

CENTRAL EMPOWERED COMMITTEE

(CONSTITUTED BY THE HON'BLE SUPREME COURT OF INDIA
IN WRIT PETITION (CIVIL) No. 202/95 & 171/96)

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File No. 1-19/CEC/SC/2008-Pt.XXXIV

Dated: 18th January, 2013

To

The Registrar
Supreme Court of India
New Delhi - 110001

Sub: Note (Supplementary) regarding safety zone (eco-sensitive zone) around National Parks and Wildlife Sanctuaries.

Sir,

The Note (Supplementary) of the CEC on the above subject is enclosed (four copies). It is requested that the Note may please be placed before the Hon'ble Court.

Yours faithfully,


(M.K. Jiwrajka)
Member Secretary

Copy to:

- i) Mr. Harish N. Salve, Sr. Advocate & Amicus Curiae.
- ii) Mr. A.D.N. Rao, Advocate & Amicus Curiae.
- iii) Mr. Siddartha Choudhary, Advocate & Amicus Curiae.
- iv) Secretary, Ministry of Environment & Forests, New Delhi.
- v) Chief Secretary, Government of Goa, Panaji.
- vi) Chief Conservator of Forests, Goa Forest Department, Panaji.
- vii) Standing Counsel for the MoEF
- viii) Standing Counsel for the States of Goa.
- ix) ✓ Applicants / Respondents.

CENTRAL EMPOWERED COMMITTEE

NOTE (SUPPLEMENTARY) REGARDING SAFETY ZONE (ECO SENSITIVE ZONE) AROUND NATIONAL PARKS AND WILDLIFE SANCTUARIES

In the Note dated 28th September, 2012 of the CEC it has been recommended that:

- i) the Safety Zone around protected areas falling in 'Category-A' (having area of 500 km and above) and 'Category-B' (having area of between 200 km to 500 sq. km) may comprise of all areas, including non forest areas, falling within a distance of 2 kms and 1 km respectively. The sum total of the areas of such protected areas comes to 87.81% of the total area of all the protected areas (**Learned Amicus Curiae** has proposed a uniform distance of 2 km. for "Category-A" as well as "Category-B" protected areas);
- ii) wherever two or more protected areas are contiguous to each other in such cases these protected areas may be assigned the Category

on the basis of the sum total of the areas of such contiguous protected areas;

- iii) in the Safety Zone grant/renewal of mining lease, setting up of hydel projects, setting up of hazardous industries, brick kilns, wood based industries etc. may be treated as prohibited activities. The setting up of industries (other than those included in the prohibited activities), hotels and restaurants, including resorts, commercial helicopter service, hydel projects, irrigation projects, canals, laying of transmission lines and distribution lines above 33 KV, roads of more than 5 meters width, collection of boulders from the river beds may be treated as regulated activities and may be permissible only after obtaining environmental clearance and clearance from the Standing Committee, NBWL. All other activities may be treated as permissible activities;
- iv) the States / UTs will be at liberty to shift the protected areas from a lower category to a higher category on account of its ecological importance and other environmental considerations. However shifting of a protected area from a higher category to a lower category will be

permissible only after following the laid down procedure and after obtaining permission of this Hon'ble Court; and

- v) the Safety Zones will be in addition to the existing notified Eco-Sensitive Zones.

2. In the affidavit dated 26th October, 2012, the MoEF has taken a stand that:

- (i) in all cases where the specific eco-sensitive zones have not been notified, the proposals pertaining to the development activities requiring environmental clearance (located within 10 kms of the National Parks / Wildlife Sanctuaries) along with the recommendations of the State Board for Wildlife / State Government are being received from the Chief Wildlife Warden and are being placed before the Standing Committee, NBWL for recommendations before the environmental clearance is made effective;

- (ii) thus in effect the eco sensitive zone is operating within 10 kms of protected areas;

(iii) presently the MoEF has been pursuing a regulatory regime for recommendation of the Standing Committee, NBWL for the projects requiring environmental clearances if located within 10 kms area surrounding the protected areas in all areas where ESZ have not been notified.

iv) the present system of seeking clearance of Standing Committee, NBWL is based on extant legal provisions and the process of consideration of the Standing Committee, NBWL squarely links in an objective way the regulatory process to the conservation of wildlife.

3. However from the details provided in the CEC Report (Interim) dated 7th December, 2012 in Writ Petition (Civil) No. 435 of 2012 filed by the Goa Foundation regarding "alleged continued illegal mining in the State of Goa and associated issues" it may be seen that contrary to the stand by the MoEF in the above said affidavit:

(i) the environmental clearances have been granted by the MoEF in respect of at least 19 mining leases located within the Wildlife Sanctuary in

Goa (3 of such mining leases have operated in one or more area during the last five years). The environmental clearances have been granted even though this Hon'ble Court's order dated 14th February, 2000 prohibits mining activities within National Park / Wildlife Sanctuary and notwithstanding the stand consistently taken by the MoEF that no mining is permissible within the National Park / Wildlife Sanctuary. In a number of cases where such environmental clearances have been granted the location of the mining leases have been shown to be outside the Sanctuary whereas the mining leases are located within the Sanctuary. Ever after the correct position was brought to the notice of the MoEF by the Additional Principal Chief Conservator of Forest, Goa Forest Department vide his letter dated 21st May, 2010, the environmental clearances were not cancelled / withdrawn;

- (ii) the MoEF have granted environmental clearances at least in respect of 23 mining leases located within a distance of 1 km. from the nearby National Park / Wildlife Sanctuary. This Hon'ble Court by its order dated 4th August, 2006

has inter-alia directed that as an interim measure 1 km. Safety Zone shall be maintained (around protected areas). Therefore no mining operations in such areas are permissible after 4th August, 2006. The environmental clearances for 12 mining leases, out of the 23 mining leases, were granted prior to this Hon'ble Court's order dated 4th August, 2006 (and apparently have not been cancelled till date) while the environmental clearances in respect of the remaining 11 mining leases have been granted after the above said order of this Hon'ble Court. Except for the 2 mining leases, all the remaining 21 mining leases have operated after 4th August, 2006 and in violation of this Hon'ble Court's order dated 4th August, 2006;

- (iii) the environmental clearances have been granted to about 120 mining leases located within a distance of 10 kms. from the nearby National Park / Wildlife Sanctuary (in addition to 19 + 23 leases dealt with above). Out of these 120 mining leases as many as 78 mining leases have operated;

- (iv) the MoEF had earlier, in compliance with the order dated 4th December, 2006 of this Hon'ble Court, decided to refer to the Standing Committee, NBWL all the environmental clearances granted since January, 2004 onwards. This decision was later reversed on an untenable ground that the order of the Hon'ble Supreme Court has through a public advertisement during December, 2008 been brought to the notice of all concerned. Except for about 6 cases which were placed before the Standing Committee, NBWL in compliance of this Hon'ble Court's order dated 18th September, 2009 in IA No. 170-175 in Writ Petition (Civil) No. 460/2004, none of the remaining about 156 environmental clearances have apparently been placed before the Standing Committee, NBWL and the mining leases continued to remain operational;
- (v) no effective steps were taken to ensure that the environmental clearances are issued / made effective only after the same are cleared by the Standing Committee, NBWL, even though the MoEF itself had taken a stand that the Standing

Committee, NBWL is the competent authority for the grant of approval in such cases. The MoEF by its various actions and inactions de-facto ensured that mining operations in a large number of mining leases continue to take place in violation of the directions of this Hon'ble Court. The CEC is of the considered view that had the MoEF strictly complied with and implemented this Hon'ble Court's orders dated 14th February, 2000, 4th August, 2006 and 4th December, 2006 the unregulated and the environmentally unsustainable manner in which mining has taken place in Goa would have been avoided.

4. After considering the inordinate delay which has already taken place in notifying the safety zone around National Parks / Wildlife Sanctuaries and considering the ground situation as it exists, the CEC is of the considered view that it may be appropriate that an early decision is taken regarding the safety zones around National Park / Sanctuaries. The proposal submitted by the CEC while ensuring that effective restrictions and regulations are put in place immediately and implemented in an objective manner also, after detailed examination, provides for adequate flexibility to modify the areas of the safety zones.

5. For ready reference copies of the following relevant Annexures to the CEC Report dated 7th December, 2012 are enclosed:

- i) Details of environment clearance granted to 19 mining leases located within National Park / Sanctuaries (Annexure-R-12).
- ii) Details of environment clearance granted to 23 mining leases located within a distance of 10 km of the National Park / Sanctuaries (Annexure-R-17).
- iii) Details of environment clearance granted to 120 mining leases located within a distance of 10 km of the National Park / Sanctuaries (Annexure-R-27).
- iv) MoEF's letter dated 4th May, 2001 (Annexure-R-11).
- v) Goa Forest Department letter dated 21st May, 2010 (Annexure-R-16).
- vi) MoEF's letter dated 30th May, 2011 (Annexure-R-26).
- vii) MoEF's letter dated 19th January, 2012 (Annexure-R-31).

This Hon'ble Court may please consider the above Note and may please pass appropriate order in the matter.


(M.K. Jiwrajka)
Member Secretary

Dated: 18th January, 2013