

F. No. IA3-22/11/2023-IA.III (E-208230)
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

3rd Floor, Vayu Wing
Indira Paryavaran Bhavan,
Jor Bagh Road,
New Delhi-110003

Dated: 28th April, 2023

OFFICE MEMORANDUM

Subject: Compliance of order dated 07.12.2022 passed by Hon'ble NGT in O.A.142 of 2022 in the matter of Jayant Kumar vs. Ministry of Environment, Forests and Climate Change - reg.

The Hon'ble National Green Tribunal (Principal Bench), New Delhi vide order dated 13.09.2018 in O.A. No. 186 of 2016 (Satendra Pandey vs Ministry of Environment Forest & Climate Change & Anr) had observed that the Ministry's Notification S.O. 141(E) dated 15.01.2016 was not in consonance with the directions given by Hon'ble Supreme Court in the matter of Deepak Kumar Vs. State of Haryana and Others and passed certain directions.

2. In the above case, Hon'ble NGT had *inter-alia* directed that mining projects with lease areas of 0 to 5 ha are to be evaluated by State Level Expert Appraisal Committee (SEAC) for recommendation and grant of Environmental Clearance (EC) by State Level Environment Impact Assessment Authority (SEIAA) instead of District Level Environment Impact Assessment Authority (DEIAA). In compliance of the said directions, Ministry issued an OM dated 12.12.2018 addressed to Chief Secretaries of all the States/UTs directing to comply with the directions of Hon'ble NGT.

3. Subsequently, Hon'ble NGT vide its order dated 07.12.2022 in O.A.142 of 2022 in the matter of Jayant Kumar vs. Ministry of Environment, Forests and Climate Change *inter-alia* observed that "mining leases in which environmental clearance was granted by DEIAA in view of amendment notification dated 15.01.2016 are still continuing even after passing of order dated 13.09.2018 by this Tribunal in Satendra Pandey (*supra*) and issuance of OM dated 12.12.2018 by MoEF&CC without any re-appraisal by SEIAA and appropriate remedial action on the basis of such re-appraisal. All such mining leases in which environmental

clearance was granted by DEIAA need to be brought in consonance with the directions given by Hon'ble Supreme Court in Deepak Kumar (supra) and order dated 13.09.2018 by this Tribunal in Satendra Pandey (supra) by re-appraisal by SEIAA and only such mining leases may be continued which have been on re-appraisal granted environmental clearance by SEIAA. MoEF&CC is, therefore, directed to take appropriate steps for compliance in this regard by issuance of requisite directions in exercise of the statutory powers under the Environment (Protection) Act, 1986."

4. The matter has been examined in the Ministry and accordingly it has been decided that all valid ECs issued by DEIAA shall be reappraised through SEAC/SEIAA in compliance to the order of the Hon'ble NGT in O.A.142 of 2022. In view of above, it is hereby directed that all concerned SEACs shall re-appraise the ECs issued by DEIAAs between 15.01.2016 and 13.09.2018 (including both dates) and all fresh ECs in this regard shall be granted only by SEIAAs based on such appraisal. The exercise shall be completed within a time period of one year from the date of issue of this OM. DEIAAs shall transfer all such files where ECs have been granted to concerned SEIAA within a time period of one month from issue of this OM. The State Government may assess the existing workload of SEAC(s) and accordingly, send proposals for constitution of additional SEAC for a specified period to deal with such additional workload.

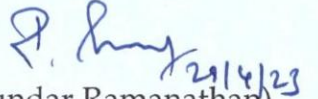
5. Further, in order to have a uniform approach across the country for such appraisal, SEIAA shall scrutiny and appraise the proposals based on the checklist provided below:

- i. Completely filled up Form-2 as per Ministry's OM dated 15.12.2021.
- ii. Pre-Feasibility Report (PFR) as per MoEF Guidelines dated 30.12.2010
- iii. Valid Mine Lease Document
- iv. Approved Mining Plan from the concerned Authorities
- v. District Survey Report approved by SEIAA as per Ministry's Notification S.O 3611(E) dated 25.07.2018
- vi. Implementation of "Sustainable Sand Mining Management Guidelines, 2016" and "Enforcement & Monitoring Guidelines for Sand Mining, 2020" in case of sand mining proposals.
- vii. Details of forest land involved in the mine lease area and availability of Stage-I/II Forest Clearance (FC) for diversion of forest land for non-forestry purpose.
- viii. Details of Eco Sensitive Zones (ESZ) and Eco Sensitive Areas (ESAs), National Parks, Wildlife Sanctuary, Coastal Zone, Water bodies and other ecological sensitive areas within/in the vicinity of the mine lease area and if so details of NOC/Clearances obtained.
- ix. If any Schedule-I species is present in the study area, proof of submission of Wildlife Conservation Plan to the Forest Department.
- x. Cluster Certificate from State Mines and Geology Department.

- xi. Compliance of Hon'ble Supreme Court judgment dated 02.08.2017 passed in Common Cause vs Union of India Writ Petition (C) 114 of 2014.
- xii. Proposal of 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. in compliance to the direction dated 8th January, 2020 of Hon'ble Supreme Court in Writ Petition(s) Civil No. 114/2014, Common Cause vs Union of India & Ors.

6. The provisions of this OM shall be operational subject to the outcome of Civil Appeal No. 3799-3800 of 2019 titled Union of India vs Rajiv Suri filed by Ministry before the Hon'ble Supreme Court of India against the order dated 13th September, 2018 passed in O.A. No. 200 of 2016 (Rajiv Suri Vs UOI) & order dated 21st December, 2018 passed in R.A. No. 47 of 2018 (UOI Vs Rajiv Suri).

7. This is issued with the approval of the Competent Authority.


(Sundar Ramanathan)
Scientist E

To

1. The Chairperson/Member Secretaries of all the SEIAAs/SEACs.
2. The Chairman of all the Expert Appraisal Committees
3. The Chairpersons/Member Secretaries of all SPCBs/UTPCCs.
4. All the officers of IA Division

Copy for information to:

1. PS to Hon'ble MEF&CC
2. PS to Hon'ble MoS, EF&CC
3. PPS to Secretary, EF&CC
4. PPS to AS (TK)/ JS(SKB)
5. Website, MoEF&CC /Guard file