

SYNOPSIS

The present Writ Petition under Article 32 of the Constitution of India, in the form prescribed for Public Interest Litigation, is being preferred before this Hon'ble Court in the wake of the approvals granted *en masse* for renewals of mining leases in the State of Goa declared "expired" by this Hon'ble Court. The renewals *prima facie* disclose mala fides, collusion between mining companies and the State authorities, circumvention and violation of this Hon'ble Court's order dated 21.04.2014 and the provisions of the MMDR Act, 1957. These second renewals could only have been carried out if they were in the interests of mineral development of the State and if no other person except the present lessee could have carried out the said process of extraction. However, bulk grant of leases to erstwhile lease holders has taken place: Vedanta companies have procured 22 leases; Salgaoncars about 10 leases; Fomento, about 7; Chougule & Co. about 10. Other lease holders have procured renewals of more than one. The second renewal under 8(3) of the MMDR Act, the Court had held, is not a right, but granted only as an exception in the circumstances enumerated above. The decisions to grant renewal would have to carry detailed reasons which led to the Government forming an opinion on the matter. The leases could not have been issued mechanically and without application of mind. The renewal of said leases – all of which were involved in illegal mining activities that led to this Hon'ble Court's stay order dated 5.10.2012 and judgement dated 21.4.2014 – are therefore contrary to the judgement and consequential directions of this Hon'ble Court dated 21.4.2014.

Further, the approvals show a clear departure from the constitutional principles that this Court has reiterated time and again to govern the alienation of scarce natural resources belonging to the State especially in the judgment of this Hon'ble Court in 2G spectrum case and the Presidential reference. In Common Cause v. Union of India (Coal Scam Case), this Hon'ble Court set aside the allocation of coal blocks. Fresh grant of the coal blocks undertaken recently through auctioning has generated enormous revenue to the state exchequer. Such allocation through auctioning should be the only mode of granting leases, as it not only generates revenue but is also in conformity with the judgments of this Hon'ble Court. In view of the law laid down by this Hon'ble Court and reiterated in catena of cases thereafter, the impugned 'second renewal notifications/orders' are in violation of Articles 21, 14 and 39 (b) of the Constitution of India.

The Goa Pollution Control Board has granted consents to operate to 56 of these leases under the provisions of the Water Act, 1974 and the Air Act, 1981, in the month of August 2015. If these leases are permitted to operate, their operation will frustrate the scheme of this Hon'ble Court for sustainable mining laid down in its judgement dated 21.4.2014.

The judgment in W.P.No.435/2012, dated 21.4.2014, brought the chronic illness of deemed extensions and deemed renewals across the entire country to a complete halt and forced Parliament to make significant and drastic changes in the MMDR Act, 1957 including exclusive reliance on the processes of auction of mineral resources proposed to be alienated to

private interests for profit-making. By the same judgment, this Hon'ble Court issued a declaration that "the deemed mining leases of the lessees in Goa expired on 22.11.1987 under sub-section (1) of Section 5 of the Abolition Act and the maximum of 20 years renewal period of the deemed mining leases in Goa as provided in sub-section (2) of Section 8 of the MMDR Act read with sub-rules (8) and (9) of Rule 24A of the MC Rules expired on 22.11.2007."

This Hon'ble Court further upheld the closure order dated 10.09.2012 of the Government of Goa and the order dated 14.09.2012 of the Ministry of Environment & Forest (MoEF). It directed these orders will have to continue till decisions are taken by the State Government to grant fresh leases and decisions are taken by the MoEF to grant fresh environmental clearances for mining projects. This Hon'ble Court also set up the first sub-sovereign Permanent Fund in India in the interest of intergenerational equity to receive part of the revenues from mining activity. It asked an Expert Committee to recommend a cap on extraction of ore in the interest of intergenerational equity and environment protection. Thus, this Hon'ble Court set in place a scheme for effective and sustainable mining in the State of Goa.

That some private mining agencies (many respondents in this petition) filed a batch of writ petitions before the Bombay High Court, praying for renewal of their leases on the ground that they had filed their renewal applications in time in the year 2006. On 13.8.2014, the Hon'ble High Court passed its judgment directing State of Goa to 'execute the lease deeds

under Section 8(3) of the MMDR Act in favour of the petitioners/lease holders who/which have already paid the stamp duty pursuant to the orders of the Government, in accordance with the Goa Mineral Policy, 2013 placed before the Supreme Court in Writ Petition (Civil) No.435/2012 and subject to the conditions laid down by the Apex Court in the said Writ Petition. So far as the petitioners/lease holders who/which have not paid the stamp duty are concerned, the Respondent – State of Goa is directed to decide their renewal applications under Section 8(3), as expeditiously as possible, and preferably within a period of three months from the date of receipt of copy of this order.'

It is pertinent to mention here that the High Court's judgment dated 13.8.2014, was challenged by the Petitioner through a Special Leave Petition (C) No. 16080 of 2014 on the various grounds taken therein and this Hon'ble Court was pleased to issue notice in the said SLP vide an order dated 22.09.2014. It is important to mention here that the stand of the State of Goa on affidavit before the High Court is akin to the stand taken by the petitioner in the SLP.

The State of Goa commenced the process of granting renewals under 8(3) of the MMDR Act, despite the fact that the Goa government was fully aware that the directions of the Hon'ble High Court were not at all in conformity with the directions given in this Hon'ble Court's judgment dated 21.4.2014. Purportedly in line with this Hon'ble Court's directions, "The Goa Grant of Leases Policy 2014" was drawn up and approved by the State Cabinet in November 2014, despite the policy being

contrary to this Hon'ble Court's directions. The said decision was not notified in the official gazette till 20.01.2015. Purportedly in response to the directions of the High Court in its judgment, the first “second renewals” of the leases of the respondent companies who were petitioners before the High Court commenced slowly in November 2014. Subsequently, a few other renewal orders were issued in the month of November and December 2014.

Thereafter, when it became known that an ordinance was being issued eliminating Section 8(3) of the MMDR Act – which would disallow further renewals to private miners without the process of auctioning – a large number of leases (56 out of 88) were granted renewal *en masse* between January 6 and January 12, 2015. A total of 31 leases were in fact approved on 12.1.2015, the date of the MMDR Amendment Ordinance itself.

Thereafter, the state government has on 15.1.2015 revoked its order of suspension of mining operations in the State, issued originally by it on 10.9.2012. However, neither the order of revocation of suspension nor the renewal of leases could have been done without notification of the policy on grant of leases. This was notified in the Goa gazette only on 20.1.2015.

The MOEF by the order dated 20.03.2015 has restored the environment clearances suspended by its order dated 14.09.2014. This order of revocation is itself in violation of this Hon'ble Court's order dated 21.04.2014 on several grounds.

On July 10, 2015, the Goa State Pollution Board has taken a decision to grant consents to operate to 56 mining leases in the

state. The Goa Pollution Control Board has commenced grant of consent orders to operate 56 of these leases under the provisions of the Water Act, 1974 and the Air Act, 1981, in the month of August 2015. If these leases are permitted to operate, their operation will frustrate the scheme of this Hon'ble Court for sustainable mining laid down in its judgement dated 21.4.2014.

LIST OF DATES

- March 2012 Justice M B Shah commission of enquiry on illegal mining in Goa submitted its report through Ministry of Mines. The Report makes strong allegation that there is not a single legal mine operating in the State of Goa. It described extensive environmental damage due to non-implementation of this Hon'ble Court's order dated 08.06.2006 and 04.12.2006. It also challenged the legality of practically every lease operating in the State.
- 07.09.2012 Report is tabled in Parliament and is uploaded to the Ministry of Mines website with Action Taken Report of the Central Government.
- 10.09.2012 The State of Goa suspends all mining activities in Goa pursuant to disclosures in the Shah Commission's Report.
- 14.09.2012 Ministry of Environment suspends 139 environment clearance granted to lease holders in the State of Goa for extraction of Ore.

- 05.10.2012 This Hon'ble Court restrains resumption of mining in the State of Goa and also stays transportation of ore in the State.
- 07.12.2012 The Central Empowered Committee submits a detailed report on instruction of this Hon'ble Court and provided independent picture of State of Mining and mining leases in the State vis-a-vis the findings of the Shah Commission report.
- 21.03.2013 Constitution of Expert Appraisal Committee by MOEF to look into the issue relating to environment clearances of iron ore mining lease in the State of Goa.
- 30.10.2013 The MOEF Report submitted to this Hon'ble Court in sealed cover. The Report established large number of violations in the grant of environment clearances in addition to violations of the environment clearances granted to the mining lessees. These violations related to mining in forest areas, mining within 1 km of wildlife sanctuaries, mining within 10 km of wildlife sanctuaries without approval of the Standing Committee of NBWL, illegal dump mining and mining below the ground water without consent of Central Ground Water Board.
- 21.04.2014 This Hon'ble Court in its final judgment/ order, inter alia, held as under:

Para 71: i) the deemed mining leases of the lessees in Goa expired on 22.11.1987 and the maximum of 20 years renewal period of the deemed mining leases in Goa expired on 22.11.2007 and consequently mining by the lessees after 22.11.2007 was illegal and hence the impugned order dated 10.09.2012 of Government of Goa and the impugned order dated 14.09.2012 of the MoEF, Government of India are not liable to be quashed;

(v) it is for the State Government to decide as a matter of policy in what manner mining leases are to be granted in future but the constitutionality or legality of the decision of the State Government can be examined by the Court in exercise of its power of judicial review.

(iv) the State Government may grant mining leases of iron ore and other ores in Goa in accordance with its policy decision and in accordance with MMDR Act and the Rules made thereunder in consonance with the constitutional provisions;

30.04.2014 The Petitioner sent a letter to the Chief Secretary, Government of Goa regarding recoveries of amount from sale of iron ore from mining leases found

operating without a valid lease from November 2007 till September 2012.

14.05.2014 The Petitioner made a representation to the Chief Minister for setting up of Permanent Fund for income from sale of iron ore extracted and sold in the state.

05.11.2014 The first of the renewal orders was issued by the Goa Government under section 8 (3) MMDR Act, 1957, and Goa Mineral Policy 2013 as well as the Goa Grant of Mining Leases Policy, 2014, in favour of G N Agrawal, Margao for undertaking mining operations for iron ore situated in Shigao/ Collem village of Sanguem Taluka till 22/11/2027. Similar renewals were granted to other respondents subsequently.

10.12.2014 The Petitioner sent a reminder letter to the Chief Secretary, Government of Goa regarding recoveries of amount from sale of iron ore from mining leases under the provisions of MMDR Act, with penalty/ interests.

Till Jan' 15 The State government proceeded with second renewal of other mining leases (final total:88) in violation of order dated 21.04.2014.

15.01.2015 The State Government revoked its order of suspension of mining dated 10.09.2012, and the government took a policy decision to renew application u/s 8 (3) of the MMDR Act, 1957.

20.01.2015 Gazette notification regarding revocation of suspension, mentions that 'Grant of leases will be only after compliance with the provisions of section 8 (3), including the requirement of the Rules, namely the Report of the Indian Bureau of Mines, and after in each case the state government has come to the conclusion that it is in the interest of mineral development that there is a need to renew the Mining Lease'.

20.03.2015 MoEF revoked the suspension of environment clearances for mining in Goa in connection with 91 mining leases.

10.06.2015 Goa State Pollution Control Board took a decision to grant consent to operate 56 mining leases in the state under the Water Act and the Air Act.

17.06.2015 The Petitioner made a complaint to the CBI against the named persons for allegedly entering into conspiracy to renew 88 mining leases in the State of Goa. The renewals were done for extraneous considerations and following corrupt practises, violating this Hon'ble Court's order dated 21.04.2014, the provisions of MMDR Act, Mineral Concessions Rule, 1960.

Aug. 2015 The Goa Pollution Control Board has granted consents to operate several of these leases under the provisions of the Water Act, 1974 and the Air Act, 1981.

14.09.2015 Hence the instant writ petition.

IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

Writ Petition (Civil) No. OF 2015

PUBLIC INTEREST LITIGATION

IN THE MATTER OF:

GOA FOUNDATION

A society registered under the
Societies' Registration Act, 1860,
Having its registered office at
7, Le Brag Chambers, Mapusa, Goa,
Through its Secretary and Authorised
Representative **Dr. Claude Alvares.**

... Petitioner

Versus

(1) STATE OF GOA

Through Chief Secretary,
Goa Legislative Assembly Secretariat,
Porvorim, Goa.

(2) MINISTRY OF ENVIRONMENT, FORESTS AND CC

Through its Secretary, with address at:
Indira Paryavaran Bhavan, Jor Bagh Rd,
New Delhi 110 003.

(3) GOA STATE POLLUTION CONTROL BOARD

Through Member Secretary,
Dempo Towers,
EDC Patto Plaza,
Panaji, Goa.

(4) CENTRAL BUREAU OF INVESTIGATION

Through its Director,
Plot No 5-B, CGO Complex,
Lodhi Road, New Delhi-110003

(5) M/s. Badrudin Mavani,

c/o Timblo Private Limited.,
Kadar Manzil, Margao, Goa 403 601

(6) M/s Bandekar Brothers Pvt Ltd.,

Suvarna Bandekar Bldg,
Vasco Da Gama, Goa 403802

(7) M/s Kashinath D.S. Talaulikar

P.O. Talaulim, Ponda, Goa

(8) C F Naik,

B-1, B-2, Felecinta Complex,

Nr. Clock Tower,

Gogol Post Box No 785,

Margao, Goa 403601

(9) M/s. Chowgule & Co. Pvt. Limited,

Chowgule House,

Mormugao Harbour,

Mormugao (Goa) - 403 803

(10) M/s Cosme Costa & Sons,

Altinho, Mapusa, Goa 403507

(11) Sesa Mining Corp.Ltd.,

Sesa Ghor, EDC Complex,

Patto, Panjim, Goa 403001.

(12) Sesa Resources Ltd.,

Sesa Ghor, EDC Complex,

Patto, Panjim, Goa 403001.

(13) Sesa Goa Ltd.,

Sesa Ghor, EDC Complex,

Patto, Panjim, Goa 403001.

(14) M/s. Gangadhar Narsingdas Agrawal,

Anand Bhavan, Old Station Road,

Margao Goa 403601.

(15) M/s. Panduronga Timblo Industries,

Subhash Timblo Bhawan,

Margao (Goa) - 403 601

(16) Mr. Shabber H. Khan,

c/o M/s. Haidar Khassim Khan,

Opp Central Bank Of India,

Curcholem (Goa) - 403 706

(17) Mr. Raghuvir Sinai Gharse,

Near Municipality,

Margao (Goa) - 403 601

(18) M/s Lithoferro,

Khalap Chamber, Market Road,

Mapusa. Goa 403507

(19) M/s. Ms Talaulicar & Sons Pvt. Ltd.

Villa Flores De Silva,

Erasmus Carvalho Street,

Margao (Goa) - 403 601

(20) M/s R.S. Shetye & Bros,

Trionora Apts, 14 First Floor,

Nr Municipal Market,

Panjim Goa 403001

(21) M/s. Panduronga Timblo Industries,

Subhash Timblo Bhawan,

Margao (Goa) - 403 601

(22) M/s. Sociedade Timblo Irmaos Limitada,

Villa Flores Da Silva,

Erasmus Carvalho St, Goa - 403 601

(23) M/s. Sociedade Timblo Irmãs Ltd,

Kadar Manzil Margao (Goa) - 403 601

(24) M/s. V M Salgaocar & Bro. Pvt. Ltd.

Salgaocar House, F.L. Gomes Rd,

Vasco Da Gama (Goa) - 403 802

...Respondents

A WRIT PETITION IN PUBLIC INTEREST UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA CHALLENGING THE RENEWAL OF 88 MINING LEASES FOR IRON ORE EXTRACTION IN THE STATE OF GOA UNDER SECTION 8(3) OF THE MMDR ACT 1957 IN VIOLATION OF THE JUDGEMENT OF THIS HON'BLE COURT DATED 21.4.2014, PROVISIONS OF THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957 AND CONSTITUTIONAL NORMS

To,

THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS COMPANION
JUDGES OF THE HON'BLE SUPREME COURT OF INDIA

The Humble Petition of the
Petitioners above-named

MOST RESPECTFULLY SHOWETH: -

1. The present Writ Petition under Article 32 of the Constitution of India, in the form prescribed for Public Interest Litigation, is being

preferred before this Hon'ble Court in the wake of the approvals granted en masse for renewals of mining leases in the State of Goa declared "expired" by this Hon'ble Court. The renewals prima facie disclose mala fides, collusion between mining companies and the State authorities, circumvention and violation of this Hon'ble Court's order dated 21.04.2014 and the provisions of the MMDR Act, 1957. These second renewals could only have been carried out if they were in the interests of mineral development of the State and if no other person except the present lessee could have carried out the said process of extraction. The second renewal under 8(3) of the MMDR Act, the Court had held, is not a right, but granted only as an exception in the circumstances enumerated above. The decisions to grant renewal would have to carry detailed reasons which led to the Government forming an opinion on the matter. The leases could not have been issued mechanically and without application of mind. The renewals of said leases – all of which were involved in illegal mining activities that led to this Hon'ble Court's stay order dated 5.10.2012 and judgement dated 21.4.2014 – are therefore contrary to the judgement and consequential directions of this Hon'ble Court dated 21.4.2014.

2. That the Petitioner is a Society registered (Registration number – 23/Goa/86) in the year 1986 under the Societies Registration Act and is having its registered office at 7, Le Brag Chambers, Mapusa, Goa. Dr. Claude Alvares, Secretary of the Society is authorized to sign and file the petition. The aims and objects of the society are to protect the environment and to assist in the formulation of laws relating to environment and further to ensure the enforcement of such laws. The society in furtherance of its objects has filed several

public interest litigations relating to protection of forests, National Parks, Sanctuaries, coastal areas (CRZ), mining violations and enforcement of the Environment Impact Assessment Notification etc. Certificate and Authority Letter are filed along with the Vakalatnama.

3. That the Petitioner society had filed W. P (C) 435 of 2012, wherein this Hon'ble Court has stopped all mining activities vide an interim order and had directed the government to grant fresh leases in accordance of the Constitutional principles and the provisions of MMDR Act. The impugned action of the Respondents prima facie disclose mala fides, collusion between mining companies and the State authorities, circumvention and violation of this Hon'ble Court's order dated 21.04.2014 and the provisions of the MMDR Act, 1957. Further, the impugned action of the Respondents is also based on the order of the Hon'ble High Court of Bombay, which is challenged before this Hon'ble Court by the Petitioner society through SLP (C) 16080 of 2014 on the various grounds taken therein and this Hon'ble Court was pleased to issue notice in the said SLP vide an order dated 22.09.2014.
4. That the Respondent No. 1 is the State of Goa, which has granted, almost summarily, 88 renewals of mining leases for extraction of iron ore in the state.
5. The Respondent No. 2 is the Ministry of Environment, Forests and Climate Change, which is the nodal ministry so far as the environment is concerned.
6. Respondent No.3 is the Goa State Pollution Control Board which grants consents to mining lease holders to operate their mines under the provisions of the Water (Prevention and Control of

Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, and the Hazardous Waste Rules. The Board has in a recent meeting approved grant of consent to operate to 56 mining leases in the State.

7. Respondent No.4 is the Central investigation agency usually relied upon by this Hon'ble Court for inquiries into corruption of public officials under the Prevention of Corruption Act.
8. Respondents Nos.5-24 are erstwhile lease-holders whose leases expired/lapsed on 22.11.2007 and who have now been illegally granted renewals under Sec 8 (3) of the MMDR Act. Bulk of this renewal has gone to four erstwhile lease holders. The bulk of leases have been allotted to the Chougules and Co. Pvt Ltd. who have received 10 mining leases; three companies of Sesa Goa (Vedanta) have procured 22; Fomento has procured 7; and V M Salgaonkar and Bros., have got 10 leases. All renewal orders are challenged in this writ petition.
9. That all the necessary information regarding the petitioners which is required to be disclosed under Order XXXVIII Rule 12(2) (a) is provided hereunder:-

FULL NAME OF PETITIONER: GOA FOUNDATION

COMPLETE POSTAL ADDRESS: 7, Le Brag Chambers, Mapusa, Goa 403507.

EMAIL ADDRESS: GOAFOUNDATION@GMAIL.COM

PHONE NUMBER: 0832-2256479

PROOF REGARDING

Personal Identification: Passport No. of Secretary of Association:Z1987256

GOA FOUNDATION PAN Card No.AAAAG0249C

Occupation: NGO, Annual Income: Around Rs. 8 Lakhs.

10. FACTS OF THE CASE:

10.1 Mining in the State of Goa has been under the scanner of this Hon'ble Court since October 2012, notably through hearings of Writ Petition No.435/2012. The WP No.435/2012 was filed by the present petitioner in the wake of publication of the first two reports of the Justice M.B. Shah Commission of Inquiry into Illegal Mining in Goa. Though the reports were challenged by affected mining companies and lease-holders, this Hon'ble Court rejected the plea to quash the reports, and declared it would reply upon them for environmental and legal issues.

10.2 The reports elaborately described the monumental destruction of the natural environment by indiscriminate and unregulated mining in the State. The reports also raised several legal challenges to the validity of the leases held by lease-holders since the days of Portuguese rule. As mining in the State of Goa was already suspended on 10.9.2012 by the State government due to the Commission's published findings, this Hon'ble Court was constrained to restrain resumption of mining activity in the state and transportation of ore till further orders. A copy of the first chapter of the Justice Shah Commission of Inquiry Report 2012 is annexed and marked as **Annexure P-1** (Pages to).

10.3 The dismal scenario, first described in detail in the Reports of the Justice M.B. Shah Commission of Enquiry, was confirmed by report of the Central Empowered Committee,

which was directed to visit Goa and file a report on the Commission's findings. The CEC visited the State, heard all mining stakeholders and filed a detailed report on 7.12.2012. The CEC report also reported large-scale irregularities and environmental impacts of indiscriminate and uncontrolled mining. An extract from the CEC report dated 7.12.2012 highlighting the environmental issues faced by the State due to indiscriminate and uncontrolled mining is annexed and marked as **Annexure P-2** (Pages to).

11. The MOEF & CC, after it had suspended *en masse* on 14.9.2012 all 139 environment clearances granted for mining leases in the State, set up an Expert Appraisal Committee (EAC) under the chairmanship of Shri Vishwanath Anand (former Environment Secretary). The EAC was directed to examine each and every lease which had been granted an environment clearance for mining in Goa. The Committee was provided fairly elaborate terms of reference. These are listed below:

- i) To examine the information/documents submitted by each of the 139 project proponents in response to aforesaid direction dated 14.09.2012 under Environment (Protection) Act, 1986 for keeping environment clearance in abeyance and making case by case recommendations to MoEF&CC.
- ii) To evaluate status of compliance with respect to conditions stipulated as part of environment clearance;

- iii) To examine the information/documents submitted by each of the 49 project proponents in response to aforesaid direction dated 11.09.2012 under Environment (Protection) Act, 1986 with respect to dump mining and making case by case recommendations to MoEF & CC.

A Copy of order dated 21.03.2013 issued by the MOEF for setting up the EAC is annexed and marked as **Annexure P-3** (Pages to).

12. The EAC completed its work and its report was filed in sealed cover on October 30, 2013, during the hearings of Writ Petition No.435/2012. The report was dubbed confidential and for restricted circulation by the MOEF. Effort was made to get a copy of the EAC report in 2014. After a year, and after an order from the CIC, copy of the report was released under RTI only in May 2015. A copy of relevant parts of the EAC Report 2013 is annexed and marked as **Annexure P-4** (Pages to).

13. The picture that emerges from a bare perusal of the table prepared by the Petitioner is quite serious to show the violations. The violations are listed under various categories. The EAC has established that many of the leases had been operated without clearance of the Standing Committee of the NBWL; they had indulged in excess production, dump mining, encroachments beyond mining areas, intersecting ground water without permission from the Ground Water Authority, etc. Several were operating without forest clearance under FCA, 1980. The table also shows that all leases approved under the EIA notification of 1994 whose operation had been stayed by the National Green Tribunal, were

nonetheless granted renewal and consent to operate. Despite this enumeration of violations, the MOEF&CC revoked its suspension order in respect of 91 mining leases. Of these, only 61 were found issued a renewal order, that too under Section 8(3), by January 12, 2015. Even in the case of each of the 61 cases, the violations remain and have not been cured. The petitioner has for the sake convenience tabulated the data provided in the EAC report for easy reference and presented it in a table. A copy of the tabular data of the EAC Report prepared by the Petitioner dated nil is annexed and marked as **Annexure P-5** (Pages to).

14. For instance, the requirement of lease holders to get a wildlife clearance from the Standing Committee of the National Board of Wildlife has not come in the way of the MOEF &CC withdrawing the suspension order. All the leases renewed do not have till date any clearance from the NBWL Standing Committee, despite the order dated 4.12.2006 passed by this Hon'ble Court in WP 460/2004 (Goa Foundation v/s UOI). That order has not been modified or recalled and only clarified, by the judgment dated 21.4.2014. The MOEF & CC is also bound by its own memorandum dated 2.12.2009. The impugned consents to operate being granted by the Pollution Control Board are being issued without the mandatory order from the Standing Committee. A copy of the memorandum dated 02.12.2009 issued by the MOEF & CC is annexed and marked as **Annexure P-6** (Pages to).

15. The MoEF & CC, after 3 years of revoking the environment clearance, has now divested its responsibility to prosecute the illegalities to a variety of other agencies. Three years have been lost.

16. The judgment in W.P. No.435/2012 was delivered on 21.4.2014, after two months of hearings, including September to November, 2013. The judgement brought the chronic illness of deemed extensions and deemed renewals across the entire country to a complete halt and forced Parliament to make significant and drastic changes in the MMDR Act, 1957 including exclusive reliance on the processes of auction if mineral resources were proposed to be alienated to private interest for profit-making. By the same judgment, this Hon'ble Court issued a declaration that "the deemed mining leases of the lessees in Goa expired on 22.11.1987 under sub-section (1) of Section 5 of the Abolition Act and the maximum of 20 years renewal period of the deemed mining leases in Goa as provided in sub-section (2) of Section 8 of the MMDR Act read with sub-rules (8) and (9) of Rule 24A of the MC Rules expired on 22.11.2007." The Court rejected the plea of several petitioners to quash and set aside the reports of the Justice Shah Commission of Inquiry. It upheld the validity of the closure order dated 10.09.2012 of the Government of Goa and the suspension order dated 14.09.2012 of the MoEF and ruled that these orders would continue till decisions are taken by the State Government to grant fresh leases and decisions are taken by the MoEF to grant fresh environmental clearances for mining projects. This Hon'ble Court also set up the first sub-sovereign Permanent Fund in India in the interest of intergenerational equity to receive part of the revenues from mining activity. It asked an Expert Committee to recommend a cap on extraction of ore in the interest of intergenerational equity and environment protection. Thus, this Hon'ble Court set in place a scheme for effective and sustainable mining in the State of Goa.

17. Hardly had the ink dried on the judgement, so to speak, some mining agencies (many of them now respondents in this petition) filed a batch of writ petitions before the Bombay High Court at Goa immediately thereafter, praying for renewal of their leases on the ground that they had filed their renewal applications in time in the year 2006. Subsequently, some of the plaints were amended to demand entitlement to lease renewal under the doctrine of promissory estoppel as they claimed they had paid stamp duties for lease deeds for further renewals of their leases when called upon to do so by the Goa Government. It is important to emphasize here that at the time of filing the writ petitions in 2014 – if one goes by the declaration of this Hon'ble Court on 21.4.2014 – these respondents were no longer lease-holders. Hence the payment of stamp duty was *ab initio* an infructuous and pointless exercise. On the day they paid stamp duty, they had no valid lease to their names. The notice from Government to them to pay stamp duty was based on the unreality of “deemed extension” set aside by this Hon'ble Court. Nevertheless, the High Court of Bombay at Goa accepted their unusual contention that as they had paid stamp duty for the renewal of these leases after receipt of due notice from the government, promissory estoppel required the leases to be renewed and that too, right from the time of expiry of the lease, i.e., 22.11.2007. On 13.8.2014, the Hon'ble High Court passed its judgement to this effect. The relevant paras providing the High Court's directions are quoted below:

“(I) The Respondent – State of Goa is directed to execute the lease deeds under Section 8(3) of the MMDR Act in favour of the petitioners/lease holders who/which have

already paid the stamp duty pursuant to the orders of the Government, in accordance with the Goa Mineral Policy, 2013 placed before the Supreme Court in Writ Petition (Civil) No.435/2012 and subject to the conditions laid down by the Apex Court in the said Writ Petition.

“(II) So far as the petitioners/lease holders who/which have not paid the stamp duty are concerned, the Respondent – State of Goa is directed to decide their renewal applications under Section 8(3), as expeditiously as possible, and preferably within a period of three months from the date of receipt of copy of this order.”

18. The judgment in effect attempted to convert the period of illegal mining – from 22.11.2007 to 10.9.2012 – into a legal and legitimate activity by directing second renewal from 2007. It in effect set aside this Hon'ble Court's finding that all leases in Goa had expired from 22.11.2007 and therefore extraction thereafter had become illegal. However, mindful that there was a specific order from this Hon'ble Court that had confiscated material excavated and lying on lease areas and jetties, the High Court took an undertaking from the petitioners that they would not lay any claim in future to these confiscated stocks or their value.

19. The High Court's judgment dated 13.8.2014 was challenged the following month by the petitioner through a Special Leave Petition on the various grounds taken therein and this Hon'ble Court has already issued notice. It is important to observe here that the stand of the State of Goa before the High Court on affidavit is akin to the stand taken by the petitioner in the SLP. The High Court was explicitly told by the State's AG that this Hon'ble Court, in its

judgment dated 21.4.2015 had come to the conclusion that all leases had expired on 22.11.2007, the full term of the deemed lease period was completed, and hence it had directed fresh grants and fresh environment clearances. However, the Advocate General of the state in the same breath also informed the High Court that the State would not resile from the statement made in the Goa Mineral Policy 2013 placed before this Hon'ble Court during the final hearings that the cases of 28 leases had been decided and they were being renewed. All this was mere shadow-boxing between entities who have always supported each other's interests.

20. The High Court, however, appears not to have been cognizant of the fact that the deemed mining leases of Goa had all expired eight years prior. Since the High Court's directions perfectly suited the stance of the Goa government and the mining lobby who have always remained in collusion, the state announced its decision not to appeal the order before this Hon'ble Court the very next day the High Court pronounced its judgement. The State publicly took the ground that appealing the High Court order would have delayed restart of mining in the state. This stand is in fact explicitly stated in "The Goa Grant of Leases Policy 2014" notified on 20.1.2015. Thus, the order dated 13.8.2014 resulted in the first major dismantling, within 4 months, of major elements of this Hon'ble Court's judgment of 21.4.2014.

21. Thereafter the State of Goa commenced the process of granting renewals under 8(3) of the MMDR Act, despite the fact that the Goa government was fully aware that the directions of the Hon'ble High Court were not at all in conformity with the directions given this Hon'ble Court's judgment dated 21.4.2014. Purportedly in line with

this Hon'ble Court's directions, "The Goa Grant of Leases Policy 2014" was drawn up and approved by the State Cabinet but intentionally not notified in the official gazette. Purportedly in response to the directions of the Bombay High Court in its judgment, the first "second renewals" of the leases of the respondent companies who were petitioners before the High Court commenced on 5th November 2014. Subsequently, a few other renewal orders were issued in the month of November and December 2014. None of the orders renewing these leases was notified in the gazette. Requests under RTI for copies were refused.

22. Thereafter, when it became known that an ordinance eliminating Section 8(3) – thus disallowing further renewals except under auction process – was to be promulgated (State and Central governments were by now under the same political party), a large number of leases (56 out of 88) were granted renewal *en masse* between January 6 and January 12, 2015. The malafide and wholly corrupt conduct of the Goa Government is reflected in the fact that 31 of the 88 mining leases were granted renewal under section 8(3) of the MMDR Act, 1957 on 12 January, 2015 when the provision for such renewal had in fact ceased to exist on the statute book. A copy of the order dated 5.11.2014 issued for renewal under 8(3) of the MMDR Act in respect of TC No.08/41 to G.N. Agrawal, Margao, Goa, is annexed and marked as **Annexure P-7** (Pages to). For the sake of convenience, all 88 individual renewal orders totalling some 880 pages are not annexed. Petitioner has copies of all the 88 orders and craves leave to produce them, if and when required. A comprehensive table providing the dates and other relevant information relating to the impugned 88 lease renewals of the

Respondents 5-24 dated nil is annexed and marked as **Annexure P-8** (Pages to).

23. Even if one assumed, without accepting, that the legal findings provided in the judgement of this Hon'ble Court dated 21.4.2014 allowed consideration of a conditional renewal under 8(3), the procedures required for the grant of such renewals were followed mostly in the breach as there was clear, mala fide intent to beat the law.
24. Firstly, there were no applications made by the mining companies for second renewal under Section 8 (3) of MMDR Act, 1957 pending with the government filed by erstwhile lease-holders pursuant to the judgement dated 21.4.2014. The applications for renewal lying with government related to renewal of leases under 8(2) of the MMDR Act and were filed in 2006, prior to expiry of the first renewal. These applications had lapsed together with the leases themselves on 22.11.2007, as the lease renewals were not ordered prior to the expiry of the period of the leases if the leases in question had to be kept alive.
25. In fact, except in a handful of cases, the Director of Mines & Geology had not even sent the required communication for a reference under Section 24A (3) to the IBM prior to the expiry of the leases in question. Thus almost all references by IBM were received only after all these leases had expired. Issued for a statutory renewal under 8(2), they could never have been be relied upon for a conditional renewal under Section 8(3).
26. In fact, government had acted on some eight of these applications and presumably, IBM references under Rules 24A(3) of MCR, 1960, and granted renewal of the lease under 8(2) after 21.11.2007 and

these renewal orders were also gazetted in 2009-2010. A sample copy of the gazette notification dated 28.10.2010 is annexed and marked as **Annexure P-9** (Pages to). *These 8 renewals stood automatically cancelled after the judgement dated 21.4.2014.* All these erstwhile lease holders were therefore duty bound to file fresh applications for grant of lease after this Hon'ble Court declared its judgement dated 21.4.2014 in Writ Petition No.435/2012. If it had been possible for them to file for renewals under 8(3) eight years after their leases had expired on 22.11.2007, this Hon'ble Court would have explicitly said so.

27. Petitioner made efforts under the RTI Act to gain copies of the various orders granting renewal under 8(3) of MMDR in order to study them and to challenge them, if required. However, all requests for these orders made under the RTI Act were rejected by the Department of Mines & Geology on the grounds that the mining companies had informed the Public Information Officer that sharing of these GOs would amount to violation of their rights under Section 8 (d) of the Right to Information Act. Even RTI requests seeking simply the dates of the renewal orders were rejected on these grounds.

28. Petitioner was finally able to procure the copies of the 8(3) renewal orders only after they had been placed on the table of the Goa Assembly. Upon close perusal of the orders, it became clear that each was for all purposes a copy of the other and that no efforts had been made to inquire into the facts and circumstances of each lease and to lay out the reasons that had provoked the government to grant renewal under 8(3). The following common grounds taken in all the individual 8(3) renewal orders are set out herein below:

- I. The renewal was being granted pursuant to directions of the Bombay High Court in its judgment dated 13.8.2014. (This direction was only in respect of 27 petitions.)
- II. The erstwhile lease-holder has paid the stamp duty in respect of the lease deed for renewal of the lease.
- III. Letter from IBM under Sec 24 A (3) of the Mineral Concession Rules, 1960 had been received.
- IV. The mining operations were undertaken in the instant case by open cast mining. Most of the surface is broken, as such further exploitation would do minimal surface disturbance of lease area. The mining operations are carried on by mechanized means without use of explosives for blasting, etc. The scientific exploration and mapping of mineral is already undertaken by the lessee which shall facilitate efficient and scientific exploitation of mineral deposit from lease hold area with minimal damage to environment.
- V. The lease holder has logistical and infrastructural facilities available for scientific exploitation of mineral. Since the proved and proven reserves are explored by lessee by undertaking prospecting operations in lease hold area, it would be in the interest of mineral development that such mining activities are undertaken in the instant lease hold area rather than closure of mine which would amount to permanent loss of non-renewable natural resources.
- VI. Going for fresh grants etc., would include considerable procedural and other delays which may also affect the

already opened mines. It may also endanger safety of life and property of people living in adjoining areas, its benches, etc., because of factors like heavy monsoon, collapse of mine for not de-watering the same. At present de-watering is undertaken by lease holder in most of the leases before mining mineral which is a fixed recurring cost borne by the lease holders.

VII. Revenues to State and Centre are a function of mining being in operation, premature closure of mine would not yield any financial benefit either in fiscal form or in economic value.

VIII. Above all, there may be no takers of leases because of requirement of huge investments, re-benching and restitution of mine to its original state, restricted production allowed because of capping imposed. Thus balance of convenience tilts strongly in favour of lessee and second renewal of mining lease in his favour and all these factors are in the larger interest of mineral development of minerals found in the lease hold area.

29. The grant of second renewals was also in violation of specific provisions of the MMDR Act, 1957. First, there is the mandatory requirement that the IBM must give an opinion that the grant of second renewal is in the interest of mineral development. This is required especially in a state like Goa where the government lacks the technical staff to come to such a conclusion and form an opinion. (The Department of Mines & Geology, Goa, for instance, does not have a geologist or mining engineer on its staff even today. The Director is a non-specialist bureaucrat.) Neither has the State

of Goa any clue concerning the minerals and the quantities in which they are present on any lease in the State. Hence a reference from the IBM would be critical. In several cases of renewals under challenge, there is in fact no report from the IBM under Sec. 24 A (3) of the MMDR Act.

30. In several cases, the application for IBM clearance is submitted in January 2015 itself. As per the MCR Rules, 3 months' time has to be given to the IBM, after which deeming provision is available. The sanctioning authority was in such a hurry to grant, it felt it need not wait for 3 months.

31. Petitioner submits that in any case, if a renewal is being considered under 8(3), deeming provision is of no use whatsoever since without a considered reference from the IBM, government would not be able to form an opinion on renewing the lease in the interests of mineral development. This Court has made similar observation in para 24 of the judgement dated 21.4.2014 when it discusses deeming provisions in similar context.

32. Likewise, in several cases, references issued by the IBM in 2008 and 2009 under Rule 24A (3) in respect of Section 8(2) applications were used as the basis for coming to the conclusion that granting the lease a further renewal was in the interest of mineral development, despite the fact that in the intervening period this Hon'ble Court had passed a detailed judgement directing that all orders should be passed specifically in respect of the requirements of Sec. 8(3) of the MMDR Act, 1957.

33. The petitioner has copies of some of these IBM references issued for individual mining leases in 2008/2009 under 24A(3) of the MCR Rules, 1960. In most of the cases, the IBM is recommending second

renewal despite the fact that there is no order in respect of the first renewal of the lease itself. In fact, the reference letter is actually acknowledging that mining on these leases was carried on for 20 years without an order of renewal being passed by the government or a lease deed. In such cases, if there is no order granting the statutory first renewal, how can a recommendation are now made for a conditional renewal of the lease under 8(3)? How a second renewal could be granted in such circumstances. A copy of a sample reference order from IBM dated 10.12.2008 is annexed and marked **Annexure P-10** (Pages to).

34. Request made under the RTI Act for all IBM orders issued under Section 24A(3) of the MCR Rules, 1960 in respect of the 88 mining leases, made before the Controller of Mining Leases, was rejected on the grounds that it violates the provisions of Sec 8 (d) of the RTI Act.
35. Petitioner has pointed out earlier that 31 of these 88 leases have been approved on the very date on which the provision for such renewals was extinguished, as the MMDR Amendment Ordinance 2015 had already come to force. The renewals of these leases are therefore completely and absolutely without jurisdiction.
36. The grant of the renewals under Section 8(3) is also contrary to other provisions of the MMDR Act 1957. The leases had already expired on 21.11.2007. In other words, they were dead leases and could not be revived. Applications for renewal of the lease were made by mining companies one full year prior to 21.11.2007. The decisions therefore on grant of second renewals had to be carried out prior to expiry of the lease in question. As this was not done, the lease had fatally expired. The order for renewal of the lease has

been issued under 8(3) 8 years later. What has in effect been done is to renew a lease that had irrevocably expired. Ostensibly this has been done because of explicit direction of the High Court to this effect. The Supreme Court has already declared that once the lease expires pursuant to its validity expiring on 21.11.2007, all mining activities from that date till the date of the orders suspending mining in Goa were illegal and outside the scope of law as they were being carried out in the absence of a valid lease or if one might add, valid lease-holders.

37. It is important to highlight here that in none of the 88 renewal orders any date has been set out for the commencement of the lease being renewed, which is highly irregular and for these reasons as well, the renewal orders are unsustainable. If such actions are allowed, this Hon'ble Court's judgement dated 21.4.2014 would be significantly reversed. Recovery of the amounts connected with illegal mining from 22.11.2007 by Respondent authorities would become difficult to sustain, enabling the mining companies to resist claims that they were mining illegally from 2007. The petitioner had written to the State Government on 30.4.2014 and on 11.12.2014 with its estimates of the amounts recoverable, which were Rs. 65,058 crores on account of the mineral exported, and Rs. 53,603 crores on account of interest up to 31.3.2014, totalling up to Rs. 118,663 crores. A copy of the letter dated 30.04.2014 by the petitioner to the Chief Secretary, Goa is annexed and marked as **Annexure P-11** (Pages to). A copy of the letter dated 10.12.2014 by the petitioner to the Chief Secretary; Goa is annexed and marked as **Annexure P-12** (Pages to).

38. The petitioner had submitted a detailed proposal to the Goa Government on 26.5.2014. This proposal examined the experience over the previous eight full years of mining using the audited financials of Sesa Goa (now Vedanta) as the base, and exports data from the industry body, Goa Mineral Ore Exporters Association (GMOEA). The petitioner's estimates are that of the economic value of the ore (Rs 53,833 crores), the state lost more than 95% in those 8 years! The absolute loss of Rs. 51,446 cr. was significantly higher than the total expense on the mining dependent (including workers) of Rs.11,962 cr. (The total state revenue receipts from all sources including mining for those eight years were only Rs.27,402 cr.) The loss is nothing but a hidden per head tax on the people of Goa, to the tune of Rs.3.6 lakhs each. This makes a mockery of "socialist" India, directive principles of state policy, Articles 14, 21 and 39(b).

39. In the light of the monumental losses incurred by the people, economy and state in the past 8 years of mining activity, the petitioner had proposed that the state completely restructure mining as the loss of economic value (including real resource depletion) was by far the most important consideration. Further, the Supreme Court judgment afforded multiple sources of funds to finance a social adjustment programme for the mining-affected. A copy of the Petitioner's proposal dated 14.05.2014 addressed to the Chief Minister; Goa is annexed and marked as **Annexure 13** (Pages to).

40. The Goa government has attempted to cover up the constitutional impropriety and its favours done to a few powerful mining interests by claiming that it has collected stamp duty valued at 15% of the royalty on the annual extraction allowed under the Environment

Clearance order. However, payment of stamp duty under the Indian Stamp Act cannot be a substitute for recovery of maximum revenues to be recovered from sale or alienation of natural resources to profit-making agencies. These are two separate things. In any case, it is a pittance. In the light of this challenge, the petitioner has calculated the losses to the Goa exchequer – eventually affecting the welfare and natural assets of Goa citizens – from the alienation of mineral resources to mining companies in the case of the 88 mining leases. If one calculates the largesse given to the mining lease holders by the 8(3) renewal orders, the results can be found in the table provided below: (for quantities, we have used the 43 million tonnes per annum permitted by the ECs of these 88 leases as the base for the calculations):

Table 1: Extraction @ 44 million tonnes per annum (Limit imposed by ECs on 88 mining leases)

Total quantity permitted for extraction as per ECs granted in 88 leases:	43.973 million metric tonnes (MMT), for at least 12 years (Nov-Jan 2014 – 21-Nov-2027) = 528 MMT
Value of 528 MMT mineral ore @ Rs. 311.12 crores per MMT	Rs.164,172 crores
Extraction costs for 43.973 million tonnes @ Rs. 120.25 crores per MMT	Rs.63,453 crores
Net value of iron ore @ Rs. 190.87 crores per MMT	Rs.100,720 crores
Royalty @ Rs. 8.46 crores per MMT to Goa Govt	Rs.4,467 crores
Goa Iron Ore Permanent Fund @ 10% of sale value, Rs. 31.11 crores per MMT	Rs.16,417 crores
Net loss to the public of Goa: Rs. 151 crores per	Rs.79,836 crores

MMT	
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**Calculations based on averages from Sesa Goa annual reports for 2004-05 – 2011-12*

41. If the amount used as the base amount for calculation is the 20 million cap imposed by the Supreme Court by its order dated 21.4.2014, the amounts would be correspondingly lower but still quite significant, as laid out in Table 2 given below.

Table 2: Extraction @ 20 million tonnes cap per annum for 88 leases

Total quantity permitted for extraction as per ECs granted in 88 leases:	20 million metric tonnes (MMT), for at least 12 years (Nov-Jan, 2014 – 21-Nov-2027)
Value of mineral ore @ Rs. 311.12 crores per MMT	Rs.74,669 crores
Extraction costs for 20 million tonnes @ Rs. 120.25 crores per MMT	Rs. 28,860 crores
Net value of iron ore @ Rs. 190.87 crores per MMT	Rs.45,810 crores
Royalty @ Rs. 8.46 crores per MMT to Goa Govt	Rs.2,032 crores
Goa Iron Ore Permanent Fund @ 10% of sale value, Rs. 31.11 crores per MMT	Rs.7,467 crores
Net loss to the public of Goa: Rs. 151.30 crores per MMT	Rs. 36,311 crores

42. Thus it can be seen that the Goa Government has handed over as largesse to the 88 mining lease holders bulk of the value of the ore that it was duty bound to collect from them. The handing out of

such largesse is completely contrary to several orders and judgements of this Hon'ble Court.

43. The petitioner finally filed a complaint on these transactions under Section 13(1)(d) of the PC Act, 1988, with the CBI, which was not entertained by the CBI for want of jurisdiction. Thereafter, petitioner approached the Vigilance Department of the Goa government with the same complaint. There is no progress on the complaint since the Chairman of the Vigilance Committee is the Chief Minister who is also Mines Minister against whom the complaint has been filed. A copy of the complaint dated 15.06.2015 made by the Petitioner and addressed to the CBI is annexed and marked as **Annexure P-14** (Pages to). A copy of the reply letter of CBI dated 15.07.2015 denying the request is annexed and marked as **Annexure P-15** (Pages to).
44. The Accountant General, Goa, has since addressed two communications to the Director of Mines & Geology raising queries about the renewals of mining leases in view of this Hon'ble Court's judgement dated 21.4.2014 and the provisions of the amended MMDR Act, 1957. A copy of the letter from the Accountant General dated 31.7.2015 is annexed and marked as **Annexure P-16** (Pages to). A copy of the letter dated 3.8.2015 is annexed and marked as **Annexure P-17** (Pages to).
45. Thereafter, the state government has on 15.1.2015 revoked its order of suspension of mining operations in the State, issued originally by it on 10.9.2012. However, neither the order of revocation of suspension nor the renewal of leases could have been done without notification of the policy on grant of leases. This was notified in the Goa gazette only on 20.1.2015. However, on the date

of its notification, the policy was not only useless but redundant, since its proposals had no legal basis considering the MMDR Act itself had been amended on 12.1.2015. Hence the policy itself is liable to be quashed and set aside. As the lease renewals were issued prior to notification of the policy, they are without legal sanction and contrary to the explicit direction of this Hon'ble Court. A copy of the notification dated 15.1.2015 revoking the order of suspension of mining is annexed and marked as **Annexure P-18** (Pages to). A copy of the lease grant policy notified in the Goa gazette on 20.1.2015 is annexed and marked as **Annexure P-19** (Pages to).

46. Likewise, the MOEF was directed by the order dated 21.4.2014 not to vacate its order of suspension till fresh grant of leases and fresh environment clearances were issued. Further, the MOEF was duty bound to take into consideration the findings and recommendations of its own Expert Appraisal Committee set up by it in February 2013 explicitly to review the environment clearances granted to mining leases in Goa and whose report had been submitted to this Hon'ble Court in October 2013. However, submitting to the pressure of the State Government to be enabled to commence mining in view of leases renewed, the MOEF recalled its order of revocation on 20.3.2015. The order of revocation is clearly illegal and the order of revocation of suspension is liable to be quashed on the ground that it is not in conformity with this Hon'ble Court's judgement dated 21.4.2014 and other grounds taken below. A Copy of the impugned MOEF order dated 20.3.2015 is annexed and marked as **Annexure P-20** (Pages to).

47. On July 10, 2015, the Goa State Pollution Board has taken a decision to grant consents to operate to 56 mining leases in the state. The petitioner asked to be heard by the Board prior to grant of the consents and to bring consideration of some of these issues to the Board's notice. However, its request was denied. The Board's decision to grant consent is consequent on the restoration of ECs which has been challenged in this petition. Hence, in order to ensure this petition is not unduly long, specific challenge is not made to the consent orders, when granted, by the Board, though the petitioner has made an application for them under the provisions of the RTI Act, 2005 and will bring them on record, when obtained. A Copy of the minutes of the Board meeting dated 10.7.2015 approving the grant of consent to operate is annexed and marked as **Annexure P-21** (Pages to).

48. GROUNDS FOR CHALLENGE:

- A. Because the Impugned renewals of 88 mining leases are not permitted by the judgement dated 21.4.2014. In fact, the renewals and consequential actions of recall of stay orders are not in harmony with this Hon'ble Court's directions and are therefore all liable to be quashed and set aside. The challenges in this PIL are being filed in view of specific observations made in the judgement dated 21.4.2014 that petitioner is entitled to a judicial review if the grant of leases in the State of Goa – and the policy under which such leases are granted in future – appear to be contrary in any manner to the MMDR Act, 1957 or constitutional principles. This Hon'ble Court has stated that all such decisions on grant of leases would be subject to judicial review.

- B. Because the second renewals could not have been granted in the manner they were issued. 31 leases were issued on January 12, 2015, when the MMDR Act had already been amended preventing renewals. There is evidence on record to show that the renewals *en masse* have been carried out to frustrate the directions of this Hon'ble Court and bypass the impact of the January 12, 2015 amendments to the Act brought into force to implement this Hon'ble Court's order dated 21.4.2014.
- C. Because the satisfaction of the government for second renewals could only have been carried out, if they were in the interests of mineral development of the State, and if no other person except the present lessee could have carried out the said process of extraction. The second renewal under 8(3) of the MMDR Act, the Court has held, is not a right, but granted only as an exception in the circumstances enumerated above. The decisions to grant renewal would have to carry detailed reasons, including the satisfaction of the government which led to the Government forming an opinion on the matter in the circumstances mentioned above. The leases could not have been issued mechanically and without application of mind. In any event, all the leases had expired finally.
- D. Because the approvals show a clear departure from the constitutional principles that this Court has reiterated time and again to govern the alienation of scarce natural resources belonging to the State, especially in the judgment of this Hon'ble Court in 2G spectrum case and the Presidential Reference (2012) 10 SCC 352. This Hon'ble Court in Natural Resources Allocation, In Re, Special Reference No.1 of 2012 has observed as under:

“Alienation of natural resources is a policy decision, and the means adopted for the same are thus, executive prerogatives. However, when such a policy decision is not backed by a social or welfare purpose, and precious and scarce natural resources are alienated for commercial pursuits of profit maximising private entrepreneurs, adoption of means other than those that are competitive and maximise revenue may be arbitrary and face the wrath of Article 14 of the Constitution. Hence, rather than prescribing or proscribing a method, we believe, a judicial scrutiny of methods of disposal of natural resources should depend on the facts and circumstances of each case, in 10 Page 101 consonance with the principles which we have culled out above. Failing which, the Court, in exercise of power of judicial review, shall term the executive action as arbitrary, unfair, unreasonable and capricious due to its antimony with Article 14 of the Constitution.”

- E. Because the state government has on 15.1.2015 revoked its order of suspension of mining operations in the State, issued originally by it on 10.9.2012. However, neither the order of revocation of suspension nor the renewal of leases could have been done without notification of the policy on grant of leases. This was notified in the Goa gazette only on 20.1.2015, after the leases were renewed and when lease renewal without auction was no longer an option under the law.
- F. Because the MOEF by the order dated 20.03.2015 has restored the environment clearances suspended by its order dated 14.09.2014 without adequate reason and without taking steps to cure the

various environmental violations pointed out to it by its own expert committee. This order of revocation is itself in violation of this Hon'ble Courts order dated 21.04.2014 on several grounds.

G. Because on July 10, 2015, the Goa State Pollution Board has taken a decision to grant consents to operate to 56 mining leases in the state. The Goa Pollution Control Board has granted consents to operate 56 of these leases under the provisions of the Water Act, 1974 and the Air Act, 1981, in the month of August 2015 and without demanding approval from the Standing Committee of the NBWL. If these leases are permitted to operate, their operation will frustrate the scheme of this Hon'ble Court for sustainable mining laid down in its judgement dated 21.4.2014.

49. That the present petitioner has not filed any other petition in any High Court or the Supreme Court of India on the subject matter of the present petition. There is a Special Leave Petition No. 16080 of 2014 filed by the petitioner pending before this Hon'ble Court which challenges the judgement of the Bombay High Court dated 13.8.2014 directing the State of Goa to grant renewals in some 28 petitions. The said petition challenges the orders granting renewal under 8(3) of the MMDR Act and hence the cause of action is different from the SLP pending adjudication in this Hon'ble Court. This Hon'ble Court was pleased to issue notice in the said Special Leave Petition No. 16080 of 2014, vide an order dated 22.09.2014.

PRAYERS

In view of the above facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased:-

- i. To issue an appropriate writ, order or direction, quashing and setting aside the second renewals under Section 8(3) of MMDR 1957;
- ii. To quash the order issued by the State Government revoking suspension of mining (order dated 15.1.2015), the Gazette notification notifying the renewal policy (order dated 20.1.2015) and MoEF order revoking suspension of environment clearances (order 20.3.2015);
- iii. To direct for an investigation of the prima facie case of corruption under the Prevention of Corruption Act in grant of second renewal leases;
- iv. To grant such other reliefs as this Hon'ble Court may deem fit and proper in light of the facts and circumstances of the case.

THROUGH;

PRASHANT BHUSHAN
(COUNSEL FOR THE PETITIONER)

IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

I.A. NO. OF 2015

IN

Writ Petition (Civil) No. of 2015

PUBLIC INTEREST LITIGATION

IN THE MATTER OF:

GOA FOUNDATION

.....PETITIONER

V.

STATE OF GOA & ORS.

.....RESPONDENTS

**APPLICATION FOR URGENT INTERIM ORDERS ON BEHALF OF THE
PETITIONER**

To,

THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS COMPANION
JUDGES OF THE HON'BLE SUPREME COURT OF INDIA

The Humble Petition of the
Petitioners above-named

MOST RESPECTFULLY SHOWETH: -

1. The present Writ Petition under Article 32 of the Constitution of India, in the form prescribed for Public Interest Litigation, is being preferred before this Hon'ble Court in the wake of the approvals granted en masse for renewals mining leases in the State of Goa declared "expired" by this Hon'ble Court. The renewals prima facie disclose mala fides, collusion between mining companies and the State authorities, circumvention and violation of this Hon'ble Court's order dated 21.04.2014 and the provisions of the MMDR Act, 1957. These second renewals could only have been carried out if they were in the interests of mineral development of the State and if no other person except the present lessee could have carried out the said process of extraction. The second renewal under 8(3) of the MMDR Act, the Court had held, is not a right, but granted only as an exception in the circumstances enumerated above. The decisions to grant renewal would have to carry detailed reasons which led to the Government forming an opinion on the matter. The leases could not have been issued mechanically and without application of mind. In any event, they had all expired finally. The renewals of said leases – all of which were involved in illegal mining activities that led to this Hon'ble Court's stay order dated 5.10.2012 and judgement dated 21.4.2014 – are therefore contrary to the judgement and consequential directions of this Hon'ble Court dated 21.4.2014.
2. That the state government has on 15.1.2015 revoked its order of suspension of mining operations in the State, issued originally by it on 10.9.2012. However, neither the order of revocation of suspension nor the renewal of leases could have been done

without notification of the policy on grant of leases. This was notified in the Goa gazette only on 20.1.2015. However, on the date of its notification, the policy was not only useless but redundant, since its proposals had no legal basis considering the MMDR Act itself had been amended on 12.1.2015. Hence the policy itself is liable to be quashed and set aside. As the lease renewals were issued prior to notification of the policy, they are without legal sanction and contrary to the explicit direction of this Hon'ble Court.

3. That the MOEF was directed by the order dated 21.4.2014 not to vacate its order of suspension till fresh grant of leases and fresh environment clearances were issued. Further, the MOEF was duty bound to take into consideration the findings and recommendations of its own Expert Appraisal Committee set up by it in February 2013 explicitly to review the environment clearances granted to mining leases in Goa and whose report had been submitted to this Hon'ble Court in October 2013. However, submitting to the pressure of the State Government to be enabled to commence mining in view of leases renewed, the MOEF recalled its order of revocation on 20.3.2015. The order of revocation is clearly illegal and the order of revocation of suspension is liable to be quashed on the ground that it is not in conformity with this Hon'ble Court's judgement dated 21.4.2014.
4. On July 10, 2015, the Goa State Pollution Board has taken a decision to grant consents to operate to 56 mining leases in the state. The petitioner asked to be heard by the Board prior to grant of the consents and to bring consideration of some of these issues to the Board's notice. However, its request was denied.

The Board's decision to grant consent is consequent on the restoration of ECs which has been challenged in this petition. Hence, in order to ensure this petition is not unduly long, specific challenge is not made to the consent orders, when granted, by the Board, though the petitioner has made an application for them under the provisions of the RTI Act, 2005 and will bring them on record, when obtained.

5. That If these leases are permitted to operate, their operation will frustrate the scheme of this Hon'ble Court for sustainable mining laid down in its judgement dated 21.4.2014, the provisions of the MMDR Act and the Ordinance in place.

PRAYERS

In view of the above facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to:-

- i. Stay the operation of consent to operate in the case of the second renewals under Section 8(3) of MMDR 1957, pending final disposal of this petition;
- ii. Grant such other reliefs as this Hon'ble Court may deem fit and proper in light of the facts and circumstances of the case.

THROUGH;

PRASHANT BHUSHAN
(COUNSEL FOR THE PETITIONER)

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1.	Office Report on Limitation	'A'
2.	Listing Performa	A1-A2
3.	Synopsis and list of dates	B-
5.	Writ Petition With Affidavit	
6.	<u>Annexure P-1:</u> A copy of the first chapter of the Justice Shah Commission of Inquiry Report 2012.	
7.	<u>Annexure P-2:</u> An extract from the CEC report dated 7.12.2012 highlighting the environmental issues faced by the State due to indiscriminate and uncontrolled mining.	
8.	<u>Annexure P-3:</u> A Copy of order dated 21.03.2013 issued by the MOEF for setting up the EAC.	
9.	<u>Annexure P-4:</u> A copy of relevant parts of the EAC Report 2013.	

10.	<u>Annexure P-5:</u> A copy of the tabular data of the EAC Report prepared by the Petitioner dated nil.	
10.	<u>Annexure P-6:</u> A copy of the memorandum dated 02.12.2009 issued by the MOEF & CC.	
11	<u>Annexure P-7:</u> A copy of the order dated 5.11.2014 issued for renewal under 8(3) of the MMDR Act in respect of TC No.08/41 to G.N. Agrawal, Margao, Goa.	
12.	<u>Annexure P-8:</u> A comprehensive table providing the dates and other relevant information relating to the impugned 88 lease renewals of the Respondents 5-24 dated nil.	
13	<u>Annexure P-9:</u> A sample copy of the gazette notification dated 28.10.2010.	
14.	<u>Annexure P-10:</u> A Copy of a sample reference order from IBM dated 10.12.2008	
15.	<u>Annexure P-11:</u> A copy of the letter dated 30.04.2014 by the petitioner to the Chief Secretary, Goa.	
16.	<u>Annexure P-12:</u> A copy of the letter dated 10.12.2014 by the petitioner to the Chief Secretary, Goa.	
17.	<u>Annexure P-13:</u> A copy of the Petitioner's proposal dated 14.05.2014 addressed to the Chief Minister, Goa.	
18.	<u>Annexure P-14:</u> A Copy of the complaint dated 15.06.2015 made by the Petitioner and addressed to the CBI.	
19.	<u>Annexure P-15:</u> A copy of the reply letter of CBI dated 15.07.2015.	
20.	<u>Annexure P-16:</u> A copy of the letter from the Accountant General dated 31.7.2015	
21.	<u>Annexure P-17:</u> A copy of the letter dated 3.8.2015.	
22.	<u>Annexure P-18:</u> A copy of the notification dated 15.1.2015 revoking the order of suspension of mining.	
23.	<u>Annexure P-19:</u> A copy of the lease grant policy notified in the Goa gazette on 20.1.2015.	
24.	<u>Annexure P-20:</u> A Copy of the impugned MOEF order dated 20.3.2015	
25.	<u>Annexure P-21:</u> A Copy of the minutes of the Board meeting dated 10.7.2015 approving the grant of consent to operate.	

26.	APPLICATION FOR URGENT INTERIM RELIEF.	
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