceeded on the assumption that the proposed site is a dry land is not correct and hence stoutly denied. The allegation that the word 'wet land' is used opposite to the word dry land is misconceived. It is submitted that the term 'wet land' is defined under the (Wet Land Conservation and Management) Rules 2010 as per Rule 2(g). According to Section 2 (g) Wet Land means*"an area of marsh, fen, peat land or water; natural or artificial, permanent or temporary, with water that is static or flowing, fresh brackish or salt, including areas of marine water, the depth of which at low tide does not exceed 6 metres and includes all inland waters such as lakes, reservoir, tanks, backwaters, lagoon, creeks, estuaries and manmade wet land and zone of direct influence on wet lands that is to say the drainage area or catchment region of the wet lands as determined by the authority, but does not include many river channels, paddy fields and the coastal wet land covered under the notification of the Government of India in the Ministry of Environment and Forest, S.O. number 114(E) dated the 19th February 1991 published in the Gazette of India, Extraordinary, Part II, Section 3. Sub-section (ii) dated the 20th February 1991."*

102. The Wet Land Conservation Management Rules has been notified by the Central Government as per the Gazette Notification No. GSR 951(F) dated 04.12.2010 to enhance the wetland conservation and management efforts in the country. These rules have been issued in exercise of powers conferred by Environment (Protection) Act 1986. As per Rule 8(2) of the Rules, the State Government had designated the Department of Environment and Climate Change as the nodal agency for regulating the use of wetlands in the State as per GO (Rt) No. 51/11/Env. Dated 30.05.2011. As per Rule 6(2) of the Wet Land Conservation Management Rules, the State Government shall prepare within a period of one year from commencement of rules, a 'brief document' identifying and clarifying the wetlands within their respective territories in accordance with the criteria specified under Rule 3. Rule 3 stipulates those wetlands which shall be regulated under the rules and their classifications. Therefore, by virtue of notification dated 30.05.2011, the Department of Environment and Climate Change has prepared an inventory by incorporating the guidelines such as geographical dealiation of wetlands, demarcation on the basis of the zone of influence along with proper maps, calculated the size of the wetland and given an account of preexisting rights and privileges consistent or not consistent with the ecological health of the wetland. It is worthwhile to mention that proposed project site for which the EC clarification has been granted under the Annexure A1 is not a wetland as per the inventory prepared under the Wetland Conservation Management Rules, 2010. The project site is only a paddy land which is now waterlogged and degraded and which was lying as unfit for paddy cultivation for the past so many years. It is also stated that the EC has been issued after considering all the relevant facts and circumstances of the environmental issues and for issuance of EC, no orders and consent of the State Government other than those required as per the notification dated 14.09.2006 on environmental clearance is necessary. It is submitted that the EIA proceedings are completed and *de novo* hearing is not required. The aspects of public hearing narrated by the petitioner were already considered for the EC and Government of India has considered not only the report of the environmental assessment committee but also the objection raised from various quarters by sending representations, petitions etc., to

various departments of the Government of India. The EC also reflects consideration of the same.

103. As per the instructions from the Kerala State Pollution Control Board, public hearing was fixed for 10.03.2011 by the KSPCB after consulting with the District Collector of Pathanamthitta. Wide publicity was given on 06.02.2011, in a national and two regional vernacular dailies, in the manner and within the time specified in the Notification. More than 30 days' time was given between the date of publication and the date of hearing and the notice was published in the dailies. However, due to the declaration on 01.03.2011 about the forthcoming Elections to the Kerala State Legislative Assembly on 13.04.2011, the date of public hearing was postponed to 29.04.2011 by the answering respondent after consulting the District Collector. Wide publicity was again given through the same national and regional vernacular dailies on 27.03.2011. More than 30 days time was again given between the date of publication and the date of hearing. The date of public hearing had to be again postponed to 10.05.2011 due to a *hartal call* at Pathanamthitta on 29.04.2011. This postponement was also given wide publicity through the same National and Regional vernacular dailies. This publication was made on 28.04.2011.

104. The soft copies of the draft EIA report and the Malayalam and English versions of its executive summary were made available for public scrutiny in the State Pollution Control Board's website www.keralapcb.org and its hard copies were made available at the following offices:—

- a. District Collectorate, Pathanamthitta
- b. District Industries Centre, Kozencherry
- c. District Panchayat, Pathanamathitta
- d. Elanthoor Block Panchayat
- e. Aranmula Grama Panchayat
- f. Mezhuveli Grama Panchayat
- g. Mallapuzhassery Grama Panchayat
- h. Science Technology & Environment Department, Thiruvananthapuram
- i. Pollution Control Board, Pathanamthitta District Office
- j. Pollution Control Board, Head Office, Thiruvananthapuram

105. The Draft EIA report and the Malayalam and English versions of its executive summary were made available for public scrutiny at the above places for more than eighty days from 06.02.2011 to 10.05.2011. Thus, the documents were made available for more than the mandatory 30 days for the public to furnish their responses. The Public Hearing as announced was held at 11.00 AM on 10.05.2011 at the Conference Hall of the Pathanamthitta District Collectorate. The venue was selected considering its proximity to the project site and the facilities available at the Conference Hall to conduct the hearing. The distance from the project site to the venue was only 15 km. There were 80 participants in the public hearing and most of them were from Aranmula and adjoining areas. The hearing was presided over by the District Collector. The proceedings of the public hearing, representations in original received before and during the hearing and video recording of the hearing were forwarded to the MoEF as required under the EIA Notification, 2006. The proceedings of the public hearing were prominently displayed at the Head Office and Pathanamthitta District Office of the State Pollution Control Board and action was also taken to similarly display the Proceedings at the offices listed above. Thus, it is submitted that the allegation that the public hearing was not conducted in accordance with rules is not correct and hence denied.

106. Hence, the 6th respondent in this appeal, namely the Secretary to Government, Department of Environment, Government of Kerala states that the EC

has been issued after following the procedure established by law and seeks to dismiss the appeal.

107. K.G.S. Aranmula International Airports Ltd., has filed a common reply affidavit in respect of all the appeals referred to above and the gist of the reply of this respondent can be stated thus:

108. The State of Kerala is internationally renowned for its lush, green vegetation, its untouched and pristine forests as well as its ancient temples and hoary tradition. The state lies along the coastline, to the extreme south west of the Indian peninsula, flanked by the Arabian Sea on the west and the mountains of the Western Ghats on the east. The Western Ghats, bordering the eastern boundary of the state, form an almost continuous mountain wall, and as such, almost the entire state is characterized by hilly terrain. The backbone of the economy of this densely populated state has always been tourism, and the emphasis on the same has only intensified over the recent past.

109. The above unique features of the state have made better transport facilities fundamental to the sustained growth and development of Kerala. The hilly terrain of the state means that undulating and winding roads are a feature of road travel in Kerala, frequently traversing steep and narrow sections of ghat roads. The roads are also frequently subject to monsoonal storms, and as a result, travelling on these roads takes far longer than similar distances elsewhere and is also far more dangerous and strenuous for passengers. In the Pathanamthitta District of Kerala lies the temple of Lord *Ayyappa* in Sabarimala, which is one of the most important and 2nd most visited religious centre in the world. The annual pilgrimage to Sabarimala undertaken by devotees has been estimated as the largest in the world. Hence, the need and demand for improved connectivity and accessibility to the area is not merely a state priority, but also assumes national and international significance. The location of an airport near the town of Sabarimala is therefore, not only a necessity in the context of the needs of devotees, the spurt to the local economy and the convenience for every stakeholder. The development of the area immediately surrounding the *Ayyappa* temple is impossible as the entire hill and indeed, the surrounding areas are of immense religious, cultural and historical significance as well as being densely forested. In fact, a significant extent of the entire district is covered by forest. As such, there remain very few locations which can even be considered for the construction of an airport. Moreover, the region is also home to a large population of emigrant *Keralites* who have settled in foreign lands and hence, the need for an international airport in the area is widely felt in the local as well as non-resident communities. The need for the present project and the objections that have been raised against the same have to be considered in the above context. The fundamental principle of environmental law in general is that of sustainable development. It is submitted that the law of environmental protection does not insist that man ought not to change the surroundings he lives in to his advantage. It is only necessary that the same is tempered with and balanced by due regard to protecting vitally important aspects of the environment.

110. In the state of Kerala, which as explained above, is a small but fertile region, an insistence on an extent of 500 acres of contiguous lands without vegetation as a precondition for any large development, however necessary, is unreasonable and impracticable. The project is one of national importance as evinced by the announcement of approval for the Aranmula Airport Project by His Excellency, the President of India in his address of the joint session of both the Houses of Parliament on 21.02.2013. The land for the proposed project has been carefully selected as one where there is no irreparable damage caused to the environment. The land required for the project was bought from the land owners directly by this Respondent by paying

the market price without involving any eviction or compulsory acquisition or displacement of any houses, commercial areas or places of worship. The proposed international airport will generate direct employment to 1500 and indirect employment to more than 6000 people. The project will provide a boost to the State of Kerala in the field of tourism, pilgrimage, trade and industry and other spheres, thereby bringing sizable sum of revenue to the State and local Government departments, and shall be advantageous to the numerous expatriates who are hailing from the Central Travancore. The airport location is close to multiple tourist destinations such as Kumarakom, the backwaters of Alappuzha and high ranges. This proposed Airport is only one hour drive from Sabarimala, the second largest pilgrim centre in India and fourth largest in the world with annual pilgrims of around 4.5 crore. This airport facility will considerably reduce the traffic and related pollution during the peak season. The majority of non-resident Indians (NRI) passengers and non-resident Keralites (NRK) passengers of Trivandrum and Kochi Airport originate within 50 km radius of this site. 40% of the Kerala air traffic is hailing from the influential zone of the airport. It is expected to serve four districts in Kerala State namely Pathanamthitta, Kottayam, Idukki and Alappuzha.

111. This airport will considerably reduce the road traffic to Kochi and Thiruvananthapuram. The consequential benefits of the airport will extend to poorer devotees and pilgrims to Sabarimala as well in as much as the demand for and traffic in other forms of public transport such as rail and road transport will reduce. The airports play a vital role in the development of industry and commercial trade as they offer crucial services for transportation of goods and passengers from one place to another. They are also essential for domestic and international tourism, where limitation of time is the key factor. While airports play catalyst to economic development, the economic developments in turn generate demand for the former. As a result, the aircraft fleets of airlines are growing at a rapid speed with improved technology, better speed, time, capacity, etc., to cater to ever-increasing demand. Thus, continuous improvement of airports needs airport management for planning, developing and operating efficiently and profitability to meet the present and future need of air travel; both, domestic and international. It is submitted that the people of Kerala would like to have modern infrastructure facilities in the State with least disturbance to environment and as such the State Government, representing the public interest, is in favour of this project. The objections against the vital infrastructure and employment generating development projects, which would be a boon to the educated unemployed in the State, are baseless. Such employment generating projects in a State like Kerala, with its teeming educated unemployed, cannot but be welcomed in the larger public interest, and in the economic interest of the Country as a whole and the respondent is following the guidelines and procedure for setting up of this Greenfield Airport. There is phenomenal growth in air traffic that has been enabled by liberalized policies of the Government of India. The growth rate of passenger traffic has steadily increased. This rapid growth in passenger traffic has put enormous pressure on airport infrastructure causing severe congestion at major airports. The anticipated investment in airport development during the Eleventh Plan is over Rs. 40,000/- crore, both from public and private sources, including for Greenfield airports according to Greenfield Airports Policy adopted by the Central Government. The project is supported by an overwhelming majority of persons living in and around Aranmula and that only a few persons with vested interests are opposed to the same. The present appeals under reply are not maintainable either on law or on facts. The appellants have no *locus standi* to file the present appeals. Smt. Sugathakumari, Shri. Sreerenganathan and Shri. Induchoodan have already approached the Hon'ble High Court of Kerala in WP (C) No. 6004/2012 challenging the same matter, wherein this Appellant (in Appeal No. 172/2013) is the 2nd Petitioner in

the said case. In the Relief Portion, the Relief No. 2 Prayer “to declare 9th Respondent (this Respondent herein) or others have no authority to establish a Green Field Airport at Aranmula in the land covered by the notification declaring the project area as industrial area and environmental clearance if any, obtained by the 9th Respondent (this Respondent herein) is neither legal nor valid or sufficient raising almost the same environmental issues raised in this Appeal. The said matter is an issue pending consideration by the Hon'ble High Court which had arisen directly and substantially between the parties or their privies. This is a clear abuse of the process of law. The filing of this case itself is oppressive. These appeals lack bona fides and are frivolous, vexatious & oppressive and will result in miscarriage of justice. This Appellant (in Appeal No. 172/2013) is *sub silentio* regarding the 2nd Relief sought in WP (C) No. 6004/2012 pending before the Honourable High Court of Kerala. The Proposed Airport as stated by the Appellants is not on the banks of River Pampa. The said Airport is situated almost 2 Kms. from the Pampa River as can be clearly seen in the EIA Report and will be located at Aranmula, Kidanganoor and Mallapuzhassery Villages, Kozhencherry Taluk, Pathanamthitta District. Aranmula was declared by the UNDP as a “Heritage Village” due to *Uthirattathi* Boat Race and Aranmula Mirror which are unique of this Village and not based on environmental or physical features. This Airport project once commenced will showcase these unique cultural aspects globally and will ensure international visibility, ensuring tourist flow. This respondent will definitely preserve the rich heritage of the area and the sanctity of Sree Aranmula Parthasarathy Temple. Further, it is submitted that the fears of damage to the structure of the temple are completely unfounded and speculative. These allegations have been made even though they fall outside the scope of the enquiry of this Hon'ble Tribunal in a mischievous attempt to prejudice this Hon'ble Tribunal. This Respondent has purchased the fully developed land where no agricultural operation was being conducted. The statement to the effect that Mallapuzhassery, Aranmula and Kidanganur Villages where the airport is to be set up are agricultural villages with paddy being the crop is incorrect and misleading. The property was purchased by this respondent as completely reclaimed with no agricultural operation, for the last 3 decades, as is certified by the Agricultural Officer, besides the dry land and Rubber Plantations. A portion of the water logged land might have been filled about ten years back by the prior owner. Therefore, any legal action ought to be taken only against the prior owner and the present respondent cannot be punished for the same. The appellants were aware of the said situation at that time but were silent regarding the said conversion at that time and did not raise any objection regarding the said conversion before any authority. The State of Kerala vide GO (MS) No. 30/12/Agri dated 16/02/2012 granted permission for filling up an area of 429.28 ares (10.62 acres) in the adjoining “Aranmula *Punja*”, declaring the so called wetland as not cultivatable. This was because the character of the land had been permanently altered and no agricultural activities were done for several years and permission was therefore granted for the purpose of starting Cape Engineering College and it is also learnt that District level Committee has also recommended for filling an area of 10 acres for Aranmula Vasthu Vidya Gurukulam in the same Aranmula *Punja*. The Agricultural Officer, Pathanamthitta by its letter dated 29/02/2012 certified that the said 429.28 ares of land is not cultivatable and without any agricultural activities whatsoever for the last so many years. The present proposal involves development of the airport at Mallapuzhassery, Aranmula and Kidanganoor Villages, Kozhencherry Taluk, Pathanamthitta District, Kerala on a plot area of 500 Acres which includes certain water logged fallow land, dry land and Rubber Plantations. After purchasing the land, this respondent had not converted or reclaimed any part of land in its possession or made any attempt to fill up the land. Enviro Care India Pvt. Ltd. is an ISO Certified company approved by the MoEF. At the time of presentation, there was no OCI

implemented accredited Scheme (NABET) and all the consultants enlisted and approved by the first respondent were eligible for conducting EIA. The Office Memorandum issued by Government of India, MoEF clearly provides accreditation of the EIA Consultants and after the review of the accreditation progress by the QCI/NABET, the competent authority has approved a list of 265 consultants, wherein said Enviro Care India Pvt. Ltd., is arrayed as Sl. No. 73 and they are permitted to appear before State Level Expert Appraisal Committee/State Environment Impact Assessment Authority (SEAC/SEIAA) for Category "B" Projects and the EAC for Category "A" Projects till 30th June 2011. These 265 Consultants will also be permitted to certify various documents, as consultants, such as EIA/EMP. The MoEF after evaluating the EIA Report submitted by Enviro Care India Pvt. Ltd. is completely aware that the said agency is competent to prepare an EIA report since the said agency already submitted EIA reports for Chennai, Raipur and Vadodara Airports. Hence the statement to the effect that EIA has not been prepared by an accredited agency and the EIA submitted by the present Respondent is inadequate, misleading and is a fraud perpetrated by this Respondent, is totally false, misleading and is denied *in toto*.

112. The Kerala State Pollution Control Board conducted public consultation as provided in Clause 111 stage 3. As provided thereunder a public hearing was conducted by the Kerala State Pollution Control Board with the District Collector, Pathanamthitta in Chair. The Kerala State Pollution Control Board issued public notices in vernacular dailies *Malayala Manorama* dated 06.02.2011, *Mathrubhumi* daily dated 06.02.2011 and *Kerala Kaumudi* dated 06.02.2011 about the hearing to be held on 10.03.2011 at Collectorate Conference Hall, Pathanamthitta. The notice was published in English daily as well. The notice was also published in the website of the Kerala State Pollution Control Board. On 10.03.2011, the public hearing has been adjourned and the same has been published in the daily dated 09.03.2011. Since the General Election to Kerala Legislative Assembly 2011 was declared, public hearing was adjourned to 29.04.2011 (because a *harthal* has been declared on that day by the Left Parties) and again to 10.05.2011 on the basis of the direction of Election Commission, since the Model Code of Conduct is enforced from the date of announcement of election schedule by the Election Commission and only on the basis of the directions given by the Election Commission, Public hearing was conducted on 10.05.2011. For the adjourned hearing also public notices were published in news papers dated 28.04.2011. The notice of hearing was affixed in all public places like Village Office, Panchayat Office, Collectorate and so on. The notices were published at public places by hoardings and banners. The public hearing was conducted on 10.05.2011 at Conference Hall, Collectorate, Pathanamthitta with the District Collector in chair. In the meeting, representatives of the people and public were present. Hence the statement to the effect that the Public Hearing conducted for the purposes of the Airport in a clandestine undemocratic manner in violation of the EIA Notification, 2006 is absolutely false and denied *in toto*. The appellants were aware of the entire proceedings and did not raise any objection regarding the non participation in public hearing before any authority or in the Writ Petition pending before High Court of Kerala in WP (c) No. 6004/2012. The date of public hearings and its adjourned hearings are clearly notified in news papers. The Order of the Taluk Land Board declaring 232 acres of land purchased from the previous owner as excess land has been set aside by the Hon'ble High Court in CRP(LR) No. 187/2013 on 27.11.2013 and the Hon'ble Court has directed the Taluk Land Board to hear the matter afresh. Since the appeal is pending before Government of Kerala to exempt the land required for the airport project under Section 81(3) of KLR Act, the Hon'ble High Court has directed this respondent not to construct in 232 acres, which form part of a larger extent, till the decision of TLB is taken within six months or otherwise terminated. The statement to the effect that we

have not disclosed about the cases pending before the High Court is absolutely false and denied. The Aranmula Heritage Village Action Council in page No. 10 of their Appeal have admitted that whatever litigations stated to have been filed against this Respondent were not pending at the time of submitting the application on 28.06.2010. As per the impugned order, only the minimum area is required for filling. Moreover, all the cases mentioned in the Writ Petitions are not admitted so far and also no interim order also passed against this Respondent. Moreover in paragraph 5 of the Appeal filed by the Aranmula Heritage Village Action Council, they have also admitted that only the Hon'ble High Court of Kerala has got jurisdiction to entertain any issue relating to the State Acts. For the proposed project, the EIA Report was prepared and ToR finalized on 13th October 2012. The public hearing was held at District Collectorate, Pathanamthitta on 10th May 2011 and the EAC recommended the project for clearance on 15.12.2011. This Respondent has also furnished periodical information called for by the Ministry of Environment & Forests from time to time and answered all queries raised by the Ministry in this regard. The issues dealt with are briefly summarized herein under.

- A. Aranmula, Pathanamthitta District is connected by a good network of State Highway Roads. These roads have two-line riding surface of minimum 35 ft. with adequate space on the sides for future expansion. Following are the four vital arteries that pass through Aranmula:—
- (a) *Pathanamthitta-Aranmula.*
 - (b) *Thiruvalla-Aranmula.*
 - (c) *Chengannur-Aranmula.*
 - (d) *Pandalam-Aranmula.*

- B. Good connectivity from Alappuzha, Kottayam and Idukki Districts exists towards Pathanamthitta District. They further gain importance due to non-resident Malayalies of above four districts, Sabarimala pilgrims during season, Sabarimala pilgrims proceeding to shrine every month, pilgrims converging at *Maramon* Convention every season, tourists (domestic and foreign) and regular traffic. The Airport will have a proper network of road communication around it. The allegation that the EIA must also include within its scope roads that may or may not be built in future by the State or Central Governments, which are completely different entities and which are governed by different norms and regulations, is clearly unsustainable. It is submitted that providing roads is a public function which is governed by different standards and policies and there is no requirement of an EC for such state activities.

- C. Airport Land is interspersed with a small rivulet '*Kozhithodu*' which is crossing the runway. This rivulet eventually merges with the famous Pampa River. A cross vent of 20 × 2.5 m underneath the runway is planned to maintain free flow of water in *Kozhithodu*. General lay of the land is towards *Kozhithodu* from South and North which facilitates free flow of water from both ends of run way towards *Kozhithodu* and the proposed drain.

- D. Energy Conservation methods:

Energy conservation is a global concern and this Respondent will endeavor to implement all energy saving programmes conforming to nation's clean energy future while undertaking Airport construction.

Following are certain measures proposed to be implemented:—

- (a) *Solar energy. It is one form of energy which helps in maintaining the ecological balance. Maximum use of Solar Energy will be adopted through PV system and solar power plant processes for external/internal electrification.*
- (b) *Buildings are responsible for 40% of energy use in India and they are said to be*

major contributors to global emissions. Essential guidelines at micro level in line with the proposed Energy conservation building code will be complied with in respect to internal lighting, refrigeration, electronic/electrical gadget usage etc., through a Standard Operating Procedure (Dos & Don'ts).

- (c) *Construction sector has enormous environmental impact. Current trend of making structures "green" will be transplanted in true spirits on to ground while carrying out the Airport construction. Primary focus will be on salient aspects like preserving terrain, retention of green coverage, maximising natural cooling/natural lighting and minimum use of unsustainable building materials. Wastewater recycling, eliminating reliance on external source like water harvesting etc. Moreover, periodic energy audit by experts will be in place to monitor the programme.*

E. Land Filling:

The Company has purchased about 300 acres of land in a single block, from the owners in a more or less developed form, the development of which was completed in 2000-04. The area required for building the runway to a distance of almost 1500 meters have already been developed as part of the original plan by the then owner of certain lands to have a flying club in the area. Certain areas of the project land purchased by us are dry land and Rubber Plantations. There is not and never has been any proposal to fill up the entire project area (500 acres) and our filling will be restricted to runway and terminal building sites, leaving the remaining in its natural form.

F. Plan for site filling:

The present respondent will be developing an additional area of 1000 meters for the runway with a maximum width of 150 meters and to a height of 1 meter. The soil required for this filling is calculated as under;
 $1000 \times 150 \times 1 = 150000 \text{ m}^3$ of soil.

G. Source of Soil:

There is an elevated portion at the site which is the source for filling. This elevated area is around 10 to 12 acres of land, with an average height of 3 to 5 metres. Quantity of Soil available by leveling this elevated portion will be about 2 million cubic meters. The soil available at this elevated place is laterite and identical with the soil at the site. Hence there is no need to bring soil from outside. The Appellants claim that the present respondent is leveling hills for the purpose of leveling the surface is completely fanciful and is denied. No such leveling has been carried out by the respondent.

H. Impact of filling:

As the present project requires filling the bare minimum area required for safe airport operation, leaving the remaining area in its natural form, there will be no environmental impact due to this activity. The recharge also remains unaffected. On the whole, the minimum filling with the local material ensures environmental homogeneity and produces no impact on environment.

I. Wetland Conservation:

There are a few patches of water logged area at this site, due to poor flow. There is no notified wet land in the project site. But, there is an accumulated water body which remains scattered in different parts of the project site. This is mainly due to the fact that for the last more than 30 years, there was no agricultural operation in the area, which has resulted in frequent flooding during rainy seasons and remaining as wasteland during summer. Further, there is a small rivulet (*Kozhithodu*) which is passing through the project site. This rivulet collects water from uphill areas and joins the Pampa River, down

below. The flow in this rivulet due to poor maintenance over the years is blocked at various points causing small water bodies in different parts of the project site. The flow in this rivulet is also blocked by silting and by growth of African weeds. In fact it is submitted that it was at the instance of the present respondent that the Minor Irrigation department, Government of Kerala has cleared the blockage of *Kozhithodu* by dredging for about 8 km from uphill upto the Pampa River. When the present respondent purchased the land from the original owner, the whole area was remaining wasteland with patches of water bodies and some of the portion of *Kozhithodu* (rivulet) partially blocked. It was the present respondent which ensured minimum interference with the environment and topography of the area. To ensure smooth flow of water through *Kozhithodu* (rivulet), this respondent has entrusted the work to the Minor Irrigation Department of Government of Kerala to study the topography, water flow, and to ensure that the accumulated water in the project site is systematically collected and smoothly flows through the *Kozhithodu* (rivulet) down to Pampa River. This will increase the water table in the vicinity. Accordingly, the Department has devised ways and means to ensure smooth flow of water to Pampa River and to avoid flooding of the area during monsoon. The expenses required will be met by this respondent as per Government norms. This project design will be put in place during the implementation of the project. In order to protect and preserve the natural flow of *Kozhithodu* (rivulet), which will be cutting across the runway, it has been designed in such a way that this *Kozhithodu* (rivulet) passes right under the runway without any hindrance. This respondent has also planned excellent drainage system along the runway and around the terminal building to ensure traffic safety coupled with protection of environmental factors. These measures will ensure a comprehensive conservation plan for the water flow in the area and a systematic drainage system so that there is no flooding in and around the airport, which is an imperative security prerequisite. The water requirement will be only 7550 litres/day which is not on large scale as specified. The present ground water potential is sufficient for the water requirement. The area receives plenty of rainfall and natural recharge will take care of water replenishment. The proposed project has been planned with utmost care to ensure minimum interference with the environmental factors. The present respondent also undertakes that this project will be implemented with extreme care and with comprehensive conservation plan with strict adherence to the guidelines issued by the MOEF and in accordance with the MoEF's Environmental Impact Assessment Guidance Manual for Airports. The allegations that data on sensitive habitats, wild or endangered species in the project area is to be collected from Zoological Survey of India (ZSI), Botanical Survey of India (BSI), Wildlife Institute of India (WII) and Ministry of Earth Sciences is wholly misleading as there is no data to show that any such species or habitats are native to the project site. The proposed airport is in the public interest and for the development of the country. There will not be any destruction of any ecosystem. The recommendations made by the Salim Ali Foundation report do not reflect the actual prevailing environmental situation of Aranmula. It depends largely upon certain suppositions and conjectures in arriving at the conclusion and highly arbitrary and without any proper scientific basis. The particular land, which is a fallow land, could be productively used for this ambitious airport project. Salim Ali Foundation appears to have taken up the study about the environmental impact of Aranmula Airport suo motu. Unfortunately, it is not a competent agency recognized by the Airport Authority of India, to study the environmental

impact of Airports in India. The Report by Salim Ali Foundation on the whole is too vague, superficial, incomplete and most unscientific. The report per se reflects distorted background of the project, whims and fancies of the researchers and does not explain the research methodology, which has been adopted for this study. This very fact makes this project report totally unscientific, biased and hence cannot be relied up on. The list of flora and fauna recorded as part of the study is all of generic nature, which is available throughout the State of Kerala and hence have no preservative value. It is a mere reproduction of standard material with little relevance to the project site. The Salim Ali Foundation report does not disclose the size of the population, sample collected, sampling technique adopted and the reasoning for arriving at any definite conclusion, which are most crucial to any scientific report.

113. The criticism about the EIA report prepared by the Enviro Care in light of the supposed findings of the Salim Ali Foundation is superficial and without any basis in data, statistical analysis and qualitative appreciation. It is also pertinent to note that none of the members of the Salim Ali Foundation had cared to associate with this Project during the EIA study, Public hearing or in any other way till this date, and to ventilate their points/concerns, for reasons best known to them. The gross inadequacies, total lack of systematic research methodology presumptions and assumptions have been summarized as 14 recommendations submitted at the end of the study by Salim Ali Foundation. All these recommendations are mere suggestions without any scientific background or substantiating evidence. It appears to be a more emotional report on hearsay evidence, false press reports, inadequate or total ignorance about airport projects and above all without even an attempt at a scientific approach to the whole issue. There is not a single recommendations substantiated by scientific data or authenticated reports. The commercial viability of a fifth airport, flight frequency etc., as mentioned in the recommendations of the Salim Ali Foundation are commercial questions which are irrelevant to the appellants. The very fact that the entire funding is met by the investor without a single Rupee of public fund makes these contentions totally baseless and irrelevant. The utilization of the land for Airport project where there was no agricultural operation for more than two decades and which has been lying as a fallow land for more productive, employment oriented and infrastructural development project for the overall development of the State of Kerala with special reference to Pathanamthitta District is a boom to economic growth of the State. This respondent have taken every care and caution to protect and preserve the natural habitat, flora and fauna, rivulets and such other natural features, in the best possible form, with least interference during the implementation of the Airport Project. The Government of Kerala after evaluating the whole project in toto, developmental contribution, employment potential, better connectivity and nature friendly has taken 10% stake in this Greenfield Airport Project. The appellants have attempted to claim that there are wetlands in the area which will be affected by the project. But there is no identified wet land in Aranmula Village as per the Report of the Centre for Earth Science Studies (CESS). The CESS has prepared a report on wetlands in Kerala in which there is no mention of any wetland in the Pathanamthitta district. Thus, the allegation that the present Respondent has purchased consent for the proposed project is vehemently denied. It is submitted that the irresponsible manner in which such serious allegations have been made by the appellants is indicative of the frivolous nature of the present appeals. As the definition of the Kerala Conservation of Paddy and Wet Land Act, 2008, Paddy Land is not wet Land. The provisions of Central Wet Land Act are also similar. Therefore, it seems the authors of the Report of Salim Ali Foundation have confused Paddy Land with Wet Land.

114. Regarding the allegation raised by the appellants based on the Salim Ali Foundation Report that the EIA Report is inadequate, did not recognize the fertile,

wetlands on the flood plains of river Pampa and presence of endemic and economically important species in the area, non inclusion of source of earth filling the land, it is stated that EAC has suggested ToR's and the EIA has been prepared as per the TOR's. EAC has sought additional information on Noise level modeling, analysis of impact, Traffic management, NOC from Civil Aviation etc., before recommending the Project. The MOEF has also called for additional information on the details of the area required to be filled, source of material, likely impacts and referred back to the EAC. The EAC, again in August 2012 examined and recommended the approval of the project. It is noted that the EIA study conducted by Enviro Care India Pvt., Ltd., covered the methodology of EIA, scope of EIA, study period, air environment, noise environment, water environment, land environment, eco-system, socio-economic development, project description, disaster management plan, basic infrastructure required, existing environmental status, ambient air quality, noise environment, water quality, soil quality, land environment, biological environment, socio-economic environment, identification and prediction of impacts, positive environmental impacts, negative environmental impacts, environmental management plan, environmental impact statement etc., by adopting sampling locations, micrometeorology, temperature, rainfall, relative humidity, wind direction, wind speed, dust fall etc., These were all dealt with extensively by the report and the attempt of the appellants to contradict the findings of this extensive study on the basis of flimsy material is clearly untenable. A habitat or an area comprises of different kinds of Plants and animals within its boundary. The distribution of flora and fauna in the given area represents the biological environment. The biological portion of the environment includes, what is present in the study area, its values, and its responses to impacts description of community uniqueness, the dominant species, and an evaluation of rare or endangered species. The study was conducted by Enviro Care Pvt. Ltd., like the field monitoring stations were installed in four different locations in 10 km radius area. The bio-diversity studies were carried out in seventeen transacts point of 10 km radius. Thus, the EIA study covered the flora and fauna under Chapter-III of the EIA Report. The EAC, after due consideration of the relevant documents submitted by this respondent and additional clarifications furnished in response to its observations, have recommended for the grant of EC for the project as per the provisions of EIA Notification, 2006 and its subsequent amendments, subject to strict compliance of the terms and conditions envisaged in the impugned order. The impugned order passed by the MOEF is a speaking order and this respondent declares that it will adhere and follow strictly the specific conditions laid down in the said order. The said order is not given overnight, but was granted after a detailed and exhaustive analysis of all the environmental aspects. The method of assessment of impact including studies carried out, modeling techniques adopted to assess the impact where pertinent has been elaborated in the EIA Report. The report details the impact of the baseline parameters, both during the construction and operational phases and suggests the mitigation measures to be implemented by this respondent. The report also covers the planned environmental monitoring program and has provided the overall justification for implementation of the project and has explained how the adverse effects will be mitigated. It is submitted that therefore factors such as noise pollution, which are a natural consequence of any human activity, especially airports, have been duly considered before granting the impugned EC. All efforts will be made to mitigate these effects but it is humbly submitted that the principle of sustainable development governs the decision to permit a project in the public interest such as the present project and the application of the said principle by the MoEF in the present case has been most satisfactory. The allegation that more than 50 items were taken up on the day and that hence, there could be no application of mind is clearly incorrect in so far as the additional material which was specifically requested by the MoEF before

clearance was granted shows that the decision was taken over a period of time and that only the formal approval was finally given on the same day. The decision making process was carried on over a long period and over elaborate deliberations. The Ministry of Civil Aviation published the Greenfield Airport Policy enabling private establishments to establish and operate airports in India and accordingly this respondent had decided to establish an airport at Aranmula, Kozhencherry Taluk, Pathanamthitta District. By virtue of Clause 2.4(b) of Greenfield Airport Policy, a company registered under the Companies Act, 1956 and having its place of business in India and having the criteria prescribed thereunder is an "Airport Company" entitled to set up an airport. This respondent satisfies all the conditions in Clause 2.4 of Greenfield Airport Policy and is an Airport Company defined thereunder. The appeal for setting up of an airport at Aranmula under the Greenfield Airport Policy was submitted to the proper authority. The Airports Authority of India by the letter dated 15.10.2009 recommended the site for the International Airport. This Respondent then applied to the State of Kerala for a *No Objection Certificate* for establishing Airport at Aranmula. This respondent after cabinet clearance by order dated 08.09.2010 issued no-objection Certificate for establishment of the airport. The respondent State of Kerala in exercise of powers conferred under Sections 2 and 5 of Kerala Industrial Single Window Clearance Boards and Industrial Township Development Act, 1999 (Act 5 of 2000) declared the proposed area in which the Airport is to be established as an Industrial area of the State and constituted a Single Window Clearance Board for the said area to be known as "*Greenfield Airport, Aranmula Single Window Clearance Board*" for the purpose of speedy issue of various licenses, clearances or certificates required under the various State enactments and constituted 15 Member Board. The Government has appointed the Secretary to Government (Industrial Promotion), Industries Department to be the Chairman of the Board and the Managing Director, KINFRA as convener. On 12/11/2010, Government of Kerala after evaluating the comprehensive developmental impact which this Airport project will bring to the State of Kerala were pleased to give direction to the District Collector to initiate every action to commence the construction of the project including the registration of the land in the name of this Respondent and based on this District Collector has given direction to the Additional Tahsildar, Kozhencherry for mutating the property in the company's name. Accordingly this respondent purchased the land required for the project and mutation was effected in the Company's name, based on the permission given by the District Collector, Pathanamthitta. The District Collector also gave direction to the Sub Registrar, Aranmula to effect registration of properties in the name of this Respondent.

115. The Ministry of Defence, Government of India by its proceedings dated 24.08.2011 addressed to the MoEF gave NOC for setting up of airport at Aranmula. Since the proposed airport is within 150 km within the existing airports, the respondent obtained consent from the MoEF for establishing the Green Field Airport at Aranmula. It is submitted that if the proposed Airport is beyond 150 km of an existing Civilian Airport prior approval of the Central Government is not necessary by virtue of Clause 9.1 of Exhibit R4(b) Policy. Clause 9.1 of Exhibit R4(b) Policy makes it clear that the Director General of Civil Aviation (DGCA) is the competent Authority to give clearance for the setting up of a new Airport within 150 km from an existing civilian airport. Thus, the Exhibit R4(j) consent issued by the MoEF satisfies the requirement under Clause 9.3 of Exhibit R4(b) Policy. Kerala Traffic has grown five times in last eight years from two million to 10 million. Kerala economy depends on foreign remittance of Rs. 60,000 crores per year. One out of three Keralite uses Airport facility and out of 3 crore population, 1 crore people has travelled by air. Recently, the first respondent has given Environmental Clearance for the Kannur Airport in Kerala, which is situated only Eighty Five Kilometers from the existing Calicut and Mangalore Airports. This respondent has purchased the fully developed land where no agricultural

operation was being conducted. The property was purchased by this Respondent as completely reclaimed with no agricultural operation, for the last 3 decades, as is certified by the Agricultural Officer, besides the dry land and Rubber Plantations. The State of Kerala vide GO (MS) No. 30/12/Agri dated 16/02/2012 granted permission for filling up an area of 429.28 ares (10.62 acres) in the adjoining "*Aranmula Punja*", declaring the so called wet land as not cultivatable. This was because the character of the land had been permanently altered and no agricultural activities were done for several years and permission was therefore granted for the purpose of starting Cape Engineering College and it is also learnt that District level Committee has also recommended for filling an area of 10 Acres for Aranmula Vasthu Vidya Gurukulam in the same Aranmula Punja. The Agricultural Officer, Pathanamthitta by its letter dated 29/02/2012 certified that the said 429.28 Ares of land is not cultivatable and without any agricultural activities whatsoever for the last so many years. The statement to the effect that construction of the airport is in violation of the provisions of the Kerala Conservation of Paddy and Wet Land Act, 2008, Kerala Land Reforms Act, 1963, Environment Protection Act, 1986, Land Acquisition Act etc. are false and denied *in toto*. In any event, the present Tribunal is not concerned with alleged violations of state enactments as they fall beyond the purview of the Scheduled enactments to the National Green Tribunal Act. This respondent does not make any representation of facts and it is the appellants which are continuously suppressing material facts and defaming the image and reputation of this respondent through media and unnecessarily dragged this respondent into litigation with ulterior motive. This respondent has purchased the property starting from 27.12.2010 from Kozhencherry Charitable Educational Society and others. In that deed the nature of property is stated as "dry land". At the time of purchase of the property itself, the nature of land which was purchased from Kozhencherry Charitable Educational Society was in a developed state. The major portions of the land are rubber plantations. After purchasing the land, this respondent had not converted or reclaimed any part of land in its possession or made any attempt to fill up the land. This respondent has not done anything whatsoever till this date to fill/reclaim the purchased land or convert any *poramboke thodu* or filled any *Kozhithodu* (rivulet) as alleged by the appellants. The revenue authorities also confirmed that this respondent has not filled any land. The present respondent had purchased certain lands, which were already converted prior to enactment of Conservation of Paddy Land and Wet Land Act, 2008. The Aranmula Grama Panchayat has passed a resolution dated 22.09.2004 and also issued a letter to the Prior owner of certain lands supporting conversion of land. The Kozhencherry Charitable Educational Society owned 232 Acres of land spread over in three villages- Aranmula, Mallapuzhassery and Kidanganoor Villages in Pathanamthitta District. This respondent cannot be held liable for the conversion of land by a prior owner before the enactment of the Act. Hence, the allegation to the effect that this respondent is continuing the illegal activity of filling paddy and wet lands is denied *in toto*.

116. This respondent had approached the Hon'ble High Court of Kerala for granting adequate and sufficient police protection for its employees and workers in their duties in connection with the establishment of Aranmula airport project. The Hon'ble High Court vide its order in W.P.(C). No. 3407 of 2012 dated 15.02.2012 has directed the police authorities to give necessary and adequate protection to proceed with the work, after examining all the documents/sanctions received from both Central and State Governments and hearing the Advocate General. In the aforesaid judgment, the Hon'ble High Court has reiterated that the very establishment of International Airport at Aranmula is for "public utility". The Writ Petition filed by this appellant before Hon'ble High Court as W.P. (C). No. 6004/2012 has been tagged together along with W.P. (C). No. 3407/2012 and the Hon'ble High Court have again reiterated that sufficient police protection should be granted for any construction work being done in

our property.

117. The present project has received support from all government at every level as evidenced by the letter of the Government of Kerala dated 26.09.2011 addressed to the Ministry of Civil Aviation expressing its support to the establishment of the Airport at Aranmula. This respondent who is implementing the project has purchased the land in a more or less developed form and we have obtained all clearances as per the Greenfield Airport Policy, promulgated by the Government of India. Considering the statutory and constitutional position of the State Committee, this respondent has agreed to carry out all the recommendations, applicable to this respondent in letter and spirit. This respondent is committed to do this developmental infrastructure project strictly in accordance with law, absolute transparency and all out protection to the nature and environment.

118. The Kerala State Pollution Control Board conducted public consultation as provided in Clause 111 stage 3. The Kerala State Pollution Control Board had issued the summary of the details of the proposed project and public consultation including the details of executive summary and EIA Report of the project and made available for reference in the following offices like District Collector, Pathanamthitta, District Industries, Kozhencherry, District Panchayat Office, Pathanamthitta, Elanthoor Block Panchayat Office, Elanthoor, Pathanamthitta, Aranmula Grama Panchayat Office, Aranmula, Pathanamthitta, Mallapuzhassery Grama Panchayat Office, Pathanamthitta, Science, Technology & Environment Department, Sasthra Bhavan, Pattom, Thiruvananthapuram, District Office, Kerala State Pollution Control Board, Makkamkunnu, Pathanamthitta and Head Office, Kerala State Pollution Control Board, Thiruvananthapuram. In the said notification, it is clearly mentioned that all concerned persons are welcome to communicate comments on environmental aspects of the project within 30 days of the date of publication or to participate in Public Consultation. As provided there under a public hearing was conducted by the Kerala State Pollution Control Board with the District Collector, Pathanamthitta in the Chair. The Kerala State Pollution Control Board issued public notices in vernacular dailies *Malayala Manorama* dated 06.02.2011, *Mathrubhumi* daily dated 06.02.2011 and *Kerala Kaumudi* dated 06.02.2011 about the hearing to be held on 10.03.2011 at Collectorate Conference Hall, Pathanamthitta. The notice was published in English daily as well. The notice was also published in the website of the Kerala State Pollution Control Board. The environmental public hearing was scheduled on 10.03.2011. But due to the announcement of the date for General Election to Kerala Legislative Assembly 2011, the Chief Electoral Officer instructed to defer the public hearing till the election process was over. In accordance with that, the public hearing was postponed to 29.4.2011. Since a *harthal* has been declared on that day by Left Parties, the Public Hearing has been re-adjournd to 10.05.2011. Since the General Election to Kerala Legislative Assembly 2011 was declared, public hearing was adjourned to 29.04.2011 (because of *harthal*) and again to 10.05.2011 on the basis of the direction of the Election Commission, since the Model Code of Conduct is enforced from the date of announcement of election schedule by the Election Commission and only on the basis of the directions given by the Election Commission, public hearing was conducted on 10.05.2011. The Election Commission is entitled to issue such directions under Article 324(1) of the Constitution of India as it thinks fit, for conducting free and fair elections and for maintaining the purity of election process. Election Commission is a constitutional authority under Article 324 of the Constitution having plenary of power and directed to defer till the election process is over. For the adjourned hearing also public notices were published in newspapers. The notice of hearing were affixed in all public places and public places like Village Office, Panchayat Office, Collectorate and so on. The notices were published at public places by hoardings and banners. The public hearing was conducted on 10.05.2011 at

Conference Hall, Collectorate, Pathanamthitta with District Collector in the chair. In the meeting representatives of the people and public were present. This respondent who is implementing the project has purchased the land in a more or less developed form and we have obtained all clearances as per the Greenfield Airport Policy, promulgated by the Government of India. Considering the statutory and constitutional position of the State Committee, this respondent has agreed to carry out all the recommendations, applicable to this respondent in letter and spirit. This respondent is committed to do this developmental infrastructure project strictly in accordance with law, absolute transparency and all out protection to the nature and environment.

119. The entire meeting was video graphed and sent to the MoEF. Amongst 250 people participated in the hearing of whom 80 persons signed in the minutes book. Moreover, there is no prescribed quorum for the public hearing as contemplated under the Appendix IV of 6.2 of the procedure for conduct of Public Hearing. It is submitted that in pursuance of the public hearing held on 10.05.2011 and on the basis of the minutes of the meeting and all relevant records and the subsequent detailed scrutiny by the EAC recommendations were made to the MoEF, the first respondent. On the basis on the recommendation made by the said Board, the EAC, Government of India has recommended the EC for the airport project. After hearing and perusing documents, video and other connected records, EAC recommended the project for EC to the first respondent, MoEF. Thus, the stipulations in Exhibit R4(b) have been fully complied with and also as per Schedule-IV for the Procedure for Public Hearing and since the Model Code of Conduct is enforced in the State of Kerala by the Election Commission and only on the basis of their directions only, Public hearing was conducted on 10.05.2011. This appellant failed to file any objection or raise their concerns regarding the said Public Hearing or any environmental impact, if any to the Kerala State Pollution Control Board within 30 days of the date of publication of the notice which have been already produced and marked as Exhibit R4(q). The impugned order has been passed by the MoEF after reviewing the adequacy of the consultation process and examined the procedure followed as per MoEF notification.

120. There will not be any environmental hazard as alleged by the appellants. Enviro Care India Pvt. Ltd., is an ISO certified company approved by the Airport Authority of India. The said Company conducted detailed impact study on the establishment of the airport at Aranmula and submitted report. This respondent made the presentation about the environmental aspects before the Expert Appraisal Committee of Ministry of Environment and Forests. After satisfying that the proposed Airport does not have any environmental impact, recommended to the Government as per Exhibit R4(O). The procedure adopted is an elaborate one. There are several stages for obtaining EC. Firstly, we have to identify an agency approved by Airport Authority of India, who is competent to study environmental impact assessment and submit an EIA report. Enviro Care is an ISO Certified Company and approved by Airport Authority of India at that time. Secondly, the company so engaged will conduct a field study for one year touching all aspects of nature, climatic conditions, flora and fauna, water, air, pollution aspects, noise, visibility, rainfall etc. Thirdly, based on the primary data collected in the year, they will prepare EIA. This will be submitted to MoEF, the first respondent through Kerala State Pollution Control Board. The first respondent after examining the EIA report and evaluating our presentation before them will finalize the ToR. These aspects will be again studied and report will be submitted to EAC along with this respondent's presentation. If the report and presentation based on the ToR is approved by EAC, then they will direct for holding a public hearing at the District Headquarters after giving wide publicity through print and publishing media including hoardings, newspaper advertisements etc. During the public hearing, any person of the locality who has any interest whatsoever in the project can come and present his point of view regarding the project and all such points will be addressed satisfactorily.

Thereafter, the minutes of the meeting prepared by District Collector, Pathanamthitta, will be read out and was unanimously passed by the Public so assembled. This minute along with the video recording of the proceedings will be forwarded to MoEF, the first respondent, by the Kerala State Pollution Control Board to EAC. The EAC after scrutiny of the minutes and attending the presentation by us, if satisfied will recommend the project for clearance to the MoEF. The present respondent has undertaken the whole process satisfactorily and successfully. The impugned order has been passed by the MoEF after reviewing the adequacy of the consultation process and examined the procedure followed as per MoEF notification.

121. The statement to the effect that evacuations of families will take place as a result of the project are totally baseless, false and far from truth. Not a single person was evicted so far and this is a deliberate false propaganda to create fear psychosis among the local people and to provoke them to agitate against this project, which will definitely bring sustainable development to the State of Kerala. The statement to the effect that there are more than 1000 families residing in the said region is absolutely false and denied *in toto*. The major portions of the land are rubber plantations and fallow lands. The averments that there are about 700 houses in the proposed airport land are false and hence denied. There will not be any eviction, acquisition or displacement of any houses. As directed by the Government, this respondent has negotiated with land owners and land has been purchased in conformity with the prevailing market value in the locality. The Google Map produced pertains to the entire locality consisting of more than 3000 Acres. The proposed airport area is limited to 500 Acres. Hence, the question regarding evacuation of people historically, culturally and economically connected with the region does not arise and there is no violation of the right to life as guaranteed by Article 21 of the Constitution of India. The Government of Kerala after evaluating the project *in toto* including connectivity, infrastructure development, employment potential and comprehensive development to the State were pleased to take 10% equity in the project and also ordered that Government *puramboke* land essential for the operations of the airport shall be given to the Company after levying market price vide G.O.(Ms). No. 04/2013/Trans dated 16/01/2013. In fact, the local people are in favour of this airport. The Governments have given permission to proceed with this airport project and is a continuing policy of both the Governments. Persons having vested interest are raising objections. Already employment for several persons has been given by the Company. Several skilled and unskilled workers are working for the Company for the purpose of establishing this Airport. The impugned EC has been issued by the 1st respondent only after a proper study of the extensive EIA submitted by this respondent. The allegations that the EIA Report is invalid as Enviro Care Pvt. Ltd., is not a qualified agency is clearly untenable. True Copies of the Office Memorandum issued by Government of India, Ministry of Environment and Forest dated 28.06.2010 and dated 31.12.2010 regarding accreditation of EIA consultants is produced. The allegations regarding the basic information submitted by this respondent are absolutely false and denied. At the time of giving basic information on 28.06.2010, what all are stated in the information are true and correct. As already stated, the present respondent has purchased the land in a developed state and most of the lands are lying as water logged fallow land, dry land and Rubber Plantations. The previous owner Kozhencherry Charitable Educational Society owned 232 acres of land spread over in three villages-Aranmula, Mallapuzhassery and Kidanganoor Villages in Pathanamthitta District. As per the Wetlands (Conservation and Management) Rules, 2010, List of Wetlands in India Identified as *Ramsar* Sites under *Ramsar* Convention on Wet Land, wherein no portion of the airport project has been identified as "Wet Land" in the appended Schedule. Moreover, there is no protected Wetland in the Project area as per the said rules. It is true that there is no pending litigation against this respondent at the time of

submission of information in Form I of the appeal. Hence, the statement to the effect that this respondent had made false statement regarding the pending litigation against the Project at the time of submission of the appeal is absolutely false. There is no local land use plan. Moreover, there is no zonal classification in the airport area and hence the land will be used only for the airport purpose with strict adherence to the conditions stipulated in the impugned order. There is no need for any demolition as there is no structure in the project area. There is no need for any further reclamation as the project area has been purchased in a developed state. There is no need for any reclamation work in this project. Most of the project site is in a developed form/rubber plantation and dry land. The purpose regarding the sensitive man-made land uses (like hospitals etc.) are to be interpreted as items directly or indirectly affecting the operation of the airport. It is necessary to identify the presence of such obstructive structures, for which the present respondent has separately conducted Obstruction Study before embarking on the project, after the submission of the basic information. This will complement the appeal. The aerial distance is for the purpose to identify any man-made structures like hospital that would interfere the operation of the Airport. This study was conducted by a comprehensive and mandatory obstruction study by Aero Survey, G-11, Second Floor, Green Park Extension, and New Delhi, who is a recognized agency for conducting Obstacle Study for Airport Project by Civil Aviation, Airport Authority and DGCA. There is no protected monument within the area which will be affected by the proposed project. Hence, there was no misrepresentation by the respondent. Kaviyoor temple, Aranmula temple and other monuments are not affected by the temple and are not monuments officially protected by the Archeological Survey of India.

122. Challenging the very same grounds raised by the appellants, an appeal was filed by Aranmula Heritage Action Council represented by its Patron Sri Kummanam Rajasekharan, who has also challenged the same before the First Respondent, as Appeal No. 38/2013 before this Tribunal has been withdrawn and this Tribunal awarded a cost of Rs 25000/- payable to the respondent's side. Further, the Kerala State Legislative Committee on Environment has not expressed any reservation against the project as such but on the other hand, it has recommended that the excess land notified as Industrial Area, except the land under the possession of this respondent is to be de-notified and orders issued. The Committee consisting of 8 Members of the Legislative Assembly under the chairmanship of Shri C.P. Mohammed examined the allegations and submitted their report on 12.06.2012. The main findings and recommendations of the Committee have been answered by this respondent to the MoEF, the first respondent which is as follows:—

123. A. The project should be implemented after considering the Topography environmental study and discussion with the concerned departments:—

This Project has complied with all the above recommendations. The EIA study was carried out by Enviro Care India Pvt. Ltd., Madurai, which is a recognized agency for conducting and preparing EIA report. Thereafter, the ToR were formulated by the EAC in the 91st EAC Meeting held on 21st to 23rd September, 2010 and intimated to us vide MoEF Letter No. 10-51/2010-IA. III dated 30th October 2010. The public hearing was held on 10.05.2011 with the District Collector, Pathanamthitta in the Chair and cleared by the EAC on 21st to 23rd September 2011. Thereafter, based on the article in news paper "The Hindu" dated 02.01.2012, the issues raised were again re-examined on 105th Meeting of the EAC held on 16th to 17th August 2012 and cleared the project. Hence, all the formalities stipulated by the first respondent has been complied with.

B. The opinion of the local public has to be considered:

Public hearing which was held on 10.05.2011 with the District Collector in chair

was attended around 250 local people and all of them have unanimously supported the project. The minutes of the meeting has been submitted along with video graph by the Kerala State Pollution Control Board vide Kerala Pollution Control Board vide Letter No. PSB/HO/PTA/04/2011 dated 13.05.2011. Further, it has been certified by the Agricultural Officer, Pathanamthitta that there is no paddy cultivation in that area for so long and hence the land identified for the project is waste land.

C. There is a Government land in the project site and action should be initiated to recover the same:

The Government vide G.O.(Ms). 04/2012/Trans dated 16.02.2013 has already taken 10% stake in the project and have decided to transfer the Government land within the project site to this respondent at market price.

D. The rivulet (*Kozhithodu*) passing through the project site is seen blocked due to silting. This may be addressed and natural flow restored.

This respondent has conducted a Hydrological study of rivulet (*Kozhithodu*) with reference to Aranmula airport through the Department of Minor Irrigation, Government of Kerala and as per their recommendations, the blockade in the *Kozhithodu* has been removed and natural flow restored.

E. Efforts to be made for reviving agriculture in the area which has been lying as wasteland due to shortage of water:

No Economic Agriculture/Operation is possible in the area as the land has already been reclaimed and the local farmers abandoned the agriculture for the past so many years.

F. The Kerala Government should hold discussion with all connected departments before declaring any areas Industrial Zone.

The project area has been declared as Industrial area as per G.O. (P) No. 54/11/ID dated 24.02.2011, after observing all formalities. The recommendation of the committee has been accepted by the Government.

G. The Government may examine the various judgments by High Court of Kerala regarding the filling of Agricultural land and earnest efforts must be made to implement the same.

The Government has accepted this recommendation.

H. The Government should initiate action against persons who has filled and blocked the *Kozhithodu*.

Action has already been initiated against the miscreants who had filled and blocked the *Kozhithodu*. An agreement has signed between the KGS Group and the Assistant Executive Engineer, of Aranmula Minor Irrigation sub division and as per the agreement; dredging has already been done for smooth running of water.

I. The area outside the project which has been notified as Industrial area may de-notified:

The Government has already initiated action to de-notify the excess land from the notified area.

J. The action has to be initiated against person who had converted agricultural land in the area:

The Government has already initiated appropriate action against the persons as directed.

K. The EAC of the State Government has not conducted any study about the project site. Hence, the Govt. may examine the circumstances under which the State Pollution Board has recommended the Project to Government of India.

124. The Pollution Control Board has recommended this Project after observing all the formalities and after examining the EIA Report prepared by the Enviro Care India

Pvt. Ltd., Madurai. The public response recorded during the public hearing, after visit to the site and perusal of all the connected records.

125. All these suggestions have been taken on board by the present respondent and that the proposed project will be constructed strictly in accordance with the provided by the MoEF and the terms thereof. The project area has been declared as "Industrial Area" by the Government of Kerala under due process of Law thereby stipulating all formalities. The appeal period for challenging the notification is 30 days and nobody till date has challenged the said notification within the stipulated period. The statement to the effect that the MOEF had granted the impugned order without application of mind is vague and totally false and frivolous. There is no acquisition of land as alleged by the Appellants.

126. The suggestion that the proposed runway cannot possibly be constructed in the proposed site is plainly absurd which is based upon an early map of a much smaller extent of land. The proposed project is within a 500 acre area and the same can easily accommodate a 2800 m runway and the detailed plans of the proposed project clearly demonstrate the same.

127. The present respondent has not violated the EIA Notification, 2006 as alleged. The airport has been proposed in an area of 500 acres, of which this Respondent had purchased more than 350 acres as preliminary step. Simultaneously, this respondent have to work out the orientation of the runway, lay out for the taxiway, apron, fire and rescue facility etc. which are primary aspects associated with the implementation work. The preliminary work includes feasibility study, financial viability, hydro graphic study, land survey, budgetary allocation and identification of suitable site etc. The impugned order passed by the MOEF is a speaking order and has been passed after considering all relevant environmental factors, and after due consideration of the relevant documents submitted by this respondent and additional clarifications furnished in response to its observations. The EIA has only thereafter recommended the grant of Environmental Clearance for the project as per the provisions of EIA Notification, 2006 and its subsequent amendments, subject to strict compliance of the terms and conditions as envisaged in the impugned order. The present respondent hereby undertakes that it will comply with the specific conditions envisaged in the impugned order in letter and spirit.

128. On the above grounds, the respondent namely K.G.S. Aranmula Airport Projects Pvt. Ltd., seeks to dismiss the appeals.

129. Enviro Care India Pvt. Ltd., the 5th respondent in Appeal No. 19 of 2014 (SZ) in reply would state as follows:

This respondent is a company who has been actively involved in developing cleaner environment throughout the country, more particularly in the region since 2004 and an I.S.O. 9001 certified company having Bureau of Indian Standards (BIS) accreditation and having laboratory facilities accredited by National Accreditation Board for Testing and Calibration Laboratories (NABL) and the Department of Science and Technology for chemical and biological testing. The company is having National Accreditation Board's certification for Education and Training (NABET) from Quality Council of India (QCI) and the respondent is also doing consultancy services such as EIA/EMP study, risk assessment, detailed project report proposals and environmental audit and training for several turnkey projects.

130. The EIA study conducted by this respondent for the airport project covered recognized and accepted methodology of EIA, scope of EIA, study period, study period, air environment, noise environment, water environment, land environment, eco-system, socio-economic development, project description, disaster management plan, basic infrastructure required, existing environmental status, ambient air quality, noise

environment, water quality, soil quality, land environment, biological environment, socio-economic environment, identification and prediction of impacts, positive environmental impacts, negative environmental impacts, environmental impact assessment, environmental management plan, environmental impact statement etc. by adopting sampling locations, micrometeorology, temperature, rainfall, relative humidity, wind direction, wind speed, dust fall etc., This respondent has already EIA reports for Chennai, Raipur and Vadodara airports and it was based on these reports the said projects were successfully completed.

131. At the time of submission of the report and presentation, there was no QCI implemented accredited scheme (NABET). As per the provisions of law and other regulations governing the conduct of environmental study and consequent submission of the EIA report, all consultants enlisted and approved by the MoEF are eligible for conducting EIA and this respondent is also an enlisted and approved by the MoEF. The Office Memorandum issued by the MoEF clearly provided accreditation of the EIA consultants listed therein and after the accreditation process by the QCI/NABET, the competent authority has approved a list of 265 consultants wherein this respondent is arrayed as serial No. 73. These 265 consultants are also permitted to certify various documents such as EIA/EMP in their capacity as recognized and accredited consultants.

132. This respondent has conducted a detailed impact study regarding the establishment of an airport at Aranmula and submitted a detailed report to the authorities. The said report is submitted based on the ToR approved by EAC. This respondent had also attended the public hearing held at the conference hall of the District Collector, Pathanamthitta. This respondent had done a field study from July 2010 to October 2010 for collection of base line data. After submission of the application on 02.07.2010 by the Company, this respondent had started the study from July itself for one season (three months) which is also included in the ToR. This respondent had conducted field studies touching all the aspects of nature, climatic conditions, flora and fauna, water and air pollution aspects, noise, visibility rainfall etc. The EIA study was conducted covering prescribed methodology of EIA and etc., as aforesaid and adhered to the ToR prescribed by the EAC. A habitat or an area comprises of different kinds of plants and animals within its boundary. The distribution of flora and fauna in the given area represents the biological environment. The biological part of the environment includes, what is present in the study area, its values, and its responses to impact description of community uniqueness, the dominant species and an evaluation of rare or endangered species. During the course of the study conducted by this respondent, field monitoring stations were installed in four locations in 10 km radius area. The bio diversity studies were carried out in seventeen transacts points of 10 km radius and the EIA study carried by the respondent covered the flora and fauna under Chapter-III of the EIA report. The EAC consists of experts in disciplines such as eco system management, air/water pollution control, water resources management, flora and fauna conservation and management, land use planning, social sciences/rehabilitation, project appraisal, ecology, environment health and other subjects area specialists and other representatives. The said Committee twice recommended for the EC for this airport project after satisfying themselves after viewing the presentation and the EIA report of this respondent and after due consideration of the relevant documents submitted by various parties, agencies and other authorities and after additional clarifications were furnished in response to the observations/queries raised by various persons/organizations and authorities as the case may be. The appellant is trying to give an impression that approval was granted in a lackadaisical manner which is false. This process is going on for years and this respondent has done a valid and thorough study of environmental impact of setting up the said airport at the location to the ecology, environment, flora

and fauna, land etc., and submitted the report which presents the correct position and the generalities as it exists at the location of the study.

133. The EAC has recommended for the grant of EC for the project as per the provisions of EIA Notification, 2006 and its subsequent amendments. The EIA study has been conducted and report submitted based on the ToR pertaining to Aranmula site. This report covers the planned environmental monitoring programme and provided overall justification for implementation of the project and it also explained how the adverse effects can be mitigated. This respondent has downloaded the Google Map and enclosed in the EIA report to give the actual status of the present condition of the site and to mention the lie of the land and nature of the site. The entire field study was made during July 2010 to October 2010 and the same covers all the relevant aspects. The water requirement is only 7550 litres/day which is not on a large scale and the present ground water table potential is sufficient for the water requirement. The area receives plenty of rainfall and the natural recharge will take care of water replenishment. The designed capacity of the actual sewage is 7M³ per day and after taking into account the future expansion, the designed capacity of STP is 50M³ per day. As per the EIA Notification, 2006, the study area should be within 10 km radius of the site and the study has been conducted based on ToR and as per Chapter IV regarding description of EIA guidelines for airports. The method of assessment of impact includes studies carried out, modeling techniques adopted to assess the impact which has been elaborated in the EIA report. The report gives the details of baseline parameters, both during construction and operational phases and suggests mitigation measures to be implemented by the airport company. The air sampling equation was done and is set out in page No. 62 of the report and followed the necessary parameters as set out in page No. 74. As per clause 3.9.3 of the report, particulate matter-PM 10, PM 25, Sulphur di oxide and oxides of nitrogen are within limits in and around the project site. Carbon monoxide is very limited in the area and this respondent has conducted the ambient air quality standards as per the new norms. The hydrocarbons can be reduced by developing a green belt and air environment and noise impact have been mentioned at page No. 101 and 102 of the report. The disposal of hazardous waste and the solid waste generation can be made as per the guidelines prescribed from time to time. In any case, the airport company has to obtain necessary consent to establish and consent to operate from the Kerala State Pollution Control Board. The ToR has been prepared for the airport sector after duly catering to the commonly expected environmental concerns and the identification of specific issues by the proponent company and the ToR has been prepared the EIA report upon the approval of the ToR by the EAC and this respondent in the EIA report has studied various environmental parameters which would occur during construction and operational phases of the airport project for assessment of the impact on the surrounding environment. No part of the project area of 500 acres is wetland and the revenue records would evidence to this effect. There is no need to reclaim any part of the said area and further no cultivation has taken place in that area for several years. As per the Wetlands (Conservation and Management Rules), 2010, a list of wetland in India identified as *Ramsar* Sites under the *Ramsar* Convention of Wetland is set out and no portion of the land included in the Aranmula airport project is found in the identified wetland and the repeated contention of the appellants that the project site consists of wetland is not supported by record.

134. The rivulet which was identified as passing through the land was blocked and clogged and water was not flowing for years and the water was flowing in the said rivulet now and the same has been and will continue to safeguarded. The paddy lands can be reclaimed for public purposes as per Kerala Conservation of Paddy land and Wetland Act, 2008. The project land is a degraded land with water logging and

invasive plant species affecting native bio diversity and the project site has no ecological/geographical significance other than the fact that the said land was paddy land more than 20 years ago and is now a fallow, water logged land unfit for paddy cultivation as is evident from the report of the Agriculture Officer. The paddy lands are not wetlands.

135. The area is not a heritage site due to any aspect of the land or the people and the heritage status has not been granted for any of the environmental sectors. The heritage status is granted to the area only due to 'Uthirattadhi Boat Race' and the 'Aranmula Mirror' which are unique to this village and which will not be affected by the establishment of an airport in the project area. There are no protected monuments in the project area which will be affected by the establishment of an airport and though the temple and the must are not monuments protected by the ASI, they will be protected and will not be affected by the airport project. The alleged issues raised in the report of the Salim Ali Foundation could erode the validity of the EIA study are denied by this respondent.

136. The ToR along with the compliance report is clearly mentioned in the EIA report after examining the following aspects:

- (i) *baseline environmental quality along with projected incremental load to the proposed project activities such as ambient air quality,*
- (ii) *analysis and submission of details of comprehensive risk assessment and disaster management plan including emergency evacuation during natural, man-made disaster integrating with airport such as fire detection and fighting, bomb threats, earthquake, and oil spillage,*
- (iii) *Examining separately the details of construction and operational phases both for Environmental Management Plan and Environmental Monitoring Plan with cost and parameters,*
- (iv) *Examining road/rail connectivity to the project site and impact on the traffic due to the proposed project/activities,*
- (v) *Examining the details of afforestation measures indicating land and financial outlay, landscape plan, green belts and open spaces, and a thick green belt has been planned all around the nearest settlement to mitigate noise and vibration etc., if any,*
- (vi) *Examining and submitting the details of noise modeling studies and mitigative measures,*
- (vii) *Examining the details of water requirement, use of treated waste water, preparation of a water balance chart and source of water vis-à-vis waste water to be generated along with treatment facilities to be proposed.*
- (viii) *Details of rain water harvesting proposals which should be made with due safeguards for ground water quality by maximizing recycling of water and utilization of rain water,*
- (ix) *Examining the details of solid waste generation treatment plant and its disposal,*
- (x) *Identification, prediction and assessing the environmental and sociological impacts on account of the project/activities and*
- (xi) *Submission of details of corporate social responsibilities etc.,*

137. In view of the above mitigative measures are more than adequate dealt with and hence, the averments contained in the appeal grounds are nothing but a figment of the appellant's imagination and this respondent has provided required Environment Monitoring Programme as required in the Manual.

138. This respondent has dealt with all issues arising out of Chapter 7 of the Manual. In any case, additional studies have been conducted by the company through

various qualified experts qualified to conduct the study such as feasibility study by KITCO, a comprehensive and mandatory obstruction study by Aero Survey, New Delhi which is a recognized agency for conducting obstacle study for airport project by Civil Aviation, Air Ports Authority and Director General of Civil Aviation wherein experts have dealt with the steps taken regarding the obstructions providing adequate remedial measures whereby it was suggested to displace the threshold of the runway by 285 m.

139. The Office Memorandum dated 1st September 2010 and 30th November 2011, the period for getting accredited has been extended from 30th June 2010 to 1st October 2011. An anomalous situation occurs if the interpretation given by the appellant to these office memorandums in that an unqualified person whose accreditation is rejected and if he gives a report before 1st October 2011, the said report is valid whereas this respondent who is qualified to do Category A projects, but chooses not to do them in future and applies for accreditation only for Category B projects, when they give a report after 30th June 2010, the same will be considered invalid.

140. The accreditation memo is not signed by a competent authority and hence, is not binding on this respondent. In as much as there exists no terms which provides for accreditation, the same cannot be imposed by way of an office memorandum. The said memo is not even an executive instruction under Article 73 and Article 162 of the Constitution of India, being issued not by the State or the Union but by an instrumentality. Even assuming that the office memorandum is binding on the respondent, it is merely a procedural formality which is directive in nature and unless the appellant proves that this respondent is incompetent and that hardship has been caused to him by virtue of the lack of accreditation to the respondent for Category A project. Procedural provisions are directory and it can be enforced to set aside the order only in the eventuality of hardship being proved by the party alleging the same. In any case, this project was commenced by this respondent well before the office memorandum regarding accreditation was issued and they submitted the report in the month of October 2010. In spite of being adequately qualified and having satisfactorily submitted reports in the construction of airports at Chennai, Raipur and Vadodara and various other prestigious projects, merely because this respondent applied for accreditation for Category B projects, more particularly for thermal projects for purely techno-commercial reasons, the same does not disqualify this respondent from giving a valid EIA for a project assigned to them even before the issuance of the office memorandum introducing accreditation for the consultants. Hence, denying the averments made in the appeal that it was incompetent on the part of this respondent to submit EIA report based on that the impugned EC was made, this respondent, namely Enviro Care India Pvt., Ltd., seeks to uphold the EIA report submitted by them for the said project.

141. The Kerala State Pollution Control Board, arrayed as 3rd respondent in Appeal No. 172 of 2013 (SZ), 4th respondent in Appeal No. 1 of 2014 (SZ) and 6th respondent in Appeal No. 19 of 2014 (SZ) states in the reply affidavit as follows:

142. The Project Proponent, the fourth respondent, requested the Kerala State Pollution Control Board (KSPCB) to organize the public hearing as part of the Environmental Clearance process for their project on 02.02.2011 to construct a new airport at Aranmula in Ptahtanamthitta District of Kerala along with sufficient copies of the draft EIA and Malayalam and English version of its executive summary. In consultation with the District Collector of Pathanamthitta. The public hearing was fixed at 11.00 AM on 10.03.2011 at the conference hall of the District Collectorate at Pathanamthitta. Wide publicity was given on 06.02.2011 in a national and two

regional vernacular dailies in the manner and within the time specified in the notification. More than 30 days time was given between the date of publication and the date of hearing.

143. However, due to the declaration on 01.3.2011 of elections to the Kerala State Legislative Assembly on 13.04.2011, the date of public hearing had to be rescheduled by the District Collector with approval from the Election Commission. The public hearing was postponed to 29.04.2011 and Wide publicity was again given through the same national and two regional vernacular dailies on 27.03.2011. More than 30 days' time was again given between the date of publication and the date of hearing. On account of a sudden call for *hartal* in Pathanamthitta on 29.04.2011, the public hearing had to be postponed further and it was decided to hold it on 10.5.2011 at 11.00 AM at the Conference Hall of District Collectorate, Pathanamthitta. This postponement was also published on 28.04.2011 in the same dailies.

144. The soft copies of the draft environment impact assessment report and the Malayalam and English versions of the executive summary were made available for public scrutiny in the Board's website and its hard copies were made at the District Collectorate, Pathanamthitta, District Industries Centre, Kozhencherry, District Panchayat, Pathanamthitta, Elanthoor Block Panchayat, Aranmula Grama Panchayat, Mezhuvelli Grama Panchayat, Mallapuzhassery Grama Panchayat, Science, Technology and Environment Department, Thiruvananthapuram. Pollution Control Board, Pathanamthitta District Office and Pollution Control Board, Head Office, Thiruvananthapuram and the draft environmental report in Malayalam and English versions of its executive summary were made available for public scrutiny at the above places for more than eighty days from 06.02.2011 to 10.05.2011. Thus the documents were made available for more than the mandatory 30 days for the public to furnish their responses.

145. The public hearing was held at 11 am on 10.05.2011 at the conference hall of the Pathanamthitta District Collectorate. The venue was selected considering its proximity to the project site and the facilities available at the conference hall to conduct the hearing. The distance from the project site to the venue was only 15 km. There were 80 participants in the public hearing and most of them were from Aranmula and adjoining areas. The hearing was presided by the District Collector. The proceedings of the public hearing, representations in original received before and during the hearing and video recording of the hearing were forwarded to the MoEF as required under the EIA Notification, 2006. The proceedings of the public hearing were prominently displayed at the head office and Pathanamthitta District Office of the Board. Action was also taken to similarly display the proceedings at the offices listed above. Thus, the KSPCB has faithfully discharged the obligations under the EIA Notification, 2006. Hence, the KSPCB seeks to dismiss the appeal.

146. As seen above, all these appeals challenge the EC given by the MoEF of the Union of India dated 18.11.2013 in favour of K.G.S. Aranmula International Airport Ltd. and for consequential direction to the authorities. Hence, all the appeals are taken up jointly. Since the array of the parties varies in each of the appeals, for the sake of convenience, the array of parties is shown hereafter as found in Appeal No. 19 of 2014. On the pleadings of the parties, following questions are formulated for consideration by the Tribunal:

- (1) Whether the appeals are not maintainable since the appellants are neither persons aggrieved nor have any *locus standi* to prefer the appeals and also on the grounds of the Tribunal not having the jurisdiction.
- (2) Whether the EC is to be set aside on the grounds that the EIA is prepared by an unqualified agency.
- (3) Whether the Form I submitted by the 3rd respondent/Project proponent suffers

due to inadequacy and false statements.

- (4) Whether the impugned EC is liable to be set aside on the ground that as the public hearing was not conducted as per the mandatory provisions of the EIA Notification, 2006.
- (5) Whether the EC granted to the 4th respondent, Aranmula International Airport Pvt., Ltd., by the 1st respondent/MoEF is liable to be set aside for non application of mind of the EAC in making the approval.

147. Elaborate arguments were made by Shri T. Mohan, the learned counsel appearing for the appellant in Appeal No. 172 of 2013 (SZ), Shri Asok M. Cherian, learned counsel for the appellant in Appeal No. 173 of 2013 (SZ), Shri R. Krishna Raj, the learned counsel appearing for the appellant in Appeal No. 174 of 2013 (SZ), Shrimati Mallika Srinivasan, learned counsel appearing for the appellant in Appeal No. 1 of 2014 and Shri Harish. V the learned counsel appearing for the appellant in Appeal No. 19 of 2014 (SZ). Heard also the learned Advocate General of the State of Kerala Shri K.P. Dhandapani, appearing for the respondent No. 2 and 4, State of Kerala and the District Collector, Pathanamthitta District, Kerala State, Shrimathi C. Sangamithirai, learned counsel appearing for the 1st respondent/MoEF, Shri T.R. Rajaogpalan, the learned Senior Advocate appearing for Aranmula International Airport Ltd., respondent No. 3, Shri P.S. Raman, learned Senior Advocate appearing for Enviro Care India Pvt., Ltd., 5th respondent and Shri M. Ajay, learned counsel for the Kerala State Pollution Control Board, 6th respondent. The 4th respondent, namely Kozhencherry Charitable Education Society was given up during the course of the proceedings. The Tribunal also paid its anxious considerations to the averments made in the grounds of appeals and the materials made available.

148. Point No. 1: Whether the appeals are not maintainable since the appellants are neither persons aggrieved nor have any *locus standi* to prefer the appeals and also on the grounds of the Tribunal not having the jurisdiction.

- i) At the outset, Shri K.P. Dhandapani, the learned Advocate General of the Government of Kerala questioning the maintainability of all the appeals, would submit that the appeals are not maintainable either in law or on facts. Under the circumstances of the case, the issues raised by the appellants can be broadly classified into two broad categories. (i) Challenge is made in the appeals which would fall under the Kerala Land Reforms Act, Kerala Conservancy of Land Act, Kerala Conservancy of Paddy Land and Wetland Act, which cannot be raised and agitated before this Tribunal for lack of jurisdiction, (ii) Challenge made in the appeals would fall in Appellate Jurisdiction conferred under section 18 of the National Green Tribunal Act, 2010. The first set of appeals is outside the purview of the jurisdiction of this Tribunal and hence, they cannot be considered. In so far as the 2nd set of appeals is concerned, the appeals can be initiated only by a person aggrieved. But, the appellants are not aggrieved persons and hence, all the appeals have got to be dismissed. An aggrieved person is a person who has a legal right to enforce and whose rights are adversely affected or jeopardized. In order to substantiate his contentions, the learned Advocate General relied on the decision of *Ayubkhan Noorkhan Pathan v. State of Maharashtra*, (2013) 4 SCC 465. After the analysis of the various provisions of the Administrative Tribunal Act, the Hon'ble Apex Court held in *Dr. Duryodhan Sahu v. Jithendra Kumar Mishra* reported in (1998) 7 SCC 273 that a Tribunal can be approached by a person aggrieved by an order as defined. Placing reliance on the above decision, the learned Advocate General would state that the appellants are total strangers to the proceedings in issuing the EC and did not have right under statutes to challenge the same. None of the appellants own even an inch of land in the

present site and hence, all the appeals have to be got dismissed on that ground.

- ii) Answering the above contention, the counsel for the appellants would submit that the appellant in Appeal No. 1 of 2014 (SZ) is Aranmula Heritage Village Action Committee while the appellants in other appeals though are individuals, all are working for the protection of natural resources and ecology of Pathanamthitta district including Aranmula where the proposed airport project is being set up. They constitute a social and environment group with the objective of working for the welfare of the local community and small land holders and have been creating awareness on environmental issues. Hence, the contention put forth by the respondents that the appellants do not own any land in that area or they did not participate in the public hearing has to be rejected. When the EC to the project proponent is likely to affect directly or indirectly, the organization or every citizen can prefer an appeal since they are aggrieved persons and hence the appellants can well maintain the appeals. Equally in so far as the contention that the Tribunal has no jurisdiction to enquire the appeals, each and every averment made in the appeals would clearly indicate that the EC has been granted for the airport project to the applicant without taking into consideration the ecological impact and environmental degradation which would be caused by the project and hence, the issues to be decided in all the appeals would fall squarely within the jurisdiction of the Tribunal. Hence, the said contention put forth by the respondents' side has to be rejected.
- iii) As seen above, the 2nd respondent/State of Kerala has raised two preliminary objections questioning the jurisdiction of the Tribunal to enquire the appeals apart from stating that the appellants cannot maintain the appeals since they are not aggrieved persons as envisaged under the provisions of the NGT Act, 2010. Speaking on the jurisdiction of the Tribunal, section 14 of the NGT Act, 2010 reads as follows:

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

(2) The Tribunal shall hear the disputes arising from the question referred to in sub-section (1) and settle such disputes and pass order thereon".
- iv) A reading of the above would make it clear that this clause confers on the Tribunal a very wide jurisdiction in cases where a substantial question relating to environment including enforcement of legal rights relating to environment is involved. No doubt, such question should arise out of the implementation of enactment specified in Schedule I of the Act. In Schedule I to the NGT Act, 2010, 7 enactments are enumerated which are:
 1. The Water (Prevention and Control of Pollution) Act, 1974
 2. The Water (Prevention and Control of Pollution) Cess Act, 1977
 3. The Forest (Conservation) Act, 1980
 4. The Air (Prevention and Control of Pollution) Act, 1981
 5. The Environment (Protection) Act, 1986
 6. The Public Liability Insurance Act, 1991
 7. The Biological Diversity Act, 2002
- v) Pointing to the above provisions, the learned Advocate General, Kerala State would contend that the appeals are with respect to the other State Acts such as, Kerala Land Reforms Act, Kerala Land Conservation Act, Kerala Conservancy of Paddy Land and Wet land Act etc., which fall outside the jurisdiction of seven

enactments shown in Schedule I of the NGT Act, 2010 and hence, the appeals would fall outside the jurisdiction of the Tribunal. Attractive though, the argument put forth as above at the first sight, it will not stand the scrutiny of law. All these appeals as seen above have been filed challenging the grant of EC for the impugned airport project. While assailing the same on different grounds *inter alia*, it is averred and contended by the appellants that for the purpose of ascertaining the environmental impact, a definite idea about the nature of the land in which the proposed airport was going to be set up should have been formed. It is the specific stand of the appellants that there is a serious dispute regarding the nature of land. The project proponent purposefully has suppressed the material facts, but has placed incorrect and false information and by doing so, the project proponent did not place necessary facts enabling the EAC or MoEF to come to an independent conclusion about the environment impact. In order to substantiate their contentions, the appellants have produced various reports of the revenue officials, agriculture officers, district collector and proceedings of the Taluk Land Board. Relying on those documents, the counsel for the appellants pointed out that the predecessors of the project proponent, converted a part of the proposed site illegally and due to such conversion the cultivation in the entire area adjacent to the propose site became impossible due to environmental impact caused by the reclamation of the portion of the proposed site. It cannot be disputed that the reports may and the proceedings initiated against those alleged acts are under a number of enactments like the Kerala Land Reforms Act, Kerala Land Conservation Act, Kerala Conservation of Paddy Land and Wetlands etc. It is pertinent to point out that none of these appeals has been preferred under any one of these enactments. All these appeals concentrate in challenging the EC granted in respect of the Aranmula airport project. Basing their cases on all the environmental impact if the project is allowed to be setup as per the grant of EC, it leaves no doubt that the appellants have raised substantial question relating to environment and the issues involved remain to be decided by the Tribunal and the said questions arise out of the implementation of the enactments specified in Schedule I to the Act and it will be futile to contend that the challenges are made by appellants with respect to other State laws mentioned above and hence, the contention putforth by the respondent/State of Kerala that the appeals are not maintainable before the Tribunal for lack of jurisdiction has to be rejected as devoid of merits.

- vi) Equally so is the other contention that the appellants cannot maintain the appeals since none of the appeals is preferred by a person aggrieved. The NGT Act, 2010 came into force by the repealing the National Environment Appellate Authority Act, 1997 Under appeals to authority in sections 11(1) and 11(2) the reading is as follows:

“11. Appeals to Authority:— (1) Any person aggrieved by an order granting environmental clearance in the areas in which any industries, operations or processes or class of industries, operations and processes shall not be carryout or shall be carried out subject to certain safeguards may, within thirty days from the date of such order, prefer an appeal to the Authority in such form as may be prescribed:

Provided that the Authority may entertain any appeal after expiry of the said period of thirty days but not after ninety days from the date of aforesaid, if it is satisfied that the appellant was prevented by sufficient cause from filing of the appeal in time.

(2) For the purposes of sub-section (1), “person” means—

- (a) any person who is likely to be affected by the grant of environmental clearance;*

- (b) * * *
- (c) *any association of persons (whether incorporated or not) likely to be affected by such order and functioning in the field of environment;*
- (d) * * *
- (e) * * *

From the reading of the above provisions, any person 'aggrieved' by the EC can prefer an appeal before the NEAA within the time stipulated therein. According to Section 11(1), the word 'person' employed in Section 11(1) would mean not only any person who is likely to be affected, but also an association of persons likely to be affected by such an order and functioning in the field of environment. In the instant case, both the appellants are association of persons and have been functioning in the field of environment for a long time. While so, the appellants must be able to show they are 'likely to be affected'.

By repealing the NEAA Act, 1997, the NGT Act, 2010 came into force. Speaking of the appellate jurisdiction, Section 16 of the NGT Act, 2010 reads as follows:

"16. Tribunal to have appellate jurisdiction:— Any person aggrieved by.—

- (a) * * *
- (b) * * *
- (c) * * *
- (d) * * *
- (e) * * *
- (f) * * *
- (g) * * *
- (h) *an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under Environment (Protection) Act, 1986 (29 of 1986);*
- (i) *an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environmental (Protection) Act, 1986 (29 of 1986);*
- (j) *any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of Biological Diversity Act, 2002 (18 of 2003), may within a period of thirty days from the date on which the order, or decision or direction, or determination is communicated to him, may prefer an appeal to the Tribunal;*

Provided that the Tribunal may, if it is satisfied that the appellant was not prevented by sufficient cause from filing the appeal within the said period allow it be filed under this section within a further period of not exceeding sixty days.

149. Both under Section 11 of the NEAA Act, 1997 and Section 18 of the NGT Act, 2010 any person aggrieved by the grant of EC as shown above can maintain an appeal. The 'aggrieved person' as contemplated in the Act came up for interpretation before the Tribunal in a number of cases. An aggrieved person contemplated in the above provisions would refer to the substantial grievance as to denial of some personal, pecuniary or property right or imposing an obligation on a person. The grievance so ventilated should not be either fanciful or sentimental, but must be substantial. A person calling himself as an 'aggrieved' must have suffered a legal grievance that he has been wrongfully deprived of something or refused wrongfully. The aggrieved person can either be aggrieved either directly or indirectly. In so far as

the environmental matters are concerned, it cannot be stated that the person really aggrieved should alone be permitted to initiate an action. It is not necessary that the person, who initiates action, is a resident of that particular area wherein the proposed industrial site is located. It is true that the appellants have not participated in the proceedings of the public hearing. It is true that it is necessary to scan the credentials of the appellants as to their intention and motive. Even assuming that the appellants have not participated in the proceedings of the public hearing, they would not lose their right to challenge the approval or the EC. If the appellants come forward with a case apprehending damage and danger to environment and ecology if the project in question was not properly envisaged and did not satisfy the Principles of Sustainable Development and Precautionary Principle, they can maintain the appeal and be allowed to agitate as to the correctness of the study made in respect of ecology and environment. In the instant case, nothing substantial has been demonstrated in order to doubt the credentials of the appellants. What are all stated by the respondents is that the appellants are not residents of that area or they do not have any piece of land and hence they are not aggrieved persons. The appellant in Appeal No. 174 of 2014 (SZ), namely the Aranmula Village Heritage Action Council is an organization while other appellants are individuals. It is contended by them that they are social activists with the objective of working for the welfare of the local communities for creating awareness on environmental issues. While in the matter of ecology and environment everyone is directly or indirectly affected and also interested person in exercise of his right can prefer and maintain an appeal ventilating the grievance. It is specifically alleged that the EC granted to the project proponent is likely to affect either directly or indirectly and can prefer an appeal ventilating the grievance. Hence, the appellants are to be termed as aggrieved persons as envisaged under the provisions of the NGT Act, 2010 who can maintain appeal and thus, the question is answered in favour of the appellants.

150. Hence, for the reasons stated above it is held that the appellants can well maintain the appeals and this Tribunal has jurisdiction to entertain the appeals.

151. Point No. 2: Whether the EC is to be set aside on the grounds that the EIA is prepared by an unqualified agency.

- i) Criticizing strongly the EIA prepared by the 5th respondent, Enviro Care India Pvt. Ltd., Madurai, Shri T. Mohan, counsel would submit that according to the EIA Notification, 2006, the airport projects would fall under Category A and only a duly accredited EIA consultant could appear before the EAC or prepare the EIA report. The present agency is found in Serial No. 47 of the QCI list (Annexure A-5). As per the accreditation, the 5th respondent was authorized only to conduct an EIA for Category B projects. This aspect was never considered by the 1st respondent/MoEF while granting the impugned EC. The 1st respondent has placed reliance of the Office Memorandum dated 30.12.2012 to state that the consultants who had applied including the 5th respondent were permitted to act as consultant and certify EIA/EMP and appear before the State Level Environment Appraisal Committee (SEAC) and State Level Environment Impact Assessment Authority (SEIAA) or EAC as the case may be. But, in the instant case, the 5th respondent/Consultant did not even apply for certification for airport category, but has applied only for thermal power projects which fact is admitted by the 5th respondent in the reply affidavit. The present EIA report has been prepared by an organization that was not qualified to do so. In any case, Annexure A-15 filed by the applicant/consultant made it clear that the application itself was submitted only on 21.11.2011. Hence, it would be clear that the 5th respondent/consultant did not make the application that resulted in

accreditation for Category B projects pending during the time when the EIA report was prepared and submitted. Even the application made by the 5th respondent/consultant was also rejected. A person who has merely applied for certain sectors cannot be said to have blanket power to prepare EIA reports and appear in respect of all categories and sectors without reference to the category applied for and the consequent accreditation. Whether the consultant had prepared the EIA report for those sectors earlier had no relevance and it is open to the 5th respondent/consultant to challenge the issue as to whether the accreditation is legal or not in the present petition. It is not correct to state that at the time of presentation, there was no QCI implemented accreditation scheme. From 2009, the Ministry has imposed guidelines on preparation of EIA and presentation to EAC. The fact that the 5th respondent/consultant was found in the list of 255 applicants would not entitle him to certify the reports pertaining to the sectors unconnected to their application. It is also evident from the Annexure submitted along with the appeal memo in Appeal No. 19 of 2014 (SZ) that the application of the 5th respondent/consultant was rejected and subsequently a new application was made. Hence, the pendency of the application which was rejected cannot even be considered as a factor that would qualify the consultant to prepare the said EIA report. The EIA report prepared by an unqualified consultant cannot form basis of grant of the impugned EC which the 1st respondent ought not to have granted and it liable to be set aside.

- ii) The learned counsel Shri. Jacob P. Alex appearing for the appellant in Appeal No. 19 of 2014 (SZ) would submit that the 5th respondent/consultant did not have the competence or expertise to prepare the EIA report for the airport project. Chapter XII of EIA Guidance Manual for Airports would show that it is mandatory to disclose the accreditation details of the consultants. But, in this case there was no disclosure of consultants engaged as mandated. The minutes of the accreditation committee meeting dated 08.01.2013 would show that the 5th respondent/consultant was granted accreditation to Category B projects that too not in airport sector. Similarly, the list of experts in Annexure A-25 would show that the 5th respondent/consultant did not employ any expert who is competent to prepare the EIA report for airport projects. The scheme of accreditation of EIA consultants can apply only to a maximum of 5 sectors for accreditation. Accordingly, the 5th respondent/consultant had already applied for 5 sectors. But, he did not apply for accreditation in airport sector.
- iii) Countering the above contention of the appellant's side, the learned Senior Advocate Shri P.S. Raman would submit that the 5th respondent/consultant was not competent to submit EIA report is incorrect and unfounded. The Hon'ble Apex Court in the judgment of *T.N. Godhavarman Thirumalpad v. Union of India* (2014) 4 SCC 61 delivered in the year 2013 has declared that the provision of compulsory accreditation was prospective. The concept of accreditation was suggested by the Hon'ble Supreme Court of India in *Lafarge Umiam Mining (P.) Ltd. v. Union of India* (2011) 7 SCC 338 and the judgment in *T.N. Godhavarman Thirumalpad v. Union of India* (2014) 4 SCC 61 set out the guidelines for future cases. The Hon'ble Supreme Court of India issued directions for appointment of a regulator. But, the regulator is yet to be appointed. A perusal of the office memorandum issued subsequently on 01.11.2010, 31.12.2010 and 30.09.2011 would show that the last date of filing of the application for accreditation was extended till 31.12.2011 and all the applications submitted till then were valid. The 5th respondent/consultant was registered with the QCI as a qualified EIA consultant and successfully completed two green field airports in the past at

Raipur and Vadodara and they were the consultants for the construction of phase II of the Chennai airport. Therefore, the 5th respondent/consultant has experience in the field of airport projects and more particularly in Greenfield Airports. The 5th respondent/consultant has expressly stated in the reply that an ISO certified company who has been actively involved in developing cleaner environment throughout the country, more particularly in the region since 2004. The 5th respondent/consultant is an ISO 9001 certified company having BIS accreditation and having laboratory facilities accredited by NABL and Department of Science and Technology for chemical and biological testing. The 5th respondent/consultant is having National Accreditation Board Certification for Education and Training (NABET) from QCI. It is also doing consultancy services such as EIA, EMP, Risk Assessment, Detailed Project Reports and Environmental Audit and Training and has done several turnkey projects. The 5th respondent/consultant though being adequately qualified and having satisfactorily submitted the reports in the construction of airports at Chennai, Raipur and Vadodara and various other prestigious projects, pursued their application for accreditation for Category B projects alone, more particularly for thermal projects for purely commercial reasons and it did not meant that the 5th respondent/consultant from giving a valid EIA report for a project assigned to them even before the issuance of the office memorandum introducing accreditation for the consultants. It is highly ironic and ridiculous on the part of the appellant to suggest a party who has filed to secure accreditation in Category A on merit can issue a valid report for the airport sector till December, 2011. Whereas the 5th respondent/consultant who has ample experience in the airport sector and issued well within December, 2011 was not valid because for the future the 5th respondent/consultant wanted to restrict themselves to thermal power sector for purely commercial reasons.

- iv) When the project proponent enquired with the AAI for guidance for appointment of an EIA consultant, the AAI for the above reasons recommended the 5th respondent/consultant to the project proponent. Even assuming while denying that there was a need for compulsory accreditation even prior to the appointment of the 5th respondent as a consultant for the project, the 5th respondent/consultant submits that the accreditation memo was not signed by a competent authority and hence, it was not binding on the 5th respondent/consultant. In as much as there existed no norms which provided accreditation, the same cannot be imposed by way of an office memorandum. The said memorandum is not even an executive instruction under Articles 73 and 161 of the Constitution of India. The office memorandum is merely a procedural formality which is directory in nature. Unless the appellant proves that the 5th respondent/consultant was incompetent and that hardship has been caused to him by virtue of lack of accreditation of the 5th respondent/consultant for Category A projects, the contentions put forth by the appellant have to be rejected. Thus, the report of the 5th respondent/consultant was valid and lack of accreditation was a subsequent event which has no consequence to the EIA report submitted them. Equally the 2nd argument of the appellant's side that the EIA report is not valid since ToR was issued on 13.10.2010, the study was conducted by the 5th respondent/consultant for collecting primary data for the period July, 2010 to October, 2010 is not correct since as soon as the process for issuance of the ToR started, the project proponent engaged the 5th respondent as the consultant and the 5th respondent started collecting samples as per the usual

practice. When the ToR was issued by the authority, the investigation was underway and the 5th respondent/consultant also took into account the parameters set out in the ToR prior to preparation of EIA report. Hence, no illegality was committed in the manner and conduct of investigation and the EIA report cannot be attacked on that ground. Therefore, the 5th respondent/consultant was competent to give the EIA report and the same was given by them as per the guidelines and also in good faith and the EIA report has got to be upheld.

- v) All the appellants have vehemently attacked the EIA report prepared by the 5th respondent/consultant as invalid and unsustainable and in view of the same, the EAC should not have acted upon the same and granted the impugned EC. Among other grounds, the appellants have challenged the EIA as the one prepared by an unqualified agency. Admittedly, according to the EIA Notification, 2006, the airport projects fall under Category-A. From the available materials, it is seen that the 3rd respondent/project proponent has submitted the application on 02.07.2010 and the same was considered by EAC in the 91st meeting on 21.09.2010. The ToR was finalized on 13.10.2010. According to the 5th respondent/consultant the field study was done during July-October 2010 and the EIA report was submitted as per the reply of 5th respondent/consultant in October, 2010. While the matter stood thus, the 1st respondent/MoEF decided only two consultants who had applied for accreditation till 30.11.2010 be permitted and certify the documents before SEAC, SEIAA and EAC till 30.11.2011. Office Memoranda were issued on 01.11.2010, 31.12.2010 and 30.09.2011 which would show that the last date of filing the application for accreditation was extended till 31.12.2011. While it is contended by the appellants' side that the 5th respondent/consultant was not competent and he should not be allowed to have the benefit of pendency of the application for accreditation. Contrarily, the 5th respondent/consultant would submit that they were competent to prepare EIA report in view of the office memoranda of the 1st respondent/MoEF extending the date for filing application for accreditation till 31.12.2011 and also the effect of that report till then is valid. In the instant case, the 5th respondent/consultant has prepared the EIA report, participated in the public hearing and also has appeared before the EAC which recommended the EIA report given by the 5th respondent/consultant for grant of EC for Aranmula airport project. The Tribunal is afraid whether it can agree with the contention of the 5th respondent/consultant that it was competent to prepare the EIA report. It is not in controversy that as per the EIA Notification 2006, the airport projects would come under Category A. Needless to say that placing the projects and categorizing them as A and B should have importance and significance. Expectation of accreditation for the consultant with a view to ensure that the EIA coordinator and functional area expert is a person with sufficient skill and experience in the relevant field. It is not the case of the 5th respondent/consultant is found in serial No. 47 of the QCI list. As per the accreditation, the 5th respondent/consultant was authorized to prepare EIA reports only for Category B projects. It is true that the 1st respondent/MoEF 255 consultants who applied for accreditation till 30.09.2011 to appear or certify documents to SEAC, SEIAA and EAC till 30.09.2011. It is also true that the last of the submission of the said applications was extended to 31.12.2011. The 5th respondent/consultant cannot be permitted to take advantage of this permission granted by the 1st respondent/MoEF for the simple reason that the application

made by the 5th respondent/consultant for accreditation was rejected on 30.09.2011 and the EAC recommended for EC on 16.08.2012. It is true that the 5th respondent/consultant made another application on 15.12.2011 after the first application for accreditation was rejected. Under the said application, the 5th respondent/consultant sought for accreditation and was granted the same for Category B project which did not include the airport sector.

- vi) As per the scheme of accreditation of EIA consultants, an EIA consultant can apply to a maximum of 5 sectors for accreditation. It is candidly admitted by the 5th respondent/consultant that though he applied for the 5 sectors, his application did not include airport projects. The only explanation tendered by the 5th respondent/consultant is that in view of commercial reasons he did not apply for accreditation for airport sector though he has sufficient experience in the field. This explanation cannot be accepted even for a moment. Admittedly, the 5th respondent/consultant has not applied for accreditation for airport projects falling under Category A. Mere pendency of an application for accreditation for Category B projects would not cloth him with a right to make a study, field survey and preparation of EIA reports in respect of the airport projects which according to notification is categorized as Category A. If this contention has to be accepted, the very purpose of importance and significance of placing airport projects under Category A itself would be defeated. It is contended by the 5th respondent/consultant that the guidelines manual is only recommendatory and not mandatory. But that is not the case in so far as EIA Notification, 2006 is concerned. Much was contended by the 5th respondent/consultant that he has completed studies on two green field airports at Raipur and Vadodara and he was the consultant for the construction in phase II of Chennai airport and his experience in the field would speak volumes of his competence. This contention has to be rejected for two reasons. Firstly, the competence of the 5th respondent/consultant has to be tested from the view point of EIA Notification, 2006 which governs the field. While airport project is categorized as A to which neither the 5th respondent/consultant has applied for nor was granted any projects under Category A and in particular the airport projects. On the contrary, he applied twice and obtained accreditation only for the projects under Category B. Hence, he is incompetent. Secondly, in so far as the alleged experience of the 5th respondent/consultant is concerned, there are no materials placed before the Tribunal to indicate the nature of works that was undertaken by the 5th respondent/consultant in respect of the three airport projects. Even assuming that the 5th respondent/consultant had experience, that would not qualify him as a competent consultancy agency in view of the mandatory provisions of the EIA Notification, 2006. Hence, it has got to be held that the 5th respondent/consultant was not competent to make a study and prepare an EIA report for the airport project. As rightly pointed out by the appellants, the EAC at the time of meeting never considered this vital aspect of the matter, but has recommended for the issuance of EC. This would certainly shake the very bottom of the recommendation made by the EAC since it was based on the EIA report given by the 5th respondent/consultant, an incompetent agency.

152. For the discussions made above, it is held that the 5th respondent/consultant was not competent to prepare the EIA or appear before the EAC in respect of the Aranmula airport project.

153. Point No. 3: Whether the Form I submitted by the 3rd respondent/project proponent suffers due to inadequacy and false statements.

- i) The contentions put forth by the appellants' side that the proposed site for Aranmula airport is a wetland is not correct both factually and legally. According to Section 2(g) of the Wetland (Conservation and Management) Rules, 2010 'wet land' means*"an area of marsh, fen, peat land or water; natural or artificial, permanent or temporary, with water that is static or flowing, fresh brackish or salt, including areas of marine water, the depth of which at low tide does not exceed 6 meters and includes all inland waters such as lakes, reservoir, tanks, backwaters, lagoon, creeks, estuaries and manmade wet land and zone of direct influence on wet lands that is to say the drainage area or catchment region of the wet lands as determined by the authority, but does not include many river channels, paddy fields and the coastal wet land covered under the notification of the Government of India in the Ministry of Environment and Forest, S.O. number 114(E) dated the 19th February 1991 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (ii) of dated the 20th February 1991."* The Wet Land Conservation Management Rules has been notified by the Central Government as per the Gazette Notification No. GSR 951(F) dated 04.12.2010 to enhance the wetland conservation and management efforts in the country. These rules have been issued in exercise of powers conferred by Environment (Protection) Act 1986. As per Rule 8(2) of the Rules, the State Government had designated the department of environment and climate change as the nodal agency for regulating the use of wetlands in the State as per GO (Rt) No. 51/11/Env. Dated 30.05.2011. As per Rule 6(2) of the Wet Land (Conservation Management) Rules, the State Government shall prepare within a period of one year from commencement of rules, a 'brief document' identifying and clarifying the wetlands within their respective territories in accordance with the criteria specified under Rule 3. Rule 3 stipulates those wetlands which shall be regulated under the rules and their classifications. Therefore, by virtue of notification dated 30.05.2011, the department of Environment and Climate Change has prepared an inventory by incorporating the guidelines such as geographical dealiation of wetlands, demarcation on the basis of the zone of influence along with proper maps, calculated the size of the wetland and given an account of preexisting rights and privileges consistent or not consistent with the ecological health of the wetland. It is worthwhile to mention that proposed project site for which the environmental clarification has granted is not a wetland as per the inventory prepared under the Wetland Conservation Management Rules 2010. The Project site is only a paddy land which is now waterlogged and degraded and which is lying as unfit for paddy cultivation for the past so many years. It is also worthwhile to point out that EC has been issued after considering all the relevant facts and circumstances of the environmental issues. It was further contended by the learned Advocate General that in as much as the Appellants contended that the site is wet land they tried to mislead the Hon'ble Tribunal. Concealment of material facts amounts to suppression of facts which is actually abuse of process of the Tribunal. In such an event, as held by the Hon'ble Supreme Court in *K.D. Sharma v. SAIL*, (2008) 12 SCC 481, that if there is no candid disclosure of relevant and material facts or the Petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold.
- ii) State of Kerala supports the Project for several reasons including the job opportunities it can provide. Therefore, the State Government as a policy supports the project and wanted the project to be finished in a time phased manner. A balance has to be struck down between public opinion, national policy, economic growth and apprehension. A balance has to be struck down between public opinion, national policy, economic growth and apprehension,

however legitimate it cannot override the justification of the project as held by the Hon'ble Supreme Court in *G. Sundarajan v. Union of India*, (2013) 6 SCC 620.

- iii) The Project Proponent has taken every care and caution to protect and preserve the natural habitat, flora and fauna, rivulets and such other natural features, in the best possible form, with least interference during the implementation of the Airport Project. The Government of Kerala after evaluating the whole project in toto, developmental contribution, employment potential, better connectivity and nature friendly had taken 10% stake in this Greenfield Airport Project. This by itself speaks about the essentiality and importance of this Airport to the State of Kerala. Some factual mistakes in the report of the Salim Ali foundation are worth noting. The report says that there are extensive wetlands in the village. But there is no identified wet land in Aranmula Village as per the Report of the Centre for Earth Science Studies (CESS). As the definition of the Kerala Conservation of Paddy and Wet Land Act, 2008, paddy Land is not wet Land. The provisions of Central Wet Land Act are also similar. Therefore, it seems the authors of the Report of Salim Ali Foundation have confused Paddy Land with Wet Land. This Respondent had purchased the land in a developed state and most of the lands are lying as water logged fallow land, dry land and rubber plantations. The Company has purchased certain lands, which was already converted prior to enactment of Conservation of Paddy Land and Wet Land Act, 2008. The Prior owner Kozhencherry Charitable Educational Society owned 232 Acres of land spread over in three villages-Aranmula, Mallapuzhassery and Kidanganoor Villages in Pathanamthitta District. If the land was converted prior to enactment of Act, nature of property cannot be looked into taking into consideration of ground reality existing. The legal position remains settled through various decisions of the Honourable High Court of Kerala. As per the Wetlands (Conservation and Management) Rules, 2010, List of wetlands in India identified as *Ramsar* Sites under *Ramsar* Convention on Wet Land, wherein no portion of the Airport Project has been identified as "wet land" in the appended Schedule. Moreover, there is no protected Wetland in the Project area as per the said Rules.
- iv) The project proponent required filling the bare minimum area required for safe airport operation, leaving the remaining area in its natural form, there will be no environmental impact due to this activity. The recharge also remains unaffected. The soil required for this filling is calculated as under; $1000 \times 150 \times 1 = 150000 \text{ m}^3$ of soil. On the whole, the minimum filling with the local material ensures environmental homogeneity and produces no impact on environment. Paddy lands can be reclaimed for public purposes as per the provisions of Kerala Conservation of Paddy Land and Wetland Act, 2008. Instead it has become a degraded land with water logging and invasive plant species affecting native bio diversity. The project site has no ecological or geographical significance other than it was a paddy field more than 20 years ago, and now a fallow water logged land unfit for paddy cultivation, as is evident from the report of Principal Agricultural Officer, mentioned in Page Nos. 71-75. The report shows the tragic situation in the area where not even 5 cents of the paddy land could be made under paddy cultivation. As per the Act, paddy land does not include wet land. Certain areas of the paddy field are lying as fallow and certain fallow land is lying as degraded water logged area. In Annexure A—XXIII, petition of the Land Owners' Association, the true situation of the project area is stated that "it is flourishing with mosquitoes, leeches, pythons and in the locality skin affections in the people have made life very difficult. There are many instances of leeches entering the nostrils of cattle resulting in their death. If the project complies with the condition in environment clearance, it could be executed whereby water

logging can be removed, the remaining paddy fields restored, and the rivulet could be rejuvenated. A paddy land, which is not cultivable, cannot be left unutilized and would not ensure to benefit of either the State, the parties or the public and not at all advance the avowed objective of preserving the environment and maintaining ecological balance.

- v) In answer to the above the learned Senior Advocate would submit that the contentions made by the appellants side relating to the Aranmula Parthasarathy temple and the must and rituals thereon are unfounded. The project will not have any effect in the rituals as contended by the appellants' side. Famous temples such as the Devi Temple at Sanghumukham and Sree Padmanabha Swamy Temple are in the close vicinity of Thiruvananthapuram Airport. The 'Arattu' Possession of Sree Padmanabha Swamy Temple is through the Airport. There are many Airports in India where Temples, Churches, Masjids and other places of worship are located directly below the flight path (Approach funnel) of airports, and aircraft are regularly flying over such places of worships. KITCO had conducted feasibility report (project report) about the Airport Project. This study was supplemented by a comprehensive and mandatory obstruction study by Aero Survey, G-11, Second Floor, Green Park Extn, New Delhi who is a recognized agency for conducting Obstacle Study for Airport Project by Civil Aviation, Airport Authority and DGCA. In page 5 of their Obstacle Study Report they have also noted the following obstructions with remedial measures whereby it was suggested to displace the threshold of the runway by 285 meters due to the presence of flag must of Shree Parthasarathy Temple. Airport Officials visited the site and had discussions with the Company on the obstacle Survey and Company agreed to displace the threshold by 285 m so as to protect the rich heritage and sanctity of the Temple. This project will bring glory to the Temple.
- vi) Attacking the contentions made by the counsel for the appellants to the effect that the project proponent has made false statements regarding the site pending litigations against the project, at the time of submission of the application, the learned counsel for the respondents would submit that they were absolutely false. The project proponent placed basic information on 26.10.2010. It was clearly stated that the project proponent has already purchased the land in a developed state and most of the lands are lying as water logged fallow land, dry land and Rubber Plantations. The project proponent purchased a part of the lands, which was already converted prior to enactment of Conservation of Paddy Land and Wet Land Act, 2008 and hence, they conversion cannot be attacked with the aid of the provisions of the enactment. It is pertinent to point out that no portion of the airport project was identified as wetland. Moreover, there was no protected wetland in the project area as per the rules. It cannot be disputed for the pending litigation against the project proponent/3rd respondent at the time of submission of the application in Form I. There was no local land use plan and there was no zonal classification in the airport area and hence, the land could be used only for airport project with strict adherence to the conditions attached to EC. This airport project area has been declared as an industrial area by the Government of Kerala. Hence, the statement made by the project proponent/3rd respondent is falsely interpreted by the appellants to suit to their convenience. There is no need for any further reclamation as the Project area has been purchased in a developed state. There was no need for any reclamation work in this Project. Most of the Project sites were in a developed form/Rubber Plantation and dry Land. Aranmula, Pathanamthitta District is connected by a good network of State highway roads. These roads have two-line riding surface of minimum 35 ft. with adequate space for future expansion on the sides. Good

connectivity from Alappuzha, Kottayam and Idukki Districts exists towards Pathanamthitta District. It was more clear that minimum number of vehicles for transporting raw materials. The same would not affect the existing traffic movement and hence, there is no need for any new road or other transport infrastructure during construction or operation or widening of the existing roads.

- vii) There was no need for any impoundment, damming or culverting, realignment or other changes to the hydrology of water course or aquifers. Airport land is interspersed with a small rivulet '*Kozhithodu*' which is crossing the runway. This rivulet eventually merges with the famous Pampa River. A cross vent of 20 × 2.5 m underneath the runway is planned to maintain free flow of water in *Kozhithodu*. General lay of the land is towards *Kozhithodu* from South and North which facilitates free flow of water from both ends of run way towards *Kozhithodu* and the proposed drain. The project proponent has thoroughly examined all the minor channels/canals/streams/rivulet in and around the project site and has taken due precaution to protect and preserve water flow so as to ensure free flow of accumulated water and preservation of water table in the area.
- viii) The statement regarding flora and fauna are made according to the whims and fancies of appellant by which they attempted to false acquisition. The same is vague and unscientific without mentioning specific flora and fauna probably to be affected. As per the Tropical Botanical Centre and Zoological Survey of India, there are no specific studies regarding flora and fauna conducted in Pathanamthitta District. The EAC would list out a few cases for consideration during its sittings which were for two to three days continuously and every environmental aspects associated with the project would be discussed in detail before recommending sanction. The ToR are based on the actual state of facts and on ground reality and based on which, EIA was prepared in true sense. After hearing and perusing documents, video and other connected records, EAC of MoEF recommended the project for environmental clearance to the 1st respondent vide its minutes dated 16.12.2011 and again recommended the project for EC in its minutes dated 17.08.2012. Thus, the project was cleared twice by the EAC and the matter was referred to the 1st respondent/MoEF for final clearance. Thus, the contentions putforth by the appellants are totally false and frivolous. A reading of the impugned order EC would indicate that it is a speaking order and considering all the pros and cons of the environmental impact and after due consideration of the relevant documents submitted by the 3rd respondent, project proponent and additional clarifications furnished in response to its observations. Only after doing so, the EAC has recommended for the grant of EC for the project as per the provisions of EIA Notification, 2006 and its subsequent amendments, subject to strict compliance of the terms and conditions as envisaged in the impugned order. The 3rd respondent/project proponent undertakes that they would comply with the specific conditions envisaged in the EC in letter and spirit. The purpose regarding the sensitive man-made land uses, like hospitals etc., are to be interpreted as items directly or indirectly affecting the operation of the airport. It is necessary to identify the presence of such obstructive structures, for which the 3rd respondent/project proponent has separately conducted obstruction study before embarking on the project, after the submission of the basic information. This would complement the application. The aerial distance is for the purpose to identify any man-made structures like hospital that would interfere with the operation of the airport. This study was conducted by a comprehensive and mandatory obstruction study by Aero Survey, New Delhi, who is a recognised agency for conducting the said study.

- ix) In so far as the vigilance enquiry ordered by the Court of Enquiry Commissioner & Special Judge (Vigilance), Kottayam is concerned, it has been stayed by the Hon'ble High Court of Kerala in Crml M.A. No. 318/2014 in CrI MC No. 247/2014.
- x) Answering to the contentions put forth by the appellants in respect of sustainable development and precautionary principle, the learned counsel would submit that if both the doctrines are applied to the present factual position of the case, the EC attached with necessary conditions has to be upheld. The 3rd respondent hereby undertakes that he would follow the specific conditions laid down in the impugned order and will be a touchstone of sustainable development and its impact on ecology has been taken care of following all national and international principles. While balancing the benefit of establishing airport, if the 3rd respondent strikes a balance, such infrastructure facilities are of extreme importance for the economic growth of the country, alleviate poverty, generate employment etc. While setting up of a project of this nature, the 3rd respondent have taken into account an overall view of larger public interest rather than unsustainable objections and allegations raised in this appeal and there is no violation of Article 21 of the Constitution. The hue and cry raised by the appellants about the possible impact of environment was fully addressed by the 1st respondent/MoEF in their impugned order. This airport project shall be on the concept of welfare and safety for the purpose of development. The employment of potential-skilled, semi-skilled and unskilled labour both during construction and operational phases of the project with specific attention to employment potential of local population is necessary for this airport Project. Socio-economic benefits of the Project mainly include provision of additional Revenue generation, triggering growth in the region, provisions of additional employment, development of ancillary industries and trade centres, improvement in quality of life etc. Needless to say, it has to be totally guided by the conception of public safety and welfare of the citizens. The term "welfare" is always related to the living generation and generations to come. Promotion of development and Protection of development are to be harmonized at the same time. By applying the principles of sustainable development, the impugned order is a balance between the developmental needs and the environmental degradation.
- xi) It is quite evident from the available materials, the 3rd respondent/project proponent, while making an application for the airport project in Form I has provided false data about the ecology in the area, resources to be used and overall impact on the environment and presence of wetland or forests. Along with the feasibility report, Form I was submitted by the 3rd respondent/project proponent on 28.06.2010. In that said Form I, the following are noticed:
1. Basic information under item No. 1.0, Sl. No. 22 states "Whether there is any Government order/policy relevant/relating to the site. The answer given was "N.A" which means Not Applicable. On that day, when such information was given, there was a declared policy and a statute passed by the Legislature of Kerala to protect paddy lands and wetlands of the State. The Kerala Conservation of Paddy Lands and Wetlands Act, 2008 was specifically passed to for that purpose.
 2. There is a Government order, namely Kerala Land Utilistion Order, 1967 which prohibits conversion of paddy lands without prior sanction of the Government. The project proponent has stated the whole of acquired land shall not be reclaimed and rest of the land other than that used for construction of runway including wetlands, paddy lands etc., shall be protected to the maximum extent. Here is an admission made by the project proponent, that the project

site included paddy land and wetland and thus this was under the clutches of the above order/statute on the day when the Form I was filed. But, this fact was suppressed by the project proponent.

3. In sector 'basic information' under item No. 1, Sl. No. 24 to the question, "*Whether there is any litigation pending against the project and/or land in which the project is proposed to be set up (a) Name of the Court, (b) Case No. (c) Orders/directions of the court, if any and its relevance with the proposed project*", the answer given by the project proponent was "N.A.". A Division Bench of Hon'ble High Court of Kerala has already directed the owner of the land that the filling of the paddy land and wetlands should be done only in accordance with law and only after getting necessary statutory clearances from the authorities concerned. For illegal filling of paddy lands by the predecessor as well as the present project proponent, a number of cases were registered in respect of encroachment of public land, public streams, filling up of paddy lands etc., All these information were suppressed.
4. Under sub-heading 'Activity' in item No. 2, Sl. No. 1.1, it is stated that there is 'no' permanent or temporary change in the land use, land cover or topography including increase in the land use. Admittedly, the project area included paddy land and wetlands. Needless to say, construction of airport and other facilities, would cause a permanent change in the land use.
5. Under the sub-head 'Activity' in item No. 2, Sl. No. 1.10, the project proponent has stated that there was no reclamation work in the project site; this cannot but be false since it is admitted by the project proponent that there was reclamation of paddy lands and wetlands.
6. Under the sub-head 'Activity, item No. 2, Sl. Nos. 1.17, 1.18 and 1.19, the project proponent has declared that there will be 'no' new road or other transport infrastructure during construction or operation, there will be 'no' closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements. No doubt, the operation of the airport would definitely increase the traffic and without widening the existing roads no airport operation can be done.
7. In item No. 2, Sl. No. 2.1, the project proponent has stated that there is 'no' land especially underdeveloped or agricultural land. This information is a concealment of the fact that part of the project site is agricultural lands.
8. Under sub-head 'Environmental Security' in item No. 10, Sl. No. 2, the project proponent has declared that there is only River Pampa and that too situate at a distance of 2 km away from the project site. Admittedly, there are vast areas of wetlands in and around the project site which was acknowledged by the project proponent and recorded in the minutes of the public hearing.
9. Equally, in item No. 10, Sl. No. 9, the project proponent has declared that there were no lands occupied by the sensitive manmade land uses like hospitals within 15 km aerial distance from the proposed project location boundary. Admittedly, the Aranmula Parthasarathy temple is situate at 100 m away from the project location boundary. Thus, while filing the Form I along with the application, the project proponent has not only suppressed the existing true state of affairs, but also furnished false information in order to obtain EC for the project.

The following environmental issues related to airport project have not been addressed in the EIA report.

I. AIR

- i) Prediction of emissions from combustion of aviation fuel (unburnt fuel droplets are a source of volatile organic compounds and give rise to odours) and their

- impact in the zone of influence.
- ii) Vehicular emissions inside the airport and from ground service equipment (tugs for aircraft and baggage, fuel and catering Lorries, buses and vans that transport passengers etc.).
 - iii) Prediction of VOC emission from fuel storage tanks and transfer facilities and its management
 - iv) Impacts of pollution from Aircraft and airfield maintenance activities
 - v) 5. Airport activities and Climate change
- II. BIOLOGICAL
- i) Habitat loss and habitat degradation due to 'changed' and 'different' activities in the zone of influence.
 - ii) Bird strikes/hits-prevention and management plan (Measures to control birds also extend beyond the airport boundary)
 - iii) The sensitivity of wildlife and local domesticated animals to the noise of aircraft, airport ground operations and airport access roads.
- III. NOISE
- i) Prediction of Noise from aircraft and from traffic going to and from airports- modelling studies. Mitigation of effects and management.
 - ii) 2. Prediction of noise generated from taxiing aircrafts, the application of reverse-thrust (an optional braking aid on landing), engine tests and on-site vehicular traffic. Mitigation of effects and management
 - iii) It is true that the ToR issued for the EIA study do not include the above. Notwithstanding this fact, the EIA consultant who claims long experience and expertise in the field should have addressed these issues. Undoubtedly, these issues deserve attention and analysis. Such an approach would have served the cause of environmental management at large.
154. Hence, it is held that the Form I in the application filed by the 3rd respondent/project proponent before the 1st respondent/MoEF for the Aranmula airport project was inchoate and invalid for false and suppression of materials and for inadequacy.
155. Point No. 4: Whether the impugned EC is liable to be set aside on the ground that as the public hearing was not conducted as per the mandatory provisions of the EIA Notification, 2006.
- i) Advancing the arguments on behalf of the appellants, the learned counsel would submit that the public hearing is mandatory and it should be strictly in accordance with the procedure specified in EIA Notification, 2006. In the instant case, the 3rd respondent, the project proponent has neither conducted the public hearing in accordance with law nor in a proper manner. The access to the site of public hearing was not facilitated by the project proponent or other stake holders. As a result, a majority of the people who are likely to be affected due to the setting up of the project, namely the airport were not provided an opportunity to voice their grievances. The 4th respondent applied on 02.02.2011 for conducting the public hearing, but the alleged publication in the dailies did not contain all required information as mandated by Appendix-VI of the EIA Notification, 2006. Even on that date, the EIA report was not made available for viewing or posted in the website. The public hearing was originally scheduled on 10.03.2011 and was rescheduled to 29.04.2011 and again to 10.05.2011. But, the change in the date of public hearing on 29.04.2011 and 10.05.2011 was not publicized. This fact also was borne out from the minutes of the public hearing conducted on 10.05.2011. This is in clear violation of EIA Notification, 2006 as

the EIA Notification under clause 3.4 of Annexure IV clearly states that the procedure in clause 3.1 has to be followed in case of postponement. It is seen that the time difference between the postponed dates was not 30 days which is the minimum mandatory time provided and the answer given by the respondents that the period of time between the postponement was less than 30 days and hence, the postponement was not publicized cannot be accepted since this led to a situation where the public was prevented from participation effectively in the public hearing process. The minutes of the public hearing would indicate that only 26 persons were able to effectively participate in the hearing which can hardly be called participative and democratic. The tenor of the serious protests held by the people of the area was not reflected in the public hearing minutes and thus, this is violation of law by denying effective participation of the people directly affected by the project. Apart from that the public hearing was neither conducted at the project site nor anywhere in the close proximity, but a distance of more than 15 km from the project area and from the villages affected. The fact that only 80 people participated in the hearing of a project of this magnitude is indicative of both inconvenience caused by the venue and lack of adequate publicity for the same. In order to substantiate their contentions, the learned counsel relied on the judgment of Hon'ble Gujarat High Court reported in (i) *Centre for Social Justice v. Union of India* (AIR 2001 Guj. 71) and (ii) *S. Nandakumar v. The Secretary to Government, Tamil Nadu* in W.P. No. 10641 of 2009 and etc., dated 22.04.2010. The above judgments clearly described the importance of the public hearing in the clearance process and the facts of the present case makes it evident that the entire process was farce. The 1st respondent/MoEF has not considered any of the facts in the impugned clearance in view of the violation of mandatory provisions in respect of the public hearing; the EC has got to be set aside.

- ii) Arguing for the respondents' side on the question of above issue, the learned counsel for the respondents would submit that the public hearing in respect of the project in question was convened and conducted in accordance with the EIA Notification, 2006. As per the EIA Notification, 2006 and as per Annexure IV, the public hearing should be completed within a period of 45 days from the date of receipt of complete documents as required in paragraph 1. The total number of days as per the said schedule is 90 days for completing the Process vide Notification dated 04.02.2011 and written comments are sought within 30 days of the date of publication or to participate in public consultation. The date of first public hearing was fixed on 10.03.2011 and by the letter dated 07.03.2011 a direction was issued by the Chief Electoral Officer to defer the public hearing and by another letter it was directed to be conducted after 13.04.2011. The date of 2nd public hearing was scheduled to 29.04.2011 and adjourned due to hartal. Notice of publicity was made. The public hearing was actually conducted on 10.05.2011 and 2 copies of the minutes of the public hearing were addressed to the MoEF by the Kerala State Pollution Control Board. It is pertinent to note that the time period for completion of public hearing was 45 days and for the first public hearing, 10 days time was given. The period of election process has to be excluded to comply with the 45 days period. The public hearing was conducted on 10.05.2011 and hence there was no violation in so far as the notice period is concerned. Equally in so far as the place of public hearing is concerned, the contentions put forth by the appellants side are baseless, since after giving wide publicity through print and public media including hoardings, newspaper advertisements etc. The public meeting was conducted at the District Collectorate, Pathanamthitta district. It cannot be disputed the District Headquarters (Collectorate) is centrally located at Pathanamthitta, which is about

10 Km. from the Project site and people from the Airport locality can reach the Collectorate within 15 minutes by bus and 10 minutes by car. The public hearing was conducted by the State authorities in compliance with the requirements of the EIA Notification, 2006 and hence, the contentions put forth by the appellants are devoid of merits.

- iii) The learned counsel appearing for the 6th respondent, namely the Kerala State Pollution Control Board would submit that the project proponent, the 3rd respondent, requested the Kerala State Pollution Control Board (KSPCB) to organize the public hearing as part of the Environmental Clearance Process for their project on 02.02.2011 along with sufficient copies of the draft EIA and Malayalam and English version of its executive summary. In consultation with the District Collector, Pathanamthitta, the public hearing was fixed at 11.00 am on 10.03.2011 at the conference hall of the District Collectorate at Pathanamthitta. The time and venue was fixed considering the lack of adequate facilities near the proposed airport and the convenience, facilities available and ease of travel to the District Collectorate, Pathanamthitta. The publications regarding the time, date and venue of the public hearing were made on 06.02.2011.
- iv) However, due to the declaration on 01.03.2011 of the elections to the Kerala State Legislative Assembly on 13.04.2011, the date of public hearing had to be rescheduled by the District Collector with approval from the Election Commission. The public hearing was postponed to 29.04.2011 and publication was made in the same dailies on 27.03.2011 about the new date of public hearing at the same time and at the same venue as earlier notified. On account of a sudden call for *hartal* in Pathanamthitta on 29.04.2011, the public hearing had to be postponed further and it was decided to hold it on 10.05.2011 at 11.00 AM at the Conference Hall of District Collectorate, Pathanamthitta. This postponement was also published on 28.04.2011 in the same dailies. There have been no complaints made by anyone regarding the public hearing and its postponements at any time before these appeals have been filed before this Tribunal. Neither the appellant before this Tribunal nor anyone else had approached the KSPCB stating that they needed additional time to file their objections, collect materials etc., Neither were there any complaints made whatsoever by anyone that the venue fixed for the public hearing was inconvenient, unsuitable or against the norms prescribed. These allegations have been raised for the first time at the appellate stage by appellants who had not even participated in the public hearing process.
- v) In the EIA Notification, 2006 issued by the Government of India, Clause 7 deals with the stages in the Prior Environmental Clearance Process. Stage III deals with Public Consultation. A reading of the above would make it clear that one of the components is that the public hearing should be held in the vicinity of the project for ascertaining concerns of local affected persons and the other component is obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project. 30 days time is mandated for "other affected persons" to send in their responses and not for "local affected persons" to attend the public hearing as argued by the appellants. The provisions under Clause 3.1 stipulates that the Member Secretary of the KSPCB shall finalize the date, time and venue of the public hearing and advertise the same in one major national leading and one regional vernacular daily. Thereafter, it is provided that a minimum notice period of thirty days shall be provided to the public for furnishing their responses. Clause 3.3 stipulates that the postponements of date, time and venue if necessitated shall be

published in the same national and regional dailies. The provisions under Clause 3.4 stipulate that the postponements shall be notified afresh as per the procedure under Clause 3.1. It is therefore clear that what is provided in the notification of 2006 is that the public hearing shall be conducted for ascertaining the views of the local affected persons and a minimum time of thirty days shall be given for other concerned persons to file their responses. Clause 3.4 does not mandate that in the case of postponement a further period of thirty days has to be granted for the public hearing. It only stipulates that if there is postponement of time, venue and date it shall be published in the same manner as provided in Clause 3.1, namely publication through the same dailies which originally published the notice. In the instant case a total of 85 days was available for any concerned persons to file their written responses while the Notification only prescribes a minimum period of thirty days for such objections. The period of thirty days if not remotely intended for anyone to make travel plans to the venue of the public hearing which in this case was in the same District at the District Headquarters in Pathanamthitta under fifteen kilometers from the Project site and very well connected to and from the vicinity of the Project site and from elsewhere. This is in conformity to Clause III(ii)(a) which stipulates public hearing at the site or in its close proximity, district wise. In the instant case, the public hearing was conducted in the same District at its Headquarters. The KSPCB also factored in the stipulation of time limits to complete the public hearing as set out in the Notification. If the KSPCB was found wanting, the Regulatory Authority has ample powers reserved to conduct the public hearing through any other agency as provided in Clause III. (iv) of the Notification. The fact that the procedure adopted by the KSPCB was not found fault with by the Regulatory Authority leads further credence to the legality of the public hearing process adopted by the KSPCB. Having not complained about the inconvenience or prejudice suffered by the appellants at any time before, such contentions are raised now and hence, this contention put forth in respect of the public hearing conducted by the KSPCB deserves to be dismissed.

- vi) The issues and concerns raised during the public hearing were actually noted in the minutes of the meeting and all such issues and concerns were answered satisfactorily by the project proponent. Only after carefully examining and after obtaining necessary additional information, final EIA, minutes of the public hearing and due deliberations, the EAC recommended for the EC and after considering all parameters, the 1st respondent/MoEF granted EC subject to certain environmental safeguards. The MoEF, after making a thorough scrutiny of the EAC report and also all the materials made available and satisfied that it was a fit case for granting EC. Accordingly, the 1st respondent/MoEF issued the EC in favour of the 3rd respondent/project proponent for setting up the airport project. Hence, the appeals have to be rejected as devoid of merits.
- vii) It is specifically pleaded case of the appellants that the public hearing conducted in respect of the impugned airport project of the 3rd respondent/project proponent was not in accordance with law and hence the EC is liable to be set aside on that ground. Contrarily, it is contended by the respondents that the public hearing was conducted strictly in accordance with law. The EIA Notification, 2006 on the public hearing mandates as follows:

“3.3. No postponement of the date, time, venue of the public hearing shall be undertaken, unless some untoward emergency situation occurs and only on the recommendation of the District Magistrate, the postponement shall be notified to the public through the same national and regional vernacular dailies and also prominently displayed at all the identified offices by the concerned State Pollution

Control Board or Union Territory Pollution Control Committees.”

Clause 1.0 in Appendix IV of the notification clearly lays down the guidelines in relation to the conduct of public hearing as follows:

“The public hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site (s) or at its close proximity, district wise by the concerned State Pollution Control Board or the Union Territory Pollution Control Committee.”

Apart from the above, the project proponent should give copies of the draft EIA report with generic structure given in Appendix III including the summary of EIA report in English and in the local languages prepared strictly in accordance with the ToR after scoping.

156. As could be seen from the available materials made available by the 5th respondent/project proponent, a notice of public hearing was published on 06.02.2011 announcing the date as 10.03.2011. On 10.03.2011, it was informed by the District Collector, Pathanamthitta that the hearing was adjourned to 29.04.2011. Even on 29.04.2011 also, the public hearing was not conducted. Admittedly, the public hearing was conducted on 10.05.2011.

157. A careful scrutiny of the available materials would clearly indicate that the public hearing conducted on 10.05.2011 was not in accordance with law and has to be declared as invalid in the eye of law for more reasons than one.

158. Appendix IV of the EIA Notification, 2006 as seen above specifically mandates that the public hearing should be arranged in a systematic, time bound and transparent manner ensuring widest possible participation. The words ‘widest possible public participation’ are of wide import and necessarily include people who are likely to be affected by the environmental degradation due to the proposed airport project to be setup at Aranmula. At the very least, the public hearing should include the people living within the study area. Needless to say, the exclusion of people within the study area from effective participation is contrary to the EIA Notification, 2006. This position is emphasized by cardinal judgments of the Hon’ble Apex Court and other higher Courts speaking on the principles of sustainable development and precautionary principle. In the instant case, no material is available to indicate the issuance of any notice or information that the public hearing was to be conducted on 10.05.2011 though it is claimed that it was published in the newspapers. Materials of the public hearing in the instant case would show that only 80 persons participated in the public hearing and the entire proceedings were concluded within two hours. Admittedly, the public hearing was conducted at the Collectorate, Pathanamthitta which is situated at a distance of 15 km from the project site. Concededly, the public hearing on 29.04.2011 was postponed to 10.05.2011 on which date the public hearing was conducted. This would clearly indicate that it is in violation of EIA Notification, 2006 in respect of the mandatory time required to hold public hearing even in a case of postponement from the original date as per Clause 3.3. of Annexure IV of the EIA Notification, 2006 as read above.

159. Thus, from the above position it is clear that the EIA Notification, 2006 mandates even in the case of postponement of the date, the procedure as laid down in Clause 3(1) has to be followed, which would mean that the time interval between the announced date and postponed date should be 30 days. Thus, the minimum mandatory time of 30 days should be provided. But, in the instant case, the date of public hearing from 29.04.2011 was postponed to 10.05.2011 which is in violation of the mandatory provisions. Thus, it would be quite clear that instead of taking measures for the public to participate effectively in the public hearing process, the public has been prevented from participating in the public hearing process to voice their concern and place their objections on the environmental issues by not following

the mandatory procedure. It is a case, where there were serious protests held by the people of that area. The procedure followed in the instant case by not following the mandatory provisions in respect of place and notice, the public was denied and deprived of effective participation in the public hearing and the same would vitiate the proceedings and this can also be added as a ground to scrap the impugned EC.

160. Therefore, it is held that the entire public hearing proceedings is vitiated in view of violations of mandatory procedure as envisaged in EIA Notification, 2006.

161. Point No. 5: Whether the EC granted to the 4th respondent, Aranmula International Airport Private Limited by the 1st respondent/MoEF is liable to be set aside for non application of mind of the EAC in making the approval.

i) Advancing the arguments on behalf of the appellants Shri T. Mohan, the learned counsel would submit that the EIA report contained, incorrect, false and misleading data, but the same were accepted by the 1st respondent/MoEF which resulted in granting the impugned EC. The non application of mind and lack of diligence both on the part of the EAC and the MoEF/1st respondent is clear from the materials placed by the respondents. The available materials would clearly indicate that the EAC at all stages during the consideration of the project in question was overburdened and over extended by having to consider scores of projects during each of the meetings. During the meeting on 21/22.09.2011, the present project figured as item No. 4.42. The EAC considered 4 old projects, 45 new projects, 5 recommended projects and one other item. On 15/16.10.2011, the present project is shown as item No. 3.2. In that said meeting, the MoEF considered 4 old projects, 15 new projects, 4 extra items and 12 recommended projects. During the meeting, the instant project was provisionally cleared subject to compliance of 3 conditions mentioned therein. In the meeting held on 16-17th August, 2012, the EAC considered more than 50 proposals. There is nothing to indicate whether any sub-committee was formed to consider this controversial project in teeth of several serious allegations against the project proponent in the interregnum between the EAC meetings. This would be indicative of the fact that the EAC could not have considered any project with required diligence since they were functioning under severe constraints. The EAC has not taken note of the fact the project proponent had provided different claims even on data collection. At page No. 9 of EIA, it was claimed that the baseline data was collected during July-October, 2010. But, at page No. 16, the collection of base line data was shown as October, 2010. At page No. 45, it was claimed that the majority of data on water quality, vegetation, air and noise quality were collected during field studies in August-October 2010. But, it was claimed that the AAQ monitoring was carried out during July-October, 2010 at page No. 73. The runway length was shown differently; originally as 2300 m and subsequently shown as 2800 m. But, an aircraft cannot land and take off with the runway lengths of 2300 m or 2800 m. Nowhere, there is any mention about what would be the length of runway in Phase-II. The terminal design in Phase I was stated to be for 60 incoming and 60 outgoing passengers during peak hours at page 2, 21, 22 of the EIA. But, contrarily at page No. 23, it was shown that design during Phase I as 50 incoming and 50 outgoing passengers. Table 2.8.2 provided water requirement at 12 KLD in Phase-I and 58 KLD in Phase-II while Figure 2.3 provided 7.55 KLD in Phase-I and 31KLD in Phase-II. The EIA provided different claim in respect of STP capacity. Figure 2.2.3 at page No. 24 differs from Figure 2.6.2 at page No. 29 for parking.

ii) Even in respect of the land use, at page No. 28 of EIA it is stated that the lands were unclassified. But, contrarily at page No. 97, it states as an airport zone. The entire EIA was confined to 10 km radius of the site beginning at page No. 15,

Figure 1.8. But, at page No. 10 in the topographic map it was shown as 15 km. It is pertinent to point out that Chapter IV of the MoEF's Environmental Impact Assessment Guidance Manual for airports requires that secondary data is to be collected within 15 km aerial distance for parameters at 9(III) of Form I of the EIA Notification. No attempts were made to measure emission from aircraft as required in page No. 17(4.4) of the sector manual. The AAQ standards mentioned in Table 3.9 at page No. 73 of EIA were of the year 1998. But, they have been replaced by more stringent standards on 18.11.2009. A reading of the EIA would indicate that substantial portions were devoted to sewage treatment, solar lighting, and other peripheral issues and their likely impacts. Even blank is noticed at page No. 22 in the EIA report which reads "the city of is located..." There was no discussion on how the hazardous waste was to be handled and the solid waste generation was understood to be 27 kg/day. It is clear that the EIA proceeded on the basis that it was a factory which fact would be clear at page No. 102 (4.4.8) while discussing 'within the plant building' and at the nearest plant boundary at page No. 102(4.4.6). The non-application of mind on the part of the MoEF is evident since it has acted on a EIA which was prepared by the consultant who was neither qualified to prepare the EIA report for the airport project nor was an accredited consultant and was also not entitled to either prepare the EIA or represent the project proponent at the EAC meeting. The EAC has also taken note of the fact that the public hearing was not proceeded in accordance with the mandate as found the EIA Notification, 2006. The project site was environmentally sensitive and diverse supportive to flora and fauna and any disturbance to maintain the ecological balance would lead to the loss of irreplaceable resource. This fact was not taken into consideration by the EIA. The EIA had no information on animals in the area which was pointed out by the Salim Ali Foundation report. But, the same has been disregarded by the 1st respondent/MoEF on flimsy grounds. No attention was paid to rehabilitation and resettlement though the land acquisition was contemplated in the project. The project in question would affect the water flow in the area due to blocking of the water bodies. It is pertinent to point out that the website of the project proponent stated that the Aranmula airport is an international airport when the EIA report at page No. 1 stated as domestic airport. Thus, most of the information on which clearance was given was relying on self serving assertions made by the project proponent. No reasoning is given why EAC did not undertake a site visit or required in-depth third party verification on the claim made by the project proponent when there was a threat to bio-diversity, wetland area and in particular, when EIA did not provide adequate information to reach a conclusion on the allegedly benign nature of the project. The EIA report did not assess the impact of proposed activity on land, water, area and did not provide details of those as mandated by law. A mere reading of the EIA would make it apparent that it has not considered or assessed any impact whatsoever, both during construction and operational phases. In respect of each parameter of the EIA report, contains not more than 4 sentences, which is demonstrative of the manner in which the entire exercise has been carried out. This would clearly speak as to the inadequacy of the EIA report. But, the respondents have no explanation to offer on all or any of the matters.

- iii) The learned counsel would further submit that the EIA report contained many false and misleading data and the entire report was a farce which should have been rejected by the MoEF. A mere perusal of the Form No. I submitted by the project proponent would indicate that the project proponent suppressed the material facts before the MoEF. The facts that were sought to be furnished in the application as essential for MoEF to come to the conclusion are necessarily to be

provided so as to come to an independent conclusion about the environmental impact. In the said process, the role of the State Government was that of an agency that is expected to assist the MoEF in coming to a fair and correct decision with regard to the environment impact. The State Government is expected to provide necessary factual and legal inputs so that the MoEF could analyse various aspects of the matter to ascertain whether the claim of the proponent was correct or not. But in the instant case, the State Government has not pointed out the suppression of material facts by the project proponent nor submitted actual facts before the MoEF. The project proponent has suppressed several material facts and has also made false statements which have direct and serious bearing on the outcome of the proceedings of the MoEF in granting EC. In the application, the project proponent has stated that there were no Government orders or policies relevant to the site in question when it required exemption under Kerala Land Reforms Act and Kerala Paddy Land and Wetland Act for utilizing the property. The project proponent has stated in the application that there were no permanent change in the land use, land cover and topography including increased intensity of land use. But, the instant project can be implemented only by converting the paddy land and wetland by filling the same. The project proponent has stated that there was no reclamation work in the project when he admitted to the reclamation of paddy land and wetlands. The project proponent has also made a wrong statement that there were absolutely no changes in the water bodies or the land surface affecting the drainage or runoff. These false statements were made when the land required reclamation and the same would seriously affect the water containment of that area affecting the drainage. The project proponent has falsely stated in the application that there was absolutely no land undeveloped or agricultural. It is an admitted fact that except the area 42 acres filled illegally by the predecessor of the proponent when the land remained undeveloped and the same included agricultural land also. In so far as the environment sensitivity was concerned, the project proponent has stated that there are no areas to be protected under international convention, national or local legislation for their ecological landscape, agricultural or other related value. This false statement was made when the entire area was declared as a heritage site by the United Nations and there was Kerala Paddy land and Wetland Act as far as the ecological landscape value of the property was concerned. The project proponent further stated that the area is not occupied by manmade land uses such as hospitals, schools, places of worship etc. It is pertinent to point out that Aranmula Parthasarathy temple is situate within 100 m from the boundary of the proposed site and less than 400 m from the runway of the proposed airport. There are other hospitals, schools, etc., situate adjacent to the property in question. The project proponent has stated that the area does not contain important high quality or scarce resources such as ground water, surface water source, forestry, agriculture, fisheries, tourism, minerals etc., and the area is not subjected to pollution or environmental damage, when the reports of the officials of the State Government show that the illegal filling of 42 acres of land had already caused damage to the environment. Thus, not only the project proponent has made false statement but also the State Government officials have failed to point out the same and instead of pointing out the above, they have connived with the project proponent before the MoEF.

- iv) The counsel would further add that as far as the nature of the land is concerned, from the materials available and from the stand taken by the project proponent, as well as the State Government, it can be seen that major portion of the land in question is either paddy or wetland. The only contentions put forth by the project proponent and the State Government is that the paddy land cannot be

considered as the wetland and since there was no cultivation in the land for so many years, the lands remain shallow. Hence, the question to be considered is that whether there would be any environmental impact, even assuming that the shallow land was reclaimed and whether such reclamation would have an adverse impact in the remaining paddy land of that area. This is the most important criteria fixed by the Legislature in Kerala Conservation of Paddy land and Wetland Act for granting permission to fill paddy land or wetland. The officers of the revenue and agricultural departments of the Government of Kerala categorically stated that the reclamation of 42 acres of land has already caused serious damage to the cultivation in the adjacent paddy land. When such is the situation, there should have been a proper study conducted by the MoEF before granting clearance for setting up the airport with permission to reclaim paddy or wetland or shallow land. From the EC, it could be seen that the airport cannot be set up without reclaiming the land. There are disputes regarding the extent of land required to be filled. But, it is an admitted fact that reclamation was required. Even if the permission is granted by the MoEF for reclamation of land, the project proponent cannot reclaim the land without getting permission under the Kerala Paddy Land and Wetland Act. If such permission for reclamation is to be granted under section 10 of the said Act, recommendation of the Local Level Monitoring Committee with the report of the State Level Committee constituted under the Act stating that no alternate land is available and such conversion or reclamation will not adversely affect the cultivation of paddy in the adjoining paddy land and also ecological condition in the area. In so far as the alternative land is concerned, the proponent has admitted in the Application made in Form I that it did not propose for an alternate land. It is pertinent to point out that the Local Level Monitoring Committee has already reported to the Government that the illegal reclamation of 42 acres of paddy land has already caused serious damage to ecological conditions and has adversely affected the paddy cultivation in that area and has reported further that any further reclamation will have serious adverse impact on cultivation. Without considering the same, the MoEF has granted the EC, thereby permitting the project proponent to fill the paddy and wetland. No independent study was conducted on the nature of the land and environment impact the reclamation might cause, but permission was granted for reclamation. From the minutes of the EAC and order of the MoEF granting the EC, it is clear that both the bodies have not applied their mind independently and have not collected any inputs so as to arrive at a proper decision. The authorities simply relied on the data provided by the project proponent and the State Government, but have not taken any step to independently verify the veracity of the claim. The minutes of the meeting of the EAC and the order of the MoEF would reveal that they have simply reiterated the contentions of the project proponent as well as the State Government believing the entire version as true and thus it would be quite clear that the EC has been granted without assessing the actual environment impact since sufficient materials were not placed to ascertain the same. From the report of the 5th respondent/Enviro Care India Pvt. Ltd., the agency which was entrusted with the study of environment impact, it could be seen that no study whatsoever, was made about the adverse impact on environment or the reclamation might cause. But, it is admitted that the main engagement of the people in the locality was paddy cultivation. If the reclamation affects the paddy cultivation of the locality, the project cannot be allowed at all. The fact that the temples protected by the Archeological Department of the State Government as well as the Central Government exist nearby the site was suppressed by the project proponent. No study whatsoever has been conducted to assess the impact that might have on Aranmula

Parthasarathy temple if the proposed airport is set up. Admittedly, the said temple is 1500 years old and is situated in less than 400 m from the runway of the proposed airport. High frequency sound of the aircraft would break vibration that is created while chanting *mantras* which creates a molecular ordained system and in consequence it would have serious impact to the divinity of the temple. The structure of the temple is very ancient architecture with heritage value and this structure would be damaged due to the noise created by the aircraft. The temple must be situated in the flight path and very near to the runway. If the height of the temple mast is reduced or lighting is done to the temple mast, it would seriously affect the religious sentiments of thousands of devotees of the temple and would adversely affect the divinity of the temple. Thus, there would be absolutely no material available before the MoEF to come to an independent conclusion about the environmental impact the project might cause.

- v) An affidavit has been filed by the Director General of Police/Kerala before the Hon'ble High Court of Kerala in a petition filed to quash the First Information Report registered in the vigilance case initiated against the project proponent and the officials of the State Government, from which it can be seen that serious irregularities have been committed by the State Government officials and the project proponent which include suppression of material facts and forgery of documents for obtaining the EC. It is pertinent to note that the project proponent has not even acquired the title of the lands in question and the Taluk Land Board has already initiated proceedings under the Kerala Land Reforms Act to take possession of the lands in question treating the same as excess lands. The documents by which the project proponent has purchased the land itself is void as per the provisions of the Kerala Land Reforms Act. Thus, there was absolutely no justification in the action of the MoEF in granting the EC without properly assessing the environment impact the project might cause and hence, it is liable to be set aside. Thus, appraisal of the project carried out by the EAC is vitiated due to non-application of mind to relevant considerations. The minutes of the EAC recommending the grant of EC is in complete violation of law. The reading of the minutes would show that there was no detailed scrutiny of the issues involved. 13 aspects were pointed out during the public hearings which were not even addressed by EAC in its meetings. The EAC has blindly approved the explanation of the project proponent. In support of his contentions the learned counsel placed reliance on the Judgments of this Tribunal in *Samata v. Union of India* in Appeal No. 9 of 2011 and the judgment in *Utkarsh Mandal v. Union of India* of the Delhi High Court in W.P. (Civil). No. 9340/2009.
- vi) Advancing the arguments on behalf of the 1st respondent/MoEF, the learned counsel Smt. C. Sangamithirai would submit that the EIA report submitted by the project proponent was taken for consideration in three meetings of the EAC and following all the procedural formalities. The EAC after considering the pros and cons, recommended for EC and the same has been correct and accepted by the 1st respondent/MoEF and the impugned EC was granted in favour of the 3rd respondent/project proponent. The contentions put forth by the appellants are unfounded and cannot be accepted both factually and legally. The EIA study has covered the flora and fauna in Chapter 3 of its report. The case in so far as the contentions of the appellants that the project site included wetland and paddy fields and also that there are public objection to the conversion of the paddy fields and wetlands, a factual report was sought for from the Environment Department of the Kerala Government. The project proponent also sent reply on 01.03.2012 stating that the Government had notified 500 acres of land for

development of the airport. There was no paddy cultivation for more than 10 years. A letter dated 26.06.2012 sent by the Government of Kerala and approximately 500 acres of land has been declared as an industrial area by a notification in S.R.O. No. 185/2011 dated 24.02.2011. Much reliance was placed by the appellants on a report of Salim Ali Foundation to the effect that there are extensive wetlands in the village. Contrarily, no wetlands were identified in Aranmula Village as per the report of the Centre for Earth Sciences which prepared the report for Kerala. As per the definition of the Kerala Conservation of Paddy and Wetlands Act, 2008, paddy land is not wetland and it is pertinent to point out that the provisions of the Central Wetland Act are also similar. The project proponent has informed that the site is not located in the upstream of Vembanad and neither silent valley nor ecological diversity areas are located anywhere near the site. The proponent had informed that only minimum area required for runway, apron, taxiway etc., would be filled and the remaining area would be preserved in its natural form. The previous owner had filled the runway of 1000 × 150 m for airstrip and hence, only the area required for runway would be filled with 1 m height and the soil required for land filling would be met from elevated area of about 14.5 acres available within the site itself. In order to confirm the statement, all the available source of soil and a contour map was called for, the same was submitted and the statement of the project proponent was found to be correct. In this regard, a specific condition was imposed in the EC. The contentions put forth in respect of rehabilitation and resettlement is totally unfounded. In view of the letter dated 26.02.2012 that only 7 houses in the proposed area might require rehabilitation.

- vii) Countering the above contentions put forth by the appellants side, that the EC has been granted by the MoEF without any application of mind and without any due diligence, the learned counsel for the respondents would submit that the EC has been granted by MoEF after being satisfied on the recommendations of the EAC which was done after due consideration of relevant documents submitted by the project proponent. It is not a case where EC has been granted without conditions. The EC was issued subject to strict compliance of the terms set forth therein. Annexure I depicts in paragraph 10, 20 specific conditions and in paragraph 11, 31 general conditions which would clearly indicate the fact that the EC has been granted only with proper application of mind and due diligence.
- viii) Arguing for the project proponent, the 3rd respondent namely, K.G.S. Aranmula International Airport Ltd., the learned Senior Advocate Shri T.R. Rajagopalan, would submit that the appellants have contended that the impugned order has been passed without adequately considering the environmental issues that arise in the construction of an airport such as the existence of paddy lands, a minor rivulet flowing through the airfield and the existence of a temple in the vicinity. A bare perusal of the impugned order would demonstrate that all the concerns raised by the appellants have already been addressed by the MoEF in the impugned order. The EC was granted to this respondent after three meetings of the EAC. Each meeting involved the discussion of fresh issues and the various concerns raised both in the report and the public hearing. Finally, a series of special conditions have been imposed on the respondent and the clearance made subject to the strict compliance with these conditions. These conditions address every issue that has been raised in the present case. Thus, the impugned order has been passed after much deliberation and careful consideration and the same has taken into account and adequately addressed all environmental concerns. It is well settled that this Tribunal does not sit in appeal over the policy decision of whether an airport is necessary in the region. The State and Central Governments have decided that there is a need for such an airport and have

adequately addressed environmental concerns through the conditions imposed on the clearance granted. As such, the present appeals are liable to be dismissed *in limine*.

- ix) On scrutiny of the entire records made available by both sides, the following are noticed by the Tribunal which would clearly adumbrate the non-application of mind and lack of expected diligence on the part of the EAC which recommended the proposal for the grant of EC by the MoEF to the 3rd respondent/project proponent.
- x) This Bench of NGT had an occasion to consider the role and responsibility of EAC while recommending an EIA for grant of EC by MoEF in *Samata v. The Union of India* reported in 2014 ALL (I) NGT Reporter (1) (SZ) 1. The relevant portions of the said judgment are extracted below:

"43. In so far as the question as to non-application of mind by both the EAC and MoEF, it would be better to look into necessary provisions in the Notification and also decision of the higher courts thereon before considering the merits or otherwise of the rival contentions. Speaking on the stages on the prior EC process for new projects, paragraph 7 of the EIA Notification, 2006 which is ruling the entire field states that it would comprise of maximum of 4 stages, which are:—

- (1) Screening (only for Category B and activities),*
- (2) Scoping,*
- (3) Public Consultations*
- (4) Appraisal,*

44. Stage-IV, Appraisal: (1) Appraisal means together with the reasons for the same. The plain meaning of the word 'appraisal' is to 'appraise the thing'. The word 'appraisal' in legal parlance is defined in Black's Law Dictionary as follows:

"Appraisal: (1) The determination of what constitutes a fair price, valuation, estimation of work, (2) the report of such determination-also term 'appraisement'.

*45. Thus, the appraisal of the project requires not only evaluation, but also estimation of works in order to make an assessment or determination of the same. The process of appraisal would certainly require application of mind independently and make evaluation of the available materials to make an approval to regulatory authority to grant EC or place before the regulatory authority with the report to refuse EC. The notification makes it mandatory not only a scrutiny but also a detailed scrutiny to the EAC or SLAEC of the application and other documents like final EIA report, outcome of the public consultation including public hearing proceedings submitted by the Project Proponent. The word 'scrutiny' should have been employed in the Notification by the Legislature with clear intention that a critical observation or examination of all the available materials before submitting a recommendation to the regulatory authority. The Notification requires a categorical recommendation from the EAC or SLEAC on conclusion of the proceedings of appraisal. Hence, the appraisal cannot be a mere formality or a simple ritual to pass on. The Hon'ble High Court, Delhi in *Utkarsh Mandal v. Union of India* (2009 X AD (Delhi) 365 has held as follows:*

"We, therefore, hold in the context of EIA Notification dated 14 September 2006 and the mandatory requirement of holding public hearings to invite objections, it is the duty of the EAC, to whom the task of evaluating has been delegated, to indicate in its decision the fact that such objections, and the response thereto of the project proponent were considered and the reasons why any or all of such objections were accepted or negated. The failure to give such reasons would render the decision vulnerable to attack on the ground of being vitiated due to

non application of mind to relevant consideration and therefore arbitrary. (Para 4)."

46. *The Hon'ble Apex Court in Maharashtra State Board of Secondary and Higher Secondary Education v. K.S. Gandhi (1991) 2 SCC 716 has held as follows:*

"21. Thus, it is settled law that the reasons are harbinger between the minds of the maker of the order to the controversy in question and the decision or conclusion arrived at. It also excludes the chances to reach arbitrary, whimsical or capricious decision or conclusion. The reasons assure an inbuilt support to the conclusion/decision reached. The order when it affects the right of a citizen or a person, irrespective of the fact, whether it is quasi judicial or administrative fair play requires recording of germane and relevant precise reasons. The recording of the reasons is also an assurance that the authority concerned consciously applied its mind to the facts on record. It also aid the appellate or revisional authority or the supervisory jurisdiction of the High Court under Article 226 or the appellate jurisdiction of this Court under Article 136 to see whether the authority concerned acted fairly and justly to mete out justice to the aggrieved person."

47. *The NGT in Appeal No. 20/2013 in Rudresh Naik v. Goa State Coastal Zone Management Authority has held as follows:*

"It is settled rule that administrative authorities which are dealing with the rights of the parties and are passing orders which will have civil consequences, must record appropriate reasons in support of their decisions. Certainly, these decisions must not be like judgments of the courts, but they must provide insight into the thinking process of the authority as to for what reasons it accepted or rejected the requests of the applicant. (Para 12, 13 and 14)"

162. The application filed by the project proponent seeking EC in Form I for the proposed airport did not reveal the true, correct and complete disclosure of factual details and it also suffered by suppression of facts and with false statements as detailed infra:

1. The EIA report placed before the EAC was prepared which was by a thoroughly unqualified and incompetent agency for the reasons supra.
2. Even before the ToR was finalized on 13.10.2010, the 5th respondent/consultant collected data, both primary and secondary and admittedly, conducted the field study between July to October 2010.
3. The EAC did not raise any query regarding the competency and also the commencement and completion of field study even before the finalization of ToR.
4. The EIA was made a thorough deviation and was prepared in violation of the EIA Guidance Manual for Airports issued by the MoEF on vital aspects. The EIA Guidance Manual for Airports requires that the primary data should cover one season other than monsoon and while the secondary data should be collected for one full year. Contrarily, the entire data were collected only during monsoon. The EIA placed before the EAC would clearly indicate that the entire data was collected covering a distance of 10 km radius of the site, while the sector specific manual states at page No. 10 about topo map for 15 km radius. Apart from that, Chapter 4 of the Manual states that the secondary data should be collected covering 15 km aerial distance for parameters at 9(III) of Form I of the EIA Notification. Clause 4.4 of the sector manual requires the measurement of the emission from the aircraft has to be taken into account. But, no attempt was even taken during the study towards this. It is true that AAQ standards are mentioned in Table 3.9 at page No. 73 of the EIA report, but they were of the year 1998. Those AAQ standards have been replaced by standards on 18.11.2009 which are more stringent. There is nothing to indicate in the EIA

report that there was any study made with airport related issues, such as, aircraft noise, emission of hydrocarbons and their likely impact. No discussion is found as to how the hazardous waste is to be handled. The solid waste generation shown as 27 kg/day which cannot but be an understatement. It casts a doubt whether the EAC had in its mind a plant or a factory instead of an airport project while considering the EIA. The words 'plant, plant site, plant building, plant operators' are used in paragraphs 3.12.1, 3.15.1, 4.3.7, 4.4.6 and 4.4.8. Paragraph 4.4.8 of the EIA reads as follows:

"Elaborate green belt and aforestation will be developed along peripheral and other vacant portions of the factory premises, which will considerably enhance the floristic density in the area."

Para 5.1.1 reads "...by implementing better technology, the factory can often take advantage of the dual benefits of reduced waste generation and a more cost efficient operation."

Similarly, paragraph 4.4.5 reads, "The increase in traffic density due to transportation of raw materials and products will be very low by means of lorries and trucks 120-180 times per month."

No doubt, all the above are out of context and irrelevant and made without any application of mind. Probably, the same might be a verbatim copy of some other report for a factory or plant.

5. As could be seen from the EIA Notification, 2006, there is a mandate for the preparation of a draft EIA report initially and after finalization of ToR and summing up of such draft EIA report has to be necessarily placed during Public Consultation as required under paragraph 7. III— Stage (3). In paragraph 7. III (vii) of the EIA Notification, 2006 reads, *"After completion of public consultation, the applicant shall address all the material environmental concerns expressed during this process and make appropriate changes in the draft EIA/EMP. The final EIA report so prepared shall be submitted by the applicant to the concerned regulatory authority for appraisal."* The 5th respondent/consultant has categorically admitted in his reply that they submitted the EIA report in October, 2010, which is only a draft EIA report. The 3rd respondent/project proponent has filed a report which incorporated the minutes of the public hearing details which are not only insufficient, but also cannot be termed as final EIA report as envisaged above. Thus, in the instant case, no final EIA report was ever prepared or submitted by the applicant before the concerned regulatory authority.
6. At the time of the public hearing, as seen from the minutes of the hearing the local people who participated in the public hearing voiced their concerns and objections to the draft EIA report. But, none of the objections was addressed in the EIA report. It is pertinent to point out that when those objections and concerns were voiced by the participants during the public hearing, the 3rd respondent/project proponent had given clear undertaking that a detailed EIA study would be conducted later. But, no material was placed to indicate that any detailed EIA study was conducted later. Apart from that, the EIA report would show that no such subsequent study was conducted. If the undertaking given by the 3rd respondent/project proponent at the stage of public hearing to conduct a detailed EIA study was not done, the EAC should have rejected the EIA report as incomplete for want of a detailed EIA study. This would also be indicative of non-exercise of due diligence on the part of the EAC. The EAC has thoroughly forgotten that it could only appraise a final EIA report and nothing less than that, since paragraph 7. IV of the EIA Notification, 2006 requires the EAC to scrutinize only a final EIA report.

163. Thus, in the instant case, even without a final EIA report, the other materials were taken up for appraisal and hence, both the appraisal by EAC and consequent clearance by MoEF have to be termed as faulty.

164. The EIA report did not assess the impact of the proposed activity of the 3rd respondent/project proponent on land, water air, environment and ecology of the area and it did not provide the required details in these respect as mandated by law, thereby enabling the EAC to make a scrutiny and take an independent decision on the issues of environment. The inadequacy of the EIA report is demonstrated by the fact that it has not considered details about the flora and fauna. The EIA report did not provide any details about the flora in the region except stating that there are no endangered species in the area. A report of the Salim Ali Foundation clearly states that there are more than 212 species of plants. The report also states that there are more than 60 species of fishes and more than 80 species of birds. But, the EIA report did not reflect the same. The EIA has not made any attempt, whatsoever to characterize the ecology of the area including wildlife that inhabits forested lands which required to be cleared for providing a long runway at the proposed airport. The crucial aspects relating to filling up of paddy lands and its impact on the environment were not considered though objections were raised in that regard.

165. The EIA report never cared to consider the environmental impacts of converting Aranmula paddy lands, in particular, the reclamation of those lands and its consequences. The EAC has not considered the materials placed in respect of conversion of part of paddy lands which according to the 3rd respondent/project proponent the same was done by his predecessor in his interest. But, admittedly, a number of proceedings were initiated in both civil and criminal courts and even by vigilance department of the State of Kerala which were all pending during the relevant period. It is admitted by the 3rd respondent/project proponent that the entire area of 500 acres of land required for the airport project and consists of both paddy lands and wetlands and it is also added by the 3rd respondent/project proponent that the lands remained shallow for decades and hence it can be put into better use of construction of the airport. It is also true that the conversion of the land-both paddy lands and wetlands already done and proposed to be done are actually the subject matter of the proceedings before different fora in Kerala State, which fall outside the jurisdiction of the Tribunal. But, the pendency of those proceedings does not impede the Tribunal to consider the impact of such conversion and alleged degradation of environment. In the instant case, admittedly, a part of the paddy fields/wetlands was converted while the remaining is to be converted by the 3rd respondent/project proponent for the proposed airport. The conversion of paddy fields and wetlands, its impact on the ground water resources in the area, the impact of the rivulet and streams, namely, *Kozhithodu*, and *Karumaramchaal* were never taken into consideration by the EAC.

166. The EIA report has not spoken anything about the impact of the project on the displacement of the people as a result of the present project. The EIA report does not even mention the number of houses in the area or population that will be displaced as a result of acquisition of the land for the project and the filling up the wetlands.

167. In so far as the water requirement is concerned, the EIA report under '2.8.2 Water' states that the total requirement of raw water for the airport is 7.55 KLD which will be met from own bore wells and municipal water supply. But, it does not discuss the impact of extraction of water on the water table in the area. The EIA mentions under '2.3.7 under 'Approach Road' that a four lane approach road with 23 m width is proposed from Aikkara junction to the terminal building for which land needs to be acquired. Similarly, road from Parumootumpadi junction to Aikkara junction is also required to be widened for smooth vehicular traffic to the proposed airport. But, the EIA has not addressed on environment, socio-economic and other impacts of the said

road construction. The contention of the 3rd respondent that these roads do not form the part of the proposed airport is not acceptable. Needless to state that the roads would not be laid in the absence of the airport project and therefore, the environmental impact of the road laying must have been included in the EIA report. The EIA at paragraph '2.6(n) Land Use Classification' states that Government has recognized the location of this project site as unclassified land. But, the said statement is falsified by the admission of the fact that part of the paddy land has been filled up. The EIA has given false statements on archeological and cultural monuments. The EIA in paragraph 2.6(a) reads thus: "*The location does not have any archeological monuments in nearby 10 km radius*" and at 2.6(c) - *Cultural Monuments-This project does not have any cultural monument within the area of 10 km radius*. It is pertinent to point out that the Aranmula village itself is a heritage village and got its name from the centuries old Aranmula Parthasarathy Temple which is dedicated to Lord Sri Krishna. The said temple on the banks of River Pampa attracts large devotees throughout from India. Entire region is with temples of importance. The holy Pampa River is described as the boundary of the project site in EIA, reported.

168. The practice of collecting data even before the finalization of ToR by the EAC and the communication of the same to the project proponent is untenable in the eyes of law and it also sends wrong procedural signals. Accepting such a procedure is bound to set very unhealthy precedent. Instead of deprecating the practice, the EAC, in the instant case, has given its seal of approval. We direct the concerned officials of MoEF to take note of this and initiate procedural reform(s) to discourage this practice.

169. 'Environmental Clearance document' is certainly not a piece of official note conveying the decision of the authorities to the Project proponent. It is a document which reflects the intent and policy of governance vis-a-vis the economic development and natural resources management of the country. Even a cursory scrutiny of the impugned EC would reveal the mechanical mindset and total lack of application of mind on the part of the authorities issuing such an important document of utmost sanctity. We now cite some glaring examples below:

170. The EC issued in the instant case lists two sets of conditions for strict compliance by the project proponent. While Paragraph 10 lists 20 "Specific conditions" Paragraph 11 lists 31 'General conditions'.

Specific condition 10 — (vi) reads as follows:

'Project proponent shall have a Master Plan for the project and other related facilities if any. Such other facilities shall be considered by the Competent Authority only after a Cumulative Environment Impact Assessment is carried out'.

171. The above condition refers to the carrying out of Cumulative Environment Impact Assessment. The instant project namely the airport project in the proposed site does not require any Cumulative Environment Impact Assessment study from any angle of environment. No reference to the need for such a study has been made in any of the documents produced before the Tribunal by any of the respondents including the MoEF. We have not come across any indication and mention of it in the minutes of the EAC also.

172. General Condition 11 - (viii) reads as follows:

'Ambient noise levels should conform to residential standards both during day and night'

173. We are shocked to see the imposition of a condition referred to above, to say the least. We are at a loss to understand the rationale of expecting 'residential standards of noise' in the airport area. Amazing indeed.

174. General Condition 11 - (ix) reads as follows:

'Fly ash usage shall be explored as building material in the construction as per the provisions of Fly Ash Notification of September, 1999 and amended as on 27th August 2003'.

175. We wonder whether any observation on the above condition in the context of "Airport Project" needs to be made by the Tribunal at all. At best, this is an example of making a mockery of EC conditions.

176. General Condition 11 - (xvi) reads as follows:

Treated effluent emanating from STP shall be recycled/reused to the maximum extent possible. Treatment of 100% grey water by decentralised treatment should be done. Discharge of unused treated effluent shall conform to the norms and standards of the Uttar Pradesh State Pollution Control Board. Necessary measures should be made to mitigate the odour problem from STP"

177. We find it difficult to see the relationship between the project in question and the Uttar Pradesh State Pollution Control Board. In our opinion, the officials responsible for making a blunder as above owe an explanation to their own selves.

178. We are of the considered view that the "conditions" cited above are typical examples of the (in) famous "Copy and Paste" from the list of conditions appended to the EC of some other project(s), without any application of mind and 'non-verification' of the document before placing the same for signature by the authorized signatory. We direct the MoEF to take steps to restore the sanctity of important documents such as the EC.

179. We have made a scrutiny of the 'Terms of Reference' and also the subject coverage in the EIA report. In our view, the ToR for EIA are not as exhaustive and project specific as they should have been. The EAC, whose role is of great significance in the decision making process, should have demonstrated its collective wisdom and professional acumen by being more "Project specific" while framing the ToR. We hope that the EAC would note this for future reference.

180. The proposal in respect of the airport project of the 3rd respondent/project proponent was taken up for consideration by the EAC in its 107th meeting held on 15th and 16th of December 2011. The relevant part is found in paragraph 3.2 which reads as follows:

"The project was again considered by the EAC in its meeting held on 21st and 23rd September, 2011 and sought additional information. The details submitted and presented were examined by the committee.

During discussion, the following points emerged:

- (i) Quantify the water conservation taking into the water from RWH, water efficient fixtures and reuse of treated wastewater and resubmit the water balance.*
- (ii) Quantify the energy savings as per ECBC norms and resubmit*
- (iii) Submit the details of manpower requirement/proposed for Risk Environment management team.*
- (iv) Apart from CSSR, the Hospital as proposed shall be built up.*
- (v) All the recommendation of the EMP shall be complied with letter and spirit.*
- (vi) The wastewater from hangers shall be tested for presence of heavy metals in any and shall be treated in STP. The treated waste water shall be used for gardening/flushing.*

The Committee recommends the proposal for EC after submission of the information at (i) to (iii) to Ministry with the above conditions in the clearance letter for strict compliance by the project proponent.

181. A reading of the above would make it abundantly clear that it is bereft of reasons either for negating the objections and concerns in the public hearing nor for accepting the response, information and clarifications provided by the project proponent. What are all stated is the gist of the original application of the project, the main issues raised at the public hearing and except the above, it was recorded that there was submission of response by the project proponent to the issues raised and based on information and clarifications, the Committee recommended the project for EC subject to the specific conditions stated therein.

182. It is not in controversy that at the time of public hearing many objections and concerns were raised and the same were also recorded in the minutes of the public hearing. As rightly pointed out by the learned counsel for the appellants, all issues raised at the time of public hearing were not even stated in the above recordings of the minutes. The detailed scrutiny as required by the notification in order to make an evaluation of the project has not been done since there is nothing to indicate in the minutes of the meeting that in respect of the issues raised at the time of public hearing in respect of each issue i.e., objections raised at the public hearing and what was the correspondence and clarification made by Project Proponent thereon and why and for what reasons those objections were negated and the clarifications of the project proponent were accepted. Thus, the Tribunal is able to notice a thorough failure on the part of the EAC in performing its duty of proper consideration and evaluation of the project by making a detailed scrutiny before approving the same. The contentions put forth by the learned counsel for the respondents that number of specific condition were stipulated by the EAC at the time of recommendation and without proper consideration of both objections and concerns at the time of providing and proper responses made by the Project Proponent, those conditions could not have been stipulated cannot be countenanced. It is true that the EAC while recommending the project for the grant of EC has stipulated conditions. Mere stipulation of specific conditions *ipso facto* cannot be an answer, while the minutes recorded above clearly indicate that there was no appraisal wherein an evaluation by detailed scrutiny of the project is required as per the mandatory provisions of EIA Notification, 2006. The Central Government, in its wisdom thought it fit and necessary and circumstances also warranted issuance of the EIA Notification, 2006 superseding the earlier Notification, 1990 whereby EAC has been constituted for all projects in Category A and SEAC for Category B for the purpose of screening, scoping and appraisal of the projects. The EAC is constituted consisting of a Chairman and number of members who are experts from different fields only with the sole objective of national interest in order to ensure establishment of new projects or expansion of already existing activity without affecting the ecological and environmental conditions. Thus, a duty is cast upon the EAC or SEAC as the case may be to apply the cardinal and Principle of Sustainable Development and Principle of Precaution while screening, scoping and appraisal of the projects or activities. While so, it is evident in the instant case that the EAC has miserably failed in the performance of its duty not only as mandated by the EIA Notification, 2006, but has also disappointed the legal expectations from the same. For a huge project as the one in the instant case, the consideration for approval has been done in such a cursory and arbitrary manner even without taking note of the implication and importance of environmental issues. On the same day the EAC took for appraisal not only the airport project in question, but also other projects which would be indicative of the haste and speedy exercise of its function of appraisal of the project. It casts a doubt that whether the EAC would have accepted the response made by the Project Proponent in respect of the objections and concerns raised at the time of public hearing as a Gospel Truth. Thus, the EAC has not conducted itself as mandated by the EIA Notification, 2006 since it has not made proper appraisal by considering the available materials and objections in order to make proper evaluation

of the project before making a recommendation for grant of EC.

183. The EAC is a High Level Committee entrusted with the task of evaluating the projects, which exercise it has to do with its wisdom, experience and expertise of the members. Needless to say, while doing that exercise for such evaluation, the Committee should keep wider interest of the nation as paramount in its mind. A duty is cast upon the EAC to strike a balance between the development on one side and ecology and environment on the other, thereby ensuring larger interest of the society of the State. While such vital and indispensable task is entrusted with the fervent hope and expectation, shirking of responsibility in a hasty or evasive manner would not only be against the objective of its constitution, but also defeats the purpose for which the Committee is functioning. Where a particular point is not decided unanimously, specific noting should be prepared and scientific reasons for accepting the majority view should be recorded and maintained for future reference. It should not be forgotten by the EAC that either the acceptance or rejection of a proposal should be the result of a proper and purposeful exercise on the recommendations of which the regulatory authority can safely act and take a correct decision thereon.

184. The learned counsel for the respondents in their final attempt of getting a support of the Doctrine of Sustainable Development would submit that the Aranmula airport project is one of the national importance whose approval will lead to a large development to the State of Kerala directly and indirectly. The airport project, if allowed to be set up as approved, would play a vital role in industrial development and commercial trade and it would offer crucial services for transport of goods and passengers. Apart from that, it would be useful for domestic and international tourism when limitation of time is a key factor. It would play as catalyst to economic development. In turn, it would generate demand for the former. The people of Kerala would like to have modern infrastructure in the State with least disturbance to environment. The State Government representing the public interest has supported and lent its full favour for this project. This project would be an employment generating development which in turn would be a boon to the educated and unemployed in the State and this would be welcomed in a larger public interest of Kerala and economic interests of the country as a whole. In the instant case, environmental issues were fully taken up both by EAC and also MoEF. On being satisfied with the project and finally MoEF accepting the recommendations made by the EAC, has granted the EC. Had not the objections and concerns raised by the public been considered, by the MoEF, number of specific and special conditions in respect of the environmental issued could not have been attached to the EC. This fact would be indicative of the consideration of all environmental and ecological issues and hence the EC has got to be upheld.

185. It is not as if the Tribunal is unmindful of its duty that a balance has to be struck between ecology and development in order to uphold the principles of sustainable development and precautionary principle as envisaged under section 20 of the NGT Act, 2010. Needless to say, striking a balance between the ecology and development is a difficult task. But, at the same time, it cannot be forgotten that for one's sake other should not be sacrificed. A balance has to be struck whereby a compromise is made in order to achieve the development without causing environmental degradation and damaging ecology. Ordinarily, the contention put forth by the learned counsel for the appellants that if not the environmental issues and concerns were not considered, the conditions specified in respect of the particular project would not have been attached to the EC. But, in the instant case, all mandatory principles and guidelines as envisaged by the EIA Notification, 2006 have been violated by (1) Form I along with the application for EC. (2) incompetency of the consultant who prepared the EIA which is the basis for the grant of EC, (3) public hearing and public consultation and (4) non-application of mind and lack of due

diligence.

186. In a democracy like ours, all natural resources are wealth of the country and in the custody of the State as a Trustee. They are all meant for public use and enjoyment and the public at large is the beneficiary of the same. The State as a Trustee is under legal obligation to protect them. We hope that the recommending body EAC and the regulatory agency MoEF are aware of the above concept of public trust and issue clearance for the development projects in tune with this concept.

187. Under such circumstances, the Tribunal is of the considered opinion that there is no option but to scrap the impugned EC granted by the MoEF to the 3rd respondent/project proponent for setting up the Aranmula airport.

188. In the result, the appeal Nos. 172-174 of 2013 (SZ) and 1 and 19 of 2014 (SZ) are allowed granting only the following reliefs.

189. It is declared:

1. That the 5th respondent, Consultant namely, Enviro Care India Pvt. Ltd., was not competent to prepare the EIA or appear before the EAC in respect of the proposed Aranmula Airport Project.
2. That the public hearing conducted for the proposed Aranmula Airport Project is in violation of the mandatory provisions of the EIA Notification, 2006 and it is vitiated.
3. That the recommendation of the EIA made by EAC for the grant of EC in respect of the proposed Aranmula Airport Project as invalid.
4. The EC granted by the 1st respondent/MoEF in F. No. 10-51/2010-IA. III dated 28.11.2013 is set aside and consequently, the 3rd respondent/Project Proponent namely, KGS Aranmula International Airport Ltd., is restrained from carrying out any activities either constructional or otherwise in respect of the Aranmula Airport Project on the strength of the above environmental clearance.

190. In all other respects, the appeals are dismissed and all connected MAs are closed.

The parties to bear their respective cost.

Before concluding, the Tribunal feels it fit and necessary to record its appreciation for the effective and efficacious assistance rendered by T. Mohan, A. Yogeshwaran, Ashok M. Cherian, K. Janardhan Shenoy, R. Krishnaraj, Ramesh Kumar Chopra, Ranjith Thamban, Senior Advocate, Rema Smrithi, Mallika Srinivasan and Jacob Alex, Advocates appeared for the appellants and K.P. Dhandapani, Advocate General, State of Kerala, T.R. Rajagopalan, Senior Advocate, P.S. Raman, Senior Advocate, Pushpa Menon, C. Sangamithirai, Standing Counsel for MoEF, Rohan D. Alexander, Government Pleader, State of Kerala, M. Ajay, Sathish Parasaran, Suvitha. A.S., Special Government Pleader, State of Kerala appeared for respondents for adjudicating the matters.

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

APPEAL NO. 39 OF 2012

CORUM:

**Hon'ble Mr. Justice U.D.Salvi (Judicial Member)
Hon'ble Prof. A.R. Yousuf (Expert Member)**

IN THE MATTER OF:

1. SAVE MON REGION FEDERATION

Through its General Secretary,
Lobsang Gyatso, Near High Secondary
School Tawang, P.O. Tawang,
District Tawang, Pin Code-790 104.

2. LOBSANG CHOEDAR

Khet Village, P.O. Mukto, P.S. Jang,
District Tawang, Pin Code 790 104
Arunachal Pradesh.

APPELLANTS

Versus

1. UNION OF INDIA

Through its Secretary
Ministry of Environment and Forests
Paryavaran Bhawan, CGO Complex
Lodhi Road, New Delhi-110 003.

**2. ARUNACHAL PRADESH STATE POLLUTION CONTROL
BOARD, (APSPCB)**

Through its Member Secretary,
Arunachal Pradesh State Pollution
Control Board, Department of Forest,
Environment and Wildlife Management,
Itanagar-791111.

3. NJC HYDRO POWER LIMITED

Through its Vice President and CFO
With its registered office at
A-12, Bhilwara Towers, Sector-1,

Noida-201301.
Uttar Pradesh

4. State of Arunachal Pradesh

Respondents

Counsel for Appellant(s):

Mr. Ritwick Dutta, Mr. Rahul Choudhary, and
Ms. Parul Gupta, Advocates.

Counsel for Respondent(s) :

Ms. Divya Prakash Pande, for Respondent No.1
Mr. Anil Shrivastav, Adv for Respondent No. 2
Mr. Raj Panjwani, Sr. Advocate Mr. Sanjay Upadhyay and
Mr. Saliq Shafique, Advocates for Respondent No.3.
Mr. Anil Srivastava and Mr. Pranav Rishi Advocate for
Respondent No. 4

Per U.D. Salvi J. (Judicial Member)

J U D G M E N T

Reserved on: 29th January, 2016

Pronounced on: 7th April, 2016

1. In the present Appeal, Save Mon Region Federation – an organization consisting of citizens of Monpa indigenous community in Tawang district of Arunachal Pradesh and Mr. Lobsang Choedar a Social Activist, Senior Buddhist Lama and Chief Advisor of the said Federation, have assailed grant of Environmental Clearance (EC) dated 19.4.2012 to the construction of 780 Mega Watts (MW) Nyam Jang Chhu Hydroelectric Project (NJC-HEP) in Tawang district of Arunachal Pradesh.

2. Admittedly, 780 MW HEP envisages construction of 10.2m high and 15m long barrage on eco-sensitive stretch of Naymjang Chhu River basin near Zemithangin district

Tawang of Arunachal Pradesh. The project involves 23.45km long and 6.2m. diameter Head Race Tunnel (HRT) requiring extensive tunneling in geologically fragile landscape and comprises of eight (8) de-silting chambers and with underground Powerhouse having 6x130MW Pelton Turbines. The HRT bypasses around 35kms stretch of river between barrage and the powerhouse. The Appellant adds that the project also involves construction of captive hydropower project of 7.5MW, Khangteng HEP to provide power during construction of 780MW Nyamjang Chhu project.

3. It is also not disputed that total land proposed to be acquired for the project is around 254.55ha, out of which 10.08ha is private land and 244.46ha is community land with total submergence area of 39.34ha, and 89.5271ha of forest land has been considered for diversion proposal under the Forest (Conservation) Act, 1980.

4. Following submission of proposal for grant of EC to the said project in Form-I and the public hearing prescribed under the Environment Clearance Regulations, 2006, the Expert Appraisal Committee (EAC) for river/valley and hydroelectric projects constituted by the Ministry of Environment and Forests (MoEF), considered the project proposal and prescribed Terms of Reference (ToR) for preparation of Environment Impact Assessment (EIA)

Report on 29.12.2009. The Central Electricity Authority (CEA) assessed capacity of the project based on hydrology and discharge data approved by the Central Water Commission (CWC) and thereupon capacity of the project was reduced to 780 MW from 900MW, changing the feasibility location of the project components, land requirement and thereby environmental parameters. The public hearing was conducted at New Lumla, District Tawang on 8.2.2011. Respondent No.2- Arunachal Pradesh State Pollution Control Board (APSPCB), submitted report of public hearing to MoEF on 22.2.2011. The EAC in the Meeting held on 26th March 2011 (48th Meeting) and on 16-17th September, 2011 (52nd Meeting), considered project proposal and recommended grant of EC, whereupon the MoEF granted EC to the project on 19.4.2012.

5. The Appellants have challenged the grant of EC, mainly on the following grounds:

(1) Faulty Scoping Process:

- a) Concealment of information, submission of false and misleading data in Form-I,
- b) Lack of application of mind by the EAC at scoping stage, inasmuch as it overlooked inappropriateness for siting barrage at the place used by Black necked Crane for wintering, non-inclusion of ToR for impact assessment of captive small hydel power

7.5MW Khangteng HEP and ancillary infrastructures, unjustified exclusion of important ToRs from Model ToR for North-Eastern projects, absence of prescription for cumulative impact assessment and riverine basin studies in Tawang River Basin, and absence of ToRs relating to impacts of Catchment Area Treatment (CAT) and Compensatory Afforestation (CA).

- (2) Faulty public consultation process, inasmuch as the EIA report was not as per ToR, poor quality of EIA Report, farcical hearing.
- (3) Lack of application of mind by the EAC and MoEF during appraisal of project and thereafter by MoEF.

6. Respondent No.1– Ministry of Environment, Forest and Climate Change, Government of India joined issues with replies dated 26.7.2013 and dated 11.1.2016. Lastly, MoEF relied upon the record and contended that the EAC had thoroughly scrutinized the proposal for grant of EC in question and upon examination recommended the project for scoping clearance, and public hearing for the project was conducted as per provisions of the EIA Notification, 2006 and thereupon EAC thoroughly examined the environmental issues before recommending the project for grant of EC and, thereafter, the Ministry duly granted EC to

the project after following due procedure as per provisions of the EIA Notification, 2006. Respondent No.1 MoEF, placed before us copies of the Minutes of EAC Meetings held on 20-21 July, 2015 and 24-25 August, 2015, wherein the report on “carrying capacity study of Tawang River basin” through North-Eastern Hill University received in June, 2015, was considered vide affidavit dated 11.1.2016.

7. Respondent No.2- APSPCB denied Appellant’s contentions and specifically contended that the public hearing was arranged by the Respondent No.2 in systematic, time bound and transparent manner ensuring widest possibility of public participation at or about the project site as per Appendix (IV) of the EIA Notification, 2006. The Respondent No.2 revealed that date, time and venue for conduct of public hearing were finalized in consultation with the Deputy Commissioner, Tawang district and Notices for public hearing were issued, both in English and in local Mompa dialect in the English script and published in two (2) local newspapers “Arunachal Times” and “Arunachal Front” both editions dated 6.1.2011 for widest publicity, and the names of designated officers where the public could access the draft EIA Report and the Executive Summary of EIA Report before the public hearing were clearly mentioned in the public hearing Notices advertised in newspapers; and these documents were made

available in such offices and were accessible to the public for inspection as mandated in the EIA Notification, 2006. The Respondent No.2 revealed that executive summary of EIA Report and other details of the project were uploaded on the Website of the Board and Notice of public hearing inviting suggestions, views, comments and objections from public was given thirty (30) days' in advance of the scheduled date of public consultation. The Respondent No.2 further revealed that as many as 457 persons a large scale public participation in sparsely populated State of Arunachal Pradesh, attended public hearing at Multi-Purpose Hall, New Lumla, Tawang district on 8.2.2011; and entire proceedings of public hearing was Video graphed duly recorded and dispatched to the Regulatory Authority as per provisions contained in the EIA Notification, 2006. Copies of record of the public hearing were placed before us by Respondent No.2- APSPCB along with its reply dated 13th May, 2013.

8. Respondent No.3 NJC Hydro Power Limited –Project Proponent (PP), resisted Appeal with reply dated 17.7.2013 and Sur-rejoinder dated 24.9.2013 to the rejoinder filed by the Appellants. According to Respondent No.3, HEPs are most eco-friendly project, generating hydropower, a benign renewable source of energy, needed for developing infrastructures in remote areas and the State Govt. has

signed Memorandum of Understanding (MoU) for developing several such projects in State of Arunachal Pradesh in pursuance to its policy- 'Arunachal Pradesh Hydro Power Policy, 2008' for development of hydropower potentials. A Memorandum of Agreement (MoA) was signed between Respondent No.4- Govt. of Arunachal Pradesh and Bhilwara Enginery (BEL) on 28.5.2009 to develop Nyamjang Chhu HEP and a Special Purpose Vehicle (SPV) in the name of NJC Hydro Power Ltd was formed by BEL for execution of Nyamjang Chhu HEP with consent given by the Respondent No.4 on 10.6.2010 in terms of said agreement. The Respondent No.3 further revealed that the project is run of the river type scheme with peaking poundage to harness the hydropower potential of River Nyamjang Chhu with its diversion barrage near Zemithang village with powerhouse in village Kharteng about 4km upstream of the confluence of Nyamjang Chhu with Tawang Chhu. According to the Respondent No.3, majority of catchments, upstream of diversion structure lies in Tibet, and the catchment within Indian Territory downstream of diversion structure shall remain largely undisturbed due to several tributaries joining the river system. Initially, the Respondent No.3, revealed that the project was allotted in three stages, but on basis of pre- feasibility report to which the Respondent No.4 accorded its consent the project was found to be more viable and environmentally less demanding in single stage,

and Memorandum of Agreement amongst other things including provisions for the following developmental and welfare activities for benefit of local areas was signed on 28.5.2009:

- a.** Development of two small HEP's viz Khangteng HEP (7.5MW and Shyaro Nallah HEP (3MW),
 - b.** From the date of commercial operation the State shall be given free power @12%.
 - c.** Additional 1% free power from the project for Local Area Development Fund.
 - d.** Hundred (100) Units of electricity per month to each Project Affected Family (PAF) for a period of ten years.
 - e.** The Company shall also bear the State Government's share of 10% of the project cost of Rajiv Gandhi Vidyutikaran Yojna (RGGVY) within a radius/surface distance from the powerhouse/dam site of 10 kms.
 - f.** Recruitment of project personnel and award of work, where preference to local contractors and project affected eligible candidates in the matter of recruitment of project personnel and award of work apart from reservation of posts in the project.
 - g.** Provision of institutional mechanism, the Project Monitoring Committee under the Chairmanship of Secretary, Power or any other State Govt. Authority for the purpose of overseeing progress of the project and address issues arising out of its implementation.
- 9.** According to the Respondent No.3, the EAC raised several issues and approved ToR with various additional

conditions and accordingly two Agencies WAPCOS Limited (A Central Govt. of India Organization) and R.S Enviro-link Technologies (RSET) for due collection of environmental data and its study were appointed and the EIA as well as EMP report was prepared by WAPCOS as per approved ToRs and the EIA study included submergence of area i.e. area within 10km of submergence area, area to be acquired for various project components and area within 10km of project components, namely barrage and powerhouse; and the Central Inland Fishery Research Institute, Kolkata (CIFRI) was appointed to conduct the study for estimation of environmental flow required to maintain aquatic life in the river and migration of fishes. According to the Respondent No.3, requisite environmental data was duly collected, detailed filed/studies were carried out, environmental impacts were examined in detail and thereupon Environmental Management Plan was developed by the consultants.

10. According to the Respondent No.3, four different alternatives for project layout were examined in detail and detailed comparison of alternatives was made, and finally fourth alternative – present barrage located in Zemithang with powerhouse proposed to be located on the left bank of NJC river in Kharteng village was selected, based on suitability of geological consideration and minimum

submergence area required, easy accessibility and other positive construction benefits with minimal environmental impact, minimum tree cutting and minimum disturbance to the local population during construction, minimum height of the diversion structure due to flat grade and sufficient width of the river and no impact on religious monuments such as Gorsan Stupa. A detailed project report in respect of fourth alternative was placed before the CEA for Techno Economic Concurrence; and the CEA finalized project capacity at 780MW during Techno Economic discussion and same was accepted by the Respondent No.3 and approved by Respondent No.4- Govt. of Arunachal Pradesh as well as MoEF for revision of project capacity from 900MW to 780 MW on 2.8.2010. After completion of studies by CIFRI, WAPCOS and RSET, the Respondent No.3 added, the draft Environmental Impact Assessment Report, including detail Environment Management Plan (EMP) was submitted to Respondent No.2- APSPCB on 10.12.2010 with a request to conduct public hearing for the project; and public hearing for the project was duly conducted by Respondent No.2- Board on 8.2.2011 under the Chairmanship of Deputy Commissioner, Tawang. According to the Respondent No.3, the EIA study was finalized and submitted in 2011 in pursuance to the proceedings of said public hearing and the same were submitted to MoEF, New Delhi for consideration; and the project was duly considered

by the EAC on 26th March, 2011; and several observations were made by the EAC with respect to various EMPs; and the MoEF sought clarifications of the observations made by the Committee from the Respondent No.3, which were replied by the Respondent No.3 in August, 2011. The Respondent No.3 added that based on replies submitted by them the project was again considered by the EAC on 17.9.2011 and the Committee recommended the project for EC.

11. Adverting to Memorandum of Appeal, the Respondent No.3, denied specific contentions raised by the Appellants. According to the Respondent No.3, Khangteng HEP is separate, independent and small Hydropower project located about 30 km from the project in question and is part of MoA on a Built, Operate and Transfer basis for supply of power to the project in question during construction phase, which has been envisaged primarily on environmental grounds to do away with diesel generators having adverse environmental impacts. This being a project on single river system, it will not have any cumulative impact with any other existing or planned activities in the locality, though several HEPs may have been proposed in Tawang region in general. According to the Respondent No.3, cumulative effect of the project is considered when project shares same catchment.

12. Main thrust of submission made on behalf of the Appellants in the present case is on faulty project scoping, which has multiple cascading effects on various stages of process of grant of EC and its final outcome. Perusal of the Environment Clearance Regulations, 2006, reveals that prior EC process for new project has four stages namely, (1) Screening (2) Scoping, (3) Public Consultation and (4) Appraisal, though all of which may not apply to set of particular cases. However, the project in question being River Valley project of 780MW HEP generation, is category 'A' Project listed at serial No.1-(c) of the Schedule of Environment Clearance Regulations, 2006, warranting scoping, public consultation and appraisal under the said Regulations. 'Scoping' refers to process by which the EAC determines detailed and comprehensive ToR addressing relevant environmental concerns for preparation of EIA Report in respect of the project for which prior EC is sought. The EAC determines ToR on the basis of information furnished in the prescribed Application Form-I, including ToR proposed by the Applicant, site visit by Sub-group of EAC concerned, only if considered necessary by the EAC. In 'public consultation' the concerns of local affected persons (PAP) and others having plausible stake in environmental impacts of the project or activity, are ascertained with a view to take into account all material concerns in the project or activity designed; and 'public

consultation' comprises of 'public hearing' at the site or in its close proximity and obtaining responses in writing from other concerned persons, having plausible stake in environmental aspects of the project/ activity. For obtaining responses in writing from other concerned persons, having plausible stake in environment aspects of the project or activity, the concerned Regulatory Authority invites responses from such concerned persons by placing on their Website Summary of the EIA Report prepared in the format given in Appendix 3-A, along with a copy of the Application in the prescribed Format within seven (7) days of receipt of written request for arranging 'public hearing'. The Regulatory Authority concerned, is under obligation to make available on written request from any concerned person the draft of EIA Report for inspection at invited place during normal office hours. Procedure for conduct of 'public hearing' given under Appendix IV of the Environment Clearance Regulations, 2006, prescribes arrangement of 'public hearing' in a systematic, time-bound and transparent manner, ensuring widest possible public participation at the project site(s) or its close proximity and requires draft EIA Report, including Summary EIA Report in English and in the official language of the State/local language prepared directly in accordance with ToR available for inspection, electronically or otherwise to the public providing thirty (30) clear days to the public for furnishing

their responses. All the responses received, as part of such public consultation process, are forwarded to the Applicant and the Applicant is obliged to address all material environmental issues, concerns, costs during such process and make appropriate change in the draft EIA and EMP and prepare a final EIA Report. The EAC is then obliged to carry out an appraisal meaning thereby carries detailed scrutiny of the Application and other documents like final EIA Report, outcome of public consultation, including 'public hearing' proceedings submitted by the Applicant for grant of EC. The Applicant is invited to furnish necessary clarifications in course of the process of appraisal carried out by the EAC. On conclusion of this proceeding, the EAC makes recommendations to the Regulatory Authority either for grant of prior EC on stipulated terms and conditions or rejection of Application for prior EC, together with reasons for the same. Thereafter, the Regulatory Authority considers recommendations of the EAC and normally accepts the recommendations. However, in cases where it disagrees with recommendations of the EAC, the Regulatory Authority makes request for re-consideration by the EAC, while stating reasons for disagreement and the EAC has to consider observations of the Regulatory Authority, distinguish its views and thereupon after considering the views of EAC the decision is finally taken by the Regulatory Authority. Pertinently, the Application for grant of EC is

liable for rejection in case of deliberate concealment and/or submission of false or misleading information or data, which is material to screening, scoping, appraisal or decision on the Application vide para 7,8 of the Environment Clearance Regulations of 2006.

13. Thus, it can very well be seen from the procedure laid down in the Environment Clearance Regulations of 2006 for grant of prior EC that the information or data furnished by the Applicant in its Application forms basis of entire process stipulated for grant of prior EC, as information/data supplied begets ToR leading to preparation of EIA Report which is indispensable for process of public consultation rendered obligatory by law to understand public concerns in relation to environmental impacts of the project; and which in turn are responsible for generating the EAC recommendations. Thus, the information/data supplied by the Applicant has cascading effect on the final outcome of process of EC. ToRs, a product of scoping process are material to EIA studies, which leads to the EIA Report and thereafter the final EIA Report as aforesaid necessary for forming objective opinion by the EAC in the process of appraisal for making recommendations to the Regulatory Authority. Material issue, therefore, needs to be answered in the present Appeal is as to whether process of grant of

prior EC to the project in question suffers from vice of faulty scoping process or not.

14. Learned counsel appearing on behalf of the appellants, with reference to a copy of the Form-I Application submitted by the PP, particularly, as regards part II- Activity Sr. no. 9.4 and III environmental sensitivity, submitted that the PP deliberately concealed material facts and this vitiates the entire process of scoping and consequently, the process of grant of EC. According to learned Counsel for the Appellants, the PP gave negative answers to the query at 9.4 regarding cumulative effect to proximity of other existing or planned projects with similar effects, when 13-HEPs particularly, 800MW Tawang II project were proposed in Tawang River basin. This is obvious, learned Counsel on behalf of the Appellants, argued from the techno economic clearances granted by the CEA to Nyam Jang Chhu project on 24th March 2011:

“ The issue of likely interference of one adit of Nyam Jang Chhu HEP with works/adit of Tawang HEP Stage-II of M/s NHPC Limited was resolved in the meeting convened by Chief Engineer (HPA),CEA....

...4(viii) M/s NJCHPL, shall co-operate with M/s NHPC limited who are developing Tawang HE Project Stage-II and other developers in the vicinity to facilitate to carry out their works during construction and O&M stages of the projects.

ix) M/s NHPC Limited shall adjust location of their (Tawang HEP Stage-II) muck dumping yard and construction facility areas to avoid any relocation of the TRT outfall of Nyam Jang Chhu HEP. During construction of TRT of Nyamjang Chhu HEP, M/s NHPC Limited shall allow M/s NJCHPL the right of way/access to construct their TRT and outfall structure after mutual discussions. M/s NHPC Limited shall also extend this facility to M/s NJHPCL during O&M, whenever necessitated.

x) M/s NJCHPL shall maintain clear lateral distance of not less than 140m between the TRT of Nyamjang Chhu HEP and construction adit of Tawang HEP Stage-II.”

15. Learned Counsel appearing on behalf of the Appellants further pointed out, from negative answers to the queries at serial Nos. 1,2, 3 regarding III Environmental sensitivity in Form I- Whether the area is protected under international conventions, or is important or sensitive for ecological reasons, or used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting or wintering migration, the insensitiveness of the PP when it is a wintering site for endangered vulnerable and threatened to species of birds- Black necked Crane and (Grus Nigricollis) and wintering site for this endangered species. He submitted that the project in question is located at the very much identified wintering site of the Black necked Crane- Zemithang Nylah, an important Schedule I-

Bird area. He submits that the Black necked Crane is the Schedule-I species under the Wild Life (Protection) Act, 1972 (Entry-1(a), part-III Birds). To answer the counter contention that there was no scientifically validated and legally recognized material to support existence and sighting of this endangered species at Zemithang, he invited our attention to the Scientific Report and studies “Critics of Wildlife Sections of the EIA Report” published by the Senior Scientist of the Nature Conservation Foundation – Annexure A-29. The Relevant text of the Critique reads as under:

“In addition, the Nyamjang Chhu River valley is one of the few wintering sites in the world visited by the black-necked crane (about 7 birds) listed as vulnerable by IUCN and Bird Life International (2001). The valley suitable for the Black-necked crane is from Broken thang (27°43'38.47"N, 91°43'39.69" E), a 3km stretch at an average altitude of 2000msl (Dutta 2010, Rahmani 2010). The average width of the valley is 030 and water flow in this stretch of the river is gentle with small seasonal islands and grasslands on both sides. Locals who call the bird ‘Thung-Thung Karmo’ revere the bird and report that the cranes have visited the valley since time immemorial. **This crucial wintering area overlaps with the project site (see Fig.1).**

Apart from the black-necked cranes, the valley is also home to other Schedule-I species such as

red panda (*Ailurus Fulgens*) in the Zemithang-Lumpo area, and the snow leopard (*Panthera Taxi color*) in the higher reaches and the Arunachal macaque *Macacamunzala*, a newly described primate species in the area (Sinha et al.2005). There are several troops of the Arunachal macaque in the Zemithang Valley and is one of the primary habitats for this species (Kumar et al.2007, Mendiratta et al. 2009).

The EIA report does not record any of these facts nor does it refer to any of this extensive literature in its report. This is a serious omission and it incorrectly states that the area and its surrounding areas harbor no rare or endangered wildlife”.

16. It is also brought to our notice that the Black necked Crane– is revered by the local Monpa Community in Zemithang and is locally called “*Thung Thung Karmo*” incarnation of VI Dalai Lama. According to learned Advocate for the Appellants, Zemithang Nylah IBA, is one of the two wintering sites for the Black necked Crane in Arunachal Pradesh, other being syank valley.

17. It is true that these material facts were not before the EAC when scoping was done. Naturally, ToRs prescribing EIA study as regards these material facts were not prescribed thereby resulting in vacuum in the EIA Report on this material aspect. Consequently, inevitable aberration

creeps in the appraisal done by the EAC for recommending grant of EC in question.

18. Learned Counsel appearing on behalf of the PP submits that this Tribunal has authority to take an appropriate decision on the facts placed before it and has multiple options either to set aside or suspend the EC and remand the case for reconsideration to EAC on limited issue, or upheld the EC with suggested safeguards. He pointed out from the record that the project in question is pursuant to HEP Policy-2008, and is most environment- eco friendly operation for generation of energy much needed for development and environmental impacts are minimal as compared to economic gains. He submitted that initially the project was in three phases and was given up and a single phase project was considered in order to minimize environmental impacts. He further submitted that two reputed consultants have carried out EIA study and where was need for them to suppress or not to mention anything about the Black necked Crane, particularly, when they referred to Schedule-I species bird pheasant in the EIA Report. He further submits that none of the Members of Public made any utterance about the Black necked Crane and out of 700 households 300 attended 'public hearing', out of them 41 were from Zemithang. He further submits that Nyam Jang Chhu River is Perennial River, having eight

tributaries between barrage and tunnel outlet and minimum flow is ensured without there being occasion of drying of the river. Referring to description of the habitat of the Black necked Crane as spelt out in the literature produced "Threatened Birds of India" by the Appellants at Annexure A-8, to the Application, he further submits that the Black necked Crane breeds in Alpine meadows and riverine marshes, favouring lacustrine marshes from 2600-4900 MSL and winters in river valleys and along riverine shoreline in the vicinity of Barley and spring wheat fields; and such habitat would continue to remain available to the Black necked Crane, even after the project in question takes shape, particularly, on account of pond of water upstream and rice fields along Nyam Jang Chhu River and other Tributaries downstream barrage.

19. All said and done, there has to be application of mind by the EAC in prescribing ToRs and in the appraisal process to the material facts. Even at scoping stage the EAC can take decision and recommend rejection of Application for prior EC, on which the Regulatory Authority is obliged to act in terms of provisions of the Environment Clearance Regulations, 2006- (VII (2) stage-2, Scoping Part-III). The issue raised earlier therefore, needs to be answered affirmatively. The facts, however, reveal that this has not happened. Pertinently, it is revealed by Respondent No.1

MoEF that in the 86th Meeting of EAC (Annexure-2), the EAC took cognizance of Tawang River Basin Study Report conducted by the North-Eastern Hill University (NEHU) and that the Department of Power, Govt. of Arunachal Pradesh has made carrying capacity study of Tawang River basin through NEHU, Shillong; and carrying capacity Study and cumulative impact assessment for river and river basin has been mandatory requirement to consider environment and forest clearance of individual HEPs. The EAC has acknowledged that basin study serves as an important decision-making tool for the Ministry insofar as considerations and grant of EC and FC for HEPs are concerned. The EAC has taken into consideration submissions of NEHU on the issue of conservation of the Black necked Crane and destructing wintering habitat by Nyam Jang Chhu project and concluded that E-flow data computed for Nyam Jang Chhu project, in NEHU draft report (September 2014 version) should be included along with migration measures suggested and separate study on E-flow requirement for protection of habitat and conservation of the Black necked Crane would be commissioned by the MoEF&CC through the Wildlife Institute of India, Dehradun for taking a final decision on Nyam Jang Chhu project.

20. The record also reveals that the CIFRI had carried out field study, collected samples and carried out analysis based on commonly used environment stop methodology for estimation of environment flow required for maintaining aquatic life in the river and migration of fishes, and has made following recommendations in its final report dated July, 2011:

- a)** The minimum environmental release of 3.5cumecs from the barrage during lean period is recommended for maintaining the aquatic life in the river
- b)** The recommended discharge of 3.5cumecs will maintain flow depth and flow velocity of 0.55m and 0.36 m/s respectively.
- c)** A suitably designed fish ladder should be provided in the barrage to facilitate fish migration for sustenance of the native fish population.
- d)** Hatchery unit for indigenous species, nursery ponds, rearing ponds, stocking ponds must be created prior to storage of water in the barrage. Regular ranching of seeds of this species would be an alternative to natural recruitment.

21. However, this report has surfaced only after public consultation held in February, 2011. Respondent No.1-MoEF submits that Tawang basin study is already a cumulative impact study carried out and takes care of alleged concerns and Nyam Jang Chhu being the only project in the entire catchment of Nyam Jang Chhu River,

and no more study is required as regards micro-hydel power project of Khangtang and Shyrao as necessary clearances have been obtained and they are 32-40 km away from the project and are being used primarily to displace use of diesel as a fuel during construction of the project. Learned Counsel appearing on behalf of MoEF further submits that it needs to be left to the discretion of EAC and MoEF to decide whether fresh 'public hearing' or consultation are required on account of changes in scope alignment/project features/operation regime and fresh studies commissioned for project.

22. It is true that hydel power project provides eco friendly renewable source of energy and its development is necessary, however, we are of the considered view that such development should be 'sustainable development' without there being any irretrievable loss to environment. We are also of the view that studies done should be open for public consultation in order to offer an opportunity to affected persons having plausible stake in environment to express their concerns following such studies. This would facilitate objective decision by the EAC on all environmental issues and open a way for sustainable development of the region. In order to do justice in the matter, therefore, we pass the following directions:

- i)** The EC dated 19.4.2011, is suspended till the time the studies as directed are carried out, public consultation thereon done, the EAC considers outcome of such public consultation, carries out a fresh appraisal of proposal for grant of EC, makes recommendation to the MoEF&CC, and the MoEF&CC acts upon such recommendations in accordance with law.
- ii)** The MoEF&CC shall cause to be made a separate study of E-flow requirement for protection of habitat of the Black necked Crane and for conservation of the Black necked Crane through the Wildlife Institute of India, Dehradun, as expeditiously as possible and make such study report along with Tawang River Basin study available for 'public consultation' and shall hold 'public consultation' in compliance of the aforesaid direction in accordance with law.
- iii)** The EAC shall thereupon, make fresh appraisal of the proposal for grant of EC and take appropriate decision for making recommendations to the MoEF&CC, who shall take decision thereupon in accordance with law.
- iv)** The Appeal stands disposed of with no order as to costs.

Justice U.D.Salvi
Judicial Member

Prof. A.R. Yousuf
Expert Member



To,
Director and Member Secretary (Industry III),
Ministry of Environment, Forest & Climate Change,
3rd Floor, Vayu Wing, Indira Paryavaran Bhavan,
Jor Bagh Road, Ali Ganj,
New Delhi- 110003.

Date: 28/03/2024

Subject: Submission of ADS reply for obtaining Environmental Clearance for proposed Greenfield project of M/s. GHCL Limited

Ref.: ADS sought by MoEF & CC during the minutes of 74th EAC meeting (Industry-3 sector) dated on 12/02/2024 (attached as Annexure – 1)

Proposal no.: IA/GJ/IND3/408164/2022

Respected Sir,

The reply of ADS sought by MoEF&CC during the minutes of 74th EAC meeting (Industry-3 sector) dated on 12/02/2024 is discussed below:

S.No.	Points	Reply
1	The Committee was of the view that PP shall compare the baseline data collected during December -February 2020 and data collected during December 2022 - February 2023. Accordingly, PP shall also carry out trend analysis of previous baseline data by conducting latest additional one-month baseline data.	It is requested to note that we have compared the baseline data collected during December 2019 - February 2020 and data collected during December 2022 - February 2023. Accordingly, we have carried out the trend analysis of previous baseline data by conducting latest additional one-month (February 2024) baseline data. The trend analysis is attached as Annexure-A .
2	The Committee noted that several representations have been received from various level of public raising several issues. The Committee was of the view that representations shall be forwarded to the PP for their response. The Committee also recommended that in the next meeting they will go through the video of proceedings of public hearing. The Committee will go through the response of PP then decide further course of action accordingly.	It is requested to note that the public hearing was firstly scheduled on April 6 th , 2022, that was postponed as people were uncontrollable and were not following the instructions and procedures of the public hearing. To avoid the unwanted situation and to maintain law and orders, RAC and Regional officer had postponed the 1 st public hearing dated 06-04-2022. Appropriate measures were taken during the public hearing held on October 17 th , 2022. This time, adequate police protection was provided to ensure safety and mitigate any potential disturbances. The public hearing procedure was duly followed and the concerns raised by the public were addressed too. The details have been incorporated in the public hearing minutes of meeting and submitted to concerned authority. In connection with that we have

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CIN : L24100GJ1983PLC006513, E-mail : ghclinfo@ghcl.co.in, Website : www.ghcl.co.in

Head Office : GHCL House, B - 30, Institutional Area, Sector - 1, Noida, Uttar Pradesh - 201301, India. Ph. : +91-120-2535335, 3350000, Fax : +91-120-2535209

GHCL Limited

Continuation sheet

	attached 1st and 2nd public hearing video in soft copy is attached as Annexure-B. As discussed during the 74th EAC meeting dated 6th February 2024, the representations received from various level of public raising several issues to EAC members are forwarded by Member Secretary (Industry -3) to Project Proponent. The replies to various issues are attached as Annexure-C. We have received same type of questions from approximately 410 Emails in which the matter is same and copy paste. The concerns raised are similar to issue raised in public hearing and same has been replied in Public hearing MOM. However, we have list out the concern raised and again mitigation plan already discussed has been replied again in Annexure-D. The details of emails received from various persons with their location describing how far they are living from proposed project are provided in Annexure-22, along with their email IDs. Video CD of public hearing is already submitted to concern authority at the time of final EC application to MoEF&CC. however Soft copy of the video (Approx. 28 GB) is being sent to member secretary through Courier. Postponed 1st public hearing video is also given into the above said soft copy for your ready reference.

Thanking You.
Yours faithfully,
For GHCL Ltd.

[N N Radia - Chief Operating officer]



	and their indifference to the fact that the proposed project could have drastic impact on the environment, ecosystems, lives and livelihoods of the people in the region.	All other parameters frequency including ground water, surface water, soil, Noise, Ecology and biodiversity and Socio-economic samples are identified by the Consultant at the scoping stage and it is incorporated into the EIA report. However, in the EIA report Environmental monitoring chapter is defined for identification of post project monitoring impact in line with EIA notification 2006 and their subsequent amendments. Hence, it will be taken care by the PP that the proposed project does not impose drastic impact on the environment, ecosystems, lives and livelihoods of the people in the region.																								
16	During the 72nd EAC meeting the project proponent was directed to submit information of the land acquisition status and the water bodies that are present within the project area. It is pertinent to note that, despite the repeated violations, the project proponent continues to submit misleading information to the Committee. The project proponent has provided no information pertaining to the actual status of the land that has been purchased or is yet to be purchased.	It is noted that we have already submitted a reply to the issues raised during the 72nd meeting. In the 74th EAC meeting held on 06.02.2024, we submitted status regarding government land and private land already acquired, as well as land under process. We also provided plot-wise details and indicated information regarding water bodies. The PP has provided all the information pertaining to the actual status of the land that has been purchased or is yet to be purchased as follows: <table><tr><th>Sr No.</th><th>Ownership</th><th>Total Land</th><th>Acquired Land in Sq. m</th><th>Percentage (%)</th></tr><tr><td>1</td><td>GHCL Limited Ownership Land</td><td rowspan="2">4979105</td><td>2985911</td><td>60%</td></tr><tr><td>2</td><td>Other Land Acquisition under Process</td><td>1993194</td><td>40%</td></tr><tr><td>3</td><td>Government Land In-principal approved by GOG</td><td>1016351</td><td>769669</td><td>76%</td></tr><tr><td colspan="2"></td><td>5995456</td><td>5748774</td><td></td></tr></table>	Sr No.	Ownership	Total Land	Acquired Land in Sq. m	Percentage (%)	1	GHCL Limited Ownership Land	4979105	2985911	60%	2	Other Land Acquisition under Process	1993194	40%	3	Government Land In-principal approved by GOG	1016351	769669	76%			5995456	5748774	
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3	Government Land In-principal approved by GOG	1016351	769669	76%																						
		5995456	5748774																							
17	In the list of survey numbers, a survey no. 459 has been stated as ‘Po.Kh.A’ which is misleading and false information.	It is requested to note that the land use type of Survey no. 459 is Po.Kh.A, as indicated in the government record 7/12 document. "Po.Kh.A" is the term used by the government to describe the land use. The 7/12 document of Survey no. 459 is attached as Annexure-14 for your reference.																								

18	The revenue records clearly state that this 3.2 ha of land bearing survey no. 459 is a Pond. Relevant screenshots of the revenue records are attached to this email for your reference.	It is requested to note that in the 7/12 document of Survey no. 459, it is mentioned that the land use type is 'Po.Kh.A' which means that the particular land is not suitable for cultivation due to its poor quality. In the name of farm, it is written as Talavdi. The 7/12 document of Survey no. 459 is attached as Annexure-14 for your reference.
19	Kutch being a semi-arid region, water resources are scarce. The Pond that is so close to the coast is of high ecological and social importance as it not only provides water resources for the cattle and farmlands, but it also plays an important role in recharging the groundwater, preventing salinity intrusion due to constant exploitation of the groundwater. As per the Groundwater Resources department, Mandvi taluka is under the critical category for groundwater and needs conservation. The report referred to can be accessed here - https://cgwb.gov.in/cgwbpm/public/uploads/documents/17056404671675718807file.pdf - maps of the hydrogeology of Gujarat and Categorization map of Gujarat.	It is requested to note that Proposed project will not abstract the ground water for the Industrial activities. Further, it is noted that unit will construct the recharge well in the diversion channel adjoining the project site for the recharge of ground water and as indicated in hydrogeological study report submitted, with deepening of 12 existing village ponds up to proposed depth, the ground water basin will be recharged by 1,26,500 m³/year during the average rainfall year. This will not only improve the quality of ground water but will also raise the water table thereby restricting the ingress of sea water, although there is no possibility of it as the ground water flow is towards the sea. However, being coastal area, there may be possibility of sea water ingress but it is not expected as there is no proposal of any ground water abstraction from the plant area and its entire water requirement will be met by desalination of sea water. The ground water flow of the main land is still towards the sea thereby keeping the freshwater/sea water interface away from the plant and near high tide area. Moreover, ground water recharge in inland area of the buffer zone will always keep the ground water at higher elevation and ground water movement will be towards sea with no possibility of sea water ingress. It is therefore concluded that with setting of the plant, which will be meeting its water requirement by desalination and would not affect the surface water resources, there are no chances of any adverse impact on the ground water regime of the area. The hydrogeological report prepared by the Hydro-Geosurvey Consultants Pvt. Ltd. (HCPL); Jodhpur submitted along with EIA report is attached as Annexure-15 for your reference.
20	The project proponent has submitted false and misleading information despite the Committee members specifically asking for the information.	It is requested to note that the project proponent and consultant have transparently provided all the necessary and requisite information to all stakeholders associated with this project.

ANNEXURE A/5**Office of the Collector and District Magistrate, Kutch-Bhuj**

Jaman-6 Datar, Revenue Branch, District Jai Vadan, Mandvi Road,
Bhuj-Kutch. Pin-370001

Phone No. 02832-150010/Federal | : 02832-250430/E-ada

collector-kut@gujarat.gov.in

No.Jaman/9/Industry/Vashi/1066 /07/2024

Dated 23/07/2024

Subject: Allocation of a total of 76-96-69 sq.m. land from various survey numbers in Bada village, Mandvi Taluka, for industrial purposes to Large Chemical Complex. GHCL Limited - Ahmedabad.

References:

1. Application dated 01/07/2021 from the applicant unit, GHCL Limited.
2. Letter No. Jan/6/Vashi/670/2021, dated 23/07/2021 from this office.

3. Letter No. Jaman/9/Vashi/719/2021, dated 09/08/2021 from this office.
4. Letters No. Jaman/Vashi/583/2021, dated 25/08/2021 and 08/10/2021 from the Mamlatdar, Mandvi.
5. Letter No. Jaman/Vashi/1572, 1923/Darkhast-1/2021, dated 25/10/2021 from the Deputy Collector, Mundra.
6. Letter No. Jaman/Vashi/1572, 1923/Darkhast-2/2021, dated 25/10/2021 from the Deputy Collector, Mundra.
7. Letter No. Uk/Infra/Land/T4-131, dated 27/07/2021 from the Joint Industries Commissioner, Gandhinagar.
8. Letter No. Stamp/Jantri/Abhipray/Bada/3788, dated 18/08/2021 from the Deputy Collector, Stamp Duty Valuation Department, Bhuj-Kutch.
9. Letter No. DSO-32/MR No. 3/10/2021-22, dated --/10/2021 from the DILR, Bhuj-Kutch.
10. Letters No. Jaman/6/Udyog/Vashi/1100/2021, dated 17/12/2021 and No. Jaman/9/Udyog/Vashi/186/2022, dated 05/03/2022 from this office.
11. Letter dated 04/02/2022 from the applicant unit.

12. 'Minutes of the Meeting' of the District Land Valuation Committee dated 09/03/2022.
13. Letter No. Jaman/1/Udyog/Vashi/408/2022, dated 19/03/2022 from this office.
14. Letter No. Kasimbavi/AB-Sinchai/Ha.No.20/223, dated 17/03/2022 from the Executive Engineer, Kutch Irrigation Department, Bhuj-Kutch.
15. Letter dated 28/04/2022 from the applicant unit.
16. Letter No. Jaman/6/Udyog/GHCL Ltd./Report/05/2022, dated 11/05/2022 from this office.
17. Letter No. Jaman/6/Udyog/Vashi/783/2022, dated 16/01/2022 from this office.
18. Letter No. Jaman/512022/MLA-MP-16/G, dated 02/06/2022 from the Revenue Department, Auction Officer.
19. Letter No. Jaman/6/Udyog/Vashi/831/2022, dated 08/07/2022 from this office.
20. Letter from the applicant dated 05/07/2022\
21. Our letter No. Jagan/1/Industry/VC/940/2022, dated 08/08/2022

22. Letter from the Executive Engineer, P.G.V.C.L., Division Office, Mandvi-Kutch, No. MDO/Tech/Non-Agriculture/22/3998, dated 10/08/2022
23. Letter from the Executive Engineer, Roads and Buildings Department (State), Bhuj, No. JBN/SHB/Kera No. 798/3402/2022, dated 22/06/2022
24. Letter from the Geologist, Geology and Mining, Bhuj-Kutch, No. Bhuwikh/NOC/Industry/2022-23, 1345, dated 15/09/2022
25. Letter from the Deputy Conservator of Forests, Kutch West Forest Division, Bhuj, No. B/JMN/Tech.11/5818-19/22-23, dated 23/03/2023
26. Letter from the Additional Director (Development), Geology and Mining, Gandhinagar, No. CGM/Liz-5/JonNOC/Kutch-Bhuj/Industry/1700/2022-23/879 to 881, dated 11/04/2023
27. Our letter No. JMN/6/Industry/VC/480/2023, dated 13/04/2023
28. Letter from the Mamlatdar, Mandvi, No. JMN/Govt. Land/Information/2023, dated 15/04/2023

29. Our letter dated 18/04/2023, No. JMN/6/Industry/G.H.C.L./VC/543/04/2023
30. Letter from the Taluka Development Officer, Gundera, dated 17/04/2023, No. JMN/VC/832/2023
31. Minutes of the District Land Valuation Committee meeting dated 09/05/2023
32. Our letter No. JMN/6/Industry/VC/645/2023, dated 24/05/2023
33. Letter from the Executive Engineer (Transmission), GETCO Transmission Division Office, Nakhatrana, No. 23-24/DN/TECH/G.H.C.L./44-NOC/LAND/334, dated 16/05/2023
34. Letter from the Executive Engineer, P.G.V.C.L., Division Office, Mandvi-Kutch, No. MDO/Tech/NOC/23/1720, dated 17/05/2023
35. Letter from the Executive Engineer, Roads and Buildings Department (Panchayat), Bhuj-Kutch, No. JIPNK/Bandh/Mukam/Non-Agriculture/NOC/Bada/Mandvi/23/295 3, dated 25/05/2023

36. Letter from the Executive Engineer, Roads and Buildings Department (State), Bhuj-Kutch, No. JIPNK/SHB/Kera No. 935/2872/2023, dated 26/05/2023
37. Letter from the Superintending Engineer, Kutch Irrigation Department, Bhuj-Kutch, No. JBN/Kashimbaw/PIB-2 Collector to JMN-9/1124, dated 25/05/2003
38. Letter from the Geologist, Geology and Mining, Bhuj-Kutch, No. Bhuwikh/NOC/Industry/2022-23/3880, dated 21/05/2023
39. Application from the applicant dated 28/05/2023
40. Letter from the Deputy Conservator of Forests, Kutch West Forest Division, Bhuj-Kutch, No. B/JMN/Tech.11/1034-35/23-24, dated 02/01/2023
41. aOur letter No. Jaman/9/Industry/Vashi/727/2023, dated 05/01/2023.
42. Government of India, Ministry of Finance, Department of Revenue, letter No. RD/JMN/e-file/15/2023/5252/G(Land), dated 12/03/2014.
43. Our letter No. Jaman/1/Industry/Vashi/173/4/2024, dated 22/10/2024.

44. Our letter No. Jaman/1/Industry/Vashi/273/4/2024, dated 22/04/2024.
45. Letter from the Port Officer, Gujarat Maritime Board, Mandvi-Kutch, No. GMB/POM/TR/24.25/146, dated 21/05/2024.
46. Letter from the Executive Engineer, Kutch Irrigation Department, Bhuj-Kutch, No. Karimbaw/PB/448, dated 17/05/2024.
47. Letter from the District Collector, Stamp Duty Valuation Department, Bhuj-Kutch, No. Stamp/Jamabandi/Abhipray/Bada/1510, dated 28/05/2024.
48. Letter from the Talati-cum-Mantri, Bada, Taluka Mandvi-Kutch, dated 28/05/2024.
49. Letter from the Regional Officer, District Land Valuation Committee, Gujarat Pollution Control Board, Bhuj-Kutch, No. GPCB/RO-KUTCH-WEST/CRZ-19(I)/316, dated 28/05/2024.
50. Letter from the applicant unit, GHCL Limited, dated 31/05/2024.

51. Letter from the Assistant Fisheries Development Officer, Bhuj-Kutch, No. ADFB/CA/c-file/64/2024/0089/Technical 1, dated 27/05/2024.
52. Letter from the Deputy Collector, Stamp Duty Valuation Department, Bhuj-Kutch, No. Stamp/Jamin Fadavi/2Stamp Duty/1654, dated 06/06/2024.
53. Letter from the Mamlatdar, Mandvi-Kutch, No. Jaman/Chalan Kharai/Vashi/6/2024, dated 06/06/2024.
54. Letter from the applicant unit, GHCL Limited, dated 13/06/2024.
55. Our letter No. Jaman/6/Industry/Vashi/855/1/2024, dated 25/06/2024.
56. Letter from the District Collector, Mundra, No. Jaman/Vashi/1241/2024, dated 08/07/2024.
57. Our letter No. Jaman/9/Industry/Vashi/974/7/2024, dated 12/07/2024.
58. Letter from the applicant unit, GHCL Limited, dated 12/07/2024.

59. Government Resolution from the Revenue Department, No. Jaman/392000/1197/A, dated 27/11/2000, and Government Resolution No. Jagan/392003/454/A, dated 09/09/2003.

-: Order :-

The land of 251.14 gunthas (6.909-63-51 sq. meters) from various survey numbers of the village: Bada in Mandvi taluka has been requested for industrial purpose by the applicant unit, GHCL Limited, Ahmedabad, through application dated 01/07/2021.

Therefore, through the reference (2) from here, the Mamlatdar, Mandvi is instructed to send clear opinion under Standard 22 to the Taluka Officer, Mundra through the Deputy Collector, Stamp Duty Valuation Department, Bhuj-Kutch. Also, as per the reference (3) from here, regarding the request of the applicant unit, the DILR, Bhuj-Kutch is instructed to carry out the survey of the requested land and send the report.

The request from the applicant has been prepared through the reference (3) from the Mamlatdar, Mandvi. The Taluka Officer, Gundera, in the reference (4) mentions that out of the requested land, survey numbers 453, 282, 311, 271, 270, 277, 470, 473, 410, 407, 408, 521, and 372 have agricultural encroachments, and survey numbers 251, 252, and 245 are open with thorny bushes under government ownership. Survey number 371 in the Bada area is used as a common road leading to Panchotiya. In survey number 406, an estimated 5-37-00 acres are encroached upon. There is a drain flowing from north to south with a farm pond in the middle. An estimated 19-00-00 acres of land covered with thorny bushes are under government ownership. Among all the above survey numbers, there are no large electric lines, Narmada lines, railway lines, or telephonic lines, nor any large trees or memorials.

Through the letter from the Joint Commissioner of Industries (Infa), Gandhinagar, under reference (7), the applicant unit M/s: GHCL Ltd., located at Goje-Bada, Mandvi, Kutch, has been informed that the government land shown in the area E-2-3, measuring 101-63-51 hectares, has not been reserved for any other government purpose

and is available for allocation. The opinion regarding the reasonable need for land for the project has been given under the conditions provided.

Through the letter from the Deputy Collector, Stamp Duty Evaluation System, Bhuj-Kutch, under reference (8), the opinion has been provided to consider the price of the land at Rs. 90/- per square meter for industrial use. Based on this calculation, the service charge of 1% amounts to Rs. 9,15,493/-.

The applicant unit has already paid Rs. 1,40,000/- towards the service charge, so the remaining amount of Rs. 7,75,493/- will need to be paid as the difference in the service charge. In accordance with the letter under reference (10), the applicant unit has been instructed to pay the remaining service charge amount as per the prescribed procedure by the government and to send the necessary opinions to the concerned departments for allocating 9-72-54 hectares of land.

Furthermore, the letter under reference (11) from the applicant unit presents evidence of the payment of the service charge difference of

Rs. 7,75,493/- to the government as per the document No. 351/2022, dated 03/02/2022.

In accordance with the letter under reference (12), the proceedings of the District Land Valuation Committee meeting held on 09/03/2022 have recorded that the valuation of the requested land has been set at Rs. 200/- per square meter (rounded to Rs. 100 for calculation purposes) by the committee with unanimous consent

In the above survey numbers, 251, 453, 372, 282, 311, 271, 270, 277, 410, 407, 408, and 521 located in the Bada area do not have any electric lines, Narmada lines, railway lines, telephonic lines, large trees, or memorials. These survey numbers have been under government records for more than three years as per the ownership document No. 237 under section 10. The land requested by the applicant does not appear in the records or local possession of the approved land.

The applicant unit has been informed through the letter under reference (13) that the land requested, measuring 9-72-54 hectares,

has an occupancy price of Rs. 1,94,50,800/- (One crore ninety-four lakh fifty thousand eight hundred only), or the final price decided by the government for the land. The applicant is required to pay this amount, along with other applicable charges, as per the government's decision.

The letter from the Executive Engineer, Kutch Irrigation Department, Bhuj-Kutch (reference 14) states that during the site visit by the technical staff of their office, the lands under survey numbers 282, 251, 270, 252, 371, and 508, from the area of 251.14 hectares, do not have any water bodies, check dams, or water flows. However, the letter mentions that a water channel passes through survey number 406.

The applicant unit, in their letter under reference (15), requested a reconsideration of the price set by the District Land Valuation Committee. According to the letter under reference (17), the applicant has been instructed to pay the determined price for the land.

Additionally, the Deputy Collector of Gandhara, in their letter under reference (16), was asked to provide an update on the progress regarding the proposal submitted under reference (5).

The government letter (reference 18) mentions that pollution is spreading due to the company, and a request has been made to relocate to another area. In response to this, the Regional Officer of the Gujarat Pollution Control Board, Bhuj-Kutch, the Port Officer of the Gujarat Maritime Board, Mandvi-Kutch, and the Assistant Fisheries Officer, Bhuj-Kutch, have been instructed to conduct a joint site visit and submit their report with a clear opinion.

In the applicant's letter under reference (20), the applicant has agreed to pay the price determined by the District Land Valuation Committee and will submit a request for a price reduction at the state-level land valuation committee.

Accordingly, the letter under reference (21) instructs the relevant departments to send their opinions.

The Executive Engineer, PGVCL, Mandvi-Kutch, in their letter under reference (22) has stated that there are no electric lines passing through any of the land in the area of 9-72-54 hectares under survey numbers at Moje-Bada, Mandvi, Kutch, under the Mandvi (Sh) sub-division office of the Western Gujarat Electricity Company Ltd.

The Executive Engineer, Roads and Buildings Department (State), Bhuj, in their letter under reference (23) has stated that the land requested is situated between km 6/00 and km 7/00 on the Laya-Bada-Mapar-Modakuba-Lathedi-Sanghan-Suthari-Kothara Road (M.D.R.), and for industrial use, the land should be allocated with a distance of 40 meters from the centerline of the road for construction, and 75 meters from the centerline of the road for control purposes. This will not violate any construction or control line regulations, and approval can be granted based on these conditions.

The Geologist, Geology and Mines Department, Bhuj-Kutch, in their letter under reference (24) has stated that there is no lease or mining block in the open land of 9-72-54 hectares under the requested survey numbers in Moje-Bada, Mandvi. It has been noted that the area

contains ordinary soil, and no mineral blocks can be created here in the future. Therefore, the opinion has been given to issue a "No Objection Certificate," and a proposal has been sent to the Commissioner of Geology and Mines, Gandhinagar.

In response, the Additional Director (Development), Geology and Mines, Gandhinagar, in their letter under reference (26), confirmed that the area of 9-72-54 hectares, comprising the requested survey numbers 282, 251, 270, 252, 371, 406, and 548, will be allocated under the conditions specified, and a "No Objection Certificate" has been granted.

The Deputy Conservator of Forests, Kutch West Forest Division, Bhuj, in their letter under reference (25) has clarified that the requested area under survey numbers 282, 251, 270, 252, 371, 406, and 548 does not fall under any declared forest, sanctuary, or eco-sensitive zone, as per their department's records.

Following these opinions, the Deputy Collector, Kunvar, in their letter under reference (6) has instructed that the open and government land of 9-72-54 hectares, as per various survey numbers, be allocated

according to the prices determined by the District Land Valuation Committee. Based on the provisions of the government's revenue department order dated 16/06/2010 (Jamn/392003/454/A), the land for industrial purposes can be allocated up to 5000 square meters with a price of Rs. 5,00,000/-; for larger areas, the revenue department will have authority. The standard application has been forwarded to the government for consideration under reference (27).

In the letter under reference (28) from the Mamlatdar of Mandvi, it was stated that regarding the requested land of the applicant, a detailed action was being taken under Section 61 of the Land Revenue Act to remove encroachments. The encroachments were identified in various survey numbers, including 251, 270, 271, 408, 410, and others, with a total area of 67.45.15 acres. The encroachments have been cleared, and the opinion was provided accordingly.

Following this, under the letter (29), it was directed to send opinions to the concerned departments regarding the allocation of 91.39.97 acres of land from the applicant's requested land. The Municipal

Commissioner, Bhuj, was also instructed to conduct the land evaluation.

Additionally, under letter (30) from the Deputy Collector of Mundra, it was noted that there were agricultural encroachments in some remaining survey numbers. In response, the Mamlatdar of Mandvi has processed the matter under Section 61 of the Land Revenue Act and has levied penalties on the encroachments. The land has been cleared, with a total area of 70.09.53 acres allocated.

Regarding the surrounding land with unpaved access roads, most of the land from the relevant survey numbers has already been purchased by the applicant. For the remaining land, an alternative route is to be constructed. Subsequently, the necessary government notifications will be issued under Section 37(1) of the Land Revenue Act, and the required actions will be undertaken for the remaining morami creek and reservoir land.

Furthermore, in the meeting held on 09/05/2023, the District Land Valuation Committee determined the price of the requested land. For survey numbers 270, 271, 277, 371, 311, 372, 406, 407, 245, 408,

410, 453, 458, 459, 470, 473, 521, 548, and 1087, totaling 90,883.30 square meters, the value was set at Rs. 370 per square meter. For survey number 257, covering 3,167 square meters, the price was fixed at Rs. 395 per square meter, and for survey number 251, with 2,000 square meters, the price was set at Rs. 570 per square meter.

Based on the committee's decision, the applicant was informed to pay the compensation for the determined land price, as communicated in the letter under reference (32).

The Executive Engineer (Transmission) of GETCO, Nakhatrana Division, in reference (33) has informed that there are currently no transmission lines passing through the proposed land, and there are no plans for any transmission lines of GETCO in the specified land in the future.

The Executive Engineer, PGVCL, Mandvi-Kutch, in reference (34) has confirmed that no electricity lines pass through the land with survey number 91-39-97 in the proposed area. Hence, a "No Objection Certificate" has been issued.

The Executive Engineer, Roads and Buildings Department (Panchayat), Bhuj-Kutch, in reference (35), informed that a road from Bada village to Bhimnath Mahadev Temple passes alongside the proposed land. This is a rural road. As it is a rural road, a construction line of 12 meters and a control line of 24 meters should be maintained from the center of the road. Since it is an open area, it is only for land acquisition purposes. Hence, it has been recommended to maintain a construction line of 12 meters and a control line of 24 meters. The applicant must obtain approval from the concerned department during construction.

The Executive Engineer, Roads and Buildings Department (State), Bhuj-Kutch, in reference (36), has provided further details: The land with survey number 91-39-97 is located along the road between Bada and Gapar-Modakuba-Lathedi-Changhan-Suthri-Kothara Road (M.D.R.) from km 9/00 to km 7/00. For industrial purposes, land can be allocated from the center line of the road, maintaining a control line of 55 meters, so as not to violate the control line regulation. However,

land not on the road should be obtained with approval from the concerned department.

In reference (37), the Executive Engineer, Kutch Irrigation Department, Bhuj-Kutch, has reported on the water flow issue related to the proposed land. According to the survey, there is a water flow in the area, and there are three check dams. The first check dam, located at latitude 22°53'15.7" and longitude 69°08'49.8", has an estimated submerged area of 3.5 to 4 hectares. The second check dam, located at latitude 22°53'11.8" and longitude 69°08'45.3", has an estimated submerged area of 2 to 2.5 hectares. The third check dam, located at latitude 22°53'20.57" and longitude 69°08'54.2", also has an estimated submerged area of 2 to 2.5 hectares. The area of these check dams overlaps with the proposed land area.

As per the provisions stipulated in the Government Resolution dated 21/08/2018, a margin of 12.00 meters should be maintained from the banks of natural water bodies such as watercourses, drains, and ponds for non-agricultural purposes, and a positive opinion can be given for approval. Therefore, in this case, a margin of 12 meters

should be maintained from the banks of the natural water flow (nallah) with an average width of 25 to 30 meters located below the check dam.

Further, according to the other provisions of the Government Resolution dated 21/08/2018, no construction permission can be granted in the area up to 50.00 meters from the river's boundary, and only recreational activities will be allowed between 50.00 meters and 900.00 meters from the river's boundary. Thus, as per the provisions mentioned in the Government Resolution dated 21/08/2018, land can be allocated provided that necessary conditions/provisions are followed.

Regarding the pond, as per the local survey sheet and the Circle Officer's local panchanama, and based on the site visit conducted on 16/05/2023, the proposed land has a pond located in Survey Number 459. The coordinates of the pond are Latitude: 22.880774, Longitude: 69.133795. This pond has a natural overflow, with an approximate length of 10.00 meters and an embankment length of approximately 530.00 meters, with an estimated height of 3.0 meters. Therefore, the

total estimated submerged area of the pond is about 2.00 hectares. Additionally, the pond is also present in Survey Number 548.

As per the letter from the applicant's unit regarding the decision made by the District Land Valuation Committee in Resolution-(39), payment will be made for the determined value, and a representation regarding the price reduction will be made to the State-Level Land Valuation Committee.

According to the letter from the Deputy Forest Conservator, Kutch Western Forest Division, Bhuj-Kutch in Resolution-(40), the claimed area of 91-39-97 acres does not fall within the designated forest area, conservation reserve, sanctuary, or eco-sensitive zone under their department. The applicant's agency will be required to create a 50-meter green belt on the joint boundary between the forest area and the company's area, and they must strictly adhere to the conditions outlined in the letter dated 31/05/2023. Once the company's operations begin, their department will review the conditions and the guarantees provided by the company every six months.

Thus, based on the presented opinion, the Deputy Collector, Mundra, presented in Resolution-(30) that the vacant and government-owned land freed from encroachment in various survey numbers totaling 67-45-15 acres will be allocated at the price determined by the District Land Valuation Committee. In accordance with the guidelines in Government Revenue Department's resolution no. Jamn/392003/454/A, dated 16/06/2010, land for industrial purposes can be allocated for 5000 sq. meters at a price of up to Rs. 5,00,000/-. Beyond this, the rights lie with the Government Revenue Department. The formal application for the allocation, as per the prescribed standards, has been forwarded to the Government Revenue Department.

The latitude is 22.880774, and the longitude is 69.133795. This pond has a natural overflow, which is approximately 10.00 meters in length, and the embankment is approximately 530.00 meters in length, with an estimated embankment height of 3.0 meters. Thus, the estimated submersion area of the pond on its full surface is approximately 2.00 hectares. In Survey Number 548, there is also a pond located at

latitude 22.895063 and longitude 69.154949. The estimated submersion area on its full surface is approximately 0.40 hectares. Therefore, the ponds in Survey Numbers 459 and 548 overlap with the proposed demand area.

As per the provisions set forth by the Government Resolution dated 21/08/2018, a margin of 30.00 meters should be maintained from the banks of natural water flows, drains, ponds, etc., for non-agricultural purposes, and positive feedback can be provided for approval. Thus, in this case, a margin of 30.00 meters should be left from the embankment of the pond and the area of water accumulation.

Furthermore, as per the other provisions of the Government Resolution dated 21/08/2018, no construction work will be approved within 50.00 meters of the river's boundary, and only recreational activities will be allowed between 50.00 meters and 100.00 meters from the river's boundary. In this case, as per the provisions mentioned in the Resolution dated 21/08/2018, necessary conditions must be satisfied for land allocation, and a positive opinion is

recommended to be given for land allocation, following the prescribed guidelines.

The Geologist from the Geological Science and Minerals Department, Bhuj-Kutch, in letter Resolution-(38), has provided a positive opinion for issuing a "No-Objection Certificate" for the applicant's request.

As per the Government Resolution dated 21/08/2018 and the guidelines, the land mentioned under Survey Numbers 282, H.1-57-82, 251, H.00-16-54, 270, H.4-16-88, 252, H.00-25-62, 371, 9.4-07-18, 548, 9.00-68-00, 453, Th.1-17-60, 372, Th.9-40-64, 311, Th.3-45-06, 271, Th.2-00-75, 277, 8.08-69-02, 470, H.1-14-75, 473, Th.4-16-12, 410, H.3-04-87, 407, H.2-04-30, 372, Th.1-51-59, 408, H.4-14-60, 458, H.23-19-35, and Ra. No. 406, H.10-06-00, totaling 76-96-69 sq. meters, has been earmarked for the industrial purpose of a large chemical complex. The amount for the determined price, along with other taxes and stamp duty, has been paid according to the prescribed procedures. The applicant unit has been advised to follow the conditions outlined in the resolution for the allocation of land for industrial purposes under the specified terms.

The Deputy Collector of Mundra has been advised to ensure the rights over existing roads are maintained and that no hindrance is caused while allocating land. Necessary actions will be taken in accordance with objections or applications, and the related offices will be informed about the actions taken.

From the Port Officer, Gujarat Maritime Board, Mandvi Kutch, letter (45) states: "It is stated therein that the project shall not cause any hindrance to nearby navigational activities, fisheries, and other port-led developments. In view of the above, it is submitted that any additional information required in this matter may please be communicated."

From the Chief Engineer, Kutch Irrigation and Construction Department, Bhuj-Kutch, letter (46) and from the Superintending Engineer, Kutch Irrigation Circle, Bhuj, letter (47), opinions have been sent earlier.

From the Deputy Collector, Stamp Duty Evaluation Authority, Bhuj-Kutch, letter (47), the rate of Rs. 180/- per square meter has

been suggested for the industrial purpose land of 76-96-69 square meters located in various survey numbers in Mójé-Báda, Mandvi.

From the Talati cum Minister of Báda, Mandvi-Kutch, letter (48), it has been reported that payments of Rs. 76,967/- for local charges from survey number 47, Rs. 38,484/- for local surplus from survey number 48, and Rs. 38,484/- for education expenses from survey number 29 have been made as per the receipts.

From the Regional Officer, DLCRZ, Gujarat Pollution Control Board, Bhuj-Kutch, letter (49), "As per the superimposed CRZ map having sheet no. GJ 176, GJ 188, and GJ 189 submitted by M/s. GHCL Limited and considering the approved CZMP-23011 of District Kutch, it can be concluded that the proposed land of Survey No. 458 falls under CRZ-III zone.

"Therefore, CRZ permission is required in the said area before starting any activity."

From the applicant, M/s. GHCL Ltd.'s letter (50), proof has been submitted showing that the required amount has been paid to the government.

From the Assistant Fisheries Officer, Bhuj-Kutch's letter (51), it is stated that the land under consideration is suitable for agriculture but is not currently conducive for fisheries or shrimp farming. Given the current geographical conditions, there are no possibilities for using the land for brackish water ponds, harbors, landing centers, or other related fisheries activities. Additionally, the land cannot be used for a research center or other fishing-related purposes at present.

From the Deputy Collector, Stamp Duty Evaluation Department, Bhuj-Kutch's letter (52), the applicant has paid stamp duty of Rs. 2,17,23,138/- (Two Crore Seventeen Lakh Twenty-Three Thousand One Hundred Thirty-Eight Rupees) under receipt number 126, dated 20/05/2024. A copy of the verified treasury receipt has been submitted.

From the Gagalatdar, Mandvi-Kutch's letter (53), land of various survey numbers totaling 76-96-69 square meters in Mójé-Báda,

Mandvi, has been allocated for a large chemical complex for industrial purposes. The applicant has paid Rs. 43,87,11,33,0/- (Forty-Three Crore Eighty-Seven Lakh Eleven Thousand Three Hundred Thirty Rupees) under government receipt "0029-00-909-00" and Rs. 46,18,014/- (Forty-Six Lakh Eighteen Thousand Fourteen Rupees) under receipt "0035-00-800-01." Verification of these payments by the Deputy Treasury Officer of Mandvi has been reported.

Furthermore, from the applicant, M/s. GHCL Ltd.'s letter (54) dated 22/04/2024, proof has been submitted confirming that the required payments have been made to the government.

The application for the allocation of the demanded land from the applicant has been presented with objections/representations. The Tahsildar of Mundra has been instructed through letter (55) to take necessary actions as per the rules and submit the report. Accordingly, from the Deputy Collector of Mundra's letter (56), a total of 76-96-69 acres of land has been demanded from various survey numbers in at Bada, Mandvi. Out of this, land from Survey No. 371, which has a total area of 5-00-32 acres, has been demanded, with 4-67-18 acres of it

being requested. Among this, 4.07.18 acres of government vacant land has been allocated to the applicant. According to the DIAR's measurement sheet, out of the total 4-67-18 acres, 0.90.00 acres is a raw road that leads from Bada to the farms of Panchotiya. Survey No. 406 has a total area of 27-37-15 acres, out of which the applicant is demanding 25-76-58 acres. However, the land of 10.06.00 acres has been allocated, leaving aside the area of 22. Since the land other than the main road has been allocated, no obstruction is created for the movement of traffic. The related report has been included in the record. The road, as mentioned by the applicant's letter dated 13/06/2024, will be closed after alternative arrangements are made following the process under Section 37(1) of the J.M.K.A.K. Subsequently, the land for the road will be handed over to the applicant. Therefore, the allocation of land as per the order from the Government on 12/03/2024 will not cause any obstruction to the road.

Regarding the objections raised by various applicant organizations against the allocation of the land requested by the applicant, a notice was issued on 25/06/2024, asking for personal attendance. Upon the

expiry of the requested time, a hearing was scheduled again for 01/07/2024. During this hearing, the applicant/organization appeared in person, and written representations along with objections were submitted by various parties, including a specific center located at Bada. The center has garnered international attention and has invested millions of rupees in the construction of a facility.

It was argued that the project by GHCL would cause significant harm to this center and disturb the environment, which is crucial for maintaining peace and quiet. Consequently, the request for not allocating the land was made. However, despite some local opposition, including officials such as the Sarpanch from Bada, Panchotiya, Vindh, Padrapur, Nanalayja, Bhada, Modkuba, members of the Taluka Panchayat, and activists like Ramniklal Govindji Raychanda, Hitesh Savji Vadaliya, and the Divyang Adhikar Manch Kutch district, it was found that the opposition lacked sufficient strength, and they have publicly declared their support for the land allocation to the company

In regard to the objections/representations received concerning the land allocation and the review of the records, it was found that Survey No. 406 has a total area of 27.37.15 acres. Out of this, the applicant has requested 25.76.58 acres of land. As per the order from the Government on 12/03/2024, 10.09.00 acres of land has been allocated. The remaining land includes a total of three check dams and a flow of morami water, covering an area of 0.05.00.58 acres. There is also an unpaved road with an area of 10.55.00 acres. The check dams, water flow, and the road land have not been allocated to the applicant.

The applicant has not requested the land for expanding the bund, which has an area of 1.60.57 acres. Survey No. 459 has a pond with an area of 3.02.26 acres, which is being requested. However, this land has not been allocated to the applicant. For Survey No. 548, with an area of 7.44.82 acres, 2.67.38 acres of land has been requested. However, after leaving the land for the pond, 0.68.00 acres of land has been allocated.

According to the survey conducted by the District Land Officer, no check dams or ponds were found in any other survey numbers. Therefore, the representation by the applicants has been rejected. Regarding Survey No. 458, with an area of 23.19.35 acres, some individuals had unauthorized occupation on government land. Under Section 61 of the Gujarat Land Revenue Code, action was taken, and the encroachment was cleared. The individuals have voluntarily removed their encroachments and notified the office in writing.

Regarding the land in Survey Nos. 1094, 1096, 1098, and 1099, the survey conducted by the District Land Inspector does not show any demand by the applicant. Since the land survey was not conducted, it is concluded that the land is part of Survey No. 458 and the representation has been rejected.

Regarding Survey No. 371, the total area is 5.00.32 acres, out of which 4.67.18 acres were requested. As per the government order dated 12/03/2024, 4.07.18 acres of government land has been approved for allocation. However, the 0.90.00 acres of road land has not been approved for allocation.

If the road land is to be allocated to the applicant, then an alternative road must be constructed, and the action will be taken under Section 37(1) of the Gujarat Land Revenue Code. The applicant has given an assurance in their letter dated 13/06/2024 that until this process is completed, the road will not be closed, and the boundary will not be constructed.

Regarding Survey No. 406, the total area is 27.37.15 acres, out of which 25.76.58 acres were requested. Of this, 10.06.00 acres have been allocated, while the remaining areas including 3 check dams, the water flow area, and the road land have not been allocated.

Regarding Survey No. 548, the total area is 7.74.82 acres, out of which 2.67.38 acres were requested. However, the road and pond land were excluded, and 0.68.00 acres were allocated.

The claim about private ownership in Survey No. 458 is incorrect. Encroachment on government land had occurred, and under Section 61 of the Gujarat Land Revenue Code, the encroachment has been cleared. The applicant's representation has been rejected

"Regarding the requested land, the road land will only be allocated to the applicant after the procedure under Section 37(A) of the Gujarat Land Revenue Code is completed. In light of the representations made by the local village body and other applicants concerning environmental concerns, the matter has been forwarded to the Gujarat Pollution Control Board. The necessary procedure for environmental clearance will be followed as per the regulations.

Considering the facts, it is advised that appropriate legal action be taken concerning the applicant's land request in accordance with the regulations.

As per the report received from the Deputy Collector of Mundra (Reference: Jamn/Vashi/1508/2024, dated 25/07/2024), after hearing the related applicants, responses have been sent accordingly.

Additionally, as per the communication (No. 57) from the applicant unit, the applicant had requested land measuring 101-63-51 sq. yards. Based on the opinion (No. 47) from the Deputy Collector, Stamp Duty Evaluation System, Bhuj-Kutch, the total service charge of ₹18,29,432/- is to be collected from the applicant unit.

In light of the proceedings, the applicant unit has already paid ₹9,15,493/- towards the service charge as per the government's stipulated procedure. The difference in service charge of ₹9,13,939/- has been directed to be paid by the applicant unit.

In relation to this, the applicant unit has submitted the hard copy of the receipt (Cheque No. 84/2023-24, dated 12/07/2024) from the SBI Mandvi branch confirming the deposit.

Thus, based on the aforementioned details, the applicant has paid the land value amount, stamp duty, and other dues as per the settlement under the resolution (42) of the Government's Revenue Department. The measurement, as per the D.I.L.R. (No. 9) report from Kutch-Bhuj, and the opinion given by the Deputy Collector (No. 56), including objections and representations, have been reviewed. Based on the settlement conditions and opinions from the relevant departments, the land with the following survey numbers in Maja: Bada, Taluka Mandvi, District Kutch, is allotted for industrial use:

Survey numbers 282, 1-57-82, 251, 00-16-54, 270, 4-16-88, 252, 00-25-62, 371, 4-07-18, 548, 00-68-00, 453, 1-17-90, 372, 9-40-64,

311, 3-45-06, 271, 2-00-75, 277, 00-69-02, 470, 1-14-75, 473, 4-16-12, 410, 3-04-87, 407, 2-04-30, 521, 1-51-59, 408, 4-14-60, 458, 23-19-35, and 406, 10-06-00, totaling 76-96-69 square meters of land, will be allotted for a large chemical complex as per the Government's Revenue Department's resolutions (59), and the conditions outlined in the relevant regulations and policies of the Revenue Department, dated 17/10/1947 (resolution No. 1970/45), and dated 07/08/1956 (resolution No. LND/3956/75117/B).

The land will be allocated to the applicant unit, G.H.C.L. Ltd.-Ahmedabad, for industrial purposes under the Large Chemical Complex, as per the conditions mentioned in this order, which include new, indivisible, and controlled regulatory conditions.

-: Conditions :-

(1) The land in question will be allotted under new, indivisible, and controlled conditions.

(2) After the registration of this land at the relevant sub-registrar's office, the land's approval order shall be issued based on Village Form No. V and Village Form No. R.

(3) The purpose of the land cannot be changed or altered in any form without prior approval from the Government.

(4) The conditions of the conditional opinion provided by the Joint Industrial Commissioner (Infra.) - Gandhinagar, in their letter dated 27/07/2021 must be followed.

(5) The conditions in the letter from the Executive Engineer (Road and Building Department, State), Bhuj, dated 22/06/2022 and 26/05/2023 must be adhered to.

(6) The conditions of the conditional opinion given by the Deputy Director (Development) - Bhuj District Science and Mineral Commissioner's Office - Gandhinagar, in their letter dated 11/04/2023 must be followed.

(7) The existing road along the land must be maintained as is, ensuring no obstruction to traffic.

(8) The conditions in the letter from the Deputy General Manager, Gujarat Maritime Board, Gandhinagar, dated 10/01/2022 must be followed.

(9) Any development on the land that falls within the CRZ area will only proceed after obtaining the necessary non-objection certificates/clearances.

(10) The conditions provided by the Assistant Fisheries Commissioner, Bhuj-Kutch, in their letter dated 27/05/2024 must be followed.

(11) Construction should be carried out in accordance with the Road and Building Department's regulations to ensure there is no violation of the boundary control.

(12) The land can only be used for the purpose for which it is allocated, and no other usage is permitted without prior approval from the Government.

(13) Any construction on the land must be in compliance with the boundary control regulations and should be done in a manner that

suits the site. If the land is part of a road area, any required modifications should be made. Permission for construction must be obtained from the competent authority.

(14) The land is given under an irreversible agreement. The land cannot be subdivided, sold, leased, or otherwise altered without the Government's permission.

(15) The work related to the allotted land should be completed within 2 years from the date of the order, and the land should be put to use.

(16) If the construction violates the conditions of the order, the District Collector has the authority to order the removal or alteration of the construction within the specified time. If the work is not completed within the specified time, the Collector can take action and recover the costs from the land's revenue.

(17) No explosive substances that are prone to quick ignition should be kept on the land or its surroundings.

(18) The conversion of the land for non-agricultural or any other purpose should be carried out in accordance with the Government's

rules and regulations. The applicable fees must be paid annually, subject to any future increases. The applicant is bound to comply with this.

(19) All necessary licenses, certificates, and industry registration numbers must be obtained as per the current laws and regulations.

(20) The construction for industrial purposes must comply with the existing building construction rules and the conditions therein.

(21) The land must be used in a manner that does not obstruct water flow.

(22) Construction must be carried out in accordance with the boundary control regulations, starting from the center line of the road. The remaining land must be kept open, and no construction can be done in this open area in the future. However, the land can be used for purposes without construction.

(23) Any trees, plants, or public property on the land will remain the property of the Government of Gujarat.

(24) The environment must be maintained, and the applicant must comply with the Forest and Environment Ministry's notifications, as well as the Gujarat Pollution Control Board's guidelines.

(25) The use of the land must be in accordance with the conditions outlined in the 1972 Land Revenue Regulations, and the concerned Taluka Officer must issue an acceptance letter in the prescribed format. Additionally, the applicant must obtain a letter of approval from the Taluka Officer.

(26) Registration of this land must be done by the Sub-Registrar of Mandvi.

(27) The applicant must complete the prescribed project work within the specified time limits and complete the related activities as per the project report.

(28) If any of the above conditions are violated, the approval for the land will be revoked, and the land will be taken back by the Government without any compensation.

(29) The applicant company must comply with all the instructions issued by the Government from time to time.

SD

Amit Arora

Collector-Kutch

13/09/2024

To,

Authorized Signatory, G.H.C.L. Limited,

G.H.C.L. House, Navrangpura, Ahmedabad

Copy to:

(1) Deputy Collector, Mundra-Kutch

(2) Deputy Collector, Stamp Duty Valuation Department, Bhuj-Kutch

(3) Taluka Mamlatdar, Mandvi-Kutch, along with the original documents for the work as per the order

As per the rules, the further proceedings should be completed, and regarding the allotted land, following the decisions made in the

Government Resolution No. 27/03/1984 (Reference No. JAG/3984/1615/A) and Resolution No. 24/04/1981 (Reference No. JAMAN/3981/5028/A), a proper measurement has been done and the possession has been handed over to the applicant. The proceedings for handing over the land to the applicant should be completed within 30 days, and the required certificate should be issued in the prescribed format within the next 15 days. Kindly inform here immediately.

(4) D.I.L.R. Office, Kutch-Bhuj

(5) Sub-Registrar, Mandvi-Kutch

(6) Executive Engineer, Kutch Irrigation Department, Bhuj-Kutch

(7) Executive Engineer, Kutch Irrigation Construction Department, Bhuj-Kutch

(8) Executive Engineer, Roads and Building Department (State/Panchayat), Bhuj-Kutch

(9) Port Officer, Gujarat Maritime Board, Mandvi-Kutch

(10) Regional Officer, D.L.C.R.Z., Gujarat Pollution Control Board,
Bhuj-Kutch

(11) Assistant Fisheries Commissioner, Fisheries Department, Gujarat
State, Camp Area, Opposite TB Hospital, Bhuj-Kutch

(12) Taluka Development Officer, Mandvi-Kutch

(13) Town Planner, Urban Planning and Valuation Department,
Multi-Story Building, Bhuj-Kutch

(14) General Manager, Industrial Estate Centre, Bhuj-Kutch

(15) Sub-Treasury Officer, Mandvi-Kutch

(16) Talati Revenue Minister, Bada Gram Panchayat, Ta.
Mandvi-Kutch

(17) Selected File

(18) Office File

Copy sent respectfully to:

Deputy Secretary, Revenue Department, G Branch, Secretariat,
Gandhinagar

સાઈટીંગ ઝાઈટેરીયા



ગુજરાત પ્રદૂષણ નિયંત્રણ બોર્ડ

આઈ.એસ./આઈ.એસ.ઓ. ૯૦૦૧:૨૦૧૫ અને
આઈ.એસ./આઈ.એસ.ઓ. ૧૪૦૦૧:૨૦૧૫ સંસ્થા



WORLD
ENVIRONMENT
DAY 2022

Sighting criteria



05 June 2022

Gujarat Pollution Control Board

IS/ISO
I.S./I.S. O.

9001:2015 and
14001:2015 Organization



WORLD
ENVIRONMENT
DAY 2022

Gujarat Pollution Control Board

Gandhinagar

Circular

As per the Resolution of the Revenue Department of the Government of Gujarat: BKP/1098/U.O.12/K, dated 30/10/1998, consultation with the Gujarat Pollution Control Board is not required for obtaining non-agricultural permission for land for industrial purposes, the Gujarat Pollution Control Board has asked the revenue authorities to include the conditions mentioned in the Board's circular No. Gu.P.N.Board/Circular/N.A./R.J./1/06/10253, dated 12/04/2006, while issuing non-agricultural orders.

After due consideration of the representations received by this office from time to time regarding the siting criteria for establishment of industrial units, circulars of various government departments and orders of eminent courts etc., the Board's earlier circular No. G.P.N.Board/Circular/N.A./R.J./1/06/10253, dated 12/04/2006 is hereby cancelled.

Henceforth, the following siting criteria will be applicable in case of setting up of new industrial units/expansion of units.

order	the place	Distance (in meters)		
		Category of Industrial Unit (As per CPCB category)		
		Red	Orange	Green
1	Residential area/ School/ College	500	250	200
2	River/lake/natural stream/lake	500	250	150
3	The minimum distance from the industrial unit to the road/railway/canal/historical buildings shall be as per the control line prescribed by the concerned government department (such as Roads and Buildings/Panchayat/National Highways Authority of India (NHAI)/Railways/Irrigation/Archaeology Department).			
4	Regarding the distance of an industrial unit from a forest area or seashore, a minimum distance shall be maintained as per the notification issued by the Government from time to time, depending on the category of the adjoining area (such as sanctuary, national park, reserved forest, eco-sensitive zone, CRZ, etc.).			

- The following details should be taken into account while applying the siting criteria:
 1. Residential area means an area where there are fifteen (15) or more pucca houses in a group (cluster).
 2. In case of expansion/sale of industrial unit; if there is a change in category, the siting criteria as per the new category will be applicable.
 3. In cases where the orders of the Hon'ble Supreme Court, Hon'ble NGT or Hon'ble High Court or the Area Specific Policy, Industry Specific Policy and Government Notifications made thereon are applicable, the provisions of the relevant orders for siting criteria shall be followed.
 4. The above siting criteria will not be applicable to the industrial unit coming up in the GIDC area but the policy implemented by the GIDC will have to be followed.
 5. The siting criteria will be applicable to all industrial units coming up in private estates that have not obtained environmental clearance.
 6. The rules of the local self-government body for siting criteria will be applicable to the service sector units coming under the purview of the local self-government body such as hotels, automobile service stations, health-care units, railway workshops/stations, all types of laboratories, gold hallmark units etc.
 7. Cases not covered in this circular regarding sighting criteria shall be referred to the Board's Committee on Seeing Criteria.

This circular is issued after obtaining the approval of the Chairman on file No. G.P.N.Board/V.S.D.-C-6-2021(2)/General.

(D. M. Thackeray)

Member Secretary

No. G.P.N.Board/V.S.D.-C-6-2021(2)/General/

Dt. 05-06-2022

Send Copy: _____

1) All Collectorate Offices, Gujarat State

2) Office of the Hon. Chairman, Central Public Service Board Head Office....Gandhinagar

- 3) Hon'ble Member Secretary's Office, G.P.N. Board Head Office.....Gandhinagar
- 4) All Units, Head Office, Gandhinagar
- 5) All Regional Offices, G.P.N.Board
- 6) IT Cell, G.P.N.Board Head Office Gandhinagar...to place a copy of the circular on the website
for necessary action.
- 7) Law Officer, G.P.N Board Head Office, ... Gandhinagar
- 8) State Level Environment Impact Assessment Authority, Gujarat
(SEIAA)...Gandhinagar
- 9) State Level Expert Appraisal Committee, Gujarat (SEAC).... Gandhinagar
- 10) Public Liaison Officer, G.P.N.Board Head Office Gandhinagar.....Good for drafting in English.
- 11) Circular file
- 12) Related file

ANNEXURE A/8

Copy of the screenshot of the timeline of the project from Parivesh Portal reflecting that the 80th EAC meeting on 07.06.2024 as the last meeting wherein the project was considered and there is no reference or documentation available on the timeline of the project regarding any subsequent deliberations in the 84th and 87th EAC meetings in connection with the said project.

environmentclearance.nic.in/timelineA.aspx?pid=IA/GJ/IND3/408164/2022&type=EC&proposal_id=44172

Track projects | Untitled Page | Leitheit Comfortline... | EAC Comments - G... | Circulars - The Offici... | Welcome to E-PER... | National Coastal Zo... | All Bookmarks

TimeLine Details

Proposal received date at each stage of flow.

Submitted by Proponent	Query for Shortcoming(if any) by MS	Resubmission of Proposal by Proponent	Accepted by MS	Proposal considered by EAC	Minutes uploaded on	Additional Detail sought (if any) by MS	Replied by proponent	Delist/Relist	TOR Granted	EC Granted
30 Nov 2022	07 Dec 2022 19 Jan 2023 06 Oct 2023 03 Nov 2023	06 Jan 2023 08 Sep 2023 07 Oct 2023 27 Dec 2023	28 Dec 2023	Jun 07, 2024 To Jun 07, 2024 Apr 30, 2024 To Apr 30, 2024 Jan 02, 2024 To Jan 02, 2024 Feb 06, 2024 To Feb 06, 2024	Jun 20, 2024 Jun 20, 2024 May 13, 2024 Jan 09, 2024 Feb 15, 2024	09 Jan 2024 15 Feb 2024 13 May 2024	30 Jan 2024 28 Mar 2024 28 May 2024	Delisted : 20 Jan 2023 Relisted : 27 Dec 2023 Delisted : 20 Jan 2023 Delisted : 05 Nov 2023 Delisted : 05 Nov 2023	N/A	12 Dec 2024

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सत्यमेव जयते

Government of India
Ministry of Environment, Forest and Climate Change
IA Division
(Industrial Projects - 3)



Minutes of AGENDA FOR 84th MEETING OF THE EXPERT APPRAISAL COMMITTEE (INDUSTRY-3 SECTOR), SCHEDULED TO BE HELD ON 21st -22nd August, 2024 meeting Industrial Projects - 3 held from 21/08/2024 to 22/08/2024

Date: 02/09/2024

MoM ID: EC/MOM/EAC/346222/8/2024

Agenda ID: EC/AGENDA/EAC/346222/8/2024

Meeting Venue: N/A

Meeting Mode: Virtual

Date & Time:

21/08/2024	10:30 AM	09:30 PM
22/08/2024	10:30 AM	08:30 PM

1. Opening remarks

Prof. (Dr.) A.B. Pandit, Chairman welcomed the Committee members and opened the EAC meeting for further deliberations.

2. Confirmation of the minutes of previous meeting

The Member Secretary then apprised the Committee about the details of Agenda items to be discussed during this Expert Appraisal Committee (EAC) meeting.

The EAC noted that the final minutes of the above meeting were issued after incorporating the comments offered by the members and approved by the Chairman.

3. Details of proposals considered by the committee

Day 1 -21/08/2024

3.1. Agenda Item No 1:

3.1.1. Details of the proposal

Expansion for existing Formaldehyde and Resin unit and proposed API unit of M/s. Aatmajyot Chem Pvt. Ltd [Total Production Capacity: - 12670.25 TON/Month] by AATMAJYOT CHEM PRIVATE LIMITED located at MORBI, GUJARAT

have satisfactorily complied with the conditions stipulated in the existing EC(s) and satisfactorily fulfilled all the commitments made during the earlier public hearing/consultation proceedings and also the commitments given while granting previous expansion, as may be applicable. This shall be duly recorded in the certified compliance report (CCR) issued by the IRO/CPCB/SPCB, which should not be more than one year old at the time of submission of application.” The Committee was of the view that the ATR on the partly complied point was not verified by the IRO. Therefore, the same should be verified and should be recorded in the CCR by the IRO for further consideration of the proposal by EAC (Industry -3).

(iii) Water balance for monsoon and non-monsoon season to be submitted.

Accordingly, proposal was deferred for want of above additional information. Above all additional information shall be submitted online to the PARIVESH portal for further consideration by EAC.

Any Other Item

Agenda No. 84.20

Proposed project to produce Light Soda Ash (LSA) of 11,00,000 TPA capacity, 5,00,000 TPA of Dense Soda Ash (DSA) and 2,00,000 TPA Sodium Bicarbonate (SBC) located at near village Bada, Taluka - Mandvi, District - Kutch in the Gujarat by “Greenfield Chemical Complex” of GHCL Ltd- Reconsideration of Environmental Clearance

[Proposal no: IA/GJ/IND3/408164/2022, File No. IA-J-11011/293/2021-IA-II(I)]

1. Ministry has received project proposal seeking environmental clearance to produce Light Soda Ash (LSA) of 11,00,000 TPA capacity, 5,00,000 TPA of Dense Soda Ash (DSA) and 2,00,000 TPA Sodium Bicarbonate (SBC) located at near village Bada, Taluka - Mandvi, District - Kutch in the Gujarat by “Greenfield Chemical Complex” of GHCL Ltd.
2. The proposal was considered by the EAC (Industry-3) in its 80th meeting held on 7th June, 2024 and recommended the proposal for environmental clearance. Further, matter was examined in the Ministry and observed that the large number of written representations received in the ministry and the issues involved. Accordingly, it was decided to undertake site visit by the sub-committee of EAC (Industry -3) to understand the ground situation. Based on the outcome of the same, project may be reconsidered by the EAC for further decision.
3. After detailed deliberations, the EAC constituted a sub-Committee comprising the members namely Dr. Suresh Panwar, Dr. Kishore Malviya and representative of the Ministry to undertake a site visit and submit the report to the Committee for further consideration of the proposal.

ANNEXURE A/10

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
(IA DIVISION-INDUSTRY-3 SECTOR)

Dated: 24.10.2024

MINUTES OF THE 87th EXPERT APPRAISAL COMMITTEE (INDUSTRY-3 SECTOR) MEETING FOR PROJECTS LISTED FROM “PARIVESH 1 PORTAL” HELD ON 21st October 2024

Venue: Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi-110003 through Video Conferencing (VC)

Time: 10:30 AM onwards

(i) Opening Remarks by the Chairman

Prof. (Dr.) A.B. Pandit, Chairman welcomed the Committee members and opened the EAC meeting for further deliberations.

(ii) Details of Agenda items by the Member Secretary

The Member Secretary then apprised the Committee about the details of Agenda items to be discussed during this Expert Appraisal Committee (EAC) meeting.

(iii) Confirmation of Minutes of the 86th EAC Meeting held on 30th September & 1st October, 2024.

The EAC noted that the final minutes of the above meeting were issued after incorporating the comments offered by the members and approved by the Chairman.

PARIVESH 1 Portal

Agenda No. 87.1

Proposed expansion project for manufacturing of Marine Chemicals, Fertilizers and Captive Co-Gen Power Plant located at Greater Rann of Kutch, Nr. Village Dhordo, Tal: Bhuj, Dist. Kutch, Gujarat by M/s. Agrocel Industries Pvt. Ltd. - Consideration of Environmental Clearance

[Proposal no: IA/GJ/IND3/277411/2020, F.NO.: IA-J-11011/269/2020-IA-II(I)]

1. The proposal is for the environmental clearance Proposed expansion project for manufacturing of Marine Chemicals, Fertilizers and Captive Co-Gen Power Plant located at Greater Rann of Kutch, Nr. Village Dhordo, Tal: Bhuj, Dist. Kutch, Gujarat by M/s. Agrocel Industries Pvt. Ltd.
2. The project/activity is covered under Category ‘A’ of item 5 (a)- **Chemical fertilizers** of Schedule of Environment Impact Assessment (EIA) Notification, 2006 (as amended).
3. ToR letter was granted from MoEFCC vide File No. IA-J-11011/269/2020-IA-II(I) dated 07th November 2020. The PP reported that it is an **expansion case**. The proposal is placed in the 87th EAC meeting 21-22 October 2024. Project Proponent and an accredited Consultant, San Envirotech Pvt. Ltd.,

Any Other Item(s)Item No. 1

Proposed project to produce Light Soda Ash (LSA) of 11,00,000 TPA capacity; 5,00,000 TPA of Dense Soda Ash (DSA) and 2,00,000 TPA Sodium Bicarbonate (SBC) located at near village Bada, Taluka – Mandvi, District – Kutch in the Gujarat by “Greenfield Chemical Complex” of GHCL Ltd. – Reconsideration of Environmental Clearance

[Proposal No.: IA/GJ/IND3/408164/2022, File No.: IA-J-11011/293/2021-IA-II(I)]

1. Deliberations by the EAC:

The proposed production of Light Soda Ash (LSA) of 11,00,000 TPA capacity, 5,00,000 TPA of Dense Soda Ash (DSA) and 2,00,000 TPA Sodium Bicarbonate (SBC) located at near village Bada, Taluka - Mandvi, District - Kutch in the Gujarat by “Greenfield Chemical Complex” of GHCL Ltd.- Site Visit Report

As per minutes of the 84th Expert Appraisal Committee (Industry-3) meeting held during 21st - 22nd August, 2024, a site visit of **“Greenfield Chemical Complex” of GHCL Ltd.** was undertaken by the sub-Committee comprising Dr. Suresh Panwar, Dr. Kishore Malviya and Sh. A N Singh, Scientist F, Ministry of Environment, Forest & Climate Change to assess the existing environmental scenario of the proposed project site.

The Sub-Committee alongwith Dr. Yogesh Kumar, Scientist – C, IRO, MoEF&CC, Gandhinagar and Mr Naresh Chaudhari, GPCB RO Kutch (West) visited the site of **“Greenfield Chemical Complex” of GHCL Ltd.** on 09.10.2024.

(A) The following officials of GHCL Ltd. were present at site during inspection:

1. (A) Mr N N Radia- COO- GHCL
2. Mr Jayesh Patel- Projected Head GHCL
3. Mr Malav Dalwadi- CEO T R Associates and Environment Pvt Ltd.
4. Mr Jay Ram- Environmental Engineer GHCL

At the outset, Officials of **M/s. GHCL Ltd. welcomed the Sub-committee and** briefed the Sub-Committee about the proposed project, location of unit, land acquisition status, layout map, entry and exit of the proposed plant area, seawater intake and outfall pipeline area, proposed air emissions control system, effluent management system, greenbelt etc. The Sub-Committee visited the project site and had general round of the proposed project site, outfall point.

A. Background

(i) Project location

The proposed project site is located near village Bada Village in Mandavi Taluka, District Kutch, Gujarat, which is geographically located at the Arabian Sea Coast off Bada Village. It is located about 70 km from district headquarter Bhuj, 25 km from Mandavi and the road connectivity of Bada Village through NH 41 which is connecting Mandavi and Naliya.

(ii) The details of various proposed products to be manufactured are as follows:

Sr. No.	Name of the Product	Production Capacity (MT/Month)	CAS Number	End use
1	Light Soda Ash	11,00,000 TPA	497-19-8	Manufacturing of glass, usage in chemical industry, paper and detergent manufacturing, and food industry
2	Dense Soda Ash	5,00,000 TPA	497-19-8	
3	Sodium bicarbonate	2,00,000 TPA	144-55-8	
Captive Co-generation Power plant Steam (CFBC boilers)			120 MW	
Emergency DG Set			5 MVA	
Note- The production capacities are planned in phased manner and for Phase 1 production capacity for LSA: 5,50,000 TPA, Dense Soda Ash: 2,50,000 TPA, SBC: 1,00,000 TPA and 60 MW for Captive Co-generation Power plant.				

The proposed project also involves sea water intake pump house of $16 \times 10^5 \text{ m}^3/\text{day}$ ($2 \times 8 \times 10^5 \text{ m}^3/\text{day}$) and Effluent disposal facility of $15.8 \times 10^5 \text{ m}^3/\text{day}$ ($2 \times 7.9 \times 10^5 \text{ m}^3/\text{day}$).

The soda ash process is in principal based on the well known (solvay) ammonia process.

(iii) Plot Area

As per EIA report, total plot area required for the proposed project is 546 ha. Break up of land and its acquisition details are as given below:

S.N.	Type of Land	Total Land Sanctioned (Ha)	Land Acquired	Remaining land acquisition under finalisation	Total acquired /finalisation	Remaining land acquisition under process
1	Government Land	101.6351 (Letter from Industry Centre has been submitted)	76.9669 (Letter from Collector to GHCL for	24.6682	101.6351	--

		for allotment of land)	acquired plot)			
2	Private Land	444.6849	298.5911 (M/s GHCL has acquired)	23.3502	321.9413	122.7357
		546.32	375.558	48.0184	423.5764	122.74

It is proposed that out of 546.32 ha land, area earmarked for greenbelt is 180 .2856 ha (33 %).

As per proposal, M/s GHCL will withdraw water from two intake locations and disposal of effluent at two outfall locations and length of sea water intake and outfall effluent disposal is as given below:

- (i) Intake pipeline 1 length is 1381.99 m.
- (ii) Intake pipeline 2 length is 1388.64 m
- (iii) Outfall pipeline 1 length is 2770.17 m
- (iv) Outfall pipeline 2 length is 3281.88 m

It is reported that Pipelines will be laid through micro tunnelling. The pipelines for sea water intake and effluent disposal will be laid in a safe manner so that sand dunes stretch between the plant boundary and respective land fall points (LFP) are protected without any disturbance to their natural appearance and stability.

GCZMA recommendations

Forest & Environment Department, Government of Gujarat vide file no ENV/10/2021/184/T-Cell dated 26th December, 2023 has conveyed the GCZMA recommendations for grant of CRZ clearance for seawater intake and effluent disposal facilities. Baseline Marine Environmental Assessment, Effluent Dispersion Modeling Sand Dune Morphology study have been carried out by CSIR, NIO, Goa, Mumbai. It is reported that as per findings, suitable corridor for laying seawater intake and outfall were identified. Coast near site is stable based on satellite image analysis and sand dunes are found to be stable and suitable for tunnelling activities. A study on status survey and conservation plan for sea turtles along Mandavi Taluka of Bhuj, Gujarat was conducted by Zoological Survey of India and submitted its report in April, 2019. It is reported that Mandvi taluka is reported to have maximum sandy beaches and no presence of mangroves. The Kutch coastlines reported to have stabilized dunes specially around Mandavi. It is reported that no sea turtle nest/ fresh crawl marks were observed along the shore /beach surveyed. It is also reported that there is no existence of mangroves in proposed project area along route of the proposed lying intake and outfall pipelines and there would not be any impact on mangroves due to proposed activities.

Forest Clearance :

Regional Office, Gandhinagar, MoEF&CC vide letter dated 04.01.2024 has granted final (stage - II) approval of Central Government under Forest (Conservation) Act, 1980 for proposed diversion of 0.9689 ha un class forest land for laying part of sea water intake and effluent disposal pipeline and passage for related construction pipeline and passage for construction equipment movement in Kachchh District. One of the conditions stipulated is compensatory afforestation shall be taken up by the Forest Department over 2.00 ha de-graded forest land at Village Dhokda, Taluka Mandavi, District Kuchchh at the cost of user agency.

NABET-accredited consultant

Initially EIA-EMP report for the proposed **Greenfield Chemical Complex of M/s GHCL Ltd.** was prepared by CSIR, NEERI. Further based on recommendation of the EAC (Industry -3), EIA-EMP report was updated and validated by QCI-NABET Environmental Consultant for item 4 (e) category A of schedule of EIA Notification 2006, namely by M/s T R Associates. NABET-accredited consultant has carried out additional 3 months data collection as well as additional 1 month data to validate the existing study and also submitted the undertaking that they have verified the EIA/EMP report and prepared an addendum report describing findings and observations. It was also presented that they have not observed any significant deviation in the EIA report prepared by the national reputed organisation NEERI.

Conservation of Ecology and Biodiversity

As per report prepared by Gujarat Institute of Desert Ecology, the project site does not fall in 10 km periphery of any protected areas such as National Park or Sanctuary or Eco-sensitive Zone. Major land use land cover in the study area observed to be waste land, rain fed agriculture land, water bodies, Arabian sea and sand dunes and transport network. Due to sandy nature of shoreline the mangrove system is found to be absent at project site.

Approval of conservation plan for schedule – 1 species :

Chief Wildlife Warden, Gujarat vide letter no WLP/32/A/50-52/2023-24 dated 24.04.2023 has granted approval of conservation plan of selected schedule -1 species for greenfield project of M/s GHCL at Bada Village, Mandavi, Kutch, Gujarat. The Conservation plan of Rs. 136.50 Lakhs has been approved which includes components of Habitat Conservation, Protection and improvement; Research and Monitoring; Education and Awareness; Miscellaneous and monitoring.

Environmental Management Plan

1. Details of process emissions generation and its management:

SR.NO.	Stack attached to	Capacity	Height of the stack (m)	Fuel & its Consumption	Expected Pollutant	APC System	GPCB Limit
1	CPP with flue gas desulphurization CFBC Boiler (6 Nos.)	150 TPH	130 m	Imported Coal/Lignite/ Pet coke (Imported Coal: 13,14,000 TPA, Lignite :19,71,000 TPA,	SPM SO ₂ NO ₂ Hg	Individual ESP with each Boiler with desulphurization	PM ≤ 30 mg/Nm ³ SO ₂ ≤ 100 mg/Nm ³ NO ₂ ≤ 100

				Pet coke: 9,12,500 TPA)			mg/Nm ₃ Hg ≤ 0.03 mg/Nm ₃
2	D G Set (2/3 Nos.)	5 MVA	30 m	HSD (60 KL)	HC CO PM NO _x	Retrofitting	NO _x 710 ppmv NMHC 100 mg/Nm ₃ PM 75 mg/Nm ₃ CO 150 mg/Nm ₃
3	Lime Kiln 1		68 m	Coke or Briquette or Anthracite (Coke - 1,30,000 TPA, Briquette- 1,55,000 TPA, Anthracite - 1,10,000 TPA)	SPM SO ₂ NO ₂	Scrubber and Dust Collector system	SPM ≤ 150 mg/Nm ₃ SO ₂ ≤ 100 ppm NO ₂ ≤ 50 ppm
4	Lime Kiln 2		68 m			Scrubber and Dust Collector system	
5	Lime Kiln 3		68 m			Scrubber and Dust Collector system	
6	Lime Kiln 4		68 m			Scrubber and Dust Collector system	
7	Lime Kiln 5		68 m			Scrubber and Dust Collector system	
8	Lime Kiln 6		68 m			Scrubber and Dust Collector system	

SR.NO.	Stack attached to	Height of the stack (m)	Expected Pollutant	APC System
1	Ammonia Recovery system	42 m	Ammonia	Water scrubber followed by acid aqueous solution
2	Lime grinding system / Slaker	65 / 20 m	PM / Water vapor	Bag filter / Adequate stack height

3	Calcliner unit	37 m	PM	Scrubber, Bag filter
4	Densification	43 m	PM	Scrubber
5	Sodium Bi-Carbonate Unit	30 m	PM	Bag filter
6	Lime Kiln	Closed system	PM	Scrubber and Wet ESP

2. Details of Solid Waste/ Hazardous Waste Generation and Its Management:

Sr. No.	Type of Waste	Category	Quantity	Mode of Disposal
1	Settled Sludge from treatment of effluent generated from captive power plant & RO/DM Plant	35.3	1.0 MT/Annum	Collection, storage and disposal at approved TSDF site
2	Used Oil	5.1	12 KL	Collection, storage and used within premises as a lubricant / sold to registered recycler
3	Discarded Drums and Bags	33.1	6.45 MT/Annum	Collection, storage & sold to authorized vendor
4	Spent Ion exchange resin	35.2	3000 Lit/Annum	Collection, storage and disposal at approved TSDF site
5	Used Cotton	33.2	5 MT/Annum	Collection, storage and disposal at approved CHWIF site
6	Lead acid Batteries	Schedule-IV (17)	5 MT	Collection, storage & sold to authorized agency through auction
7	E-Waste	Schedule-I of E-Waste (Management) Rules, 2022	5 MT/ Annum	Collection, storage & sold to authorized agency through auction
8	Plastic Waste	-	2295 MT/Annum	Collection, Storage and Disposal to CPCB/SPCB authorized recyclers under EPR of Plastic Waste Management

9	Bio-medical Waste	-	0.035 MT/Annum	Collection, storage and disposal as per Bio-medical Waste Management Rules, 2016
10	Construction and Demolition Waste	-	20 TPD	Collection, storage and utilize internally for area filling, road making etc.

Non-Hazardous Solid Waste Details

Sr. No.	Type of Waste	Source of Generation	Quantity	Mode of Disposal
1	STP sludge	STP	1152 MT/Annum	Reused as Manure in Greenbelt Development
2	Kitchen Waste	Canteen	0.01 MT/Day	Collected and composted in Composter and further used as manure for gardening in the premises
3	Ash (Fly ash & Bottom Ash)	Boiler	2726.847 TPD	Collection in silo, storage & sold to cement Manufacturing/ Brick Manufacturing
4	Limestone rejects	Desulphurization Process	1,00,000 MT/Annum	Collection and reused in Boiler for desulphurization and as a sweetener in cement industry, road making, pavement etc.

3. Wastewater management :

The liquid effluents from the soda ash process includes wastewater from distillation, brine purification and cooling waters from lime kiln gas washers, absorption, distillation towers and calcination. Wastewater shall be treated and solids will be separated in the Effluent Treatment Plant. The treated and diluted effluents will be disposed off into Arabian sea at designated point as per dispersion modelling studies and recommendation of SCZMA. Online pH, temperature, flow meter, SS and TOC analyser shall be provided for online monitoring and records shall be maintained. Sewage will be treated in the STP and treated water will be recycled for horticulture purpose.

4. Capital Cost and recurring cost earmarked for EMP and its break up is as given below:

S.N	EMP			Capital cost in Rs Crore	Recurring cost Crore per annum
		Components	Cost		

1	Air Pollution	Flue Gas Emissions Individual ESP with 6 No. Boiler Scrubber and Dust Collector system with 6 No. Lime Kiln	12.03	89.280	1.5
		Process Gas Emissions Water Scrubber with Ammonia Recovery system (Including 2 no of stack)	2.70		
		Bag Filters & Scrubbers	11.45		
		ESP- CFBC	30		
		Dust Suppression& Bed Ash System(Fly ash management) including Wind Screen	6.2		
		Various Stacks	26		
		Dry Fog system	0.9		
2	Water Pollution	ETP & STP	14	14	0.12
3	Environmental Monitoring	Continuous Emission & Effluent Monitoring System	3.4	3.4	1.3
4	Noise Pollution	Acoustic Enclosures	2.9	2.9	0.0035
5	Hazardous /Solid Waste Management	Storage area & Membership Charges	1.05	1.05	1.10
6	Greenbelt Development	Thick Greenbelt Development as per EMP	20	20	0.5
7	Fire & Safety	Fire Hydrant System	2.539	2.916	0.2
		Fire extinguisher	0.227		
		Automation for Chlorine and ammonia storage area	0.15		

8	Occupational Health & Safety	OHC, PPE'S, Mock drill, Safety Audit, & Misc	0.444	0.444	0.15
9	Miscellaneous	Rain water harvesting System, Env. Lab & Misc.	8.40	53	2.66
		Drainage Network for rain water	44.6		
10	CER	Promoting renewable energy, skill development Programme, Organic farming, water conservation (like village pond deepening), forestry etc. and develop infrastructure of schools, health facilities, Fishing activities, roads in nearby villages	18.04	18.04	-
	Total A			205.03	7.53
11	Renewable Energy (B)	Installation of Solar + Windmill (Capacity – 20 MW)	113	113	--
	Total A + B			318.03	7.53

Break up of CER activities is as given below:

S.N	Type of Activities	Yearly amount to be spent in CER activities (Rs. In Crore)					Total Amount to be spent (Rs. in crore)
1	Provision of Solar light, solar panel and its maintenance in nearby villages within 10 km of study area;	0.1	0.1	0.1	0.1	0.1	0.5
2	Infrastructure development Such as primary healthcare units and the fulfilment of the basic amenities in PHCs including	0.00	0.27	0.29	0.31	0.35	1.22

	mobile medical van and Provide Bala-Rasayana to Malnutrition Children in Aanganwadi and PHC of nearby Villages						
3	Animal husbandry promotion through providing support for breed improvement, animal health care, Veterinary doctor and others as well as provides Fodder for cattle feeding nearby villages	0.8	0.85	0.9	0.9	0.9	4.35
4	Infrastructure development for quality of education, which will ultimately upgrade schools in nearby villages	0.25	0.27	0.29	0.31	0.35	1.47
5	Development Initiatives for Fishing Communities such as Creation of infrastructure like ice plants, cold storages as well as provide operational inputs such as fishing boats, nets and engines	0.15	0.15	0.15	0.15	0.15	0.75
6	Promoting environment friendly and nature-based solutions to enhance productivity of farming (Organic Farming) activities. It covers capacity building on farming techniques, provision of highquality seeds/manure, efficient irrigation solutions, etc.	0.6	0.6	0.6	0.6	0.6	3.0
7	Promoting activities for skill building to improve employment	0.45	0.45	0.45	0.45	0.45	2.25

	opportunities and women empowerment in nearby villages						
8	Development of facilities within nearby villages such as roads	0.20	0.20	0.20	0.20	0.20	1.00
9	Activities for water conservation like deepening of nearby village ponds for storage of rainwater for domestic use of villagers	0.50	0.50	0.50	0.50	0.50	2.5
10	Promoting plantation activities through Forests by Heartfulness Institute in nearby villages	0.20	0.20	0.20	0.20	0.20	1.00
	Total	3.25	3.59	3.68	3.72	3.80	18.04

B. During site visit, following observations were made:

Visit Point 1: Project Site Entry

The starting plot while coming from Bhuj was explained and showcased on the toposheet. Enough road width was observed for the entry and exit point for at the proposed project site. It was observed that Bada village is quite away from the project site entry and it was informed by the PP that the raw material and finished goods trucks will never move towards the village. During visit, no construction activities at the project site was observed. It was observed that cotton cultivation was taking place at vacant land of the project site and its surrounding. PP informed that they are using the proposed land for temporary agriculture purpose and land use has been changed for non-agriculture purpose /industrial purpose for the acquired land. The surrounding land are private land owned by people. The study area is located in arid landscape with minimum rainfall. In the buffer area of the study area i.e. outside the project site, check dam was observed at northern side of buffer area within 10 km distance of project site and these also include seasonal rivers, rivulets streams and small nallahs in buffer area.

It was suggested by the committee to develop enough parking space inside the premises, with full fledged infrastructure for truck drivers. Parking area should be paved to avoid fugitive dust emissions. There should be a learning centre over road behaviour for the drivers. At no point of time the trucks should create any hindrance to the local movements of the nearby villagers.

Following statistics have brought into the notice of EAC Committee:

Population

- Bada population – 2011 census – 2719 Nos, 592 houses .
- Details of Distance w.r.t. plot boundary and main plant as given below:

S.N.	Locations	Distance from Plot Boundary (mtrs)	Distance from Main Plant (mtrs)
1	Vipasana Center	630	1800
2	Government High School	920	2330
3	Bada Primary School	610	2290
4	Bada Village	580	2000
5	Bhimnath Mahadev (It is a shrine worship place for specific Community)	190	1500

Note: All distances are from 546.32 Ha (Land Boundary). All the above locations are towards N and NW direction from the project site. It was noted that Vipasana Centre is located at an arial distance of 630 m from the project boundary, which is also separated by a seasonal water stream i.e. situated opposite bank of seasonal stream.

It is observed that the seasonal water stream width starts from 81m to 96.6 m at the tip of the vipassana land. The water stream's check dam is 316m wide at the check dam point and the Vipasana center is 630m away from the plant boundary. Seasonal water stream is 314 m away from the proposed plant boundary. It was informed that land between stream and boundary is a private land acquired by people and same is not a part of proposed project. The wind rose diagram submitted in the EIA report and the orientation of wind mills in the area clearly describes that there will be minimal impact from the stack of the proposed plant.

The committee travelled all the area along seasonal stream banks to gain the holistic view on the impact of emissions from the plant on Vipasanna meditation center. Taking the distance from the plant boundary, river width and the wind direction into consideration, there will be minimal impact on the vipassana centre due to upcoming project. However, as a precautionary measures, the sub-Committee has further advised to develop 100m width green belt as buffer along the boundary towards Vipasana meditation centre. It was also advised that PP shall ensure that no /untreated/treated water from the project site shall be discharged into seasonal water stream.

Visit Point 2: Seawater Intake

The committee saw the sea water intake point which is passing under the sand dunes along the coast. It was observed that Dune height was varied from 1.5 to 5 m height with beach grass and binder. It was stabilized dunes. It was observed that flat sandy seashore. It was noted that Plant/complex will be established away from shore line and sand dune area. The sand dune and shore area will be used for laying seawater intake and effluent disposal pipelines. The pipelines will be laid through tunnelling in sand dune stretch to avoid and disturbance to sand dune area. The laying of pipeline will be one-time activities and restricted only for construction only. Since the line will be placed through tunnelling, there will be minimal adverse impact on the sand dunes of the area.

It was observed that wind mills are located in and around the project site. It was informed that out of which, four wind mills are located inside the proposed site. out of which two windmills will be relocated outside from the plant boundary. NOC has been given by the M/s GSFC. The same has no adverse impact on the proposed project.

Visit point 3: Seawater out fall point:

The committee walked down along the unclassified forest area, crossed sand dunes and reached upto the seashoreline area. No habitation was observed on the way of passing through forest area towards seaside. The area was dominated by plant species namely *Prosopis juliflora*, in certain patches a dominant herbs was seen which plays an important role in sand dune stabilization. It was advised to conserve plant species and try to increase the density in the sand dune area by artificial plantation. The best model in Gujarat for sand dunes stabilization and density improvement shall be taken up by the project proponent in consultation with State Forest Department.

It was observed that, proposed route of the outer pipeline is passing through stable sand dunes. There are no sand dunes observed near the outfall of seasonal water stream into sea. It is observed that outfall of natural water stream to sea is a rocky beach. It was observed that steep slope is there and high tide water line marking was seen up to sand dune bottom. No fishing boats were observed at seashore side. However, Paghadiya fishing nets were observed.

It was informed that the tunnelling of pipelines will not cause any hindrance to local fisherman if they want to carry out any fishing activity. The effluent will be monitored regularly by the concerned authorities and additional studies will be carried out periodically by institute of repute like NIO.

Visit point 4: Vipassana Centre

The committee moved around the area of vipasana centre and observed that the sewage water is accumulated into the pond beside the premises of vipasana centre. In addition, experts had visited into the Vipassana centre but no communication had been established at the site. It brought into the notice of Committee that the M/s GHCL will take up initiatives to restore the water quality of the pond under CSR. The committee moved around the Bada village and observed that the government school Bada village is approx. at an arial distance of 960 m from the project site. It was informed that approach road to the project site is much before the Bada village so there will be no adverse impact towards village side due to transportation activities.

Visit point 5: Visit of vocational training centre

It was informed that three courses were undergoing, which are approved under National Skill Development Centre. These courses provided by GHCL foundation under CSR at free of cost to the youths of surrounding villages.

GHCL is carrying out CSR activities in the area of education, animal husbandry including fodder, fodder plot development, veterinary service with veterinary van. GHCL is also working in area of health with mobile clinic, agriculture and fisheries. They have spent around 6.5 crores in last three years in surrounding villages under CSR.

The committee had discussed regarding the dust emission due to transportation of the lignite/coal in which project proponent informed that covered vehicles, covered shed, covered gantry will be provide for storage and conveying of fuel. Over and above said precaution sprinklers and windshield shall be utilise to avoid any fugitive emission. After above said precaution there will be dense green belt as advised by MoEF&CC.

Recommendations of the Sub-Committee:

- (i) Storage of raw materials shall be either in silos or in covered areas to prevent dust pollution and other fugitive emissions. All stockpiles should be constructed over impervious soil and garland drains with catch pits to trap runoff material shall be provided. coal shall be stored in covered sheds and wind breaking walls/curtains shall be provided around biomass storage area to prevent its suspension during high wind speed. Fly ash shall be collected in Silo. All Internal roads shall be paved. Industrial vacuum cleaner shall be provided to sweep the internal roads. The Air Pollution Control System shall be interlocked with process plant/machinery for shutdown in case of operational failure of Air Pollution Control Equipment.
- (ii) There shall be adequate space inside the plant premises earmarked for parking of vehicles for raw materials and finished products and no parking to be allowed outside on public places. Out of the total project area, 15% shall be allotted solely for parking purposes with facilities like rest rooms with full fledged infrastructure for truck drivers etc. Parking area should be paved to avoid fugitive dust emissions. There should be a learning centre over road behaviour for the drivers.
- (iii) PP shall develop 100m thick green belt as buffer along the boundary of project site towards Vipasana meditation centre.
- (iv) PP shall install continuous air quality monitoring station towards Vipasana Centre to monitor real time ambient air quality status of the area.
- (v) Continuous online (24x7) monitoring system for stack emissions shall be installed for measurement of flue gas discharge and the pollutants concentration, and the data to be transmitted to the CPCB and SPCB server. In case of the treated effluent is to be utilized for gardening, real time monitoring system shall be installed at the ETP outlet.
- (vi) PP should establish in house (at project site) environment laboratory for measurement of environment parameter with respect to air quality and water (surface and ground). A dedicated team to oversee environment management shall be setup which should comprise of Environment Engineers, Laboratory chemist and staff for monitoring of air, water quality parameters on routine basis. Any non-compliance or infringement should be reported to the concerned authority.
- (vii) The Pipeline of seawater intake and effluent disposal shall be laid in a safe manner (using tunnelling) so that the sand dunes stretch between the plant boundary and respective land fall points are protected without any disturbance to their natural appearance and stability.
- (viii) PP shall ensure that no /untreated/treated water from the project site shall be discharged into seasonal water stream.

- (ix) PP shall ensure the implementation of conservation plan of Rs. 136.50 Lakhs for schedule – I species as approved by Chief Wildlife Warden, Gujarat vide letter no WLP/32/A/50-52/2023-24 dated 24.04.2023 for greenfield project of M/s GHCL at Bada Village, Mandavi, Kutch, Gujarat.
- (x) PP shall ensure the time bound implementation of CER activities of Rs. 18.01 Crores.
- (xi) M/s GHCL shall take up initiatives to restore the water quality of the water pond located near Vipasna Centre. M/s GHCL shall carry out tree plantation drive along road of Bada Village in consultation with Village Administration.
- (xii) PP shall provide training to 10 local youth every quarter on environment management including air pollution control device, ETP, solid waste management, fly ash based brick manufacturing, green belt development as part of skill development programme.
- (xiii) PP shall set up occupational health Centre for surveillance of the worker's health within and outside the plant on a regular basis. The health data shall be used in deploying the duties of the workers. All workers & employees shall be provided with required safety kits/mask for personal protection.
- (xiv) Comprehensive water audit to be conducted on annual basis and report to the concerned Regional Office of MEF&CC. Outcome from the report to be implemented for conservation scheme.

The proposal was considered by the EAC in its meeting held on 21st October, 2024 and the Committee discussed the site visit report undertaken by the Sub- Committee. Further the issues were also discussed with project proponent.

The Committee noted that the proposal was earlier considered by the EAC in its 80th meeting held on 7th June, 2024 and the Committee recommended the proposal for grant of EC.

Deliberations by the EAC (Industry -3) :

- i. PP informed the following :
 1. M/s. GHCL Limited will acquire a total of **546.3200 hectares** for the proposed project. In alignment with this requirement, steps have been initiated in accordance with the terms outlined in a Memorandum of Understanding (MOU) with consolidators. While the acquisition process is progressing, advances related to this have been planned and are being executed to ensure the necessary land acquisitions are in place prior to the commissioning of the project. Furthermore, 33% of the total identified area will be allocated for the development of a dedicated greenbelt, reinforcing our environmental commitment.
 2. That M/s. GHCL Limited is committed to developing and maintaining an average **100 m wide greenbelt** (towards Vipassana centre/Bada village) in NW and North direction facing the

entrance road. Also approximately an average **30-50 m wide greenbelt** in NE direction within the plant boundary, as per its environmental responsibility, which will be a part of total 33% greenbelt area.

3. That M/s. GHCL Limited will provide a Continuous Ambient Air Quality Monitoring Station (CAQMS) within the plant, towards the Vipassana Center, to ensure continuous monitoring and compliance.
4. That the M/s. GHCL Limited will provide an intermittent sprinkling system on both sides of the road and transportation route within plant, extending up to the storage yard, to effectively mitigate and control fugitive emissions during the transportation.
5. That the M/s. GHCL Limited ensures that paghadiya fishing activities will not be disrupted due to the project activities, during both the construction and operation phases due to micro tunnelling operation in inter-tidal zone. The company commits to taking all necessary measures to prevent any interference with local paghadiya fishing practices.
6. That the M/s. GHCL limited will install flow meters at the effluent discharge system. Also, SS monitoring system shall be installed if reliable system is available.
7. PP informed that the depth of micro-tunnelling depends on the topography. It will be approximately 14-15 meters below MSL and 5-6 meters below the seabed, extending beyond the intertidal zone.
8. The PP informed that local employment will be provided for the project as per the norms of State Government .
9. PP submitted the following revised CER activities :

Sr. No.	Type of Activities	Yearly amount to be spent in CER activities (Rs. In Crore)					Total Amount to be spent (Rs. in crore)
		1 st Year	2 nd Year	3 rd Year	4 th Year	5 th Year	
1.	Provision of Solar light, solar panel and its maintenance in nearby villages within 10 km of study area.	0.10	0.10	0.10	0.10	0.10	0.50
2.	Infrastructure development Such as primary healthcare units and the fulfilment of the basic amenities in PHCs including mobile medical van and Provide Bala-Rasayana to Malnutrition Children in Anganwadi and PHC of nearby Villages.	0.00	0.27	0.29	0.31	0.35	1.22

3.	Animal husbandry promotion through providing support for breed improvement, animal health care, Veterinary doctor and others as well as provides Fodder for cattle feeding nearby villages.	0.80	0.85	0.90	0.90	0.90	4.35
4.	Infrastructure development for quality of education, which will ultimately upgrade schools in nearby villages.	0.25	0.27	0.29	0.31	0.35	1.47
5.	Development Initiatives for Fishing Communities such as Creation of infrastructure like ice plants, cold storages as well as provide operational inputs such as fishing boats, nets and engines.	0.15	0.15	0.15	0.15	0.15	0.75
6.	Promoting environment friendly and nature-based solutions to enhance productivity of farming (Organic Farming) activities. It covers capacity building on farming techniques, provision of highquality seeds/manure, efficient irrigation solutions, etc.	0.60	0.60	0.60	0.60	0.60	3.00
7.	Promoting activities for skill building to improve employment opportunities and women empowerment in nearby villages.	0.45	0.45	0.45	0.45	0.45	2.25
8.	Development of facilities within nearby villages such as roads.	0.20	0.20	0.20	0.20	0.20	1.00

9.	Activities for water conservation like deepening of nearby village ponds for storage of rainwater for domestic use of villagers.	0.50	0.50	0.50	0.50	0.50	2.50
10.	Promoting plantation activities through Forests by Heartfulness Institute in nearby villages.	0.20	0.20	0.20	0.20	0.20	1.00
11.	Installation of 100 solar street lights in nearby villages, namely Bada, Janakpur, Bhinsara, Panchotiya, Layja Mota, Layja Nana, Bhada, Bayath, Mapar, Bambhadai, Modhkuba and Padamapar. (Already 200 solar lights have been considered in point no. 1)	0.05	0.05	0.05	0.05	0.05	0.25
12.	Installation of a suitable capacity Sewage Treatment Plant with proper consultation with local administration in Bada Village.	-	0.10	2	0.30	-	2.40
Total		3.30	3.74	5.73	4.07	3.85	20.69

10. PP submitted the revised capital cost and recurring cost earmarked for implementation of EMP

ASPECT OF ENVIRONMENTAL MANAGEMENT	COST IN CRORE [RS.]	RECURRING COST (CRORE /ANNUM) [RS.]	REMARKS
Air Pollution	89.28	1.50	Capital cost would include air pollution control devices like ESPs, Scrubbers, Dust extraction and suppression systems, Stacks, Dry Fog system, Wind screen and the recurring cost would include operation and maintenance of pollution control devices

Water Pollution	14	0.12	Capital cost would include cost of ETP, STP and recurring cost would include operation and maintenance of pollution control devices
Noise Pollution	2.9	0.0035	Capital cost would include providing adequate sound enclosures for TG, CO- compressor, DG Set
Hazardous / Solid Waste Management	1.05	1.10	Capital cost would include expense for providing storage area for hazardous waste and membership charges of TSDF/CHWIF Site and recurring cost would be for solid/ hazardous waste disposal charges and Sampling & analysis charges of solid waste.
Environmental monitoring Programme	3.4	1.30	Capital cost would include expense OCEMS, Online weather station, online pH, NH ₃ -N, Temp meter and recurring cost would include monitoring and analysis of noise level., Sample analysis charges & ambient air & fugitive emission sampling & analysis charges etc., Fresh water & wastewater sample analysis charges etc. Soil: recurring cost would be for Soil Sample analysis., Marine area environment monitoring
Green Belt	20	0.5	Capital cost would include development of green belt within the project premises and recurring cost would include maintenance charges and manpower salary etc.
Renewable Energy	113	--	Capital cost would include Installation of Solar and Windmill
Fire safety & Occupational Health & Safety	3.41	0.35	Capital cost would include cost of OHS center, PPEs, fire & safety instruments and recurring cost would include maintenance charges and training, audit & health check-up etc.

Miscellaneous	53	2.66	Miscellaneous activity such as development of rain water harvesting system, Drainage Network for rain water, Environmental laboratory, Environmental Management system, miscellaneous study, statutory application fees, audit, training cost etc. and recurring cost would include biodiversity management plan, hiring of EMC and Conservation Plan for Schedule 1 species.
CER	20.69	--	Capital cost would include cost of CER activities such as promoting renewable energy, skill development Programme, Organic farming, water conservation (like village pond deepening), forestry etc. and develop infrastructure of schools, health facilities, Fishing activities, roads in nearby villages, Installation of additional solar street lights in nearby villages and Installation of a suitable capacity Sewage Treatment Plant with proper consultation with local administration in Bada Village.
Total (EMP + CER)	320.73	7.53	

23. The EAC, after detailed deliberations, **recommended the project for the grant of environmental clearance, subject to the compliance of the terms and conditions** as under, and general terms and conditions in Annexure-I:

- (i) PP shall ensure that recommendations of SCZMA issued vide letter dated ENV/10/2021/187/T-Cell, dated 26/12/2023 for proposed greenfield chemical complex, sea water intake and effluent disposal facilities shall be implemented. Recommendations mentioned in Marine EIA Report; Conservation Plan of Sea Turtle report; Conservation & management plan for the conservation of Significant species prepared by GUIDE, Kachchh; Conservation Plan of Sand Dune by CSIR-NIO, Mumbai.
- (ii) PP shall ensure that condition stipulated in letter dated 18.07.2023 for diversion of 0.96ha unclass forest and letter dated 4.01.2024 for final stage II.
- (iii) ESP alongwith Stack height of 130 m shall be provided to Imported Coal/Lignite/ Pet coke fired with flue gas desulphurization 150TPH CFBC Boiler (6 Nos.) to control the particulate emission as per CPCB norms. Stack height of 30 m shall be provided to 5 Mw DG set(2/3 nos). Scrubber and Dust Collector system alongwith stack height of 68 m shall be provided to Coke or Briquette or Anthracite fired lime kiln to control the particulate emission as per CPCB norms. Water scrubber system alongwith stack height of 42m shall be provided to ammonia recovery system. Bagfilter

alongwith adequate stack height shall be provided to lime grinding system/slaker. Scrubber, Bag filter shall be provided to Calciner unit. Scrubber shall be provided to Densification. Bagfilter shall be provided to Sodium bicarbonate unit. Scrubber and wet ESP shall be provided to lime kiln.

- (iv) PP shall install continuous ambient air quality monitoring station towards Vipasana Centre to monitor real time ambient air quality status of the area.
- (v) Continuous online (24x7) monitoring system for stack emissions shall be installed for measurement of flue gas discharge and the pollutants concentration, and the data to be transmitted to the CPCB and SPCB servers. For online continuous monitoring of effluent, the unit shall install web camera with night vision capability and flow meters in the channel/drain carrying effluent within the premises.
- (vi) Total fresh water requirement from sea water shall not exceed 14,61,038 m³/day.
- (vii) NOC from the Concerned Local authority shall be obtained before start of the construction of plant and drawing of the ground water for the project activities, State Pollution Control Board / Pollution Control Committees shall not issue the Consent to Operate (CTO) under Air (Prevention and Control of Pollution) Act and Water (Prevention and Control of Pollution) Act till the project proponent shall obtain such permission.
- (viii) Total Effluent generation shall not exceed **14,48,508 m³/day** [Domestic - **160 m³/day** + Industrial – **14,48,348 m³/day** (fresh seawater for dilution – 5,14,678 m³/day + effluent generation from soda ash & CPP plant – 1,26,830 m³/day + once through cooling – 8,07,000 m³/day)]. The industrial effluent generated i.e. from RO/DM rejects, brine purification reject, distiller waste and boiler blowdown shall be mixed with fresh seawater for dilution and wastewater from once-through cooling and treated and disposed into the Arabian Sea as per the recommendation of NIO and after achieving the prescribed norms of CPCB/SPCB. Domestic effluent (**160 m³/day**) shall be treated in sewage treatment plant and treated sewage will be reused in landscaping & gardening purposes.
- (ix) The Pipeline of seawater intake and effluent disposal shall be laid in a safe manner (using tunnelling) so that the sand dunes stretch between the plant boundary and respective land fall points are protected without any disturbance to their natural appearance and stability.
- (x) GHCL Limited shall ensure that paghadiya fishing activities shall not be disrupted due to the project activities, during both the construction and operation phases due to micro tunnelling operation in inter-tidal zone. The company commits to taking all necessary measures to prevent any interference with local paghadiya fishing practices
- (xi) PP shall ensure that no /untreated/treated water from the project site shall be discharged into seasonal water stream.

- (xii) PP shall ensure the implementation of conservation plan of Rs. 136.50 Lakhs for schedule – I species as approved by Chief Wildlife Warden, Gujarat vide letter no WLP/32/A/50-52/2023-24 dated 24.04.2023 for greenfield project of M/s GHCL at Bada Village, Mandavi, Kutch, Gujarat.
- (xiii) The PP shall develop greenbelt of at least 30-50 m width over an area of 18,02,856 m² (33%) within the project site mainly along the plant periphery, preferably within a year of the grant of EC. PP shall develop and maintain an average **100 m wide greenbelt** (towards Vipassana centre/Bada village) in NW and North direction facing the entrance road. Also approximately an average **30-50 m wide greenbelt** in NE direction within the plant boundary, as per its environmental responsibility, which will be a part of total 33% greenbelt area. The tree saplings selected for the plantation should be of sufficient height, preferably 6-ft shall be planted in greenbelt area. The budget earmarked for the plantation shall be kept in a separate account and should be audited annually. The PP shall annually submit the audited statement along with proof of activities viz. photographs (before & after with geo-location date & time), details of expert agency engaged, details of species planted, number of species planted, survival rate, density of plantation etc. to the Regional Office of MoEF&CC before 1st July of every year for the activities carried out during previous year.
- (xiv) Plantation of saplings shall be carried out as a part of tree plantation campaign "EK PED MA ke NAAM" and details of the same to be uploaded in the MeriLiFE portal (<https://merilife.nic.in>) in respect to this Ministry's OM No. IA3-22/3/2024-IA.III(E-241594) dated 24th July 2024.
- (xv) A separate Environmental Management Cell (having qualified persons with Environmental Science/Environmental Engineering/specialization in the project area) equipped with full-fledged laboratory facilities shall be set up to carry out the Environmental Management and Monitoring functions and shall also engage Environment Officials. IN addition to this one safety & health officer as per the qualification given in Factories Act 1948 shall be engaged within a month of grant of EC. PP should annually submit the audited statement of amount spent towards the engagement of qualified persons in EMC along with details of person engaged to the Regional Office of MoEF&CC before 1st July of every year for the activities carried out during previous year.
- (xvi) The company shall comply with all the environmental protection measures and safeguards proposed in the documents submitted to the Ministry. All the recommendations made in the EIA/EMP in respect of environmental management, and risk mitigation measures relating to the project shall be implemented. The budget proposed under EMP is ₹ 320 crore (Capital cost) and ₹ 7.53 Crore per annum (Recurring cost) shall be kept in separate account and should be audited annually. The PP should submit the annual audited statement along with proof of implementation of activities proposed under EMP duly supported by photographs (before & after with geo-location date & time) and other document as applicable to the Regional Office of MoEF&CC before 1st July of every year for the activities carried out during previous year.
- (xvii) PP shall ensure the time bound implementation of CER activities of Rs. 20.69 Crores

- (xviii) M/s GHCL shall take up initiatives to restore the water quality of the water pond located near Vipasna Centre. M/s GHCL shall carry out tree plantation drive along road of Bada Village in consultation with Village Administration.
- (xix) No banned chemicals shall be manufactured by the project proponent. No banned raw materials shall be used in the unit. The project proponent shall adhere to the notifications/guidelines of the Government in this regard.
- (xx) The project proponent shall utilize modern technologies for capturing of carbon emitted and shall also develop carbon sink/carbon sequestration resources capable of capturing more than emitted. The implementation report shall be submitted to the IRO, MoEF&CC in this regard.
- (xxi) All the hazardous waste shall be managed and disposed as per the HWM Rules 2016. Hazardous waste such as Distillation Residue and Off Specification Products shall be either sent to common incineration site or sent for coprocessing. Solid waste shall be segregated into dry and wet garbage at site in accordance to the Solid Waste Management Rules, 2016. Wet waste shall be converted into compost and used as manure for greenbelt development. 570 MT/A Fly ash shall be stored under covered silos handed over to the Cement manufacturers/ Cement Industry.
- (xxii) Storage of raw materials shall be either in silos or in covered areas to prevent dust pollution and other fugitive emissions. All stockpiles should be constructed over impervious soil and garland drains with catch pits to trap runoff material shall be provided. coal shall be stored in covered sheds and wind breaking walls/curtains shall be provided around biomass storage area to prevent its suspension during high wind speed. Fly ash shall be collected in Silo. All Internal roads shall be paved. Industrial vacuum cleaner shall be provided to sweep the internal roads. The Air Pollution Control System shall be interlocked with process plant/machinery for shutdown in case of operational failure of Air Pollution Control Equipment.
- (xxiii) There shall be adequate space inside the plant premises earmarked for parking of vehicles for raw materials and finished products and no parking to be allowed outside on public places. Out of the total project area, 15% shall be allotted solely for parking purposes with facilities like rest rooms with full fledged infrastructure for truck drivers etc. Parking area should be paved to avoid fugitive dust emissions. There should be a learning centre over road behaviour for the drivers.
- (xxiv) All necessary precautions shall be taken to avoid accidents and action plan shall be implemented for avoiding accidents. The project proponent shall implement the onsite/offsite emergency plan/mock drill etc. and mitigation measures as prescribed under the rules and guidelines issued in the Manufacture, Storage and Import of Hazardous Chemicals (MSIHC) Rules, 1989, as amended time to time, and the Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996. The occupier of new as well as expansion projects shall be required to comply with the provisions of the MSIHC Rules, 1989 including notifying their activities or seeking site approval from the concerned authorities, to address operational safety aspects. In doing so, various schedule, particularly Schedule-5 of the said rules may be referred.

- (xxv) The volatile organic compounds (VOCs)/Fugitive emissions shall be controlled at 99.97 % with effective chillers/modern technology. Regular monitoring of VOCs shall be carried out.
- (xxvi) The storage of toxic/hazardous raw material shall be bare minimum with respect to quantity and inventory. Quantity and days of storage shall be submitted to the Regional Office of Ministry and SPCB along with the compliance report.
- (xxvii) PP should establish in house (at project site) environment laboratory for measurement of environment parameter with respect to air quality and water (surface and ground. A dedicated team to oversee environment management shall be setup which should comprise of Environment Engineers, Laboratory chemist and staff for monitoring of air, water quality parameters on routine basis. Any non- compliance or infringement should be reported to the concerned authority
- (xxviii) PP shall set up occupational health Centre for surveillance of the worker's health within and outside the plant on a regular basis. The health data shall be used in deploying the duties of the workers. All workers & employees shall be provided with required safety kits/mask for personal protection.
- (xxix) Training shall be imparted to all employees on safety and health aspects for handling chemicals. Safety and visual reality training shall be provided to employees. Action plan for mitigation measures shall be properly implemented based on the safety and risk assessment studies.
- (xxx) PP shall provide training to 10 local youth every quarter on environment management including air pollution control device, ETP, solid waste management, fly ash based brick manufacturing, green belt development as part of skill development programme.
- (xxxi) Comprehensive water audit to be conducted on annual basis and report to the concerned Regional Office of MEF&CC. Outcome from the report to be implemented for conservation scheme.
- (xxxii) The unit shall make the arrangement for protection of possible fire hazards during manufacturing process in material handling. Fire-fighting system shall be as per the norms.
- (xxxiii) The solvent management shall be carried out as follows: (a) Reactor shall be connected to chilled brine condenser system. (b) Reactor and solvent handling pump shall have mechanical seals to prevent leakages. (c) Solvents shall be stored in a separate space specified with all safety measures. (d) Proper earthing shall be provided in all the electrical equipment wherever solvent handling is done. (e) Entire plant shall be fire proof. The solvent storage tanks shall be provided with breather valve to prevent losses. (f) All the solvent storage tanks shall be connected with vent condensers with chilled brine circulation.
- (xxxiv) The storm water from the roof top shall be channelized through pipes to the storage tank constructed for harvesting of rain water in the premises and harvested water shall be used for various industrial processes in the unit. No recharge shall be permitted within the premises. Process effluent/ any wastewater shall not be allowed to mix with storm water.

- (xxxv) The PP shall undertake waste minimization measures as below (a) Metering and control of quantities of active ingredients to minimize waste; (b) Reuse of by-products from the process as raw materials or as raw material substitutes in other processes. (c) Use of automated filling to minimize spillage. (d) Use of Close Feed system into batch reactors. (e) Venting equipment through vapor recovery system. (f) Use of high pressure-hoses for equipment cleaning to reduce wastewater generation.
- (xxxvi) PP shall sensitize and create awareness among the people working within the project area as well as its surrounding area on the ban of Single Use Plastic in order to ensure the compliance of Notification published by MOEFCC on 12th August, 2021. A report along with photographs on the measures taken shall also be included in the six-monthly compliance report being submitted to concerned authority.
- (xxxvii) The activities and the action plan proposed by the project proponent to address the issues raised during the public hearing as well as the related socio-economic issues in the study area shall be completed as per the schedule presented before the Committee and as described in the EIA report in letter and spirit.

List '1' – Accredited EIA Consultant Organizations (ACOs) - as on July 2020[#]

S. No.	Consultant Organization	Scope of Accreditation			
		As per NABET Scheme			Project or Activity as per Schedule of MoEFCC Notification dated September 14, 2006 and subsequent Amendments
		Sector Number	Name of Sector	Category	
1	Aadhi Boomi Mining and Enviro Tech Private Limited (formerly known as Suriya Mining Services) Address: 3/216, K.S.V.Nagar, Narasothipatti, Salem-636004 Email: suriyakumarsemban@gmail.com Tel.: 09842729655, 09443290855 <i>Conditions apply</i>	1	Mining of minerals – opencast only	A	1 (a) (i)
		3	River Valley Projects	A	1 (c)
		7	Mineral beneficiation	A	2 (b)
		9	Cement Plants	A	3 (b)
		34	Highways	B	7 (f)
		38	Building and construction projects	B	8(a)
2	Aakhivi Consultants Address: 57 C, Block E5, Shatabdi Vihar, Sector 52, Noida, UP - 201 308 Email: aakhivi.2016@gmail.com Tel.: 08409580043; 07210434847	1	Mining of minerals - opencast only	A**	1 (a) (i)
		4	Thermal power plants	A**	1 (d)
		34	Highway	A**	7 (f)

S. No.	Consultant Organization	Scope of Accreditation			
		As per NABET Scheme			Project or Activity as per Schedule of MoEFCC Notification dated September 14, 2006 and subsequent Amendments
		Sector Number	Name of Sector	Category	
		39	Townships and Area development projects	B	8 (b)
114	National Environmental Engineering Research Institute Address: Nehru Marg, Nagpur – 440020 Email: director@neeri.res.in ; ms_kumar@neeri.res.in Tel.: 0712-2249885, 07758079540 <i>Conditions apply</i>	2	Offshore & Onshore Oil and gas exploration, development & production	A	1 (b)
		3	River valley, hydel, Drainage and Irrigation projects	A	1 (c)
		4	Thermal power plants	A	1 (d)
		10	Petroleum refining industry	A	4 (a)
		13	Chlor-alkali industry	B	4 (d)
		16	Chemical fertilizers	B	5 (a)
		18	Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics)	A	5 (c)
		19	Textile – cotton and manmade fibers	B	5 (d)
		27	Oil & gas transportation pipeline (crude and refinery/ petrochemical products), passing through national parks/ sanctuaries/coral reefs	A	6 (a)

S. No.	Consultant Organization	Scope of Accreditation			
		As per NABET Scheme			Project or Activity as per Schedule of MoEFCC Notification dated September 14, 2006 and subsequent Amendments
		Sector Number	Name of Sector	Category	
			/ecologically sensitive Areas including LNG terminal		
		31	Industrial estates/ parks/ complexes/areas, export processing Zones (EPZs), Special Economic Zones(SEZs), Biotech Parks, Leather Complexes.	A	7 (c)
		32	Common hazardous waste treatment, storage and disposal facilities (TSDFs)	A	7 (d)
		33	Ports, harbours, break waters and dredging	A	7 (e)
		36	Common Effluent Treatment Plants (CETPs)	B	7(h)
		37	Common Municipal Solid Waste Management Facility (CMSWMF)	B	7 (i)
115	N S envirotech Laboratories & Consultants	1	Mining of minerals including open cast/ underground mining	B	1 (a) (i)
	Address: Plot No.-69 / 318, V.T. Road Chouraha, Madhyam	9	Cement plants	B	3 (b)

S. No.	Consultant Organization	Scope of Accreditation			
		As per NABET Scheme			Project or Activity as per Schedule of MoEFCC Notification dated September 14, 2006 and subsequent Amendments
		Sector Number	Name of Sector	Category	
		33	Ports, harbours, break waters and dredging	A	7 (e)
		37	Common municipal solid waste management facility (CMSWMF)	B	7(i)
		38	Building and Construction projects	B	8(a)
		39	Townships and Area development projects	B	8 (b)
160	T. R. Associates Address: A-401, S.G Business Hub, Between Sola Bhagwat and Gota overbridge, near Urniya Campus, S.G. Highway, Ahmedabad 380060 Email: adm.trassociates@gmail.com; trassociates@hotmail.com, malav.trassociates@gmail.com, trpatel.trassociates@gmail.com Tel.: 9825371099, 09723137312	1	Mining of minerals – Opencast only	B	1 (a) (i)
		4	Thermal power plants	B	1 (d)
		9	Cement plants	B	3 (b)
		13	Chlor-alkali industry	A	4 (d)
		14	Soda ash Industry	A	4 €
		17	Pesticides industry and pesticide specific intermediates (excluding formulations)	A	5 (b)
		21	Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals,	A	5 (f)

S. No.	Consultant Organization	Scope of Accreditation			
		As per NABET Scheme			Project or Activity as per Schedule of MoEFCC Notification dated September 14, 2006 and subsequent Amendments
		Sector Number	Name of Sector	Category	
	Conditions apply		other synthetic organic chemicals and chemical intermediates)		
		38	Building and construction projects	B	8 (a)
161	Udaipur Min-Tech Pvt. Ltd. Address: 206, "Apeksha Complex", Sector 11, Hiran Magri, Udaipur- 313002 Email: ssbist@udrmintech.com Tel.: 0294- 2489672, 09414167672, 09950998672 Conditions apply	1	Mining of minerals - Open cast mining only	A	1 (a) (i)
162	ULTRA-TECH Address: 206, 224-225, Jai Commercial Complex, Eastern Express Highway, Opp. Cadbury, Khopat, Thane West - 400 601	1	Mining of minerals including open cast/ underground mining	A	1 (a) (i)
		2	Offshore & Onshore Oil and gas exploration, development & production	A	1 (b)
		3	River Valley projects	A	1 (c)

COPY OF THE IMAGES SHOWING THE FOREST DEPARTMENT IDENTIFYING, SAFEGUARDING AND RELEASING OF HATCHLINGS IN THE PROPOSED PROJECT AREA.







મિત્રજીત વિજયકુમાર ગઢવી

Advocate

19-શ્રી હરિ નગર-1, માંડવી નલિયા રોડ,

માંડવી-કચ્છ, 370465

મો. 8141817001

તા:- 10/01/2025

પ્રતિ,

રેન્જ ફોરેસ્ટ ઓફિસર શ્રી

માંડવી રેન્જ, માંડવી-કચ્છ.

વિષય:-માહિતી અધિકાર અધિનિયમ ૨૦૦૫ મુજબ માહિતી આપવા બાબત.

જય ભારત સાથે જણાવવાનું કે હું ઉપરના નામ અને સરનામે રહું છું, મને નીચે મુજબની માહિતી, માહિતી અધિકાર અધિનિયમ ૨૦૦૫ મુજબ આપવા વિનંતી છે.

1. વર્ષ 2011/12 થી 2023/24 સુધી માંડવી રેન્જ (તાલુકા) વિસ્તાર માં દરિયા કાંઠે નીકળેલ કાયબાના ઇંડાની વિગતો આપવા વિનંતી.
2. વર્ષ 2011/12 થી 2023/24 સુધી માંડવી તાલુકાના દરિયા કાંઠે મૃત હાલતમાં મળેલ કાયબાની વિગતો આપવા વિનંતી.
3. મુદ્દા નંબર 1 અને 2 અંગે ની માહિતીમાં કાયબાની પ્રજાતિ જણાવવા વિનંતી.

હું મિત્રજીત ગઢવી આથી જણાવું છું કે માંગવામાં આવેલ માહિતી, માહિતી અધિકાર અધિનિયમ ૨૦૦૫ ની કલમ ૮ અથવા ૯ હેઠળ માહિતી જાહેર કરવાથી મુક્તિ આપેલ હોય તેવા વર્ગ હેઠળ આવરી લીધેલ નથી અને મારી ઉત્તમ જણ મુજબ તે આપના વિભાગ ને લગતી છે.

આ અરજી ઉપર રૂ.૨૦ ની નોન જયુડીસીયલ સ્ટેમ્પ ચોટાડેલ છે.

માંડવી-કચ્છ

આપનો વિશ્વાસુ

(મિત્રજીત વી. ગઢવી)

Received
10/1/2025
રેન્જ ફોરેસ્ટ ઓફિસર
માંડવી રેન્જ



રેન્જ ફોરેસ્ટ ઓફીસરશ્રીની કચેરી
માંડવી નોર્મલ રેન્જ,
ફોરેસ્ટ કોલોની, શીતલા રોડ,
માંડવી-કચ્છ. પીન: ૩૭૦૪૬૫

Email: mandvirfo@gmail.com

☎ : 02834 223607

ક્રમાંક: ક/૧૯૭-૯૯/૨૦૨૪-૨૫

તા: ૦૬/૦૨/૨૦૨૪

નમુનો ગ
(જુઓ નિયમ ૪ (૧))
અરજદારને માહિતી આપવા બાબત

પ્રતિ,
✓ શ્રી મિત્રજીત વિજયકુમાર ગઢવી,
૧૯, શ્રી હરી નગર-૧
માંડવી-નલીયા રોડ,
માંડવી-કચ્છ.

વિષય:- જાહેર માહિતી અધિકાર અધિનિયમ ૨૦૦૫ તથા માહિતી પુરી પાડવા
બાબત

સંદર્ભ:- આપની તા.૧૦/૦૧/૨૦૨૫ વાળી અરજી અનુસંધાને

શ્રીમાન,

જાહેર માહિતી અધિકાર તથા માહિતી આપવા માટેની વિનંતી કરતી આપની
તા.૧૦/૦૧/૨૦૨૫ વાળી અરજી અત્રેની કચેરીને તા.૧૦/૦૧/૨૦૨૫ ના રોજ મળેલ હતી જે અન્વયે
જણાવવાનું કે આપના દ્વારા માંગવામાં આવેલ માહિતી અંગેના મુદ્દા ની માહિતી સબબ નીચે વિગતે
પ્રત્યુત્તર પાઠવવામાં આવેલ છે.

મુદ્દા નં.૧: સને ૨૦૧૧/૧૨ થી સને ૨૦૨૩/૨૪ સુધીમાં દરિયા કાંઠેથી મળેલ કાચબાના
ઈંડાની સંખ્યા ૮૬૮૨ છે.

મુદ્દા નં.૨: સને ૨૦૧૧/૧૨ થી સને ૨૦૨૩/૨૪ સુધીમાં દરિયા કાંઠેથી મૃત હાલતમાં મળેલ
કાચબાની સંખ્યા ૩૩ છે.

મુદ્દા નં.૩: કાચબાની પ્રજાતિ: ગ્રીન સી ટર્ટલ છે.

આપ ઉપરના નિર્ણયથી નારાજ હોય તો નિર્ણય મળ્યાના તારીખથી દિન-૩૦ માં આપ
પ્રથમ અપીલ અધિકારીશ્રી નાયબ વન સંરક્ષકશ્રી, કચ્છ પશ્ચિમ વન વિભાગ, અરિહંત નગર, ભુજને
અપીલ કરી શકો છો.

આપનો વિશ્વાસુ,

જાહેર માહિતી અધિકારી,
અને રેન્જ ફોરેસ્ટ ઓફીસર, માંડવી

નકલ સાદર રવાના :- નાયબ વન સંરક્ષકશ્રી, કચ્છ પશ્ચિમ વન વિભાગ, ભુજ તરફ જાણ સારું.

O/C

(Sample-A)



Mitrajeet Vijaykumar Gadhvi

Advocate

19-Shri Hari Nagar-1, Mandvi Naliya Road,

Mandvi-Kutch, 370465

Md. 8141817001

Date – 10/01/2025

To,

Range Forest Officer Shri

Mandvi Range, Mandvi-Kutch,

Subject:-Provision of information as per the Right to Information Act, 2005.

Jai Bharat, I hereby inform you that I reside at the above name and address and am requested to provide the following information under the Right to Information Act, 2005.

1. Please provide details of turtle eggs hatched on the seashore in the Mandvi Range (Taluka) area from the year 2011/12 to 2023/24.
2. Request you to provide details of turtles found dead on the beach of Mandvi taluka from the year 2011/12 to 2023/24.
3. Please provide the species of turtle in the information regarding points 1 and 2.

I, Mitrajeet Gadhvi, hereby state that the information sought does not fall under the category exempted from disclosure under Section 8 or 9 of the Right to Information Act, 2005 and to the best of my knowledge, it pertains to your department.

A non-judicial stamp of Rs. 20 has been affixed on this application.

મંડવી-કચ્છ

આપનો વિશ્વાસુ

(મિત્રજીત વી. ગઢવી)

Received
10/1/2025
રેન્જ ફોરેસ્ટ ઓફિસર
મંડવી રેન્જ



Range Forest Officer's Office

Mandvi Normal Range,

Forest Colony, Sheetla

Road, Mandvi-Kutch. Pin:370465

Email: mandvirfo@gmail.com

☎ : 02834 223607

Serial No.: K/197-98/2024-25

Date: 06/02/2024

Specimen c

(See Rule 4 (1))

Matter of providing information to the applicant

To,

Shri Mitrajeet Vijaykumar Gadhvi,

19, Shri Hari Nagar – 1,

Mandvi-Naliya Road,

Mandvi, Kutch

Subject – Provision of information under the Right to Public Information Act, 2005

Reference – Pursuant to your application dated 10/01/2025

Sir,

Your application dated 10/01/2025 requesting information under the Right to Information was received by this office on 10/01/2025, pursuant to which it is hereby informed that the following detailed reply has been sent to you regarding the information sought by you.

Issue No. 1: The number of turtle eggs found on the beach from 2011/12 to 2023/24 is 8682.

Issue No.2: The number of turtles found dead on the beach from 2011/12 to 2023/24 is 33.

Issue No. 3: Species of turtle: Green sea turtle.

If you are dissatisfied with the above decision, you can appeal to the First Appellate Officer, Deputy Conservator of Forests, Kutch West Forest Department, Arihant Nagar, Bhuj, within 30 days from the date of receipt of the decision.

Yours faithful,

Public Information Officer,

and Range Forest Officer, Mandvi

Copy of the letter of respect to the Deputy Conservator of Forests, Kutch West Forest Division, Bhuj. Good information.

OFFICE MEMORANDUM

Subject: Procedure for Clearance of Permissible Activities as per the CRZ Notification, 2019 / ICRZ Notification, 2019 -regarding.

The Ministry issued the Coastal Regulation Zone (CRZ) Notification, 2019 on 18th January, 2019 and the Island Coastal Regulation Zone (ICRZ) Notification, 2019 on 8th March, 2019 in supersession of the CRZ Notification, 2011 and the IPZ Notification, 2011 respectively. The Ministry specified the procedure for CRZ clearance as per the CRZ/ IPZ Notification, 2011 *vide* Office Memorandum dated 26th April, 2022. The Ministry has also rolled out a fully computerised PARIVESH portal for application, appraisal and approval of projects requiring various clearances at the State and Central level. Therefore, in order to remove redundancy and bring in greater clarity in delegation of powers as per the provisions of the CRZ / ICRZ Notification, 2019, the following procedure shall be followed henceforth for appraisal and approval of projects requiring CRZ or combined Environmental Clearance (EC) and CRZ clearances under the said notifications.

2. The procedure for clearance of permissible activities as per the CRZ Notification, 2019 and ICRZ Notification, 2019 shall be as under:-

(i). The project proponents shall apply on PARIVESH portal (<https://parivesh.nic.in/>) along with the following set of documents for seeking prior clearance under the CRZ / ICRZ Notification, 2019 to the concerned State or the Union Territory Coastal Zone Management Authority (CZMA):-

- a. Project summary details as per Annexure-V to the notification.
- b. Rapid Environment Impact Assessment (EIA) Report including marine and terrestrial component, as applicable, except for building construction projects or housing schemes.
- c. Comprehensive EIA with cumulative studies for projects, (except for building construction projects or housing schemes with built-up area less than the threshold limit stipulated for attracting the provisions of the EIA Notification, 2006) if located in low and medium eroding stretches, as per the CZMP to this notification.
- d. Risk Assessment Report and Disaster Management Plan, except for building construction projects or housing schemes with built-up area less than the threshold limit stipulated for attracting the provisions of the EIA Notification, 2006.
- e. CRZ map in 1:4000 scale, drawn up by any of the agencies identified by the Ministry using the demarcation of the HTL or LTL, as carried out by NCSCM.
- f. Project layout superimposed on the CRZ map duly indicating the project boundaries and the CRZ category of the project location as per the approved CZMP under this notification.
- g. The CRZ map normally covering 7 km radius around the project site also indicating the CRZ-I, II, III and IV areas including other notified ecologically sensitive areas.



h. "Consent to Establish" or No Objection Certificate from the concerned State Pollution Control Board or Union territory Pollution Control Committee for the projects involving treated discharge of industrial effluents and sewage, and in case prior consent of Pollution Control Board or Pollution Control Committee is not obtained, the same shall be ensured by the proponent before the start of the construction activity of the project, following the clearance under this notification.

(ii). The concerned State / Union Territory Coastal Zone Management Authority (CZMA) shall examine the above documents in accordance with the approved Coastal Zone Management Plan (CZMP) / Island Coastal Regulation Zone (ICRZ) Plans or Integrated Islands Management Plan (IIMP) in accordance with the procedure laid down and make recommendations as per the provisions of CRZ Notification, 2019 / ICRZ Notification, 2019, clearly specifying the permissibility, section / clause of the notification permitting the project / activity, to the concerned authority as under :-

S. No	Scenario as per the CRZ Notification, 2019	Clearance	Approving Authority	Procedure
Projects requiring only CRZ clearance				
1	(a). All development activities or projects in CRZ-I and CRZ-IV areas except those mentioned at S. No. 2(a) below. (b). All construction activities related to projects of Department of Atomic Energy or National Defence or Strategic or Security importance, except those mentioned at S. No. 2(a) and 2 (b) below. (c). Projects in CRZ -II and III, which also traverse through CRZ-I or CRZ-IV or both. (d). Construction of sewage treatment plants in CRZ-I for the purpose of treating the sewage from the municipal area of Greater Mumbai.	Standalone CRZ	Ministry	Application at CZMA by the PP; ↓ Recommendation of CZMA; ↓ Application in the Ministry; ↓ Recommendation of EAC (CRZ); ↓ Clearance by the Ministry
2	(a). Stand-alone jetties, Salt works, Slipways, Temporary structures and Erosion Control Measures (like Bunds, Seawall, Groynes, Breakwaters, Submerged reef, Sand nourishment, etc.) located in CRZ-I and CRZ -IV. (b) Permissible and regulated activities which fall purely in CRZ-II and CRZ-III areas.	Standalone CRZ	CZMA	Application at CZMA by the PP; ↓ Clearance by the CZMA

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	(c) All construction activities related to projects of Department of Atomic Energy or National Defence or Strategic or Security importance mentioned at S.No. 2(a) and 2 (b).			
3	Building and construction projects located in CRZ area, which is not attracting the provisions of the EIA Notification, 2006.	Standalone CRZ	State/UT Planning Authority	Application at CZMA by the PP; ↓ Recommendation of CZMA; ↓ Approval by Concerned State's or UT's Planning Authorities
4	Self-dwelling units up to a total built up area of 300 sq.mts.	Standalone CRZ	Local Authority	Application at concerned Local Authority by the PP; ↓ Approval by the Local Authority

Projects requiring CRZ clearance and also Environmental Clearance (EC) as per the EIA Notification, 2006

5	(a) Any project located in CRZ area that requires EC under Category 'A'. (b) All construction activities related to projects of Department of Atomic Energy or National Defence or Strategic or Security importance that requires EC under Category 'B'.	Combined EC & CRZ	Ministry	Application at CZMA by the PP; ↓ Recommendation of CZMA; ↓ Application for EC+CRZ at concerned Sector of the IA Division of Ministry; ↓ Comments of CRZ Sector in the Ministry; ↓ Recommendation of Sectoral EAC for EC + CRZ; ↓ Clearance (Combined) by Ministry (EC+CRZ)
6	Any project located in CRZ area that requires EC under Category 'B', except construction activities related to projects of Department of Atomic Energy or National Defence or Strategic or Security importance.	Combined EC & CRZ	SEIAA	Application at CZMA by the PP; ↓ Recommendation of CZMA; ↓ Application in the concerned SEIAA; ↓

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				Recommendation of SEAC for EC&CRZ; ↓ Clearance by SEIAA (EC&CRZ)
<i>Special dispensation given to the Island areas, Municipal limits of Greater Mumbai and Critical Vulnerable Coastal Areas, not falling in the above categories shall be as specified in the Notification.</i>				
(Refer clause 4, 5, 7, 8 and 10 of the CRZ Notification, 2019)				

S. No	Scenario as per the ICRZ Notification, 2019	Clearance	Approving Authority	Procedure
Projects requiring only ICRZ clearance				
1	(a). All development activities or projects in ICRZ-I and ICRZ-IV areas except those mentioned at Para 2(a) below. (b). All construction activities related to projects of Department of Atomic Energy or National Defence or Strategic or Security importance, except those mentioned at S.No. 2(a) and 2(b) below. (c). Projects in ICRZ –II and III, which are also traversing through ICRZ–I or ICRZ-IV or both.	Standalone ICRZ	Ministry	Application at CZMA by the PP; ↓ Recommendation of CZMA; ↓ Application in the Ministry; ↓ Recommendation of EAC (CRZ); ↓ Clearance by the Ministry
2	(a). Stand-alone jetties, Salt works, Slipways, Temporary structures and Erosion Control Measures (like Bunds, Seawall, Groynes, Breakwaters, Submerged reef, Sand nourishment, etc.) located in ICRZ-I and ICRZ –IV. (b). Permissible and regulated activities which fall purely in ICRZ–II and ICRZ-III areas. (c). All construction activities related to projects of Department of Atomic Energy or National Defence or Strategic or Security importance mentioned at S.No. 2(a) and 2(b).	Standalone ICRZ	CZMA	Application at CZMA by the PP; ↓ Clearance by the CZMA

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3	Building and construction projects located in ICRZ area, which is not attracting the provisions of the EIA Notification, 2006.	Standalone ICRZ	State/UT Planning Authority	Application at CZMA by the PP; ↓ Recommendation of CZMA; ↓ Approval by Concerned UT's Planning Authorities
4	Self-dwelling units up to a total built up area of 300 sq.mts.	Standalone ICRZ	Local Authority	Application at concerned Local Authority by the PP; ↓ Approval by the Local Authority
Projects requiring ICRZ clearance and also Environmental Clearance (EC) as per the EIA Notification, 2006				
5	(a) Any project located in ICRZ area that requires EC under Category 'A' (b) All construction activities related to projects of Department of Atomic Energy or National Defence or Strategic or Security importance that requires EC under Category 'B'	Combined EC & ICRZ	Ministry	Application at CZMA by the PP; ↓ Recommendation of CZMA; ↓ Application for EC+CRZ at concerned Sector of the IA Division of Ministry; ↓ Comments of CRZ Sector in the Ministry; ↓ Recommendation of Sectoral EAC for EC + CRZ; ↓ Clearance (Combined) by Ministry (EC+CRZ)
6	Any project located in ICRZ area that requires EC under Category 'B', except all construction activities related to projects of Department of Atomic Energy or National Defence or Strategic or Security importance	Combined EC & ICRZ	SEIAA	Application at CZMA by the PP; ↓ Recommendation of CZMA; ↓ Application in the concerned SEIAA; ↓ Recommendation of SEAC for EC&CRZ; ↓ Clearance by SEIAA (EC&CRZ)
(Refer clause 4, 6, 7 and 8 of the ICRZ Notification, 2019)				



3. The State / UT CZMA shall forward its recommendation on the permissible activities as per the CRZ Notification, 2019 / ICRZ Notification, 2019 to the concerned authorities, clearly mentioning the CRZ area in which the project is located / passing through, section / clause under which the activity is permissible, conditions if any, and along with all the statutory documents as mentioned in para 2(i) above.
4. In case, the CZMA desires to consider an activity which is not explicitly mentioned in the notification or not permissible, such recommendations shall be forwarded with detailed justification to the Ministry for consideration.
5. In case the Coastal Zone Management Authorities (CZMA) are not in existence due to delay in their reconstitution or any other reasons, then it shall be responsibility of the Department of Environment in the State Government or Union Territory Administration, for providing comments and recommendation to the proposals in terms of the provisions of the said notification, to the concerned authority, as the case may be.
6. The Category A projects requiring comments of the CRZ Sector shall be forwarded along with all the statutory documents as mentioned in para 2(i) before consideration of the project by the Sectoral EACs. The Sectoral EAC shall appraise the project for composite EC and CRZ clearance based on the comments of the CRZ Sector and CZMA recommendations. In case, the Sectoral EAC is same for appraisal of the projects for both EC and CRZ clearance, the comments of the CRZ sector need not be required.
7. This issues with the approval of the Competent Authority.



(Dr. H. Kharkwal)
Scientist 'E' (CRZ)

To

1. The Principal Secretary, Environment Department of Coastal State's / UT's.
2. The Chairman, SEIAA of Coastal State's / UT's.
3. The Chairman, SEAC of Coastal State's / UT's.
4. The Chairman, SCZMA / UTCZMA.
5. The Member Secretary, SCZMA / UTCZMA.
6. The Chairman, EAC's (MoEFCC).
7. The Director (IA-Policy) / The Director (PARIVESH / CPC), MoEFC.
8. The Member Secretary, All EAC (IA-Division), MoEFCC

Copy to:

1. PS to MEF / PS to MoS (EF&CC)
2. PPS to Secretary, EFCC
3. PPS to DGF&SS
4. PPS to AS(TK) / PPS to AS(RS) / PPS to AS (NPG)
5. Sr. PPS to JS(SKB), PPS to JS(NKS) / JS(SM) / JS(NP) /
6. All Officers of IA Division
7. Technical Director (NIC)
8. NIC / IT for uploading on Website



(Dr. H. Kharkwal)
Scientist 'E' (CRZ)

ANNEXURE A/15

Copy of the screenshot of the Parivesh Portal showing Sectoral EAC for CRZ.

PARIVESH
परिवेश
"Pro Active and Responsive facilitation by Interactive, Virtuous and Environmental Single-window Hubs"

Ministry of Environment, Forest and Climate Change
Government of India

Sector: Only CRZ Search

Sector: Only CRZ

Activities Dealt by sector:
(a) those activities not listed in the EIA notification, 2006
(b) construction activities relating to projects of Department of Atomic Energy or Defence requirements for water
(c) construction, operation of lighthouse
(d) laying of pipelines, conveying systems, transmission line

List of Committee Members

S.No.	Name of Committee member	Address	Designation	Email Address
1	Dr. Deepak Arun Apte	Pooja Society, Near Saraswati English Medium High School, Panchpokhadi, Thane-400602, Maharashtra	Chairman	spiderconch@gmail.com
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<http://www.ouc.edu.cn/xbywb/>

E-mail: xbywb@ouc.edu.cn

New Discovery of Coral Rubbings in the North-Western Gulf of Kachchh, Gujarat, Western India – GIS Based Evaluation

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Abstract The Gulf of Kachchh in western India, with its arid climate, large semi-diurnal tidal amplitudes, negative water balance and near-pristine water quality, is being extensively developed as oil importing bases for economic reasons in connection with its proximity to the oil exporting countries of the Middle East. Besides, new coral rubbings were sighted in Jakhau, north-western Gulf of Kachchh. Dredging in Mandvi of the north Gulf covering 3.5 km² revealed a similar assortment of live corals with their associated flora and fauna. These pioneering observations demonstrate that there exist live corals of young polyps-colony of *Favia* sp. belonging to the family Faviidae in the north-western Gulf of Kachchh. The environmental parameters there were carefully recorded as: surface water temperature (°C) varying from 29 to 31.8, salinity (ppt), pH, dissolved oxygen (mgL⁻¹) and total suspended solids (mgL⁻¹) in the ranges of 37–43.5, 7.7–8.45, 5.4–6.8 and 11–31, respectively.

Key words corals; Gulf of Kachchh; water quality; contour map

The Gulf of Kachchh is an east-west oriented indentation in the Arabian Sea lying between the Kachchh mainland and the Saurashtra peninsula of Gujarat, Western India, covering an area of 7350 km². The topography of the Gulf is irregular at the mouth and the central part consists of pinnacles and scarps ranging from 6 to 32 m (Ramamurthy *et al.*, 1972; Nair *et al.*, 1982). Towards the head, the relief is subdued due to the covering of fine sediments. Large areas of the floor at the mouth of the Gulf, at depths of greater than 20 m, are covered with algal lime stones, aragonites, cemented sandstones and live and dead corals. On the low-energy margin of the Gulf, especially on the southern side, wide tidal flats cause the corals to emerge mostly in the intertidal and subtidal zones (Sen Gupta and Deshmukhe, 2000). The available reefs are grouped into fringing reefs, platform

reefs and patch reefs (Bahuguna and Nayak, 1998). The reported coral sites are along the Jamnagar coast of Saurashtra Peninsula (south of the Gulf) (Pillai and Patel, 1988; Choudhury and Panigrahy, 1991); Mungra (Jodiya) (Deshmukhe *et al.*, 2000) in the eastern part of the Gulf, and Mandvi and Mundra of Kachchh coast (north and north east of the Gulf) (Devassy *et al.*, 1978; Bahuguna and Nayak, 1998; Deshmukhe *et al.*, 2000). Remote sensing observations on the coral reefs have also explicitly revealed the existence of corals in Saurashtra (Jamnagar) coast. The ICMAM (Integrated Coastal and Marine Area Management) studies in 1998, 1999 and 2000 at the Gulf revealed the existence of live coral polyps in Mungra, Mundra and Mandvi of the Kachchh coast (Devassy, 1987; Santhanam *et al.*, 1994; Rajkumar *et al.*, 2009; Deshmukhe *et al.*, 2000). However, no report has so far been found on the existence of corals in the north-western Gulf of Kachchh. This is the first article reporting on the occurrence of live corals in Jakhau region, north-western Gulf of Kachchh, where live corals of young polyps-colony of *Favia* sp. were found (Fig.1).

The surface water temperature was recorded with a

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standard mercury thermometer. Salinity was measured using a salinity refractometer (Atago, Japan). pH was measured using a pH meter (Weathertronics model, type 705). Dissolved oxygen level in water samples was analyzed using Winkler titration method (Strickland and Parsons, 1972; Zhang et al., 2005). Total Suspended Solids (TSS) of seawater samples was determined by filtering a known volume (500 ml) of seawater sample through pre-weighed 4.5 cm Whatman GF/C glass microfibre filter paper. Filtration was carried out under controlled vacuum condition. The filter papers were then dried (40°C) till a constant weight was obtained. The difference between the final and initial weight of the filter paper resulted in the estimation of TSS of the water samples (Strickland and Parsons, 1972; Sun et al., 2001).

The intensive study conducted by the State Forest Department, Gujarat, on mangroves in the Kachchh coast revealed that few live coral polyps-colony of *Favia* sp. were collected by grab sampling at Jakhau (Fig.1). The coast of Jakhau on seaward side is sandy and the inner creeks are occupied by muddy soil, which favors the amalgamated diversity of fauna and flora. The entire north-western Kachchh coast is found to have irregular and broken intricate mesh of creeks and sea incursions

forming extensive waterways, which provides low energy environment favoring the existence of mangroves.

The dredging survey at Mundra (120 km away on the eastern side of Jakhau), covering an area of around 8 km², revealed a plethora of live corals, *Tubastrea* sp. and live polyps with plenty of gorgonians, soft coral, *Dendronephthya* sp., bryozoans, brittle star, sea urchins, holothurians, polychaetes with the algae *Ulva* sp. and dead *Acropora* branches (Table 1). Dredging off Mandvi (55 km away on the eastern side of Jakhau) covering 3.5 km² revealed similar assortment of live corals with their associated flora and fauna. These pioneering observations led us to predict that the coastal area of the north-western Gulf of Kachchh could be a favorable site for live corals proliferation.

The main threats to the ecosystem in the Gulf of Kachchh are from oil, petrochemicals and allied industries. The Gulf area is being extensively developed as oil importing bases because of its closeness to the oil exporting countries of the Middle East. The sedimentation rate is very high along the northern shores because of the prograding sediments from the River Indus (Sen Gupta and Deshmukhe, 2000). The sedimentation rate along the southern shores is very low because of the existence of a dynamic barrier in-between created by the high-speed tidal stream flowing through the central channel of the Gulf (Nair et al., 1982; Deshmukhe et al., 2000). In recent years, it was concluded that the sediment outflow from the River Indus dropped to 50×10^6 tonnes/yr from the earlier amount of 250×10^6 tonnes/yr because of the construction of several barriers across the river (Milliman, 1996). Even with high sedimentation rate in the north-western Gulf of Kachchh, the coral polyps may survive as it was sighted in the mouth of creek, on either side occupied by mangroves.

Mangroves and corals coexist in this region, which induced curiosity to the authors. Five physico-chemical parameters were therefore analyzed in fifteen sites around the mangrove islands and coral existence sites (Figs. 3-7). All sampling points were fixed by GPS (Fig.2). The contour map was drawn to understand the relationship between the mangroves and corals. The study on the contour mapping indicated that the environmental parameters support the proliferation of this ecosystem. The ecosystem shows unique characteristics in the gulf and should be preserved as national treasure.

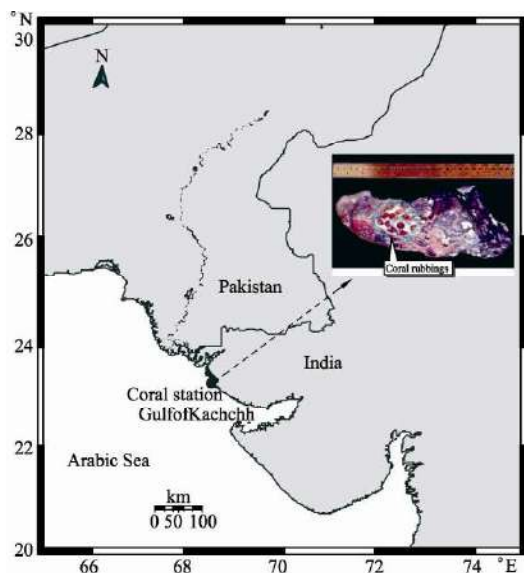


Fig.1 A map showing the site for new coral rubbings in the north-western Gulf of Kachchh.

Table 1 GPS position of live corals and associated fauna and flora diversity along the north-western Gulf of Kachchh

Station	GPS position	Depth (m)	Substratum	Stony corals	Soft corals	Associated fauna	Associated flora
Mungra reef	22°46'398 N; 070°08'220 E	15-25	Muddy, rocky	Young polyps-colony of <i>Tubastrea</i> sp., <i>Porites</i> sp.	Gorgonians	Bryozoans, gastropods, crabs, polychaetes, sponges, sea urchins	<i>Ulva</i> sp. Coral-line algae
Mundra	22°42'881 N; 069°18'658 E	8-20	Rocky	Young polyps-colony of <i>Tubastrea</i> sp., dead <i>Acropora</i> pieces	Gorgonians, <i>Dendronephthya</i> sp.	<i>Holothuria</i> sp., brittle star, <i>Antedon</i> , sea urchins, gastropods, <i>Membranopora</i>	Coralline algae
Mandvi	22°47'078 N; 069°14'362 E	5-15	Rocky	Young polyps-colony of <i>Tubastrea</i> sp.	-	Sponges, bryozoans, <i>Membranopora</i> , barnacle, gastropods, oyster spats	<i>Dictyota bartreysiana</i>

Kori creek	23°25'13" N; 68°94'12" E	15-20	Sand, muddy	Young polyps- colony of <i>Favia</i> sp.	-	Barnacles, oyster spats, gastropods, poly- chaetes	-

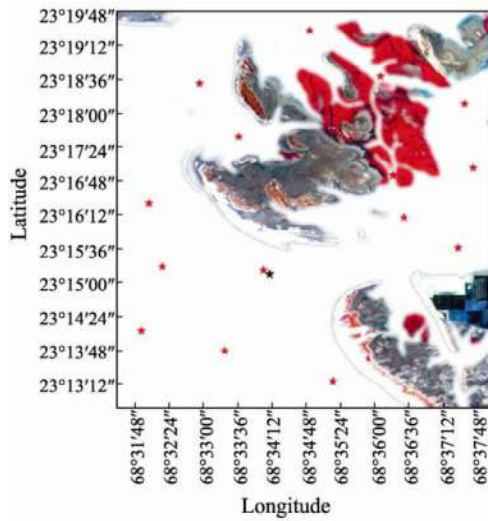


Fig.2 GPS position in the study area.

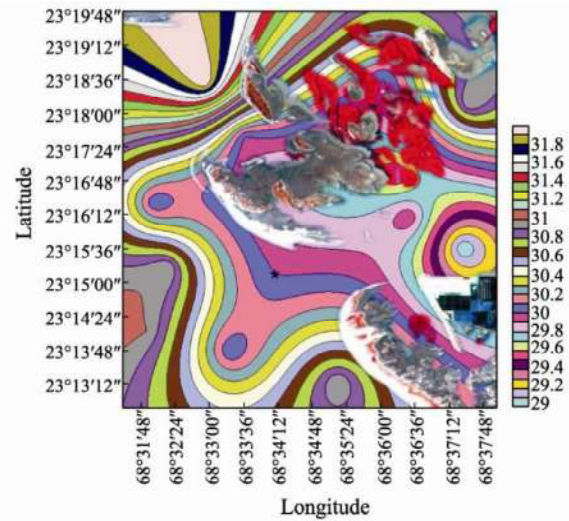


Fig.3 Contour map of temperature in the study area (°C).

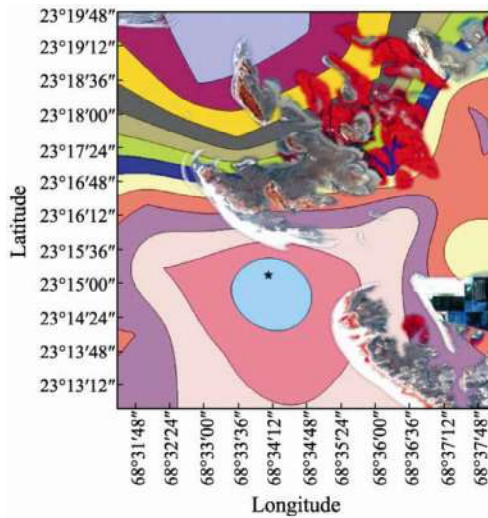


Fig.4 Contour map of salinity in the study area (ppt).

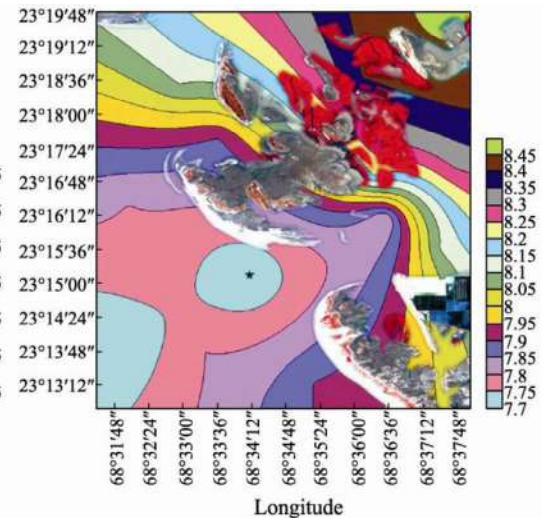
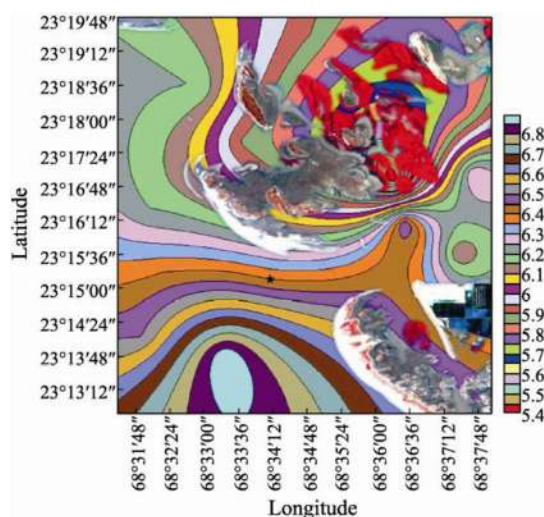
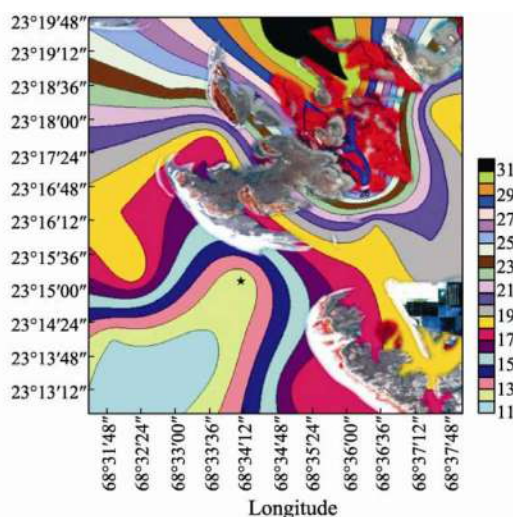


Fig.5 Contour map of pH in the study area.

Fig.6 Contour map of dissolved Oxygen (mgL^{-1}).Fig.7 Contour map of total suspended solids (mgL^{-1}).

Acknowledgements

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References

- Bahuguna, A., and Nayak, S., 1998. Coral reefs of the Indian coast. SAC/RSA/RSAG/DOD-COS/SN/16/97. Space Application Centre, Ahmedabad, India. 54 pp.
- Choudhury, S. B., and Panigrahy, R. C., 1991. Seasonal distribution and behaviour of nutrients in the creek and coastal waters of Gopalpur, east coast of India. *Mahasagar : Bulletin of the National Institute of Oceanography*, **24** (2): 81-88.
- Deshmukhe, G., Ramamoorthy, K., and Sen Gupta, R., 2000. On the coral reefs of the Gulf of Kachchh. *Current Science*, **79** (2): 160-162.
- Devassy, V. P., Bhatrahari, P. M. A., and Qasim, S. Z., 1978. Succession of organisms following *Trichodesmium* phenomenon. *Indian Journal of Marine Sciences*, **73**: 168-186.
- Devassy, V. P., 1987. *Trichodesmium* red tides in the Arabian Sea. In: *Contributions in Marine Sciences*. A special volume to Feliciate Dr. S. Z. Qasim Sastyabdapurti on his Sixtieth-Birthday. Rao, T. S. S., ed., National Institute of Oceanography, Dona Paula, India, 61-66.
- Milliman, J. D., 1996. River discharge in the sea - A global river index (GLORI), LOICZ, Reports and Studies. 125 pp.
- Nair, R. R., Hashimi, N. H., and Rao, V. P., 1982. On the possibility of high-velocity tidal streams as dynamic barrier for longshore sediment transport: Evidence from the continental shelf off the Gulf of Kutch, India. *Marine Geology*, **47**: 77-86.
- Pillai, C. S., and Patel, M. I., 1988. Scleractinian corals from the Gulf of Kachchh. *Journal of the Marine Biological Association of India*, **30**: 54-74.
- Rajkumar, M., Perumal, P., Ashok Prabu, V., Vengadesh Perumal, N., and Thillai Rajasekar, K., 2009. Phytoplankton diversity in Pichavaram mangrove waters from south-east coast of India. *Journal of Environmental Biology*, **30**(4): 489-498.
- Ramamurthy, V. D. R., Selvakumar, A., and Bhargava, R. M. S., 1972. Studies on the blooms of *Trichodesmium erythraeum* Ehr in the waters of the central west coast of India. *Current Science*, **41**: 803-805.
- Santhanam, R., Srinivasan, A., Ramadhas, V., and Devaraj, M., 1994. Impact of *Trichodesmium* bloom on the plankton and productivity in the Tuticorin Bay, southeast coast of India. *Indian Journal of Marine Sciences*, **23**: 27-30.
- Sen Gupta, R., and Deshmukhe, G., 2000. The Gulf of Kachchh (Kutch) and threats to its critical habitats. *Journal of Indian Ocean Studies*, **7**: 201-221.
- Strickland, J. D. H., and Parsons, T. R., 1972. A practical handbook of seawater analysis. *Bulletin of the Fisheries Research Board of Canada*, **167**: 311.
- Sun, J., Liu, D. Y., and Qian, S. B., 2001. Preliminary study on the seasonal succession and development pathway of phytoplankton community in the Bohai Sea. *Acta Oceanologica Sinica*, **20** (2): 251-260.
- Zhang, L. Y., Sun, J., Liu, D. Y., and Yu, Z. S., 2005. Studies on growth rate and grazing mortality rate by microzooplankton of size-fractionated phytoplankton in spring and summer in the Jiaozhou Bay, China. *Acta Oceanologica Sinica*, **24** (4): 85-101.

(Edited by Ji Dechun)

Coral Trivia !

24 Thursday, Apr 2014

POSTED BY GEC IN UNCATEGORIZED

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Some Trivia and Facts about Corals and Coral Reefs:

Coral reefs (Phylum, Cnidaria; Class, Anthozoa) are colonial organisms and they can secrete their own external calcium carbonate skeleton, thereby known as reef building corals (Hermatypic). Some corals are not reef building which are known as ahermatypic corals. Hard corals are also called as Scleractinian corals (sclera=hard). Coral reefs are one of the cor

e ecosystems as it protects shores as well as provides breeding grounds for diverse groups of marine organisms. Corals are the richest depository which helps to maintain marine biodiversity.

Coral reefs of Gujarat coast are fringing type and are the most northern coral reefs in India. The estimated reef area in India is 2,374.9 km² of which 352.5 Km² are in the Gulf of Kachchh (GoK), Gujarat. Marine National Park of GoK, Kuchchh coastal region (Mundra, Mandvi and Kandla) and Saurashtra coast (Dwarka, Veraval and Mahuva) were reported as rich sites for coral reef resources in the Gujarat coast.

Good live coral cover and species diversity Index were reported in Pirotan Island and Lakupoint (Poshitra) respectively (Kumar et al., 2014). Totally fifty four hard coral species recorded till date in the Gujarat coast based on the available literature. The age of coral reefs in the GoK varied from 5240 years before present (B.P.) at Salaya to approximately 45,000 years B.P. at Okha.





Coral atlas of Gujarat coast was published in 2011 under ICZMP and this type of documentation was published for the first time in India which was jointly prepared by Gujarat Ecology Commission (GEC) and Bhaskaracharya Institute for Space Applications and Geo-Informatics (BISAG) for understanding about the current status of coral reefs and coralline area of GoK, available impacts on reef ecosystem, through thematic maps based on satellite imageries. It was prepared particularly for the purpose of enabling effective policy which ensures better conservation and management of the coral reef ecosystem.

To promote the growth and benthic cover of degraded reef ecosystem at GoK, GEC is promoting coral restoration process through Coral transplantation collaborated with GEER foundation, Marine National Park of Jamnagar and Zoological Survey of India. This project is aimed to develop a protocol for coral transplantation process and also to develop 1200m² with transplanted reef park at GoK by using local massive coral species as well as *Acropora* spp. from Gulf of Mannar and Lakshadweep group of Islands.

[Blog at WordPress.com.](http://Blog.atWordPress.com)



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Proof of Service

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**Copy of Rejoinder on behalf of the Appellant in Appeal No. 19 of 2025 -
Vijaykumar Karsanbhai Gadhavi Versus. Union of India & Ors.**

1 message

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Mon, Jun 9, 2025 at 1:44 PM

To: ENVIRO LEGAL DEFENCE FIRM <eldflegal@gmail.com>, secy-moef@nic.in, chiefsecretary@gujarat.gov.in, ms-gpcb@gujarat.gov.in

Cc: Kol Office <kol_office@dclawchambers.com>

Dear Sir/Madam,

Please find attached - Copy of Rejoinder on behalf of the Appellant in Appeal No. 19 of 2025 - Vijaykumar Karsanbhai Gadhavi Versus Union of India & Ors.

Thanks & Regards
Counsel for the Appellant



Rejoinder on behalf of Appellant R-4.pdf
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