

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH AT BHOPAL (MADHYA PRADESH)**

**(Through Video Conferencing)
APPEAL NO.26/2022(CZ)**

IN THE MATTER OF:

- 1. KANHAI RAM PATEL**
S/o Shri Udenath Patel
R/o House No. 43, Sarasmal,
Raigarh Libra,
Chhattisgarh – 496107
- 2. PREMASHILA RATIYA**
S/o Shri Jyaram Ratiya,
R/o House No. 67, Bandhapali, Tamnar,
Pata Raigarh Dolesara,
Chhattisgarh – 496111
- 3. NARAD**
S/o Shri Balluram,
R/o H No. 39/3, Libra Tamnar
Raigarh,
Chhattisgarh – 496107
- 4. RINCHIN**
D/o Shri Bina,
R/o Village Sakta, Post Milupara
Tehsil Tamnar,
District Raigarh,
Chhattisgarh – 496107

...Appellant(s)

Versus

- 1. UNION OF INDIA**
Ministry of Environment, Forest & Climate Change
Through its Secretary
Indira Paryavaran Bhavan
New Delhi-110003
- 2. CHHATTISGARH ENVIRONMENT CONSERVATION BOARD**
Through its Member Secretary,
Paryavas Bhavan,
North Block, Sector – 19,
Naya Raipur,
Chhattisgarh-492002
- 3. STATE OF CHHATTISGARH**
Through its Chief Secretary,
Mahanadi Bhawan, Mantralaya,
Naya Raipur-492002

4. MAHARASHTRA STATE POWER GENERATION COMPANY LIMITED

Though its CGM,
4th Floor A-Wing HDIL Tower,
Bandra East, Mumbai,
Maharashtra-400051

...Respondent(s)

Counsel for Appellant(s):

Ms. Rinchin, applicant in person

Counsel for Respondent(s):

Mr. Om Shankar Shrivastava, Advocate for R-1
Mr. Abhinay, Ms. Sakshi Jain and
Ms. Parul Khurana, Advocates for R-2 (CECB)
Mr. Pinaki Misra, Senior Advocate alongwith
Mr. Dhruv Sharma, Advocate for R-4

CORAM:

**HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

**RESERVED ON: AUGUST 03, 2023
PRONOUNCED ON: JANUARY 15, 2024**

SYNOPSIS

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JUDGMENT

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

1. This Appeal under Section 16(h) of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act 2010**') has come up against Environmental Clearance (hereinafter referred to as '**EC**') dated 11.07.2022 issued by Government of India, Ministry of Environment, Forest and Climate Change (hereinafter referred to as '**MoEF&CC**') to M/s Maharashtra State Power Generation Company Limited (hereinafter referred to as '**MSPGCL**') i.e., respondent 4 for mining at Gare Palma, Sector-II, Coal Mine Project of Open Cast, 22.0 Metric tonne per annum (hereinafter referred to as '**MTPA**') + Under Ground - 1.6 MTPA capacity in mining lease area of 2583.48 hectares located in villages Tihli Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopalli, Pata, Chitwali, Dholnara, Jhinka Bahal, Dolesara, Bhalumura, Sarasmal and Libra, Tehsil-Gharghoda, District Raigarh (State of Chhattisgarh).

2. Appeal has been preferred by four appellants namely Kanahi Ram Patel, Premashila Ratiya, Narad and Ms. Rinchin.

3. Appellant 4 i.e., Ms. Rinchin has appeared before Tribunal and argued in person.

4. MSPGCL submitted a proposal no. IA/CG/CMIN/52019/2016 seeking EC under Environment Impact Assessment Notification dated 14.09.2006 (hereinafter referred to as '**EIA 2006**') for mining of coal, covered under Category 'A' of item 1(a) "Mining of Minerals" in the Schedule of EIA 2006, to MoEF&CC. Coal mining was proposed in a total lease area of 2583.48 hectares falling in various villages of Tehsil-Gharghoda, District Raigarh (State of Chhattisgarh). The proposal document furnished following information, in brief, as under:

“51.4.2 Details of the proposal, as ascertained from the proposal documents and as revealed from the discussions held during the meeting, are given as under:

- (i) The project area is covered under Survey of India Topo Sheet NoF44L7 F44L8 F44L11 F44L12 and is bounded by the geographical coordinates ranging from latitude 22°06'24.215" N to 22°10'49.891" N and longitudes 83°26'15.433" E to 83°31'12.632" E.
- (ii) **Coal linkage of the project is proposed for captive use for various thermal power plants of Mahagenco namely Chandrapur Thermal Power Station Unit 8 & Unit 9 (1000 MW), Koradi Thermal Power Station Unit 8, Unit 9 and Unit 10 (1980 MW), Parli Thermal Power Station Unit 8 (250 MW).**
- (iii) Joint venture cartel has been formed –Not applicable.
- (iv) Project does not fall in the Critically Polluted Area (CPA), where the MoEF&CC’s vide its OM dated 13th January, 2010 has imposed moratorium on grant of environment clearance.
- (v) Employment generation, direct employment to 3400 persons will be provided from the project.
- (vi) The project is reported to be beneficial in terms of-Coal from this project will be used in power generation in Maharashtra, which will help in reducing gap in demand and production of electricity in the State, based on the requirement of the people of the project area, the development activities will be taken up. The basic requirement of the community will be strengthened by extending health care, educational facilities, providing drinking water to the villages affected, building/ strengthening of existing roads in the area etc.
- (vii) **Total mining lease area as per block allotment is 2583.48 ha.** Mining Plan (Including Progressive Mine Closure Plan) has been approved by the Ministry of Coal on 12.08. 2016.
- (viii) The land usage pattern of the project is as follows:

Pre-mining land use details

(Area in Ha)

S.No.	LAND USE	Within ML area (ha)	Outside ML Area (ha)	TOTAL
1.	Agricultural land	2077.618	NIL	2077.618

2.	Forest land	214.869	NIL	214.869
3.	Wasteland	NIL	NIL	NIL
4.	Grazing land	NIL	NIL	NIL
5.	Surface water bodies	56.167	NIL	56.167
6.	Settlements	90.328	NIL	90.328
7.	Others (non-agriculture & Govt. land)	144.505	NIL	144.505
	Total	2583.487	NIL	2583.487

Post Mining

Post Opencast Mining land use (upto 32nd year)

S. No	Description	Bund	Void	Public Use	Company Use	Un-disturbed/	Plantation / Agriculture incl. Green Belt	Total
1	Backfill (Excavation)	-	-	-	-	-	2440.55	2440.55
2	Void/ water body	-	-	-	-	-	-	0.00
3	Surface Dump	-	-	-	-	-	-	0.00
4	Bund	5.2	-	-	-	-	-	5.20
5	Green Belt	-	-	-	-	-	36.07	36.07
6	TS Dump	-	-	-	-	-	-	0.00
7	Settling pond	-	5	-	-	-	-	5.00
8	Road diversion	-	-	30.3	-	-	-	30.30
9	Facilities retained	-	-	-	-	50.94	-	50.94
10	Under Kelo river	-	-	-	-	15.42	-	15.42
11	Undisturbed (others)	-	-	-	-	-	-	0.00
	Total	5.2	5	30.3	-	66.36	2476.62	2583.48

(ix) Total geological reserve reported in the mine lease area is 1059.29 MT with 781.78 MT mineable reserve. Out of total mineable reserve of 781.78 MT, 655.15 MT are available for extraction. **Percent of extraction is 83.8%.**

- (x) *I Bottom seam to X Bottom seams (in 18 Horizons) with thickness ranging from 0.5m - 8.39 m are workable. Grade of coal is G1 - G16 (Both OC and UG), stripping ratio 4.99 Cum/t, while gradient is 1 in 20.*
- (xi) *Method of mining operations envisages by- there are two mining methods viz. Opencast (OC) and Underground (UG) method.*
- (xii) **Life of mine is total 77 years** (*Life of OC mine - 29 years and UG mine - 66 years starting from 12th year onwards*).
- (xiii) The project has one external OB dumps in an area of 450 ha with 90 m height and 221.17Mm³ of OB. External OB Dumps shall be re-handled and backfilled in 29th to 32nd year. The OB from the current mining operations shall be backfilled from 6th year onwards. Two internal OB in an area of 2440.55 ha with 2761.12 Mm³ of OB is envisaged in the project.**
- (xiv) *Total quarry area is 2440.55ha out of which backfilling will be done in 2440.55 ha while final mine void will be created in an area of 0 ha with a depth of 0 m. Backfilled quarry area of 2440.55 ha shall be reclaimed with plantation. Final mine void will be converted-No final void, only 5 ha of settling pond will be converted in to water body.*
- (xv) Transportation of coal has been proposed by dumpers in mine pit head, from surface to siding by dumpers and at sidings by appropriate loading system.**
- (xvi) *Reclamation Plan in an area of 2476.62ha, comprising of 0 ha of external dump, 2440.55 ha of internal dump and 36.07 ha of green belt. In addition to this, an area of 0 ha, included in the safety zone/rationalization area, has also been proposed for green belt development.*
- (xvii) *214.869 ha of forest land has been reported to be involved in the project. Approval under the Forest (Conservation) Act, 1980 for diversion of 214.869 ha of forest land: **Application for obtaining Forest Clearance has been submitted vide letter dated 26.07.2016**, Proposal no. FP/CG/MIN/20495/2016. Forest clearance under process at State level.*
- (xviii) *No National Parks, Wildlife Sanctuaries and Eco-Sensitive Zones have been reported with 10 km boundary of the project.*

- (xix) *The ground water level has been reported to be varying between 4.67 to 12.34 m during pre-monsoon. Total water requirement for the project is 2785KLD.*
- (xx) *Application for obtaining the approval of the Central Ground Water Authority for 2785 KLD has been submitted on 05th December 2017.*
- (xxi) ***Public hearing for the project of 23.60 MTPA capacity in an area of 2583.48 ha was conducted on 27th September, 2019 at Village-Dolesara, District-Raigarh, Chhattisgarh.*** *Major issues raised in the public hearing include health, education, employment, compensation to land losers, drinking water etc. Appropriate action to address the issues raised in the Public Hearing have already been taken/proposed in EIA/EMP.*
- (xxii) Kelo River/nalla is flowing north to south through the south eastern part of the boundary of lease. Kelo will remain untouched and hence no river/nalla diversion involved.***
- (xxiii) *One court case filed vide writ petition no. 92 of 2019 by Mr. Chinmay Mohapatra is pending in Hon'ble High Court of Bilaspur.*
- (xxiv) *The project involves 2245 project affected families. R&R of the PAPs will be done as per LARR 2013.*
- (xxv) *Total cost of the project is Rs 764200 lakhs. Cost of production is Rs.930 per tonne. CSR cost is 2% of the average net profit of the company made during three immediately preceding financial years shall be spent on CSR activities, R&R cost is Rs. 2435 crores. Environment Management Cost is Rs. 1484.53 crores has been allocated under EMP budget in which 1027.66 crores for Progressive Closure and 456.87 Crores for Final Closure of Mine.”*

5. Terms of Reference (hereinafter referred to as **‘TOR’**) was granted by MoEF&CC on 08.08.2016 and extension of validity of TOR was also granted on 05.08.2019 for a period of one year. Public hearing was conducted on 27.09.2019.

6. The proposal was appraised by Expert Appraisal Committee (hereinafter referred to as **‘EAC’**) for environmental appraisal of coal

mining projects constituted under EIA 2006 in its 51st meeting held on 05.12.2019 vide Agenda No. 51.4.

7. EAC deliberated over the project and recorded its observations in para 51.1.4 of minutes of the 51st meeting held on 05.12.2019.

8. EAC decided to return proposal in the form as it was before it and asked for clarification/inputs on various aspects mentioned in the minutes.

9. Project Proponent (hereinafter referred to as '**PP**') i.e., respondent 4 submitted compliance/replies to the observations of EAC, giving details in Form-II. The said compliances/replies, as tabulated, are as under:

S. N.	Observations of EAC in 51st EAC Meeting	Compliance / replies of Project Proponent
1	<i>The EIA report to be revised as per the terms of reference granted for the project, and shall conform to Appendix III of the EIA Notification, 2006.</i>	<i>EIA report has been revised</i> as per the terms of reference granted for the project and as per Appendix III of the EIA Notification 2006 and subsequent EAC meetings observations.
2	<i>Stage-I FC for forest land of 214.869 ha for diversion of non-forestry activity shall be submitted.</i>	<ul style="list-style-type: none"> ▪ <i>Application for obtaining forest clearance submitted vide letter dt 26.07.2016, proposal no FP/CG/MIN/20495/2016.</i> ▪ <i>All requirements with regards to FC stage 1 application is completed, except CA land identification.</i> ▪ <i>All activities in processing the application for grant of FC Stage-I has been completed and the relevant documents have been submitted to DFO office on 16.05.2020.</i> <p><i>File will be recommended by DFO to CCF shortly for further onwards approval.</i></p>

3	Form#2 on Parivesh should be filled with all details and correct information.	Form#2 on Parivesh has been filled with all details and correct information and updated in Parivesh portal.
4	Copy of Agreement for supply of power shall be uploaded on Form#2	Chhattisgarh State Power Distribution Co. Ltd., Raipur vide its Letter No. 02-02/SE (HT)/RGH-327/373 dt 29.05.20 has agreed to provide 23 MVA power supply (Annexure 2 of EIA Report)
5	Approval of Wild Life conservation from concerned statutory authorities	<p>Wildlife conservation plan submitted (Annexure 3 of the EIA Report) to DFO on 14.11.2019.</p> <p>DFO recommended the WCP to CCF on 24.01.2020</p> <p>CCF recommended the WCP to PCCF on 20.02.2020 (Annexure 4 of the EIA report).</p> <p>The WCP report is enclosed as Annexure 24 of the EIA report.</p> <p>The budget of Rs 488.50 Lakhs for conservation of wild life is provided during the period of 5 years (2020-21 to 2025-26).</p>
6	One month of baseline data as the given data is almost 3 years old and validity of baseline data is about to expire as per Ministry's OM shall be collected.	Additional 3 months baseline data (Nov 2019 to Jan 2020) has been collected and the same is incorporated in the revised EIA report
7	Hydrological Study and impact of mining activity on hydrology shall be submitted from the expert agency.	Hydrology study and embankment design was carried out by Min Mec Consultancy Pvt Ltd., New Delhi The report is at Annexure 5 in the EIA report.

8	<p>Permission for extraction of groundwater from CGWA shall be obtained</p>	<p>NOC for ground water abstraction obtained from CGWA, New Delhi Vide Lr no.CGWA/NOC/MIN/ORIG/2020/7943 dated 03.07.2020. The sanctioned water quantity is 1454 m³/day (Annexure 6 of EIA report)</p>
9	<p>Permission for usage of surface water i.e. from kelo river (as proposed for initial 3 years) for mining operation/ domestic purposed shall be obtained from concerned statutory authority</p>	<ul style="list-style-type: none"> ➤ Application for construction of annicut for water withdrawal from Kelo River submitted to Executive Engineer on 23.01.2020 (Annexure 8 of the EIA Report) and request for water availability was submitted on 26.05.2020 ➤ Executive Engineer, Kelo Pariyogna Sarvekshan Sambhag, Raigarh, approved the same on 26.05.2020 (Annexure 9 of the EIA Report). ➤ Executive Engineer also confirmed that 6000 m³/day water is available for MAHAGENCO.
10	<p>Carrying capacity of the area shall be carried considering the presence of the other coal mines and mitigation measures shall be proposed accordingly.</p>	<ul style="list-style-type: none"> ▪ Carrying capacity study of the area has been carried out for Gare Palma Sector II coal mine and its surroundings. ▪ There are 14 coal mines and 2 Thermal Power Plants in the study area. ▪ In all, 6 coal mines are in operation, 4 coal mines are not working and 4 coal mines are proposed and 2 TPPs are in operation.
11	<p>Mining Lease or Letter of Intent for the project area shall be submitted by PP from concerned state government authorities.</p>	<ul style="list-style-type: none"> ➤ Mining lease application submitted on 08.12.2015 (Annexure 11 of EIA Report), ➤ Ministry of Coal has granted previous approval for mining lease

		<p>vide its letter dated 20.02.2018 (Annexure 12 of the EIA Report).</p> <ul style="list-style-type: none"> ➤ Further, State Government has issued Letter of Intent for mining lease vide letter dated 24th February 2020. ➤ Lease agreement will be executed after obtaining EC/FC from MOEF&CC as mentioned in letter of State Government dated 24th February 2020. ➤
12	Compliance of issues raised during Public Hearing shall be submitted with certain timeline and allocation.	Compliance of issues raised during Public Hearing were addressed adequately.
13	Social Impact Assessment Study for the proposed displacement of Tribals/SC/ST.	<ul style="list-style-type: none"> ➤ Social Impact Assessment report for the proposed displacement of Tribals/SC/ST prepared by Greenc india Consulting Private Limited (Annexure 13 of the EIA Report) ➤ R & R plan based on SIA report is approved by Chhattisgarh Government vide letter dated 06.03.2020 (enclosed approval Letter Annexure 13a of the EIA Report). ➤ The mine lease area is falling under 14 villages and out of which 8 villages are going to be displaced and the other 6 villages/settlements/habitations are not going to be displaced (only land area is affected partially). ➤ Project Displaced population (PDP) and project affected population (only land oustees) is 7063 & 2574 respectively out of this 55.81% & 47.92% are ST

		<p>and 8.15% & 4.01% are SC respectively.</p> <ul style="list-style-type: none"> ➤ R&R package towards land cost payment is Rs 2435 Crores, however R&R entitlement and cost will be finalized by the District Administration
14	Impact of mine drainage and diversion of nallah based on quality and quantity (inflow of river).	<p>Impact of mine drainage and diversion of nallah based on quality and quantity is covered in Hydrology study and embankment design report prepared by Min Mec Consultancy and enclosed as Annexure 14 of EIA</p> <ul style="list-style-type: none"> ➤ Kelo river will not be diverted due to the prevailing topography, shape of the block and presence of other coal blocks all around. ➤ Flow in Kelo river, reduction is 0.8%, low impact is envisaged on downstream water balance.
15	Details of hazardous waste generation (if any) during mining operations and Further handling/disposal shall be provided in details.	<p>The major types of hazardous waste and biomedical waste generated from the proposed mining activities are as follows.</p> <ul style="list-style-type: none"> ➤ Hazardous wastes like used oil barrels, waste oil barrels, used transformer oil barrels, scrapped batteries, empty oil and grease drums shall be handled and disposed off in accordance with the procedure laid down in HWM Rules. ➤ Used oil, spent oil, batteries shall be disposed-off to the recyclers having valid registration from CPCB/CECB for recycling or recovery. <p>Empty oil & grease barrels shall be detoxified prior to their disposal to outside agencies</p>
16	Impact on villages due to mining activity	Anticipated impacts on the surrounding villages (present in vicinity of Mine Lease

	present in core zone (not Proposed to be displaced) shall be provided.	Area) and mitigation measures has been submitted during presentation
17	The activities and fund provisions for CER shall be made as per the guidelines issued by the ministry regarding CER on 1 st May, 2018.	Project cost is Rs. 7463 Crores CER budget proposed is Rs 45.35 Crores as per the MoEF&CC OM dt 1st May, 2018
18	Clarification from DFO/PCCF whether there is any presence of Elephant Corridor or movement of elephants in the region.	<ul style="list-style-type: none"> ➤ DFO clarified that there is no presence of Elephant Corridor for movement of elephants in the project area (letter dated 05.03.2020) ➤ As per DFO letter movement of elephants is approximately 6 km away from the project boundary
19	Impact of mine drainage on kelo river shall be submitted in detail.	<ul style="list-style-type: none"> ➤ The core area (coal block) has two catchments, western side of Kelo river is catchment area of Nala “A” tributary to Pajhar Nadi, eastern side of Kelo river is Karnara Nala conveys storm water from hills on eastern side to Kelo river. ➤ Based on the annual flood peak series of Kelo river observed at Kelo G&D station (Latitude 21°53’47”, longitude 83°24’22”) the flood peaks of Kelo with return period of 50 yrs and 100 yrs have been estimated using statistical method i.e. flood frequency method and the values of the flood peaks works out as 1357 cumecs and 1522 cumecs, respectively and peaks are increased by an order of 10% for embankment. The 50 years and 100 years return period peaks thus work out as 1493 cumecs and 1674 cumecs respectively.

20	<p>Detailed Traffic impact assessment/study for road transportation of coal to linked Railway Siding / Power Plant shall be conducted</p>	<ul style="list-style-type: none"> ➤ In case of the development of Bhalumuda station of CERL as well as extension of railway connectivity to GPII block gets delayed, the mined coal shall be transported from mine to nearest operational railway head by road and from there by rail to Koradi Thermal Power Station. ➤ At present the nearest operational Railway siding is Gharghoda station of CERL. Gharghoda Railway siding has been notified and opened for Rail traffic on 21.02.2020. ➤ From GP-II mine by road distance of Gharghoda siding is about 35 Kms. ➤ The access will require developing of about 4 Kms within Mine road to touch the Milupara- Tamnar ODR. ➤ The route to Gharghoda Railway siding is GP-II Mine-Gare-Hukradipa-Tamnar-Punjipatra-Bhalumuda- Gharghoda by-pass-Gharghoda siding. ➤ The entire road is two way black top road in good condition. The Coal transportation trucks already ply via this road. ➤ The traffic studies have been conducted to know the prevailing traffic volumes on the existing roads. ➤ The existing baseline scenario of NOx levels are 36 $\mu\text{g}/\text{m}^3$. After implementation of project, the predicted contribution of NOx is 8.3$\mu\text{g}/\text{m}^3$ and future predicted baseline value of NOx is 44.3$\mu\text{g}/\text{m}^3$ which is within the prescribed standards.
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		<ul style="list-style-type: none"> ➤ <i>The existing baseline scenario of CO levels is recorded 2700 µg/m³. After addition of predicted traffic the predicted line source values is 2.7 µg/m³ and the future predicted baseline value is 2702.7 µg/m³. Which is within the prescribed standards (4000 µg/m³-One hour).</i> ➤ <i>However, Incremental air emissions are limited only upto a stretch of 30 m on either side of the approach road.</i> <p><i>The transportation/evacuation of coal during initial years will be via roadways, once the railway line completed, then the 100% coal evacuation will be done through rail only</i></p>
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10. EAC re-considered proposal in its 2nd meeting held on 28th - 29th September, 2020 vide Agenda no. 2.1. In the minutes, Committee has noted deliberations of the proposal on various aspects as under:

“2.1.2 *During deliberations on the proposal, the Committee also noted the following: -*

The proposal is for Environment Clearance for Gare Palma Sector II Coal Mine Project of Open Cast 22.0 MTPA + Under Ground-1.6 MTPA capacity in mine lease area of 2583.48 ha by M/s Maharashtra State Power Generation Company Ltd (MSPGCL), which is located in 14 villages namely Tihli Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopali, Pata, Chitwahi, Dholnara, Jhinka Bahal, Dolesara, Bhalumura, Sarasmal and Libra at Tehsil Gharghoda, District-Raigarh, (Chhattisgarh).

The Public Consultation of project was conducted on 27.09.2019 at Dolesara village, Tamar Tehsil, Raigarh District Chhattisgarh at the premises of Government Primary school. The public hearing was held under the chairmanship of Shri R.A. Kuruvanshi, Additional District Magistrate Raigarh, Chhattisgarh who was nominated by District Collector, Raigarh.

The issues raised during consultation were on local employment, tree plantation, medical facility, education and

providing water supply to locals, etc. Response to concerns raised by public has been addressed adequately and PP committed to provide the facilities to locals. The company committed to comply all these concerns for locals by year 2020-26. However, Committee also noted that **Report of Indian Council of Medical Research (ICMR) health assessment and project of health of people living in Tamnar Block is yet to completed.**

The committee also deliberated the overall impact of proposed mines with cumulative impact of surrounding mines and Thermal Power Plants. **Out of total 14 coal mines in Gare Palma Sector – II, only 6 coal mines are in operation, 4 are not functional at present and 4 coal mines are proposed and 2 thermal Power Plants are in operation.** The AAQ data was collected from year 2011 to 2019 from various secondary sources and additional one-month data as requested in earlier meeting of EAC. The maximum particulate matter PM10, PM2.5 SOX were found to be in range of 49.5 $\mu\text{g}/\text{m}^3$ to 80 $\mu\text{g}/\text{m}^3$; 54 $\mu\text{g}/\text{m}^3$; 10.5 to 40 $\mu\text{g}/\text{m}^3$ in that order respectively. The existing average baseline value of NOx levels is 36 $\mu\text{g}/\text{m}^3$. **After implementation of project, the predicted contribution of NOx is 8.3 $\mu\text{g}/\text{m}^3$ and future predicted baseline value of NOx is 44.3 $\mu\text{g}/\text{m}^3$ which will be within the prescribed standards.** With regard to impact of air emission due to transportation of coal to nearest railway station, the Committee, however, noted that **incremental air emissions are limited only to stretch of 30 m on either side of the approach road** and in this context, PP has conducted the traffic study.

The Committee also took a note of additionality of coal washery operation in the proposed project, though this was not part of TOR granted by MoEF&CC. In this regard, the **Committee directs the Project Proponent to submit separate proposal for Coal Washery.** However, **changes occurring after separating this activity need recalculation, e.g. water requirement, etc. and PP asked to submit in due course.**

As per the submission, total water required for mining project is 2785 KLD, of which fresh water requirement will be 1785 KLD and 1000 KLD will be recycled water. Out of 1785 KLD of fresh water requirement, a quantity of 1239 KLD will be for consumptive use for colony, village etc. and 546 KLD is for industrial use. The domestic waste water will be treated in STP of 1000 KLD capacity and treated water will be used for plantation and dust suppression measures and vehicle washing. For treating Industrial wastes water from mine seepage, rainwater accumulated in mine pit, two settling ponds of 5 ha each are proposed. **Part of treated water will be reused for mining project (dust suppression, vehicle washing, etc.) and remaining excess treated water will be discharged into Kelo River.** Additionally, one ETP of appropriate capacity in line with

approved Mining Plan shall also be established for treatment of waste water from Workshop.

In this context, the committee is of the view that project should go for advance treatment technology for STP and ETP so that treated water could be recycled and reused for different purposes including tree plantation in nearby area as proposed by PP. **No wastewater shall be discharged in to the river.** If require, necessary arrangement shall be made to reuse the treated water from STP and ETP to nearby TPP or coal washery /or future coal washery by entering suitable agreement.

Total forest land involved in the Project is 214.869 Ha pending for diversion for non-forestry activity. Permission for Stage-I FC from MoEF&CC is yet to be granted. Application for obtaining forest clearance has been submitted vide proposal no FP/CG/MIN/20495/2016 dated 26.07.2016.

The Committee also noted that **project has made adequate arrangements for embankment all along the western and eastern banks of Kelo. The height, free board, alignment and design has been prepared for the bund and given in the “Hydrology Study & embankment Design by M/s Min Mec Consultancy Pvt. Ltd.” The height of the bund shall vary from 3 m to 10 m. The committee recommends that the PP shall take all care about design of bunds and construction of the same.”**

11. EAC in para 2.1.3 of the minutes of the meeting said that after deliberations, it found responses given by PP, satisfactory, and accordingly recommended the proposal for grant of EC subject to compliance of the following terms and conditions/specific conditions:

- “(i) The project proponent **shall obtain Consent to Establish/Operate** from the State Pollution Control Boards for the proposed peak capacity of 23.60 MTPA (OC-22.0 MTPA+UG-1.6 MTPA) prior to commencement.
- “(ii) PP shall **submit Stage-I FC for forest land involved in the project for non-forestry activity.**
- “(iii) Third party monitoring (by NEERI/CIMFR/IIT/NITs) for air quality shall be carried out at identified locations, both ambient and the process area, to arrive at impact of the proposed expansion.

- (iv) **Top soil should be stored separately at marked area** and necessary vegetation shall be maintained to avoid any entrainment of dust.
- (v) All the recommendation of carrying capacity study shall be completed within stringent timeframe.
- (vi) **PP shall construct embankment leaving 100 mtrs away from HFL of kelo river and the same shall be taken prior approval from DGMS**
- (vii) **Transportation of coal from Coal Handling Plant shall be through mechanized covered trucks for 5 years. No transportation by trucks after 5 years and proposed railway siding should be constructed without any delay.**
- (viii) As proposed **fresh water requirement will be 1785 KLD, which shall be met from Kelo river initially and later by groundwater.** The total industrial water demand (peak) in operation phase shall be met by utilizing treated mine discharge water. If require, necessary arrangement shall be made to reuse treated water from STP & ETP to nearby TPP or coal washery /or future coal washery by entering suitable agreement. **No wastewater (treated or untreated) shall be discharged into the river or any other water body.**
- (ix) All the **villages coming under the zone of influence as in hydrology study shall be provided with suitable water supply alongwith sanitation facility.**
- (x) All the recommendation in Social Impact Assessment study shall be complied within stringent timeframe. Timeline should be submitted to District Collector for necessary action points.
- (xi) Commitment made during public consultation process shall be adhere to. As proposed, Rs. 45.35 Crore is earmarked for CER activities, which shall be accomplished within period of 5 years.
- (xii) Water quality and Bioassay test of kelo shall be monitored quarterly and submitted to State Pollution Control Board. No water shall be discharged in river.
- (xiii) Quarterly monitoring of quality of water from bore hole used for drinking purpose shall be conducted and report thereof shall be submitted to SPCB.
- (xiv) Progressive backfilling of mine and progressive reclamation of OB dump shall be done.

- (xv) *To control the production of dust at source, the crusher and in-pit belt conveyors shall be provided with mist type sprinklers.*
- (xvi) *Mitigating measures shall be undertaken to control dust and other fugitive emissions all along the roads by providing sufficient fixed type water sprinklers. Adequate corrective measures shall be undertaken to control dust emissions, which would include mechanized sweeping, water sprinkling/mist spraying on haul roads and loading sites, long range misting/fogging arrangement, wind barrier wall and vertical greenery system, green belt, dust suppression arrangement at loading and unloading points, etc.*
- (xvii) *Continuous monitoring of occupational safety and other health hazards, and the corrective actions need to be ensured.*
- (xviii) ***Permission from State Water Department for diversion of two nalas, one in the west side (Nala A) and one on the East side (Karnara nala) of Kelo river shall be taken before any diversion work.*** *Impact of diversion in terms of availability of water in river shall be studied before diversion and submitted to State Water Department.*
- (xix) *PP shall take permission of State Public Works Department before the proposed diversion Roads from Bajamura to Ghargoda (approx. 11.6 km) and Milupara to Tamnar (app 3 km).*
- (xx) ***Persons of nearby villages shall be given training on livelihood and skill development to make them employable.***
- (xxi) *PP shall submit Mine Closure Plan as per MoC latest 2019 guidelines to this Ministry within one year.*
- (xxii) *Mining shall be carried out only by surface miners for the project and silo loading till railway siding through in-pit conveyor should be installed to avoid road transportation in 5 years.*
- (xxiii) *Efforts shall be made for utilizing alternate sources of surface water, abandoned mines or else whatsoever and thus minimizing the dependability on a single source.*
- (xxiv) *Active OB Dump should not be kept barren/open and should be covered by temporary grass to avoid air born of particles (xxv) PP shall conduct the stability study of OB dump by reputed agencies and necessary approval of DGMS.*

- (xxvi) As proposed, **total plantation shall be done in 2256.60ha area of land till closure of mine.** Project proponent to plant 150,000 nos. of native trees with broad leaves along the transportation route in three years to prevent the effect of air pollution. After completion of tree plantation, number of trees shall be duly endorsed from District Forest Officer.
- (xxvii) Project Proponent shall obtain blasting permission from DGMS for conducting mining operation near villages and also explore deployment of rock breakers of suitable capacity in the project to avoid blasting very near to villages. There shall be no damages caused to habitation/structures due to blasting activity.
- (xxviii) The Project Proponent shall comply with all the statutory requirements and judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors. State Government shall ensure that the entire compensation levied, if any, for illegal mining paid by the Project Proponent through their respective Department in strict compliance of judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors.
- (xxix) Project **Proponent shall obtain the necessary prior permission from the Central Ground Water Authority (CGWA) in case of intersecting the Ground water table.**
- (xxx) Proponent shall appoint an Occupational Health Specialist for Regular and Periodical medical examination of the workers engaged in the Project and maintain records accordingly; also, Occupational health check-ups for workers having some ailments like BP, diabetes, habitual smoking, etc. shall be undertaken once in six months and necessary remedial/preventive measures taken accordingly. The Recommendations of National Institute for ensuring good occupational environment for mine workers shall be implemented; The prevention measure for burns, malaria and provision of anti-snake venom including all other paramedical safeguards may be ensured before initiating the mining activities.
- (xxxi) Project Proponent shall follow the mitigation measures provided in Office Memorandum No. Z-11013/57/2014-IA.II (M), dated 29th October, 2014, titled "Impact of mining activities on Habitations-Issues related to the mining Projects wherein Habitations and villages are the part of mine lease areas or Habitations and villages are surrounded by the mine lease area".

(xxxii) The illumination and sound at night at project sites disturb the villages in respect of both human and animal population. Consequent sleeping disorders and stress may affect the health in the villages located close to mining operations. Habitations have a right for darkness and minimal noise levels at night. PPs must ensure that the biological clock of the villages is not disturbed; by orienting the floodlights/ masks away from the villagers and keeping the noise levels well within the prescribed limits for day light/ night hours.

(xxxiii) The project proponent shall take all precautionary measures during mining operation for conservation and protection of endangered fauna, if any, spotted in the study area. Action plan for conservation of flora and fauna shall be implemented in consultation with the State Forest and Wildlife Department. A copy of action plan shall be submitted to the Ministry of Environment, Forest and Climate Change and its Regional Office.

(xxxiv) Hon'ble Supreme Court in an Writ Petition(s) Civil No. 114/2014, Common Cause vs Union of India & Ors vide its judgement dated 8th January, 2020 has directed the Union of India to impose a condition in the mining lease and a similar condition in the environmental clearance and the mining plan to the effect that the mining lease holders shall, after ceasing mining operations, undertake re-grassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc. Compliance of this condition after the mining activity is over at the cost of the mining lease holders/Project Proponent". The implementation report of the above said condition shall be sent to the Regional Office of the MoEFCC."

12. Accepting and acting upon the recommendations made by EAC, MoEF&CC granted EC vide letter dated 11.07.2022 (annexure A-1 at page 51 of paper book) and this letter has been challenged in this appeal.

13. Proposal of EC shows that it has incorporated terms and conditions/specific conditions recommended by EAC in para 4 of EC. Besides, in para 4.1, it has given in detail, Standard EC Conditions under the head (a) Statutory compliance (b) Air quality monitoring and preservation (c) Water quality monitoring and preservation (d) Noise and

Vibration monitoring and prevention (e) Mining Plan (f) Land reclamation (g) Green Belt (h) Public hearing and Human health issues (i) Corporate Environment Responsibility and (j) Miscellaneous. We shall refer to these specific conditions in detail as and when it is required at later stage when discussing the matter on merits.

14. Broadly, appellants have challenged EC on the ground, *inter-alia as under:*

- (a) Revised EIA Report not placed for public consultation;
- (b) Project recommendation is in violation of the observations made by this Tribunal in judgment dated 27.02.2020 in **OA No. 104/2018, Shivpal Bhagat vs. Union of India & Others;**
- (c) Recommendation is without considering report of Indian Council of Medical Research (hereinafter referred to as **'ICMR'**) who undertook a study on health assessment and Projection of Health of People living in Tamnar Block, Raigarh, Chhattisgarh; and
- (d) Hydrological study does not assess the impact in proper perspective and is inadequate.

15. Under this head, following 4 aspects are pointed out:

- (i) Impact of mined drainage and diversion of nalla not considered.
- (ii) Flood level has been underestimated which will have serious consequences on the safety of residents in the region.
- (iii) No Objection Certificate (hereinafter referred to as **'NOC'**) for

extraction of ground water obtained from Central Ground Water Authority (hereinafter referred to as 'CGWA') has already expired on 04.05.2022.

- (iv) There is no explanation as to how deficit and fresh water would be met.

Tribunal's order dated 17.10.2022:

16. Appeal was considered by Tribunal on 17.10.2022 when it issued notices to the respondents, directing them to submit their replies/responses within 6 weeks.

Reply dated 08.12.2022 filed by respondent 4 i.e., MSPGCL:

17. It is said that PP is the second largest power producing company in India; it is an environmentally conscious, law-abiding governmental undertaking; it would commence its operations strictly in accordance with law after completing all statutory and legal formalities particularly in respect of permissions, clearances and NOCs etc.; in receiving EC for the project, respondent 4 has undertaken to abide by all the conditions imposed thereunder and in particular regarding (i) quarterly monitoring of water quality and bioassay test of the Kelo River, (ii) quarterly monitoring of water from bore holes used for drinking purposes, (iii) submission of six-monthly compliance status with stipulated environmental conditions to EC Portal of MoEF&CC, and (iv) submission of environmental statement for each financial year in Form-V; every aspect has been considered in detail by EAC and even the compliance status submitted by PP has been placed in a tabulated form in the minutes of 2nd meeting; draft EIA report was open for public consultation; public hearing was held on 27.09.2019 in accordance with EIA 2006 under Chairmanship of Additional District Magistrate, Raigarh; public hearing was widely notified through

publication in National and Regional newspapers; result of public hearing was submitted to EAC alongwith EIA report by project proponent; specific carrying capacity study was conducted and annexed with EIA report which was considered and thereafter EC has been granted; and also, a condition has been imposed that Tribunal's order in ***Shivpal Bhagat vs. Union of India (supra)*** shall be complied with and the PP undertakes to abide the same.

18. It is further said that carrying capacity study was undertaken by independent Expert Consultant i.e., Ramky Enviro Services Private Limited in February 2020 and its report is annexure R-4 at page 972 of paper book; ICMR relied by appellant does not make any general or specific observations on the project or any mining activities in Raigarh region; Hydrological study has undertaken a comprehensive assessment of the impact of project; Hydrological Study and Embankment Design was carried out by Min Mec Consultancy Pvt Ltd., New Delhi which provided that Kelo River shall not be diverted and a reduction of merely 0.8% low impact was envisaged on the downstream water balance; copy of Hydrology Study and Embankment Design undertaken by respondent 4 and Min Mec Consultancy Pvt. Ltd. is annexed as annexure R-5 at page 993 of paper book; flood level estimates are based on scientific fact-finding and calculate 50 years and 100 years design flood by relying on the flood peak series statistics of Kelo river as observed at Kelo G&D Station, by utilising statistical analysis i.e., calculating flood frequency method and the values of the flood peaks in the region and supplementing the same by further referring to the independent study conducted by WAPCOS; for ground water extraction, NOC has been granted by CGWA, valid from 05.05.2022 to 04.05.2024, copy whereof has been placed on record as annexure R-6 (page 1036 of paper book); proponent has also received confirmation about

availability of 6000 m³/day water for withdrawing from Kelo River and letter dated 26.05.2020 issued by Kelo Pariyogna Sarvekshan Sambhag, Raigarh has been placed on record as annexure R-7 (page 1038 of paper book); the aforesaid letter shows that initially water allocation letter was issued by Government but due to non-payment of amount, allotment was cancelled; the concerned Engineer by means of the letter dated 26.05.2020 however has informed PP that 6000 m³/per day can be made available from Kelo river or its tributaries but for that purpose, formal approval has to be obtained from the Government; PP shall contribute to employment for about 3400 persons; shall not divert Kelo river; invest 2% of its net yearly profit to the development of the region and shall provide Rs. 2435 Crores towards rehabilitation and resettlement cost in addition of Rs. 1484.53 Crores towards environment management cost.

19. Giving parawise reply, PP has divided the issues raised by appellants, under following heads:

- (i) Grant of EC has been recommended by considering true, verifiable and complete data.
- (ii) Draft EIA report was duly open for public consultation and public hearing conducted on 27.09.2019 was in accordance with requirement of EIA 2006.
- (iii) Project EIA Report in grant of EC as well as recommendation is in compliance with Tribunal's order in ***Shivpal Bhagat vs. Union of India (supra)***.
- (iv) Recommendation of EC is after considering all reports and ICMR Report does not make any specific adverse observations against the project in question.
- (v) Hydrological study was conducted on behalf of PP, undertaking a comprehensive assessment of the impact of the

project.

- (vi) Flood level estimate, arrived at by PP, are based on scientific fact finding and the project shall have no negative impact on the Kelo river.
- (vii) NOC for extraction of ground water was granted and valid upto May 2024.
- (viii) There is deficit of fresh water source.

20. Even the grounds taken by appellants have been replied in detail. We propose to discuss details of the replies under various heads given by proponent while discussing the issues on merits.

Reply dated 19.12.2022 filed on behalf of Chhattisgarh Environment Conservation Board (hereinafter referred to as 'CECB') i.e., respondent 2:

21. Giving details of various steps taken in the matter for grant of EC to respondent 4, it is said by respondent 2 that proposal of respondent 4 was considered by EAC in 58th meeting held on 23rd and 24th June, 2016 for grant of TOR; TOR was approved by EAC on 08.08.2016 for a period of 3 years for undertaking submission of EIA Report; on 05.08.2019, TOR dated 08.08.2016 was given extension by one year i.e., till 08.08.2020; in the meantime, CECB commenced public consultation process with regard to EIA Report and issued notification for public hearing on 24.08.2019 till 26.09.2019 scheduling public hearing on 27.09.2019; the notices were published in Daily newspapers 'Dainik Bhaskar' and 'Hindustan Times' dated 25.08.2019; respondent 2 conducted public hearing on 27.09.2019 in the premises of Govt. Primary School, village and Panchayat-Dolesara, Tehsil- Tamar, District- Raigarh, Chhattisgarh; public hearing was conducted under the Chairmanship of Additional District Magistrate Raigarh. Regional Officer of CECB, Additional Superintendent of Police, Raigarh; several prominent voluntary organizations participated in public

hearing scheduled on 27.09.2019; it was attended by public at large as well as several persons of authorities; procedure prescribed in EIA 2006 for public consultation has been duly followed; public hearing was attended by about 1000 people and total 57 people signed attendance chart of public consultation; there is no provision for a specific quorum to be constituted in case of public hearing; representation and doubts expressed by members of public were duly considered and clarified during the course of public hearing on 27.09.2019; representative of respondent 2 who prepared report of public hearing also prepared video recording on the proceedings; thereafter, respondent 4 submitted EIA Report to respondent 1 for grant of EC which was initially considered by EAC in its 51st meeting held on 05.12.2019 but after deliberation, it deferred the proposal directing project proponent for clarification and inputs in respect of EIA Report; respondent 4 again submitted revised EIA Report to respondent 1 which was considered by EAC in its meeting held in July 2020; after detailed deliberation, again it deferred proposal citing the fact that complete information had not been submitted by PP; thereafter, EAC in 2nd meeting held on 28th-29th September, 2020 considered proposal and recommended for grant of EC; though appellant has raised an objection that EIA Report dated July 2020 was not put for public consultation but once objections were raised and revised EAC Report was submitted, there is no requirement to conduct public consultation process again for the same proposal since this process would have a potential to cause inordinate delay to complete process of EC; however, there was no laxity on the part of CECB in performing its duty under EIA 2006; all the objections raised in public hearing held on 27.09.2019 have been addressed and proper actions have been taken/proposed to be taken in revised EIA submitted by PP.

Reply dated 14.02.2023 filed by respondent 3 i.e., State of Chhattisgarh:

22. It is a short reply stating that no relief has been claimed against State Government and EC has been granted by MoEF&CC who will reply various averments made in the Appeal.

Counter Affidavit dated 16.05.2023 filed on behalf of MoEF&CC i.e., respondent 1:

23. After narrating the procedure involved for grant of EC for considering the proposal submitted by proponent, respondent 1 has stated that everything has been done in a transparent manner after placing the same in public domain (Web Portal) including application for grant of EC, submissions and supporting documents filed by project proponent, minutes of the meeting of EAC and EC issued to the proponent.

24. Giving chronological details, it is said that MSPGCL i.e., PP submitted online proposal regarding TOR to MoEF&CC which was received by respondent 1 on 28.04.2016; MoEF&CC after examining proposal, issued TOR vide letter dated 08.08.2016 for preparation of EIA/EMP reports and to conduct public hearing following the procedure laid down in EIA 2006; validity of TOR dated 08.08.2016 was extended upto 08.08.2020 vide letter dated 05.08.2019 issued by MoEF&CC; online proposal for grant of EC was received by MoEF&CC from PP on 29.11.2019; proposal was deliberated by EAC in 51st meeting held on 05.12.2019 and after detailed appraisal, EAC observed that proposal was submitted in a haste and project details mentioned in EIA Report were inconsistent with the presentation made before EAC; consequently, EAC decided to return proposal for want of clarification and additional information; proposal was again considered by EAC in its 2nd meeting held on 28.09.2020 where it was satisfied and hence made recommendation for grant of EC; the documents were submitted in a transparent manner and

available on Parivesh Portal; EAC has comprehensively examined proposal and took note of all the issues raised by appellant in the present Appeal; following above recommendations, MoEF&CC granted EC vide letter dated 11.07.2022; all aspects have been examined and the complaint made by appellant otherwise is incorrect; EAC members are domain experts and during appraisal process, all domain experts used their individual expertise judiciously to appraise issues that are not properly addressed in EIA Report and PP in turn clarifies the matter to the satisfaction of individual domain expert; considering entirety of the facts, EC was granted; and no constructive purpose would be served by quashing EC rather once project will come up, local people will get employment and down-stream industries will come up to enhance livelihood as well as quality of life of local.

25. With regard to the complaint that revised EIA report was not placed for public consultation, respondent 1 has stated that as per EIA 2006, in the process for grant of EC, after TOR is issued, the stage of public consultation is followed by stage of appraisal and EIA Report was appraised by EAC at the stage of appraisal only after public consultation was conducted.

26. The intent of public hearing is that local residents should give their comments and share their opinion/suggestion on likely impact of project and representative of PP should address the issues of local residents adequately during public consultation; the issues raised in the Appeal regarding environmental impacts were not raised during public hearing since no comments from appellants were found in public hearing report; it appears that appellant was not concerned until EC was granted; and copy of public hearing Report dated 16.10.2019 is annexure-5 at page 1188.

27. With regard to non-compliance of directions of this Tribunal's order in ***Shivpal Bhagat vs. Union of India (supra)***, it is said that EC provides conditions for compliance of all those directions.

28. With regard to the Report of ICMR for the year 2019-2020 submitted to MoEF&CC in February 2020, it is said that health issues have been noticed by EAC and PP has been directed to appoint Occupational Health Specialist for medical examination and conduct occupational health check-ups and take remedial/preventive measures as well.

29. The allegations made in respect of hydrogeological study and Forest Clearance are denied and it is said that Forest Clearance is required before grant of EC and not before recommendation of proposal by EAC and in the present case, before grant of EC, Forest Clearance was granted. The factum of expiry of NOC for extraction of ground water is irrelevant in as much as EC already contained various conditions that all statutory approvals/clearances/permissions shall be obtained before commencement.

30. Applicant and respondent 4 i.e., proponent have filed written submissions. Since written submissions include all the arguments advanced orally, hence we proceed to refer the submissions advanced by applicant and respondent 4 by means of written submissions.

Written Submissions filed by appellant before the arguments started on 27.07.2023:

31. Appellant contended *inter-alia* as under:

(i) In the public hearing held on 27.09.2019, issues relating to health, education, employment, compensation to land users, drinking water etc. were raised but not considered properly, either by SEAC while

recommending for grant of EC or by CECEB while granting EC. Project proponent did not obtain any Forest Clearance though it was incumbent to submit Stage I Forest Clearance for diversion of 214.869 hectares forest land for non-forest activities and it was made one of the conditions by SEAC when returning the proposal of proponent in its meeting dated 05.12.2019.

- (ii) It was also in violation of law laid down in ***Lafarge Umiam Mining (P) Ltd. vs. Union of India, (2011) 7 SCC 338***. No NOC for Forest Clearance was given by Gram Sabha, instead it had raised serious concern about loss of forest cover in an already polluted environment which has recorded poor air quality but this aspect has not been given attention and there is no discussion by EAC on this aspect.
- (iii) ToR was granted to proponent on 08.08.2016 and on 05.08.2019 it was given a years' extension. Thus, ToR was valid till 05.08.2020. however, EAC recommended grant of EC in its meeting dated 28-29.09.2020 which is one and half months after expiry of the validity of ToR.
- (iv) Study of ICMR is an important document and relevant for appraisal of the project but appraisal has been done in a most casual manner by EAC without application of mind and without study of ICMR. It is in violation of law laid down by this Tribunal in ***Shivpal Bhagat vs. Union of India (supra)***. 51st meeting of EAC on 05.12.2020 mentioned that ICMR report on health assessment and project of health of people living in Tamnar Block is yet to completed and same thing was repeated in 2nd meeting of EAC held on 28th - 29th September, 2020 but the fact is that ICMR study was complete in

February. However, it has not been considered for appraisal and never made part of EAC proceedings.

- (v) Study by NEERI which was also recommended in NCST in 2018 has also been ignored though it has shown serious concern about the impact of mining project. No serious deliberation or enquiry in this regard has been made. EAC has appraised proposal and consequently EC has also been granted to proponent illegally. ICMR report refers to risk of diseases such as acute respiratory infection (TB), Road traffic accidents, etc., apart from environmental hazards under nutrition increasing risk of further diseases. TB burden among the study shows was 363 per Lakh of population which is above national rate of 2018 which was 199 per lakh. The Report was supported by CISR NEERI (2018), raising alarm due to high levels of arsenic in drinking water, acidic PH of water in 14 villages of Tamnar block and optimal ph for arsenic absorption associated with the development of fungal infection among villagers. The study also shows cumulative arsenic exposure associated with fungal infections. Acute respiratory infection was higher but all these aspects have been ignored either at the stage of appraisal or grant of EC.
- (vi) EAC has not applied its mind to the carrying capacity study done by project proponent. Mere observation that a study has been carried out does not mean that the experts had independently evaluated the study that has been done. This Tribunal in ***Shivpal Bhagat vs. Union of India (supra)*** has observed that study by reputed institute with regard to carrying capacity ought to have been conducted though in the present case, project proponent has got the study conducted by a private agency.

(vii) There is no deliberation on the cumulative impact. EAC has said that out of 14 coal mines in Gare Pelma, 6 coal mines are functional, 4 are non-functional and 4 are proposed and there are 2 power plants. However, EAC has overlooked the crucial aspect that 4 non-functional coal mines are also due to be functional soon and an increased burden will be on villagers since all the mines were in close proximity and the villagers were likely to be affected. No indepth deliberation on cumulative impact, unfortunately, has been conducted by EAC. The concept of cumulative impact assessment includes combined impact of past, present and reasonably foreseeable future and has been highlighted by this Tribunal in its judgment decided on 10.11.2014 in **Appeal No. 50/2012, T. Muruganandam vs. MoEF**, wherein Tribunal has observed as under:

*“41. The European Commission in its guidelines for Assessment of indirect and Cumulative impacts as well as impact interactions defines **Cumulative Impact as “Impacts that result from incremental changes caused by other past, present or reasonably foreseeable actions together with the project”**. CEAA guidelines give similar definition of **Cumulative effects: these are changes to the environment that are caused by an action in combination with other past, present and future human actions**. The U.S Environmental Protection Agency defines it as “the combined incremental effect on human activity”. These definitions are in no way conflicting with the concept of Cumulative Impact Assessment Study, the Project Proponent holds to be correct, as revealed from its submissions. Thus, the **Cumulative Impact as the term indicates is not the impact of any project in isolation but it is a total impact resulting from the interaction of the project with other project activities around it- past, present and those to come up in future. It is a comprehensive view of the impacts resulting from all the projects- past, present or planned ones on the environment**. Cumulative Impact may be same or different and those arising out of individual activities and tend to be larger, long lasting and spread over a greater area within the individual impact. Such studies are therefore commonly expected to:*

1. *Assess effects over a larger area that may cross jurisdiction boundaries;*
2. *Assess effects during a longer period of time into the past and future;*
3. *Consider effects on other eco-system components due to interactions with other actions, and not just the effect of the single action under review;*
4. *Include other past, existing and future (reasonably foreseeable) action; and*
5. *Evaluate significant effect in consideration of other than just local and direct effects.”*

(viii) No social impact assessment study has been conducted and the issue of loss of land and forest and effect on livelihood of people has not been examined, particularly, when the area in question is largely having the tribal population and people are mostly landless, having no other source of livelihood. Public hearing was not properly attended in as much as only 60 recorded comments are mentioned in the minutes of public hearing. Public hearing was held when protesters were protesting outside the venue and have sent a letter of protest addressed to EAC but there is no mention of the same in the recommendation of EAC for EC. Appellant has also contented that substantial question relating to law and environment which has arisen in the matter can be formulated as under:

- “(i) *Whether the Environmental Clearance is valid in view of the fact that it has been granted without obtaining Stage I Forest Clearance under the Forest (Conservation) Act, 1980 and in violation of the OM dated 11-4-2022 (E-177258) issued by the MoEF&CC?*
- (i) *Whether the grant of Environmental Clearance prior to grant of Forest Clearance is in violation of the law laid down in **Lafarge Umium versus Union of India (2011) 7 SCC 338: 2011 SCC OnLine SC 897 at page 383** wherein it was held:*

*The Office Memorandum dated 26-4-2011 is in continuation of an earlier Office Memorandum dated 31-3-2011. This earlier OM clearly delineates the order of priority required to be followed while seeking environmental clearance under the Environment Impact Assessment Notification, 2006. **It provides that in cases where environmental clearance is required for a project on forest land, the forest clearance shall be obtained before the grant of the environment clearance.***

- (ii) Whether the Environmental Clearance is valid since the Pre Condition for grant of Environmental Clearance i.e. Obtaining Stage I forest Clearance has been converted into a post facto clearance condition?*
- (iii) Whether the EAC acted in haste by recommending the project for Environmental Clearance when as per the minutes of the EAC meeting, ICMR Study was still pending and was incomplete?*
- (iv) Whether the Environmental Clearance has been granted on the basis of concealment of information during the stage of appraisal in view of the fact that the ICMR health study was infact completed and had given an alarming picture with respect to the health impact on the population.*
- (v) Whether the EAC has failed to undertake a 'detailed scrutiny' which it is mandated to undertake in terms of the EIA Notification, 2006.*
- (vi) Whether the Environmental Clearance has been granted on the basis of concealment of Information in view of the fact that the Study of ICMR was not placed before the EAC in 28-09-2020 on the ground that it was not completed whereas it was completed in February, 2020 itself.*
- (vii) Whether the EAC has exhibited a complete non application of mind to relevant consideration in view of the fact that it only list the issues which were raised in the public hearing without giving its own independent opinion on the same. Merely listing the issues raised without giving its own independent viewpoint by the Experts cannot be termed as 'Detailed Scrutiny' by the EAC?*
- (viii) Whether the Public Hearing conducted on 27th of September, 2019 is valid in view of the fact that the EIA*

Report was found deficient on various counts by the EAC and was done in haste as per the EAC itself?

(ix) Whether the Carrying Capacity carried out could be said to be a holistic study given the fact that the EAC did not assess the completeness of the same?"

Written submissions dated 10.08.2023 filed by appellant after arguments:

32. After the arguments concluded, further written submissions have been filed by appellant in which it had contended as under:

(i) Public hearing was faulty in view of proper EIA Report and needs to be conducted afresh since EAC did not act fairly:

- EAC noted various deficiencies in EIA report prepared by EIA Consultants and noted such deficiencies in the minutes of 51st meeting held on 05.12.2019.
- Since various deficiencies were found by EAC, it renders public hearing to be faulty and, therefore, with the subsequent material supplied to EAC, a further public hearing ought to have been conducted which has not been done.
- Public hearing is not a mere formality but it is imperative to have effective public participation before a final decision is taken by the concerned authority under EIA 2006.
- Right to be heard has two facets- intrinsic and instrumental. The intrinsic value of right to be heard consists in the opportunity which it gives to individuals or groups against whom decisions taken by public authorities operate, to participate in the processes by which those decisions are made and includes an opportunity that expresses their dignity as persons. The instrumental facet of the right of hearing consists

in the means which it affords of assuring that public rules of conduct, which results in benefits and prejudices alike, are in fact accurately and consistently followed.

- Hearing must be given to the party likely to be affected before a decision is taken.
- In ***Prakash Ratan Sinha vs. State of Bihar, (2009) 14 SCC 690*** and ***Automotive Tyre Manufacturers Assn. vs. Designated Authority, (2011) 2 SCC 258***, it has been indicated by Supreme Court that if there is a power to decide detrimentally to the prejudice of a person, duty to act judicially is implicit in exercise of such power and rules of natural justice would operate. Whenever, an action of public body results in civil consequences for the person against whom action is directed, duty to act fairly can be presumed and authority must afford an opportunity of hearing to the affected person.
- Reliance is placed on certain observations made in Administrative Law (2009) by Wade & Forsyth at page 415-417 and Judicial Review of Administrative Action by de Smith (5th Edition) at page 397-399.

(ii) **Non-application of mind and lack of scrutiny by EAC**

- There is complete non-application of mind and lack of scrutiny by EAC who has simply relied on the submission of project proponent and has not applied its own mind by not assessing the facts and documents placed before it. There has been no consideration of report including that of NEERI and ICMR.
- Merely considering the response of proponent that the reports

do not relate to the project under challenge, the same have been ignored though the above project of EAC reflects on the understanding of the EIA process and specifically about Cumulative Impact Assessment and Carrying Capacity.

- EAC, it appears, did not deliberate upon the matter as an Expert body comprising of subject specialist but has behaved as generalists in a haste to approve the project irrespective of environmental and health consequences.
- Approach of EAC is casual and display haste.
- EAC has ignored the observations made in ***Shivpal Bhagat vs. Union of India (supra)*** wherein the Committee has recommended carrying and cumulative capacity study to be commissioned by CPCB and SPCB or a reputed institute. There is no reference to carrying capacity study by EAC of project in question.

Written Submissions dated 25.07.2023 filed by respondent 4:

33. Respondent 4 i.e., project proponent has also filed written submissions. After giving initial chronological factual events, it has been said by respondent 4 that the project in question shall contribute to employment generation in the region by providing employment to 3400 person; shall not divert Kelo River and minimal negligible impact shall be felt on River and effect of 2% of average net profit of the company made during three preceding financial years on Corporate Social Responsibility (hereinafter referred to as '**CSR**') activities for the development of the region.

34. Giving reply to the various issues raised by appellant, proponent has

placed its stand to each of the issues as under:

(A) Issue I: Application of mind in grant of EC and satisfaction of the authority to EIA Report and explanation submitted by proponent:

35. The above issues have been answered stating as under:

“8. It is submitted that detailed deliberations took place in the 51st EAC Meeting dated 05.12.2019 wherein the EIA Report of Respondent No. 4 was returned and supplementary information was sought from Respondent No. 4.

9. Accordingly, Respondent No. 4 furnished further information as sought by the EAC. Upon due consideration of such information and documents as submitted and meticulous scrutiny thereof, the EAC issued its recommendation for the grant of Environmental Clearance to the project in the Meeting dated 28-29th September 2020.

10. Thus, the EAC considered the Project on two occasions, undertook detailed deliberations and only thereafter recommended the grant of Environment Clearance to the project after thorough examination of the EIA Report submitted by Respondent No. 4 and after satisfying itself that Respondent No.4 had supplied the clarifications/inputs as sought by the EAC in its 51st Meeting held on 05.12.2019.

11. It is further submitted that the EAC constitutes of professionals of highest repute in their functional area and is an apex advisory committee to Government of India functioning under the aegis of the MoEF&CC.

12. Supreme Court of India in **Rajeev Suri v. Delhi Development Authority 2021 SCC OnLine SC 7** has also observed that

“EAC is an expert body and it is amply clear that it has been made aware of all relevant information relating to the project and it has applied its mind to the proposal. Even on settled principles of judicial review, it is clear that relevant material has been considered by the committee and no reliance has been pointed out on any irrelevant material. The specific recommendations given by the committee do indicate that the committee was aware of the need for precautionary measures in environmental matters and accordingly, it suggested requirement of further permissions on certain counts.”

13. This view was also taken by this Tribunal in its Order dated 09.03.2022 in **Appeal No. 06/2020 Budhsen Rathour vs**

Union of India wherein the Tribunal was pleased to observed that,

“71. In view of the above observation and discussion and the consideration by the expert body, we are of the view that proper and sufficient technical studies to the satisfaction of the EAC was made and after that it was recommended to the MoEF&CC. The validity and sufficiency of the same have not been questioned by the MoEF&CC or for that matter anybody except the appellant and that too in vacuum without any basis. The EAC Members are expert in their domain field. They appraised the proposal before the EAC, through scrutiny and detailed deliberations are done by the Members. Therefore, the deliberations taken place in the EAC meeting are always of technical nature. The objections and clarification of the Project Proponent is fully complied on the various issues raised by the EAC Members and the proposal was recommended for grant of EC.”

14. *The EAC in its recommendation further observes and makes it incumbent upon Respondent No. 4 to seek further permissions as necessary under law and undertake various precautionary measures in environmental matters, reflecting due application of mind and appreciation of environmental concerns by the EAC.*
15. *Thus, baseless allegations against the EAC in the absence of any cogent material ought not be allowed to interfere with the functioning of an independent expert body.”*

(B) Issue II: Final EIA report was prepared and submitted within the period of the validity of the terms of reference:

36. This issue has been responded/replied by proponent as under:
 - “16. *That the MoEF&CC initially granted Terms of Reference for the Project on 08.08.2016 for a period of three years for the preparation of Environment Impact Assessment Report.*
 17. *That, subsequently, in accordance with the Ministry’s Office Memorandum dated 29.08.2017 an extension for a period of one year, that is, up to 08.08.2020, was granted to Respondent No. 4’s Project for the preparation of EIA Report. [Annexure R-2 @ pg. 98]*
 18. *That Respondent No. 4 prepared its EIA Report in July 2020, that is, within the extension period stipulated by the Ministry and*

specifically provided TOR compliance status within the EIA Report [Annexure R-2 @ pg. 100-143]

19. *That the TOR are the detailed scope of study prescribed by the Regulatory Authority for the project for the preparation of the EIA Report. Accordingly, **any extension granted thereon requires that the Project Proponent complete its EIA Report within the relevant period and not that the Project must also be recommended for grant of environment clearance within that period.***

(C) Issue III: EC was granted subsequent to issuance of forest clearance by respondent 4:

37. Here the response of proponent is as under:

“20. *The EAC in the Minutes of Meeting dated 28-29th September 2020 categorically noted that Respondent No. 4 had submitted requisite documents to the District Forest Officer for grant of Forest Clearance.*

21. *That, thereafter, vide Letter dated 02.06.2022 the Forest Conservation Division of the MoEF&CC granted Forest Clearance to the Project. [Annexure R-8 @ p.633-638]*

22. *It is important to note that the **Environment Clearance was granted to Respondent No. 4 on 11.07.2022, that is, only subsequent to the obtainment of Stage – I Forest Clearance by Respondent No. 4.***

23. *The Supreme Court in **Lafarge Umiam Mining (P) Ltd. v. Union of India, (2011) 7 SCC 338** while issuing guidelines to be followed in future cases has enjoined that forest clearance must be obtained before the grant of environment clearance.*

24. *It is submitted that in accordance with the observations of the Supreme Court, the **Environment Clearance was granted to Respondent No. 4 in the present case only subsequent to the obtainment of Stage – I Forest Clearance.***

25. *The Appellant herein is intentionally and mala fide conflating recommendation of the Project for grant of environment clearance by the EAC with the actual grant of environment clearance by the MoEF&CC.*

26. *It is submitted that the Hon’ble Supreme Court has directed the obtainment of forest clearance prior to the grant of environment clearance and recommendation for grant of environment*

clearance by the EAC can clearly be done before obtainment of Forest Clearance as is the standard practice wherein such recommendations itself put a condition for obtaining forest clearance before grant of environment clearance.

27. *It is further submitted before this Tribunal that Respondent No. 4 has also obtained Stage – II Forest Clearance for its Project vide Letter dated 27.01.2023.”*

(D) Issue IV: Non-compliance of the observations made by Tribunal in *Shivpal Bhagat vs. Union of India (supra)*:

38. The observations in the above judgment are on the following aspects:

(i) Carrying Capacity

39. Proponent has replied the issue of carrying capacity in 4 parts as under:

“A. RESPONDENT NO. 4 COMMISSIONED CARRYING CAPACITY STUDY BY A REPUTED INDEPENDENT EXPERT

28. *Carrying Capacity Study dated February 2020 for Environmentally Sustainable Coal Mining Activity of the study area was commissioned by Respondent No. 4 and undertaken by independent expert consultants, Ramky Enviro Services Pvt Ltd., Hyderabad, an accredited Category A organization under the QCI-NABET scheme for accreditation of EIA consultant organizations which provided an independent study and analysis of the Carrying Capacity of the region evaluating the relationship between economic and social activities and the natural environment.*

29. **Ramky Enviro** is also empanelled with reputed government organizations such as the Telangana State Pollution Control Board, the Odisha State Pollution Control Board, the Environmental Planning & Coordination Organisation and the NTPC and **is thus an expert body with requisite governmental accreditation.**

B. THE EAC RECOMMENDATION FOR GRANT OF ENVIRONMENT CLEARANCE CONSIDERED THE CARRYING CAPACITY STUDY COMMISSIONED BY RESPONDENT NO.4

30. *The EAC as an expert body was made aware of all the relevant information relating to the project and carrying capacity of the region.*

31. *The EAC took note of the Carrying Capacity Study undertaken by Respondent No. 4 observing not only the status of operational mines in Gare Palma Sector –II but also that after the implementation of the Project the air quality will be within the prescribed standards when taken alongside the current air quality standards.*
32. *Thus, the **EAC considered the cumulative impact on the region by noting the existing mines in the area and considering the additional impact of Respondent No. 4's Project.***
33. *Furthermore, the EAC directed the project Proponent to complete all recommendations made in the Carrying Capacity Study within a stringent timeframe thereby showing due appreciation of the Study.*
34. *Finally, the Appellant has failed to make any specific averment on the merits of the Carrying Capacity Study and mere unsubstantiated allegations ought not be used to interfere with the technical analysis made by domain experts in the EAC.*

C. THE CARRYING CAPACITY STUDY NOTES THE LOW POTENTIAL IMPACT OF THE PROJECT ON ENVIRONMENTAL QUALITY AND THE REMEDIAL MEASURES THAT MAY BE UNDERTAKEN BY RESPONDENT NO. 4

35. *The Carrying Capacity Study notes the low potential impact of the Project on environmental quality and mitigation measures to overcome such impact.*
36. *As per the data collected in the Study, the ambient air quality parameters shall remain within the stipulated NAAQ standards in the region.*
37. *The Carrying Capacity Study also specifically envisages potential mitigation measures and precautions that may be undertaken during transportation of coal such as enhancement of rail network, construction of cement concrete roads, provisioning of proper drainage system and development of a green belt along the roads. Similarly, air quality monitoring stations shall be established and vehicles shall be covered with tarpaulin to avoid dissipating dust pollution.*
38. *Thus, the carrying capacity of the environment in around the Gare Palma Coal Block would be maintained through the*

environmental management measures as recommended in the Study that shall be implemented by the Project Proponent.

- 39. Respondent No. 4 undertakes to comply with all remedial mitigation measures as well as comply with the stipulations as laid down by the Ministry of Environment, Forest & Climate Change.**

D. RESPONDENT NO. 4 SHALL COMPLY WITH THE OBSERVATIONS OF THIS HON'BLE TRIBUNAL IN SHIVPAL BHAGAT V. UNION OF INDIA & ORS.

40. *The MoEF&CC while granting EC has directed Respondent No. 4 as the Project Proponent to ensure compliance with the orders and judgment in Shivpal Bhagat vs. Union of India.*

41. *While the Final Order in the Shivpal Bhagat matter was passed by this Hon'ble Tribunal on 12.09.2022, that is, only after Environment Clearance had already been granted to the Project Proponent, Respondent No. 4 is duty bound to comply with the law laid down by this Hon'ble Tribunal in the said case.*

42. *In fact, it is submitted that the Carrying Capacity Study commissioned by Respondent No. 4 has analysed the environmental load carrying capacity study of the region, covering dimensions as envisaged in the Report dated 14.10.2019 submitted to this Hon'ble Tribunal in Shivpal Bhagat.*

43. *In particular the Carrying Capacity Study examines issues of air and water pollution, ground and surface water depletion, soil contamination and social and health impacts and provides remedial measures that will be undertaken by the Project Proponent to ensure environmentally sustainable mining activities in the region on a long-term basis which focuses also on the upliftment of people of the region.*

44. *Finally, carrying capacity study and maintaining environmentally sustainable mining culture is a continuous process and Respondent No. 4 has undertaken to comply with all such compliance as its EC is directly contingent upon compliance with the Orders of this Hon'ble Tribunal.”*

(E) Issue V: Non-consideration of ICMR Report:

40. This issue has been responded by stating as under:

45. *At the outset, the central and state pollution control boards have not designated the Project Area under the list of critically polluted areas.*

46. It is submitted that the **ICMR Report does not make any specific adverse observations against the present project and does not make any observations regarding the viability of the Project.**
47. In fact, the ICMR Report is not focused on coal mining in the region at all and focuses on making general recommendations for improving overall physical health of the population by providing better health facilities, and fighting malnutrition and anaemia. [Annexure A-1 @ pg. 273]
48. To this extent, Respondent No. 4, as part of the Social Impact Management Plan submitted with its EIA Report has pledged to undertake health awareness programme, and streamline health centres. [Annexure R-1 @ pg. 273]
49. Finally, the EAC and the MoEF&CC while dealing with the issue of grant of Environment Clearance consider a variety of factors including impact of the project on public health, the environmental impact of the Project and the present Environment Clearance has been granted after taking into consideration a holistic set of information at the disposal of MoEF&CC.
50. Therefore, in the absence of any specific findings made in the ICMR Report regarding the present Project or even the impact of Coal Projects on the regional population, it is incorrect to mala fide raise challenge to the grant of the Environment Clearance on the basis of the same.”

(F) Issue VI: No adequate public hearing:

41. Here response of proponent is as under:

- “51. The Draft EIA Report was opened for public consultation and a public hearing was conducted on 27.09.2019 in accordance with the requirements of EIA Notification, 2006 under the auspices of the ADM, Raigarh.
52. That such public hearing was widely notified through publication in national and regional newspapers. The results of such public hearing were submitted to the EAC along with the EIA Report by the Answering Respondent. [Annexure R-3 @ pg. 537-542]
53. Records preserved by the district administration and the police, evidence that around 1000 people gathered for the public hearing. [Annexure R-3 @ pg. 551-561]”

(G) Issue VII: Non-consideration of Social Impact Assessment:

42. Here respondent 4 has contended as under:

“54. Detailed Rehabilitation and Resettlement studies were commissioned by Respondent No. 4 and carried out by reputed institutes in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 and the Chhattisgarh State Model Rehabilitation Policy, 2007.

55. In particular, Social Impact Assessment Report for the proposed displacement of Tribals/SC/ST was prepared by Green Cindia Consulting Private Limited

56. Both the Rehabilitation and Resettlement Plan and the SIA report were approved by the Government of Chhattisgarh vide Approval Letter dated 06.03.2020.”

(H) Issue VIII: There is no comprehensive assessment of the impact of project on hydrology:

43. Here proponent has responded as under:

“57. The Project shall have minimal effect on water quality and the Kelo river.

*58. The domestic wastewater generated in the mine area will be treated in STP. The wastewater from the machines and vehicle washing will be treated for oil and grease removal and suspended solids. The treated water will be used for greenbelt development and dust suppression. The wastewater from coal washery is treated and reused in the process and **zero discharge will be maintained.** [Annexure R-2 @pg. 170]*

*59. Further, the studies commissioned by Respondent No. 4 show that the **Kelo River flowing in the region will remain untouched with no river/nalla diversion involved in the implementation of the Project.***

*60. Further, the EAC specifically takes note of the Hydrology Study and Embankment Design undertaken by M/s Min Mec Consultancy Pvt. Ltd. on behalf of Respondent No. 4 and holds that the **project has made adequate arrangements for embankment all along the western and eastern bank of Kelo River.***

61. Thus, Kelo river will not be negatively impacted by the proposed mining activities as the soil and aquifers in the zone between the

mine pit and the Kelo river will not be disturbed physically or structurally.

62. *Similarly, Respondent No. 4 has relied on three different methodologies to arrive at the 50 years and 100 years return period peaks for design flood.*

a. *Firstly, the design flood has been calculated based on the flow of the annual flood peak series of Kelo river observed at Kelo G&D Station downstream from the Project Site.*

b. *Secondly, WAPCOS Limited, a government of India undertaking, has estimated the design flood for 50 and 100 years for the immediately adjoining block north of Gare-II i.e. Gare IV/6.*

c. *Finally, based on the annual flood peak series of Kelo river observed at Kelo G&D station, statistical method i.e., flood frequency method and the values of the flood peaks in the region have also been employed to arrive at the estimate flood peak levels of Kelo for a return period of 50 years and 100 years.”*

(I) Issue VIII: Due permission was not granted at the appropriate stage:

44. Respondent 4 has stated this issue as under:

“63. Respondent No. 4’s Wildlife conservation plan received due approval from the Office of Principal Chief Conservator of Forest Cum Chief Wildlife Warden, Raipur, Chhattisgarh vide Letter dated 20.01.2021.

64. Further, the Project received Initial No-Objection Certificate (“NOC”) for ground water abstraction from CGWA, New Delhi Vide Letter no. CGWA/NOC/MIN/ORIG/2020/7943 dated dt. 03.07.2020 with validity upto 04.05.2022.

65. This NOC has since been extended till up to 04/05/2024 vide NOC No. CGWA/NOC/MIN/ORIG/2020/7943 [Annexure R-6 @ p.630]

66. Further, vide Letter dated 09.03.2020 the Chief Engineer, Chhattisgarh State Power Transmission Company Limited also sanctioned feasibility for supply of 23 MVA power supply on 132 KV voltage level for the Project.”

45. **Issue IX:** Proponent further stated that it undertake to carry out

certain compliances giving execution of the project as under:

- “67. Respondent shall conduct quarterly monitoring of water quality and bioassay test of Kelo River. Such monitoring reports shall be submitted to State Pollution Control Board. Further, no treated/contaminated water shall be discharged into the Kelo River.*
- 68. Respondents shall also conduct quarterly monitoring of water from boreholes used for drinking purposes and reports shall be submitted to State Pollution Control Board.*
- 69. Respondents have been and shall continue submitting Six-Monthly Reports on status of compliance with stipulated environmental conditions to the Environment Clearance Portal of MOEF in compliance with the ENVIRONMENTAL COMPENSATION conditions.*
- 70. Respondent shall also submit environmental statement for each financial year in Form-V to the State Pollution Control Board as provided under the Environment (Protection) Rules, 1986.*

46. **Issue X:** Proponent also state that project shall benefit the regional population leading to positive social impact, hence on this aspect has said under:

- 71. It is also important to note that the Project shall contribute to employment generation in the region by providing employment to 3400 persons [Annexure R-2 @ pg. 478]*
- 72. Further, Respondent No. 4 shall spend around two percent of the average net profit of the company made during three preceding financial years on Corporate Social Responsibility (“CSR”) activities for the development of the region. Further, the Project Proponent shall provide Rs 2435 Crores towards Rehabilitation and Resettlement costs and an addition Rs 1484.53 Crores towards Environment Management Costs [Annexure R-2 @ pg. 152]*
- 73. The Project will also help improve several physical infrastructure facilities, including road and transport, communications services, housing infrastructure, water supply and sanitation services and power supply infrastructure in the region [Annexure R-2 @ pg. 476]*

74. Furthermore, medical, educational and social benefits will be made available to the nearby civilian population in addition to the workmen employed in the mine. [Annexure R-2 @ pg. 477]

75. Finally, establishing coal mine project shall also boost national interest by increased domestic fuel security.

76. That in view of the above it is most respectfully prayed that this Hon'ble Tribunal may be pleased dismiss the Appeal preferred by the Appellants herein and uphold the Environment Clearance dated 11.07.2022 granted by the MoEF&CC to Respondent No. 4."

47. Learned Counsel appearing for appellant and project proponent have also advanced oral submissions which are basically reiteration of what has already been said by both of them in written submissions referred to hereinabove.

48. Though respondents 1 and 2 are also represented through their Counsels but they have not advanced any oral or otherwise submissions and their stand is that EC dated 11.07.2022 has been granted strictly in accordance with law, hence no interference is called for and in any case, they shall abide by the order passed by Tribunal.

ISSUES:

49. From the pleadings of the parties and oral and written submissions, we find that the following issues have arisen which require adjudication by this Tribunal:

- I. Whether the procedure prescribed for grant of EC in EIA 2006 has been followed in words and spirit and strictly, by Competent Authority, in granting EC to respondent 4?
- II. Whether the requirement of public hearing has been met in accordance with law as contemplated in EIA 2006?
- III. Whether Competent Authority has applied its mind and considered all relevant aspects and factors before grant of EC,

impugned in this Appeal?

- IV. Whether the requirement of Forest Clearance, Social Impact Assessment Study, Cumulative Effect, Carrying Capacity, Impact on health of local people, Comprehensive Assessment of impact of project on hydrology etc. have be properly considered/appraised by the concerned authorities before grant of EC?
- V. Whether EC has been granted in a mechanical manner without considering all relevant aspects, without following the procedure prescribed in law and without appraising relevant aspects which may have adverse impact on environment and warrants interference by this Tribunal?

DISCUSSION ON MERIT:

50. Since all the Issues are inter-connected and, therefore, we propose to consider the same together.

51. The facts, evident from record, are that respondent 4 i.e., MSPGCL is a state owned public sector unit of Government of Maharashtra, engaged in power generation having its Head Office at Bandra (East) Mumbai. It proposed to develop Gare Palma Sector-II Coal Mine located in Mand Raigarh Coldfield for its captive use.

52. It appears that earlier, mining block in question i.e., Gare Palma-II Coal Block, Tehsil Tamnar was allotted to another company i.e., M/s. Maharashtra Tamil Collieries Limited. The earlier company applied for grant of EC and in pursuant thereto, a ToR was granted on 19.03.2013. Later, Supreme Court cancelled the said allotment and it became available for fresh allotment to the Ministry of Coal. Consequently, vide order dated

31.08.2015, coal mine in question was allotted to respondent 4.

53. Respondent 4 submitted an online proposal dated 01.08.2020 to MoEF&CC for grant of prior EC in terms of the provisions of EIA 2006 for Gare Palma Sector II Coal Mine Project of 23.60 MTPA covering a total area of 2583.48 hectares in villages Tihli Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopalli, Pata, Chitwali, Dholnara, Jhinka Bahal, Dolesara, Bhalumura, Sarasmal and Libra, Tehsil-Tamnar, District Raigarh (State of Chhattisgarh). Mining site is commonly called as Mand Raigarh Coldfield. Land category comprised of 987.505 hectares non-Adivasi private land, 1090.113 hectares Adivasi private land, 90.328 hectares Government land (populated/abadi), 200.672 hectares other Government land and 214.869 hectares forest land (99.735 hectares Protected Forest and 115.134 hectares Revenue Forest). The cost of the project is Rs.7463 Crores. It is a new project and under EIA 2006 it falls in 'A' Category. The total geological reserve is 1050.29 Million Tonnes (hereinafter referred to as '**MT**') whereagainst minable reserve is 582.292 MT (Opencast), 199.393 MT (Underground), extractable reserve is 553.17 MT (Opencast), 101.97 (Underground). The percent of extraction would be 75.15% (Opencast) and 31.55% (Underground).

54. Proponent submitted application for grant of EC vide letter no. MAHAGENCO/CE/CEHSU/GARE PALMA/EC/387 dated 11/12.04.2016. An online proposal no. IA/CG/CMIM/52019/2016 dated 28.04.2016 was also submitted requesting for grant of ToR. It appears that issue of grant of ToR remained pending, hence respondent 4 sent reminder letters dated 06.06.2016, 16.06.2016, 24.06.2016 and 27.06.2016. The proposal was considered by EAC in its 58th meeting held on 23rd - 24th June, 2016. EAC recommended the project for grant of ToR for preparation of EIA/EMP report along with public hearing. The said recommendation was

considered by MoEF&CC and it accorded ToR vide letter dated 08.08.2016 (annexure-1 to the reply filed by respondent 1 at page 1068). Project was granted ToR directing respondent 4 to proceed for preparation of EIA/EMP report along with public hearing, with generic ToRs and additional scope of work/study in respect of the following:

- “(i) The project proponent should submit the details of design of the protection works through a reputed organization to take care of hydrology of the river during flood. Wherever drainage is intercepted the project proponents have to propose a suitable diversion of drains all along the project boundaries.*
- (ii) A detailed socio-economic study to be conducted through a reputed Institute.*
- (iii) Conservation Action Plan for the wildlife to be prepared in consultation with State forest authorities. Issues raised by one of the NGOs to be adequately addressed.”*

55. Competent Authority granted ToR subject to the following general conditions:

- “(i) All documents should be properly indexed, page numbered.*
- (ii) Period/date of data collection should be clearly indicated.*
- (iii) Authenticated English translation of all material provided in Regional languages.*
- (iv) **After the preparation of the draft EIA-EMP Report as per the aforesaid TOR, the proponent shall get the Public Hearing conducted as prescribed in the EIA Notification 2006 and take necessary action for obtaining environmental clearance under the provisions of the EIA Notification 2006.***
- (v) The letter/application for EC should quote the MOEF file No. and also attach a copy of the letter prescribing the TOR.*
- (vi) The copy of the letter received from the Ministry on the TOR prescribed for the project should be attached as an annexure to the final EIA-EMP Report.*
- (vii) General instructions for the preparation and presentation before the EAC of TOR/EC projects of Coal Sector should be incorporated/ followed.*

(viii) The aforesaid TOR has a validity of three years only.

(ix) Grant of TOR does not necessarily mean grant of EC.

(x) Grant of TOR/EC to the present project does not necessarily mean grant of TOR/EC to the captive/linked project.

(xi) Grant of TOR/EC to the present project does not necessarily mean grant of approvals in other regulations such as the Forest (Conservation) Act, 1980 or the Wildlife (Protection) Act, 1972.

(xii) Grant of EC is also subject to circulars issued under the EIA Notification 2006, which are available on the MoEF website: www.envfor.nic.in.”

56. Letter dated 08.08.2016 also stated that ToRs prescribed for open cast and underground coal mining as applicable are available on Ministry's website and that proponent shall submit final EIA/EMP, prepared as per ToRs, to Ministry within three years as per MoEF&CC's O.M. No. J-11013/41/2006-IA dated 22.10.2014.

57. We may notice at this stage that this reference of MoEF&CC's O.M. dated 22.10.2014 appears to be erroneous and it should have been 22.08.2014. History of OMs prescribing time limit for validity of ToRs commenced from O.M. dated 22.03.2010 stating that in EIA 2006, time limit for validity for EC granted to a project is prescribed but no specific time limit has been prescribed for ToRs for undertaking detailed EIA studies. This was causing delay in disposal of the matter which condition was not desirable and consequently, the above O.M. provided that w.e.f. 01.04.2010, the prescribed ToRs will be valid for a period of two years for submission of EIA/EMP reports after public consultation where so required. The period will be extendable to the 3rd year based on proper justification and approval of EAC/SEAC as the case may be. Therefore, an outer limit of three years was prescribed. With the experience gained subsequently, MoEF&CC found it appropriate to issue certain more

Guidelines for clarity, and consequently, issued O.M. dated 22.08.2014 which provided two years validity period for ToRs for project or activity except river valley and HEP projects where validity of ToRs was made three years. There were some more aspects dealt with which are being omitted for the time being. However, validity of period was modified by expending it by O.M. dated 08.10.2014 and for other projects, it was made three years instead of two years while for river valley and HEP projects, it was made four years. In both the cases, the validity period was extendable by one year and outer limit for river valley and HEP projects, it was made five years and for other projects, four years. The earlier O.M. dated 22.08.2014 was accordingly amended. To complete the chain, we may refer to the O.M. dated 27.11.2014 which also made some amendments in O.M. dated 22.08.2014 by substituting para 2(v) which relates to the period of data collected. Para 2(v) of O.M. dated 22.08.2014 was substituted by following:

“(v) Instances have also come to the notice of this Ministry wherein, though the EIA / EMP report is submitted by the proponent within the validity period of TORs, the case remains pending for want of additional information from the proponent, State Government, etc., as sought by the EAC/Ministry. This Ministry has already decided vide OM No.J-11013/5/2009-IA-II (Part) dated 30.10.2012 that such cases will be delisted in case such information is not received within six months. In some cases the proponents have been requesting for re-listing of their projects after the requisite information has been submitted after considerable lapse of time. For such cases, it has been decided that they could be considered provided the date of public hearing is not more than 3 years old and the data used in preparation of EIA/EMP report is not more than 3 years old. In case these conditions are not met, the proponent will have to start the process de novo after obtaining fresh TORs.”

58. Thus, this is evident that the date mentioned in para 6 of order dated 08.08.2016 should have been 22.08.2014 and not 22.10.2014.

59. Public hearing was initially scheduled on 16.03.2018 but it was shifted to 26.05.2019 and 26.08.2019 and ultimately, conducted on

27.09.2019. The proceedings of public hearing are on record at page 1190 to 1260 of paper book. It shows that the draft EIA in English and Hindi was made available in the office of Collector Raigarh, Chief Executive Officer, District Panchayat, Raigarh, General Manager, District Industries Centre, Raigarh and in the office of Regional Officer, Raigarh etc. Notice for public hearing was issued on 20.08.2019 and it was published in daily newspaper dated 25.08.2019.

60. The proceedings of public hearing were communicated to MoEF&CC by Member Secretary, CECEB vide letter dated 16.10.2019. The proposal thereafter, was appraised by EAC in its 51st meeting held on 05.12.2019. EAC found that base line data was collected during post monsoon season i.e. October to December 2016 but before the validity of base line data, proponent submitted incomplete and incorrect Form-II on the Ministry's website for appraisal. EAC also found during deliberation that project details mentioned in EIA report were not consistent with that presented during the meeting. In these circumstances, EAC advised project proponent and its Consultant that EIA report must be prepared appropriately with the provisions of EIA 2006 and various O.M.s/circulars issued by MoEF&CC from time to time. Observations made by EAC in para 51.1.4 of its meeting dated 05.12.2019 are reproduced as under:

*“51.1.4 The EAC after deliberation observed that the **project proponent** in a haste of submission before validity of baseline data, **submitted incomplete and incorrect Form#2 on the Ministry website for appraisal (PARIVESH)**. The EAC, during deliberations noted that the project details mentioned in the EIA report were not consistent with that presented during the meeting. EAC advised to the PP/Consultant that the EIA Report shall be made appropriately with the provisions of the EIA Notification, 2006 and various OM/Circulars issued by the Ministry from time to time.”*

61. In the above backdrop, EAC, after detailed deliberation, decided to return the proposal in the form as presented before it and asked proponent

to provide clarification/inputs on the following:

- “(i) **The EIA report to be revised as per the terms of reference granted for the project, and shall conform to Appendix III of the EIA Notification, 2006.**
- (ii) *Stage-I FC for forest land of 214.869 ha for diversion of non-forestry activity shall be submitted.*
- (iii) **Form#2 on Parivesh should be filled with all details and correct information.**
- (iv) *Copy of Agreement for supply of power shall be uploaded on Form#2*
- (v) *Approval of Wild Life conservation from concerned statutory authorities.*
- (vi) *One month of baseline data as the given data is almost 3 years old and validity of baseline data is about to expire as per Ministry’s OM shall be collected.*
- (vii) **Hydrological Study and impact of mining activity on hydrology shall be submitted from the expert agency**
- (viii) *Permission for extraction of groundwater from CGWA shall be obtained*
- (ix) **Permission for usage for surface water i.e. from kelo river (as proposed for intial 3 years) for mining operation/domestic purposed shall be obtained from concerned statutory authority**
- (x) **Carrying capacity of the area shall be carried considering the presence of the other coal mines and mitigation measures shall be proposed accordingly.**
- (xi) *Mining Lease or Letter of Intent for the project area shall be submitted by PP from concerned state government authorities.*
- (xii) *Compliance of issues raised during Public Hearing shall be submitted with certain timeline and allocation.*
- (xiii) **Social Impact Assessment Study for the proposed displacement of Tribals/SC/ST.**
- (xiv) *Impact of mine drainage and diversion of nallah based on quality and quantity (inflow of river).*

- (xv) *Details of hazardous waste generation (if any) during mining operations and further handling/disposal shall be provided in details.*
- (xvi) ***Impact on villages due to mining activity present in core zone (not proposed to be displaced) shall be provided.***
- (xvii) *The activities and fund provisions for CER shall be made as per the guidelines issued by the ministry regarding CER on 1st May, 2018.*
- (xviii) *Clarification from DFO/PCCF whether there is any presence of Elephant Corridor or movement of elephants in the region.*
- (xix) *Impact of mine drainage on kelo river shall be submitted in detail.*
- (xx) *Detailed Traffic impact assessment/ study for road transportation of coal to linked Railway Siding / Power Plant shall be conducted.”*

62. EAC, in the result, returned proposal in the existing form for completing full details in Form-II and as per the observations given in the minutes of the meeting as reproduced above.

63. Project proponent, thereafter, submitted its reply/compliance to EAC again which was considered in 2nd meeting of EAC held on 28th – 29th September, 2020. EAC recommended the proposal for grant of EC subject to certain conditions.

64. The said recommendation of EAC dated 28th – 29th September, 2020 were considered by MoEF&CC and accepting the same, it has granted EC dated 11.07.2022 to proponent.

ISSUE RELATING TO PUBLIC HEARING

65. Now, to adjudicate above issue, we have to examine the relevant provisions prescribing procedure under EIA 2006 and to analyse whether the said procedure has been followed strictly and in accordance with law.

66. The requirement of prior EC and procedure for grant of said EC has been prescribed in EIA 2006 which has been issued in exercise of powers conferred upon the Government of India vide Section 3(1) Section 3(1) and (2)(v) of EP Act, 1986 read with Rule 5(3)(d) of Environment (Protection) Rules, 1986.

67. Preamble of Notification dated 14.09.2006 says that Central Government hereby directs that on and from the date of publication of the Notification, the required construction of any projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to the notification dated 14.09.2006 entailing capacity addition with change in process and or technology, shall be undertaken in any part of India only after obtaining prior EC from Central Government or as the case may be, by State Level Environment Impact Assessment Authority, duly constituted by Central Government under Section 3(3) of EP Act, 1986, in accordance with the procedure specified in the Notification dated 14.09.2006. There were some typing mistakes in EIA 2006, as initially published, hence a **corrigendum** was issued vide **notification dated 13.11.2006** and we have read EIA 2006, here at, as corrected by the said corrigendum.

68. Para 2 of EIA 2006 states that following projects or activities shall require 'Prior EC' from concerned regulatory authority, which shall be referred as MoEF for matters falling under Category 'A' in the Schedule and at State level, SEIAA, for matters falling under Category 'B' in the Schedule, before any construction work, or preparation of land by project management, except for securing land, is started on the project or activity. Para 2 of EIA 2006 imposes condition of requirement of prior EC and reads as under:

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

(i) All new projects or activities listed in the Schedule to this notification;

(ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;

(iii) Any change in product-mix in an existing manufacturing unit included in Schedule beyond the specified range.”

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

70. The projects are categorized as ‘A’ or ‘B’, under para 4. For ‘A’ Category project, MoEF is the Competent Authority to grant prior approval while for ‘B’ category projects etc., it is SEIAA. Para 4 (relevant extract), reads as under:

“(i) All projects and activities are broadly categorized in to two categories-Category A and Category B, based on the spatial extent of potential impacts and potential impacts on human health and natural and manmade resources.

(ii) **All projects or activities included as Category ‘A’** in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, **shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forests (MoEF)** on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification;

(iii) All projects or activities included as **Category 'B'** in the Schedule, including expansion and modernization of existing projects or activities as specified in sub paragraph (ii) of paragraph 2, or change in product mix as specified in sub paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, will require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory level Expert Appraisal Committee (SEAC) as to be constituted for in this notification. In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be considered at Central Level as a Category 'A' project;"

71. Procedure of examination of project bring in Expert Appraisal Committee (i.e., EAC) in case of approval by MoEF&CC and State Expert Appraisal Committee (i.e., SEAC), if approval is by SEIAA. The process of examination comprises of three steps, i.e., screening, scoping and appraisal.

72. This examination/appraisal of the project by EAC/SEAC is provided in para 5 which reads as under:

"5. Screening, Scoping and Appraisal Committees:

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

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

(b) *The Central Government may, with the prior concurrence of the concerned State Governments or the Union territory Administrations, constitutes one SEAC for more than one State or Union territory for reasons of administrative convenience and cost;*

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

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

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

73. Para 6 talks of application for 'Prior EC' and reads as under:

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

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

74. Procedural stages in regard to prior EC for new projects is given in detail in para 7 which reads as under:

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

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

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

I. Stage (1) - Screening:

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

II. Stage (2) - Scoping:

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

(ii) The **Terms of Reference (TOR) shall be conveyed** to the applicant by the Expert Appraisal Committee or State Level Expert Appraisal Committee as concerned **within sixty days of the receipt of Form 1.** In the case of Category, A Hydroelectric projects Item 1(c) (i) of the Schedule the Terms of Reference shall be conveyed along with the clearance for preconstruction activities. **If the Terms of Reference are not finalized and conveyed to the applicant**

within sixty days of the receipt of Form 1, the Terms of Reference suggested by the applicant shall be deemed as the final Terms of Reference approved for the EIA studies. The approved Terms of Reference shall be displayed on the website of the Ministry of Environment and Forests and the concerned State Level Environment Impact Assessment Authority.

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

III. Stage (3) - Public Consultation:

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

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

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

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

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

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

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

(v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.

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

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

IV. Stage (4) - Appraisal:

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

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

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

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

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

75. Para 8 of EIA 2006 confers power upon the concerned Competent Authority to grant or reject the application for prior EC. There is time prescribed within which decision is required to be taken by Competent Authority for rejection of the proposal of EC failing which clause (iii) of para 8 provides that EC shall be deemed to have been granted or denied in terms of the final recommendations of the EAC/SEAC as the case may be. Clause (v) of para 8 states that clearance from other bodies or authorities shall not be required prior to receipt of application for prior EC of projects or activities etc. unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons. Clause (vi) states where 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 EC granted on that basis. We find it appropriate to reproduced para 8 as under:

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

*(i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and **convey its decision to the applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned** or in other words*

within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.

(ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.

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

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

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

(vi) Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or

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

76. Para 9 deals with the validity of EC, i.e., the tenure etc. and reads as under:

“9. Validity of Environmental Clearance (EC):

*The “Validity of Environmental Clearance” is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 7 above, to the start of production operations by the project or activity, or completion of all construction operations in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers. The prior environmental clearance granted for a project or activity shall be valid for a **period of ten years in the case of River Valley projects (item 1(c) of the Schedule), project life as estimated by Expert Appraisal Committee or State Level Expert Appraisal Committee subject to a maximum of thirty years for mining projects and five years in the case of all other projects and activities. However, in the case of Area Development projects and Townships [item 8(b)], the validity period shall be limited only to such activities as may be the responsibility of the applicant as a developer.** This period of validity may be extended by the regulatory authority concerned by a maximum period of five years provided an application is made to the regulatory authority by the applicant within the validity period, together with an updated Form 1, and Supplementary Form 1A, for Construction projects or activities (item 8 of the Schedule). In this regard the regulatory authority may also consult the Expert Appraisal Committee or State Level Expert Appraisal Committee as the case may be.”*

77. Para 10 talks of monitoring of post EC stages and says:

“10. Post Environmental Clearance Monitoring:

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

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

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

“11. Transferability of Environmental Clearance (EC):

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

79. Para 12 is a transitional provision dealing with the pending cases under EIA 1994 and said:

“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 supersession of the things done or omitted to be done before such supersession 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, 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.”

80. EIA 2006 further contains a **Schedule** and **six Appendixes**. **Appendix I** is a format of Form-I and **Appendix II** is a format of Form-IA which are referred in para 6 of EIA 2006. These are the formats of

application to be submitted by a proponent for grant of prior EC. **Appendix III** contains a chart giving generic structure of environmental impact assessment document with reference to para 7 and **Appendix III A** provides contents of summary environmental impact assessment and it is also in reference to para 7 of EIA 2006. **Appendix III has 12 items** comprising EIA structure and the contents thereof are also separately detailed as under:

“GENERIC STRUCTURE OF ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENT

S. NO.	EIA STRUCTURE	CONTENTS
1	<i>Introduction</i>	<ul style="list-style-type: none"> • <i>Purpose of the report</i> • <i>Identification of project & project proponent</i> • <i>Brief description of nature, size, location of the project and its importance to the country, region</i> • <i>Scope of the study – details of regulatory scoping carried out (As per Terms of Reference)</i>
2	<i>Project Description</i>	<ul style="list-style-type: none"> • <i>Condensed description of those aspects of the project (based on project feasibility study), likely to cause environmental effects. Details should be provided to give clear picture of the following:</i> • <i>Type of project</i> • <i>Need for the project</i> • <i>Location (maps showing general location, specific location, project boundary & project site layout)</i> • <i>Size or magnitude of operation (incl. Associated activities required by or for the project)</i> • <i>Proposed schedule for approval and implementation</i> • <i>Technology and process description</i> • <i>Project description. Including drawings showing project layout, components of project etc. Schematic representations</i>

		<p><i>of the feasibility drawings which give information important for EIA purpose</i></p> <ul style="list-style-type: none"> • <i>Description of mitigation measures incorporated into the project to meet environmental standards, environmental operating conditions, or other EIA requirements (as required by the scope)</i> • <i>Assessment of New & untested technology for the risk of technological failure</i>
3	<i>Description of the Environment</i>	<ul style="list-style-type: none"> • <i>Study area, period, components & methodology</i> • <i>Establishment of baseline for valued environmental components, as identified in the scope</i> • <i>Base maps of all environmental components</i>
4	<i>Anticipated Environmental Impacts & Mitigation Measures</i>	<ul style="list-style-type: none"> • <i>Details of Investigated Environmental impacts due to project location, possible accidents, project design, project construction, regular operations, final decommissioning or rehabilitation of a completed project</i> • <i>Measures for minimizing and/or offsetting adverse impacts identified</i> • <i>Irreversible and Irretrievable commitments of environmental components</i> • <i>Assessment of significance of impacts (Criteria for determining significance, Assigning significance)</i> • <i>Mitigation measures</i>
5	<i>Analysis of Alternatives (Technology & Site)</i>	<ul style="list-style-type: none"> • <i>In case, the scoping exercise results in need for alternatives:</i> • <i>Description of each alternative</i> • <i>Summary of adverse impacts of each alternative</i> • <i>Mitigation measures proposed for each alternative and</i> • <i>Selection of alternative</i>

6	<i>Environmental Monitoring Program</i>	<ul style="list-style-type: none"> • <i>Technical aspects of monitoring the effectiveness of mitigation measures (incl. Measurement methodologies, frequency, location, data analysis, reporting schedules, emergency procedures, detailed budget & procurement schedules)</i>
7	<i>Additional Studies</i>	<ul style="list-style-type: none"> • <i>Public Consultation</i> • <i>Risk assessment</i> • <i>Social Impact Assessment. R&R Action Plans</i>
8	<i>Project Benefits</i>	<ul style="list-style-type: none"> • <i>Improvements in the physical infrastructure</i> • <i>Improvements in the social infrastructure</i> • <i>Employment potential –skilled; semi-skilled and unskilled</i> • <i>Other tangible benefits</i>
9	<i>Environmental Cost Benefit Analysis</i>	<ul style="list-style-type: none"> • <i>If recommended at the Scoping stage</i>
10	<i>EMP</i>	<ul style="list-style-type: none"> • <i>Description of the administrative aspects of ensuring that mitigative measures are implemented and their effectiveness monitored, after approval of the EIA</i>
11	<i>Summary & Conclusion (This will constitute the summary of the EIA Report)</i>	<ul style="list-style-type: none"> • <i>Overall justification for implementation of the project</i> • <i>Explanation of how, adverse effects have been mitigated</i>
12	<i>Disclosure of Consultants engaged</i>	<ul style="list-style-type: none"> • <i>The names of the Consultants engaged with their brief resume and nature of Consultancy rendered</i>

81. Summary of environmental impact assessment should contain details given in Appendix III A of EIA Report, on seven aspects, as under:

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

82. **Appendix IV**, also with reference of para 7, **provides procedure for**

conduct of public hearing.

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

“PROCEDURE PRESCRIBED FOR APPRAISAL

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

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

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

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

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

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

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

84. **Appendix VI** with reference to paragraph 5 of EIA 2006 gives composition of sector/project specific EAC for category ‘A’ projects and the State/UT Level Expert Appraisal Committees for category ‘B’ projects to be constituted by Central Government.

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

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

1(a) **Mining of minerals**

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

1(c) *River Valley projects*

1(d) *Thermal Power Plants*

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

2. Primary processing

2(a) *Coal washeries*

2(b) *Mineral beneficiation*

3. Materials Production

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

3(b) *Cement plants*

4. Materials Processing

- 4(a) *Petroleum refining industry*
- 4(b) *Coke oven plants*
- 4(c) *Asbestos milling and asbestos based products*
- 4(d) *Chlor-alkali industry*
- 4(e) *Soda ash industry*
- 4(f) *Leather/ skin/ hide processing industry*

5. Manufacturing/Fabrication

- 5(a) *Chemical fertilizers*
- 5(b) *Pesticides industry and pesticide specific intermediates (excluding formulations)*
- 5(c) *Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics)*
- 5(d) *Manmade fibres manufacturing*
- 5(e) *Petrochemical based processing (processes other than cracking & reformation and not covered under the complexes)*
- 5(f) *Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)*
- 5(g) *Distilleries*
- 5(h) *Integrated paint industry*
- 5(i) *Pulp & paper industry excluding manufacturing of paper from waste paper and manufacture of paper from ready pulp without bleaching*
- 5(j) *Sugar industry*
- 5(k) *Induction/arc furnaces/cupola furnaces 5TPH or more*

6. Service Sectors

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

7. Physical Infrastructure including Environmental Services

- 7(a) *Air ports*
- 7(b) *All ship breaking yards including ship breaking units*
- 7(c) *Industrial estate/parks/complexes/areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes.*

- 7(d) Common hazardous waste treatment, storage and disposal facilities (TSDFs)
- 7(e) Forts, Harbours
- 7(f) Highways
- 7(g) Aerial ropeways
- 7(h) Common Effluent Treatment Plants (CETPs)
- 7(i) Common Municipal Solid Waste Management Facility (CMSWMF)”

86. In the Schedule appended to EIA 2006, ‘Mining of Mineral’ is at item 1(a) and reads as under:

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

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

Note:

General Condition (GC):

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

Specific Condition (SC):

If any Industrial Estate/Complex/Export processing Zones/ Special Economic Zones/Biotech Parks/Leather Complex with homogeneous type of industries such as Items 4(d), 4(f), 5(e), 5(f), or those Industrial estates with pre-defined set of activities (not necessarily homogeneous, obtains prior environmental clearance, individual industries including proposed industrial housing within such estates/complexes will not be required to take prior environmental

clearance, so long as the Terms and Conditions for the industrial estate/complex are complied with (Such estates/complexes must have a clearly identified management with the legal responsibility of ensuring adherence to the Terms and Conditions of prior environmental clearance, who may be held responsible for violation of the same throughout the life of the complex/estate)."

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

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

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

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

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

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

*"4(iii) All projects or activities included as Category 'B' in the Schedule, including expansion and modernization of existing projects or activities as specified in sub paragraph (ii) of paragraph 2, or change in product mix as specified in sub paragraph (iii) of paragraph 2, but excluding those which fulfil the General Conditions (GC) stipulated in the Schedule, will require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory level Expert Appraisal Committee (SEAC) as to be constituted for in this notification. **In the absence of a duly constituted SEIAA and SEAC, a Category 'B' project shall be considered at the Central Level as a Category 'B' project.**"*

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

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

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

*“(i) (a) In respect of Category ‘A’ projects, **it shall be mandatory for the project proponent to make public the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers** of the district or State where the project is located and in addition, this **shall also be displayed in the project proponent’s website permanently.** (b) In respect of Category ‘B’ projects, irrespective of its clearance by MoEF/SEIAA, the project proponent shall prominently advertise in the newspapers indicating that the project has been accorded environment clearance and the details of MoEF website where it is displayed. (c) **The Ministry of Environment and Forests and the State/Union Territory Level Environmental Impact Assessment Authorities (SEIAAs), as the case may be, shall also place the environmental clearance in the public domain on Government portal.** (d) **The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.**”;*

(b) existing sub-para (ii) shall be renumbered as sub-para (iii).”

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

“General Condition (GC):

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

Provided that the requirement regarding distance of 10 km of the inter-State boundaries can be reduced or completely

done away with by an agreement between the respective States or U.T.s sharing the common boundary in case the activity does not fall within 10 kilometres of the areas mentioned at item (i), (ii) and (iii) above.”

- f) Amendment was also made in **Appendix I whereby Form-I item (I) relating to Basic Information, was substituted by a new format** and in **Appendix IV, the procedure for conduct of public hearing was completely substituted.**

“VII for Appendix IV, the following shall be substituted, namely:-

**“APPENDIX IV
(See paragraph 7)**

PROCEDURE FOR CONDUCT OF PUBLIC HEARING

1.0 *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).*

2.0 The Process:

2.1 *The applicant shall make a request through a simple letter to the Member Secretary of the SPCB or Union Territory Pollution Control Committee, in whose jurisdiction the project is located, to arrange the public hearing within the prescribed statutory period. In case the project site is covering more than one District or State or Union Territory, the public hearing is mandated in each District, State or Union Territory in which the project is located and the applicant shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per this procedure.*

2.2 *The applicant shall enclose with the letter of request, at least 10 hard copies and an **equivalent number of soft (electronic) copies of the draft EIA Report** with the generic structure given in Appendix III including the Summary Environment Impact Assessment report in English and **in the official language of the state/local language**, prepared strictly in accordance with the Terms of Reference communicated after Scoping (Stage-2). Simultaneously the **applicant shall arrange to forward copies, one hard and one soft, of the above draft EIA Report along with the Summary EIA report 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 of Environment and Forests

2.3 On receiving the draft Environmental Impact Assessment report, the above-mentioned authorities except the Regional Office of MoEF, shall arrange to widely publicize it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities. They shall also make available the draft EIA Report for inspection electronically or otherwise to the public during normal office hours till the 'Public, Hearing is over.

2.4 The SPCB or UTPCC concerned shall also make similar arrangements for giving publicity about the project within the State/Union Territory and make available the Summary of the draft Environmental Impact Assessment report (Appendix III A) for inspection in select offices or public libraries or any other suitable location etc. They shall also additionally make available a copy of the draft Environmental Impact Assessment report to the above five authorities/offices as given in para 2.2.

3.0 Notice of Public Hearing

3.1 The Member-Secretary of the concerned SPCB or UTPCC shall finalize the date, time and exact venue for the conduct of public hearing within 7 (seven) days of the date of receipt of the draft Environmental Impact Assessment report from the project proponent, and advertise the same in one major National Daily and one Regional vernacular Daily / Official State Language. A minimum notice period of 30 (thirty) days shall be provided to the public for furnishing their responses;

3.2 The advertisement shall also inform the public about the places or offices where the public could access the draft Environmental Impact Assessment report and the Summary Environmental Impact Assessment report before the public hearing. In places where the newspapers do not reach, the Competent Authority should arrange to inform the local public about the public hearing by other means such

as by way of beating of drums as well as advertisement / announcement on radio I television

3.3 No postponement of the date, time, venue of the public hearing shall be undertaken, unless some untoward emergency situation occurs and then only on the recommendation of the concerned District Magistrate/District collector/Deputy commissioner, the postponement shall be notified to the public through the same National and Regional vernacular dailies and also prominently displayed at all the identified offices by the concerned SPCB or Union Territory Pollution Control Committee.

3.4 In the above exceptional circumstances, fresh date, time and venue for the public consultation shall be decided by the Member - Secretary of the concerned SPCB or UTPCC only in consultation with the District Magistrate/**District Collector/Deputy Commissioner** and notified afresh as per procedure under 3.1 above.

4.0 Supervision and presiding over the Hearing:

4.1 The District Magistrate/District Collector/Deputy Commissioner or his or her representative not below the rank of an Additional District Magistrate assisted by a representative of SPCB or UTPCC, shall supervise and preside over the entire public hearing process.

5.0 Videography

5.1 The SPCB or UTPCC shall arrange to video film the entire proceedings. A copy of the videotape or a CD shall be enclosed with the public hearing proceedings while forwarding it to the Regulatory Authority concerned.

6.0 Proceeding

6.1 The attendance of all those who are present at the venue shall be noted and annexed with the final proceeding.

6.2 There shall be no quorum required for attendance for starting the proceedings.

6.3 A representative of the applicant shall initiate the proceedings with a presentation on the project and the Summary EIA report.

6.4 **Persons present at the venue shall be granted the opportunity to seek information or clarifications on the project from the applicant.** The summary of the public hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the representative of the SPCB or UTPCC and read over to the audience at the end of the proceedings explaining the contents in the **local**/vernacular language and the agreed minutes shall be

signed by the District Magistrate/**District Collector/Deputy Commissioner** or his or her representative on the same day and forwarded to the SPCB/UTPCC concerned.

6.5 A Statement of the issues raised by the public and the comments of the applicant shall also be prepared in the local language or the Official State language, as the case may be, and in English and annexed to the proceeding.

6.6 The **proceedings of the public hearing shall be conspicuously displayed at the office of the Panchyats within whose jurisdiction the project is located**, office of the concerned Zila Parishad, District Magistrate / District collector / Deputy Commissioner, and the SPCB or UTPCC. The SPCB or UTPCC shall also display the proceedings on its website for general information. Comments, if any, on the proceedings, may be sent directly to the concerned regulatory authorities and the applicant concerned.

7.0 Time period for completion of public hearing

7.1 The public hearing shall be completed within a period of forty five days from date of receipt of the request letter from the applicant. Thereafter the SPCB or UTPCC concerned shall sent the public hearing proceedings to the concerned regulatory authority within eight days of the completion of the public hearing. **Simultaneously, a copy will also be provided to the project proponent.** The applicant may also directly forward a copy of the approved public hearing proceedings to the regulatory authority concerned along with the final Environmental Impact Assessment report or supplementary report to the draft EIA report prepared after the public hearing and public consultations incorporating the concerns expressed in the public hearing along with action plan and financial allocation, item-wise, to address those concerns

7.2 If the SPCB or UTPCC fails to hold the public hearing within 'the stipulated 45 (forty five) days, the Central government in Ministry of Environment and Forests for Category 'A' project or activity and the State Government or Union Territory Administration for Category 'B' project or activity at the request of the SEIM, shall engage any other agency or authority to complete the process, as per procedure laid down in this Notification."

g) In **Appendix V, para 3** was substituted.

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

a) Para **6** was amended by substituting certain words and

amended para 6 reads as under:

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

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

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

(i) **“Scoping”: refers to the process by which the Expert Appraisal Committee in the case of Category ‘A’ projects or activities, and State level Expert Appraisal Committee in the case of Category ‘B1’ projects or activities, including applications for expansion and/or modernization and/or change in product mix of existing projects or activities, determine detailed and comprehensive Terms Of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought. The Expert Appraisal Committee or State level Expert Appraisal Committee concerned shall determine the Terms of Reference on the basis of the information furnished in the prescribed application Form1/Form 1A including Terns of Reference proposed by the applicant, a site visit by a sub- group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, Terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. All projects and activities listed as Category ‘B’ in item 8(a) of the schedule (building and construction projects) shall not require Scoping and will be appraised on the basis of Form 1/ Form 1A and the conceptual plan.”**

c) In the **schedule, Item 1(a), the existing entry was substituted**

by the following:

**“(i) against item 1(a),-
In column (5), for the entries, the following entries shall
be substituted, namely:-
“General conditions shall apply.**

Note:

- i. Prior environmental clearance is as well required at the stage of renewal of mine lease for which application should be made up to one year prior to date of renewal.**
- ii. Mineral prospecting is exempted.”**

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

90. In **Deepak Kumar & Others vs. State of Haryana & Others, (2012) 4 SCC 629** (decided on 27.02.2012), effect of mining of minor minerals and its regulation was considered in the context of auction notices issued by Department of Mines and Geology, Government of Haryana. Supreme Court, however, extended its scope of direction, Pan India. Background facts are, that auction notice dated 03.06.2011, issued by Department of Mines and Geology, Haryana proposing to auction extraction of minor minerals, boulders, gravel and sand quarries of an area, not exceeding 4.5 hectares in district of Panchkula, was challenged. Further, auction notices dated 08.08.2011, in the district of Panchkula, Ambala and Yamuna Nagar exceeding 5 ha and above, quarrying minor mineral, road metal and masonry stone mines in the District of Bhiwani, stone and sand mines in the district of Mohindergarh, slate stone mines in the district of Rewari, and also in the districts of Kurukshetra, Karnal, Faridabad and Palwal, with certain restrictions for quarrying in the riverbeds of Yamuna, Tangri, Markanda, Ghaggar, Krishnavati River

basin, Dohan River Basin etc., were also challenged. It was also brought to the notice of Supreme Court that similar illegal mining is going on in various districts of Rajasthan and Uttar Pradesh. **It was pointed out that under EIA 2006, EC is required only when mining is permitted in an area not less than 5 ha. Auction notices permitting mining in area less than 5 ha were challenged on the ground that in order to escape from environment study under EIA 2006, bigger areas have been divided in smaller areas of less than 5 ha and that is how illegal mining is being permitted causing damage to environment.** Supreme Court noticed the stand taken by MoEF in its affidavit dated 23.11.2011 that where mining area is homogenous, physically proximate and identifiable piece of land of 5 ha or more, it should not be broken into smaller sizes to circumvent EIA 2006. There was a Committee of Minor Minerals which had recommended minimum lease size of 5 ha for minor minerals for undertaking scientific mining for the purpose of integrating and addressing environmental concerns. Court said that minor minerals, boulders, gravel and sand quarries etc., in the places notified in auction notices, including the riverbeds of Yamuna, Tangri, Markanda, Ghaggar, Krishnavati River basin, Dohan River Basin etc., **would result in environmental degradation and threat to bio-diversity, damage to riverine vegetation, cause erosion, pollute water resources etc.** There was nothing on record to come to otherwise conclusion. It further shows that sand mining on either side of river upstream and instream, is one of the causes for environmental degradation and also threat to biodiversity over the years; India's rivers and riparian ecology had been badly affected at alarming rate due to unrestricted sand mining which has caused damage to ecosystem of rivers and safety of bridges, weakening of riverbeds, destruction of natural habitats of organisms living on the riverbeds. It would also affect fish breeding and migration, spells disaster

for conservation of many bird species, and had increased saline water in rivers. Commenting on the loss to the environment due to mining of minerals within or near streambeds or inside streambeds, Court observed, that **extraction of alluvial material from within or near a streambed has direct impact on stream's physical habitat characteristics. These characteristics include bed elevation, substrate composition and stability, instream roughness elements, depth, velocity, turbidity, sediment transport, stream discharge and temperature. If these habitat characteristics are altered, the same can have deleterious impact on both, instream biota and the associated riparian habitat. It is true that demand for sand had continued and would continue to increase, day by day, due to ongoing construction of new infrastructures and expansion of existing ones.** It is continuous process, placing immense pressure on the supply of sand resource. This has, and would, encourage mining activity which are bound to go on, legally or illegally, without any restriction. Lack of proper planning and sand management cause disturbance of marine ecosystem and would upset, the ability of natural marine processes to replenish the sand. Court expressed its anguish in the manner auction notices which were published by State of Haryana, permitting quarrying, mining and removal of sand from upstream and instream of several rivers which may have serious environmental impact on ephemeral, seasonal and perennial rivers and riverbeds, and sand extraction may have an adverse effect on biodiversity as well. This may also lead to bed degradation and sedimentation having a negative effect on the aquatic life. Some of the rivers mentioned in the auction notices are on the foothills of fragile Shivalik Hills. Shivalik Hills are the source of rivers like Ghaggar, Tangri, Markand, etc. River Ghaggar is a seasonal river which rises up, in the outer Himalayas, between Yamuna and Satluj and enters Haryana near Pinjore, District Panchkula,

which passes through Ambala and Hissar and reaches Bikaner in Rajasthan. River Markanda is also a seasonal river like Ghaggar, which also originates from the lower Shivalik Hills and enters Haryana near Ambala. During monsoon, this river swells up into a raging torrent, notorious for its devastating power, as also River Yamuna. Court found that without conducting any study on the possible environmental impact, on/in the riverbeds, and elsewhere, the auction notices were issued. Court said that, when extraction of alluvial material within or near a riverbed has an impact on river's physical habitat characteristics, like river stability, flood risk, environmental degradation, loss of habitat, decline in biodiversity, it is not an answer to say that extraction is in blocks of less than 5 ha, separated by 1 km, since their collective impact may be significant, hence the necessity of a proper environmental assessment plan. **MoEF brought to the notice of Court that it had come across several instances across the Country regarding damage to lakes, river beds and ground water leading to drying up of water beds and causing water scarcity on account of quarrying/mining leases and mineral concessions granted under rules, by Provincial Governments.** State Government paid less attention on environmental aspect of minor minerals on the pretext that area was small but ignored the fact that collective impact in a particular area, over a period of time, was or would be significant. For taking note of these aspects, MoEF constituted, a Core Group under Chairmanship of Secretary (Environment and Forest) to look into the environmental aspects associated with mining of minor minerals, vide order dated 24.03.2009. The Core Group considered matter on following aspects: (i) Need to relook the definition of minor mineral, (ii) Minimum size of lease for adopting eco-friendly scientific mining practices, (iii) Period of lease, (iv) Cluster of mine approach for addressing and implementing EMP in case of small mines, (v) Depth of mining to minimise

adverse impact on hydrological regime, (vi) Requirement of mine plan for minor minerals, similar to major minerals and, (vii) Reclamation of mined out area, post mine land use, progressive mine closure plan etc. **The Core Group examined the matter and submitted a Draft report to MoEF which was considered and discussed on 29.01.2010 and, thereafter, final report was circulated to all the State Governments vide MoEF's DO letter dated 01.06.2010.** The Ministry of Mines, Government of India also prepared draft rules called "Minor Minerals (Conservation and Development) Rules 2010", and also sent communication dated 16.05.2011, called "Environmental Aspects of Quarrying and of Minor Minerals-Evolving of Model Guidelines" along with a draft model guideline, calling for inputs, before 30.06.2011. In view of above, Court noticed that it is absolutely necessary to have an effective frame work of mining plan which will take care of all environmental issues, evolve a long term rational and sustainable natural resource base and also bio assessment protocol. Quarrying of river sand is an important economic activity of the Country with river sand, forming a crucial raw material for infrastructural development and construction industry, but excessive instream sand and gravel mining causes degradation of rivers. Instream mining lowers the stream bottom of rives which may lead to bank erosion. Depletion of sand in the streambed and along coastal areas causes deepening of rivers which may result in destruction of aquatic and riparian habitats as well. Extraction of alluvial material from within or near a streambed has a direct impact on stream's physical habitat characteristics. Sand mining, therefore, may have an adverse effect on bio-diversity as loss of habitat caused by sand mining will affect various species of flora and fauna and may also destabilize soil structure of river banks and often leaves isolated islands.

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

92. The details of recommendation made by MoEF are reproduced in para 19 of the judgment and key recommendations contained in MoEF's DO letter dated 01.06.2010 are mentioned in para 22 of judgment. **Supreme Court specifically directed that lease of minor minerals including renewal of an area of less than 5 ha would be granted by concerned authorities only after getting EC from MoEF.**

93. Another matter came up before Supreme Court in ***Goa Foundation vs. Union of India & Others, (2014) 6 SCC 590***. Relying on interim report dated 15.03.2012 submitted by Justice Shah Commission to Ministry of Mines, Government of India recording its findings in respect of illegal Mining of iron ore in violation of Forest (Conservation) Act, 1980 (hereinafter referred to as '**FC Act 1980**'), Mines and Minerals

(Development and Regulation) Act, 1957 (hereinafter referred to as '**MMDR Act 1957**'), Mineral Concession Rules, 1960 (hereinafter referred to as '**MC Act 1960**'), EP Act 1986, Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as '**Water Act, 1974**'), Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as '**Air Act, 1981**') and Wild Life (Protection) Act, 1972 (hereinafter referred to as '**WLP Act 1972**'), Goa Foundation came to Court by filing Writ Petition under article 32 of the Constitution, in Supreme Court and made a prayer that direction be issued to the Respondents to prosecute all those who have committed offences under different laws and are involved in pilferage of State revenue through illegal mining activities in State of Goa, including public servants who have aided and abated the offences. Goa Foundation also prayed that an independent authority be appointed with full powers to take control, supervise and regulate mining operations in State of Goa and to ensure implementation of laws. Lastly, Goa Foundation also prayed for some incidental and consequential reliefs. Entertaining Writ Petition, Supreme Court on 05.10.2012, issued notice directing Central Empowered Committee to submit report on the issues raised in the Writ Petition. Supreme Court further directed that, till further orders, all mining operations in the leases identified in the report of Justice Shah Commission, transportation of iron ore and manganese ore from those leases, whether lying at the mine-head or stockyards, shall remain suspended, as recommended in the said report. Simultaneously, some mining lessees of State of Goa and Goa Mining Association had filed Writ Petition in Bombay High Court (Goa Bench), seeking a declaration that report of Justice Shah Commission is illegal. They also prayed to quash the order issued by State Government, suspending mining operation in State of Goa, pursuant to the aforesaid report. MoEF's order dated 14.09.2012, directing to keep Environmental Clearances to mines, in State

of Goa, in abeyance, was also sought to be quashed. On the application moved before Supreme Court, Writ Petitions filed before Bombay High Court, were transferred to be heard in Supreme Court, along with **Writ Petition (Civil) No. 435/2012** filed by Goa Foundation. Some Background facts, giving rise to the above matter are, that prior to 19.12.1961, when Goa was a Portuguese territory, the then Government granted mining concessions in perpetuity to certain persons (hereinafter referred to as '**Concessionaires**'). Goa was liberated on 19.12.1961. MMDR Act 1957 was made applicable to State of Goa on 01.10.1963. Controller of Mining Leases, on 10.03.1975, issued a notification calling upon every lessee and sub-lessee to file returns under Rule 5 of Mining Leases (Modification of Terms) Rules, 1956 and sent copies of the notification to concessionaires in Goa. The above notification was challenged by concessionaires in Bombay High Court (Goa Bench). Vide judgment dated 29.09.1983, in **Vassudeva Madeva Salgaocar vs. Union of India, (1985)1Bom.CR36**, Bombay High Court restrained Union of India from treating concessions as mining leases and from enforcing notification against concessionaires. To overcome difficulty arisen due to above judgment, Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987 was passed which received assent of President of India on 23.05.1987. The said act abolished mining concessions and declared that with effect from 20.12.1961, every mining concession will be deemed to be a mining lease granted under MMDR Act, 1957 and that provisions of MMDR Act, 1957 will apply to such mining lease. The above Abolition Act was challenged by lessees in Bombay High Court wherein an interim order was passed permitting lessees to carry on mining operations and mining business in the concessions for which renewal applications had been filed under 24-A of the MC Rules 1960. The above **Writ Petition 177/1990, Shantilal Khushaldas and Bros. (P) Ltd. vs. Union of India** was

decided by Bombay High Court vide judgment dated 20.6.1997. The validity of Abolition Act, as such, was upheld, but Court held Section 22(i)(a) of Abolition Act to operate prospectively and not retrospectively. Concessionaires filed appeal in Supreme Court in **SLP (C) no. 23827 of 1997, Shantilal Khushaldas and Bros. (P) ltd. vs. Union of India** wherein an interim order was passed on 2.3.1983 permitting concessionaires to carry on mining operations and mining business in the mining areas for which renewal applications were made but imposing a condition that lessees would pay to the Government, dead rent from the date of commencement of Abolition Act. When appeal was pending, Central Government appointed a Commission under Section 3 of Commissions of Inquiry Act, 1952, by notification dated 22.11.2010, to enquire into and determine nature and extent of mining, trade and transportation, done illegally or without lawful authority, of iron ore and manganese ore, and the losses therefrom; and also, to identify the person etc., engaged in such illegal activities. The term of reference contained four aspects. Justice Shah Commission was constituted in view of various reports received from various State Governments regarding widespread mining of iron and manganese ore, in contravention of MMDR Act 1957, FC Act 1980, EP Act 1986 and rules and guidelines issued thereunder. Justice Shah submitted an interim report on 15.03.2012 to Ministry of Mines, Government of India which was tabled on Parliament along with an Action Taken Report. State Government of Goa passed an order on 10.9.2012, suspending all mining operations in State of Goa, with effect from 11.9.2012. Consequently, District Magistrates in State of Goa, banned transportation of iron ore in their respective Districts. Director of Mines and Geology, ordered verification of mineral ore which was already extracted, and also issued show cause notices on 13.9.2012 to about 40 mining leases. On 14.9.2012, MoEF issued an order keeping in abeyance all ECs granted to

mines in State of Goa. In this backdrop, Goa Foundation came in Supreme Court and other litigation arose as already stated. Report of Commission was challenged primarily on the ground of violation of Principles of the Natural Justice. Mining lessees argued that they were not given any opportunity of hearing in the Inquiry conducted by the said Commission and, therefore, Principles of Natural Justice have been violated. Supreme Court recorded stand of Government of Goa that no action will be taken against mining lessees only on the basis of findings recorded in the report of Justice Shah Commission but it would make its own assessment of facts after giving opportunity of hearing to all concerned parties and in that view of the stand taken by State Government, Supreme Court, in para 14 of judgment, observed that it is not inclined to quash Justice Shah Commission's Report on the ground of violation of Principles of Natural Justice but also would not direct to prosecute lessees only on the basis of findings recorded in the said report. However, looking to the serious dispute raised in the matter pertaining to environment, Supreme Court proceeded to examine legal and environmental issues raised in the Report of Justice Shah Commission. The first issue was regarding continuance of leases, as deemed renewed. Court held, in para 28 of judgment, that deemed mining leases of the then lessees in Goa, expired on 22.11.1987, under sub-section (1) of Section 5 of Abolition Act. The maximum of 20 years renewal period of deemed mining leases in Goa, as provided in sub-section (2) of Section 8 of MMDR Act 1957 read with sub-rules (8) and (9) of Rule 24-A of MC Rules 1960, expired on 22.11.2007. The next question was, dumping of reject, tailing or waste, whether can be kept beyond lease area. This question was answered in negative i.e., against the stand taken by mining lessees. Court said (i) a holder of mining lease does not have any right to dump any reject, tailings or waste in any area outside the leased area of the mining lease on the strength of a mining lease granted

under MMDR Act 1957 and rules framed thereunder. Even if such area is outside the leased area of mining lease, belong to State or any private person, but if mining lease does not confer any right whatsoever on the holder of a mining lease to dump any mining waste outside the leased area, he will have no legal right whatsoever to remove his dump, overburden, tailings or rejects and keep the same in an area outside the leased area. Dumping of waste materials, tailings and rejects, outside leased area, would be without valid authorisation under the lease deed. In view of Section 9(2) of MMDR Act, 1957, if mineral is removed or consumed from the leased area, holder of mining lease, has to pay royalty. The term 'mineral' includes tailings or rejects, excavated during mining operations. Rule 64-C of MC Rules, 1960, firstly, did not permit dumping of tailings or rejects in any area outside the leased area and even otherwise if a rule goes beyond what the section contemplates, the rule must yield to the statute as held in **Central Bank of India vs. Workmen, AIR1960SC12**, therefore, Rule 64-C of the MC Rules 1960, if suggests dumping of tailings or rejects outside the leased area, it must give way to section 4 of MMDR Act 1957 which does not authorise dumping of minerals outside the leased area. The said Rule must give way to section 9 of MMDR Act 1957 which does not authorise removal of minerals, outside the leased area, without payment of royalty. Even Rule 16 of Mineral Conservation and Development Rule 1988 (hereinafter referred to as '**MCD Rules 1988**') does not permit dumping of overburden and waste materials, obtained from mining operation, outside the leased area. The lessees also cannot be allowed to dump overburden tailings or rejects in the area owned by them for the reason that most of the land, owned by lessees, is located in the forest area where non-forest activities such as mining is not permissible in view of section 2 of FC Act 1980 and it also requires prior EC under EP Act 1986 read with rule 5 (3) of EP Act 1986. For dumping of mining waste

on the private land, Court said that prior clearance of Central Government under notification issued under Rule 5 (3) of EP Rules 1986 would be necessary. Justice Shah Commission found that despite restriction on mining activities inside National Parks, Sanctuaries and other protected and eco-sensitive areas, mining activities have been permitted within 10 km and inside the national parks, sanctuaries and protected area. Thus, **Court considered next question as to within what distance from the boundaries of national parks and wildlife sanctuaries mining is permissible or not in the State of Goa.** Answering this question, Court found that State of Goa has taken a clear stand that no mining operations were allowed inside any National Park or Wildlife Sanctuaries hence question to this extent did not require any adjudication. Next question was ***“whether mining could have been permitted or could be permitted within a certain distance from the boundaries of national park or wildlife sanctuary in the State of Goa”.*** Answering it, Court said that the argument advanced on behalf of lessees that until a notification is issued under EP Act, 1986 and rules framed thereunder prohibiting mining activities in an area outside the boundaries of a national park/wildlife sanctuary, no mining can be prohibited, is misconceived. Here Court relied on article 21 of the constitution which guarantees right to life and further refers to a three Judge Bench Judgment in ***Noida Memorial Complex near Okhla Bird Sanctuary, In Re, (2011) 1 SCC 744***, where it was held that environment is one of the facets of the right to life guaranteed under Article 21 of the Constitution. Environment is, therefore, a matter, directly under the Constitution and if Court perceives any project or activity as harmful or injurious to the environment, it would feel obliged to step in. Then, with regard to permissible mining activities, Supreme Court referred to order dated 4.8.2006 in ***T.N. Godavarman Thirumulpad vs. Union of India, (2010) 13 SCC 740***, and 4.12.2006 in

***Goa Foundation vs. Union of India, (2011) 15 SCC 791*, and said that the above orders make it clear that grant of temporary working permits should not result in any mining activities within safety zone, around National Parks and Wildlife Sanctuaries, and as an interim measure, 1 km safety zone was to be maintained. Since the said orders were not varied subsequently, Supreme Court directed that the said order have to be followed and there will be no mining activity within 1 km safety zone around National Park and Wildlife Sanctuary in State of Goa.**

94. **The contention advanced on behalf of Goa Foundation, that within 10 kms from the boundaries of national park or wildlife sanctuary, no mining activity can be permitted, was returned by Supreme Court holding that no such order was issued either in *Goa Foundation vs. Union of India (supra)* or elsewhere.** Court further referred to EP Rules 1986 and said that **until Central Government takes into account various factors mentioned in sub-rule 1, follows procedure laid down in sub-rule 3 and issues a notification under rule 5 prohibiting mining operations in a certain area, there can be no prohibition under law to carry on mining activity beyond 1 km of the boundaries of national parks or wildlife sanctuaries.** The issue of the distance, with regard to mining activities qua National Park and Sanctuaries, was decided accordingly. The next question was regarding transfer or amalgamation of lease for which Justice Shah Commission observed that Rule 37 and 38 of MC Rules 1960 were violated. Here State Government took a stand that there was a practice prevailing in State of Goa that a mining lease, by a person other than lease holder, can be operated. Deprecating it, Supreme Court said that rules 37 and 38 clearly prohibit such transfer or amalgamation unless permitted specifically by

State Government and directed State Government not to allow such activities in violation of Rules 37 and 38. Court also found from CEC's Report that there was no effective checks and measures with regard to production and transportation of mineral from the mining leases in the State of Goa, hence there was every possibility to believe that excess quantity of minerals were extracted and transported. Court also found existence of Goa (Prevention of Illegal Mining, Storage and Transportation of Minerals) Rules, 2013 but non-observance thereof by the Authority. It directed State Government to enforce above rules, strictly.

95. The next question related to environment. "To what extent, mining has damaged environment in Goa" and "what measures are to be taken to ensure intergenerational equity and sustainable development". In this regard, Court vide order dated 11 and 12.11.2013 (***Goa Foundation vs. Union of India, (2014) 6 SCC 738***) constituted an Expert Committee to conduct, a macro-EIA study, and propose sealing of annual excavation of iron ore in State of Goa, considering its iron ore resources, carrying capacity, keeping in mind Principles of Sustainable Development, Intergenerational Equity and all other relevant factors. The said Committee submitted report dated 14.03.2014 indicating that economy of Goa depends upon tourism, iron ore mining, besides agriculture, horticulture and minor industries. Commenting upon damage to environment in State of Goa, Expert Committee said that production of iron ore has drastically jumped on, from 14.6 million tons in 1941 to 41.17 million tons in 2010-2011. This has led to massive negative impact on all ecosystems leading to enhanced air, water and soil pollution, affecting quality of life, across Goa. With regard to sustainability of iron ore mining in Goa, Expert Committee opined that mining at the rate of 20 to 27.5 million tons per annum may be sustainable in State of Goa. Supreme

Court referred to a report of Indian School of Mines, Dhanbad (hereinafter referred to as '**ISM**'), who was entrusted, by MoEF, to carry out regional impact assessment study of mining in Goa region. In the said report, ISM recommended a cap of 24.995 MT per annum on the basis of carrying capacity of existing infrastructure of State of Goa. Relying on the said report, Court held that a cap between 20 to 27.5 MT per annum should be fixed for excavation of iron ore in State of Goa. Court also found that Goa State Pollution Control Board (Goa PCB) has immense powers under Air Act, 1981 and Water Act, 1974 but despite that, iron ore production in State of Goa has led to massive negative impact on all ecosystem leading to enhanced air, soil and water pollution affecting quality of life across State of Goa, and Goa PCB has miserably failed in discharge of its statutory functions. Supreme Court's observations are, "**Rather, it appears that the Goa State Pollution Control Board, though conferred with immense statutory powers, has failed to discharge its statutory functions and duties**". Court directed that Goa PCB would exercise strict vigil and monitor water and air quality and if lessees failed to conform the prescribed norms, Goa PCB must not hesitate in closure of mining operations of such lessees. Further, for restoration of environment, Court directed that **10% of sale proceeds of all iron ore**, excavated in State of Goa, and sold by lessees, would be appropriated towards 'Goan Iron Ore Permanent Fund', constituted for the purpose of sustainable development and intergenerational equity.

96. The next question, "whether mining in future should be allowed by granting leases in auction or otherwise", was answered by noticing observations in **Centre for Public Interest Litigation vs. Union of India (2012)3SCC1**, that "**State of the legal owner of the natural resources as a trustee of the people and although it is empowered to distribute**

the same, the process of distribution must be guided by the constitutional principles including the doctrine of equality and larger public good.” Court also noticed observations of constitution bench in ***Natural Resources Allocation, In Re, Special Reference No. 1 of 2012, (2012) 10 SCC 1*** that auction, despite being a more preferable method of alienation/allotment of natural resources, cannot be held to be a constitutional requirement or limitation for alienation of all natural resources, and therefore, every method other than auction cannot be struck down as ultra vires of the constitutional mandate. It is for State Government to decide as a matter of policy in what manner leases of mineral resources would be granted but this should be in accordance with statutory provisions i.e., MMDR Act 1957 and rules framed thereunder by taking a policy decision. Supreme Court also quoted opinion of four Judges out of five Judges, in ***Natural Resources Allocation (supra)***, (in para 149), that **alienation of natural resources is a policy decision and the means, adopted for the same, are, thus executive prerogatives.** However, when such a policy decision is not backed by a social or welfare purpose, and precious and scarce natural resources are alienated for commercial pursuits of profit, maximising private entrepreneurs, adoption of means other than those that are competitive and maximise revenue, may be arbitrary and face wrath of Article 14 of the Constitution. Hence no hard and fast method ought to be laid by Court but judicial scrutiny of such matter would depend on fact and circumstances in each case. Supreme Court also held that the order issued by Government of Goa suspending mining operations cannot be quashed since in any case renewal of deemed mining leases expired on 22.11.2007 and any mining thereafter was illegal. Therefore, order dated 10.09.2012 of Government of Goa and 14.09.2012 of MoEF, will have to continue till decision is taken by State Government to grant fresh leases and MoEF takes decision for

granting fresh EC for mining project in accordance with law. Supreme Court ultimately issued directions which are briefly stated in para 87 and 88 of the judgment. **The above judgment shows that for remedy to the damage done to environment, 10% of sale proceeds of the subject i.e., goods and in this case mined iron ore, was required to be paid by lessees who excavated the said ore, illegally. The amount collected was to be kept in a separate fund, and to be consumed by appropriate authorities for sustainable development and intergenerational equity.** Further, here environment compensation was determined at 10% in view of the fact that mining cannot be stopped, and would continue as providing revenue to Government and heavy profits to illegal miners. Further, **environment compensation was determined on the rate of sale proceeds i.e., selling rate of mineral.**

97. Amendments were made in EIA 2006 after the judgment in **Deepak Kumar vs. State of Haryana (supra)** and **Goa Foundation (supra)** and have reflections of the said judgements. Subsequent amendments made in EIA 2006 are as under:

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

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

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

“General conditions shall apply.

Note:

- i. Prior environment clearance is required at the stage of renewal of mine lease for which an application shall be made up to two years prior to the date due for renewal. Further, a period of two years with effect from the 4th April, 2011 is provided for obtaining environmental clearance for all those mine leases, which were*

operating as on the 4th April, 2011 with requisite valid environmental clearance and which have fallen due for renewal on or after the 4th November, 2011.

ii. Mineral prospecting is exempted.”

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

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

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

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

a) It inserted para 11 A as under:

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

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

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

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

*“(i) “**Scoping**” refers to the process by which the Expert Appraisal Committee in the case of Category ‘A’ projects activities, and State level Expert Appraisal Committee in the case of Category ‘B1’ projects or activities, including applications for expansion or modernization or change in product mix of existing projects or activities, **determine detailed and comprehensive Terms of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA)***

Report in respect of the project or activity for which prior environmental clearance is sought and the **Expert Appraisal Committee** or State level Expert Appraisal Committee concerned **shall determine the terms of reference on the basis of the information furnished in the prescribed application Form 1 or Form 1A including terms of reference proposed by the applicant, a site visit by a sub-group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned:**

Provided that the following shall not require Scoping-

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

Provided further that-

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

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

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

(1)	(2)	(3)	(4)	(5)
"1(a)	(i) Mining of minerals	≥ 50 ha of mining lease area in respect of non-coal mine lease.	<50 ha of mining lease area in respect of minor minerals mine lease; and ≤50 ha ≥ 5 ha of mining lease area in respect	General Conditions shall apply except for project or activity of less than 5 ha of mining lease area for minor minerals: Provided that the above exception shall not apply for project or activity if the sum total of the mining lease area

		<p>>150 ha of mining lease area in respect of coal mine lease.</p> <p>Asbestos mining irrespective of mining area.</p>	<p>of other non-coal mine lease.</p> <p>≤ 150 ha >5 ha of mining lease area in respect of coal mine lease.</p>	<p>of the said project or activity and that of existing operating mines and mining projects which were accorded environment clearance and are located within 500 metres from the periphery of such project or activity equals or exceeds 5 ha.</p> <p>Note:</p> <p>(i) Prior environmental clearance is required at the stage of renewal of mine lease for which an application shall be made up to two years prior to the date due for renewal. Further, a period of two years with effect from the 4th April, 2011 is provided for obtaining environmental clearance for all those mine leases, which were operating as on the 4th April, 2011 with requisite valid environmental clearance and which have fallen due for renewal on or after 4th November, 2011:</p> <p>Provided that no fresh environmental clearance shall be required for a mining project or activity at the time of renewal of mining lease, which has already obtained environmental clearance under this notification.</p> <p>(ii) Mineral prospecting is exempted.”.</p>
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98. Thereafter, two **OMs dated 24.06.2013 and 24.12.2013** were issued by MoEF&CC. OM dated 26.06.2013 lays down guidelines

regarding categorization of mining projects of brick earth and ordinary earth having lease area less than 5 Ha as category B2 subject to stipulation stated therein. We are not giving details of this OM not being relevant for our purposes.

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

*“2. In compliance with such a requirement under the EIA Notification and to examine other issues, the MoEF had constituted vide O.M. No. J-11013/12/2013-IA-II(I) dated 30.01.2013, an Expert Committee, under the Chairmanship of Director, NEERI, Nagpur. The Committee has since submitted its report. The recommendations of the Committee have been examined by MOEF and the **following has been decided w.r.t. categorization of Category ‘B’ projects/activities into Category ‘B1’ & ‘B2’ listed in the Schedule of EIA Notification, 2006 and its amendments:***

I. Mining of Minerals

Mining of minor minerals

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

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

- (i) ‘Brick earth’/‘Ordinary earth’ mining projects having lease area less than 5 ha will be considered for granting EC as per the aforesaid guidelines issued by MOEF on 24.6.2013.*
- (ii) ‘Brick earth’/‘Ordinary earth’ mining projects with mining lease area \geq 5 ha but $<$ 25 ha and all other minor mineral mining projects with mining lease area $<$ 25 ha, except for river sand mining projects will be appraised as Category ‘B2’ projects. These projects will be appraised based on following documents:*

- (a) Form -1 as per Appendix-I under EIA Notification, 2006
- (b) Pre-feasibility report of the project
- (c) Mining plan approved by the authorized agency of the concerned State Government

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

- (iii) No river sand mining project, with mine lease area less than 5 ha, may be considered for granting EC. The river sand mining projects with mining lease area ≥ 5 ha but < 25 ha will be categorized as 'B2'. In addition to the requirement of documents, as brought out above under sub-para (ii) above for appraisal, such projects will be considered subject to the following stipulations:

(a) The mining activity shall be done manually.

(b) The depth of mining shall be restricted to 3m/water level, whichever is less.

(c) For carrying out mining in proximity to any bridge and/or embankment, appropriate safety zone shall be worked out on case to case basis to the satisfaction of SEAC/SEIAA, taking into account the structural parameters, locational aspects, flow rate, etc., and no mining shall be carried out in the safety zone so worked out.

(d) No in stream mining shall be allowed.

(e) The mining plan approved by the authorized agency of the State Government shall inter-alia **include study to show that the annual replenishment of sand in the mining lease area is sufficient to sustain the mining operations at levels prescribed in the mining plan** and that the transport infrastructure is adequate to transport the mines material. In case of transportation by road, the transport vehicles will be covered with tarpoline to minimize dust/sand particle emissions.

(f) EC will be valid for mine lease period subject to a ceiling of 5 years.

Provided, in case the mining lease area is likely to result into a **cluster situation i.e. if the periphery of one lease area is less than 1 km from the periphery of another lease area**

and total lease area equals or exceeds 25 ha, the activity shall become Category 'B1' Project under the EIA Notification, 2006. In such a case, mining operations in any of the mine lease areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

II. Other projects or activities

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

S.N. of Schedule	Activities	Category B2	Category B1
1 (d)	Thermal Power Plants	Thermal power plants based on coal/ lignite/ naphtha and gas of capacity \leq 5 MW	Thermal power plants based on coal/ lignite/ naphtha and gas of capacity $>$ 5 MW and $<$ 500 MW.
2 (b)	Mineral Beneficiation	The mineral beneficiation activity listed in the Schedule as Category 'B', with throughput \leq 20,000 TPA, involving only physical beneficiation.	All other mineral beneficiation activity falling in the Schedule as Category 'B'.
3 (a)	Metallurgical Industries (ferrous & non-ferrous)	All non toxic secondary metallurgical processing industries involving operation of furnaces only, such as induction and electric arc furnaces, submerged arc furnaces, and cupola with capacity $>$ 30,000 TPA but $<$ 60,000 TPA provided that such projects are located within the notified Industrial Estates.	All other non toxic secondary metallurgical processing industries falling in the Schedule as Category 'B'.

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

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

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

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

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

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

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

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

- I. For the reasons afore recorded, **we hold and declare that the Notification dated 9th September, 2013 is invalid and inoperative for non-compliance of the statutorily prescribed procedure under the Environment (Protection) Rules, 1986 and for absence of any justifiable reason for dispensation of such procedure.***
- II. **We also hold and declare that the Office Memorandums dated 24th June, 2013 and 24th December, 2013 to the extent afore-indicated are invalid and inoperative being beyond the power of delegated legislation.***

- III. **All the Office Memorandums and Notifications issued by MoEF i.e. 1st December, 2009, 18th May, 2012 and 24th June, 2013 and 24th December, 2013 (except to the extent afore-stated) are operative and would apply to the lease mine holders irrespective of the fact that whether the area involved is more or less than 5 hectares.**
- IV. **We further hold that the existing mining lease right holders would also have to comply with the requirement of obtaining Environmental Clearance from the competent authorities in accordance with law. However, all of them, if not already granted Environmental Clearance would be entitled to a reasonable period (say **three months**) to submit their applications for obtaining the same, which shall be disposed of expeditiously and in any case not later than six months from pronouncement of this judgment.**
- V. **All the States and the Ministry of Environment and Forest shall ensure strict compliance to the directions issued by the Hon'ble Supreme Court in the case of Deepak Kumar (supra). We direct Secretary, Ministry of Environment and Forest to hold a meeting with the State of Rajasthan, Himachal Pradesh and Karnataka to bring complete uniformity in application of the above referred Notifications and Office Memorandums including the Notification of 2006.**
- VI. **We direct that in the meeting it shall also discuss and appropriate recommendations be made and placed before the Tribunal, as to whether riverbed mining covering an area of less than 5 hectares can be permitted, if so, the conditions and regulatory measures that need to be adopted in that behalf.**
- VII. **We direct that the District Environmental Committees constituted by the respective State Governments shall not discharge any functions and grant approval as contemplated under the Notification of 2006.**
- VIII. **Secretary, Ministry of Environment and Forest along with such experts and the States afore-referred will also consider the possibility of constituting the branches of SEIAA at the district or at least, division levels, to ensure easy accessibility to encourage the mine holders to take Environmental Clearance expeditiously.**
- IX. *It is stated before us that in large number of cases, particularly in relation of State of Rajasthan, persons carrying on mining activity of minor minerals, non-coal mining and brick earth and ordinary earth have applied for obtaining Environmental Clearances in*

accordance with the terms and conditions of the Notification of 2006. Let all such applications be dealt with and orders passed by the concerned authorities at the earliest and in any case not later than six months from today.

- X. We direct the respondent authorities, particularly SEIAA, to dispose of the application of all these private respondents who have already filed applications seeking Environmental Clearance as expeditiously as possible, in any case **not later than three months from today**. Thus, Appeal No. 23/2014 and M.A. No. 469/2014, M.A No. 488/2014, 489/2014, 479/2014, 480/2014, 473/2014, 470/2014, 471/2014 and 469/2014 stand disposed of with the above directions. Till the grant of environmental clearance they would not carry out any activity of marble mining.
- XI. **We dispose of Original Application No. 123/13 with a direction that SEIAA shall consider the applications filed for seeking Environmental Clearance in accordance with law and observations made in this judgment, expeditiously, and in any case within a period of three months from today.**
- XII. **In the meanwhile, no State shall permit carrying on of sand mining or minor mineral extraction on riverbed or otherwise** without the concerned person obtaining Environmental Clearance from the competent authority.
- XIII. **We direct the Ministry of Environment and Forest to issue comprehensive but self-contained Notification relating to all minor mineral activity on the riverbed or otherwise, to avoid unnecessary confusion, ambiguities and practical difficulties in implementation of the environmental laws.**
- XIV. **In light of the judgment of the Supreme Court and what has emerged from the various cases that are subject matter of this Judgment, we direct the Ministry of Environment and Forest to formulate a uniform cluster policy in consultation with the States for permitting minor mineral mining activity including, its regulatory regime, in accordance with law.”**

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

“64....it is clear that no Environmental Clearance would be granted for extraction of minor minerals, sand mining from any riverbed where the area is less than 5 hectares. This will amount to total prohibition of carrying on of minor mineral activity of extraction of sand from

*riverbed anywhere in the country. **Such prohibition, as we have already noticed, cannot be imposed in exercise of executive powers in face of the Notification of 2006 which places no such restriction.***

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

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

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

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

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

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

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

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

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

“In the said notification, in the Schedule, for item 1(a) and entries relating thereto, the following item and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)
“1(a)	(i) Mining of minerals	≥ 50 ha of mining lease area in respect of non-coal mine lease. >150 ha of mining lease area in respect of coal mine lease. Asbestos mining irrespective of mining area.	<50 ha of mining lease area in respect of non-coal mine lease. ≤ 150 ha of mining lease area in respect of coal mine lease.	General Conditions shall apply except for project or activity of less than 5 ha of mining lease area: Provided that the above exception shall not apply for project or activity if the sum total of the mining lease area of the said project or activity and that of existing operating mines and mining projects which were accorded environment clearance and are located within 500 metres from the periphery of such project or activity equals or exceeds 5 ha. Note: (i) Prior environmental clearance is required at the stage of renewal of mine lease for which an application shall be made up to two years prior to the date due for renewal. Provided that no fresh environmental clearance shall be required for a mining project or activity at the time of renewal of mining lease, which has already obtained

	(ii) Slurry pipelines (coal lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive areas.	All projects.		environmental clearance under this notification. (ii) Mineral prospecting is exempted.”
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C. Notification dated 09.10.2014 published in Gazette of India Extraordinary of the same date:

a) In Appendix VI following amendment was made:

“(i) in paragraph 2, for the words “Public Administration or Management”, the words “Public Administration or Management covering various developmental sectors and environmental issues”;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(i) “Scoping” refers to the process to determine detailed and comprehensive Terms of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA)

Report in respect of the project or activity for which prior environmental clearance is sought. Standard TOR developed by the Ministry in consultation with the sector specific Expert Appraisal Committees shall be the deemed approved TOR for the projects or activities. The standard Terms of Reference are displayed on the website of the Ministry of Environment, Forest and Climate Change.”

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

- a) In para **7 sub-paragraph (III) relating to Stage (3)-Public Consultation, in clause (i), after sub-clause (g), sub-clause (h) was inserted** as under:

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

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

- a) This notification was issued to make amendments in the light of Supreme Court judgment in **Deepak Kumar vs. State of Haryana & Others (supra)**, wherein it was held that in the matter of mining, prior EC would be mandatory for mining of mineral minerals irrespective of the area of mining lease.
- b) In **paragraph 2, certain words were inserted** and the amended paragraph of EIA 2006 reads as under:

“2. Requirements of prior Environmental Clearance (EC):-
The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category ‘A’ in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category ‘B’ in the said Schedule, and at District level, the District Environment Impact Assessment Authority (DEIAA) for matters falling

under Category ‘B2’ for mining of minor minerals in the said Schedule”

(Emphasis added)

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

“3A. District Level Environment Impact Assessment Authority:

- (1) *A District Level Environment Impact Assessment Authority hereinafter referred to as the DEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of four members including a Chairperson and a Member-Secretary.*
- (2) *The District Magistrate or District Collector shall be the Chairperson of the DEIAA.*
- (3) *The Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter of the concerned district of the State shall be the Member-Secretary of the DEIAA.*
- (4) *The other two members of the DEIAA shall be the senior most Divisional Forest Officer and one expert. The expert shall be nominated by the Divisional Commissioner of the Division or Chief Conservator of Forest, as the case may be. The term and qualifications of the expert fulfilling the eligibility criteria are given in Appendix VII to this notification.*
- (5) *The members of the DEIAA who are serving officers of the concerned State Government or the Union territory Administration shall be ex-officio members except the expert member.*
- (6) *The District Level Expert Appraisal Committee hereinafter referred to as the DEAC shall comprise of eleven members, including a Chairman and a Member-Secretary.*
- (7) *The senior most Executive Engineer, Irrigation Department in the district of respective State Governments or Union territory Administration shall be the Chairperson of the DEAC.*
- (8) *The Assistant Director or Deputy Director of the Department of Mines and Geology or District Mines Officer or Geologist*

of the district shall be the Member-Secretary of the DEAC in that order.

- (9) *A representative of the State Pollution Control Board or Committee, senior most Sub-Divisional Officer (Forest) in the district, representative of Remote Sensing Department or Geology Department or State Ground Water Department, one occupational health expert or Medical Officer to be nominated by the District Magistrate or District Collector, Engineer from Zila Parishad, and three expert members to be nominated by the Divisional Commissioner or Chief Conservator of Forest, as the case may be, shall be the other members of the DEAC. The term and qualifications of the experts fulfilling the eligibility criteria are given in Appendix VII to this notification.*
- (10) *The members of the DEAC who are serving officers of the concerned State Government or the Union territory Administration shall be ex-officio members except the expert members.*
- (11) *The District Magistrate or District Collector shall notify an agency to act as Secretariat for the DEIAA and the DEAC and shall provide all financial and logistic support for their statutory functions.*
- (12) *The DEIAA and DEAC shall exercise the powers and follow the procedure as specified in the said notification, as amended from time to time.*
- (13) *The DEAC shall function on the principle of collective responsibility and the Chairman shall endeavor to reach a consensus in each case and if consensus cannot be reached, the view of the majority shall prevail.”;*

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

“(iv) The ‘B2’ Category projects pertaining to mining of minor mineral of lease area less than or equal to five hectare shall require prior environmental clearance from DEIAA. The DEIAA shall base its decision on the recommendations of DEAC, as constituted for this notification.”;

e) For **paragraph 5**, the following paragraph shall be **substituted**, namely:

“5. Screening, Scoping and Appraisal Committees:

The same Expert Appraisal Committees (EACs) at the Central Government, SEACs at the State or Union territory level and DEAC at the district level shall screen, scope and appraise projects or activity in category ‘A’, ‘B1 and B2’ and ‘B2’ projects for mining of minor minerals of lease area less than and equal to five hectare respectively. EAC, SEACs and DEACs shall meet at least once every month.

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

(b) The Central Government may with the prior concurrence of the concerned State Governments or the Union territory Administration constitute one SEAC for more than one State or Union territory for reasons of administrative convenience and cost.

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

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

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

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

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

An application seeking prior environmental clearance in all cases shall be made by the project proponent in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II after the identification of prospective site (s) for the project and/or activities to which the application relates; and in Form 1M for mining of minor minerals up to five hectare under Category ‘B2’ projects, as

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

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

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

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

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

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

(b) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.”;

- h) In **paragraph 8, 9 and 11**, after the words EAC or SEAC or Expert Appraisal Committee or State Level Expert Appraisal Committee, the **words DEAC or District Level Expert Appraisal Committee were inserted** so as to bring the same in conformity with this amended notification.

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

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

j) **In para 11**, for the words “Expert Appraisal Committee or State Level Expert Appraisal Committee”, the words “**Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee**” were substituted.

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

(1)	(2)	(3)	(4)	(5)
“1(a)	(i) Mining of minerals	<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><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>General Conditions shall apply except:</p> <p>(i) for project or activity of minor minerals of Category ‘B2’ (upto 25 ha of mining lease area);</p> <p>(ii) River bed mining projects on account of inter-state boundary.</p> <p>Note:</p> <p>(1) Mineral prospecting is exempted.”;</p> <p>(2) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.”;</p> <p>(3) The mining leases which have obtained environmental clearance under Environment Impact Assessment Notification, 1994 and Environment Impact Assessment Notification, 2006 shall not require fresh environmental clearance during renewal provided the project has valid and subsisting environmental clearance.</p>
	(ii) Slurry pipelines			

	<i>(coal lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive areas.</i>	<i>All projects.</i>		
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I. Notification dated 20.01.2016 published in Gazette of India Extraordinary of the same date:

a) By this notification, Central Government constituted District Level Environmental Impact Assessment Authority for grant of EC for category B2 projects for mining of minor minerals for all the districts in the country.

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

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

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

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

“13. Preparation and presentation of Environment Impact Assessment (EIA) report and Environment Management Plan (EMP).- The Environmental consultant organisations which are accredited for a particular sector and the category of project for that sector with the Quality Council of India (QCI) or National Accreditation Board for Education and Training (NABET) or any

other agency as may be notified by the Ministry of Environment, Forest and Climate Change from time to time shall be allowed to prepare the Environmental Impact Assessment report and Environmental Management Plan of a project in that sector and category and to appear before the concerned Expert Appraisal Committee (EAC) or the State Expert Appraisal Committee (SEAC). The Ministry will also prepare a panel of national level reputed educational and research institutions to work as Environmental Consultant Organisations”.

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

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

was made as under:

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

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

b) **In Appendix IX**, para 6 was substituted.

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

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

under:

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

*(a) All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernisation of an existing unit with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product – mix **shall be made in Form I** and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal*

Committee within sixty days, who will decide on the due diligence necessary including preparation of Environment Impact Assessment and public consultations and the application shall be appraised accordingly for grant of environmental clearance.

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

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

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

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

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

	<i>es/ coral reefs, ecologically sensitive areas.</i>				<i>minerals including cluster situation is given in Appendix XI;</i>
1(c)	<i>(i) River Valley projects (ii) Irrigation projects</i>	<i>(i) ≥ 50 MW hydroelectric power generation; (ii) ≥ 50,000 ha. of culturable command area</i>	<i>(i) ≥ 25 MW and < 50 MW hydroelectric power generation; (ii) > 2000 ha. and < 50,000 ha. of culturable command area.</i>		
			Irrigation system	Requirement of EC	
			<i>(a) Minor Irrigation system (≤ 2000 Ha)</i>	<i>Exempted</i>	
			<i>(b) Medium irrigation system (> 2000 and < 10,000 ha.)</i>	<i>Required to prepare EMP and to be dealt at State Level (B2 category)</i>	<i>General Condition shall apply. Note:- (i) Category 'B' river valley projects falling in more than one state shall be appraised at the central Government Level. (ii) Change in irrigation technology having environmental benefits (eg. From flood irrigation to Drip irrigation etc.) by an existing project, leading to increase in Culturable Command Area but without increase in dam height and submergence, will not require</i>

					amendment/ revision of EC.
			(c) Major irrigation system ($\geq 10,000$ to $< 50,000$ ha.)	Required to prepare EIA/EMP and to be dealt at State Level (B1 category)	

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

Area of Lease (Hectare)	Category of Project	Requirement of EIA / EMP	Requirement of Public Hearing	Requirement of EC	Who can prepare EIA/EMP	Who will apply for EC	Authority to appraise/grant EC	Authority to monitor EC compliance
<i>EC Proposal of Sand Mining and other Minor Mineral Mining on the basis of individual mine lease</i>								
0 – 5ha	'B2'	Form – 1M, PFR and Approved Mine Plan	No	Yes	Project Proponent	Project Proponent	DEAC / DEIAA	DEIAA SEIAA SPCB CPCB MoEFCC Agency
> 5 ha and < 25 ha	'B2'	Form –I, PFR and Approved Mine Plan and EMP	No	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	nominat ed by MoEFCC
≥ 25 ha and ≤ 100 ha	'B1'	Form –I, PFR, DSR and Approved Mine Plan and EIA and EMP	Yes	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	
>100 ha	'A'	Form –I, PFR, DSR and Approved Mine Plan and	Yes	Yes	Project Proponent	Project Proponent	EAC/ MoEFCC	

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

lease ≥50ha		leases in the Cluster			Propon ent			
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107. OA 186/2016, *Satendra Pandey vs. MoEF & Ors. (supra)* along with OA 200/2016, *Rajeev Suri vs. Union of India*; OA 580/2016, *Badal Singh vs. Union of India & Ors.*; OA 102/2017, *Nature Club of Rajasthan (NGO) vs. Union of India & Ors.*; OA 404/2016, *Naresh Zargar vs. Ministry of Environment & Forest and Anr.*; OA 405/2016, *Rajeev Suri vs. Union of India & Anr.* and OA 520/2016, *Vikrant Tongad vs. Union of India* were decided vide judgment dated 13.09.2018. Tribunal found both the above notifications, partly, inconsistent with Supreme Court’s judgment in *Deepak Kumar (supra)*. The exemption granted to leases upto 5 ha in regard to procedure of appraisal by DIEAA was not upheld.

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

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

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

*“(c) Any change in raw material-mix or product-mix, change in quantities within products or number of products in the same category for which prior environmental clearance has been granted, shall be exempted from the requirement of prior environmental clearance **provided there is no increase in pollution load and the resultant increase in production is not more than 50 percent of the production capacity permitted in the earlier environmental clearance** and the project proponent shall follow the procedure for obtaining ‘No Increase in Pollution Load’ certificate from the concerned State Pollution Control Board or Union Territory Pollution Control Committee, as the case may be, as per the provisions given in Appendix –XIII”;*

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

a) Hereby **paragraph 7 sub-paragraph (i) for sub-heading “(II) Stage (2)-Scoping” and entries thereto were substituted** by the following:

“II. Stage (2)-Scoping:

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

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

- (v) **All new projects or activities other than specified in sub-paragraph (iv) above, shall be referred to the EAC or SEAC by the Regulatory Authority, as the***

case may be, within 30 days from the date of application, for recommending the specific ToR in addition to the Standard ToR, deemed necessary.

In case, the regulatory authority does not refer the matter to the EAC or SEAC, as the case may be, within 30 days of date of application in Form-I, sector specific Standard ToR shall be issued, online, on 30th day, by the Regulatory Authority.

(vi) *Applications for Terms of Reference may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned. In case of such rejection, the decision together with reasons for the same after due personal hearing shall be communicated to the applicant in writing within sixty days of the receipt of the application.*

(vii) **The project proponent shall prepare the EIA report based on the sector specific Standard ToR as well as additional specific ToR, if any, stipulated by the EAC or SEAC.**

(viii) **The Terms of Reference for the projects or activities except for River valley and Hydroelectric projects, issued by the regulatory authority concerned, shall have the validity of four years from the date of issue. In case of the River valley and Hydro-electric projects, the validity will be for five years.”**

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

a) By this notification, **after sub-paragraph (2) of paragraph 11 of**

EIA 2006, sub-paragraph (3) was inserted as under:

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

the terms and conditions mentioned therein, whichever is earlier:

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

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

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

- c) For Appendix-IX, a revised Appendix was substituted.

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

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

Appendix VI in item 7 of EIA 2006 as under:

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

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

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

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

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

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

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

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

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

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

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

“9A. Notwithstanding anything contained in this notification, the validity of prior environmental clearances granted under the provisions of this notification in respect of the projects or activities whose validity is expiring in the Financial Year 2020-2021 shall deemed to be extended till the 31st March, 2021 or six months from the date of expiry of validity, whichever is later. Such extension is subject to same terms and conditions of the prior environmental clearance in the respective clearance letters, to ensure uninterrupted operations of such projects or activities which have been stalled due to the outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control.”

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

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

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

“(x) Notwithstanding anything contained above, the projects where construction and commissioning of proposed activities have not been completed within the validity period of the Environmental Clearance (EC) and a fresh application for EC has been submitted due to expiry of the said period of the

EC, the concerned Expert Appraisal Committee or State Level Expert Committee, as the case may be, may exempt the requirement of public hearing subject to the condition that the project has been implemented not less than fifty percentage in its physical form or construction.”.

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

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

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

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

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

“(i) in paragraph 9,-

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

(i) The “Validity of Environmental Clearance” is meant the period from which a prior Environmental Clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub-paragraph (iii) of paragraph 8, to the start of production operations by the project or activity; or completion of all construction operations in case of construction projects relating to item 8 of the Schedule, to which the application for prior environmental clearance refers:

Provided that in the case of mining projects or activities, the validity shall be counted from the date of execution of the mining lease.

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

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

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

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

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

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

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

(iv) **The prior Environmental Clearance granted for mining projects shall be valid for the project life as laid down in the mining plan approved and renewed by competent authority, from time to time, subject to a maximum of thirty years, whichever is earlier:**

Provided that the period of validity of Environmental Clearance with respect to projects or activities included in this sub-paragraph may be extended by another twenty years, beyond thirty years, subject to the condition that the adequacy of the existing environmental safeguards laid down in the existing Environmental Clearance shall be examined by concerned Expert Appraisal Committee every five years beyond thirty years, on receipt of such application in the laid down proforma from the Project Proponent within the maximum validity period of Environmental Clearance of thirty years, and subsequently on receipt of such application in the laid down proforma from the Project Proponent within the validity period of the extended Environment Clearance, every five years for incorporating such additional environment safeguards in the Environmental Management Plan, as may be deemed necessary, till the

validity of the mining lease or end of life of mine or fifty years, whichever is earlier.”;

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

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

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

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

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

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

(2) in the Schedule, -

(i) against item 1(a), -

(a) in column (3), -

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

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

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

(b) in column (4),-

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

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

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

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

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

“(A) In the Schedule, -

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

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

(B) in Appendix IV, -

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

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

(ii) in paragraph 4.0, -

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

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

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

109. The mining lease in question was initially allocated to M/s. Maharashtra Tamil Collieries Limited. It was granted TOR on 19.03.2013. Later, pursuant to Supreme Court’s order for cancellation of coal mine, the said allocation was cancelled and an allotment letter dated 31.08.2015 was issued by Ministry of Coal in favour of respondent 4. Record shows that application for grant of mining lease was submitted by proponent on 08.12.2015. Mining plan and mine closure plan was submitted to Ministry of Coal vide letter dated 26.02.2016. Application for grant of prior EC in Form I and IA was submitted vide letter dated 11.04.2016 and online proposal dated 28.04.2016. The proposal was considered by EAC in 58th meeting dated 23rd - 24th June, 2016 for grant of ToR to respondent 4. Application for grant of NOC to Forest Department under FC Act, 1980 was submitted on 26.07.2016. MoEF&CC granted ToR on 08.08.2016 (at page 500 of paper book). ToR letter says that proponent shall get EIA/EMP prepared and also proceed for public hearing with generic ToRs and additional scope of work/study in respect of the following:

- (i) Project proponent should submit the details of designs/protection works through a reputed organization to take care of hydrology of the river during flood. Wherever drainage is intercepted, the project proponents have to propose a suitable diversion of drains all along the project boundaries.

(ii) A detailed socio-economic study to be conducted through a reputed institute.

(iii) Conservation action plan for the wildlife to be prepared in consultation with the State Forest Authorities. Issues raised by one of the NGOs to be adequately addressed.

110. ToR was granted subject to the following general conditions:

(i) All documents should be properly indexed, page numbered.

(ii) Period/date of data collection should be clearly indicated.

(iii) Authenticated English translation of all material provided in Regional languages.

*(iv) **After the preparation of the draft EIA-EMP Report as per the aforesaid TOR, the proponent shall get the Public Hearing conducted** as prescribed in the EIA Notification 2006 and take necessary action for obtaining environmental clearance under the provisions of the EIA Notification 2006.*

(v) The letter/application for EC should quote the MOEF file No. and also attach a copy of the letter prescribing the TOR.

(vi) The copy of the letter received from the Ministry on the TOR prescribed for the project should be attached as an annexure to the final EIA-EMP Report.

(vii) General Instructions for the preparation and presentation before the EAC of TOR/EC projects of Coal Sector should be incorporated/ followed.

(viii) The aforesaid TOR has a validity of three years only.

(ix) Grant of TOR does not necessarily mean grant of EC.

(x) Grant of TOR/EC to the present project does not necessarily mean grant of TOR/EC to the captive/linked project.

(xi) Grant of TOR/EC to the present project does not necessarily mean grant of approvals in other regulations such as the Forest (Conservation) Act 1980 or the Wildlife (Protection) Act, 1972.

(xii) Grant of EC is also subject to circulars issued under the EIA

Notification 2006, which are available on the MOEF website: www.envfor.nic.in.”

111. Mining plan was approved by Ministry of Coal on 12.08.2016. For the purpose of preparation of EIA/EMP, base line data was collected in post-monsoon season during October to December 2016. Application for grant of NOC for extraction of ground water was submitted to CGWA to the extent of 2785 KLD on 05.12.2017. Ministry of Coal granted previous approval for mining lease vide letter dated 20.02.2018.

112. Steps for public hearing were initiated by fixing 16.03.2018 which was deferred to 26.05.2019, 26.08.2019 and ultimately public hearing was conducted on 27.09.2019.

113. The report submitted by proponent was not accepted by EAC in its meeting held on 05.12.2019 by observing that proponent has submitted incomplete and incorrect Form II on Ministry's website for appraisal. It also observed that EIA report was not consistent with what was presented during meeting. The proposal was submitted in a haste which was returned by EAC to proponent requiring it to provide clarification/inputs on various aspects which we have referred to in detail hereinabove. It is not in dispute that subsequently a revised EIA was submitted by proponent in July 2020.

114. It may be noted at this stage that Form II was provided with reference to appendix III read with para 7 of EIA 2006 vide the Office Memorandum no. 22-8/2018-IA.III dated 20.04.2018. It is a very detailed format requiring intrinsic information of the project, the site and other locations in the vicinity having ecological impact. It would be useful to reproduce the format of Form II which is being included as Appendix to this order.

115. In this backdrop, Counsel for applicant has contended that there was no effective public consultation in as much as correct, complete and appropriate information was not made available to the public which is admitted from what has been observed by EAC in its minutes dated 05.12.2019 whereby the proposal was returned to proponent and thereafter, when revised EIA report was submitted and additional information whatever was placed before EAC, no opportunity of hearing was given to the public to place its stand on revised EIA report though it was incumbent upon the proponent as also the authorities concerned. It is thus contended that there is no proper, effective and valid consultation as required in EIA 2006.

116. Counsel for respondent 4 has contended that there is no provision for another public consultation once a public consultation has already been conducted and, therefore, the submission is without any merit.

117. In the light of rival submissions, we have to examine whether, in the present case, effective public consultation in a valid procedural manner has been conducted which satisfy the requirement of EIA 2006.

118. A perusal of EIA 2006 shows that substantial weightage has been provided to the process of public consultation. The purpose thereof, is to afford opportunity to the local people and others who are likely to be affected if the project is allowed to proceed and to give them an opportunity to place their objections if any so that the same may be considered before grant of any permission to the project, whether new or extension or modification.

119. The concept of public consultation is part of 'sustainable development' and 'precautionary principle'. With increased protection of environment and involvement of judicial review relating to environmental

issues, States have assumed responsibility to make dangers and risk imperiling environment threatening its citizens and general public, known to general public inviting its participation. Natural assets being common property of all and State being its trustee, National Management of Environment is not only in the interest of an individual but in the interest of all. It was thus felt that in the law of environmental protection, traditional structures of individual participation and judicial protection of individual is inadequate and public, interested citizens and organizations should have opportunity to participate in the administrative decision making process. Any activity which may impact environment adversely will obviously impact people at large and, therefore, they should have an opportunity to develop and articulate their opinion and to air it during environmental decision-making process.

120. We find recognition of the above right at international level. Universal Declaration of Human Rights 1948 (hereinafter referred to as '**UDHR**') provided generalized rights of access to information (Article 19 UDHR) and Justice (Article 8 and 10, UDHR). Article 21 of UDHR said,

- (i) Everyone has the right to take part in the Government of his country, directly or through freely chosen representatives.
- (ii) Everyone has the right of equal access to public service in his country.
- (iii) The will of the people shall be the basis of the authority of Government; this will, shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedure.

121. The above mentioned participatory rights more precisely were limited to suffrage and right to run public office. They were guaranteed in relation to participation in the Government. These rights, to some extent,

are narrower than a right to take part in the conduct of public affairs. In this regard, Article 25 of International Covenant on Civil and Political Rights, 1966 (hereinafter referred to as '**ICCPR**') said, *“Every citizen shall have the right and the opportunity, without any of the distinctions (such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status) and without unreasonable restrictions:*

“(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public services in his country.

Article 19(2) of ICCPR guarantees citizens the freedom to seek, receive and impart information and ideas of all kinds. The above mentioned rights emphasized universal suffrage in relation to (representative) public affairs bodies. It does not provide remedy for the adverse effects of privatization. It is the process of privatization that affects what constitutes public affairs. This narrow scope of public participation will not bring desired result in environment related issues since the private sector is also one of the important key players in this field.”

122. Then came Stockholm conference of 1972 and Rio declaration of 1992. This period has been a growing recognition of procedural tools to protect environment. Stockholm Conference 1972 indirectly refers to public participation by talking about equitable sharing of common efforts of citizens, communities, Government and private sectors in order to defend and improve human environment. In 1982, World Charter for Nature (hereinafter referred to as '**WCFN**') provided that all persons in accordance with their national legislation shall have opportunity to participate, individually or with others, in the formulation of decisions of direct concern to their environment, and shall have access to means of

redress when their environment suffers damage or degradation. Principle 16 of WCFN says that all planning shall include, among its essential elements, the formulation of strategies for the conservation of nature, the establishment of inventories of ecosystems and assessments of the effects on nature of proposed policies and activities, all these elements shall be disclosed to the public by appropriate means in time to permit effective consultation and participation.

123. In Tokyo Declaration of World Commission on Environment and Development, the principle was reiterated. It was provided that greater public participation and free access to relevant information should be promoted in decision making process touching on environment and development issues. Hague Recommendation on International Environmental Law 1991 also emphasized this principle.

124. In 1992, Rio Declaration on Environment and Development emphasised upon public participation and said, “*Environment issues are best handled **with the participation of all concerned citizens, at the relevant level.** At the national level, each individual shall have the appropriate access to information concerning the environment that is held by public authorities including information on hazardous materials and activities in their communities and the opportunity to participate in decision making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy shall be provided”.*

125. Article 14 said,

“Impact Assessment and Minimizing Adverse Impacts, each contracting party, as far as possible and as appropriate shall: a) introduce appropriate procedures requiring environmental impact assessment of its proposed projects, that are likely to have

significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and where appropriate, allow for public participation in such procedures.”

126. The concept of public participation in India was introduced, recognising the above international Covenants and Resolutions in 1997. Initially, EIA 1994 was notified under EP Act, 1986 but the aspect of public consultation was not included therein. EIA 1994 was amended vide Notification dated 10.04.1997 and therein, Schedule IV with reference to para 3 of sub-para 2 of Schedule II was inserted which give details of public hearing. It provided that all persons including bona-fide residents, environmental groups and others located at the projects site/sites of displacement/sites likely to be affected can participate in the public hearing. It also allowed them to make oral/written suggestions to State Pollution Control Board. The procedure for public hearing made it mandatory that the copies of the executive summary containing salient features of project both in English as well as local language be submitted to State Pollution Control Board where the public can read this document.

127. The manner of public hearing to be conducted under EIA 1994, was raised before Division Bench of Gujarat High Court in ***Centre for Social Justice vs. Union of India and Others AIR 2001 Guj 71***, where EC granted to Gujarat Electricity Board, Dhuvaran, in respect of its Thermal Power Project, Anand was challenged. Court held that the purpose of public enquiry is to ensure that local residents who are likely to be affected, especially on the environmental front, on account of the industry coming up in the area should be made to understand the environmental consequences of the project so as to enable them to decide whether they should lodge any objections or make any suggestions. Court upheld the suggestions made on behalf of petitioner that executive summary prepared by unit must also be appended with the summary of EIA report as a part

of it which may be looked by the persons interested in public hearing. It also observed that there should be no serious objection in case the persons lodging objections and making suggestions require any further particulars of the project and in that circumstance, after furnishing such particulars, further hearing may be given.

128. When a public hearing is made an important aspect of the procedure of grant of EC, it should be effective, meaningful and transparent. After all, grant of prior EC is likely to have impact on environment, to which the public at large has its serious stakes. Protection of environment is part of Right to life and liberty under Article 21 of the Constitution and the persons likely to be affected by degradation or damage to environment also have the right to appeal against grant of EC, therefore, not only the effective and meaningful public consultation should be provided but the entire information should be made available which will affect the public consultation so as to make the entire process more procedurally fair. It will promote the object for which the power is conferred and would not defeat the purpose. The Writ petition was disposed of by issuing various directions in respect of the procedure of public hearing which may be summarized as under:

- (i) The place of public hearing shall be as near as possible to the proposed site.
- (ii) Notice of public hearing shall be published in newspapers not less than two which have wide circulation in the region. Local Government in area should also be asked to give publicity to the notice. The minimum period of notice shall be 30 days.
- (iii) Executive summary of the project should be made available at local places at least 30 days prior to the date of public hearing.

- (iv) Summary of EIA Report in local language shall also be made available to the concerned person on demand.
- (v) Quorum of hearing panel shall be one half of the total membership.
- (vi) Representatives from the Board and the State Environment Department, one senior citizen and an environmentalist nominated by Collector are necessarily to be present.
- (vii) Committee can decide such number of hearings as are found necessary by looking at the impact of the project on the environment. There is not hard and fast rule in this respect.
- (viii) State Pollution Control Board on demand shall furnish minutes of hearing as expeditiously as possible.
- (ix) State Government or Central Government shall cause publication of the zest of clearance certificate in newspaper in which notice for public hearing is published.
- (x) There is no harm if Board makes reasonable levy on supplying copies of records-executive summary of the project, summary of the environment assessment.

129. The question of mandatory compliance of EIA 1994 was also considered by a Division Bench of Andhra Pradesh High Court in **Vedire Venkata Reddy vs UOI and Others AIR 2005 AP 155**. It was held that site clearance is distinct from EC. Clearance of project by Central Water Commission of Ministry of Water Resources does not amount to grant of EC. This clearance is about technical and economic aspect. The bona-fide or urgency of the project will not justify commencement of the project without EC. Grant of EC has to follow various steps and procedures laid down in EIA 1994 which includes public hearing also. Court said, **“considering the mandatory nature of the environmental clearance,**

procedure has to be meticulously followed. Only on environmental clearance any construction, preliminary or otherwise, relating to setting up of the project can be undertaken”. Development can be simultaneous and consistent with protection of environment i.e., sustainable development which is recognised as an integral part of laws relating to environment read with Article 21 of Constitution.

130. Andhra Pradesh High Court also observed, “*there is no manner of doubt that no development is possible without some adverse effect on ecology and environment and the projects of public utility cannot be abandoned. It is always necessary to adjust the interests of the people as well as to maintain environment; balance has to be struck between two interests. Where the commercial venture or enterprise would bring in results, which are far more useful for the people, difficulties of a small number of people have to be bypassed. The comparative hardship has to be balanced and the convenience and benefit to the larger section of the project has to get primacy over comparably lesser hardship. Sustainable development is essentially a policy and strategy for continued economic and social development without detriment to the environment and natural resources on the quality of which continued activity and further development depend.*”

131. In **T.N. Godavarman Thirumalpad vs. Union of India, Writ Petition (Civil) No. 202/1995** (order dated 30.10.2002), it was held that “*duty is cast upon the Government under Article 21 of the Constitution to protect the environment and there are two principles governing law of environment, viz., the principle of sustainable development and precautionary principle...*”.

132. Andhra Pradesh High Court also said that site clearance and EC by Central Government alone will enable State Government to proceed ahead with the project.

133. Most of the above observations were taken note when EIA 2006 was notified. Therein detailed procedure of public consultation has been provided. An effective enforcement of right to participation, right to information and right to access to justice secures protection of human rights. Right to participation allow people to be part of the decision making process through consultation and comments and to have their opinion heard. The mechanism of public participation and decision making manifests the direct democracy of people. Public participation bridges the gap between heterogeneous groups of the society. It tries to maintain balance between right to environment and right to development. Public hearing in environmental decision making plays vital role in providing true information about the impact of big projects. Effective public participation eliminates arbitrariness and assist courts in judicial review while considering the rival claims of the parties in the context of grant of permission of develop and execute the project. Public participation/public consultation or public hearing therefore is not a mere formality or just a literal compliance of the rules but has to be a really effective procedural requirement which must be followed in its true spirit.

134. EIA 2006 contemplates/postulates the following:

- (i) A public hearing at or in close proximity to the project site to ascertain the views of locally “affected persons”.
- (ii) Obtaining written responses from “other concerned” individuals having a “plausible stake” in the environmental aspects of the project or the activity.
- (iii) The duty of SPCBs to conduct hearings and to forward the proceedings to the Regulatory Authority within the stipulated time.
- (iv) Placing on the website of the PCB a summary of the EIA Report

in the prescribed format and making available of draft EIA Report by Regulatory Authority on a written request by the person concerned for inspection.

- (v) Duty of the applicant to address all the material concern expressed during the process of public consultation.
- (vi) Making of appropriate changes in the draft EIA and EMP.

135. The above shows that for the purpose of effective public consultation, relevant facts relating the project have to be disclosed by placing on the website of PCB a summary of EIA Report in the prescribed format and draft EIA Report is also to be made available by the Regulatory Authority if any person makes request for inspection. The facts regarding EIA Report which are to be disclosed to the public contemplates correct and complete information and not the hasty report which contains admittedly incorrect and incomplete information. EAC has to appraise the proposal and along with it, will also examine the objections or issues raised in public consultation by the interested individuals/organization in respect of the project. Admittedly appraisal is not a mere formality. It requires detailed scrutiny by EAC/SEAC of the application as well as the documents filed. The final decision for either rejecting or granting an EC vest with the Regulatory Authority concerned i.e., SEIAA or MoEF&CC as the case may be. But the task of appraisal is vested with EAC/SEAC and not with Regulatory Authority. This exercise can be undertaken by EAC when integral part of the proposal which includes public consultation is conducted in fair, transparent, objective and impartial manner. If the information supplied by a proponent in the draft EIA is incorrect or the information is suppressed or remain undisclosed, it means that the public is not apprised of the entire prospects, components and factors affecting environment by the project proponent and hence, it cannot be said that

public consultation is transparent and affords due and effective opportunity. Conduct of public hearing is an important aspect and if it is not held in a proper and effective manner, tribunal must held that the procedure has not been followed.

136. In ***Adivasi Majdoor Kisan Ekta Sangthan & Another vs. Ministry of Environment and Forests & Others Appeal No. 3/2011(T)*** decided on 20.04.2012, the Principal Bench of Tribunal held that evidence of persons who voiced their opposition to the project was not recorded and no summary of public hearing was prepared in local language nor was it made public, hence the approval granted was invalid.

137. Grant of EC may be an administrative action but it can be challenged and judicial review is permissible where illegality, rationality and procedural impropriety is shown to have been committed. This is what has been held by Supreme Court in ***Sterlite Industries India Ltd. vs. Union of India (2013) AIR (SCW) 3231.***

138. The submission that the decision has been taken by an expert body and, therefore, it should be deemed that every aspect has been considered by itself is not sufficient to satisfy the procedure prescribed in EIA 2006 with regard to public consultation unless it is conducted in a fair, impartial and valid manner.

139. In ***Gram Panchayat Navlakh Umbre vs. Union of India & Others PIL No. 115/2010*** decided on 28.06.2012 by Bombay High Court, it has been held that decision making process of the authorities besides being transparent must result in a reasoned conclusion which is reflective of due application of mind to the diverse concern arising from an important project. The mere fact that a body is comprised of experts is not per se sufficient safeguard to ensure that conclusion of its deliberations is just

and proper. When an executive decision is taken, Court does not have judicial review of the propriety of the decision itself but has to examine the decision making process as to whether the proper procedure has been followed.

140. In the present appeal, procedure of public hearing is provided in appendix IV. Para 2.2 thereof, states that proponent shall make request to State PCB to arrange public hearing within the statutory period at the appropriate site. Para 2.2 thereof says that proponent shall enclose with the letter of request at least 10 hard copies of and an equivalent number of soft (electronic) copies of draft EIA report with the generic structure given in Appendix III including summary EIA report in English and in local language, prepared strictly in accordance with ToR communicated after Scoping (Stage-2). Simultaneously, applicant shall arrange to forward copies, one hard and one soft, of the above draft EIA Report along with the summary EIA report to MoEF and to other authorities or offices, within whose jurisdiction the project will be located i.e., District Magistrate, Zila Parishad or Municipal Corporation, District Industries Office and concerned Regional Office of MoEF.

141. Para 2.3 says that while publicizing the proposal, the authorities shall make available draft EIA report for inspection electronically or otherwise to the public during normal office hours till the public hearing is over.

142. The purpose of making the draft EIA report available to the public is clearly to apprise them about the details of the project so that they may be able to raise all possible issues during public consultation. If the draft EIA report contains incorrect information or leaves certain information undisclosed then the purpose of making draft EIA report to the public will

not be served effectively and its basic objective would stand frustrated. The procedure prescribed in para 7(III) stage 3 read with appendix IV shows that the public hearing must be meaningful with effective participation of all interested persons and this can be served only when the complete and correct information with regard to the project and its impact on environment is disclosed to such public. The provisions operationalize and decentralize decision making in a democratic set up where the views of those who are likely to be affected by a decision are given due respect and provide an opportunity to voice their concern. The procedure is intended to render fair and participative decision and not thrust from above on the people who may be unaware of the implication of the decision.

143. Delhi High Court in ***Writ Petition (Civil) No. 9340/2009, Utkarsh Mandal vs. Union of India, decided on 26.11.2009***, while rejecting an argument that it is not necessary to make executive summary of EIA report available to the persons likely to be affected said, *“if their participation has to be meaningful and inform then they must have full information of the pros and cons of the project proposed and the impact it is likely to have on the environment in the area”*. High Court further observed that what is important to understand in this context is that the information about the project and in particular about EIA report is not available to anyone in the public domain till the time of public hearing. Till such time, it is available only to the project proponent and MoEF. Unless it is required to make available mandatorily, it is unlikely that any member of the affected public can have access to such information. It is imperative for the affected persons to be fully informed of the proposal submitted by the project proponent for dealing with the likely environmental damage that can be caused if the project is granted clearance. When a person has a right to

voice in a matter, the right to have full information about the subject is integrally intervened with such right of raising voice otherwise provision for such right of public consultation shall be otiose and will stand frustrated.

144. It is in this context, Supreme Court in ***People's Union for Civil Liberties & Another vs. Union of India & Others, (2003) 4 SCC 399*** held that right to vote is part of fundamental right of expression of the voter but it includes within itself a well-informed voter as that is the foundation of democratic structure. Court observed on page 432 of the report that right to participate by casting mode at the time of election would be meaningless unless the voters are well-informed about all sides of issues in respect of which they are called upon to express their views by casting their votes. Supreme Court said, "*disinformation, misinformation, non-information, all equally create an uninformed citizenry which would finally make democracy mobocracy and farce*".

145. Public hearing/public consultation under EIA 2006 is a public act. EIA report is certainly a material relating to such a public act. We have to read the provisions of EIA 2006 in a manner which will enhance the quality of the ultimate decision taken and also consistent with the requirement of participation of affected persons in a fully informed and effective manner. The opportunity to participate in voice and opinion on the project has to be a meaningful one. It can be rendered ineffective by not providing complete or correct information. In other words, if the proponent provides incomplete or incorrect information that means the basic purpose of public consultation by a well-informed public would stand defeated. Furthermore, when certain issues are raised or objections are raised or some opinion which is not in favour of the project is expressed in the public consultation by the persons likely to be affected, it is incumbent upon the

EAC to examine the same, express its opinion and then recommend the matter to the sanctioning authority i.e., SEIAA or MoEF&CC, as the case may be, for taking a final decision in the matter. EAC is performing a public law function and expected to adhere to the principle of objectivity and objective consideration of the various issues raised by different parties in proceedings and not to simply go by the stand taken by proponent.

146. In ***Hanuman Laxman Aroskar vs. UoI & Others (2019) 15 SCC 401***, Supreme Court has held that while recommending for grant or rejection of EC on a project, EAC must give its reasons. This is more so important when the right of public consultation/public hearing has been given to the people at large who are likely to be affected and if they have raised their voice showing their concern to the implementation of the project, such concern deserves to be considered objectively and before rejecting some concern, reasons must be recorded by EAC as it is also a part of principles of natural justice.

147. We find support from para 4 of EIA 2006 which defines appraisal stating that appraisal means detailed scrutiny by EAC or SEAC of the application and other documents like EIA report, **outcome of the public consultation including public hearing proceedings**, submitted by applicant to the Regulatory Authority concern for grant of EC.

148. On this aspect also, Delhi High Court in ***Writ Petition (Civil) No. 9340/2009 (supra)*** has said, “*consequently the exercise expected to be performed by EAC (Mines) is a serious one and has to include a consideration on merits of the objections raised at the public hearing. Its decision must reflect this*”.

149. In Delhi High Court, an argument was raised that if the sanctioning authority i.e., MoEF or SEIAA has applied its mind to the objections raised

at public hearing that is a sufficient compliance of the procedural aspect of the matter in this regard but rejecting this argument, Delhi High Court said, *“we do not accept the contention of the learned ASG that as long as the MoEF while taking the ultimate decision has applied its mind to the objections raised at the public hearing, the requirement in law would be satisfied. The whole purpose of “outsourcing” the task of an EAC comprised of experts was to have a proper evaluation of such objectives on the basis of some objective criteria. It is that body that has to apply its collective mind to the objections and not merely the MoEF which has to consider such objections at the second stage. We therefore hold that in the context of EIA Notification dated 14th September, 2006 and the mandatory requirement of holding public hearings to invite objections it is the duty of EAC, to whom the task of evaluating such objections has been delegated, to indicate in its decision the fact that such objections, and the response thereto of the project proponent, were considered and the reasons why any or all of such objections were accepted or negated. The failure to give such reasons would render the decision vulnerable to attack on the ground of being vitiated due to non-application of mind to the relevant materials and therefore arbitrary”*.

150. When we examine the manner in which public consultation/public hearing has taken place in this matter, we find that public hearing was held on 27.09.2019 at 11:00 am in the field of Government Primary School village and Gram Panchayat-Dolesara, Tehsil- Tamnar, District- Raigarh, Chhattisgarh. The minutes of the proceedings which are at page 1194 shows 58 persons from public appeared, out of which 37 were from village Dolesara, 5 from Village Dolnara, 3 from village Chitwai, 6 from village Tamnar, 1 from Paata, 1 from village Gonda, 1 from village Bagbehri and 1 from Karnal. In respect of two, their place of residents is not mentioned

and one was General Secretary of Rashtriya Kisan Morcha.

151. The land was acquired in 14 villages out of which representatives of only villages Paata, Chitwai, Dolnara and Dolesara are shown to have participated in public consultation and that too, more than 63.79% are from village whereat public hearing was held i.e., Dolesara. Report also shows that large number of people were standing outside the gate of the premises and one Raju Patnayak of village Dolesara demanded that they should be allowed to enter the premises but we do not find anything from record that the people standing outside the premises why were not allowed to enter and participate in the proceedings. It appears that only those who were supporting the project were allowed to participate and their statements were made part of the proceedings except Raju Patnayak who stated that though he is opposing the project but also said that the project will result in development and one Lalita Chauhan from village Paata who opposed the project on the ground of probable pollution relating to land, water and air etc.

152. The proceedings contain signature of 57 out of 58 public participants. 2 representations were submitted during the course of public hearing and 30 were received earlier. Proceedings commenced at 11:00 am and concluded with the statement of the company's representative given at 04:00 pm.

153. Draft EIA report, summary whereof was made available to the public at large at the time of public hearing, is not on record but the copy of EIA report of July 2020 is on record as annexure R-2 to the reply filed by respondent 4. Executive summary starts at page 567 and shows that the area in question is mostly inhabited by economically weaker section people. They have lack of amenities such as roads, drinking water,

dwelling, laboratories and education, employment, medical and electricity facilities. Under approved mining plan, displacement of 1679 families was shown but as per Rehabilitation and Resettlement Plan, 2245 families were going to be displaced which required a rehabilitation programme. Number of families in each of the villages which were to be affected by the project is not given and, therefore, the number of families to be displaced whether constitute substantial number of the total population likely to be affected or not, is difficult to ascertain. Moreover, when people likely to be affected belong to socially and economically weaker section and the area is deficient in all kinds of amenities, holding public hearing at one place deprives the people residing in other villages, opportunity of participation and this is evident from the fact that out of 14 villages, people only from 4 or 5 villages could participate in public hearing.

154. Applicant has placed on record copy of objections dated 22.10.2019 annexure A-8 at page 359 of paper book, which besides other points, also raises issue of illegalities conducted in public hearing and preparation of report of public hearing. It is stated therein that on 27.09.2019 at Dolesara village, where public hearing was conducted, about 1000 affected people have gathered and protested. The officials responsible for conducting public hearing, in collusion with the officials of the proponent, managed to induct 50-60 people on the venue through an alternative entrance or early in the morning and public hearing proceedings were conducted, ignoring the other people gathered outside the venue and raising protest.

155. In the minutes of the proceedings, reference of 1000 people having gathered outside the venue is mentioned but neither anything has been said regarding correctness of this fact nor the fact that large number people have gathered were opposing the project have been mentioned in the proceedings nor as to why they were not allowed to participate.

156. A copy of another protest letter dated 05.10.2019 has been made part of the objection dated 22.10.2019, by filing it as annexure 2 (page 370 of paper book) which is also in respect of public hearing and states that 1000 people had gathered outside the venue protesting the project but it has not been taken into account in the proceedings. It is also said that in the past three years, Gram Sabhas of 14 affected villages have passed resolutions against the project that have also not been taken into account.

157. We have found that so far as this aspect is concerned, proceedings though mention about gathering of 1000 people but nothing of their demand has been mentioned. It is also not clear why such a large number of persons were denied participation. In our view, this has vitiated the proceedings.

158. Chapter 7 para 7.1 of EIA report dated July 2020 at page 838 of paper book shows that Raju Pattnaik of village Dolesara also mentions this fact that the persons standing outside are about 1000 who should be allowed to enter the premises so that they may oppose or support the project. Besides, 100-200 his fellow brothers were outside and opposing the project but, on this aspect, nothing has been mentioned in the reply given by proponent or in the action plan and this aspect has been completely ignored/omitted in the proceedings.

159. In the entirety of the facts and discussions made above, we find that in the present case, public hearing has not been conducted in accordance with law, satisfying the words and spirit of the requirement of public consultation and proceedings are such so as to deprive the affected people fair, impartial, unbiased and valid public hearing/public consultation.

160. Therefore, **issues I and II are answered in favour of applicant and**

against respondents including proponent.

161. Now we proceed to consider remaining **issues III, IV and V**. Here, we shall refer these issues on different aspects as under:

(i) Whether there is lack of application of mind on the part of the authorities in granting EC on the issue of consideration of report of ICMR?

162. Applicant claimed that issue of public health was raised before the authorities concerned and on various occasions including at the time of public hearing, but this has not been given due attention and consideration while granting EC. This is also evident from the objections dated 22.10.2019 (annexure A-8 at page 359 of paper book) wherein it is mentioned that there are eight ongoing mining projects and two power plants in the area which adversely impact environment and health of almost all 14 villages which would be affected by the proposed project. Air quality is very poor in as much as air monitoring data of July 2019 had shown very high PM 2.5. Several public health professionals have commented and stated that the residents in the region are being exposed to the dangerous levels of toxic substances including heavy metals found in air, water, soil and sediments samples. This exposure is likely to be connected to poor human health experienced by residents in these villages. Immediate steps for restoration of health are needed before considering the project.

163. The fact that issue of public health was raised during public hearing, is also noticed by EAC in its minutes of meeting dated 05.12.2019, wherein para (xxi) at page 84, it is said that major issues raised in the public hearing include **health**, education, employment, compensation to land losers and drinking water etc. It is further mentioned that appropriate action to address the issues raised in the public hearing have been

taken/processed in EIA/EMP. Thereafter, the proposal was returned by observing that proponent has submitted incomplete and incorrect Form-II and the project details mentioned in EIA Report were not consistent with that presented during meeting.

164. In EIA report of July 2020, we do not find any specific study or consideration on the health aspect but with regard to health care facilities, in para 3.14.4 at page 706 of the paper book, following facts are mentioned:

“3.14.4 Healthcare facilities

Health care facilities are lacking in the studied area, among 29 villages there only 17.2% of villages have Primary Health Sub Centres (PHSCs). None of these villages have Private or Government hospitals and Dispensaries. The studies reveal no prevalence of chronic diseases and some common diseases like malaria, typhoid, and seasonal fever prevalent in the study area. The data revealed that 51.7 villages have Medical Practitioners without formal degree and 10.3% of villages also have Traditional medicine healers who are frequently approached by the villagers in case of illness. However, all villages have Accredited Social Health Activists or ASHA workers to address the community healthcare needs.

**Table 3.32
Health facilities details**

S.NO.	Type	Percentage
1	Primary Health Centre	0
2	Primary Health Sub Centre	17.2
3	Mother and Child welfare Centre	3.4
4	Dispensary	0
5	Veterinary Hospitals	3.4
6	Medical Practitioners	51.7
7	Pvt./Govt. Hospitals	0
8	Traditional Medicine Practitioners	10.3
9	ASHA Workers	100

165. In the above report, it is mentioned that study reveals no prevalence of chronic diseases but it does not refer to any such particular study which has been conducted by any agency or which has conducted such survey and submitted the report. The observations are clearly misleading.

166. It is admitted before us that several mining projects and power plants are working in the nearby area, wherein local people have been given skilled or semi-skilled employment and occupational health impacts have affected them. In the present case, '**occupational health impacts**' have been mentioned in details in para 4.4.9 at page 793 of paper book as under:

“4.4.9 Occupational health impacts

The occupational health & safety hazards occur during operational phase are

- *Respiratory hazards which includes cardio-pulmonary TB, silicosis, silico-tuberculosis, obstructive airways disease and occupational asthma.*
- *Noise induced hearing losses.*
- *Physical hazards like repetitive strain injuries from heavy lifting and working with the body in awkward positions can lead to injuries of the arms, legs and back.*
- *Explosive storage and handling like blasting.”*

167. The report submitted to ICMR is annexure A-6 at page 264 of the paper book. Study was conducted by a team comprising Dr. Suyesh Shrivastava, Principal Investigator and Scientist 'B', Dr. Tapas Chakma, Co-Principal Investigator and Scientist 'G' and Dr. Aparup Das, Director and Scientist 'G', Indian Council of Medical Research, National Institute of Research in Tribal Health, Jabalpur, Madhya Pradesh. Report was submitted to ICMR, New Delhi. Executive Summary shows that it is a health assessment of villagers of Tamnar Block, District Raigarh, State of Chhattisgarh and the objective of the study was to find out morbidity, mortality and nutritional status of population residing in Tamnar Block, District Raigarh. Specific objectives are pointed out as under:

“Objective:

In this study, an attempt was made to find out the morbidity, mortality and nutritional status of the population residing in Tamnar Block of Raigarh District. Specific objectives were:

- 1. To study morbidity profile of the tribe residing in Tamnar Block of Raigarh District.*
- 2. To assess the nutritional status through anthropometry.*
- 3. To assess the utilization pattern of various government health programmes by the community.”*

168. The results mentioned in Executive Summary, read as under:

“Results:

A total of 5233 individuals covering 984 households from 33 villages were surveyed and 1713 individuals of different ages were thoroughly screened clinically. Thus the final analysis from the sample of 1713 is presented here. The majority of the population (61.2%) were using community piped water supply for drinking purposes. About 11.2% of the households had tube well as a source of drinking water, while 22.9% of households were using open well for drinking. About 91.1% of the household had sanitary latrines and about 99.8% of households were electrified. About 86.1% of the households were aware of Aayushman Bharat Yojana and 19.2% had Aayushman Bharat Yojana card with them during the survey. Overall, 66.6% of households had liquid petroleum gas (LPG) connection through Pradhan Mantri Ujjwala Yojana.

In general, the proportion of pre-school children with underweight (< -2SD) was about 42.7%. Among the adult population, about 8.8% of males and 6.6% of the females had grade II chronic energy deficiency. Overall acute respiratory infection (20.9%) constituted the most common morbidity followed by fever (6.2%) and scabies (1.6%) among the pre-school children. The prevalence of knock knee (Genu valgum) was 5.7% and marasmus was 1.2%. The prevalence of hypertension was 21.8% followed by anaemia (16.1%) and fungal infection (4.0%) among the adult population.

A majority of the currently pregnant women (98.6%) had received some kind of antenatal care. Out of total pregnant women (74), about 86.4% of women have received TT injection during their antenatal period. Among under-five years of children, BCG vaccination was 96.1% followed by DPT (95.8%).

Major recommendations:

- 1. Prophylaxis programme for anaemia & malnutrition should be strengthened.*

2. *Health facilities should be strengthened and vacant post of specialist doctors and trained health workers should be filled as per IPHS guideline along with laboratory facilities in CHC and PHC.*
3. *Initiative for provision for safe drinking water especially in two villages Mudagaon and Saraitola (i.e. fluoride free, arsenic free or other geogenic contamination).*
4. *Intervention programmes for NCDs especially for hypertension and other cardiovascular diseases should be undertaken.”*

169. Though, in the objections filed by respondent 4, it is said that ICMR report does not relate to the project in question or make any general specific observation(s) on the proposed project, but it could not be disputed that the mining area allotted to proponent cover 14 villages comes within Tehsil-Tamnar, Sub-Division-Ghargoda, District-Raigarh. Thus, the submission that ICMR report is not concerned with the project in question, is misconceived in as much as the report admittedly relates to the area which is the subject matter of mining operation by the proponent.

170. In the minutes dated 05.12.2019 of EAC, it is mentioned that report of ICMR health assessment and project of health of people living in Tamnar Block is yet to be completed. This is mentioned in para 51.4.3 and reads as under:

“Report of Indian Council of Medical Research (ICMR) health assessment and project of health of people living in Tamnar Block is yet to be completed.”

171. Above is one of the deliberations noted by EAC in the above minutes. It is not stated that the said report has nothing to do with the project in question and on the contrary, it is one of the deliberations during the meeting and one of the reasons for returning the proposal is that the impact on villagers due to mining activity present in core zone shall be provided and also the issues raised during public hearing shall be compiled. It is not disputed before us that Joint Committee submitted its

report in February 2020 as stated by the applicant in para 11, 13 and 14. Strangely in the minutes dated 28th – 29th September, 2020 whereby the recommendation for grant of prior EC was made by EAC, it is again stated that report of health assessment and project of health of people living in Tamnar Block is yet to be completed which is clearly incorrect observation. Virtually what has been stated in the earlier meeting when the proposal was returned has been repeated in the minutes dated 28th – 29th September, 2020 though in the meantime, the report was submitted by ICMR in February 2020 and hence it was available for examination/consideration by EAC. **This shows non-application of mind and perversity on the part of EAC.**

172. In the chart placed in para 2.1.1 of the minutes dated 28th – 29th September, 2020, only in one line, it is said that the issues raised during public hearing were addressed adequately and complied but on the question of health issues, whereof detailed report was submitted by ICMR in respect to the area where the mining operation has been allotted to proponent, neither it has been examined nor considered and on the contrary, on a total incorrect state of affairs that report is yet to be completed, the consideration thereof has been omitted/ignored. What impact the said report would have and whether additional conditions were to be imposed upon proponent or grant of EC would have been desirable or not, are all the questions within the realm of appraisal which is within the domain of EAC and MoEF&CC who had to consider question of grant of prior EC but if they have failed in discharge their statutory obligation on incorrect facts and relevant material is ignored, this Tribunal will have to hold such a decision to be vitiated in law as it has failed to consider relevant material and that too on incorrect facts.

173. Learned Senior Counsel for proponent attempted to draw our

attention on the details of ICMR report and sought to argue that proponent is ready to take all such steps as Tribunal may direct including construction of more hospitals but we find that the report ought to have been considered by EAC and MoEF&CC at the time of appraisal of the proposal with all relevant materials and having failed to do so, it would not be appropriate for Tribunal, for the first time, to enter into the field of appraisal of proposal and to lay down certain conditions though on this aspect, Competent Authorities who were under obligation to appraise the proposal, have failed to consider this matter at all.

174. **We, therefore, hold that there is non-application of mind on the part of EAC as well as MOEF&CC** by observing that ICMR report in respect of health assessment for the area in question in respect where to, mining operation has been allotted to proponent, has not been examined though it constituted a relevant material on the subject and, therefore, the decision taken by the authorities resulting in grant of prior EC, is vitiated in law.

(ii) Whether there is any breach of the directions issued by Tribunal in OA 104/2018, Shivpal Bhagat & Others vs. Union of India & Others?

175. In order to consider this aspect, it would be necessary to go into the facts and various orders passed by this Tribunal in **Shivpal Bhagat vs. Union of India (supra)**.

176. Original Application was filed by 6 applicants namely, Mr. Shivpal Bhagat, Mr. Prahalad Sidar, Mr. Hemsagar Paikra, Mr. Sriram Gupta, Ms. Rinchin and Ms. Janaki Sidar, alleging that there is large scale damage of environment including soil, water and air in villages Kosampalli, Dongamahua, Kodkel, Kunjemura and Regaon, Nagmuda, Milupara and Sakta which fall under Tamnar block as well as villages Bhengari,

Charmar, Khokroama and Tendनावapara and Chal etc. of Gharghoda Block, District Raigarh due to indiscreet mining activities and violation of environmental laws and norms by thermal power plants, coal washeries and other industries operating in the above villages. Applicants claim to be residents of Blocks Tamnar and Gharghoda, District Raigarh, State of Chhattisgarh. A large number of industries relating to coal mines, coal washeries and power plants were operating in the area, details whereof are given in para 3 of the OA as under:

S.No.	Name	Location	Particulars
1.	Jindal Tamnar Thermal Power Plant	Near Tamnar Village	Installed capacity of 3400 MW
2.	Gare IV/ 1 Coal mine	Nagramuda	6 MTPA Jindal/SECL
3.	Chhal Opencast Coal mine Mahavir Power Plant	Lat, Tehsil Dharamjaigarh Village Charmar, Behngari Gharghoda Tehsil	3 MTPA, expansion of 1 MTPA proposed Mahavir Energy Power Limited
4.	TRN Power Plant	Khokroama, Tenda Navapara Gharghoda Tehsil	TRN Energy Power Limited
5.	Gare IV/2 and IV/3 Opencast and Underground coal mines	Gharghoda Sarasmal, Kossumpali, Kondkel, Dongamahua, Lamdarha, Libra, Tamnar Tehsil	6.25 MTPA. JINDAL/SECL
6.	Gare IV/5	Kondkel, Lamdarka, Milupara	1 MTPA Hindalco Industries
7.	Gare IV/4 Opencast	Gharghoda Kondkel, Tamnar Tehsil	Present capacity 0.48 MTPA, expansion from 0.48 to 1 MTPA is proposed. Proposed

			<i>Hindalco Industries</i>
8.	<i>Dongamahua Captive Power Plant</i>	<i>Village Dongamahua</i>	<i>Jindal Power Limited</i>
9.	<i>Ash Dyke of Jindal Power Ltd.</i>	<i>Village Kunjemura Rehgaon, Tamnar Block</i>	<i>Jindal Power Ltd.</i>
10.	<i>Gare Palma IV/7</i>	<i>Karvahi</i>	<i>Monet Limited</i>

177. It was pointed out that M/s. Jindal Power Limited, M/s. Jindal Power and Steel Limited, M/s. TRN Energy Pvt. Ltd., M/s. Mahavir Energy and Coal Benefaction Ltd., M/s. Hindalco Industries Ltd., Monet Energy Ltd. and South Eastern Coalfields Limited (hereinafter referred to as ‘SECL’) are coal mines/thermal power plants, operating by private companies.

178. A two-member fact finding team conducted field visit in villages of Blocks Tamnar and Gharghoda to ascertain cumulative impact caused by coal mining, thermal power production and ash ponds on the environment. The fact finding team vide its report of November 2016 titled as “Environmental Violations in and around Coal Mines, Washeries and Thermal Power Plants of Tamnar & Gharghoda Blocks, District. Raigarh Chhattisgarh” gave certain findings as under:

- “1. *Extremely poor air quality in and around the villages bordering the mines, thermal power plants and coal washeries.*
2. *It was noted that there were several reports of drastic depletion of ground waterlevels owing to extraction by the industries. The team was informed that in some places the water table had fallen from 30-40 feet to as low as 250 feet. At least 90 out the 116 villages in Tamnar block have been affected by the dropping water table.*
3. *It was also observed that there was a serious depletion and drying of surface water resources due to dewatering effect of mines.*

4. *Serious contamination of surface and ground water was noticed. It was primarily through:*
 - a. *Direct discharge of pollutants and waste water streams from mines, TPPs and washeries, including the Captive Power Plant at Dongamahua, Gare IV/ 1, IV/2, IV/3, IV/4, IV/5 mines, the ash dumps of Jindal Power plant and Mahaveer Power plant, and several others sources.*
 - b. *Contamination of surface and ground water and agricultural fields due to leaching and overflow of pollutants from ash ponds, ash dumps, coal dust, fly ash dust etc.*
 - c. *Contamination of groundwater through leaching and other means.*
5. *Drying of rivers and water sources due to diversions to industry.*
6. *Underground mine fire and smoke was noticed in Nagramunda village at the Gare IV/ 1 mine.*
7. *Coal ash from power plants was dumped in and near agricultural fields and places of habitation leading to contamination of water sources, which would ultimately enter the food cycle.*
8. *Coal mines have illegally expanded and are threatening places of habitation in villages like Kosampalli.*
9. *Rehabilitation of villagers displaced by expansion of mines was neither adequate nor complete.*
10. *Severe impact of all these taken together on the livelihoods, health and well-being of the local communities*

179. Another report was published in July 2017 on the environmental sampling around coal mines, thermal power plants and ash ponds in Tamnar Block of District Raigarh. The report said that the sampling and testing of chemicals present in air, water, soil and sediment of Kosampalli, Dongamahua, Kodkel, Kunjemura and Regaon villages in Tamnar Block indicate that air, soil, sediment and water in and around the above villages were seriously contaminated with various toxic heavy metals. Some of the

specific observations/findings in the above report are:

- “1. Total of 12 toxic metals including Aluminum, Arsenic, Antimony, Boron, Cadmium, Chromium, Lead, Manganese, Nickel, Selenium, Zinc and Vanadium were found in the water, soil and sediment samples taken around the region.
2. Out of the 12 toxic metals found, 2 are carcinogen and 2 probable carcinogen. Arsenic and Cadmium are known carcinogens and Lead and Nickel are probable carcinogens.
3. Many of the metals cause respiratory disorders, shortness of breath, lung damage, reproductive damage, liver and kidney damage, skin rashes, hair loss, brittle bones, nausea, vomiting, diarrhea, stomach pains, muscle and joint pain and weakness etc
4. Humans and animals in the area are at risk of amplified harm because of the exposure to multiple toxicants and carcinogens all at once. Many of these toxic chemicals adversely affect the same organ (e.g., lungs, kidneys) or have similar impacts (cancer, skin damage, damage to reproductive system). It is clear that there is an increased cumulative threat when the exposure is to many toxic chemicals at the same time.
5. Many chemicals found are known to bio accumulate and move up the food chain.”

180. Based on the above findings and observations, demand was raised on the local level that CECB and Chhattisgarh Government should immediately initiate continuous and long-term monitoring of emissions in the region and publish results periodically and issue advisories. This should include the comprehensive monitoring of air, soil water bodies, drinking water and fish in the region; use pollution data to apprehend polluters and take corrective remediation action to bring levels of dust and heavy metals in dust to below detection limits in residential areas; commission a Cumulative Environmental and Health Impact Assessment study of the densely industrialized areas of Tamnar Block; commission a study to assess carrying capacity of the densely industrialized areas of Tamnar Block for any further industrialization; enforce a moratorium on

any expansion of coal mines and coal-fired thermal power plants and any other polluting industries in the region pending the findings of the study; provide for long-term health monitoring by initiating health studies among the residents of villages and workers in and around Tamnar; set up specialized health care infrastructure operated by Government Health department at polluters' cost to cater to pollution-impacted Tamnar residents and factory workers; and set up an Oversight Committee comprising of Government officials from various Departments (including Pollution Control Board, Health and Local Administration) and local residents from various villages to oversee time-bound execution and implementation of the above-mentioned recommendations.

181. In a Report published in daily newspaper 'Indian Express' dated 04.12.2017, harmful effect of pollution caused due to mining and power plants was reported and relevant extract reads as under:

"The Raigarh region some 230 km east of Raipur, has seen a substantial increase in mining and coal-fired power generation since 2002. "Dangerous levels of toxic substances, including heavy metals, found in air, water, soil, and sediment samples are likely to be connected to poor health experienced by residents in the vicinity of these industries"....'

182. The issue of impact on environment due to mining activities in Tamnar Block was raised before Tribunal in **OA 319/2014 (CZ), Dukalu Ram vs. UoI & Others**. It was prayed that Tribunal must prohibit illegal mining in violation of conditions of EC in Gare IV/2 and IV/3. Tribunal by order dated 18.04.2017 passed in **Dukalu Ram vs. UoI & Others (supra)** constituted a Committee who submitted its report in September 2017, verifying the facts stated in the earlier report with regard to damage to environment. However, CPCB and CECB failed to get the Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016

(hereinafter referred to as '**HOW(MTM) Rules 2016**') implemented and complied with by the concerned proponents. Proponents over the years discarded and disposed toxic substances/effluents containing high concentration of hazardous waste in gross violation of HOW(MTM) Rules, 2016. There are certain substances like fly ash which is not classified as hazardous waste but it consists of Mercury, Chromium, Nickel, Arsenic etc. which is itching into agricultural fields and water bodies contaminating and damaging the environment. Urgent steps were required for remediation but the concerned Statutory Regulators have not taken such steps. Applicants in ***Shivpal Bhagat vs. Union of India (supra)*** prayed that direction be issued to State of Chhattisgarh and CECB to take steps for remediation of environment including soil, water and air in villages mentioned above falling in Blocks Tamnar and Gharghoda of District Raigarh; the industries should be directed not to cause any contamination of environment and ensure compliance of the relevant environmental laws and MoEF&CC, SEIAA Chhattisgarh and CECB should be directed not to grant permission for new projects or expansion in cases of mines/thermal power plants/washeries in Blocks Tamnar and Gharghoda until a cumulative impact assessment of existing mines, thermal power plants and washeries on the environment in the region, a cumulative impact assessment of existing mines, thermal power plants and washeries on the health in the region, directions be passed for evaluation of human exposure and health impacts in District Raigarh and an overall assessment of environmental and health carrying capacity of the region in relation to the proposed expansion and new projects and till a time a moratorium is imposed.

183. ***Shivpal Bhagat vs. Union of India (supra)*** was considered on 23.08.2018. After recording the submissions of applicant, observations

made during enquiry, adverse impact on health and the suggestions made, Tribunal found that similar issue was already under consideration in **Dukalu Ram & Ors. v. Union of India & Ors. (supra)**, wherein Committee was constituted on 18.04.2017. The said Committee made inspection and submitted report with observations and suggestions. Thereafter, by order dated 31.07.2018 passed in **Dukalu Ram vs. UoI & Ors (supra)**, Tribunal constituted another Committee comprising a representative from Indian Institute of Forest Management, Bhopal; representative from Indian School of Mines, Dhanbad and Scientist/Engineer from Regional Office, CPCB. Observing that the matter is over-lapping, in the present OA as also in **Dukalu Ram vs. UoI & Ors (supra)**, Tribunal referred matter in Shivpal Bhagat and others to the above Committee for its examination, inspection, call for report from CPCB and State PCB, to consider the scheme prepared by MoEF&CC and to implement the same. While referring the matter to the above Committee, Tribunal directed as under:

“The Committee may examine the comprehensive status of ambient air quality, land and water environment in the area, factors contributing to environmental degradation, remediation measures to improve quality of soil, status of installation of pollution control devices by the industries, other ameliorative measures, carrying capacity, assessment of affected blocks. The Committee may obtain a joint inspection report from the Central Pollution Control Board and State Pollution Control Board. The Committee may also consider the schemes prepared by the Ministry of Environment, Forest and Climate Change. The applicant will be at liberty to furnish all relevant documents to the Committee and to put forward their views to the Committee. The Committee may also involve the District Administration for implementation of the recommendations and send a report to this Tribunal within three months by E-mail at filing.ngt@gmail.com.”

184. It may be mentioned at this stage that **Dukalu Ram vs. UoI & Ors (supra)** was initially registered as **OA 319/2014(CZ)** and thereafter it was transferred to Principal Bench and re-registered as **OA 200/2018**.

185. An Execution Application No. 05/2019 was filed in **Shivpal Bhagat vs. Union of India (supra)**. The report submitted by Joint Committee was considered on 22.07.2019. Tribunal observed that Committee has referred to certain deficiencies such as mines fire, insufficiency of green belt, no work started for diversion of Bendra nallah, embankment of 5 km length between River Kelo and mining lease as per condition of EC to protect surface water body from pollution caused by mining operation. However, Tribunal observed that Report does not exhaustively deal with the issues raised vide order dated 23.08.2018, particularly with regard to carrying capacity of the area, remediation measures, improve quality of soil, adequacy of pollution control devises, fly ash management and ambient air quality with regard to PM2.5, therefore, it constituted a Committee as under:

- “1. Representative of MoEF&CC, Regional Office Nagpur to the level of Scientist – E
2. Representative of NEERI, Nagpur
3. Scientist – E, Regional Office CPCB, Bhopal, who will be the nodal officer
4. Representative of State of PCB
5. Dr. Sarat Chander Lele, EAC Member Coal and Thermal, MoEF&CC, New Delhi.”

186. The report dated 14.10.2019 was submitted by Committee which was considered by Tribunal on 27.02.2020 in **Shivpal Bhagat vs. Union of India (supra)**. The recommendations made by Committee were reproduced in para 3 of the order which read as under:

“4. RECOMMENDATIONS:

Based on the above observations, the committee recommends a set of short-term and long-term measures.

4.1 Short-term measures

- a. *Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling. (Action by respective Coal mine companies).*
- b. *Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously monitoring the implementation of the recent SOP in the field, no further disposal of fly ash in low-lying areas by TPP/CPP companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOCs for the same.*
- c. *Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing **closed conveyor belts** and no such coal transport should be allowed via trucks. (Action by SECL).*
- d. *Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pretreatment facility and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically. The quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms.*
- e. *Installation of adequate number of CCTV and CAAQM stations in coal mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECB/CPCB server, and also displayed on the mine gates for public information. (Action by respective coal mine companies).*
- f. *Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles. (Action by Public Works Department and respective mining companies). Indian Railways to be directed to submit a time-bound action plan for commissioning of the railway line in Tamnar and Gharghoda blocks to ensure all coal transportation by rail.*
- g. *Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies).*
- h. *Strict vigilance by MOEFCC for green belt development compliance as per EC conditions*

- i. We also recommend that **no further conversion of UG mines to Open Cast mines** be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major noncompliance in pollution control and social cost (rehabilitation).

4.2 Long-term measures

a) Based on evidence summarised above, the committee is of the opinion that the Tamnar Gharghoda block region is close to exceeding its environmental carrying capacity. However, the precise extent of current environmental load and the likely impacts of future mining and industrial activities has to be worked out through a detailed and comprehensive environmental load carrying capacity study, to be carried out by a reputed environmental research institute or a consortium of such institutes over a 24-month period.

- i) The study must cover dimensions of air pollution (especially PM_{2.5}), water pollution and ground and surface water depletion, soil contamination, forest and biodiversity loss, and social and health impacts.
- ii) Moreover, given the geography of the region, the study must assess the carrying capacity separately for two different subregions: the northern Tamnar (coal mining related) block and Gharghoda block. Moreover, since Chhal open cast mine located in southern Dharamjaigarh block is located on the bank of Mand River and therefore in an eco-sensitive zone, a baseline study of this region may also be carried out. The southern Tamnar subregion has already been studied for environmental load carrying capacity by IIT Kharagpur (report submitted to CECB in 2018) and it has already recommended strict regulation of any further industrial development in particular parts of the sub-region through a high-level committee.
- iii) Mode of commissioning of this study may please be decided by the Hon'ble NGT, and necessary directions may please be issued accordingly.

b) To reduce the pollution and other impacts caused by road transport of coal and other minerals, directions may be issued that coal transport by road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail or closed conveyor belt only.

c) Condition of greenbelt development may be incorporated at TOR stage of EC application to ensure that greenbelt work shall be in place at the time of final presentation for obtaining EC, which

problematic issues as mentioned in the Order dated 27.02.2020 of this Hon'ble Tribunal.

6. *That Overall the report does not provide any evidence (in the form of photos, lists of sites visits, descriptions, who did they meet etc) to back up its conclusions. For example in places where the committee has come up with conclusion that fly ash dumping in low lying areas have been restricted. It is stated that no proof has been given for the same. There are no photographs that have been attached or list provided of which sites they have visited and what information they have noted by the Committee. Also the local community members have provided a list of sites and photo documentation of how new fly ash dumping sites have been created in various parts of the region in violation of the Hon'ble NGT's Order/s however till date no action has been taken in any of these cases. The Applicants are annexing the recent photographs showing that the fly ash dumping is still taking place and nothing has been done with respect to removal of legacy fly ash dumps. The non-clean up of legacy fly ash dumps would lead to leachate when it comes in contact with water and would further lead to water and soil pollution.*

Photographs alongwith GPS location and date are annexed herewith showing the Fly ash dumps which are annexed herewith as ANNEXURE-B (Collectively).

7. *That it is also important to point out that the Coal mines of Gare IV/2 and Gare IV/3 is also witnessing air and land pollution due to fire in Coal mines of Gare IV 12 and Gare IV/3. Had the Committee contacted the local community members they would have shown the sites which are witnessing fire in Coal Mines. Recent Photographs showing the fire in Coal mines of Gare IV/2 and Gare IV/3 are annexed herewith as ANNEXURE-C (Collectively).*
8. *That on the issue of coal transportation by trucks, the committee has given a vague response of "seems to be complied" which does not make any sense, either the condition is complied or not to be complied. However the committee has once again not provided any details of the transportation of coal via conveyor belts such as trip sheets or how much quantum of coal has been transported by a conveyor belt to provide proof that the condition is being complied with. Mere vague statement of the committee in this regard cannot be accepted as proof.*
9. *That the direction about CAAQMS has NOT BEEN COMPLIED WITH. What is even more shocking that, the committee which has been appointed to oversee the implementation of the direction is justifying the non-compliance by advancing the*

industry's faulty logic in this regard, It is stated that EC and CTO condition is to provide regular monitoring data which is not the same as a 24X7 and 365 day monitoring through CAAQMS.

10. *That the committee itself observes bad road in the region hence it is clear that road maintenance direction has NOT been complied with.*
11. *That Directions regarding the mitigation measures of health issues in the region HAVE NOT been complied with. The Principal Secretary-Health, GoW of Chhattisgarh has not been implementing any health related measures and local community health is in a very precarious situation which fact is observed in a recent Health Assessment Report 2019-2020 titled "HEALTH ASSESSMENT OF VILLAGERS OF TAMNAR BLOCK, DISTRICT RAIGARH (C.G.)" submitted to Indian Council of Medical Research, New Delhi, Year 2019-2020. Copy of relevant pages of this study is annexed herewith as ANNEXURE-D.*
12. *That on the issue of green belt development, the committee has pushed the responsibility on MoEF&CC. It is not clear in describing the actual status on the ground. There is no actual evidence provided by the committee to support their "compliance in progress" remark. The committee's vague remark without any submission of documents of the mine wise status of greenbelt development is nothing but mere bald assertions without any proof.*
13. *That regarding the water testing laboratories at Gharghoda and Raigarh for testing of drinking water quality there is no evidence on record that the same are in fit working condition. Similarly, on the issue of water testing, the Applicants state that in Saraitola area the water contains high fluoride content and there is no evidence on record to show that Electrolytic DE fluoridation (EDF) Plants in 3 villages (Pata, Mudgaon, Saraitola are in fit working condition). The Committee has failed to provide any testing results from the area as to what was found in the drinking water and whether the same was in usable condition by the local villagers. There is no evidence or proof filed by committee regarding the sites where the drinking water is potable and where the same is not potable and need further treatment for the villagers to be used. There should be a timeline provided by the Committee to test the water quality in the Tamnar and Gharghoda blocks and a study regarding the sites of potable water needs to be done in coordination with PHED and the local villagers.*

14. *That the Committee has agreed that there is a problem of frequent lowering of ground water table due to mining activity at page 7 of the Report.*
15. *Inspite of acknowledging the problem of frequent lowering of ground water table due to mining there are no plans or action taken proposed for replenishing the fast depleting water table or curbing the future mining activity.*
16. *It also states that M/s Hindalco has been told to provide Tap water supply from the mine in the village and ensure quality of water in co-ordination with PHED Raigarh. It is stated that the same should be done for Neelupara and adjoining area where there are very few drinking water facilities. The Report is silent on new sites where drinking water facility has been provided.*
17. *That in the long term compliance section the details provided in Annexure VI for the carrying capacity study is grossly insufficient. The proposal of CECB is to just conduct a source apportionment study. A source apportionment study cannot be considered as a carrying capacity study. Source Apportionment (SA) is the practice of deriving information about pollution sources and the amount they contribute to ambient air pollution levels. The concept of carrying capacity describes the relationship between resources, environment and human activities to ensure sustainability. Carrying capacity is also defined as “the growth limits an area can accommodate without violating environmental capacity goals” The carrying capacity study will assess the maximum number of individuals/ industrial activities that an area's resources can sustain indefinitely without significantly depleting or degrading those resources or causing environmental or public health depletion. It is re-iterated that a proper detailed proposal on carrying capacity study has to be done and shared with the community before progressing with the compliance.”*

189. Tribunal directed concerned authorities and the committee to look into the above suggestion in co-ordination with CPCB. It also inducted Collector Raigarh as Member of the Committee and a further status report was required to be submitted by Committee. Execution Application No. 05/2019 and pending MAs i.e., 279/2018 and 858/2018 were disposed of.

190. The matter was again listed before Tribunal for consideration of

Action Taken Report dated 16.04.2021 along with which another Report dated 17.03.2021 was annexed as annexure-IV which were considered on 24.06.2021. The observations made from Report dated 17.03.2021 are in para 5 which read as under:

“5. From the report dated 17.03.2021 annexed to the main report as Annexure-IV, violations have been found on the part of JPL, JSPL, M/s HINDALCO Industries Limited, Mahaveer Bio-Energy Premises and CSPGCL. The observations are quoted below:-

“FIELD OBSERVATIONS

1. Unscientific dumping of fly ash- *The committee has observed unscientific dumping of fly ash at several places, out of these few are temporary/intermittent and few old dumping of legacy in nature.*

- **Within GP IV/1, outside mine void:** *Only fly ash dumping as part of backfilling of mine void along with overburden is permitted. No dumping is permitted in open areas; such dumping is leading to ash flying away into human habitation and ecosystems.*

Action: *As this constitutes violation of EC conditions, CECB to direct JSPL to clean up the unauthorised dump within 7 days and dispose the fly ash in the mine void through the backfilling process. The process of covering fly ash with overburden/sweet soil appears to be very slow. JSPL shall ensure that fly ash is covered within 07 days to extent possible and also to ensure daily watering or covering up the flu ash during backfilling process.*

- **Within GP IV/2-3 outside mine void:** *Only fly ash dumping as part of mine void covered with overburden is permitted. No dumping without cover by overburden is permitted in open area as such dumping may lead to ash flying away into human habitation and ecosystem. (Pics5-6)*

Action: *As this constitutes violation of EC conditions, CECB to direct JSPL to clean up the unauthorised dump within 7 days and dispose the fly ash in the mine void through the backfilling process.*

- **Leakage of fly ash slurry from JPL ash dyke:** *The ash dyke IIA and IIB of JSPL was observed full and representative of the industry has informed that application for permission to raise the ash dyke height is submitted in MoEF&CC. At the time of*

visit leakage in the exiting ash dyke was observed and ash laden water was found up to toe drain. Hence possibility of ash dyke breach in future cannot be ruled out. (Pics-07) Action: In compliance of direction from Oversight Committee CECB has inspected the site and directions to the industry is being issued under section 33 of water act. Furthermore, JPL to conduct study through a research organisation of national repute to determine the stability of the exiting ash dyke and take measures required to strengthen as needed. No permission for raising of ash dyke shall be given till safety of the dyke is assured.

- **Outside TRN Power Ash dyke:** TRN power has created an ash dump outside its ash dyke in the village of Nawapara Tenda (Pic- 08). The top of dump is at least 10 feet above the GL. This is not as per definition of dumping in low lying area. Moreover, fly ash utilisation report April 2020 – Jan 2021 provided by TRN Power shows that they have continued to dump fly ash in low lying areas during May, June and July 2020. There are physical evidences for breaching of mud wall leading to fly ash flowing in to adjoined fields (Pic-9). More over the situation to ash flying into neighbouring habitants and ecosystem could not be ruled out. The dumping of fly ash in Tenda Village is seems to be a legacy dump (Pre-February 2020). This unscientific dumping is visibly eroding in the rain and may flow in to nearby fields and water streams. (Pic-10)

Action: CECB to instruct TRN power to desist from any further dumping, to strengthen the mud dykes, to regularly watering the dump to prevent fly ash dispersal by wind, to prevent any erosion by covering the dump with soil. Actions for the long term remediation of this legacy dump will be determined once mine voids are made available for fly ash disposal.

- **Outside Mahaveer Bio Energy Premises:** Mahaveer Bio energy has created an ash dump behind its premises. (Pics- 11) The top of the dump is at least 10 feet above the GL and does not confirm to the SOP for dumping in low lying area. More over there is not even a proper retaining wall around the dump creating a public hazard.

Action: CECB shall issue show cause notice for improper disposal of fly ash and instruct for removal of the fly ash within 07 days

- **Fire in coal mine/coal dump:** The committee observed smoke in gare Palma IV/2-3 (SECL). (Pic-12) SECL assured the committee that they have followed instructions provided by CIMPHER but measure advised as covering with clay have not worked. Fires/ smoke is constant hazard in coal mining.

Nevertheless, fires close to human habitation need to be immediately put on to prevent pollution and health hazard.

Action: CECB to direct SECL to arrest all fire within 500 m of kausampalli and Sarasmal village within 7 days and approach DGMS immediately for obtaining better solution to deal with issues

- **Discharge of untreated waste water-** The committee has observed discharge of untreated water from mine of M/s HINDALCO Industries Limited at Gare Palma IV/4 in to a drain leading to agriculture fields (Pic-13). The mine owner has also not demarcated mining lease area that OB dump activity could be assessed.

Action: As this constitutes a violation of EC conditions, CECB shall direct M/s Hindalco to immediately stop the discharge of effluents, and to install necessary wastewater treatment facilities and have them inspected by CECB within 1 month, show that it meets discharge quality standards set in the EC, and seek approval of neighboring village Gram Sabha before releasing any further (treated) wastewater out of its mine lease area

The committee also received public representation in field to the effect that the captive coal washery with in the JPL premises was releasing untreated effluents in to the Kelo River that adjoins it. The committee could not visit the site to examine the situation.

Action: CECB has visited the site and reported non-operational status of coal washery, however water samples from River Kelo has been collected and final report will be submitted after completion of sample analysis.

2. **Green belt and safe distance from public road/settlement-** The committee has found green belt issue and indiscriminate storage of OB dump in CSPGCL (Chhattisgarh State Power Generation Company limited) mine at Gare Palma sector 3. It was observed that dumping of OB was done on both sides of public road without safe distance.

Action: Committee has instructed CECB to inspect the GP III mine and verify the actual location of OB dump as per mining plan. In case of any deviation found strict action shall be initiated in consultation with state mining department as well as Director General of Safety and Mines (DGMS). Regarding Gare Palma IV/5 MoEF&CC to verify and issue appropriate direction.

3. Making abandoned mines available for disposal of fly ash

Update: Ministry of power has identified 3 mines for fly ash dumping in Tamnar-Gharghoda region. Chhaal mine is actually not available because it is being worked. Mand mine is an UG mine has already been decommissioned. It is not easy to reuse it for fly ash dumping. DGMS will be requested to suggest ways in which it can be made available for fly ash dumping. OCP mine at Domnara is found suitable for disposal fly ash available for which SECL, Raigarh has moved the letter to its HO at Bilaspur office seeking permission. In case of permission granted for Domnara mine preference shall be given to TRN Energy Private Limited and some other power producers that generate fly ash and have limited area for fly ash disposal.

Action: Collector Raigarh shall pursue the matter with CMD, SECL, Bilaspur for an early outcome.

4. Public health facilities and disease screening- The committee has also discussed about requirement of health infrastructure and status of available facilities in Gharghoda and Tamnar area. Collector Raigarh has informed the committee that there are adequate facilities available at Tamnar CHC and at the Fortis-JPL multispeciality hospital at Tamnar. Collector Raigarh has also assured to organise 'health camps' within the next 3 months in all villages surrounding the mines areas in T & G blocks, and then ensure regular screening after that on a yearly basis.

Action: CECB RO Raigarh with DC, Raigarh to reconfirm that JPL hospital is open to all villagers for free of cost treatment.

5. Improve Road quality to reduce spillage and air pollution- Gharghoda and Tamnar area of Raigarh is extremely rich in coal mineral and extensively mined by SECL and other private companies. It was observed that very less percent of coal produced in the area is available for exiting industries of Raigarh. Most of the coal mined is being transported to nearby areas in Chhattisgarh and other states. Hence road condition of Raigarh plays an important role in deterioration of ambient air quality. In order to ensure better ambient air quality an statistical balance is to be developed between road transport and rail transport. It was found satisfactory that development of rail network with five coal siding in the area are at the stage of completion. Hence it is required to decide a time line for transportation of coal by rail only especially being dispatched to other states. Road transport of coal shall be limited for those power plants operational in Raigarh.

EE, PWD, Raigarh has informed the committee that main highway connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme. Stretch from Chhal mines to Gharghoda has been approved for two-lane and its strengthening. Stretch from

Punjipathra to Milupara via Tamnar (25 km) and Stretch from Milupara to Lailung not yet approved.

Action: *Since the actual process of constructing the NH will take at least two years, PWD is instructed to identify badly damaged patches in this stretch and prepare a budget and get the same approved and acted upon immediately (within 3 months). As far as constructions of other stretches are concerned PWD shall take highest priority because these are the stretches with heaviest traffic density.*

6. Inadequate quality of drinking water supply to Kondkhel village- *This could not be verified in this visit, but Hindalco was already instructed to stop providing water from Bendra nala, and to provide water from coal mine after proper filtration and treatment. Hindalco has yet to comply.*

Action: *Direction from collector Raigarh may be issued to M/s HINDALCO and PHED, Raigarh for compliance within three months.”*

191. Extract of report dated 16.04.2021 are reproduced in para 4 of the order dated 24.06.2021 which reads as under:

“4. In pursuance of above, a further report has been filed by CPCB on 16.04.2021. The Committee held meetings during 15th-17th March, 2021 and also conducted field visit. The status of compliance as on 15.03.2021 has been given in a tabular form. Field observations and recommendations have also been mentioned. Relevant extracts from the report are reproduced below:-

“In compliance of Hon’ble NGT order dated 20.11.2020 (Annexure-I), the 3rd virtual meeting of over sight committee was conducted on 27.11.2020. Copy of the minutes of this meeting is placed at Annexure-II.

As decided in the meeting, 3rd field visit of Gharghoda and Tamnar area in Raigarh was conducted during 15-17th March 2021 to address the suggestions given by the applicant by way of written submission filed on 18.11.2020 and to assess progress on the ground in terms of compliance with short term recommendations. The Oversight committee has conducted meeting with applicant on 15.03.2021 in the meeting hall of Collector Raigarh. Sh. Bhim Singh, IAS, Collector Raigarh was also with other members of the Oversight Committee. As decided in the meeting on 27.1.2020 Sh. Shivpal Bhagat, (Applicant) was informed about schedule of the meeting through e-mail on 12.03.2021 and through phone on 15.03.2021. Copy of the mail is placed at Annexure-III. Three applicants out of six have attended the meeting viz Sh. Sriram

Gupta S/O Mansha Ram Gupta (Applicant 4), Ms. Rinchin D/O Bina (Applicant 5) and Janki Sidar W/o Bharat Sidar (Applicant 6).

All three applicants were then invited to join the Oversight Committee in its field visit on 15th and 16th March 2021. **Contaminated sites and fly ash disposal sites shown by the applicant were listed and course of action decided / recommended by the committee has also been recorded in field visit report.** Copy of the field visit report is placed at Annexure-IV.

The compliance status of short term and long term measures are presented as under-

S. No	ORDERS OF THE HON'BLE NGT FROM RECOMMENDATIONS IN THE REPORT, NOVEMBER 2019	COMPLIANCE REVIEW STATUS AS ON 15.03.2021
01	Short term measures	
	Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling. (Action by respective Coal mine companies).	Two SECL mines (IV/ 2,3) and one JPL mine (IV/ 1) are accepting fly ash. Letters were issued to SECL Chaal OC, Monnet Ispat, HINDALCO Limited and M/s Ambuja Cement Ltd. M/s HINDALCO mines informed about no OB dump because of continuous back filling of mined area with OB as per Approved mining plan. M/s Monnet Ispat Mines has been taken over by SECL. No response received from M/s Ambuja Cement Limited. MoEF &CC vide its notification dated 28th August 2019 has modified the conditions stipulated in the EC of TPP and coal mines in line with the fly ash notification and subsequent amendment. It has been mentioned in point no 7 that ministry has stipulated the conditions which prohibited the use of fly ash in abandoned mines/low lying area/ soil conditioner in agriculture following the guide lines prepared by CPCB.

		<p>Accordingly CECB shall amend the consent conditions of all TPP and Coal Mine.</p> <p>More over CEA vide its letter dated 14.02.2020 has informed about declaration of abandoned mines on recommendation of task force. The list includes 24 abandoned OC mines of Chhattisgarh to be used for filling of fly ash generated from TPP. The committee has suggested to Chairman, Chhattisgarh Environment Conservation Board for constitution of State Level Committee to decide the mode and quantity of fly ash to be disposed in working/ abandoned mines/quarries in the State. The same committee may also look after the fly ash disposal issues in Raigarh also on priority. Copy of the letter issued to Chairman, CECB, Raipur, is placed at Annexure-V. Action from CECB is awaited.</p>
b)	<p>Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously monitoring the implementation of the recent SOP in the field, no further disposal of fly ash in low-lying areas by TPP/CPP companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOCs for the same.</p>	<p>District Collector of Raigarh has issued letter to concerned department for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly Ash. During visit of the committee, disposal of fly ash in low lying area was observed but seems to be disposed before issue of the order by the collector.</p> <p>As per preconditions of SOP Power plant/ land owner/agency shall obtain statutory permission from regulatory authorities such as SPCB as per requirement.</p> <p>CECB is to submit list of the locations of low lying areas being</p>

		used or earlier used for unscientific disposal of fly ash for which permission has been granted by local administration after getting NOC from CECB.
c)	Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and no such coal transport should be allowed via trucks. (Action by SECL).	It was informed by Regional officer CECB, Raigarh that Jindal Power limited (JPL) has received 44,25,66 MT coal in 2019-20 and 40,24,274 MT coal in 2020-21 through conveyor belt.
d)	Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pre – treatment facility and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically, the quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms.	PHED Raigarh has informed that water testing laboratories are functional at Gharghoda and Raigarh for testing of drinking water quality of the area. Moreover 12 hand pumps, 02 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. In order to ensure regular and good water quality to villagers the committee has directed M/s Hindalco to provide tap water in village and ensure quality of water in coordination with PHED Raigarh. M/s Hindalco has submitted detail of mine quantity generation and its mode of treatment to committee. PHED is to submit the quantity of water required for kondkhel village. The committee has also suggested to obtain details from Central Ground Water Authority about water recharge points provided by the coal mines at the time of obtaining NOC.

e)	<p>Installation of adequate number of CCTV and CAAQM stations in coal mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECEB/CPCB server, and also displayed on the mine gates for public information. (Action by respective coal mine companies).</p>	<p>As per field report by CECEB, RO, Raigarh it seems that CCTV has been installed by M/s HINDALCO Industries, SECL Gare Palma IV/2 & 3, SECL Chhal. SECL Gare Palma IV/1. At the time of visit M/s Monnet Ispat Mines were not found operational.</p> <p>In case of installation of CAAQMS committee has instructed Member Secretary, Chhattisgarh Environment Conservation Board to issue directions to all coal mines for installation of CAAQMS and its connectivity with CPCB/CECEB server. Copy of the letter is placed at Annexure-VI. Status of the same is awaited from MS, CECEB, Raipur.</p>
f)	<p>Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles. (Action by Public Works Department and respective mining companies). Indian Railways to be directed to submit a time-bound action plan for commissioning of the railway line in Tamnar and Gharghoda blocks to ensure all coal transportation by rail.</p>	<p>EE PWD, Raigarh Sh R K Kharma has informed the committee about requirement of immediate construction of approximate 111 Km CC road (Raigarh to Dharmajay Garh about 76 Km and Punjipatra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years.</p> <p>Letter issued to PS, PWD, S-1/03, Mahanadi Bhawan, Raipur by this office vide number RDB/NGTOA104/2018/553 dated 07.09.2020 and 6.01.2021 to sanction Rs. 335 crore for construction of 111 km CC road.</p> <p>No response has been received from PS, PWD, Chhattisgarh Government.</p> <p>IRCON International Limited, in reference to our letter dated 07.09.2020 has informed that 44</p>

		<p>Km Railway line work from KharsiaGharghoda- Korichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghoda-bhalumuda- Gare Palma will be completed by June 2021. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation.</p> <p>Compliance in Progress.</p>
g)	<p>Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies).</p>	<p>Mitigation measure for health issues is to be overseen by the Principal Secretary, health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary Health, Govt. of Chhattisgarh is at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. Collector Raigarh has assured to arrange the required medical facility in the area by way arranging health screening camps in all villages within next few months.</p>
h)	<p>Strict vigilance by MOEF&CC for green belt development compliance as per EC conditions</p>	<p>MoEF&CC has issued letters to all coal mines for submitting updated status of green belt developed. Responses received are being compiled and submitted in next meeting of the committee.</p>
i)	<p>We also recommend that no further conversion of UG mines to Open Cast mines be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major noncompliance in pollution control and social cost(rehabilitation).</p>	<p>Letter was issued in September 2020 to MoEF&CC (IA-Coal) for implementation of restriction on conversion of UG coal mines to OC coal mines in Tamnar and Garghoda area of District Raigarh. MoEF&CC representative in the committee has now sent follow-up e-mails to</p>

		IA division reiterating these recommendations.
02	LONG TERM MEASURES	
a)	Commissioning a detailed and comprehensive environmental load carrying capacity study (as mentioned in NGT order), to be carried out by a reputed environmental research institute over a 24 month period.	CECB vide its letter dated 31.03.2021 has invited proposal from NEERI, Nagpur for conducting Carrying capacity study in Tamnar & Gharghoda Blocks of District Raigarh. The Technical and Commercial proposal is to be provided by NEERI, Nagpur within 15 days. (Annexure-VII)
	Mode of commissioning of this study may please be decided by the Hon'ble NGT and necessary directions may please be issued accordingly.	
b)	To reduce the pollution and other impacts caused by road transport of coal and other minerals directions may be issued that coal transport by road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail of closed conveyor belt.	As per report obtained from SECL it is evident 35% increase in daily average dispatch by rail in comparison to the FY-2019-20 after construction of new rail line between Kharsia-Gharghoda-Korichhapar. Coal dispatch from Korichhapar railway siding commenced in the FY2019-20. SECL and IRCON shall submit detail about total transportation of coal through Rail in FY-2020-21.
c)	Condition of green belt development may be incorporated at TOR stage of EC application to ensure that green belt work shall be in place at the time of final presentation for obtaining EC, which shall be verified by	Copy of Hon'ble NGT order dated 27.02.2020 has been sent to IA-Coal on 18.09.2020 for further necessary action by MoEF&CC. Continued non-compliance of green belt conditions from EAC of coal is observed. Strict monitoring

	MoEF&CC. Further while granting TOR, EAC should specify the location of the green belt to provide buffer between coal mine and human settlements and specify sufficient width of the green belt for the same.	and follow up action by MoEFF&CC is required.
d)	Ministry of coal be directed to include the necessary provisions to ensure the acceptance of fly ash in coal mines for disposal through OB dump and backfilling as per fly ash notification of 2009.	<p>Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh had been submitted to be used for filling of fly ash generated from TPP including 3 in Gare Palma Block. Of these 3 only 01 is actually feasible.</p> <p>No progress reported from CECB for constitution of the State Level Committee as proposed.</p> <p>No progress reported by CMD, SECL, Bilaspur in spite of several communications from CECB, CPCB and Collector, Raigarh.</p>

FIELD OBSERVATIONS

1. Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh has been submitted to be used for filling of fly ash generated from TPP. The committee has written to Chairman, CECB, Raipur for constitution of State Level Committee for management of fly ash disposal in the state with implementation of SOP notified by CPCB. The co-operation of SECL is not satisfactory as many applications of TPP of Tamnar & Gharghoda area are lying unattended by SECL.
2. District collector, Raigarh has issued letter to concern departments for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly ash. During visit unscientific disposal of fly ash were observed at 1) Outside TRN Power ash dyke (By TRN Energy

Private Limited), 2) In Tenda village (By TRN Energy Private Limited), 3) Outside the Mahaveer Energy (By Mahavir Energy & Coal beneficiation Limited). Onsite observations reveal it as legacy fly ash dump.

3. PHED, Raigarh has proposed drinking water supply scheme (Rs. 1270.41 Lakh project cost) for 10 mining effected villages of Tamnar Block. The details submitted by PHED, Raigarh was verified in Kondkel Village and found insufficient with respect to population of the village. The representative of PHED present during visit of the committee has informed that PHED has established 04 hand pumps, 04 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. Hence it has been decided by the committee to obtain data of ground water recharge system in Gharghoda and Tamnar area, from central ground water authority, Raipur along with data of annual ground water level in the area.
4. Installation of CCTV system in mines of the area was reported complied by all mines whereas its proper operation and recording is to be ensured by SECL in its all mines located in Chhal and Gare Palma. RO CECB Raigarh was requested to physically verify the status of transport of coal in properly covered manner.
5. EE PWD, Raigarh has informed the committee about immediate construction of approximate 111 Km CC road (Raigarh to Dharmjaigarh about 76 Km and Punjipatra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. Hon'ble NGT in its order dated 20.11.2020 (point 5) has instructed PS, PWD to sanction the required fund and ensure execution before March 2021. During field visit execution of the work was not observed, hence the issue was further clarified with EE, PWD, Raigarh who informed as under-
 - Main high way connecting Raigarh to Dharamjaygarh has now been included in National Highway Scheme
 - Stretch from Chhal mines to Gharghoda has been approved for two lane
 - Stretch from Punjipatra to Milupara via Tamnar not yet approved.

In view of the above committee has instructed to EE, PWD, Raigarh to identify badly damaged patches in this stretch and prepare a budget and get same approved so as to complete the work within three months. Stretch from Punjipatra to Milupara via Tamnar has also to be taken on highest priority because of the heavy traffic load on this route.

IRCON International Limited, has informed that work for 14 km rail line from Gharghoda – Bhalumuda – Gare Palma will be completed by June 2021. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation. As on date of committee visit IRCON has completed 04 coal siding and made 01 siding operational. As per data received from major mining company of the area i.e. SECL, it is reported that 35% coal transport increase has been observed in comparison to last financial year 2019- 2020. (Annexure-VII) It is assumed that coal transport by rail may increase by 50% in addition to earlier transport after completion of the project

SECL and IRCON shall submit detail about total transportation of coal through Rail in FY-2020-21.

- 6. CECB vide its letter dated 31.03.2021 has invited proposal from NEERI, Nagpur for conducting Carrying capacity study in Tamnar & Gharghoda Blocks of District Raigarh. The Technical and Commercial proposal is to be provided by NEERI, Nagpur within 15 days. (Annexure-VII)*
- 7. The committee has also discussed the issues in meeting with Collector, Raigarh to expedite the required development as directed by Hon'ble NGT in its order. The outcome of the meeting has been considered in the recommendations.*
- 8. In order to make information of the Oversight Committee's work public domain, Collector Raigarh agreed to host a webpage on the Raigarh District website and directed the District information officer (Raigarh) to coordinate with the committee regarding the same.*

In view of the above field observations, the recommendations of Oversight Committee are as under

RECOMMENDATIONS –

- 1. Chhattisgarh Environment Conservation Board shall prepare list of areas where unscientific disposal of fly ash has occurred with specific remark of status about permission granted.*

2. *Chhattisgarh Environment Conservation Board shall also generate data about total quantity of coal mined in Raigarh, total quantity of coal being used by the industries in Raigarh and quantity of locally mined coal available for TPPs and other industries of Raigarh.*
3. *In order to ensure development of health facilities in the villages of mining affected areas, Principal Secretary, Health Chhattisgarh Government may be advised to keep informing the Oversight Committee about development made in health facilities.*
4. *Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget for 111 km road from Raigarh to Dharamjaygarh and Punjipatra to Milupara via Tamnar and ensure its execution within three months. In this context time bound action plan shall be submitted to ensure timely execution of the work*
5. *Directions from Hon'ble NGT may also be issued to Chhattisgarh Environment Conservation Board, Raipur for constitution of State Level Committee to look in to Scientific Utilization of fly ash in the Chhattisgarh State.*
6. *Directions from Hon'ble NGT may also be issued to CMD, SECL, Bilaspur to expedite disposal of fly ash in abandoned coal mines declared by Central Electricity Authority, Ministry of Power, Government of India vide letter no. 1/8/27/Task Force/ 2013-2019/TCD/230-338 dated 14.02.2020 in consultation with CECB and complete within three months."*

192. Tribunal observed that recommendations made by Committee need to be accepted. CECB should prepare list of areas where unscientific disposal of fly ash has taken place and generate data about the quantity of the coal mined and used in the industries and available for thermal power plants. Steps need to be taken expeditiously for development of health facilities, constructing necessary road from Raigarh to Dharamjaygarh and from Punjipatra to Milupara, disposal of fly ash in abandoned coal mines and constitution of State Level Committee to look into scientific utilization of fly ash as these steps would be necessary for

protection of environment. With regard to compensation, Tribunal observed that Oversight Committee may make assessment in accordance with law. Oversight Committee was modified by nominating Justice V.K. Shrivastava, former Judge of Chhattisgarh High Court to head the Committee. Compliance Report was directed to be submitted by 15.12.2021.

193. Oversight Committee filed its Report on 16.01.2022 through CPCB. It was considered by Tribunal on 15.02.2022. We are leaving the retrospect of proceedings noticed in the said order as also the fact relating to assessment of compensation. So far as the recommendation about remedial measures are concerned, Tribunal considered the matter in para 17 to 20 which read as under:

“Further recommendations about remedial measures

17. Further, the recommendation of the Committee in respect of short term and long-term measures need to be complied with by the industries in question as well as by the State of Chhattisgarh. This may be overseen by the joint Committee if any continuing violations founds, the violators will be held accountable by way of prosecution and liable to pay compensation.

Carrying capacity study

18. With regard to carrying capacity study, we are of the view that observation in para 2.1.3 of the Committee of requiring such study within 24 months cannot be accepted. The data is already available on the basis of which carrying capacity can be studied within three months. This may be got done by CPCB and State PCB with the assistance of any other experts/ agencies. Funds available with CPCB/ State PCB may be utilised, subject to further orders.

Conclusion

19. Above resume of discussion shows that there is continued damage to the environment and public health by indiscriminate storing, transportation and disposal of fly ash in District Raigarh in Chhattisgarh. Remedial action has been duly identified in form of short-term and longterm measures but the action so far taken is not adequate. Absence of health facilities for the victims is unfortunate

and needs to be remedied. Absence of suitable roads in the area added to the problem in the form of continued air pollution and even road accidents. This needs to be remedied by the concerned departments, including PWD and health Departments of the State. The industrial units have failed to follow the laid down environmental norms as per EC/Consent conditions which include requirement to comply with the Water and Air Acts. Wherever CCTV cameras and CAAQMS have still not been installed, the same need to be complied.

Directions

20. To sum up, our directions are:

- (a) The State of Chhattisgarh and concerned Industrial units may deposit assessed compensation as interim compensation within two months, to be utilised for restoration of the environment, as per plan to be got prepared and executed by the Committee.*
- (b) Remedial measures be taken by the CPCB, State PCB, State of Chhattisgarh and the concerned Industrial units and the authorities in the light of report of the Committee and observations of this Tribunal, hereinabove.*
- (c) The State PCB may put the concerned industrial units to notice of these proceedings other than those who have put in appearance in the light of observations in Para 16 above, to enable the State and such units to file their response, if any.*
- (d) In the light of order of this Tribunal dated 18.01.2022 in OA No. 164/2018, Ashwani Kumar Dubey vs. Union of India & Ors. quoted above in Para 13, compensation may be redetermined, subject to final orders of the Hon'ble Supreme Court in Appeal, if any, filed by the affected parties.*
- (e) Having regard to aggravated adverse impact of the fly ash during the summer season, the State PCB may take appropriate remedial safeguards by issuing appropriate directions to the Project Proponents in question on the subject. For suppression of fly ash dust emissions, sprinkling be ensured utilising treated water and refraining from use of ground water or fresh water in view of already depleted level of groundwater.*
- (f) In view of order of this Tribunal in OA No. 164/2018, Ashwani Kumar Dubey vs. Union of India & Ors., quoted earlier, TPPs and other projects have to install requisite devices, take steps for timely utilization of disposal of fly ash, scientific designing of fly ash dykes, address issues*

relating to public health and restoration of deteriorated environment, providing water supply to affected persons and higher-level monitoring by the statutory regulators. Fly Ash Management and Utilization Mission constituted by the Tribunal headed by the Secretary, MoEF&CC may also look into the issues with regard to fly ash management and utilization in Raigarh District. There has to be executable time bound plan to remove fly ash in Raigarh District for which a road map be prepared by the joint Committee and may also be overseen by the Mission in its next meeting, in coordination with concerned authorities.

- (g) Consistent with the Notification dated 31.12.2021 issued by the MoEF&CC, audit of fly ash generation and management be got conducted within three months in respect of each unit generating fly ash in Raigarh District.*
- (h) CPCB may issue necessary guidelines to all PCBs/PCCs on determination of compensation in the light of observations in para 12 above.*
- (i) Any other victim of Raigarh District adversely affected by the operation of the TPPs with respect to fly ash in Raigarh District to put forward their claim, if any, with the District Magistrate, Raigarh, within two months which may be looked into by the joint Committee.*
- (j) The District Environment Plan of Raigarh District may cover all above aspects appropriately so as to be addressed in execution of District Environment Plan in association with stakeholders.*
- (k) The joint Committee may ensure that there is effective monitoring mechanism to address the issues on continuous basis.”*

194. In ***Shivpal Bhagat vs. Union of India (supra)***, the real problem examined by Tribunal was on account of lack of proper management of fly ash by thermal power stations and other industries using coal as fuel. It is true that the matter relates to Block Tamnar and Gharghoda. It thus can be said that in granting EC, in the present case in hand, respondent Competent Authority i.e., EAC and MoEF&CC must have taken care and considered the directions issued by Tribunal in ***Shivpal Bhagat vs. Union of India (supra)*** but the same has not been done. **This is answered**

accordingly.

(iii) Hydrological Study does not assess the impact properly and inadequate

195. This issue has two aspects; one is impact of mined drainage and direction of nallas and second is study of flood level of Kelo River and impact if any, it would have.

196. Kelo River is passing through the mining area from North to South. In para 2.15.4 of EIA report (page 641 of paper book), water requirement has been discussed and it is said that total water requirement would be 8454 KLD. Major quantity of water i.e., 5669 KLD is for coal washery and 2785 KLD is for mining and allied activities. Out of mining in allied activities requirement of water is 2785 KLD, further break up whereof is that portable water requirement is around 1239 KLD and rest will be required to industrial use. The waste water generated from the colony and working place will be treated in STP and re-used in green belt and dust suppression. The total water requirement will be met by borewells at site during initial 2-3 years after which mine water will be used after appropriate treatment as required. However, in table 2.23, it is said that source of water will constitute 6000 KLD from Kelo river and 1454 KLD from ground water.

197. **'Impact of mining on Kelo River'** has been referred to in para 9.0 of "Hydrology Study and Embankment Design of Gare Palma-II, Goal Block" prepared by Min Mec Consultancy Pvt. Ltd. (page 993, annexure-5 to reply filed by respondent 4 of paper book), which says that Kelo river passes through Eastern corner of coal mine lease area. It is an important tributary of River Mahanadi. It supplies water for drinking use to urban settlement (Raigarh town) and for industrial requirements. River is about

112 km long. It rises at an elevation of 710.36 meter. It enters plains after traversing 34.60 km from its origin. Report says that there will not be any impact on the path of Kelo river due to mining in Gare-II Coal Block. Natural seepage from Kelo river will increase during monsoons while flow will be augmented by rain water as well as mines of water discharge. Compare to base flow of Kelo river, the fluctuations due to decrease in catchment or increase due to mine water discharge are marginal. Siltation in Kelo river will increase due to material handling activities within mine lease. Therefore, precautions are necessary.

198. **'Impact on flow'** is discussed in para 9.1, stating that catchment area of River Kelo on Raigarh G&D site is 950 km². Catchment upto Raigarh G&D is significant because 9.23 km upstream (measured along flow path) of the station, Kelo Dam has been constructed. The impact of mining activities will be felt upto Kelo Dam at most, whereafter flow is regulated by release of water from Kelo Dam. Distance of Kelo Dam is approximately 17 km from the site, aerially. Catchment of Kelo upto Kelo Major Irrigation Project near Danot village of District Raigarh is 920.21 km². The flow in Kelo River from its catchment as measured at Kelo G&D Site has been studied from 1996-97 to 2002-03 and maximum flow observed was 739.2 cumecs on 11.09.1998. Impact on Kelo river is anticipated in terms of seasonal fluctuations in flow. Eastern portion of mine falls within the catchment of Kelo river, which is 406 km² upto Southernmost point exit point from the mine. Western portion of the mine falls in the catchment of a nalla, originating from Silot RF and joining Pajhar nadi after flowing through villages including Kunjemura village. Catchment of nalla is 42.7 km². Total catchment of two is 448.94 km². Mine lease area with its facilities will be 2583.486 hectares i.e., 25.835 km², which works out as following percentage of catchment upto different

points:

- (i) Upto mine site (448.94 km²) - 5.75%
- (ii) Upto Kelo MIP (920.21 km²) - 2.81%
- (iii) Upto Raigarh G&D station (950 km²) - 2.72%

199. The excavated area with and without backfill will be 24,4055 km² which would work out as following percentage of catchment upto different points:

- (i) Upto mine site (448.94 km²) - 5.44%
- (ii) Upto Kelo MIP (920.21 km²) - 2.65%
- (iii) Upto Raigarh G&D station (950 km²) - 2.57%

200. As backfilling will be concurrent to mining, maximum void size at any point (25th year) has been estimated as of more than 737.42 hectare (7.37 km²) at any point of time. This would work out as following percentage of catchment upto different points:

- (i) Upto mine site (448.94 km²)-1.64%
- (ii) Upto Kelo MIP (920.21 km²)-0.80%
- (iii) Upto Raigarh G&D station (950 km²)-0.78%

201. Therefore, of the entire flow from the catchment upto Kelo MIP affect will be a reduction of 0.8% only which is a low impact on the downstream water balance. As per the calculations for mine discharge in “Hydrogeological Study Report of Gare Pama Sector- II Coal Block”, peak mine discharge is anticipated to be of the following order:

- Open cast (20th year) -894 cum/day
- Underground (seam III) -38125 cum/day
- Total (maximum) = 39019 cum/day

202. Of this, the mine use water requirement of 1546 cum/day shall be

met. The balance shall be 37473 cum/day i.e. 0.433 cumecs for disposal into Kelo River. In comparison to the peak discharge during monsoon season, this is 0.058%, which is negligible. During non-monsoon, when the Kelo River is having lean flow, this volume of water will be still be negligible. However, it may be noted that the proposed mine is not the only mine who will discharge into the Kelo River and, therefore, the cumulative impact shall be different.

203. The opencast as well as underground mining will be occurring within a distance of 17-45 m of the bank of Kelo River. Hence, the natural seepage from Kelo will increase during monsoons. Also, there will be addition of water into Kelo from the pumped out mine sump water. However, from study of the hydrogeological map (Fig. 19 and 20 of Hydrogeological Study), it is apparent that flow of groundwater is towards Kelo River on the left bank area. Since the majority of the lease area is located on the right bank of Kelo River, the base flow of river water due to ground water effluence is not anticipated a much on the west side as compared to east side.

204. The seepage of Kelo flow water into mine workings leading to impact on flow in Kelo River is a valid concern. The river water seepage will continue during mining similar to the way it is occurring naturally at present for the following reasons:

- (i) Between the river and the mine pit boundary, a minimum distance of 17 m to 45 m shall always be maintained at different sections of the river.
- (ii) The river bed shall not be disturbed.
- (iii) Since the characteristics of soil and aquifer shall not be disturbed, the hydraulic conductivity of the intervening soil body shall remain same as at present.

- (iv) The inflow (transmissivity) is a function of the hydraulic conductivity, soil properties and saturation.
- (v) During mining, the inflow from river bed into the soil shall continue from Kelo at the same rate as at present since the intervening soil body characteristics will not change.
- (vi) The water seeping into the mine shall be collected in mine sump, pumped to surface reservoir where settlement shall take place, monitored for Suspended Solids and released back into the Kelo river.
- (vii) It is not intended to stop the natural inflow into mine pit as any measure like sub-surface obstructive sheets/ walls or interceptor bores for pumping shall disturb the soil and aquifer characteristics

205. Study of scientific literature shows that over long term, the hydraulic conductivity can change due to various factors such as mechanical stress, infiltration, solute/ contaminant movement, saturation, etc. Even in the same soil strata, the variation in hydraulic conductivity can be high thus affecting transmissivity into wells/ voids. If the water table is inside a soil layer with significant transmissivity, the water table may be drawn down whereby the transmissivity reduces and the flow of water to a well/ void diminishes. Unsaturated hydraulic conductivity decreases as volumetric content decreases because the cross-sectional area of water flow decreases, tortuosity increases and drag forces increase. However, on the other hand, in saturated soils, pathways can form which can increase the transmissivity. Moreover, there are natural fluctuations in the hydraulic conductivity during seasons.

206. Thus, in a dynamic scenario where the mine void will be constantly changing in terms of depth and length due to excavation as well as backfilling and the length of aquifer exposed shall be only for few months

or year at a time, it is difficult to anticipate the exact long term changes in hydraulic conductivity. However, at present it may be rational to assume that atleast the present seepage from the river shall continue during non-monsoon seasons. Also during open cast mining, the reversal of the hydraulic head is anticipated, especially during the monsoon season when the hydraulic head within the banks of the river will be higher than the hydraulic head in the mine pit. Hence, during monsoon season inflow into the mine pit from Kelo river will be higher.

207. Then, there is further discussion of **'seepage from Kelo into mine'** and it says that since beds/stream in North-South direction and dip towards West, there are chances of river water seepage along the bedding planes of sedimentary sequence. In view of the fact that no disturbance to sub-soil over a width of 17-45 meter between river bank and mine pit, the present flow rates are anticipated to continue. As per Coal Mines Regulation Act, 1957 as well as MMDR Act 1957, only a 15 meter barrier is required to be left between embankment of Kelo River and the mine area.

208. **'Cumulative impact'** has been discussed by stating that perennial flow into the Kelo river is due to the water seepage from shallow aquifer from the eastern side of the river. Since various blocks are in upstream of Gare-II, the excavation for open cast mining would take place on the eastern side, reversal of head had taken/will take place and natural contribution of flow in Kelo shall decline in the stretch passing along Gare IV/5, Gare IV/2&3, Gare II and Gare I. Total affected length shall be approximately 10 km. Furthermore, as the mines on the western side start operation i.e. Tilaipali, Gare IV/8, Gare IV/6, Gare III, Gare II and Gare I, there shall be reversal of head, especially during monsoon, leading to increase in seepage into the mine pits. This water will be pumped to the surface, utilized to the extent possible and then discharge back into Kelo

or its tributaries. The quantification of impact on flow cannot be carried on the basis of the available data. However, it is quite possible that although there shall be decline in flow due to mining, there shall also be recharge of flow due to mine discharges which might lead to a balance.

209. The total catchment area of Kelo upto mine site is 406 km² out of which **an area of 12.799 km² has been excavated for Gare IV/1, 2 and 3 mines, 0.718+0.247 km² for Gare IV/4 km²**, 1.822 km² for IV/7 mine, totaling to 15.586 km² will have to be deducted to account for excavations due to mining in upstream side. Thus, 390.414 km² area of the catchment is not excavated as in March 2017 as assessed from Google Earth images. 3.8% of the catchment upto Gare-II south boundary or 1.64% of the catchment upto Kelo MIP or 1.6% of the catchment upto Raigarh G&D.

210. Issue of '**siltation**' has been discussed in para 9.2 and it is said that increase of siltation into Kelo river due material handling activities within the mine lease, is a real possibility. Kelo river is a significant tributary of river Mahanadi, which it meets about 15 kms downstream of Jharsuguda in Odisha. The studies carried out by CWPRI in Mahanadi basin have given a value of annual average sedimentation load as 466 tonnes/km² for Mahanadi basin. The calculations done for the various land uses of the mine shows that the siltation from the mine lies below the average given for the Basin.

211. Quantum of sand load carried by water depends upon the magnitude of flow, rainfall intensity, nature of formation, vegetation cover and slope. The adverse impact caused due to movement of sediment and land degradation need to be managed. To draw mitigation plan the quantum of sediment need to be estimated on account of mining activity. The standard method for estimation of water erosion and sediment

removal is by universal equation developed by U.S. Dept. of Agriculture, which is as under.

A= RLSCP

Where

A = Average annual soil loss tonnes/ha

R = Rainfall factor = $\frac{\Sigma KEI}{100}$

KE = $210.3 + 89 \log I$

I = Rainfall intensity in cm/hour

L = Length of slope

S = Steepness factor

C = Cropping & Mergent factor

K = Soil erodibility factor

P = Supporting conservative practices

212. The soil erodibility varies between 0.4 to 0.17 (Manual of soil and water conservation). An average value of 0.1 may be taken to estimate silt/sediment load generated. To evaluate rainfall intensity continuous rainfall record would be required, but based on available data and experience highest rainfall intensity has been taken as 25 cm/hour.

$$R = \frac{210.3 + 89 \log 25}{100} = 3.347$$

213. The steepness factor has been taken as 0.5 since the dump slope is kept as 2:1. Total length of slope for the waste dump is taken 3300 m for 5th year stage plans and 1300 m for top soil dump. Cropping management and supporting conservation practice has not been condition without mitigation. In mitigation measure, value of each is taken as 0.5.

214. External dump is the main source of generation of sediment load in mining industry. Sediment has been worked out based on aforesaid

method under normal condition and after mitigation measures such as compaction, garland canal desiltation chambers/pits are constructed and plantation is done. The generated silt load at the end of 5th year of mining in the mine pit as well has been evaluated and given in Table 13. The silt/sediment load settles down in settling tank most of the time, except when sufficient time does not elapse during rains if mining continuous simultaneous to rainfall.

**TABLE 13
SEDIMENT LOAD (TONNE PER ANNUM)**

Source	Per Hectare		Total dump Area at 5 th Year, ha	Total Generation	
	Without mitigation	With mitigation		Without mitigation	With mitigation
Surface dump	552.3	276.1	380	209874	104937
Topsoil	217.6	108.8	60	13.056	6528

215. Sediment load will be dredged and disposed in the OB dumps. Surface dump and topsoil dump will re-handled and backfilled as well as reused before 10th year. Thus, the above calculations apply only till the time external dumps and top soil dump exist.

216. Learned Counsel for respondent 4 has admitted that withdrawal of water from Kelo river has been allowed by Executive Engineer of the concerned department of State Government and impact of withdrawal from Kelo river would be almost negligible. The statement that there would be no impact on Kelo river and its flow, in our view, is not correct in as much as 'Hydrology Study and Embankment Design' undertaken by M/s. Min Mec consultancy Pvt. Ltd. shows that project proponent would make arrangement for embankment all along Eastern and Western bank of Kelo river, affecting natural flood plain zone of the river. Moreover, high flood level of the river has been taken for a very small period of 1996-97 to 2002-

03, though it should be of the period of last 50 or 100 years. Siltation in the river will also impact its flow and disturb its path. EAC has not examined the matter on the various issues relating to hydrological impact and simply by referring to the Report submitted by proponent has proceeded to clear the project without any application of mind on its part. In ***Hanuman Laxman Aroskar vs. UoI & Others (2019) 15 SCC 401***, Supreme Court has clearly said that when a project is recommended for grant of prior EC, EAC must give its reason in favour of its recommendation and not a mere reliance of what the proponent has said or claimed.

217. The information with regard to Kelo river shows that it is a major river of Raigarh and major tributary of River Mahanadi. It runs through dense forests and irrigates agricultural lands of Raigarh and nearby area. Kelo River originates from the hills of Ludega in Gharghoda Tehsil of Raigarh District and meets river Mahanadi near Mahadavpali Ghat, District Jharsuguda, State of Orrisa. Mahanadi river is a major river in central India. Drains and area around 1,32,100 km² and a total length of 900 km. It flows from State of Chhattisgarh and Orissa and ultimately ends in Bay of Bengal. Applicant, therefore, is justified in containing that proper study on the hydrology aspect including River Kelo has not been undertaken by Competent Authority while granting EC to respondent 4.

We answer this aspect in favour of the applicant.

Carrying Capacity Study:

218. Applicant has contended that as directed by Tribunal in ***Shivpal Bhagat vs. Union of India (supra)*** in block Tamnar, carrying capacity study was not conducted but respondent 4 has contended that carrying capacity study dated February 2020 for environmentally sustainable coal mining activity of the study area was commissioned and undertaken by an

independent expert consultant i.e., Ramky Enviro Services Private Limited, Hyderabad in accredited category 'A' Organization. We find that carrying capacity study was to be conducted by CPCB and CECEB and data was required to be compiled by the said authorities. There is nothing on record to show that any such study in respect of Tamnar Block which included questioned area was conducted as per direction in ***Shivpal Bhagat (supra)***. Therefore, carrying capacity study by authority which was required to undertake the same, has not been conducted and this aspect has not been taken care by the Competent Authority in granting prior EC.

We answer on this aspect accordingly.

Forest Clearance and NOC for extraction of ground water:

219. Though Learned Counsel for appellant initially contended that Forest Clearance was not obtained properly and also there was no permission for grant of extraction of ground water but subsequently, it is not disputed that Forest Clearance was obtained prior to grant of prior EC and similarly, NOC for extraction of ground water was initially issued on 03.07.2020, valid upto 04.05.2022, which has been further extended upto 04.05.2024. Therefore, it cannot be said that there is any violation of law on this part.

220. Considering the above discussion, we find that prior EC granted in the case in hand is vitiated in law on account of observations made hereinabove, particularly, with regard to public consultation, non-consideration of ICMR report, Hydrological study and carrying capacity.

221. **Appeal is accordingly allowed.** EC dated 11.07.2022 granted to respondent 4 is quashed. MoEF&CC may re-examine the matter from the stage of conducting public consultation afresh and in case, other appropriate study material is placed on record by proponent, the same

may be considered/appraised and a fresh order may be passed by MoEF&CC with regard to prior EC in accordance with law and existing state of environment and ecology.

222. No order as to costs.

SUDHIR AGARWAL,
JUDICIAL MEMBER

DR. AFROZ AHMAD,
EXPERT MEMBER

January 15, 2024
Appeal No.26/2022(CZ)
R

Form-2

APPLICATION FOR PRIOR ENVIRONMENTAL CLEARANCE

1	Details of Project					:	
	a.	Name of the Project (s)				:	
	b.	Name of the Company / Organisation				:	
	c.	Registered Address				:	
	d.	Legal Status of the Company				:	
	e.	Joint Venture (Yes/No)				:	
		If Yes,				:	
		(i) No. of JV Partners (<i>Multiple Entries Allowed</i>)				:	
		Name of the JV Partner	Share of the JV Partner	Address of the JV Partner	Email Id of JV Partner	Mobile No. of JV Partner	
2	Address for the correspondence					:	
	a.	Name of the applicant				:	
	b.	Designation (Owner / Partner / CEO)				:	
	c.	Address					
	d.	Pin code					
	e.	e-mail					
	f.	Telephone No.					
	g.	Fax No.					
3	Category of the Project/Activity as per Schedule of EIA Notification, 2006						
	a.	Project / Activity [1 (a)(i) / 1 (a)(ii) / 1(b) / 1(c) / 1(d) / 1 (e) / 2(a) / 2(b) / 3(a) / 3(b) / 4(a) / 4(b)(i) / 4(b) (ii) / 4(c) / 4(d) / 4(e) / 4(f) / 5(a) / 5(b) / 5(c) / 5(d) / 5(e) / 5(f) / 5(g) / 5(h) / 5(i) / 5(j) / 6(a) / 6(b) / 7(a) / 7(b) / 7 (c) / 7 (d) / 7 (da) / 7 (e) / 7 (f) / 7 (g) / 7 (h) / 7 (i) / 8 (a) / 8 (b)]					
	b.	Category (A/B i/B2)				:	
		If Bi or B2					
		Reason for application at Central Level / State level (in case of B2 projects)				:	
		If Others					
	c.	Please Specify				:	
	d.	EAC concerned (for category A Projects only) (Coal Mining / Non-coal Mining / Thermal / River Valley & Hydro / Industry-I / Industry-II / Infrastructure-I / Infrastructure-II / Nuclear & Defence / CRZ)				:	
	e.	New / Expansion / Modernization / One Time Capacity expansion (only for Coal Mining) / Expansion under Para 7(ii) / Modernization under Para 7(ii) / Change of Product Mix under Para 7(ii)				:	
4	Location of the Project						
	a.	Plot / Survey / Khasra No.				:	

b.	Village	:	
c.	Tehsil	:	
d.	District		
e.	State		
f.	Pin Code		
g.	Bounded Latitudes (North)		
	From	:	
	To	:	
h.	Bounded Longitudes (East)		
	From	:	
	To	:	
i.	Survey of India Topo Sheet No.	:	
j.	Upload Topo Sheet File (<i>Upload pdf only</i>)	:	
k.	Maximum Elevation Above Means Sea Level (AMSL)	:	
l.	Upload (kml) File (<i>Upload kml only</i>)	:	
m.	Distance of Nearest HFL from the project boundary within the study area	:	
n.	Seismic Zone (Zone: 1 / 2 / 3 / 4 / 5)	:	
5	Whether project is executed in multiple States (Yes / No)?		
	If Yes		
a.	Number of States in which Project will be Executed (e.g. 1,2,3,4,5,6)		
b.	Main State of the Project		
c.	Other State (<i>Multiple Entries Allowed</i>) (If the project to be executed, does not belong to any state, then state category could be selected as 'Other')		
	State	District	Tehsil
			Village
6	Details of Terms of Reference (ToR)		
a.	Whether ToR is mandatory for submitting application (Yes / No)?		
	If Yes		
b.	Date of issue of ToR / Standard ToR		
c.	MoEF&CC / SEIAA File No.		
d.	Upload ToR letter (PDF only)		
7	Details of Public Consultation		
a.	Whether the Project Exempted from Public Hearing (Yes/No)?		
	If yes,		
	Reason		
b.	Supporting Document (<i>upload pdf only</i>)		
c.	Whether details of Public Hearing available (Yes/No)?	:	
	If No,		
d.	Reason thereof		
	Supporting Document (<i>upload pdf only</i>)		
	If Yes,		
e.	Date of Advertisement of Public Hearing		

	f.	Copy of advertisement in English (Upload PDF only)			:	
	g.	Whether Public hearing was presided over by an officer of the rank of Additional District Magistrate or above (Yes/No)?			:	
		If yes				
	h.	Designation of Presiding Officer (District Magistrate / District Collector / Deputy Commissioner / others - please specify)				
	i.	Copy of duly signed Proceedings of Public Hearing in English (Upload pdf only)			:	
	j.	Date of Public Hearing			:	
	k.	Venue of Public Hearing:			:	
		Village				
		Tehsil				
		District				
		State				
	l.	Distance of Public Hearing Venue from the Proposed Project (km)			:	
	m.	No. of people attended			:	
	n.	If the multiple public hearings conducted				
		Pl give the details of each PH as per (e) to (o) above				
8	Details of Project Configuration / Product (Multiple Entries Allowed)					
	a.	Whether the project is New (Yes/No?)				
		If yes,				
	b.	Project Configuration				
		Plant / Equipment / Facility	Configuration	Remarks if any		
	c.	Product			:	
		Product / Activity (Capacity / Area)	Quantity	Unit	Mode of Transport / Transmission of Product	
		<ul style="list-style-type: none"> - Unit:- (Tons per Annum(TPA), Mega Watt(MW), Hectares(ha), Kilo Litre per Day(KLD), Tons Crushed per Day(TCD), Cubic Meter per Day, Kilometers(Km), Million Liters per Day(MLD), Others) - Mode of Transport/Transmission of Product (Road, Rail, Conveyor Belt, Pipe Conveyor, Aerial Ropeway, combination of two or three modes, Others) 				
9	If Expansion / Modernisation / One Time Capacity expansion (only for Coal Mining) / Expansion under Clause 7(ii) / Modernisation under Clause 7(ii) / Change of Product Mix under Clause 7(ii))					
	a.	Details of environmental clearance granted earlier				
		(i)	Date of issue of environmental clearance		:	

	(ii)	MoEFCC / SEIAA File Number						
	(iii)	Upload EC Letter						
	b.	Details of certified report on compliance of earlier environmental clearance conditions						
	(i)	Details of Regional Office of MoEFCC / Zonal Office of CPCB / SPCB / UTPCC from which certified report on compliance of earlier environmental clearance conditions obtained				:		
	(ii)	Letter No				:		
	(iii)	Status of Compliance				:		
	(iv)	Certified report on compliance of earlier environmental clearance conditions (Including Monitoring Report) (<i>Upload pdf only</i>)				:		
	(v)	Date of site visit				:		
	c.	Details of Consent to Operate						
	(i)	Whether Consent to operate obtained (Yes/No)?						
		If yes,						
	(ii)	Upload Copies of all Consent to operate obtained since inception (<i>Upload pdf only</i>)						
	(iii)	Date of issue						
	(iv)	Valid up to						
	(v)	File No.						
	(vi)	Application No.						
	(vii)	Upload Copy of Consent to operate valid as on date (<i>Upload pdf only</i>)						
	d.	Details of Capacity Expansion (<i>Multiple Entries Allowed</i>)						
		Product / Activity (Capacity/Area)	Quantity From	Quantity To	Unit	Mode of Transport / Transmission of Product		
		<ul style="list-style-type: none"> - Unit:- (Tons per Annum(TPA), Mega Watt(MW), Hectares(ha), Kilo Litre per Day(KLD), Tons Crushed per Day(TCD), Cubic Meter per Day, Kilometers(Km), Million Liters per Day(MLD), Others) - Mode of Transport/Transmission of Product (Road, Rail, Conveyor Belt, Pipe Conveyor, Arial Ropeway, combination of two or three modes, Others) 						
	e.	Details of Configuration (<i>Multiple Entries Allowed</i>)						
		Plant / Equipment / Facility	Existing Configuration	Proposed Configuration	Final configuration after expansion	Remarks if any		
10	Project Cost							
	a.	Total Cost of the Project at current price level (in Lakhs)					:	

	b.	Funds Allocated for Environment Management (Capital) (in Lakhs)						:	
	c.	Funds Allocated Towards ESC (Entrepreneur Social Responsibility) (in Lakhs)						:	
	d.	Funds Allocated for Environment Management Plan (EMP) (Recurring per Annum) (in Lakhs)						:	
11	Whether project attracts the General Condition specified in the Schedule of EIA Notification (Yes/No)? [provide name of WL/CPA/ESA/Inter-state boundary / International boundary and distance from the project							:	
		If Yes							
	a.	Protected Area Notified Under the Wild Life(Protection) Act,1972						:	
	b.	Critically Polluted Areas as identified by the Central Pollution Control Board from Time to Time						:	
	c.	Notified Eco-Sensitive Areas						:	
	d.	Inter-State Boundaries and International Boundaries						:	
12	Whether projects attract the Specific Condition specified in the Schedule of EIA Notification (Yes/No)?							:	
		If Yes							
	a.	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							
13	Raw Material / Fuel Requirement (Multiple Entries Allowed)								
	a.	Details of Raw Material / Fuel Requirement							
		Raw Material / Fuel	Quantity per Annum	Unit	Source (incase of Import, please specify country and Name of the port from which Raw Material / Fuel is received)	Mode of Transport	Distance of Source from Project Site (in Kilo meters) (In case of import, distance from the port from which the raw material / fuel is received	Type of Linkage (Linkage / Fuel Supply Agreement / e-auction / MoU / LOA / Captive / Open market / Others)	
In case of expansion proposals, total requirement of raw material / fuel shall be given									

	<ul style="list-style-type: none"> - Unit:- (Tons per Annum(TPA), Mega Watt(MW), Hectares(ha), Kilo Litre per Day(KLD), Tons Crushed per Day(TCD), Cubic Meter per Day, Kilometers(Km), Million Liters per Day(MLD), Others) - Mode of Transport/Transmission of Product (Road, Rail, Conveyor Belt, Pipe Conveyor, Arial Ropeway, combination of two or three modes, Others) 						
b.	Upload copy of Linkage / Fuel Supply Agreement / e-auction / Memorandum of Understanding / Letter of Allocation / Captive source / others.					:	
14	Baseline Data (Air / Water / Noise / Soil / Ground water table/ Others)						
a.	Period of Base Line Data Collection						
	From (DD/MM/YYYY)					:	
	To (DD/MM/YYYY)					:	
b.	Season (Summer / Pre-monsoon / Post-monsoon / Winter)					:	
c.	No. of Ambient Air Quality (AAQ) Monitoring Locations					:	
d.	Details of AAQ Monitoring (<i>Multiple Entries Allowed</i>)						
	Criteria Pollutants	Unit	Maximum Value	Minimum Value	98 Percentile Value	Prescribed Standard	
	<ul style="list-style-type: none"> - Criteria Pollutants: - (PM10, PM2.5, SO2, NOx, Others parameters specific to sector) - Unit: - (Micro Gram per Meter Cube, Nano Gram per Meter Cube, Mili Gram per Meter Cube, NA) 						
e.	No. of Ground Water Monitoring Locations (<i>Multiple Entries Allowed</i>)					:	
f.	Details of Ground Water Monitoring						
	Criteria Pollutants	Unit	Maximum Value	Minimum Value	98 Percentile Value	Prescribed Standard	
	<ul style="list-style-type: none"> Criteria Pollutants: - (pH, TSS, TDS, Total Hardness, Chlorides, Fluoride, Heavy Metals, other parameters specific to the sector) - Unit :- (mg/l, NA) 						
g.	No. of Surface Water Monitoring Locations					:	
h.	Details of Ground Water Monitoring (<i>Multiple Entries Allowed</i>)						
	Criteria Pollutants	Unit	Maximum Value	Minimum Value	98 Percentile Value	Prescribed Standard	
	- Parameter :- (pH, DO, BOD, COD, Others parameters specific to the sector)						

	- Unit :- (mg/l, NA)					
i.	No. of Ambient Noise Monitoring Locations				:	
j.	Details of Noise Monitoring (<i>Multiple Entries Allowed</i>)					
	Parameter	Unit	Maximum Value	Minimum Value	98 Percentile Value	Prescribed Standard
	- Parameter:- (Leq(Day), Leq(Night))					
	- Unit :- (A-weighted decibels(dB(A))					
k.	No. of Soil Monitoring Locations (<i>Multiple Entries Allowed</i>)				:	
	Parameter	Unit	Maximum Value	Minimum Value	98 Percentile Value	
	- Parameter :- (pH, N(Nitrogen), P(Phosphorus), K(Potassium), Electric Conductivity)					
	- Unit :- (Millisiemens per Centimeter, Milligram per Litre, Percent, Centimeter per Second, Milliequivalents per 100 Gram, Milligram per Kilogram, Parts per Million, kilogram per hectare, Others)					
1	Ground Water Table					
i	Range of Water Table Pre-Monsoon Season (Meters Below Ground Level (m bgl)):					
	From				:	
	To				:	
ii	Range of Water Table Post-Monsoon Season (Meters Below Ground Level (m bgl)):					
	From				:	
	To				:	
iii	Whether Ground Water Intersection will be there (Yes / No)?					
	If Yes,				:	
	(i) Upload Copy of Central Ground Water Authority Letter (<i>Upload pdf only</i>)					
	(ii) Letter No.				:	
	(iii) Date of issue					
					:	
15	Details of Water Requirement (During Operation) (<i>Multiple Entries Allowed</i>)					
a.	Details					
	Source	Quantity in KLD	Method of water withdrawal	Distance from Source	Mode of Transport	
	- Source: Surface / Ground Water / Sea / Others					
	- Mode of Transportation: Pipeline / Canal / Others					
	- Method of water withdrawal: Barrage / Weir / Intake well / Jackwell / Tube well / Open well / Others					
b.	Upload Copy of Permission from Competent Authority (<i>Upload pdf only</i>)					

c.	Letter No.	:	
d.	Date of issue	:	
e.	Permitted quantity	:	
f.	Whether Desalination is proposed (Yes/ No)	:	
	If Yes,		
	(i) Desalination capacity (KLD)	:	
	(ii) Quality of Brine (KLD)	:	
	(iii) Mode of Disposal of brine	:	

16 Waste Water Management (During Operation)								
	Type / Source	Quantity of Waste Water Generated (Kilo Litre per Day)	Treatment Capacity (Kilo Litre per Day)	Treatment Method	Mode of Disposal	Quantity of Treated Water Used in Recycling / Reuse (Kilo Litre per Day)	Quantity of Discharged Water (Kilo Litre per Day)	
a.	Total Waste Water Generation						:	
b.	Total Discharged Water						:	
c.	Total Reused Water						:	

17 Solid Waste Generation Management (Multiple Entries Allowed)						
	Item	Quantity per Annum	Unit	Distance from Site	Mode of Transport	Mode of Disposal
	<ul style="list-style-type: none"> - Item:- (Industrial waste, Municipal Solid waste, Fly ash, Bottom Ash, Hazardous Waste (as per Hazardous and Other Waste Management Rules 2016), E Waste, Bio-Medical waste, Construction & Demolition waste, Plastic Waste, Others) - Unit:- (Tons, Kiloliter) - Mode of Disposal:- (Treatment, Storage and Disposal Facility(TSDF), Authorized Recyclers, Landfills, Sanitary Landfills, Others) 					

18 Air Quality Impact Prediction (Multiple Entries Allowed)							
	Criteria Pollutants	Unit	Baseline Concentration	Minimum Value	Incremental Concentration	Total GLC	Prescribed Standard
	<ul style="list-style-type: none"> - Parameter:- (PM10, PM, SO2, NOx, Others parameters specific to the sector) - Unit :- (Microgram per Meter Cube, NA) 						

19	Power Requirement			
	a.	Quantity (Kilo Volt Amps (KVA))	:	
	b.	Source	:	
	c.	Upload Copy of Agreement (<i>Upload pdf only</i>)	:	
	d.	Standby Arrangement (Details of DG Sets)	:	
	e.	Stack Height (in m)	:	
20	Land Ownership Pattern (Prior to the project proposal) in Ha			
	a.	Forest land	:	
	b.	Private Land	:	
	c.	Government Land	:	
	d.	Revenue Land	:	
	e.	Other Land	:	
		Total land		
21	Present Land Use breakup in Ha			
	a.	Agriculture Area	:	
	b.	Waste/Barren Area	:	
	c.	Grazing / Community Area	:	
	d.	Surface Water bodies	:	
	e.	Settlements		
	f.	Industrial		
	g.	Forest	:	
	h.	Mangroves		
	i.	Marine area		
	j.	Others (Specify)	:	
		Total	:	
22	Land requirement for various activities (Multiple entries allowed) in Ha			
	Description of Activity / Facility / Plant / Others		Land requirement	Remarks
	Green belt			
	Total			
	- Activity / Facility / Plant / Others include: Main Plant, Township, Greenbelt, Ash pond, Quarry area, OB dump Area, Safety zone, Tailing pond, Landfill, Water reservoir, Desalination plant, Area for solid waste management, Built-up area, others			
23	Ecological and Environmental Sensitivity (Within 10 Km):- WLS-Wild Life Species; NPA-Notified Protected Area; ESAs-Eco Sensitive Areas; ESZs- Eco Sensitive Zones)			
	a.	Details of Ecological Sensitivity		
	Details of Ecological Sensitivity		Name	Distance from the Project (Km)
			Remarks	

		- Details of Ecological Sensitivity:- (Critically Polluted Area, WLS, NPA, ESAs, ESZs, Corridors, Wildlife Corridors)		
	b.	Whether NBWL recommendation is required (Yes/No)?		
		If yes		
		Upload NBWL recommendation in PDF		
	c.	Details of Environmental Sensitivity		
		Details of Environmental Sensitivity	Name	Distance from the Project (Km)
				Remarks
		- Details of Environmental Sensitivity:- (Forest, Archaeological Sites, Defence Installations, Others)		
	d.	Whether NoC / Permission from the competent authority is required (Yes/No)?		
		If yes		
		Upload NoC / Permission from the competent authority in PDF		
24	Forest Land			
	1	Whether any Forest Land involved (Yes/No)?		
		If Yes		
	a.	Forests Clearance Status (In-Principle(Stage-I) Approval Obtained / Final (Stage-II) Approval Obtained / Forest Clearance Under Process(Stage-I) / Forest Clearance Under Process(Stage-II) / Application for Forest Clearance yet to be Submitted) :		
		If In-Principle (Stage-I) Approval Obtained,		
		(i) MoEFCC file number	:	
		(ii) Date of In Principle (Stage-I) approval	:	
		(iii) Area diverted	:	
		(iv) Upload FC Letter (Upload pdf only and attach it as Annexure-FC letter)	:	
		If Final (Stage-II) Approval Obtained,		
		(i) MoEFCC file number	:	
		(ii) Date of Final Approval	:	
		(iii) Date of In-Principle Approval	:	
		(iv) Area diverted	:	
		(v) Upload FC Letter (Upload pdf only and attach it as Annexure-FC letter)	:	
		If Forest Clearance under process (Stage-I),		
		(i) MoEFCC file number	:	
		(ii) Area applied	:	
		If Forest Clearance under process (Stage-II),		
		(i) MoEFCC file number	:	

		(ii) Area applied	:	
	b.	Legal Status of Forest Land (Reserved, Protected, Private, Village, Others)		
		If Others,		
		Please Specify Others	:	
25	Tree Cutting, if any			
	a.	No. of Trees Cut for the Project (if Forestland not involved)	:	
	b.	Details of Tree Cutting and Planting of Trees (<i>Upload pdf Only</i>)	:	
26	Land Acquisition Status			
	a.	Acquired Land		
	b.	Land yet to be acquired		
	c.	Status of Land acquisition if not acquired		
27	Rehabilitation and Resettlement (R&R)			
	a.	No. of Villages		
	b.	No. of Households		
	c.	No. of PDFs (Project Displaced Families)		
	d.	No. of PAFs (Project Affected Families)		
	e.	Funds Allocated for R&R		
	f.	Status of R&R (Completed / In-progress / Yet to start)		
28	Whether there is Presence of Schedule-I Species (Yes/No)?			:
		If yes,		
	a.	Details of Schedule-I Species	:	
	b.	Whether conservation plan for Schedule-I Species has been prepared (Yes/ No)?	:	
		If Yes,		
		(i) Upload conservation plan (Upload only PDF)		
		(ii) Fund Provision made		
		(iii) Period of Implementation		
	c.	Whether conservation plan for Schedule-I Species has been approved by competent authority (Yes/ No)?		
		(i) Upload copy of approval (Upload PDF Only)	:	
		(ii) Letter No.	:	
		(iii) Date of issue	:	
		(iv) Recommendations if any	:	
29	Whether there is Presence of Water Bodies in Core Area (Yes/No)?			:
		If yes,		
	a.	Details of Water Bodies in Core Area	:	
	b.	Whether there is Diversion required (Yes/No)?		
		If yes,		

	c.	Details of diversion required				
	d.	Details of study conducted				
	e.	Whether permission has been obtained from competent authority (Yes/No)?				
		(i)	Upload copy of permission (Upload PDF Only)			
		(ii)	Letter No.			
		(iii)	Date of issue			
		(iv)	Recommendations if any			
30	Whether there is Presence of Water Bodies in Buffer Area (Yes/No)?				:	
		If Yes				
	a.	Details of Water Bodies in Buffer Area			:	
	b.	Direction of Water Bodies in Buffer Area (North / South / East / West / North East / North West / South East / South West)			:	
	c.	Distance of Water Bodies in Buffer Area (kilo meters)				
31	Manpower Requirement					
	a.	Permanent employment during construction			:	
	b.	Permanent employment during operation			:	
	c.	Temporary employment during construction			:	
	d.	Temporary employment during operation			:	
	e.	No. of working days			:	
	f.	Total manpower			:	
32	Green Belt in Ha					
	a.	In case of new projects			:	
	i.	Total Area of Green Belt				
	ii.	Percentage of Total Project Area			:	
	iii.	No. of Plants to be Planted			:	
	iv.	Funds Allocated for Plantation			:	
	v.	Upload Green Belt Plan (Upload PDF Only)				
	b.	Incase of expansion / modernization / change in product mix etc.				
	i.	Description	Existing	Proposed	Total	
		Total Area of Green Belt				
		Percentage of Total Project Area				
		No. of Plants				
		Funds Allocated				
	ii.	Upload Green Belt Plan (Upload PDF Only)				
33	Project Benefit (Multiple entry allowed)					

		Type of Project Benefits	Details of Project Benefit
(Project benefits shall include environmental, social and others)			
34	Whether the Project / Activity attracts the provisions of CRZ (Yes/No)?		
	If yes,		
1	Project Details		
	a.	CRZ Classification: (CRZ I (A), CRZ I(B), CRZ II, CRZ III, CRZ IV (A), CRZ IV(B))	
	b.	Location type: (Non-Eroding Coast, Low and Medium Eroding Coast, High Eroding Coast)	
	c.	Details of Mangroves Land Involved, if Any	
	d.	Area of Mangroves Land (hectare)	
	e.	EIA (Terrestrial) Studies: (Carried Out, Not Carried Out)	
		<i>If Carried Out,</i>	
	1)	Summary Details of EIA (Terrestrial) Studies	
	2)	Upload Recommendation made in EIAs (Upload pdf only)	
	3)	Period of Study from (EIA Terrestrial)	
	4)	Period of Study to (EIA Terrestrial)	
		<i>If Not Carried out</i>	
		Give Reason	
	f.	EIA (Marine) Studies: (Carried Out, Not Carried Out)	
		<i>If carried out</i>	
	1)	Summary Details of EIA (Marine) Studies	
	2)	Upload Recommendation made in EIAs	
	3)	Period of Study from (EIA Marine)	
	4)	Period of Study to (EIA Marine)	
		<i>If Not Carried out,</i>	
		Give Reason	
	g.	Disaster Management Plan/National Oil Spill Disaster Contingency Plan (if Applicable)	
2.	Description of the Project Under Consideration		
	a.	Type of Project: (Resort/Buildings/civic amenities, Coastal Roads/Roads on Stilt, Pipelines from Thermal power Blow Down, Marine Disposal of Treated Effluent, Facility for Storage of Goods/Chemicals, Offshore structures, Desalination Plant, Mining of Rare Earth/Atomic Minerals, Sewage Treatment Plants, Lighthouse, Wind Mills, Others)	
		<i>If Resort/Buildings/civic amenities,</i>	

		1)	Agency Name for Preparing CRZ Maps			
		2)	Total Area/Built-up Area (hectare)			
		3)	Height of Structure			
		4)	FSI Ratio			
		5)	The governing Town Planning Rules/Regulations			
		6)	Details of Provision of Car Parking Area			
		<i>If Coastal Roads/Roads on stilt,</i>				
		1)	Agency Name for Preparing CRZ Maps			
		2)	Area of Land Reclamation			
		3)	Estimated Quantity of Muck/Earth for Reclamation			
		4)	Carrying Capacity of Traffic			
		<i>If Pipelines from Thermal Power Blow Down,</i>				
		1)	Agency Name for Preparing CRZ Maps			
		2)	Length of Pipeline			
		3)	Length Traversing CRZ Area			
		4)	Depth of Excavation			
		5)	Width of Excavation			
		6)	Length of Pipeline from Seashore to Deep Sea			
		7)	Depth of Outfall Point from Surface of Sea Water			
		8)	Temperature of effluent above Ambient at Disposal Point			
		<i>If Marine Disposal of Treated Effluent,</i>				
		1)	Agency Name for Preparing CRZ Maps			
		2)	Location of Intake/Outfall			
		3)	Depth of Outfall Point			
		4)	Length of Pipeline			
		5)	Length Traversing CRZ Area			
		6)	Depth of Excavation			
		7)	Width of Excavation			
		8)	Length of Pipeline from Seashore to Deep Sea/Creek			
		9)	Depth of Outfall Point from Surface of Sea Water			
		10)	Depth of Water at Disposal Point			
		11)	Type of Disposal			
		<i>If Facility for Storage of Goods/Chemicals,</i>				
		1)	Agency Name for Preparing CRZ Maps			
		2)	Name and Type of Chemical			
		3)	End use of the Chemical			
		4)	No. of Tanks for Storage			

		5)	Capacity of tanks -		
			<i>If offshore structures,</i>		
		1)	Agency Name for Preparing CRZ Maps		
		2)	Exploration or Development		
		3)	Depth of Sea Bed		
		4)	No. of Rigs/Platform		
		5)	Details of Group Gathering Stations		
			<i>If Desalination Plant,</i>		
		1)	Agency Name for Preparing CRZ Maps		
		2)	Capacity of Desalination		
		3)	Total Brine Generation		
		4)	Temperature of Effluent above Ambient at Disposal Point		
		5)	Ambient Salinity		
		6)	Disposal Point		
			<i>If Mining of Rare Earth/Atomic Minerals,</i>		
		1)	Agency Name for Preparing CRZ Maps		
		2)	Capacity of Mining		
		3)	Volume/Area to be mined		
		4)	Type of Mineral to be Extracted		
		5)	End use of the Mineral		
			<i>If Sewage Treatment Plants,</i>		
		1)	Agency Name for Preparing CRZ Maps		
		2)	Capacity		
		3)	Total Area of Construction		
		4)	Compliance of effluent parameters as laid down by CPCB/SPCB/other authorized agency		
		5)	Whether discharge is in sea water/creek? If yes,		
			Distance of Marine Outfall Point from Shore/from the tidal river bank		
			Depth of Outfall Point from Sea Water Surface		
			Depth of Sea at Outfall Point		
			<i>If Lighthouse,</i>		
		1)	Agency Name for Preparing CRZ Maps		
		2)	Total Area of Construction		
		3)	Height of the Structure		
			<i>If Wind Mills,</i>		

		1)	Agency Name for Preparing CRZ Maps		
		2)	Capacity (MW)		
		3)	Transmission Lines: (Overhead, Underground)		
		4)	Diameter of Windmill		
		5)	Length of Blade		
		6)	Speed of Rotation		
		7)	Height of the Structure		
			<i>If Others,</i>		
		1)	Agency Name for Preparing CRZ Maps		
		2)	Please Specify with salient features		
		3)	Upload relevant Document (<i>Upload pdf only</i>)		
	3.		Distance of Project (In Meters) from LTL/HTL to be Stated		
		a.	Clause of CRZ Notification Under which the Project is a Permissible/Regulated Activity		
		b.	Whether CRZ Map Indicating HTL, LTL Demarcation in 1:4000 Scales Prepared? (Yes/No)		
			<i>If Yes,</i>		
		1)	Distance of Project (in meters) from HTL to be Stated		
		2)	Upload Maps(<i>kml File</i>)		
		3)	Distance of Project(in meters) from LTL to be Stated		
		4)	Upload Maps (<i>kml File</i>)		
		c.	Whether Project Layout Superimposed on CRZ Map 1:4000 Scales?: (Yes/No)		
			<i>If Yes,</i>		
		1)	Upload Maps (<i>kml File</i>)		
		d.	Whether CRZ Map 1:25000 Covering 7 km Radius Around Project Site Prepared? (Yes/No)		
			<i>If Yes,</i>		
		1)	Upload Maps (<i>kml File</i>)		
		e.	Whether CRZ Map Indicating CRZ-I,II,III and IV Including Other Notified ESAs Prepared?: (Yes/No)		
			<i>If Yes,</i>		
		1)	Upload Maps (<i>kml File</i>)		
		f.	NOC from State Pollution Control Boards Obtained: (Yes/No)		
			<i>If Yes</i>		
		1)	Upload Copy of NOC (<i>Upload pdf only</i>)		
		g.	Details of Rain Water Harvesting System		

	4.	Recommendation of State Coastal Zone Management Authority			
	a.	Upload Copy of CZMA (<i>Upload pdf Only</i>)			
	b.	State the Conditions Imposed			
	c.	Social and Environmental Issues and Mitigations Measures Suggested Including but not Limited to R&R, Water, Air, Hazardous Wastes, Ecological aspects, etc. (Brief Details to be Provided)			
35	Sector Specific Details				
I	Whether the proposal is mining of minerals (coal / non-coal) project (Yes/No)?				
		If yes,			
	1	No. of Mineral to be Mined (Multiple Entries Allowed)		:	
		Minerals To be Mined	Major or Minor Mineral		
	2	Mine Capacity in ROM (Run of Mine)			
	3	Upload 500 meters Cluster Certificate from State Mines and Geology in case of minor minerals (<i>Upload pdf Only</i>)			
	4	Mining Plan			
	a.	Approval Letter No.			
	b.	Date of Approval			
	c.	Upload Approved Letter (<i>Upload pdf only</i>)			
	d.	Approved by State Mines & Geology Department / Indian Bureau of Mines / Ministry of Coal / Ministry of Mines / State Government / Atomic Mineral Directorate / Others)			
	e.	If Others,			
		Please specify			
	f.	Approved Mining Lease Area			
	g.	Approved Capacity			
	5	Technical Details			
	a.	Total Geological Reserves (Million Ton)			
	b.	Mineable Reserves (Million Ton)			
	c.	Extractable Reserves (Million Ton)			
	d.	Percent of Extraction (%)			
	e.	Grade of Coal /Ore /Mineral			
	f.	Stripping Ratio			
	g.	Category of Gaseousness (Only for Coal Mining, Others may write Not applicable)			
	h.	Average Gradient(Degree)			
	i.	Maximum Thickness of Seams(meters) (Only for Coal Mining, Others may write Not applicable)			

	j.	Mining Method (Opencast / Underground / Mixed (Opencast + Underground) / Adit)		
	k.	Life of Mine (Years)		
6	Details of beneficiation (including crushing / screening/others)			
	a.	Whether it is proposed to install crusher within the mining lease area (Yes/No)?		
		If yes,		
	b.	No. of crushers		
	c.	Details of crusher (Multiple entries allowed)		
		Crusher ID	Capacity (in TPH)	Remarks
	d.	Whether it is proposed to install beneficiation plant / Coal washery within the mining lease area (Yes/No)?		
		If yes,		
	e.	Beneficiation / washing Technology		
	f.	Capacity		
7	Details of Seams if applicable			
	a.	No. of seams		
	b.	Thickness of seams to be worked on		
	c.	Maximum Thickness of Seams(meters) (if not Applicable, may Write NA)		
8	Details of Mining Lease			
	a.	Details of Mining Lease		
	b.	Upload Letter of Intent (Upload pdf only)		
	c.	Date of Execution of Mining Lease with Reference Number		
	d.	Validity of Mining Lease		
	e.	Upload Copy of Executed Lease deed valid as on Date (Upload pdf only)		
	f.	Earlier Renewals (Multiple Entries Allowed)		
		Uploaded Copy of Earlier Lease	Date of Renewal	
9	OB (Over Burden) Management (Only if Mining Method: Opencast)			
	a.	Details of External Dumps		
		i) No. of OB Dumps		
		ii) Total Area (in Hectare)		
		iii) Height (in meter)		
		iv) Quantity (in Million Cubic meter)		

			v) No. of year back fill up			
		b.	Details of Internal Dump			
			i) No. of Internal Dumps			
			ii) Total Area (in Hectare)			
			iii) Height (in meter)			
			iv) Quantity (in Million Cubic meter)			
	10	Details of Topsoil Management				
		a.	Quantity of Topsoil excavated during the entire life of the mine (in Million Cubic meter)			
		b.	Quantity of Topsoil proposed for utilization for reclamation during the entire life of the mine (in Million Cubic meter)			
		c.	Quantity of Topsoil proposed for utilization for other activities during the entire life of the mine (in Million Cubic meter)			
	11	Detail of Final Mine Void (Only if Mining Method: Opencast)				
		a.	Area (in Hectare)			
		b.	Depth (in meter)			
		c.	Volume (in Million Cubic meter)			
	12	Details of Quarry (Only if Mining Method: Opencast)				
		a.	Final Void of (hectare)			
		b.	At a Depth of (meter which is proposed to be converted into a Water Body.)			
		c.	Total Quarry Area (ha)			
	13	Details of Transportation				
		a.	In Pit/Underground to Surface			
		b.	Surface to Siding/Loading			
		c.	Transportation / Conveyor Details			
	14	Details of Land Usage (Pre-Mining)				
			Land Use	Within ML Area (Hectare)	Outside ML Area (Hectare)	Total
			Agriculture Land			
			Forest Land			
			Waste Land			
			Grazing Land			
			Surface Water Bodies			
			Settlements			
			Others(Specify)			
	15	Details of Transportation				
		a.	In Pit/Underground to Surface			
		b.	Surface to Siding/Loading			

	c.	Transportation / Conveyor Details					
16	Details of Land Usage (Pre-Mining)						
		Land Use	Within ML Area (Hectare)	Outside ML Area (Hectare)	Total		
		Agriculture Land					
		Forest Land					
		Waste Land					
		Grazing Land					
		Surface Water Bodies					
		Settlements					
		Others(Specify)					
		Others					
17	Details of Land Usage (Post-Mining)						
		Land Use	Plantation	Water Body	Public Use	Others	
		Excavation / quarry					
		Top Soil Storage					
		External OB dumps					
		Internal OB dumps					
		Roads					
		Built Up Area (Colony/Office)					
		Green Belt					
		Virgin Area					
		Other					
		Total					
18	Details of Reclamation (Only if Mining Method: Opencast) Total Afforestation Plan shall be Implemented Covering of Mining. This will include:						
	a.	External OB Dump (in hectare)					
	b.	Internal Dump (in hectare)					
	c.	Quarry (in hectare)					
	d.	Safety Zone (in hectare)			:		
	e.	Final Void of (hectare)			:		
	f.	At a Depth of (<i>meter which is proposed to be converted into a Water Body.</i>)			:		
	g.	Density of Tree Plantation per ha (in no.)			:		
	h.	Others in ha (such as Excavation Area along ML Boundary, along Roads and Infrastructure, Embankment Area and in Township Located outside the Lease etc.)					
	i.	Total afforestation plant (in hectare)					
19	Status of Progressive Mining Closure Plan (For Expansion Projects only)						

	a.	Implementation of Various Activities as per Approved Progressive Mine Closure Plan (in Bar Chart) (pdf) (<i>Upload pdf only</i>)						
	b.	Any Deviation from the Approved Progressive Mine Closure Plan						
	c.	Total Area Excavated (in hectare)						
	d.	Total Area Backfilled after Excavation (in hectare)						
	e.	Total Area Reclaimed (in hectare)						
20	Actual Coal/Ore Production vis-a-vis sanctioned capacity Since inception (<i>Multiple Entries Allowed</i>)							
	Financial Year	Sanctioned Capacity as per EC (MTPA)	Sanctioned capacity as per CTO	Sanctioned capacity as per approved Mining Plan	Actual Production	Excess Production Beyond the EC / CTO / Mining Plan Sanctioned Capacity (MTPA)		
II	Whether proposal is for Thermal Project (including captive power plant and Waste Heat Recovery Plant) (Yes/No)?							
	If yes,							
	1	Specifications of the Plant						
	a.	Technology proposed (Supercritical, Sub-Critical, CFBC, AFBC, PFBC, IGCC, Incineration, Pyrolysis, Gasification, Bio-methanation, Others)				:		
	b.	Plant Load Factor (%)				:		
	c.	Station Heat Rate (Kcal/Kwh)				:		
	d.	Steam Rate/Flow Rate				:		
	e.	Boiler Temperature				:		
	f.	Boiler Pressure				:		
	g.	Type of Stack (Single flue / Bi-flue / Tri-Flue)				:		
	h.	No. of Stacks				:		
		Stack ID	Stack height (m)	Stack Diameter at exit (m)	Exit velocity of stack gas (m/s)	Exit temperature of stack gas (°C)		
	2	Details of fuel linkage (please specify if multiple linkages are involved)						
	a.	Type of linkage (Linkage / Fuel Supply Agreement / e-auction / MoU / LOA / Captive / Open market / Others)						
	b.	Quantity of linkage granted						
	c.	Date of Linkage						
	d.	Duration of linkage						
	3.	Details of Transportation of fuel						

	Details / Mode		Distance (km)	Quantity (TPA)			
	Rail						
	Road						
	Pipeline						
	Conveyor						
	Other mode (Please specify)						
4.	Details of Fuel Characteristics						
	a.	Gross Calorific Value (Kcal/Kg)					
	b.	Ash content (%)					
	c.	Sulphur Content (%)					
	d.	Moisture (%)					
	e.	Mercury (mg/kg)					
	f.	Fixed Carbon (%)					
	g.	Volatile Matter (%)					
5.	Details of Cooling system						
	a.	Type of cooling system: Air cooled/Water cooled					
	b.	Type of draft: Natural draft/Forced draft					
	c.	Type of air circulation: Parallel flow/ Counter flow					
	d.	Cycles of Cooling (COC):					
	e.	Water requirement for cooling (m ³ /day):					
	f.	Boiler blow down temperature:					
III	Whether proposal is for River Valley & Hydroelectric Project (Yes/No)?						
	If Yes,						
	1.	Sub Sector: (Multipurpose Project / Hydroelectric Project / Irrigation project)					
	2.	Name of the River				:	
	3.	Whether Cumulative Impact Assessment and Carrying Capacity Study of River Basin Carried Out? (Yes/No)				:	
		If Yes				:	
	a.	Status of Cumulative Impact Assessment and Carrying Capacity Study of River Basin: (Recommended / Not Recommended,)				:	
		If Recommended					
	b.	Details of Cumulative Impact Assessment and Carrying Capacity Study of River Basin				:	
	c.	Upload Relevant Document (<i>Upload pdf only</i>)				:	
	4.	Type of Project: (Construction of Dam Barrage / Run of the River / Lift Irrigation Scheme)				:	
	5.	Dam Height (meter) if applicable				:	
	6.	Dam Length (meter) if applicable				:	
	7.	Total Submergence Area (hectare)				:	

8.	Details of Gross Command Area (GCA) (hectare)			:	
9.	Details of Irrigable Command Area (ICA) (hectare)			:	
10.	Details of Culturable Command Area (CCA) (hectare)			:	
11.	Total Command Area (hectare)			:	
12.	Powerhouse Installed Capacity			:	
	a.	Type of Powerhouse: (Underground / Surface)			
	b.	Capacity (megawatts)			
	c.	No. of Tunnels			
	d.	No. of Units			
	e.	Bank of River: (Left /Right / Both)			
13.	Generation of Electricity Annually				
	a.	Quantity of Generation of Electricity Annually (in Giga Watt Hours (GWh))			
	b.	Water availability at various percentages			
		Percentage	Water availability (Cusecs)	Dependable year	Remarks
		At 50%			
		At 75%			
		At 90%			
	c.	Machine Availability (%)			
	d.	Cost of Electricity Generation (in INR)			:
	e.	Internal Rate of Return (%)			:
	f.	Year of achievement of Internal Rate of Return			:
14.	Catchment Area Treatment Plan (Upload PDF)				
15.	Muck Management Plan				
	a.	Upload Muck Management Plan in PDF			
	b.	Total Excavation Muck (Cubic Meter)			
	c.	Utilized for Construction (Cubic Meter)			
	d.	No. of Muck Disposal sites			
	e.	Total Muck Disposal Area (Ha)			
16.	Fishery Development and Management Plan				
	a.	Upload Fishery Development and Management Plan in PDF			
	b.	No. of Fingerlings			
	c.	No. of Fish Species			
	d.	Name of the umbrella Fish Species (Scientific Name)			
17.	Status of Environmental Flow				

		Season	Average Inflow (in Million Cubic Meter)	Percent of Flow			
		Lean					
		Non-Lean					
		Monsoon					
		Non-Monsoon					
	18.	Free Flow Stretch (km)					
	19.	Approval of Central Water Commission					
	a.	Approval Reference No.					
	b.	Date of Approval					
	c.	Upload Copy of Approval (<i>Upload pdf only</i>)					
	20.	Approval of Central Electricity Authority					
	a.	Approval Reference No.					
	b.	Date of Approval					
	c.	Upload Copy of Approval (<i>Upload pdf only</i>)					
	21.	Details of Cofferdam (upstream) if applicable					
	a.	Quantity of the material (m ³)					
	b.	Length of the dam (m)					
	c.	Quantity of muck to be used (m ³)					
	d.	Quantity of borrow material to be used (m ³)					
	e.	Decommissioning plan (upload in PDF)					
	22.	Details of Cofferdam (downstream) if applicable					
	a.	Quantity of the material (m ³)					
	b.	Length of the dam (m)					
	c.	Quantity of muck to be used (m ³)					
	d.	Quantity of borrow material to be used (m ³)					
	e.	Decommissioning plan (upload in PDF)					
IV	Whether the proposal is Infrastructure projects (Yes/No)						
	If yes?						
	1	Details of Building Construction					
	a.	Maximum Height of the Building (Meters)					
	b.	Total No. of Flats to be Build					
	c.	No. of Buildings					
	d.	Total plot area (sqm)					
	e.	Total built up area (sqm)					
	2	Foreshore Facilities And/or Marine Disposal					

	a.	Whether Project Involves Foreshore Activities and/or marine Disposal : (Yes/No)?		
		If Yes,		
	b.	Upload Shoreline Study (Upload pdf only)		
	c.	Type of Cargo		
	d.	Quantity of Cargo		
	e.	Control Measures of Cargo		
	f.	Dust Control Measures		
	g.	Quantum		
	h.	Quantity of Dredging (Cubic meter per day)		
	i.	Type of Dredging (Capital, Maintenance)		
	j.	Disposal of Dredge Material		
	k.	Details of Outfall Diffusers		
	m.	No. of Dilution Expected		
	n.	Distance at which the outlet will Reach Ambient Parameters		
	o.	Details of Monitoring at outfall		
	p.	Copy of NoC from PCB in case of Marine Disposal (Upload pdf only)		
3	Rain Water Harvesting			
	a.	No. of Storage		
	b.	Capacity		
	c.	No. of Recharge Pits		
	d.	Capacity		
4	Parking			
	a.	Details of 4-Wheeler/ 2-Wheeler Parking		
5.	Energy Saving Measures			
	a.	Source/Mode		
	b.	Percentage		
	c.	Quantity		
6.	Other Details			
	a.	Details of impact on Water Bodies and Drainage patters of catchment area, if any		
	b.	Details of Traffic Density Impact Assessment and Modelling Study (Upload pdf Only)		
	c.	In case of Underground Tunnel projects below the Forest Land – Subsidence Impact Study report (Upload pdf Only)		
7.	Type of Industries to be established with Industrial Estate as per their category A/B			
	Sl. No	Type of Industry	No. of Units	Category A/B

	8.	Length of the alignment in case of highway projects			
	9.	Details Bridges/ROB/Interchanges, Flyovers, Vehicle Underpass and Pedestrian Underpass (in case of Highway Projects)			
	a.	Total No. of Bridges			
	b.	Total No. of ROB			
	c.	Total No. of Interchanges			
	d.	Total No. of Flyovers			
	e.	Total No. of Vehicle Underpass			
	f.	Total No of Pedestrian Underpass			
	g.	Details of other utilities rail and road corridors			
36	Details of Court Cases if any				
	a.	Whether there is any Court Cases pending against the project and/or land in which the project is proposed to be set up (Yes/No)? If Yes,			
	b.	Name of the Court (Districts Court / High Court / NGT / Tribunals / Supreme Court of India) If name of Court: (Districts Court, High Court, NGT, Tribunals)			
	c.	Name of the Sub-court			
	d.	Case No.			
	e.	Orders / Directions of the court, if any and its relevance with the proposed project			
	f.	Case Details			
	g.	Upload Court Order if any (Upload pdf Only)			
37	Details of direction issued under Environment (Protection) Act / Air (Prevention & Control of Pollution) Act / Water (Prevention & Control of Pollution) Act				
	a.	Whether any direction issued under Environment (Protection) Act / Air (Prevention & Control of Pollution) Act / Water (Prevention & Control of Pollution) Act (Yes/No)? If yes,			
	b.	Details of directions issued under Environment (Protection) Act / Air (Prevention & Control of Pollution) Act / Water (Prevention & Control of Pollution) Act			
	c.	Upload copy of directions issued under Environment (Protection) Act / Air (Prevention & Control of Pollution) Act / Water (Prevention & Control of Pollution) Act			
	d.	Compliance status of the directions			
38	Details of EIA Consultant				
	a.	Have you hired Consultant for preparing document (Yes/No)?			

	If No,		
	(i) Reason for not engaging the Consultant	:	
	If Yes,		
	(i) Accreditation No.	:	
	(ii) Name of the EIA Consultant	:	
	(iii) Address		
	(iv) Mobile No.	:	
	(v) Landline No.	:	
	(vi) E-mail Id	:	
	(vii) Category of Accreditation (Eligible for Category A / Eligible for Category B)	:	
	(viii) Sector of Accreditation	:	
	(ix) Validity of Accreditation	:	
	(x) Upload Certificate of Accreditation certified by QCI/NABET (<i>Upload pdf Only</i>)	:	
39	Documents to be attached		
I	<i>If Project Type is New / Expansion / Modernization / one-time capacity expansion for coal mining:</i>		
a.	Upload Copy of EIA/EMP Report		
b.	Upload Copy of Risk Assessment Report		
c.	Upload Copy of Feasibility Report/ Detailed Project Report(DPR) /Detailed Engineering Report /Detailed Conceptual Plan / Approved Mining Plan (in case of Mining proposals) (<i>Upload pdf only</i>)		
d.	Upload Copy of Final Layout Plan (<i>Upload pdf only</i>)		
e.	Upload Cover Letter (<i>Upload pdf only and attach it as Annexure-document of Cover letter</i>)		
f.	Upload a copy of documents in support of the competence/authority of the person making this application to make application on behalf of the User Agency (<i>Upload pdf only and attach it as Annexure-authorization</i>)		
g.	Upload copy of District Survey Report (for mining of minor minerals only)		
	Upload copy of Replenishment Study Report & Baseline Survey data (for river sand mining proposals only)		
g.	Upload Additional File, if any (<i>Upload pdf only</i>)		
II	<i>If Project Type is other than New / Expansion / Modernization / one-time capacity expansion for coal mining: -</i>		
a.	Upload Copy of Feasibility Report / Detailed Project Report(DPR) /Detailed Engineering Report /Detailed Conceptual Plan (<i>Upload pdf only</i>)		
b.	Upload Copy of Final Layout Plan (<i>Upload pdf only</i>)		
c.	Upload Cover Letter (<i>Upload pdf only and attach it as Annexure-document of Cover letter</i>)		

	d.	Upload a copy of documents in support of the competence/authority of the person making this application to make application on behalf of the User Agency <i>(Upload pdf only and attach it as Annexure-authorization)</i>		
	e.	Upload Additional File, if any <i>(Upload pdf only)</i>		
	f.	Upload Updated Form1 <i>(Upload pdf only)</i>		
40	Undertaking			
	a.	I hereby give undertaking that the data and information given in the application and enclosures are true to be best of my knowledge and belief and I am aware that if any part of the data and information found to be false or misleading at any stage, the project will be rejected and clearance given. if any to the project will be revoked at our risk and cost. In addition to above, I hereby give undertaking that no activity / construction / expansion has since been taken up		
	b.	Name	:	
	c.	Designation	:	
	d.	Company	:	
	e.	Address	:	
