

F.No.19-27/2015-IA.III
Government of India
Ministry of Environment, Forest and Climate Change
IA-III Division (CRZ)

Indira Paryavaran Bhawan
Jor Bagh Road,
New Delhi-110003
Dated: 19th February, 2021

OFFICE MEMORANDUM

Subject: Procedure for dealing with violations arising due to not obtaining a prior CRZ clearance for permissible activities –regarding.

For the purpose of protecting and improving the quality of the coastal environment and abating coastal environmental pollution, it is necessary that all entities not complying with Coastal Regulation Zone notifications be brought under compliance of the environmental statutes in an expedient manner. This Ministry has received several requests from the coastal state governments for proposals, under Coastal Regulation Zone (CRZ) Notification, 2011, for considering CRZ clearance in respect of permissible activities which have commenced work without a prior CRZ clearance due to inadequate knowledge of the regulatory regime and other factors. Bringing such projects and activities in compliance with the environmental laws at the earliest point of time is therefore essential, rather than leaving them unregulated and unchecked, which will be more damaging to the environment.

2. Reference is invited to order dated 28th November, 2014 of the Hon'ble High Court of Jharkhand in the matter of Hindustan Copper Limited Versus Union of India, wherein the High Court held that the conditions laid down under Office Memorandum dated 12th December, 2012 in paragraph No. 5 (i) and 5 (ii) were illegal and unconstitutional and had further held that action for alleged violation would be an independent and separate proceeding and therefore, consideration of proposal for environment clearance could not await initiation of action against the project proponent. The Hon'ble Court further ruled that the proposal for environment clearance must be examined on its merits, independent of any proposed action for alleged violation of the environmental laws. Also, Hon'ble Supreme Court of India in Civil Appeal No. 1526 of 2016 Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors., in its order dated 1st April, 2020, has mentioned that the closure of the industries are not warranted, however, order for payment of compensation as a facet of preserving the environment in accordance with the precautionary principle has been imposed and proposal for environment clearance must be examined on its merits, independent of any proposed action for alleged violation of the environmental laws.

3. To this effect, it is therefore necessary to establish a process for appraisal of such cases of violation arising due to not obtaining of prior clearance for permissible

activities in CRZ areas and for prescribing adequate environmental safeguards on such entities and provide an enabling process to deter violation of provisions of CRZ Notification, 2011 and the damage to environment is adequately compensated for.

4. The Ministry hereby, prescribes the following procedure for dealing with violation arising due to not obtaining a prior CRZ clearance for permissible activities as under:

- i. All activities, which are otherwise permissible under the provisions of Coastal Regulation Zone Notification, but have commenced construction without prior clearance, would be considered for prospective clearance only in such cases wherein the project proponent applies for such a clearance to the concerned Coastal Zone Management Authority (CZMA) along with required documents as given in para number 4.2 of the said CRZ Notification, 2011 such as: (a) Form-I; (b) CRZ map in 1:4000 scale drawn up by any of the agencies identified by the Ministry of Environment, Forest and Climate Change *vide* its Office Order number J-17011/8/92-IAIII, dated the 8th August, 2019; (c) Marine EIA Report and/or Terrestrial EIA Report, as may be applicable; (d) NOC from SPCB, as may be applicable etc.
- ii. As the project commenced construction and / or operations without a prior CRZ clearance, the CZMA shall assess the environmental damages caused by such an action and shall give **specific recommendation** in respect of activities, corresponding to the environmental or ecological damage assessed, to be taken up by the project proponent within a period of three years from the date of clearance, under Compensatory Conservation Plan (CCP) and a Community Resource Augmentation Plan (CRAP). The said plans may comprise of indicative activities as in the **Annexure**. The cost for assessment of environmental damage, if any, may be guided by the Ministry of Environment, Forest and Climate Change *vide* O.M No. 19-125/2019-IA.III, dated 05/03/2020 and / or project specific assessment by the CZMA.
- iii. The CZMA shall also give **specific recommendations** and shall certify that there is no violation / contravention of the CRZ norms, while making such recommendations and that the project is in consonance with the approved CZMP as per CRZ Notification, 2011.
- iv. On fulfilment of the provisions as prescribed above, the project proponent shall apply for consideration of clearance to the Ministry of Environment, Forest and Climate Change, in the 'PARIVESH' online portal, along with all documents as submitted to the concerned CZMA and the specific recommendation of the CZMA.
- v. The project thereafter will be appraised for appropriate recommendation by the Expert Appraisal Committee (CRZ) constituted by the Ministry of Environment, Forest and Climate Change.
- vi. The Expert Appraisal Committee shall examine the adequacy of the Environmental Management Plan, Comprising Compensatory Conservation Plan and Community Resource Augmentation Plan and endorse the specific recommendation of SCZMA in this regard and suggest other suitable remedial measures, if any. The Expert

INDICATIVE LIST OF ACTIVITIES:

1. Activities for Compensatory Conservation Plan:

- (a) Mangrove replantation / regeneration;
- (b) Sea grass replantation / regeneration;
- (c) Protection of sand dunes, mudflats;
- (d) Measures for regeneration of beach sand;
- (e) Soil remediation;
- (f) Setting up of small infrastructure for coastal erosion control measures;
- (g) Construction and maintenance of cyclone shelters;
- (h) Protection measures and maintenance of heritage sites located in coastal areas;
- (i) Setting up of solar and other non-conventional energy source at village or habitations;
- (j) Restoration of water bodies and setting up of rain water harvesting systems;
- (k) Beach cleaning and development of beach amenities etc.

2. Activities for Community Resources Augmentation Plan:

- (a) Adoption of nearby coastal village and providing civic amenities;
- (b) Creation of Self Help Group and Cooperative Society for marketing of local community produce;
- (c) Creation of micro financing for vocation of the local community, in particular fishermen community;
- (d) Identification and training of unemployed youth in the nearby villages for eventual absorption in the company;
- (e) Sustainable community solid waste management strategy and programme;
- (f) Installation and maintenance of organic waste collector;
- (g) Disbursement and disposal of fishing nets with financial incentives;
- (h) Renovation and maintenance of village wells etc.

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Appraisal Committee shall also decide the percentage of total project cost required to be utilized for implementation of the above said plans.

- vii. The concerned CZMA / State Environment Department shall oversee implementation and enforcement of the Compensatory Conservation Plan and Community Resource Augmentation Plan.
- viii. Further, action should be taken by the respective State Government or Union Territory Administration or SPCB or UTPCC, as the case may be, under respective provisions of the Environment (Protection) Act, 1986, for violation of not taking prior approval.

This issues with the approval of the Hon'ble Minister (EFCC).



(Dr. Sujit Kumar Bajpayee)

Joint Secretary to the Government of India

To,

- 1. The Principal Secretaries (Environment) of all Coastal States / UTs.**

Copy to:

1. PS to Minister (EFCC)
2. PS to MoS (EFCC)
3. PPS to Secretary (EFCC)
4. PPS to AS (RSP)/AS (RA)/AS(UD)
5. The Member Secretaries, CZMAs
6. The Member Secretaries, IA Division, MoEFCC
7. The Chairman, EAC (CRZ & Misc Projects)
8. Office copy / Guard file.