

**Dinesh Bothra Vs. State and Ors**

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**Court :** Rajasthan Jodhpur

**Decided On :** Apr-09-2015

**Appellant :** Dinesh Bothra

**Respondent :** State and Ors

**Judgement :**

1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR  
D.B.Civil Writ (PIL) Petition No.11584/2013 Dinesh Bothra V/s The State of  
Rajasthan & ors. Date of Order:- 09.04.2015. PRESENT HONBLE CHIEF  
JUSTICE MR.SUNIL AMBWANI HONBLE MR. JUSTICE AJIT SINGH  
Mr.Sandeep Shah for the petitioner. Dr.P.S.Bhati, Addl.Advocate General with )  
Mr.Sajjan Singh )-for the respondents. Mr.Manish Shishodia )

**ORDER**

(Reportable)BY THE COURT (Per Hon'ble Sunil Ambwani, Chief Justice) 1. By  
this writ petition filed in public interest for protection of environment, the petitioner,  
a public spirited person and permanent resident of District Barmer, residing in the  
City of Jodhpur for last 12 years, engaged in the occupation of Journalist with the  
degrees of MA (Journalism) and LL.B., practicing as an Advocate, with several  
studies and articles concerning environment and sustainable development, has  
prayed for directions to declare the Rules 37-P to 37-U inserted vide the  
Notification dated 19.6.2012, under the Rajasthan Minor Mineral Concession  
Rules, 1986, as illegal, without jurisdiction and ultra vires the Notification issued by  
the Central Government under the Environment (Protection) Act, 1986, and the

Environment (Protection) Rules, 1986. 2 The petitioner has also prayed for declaring all the actions taken in pursuance to the amended Rules vide Notification dated 19.6.2012 as well as advertisements dated 26.10.2012, 16.11.2012 and 30.11.2012 and the approval of Environment Management Plans (EMPs) by the respondents- authorities, after formation of cluster of mines, to be illegal and to quash the same. He has also prayed for declaring the renewals of quarry licenses merely on the approval of EMPs, to be illegal and to quash the same.

2. The petitioner has also prayed for directions to the State Government to frame Rules while strictly complying with the requirement of Environment Impact Assessment (EIA) Notification dated 14.9.2006 issued by the Ministry of Environment and Forests and the directions given by this Court in D.B.Writ (PIL) Petition No.10304/2010 Dinesh Bothra V/s State of Rajasthan & Ors. decided on 19.8.2011, against which Special Leave Petition was dismissed, and the directions issued by Hon'ble Supreme Court vide order dated 27.2.2011 in Deepak Kumar etc. V/s State of Haryana and ors. etc. (IA Nos.12-13 of 2011 in Special Leave petition (C) No.19628-19629 of 2009) and for further directions, which this Court may deem fit, in the facts and circumstances of the case.

3. The Ministry of Environment and Forests (Mo EF) vide Notification dated 14th September, 2006 issued under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 and sub-section (1) and clause (v) of sub-section (2) of Section 3 of the Environment (protection) Act, 1986, in supersession of its earlier Notification dated 27th January, 1994, except in respect of things done or omitted to be done before such supersession, directed that on and from the date of its publication the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to the Notification, entailing capacity addition with change in process and or 3 technology, shall be undertaken in any part of India, only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority (SLEIAA) constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986, in accordance with the procedure specified in the Notification.

4. The clause-4 of the Notification dated 14th September, 2006 categorized the projects and activities in Category-A and Category-B, based on the spatial extent of potential impacts on human health and natural and man made resources. Whereas the projects and activities included in Category-A of the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Mo EF, on the recommendations of an Expert Appraisal Committee (EAC) constituted by the Central government, all projects or activities included in Category-B of the Schedule, including expansion and modernization of existing projects or activities as specified in sub- paragraph (ii) of paragraph 2, or change in product mix as specified in sub- paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, will require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA was required to base its decision on the recommendations of a State or Union territory level Expert Appraisal Committee (SEAC), to be constituted under the Notification.

5. For the present, we are concerned with the mining of minerals, which falls in Category-A of the Schedule and which includes mining, extraction of natural resources and power generation (for a specified production capacity). In the project or activity, in column no.(2), the 4 mining of minerals is included and which includes in column no.(3) the mining lease area of more than 50 hectares and in column no.(4), less than 50 hectare, which also includes the mining lease area of more than 5 hectares. In column no.(5), it is provided that the General Conditions shall apply, except in the Note mineral prospecting (not involving drilling) are exempted provided the construction areas have got previous clearance for physical survey..

6. The Notification provides for screening, scoping and appraisal in clause-5 by the Expert Appraisal Committees (EACs) and the State Expert Appraisal Committees (SEACs) for Category-A and Category-B projects respectively. The EACs and SEACs were required to meet atleast once every month, to be re-constituted after every three years. The clause-6 provided for application for prior Environmental

Clearance (EC) and clause-7 provided for stages in the prior EC process for new projects. Clause 7(i) provided for four stages for environmental clearance process, which includes screening only for Category-B projects and activities, in stage(1); scoping in stage (2); public consultation in stage (3); and appraisal in stage (4).

7. The screening. in stage (1) is provided to be made by the concerned SEAC as to whether or not the project or activity requires further environmental studies for preparation of EIA for its appraisal, depending upon the nature and location specificity of the project, to be put in Category-B1 for EIA and remaining projects in Category-B2.

8. The scoping. in stage (2) refers to the process by which the Expert Appraisal Committee in the case of Category-A projects or activities including the applications for expansion and/or modernization and/or change in product mix, is required to determine detailed and comprehensive Terms of Reference (TOR) addressing all relevant 5 environmental concerns for the preparation of EIA, after a site visit by a sub-group of EAC or SEAC, except all projects and activities listed in Category-B of Item-8 of the Schedule, which included construction/township/commercial complexes/houses.

9. The public consultation. in stage (3) refers to the process, by which the concerns of local affected persons and others, who have plausible stake in the environmental impacts of the project or activity are to be ascertained with a view of taking into account all the material concerns in the project or activity design as appropriate. All projects in Category-A and Category-B1 require public consultation to be conducted by the State Pollution Control Board or the Union territory Pollution Control Committee, which will forward the proceedings to the regulatory authority within 45 days. A public hearing is required to be made at the site or in close proximity, after obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.

10. The 'appraisal. in stage (4) in the Notification means the detailed scrutiny by the EAC or SLEAC on the applications and other documents like the final EIA report, outcome of the public consultations including public hearing proceedings to

be made by EAC or SLEAC in a transparent manner. On conclusion, categorical recommendations are required to be made by the EAC or SLEAC to the regulatory authority for grant of prior environmental clearance on stipulated terms and conditions, or rejection of the application together with reasons for the same.

11. Clause-9 of the Notification provided for validity of environmental clearance for a period of ten years in case of river valley projects, subject to maximum of thirty years for mining projects and five years in the case of all other projects and activities. The Notification also provides 6 in clause-10 for environmental clearance monitoring, and in clause-11 for transferability of environmental clearance to any other legal person, on an application for transfer with no objection. of transferor, by the regulatory authority concerned, without any reference to the EAC or SLEAC.

12. In the earlier D.B.Writ (PIL) Petition No.10304/2010 filed by the petitioner, the facts were that the Government of Rajasthan issued an advertisement dated 4.3.2009 inviting applications for quarry licenses for mining of sand-stones mineral in the Sihanda area of Tehsil Baleswar, District Jodhpur, proposing to allot huge area for undertaking mining activities to the individuals. The Department of Mines had taken a decision for undertaking mining on a land measuring 201.06 hectares, for which a mandatory environmental clearance was required from Mo EF under the Notification dated 14.9.2006. The Mining Department without taking any environmental clearance started the process of allotment, which was challenged by the petitioner, with the prayer to restrain the allotment of quarry licenses for mining activities in Sihanda area in District Jodhpur, in pursuance to the advertisement dated 4.3.2009 without obtaining Environmental Clearance (EC) and to quash the advertisement dated 4.3.2009. The writ petition was allowed by the Division Bench of this Court vide order dated 19.8.2011, with the opinion that as the area in question is 201.06 hectares, in which cluster of mines are to be allotted and for which the total number of mines are 1117, the mining activity is obviously for an area of more than 50 hectares of land and as such, the activity would fall within the Category-A of EIA Notification dated 14.9.2006. When the total area, upon which the mining activities are to be undertaken, is 201.06 hectares, dividing it into small pieces will not make it mining activities in less than

50 hectares. The Court observed that the 7 mining activities above 50 hectares are bound to have impact upon environment, flora and fauna in the area. The development has to be sustainable. The Court further observed that the man must live in harmony with nature. With a view to protect the forest wealth and wildlife of the areas, the Rajasthan Forest Act, 1953 was enacted. In order to check deforestation, which ultimately results in ecological imbalance and leads to environmental degradation, the Forest Conservation Act, 1980 was enacted. 'The Environment (Protection) Act, 1986 was enacted with a view to provide for the protection and improvement of environment and for matters connected therewith. Under Rule 5(3) of the Environment (Protection) Rules, 1986, the EIA Notification dated 14.9.2006 was issued. The ecological imbalances and consequent environmental damage which has become alarming due to reckless mining operations for which there is urgent need for preservation of forests, flora and fauna and to preserve the forests. After referring to the decisions of the Supreme Court in Tarun Bharat Sangh, Alwar V/s Union of India & Ors. (1992 Supp.(2) SCC448, T.N.Godavarman Thirumulpad V/s Union of India & Ors. ((2002) 10 SCC606, M.C.Mehta V/s Union of India & Ors. ((1992) Supp.2 SCC85, Satish V/s State of Uttar Pradesh (1992 Supp.(2) SCC94, T.N.Godavarman Thirumulpad (104) V/s Union of India & Ors. ((2008) 2 SCC222 and T.N.Godavarman Thirumulpad (104) V/s Union of India & Ors. ((2009) 6 SCC142 and the principles of sustainable development, based on inter- generational equity, the Court held that no allotment of mines is permissible until and unless prior environmental clearance is obtained. The concluding paragraphs of the judgment are quoted as follows:- In the cases of mining lease, requiring clearance as per EIA Notification of 2006, we are of the considered opinion that no allotment of mines is permissible until and unless prior 8 environmental clearance is obtained, any action to the contrary is per se illegal. The EIA Notification dated 14.9.2006 is mandatory and is having statutory force issued under Rule 5(3) of the Rules of 1986. In case, mining area is permitted to be allotted and possession is permitted to be handed over before clearance is granted, whole purpose of EIA Notification would be defeated. The duty of the courts is to ensure that such an interpretation is not adopted, which would frustrate very purpose of obtaining the requisite clearance. The illegal mining has become a menace. Even otherwise, mining activity has to be

sustainable, to ensure it the said notification of EAI of 2006 has been issued. In case, allotment of mines is permitted before clearance, it would be extremely difficult and impossible to further check the illegal mining and whole purpose of the EIA Notification of 2006 would be frustrated and same would be violative of provisions of not only the Environment Protection Act, the Rules of 1986 and also the statutory notification dated 14.9.2006 issued under Rule 5(3) of the Rules of 1986. Thus, we are of the considered opinion that no allotment can be made; no mining lease can be executed and no possession can be handed over without obtaining the requisite prior environmental clearance as mandated under the notification dated 14.9.2006. We make it clear that we have not dealt with those projects in which construction activity is involved in which fencing and guard room are permitted to be constructed vide office memorandum dated 19.8.2010. Those projects are not involved in the petition. The matter in question is confined to the mining leases only. Resultantly, the writ petition is allowed. The respondents No.1 to 3 are restrained from making any allotment of the land or to execute any mining leases or to hand over the possession of the area in question without obtaining of the requisite clearance from the concerned Committee constituted under EIA Notification of 2006 and shall also ensure that no mining activities shall take place in the area in question without requisite clearance. It future also, the respondents No.1 to 3 to comply with mandate of the said notification of 2006. No costs. Sd/ Sd/- 9 (ALOK SHARMA),J.

(ARUN MISHRA),C.J.

. The Special Leave petition filed against the judgment was dismissed by Hon'ble Supreme Court.

13. In a land mark case concerning the mining activities, considering the concern in which the Department of Mines and Geology, Government of Haryana had issued auction notice dated 3.6.2011 proposing to auction the extraction of minor mineral boulder, gravel and sand quarries of an area not exceeding 4.5. hectares in the District of Panchkula and the auction notice dated 8.8.2011 in the Districts of Panchkula, Ambala and Yamuna Nagar exceeding 5 hectares and above, as well as other areas in the Districts of Kurukshetra, Karnal, Faridabad and Palwal for

quarrying in the river beds of Yamuna, Tangri, Markanda, Ghaggar, Krishnavati River basin, Dohar River basin etc., as well as the complaints of illegal mining going on in the State of Rajasthan and Uttar Pradesh, the Hon'ble Supreme Court in IA Nos.12-13 of 2011 in Special Leave petition (C) No.19628-19629 of 2009 Deepak Kumar etc. V/s State of Haryana and Others etc. passed an order on 27th February, 2012 for effective compliance of the Notification dated 14.9.2006 issued by the Mo EF. The Supreme Court expressed its concern on the illegal mining in paragraphs 8 and 9 of the order as follows:-

8. We are expressing our deep concern since we are faced with a situation where the auction notices dated 3.6.2011 and 8.8.2011 have permitted quarrying mining and removal of sand from in-stream and upstream of several rivers, which may have serious environmental impact on ephemeral, seasonal and perennial rivers and river beds and sand extraction may have an adverse effect on bio-diversity as well. Further it may also lead to bed degradation and sedimentation having a negative effect on the aquatic life. Rivers mentioned in the auction notices are on the foothills of the fragile Shivalik hills. Shivalik hills are the source of rivers like Ghaggar, Tangri, Markanda etc. River Ghaggar is a seasonal river which rises up in the outer Himalayas between Yamuna and Satluj and enters Haryana near Pinjore, District Panchkula, which passes through Ambala and Hissar and reaches Bikaner in Rajasthan. River Markanda is also a seasonal river like Ghaggar, which also originates from the lower Shivalik hills and enters Haryana near Ambala. During monsoon, this stream swells up into a raging torrent, notorious for its devastating power, as also, river Yamuna.

9. We find that it is without conducting any study on the possible environmental impact on/in the river beds and else where the auction notices have been issued. We are of the considered view that when we are faced with a situation where extraction of alluvial material within or near a river bed has an impact on the rivers physical habitat characteristics, like river stability, flood risk, environmental degradation, loss of habitat, decline in biodiversity, it is not an answer to say that the extraction is in blocks of less than 5 hectares, separated by 1 kilometre, because their collective impact may be significant, hence the necessity of a proper environmental assessment plan. Possibly this may be the reason that in the

affidavit filed by the Mo EF on 23.11.2011 along with the annexure-2 report, the following stand has been taken: "The Ministry is of the opinion that where the mining area is homogenous, physically proximate end on identifiable piece of land of 5 ha or more, it should not be broken into smaller sizes to circumvent the EIA Notification, 2006 as the EIA Notification, 2006 is not applicable to the mining projects having lease area of less than 5 ha. The Report of Committee on Minor Minerals, under the Chairmanship of the Secretary (E&F) with representatives of various state Governments as members including the State of Haryana and Rajasthan recommended a minimum lease size of 5 ha for minor minerals for undertaking scientific mining for the purpose of integrating and addressing environmental concerns. Only in cases of isolated discontinued mineral deposits in less than 5 ha, such mining leases may be considered keeping in view the mineral conservation."

Situations referred to earlier prevail not only in the State of Haryana but also in the neighbouring and other States of the country as well and those issues had come up for serious deliberations before the Government of India, on various occasions.

. 11 14. The Supreme Court noticed in paragraph-10 of the order that the Notification of Mo EF of the year 1994 did not apply to the mining of minor minerals and noticing that minor minerals were brought under the ambit of EIA Notification of 2006 and as per the said Notification mining of minerals with a lease area of 5 hectares and above require prior environmental clearance, it observed that the Mo EF's attention was drawn to several instances across the country damaging lakes, riverbeds and groundwater leading to drying up of water beds and causing water scarcity on account of quarry/mining leases and mineral concessions granted by the State Governments, even if the area was small, the collective impact on environment was significant. The Supreme Court mentioned that Mo EF constituted a Core Group under the chairmanship of the Secretary (E&F) vide its order dated 24.3.2009. The Group held its meeting and discussed the impact that may be caused by quarrying/mining of minor minerals on riverbeds and ground waters. It was noticed by the Group that individual mines of minor minerals being small in size may have insignificant impact, however, their collective impact, taking into consideration various mines on a regional scale, is

significantly adverse and thus, appropriate guidelines were required to be issued. The issues, which were brought up for consideration, were as follows:- (i) the need to re-look the definition of minor mineral, (ii) minimum size of lease for adopting eco-friendly scientific mining practices, (iii) period of lease, (iv) cluster of mine approach for addressing and implementing EMP in case of small mines, (v) depth of mining to minimize adverse impact on hydrological regime, (vi) requirement of mine plan for minor minerals, similar to major minerals, and (vii) reclamation of mined out area, post mine land use, progressive mine closure plan etc.

. 12 15. Based on the discussion and subsequent conclusions, a draft report was prepared, which was further discussed on 29.1.2010 for its finalization. The issues and the recommendations, which are relevant for the purposes of this case in paragraphs 4.2 to 4.8 are quoted below:- 4.2 Size of the Mine Lease: Area for grant of mine lease varies from State to State. Maximum area which can be held under one or more mine lease is 2590 ha or 25.90 sq.miles in Jammu & Kashmir. Rajasthan prescribed a minimum limit of 1 ha for a lease. Maximum area prescribed for permit is 50x50 m. In most of the States area of permit is not specified in the rules. It has recently been observed by Punjab and Haryana High Court in its order dated 15.5.2009 that State Government are apparently granting short term permits by dividing the mining area into small zones in effect avoids environmental norms. There is, thus a need to bring uniformity in the extent of area to be granted for mine lease so as to ensure that eco friendly scientific mining practices can be adopted. It is recommended that the minimum size of mine lease should be 5 ha. Further, preparation of comprehensive mine plan for contiguous stretches of mineral deposits by the respective State Governments may also be encouraged. This may suitably be incorporated in the Mineral Concession Rules, 1960 by Ministry of Mines. 4.3 Period of Mine Lease: The period of lease varies from State to State depending on type of concessions, minerals and its end use. The minimum lease period is one year and maximum 30 years. Minerals like granite where huge investments are required, a period of 20 years is generally given with the provisions of renewal. Permits are generally granting for short periods which vary from one month to a maximum one year. In States like Haryana, minor mineral leases are auctioned for a particular time period. Mining is considered to be capital intensive industry and considerable time is lost for

developing the mine before it attains the status of fully developed mine. If the tenure of the mine lease is short, it would encourage the lessee to concentrate more on rapid exploitation of mineral without really undertaking adequate measures for reclamation and rehabilitation of mined out area, posing thereby a serious threat to the environment and health of the workers and public at large. There is thus, a need to bring uniformity in the period of lease. It is recommended that a minimum period of mine lease should be 5 years, so that eco friendly scientific and sustainable mining practices are adopted. However, under exceptional 13 circumstances arising due to judicial interventions, short term mining leases / contracts could be granted to the State Agencies to meet the situation arising there from.

**4.4 Cluster of Mine Approach for Small Sized Mines:** Considering the nature of occurrence of minor mineral, economic condition of the lessee and the likely difficulties to be faced by Regulatory Authorities in monitoring the environmental impacts and implementation of necessary mitigation measures, it may be desirable to adopt cluster approach in case of smaller mine leases being operated presently. Further, these clusters need be provided with processing/crusher zones for forward integration and minimizing excessive pressure on road infrastructure. The respective State Governments / Mine Owners Associations may facilitate implementation of Environment Management Plans in such cluster of mines.

**4.5 Requirement of Mine Plan for Minor Minerals:** At present, most of the State Governments have not made it mandatory for preparation of mining plan in respect of minor minerals. In some States like Rajasthan, eco friendly mining plans are prepared, which are approved by the State Mining Department. The eco friendly mining plans so prepared, though conceptually welcome, are observed to be deficient and need to be made comprehensive in a manner as is being done for major minerals. Besides, the aspects of reclamation and rehabilitation of mined out areas, progressive mine closure plan, as in vogue for major minerals could be introduced for minor minerals as well. It is recommended that provision for preparation and approval of mine plan, as in the case of major minerals may appropriately be provided in the Rules governing the mining of minor minerals by the respective State Governments. These should specifically include the provision for reclamation and rehabilitation of mined out area, progressive mine closure plan and post mine land

use. 4.6 Creation of Separate Corpus for Reclamation / Rehabilitation of Mines of Minor Minerals: Mining of minor minerals, in our country, is by and large unorganized sector and is practiced in haphazard and unscientific manner. At times, the size of the leasehold is also too small to address the issue of reclamation and rehabilitation of mined out areas. It may, therefore, be desirable that before the concept of mine closure plan for minor minerals is adopted, the existing abandoned mines may be reclaimed and rehabilitated with the involvement of the State Government. There is thus, a need to create a separate corpus, which may be utilized for reclamation and rehabilitation of mined out areas. The respective State Governments may work out a suitable mechanism for creation of such corpus on the 'polluter pays' principle. An organizational structure may also need to be created for undertaking and monitoring these activities.

4.7 Depth of Mining: Mining of minerals, whether major or minor have a direct bearing on the hydrological regime of the area. Besides, affecting the availability of water as a resource, it also affects the quality of water through direct run off going into the surface water bodies and infiltration / leaching into groundwater. Further, groundwater withdrawal, dewatering of water from mine pit and diversion of surface water may cause surface and sub surface hydrologic systems to dry up. An ideal situation would require that quarrying should be restricted to unsaturated zone only above the phreatic water table and should not intersect the groundwater table at any point of time. However, from the point of view of mineral conservation, it may not be desirable to impose blanket ban on mining operation below groundwater table. It is, therefore, recommended that detailed hydro- geological report should be prepared in respect of any mining operation for minor minerals to be undertaken below groundwater table. Based on the findings of the study so undertaken and the comments / recommendations of Central Ground Water Authority / State Ground Water Board, a decision regarding restriction on depth of mining for any area should be taken on case to case basis.

4.8 Uniform Minor Mineral Concession Rules: The economic value of the minor minerals excavated in the country is estimated to contribute to about 9% of the total value of the minerals whereas the non metallic minerals contribute to about 2.8%. Keeping in view the large extent of mining of minor minerals and its significant potential to adversely affect the environment, it is recommended that Model Mineral

Concession rules may be framed for minor minerals as well and the minor minerals may be subjected to a simpler regulatory regime, which is, however, similar to major minerals regime.

. The Committee concluded in paragraph 5 as follows:- 5.0 Conclusion: Mining of minor minerals, though individually, because of smaller size of mine leases is perceived to have lesser impact as compared to mining of major minerals. However, the activity as a whole is seen to have significant adverse impacts on environment. It is, therefore, necessary that the mining of minor minerals is subjected to simpler but strict regulatory regime and carried out only under an approved framework of mining plan, which should provide for reclamation and rehabilitation of the mined out areas. Further, while granting mining leases by the respective State Governments "location of any eco-fragile zone(s) within the 15 impact zone of the proposed mining area, the linked Rules/Notifications governing such zones and the judicial pronouncements, if any, need be duly noted. The Union Ministry of Mines along with Indian Bureau of Mines and respective State Governments should therefore make necessary provisions in this regard under the Mines and Minerals (Development and Regulation) Act, 1957, Mineral Concession Rules, 1960 and adopt model guidelines to be followed by all States. " (emphasis supplied) The report clearly indicates that operation of mines of minor minerals needs to be subjected to strict regulatory parameters as that of mines of major minerals. It was also felt necessary to have a re-look to the definition of "minor" minerals per se. The necessity of the preparation of "comprehensive mines plan" for contiguous stretches of mineral deposits by the respective State Governments may also be encouraged and the same be suitably incorporated in the Mineral Concession Rules, 1960 by the Ministry of Mines. Further, it was also recommended that States, Union Territories would see that mining of minor minerals is subjected to simpler but strict regulatory regime and carried out only under an approved framework of mining plan, which should provide for reclamation and rehabilitation of mined out areas. Mining Plan should take note of the level of production, level of mechanisation, type of machinery used in the mining of minor minerals, quantity of diesel consumption, number of trees uprooted, export and import of mining minerals, environmental impact, restoration of flora and host of other matters referred to in 2010 rules. A proper framework has

also to be evolved on cluster of mining of minor mineral for which there must be a Regional Environmental Management Plan. Another important decision taken was that while granting of mining leases by the respective State Governments, location of any eco-fragile zone (s) within the impact zone of the proposed mining area, the linked Rules/Notifications governing such zones and the judicial pronouncements, if any, need to be duly noted.. 16. The Supreme Court in Deepak Kumar's case noticed that the Minister for Environment and Forest wrote a letter dated 1st June, 2010 to 16 all the Chief Ministers of the States to examine the report and to issue necessary instructions for incorporating the recommendations made in the report in the Mineral Concession Rules for mining of minor minerals under section 15 of the Mines and Mineral (Development and Regulation) Act, 1957. The key recommendations made in the letter are as follows:-

"1. Minimum size of mine lease should be 5 ha. (2) Minimum period of mine lease should be 5 years. (3) A cluster approach to mines should be taken in case of smaller mines leases operating currently. (4) Mine plans should be made mandatory for minor minerals as well. (5) A separate corpus should be created for reclamation and rehabilitation of mined out areas. (6) Hydro-geological reports should be prepared for mining proposed below groundwater table. (7) For river bed mining, leases should be granted stretch wise, depth may be restricted to 3m/water level, whichever is less, and safety zones should be worked out. (8) The present classification of minerals into major and minor categories should be re-examined by the Ministry of Mines in consultation with the States."

17. The Ministry of Mines, Government of India sent a communication dated 16.5.2011 called Environmental aspects of quarrying and of minor minerals-Evolving of Model Guidelines. alongwith a draft model guidelines, calling for inputs before 30.6.2011. The draft Rules called Minor Minerals Conservation and Development Rules, 2010 were also put on the website. Section 15(1A)(i) of the Act specified the manner in which the rehabilitation of flora and other vegetation, such as trees, shrubs and the like destroyed by reasons of any quarrying or mining operations, shall be made in the same area or in any other area once selected by the State 17 Government, whether by way of reimbursement of the cost of rehabilitation or otherwise by the persons holding the quarrying or mining lease.

18. The Supreme Court observed in paragraph-14 of the order dated 27.2.2012 that all State Governments/Union Territories have to give due weight to the recommendations of the Mo EF, which are made in consultation with all the State Governments and Union Territories. The Model Rules of 2010 issued by the Ministry of Mines are very vital from the environmental, ecological and bio-diversity point of view and therefore, the State Governments have to frame proper Rules in accordance with the recommendations under section 15 of the Mines and Minerals (Development and Regulation) Act, 1957. The Supreme Court, thereafter, in paragraphs 16 to 19 issued directions requiring the State of Haryana and various other States to implement the recommendations of the Mo EF and the guidelines issued by the Ministry of Mines, before issuing auction notices granting short term permits by way of auction of minor mineral boulders, gravel, sand etc. in the river beds and elsewhere of less than 5 hectares. The directions were issued to all the States, Union Territories, Mo EF and the Ministry of Mines to give effect to the recommendations made by the Mo EF in its report of March, 2010 and the Model Guidelines framed by the Ministry of Mines, within a period of six months and submit compliance reports. In the meanwhile, the Supreme Court ordered that leases of minor mineral including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting environmental clearance from the Mo EF. Paragraphs 16 to 19 of the order, relevant for the purposes of this case, are quoted below:-

16. We are of the considered view that it is highly necessary to 18 have an effective framework of mining plan which will take care of all environmental issues and also evolve a long term rational and sustainable use of natural resource base and also the bio-assessment protocol. Sand mining, it may be noted, may have an adverse effect on bio-diversity as loss of habitat caused by sand mining will effect various species, flora and fauna and it may also destabilize the soil structure of river banks and often leaves isolated islands. We find that, taking note of those technical, scientific and environmental matters, Mo EF, Government of India, issued 26 various recommendations in March 2010 followed by the Model Rules, 2010 framed by the Ministry of Mines which have to be given effect to, inculcating the spirit of Article 48A, Article 51A(g) read with Article 21 of the Constitution.

17. The State of Haryana and various other States have not so far implemented the above recommendations of the Mo EF or the guidelines issued by the Ministry of Mines before issuing auction notices granting short term permits by way of auction of minor mineral boulders, gravel, sand etc., in the river beds and elsewhere of less than 5 hectares. We, therefore, direct to all the States, Union Territories, Mo EF and the Ministry of Mines to give effect to the recommendations made by Mo EF in its report of March 2010 and the model guidelines framed by the Ministry of Mines, within a period of six months from today and submit their compliance reports.

18. Central Government also should take steps to bring into force the Minor Minerals Conservation and Development Rules 2010 at the earliest. State Governments and UTs also should take immediate steps to frame necessary rules under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 taking into consideration the recommendations of Mo EF in its Report of March 2010 and model guidelines framed by the Ministry of Mines, Govt. of India. Communicate the copy of this order to the Mo EF, Secretary, Ministry of Mines, New Delhi, Ministry of Water Resources, Central Government Water Authority, the Chief Secretaries of the respective States and Union Territories, who would circulate this order to the concerned Departments.

19. We, in the meanwhile, order that leases of minor mineral 19 including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting environmental clearance from the Mo EF. Ordered accordingly.. 19. It is alleged by learned counsel appearing for the petitioner that in violation of Notification of the Mo EF dated 14.9.2006 and in disobedience of the order passed by the Division Bench of this Court dated 19.8.2011 and the directions issued by the Supreme Court in Deepak Kumar's case on 27th February, 2012, the State of Rajasthan amended the Rajasthan Minor Mineral Concession Rules, 1986 incorporating Rules 37P to 37U to by-pass or ignore the requirements of Mo EF Notification dated 14.9.2006. The offending Rules 37P to 37U do not provide that necessary environmental clearance is to be obtained from the competent authority, where the quarry of minor mineral is less than 5 hectares. The Rules have been inserted in complete disregard to the directions given by this

Court and Hon'ble Supreme Court.

20. It is submitted that apart from amending and inserting Rules 37P to 37U, by Rajasthan Gazette Extra Ordinary dated 19.6.2012, the definition of cluster. in the Rajasthan Minor Mineral Concession Rules, 1986 in Rule 3(1)(viii-a) was also amended and which reads as follows:- (viii-a) Cluster. means the geographical boundary declared by the Director comprising of mining leases/quarry licenses/short term permits which already exists or to be granted in future. The area of a cluster declared by the Director, as far as possible, shall not exceed 50 sq kms and mineral concessions area at the time of formation of cluster shall not exceed 100 hectare.. 21. The Rules 37P to 37U of which the validity is subject matter of consideration in this writ petition, are quoted below:- 37P. Environmental Management Plan for clusters of Leases / 20 Licenses / Short Term Permit areas.- For clusters of leases / licenses / short term permit areas having an area less than 5 hectares individually, Environment Management Plan shall be prepared by association of lessees / licensees / short term permit holders of the cluster within a period of three months of formation of association through recognised person and submitted to the District Level Environmental Committee for approval: Provided that the Director may in appropriate case extend above period up to a further period of six months. 37Q. Association of Cluster.- Lessees / licensees / short term permit holders falling in a cluster shall form an association within a period of three months counted from the date of declaration of cluster as per clause (viii-a) of rule 3, for the implementation of Environment Management Plan prepared by a recognized person and approved by the District Level Environmental Committee. All the lessees / licensees /short term permit holders shall be members of the concerned association and if any lessee / licensee / short term permit holder does not want to be a member of such association in such case he / she shall not be allowed to work in the area: Provided that such association shall be registered under the provisions of relevant Law. Provided further that any lessee / licence / short term permit holder who is granted the lease / licence / short term permit, as the case may be, within the boundary of cluster after formation of association shall be deemed to be member of the association, Provided also that lessee/ licensee/ short term permit holders of more than one cluster may form a common association, but in this case the Environment Management Plan (EMP) shall have

to be prepared separately for each cluster by the association. 37R. District Level Environmental Committee.- The District Level Environmental Committee shall consist of the 21 following, namely:- (i) District Collector Chairman (ii) Regional Officer of the Rajasthan State Member Pollution Control Board or officer nominated by the Chairman of the Board (iii) Deputy Conservator of Forest Member (iv) Assistant Mining Engineer/ Member Secretary Mining Engineer Concerned (v) Any other officer nominated by the Member Government 37S. Implementation of common issues of Environment Management Plan in a cluster.- Association formed as per the provisions of the rule 37Q shall be responsible for implementation of Environment Management Plan (EMP) and in case EMP is not implemented, mining operation of all lessees / licensees / short term permit holders in the cluster shall be stopped by the Mining Engineer /Assistant Mining Engineer with prior approval of Superintending Mining Engineer concerned after giving a 30 day notice to the association. Such notice shall be published in two local news papers at least 15 day before the intended date of stoppage of mining activities. Mining operations, so stopped, shall be allowed to resume only after the EMP is implemented. 37T. Environmental Safeguard to be implemented by individual lessee / licensee /short term permit holder.- (1) Every holder of mining lease, quarry licence or short term permit holder shall,- (i) obtain consent to establish and consent to operate from the Rajasthan State Pollution Control Board prior to start of mining operation and implement the conditions of consent to operate strictly; (ii) ensure that no natural watercourse and / or water resources are obstructed due to any mining operation. Adequate measures shall be taken for protection of the older-streams, if any, emanating / passing through the mining lease, quarry licence or short term permit area during the course of mining operation; 22 (iii) keep mine working restricted to above ground water level till approval of State Ground Water Department is obtained; (iv) temporarily store the top soil, at the place earmarked in environment management plan / mine plan / scheme; (v) dump over burden (OB) generated during the mining operations at earmarked dump site/s in environment management plan / mine plan /scheme; (vi) take effective safeguard measures, such as regular water sprinkling in critical areas prone to air pollution and having high levels of particulate matter such as around crushing and screening plant, loading and unloading point and all transfer

points. Extensive water sprinkling shall be carried out on haul roads. It shall be ensured that the Ambient Air Quality parameters conforming to the norms prescribed by the State Pollution Control Board is maintained throughout; (vii) practice controlled blasting and implement mitigative measures for control of ground vibrations and to arrest fly rocks and boulders. Blasting shall be done only by a person holding of blaster certificate from Director General of Mines Safety. Deep hole blasting shall be carried out only after approval of Director General of Mines Safety; (viii) take all mitigative measures during the mining operation to ensure that the buildings / structures in the nearby areas shall not be affected due to blasting; (ix) use drills either operated with dust extractors or equipped with water injection system; (x) ensure that personnel working in dusty areas shall wear protective respiratory devices and they shall also be provided with adequate training and information on safety, environment and health aspects; (xi) undertake to ensure minimum losses to the agriculture crops and undertake to contribute suitably for compensation to the loss / damage to the crops; (xii) maintain the bench height and slope as per the Metalliferous Mines Regulation, 1961, as amended from time to time; (xiii) maintain the overall slope of mine below 45 degrees; (xiv) keep vehicular emissions under control and regularly monitor the same. Measures shall be taken for maintenance of vehicles used in mining operations and in transportation of mineral. The vehicles shall not be overloaded; (xv) take measures for control of noise levels below 85 d BA in the work environment. 23 (2) The conditions in sub-rule (1) shall be enforced inter-alia, under the provisions of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the Public Liability Insurance Act, 1991 along with their amendments and rules made there under and also any other orders passed by the Hon'ble Supreme Court of India / High Court of Rajasthan and any other Court of Law relating to the subject matter. (3) Failure to comply with any of the conditions mentioned in sub-rule (1) may result in cancellation of lease / licence / short term permit after giving 30 days notice to the lessee / licensee / short term permit holder for compliance. (4) Mine working shall be strictly as per the conditions of approved mining plan /simplified mining scheme / scheme of mining, as the case may be. [(5) Every lessee / licensee /short term permit holder in addition to deposit of

royalty and submission of financial assurance shall also deposit contribution in environment management fund to meet out the financial requirement of association / agency for carrying out environmental protection work as per the environment management plan at the following rates, namely:- (i) for limestone (dimensional) of Rs.10/- per tonne of Kota and Jhalawar districts, mineral dispatch. marble and granite (ii) ordinary earth Rs. 1/- per tonne of mineral dispatch (iii) all other minerals Rs. 5/- per tonne of mineral dispatch 37U. Cluster Level Environmental Conditions.- Following provisions shall be incorporated in the environment management plan:- (1) Removal and utilization of top soil:- (i) The top soil collected during mining operations shall be managed to stack systematically at approved site; and (ii) Top soil so stacked shall be utilized for plantation or for restoration and rehabilitation of the land no longer required for mining operations or for stabilizing / landscaping the overburden dumps. (2) Storage of overburden waste rock, etc.: - 24 (i) The overburden, waste rock and non-saleable mineral generated during mining operations shall be managed to stack separately in properly formed dumps on grounds earmarked in approved environment management plan for cluster; (ii) The over burden dump shall be properly secured to prevent the degradation of the surrounding land or silting of water courses; (iii) Wherever possible, use such waste rock or overburden or other rejects for back filling the worked out quarry or mine where mineral has been recovered up to the optimum depth, with a view to restore the land to its original use or desired alternate use. Where the backfilling is not feasible, the waste dumps shall be scientifically vegetated by suitable native species to prevent erosion and surface run off; and (iv) The maximum height of the already existing waste dumps shall not exceed 5 meters and it shall be protected by walls of rubble stones on toe to prevent the flow of fine particles. (3) Reclamation and Rehabilitation of lands:- Restoration, reclamation and rehabilitation of land affected by mining operations shall be undertaken in a phased manner so that work is completed before the conclusion of mining operations and the abandonment of the quarry or mine with a view to leave a productive and sustainable site. (4) Precaution against air pollution:- (i) Air pollution due to dust, exhaust emissions or fumes during, mining or processing operations for mineral and related activities shall be controlled and kept within permissible limits as specified under any environmental law for the time

being in force. Main haulage roads of mine shall be kept wet by sprinkling of water; and (ii) Periodical examination of air quality shall be monitored by the association of the cluster and results shall be intimated to concerned Mining Engineer / Assistant Mining Engineer as well as regional officer of the State Pollution Control Board. (5) Discharge of effluents:- All possible precautions shall be taken to prevent or reduce to a minimum, the discharge of toxic and objectionable liquid effluents from quarry or mine, workshop or processing plant, into surface or ground water bodies and usable lands. These effluents shall conform 25 to the standards laid down in this regard. (6) Precaution against noise:- (i) Noise arising out of mining and processing operations for mineral at the source shall be controlled so as to keep it within the permissible limit; and (ii) Periodical examination of noise pollution shall be monitored by the association of the cluster and results shall be intimated to concerned Mining Engineer / Assistant Mining Engineer as well as regional officer of the State Pollution Control Board. (7) Restoration of flora:- (i) Effective measures shall be taken for plantation in the area earmarked in environment management plan of the cluster. 1 [It shall be ensured that plantation shall be done at least 5% of the leased out area of cluster every year, in area earmarked in environment management plan of the cluster, subject to the norms specified by the Environment Department].; (ii) The earmarked site(s) for plantation shall be fenced and proper planning of watering and caring the plants shall be implemented. The same shall be looked after during the subsistence of the cluster; (iii) Suitable trees shall be planted along cluster boundary, on both sides of the major roads, near site office of the mine and over the inactive dumps; (iv) The lessee / licensee / short term permit holder shall not cut or injure any tree in area of his lease / licence / permit without the previous sanction in writing of any officer authorised in this behalf under any law in force; and (v) Take all precautionary measures during mining operation for conservation and protection of endangered flora and fauna. (8) Water management:- (i) Water collected shall be analyzed and if found potable then it shall be diverted for drinking purpose in consultation with State Public Health Engineering Department; (ii) Accumulated un-potable rain water shall be dewatered and diverted to nearby pond / aquifer / river / nallah, catchment area by providing suitable pipe line or drains or link canals, as the case may be, in consultation with State Public Health

Engineering Department; (iii) The procedure of water harvesting shall be adopted to 26 recharge the ground water table; (iv) Effective steps shall be taken for setting up of a water treatment plant wherever required to treat the effluents collected in the working pits; and (v) For working below ground water level the lessee, licensee or short term permit holder shall carry out a detailed hydro- geological study taking into account the mine water discharge, management of discharged water and shall obtain prior approval of State Ground Water Department. (9) Corporate Social Responsibility:- (i) Regular health check up camps for the workers engaged in mines shall be organized; (ii) Occupational health surveillance program of the workers shall be undertaken periodically to observe any contractions due to exposure to dust and take corrective measures, if needed; (iii) Insurance cover to all workers engaged in mines shall be provided; (iv) Common vocational training center shall be setup at district level; and (v) Local needs of habitant like school, creche, hospital, veterinary hospital, sanitation, drinking water etc. shall be considered positively. (10) Environmental Management Fund:- (i) [ ]. (ii) The Environmental Management Fund shall be allotted by District Level Environment Committee for environment development work, to the concerned association of cluster or to the agency to whom such work is assigned.]. (11) Procedure for collection of Environment Management Fund (EMF): (i) In case of mining leases and short term permit contribution for Environment Management Fund shall be collected provisionally at the time of issuing rawanna which shall be finalised at the lime of assessment and the difference amount shall be recovered or refunded, as the case may be. Provided that in case of mining leases where excess royalty collection contract is given, the contribution for Environment Management Fund for the quantity of mineral dispatched above the dead rent limit shall be recovered along with royalty through contractor. The contract amount for the existing contractors to be authorised for recovering 27 contribution for Environment Management Fund shall be proportionately revised. (ii) In case of quarry licences, contribution for Environment Management Fund shall be recovered at the check post / naka by department official or by the contractor if authorised in this behalf. The contract amount for the existing contractors to be authorised for recovering contribution for Environment Management Fund shall be proportionately revised. (iii) Mining Engineer / Assistant Mining Engineer shall maintain clusterwise ledger

of EMF for keeping record of collection from lessee/licencee/permit holder and expenditure incurred. Cash book shall be maintained separately for EMF.]..

22. It is submitted that the amendment made in the Rules vide Notification dated 19.6.2012 is in conflict with the Mo EF Notification dated 14.9.2006, the recommendations of the Expert Group forwarded by the Minister for Environment and Forest vide letter dated 1st June, 2010 to all the Chief Ministers of the States, as well as the Mode Rules 2010 issued by the Ministry of Mines approved by the Supreme Court, to be included and on the lines of which the proposed Rules were to be framed or amended. The directions of Hon'ble Supreme Court are very clear with regard to obtaining the environmental clearance in respect of all mining leases for an area less or above 5 hectares as the minimum size of mine lease was recommended to be of 5 hectares with the minimum period of 5 years and the cluster approach to mines to be taken in case of smaller mines leases operating currently. The mine plans were made mandatory for minor minerals and a separate corpus to be created for reclamation and rehabilitation of mined out areas. The Supreme Court was not in favour of relaxing the environmental clearance certificate for the leases of less than 5 hectares. The interim order did not give exemption or relaxation and provided that even if the mining lease of minor mineral including the renewal is for an area of less than 5 hectares, such lease or renewal should be granted only after getting environmental clearance from the Mo EF.

23. It is submitted that change in the definition of cluster. in the amendment of the Rules vide Notification dated 19.6.2012, not to exceed 50 sq. kms and mineral concessions area at the time of formation of cluster not to exceed 100 hectare, is to defeat the directions issued and further, the Environmental Management Plan (EMP) for clusters of leases/licenses/short term permit areas with less than 5 hectares individually and EMP to be prepared by association of lessees/licensees/short term permit holders, to be submitted to the District Level Environmental Committee under Rule 37P, which includes under Rule 37R the District Collector, Regional Officer of the Rajasthan State Pollution Control Board or officer nominated by the Chairman of the Board, Dy.Conservator of Forest, Assistant Mining Engineer/Mining Engineer concerned and any other officer

nominated by the Government, is in total violation of the directions in Deepak Kumar's case on 27.2.2012.

24. It is submitted that the EMP for clusters of leases/licenses/short term permit areas under Rule 37P is proposed to be prepared by the association of lessees/licensees/short term permit holders of the clusters within a period of three months of formation of association through recognized person and submitted to the District Level Environmental Committee for approval. The association of cluster as provided in Rule 37Q is to be formed within three months, for the implementation of Environmental Management Plan prepared by a recognized person and approved by the District Level Environmental Committee. All the lessees/licensees/short term permit holders shall be members of the concerned association. Any person, who does not want to be a member of the association, shall not be allowed to work and those who are granted lease/license/short term permit within the boundary of cluster after 29 formation of association, shall be deemed to be a member of the association. The District Environmental Committee includes District Collector, who notifies the mines to be allotted through Mining Department; the Regional Officer of the Rajasthan State Pollution Control Board, who gives consent to operate mine; the Dy.Conservator of Forest, who gives no objection certificate to the effect that the area does not fall in forest area; the Assistant Mining Engineer/Mining Engineer, who, as Member Secretary, notifies the lease to the allottees; and any other officer nominated by the Government. The environmental safeguards under Rule 37T do not conform to the conditions of the environmental clearance provided under the Notification of the Mo EF dated 14th September, 2006. All the 15 environmental safeguards provided under Rule 37T are conditions imposed upon the association, the implementation of which is left at the discretion of the association.

25. It is submitted that the cluster level environmental conditions under Rule 37U are provided to be incorporated in the EMP, which include removal and utilization of top soil and storage of overburden waste rock, reclamation and rehabilitation of lands, precaution against air pollution, discharge of effluents, precaution against noise, restoration of flora, water management, corporate social responsibility and Environmental Management Fund, which is to be allotted by the District Level

Environment Committee for environment development work, to the concerned association of cluster or to the agency to whom the work is assigned.

26. Learned counsel for the petitioner submits that Rules 37P to 37U are by way of lip service to the requirements of environmental clearance by the State Level Environment Impact Assessment Authority, which is constituted by the Central Government. Under the amended Rules, there is no role of the State Level Environment Impact Assessment Authority, which consists of three Members including the Chairman and Member Secretary to be nominated by the State Government. The Member Secretary shall be a serving officer of the concerned State Government and two Members shall either be a professional or expert fulfilling the eligibility criteria given in Appendix-VI to the Notification of Mo EF dated 14.9.2006. One of the Members, who is an expert in the Environmental Impact Assessment process shall be the Chairman of the SLEIAA. In the offending Rules 37P to 37U, there is no provision of screening, scoping and appraisal nor general public is involved in the EMP in any manner whatsoever. The entrusting of responsibility to the concerned association of cluster for carrying out environment development work from Environmental Management Fund, is in complete violation of the provisions of the Notification of Mo EF dated 14.9.2006, the recommendations of the Core Group under the Chairmanship of the Secretary (E&F) and the Model Guidelines evolved by the Ministry of Mines, Government of India, on the basis of which Model Rules of 2010 were prepared.

27. It is submitted that on 12.3.2013, the Collector & District Magistrate, Jodhpur approved 20 EMPs of the office of the Mining Engineer, Jodhpur and 17 EMPs of the office of Assistant Mining Engineer, Balesar, in which as many as 58 conditions were imposed. All the conditions are obligations upon the association of cluster and do not serve the objects of the protection of environment as it is directed in Deepak Kumar's case.

28. On 18.12.2014, after hearing learned counsel for the petitioner and Assistant to Additional Advocate General, we directed the respondents to provide the details of the mining leases/quarry licenses/short term permits, which were granted for an area of less than 5 hectares with the 31 environmental clearance certificate from

the State Level Environment Impact Assessment Authority between 27.02.2012 to 09.09.2013. The order is quoted below:- Mr.Sajjan Singh, Asstt. to AAG Dr.PSBhati, appearing for respondents, states that the amendments carried out in Rules 37B to 37U in Chapter IVA of the Rajasthan Minor Mineral Concession Rules, 1986 for Systematic, Scientific & Environment Friendly Mining providing for Mining Plan/Simplified Mining Scheme to be prepared and approved and the Clustering of Mines for which an Association to be formed under Rule 37Q for its approval by the District Level Environmental Committee and on issues of Environment Management Plan in a cluster, are the requirements to be complied with after the mining lease, quarry licence or short term permit is granted or is renewed for running the mining leases. The object of the Rules is for the scientific mining and reclamation and restoration of the mining area. It is submitted that these Rules are not in conflict with the requirement of the Environment Clearance Certificate, to be issued under the Mo EF Notifications dated 14.09.2006 and 09.09.2013 as well as the Notification dated 07.10.2014, which are in force for grant of mining lease and the directions of the Supreme Court in Deepak Kumar's case vide its judgment dated 27.02.2012. It is further submitted that the clustering of the project is only for facilitation for preparation of mining plan, the statutory conditions to be complied with for Environmental Clearance Certificate and for preparation of the mining scheme under the Notification dated 14.09.2006 read with Notifications dated 09.09.2013 and 07.10.2014 issued by the Ministry of Environment & Forests. The requirements under these Mo EF Notification have not been diluted by the amendment in the Rules vide Notification dated 19.06.2012 by the State of Rajasthan. The requirements under the impugned Rules are in addition to the conditions under the notifications, issued by the Ministry of Environment & Forests. Prima facie, we do not find that a reading of the Rules supports the statement given by the respondents. We are also not satisfied, in the absence of any positive statement on record, to accept the submission with regard to implementation of the 32 amendment in the Rules carried out vide Notification dt.19.06.2012 in Chapter IVA for Systematic, Scientific and Environment Friendly Mining. Let an affidavit of the Secretary, Mines, State of Rajasthan be filed verifying the aforesaid statement. Assuming for the argument's sake that the statement given by the learned counsel appearing for the State is

correct, we would also like to know the details of the approvals given to the mining plan, simplified or modified mining plan or scheme under the amended Rules as well as the deemed approval under sub-rule(7) of Rule 37G and sub-rule(6) of Rule 37H, which provides for review of mining plan or simplified mining scheme. The details will include from each division the number of mining plans, which have received approval as well as the dates of the final decisions, which have been taken in such matters. The respondents will also give details of collections in the corpus of Environment Management Fund and the expenditure of the amount. They will also explain as to whether there is any intervention of an expert, as provided in the Mo EF Notifications dated 14.09.2006 and 09.09.2013 in the preparation of plans for rehabilitation and the precautions, which are taken to protect environment in and around the mining area, which includes restoration of flora and fauna. Learned counsel for the petitioner states that the Apex Court in Deepak Kumar's case made the notification of the Mo EF dated 14.09.2006 applicable to all mining leases including the mining leases of an area less than 5 hectares. He submits that despite the directions issued in Deepak Kumar's case on 27.02.2012, the State Government had issued mining leases without environmental clearance certificate, obtained from the State Level Environmental Impact Assessment Authority, upto 09.09.2013, when the Notification dated 14.09.2006 was amended by the Mo EF. The respondents will also provide details of the mining leases/quarry licences/short term mining permits, which have been granted for an area of less than 5 hectares with the Environment Clearance Certificate from the State Level Environmental Impact Assessment Authority between 27.02.2012 and 09.09.2013. 33 List the matter again on 10th February, 2015.. 29. In compliance of the order dated 18.12.2014, Shri Ashok Singhvi, Principal Secretary, Department of Mines and Petroleum, Government of Rajasthan, Jaipur has filed an affidavit, in which he has stated as follows:-

1. That the Hon'ble Court vide order dated 18.12.2014 directed Secretary, Mines, State of Rajasthan to file an affidavit with regard to the effect that the impugned Rules are in addition to the conditions under the notifications, issued by the Ministry of Environment and Forest along with certain other details.

2. That the Hon'ble Apex Court in the case of Deepak Kumar Versus State of Haryana & Ors. SLP No.19628-19629/2009 passed order dated 27.02.2012 and directed to frame necessary rules within six months under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 taking into consideration the recommendations made by Ministry of Environment and Forest in its report of March 2010 and the Model Guidelines framed by the Ministry of Mines, Government of India and also directed that in the meanwhile, till the formation of the rules, not to grant or renew the leases of minor mineral for the area less than five hectare without obtaining Environment Clearance from the competent authority., That in compliance of the order dated 27.02.2012 the State Government under section 15 of the MMDR Act issued notification dated 19.06.2012 and made necessary amendment in the Rules of 1986 while incorporating all the recommendations of the Mo EF of March 2010 and also Model Guidelines of Ministry of Mines, Government of India and also placed the same before the Hon'ble Apex Court. As per the directions given by the Hon'ble Apex Court in para 14, 16, 17, 18 and 19 of its order dated 27.02.2012, it is crystal clear that if the State Governments/UTs frame rules as per the various recommendations of the Mo EF of March, 2010 and also incorporating the model rules of 2010 framed by the Ministry of Mines, then, thereafter the States/UTs can grant/renew the MIs of 34 minor mineral of less than 5 hectare in the light of these rules.

3. That after issuance of the Notification dated 19.06.2012 to 09.09.2013 the department issued 444 Mining Lease, 86 Quarry License and 7874 Short Term Permit (STP) for the area less than 5 Hectare and existing QLs were renewed. It is worth mentioning here that the approved Environment Management Plans contain all the required conditions to protect environment ecology, biosphere and flora & fauna of the area as has been provided in the various Environment Clearances issued by the Mo EF for different projects. A copy of the conditions of Environment Management Plans is hereby annexed and marked as A/1. That after the receipt of the Notification dated 09.09.2013 issued by the Ministry of Environment and Forest whereby it was made mandatory to have environment clearance for the grant and renewal of mining leases of minor mineral of area less than 5 hectare, 14 MIs have been granted by the department after taking Environment Clearance

from the competent authority. Copy of the chart showing details is annexed herewith and marked as Annexure A/2.

4. That in the State of Rajasthan from 19.06.2012 to 31.12.2014, 10478 Mining Plan/Scheme has been approved and 672 were deemed approvals. Subsequently on scrutiny 50 deemed approvals were rejected and 622 were approved by competent authorities. That apart from the above in the whole State, Environment Management Fund amounting to Rs.219 crores have been recovered since its imposition in June, 2012. The chart showing details is annexed herewith and marked as annexure A/3.

5. That a provision of Finance Assurance (FA) was incorporated in the notification dated 19.06.2012, at the rate of rupees 15000/- per hectare to be submitted by the mines owners, so that they may be bound to comply with the provisions of mining plans/scheme and to take protective reclamation and rehabilitation measures of the mined out areas.

6. That the Rules of 1986 as Amended vide notification dated 19.06.2012 are in addition to the conditions prescribed by the Ministry of Environment and Forest vide Notification dated 09.09.2013 and 07.10.2014. That a person applying for grant of renewal of Mining Lease, Quarry License or Short Term Permit (STP) 35 is required to have both approved Mining Plan/Scheme as per Rules of 1986 and Environment Clearance as per Notification dated 09.09.2013 and 07.10.2014 for the area less than 5 hectare.

7. That in compliance of the orders of the Apex Court dated 27.02.2012 and further following the amendment made by the notification dated 19.06.2012 in the rules of 1986, a total of 958 clusters were formed, and correspondingly associations of mines owners were elected, formed and got registered under the Cooperative Societies Act. Further the Environment Management Plans (EMPs) of each cluster was prepared by experts in mining and environment field i.e. Registered Qualified Persons (approved by the State Government/Indian Bureau of Mines). Environment Management Plans were approved by the District Environment Committee consisting of Superintending Mining Engineer (Expert in Mining), Regional Officer of Rajasthan State Pollution Control Board (Expert in

Environment), Deputy Conservator of Forest Department (Expert in flora and fauna and ecological balance) under the Chairmanship of District Collector. It is worth mentioning that these EMPs were approved after verifying the facts in field visits.

8. That after the date of passing of order dated 27.02.2012 by the Hon'ble Apex Court a total of 14 Mining Lease/Quarry License/STP were granted by the Department of Mines & Geology for an area less than 5 hectare with Environment Clearance Certificate from the State Level Environment Impact Assessment Authority.

9. It is worth mentioning that the Hon'ble National Green Tribunal in its order dated January 13, 2015 has ordered that all the new mining leases has to obtain environmental clearances from the competent authorities and all the existing mining lease holder shall apply for environment clearance from the competent authority within a period of three months.

10. That the contents of the said additional affidavit have been drafted by my counsel under my instructions and the documents annexed as Annexure A/1, A/2 and A/3 are true and correct copy of the originals.. 30. It is submitted by learned counsel for the petitioner that from the 36 affidavit of the Principal Secretary, Department of Mines and Petroleum, Government of Rajasthan, Jaipur, it may be found that after issuance of Notification dated 19.6.2012, in purported compliance of the judgment of the Supreme Court in Deepak Kumar's case, upto 09.09.2013, when the Mo EF issued a fresh notification including the leases for the area less than 5 hectares and after which, only 14 mining leases have been granted after obtaining environmental clearance from the State Level Environment Impact Assessment Authority, as many as 444 mining leases, 86 quarry licenses and 7874 short term permits were granted for the area less than 5 hectares and the existing quarry licenses were renewed without Environmental Clearance. It is submitted that there are about 19,000 leases, which have been granted in the State of Rajasthan plundering the mineral wealth of the State, without obtaining the Environmental Clearance from the State Level Environment Impact Assessment Authority. The State of Rajasthan has violated the environmental

laws, in a brazen attempt to degrade the environment in the State of Rajasthan and in open defiance of the Notification issued by the Mo EF and the directions of the Supreme Court in Deepak Kumar's case.

31. It is submitted by learned counsel for the petitioner that Rule 37G (6) & (7) provides for deemed approval. of the mining plan or mining scheme or the modified mining plan or scheme. If the competent authority does not grant approval or disapproval within 90 days, the mining plan in such case will be deemed to have been provisionally approved and such approval shall be subject to the final decision. The State Government under Rule 37G has reviewed as many as 672 deemed approvals, out of which, on scrutiny, only 50 deemed approvals were rejected and that as stated in para 4 of the affidavit of Shri Ashok Singhvi, Principal Secretary, Department of Mines and Petroleum, Government of Rajasthan, Jaipur 37 between 19.6.2012 and 31.12.2014, 10478 mining plans/schemes were approved. The Notification dated 19.6.2012 providing for rates of Environmental Management Fund at Rs.15000/- per hectare has resulted in accumulation of Rs.219 crores, out of which, not a single penny has been spent for rehabilitation of the mining area.

32. Sub-rules (6) and (7) of Rule 37G providing for deemed approval are quoted below:- (6) The competent authority shall within a period of ninety days from the date of receipt of the mining plan or simplified mining scheme or the modified plan or scheme, convey his approval or disapproval to the applicant. In case of disapproval, the competent authority shall convey in writing the reasons for disapproving the said mining plan or mining scheme or the modified mining plan or scheme. (7) If no decision is conveyed within the period stipulated under sub-rule(6), the mining plan or simplified mining scheme or the modified mining plan or scheme, as the case may be, shall be deemed to have been provisionally approved and such approval shall be subject to the final decision whenever communicated.. 33. It is submitted by learned counsel for the petitioner that the State has played a fraud on the conditions of Notification issued by the Mo EF and the order passed in Deepak Kumar's case. The amended Rules have been submitted before the Supreme Court alongwith an affidavit, which have not been approved by the Supreme Court. The order in Deepak Kumar's case did not

authorize the State Government to proceed to grant and renew mining leases without approval of the amended Rules and which, in any case, are not likely to be approved, as these Rules have been made in complete violation of the Notification of Mo EF, Model Guidelines issued by the Ministry of Mines, Government of India and the directions issued in Deepak Kumar's case. 38 34. Learned Additional Advocate General defending the amended Rules submits that there was no restriction in the Mo EF Notification of 1994, nor there was any restriction prior to the order dated 27.2.2012 in Deepak Kumar's case to grant mining leases for the area of less than 5 hectares without obtaining the Environmental Clearance. The order dated 27.2.2012 passed in Deepak Kumar's case directed the State Government to make Rules in consonance with the Notification of Mo EF dated 14.9.2006, the letter of the Ministry of Mines, Government of India dated 16.5.2011 called Environmental aspects of quarrying of minor minerals- Evolving of Model Guidelines., Model Rules of 2010 issued by the Ministry of Mines and the directions issued in Deepak Kumar's case. The State Government was directed to implement the recommendations of Mo EF and the guidelines issued by the Ministry of Mines before issuing lease/license/short term permit for the area less than 5 hectares, within a period of six months and to submit compliance report and in the meanwhile, the renewal of mining leases for the area of less than 5 hectares to be granted by the State Government/Union Territory was directed to be given after obtaining Environmental Clearance from the Mo EF. The State Government amended the Rules by amending the definition of cluster. and inserting Rules 37P to 37U and has submitted the compliance affidavit in the Supreme Court. The Rules amended by Notification dated 19.6.2012 have incorporated all the recommendations of Mo EF of March, 2010 as well as the Model Guidelines of the Ministry of Mines, Government of India. In the directions given in Deepak Kumar's case, it was clear that the State Governments/Union Territories were directed to frame Rules as per the recommendations of Mo EF of March, 2010 and the Model Rules of 2010 issued by the Ministry of Mines. The State Government/Union Territories can grant/renew the mining leases for the area less than 5 hectares in the 39 light of such Rules.

35. The Additional Advocate General submits that Rule 37P to 37U fully serve the requirements of Notification of Mo EF and that of the Model Rules of 2010 framed

by the Ministry of Mines, Government of India and thus, the grant of mining lease, quarry licenses and short term permits as well as the renewal of the existing leases, do not suffer from violation of directions issued in Deepak Kumar's case.

36. It is further submitted by the Additional Advocate General that after the Notification dated 9th September, 2013, by which the leases for less than 5 hectares were also covered by the Notification of Mo EF dated 14.9.2006 and of March, 2010, the State Government has not granted any mining lease without obtaining Environmental Clearance. Only 14 mining leases have been granted after 9.9.2013, after the Environmental Clearance was given for such leases by the State Level Environment Impact Assessment Authority.

37. It is submitted by Additional Advocate General that 58 conditions were imposed at the time of granting mining leases, quarry licenses and short term permits on all the persons, who are required to be members of the association of the cluster. These conditions fully served the requirements of Notifications of Mo EF and the Model Rules of 2010 framed by the Ministry of Mines, Government of India, as well as the conditions imposed in the order passed in Deepak Kumar's case.

38. Learned Additional Advocate General submits that deeming provision is applicable only in respect of renewal of the existing mining leases/quarry licenses/short term permits, which are having area more than one hectare in sub-rule (1) and having area upto one hectare under sub-rule (2) of Rule 37G. The deeming provision is, however, provisional and that after scrutiny, out of 672 deemed approvals, 50 deemed 40 approvals were rejected and 622 were approved by the competent authority. Rs.219 crores under Environmental Management Fund has been recovered since its imposition in June, 2012 in the State. Since the terms of leases have not been expired, the amount has not been spent so far.

39. It is submitted that the National Green Tribunal (NGT) did not have any authority to issue the directions dated 13th January, 2015 in respect of mining leases and the non-compliance of the conditions of Mo EF Notifications, Model Guidelines of the Ministry of Mines, Government of India and the directions in

Deepak Kumar's case, for the State of Rajasthan. The NGT has no jurisdiction to pass order to quash the Notifications issued by the Mo EF and the State of Rajasthan and to issue directions for all mining leases to obtain the environmental clearance from the State Level Environment Impact Assessment Authority beyond the permissibility of the Rules, as amended by the State of Rajasthan by Notification dated 19.6.2012. The State of Rajasthan has challenged the order of NGT dated 13.1.2015 in the Supreme Court.

40. The National Green Tribunal, Principal Bench, New Delhi in M.A. No.419/2014 in Original Application No.123 of 2014 Himmat Singh Shekhawat V/s State of Rajasthan and ors. (decided on 13.1.2015) had an occasion to consider the application filed by the National Green Tribunal Bar Association under Sections 14 and 15 read with sections 18(1) and 18 (2) of the National Green Tribunal Act, 2010, alleging rampant illegal sand mining in the Yamuna riverbed in violation of the directions issued by the Supreme Court in Deepak Kumar V/s state of Haryana ((2012) 4 SCC629 and the direction issued for mining of mineral for less than 5 hectares in para 29 of the judgment, in which it was held that Leases of minor mineral including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting environmental clearance from the Mo EF..

41. The NGT considered the stand of the State of Rajasthan in respect of compliance of the directions issued in Deepak Kumar's case in paragraphs 30, 31 and 32 of the judgment and held that the deeming fiction contained in proviso to Rule 37Q would not stand the scrutiny of law. The NGT held in clear terms that the Rules amended by the State of Rajasthan are not in line with the dictum of Hon'ble Supreme Court and even the Notifications of Mo EF including notification of 2006. It also held in paragraph 70 that the consideration and grant of environmental clearance is statutorily regulated by the Notification of Mo EF of 2006 and the State Government would not be competent to alter or completely give a go-bye to the said statutory procedure and methodology. The environmental clearance has to be granted in accordance with the Central law and thus, the contention raised in the present case on same lines cannot be accepted.

42. The attempt of the State of Rajasthan to circumvent the law and directions issued by the Supreme Court was held to be over-reaching the order of the Supreme Court. Paragraphs 30, 31, 68, 69, 70, 71, 72, 74 and part of paragraph 75 of the judgment of NGT dated 13.1.2015 and the recommendations made by NGT in paragraph 83 of the judgment are quoted below:-

30. We may now notice the stand taken by the respective States before the Tribunal in the above case. State of Rajasthan has taken a common stand in two of these cases (Appeal No.23 of 2014 and Original Application No.123 of 2014). It is stated on behalf of the State that, Respondent No.1, Sanjay Bakliwal, in Appeal No.23 was granted consent to establish and operate on 26th November, 2012. This respondent was granted lease for mining of minor minerals on 23rd November, 2012. In furtherance to the judgment of the Honble Supreme Court in the case of Deepak Kumar (supra), all the States were directed to consider the recommendations of the Committee which were recorded in the judgment and were directed to frame their rules 42 and their mining policy. Accordingly, the State of Rajasthan amended the State Rules w.e.f. 19th June, 2012 by incorporating Chapter IVA for scientific and eco-friendly mining. Under the amended Rules, the mining area allowed for mining of minor minerals is 1 hectare. Obtaining Environmental Clearance, for carrying on river sand mining activity, in an area of less than 5 hectares, was not required. Such requirement was introduced vide Notification dated 9th September, 2013. Lease holders carrying on the minor mineral activity were to apply for Environmental Clearance at the time of renewal as per the Notification of 9th September, 2013. This Notification made prior grant of Environmental Clearance mandatory in relation to river sand mining and provided that Environmental Clearance will only be required at the stage of renewal of mining in the cases of existing lease.

31. State of Rajasthan, as noticed above, had amended its rules and particularly introduced Rules 37P, 37Q, 37R, 37S, reference to which would be necessary. Rule 37P provided for grant of short term permits for mining in an area of less than 5 hectares. Association of lessees could, through recognised persons, submit Environment Management Plan to the District Level Environmental Committee for approval. The association was to be formed within three months from declaration

of cluster. Under this, various persons would become Members of the association and apply for cluster mining. Even a person falling within a cluster was deemed to be a member of the association. 37R provided for the composition of the District Level Environmental Committee. Environment Management Plan had to be approved by such Committee, which was required to be implemented in terms of Rule 37S. This was to provide environmental safeguards which were to be implemented by the holders of the short term permits and the association. According to Respondent No.1, the lessee, he had complied with all these requirements and as per Government practise, clusters were formed by the State Government and Environment Management Plan was approved by the District Environmental Committee. However, Respondent No.1 also submits that, during the operation of the orders of the Tribunal, he had applied for obtaining Environmental Clearance. The Rajasthan State Pollution Control Board, vide its letter dated 31st October, 2013, also directed Respondent No.1 that if they wished to increase the production after 9th September, 2013, they must obtain Environmental Clearance. It is the stand of the Respondents that ToR has been issued by SEIAA and public hearing has been done on 27th-28th August, 2014 and that they are awaiting grant of Environmental Clearance. According to Respondent No.1, the Notification dated 9th September, 2013, is not applicable to the lease as it operates only prospectively.

68. State of Rajasthan has also amended its Rules after the judgment of the Honble Supreme Court in Deepak Kumar (supra). Rajasthan Minor Mineral Concession Rules, 1986 were amended by Notification dated 3rd May, 2012. Under these Rules, there are three most noticeable aspects. First relates to permission for carrying on mining activity in an area of less than 5 hectares, that too without obtaining the Environmental Clearance from SEIAA/Mo EF. It has created District Level Environmental Committees to whom 43 application of Environmental Clearance is to be moved and which has to recommend grant/refusal of such clearances. It has permitted cluster-mining by stating that an Environmental Management Plan could be submitted for such cluster mining and permits could be given for an area of less than 5 hectares. The short-term permit holders of the lease in clusters were required to form an association and file applications along with the Environment Management Plan to the District

Committee for approval in terms of Rule 37P. Under proviso to this Rule, the permit holders of short-term permits within the boundary of the cluster after formation of the association will be deemed to be members of the association. All these three issues are not in conformity with the law in force and the judgment of the Honble Supreme Court. Secondly, they also suffer from the infirmity of imposing obligations on a person who may not be desirous of becoming a member of the association within the cluster boundaries. In our considered view, the deeming fiction contained in proviso to Rule 37Q would not stand the scrutiny of law. It is in fact impractical as well as unsustainable. This would encourage what the Honble Supreme Court has specifically discourage in the case of Deepak Kumar (supra) that persons carrying on mining activity should not be permitted by creating smaller segments of the areas of the mining activity and then forming a cluster or even without forming the clusters carrying on the mining activity degrading the environment and ecology of the area. The Rules amended by the State of Rajasthan thus, are not in line with the dictum of the Honble Supreme Court and even the Notifications issued by the Mo EF including the Notification of 2006.

69. The Union Parliament is vested with the powers of making laws for regulation and development of mines and minerals so far they are expedient in public interest. Similarly, legislative power is vested in the State but it is subject to the provisions of List I. The Parliament having enacted the Act of 1957, the Rules for regulation that can be framed by the State Legislature under Section 15 of the said Act has to be compliant of the Parliamentary legislation. In other words, whatever rules are to be framed by the State Government, they should be in conformity with the Act of 1957 as well as with the Act of 1986. In terms of Article 141 of the Constitution, the Judgment of the Honble Supreme Court is the law of the land and is binding on all concerned. The State Government while framing Rules in exercise of powers of delegated legislation has to be conscious of the fact that such legislation is expected to be in conformity with the law of the land as declared by the Honble Supreme Court. The said Rules thus, so framed have to be in conformity with all, the two enactments, i.e., the Act of 1957 and Act of 1986 and Judgment of the Honble Supreme Court. The constitution of District Level Environmental Committee for the purpose of considering and approving the

Environment Management Plan in terms of proviso to Rule 37(Q) is another provision that requires consideration. Under the Notification of 2006, the projects whether falling in category A, B, B1 or B2 have to be considered for the purposes of grant of Environmental Clearance and other related matters by Mo EF/SEIAA. The District Level Committee is neither framed under the provisions of the Act or Rules of 1986 and for that matter, nor under the Notification of 2006. Once the law provides for a particular procedure to be done or undertaken in a particular manner and by a specified authority, then it can be done in that manner alone by that authority and not in any other way. Even in the case of Deepak Kumar (supra), the Honble Supreme Court had permitted consideration of Environmental Clearance application only by SEIAA or Mo EF. It was contended that such Committees were only expected to recommend the cases to SEIAA and not to grant or refuse Environmental Clearances. Firstly, this submission is not supported by any of the Rule. The Rules 37P and 37Q clearly requires that an Environmental Management Plan for cluster would be approved by the Committee. In that context, the expression approval cannot be granted, any other meaning except that a final decision in that regard will be taken. Once approval is granted by the District Level Environmental Committee, it is impractical to imagine, how it would be able to decline Environmental Clearance. In other words, it is a machinery created by the Rules which is in derogation to the Principle legislation and the Notification of 2006.

70. At this stage, we may revert to the judgment of the Tribunal dated 28th November, 2013, in the case of National Green Tribunal Bar Association (supra). In this judgment, the Tribunal specifically rejected the contention of the State of Madhya Pradesh that in view of Rules 42 to 49 and 68 of the Madhya Pradesh Minor Mineral Rules, 1996, the State has given authority to the District Level Environmental Committees to grant lease or license in accordance with the Rules. Amendment of the Rules, by the State Governments, cannot be done so as to entirely wipe out the impact, effect and procedure prescribed in the Central law. The District Level Environmental Committees so constituted have to perform their functions under the Act of 1957 and the Rules framed therein. The Act does not empower the State authorities to grant Environmental Clearance. The Tribunal further held that the appropriate way to read and interpret these Sections would be

that such powers are to be exercised in relation to environment but primarily for the purposes of granting or refusing mining leases or licences. The consideration and grant of Environmental Clearance is statutorily regulated by the Notification of 2006 and the State Government would not be competent to alter or completely give a go-by to the said statutory procedure and methodology, the Environmental Clearance has to be granted in accordance with the Central law. Thus, the contentions raised in the present case on similar lines cannot be accepted by us as well.

71. The Honble Supreme Court had permitted preparation of Mining Plan primarily with the object of providing for reclamation and rehabilitation of the mined out area. It was to deal with progressive mine closure plan and post mined land of use. The Judgment of the Honble Supreme Court had also dealt with cluster mining approach for small size mines. The purpose of adopting cluster approach with reference to small mine leases was to take care of preparation of Environmental Management Plan in clusters of mines, where the mining activity was being carried out in smaller areas. The Honble Supreme Court accepted the recommendation of Mo EF in regard to the above. The Honble Supreme Court specifically noticed, what 45 was pointed by the CEC to examine, whether there has been an attempt to flout the Notification of 2006 by breaking of homogenous area into pieces of less than 5 hectares. The Honble Supreme Court upon taking note of the recommendations of Mo EF which were passed on technical, scientific and environmental grounds, had directed the State Governments to implement the recommendations. They were directed to get the Mining Plan prepared as afore-noticed. Besides all these, the Honble Supreme Court had directed that lease of minor minerals, including their renewal, for an area of less than 5 hectares is granted by the said Union Territories/State only after getting Environmental Clearance from the Mo EF. From the above discussion, it is clear that there is apparent contradiction between the Rules framed by the State under the shelter of the Judgment of the Honble Supreme Court in the case of Deepak Kumar (supra) on the one hand and the Central Law and Notifications on the other. This has created uncertainty in fact and in law. To put it more plainly, the actions taken by the State Governments post the case of Deepak Kumar (supra) has created more problems than it ought to have solved by the Honble Supreme Court in its

judgment. Thus, the State Government and Mo EF needs to examine the matter collectively, objectively and with an intent to bring uniformity in law. We would issue directions in this regard separately.

72. India is not only a diverse country in relation to culture, language and character, but, it is also materially distinct and different in relation to geography, ecology and environment. Narrow rivers in the mid of the hills, limited riverbed space, snowing peaks and high altitude on the one hand and on the other huge river and riverbed, wide field areas are the indicators of this diversity. It may be difficult to have a uniform policy or law in relation to activities, like mining, particularly minor minerals, which have a very serious impact on the environment, ecology and river flow. There is a dire need to formulate the laws which may be State specific but do not degrade or damage the environment and ecology. Any damage to the environment and ecology may be happening in one State but its adverse impacts would be seen on the entire nation. Therefore, there is a need for an effective and protective Central Legislation which will not only protect the environment in a particular area but the entire Indian Territory.

74. Another argument that has been advanced on behalf of the States, as well as, some of the respondents is that the Notification published by Mo EF dated 9th September, 2013, which makes it compulsory for the minor mineral mining lease holders of area of less than 5 hectares to seek Environmental Clearance is not retrospective and therefore, will not be applicable to the mine leases that were in force as on that date. Firstly, we have already quashed and declared the Notification dated 9th September, 2013 as ineffective and inoperative, having not been issued in consonance with the provisions of law. As such, this argument would hardly survive. Since this argument may have some bearing even in relation to the other Office Memorandums issued by Mo EF or on other Notifications validly issued by Mo EF such as the one dated 1st 46 December, 2009 and Office Memorandum of 24th June, 2013 and 24th December, 2013, we will even proceed to discuss the merits of this submission. 75...In that sense and somewhat loosely, it can be interpreted as being retroactive in nature, as they do not take away the right of the person to carry on business or his industrial unit, but only impose a new obligation to take Environmental Clearance under the environmental laws.

The activity is not prohibited, but, compliance to the environmental laws is made mandatory. Examined from that angle, in so far as we have held, the Notification dated 1st December, 2009, Office Memorandums dated 18th May, 2012, 24th June, 2013 and 24th December, 2013, except to the extent they have been quashed as above by us, are valid and would be enforceable against even the existing mining lease holders. They cannot be permitted to destroy the environment and ecology for their personal gains on the strength of the contention that they are existing units and these Notifications, Office Memorandums would not apply to them.

83. In light of the above discussion and particularly keeping in view the persistent conflict between the State Regulations and the Central Notifications, it is imperative for us to issue directions specially to provide for an interim period, during which appropriate steps should be taken to comply with the Judgment of the Honble Supreme Court and to issue Notifications which are necessary in that regard. Therefore, we pass the following order and directions: I. For the reasons afore recorded, we hold and declare that the Notification dated 9th September, 2013 is invalid and inoperative for non-compliance of the statutorily prescribed procedure under the Environment (Protection) Rules, 1986 and for absence of any justifiable reason for dispensation of such procedure. II. We also hold and declare that the Office Memorandums dated 24th June, 2013 and 24th December, 2013 to the extent afore- indicated are invalid and inoperative being beyond the power of delegated legislation. III. All the Office Memorandums and Notifications issued by Mo EF i.e. 1st December, 2009, 18th May, 2012 and 24th June, 2013 and 24th December, 2013(except to the extent afore-stated) are operative and would apply to the lease mine holders irrespective of the fact that whether the area involved is more or less than 5 hectares. IV. We further hold that the existing mining lease right holders would also have to comply with the requirement of obtaining Environmental Clearance from the competent authorities in accordance with law. However, all of them, if not already granted Environmental Clearance would be entitled to a reasonable period (say three months) to submit their applications for obtaining the same, which shall be disposed of expeditiously and in any case not later than six months from pronouncement of this judgment. V. All the States and the Ministry of Environment and Forest shall 47 ensure strict compliance to the

directions issued by the Honble Supreme Court in the case of Deepak Kumar (supra). We direct Secretary, Ministry of Environment and Forest to hold a meeting with the State of Rajasthan, Himachal Pradesh and Karnataka to bring complete uniformity in application of the above referred Notifications and Office Memorandums including the Notification of 2006. VI. We direct that in the meeting it shall also discuss and appropriate recommendations be made and placed before the Tribunal, as to whether riverbed mining covering an area of less than 5 hectares can be permitted, if so, the conditions and regulatory measures that need to be adopted in that behalf. VII. We direct that the District Environmental Committees constituted by the respective State Governments shall not discharge any functions and grant approval as contemplated under the Notification of 2006. VIII. Secretary, Ministry of Environment and Forest along with such experts and the States afore-referred will also consider the possibility of constituting the branches of SEIAA at the district or at least, division levels, to ensure easy accessibility to encourage the mine holders to take Environmental Clearance expeditiously. IX. It is stated before us that in large number of cases, particularly in relation of State of Rajasthan, persons carrying on mining activity of minor minerals, non-coal mining and brick earth and ordinary earth have applied for obtaining Environmental Clearances in accordance with the terms and conditions of the Notification of 2006. Let all such applications be dealt with and orders passed by the concerned authorities at the earliest and in any case not later than six months from today. X. We direct the respondent authorities, particularly SEIAA, to dispose of the application of all these private respondents who have already filed applications seeking Environmental Clearance as expeditiously as possible, in any case not later than three months from today. Thus, Appeal No.23/2014 and M.A. No.469/2014, M.A. No.M.A No.488/2014, 489/2014, 479/2014, 480/2014, 473/2014, 470/2014, 471/2014 and 469/2014 stand disposed of with the above directions. Till the grant of environmental clearance they would not carry out any activity of marble mining. XI. We dispose of Original Application No.123/13 with a direction that SEIAA shall consider the applications filed for seeking Environmental Clearance in accordance with law and observations made in this judgment, expeditiously, and in any case within a period of three months from today. XII. In the meanwhile, no State shall permit carrying on of sand mining or minor mineral

extraction on riverbed or otherwise without the concerned person obtaining Environmental Clearance from the competent authority. 48 XIII. We direct the Ministry of Environment and Forest to issue comprehensive but self-contained Notification relating to all minor mineral activity on the riverbed or otherwise, to avoid unnecessary confusion, ambiguities and practical difficulties in implementation of the environmental laws. XIV. In light of the judgment of the Supreme Court and what has emerged from the various cases that are subject matter of this Judgment, we direct the Ministry of Environment and Forest to formulate a uniform cluster policy in consultation with the States for permitting minor mineral mining activity including, its regulatory regime, in accordance with law.. 43. The Additional Advocate General has defended the amended Rules and the grant of mining leases, quarry licenses and short-term permits between 19.6.2012 and 9.9.2013 including the areas less than 5 hectares and the deemed renewals in 622 cases, on the ground that the State had ample authority, to grant and to review such mining leases, quarry licenses and short term permits, after amending the Rules pending consideration of the compliance affidavit filed by the State of Rajasthan before the Supreme Court in Deepak Kumar's cases. It is submitted that NGT did not have jurisdiction to declare the Rules made by the State of Rajasthan to be in violation of the Mo EF Notification and the directions issued in Deepak Kumar's case. The Special Leave Petition challenging the order of NGT dated 13.1.2015 by the State of Rajasthan is pending.

44. It is submitted that the public interest litigation in respect of the same matter, in which the compliance report has been filed by the State of Rajasthan before the Supreme Court in Deepak Kumar's case, is not maintainable. The State Government has sought approval of the Rules by filing a compliance affidavit in the Supreme Court and that during the pendency of such approval, the High Court in exercise of powers under Article 226 of the Constitution of India will be travelling beyond its jurisdiction in adjudicating on validity of the amended Rules.

45. We have considered the submissions made by learned counsel for 49 the parties and perused the documents as well as materials placed on record.

46. In our view, we will be well within our jurisdiction in case we examine and adjudicate over the validity of the amended Rules, on the touchstone of the directions issued by Hon'ble Supreme Court in Deepak Kumar's case. An affidavit was filed by the State of Rajasthan before the Supreme Court, in compliance of the directions dated 27.2.2012 in Deepak Kumar's case, annexing therewith amended Rules vide Notification dated 19.6.2012. We are informed that the affidavit alongwith the amended Rules has not been considered by Hon'ble Supreme Court so far. We are further informed that the Supreme Court has passed several orders in Deepak Kumar's case, but no effective order mandating compliance of the directions dated 27.2.2012 for the State of Rajasthan on its application annexing the amendment in the Rules, has been passed so far.

47. We are distressed to observe that in the meantime, taking shelter behind the compliance of the Rules, as it has been noticed by the National Greens Tribunal in its order dated 13th January, 2015 and without seeking approval of the Supreme Court in Deepak Kumar's case, the State Government, considering itself to be the final arbiter of the compliance, has granted 444 mining leases, 86 quarry licenses and 7874 short term permits for the area less than 5 hectare and has renewed the existing quarry licenses, of which number has not been given from 19.6.2012 to 9.9.2013, and further, from 19.6.2012 to 31.12.2014, 10478 mining plans/schemes have been approved including 672 deemed approvals, out of which, on scrutiny, 50 deemed approvals were rejected. The State of Rajasthan has in complete defiance of the Notification issued by the Mo EF dated 14.9.2006 and without waiting for the approval of Hon'ble Supreme Court to the amendment in the Rules, made by it on 19.6.2012, virtually 50 made the grant of mining leases, quarry licenses and short term permits, free on first come first serve basis.

48. We are not impressed with the submission that the change of definition of cluster., submission of Environmental Management Plan for cluster of leases/licenses/short term permits for an area less than 5 hectares individually, preparation of Environmental Management Plan by the association of cluster and its approval by the District Level Environmental Committee and the imposition of alleged 58 conditions, all of which are for seeking compliance by the Association of lease holders, the alleged violators of law, for purported safeguards of

environment by these clusters, for compliance of environment conditions, is in the best interest of protecting environment in the State. The State of Rajasthan has brazenly with impunity, for serving its own end, has permitted plundering of the non-renewable natural wealth of the State, for exploiting the minerals by grant of mining leases in violation of Notification dated 14.9.2006 issued by the Mo EF, the recommendations of Mo EF in its report of March 2010, and the Model Rules of 2010 issued by the Ministry of Mines, Government of India, as well as the directions issued by the Supreme Court in Deepak Kumar's case. We find that the insertion of Rules 37P to 37U vide Notification dated 19.6.2012 is clearly violative of Notification of the Mo EF dated 14th September, 2006, the recommendations of Mo EF in its report of March 2010, the Model Rules of 2010 issued by the Ministry of Mines, Government of India, and the directions issued in Deepak Kumar's case. The Notification of Mo EF dated 14.9.2006 was not applicable to the mines with the area less than 5 hectares. The lacuna was filled by the directions issued in Deepak Kumar's case, in which it was clearly held that the conditions of Notification of the Mo EF will apply to all those mining leases, which are for the area less than 5 hectares. 51 49. The clustering was prohibited by the Division Bench of this Court vide judgment dated 19.8.2011 in D.B.Writ (PIL) Petition No.10304/2010 against which Special Leave Petition was dismissed. The clustering is thus clearly violative of the judgment of the Division Bench of this Court dated 19.8.2011 and that the grant and renewal of the mining leases, quarry licenses and short term permits, after submission of Environmental Management Plan to the District Level Environmental Committee, did not serve the purpose of protecting the environment, inasmuch as, the District Level Environmental Committee has no nominee of the Central Government, nor any expert of the Central Government is associated in examining the Environmental Management Plan and Environmental Management Fund for environment development work. The entire burden of protecting the environment has been left to the person, who are members of the Association formed as per the provisions of Rule 37Q. The entire object of protecting the environment from those, who degrade the environment, has been thwarted by laying the responsibility for protection of environment on the same persons, without State's intervention and by providing for handing over of the amount collected under the Environmental Management

Fund to the same persons, namely, the Association of cluster, to carry out restoration of flora and fauna.

50. The report of the Core Committee referred to in the order of the Supreme Court in Deepak Kumar's case, had recommended that the minimum size of mine lease should be 5 hectares. The preparation of comprehensive mine plan for contiguous stretches of mineral deposits by the respective State Government may also be encouraged and may be suitably incorporated in the Mineral Concession Rules, 1960 by the Ministry of Mines. This recommendation was made after noticing that in Rajasthan, the minimum limit for a lease is one hectare and the maximum area for 52 permit is 50x50 mtrs. The recommendation was made to bring uniformity, which has not been considered in the amended Rules. The State of Rajasthan has also failed to consider the desirability under clause 4.4. of the report of the Core Committee. The desirability to adopt cluster approach was recommended in case of smaller mine leases being operated presently and not for fresh grant. Further, the clusters were recommended to be provided with processing/crusher zones for forward integration and minimizing excessive pressure on road infrastructure, with further emphasis that the respective State Governments/Mine Owners Associations may facilitate implementation of Environmental Management Plans in such cluster of mines. The State Government has in complete violation of the recommendations adopted approach of cluster of mines for the purpose of preparing Environmental Management Fund to be implemented by the Association itself without any safeguards.

51. We find substance in the contention of learned counsel appearing for the petitioner that the reclamation and rehabilitation of mined out areas should be brought under strict regulatory regime and carried out under an approved framework of mining plan. The mining plan should take note of the level of production, level of mechanisation, type of machinery used in the mining of minor minerals, quantity of diesel consumption, number of trees uprooted, export and import of mining minerals, environmental impact, restoration of flora and host of other matters referred to in 2010 Rules. We do not find any such precaution in the amended Rules beginning from Rules 37P to 37U. The 58 conditions put by the District Level Environmental Committee have been referred to these conditions,

but their implementation has been conceived through the association, without intervention of State and providing any regulatory regime. The location of eco-fragile region within the impact zone of the 53 proposed mining area, has also not been taken into consideration and for which, no details have been provided by the State Government in the affidavit filed in the petition. In fact, the State Government has not provided any material as to how many applications were rejected on account of non-conformity with the Rules or the conditions put by the District Level Environmental Committee, which goes to show that all applications were allowed on submission of EMP's.

52. Learned Additional Advocate General submits that the District Level Environmental Committee includes an expert, to be nominated by the State Government and that the deeming provision is being applied with great care and caution, which is reflected in the rejection of 50 deemed approvals, out of 672. He also submits that the State Government will take care of the rational expenditure for reclamation and rehabilitation out of Rs.219 crores recovered and credited to the Environmental Management Fund since its imposition in June, 2012. The qualifications of the expert have not been provided, nor his nomination by the State Government is in conformity with the directions issued by Mo EF. The reclamation and rehabilitation being a continuous process alongwith the mining activity, the non-expenditure of any amount out of the Environmental Management Fund of Rs.219 crores, belies the claim of the State Government that it is taking care of reclamation and rehabilitation of mined out areas and for protection of flora and fauna.

53. The State of Rajasthan is endowed with rich deposits of mineral accumulated in its Arawali range of hills, which are older than Himalayas. This non-renewable source of minerals is the wealth of the Nation, which has to be protected for future generations. It cannot be allowed to be plundered by unscrupulous persons having no concern for environment. We must remember that we have not received this wealth as a gift from 54 our ancestors. We have to preserve it and owe the responsibility to pass it on to the coming generations. We are trustees of this wealth for handing it over to our future generations. We are allowed to use it prudently for only our needs and not for our greed, safely keeping in mind the

environmental concerns. The principles of inter-generational equity have to be balanced with sustainable development. The State of Rajasthan has not placed before us any plan much less a long term plan, to put new areas for mining keeping in view the principles of inter-generational equity balanced with sustainable development.

54. We find it difficult to appreciate the hurry, in which the State Government implemented the amended Rules before waiting for its approval by Hon'ble Supreme Court in Deepak Kumar's case. There was no urgency to lease out the new mining areas or to renew the mining leases until the Supreme Court had an occasion to examine the amendments made in the Rules. The anxiety to grant mining leases without waiting for the scrutiny by the Supreme Court in Deepak Kumar's case, shows the mala-fides of the State Government in granting leases, in violation of the Notifications issued by the Mo EF, which are binding upon the State Government, the recommendations of Mo EF in its report of 2010 and the Model Rules of 2010 issued by the Ministry of Mines, Government of India.

55. We do not propose to decide the question as to whether the National Green Tribunal has jurisdiction under the National Green Tribunal Act, 2010, to declare the Notification issued by the Mo EF dispensing with the statutory procedure under the Environment (Protection) Rule, 1986 and the office memorandums issued in other States in violation of the Notifications issued by the Mo EF, to be invalid and inoperative being beyond the power of the legislation. We also do not want to examine the jurisdiction of the National Green Tribunal, to issue directions in 55 paragraph 83 of the judgment dated 13th January, 2015. The order dated 13.1.2015 has not been challenged before us and thus, the matter has to be decided by Hon'ble Supreme Court in the SLP filed by the State of Rajasthan.

56. We have, however, taken the benefit of the reasoning in the order of NGT, for the purpose of examining the challenge to the amended Rules. We find that the reasons given by the NGT are cogent, germane and serve the environmental concern, which is a fundamental duty under Article 51- A(g) of the Constitution of India. The protection of environment, is a concern of all citizens. The State Government cannot be allowed to circumvent to violate the Notification issued by

the Ministry of Environment and Forests, the recommendations in the report of Mo EF of March 2010, and the Model Guidelines issued by the Ministry of Mines, Government of India 2010, to allow the natural wealth of the Nation to be plundered by the State Government, to degrade the environment.

57. We may observe here that the object of enacting the Environment (Protection) Act, 1986 and for issuing Notification under the Environment (Protection) Rules, 1986 made under the Act is to look into environmental issues in a larger perspective. The State Governments, as it was noticed in T.N.Godavarman's case, have for political and commercial gains, degraded the environment to a large extent. The State Governments are unable to see the impact of their activities in the national perspective. The environment concerns are not limited to boundaries of the State. These concerns are addressed by the experts at National level. Looking at the environment, in a holistic way, the State Governments cannot be permitted to continue its policy and were required to bring the policy in tune with the Notifications issued by the Mo EF prepared after intervention and deliberation by experts at national and international level. The State 56 Governments have always found ways to circumvent the Notification issued by the Mo EF to serve its narrow end. The present case is the classic example, in which the State of Rajasthan despite the Notification issued by the Mo EF under the Environment (Protection) Rules, 1986 made under the Environment (Protection) Act, 1986 and the directions issued by the Supreme Court in Deepak Kumar's case, has found its way in the purported compliance of the order in Deepak Kumar's case to issue mining leases, quarry licenses and short term permits, without insisting and obtaining Environmental Clearance from the State Level Environment Impact Assessment Authority. The District Collector sitting with the Member of the State Pollution Control Board and the Mining Engineer, has allowed leases, quarry licenses and short term permits, taking advantage of deeming clause, without obtaining Environmental Clearance from the SLEIAA. The assurance given to the Court that the Environmental Management Plans considered by the District Level Environmental Committee are sufficient to protect the environment, is a submission, which is not worth of consideration.

58. We find it prudent to adopt the reasoning given by the National Green Tribunal in para 68 of its order dated 13th January, 2015, in which it observed that the Rules amended by the State Government are not in line with the dictum of Hon'ble Supreme Court and even the Notifications issued by the Mo EF including the Notification of 2006, on three noticeable aspects. The first relates to permission for carrying on mining activity in an area less than 5 hectares, that too without obtaining the environmental clearance from SLEIAA/Mo EF. The District Level Environmental Committees, to whom the applications have to be made, are not competent to grant environmental clearance, in view of the Notification issued by the Mo EF. The State Government has also permitted cluster 57 mining, in which permits could be given for an area less than 5 hectares. The formation of Association by the short term permit holders of the lease in cluster and that the permit holders of short-term permits within the boundary of cluster after formation of Association will be deemed to be the members of the Association, is not in conformity with the Notification of Mo EF and the directions of the Supreme Court in Deepak Kumar's case. The Rules also suffer from infirmity of imposing obligations on a person, who may not be desirous of becoming a member of the Association within the cluster boundaries. The deeming fiction contained in Rule 37Q also does not stand the scrutiny of law and is held to be impracticable and unsustainable.

59. We are unable to appreciate the merit of the defence of the State of Rajasthan that pending approval of the Rules, namely, Rajasthan Minor Mineral Concession (Amendment) Rules, 2012 and the Rajasthan Minor Mineral Concession (Second Amendment) Rules 2012 promulgated on 23rd May, 2012 and 19th June, 2012 respectively by Hon'ble Supreme Court in Deepak Kumar's case, the State of Rajasthan could have allowed the implementation of the Rules, contrary to the object and purpose and the mandate of Notification issued by the Mo EF. The State of Rajasthan has clearly over-reached the directions issued in Deepak Kumar's case, which had prohibited it in more than clear terms to allow leases of minor mineral including their renewal for an area of less than 5 hectares, to be granted by the State Governments/Union Territories only after getting Environmental Clearance from Mo EF.

60. In our view, the State Government has not only tried to over-reach the order of Hon'ble Supreme Court dated 27.2.2012 in Deepak Kumar's case, it has grossly violated the statutory provisions of the Notifications issued by the Mo EF for protection of environment of not 58 only of Rajasthan, but of the entire country. It has for its narrow political and shortsighted commercial purposes, granted hundreds of mining leases, quarry licenses and short term permits and renewals, without obtaining Environmental Clearance from the Mo EF. The enactments of the offending Rules 37P to 37U in the Rajasthan Minor Mineral Concession Rules, 1986, by Rajasthan Minor Mineral Concession (Amendment) Rules, 2012 and the Rajasthan Minor Mineral Concession (Second Amendment) Rules 2012 notified on 23rd May, 2012 and 19th June, 2012 respectively are thus found to be illegal and ultra vires the Notification dated 14.9.2006 issued by the Ministry of Environment and Forests, Government of India, as interpreted in the order of the Supreme Court dated 27.2.2012 in Deepak Kumar's case.

61. The writ petition is allowed. The impugned amendment in the Rajasthan Minor Mineral Concession Rules, 1986 inserting Rules 37P to 37U by Notification dated 19.6.2012 is declared to be illegal, without jurisdiction and ultra vires, with directions that the amended Rules shall not be implemented any further, until they receive express approval of Hon'ble Supreme Court in Deepak Kumar etc. V/s State of Haryana and ors. etc. (Special Leave petition (C) No.19628-19629 of 2009). The State of Rajasthan is restrained from granting any further mining leases, quarry licenses and short term permits including the renewal of existing mining leases/quarry licenses/short term permits, except only after getting the Environmental Clearance from the State Level Environment Impact Assessment Authority under the Notification of the Ministry of Environment and Forests, Government of India dated 14th September, 2006, the recommendations in the report of Mo EF of March, 2010 and the Model Guidelines issued by the Ministry of Mines, Government of India in 2010. The mining leases, quarry licenses and short term permits granted from 59 19.6.2012 to 9.9.2013, the renewals and the deemed approvals between 19.6.2012 and 31.12.2014, without obtaining Environmental Clearance from the State Level Environment Impact Assessment Authority under the Notification of Mo EF dated 14th September, 2006, will be allowed to operate for a reasonable period i.e. 3 months only if they have not been

granted Environmental Clearance. The lessees/quarry licensees/short term permit holders can submit the applications for obtaining the same, which shall be disposed of expeditiously and in any case in less than three months, after which the mining activity in all these mines, which have not obtained Environmental Clearance from the State Level Environment Impact Assessment Authority, shall be ceased. All the mines in the State of Rajasthan operating without Environmental Clearance from the State Level Environment Impact Assessment Authority, shall cease to operate after a period of three months.

62. We further direct that the State of Rajasthan shall ensure strict compliance of the directions issued by Hon'ble Supreme Court in Deepak Kumar's case and will not issue any fresh leases, licenses and permits and pass any order on the application for renewal until the consideration of its application annexing amendment in the Rules before Hon'ble Supreme Court in Deepak Kumar's case.

63. The petitioner is made entitled to Rs.one lac, as costs of filing and pursuing the writ petition in public interest for protecting the environment. The amount of costs shall be paid by the State of Rajasthan to the petitioner within a period of one month from today. (AJIT SINGH),J.

(SUNIL AMBWANI),CJ.

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