

MINUTES OF THE 46TH MEETING OF THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (SEIAA) KERALA HELD ON 14TH DECEMBER 2015, 3.00 P.M. IN THE CHAMBER OF THE ADDITIONAL CHIEF SECRETARY TO GOVERNMENT (ENVIRONMENT & FORESTS) GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

Present:

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

The 46th meeting of SEIAA and the 12th meeting of the Authority as constituted by Notification No. S.O.804 (F) dated 19-3-2015 was held from 9.15 a.m. onwards on 4-12-2015 in the chamber of the Additional Chief Secretary to Government (Member Secretary, SEIAA).

Chairman welcomed the Members. As introduction Chairman referred to the persisting complaints on delay in getting E.C. The Authority had been adverting to the situation in all the meetings but unfortunately the delay in getting the recommendations of SEAC is still there. It was decided that a note may be given to the Secretary SEAC. The works may be streamlined utilizing the services of the project personnel.

Chairman also informed the meeting that the website of the Authority was hacked. The matter has been reported to the Cyber Crimes Police Station, Thycaud, Thiruvananthapuram. Member Secretary wanted the platform to be maintained in such a way that it is secured from all sorts of external interference. The features may be incorporated while the website is reconstructed for which sanction has already been given.

Item No. 46.01 Confirmation of minutes of 45th SEIAA meeting

Confirmed

Item No. 46.02 Action taken Report on minutes of 45th meeting of SEIAA held on 4th December 2015.

Noted

Item No. 46.03 **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 applied

Item No. 46.04 **Removal of Ordinary earth/Brick earth Environmental Clearance issued-Applications for extension of period of validity of Environmental Clearance.**

It was decided to extend the period of validity of the E.C s in each case by six months. No further extension will be allowed. In the case of the application of Sri.Siji Varghese the environmental clearance will be subject to the decision of the Hon. High Court in W.P No. 30809/15.

Item No. 46.05 **Application for environmental clearance for the quarry project in Survey No. 172 (P) at Kodyathur Village, Kozhikode Taluk, Kozhikode District, Kerala by M/s Palakkal Granite Products Private Limited –Violation Proceedings Set aside-Judgment in W.P. 39536/2015 (No.137/EC4/2567/2013/SEIAA)**

The 41st meeting of SEIAA held on 2-9-2015, decided to issue stop memo to the quarry and memo was issued vide proceedings No.137/EC4/2567/2013/SEIAA dated 15-11-2015.

Sri. P.M. Aboobacker, the project proponent on 23-9-2015, immediately after the minutes of the 41st meeting of SEIAA was uploaded in the SEIAA website submitted a representation to SEIAA stating that he was unaware of the requirement of E.C.in 2010 when the quarry was started. He is conducting quarrying only in 2ha though the lease area is more than 5ha. The M& G Department has earmarked the 2ha for mining as per the judgment of the High Court of Kerala in W.P No. 19259/2015. He has not conducted quarrying in area above 5ha and hence not violated the EIA notification. SEIAA had not been impleaded in W.P No. 19259/2015. The decision is on the ground that till he obtains E.C, from SEIAA he will confine his operation of quarrying to the extent of 2ha and he will undertake quarrying operation in the entire land only after obtaining E.C. The petitioner also placed before the court the recommendation of SEAC recommending the petitioner's application for E.C. It is true that the SEAC in its 43rd meeting held on 15-7-2015 recommended the project for E.C subject to specific conditions. The decision of SEIAA was on 2-9-2015, whereas the

recommended the issuance of Environmental Clearance with the following specific conditions, in addition to the general conditions stipulated for mining projects.

1. On the closure of mine at least 10% of the mined area should be formed into a water body by harvesting rain water.
2. To the extent possible local biodiversity management Committee should be involved in the environmental management/restoration activities.

The proposal was placed in the 40th meeting of SEIAA held on 3 /4-8-2015. Authority decided to refer the case to SEAC for site inspection and recommendations thereon. The proposal was considered in the 45th meeting of SEAC held on 11/ 12 -9-2015. Committee reiterated its stand on site inspection observed earlier that the need for the site inspection for appraisal of a proposal is solely the discretion of SEAC and that the area has already been visited by a committee member earlier and the above factors are considered when the SEAC recommended the item twice before. Therefore the Committee decided that there is no reason to change the earlier recommendation.

The 43rd meeting of SEIAA held on 16-10-2015 in the light of the report that a Member of the SEAC had already visited the site, resolved to obtain a copy of the report of the site visit. It is seen that field inspection was conducted in November 2013. The major observations are as follows:

- Additional land has been purchased for the project around the core area.
- No settlements seen are within the lease area and around.
- Few settlements are reported in the eastern side but beyond visible range.
- The public road connecting Pullad and Thadiyoor is beyond 500 m from the project area.
- Land use is mostly rubber plantations with mixed vegetation.
- Proper arrangements for the storm water drainage not seen. It is reported that storm water will be directed to the abandoned quarry on the northwestern side.
- Overburden thickness is high in the flat crestal portions.
- Sub-vertical section of the existing quarry is seen at the edge of the lease area in a precarious condition.

- Temples, schools, Hospitals are about 1.5 km away from the boundary of the proposed quarry. CharalKunnu is about 1 km south east of quarry site.

In this context quarrying may be initiated in the elevated portions progressing down the slope with a bench height of not more than 6 m and width not less than 5m. The sub vertical sections of already mined surface need to be stripped in a planned way to reduce the slope. The sections that are already quarried may be reclaimed using the overburden. Additional provision must be made for stacking the overburden within the lease area for reclamation of completely quarried sections. Storm water drains are to be designed to prevent entry of quarry waste into the nearby water bodies. A portion of it has been harvested for quarry operations. The transportation of the material should not cause inconvenience to the local population. The access to the proposed quarry is a narrow private road of the entrepreneur. The road beyond and to the crusher unit may be kept in good condition.

The Authority examined the site inspection report and decided to grant environmental clearance subject to the specific recommendations of SEAC and the suggestions in the site inspection report, and the mitigation measures undertaken in the EMP in the PFR

Item No.46.07 **Quarry project in Cherupulasserry Village, Ottappalam Taluk-Palakkad-E.C granted to M/S Hywel Granites- Transfer to Ferro Granites and Infra Granites- Application-reg. (File No. 3423/EC1/2015/SEIAA)**

SEIAA in its 42nd meeting decided to transfer the E.C now in favour of Sri. Jassin Joseph, Managing Partner, Hywel Granites to Ferro Granites and Infra Granites. As the resolution is to transfer the E.C to transfer the E.C to M/s Infra Granites LLP only, the transfer order could not be issued. Now Sri. M. A. Ashraf, Managing Partner of both Ferro Granites and Infra Granites, has represented that the E.C may be transferred to M/s Infra Granites. Other partners have consented to the request.

Authority decided to effect necessary modifications in the minutes of the 42nd meeting of SEIAA held on 01-10-2015 to the effect that the E.C now infavour of Sri. Jassin Joseph, Managing Partner, Hywel Granites, Thekkumuri P.O., Cherupulasserry, Ottappalam, Palakkad in Sy. No. 81 (pt), 82 (pt), 83 (pt) and 84 (pt) ofCherupulasserry village/panchayat, Ottappalan Taluk, Palakkad be transferred in the name of Sri. M. A. Ashraf, Managing Partner, Ferro Granites LLP and Infra Granites LLP, Karad P.O., Kondotty for M/s Infra Granites LLP and orders issued accordingly.

Item No. 46.08 Application for obtaining environmental clearance for the proposed Housing Project in Re-Survey No. 359/3 at Village Kakkanad, Municipality Thrikkakkara, Taluk Kanayannur, District Ernakulam, Kerala by M/s Green Vistas Infrastructure Projects (File No. 32/SEIAA/KL/3045/2012)

Violation proceedings were initiated and stop memo issued as per proceedings No. 32/SEIAA/KL/3045/2012 dated 7-9-2015. On 20-11-2015, Sri.SaurabhGulecha C.O.O, Green Vistas Infrastructure Projects submitted an explanation, requesting to direct the District Collector , Ernakulam to impose a penalty of Rs.1.00 lakh for the violation, so that this credible action against the violation will enable them in obtaining E.C for the project The Authority has vide Circular No. No. 99/ EC3/ 2013 /SEIAA dated 17-112015 instructed the District Collectors to take prosecution under Sections 19 read with 15 of the Environment (Protection) Act-1986 in violation cases, on getting instructions from the SEIAA and on initiation of legal action for prosecution as above, to report to SEIAA for further action on the applications involved. As such a legal course of action has not been resorted to in this case the Authority resolved to address the District Collector , Ernakulam for action as above and report.

Item No. 46.09 Environmental clearance for the residential project (“Marine View at Marine Drive”) at Plot No.D4 & D5 in Sy. No. 843 pt. at Ernakulam Village, Kochi Municipal Corporation, Kanayannur Taluk, Ernakulam District, by M/s Puravankara Projects Limited (File No.

The case was appraised by SEAC in its 29th, 35th meetings of SEA. and recommended for issuance of EC with the following specific conditions:

- Common entry/exit seen on the eastern side to be at least 10 m wide considering the larger number of dwelling units planned. The entry or exit, must have a minimum width of 7 m. The proponent must provide service road to the entry/exit to avoid direct access to the main road.
- The drive way all around must have a minimum width of 7m with a regulated traffic.
- The concentrated rejects of R.O. Plant must be sufficiently diluted with treated effluent water meant for recycling before it is let out.

The matter was examined in the 35th meeting of SEIAA held on 09-04-2015. The authority resolved to have the veracity of the statements in item 2 of the Appraisal report of SEAC on non- CRZ status of the site based on a 1998 judgment of the High Court whereas the extant CRZ notification is of 2011.

On 20.04.2015 the proponent submitted clarifications on the above points, with the documents in support which were placed in the 37th meeting of SEIAA held on 8-5-2015. The meeting thoroughly examined the clarifications furnished and the documents. The case is already with the SEAC for expert opinion on the legal status of the project site. The Authority evaluated that it is not competent to decide on the CRZ issues involved. On 11-6-2015 the proponent submitted the certificate numbered 3207/A2/ 15/KCZMA/S&TD dated 9-6-2015 of the KCZMA certifying that:

'the 25 acres of Land (Survey No. 843 Part-D3, D4, and D5) acquired by M/s Puravankara Projects Ltd from Goshree Island Development Authority(GIDA) , Kochi will not attract the provisions of CRZ notification 2011 on the basis of the judgment of Hon'ble High Court of Kerala in C. M.P No. 27519/ 98 in O.P No. 10185 of 1996(K)'

The certificate on non-CRZ status issued by the competent authority as called for having been produced, and the report of SEAC not received till then, the case along with the certificate was placed in the 39th meeting of SEIAA held on 18-6-2015 for decision.

On the reference from SEIAA on applicability of CRZ, the SEAC in its 40th meeting held on 27 to 28-5-2015, (minutes of which was received on 23-06-2015) has resolved to direct the proponent to submit building and other plans approved by the competent authority incorporating the following specific conditions recommended by the 35th SEAC meeting, to be incorporated in the E.C to be issued:

1. Common entry/exit seen on the eastern side to be at least 10 m wide considering the larger number of dwelling units planned. The entry or exit must have a minimum width of 7 m. The proponent must provide service road to the entry/exit to avoid direct access to the main road.
2. The drive way all around must have a minimum width of 7m with a regulated traffic.

3. The concentrated rejects of R.O. Plant must be sufficiently diluted with treated effluent water before it is let out.

A new condition as below has also been suggested

‘4. Clearance from the standing committee of NBWL, as the property is situated within 900 mts of the Mangalavanam Bird Sanctuary’.

The new condition on clearance from the standing committee of NBWL as required by SEAC in its 40th meeting (No.4 in prepara) is governed by O.M No. J-11013/41/2006-IA.II(I) dated 2-12-2009 of MoEF ,on the procedure for consideration of proposals for E.C, in such cases of proximity to forest land or wildlife habitats which interalia stipulates as follows;

‘ 2(i) The proposals for environmental clearance will not be linked with the clearances from forestry and wildlife angle even if it involves forest land and wildlife habitats as these clearances are independent of each other and would in any case be obtained as applicable to such projects before starting any action at site.’

The O.M mandates stipulation of conditions in E.C on prior clearance from forestry and wildlife angle including clearance of the standing committee of the NBWL as applicable. A notice of caution on starting work without the forest related clearances but based only on the E.C issued has also been proposed. [para 2(iii)]

The proposal was again placed in SEAC in its 42nd meeting held on 2nd July 2015 for further decision with regard to production of building plan and the condition regarding NBWL. The recommendation of the Committee was as follows:

“in view of the amendment to para (3) of the appendix V of the 2006 notification issued vide S.O- 3007 dtd. 01.12.2009 the Committee reviewed its decision taken in its 40th meeting. During the course, the Committee noted the observation of SEIAA in its 35th meeting which reads:

In the case of CRZ area, as per the Para4(d) of the CRZ notification on 6.01.11 prior recommendations of the CZMA is required for according EC.

With respect to the veracity of the exemption of the land of the applicant from CRZ notification 2011, it is observed from the file that Member Secretary (i/c) KCZMA has already

clarified the issue to the Member Secretary, SEIAA vide Letter No. 3207/A2/15/KCZMA/S&TD dated 9/06/2015 and in such cases KCZMA is the final authority to advise regarding the applicability of CRZ notification to a particular area.

Further the Committee observed that the proponent has stated in Form I that the project site is located within 1 KM radius from Mangalavanam Bird Sanctuary which is a notified Protected Area under Wildlife Protection Act, 1972. In such cases the procedure to be adopted are detailed in OM dt 02.12.2009 amended on 03.03.2015. As per the amended OM, the procedure to be adopted is that the project proponent should submit a copy of the application submitted for wildlife clearance with all its enclosure, along with the environment clearance application. The proponent has not done so.

Considering all the aspects, the Committee decided to **recommend to issue E.C.** as decided in its 35th meeting of SEAC subject to following special conditions on production of the copy of application preferred for seeking Wildlife Clearance from the Standing Committee of NBWL.

1. The access, parking facility, and setbacks shall be in accordance with the National Building Code.
2. The concentrated rejects of R.O. Plant must be sufficiently diluted with treated effluent water meant for recycling before it is let out.
3. Adequate precautions for disaster management should be inbuilt in the plan.
4. Carbon foot print of the project should be reduced to the maximum extent possible.'

The proponent has submitted copy of the application dtd. 22.07.2015 for clearance from NBWL on 23.07.2015, whereby the recommendation of SEAC could be considered by SEIAA for decision. As for the findings of the SEAC on non-requirement of CRZ recommendation of the KCZMA for issue of integrated clearance, the CRZ notification S.O 19 (E) dated 6-1-2011 in Rule 4.2 (ii) stipulates that for projects attracting EIA notification 2006, the concerned CZMA shall examine the documents in accordance with the approved CZMP and in compliance with the CRZ notification and make recommendations within a period of 60 days from the date of receipt of completed application to the State Environment Impact Assessment Authority. As per Rule 4.2 (iii) SEIAA shall consider such projects for clearance based on the recommendation of the concerned CZMA within a period of 60 days.

This position has been further clarified in O.M. No. 11-83/2005 –IA-III dated 8-2- 2011 of the MoEF. However the Committee itself has in the same minutes stated that *‘In the case of CRZ area, as per the Para4 (d) of the CRZ notification on 6.01.11 prior recommendations of the CZMA is required for according EC’*. KCZMA has since recommended the case for grant of E.C stating that CRZ provisions are inapplicable as per judgments of the High Court of Kerala.

SEAC in its 42nd meeting held on 2-7-2015 examined the reference from SEIAA on matters related to recommendation on CRZ etc. It is reported as under, regarding the applicability of CRZ notification 2011:

“ It is observed from the file that Member Secretary (i/c) KCZMA has already clarified the issue with the Member Secretary SEIAA, vide letter number 3207/A2/KCZMA/S&TD dated 9-6-2015 and in such cases KCZMA is the final authority to advice regarding the applicability of CRZ notification to a particular area ”.

What the Authority has resolved in the 35th meeting held on 9/4/2015 was to have the veracity of the statement in Item No.2 of the appraisal report on non-CRZ status of the site based on a 1998 judgment of the High Court, whereas the extant CRZ notification is of 2011. The Authority therefore decided to refer the matter to KCZMA for confirmation whether the site is outside the CRZ in the CZ map of the area as per CRZ notification 2011, as early as possible. If the map is not available, KCZMA may confirm that the site is still outside CRZ as per the existing rules as applicable. Accordingly letter No. 275/EC3/2014 / SEIAA dated 9-9-2015 was sent to the Member Secretary, KCZMA to clarify the above position regarding the CRZ status of the site. As per letter No. 6336/ A2/15/S&TD/ KCZMA dated 1-12-2015 the Member Secretary (i/c) informed that *‘the land acquired by M/s Puravankara Projects Ltd. From Goshree Island Development Authority (GIDA), Kochi would not attract the provisions of CRZ notification as per Hon’ble High Court of Kerala order CMPNo. 27517/98 dated 9-10-1998 and therefore cannot be treated as reclamation area as per CRZ notifications’*. KCZMA has further clarified the CRZ status of the site unequivocally that the project site would not attract the provisions of CRZ notifications.

The KCZMA, the competent statutory authority has unequivocally certified on 9-6-2015 on the strength of an order of the Hon: High Court of Kerala and categorically for the

purpose of production before SEIAA that CRZ provisions are not attracted in the project. The 42nd meeting of SEAC held on 2nd July 2015 has observed that, 'in such cases KCZMA is the final authority to advice regarding the applicability of CRZ notification to a particular area'. The competent authority having certified and further clarified that the project site does not attract the provisions of the CRZ **notifications**, the SEIAA decided to grant to integrated E.C. incorporating the report of the KCZMA, the specific conditions recommended by SEAC in its 35th meeting as modified by the 40th and 42nd meetings with usual green conditions and general conditions for construction projects for the residential project ("Marine View at Marine Drive") at Plot No. D4 & D5 in Sy. No. 843 pt. at Ernakulam Village, Kochi Municipal Corporation, Kanayannur Taluk, Ernakulam District, by M/s Puravankara Projects Limited.

Item No. 46.10 Environmental clearance for proposed building for Infrastructure Kerala Limited (INKEL) at Angamaly in Sy. Nos. 266/5 at Vadakkumbhagom Village and Angamali Panchayath, Aluva Taluk, Ernakulam District, by M/s INKEL Ltd. (File No. 555/SEIAA/KL/4090/2014)

Vide letter No. 555/EC3/2014/SEIAA dated 6-11-2015 the project proponent was called upon to explain why violation proceedings as per the EIA notification read with O.M No. J.11013/41/2006-IA.II (I) dated 12-12-2012 as modified by O.M No. J.11013/41/2006-IA.II (I) dated 27-6-2013 of MoEF shall not be initiated. Sri. T. Balakrishnan, Managing Director, INKEL submitted explanation vide letter No. INKEL/Projects/2015-16/4 dated 2-12-2015.. For the reasons adduced therein INKEL has requested to accept the recommendations for starting the works before receipt of the E.C, to condone its action and to issue E.C.

The Authority considered the explanation in detail. In view of the extenuating circumstance that the project is in a notified industrial area, the Authority decided to accept the explanations of the Managing Director and to consider the recommendation of SEAC for grant of E.C. The Authority also decided to grant E.C, for the Residential cum Commercial project in Sy. Nos. 266/5 at Vadakkumbhagom Village and Angamali Panchayath, Aluva Taluk, Ernakulam District, by M/s INKEL Ltd, subject to the specific conditions recommended by SEAC in its 42nd meeting held on 2-7-2015, with usual green conditions and general conditions for construction projects for the residential projects.

Item No. 46.11 Environmental Clearance for removal of Laterite earth in Sy.no. 351/1 at Edavally Village and Panchayath, Chavakkad Taluk, Thrissur District, Kerala by Smt. Ancy Thomas - Requirement of Mining plan (File No.775 /SEIAA/KL/721/2015)

In continuation of the decision of the 39th and meeting of SEIAA held on 18-6-2015 which decided to send back the proposal to SEAC for appraisal as in the case of Ordinary Earth ,the 45th meeting of SEAC on 11/12-9-2015 considered the reference of SEIAA and felt that the functioning of SEAC in this regard is guided by the OM issued by the MoEF on 24-12-2013 and therefore Committee was of the view that there is no need to change the decision taken in its 38th meeting.

The authority examined the views of SEAC .If it is to be strictly construed under the O/Ms issued by the MoEF and the functioning of SEAC in this regard is guided by the O.M issued by MoEF on 24-12-2013, it has to be noted that the said O.M does not speak of ‘Laterite Stone’ as a minor mineral requiring prior environmental clearance. The O.M relevant (though not mentioning Laterite’) is that dated 24-6-2013 as stated in the minutes of the 39th meeting of SEIAA. Mining Plan is prepared as required by the KMMC rules 2015 for mining of minor minerals. The said rules (proviso to Rule 9) specially exclude laterite. Therefore it would be impossible to produce approved Mining Plan as per the rules applicable for preparation of approved Mining Plan. Laterite stone has the same status as O.E. It is also seen that the SEAC has in the 38th meeting held on 28, 29,30/4-2015 appraised the applications of one Suresh Kumar of VallikunnamAlapuzhaDist (3000m³) and another application of Kusala Kumar of Edakkod, Kollam Dist (2500m³)for E.C for laterite cutting without Mining Plan and recommended as in the case of O.E.

The Authority decided to grant E.C for removal of 6000 m³ of laterite stone subject to the conditions in O.M No. L-11011/47/2011-IAII (M) dated 24-6-2013 of MoEF.

Item No.46.12 Request for transportation of ordinary earth for which E.C. was granted-application of Sri. P.M. Chandran (File No. 2653/SEIAA/EC4/2015)

Decided to refer to SEAC for opinion on the application for modification of the E.C issued, for transportation of 9130 m³ more of O.E.

Item No. 46.13 S.L.P No. 30103/ 2015 filed by Sri. T.K. Thomas and others in the Supreme Court against the Judgment dated 30-9-2015 of the High Court of Kerala in W.P No. 10694/2015 filed by

the ParisthithySamrakshanaJanakeeyaSamithi (File.No. 4857/EC3/2015/SEIAA)

Authority evaluated that it cannot take a stand that E.C is not necessary for mining of minor minerals including for permit quarries. In the SLP filed by a quarry operator challenging the judgment of the High Court of Kerala holding that a valid permit means a permit having environmental clearance, SEIAA decided to stand by the decisions rendered by the Hon. Supreme Court/High Court of Kerala and NGT. Affidavit may be filed as and when called for.

**Item No. 46.14 Time bound disposal of applications as per EIA notification 2006-
Petition from Registered Metal Crusher Unit Owners Association
(file No. 1294/EC2/2015/ SEIAA)**

Authority deliberated on the issues brought up for consideration in the light of the remarks of the Chairman in the introductory. Government have since provided the immediate facilities for reducing delay. Also applications for E.C have been made online. SEIAA will strive to minimise delay.

Item No. 46.15 Remuneration to Chairmen and Members of SEIAA and SEAC

Proposals were approved to be submitted to Government.

Next meeting scheduled to be held on 7-1-2016 at 9.30 a.m

The meeting ended at 4.30p.m.

Dr. K.P. JOY
Chairman

Dr. J. SUBHASHINI
Member

Sri. P. MARA PANDIYAN. I.A.S
Member Secretary