



HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR-6, PANCHKULA
Ph. 2577870-73

FR
SC-B/AEE-I/AEE-II/AEE-III/JEE

R.O.

14/10

/CLERK

14/10/13

No. HSPCE/2013/254-270

Dated: 11-10-2013

To

1. All Branch Incharges in HO.
2. All RO's in field.

Sub: Restriction on grant of fresh licences for operation of stone crushers-regard.

Please find enclosed herewith a copy of Memo No. Glg/HY/CC/GGN/6126 dated 12.09.2013 received from Director, Mines and Geology, Haryana alongwith its enclosure and copy of order dated 31.07.2013 passed by the Hon'ble Punjab & Haryana High Court in Civil Writ Petition bearing No. 11110 of 2013 titled as M/s. AJS Deformer Pvt. Ltd. Versus State of Haryana..

In view of above, you are requested to ensure strict compliance of these directions of the Director, Mines and Geology Department, Haryana.

DA/As above

Scientist (HQ)
For HSPCB

RO DHR

Regd

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17/9

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17/9/13

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RECEIVED ON
13 SEP 2013

From

The Director,
Mines and Geology, Haryana

CHAIRMAN
13.9.13

To

The Chairman
Haryana State Pollution Control Board,
Sector-6, Panchkula.

Haryana State Pollution Control Board

Dy. No. 2368

Dated: 17/9/13

Recd
ms
17/9

3/002
received on
18/9/13

Memo No. Glg/HY/C.C/44N/ 6126
Dated Chandigarh, the 12-9-13

SI relate to the branch of
S.P. Sect-

Subject: - Restriction on grant of fresh licences for operation of Stone Crushers-regard.

18/9/13

Kindly refer this office memo no. Glg/HY/SC/2339 dated 24.04.2012 on the subject cited above (copy enclosed for ready reference).

88/ST

2. You are aware that for establishing and running a stone crusher in the State of Haryana a stone crusher licence is required as per provisions of Haryana Regulation & Control of Stone Crusher Act-1991 and Rules framed there under. Further a stone crusher can only be established in a notified crusher zone or over a site which needs the siting parameters as notified by the environment department.

clint
18/9/13

3. The State Government in the department of Mines & Geology in view of the fact that mining of stone was lying closed due to ongoing litigations pending before Hon'ble Supreme Court/High Court decided that no fresh licences would be granted for establishment of new stone crusher units in the state till further order, vide orders dated 21.04.2012.

Dec
- to determine
- put up all
The heading
NOC cases
with the
branch.

4. In view of above you were requested vide letter dated 24.04.2012 not to grant any fresh consent to establish/NOC for installation of new stone crushers in the State and also issue necessary instructions to all Regional Officers/Authorities. Accordingly, the applications for grant of NOC/Consent to establish for new stone crushers including that of one M/s AJS Deformer Pvt. Ltd., were deferred by the District Level Clearance Committee headed by Deputy Commissioner, Mewat in view of decision dated 21.04.2012 of the State Government.

dm
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5. M/s AJS Deformer Pvt. Ltd. filed a Civil Writ Petition bearing no.11,10 of 2013 before Hon'ble Punjab & Haryana High Court challenging the decision of the District Level Clearance Committee Mewat. Hon'ble High Court vide its order dated 31.07.2013 has quashed the orders dated 21.04.2012 of the State Government relating to not to grant fresh Stone Crusher Licences till further order. A copy of order dated 31.07.2013 is enclosed for ready reference.

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6. In view of above, I have been directed to inform that you may decide the applications, if any received for grant of Consent to establish/NOC of the Pollution

Control Board on its merits i.e. in case the applicants otherwise fulfils all requisite parameters of the Pollution Control Board.

P. S.

State Mining Engineer,
For Director Mines & Geology, Haryana.
Dated

Endst.No. Glg/HY/

A copy is forwarded to the following for information and necessary action.

1. Deputy Commissioner-cum -Chairman District Level Clearance Committee, Mewat, Gurgaon, Faridabad, Palwal, Rewari, Mohindergarh, Bhiwani, Rohtak, Jind, Hissar, Sirsa, Fatehabad, Kaithal, Kurukshetra, Sonapat, Panipat, Yamunanagar, Ambala, Panchkula.
2. Assistant Mining Engineer, Gurgaon/Mewat.

-sd-

State Mining Engineer,
For Director Mines & Geology, Haryana.

From

The Director Mines and Geology,
Haryana.

To

The Chairman,
Haryana State Pollution Control Board,
Sector 6, Panchkula.

Memo No. Glg/HY/ *sc/2339*
Dated Chandigarh, the. *24-4-2012*

Subject: Restriction on grant of fresh licenses for operation of Stone Crushers - regarding

You are aware that the in a meeting held on 14.04.2012 under the chairmanship of the Chief Secretary, Haryana it was decided that the department of Mines & Geology shall take action as considered appropriate for regulation of the stone crushers operating in the State.

2. The state government in the department of Mines & Geology accordingly considered the matter and observed that mining operations in the State of Haryana have been lying closed since 01.03.2010, except the sand mine contracts in the districts of Sonapat and Panipat and two small stone mines in district Mahendergarh. Further resumption of mining operations in the state are dependent upon the final settlement of legal challenges pending before the Hon'ble Supreme Court and after conduct of auctions/ inviting bids for grant of leases/ contracts and obtaining of prior environmental clearances as required under the EIA notification dated 14.09.2006.
3. Further the large numbers of existing stone crushing units are either operating at sub-optimal installed capacity or are lying closed due to non availability of the raw material. Keeping in view the non-availability of minor mineral within the State for the present, it has been decided by the state that no fresh licences be granted for establishment of new stone crusher units in the State till further orders. A copy of orders dated 21.04.2012 of the state government is enclosed.
4. You are aware that as per provisions of the Haryana Regulation of the Stone Crushers Act 1991 and Rules framed thereunder for grant of the license for installation and operation of the stone crusher in the State the "consent to establish"/NOC of the Haryana State Pollution Control Board is prerequisite document.
5. In view of the decision taken by state government I have been directed to request you not to grant any fresh 'Consent to establish'/NOC for installation of the new stone crusher in the state. In this regard necessary instructions may also be issues to all concerned Regional Officers /authorities.

Pm 4
State Mining Engineer,
elc for Director Mines and Geology, Haryana.
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DP

Writ Petition

Pending for 1253 W-4.
17/8/13

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

To,

DMG

S/M/C

*1) The Director, Mines and Geology, Deptt. of Haryana,
Civil Secretariat, Sec. 1, Chandigarh.*

*Pl. put up by
P.P.
21/8/2013*

Mo. (1)

SUBJECT :- Civil Writ Petition No. 11110 of 2013

M/s A.S.S. Refractor Pvt. Ltd. & anotherPetitioner(s)

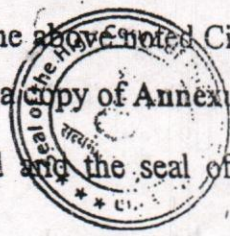
Versus

State of Haryana & orsRespondent(s)

Sir,

In the continuation of this Court's order dated _____, I am directed to forward herewith a copy of order dated 31.07.2013 passed by this Hon'ble High Court in the above noted Civil Writ Petition, for immediate strict compliance along with a copy of Annexure P. 2.

Given under my hand and the seal of this Court on 16th day of August 2013.



BY ORDER OF THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH.

ME
Superintendent (WRITS)
for Assistant Registrar (WRITS)

IN THE HONOURABLE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CIVIL MSIC. NO. 10827 OF 2013
CIVIL WRIT PETITION NO. 11110 OF 2013

M/s. A.J.S.Deformer Pvt.Ltd. and another.Petitioners/Applicants

Versus

State of Haryana and Others

.....Respondents

Application under Section 151 CPC for exemption from filing certified copy of order dt.13.3.2013 (Ann.P-22) vide which 16 more Stone Crushers have been granted renewal of licences after issuance of impugned orders dt. 21.4.2012 and dt. 7.5.2012 (Ann.P-2 colly) and also for permission to place Ann.P-22 on record of case.

RESPECTFULLY SHOWETH,

1. That the above noted writ petition is now fixed for further proceedings on 31.7.2013.
2. That it has been brought on record that 103 Stone Crushers in District Mewat have been granted establishment/renewal of licences

2

IN THE HON'BLE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO. 11110 OF 2013

In the matter of :-

M/s. A.J.S.Deformer Pvt.Ltd. Village Silkho, Tehsil Tauru, District Mewat,
Haryana through its Managing Director Sh.Amar Singh.

.....Petitioner

Versus

1. State of Haryana through the Financial Commissioner & Principal Secretary to Govt. of Haryana, Mines & Geology, Civil Secretariat, Chandigarh.
2. Director, Mines and Geology Deptt.Haryana, Chandigarh. *Civil Secretariate Sector I N*
3. Haryana State Pollution Control Board, C-11, Sector 6, Panchkula through its Chairman.
4. Environmental Engineer(I), HQ, Haryana State Pollution Control Board, C-11, Sector 6, Panchkula.
5. District Level Clearance Committee (DLCC), Mewat District, Nuh (Haryana) through its Chairman/Dy.Commissioner, Distt.Mewat, Nuh.

.....Respondents

Petition under Article 226/227 of the Constitution of India for a writ in the nature of certiorari quashing the order dated 21.4.2012 (Ann.P-2 (colly)) and also the order dated 23.5.2012 (Ann.P-3) and also the order passed by Respondent No.4 (Ann.P-8) and also for a writ of mandamus directing the respondents to consider and issue licence for establishing/ setting up Stone Crusher at village Silkho, Tehsil Tauru, Distt.Mewat and also any other writ, order and direction which this Hon'ble Court deems fit and proper may also be issued.

RESPECTFULLY SHOWETH,

1. That the petitioner's company is a private limited company duly incorporated under Indian Companies Act, 1956. Sh.Amar Singh is duly authorised to file the present petition. Copy of the resolution of the Board of Directors of the company authorizing the petitioner to file the writ through Sh.Amar Sigh is attached with the petition.
2. That the Memorandum of Articles of Association is attached for facility of reference as **Ann.P-1**.
3. That the petitioner company is challenging the order dated 21.4.2012 issued by the respondents wherein vide a administrative order respondent has communicated the decision not to grant any further licenses for new Stone Crusher Units. Said decision has been communicated vide letter dated 24.4.2012 issued by respondent. Copy of the aforesaid letter dt. 21.4.2012 and the letter dt. 24.4.2012 are attached as **Ann.P-2 (colly)**. The relevant para 3 of the letter dated

CWP No. 11110 of 2013 (O & M)

1

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No. 11110 of 2013 (O & M)
Date of Decision:- July 31, 2013

M/s. A.J. S. Deformer Pvt. Ltd. and anotherPETITIONER(S)

vs.

State of Haryana and othersRESPONDENT(S)

CORAM:- HON'BLE MR. JUSTICE JASBIR SINGH
HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present:- Mr. O.P. Goyal, Sr. Advocate,
with Mr. Ranvir Singh Mander, Advocate,
for the petitioners.

Mr. D. Khanna, Addl. A.G., Haryana.

JASBIR SINGH, J. (Oral)

C.M. No. 10827 of 2013

Application for placing on record Annexure P-22 is allowed,
subject to all just exceptions.

Annexure P-22 is taken on record.

CWP No. 11110 of 2013

The petitioners moved an application to the competent authority to set up a stone crusher unit in village Silkho, Tehsil Tauru, District Mewat. To permit such like stone crushers, the State of Haryana has formulated rules known as Haryana Regulation and Control of Crushers Rules, 1992 (in short 'the 1992 Rules') (Annexure P-15). These rules lay down the procedure and formalities to be completed by the applicant before permission is to be granted. The Rules further provide as to how record has to be maintained by a unit qua its activities and provision of appeal in case of any adverse order passed also exists in the 1992

Rules.

It is case of the petitioners that after meeting the formalities as per the 1992 Rules, he moved an application on 10.01.2012 for grant of No Objection Certificate to the Haryana State Pollution Control Board (in short 'the Board'). During process of verification by the officers of the Board, vide letter dated 30.01.2012, it was intimated that the land where the applicant wishes to set up a stone crusher does not fall within the forest zone and there is no bird sanctuary existing nearby. It was only stated that 'No Objection Certificate' cannot be granted because qua mining of the minor minerals, ban has been imposed in Mewat district. In the above said letter, it is clearly mentioned that after July, 2011, 'No Objection Certificate' has been given to 35 units and if new units are allowed to be set up, it is going to be a big problem in future because owners take mineral from Rajasthan at higher rates and on account of availability of cheaper illegal material, they indulge in unauthorized mining.

Thereafter, petitioners deposited the requisite fee with the concerned authorities, documents showing that fact are placed on record from page nos. 89 to 94 of the paper book. The Board recommended case of the petitioners for grant of 'No Objection Certificate' to the District Level Clearance Committee (DLCC) vide letter dated 02.02.2012. The request of the petitioners was so placed before the said Committee on 18.06.2012. Following proceedings were noted qua prayer made by the petitioners against Agenda Item No. 4:-

"As per the order No. 1/7/14-21BII-2012 dt. 21.04.2012 of Worthy Financial Commissioner & Principal Secretary to Government of Haryana, Mines & Geology Department "due to the non-availability of minor mineral within the State for the present, it has been decided that no fresh licences be granted from establishment of new stone crusher units in the State till further orders." Thus the

RECORDED AND FILED IN THE COURT OF THE JUDGE

NOC cases of the following stone crushing units are placed before the committee for final decision."

To decline prayer made by the petitioners, it was stated that due to non-availability of minor minerals within the State at present, fresh licence is not to be granted.

Issue came to this Court by filing this writ petition. When notice of motion was issued on 22.05.2013, following contention of counsel for the petitioners was noticed by this Court:-

"Counsel for the petitioner submits that though the right to grant license for a stone crusher vests with the respondents, but they cannot deny a license to the petitioners on the ground that mining is prohibited in the State of Haryana. It is further submitted that if such a stipulation is to be legally enforced, the State of Haryana would be required to shut down all stone crushers, in the State of Haryana and to desist from renewing any license. The State of Haryana has, however, renewed existing licenses. It is further submitted that as there is no prohibition on stone crushers, the letter dated 7.5.2012, issued by the Director, Mines and Geology, Haryana, directing the Haryana Pollution Control Board not to issue licenses for stone crushers is arbitrary and void."

It was argued that if for want of raw material licence cannot be granted, why to allow the existing stone crusher's to continue within the State of Haryana especially when mining activities was not allowed in the State.

Upon notice, reply was filed. To deny right of the petitioners, it is stated that the matter regarding illegal mining is going on before the Hon'ble Supreme Court. On an order passed by the Supreme Court, 'Central Empowered

Committee' visited District Mewat and adjoining areas to make assessment as to whether illegal mining is going on or not. After noting report made by the above said Committee, the Hon'ble Supreme Court, in order dated 02.04.2012, made the following observation regarding illegal mining activities in the State of Haryana:-

"CEC conducted inspection on 21.03.2012 and submitted its detailed report dated 30.03.2012 for our consideration. We have perused the report and find that the situation is alarming in the District of Mewat. Report indicates that there is blatant violation of the Aravalli Notification and trees are also cut without any permission. Report indicates that illegal mining is going on in the above-mentioned areas and no concrete action has been taken by the authorities concerned, in spite of the various orders passed by this court. Prima facie, it is seen that the Government machinery has failed to control the illegal mining going on in that area and mining mafias, writ-now runs in the district of Mewat and other areas of Haryana.

We are led to be believed that illegal mining is going on with the blessing of the officers who are legally obliged to curb the same. In such circumstances we feel that notice has to be issued to the Chief Secretary to the State of Haryana, District Collector, District Mining Officer and Superintendent of Police of Mewat and Gurgaon. Notice also be served on the standing counsel for the State of Haryana.

In the meantime, we direct the above-mentioned officers to see that the illegal mining going on in the areas mentioned in the CEC's report be stopped and the

PUNJAB AND HARYANA HIGH COURT

transportation of the illegal material mined be seized forthwith and to report compliance within a period of two weeks from today. They should also ensure that all illegal functioning crusher units be dismantled and the illegally mined materials be confiscated forthwith.

Copy of the CEC report be made available to the officers mentioned above for information and prompt action.

List on 16.04.2012."

It was noted with concern that illegal mining is going on with blessings of the officers who are responsible to stop it. Matter was adjourned to 16.04.2012. Directions were issued to the State of Haryana to take measures to stop the illegal mining and to confiscate the material illegally extracted.

It appears that to show action taken, the officers in response to the above order, affidavit of Sh. P.K. Chaudhery, Chief Secretary to the Government of Haryana was filed in the Hon'ble Supreme Court wherein, it was stated that DLCC constituted to grant consent to establish new stone crushing units under The Air (Prevention and Control of Pollution) Act, 1981, in its meeting on 09.02.2012, has decided not to give consent to establish new stone crushing units in view of ban on mining in the district. It was further stated that to stop illegal mining, the State of Haryana has issued an order on 21.04.2012 deciding not to issue any fresh licence to set up stone crushing unit. The relevant portion of that letter dated 21.04.2012 reads thus:-

"It has been observed that issue of any further licenses for the new Stone crushing Units is likely to encourage obtaining of raw mineral from unauthorized or illegal sources especially when any import of mineral from legal sources from outside the State is insufficient even for

PUNJAB AND HARYANA HIGH COURT

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the existing stone crushing units. As a result, a large number of existing stone crushing units are either operating at sub-optimal installed capacity or are lying closed. As such, keeping in view the non-availability of minor mineral within the State for the present, it has been decided that no fresh licences be granted for establishment of new stone crusher units in the State till further orders."

It is only noted that on account of stoppage of mining activities in the State, no fresh licence be granted because the new stone crushing units are likely to encourage obtaining of raw material from unauthorized or illegal sources especially when the import of mineral from legal sources, from outside the State is insufficient even for the existing stone crushers.

This order appears to have been passed because it was compulsion of the State Officers to show some activity undertaken by them because affidavit was to be filed in the Supreme Court. Instead of dealing with the situation to stop illegal mining, an attempt was made to deny right to the applicants to set up new stone crushers. To say that illegal mining will be encouraged is no ground to stop setting up of the stone crushing units. The State was supposed to take remedial measures to stop the illegal mining by putting in regulatory methods.

It has come on record that at present, in the State of Haryana, out of 1183 licenced units, 548 are closed and 635 are functional. After denying right to the petitioners to set up a new unit, in Mewat district alone, licences of 17 units were renewed. In Mewat district, 71 units are running. If activities of those 71 units can be regularized, it is very surprising as to why the activities to be undertaken by the fresh units cannot be put under watch. While issuing order dated 21.04.2012, virtually, the 1992 Rules have been set at knot. Inability of the State Government to stop illegal mining cannot be taken as a ground not to grant new licences as per the 1992 Rules. It appears that said order has been issued with

PUNJAB AND HARYANA HIGH COURT

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mala fide intention to give benefit to the existing crushing units so that they can charge the rate of material the way they like. The action taken is totally discriminatory. It violates the provisions of Articles 14 and 19 of the Constitution of India. Similarly situated persons have been dealt with separately. At the time of hearing, no justification was given to issue order dated 21.04.2012 stopping grant of new licences to set up crushing units except that it will increase illegal mining. The State is not helpless and if any unit is indulging in illegal activities, action can be taken and the licence can be cancelled. Instead of doing that exercise, a short cut method has been adopted to stop progress of the industry in the State.

In view of the facts mentioned above, this writ petition is allowed. Order of the Government dated 21.04.2012 stands quashed. Directions are issued to respondent no. 2 to look into application filed by the petitioners. If it meets the parameters, licence to set up a fresh stone crushing unit be granted forthwith. Respondent no. 2 shall get report from DLCC etc., if it is needed. Needful shall be done in six weeks from the date of receipt of a copy of this order.

31.07.2013
shivani

Sd/-
(Jasbir Singh)
Judge

Sd/-
(G.S. Sandhawalia)
Judge



Received
16/8/2013

- 58 -

Haryana State Pollution Control Board
D.No. : 6324
Dated : 07.5.12

Annexure - P 2 (copy)
Stamp
RECEIVED
07 MAY 2012

From

The Director Mines and Geology,
Haryana.

To

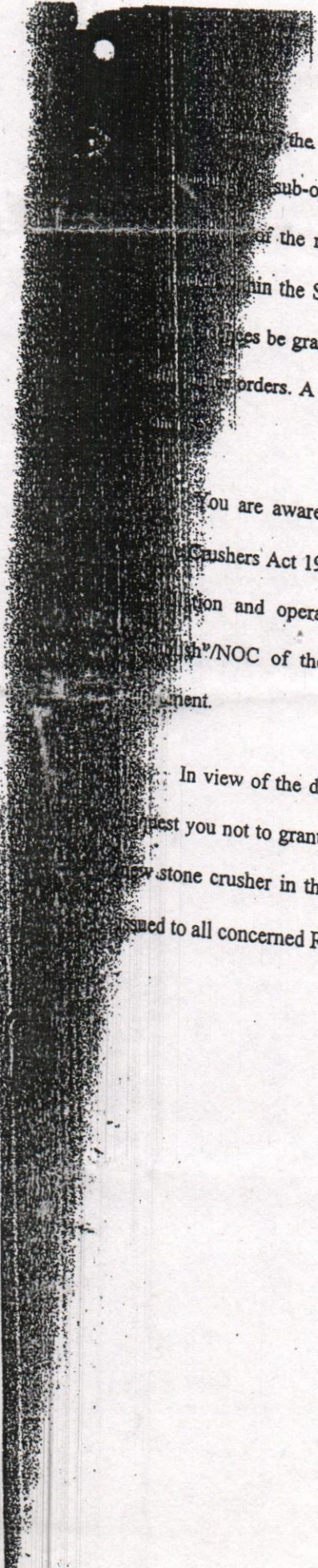
The Chairman,
Haryana State Pollution Control Board,
Sector 6, Panchkula.

Memo No. Glg/HY/SC/2339
Dated Chandigarh the 24.4.2012

Subject : Restriction on grant of fresh licenses for operation of Stone
Crushers - Regarding.

You are aware that in a meeting held on 14.04.2012 under the chairmanship of the Chief Secretary, Haryana it was decided that the department of Mines and Geology shall take action as considered appropriate for regulation of the stone crushers operating in the State.

2. The state government in the department of Mines and geology accordingly considered the matter and observed that mining operations in the State of Haryana have been lying closed since 01.03.2010, except the sand mine contracts in the districts of Sonapat and Panipat and two small stone mines in district Mahendergarh. Further resumption of mining operations in the state are dependent upon the final settlement of legal challenges pending before the Hon'ble Supreme Court and after conduct of auctions/inviting bids for grant of leases/contracts and obtaining of prior environmental clearances as required under the EIA notification dated 14.09.2006.

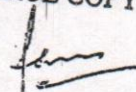


the large numbers of existing stone crushing units are either sub-optimal installed capacity or are lying closed due to non-availability of the raw material. Keeping in view the non-availability of minor minerals within the State for the present, it has been decided by the state that no fresh licenses be granted for establishment of new stone crusher units in the State. A copy of orders dated 21.04.2012 of the State Government is attached herewith.

You are aware that as per provisions of the Haryana Regulation of the Stone Crushers Act 1991 and Rules framed thereunder for grant of the license for installation and operation of the stone crusher in the State the "consent to establish/NOC of the Haryana State Pollution Control Board is prerequisite for grant of license."

In view of the decision taken by state government I have been directed to request you not to grant any fresh consent to establish/NOC for installation of the new stone crusher in the state. In this regard necessary instructions may also be issued to all concerned Regional Officers/authorities.

Sd/-
State Mining Engineer,
For Director, Mines and geology,
Haryana

TRUE COPY

ADVOCATE