

**MINUTES OF THE 84th GOA STATE ENVIRONMENT IMPACT ASSESSMENT
AUTHORITY (GOA-SEIAA) MEETING HELD ON 02/08/2022 AT 03.30 P.M. IN
THE CONFERENCE ROOM OF THE 4th FLOOR, DEMPO TOWER, PATTO,
PANAJI-GOA.**

The Eighty Fourth meeting of the Goa - SEIAA (*hereinafter referred as 'Authority'*) was held on 02nd August 2022 at 03.30 pm in the conference room, 4th floor, Dempo Tower, Patto, Panaji. The list of members present during the meeting is annexed (*refer Annexure – 2*).


At the outset, Chairman welcomed Authority members and briefed about the agenda items (*refer Annexure –3*) to be taken up for discussion / deliberations and suitable decision. Accordingly, the same were considered as detailed below.

1. To decide on application received from M/s MRF Ltd. locating at Survey No. 258/0,259/1 and 259/2-A, Tisk Usgao, Ponda Goa.

Background: M/s MRF Ltd made an application for prior Environmental Clearance on 25/10/2021. Subsequently, Dhatwada Usgao Citizen Forum made an objection letter against M/s MRF Ltd for issuing Environmental Clearance. The same was discussed in 82nd Goa-SEIAA meeting held on 08/07/2022 and the Authority decided to inspect the site on 19/07/2022 to verify the site condition and to take necessary action on said application. In 83rd Goa-SEIAA meeting held on 27/07/2022, the representative of Dhatwada Usgao Citizen Forum attended the meeting and explained all the issues faced by the Citizens of Usgao due to the upcoming expansion of plant of M/s MRF Ltd and objected grant of Environmental Clearance to M/s MRF Ltd. The complainant requested the Authority to give them time to come prepared for the next hearing.

Deliberation: The representatives of M/s MRF Ltd. (Project Proponent) Shri. Madan Shanbhag along with Mr. S. Elango and representatives of Dhatwada Usgao Citizen Forum (Complainant), Shri. Vasudev Gaude, Shri. Nilesh Gaude and Shri. Kashinath Shet Parkar who had objected for grant of EC to Project Proponent, appeared before the Authority along with Dr. Claude Alvares of Goa Foundation.

Dr. Claude Alvares gave written submission on behalf of the complainant highlighting among other issues that the quantities disclosed for the extraction is 3,64,944 tons as against the approved permit of Directorate of Mines & Geology of 9,75,000 tons. The total area of the amalgamated plot is 14.51ha however, the present proposal for leveling is in respect of only 4.9ha. There is an explicit provision by the Hon'ble Supreme Court for removal of any mining waste outside the mining area. Dumping on Comunidade land has been halted by the Court. Dumped mud had negative

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consequences including moving into the river bed. (The copy of written submission is Annexure -- 1). The Authority decided to raise the following ADS.

- i. The total area of plot which is been leveled for the construction of the new factory.
- ii. Area of the plot that has already been leveled, the quantum of material extracted, details of each location of deposition of the extracted material with survey numbers and areas.
- iii. Balance area to be leveled, the quantum of material estimated, the location of the proposed disposal of material with survey numbers and area.
- iv. Whether there is iron ore present in the balance area which is yet to be extracted. If so, the estimated quantity and mode of disposal.

Copy of the written submission by the complainant will be supplied to the PP for information. The PP is required to submit clarification regarding the observation raised by the complainant for proposed leveling of land for construction of factory.

Decision: The Authority decided to defer the matter in the next meeting.

2. To decide on application received for extension of validity of Environment Clearance from Prashant V. Desai bearing Survey No. 63/3, Advoi Sattari North Goa.

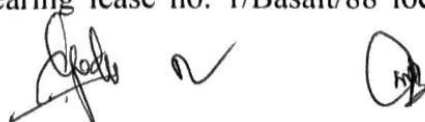
The Project Proponent Shri. Prashant V. Desai along with his consultant Shri. Vishal Sannakki appeared before the Authority and explained the details of the project.

Decision: After scrutinizing the application and document submitted by the Project Proponent, the Authority decided to grant the extension of validity of Environmental Clearance for a period of 2 years i.e upto 08/05/2025 with general condition stating that any guidelines issued by MoEF&CC by way of Notification /Office Memorandum if any issued during the validity of this EC than the said Notification/Office Memorandum if any will be made applicable from the date of issue of the said Notification/Office Memorandum is issued. The Authority directed PP for asphaltting of roads from quarry to the crusher. The Authority also decided to write separate letter to the Project Proponent and to obtain details of CER done earlier along with documentary proof and details of proposed activity under CER.

3. Any other matter with permission of the chair.

The Member Secretary pointed, that the Authority had approved Environmental Clearance in respect of :

1. M/s Gajanan Zarpkar in plot bearing Survey No. 32/9 (Part), Allorna, Pernem Goa.
2. M/s S. Kumar Metals in plot Bearing Survey No. 32/4, 32/5, 32/6, 32/7 and 32/9(P), Allorna, Pernem Goa.
3. M/s Stonex bearing lease no. 1/Basalt/88 located in the Survey No. 681(P), Ussap



village, Latambarcem, Bicholim, North Goa.

4. M/s Stonex located in the Survey No. 681(Part), 684/1,684/2,684/3,646/6, Latambarcem, Bicholim, North Goa.

The EC of the above said Project Proponents is valid on the date of issue of extension. The Authority discussed the Extension of Environmental Clearances granted to the above Projects and decided to add additional clause under general conditions.

General Condition

Any guideline issued by MoEF&CC by way of Notification/Office Memorandum, if any during the validity period of this EC, then said Notification/ Office Memorandum will be made applicable from the date of issue of said Notification/Office Memorandum.

The meeting ended with thanks to chair.



(Smt. Reshma Mathew)
Member, Goa-SEIAA



(Shri. Suhas Godse)
Chairman, Goa-SEIAA



(Dasharath M. Redkar)
Member Secretary, Goa-SEIAA

Place: Patto-Panaji

Date: 02nd August 2022

Annexure – 1

Submissions to SEIAA on behalf of complainants:

1. The High Court has come to the conclusion, prima facie, that a prior EC would be required if minerals covered under "minor minerals" and "major minerals" to the extent of 1 million tonnes - and which would involve removal of an entire hill - are being excavated and removed from site (and also sold).
2. The company's stand has been (and continues to be) that this a perfectly legitimate activity - construction of an industrial shed-which is excluded from the purview of 8(a) of the EIA notification of 2006 and which is governed by a separate set of regulations already notified in the gazette. The company has filed its application for an EC under protest, and reserved its rights to withdraw its application and continue with its plea in the proceedings pendings before the Hogh Court.
3. The relevant portion of the High Court's order involving the SEIAA:

"Further, we clarify that neither pendency of this petition nor grant of this interim order will come in the way of the Respondent No.9 from applying for the EIA clearance under the EIA

Notification of 2006, no doubt, without prejudice to their rights and contentions that EIA Notification of 2006 is inapplicable to the activities presently undertaken by them. If such application is made, the SEIAA to consider such an application in accordance with law and on its own merits, on the basis that the EIA Notification of 2006 is in fact applicable notwithstanding the pendency of this petition and grant of this interim order. In fact, any determination by the SEIAA, will also assist this Court in determining the issue as to whether the extraction and transportation of over one million tonnes of minor mineral by flattening an entire mountain is indeed an environmentally benign activity requiring no clearance whatsoever under the provisions of Environment (Protection) Act, 1986 in general and EIA Notification of 2006 in particular."

4. Based on its prima facie findings after hearing all parties, the Court has stayed any further extraction activity on the said plots.
5. The High Court's stay is on the basis of the following, which is useful to place upfront:
 - a) First, whether an area of extraction is required to be declared a lease before EC becomes applicable? The Court has indicated this may not be necessary.
 - b) Second, once the threshold of 5 ha is met, EC may be inevitable. However, the Court has also referred to another Supreme Court judgment which requires EC for areas below 5 ha.
 - c) Extraction can be above the ground, as well as subterranean.
 - d) Dumping mineral outside a lease is not permitted, pursuant to the SC judgment in the Karnataka mining case which declared such dumping illegal.
 - e) if it is not a case of mining, why charge royalty and why consider its exclusion from the Goa Minor Minerals Concession Rules?

The application now filed for EC by the MRF in Form 2 is in respect of mining of minor and major minerals on the property in question under item No.1(a) of the EIA Schedule. This is the application now pending before the SEAA for consideration. It has the following aspects:

- a) Project title is "Levelling of Plot." However, on applicability of EIA notification, the proposal is described as falling under 1(a) of the Schedule to EIA 2006, major/minor minerals (item No. 3). The proposal is for a fresh EC. The actual quantity disclosed for extraction is 3,64,944 tons within a period of 6 months (item No.8(2)). It is also labeled as ROM (run of mine) under item No.35 (2)
- b) It is not clear whether this application is in respect of the quantity disclosed for extraction (3,64,944 tons). This query arises because the quantity as per approved permit of DMG under Rule 53, and for which royalty has been paid, is 9,75,000 tons. EC cannot be for balance part only. An undated consultant's report states that 9.2175 ha has been leveled, and materials extracted amount to 7,30,610 m³ out of 9,75,000 m³ (see page 4 and 5 of Plan for Cutting, Excavation and Levelling).
- c) Solid waste generated is shown as 4,76,203 tons (Form 2, item No.17) and is to be transported to location 4 km away from the site, to be disposed of by sale. The undated consultant's report shows solid waste as amounting to 3,17,469 m³ (p.9 of consultant's report).
- d) Total area of the amalgamated plot is 14.51 ha (1,45,100 sq mt). However, it is claimed that the immediate leveling proposal is in respect of 4.9 ha (49,000 sq mts), but the leveling has, by the consultant's report, reached 9.21 ha.
7. How should the SEIAA see this application? The claim that this is a "leveling project", and that it is connected with construction of an industrial shed, does not adequately describe the concerns in the petition and for which reason the High Court has stayed the project and the Company now approaches the SEIAA. While it is a fact that for erection of industrial shed, no EC is required, the petition in the High Court is neither in respect of EC for industrial shed nor for EC for the plant. It is explicitly in respect of removal of an entire mountain that was existing on the plot and a permit to remove 1 million tonnes of minor mineral, and transport half of it outside the lease. However, as the application in Form I is sought under 1(a) of the EIA schedule, with exemption being granted under Rule 53 of the Goa Minor Mineral Concession Rules, does the exemption place the extraction of 1 million tonnes of murrum/laterite and some major mineral (iron ore) as well outside the applicability of 1(a)?

In our respectful submission, the answer is no.

8. Some idea of the scale of intervention on the plot in terms of leveling can be seen from the Google pictures of the year 2016 and 2022, and photos submitted. Could such large scale extraction of nature (and the thick vegetation) be permitted within a few metres of the Khandepar river bank without an environmental impact study? As can be seen, the application in respect of 4.9 ha (to keep the figure below the notification figure of 5 ha), but as the consultant's report and the Google pictures and plans indicate, more than 9 ha has already been extracted and leveled. So the facts disclosed in Form 2 are on the face of it incorrect and therefore the form cannot be considered proper.
9. The studies and documents show more than 4 tonnes of extraction being taken to areas outside the plots. There is now an explicit prohibition (after Supreme Court's order in Karnataka mining case, reiterated also in the Goa mining case) for removal of any mining wastes outside the mining area, which would apply. The party has dumped the waste at a large number of plots, some 4 km away (see photos submitted). Dumping on comunidade land has been explicitly halted by a court order. In other areas, dumped mud has had negative consequences, including moving into the river bed. A prior EC would have ensured that if the material could not be dumped elsewhere outside the plot, the extraction would have been limited by the EC.
10. The MRF claims it has hill cutting permissions. However, a hill cutting permission cannot either in law or under common sense allow for removal of the entire hill (see photo)! In any case, no land preparation of any kind in relation to any activity can be carried out without a prior EC hand, if this is required.
11. Post facto ECs are not to be encouraged. MRF must bear the consequences. Ideally, it ought to have come to the SEIAA first. The SEIAA would have been required to take a view on whether an entire hill could be removed, with all the attendant vegetation, in order to put up an industrial shed. The balance of convenience, apart from ecological preservation is squarely weighed against such a destructive project. Now that the hill is destroyed, the SEIAA ought not to treat this matter as a fait accompli but should impose severe restitution costs on the party, who with such impunity decided to redraw the landscape of Ponda taluka.
12. The SEIAA may also examine whether there were mala fides disclosing themselves in the manner in which the extraction was done. This can be seen with the following:
 - a) First permission is sought and granted on 27.1.2017 only for 60,200 m³ of murrum and 40,800 m³ of laterite rubble.
 - b) On 27.2.2017, MRF claims to have made a "calculation error", and now seeks approval for extraction of 8,73,600 m³. This is also easily granted. The Goa government treats the application as a source of enhanced revenue. No questions are asked. Impact on environment is not even a consideration.
 - c) First dumping site is on Sy. No.206/1 of Petkem village, Dharbandora (Mahadev Kanolkar)
 - d) Second dumping site is in Sy.No.54/1 of Pilliem village, Dharbandora (Sudath Mandrekar)
 - e) Third dumping site is in Sy. No 253/2 of Usgao village, Ponda taluka (Salgaoncar Mining Industries)
 - f) Fourth dumping site on Sy. No.262/1 of Usgao village (issued to 5 truckers).
 - g) Stop work order is issued by Town Planning for cutting of hill without permission on 6.6.2017.
 - h) Stop work order is issued on complaint from Comunidade, and DC/SDM passes a detailed order dated 19.3.2019 in respect of illegal dumping in Sy. No.308/1 of Usgao (which is not mentioned in Form 2). TCP grants NOC, but DC orders restoration of site.
 - i) Stop work order is issued by the High Court of Bombay at Goa.
13. The entire exercise is carried out under the Goa Daman and Diu Minor Mineral Concession

Rules, 1985. These rules were issued before EPA, 1986, and certainly EIA notification, 2006, which brings in minor minerals within regulatory controls. The action of relying upon Rule 53 also completely ignores the entire findings and directions of the apex court in respect of things to be done in the case of mining of minor minerals laid down in Deepak Kumar. These include:

- a) Definition of minor minerals;
 - b) Preparation of a mining plan (p.17)
 - c) Environment clearance, even for areas below 5 ha in size (p.9);
 - d) Implement model guidelines.
14. We submit that a 1985 rule (53) pre-dating the Environment Protection Act and the slew of environment legislations, rules and orders that have been issued by the Government, apart from orders of the High Courts and the Supreme Court on sustainability and inter-generational equity cannot simply override the provisions of the EPA and EIA notification, and also disregard the directions given by the Apex Court in Deepak Kumar. In the humble opinion of the petitioners, a prior EC is required for the kind of extraction carried out by MRF. If, and if the work has been done without an EC, this would raise the issue of post-facto EC which cannot now be given, penalties, in addition to rehabilitation and restitution, including those areas where the materials have been dumped.

Annexure – 2

Shri. Suhas Godse	Chairman, Goa-SEIAA
Shri. Dasharath M. Redkar	Member Secretary, Goa-SEIAA
Smt. Reshma Mathew	Member, Goa-SEIAA

Annexure – 3

AGENDA OF THE 84th GOA STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (GOA-SEIAA) MEETING ON 02/08/2022 AT 03.30 P.M. IN THE CONFERENCE ROOM OF THE 4th FLOOR, DEMPO TOWER, PATTO, PANAJI-GOA.

1. To decide on application received from M/s MRF Ltd. locating at Survey No. 258/0,259/1 and 259/2-A, Tisk Usgao, Ponda Goa.
2. To decide on application received for extension of validity of Environment Clearance from Prashant V. Desai bearing Survey No. 63/3, Advai Sattari North Goa.
3. Any other matter with permission of the chair.