

MINUTES OF THE 43rd MEETING OF THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (SEIAA) KERALA HELD ON 16th OCTOBER 2015, 9.15 A.M. IN THE CHAMBER OF THE PRINCIPAL SECRETARY TO GOVERNMENT (ENVIRONMENT & FORESTS) GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

Present:

1. Dr. K.P. Joy, Chairman, SEIAA
2. Dr. J. Subhashini, Member, SEIAA
3. Sri. P. Mara Pandiyan. I.A.S, Principal Secretary to Government & Member Secretary, SEIAA

The 43rd meeting of SEIAA and the ninth meeting of the Authority as constituted by Notification No. dated 19-3-2015 was held from 9.15 a.m on 16-10-2015 in the chamber of the Principal Secretary to Government (Member Secretary, SEIAA).

Chairman welcomed the Members. He brought to the notice of the meeting the notification issued by Government in the Industries Department as SRO. No. 671/2015 {G.O (P) 144/2015/ Id dated 5-10-2015} amending rules 12 and 13 of the Kerala Minor Minerals Concession Rules 2015 purporting the renewal of quarry permits issued before 27-2-2012 possible and to give sufficient time to the existing quarrying permit holders for obtaining environmental clearance and mining plan for applying for quarry lease. However the amendments effected are to the effect that the mining plan and environmental clearance under rule 9 shall not be insisted in respect of renewal of quarrying permits of granite (building stone) quarries which had quarrying permits under the KMMC rules 1967 on or before 26-2-2012. A proviso is added to rule 13 that the permit holder may apply for a quarrying lease in case he desires to continue quarrying from the area for more than three years if he is able to satisfy all the conditions laid down in the rules dealing with quarrying leases. This otherwise would make it possible to mine the minor mineral without mining plan and E.C, which would make it impossible to shift to scientific mining later in a sustainable and eco-friendly manner. Issues come in to light only in complaint cases. The Hon: High Court of Kerala has further to the judgment dated 23-3-2015 in W.P (C) No.31148/2014, has in the judgment dated 15-7-2015 in W.A. No. 1514 of 2015 held that,

‘8. Division Bench has held that the proviso to Rule 12 in respect of quarries which has valid permit as on January, 2015 have to be read in accordance with the law as has been noticed and laid down in the judgment. When it has been held by the Division Bench that no mining operation can be undertaken without obtaining environmental clearance subsequent to the dates as mentioned above, no mining operation can be

Approved minutes of the 43rd SEIAA held on 16th October 2015

carried out by any permit holder without obtaining environmental clearance. The word 'valid permit' used in the proviso to Rule 12 has to be read accordingly. The word 'valid permit' means permit which may entail a permit holder to carry on mining operation and mining operation can only be carried out along with environmental clearance. Those permit holders who does not have environmental clearance cannot be said to have valid permit on the relevant date.'

Authority expressed apprehension that potential lease quarries may continue to operate as permit quarries. In case the permit quarries can satisfy lease conditions after working for three years as no holds barring permit quarries, why it cannot be on lease conditions (with E.C) at the inception? Chairman expressed his concern that the appraisal report of the SEAC meeting held on 11th and 12th September 2015 was received only the previous day evening of SEIAA meeting on 16th October 2015.

Item No. 43.02 Action taken Report on minutes of 42nd meeting of SEIAA held on 1st October 2015.

Authority reviewed the action taken for online submission of applications for E.C. It was decided to request the NIC to arrange for whatever is required at the office of SEIAA for shifting to OSMEC without any further delay and to follow up the proposals submitted to Government for project staff and delegation of essential powers to SEIAA.

Item No. 43.03 SEIAA – Petitions on Environmental Clearance and general complaints on illegal quarries and other environmentally degrading activities (individual cases consolidated)

General decision in such cases to be conveyed to petitioners.

Item No. 43.04 Removal of Ordinary earth/Brick earth Environmental Clearance issued- Applications for extension of period of validity of Environmental Clearance.

Authority decided that validity of the E.Cs issued in the respective cases may be extended for six months more subject to the condition that no further extension will be given.

Item No. 43.05 Environmental clearance for removal of ordinary earth from Sy. Nos. 2572/A, 2572/A1, 2571/1 at Vanchiyoor Village, Thiruvananthapuram Corporation, Thiruvananthapuram Taluk, Thiruvananthapuram District, Kerala by Sri. John Jacob (File No. 401/SEIAA/EC1/2829/2014)

Approved for issuance of Environmental clearance on usual conditions for mining of brick earth/ ordinary earth stipulated in O.M No. L.11011/47/2011-IA.II (M) dated 24-6-2013

of the Ministry of Environment & Forests, for removal of brick earth not exceeding 4860 m³ as per recommendations of SEAC.

Item No.43.06 **Environmental clearance for removal of ordinary earth in Sy. No. 348/5 at Manakkadu Village, Manakkadu Panchayath, Thodupuzha Taluk, Idukki District, Kerala by Sri. Kunjumon Jacob (File No. 783/SEIAA/EC3/1214/2015)**

Approved for issuance of Environmental clearance on usual conditions for mining of brick earth/ ordinary earth stipulated in O.M No. L.11011/47/2011-IA.II (M) dated 24-6-2013 of the Ministry of Environment & Forests, for removal of brick earth not exceeding 7000 m³ as per recommendations of SEAC.

Item No.43.07 **Environmental clearance for removal of ordinary earth in Sy.no. 251/1A at Mulakkulam Village and Panchayath, Vaikom Taluk, Kottayam District, Kerala by Sri. Rikku Kuryala George (File No. 786/SEIAA/EC4/2015)**

Approved for issuance of Environmental clearance on usual conditions for mining of brick earth/ ordinary earth stipulated in O.M No. L.11011/47/2011-IA.II (M) dated 24-6-2013 of the Ministry of Environment & Forests, for removal of brick earth not exceeding 3500 m³ as per recommendations of SEAC.

Item No.43.08 **Environmental clearance for removal of ordinary earth in Sy.nos. 1079/1, 1076/2 and 1076/3 at Thrissur Village, Thrissur corporation, Thrissur District, Kerala by Sri. Ahammadunni alias Muhammadunni (File No. 790/SEIAA/EC1/1382/15)**

Approved for issuance of Environmental clearance on usual conditions for mining of brick earth/ ordinary earth stipulated in O.M No. L.11011/47/2011-IA.II (M) dated 24-6-2013 of the Ministry of Environment & Forests, for removal of brick earth not exceeding 1000 m³ as per recommendations of SEAC.

Item No.43.09 **Environmental clearance for removal of ordinary earth in Sy.No. 524 at Vadakkumkara Village, Mukundapuram Taluk, Vellangalloor Panchayath, Thrissur District, Kerala by Sri. Latheef, T.A. (File No. 804/SEIAA/EC1/2177/15)**

Approved for issuance of Environmental clearance on usual conditions for mining of brick earth/ ordinary earth stipulated in O.M No. L.11011/47/2011-IA.II (M) dated 24-6-2013 of the Ministry of Environment & Forests, for removal of brick earth not exceeding 700 m³ as per recommendations of SEAC.

Item No.43.10 **Environmental clearance for removal of ordinary earth in Sy.no. 241/1 at Irinjalakkuda Municipality, Mukundapuram**

Item No.43.12**Environmental clearance for the quarry project in Sy. Nos. 31/1 Part-1 & 2 Block-33 Kalanjoor Village & Panchayath, Adoor Taluk, Pathanamthitta District, Kerala by M/s Darshan Granites (P) Ltd (File No. 435/SEIAA/EC4/2995/2014)**

Quarry area falling partly in Govt. land and partly in own land. The lease period for the project is valid up to 25-11-2016. The Committee Recommend for issuance of Environmental Clearance with seven specific conditions, in addition to the general conditions stipulated for mining projects.

The proponent submitted a representation on 08-09-2015 in this connection with the changing of their consultant M/s Enkay Enviro Services Pvt. Ltd to M/s Environmental Engineers & Consultants Pvt. Ltd. as per the O.M No. J-11013/41/2006-1A.II (1) dated 17-03-2010 issued by MoEF.

The Authority deliberated in detail on the need for distinct demarcation of the private and government lease lands in the quarries, to avoid encroachments and environmental impacts in areas not permitted for mining. It was decided that there shall be general conditions that the private and government lease lands shall be demarcated clearly with survey stones. Also the GPS locations of the private and government land shall be taken and recorded in all documents related to the permits/leases/ consents and clearances so that the government land used for mining can be identified at any time.

Identification of the prospective sites for rock quarrying is very important as far as the State of Kerala is concerned. Now the sites having the NOC of revenue authorities are being permitted to be mined without looking in to the feasibility, social and security aspects of mining in such locations and that creates problems to neighbouring residents and the quarry operators as well. Only those building stone/ granite quarries identified by the Mining & Geology Department as fit and feasible to be mined as per the existing mining laws, and rules, ecological considerations , strategic importance, patta / lease (revenue) conditions , of the land involved shall be offered for quarrying by project proponents under the EIA notification. The eligibility condition shall be certified so in the letter of intent. M&G department may identify such mineable quarries with exact locations.

On the recommendations of SEAC in this case, the Authority resolved that E.C as per recommendations of SEAC may be given on production of orders by the proponent,

45th meeting of SEAC held on 11-12/09/2015 recommend for issuance of Environmental Clearance with the following specific conditions, in addition to the general conditions stipulated for mining projects.

1. To the extent possible local biodiversity management Committee shall be involved in the environmental management/restoration activities.
2. Reclamation and eco-restoration should be done by planting native species.

Item No.43.15 Environmental clearance for the Residential Apartment project in Sy. Nos. 505/1, 506/11 and 506/15 at Cheranalloor Village, Cheranalloor Grama Panchayath, Kanayannur Taluk, Ernakulam District, Kerala by M/s Skyline Builders & Developers (India) Pvt. Ltd. (File No. 300/SEIAA/KL/1500/2014)

45th meeting of SEAC held on 11-12th September 2015 appraised the matter and recommended for issuance of EC subject to the following specific condition in addition to the general condition for building projects;

- a) Storm water management plan must be provided with drainage and its external connectivity.
- b) The disposal of excess water from STP, after treatment, shall be ensured.
- c) Land filling with external earth must be minimised.
- d) In the exterior part of the building, the glass used must be of non reflective type.
- e) RWH facility must have a capacity to meet at least 15 days fresh water demand and must be used to ease out the stress on common water supply.
- f) Adequate precautions for disaster risk reduction and management should be made.
- g) Carbon foot print of the project should be reduced to the maximum extent possible.
- h) CSR.

Authority decided to grant E.C to the project subject to the recommendations of SEAC and that biodiversity listing of flora and fauna shall be done and reported to SEIAA before construction is started.

Item No.43.16 Environmental clearance for proposed institutional Project” Indian Institute of Management, Kozhikode

the E.C may be considered after the violation proceedings are initiated and evidence for credible action is received.

Item No.43.18 Environmental clearance for the establishment of 80 MW coal based Thermal Power Plant (IPP on DFBOT basis) at HNL, Vellore premises by Hindustan Newsprint Limited (HNL) (File No. 230/SEIAA/EC4/565/2014)

The proposal for approval of ToR for E. C was placed in the 45th meeting of SEAC held on 11th and 12th September 2015. The Committee considered the draft ToR submitted by the proponents vis a vis the, standard ToR published by the MoEF along with the field investigation report and approved the draft TOR submitted by the proponent.

Authority approved the ToR for further action by the proponent.

Item No.43.19 Removal of Ordinary Earth for construction of buildings- Requirement of prior environmental clearance – Exemption from processing fee- Reference from Government- (File No. 4002/EC2/2015/SEIAA)

Authority discussed the matter of exempting excavation of ordinary earth for building construction from the purview of E.C. House construction of people belonging to different backgrounds are involved. It would not be appropriate to insist E.C for removal of earth to prepare the site for foundation of the house. SEIAA is considering such applications only on the stipulation by GoI that ordinary earth is a minor mineral. The matter as placed before the Authority may be referred to the state government to be taken up with MoEF for clarification and also for the facts to be submitted in the N.G.T in the pending case on the subject matter.

Item No.43.20 Draft notification of MoEF on amendment of EIA notification 2006 (File No. 4195/EC2/2015/SEIAA)

Ministry of Environment & Forest has published a draft notification No. **S.O. 2588 (E) dated 22/09/2015** in its website, for comprehensive amendment of the EIA notification No. S.O. 1533 (E) dated 14/09/2006. The amendment seeks to delegate the powers for grant of environmental clearance to a special system at district level for category B2 projects in the schedule to the notification. A District level Environment Impact Assessment Authority (DEIAA) with the District Collector as Chairman and District level Expert Appraisal Committee (DEAC) with the senior most Executive Engineer, Irrigation Department as Chairman have been proposed to be formed in the lines of the existing SEIAA and SEAC at State level. B2 category projects pertaining to mining of minor minerals of lease area less

than or equal to 5ha requires prior E.C from DEIAA. DEIAA/DEAC will be constituted by MoEF.

Authority deliberated on the amendments proposed clause by clause. Kerala being a state with high population density and public awareness, sensitivity of the issue needs a thorough revision of the present proposal. In view of the special dispensation in the mining sector (short term permits) and the smaller extents of mining areas, the state shall have a special package in the matter of EIA stipulations as has been done in the matter of CRZ regulations 2011.

The Authority would offer the following remarks/ suggestion on the draft amendment; *(Para number indicates that in the EIA notification / draft)*.

2. Under B2 category many projects such as mining, constructions are included. It is not clear whether the present draft notification pertain to mining only. The proposed amendment notification should clearly distinguish between category B1 and B2 projects.

3A-(7). It is to be apprehended that undue political involvement and subsequent non-transparency will prevail in the inclusion of political representatives.

3A(1)-(5). Qualifications and experience of Chairmen of SEIAA and SEAC seem to be diluted in the case of DEIAA and DEAC with the result that expert appraisal of EIA process will be lacking.

3(II)-(13). It seems that the state govt. which provides the infrastructure facilities for DEIAA and DEAC has no role, even recommendatory, in the selection of members.

3A. (8) Senior most Executive Engineer of Irrigation Department is proposed to be Chairman of DEAC. Actually Irrigation Department being an interested party it should not have been included as it will create conflicts of interest. The Additional District Magistrate (Sr. most Dy. Collector) may be the Chairman, with the District Soil Conservation officer as convenor.

4 (iv). Para 4 (iii) of the existing notification stipulates that “All projects in category B require prior E.C. from SEIAA. No modification is seen effected here. The proposed Para 4 (iv) clarifies that mining of minor minerals in area less than or equal to 5ha falls within the ambit of DEIAA, or B2 category. If so in Kerala more than 90% would fall under this B2 category. The extent of mining area to be delegated to the proposed DEIAA may be limited to 3ha in respect of Kerala as majority of the building stone quarries in Kerala are within the extent of 1 to 5ha and also to ensure the ecological sustainability in the last vestiges of local habitats.

6. Identification of the prospective sites for rock quarrying is very important as far as the state of Kerala is concerned. Now the sites having the NOC of revenue authorities are being permitted to be mined without looking in to the feasibility, social and security aspects of mining in such locations. It would be advisable to make a precondition in the EIA notification itself that only those building stone/ granite quarries identified by the state government fit to be mined as per the existing mining laws and rules and patta / lease conditions of the land involved and certified so in the mining plan shall be offered for quarrying by project proponents under the EIA notification.

8 (ii) Unlike in the case of category A projects the SEIAA deciding up on the recommendations of SEAC is an expert body with prescribed qualifications and status. Hence it should have the jurisdiction to review or overrule the recommendations on objective assessment. The condition ‘The regulating authority “shall” normally accept recommendations of the SEAC’, may be amended as, The regularly authority at the State level “may” accept recommendations.....

Appendix IX. Appendix IX exempts 6 items of minor minerals (O.E/clay/sand) from prior E.C. Most important is removal of O.E for construction of houses and residential buildings, O.E for levelling of plots and foundation works for house construction and residential buildings; preparation of land for agricultural purpose and construction of educational institutions may be fully exempted from the requirement of prior E.C. Judgment dated 3-12 2014 of the Hon. Supreme Court in Civil Appeal No.10717 in SLP No.33002 of 2010 refers) Laterite which is considered as O.E only may also be included along with O.E for the purpose of grant of E.C. Construction of Railway is outside the purview of E.C. It may therefore be considered whether extraction of O.E. for construction of permanent way for Railway may be exempted from requirement of O.E.

Appendix X. Appendix X is on river sand mining. It is on the premise that river sand mining is done on lease basis. There are no large rivers in Kerala as in other states. Majority of them are rivulets. Hence the general rules governing large rivers are not applicable to Kerala rivers. In Kerala there is no lease for river sand extraction. There is the Kerala Protection of River Banks and Regulation of removal of Sand Act 2001, to protect river banks and river beds from large scale dredging of river sand and to protect their biophysical environment system and regulate the removal of river sand and for matters connected therewith or incidental thereto. The legislation is more eco-friendly

than the MoEF proposal. Therefore a special provision is necessary for Kerala in this regard to prevail the state law.

Appendix- XI (1) The Supreme Court Judgment in Deepak Kumar case, based on which only is the instant amendment was brought about categorically points out the attempts to flout the EIA notification -2006 by breaking the homogeneous area in to pieces of less than 5ha and the possible ecological impacts thereby. There shall be a provision in the notification to the effect that homogenous areas of miner mineral deposits which could be mined scientifically and with proper Environment Management Plan, shall not be broken down to smaller extent, for lease or permit for quarrying, and the environmental impacts shall be assessed for the entire mineable areas as A, B or B2 as the case may be.

Appendix XI. Schematic Presentation (column .4) In Appendix XI there is a schematic representation of requirement of EC for minor minerals including cluster, wherein 0-5ha is B2, >5ha up to 50ha is B1 requiring public hearing. That means all case of mining of minor minerals to be dealt with by SEIAA requires public hearing. This too would be an impracticable and unnecessary condition as far as Kerala is concerned. Due to high public resistance, and high environmental awareness, sensitivity of the issues and political interference public hearing to be conducted by Pollution Control Board generally end up in chaos. Public hearing may be limited to rock quarries of mining area more than 25 ha, including cluster in 500 meter, as is in force.

Appendix XI. Schematic Presentation (column 9)

Appendix XI prescribes authorities to monitor E.C. compliance. SEIAA is nowhere in picture. Now the decisions on the applications for E.C can be challenged only in the NGT which has only Zonal Benches. In order to have more accessible appellate opportunities SEIAA should be designated as the first Appellate Authority over the decisions of DEIAA on the application for E.C. The original/ appellate orders of SEIAA only may be challenged in the NGT. SEIAA should also have supervisory jurisdiction over the DEIAA. Now D. Cs are the competent authority to take action against violation as per E (P) Act. The legal propriety of D. Cs taking decision on application for E.C., monitoring of complaints of E.C conditions and also penal action under the E(P) Act has to be examined, it being a legal issue. The proposed authorities for monitoring the E.C compliance except MoEF have no linkage with the SEIAA but they are empowered to monitor the compliance of the E.Cs issued by SEIAA. Monitoring of compliance of all B1 and B2 categories shall be the responsibility of SEIAA.

It was decided to convey the above remarks/ suggestions to the MoEF and State Government.

The meeting ended at 11.30 a.m.

Sd/-

Dr. K.P. JOY

Chairman

Sd/-

Dr. J. SUBHASHINI

Member

Sd/-

Sri. P. MARAPANDIYAN. I.A.S

Member Secretary