

F. No. 3-50/2017-IA.III(Pt.)
Government of India
Ministry of Environment, Forest and Climate Change
(IA-III Section)

Indira Paryavaran Bhawan
Jor Bag Road, New Delhi – 3
Dated: 30th May, 2018

OFFICE MEMORANDUM

Sub: Consideration of mining proposals involving violation of the EIA Notification, 2006 under the provisions of S.O. 804 (E) dated 14.03.2017 and subsequent amendments for ToR / EC -regarding.

In order to regularize the projects involving violation of EIA Notification, 2006, the Ministry of Environment, Forest and Climate Change has issued a Notification number S.O.804(E) dated 14th March, 2017 and S.O. 1030 (E) dated 8th March, 2018 under the Environment (Protection) Act, 1986 to appraise the projects that have not taken prior environment clearance in terms of provisions of Environment Impact Notification, 2006 amended from time to time. Such cases have been termed as cases of violation of said notification.

2. Meanwhile, Hon'ble Supreme Court, vide judgment dated the 2nd August, 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors. has passed a detailed order interpreting Section 21(5) of the MMDR Act and directing payment of 100% penalty for illegal mining operations with reference to the relevant statutes, which *inter-alia*, include the Environment (Protection) Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Forest (Conservation) Act, 1980 and the Mines and Minerals (Development & Regulation) Act, 1957.

3. In pursuance of the Ministry's Notification referred to in para 1 above, the proposals involving violations of the EIA Notification, 2006 are to be appraised for grant of ToR/EC at the Central level or by the respective SEAC/SEIAA in different States/UT's levels depending upon the categorization of the project.

4. In pursuance of the above notifications, the ministry had invited proposals for regularization of violation during a specified time-window. Now, the Ministry has received a number of proposals for grant of Terms of Reference (ToR)/Environmental clearance(EC) to mining projects engaged in mining of major and minor minerals for regularization of the same.

5. In the above context, in order to additionally comply with the directions given by the Hon'ble Supreme Court as referred to in para 2 above, it has been decided to include the following additional conditions in ToRs/ECs to be issued for mining

projects under the provisions of S.O. 804 (E) dated 14.03.2017 and subsequent amendments:-

- i. The project proponent shall give an undertaking by way of affidavit to comply with all the statutory requirements and judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors. before grant of ToR/ EC. The undertaking *inter-alia* include commitment of the PP not to repeat any such violation in future.
- ii. In case of violation of above undertaking, the ToR/Environmental Clearance shall be liable to be terminated forthwith.
- iii. The Environmental Clearance will not be operational till such time the Project Proponent complies with all the statutory requirements and judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors..
- iv. State Government concerned shall ensure that mining operation shall not commence till the entire compensation levied, if any, for illegal mining paid by the Project Proponent through their respective Department of Mining & Geology in strict compliance of judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors.
6. The direction issued vide this Ministry's OM dated 15th March, 2018 and 16th March, 2018 shall continue to apply.
7. This issues with approval of competent authority.


(Surender Kumar)
Advisor (IA)

To,

1. The Chairman of all the SEAC/SEIAA of States/UTs
2. The Member Secretary of all the SEAC/SEIAA of States/UTs

Copy for information to:

1. PS to Minister for Environment, Forest and Climate Change
2. PS to MoS for Environment, Forest and Climate Change
3. PPS to Secretary (EF&CC)
4. PPS to AS (AKJ)/AS(AKM)
5. PS to JS (GB)/JS(JT)
6. All officers in IA Division
7. Website, MoEF&CC
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