

Item No.01

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)
Original Application No.96/2023(CZ)**

IN THE MATTER OF:

Yadram

S/o Sh. Chetram
R/o 34, Nagla Bhola
Sirrond, Bharatppur
Sirrond, Rajasthan, 321403.

Applicant

Vs.

1. **State of Rajasthan**
Through Secretary Dept. of Geology &
Mining, Directorate Udaipur. Respondent No. 1
2. **District Magistrate**
Bharatpur District
District Magistrate Office
Krishna Nagar, Bharatpur
Rajasthan, 321001. Respondent No. 2
3. **Union of India**
Through MoEF
Secretary Paryavaran Bhawan
Jor Bagh Road, New Delhi-110003. Respondent No. 3
4. **Taj Trapezium Zone Pollution**
(Prevention and Control) Authority
Senior Environmental Engineer
Office of Agra Development Authority
Jaipur House, Agra. Respondent No. 4
5. **SEIAA Rajasthan**
Through Secretary
4 Institutional Area, Jhalana Doongri
Jaipur 302004. Respondent No. 5
6. **Central Pollution Control Board**
Through Chairman, Parivesh Bhawan,
Maharshi Valmiki Marg, East Arjun Nagar,
Vishwas Nagar Extension, Vishwas Nagar,
Shahdara, Delhi-110032 Respondent No. 6
7. **Anil Poddar**
Plot No. 3, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.7

8. **Jai Girraj Stones**
Plot No. 4, Khasra No.01 & 76,
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.8
9. **Anil Poddar**
Plot No. 5, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.9
10. **Anil Poddar**
Plot No. 6, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.10
11. **Infinity Stonex India Private Limited**
Plot No. 7, Khasra No.01 & 76, Village-
Paharpur, Tehsil-Roopwas, District-
Bharatpur (Rajasthan) Respondent No.11
12. **Kanha Stone Suppliers**
Plot No. 8, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.12
13. **Devdashrath Royalties Private Limited**
Plot No. 9, Khasra No.01 & 76
Village-Paharpur, Tehsil- Roopwas
District-Bharatpur (Rajasthan). Respondent No.13
14. **Devdashrath Royalties Private Limited**
Plot No. 10, Khasra No.01 & 76
Village-Paharpur, Tehsil- Roopwas
District-Bharatpur (Rajasthan). Respondent No.14
15. **Krishna Associate**
Plot No. 11, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan) Respondent No.15
16. **Om Prakash Singh**
Plot No. 12, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.16
17. **Kapil Agarwal**
Plot No. 13, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.17
18. **Devdashrath Royalties Private Limited**
Plot No. 14, Khasra No.01 & 76
Village-Paharpur, Tehsil- Roopwas
District-Bharatpur (Rajasthan). Respondent No.18

19. **Anil Poddar**
Plot No. 15, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.19
20. **Madhukar Malviya**
Plot No. 16, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.20
21. **R B Distributors Private Limited**
Plot No. 17, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.21
22. **Pankaj Tiwari**
Plot No. 18, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.22
23. **R B Distributors Private Limited**
Plot No. 19, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.23
24. **Infinity Stonex India Private Limited**
Plot No. 20, Khasra No.01& 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.24
25. **Devdashrath Royalties Private Limited**
Plot No. 21, Khasra No.01 & 76
Village-Paharpur, Tehsil- Roopwas
District- Bharatpur (Rajasthan) Respondent No.25
26. **S S Group**
Plot No. 22, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.26
27. **Jagat Choudhry**
Plot No. 23, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.27
28. **Pankaj Tiwari**
Plot No. 24, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.28
29. **K K Gupta Construction Company**
Plot No. 25, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.29
30. **Deep Raj Singh**
Plot No.26, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.30

31. **Devdashrath Royalties Private Limited**
Plot No. 27, Khasra No.01 & 76
Village-Paharpur, Tehsil- Roopwas
District- Bharatpur (Rajasthan). Respondent No.31
32. **Devdashrath Royalties Private Limited**
Plot No. 28, Khasra No.01 & 76
Village-Paharpur, Tehsil- Roopwas
District- Bharatpur (Rajasthan). Respondent No.32
33. **Shiv Shankar Stones Suppliers**
Plot No. 29, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.33
34. **Sunlight Minerals**
Plot No. 30, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.34
35. **Rajendra Kunkulol**
Plot No. 31, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.35
36. **Sunlight Minerals**
Plot No. 32, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.36
37. **Shree Shyam Rolling Mill**
Plot No. 42, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.37
38. **Deep Raj Singh**
Plot No. 43, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District- Bharatpur (Rajasthan). Respondent No.38
39. **Faujdar Construction Company**
Plot No. 33, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.39
40. **Om Prakash Singh**
Plot No. 34, Khasra No.01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.40
41. **India E Hub Servces Pvt. Ltd.**
Plot No. 35, Khasra No. 01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.41
42. **India E Hub Servces Pvt. Ltd.**
Plot No. 36, Khasra . No 01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.42

43. **Learn & Excel Private Limited**
Plot No. 37, Khasra No. 01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.43
44. **Asif Ali**
Plot No. 38, Khasra No. 01 & 76
Village- Paharpur, Tehsil- Roopwas
District-Bharatpur (Rajasthan). Respondent No.44
45. **Cut Quite Gems Private Limited**
Plot No. 39, Khasra No.01 & 76
Village-Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.45
46. **R R Minerals**
Plot No. 40, Khasra No. 01 & 76
Village- Paharpur, Tehsil-Roopwas
District-Bharatpur (Rajasthan). Respondent No.46
47. **Paras Sethi**
Plot No. 41, Khasra No. 01 & 76
Village- Paharpur, Tehsil- Roopwas
District-Bharatpur (Rajasthan). Respondent No.47

COUNSELS FOR APPLICANT(S):

Mr. Ajit Sharma, Adv.

COUNSELS FOR RESPONDENT(S):

Mr. Shoeb Hasan Khan, Adv. for State of Rajasthan
Mr. Rohit Sharma, Adv. for SEIAA & RSPCB
Mr. Om Shankar Shrivastava, Adv. for MoEF&CC
Mr. Prshant Sthapak, Adv. for R-6
(with Mr. Shreeyash U. Lalit, Adv. & Mr. Angad Pahel, Adv.)
Mr. Nishant Awana, Adv. for R-7, 9,10 & 19
Mr. Sandeep Singh Shekhawat, Adv.

CORAM:

HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR CHATURVEDI, EXPERT MEMBER

Date of completion of hearing and reserving of order : 11.09.2025

Date of uploading of order on website : 25.09.2025

JUDGMENT

1. The applicant has filed this petition/application for the following relief :-

- a) Declare illegal the largescale sandstone mining in the
denotified area of the Band Baretha Wildlife Sanctuary, i.e.
in Bansi Pahadpur Blocks A & B for causing irreparable

damage to the flora and fauna of the Band Baretha Wildlife Sanctuary as well to the health of the people living in close proximity to the mining areas.

- b) Declare that large scale mining impermissible in District Bharatpur, which forms a part of the Taj Trapezium Zone, without conducting any analysis of the impact such mining would have on the protected monuments and health of the public.
- c) Pass necessary orders to halt sandstone mining in Bansi Pahadpur Blocks A & B of Bharatpur District, Rajasthan, which was formerly part of the Band Baretha Wildlife Sanctuary.
- d) Quash ESZ Notification dt. 26.12.2018 and subsequent amendment dt. 18.05.2021 issued by the MoEF being in violation to the judgment of the Hon'ble Supreme Court of India in In Re: T.N. Godavarman Thirumulpad vs. Union of India & Ors. [Writ Petition (C.) No. 202/1995, judgment dt. 3rd June 2022].
- e) Quash Environmental Clearance dt. 24.03.2022, issued in haste and two days after receiving recommendation of SEAC dt. 22.03.2022.
- f) Quash MoEF permission dt. 11.06.2021 permitting diversion of forest area for sandstone mining activity.
- g) Appoint a court commissioner to inspect the sandstone mining site at Bansi Pahadpur Blocks A & B for compliance with the terms of the Environmental Clearance dt. 24.03.2022 and to measure data regarding generation of

particulate matter or alternatively appoint a neutral committee of experts to carry out inspection.

h) In the alternative, direct the Respondents to ensure compliance with each of the conditions of the Environmental Clearance dt. 24.03.2022.

2. The grievance of the applicant is the permissions to carry out sand stone mining in the Bharatpur District of Rajasthan of approx. 4 crore tons per annum of sand stone, by specifically de-notifying protected area of the Band-Baretha Wildlife Sanctuary. Currently, about 42 leases granted for 50 years, operate in contiguous mining blocks to mine sandstone is in violation of the specific conditions stipulated in the Environmental Clearance dt 24.03.2022 and generate enormous amounts of inhalable dust pollution.
3. Two blocks namely Bansi Pahadpur-A and Bansi Pahadpur-B were notified and declared as Sanctuary under Section 18 of the Wildlife Protection Act, 1972 and falls under the Taj Trapezium Zone. Main ground for challenge in the application is that the Expert Appraisal Committee (EAC) did not determine the question whether the project could be allowed in Taj Trapezium Zone (TTZ) area where adhoc moratorium on expansion and setting up of the new industries is in operation, as per decision of the MoEF&CC dated 08.09.2016. The project will affect Taj Mahal, which is a World Heritage site. Even though the applicant has raised certain other objections, which are not necessary to be referred.
4. The contention of the applicant is that Hon'ble the Supreme Court of India vide order dated 17.11.2004 in W.P. (C) No. 653 of 1994 Waseem Ahmed Saeed Vs. Union of India & Anr. has ordered that no blasting

operations are allowed within 10 Km. from Shrine of Darga Saleem Chisti, Fatehpur Sikri.

5. The matter was taken up by this Tribunal at the stage of admission and notices were issued to the respondents in addition to constituting a committee with direction to submit the factual and action taken report.

The relevant portion of the order dated .01.09.2023 are as follows :-

1. *“We deem it just and proper to call a report on the matter in issue in present Original Application, from a Joint Committee consisting of:-*

(i) One representative from MoEF&CC.

(ii) One representative from Central Pollution Control Board.

(iii) One representative from Taz Trapezium Zone Pollution (Prevention and Control) Authority, Jaipur House, Agra

(iv) One representative from State Pollution Control Board

2. *We further direct the Committee to visit the place and submit the factual and action taken report within four weeks. The State PCB will be the nodal agency for coordination and logistic support.*

3. *In case mining is found in violation of environmental rules, EC conditions and order of Hon’ble Supreme Court of India with regard to Taz Trapezium Zone, necessary actions must be initiated immediately and further action taken report be filed before this Tribunal.”*

6. Respondents have filed the reply. Members of the committee visited the site and submitted the report. In response to the above report the applicant has filed the objection. We have heard the learned counsel for the parties and perused the record.
7. Submission and contention of the learned counsel for the applicant are that on 26.12.2018 vide a Gazette Notification, the ministry of Environment, Forest and Climate Change, declared the Bandh-Baretha Wildlife Sanctuary situated in Bharatpur district, spread over an area of 204.16 square kilometers as an Eco-sensitive Zone.
8. On 01.04.2021 and 02.04.2021 a part of this Eco-sensitive Zone of the Bandh-Baretha Wildlife Sanctuary was de-notified pursuant to the State Government of Rajasthan's request letters. On 18.05.2021 pursuant to the letters dt. 01.04.2021 and 02.04.2021 by the State Government of Rajasthan two standalone blocks namely Bansi Pahadpur-A admeasuring 221.75 hectares and Bansi Pahadpur-B admeasuring 424.81 hectares (combined area of 0.5387 square kilometers) were de-notified by the Gazette Notification, of the ministry of Environment, Forest and Climate Change.
9. On 11.06.2021 a letter was sent by the ministry of Environment, Forest and Climate Change to the Principal Secretary (Forests), Government of Rajasthan for the diversion of forest land for mining and generation of employment and earning of revenue. On 12.10.2021 a State Level Impact Assessment Authority was constituted by the Gazette Notification, of the ministry of Environment, Forest and Climate Change in the State of Rajasthan.
10. On 21.10.2021 and 27.10.2021, auctions notices were published by the State for Rajasthan for Sandstone mining leases in district Bharatpur.

Pursuant to which leases were granted and mining activities started. In 2021 Numerous detailed representations have been sent by the local villagers who are residents of the same area where large scale mining has been taking place to the DM of Bharatpur District and to various other statutory authorities. On 24.03.2022, an Environment Clearance was granted to the Pharpur Sandstone mining Project.

11. The applicant has challenged the notifications and EC granted by the respondent on the following grounds:-

- i. *“The forest land which was taken out of the Sanctuary cannot be diverted in favour of the Department of Mines & Geology, Rajasthan, for the purpose of sandstone mining, which is a highly polluting industry.*
- ii. *Protected area which has been declared as a sanctuary under Section 18 of the Wildlife Protection, Act 1972 comprises of adequate ecological, floral, and faunal significance for the purpose of protecting it de-notifying such a highly sensitive area cannot be done in a such a casual manner.*
- iii. *Such an Eco-sensitive zone which should have ideally been given the highest protection, on the contrary, permitting one of the most polluting industries shall cause irreparable loss to the biodiversity of the area.*
- iv. *The whole de-notification exercise and granting permission for mining has been deliberately carried out in a casual manner with no compliance, approved plans or any kind of remedial measures.*

- v. *A single EC was issued for all these mining leases and further the EC itself records that the mining leases are located in close proximity to abadi area (i.e. Village Paharpur is only 300 meters away as per EC) and to the remaining Sanctuary area.*
- vi. *The de-notified area of the Bandh-Baretha Wildlife Sanctuary where the Paharpur Sandstone Cluster Mining Project is being carried out admittedly falls under the Taj Trapezium Zone which comprises monuments including three World Heritage Sites the Taj Mahal, Agra Fort and Fatehpur Sikri.*
- vii. *Taj Trapezium Zone Pollution (Prevention and Control) Authority is the concerned authority which was constituted by the ministry of Environment and forests in the year 1998, and has been specifically given the power to deal with any environmental issue which may be referred to it by the Central Government or the State Governments of Uttar Pradesh and Rajasthan relating to the Taj Trapezium Zone and in the present no such reference was ever made.”*

12. The applicant had relied on the Hon'ble Supreme Court of India in M.C. Mehta Vs. Union of India (reported as 1987 AIR 1086) held as follows:-

"The atmospheric pollution TTZ has to be eliminated at any cost. Not even one percent chance can be taken when-human life apart the preservation of a prestigious monument like Taj is involved. In any case, in view of the precautionary principle as defined by this Court, the environmental measures

must anticipate, prevent and attack the causes of environmental degradation."

13. It is further argued that, the Hon'ble Supreme Court in MC Mehta Vs. Union of India [(2009) 6 SCC 142] interfered and suspended all mining activities in the whole Aravali hills region in Haryana. However, it is true that in an earlier decision reported as [(2004) 12 SCC 118] a balancing approach between development and mining was adopted by the Supreme court. Therefore, the Apex court rightly held that balancing of mining activities with environment protection, and banning such activities, if they affect the environment are two sides of the same principle of sustainable development.
14. The matter of mine and minerals of District Bharatpur, Rajasthan was taken up by this Tribunal in Appeal No. 48/2018 and vide order dated 03.02.2021, the Tribunal observed as follows :-

1. *"Apart from the above, we are informed that the Hon'ble Supreme Court disposed of W.P. (C) No. 13381 of 1984, M.C. Mehta v. UOI & Ors. on the subject of activities in the TTZ area vide order dated 16.12.2019 with the following observations:-*

"1 to 7....xxx.....xxx.....xxx

8.. As regards permission for establishing nonpolluting industrial units, it appears to us that only those small, micro and macro level industries which are both nonpolluting and eco-friendly and which have necessary clearances from all statutory authorities as well as concurrence of the Central Empowerment Committee and NEERI, can be setup within the notified industrial area.

9. We, thus, clarify that since the interim order dated 22nd March 2018 directing maintenance of status quo was passed

to ensure timely submission of the Vision Plan by the State of U.P. and the said direction already stands complied with, there shall be no impediment for the authorities to consider pending environmental clearances which are necessary to secure essential amenities within TTZ. Simultaneously, the State and other statutory authorities are free to consider requests for relocating eco-friendly nonpolluting industrial units, subject to them meticulously complying with environmental laws and all norms/conditions laid down by this Court (including those in the main judgment of 30th December 1996). Concurrence with the Central Empowerment Committee and opinion of NEERI shall also be necessary before according such permission.

& There shall, however, be an embargo on granting clearances to and/or shifting of any heavy industry until a final decision is taken on the vision document. The interlocutory application is accordingly disposed in above terms.”

15. And the Tribunal directed as follows :-

“In view of order of the Hon’ble Supreme Court dated 16.12.2019, only small, micro and macro level industries which are both non- polluting and eco-friendly or which are necessary to secure essential amenities within TTZ can be allowed in TTZ. The project in question is a Red Category project involving blasting within 10 kms of TTZ which is not permissible. Thus, the impugned EC is liable to be set aside. However, in absence of any representation by the MoEF&CC and the project proponent, we direct that the MoEF&CC to pass an appropriate further order in the matter within two months from today and till such a decision is taken, the impugned EC may not be given effect and no mining in terms of the project may be carried out.”

16. In the matter of *T.N. Godavarman Thirumulpad Vs. Union of India & Ors.* Hon'ble the Supreme Court of India considered the safety measures required to be taken for eco-sensitive zones around National Parks and Wildlife Sanctuaries and observed as follows :-

1. *"The second report of the CEC dated 20th September 2012 makes the following recommendations as regards identification and declaration of ESZ. This report entitled "Note regarding safety zones (Eco-sensitive zones) around National Parks and Wildlife Sanctuaries" makes the following recommendations:-*

"10. After considering that during the last ten years no significant progress has been made regarding identification and declaration of Safety Zones around protected areas and considering the matter in its totality, an implementable scheme has been prepared by the CEC and which has been dealt with in subsequent paragraphs.

11. For the purpose of identification and declaration of the Safety Zones around National Parks/ Wildlife Sanctuaries (hereinafter referred to as protected areas), the protected areas based on their areas, are classified into four categories:

*i) **CATEGORY-A** - the protected areas having an area of 500 sq. km. or more. The total number of such protected areas is 73 and their total area is about 1,01,389 sq. km (63.44 % of total area of protected areas);*

*ii) **CATEGORY-B** - the protected areas having an area between 200 sq. km. to 500 sq. km. The total number of such protected areas is 115 and their total area is about 38942 sq. km. (24.37 % of total area of protected areas.*

*iii) **CATEGORY-C** - the protected areas having an*

area between 100 sq. km. to 200 sq. km. The total number of such protected areas is 85 and their total area is about 12,066 sq. km (about 7.55 % of total area of protected areas); and

- iv) **CATEGORY-D** - the protected areas having an area up to 100 sq. km. The total number of such protected areas is 344 and their total area is about 7,422 sq. km (about 4.65 % of total area of all protected areas).

12. Wherever two or more protected areas are contiguous to each other, such protected areas will be placed in the appropriate category based on the sum total of their areas (and not on the basis of area of individual protected area). The details of some of the contiguous protected areas are given below:

a) Corbett National Park (520 sq. km.) and Sonanadi Sanctuary (301 sq. km) - total area is 821 sq. km and therefore both will fall in Category-A;

b) Gir National Park (258 sq. km.) and Gir Sanctuary (1,153 sq. km.) - total area is 1,411 sq. km. and therefore both will fall in Category- A;

c) Periyar National Park (350 sq. km.) and Periyar Sanctuary (427 sq. km.) - total area is 777 sq. km. and therefore both will fall in Category-A;

d) Satpura National Park (585 sq. km.), Bori Sanctuary (485 sq. km.) and Pachmarhi Sanctuary (417 sq. km.) - total area is 1488 sq. km. and

therefore all three will fall in Category- A;

*e) Valmiki National Park (335 sq. km.)
and Valmiki Sanctuary (545 sq. km.)
- total area is 880 sq . km. and
therefore both will fall in Category-A;*

*f) Tadoba National Park (116 sq. km.)
and Andhari Wildlife Sanctuary (509
sq. km.) - total area is 625 sq. km.
and therefore both will fall in
Category-A; and*

*g) Sariska National Park (273 sq. km.)
and Sariska Sanctuary (219 sq. km.)
- total area is 492 sq. km. and
therefore both will fall in Category-B;*

12. The Safety Zone, in respect of protected areas falling in 'Category-A and Category-B, may comprise of all the areas including non-forest areas falling within a distance of two kilometers and one kilometer respectively from the boundaries of the protected area. Such distances, in respect of protected areas falling within Category-C and Category-D, may be kept at 500 meter and 100 meter respectively.

13. The grant/renewal of mining leases (excluding for collection of boulders, gravel and sand from river beds), setting up of hazardous industries, brick kilns, wood based industries (except MDF/Particle Boards Plants) will be treated as prohibited activities within the Safety Zone (eco-sensitive zones). The activities such as setting up of industries (other than those included in the list of prohibited activities), hotels

and restaurants including resorts, commercial helicopter services, hydel projects, irrigations projects, canals, laying of transmission lines and distribution lines above 33 KV, roads of more than five meter width and collection of boulders, gravel and sand from the river beds will be treated as regulated activities and which will be permissible only after obtaining environment clearance and clearance of the Standing Committee, National Board for Wildlife. All other activities which are not prescribed as prohibited activities or regulated activities will be treated as permissible activities.

14. The concerned State/UT will be at liberty to shift a protected area from a lower category to higher category (say from Category-C to Category-B) after considering the importance of the protected area on account of:

- i. presence of flagship species/endangered species such as Tiger, Lion, Elephant, Rhino, Snow Leopard, Red Panda, Hangul, Musk deer, Great Indian Bustard, Lion Tailed Macaque, floricans;*
- ii. fragile eco-system such as Western Ghats, North Eastern States, areas having high altitude flora and fauna, rain forest, mangroves, marine eco-system;*
- iii. World Heritage sites; and*
- iv. Wetland eco-systems*

15. The concerned State/UT Governments may after detailed examination of the status of habitation, existing industries and other activities and other relevant factors, and, if found desirable and in public interest forward the proposal(s) for shifting

a protected area from a higher category to a lower category. They may also forward the proposal(s) for exclusion of the areas of cities falling within the Safety Zone. The MoEF thereafter will examine such proposals and place such proposals before the Standing Committee of the National Board for Wildlife for its consideration. The proposals cleared by the Standing Committee of the NBWL will be placed before this Hon'ble Court for seeking its permission. It is only after obtaining the permission of this Hon'ble Court that a protected area may be shifted from a higher category to a lower category.

16. The Safety Zones (eco-sensitive zones) around National Parks and Wildlife Sanctuaries will be in addition to the following eco-sensitive zones notified by the MoEF (and by other notifications, if any):

i) S.O. 20(E), (6/1/1989) - Prohibiting industries on Murud- Janijira, District Raigadh, Maharashtra;

ii) S.O. 102(E), (1/2/1989) - Restricting location of industries, mining & other activities in Doon Valley (UP);

iii) S.O. 416(E), (20/6/1991) - Dahanu Taluka, District Thane (Maharashtra) to declare as Ecologically Fragile Area, amended 1999;

iv) S.O.319(E), (7/5/1992) - Restricting certain activities causing environmental degradation at Aravalli Range;

v) S.O. 481 (E), (5/7/1996) - No Development Zone at Numaligarh, East of Kaziranga; vi) S.O. 884(E), (19/12/1996) - Dahanu Taluka Environment Protection Authority, 1996, amended 2001 ;

vii) S.O. 350(E), (13/5/1998) - Order constituting the Taj Trapezium Zone Pollution (Prevent and Control) Authority;

viii) S.O. 825(E), (17.9.1998) - Pachmarhi Region as an Eco- Sensitive Zone;

ix) S.O. 52(E), (17/1/2001) Mahabaleswar Panchgani Region as an Eco-Sensitive Zone;

x) S.O. 133 (E), (4/2/2003) - Matheran and surrounding region as an Eco-Sensitive Zone 1. S.O. 83 (E), (16/01/2004) - Amendments to S.O. 133(E) dated 4/2/2003;

xi) S.O. 1545(E), (25/06/2009), Mount Abu as Eco- Sensitive Zone.

xii) S.O. 1260(E), (31/05/2012) - Girnar Reserve Forest as Eco-Sensitive Zone.

17. In [(1997) 2 SCC 267] it has been observed by the Hon'ble Supreme Court :-

“4. The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word “forest” must be understood according

to its dictionary meaning. This description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term “forest land”, occurring in Section 2, will not only include “forest” as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof. This aspect has been made abundantly clear in the decisions of this Court in *Ambica Quarry Works v. State of Gujarat* [(1987) 1 SCC 213], *Rural Litigation and Entitlement Kendra v. State of U.P.* [1989 Supp (1) SCC 504] and recently in the order dated 29-11-1996 (*Supreme Court Monitoring Committee v. Mussoorie Dehradun Development Authority* [WP (C) No 749 of 1995 decided on 29-11-1996]). The earlier decision of this Court in *State of Bihar v. Banshi Ram Modi* [(1985) 3 SCC 643] has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this Court to dispel the doubt, if any, in the perception of any State Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions granted for mining in such area which is clearly contrary to the decisions of this Court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay.”

18. The role of the State cannot be confined to that of a facilitator or generator of economic activities for immediate upliftment of the fortunes of the State. The State also has to act as a trustee for the benefit of the general public in relation to the natural resources so that sustainable development can be achieved in the long term. Such role of the State is more relevant today, than, possibly, at any point of time in history with the threat of climate catastrophe resulting from global warming looming large. The Court has highlighted the Public Trust Doctrine in the case of *M.C. Mehta v. Kamal Nath and Others* [(1997) 1 SCC 388] and opined that the Public Trust Doctrine is part of the law of land. In Paragraph 25 of the said judgment, as reported, this doctrine has been explained with reference to writings of Joseph L. Sax, Professor of Law, University of Michigan, the proponent of Modern Public Trust Doctrine:-

“25. The Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. According to Professor Sax the Public Trust Doctrine imposes the following restrictions on governmental authority:

“Three types of restrictions on governmental authority are often thought to be imposed by the public trust: first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second, the property may not be sold, even for a fair cash equivalent; and third

the property must be maintained for particular types of uses.”

19. And finally in para 44 the Hon’ble Supreme Court directed as follows :-

- a) Each protected forest, that is national park or wildlife sanctuary must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities proscribed and prescribed in the Guidelines of 9th February 2011 shall be strictly adhered to. For Jamua Ramgarh wildlife sanctuary, it shall be 500 metres so far as subsisting activities are concerned.*
- b) In the event, however, the ESZ is already prescribed as per law that goes beyond one kilometre buffer zone, the wider margin as ESZ shall prevail. If such wider buffer zone beyond one kilometre is proposed under any statutory instrument for a particular national park or wildlife sanctuary awaiting final decision in that regard, then till such final decision is taken, the ESZ covering the area beyond one kilometre as proposed shall be maintained.*
- c) The Principal Chief Conservator of Forests as also the Home Secretary of each State and Union Territory shall remain responsible for proper compliance of the said Guidelines as regards nature of use within the ESZ of all national parks and sanctuaries within a particular State or Union Territory. The Principal Chief Conservator of Forests for each State and Union Territory shall also arrange to make a list of subsisting structures and other relevant details within the respective ESZs forthwith and a report shall be furnished before this Court by the Principal Chief Conservator of Forests of each State and Union Territory within a period of three months. For this purpose, such authority shall be entitled to take assistance of any governmental agency for satellite imaging or photography using drones.*
- d) Mining within the national parks and wildlife sanctuaries shall not be permitted.*

- e) *In the event any activity is already being undertaken within the one kilometre or extended buffer zone (ESZ), as the case may be, of any wildlife sanctuary or national park which does not come within the ambit of prohibited activities as per the 9th February 2011 Guidelines, such activities may continue with permission of the Principal Chief Conservator of Forests of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months. Such permission shall be given once the Principal Chief Conservator of Forests is satisfied that the activities concerned do not come within the prohibited list and were continuing prior to passing of this order in a legitimate manner. No new permanent structure shall be permitted to come up for whatsoever purpose within the ESZ.*
- f) *The minimum width of the ESZ may be diluted in overwhelming public interest but for that purpose the State or Union Territory concerned shall approach the CEC and MoEF&CC and both these bodies shall give their respective opinions/recommendations before this Court. On that basis, this Court shall pass appropriate order.*
- g) *In the event the CEC, MoEF&CC, the Standing Committee of National Board of Wildlife or any other body of persons or individual having special interest in environmental issues consider it necessary for maintaining a wider or larger ESZ in respect of any national park or wildlife sanctuary, such body or individual shall approach the CEC. In such a situation the CEC shall be at liberty to examine the need of a wider ESZ in respect of any national park or wildlife sanctuary in consultation with all the stakeholders including the State or Union Territory concerned, MoEF&CC as also the Standing Committee of National Board of Wildlife and then approach this Court with its recommendations.”*

20. It is further contended by the learned counsel for the applicant that the specific conditions for –

- i. Robust dust free road

- ii. Designated parking facility
 - iii. Roads should be metalled and maintained
 - iv. Continuous ambient air quality monitoring station
 - v. Registration of mining lease and execution after public hearing
- were not complied with by the respondents.

21. Firstly, the applicant has challenged the notification dated 18.05.2021 issued by the Ministry of Environment, Forest and Climate Change which is quoted below:-

**“MINISTRY OF ENVIRONMENT, FOREST AND
CLIMATE CHANGE**

**NOTIFICATION
New Delhi, the 18th May, 2021**

S.O. 1929(E).-WHEREAS by the notification of the Government of India in the Ministry of Environment, Forest and Climate Change published in the Gazette of India vide number S.O. 6319(E), dated the 26th December 2018, the Central Government notified an Eco-sensitive Zone (ESZ) surrounding the Bandh Baretha Wildlife Sanctuary in the State of Rajasthan;

AND WHEREAS, the State Government of Rajasthan vide letters number 1(71)/Band Baretha/Forest/2002pt, dated 1 April, 2021 and dated 2nd April 2021, has communicated that two standalone blocks namely Bansi Pahadpur-A and Bansi Pahadpur-B of the notified Band Baretha Wildlife Sanctuary have been denotified vide Gazette No. F1(71) Van/Bandh-Baretha/02 Part dated 23rd March, 2021. The area of Bansi Pahadpur-A is 221.75 hectares with ESZ extent and area of 25 m and 26.356 ha, respectively. The

area of Bansi Pahadpur-B is 424.81 hectares with ESZ extent and area of 25 m and 27.514 ha, respectively. The State Government of Rajasthan has also requested that since the above mentioned blocks are no more part of the notified Sanctuary, the ESZ around these two blocks with combined area of 53.870 ha (0.5387 square kilometers) to be considered denotified.

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1), clauses (v) and (xiv) of sub-section (2) and sub-section (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification, namely:-

- 1) in paragraph 1, in sub-paragraph (1), for the words and figures "area of the Eco-sensitive Zone is 173.92 square kilometres", the words and figures "area of the Eco-sensitive Zone is 173.38 square kilometres" shall be substituted;*
- 2) for Annexure IIA to Annexure IIF, the enclosed Annexures shall be substituted;*
- 3) in Table B of Annexure-III, Sl. No. 6 and S. No. 15 shall be omitted.*

[F.No. 25/56/2015-ESZ-RE]

Dr. SATISH C. GARKOTI, Scientist G'

Note: The principal notification was published in the Gazette of India, Extraordinary, Para II, Section 3, Sub-section (ii), vide number S. O. 6319(E), dated the 26th December, 2018."

22. The applicant has further challenged the notification dated 11.06.2021 issued by the Government of India, MoEF&CC for diversion of the land in favour of DMG Rajasthan in Pahadpur Block A & B for mining and generation of employment and earning of revenue for Government in Bharatpur District in the State of Rajasthan which is quoted below :-

“File No.8-14/2021_FC

Government of India

Ministry of Environment, Forests and Climate Change

(Forest Conservation Division)

Indira Paryavaran Bhawan,

Aliganj, Jor Bag Road, New Delhi-110003.

Dated: 11th June, 2021

To,

The Principal Secretary (Forests),

Government of Rajasthan,

Jaipur

Sub: Diversion of 398.0085 ha of forest land in favour of DMG, Rajasthan in Pahadpur Block A & B for mining and generation of employment and earning of revenue for Government in Bharatpur District in the State of Rajasthan (FP/RJ/MIN/125714/2021).

Madam/Sir,

I am directed to refer to the Government of Rajasthan's proposal No. FP/RJ/MIN/125714/2021 uploaded on PARIVESH portal for seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980 and inform that the said proposal has been examined by the Forest Advisory Committee constituted by the Central Government under Section-3 of the aforesaid Act.

After careful examination of the proposal of the State Government and on the basis of the recommendations of

the Forest Advisory Committee, In-principle approval/Stage-1 Clearance of the Central Government is hereby accorded for diversion of 398.0085 ha of forest land in favour of DMG, Rajasthan in Pahadpur Block A & B for raining and generation of employment and earning of revenue for Government in Bharatpur District in the State of Rajasthan subject to fulfillment of the following conditions:

(i to xxix) with all these conditions as enumerated in these paragraphs).”

23. The MoEF&CC vide notification dated 12.10.2021 constituted a State Level Environment Impact Assessment Authority for the State of Rajasthan directing the State Govt. of Rajasthan to notify an agency to act as secretariate for the authority of Rajasthan and SEAC-I and SEAC-II. Third challenge in the application is the notification for e-auction proceedings issued by the Mining Department of the State of Rajasthan.
24. The SEAC, Rajasthan after due consideration of the relevant document submitted by the project proponent and additional clarification furnished to it have recommended for environmental clearance with certain stipulation and the SEIAA, Rajasthan after considering the proposal and recommendation of SEAC, Rajasthan in its 510th Meeting held on 23.03.2022, accorded environmental clearance to the project with certain stipulation and conditions and EC was issued by the SEIAA, Rajasthan on dated 24.03.2022, the Mining Department, Rajasthan and applicant has also grievance and prayed for cancellation of the EC.
25. Learned counsel for the applicant has relied on Appeal No. 48/2018 (order dated 03.02.2021) which was in relation to mining in certain areas in District Bharatpur for the present EC was issued after the order of this

Tribunal in Appeal No. 48/2018 on 24.03.2022. While considering the EC the report of the SEAC in light of the orders passed by the Tribunal or the Hon'ble Supreme Court was re-considered and was issued according to rules.

26. The contention of the learned counsel for the respondent are that the remedy to the applicant lies for challenging the EC by means of filing an appeal and not by original application.
27. Learned counsel for the applicant has further argued and relied on Hon'ble Supreme Court of India I.A. No. 1000/2003 in Writ Petition (Civil) No. 202/1995 in *T.N Godaverman Thirumulpad Vs. Union of India & Ors.*, Judgment dated 03.06.2022 and quoted relevant provisions as follows :-

"In [(1997) 2 SCC 267] it has been observed by the Hon'ble Supreme Court of India :-

"4. The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The

term "forest land". occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the dated purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof. This aspect has been made abundantly clear in the decisions of this Court in Ambica Quarry Works v. State of Gujarat [(1987) 1 SCC 213], Rural Litigation and Entitlement Kendra v. State of U.P. [1989 Supp (1) SCC 504] and recently in the order 29-11-1996 (Supreme Court Monitoring Committee v. Mussoorie Dehradun Development Authority [WP (C) No 749 of 1995 decided on 29-11-1996]). The earlier decision of this Court in State of Bihar v. Banshi Ram Modi ((1985) 3 SCC 643] has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this Court to dispel the doubt, if any, in the perception of any State Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions

granted for mining in such area which is clearly contrary to the decisions of this Court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay."

28. Hon'ble the court has observed in following paras as follows:-

- i. *It has also been highlighted by the State that 25 sanctuaries, 2 national parks have been declared by the State comprising of a total area of 9,07,070 hectares and an area of 23,29,659 hectares of area as forest area or deemed forest is already existing as eco-sensitive/eco fragile/buffer/safety zones in that State within which no non-forest activities is allowed without proper permission under the Forest (Conservation) Act, 1980. The State of Rajasthan has opposed the proposal for declaring 10 kilometres beyond the boundary of sanctuaries and national parks being declared as ESZ.*
- ii. *The approach of the Court in dealing with complaints of environmental degradation has been laid down by this very Bench in this Writ Petition itself in an order passed on 9th May 2022 in connection with another set of applications. In this Order, it has been observed and held:-*

"15. Adherence to the principle of sustainable development is a constitutional requirement. While applying the principle of sustainable

development one must bear in mind that development which meets the needs of the present without compromising the ability of the future generations to meet their own needs. Therefore, Courts are required to balance development needs with the protection of the environment and ecology. It is the duty of the State under our Constitution to devise and implement a coherent and coordinated programme to meet its obligation of sustainable development based on inter-generational equity. While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment destruction and violation; at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment.

16. In Vellore Citizens' Welfare Forum v. Union of India, this Court held that the 'Precautionary Principle' is an essential feature of the principle of 'Sustainable Development'. It went on to

explain the precautionary principle in the following terms: -

- i. Environmental measures and the statutory authorities by the State Government must anticipate, prevent and attack the causes of environmental degradation.*
- ii. Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing environmental degradation. measures to prevent*
- iii. The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.*

17. The principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. It is based on scientific uncertainty. Environmental protection should not only aim at protecting health, property and economic interest but also protect the environment for its own sake. Precautionary duties must not only be triggered by the suspicion of concrete danger but also by justified concern or risk potential.

18. A situation may arise where there may be irreparable damage to the environment after an activity is allowed to go ahead and if it is stopped, there may be irreparable damage to economic interest. This Court held that in case of a doubt, protection of environment would have precedence over the economic interest. It was further held that precautionary principle requires anticipatory action to be taken to prevent harm and that harm can be prevented even on a reasonable suspicion. Further, this Court emphasises in the said judgment that it is not always necessary that there should be direct evidence of harm to the environment."

While dealing with the applications in the present set of proceedings, we shall follow the same principles.

- iv. In our opinion, the Guidelines framed on 9th February 2011 appears to be reasonable and we accept the view of the Standing Committee that uniform Guidelines may not be possible in respect of each sanctuary or national parks for maintaining ESZ. We are of the opinion, however, that a minimum width of 1 kilometre ESZ ought to be maintained in respect of the protected forests, which forms part of the recommendations of the CEC in relation to Category B protected forests. This would be the standard formula, subject to changes in special circumstances. We have considered CEC's*

recommendation that the ESZ should be relatable to the area covered by a protected forest but the Standing Committee's view that the area of a protected forest may not always be a reasonable criteria also merits consideration. It was argued before us that the 1 km wide "no-development-zone" may not be feasible in all cases and specific instances were given for Sanjay Gandhi National Park and Guindy National Park in Mumbai and Chennai metropolis respectively which have urban activities in very close proximity. These sanctuaries shall form special cases."

29. The main objection as raised in the application by the applicant contains the following issues :-

i. **De-notification of sanctuary area for sandstone mining:** *The Band Baretha Wildlife Sanctuary was declared as a sanctuary vide Notification dt. 07.10.1985 in District Bharatpur, Rajasthan. It is pertinent to mention here that the said protected area had been declared as a sanctuary under Section 18 of the Wildlife Protection, Act 1972. De-notifying sanctuary land, which enjoys the highest protection for conservation, to permit sandstone mining, i.e. one of the most polluting industries, shall cause irreparable loss to the biodiversity of the area. As such, it submitted that the whole de-notification exercise and granting permission for mining has*

been deliberately carried out in a casual manner with no compliance, approved plans or any kind of remedial measures.

ii. *De-notified area falls within the taj trapezium zone: No reference was ever made to Taj Trapezium Zone Pollution (Prevention and Control) Authority by SEIAA or SEAC and the EC is conspicuously silent in this regard.*

iii. **Mining is classified as red category industry by CPCB:** *Mining has been classified in the most polluting industries having Pollution Index score of 60 and above under the red category. Therefore, to de-notify the Sanctuary land and permit a highly polluting mining activity on it is directly contrary to the cause of the environment.*

iv. **All mining leases are contiguous:** *It is submitted that there are more than 40 sandstone mining leases which are currently being operated in both the blocks namely Bansi Pahadpur-A and Bansi Pahadpur-B. Pertinently, it is submitted that contiguous pieces of land should not be broken down into smaller leases as the same shall lead to manipulation in auction.*

v. **Terms of Environment Clearance not being complied with:** *It is submitted that the 49 plus lease holders who are operating sandstone*

mining leases in the de-notified area of the Bandh-Baretha Wildlife Sanctuary are carrying out mining outside the lease areas and are also not complying with the following conditions of the common environmental clearance dt. 24.03.2022:

- vi. **Mining area adjacent to the abadi area & sanctuary:** *It is submitted that of late several instances of illegal mining activities have been reported from the Bharatpur District of Rajasthan, which has become a hotbed of illegal mining. Admittedly, local villagers have been living adjacent to these mining areas within a close radius from where the mining activities are being carried out. As these sandstone mining activities are bound to generate a lot of inhalable dust particles it is inevitable that it will cause irreparable damage to the health of these villagers as well as the environment, which being national asset subject to inter-generational equity.*
- vii. **Large scale illegal mining going on with the connivance of state officials:** *It is submitted that of late, these illegal mining has been going on with the connivance of State officials, who are involved with the mining proponents and therefore, it is prayed that a neutral committee should be appointed to carry out inspection.”*

30. The Tribunal at the time of admission constituted a committee consisting the representative of MoEF&CC, CPCB, one member representative from the Taz Trapezium Zone Pollution, Agra and one representative of State Pollution Control Board with direction to submit the factual and action taken report. The members of the committee visited the site and submitted the report with the following facts :-

1) *The area under question is sandstone mining lease cluster of Banshi Paharpur block-A and B situated at village Paharpur, tehsil Roopbas of district Bharatpur in the state of Rajasthan where 41 mining leases have been allotted by Department of Mines and Geology, GoR and these mining leases have been accorded Environmental Clearances (ECs) from State Level Environment Impact Assessment Authority, SEIAA (State Environment Impact Assessment Authority), Rajasthan for individual leases as well as entire cluster formed by agglomeration of individual leases.*

2) *Out of these 41 mining leases, 31 mining leases have obtained CTO (Consent to operate from) from Rajasthan State Pollution Control Board RSPCB. The entire area of Paharpur block-A and B, Tehsil Roopbas, district Bharatpur falls under TTZ (Taz Trapezium Zone).*

Taj Trapezium Zone (TTZ)

3) *Taj Trapezium Zone (TTZ) is a defined area of 10,400 sq. km around the Taj Mahal to protect the monuments from air pollution. The Supreme Court of India passed an order on December 30, 1996.*

- 4) *The Ministry of Environment, Forest and Climate Change (MoEF & CC, formerly MoEF), vide Gazette Notification No. 258, dt. 17.05.1999, number S.O. 350(E), has constituted the Taj Trapezium Zone Pollution (Prevention and Control) Authority and defined the geographical limits of Taj Trapezium Zone in the shape of trapezoid. Area lying in the Agra Division of the State of Uttar Pradesh and in the Bharatpur Division of the State of Rajasthan. 8-Tehsils/Parts of Tehsil of Bharatpur district (including Tehsil Roopbas) fall under Taj Trapezium Zone(TTZ) Area.*
- 5) *MOEF & CC has imposed adhoc moratorium in the meeting on dt. 08-09-2016 on expansion and setting up of the new industries in red, orange and green categories (except white categories) to control air pollution by TTZ authority.*
- 6) *As per the Hon'ble Supreme Court order dated 06.12.2019,*
“As regards permission for establishing non-polluting industrial units, it appears to us that only those small, micro and macro level industries which are both non-polluting and ecofriendly and which have necessary clearances from all statutory authorities as well as concurrence of the Central Empowerment Committee and NEERI, can be setup within the notified industrial area”.
- 7) *The Hon'ble Supreme court had passed order in the matter related to TTZ (WP (Civil) No. 13381/1984, MC Mehta Vs Union of India & Ors.) on dt. 08.12.2021 as “This Interlocutory Application is filed for certain clarifications/modification of the Order dated 06.12.2019. By an Order dated 29.01.2021, clarification sought in*

prayer clauses (a), (b) and (c) were made by this Court. In respect of the clarification of the Order dated 06.12.2019 pertaining to the concurrence with the Central Empowered Committee (CEC) and opinion of NEERI as mentioned in paras 8 and 9 of the Order, learned Amicus Curiae in consultation with Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the State of Uttar Pradesh submitted a note. It has been agreed that a representative of NEERI shall be included as a Member in the Environmental Appraisal Committee (EAC) and State Environmental

Appraisal Committee (SEAC) constituted by the Ministry of Environment, Forest and Climate Change for dealing with industrial units falling in TTZ Area. In respect of industrial units where the Air Pollution Score as per CPCB and UPPCB is between 11 to 20, sectorial guidelines shall be obtained from NEERI. No industrial units shall be cleared by the State till sectorial guidelines are obtained from NEERI. For those industrial units having Air Pollution more than 20, the concurrence/opinion of NEERI will have to be obtained.”

- 8) *It is noteworthy to mention that as per CPCB categorization dt. 07.03.2016 industrial sector, “Mining and Ore Beneficiation” have Air Pollution Score as 20.*
- 9) *As per Hon’ble Supreme Court order dt. 08-12-2021, NEERI has been added in the SEIAA committee in which the EC has been given to mining leases with the recommended additional conditions by NEERI in reference*

of TTZ area. SEIAA incorporated these conditions as “Additional conditions suggested by NEERI due to project being in TTZ” :-

- (i) The PP has also bound to fulfill all the conditions of the approved EIA/EMP/EC of Paharpur Sandstone Cluster Mining Project in consultation and supervision of the concerned Asst. Mining Engineer, Department of Mines and Geology, Government of Rajasthan. The PP shall be jointly and severely responsible for compliance of the conditions as provided by the SEIAA, Rajasthan for the Paharpur Sandstone (Block A & B) Cluster mining project, vide letter dated 24.03.2022.*
- (ii) The mining activities are in cluster therefore project proponent/ all lessees of cluster shall ensure that required permission of DGMS for blasting be obtained, taking into account the number of blasts, timing of blasts, mechanism of blasts, strength of blasts with in a finite time duration, for the entire cluster. The project proponent/ lessees of cluster shall ensure that blasting shall be limited to the minimum possible extent and that the blasting shall not impact the nearby structures, sensitive areas and the human habitat.*
- (iii) In order to ensure sustainable mining with efficient utilization of mineral resources, and adequate environmental safeguards, Step-wise mining is*

suggested. The annual production for the next year could be equal to the actual production in the current year plus 50% increase in the production, subject to satisfactory compliance of various conditions imposed by concerned departments as per EC, CTE/CTO, Forest and Wildlife etc.

- (iv) The haul roads (within the mine lease area) and approach roads (upto main road) shall be metaled and maintained in a manner that there shall not be any particulate re-suspension from the plying of vehicles/machineries.*
- (v) Adequate and designated proper parking facility shall be developed within the mine lease area for the trucks as well as other heavy machinery used in the mining activities, and no village/public roads shall be used for the parking purposes.*
- (vi) The village/public roads shall not be used for haulage of material from mines to the State and/or National Highway. The network of transport shall be designed and implemented so as to ensure the level of service of State/National Highway, as exists now shall not deteriorate.*
- (vii) The mine shall be operated in one shift only, during day time (8- 9 am to 5-6 pm). Individual mine lease holder/project proponent shall ensure that the mining activities are performed in an environmentally sustainable manner, and there shall be no adverse impacts on the surrounding*

environment, particularly with respect to air pollution. The waste materials shall be stored properly within the mine lease area.

- (viii) During the operation of mines, any grievances/concerns, raised by the affected local villagers shall be resolved amicably and documented properly for review by the Committee.*
- (ix) Since all these mines are part of Cluster mines, all the relevant documents/data/information of environmental compliance monitoring by individual mines shall also be submitted to the Environment Monitoring/Management Cell (EMC) of the Cluster Mining Area, to be coordinated by the Dept of Mines & Geology, Roopwas, Bharatpur.*
- (x) To ensure the air quality in the entire cluster area, an optimum air quality network shall be designed and established by the EMC of Cluster Area and daily basis and air quality shall be monitored on daily basis.*
- (xi) To review the compliance status of various conditions and also suggest annual production for the next year, and also additional measures, if any, "Review Committee", comprising representative from the MOEF & CC-IRO, Department of Mines & Geology, Bharatpur, RO, RSPB, Bharatpur and CSIR-NEERI, Delhi may be constituted. RO, RSPCB could be the nodal officer.*

- (xii) *Copy of all the ECs shall be shared with all the member organizations of the "Review Committee". To ensure the environmental sustainability of the region, the "EMC of Cluster Mining Area", taking into account all the individual mines, shall prepare a comprehensive EMP for the entire cluster/mines and shall submit to the "Review Committee".*
- (xiii) *The PP shall carry out ambient air quality monitoring on weekly basis to ensure adherence to National Air Quality Standards.*
- (xiv) *The PP shall also be responsible, jointly and severally, for mutatis mutandis compliance of the specific conditions imposed in EC for cluster mining project dated 24.03.2022 granted by SEIAA, Rajasthan.*
- 10) *Accordingly, the SEIAA, Rajasthan has accorded EC to the mining leases.*
- 11) *RSPCB vide its office order dated 18.02.2022 mandated that consent shall be considered for all industrial sector having air score of 0-10 as per CPCB categorization after the submission of all other statutory compliances and in accordance to Hon'ble Supreme Court order dated 08.12.2021.*
- 12) *In compliance to the Hon'ble Supreme Court Order dated December 8, 2021, CSIR-NEERI has prepared the guidelines November 2022 for proposed industrial*

unit/activities falling under TTZ Area and having Air pollution score between 11 & 20 and above.

- 13) *The guideline recommends to critically evaluate/appraise the project report of the project/activity/industrial unit (having Air Pollution Score between 11 & 20) for grant of consent as per prevailing procedure of SPCB. The guideline recommends to critically evaluate/appraise the project report of the project/activity/industrial unit (having Air Pollution Score > 20) as per the opinion from CSIR-NEERI to be obtained by SPCB for grant of consents as per prevailing procedure of SPCB. Chronology of Forest Diversion in reference of sand stone mining cluster banshi paharpur Block A and B:*
- 14) *Previously this area was part of the Band Baretha wild Life Sanctuary which was then de-notified by NBWL (National Board of Wild Life) in its 61th meeting dated 18.02.2021 & Gazette notification in this context has been published by the Rajasthan State Forest department dated 23.03.2021 and Eco sensitive Zone (ESZ) area of the Band Baretha WLS has also been denotified by MoEF & CC on 18.05.2021.*
- 15) *A total area measuring 646.56 hac. has been de-notified from Band Baretha WLS, out of this 221.75 hac. area falls under Block A & 424.81 hac. area in Block B of Paharpur, Tehsil – Roopbas, District - Bharatpur (Raj).*
- 16) *Forest Diversion (Stage-I and II) was granted in favor of Department of Mines and Geology, Rajasthan in Paharpur over an area of 398.0085 Hac. (Block A-*

113.6950ha & Block B-284.3135ha) by Ministry of Environment, Forest and Climate Change (Forest Conservation Division) vide letter dt. 11.06.2021 and 11.03.2022. The purposes of forest diversion are mining, employment generation and earning of revenue generation. (Forest Diversion letters dt. 11.06.2021 and 11-03-2022)

- 17) *Ecological Sensitive Areas (National Park, Wild Life Sanctuary, Biosphere Reserve exist within 10 km distance from the periphery of diverted forest area. The Band Baretha WLS at 5.0 km in SW direction from the Block-A & 1.50 km in SW direction from the Block-B periphery area. The Cluster area does not fall under the notified Eco-Sensitive zone of the said WLS.*
- 18) *The Department of Mines and Geology, GoR after successful e-auction, issued LOI to grant Mining Lease to the applicant.*

• **Environmental Clearance:**

- 19) *State Level Environment Impact Assessment Authority, Rajasthan, has accorded Environment Clearance in favor of Assistant Mining Engineer, Roopbas, Department of Mines & Geology, Government of Rajasthan on 24-03-2022 for Paharpur Sandstone (Block A & B) cluster mining project, Cluster area 398.0085 hac., Carrying capacity of the Cluster- 4,00,00,000 TPA (ROM) (Minor Mineral). (EC of cluster mining banshi paharpur block A and B).*

20) Further, individual 41 leases were also accorded Environment Clearances in accordance to the procedures laid under the provisions of EIA Notification 2006. Total 31 leases are in consent mechanism, out of them 28 mining leases located in Paharpur block B have obtained consent to operate and 3 mining leases of block-A have obtained consent to operate, however only 24 mining leases of block-B are operational, details of EC and CTO are as mentioned in below table :-

Banshi Paharpur Block-A

S.No.	Plot No./ Mining lease No.	Mining Lease Area (ha.)	Mining Lease Holder Name	Capacity (Sand Stone) (ROM) (TPA)	E.C Issued Date	Consent Issued Date	Consent Validity	Status
1.	33/2022	11.0346	M/s. Faujdar Construction Company	1124480	20/12/2022	Not Applied for Consent	NA	non-operational
2.	34/2022	10.6654	M/s. Om Prakash Singh	1250405	20/12/2022	Not Applied for Consent	NA	non-operational
3.	35/2022	10.4170	M/s. India E Hub Services Pvt Ltd	960100	23/06/2022	Not Applied for Consent	NA	non-operational
4.	36/2022	10.1223	M/s. India E Hub Services Pvt Ltd	838350	23/06/2022	Not Applied for Consent	NA	non-operational
5.	37/2022	10.4482	M/s. Learn and Excel Pvt. Ltd.	1216063.10	23/06/2022	08/12/2022	30/11/2027	under development
6.	38/2022	10.5995	M/s. Shri Asif Ali	752400	23/06/2022	07/07/2023	30/06/2028	under development
7.	39/2022	10.5377	M/s. Cut Quite Gems Private Ltd.	752400	23/06/2022	Not Applied for Consent	NA	non-operational
8.	40/2022	10.0691	M/s. R.R. Minerals	1194075	23/06/2022	08/12/2022	30/11/2027	under development
9.	41/2022	10.8143	M/s. Paras Sethi	604500	23/11/2022	Not Applied for Consent	NA	non-operational

Banshi Paharpur Block-B

S.No.	Plot No./ Mining lease No.	Mining Lease Area (ha.)	Mining Lease Holder Name	Capacity (Sand Stone) (ROM) (TPA)	E.C Issued Date	Consent Issued Date	Consent Validity	status
1.	3/2022	4.2139	M/s. Anil Kanti Prasad Poddar	406875	25/05/2022	12/07/2022	30/06/2027	operational
2.	4/2022	4.6658	M/s. Jai Girraj Stones	527250	23/06/2022	30/11/2022	31/10/2027	operational
3.	5/2022	4.0000	M/s. Anil Kanti Prasad Poddar	387625	25/05/2022	12/07/2022	30/06/2027	operational
4.	6/2022	4.1769	M/s. Anil Kanti Prasad Poddar	361750	25/05/2022	12/07/2022	30/06/2027	operational
5.	7/2022	4.0501	M/s. Infinity Stonex India Pvt. Ltd.	106837.61	25/05/2022	25/07/2022	30/06/2027	under developme nt
6.	8/2022	4.0000	M/s. Kanha Stone Suppliers	463860	23/06/2022	14/09/2022	31/08/2027	operational
7.	9/2022	4.2467	M/s. Devdashrath Royalties Pvt. Ltd.	160256.41	23/06/2022	Not Applied for Consent	NA	NA
8.	10/2022	5.2723	M/s. Devdashrath Royalties Pvt. Ltd.	170940.17	23/06/2022	11/11/2022	31/10/2027	operational
9.	11/2022	5.9743	M/s. Krishna Associate	688260	25/05/2022	08/05/2023	30/04/2028	operational
10.	12/2022	4.1680	M/s. Om Prakash Singh	475515	20/12/2022	Consent under consideration with Board	NA	non-operational
11.	13/2022	5.7608	M/s. Kapil Agarwal	459120	23/06/2022	11/11/2022	31/10/2027	operational
12.	14/2022	5.8140	M/s. Devdashrath Royalties Pvt. Ltd.	160256	25/05/2022	20/06/2022	31/05/2027	operational
13.	15/2022	4.4934	M/s. Anil Kanti Prasad Poddar	362625	25/05/2022	11/07/2022	30/06/2027	operational
14.	16/2022	5.6000	M/s. Madhukar Malviya	649590	25/05/2022	11/11/2022	31/10/2027	operational
15.	17/2022	4.0000	M/s. R B Distributors Pvt. Ltd.	455505	23/06/2022	10/10/2022	30/09/2027	operational
16.	18/2022	4.0000	M/s Pankaj Tiwari	468000	23/06/2022	12/10/2022	31/08/2027	operational
17.	19/2022	4.000	M/s R.B. Distributors Pvt. Ltd.	460500	23/06/2022	10/10/2022	30/09/2027	operational
18.	20/2022	4.000	M/s. Infinity Stonex	213675.21	23/06/2023	Not Applied for	NA	NA

			India Pvt. Ltd.			Consent		
19.	21/2022	5.1880	M/s. Devdashrath Royalties Pvt. Ltd.	213675.21	23/06/2023	Not Applied for Consent	NA	NA
20.	22/2022	4.0000	M/s. S S Group	443655	23/06/2022	20/10/2022	30/09/2027	operational
21.	23/2022	4.0000	M/s. Jagat Choudhary	460155	23/06/2022	10/10/2022	30/09/2027	operational
22.	24/2022	4.0000	M/s. Pankaj Tiwari	459645	23/06/2022	12/10/2022	31/08/2027	operational
23.	25/2022	4.0000	M/s. K.K. Gupta Construction Pvt. Ltd.	387625	25/05/2022	16/06/2022	31/05/2027	operational
24.	26/2022	5.6000	M/s. Deepraj Singh	624250	25/05/2022	19/09/2022	31/08/2027	operational
25.	27/2022	4.0040	M/s. Devdashrath Royalties Pvt. Ltd.	111111.11	25/05/2022	10/06/2022	30/04/2027	operational
26.	28/2022	4.5467	M/s. Devdashrath Royalties Pvt. Ltd.	181623.93	25/05/2022	10/06/2022	30/04/2027	operational
27.	29/2022	4.6156	M/s. Shiv Shankar Stones Suppliers	530790	23/06/2022	02/01/2023	30/11/2027	operational
28.	30/2022	4.5037	M/s. Sunlight Minerals	310200	23/06/2022	15/02/2023	31/12/2027	under developme nt
29.	31/2022	4.7751	M/s. Rajendra Kunkulol	388000	23/06/2022	01/11/2022	31/10/2027	under developme nt
30.	32/2022	5.0768	M/s. Sunlight Minerals	362750	23/06/2022	05/06/2023	31/05/2028	under developme nt
31	42/2022	5.5686	M/s. Shree Shyam Rolling Mill	146251	23/06/2022	16/01/2023	31/12/2027	operational
32	43/2022	5.4280	M/s. Deepraj Singh	624225	23/06/2022	04/10/2022	30/09/2027	operational

Factual Observations-

21) In the Paharpur village as Paharpur block-A and B, Tehsil Roopbas, district Bharatpur sandstone mining units/leases are operational. There are 41 leases and EC have been issued by SEIAA, Rajasthan to all 41 mining leases. Rajasthan State Pollution Control Board (RSPCB) has issued Consent to operate to 31 mining units/leases only. At present, 24 mining units are operational, 07 leases are in development

phase and rest are non-operational as per the production data provided by the AME, Roopbas.

22) As per categorization of CPCB dt. 07-03-2016, mining units covered under Red category and having air POLLUTION score AS20.

i. During the visit of joint committee on 26-09-2023, both mining clusters i.e. block A and B were visited to ascertain the status of mining and environment compliances in operational, non-operational and under development mines.

ii. At site, open cast semi-mechanized mining is being carried out by drilling and wire saw machines. Water is being used in the wire saw machines for cooling and dust suppression purposes. Water was in recirculation through pits (pits created by mining and being used for collection & recirculation of water).

iii. The complainant has alleged regarding illegal mining by the lease holders beyond the lease area, hence the committee categorically visited such places in presence of complainant and it was observed after examining the data and KML files received from Forest department and Mining department, that mining has not been done beyond the lease area by any of the lessee. It was appraised by the Mines Foreman and AME Rupbas that a designated Dump area has been proposed

adjacent to plot no. 43 of block B where sandstone blocs were observed.

iv. Although efforts have been done for plantation by the lease owners still it need to be increased.

v. Approach roads to the mining leases are not metaled which are required to be metaled to avoid the fugitive particulate matter emission during vehicular movements/trucks ply.

vi. Water sprinkling through tractor-tankers is in practice to suppress the road dust emitted during vehicular movements.

vii. Continuous ambient air quality monitoring stations have not been installed at site which is required to install to analyses the data of air quality.

viii. Adequate demarcation pillars have not been provided in the both Block A and B for clear demarcation of mining leases and forest area by Department of Mines and Geology.

Details of illegal mining activity and Silicosis disease

As per direction of Joint committee a letter has been written by RSPCB Bharatpur to Forest Department and Mining Department, Bharatpur for providing data of illegal mining in this area and actions taken thereon.

<i>Total cases (10-10-2022 to 26-09-2023)</i>	<i>Illegal mining activity</i>	<i>Illegal mining transportation activity</i>	<i>FIR filed</i>	<i>Amount of fine imposed</i>
<i>19</i>	<i>04</i>	<i>15</i>	<i>19</i>	<i>Rs. 5.872 lacs</i>

- *It was informed by DCF, Forest Department Bharatpur that 19 cases of illegal mining activities were identified and necessary action was taken details of which have been forwarded vide letter dt. 27-09-2023 details are as under :-*

- *It was informed by AME, Mining Department Rupbas, Tehsil-Rupbas, District Bharatpur that 304 cases of illegal mining activities were identified and necessary action was taken details of which have been forwarded vide letter dt. 30-09-2023 details are as under:-*

<i>Total cases (2018 to 30-09-2023)</i>	<i>Illegal mining activity</i>	<i>Illegal mining transportation activity</i>	<i>Illegal stock activity</i>	<i>FIR filed</i>	<i>Amount of fine imposed</i>
304	09	293	02	31	Rs. 4.5414906 crores

- *Besides above, AME, Mining Department Rupbas, Tehasil-Rupbas, District Bharatpur has also submitted that -*
 - *Notices to mines lessees for completion of deficiencies observed during joint visit, have been issued on 29-09-2023.*
 - *No case of silicosis has been filed from the workers those are involved in mining activity in these mines.*

- Details of awareness program has been submitted regarding prevention and control of silicosis.
- As per direction of Joint committee a letter has been written by RSPCB Bharatpur to CMHO Bharatpur for providing data of patients of silicosis disease in this area because complainant informed and alleged that the silicosis disease is causing due to these mining operations. No detail has been provided by CMHO Bharatpur so far in this regard.

Ambient Air quality Monitoring and Assessment:

As per direction of Joint committee, Ambient air quality monitoring was conducted by the RSPCB on 27-09-2023 at three locations for obtaining representative data of ambient air quality of these sand stone mining cluster Banshi Paharpur block-B zone as mining units are operational in this block only, details of air quality monitoring sites with results are as under :-

sr. no.	Monitoring locations	Parameters	Standards in $\mu\text{gm}/\text{M}_3$	Results in $\mu\text{gm}/\text{M}_3$
1	Community Health Center Banshi Paharpur, Tehsil Rupbas, Bharatpur	Particulate matter - PM10	100	85
		Sulphur dioxide as SO2	80	7
		Oxides of Nitrogen as NOx	80	19.2

2	M/s Deepraj Singh, ML No. Plot No. 43, Block B, Near Village Banshi Paharpur, Tehsil Rupbas, Bharatpur	Particulate matter - PM10	100	107
		Sulphur dioxide as SO2	80	5.2
		Oxides of Nitrogen as NOx	80	17.2
3	M/s Kapil Agarwal, ML No. Plot No. 13, Block B, Near Village Banshi Paharpur, Tehsil Rupbas, Bharatpur	Particulate matter - PM10	100	117
		Sulphur dioxide as SO2	80	5.6
		Oxides of Nitrogen as NOx	80	18.4
		Particulate matter – PM2.5	60	76.37

In view of above data of air quality sampling results, parameters as PM-10 and PM 2.5 are exceeding the prescribed limits. Parameters (particulate matter) are exceeding the prescribed limits due to Dust emission during vehicular movements, approach roads are not metaled to control fugitive dust emission and water sprinkling practice is not in proper manner to efficiently capture the road dust.

Conclusion and Recommendations

- i. The de-notification of the area Band Baretha Wildlife Sanctuary has been done in accordance with law and after following due procedure of the various rules and regulations.*
- ii. For the mining units under reference, SEIAA Rajasthan has accorded the EC to Mining Cluster as well as individual lease after due consultation with TTZ Authority and representatives of the TTZ Authority were present during the appraisal of the*

units. Specific Conditions with respect to projection of TTZ area have been added in the EC granted to these units.

- iii. The plantation needs to be improved at leases as well as in the entire cluster. Considering the fact that the mines leases are operational for little over one year, there should be a proper plantation planning for entire cluster so as to achieve desired plantation density in coming times. It is pertinent to mention that in addition to the Environment Clearance accorded to the individual leases, The Department of Mines and Geology, GoR has also been accorded Environment Clearance for the development of entire mining cluster and the department is under obligation to fulfill its commitments and ensure the compliance of EC. Plantation in Clusters, Adequate Maintenance of Road Network, demarcation of mining lease through pillars being most important amongst them.*
- iv. Mandatory 6 monthly compliance report has been submitted by 23 Unit out of 41 units. Remaining units have failed to submit the compliance report along with all necessary monitoring data.*
- v. Illegal mining within the cluster i.e. (a) mining beyond the permissible capacity and (b) mining excavation beyond the allotted lease area; has not been observed in the cluster. Other cases of Illegal mining in Forest and Revenue lands are being attended to by State Forest Department and DMG, GoR respectively. Strict*

vigilance is to be ensured by the State Government in this regard.

vi. Ambient Air quality monitoring was conducted on 27-09-2023 at two locations to get the air quality data at mining site and at one location in village as background data of air quality.

vii. As per the analysis report of Ambient Air Quality Monitoring conducted by State Pollution Control Board on 27/09/2023 at 3 locations, it is evident the parameters of PM10 and PM2.5 are marginally beyond the prescribed standards (PM-10 are 107 & 117/against the permissible limit of 100 $\mu\text{gm}/\text{M}^3$ and PM2.5 is 76.37/against the permissible limit of 60 $\mu\text{gm}/\text{M}^3$). The committee is of the opinion that as the main production activity is based on wire saw based block mining, the major source of air emission is Vehicular Movement in the cluster as well as in adjacent road network. Following measures must be taken immediately to address the situation :

a) Permanent water sprinklers must be installed on the main haulage roads on the cluster.

b) Wheel washing facility must be developed at individual mine.

c) The Road network in the cluster must be metaled so as to avoid fugitive emissions. d.

The condition of road on the main transportation route must be improved for

which the funds available in District Mineral Foundation Trust (DMFT) can be utilized.”

31. Submission of the learned counsel for the MoEF&CC and the respondent state are that in the case M.C. Mehta Vs. Union of India & Ors. dealing with the matter of TTZ and I.A. was filed (quoted above) and in consultation with the Central Empowered Committee, opinion of NEERI was mentioned in para 8 and 9 of the order and in accordance with the above report appraisal committee SEAC constituted by the authority concerned in dealing with the industrial unit falling in TTZ area where the air pollution score is between 11 to 20 secretarial guidelines were obtained from the NEERI and action was taken in accordance with the above report. As per recommendation and order and direction of Hon'ble the Supreme Court NEERI has been added in the SEIAA committee and the recommendation and additional conditions submitted and suggested by the NEERI in reference to the TTZ area was incorporated in the conditions as additional conditions suggested by the NEERI. The relevant portion of the order of Hon'ble the Supreme Court of India passed in M.C. Mehta Vss. Union of India & Ors. Dated 08.12.2021 in W.P. No. 13381/1984 are quoted below:-

“This Interlocutory Application is filed for certain clarifications/modification of the Order dated 06.12.2019. By an Order dated 29.01.2021, clarification sought in prayer clauses (a),(b) and (c) were made by this Court. In respect of the clarification of the Order dated 06.12.2019 pertaining to the concurrence with the Central Empowered Committee (CEC) and opinion of NEERI as mentioned in paras 8 and 9 of the Order, learned Amicus Curiae in

consultation with Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the State of Uttar Pradesh submitted a note. It has been agreed that a representative of NEERI shall be included as a Member in the Environmental Appraisal Committee (EAC) and State Environmental Appraisal Committee (SEAC) constituted by the Ministry of Environment, Forest and Climate Change for dealing with industrial units falling in TTZ Area.

In respect of industrial units where the Air Pollution Score as per CPCB and UPPCB is between 11 to 20, sectorial guidelines shall be obtained from NEERI. No industrial units shall be cleared by the State till sectorial guidelines are obtained from NEERI. For those industrial units having Air Pollution more than 20, the concurrence/opinion of NEERI will have to be obtained.

In case of the need for felling trees to set up industrial units/projects, the matter shall be referred to the CEC for its opinion/concurrence. Where there is no need for felling of trees, a declaration shall be obtained from the industrial units/projects to that effect. The declaration shall be accompanied by an affidavit and photograph of the site along with the Key Plan of the site. The said declaration along with the other documents shall be forwarded to the concerned District Forest Officer. In case, incorrect information has been given by the declarant, suitable legal action shall be taken.”

32. In the matter of Net Present Value for the damage of the trees Hon'ble the court has followed the guidelines and recommendations as follows :-

- a) *“Develop a set of scientific and policy guidelines that shall govern decision making with respect to cutting of trees for developmental projects.*
- b) *These guidelines may specify the species of trees in categories based upon their environmental values considering the age and girth of the trees etc.*
- c) *The guidelines may provide special treatment for geographical area or eco-sensitive area, they may identify areas which need to be regulated and even identify a minimum threshold beyond which the guidelines will apply.*
- d) *The guidelines shall prescribe a mechanism for assessment of both intrinsic and instrumental value of the trees, based not only on the value of timber, but also the ecosystem services rendered by the trees and its special relevance, if any, to the habitat of other living organisms, soil, flowing and underground water.*
- e) *The guidelines shall also mandate rules regarding alternate routes/sites for roads/projects, and possibilities for using alternate modes of transport like railways or water-ways.*
- f) *The guidelines shall also prescribe the mode of compensation financial and otherwise, stage of depositing such compensation and the process that governs the computation and recovery. In this regard, the committee*

may consider the existing regulatory framework regarding calculation of Net Present Value (NPV) and may suggest necessary modification.

- g) In addition, the guidelines shall also specify the manner and mechanism of compensatory afforestation to be carried out using deposited compensation, consistent with the native ecosystem, habitat and species.*
- h) The Committee may consider the need for any permanent expert body and its proposed structural form.*
- i) Any other issue incidental to the aforesaid objectives.”*

33. The submission of the learned counsel for the SEIAA (Rajasthan) are as follows:-

- i. In the Paharpur village as Paharpur block-A&B, Tehsil Roopbas, District Bharatpur sandstone mining units/leases are operational. There are 41 leases and EC have been issued by SEIAA, Rajasthan to all 41 mining leases. Rajasthan State Pollution Control Board (RSPCB) has issued Consent Operate 31 mining units/leases only. At present, 24 mining units are operational, 07 leases are in development phase and rest are non-operational as per the production data provided by the AME, Roopbas.*
- ii. That, as per of CPCB dt. categorization 07.03.2016, mining units covered under Red category and having air Pollution score AS20.*
 - i. During the visit of Joint Committee on 26.09.2023, both mining clusters i.e. block-A&B were visited to ascertain the status mining and environment compliances in*

operational, non-operational and under development mines.

- ii. At site, open cast semi-mechanized mining is being carried out by drilling and wire saw machines. Water is being used in the wire saw machines for cooling and dust suppression purposes. Water was in recirculation through pits (pits created by mining and being used for collection & recirculation of water).*
- iii. The complainant has alleged regarding illegal mining by the lease holders beyond the lease area, hence the Committee categorically visited such places in presence of complainant and it was observed after examining the data and KML files received from Forest Department and Mining Department, that mining has not been done beyond the lease area by any of the lessee. It was appraised by the Mines Foreman and AME Rupbas that a designated Dump area has been proposed adjacent to plot no. 43 of where sandstone blocs block-B observed.*
- iv. Although efforts have been done for plantation by the lease owners still it need to be increased.*
- v. Approach roads to the mining leases are not metaled which are required to be metaled to avoid the fugitive particulate matter emission during vehicular movements/trucks ply.*

- vi. Water sprinkling through tractor-tankers is in practice to suppress the road dust generated during vehicular movements.*
- vii. Continuous ambient air quality monitoring stations have not been installed at site which is required to install to analyses the data of air quality.*
- viii. Adequate demarcation pillars have not been provided in the both Block-A and B for clear demarcation of mining leases and forest area by Department of Mines and Geology.*

Additional Submissions

- i. The Respondent is a body the constituted for the purposes of granting and rejecting EC and with respect to monitoring of the compliance of the conditions of EC, the and Ministry of Environment forest & Climate Change are the competent authority to ascertain the same and thus, the issues regarding compliance of EC conditions have to be administered by the respective departments.”*

34. Submission of the learned counsel for the State of Rajasthan and Department of Mining are that the area falling within the forest department are to be controlled by the department of forest and any non-forest activity if found to be carried out by the violator, the actions are required to be taken by the Forest Department.

35. It is further argued that, for effective prevention of illegal mining in the entire state a SIT is formed and performing its function to control the

illegal mining, further that e-auction proceedings were conducted in accordance with law.

36. It is further argued that Banshi Pahadpur area were de-notified by the MoEF&CC and after forest diversion, delineation of plots was done as per rules and the E-Auction was conducted from which the State Government got revenue of approx Rs. 137.29 crores and local people in the area got direct/indirect employment. It is also submitted that after the valid e-auction legal mining activities area started and illegal mining activities was curbed and amount realised by DMFT is being utilized for the development of the area. The mining of mineral sandstone is currently done in block form by wire saw technology using water in cutting so that there is no air pollution in the environment. Blasting is not done in the Sandstone mining because use of explosive may create cracks in the blocks/strips which cause it to lose its usefulness.
37. The aforesaid mentioned areas have been de-notified by the Ministry of Environment, Forest & Climate Change after examining it as per the rules and keeping in view the adequate ecological, floral & formal significance. That mining is carried out by the leases after approval mining plan and obtaining environmental clearance and CTO from Government authorities in denotified/diverted forest land.
38. After the diversion of forest land, a single cluster EC was obtained for delineated plots. After Cluster EC each mining lessee has obtained EC separately from SEIAA Rajasthan as per the rules. It is also noteworthy that EC received in the above-mentioned mines, the Chief Scientist and head of (NEERI) zonal office Delhi was a co-opt member. It is clear that keeping TTZ in view, EC has been issued. The meeting of SEIAA was held

on 12/10/2021 & 24/03/2022 regarding the grant of EC and EIA/EMP in which after taken all the points into consideration the EC was granted.

39. The Minutes of the meeting of SEAC 2nd held on 14/3/2022 & 24/3/2022 have been submitted in which at serial no. 8, the Chief Scientist and head of (NEERI) zonal office Delhi also attended the meeting and suggestions which has been raised before the meeting has been recommended and added in the EC conditions. The conclusion of the committee are given below :-

“This project falls in Taj Trapezium Zone (TTZ). As per the directions of the Hon'ble Supreme Court vide order dated 8th Dec 2021 in Civil Writ Petition No.13381/1984 M.C. Mehta V/s Union of India & Ors. in respect of the (TTZ), a representative of NEERI was coopted in SEAC. The representative of NEERI participated virtually in the SEAC meeting dated 22nd March 2022 for appraisal of this proposal. Details of the Project were also submitted by the project proponent to NEERI. The project was examined by NEERI, which included site visit by an expert. NEERI accorded its concurrence to the proposed project vide its letter No. NEERI-DZC/TTZ-Bh/2022/01 dated 21.03.2022 along with certain suggestions/conditions. The same have been incorporated by SEAC in its recommendations for the conditions to be imposed for grant of EC.

The Authority after detailed deliberation, and based on the recommendation of SEAC, decided to approve EIA/EMP and grant EC incorporating the suggestions/conditions

suggested by NEERI, in the EC along with the other conditions.”

40. It is further argued that the issues raised during the public hearing was duly considered and has been added with suggestions in the report of the committee. A report was also called from the SEIAA and the report has been filed which is on record. The submission of the Rajasthan SEIAA are that the Hon'ble Supreme Court in the matter of Writ Petition (Civil) No. 13381/1984, MC Mehta V/s Union of India & Ors (in respect of the Taj Trapezium Zone (TTZ)) ordered on 06/12/2019 and 08/12/2021 that-

- i. A representative of NEERI shall be included as a member in the Environmental Appraisal Committee (EAC) and state Environmental Appraisal Committee (SEAC) constituted by the Ministry of Environment, Change for dealing with industrial units falling in TTZ Area. Forest and Climate be cleared*
- ii. In respect of industrial units where the Air Pollution Score as per CPCB and UPPCB is between 11 & 20, sectorial guidelines shall be obtained from NEERI. No industrial units shall by the State till sectorial guidelines are obtained from NEERI.*
- iii. For those industrial units having Air Pollution more than 20, the concurrence/opinion of NEERI will have to be obtained.*
- iv. In compliance to the Hon'ble Supreme Court order, NEERI prepared Sectorial Guidelines for the proposed industrial units/activities with air pollution score between 1 & 20 and above, falling under TTZ area on 01/12/2022.*
- v. Director, CSIR-NEERI nominated NEERI representative, which was subsequently notified by the MoEF & CC on 01/04/2022.*

- vi. *NEERI had not prepared Sectorial Guidelines for mining as mandated by Hon'ble Supreme Court vide order dated 08.12.2021 and the same were prepared on 01.12.2022. During the appraisal of the instant proposal, Dr. SK Goyal, Chief Scientist and Head of CSIR NEERI, Delhi Zonal Centre was co-opted as an expert member and concurrence/suggestions of Dr. SK Goyal (NEERI representative) were duly incorporated in EC.*
- vii. *As per PCB Categorization of Industries issued in the Year 2016, mining activities are identified as Red category Industry Sector having Pollution Potentials Score of 20.*
- viii. *With respect to the fifth query regarding the operations being eco-friendly or not, it is submitted that mining operations are not eco-friendly. Impact due to mining activity is assessed and Environmental Management Plan (EMP) is prepared to minimize the impact of mining on environment. Mining activities attracts prior environment clearance (EC) under the EIA Notification, 2006 issued under EP Act'1986.”*

41. The main thrust of the applicant against the joint committee report are that the committee has not considered the order passed by the Tribunal in 2021 and that the matter of tree cutting has not been duly considered and whole exercise of denotification of an area is against the principle of sustainable development as prescribed under Section 20 of the National Green Tribunal Act, 2010 and causing irreparable loss to the biodiversity of the area.

42. In contention of the above version, the learned counsel for the CPCB has argued that a joint committee constituting the high officials of all the departments were constituted to submit the report and the report has been submitted finding no violation of rules in the notification issued by the MoEF&CC or the notification issued by the State of Rajasthan. Learned counsel for the CPCB has also submitted that the report of the joint committee is in accordance with the rules and directions issued by the Hon'ble Supreme Court of India.
43. In the matter of cutting of trees, it is argued that in case of the need for felling trees, the matter shall be referred to the CEC for its opinion and after that a declaration shall be accompanied by an affidavit and such declaration along with other documents shall be forwarded to the concerned District Forest Officer which shall be verified and suitably considered. In response to the above contention, the learned counsel for the respondent has submitted that the above criteria have been followed by the department concerned and nothing has been narrated by the applicant with regard to the violation of the above procedure.
44. The learned counsel for the respondent no. 5 has submitted that the Ministry of Environment, Forest & Climate Change has issued the Notifications and Amendments vide order dated 01.11.2009 which are required to be implemented and the statutory duty of the SEIAA is to evaluate the project with respect to environment's perspective and if found suitable, then issue an environmental clearance for the project. SEIAA, Rajasthan is not concerned about controlling the illegal mining in the forest area or within wildlife sanctuary, infact the responsibility to control the illegal mining lies with the authorities concerned. This Tribunal vide order dated 21-03-2024 directed the State Pollution

Control Board to examine the matters of illegal mining and vide reply submitted by the State PCB, it has been reported that necessary actions with regard to illegal minings have been done against the violators and the deficiencies which have been found were directed to be rectified immediately. It is further submitted that show-cause notices against the violating units have also been issued.

45. A separate report was called from the Department of Forest, Bharatpur and vide communication dated 9-07-2024, the Deputy Conservator of Forest has communicated that in between March to July, 2024, approximately 30 illegal minings have been reported in which, necessary action has been taken by the Forest Department including the seizure of the machine used for the illegal mining and imposition of penalty/compensation/damage.

46. It is further reported that :-

- i. “अवैध खनन प्रभावित क्षेत्र में अवैध खनन की पूर्ण रोकथाम हेतु लिखित में 24 घण्टे के लिए स्टाफ को मुख्य जगहों पर अवैध खनन की रोकथाम हेतु पाबन्द किया गया है।
- ii. अवैध खनन/ अवैध परिवहन की रोकथाम हेतु उक्त वन क्षेत्र में पिछले 02 वर्षों की अवधि में लगभग 03 किमी पक्की दीवार एवं 200 हैक्टेयर प्लान्टेशन कराकर वन क्षेत्र को उक्त गतिविधियों से सुरक्षित किया गया है।
- iii. भरतपुर जिले में अवैध खनन एवं निर्गमन की प्रभावी रोकथाम हेतु जिला कलक्टर भरतपुर की अध्यक्षता में दिनांक 12.04.2024 को जिला स्तरीय कमेटी की बैठक आयोजित की गयी, जिसमें प्रशासन, पुलिस, वन विभाग, खनन विभाग, परिवहन विभाग एवं पोल्यूशन कंट्रोल बोर्ड के अधिकारी उपस्थित हुये। जिला कलक्टर, भरतपुर द्वारा सभी विभागों को संयुक्त रूप से कार्यवाही कर अवैध

खनन की पूर्ण रोकथाम के निर्देश दिये गये तथा उप वन संरक्षक (वन्यजीव) भरतपुर एवं अधीक्षण खनि अभियन्ता भरतपुर को संयुक्त रूप से मौका निरीक्षण कर पालना रिपोर्ट प्रस्तुत करने हेतु निर्देश दिये गये। बैठक कार्यवाही विवरण दिनांक 12.04.2024 (एनेक्चर-1) एवं जिला कलक्टर के आदेश दिनांक 13.04.2024 (एनेक्चर-2) की प्रति संलग्न हैं।

- iv. जिला कलक्टर भरतपुर के आदेश संख्या दिनांक 13.04.2024 की पालना में उप वन संरक्षक (वन्यजीव) भरतपुर एवं खनि अभियन्ता भरतपुर, सहायक खनि अभियन्ता रूपवास एवं क्षेत्रीय वन अधिकारी बंध बारैठा अभयारण्य मय स्टॉफ द्वारा दिनांक 17.04.2024 को वन्यजीव बंध बारैठा के अवैध खनन प्रभावित क्षेत्र गढी बाजना एवं दर्दबराहना क्षेत्र का मौका निरीक्षण किया गया। मौके पर कोई वाहन, मशीन, मजदूर इत्यादि नहीं पाये गये तथा अवैध खनन नहीं पाया गया। विभाग द्वारा चिह्नित स्थानों एवं लिफ्ट कच्चे रास्तों पर खाई खोदकर रास्ते बंद किये गये हैं तथा पाया कि उक्त क्षेत्र में काफी समय में अवैध खनन / निर्गमन बंद है।
- v. बंध बारैठा वन्यजीव अभयारण्य में अवैध खनन की प्रभावी रोकथाम हेतु उप वन संरक्षक वन्यजीव, भरतपुर द्वारा आरएसी के जाब्ता हेतु पुलिस अधीक्षक भरतपुर को इस कार्यालय के पत्र क्रमांक 4855 दिनांक 22.09.2023, 6276 दिनांक 14.12.2023, 281 दिनांक 23.01.2024, 395 दिनांक 25.01.2024, 1485 दिनांक 12.03.2024, 3488 दिनांक 02.05.2024 बार-बार अनुरोध किया गया है जिसके कम में पुलिस अधीक्षक, जिला भरतपुर के पत्र क्रमांक 9997-10003 दिनांक 17.05.24 से "सी" कम्पनी 14वीं आरएसी की एक प्लाटून दिनांक 17.05.24 को उपलब्ध कराई गई एवं पत्र क्रमांक 4113 द्वारा दिनांक 18.06.2024 द्वारा पुनः आरएसी जाब्ता हेतु पुलिस अधीक्षक, जिला भरतपुर को निवेदन किया गया जिसके कम में 14वीं आरएसी की एक बटालियन प्लाटून दिनांक 19.06.2024 को उपलब्ध करवाई गई। द्वारा

- vi. क्षेत्रीय वन अधिकारी गश्तीदल को क्षेत्रीय वन अधिकारी वन्यजीव बंध बरैठा के साथ सहयोग एवं समन्वय हेतु प्रभावी कार्यवाही हेतु निर्देशित किया गया है।
- vii. बंध बरैठा वन्यजीव अभयारण्य में अवैध खनन की प्रभावी रोकथाम हेतु उत्तर प्रदेश वन विभाग के साथ संयुक्त रूप से गश्त की जा रही है एवं अंतिम बार दिनांक 11.06.2024 को संयुक्त रूप से गश्त की गई है।
- viii. जिला कलेक्टर, भरतपुर के आदेश क्रमांक 47 दिनांक 13.4.2024 की पालना में अधीक्षण खनि अभिन्यता भरतपुर एवं उप वन संरक्षक, भरतपुर तथा दोनों विभागों के अन्य अधिकारियों के साथ बन्धबरैठा अभ्यारण एवं उसके बाहर वनक्षेत्र में अवैध खनन के सम्बन्ध में वनखण्ड बंशीपहाडपुर में मौका निरीक्षण किया गया। निरीक्षण के दौरान कहीं कहीं अवैध खनन के निशानात पाये गये परन्तु मौके पर कहीं भी अवैध खनन होता हुआ नहीं पाया गया। कुछ लीज धारकों द्वारा अवैध रूप से सेफ्टी जोन एवं वनक्षेत्र में डम्पिंग किया जा रहा था। जिस पर कार्यवाही कर एक डम्पर एवं एक हाइड्रा केन जप्त कर तथा एफ०आई०आर० दर्ज कर कार्यवाही की गई।
- ix. वनक्षेत्र भरतपुर बंशीपहाडपुर A & B में अवैध खनन की पूर्ण रोकथाम हेतु कार्यालय पत्रांक 4785 दिनांक 11.6.24 द्वारा पुलिस अधीक्षक भरतपुर को निवेदन किया गया है। जिसके कम में पुलिस अधीक्षक भरतपुर द्वारा उनके पत्रांक 11982-87 दिनांक 5.7.24 (एनेक्चर-5) द्वारा अतिरिक्त महानिदेशक पुलिस, प्रशासन, कानून व्यवस्था, राजस्थान जयपुर को RAC जाप्ता स्थायी रूप से आवंटित करने हेतु निवेदन किया गया है।”

47. A report was again called from the State of Rajasthan through Collector concerned. The matter was inquired and it has been reported that the members of the Mining Department, Pollution Control Board, Forest

Department visited the site and examined Banshi Pahadpur, Block A and B in the forest area and found that :-

- i. No illegal mining has been found.
- ii. In lease plot nos. 12 and 13, some dump material has been found.

A- LOCUS STANDI : AGGRIEVED PERSON -

48. First issue as raised by the learned counsel for the Respondent is that the Applicant is not a person aggrieved or has no locus standi to institute the present application and he has relied on Vimal Bhai Vs MoEF&CC and Ors, [Appeal No. 5 of 2011] on 14th December, 2011, dealt with the interpretation of section 16 and section 18 to explain the meaning of “person aggrieved” under the NGT Act, 2010 and submitted that the person injured per-se as occurred in Section 18 (2) of the NGT Act is only for the purpose of claiming relief, compensation or settlement of disputes, is altogether different from the person aggrieved as available in Section 16. Person aggrieved and person injured are two different words which connote different meaning. Under Section 16, any person aggrieved can approach this Tribunal by way of filing an appeal, whereas, under Section 18 (2), the person injured per-se, whether it is an individual or a body of individual or a social organization or a Hindu joint family, etc. Further, under Section 14 and 16 any person can approach this Tribunal for appropriate relief including the relief under Section 18. The only exception to be made for treating an appeal/application as not maintainable could be a matter which falls beyond the seven (7) Acts as notified in Schedule I of the NGT Act, 2010 and in a case of mala-fide and vexatious litigation brought before this Tribunal and not otherwise.

49. In M.C. Mehta Vs University Grants Commission & Ors. on 17th July, 2014 (Original Application No.12 of 2014), this Tribunal has examined and explained intent of legislature and scope of Section 14,15 and 16 of the NGT Act, 2010. In the said decision, the Principal Bench spelt out that “jurisdiction under Section 16 of the Act is distinct from that of Ss.14 and 15” and held:-

“12. This Tribunal is vested with three different jurisdictions. Firstly, it has the original jurisdiction in terms of Section 14 of the 10 NGT Act to deal with all civil cases raising a substantial question relating to environment and where such questions arise out of the implementation of the enactments specified in Schedule I of the NGT Act. Secondly, it is vested with appellate jurisdiction against the various orders / directions / decisions as stated in Section 16 (a) to (j) of the NGT Act. Thirdly it has a special jurisdiction in terms of Section 15 to grant relief of compensation and restitution as per the scheme contemplated under that provision. Admittedly, the present application has been filed under Section 14 of the NGT Act. Thus, it must plead and raise the following: It should be a civil case.

Where a substantial question relating to environment or enforcement of any legal right relating to environment is involved. Such question arises out of implementation of enactment specified in Schedule I of the NGT Act. 13. Once these three ingredients are satisfied, then Section 14 does not appear to place any restriction on the locus or character of the Applicant who wishes to move an application under Section 14

of the Act. Similarly, Section 15 also does not describe the description of an Applicant who can move the Tribunal for seeking reliefs like compensation, restitution of the property and the environment. In contradistinction thereto, Section 16 restricts the Applicant entitled to file an Appeal to be 'any person aggrieved'. In other words, it is only a person aggrieved who can invoke the jurisdiction of the Tribunal under Section 16 and not any Applicant. Section 18 deals with the procedure which has to be followed by an applicant or applicants, who prefers to file an application or appeal before the Tribunal. It deals with all the three jurisdictions specified under Section 14, 15 and 16 of the NGT Act. However, Section 18 (2) of the NGT Act provides the details in regard to locus and character of an Applicant who is entitled to move the Tribunal by filing an Application for grant of relief or compensation or settlement of dispute. Section 18(2) has been worded by the legislature with wide amplitude besides covering any person aggrieved and the legal representatives of the various categories. In terms of Section 16, it includes various other persons as described under clauses (a) to (d) And (f) of sub-Section 2 of Section 18. The locus and character of an applicant specified under these provisions has to receive liberal construction and would cover variety of applicants. As far as Section 14 (1) of the NGT Act is concerned, the only restriction that appears to be imposed is that it must satisfy the prerequisites stated in that Section.”

50. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order etc. in a court of law. A petition is maintainable either for the purpose of enforcing a statutory or legal right,

or when there is a complaint by the Applicant that there has been a breach of statutory duty on the part of the Authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which jurisdiction is resorted to. The Court can of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that, the relief prayed for must be one to enforce a legal right. In-fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the Applicant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. (Vide: State of Orissa v. Madan Gopal Rungta MANU / SC / 0012 /1951MANU/SC /0012/1951: AIR 1952 SC 12; Saghir Ahmad and Anr. v. State of U.P. MANU/SC/0110/1954 MANU/SC/0110/1954: AIR 1954 SC 728; Calcutta Gas Co. (Proprietary) Ltd. v. State of West Bengal and Ors. MANU/ SC / 0063 /1962 MANU/SC/0063/1962: AIR 1962 SC 1044; Rajendra Singh v. State of Madhya Pradesh MANU/SC/0690/1996 MANU /SC/0690/1996: AIR 1996 SC 736; and Tamilnadu Mercantile Bank Shareholders Welfare Association (2) v. S.C. Sekar and Ors. MANU/SC/8375/2008 MANU/SC /8375/2008 : (2009) 2 SCC 784).

51. In Anand Sharadchandra Oka v. University of Mumbai MANU/SC/7106/2008MANU/SC/7106/2008 : AIR 2008 SC 1289, a similar view was taken by Court, observing that, if a person claiming

relief is not eligible as per requirement, then he cannot be said to be a person aggrieved regarding the election or the selection of other persons.

52. In *A. Subhash Babu v. State of A.P.* MANU/S C /0845/2011 MANU/SC/0845/2011 : AIR 2011 SC 3031, the Court held:-

“The expression 'aggrieved person' denotes an elastic and an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of complainant's interest and the nature and the extent of the prejudice or injury suffered by the complainant.”

53. Hon'ble Court, even as regards the filing of a habeas corpus petition, has explained that the expression, 'next friend' means a person who is not a total stranger. Such a petition cannot be filed by one who is a complete stranger to the person who is in alleged illegal custody. (Vide: *Charanjit Lal Chowdhury v. The Union of India and Ors.* MANU /SC /0009 /1950MANU/SC/0009/1950 : AIR 1951 SC 41; *Sunil Batra (II) v. Delhi Administration* MANU /SC / 0184/ 1978MANU /SC /0184/1978 : AIR 1980 SC 1579; *Mrs. Neelima Priyadarshini v. State of Bihar* MANU/SC/0253/1987 MANU/SC/0253/1987 : AIR 1987 SC 2021; *Simranjit Singh Mann v. Union of India* MANU /SC/ 0058/1993MANU /SC/ 0058/1993 : AIR 1993 SC 280; *Karamjeet Singh v. Union of India* MANU/SC/0059 / 1993MANU/SC/0059/1993 : AIR 1993 SC 284; and *Kishore Samrite v. State of U.P. and Ors.* MANU/SC/0892/ 2012MANU/SC/0892/2012 : JT (2012) 10 SC 393).

54. The Hon'ble Court has consistently cautioned the courts against entertaining public interest litigation filed by unscrupulous persons, as such meddlers do not hesitate to abuse the process of the court. The right of effective access to justice, which has emerged with the new social rights regime, must be used to serve basic human rights, which purport to guarantee legal rights and, therefore, a workable remedy within the framework of the judicial system must be provided. Whenever any public interest is invoked, the court must examine the case to ensure that there is in fact, genuine public interest involved. The court must maintain strict vigilance to ensure that there is no abuse of the process of court and that, "ordinarily meddlesome bystanders are not granted a Visa". Many societal pollutants create new problems of nonredressed grievances, and the court should make an earnest endeavour to take up those cases, where the subjective purpose of the lis justifies the need for it. (Vide: P. S. R. Sadhanantham versus Arunachalam and another MANU/ SC /0083 /1980 MANU/SC/0083/1980 : AIR 1980 SC 856; Dalip Singh versus State of U.P. and others. MANU/SC/1886/2009MANU/SC/1886/2009: (2010) 2 SCC 114; State of Uttaranchal versus Balwant Singh Chaufal and others MANU/SC/0050/2010MANU/SC/0050/2010 : (2010) 3 SCC 402; and Amar Singh versus Union of India another MANU/SC/0596/2011MANU/SC /0596 /2011 : (2011) 7 SCC.
55. Even as regards the filing of a Public Interest Litigation, Court has consistently held that such a course of action is not permissible so far as service matters are concerned. (Vide: Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors. MANU/SC/0541/1998MANU/SC/0541/1998 : AIR 1999 SC 114;

Dattaraj Natthuji Thaware v. State of Maharashtra MANU/SC/1 060/2004 MANU/SC/1060/2004 : AIR 2005 SC 540; and Neetu v. State of Punjab and Ors. MANU/SC/7008 /2007MANU/SC/ 7008/2007 : AIR 2007 SC 758).

56. In Ghulam Qadir v. Special Tribunal and Ors. MANU/SC/0608/2001MANU/SC/0608/2001 : (2002) 1 SCC 33, Court considered a similar issue and observed as under:-

“There is no dispute regarding the legal proposition that the rights under Article 226 of the Constitution of India can be enforced only by an aggrieved person except in the case where the writ prayed for is for habeas corpus or quo warranto. Another exception in the general rule is the filing of a writ petition in public interest. The existence of the legal right of the Petitioner which is alleged to have been violated is the foundation for invoking the jurisdiction of the High Court under the aforesaid article. The orthodox rule of interpretation regarding the locus standi of a person to reach the Court has undergone a sea change with the development of constitutional law in our country and the constitutional Courts have been adopting a liberal approach in dealing with the cases or dislodging the claim of a litigant merely on hypertechnical grounds. ---In other words, if the person is found to be not merely a stranger having no right whatsoever to any post or property, he cannot be nonsuited on the ground of his not having the locus standi.”

The Hon'ble Supreme Court in Ravi Yashwant Bhoir v. District Collector, Raigad and Ors. MANU/SC/0186/2012MANU/SC /0186/2012 : (2012) 4 SCC 407, held as under:-

“Shri Chintaman Raghunath Gharat, ex-President was the complainant, thus, at the most, he could lead evidence as a witness. He could not claim the status of an adversarial litigant. The complainant cannot be the party to the lis. A legal right is an averment of entitlement arising out of law. In fact, it is a benefit conferred upon a person by the rule of law. Thus, a person who suffers from legal injury can only challenge the act or omission. There may be some harm or loss that may not be wrongful in the eye of the law because it may not result in injury to a legal right or legally protected interest of the complainant but juridically harm of this description is called damnum sine injuria. The complainant has to establish that he has been deprived of or denied of a legal right and he has sustained injury to any legally protected interest. In case he has no legal peg for a justiciable claim to hang on, he cannot be heard as a party in the lis. A fanciful or sentimental grievance may not be sufficient to confer a locus standi to sue upon the individual. There must be injuria or a legal grievance which can be appreciated and not a stat pro ratione voluntas reasons i.e. a claim devoid of reasons. Under the garb of being a necessary party, a person cannot be permitted to make a case as that of general public interest. A person having a remote interest cannot be permitted to become a party in the lis, as the

person who wants to become a party in a case, has to establish that he has a proprietary right which has been or is threatened to be violated, for the reason that a legal injury creates a remedial right in the injured person. A person cannot be heard as a party unless he answers the description of aggrieved party.”

58. A similar view has been re-iterated by Court in K. Manjusree v. State of Andhra Pradesh and Anr. MANU/SC/ 0925 /2008MANU/SC/0925/2008 : (2008) 3 SCC 512, wherein it was held that, the applicant before the High Court could not challenge the appointment of a person as she was in no way aggrieved, for she herself could not have been selected by adopting either method. Moreover, the appointment cannot be challenged at a belated stage and, hence, the petition should have been rejected by the High Court, on the grounds of delay and non- maintainability, alone.
59. In Balbir Kaur and Anr. v. Uttar Pradesh Secondary Education Services Selection Board, Allahabad and Ors. MANU/SC/7743/2008 MANU/SC/7743/2008 : (2008) 12 SCC 1, it has been held that a violation of the equality clauses, enshrined in Articles 14 and 16 of the Constitution, or discrimination in any form, can be alleged, provided that, the writ Petitioner demonstrates a certain appreciable disadvantage qua other similarly situated persons.
60. While dealing with the similar issue, The Court in Raju Ramsingh Vasave v. Mahesh Deorao Bhiavapurkar and Ors. MANU/SC/3754/2008MANU /SC / 3754/2008 : (2008) 9 SCC 54 held:-

“There may be some harm or loss that may not be wrongful in the eye of the law because it may not result in injury to a legal right or legally protected interest of the complainant

but juridically harm of this description is called damnum sine injuria. “We must now deal with the question of locus standi. A special leave petition ordinarily would not have been entertained at the instance of the Applicant. Validity of appointment or otherwise on the basis of a caste certificate granted by a committee is ordinarily a matter between the employer and the employee. This Court, however, when a question is raised, can take cognizance of a matter of such grave importance suo motu. It may not treat the special leave petition as a public interest litigation, but, as a public law litigation. It is, in a proceeding of that nature, permissible for the court to make a detailed enquiry with regard to the broader aspects of the matter although it was initiated at the instance of a person having a private interest. A deeper scrutiny can be made so as to enable the court to find out as to whether a party to a lis is guilty of commission of fraud on the Constitution. If such an enquiry subserves the greater public interest and has a far-reaching effect on the society, in our opinion, this Court will not shirk its responsibilities from doing so.” (also: Manohar Joshi v. State of Maharashtra and Ors.(2012)3SCC619)”

61. In Vinoy Kumar v. State of U.P. MANU/SC/ 0252 / 2001
MANU/SC/0252/2001 : AIR 2001 SC 1739, Court held:

“Even in cases filed in public interest, the court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury or illegal burden is threatened and such person or

determined class of person is by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief.”

62. In response to the above contentions, the learned counsel for the Applicant has relied on MANU/GT/0104/2016: (Sameer Mehta Vs. Union of India & Ors.) and Vimal Bhai Vs. MoEF&CC & Ors. (quoted above). In response to the contention raised by the Respondent/ Project Proponent that the Applicant has no locus standi, the Applicant had submitted that:

“4. The legislative intent of the legislature in keeping the issue of locus standi before this Hon'ble Tribunal can also be seen from the 186th Law Commission Report -on 'proposal to constitute Environmental Courts' whereby it was proposed to constitute Green Tribunals. On the issue of locus standi the report advocates for a wide locus standi and clearly says that:- " . Locus Standi: So far as locus standi before the proposed Court in original petitions is concerned, it must be wide as it is today before the High Court/Supreme Court in writ jurisdiction in environment matters. This is the position in Australia and New Zealand also, any person or organization who or which is interested in the subject public matter or in interest must be able to approach the Court.” 5. That in Vimal Bhai u Ministry of Environment and Forests (2lll) SCC Online NGT 16, giving a wide interpretation it was held by this Hon'ble Tribunal that "Once the mandate is of every citizen, any person can approach this Tribunal complaining environmental threat in the activities of the State or any

organization or individual." The complete paragraph of the Judgment is reproduced as follows:- "A reading of Section 2(j)(i) to (viii) would reveal that any individual, Hindu undivided family, Company, Firm, an association of persons or a body of individuals whether incorporated or not, trustees of a trust a local authority and every artificial juridical person not falling within any of the preceding sub-clauses, would indicate "person" who can maintain an application/appeal under the NGT Act. But, it is the argument of the learned counsel of the Respondent that even the above defined person shall be a person either aggrieved or injured directly or indirectly and not otherwise. Then the question arises whether in the environmental matters, a person who is really aggrieved/injured shall alone be permitted to approach this Tribunal. A combined reading of the above sections, would indicate that any person whether he is a resident of that particular area or not whether he is aggrieved and/or injured or not, can approach this Tribunal, In such situations, it is of course necessary to scan and find out the credentials of the applicant/appellant as to their true intentions and motives. No doubt that in the present case though the applicants have participated in the EC proceedings and they have not challenged the same. However, that does not mean that they cannot challenge the FC proceedings on any available legal grounds (However, it is to be noted that in the guise of challenging the FC, the applicants cannot be permitted to raise the grounds which might be raised, had the EC was challenged). applicants apprehend a great danger and

disaster to the environment and ecology, if the project is not properly envisaged and does not satisfy the principles of sustainable development and precautionary principles as is mandated under Section 20 of the NGT Act. In the matters of environmental cases, any individual or persons and body of individuals can agitate as to the correctness of the study of environment and ecology made by the granting authority. Further, nothing substantial has been demonstrated to doubt the credential of the applicants except saying that they (applicants) are not aggrieved and/or injured person (s) under the Ad and they are a busy body and their motives are ulterior. The person injured per-se as occurred in Section 18 (2) of the NGT Act is only for the purpose of claiming relief, compensation or settlement of disputes, is altogether different from the person aggrieved as available in Section 16. Person aggrieved and person injured are two different words which connote different meaning. Under Section 16 any person aggrieved can approach this Tribunal by way of filing an appeal. Whereas, under Section 18 (2) the person injured per-se, whether it is an individual or a body of individual or a social organization or a Hindu joint family etc. Further under Section 14 and 16 any person can approach this Tribunal for appropriate relief including the relief under Section 18". From the above it is clear that the State shall endeavour and safeguard the environment and wild life and it is the fundamental duty of the citizen to improve the natural environment including forests, lakes, rivers, and wildlife and also to have compassion for living creatures. Once, the

protection and improving the natural environment is the fundamental duty of a citizen, any person can approach this Tribunal and agitate his grievance as to protection and improvement of the natural environment. The statutory provisions are subservient to the constitutional mandates. The person as defined or person aggrieved as occurs in Section 2(j) 16 and 18 (2) of the NGT Act cannot be placed above "every citizen" as appears in Article 51(A) of the Constitution of India, Once the mandate is of every citizen, any person can approach this Tribunal complaining environmental threat in the activities of the State or any organization or individual. Therefore, we are of the view that the applicants are interested persons in the environment and ecology of the area, though they are not directly affected/injured at this point of time, But, they can be definitely called aggrieved persons since they apprehend some danger, if the project is launched without taking proper precautions. The person aggrieved in environmental matters must be given a liberal construction and needs to be flexible. Therefore, we are of the considered opinion that persons like the applicants are also entitled to approach this Tribunal and the appeal is maintainable"

" 6 That in Save Mon Region Federation vs. Union of India and OE, (M.A. NO. 704 OF 2072 in Appeal No. 39 OF 2012) it has been held that:- "18. Law gives a right to 'any person' who is aggrieved by an order to prefer an appeal. The term 'any person' has to be widely construed. It is to include all legal entities so as to enable them to prefer an appeal, even if such

an entity does not have any direct or indirect interest in a given project. The expression 'aggrieved again, has to be construed liberally, The framers of law intended to give the right to any person aggrieved, to prefer an appeal without any limitation as regards his locus or interest,"

7. The National Green Tribunal in Krishan Kant Singh vs. M/s Triveni Engg. Industries Ltd, [O.A NO.31 7/2014] held that: "Under the provisions of the NGT Act any aggrieved person can approach the Tribunal for redressal of his grievances in relation to environment within the ambit and scope of Sections 14, 16 and 18 of the NGT Ad. The legislative object appears to be to catalyse the access to environmental justice, which need not be circumscribed by strict rule of locus standi in legal prescriptions."

8. Therefore, while consideration of the above-stated judgments, it is very clear that in order to maintain the Appeal direct legal injury is not required and therefore, the applicants has the requisite locus standi in this case.

9. Further, in the case of Samata & Ann v. MoeF & Ors., 2076 SCC Online NGT 479 this Tribunal had held that:- "Both under Section 11 of the NEAA Ad, 1997 and Section 18 of the NGT Act, 2010 any person aggrieved by the grant of EC as shown above can maintain an appeal. The "aggrieved person" as contemplated in the Ad came up for interpretation before the Tribunal in a number of cases. An aggrieved person contemplated in the above provisions would refer to the substantial grievance as to denial of some personal, pecuniary

or property right or imposing an obligation on a person. The grievance so ventilated should not be either fanciful or sentimental, but must be substantial. A person calling himself as an 'aggrieved' must have suffered a legal grievance that he has been wrongfully deprived of something or refused wrongfully. The aggrieved person can either be aggrieved either directly or indirectly. In so far as the environmental matters are concerned it cannot be stated that the person really aggrieved should alone be permitted to initiate an action. It is not necessary that the person, who initiates action, is a resident of that particular area wherein the proposed industrial site is located. It is true that the applicants have not participated in the proceedings of the public hearing. It is true that it is necessary to scan the credentials of the applicants as to their intention and motive. Even assuming that the applicants have not participated in the proceedings of the public hearing, to they would not lose their right challenge the approval or the EC. If the applicants come forward with a case apprehending damage and danger to environment and ecology if the project in question was not properly not satisfy the Principles of Sustainable Development and Precautionary Principles, they can maintain the appeal and be allowed to agitate as to the correctness of the study made in respect of ecology and environment."

10. The issue of locus standi was also raised before this Tribunal in the case of Samir Mehta n Union of India & Ors., 2016 SCC online NGT 479 before the PRINCIPAL BENCH of

this Tribunal wherein after going through a plethora of cases discussing the issue this Hon'ble Tribunal held that:-

"From the above judgment it is clear that locus standi of an Applicant cannot be given a strict connotation under the environmental laws of our country. 'Environment, is not a subject which is person oriented but is society centric. The impact of environment is normally felt by a larger section of society. Whenever environment is diluted or eroded the results are not person specific. If we were to adopt the reasoning given by the Respondents then it would lead to undesirable results. The provisions of a statute must be examined in light of the scheme of the Act and the scheme of both enactments afore referred do not permit recourse to such narrower interpretation."

11. That in Hanuman Laxman Aroskar vs, Union of India, (2019) 15 SCC 401, it has been held that:-

"164. Before we part with the present case, we consider it appropriate to record a finding on the bona fides of the applicants before this Court. It was briefly urged by the respondents that the applicants have invoked the jurisdiction of this Court based on a personal agenda and consequently, the present appeal is liable to be dismissed. This argument cannot be accepted. We accept the submission of Ms

Shenoy, Learned counsel appearing on behalf of the applicants, that the non-consideration of vital issues by EAC has led to the invocation of the statutory remedy available to them under Section 22 of the NGT Act, 2010. Vague aspersions on the intention of public-spirited individuals does not constitute an adequate response to those interested in the protection of the environment. If a court comes to the finding that the appeal before it was lacking bona fides, it may issue directions which it thinks appropriate in that case. In cases concerning environmental governance, it is a duty of courts to assess the case on its merits based on the materials present before it. Matters concerning environmental governance concern not just the living, but generations to come. The protection of the environment, as an essential facet of human development, ensures sustainable development for today and tomorrow."

63. The learned counsel for the Applicant has further relied on (2022) 13 SCC 401: 2021 SCC OnLine SC 897 (Municipal Corporation of Greater Mumbai Vs. Ankita Sinha & Ors.), where public interest and environmental matters have been highlighted giving approach to the National Green Tribunal for taking cognizance in the cases where there is danger to environmental rules.

64. In view of the above, we are of the view that since a forum is required to be heard where the environmental issues have been raised, thus strict formula of 'person aggrieved' or locus standi is not strictly applicable and as per philosophy as discussed above, the environmental matter can be heard before the Tribunal. Issue as raised is decided accordingly.
65. The submissions of the learned counsel for the Applicant are that this application is maintainable because it is against the environmental laws but the submissions of the learned counsel for the Respondents are that there are procedure to file the application and appeal and if the Applicant has to challenge any order then the procedure for challenging is contained in Section 28, 29 and 33B of the Water Act (Prevention and Control of Pollution) Act, 1974. The relevant provisions are quoted below:-

“28. Appeals. (1) Any person aggrieved by an order made by the State Board under section 25, section 26 or section 27 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the State Government may think fit to constitute: Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. (2) An appellate authority shall consist of a single person or three persons, as the State Government may think fit, to be appointed by that Government. (3) The form and manner in which an appeal may be preferred under sub-section (1), the fees payable for such

appeal and the procedure to be followed by the appellate authority shall be such as may be prescribed. (4) On receipt of an appeal preferred under sub-section (1), the appellate authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible. (5) If the appellate authority determines that any condition imposed, or the variation of any condition, as the case may be, was unreasonable, then, (a) where the appeal is in respect of the unreasonableness of any condition imposed, such authority may direct either that the condition shall be treated as annulled or that there shall be substituted for it such condition as appears to it to be reasonable; (b) where the appeal is in respect of the unreasonableness of any variation of a condition, such authority may direct either that the condition shall be treated as continuing in force unvaried or that it shall be varied in such manner as appears to it to be reasonable.

29. Revision. *(1) The State Government may at any time either of its own motion or on an application made to it in this behalf, call for the records of any case where an order has been made by the State Board under section 25, section 26 or section 27 for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it may think it: Provided that the State Government shall not pass any order under this sub-section without affording the State Board and the person who may be affected by such order a reasonable opportunity of being heard in the matter. (2) The State Government shall not revise*

any order made under section 25, section 26 or section 27 where an appeal against that order lies to the appellate authority, but has not been preferred or where an appeal has been preferred such appeal is pending before the appellate authority.

33B. Appeal to National Green Tribunal.-Any person aggrieved by,- (a) an order or decision of the appellate authority under section 28, made on or after the commencement of the National Green Tribunal Act, 2010*; or (b) an order passed by the State Government under Section 29, on or after the commencement of the National Green Tribunal Act, 2010*; or (c) directions issued under section 33A by a Board, on or after the commencement of the National Green Tribunal Act, 2010*, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.]”

66. The Applicant has neither approached the competent authority as contained in Section 28 or never made any revision before the revisionist authority and not filed any appeal before this Tribunal as provided under Section 33B of the Water (Prevention and Control of Pollution) Act, 1974.
67. The core challenge in the present Original Application is directed against the Notification issued by the MoEF&CC and State of Rajasthan and consent condition issued by the competent authority. This effectively renders the Original Application an appeal against a statutory order issued by the environmental authority. It is stated that the Original Application raises “substantial question related to environment” and that

an appellate remedy may not be fully constituted, however, a direct challenge to a regulatory approval falls primarily within the appellate jurisdiction of this Tribunal. It is further stated that there is no record demonstrating the fact that the Appellant made any effort to appeal before the legally mandated forums within the period of limitation. It is also stated that the National Green Tribunal Act, 2010, provides for specific appellate mechanism under Section 16 for aggrieved parties to challenge orders passed by prescribed authorities. By framing this challenge as an Original Application, the Applicant circumvents the established legal process and attempts to bypass potential procedural requirements and limitations applicable to appeals, including strict timelines. This Tribunal has repeatedly emphasised the importance of adhering to proper legal avenues and not allowing parties to convert appellate matters into original applications. Furthermore, the provisions under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974, have prescribed specific appellate authorities for challenging a Consent to Operate (CTO) order. It is stated that even though the instant application was an appeal in the garb of an Original Application, it is still hopelessly barred by limitation, which as per Section 14(3) of the NGT Act, 2010. Section 14(3) of the NGT Act 2010 reads as follows:-

.....No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose: Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application

within the said period, allow it to be filed within a further period not exceeding sixty days..."

68. The respondent, on the threshold, have raised their preliminary objections on the question of maintainability of the application on limitation and jurisdiction. They have raised all the contentions as narrated above. Speaking on the jurisdiction powers and proceedings of the Tribunal, Section 14 of the NGT Act, 2010, reads as follows:-

"14. Tribunal to settle disputes. – (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified on Schedule-I. (2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon. (3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose: Provided that the Tribunal may, if it is satisfied that the application was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days."

69. From the very reading of the above provisions of the NGT, it would be quite clear that the Tribunal has jurisdiction over all civil cases only where a substantial question relating to the environment including enforcement including enforcement of any legal right relating to

environment is involved and also the said substantial question should also arise out of the implementation and is included in one of the seven enactments specified under the Schedule-I. Even if the Applicant is able to satisfy the above requisite, the Tribunal can adjudicate the dispute only if it is made within a period of limitation from the date on which the cause of action in such dispute first arose.

70. As in any civil case, to initiate proceedings and to seek relief before the Tribunal, as envisaged under the provisions of NGT Act, one should have the cause of action which consisting of bundle of facts which gives the affected party a right to claim relief. The expression generally means the situation or a set of acts that entitles a party to maintain an action in a Court or a Tribunal:-

“(e) Black’s Law Dictionary defines Cause of Action as : “Cause of action is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. (f) In “Words and Phrases”, the meaning attributed to the phrase “cause of action” in common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf. (g) As per Halsbury Laws of England (Fourth Edition) “Cause of action” has been defined as meaning simply a factual situation the existence of which entitles one person to obtain from the Court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. “Cause of

action” has also been taken to mean that particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject matter of grievance founding the action, not merely the technical cause of action. (h) It is judicially settled that the cause of action, in the restricted sense, means forming the infraction of the right or the immediate occasion for the action and in the wider sense, the necessary conditions for the maintenance of the proceedings not only the alleged infraction but also the infractions coupled with the right itself.”

71. It would be apt and appropriate to reproduce the following observation made by the Principal Bench, NGT, New Delhi, in Appeal No.01 of 2013 Ms. Medha Patkar & Others Vs. Ministry of Environment & Forest, Union of India & Others, on the point of limitation:-

"The Tribunal must adopt a pragmatic and practical approach that would also be in consonance with the provisions of the Act providing limitation. Firstly, the limitation would never begin to run and no act would determine when such limitation would stop running as any one of the stakeholders may not satisfy or comply with all its obligations prescribed under the Act. To conclude that it is only when all the stakeholders had completed in entirety their respective obligations under the respective provisions, read with the notification of 2006, then alone the period of limitation shall begin to run, would be an interpretation which will frustrate the very object of the Act and would also cause serious prejudice to all concerned. Firstly, the completely frustrates the purpose of prescription of

limitation. Secondly, a project proponent who has obtained environmental clearance and thereafter spent crores of rupees on establishment and operation of the project, would be exposed to uncertainty, danger of unnecessary litigation and even the possibility of jeopardizing the interest of his project after years have lapsed. This cannot be the intent of law. The framers of law have enacted the provisions of limitation with a clear intention of specifying the period within which an aggrieved person can invoke the jurisdiction of this Tribunal. It is a settled rule of law that once the law provides for limitation, then it must operate meaningfully and with its rigour. Equally true is that once the period of limitation starts running, then it does not stop. An applicant may be entitled to condonation or exclusion of period of limitation. Discharge of one set of obligations in its entirety by any stakeholder would trigger the period of limitation which then would not stop running and equally cannot be frustrated by mere non-compliance of its obligation to communicate or place the order in public domain by another stakeholder. The purpose of providing a limitation is not only to fix the time within which a party must approach the Tribunal but is also intended to bring finality to the orders passed on one hand and preventing endless litigation on the other. Thus both these purposes can be achieved by a proper interpretation of these provisions. A communication will be complete once the order granting environmental clearance is placed in public domain by all the modes referred to by all or any of the stakeholders. The legislature in its wisdom has, under the provisions of the Act

or in the notification of 2006, not provided any other indicator or language that could be the precept for the Tribunal to take any other view."

72. In construing a statutory provision, the first and foremost rule of construction is the literary construction. All that the Court has to see at the very outset is what does the provision say. If the provision is unambiguous and if from the provision the legislative intent is clear, the Court need not call into aid the other rules of construction of statutes. The other rules of construction are called into aid only when the legislative intent is not clear. In a more recent judgment, the Supreme Court, in *Balwant Singh (Dead) Vs. Jagdish Singh and Ors.* (2010) 8 SCC 685, while dealing with the expression 'sufficient cause', elaborately stated the principles of condonation of delay. It also elucidated the approach to be adopted by a Court in such cases and held as under:-

"It must be kept in mind that whenever a law is enacted by the legislature, it is intended to be enforced in its proper perspective. It is an equally settled principle of law that the provisions of a statute, including every word, have to be given full effect, keeping the legislative intent in mind, in order to ensure that the projected object is achieved. In other words, no provisions can be treated to have been enacted purposelessly. Furthermore, it is also a well settled canon of interpretative jurisprudence that the Court should not give such an interpretation to provisions which would render the provision ineffective or odious. Once the legislature has enacted the provisions of Order 22, with particular reference to Rule 9, and the provisions of the

Limitation Act are applied to the entertainment of such an application, all these provisions have to be given their true and correct meaning and must be applied wherever called for. If we accept the contention of the Learned Counsel appearing for the applicant that the Court should take a very liberal approach and interpret these provisions (Order 22 Rule 9 of the CPC and Section 5 of the Limitation Act) in such a manner and so liberally, irrespective of the period of delay, it would amount to practically rendering all these provisions redundant and inoperative. Such approach or interpretation would hardly be permissible in law. Liberal construction of the expression 'sufficient cause' is intended to advance substantial justice which itself presupposes no negligence or inaction on the part of the applicant, to whom want of bona fide is imputable. There can be instances where the Court should condone the delay; equally there would be cases where the Court must exercise its discretion against the applicant for want of any of these ingredients or where it does not reflect 'sufficient cause' as understood in law. [Advanced Law Lexicon, P. Ramanatha Aiyar, 2nd Edition, 1997] The expression 'sufficient cause' implies the presence of legal and adequate reasons. The word sufficient means adequate enough, as much as necessary to the purpose intended. It embraces no more than that which provides a plentitude which, when done, suffices to accomplish the purpose intended in the light of existing circumstances and when viewed from the reasonable standard of practical and

cautious men. The sufficient cause should be such as it would persuade the Court, in exercise of its judicial discretion, to treat the delay as an excusable one. These provisions give the Courts enough power and discretion to apply a law in a meaningful manner, while assuring that the purpose of enacting such a law does not stand frustrated. We find it unnecessary to discuss the instances which would fall under either of these classes of cases. The party should show that besides acting bonafide, it had taken all possible steps within its power and control and had approached the Court without any unnecessary delay. The test is whether or not a cause is sufficient to see if it could have been avoided by the party by the exercise of due care and attention.”

73. In light of these principles, the contention of the applicant/appellant that the National Green Tribunal is the forum to which first appeal is provided against the orders specified in Section 16 of the NGT Act and that these provisions should be construed liberally, can hardly be accepted. Also there is no question of deprivation of right to appellant. The right of appeal is a statutory right and can be exercised within the prescribed period of limitation. If a party chooses to sleep over its right and permits the remedy available to it to become barred by time, then it can hardly be heard to contend that it has lost a valuable right and the result is unjust. Such interpretation would be a normal corollary of application of rule of 'plain construction'. This would be in line with the object and purpose of the Act and would also sub serve the cause of

justice. This interpretation would not preclude any litigant from taking recourse to an appropriate remedy prescribed in in accordance with law.

74. We cannot and shall not overlook mandate of the proviso appended to Section 16 of the NGT Act, 2010, which carve out exception to the general Rule provided under Section 16 of the NGT Act, 2010. It is well stated that 'proviso' is always an exception to the main Rule, which is set out in the provision of the Rules. Needless to say, the 'proviso' will not supersede the main provision. The language of proviso, appended to Section 16, would make it amply clear that the Tribunal "must be satisfied by the Appellant with tangible reasons, which prevented him from filing of the Appeal within prescribed period of limitation, in order to make him eligible to ask for concession for extension of time". True, interpretation of the proviso has to be primarily made and the same cannot be used as cobweb to deprive a genuine litigant from approaching the Tribunal. Still, however, in an appropriate case, where there is absolutely no acceptable explanation given by the Appellant, then extension of period of under the proviso, is unwarranted grant of premium in-spite of absence of satisfactory reason being stated in the delay condonation Application. Such an application cannot be granted just for asking by a litigant, who fails to explain reasons for the delay.

75. There is no provision in the Act to file one appeal against several or more than one orders. The relief as sought by the applicant contains more than one appealable order and appellant had right to file an appeal separately before the competent forum but, he adopted to file complaint/OA. This takes us to the question of maintainability of the Application in a composite form, which he says is dual- Appeal-cum-Application, filed in view of availability of plural remedies, in accordance

with Rule 14 of the National Green Tribunal (Practices and Procedure) Rules, 2011. We shall deal with his contention, in order to set right the issue in as much as it is likely to be raised on similar ground. Rule 14 of the NGT (Practices and Procedure) Rules, 2011, reads as follows:-

"Rule 14. Plural remedies- An application or appeal, as the case may be, shall be based upon a single cause of action and may seek one or more relief provided that they are consequential to one another."

76. Perusal of Rule 14, without any pre-judicial notions in the mind, will make it amply clear that any Application or Appeal, as the opening words imply are distinct remedies under which the particular relief may be sought on single cause of action. Thus, if properly read, the Rule provides as follows:-

"i) There may be either single Application or Appeal. In other words, it cannot be a comprehensive or hybrid type of pleadings like Appeal-cum-Application, as captioned by the Appellant-cumApplicant, as in the present Application/Appeals. ii) The Appeal or Application, whatsoever it may, be must be filed on single cause of action. Thus, it cannot be filed on several causes of action. In other words, an Appeal cannot be filed with combined challenging different ECs or orders, nor an Application can be filed challenging different orders or different violations under the different Laws. iii) Still, however, choice given to Appellant/Applicant is to ask for grant of more than one relief in case such reliefs, are of consequential character. In

other words, if a relief depends upon grant of another relief, then grant of more than one relief is permissible. For example; in case EC for grant of a project is challenged on the ground that there is no permission from CRZ Authority to the construction carried out, then consequential relief to demolish illegal construction carried out, without CRZ Authority's permission, which falls within CRZ area/NDZ area.”

77. We cannot overlook and brush aside main provisions of the NGT Act, which do not provide for any kind of permission to allow filing of two (2) Appeals, one against time barred EC, coupled with another EC for revised plan along with an Application under Sections 14,15 and 18 of the National Green Tribunal Act, 2010
78. Once we examine the provision of Section 16 of the NGT Act in the light of the above principle, it is clear that the provision is neither ambiguous nor indefinite. The expressions used by the legislature are clear and convey the legislative intent. The communication of an order granting the Environmental Clearance has to be made by the MoEF/SEIAA as well as the Project Proponent in adherence to law. The communication would be complete when it is undisputedly put in the public domain by the recognised modes, in accordance with the said provision. The limitation of 30 days would commence from that date. If the application is presented beyond the period of 30 days, in that event, it becomes obligatory upon the applicant to show sufficient cause explaining the delay. The delay must be bona fide and not a result of negligence or intentional inaction or mala fide and must not result in the abuse of process of law. Once these ingredients are satisfied the Tribunal shall

adopt a balanced approach in light of the facts and circumstances of a given case".

“36. Trite law it is that the special law of limitation in any given enactment will always exclude the general law of limitation. The NGT Act, 2010, a special enactment specifically provides a period of limitation under section 14(2) and 15(3). The Principal Bench, NGT has already held in Jesurathinam v. MoEF, Union of India reported in 2012 (2) FLT 811 NGT that when a specific provision for limitation is provided under the special statute, the general provisions of the Limitation Act, 1963 are inapplicable. Hence, the Tribunal is afraid whether the theory of continuing cause of action can be made applicable to the present factual position of the case for which the specific period of limitation is available under the NGT Act, 2010.”

79. Thus, the application for quashing the order/notification is barred by time and instead of filing the appeal against the order in accordance with the provisions contained in Section 28 of the Water (Prevention and Control of Pollution) Act, 1974, this application has been filed beyond time, and not maintainable.
80. Learned counsel for the Applicant has raised the issue that on the relief which has been claimed in the petition/application is maintainable while the contention of the learned counsel for the Respondent/Project Proponent is that there are more than two different causes of action for which two different applications lie before different forum in accordance with the provisions contained in the National Green Tribunal Act, 2010 and Water (Prevention and Control of Pollution) Act, 1974.

81. We have narrated the provisions in the above paragraphs, thus it would be quite clear that reliefs sought for on two distinct and different causes of action would be repugnant to rule 14 of the NGT Rules, 2011. The words 'consequential' to one another employed in rule 14 of the NGT Rules, 2011 would make the intention of the Legislature explicit that the reliefs sought for by the applicant or appellant can be more than one if they are consequential to one another but certainly not on two different causes of action. 'Consequential relief should flow directly as a natural sequence from the main and substantive relief and it can even be incidental also. But, it should be wholly connected to the main or the substantive relief and thus should arise from the same cause of action. In the instant case, two different and distinctive reliefs based on two separated causes of action are asked for by the appellant. The submission by the learned counsel for the appellant that the relief was for striking down notification/office memorandum and setting aside of CTO/EC are intrinsically linked is worth to be ignored. In the face of rule 14 of NGT Rules, 2011 as seen above, it would be futile to contend that the Rule 14 does not restrict the jurisdiction of cause of action. Perusal of Rule 14, without any prejudicial notions in the mind, will make it amply clear that any Application or Appeal, as the opening words imply are distinct remedies under which the particular relief may be sought on single cause of action. Thus, if properly read the rule provide as follows:-

- i. *“There may be either single Application or Appeal. In other words, it cannot be a comprehensive or hybrid type of pleadings like Appeal-cum-Application, as captioned by the Appellant-cum-Applicant as in the present Application.*

ii. *The Appeal or Application, whatsoever it may be must be filed on single cause of action. Thus, it cannot be filed on several causes of action. In other words, an Appeal cannot be filed with combined causes challenging different ECs or orders, nor an Application can be filed challenging different orders or different violations under the different laws.”*

82. Applying the principle laid down as above, we have no hesitation to hold that the appellant on two distinct and independent causes of action cannot maintain the present application. It is argued by the respondent that it is forum hunting and it is intended to continue till the appellant does not achieve a desired goal. The platform of the Tribunal or the Courts cannot be made a platform to compel the opposite party to pass a desired order. The matter cannot be agitated and to be continued till infinity and it should come at rest. The Hon’ble Supreme Court in *Dr. Buddhi Kota Subbarao Vs. K Parasaran & Ors.*, AIR 1996 SC 2687 has observed as under:-

“No litigant has a right to unlimited drought on the Court time and public money in order to get his affairs settled in the manner he wishes. However, access to justice should not be misused as a licence to file misconceived and frivolous petitions.”

Similar view has been reiterated by the Supreme Court in K.K. Modi Vs. K.N. Modi & Ors., (1998) 3 SCC 573.

In Tamil Nadu Electricity Board & Anr. Vs. N. Raju Reddiar & Anr. AIR 1997 SC 1005 the Hon'ble Supreme Court held that filing successive misconceived and frivolous applications for clarification, modification or for seeking a review of the order interferes with the purity of the administration of law and salutary and healthy practice. Such a litigant must be dealt with a very heavy hand.

In Sabia Khan & Ors. Vs. State of U.P. & Ors., (1999) 1 SCC 271, the Hon'ble Apex Court held that filing totally misconceived petition amounts to abuse of the process of the Court and such litigant is not required to be dealt with lightly.

In Abdul Rahman Vs. Prasoni Bai & Anr., (2003) 1 SCC 488, the Hon'ble Supreme Court held that wherever the Court comes to the conclusion that the process of the Court is being abused, the Court would be justified in refusing to proceed further and refuse the party from pursuing the remedy in law."

"It is well established rule of interpretation of a statute by reference to the exposition it has received from contemporary authority. However, the Apex Court added the words of caution that such a rule must give way where the language of the statute is plain and unambiguous. Similarly, in Collector of Central Excise, Bombay-I & Anr. Vs. M/s. Parle Export (P) Ltd., AIR 1980 SC 644, the Hon'ble Supreme Court observed that the words used in the provision should be understood in the same way in which they have been understood in ordinary parlance in the area in which the law is in force or by the

people who ordinarily deal with them. In Indian Metals and Ferro Alloys Ltd., Cuttack Vs. The Collector of Central Excise, Bhubaneswar, AIR 1991 SC 1028, the Hon'ble Supreme Court has applied the same rule of interpretation by holding that "contemporanea expositio by the administrative authority is a very useful and relevant guide to the interpretation of the expression used in a statutory instrument." Same view has been taken by the Hon'ble Supreme Court in State of Madhya Pradesh Vs. G.S. Daal and Flour Mills (Supra); and Y.P. Chawla & Ors. Vs. M.P. Tiwari and Anr., AIR 1992 SC 1360. In N. Suresh Nathan & Ors. Vs. Union of India & Ors, 1992 (Suppl) 1 SCC 584; and M.B. Joshi & Ors. Vs. Satish Kumar Pandey & Ors., 1993 (Suppl.) 2 SCC 419, the Apex Court observed that construction in consonance with long-standing practice prevailing in the concerned department is to be preferred."

83. On the basis of above discussion, there are more than two causes of action or several causes of action. Thus, the application is not maintainable for the reasons mentioned above and the application is a form of forum hunting to achieve an intended target and not coming under the purview of a substantial question relating to the environment, and even if applicant is aggrieved against the order of MoEF&CC or the notification issued by the State Govt. or the consent condition granted by the appropriate authority, the aggrieved has every right to challenge the order by filing the appropriate application before the appropriate forum, for these reasons, the application is also not maintainable for relief.

B. SEIAA AND EXPERT OPINION

84. Submission of the learned counsel for the applicant is that the report of the SEAC is without application of any mind and should not be relied upon. In reply thereof, learned counsel for the Respondent/Project Proponent has submitted that it is valid, since it is expert body of approximately 12 members or more and was deliberated widely and thus binding till it is not declared void or cancelled by the competent authority.
85. In a case reported in 2011 (3) SCC 364, *Krishnadevi Malchand Kamathia v. Bombay Environmental Action Group*, it was held as follows:-

"16. It is a settled legal proposition that even if an order is void, it requires to be so declared by a competent forum and it is not permissible for any person to ignore the same merely because in his opinion the order is void. In State of Kerala v. M.K. Kunhikannan Nambiar Man jeri Manikoth Naduvil, (1996) 1 SCC 435, Tayabbhai M. Bagasarwalla v. Hind Rubber Industries (P) Ltd., (1997) 3 SCC 443, M. Meenakshi v. Metadin Agarwal and Sneh Gupta v. Devi Sarup, (2009) 6 SCC 194, this court held that whether an order is valid or void, cannot be determined by the parties. For setting aside such an order, even if void, the party has to approach the appropriate forum.

17. In State of Punjab V. Gurdev Singh this court held that a party aggrieved by the in validity of an order has to approach the court for relief of declaration that the order against him is inoperative and therefore, not binding upon him. While deciding the said case, this Court placed reliance upon the judgment in

Smith v. East Elloe RDC, wherein Lord Radcliffe observed: (AC pp. 769-70) "

...An order, even if not made in good faith, is still an act capable of legal consequences. It bears no brand of invalidity (on) its forehead. Unless the necessary proceedings are taken at law to establish the cause of invalidity and to get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders."

18. In Sultan Sadik v. Sanjay Raj Subba, (2004) 2 SCC 1377, this court took a view observing that once an order is declared non est by the court only then the judgment of nullity would operate erga omnes i.e. for and against everyone concerned. Such a declaration is permissible if the court comes to the conclusion that the author of the order lacks inherent jurisdiction/competence and therefore, it comes to the conclusion that the order suffers from patent and latent invalidity.

86. Thus, from the above it emerges that even if the order/notification is void/voidable, the party aggrieved by the same cannot decide that the said order/notification is not binding upon it. It has to approach the court for seeking such declaration. The order may be hypothetically a nullity and even if its invalidity is challenged before the court in a given circumstance, the court may refuse to quash the same on various grounds including the standing of the petitioner or on the ground of delay or on the doctrine of waiver or any other legal reason. The order may be void for one purpose or for one person, it may not be so for another purpose or another person.

87. The SEIAA members are expert in their domain fields and apprised the proposal, through scrutiny and detailed deliberations are done by the members. Therefore, the deliberations taken place in the meeting are always of technical nature. The objections and clarifications of the Project Proponent have been complied on various issues raised by the SEAC members and the proposal was recommended. The expert finding cannot be questioned and this can be relied on the following law points:-

***“A. Rajeev Suri v. Delhi Development Authority
[2021 SCC OnLine SC 7]***

“494. The minutes of the two meetings of EAC are selfexplanatory and reveal due application of mind, in light of the principles relating to application of mind enunciated above. We do not wish to repeat the same to avoid prolixity. 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.

495. *Once an expert committee has duly applied its mind to an application for EC, any challenge to its decision has to be based on concrete material which reveals total absence of mind. Absent that material, due deference must be shown to the decisions of experts. The facts of the case do not reveal any deliberate concealment of fact/information from the EAC or supply of any misinformation....*

515. *We, therefore, upon a thorough examination, decline to interfere in the grant of EC. The expertise developed by the EAC cannot be undermined in a light manner and as noted above, due deference must be accorded to expert agencies when their 384 decisions do not attract the taint of legal unjustness”.*

B. N.D. Jayal & Anr. vs. Union of India [2004 (9) SCC 362]: A 3-Judge Bench of the Hon'ble Supreme Court emphasized the exercise of judicial restraint in matters involving technical expertise.

20. *This Court cannot sit in judgment over the cutting edge of scientific analysis relating to the safety of any project. Experts in science may themselves differ in their opinions while taking decisions on matters related to safety and allied aspects. The opposing viewpoints of the experts will also have to be given due consideration after full application of mind. When the Government or*

the concerned authorities after due consideration of all viewpoints and full application of mind took a decision, then it is not appropriate for the Court to interfere. Such matters must be left to the mature wisdom of the Government or the implementing agency. It is their forte. In such cases, if the situation demands, the Courts should take only a detached decision based on the pattern of the well settled principles of administrative law. If any such decision is based on irrelevant consideration or non consideration of material or is thoroughly arbitrary, then the Court will get in the way. Here the only point to consider is whether the decision making agency took a well informed decision or not. If the answer is yes then there is no need to interfere. The consideration in such cases is in the process of decision and not in its merits.

21. In this context, reliance is sought to be placed on the decision of this Court in A.P. Pollution Control Board v. Prof. M.V. Nayudu (Retd.) and Ors., 1999 (2) SCC 718. In that decision, this Court viewed that in scientific matters of complex nature resulting in uncertainty, reference has to be made to a specialised technical/expert body and not merely decide the matter on well known principles of administrative law of court not reexamining the matter if all relevant considerations have been taken note of. In the present case when once a decision had been given by this Court on safety

aspects on an earlier occasion and thereafter the matter was again examined by the Government through different agencies and had taken a decision as to the necessity of further test by way of abundant caution should be relevant or not, we do not think, we can sit in judgment over such decision, particularly when there is no difference of opinion among the Experts as to the safety of the dam.

**C. Sam Built Well Private Limited vs Deepak Builders
[2018 (2) SCC 176]:**

This judgement was rendered by the Hon'ble Supreme Court in the context of judicial review of tenders. However, several observations were made qua exercising judicial restraint in matters involving technical expertise.

12. We have already noticed that three expert committees have scrutinized Respondent No. 1's tender and found Respondent No. 1 to be ineligible. The impugned judgment of the Division Bench of the High Court expressly states that no malafides are involved in the present case. Equally, while setting aside the judgment of the learned Single Judge, the Division Bench does not state that the three expert committees have arrived at a perverse conclusion. To merely set aside the judgment of the learned Single Judge and then jump to the conclusion that Respondent No. 1's tender was clearly eligible, would be directly contrary to the judgments aforesaid. Not having found malafides or perversity in the technical expert

reports, the principle of judicial restraint kicks in, and any appreciation by the Court itself of technical evaluation, best left to technical experts, would be outside its ken. As a result, we find that the learned Single Judge was correct in his reliance on the three expert committee reports. The Division Bench, in setting aside the aforesaid judgment, has clearly gone outside the bounds of judicial review. We, therefore, set aside the judgment of the Division Bench and restore that of the learned Single Judge.

D. Bombay Environmental Action Group vs State of Maharashtra [1990 SCC OnLine Bom 357]:

The Hon'ble High Court of Bombay made several observations discouraging judicial interference in technical matters pertaining to the environment. 16. The, petitioners, as public spirited organisations and citizens, have, through their respective Counsel, done their duty by invoking this Courts writ jurisdiction and placing before us all such facts and circumstances as considered best by them. We in our turn, have done our duty by carefully examining all the facts and circumstances in the context of the rival contentions advanced before us on either side. In the course of this elaborate exercise and at every stage of the judicial process, we have kept asking ourselves the question -- Have the authorities shown such lack of awareness or have they been so oblivious of the needs of environment as to warrant Courts interference? We do not think so. On the contrary, considerable though

deliberation, consultation and application of mind by all concerned authorities and experts has gone into the decision making process. We find on the part of the authorities, and experts all the seriousness while considering and deciding upon the varied factors and circumstances including environment in relation to this project. The indepth analysis, the conditions imposed and the precautions taken inspire Courts confidence and, if, at the end of it all, the Court finds that a very conscious decision has been taken in the light of all possible pros and cons, it would then not interfere. The decision of the authorities cannot be said to be arbitrary or capricious or one not in good faith or actuated by improper motive or extraneous considerations.

17. Environmental issues are relevant and deserve serious consideration. But the needs of the environment require to be balanced with the needs of the community at large and the needs of a developing country. If one finds, as in this case, that all possible environmental safe-guards have been taken, the check and control by way of judicial review should then come to an end. Once an elaborate and extensive exercise by all concerned including the environmentalists, the State and the Central authorities and expert-bodies is undertaken and effected and its end result judicially considered and reviewed, the matter thereafter should in all fairness stand concluded. Endless arguments, endless reviews and endless litigation in a

matter such as this, can carry one to no end and may as well turn counterproductive. While public interest litigation is a welcome development, there are nevertheless limits beyond which it may as well cease to be in public interest any further.”

C. SUSTAINABLE DEVELOPMENT:

88. While economic development should not be allowed at the cost of ecology or by causing widespread environmental destruction, the necessity to preserve ecology and environment should not hamper economic and other development. Both development and environment must go hand in hand. In other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment [Indian council for enviro-legal action v union of India [1996]5 SCC 281]. The traditional concept that development and ecology are opposed to each other is no longer acceptable [Vellore Citizens Welfare Forum v. Union of India [1996] 5 SCC 647].
89. In a constitutional framework which is intended to create, foster and protect a democracy committed to liberal values, the rule of law provides the cornerstone. The rule of law is to be distinguished from rule by the law. The former comprehends the setting up of a legal regime with clearly defined rules and principles of even application, a regime of law which maintains the fundamental postulates of liberty, equality and due process. The rule of law postulates a law which is answerable to constitutional norms. The law in that sense is accountable as much as it is capable of exacting compliance. Rule by the law on the other hand can mean rule by a despotic law. It is to maintain the just quality of the law

and its observance of reason that rule of law precepts in constitutional democracies rest on constitutional foundations. A rule of law framework encompasses rules of law but it does much more than that. It embodies matters of substance and process. It dwells on the institutions which provide the arc of governance. By focusing on the structural norms which guide institutional decision making, rule of law frameworks recognize the vital role played by institutions and the serious consequences of leaving undefined the norms and processes by which they are constituted, composed and governed. A modern rule of law framework is hence comprehensive in its sweep and ambit. It recognizes that liberty and equality are the focal point of a just system of governance and without which human dignity can be subverted by administrative discretion and absolute power. Rule of law then dwells beyond a compendium which sanctifies rules of law. Its elements comprise of substantive principles, processual guarantees and institutional safeguards that are designed to ensure responsive, accountable and sensitive governance.

90. The environmental rule of law, at a certain level, is a facet of the concept of the rule of law. But it includes specific features that are unique to environmental governance, features which are *sui generis*. The environmental rule of law seeks to create essential tools – conceptual, procedural and institutional to bring structure to the discourse on environmental protection. It does so to enhance our understanding of environmental challenges – of how they have been shaped by humanity’s interface with nature in the past, how they continue to be affected by its engagement with nature in the present and the prospects for the future, if we were not to radically alter the course of destruction which humanity’s actions have charted. The environmental rule of law seeks to facilitate a multi– disciplinary analysis of the nature and consequences of

carbon footprints and in doing so it brings a shared understanding between science, regulatory decisions and policy perspectives in the field of environmental protection. It recognizes that the 'law' element in the environmental rule of law does not make the concept peculiarly the preserve of lawyers and judges. On the contrary, it seeks to draw within the fold all stakeholders in formulating strategies to deal with current challenges posed by environmental degradation, climate change and the destruction of habitats. The environmental rule of law seeks a unified understanding of these concepts. There are significant linkages between concepts such as sustainable development, the polluter pays principle and the trust doctrine. The universe of nature is indivisible and integrated. The state of the environment in one part of the earth affects and is fundamentally affected by what occurs in another part. Every element of the environment shares a symbiotic relationship with the others. It is this inseparable bond and connect which the environmental rule of law seeks to explore and understand in order to find solutions to the pressing problems which threaten the existence of humanity. The environmental rule of law is founded on the need to understand the consequences of our actions going beyond local, state and national boundaries. The rise in the oceans threatens not just maritime communities. The rise in temperatures, dilution of glaciers and growing desertification have consequences which go beyond the communities and creatures whose habitats are threatened. They affect the future survival of the entire eco-system. The environmental rule of law attempts to weave an understanding of the connections in the natural environment which make the issue of survival a unified challenge which confronts human societies everywhere. It seeks to build on experiential learning's of the past to formulate principles which must become the building pillars of

environmental regulation in the present and future. The environmental rule of law recognizes the overlap between and seeks to amalgamate scientific learning, legal principle and policy intervention. Significantly, it brings attention to the rules, processes and norms followed by institutions which provide regulatory governance on the environment. In doing so, it fosters a regime of open, accountable and transparent decision making on concerns of the environment. It fosters the importance of participatory governance – of the value in giving a voice to those who are most affected by environmental policies and public projects. The structural design of the environmental rule of law composes of substantive, procedural and institutional elements. The tools of analysis go beyond legal concepts. The result of the framework is more than just the sum total of its parts. Together, the elements which it embodies aspire to safeguard the bounties of nature against existential threats. For it is founded on the universal recognition that the future of human existence depends on how we conserve, protect and regenerate the environment today.

91. In its decision in *Hanuman Laxman Aroskar vs Union of India*, [2019] 15 SCC 401 the Court, recognized the importance of protecting the environmental rule of law. The court observed:-

"142. Fundamental to the outcome of this case is a quest for environmental governance within a rule of law paradigm. Environmental governance is founded on the need to promote environmental sustainability as a crucial enabling factor which ensures the health of our ecosystem. "

143. Since the Stockholm Conference, there has been a dramatic expansion in environmental laws and institutions across the globe. In many instances, these laws and institutions have helped to slow down or reverse environmental degradation. However, this progress is also accompanied, by a growing understanding that there is a considerable implementation gap between the environmental laws and their requirements of implementation and enforcement both in developed and developing countries alike...

156. The rule of law requires a regime which has effective, accountable and transparent institutions. Responsive, inclusive, participatory and representative decision making are key ingredients to the rule of law. Public access to information is, in similar terms, fundamental to the preservation of the rule of law. In domestic context, environmental governance that is founded on the rule of law emerges from the values of our Constitution. The health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution. Proper structures for environmental decision making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution.”

92. In its first global report on environmental rule of law in January 2019, the United Nations Environment Programme (“UNEP”) has presciently stated:-

"If human society is to stay within the bounds of critical ecological thresholds, it is imperative that environmental laws are widely understood, respected, and enforced and the benefits of environmental protection are enjoyed by people and the planet. Environmental rule of law offers a framework for addressing the gap between environmental laws on the books and in practice and is key to achieving the Sustainable Development Goals.

Successful implementation of environmental law depends on the ability to quickly and efficiently resolve environmental disputes and punish environmental violations. Providing environmental adjudicators and enforcers with the tools that allow them to respond to environmental matters flexibly, transparently, and meaningfully is a critical building block of environmental rule of law"

93. The need to adjudicate disputes over environmental harm within a rule of law framework is rooted in a principled commitment to ensure fidelity to the legal framework regulating environmental protection in a manner that transcends a case-by-case adjudication. Before this mode of analysis gained acceptance, we faced a situation in which, despite the existence of environmental legislation on the statute books, there was an absence of a set of overarching judicially recognized principles that could inform environmental adjudication in a manner that was stable, certain and

predictable. In an article in the Asia-Pacific Journal of Environmental Law (2014), Bruce Pardy describes this conundrum in the following terms:-

“Environmental regulations and standards typically identify specific limits or prohibitions on detrimental activities or substances. They are created to reflect the principles and prohibitions contained in the statute under which they are promulgated. However, where the contents of the statute are themselves indeterminate, there is no concrete rule or set of criteria to apply to formulate the standards. Their development can therefore be highly political and potentially arbitrary. Instead of serving to protect citizens' environmental welfare, an indeterminate environmental law facilitates a utilitarian calculus that allows diffuse interests to be placed aside when they are judged to be less valuable than competing considerations.”

94. However, even while using the framework of an environmental rule of law, the difficulty we face is this when adjudicating bodies are called on to adjudicate on environmental infractions, the precise harm that has taken place is often not susceptible to concrete quantification. While the framework provides valuable guidance in relation to the principles to be kept in mind while adjudicating upon environmental disputes, it does not provide clear pathways to determine the harm caused in multifarious factual situations that fall for judicial consideration. The determination of such harm requires access to scientific data which is often times difficult to come by in individual situations.

95. In an article in the Georgetown Environmental Law Review (2020), Arnold Kreilhuber and Angela Kariuki explain the manner in which the environmental rule of law seeks to resolve this imbroglio:-

"One of the main distinctions between environmental rule of law and other areas of law is the need to make decisions to protect human health and the environment in the face of uncertainty and data gaps. Instead of being paralyzed into inaction, careful documentation of the state of knowledge and uncertainties allows the regulated community, stakeholders, and other institutions to more fully understand why certain decisions were made."

The point, therefore, is simply this the environmental rule of law calls on us, as judges, to marshal the knowledge emerging from the record, limited though it may sometimes be, to respond in a stern and decisive fashion to violations of environmental law.

We cannot be stupefied into inaction by not having access to complete details about the manner in which an environmental law violation has occurred or its full implications. Instead, the framework, acknowledging the imperfect world that we inhabit, provides a roadmap to deal with environmental law."

96. In a recent decision of the Court in *Bengaluru Development Authority vs. Sudhakar Hegde* 2020 SCC online SC 328, the Hon'ble Supreme Court held:-

"107. The adversarial system is, by its nature, rights based. In the quest for justice, it is not uncommon to

postulate a winning side and a losing side. In matters of the environment and development however, there is no trade-off between the two. The protection of the environment is inherent component of development and growth... "

108. Professor Corker draws attention to the idea that the environmental protection goes beyond lawsuits. Where the state and statutory bodies fail in their duty to comply with the regulatory framework for the protection of the environment, the courts, acting on actions brought by public spirited individuals are called to invalidate such actions... "

109. The protection of the environment is premised not only on the active role of courts, but also on robust institutional frameworks within which every stakeholder complies with its duty to ensure sustainable development. A framework of environmental governance committed to the rule of law requires a regime which has effective, accountable and transparent institutions. Equally important is responsive, inclusive, participatory and representative decision making. Environmental governance is founded on the rule of law and emerges from the values of our Constitution. Where the health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution, proper structures for environmental decision making find expression in the guarantee against arbitrary action and

the affirmative duty of fair treatment under Article 14 of the Constitution. Sustainable development is premised not merely on the redressal of the failure of democratic institutions in the protection of the environment, but ensuring that such failures do not take place.”

97. It cannot be disputed that no development is possible without some adverse effect on the ecology and environment, and the projects of public utility cannot be abandoned and it is necessary to adjust the interest of the people as well as the necessity to maintain the environment. A balance has to be struck between the two interests. Where the commercial venture or enterprise would bring in results which are far from for more useful for the people, difficulty of a small number of people has to be bypassed. The comparative hardships have to be balanced and convenience and benefits to a larger section of the people has to get privacy over comparatively lesser hardship.
98. This indicates that while applying the concept of sustainable development one has to keep in mind the principal of proportionality based on the concept of balance. It is an exercise in which we have to balance a priorities of development on one hand and environmental protection on the other hand.
99. The contention as raised by the applicant has been raised before the SEIAA and SEAC and the competent authority, MoEF&CC and State Pollution Control Board the same has been considered and disposed of. As per report of the joint committee including the members of the MoEF&CC, CPCB, Environmental Engineer, TTZ, Agra and State Pollution Control Board, the decision has been taken in accordance with the directions issued by the Hon'ble Supreme Court of India in the

matter quoted above and in accordance with the decision and recommendation of the NERRI which was duly recommended by the Environmental Appraisal Committee and the State Environmental Committee and in accordance with law.

100. Initially, this application was filed against the District Magistrate, State of Rajasthan, MoEF&CC, TTZ and SEIAIA, Rajasthan. Later on, at the stage of hearing, the applicant has also added the name of more than 42 persons at very belated stage and on the principle as laid-down above, these all are separate cases relating to separate mining lease and consent condition having a separate cause of action, thus, those individual matters have not been considered by this Tribunal. However, the State PCB is at liberty to take action according to rule in case of any violation and the aggrieved, if any, by the order of the State PCB or the state authority may file appropriate application before the appropriate forum. To clarify the position of ESZ, the learned counsel for the respondent/state and the SEIAA has relied on the report dated 24.03.2022 submitted by the members of the SEIAA (page no. 501 of paper book) that "DCF Wildlife Bharatpur in a certificate dated 22.03.2022 has stated that Bandh Bharatha Wildlife Sanctuary is 1.5 km and its declared ESZ is 0.1 km from applied area. It further states that the applied area is outside of ESZ of Bandh Bharatha Wildlife Sanctuary. The DCF Wildlife National Chambal Ghariyal Sanctuary, vide his letter dated 09.03.2022 has stated that the applied area is at the distance of more than 30 km. from Kesar Bagh Sanctuary, Van Vihar Sanctuary, Ram Sagar Sanctuary and National Chambal Ghariyal Sanctuary. The Prabhagiya Nideshak Social Forestry, Agra has certified that the distance

between inter-district and inter-state boundary is more than 10 km. which has Kheragad and Kirawali range and no sanctuary”.

101. In view of the above discussions our conclusions and directions are as follows :-

- i. In view of the sensitive regions we direct the respondent that the orders and directions issued by the Hon'ble Supreme Court of India in TTZ matters must be strictly complied with and Sustainable Sand Mining Management Guidelines, 2016 & The Enforcement and Monitoring Guidelines for Sand Mining, 2020 and its conditions must be observed. The recommendations suggested by the joint committee must be monitored by the Collector concerned.
- ii. The Department of Mines and Geology is directed that the quality and extent of the plantation must be improved in the entire cluster and there be an appropriate plantation planning for entire cluster zone and the dense plantation with effective protection through barbed wire fencing to be carried out using Miyawaki Plantation Technique. There must be adequate maintenance of road network, demarcation of mining lease through pillars and planning for replenishment.
- iii. Mandatory six (06) monthly compliance report must be examined and in case of non-compliance of the conditions, the data should be uploaded on the website and necessary action must be taken for compliance of various conditions. Revenue Department, Forest Department and Department of Geology and Mining to ensure that mining is done within

allotted lease area and within permissible quantity and strict action to be taken against the concerned violation is observed during visit to be carried out on regular basis.

- iv. The State PCB is directed to monitor ambient air quality at the locations where the air quality has deteriorated beyond permissible limits and air emissions are reported to be high due to vehicular movement in the cluster as well as in adjacent road network periodically. There must be permanent and regular water sprinkler installed on the main hallways, roads on the cluster and must be installed a Wheel washing facility at the individual mines and the road network in the cluster must be metalled so as to avoid any fugitive emissions.
- v. The respondent/state is directed that the transportation route must be improved from the District Mineral Foundation Trust from the DMF Fund, subject to audit by the concerned department.
- vi. The prayer for quashing the notification dated 26.12.2018 and 18.05.2021 issued by the MoEF&CC is time barred and not maintainable before this Tribunal. The efficacious and alternate remedy for filing the appeal was available before the appellant/applicant, the same has not been adopted. If the applicant is aggrieved by any order of the competent authority the appropriate remedy under Section 16 of NGT Act, 2010 or any other law for challenging the notification is available. Thus, present original application as filed is not maintainable for the above relief.

vii. The prayer for quashing the environmental clearance dated 24.03.2022 and recommendation of SEAC dated 22.03.2022 with MoEF&CC permission dated 11.06.2021 is not within the limitation and barred by time. Further the applicant has efficacious remedy to file an appeal before the appropriate forum.

102. With these observations **Original Application No. 96/2023** alongwith **I.As** stand **disposed of**.

Sheo Kumar Singh, JM

Sudhir Kumar Chaturvedi, EM

25th September, 2025
O.A. No.96/2023(CZ)
PN