



राष्ट्रीय पर्यावरण अपील प्राधिकरण

NATIONAL ENVIRONMENT APPELLATE AUTHORITY

By speed post -

Appeal No.12 /2007 – NEAA

October 24, 2008

To


1. ✓ Shri Ritwick Dutta,
Advocate for Appellant
C-86, L.G.F., East of Kailash,
New Delhi – 110 065.
2. Shri W. Bharat Singh,
Deputy Director,
Representative for the Secretary to Government of India
Ministry of Environment & Forests,
C.G.O Complex, Lodi Road,
New Delhi – 110 003.
3. Shri Bhavanishankar V Gadnis
Advocate for Respondent No.2
No.69 E Second Floor, Gautam Nagar,
New Delhi – 110049.
4. Shri Santosh Paul,
Advocate for Respondent -3
209, Supreme Enclave, Mayur Vihar, Phase – I,
Delhi – 110 091

Sub: Appeal No. 12/ 2007 (Utakarsh Mandal & Others Vs. Union of India and 2 Others)

Sir,

The order dated 14th October 2008 of the National Environment Appellate Authority in the above appeal is enclosed. Please acknowledge the receipt of the same.

Yours faithfully, r m


Court Master
NEAA



एन ई अरिवाली ।
एन ई सुशहाली ॥

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BEFORE THE NATIONAL ENVIRONMENT APPELLATE AUTHORITY
NEW DELHI

DATED THE 14TH OCTOBER, 2008

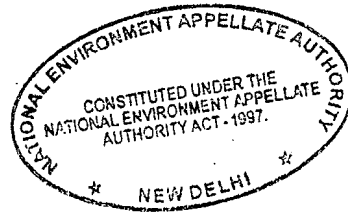
APPEAL NO. 12 / 2007

CORAM:

HON'BLE MEMBER KAUSHLENDRA PRASAD
HON'BLE MEMBER DR. I.V.MANIVANNAN
HON'BLE MEMBER J.C. KALA

IN THE MATTER OF :

1. Utkarsh Mandal,
Through its Secretary,
Gunesh G. Shikerkar, Riona, Via-Quepem,
Goa - 403 705.
2. Mukund N Nayak,
198(1), Gaiginim, Via-Quepem, Goa - 403 705.
3. Francisco A Fernandes,
158, Fatimawada, Rivona, Via - Quepem,
Goa - 403705.
4. Santano Jose Lopes,
140, Fatimawada, Rivona, Via - Quepem,
Goa - 403705.



APPELLANTS

VERSUS

1. Union of India
Through the Secretary, Ministry of Environment and Forests,
C.G.O Complex, Lodhi Road, New Delhi - 110 003
2. Goa State Pollution Control Board
Through the Member Secretary,
Panaji, Goa,
3. M/s. Panduranga Timblo Industries
Subhash Timblo Bhawan,
Post Box No. 242, Margo - 403 601, GOA

RESPONDENTS

Counsel for Appellant (s) : Shri Ritwick Dutta, Advocate
Shri Rahul Choudhary, Advocate
Shri Priyabrata Satapathy, Advocate

Counsel for Respondent(s)

Respondent No. 1(MoEF) : Shri W. Bharat Singh, Deputy Director, MoEF

Respondent No. 2 : Shri Bhavanishankar V Gadnis, Advocate
(Goa PCB)

Respondent No. 3 : Shri Joaquim Reis, Advocate with
(M/s.Panduranga Timblo Industries) Shri F.M. Reis, Advocate
Shri Santosh Paul, Advocate

ORDER

1. This is an appeal filed under section 11(1) of the National Environment Appellate Authority Act, 1997 against the Order No. J-11015/360/2007-IA.II (M) dated 26th July, 2007 of Ministry of Environment and Forests (MoEF), Government of India granting Environment Clearance to M/s. Panduranga Timblo Industries, Subhash Timblo Bhawan, Post Box No. 242, Margao 403 601, Goa, India for renewal of mining lease, Borga Iron Ore Mine (ML-II), lease area 89.50 ha and production of 0.20 MTPA of iron ore, (TC No. 34/50) at village Rivona, Tehsil Sanguem in Dist. South Goa in Goa.

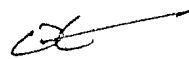
2. The above appeal was filed on 22.10.2007. The National Environment Appellate Authority (NEAA) registered the Appeal on 02.11.2007 and notices were issued to the concerned parties by listing case for hearing on the application for condonation of delay on 30.11.2007 and 11.12.2007. The Authority heard both the parties and condoned the delay in filing the Appeal. The Appeal was admitted for hearing on merit. All the Respondents filed their Statements of Objections / Rejoinder / Counter to the Appeal. The case was heard on 23.01.2008, 19.02.2008, 18.03.2008, 04.04.2008, 21.05.2008, 03.07.2008, 22.07.2008 and finally on 19.08.2008. Based on the points raised in the Appeal / Arguments made by the learned counsels for the Appellant and Respondents, the Appeal is considered in succeeding paragraphs.

3. Grounds of Appeal and Prayer:

3.1 The Environmental Clearance is being challenged on the grounds that -



- (a) the participants of the Public Hearing and Members of the Public have totally opposed the project.
- (b) the Executive Summary and EIA Report prepared by the Respondent –2 are full of inconsistencies and omissions which could lead to catastrophe in future;
- (c) the Gram Sabha of Rivona, Sanguem, Dist South Goa has opposed the Project;
- (d) the mining activity will affect the quality of soil of the agricultural field, hamper the yield of the fruit bearing trees, cause a great danger to the ground water and damage to the perennial stream and water bodies;
- (e) mindless dumping of mining rejects without taking the preventive measures would result in washing down the agriculture fields by causing a lot of damage to the agricultural field;
- (f) non –compliance of the order of High Court Bombay, Panaji Bench (Goa) in Miscellaneous Civil Application No. 02 of 1993 in respect of siltation of the Nallahs and Kushavati River;
- (g) if the project is allowed to come up in the present form without addressing concerns, it will not only be ecologically and socially disastrous but also impact the long term viability of the project;.
- (h) the implementation of the Project would amount to violation of Precautionary Principle which is part of law of the country; and
- (i) the clearance granted is against Article 21 of the Constitution of India which protects right to live as fundamental right, and it encompasses within its ambit enjoyment of life and right to live in human dignity, protection and preservation of environment, ecological balance, free from pollution of air and water, without which life cannot be enjoyed.



3.2 On the above grounds of Appeal, the Appellant has prayed for

- (i) direction to the respondents to immediately cancel the Environmental Clearance Order dated 26th July, 2007; and
- (ii) pass such other or further orders as the Authority may deem fit and proper in the facts and circumstance of the case.

4. Considering the various points raised by Appellant, the following issues are framed for consideration and decision of this Authority:-

- (1) **Whether the Environment Impact Assessment Report (EIA) is defective / deficient?**
- (2) **Whether the Public Hearing conducted by the Respondent – 2 is defective?**
- (3) **Whether the Project would have an adverse Environmental Impact on its Neighbourhood?**

5. The **First Issue** taken up for consideration is whether the Environment Impact Assessment Report (EIA) is defective / deficient.

5.1 The appellant has alleged several deficiencies as indicated below:

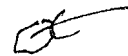
- (a) there are inconsistencies in Section 2.05.03 of the Executive Summary which deals with removal of over –burden or dumping of wastes, which states that over-burden or dumping of wastes will be backfilled in the exhausted portion of the pit from fourth year of the mining and for the first three years of mining the existing dump will be used in 5.0 hectares areas to accommodate about 1.94 million tones of waste. But as per the past performance Respondent-3 was not able to accommodate the over burden which caused on the agricultural land in the past by Respondent –3 and same story will repeat in future also ;



- (b) no check dams, retention wall etc. have been built to prevent the suspended particles joining the natural stream in the area as mentioned in section 3.04.07 at page 13 of the Executive Summary;
- (c) the compensation awarded through Department of Mines and computed by Zonal Agriculture Office since 21.11.1990 has still not been given to the affected people as promised by Respondent -3 in Section 3.08.03 of the Executive Summary;
- (d) the total Gross Fixed Asset Value of the lease has been under estimated at Rs. 63.80 lakhs as per the affidavit filed by Respondent -3 before Goa SPCB but the Executive Summary reveals that the machinery itself costs more than the amount stated by the Respondent-3 as their total cost; and
- (e) the Executive Summary is silent on the historic monuments of the area - there are pre-historic rock carvings within 500 meters to 1 k.m from the mining site which is notified by the State Directorate of Archives and Archeology, Government of Goa.

5.2 Respondent -3, the Project Proponent, has vehemently opposed the contentions of the Appellant that the Executive Summary and EIA Report are containing inconsistencies and argued as follows:

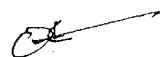
- (a) the proposals are made taking the past into consideration. 80% of the waste to be handled will be backfilled and only 1.94 million tones of waste out of 20.2 million tones will be dumped in an area of 5.0 ha during first three years after taking protective measures. Care will be taken to ensure that no agricultural land is damaged in future. In case of any damage or requirement of construction of any retention wall, the same shall be done and constructed by the Respondent -3 at their own costs;
- (b) it is clarified that there has been typographical error in Executive Summary which the Appellants have tried to take advantage of. Respondent-2 has referred to para 5.04 of EIA Report which states "Further, to prevent the



suspended particles joining the natural stream in the area, 2 check dams, and number of gully checks are to be constructed”;

- (c) the Appellants have selectively produced records of the Hon'ble High Court of Bombay at Goa with regard to an interim order passed in an Appeal preferred in the matter of a temporary injunction without deliberately producing the final order. The Respondent -3 had settled a suit with Shri Subhash Pradhu Desai. The family of Prabhu Desai was paid a total sum of Rs. 12.50 lakhs for the purpose of carrying out the said desilting operations on his own count as per the order in Special Civil Suit No. 28/80/A. Further, Respondent -3 has always been environment conscious to see that the ecology was not affected and offered the necessary payments to the land owners to offset any damages which could occasion on account of the mining operations. As far as allegation of Appellants that the effect that past records disclose that Respondent -3 was not paying the damage to the affected land owners can, by no stretch of imagination, be accepted and the said Prabhu Desai has enriched himself by the substantial amounts paid to him and has now put forward his purported allegations indirectly through the Appellants only with vested interests and to create hurdles in carrying out mining activities.
- (d) the Respondent -3 has denied that the total Gross Fixed Asset Value of the lease is Rs. 63.80 lakhs. He has stated that the machinery proposed for deployment will be on hire and the cost of the same is not taken. The project cost will therefore be worked out taking into account the hiring charges of the machinery.
- (e) the pre-historic rock caving / Pandava caves is 1.0 km away, which is mentioned under para 3.07.07 of EIA/EMP. Restriction, as per gazette notification dated 16th June 1992, for working is upto 200m only, while the working of Respondent -3 will be much farther and not going to affect the caves in any manner. The Respondent-3 has categorically denied that historic monument would be affected by the activities of the said project.

5.3 The Authority has examined the contentions of all the parties to the Appeal in the form of submissions and arguments during the final hearing. The



Authority also examined the Executive Summary / EIA Report prepared by the Project Proponent. The Appellants contentions have been incorporated by the Respondent -3 in EIA and satisfied that the EIA is not defective on points raised by the Appellant. The Authority therefore concludes that EIA Report has largely covered all the critical aspects of mining Project. **The First Issue is therefore answered in negative.**

6 The **Second Issue** is whether that the Public Hearing conducted by Respondent - 2 is defective.

6.1 The Appellant has contended that the Public Hearing conducted by Respondent -2 on 31.01.2007 is defective for the following reasons:

- (i) the affected persons have raised strong objections in the Public Hearing and also 67 applications were filed before the Goa SPCB objecting to restarting the Mining Project. None of the participants of the Public Hearing / applicants was in favour of restarting the mine;
- (ii) the owners and farmers of the agricultural lands have raised strong objection to the Mining Project as the mine rejects is allowed to flow on agricultural land. The Agricultural Produce Marketing Committee, Goa has given strong objection to operation of this Project by submitting memorandum to the Member Secretary Goa SPCB; and
- (iii) the Gram Panchayat received the Executive Summary of the Project on 22.01.2008 in only 9 days prior to the date of Public Hearing, which is in violation of the EIA Notification 2006.

6.2 The Respondent -2 has orally argued that the Public Hearing was conducted as per the provisions of EIA Notification dated 14.09.2006. He added that the minutes of Public Hearing have been faithfully recorded indicating the opposition of 67 applicants to the Project and the proceedings were forwarded to the Regulatory Authority for consideration of Environmental Clearance.



- 6.3 The Project Proponent (Respondent-3) has vehemently challenged the above contentions of the Appellant. He cited the following points in favour of his argument:-
- (i) regarding the contention that not even a single person was in favour of starting the mine, he referred to the letter dated 09.03.2007 addressed to the Collector, South Goa, wherein some prominent villagers consisting of more than 50 persons residing in Rivona Village have supported the Project considering the job opportunities available to the villages;
 - (ii) there are 9 other mines operating in the area and none of them is being opposed by the Appellant and operation of this mine alone is subjected to scrutiny. Further these objections appear to be based on 1984 report which has since been made redundant by the orders of the Hon'ble High Court. At any rate Agricultural Produce Marketing Committee has no statutory powers to file any opinion or say in respect of mining activities. The objections are therefore motivated by irrelevant consideration;
 - (iii) the Executive Summary and documents were submitted to SPCB prior to the date of Public Hearing;
 - (iv) the wash down from old dumping area has been removed and preventive measures have been taken; and
 - (v) as per the direction of the Hon'ble Court compensation of Rs. 4,50,000/- towards desiltation of Nallah has been paid. The dumps are old and no fresh overburden has been dumped, as the mine has not been working for several years.
- 6.4 The Respondent-1 has stated that all the objections and apprehensions raised by the public in Public Hearing were considered by the Expert Appraisal Committee before recommending the project and the EC was issued taking into account the recommendations of EAC. He added that the Expert Appraisal Committee (Mining) has recommended inclusion of specific condition no. 7 in EC Order dated 26.07.2007 for ensuring adequate environmental safeguard to contain possible environmental damage.



6.5 The Authority has perused para 2.4 of the Appendix IV to the EIA Notification dated 14.09.2006 and found the obligation on the part of State Pollution Control Board to make arrangements for giving publicity about the project and make available the Summary of the Draft EIA Report for inspection in select offices or public libraries or panchayats etc., In this connection, no mandatory time frame has been prescribed for making the said documents available; the only time frame of 30 days prescribed is for advertisement in newspapers. In respect of this clause, there is no violation by Respondent -3 in making available the Executive Summary 9 days prior to the date of Public Hearing. It is also evident from the Public Hearing Proceedings dated 31.01.2007 that the Public Hearing conducted by Respondent -2 is in accordance with the provisions of the EIA Notification dated 14.09.2006 which has been duly considered by the EAC and the Ministry before issuing the Environmental Clearance for this Project. Therefore, the Authority is convinced that the Public Hearing conducted by the Respondent -2 is not defective **The Second Issue is accordingly answered in negative.**

7. The Last Issue is whether the Project would have an adverse Environmental Impact on its Neighbourhood.

7.1 The Appellant has contended that the Project on implementation would severely damage the environment of the neighbourhood on various counts:

(i) **Impact on irrigation:**

The perennial streams and other sources of water have reached a great danger as water reaches the low contour and rendered the agricultural land non-functional for the last two years. The perennial stream in Survey No. 77 and 78 Rivona Village is perpetually dried and diverted its course because of heavy mining silts flowing during monsoons from the unprotected dumps, and after changing its course the streams are flowing through the agricultural field.



(ii) **Impact on Agriculture:**

The mine is on top of the hill surrounded by agricultural field and the mine rejects is allowed to flow on agriculture land but Respondent -3 has not taken any preventive measure so as to avoid washing of the mine rejects into agricultural fields. The level of humidity and fertility of the soil will go down which will cause irreparable damage to the agricultural land. If the cultivation is not of standard quality, the farmers will not be able to get Organic Farm Certificate for export of the agricultural products. The area is also well known for its fruit orchards and fruits are exported from this area to most parts of the country. Yield of the fruit bearing trees is reduced and quality of the yield also goes down. The export of the fruits will be hampered due to the affected phyto-sanitary norms. The sugar cane cultivation has been destroyed by dumping of waste materials of the mining in the agricultural fields by Respondent -3. In particular, more than 400 families will be affected by this adverse impact of the Project. The Agricultural Produce Marketing Committee, Goa has strongly objected to operation of this mining project;

(iii) **Silting up of Nallahs and Kushavati River**

The failure of Respondent-3 has resulted in siltation of two seasonal Nallahs, one in North and another in South of the hillock. They join outside this area and flow into Kushavati River. The direction of Panaji Bench of Bombay High Court in this regard has been ignored by Respondent -3 and violations are continuing.

- (iv) The Respondent -3, has from the very beginning, done an illegality in getting the lease for mining under the mining concession granted by the erstwhile Portuguese Government without taking any preventive measure to prevent the washing of mining rejects into the agricultural fields. The then Chief Secretary to the Government of Goa and then Collector of Goa had inspected the area on 6th October 1984 on the representation of the farmers from Rivona and Sanguem Villages. The Project Proponent has not taken any follow up action in this regard.



7.2 Respondent -3 repudiated the contention of the Appellant and argued that

(i) The EIA Report including Environment Management Plan is adequate enough to mitigate the adverse impact of the Project on irrigation and comprehensive to mitigate any adverse impact of the Project on environment of its Neighbourhood. The EIA Report has set out a correct picture on the Environmental Impact Assessment and Environmental Management Plan.

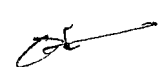
(ii) The Project Proponent has submitted that he has undertaken the following steps to protect the different components of the local environment:

(a) Steps taken for controlling Air Pollution:

(i) Water spraying on roads will be 17 trips/day, (ii) Tipper bodies will be checked for any leakages through the body and corrective action will be taken, (iii) Development of green barriers along the entire haul road, waste dumps and around statutory building and along the lease boundary, (iv) Construction of well designed haulage roads with side drains, (v) all roads and service roads will be graded regularly to clear accumulation of any loose material, (vi) Ripping – dozing with heavy duty Ripper will be made use of for breaking the material, an environment friendly mining practice in place of drilling & blasting thus eliminating the associated vibrations, noise, dust and flying rocks, (vii) over filling of tippers will be avoided so that there is no spillage on the roads, (viii) Ore loaded tippers will be covered with tarpaulin before allowing to transport on the main roads, and (ix) monitoring of air quality periodically to take necessary steps to keep the pollution constituents within the permissible limits.

(b) Steps with regard to Hydrology and Water Quality.

(i) Creation of water garland to regulate and drain the rain water from the quarry and direct its course away from the dumping areas into the pits (settling pit) or sumps as the case may be, (ii) Provision of additional 1500 m of retention/toe walls at the foot of the dumps and 1500m of contour trenches for directing drainage water, (iii) Concurrent stabilisation of non-moving dump slopes by planting trees, (iv) Construction of further check dams and gully checks to arrest all the silt particles flowing down with rain water in addition to those already provided, (v) All the dumps (clay material) will be covered with laterite. Dump surface will be sloped to prevent formation of gullies & wash outs, (vi) Steps will be practiced of not more than 30m high dump with enough width between the steps and over all slope will be kept at not more than 28°, and (vii) Lime will be added to the discharge water for quick settling of suspended solids.



(c) **Steps towards control of noise Pollution.**

(i) Planting of trees with thick foliage along roads, around buildings to act as acoustic barriers, (ii) Protective devices like earmuffs/ear plugs shall be provided to machine operators etc., (iii) Proper and regular maintenance of vehicles and other equipment, (iv) Speed of trucks will be limited to moderate speed of 30 kmph to minimise excessive noise from empty trucks, and (v) Restricting the work to day light hours.

(d) **Steps taken to prevent soil pollution.**

(i) Four soil samples were collected during Summer 2005 representing different land uses, in and around the mining lease area, (ii) The base line data reveals that there is no appreciable adverse impact on soil quality, due to open-cast mining for the last 56 years. The nutrients of the soil are in desirable proportion in the soil of the area. Settling pits preceding Gully plugs retain the silt. Agricultural fields nearby in buffer zone are mostly unaffected. Fields, if any affected in the past will be adequately compensated and care will be taken to avoid any adverse effect in future, (iii) The methods adopted like water spraying on roads and dumps, construction of check dam, retention walls, gully checks, will arrest considerably the silt flow, and (iv) Further, the plantation proposed on dumps and other areas will improve the fertility of the soil.

(e) The other management measures include measures to control vibration, measures for improvement of socio-economic of local people, measures for preservation of flora and fauna of the area, disaster management etc.

(iii) As per the direction of the Hon'ble High Court 4,50,000/- towards desiltation of Nallah has been paid. The dumps are old and no fresh overburden has been dumped, as the mine has not been working for last several years. However, all protective measures have been taken. It is not correct that the perennial stream has reached grave danger and has dried up, as alleged;

(iv) No illegality is done by Respondent -3 in getting the lease for mining and the mining concession was granted in perpetuity by the erstwhile Portuguese administration later converted into mining lease during 1987. Since then the lease was not renewed for want of forest clearance. Now that the MoEF has renewed the mining license in his favour, there is nothing illegal about it; and

(v) Regular and systematic monitoring will be done during the project period covering not only the local area but the entire region as well, extending full



cooperation to various Government Departments aiming at sustained development of the Buffer Zone.

- 7.3 The Authority has perused the para-wise comments of the Ministry and its EC order dated 27.07.2007 and found that several of the concerns of appellant have been addressed and safeguards provided which, interalia, would ensure that top soil shall be stacked properly with proper slope with adequate safeguards and shall be backfilled for reclamation and rehabilitation of mined out area, over burden shall be stacked at earmarked dump sites only, garland drains shall be constructed to arrest silt and sediment flows from soil and mineral dumps, implement suitable conservation measures to augment ground water resources, other conservation measures etc., Respondent -1 has prescribed specific conditions for safeguarding the local environment. The environmental clearance is liable to be revoked, and action under EP Act initiated in the event of violation of any of the conditions. The Appellants are at liberty to move Respondent -1 for cancellation of Environment Clearance order under any such eventuality.
- 7.4 The Authority has weighed the arguments of Appellants and Respondents on the adequacy of EMP proposed by Project Proponent, and the Authority finds the Respondent-1 has prescribed adequate and stringent safeguards in their EC Order with a view to protect the fragile environment of the Project area. The contention of the Appellants therefore fails to convince this Authority. **The Third Issue is also answered in negative.**
- 8.0 Before pronouncing the verdict on this Appeal, the Authority considers necessary to examine the argument of the counsel of the Appellant that the EAC (Mines) has failed to consider the wholesale opposition of the participants of the Public Hearing to the Project as evident from the minutes of the EAC.
- 8.1 The counsel for the Appellant has argued that –
- (i) the EAC is mandated to carry out a detailed scrutiny of the outcome of the Public Consultation including the Public Hearing Proceedings;

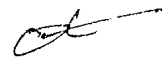


- (ii) a scrutiny has to be done by Members of the EAC and not by MoEF or its officers,
- (iii) the important issues such as impact of mining on agriculture, opposition of Panchayats and Gram Sabha should have been considered at length during the deliberation of the EAC giving outcome of Public Hearing similar weight as final EIA Report. Unfortunately only a sentence is devoted to the Public Hearing stating that the Public Hearing was held on 31.07.2007. By no stretch of imagination, it can be regarded a detailed scrutiny;
- (iv) this manner of decision making by EAC has rendered entire process of the Public Hearing a farce and waste of time; and
- (v) if the EAC has applied its mind, it ought to have given a reason for overruling the view point of all the people present at Public Hearing. No such reason is available in the minutes of the EAC.

The counsel has cited verdict of courts in several cases in support of his argument.

8.2 Respondent -1 in its counter affidavit has averred that the EAC (Mines) has considered the objection and records of the proceedings of the Public Hearing before recommending the Project for Environmental Clearance. He has further added that while accepting the recommendations of the EAC (Mines) they have included specific environment safeguards to contain environmental damage, if any, in their order dated 26.07.2007.

8.3 A perusal of these arguments reveals that the thrust of the argument of the counsel for Appellant is that EAC (Mines), an instrument of Respondent -1 has not undertaken a detailed scrutiny of the wholesale opposition from the public and the concerned Grama Sabha, and the reasons for overruling such opposing views should have been recorded in the Minutes of the EAC. The Authority finds that the said committee has done a detailed analysis of various technical and environmental issues it is not apparent on the face of the record that the "opposition to the Project" has passed such a rigorous test. In other words the said committee has not indicated any reasons for overruling the Public objection to the Project. As held by Hon'ble Supreme Court in M.J Sivani and Others Vs. State of Karnataka and Others in [1995] 6 SCC, 289, "*Reasons are the link between the order and the mind of its maker. When rules direct to record reasons, it is a sine qua non and condition precedent for valid order. Appropriate brief reasons, though not like a judgment, are a necessary*

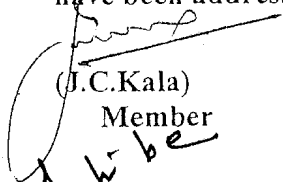


concomitant for a valid order in support of the action or decision taken by the authority or its instrumentality or the state".

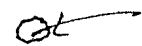
Further, the Authority notes that "the reasons are harbinger between the mind of the maker of the order to the controversy in question and the decision or conclusion arrived at. It also excludes the chances to reach arbitrary, whimsical or capricious decision or conclusion."

The authority also would like to record the above much desired link between the issues and decision, as far as the public opposition to the project is concerned, is conspicuously missing in the minutes of the said committee. To this extent the argument of the appellants has some force. In view of the increasing environmental awareness of the Public neither Respodnent-1 nor any of its instruments like EACs can afford to brush aside the public opposition to the various developmental / infrastructural projects and schemes. Further having enlarged the scope of public hearing into public consultation in their revised EAI Notification dated 14.09.2006, Respodnent-1 (MoEF) would do well to advice its various committees to record the reasons for their recommendations in an appropriate manner, especially in respect of public opposition to the Project. **The Authority however holds that the above omission does not vitiate orders of Respodnent-1 in this case in any manner.**

9. In fine, all the Three Issues framed for consideration of this Authority have been answered in negative. The Authority is convinced that the Ministry has applied its mind and imposed conditions that are necessary to maintain a judicious balance between the need for exploitation of mining wealth of the State of Goa and the need for maintaining a clean and safe environment of the local area. **The Appeal is therefore disallowed for want of merit but with a direction that MoEF and its various Advisory Committees should indicate in their minutes / proceedings / orders the link between the issues raised and decisions thereon, and wherever the public objections are involved, they should clearly indicate such public concerns have been addressed while arriving at final recommendations / decision.**


(J.C.Kala)
Member


(Dr. I.V. Maniyanam)
Member


(K. Prasad)
Member

11
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true copy
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2/1/10
Court Master
National Environment Appellate Authority
Trikook

