

BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN BENCH AT PUNE

APPEAL NO. 3 OF 2020 (WZ)

Appeal No.4 of 2020(WZ)

Appeal No.5 of 2020(WZ)

Appeal No.6 of 2020(WZ)

And

Appeal No.7 of 2020 (WZ)

IN THE MATTER OF:

Sabarmati Majoor Kamdar Sahkari Mandli Ltd.

Appellant(s)

Versus

State of Gujarat & Ors.

Respondent(s)

With

Narendrasinh Baldevsinh Rathod.

Appellant(s)

Versus

State of Gujarat & Ors.

Respondent(s)

With

Narendrasinh Baldevsinh Rathod.

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State of Gujarat & Ors.

Respondent(s)

With

Vishnuji Panaji Vanzara

Appellant(s)

Versus

State of Gujarat & Ors.

Respondent(s)

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34 FERROZESHAW ROAD

NEW DELHI 110001

NEW DELHI

DATED: 28.09.2020

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WRITTEN SUBMISSIONS ON BEHALF OF THE APPLICANTS



MAY IT PLEASE THE HON'BLE TRIBUNAL

Written Submissions on behalf of the abovenamed Applicants are as under: -

1. That the Appellants in the captioned matter and connected matters are lease holders for sand mining near Sabarmati Riverbed. It is submitted that the Appellants after due process applied for Environmental Clearance which was rejected by State Level Environment Impact Assessment Authority (R-3) on the ground that the lease area is within 500 meters of human habitation. The Appellants are dealing with the facts of the lead matter; however, similar facts and questions arise in all connected matters.

2. The main challenge before this Hon'ble Tribunal is whether a criteria of within 500 meters is sustainable or legal in law. The following are the grounds on which the Appellants submit that rejection of EC is wrong and ought to be quashed.
 - A. **500 meters guidelines are not prescribed in Sustainable Sand Mining Guidelines 2016**
 - i) It is submitted that Sustainable Sand Mining Guidelines are exhaustive in respect to sand mining activity. Clause 49 of the Guidelines says that the mining cannot be undertaken in 200-500 infrastructure meter of bridge, 200 meter upstream and downstream water supply/irrigation scheme, 100 meters from the edge of National Highway and railway line, 50 meters from a reservoir, canal or building, 25 meter from edge of State Highway and 10 meter from edge of other roads. There is no mention of any distance from a human habitation.

 - ii) The EC granted to the Applicant earlier on 21.02.2015 (ref: 105 of Appeal) shows that EC was subject to the Appellant following the 2016 Guidelines. The Appellant has been following 2016 Guidelines

in letter and spirit. It is submitted that there is no criteria vis-à-vis human habitation in 2016 Guidelines. The State authority has not produced any document to show stipulation of 500 meter criteria for human habitation.

- iii) This Hon'ble Tribunal has in *Sudarshan Das v. State of West Bengal* O.A No. 173 of 2018 order dated 04.09.2019 ordered that safeguards of 2016 guidelines to be followed. Similarly this Hon'ble Tribunal in *National Green Tribunal Bar Association & Anr v. UOI & Ors.* O.A No. 360/2015 have noted that the State of Gujarat amongst other states is required to follow 2016 Guidelines.

B. The Enforcement & Monitoring Guidelines for Sand Mining issuing by MOEF in January 2020 are not inconsistent with the Sustainable Sand Mining Guidelines 2016.

- i) It is submitted that MOEF has cited the 2020 Guidelines in their reply dated 20.07.2020. It is submitted that there is no inconsistency between the two guidelines, and by virtue of 2020 Guidelines, the Sustainable Sand Mining Guidelines are in fact reiterated.
- ii) The 2020 Guidelines are with respect to illegal mining, whereas the present case is not that of illegal mining. The Appellants have followed due process of law to apply for EC. There is no allegation even by State Impact Assessment authority of any illegality in mining. Therefore, the Guidelines which are meant for illegal mining cannot be applied in the present case.
- iii) Moreover, the Guidelines make it clear that they are supplemental to the Sustainable Sand Mining Guidelines of 2016. The 2020 Guidelines state as follow:

“Further, this document is supplemental to the existing “Sustainable Sand Mining Management Guideline-2016” (SSMG-2016), and these two guidelines viz. “Enforcement &

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Monitoring Guidelines for Sand Mining” (EMGSM-2020) and SSMG-2016 shall be read and implemented in sync with each other.”

- iv) It is furthermore submitted Para 8.1 of the 2020 Guidelines states that LOI holder shall seek EC as per EIA notification and regulatory authority shall ensure that provisions of 2016 Sand Mining Guidelines are applicable as part of clearance conditions. It is therefore submitted that this makes it more than clear that 2016 Guidelines are paramount and ought to be considered.
- v) The 2020 guidelines also do not provide for any criteria of 500 meters fixed for human habitation in these guidelines also. The 2020 guidelines only prescribe that movement of trucks should be avoided from human habitation areas, which is not the case in the present matter.

C. Gujarat Minor Mineral Concession Rules 2017 are applicable to the Appellants.

- i) Rule 18(6) of Gujarat Minor Mineral Concession Rules also does not prescribe for 500 meters criteria vis-à-vis human habitation. It stipulates that in the event mining involves blasting then distance to be kept from any public works, roads, highway etc. is 200 meters & if no blasting is involved then distance to be kept is 50 meters. The Appellant is annexing a table of all the Applicable Rules/Regulations with the Submissions as **Annexure A**.
- ii) It is submitted that EC granted earlier to the Appellant was made subject to the GMMCR 2017. It is therefore submitted that the Appellant's mining activities can be governed by Sustainable Sand Mining Guidelines 2016 and GMMCR Rules 2017.

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- iii) Furthermore, the Respondent authority had orally relied on an order of this Hon'ble Tribunal dated 21.07.2020 in *M. Haridasan & Ors. v. State of Kerala* O.A 304 of 2019. It is submitted that this is nothing but an attempt to mislead this Hon'ble Tribunal. The said order pertains to mining in stone quarries and not sand mining, which are inherently different kind of mining activities. Moreover, the said order refers to a Report of CPCB dated 09.07.2020. The said report refers to a circular dated 31.01.2003 issued by Directorate General of Mines Safety which has been relied erroneously by the Respondent authority. This circular deals with the blasting projectiles and in that context for the safety of all concerned in open cast mines. It is submitted that **in neither of the cases of the Appellant any blasting is involved in mining. Therefore, the criteria of 500 meters in the circular dated 31.03.2003 is inapplicable.** A copy of the report of CPCB which is referred in the order dated 21.07.2020 is annexed as **Annexure B.**
- D. That in the lead matter of Sabarmati Majdoor, the Appellant has been granted EC twice, on 21.12.2015 (@pg. 105) & 03.10.2018 (@pg. 188) without any such issue being raised as to 500 meters nearest to human habitation. It is only when the case was taken up in review under Clause 8(vi) of EIA Notification 2006 that such an objection was raised, which is untenable.

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DATED: 28.09.2020

RULES AND REGULATIONS APPLICABLE TO THE APPELLANT

<p>Clause 49 of Sustainable Sand Mining Guidelines</p>	<p><i>“Protection of Infrastructure”</i></p> <p><i>Mining shall not be undertaken in a mining lease located in 200-500 Infrastructure meter of bridge, 200 meter upstream and downstream of water supply / irrigation scheme, 100 meters from the edge of National Highway and railway line, 50 meters from a reservoir, canal or building, 25 meter from the edge of State Highway and 10 meters from the edge of other roads except on special exemption by the Sub-Divisional level Joint Inspection Committee.</i></p>
<p>Rule 18(6) of Gujarat Minor Mineral Concessions Rules 2017</p>	<p><i>Duties and Obligations of Lessee:</i></p> <p><i>“The lessee shall, subject to the provisions of rule 19, have the following duties and obligations:</i></p> <p><i>(6) No mining operations in certain areas-</i> <i>Except with the written permission of the concern authority the lessee shall not carry on, or allow to be carried on, any mining operation at any point within a distance of:</i></p>

	<p>(a) fifty meters from any road (excluding a village road or other district road), notified reservoirs, canal, national highway, state highway, boundary of any railway line, public works, cities, towns, villages and other approved continuous habitations, if no blasting is involve; or</p> <p>(b) two hundred metres from any road, notified reservoirs, canal, national highway, state highway, boundary of any railway line, public works, cities, towns, villages and other approved continuous habitations, if blasting is involved.</p>
<p>Enforcement & Monitoring Guidelines for Sand Mining issued by MoEF in January 2020</p>	<p>8. <i>General Approach to Sustainable Sand Mining</i></p> <p>8.1 <i>Pre-requisite for starting sand mining operation</i></p> <p>vi) <i>The LoI holder shall seek Environmental Clearance as per the provision of EIA notification, and the regulatory authority shall ensure that the provision suggested in "Sustainable Sand Mining & Management 2016" and in this documents, as applicable are part of the clearance conditions.</i></p>

@ashu
True Copy

ANNEXURE - B

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

Principal Bench, New Delhi

In

Original Application No. 304/2019

In the Matter of: -

M. Haridasan & Ors.

Applicant (s)

Vs.

State of Kerala

Respondent(s)

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2.	Annexure-I: Distance criteria for permitting stone quarrying	
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(Nazimuddin)

Scientist 'E'

 Central Pollution Control Board
 Parivesh Bhawan, East Arjun Nagar
 Delhi-110032

Place: Delhi

Date: 9th July, 2020

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REPORT

Hon'ble NGT OA No. 304/2019 in the matter of M. Haridasan & Ors. Vs. State of Kerala observed that the Kerala SPCB has permitted stone quarrying beyond 50 m from residence and public roads, and directed the SPCB to revisit the existing criterion based on an appropriate study. Further, in its order dated-28.02.2020 the NGT noted that "a report has been filed by the Kerala State PCB on 17.12.2019 reitreating the distance criteria of 50 mtrs. and mentioning that no study is available with the CPCB", and the NGT expressed that "We are of the view, as earlier observed that the distance of 50 mtrs. for stone quarry, particularly when blasts are involved, is highly inadequate and can have deleterious effect on noise and air pollution, environment and public health.", and directed CPCB to examine and lay down more stringent conditions and appropriately longer distance within one month and convey the same to the State Boards

In compliance of Hon'ble NGT order dt.-28.08.2020, CPCB examined the matter and prepared the report on **Distance Criteria For Permitting Stone Quarrying** (Annexure I) and forwarded it to SPCBs/PCCs vide E-mail dt.-12.05.2020 due to prevalent COVID 19 conditions. Further, the report has been sent to SPCBs/PCCs by post also through letter dt.-06.07.2020.

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DISTANCE CRITERIA FOR PERMITTING STONE QUARRYING

1.0 Preamble:

Hon'ble National Green Tribunal vide order dated-28.02.2020 in the matter of M. Haridasan & Ors. Vs. State of Kerala in OA No. 304/2019 observed that a distance of 50 metres for stone quarry, particularly when blasts are involved, is highly inadequate and can have deleterious effect on noise and air pollution, environment and public health and accordingly, directed Central Pollution Control Board (CPCB) to examine and lay down more stringent conditions and appropriately longer distance.

2.0 Stone Quarrying:

Stone is classified as minor minerals under Section 3(e) of the Mines and Minerals (Development and Regulations) Act, 1957. As per provisions of MMDR Act, the administrative and legal control over minor minerals vests with State Governments and empowered to make rules to govern minor minerals.

Stone Quarrying / Mining is an activity where extraction of stone is done from hillocks or mountain or ground surface having geological mineral deposits. The stone extracted from stone quarry are used either as construction materials or in stone crushers to produce rori/bajri and dust.

Systematic Mining (formation of benches) is done by blasting and drilling, to loosen up the rock materials followed by fragmentation of large size into smaller size. The reduced size material is then loaded and transferred to stone crushers for further processing in order to obtain necessary sizes required for final use. The blasting and drilling during mining operation have environmental impacts and requires mitigation measures to minimise the impacts on environment and nearby habitations.

3.0 Minor Mineral Concession Rules

As per sub-section (1) of section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957), State Government has to make Rules for regulating the grant of quarry lease, mining lease/permit, mineral concessions and purposes connected in respect of minor minerals.

Accordingly, State Governments have framed rules and defined the criteria of minimum distance of minor mineral mining from different locations based on the type of mining used. (Annexure I).

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Minimum distance prescribed by various states is vary with respect to mining operation of minor mineral involved. In general, minimum distance prescribed by states such as Rajasthan, Madhya Pradesh, Punjab, Tamil Nadu, Orissa, Bihar, Uttar Pradesh, Himachal Pradesh, West Bengal, Sikkim, Meghalaya and Manipur are:

- In the range of **45 - 200 m** from any reservoir, canal, public works such as public roads and **buildings**
- In the range of **45 - 100 m** from any railway line / area
- In the range of **60 - 100 m** from National Highway, State Highway and other roads and **10 m** from village roads

Various states have further prescribed minimum distance based on the use of blasting in mining operation of minor mineral, as follow:

Kerala:

When blasting is involved, no mining within a range of **50 – 100 m** from the boundary line of any railway line, bridges, reservoirs, tanks, **residential buildings**, Government protected monuments, canals, rivers, public roads having vehicular traffic, any other public works or the boundary walls of places of worship whereas, when no blasting is involved, range of **50-75 m** is prescribed as minimum distance.

Karnataka, Maharashtra, Goa, Gujarat:

When blasting is involved, no mining within a distance of **200 m** from the boundary line of any railway line reservoir, tank bund, canal, or other public works and **public structures** or any public road or building whereas, when no blasting is involved, minimum distance of **50 m** is defined.

Jammu & Kashmir:

When blasting is involved, no mining within a distance of **500 m** from the outer periphery of the defined limits of a National Highway, Railway line, State Highway, Major District Roads (MDR) and Other District Road (ODRs) whereas, when no blasting is involved, minimum distance of **150 m** is defined.

Assam:

When blasting is involved, no mining within a distance of **250 m** from the outer periphery of the defined limits of any **village habitation**, National Highway, State Highway and other roads whereas, when no blasting is involved, minimum distance of **50 m** is defined.

Note: Distance criteria defined by various states, has been defined from the outer edge of the cutting or outer edge of the bank, as the case may be and in the case of a building horizontally from the plinth thereof.

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4.0 Criteria of Danger Zone: Directorate General of Mines Safety

As per Directorate General of Mines Safety circular no. - DGMS (SOMA)/ (Tech) Cir No. 2 of 2003 Dt. 31/01/2003 (Annexure II), on subject of **Dangers due to blasting projectiles**, all places within the radius of **500 m** from the place of firing to be treated as danger zone and accordingly, all person in danger zone to take protection in substantially built shelter at the time of blasting.

Further, mine manager to control the throw and to prevent ejection of flying fragments within a safe distance with the use of refined blasting practices as well as developed explosives and accessories such as controlled blasting Technique with milli-second delay detonators / electric shock tubes/ cord relays or use of sequential blasting machines or by adequately muffling of holes etc.

5.0 Criteria of no blasting distance around blast sites: Indiana Department of Natural Resource, USA

(Source: Citizen Guide to Coal Mine Blasting in Indiana)

Indiana Department of Natural Resource, USA has stated that the blasting not to be conducted within **300 feet (~ 91 m)** of an **occupied dwelling** or school, church or hospital, public building, community or institutional building.

6.0 Conclusion:

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

Mining Type		Minimum Distance	Locations
A.	When Blasting is not involved	100 m	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.
B.	When Blasting is involved	200 m **	

****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.

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Annexure I

State	Type of Mining	Distance	Location	Remarks	
Kerala	Quarry	100 m	Minimum distance from boundary of quarry operation area to residential buildings, places of worship, public buildings, public road, river or lake, railway line and bridges.	Quarry distance as per SPCB circular no. PCB/TAC/WP/236/2006 dated 13-6-2007.	
	Laterite Quarry	50 m	Minimum distance to residences and other establishments (m)	Laterite Quarry distance as per SPCB circular no. PCB/T4/115/97 dated 20-7-2011	
	Quarrying where explosives are used	100 m	Minimum distance from any railway line, bridges, reservoirs, tanks, residential buildings, Government protected monuments, canals, rivers, public roads having vehicular traffic, any other public works or the boundary walls of places of worship	Kerala Minor Mineral Concession Rules 1967	
		50 m	Minimum distance from any burial grounds or burning ghats or forest lands		
	Quarrying where explosives are not used	75 m	Minimum distance from any railway line and any bridge on National Highway		
		50 m	Minimum distance from any reservoir, tanks, canals, rivers, bridges, public roads, other public works, residential buildings, the boundary walls of places of worship, burial grounds, burning ghats or any Government protected monuments or forest lands		
Karnataka	Blasting is involved	200 m	Minimum distance from the boundary line of any railway line reservoir, tank bund, canal, or other public works and public structures or any public road or building.		Karnataka Minor Mineral Concession Rules 1994
	No blasting is involved	50 m			
Maharashtra	Blasting is involved	200 m	Minimum distance from the boundary of any railway line, any reservoir, canal, road, river, nallah, irrigation works or public works or building.	Maharashtra Minor Mineral Extraction (Development and Regulation) Rules 2013	
	No blasting is involved	50 m			
Goa and Daman & Diu	Blasting is involved	200 m	Minimum distance from the boundary of any railway line, any reservoir, canal, road or public works or buildings	The Goa, Daman and Diu Minor Mineral Concession Rules 1985	
	No blasting is involved	50 m			
Gujarat	Blasting is involved	200 m	Minimum distance from any road, notified reservoirs, canal, national highway, state highway, boundary of any railway line, public works, cities, towns, villages and other approved continuous habitations.	Gujarat Minor Mineral Concession Rules 2017	
	No blasting is involved	50 m	Minimum distance from any road (excluding a village road or other district road), notified reservoirs, canal, national highway, state highway, boundary of any railway line, public works, cities, towns, villages and other approved continuous habitations.		

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Rajasthan	Minor Mineral Mining	45 m	Minimum distance from any railway line, under or beneath any ropeway or ropeway trestle or station or from any public roads (excluding mines approach road or village roads), reservoir, canal or other public place or buildings, pillars of railway and road bridge or inhabited site.	Rajasthan Minor Mineral Concession Rules 2017
Madhya Pradesh	Minor Mineral Mining	50 m	Minimum distance from any railway line or from any reservoir, canal or other public works such as public roads and buildings or inhabited site	Madhya Pradesh Minor Mineral Rules 1996
Punjab	Minor Mineral Mining	75 m	Minimum distance from any railway line or bridges	Punjab Minor Mineral Concession Rules 1964
		60 m	Minimum distance from national highway	
		50 m	Minimum distance from any reservoir tank canal roads or other public works or buildings or inhabited sites	
Tamil Nadu	Minor Mineral Mining	50 m	Minimum distance from any railway line or under or beneath any ropeway or any ropeway trestle or station or from any reservoir, canal or other public works such as public roads and buildings	Tamil Nadu Minor Mineral Concession Rules 1959
Orissa	Minor Mineral Mining	100 m	Minimum distance from any railway line, National Highway, late Highway or any reservoir	Orissa Minor Minerals Concession Rules 2004
		50 m	Minimum distance from any tank, canal, road (other than a National or State Highway or other public works of buildings or inhabited sites), public roads, public buildings, temples, reservoirs, dams, burial ground, railway track monuments, heritage sites, etc.	
Chhattisgarh	Minor Mineral Mining	300 m	Minimum distance from sensitive area like radio station, doordarshan kendra, defence establishment etc. of the Central and State Government	Chhattisgarh Minor Mineral Rules 1996
		100 m	Minimum distance from abadi, school, hospital and other public places, buildings and habited sites	
		75 m	Minimum distance from any railway line, bridge or highway	
		50 m	Minimum distance from tank, river banks, reservoir, canal	
		10 m	Minimum distance from grameen kachcha road	
Bihar	Minor Mineral Mining	50 m	Minimum distance from any railway line or from any reservoir, public road, canal or other public work or buildings or inhabited site	Bihar Minor Mineral Concession Rules 1972
		10 m	Minimum distance from any village roads	
Uttar Pradesh	Minor Mineral Mining	50 m	Minimum distance from any railway line or from any reservoir, canal or other public works, such as public roads and buildings or inhabited site	Uttar Pradesh Minor Minerals (Concession) Rules 1963
		10 m	Minimum distance from any village roads	
Himachal Pradesh	Minor Mineral Mining	75 m	Minimum distance from any railway line or bridges	Himachal Pradesh Minor Minerals (Concession) Revised Rules 1971
		60 m	Minimum distance from National Highway	
		50 m	Minimum distance from any reservoir, tank, canal, roads or other public works or buildings or inhabited sites	
		50 m	Minimum distance for all type of mining from any river banks (except in cases of ordinary sand)	

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Jammu & Kashmir	Mining where excavation require use of explosives	500 m	Minimum distance from outer periphery of the defined limits of a National Highway, Railway line, State Highway, Major District Roads (MDR) and Other District Road (ODRs)	Jammu & Kashmir Minor Mineral Concession Rules, 1962
	Mining where excavation does not require use of explosives	150 m	Minimum distance from outer periphery of the defined limits of a National Highway, Railway line, State Highway, Major District Roads (MDR) and Other District Road (ODRs)	
	Minor Mineral Mining	100 m	Minimum distance from any other public roads	
		50 m	Minimum distance from upstream as well as downstream of water works, head works or hydraulic works as defined under the J&K Water Resources (Regulation and Management) Act, 2010.	
		25 m	Minimum distance from any 'embankment' or 'flood embankment' as defined under the J&K Water Resources (Regulation and Management) Act, 2010.	
West Bengal	Minor Mineral Mining	5000 m	Minimum distance from a barrage axis or dam or a river	West Bengal Minor Minerals Rules 2002
		200 m	Minimum distance from any hydraulic structure, reservoir, bridge, canal, road and other public works or buildings	
		200 m	Minimum distance from both sides of any river bridge or culvert over any waterway or from any embankment and structural works of the Irrigation and Waterways Department	
		100 m	Minimum distance from any Railway land	
Sikkim	Minor Mineral Mining	60 m	Minimum distance from bridges oh highways	Sikkim Minor Mineral Concession Rules 2016
		50 m	Minimum distance from any railway line or any reservoirs, canals or other public works, or buildings	
Assam	Mining where excavation require use of explosives	250 m	Minimum distance from the outer periphery of the defined limits of any village habitation, National Highway, State Highway and other roads	Assam Minor Mineral Concession Rules 2013
	Mining where excavation does not require use of explosives	50 m	Minimum distance from outer periphery of the defined limits of any village habitation, National Highway, State Highway and other roads	
	Minor Mineral Mining	500 m	Minimum distance from major structures like R.C.C. bridges, Guide bund etc.	
75 m		Minimum distance from any railway line or bridges		
Meghalaya	Minor Mineral Mining	50 m	Minimum distance from any railway line or under or beneath any rope way or any ropeway trestle or station, or from any reservoir, canal or other public works such as public roads and buildings or inhabited site	Meghalaya Minor Mineral Concession Rules 2016
		10 m	Minimum distance from any village roads	
Manipur	Minor Mineral Mining	50 m	Minimum distance from any reservoir, canal or other public works, or buildings.	Manipur Minor Mineral Concession Rules 2012

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No.DGMS (SOMA)/(Tech)Cir.No.2 of 2003

Dhanbad, Dated the 31st January 2003.

To All Owners, Agents & Managers of mines.

Subject: Dangers due to blasting projectiles.

Accidents due to projectiles ejecting from blasting had been a major source of accident in both below ground and opencast workings. Under the existing provisions of Coal Mines Regulations, 1957 and the Metalliferous Mines Regulations, 1961, before a shot is charged, stemmed or fired the shotfirer/blaster is required, amongst other things to ensure that all persons within a radius of 300m from the place of firing (referred to hereinafter as danger Zone) have taken proper shelter, apart from giving sufficient warning by efficient signals or other means approved by the manager over the entire zone. There had been, however, a number of instances where flying fragments due to blasting had ejected not only within but also beyond the danger Zone, resulting into serious and even fatal accidents.

This Directorate from time to time had drawn the attention of all concerned about the dangers from flying projectiles through issue of DGMS Circulars Viz. Circular Tech. 15/1977 and 8/1982. Recently, however, another fatal accident occurred due to same reason.

Enquiry into the accident revealed that in an open cast coal mine, overburden had been kept dumped against the free face of OB bench. 12 No. first row of holes were left uncharged because of spontaneous heating in the seam below, 17 holes of 150mm 6.5m Depth drilled in 7m x 5m Pattern (spacing & burden) charged with 75 kg/hole and 42 holes of 6.5m depth 250mm dia drilled in 6m x 6m pattern charged with 130 kg/hole were blasted. The projectiles ejected due to blasting travelled for a distance of about 412m in the reverse direction away from the free face and hit a mechanical supervisor. The enquiry further revealed that the deceased had taken proper shelter in a blasting shelter but had come out of the shelter immediately on hearing to the sound of blast and was subsequently hit by the projectiles.

Over years there had been refinement of blasting practices as well as development in explosives and accessories, whereby it is possible to control the throw and prevent ejection of flying fragments within a safe distance, with relative ease. There is, therefore, no reason why such type of accident should continue to occur.

The matter is brought to your attention so that following corrective measures are taken in case similar conditions exists in any mine under your control.

(1) In the interest of safety to treat all the places within a radius of 500m of the place of firing as the danger zone, all persons who are required to remain within the danger zone at the time of blasting should take protection in substantially built shelter.

(2) Formulate a code of practice for controlled blasting Technique with mill-second delay detonators/ electric shock tubes/ cord relays or use of sequential blasting machines or by adequately muffling of holes including precautions to be taken during blasting operation until all clear signal given by blaster.

(3) Training of persons and their helpers engaged in such blasting operation.

(Dashrath Singh)
Director-General of Mines Safety.

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केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

E-Mail

No. CPCB/IPC-II/NGT-OA 304 of 2019/2020/

May 12, 2020

To,

The Member Secretary,
State Pollution Control Boards / Pollution Control Committees,
(As per list enclosed)

Sub.: In reference to Hon'ble NGT OA No. 304/2019 order dated-28.02.2020-reg.

Sir/Ma'am,

Hon'ble NGT in its order dated-09.10.2019 in OA No. 304/2019 observed that the Kerala SPCB has permitted stone quarrying beyond 50 m from residence and public roads, and directed the SPCB to revisit the existing criterion based on an appropriate study. Further, in its order dated-28.02.2020 the NGT noted that "a report has been filed by the Kerala State PCB on 17.12.2019 reitreating the distance criteria of 50 mtrs. and mentioning that no study is available with the CPCB", and the NGT expressed that "We are of the view, as earlier observed that the distance of 50 mtrs. for stone quarry, particularly when blasts are involved, is highly inadequate and can have deleterious effect on noise and air pollution, environment and public health.", and directed CPCB to examine and lay down more stringent conditions and appropriately longer distance within one month and convey the same to the State Boards.

Accordingly, in compliance of Hon'ble NGT Order dt.-28.02.2020 in OA No. 304/2019, CPCB has examined the matter and prepared a report on **Distance Criteria for Permitting Stone Quarrying**, which is enclosed for consideration and adoption by SPCB in consent mechanism.

Yours faithfully,

Nazimuddin
12/5/20

(Nazimuddin)

Additional Director &
Divisional Head - IPC - II

Encl.: As above

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SPCBs / PCCs	E-mails
Andhra Pradesh State Pollution Control Board D. No. 33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalamvari Street, Kasturibaipet, Vijayawada – 520 010 Andhra Pradesh	membersecy@appcb.gov.in
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Daman, Diu & Dadra Nagar Haveli Pollution Control Committee Office of the Deputy Conservator of Forests, Moti Daman, 396220 Daman	mppcc_dmn@pccdaman.in
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Item No.04

Court No. 1

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

Original Application No. 304/2019

(With report dated 17.12.2019)

M. Haridasan&Ors.

Applicant(s)

Versus

State of Kerala

Respondent(s)

Date of hearing: 28.02.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Respondent(s): Mr. Jogy Scaria, Advocate and Mr.
Keerthipriyan, Advocate for Kerala SPCB
Mr. Nishe Rajen Shonker, Advocate for State
of Kerala
Mr. Rajkumar, Advocate for CPCB

ORDER

1. Issue for consideration is the safeguards in operation of stone quarries close to residence and public roads. At present, the Kerala State PCB has permitted the stone quarry beyond 50 mtrs. from residence and public roads. This Tribunal vide order dated 09.10.2019 considered the matter and observed:

“3. We find that the environmental norms require assessment of impact of such activities and mere distance of 50 mtrs. By itself is not enough to dispense with such norms. In absence of any study, any stone quarry near the residence and public road is bound to cause air and noise pollution even beyond 50 mtrs. In this regard, reference may be made of observations in the judgments of the Hon'ble Supreme Court in *M.C. Mehta v. Union of India*, (1996) 8 SCC 496 and *Mohammed Haroon Ansari v. District Collector, Ranga Reddy District*, (2004) 1 SCC 491. In granting EC, this

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consideration has to be kept in mind in view of the fact that clean and safe environment is a part of right to life.

4. *Accordingly, we direct State PCB to revisit the existing criteria based on an appropriate study. CPCB may give its view in the matter to the State PCB within two weeks in light of available expert studies on the subject. The State PCB may furnish its action taken report in the matter by e-mail at judigical-ngt@gov.in before the next date."*
2. Accordingly, a report has been filed by the Kerala State PCB on 17.12.2019 retreating the distance criteria of 50 mtrs. and mentioning that no study is available with the CPCB.
3. We are of the view, as earlier observed that the distance of 50 mtrs. for stone quarry, particularly when blasts are involved, is highly inadequate and can have deleterious effect on noise and air pollution, environment and public health.
4. In view of above, we direct the CPCB to examine and lay down more stringent conditions and appropriately longer distance within one month and convey the same to the State Boards. The State Board may take further action accordingly. Compliance reports be filed before the next date by email at judicial-ngt@gov.in.

List again on 08.05. 2020.

Adarsh Kumar Goel, CP

Dr.Nagin Nanda, EM

Siddhanta Das, EM

February 28, 2020
Original Application No. 304/2019
AK

Adarsh
True Copy

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