



---

## **Environment clearance to various developmental projects: Procedures and criticism with respect to the corporate environmental responsibility perspective**

**Rasika Kasture<sup>1</sup>, Abhay Pimparkar<sup>2</sup>**

<sup>1</sup> Doctorate, Corporate Social Responsibility (CSR), R.T.M.N.U., Nagpur University, Nagpur, Maharashtra, India

<sup>2</sup> Scientist, Department of Environment and Earth Science, Kavayitri Bahinabai Chaudhari North Maharashtra University, Jalgaon, Maharashtra, India

---

### **Abstract**

Solipsistic existence of Corporate Social Responsibility and the nescience of its inefficacy have led to an accentuation that the act requires amelioration so that our environment shall not look impuissant before the people who negate and jeopardise environment for perfidious ambitions.

Vitriol by many non-governmental organizations and environment protection groups fructified into the birth of Corporate Environment Responsibility Act (CER). It made the perceptions clear that the archaic and truncated provisions of the act are not sufficient safeguards against perilous degradation of environment. By no means are CSR and CER antithetical to each other through CER the entire gamut of environment protection is attempted to be dulcified for more transparency and accountability.

Environment impact assessment (EIA) was a definite shot in the arm. It has a provision to assess the likely impact on environment owing to the projects which are envisaged and yet to see the light of the day. An empowered team of assessors must be bereft of any politic0-social interference and needs to be an ideal and judicious mix of experts from different domains such as technical, environment, community, health and finance to name a few. An iota under all paraphernalia needs to bring under microscopic scrutiny before the projects are granted environment clearance (EC).

This paper is a candour attempt to bring to the forth grey areas as it may be, and possible solutions to ponder upon for the benefit of environment and community. It ponders upon the possibility of putting on the anvil certain new ideas and proposal throughout the currency period of the act so as to make it more convincing and instrumental in arresting any diabolical design blatantly aimed at environment negation.

**Keywords:** procedures, criticism, corporate environmental

---

### **Introduction**

With a deceduous spirit of the law thus far environment has been subjected to criminal and perilous degradation leading to a loss of circadian rhythms and zeitgeber. The word environment Protection has debouched as a primordial concern for all. Libertine act of human and absence of altruistic posture has led to emergence of burgeoning and dicey predicaments such as aggravating pollution, mitigation in ozone layer, and idiopathic diseases inflicting man and animal alike.

To combat this alarming situation, legerity measures are taken at National and International Level. Right from Stockholm declaration to millennium goals, different treaties, protocols, sustainable goals, are framed and implemented. Even at National Levels steps are taken for scrupulous adherence to such promulgations. Environment Protection Act has been embolden and spruced up with timely toeing with other relevant acts. All these acts and enactments have been made baronial by timely amendments.

After a much tarriance one such legal armor introduced was Corporate Social Responsibility in Companies Act 1956 where by 2 % of the net profit was to be spent towards Social Responsibility which includes environment protection as one of the measures. However we woken up to the fact that CSR has turned out to be an otiose. It was like putting the cart before the horse. It failed to address and meliorate the issue of environment protection in letter and spirit. Phrontistery than have started giving a fresh look to the problem at hand and the efficacy of the measures implemented.

Collapse of hubris gave birth to Corporate Environment Responsibility act. Now environment protection is no longer a post damage cosmetic and incongruent measure but it is a preventive measure. The lofty purpose of CER is to attain entelechy of environment protection at all cost.

To study the entire canvass of environment protection in our appetency it is customary to put on the anvil the study of environment. The less developed and developing countries are facing with Dickensian problems and environmental abuse adding to the woes. CSR and CER are not substitute but they are complementary to each other. Their Juxtaposition shall paddle the interest of environment protection in a sustainable way.

Although we are talking in the context of CER, it is not to be misconstrued that inclusion of CER, connotes replacement/ denigration / truncation of CSR which holds its spirit and unmitigated importance as high as ever. Hence introduction of CER with CSR is not to be construed as lagniappe but it is a gigantic step forward to alleviate concomitant social, economic and political problems

### **Corporate Environment Responsibility**

On 1 May 2018, an innocuous office memorandum vide No. 22-65/2017-IA.III titled ‘Corporate Environment Responsibility – reg.’ was released by the Ministry of Environment, Forest and Climate Change (MoEF&CC). The memorandum contained guidelines on the amount of money that companies seeking environmental clearances (ECs) need to spend on Corporate Environment Responsibility (CER). The money to be spent on CER is over and above what is required by companies to implement the environmental management plan.

According to the same office memorandum, CER is investment in areas where a project is located, on activities such as drinking-water supply, sanitation, health, education, skill development, roads, and electrification.

Corporate Environmental Responsibility (CER) refers to a company's duties to abstain from damaging natural environments. The term derives from corporate social responsibility (CSR).

The environmental aspect of CSR has been debated over the past few decades, as stakeholders increasingly require organizations to become more environmentally aware and socially responsible. In the traditional business model, environmental protection was considered only in relation to the "public interest". The Governments had maintained principal responsibility for ensuring environmental management and conservation.

The public sector has been focused on the development of regulations and the imposition of sanctions as a means to facilitating environmental protection. Recently, the private sector has adopted the approach of co-responsibility towards the prevention and alleviation of environmental damage. The sectors and their roles have been changing, with the private sector becoming more active in the protection of the environment. Many governments, corporations, and big companies are now providing strategies for environmental protection and economic growth.

CER is, in many ways, connected to CSR, as both of them influence environmental protection. CER, however, is strictly about the consideration of environmental implications and protection within corporate strategy. The understanding of CER cannot be separated from CSR—both are interconnected and based on environmental protection. There are three major areas related to these two concepts economic, environmental and social. CER is focused more on economic and environmental while CSR relates to social and environmental aspects. Economy, society, and environment all play significant roles in the development of an efficient and effective company strategy.

### **Benefits of Corporate Environmental Responsibility**

- Brand image: standing out as a green corporate can improve your reputation.
- Customer loyalty: people prefer brands who have environmental concerns and they are more inclined to buy from them in the future.

Differentiation: face to increasingly demanding customers and aware of environmental issues, gaining a green reputation can help you differentiate.

### **Environment Clearance: Definition and Requirement Environment Clearance**

“Environmental clearance” is the procedure to get clearance from the government for the 'installation' and 'modification' of certain projects. There is expert appraisal committee which uses this form to decide extent of investigation required for the project which is called “Terms of Reference (TOR).

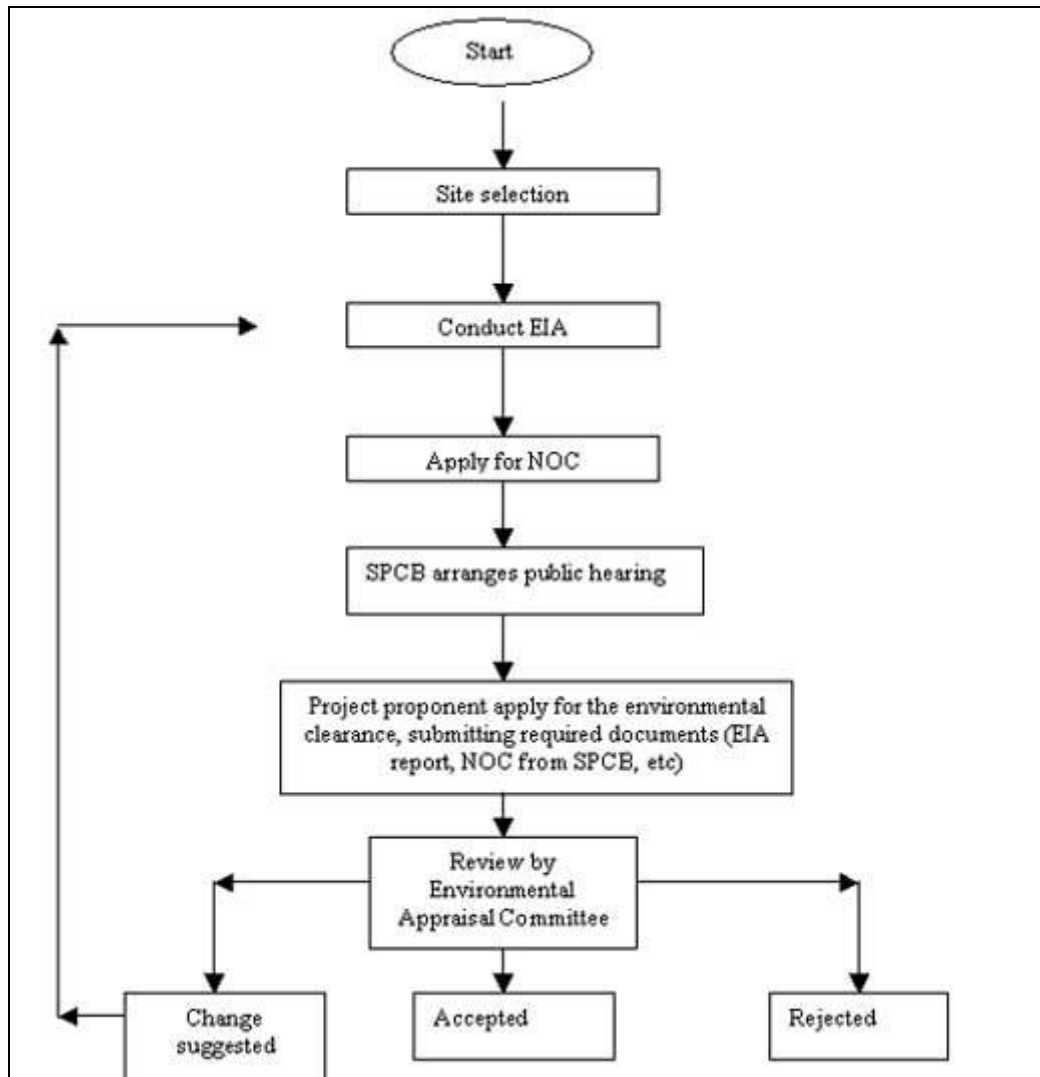
The EIA Notification of 1994 made the environmental clearance mandatory for all new projects and expansion/modernisation of existing projects covering 29 disciplines (later increased to 32 ) which included hydro-power, major irrigation and flood control projects. Its amendment in 1997 made it mandatory to hold environmental public hearing before according the environmental clearance. It was later superseded by EIA Notification of September, 2006

With a view to improve the environmental clearance (EC) process and compliance therewith, MoEF&CC, GOI, initiated a project with the assistance from the World Bank. As part of this exercise, MoEF&CC identified five components of tasks and Component B namely “develop a national guidance manual on eia practice with support manuals on select developmental projects for enhancing the quality and effectiveness of indian EIAs” was awarded to National Environmental Engineering Research Institute (NEERI), Nagpur.

The major objective of this project was to develop a National EIA Guidance Manual on EIA Practice -, addressing select developmental projects to improve the quality and effectiveness of EIA reports/Environmental Management Plans (EMP) / Risk Assessment (RA) / Disaster Management Plan (DMP) presently prepared in India during the Environmental Clearance (EC) process. The National EIA Guidance Manual will provide technical guidance to project proponents and EIA consultants across all developmental projects to produce quality outputs (such as EIA/EMP/RA/DMP reports) at various steps of the Environmental Clearance Process.

**Requirements of prior Environmental Clearance (EC)**

- The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall be hereinafter referred to as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level, the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land is started on the project or activity: by the project management, except for securing the land,
- (i) All new projects or activities listed in the Schedule to this Notification; and
- (ii) Expansion and modernization of existing projects or activities listed in the Schedule to this Notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization.
- Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range



**Diagram 1:** Showing approval procedure in brief

Ministry of Environment, Forest & Climate Change, Govt. of India, published the new Notification for obtaining the prior Environmental Clearances indicating “Central Government hereby directs that on and from the date of its publication the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to this notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified hereinafter in this notification”

The Notification provides procedure to grant the prior Environmental Clearances to the various developmental projects mentioned in the schedule attached to the EIA Notification, 2006. There are such 8 categories in the schedule which requires prior Environmental Clearance from the Ministry read as below,

**Table 1**

Category	Subcategory	Project Activity	
1	a	Mining of Minerals	
	b	Offshore and onshore oil and gas exploration, development & production	
	c	River Valley projects	
	d	Thermal Power plants	
	e	Nuclear power projects and processing of nuclear fuel	
2	a	Coal Washeries	
	b	Mineral Beneficiation	
3	a	Metallurgical industries (ferrous & non-ferrous)	
3	b	Cement Plants	
4	a	Petroleum refining industry	
	b	Coke oven plants	
	c	Asbestos milling and asbestos based products	
	d	Chlor-alkali industry	
	e	Soda ash Industry	
	f	Leather/skin/hide processing industry	
5	a	Chemical fertilizers	
	b	Pesticides industry and pesticide specific intermediates (excluding formulations)	
	c	Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics)	
	d	Manmade fibres manufacturing	
	e	Petrochemical based processing (processes other than cracking & reformation and not covered under the complexes)	
	f	Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)	
	g	Distilleries	
	h	Integrated paint industry	
	i	Pulp & paper industry excluding manufacturing of paper from waste paper and manufacture of paper from ready pulp without bleaching	
	j	Sugar Industry	
	k	Induction/arc furnaces/cupola furnaces 5TPH or more	
	6	a	Oil & gas transportation pipe line (crude and refinery/ petrochemical products), passing through national parks /sanctuaries/coral reefs /ecologically sensitive areas including LNG Terminal
		7	1
	b	All ship breaking yards including ship breaking units	
	c	Industrial estates/ parks/ complexes/ areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes.	
	d	Common hazardous waste treatment, storage and disposal facilities (TSDFs)	
	e	Ports, Harbours	
	f	Highways	
	g	Aerial ropeways	
	h	Common Effluent Treatment Plants (CETPs)	
	i	Common Municipal Solid Waste Management Facility (CMSWMF)	
	da	Biomedical Treatment Facility	
	8	a	Building and Construction projects
b		Townships and Area Development projects.	

Under De-Centralization work system for according the Environmental Clearance, Ministry of Environment, Forest and Climate Change, Govt. of India delegated their powers to the States in way of forming State Expert Appraisal Committee (SEAC) and State Environmental Impact Assessment Authority (SEIAA).

The SEAC, technically appraise the proposal as per procedure stipulated in the EIA Notification, 2006 and send its recommendations either to recommend the proposal for prior Environmental Clearance or to reject the proposal with reasons to the SEIAA to help the Authority in making their final decision.

During the years of appraisal of various developmental project Ministry of Environment, Forest and Climate Change came to the notice that, there must be some procedure to ensure development of areas near by projects obtaining the prior Environmental Clearance and introduced the Corporate Environmental Responsibility in addition to the existing Corporate Social Responsibility in consultation with all stake holders.

The MoEF&CC, GoI published an Office Memorandum vide No. 22-65/2017-IA.III dated 01.05.2018. The preamble of the OM is reproduced as below,

1. Sustainable development has many important facets/ components like social, economic, environmental etc. All these components are closely interrelated and mutually reinforcing. Therefore, the general structure of EIA documents, under Appendix – III to the notification, prescribes inter-alia public consultation, social impact assessment and R & R action plan besides Environmental Management Plan (EMP).
2. Section 135 of the Companies Act, 2013 deals with Corporate Social Responsibility (CSR) and schedule – VII of the Act lists out the activities which may be included by companies in their CSR policies. The concept of CSR as provided for the Companies Act, 2013 and covered under the Companies (Corporate and Social Responsibility) Rules, 2014 comes into effect only in case of companies having operating projects and making net profit as also subject to other stipulations contained in the aforesaid Act and Rules. The environment clearance given to a project may involve a situation where the concerned company is yet to make any net profit and /or is not covered under the purview of the aforesaid Act and Rules. In such cases, the provisions of aforesaid Act and Rules will not apply.
3. In the past, it has been observed that different Expert Appraisal Committees/State Expert Appraisal Committees (EAC/SEAC) have been prescribing different formulation of the Corporate Environment Responsibility (CER) and no common principles are followed. Several suggestions have also been received in this regard which inter-alia states that Greenfield projects and Brownfield projects should be treated differently; no CER should be prescribed whereas there is no increase in air pollution, R&R, etc., besides streamlining percentage of CER.

The fund allocation under CER is made based on the type of projects like green field / brown field and the capital investment. The brief is as below,

**Table 2**

S. No.	Capital Investment / Additional Capital Investment( in Rs )	Greenfield Project -% of Capital Investment	Brownfield Project -% of Capital Investment
I	II	III	IV
1	≤ 100 crores	2.0%	1.0%
2	> 100crores to ≤ 500 crores	1.5%	0.75%
3	>500crores to ≤ 1000 crores	1.0%	0.50%
4	>From 1000 crores to ≤ 10000 crores	0. 5%	0.25%
5	> 100crores to ≤ 500 crores	0.25%	0.125%

#### **Critical analysis on EC clearance affecting CER**

- Not much importance given to CER issues to its full extent.
- Project Proponent not so keen to identify the social and environmental requirements of the area around their project site. Without identification of the same it is very difficult to provide exact social and environmental infrastructure under CER.
- After having considered with due appraisal of the project during grant of Environment Clearance by the competent authority, the EC shall be granted under certain conditions. But many times it is noticed that the Project Proponent fails to fulfill the conditions of EC by its own. Neither State Pollution Control Board, the Govt. agency is mean for such monitoring on EC conditions, not be able to perform to its optimum extent and as a result there is many times a possibility of violation of EC conditions by the project proponent.
- Activities to be performed under CER shall be approved in principal by the Local authority i.e. Collector having the jurisdiction. But many times it is noticed that, in spite of several communications from the project proponent, no sufficient cognizance is taken from the District In-Charge and hence there is work gets delayed. Since the entire budgetary allocation under CER activities shall be at the cost and consequences of the proponent, the Govt. agencies should actively participate in the CER activities to be executed by the project proponent and generate assets for the public at large.
- Whenever a matter is under litigation and pending before the National Green Tribunal (NGT), there is only one expert member in the tribunal who cannot be acted for whole matter pertaining to technicality of the Environment aspect. Since Environment Engineering stream is a broader perspective angle there cannot be only one expert who can deal the matter on merit. For the sake of NGT there shall be team of expertise for every field like Irrigation Engineering, Chemical Engineering, Mining Engineering, Planning Engineering, Flora& Fauna issues, Occupational Hazards Issues etc. Only one expert shall lead into poor decision from NGT which is not proper to protect good Environment.
- EIA notifications and their amendments are sometimes complicated to understand. A mere example is Project is placed under category “B” and the jurisdiction is within State Govt. But when the same is said to

be in Eco-Sensitive zone by virtue of discretion the same need to be referred to the Central Govt. The discretion here sometimes plays for dispute between State and Central Govt.

- There are several drawbacks with the EIA process in India from screening to environment clearance stages. During the initial stages such as screening, preliminary assessment or scoping, the major issues are ignored which later on appear as conflicts. During prediction phase, there is always lack of reliable primary and secondary data. The data collectors don't pay attention to the knowledge of the indigenous people. During other phases, there are problems of fraudulent EIA reports, staged public hearings and unscrupulous environmental clearances etc.
- Deliberate omission of vital information which may alter the fate of projects.
- False, unreliable and doubtful data; Inadequate single season data in Rapid EIA; Absence of centralized databank
- No accreditation of EIA consultancy. Many a times, consultancies working on a project have no specialization on concerned subjects.
- The EIA documents are bulky and technical and make it really difficult to help in decision making.
- Plagiarism in EIA reports, wherein the same facts used for two different places.
- False assumption that once site clearance is granted, environment clearance will follow. The developers / PP start construction work such as housing colonies, roads etc. However, in EIA notification, it is mentioned that such works should not be taken before environmental clearance.
- In some cases, environment clearance is granted despite of public objection. In other cases, staged public hearing is carried out without involving the really affected people.
- Generally, criticism associated with the concept of CER. According to this viewpoint businesses can engage in CER-related activities in a minimum manner, but still they can create highly positive brand image for the company by publicising their CER efforts.
- CER allows businesses to project positive image by doing very little.
- The level of publicity associated with the concept of CER creates an impression that the majority of businesses are seriously engaged in CER-related activities, whereas the reality is quite different.
- The CER activities engaged in by some businesses contradict with their actual business practices and tendencies of their businesses.
- The influence of large businesses and multinational corporations increases in society with their active engagement in CER issues.
- Corporate Environment Responsibility Raises Costs, Undermines Market. Firms which do adopt CER have a powerful incentive to ensure the same regime is imposed on their competitors, thus limiting competition throughout the economy and making people in general poorer.

#### **Suggestions to use CER effectively in the State**

- There are thousands of projects granted prior Environmental Clearances every year in the State.
- The CER amount can be in crores and crores of rupees which needs to be collected and used wisely for the environment at large and for the community.
- Presently the CER is being spent on the works prescribed by the SEAC/SEIAA and / or the District Authority which is not organized and is in isolation which does not result either in the improvement of environment or the standard of community.
- The State may consider to form Authority for say CER Implementation Authority, the funds shall be transferred to the Authority once project granted the prior Environmental Clearance. Authority shall have mix of social, technical, scientific, administrative etc expertise to decide on the expenditure item from CER.
- The Authority must be chaired by the nonpolitical person who must be an expert in social and environmental aspects. The other members also be technical and social expert only. There must be no approval of the Government to carry out any work under CER as the expenses are to be borne by the Project Proponent. The yearly review of developmental work may be taken by the Chief Minister of the State.
- There should not be any political interference with the CER funds.
- The Authority shall obtain suggestion from the District Authority for use of CER; there should not be duplication of expenses that is the CER funds shall be used for those activities which are not included in any of the Govt. schemes either State or Central.
- After obtaining the suggestion Authority shall decide on the District wise plan by considering the State priority and grant the activities to be done.
- The project proponent (PP) shall be informed of the selected activities in the District and then he shall take over the job to complete it within stipulated time frame.
- After completion PP shall notify the completion of work and concern District Authority shall certify the same. After which Authority will certify the PP has spent his CER funds which will be a part of PP's EC compliance.

#### **References**

1. Anonymous. National Policy on Resettlement and Rehabilitation for Project, 2006.
2. Affected Families, Govt of India, Ministry of Rural Development, 2006.

3. Anonymous 2000. Proceedings of All India Seminar on Environmental and Social Issues in Water Resources Development and Management, Lucknow, 2000.
4. Biological Diversity Act, 2002.
5. Companies Act, 2013.
6. (Corporate Social Responsibility Policy) Rules, 2014.
7. CWC, September, 1992.
8. Dr. Rasika Kasture Critical Study of Role And functions Of National Green Tribunal In Protection Of Environment In India, International Research of Commerce and Law. (IRJCL),2022:10:2.
9. Environment (Protection) Act, 1986.
10. Environment Protection Rules 1986
11. EIA Notification, 2006 and its amendments, MOEF, GOI.
12. Forest Conservation Act, 1980.
13. FEMA 368, 2000, Building seismic safety council. NEHRP recommended provisions for seismic regulation for new buildings and other structure, part 1: Provisions, 2000 Edition
14. Guidelines for Sustainable Water Resources Development and Management,
15. Kasture RP. Evaluation of Corporate Social Responsibility Initiatives of Company from Vidarbha, Indian Journal of Interdisciplinary Research,2016:7(2)49.
16. Khanna RK. (Ed), 2000.
17. Khanna RK. "Environmental Impact Assessment and Clearance of River Valley Projects" – IWRA Regional Symposium: Water for Human Survival, Central Board of Irrigation and Power, New Delhi, 2000-2002.
18. Leopold *et al.* United States Geological Survey, Leopold matrix 13, 1971.
19. Mazurkiewicz P. HYPERLINK, 2004. <https://siteresources.worldbank.org/EXTDEVCOMSUSDEVT/Resources/csrframework.pdf> Corporate environmental responsibility: Is a common CSR framework possible HYPERLINK <https://siteresources.worldbank.org/EXTDEVCOMSUSDEVT/Resources/csrframework.pdf>". World Bank, 2, 1-18.
20. Rasika Prasad Kasture. Research Instrument Development, Shodh Samiksha Aur Mulyankan,2015:7(76-79):13-17.
21. National Research Council. Probabilistic seismic hazard analysis. Report of the panel on seismic hazard analysis, Washington, DC. National Academy Press, 1988.