Government of India Ministry of Environment, Forest and Climate Change (Forest Conservation Division)

Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi: 1100 03, Dated: May, 2023

To,

The Principal Secretary (Forests),
Department of Forest and Environment,
Government of Goa,
Panaji.

<u>Sub:</u> Proposal for diversion of 72.08 ha. (70.20 ha. mining + 1.88 ha for Approach Road) of forest land for non-forestry purpose under mining lease bearing No.3/FeMn/79 located at village Caurem, Quepem Taluka in South Goa District & Division, in favour of M/s. Naraina Sinai Quritonim. (Online proposal No.FP/A/MIN/153183/2022).-regarding.

Sir/Madam.

I am directed to refer to the Government of Goa's letter No.6-13 (2016)-2022-23/FD/2635 dated 14.09.2022 w.r.t. the above cited subject proposal for prior approval of the Central Government under Section – 2 of the Forest (Conservation) Act, 1980 and to say that the Regional Office, Bangalore has carried out the Site Inspection Report (copy enclosed) and the same was forwarded to this Ministry on dated 28.04.2023. After examination the Site Inspection Report it was observed that the user agency is violating the provisions of EPA, 1986 and FCA, 1980.

In view of the above, the Government of Goa is requested furnish its comments on issues raised in the Site Inspection Report submitted by the IRO, Bangalore, MoEF&CC and submit the details/ comments/ justification to this Ministry, for further processing of the proposal.

Yours faithfully,

Sd/-

(Dr. Dheeraj Mittal)

Assistant Inspector General of Forests

Copy to: -

1. The Principal Chief Conservator of Forests, Government of Goa, Panaji.

- 2. The Nodal Officer, FCA, Forest Department, Government of Goa, Panaji.
- 3. The Regional Officer, Integrated Regional Office, Bangalore of MoEF&CC.

4. User Agency.

5. Monitoring Cell, FC Division, MoEF & CC, New Delhi.



भारत सरकार GOVERNMENT OF INDIA

पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE

समन्वित क्षेत्रीय कार्यालय INTEGRATED REGIONAL OFFICE Kendriya Sadan, IVth Floor, E& F Wings,



17th Main Road, IInd Block, Koramangala, Bangalore - 560 034. Tel.No.080-25635905, E.Mail: rosz.bng-mef@nic.in

By Email/ By Speed post

F.No.4-GOA1204/2022-BAN/ Dated the 28th April, 2023

To

The Additional Director General of Forests (FC), Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhavan, Aliganj, Jor Bagh Road, New Delhi – 110 003.

Subject: Diversion of 72.08 ha. (70.20 ha. for mining + 1.88 ha. for approach road) of forest land for Mining Lease No. 3/FeMn/79 located at Caurem village, Quepem Taluk, South Goa District and Division in favour of Naraina Sinai Quritonim, Goa -reg.

Sir,

With reference to Ministry's letter No.8-26/2022-FC dated 28/02/2023 on the above subject, it is kindly informed that the site inspection of the proposed area and Compensatory Afforestation area was inspected on 28/03/2023 & 18/04/2023 respectively and the detailed site inspection report is enclosed herewith as **Annexure-I**. The observations /recommendations on the proposal is furnished as under:-

- i. The UA claims that its lease of 1979 succeeded the Concession No.6/1952 over the area. The Mining Lease deed with the current UA was executed on 13/12/1979 and registered on 3/6/1981 and it is not clear whether any fresh forest area was broken after the enactment of FCA. It is also not discernible from the high resolution Google imagery. From the low resolution Google imagery of 1985, it is observed that pits /worked area were seen in 1985 imagery. The imagery are enclosed at Annexure-II. (File Zamblidaga 72.08 Mining Goa.pdf)
- ii. From the available records, it is seen that the user agency has not taken forest clearance for the approach road to the mine.
- iii. The initial lease period of 20 years was completed in 1999 and as per the Note of Ld.Advocate General of Goa vide **Annexure-III** - in file, it

- became entitled for automatic extension pending the decision of the State Government on the application for renewal. The State Government claims that the instant proposal does not attract the bar imposed on second renewals under Hon.Supreme Court orders dated 7/2/2018 in (2018) 4 SCC 226 in Goa Foundation vs Sesa Sterlite Ltd. The claim of the State Government, in this regard can be got examined by Law.
- iv. The IBM Mining Plan vide Page 3 at **Annexure-IV** in file states that "....the mining lease continued to work till August, 2005 under the provisions of Rule 24(A)(6) of MCR, 1960. However, no work could be continued thereafter for want of statutory clearances....". During the period 1999-2005, there is no record any FC Clearance as is mandated under FC Guidelines 1.6(i) and hence constitutes a violation.
- v. Further, the Hon.Supreme Court vide Goa Foundation Vs.Sesa Sterlite Ltd, (2018) 4 SCC has reiterated the Principle of compliance with statutory provisions at the stage of renewal of a lease, earlier mandated in Common Cause (2017) 9 SCC 499 and hence the requirement of both Environmental and Forest Clearances. As per available records there is no EC granted to the UA for the period 1999-2005 and the same may further be got verified from the IA wing of Ministry. If absent, then it would constitute a violation of EIA Notification also.
- vi. The proposed area is about 11.83 kms and 10.83 kms away from the boundary of Netravali Wildlife Sanctuary and its ESZ respectively and the DSS map is already enclosed at **Annexure-V**. (Goa 72.08 DSS.pdf)
- vii. As can be seen from item 20(2) of the SIR, there are serious Forest Rights Act issues over the forest land proposed for diversion and two complaints are also received in this regard. Large part of the forest land proposed for diversion is observed to be under cashew plantation and issues of claims of local people over collection of produce
- viii. As per the site inspection of the CA land, the site is a hardened laterite plateau and soil is absent due to heavy rainfall. Time series high resolution satellite data (Annexure-VI) shows the CA area to have been generally devoid of vegetation. It may therefore be not suitable unless under a special site specific siliviculture practices involving heavy inputs to break the hard soil profile, import of suitable soil from outside, hardy species and seedlings, watering and intense supervision, to secure success. Therefore, if possible an alternate CA land can be explored by the State Government.

Yours faithfully

(P. Subramanyam)

Deputy Director General of Forests (Central)

Encl: As above.

SITE INSPECTION REPORT

The site inspection of the Mining Lease was carried out on 28th March 2023 along with the CF, DCF and other Concerned Officers of the State Forest Department, and the representatives of the User Agency. The CA site was inspected on 18th April 2023 along with the DCF and other concerned Officials.

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1.	Legal status of the forest land proposed for diversion:		Proposed Reserved Forests (Sec-4 of IFA)
2.	Item-wise break-up details of the forest land proposed for diversion:		Mining lease along with approach road – Total area : 72.08 ha (Lease – 70.20 ha; Road 1.88 ha)
3.	Whether proposal involves any construction of buildings (including residential) or not. If yes, details thereof:		No
4.	Total cost of the project at present rates:		Rs.5190 lakhs as per the proposal
5.	Wildlife:		As per the proposal, major fauna in this area are Gaur, Leopard, Sambhar, Porcupine, Wild boar, etc. The proposed area does not form part of National Park, Wildlife Sanctuary, Biosphere reserve, Tiger reserve, Elephant corridor, Wildlife Migration corridor.
6.	Vegetation:		The lease area is in Eco-class I. The area is a laterite plateau with 19,680 trees enumerated for the girth classes 0-30 cm onwards. Main girth classes are 0-30cm : 1297 trees 61-90cm : 7797 trees 91-120 cm: 3138 trees 121-150 cm: 1070 trees

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	a a	Main species include: Different species of Terminalia, Anacardium occidentale (Cashew), Acacia auriculiformis.
7.	Background note on the proposal:	The original mining lease was granted in the year 1979 for iron ore and manganese ore for a period of 20 years under the MMDR Act 1957. The lease expired in the year 1999 after 20 years, and the user agency applied for extension to the Director of Mines and Geology and it remained for consideration with the State Government. As per the MMDR Amendment Act, 2015, the State Government has granted extension of mining lease up to 12.12.2029, i.e., for 50 years from the original lease date. The State government has now forwarded the proposal of the User agency for diversion under FCA, 1980
8.	Compensatory afforestation:	The State government has invoked the provisions of 2.3 (iii) of comprehensive guidelines issued by the MoEFCC, applicable to States having forest area more than 33% of the geographical area. The State has submitted a Certificate from the Chief Secretary regarding non-availability of suitable non forest/revenue land. The State Government has identified double the degraded forest land in villages Khandepar and Priol of North Goa Forest Division. Upon verification of the site identified, it can be seen that the site is a hardened laterite Plateau, and soil is generally absent due to heavy rainfall. It will require heavy costs and inputs in the form of machinery to drill/break the rocky earth, foreign soil, suitable and hardy seedlings, water and supervision for successful afforestation. The Forest Department may revisit
		The Forest Department may revisit their cost estimate and input details to meet



the afforestation requirements specific to this site. Upon verification of time series satellite imageries, it is found that vegetation has generally been absent in the land identified for compensatory afforestation in the degraded forest land in the past. Photographs of the site and satellite imagery are enclosed for ready reference. During site inspection no mining activity was involves proposal noticed. Upon discussion with the field Whether 9. Forest of violation officers, it can be said that no breaking of (Conservation) Act, 1980 or earth or cutting of trees has been undertaken not. If yes, a detailed report on in the foreseeable past. The pits existing violation including action taken appear to be very old with vegetation covering against the concerned officials: them for most part. The existing road to the lease is used by the forest staff and the villagers who have cashew plantations, etc. Regarding the broken up forest area in the proposed lease, as per the details provided by the user agency, there are about five small dumps and 5 small pits and existing old road within the lease admeasuring totally about 4.045 hectare As per the user agency, the area was partly worked by earlier Concessionaire, prior to 1979, manually for manganese ore as per the concession given by Portuguese rulers. As a supporting document the user agency has provided a 'planta' or plan dated 10.12.1979 (?), which shows old pits and dumps. User agency further says that post-1980 they have only manually recovered the manganese ore from the earlier mined stock and they have not worked the lease post 1980. During site inspection it is found that there are no tell-tale signs of recent working. All the pits are appearing to be very old. Upon verification of satellite imagery based on time series maps it is seen that the pits /worked area are seen even in 1985 imagery. It can be fairly concluded that there is no

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			excavation or breaking of ground in the recent past
10	. Whether proposal involves rehabilitation of displaced persons. If yes, whether rehabilitation plan has been prepared by the State Government or not:	1	No mention in the proposal. But during the site visit it was noticed that a large portion of the lease is under Cashew crop plantation and there were people collecting cashew and processing byproducts from the cashew fruits. On discussion with the field staff it was apparent that there are many claims of cashew growers therein under the Forest Rights Act.
11.	Reclamation Plan:	+	-
12.	Details on catchment and command area under the project:		_
13.	Cost benefit ratio:		As submitted by the User Agency; 1:19
14.	Recommendations of the Principal Chief Conservator of Forests/State Government:		Recommended
15.	Recommendations of Regional Chief Conservator of Forests along with detailed reasons:		The proposal being for a site specific activity i.e, Mining, alternatives have not been
16.	Regional Chief Conservator of Forests shall give detailed comments on whether there are any alternatives routes/alignments for locating the project on the non-forest land:		provided. However it is to be mentioned here that the site is an unbroken area and, except for small, old broken-up part, will involve fresh breaking up of land for mining.
17.	Utility of the Project:		Typical to any Mining project. This is primarily for extraction and export of iron ore
18.	Whether land being diverted has any socio-cultural/religious value:		No, as per the proposal. But two complaints have been received, one from the villagers and other from the 'Forest Rights Committee' of the Caurem Village, opposing mining activity in view of the native and forest rights claimed by the villagers.



19.	Situation w.r.t. any P.A.	Does not form part of National Park, Wildlife Sanctuary, Biosphere reserve, Tiger reserve, Elephant corridor, Wildlife Migration corridor, etc.
20.	Any other information relating to the Project:	1. Regarding application of Honorable Supreme Court order dated 7.2.2018 to this lease: Supreme Court order of 7th February 2018 primarily speaks about the validity of second renewal, requirement of fresh environment clearance and comments on auction as a mode of resource allocation. The order of 7th February 2018 set aside second renewal's granted under MMDR act to 88 mining leases which were erstwhile concessions given by Portuguese Rule. The contention of the User Agency that the present lease is not a concession and it was allotted as a lease in the year 1979 under the MMDR act of 1957 which can be made out by the agreement made in 1979 under the Mining Concession Rules 1960. The lease has to obtain Fresh Environment Clearance. Since the concerned department competent for granting of leases i.e., the Department of Mines and Geology of the State has taken an informed decision post - the Supreme Court order, the decision of the state government about the nonapplicability of the SC order of 2018 in this case may be accepted but at their own costs and risk. 2. Forest Rights Act issues: The site visit makes it very obvious that there are/ there will be serious issues of rights over the forest land proposed for diversion in this case. It is also learnt that the Public hearing scheduled for EIA/EC had to be cancelled at the last minute by the District administration recently.

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Two complaints have also been received in this office about the claims.

The area of the project being mainly of tribal population, as learnt during the inspection and from complaints, the views of the State Government may be sought if found appropriate, about the number and nature of the claims, their settlement status and the balance of convenience of the project vis-a-vis the affected people.

Name and Designation

of Inspecting Officer: Mahesh .K. SHAMBHU, IFS

Deputy Inspector General of Forests (C)

IRO, Bangalore

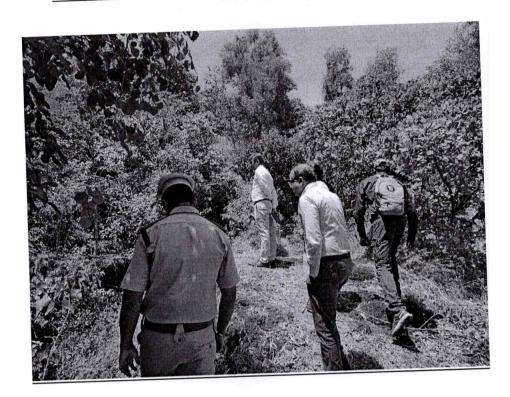
Date of Inspection: 28.03.2023 and 18.04.2023

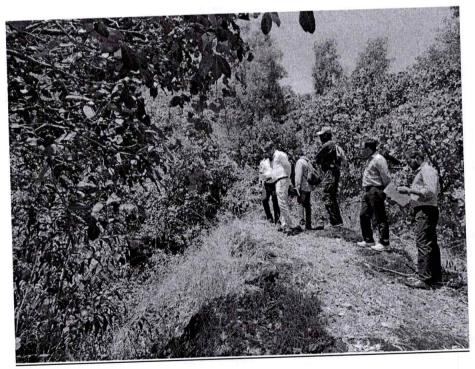
Enclosures:

Photos of the Lease and imageries
Photos of the CA DFL and imageries
Copy of the plan showing old pits submitted by UA
Copies of the complaints

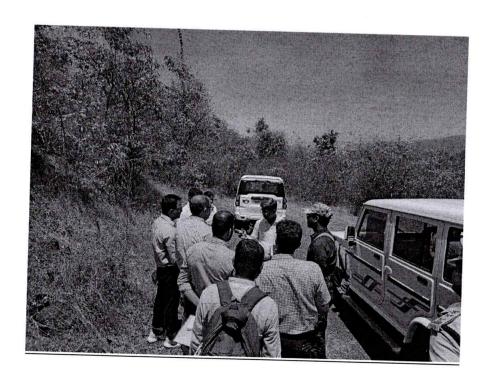
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Photos of the lease area taken during site inspection



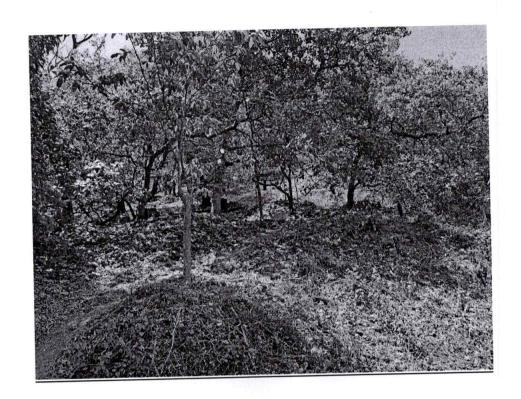


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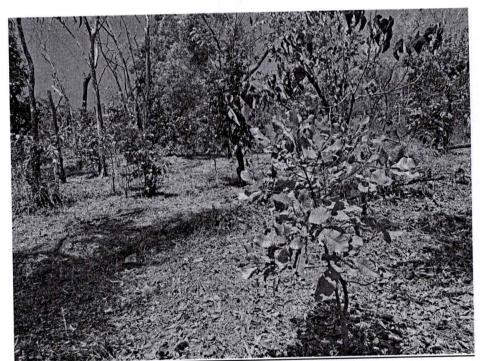




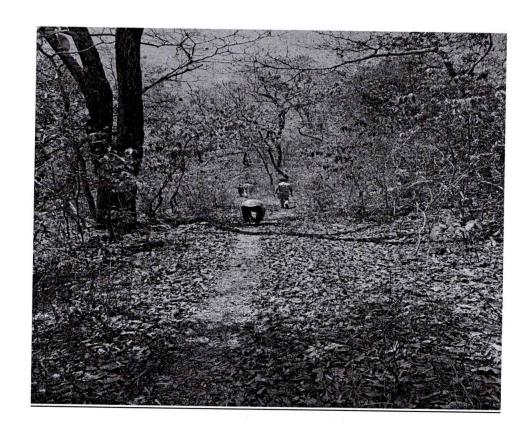
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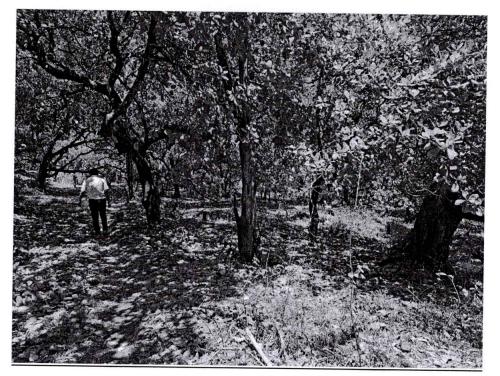


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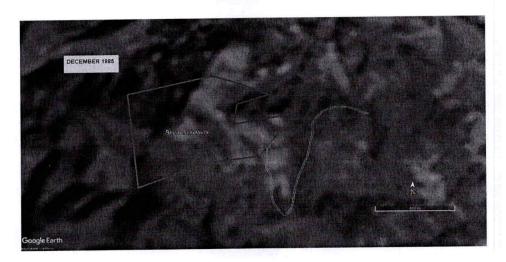




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Satellite Imageries of lease area (Time series 4 nos.)

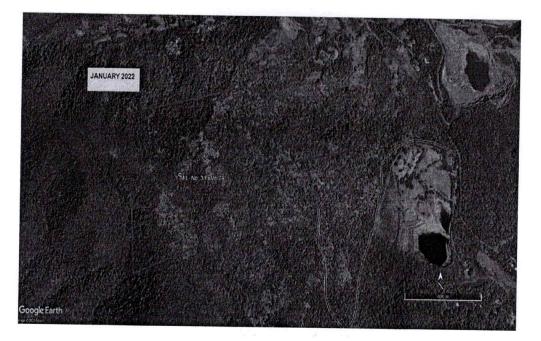
Zamblidadga Dongor Iron and Manganese Ore Mine M.L. No. 3 FeMn 79 - 78.08 HA





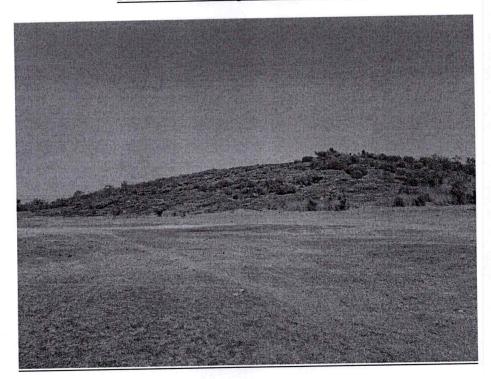
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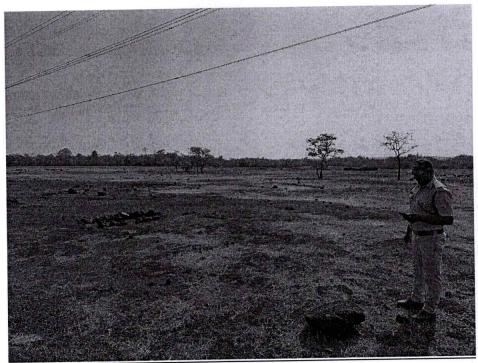




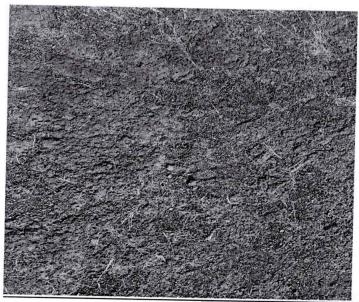


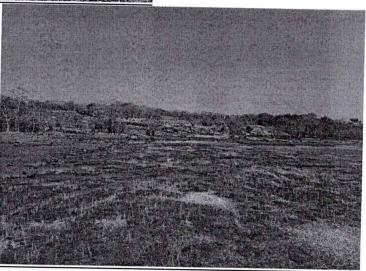
Photos of CA degraded forest land



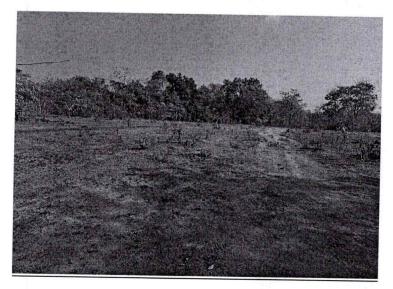


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Satellite imageries of CA land (Time series 4 nos.)

CA LAND PROPOSED AGAINEST Zamblidadga MINING GOA - 72.08 HA





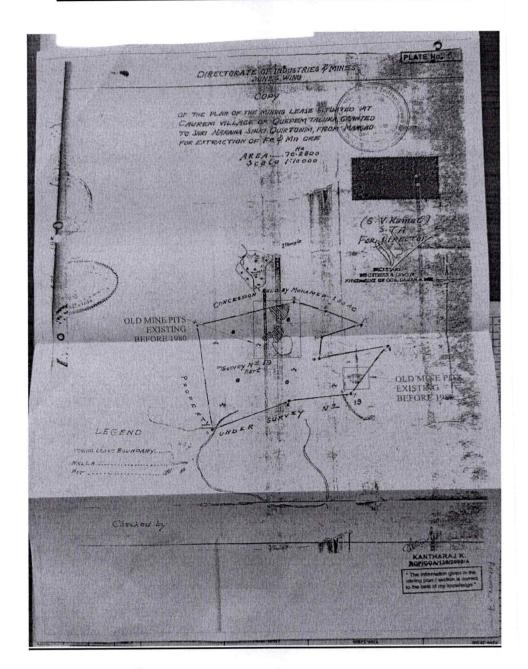






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Copy of the plan showing old pits submitted by User Agency





Email

Most Urgent - Objections to Proposal No. FP/GA/MIN/153183/2022 seeking diversion for forest land at Sy.No. 19, Caurem (Cavorem) village, Quepem Taluka, South Goa

From: gakuved@gmail.com

Subject: Most Urgent - Objections to Proposal No.

FP/GA/MIN/153183/2022 seeking diversion for forest land at Sy.No. 19, Caurem (Cavorem) village, Quepem

Taluka, South Goa

To: MoEF & CC IRO Bangalore <rosz.bng-mef@nic.in>,
 Secretary Tribal Affairs <secy-tribal@nic.in>, Principal
 Chief Conservator Forest Dept Goa <pccf fore.goa@gov.in>, Deputy Conservator of Forests Head
 Quarter <dcfhq-forest.goa@nic.in>, District Collector
 South Goa <cols.goa@nic.in>, Puneet Kumar Goel IAS
 Chief Secretary <cs-goa@nic.in>, Under Secretary
 Forest <usforest-sect.goa@nic.in>, Ms Leena Nandan
 <secy-moef@nic.in>

Fri, Apr 07, 2023 09:02 PM

4 attachments



Dear Sir / Madam,

I am writing this e-mail on behalf of the villagers of Caurem, Quepem Taluka as this federation is providing them legal support. I hereby convey to you the resolutions of the Forest Rights Committee, Caurem village and decision of the Rule 4 (1) (e) Committee constituted under FRA, Rules.

The Forest Rights Committee and Rule 4 (1) (e) committee of Caurem village have objected to the diversion of forest land at Sy.No. 19/0, Caurem or Cavorem village, Quepem taluka, South Goa District, as there are individual claim as well as Community Forest Resource (CFR) Claim pending for settlement.

Recently on 2nd April 2023, the Village Panchayat of Caurem Pirla has also passed an unanimous resolution opposing the said diversion of forest land. The copy of the same will be communicated to your office shortly.

The report on Caurem village by elders of the village is also attached herewith so that you can have a better idea of the situation.

The hard copies of the attached files (except report o Caurem village) will be sent to your office by speed post.

Kindly take necessary action at your end.

Rupesh Velip General Secretary

Office Address: Shop. No. 13, Shar N Sorai Co-op Hsg Society, V.V.R Road, Margao Goa 403601

Caurem Village

(It's origin, social structure, culture, traditions, forests and livelihood)

The village of Caurem (or Cavorem) is situated in Quepem taluka, South Goa district, is nestled within the Western Ghats and is surrounded by three mountains and has its own unique history. It has a population of 920 of which over 80% are members of Scheduled Tribe community as per 2011 census as notified in Official gazette on 8 January 2015. With Ward No VI and Ward No. VII of Caurem village, the seven ward Village Panchayat Caurem Pirla is formed.

Caurem has a total of 11 wadas or mini wards. These are Velipwada, Gaonkarwada, Deulwada, Dessaiwada, Upatwada, Kasarwada, Kunella, Chichwada, Maddamol, Cauregotto, Bhindivolli and Yekshiramol. There are a total of five communities living in the village - Velip, Gaonkar, Gallakar, Dessai and Devidas. Two communities, Ohonshkaar and Satarkar, have disappeared over the period from the village as they had no descendants. All the Velip, Gaonkar and Gallakar belong to the Scheduled Tribe Community of Goa as notified by Govt of India in 2003.

All of the above mentioned communities are part of the cultural activities of the village. The major deities of the village are God Mallikarjuna, Goddess Mahamaya and tribal deity Kaashi Puris. Apart from this, there are other protectors (Rakhandars or Naas) deities who are the part of the tribal culture. They are Bhageli Paik or Paik Dev, Maangle Naas, Gallas Naas, Adoshi Naas and Talle Naas. As per the tribal belief, these protectors safeguard the village from all the evil forces - both within and from outside the village. The tribals living in Caurem annually offer them a coconut or a rooster or both. There are other tribal deities such as Kulgat, Gharvai puris, etc.

The Gods and Protectors of Caurem

The God Mallikarjuna

This God is the Kuldevata of villagers. There is a temple of this God at Velipwada, which is more than 1000 years old. All the major festivals like Shigmo, Mallikarjuna Jatra etc. are associated with this God. The Velip, along with Purohit pujari, perform pooja in this temple. This temple is surrounded by other deities.

The Goddess Mahamaya

This deity is believed to be older than the God Mallikarjuna. The temple of Goddess Mahamaya is located at the main road at the place known as Sarda. This goddess is also surrounded by other small deities. It is believed by the villagers that 60 Gods/Goddesses or Puravs live within this Goddess. This Goddess is known as the mother of the village. A tribal Gaonkar performs the pooja in this temple.

Deity Kaashi Puris or Khas Puris - The pure God of Tribals

This God was found by the ancestors while clearing the bushes for Kumeri Cultivation. He is situated on a small mountain exactly below the mountain of Survey Number 19. This mountain is

The Origin of Caurem

Caurem village must have originated more than one thousand years ago. The ancestors of tribals living here can be traced up to 600 years from now. They have lived in this village by converting the terrains into agricultural fields and designing their own water distribution system from the water available from the springs and streams. The practice of shifting cultivation was invented by the tribals during their time. This practice, of slash and burn, is known as 'Kumeri' in the local language.

Prior to the invasion of Portuguese and before the Portuguese laws became applicable, the village had its own 'Gaunkari System'. No person was occupying the land privately but each piece of land was in the name of God and belonged to the entire community. All the affairs of the village were discussed at the place called 'Maand' and necessary decisions were taken to plan the activities of the entire year. Any disputes arising within the community were also settled at this place. This activity was called 'Gaanv-Pan'.

As years passed, this Gaonkari System and the common lands owned by the community were taken over by the Portuguese by introducing a law Code of Communidade'. The Caurem village was not affected much by this law except for a few lands. Though the Gaonkari System discontinued, some of its activities still take place at the 'Maand' situated at Velipwada, Caurem.

The Livelihood

Caurem village is entirely dependent on agricultural activities for their livelihood. A total of 90% of the villagers and 100% of tribal families living here are into agriculture though they also engage in collecting minor forest produce available in nearby mountains. One of these mountains is located at Survey Number 19 of Caurem village.

The ancestors of Caurem tribals have also grown many crops like Nachani, Pakol, Varai, Kulid, Hudidh, Kolyo, Toar, Kaango, Teel on this land. These all crops were grown using the slash and burn or Kumeri technique. This activity starts at the end of the summer and continues throughout the rainy season till end of winter season. Though the practice of Kumeri has stopped today, the lands which were used by the ancestors are now planted with Cashew trees and other fruit bearing trees. A separate place is kept for carrying out the cultivation of Chillies (Dongri Mirchi), Ragi and groundnuts such as Kaate Kanga, Mulli, Maadi, Zhad Kandga, Chirco, Chunn etc. The Dongri Mirchi of Caurem is famous and has good demand in the nearby markets. This chilli is similar to that of 'Dongri Mirchi of Khola', for which GI tag can be obtained.

The tribals of Caurem, who have been successfully managing these forest lands since time immemorial, collect Minor forest produce such as honey, wild mushrooms, wild berries and wild leafy vegetables. Apart from collecting mining forest produce and growing crops on the mountains, the tribals of Caurem are also engaged in the paddy farming and have crops such as coconut, arecanut, black pepper, banana etc. They also grow cash crops such as chillies, vegetables etc. in their paddy field during the winter season. The irrigation water for this is supplied from the five springs that originate from the bottom of the mountain of Survey Number 19.

known as 'Deva-Pann' - A place where god resides. He is accompanied by his two guards and is placed in a small simple shelter. The rituals of this God are performed by only teenagers mostly up to the age of 14. This god is offered with coconut on every Monday and on specific occasions. This God is so pure that one has to enter this mountain with bare feet. One cannot spit nor can litter in this place. Neither bad words nor bad thoughts are allowed in your mind while you are at this place.

As said earlier, this god was found while our ancestors were clearing the bushes. The elders of the village always tell the story of this God to their children as follows:

One day, while clearing the bushes, a tribal villager found that a liquid of red color was flowing out from the bottom of a tree. He initially got scared and on careful observation he found that there is an idol at the bottom of a tree and that while cleaning the bushes, his Koyta (a knife), has hit the head of that idol and there is a wound on its head. To his further shock, he observed that there is a liquid flowing from that wound; the liquid flowing from one part of the wound was white in color whereas the red colored liquid was flowing from the other part. He immediately removed his towel which he was wearing on his head and covered the wound to stop the flow. The flow of liquid stopped. However, to his further surprise, he noticed a new spring emerging a few meters away. He then apologized before the god for his mistake and asked to be forgiven and he further prayed for the village to be blessed.

This spring is now known as 'Deva Panna Zor'. The tribals of Caurem strongly believe that by drinking the water of this spring, one remains healthy and no disease can touch you ever as this spring is blessed by the pure God Kaashi Puris.

The God Bhageli Paik - The Supreme Protector of the village

The God Bhageli Paik lives on the top of the mountain of village Caurem. He protects the village from all the evil forces that try to enter into the village. The annual offering of Rooster along with coconut is made to this God. This offering is done regularly before the commencement of Shigmo festival. The traditional ceremony of setting up a 'Gaunv-Dhaddo' is done after the offerings are made to the Bhageli Paik. The tribal Shigmo festival cannot start without doing the above offering. The place where these offerings are made is known as 'Karyakade,' named after a tree named 'Kaaro' and is located in Survey Number 19/0 of Caurem village. This place has a significant importance in the tribal culture of Caurem village.

There is a perennial spring which originates just below this place. This spring is known as 'Paika Zor' named after this tribal God Bhageli Paik. This spring is the origin of a stream known as 'Zori Vol'. This stream then flows through Goghe (a waterfall), Kushakara Sarda, Pillale Baandh and finally joins to river Karka in neighboring Maina village.

Galla Naas - The Protector of Galla terrain

The place Galla or Galla-Mol, located in Survey Number 19 of Caurem village, is named after the protector of this place, Galla Naas. This entire place is dedicated to him and regular offerings are made to him just like God Bhageli Paik.

Plants and Trees

- Medicinal Plants (all names in Konkani): Kudyache Zhad, Dhave Zhad, Ramlanka Zhad, Shant Kudaa, Balya Zhad, Arjun, Vaaye Zhad, Kevon, Thande Palyachr Zhad, Shivani Zhad, Hadde Zhad, Aamti Zhad, Chivar, Kangadil, Bailat, Goti Vaal, Dudhshire Vaal, Padvaal, Dhave Savor, Adam, Barke Yedu, Fatarfad, Tumo, Lazhe Zhad.
- Trees (all names in Konkani) Karo, Hed, Mhatti, Naano, Kindal, Kasom, Ghodik, Zhambal, Kumyo, Mooy, Under, Zhambo, Saaton, Char, Ason, Karmal, Bhirand, Bhedus, Gaal, Kudo, Kanel, Betta, Kanak, Telpal.

Wild Life

The Commonly found wildlife on the mountain of Survey Number 19 are as follows:

- Mammals (all names in Konkani) Gawa Redo, Bibto Vaagh, Kaalo Vaagh, Raan Dukor, Peesai, Thekur, Ghorpad, Saal, Katandor, Zavaad, Theryo, Mungoose, Cheetal, Meru, Kooring, Dev Kole, Makad, Kheti, Van Manoos, Soshe, Kol Undeer.
- Reptiles (all names in Konkani) Sorop, Nageen, Haar, Avago Mainol, Kusado Mainol, Kaner, Mainol Pishe, Divod, Maloon, Pachko, Harbel, Sonn, Saatphod, Chapte, Raktmainol, Panare, Paan Sorop, Kovashillo, Sulko.
- Birds (all names in Konkani) Mor, Gadda Kakan, Kovdo, Haddi, Komol, Raan Komo, Raan Komi, Kuttare, Ghegi, Ghugum, Dhupkade, Chitabai, Shetuk, Pitoli, Hoone, Naaye, Kittok, Salori, Kir, Karkato, Chargo, Ghann, Mharkavlo, Kokila, Hendkovdo, Kokar, Ballar, Bokye.
- Fish (all names in Konkani) Kullyo, Vaalai, Thigoor, Sangtaa, Molyo, Telo, Vaaysole, Ralook, Poting, Chicalo, Haer, Pirttol.

The plants, trees and wildlife form the ecosystem of the mountain situated at Survey Number 19.

Caurem village is entirely dependent on this mountain. Without this mountain, the traditions and culture of the village will come to an end. The entire village may become extinct if this mountain vanishes. Therefore, this sacred mountain should not be allowed to be touched for any industrial purpose nor the forest land be allowed for diversion.

Law on Diversion of Forest land for non-forest use like mining

1. The **Central Government** passed the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, **2006** to overcome:

"[H]istorical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers' whose 'rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India."

Most of these crops and minor forest produce collected are sold in the weekly Sunday markets at Quepem and Curchorem. The cashew nuts collected from cashew plantation are sold at 'Adarsh Krishi Kharedi Vikri Prakriya Saunstha Maryadi' - a cooperative society at Balli. The average earning of a family per annum through the above agricultural activities is approximately between 3 lac and 4 lac due to a huge demand for organic products in the market since the last few years. Most of the crops grown on the mountain of Survey Number 19 are organic. The tribals could build their houses, educate their children and buy two wheeler vehicles with little savings only with blessings of this mountain.

Importance of Mountain at Survey Number 19/0 of Caurem village

The mountain at Survey Number 19 is divided into following places - 'Karyakade', 'Atalemol,' 'Madhemol,' 'Gallamol,' 'Konimol,' 'Kasara,' 'Khanva' and 'Fanshi'. All these said places are partly forest and partly in possession of Caurem villagers having cultivation of cashew trees and other fruit bearing trees. These places are also known for their wildlife. The human and wildlife coexist at these places and there are no conflicts reported so far.

Community Forest Right (CFR) claim of Caurem on land at Survey Number 19

- Caurem village made its CFR claim in Form B and C on this land under Section 3 (1) of Forest Rights Act 2006.
- This claim was submitted to the Sub Divisional Committee (SDLC) on 23rd July 2015.
- The claim was later verified as per the provision of Rule 12 (1) of Forest Right amendment Rules 2012.
- The said verification report was tabled before the Gram Sabha and later submitted to the SDLC on 27.07.2016 by Secretary of V.P Caurem, Pirla.
- The SDLC has not decided anything on the said claim despite being sent reminders over the previous six years.
- The SDLC is also reluctant to provide the information about the status of the said claim despite being asked to through RTI Act, 2005.
- Apart from the CFR claim, there are a total 175 Individual claims which are pending for verification at Gram Sabha level. Out of these 175 individual claims, 149 claims alone are in the Survey Number 19/0 of Caurem Village.

Water Resources

Caurem village is blessed with perennial springs and streams which fulfill the thirst of the village. These springs and streams are also the only source of irrigation. The spring Paika Zor, Van Zor and Galla Zor are in the Survey Number 19. Whereas Panna Zor, Voile Pata Zor, Bulmya Zor, Ghogya Zor, Talye Paata Zor, Ramma Tali originate from the bottom of this mountain. The above-mentioned springs which originate from the bottom of the mountain form the perennial stream known as 'Mauli Vol'. This stream is the main source of irrigation water supply that takes place post monsoon season.

Thus, the Supreme Court of India, allows the Gramsabha of Caurem to protect not only their CFR and Individual claims, but also our Gods, Protectors and springs associated with them.

4. The Guidelines on implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 issued by the Ministry of Tribal Affairs emphasize the above-mentioned 3 August 2009 circular of the MoEF. It states:

"v. Protection against Eviction, Diversion of Forest Lands and Forced Relocation:

(b) The Ministry of Environment & Forests, vide their letter No.11-9/1998-FC(pt.) dated 30.07.2009, as modified by their subsequent letter of the same number dated 03.08.2009, has issued directions, requiring the State/UT Governments to enclose certain evidences relating to completion of the process of settlement of rights under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, while formulating unconditional proposals for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980. The State Government should ensure that all diversions of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 take place in compliance with the instructions contained in the Ministry of Environment & Forest's letter dated 30.07.2009, as modified on 03.08.2009.

5. Finally the diversion of such land for non-forest use goes against the Goa Mineral Policy 2013 - specifically Paragraph 11, last bullet point:

"No Diversion of Forest Land for Mining except those earlier permitted."

Thus, our lands cannot be taken away without the consent of Gramsabha, and without settling the CFR and IFR claims.

This report was prepared by following village elders of Caurem village on 31.03.2023.

Gurudas Shanu Velip Uttam Arjun Velip Gokuldas Raghu Velip Kusta Yesso Velip Babuso Laxman Velip Prabhakar Zolpo Velip Anand Gaonkar All residents of Caurem village.

The contents of this report were told and explained in Konkani and written down in English.

This report was tabled in the Gram Sabha of village panchayat Caurem Pila held on 2nd April 2023.

This law allows us, in every Gram Sabha, to claim CFR rights over our forests. We have already done this in 2016.

2. Further, the Ministry of Environment and Forests (FC Division) in its 3 August 2009 circular says that no diversion of forest land for non-forest purposes under Forest (Conservation) Act, 1980 may be done without completing formalities/processes under Forest Rights Act. The relevant portions of the order are reproduced below:

"[T]o formulate unconditional proposals under Forest (Conservation) Act, 1980... enclosures of evidence shall be in form of following:

(c) a letter from each of the concerned Gram Sabhas indicating that all formalities/processes under the FRA have been carried out, and that they have given their consent to the proposed diversion...."

Formalities of securing our CFR and IFR have not yet been completed.

3. Moreover, the Ministry of Tribal Affairs issued a letter dated 7 March 2014 to Chief Secretaries of all States to clarify the position of law in relation to:

"1. ... the circular dated 3 August 2009, issued by the Ministry of Environment and Forests (FC Division), Government of India, regarding compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 while proposing for diversion of forest land for non-forest purposes under the Forest (Conservation) Act 1980...."

The MoTA, in this letter, states:

"2. In this connection, the correct position of law is given as under:

(i) ... provisions of FRA 2006 need to be strictly construed keeping in view the legislative intent of the said Act and primacy of the Gram Sabha in democratic governance."

While clarifying the position of law in relation to diversion of forest land for non-forest use and the Forest Rights Act, the MoTA further refers to the **Niyamgiri judgment of the Supreme Court of India** under Paragraph 2 (v) saying that::

"The role of the Gram Sabha in this process has received affirmation from the Supreme Court in... Orissa Mining Corp. v. Ministry of Environment and Forest & Others, 2013 (6) SCALE 57, wherein the Apex court has foregrounded the central role of Gram Sabha in entertaining and determining upon community and individual forest rights claims. To be specific, at para 59 of the judgment, the Hon'ble Supreme Court clearly states that: The Gram Sabha is also free to consider all the community, individual as well as cultural and religious claims, over and above the claims which have already been received from Rayagada and Kalahandi Districts. Any such fresh claims be filed before the Gram Sabha within six weeks from the date of this Judgment. State Government as well as the Ministry of Tribal Affairs, Government of India, would assist the Gram Sabha for settling of individual as well as community claims."

FOREST RIGHTS COMMITTEE - CAUREM VILLAGE

V.P. Caurem Pirla, Quepem Taluka, South Goa

No. FRC/CAU/2023-2024/001

Date: 03.04.2023

To.

- Addl. Principal Chief Conservator of Forest (c)
 Ministry of Env., Forest and Climate Change
 Regional Office (SZ), Kendriya Sadan, 4th Floor,
 E&F Wings, 17th Main Road, Koramangala II Block,
 Bangalore 560034.
 rosz.bng-mef@nic.in
- Ministry of Tribal Affairs 400, D wing, Shashtri Bhavan, New Delhi 110115
 - 3. Principal Chief Conservator of Forest Goa Vanbhavan, Forest Dept, Althino, Panaji, Goa
- The District Collector
 South Goa
 Mathany Saldana Administrative Complex
 Margao Goa

Sub: Objection for diversion of forest land for non forest purpose in Sy. No. 19/0. Caurem (Cavorem) village, Quepein Taluka in South Goa.

Sir

The Project proponent / Lessee LATE SHRL NARAINA SINAI QUIRTONIM represented by Smt. Pradnya Zoivant Poi Cano alias Pradnya Zoivant Pai Cano has applied for diversion of fresh forest land for non forest purposes under section 2 of the Forest(Conservation) Act,1980.

to A. Committee and the committee and the committee constanted under Rule (4) (1) (e) have strong objections for diverting the said forest land et'Sc No. 1920, Caurent (Cavorem) village,

is beson here or both the committee's are enclosed with this letter in

- Supreturiat, Porvorum Bardez, Goa
- 2. Chief Secretary and the Chairman of State Level monitoring Committee (FRA,

Secretariat, Porvorim, Bardez - Goa.

of Environment Forest and Chamale Change buyonan Blowan, Joshager road, New Odhy 110 003

Rule 4(1) (e) committee's duision



FOREST RIGHTS COMMITTEE - CAUREM VILLAGE

V.P. Caurem Pirla, Quepem Taluka, South Goa

No. FRC/CAU/2023-2024/001

Date: 03.04.2023

To,

Ministry of Env., Forest and Climate Change
Regional Office (SZ), Kendriya Sadan, 4th Floor,
E&F Wings, 17th Main Road, Koramangala II Block,
Bangalore - 560034.

rosz.bng-mef@nic.in

A. Marine

- 2. Ministry of Tribal Affairs 400, D wing, Shashtri Bhavan, New Delhi 110115
- 3. Principal Chief Conservator of Forest Goa Vanbhavan, Forest Dept, Althino, Panaji, Goa
- The District Collector
 South Goa
 Mathany Saldana Administrative Complex
 Margao Goa

200

<u>Sub:</u> Objection for diversion of forest land for non forest purpose in Sy. No. 19/0, Caurem (Cavorem) village, Quepem Taluka in South Goa.

Sir,

The Project proponent / Lessee LATE SHRI. NARAINA SINAI QUIRTONIM represented by Smt. Pradnya Zoivant Poi Cano alias Pradnya Zoivant Pai Cano has applied for diversion of fresh forest land for non forest purposes under section 2 of the Forest (Conservation) Act, 1980.

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13/4 Smcare

In this context, this is to inform you that the Forest Rights Committee and the committee constituted under Rule (4) (1) (e) have strong objections for diverting the said forest land of Sy. No. 19/0, Caurem (Cavorem) village.

The decisions/resolutions of both the committee's are enclosed with this letter in Annexure A and Annexure B.

Thanking You,

Yours faithfully

JONIUS UGSY

(Prabhakar Velip)

Chairman

Copy To:

- The Secretary, Forest Department, Govt of Goa Secretariat, Porvorim - Bardez, Goa
- 2. Chief Secretary and the Chairman of State Level monitoring Committee (FRA, 2006)

Secretariat, Porvorim, Bardez-Goa.

3. Munitry of Emirenment Forest and Climate Change

India Payar man Bhawan, Jorbagn road New Delhi 110003

Enclosine

Augerne B- Rule 4(1) (e) Committee's duisin

At the outset of the meeting, the members present unanimously elected Shri.

Prabhakar Jolpo Velip as the Chairman of the Forest Rights Committee.

Agenda No. 1:

The Chairman Shri Prabhakar Jolpo Velip brought to the notice of the committee that the govt. has given permission for the fresh mining lease bearing lease no. M.L.NO.3/FeMn/79 - Zamblidadga Dongor at Sy. No. 19/0, Caurem village.

In this context the members present discussed over the claim's that have been filed under the provision of Section 3 (1) of FRA, 2006. There are all together 175 individual claims filed in Form A and one community claim in Form B and Form C to claim the rights for the community forest resource land (CFR). Out of these claims which are received by this FRC, the CFR claim filed in Form B and Form C have been verified by this FRC and have been submitted to SDLC through Secretary, VP Caurem-Pirla.

Out of the 175 individual claims, 149 claims alone filed on Sy. No. 19/0.

The guidelines on implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 issued by the Ministry

01/04/2023

The Forest Right Committee of Caurem village met today @7 pm at Panlot Sangh Hall Velipwada, Caurem. To discuss on the agenda mentioned below:

Agenda

Proposed iron ore and manganese ore mine bearing lease no. M.L.NO.3/FeMn/79

- Zamblidadga Dongor iron and manganese ore mine at Sy. No. 19/0, Caurem village, and diversion of forest land regarding

The following members were present for the meeting:

- 1. Prabhakar Jolpe Velip
- 2. Anand C. Gaonkar
- 3. Chandrakant Y. Devidas
- 4. Satyawan A. Velip
- 5. Amita Surendra Velip
- 6. Radha K. Velip
- 7. Prema G. Gaonkar
- 8. Sandya Ramachandra Gaonkar
- 9. Shaba M. Gaunkar
- 10.Narayan S. Gaunkar
- 11. Nilesh U. Gaonkar

JAMEN OF M

of Tribal Affairs emphasised the above mentioned 3 August 2009 circular of the MoEF which states:

"v. Protection against Eviction, Diversion of Forest Lands and Forced Relocation.

The Ministry of Tribal Affairs has issued letter dated 7 March 2014 to Chief Secretaries of all States to clarify the position to:

- 2. In this connection, the correct position of law is given as under:
- (i) ... provisions of FRA 2006 need to be strictly construed keeping in view the legislative intent of the said Act and primacy of the Gram Sabha in democratic governance."

The above legal obligations towards FRA 2006 was provided by committee member Nilesh Gaonkar.

Amita Surendra Velip, a committee member of FRC raised concern as to why the gram sabha of Caurem or FRC has not been informed or a consent is obtain before proposing a mine in Sy. No. 19/0. The proposed diversion of forest land in Sy. No. 19/0 will directly affect and will compromise on the rights claimed by the

villagers under Section 3 (1) of FRA 2006. Thereafter, she proposed following resolution:

Resolution No. 1: there shall be no diversion of forest land for any industrial projects or any mining projects in Sy. No. 19/0, Caurem village, Quepem taluka.

The same was seconded by Chandrakant Devidas.

The above resolution was then passed unanimously.

The decision of this committee shall be placed before the gram sabha under FRA 2006 and also before the gram sabha VP Caurem-Pirla under the Goa Panchayat Raj Act 1994.

As there was no other topic for discussion the meeting concluded with a vote of thanks to the chair.

The forest Right committee of causem village met today @ 7:Pm at Panlot Saugh hall relipwada Caurem. To discuss on the agenda mentioned. Below.
Agenda! (P) Proposed iron ore and Magnese ore mine Bearing Leane No M. L. No. 3/FBMn/79- Zamlidadga Dongor iron and magnese ore mine at survey no 1910, caurem village and diversion of forest. Land Regarding
The following members were present for the meetting
O Prabherker Japo Velip D Anand C. Gaonkar D Sarresth & Velip Chandrakant. Y. Devidor. D Satyawan. A. Velip D Amita. Surendra. Velip D Radher k. Velip D Prema a. Gaonkar D Shaba. M. Gaunkar D Shaba. M. Gaunkar D Narayan. S. Caunkar D Narayan. S. Caunkar Al the outside on the meeting, the members present unanimously elected thin prabherkar Jolpo Velip as the Chairman of the Forest Rights committee
Agenda NO. 1: The chairman Shri prabhalear Jalpo velip broagut to the Nobice of the committee that - I've govt how given peywistion for a bresh mining leave meaning he are No: M. L. NO. 3/ FeMn / 79 Zambtidadga Dongor. at survey No 19/0, caurem Village.

in this contacts the member present discussed over the claims that have being filed under the provision of section 311) of FRA, 2006. There are all together 175 individual claims and tiled in form A and one community claim in form B and form c to claim the Rights over the combounity forest Resource Land (CFR). out of these claims which one recieve by this FRC, the CAR claim filed in Form Bend form C have been verified by thes FRC and have been Submitted to SDLC through secretary, NP caurem pisla. Out of the 125 individual claims, 149 claims along filed on survey no. 19/0. The Guidelines on implementation of scheduled -inibes and other Traditional forest Dwellers (Recognition of forest Right) Act, 2006 issued by the Ministry of tribal Affails emphasize the above - mentioned 3 Amagnet 2009 circular of the MOEF. States: "V. Protection against Exiction. Diversion of Forest lands and Forced Relocation. Ministry of Tribal Offairs has issued letter deted 7 march 2014 to chief secretaries of all states to clarify the position to: "2. In this connection the correct position of · Law is given as under! (1)... provision of FRA 2006 need to be smitty construed Reeping in view the lagislative injent of the Soid Act and primacy of the gram Sabha in democratic governance. The Above legal obligations towards FRA 2006 pas possibled by complitee member Milest gaonkar

Amita surendra velip a comittee member of FRC Raised concern as to why the gram sabha of course or FRC has not been informed or a consent is cobtain before proposing a nine in survey No: 19/0 The proposeddirection diversion of forest land in survey no 1910 well directly affect and will compeniose on the Rights claimed by the villagers under section 2(1) of sector FRA 2006. There after she proposed following resolution Resolution NO1: there shall be no diversion of forest land for any industrial projects or any mining projects in survey NO:19/0, causem village Quepen falula The same was seconded by Phandrakant devidas The above resolution was then passed uneminously The decision of this comittee shall be placed before the gram Sabha under F-RH2006 and also before the gram sabha of VP caurem pixla under panch god The Goa panchayat Raj Act, 1994. As there was no other topic for discussion the meeting concluded with vote of thanks no the chair

Rule 4(1)(e) Committee Caurem Village, Quepem Taluka, South Goa

(See Section 5 of the 'Forest Rights Act, 2006 and Rule 4(1)(e) of Rules 2012

Date: 01.04.2023

The Committee constituted under the provision of Rule 4, Clause 1, sub-clause 'e' of 'The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules 2012, met today 01.04.2023 @ 8 pm at Panlot Sangh hall, Velipwada, Caurem, Quepem.

Agenda of the meeting

1. Application made before the authorities by Smt. Pradnya Zoivant Poi Cano alias Pradnya Zoivant Pai Cano on behalf of LATE SHRI, NARAINA SINAI QUIRTONIM for diversion of forest land in Sy. No. 19/0 of Cavorem village in Quepem Taluka for mine ZAMBLIDADGA DONGOR IRON AND MANGANESE ORE MINE (M.L. No.3/FeMn/79)

Committees Discussion

The committee members through a public advertisement came to know that there is a public hearing scheduled on 11.04.2023 to accept objections/suggestions on the draft EIA prepared on behalf of the project proponent LATE SHRI. NARAINA SINAI QUIRTONIM for Iron ore and Manganese ore mine bearing lease No. M.L.3/FeMn/79. The said project proponent has also applied for diversion of forest land in Form A before the nodal agency for the diversion of forest land of 70.20 Hectares in Sy. No. 19.

Sy.No. 19/0, which is a forest land, is in the physical possession of traditional forest dwellers of Caurem Tribals. The Caurem village gram sabha has also claimed this land of Sy.No. 19/0 by filing the claim in Form B and Form C. The verification of the said claim was also completed and was placed before the gram sabha for its approval. Upon Gram Sabha approval, the said claim was then forwarded to the Sub Divisional Level Committee for processing. The same is pending till date. There are a total 149 individual claims filed in Sy.No. 19 by the tribals of Caurem which are also pending for verification.

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Sy. No. 19/0 is also a biological hotspot and there is a need to protect & conserve its wildlife, forest and biodiversity. There are altogether 7 number of springs which originate from the bottom of this mountain in Sy. No. 19/0. These springs meet the irrigation water requirements and the drinking water needs of villagers living in Cauem village. The said mountain is a cultural heritage as it is connected with tribal rituals. The God Bhageli Paik and the protector of village Galla Naas lives on the top of this mountain, whereas Kashi Puris is settled at the bottom of this mountain at Deva Pann.

Therefore if the diversion of forest land is allowed, there is a threat to the wildlife, forest, biodiversity, culture and traditions of the village. The entire village may also run out of water if the proposed mining activity is allowed in Sy. No. 19/0.

The procedure for settlement of rights under Forest Rights Act 2006 and for diversion of forest land for non-forest use under Forest Conservation Act 1980 is:

1. The Ministry of Environment and Forests (FC Division) in its 3 August 2009 circular says that no diversion of forest land for non-forest purposes under Forest (Conservation) Act, 1980 may be done without completing formalities/processes under Forest Rights Act. The relevant portions of the order are reproduced below:

"[T]o formulate unconditional proposals under Forest (Conservation) Act, 1980... enclosures of evidence shall be in form of following:

(c) a letter from each of the concerned Gram Sabhas indicating that all formalities/processes under the FRA have been carried out, and that they have given their consent to the proposed diversion..."

Formalities of securing our CFR and IFR have not yet been completed.

2. Further, the Ministry of Tribal Affairs issued a letter dated 7 March 2014 to Chief Secretaries of all States to clarify the position of law in relation to:

"1. ... the circular dated 3 August 2009, issued by the Ministry of Environment and Forests (FC Division), Government of India, regarding compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 while proposing for diversion of forest land for non-forest purposes under the Forest (Conservation) Act 1980...."

The MoTA, in this letter, states:

Pg. 2014

- "2. In this connection, the correct position of law is given as under:
- (i) ... <u>provisions of FRA 2006 need to be strictly construed</u> keeping in view the legislative intent of the said Act and primacy of the Gram Sabha in democratic governance."

While clarifying the position of law in relation to diversion of forest land for non-forest use and the Forest Rights Act, the MoTA further refers to the **Niyamgiri judgment of the Supreme Court of India** under Paragraph 2 (v) saying that::

"The role of the Gram Sabha in this process has received affirmation from the Supreme Court in... Orissa Mining Corp. v. Ministry of Environment and Forest & Others, 2013 (6) SCALE 57, wherein the Apex court has foregrounded the central role of Gram Sabha in entertaining and determining upon community and individual forest rights claims. To be specific, at para 59 of the judgment, the Hon'ble Supreme Court clearly states that: The Gram Sabha is also free to consider all the community individual as well as cultural and religious claims, over and above the claims which have already been received from Rayagada and Kalahandi Districts. Any such fresh claims be filed before the Gram Sabha within six weeks from the date of this Judgment. State Government as well as the Ministry of Tribal Affairs, Government of India, would assist the Gram Sabha for settling of individual as well as community claims."

Thus, the Supreme Court of India, allows the Gram Sabha of Caurem to protect not only their CFR and Individual claims, but also their Gods, Protectors and springs associated with them.

- 3. Finally, the Guidelines on implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 issued by the Ministry of Tribal Affairs emphasize the above-mentioned 3 August 2009 circular of the MoEF. It states:
 - "v. Protection against Eviction, Diversion of Forest Lands and Forced Relocation:
 - (b) The Ministry of Environment & Forests, vide their letter No.11-9/1998-FC(pt.) dated 30.07.2009, as modified by their subsequent letter of the same number dated 03.08.2009, has issued directions, requiring the State/UT Governments to enclose certain evidences relating to completion of the process of settlement of rights under the Scheduled Tribes and other Traditional Forest

Pg. 3 of 4

Dwellers (Recognition of Forest Rights) Act, 2006, while formulating unconditional proposals for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980. The State Government should ensure that all diversions of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 take place in compliance with the instructions contained in the Ministry of Environment & Forest's letter dated 30.07.2009, as modified on 03.08.2009."

Thus, the forest lands cannot be taken away without the consent of Gramsabha, and without settling the CFR and IFR claims.

Committees Decision

As per powers vested in the committee under Section 5 of the 'The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2005', The committee strongly opposes the diversion of forest land in Sy. No. 19/0 of Cavorem village, Quepem Taluka for any industrial or mining purpose.

This committee's decision is to be communicated to the concerned authorities who look after the diversion of forest land for non forest purposes.

This Committee's decision is also to be placed before the Gram Sabha of Village Panchayat Caurem Pirla.

1) Samen Garrikar

(2) Rowindra Verip

(3) Pravas Verip

(4) Nilesh Garrihar

(5) Roetha Verip

(6) Videsh Kushali Velip Harri

(7) Sieras Ranchandar Garrihar

(8) Rakshanda R. Garrikar

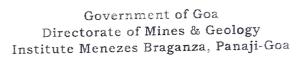
Zamblidadga Dongor Iron and Manganese Ore Mine M.L. No. 3 FeMn 79 - 78.08 HA











Website: goadmg.gov.in

E-mail: dir-mine.goa unic.in

No.: 96/51/99-Mines /469

Dated: 2405/2022

To,
The Dy. Conservator of Forest,
Monitoring & Evaluation,
Office of the Principal Chief Conservator of Forests,
Goa Van Bhavan, Forest Department, Government of Goa.
Altinho. Panaji
Goa. 403001

Subject: Proposal for diversion of 70.20 Ha of Forest land in Sy.

No. 19/0 (p) for mining lease bearing No. 3/FeMn/79

named "Zamblidadga Dongor Iron and Manganese Ore

Mine, situated at Village Caurem, Quepem Taluka
reg.

Sir,

With reference to the captioned subject, I am directed to furnish herewith the legal opinion enclosed herein. Further, it may be noted that the notarised copy of the registered supplementary mining lease deed of the said mining lease was forwarded to the Principal Chief Conservator of Forests vide this Department's letter dated 06/04/2022.

Encl: As above

Yours faithfully.

(Manuel Barreto)

Dy Director - I

Cc to: Smt. Pradnya Zoivont Poi Cano, For self and on behalf of all other heirs of Late Mr. Nairaina S. Quirtonim through their duly constituted attorney. Mathura, H. No. 1153, Near Apna Bazar, Aquem, Alto, Margao, Goa 403 601.

CHAMBERS OF ADVOCATE GENERAL

- 1. The subject lease was granted to the leaseholder for a period of 20 years from the date of execution of the lease deed i.e., 13.12.1979. One of the legal heir filed Form-J Application for renewal of the lease on 10.12.1998 for a period of 20 years. This Renewal Application is well within the time limit as prescribed in sub-rule (1) to Rule 24A of the Mineral Concession Rules 1960 ("MCR 1960").
- 2. The Renewal Application remained undecided. A Notice for Lapsing dated 22.09.2009 was issued to M/s Smt Kala N. Quirtonim, one of the legal heirs of the original leaseholder, which was replied to *vide* letter dated 29.09.2009 however, no decision was taken at that time.
- 3. A representation dated 08.06.2021 received by the Department of Mines and Geology from the leaseholder requesting their case to be considered in terms of Section 8A of the Mines and Minerals (Development and Regulation) Act 1957 ("MMDR Act") and the Judgment of the Hon'ble Supreme Court in the case of Common Cause v. Union of India (2016) 11 SCC 455 ("Common Cause Judgment"), and to execute necessary deed recognizing the tenure of the said Mining Lease as subsisting till 2.06.2031.

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- 4. In the present case, the contentions of the leaseholder and the queries raised by the department can be enumerated as below:-
 - A. Whether the leaseholder would be entitled to the benefit of 50 years of tenure of the lease under Amended Section 8-A of the MMDR Act?
 - B. Whether the leaseholder be entitled for any period beyond 50 years based on Rule 24-A of the Mineral Concession Rules 1960 ("MCR 1960")?

Query A: Whether the leaseholder would be entitled to the benefit of 50 years of tenure of the lease under the Amended Section 8-A of the MMDR Act?

- 5. The Parliament vide the 2015 Amendment inserted Section 8-A in the MMDR Act with effect from 12.01.2015. Section 8-A introduced through the above amendment is extracted hereunder:
 - "8-A. Period of grant of a mining lease for minerals other than coal, lignite and atomic minerals.—(1) The provisions of this section shall apply to minerals other than those specified in Part A and Part B of the First Schedule.

- (2) On and from the date of the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, all mining leases shall be granted for the period of fifty years.
- (3) All mining leases granted before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 shall be deemed to have been granted for a period of fifty years.
- (4) On the expiry of the lease period, the lease shall be put up for auction as per the procedure specified in this Act.
- (5) Notwithstanding anything contained in sub-sections (2), (3) and sub-section (4), the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, where mineral is used for captive purpose, shall be extended and be deemed to have been extended up to a period ending on 31-3-2030 with effect from the date of expiry of the period of renewal last made or till the completion of renewal period, if any, or a period of fifty years from the date of grant of such lease, whichever is later, subject to the condition that all the terms and conditions of the lease have been complied with.
- (6) Notwithstanding anything contained in sub-sections (2), (3) and sub-section (4), the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, where mineral is used for other than captive purpose, shall be extended and be deemed to have been extended up to a period ending on 31-3-2020 with effect from the date of expiry of the period of renewal last made or till the completion of renewal period, if any, or a period of fifty years from the date of grant of such lease, whichever is later, subject to the condition that all the terms and conditions of the lease have been complied with.
- (7) Any holder of a lease granted, where mineral is used for captive purpose, shall have the right of first refusal at the time of auction held for such lease after the expiry of the lease period.
- (8) Notwithstanding anything contained in this section, the period of mining leases, including existing mining leases, of government companies or corporations shall be such as may be prescribed by the

- (9) The provisions of this section, notwithstanding anything contained therein, shall not apply to a mining lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, for which renewal has been rejected, or which has been determined, or lapsed."
- 6. The question is as to whether the leaseholder in the present case is entitled to the benefit of Section 8-A (6). Section 8-A (6) is applicable to the mineral or the mines used for other than captive purpose. There is no dispute that the present lease is concerning a mineral/mine used for other than captive purpose. Sub-section 6 of Section 8-A creates a legal fiction whereby any leases granted prior to the commencement of 2015 Amendment to the MMDR Act shall stand extended upto 31.3.2020 from the lease date of the renewal or till the completion of the renewal period or for a period of 50 years from the date of the grant of such lease whichever is later.
- 7. The present lease was granted on 13.12.1979 for a period of 20 years. Before the expiry of 20 years, on 10.12.1998 an application for first renewal came to be filed. The said application was never disposed of by the State Government. In this situation, the provision of deemed extension under Rule 24-A (2) of the MCR 1960 as was existing then comes into picture. Thus, the lease continued on the basis of the deemed extension under Rule 24-A (2) which reads as under:

"24-A. Renewal of mining lease - ...

- (2) If an application for renewal of a mining lease made within the time referred to in sub-section (a) is not disposed of by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended by a period of two years or till the State Government passes order thereon, whichever is earlier"
- 8. From the aforesaid it can be inferred that on the date of the coming into force of the 2015 Amendment to the MMDR Act, there was a lease existing in favour of the lease holder.
- 9. In the meanwhile, there was a notice issued by the Department of Mines and Geology to the leaseholder under Section 4-A of the MMDR Act. The leaseholder filed a reply to such a notice. However, no order came to be passed by the

department. It is trite that without a specific order of lapsing there cannot be a valid lapsing in the eyes of law under the provisions of Section 4-A of the MMDR Act. In this case, the question of lapsing of a lease is not applicable.

- 10. Section 8-A (9) of the MMDR Act makes an exception to the applicability of sub-section 6 in case of leases where the renewal has been rejected or which have been determined or lapsed. In the instant case, admittedly, the application for renewal filed by the leaseholder is not rejected by the Department. Secondly, the lease is also not determined under Section 4-A of the MMDR Act. The only issue is as to whether the notice issued by the Department dated 22.09.2009 would amount to a lapsing within the meaning of Section 4-A (4).
- 11. Reference is required to be made to Rule 28 of the MCR 1960. The said rule mandates that the State Government shall pass an order declaring the mining lease as lapsed and communicate the order to the lessee. In the present case, admittedly, no order under Rule 28 of MCR 1960 has been passed as such the issue of lapsing does not arise in the instant case. At any rate, this issue has been decided by the Hon'ble Supreme Court in the case of Common Cause at para 35:
 - "35. It is not possible for us to accept that vital vested rights in a leaseholder can be curtailed without affording him an opportunity to repudiate the impression(s) of the competent authority, namely, that the leaseholder could not have (or had actually not) carried out mining operations for a continuous period of two years. Our instant contemplation stands affirmed through Rule 28 of the Mineral Concession Rules. The same is reproduced below:
 - "28. Lapsing of leases.—(1) Subject to the other conditions of this Rule where mining operations are not commenced within a period of one year (sic two years) from the date of execution of the lease, or is discontinued for a continuous period of one year (sic two years) after commencement of such operations, the State Government shall, by an order, declare the mining lease as lapsed and communicate the declaration to the lessee.
 - (2) Where a lessee is unable to commence the mining operation within a period of one year (sic two years) from the date of execution of the mining lease, or discontinues mining operations for a period exceeding one year (sic two years) for reasons

beyond his control, he may submit an application to the State Government, explaining the reasons for the same, at least three months before the expiry of such period.

- (3) Every application under sub-rule (2) shall be accompanied by a fee of Rs 200.
- (4) The State Government may on receipt of an application made under sub-rule (2) and on being satisfied about the adequacy and genuineness of the reasons for the non-commencement of mining operations or discontinuance thereof, pass an order before the date on which the lease would have otherwise lapsed, extending or refusing to extend the period of the lease:

Provided that where the State Government on receipt of an application under sub-rule (2) does not pass an order before the expiry of the date on which the lease would have otherwise lapsed, the lease shall be deemed to have been extended until the order is passed by the State Government or until a period of two years, whichever is earlier.

Explanation 1.—Where the non-commencement of the mining operations within a period of two years from the date of execution of mining lease is on account of—

- (a) delay in acquisition of surface rights; or
- (b) delay in getting the possession of the leased area; or
- (c) delay in supply or installation of machinery; or
- (d) delay in getting financial assistance from the banks, or any financial institutions; or
- (e) ensuring supply of the mineral in an industry of which the lessee is the owner or in which he holds not less than 50% of the controlling interest,

and the lessee is able to furnish documentary evidence supported by a duly sworn affidavit, the State Government may consider if there are sufficient reasons for non-commencement of operations for a continuous period of more than one year (sic two years).

Explanation 2.—Where the discontinuance of mining operations for a continuous period of two years after the commencement of such operations is on account of—

- (a) orders passed by any statutory or judicial authority; or
- (b) operations becoming highly uneconomical; or
- (c) strike or lock out,

and the lessee is able to furnish documentary evidence supported by a duly sworn affidavit, the State Government may consider if there are sufficient reasons for discontinuance of operations for a continuous period of more than one year (sic two years).

Explanation 3.—In case of mining lessee who has undertaken reconnaissance operations or in case of mining lessee whose capital investment in mine development is planned to be in excess of Rs 200 crores and where the mine development is likely to take more than two years, the State Government shall consider it to be sufficient reason for non-commencement of mining operations for a continuous period of more than two years."

(emphasis supplied)

It is apparent from a perusal of sub-rule (1) extracted above that the State Government is mandated to pass an order and thereby declare that a mining lease had lapsed. It is also the mandate of sub-rule (1) aforesaid that such an order passed by the State Government must be communicated to the leaseholder. On a conjoint reading of Section 4-A(4) and Rule 28(1), we are satisfied to hold that a mining lease under Section 4-A(4) would not be deemed to have lapsed till the State Government passes an order declaring the mining lease to have lapsed and further communicates the same to the leaseholder."

12. Therefore, in so far as Query A is concerned, the present lease is covered under Section 8-A of MMDR Act and would be entitled to the benefit of the lease period of 50 years from 13.12.1979.

Query B: Whether the leaseholder be entitled for any period beyond 50 years based on Rule 24-A of the Mineral Concession Rules 1960 ("MCR 1960")?

13. The leaseholder has claimed that the lease shall commence on the date it was registered i.e. 03.06.1981 and not when it was granted on 13.12.1979 and consequently the 50 years period shall commence from 03.06.1981. The leaseholder relied upon Section 31 (2) of the MCR 1960, which reads as under:

"31(2) The date of the commencement of the period for which a mining lease is granted shall be the date on which a duly executed deed under sub-rule (1) is registered."

- 14. In this regard we need to refer to the terminology referred to in Section 8-A (6). Section 8-A (6) specifically uses the phrase "... or a period of fifty years from the date of grant of such lease..." If one sees the object of this Amendment it is clear that the idea to introduce this Section is to give a maximum period of 50 years to every lease holder. And not more than that. This is very clear even from sub-section 2 and 3 of Section 8-A which mentions that all mining leases henceforth shall be for a period of 50 years and all leases which are granted before the commencement of 2015 Amendment shall be deemed to have been granted for a period of 50 years.
- 15. If the contention of the leaseholder is accepted then the leaseholder would get a period of 52 years of lease. In this regard the Hon'ble Supreme Court in Common Cause judgment has held as under:

the insertion of Section 8-A into the MMDR Act was to address the hardship faced by the leaseholders, besides other reasons, due to the second and subsequent applications for renewal remaining unattended at the hands of the State Government. The instant amendment to the MMDR Act introduced a uniform original grant period of fifty years for all mining leaseholders. It also excluded renewal(s) after the expiry of the original lease period Accordingly, no renewal application can now be filed (after 12-1-2015). Under sub-sections (5) and (6) of Section 8-A, in our view such leaseholders who had moved applications for renewal of captive/non-captive mines would be entitled to continue up to 31-3-2030/31-3-2020. The Objects and Reasons for the amendment to the MMDR Act aim at remedying the position which emerged upon the interpretation of the provisions of the MMDR Act as they existed hitherto before. The instant amendment was also directed at

remedying the grievances of the mining industry due to "second and subsequent renewals" remaining pending And also, because the provisions of law relating to renewals had been found to be wanting The above view is also endorsed by the fact that Section 8 A(9) deals with a situation wherein "... renewal has been rejected. therefore apparent that sub-sections (5) and (6) of Section 8-A of the amended MMDR Act are aimed at situations wherein an application for renewal (validly made) has remained unattended. Therefore, for no fault of the leaseholder he would be subjected to an arbitrary prejudice It needs to be clarified that since an application for renewal cannot be filed after 12-1-2015, an application for renewal as would be treated as having been validly made, ought to have been made before 12-1-2015. We are of the view that out of the three contingencies contemplated under Sections 8-A(5) and 8-A(6) referred to above the first of the contingencies positively pertains to a situation wherein applications validly made for renewal were pending without any final decision at the hands of the State Government Because in the absence of a renewal application, the leaseholder can be taken to have already expressed his disinterest to continue mining operations. Therefore logically, the words "... with effect from the date of expiry of the period of renewal last made...", should relate to an expired lease prior to 12-1-2015 in relation to which a valid application for renewal had already been made.

(Emphasis supplied)

Be that as it may, in my opinion Section 8-A(6) is clear and categorical which 16. states that the 50 years period from the date of grant" of such lease. Pertinently, the MCR 1960 are rules and were pre-2015 Amendment. The provision of the main Act shall prevail of the rules. Further, Section 8-A is a complete code by itself on the aspect of the tenure of the lease. We cannot look into a rule which was enacted in 1960 to nullify the categorical provision in Section 8-A (6)

Accordingly, Query B has to be answered against the leaseholder and the lease 17. tenure of the leaseholder should be reckoned from 13.12.1979 and not 03.06.1981. Opinion accordingly.

> Devidas J. Pangam Advocate General 02.09.2021

5) opened by



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INTRODUCTION

Zamblidadga Dongor" Iron and Manganese Ore Mine Mining Lease, dearing No. 3/FeMn/79, over an area of 70.20 Ha., located at Village Cauremodaluka Quebem, District South Goa, State of Goa was originally granted to Shri. Naraina Sina Quirtonia for a criod of 20 years for both Iron and Manganese Ores. The Mining Lease Deed was executed on 13-12-1979 and duly registered in the Office of the Sub Registrar of Quepem on 03-06-1981 under Registered No. 172 at Book I Vol.3 at pages 77 to 85.

The Original Lessee died on 22.4.1998 and his leasehold rights in respect of the aforesaid mine devolved upon his successors-in-title, viz. (a) his widow and moiety-holder, viz. Mrs. Kala Naraina Kirtani alias Kala Naraina Quirtonim; (b) daughter, viz. Mrs. Priya Prasad Navelkar married to Mr. Prasad P. Navelkar and (c) daughter, viz. Mrs. Pradnya Zoivant Poi Cano alias Smt. Pradnya Zoivant Pai Cano married to Mr. Zoivant M. Poi Cano alias Zoivant M. Pai Cano. The aforesaid succession is duly certified by a Deed of Succession dated 13.7.1998 drawn up before the Sub-Registrar of Salcete Taluka at Margao, Goa on 21.7.1998 and recorded in his Deeds Book No. 1396 at Folio 26 (overleaf) onwards, read with Mrs. Priya's and Pradnya's marriage certificates. Copy of the Deed of Succession and the two Marriage certificates are attached as *Annexure No. 18*. The successors-in-title are represented herein by Smt. Pradnya Zoivant Poi Cano alias Smt. Pradnya Zoivant Pai Cano, for self and as their duly constituted attorney.

In terms of provision of MCR 1960 (Rule 24 A (1)), the renewal application was filed on 10-12-1998 within the stipulated period and remained under consideration with the State Government.

The lessee filed an application for Mining Plan for a period from 1996-97 to 1998-99 which came to be approved by Indian Bureau of Mines vide letter no. MP/MAN-283/GOA/97-98 dated 16-03-1998. Thereafter, the lessee filed an application for Scheme of Mining Plan for the period 2002-03 to 2006-07, which came to be approved by Indian Bureau of Mines vide letter no. MSH/MAN-76/GOA/2003-04 dated 10-07-2003.

निम् रिवॉक्टि पत्त संख्या के स्थाप वाव अवीचा स्थाप केला / कवन बालता दो स्वविद्या प्रवास वाव अनुमोदन दिला जनता है। Mining Pian / Hoview & Updation of Madem Flat is

approved subject to congram held a connection No RMP[MICH-65] GO HIZAZI = 22.

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उप खान नियंत्रक एंव कार्यालय प्रभारी Deputy Controller of Mines & Officer in Charge भारतीय स्थान स्पृते, मडगांव Indian Bureau Of Mines, Madgaon

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Pending the State Government's consideration of the renewal application, the mining lease continued to work till August 2005 under the provisions of Rule 24(A)(6) of MCR-1960. However, no work could be continued thereafter for want of statutory clearances. Consequently, on 02-08-2006 the lessee gave a notice of temporary discontinuance to Indian Bureau of Mines in terms of Rule 24 of MCDR 1988. A copy of the Notice dated 02-08-2006 is attached as <u>Annexure No. 4</u>

The lessee also filed an application for modification in the approved Scheme of Mining for a period from 2002-03 to 2006-07, which came to be approved by Indian Bureau of Mines vide letter no. MSH/MAN-76/GOA/2003-04 Vol.I dated 22-06-2007

An application for grant of Environment Clearance was filed by the lessee with the MoEFCC which was pleased to grant a Term of Reference (TOR) on 19-08-2009. However, soon thereafter, i.e. on 24-02-2010, a moratorium was imposed by the Government of India against considering any mining proposals from the State of Goa, till the finalization of State Mineral Policy of Goa. Consequently, the Lessee's application for grant of Environment Clearance was not processed further and remained pending.

The lessee filed successive applications for Scheme of Mining for two successive Mining Plan periods, viz. from 2007-08 to 2011-12 and from 2012-13 to 2016-17. These came to be approved by the Indian Bureau of Mines vide, respectively, vide letter no. MS/SG/GOA/FeMn-46-SZ/815 dated 04-05-2010 and MS/SG/GOA/FeMn-65-SZ dated 05-12-2012.

On 18-07-2014, Rule 24-A(6) came to be inserted in MCR-1960, which provided that if the first renewal application was not disposed before expiry of lease period, period of lease would stand extended by two years or till State Government passes orders on renewal application, whichever is earlier. Thus, the lease period of the mining lease stood extended *till* 18-07-2016 by virtue of the deeming provision of Rule 24-A(6).

At this point of time, i.e. on 18-07-2014, the aforesaid Mining Scheme approved by the Indian Bureau of Mines vide letter No. MS/SG/GOA/FeMn-65-SZ dated 05-12-2012 was still current, i.e. till 31-03-2017.

Meanwhile, the MMDR Act 1957 was amended with effect from 12-01-2015, firstly by way of an Ordinance and, later, by the Amendment Act which was passed on 26-03-2015 (however with retrospective effect from 12-01-2015). By the 2015 Amendment, *inter-alia*, Section 8A was

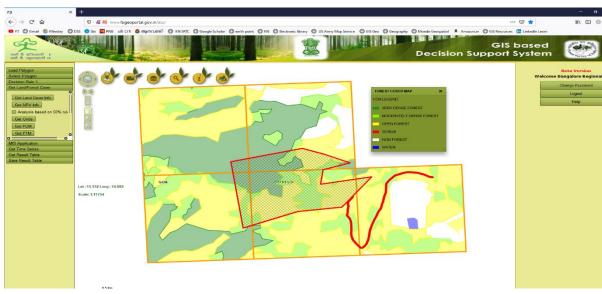
Zamblidadga Dongor Iron and Manganese Ore Mine M.L. No. 3 FeMn 79 - 78.08 HA

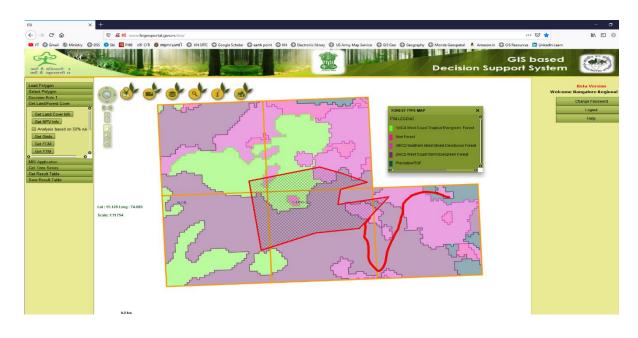




Zamblidadga Dongor Iron and Manganese Ore Mine M.L. No. 3 FeMn 79 - 78.08 HA <u>Distance from nearest protected area</u>







CA LAND PROPOSED AGAINEST Zamblidadga MINING GOA - 72.08 HA







