

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 298 OF 2020

IN THE MATTER OF :

Vineet Nagar

... Applicant

Versus

Central Ground Water Authority & Ors.

.....Respondents

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TARUN GUPTA

ADVOCATE FOR RESPONDENT NO.15
B-7/50, SAFDARJUNG ENCLAVE MAIN
NEW DELHI – 110 029

NEW DELHI
DATED :

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 298 OF 2020

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Vineet Nagar

... Applicant

Versus

Central Ground Water Authority & Ors.Respondents

**REPLY ON BEHALF OF RESPONDENT NO.15/SUCHEM
ORGANICS PVT. LTD.**

MOST RESPECTFULLY SHOWETH :

1. At the outset, your answering respondent states that the instant OA is totally misconceived, vexatious, frivolous, motivated and is an abuse of the process of law and is, therefore, liable to be dismissed. The OA styled as a public interest litigation is nothing but a camouflage to foster business disputes. No real and genuine public interest is involved in the instant OA and it has been filed at the behest of certain vested interests, who want to create monopoly in the field by getting the legally operating units closed down by levelling absolutely false allegations against them and by giving distorted version of facts. If the resources of the legal system are allowed to be consumed

by such misdirected/motivated petitions purportedly filed in the public interest, though in reality they have been filed to promote personal/ business agenda, then it would lead to travesty of justice. Therefore since the OA has been filed for oblique considerations and not in public interest, same deserves to be dismissed.

2. That your answering respondent denies all purported grounds, submissions, allegations and contentions raised by the Applicant in the OA which are contrary to and/or inconsistent with what is stated herein. Nothing in the OA should be deemed to have been admitted by your Answering Respondents for want of traverse, unless specifically admitted hereinbelow.

3. That in the instant OA, the Applicant has primarily placed reliance upon the orders passed by this Hon'ble Tribunal in OA/840/2019 and OA/287/2020 and has sought similar directions in the present matter. In this regard it is submitted that some of the formaldehyde manufacturing units had challenged orders dated 3.6.2021 passed by this Hon'ble Tribunal in

OA/840/2019 and OA/287/2020 before the Hon'ble Supreme Court of India by filing Civil Appeal Nos.4795/2021 and 4902-03/2021. The Hon'ble Supreme Court vide order dated 23.8.2021, was pleased to issue notice in the said matters and also order stay of operation of aforesaid orders. Thereafter the matters were heard at length on merits on 30.9.2021 and even the Applicant in the instant matter had also addressed arguments on merits. The Hon'ble Supreme Court was pleased to reserve judgment in the said appeals on 30.9.2021. Therefore, since the Hon'ble Supreme Court is already seized of the issue regarding requirement of prior EC for formaldehyde units and the judgment in the matter is likely to be delivered any time soon, it would be in the interest of justice to await the outcome of the said matters before proceedings further.

4. That the primary grievance raised by the Applicant in the instant OA is that the units manufacturing Formaldehyde are operating without prior Environmental Clearance as mandated under the EIA notification dated 14.9.2006. Without prejudice to

the other submissions of your answering respondent, as enumerated in detail in the succeeding paragraphs, it is submitted that as per the said EIA notification, prior EC is required for new projects, which come in existence after the date of issuance of the said notification. In the instant case, the unit of your answering respondent was established in the year 1994, i.e. much prior to the coming into force of the said notification. Hence the case of your answering respondent would not fall within the rigors of the said notification.

Notably even the expansion of the unit of your answering respondent was done prior to EIA notification and requisite permission in that regard were also obtained by it from the authorities concerned. Unfortunately the main director of your answering respondent namely Sh. Gouri Shankar Gupta, who had set up the said unit and who was exclusively looking after its day to day affairs, suffered brain hemorrhage and thereafter went in COMA in the year 2015. Since then he continues to be in COMA. All the important papers/documents pertaining to the

unit had been safely kept by him at a secret place, which was exclusively within his knowledge. Though the permissions for expansion had been received prior to the EIA notification, however since the same had been safely kept by Sh. Gouri Shankar Gupta at a place exclusively known to him, despite best efforts, same could not be traced, as Sh. Gouri Shankar Gupta went into COMA and nobody else was aware of the place where he used to safely keep his documents. The current Director of Your answering respondent even went to the office of RSPCB to obtain the documents. However, unfortunately, their old record was also not traceable and thus they had to open a new file in respect of the unit of Your answering respondent.

Be that as it may, the fact remains the unit of your answering respondent was established prior to EIA notification and expansion was also made prior to the said date. Hence rigors of the said notification would not be applicable to it.

5. Without prejudice to the contention of Your answering respondent that the requirement of prior EC would not be

applicable to it, it is submitted that the alleged violation of “not obtaining prior environment clearance” is neither intentional nor willful but had occasioned wholly because of error/ignorance/mistake on the part of the concerned authorities, since the Pollution Board itself was not aware of requirement of obtaining prior EC in respect of the industry in question. When the Rajasthan State Pollution Control Board came to know about the requirement of prior EC for the industry in question, it realized its mistake and instead of wrongly penalizing the industries who had already been granted consent to operate without prior EC, took a policy decision vide order dated 19.8.2019 to allow such units who did not have prior EC, to apply for EC and submit proof with the Board within 60 days.

Your answering respondent duly applied for EC within the stipulated period and also furnished the bank guarantee as demanded by RSPCB. Its application for EC is being processed by MoEF and EC is likely to be granted to your answering respondent shortly. Your answering respondent is otherwise

complying with all the environmental laws and has requisite permissions and licences. The unit of your answering respondent is a totally “non- polluting” unit having “Zero Trade discharge”. It is located in a Notified Industrial Estate. It is in operation for last several years and there has never been any allegation of any damage caused by it to the environment. Therefore, keeping in view the fact that the activities/operations of your answering respondent are bonafide and except for a technical violation which is in the process of being remedied, it has the permissions from relevant authorities, it deserves to be allowed to operate its unit.

6. Furthermore, your answering respondent’s unit falls in the category of Micro small and medium Enterprises as defined under MSME Act, 2006. It falls in category B2 as per the Ministry of Environment & Forest notifications and is situated in a notified industrial Estate. Hence the conditions for obtaining EC for such category of industries are much simpler. Importantly MoEF has issued a draft notification in December 2018 for exempting such

category of industries in which your answering respondent's unit falls from obtaining prior EC, if they are covered under the definition of MSME. Your answering respondent duly falls in the definition of MSME and hence fulfills the said conditions. Even otherwise your answering respondent duly complies with all the environmental norms.

7. Still further, the MoEF has issued another draft notification on 23.3.2020, wherein a mechanism has been provided for dealing with such cases, where the units were in operation without prior EC. As per the said notification, such cases would be evaluated by the Appraisal Committee and if the Appraisal Committee finds that such units can run sustainably under compliance of environmental norms with adequate environmental safeguards, the unit would be prescribed with appropriate Terms of reference and thereafter the procedure for grant of EC would be followed. In the instant case, as has been demonstrated hereinabove, the application of your answering respondent for EC is being processed by the Expert Appraisal

Committee. Thus, when the concerned ministry has itself evolved a mechanism for dealing with such cases and the case of your answering respondent is covered under the said criteria, no directions, as sought for by the Applicant in the instant OA, are required to be passed.

8. Moreover, prior to the aforesaid notification, MoEF had issued another notification dated 14.3.2017, wherein a provision was made for grant of ex post facto EC. The said notification was challenged before the Hon'ble High Court of Madras by certain environmentalists. The Hon'ble High Court rejected the said challenge after holding that the court cannot altogether ignore the economy of the Nation and the need to protect the livelihood of hundreds of employees employed in the projects, which otherwise comply with or can be made to comply with norms. The said analogy applies to the instant case also.

9. Importantly, similar issue regarding operation of Cold Rolled Stainless Steel manufacturing industry, without prior EC, came up for consideration before this Hon'ble Tribunal in

OA/55/2019(WZ), titled "Gajubha Jesar Jadeja vs Union of India & Ors". This Hon'ble Tribunal after taking into consideration the fact that the said industries were operating on the basis of valid CTE/CTO and there was lack of clarity regarding applicability of requirement of EC to the said industries, came to the conclusion that opportunity should be provided to such units to fall within the EC regime by granting a period of at least one year to operate for the purpose. In the instant case also, Your answering respondent is operating on the basis of valid consents and permissions. The pollution control board and other concerned authorities, themselves were not clear about the applicability of EIA notification to such units. Hence the units like Your answering respondent should be allowed to operate and should be granted sufficient time to fall within the EC regime.

10. Still further, substantial investment has been made on setting up of your answering respondent's unit. It was only pursuant to the grant of CTE/CTO by the Pollution Board without prescribing any requirement of prior EC, that your answering

respondent had set up and expanded the unit and expended huge amounts in purchasing plant and machinery. It has taken huge loans for setting up its unit and has to pay hefty monthly installment for repayment of the said loan to bank. The livelihood of several workers, labourers, suppliers etc. is dependent on the said unit. There has never been any complaint against your answering respondent unit for violating any environmental law. There would not be any change in the manufacturing process with the issuance of EC. Your answering respondent has installed all requisite APCM. No additional APCM would be required to be installed with the issuance of EC. The process would remain the same and compliances would also remain the same. It is only an unintentional procedural/ technical violation which is in the process of being remedied. No pollution hazard or environmental degradation is being caused by the operation of unit of Your answering respondent. The unit of Your answering respondent is contributing to the economy of the country and is providing livelihood to large number of persons. Hence a balanced approach needs to be adopted in the instant

case.

11. As regards, permission from Central Ground Water Authority, your answering respondent has been duly granted NOC by CGWA and same is valid till 6.1.2023.

A copy of NOC dated 9.6.1994 is annexed herewith and marked as **Annexure R-1**, copy of MSME Certificate is annexed herewith and marked as **Annexure R-2**, copy of acknowledgment slip for TOR is annexed herewith and marked as **Annexure R-3**, copy of company master data is annexed herewith and marked as **Annexure R-4**, copy of letter dated 19.8.2019 issued by RSPCB is annexed herewith and marked as **Annexure R-5**, copy of Bank guarantee is annexed herewith and marked as **Annexure R-6**, copy of notification dated 14.9.2006 issued by Ministry of Environment, Forest and Climate change, Government of India is annexed herewith and marked as **Annexure R-7**, copy of judgment dated 13.10.2017 passed by the Hon'ble High Court of Madras in W.P. 11189 of 2017 is annexed herewith and marked as **Annexure R-8**, copy

of Zero draft notification dated NIL issued by the Ministry of Environment, Forest and Climate change, Government of India is annexed herewith and marked as **Annexure R-9**, copy of draft notification dated 23.3.2020 issued by Ministry of Environment, Forest and Climate change, Government of India is annexed herewith and marked as **Annexure R-10**, copy of order dated 12.2.2020 passed by this Hon'ble Tribunal In OA No.55/2019 is annexed herewith and marked as **Annexure R-11**, copy of reply filed by State of Haryana before this Hon'ble Tribunal is annexed herewith and marked as **Annexure R-12**, copy of order dated 16.8.2021 passed by Hon'ble Supreme Court is annexed herewith and marked as **Annexure R-13**, copy of order dated 23.8.2021 passed by Hon'ble Supreme Court is annexed herewith and marked as **Annexure R-14**, copy of order dated 25.8.2021 passed by Hon'ble Supreme Court is annexed herewith and marked as **Annexure R-15**, copy of order dated 13.9.2021 passed by Hon'ble Supreme Court is annexed herewith and marked as **Annexure R-16**, copy of order dated 30.9.2021 passed by Hon'ble Supreme Court is annexed

herewith and marked as Annexure R-17, copy of NOC by CGWA is annexed herewith and marked as Annexure R-18.

Hence it is evident that the unit of your answering respondent is operating strictly in accordance with law and has all requisite consents and permissions. Thus the instant OA deserves to be dismissed qua your answering respondent.

In view of the submissions made hereinabove, the OA filed by the Applicant deserves to be dismissed. Prayed accordingly.

RESPONDENT NO.15

THROUGH COUNSEL



TARUN GUPTA
ADVOCATE FOR RESPONDENT NO.15
B-7/50, SAFDARJUNG ENCLAVE MAIN
NEW DELHI – 110 029

NEW DELHI
DATED :

BEFORE THE NATIONAL GREEN TRIBUNAL,
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AFFIDAVIT OF SUGAM GUPTA S/O SH. GOURI SHANKER
GUPTA , AGED ABOUT 39 YEARS, R/O C-147, ASHOK
VIHAR, PHASE-1, DELHI-52.

I, the above named deponent do hereby solemnly affirm and
declare on oath as under:-

1. That I am the Director of Respondent No.15 herein and
am fully conversant with the facts of the present case, therefore,
I am competent to swear the present affidavit.
2. That the accompanying reply has been prepared under
my instructions. I have read and understood the contents of the
said reply and same are true and correct to the best of my
knowledge and belief.



3. I state that all the annexures are true copies to their respective original.

Angam
DEPONENT

VERIFICATION :

12 NOV 2021

Verified at New Delhi on this the _____ day of _____, 2021 that the contents of my above affidavit are true and correct as per my belief, no part of it is false and nothing material has been concealed therefrom.

Angam
DEPONENT

AB
Identified by



ATTESTED
[Signature]
Notary Public, Delhi
(As Presented)

12 NOV 2021

F.12(2203)/NOC/ 69-670 dt 9.6.94

M/s Suchem Organics Pvt Ltd,
G-1-787-788 Industrial Area,
Bhiwadi.

Sub:NOC for implementation of Pollution Control measures for your proposed plant to manufacture Formaldehyde at plot No.G-1-787-788 Ind.Area,Bhiwadi.

Ref:Your letter No.Nil dt.21.4.94 alongwith other enclosures.

Sir,

Having appraised the scheme submitted by you on Pollution Control measures for the purpose of Air/Water Pollution Control and in view of the legal undertaking submitted by you,NOC for implementation of Pollution Control scheme is being issued without prejudice to the power of the State Board under the provisions of Water(Prevention and Control of Pollution)Act 1974,Air (Prevention and Control of Pollution)Act-1981 and E.P. Act,1986 and without reducing your responsibility under the aforesaid Acts for control of Pollution for your aforesaid industry with following terms & conditions:-

01. That the responsibility for performance evaluation shall be of industry and industry will not commence production unless the satisfactory operation of the Pollution Control measures is done by the industry in presence of concerning Regional Officer and is duly certified by him before commencement of production.
02. That air emissions shall conform to Emission Regulation Part I,II & IV issued by the Central Board and as adopted by State Board.
03. That emission level of Formaldehyde shall be less than 10 mg/ Nm³ and its concentration in ambient air shall not be more than 1.0 mg/m³ at the distance of 10 meters from source.
04. That no trade effluent shall be discharged from process as well as from factory premises in any case.

2/-....

M/s Suchem Organics Pvt Ltd.

-2-

05. That the domestic waste water generated from the industry shall be treated as per IS:2470(Part I & II) and the treated effluent should conform to the standards as prescribed by the State Board. The quantity of domestic waste water will not exceed 2000 LPD.
06. That this NOC is being issued to manufacture Formaldehyde upto 300 MT/Month. In case of any increase in capacity of addition /modification, alteration or change in process, or change in raw material you will have to obtain fresh NOC again.
07. That the Control Equipments as suggested by your consultant shall be installed before trial or actual production is started, for which you will have to obtain the consent from the Board as contemplated under the relevant provisions of the Water Act, 1974 and Air Act-1981 respectively. This NOC shall not be treated as consent in anyway.
08. That infrastructure facility for monitoring of stack emissions on each stack and flow measuring devices at each unit of Effluent Treatment Plant shall be provided.
09. That the stack monitoring and ambient air monitoring shall be conducted by you as per emission regulation Part-III and monitoring results shall be submitted to the Board.
10. That the hour meter shall be provided at suitable places so as to ensure continued operation of Pollution Control equipment/device and a log book shall be maintained wherein the entries of the working of the production plant and control equipment shall be entered, the copies of the log book will be submitted once in three months to the regional officer of the Board Office.

3/-...

M/s Suchem Organics..

-3-

11. That ambient air quality in the premises of the industry shall conform to following standards:-

Suspended Particulate Matter(SPM)	-500 ug/m ³
Sulphure dioxide(SO ₂)	-120 ug/m ³
Oxides of Nitrogen(NO _x)	-120 ug/m ³
Carbon Mono-oxide(CO)	5000 ug/m ³

12. That you shall comply with the provisions of Manufacture Storage and Import of Hazardous Chemicals Rules-1989 and Hazardous Waste(Management and Handling) Rules-1989 and you will submit the details in the prescribed forms under these rules to this Board and take necessary safety measures as envisaged in above rules. You shall also get prepared on site and off site plan and approved from the Chief Inspector of factories & Boilers. Also necessary authorisation for disposal of hazardous waste shall be taken from the Board separately before establishment of the Industry.

13. That power supply to the production shall be so interlocked with the Pollution Control equipments that in the event of non-functioning of the Pollution Control equipment the production process stops automatically.

14. That safe adequate and scientific disposal of the sludge shall be done by you. In storage tanks etc impervious membrane shall be provided in order to avoid ground water contamination due to seepage from such sludge drying beds.

15. That you shall submit montly progress to this office about the individual compliance of above conditions and progress of

4/-....

M/s Suchem Organics...

-4-

16. That you will ensure that the cost of Pollution Control equipment have been included in the project report submitted to Financial Institutions.

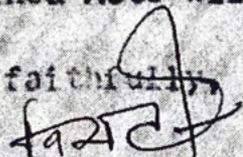
17. That the factory authorities shall comply with the provisions of Water (Prevention & Control of Pollution) Cess Act-1977 and industry shall regularly submit to the Board the returns in the prescribed form and the cess as specified under section-3 of the said Act.

18. That you shall comply with provisions of public liability Insurance Act, 1991.

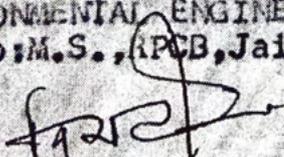
19. That 33% of the total area of factory premises shall be covered by tree plantation and a proper scheme for the same shall be submitted.

Non compliance of any of the above conditions would tantamount to withdrawal of this NOC and action under the provisions of concerned Acts will be initiated against you.

Yours faithfully,


(V.K. MALVIYA)
ENVIRONMENTAL ENGINEER.

C.C. to: M.S., RPCB, Jaipur for information please.


ENVIRONMENTAL ENGINEER.


(TRUE COPY)

		भारत सरकार Govt. of India सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय MINISTRY OF MICRO, SMALL & MEDIUM ENTERPRISES			
		 उद्योग आधार		 Udyog Aadhaar	

B	Type of Enterprise	Micro	Small	Medium
	Manufacturing	A	B	C
	Services	D	E	F
	UAM No.	RJ02B0009893		

Udyog Aadhaar Registration Certificate

Udyog Aadhaar Number: RJ02B0009893

Name of Enterprise: SUCHEM ORGANICS PVT LTD

Location of Plant Details

SN	Flat/Door/Block No.	Name of Premises/Building Village	Road/Street/ Lane	Area/Locality	City	Pin	State	District
1	G-1, 788	BHIWADI	PHASE-II	RIICO INDUSTRIAL AREA	BHIWADI	301019	RAJASTHAN	ALWAR

Official Address of Enterprise: G-1, 788, RIICO INDUSTRIAL AREA, PHASE-II, BHIWADI, ALWAR

District: ALWAR State: RAJASTHAN PIN: 301019

Mobile No: 9891127432 Email: suchemorganics@hotmail.com

Date of commencement: 16/02/1994

Major Activity: MANUFACTURING

Enterprise Type: Small

Previous Registration details-if any: ::

National Industry Classification Code

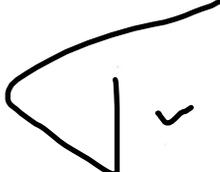
SN	NIC 2 Digit	NIC 4 Digit	NIC 5 Digit Code	Activity Type
1	20 - Manufacture of chemicals and chemical products	2011 - Manufacture of basic chemicals	20116 - Manufacture of basic chemical elements	Manufacturing

Acknowledgement: Date of Filing: 08/03/2018 Date of Printing: 26/08/2021

Disclaimer: This is computer generated statement, no signature required.
Printed from udyogaadhaar.gov.in

This Udyog Aadhaar Memorandum(UAM) Certificate is Valid Till 31/12/2021.




 (TRUE COPY)



ANNEXURE-A-3

Suchem Organics <suchemorganics2019@gmail.com>

Acknowledgement Slip for TOR application

monitoring-ec@nic.in <monitoring-ec@nic.in>
To: sk.smree66@nic.in, suchemorganics2019@gmail.com
Cc: monitoring-ec@nic.in, rajender.kr60@gov.in

Mon, Oct 21, 2019 at 2:47 PM

Acknowledgement Slip for TOR

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

Following should be mentioned in further correspondence

1. **Proposal No.** : IA/RJ/IND2/122321/2019
2. **Category of the Proposal** : Industrial Projects - 2
3. **Project/Activity applied for** : 5(f) Synthetic organic chemicals industry (dyes & dye intermediates; bulk
Manufacturing of Formaldehyde 1000 M.T per month to 2500 M.T per month at Plot No. – G-
4. **Name of the proposal** : 1/787-788, Phase-2, RIICO Industrial Area, Bhiwadi, Tehsil-Tijara, District-Alwar, Rajasthan by M/s Suchem Organics Pvt. Ltd.
5. **Date of submission for TOR** : 19 Oct 2019
6. **Name of the Project proponent along with contact details**
 - a) **Name of the proponent** : M/S SUCHEM ORGANICS PVT. LTD.
 - b) **Mobile No.** : 9810308089
 - c) **State** : Rajasthan
 - d) **District** : Alwar
 - e) **Pincode** : 301019

(TRUE COPY)

Company Master Data

CIN	U24119RJ1994PTC008205
Company Name	SUCHEM ORGANICS PRIVATE LIMITED
ROC Code	RoC-Jaipur
Registration Number	008205
Company Category	Company limited by Shares
Company SubCategory	Non-govt company
Class of Company	Private
Authorised Capital(Rs)	7000000
Paid up Capital(Rs)	1479400
Number of Members(Applicable in case of company without Share Capital)	0
Date of Incorporation	06/04/1994
Registered Address	G-787-788, INDL.AREA, BHIWADI RJ 000000 IN
Address other than R/o where all or any books of account and papers are maintained	-
Email Id	suchemorganics@gmail.com
Whether Listed or not	Unlisted
ACTIVE compliance	
Suspended at stock exchange	-
Date of last AGM	30/12/2020
Date of Balance Sheet	31/03/2020
Company Status(for e filing)	Active

Charges

Assets under charge	Charge Amount	Date of Creation	Date of Modification	Status
No Charges Exists for Company/LLP				

Directors/Signatory Details

DIN/PAN	Name	Begin date	End date	Surrendered DIN
02588508	SUGAM GUPTA	01/04/2009	-	
06422704	KHUSHBU GUPTA	05/11/2012	-	



(TRUE COPY)

ANNEXURE-A-5

Rajasthan State Pollution Control Board
Headquarter, 4, Institutional Area, Jhalana Doongri,
Jaipur-302004
Phone: 0141-5159699, 5159604
Email:member-secretary@pcb, nic.in

OFFICE ORDER

The matter of applicability of provisions of Environment Impact Assessment, 2006 on Formaldehyde Manufacturing unit was examined and it was observed that the Formaldehyde Manufacturing is covered under synthetic organic chemical listed at Sr.No. 5(f) of the schedule 1 of EIA notification, 2006. Therefore to ensure that provisions of EIA,2006 are complied with, environmental clearance shall be sought in case of Formaldehyde Manufacturing units before considering the consent to Establish/Consent to operate applications.

All pending consent to Establish/Consent to operate applications of Formaldehyde Manufacturing units shall be considered only after submission of Environmental Clearance under EIA notification,2006.

In case of the units which have been granted consent to Establish/Consent to operate on or after 14/9/2006,

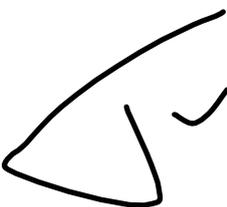
the unit shall be asked to submit Environmental Clearance under EIA notification,2006, as soon as possible, but shall apply at SEIAA/MOEF & C(whichever is applicable) and submit evidence of same to the State Board within a period of 60 days.

This bears approval of the competent authority.

Sd/-

Member Secretary

Date: 19.8.2019



(TRUE COPY)



सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL40869990492126T
Certificate Issued Date	: 03-Feb-2021 03:59 PM
Account Reference	: IMPACC (IV)/ dl835403/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL83540383934792548657T
Purchased by	: SUCHEM ORGANICS PVT LTD
Description of Document	: Article 5 General Agreement
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: SUCHEM ORGANICS PVT LTD
Second Party	: CSB BANK
Stamp Duty Paid By	: SUCHEM ORGANICS PVT LTD
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



.....Please write or type below this line.....

To,
The Member Secretary,
Rajasthan State Pollution Control Board, Jaipur.

Bank Guarantee No: 01/2021
Guarantee Amount: Rs. 50,000/- (Rupees Fifty Thousand Only)
Guarantee Cover From: 03.02.2021

This guarantee is made upon the request of **Mr. Sugam Gupta, Director of M/s Suchem Organics Pvt. Ltd.** In favour of **the Member Secretary, Rajasthan State Pollution Control Board, Jaipur**, who has authorized to give Pollution Control Certificate on behalf of the Rajasthan Government, for the duration of Two years (2 years).

The Rajasthan State Pollution Control Board is liable for claim under following circumstances:

1. This Bank Guarantee is being issued for against the submission of Environmental Clearance within a period of 2 years
2. Non compliance of conditions of consent to establish/Consent to operate issued by the Rajasthan State Pollution Control Board.
3. Non compliance of the provisions of Pollution Control & Environmental Laws, as applicable, thereof.
4. That validity of this bank guarantee shall be up to date **02.02.2023** (i.e. One and half times of the duration for which consent is sought)
5. Whereas, the bank undertakes a bank guarantee amounting maximum up to **Rs. 50,000/- (Rupees Fifty Thousand Only)** till 02.02.2023
6. The Member Secretary Rajasthan State Pollution Control Board, Jaipur, on behalf of State of Rajasthan may recover a sum of **Rs. 50,000/- (Rupees Fifty Thousand Only)** from the bank by virtue of this bank guarantee by making a written claim or demand in writing to the bank on or before **02.02.2023** thereby claiming the guarantee amount.

Notwithstanding anything contained herein.

- a) Our liability under the Bank Guarantee shall not exceed **Rs. 50,000.00 (Rupees Fifty Thousand Only)**
- b) This Bank Guarantee shall be valid up to **02nd February, 2023** (being the date of expiry of the guarantee); and ~~up to~~
- 4 That validity of this bank guarantee shall be up to date **02.02.2023** (i.e. One and half times of the duration for which consent is sought)
- c) We are liable to pay up to the guarantee amount or any part thereof under this Bank Guarantee only and only if we receive from you a written claim or demand on or before 02.02.2023.
- d) Thereafter the bank shall stand discharged from all the liabilities under this guarantee and all your rights under this guarantee shall stand extinguished, irrespective of the facts whether the guarantee in original is returned back to us or not.

Place: Delhi
Date: 03.02.2021

For CSB BANK LTD.
Dipanker Shrivastava
Branch Manager (89289)




(TRUE COPY)

**(Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii)
MINISTRY OF ENVIRONMENT AND FORESTS
New Delhi 14th September, 2006
Notification**

S.O. 1533(E). - Whereas, a draft notification **under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 for imposing** certain restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts as indicated in the Schedule to the notification, being undertaken in any part of India¹, unless prior environmental clearance has been accorded in accordance with the objectives of National Environment Policy **as approved by the Union Cabinet on 18th May, 2006** and the procedure specified in the notification, by the Central Government or the State or Union territory Level Environment Impact Assessment Authority (SEIAA), to be constituted by the Central Government in consultation with the State Government or the Union territory Administration concerned under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 for the purpose of this notification, was published in the Gazette of India ,Extraordinary, Part II, section 3, sub-section (ii) vide number S.O. 1324 (E) dated the 15th September ,2005 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 15th September, 2005;

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

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 60 (E) dated the 27th January, 1994, except in respect of things done or omitted to be done before such supersession, the Central Government hereby directs that on and from the date of its publication the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to this notification entailing capacity addition with change in process and or technology shall be

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b) , (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified hereinafter in this notification.

¹Includes the territorial waters

2. Requirements of prior Environmental Clearance (EC):- The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

- (i) All new projects or activities listed in the Schedule to this notification;
- (ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;
- (iii) Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

3. State Level Environment Impact Assessment Authority:- (1) A State Level Environment Impact Assessment Authority hereinafter referred to as the SEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of three Members including a Chairman and a Member – Secretary to be nominated by the State Government or the Union territory Administration concerned.

- (2) The Member-Secretary shall be a serving officer of the concerned State Government or Union territory administration familiar with environmental laws.
- (3) The other two Members shall be either a professional or expert fulfilling the eligibility criteria given in Appendix VI to this notification.

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

- (4) One of the specified Members in sub-paragraph (3) above who is an expert in the Environmental Impact Assessment process shall be the Chairman of the SEIAA.
- (5) The State Government or Union territory Administration shall forward the names of the Members and the Chairman referred in sub- paragraph 3 to 4 above to the Central Government and the Central Government shall constitute the SEIAA as an authority for the purposes of this notification within thirty days of the date of receipt of the names.
- (6) The non-official Member and the Chairman shall have a fixed term of three years (from the date of the publication of the notification by the Central Government constituting the authority).

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

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

4. Categorization of projects and activities:-

- (i) All projects and activities are broadly categorized in to two categories - Category A and Category B, based on the spatial extent of potential impacts and potential impacts on human health and natural and man made resources.
- (ii) All projects or activities included as Category ‘A’ in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forests (MoEF) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification;
- (iii) All projects or activities included as Category ‘B’ in the Schedule, including expansion and modernization of existing projects or activities as specified in sub paragraph (ii) of paragraph 2, or change in product mix as specified in sub paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, *will* require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory level Expert Appraisal Committee (SEAC) as to be constituted for in this notification. ^{II} “In the absence of a duly constituted SEIAA

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

or SEAC, a Category 'B' project shall be considered at Central Level as a Category 'B' project;"

5. Screening, Scoping and Appraisal Committees:-

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

- (a) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union territory Administration with identical composition;
- (b) The Central Government may, with the prior concurrence of the concerned State Governments or the Union territory Administrations, constitutes one SEAC for more than one State or Union territory for reasons of administrative convenience and cost;
- (c) The EAC and SEAC shall be reconstituted after every three years;
- (d) The authorised members of the EAC and SEAC, concerned, may inspect any site(s) connected with the project or activity in respect of which the prior environmental clearance is sought, for the purposes of screening or scoping or appraisal, with prior notice of at least seven days to the applicant, who shall provide necessary facilities for the inspection;
- (e) The EAC and SEACs shall function on the principle of collective responsibility. The Chairperson shall endeavour to reach a consensus in each case, and if consensus cannot be reached, the view of the majority shall prevail.

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

An application seeking prior environmental clearance in all cases shall be made in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II, after the identification of prospective site(s) for the project and/or activities to which the application relates, before commencing any construction activity, or preparation of land, at the site by the applicant. The applicant shall furnish, along with the application, a copy

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

of the pre-feasibility project report except that, in case of construction projects or activities (item 8 of the Schedule) in addition to Form 1 and the Supplementary Form 1A, a copy of the conceptual plan shall be provided, instead of the pre-feasibility report.

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

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

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

I. Stage (1) - Screening:

In case of Category 'B' projects or activities, this stage will entail the scrutiny of an application seeking prior environmental clearance made in Form 1 by the concerned State level Expert Appraisal Committee (SEAC) for determining whether or not the project or activity requires further environmental studies for preparation of an Environmental Impact Assessment (EIA) for its appraisal prior to the grant of environmental clearance depending up on the nature and location specificity of the project . The projects requiring an Environmental Impact Assessment report shall be termed Category 'B1' and remaining projects shall be termed Category 'B2' and will not require an Environment Impact Assessment report. For categorization of projects into B1 or B2 except item 8 (b), the Ministry of Environment and Forests shall issue appropriate guidelines from time to time.

II. Stage (2) - Scoping:

(i) "Scoping": refers to the process by which the Expert Appraisal Committee in the case of Category 'A' projects or activities, and State level Expert Appraisal Committee in the case of Category 'B1' projects or activities, including applications for expansion and/or modernization and/or change in product mix of existing projects or activities, determine detailed and comprehensive Terms Of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought. The Expert Appraisal Committee or State level Expert Appraisal Committee

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

concerned shall determine the Terms of Reference on the basis of the information furnished in the prescribed application Form 1/Form 1A including Terms of Reference proposed by the applicant, a site visit by a sub- group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, Terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. All projects and activities listed as Category 'B' in Item 8 of the Schedule (Construction/Township/Commercial Complexes /Housing) shall not require Scoping and will be appraised on the basis of Form 1/ Form 1A and the conceptual plan.

- (ii) The Terms of Reference (TOR) shall be conveyed to the applicant by the Expert Appraisal Committee or State Level Expert Appraisal Committee as concerned within sixty days of the receipt of Form 1. In the case of Category A Hydroelectric projects Item 1(c) (i) of the Schedule the Terms of Reference shall be conveyed along with the clearance for pre-construction activities .If the Terms of Reference are not finalized and conveyed to the applicant within sixty days of the receipt of Form 1, the Terms of Reference suggested by the applicant shall be deemed as the final Terms of Reference approved for the EIA studies. The approved Terms of Reference shall be displayed on the website of the Ministry of Environment and Forests and the concerned State Level Environment Impact Assessment Authority.
- (iii) Applications for prior environmental clearance may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned at this stage itself. In case of such rejection, the decision together with reasons for the same shall be communicated to the applicant in writing within sixty days of the receipt of the application.

III. **Stage (3) - Public Consultation:**

- (i) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. All Category 'A' and Category B1 projects or activities shall undertake Public Consultation, except the following:-

(a) modernization of irrigation projects (item 1(c) (ii) of the Schedule).

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

- (b) all projects or activities located within industrial estates or parks (item 7(c) of the Schedule) approved by the concerned authorities, and which are not disallowed in such approvals.
- (c) expansion of Roads and Highways (item 7 (f) of the Schedule) which do not involve any further acquisition of land.
- III “(cc) maintenance dredging provided the dredged material shall be disposed within port limits.”;
- III “(d) All Building or Construction projects or Area Development projects (which do not contain any category ‘A’ projects and activities) and Townships (item 8(a) and 8(b) in the Schedule to the notification).”
- e) all Category ‘B2’ projects and activities.
- f) all projects or activities concerning national defence and security or involving other strategic considerations as determined by the Central Government.
- (ii) The Public Consultation shall ordinarily have two components comprising of:-
 - (a) a public hearing at the site or in its close proximity- district wise, to be carried out in the manner prescribed in Appendix IV, for ascertaining concerns of local affected persons;
 - (b) obtain responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.
- (iii) the public hearing at, or in close proximity to, the site(s) in all cases shall be conducted by the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) concerned in the specified manner and forward the proceedings to the regulatory authority concerned within 45(forty five) of a request to the effect from the applicant.
- (iv) in case the State Pollution Control Board or the Union territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period directly to the regulatory authority concerned as above, the regulatory

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b) , (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

- authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty five days,.
- (v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.
- (vi) For obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity, the concerned regulatory authority and the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) shall invite responses from such concerned persons by placing on their website the Summary EIA report prepared in the format given in Appendix IIIA by the applicant along with a copy of the application in the prescribed form, within seven days of the receipt of a written request for arranging the public hearing. Confidential information including non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means.
- (vii) After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during this process, and make appropriate changes in the draft EIA and EMP. The final EIA report, so prepared, shall be submitted by the applicant to the concerned regulatory authority for appraisal. The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.

IV. Stage (4) - Appraisal:

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

- (i) Appraisal means the detailed scrutiny by the Expert Appraisal Committee or State Level Expert Appraisal Committee of the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings, submitted by the applicant to the regulatory authority concerned for grant of environmental clearance. This appraisal shall be made by Expert Appraisal Committee or State Level Expert Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited for furnishing necessary clarifications in person or through an authorized representative. On conclusion of this proceeding, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall make categorical recommendations to the regulatory authority concerned either for grant of prior environmental clearance on stipulated terms and conditions, or rejection of the application for prior environmental clearance, together with reasons for the same.
- (ii) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an Environment Impact Assessment report, shall be carried out on the basis of the prescribed application Form 1 and Form 1A as applicable, any other relevant validated information available and the site visit wherever the same is considered as necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.
- (iii) The appraisal of an application shall be completed by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within sixty days of the receipt of the final Environment Impact Assessment report and other documents or the receipt of Form 1 and Form 1 A, where public consultation is not necessary and the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee shall be placed before the competent authority for a final decision within the next fifteen days .The prescribed procedure for appraisal is given in Appendix V ;

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

All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernization of an existing unit with increase in

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b) , (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product –mix shall be made in Form I and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence necessary including preparation of EIA and public consultations and the application shall be appraised accordingly for grant of environmental clearance.

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

- (i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.
- (ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.
- (iii) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

- (iv) On expiry of the period specified for decision by the regulatory authority under paragraph (i) and (ii) above, as applicable, the decision of the regulatory authority, and the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be public documents.
- (v) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping, or appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons.
- (vi) Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.

9. Validity of Environmental Clearance (EC):

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

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

period shall be limited only to such activities as may be the responsibility of the applicant as a developer. This period of validity may be extended by the regulatory authority concerned by a maximum period of five years provided an application is made to the regulatory authority by the applicant within the validity period, together with an updated Form 1, and Supplementary Form 1A, for Construction projects or activities (item 8 of the Schedule). In this regard the regulatory authority may also consult the Expert Appraisal Committee or State Level Expert Appraisal Committee as the case may be.

10. Post Environmental Clearance Monitoring:

- ^{IV} (i)(a) In respect of Category 'A' project, it shall be mandatory for the project proponent to make public the environment clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the district or State where the project is located and in addition, this shall also be displayed in the project proponent's website permanently.
- (b) In respect of Category 'B' projects, irrespective of its clearance by MoEF / SEIAA, the project proponent shall prominently advertise in the newspapers indicating that the project has been accorded environment clearance and the details of the MoEF website where it is displayed.
- (c) The Ministry of Environment and Forests and the State/Union Territory Level Environmental Impact Assessment Authorities (SEIAAs), as the case may be, shall also place the environmental clearance in the public domain on Governmental portal.
- (d) The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.”;
- ^{IV} (ii) It shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions in hard and soft copies to the regulatory authority concerned, on 1st June and 1st December of each calendar year.
- ^{IV} (iii) All such compliance reports submitted by the project management shall be public documents. Copies of the same shall be given to any person on application to the

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

concerned regulatory authority. The latest such compliance report shall also be displayed on the web site of the concerned regulatory authority.

11. Transferability of Environmental Clearance (EC):

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

12. Operation of EIA Notification, 1994, till disposal of pending cases:

From the date of final publication of this notification the Environment Impact Assessment (EIA) notification number S.O.60 (E) dated 27th January, 1994 is hereby superseded, except in suppression of the things done or omitted to be done before such suppression to the extent that in case of all or some types of applications made for prior environmental clearance and pending on the date of final publication of this notification, the Central Government may relax any one or all provisions of this notification except the list of the projects or activities requiring prior environmental clearance in Schedule I , or continue operation of some or all provisions of the said notification, for a period not exceeding one year from the date of issue of this notification.

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b) , (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

SCHEDULE

(See paragraph 2 and 7)

LIST OF PROJECTS OR ACTIVITIES REQUIRING PRIOR ENVIRONMENTAL CLEARANCE

Project or Activity		Category with threshold limit		Conditions if any
		A	B	
1		Mining, extraction of natural resources and power generation (for a specified production capacity)		
(1)	(2)	(3)	(4)	(5)
^v 1(a)	(i) Mining of minerals. (ii) Slurry pipelines (coal lignite and other ores) passing through national parks / sanctuaries / coral reefs, ecologically sensitive areas.	<p>≥ 50 ha. of mining lease area in respect of non-coal mine lease.</p> <p>> 150 ha of mining lease area in respect of coal mine lease.</p> <p>Asbestos mining irrespective of mining area</p> <p>All projects.</p>	<p><50 ha ≥ 5 ha .of mining lease area in respect of non-coal mine lease.</p> <p>≤ 150 ha ≥ 5 ha of mining lease area in respect of coal mine lease.</p>	<p>General Condition shall apply</p> <p>Note: Mineral prospecting is exempted.”;</p>
1(b)	Offshore and onshore oil and gas exploration, development & production	All projects		<p>Note Exploration Surveys (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey</p>
1(c)	River Valley projects	<p>(i) ≥ 50 MW hydroelectric power generation;</p> <p>(ii) ≥ 10,000 ha. of culturable command area</p>	<p>(i) < 50 MW ≥ 25 MW hydroelectric power generation;</p> <p>(ii) < 10,000 ha. of culturable command area</p>	<p>^v “General Condition shall apply. Note: Irrigation projects not involving submergence or inter-state domain shall be appraised by the SEIAA as Category ‘B’ Projects.”;</p>

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

(1)	(2)	(3)	(4)	(5)
1(d)	Thermal Power Plants	^v " ≥ 500 MW (coal / lignite / naphtha & gas based); ≥ 50 MW (Pet coke diesel and all other fuels including refinery residual oil waste except biomass); ≥ 20 MW (based on biomass or non hazardous municipal waste as fuel).";	< 500 MW (coal / lignite / naphtha & gas based); <50 MW ≥ 5MW (Pet coke, diesel and all other fuels including refinery residual oil waste except biomass); ≥ 20 MW > 15 MW (based on biomass or non hazardous municipal waste as fuel).";	^v "General Condition shall apply. Note: (i) Power plant up to 15 MW, based on biomass and using auxiliary fuel such as coal / lignite / petroleum products up to 15% are exempt. (ii) Power plant up to 15 MW, based on non-hazardous municipal waste and using auxiliary fuel such as coal / lignite / petroleum products up to 15% are exempt. (iii) Power plants using waste heat boiler without any auxiliary fuel are exempt.";
1(e)	Nuclear power projects and processing of nuclear fuel	All projects		
2		Primary Processing		
2(a)	Coal washeries	≥ 1 million ton/annum throughput of coal	<1million ton/annum throughput of coal	General Condition shall apply (If located within mining area the proposal shall be appraised together with the mining proposal)
2 (b)	Mineral beneficiation	≥ 0.1million ton/annum mineral throughput	< 0.1million ton/annum mineral throughput	General Condition shall apply (Mining proposal with Mineral beneficiation shall be appraised together for grant of clearance)

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

3				
Materials Production				
(1)	(2)	(3)	(4)	(5)
3(a)	Metallurgical industries (ferrous & non ferrous)	a) Primary metallurgical industry All projects b) Sponge iron manufacturing ≥ 200 TPD c) Secondary metallurgical processing industry All toxic and heavy metal producing units $\geq 20,000$ tonnes /annum	Sponge iron manufacturing <200 TPD Secondary metallurgical processing industry i.) All toxic and heavy metal producing units $<20,000$ tonnes /annum ii.) All other non –toxic secondary metallurgical processing industries >5000 tonnes/annum	^v “General condition shall apply. Note: (i) The recycling industrial units registered under the HSM Rules, are exempted. (ii) In case of secondary metallurgical processing industrial units, those projects involving operation of furnaces only such as induction and electrical arc furnace, submerged arc furnace, and cupola with capacity more than 30,000 tonnes per annum (TPA) would require environmental clearance. (iii) Plant / units other than power plants (given against entry no. 1(d) of the schedule), based on municipal solid waste (non-hazardous) are exempted.”
3(b)	Cement plants	≥ 1.0 million tonnes/annum production capacity	<1.0 million tonnes/annum production capacity. All Stand alone grinding units	General Condition shall apply
4				
Materials Processing				
(1)	(2)	(3)	(4)	(5)
4(a)	Petroleum refining industry	All projects	-	-
4(b)	Coke oven plants	$\geq 2,50,000$ tonnes/annum	$<2,50,000$ & $\geq 25,000$ tonnes/annum	^v “General Condition shall apply.”
4(c)	Asbestos milling and asbestos based products	All projects	-	-

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

(1)	(2)	(3)	(4)	(5)
4(d)	Chlor-alkali industry	≥300 TPD production Capacity or a unit located out side the notified industrial area/ estate	^v “(i) All projects irrespective of the size, if located in a Notified Industrial Area/ Estate. (ii) <300 tonnes per day (TPD) and located outside a Notified Industrial Area/ Estate.”	^v “General as well as specific condition shall apply. No new Mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempted from this notification.”
4(e)	Soda ash Industry	All projects	-	-
4(f)	Leather/skin/hide processing industry	New projects outside the industrial area or expansion of existing units out side the industrial area	All new or expansion of projects located within a notified industrial area/ estate	^v “General as well as specific condition shall apply.”
5		Manufacturing / Fabrication		
5(a)	Chemical fertilizers	^v “All projects except Single Super Phosphate.”	^v “Single Super Phosphate.”	-
5(b)	Pesticides industry and pesticide specific intermediates (excluding formulations)	All units producing technical grade pesticides	-	-
5(c)	Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics)	All projects -	-	-
5(d)	Manmade fibers manufacturing	Rayon	Others	General Condition shall apply
5(e)	Petrochemical based processing (processes other than cracking & reformation and not covered under the complexes)	Located out side the notified industrial area/ estate -	Located in a notified industrial area/ estate	^v “General as well as specific condition shall apply.”

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

(1)	(2)	(3)	(4)	(5)
5(f)	Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)	Located outside the notified industrial area/ estate	Located in a notified industrial area/ estate	^v "General as well as specific condition shall apply."
5(g)	Distilleries	(i) All Molasses based distilleries (ii) All Cane juice/ non-molasses based distilleries ≥ 30 KLD	All Cane juice / non-molasses based distilleries - <30 KLD	General Condition shall apply
5(h)	Integrated paint industry	-	All projects	General Condition shall apply
5(i)	Pulp & paper industry excluding manufacturing of paper from waste paper and manufacture of paper from ready pulp with out bleaching	Pulp manufacturing and Pulp & Paper manufacturing industry	Paper manufacturing industry without pulp manufacturing	General Condition shall apply
5(j)	Sugar Industry	-	≥ 5000 tcd cane crushing capacity	General Condition shall apply
5(k)	^v Omitted			
6	Service Sectors			
6(a)	Oil & gas transportation pipe line (crude and refinery/ petrochemical products), passing through national parks / sanctuaries / coral reefs / ecologically sensitive areas including LNG Terminal	All projects		-

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

(1)	(2)	(3)	(4)	(5)
6(b)	Isolated storage & handling of hazardous chemicals (As per threshold planning quantity indicated in column 3 of schedule 2 & 3 of MSIHC Rules 1989 amended 2000)	-	All projects	General Condition shall apply
7		Physical Infrastructure including Environmental Services		
7(a)	Air ports	^v "All projects including airstrips, which are for commercial use."	-	^v "Note: Air strips, which do not involve bunkering/ refueling facility and or Air Traffic Control, are exempted."
7(b)	All ship breaking yards including ship breaking units	All projects	-	-
7©	Industrial estates/ parks/ complexes/ areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes.	If at least one industry in the proposed industrial estate falls under the Category A, entire industrial area shall be treated as Category A, irrespective of the area. Industrial estates with area greater than 500 ha. and housing at least one Category B industry.	Industrial estates housing at least one Category B industry and area <500 ha. Industrial estates of area > 500 ha. and not housing any industry belonging to Category A or B.	^v "Genral as well as special conditions shall apply. Note: 1. Industrial Estate of area below 500 ha. and not housing any industry of Category 'A' or 'B' does not require clearance. 2. If the area is less than 500 ha. but contains building and construction projects > 20,000 Sq. mts. And or development area more than 50 ha it will be treated as activity listed at serial no. 8(a) or 8(b) in the Schedule, as the case may be."
7(d)	Common hazardous waste treatment, storage and disposal facilities (TSDFs)	All integrated facilities having incineration & landfill or incineration alone	All facilities having land fill only	General Condition shall apply

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

(1)	(2)	(3)	(4)	(5)
7(e)	^v "Ports, harbours, break waters, dredging."	≥ 5 million TPA of cargo handling capacity (excluding fishing harbours)	< 5 million TPA of cargo handling capacity and/or ports/ harbours ≥10,000 TPA of fish handling capacity	^v "General Condition shall apply. Note: 1. Capital dredging inside and outside the ports or harbors and channels are included; 2. Maintenance dredging is exempt provided it formed part of the original proposal for which Environment Management Plan (EMP) was prepared and environmental clearance obtained."
7(f)	Highways	i) New National High ways; and ii) Expansion of National High ways greater than 30 KM, involving additional right of way greater than 20m involving land acquisition and passing through more than one State.	^v " i) All State Highway Project; and ii) State Highway expansion projects in hilly terrain (above 1,000 m AMSL) and or ecologically sensitive areas."	General Condition shall apply. Note: Highways include expressways."
7(g)	Aerial ropeways	^{v(xvi)(a)} "(i) All projects located at altitude of 1,000 mtr. And above. (ii) All projects located in notified ecologically sensitive areas."	^{v(xvi)(b)} "All projects except those covered in column (3)."	General Condition shall apply
7(h)	Common Effluent Treatment Plants (CETPs)		All projects	General Condition shall apply
7(i)	Common Municipal Solid Waste Management Facility (CMSWMF)		All projects	General Condition shall apply
8		Building /Construction projects/Area Development projects and Townships		
8(a)	Building and Construction projects		≥20000 sq.mtrs and <1,50,000 sq.mtrs. of built-up area#	#(built up area for covered construction; in the case of facilities open to the sky, it will be the activity area)
8(b)	Townships and Area Development projects.		Covering an area ≥ 50 ha and or built up area ≥1,50,000 sq .mtrs ++	++All projects under Item 8(b) shall be appraised as Category B1

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

Note:-**V(xvii) "General Condition (GC):**

Any project or activity specified in Category 'B' will be treated as Category A, if located in whole or in part within 10 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as identified by the Central Pollution Control Board from time to time, (iii) Eco-sensitive areas as notified under section 3 of the Environment (Protection) Act, 1986, such as, Mahabaleshwar Panchgani, Matheran, Pachmarhi, Dahanu, Doon Valley, and (iv) inter-State boundaries and international boundaries:

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

Specific Condition (SC):

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

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

(R.CHANDRAMOHAN)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA



(TRUE COPY)

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

W.P. No. 11189 of 2017

Puducherry Environment Protection Association v. Union of India

2017 SCC OnLine Mad 7056 : (2017) 8 Mad LJ 513 : AIR 2018 (NOC 422) 148 :
(2018) 1 LW 7 : (2018) 1 CWC 324 (DB)

In the High Court of Madras
(BEFORE INDIRA BANERJEE, C.J. AND M. SUNDAR, J.)

Puducherry Environment Protection Association, rep by its
Honorary President R. Kothandaraman, No. 18, S.V. Kovil
Street, Koodapakkam and Post, Puducherry-605 602
Petitioner

v.

The Union of India, rep by its Secretary to the Government,
Ministry of Environment, Forest and Climate Change,
Paryavaran Bhawan, Jor Bagh, New Delhi-110 003
Respondent

W.P. No. 11189 of 2017

Decided on October 13, 2017, [Reserved on: 23.08.2017]

Environmental Laws — Constitution of India — Arts. 14 and 21 — Notification making provision for grant of ex post facto environmental clearance for project proponents, who have commenced, continued or completed project without obtaining clearance under Environment Protection Act and Environment Impact Assessment, challenged — Whether establishment contributing to economy of country and providing livelihood to hundreds of people should be closed down only because of failure to obtain prior environmental clearance — Held that Central Government is well within scope of its powers under S. 3 of Act to issue directions to control and/or prevent pollution including directions for prior environmental clearance before project is commenced — Further held that one time relaxation in cases where projects are otherwise in compliance with or can be made to comply with pollution norms not impermissible — Hence impugned notification not to be interfered with

(Paras 32 and 33)

For Petitioner: Mr. A. Yogeswaran

For Respondent: Mr. G. Rajagopalan, Additional Solicitor General assisted by Mr. S. Rathnasabapathy

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration declaring the impugned notification dated 14.3.2017 issued by the respondent in S.O. 804(E) as arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India and the Environment (Protection) Act, 1986.

ORDER

M. SUNDAR, J.:— This writ petition has been filed as a Public Interest Litigation. In the instant writ petition, a notification dated 14.03.2017 bearing reference S.O. 804 (E) made by the Union of India (hereinafter referred to as 'UOI' for brevity) has been assailed.

2. Bare minimum facts essential for understanding and appreciating this order are set out infra under the caption 'Facts in a nutshell'.

Facts in a nutshell:

3(a) Notification dated 14.03.2017 bearing reference S.O. 804(E) made by the UOI which has been assailed in the instant writ petition, is hereinafter referred to as the

'impugned notification'.

3(b) The impugned notification has been made by the UOI under Section 3(1) and 3(2)(v) of the Environment (Protection) Act, 1986 (29 of 1986) (hereinafter referred to as 'E.P. Act' for brevity) read with Rule 5(3) of the Environment (Protection) Rules, 1986 (hereinafter referred to as 'E.P. Rules' for the sake of brevity). To simplify and encapsulate the core issue, it can be stated that vide the impugned notification, UOI has made a provision for grant of ex post facto environmental clearance for project proponents, who have commenced, continued or completed a project without obtaining clearance under the E.P. Act and the Environment Impact Assessment (hereinafter referred to as 'EIA for brevity) notification issued under it.

3(c) The petitioner contends that when originally the notification was issued on 27.1.1994, the cut-off date to permit the violators to set their house in order was extended three times. Firstly upto 31.3.1999, secondly upto 30.6.2001 and thirdly upto 31.3.2003 by successive notifications dated 5.11.1998, 27.12.2000 and 14.5.2002 respectively.

3(d) The petitioner would contend that the second notification was issued on 14.9.2006. Under this notification, again the dates for project proponents who have violated various provisions of the E.P. Act and EIA notification thereunder, was successively extended on 16.11.2010, 12.12.2012, 27.6.2013, 10.5.2016 and now vide the impugned notification dated 14.3.2017. In other words, the impugned notification is the fifth opportunity for project proponents to set their house in order.

3(e) The petitioner has predicated the instant writ petition on the pivotal point that 'prior' clearance is imperative and non negotiable, whereas the impugned notification provides for ex post facto clearance, which according to the writ petitioner is impermissible.

3(f) We now proceed to discuss the submissions and contentions under the head discussion'.

Discussion:

4(a) As the impugned notification provides for ex post facto clearance, the same is being assailed by the writ petitioner primarily on three grounds and the same are as follows:

- (i) Public hearing which is non negotiable has been given a go-by;
- (ii) Scoping leading to EIA has been given a go-by; and
- (iii) Environmental clearance is based on precautionary principle and the impugned notification militates against this basic principle.

4(b) In support of the above said challenge to the impugned notification on the aforesaid three points, learned counsel for the writ petitioner Mr. Yogeswaran relied on several judgments and judgments pressed into service are as follows:

- (i) *Sreeranganathan K.P. v. Union of India* [Appeal Nos. 172, 173, 174 of 2013 (SZ) and Appeal Nos. 1 and 19 of 2014 (SZ), dated 28.5.2014] (Before the National Green Tribunal, Southern Zone, Chennai); public hearing;
- (ii) *Indian Council for Enviro-Legal Action v. Union of India* [(1996) 3 SCC 212];
- (iii) *S. Nandakumar v. Secretary to Government of Tamil Nadu* [W.P. Nos. 10641 to 10643 of 2009, etc., dated 22.4.2010] (Madras High Court); public hearing;
- (iv) *Utkarsh Mandal v. Union of India* [W.P.(Civil) No. 9340 of 2009, dated 26.11.2009] (Delhi High Court);
- (v) *S.P. Muthuraman v. Union of India* [Original Application No. 37 of 2015 and another, dated 7.7.2015] (National Green Tribunal, Principal Bench, New Delhi);
- (vi) *Research Foundation for Science Technology National Resource Policy v. Union of India* [(2005) 10 SCC 510];
- (vii) *Consumer Action Group v. State of Tamil Nadu*. [(2000) 7 SCC 425]: and

(viii) *Lafarge Umiam Mining Private Limited v. Union of India* [(2011) 7 SCC 338]

4(c) Judgments that were pressed into service are to buttress the aforesaid three points of attack. While *Sreeranganathan K.P., S. Nandakumar, Utkarsh Mandal, Research Foundation for Science Technology National Resource Policy and Consumer Action Group* judgments were pressed into service to buttress the submission that public hearing is extremely sanctus and non negotiable, *S.P. Muthuraman* judgment was pressed into service to buttress the submission that ex post facto clearance takes away scoping and the resultant EIA. *Lafarge Umiam Mining Private Limited* judgment was pressed into service for both the above points, namely, public hearing is sanctus/non negotiable and ex post facto clearance takes away scoping and the resultant EIA. All judgments proceed on the premise that such environmental clearances are based on precautionary principle. Indian Council for *Enviro-Legal Action* judgment was pressed into service for polluter pays principle.

4(d) We heard the learned Additional Solicitor General Mr. G. Rajagopalan.

4(e) Learned Solicitor submits that the writ petitioner has misread the impugned notification qua public hearing and scoping leading to EIA point. In support of his submission, learned Solicitor took us through the impugned notification and submitted that the EIA authority, being the Expert Appraisal Committee would assess the project and the work done by the project proponent. In case of the finding/opinion of the Expert Appraisal Committee being in the negative, all actions as per law, including penal action under Section 19 of the E.P. Act would be initiated and no consent to operate or occupy will be issued and closure of the project will be ensured.

4(f) Only in cases where findings of the Expert Appraisal Committee are in the affirmative, projects will be referred under appropriate terms of reference for undertaking assessment of environment impact, ecological damage, etc., In support of this submission, learned Solicitor laid emphasis on paragraph 5 of the impugned notification.

4(g) For the sake of convenience, we deem it appropriate to extract paragraphs 3, 4 and 5 of the impugned notification, which read as follows:

"(3) In cases of violation, action will be taken against the project proponent by the respective State or State Pollution control Board under the provisions of section 19 of the Environment (Protection) Act, 1986 and further, no consent to operate or occupancy certificate will be issued till the project is granted the environmental clearance.

(4) The cases of violation will be appraised by respective sector Expert Appraisal Committees constituted under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along with other actions under the law.

(5) In case, where the findings of the Expert Appraisal Committee on point at sub-para (4) above are affirmative, the projects under this category will be prescribed the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan. Further, the Expert Appraisal Committee will prescribe a specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants. The collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be

done by an environmental laboratory duly notified under Environment (Protection) Act, 1986, or a environmental laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of a Council of Scientific and Industrial Research institution working the field of environment.”

4(h) We put it to learned Solicitor that paragraph 5 does not specifically provide for public hearing. To this, it was represented by learned Solicitor that when EIA is done, it will include public hearing and that it can be read into paragraph 5. We record this submission. Therefore, this puts to rest the point of public hearing and scoping leading to EIA.

4(i) With regard to precautionary principle, faced with the situation that ex post facto clearance and regularization dates have been repeatedly extended time and again by series of notifications, learned Additional Solicitor General at the bar, on instructions, submits that this impugned notification shall clearly and certainly be only a one time measure. We record this submission also. Notwithstanding the above submissions, learned Additional Solicitor General pressed into service a judgment of a learned Single Judge of this court in *Hyundai Motors India Ltd. v. Union of India* [2015 -2-L.W. 641] to drive home the principle that ex post facto approvals are permissible in law.

4(j) The aforesaid case law does not help the respondent as it was rendered on an entirely different realm qua facts. That would be evident from the fact that the aforesaid *Hyundai* judgment refers to the celebrated *Escorts Ltd. judgment in Life Insurance Corporation of India v. Escorts Ltd.* [(1986) 1 SCC 264] in paragraph 32 *Hyundai Motors India Ltd.'s case*. To be noted, *Escorts* judgment is a judgment of a Constitution Bench. To put it in nutshell, the ratio laid down in *Escorts* judgment is when the law provides for some form of consent, it can either be ‘prior consent’ or ‘ex post facto consent’, but when the law specifically uses the expression ‘prior consent’, the consent cannot be ex post facto. It is clearly articulated in paragraph 63 of the *Escorts* judgment, which reads as follows:

“63. We have already extracted Section 29(1) and we notice that the expression used is “general or special permission of the Reserve Bank of India” and that the expression is not qualified by the word “previous” or “prior. While we are conscious that the word “prior or “previous” may be implied if the contextual situation or the object and design of the legislation demands it, we find no such compelling circumstances justifying reading any such implication into Section 29(1). On the other hand, the indications are all to the contrary. We find, on a perusal of the several, different sections of the very Act, that the Parliament has not been unmindful of the need to clearly express its intention by using the expression “previous permission” whenever it was thought that “previous permission” was necessary. In Sections 27(1) and 30, we find that the expression “permission” is qualified by the word “previous” and in Sections 8(1), 8(2) and 31, the expression “general or special permission” is qualified by the word “previous”, whereas in Sections 13(2), 19(1), 19(4), 20, 21(3), 24, 25, 28(1) and 29, the expressions “permission” and “general or special permission” remain unqualified. The distinction made by Parliament between permission simpliciter and previous permission in the several provisions of the same Act cannot be ignored or strained to be explained away by us. That is not the way to interpret statutes. The proper way is to give due weight to the use as well as the omission to use the qualifying words in different provisions of the Act. The significance of the use of the qualifying word in one provision and its non-use in another provision may not be disregarded. In our view, the Parliament deliberately avoided the qualifying word previous in Section 29(1) so as to invest the Reserve Bank of India with a certain degree of elasticity in the matter of granting permission to non-resident companies to purchase shares in Indian companies. The object of the Foreign Exchange Regulation Act. as already

explained by us, undoubtedly, is to earn, conserve, regulate and store foreign exchange. The entire scheme and design of the Act is directed towards that end. Originally the Foreign Exchange Regulation Act, 1947 was enacted as a temporary measure, but it was placed permanently on the Statute Book by the Amendment Act of 1957. The Statement of Objects and Reasons of the 1957 Amendment Act expressly stated, "India still continues to be short of foreign exchange and it is necessary to ensure that our foreign exchange resources are conserved in the national interest". In 1973, the old Act was repealed and replaced by the Foreign Exchange Regulation Act, 1973, the long title of which reads: "An Act to consolidate and amend the law regulating certain payments, dealings in foreign exchange and securities, transactions indirectly affecting foreign exchange and the import and export of currency and bullion, *for the conservation of foreign exchange resources of the country and the proper utilisation thereof in the interest of the economic development of the country.*" We have already referred to Section 76 which emphasises that every permission or licence granted by the Central Government or the Reserve Bank of India should be animated by a desire to conserve the foreign exchange resources of the country. The Foreign Exchange Regulation Act is, therefore, clearly a statute enacted in the national economic interest. When construing statutes enacted in the national interest, we have necessarily to take the broad factual situations contemplated by the Act and interpret its provisions so as to advance and not to thwart the particular national interest whose advancement is proposed by the legislation. Traditional norms of statutory interpretation must yield to broader notions of the national interest. If the legislation is viewed and construed from that perspective, as indeed it is imperative that we do, we find no difficulty in interpreting "permission" to mean "permission", previous or subsequent, and we find no justification whatsoever for limiting the expression "permission" to "previous permission" only. In our view, what is necessary is that the permission of the Reserve Bank of India should be obtained at some stage for the purchase of shares by non-resident companies."

4(k) The above proposition laid down by the Constitution Bench of Hon'ble Supreme Court in the celebrated *Escorts* judgment governs the field and is therefore clearly indisputable.

4(l) This takes us back to the impugned notification. It is the fervent submission of the learned Solicitor that this is only an attempt to balance development on one hand and environment protection on the other. Learned Solicitor, as set out supra would assert that this will clearly and certainly be a one time measure.

4(m) After meeting the matter on merits qua challenge to the impugned notification on the above said three points, learned Solicitor did assail the locus of the writ petitioner. Considering the nature of the matter and the wider ramifications it has, coupled with the fact that this is a public interest litigation and in the light of the trajectory the hearing has taken, we are not going into the aspect of the locus of the petitioner entity.

4(n) We are convinced that paragraphs 3, 4 and 5 of the impugned notification alluded to supra coupled with the two undertakings made on instructions by learned Additional Solicitor General that (a) public hearing can be read into paragraph 5 of the impugned notification and (b) this shall certainly and clearly be a one time measure, this writ petition can be closed and disposed of recording the above submissions. We do so.

CONCLUSION:

5. We record the submissions of the learned Additional Solicitor General that (a) public hearing can be read into paragraph 5 of the impugned notification and (b) this shall certainly and clearly be a one time measure.

DECISION:

6. This writ petition is disposed of on the above terms. No costs.

INDIRA BANERJEE, C.J.: — I have gone through the draft judgment prepared by my esteemed brother, Sundar, J. and I am in full agreement with him.

7. This writ petition has been filed by way of public interest, *inter alia*, challenging a notification, being S.O.804(E), dated 14.3.2017 to the extent the said notification provides:

"13. (1) to (3) ...

(4) The cases of violation will be appraised by respective sector Expert Appraisal Committees constituted under subsection (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along with other actions under the law."

8. The grounds on which the notification has been challenged have elaborately been enumerated by Sundar, J. and the same are not reiterated, to avoid prolixity. The thrust of the objection to the impugned notification is to the decision to recommend closure of the projects only in case the Expert Appraisal Committee is of the view that the project has not been constructed at a site, which, under prevailing laws, is permissible or expansion that has been done cannot be run sustainably in compliance with the environmental norms and with adequate environmental safeguards.

9. There is increasing concern over environmental degradation the world over. Pollution and consequential concentration of harmful chemicals in the atmosphere by reason of emission of green house gases by reason of use of motors and machines are assuming alarming proportions. Pulmonary disorders as a result of pollution have become a life threatening health hazard.

10. The anxiety to protect the environment has led to deliberations and discussions at the National as also International levels. Under the aegis of the United Nations, a Conference on the Human Environment was held in Stockholm way back in June, 1972.

11. The Environment (Protection) Act, 1986, hereinafter referred to as "*the 1986 Act*", has been enacted as a consequence of decisions taken at the United Nations Conference on Human Environment held in Stockholm in June, 1972, in which India participated, with a view to take appropriate steps for protection and improvement of environment.

12. The statement of objects and reasons for enactment of the 1986 Act declares that the Act has been prompted by concern over the state of environment that has grown the world over since the sixties. The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentration of harmful chemicals in the ambient atmosphere, growing risks of environmental accidents and threats to life support systems.

13. The resolve to protect and enhance the environmental quality found expression in the decisions taken at the United Nations Conference on the Human Environment held in Stockholm in June, 1972. Government of India participated in the conference and strongly voiced the environmental concerns. While measures had been taken before and after the conference, the need for a general legislation to implement the decisions of the conference was felt.

14. Section 3(1) of the 1986 Act empowers the Central Government to take all such measures as it might deem necessary or expedient for the purpose of protecting and

improving the quality of the environment and preventing, controlling and abating environmental pollution.

15. Sub-section (2) of Section 3 of the 1986 Act enables the Central Government to take, *inter alia*, the following measures:

- “(i) co-ordination of actions by the State Governments, officers and other authorities-*
 - (a) under this Act, or the rules made thereunder; or*
 - (b) under any other law for the time being in force which is relatable to the objects of this Act;*
- (ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;*
- (iii) laying down standards for the quality of environment in its various aspects;*
- (iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever: Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;*
- (v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;*
- (vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;*
- (vii) laying down procedures and safeguards for the handling of hazardous substances;*
- (viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;*
- (ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;*
- (x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;*
- (xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;*
- (xii) collection and dissemination of information in respect of matters relating to environmental pollution;*
- (xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;*
- (xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.”*

16. Sub-section (3) of Section 3 of the 1986 Act provides as follows:

Section 3(3). The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the

provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures."

17. Subject to the provisions of the 1986 Act, the Central Government has power under sub-section (1) of section 3 to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environment pollution.

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

19. In exercise of such power conferred on the Central Government, the Ministry of Environment, Forest and Climate Change issued Office Memoranda dated 12th December 2012 and 27th June 2013 requiring environmental clearance in respect of projects.

20. By an order dated 28th November 2014 in the case of *Hindustan Copper Limited v. Union of India*, being W.P.(C) No. 2364 of 2014, the High Court of Jharkhand held that the conditions laid down under Office Memorandum dated 12th December 2012 in paragraph 5(i) and 5(ii) were illegal and unconstitutional.

21. The High Court held that action for the alleged violation would have to be an independent and separate proceeding. Consideration of a proposal for environment clearance could not await initiation of action against the project proponent. The High Court also held that the proposal for environment clearance must be examined on its merits, independent of any proposed action for the alleged violation of the environmental laws.

22. It appears that National Green Tribunal (Principal Bench) also passed an order dated 7th July 2015 in Original Application No. 37 of 2015 and Original Application No. 213 of 2015 holding that the Office Memoranda dated 12th December 2012 and 24th June 2013 with regard to consideration of proposals for Terms of Reference or Environment Clearance or Coastal Regulation Zone Clearance involving violations of the 1986 Act or Environment Impact Assessment Notification, 2006, Coastal Regulation Zone Notification, 2011 could not alter or amend the provisions of the Environment Impact Assessment Notification, 2006 and quashed the same.

23. The Ministry of Environment Forest and Climate Change and the State Environment Impact Assessment Authorities had been receiving proposals under the Environment Impact Assessment Notification, 2006 for grant of Terms of Reference and Environmental Clearance for projects which had started the work on site, expanded production beyond the limit of environmental clearance or changed the product mix without obtaining prior environmental clearance.

24. The Ministry of Environment, Forest and Climate Change deemed it necessary that all entities not complying with the environmental regulation under Environment Impact Assessment Notification, 2006, be brought to comply with the environmental laws in expedient manner, for the purpose of protecting and improving the quality of the environment and reducing environmental pollution.

25. The Ministry of Environment, Forest and Climate Change deemed it necessary to bring such projects and activities in compliance with the environmental laws at the earliest point of time, rather than leaving them unregulated and unchecked, which would be more damaging to the environment.

26. In furtherance of this objective, the Government of India deemed it essential to establish a process for appraisal of cases of violation of norms, and prescribing such

adequate environmental safeguards that would deter violation of the provisions of Environment Impact Assessment Notification, 2006 and ensure that damage to environment was adequately compensated for.

27. In *Indian Council for Enviro-Legal Action v. Union of India*, reported in (1996) 3 SCC 212, the Supreme Court analyzed relevant provisions of environmental laws and concluded that damages might be recovered under the provisions of the 1986 Act, inter alia, to implement measures that were necessary or expedient for protecting and promoting the environment. The Supreme Court affirmed that the power of the Central Government under Section 3 of the 1986 Act was wide and included the power to prohibit an activity, close an industry, direct to carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry. The question of liability of the respondents to defray the costs of remedial measures could also be looked into from the principle "polluter pays".

28. This principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution.

29. In exercise of power under Section 3(1)(a)(i) and Section 3(2)(v) of the 1986 Act read with Rule 5(3)(d) of the Environment (Protection) Rules, 1986, the Central Government has issued the impugned notification directing that the projects or activities or the expansion of modernization of existing projects or activities requiring prior environmental clearance under the Environment Impact Assessment Notification, 2006 entailing capacity addition with change in process or technology or both, undertaken in any part of India without obtaining prior environmental clearance from the Central Government or by the State Level Environment Impact Assessment Authority, as the case might be, duly constituted by the Central Government under sub-section (3) of section 3 of the 1986 Act shall be considered a case of violation of the Environment Impact Assessment Notification, 2006 and would be dealt with strictly as per the procedure specified in the said notification.

30. Paragraphs 13(2) to 13(7) read as follows:

"(2) In case the projects or activities requiring prior environmental clearance under Environment Impact Assessment Notification, 2006 from the concerned Regulatory Authority are brought for environmental clearance after starting the construction work, or have undertaken expansion, modernization, and change in product-mix without prior environmental clearance, these projects shall be treated as cases of violations and in such cases, even Category B projects which are granted environmental clearance by the State Environment Impact Assessment Authority constituted under sub-section (3) Section 3 of the Environment (Protection) Act, 1986 shall be appraised for grant of environmental clearance only by the Expert Appraisal Committee and environmental clearance will be granted at the Central level.

(3) In cases of violation, action will be taken against the project proponent by the respective State or State Pollution Control Board under the provisions of section 19 of the Environment (Protection) Act, 1986 and further, no consent to operate or occupancy certificate will be issued till the project is granted the environmental clearance.

(4) The cases of violation will be appraised by respective sector Expert Appraisal Committees constituted under subsection (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along

with other actions under the law.

(5) In case, where the findings of the Expert Appraisal Committee on point at sub-para (4) above are affirmative, the projects under this category will be prescribed the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan. Further, the Expert Appraisal Committee will prescribe a specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants. The collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environmental laboratory duly notified under Environment (Protection) Act, 1986, or a environmental laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of a Council of Scientific and Industrial Research institution working in the field of environment.

(6) The Expert Appraisal Committee shall stipulate the implementation of Environment Management Plan, comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefit derived due to violation as a condition of environmental clearance.

(7) The project proponent will be required to submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by Expert Appraisal Committee and finalized by Regulatory Authority and the bank guarantee shall be deposited prior to the grant of environmental clearance and will be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after the recommendation by regional office of the Ministry, Expert Appraisal Committee and approval of the Regulatory Authority."

31. There can be no doubt that the need to comply with the requirement to obtain environmental clearance is non-negotiable. Environmental clearance ensures compliance of environmental laws. A project can be set up or allowed to expand subject to compliance of the requisite norms. The environmental clearance is subject to the satisfaction of the existence of necessary infrastructural facilities and equipment for compliance of environmental norms. To protect the future generations, it is imperative that pollution laws be strictly enforced. Under no circumstances, can industries which pollute be allowed to operate and degrade the environment?

32. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down only because of failure to obtain prior environmental clearance, even though the establishment may not otherwise be violating pollution laws or the pollution, if any, can conveniently and effectively be checked. The answer necessarily has to be in the negative.

33. The Central Government is well within the scope of its powers under Section 3 of the 1986 Act to issue directions to control and/or prevent pollution including directions for prior environmental clearance before a project is commenced. Such prior environmental clearance is necessarily granted upon examining the project from the angle of environmental pollution. However, one time relaxation and that too only in cases where the projects are otherwise in compliance with or can be made to comply with the pollution norms is, in my view, not impermissible. The notification ought not to be interfered with.

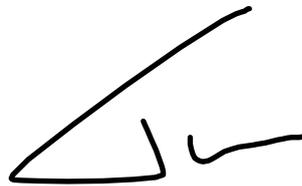
34. It is reiterated that protection of environment and prevention of environmental

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

35. The impugned notification does not compromise with the need to preserve environmental purity, but only allows those industries and/or projects which might otherwise have been given prior environmental clearance, but omitted to obtain environmental clearance to operate, on the conditions imposed by the authorities concerned, including their liability under the principle "polluter pays".

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Part-II, Section 3, Subsection (ii))

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE
CHANGE

New Delhi, the December, 2018

NOTIFICATION

S.O. Whereas, the following notification which the Central Government proposes to issue, in exercise of the powers conferred by sub-section (1), and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) for imposing certain restrictions and prohibition on the undertaking some projects or activities or, expansion or modernization of such existing projects or activities entailing capacity addition, in any part of India, in supersession of the Environment Impact Assessment notification vide S.O. 1533 dated the 14th September, 2006 and its subsequent amendments, is hereby published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, for the information of the public likely to be affected thereby; and notice is hereby

given that the said draft notification shall be taken into consideration on or after the expiry of a period of sixty days from the date on which copies of the Gazette containing this notification are made available to the Public;

Any person interested in making any objections or suggestions on the proposal contained in the draft notification may forward the same in writing for consideration of the Central Government within the period so specified to the Secretary, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi- 110003, or send it to the e-mail address afv.vidyvathi@gov.in and sharath.kr@gov.in.

Draft Notification

Whereas by notification of the Government of India in the erstwhile Ministry of Environment and Forests vide number S.O. 1533 (E) dated the 14th September, 2006 (hereinafter referred to as the said notification), the Central Government imposed certain restrictions and prohibitions on the undertaking of some projects or

activities or expansion or modernization of such existing projects or activities entailing capacity addition, in any part of India, listed in Schedule to the said notification unless prior Environmental Clearance (EC) has been accorded by the Central Government or the State level Environmental Impact Assessment Authority or District level Environmental Impact Assessment Authority, as the case may be, in accordance with the procedure specified in the said notification;

And whereas, the said notification has succeeded in realizing necessary environmental safeguards by assessing the environmental impacts due to the proposed projects or activities that require prior environmental clearance at the planning stage itself through a transparent process involving consultations with public and relevant experts;

And whereas, the Central Government has reviewed through the Expert Committee constituted for the purpose the existing restrictions imposed on undertaking projects or activities and the procedures and practices of environmental clearance to include

only projects and activities with significant environmental impacts, and also to identify problems, constraints and measures required to be addressed for making the Environmental Impact Assessment (EIA) and prior environmental clearance processes more transparent, efficient, effective, and decentralized;

And whereas, as a result of the review a revised list of projects and activities which would require prior Environmental Clearance and a revised Environmental Clearance process has been formulated by the Central Government;

And whereas, the Central Government considers, it is necessary in the public interest to impose certain restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities, as indicated in the Schedule to this notification, being undertaken in any part of India, unless prior environmental clearance has been accorded in accordance with the procedure specified in this notification, by the Central Government or the State or Union Territory level Environment

Impact Assessment Authority (SEIAA) or District level Environmental Impact Assessment Authority, as the case may be, for the purpose of this notification;

Now, therefore, the following draft notification which the Central Government proposes to issue in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) or rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 1533 (E) dated the 14th September, 2006 read with subsequent amendments, except in respect of things done or omitted to be done before such supersession, the Central Government hereby publishes this, draft notification as required under sub rule (3) of rule 5 of the Environment (Protection) Rules, 1986, which shall on and-from the date of its final publication require new projects or capacity addition listed in the Schedule to this notification to be undertaken in any part of India only after the same has been accorded prior environment clearance by the

Central Government of the State Level Examination Impact Assessment Authority concerned or District level Environmental Impact Assessment Authority concerned, as the case may be, in accordance with the requirements and procedure specified hereinafter in this notification.

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

The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter be referred to be as the Central Government in the Ministry of Environment, Forest and Climate Change for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'BI' and Category' "B2" in the said Schedule and at District Level, the District Environment Impact Assessment Authority (DELAA) for matters falling under Category 'B2' for mining of minor minerals in the said Schedule, before any construction work, or preparation of land by the project management

except for securing the land, is started on the project or activity:

- (i) All new projects or activities listed in the Schedule to this notification;
- (ii) Expansion or modernization or any change in product mix or any change in process of existing projects or activities listed in the Schedule to this notification resulting in capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule.

3. State Level Environment Impact Assessment Authority: -

- 1) A State Level Environment Impact Assessment Authority (hereinafter referred to as the SEIAA) shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of three Members including a Chairman and a Member-Secretary to be

nominated by the State Government or the Union Territory Administration concerned.

- (2) The Member-Secretary shall be a serving officer of the concerned State Government or Union Territory Administration familiar with environmental laws.
- (3) The Chairman shall be an expert in terms of eligibility criteria given in APPENDIX XTV in one of the specified fields, with sufficient experience in environmental policy or management.
- (4) The other member shall be an expert fulfilling the eligibility criteria given in APPENDIX-XIV in one of the specified fields.
- (5) The State Government or Union Territory Administration shall forward the names of the Members and the Chairman referred in sub- paragraph 3 to 4 above to the Central Government before 30 days of expiry of the tenure of existing SEIAA and the Central

Government shall constitute the SEIAA as an authority for the purposes of this notification within thirty days of the date of receipt of the names.

- (6) In case the State Government or Union Territory Administration fails to forward the names of the Members and the Chairman referred in sub- paragraph 3 to 4 above to the Central Government before 30 days of expiry of the tenure of the existing SEIAA, the Central Government shall constitute the SEIAA as an authority for the purposes of this notification.
- (7) The non-official Member and the Chairman shall have a fixed term of three years (from the date of the publication of the notification by the Central Government constituting the authority).
- (8) All decisions of the SEIAA shall be taken in a meeting and shall ordinarily be unanimous;

Provided that, in case a decision is taken by

majority, the details of views, for and against it, shall be clearly recorded in the minutes and a copy thereof sent to Ministry of Environment, Forest and Climate Change.

3A. District Level Environment Impact Assessment Authority

- (i) A District Level Environment Impact Assessment Authority (hereinafter referred to as the DEIAA) shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of four members including a Chairperson and a Member-Secretary.
- (ii) The District Magistrate or District Collector shall be the Chairperson of the DEIAA.
- (iii) The Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter of the concerned district of the State shall be the Member-Secretary of the DEIAA.
- (iv) The other two members of the DEIAA shall be the

senior most Divisional Forest Officer and one expert. The expert shall be nominated by the Divisional Commissioner of the Division or Chief Conservator of Forest, as the case may be. The term and qualifications of the expert fulfilling the eligibility criteria are given in APPENDIX-XV to this notification.

- (V) The members of the DEIAA who are serving officers of the concerned State Government or the Union Territory Administration shall be ex-officio members except the expert member.
- (vi) The District Level Expert Appraisal Committee hereinafter referred to as the DEAC shall comprise of eleven members, including a Chairman and a Member-Secretary.
- (vii) The senior most Executive Engineer, Irrigation Department in the district of respective State Governments or Union Territory Administration shall be the Chairperson of the DEAC.
- (viii) The Assistant Director or Deputy Director of the

Department of Mines and Geology or District Mines Officer or Geologist of the district shall, be the Member-Secretary of the DEAC in that order.

- (ix) A representative of the State Pollution Control Board or Committee, senior most Sub-Divisional Officer (Forest) in the district, representative of Remote Sensing Department or Geology Department or State Ground Water Department, one occupational health expert or Medical Officer to be nominated by the District Magistrate or District Collector, Engineer from Zia Parishad, and three expert members to be nominated by the Divisional Commissioner or Chief Conservator of Forest as the case may be shall be the other members of the DEAC. The term and qualifications of the experts fulfilling the eligibility criteria are given in Appendix VII to this notification.
- (x) The members of the DEAC who are serving officers of the concerned State Government of the Union

Territory Administration shall be ex-officio members except the expert members.

- (xi) The District Magistrate or District Collector shall notify an agency to act as Secretariat for the DEIAA and the DEIAA and shall provide all financial and logistic support for their statutory functions.
- (xii) The DEIAA and DEAC shall exercise the powers and follow the procedure as specified in the said modification, as amended from time to time.
- (xiii) The DEAC shall function on the principle of collective responsibility and the Chairman shall endeavor to reach a consensus in each case and if consensus cannot be reached, the view of the majority shall prevail.

4. Categorization of projects and activities: -

All projects and activities are broadly categorized in to three categories - Category A and Category' B1 and Category B2, based on the spatial extent of potential impacts and potential

impacts on human health and natural and man-made resources.

- (ii) All projects or activities included as Category 'A' in the Schedule, including Expansion or modernization or any change in product mix or any change in process of existing projects or activities, shall require prior environmental clearance from the Central Government in the Ministry of Environment, Forest and Climate Change (MoEFCC) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification;
- (iii) All projects or activities included as Category 'B1' and Category 'B2' in the Schedule, including Expansion or modernization or any change in product mix or any change in process of existing projects or activities of existing projects or activities as specified in

sub paragraph of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, shall require prior environmental clearance from the State/Union Territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union Territory Level Expert Appraisal Committee (SEAC) constituted. In the absence of a duly constituted SEIAA or SEAC, a Category "BT and Category "B2'project shall be considered at the Central Level as a Category 'B1' and Category 'B2' project;

- (iv) The 'B2' Category projects pertaining to mining of minor mineral shall require prior environmental clearance from DEIAA. The DEIAA shall base its decision on the recommendations of DEAC, constituted for the purpose. In the absence of a duly constituted DEIAA or DEAC, a Category 'B2'

project pertaining to mining of minor minerals shall be considered at the State Level as a Category 'B2; project;

- (v) The category :BF projects shall require an Environmental Impact Assessment report and category 'B2' shall not require an Environment Impact Assessment report.
- (vi) MoEFCC shall review the list of projects falling under Category 'A' Category' and Category B2 from time to time through standing expert committee to be constituted for this purpose. The authorised members of this committee may inspect any site connected with any" project or activity for this purpose with prior notice of at least seven days to the project proponent by Central Government, who shall provide necessary facilities for the inspection.

5. Expert Appraisal Committees:-

- (i) The EACs at Central Government level in the

MoEFCC, SEACs at the State or Union Territory level and DEAC at the district level shall carry out scoping and appraisal of projects or activity in category 'A', CB1 and B2' and 'B2' projects for mining of minor minerals respectively. EACs, SEACs and DEACs shall meet at least once every month.

(iii) The composition of the EAC shall be as given in Appendix-XIV. The SEAC at the State or the Union Territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union Territory Administration with identical composition. DEAC at the district level shall be constituted by the Central Government as per the composition given in paragraph 3A.

(iii) The Central Government may with the prior concurrence of the concerned State Governments or the Union Territory Administration constitute one SEAC for more

than one State or Union Territory or more than one SEAC for one State or Union Territory' for reasons of administrative convenience, cost and expeditious disposal of the proposals.

- (iv) The EAC and SEAC shall be reconstituted after every three years.
- (v) In case the State Government or Union Territory Administration fails to forward the names of the Members and the Chairman to the Central Government before 30 days of expiry of the tenure of the existing SEAC, the Central Government may constitute SEAC(s) without prior concurrence of the concerned State Governments or the Union Territory Administration.
- (vi) The authorised members of the EACs, SEACs and DEACs concerned, may inspect any site connected with the project or activity in respect of which the prior environmental

clearance is sought for the purpose of scoping or appraisal with prior notice of at least seven days to the project proponent who shall provide necessary facilities for the inspection.

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

6. Stages in the Prior Environmental Clearance (EC) Process for projects or activities of new or expansion or modernization or any change in product mix or any change in process: -

- 6(i) The environmental clearance process for projects or activities of new or expansion or modernization or any change in product mix or any change in process will comprise of a maximum of four stages, all of which may not apply to particular cases as

set forth below in this notification. These four stages in sequential order are:-

- Stage (1) Scoping
- Stage (2) Preparation of Environmental Impact Assessment Report and
- Environmental- Management Plan. (EIA/EMP)
- Stage (4) Appraisal

1. Stage (1) - Scoping:

(i) “Scoping” refers to the process to determine detailed and comprehensive Terms of Reference (ToR) addressing all relevant environmental concerns for the preparation of an Environmental Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought.

(ii) Sector specific Standard ToR (s) shall be developed by the MoEFCC and displayed on the website of the Ministry.

(iii) The member-secretary of the Expert Appraisal Committee (EAC) or State Expert

Appraisal Committee (SEAC) as the case may be, shall refer the case to the Expert Appraisal Committee (EAC) or State Expert Appraisal Committee (SEAC) respectively within thirty days of the acceptance of application, the EAC or SEAC, as the case may be who shall finalize the Terms of Reference.

(iv) If the case is not referred to the Expert Appraisal Committee (EAC) or State Expert Appraisal Committee (SEAC), within thirty days of the acceptance of application, the sector specific Standard ToR (s) developed by the MoEFCC shall be deemed as approved ToR for the projects or activities and same shall be issued by the Ministry or SE1AA, as the case may be, online, on 30th day after acceptance of application.

(v) Provided that, the Expert Appraisal Committee (EAC) or State Expert Appraisal Committee (SEAC), as the case may be, may stipulate additional Terms of Reference, if found

necessary, within another period of thirty days of issue of standard ToR(s).

(vi) Provided further that all projects and activities listed under Category “B2” shall not require Scoping-

(vii) Provided also that the following projects or activities shall be issued the Standard ToR developed by the Ministry, on online, on acceptance of application, without referring to EAC/SEAC by the Ministry or SEJAA, as the case may be:

(a) all Highway projects in border States covered under entry (1) of column (3) and entry (i) of column (4) against item 7(f) of the Schedule.

(b) all Highway expansion projects covered under entry (ii) of column (3) and entry of column (4) against item 7(f) of the Schedule.

- (c) all new and expansion projects or activities proposed to be located in industrial estates or parks (item 7(c) of the Schedule) approved by the concerned authorities, and which are not disallowed in such approvals.
- (d) all expansion proposals of existing projects having earlier environmental clearance and no additional land acquisition are involved.

Provided also that -

- (A) the project and activities referred to in clause (vi) (a) shall be appraised on the basis of Form I or Form IA and the conceptual plan;
 - (B) the projects referred to in clause (vi) (a) to (d) shall prepare EI A and EMP report on the basis of standard ToR specified by the Ministry of Environment, Forest and Climate Change;
- (ix) The Terms of Reference for the projects or activities

except for River valley and Hydro-electric projects, issued by the regulatory authority concerned shall have the validity of three years from the date of issue. In case of the River valley and Hydro-electric projects the validity will be for 4 years.

- (x) The validity period specified above may be extended by the concerned regulatory authority for a maximum period of one year without referring to the EAC or SEAC, as the case may be, provided an application is made by the applicant before expiry of the validity period, together with an updated Form I and proper justification.
- (xi) Applications for Terms of Reference may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned. In case of such rejection, the decision together with reasons for the same shall be communicated to the applicant in writing within sixty days of the receipt of the application.

II. Stage (2) Preparation of Environmental Impact

Assessment Report and Environmental Management Plan

The Environmental Impact Assessment and Environmental Management Plan (EIA/EMP) shall be prepared in accordance with the Terms of Reference prescribed by the regulatory authority as per the Generic structure given at Appendix-XIII, by the project proponent through the Environmental consultant organisations which are accredited for a particular sector and the category of project for that sector with the National Accreditation Board for Education and Training (NABET) of Quality Council of India (QCI) or any other agency as may be notified by the Ministry of Environment, Forest and Climate Change from time to time.

The baseline data used for preparation of EIA/EMP report may be collected at any stage, irrespective of the request for ToR to the regulatory authority or issue thereof. However, such a

baseline data shall not be older than three years, at the time of submission of Final EIA/EMP, for grant of Environmental Clearance, as per the ToRs prescribed.

The baseline data shall be collected during non-monsoon season based on the protocol prescribed by the Central Pollution Control Board from time to time. However, the baseline data of monsoon season shall also be required to be collected in case of the such requirement is prescribed by the EAC/SEAC, as the case may be, while granting the ToR.

III. Stage (3) - Public Consultation:

(i) “Public Consultation” refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity are ascertained with a view to taking into account all

the material concerns in the project or activity design as appropriate.

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

(a) A public hearing at the site or in its close proximity district wise, to be carried out in the manner prescribed in Appendix XI for sanctioning concerns of local affected persons;

(b) Invite responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.

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

- (iv) in case the State Pollution Control Board or the Union Territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period directly to the regulatory authority concerned as above, the regulatory authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty five days.
- (v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned

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

- (vi) For obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity, the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC) shall invite responses from such concerned persons by placing on their website the Summary E1 A report prepared in the format given in Appendix IT1A by the applicant along with a copy of the application in the prescribed form, within seven days of the receipt of a written request for arranging the public hearing. Confidential information including non-disclosable or legally privileged information involving Intellectual

Property Right, source specified in the application shall not be placed on the web site. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means.

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

authority for appraisal. The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.

(viii) All Category 'A' and Category B1 projects or activities of new / expansion / modernization proposals shall undertake Public Consultation;

(ix) Provided, the public consultation is exempted for the following:-

a. modernization of irrigation projects (item 1(c) (ii) of the Schedule).

b. all projects or activities located within industrial estates or parks (item 7(c) of the Schedule) approved by the concerned authorities except projects or activities covered under Item 1(d) [Thermal Power Plants]; Item 1(e) [Nuclear Power Projects and processing nuclear fuel]; Item 2(a) [Coal

Washeries]; Item 2(b) [Mineral Beneficiation]; Item 2(c) [Pellet plants or Briquetting plants or agglomeration units]; Item 3(a) [Metallurgical industries (ferrous & non-ferrous)]; Item 3(b) [Cement plants]; Item 3(c) [Lead acid battery manufacturing (excluding assembling and charging of lead acid battery)]; Item 4(a) [Petroleum refining industry]; Item 4(b) [Coke oven plants or calcinations plants or Coaltar processing units]; Item 4(c) [Asbestos milling and asbestos based products]; Item 4(f) [Skin/hide processing including tanning industry]; Item 5(c) [Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics ()); Item 5(g) [Distilleries, molasses based industries and bio-fuels]; Item 5(i) [Pulp & Paper industry]; Item 5(j) [sugar Industries].

all expansion projects or activities for

capacity expansion up to 50% of the existing production capacity and proposed within the existing premises (without additional land acquisition) having prior environmental clearance granted based on public consultation, subject to compliance of earlier environmental clearance except project's or activities covered under Item i(d) [Thermal Power Plants]; Item 1(e) [Nuclear Power Projects and processing nuclear fuel]; Item 2(a) [Coal Washeries]; Item 2(b) [Mineral Beneficiation]; Item 2(c) [Pellet plants or Briquetting plants or agglomeration units]; Item 3(a) [Metallurgical industries (ferrous & non-ferrous)]; Item 3(b) [Cement plants]; Item 3(C) [Lead acid battery manufacturing (excluding assembling and charging of lead acid battery)]; Item 4(a) [Petroleum refining industry]; Item 4(b) [Coke oven plants or calcinations plants or Coaltar processing units]; Item 4(c) [Asbestos milling and

asbestos based products]; Item 4(f) [Skin/hide processing including tanning industry]; Item 5(c) [Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics (c)]; Item 5(g) [Distilleries, molasses based industries and bio-fuels]; Item 5(i) [Pulp & Paper industry]; Item 5(j) [sugar Industries].

d. modernisation of an existing unit proposed through change in process and or technology or involving a change in the product -mix. without or with increase in production capacity up to 50% of the existing production capacity and proposed within the existing premises having prior environmental clearance granted based on public consultation, subject to compliance of earlier environmental clearance

e. One-time capacity expansion of coal

mining projects up to 40% without increase in the mining lease area having prior environmental clearance granted based on public consultation subject to compliance of another environmental clearance and transportation of coal by belt conveyor or rail mode.

- f. All expansion proposals of underground mining projects without increase in the mining lease area, having prior environmental clearance granted based on public consultation, subject to compliance of earlier environmental clearance and transportation of coal/mineral either by belt conveyor or rail mode
- g. expansion of Roads and Highways (item 7 (f) of the Schedule) which do not involve any further acquisition of land.
- h. maintenance dredging provided the dredged material shall be disposed within port limits

and part of original proposal for which EC was obtained.

- i. all Area Development projects (which do not contain any category 'A' or category 'B1' projects and activities) and Townships under 8(b) in the Schedule to the notification.
- j. all Category 'B2' projects and activities.
- k. all projects or activities concerning national defence and security or involving other strategic considerations as determined by the Central Government.
- l. all linear projects such as Highways or Expressways or elevated roads- Pipelines, etc., in border States.
- m. all standalone pelletization plants, which were in existence and in operation on or before the 27th day of May, 2014 and have valid consent to establish and consent to operate from the concerned State Pollution

Control Board or the Union Territory Pollution Control Committee.

IV Stage (4): Appraisal

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

concerned shall make categorical recommendations to the regulatory authority concerned either for grant of prior environmental clearance on stipulated terms and conditions, or rejection of the application for prior environmental clearance, together with reasons for the same.

- (ii) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an Environment Impact Assessment report, shall be carried out on the basis of the prescribed application Form 1 and Form 1A as applicable, any other relevant validated information available and the site visit wherever the same is considered as necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee or District level Expert Appraisal Committee concerned, as the case may be.
- (iii) The applicant shall apply to the concerned

regulatory authority through online application in Form-II as given in Appendix-IV along with following documents where public consultations are mandatory: -

- Final Environmental Impact Assessment Report
 - A copy of the video tape or CD of the public hearing proceedings
 - A copy of final layout plan
 - A copy of the project feasibility report
- (iv) The Form-II along with Final EIA Report and the other relevant documents submitted by the applicant through online shall be scrutinized in office within from the date of its receipt by the concerned Regulatory Authority strictly with reference to the ToR and the inadequacies noted shall be communicated online.
- (v) Where a public consultation is not mandatory, the appraisal shall be made on the basis of prescribed application in Form-1 and environmental impact assessment report, in the case of all projects and

activities (other than Item 8 of the Schedule), except in case where the said project and activity falls under category 'B2', and in the case of items 8(a) and 8(b) of the Schedule, considering their unique project cycle, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall appraise projects or activities on the basis of Form-1, Form 1 A, conceptual plan and the environment impact assessment report [required only for projects listed 8(b)] and make recommendations on the project regarding grant of Environmental Clearance or otherwise and also stipulate the conditions for environmental clearance.

- (iv) Every application shall be placed before the EAC /SEAC and its appraisal shall be completed by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within sixty days of the receipt of the final Environment Impact Assessment report and other documents or the receipt of Form 1 and Form I A, where public

consultation is not necessary and the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee shall be placed before the competent authority for a final decision within the next fifteen days .

- (vii) The applicant shall be informed at least 15 (fifteen) days prior to the scheduled date of the EAC /SEAC meeting for considering the project proposal.
- (viii) The minutes of the EAC /SEAC meeting shall be finalised within 5 working days of the meeting and displayed on the website of the 'concerned' regulatory authority. In case the project or activity is recommended for grant of EC, then the minutes shall clearly list out the specific environmental safeguards and conditions. In case the recommendations are for rejection, the reasons for the same shall also be explicitly stated.
- (ix) The Environmental consultant organisations which are accredited for a particular sector and

the category of project for that sector with the National Accreditation Board for Education and Training (NABET) of Quality Council of India (QCI) or any other agency as may be notified by the Ministry of Environment, Forest and Climate Change from time to time shall be allowed to appear before the concerned Expert Appraisal Committee (EAC) or the State Expert Appraisal Committee (SEAC) or district Level Export Appraisal Committee as the case may be.

6(ii). Prior Environmental Clearance (EC) process for modernization or any change in product mix or any change in process:

- (a) All applications seeking prior environmental clearance for modernization or any change in product mix or any change in process of an existing unit without or with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification or the limit specified in the

existing environmental clearance through change in process and or technology or involving a change in the product-mix shall be made in Form II and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence the requirement for the necessity of the preparation of Environment Impact Assessment Report in case of capacity expansion not more than 50% and the application shall be appraised accordingly for grant of environmental clearance.

- (b) Any change in configuration of the plant from the environmental clearance conditions during execution of the project after detailed engineering shall be exempt from the requirement of environmental clearance, if there is no change in production and pollution load. The project proponent shall

inform the Ministry of Environment, Forest and Climate Change / State Level Environment Impact Assessment Authority and the concerned State Pollution Control Board.

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

6 (iii) Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining-of other Minor Minerals:

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

(b) The prescribed procedure for environmental clearance for mining of minerals categorized as B2 including cluster situation is given in Appendix XVIII.

7. Application for environmental clearance, amendment / extension of validity / transfer of the Terms of Reference or prior environmental clearance

(i) An application seeking Terms of Reference or prior environmental clearance shall be made by the project proponent, online, in the prescribed form(s) as specified in the column (3) of the table below

after the identification of prospective site(s) for the project and/or activities to which the application relates; before commencing any construction activity, or preparation of land, or mining at the site by the project proponent

- (ii) An application seeking amendment / extension of validity / transfer of the Terms of Reference or prior environmental clearance shall be made by the project proponent, online, in the prescribed form(s) as specified in the column (3) of the table below.
- (iii) The project proponent shall furnish along with the application for the above, a copy of the report as specified in the column (4), in addition to prescribed form as specified in the column (3).

Purpose	Project /activity	Form	Supplement ed with
Terms of Reference	All the projects/Activity except for	Form-1 as given in appendix-I	1. Pre-feasibility report

	the projects where scoping is exempted.		
Environmental Clearance	Construction projects or activities (item 8 of the Schedule)	Form-1 as given in appendix-I and Form IA as given in Appendix-I I	EIA/EMP, conceptual plan
Environmental Clearance	Mining of minerals under Category- 'B2'	Form-IM as given in Appendix-I II	Approved mining plant District Survey report.
Environmental Clearance	All the projects/activity except for mining of	Form-2 as given in Appendix-I V	1. Final EIA/EMPO A soft copy of video of

	<p>minor minerals under Category “B2’ and construction projects or activities (item 8 of the Schedule)</p>		<p>Public Hearing Proceedings , Project Feasibility Report, Final Layout Plan; Certificate of compliance of earlier environmen tal clearance in case of expansion proposals; in case of Mining</p>
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			project copy of approved mining plan instead of Project Feasibility Report.
Amendment Terms and Reference granted	All projects/ Activities	Form-3 as given in Appendix-V	Revised Form-1 Revised pre-feasibility report Copy of ToR granted.
Amendment in Envrionmental Clearance granted	All projects/ Activites	Form-4 as given in Appendix-VI	Revised Form-1 Revised Pre-feasibility report; Copy of ToR granted.

Amendment in Environmental Clearance granted	All projects/ Activities	Form-4 as given in Appendix- VI	Revised Form-II, Feasibility report, Copy of EC granted in case of Mining project copy of approved mining plan instead of Project Feasibility Report.
Validity extension of Terms of Reference	All projects/Activi ties	Form-5 as given in Appendix- VII	Copy of ToR granted.
Validity of extension of	All Projects or	Form-6 as given in	Copy of EC granted;

Environmental Clearance	Activities except mining of Minerals	Appendix-VIII	Schedule of completion of the balance activity/ Project.
Transfer of Environmental Clearance	All projects/Activities	From-8 as given in Appendix-X	A copy of legal notice deed from the concerned regulatory authority.
Multifercation of Environmental Clearance	All projects/Activities	From-8 as given in Appendix-XI	Copy of Environmental Clearance, a copy of legal transfer deed from

			the concerned regulatory authority.
Amalgamati on of Environmental Clearance	All projects/ Activities	Form-10 as given in Appendix-XII	Copy of Environmental Clearance. A copy of legal transfer deed from the concerned regulatory authority.

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

- (i) The regulatory authority shall consider the recommendations of the EAC or SEAC or DEAC

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

- (ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee concerned, the regulatory authority

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

to the applicant by the regulatory authority concerned within the next thirty days.

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

- (v) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping, or appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons.
- (vi) Deliberate concealment and/or submission of false or misleading information or data which is material to 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.

9. Validity of Environmental Clearance (EC):

- (i) The "Validity of Environmental Clearance" is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 8 above, to the start of production operations by the project or activity, or completion of all construction operations in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers.
- (ii) The prior environmental clearance granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 8 above for a project or activity shall be valid for a period as provided below:

Project/ Activity	Validity	Extension of validity	Grant of Extension
All the projects/ activities except Major Irrigation and river valley projects: Nuclear Power plants; and Mining Projects	7 years	3 years	The period of validity may be extended by the regulatory authority concerned by a maximum period as specified in column (3) if an application is made to the regulatory authority

			by the applicant within the validity period is Form-6 along with requisite documents.
Major Irrigation and river valley projects	10 years	5 years	
Nuclear Power Plants	10 years	5 years	
Mining Projects	Project life as estimated by Expert		

	Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee subject to a maximum of thirty years.		
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- (iii) In case the project or activity except mining projects is implemented partially with reference to the granted EC within the validity period as prescribed above, the environmental clearance granted shall be

confined to the completed project/activity only and will remain valid till the life of the project/activity.

- (iv) The environmental clearance is treated as perpetual in case the production operations by the project or activity started, or completed all construction operations in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers within the validity period as prescribed above. Thereafter the prior environmental clearance shall become environmental clearance except for mining projects.
- (v) In the case of Area Development projects and Townships [item 8(b)], the validity period shall be limited only to such activities as may be the responsibility of the applicant as a developer.
- (vi) Provided further that the regulatory authority may also consult the Expert Appraisal

Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee, as the case may be, for grant of such extension.

- (vii) Where the application for extension under sub-paragraph (ii) has been filed-
- a. within one month after the validity period of environmental clearance, such cases shall be referred to concerned Expert Appraisal Committee (EAC) or State Level Expert Appraisal Committee (SEAC) or District Level Expert Appraisal Committee and based on their recommendations, the delay shall be condoned at the level of the Joint Secretary in the Ministry of Environment Forest and Climate Change or Member Secretary. SE1AA, as the case may be;
 - b. more than one month after the validity period of environmental clearance, but less than three months after such validity

period, then, based on the recommendations of the EAC or the SEAC or the DEAC the delay shall be condoned with the approval of the Minister in charge of Environment, Forest and Climate Change or Chairman of SE1AA. as the case may be;

- c. Provided that no condonation for delay shall be granted for any application for extension filed 90 days after the validity period of environmental clearance.

10. Post Environmental Clearance Monitoring:

- (i) The project proponent shall prominently advertise, at his own cost, at least in two local newspapers indicating that the project has been accorded environment clearance and the details of website of MoEFCC/SE1AA/DEIAA where the copy of environmental clearance is displayed; and also display the copy of the environmental clearance letter on the website of the

company, permanently;

- (ii) The Ministry of Environment, Forest and Climate Change and the State / Union Territory Level Environmental Impact Assessment Authorities (SEIAAs)/ the District Level Environment Impact Assessment Authority (DEIAA), as the case may be, shall also place the environmental clearance in the public domain on Government portal.

- (v) The copies of the environmental clearance shall be submitted by the project proponents to the (a) District Magistrate / District Collector / Deputy Commissioner/s; (b) Zila Parishad or Municipal Corporation or Panchayats Union; (c) District Industries Office; (d) Urban Local Bodies (ULBs) /Institutions concerned Development authorities (e) Concerned Regional Office of the Ministry of Environment, Forest and

Climate Change (f) Concerned Regional office of Pollution Control Boards of State / UT and who in turn has to display the same for 30 days from the date of receipt.

- (vi) It shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance conditions pertaining to periods from 1st April to 30th September, on or before 1st December and for 1st October to 31st March, on or before 1st June, every year from the date of grant of environmental clearance, in soft copies to the regulatory authority concerned.
- (vii) All such compliance reports submitted by the project management shall be available on the website of the regulatory authority concerned.
- (viii) The latest such compliance report shall also be displayed on the web site of the concerned

regulatory authority.

- (ix) The monitoring procedure for sand mining or river bed mining is given in Appendix-XIX.
- (x) Notwithstanding the above provisions, the ministry will empanel government institutions of national repute for carrying out compliance- monitoring of Environment Clearance conditions of projects and activities in a random manner. The compliance monitoring will be done inter-alia against the baseline information available in the Environmental Impact Assessment report, Environmental Management -Plan as appraised by EAC/SEAC/DEAC as the case may be, terms and conditions of the Environmental Clearance as well as other provisions as may be specified by the ministry from time to time.

11. Transferability of Environmental Clearance / Multi-furcation / Amalgamation of (EC):

- (1) A environmental clearance granted for a specific

project or activity to an applicant may be transferred during its validity to another legal person entitled to undertake the project or activity on application by the transferor in Form-7, or by the transferee with a written “no objection” by the transferor, to, and by the regulatory authority concerned, on the same terms and conditions under which the prior environmental clearance was initially granted, and for the same validity period. No reference to the Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee concerned is necessary in such cases.

- (2) A environmental clearance granted for a specific project or activity may be multi- furcated and transferred during its validity to another legal person(s) entitled to undertake the project(s) or activities on application by the transferor in Form-8, or by the transferee with a written “no objection” by the transferor, to, and by the regulatory authority concerned, on

recommendation of the Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Appraisal Committee who shall prescribe the conditions (3) A environmental clearance granted for the projects of "activities may be amalgamated and transferred during its validity to another legal person entitled to undertake the projects or activities on application by the transferor in Form-8, or by the transferee with a written "no objection" by the transferor, to, and by the regulator/ authority concerned, on recommendation of the Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee who shall prescribe the conditions.

- (4) Where an allocation of coal block or mining lease for coal and other minerals is cancelled in any legal proceeding, or by the Government in accordance with law, the environmental clearance granted in respect of such project may be transferred, subject

to the same validity period as was initially granted, to any other person legally entitled to whom such project is subsequently allocated, and in such case, obtaining of “no objection” from either the holder of environment clearance or from the regulatory authority concerned shall not be necessary. No reference to the Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee concerned is necessary in such cases.

12. Delegation of Power to Local Bodies for the projects/activities pertaining to Building or construction:

Local bodies such as Municipalities, Development Authorities and District Panchayats, shall stipulate environmental conditions while granting building permission, for the Building or Construction projects with built-up area >20,000 sq. mtrs and <50,000 sq. mtrs and industrial sheds, educational institutions, hospitals and hostels for educational institutions from built-up

area 20,000 sqm to <1,50,000 sq.m as specified in Notification S.O (E) 5733, dated the 14th November, 2018.

13. Operation of EIA Notification, 2006, till disposal of pending cases:

From the date of final publication of this notification the Environmental Impact Assessment (EIA) notification number S.O. 1533 (E), dated the 14th September, 2006 and subsequent amendments are hereby superseded, except for the things done or omitted to be done before such supersession to the extent in case of all applications made for prior environmental clearance and pending on the date of final publication of this notification, the Central Government may relax any one or all provisions of this notification, or continue operation of some or all provisions of the 2006 notification, for a period not exceeding twenty four months from the date of issue of this notification.

SCHEDULE
(See paragraph 2 and 7)
LIST OF PROJECTS OR ACTIVITIES REQUIRING PRIOR
ENVIRONMENTAL
CLEARANCE

Item	Activity	Category with threshold limit			Conditions if any
(1)	(2)	(3)	(4)	(5)	(6)
1 (a) (i)	Mining of Minerals	>100 hs. of mining lease area in respect of major and minor minerals except coal. >150 ha of mining lease area in respect of coal Absbestos mining irrespective mining area.	< 100 ha of mining lease area in respect of major minerals except coal. < 25 ha and < 100 he of mining lease area in respect of minor minerals <150 ha of mining lease area in respect of	<25 ha of mining lease area including cluster situation in respect of minor minerals	General Conditions shall apply except: (i) For project of activity of mining of minor minerals of category 'B2' (upto 25 ha of mining lease area) (ii) for project or activity of mining of minor minerals of

			coal mine lease		<p>Category 'B1' in case of cluster of mining lease area; and</p> <p>(iii) River bed mining projects on account of inter-state boundary</p> <p>Note: (1) Mineral prospectin g is exempted. (2) The prescribed procedure for environme nt clearance for mining of minor minerals including</p>
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					cluster situation is given in appendix -XI.
1 (a) (ii)	Slurry pipelines (coal, lignite and other ores) passing through national parks/sanctuaries /coral reefs, ecologically sensitive areas	All the projects	---	----	---
1 (b)	Offshore and Onshore Oil & Gas Development and Production (includes infrastru	All the projects	---	----	---

	cture facilities e.g. Gas Collecting/Gathering Station, Early production, systems, pipelines etc.)				
1 (c) (i)	Rever Valley Power projects	> 75 MW hydroelectric power generation	<75 MW> 25 MW hydroelectric power generation	--	General Condition shall apply Note: Category 'B1' river valley projects falling in more their one state shall be appraised at the Central Government Level.
1 (e) (ii)	Irrigation projects	> 50,000 ha. Of	>10,000 ha. And	> 2000 ha and <	General Condition

		culturable command d area	<50,000 ha. Of culturable command d area	10,000 ha. Of culturable command area	shall apply Note: 1. Change in irrigation technology having environmental benefits (e.g. from flood irrigation to Drip irrigation etc.) by an existing project, leading to increase. In Culturable Command Area but without increase in dam height and submergence, will not require
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					<p>amendme nt /revision of environme ntal clearance. 2. Minor irrigation system (<2000 Ha of culturable command area) are exempted from requireme nt of enviornme ntal clearance. 3. The proposal pertaining to medium irrigation system (>2000 and <10,000 ha. Of</p>
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					culturable command area) required to prepare EMP.
1 (d)	Thermal Power plants	> 500 MW (coal /lignite/ naptha & gas based)	> 5 MW and < 500 MW (coal /lignite/ naptha & gas based) > 5MW and < 100 MW (all other fuels except hiomass and municipa l solid non-haza rdous waste) >15 MW and <100 MW (using municipa	----	General Condition shall apply- <u>Note</u> (i)Thermal Power Plants up to 15 MW based on biomass or non-hazar dous municipal solid waste usng auxilliary fuel are exemoted from requireme nt of prior environme ntal clearance.

			1 slid non-haza rdous waste /biomass as fule)		
1 (e)	Nuclear Power Projects and processin g of nuclear of	All projects	---	--	
2 (a)	Coal washerie s	> 1 million ton/ann um throughp ut of coal			General Condition shall apply Note: 1) If coal washery is located within mining lease area, the proposal shall be apprise together with the mining proposal.

2 (b)	Mineral Beneficiation (including chemical processing of c ores)	>1.0 million throughput	<1.0 million TPA throughout		General Condition shall apply 1) If mineral beneficiation plant located within mining lease area the proposal shall be appraised together with the mining proposal 2) Micro and Small units as defined to MSME act from time to time are exempted from requirement of prior environmental
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					clearance.
2 (c)	Peilet plans/ Briquetti ng plants/ agglomer ation units	>1.0 million TTPA1	<10 million TPA		General condition shall apply Note Micro and Small units as defined in MSME Act from time to time are exempted from requireme nt of prior environme ntal clearance.
3 (a)	Metallurg ical industrie s (ferrous & non ferrous)	a) Primary metallurg ical industry all projects	a) Sponge iron manufact uring: <200) (TG)	All non-toxic secondary metalurgic al processing industrial units, those proejcts involving operation of	General Condition shall apply Note: (i) The recycling industrial units authorized under the HSM Rules are exempted

				<p>furnances only such as induction and electric are furnace, submerged are furnace, and cupola with capacity more than 30,000 tonnes per annum (TPA) but less than 60,000 TPA and located within industrial estate or parks (item 7 (c) of the Schedule) approved by the concerned authorities</p>	<p>from requireme nt of prior environme ntal clearance. (ii) In case of secondary metallurgi cal processing industrial units, those projects involving operating of furnacs only such as induction and electric ore finance, submerge d ore furnace, and cupola with capacity</p>
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				<p>Medium units as defined in MSME Act from time to time</p>	<p>less than 30,000 tonnes per annum (TPA) are exempted from requirement of prior environmental clearance.</p> <p>(iii) Stand alone rolling mills and forging units 500 TPD area exempted from requirement of prior environmental clearance.</p> <p>(iv) Micro and small units are defined in MSME Act from time</p>
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					to time are exempted from requirement of prior environmental clearance.
3 (b) (i)	Cement plants and Cement Grinding units	>1.0 million tones/ Annum production capacity >1.0 MTPA stand alone grinding units	<1.0 million tones/ annum production capacity >1.0 MTPA stand-alone grinding units	Stand-Alone grinding /blending units upto 1 MTPA All standalone grinding units in case of transportation of raw material and finished product proposed through rail/mode Medium units as defined in	General Condition shall apply Note: 1. Fuel for cement industry may be coal, petcoke, mixture of coal and petcoke and co-processing of waste provided it meets the emission standard. 2. Change in product mix OPC,

				MSME Act from time to time.	EPC, PSC, Masonry cement of any other type of cement within the sanctioned environmental clearance capacity is permitted. 3. Micro and Small units as defined in MSME Act from time to time are exempted from requirement of prior environmental clearance.
3 (c)	Lead acid battery manufacturing	---	All projects	---	General Condition shall apply

	(excluding assembling and charging of lead acid battery)				
4 (a)	Petroleum refining industry	All projects	--	---	---
4(b)(1)	Coke oven plants/calcinations plant	22,50,000 Tonnes/annum	<2,50,000 & >25,000 Tones/annum		General conditions shall apply
4 (b)	Coaltar processing	--	All projects		General conditions shall apply
4 (c)	Asbestos milling and asbestos based products	All projects	--	--	---
4 (d)	Chir-a (kali industry)	>300 TPD production capacity if a unit	(i) > 300 TPD production capacity if a unit	(i) > 300 TPD production capacity if a unit located	General as well as specific conditions shall apply No new

		located outside industrial estates or parks (item 7 (c) of the Schedule) approved by the concerned authorities.	located within industrial estates or parks (item 7 (c) of the Schedule) approved by the concerned authorities (ii) < 300 tonnes per day (TPD) and located outside a Notified Industrial Area/Est ate.	within industrial estate or parks (item 7 c) of the Schedule) approved by the concerned authorities	mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempted from the Notification if provided there is no increase in the production capacity.
4 (e)	Soda ash Industry	All projects	--	--	--
4 (f)	Skin/hide processing	New projects outside	All new or expansion	All new or expansion project of	

	g including tanning industry	the industria l area or expansio n of existing units outside the industria l area	n of projects located within a notified industria l area/esta e	leather production without tanning if a unit located within industrial estates or parks (item 7 (c) of the Schedule) approved by the concerned authorities	
5 (a)	Chemical fertilizers	All projects Single Super Phosphat e (without H ₂ ,SO ₄ productio n)	Single Super Phosphat e (without H ₂ S ₄ productio n)	--	General condition shall apply. Note: 1. Stand alone Granulatio n of single super phosphate powder is exempted. 2. Neem coating of fertilizers

					<p>is exempted provided that the total production does not exceed the sanctioned capacity in EC plus the weight of the coating material used.</p> <p>3. Fortification of Fertilizers is exempted provided that the total production does not exceed the sanctioned capacity in EC plus the weight</p>
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					of the fortification material used.
5 (b)	Festicides Industry and pesticide specific intermediate (excluding formulations)	Located outside the notified industrial area/estate	Located notified industrial area/estate	--	General conditions shall apply
5 (c)	Petrochemical complexes (industries based on processing of petroleum fractions and natural gas)	All projects	-	--	--
5 (d)	Manmad	Rayon	Others	--	General

	e fibers manufact uring				Condition shall apply
5 (e)	Petroleu m products and petroche mical based processin g such as productio n of carbon black and electrode grade graphic (processe s other than cracking & reformati on and not covered under the complexe	Located outside the notified industria l area/esta te	Located in a notified industria l area/esta te	Medium units as defined in MSWE Act from time to time	General as well as specific conditions shall apply. Note: Manufact uring of product from polymer granule is exempted from requireme nt of prior environme ntal clearances . Micro and Small units as defined in MSME Act from time to time area,

	s)				exempted from requirement of prior clearance.
5 (f)	Synthetic organic chemicals industry (dyes & dye intermediate, bulk drugs and intermediate excluding drug formulations, synthetic rubbers, basic organic chemicals other synthetic organic chemicals and	Located outside the notified industrial area/estate	Located in a notified industrial area/estate	Medium units as defined in MSME Act from time to time	General as well as specific conditions shall apply. <u>Note:</u> Micro and Small units as defined by the MSMF, from time to time are exempted from requirement of prior environmental clearances.

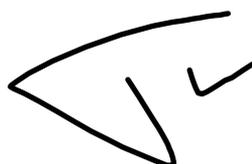
	chemical intermediate				
5 (g)	Distilleries, molasses based manufacturing units (e.g. Yeast) and bio-fuels	(i) Molasses based distilleries > 100 KLD (ii) Molasses based manufacturing units (e.g. Yeast) > 100 TPD (ii) Non-molasses based distilleries >200 KLD	(i) Molasses based distilleries < 100 KLD (ii) Molasses based Yeast manufacturing units <100 TPD (iii) Non-molasses based distilleries <200 KLD	Country Liquor based on Mahuwa flower units up to capacity of 5 KLD Medium units as defined in MSWE Act from time to time	General Condition shall apply Note: Molassed based Bio-fuel plants will be treated as Molasses based distilleries . Non-Molasses based Bio-Fuels will be treated as Non-Molasses based distilleries . Micro and Small units as defined in MSME Act from time

					to time are exempted from requirement of prior environmental clearance.
5 (i)	Pulp & Paper Industry	Pulp manufacturing and Pulp & Paper manufacturing industry except from waste paper/ recovered paper	Pulp and Paper manufacturing from waste paper/ recoverable paper	Paper manufacturing from waste paper /recovered paper/ready pulp involving doinking /bleaching /de-coloring medium units as defined in MSME Act from time to time	General Condition shall apply. Note: Paper manufacturing from water paper/ready pulp without drinking bleaching and decolorizing is exempted from requirement of prior environmental clearance.

5 (j)	Sugar Industry	--	L> 5000 tod cane crushign capacity	--	General Condition shall apply
6(a)	(i) LNG Terminal s involving possessi ng and transport ation (ii) Oil & gas transacti on pipe line (crude and refinery/ petroche mical products) passing through national parks /sanctua ries /coral reefs /ecologic	All project	--	--	

	ally sensitive areas				
7 (a)	Air Forts (terrestrial and water ports)	All projects including terrestrial airstrip, water-aerodromes which are for commercial use	--	--	Note 1: Air strips which do not involve bunkering /refueling facility and or Air Traffic Control, are exempted from requirement of prior environmental clearance.
7 (b)	All ship breaking yards including ship breaking units	All projects	-	--	--
7 (c)	Industrial estates/parks/co	If at least one industry	Industrial estates housing	--	General as well as specific conditions

	<p>mplexes/ areas, export processin g Zones (EPZs), special economic zones (SEZs), Biotech Parks, Leather complexe s</p>	<p>in the proposed industria l estates falls under the category A, entire industria l area shall be treated as Category A, irrespecti ve of the area. Industria l estates with area greater</p>	<p>at least one category B industry and area <500 ha. Industria l estates of area > 500 ha and not housing any industry</p>		<p>shall apply Note: 1. Industri al Estate of area below 500 ha and not housing any industry of category 'A' or 'B' does not require clearance. 2. If the area is less</p>
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(TRUE COPY)

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE**NOTIFICATION**

New Delhi, the 23rd March, 2020

S.O. 1199(E).—Whereas, the Central Government proposes to issue following notification in exercise of the powers conferred by sub-section (1), and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) for imposing certain restrictions and prohibition on the undertaking some projects or expansion or modernization of such existing projects entailing capacity addition, in any part of India, in supersession of the Environment Impact Assessment notification vide S.O. 1533 dated the 14th September, 2006 and its subsequent amendments, is hereby published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, for the information of the public likely to be affected thereby; and notice is hereby given that the said draft notification shall be taken into consideration on or after the expiry of a period of sixty days from the date on which copies of the Gazette containing this notification are made available to the Public;

Any person interested in making any objections or suggestions on the proposal contained in the draft notification may forward the same in writing for consideration of the Central Government within the period so specified to the Secretary, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi-110 003, or send it to the e-mail address at eia2020-moefcc@gov.in.

Draft Notification

WHEREAS by notification of the Government of India in the erstwhile Ministry of Environment and Forests vide number S.O. 1533 (E) dated the 14th September, 2006 (hereinafter referred to as 'EIA Notification, 2006'), the Central Government imposed certain conditions and thresholds on the undertaking of some projects or expansion or modernization of such existing projects entailing capacity addition, in any part of India listed in Schedule to the EIA Notification, 2006 unless Prior Environment Clearance has been accorded by the Ministry or the State Level Environment Impact Assessment Authority or District Level Environment Impact Assessment Authority, as the case may be, in accordance with the procedure specified in the EIA Notification, 2006 and subsequent amendments;

AND WHEREAS, there have been several amendments issued to the EIA Notification, 2006, from time to time, for streamlining the process, decentralization and implementation of the directions of Courts and National Green Tribunal. Though the EIA Notification, 2006 has helped in realizing necessary environmental safeguards by assessing environment impacts due to the proposed projects, that require Prior Environment Clearance at the planning stage itself, the Central Government seeks to make the process more transparent and expedient through implementation of online system, further delegations, rationalization, standardization of the process, etc.;

AND WHEREAS, the Ministry had issued the notification number S.O. 804 (E), dated the 14th March, 2017 laying down procedure for appraisal of the violation cases with a time window of six months. The said notification defined violation of projects which have started the construction work, or have undertaken expansion or modernization or change in product-mix without Prior Environment Clearance.

However, such violations being recurring in nature may come to the notice in future during the process of appraisal or monitoring or inspection by Regulatory Authorities. Therefore, the Ministry deems it necessary to lay down the procedure to bring such violation projects under the regulations in the interest of environment at the earliest point of time rather than leaving them unregulated and unchecked, which will be more damaging to the environment;

AND WHEREAS, the Hon'ble High Court of Jharkhand's order dated the 28th November, 2014 in W.P. (C) No. 2364 of 2014 in the matter of Hindustan Copper Limited *Versus* Union of India, *inter alia*, held that the consideration for the proposal for Environment Clearance must be examined on its merits, independent of any proposed action for alleged violation of the environmental laws;

AND WHEREAS, the Hon'ble National Green Tribunal in Original Application Number 837/2018 in the matter of Original Application Number 837/2018 Sandeep Mittal Vs Ministry of Environment, Forest and Climate Change & Ors., has held that Ministry shall strengthen the monitoring mechanism for compliance of conditions of Prior Environment Clearance;

AND WHEREAS, the Central Government hereby publishes this draft notification in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 and section 23 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) or rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 1533 (E) dated the 14th September, 2006 read with subsequent amendments, notification numbers S.O. 190 (E) dated the 20th January, 2016, S.O. 4307(E) dated the 29th November, 2019, S.O. 750(E) dated the 17th February, 2020, except in respect of things done or omitted to be done before such supersession.

1. Short title and commencement: -

- i. This notification may be called the Environment Impact Assessment Notification, 2020 (hereinafter referred to as 'EIA Notification, 2020').
- ii. This notification shall come into force on the date of publication of final notification in the Official Gazette.

2. Application of the notification: - This notification is applicable to whole of India including territorial waters.

3. Definitions: - In this notification, unless the context otherwise requires, the terms are defined as follows:

- (1) **“Accredited Environment Impact Assessment Consultant Organization** (hereinafter referred to as 'ACO')” is an organization that is accredited with the National Accreditation Board for Education and Training (NABET) of Quality Council of India (QCI) or any other agency, as may be notified by the Ministry from time to time;
- (2) **“Act”** means the Environment (Protection) Act, 1986 (Act number 29 of 1986);
- (3) **“Appraisal”** means detailed scrutiny of the application in prescribed form(s) and all documents including final EIA report, outcome of the public consultations by the Appraisal Committee for grant of Prior Environment Clearance;
- (4) **“Appraisal Committee”** means Central Level Expert Appraisal Committee or State Level Expert Appraisal Committee or Union Territory Level Expert Appraisal Committee or District Level Expert Appraisal Committee, as the case may be.
- (5) **“Baseline data** (hereinafter referred to as 'BLD')” means data depicting the pre-project or pre-expansion environmental scenario including data related to air, water, land, flora, fauna, socio-economic, etc., of the proposed project at the site(s) and study area;
- (6) **“Border Area”** means area falling within 100 kilometers aerial distance from the Line of Actual Control with bordering countries of India;
- (7) **“Built-up area”** means the built up or covered area on all the floors put together including its basement and other service areas, that is proposed in the buildings or construction projects;
- (8) **“Capital dredging”** means one time process involving removal of virgin material from the sea bed to create, or deepen a shipping channel in order to serve larger ships. This includes dredging activity inside and outside the ports or harbors and channels;
- (9) **Category ‘A’** means projects or activities as listed in the column (3) of the Schedule to this notification;
- (10) **Category ‘B1’** means projects or activities as listed in the column (4) of the Schedule to this notification;
- (11) **Category ‘B2’** means projects or activities as listed in the column (5) of the Schedule to this notification;
- (12) **“Central Pollution Control Board** (hereinafter referred to as 'CPCB')” is a Board constituted under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (13) **“Certificate of Green Building”** means certificate issued under the rating programmes of Green Rating for Integrated Habitat Assessment (GRIHA); Indian Green Building Council (IGBC); Leadership in Energy and Environmental Design (LEED) India, Excellence in Design for Greater Efficiencies (EDGE) or any other third-party green building rating system as issued by the Ministry, from time to time;

- (14) “**Cluster**” means an area formed by group of mines or leases as per the criteria given in subparagraph (3) of paragraph 24 of this notification;
- (15) “**Cluster certificate**” is the certificate for cluster of mines or leases issued by the Director of Mines and Geology or any other Competent Authority;
- (16) “**Corporate Environment Responsibility** (hereinafter referred to as ‘CER’)” is the part of EMP wherein the project proponent is mandated to carry out certain activities for environment safeguard in the immediate surroundings of the project based on the issues raised during the public consultation and / or social need based assessment carried during the EIA studies;
- (17) “**Coastal Regulatory Zone** (hereinafter referred to as ‘CRZ’)” is the zone as notified under the Coastal Regulatory Zone Notification, 2019 and subsequent amendments, from time to time.
- (18) “**Critically Polluted Area**” means industrial cluster or area as identified by the Central Pollution Control Board, from time to time;
- (19) “**District or Divisional Level Expert Appraisal Committee** (hereinafter referred to as ‘DEAC’)” is a committee of experts constituted for the purpose of this notification, at district level or at divisional level, by the SEIAA or UTIAA in exercise of powers conferred under the section 23 of the Act, on the recommendation of the State Government or Union Territory administration, for environment appraisal of projects referred to it, and for making appropriate recommendations;
- (20) “**District Survey Report**” means a report prepared by the Geology Department or Irrigation Department or Forest Department or Public Works Department or Ground Water Boards or Remote Sensing Department or Mining Department, etc. in the district for identification of areas of aggradations or deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining in that area;
- (21) “**Eco-sensitive areas** (hereinafter referred to as ‘ESA’)” are the areas as notified under subsection (2) of section 3 of the Environment (Protection) Act, 1986 and subsequent amendments, from time to time;
- (22) “**Eco-sensitive zones** (hereinafter referred to as ‘ESZ’)” are the zones as notified under subsection (2) of section 3 of the Environment (Protection) Act, 1986 and subsequent amendments, from time to time;
- (23) “**Environment Impact Assessment** (hereinafter referred to as ‘EIA’) **Report**” is the document prepared by the Project Proponent through an ACO for the proposed project based on the Terms of Reference prescribed by the Regulatory Authority and as per the generic structure given in the Appendix-X of this notification;
- a. “**Draft EIA Report**” is the EIA Report prepared for the purpose of Public Consultation or in accordance with the directions of the Regulatory Authority;
- b. “**Final EIA Report**” is the EIA Report prepared, after public consultation, including mitigation measures duly addressing the concerns raised by the public, time bound action plan, budgetary provision for the commitments made therein by the project proponent, for the purpose of appraisal;
- (24) “**EIA Coordinator**” is a sectoral expert and coordinator of Functional Area Experts and is accredited by the ACO;
- (25) “**Environment Management Plan** (hereinafter referred to as ‘EMP’) **Report**” is the document prepared by the project proponent through ACO for the proposed project as per the generic structure given in the Appendix-XI of this notification;
- (26) “**Expansion**” means any increase in mine lease area or project area or Culturable Command Area or built-up area or length or number or generation capacity or production capacity or throughput or handling capacity, etc., as applicable to the project, entailing the capacity addition beyond the limits specified for the concerned project, in the schedule or prior-EC or prior-EP, as the case may

- be, obtained. In case of mining projects or activity any increase in mine lease area and or production capacity shall be considered as expansion;
- (27) “**Expert Appraisal Committee** (hereinafter referred to as ‘EAC’)” is a committee of experts constituted at central level by the Ministry for appraisal of projects referred to it and for making appropriate recommendations;
- (28) “**Form**” means form(s) appended to this notification;
- (29) “**Functional Area Expert** (hereinafter referred to as ‘FAE’)” is an expert accredited by ACO, and working or empaneled with the ACO;
- (30) “**General Condition** (hereinafter referred to as ‘GC’)” means that any project or activity specified in Category ‘B1’ shall be appraised at the Central Level without change in the Category, if located in whole or in part, in areas mentioned in (a) or (b) below:-
- a. within 10 km in respect of items numbers 3, 5, 32, 33 of the schedule and within 5 km in respect of other items, from the boundary of-
 - (i) Protected Areas; or
 - (ii) Critically Polluted Area; or
 - (iii) Eco-sensitive area; or
 - (iv) Inter State or Union Territory.
 - b. within the boundary of-
 - (i) Severely Polluted Area; or
 - (ii) Eco-sensitive Zone.
- (31) “**Island Coastal Regulatory Zone** (hereinafter referred to as ‘ICRZ’)” is the zone as notified under the Island Coastal Regulatory Zone Notification, 2019 and subsequent amendments, from time to time.
- (32) “**Maintenance dredging**” means the periodic removal of shoals or sediments from existing navigational channels, berths, swinging moorings etc. in order to maintain an appropriate safe depth of water for navigation, construction or operational purposes;
- (33) “**Micro, Small and Medium Enterprises**” means the project as defined under Micro, Small and Medium Enterprises Development Act, 2006 (Act number 27 of 2006) and its subsequent amendments;
- (34) “**Mineral Beneficiation**” means a process by which valuable constituents of ore are concentrated by means of physical or Physico-chemical separation process;
- (35) “**Ministry**” means Ministry of Environment, Forest and Climate Change in the Government of India;
- (36) “**Modernization**” is any change in the process or technology or change in the raw material mix or product mix or de-bottlenecking or increase in the number of working days or increase in the capacity utilization of plant and machinery in the project including increase in the rate of excavation in the existing mine lease area, etc., for which prior-EC or prior-EP, as the case may be, granted by the Regulatory Authority;
- (37) “**Non-compliance**” means non-compliance of terms and conditions prescribed by the Regulatory Authority in the Prior Environment Clearance or Prior Environment Permission to the project.
- (38) “**Notified Industrial Estate**” means the Industrial Estate including parks; complexes; areas; Export Processing Zones (EPZs); Special Economic Zones (SEZs); Biotech Parks; Leather Complexes; Coastal Economic Zones (CEZs); Special Investment Region (SIR); National Investment and Manufacturing Zones (NIMZs); Industrial Cluster; Petroleum, Chemicals and Petrochemicals Investment Regions (PCPIRs), that are notified by the Central Government or State Government or Union Territory administration prior to the 14th September, 2006 or that have obtained the Prior Environment Clearance as mandated under the EIA Notification, 2006 or under this notification;

- (39) “**Protected Areas**” means areas as notified under the Wild Life (Protection) Act, 1972 (53 of 1972) and its subsequent amendments, from time to time;
- (40) “**Prior Environment Clearance** (hereinafter referred to as ‘**prior-EC**’)” means the clearance or consent of Regulatory Authority, on the recommendation of the Appraisal Committee for the Category ‘A’; Category ‘B1’ and Category ‘B2’ projects that are required to be placed before Appraisal Committee as specified in the Schedule;
- (41) “**Prior Environment Permission** (hereinafter referred to as ‘**prior-EP**’)” means the permission or consent of Regulatory Authority for carrying out the proposed project listed in the Schedule in respect of Category ‘B2’ that are not required to be placed before Appraisal Committee as specified in the Schedule;
- (42) “**Prior Environment Clearance Conditions**” means conditions prescribed by the Regulatory Authority, for the project, for which Prior Environment Clearance or Prior Environment Permission has been sought;
- a. “**Specific Conditions**” means project specific or location specific conditions, on case to case basis, if any, prescribed by the Appraisal Committee; and
 - b. “**Standard Conditions**” means conditions prescribed by the Ministry from time to time, for stipulating while granting prior-EC or prior-EP, as the case may be. However, such conditions may be modified, on due diligence, during the appraisal, on case to case basis, by the Appraisal Committee (in case of Prior-EC); and by the Regulatory Authority (in case of prior-EP).
- (43) “**Project**” means project or an activity;
- (44) “**Project Life**” means life of the project including phases of, (i) construction or installation or establishment or commissioning; (ii) operation; and (iii) redundancy or closure or dismantling;
- (45) “**Project Proponent**” means an individual or public or private entity or private entity, that has ultimate control over the affairs of the project and is duly authorized or appointed by the Board of Directors of the company or a competent authority of such entity or firm or trust or Limited Liability Partnership or Joint Venture or Special Purpose Vehicle or Central or State or Local Government to manage the affairs of the project and to correspond and execute documents before the Regulatory Authority for the purpose of this notification;
- (46) “**Public Consultation**” means the process by which the concerns of local affected persons and others, who have plausible stake in the environmental impact of the project, are ascertained with a view to appropriately take into account all such material concerns while designing the project;
- (47) “**Regulatory Authority**” means the Ministry or State Level Environment Impact Assessment Authority or Union Territory Level Environment Impact Assessment Authority;
- (48) “**Schedule**” means Schedule appended to this notification;
- (49) “**Scoping**” means the process of determining the Terms of Reference by the Regulatory Authority for the preparation of EIA Report, for the project, seeking prior-EC;
- (50) “**Secondary metallurgical processes**” means the production processes that starts with the output of the ore reduction process, scrap, salvage and ingots as input to the industry and its products are semi-finished products or finished products;
- (51) “**Severely Polluted Area**” means the industrial cluster or area as identified by the Central Pollution Control Board as Severely Polluted Area, from time to time;
- (52) “**State Level Expert Appraisal Committee** (hereinafter referred to as ‘**SEAC**’)” means a committee of experts constituted for the purpose of this notification, at state level, by the Ministry for environment appraisal of projects referred to it and for making appropriate recommendations;
- (53) “**State Pollution Control Board** (hereinafter referred to as ‘**SPCB**’)” is a board constituted under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (54) “**State Level Environment Impact Assessment Authority** (hereinafter referred to as ‘**SEIAA**’)” means an authority constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986;

- (55) “**Study area**” means the immediate surrounding area within an aerial distance of, 10 km around the boundary of the project falling under Category ‘A’ or 5 km around the boundary of the project falling under Category ‘B’, as the case may be;
- (56) “**Terms of Reference** (hereinafter referred to as ‘ToR’)” means detailed scope prescribed by the Regulatory Authority, for the project, for the purpose of preparation of EIA Report;
- a. “**Specific Terms of Reference**” means project specific or location specific Terms of Reference, prescribed by the Appraisal Committee, deemed necessary for the preparation of an EIA Report; and
- b. “**Standard Terms of Reference**” means standard Terms of Reference issued by the Ministry from time to time, for the preparation of EIA Report, in respect of the projects listed in the Schedule.
- (57) “**Union Territory Level Expert Appraisal Committee** (hereinafter referred to as ‘UTEAC’)” means a committee of experts constituted for the purpose of this notification at Union Territory Level by the Ministry for environmental appraisal of projects referred to it and for making appropriate recommendation;
- (58) “**Union Territory Level Environment Impact Assessment Authority** (hereinafter referred to as ‘UTEIAA’)” means an authority constituted by the Ministry under sub-section (3) of section 3 of the Environment (Protection) Act, 1986;
- (59) “**Union Territory Pollution Control Committee** (hereinafter referred to as ‘UTPCC’)” is a Committee constituted under the Water (Prevention and Control of Pollution) Act, 1974 (Act number 6 of 1974); and
- (60) “**Violation**” means cases where projects have either started the construction work or installation or excavation, whichever is earlier, on site or expanded the production and / or project area beyond the limit specified in the prior-EC without obtaining prior-EC or prior-EP, as the case may be.

4. Requirement of Prior Environment Clearance or Prior Environment Permission:-

- (1) New projects or activities including expansion or modernization of project or activities listed in the schedule under Category ‘A’; Category ‘B1’; and Category ‘B2’ that are required to be placed before Appraisal Committee as specified in the Schedule, shall require Prior Environment Clearance from the concerned Regulatory Authority before start of any construction work or installation or establishment or excavation or modernization, whichever is earlier, on site or before expanding the production and / or project area beyond the limit specified in the prior-EC or prior-EP, as the case may be, granted earlier.
- (2) New projects or activities including expansion or modernization of project or activities listed in the schedule under Category ‘B2’ that are not required to be placed before Appraisal Committee as specified in the Schedule, shall require Prior Environment Permission from the concerned Regulatory Authority before start of any construction work or installation or establishment or excavation or modernization, whichever is earlier, on site or before expanding the production and / or project area beyond the limit specified in the prior-EC or prior-EP, as the case may be, granted earlier.
- (3) It is, however, clarified that ‘construction work’ for the purpose of this notification shall not include securing the land by fencing or compound wall; temporary shed for security guard(s); leveling of the land without any tree felling; geo-technical investigations if any required for the project.

5. Categorization of projects and activities: -

- (1) All the projects, listed in the schedule, are divided into three categories namely, Category ‘A’, Category ‘B1’, and Category ‘B2’ based on the potential social and environmental impacts and spatial extent of these impacts.
- (2) All projects under Category ‘A’ in the Schedule including expansion and modernization of existing projects shall require prior-EC from the Ministry.

- (3) All projects under Category 'B1' in the Schedule, including expansion and modernization of existing projects, but excluding those which fulfill the General Conditions defined under sub-clause (30) of clause 3 of this notification, shall require prior-EC from the SEIAA or UTEIAA, as the case may be.
- (4) All projects under Category 'B1' in the Schedule including expansion and modernization of existing projects, and those which fulfill the General Conditions defined under sub-clause (30) of clause 3 of this notification, shall require prior-EC from the Ministry without any change in the category of the project.
- (5) All projects under Category 'B2' that are required to be placed before Appraisal Committee as specified in the Schedule, shall require prior-EC from the SEIAA or UTEIAA, as the case may be.
- (6) All other projects under Category 'B2' (other than those projects specified under sub-clause (5) above), shall require prior-EP from the SEIAA or UTEIAA, as the case may be. These projects shall not be placed before Appraisal Committee.
- (7) All projects concerning national defence and security or involving other strategic considerations, as determined by the Central Government, shall require prior-EC or prior-EP, as the case may be, from the Ministry without any change in the category of the project. Further, no information relating to such projects shall be placed in public domain.

6. Expert Appraisal Committee (EAC):-

- (1) The EAC shall consist of only experts fulfilling the following eligibility criteria:-
 - (a) **Qualification:** The person should have at least Post Graduate Degree in Science or Commerce or Arts or Law or Business Administration or Agriculture or Horticulture or Economics; or Graduate Degree in Technology or Engineering or Architecture from any recognized University or professional certification (C.A, C.S., and CMA).
 - (b) **Age:** Below 70 years as on date of nomination for the Appraisal Committee.
 - (c) **Experience:** 15 years of experience in the relevant fields given below:
 - (i) **Environment Quality:** Experts in measurement, monitoring, analysis and interpretation of data with relation to environment quality;
 - (ii) **Sectoral Project Management:** Experts in project management or management of process or operations or facilities in the sectors namely mining, extraction of natural resources, irrigation, power generation, nuclear energy, primary processing, materials production, materials processing, manufacturing, fabrication, physical infrastructure including environment services;
 - (iii) **Environment Impact Assessment Process:** Experts in conducting and carrying out EIA and preparation of EMP and other management plans and who have wide expertise and knowledge of predictive techniques and tools used in the EIA process;
 - (iv) Risk Assessment or Occupational health;
 - (v) Life Science (Floral and Faunal Management) or Forestry or Wildlife or Marine Science;
 - (vi) Environment Economics with experience in project appraisal;
 - (vii) Pollution prevention and mitigation or environmental sciences;
 - (viii) Public administration or management covering various developmental sectors and environment issues;
 - (ix) Environment laws; and
 - (x) Social impact assessment or Rehabilitation and Resettlement.
- (2) The tenure of the EAC shall not be more than three years.
- (3) The strength of the EAC shall not exceed fifteen regular members including Chairman or Chairperson and Secretary. However, the Chairman or Chairperson may co-opt expert(s) as the member(s) in a relevant field for a particular meeting of the Committee.

- (4) The Chairman or Chairperson shall be an eminent person having experience in environment policy related issues, in management or in public administration dealing with various developmental sectors.
- (5) The Chairman or Chairperson shall nominate one of the members as the Vice-Chairman or Chairperson who shall preside over the EAC, in the absence of the Chairman or Chairperson.
- (6) The maximum tenure of a member, including Chairman or Chairperson, shall be for two terms of three years each or part thereof either in any of the Appraisal Committee or Authority. Chairman or Chairperson and member shall not serve simultaneously in more than one Authority or Committee constituted under this notification.
- (7) The tenure of Chairman or Chairperson and members may not be curtailed arbitrarily prior to expiry of the tenure, without cause and proper enquiry conducted by the Ministry.
- (8) More than one Expert Appraisal Committees can be constituted, as deemed necessary, by the Ministry.
- (9) The authorised members of the EAC concerned may inspect any site connected with the project in respect of which the Prior Environment Clearance is sought for the purpose of scoping or appraisal with prior notice of at least seven days to the project proponent who shall provide necessary cooperation for the inspection.
- (10) The EAC shall function on the principle of collective responsibility. The Chairman or Chairperson shall endeavor to reach a consensus in each case and if consensus cannot be reached, the view of the majority shall prevail. Provided that in case a decision is taken by majority the details of views, for and against, shall be recorded in the minutes.
- (11) A representative of the Ministry not below the rank of Director or Scientist 'E' or equivalent shall function as Member-Secretary of the Committee.
- (12) EAC shall meet at least once every month.
- (13) Ministry shall issue the procedure to be followed for constitution of the EAC, from time to time.

7. State Level Environment Impact Assessment Authority or Union Territory Level Environment Impact Assessment Authority: -

- (1) The SEIAA or UTEIAA shall comprise of three Members including a Chairman or Chairperson and a Member-Secretary. The Member-Secretary shall be a serving officer of the concerned State Government or Union Territory administration, not below the rank of Director or equivalent in the State Government or Union Territory. The Member-Secretary is expected to be, familiar with environment laws.
- (2) The tenure of the SEIAA or UTEIAA shall be three years. However and wherever considered necessary and expedient, Ministry may extend the tenure of existing authority for a period of not more than three months.
- (3) The Chairman or Chairperson shall be an eminent person having experience in environment policy related issues or in management or in public administration dealing with various developmental sectors. The qualification, age and experience shall be as per the criteria given in sub-clause (1) of clause 6 of this notification.
- (4) The maximum tenure of the non-official member including Chairman or Chairperson, shall be for two terms of three years each or part thereof either in any of Appraisal Committee or Authority. Chairman or Chairperson and member shall not serve simultaneously in more than one authority or committee constituted under this notification.
- (5) The tenure of Chairman or Chairperson and members may not be curtailed arbitrarily prior to expiry of the tenure, without cause and proper enquiry conducted by the concerned State or Union Territory.
- (6) The State Government or Union Territory administration shall forward the names of the Members and the Chairman to the Ministry, at least, forty-five days before expiry of the tenure of existing authority, and the Ministry shall constitute the SEIAA or UTEIAA, as an authority for the purposes of this notification, before expiry of the tenure of existing authority.
- (7) In case the State Government or Union Territory administration fails to forward the names of the Members and the Chairman to the Ministry forty-five days before expiry of the tenure of the existing

authority, the Ministry shall constitute the SEIAA or UTEIAA, as an authority, for the purposes of this notification, without referring to State Government or Union Territory Administration.

- (8) All decisions of the SEIAA or UTEIAA shall be taken in a meeting and shall ordinarily be unanimous. Provided that, in case a decision is taken by majority, the details of views, for and against shall be clearly recorded in the minutes and a copy thereof sent to Ministry.
- (9) SEIAA or UTEIAA shall meet at least once in every month.

8. State or Union Territory or District Level Expert Appraisal Committee:-

- (1) The qualification, age and experience of chairman or chairperson or members of the SEAC or UTEAC or DEAC shall as per the criteria given in sub-clause (1) of clause 6 of this notification.
- (2) The other criteria and functions of the SEAC or UTEAC or DEAC shall as per the criteria given in sub-clause (2) to sub-clause (10) of clause 6 of this notification.
- (3) A representative of the State Government or Union Territory administration, not below the rank of Director or equivalent in the State Government or Union Territory shall function as Secretary of the Committee, in case of the SEAC or UTEAC.
- (4) An officer of the State Pollution Control Board or Union Territory Pollution Control Committee shall function as Secretary of the DEAC.
- (5) The DEAC shall be reconstituted after every three years by the SEIAA or UTEIAA based on the names forwarded by the District Administration or State Government or Union Territory Administration.
- (6) The SEAC or UTEAC shall be reconstituted after every three years through a gazette notification by the Central Government. Wherever considered necessary and expedient, Ministry may extend the tenure of existing committee for a period, not more than 3 months.
- (7) The State Government or Union Territory Administration shall forward the names of the Members and the Chairman to the Ministry, at least, 45 days before expiry of the tenure of existing SEAC or UTEAC and the Ministry shall constitute the SEAC or UTEAC for the purposes of this notification before expiry of the tenure of existing committee.
- (8) In case the State Government or Union Territory Administration fails to forward the names of the Members and the Chairman to the Ministry, before 45 days of expiry of the tenure of the existing SEAC or UTEAC, the Ministry shall constitute the SEAC or UTEAC as an Appraisal Committee for the purposes of this notification, without referring to State Government or Union Territory Administration.
- (9) In case the District Administration or State Government or Union Territory Administration fails to forward the names of the Members and the Chairman of DEAC to the SEIAA or UTEIAA, as the case may be, before 45 days of expiry of the tenure of the existing DEAC, the SEIAA or UTEIAA, as the case may be, shall constitute the DEAC as an Appraisal Committee for the purposes of this notification, without referring to District Administration or State Government or Union Territory Administration.
- (10) Further, in case the respective SEIAA or UTEIAA, as the case may be, fails to constitute DEAC within the time period notified by the ministry from time to time, the Ministry shall constitute the relevant DEAC, comprising of members as deemed appropriate, for such period (not less than 6 months) till the time the respective SEIAA or UTEIAA, as the case may be, does not constitute the respective SEAC.
- (11) The Ministry may constitute more than one SEAC or UTEAC for the State or Union Territory for reasons of administrative convenience and expeditious disposal of the proposals.
- (12) SEAC or UTEAC or DEAC shall meet at least once in every month.

9. Technical Expert Committee: -

- (1) A Technical Expert Committee shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising maximum of 10 members including chairman/chairperson and member-secretary.

- (2) The Technical Expert Committee shall undertake categorization or re-categorization of projects on scientific principles including any streamlining of procedures, other tasks assigned to the committee for the purpose this notification, by the Ministry from time to time.
- (3) The tenure of the committee shall be five years.
- (4) The authorized members of Technical Expert Committee may visit any site connected with any project or activity for the purpose of assessing the environment impact involved in the project, with prior notice of at least seven days to the project proponent by the Ministry.

10. Stages in the Prior Environment Clearance or Prior Environment Permission Process:-

- (1) The Prior Environment Clearance process for Category 'A' or Category 'B1' will comprise of a maximum of six stages. However, the applicability of such stages for particular case or class of cases is set forth in this notification. The six stages, in sequential order, are:

Stage (1): Scoping;

Stage (2): Preparation of Draft EIA Report;

Stage (3): Public Consultation;

Stage (4): Preparation of Final EIA;

Stage (5): Appraisal; and

Stage (6): Grant or Rejection of Prior Environment Clearance.

- (2) The Prior Environment Clearance process for Category 'B2' that are required to be placed before Appraisal Committee as specified in the Schedule, will comprise of a maximum of three stages. The three stages, in sequential order, are:

Stage (1): Preparation of EMP Report;

Stage (2): Appraisal;

Stage (3): Grant or Rejection of Prior Environment Clearance.

- (3) The Prior Environment Permission process for Category 'B2' that are not required to be placed before Appraisal Committee as specified in the Schedule, will comprise of a maximum of two stages. The two stages, in sequential order, are:

Stage (1): Preparation of EMP Report;

Stage (2): Verification of completeness of the application by the Regulatory Authority; and

Stage (3): Grant or Rejection of Prior Environment Permission.

Provided that the ACO preparing the EMP and the Project Proponent, shall be responsible for the adequacy of the EMP.

Provided further that the EMP Report is kept on record and the Regulatory Authority reserves the right to prescribe additional measures for the project.

11. Process of application for Prior Environment Clearance or Prior Environment Permission, as the case may be: -

- (1) The project proponent seeking prior-EC or prior-EP, as the case may be, for the project listed in the schedule, shall make an application, through notified online portal, in the respective form(s), mentioned against each stage. No off-line application shall be entertained.

Stage/ Purpose	Forms	Supplemented with	Applicability	Regulatory Authority
Scoping	Form-1	Prefeasibility report	All projects under Category 'A' and Category 'B1'.	Ministry: For the projects under Category 'A' and Category 'B1' (those which attracts the General Conditions); and SEIAA or UTEIAA, as the case may be: For the projects

				under Category 'B1' (those which do not attract the General Conditions) and Category 'B2'.
Public consultation	Simple letter addressed	(i) At least 10 hard copies and a soft (electronic) copy of the Draft EIA Report prepared in English; and (ii) At least 10 hard copies of summary of EIA Report in English and in the official language of the State or Union Territory or Regional language.	All projects as given in sub-clause (1) of clause 14 of this notification	Member Secretary of SPCB / UTPCC concerned.
Appraisal	Form-1	(i) Form-1A; and (ii) Conceptual plan	All projects mentioned at column (5) under item 42 and 43 of the schedule.	SEIAA or UTEIAA, as the case may be
	Form-1	(i) Form-1B2; (ii) EMP; (iii) Final Layout plan; (iv) Feasibility Report or Mining plan in case of mining projects; (v) District Survey Report in case of mining of minor minerals; and (vi) Cluster certificate in case of cluster situation.	All projects falling under Category 'B2'.	SEIAA or UTEIAA, as the case may be.
	Form-2	(i) Final EIA Report; (ii) Copy of Feasibility Report or Approved Mining Plan in case of mining projects; (iii) Copy of final layout plan; (iv) Public consultation proceedings; (v) District Survey Report in case of mining of minor minerals; and (vi) Cluster certificate in case of cluster situation; and (vii) Certificate of compliance of	All projects falling under Category 'A' or Category 'B1'.	Ministry: For the projects under Category 'A' and Category 'B1' (those which attracts the General Conditions); SEIAA or UTEIAA, as the case may be: For the projects under Category 'B1' (those which do not attract the General Conditions) and Category 'B2'

		<p>conditions earlier prior-EC or prior-EP, as the case may be, issued by the Component Authority in case of expansion or modernization proposals; and</p> <p>(vii) Other pre-requisites as specified at sub-paragraph (5) of paragraph 17 of this notification.</p>		
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- (2) The schematic representation of process in respect of prior-EC or Prior-EP, as the case may be, is given at Appendix-XIV

12. Scoping:-

- (1) All projects listed under Category “B2” of the Schedule shall not require Scoping.
- (2) To facilitate due diligence by the Project Proponent including collection of primary or secondary data, as the case may be, even before filing of application for grant of ToR or prior-EC or prior-EP, sector wise Standard ToR developed by the Ministry, from time to time, shall be displayed on the website of the Ministry.
- (3) The Standard ToR shall be issued to the following projects through online mode, on acceptance of application within 7 working days, without referring to Appraisal Committee by the Regulatory Authority:
 - (a) All Highway projects in Border Areas covered under entry (i) and (ii) of columns (3) and (4) against item 38 of the Schedule;
 - (b) All projects, proposed to be located in notified industrial estates and which are not disallowed in such notification;
 - (c) All expansion proposals of existing projects having earlier Prior Environment Clearance;
 - (d) All Building construction and Area development projects covered under entries of column (4) against item 42 and 43 of the Schedule.

Provided that Appraisal Committee shall be informed regarding issuance of standard ToR for a project. The Appraisal Committee may recommend specific ToR in addition to the Standard ToR, if found necessary for that project, within 30 days from the issue of Standard ToR.

- (4) All new projects other than specified in sub-paragraph (3) above, shall be referred to the Appraisal Committee by the Regulatory Authority within 30 days from the date of application, for recommending the specific ToR in addition to the Standard ToR, if deemed necessary. In case, the Regulatory Authority does not refer the matter to the Appraisal Committee within 30 days of date of application in Form-I, sector specific Standard ToR shall be issued, online, on 30th day, by the Regulatory Authority.
- (5) Applications for ToR may be rejected by the Regulatory Authority concerned on the recommendation of the Appraisal Committee. In case of such rejection, the decision together with reasons for such rejection, shall be communicated to the Project Proponent in writing after due personal hearing within sixty days of the receipt of the application.
- (6) The project proponent shall prepare the EIA report based on the sector specific Standard ToR as well as specific ToR, if any, stipulated by the Appraisal Committee.
- (7) The Terms of Reference for the projects except for River valley projects, issued by the regulatory authority concerned, shall have the validity of four years from the date of issue. In case of the River valley projects, the validity will be for five years.
- (8) In case of any change in the scope of the project, for which the ToR was prescribed by the Regulatory Authority, an application shall be made by the project proponent, online, in Form-3, for amendment

in ToR within the validity of the ToR and before public consultation. All such proposals may be referred to the Appraisal Committee, if required, within 30 days from the date of application. However, the validity of the amended ToR will be counted from the date of issue of earlier ToR.

- (9) In case, more than one proposal is received for the same land or having land overlapping with the other project(s), in part or full for which, ToR or prior-EC or prior-EP, have already been granted to some other project, all such cases will be kept on hold. The Regulatory Authority will make written communication to the Chief Secretary of the Concerned State or Union Territory and the decision will be taken based on the advice of the State Government or Union Territory Administration.

13. Preparation of Environment Impact Assessment Report:-

- (1) Baseline data shall be collected as per the protocols specified in the sector specific EIA Guidance manuals issued by the Ministry or prescribed by CPCB from time to time.
- (2) Baseline data shall be collected for one season other than monsoon for EIA Report in respect of all projects other than River Valley projects. However, the baseline data of monsoon season shall also be required to be collected, in case of such requirement being prescribed by the Appraisal Committee while granting the ToR.
- (3) Baseline data shall be collected for one year including monsoon for EIA Report in respect of River Valley projects.
- (4) The collection and analysis of baseline data shall be carried through an environment laboratory duly notified under Environment (Protection) Act, 1986.
- (5) The secondary data available shall also be considered as baseline for the projects proposed beyond 12 Nautical Miles.
- (6) Baseline data, referred in sub-clause (1) to (5) above, can be collected at any stage, irrespective of the application for the scoping. However, such baseline data shall not be older than three years at the time of submission of draft EIA Report to the SPCB or UTPCC for Public Consultation.
- (7) The post-project monitoring data collected through an environment laboratory duly notified under Environment (Protection) Act, 1986 shall also considered for expansion or modernization of the projects.
- (8) The EIA Report shall be prepared as per the generic structure given at Appendix-X, by the project proponent through an ACO, which are accredited for a particular sector and the category of project for that sector.
- (9) Draft EIA report shall be prepared for the purpose of public consultation and Final EIA Report for the purpose of appraisal.
- (10) Disclosure of the accredited EIA Consultant Organization along with the EIA Coordinator and Functional Area Expert(s) involved in the environment impact assessment shall be included in the EIA Report in the format specified at Appendix-XIII and they are accountable for the contents or data provided therein in addition to the project proponent.
- (11) No EIA Report shall be required for the projects listed under Category 'B2'. However, EMP Report as per the generic structure given at Appendix-XI shall be prepared through ACO and submitted along with the application.

14. Public Consultation:

- (1) The public consultation shall ordinarily have two components comprising of:
 - a. A public hearing at the site or in its close proximity, district wise in case of the project area located in more than one district, to be carried out in the manner prescribed in the notification, for ascertaining concerns of local affected persons;
 - b. Inviting responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project;
 - c. In addition, if required, based on the nature of project, public consultation through any other appropriate mode may be recommended by the Appraisal Committee, or the Regulatory Authority, on case to case basis;

However, the Regulatory Authority may decide on the feasibility and requirement of Public Hearing and/or consultation in the case of defence projects being considered under sub-clause (7) of clause 5 of this notification.

- (2) All Category 'A' and Category "B1" projects of new or expansion proposals or modernization with capacity increase more than 50 percent shall undertake Public Consultation.

Provided, the public consultation is exempted for the following:-

- a. modernization of irrigation projects falling under the item 4 of the Schedule;
- b. all projects falling under items 10(f), 16, 17, 19, 20, 21, 23, 24, 25, 27, 36, 40 of the schedule located within Notified Industrial Estates;
- c. all projects falling under item 42 and 43 of the Schedule;
- d. all Category 'B2' projects and activities;
- e. all projects concerning national defence and security or involving other strategic considerations as determined by the Central Government;
- f. all linear projects under item 31 and 38, in Border Areas.
- g. All the off-shore projects located beyond the 12 Nautical Miles

Provided further, that in all the projects under item 31 of the schedule, the public consultation shall be limited to the district (s), where the National Park or Sanctuary or Coral Reef or Ecological Sensitive Area is located.

- (3) Where a public consultation through public hearing is required, the project proponent shall submit a request letter in the specified format as given at Appendix-I to the concerned Member Secretary of SPCB or UTPCC, as the case may be, in whose jurisdiction the project is located, along with at least 10 hard copies and a soft (electronic) copy of the Draft EIA Report prepared in English; and at least 10 hard copies of summary of EIA Report in English and in the official language of the State or Union Territory or Regional Language.
- (4) In case the project site is covering more than one District or State or Union Territory, the project proponent shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per the procedure.
- (5) The public consultation shall be undertake, specific to the project, as per the procedure given at Appendix-I.
- (6) The public hearing including submission of proceedings of public hearing to the concerned Regulatory Authority, shall be completed by the SPCB or UTPCC concerned within a period of forty working days from date of receipt of the request letter from the project proponent.
- (7) In case the SPCB or UTPCC concerned does not undertake and complete the public hearing within the specified period, as above, the Regulatory Authority shall engage another public agency or authority which is not subordinate to the Regulatory Authority, to complete the process within a further period of forty working days, as per procedure laid down in this Notification.
- (8) If the public agency or authority nominated under the sub-clause (7) above reports to the Regulatory Authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned Regulatory Authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.
- (9) For obtaining responses in writing from other concerned persons having a plausible stake in the environment aspects of the project, the concerned SPCB or UTPCC shall invite responses from such concerned persons by placing the Summary EIA report prepared by the applicant along with a copy of the application in the prescribed form, on their website, within ten days of the receipt of a written request for arranging the public hearing. Confidential information including non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site. The Regulatory Authority concerned may also use other appropriate media for ensuring wide publicity about the project. The Regulatory Authority

shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the project proponent through the quickest available means.

- (10) After completion of the public consultation, a copy of proceedings of public hearing will also be provided to the project proponent. The project proponent shall address all the material environment concerns expressed during this process, and make appropriate changes including mitigation plan in the draft EIA Report and the EMP. The final EIA report, so prepared, shall be submitted by the project proponent to the concerned Regulatory Authority for appraisal.

15. Appraisal: -

- (1) The application, submitted by the project proponent, shall be scrutinized within fifteen working days from the date of its receipt, strictly with reference to the ToR prescribed for the project by the concerned Regulatory Authority. The inadequacies in the application shall be communicated online, or completed application shall be accepted online.
- (2) Every application, except for the matters falling under Category 'B2' unless specifically mentioned against the item in the schedule, accepted by the Regulatory Authority, shall be placed before the Appraisal Committee and its appraisal shall be completed within forty-five working days of the acceptance of the application. The recommendations of the Appraisal Committee, through the minutes of meeting, shall be displayed on the website of the concerned Regulatory Authority.
- (3) Every application for the matters falling under Category 'B2' unless specifically mentioned against the item in the schedule, on acceptance of application by the Regulatory Authority, shall be issued prior-EP through online system appending standard conditions applicable to those projects within fifteen working days from the date of application. In case of rejection of the application shall inform reasons for the same.
- (4) The appraisal in respect of cases, as per the sub-clause (2) of clause 15 of this notification, shall be made by Appraisal Committee in a transparent manner in a proceeding to which the project proponent shall be invited for furnishing necessary clarifications in person or through an authorized representative (not below the level of officer in Board of Directors) or through video conference. The project proponent may take assistance of the EIA Coordinator and Functional Area Expert(s) involved in the preparation of EIA report during appraisal, before the committee. On conclusion of this proceeding, the Appraisal Committee shall make categorical recommendations to the Regulatory Authority concerned either for grant of prior-EC on stipulated terms and conditions, or rejection of the application for prior-EC, together with reasons for the same.
- (5) In case the project is recommended for grant of prior-EC, then the minutes shall clearly list out the specific environment safeguards and conditions. In case the recommendations are for rejection, the reasons for the same shall also be explicitly stated.
- (6) The project proponent shall be informed at least ten days prior to the scheduled date of meeting of the Appraisal Committee, through online system regarding consideration of the proposal and agenda of the meeting.
- (7) No fresh studies shall be sought by the Appraisal Committee at the time of appraisal, unless new facts come to the notice of the Appraisal Committee and it becomes inevitable to seek additional studies from the project proponent and same shall be clearly reflected in the minutes of the meeting.
- (8) In case of the projects under column (4) of Item 42 of the Schedule having provisional certificate of Green Building, the proposals shall be considered on priority.
- (9) Ministry shall issue guidelines for the Corporate Environment Responsibility from time to time, envisaging slabs for new projects; expansion projects; modernization projects, proposed to be located in Critically Polluted Areas, Severely Polluted Areas, Other Areas, etc.
- (10) The proposal shall be placed before the Competent Authority within fifteen working days from the date of display of minute of the meeting of the Appraisal Committee for final decision.
- (11) The Competent Authority within another fifteen working days shall take final decision.

16. Procedure for grant of Prior Environment Clearance for modernization: -

- (1) All applications seeking prior-EC for modernization within the existing premises or mine lease area, as the case may be, in respect of projects listed in the schedule, shall be subjected to the requirements as per matrix given hereunder:-

Slabs	Intended increase in production capacity through modernization	Application in form through online portal	Requirement of Scoping	Requirement of revised EIA report	Requirement of revised EMP	Whether refer to Appraisal Committee	Requirement of Public Consultation
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
I	Modernization without increase in the production capacity	Form-2	No	No	No	No	No
II	Up to 10 percent	Form-2	No	No	Yes	No	No
III	More than 10 and up to 25 percent	Form-2	No	No	Yes	Yes	No
IV	More than 25 and up to 50 percent	Form-2	No	Yes	Yes	Yes	No
V	More than 50 percent	Form-1	Yes	Yes	Yes	Yes	Yes (as per clause 14)

- (2) The requirement, as per the matrix, shall apply to cumulative increase in production capacity taking reference to the latest prior-EC (including prior-EC under 'expansion' category) issued to the project without involving relaxation under this clause

E.g. if prior-EC has been issued for a production capacity of 'X' units, an application for grant of prior-EC for modernization can be considered under different slabs as per the following:-

Prior-EC (say, granted on 1/1/2016)

Production capacity : X

Sl	Cumulative production	Date	Applicable Slab	Stage	Reason
1	X		I	--	Modernization without increase in the production capacity
2	Up to 1.1 X	1/12/2020	II	1 st Modernization	New production is 1.1X (X: Production level for which Prior-EC has been granted)
3	Up to 1.2X	1/06/2021	III	2 nd Modernization	New production is 1.2 times the production for which Prior-EC was granted (X). This is notwithstanding the fact that the proposed production is less than 10% of 1.1X (which was approved previously at 1 st modernization stage)
4	Up to 1.4X	1/06/2022	IV	3 rd Modernization	New production is 1.4 times the production for which Prior-EC was granted (X). This is notwithstanding the fact that the proposed production is less than 25% of 1.2X (which was approved previously at 2 nd modernization stage)

- (3) However, the prior-EC issued in terms of Slab (V), shall be deemed to be granted under the 'expansion' category

- (4) Provisions of sub-clause (2) above, shall not be applicable for the projects -
 - (a) falling under Category 'B2' and converting to Category 'B1' or Category 'A' by virtue of modernization; and
 - (b) public hearing was not conducted during life time of the project for which public hearing was applicable as per the EIA Notification(s);
- (5) All applications for prior-EC, for the proposals intended for modernization without increase in the production capacity or increase in production capacity up to 10 percent with respect to prior-EC granted earlier shall be issued online, on acceptance of application by the Regulatory Authority.
- (6) All applications for prior-EC, for the proposals intended for increase in production capacity from 10 percent to 50 percent with respect to prior-EC granted earlier shall be considered by the Appraisal Committee within forty-five working days from the date of application and appraised accordingly for grant of prior-EC.
- (7) 'No increase in pollution load' certificate issued by the SPCB or UTPCC on recommendation of Technical Committee constituted under Air (Prevention and Control of Pollution) Act, 1981 or Water (Prevention and Control of Pollution) Act, 1974, shall also be considered in place of EIA and EMP required under column (5) and column (6) of the table given at sub-clause (1) above.

17. Grant or Rejection of Prior Environment Clearance: -

- (1) The Regulatory Authority shall consider the recommendations of the Appraisal Committee and convey its decision to the project proponent within thirty working days of the minutes of meeting of the Appraisal Committee or within ninety working days of the receipt of the complete application with requisite documents, except as provided below.
- (2) The Regulatory Authority shall normally accept the recommendations of the Appraisal Committee. In cases where it disagrees with the recommendations of the Appraisal Committee, the Regulatory Authority shall request reconsideration by the Appraisal Committee within forty-five working days of the minutes of meeting of Appraisal Committee while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant through online mode. The Appraisal Committee in turn, shall consider the observations of the Regulatory Authority and furnish its views on the same within a further period of forty-five working days. The decision of the Regulatory Authority after considering the views of the Appraisal Committee shall be final. The decision shall be conveyed to the project proponent by the Regulatory Authority concerned within the next thirty working days.
- (3) In the event that the decision of the Regulatory Authority is not communicated to the applicant within the period specified in sub-clause (2) above, the applicant may proceed as if the prior-EC sought for has been granted or denied by the Regulatory Authority in terms of the final recommendations of the Appraisal Committee.
- (4) On expiry of the period specified for decision by the Regulatory Authority under sub-clause (2) above, the decision of the Regulatory Authority, and the final recommendations of the Appraisal Committee shall be public documents.
- (5) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior-EC or prior-EP, as the case may be, or scoping, or appraisal, or decision by the Regulatory Authority Concerned, except:-
 - (a) Approval of mining plan from the Competent Authority, in case of mining projects;
 - (b) In-principle approval for diversion of Forestland under Forest (Conservation) Act, 1980 (Act number 6 of 1980) involved in the project;
 - (c) Recommendations of State or Union Territory Coastal Management Authority, in case of the project located in the CRZ or ICRZ area; and
 - (d) While full acquisition of land may not be pre-requisite for the consideration of proposal for prior-EC, in case of land with respect to project site(s) proposed to be acquired through Government intervention, a copy of preliminary notification issued by the concerned state government or union territory administration regarding acquisition of the land as per the

provisions of Land Acquisition, Rehabilitation and Resettlement, Act, 2013 (Act number 30 of 2013) as amended from time to time shall be required. In case of land is being acquired through private negotiations with the land owners, credible document showing the intent of the land owner to sell the land for the proposed project shall be required. In case of mining projects, 'Letter of Intent' shall be considered as a credible document.

- (6) Concealment and/or submission of false or incorrect or misleading information or data by the project proponent or ACO or EIA Coordinator or Functional Area Expert involved in the preparation of EIA Report, which is material to scoping or appraisal or decision on the application including EIA or EMP Report, shall make the application liable for rejection, and cancellation of prior-EC or prior-EP, as the case may be, granted on that basis. Rejection of an application or cancellation of a prior-EC or prior-EP, as the case may be, already granted, on such ground, shall be decided by the Regulatory Authority, after giving a personal hearing to the project proponent, and following the principles of natural justice.
- (7) Cognizance of the false or incorrect or misleading information or data by the project proponent or ACO or EIA Coordinator or Functional Area Expert involved in the preparation of EIA Report, Ministry shall take appropriate action including black listing of organization or individual responsible.
- (8) Where any lease or license or right or permission or authorization granted by the Government in respect of a project or activity is cancelled either in any legal proceedings or by Government in accordance with law and the said lease or license or right or permission or authorization in respect of that project is granted to any other person or successful bidder then, in case of:-
 - (a) Specific enactment on the aforesaid subject under any law for the time being in force: The provisions of such law shall be applicable; and
 - (b) No specific enactment on the aforesaid subject under any law for the time being in force: Legal person entitled to undertake the project or successful bidder selected by the Government in accordance with law shall make an application in Form - 6 as given in Appendix-VI of this notification, for grant of prior-EC. All such applications shall be considered by the Appraisal Committee considering the existing EIA Report and the prior-EC granted earlier. The Appraisal Committee may recommend for grant of prior-EC subject to the same validity period, terms and conditions, as was initially granted. However, the Appraisal Committee may stipulate case specific additional conditions to such projects as deemed necessary.

18. Amendment in prior-EC or prior-EP: -

- (1) The project proponent shall make an online application in Form-4 to the Regulatory Authority concerned on the designated portal regarding any change in the terms and conditions of prior-EC or prior-EP, as the case may be.
- (2) All the applications for amendment in prior-EC shall be considered by the Appraisal Committee within forty-five working days from the date of application and appraised for recommendation of amendment in prior-EC.
- (3) All the applications for amendment in prior-EP shall be considered by the Regulatory Authority within twenty working days from the date of application and approved amendment in prior-EP shall be issued accordingly.
- (4) Any shift in the project site location after conduct of public consultation or grant of prior-EC will be deemed to be a new proposal and will be appraised *de-novo*, as per the procedure prescribed, unless the Appraisal Committee is satisfied that the shift is so minor as to have no change in the EIA Report. On recommendation of the Appraisal Committee, the Regulatory Authority shall issue an amendment in prior-EC.
- (5) As long as the peak production capacity, mining lease area, mine closure conditions remain unchanged and have been put in place by the project proponent, nature and extent of mitigation measures, as committed in the prior-EC granted, are in place corresponding to the quantum of excavation being made at that point in time the project proponent can produce up to a maximum of peak production capacity permitted in the prior-EC and change in the sequence of operations of mining is also allowed. However, the project proponent shall report such change in the Scheduled

production and or/ sequence of operations along with corresponding mitigation measures in the periodic compliance report. Further, failures on part of mitigation measure corresponding to the quantum of production or as required in view of change in sequence of operation, shall be considered as 'non-compliance' on part of the project proponent, who shall be liable for requisite action.

- (6) In case of other projects, no amendment in the prior-EC or prior-EP, as the case may be, is required for change in configuration of the units or equipment or machinery, without change in overall sanctioned capacity for which prior-EC or prior-EP, as the case may be, has been granted.
- (7) Change in irrigation technology that result in environmental benefits (e.g. flood irrigation to drip irrigation etc.), leading to increase in Culturable Command Area, but without increase in dam height and submergence, shall not require amendment in the prior-EC or prior-EP, as the case may be.

19. Validity of Prior Environment Clearance or Prior Environment Permission: -

- (1) The validity of period of the prior-EC or prior-EP, as the case may be, involves three phases of the project:
 - (a) Construction or Installation Phase;
 - (b) Operational Phase; and
 - (c) Redundancy or Closure or Dismantling Phase
- I. **Construction or Installation Phase:** The construction or installation phase means period from the date of grant of prior-EC or prior-EP, as the case may be, by the Regulatory Authority to:-
 - (a) Completion of all construction activities, in case of construction projects (item 42 and 43 of the Schedule), to which the application for prior-EC or prior-EP, as the case may be, refers; and / or
 - (b) Completion of installation of plant and machinery including commencement of production operations in all other cases (other than item 1, 42 and 43 of the Schedule), to which the application for prior-EC or prior-EP, as the case may be, refers;
 - (c) Project life as estimated by the Appraisal Committee subject to a maximum of fifty years or up to the period of validity of mining lease; whichever is earlier.

The period of validity of the prior-EC for construction and / or installation phase shall be:

- (d) **Mining projects:** Project life as estimated by the Appraisal Committee subject to a maximum of fifty years; or up to the period of validity of mining lease; whichever is earlier, subject to commencement of mining activities within ten years from the date of grant of prior-EC or prior-EP, as the case may be;
- (e) **River valley projects (item 3 of the Schedule) or Irrigation projects (item 4 of the Schedule) or Nuclear Power Projects and processing of nuclear fuel (item 6 of the Schedule):** Fifteen years;
- (f) **All other projects:** Ten years.

Provided that the period of insolvency resolution process of companies before the National Company Law Tribunal or period of prohibition or restriction on the construction and/or installation of the project, by any other tribunal or court or moratorium imposed under any authority shall be excluded for calculating the period of validity of the prior-EC or prior-EP, as the case may be, specified above, subject to maximum of three years

- II. **Operational Phase:-** The validity of the operational phase shall lapse if the construction and / or installation, as the case may be, is not completed within the corresponding validity period as per the sub-clause (2) and (3) of clause (19) of this notification. Subject to the provisions of sub-clause (2) of clause (19) of this notification, validity of the prior-EC or prior-EP, as the case may be, for the operational phase of projects, except mining, shall be:
 - (a) Perpetual for the remaining life of the project;
 - (b) Confined to the completed project, it is clarified that and only completed part of the project shall be considered as perpetual for the remaining life of the project where the project is implemented partially, within the period specified above.

- (2) Validity of the prior-EC, or prior-EP, as the case may be, in the case of Area Development projects, shall be limited only to such activities as may be the responsibility of the project proponent as a developer.
- (3) In case of the mining projects that have operated below the capacity granted in the prior-EC or prior-EP, as the case may be, and reserves are not exhausted within the project life as estimated by the Appraisal Committee, the validity period of the prior-EC may be extended, on recommendation of the Appraisal Committee for the same production capacity and mining lease area for which prior-EC or prior-EP, as the case may be, was granted. However, the validity of the prior-EC or prior-EP, as the case may be, shall not be more than the period of mining lease.

20. Monitoring of post project prior-EC or prior-EP: -

- (1) The project proponent shall prominently advertise, at his own cost in at least two local newspapers, the fact that the project has been accorded prior-EC or prior-EP, as the case may be, along with the details of website of Regulatory Authority, where the copy of prior-EC or prior-EP, as the case may be, shall be displayed. Copy of the prior-EC or prior-EP, as the case may be, shall also be displayed permanently on the website of the company and relevant project.
- (2) The Regulatory Authority shall place the prior-EC or prior-EP, as the case may be, in the public domain on its designated portal.
- (3) The copies of the prior-EC shall be submitted by the project proponents to the following authorities within thirty days of grant of clearance, who in turn have to display the same for thirty days from the date of receipt:
 - (a) District Magistrate / District Collector / Deputy Commissioner/s;
 - (b) Zila Parishad or Municipal Corporation or Panchayats Union;
 - (c) District Industries Office;
 - (d) Urban Local Bodies (ULBs) / Panchayati Raj Institutions concerned / Development Authorities;
 - (e) Concerned Regional Office of the Ministry; and
 - (f) Concerned Regional office of SPCB or UTPCC.
- (4) It shall be mandatory for the project proponent to submit compliance reports in respect of conditions stipulated in prior-EC or prior-EP, as the case may be, pertaining to previous financial year by 30th June, online through the designated portal. The yearly compliance report shall be submitted, each year, from the date of grant of prior-EC, till the project life, to the Regulatory Authority concerned. However, Regulatory Authority can seek such compliance reports at more frequent intervals, if deemed necessary.
- (5) In case of failure to submit yearly compliance reports in respect of the conditions stipulated in prior-EC or prior-EP, as the case may be, pertaining to previous financial year by 30th June, of the relevant financial year, a late fee of Rs. 500/- per day in case of Category 'B2' projects; Rs. 1000/- per day in case of Category 'B1' projects; and Rs. 2,500/- per day in case of Category 'A' projects shall be levied. If such non-submission of the compliance reports in respect of the stipulated conditions in prior-EC or prior-EP, as the case may be, conditions continue for a period of consecutive three years, the prior-EC or prior-EP, as the case may be, shall be deemed to have been revoked without any notice in this regard.
- (6) All the compliance reports submitted by the project proponent shall be available on the website of the concerned Regulatory Authority.
- (7) The latest compliance report shall also be displayed on the web site of the project proponent.
- (8) The compliance monitoring of conditions prescribed in respect of prior-EC, for Category 'A' projects shall be carried out by the Regional office of the Ministry or Regional Directorate of CPCB. The monitoring report shall be uploaded on the designated web portal within fifteen days from the date of inspection.

- (9) The compliance monitoring of conditions prescribed in respect of prior-EC, for Category 'B1' and prior-EP for Category 'B2' projects, shall be carried out by the SPCB or UTPCC. The monitoring report shall be uploaded on the designated web portal within fifteen days from the date of inspection.
- (10) Notwithstanding above provisions, to supplement the efforts of the Ministry for monitoring through Regional office of the Ministry, Regional Directorate of CPCB, SPCB or UTPCC, the Ministry may empanel government institutions of national repute for carrying out compliance monitoring of conditions of prior-EC or prior-EP, as the case may be, of projects in a random manner.
- (11) The compliance monitoring shall be done *inter-alia* against the baseline information available in the EIA Report as appraised by Appraisal Committee, terms and conditions of the prior-EC or prior-EP, as well as other provisions, as may be specified by the Ministry, from time to time.

21. Transferability of Prior-EC or Prior-EP: -

- (1) A prior-EC or prior-EP, as the case may be, granted for a specific project to a project proponent may be transferred during its validity to another legal person entitled to undertake the project on application by the transferor or by the transferee in Form-5 within one year of the date of transfer, with a written "no objection" by the transferor, to be filed before the Regulatory Authority. The Regulatory Authority shall transfer the prior-EC, or prior-EP, as the case may be, on the same terms and conditions, under which the prior-EC or prior-EP, as the case may be, was initially granted and for the same validity period. No reference to the Appraisal Committee shall be made in such cases.
- (2) A prior-EC granted for a specific project may be split among two or more legal persons, entitled to undertake the project and transferred during its validity to another legal person(s) on application by the transferor in Form-5 to be filed before the Regulatory Authority within one year of the date of transfer. The regulatory authority shall transfer the prior-EC, on recommendation of the Appraisal Committee, who shall prescribe the conditions for all the projects split among the two or more legal person(s).
- (3) The prior-EC, granted to two or more legal persons entitled to undertake the projects, and these projects being located in the contiguous land, may be amalgamated and transferred during their validity to another legal person entitled to undertake the projects. The application shall be filed by the transferee in Form-5 with a written "no objection" by the transferor, to be filed before the Regulatory Authority applicable for the amalgamated activity, within one year of the date of transfer. The Concerned Regulatory Authority shall transfer the prior-EC, on recommendation of the Appraisal Committee, who shall prescribe the conditions for the amalgamated prior-EC.

22. Dealing of Violation cases:

- (1) The cognizance of the violation shall be made on the:-
 - (a) *suo moto* application of the project proponent; or
 - (b) reporting by any Government Authority; or
 - (c) found during the appraisal by Appraisal Committee; or
 - (d) found during the processing of application, if any, by the Regulatory Authority.
- (2) The cases of violation will be appraised by Appraisal Committee with a view to assess that the project has been constructed or carried at a site, which under prevailing laws is permissible or expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; In case, finding of the Appraisal Committee is negative, closure of the project shall be recommended along with other actions under the law including directions for remediation. Also refer Appendix-XV of this notification
- (3) In case, where the findings of the Appraisal Committee are positive, the project under this category will be prescribed with appropriate specific Terms of Reference on assessment of ecological damage, remediation plan and natural and community resource augmentation plan in addition to the standard ToR applicable to the project.
- (4) The CPCB shall issue guidelines for assessment of ecological damage from time to time.
- (5) The project proponent shall prepare the report of assessment of ecological damage as per the guidelines issued by the CPCB in this regard from time to time, along with remediation plan and

natural and community resource augmentation plan as an independent chapter in the EIA Report through an ACO.

- (6) The collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environment laboratory duly notified under Environment (Protection) Act, 1986, or an environment laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of a Council of Scientific and Industrial Research institution working in the field of environment.
- (7) The Appraisal Committee shall stipulate the implementation of EMP, comprising remediation plan and natural and community resource augmentation plan corresponding to the 1.5 times the ecological damage assessed and economic benefit derived due to violation in case of the *suo moto* applications or two times the ecological damage assessed and economic benefit derived due to violation in cases reported by any Government Authority or found during the appraisal of Appraisal Committee or during the processing of application if any by the Regulatory Authority, as a condition of Environment Clearance:

Provided that the Ministry may prescribe suitable guidelines or mechanism through which the project proponent shall discharge the above obligation.

- (8) On cognizance of violation through *suo moto* application, a late fee of Rs. 1,000/- per day in case of Category 'B2' projects; Rs. 2,000/- per day in case of Category 'B1' projects; and Rs. 5,000/- per day in case of Category 'A' projects shall be paid by the Project Proponent, at the time of application, calculated for a period of date of violation to date of application.
- (9) On cognizance of violation reporting by any Government Authority or found during the appraisal by Appraisal Committee or processing of application, if any, by the Regulatory Authority, a late fee of Rs. 2,000/- per day in case of Category 'B2' projects; Rs. 4,000/- per day in case of Category 'B1' projects; and Rs. 10,000/- per day in case of Category 'A' projects shall be paid by the Project Proponent, at the time of application, calculated for a period of date of violation to date of application.

For the purpose of the sub-clause (8) and (9) above, the date of violation shall be deemed to be 14th April, 2018 (date of closure of the time window provided for violation cases vide notification number S.O. 804(E) dated the 14th March, 2017 and subsequent orders of Hon'ble High Court of judicature at Madras vide order dated 14th March, 2018 in WMP No. 3361 and 3362 of 2018 and WMP No. 3721 in WP No. 11189 of 2017) or 1st April of the year falling in which the violation occurred.

- (10) The project proponent will be required to submit a bank guarantee valid for five years equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan and with the SPCB or UTPCC, as the case may be, and the quantification will be recommended by Appraisal Committee and finalized by Regulatory Authority, with a condition to implement the same within a period of three years.
- (11) The project proponent shall prepare the EIA Report as per the provisions given in clause 13 of this notification and public consultation shall be carried as per the provisions given in clause 14 of this notification.
- (12) The appraisal of the proposals shall be carried as per the provisions given in clause 15 of this notification.
- (13) The bank guarantee shall be deposited prior to the grant of Environment Clearance and will be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after the recommendation by Regional Office of the Ministry in case of category "A" project or activities or SPCB or UTPCC, as the case may be, and approval of the Regulatory Authority.
- (14) Further, the action will be taken against the project proponent by the respective State Government or Union Territory Administration or SPCB or UTPCC, as the case may be, under the provisions of section 19 of the Environment (Protection) Act, 1986.
- (15) Further, no consent to operate or occupancy certificate for the violation component of the project will be issued till the project is granted the Environmental Clearance. If the project has been issued Consent to Operate or Occupancy Certificate without prior-EC or prior-EP, as the case may be, the

same shall be considered as provisional and shall expire within six months of reporting the violation for the projects do not required to undergo public consultation as per the sub-clause (2) of the clause 14 of this notification; and one year for the projects required to undergo public consultation, unless application for prior-EC has been filed along with the EIA Report or EMP, as the case may be, within such period.

23. Dealing of Non-compliances:-

- (1) The cognizance of the non-compliance of conditions of prior-EC or prior-EP, as the case may be, shall be made based on the *suo moto* reporting by the project proponent or reporting by any Government Authority or found during the appraisal of Appraisal Committee or during the processing of application if any by the Regulatory Authority.
- (2) The non-compliances of conditions of prior-EC in respect of Category “A” projects shall be referred to the Expert Committee constituted for the purpose by the Ministry, at central level.
- (3) The reported non-compliances of conditions of prior-EC in respect of Category “B” projects shall be referred to the Expert Committee constituted for the purpose by the Ministry, at state level.
- (4) In the absence of duly constituted Expert Committee, the respective Appraisal Committee shall function as Expert Committee.
- (5) The expert committee shall deliberate on the non-compliances reported in a transparent manner in a proceeding to which the project proponent shall be invited for furnishing necessary clarifications in person or through an authorized representative or through video conference, to be decided by the Regulatory Authority.
- (6) On conclusion of the proceeding, the Expert Committee shall make categorical recommendations to the project proponent for time bound action plan for compliance of the conditions of prior-EC conditions and the amount of the bank guarantee deposited as an assurance for the purpose of compliance with the SPCB or UTPCC, as the case may be.
- (7) The bank guarantee will be released after successful implementation of the action plan and on the recommendations of the Regional office of the Ministry or Regional Directorate of CPCB in case of Category “A” projects; SPCB or UTPCC in case of the Category “B” projects.

24. Preparation of District Survey Report and monitoring procedure for Sand Mining or River Bed Mining and Mining of other Minor Minerals, Cluster formation: -

- (1) Ministry of Environment, Forest and Climate Change shall issue prescribed procedure for preparation of District Survey Report for mining of ‘minor minerals’ from time to time.
- (2) Ministry of Environment, Forest and Climate Change shall issue the procedure for enforcement, monitoring of mining of ‘minor minerals’ including environmental audit, from time to time.
- (3) The procedure in respect of cluster situation shall be as follows:-
 - (a) A cluster shall be formed when the distance between the peripheries of one lease is less than 500 meters from the periphery of other lease in a homogeneous mineral area which shall be applicable to the mine leases or quarry licenses granted on and after 9th September, 2013. Provided that in contiguous area, the Mines and Geology Department of the State Government shall, -
 - (i) Define the size of cluster as per local situation for effective formulation and implementation of mine plan and EIA or EMP, as the case may be;
 - (ii) Prepare mine plan and an EIA or EMP, as the case may be, for the cluster;
 - (iii) Prepare a Regional Mine Plan and Regional EIA or EMP, as the case may be, including all the clusters in that contiguity; and
 - (iv) Provide for mobilisation of funds from the Project Proponents in predetermined proportion for implementation of cluster and Regional EIA or EMP, as the case may be:

Provided further that the leases not operative for three years or more and leases which have got environmental clearance as on 15th January, 2016, shall not be counted for calculating the area of cluster, but shall be included in the EIA or EMP, as the case may be.

- (b) The District Mineral Fund can also be used to augment the fund for implementation of EIA or EMP, as the case may be;
- (c) The 'Cluster EIA' or 'Cluster EMP', as the case may be is required to be prepared for the entire cluster in order to capture all the possible externalities. These reports shall capture carrying capacity of the cluster, transportation and related issues, replenishment and recharge issues, geo-hydrological study of the cluster area. The 'Cluster EIA' or 'Cluster EMP', as the case may be, shall be prepared by the State or State nominated agency or group of project proponents in the cluster or the project proponent in the cluster, as the case may be;
- (d) There shall be one public consultation for entire cluster after which the final 'Cluster EIA' or 'Cluster EMP', as the case may be, for the cluster shall be prepared;
- (e) Prior-EC or Prior-EP, as the case may be, shall be applied for and issued to the individual project proponent. The individual lease holders in cluster can use the same 'Cluster EIA' or 'Cluster EMP', as the case may be, for purpose of application for Prior Environmental Clearance. The 'Cluster EIA' or 'Cluster EMP', as the case may be, shall be updated keeping in view any significant change at the filed level;
- (f) The details of 'Cluster EIA' or 'Cluster EMP', as the case may be, shall be reflected in each Prior Environment Clearance in that cluster. The Appraisal Committee shall ensure that mitigative measures, emanating from the 'Cluster EIA' or 'Cluster EMP', as the case may be, study are fully reflected as conditions of prior-EC or prior-EP, as the case may be, to the individual project proponents in that cluster.

25. Appeal against the Prior Environment Clearance or Prior Environment Permission granted by the Regulatory Authority.

- (1) Any appeal against the prior-EC or prior-EP, as the case may be, granted by the Regulatory Authority, shall lie with the National Green Tribunal, if preferred, within a period of thirty days as prescribed under Section 16 of the National Green Tribunal Act, 2010 :

Provided that the National Green Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within said period, allow it to be filed under Section 16 of the National Green Tribunal Act, 2010, within a further period not exceeding sixty days.

26. Exception of projects

The following cases shall not require prior-EC or prior-EP, namely:-

- (1) Extraction of ordinary clay or sand by manual mining, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs;
- (2) Extraction of ordinary clay or sand by manual mining, by earthen tile makers who prepare earthen tiles;
- (3) Removal of sand deposits on agricultural field after flood by farmers;
- (4) Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village;
- (5) Community works like de-silting of village ponds or tanks, construction of village roads, ponds, bunds undertaken in Mahatma Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes, and community efforts;
- (6) Extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc.
- (7) Dredging and de-silting of dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management;
- (8) Traditional occupational work of sand by Vanjara and Oads in Gujarat vide notification number GU/90(16)/MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat;
- (9) Manual extraction of Lime shells (dead shell), shrines, etc., within inter tidal zone by the traditional community;
- (10) Digging of well for irrigation or drinking water purpose;

- (11) Digging of foundation for buildings, not requiring prior-EC or prior-EP, as the case may be;
- (12) Excavation of ordinary earth or clay for plugging of any breach caused in canal, nallah, drain, water body, etc., to deal with any disaster or flood like situation upon orders of District Collector or District Magistrate or any other Competent Authority;
- (13) Activities declared by State Government under legislations or rules as non-mining activity;
- (14) Solar Photo Voltaic (PV) Power projects, Solar Thermal Power Plants and development of Solar Parks, etc.;
- (15) Research and Development activities for the projects listed in the schedule subject to laboratory scale operations where and no commercial production is involved;
- (16) The projects which are not covered in the schedule, proposed to carry out or establish in the premises of the projects for which prior-EC or prior-EP, as the case may be, was already granted;
- (17) Individual industries including proposed industrial housing within such notified Industrial Estate with homogeneous type of industries such as Items 16, 18, 24, 25 or those Industrial Estates with pre-defined set of activities (not necessarily homogeneous), so long as the Terms and Conditions for the industrial estate are complied with (Such estates/complexes must have a clearly identified management with the legal responsibility of ensuring adherence to the terms and conditions of conditions of prior-EC and who may be held responsible for violation of such terms and conditions throughout the life of the Industrial Estate);
- (18) Industrial Estate with project area below 500 hectares and not housing any industry of category 'A' or 'B1' or 'B2' project listed in the Schedule;
- (19) Coal and non-coal mineral prospecting;
- (20) Seismic surveys which are part of exploration surveys for offshore and onshore oil and gas including coal bed methane and shale gas, provided the concession areas have got previous conditions of prior-EC or prior-EP for physical survey;
- (21) Minor Irrigation projects involving culturable command area up to 2000 hectare;
- (22) Thermal Power plants using Waste Heat Recovery Boilers (WHRB) without any auxiliary fuel;
- (23) Crushing and screening (sizing of ore) without up gradation process of ore;
- (24) Secondary metallurgical foundry units,-
 - (a) non-toxic, involving furnaces such as Induction Furnace or Electric Arc Furnace or Submerged Arc Furnace or other gas-based furnaces, with capacity up to 1,00,000 ton per annum;
 - (b) non-toxic, involving furnaces such as cupola and other furnaces using coal or briquettes with capacity up to 60,000 ton per annum;
 - (c) re-cycling units registered under Hazardous and Other Waste Rules, 2016.
- (25) Stand-alone re-rolling mills,-
 - (a) involving pickling operation with a capacity up to 1, 00, 000 ton per annum;
 - (b) not involving pickling operation with a capacity up to 2, 00, 000 ton per annum;
 - (c) not involving pickling and no requirement of fuel for re-heating;
- (26) Change in product mix for Ordinary Portland Cement (OPC), Portland Pozzolana Cement (PPC), Portland Slag Cement (PSC), Masonary cement or any other type of cement within the sanctioned capacity of conditions of prior-EC.
- (27) Stand-alone projects for melting of 'coal tar pitch';
- (28) Stand-alone Granulation of single super phosphate powder;
- (29) Neem coating of fertilizers or fortification of fertilizers, provided that the total production does not exceed the sanctioned capacity of prior-EC plus the weight of the coating or fortification material used;
- (30) Processing of paraffin wax;

- (31) Extraction of Alkaloid from Opium;
- (32) Manufacturing of products from polymer granules or manmade fibers from granules or flakes or chips;
- (33) Manufacturing of Linear Alkyl Benzene Sulphonic Acid (LABSA) from LAB;
- (34) Country Liquor (e.g. based on Mahuwa flower, Cashew, etc.) units up to capacity of 10 kilo liter per day;
- (35) Paper or paper board manufacturing from waste paper or ready pulp without deinking or bleaching or decolorizing;
- (36) Manufacturing unit under the Ministry of Defence or strategic units for explosives, detonators, fuses including management and handling units or depots under the Ministry of Defence;
- (37) Air strips that do not involve bunkering or refueling facility and / or Air Traffic Control including non-commercial airstrips;
- (38) Common Effluent Treatment Plant (CETP) proposed for projects which by themselves do not require prior-EC. If any of the existing or proposed member units of the said CETP produces or proposes to produce any product requiring conditions of prior-EC, then the CETP shall need prior-EC;
- (39) Maintenance dredging;
- (40) Micro enterprises in respect of project against item numbers 8(a), 8(b), 9, 10(f), 11(a), 11(b), 20, 24, 25(d) and 27 and small enterprises in respect of project against item numbers 10(f), 24 and 27.

27. Operation of EIA Notification, 2006, till disposal of pending cases: -

- (1) From the date of final publication of this notification the EIA Notification, 2006 and subsequent amendments are hereby superseded, except for the things done or omitted to be done before such supersession to the extent in case of all applications made for prior-EC and pending on the date of final publication of this notification, the Central Government may relax any one or all provisions of this notification, or continue operation of some or all provisions of the 2006 notification, for a period not exceeding twenty four months from the date of issue of this notification.
- (2) It is hereby clarified that all prior-EC issued after the final publication of this notification shall be considered to be issued under this notification even in respect of application received and processed or partially processed under any of earlier EIA Notifications.
- (3) Regulatory Authority may, based on the information available or environmental issues brought out subsequent to the issuance of prior-EC, impose additional conditions, as deemed fit.

[F. No. 22-50/2018-IA-III]

GEETA MENON, Jt. Secy.

SCHEDULE

(See paragraph 2 and 7)

LIST OF PROJECTS REQUIRING PRIOR ENVIRONMENT CLEARANCE OR PRIOR ENVIRONMENT PERMISSION, AS THE CASE MAY BE

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
1	(a) Mining of Minor Minerals	>100 hectare of mining lease area	> 5 hectares and ≤ 100 hectares of mining lease area	≤5 hectares of mining lease area	Note: (1) Mining of minor mineral projects with mine lease area more than 2 hectare and up to 5 Ha shall be referred to Distract Level Expert Appraisal
	(b) Mining of Major Minerals including Coal	>100 hectare of mining lease area	≤ 100 hectares of mining lease area	Dump mining (excavation or handling of dump or overburden or	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
				waste material)	Committee (2) Mining lease area includes cluster situation
2	Offshore and Onshore Oil & Gas including CBM and Shale Gas				
	a) Exploration	--	--	All projects	
	b) Development and Production (including infrastructure facilities e.g. Gas Collecting or Gathering Station, Early production Systems, pipelines, etc.).	All projects	--	--	
3	River Valley	> 75 megawatts hydroelectric power generation;	≤ 75 megawatts >25 megawatts hydroelectric power generation;	Up to 25 megawatts hydroelectric power generation	Note: Category 'B1' river valley projects falling in more than one State or Union Territory shall be appraised at the Central Government Level.
4	Irrigation	≥ 50,000 hectares of culturable command area	≥10,000 hectares and <50,000 hectares of culturable command area.	> 2000 hectare and < 10,000 hectares of culturable command area.	
5	Thermal Power	≥ 500 megawatts (coal/lignite/naphtha & gas based); ≥100 megawatts (all other fuels).	≥ 5 megawatts and < 500 megawatts (coal / lignite / naphtha & gas based); ≥ 5 megawatts and <100 megawatts (all other fuels except biomass and municipal solid non-hazardous waste); >15 megawatts and <100 megawatts (using municipal solid non-hazardous waste / biomass as fuel).	≥ 5 megawatts and ≤ 15 megawatts, based on biomass or non-hazardous municipal solid waste using auxiliary fuel such as coal, lignite / petroleum products up to 15%.	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
6	Nuclear Power or processing of nuclear fuel	All projects	--	--	
7	Coal washeries	≥ 1 million ton per annum throughput of coal	<1million ton per annum throughput of coal	--	Note: If Coal washery is located within mining lease area, the proposal shall be appraised together with the mining proposal.
8	(a) Mineral Beneficiation involving physical process and physico-chemical processes	--	All projects	Small and Medium enterprises	Note: If Mineral Beneficiation plant located within mining lease area the proposal shall be appraised together with the mining proposal.
	(b) Chemical processing of ores/concentrate	≥1.0 million ton per annum throughput	<1.0 million ton per annum throughput		
9	Pellet plants or agglomeration plants	--	All Projects	Small and Medium enterprises	
10	Metallurgical industries (ferrous & non ferrous)				
	(a) Integrated Steel Plants	> 1 million ton per annum of crude steel	≤ 1 million ton per annum of crude steel	--	
	(b) Sponge Iron Plants	>0.5million ton per annum	≤0.5million ton per annum	--	
	(c) Non-ferrous smelting and refining	All projects	--	--	
	(d) Ferro Alloy Plants	>1.5 Lakh ton per annum	≤1.5 Lakh ton per annum	--	
	(e) Secondary metallurgical industry (Toxic metals)	≥20,000 ton per annum	<20,000 ton per annum	--	
	(f) Secondary metallurgical industry (Non-toxic metals)	--	(i) Foundries involving furnaces such as Induction Furnace or Electric Arc Furnace or submerged arc furnace or other gas-based furnaces with capacity more than 1,50,000 ton per annum	(i) Foundries involving furnaces such as Induction Furnace or Electric Arc Furnace or Submerged arc furnace or other gas-based furnaces, with capacity more than 1,00,000 ton per annum to 1,50,000 ton per annum	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
			(ii) Foundries involving furnaces such as cupola and other furnaces with capacity more than 1,00,000 ton per annum	(ii) Foundries involving furnaces such as cupola or other furnaces using coal with capacity more than 60, 000 ton per annum to 1,00,000 ton per annum. (iii) Standalone re-rolling mills involving pickling with a capacity more than 1, 00, 000 ton per annum. (iv) Standalone re-rolling mills not involving pickling with a capacity more than 2, 00, 000 ton per annum. (v) Medium enterprises	
11	(a) Cement Plants	≥ 1.0 million ton per annum production capacity except plants with vertical shaft kiln.	(i) <1.0 million ton per annum production capacity. (ii) All cement plants with vertical shaft kiln.	Small and Medium enterprises.	Note: Fuel for cement industry may be coal, petcoke, mixture of coal and petcoke and co-processing of waste provided it meets the emission standards.
	(b) Standalone clinker grinding units	--	≥ 1.0 million ton per annum production capacity	(i) Stand-alone grinding units up to 1 million ton per annum. (ii) All standalone grinding units in case of transportation of clinker and finished product proposed through rail / sea mode. (iii) Small and Medium enterprises.	
12	Lead acid battery manufacturing (excluding assembling and charging of lead acid battery)	--	All projects	--	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
13	Petroleum refining industry	All projects	--	--	
14	(a) Coke oven plants	≥ 0.8 million ton per annum	< 0.8 million ton per annum	--	
	(b) Coal Tar processing units or Calcination plants	--	All projects	--	
15	Asbestos milling and asbestos based products	All projects	--	--	
16	Chlor-alkali industry or Production of Halogens	≥300 ton per day production capacity if a unit located outside the notified industrial estates.	(i) ≥300 ton per day production capacity if a unit located within the notified industrial estates. (ii) <300 ton per day and located outside the notified industrial estates.	<300 ton per day production capacity if a unit located within the notified industrial estates.	Note: No new Mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempted from the Notification if provided there is no increase in the production capacity.
17	Soda ash Industry	All projects	--	--	--
18	Skin/hide processing including tanning industry	All projects located outside the notified industrial estates.	All projects located within notified industrial estates.	All projects of leather production without tanning and located within the notified industrial estates.	
19	Chemical fertilizers and standalone ammonia plants.	(i) All projects except Single Super Phosphate including Sulphuric acid. (ii) Standalone ammonia plants	Single Super Phosphate including sulphuric acid production.	--	
20	Manufacturing of Acids	Stand-alone phosphoric acid or ammonia.	Stand-alone sulphuric acid	All other acids	
21	Pesticides including insecticides; herbicides; weedicides; pestcontrol; etc., and their specific intermediates (excluding formulations)	All projects located outside the notified industrial estates.	All projects located within the notified industrial estates.	--	
22	Petro-chemical complexes (industries based on processing of	All projects	--	--	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
	petroleum fractions, natural gas, production of carbon black)				
23	Manmade fibers manufacturing	Viscose Staple Fiber (VSF); Viscose Filament Yarn (VFY); and Rayon.	Nylon and Others	--	
24	Petroleum products and petrochemical based processing including production of carbon black and electrode grade graphite (processes other than cracking & reformation and not covered under the complexes)	All projects located outside the notified industrial estates.	All projects located within the notified industrial estates.	Medium enterprises	
25	Synthetic Organic Chemicals				
	a) Dyes & dye intermediates	--	All projects except column (5)	(i) Projects proposed with zero liquid discharge and located within the notified industrial estates. (ii) All micro, small and medium enterprises.	
	b) Bulk drugs and intermediates excluding drug formulations	--	All projects except column (5)	(i) Projects proposed with zero liquid discharge and located within the notified industrial estates. (ii) All micro, small and medium enterprises.	
	c) Synthetic rubbers	All projects located outside the notified industrial estates.	All projects located within the notified industrial estates.	All micro, small and medium enterprises.	
	d) Basic organic chemicals, other synthetic organic chemicals, chemical intermediates, synthetic resins and	All projects located outside the notified industrial estates.	All projects located within the notified industrial estates.	(i) All small and medium enterprises. (ii) Manufacturing of synthetic resins /	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
	synthetic adhesives			adhesives up to 1000 ton per annum.	
26	Distilleries and molasses-based manufacturing units (e.g. Yeast)	(i) Molasses based distilleries \geq 100 kilo liter per day; (ii) Molasses based manufacturing units (e.g. Yeast) \geq 100 ton per day; (iii) Non-molasses based distilleries \geq 200 kilo liter per day.	(i) Molasses based distilleries <100 kilo liter per day. (ii) Molasses based Yeast manufacturing units <100 ton per day (iii) Non-molasses based distilleries < 200 kilo liter per day	(i) Country Liquor (e.g. based on Mahuwa flower, Cashew, etc.) units more than capacity of 10 kilo liter per day. (ii) Expansion of distilleries within the premises, having earlier Prior Environment Clearance and for production of ethanol to be used as fuel for blending only.	
27	Manufacturing of paints, varnishes, pigments, intermediates (excluding blending / mixing)	All projects located outside the notified industrial estates.	All projects located within the notified industrial estates.	Medium enterprises	
28	Pulp & Paper Industry	Pulp manufacturing and Pulp & Paper manufacturing industry except from waste paper	--	Paper manufacturing from waste paper or ready pulp involving deinking or bleaching or de-coloring.	
29	Sugar Industry	--	\geq 5000 ton of cane per day crushing capacity	--	
30	Manufacturing of explosives, detonators, fuses including management and handling activities		All projects		
31	Pipelines				
	(a) Oil & gas transportation pipe line (crude and refinery or petrochemical products), passing through national	All Projects	--	--	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
	parks or sanctuaries or coral reefs or Ecologically Sensitive Areas.				
	(b) Slurry pipelines (coal, lignite and other ores) passing through national parks or sanctuaries or coral reefs, Ecologically Sensitive Areas.	All the projects	--	--	--
32	Air Ports and Heliports including terrestrial and water ports	All projects including terrestrial airstrips, which are for commercial use.	--	(i) Water - aerodromes which are for commercial use. (ii) Heliports which are for commercial use.	
33	All ship breaking yards including ship breaking units	All projects	--	--	
34	Industrial Estate including parks; complexes; areas; export processing Zones (EPZs); Special Economic Zones (SEZs); Biotech Parks; Leather Complexes; Coastal Economic Zones (CEZs); Special Investment Region (SIR); National Investment and Manufacturing Zones (NIMZs); Industrial Cluster; Petroleum, Chemicals and Petrochemicals Investment Regions (PCPIRs)	(i) If the area of proposed project is more than 500 hectares and houses at least one Category 'A' or Category 'B1' project listed in the Schedule. (ii) If area of the proposed project is less than 500 hectares and houses at least one category 'A' project listed in the Schedule.	If the area of the project is less than 500 hectares and houses at least one category 'B1' project listed in the Schedule.	(i) If the area of the proposed project is more than 500 hectares and does not house category 'A' or 'B1' project listed in the Schedule. (ii) Irrespective of the area of the proposed project and houses at least one Category 'B2' project listed in the Schedule	
35	Common hazardous waste, Treatment, Storage and Disposal Facilities (TSDFs)	All integrated facilities having incineration & landfill or incineration alone.	All facilities having land fill only.	--	
36	Common Bio-Medical Waste Treatment Facilities	--	All projects		

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
37	Ports, harbors, breakwaters and capital dredging (inside and outside the ports or harbors and channels)	≥ 5 million ton per annum of cargo handling capacity (excluding fishing harbors).	(i) < 5 million ton per annum of cargo handling capacity (excluding fishing harbors). (ii) ≥ 30000 ton per annum of fish handling capacity.	All projects in respect of Inland water ways	
38	Highways or Expressways or Multi-modal corridors or Ring Roads	i) New National Highways or Expressways or Multi-modal corridors or Ring Roads ii) Expansion or widening of existing National Highways or Expressways or Multi-modal corridors or Ring Roads by length more than 100 km involving widening or right of way more than 70 m on existing alignments or re-alignments or by-passes.	(i) All new State Highway projects (ii) State Highway expansion projects in hilly terrain (above 1,000 meter above mean sea level).	(i) Expansion or widening of existing National Highways or Expressways or Multi-modal corridors or Ring Roads by length between 25 km and 100 km involving widening or right of way more than 70 m on existing alignments or re-alignments or by-passes. (ii) Expansion or widening of existing State Highways (500 m to 1000 m above mean sea level)	Note: Width at toll plaza and junction improvement at intersection of other roads excluded from right of way.
39	Aerial ropeways	--	--	All projects located in notified ecologically sensitive areas.	--
40	Common Effluent Treatment Plants (CETP)	--	All projects	--	
41	Common Municipal Solid Waste Management Facility (CMSWMF) involving land filling and / or incineration	--	All projects	--	
42	Building Construction and Area Development projects	--	>1,50,000 sq. mtrs. of built-up area and or total land area of ≥ 50 hectare	(i) ≥20,000 sq. mtrs. and ≤50,000 sq. mtrs. of built-up area (ii) > 50,000 sq. mtrs. and ≤ 1, 50,000 sq. mtrs. of built-up area projects having provisional	Note 1. Projects under (i) and (ii) of Column (5) shall not be referred to Appraisal Committee. 2. Any change in the intended use, prior-permission from the Regulatory Authority for amendment in the prior-

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
				'certificate of green building' or relating to industrial sheds, educational institutions, hospitals and hostels for educational institutions	EP shall be obtained. All such cases shall be referred to Appraisal Committee.
				> 50,000 sq. mtrs. and ≤ 1, 50,000 sq. mtrs. of built-up area	Note: Projects under Column (5) shall be referred to Appraisal Committee
43	Elevated roads or standalone flyovers or bridges	--	--	>1,50,000 sq. mtrs. of built-up area	

Note:

1. General Conditions shall not apply for:-
 - i. Items 9, 10(f), 11(b), 25, 38, 40, 41, 42, and 43
 - ii. River bed mining projects on account of inter-state boundary; and
 - iii. All Category 'B2' projects.
2. Category 'B2' projects shall not be placed before Appraisal Committee except for those projects mentioned against the item

APPENDIX-I

(Refer clause 14)

Procedure of Public Consultation

(1) Public Hearing:

1.1 The Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District -wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC)

(2) Process

2.1 The project proponent shall arrange to forward copies, one hard and one soft, of the draft EIA Report along with the Summary EIA, simultaneously with application for conduct of public hearing, to the following authorities or offices, within whose jurisdiction the project will be located:

- (a) District Magistrate / District Collector / Deputy Commissioner/s;
- (b) Zila Parishad or Municipal Corporation or Panchayats Union;
- (c) District Industries Office;
- (d) Urban Local Bodies (ULBs) / PRIs concerned / Development authorities;
- (e) Concerned Regional Office of the Ministry;
- (f) Concerned Regional office of SPCB or UTPCC.

(TRUE COPY)

Item No. 08

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 55/2019(WZ)

Gajubha Jesar Jadeja

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 12.02.2020

**CORAM: HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL
MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Applicant (s):

Rahul Chaudhary, Advocate

For Respondent (s):

Mr. Pinaki Misra, Senior Advocate
a/w Mr. Kishore Kumar and Mr.
Pratesh Chaudhary, Advocates for
Respondent No. 7.

Mr. D. M. Gupte, Advocate for
Respondent No. 1

Ms. Nidhi Jaswal and Ms. Manyaa
Chandok, Advocates for GPCB

Mr. Parth. H. Bhatt & Priyanshi
Chandarana for Tushar Mehta, for
State of Gujarat for R- 4&5

ORDER

1. The present application has been filed alleging violation of the EIA Notification, 2006 by the Respondent No. 7 on the ground

that it had failed to obtain Environmental Clearance before commencing with the Cold Rolled Stainless Steel manufacturing industry and was extracting ground water without NoC from the Central Ground Water Authority.

2. Vide order dated 27.08.2019, apart from issuing notice, we had directed constitution of a committee comprising of (i) The State Environmental Impact Assessment Authority (SEIAA), Gujarat, (ii) the Gujarat Pollution Control Board (GPCB) (iii) the District Collector/Magistrate, Kutch District and (iv) The Regional Director, 2 CGWA with a direction to verify on the factual aspects set out in the original application and to submit a report.
3. The consequential report filed by the Joint Committee was considered on 15.10.2019 which *inter-alia* concluded as follows: “ ●

“Committee concluded that the opinion on applicability of Environmental Clearance to the aforementioned unit involving process of Rolling, Annealing Furnace, Pickling and Skin Pass Rolling can only be given by the Ministry of Environment, Forest & Climate Change in consideration of the EIA Notification, 2006 as amended on 01/12/2009 ad definition of the Secondary Metallurgical Processing Industries as given in the EIA Guidance Manual Prepared by IL & FS Ecosmart Ltd.”

4. During the course of the proceeding on 15.10.2019, Mr. Rahul Chaudhary, Learned Counsel for the Applicant, placed before us letter dated 14th August, 2019, written by the MoEF to the Chairman, SEIAA, Chhattisgarh, on the same subject whereby it has been stated as follow:

“It is to inform that the Ministry is in receipt of various representation with regard to applicability of EIA Notification 2006 on steel re-rolling mills. The representations received earlier in this regard have been deliberated upon suitably in this Ministry.

2. As on date the Technical EIA Guidance Manual of the MoEF & CC for Metallurgical industry classifies re-rolling as a secondary metallurgical industry.

3. As per EIA Notification 2006 secondary metallurgical industries are to be appraised for EC as category B projects under schedule 3(a) Metallurgical industries. In case of secondary metallurgical processing industries units, those projects involving operation of furnaces only such as induction and electric arc furnace, submerged arc furnace, and cupola with capacity more than 30000 tonnes per annum (TPA) would require Environmental Clearance.

4. In view of the above, you are hereby requested to appraise the steel re-rolling proposals as per the provisions of EIA Notification 2006.”

5. Considering the above facts and circumstances where the report involved facts *pari materia* to the present case, the stand of the MoEF taken in the letter dated 14.8.2019, in our opinion, would be applicable in full force in the present case also. However, before taking a final call, we deemed it appropriate to seek the clarification from the MoEF as to whether the position indicated in the letter referred to above would be applicable in the present case also.

6. In the interregnum, I.A No. 4 of 2020 came to be filed by the respondent no. 7, the project proponent and was taken up on 16.1.2020 on being mentioned by the learned counsel for the said respondent. None had appeared for the Applicant on that day despite having been informed of the I.A being listed on that day. In fact the learned counsel had informed by e-mail of the same date that he would be appearing on 12.2.2020 when this O.A was earlier listed.

7. The I.A had been preferred by the Respondent No. 7 to place on record the subsequent events which taken place after the order dated 21.11.2019 prohibiting further operation of the unit. A minutes of the meeting of the reconstituted Environment Appraisal Committee (EAC) (Industry-I) held on 23rd – 24th December 2019 was placed before us, the relevant part of which read as follows;

“14.21.20 In view of the forgoing and after detailed deliberations, the Committee recommended the following:

- i.) Project activity of CSPL falls under Category B of Schedule 3(a) Metallurgical Industries (ferrous and non-ferrous) of EIA Notification, 2006.***
- ii.) The committee also noted that there are a few issues which may have diverse interpretations. The reports submitted by the Committee formed by the Hon’ble NGT and the joint inspection report by the Regional office of Bhopal and RO of GPCB for Kutch, have also left the final interpretation to the MoEF&CC. It is also noted that the present unit has obtained CTE from***

GPCB which is a Statutory authority. There may be other similarly placed cases in the country. This shows that there is a scope and need for further clarification in the matter regarding certain issues so that there is no subjective interpretation in future. These issues are (1) definition of secondary metallurgy units for the purpose of EIA process, (2) clarification about the types of furnaces under applicability of MoEF&CC notification 2006 and (3) clarifying re rolling vs. cold rolling in the context of Environment Clearance. Therefore, for further smoothening the EC process for present unit and proposals in future, the MoEF&CC may consider issuing further clarifications.

iii.) In order to address to instant and similar cases where such re rolling/cold rolling units are established or operating with a CTE/CTO from the concerned State Pollution Control Boards, the Ministry may consider directing the State Pollution Control Boards to get a list of all such cases and take further quick actions so that they apply for EC and get covered by the EIA notification 2006. Since, these units are established or operating under the CTEs/CTOs obtained from a statutory authority i.e. the respective State Pollution Control Boards, a period of one year may be allowed for this recommended conversion to EC. This will also ensure that the units remain in operation for the allowed period and closures, unemployment and related social issues/unrests are avoided. During this period of one year, they will have to follow all the conditions imposed under the CTE.CTO.”

8. As will appear from paragraph (iii.) of clause 14.21.20 of the minutes reproduced above, category of the units to which the Respondent No. 7 belongs, having been established or

operating under CTEs/CTOs obtained from the statutory authority, are permitted to operate for conversion to EC and would ensure that the units remain in operation for the said period with the condition that during the period of one year, the units shall follow all the conditions imposed under the CTE/CTO.

9. In the context of the above, we have noted that the respondent no. 7 had been operating under a CTE issued by the GSPCB containing the terms and conditions prescribed therefor. We were thus of the opinion that the order dated 21.11.2019 granting stay of the operation of the unit, required modification to the extent that the respondent no. 7 shall be permitted to run for a period of one year provided that the unit strictly adhere to the CTE conditions till such time CTO was not granted.

10.A short affidavit has now been filed on behalf of the respondent no. 7 which is dated 10.2.2020 to bring on record certain additional documents. On 7.2.2020, the MoEF also filed an affidavit which we find to be of relevance as by that affidavit, the MoEF has accepted recommendations no. (iii) of the Expert Committee reproduced above. We may reproduce below the relevant paragraph of the affidavit:-

***“5. It is submitted that the Ministry has accepted the recommendations no. (iii). of EAC to allow those units, operating under the CTEs/CTOs obtained from the respective State Pollution Control Boards, for a period of one year. Further, it has been decided that the requirement of EC or not for such units is a policy decision. Hence, the Ministry will constitute an Expert Committee, other than an EAC, having metallurgical experts for their recommendations.*”**

11. Considering the above facts and circumstances when the foundational question involved in the case have been dealt with effectively by the MoEF, in our considered opinion, nothing further would survive for our consideration.

12. It would appear from the sequence of events that the position that subsisted earlier in respect of Cold Rolled Coils (CRC) of stainless steel was quite obscure as it was not clear as to whether such activity would require environmental clearance under the EIA notification, 2006. The MoEF upon consideration of the expert opinion appears to have now clarified that such industry do require prior environmental clearance but, having regard to the fact that there were a large number of such mills operating on the strength of CTE and CTO, opportunity should be provide to such units to fall within

the EC regime by granting a period of at least one year to operate for the purpose.

13. In view of the above the O.A stands disposed off and no order as to cost.

S.P. Wangdi, JM

Siddhanta Das, EM

12th February, 2020
Original Application No. 55/2019(WZ)
pk



(TRUE COPY)

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

IN OA No. 287of 2020

Dastak N.G.O.

-----Petitioner

Versus

Synochem Organics Pvt. Ltd. & Ors.

-----Respondent(s)

Reply in compliance of order dated 09.12.2020 by
Shekhar Vidyarthi, Secretary to Government Haryana
Environment & Climate Change Department, Haryana.

I the above named deponent do hereby solemnly affirms and declare as
under:-

1. That State of Haryana through Environment & Climate Change Department is committed to provide clean and healthy environment to people, animals, flora and fauna. To achieve the objectives of article 48A of the constitution of India and in exercise of power conferred under section 5 of Environment Protection Act, 1986 various notifications has been issued and rules has been framed to protect the environment and to maintain ecological

balance in the State to prevent environmental degradation and to avoid human health hazards.

2. That the Hon'ble NGT vide its order dated 09.12.2020 in case O.A. No.287 of 2020, titled as Dastak N.G.O. Vs. Synochem Organics Pvt. Ltd. & Ors. directed the contesting respondents to show cause why the order dated 10.11.2020 of Government of Haryana allowing manufacturers of formaldehyde, requiring prior Environmental Clearance, to operate for six months without EC, subject to making application for EC within 60 days. The relevant portion of order is reproduced here under:-

2. "We prima facie find the impugned order to be without jurisdiction. Requirement of prior environmental clearance cannot be dispensed with. This legal position has been recently reiterated in Alembic Pharmaceuticals Ltd. Vs. Rohit Prajapati & Ors., 2020 SCC Online 347. Learned Counsel for Respondent Nos. 1 and 6 have put in appearance without notice and have relied upon specific condition in the Notification dated 14.09.2006 to the effect that prior EC is not required where such prior EC is obtained by the industrial area, where a unit is set up. There is no merit in the submission as there is nothing to show that such prior EC has been obtained by the industrial area in question.

3. Accordingly, let the contesting respondents show cause why the impugned order be not quashed by their response by email before the next date. The applicant may provide a set of papers and a copy of this

order to all the contesting respondents and file an affidavit of service within one week."

3. That for the purpose of environmental protection certain restriction and prohibition on new projects and activities, or on the expansion or modernization of the existing project or activities based on their potential environmental impact were imposed vide S.O. 1533 dated 14.09.2006 by MoEF, GOI. under schedule to the aforementioned notification, the process of manufacturing of Formaldehyde is covered under provision 5(f) which requires prior Environmental Clearance (EC) from the competent authorities State Environment Impact Assessment Authority(SEIAA)/MoEF & CC, GOI, before establishment and operation of such units, besides other mandatory clearances as applicable.

4. That 15 formaldehyde units (list attached at Annexure – R/1) were issued consent to establish and consent to operate by Haryana State Pollution Control Board at different times which were later revoked by the HSPCB for violating provision 5(f) of schedule to EIA Notification 2006 on the ground that no prior environmental clearance was obtained before establishment and operation of these units.

5. That a representation was received from all Haryana formaldehyde manufacturing association, Yamunanagar dated 23.10.2020 addressed to Additional Chief Secretary to Govt. of Haryana department of Environment and Climate Change, Chandigarh requesting to allow such formaldehyde units to operate and give sufficient time reasonable to obtain the Environmental Clearance from MoEF & CC and SEIAA on the basis of parity that same

decision was taken by State of Rajasthan in similar case (Annexure -R/2). The copy of order of Rajasthan State Pollution Control Board was annexed with aforementioned representation.

6. That keeping in view the fact that units were established with the requisite consent from Haryana State Pollution Control Board and were operating with the necessary pollution control measures, as prescribed by Board, along with the investment in plant and machinery incurred by the individual units in establishing their plants, possible stock of raw material used for production, the case was referred to Government of Haryana by Haryana State Pollution Control Board for granting interim relief to these units for obtaining environmental clearance from the appropriate authority.

7. The units were granted interim relief on basis of the fact that notification dated 14.09.2006 is being re-drafted by MoEF & CC and the zero draft has been circulated to all the States and other Stake holders for comments. The finalization and publication of revised notification is likely to take some time and that window for accepting application seeking environmental clearance is not kept open at present by the MoEF & CC.

Further, it is to mention here specifically that from the facts and circumstances of the given case, it can easily be inferred that the industries were operating in good faith with valid CTE/CTOs granted by Haryana State Pollution Control Board. Alongside it was admitted by Haryana State Pollution Control Board that the units in question were posing any pollution hazards and that only procedural laps was the deficiency against these units.

8. That keeping in view all the aforementioned facts, Government of Haryana vide order No. 16/14/2020-3Env. dated 11.11.2020 (Annexure-R/3) decided to allow these units to continue their operation for a period of 6 months without invoking any legal action against the procedural laps occurred, with the condition that these units will apply for environmental clearance within a period of 60 days from the date of issuance of this communication.

On the basis of above mentioned submissions, it is prayed to kindly accept the reply.

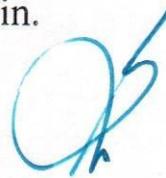


Place:-Chandigarh
Dated:-07.03.2021

(Shekhar Vidyarthi)
Secretary to Govt. Haryana,
Environment and Climate Change, Haryana

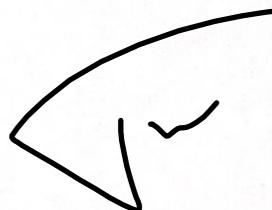
Verification:

Verified that the contents of para No. 1 to 8 of the action taken report are correct and true to my knowledge and belief. No part of it is false and nothing material has been concealed therein.



Place:-Chandigarh
Dated:-07.03.2021

(Shekhar Vidyarthi)
Secretary to Govt. Haryana,
Environment and Climate Change, Haryana



(TRUE COPY)

1

ITEM NO.17 Court 9 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4654/2021

BANKE BIHARI OVERSEAS PVT. LTD. & ORS. Appellant(s)

VERSUS

VINEET NAGAR & ORS. Respondent(s)

(FOR ADMISSION and I.R. and IA No.95483/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.95481/2021-EX-PARTE STAY and IA No.95485/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

C.A. No. 4748/2021 (XVII)

(IA No.97344/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.97343/2021-EX-PARTE STAY and IA No.97346/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 16-08-2021 These appeals were called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Appellant(s) Mr. Nidhesh Gupta, Sr. Adv.
Mr. Tarun Gupta, AOR

For Respondent(s) Mr. Dhruv Mehta, Sr. Adv.
Mr. Rajesh Kumar Gautam, AOR
Mr. Kartik Jindal, Adv.
Mr. Anant Gautam, Adv.
Mr. Nipun Sharma, Adv.
Mr. Madhur Tewatia, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Issue notice.

Dasti service, in addition, is permitted.

The impugned order has apparently been passed without giving the affected parties including the appellant herein, an opportunity of hearing. There will, accordingly, be an ad interim stay of operation of the impugned order and the consequential orders.

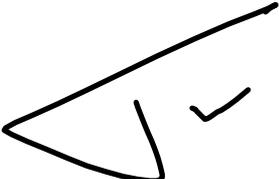
Tag with Civil Appeal No. 2881/2021.

List on 25.08.2021.

It will be open to the respondents to file their counter affidavit in the meanwhile.

(MANISH ISSRANI)
COURT MASTER (SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)



(TRUE COPY)

ITEM NO.14+54 Court 7 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4795/2021

PAHWA PLASTICS PVT LTD. & ANR. Appellant(s)

VERSUS

DASTAK NGO & ORS. Respondent(s)

(FOR ADMISSION and I.R. and IA No.99756/2021-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.99755/2021-EX-PARTE STAY)

WITH

CA NO. 4902-4903/2021 (XVII)
(IA No.102652/2021-Exemption from filing C/C of the impugned
judgment and I.A. No.102651/2021-Ex-Parte stay)

CA NO. 4908/2021 (XVII)
IA No.103049/2021-Exemption from filing C/C of the impugned
judgment and IA No.103048-Ex-Parte Stay)

Date : 23-08-2021 This appeal was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Appellant(s) Mr. Nidhesh Gupta, Sr. Adv.
Mr. Tarun Gupta, AOR

For Respondent(s)

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

CA NOS. 4795 AND 4902-4903 OF 2021

Appeals are admitted.

There will be stay of operation of the judgment and order
impugned, until further orders.

CA NO. 4908 OF 2021

Issue notice returnable in two weeks.

Dasti service, in addition, is permitted.

The impugned order has apparently been passed without giving the affected parties including the appellants herein, an opportunity of hearing. There will, accordingly, be an ad interim stay of operation of the impugned order and consequential orders.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(MATHEW ABRAHAM)
COURT MASTER (NSH)


(TRUE COPY)

ITEM NO.3 Court 8 (Video Conferencing) SECTION XVII

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

Civil Appeal No(s). 2881/2021

NEETU SOLVENTS Appellant(s)

VERSUS

VINEET NAGAR & ORS. Respondent(s)

(IA No. 91538/2021 - ADDITION / DELETION / MODIFICATION PARTIES)

WITH

C.A. No. 4432/2021 (XVII)

(IA FOR ADDITION/DELETION/MODIFICATION PARTIES ON IA 91622/2021)

C.A. No. 4431/2021 (XVII)

(IA FOR ADDITION/DELETION/MODIFICATION PARTIES ON IA 91547/2021)

C.A. No. 4654/2021 (XVII)

(FOR ADMISSION and I.R. and IA No.95483/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.95481/2021-EX-PARTE STAY and IA No.95485/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

C.A. No. 4748/2021 (XVII)

(IA No.97344/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.97343/2021-EX-PARTE STAY and IA No.97346/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 25-08-2021 These matters were called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Appellant(s) Mr. Nidhesh Gupta, Sr. Adv.
Mr. Tarun Gupta, AOR

For Respondent(s) Mr. Maninder Singh, Sr. Adv.
Mr. Vineet Nagar, Adv.
Ms. Ambika Kajal, Adv.
Mr. Pawan Kumar Sharma, Adv.
Mr. Rameshwar Prasad Goyal, AOR

Mr. Pradeep Misra, AOR.
Mr. Daleep Dhyani, Adv.
Mr. Suraj Singh, Adv.
Mr. Manoj Kumar Sharma, Adv.
Mr. Bhuwan Chandra, Adv.

Ms. Aishwarya Bhati, ASG
Ms. Archana Pathak Dave, Adv.
Mr. Subhranshu, Adv.
Ms. Priyanka Das, Adv.
Mr. Gurmeet Singh Makker, AOR

Mr. Tahir Ashraf Siddiqui, AOR

Mr. Dhruv Mehta, Adv.
Mr. Rajesh Kumar Gautam, AOR
Mr. Kartik Jindal, Adv.
Mr. Anant Gautam, Adv.
Mr. Nipun Sharma, Adv.
Mr. Madhur Tewatia, Adv.
Mr. Ravi Solanki, Adv.

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

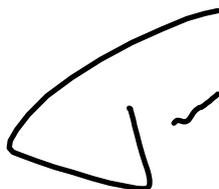
Applications for deleting the proforma respondents are allowed. The names of the proforma respondent be deleted from the array of parties at the risk of the petitioners.

It is made clear that the interim orders passed by this Court will not stand in the way of requisite permits and clearances being processed and issued.

List the Civil Appeals along with Civil Appeal No. 4795 of 2021 and other connected matters.

(MANISH ISSRANI)
COURT MASTER(SH)

(MATHEW ABRAHAM)
COURT MASTER(NSH)



(TRUE COPY)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5154 OF 2021

SUCHEM ORGANICS PVT. LTD

... Appellant(s)

VERSUS

CENTRAL GROUND WATER AUTHORITY & ORS.

... Respondent(s)

WITH

CIVIL APPEAL NO. 5125 OF 2021

O R D E R

These appeals are against an order dated 3rd June, 2021 passed by the learned National Green Tribunal in OA No. 298 of 2020. The grievance of the appellants is that the impugned order which has serious adverse consequences for the appellants has been passed without notice to the appellants or even the State Governments concerned. The learned Tribunal has directed that unless valid environmental clearance and other statutory clearances are obtained, the unit of the appellants may not be allowed to function. The State Pollution Control Board has also been directed to assess and recover compensation for illegal operation of the units on the 'polluter pays' principle.

The operative part of the impugned order is reproduced hereinbelow :-

"2. We have dealt with matter by separate orders today in O.A. No.840/2019, Ayush Garg v. UOI & Ors. And O.a. No. 287/2020, Dastak N.G.O. v. Synochem Organics Pvt. Ltd. & Ors. In relation to some of such units operating in Haryana after hearing the State and the industrial units in question. It has been held that in absence of Environmental Clearance under Entry 5(f) of the EIA Notification dated 14.09.2006, such Units cannot be allowed to operate. Relevant extract from order in O.A. No.287/2020, Dastak N.G.O. v. Synochem Organics Pvt. Ltd. & Ors. Is reproduced below :

"7. It is clear from the stand of the State itself that prior EC is required under EIA Notification dated 14.09.2006 (Entry 5(f) of the Schedule. Once it is so there is no justification to permit function of such units in violation of mandate of law. In Almbic Chemicals v. Rohit Prajapati & Ors., 2020 scc Online 347, the Hon'ble Supreme Court has made it clear that prior EC requirement cannot be dispensed with. While it is true that having regard to the fact situation therein particularly grant of EC later, the units were not closed and instead were required to pay compensation for the period the units functioned without prior EC, it does not mean that in absence of prior EC the units can be allowed to function by paying compensation. We thus hold that without prior EC the units cannot be allowed to operate. The State has no power to exempt the requirement of prior EC or to allow the units to function without EC on payment of compensation. Same view has been tkaen in O.A. No. 840/2019, Ayush Garg v. UOI & Ors. Which has been dealt with by a separate order today.

8. As regards the stand of the private respondents that the State has delegated power under Section 3(3) of the Environment (Protection) Act, which implies that the State could exempt EIA requirement, neither any such delegation is shown nor the Stat claims to have such power or to have exercised such power. A statement has been made on behalf of the private respondents

as well as State that the units now stand closed. Learned Counsel for the private respondents also submitted that their units have been functioning in a bonafide manner without causing pollution. Though they did not have EC only for want of knowledge of such requirement, they had requisite consents to establish and operate which have been renewed from time to time. They wish to comply with law and have also applied for EC.

9. We are of the view that since prior EC is statutory mandate, the same must be complied. We have no doubt that the stand of the private respondents will be duly considered by the concerned regulatory authorities, including the MoEF & CC on merits and in accordance with law but till compliance of statutory mandate, the units cannot be allowed to function. For past violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process."

3. The above principle has to be followed in all other States where such units are functioning without prior EC. In the present application grievance is also against similar units functioning in the States of Rajasthan, UP and Punjab or any other State, in addition to Haryana for which above order has been passed. This needs to be checked by concerned statutory authorities and remedial action taken, following due process of law.

4. Accordingly, we dispose of this application with a direction to MoEF&CC, CPCB and Chief Secretaries, SEIAAs, PCBs/PCCs of all States/UTs to ensure compliance of law, following due process. They may issue appropriate directions in the matter.

A copy of this order be forwarded to the MoEF&CC, CPCB and Chief Secretaries, SEIAAs and PCBs/PCCs of all States/UTs by e-mail to facilitate compliance of the above order.

Since we have not found it necessary to issue notice, having regard to the nature of the order, we give liberty to the any party to move this Tribunal in case they are aggrieved."

The learned Tribunal found that no further action was necessary except that the State Pollution Control Board might ensure that the units do not restart functioning without requisite statutory clearance meaning thereby the environmental clearance.

Mr. Nidhesh Gupta, learned senior counsel appearing on behalf of the appellants submits and, in our view, with some justification that the order ought to have been passed after giving the appellants a notice and after affording an opportunity of hearing to the appellants. Be it noted that Mr. Gupta submitted that the unit of the appellants being functional since 1994, no environmental clearance is necessary.

We need not go into the question of whether or not environmental clearance is necessary. The decision may be taken by the learned Tribunal in accordance with law after giving the appellants an opportunity of hearing. The appellants may file their submissions and documents, if any, on which they wish to rely before the learned Tribunal.

The judgment and order impugned is set aside. The matter is remitted back to the learned National Green Tribunal for deciding the same in accordance with law after affording an opportunity of hearing to the appellants. The consequential orders shall also stand set aside. It is clarified that consequential orders are those orders which have been passed consequent to the impugned order of the learned Tribunal and not any preexisting orders.

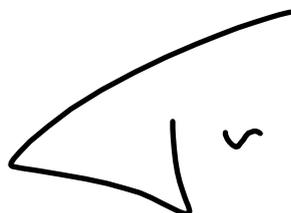
The appeals are, accordingly, disposed of.

Pending applications, if any, stand disposed of accordingly.

....., J.
(Indira Banerjee)

....., J.
(J.K. Maheshwari)

New Delhi;
September 13, 2021.

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REVISED

ITEM NO.5 Court 8 (Video Conferencing) SECTION XVII

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

Civil Appeal No. 4795/2021

PAHWA PLASTICS PVT LTD. & ANR.

Appellant(s)

VERSUS

DASTAK NGO & ORS.

Respondent(s)

(FOR ADMISSION and I.R...[ONLY IA NO. 111310/2021 IN CIVIL APPEAL NO. 4902-4903/2021, IA NO. 110064/2021 IN CIVIL APPEAL NO.4795/2021 AND IA NO.110107 IN CIVIL APPEAL NO. 4654/2021 ARE LISTED])

WITH

C.A. No. 4654/2021 (XVII)

IA No. 110107/2021 - APPROPRIATE ORDERS/DIRECTIONS)

C.A. No. 4902-4903/2021 (XVII)

(IA No. 111310/2021 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 30-09-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE J.K. MAHESHWARIFor Appellant(s) Mr. Nidesh Gupta, Sr. Adv.
Mr. Tarun Gupta, AORFor Respondent(s) Mr. Anil Grover, Sr. AAG
Ms. Noopur Singhal, Adv.
Mr. Rahul Khurana, Adv.
Mr. Sanjay Kumar Visen, AOR
Mr. Amit Sahni, Adv.

Mr. Maninder Singh, Sr. Adv.
Mr. Harpreet Singh Popli, Adv.
Mr. Vineet Nagar, Adv.
Ms. Ambika Kajal, Adv.
Mr. Pawan Kr. Sharma, Adv.
Mr. Rameshwar Prasad Goyal, AOR

Dr. Surender Singh Hooda, AOR
Mr. Aayushman Aeron, Adv.
Mr. Aditya Hooda, Adv.
Mr. Rahul Besoya, Adv.

Mr. Pradeep Misra, AOR

Mr. Daleep Dhyani, Dv.
Mr. Suraj Singh, Adv.
Mr. Bhuwan Chandra, Adv.

Mr. Tahir Ashraf Siddiqui, AOR

Mr. Rajesh Kumar Gautam, AOR

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

Heard learned counsel for the parties.

Hearing concluded.

Judgment reserved.

(SHRADDHA MISHRA)
Sr.PA

(MATHEW ABRAHAM)
COURT MASTER (NSH)

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भारत सरकार
जल संधारण, नदी विकास
और गंगा संरक्षण विभाग
केन्द्रीय भूमि जल प्राधिकरण
Government of India
Ministry of Jal Shakti
Department of Water Resources,
River Development & Ganga Rejuvenation
Central Ground Water Authority

(भूजल निकासी हेतु अनापत्ति प्रमाण पत्र)
NO OBJECTION CERTIFICATE (NOC) FOR GROUND WATER ABSTRACTION

Project Name:	M/s Suchem Organics Pvt. Ltd.		
Project Address:	G-1 788, Rilco Industrial Area, Phase-II, Bhiwadi, Dist. Alwar Rajasthan, Bhiwadi Alwar		
Town:	Bhiwadi	Block:	Tijara
District:	Alwar	State:	Rajasthan
Pin Code:			
Communication Address:	G-1-787-788, Rilco Industrial Area Phase-II, Bhiwadi Dist. Alwar, Rajasthan. Bhiwadi., Tijara, Alwar, Rajasthan - 301019		
Address of CGWB Regional Office :	Central Ground Water Board Western Region, 6-a, Jhalana Doongri, Jaipur, Rajasthan - 302004		

1. NOC No.:	CGWA/NOC/IND/ORIG/2021/12087											
2. Application No.:	21-4/14301/RJ/IND/2019	3. Category:	Over Exploited (GWRE 2017)									
4. Project Status:	Existing Project	5. NOC Type:	New									
6. Valid from:	07/01/2021	7. Valid up to:	06/01/2023									
8. Ground Water Abstraction Permitted:												
	Fresh Water		Saline Water									
	Dewatering		Total									
m ³ /day	m ³ /year	m ³ /day	m ³ /year									
50.00	15000.00											
9. Details of ground water abstraction /Dewatering structures												
	Total Existing No.:1						Total Proposed No.:0					
	DW	DCB	BW	TW	MP	MPu	DW	DCB	BW	TW	MP	MPu
Abstraction Structure*	0	0	1	0	0	0	0	0	0	0	0	0
*DW-Dug Well, DCB-Dug-cum-Bore Well; BW-Bore Well; TW-Tube Well; MP-Mitre P; MPu-Mine Pumps												
10. Ground Water Abstraction/Restoration Charges paid (Rs.)				180000.00								
11. Number of Piezometers(Observation wells) to be constructed/ monitored & Monitoring mechanism				No. of Piezometers								
				Monitoring Mechanism								
				Manual			DWLR**			DWLR With Telemetry		
**DWLR - Digital Water Level Recorder:				1			1			0		

(Compliance Conditions given overleaf)

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18/11, जामनगर हाउस, मानसिंह रोड, नई दिल्ली - 110011 / 18/11, Jamnagar House, Mansingh Road, New Delhi-110011
Phone: (011) 23383561 Fax: 23382051, 23386743
Website: cgwa-not.gov.in

पानी बचाये जीवन बचाये
SAVE WATER - SAVE LIFE

(TRUE COPY)