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Government of Tripura
Office of the Principal Chief Conservator of Forests,
Tripura : Agartala.

Dated, Agartala, the 12 September, 2019

To
The Addl. Director General of Forests (Central),
Ministry of Environment, Forests & Climate Change,
North Eastern Regional Office,
Law-U-Sib, Lumbatngen,
Near M.T.C. Workshop,
Shillong 793021

Sub: - Proposal for diversion of 1.96 ha of forest land for construction of drill site and waste pit and approach road a location TIDF under DFO, Sepahijala

Ref:- Letter No.3- TR B 012/2018-SHI/ 3736-37 dated 15.02.2019
Sir,

With reference to the above kindly find enclosed herewith a following information for consideration of the project:-

1. User Agency has submitted legal opinion from the State Advocate General on that extraction of natural gas/ oil as Annexure-A.
2. User Agency submitted corrected shape / kml file over the proposed land along with map & GPS coordinates etc as Annexure-B.

In view of the above I would request you to take the needful action accordingly.

Enclo:- As stated

Yours faithfully,

[V.G. Jenner]

Chief Conservator of Forests &
Nodal Officer, FCA

Copy to:-

The DGM-Incharge-HR-ER, ONGC, Tripura Asset, Agartala for information and needful please.

Chief Conservator of Forests &
Nodal Officer, FCA

d/c

ARUN KANTI BHOWMIK
Sr. Advocate
Advocate General, Tripura



Annexure!- A 262
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07085059444

E-mail : arunbhaumik333@gmail.com

Ref. No.

Date :06-05-2019.....

LEGAL OPINION

QUERY

Whether **extraction of Natural Gas / Oil** cannot be considered as **mining** in terms of Hon'ble Supreme Court order dated 04-08-2006 in W.P(C) 202 of 1995 (Godavarman versus Union of India)

OPINION

1. According to the Mines Act, 1952, "minerals" have been defined in Section- 2 (1)(jj) to mean all substances which can be obtained from the earth by mining , digging, drilling, dredging, hydraulicing, quarrying or by any other operation and includes mineral oils (which in turn include **natural gas and petroleum**). The Mines Act, 1952 may not be applicable fin our case or the reasons stated hereinafter.
2. The said **Mines Act, 1952** was enacted to amend and consolidate the law relating to the **regulation of labour and safety in mines**. The Mines and Minerals (Development and Regulation) Act, 1957 was enacted subsequently to provide for the development and regulation of mines and minerals under the control of the Union and consequently this Act is relevant for the purpose of ascertaining as to whether extraction of natural gas / oil cannot be considered as mining. It appears from the aforesaid later Act that minerals have been defined in Section -3(aa) to include all minerals **except "mineral oil"** and **"mineral oil"** in Section-3(b) has been defined to include natural gas and petroleum . Mining operation has been defined in Section - 3(d) to mean any operation undertaken for the purpose of winning any



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mineral. It, therefore, follows that on the question of mining, it would be apparent from the definition alone that mining includes all minerals except mineral oil and mineral oil includes natural gas and petroleum and therefore, **mining does not include the extraction of natural gas / oil.**

3. It is interesting to note that, the Mines Act, 1952 which was enacted to amend and consolidate the law relating to the regulation of labour and safety in mines included the natural gas and petroleum i.e. natural oil within the definition of minerals but in the later Act No. 67 of 1957 which provided for the regulation of mines and development of minerals, the mineral oil which include natural gas and petroleum were excluded from the definition of minerals. In the present case, the later Act is relevant and applicable and, therefore, extraction of natural gas / oil does not amount to mining activities. Had both the Acts been in the same field, then also inclusion of natural gas and oil in the definition of minerals in the former Act would be hit by implied repeal.

4. It would appear from the order dated 04-08-2006 passed by the Hon'ble Supreme Court of India in W.P(C) 2002 of 1995 that issue of temporary working permit was restricted. It has been held by the Hon'ble Supreme Court that " By order dated 16th September, 2005, it was, inter alia, directed that no temporary working Permissions or Temporary Permit or any other permission, by whatever name called, shall be granted for mining activities in the National Parks, Sanctuaries and Forest areas. It was further directed that no mining activity would continue under any Temporary Working Permit or Permission (T.W.P.), which may have been granted. This order was later relaxed on the applications filed by some of the applicants. Suggestions have been filed by the learned Amicus Curiae and the Ministry of Environment and Forests, besides the Foundation of Indian Minerals Industries (FIMI) regarding the

ARUN KANTI BHOWMIK
Sr. Advocate
Advocate General, Tripura



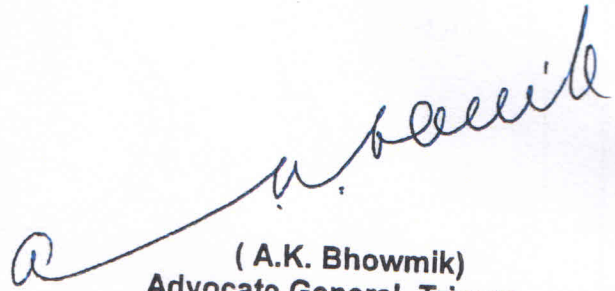
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conditions, which would govern grant of T.W.P. On consideration thereof, the conditions precedent for the grant of T.W.Ps. as well as the procedure for their grant were provided in the order. It was clarified that T.W.Ps. shall be granted only where the conditions are satisfied". The Hon'ble Supreme Court directed the pre-condition and procedure for grant of clearance in the said order.

5. So far as the proposed projects of Tripura are concerned, the extraction of natural gas /oil being not included as a mining activity under the provision of the Act of 1957 and Hon'ble Supreme Court of India in the said case having not decided otherwise, **in my humble opinion no restriction has been imposed by the Hon'ble Supreme Court of India in proceeding with the projects which aims at economic development of the backward state of Tripura.**


(A.K. Bhowmik)
Advocate General, Tripura
06-05-2019

TIDF_Drillsite

District	Vill_Name	Dag_No	Forest_Sta	Area_Ha
Sepahijala	Dakshin Taibandal	316	RF	0.094529
Sepahijala	Dakshin Taibandal	1021	RF	0.043171
Sepahijala	Dakshin Taibandal	1021	RF	1.786877
Sepahijala	Jagatrampur	5	RF	0.021435
Sepahijala	Jagatrampur	5	RF	0.023917
Sum Area_Ha				1.969929

