BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

APPEAL NO. 521 OF 2025 (WZ)

IN THE MATTER OF:

SURESHBHAI JAYANTIBHAI PATEL
(PROPRIETOR OF JAY AMBE MINING AND MINERALS) ... APPELLANT

VERSUS

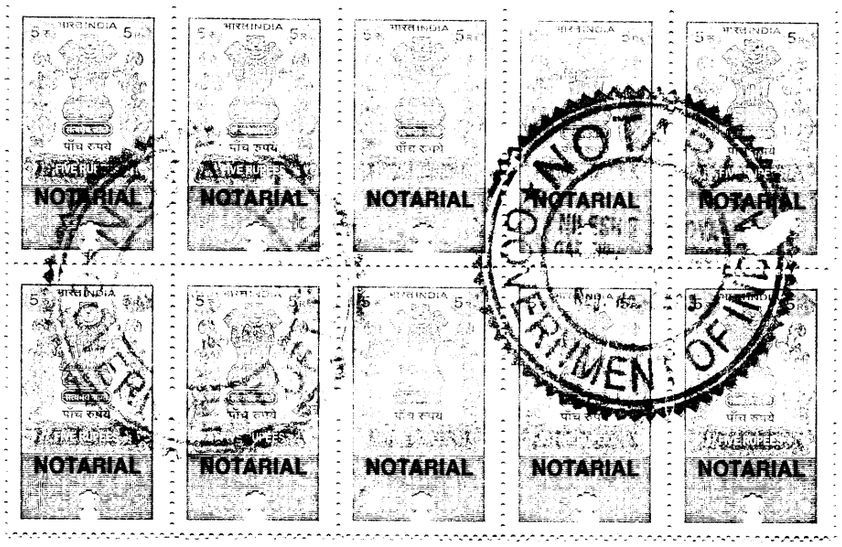
STATE ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY & ANR. ... RESPONDENT

REPORT ON BEHALF OF STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY – RESPONDENT NO. 1

I, Dipali Tank, adult, having my office at Paryavaran Bhavan, Sector 10A, Gandhinagar 382 010 in the State of Gujarat, do hereby solemnly affirm and state on oath as under:

I am presently serving as Member Secretary, Gujarat State Environment Impact Assessment Authority – the respondent no. 1 in the present appeal. I am authorized to swear the present report being filed by way of an affidavit on behalf of the Gujarat State Environment Impact Assessment Authority and am otherwise competent to make the present affidavit.

State Environment Impact Assessment Authority (SEIAA / respondent authority) reappraised the Environment Clearance, granted by District Environment Impact Assessment Authority (DEIAA), Banaskantha to the appellant in terms of the directions issued by this Hon'ble Tribunal in its order dated 7.12.2022 passed in Original Application No. 142 of 2022 [Jayant Kumar vs. Ministry of Environment, Forest and Climate Change] and in light of the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check points contained in the Office Memorandum dated 28.04.2023 issued by the Ministry of Environment, Forest and Climate Change, Government of India. SEIAA found that the environment clearance granted by DEIAA ignores the restriction put on conducting mining activity in eco sensitive zone and the many orders passed by the Constitutional Courts as well as this Tribunal on subject of ensuring strict prohibition on mining activity within eco sensitive zone surrounding a wildlife sanctuary. Accordingly, SEIAA did not approve and instead rejected the environmental clearance granted by DEIAA.

Aggrieved by the decision of SEIAA in not approving the environment clearance, a statutory appeal has been preferred by the appellant before this Hon'ble Tribunal. In the appeal, this Hon'ble Tribunal after hearing the parties passed an order on 28.07.2025 containing the following direction:

> "7. There are several other grounds mentioned in the affidavit-reply of respondent No.1 – SEIAA, but the learned counsel for SEIAA made a statement in open court that respondent No.1 – SEIAA is ready to give an opportunity of hearing to the appellants in order to provide an opportunity to demonstrate that the impugned order passed by the SEIAA suffers from any infirmity, if at all and the same may be considered at their end.
>
> 8. In view of the aforesaid statement made by learned counsel Mr. Maulik Nanavati, appearing for respondent No.1 – SEIAA, we deem it appropriate to keep these appeals pending and direct the appellants to approach respondent No.1 – SEIAA within fifteen days from the date of uploading of this order and place their grievances before the SEIAA, which shall be considered extensively by the SEIAA after giving an appropriate opportunity of hearing and thereafter, a communication shall be made to us as to what was the outcome of the hearing given to the appellants and thereafter, we will pass the appropriate orders giving an opportunity of hearing to the parties."

In terms of the aforesaid directive of this Hon'ble Tribunal, the appellant in the present appeal as well as the appellant of other appeals, which involve similar challenge and which are being heard together, appeared before SEIAA and made oral submissions.

The submissions made by the appellant(s) and the reasoning of SEIAA for not accepting the said submission are detailed hereinbelow for examination and scrutiny by this Hon'ble Tribunal:

4A. **Order dated 21.07.2020 made by National Green Tribunal, Principal Bench, Delhi in Original Application No. 304 of 2019 approving the distance criteria for mining from road or bridge or monument suggested by Central Pollution Control Board has been set aside by the Hon'ble Supreme Court of India, and the application is ordered to be heard afresh by the Tribunal after giving an opportunity of hearing to all parties. Therefore, no reliance can be placed upon the order dated 21.07.2020 of the Tribunal passed in Original Application No. 304 of 2019. Further, the suggested distance criteria by the Central Pollution Control Board cannot be said to have been approved and hence does not partake the status of "guidelines". Consequently, the same is not binding law.**

4A.1 The aforesaid submission of the appellant(s) is fallacious and suffers from an improper and rather erroneous understanding of the facts and the law.

4A.2 Central Pollution Control Board has suggested minimal distance standard for permitting stone quarrying by the State Pollution Control Boards, and the same is reproduced hereinbelow:

"6.0 Conclusion: In view of available information, following minimum distance criteria may be considered for permitting stone quarrying by SPCBs:

<table>
<tr><td colspan="2">Mining Type</td><td>Minimum Distance</td><td>Locations</td></tr>
<tr><td>A</td><td>When Blasting is not involved</td><td>100 m</td><td rowspan="3">Residential/Public buildings, Inhabited sites, Protected monuments, Heritage sites, National / State Highway, District roads, Public roads, Railway line/area, Ropeway or Ropeway trestle or station, Bridges, Dams, Reservoirs, River, Canals, Lakes or Tanks, or any other locations to be considered by States.</td></tr>
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<tr><td>B</td><td>When Blasting is involved 200 m</td><td>200 m</td></tr>
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Note: The regulations for danger zone (500 m) prescribed by Directorate General of Mines Safety also have to be complied compulsorily and necessary measures should be taken to minimise the impact on environment.

However, if any states is already having stringent criteria than the above for minor mineral mining (i.e. more prescribed distances than the above), the same shall be applicable."

4A.3 A copy of this suggested criteria was communicated to the State Pollution Control Board by letter dated 21.05.2020.

4A.4 The suggestion was also placed before the Tribunal in Original Application No. 304 of 2019. The Tribunal accepted the minimal standards suggested by the Central Pollution Control Board. This order of the Tribunal became a subject matter of challenge before the High Court of Kerala and even eventually before the Supreme Court of India. The Hon'ble Supreme Court ordered the Tribunal to pass a fresh order after hearing the parties.

4A.5 The appellant(s) are right in contending that the judicial approval given to the minimal distance criteria suggested by the Central Pollution Control Board possibly stands effaced since the matter has been remanded back to the Tribunal for passing fresh order after granting an opportunity of hearing to all the parties. Therefore, it is arguable that as on date there is no judicial sanctification of the distance criteria suggested by the Central Pollution Control Board.

4A.6 SEIAA, however, maintains that lack of judicial endorsement of the minimal standard suggested by the Central Pollution Control Board does not render the proposed or recommended parameters to be legally invalid and inoperative in law. Absence of judicial sanction only means that the suggested standards do not stand elevated to the status of binding criterion and become compulsorily applicable or obligatory, as being the declared law. Judicial imprimatur is not a precondition or a *sine qua non* for existence, recognition and acceptance of

the standards suggested by an expert body. Sans judicial nod or support, the suggested standards do not become non-existent or invalid or unworthy, either in fact or in law. The suggested standards continue to remain recommendatory, and in that sense optional. Any State Pollution Control Board can elect to adopt the proposed norm as a benchmark and apply it at its discretion. Alternatively, they continue to retain the character of being a lodestar and provide inspiration or guidance to the State Pollution Control Board to charter and prescribe own standards by taking the suggested standards as a base. There is and cannot be any legal bar to voluntary adoption or placement of reliance by the State Pollution Control Board of any metric or measure suggested or recommended by Central Pollution Control Board. As held in a series of decisions, both of the Constitutional Courts as also this Tribunal, State Pollution Control Board cannot relax the standards prescribed by the Central Pollution Control Board but can always make them more stringent in their applicability to curb possible pollution in the State. State of Gujarat has chosen not to dilute the suggested standards, but has opted to adopt the recommended criterion. If the standard suggested by the Central Pollution Control Board is accepted as it is tomorrow by the Tribunal or any other Court of Law then also the fixation by the State Pollution Control Board of similar benchmark, without dilution, will not render the criteria adopted and fixed by the State Pollution Control Board to be bad in law. If the suggested criteria is not judicially accepted or is accepted with dilution then also it is always open for a State Pollution Control Board or the local regulatory authority to fix stringent standards. Thus, on every count the decision of the regulatory authorities in the State of Gujarat to prescribe distance criteria of 200 meters from road for mining with blasting and 100 meters from road without blasting is within jurisdictional competence and otherwise reasonable and in consonance with law. The determined policy of the regulatory authorities and its applicability to the facts of the present case is not arbitrary or whimsical, and cannot be said to be unreasonable, capricious or otherwise bad in law.

4A.7 For each of the above reasons, the contention of the appellant(s) about the order dated 21.07.2020 passed by the Principal Bench of this Tribunal in Original Application No. 304 of 2019 being erased by order of the Hon'ble Supreme Court and therefore not having any existence or efficacy in the eyes

of law stand reduced to insignificance, both on facts and in law. The order dated 21.07.2020 passed by the Principal Bench of this Tribunal, or its non-existence today, will have no bearing, direct or indirect, on the applicability of the distance criteria which has been voluntarily fixed for the State of Gujarat and which also finds mention in the District Survey Report for all districts across the State of Gujarat. It is reiterated that even without there being judicial blessing to the distance criteria recommended by the Central Pollution Control Board, it always remained open for the State regulatory authority to elect / adopt any norm suggested by the Central Pollution Control Board, including by making such norm stricter, and apply it uniformly to all cases. This has been done in the State of Gujarat. No fault can be found with the fixation of distance criteria, which determination is otherwise within the competence of the regulatory authorities of the State, on any legally sustainable count, and consequently its applicability to the facts of the present case cannot be complained or faulted in law.

4B. **Notification dated 8.11.2021 notifying an area of 282.12 square kilometers to an extent varying from 0 to 3.519 kilometers around the boundary of Balaram-Ambaji Wildlife Sanctuary as the Balaram-Ambaji Wildlife Sanctuary Eco-sensitive Zone should not be taken into consideration and the environment clearance granted by DEIAA should be reappraised on the basis of factual and legal position as it existed at the time of grant of such clearance.**

4B.1 This submission of the appellant(s) is fundamentally erroneous and without legal merit as it overlooks and calls for ignoring the intent behind passing of the order dated 7.12.2022 by the Principal Bench of this Hon'ble Tribunal in Original Application No. 142 of 2022, the express language of Office Memorandum dated 28.04.2023 issued by the Ministry of Environment, Forest and Climate Change, Government of India and the change in law reflecting in the orders passed by the Hon'ble Supreme Court in the case of Re: T. N. Godavarman Thirmulpad vs. Union of India and the Notification dated 8.11.2021.

4B.2 The Hon'ble Supreme Court of India in Interlocutory Application No. 1000 of 2003 in Writ Petition (Civil) No. 202 of 1995 – In Re : T N Godavarman

Thirumulpad vs. Union of India & Ors. passed an order dated 3.06.2022 issuing certain directions, which are reproduced hereinbelow:

Later, on an application, being Interlocutory Application No. 13177 of 2022, the Hon'ble Supreme Court was pleased to modify the aforesaid directions and replace them with the below quoted directions:

The Hon'ble Supreme Court has declared that no mining activity shall be permitted within the national park or wildlife sanctuary and within the eco-sensitive zone surrounding the national park or wildlife sanctuary. The Central Government has issued notification dated 8.11.2021 notifying the eco-sensitive zone around the boundary of Balaram-Ambaji Wildlife Sanctuary. The boundary description has been given in Annexure-I to the notification, and the maps of the sanctuary demarcating the eco-sensitive zone along with boundary details and latitudes and longitudes have been given in Annexure II to the notification. Clause 4 of the notification enlists the prohibited and regulated activities within the eco-sensitive zone. Commercial mining is included in the list of prohibited activities. The notification declares that "all new and existing mining (minor and major minerals), stone quarrying and crushing units shall be prohibited with immediate effect except for meeting the domestic needs of bona fide local residents including digging of earth for construction or repair of houses within Eco-sensitive Zone".

Ideally, in view of the directions of the Hon'ble Supreme Court together with the notifications issued by the Central Government, the mining activity should have stopped with effect from 8.11.2021. Any continuance of mining activity post the publication of notification amounts to illegal mining.

4B.3 Appellant(s) have contended that the reappraisal should be performed on the basis of factual and legal position as it prevailed on the date of grant of environmental clearance to them by the DEIAA and that the prohibition, if any, of mining in eco-sensitive zone shall become appliable to cases of fresh grant of environmental clearance. There is an inherent fallacy in the submission. The dictionary meaning of the term 'reappraisal' is "the act of examining something again to see if it needs to be changed". The examination has to be undertaken pragmatically and in accordance with the extant law. Any suggestion to restrict the scrutiny by SEIAA to the availability and

sufficiency of requisite documents before DEIAA at the time of evaluation and consideration of application for grant of environmental clearance on the basis of law as it prevailed at the relevant time would be a retrograde step and render the purport and intent behind undertaking the reappraisal of the environmental clearances granted by SEIAA a mere clerical exercise and that too in futility. Such contention, as put forward by the appellant(s), would also run counter to the observations made by the Tribunal while pronouncing need for reappraisal and the check list points prescribed by the Ministry of Ministry of Environment, Forest and Climate Change, Government of India. It will also compel the regulatory authority to ignore the advancement in law and the declaration of law made by the Constitutional Courts, which ordinarily applies retrospectively. Additionally, it will militate against the objective of revisiting and re-examining the environmental clearances to ascertain whether they can be sustained in the backdrop of the current position of law. Independently, it is the duty of a statutory authority as also of the court to take notice of the change in law, more so when the change has been introduced with a view to protect the environment, ecology and biodiversity. Any intentional avoidance to implement and/or enforce the law declared by the Hon'ble Supreme Court, which is binding under Article 141 of the Constitution of India, 1950, would be contemptuous and any deliberate overlooking of the notification notifying the eco-sensitive zone and imposing restriction on carrying out mining activity in such eco-sensitive zone would amount to committing an illegality or continuing an illegality, both of which are impermissible in law.

6B.4 Even otherwise, the contention is meritless as it calls upon SEIAA, a regulatory authority, to act contrary to the law and in flagrant defiance of the judicial decisions delivered by this Hon'ble Tribunal as well as the Hon'ble Supreme Court of India

4C. **District Survey Report does not officially demarcate or delineate 'No Mining Zone'. Lease area of the appellant(s) do not fall within any such defined or outlined 'no go zone' in the report. Without therefore being any formal inclusion and designation of lease of the appellant(s) in the prohibited or restricted area in the District Survey Report, the rejection of environmental clearance is bad.**

4C.1 The submission of the appellant(s) is mischievous and misleading and in any case is without any factual or legal merit.

4C.2 Every appellant(s) is fully aware of the geographical location of his respective lease. The geographical coordinates – latitude and longitude, of the lease area are available with the appellant(s). They also find mention in the approved mining plan possessed by and available with each appellant(s), having been obtained at the relevant point of time for grant of environmental clearance from DEIAA. The notification dated 8.11.2021 issued by the Central Government notifying the eco-sensitive zone around the boundary of Balaram-Ambaji Wildlife Sanctuary gives boundary description as also the maps of the sanctuary demarcating the eco-sensitive zone together with latitudes and longitudes. The spatial location of the lease area can be easily superimposed alongside the boundary details of the eco-sensitive zone. When so do in the facts of the case, it emerges that a substantial lease area overlaps with the eco-sensitive zone.

In fact, the transgression of lease area into the eco-sensitive zone has been fairly accepted and admitted by the appellant(s) during the hearing.

5. The appellant(s), considering the irrefutable material showing that a part of their mining lease area falls in or gets covered under the notified eco-sensitive zone have made an alternative submission. They have submitted that only 15-23% of their mining area falls within the eco-sensitive zone wherein mining is prohibited in law. The remaining area of the lease is outside the eco-sensitive zone or the buffer zone and there is no restriction, much less prohibition, to carrying out commercial mining activity in and over such area. They offered to give an undertaking that they shall not conduct any fresh mining in the lease area which falls within the eco-sensitive zone, and have committed to restrict mining activity only in the permissible area. They have requested SEIAA to approve the environmental clearance granted by DEIAA with suitable modification, limiting the area of mining by excluding the lease area falling in the eco-sensitive zone.

The appellant(s) have later informed that they have initiated the process of preparing modified mining plan showing both the restricted zone and the area where

mining is legally permissible, and stated that they shall submit the same to SEIAA for granting revised environmental clearance by deducting the area of lease which falls within the prohibited or restricted zone. All the appellants have been informed by SEIAA that it does not have jurisdictional competence while undertaking reappraisal of the environmental clearance granted by DEIAA to revise the environmental clearance. Nevertheless, SEIAA has educated all the appellant(s) that it would be open for each project proponent to individually make a fresh application for grant of environmental clearance for a reduced area along with the requisite documents, including a fresh mining plan for such reduced area. Such application has to be made on PARIVESH portal. As and when such application is made, the same shall be duly considered by SEIAA in accordance with law. SEIAA has also informed that they will abide with any direction that may be issued on this aspect by the Hon'ble Tribunal.

6. For each of these reasons, the decision of SEIAA in not approving the environmental clearance granted by DEIAA is just and proper and does not call for any interference by this Hon'ble Tribunal. The appeal assailing the decision of SEIAA in rejecting the environmental clearance granted by DEIAA is meritless and the same does not deserve acceptance by this Hon'ble Tribunal. It is therefore humbly prayed that the Hon'ble Tribunal may be pleased to dismiss the appeal.

State Level Environment Impact Assessment Authority SEIAA Gujarat

Dipali Tank

DEPONENT

VERIFICATION

Verified at Gandhinagar on this 09th day of January, 2026 that the contents of the above affidavit are true and correct to the best of my knowledge and information derived from records, that nothing stated therein is false and that nothing material has been concealed therefrom.

NOTARY GOVT. OF INDIA

IDENTIFIED BY ME

ADVOCATE/PERSON NAME

DATE 09/01/26

9 JAN 2026

SIGNED BEFORE ME

NILESH R. PANDYA NOTARY GOVT. OF INDIA

9 JAN 2026

Dipali Tank

DEPONENT