

# Dalmia Bharat Sugar and Industries Limited

[ Formerly : Dalmia cement (Bharat) Limited]  
SALEM - 636 012 TAMILNADU

SL:MM:26150

Date: 14/OCT/2022

To,  
The Member Secretary  
IA-Division, Ministry of Environment, Forest & Climate Change (Non  
Coal Mines)  
Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi-110003.

**Sub: Grant of Environment Clearance for Mining Magnesite  
and Dunite Minerals over an extent of 449.364 Ha in  
Chettichavadi village, Salem District, Tamil Nadu.**

- Ref:**
- 1) Our proposal No-IA/TN/MIN/241375/2018.
  - 2) TOR Letter dated 05.02.2021.
  - 3) 43<sup>rd</sup> EAC Minutes of Meeting (Non-Coal Mining) held from 14<sup>th</sup> to 15<sup>th</sup> Dec 2021.
  - 4) Our representation vide letter no-SL:MM:26150 dt 31.01.2022 in light of direction given in 43<sup>rd</sup> EAC Meeting held from 14<sup>th</sup> to 15<sup>th</sup> Dec 2021.
  - 5) 46<sup>th</sup> EAC Minutes of meeting (Non-Coal Mining) held from 15<sup>th</sup> to 17<sup>th</sup> Feb 2022 vide item no: 46.1.2.
  - 6) Our Revised Remediation Plan & EMP budget vide our letter dated 11.03.2022 in light of observation in 43<sup>rd</sup> EAC MoM held from 14<sup>th</sup> to 15<sup>th</sup> Dec 2021.
  - 7) Our representation letter to the Secretary, MOEF, New Delhi dated 18.04.2022.
  - 8) Our representation letter dated 20.05.2022.
  - 9) Our representation letter dated 31.08.2022.
  - 10) Our representation letter dated 20.09.2022.

This has reference to your ADS query dated 04.10.2022 in Parivesh portal on our proposal No-**IA/TN/MIN/241375/2018**.

We humbly Omake the following submissions for your kind consideration:

- 1) In this regard we would like to invite your kind attention to the direction given by EAC to the Project Proponent to seek amendment of TOR by submitting a representation to dispense with the requirement of valid mining lease document in TOR (Item no-18(5) of the Minutes of Meeting dated 15.12.2021).
- 2) Accordingly we moved a representation vide letter dated 31.01.2022, to dispense with the requirement of valid lease document as contained in TOR letter dated 05.02.2021 and EC may be issued without insisting for valid mining lease document (Copy enclosed).
- 3) In our W.P.No.29275 of 2016 the Honourable Madras High Court has given an order dated 11.01.2022 directing us to first obtain EC to enable the State Mining Department to consider issue/renewal of Mining lease as per Law (Copy enclosed).
- 4) Pursuant to the Judgment of the Honorable Supreme Court in the case of common cause (Vs) Union<sup>l</sup> of India and others [(2016) 11 SCC 455] the Environmental Clearance Certificate becomes mandatory for the purpose of grant of lease by the State Government. Attention is invited to the following observation of Supreme Court in the said judgement:

104). This Court also considered the question of the applicability of EIA1994 to the renewal of an existing mining lease. It was held that the said notification would apply to the renewal of a mining lease that came up for consideration post 27th January, 1994. In other words, for the renewal of a mining lease, an EC was required by the mining lease holder

106). Subsequent to the decision in **M.C. Mehta** two clarificatory circulars were issued by MoEF on 28th October, 2004 and 25th April, 2005. These were adverted to by learned counsel for the mining lease holders but in our opinion they are not relevant except to the extent that they make it explicit that following the decision of this Court in **M.C. Mehta**, an EC is required to be obtained before the renewal of a mining lease.

Therefore in the event of furnishing Environmental Clearance certificate only, the State Government will consider issue of valid lease document to the petitioner Company.

In view of the forgoing we humbly request that Environmental Clearance may be granted to Chettichavadi Jaghir Magnesite and Dunite Mines based on all our submissions on record.

Thanking You.

Yours Faithfully,

For Dalmia Bharat Sugar and Industries Ltd,

P.G.Kalidass, 14/10/2022

Agent and Supdt of Mines.



Encl:

- Our representation dated 31.01.2022 seeking amendment of TOR letter issued dated 05.02.2021.
- Order of Honourable Madras High Court order dated 11.01.2022 in our W.P.No.29275 of 2016.

# Dalmia Bharat Sugar and Industries Limited

[ Formerly : Dalmia cement (Bharat) Limited ]  
SALEM - 636 012 TAMILNADU

---

To,  
The Member Secretary  
IA-Division, Ministry of Environment, Forest & Climate Change (Non  
Coal Mines)  
Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi-110003.

SL:MM:26150  
Date:31.01.2022

Dear Sir,

Sub: Submission of letter seeking Amendment of TOR issued dated 05.02.2021 in accordance with recommendation and observation of Expert Appraisal Committee meeting held on 15.12.2021, Agenda Item no- 43.2.1-reg

Ref: (i) Our proposal No-IA/TN/MIN/241375/2018.  
(ii) Minutes of Meeting of Expert Appraisal Committee held on 15<sup>th</sup> Dec 2021 Agenda Item No- 43.2.1 Observations & recommendations of the Committee.

Project Proponent in pursuance of ToR dated 5<sup>th</sup> Feb 2021 submitted its EIA & EMP Report. The said EIA and EMP report was considered by the Expert Appraisal Committee (EAC) in its 43<sup>rd</sup> meeting held on 15<sup>th</sup> December 2021.

EAC in its observations and recommendations contained in Item No. 18 of the minutes of said meeting observed amongst others that Project Proponent is required to revise its EIA and EMP in light of the observations contained in said Item No. 18 (1) to Item No. 18 (4) which are related to technical/ financial aspects of EMP. Project Proponent had complied with the said requirements and response in respect of the same is being tendered separately.

EAC in its observations and recommendations contained in Item No. 18 (5) of the minutes of said meeting also noted that Project Proponent has not been able to furnish *Valid Mining Lease Documents*, which is one of the conditions of ToR dated 5<sup>th</sup> Feb 2021.

Further upon the submissions of Project Proponent, EAC agreed to dispense with the requirement of *Valid Mining Lease Documents* and directed Project Proponent to seek amendment of ToR by submitting evidences related to certain facts [Item No. 18 (5) of the Minutes of Meeting], response of Project Proponent in this regard is as under:

S.No	Observations and recommendations of EAC - Para 18 (5) of Minutes of Meeting dated 15.12.2021	Responses of Project Proponent
1	<p>The Project Proponent Needs To Submit That Chettichavadi Jaghir Magnesite And Dunite Mine Is Owned By M/S. Dalmia Bharat Sugar And Industries Limited.</p> <p>The Instant Mine Lease Has Not Been Lapsed Currently</p>	<p>The lease hold rights over the mining lease is based on following documents</p> <ol style="list-style-type: none"> <li>a. G.O M.S. No. 74 dated 11.03.1997 for the duration granting first renewal of mining lease for the period 20 August 1986 to 19<sup>th</sup> August 2006. A copy of the same is enclosed herewith as <b>Annexure No-I</b>.</li> <li>b. Application dated 11<sup>th</sup> July 2005 for second renewal of mining lease. A copy of the same is enclosed herewith as <b>Annexure No-II</b>.</li> <li>c. Deemed extension of mining lease up to 31<sup>st</sup> March 2030 in view of Sec 8 (A) (5) of MMDR Act.</li> <li>d. Last Transport permit dated 18.11.2019 issued by Mining Dept. A copy of the same is enclosed herewith as <b>Annexure No-III</b>.</li> <li>e. Mining operations have been temporarily suspended since January 2020 to await grant of EC.</li> </ol>

An application had also been filed by Project Proponent with State Mining Dept. for extension the period of temporary suspension. The said application is also pending for disposal. Copy of notice of temporary submission and copy of application dated 14.07.2021 for extension of the period of temporary suspension is enclosed as **Annexure No-IV (a) (b)**.

- f. The Review of Mining Plan approved by IBM Chennai Region for 5 years from 2021-22 to 2025-26 for Mining Magnesite and Dunite over an area of 449.364 Ha in respect of our Chettichavadi Jaghir Magnesite and Dunite Mines of Dalmia Bharat Sugar and Industries Ltd vide letter dated 30.03.2021. Copy of the letter is enclosed as **Annexure No- V**.

Note - The application (dated 11<sup>th</sup> July 2005) for renewal of mining lease has yet not been disposed of by Mining Dept. The effect of delay in grant of EC on the mining lease is sub-judice in W.P. No. 835/2021 - Dalmia Bharat Sugar and Industries Ltd. Vs State of Tamil Nadu.

2

**The Copy Of The Court Order Which Has Permitted M/S. Dalmia Bharat Sugar & Industries Limited To Continue Operation In The Absence Of Valid Extension Of Mine Lease By Department of Mines and Geology.**

Copy of Interim Order dated 17<sup>th</sup> August 2006 in W.P. No. 25518/2017 passed by Hon'ble High Court of Madras is enclosed herewith as **Annexure VI**. The said order is still in force and Writ Petition is pending for disposal.

Copy of Interim order dated 21<sup>st</sup> October 2016 in Writ No- 29275/2016 passed by Hon'ble High Court of Madras is enclosed herewith **Annexure VII**. This order remained in force till 11<sup>th</sup> Jan 2022.

It is further submitted that Project Proponent in Writ No, 29275 / 2016 before Hon'ble High Court of Madras sought relief for issuance of Transport Permits by State Mining Dept. without insisting for grant of EC. In the said writ Madras High Court vide Interim Orders dated 21.10. 2016 directed State Mining Dept. to issue Transport Permit. The said writ has now been disposed vide orders dated 11<sup>th</sup> January 2022 with following observations

*It is left open to the Petitioner-Company to submit all the required documents, including the Environmental Clearance Certificate issued by the Competent Authorities of the State, enabling the State Authorities to consider the case and take a decision and pass appropriate orders on merits and in accordance with law.*

A copy of final order dated 11th Jan 2022 is enclosed herewith as **Annexure No-VIII.**

In view of the forgoing facts, above mentioned orders of High Court, read with Sec 8 (A) (5) of MMDR Act, it is most humbly submitted that mining lease of the Project Proponent is in subsistence as on date with deemed extension up to 31<sup>st</sup> March 2030 and submission of *Valid Mining Lease Documents* is not required to be considered a pre-condition for grant of EC.

It is therefore most respectfully prayed that requirement of submission of *Valid Mining Lease Documents* as contained in ToR be dispensed with and EC may be issued without insisting for *Valid Mining Lease Documents*.

Thanking You.

Your's Faithfully,  
For Dalmia Bharat Sugar & Industries Ltd,



*[Handwritten signature]*  
31.1.22

P.G. Kalidass,  
Agent & Supdt of Mines,  
Chettichavadi Jaghir Magnesite and Dunite Mines.

Encl:

Annexure-I, II, III, IV, V, VI, VII, VIII.



WP No.29275 of 2016

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 11-01-2022**

**CORAM**

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

**WP No.29275 of 2016**

M/s.Dalmia Bharat Sugar and Industries Limited,  
(Previously known as 'Dalmia Cement (Bharat) Ltd'),  
a Company incorporated under the  
Indian Companies Act, 1913, having its  
Registered Office at Dalmiapuram,  
District, Tiruchirapalli, Tamil Nadu,  
Inter alia, carrying on business under  
the name and style of Dalmia Magnesite  
Corporation at Salem, Tamil Nadu 636 012  
Represented by its Managing Director,  
Mr.Jai Hari Dalmia,

.. Petitioner

vs.

- 1.The State of Tamil Nadu,  
Represented by its Secretary to Government,  
Department of Industries Labour and Cooperation,  
Fort St. George,  
Chennai - 600 009.
- 2.The Secretary,  
Industries Department (MMDI) and (MMC1),  
Fort St. George,  
Chennai - 600 009.





3.The Commissioner,  
Department of Geology and Mining,  
Guindy Industrial Estate,  
Chennai – 600 032.

4.Deputy Director,  
Geology and Mining,  
Collectorate Complex,  
Salem.

5.The District Collector,  
Salem – 636 001.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents from interfering with the mining operations of the petitioner in the Petition Schedule Premises and directing the respondents to continue to issue permits to excavate minerals namely Magnesite and Dunite on payment of the requisite royalty and without insisting on an Environmental Clearance Certificate.

For Petitioner : Mr.T.Poornam

For Respondents-1 to 5 : Mr.R.Shanmugasundaram,  
Advocate General Assisted by  
Mr.K.M.D.Muhilan,  
Government Advocate.



## ORDER

WE RECOGNISE

The relief sought for in the present writ petition is to forbear the respondents from interfering with the mining operations of the petitioner in the Petition Schedule Premises and directing the respondents to continue to issue permits to excavate minerals namely Magnesite and Dunite on payment of the requisite royalty and without insisting on an Environmental Clearance Certificate.

2. The learned counsel for the petitioner made a submission that the petitioner-Company had already suspended their mining operations and submitted an application for Environmental Clearance Certificate before the Competent Authority and the process is in advanced stage and they are waiting for orders.

3. The learned Advocate General made a submission that the question of suspension of mining operations by the petitioner-Company would not arise at all, in view of the fact that no lease has been granted in favour of the petitioner by the State. Pursuant to the judgment of the

Supreme Court in the case of **Common Cause vs. Union of India and Others [(2016) 11 SCC 455]**, the Environmental Clearance Certificate becomes mandatory for the purpose of grant of lease by the State. Therefore, only in the event of furnishing Environmental Clearance Certificate, the case of the petitioner-Company needs to be considered, but not otherwise.

4. The learned Advocate General further made a submission that all other requirements are also to be complied with for the purpose of grant of lease in accordance with the provisions of the Act and the Rules.

5. Thus, it is made clear that petitioner-Company is required to submit necessary Environmental Clearance Certificate and comply with all other requirements under the provisions of the Act and the Rules, enabling the Competent Authorities of the Department to consider the case for grant of lease for carrying on the mining operations strictly in consonance with the Act and Rules in force.

6. In the present case, the writ itself is to forbear the respondents



from interfering with the mining operations of the petitioner-Company and the petitioner-Company have made a submission that they are not carrying on any mining operations at present. It is left open to the petitioner-Company to submit all the required documents, including the Environmental Clearance Certificate issued by the Competent Authorities of the State, enabling the State Authorities to consider the case and take a decision and pass appropriate orders on merits and in accordance with law. The respondents are directed to conduct inspection and verify whether mining operations were done or not, by verifying the statement made by the learned counsel for the petitioner.

7. With the abovesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs.

**11-01-2022**

Index : Yes/No.  
Internet : Yes/No.  
Speaking Order/Non-Speaking Order.  
Svn