

प्रेषक,

जिलाधिकारी  
गढ़वाल।

सेवा में,

रजिस्ट्रार जनरल,  
प्रधान खण्ड पीठ,  
मा0राष्ट्रीय हरित प्राधिकरण,  
नई दिल्ली।

संख्या:- 04/20-न्याय एवं विधि (2018-19) दिनांक पौड़ी अक्टूबर 01, 2019

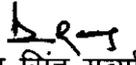
विषय:- मा0राष्ट्रीय हरित प्राधिकरण दिल्ली में योजित आवेदन संख्या-222/2019 कुणाल  
रहेजा बनाम उत्तराखण्ड राज्य व अन्य के सम्बन्ध में।

महोदय,

उपरोक्त विषयक मा0राष्ट्रीय हरित प्राधिकरण दिल्ली में योजित आवेदन संख्या-222/2019 कुणाल रहेजा बनाम उत्तराखण्ड राज्य व अन्य में आपके आदेश दिनांक 17.05.2019 के अनुपाल में मा0 राष्ट्रीय हरित प्राधिकरण में द्वारा अधिवक्ता के अनुपालन आख्या दाखिल की गयी है। उक्त आदेश के अनुपालन में ई-मेल के माध्यम से भी अनुपालन आख्या सेवा में प्रेषित की जा रही है।

संलग्न-उपरोक्तानुसार।

भवदीय

  
(धीराज सिंह गर्ब्याल)  
जिलाधिकारी गढ़वाल।  
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IN THE HON'BLE NATIONAL GREEN TRIBUNAL,  
 PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO. 222 OF 2019

IN THE MATTER OF:

Kunal Raheja. ....Applicant  
 Versus  
 State of Uttarakhand & Ors. ... Respondents

REPORT BY WAY OF AFFIDAVIT ON BEHALF OF  
 DISTRICT MAGISTRATE, PAURI GARHWAL,  
 UTTARAKHAND IN COMPLIANCE OF ORDER DATED  
 17.05.2019 PASSED BY THIS HON'BLE TRIBUNAL IN  
 THE ABOVEMENTIONED MATTER

P A P E R - B O O K

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Filed by:

*Rahul Verma*  
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IN THE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 222 OF 2019

IN THE MATTER OF:

KunalRaheja. ....Applicant  
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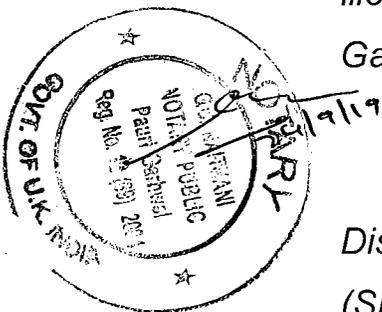
REPORT BY WAY OF AFFIDAVIT ON BEHALF OF  
DISTRICT MAGISTRATE, PAURI GARHWAL,  
UTTARAKHAND IN COMPLIANCE OF ORDER DATED  
17.05.2019 PASSED BY THIS HON'BLE TRIBUNAL IN  
THE ABOVEMENTIONED MATTER

I, DhirajSingh Garbyal S/o ShriDaya Ram Singh aged about 46 years, presently posted as District Magistrate, PauriGarhwal, Uttarakhand, do hereby solemnly affirm on oath and state as under:

1. That in my abovementioned official capacity, I am acquainted with the facts and circumstances of the present matter, and I am fully competent and duly authorised to file present Report by way of Affidavit on behalf of State of Uttarakhand.
2. That this Hon'ble Tribunal vide its order dated 17.05.2019 passed the following directions:-

*"The question for consideration is the remedial action against illegal mining and illegal construction in the flood plain of River Ganga in District Pauri, Uttarakhand.*

*Vide order dated 08.03.2019, a report was sought from the District Magistrate, Pauri and the State Pollution Control Board (SPCB). Accordingly, reports have been received from the State Pollution Control Board and the District Magistrate, Pauri. According*



*D. Raheja*  
जिला मजिस्ट्रेट  
गढ़वाल

to the said reports, the allegation of illegal construction and illegal mining has been found correct. Fine of Rs.3,34,500/- has been imposed as penalty for the illegal mining.

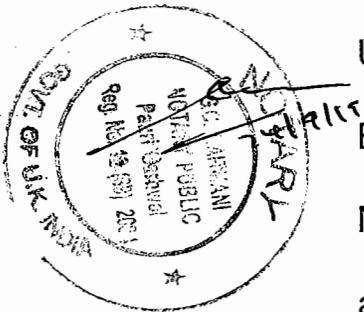
Learned counsel for the State Pollution Control Board states that compensation determined is only on the basis of royalty and does not take into account components like cost of restoration, cost of services forgone forever, cost of the mined material and on that basis, afresh assessment is to be made and action taken report furnished.

Let a further report be filed in the matter within two months by e-mail at [nqt.filing@gmail.com](mailto:nqt.filing@gmail.com).

List for further consideration report on 26.08.2019.”

A true copy of the said order dated 17.05.2019 passed by this Hon'ble Tribunal is annexed hereto and marked as ANNEXURE R-1.

3. That it is pertinent to mention herein that in compliance of the abovementioned order dated 17.05.2019 a committee of three members headed by Sub Divisional Magistrate, Yamkeshwar, PauriGarhwal, Uttarakhand including the Member Secretary, Uttarakhand Environment Conservation and Pollution Control Board, Dehradun and Deputy Director/ Geologist, Geology and Mining Unit, Pauri was constituted vide Office Order No.125/20-Law and Justice (2019-20) dated 17.08.2019 and the said committee was directed to conduct a joint inspection of the site in question in

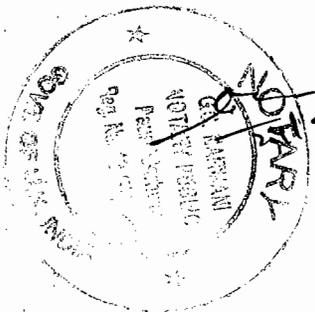


*b. Ray*  
जिला मजिस्ट्रेट  
गढ़वाल

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compliance of the directions passed by this Hon'ble Tribunal vide its order dated 17.05.2019 and for taking action accordingly.

4. That the abovesaid committee conducted a joint inspection of the site in question on 21.08.2019 of the village Taliyal, Tehsil Yamkeshwar, District PauriGarhwal, Uttarakhand.
5. That it was found in the abovesaid joint inspection that the land being Khasra Nos. 68,71,72,74 and 75 of Village Taliyal Tehsil Yamkeshwar, Uttarakhand are adjacent to each other and belongs to Mr. KunalRaheja and V.K. Raheja and Mahaveer Jain, Rajendra Kumar Gureja and Neeraj Kumar.
6. That at the time of joint inspection it was found that upon the land being Khasra Nos. 71, 72 and 78 – Shivay Camp have been constructed by Mr. KunalRaheja and khasra No. 74 and 75 is situated on the river bed of river namely "Himvalnadi" which is a tributary of river Ganga and the same is situated about 60 meter from the middle of the river and in the abovesaid joint inspection it was found that upon the land being Khasra Nos. 74 and 75 by including part of the Government Land of khasra No.76 the construction of one R.C.C. wall in two parts measuring (1) 65 meter length 03 meter height and 1.5 meter width and (2) 65 meter 1 x 1 11.9 meter was constructed by Mr. Mahaveer Jain etc.
7. It is respectfully submitted that in compliance of the directions passed by this Hon'ble Tribunal, the assessment with regard to environmental cost for illegal construction of R.C.C. Wall



D. Ray  
जिला मजिस्ट्रेट

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constructed by Neeraj Kumar and for doing illegal mining etc. is as follows.

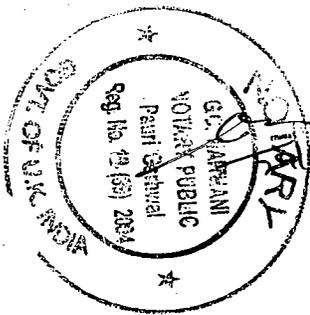
8. It is respectfully submitted that the site in question is situated in village Taliyal, Tehsil Yamkeshwar, District PauriGarhwal, Uttarakhand, which is situated about 12 kilometer from the Nagar PanchayatJauk and the population of the revenue village Taliyal according to the JANSANKHYA-2011 is 186.

Environmental cost =  $P1 \times N \times R \times S \times LF$

$P1=5$ ,  $N=62$  days (18.1.2019 to 30.6.2019),  $R=250$  per day,  $S= 5$  (Micro- Small Scale),  $LF=1$  (City/ Tow Having Population Less than 1 Lakh).

Accordingly, after calculation the environmental cost was decided as Rs.3,87,500/- (Rupees three lakhs eighty seven thousand and five hundred only).

9. It is also pertinent to mention herein that a fine of Rs.3,34,500 (Rupees three lakhs thirty four thousand five hundred only) had already been imposed as penalty for doing illegal mining (Cost of mined material) which was minded from the Himwal river and which was used in the construction of abovementioned Wall upon ShriMahaveer Jain s/o Shrimal Jain, Neeraj Kumar S/o Brajpal Singh by the District Magistrate, PauriGarhwal, Uttarakhand vide its order dated 22.03.2019. A true translated copy of the abovesaid order dated 22.3.2019 alongwith photocopy of its original in Hindi is already on record of this Hon'ble Tribunal at page Nos. 116 to 120.



D. Raj  
जिला मजिस्ट्रेट  
मंडाल

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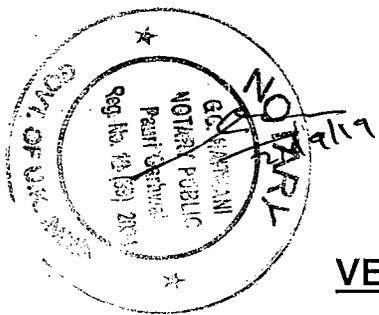
10. That the assessment of the abovementioned penalty is as follows:-

- (i) Rs.1,34,500/- (Rupees one lakhs thirty four thousand and five hundred) only for illegal mining (Cost of mines material) from the river, which is five times from royalty; and
- (ii) Rs.2,00,000/- (Rupees two lakhs) for illegal storage and transportation-

Total: Rs.3,34,500/- (Rupees three lakhs thirty four thousand and five hundred only).

11. It is respectfully further submitted that the amount of Rs. 3,34,500/- (Rupees three lakhs thirty four thousand and five hundred) with regard to abovementioned penalty imposed by the District Magistrate, PauriGarhwal, Uttarakhand vide its abovementioned order dated 22.3.2019 has already been collected.

12. That the present Report by way of Affidavit in compliance of direction passed by this Hon'ble Tribunal is being filed kind perusal of this Hon'ble Tribunal.



L. Ray  
DEPONENT  
जिला मजिस्ट्रेट

गढ़वाल

**VERIFICATION**

I, the deponent above named do hereby verify and say that the contents of my above report by way of affidavit are true and correct to my knowledge based on record, no part of it is false and nothing

L. Ray  
जिला मजिस्ट्रेट  
गढ़वाल

material has been concealed there from. The legal submissions are further true as per legal advice received and believed to be true and correct.

Verified by me at Pauri, Uttarakhand on this 24 day of Sept, 2019.

D. Roy  
DEPONENT

Filed through:  
जिला मजिस्ट्रेट

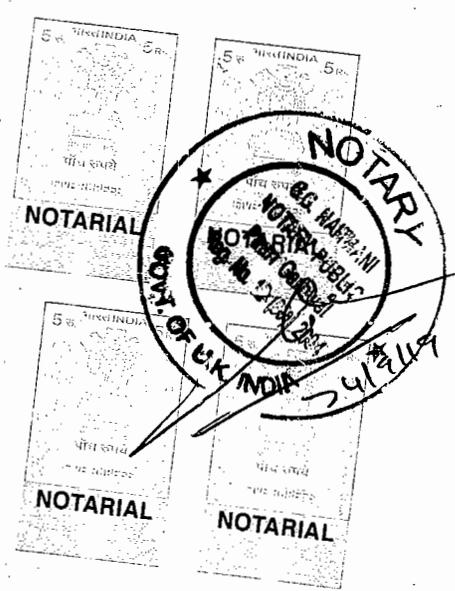
राज्य  
Rahul Verma  
[RAHUL VERMA]

Additional Advocate General for State of Uttarakhand  
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sworn & Verified the Deponent before  
Me on 24/9/19 at P. Garhwal  
Pauri Garhwal

Ganesh Chandra Bhatnagar  
Advocate/Notary

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ANNEXURE R-1

Item No.05

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 222/2019  
(I.A. No. 112/2019)

Kunal Raheja

Applicant(s)

Versus

State of Uttarakhand & Ors.

Respondent(s)

Date of hearing: 17.05.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

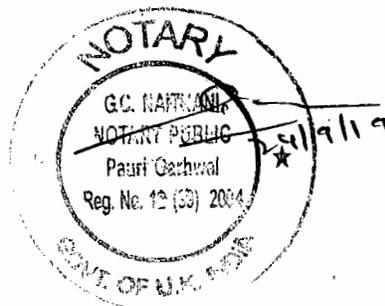
For Applicant(s): Mr. Kunal Raheja

For Respondent(s): Mr. Rahul Verma, Addl. A.G for State of  
Uttarakhand  
Mr. Mukesh Verma, Advocate for UPPCB

**ORDER**

The question for consideration is the remedial action against illegal mining and illegal construction in the flood plain of River Ganga in District Pauri, Uttarakhand.

Vide order dated 08.03.2019, a report was sought from the District Magistrate, Pauri and the State Pollution Control Board (SPCB). Accordingly, reports have been received from the State Pollution Control Board and the District Magistrate, Pauri. According to the said reports, the allegation of illegal construction



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Learned counsel for the State Pollution Control Board states that compensation determined is only on the basis of royalty and does not take into account components like cost of restoration, cost of services forgone forever, cost of the mined material and on that basis, fresh assessment is to be made and action taken report furnished.

Let a further report be filed in the matter within two months by email at [ngt.filing@gmail.com](mailto:ngt.filing@gmail.com).

List for further consideration on 26.08.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

May 17, 2019  
Original Application No. 222/2019  
(I.A. No. 112/2019)  
AK



17202 C844  
I have verified the dependent document  
on 24/9/19 at 12:10 PM  
Pauri Garhwal  
Sanesh Chandra Narayan  
Advocate/Notary  
24/9/19