PROCEDURAL COMPLIANCE VS SUBSTANTIVE PROTECTION: EVALUATING THE ENFORCEMENT GAP IN ENVIRONMENTAL CLEARANCES FOR MINING PROJECTS UNDER THE EIA NOTIFICATION, 2006

Jishan Singh Padda, Bharatiya Vidyapeeth Deemed University, Pune
Institute of Management and Research, Dept. Of Law, New Delhi

ABSTRACT

The environmental clearance regime for mining projects in India is structured as a prior control mechanism under the Environment (Protection) Act 1986 and the Environment Impact Assessment Notification 2006. Its formal design is elaborate: projects are categorized by scale, subjected to screening where applicable, examined through project-specific Terms of Reference, exposed to public consultation, and then appraised before environmental clearance is granted. The same framework also contemplates post-clearance oversight through half-yearly compliance reporting and regulatory monitoring. In principle, therefore, mining activity in India is not meant to proceed merely on the basis of a mining lease, commercial viability, or executive discretion. It is meant to proceed only after environmental risk has been assessed and subjected to legal control.

Yet the existence of procedural stages does not itself establish environmental protection. Official audit material, parliamentary responses, tribunal proceedings, and Supreme Court decisions reveal a recurring pattern of weak scrutiny, inconsistent compliance verification, poor quality Environmental Impact Assessment reports, underpowered monitoring institutions, and administrative tolerance of violations. The problem is not that the law has no structure. The problem is that the structure too often fails to generate reliable environmental knowledge, meaningful participation, and credible consequences for breach. Mining projects therefore frequently encounter a regime in which forms are completed, hearings are held, reports are filed, and clearances are issued, while substantive ecological restraint remains uncertain.

This article argues that the environmental clearance system for mining under the EIA Notification 2006 is procedurally dense but substantively weak. The weakness is most visible at four points: the quality of EIA preparation and scoping; the thin practical effect of public consultation; the treatment of

expansion, renewal, and violation cases; and the collapse of post-clearance monitoring into self-reporting without strong verification. The article further argues that Indian courts and the National Green Tribunal have increasingly treated environmental clearance as a substantive safeguard rather than a mere procedural checkpoint. However, judicial intervention has generally functioned as a corrective after regulatory failure, not as evidence of a well-functioning administrative system. The article concludes that the central reform question is not whether India needs more procedure, but whether it can make existing procedure environmentally consequential.

Keywords: Environmental clearance; mining law; EIA Notification 2006; post-clearance monitoring; illegal mining.

Introduction:

Environmental clearance in India is designed to operate as a pre-emptive legal restraint on environmentally risky activity. Under paragraph 2 of the EIA Notification 2006, listed projects and activities cannot begin construction work or preparation of land without prior environmental clearance from the appropriate regulatory authority.[1] Mining of minerals is specifically included in the Schedule to the Notification, and the allocation of Category A and Category B appraisal routes reflects the scale and potential impact of the activity.[2] On paper, this architecture appears sophisticated. It divides responsibility between the Union and state-level authorities, requires project-specific appraisal, incorporates public consultation for relevant cases, and imposes continuing reporting obligations after clearance is granted.[3]

The mining sector tests the integrity of this framework more sharply than many others. Mining activity generates long-duration environmental risk: deforestation, blasting impacts, dust pollution, groundwater stress, waste generation, alteration of drainage patterns, biodiversity loss, and displacement of local communities.[4] Unlike a one-time administrative approval, environmental clearance in mining is expected to discipline the life-cycle of extraction. That is why the Notification gives mining clearances a longer validity period than most other projects, up to project life subject to a maximum of thirty years, while also requiring continuing compliance reporting.[5] A mining clearance regime that works only at the entry stage but not

[1] Environment Impact Assessment Notification 2006, SO 1533(E), Gazette of India, 14 September 2006 para 2.
[2] ibid sch 1(a).
[3] ibid paras 3, 4, 7, 8 and 10.
[4] CUTS International, *Sustainable Mining in India: Overview of Legal and Regulatory Framework, Technologies and Best Process Practices* (2020).
[5] EIA Notification 2006 (n 1) para 9.

during the operational phase is therefore structurally incomplete.

The difficulty is that the Indian system has repeatedly shown signs of such incompleteness. The Performance Audit of the Comptroller and Auditor General of India on Environmental Clearance and Post Clearance Monitoring documented delays in the grant of Terms of Reference and environmental clearances, poor compliance of EIA reports with prescribed Terms of Reference, lack of cumulative impact assessment, weaknesses in public consultation, poor compliance with general and specific environmental clearance conditions, serious understaffing in monitoring offices, and the absence of penalties for breach in the period studied.[6] A later independent report card by Vidhi Centre for Legal Policy similarly recorded serious quality defects in environmental baseline monitoring and chronic weakness in post-clearance monitoring and publication of compliance material.[7] Parliamentary material has also acknowledged hundreds of cases of violation and non-compliance in relation to environmental and forest clearances by mining entities.[8]

These materials generate the central question of this paper: is the environmental clearance system for mining under the EIA Notification 2006 procedurally complete but substantively weak? Put differently, does the law operate as a genuine ecological safeguard, or does it often degenerate into an administrative checkpoint whose environmental force depends on later judicial correction? This article answers that question by examining the doctrinal structure of the EIA regime, the institutional sources of the enforcement gap, and the way Indian courts and tribunals have responded to failures in implementation.

This article proceeds in five parts. Part I sets out the statutory and regulatory framework governing mining clearances under the EIA Notification 2006 and related environmental legislation. Part II examines the principal enforcement gaps in screening, scoping, EIA quality, public consultation, appraisal, and post-clearance compliance monitoring. Part III analyses leading judicial decisions to show that courts have increasingly treated environmental clearance as a substantive safeguard rather than a technical prerequisite. Part IV assesses what these materials reveal about the nature of the enforcement deficit. Part V identifies limited but

[6] Comptroller and Auditor General of India, *Report No 39 of 2016: Environmental Clearance and Post Clearance Monitoring* (Union Government, Ministry of Environment, Forest and Climate Change 2016) chs 2–8.
[7] Vidhi Centre for Legal Policy, *Environmental Clearances and Monitoring in India: A Report Card for the MoEFCC* (2017) 20–29.
[8] Rajya Sabha Unstarred Question No 1182, 'Violations of environmental and forest clearances by mining companies' (1 August 2024).

concrete reform directions that emerge from the existing record.

I. Doctrinal framework of mining environmental clearance:

The legal foundation of the clearance regime lies in the Environment (Protection) Act 1986. Section 3 empowers the Central Government to take measures for protecting and improving environmental quality, and section 5 authorizes written directions, including closure, prohibition, or regulation of industry, operation, or process.[9] The EIA Notification 2006 was issued in exercise of this statutory power and replaced the 1994 notification while retaining the central idea that listed projects require prior environmental scrutiny.[10] The shift from the earlier regime was not merely procedural modernization. It reflected an effort to create a more structured and tiered appraisal system, with distinct authorities, formal stages, and clearer documentary requirements.

For mining projects, the Schedule to the Notification places mineral mining above 50 hectares of lease area in Category A and projects between 5 and 50 hectares generally in Category B, subject to the general condition that certain sensitive locations elevate Category B projects to Category A treatment.[11] Category A projects are appraised at the central level on the recommendation of the Expert Appraisal Committee, while Category B projects are dealt with by the State Environment Impact Assessment Authority on the recommendation of the State Expert Appraisal Committee.[12] This distinction is not only administrative. It shapes the level of central oversight, the consistency of institutional practice, and the public accessibility of the record.

Paragraph 7 of the Notification structures the prior clearance process into four stages: screening, scoping, public consultation, and appraisal.[13] Screening applies only to Category B projects and determines whether a full EIA is required. Scoping requires the EAC or SEAC to determine project-specific Terms of Reference, which frame the environmental questions the EIA report must answer.[14] Public consultation is intended to capture concerns of affected

[9] Environment (Protection) Act 1986 ss 3 and 5.
[10] EIA Notification 2006 (n 1) preamble.
[11] ibid sch 1(a).
[12] Environment Impact Assessment Notification 2006, SO 1533(E), Gazette of India, 14 September 2006 para 2.
[13] ibid sch 1(a).
[14] ibid paras 3, 4, 7, 8 and 10.

persons and others with a plausible stake in the environmental impacts of the project.[15] Appraisal requires scrutiny of the final EIA report and the outcome of public consultation before the appraisal body makes a reasoned recommendation to the regulatory authority.[16]

The public consultation structure under Appendix IV is particularly important in mining. The State Pollution Control Board or Union Territory Pollution Control Committee must arrange a public hearing at or near the site, issue public notice, make the summary EIA widely available, record the views of affected persons, and send the proceedings to the regulatory authority.[17] The project proponent must then address all material environmental concerns and either revise the draft EIA and environmental management plan or submit a supplementary report.[18] This scheme assumes that public consultation will shape the environmental record, not merely decorate it.

Post-clearance obligations are set out in paragraph 10. Project management must submit half-yearly compliance reports on 1 June and 1 December each year, in both hard and soft copy, and those reports are public documents that must be displayed on the regulator's website.[19] The continuing obligation matters because mining impacts unfold over time, often after clearance has been granted and operations expand in intensity. A credible mining clearance system therefore depends not only on ex ante appraisal, but also on ex post verification.

The EIA framework for mining does not operate in isolation. The MMDR Act 1957 governs mineral concessions and the legality of extraction, while section 21(5) creates a basis for recovery in cases of illegal mining.[20] The Water Act 1974 and Air Act 1981 impose parallel pollution-control obligations through consent mechanisms.[21] In many projects, forest diversion permissions and mine closure obligations add further layers of environmental responsibility.[22] This multi-layered design should, in theory, reduce the risk of environmentally damaging extraction. However, it can also fragment accountability where agencies treat their role as

[15] CUTS International, Sustainable Mining in India: Overview of Legal and Regulatory Framework, Technologies and Best Process Practices (2020).
[16] EIA Notification 2006 (n 1) para 9.
[17] Comptroller and Auditor General of India, Report No 39 of 2016: Environmental Clearance and Post Clearance Monitoring (Union Government, Ministry of Environment, Forest and Climate Change 2016) chs 2–8.
[18] Vidhi Centre for Legal Policy, Environmental Clearances and Monitoring in India: A Report Card for the MoEFCC (2017) 20–29.
[19] Rajya Sabha Unstarred Question No 1182, 'Violations of environmental and forest clearances by mining companies' (1 August 2024).
[20] Environment (Protection) Act 1986 ss 3 and 5.
[21] EIA Notification 2006 (n 1) preamble.
[22] ibid sch 1(a).

partial and no institution owns the entire compliance chain.

II. Where the enforcement gap lies:

The strongest evidence of substantive weakness comes from official records rather than abstract criticism. The CAG found that only 14 per cent of sampled projects received Terms of Reference within the prescribed time limit and only 11 per cent received environmental clearance within the prescribed 105 day period; delays occurred in scrutiny of final EIA reports, appraisal by the EAC, placing recommendations before the competent authority, and communication of decisions.[23] Delay by itself does not prove environmental weakness, but in environmental governance it often signals weak control over the quality and discipline of the process. A regime that frequently slips beyond its own timelines may also create pressure to clear projects without full scrutiny.

Far more serious is the weakness in the quality of EIA material. The CAG recorded that in 25 per cent of sampled cases the EIA reports did not comply with the Terms of Reference and in 23 per cent they did not comply with the generic structure of the report.[24] It also found that cumulative impact studies were not a mandatory requirement and that the impact of multiple projects in the same region on the ecosystem therefore remained unknown.[25] In mining regions, this is a critical failure. Dust burdens, road transport impacts, noise, groundwater extraction, river morphology change, and habitat fragmentation are rarely confined to one lease area. Treating projects singly can make the EIA appear technically complete while rendering it ecologically incomplete.

The Vidhi report reaches a similar conclusion from a different angle. It emphasizes that environmental baseline monitoring is crucial because it determines what is being measured against what, and it found that in 58 per cent of the proposals examined baseline monitoring commenced before Terms of Reference were issued.[26] In effect, data collection often began before the legally relevant environmental questions had been fixed. The report correctly notes that this lowers the quality of appraisal because either the project proponent is working with self-chosen assumptions or the regulatory bodies are tolerating environmental assessment not

[23] ibid paras 3–5.
[24] ibid para 7(i).
[25] ibid para 7(i), Stage 2.
[26] ibid para 7(i), Stage 3.

aligned with the final Terms of Reference.[27] In either case, the law retains procedure but loses epistemic reliability.

Public consultation reflects the same pattern of formal completeness and practical thinning. Paragraph 7 and Appendix IV of the Notification give public consultation a defined place in the appraisal process.[28] However, the CAG found irregularities in a substantial number of projects where public consultation was required, including failures in advertisement, publication in vernacular language, delay in holding the hearing, and lack of meaningful incorporation of public concerns.[29] It also observed structural defects: the notification did not prescribe a quorum for public hearings, did not specify residency qualifications, and did not establish a mechanism to ensure that commitments made by project proponents during public consultation were implemented in a time-bound manner.[30] The result is a participatory stage that is legally visible but often weakly consequential.

Expansion and renewal further expose the enforcement problem. Under paragraph 7(ii), expansion of mining projects involving increase in lease area or production capacity is to be assessed through due diligence, including where necessary fresh EIA and public consultation.[31] Yet the CAG found instances where fresh environmental clearance was granted without verifying compliance with earlier clearance conditions or the recommendations of the Regional Office.[32] This is a profound regulatory defect. Expansion should be the moment when past environmental performance matters most. If earlier non-compliance does not meaningfully affect the grant of further clearance, the system encourages project continuation without accountability.

Post-clearance monitoring is the deepest and most documented gap. Paragraph 10 mandates half-yearly compliance reporting and requires those reports to be public.[33] Nonetheless, the CAG found repeated failures: poor submission and uploading of compliance reports, insufficient staffing in Regional Offices, lack of delegated power to those offices to act against defaulting project proponents, lack of a central database of violations reported by Regional Offices, and the absence of any penalty imposed by the Ministry for violating environmental

[27] ibid para 7(i), Stage 4.
[28] ibid Appendix IV.
[29] ibid para 7(i), Stage 3(vii).
[30] ibid para 10.
[31] Mines and Minerals (Development and Regulation) Act 1957 ss 4 and 21(5).
[32] Water (Prevention and Control of Pollution) Act 1974; Air (Prevention and Control of Pollution) Act 1981.
[33] CUTS International (n 4).

clearance conditions in the preceding two years.[34] These findings alone are enough to show that the post-clearance regime has often been closer to a disclosure system than an enforcement system.

The Vidhi report sharpens this conclusion. It found that the MoEFCC explicitly imposed monitoring requirements on its Regional Offices in less than half the cases studied, and that the number of monitoring reports uploaded on the Ministry's website was uneven and declining in several categories.[35] It further found exceptionally poor compliance with the obligation of project proponents to upload self-compliance reports; in the sample studied, only a very small proportion of the required reports were uploaded.[36] A system that depends heavily on self-reporting but cannot secure the routine disclosure of those reports cannot plausibly claim strong environmental verification.

The institutional position of State Pollution Control Boards adds another layer to the problem. The CAG expressly found that clear-cut responsibilities were not assigned to SPCBs and UTPCCs under the EIA Notification 2006 regarding post-environmental-clearance monitoring.[37] It also found that many Boards lacked adequate manpower and infrastructure despite sufficient funds.[38] Since these bodies are central to public hearing administration and also to pollution-control enforcement under the Water Act and Air Act, their weak integration into the post-clearance framework creates a fragmented system in which no single institution ensures that mining projects comply across the entire environmental chain.

The administrative response to outright violations illustrates a similar tension. The Standard Operating Procedure on identification and handling of violation cases under the EIA Notification, reflected in the 28 January 2022 Office Memorandum, proceeds on the basis that action must be initiated under sections 15 and 19 of the Environment (Protection) Act against all violations.[39] This is normatively significant because it rejects casual regularisation. Yet the need for a formal SOP on handling violations also reflects the persistence of projects commencing work without valid clearance or operating in breach of clearance conditions. A violation-handling framework is necessary, but its proliferation also reveals the weakness of

[34] CAG Report No 39 of 2016 (n 6) Executive Summary.
[35] ibid.
[36] ibid.
[37] Vidhi Centre for Legal Policy (n 7) 20–24.
[38] ibid.
[39] EIA Notification 2006 (n 1) para 7(i), Appendix IV.

the preventive side of environmental governance.

The combined picture is clear. At every stage, the mining environmental clearance regime contains procedure. What it lacks is consistent substantive verification. Screening does not always filter rigorously. Scoping does not always produce controlling Terms of Reference that shape data quality. Public consultation does not reliably alter outcomes. Appraisal does not always prevent weak or incomplete EIA reports from advancing. Post-clearance monitoring remains institutionally thin. In that sense, the law's architecture is stronger than its implementation.

III. Judicial treatment of environmental clearance in mining:

Indian courts have increasingly refused to reduce environmental clearance to a procedural box ticking exercise. In *Deepak Kumar v State of Haryana*, the Supreme Court addressed the ecological consequences of unchecked sand mining and made it clear that even minor mineral leases below five hectares could not be exempted from environmental scrutiny.[40] The Court linked sand mining to destruction of riverine ecology, biodiversity loss, riverbed degradation, and related environmental harm.[41] The importance of the judgment lies in its refusal to treat small scale as a justification for regulatory dilution. Even where the administrative system had tolerated lighter scrutiny, the Court reasserted the substantive environmental purpose of prior clearance.

That reasoning influenced later National Green Tribunal jurisprudence. In *National Green Tribunal Bar Association v Virender Singh*, the Tribunal examined widespread unregulated sand mining across multiple states and held that illegal or unscientific mining continued despite prior guidelines and judicial directions.[42] It called for a dedicated institutional mechanism for effective monitoring of sand and gravel mining, including mining done without environmental clearance and mining done in violation of clearance conditions.[43] It also emphasized restoration planning, public-domain demarcation of lease boundaries, environmental compensation, and independent environmental audit.[44] The Tribunal's approach is significant because it treats environmental clearance as part of a larger ecological governance system rather than a one-

[40] CAG Report No 39 of 2016 (n 6) ch 2.
[41] ibid Executive Summary.
[42] EIA Notification 2006 (n 1) para 7(ii).
[43] CAG Report No 39 of 2016 (n 6) Conclusion and Recommendations.
[44] EIA Notification 2006 (n 1) para 10.

time administrative permission.

The Supreme Court's decision in *Common Cause v Union of India* further entrenched the substantive view. In the Odisha mining context, the Court treated extraction carried on without required environmental or forest clearances as illegal mining and upheld recovery on a 100 per cent basis under section 21(5) of the MMDR Act.[45] The doctrinal message is clear: a mining lease by itself does not legalize extraction if environmental preconditions are absent. Environmental clearance is thus not collateral to mining legality. It is constitutive of it.

The substantive character of prior clearance was made even more explicit in *Alembic Pharmaceuticals Ltd v Rohit Prajapati*. There the Supreme Court rejected ex post facto environmental clearance and held that such a practice is contrary to the fundamental principles of environmental jurisprudence.[46] Although the case did not arise from mining alone, its reasoning is central to mining governance. If environmental clearance may be granted after a project has already commenced, the preventive logic of the EIA framework collapses. The Court's refusal to legitimize ex post facto clearance confirms that prior environmental appraisal is meant to prevent harm before it occurs, not to retrospectively sanities violations.

The most current and directly relevant line of authority is visible in *State of U.P. v Vikash Kumar*. The Supreme Court upheld the quashing of a sand-mining auction because there was no valid, final, and subsisting District Survey Report at the relevant time, and held that a draft DSR could never be the basis for recommendation or clearance.[47] The judgment is especially important because it treats the DSR as a substantive evidentiary safeguard. It is not merely a background document. It is a foundational assessment of replenishment, availability, and ecological implications, without which the clearance process becomes legally infirm.[48]

Collectively, these decisions reveal a consistent judicial pattern. Courts and tribunals have read the environmental clearance framework as a substantive control on extraction, requiring valid prior approval, reliable environmental assessment, lawful surveys, and real consequences for non-compliance.[49] At the same time, the very frequency of such litigation exposes the weakness of ordinary administration. The judiciary has often been required to reaffirm the substantive

[45] CAG Report No 39 of 2016 (n 6) chs 7 and 8.
[46] Vidhi Centre for Legal Policy (n 7) 22–29.
[47] ibid 24–28.
[48] CAG Report No 39 of 2016 (n 6) ch 8.
[49] ibid.

value of environmental clearance because executive authorities treated it too flexibly.

IV. Assessment: procedural completion, substantive weakness:

The evidence surveyed above supports a nuanced but firm conclusion. The environmental clearance system for mining under the EIA Notification 2006 is not empty procedure. It contains a detailed legal framework, multiple documentary safeguards, public participation requirements, and post-clearance reporting obligations.[50] However, procedural density should not be confused with substantive strength. A regime may be procedurally complete and still fail to protect the environment if the quality of environmental knowledge is poor, the institutions of verification are weak, and sanctions for breach are minimal or inconsistently used.

The mining clearance regime in India fits that description. The core failure is not absence of law, but slippage in the conversion of legal process into ecological control. The EIA report is supposed to be the scientific basis of appraisal, yet official material records non-compliance with Terms of Reference, poor generic quality, and weak cumulative assessment.[51] Public consultation is supposed to feed community concerns into the final environmental record, yet official material records structural and practical defects in the process.[52] Post-clearance monitoring is supposed to ensure that stipulated conditions shape operations throughout the life of the mine, yet the monitoring institutions are understaffed, underpowered, and overdependent on self-reporting.[53]

The most striking feature of this system is that litigation has become one of the primary means by which the substantive purpose of environmental clearance is reasserted. The judiciary has supplied insistence where administration supplied flexibility. But a system in which courts repeatedly restate that clearance must be prior, reports must be valid, and surveys must be final is not a system whose ordinary administration can be assumed to be environmentally reliable.

V. Reform directions within the existing framework:

The first reform requirement is institutional rather than conceptual. The Regional Offices of

[50] Ministry of Environment, Forest and Climate Change, Office Memorandum F No 22-21/2020-IA.III [E 138949], 28 January 2022.
[51] Deepak Kumar v State of Haryana (2012) 4 SCC 629.
[52] ibid.
[53] National Green Tribunal Bar Association v Virender Singh 2019 SCC OnLine NGT 1488.

the MoEFCC need adequate scientific staffing and direct authority to initiate action against defaulting project proponents, instead of operating mainly as reporting bodies.[54] Without empowered field-level enforcement, post-clearance monitoring will remain largely symbolic.

Secondly, cumulative impact assessment must be made mandatory for mining clusters, ecologically stressed regions, and expansion proposals in already burdened areas.[55] A project by project approach is especially unsuited to mining regions where environmental harm accumulates across lease boundaries and over time.

Thirdly, public consultation must become traceable in legal effect. The final EIA or supplementary report should be required to map each major public objection, explain the project proponent's response, and show how the appraisal authority addressed it. Likewise, commitments made during public hearings should become auditable compliance conditions rather than informal assurances.[56]

Fourthly, the compliance model should move from self-reporting toward risk-based verification. Surprise inspections, independent third-party environmental audit, and stronger integration of SPCBs into the post-clearance chain are already reflected in official recommendations and tribunal directions.[57] These need not await an entirely new statutory framework.

Finally, expansion, renewal, and violation handling should be conditioned on demonstrated past compliance. A mining project that has materially breached earlier environmental conditions should not be able to secure expanded clearance by treating earlier breaches as administratively detachable from the new application.[58]

Conclusion:

The EIA Notification 2006 creates a detailed legal pathway for regulating the environmental consequences of mining. In design, it treats environmental clearance as a prior safeguard, not a routine permission. In implementation, however, the regime too often functions as a system where procedure is visible but protection is uncertain. The enforcement gap lies in weak EIA

[54] ibid.
[55] ibid.
[56] Common Cause v Union of India (2017) 9 SCC 499.
[57] Alembic Pharmaceuticals Ltd v Rohit Prajapati Civil Appeal No 1526 of 2016 (SC, 1 April 2020).
[58] State of U.P. v Vikash Kumar (SC, 8 May 2025).

quality, limited cumulative assessment, thin public-hearing consequences, fragmented monitoring responsibility, insufficient staffing, and the weak practical use of sanctions.[59]

Indian courts and the National Green Tribunal have increasingly rejected the reduction of environmental clearance to a procedural checkpoint. Through decisions such as *Deepak Kumar*, *Common Cause*, *Alembic Pharmaceuticals*, *National Green Tribunal Bar Association*, and *Vikash Kumar*, they have treated prior clearance, lawful appraisal, and valid survey requirements as substantive elements of environmental protection.[60] Yet the persistence of these interventions shows that judicial doctrine has often outrun administrative practice. The central challenge, therefore, is not to design more procedure, but to make existing procedure environmentally consequential. Until that happens, the mining clearance regime will remain procedurally complete and substantively fragile.

[59] ibid.
[60] Deepak Kumar (n 40); Common Cause (n 45); Alembic Pharmaceuticals (n 46); National Green Tribunal Bar Association (n 42); Vikash Kumar (n 47).