

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH
KOLKATA**

Appeal No. /2024/EZ

Amit Gupta,

.....Appellant

Versus

Jharkhand State Pollution Control Board

.....Respondents

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SYNOPSIS

That the appellant above named begs to present this Appeal against order No. B-672 dated 11.03.2024 passed by the Jharkhand State Pollution Control Board, Ranchi wherein an Environmental Compensation amounting to Rs. 68,50,000.00 has been imposed upon the appellant without giving any opportunity of hearing. The appellant became aware of the Environment Compensation and impugned order dated 11/03/24 when the copy of the Affidavit of the State Board was served upon the Advocate of the Appellant on 12/03/24 late in the evening.



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.....Respondents

LIST OF DATES

	Deed of Settlement for a period of three years for Sand mining in Belchampa mouza	8/12/18
	Appellant handed over the sand ghat to the competent authority	14/12/21
	Report of Committee	16/04/22
	the appellant received a notice No. B-1942 dated 16.09.2022 from Jharkhand State Pollution Control Board, Dhurwa, Ranchi through India Post fixing a date for opportunity of hearing on 23.09.2022 at 11:00AM	26/09/22
	the appellant immediately replied to the Member	28/09/22

	Secretary, JSPCB, Ranchi on that the Letter No.B-1942 dated 16.09.2022 has been received by post on 26.09.2022 after expiry of date fixed for opportunity of hearing that was 23.09.2022. Appellant also asked for the inspection report of the committee headed by Deputy Commissioner, Garhwa and requested for fixing a new date	
	appellant appeared before National Green Tribunal, Eastern Zone Bench, Kolkata after receiving a notice from Deputy Commissioner, Garhwa and filed his affidavit in Original Application No. 134/2023/EZ (Earlier O.A.No. 430/2021/PB)	1/02/24
	thereafter, the appellant herein filed a detailed reply to the show cause before Member Secretary, Jharkhand State Pollution Control Board	13/02/23
	Impugned order No. B-672 dated of JSPCB	11/03/23


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State Pollution Control Board, Ranchi wherein an Environmental Compensation amounting to Rs. 68,50,000.00 has been imposed upon the appellant without giving any opportunity of hearing. The appellant became aware of the Environment Compensation and impugned order dated 11/03/24 when the copy of the Affidavit of the State Board was served upon the Advocate of the Appellant on 12/03/24 late in the evening.

4. BRIEF FACTS OF THE CASE:

1. That the appellant was the lessee of Belchampa sand mines at Plot No. 01(P) Khata No. 56, Area 4.20 hectares situated at Village Belchampa , Thana Garhwa, District Garhwa with effect from 08.12.2018 to 07.12.2021. The time period of this sand ghat has expired way back on 08.12.2021. The respondent unit operated with valid CTO, Environmental Clearance and Mining Plan.

2. That the competent authorities have not seized /confiscated the security money deposited by the ex-lessee Amit Gupta in the course of execution of agreement for sand mines by way of any statutory order after expiry of lease period which is a proof in itself that no violation of approved mining plan/environment clearance/consent to operate were committed by the appellant herein.

3. That one Sonu Sharma resident of Garhwa, Jharkhand filed a letter complain before National Green Tribunal, New Delhi about illegal mining of sand from Koel and Damro Rivers (life of Village-Garhwa, Jharkhand) from the sand Ghat at Belchampa, Garhwa, Jharkhand, by the lessee and appellant herein which was numbered as Original Application No. 430/2021/PB.

4. That cognizance of the Original Application No. 430/2021/PB was taken up by the Delhi Bench of the National Green Tribunal on 27.01.2022 while this mining lease was expired on 07.12.2021.

5. It is pertinent to state here that the State of Jharkhand and its officials have suppressed this vital fact from the National Green Tribunal Principal Bench, New Delhi as well as Eastern Zone Bench, Kolkata in O.A. No. 134/2023/EZ [Earlier O.A. No. 430/2021/PB] that the competent officers of the State have already received back possession of this sand ghat from ex-lessee Amit Gupta vide letter dated 11.12.2021 and 14.12.2021 duly receipted on 11.12.2021 and 18.12 2021 respectively.

Photocopies of letter dated 11.12.2021 and 14.12.2021 of Appellant handing over possession of sand ghat to competent

authorities are annexed herewith and marked as **Annexure-A** to this Appeal.

6. That on 26.09.2022, the appellant received a notice No. B-1942 dated 16.09.2022 from Jharkhand State Pollution Control Board, Dhurwa, Ranchi through India Post fixing a date for opportunity of hearing on 23.09.2022 at 11:00AM as to why not an environmental compensation of INR 68,50,000.00/- be imposed on the unit.

Photocopies of Notice No. B-1942 dated 16.09.2022 of JSPCB, Ranchi is annexed herewith and marked as **Annexure-B** to this Appeal.

7. That the appellant immediately replied to the Member Secretary, JSPCB, Ranchi on 28.09.2022 that the Letter No.B-1942 dated 16.09.2022 has been received by post on 26.09.2022 after expiry of date fixed for opportunity of hearing that was 23.09.2022. Appellant also asked for the inspection report of the committee headed by Deputy Commissioner, Garhwa and requested for fixing a new date for opportunity of hearing after filing of show cause.

Photocopy of reply dated 28.09.2022 of Amit Gupta to JSPCB along with Track Consignment Report of India Post delivering the said

notice dated 16.09.2022 of JSPCB to Appellant on 26.09.2022 is annexed herewith and marked as **Annexure-C** to this Appeal.

8. That thereafter the JSPCB provided a copy of inspection report dated 16.04.2022 and 30.05.2022 of the inspection committee headed by Deputy Commissioner, Garhwa to Appellant vide communication No. B-2675 dated 21.12.2022.

Photocopy of communication No. B-2675 dated 21.12.2022 of JSPCB to Appellant is annexed herewith and marked as **Annexure-D** to this Appeal.

9. That thereafter, the appellant herein filed a detailed reply dated 13/02/23 to the show cause before Member Secretary, Jharkhand State Pollution Control Board, Ranchi simultaneously requesting to provide the Appellant an opportunity of hearing before the State Board.

Photocopy reply of Appellant filed before JSPCB on 13.02.2023 with a copy to Deputy Commissioner, Garhwa is annexed herewith and marked as **Annexure-E** to this Appeal.

10. That thereafter appellant appeared before National Green Tribunal, Eastern Zone Bench, Kolkata after receiving a notice from Deputy Commissioner, Garhwa and filed his affidavit in reply dated 01.02.2024 in Original Application No. 134/2023/EZ (Earlier O.A.No. 430/2021/PB).

11. That on 12.03.2024, appellant herein received an affidavit dated 11.03.2024 of JSPCB , Ranchi in O.A. No. 134/2023/EZ , annexing a copy of the impugned order No. B-672 dated 11.03.2024 of JSPCB, Ranchi imposing an environmental compensation of Rs. 68,50,000 against the Appellant.

Photocopy of impugned Order No. B-672 dated 11.03.2024 of JSPCB, Ranchi is annexed herewith and marked as **Annexure-F** to this Appeal as impugned order.

12. That the O.A. No. 134/2023/EZ has been disposed of by the National Green Tribunal vide order dated 13.03.2024.

Photocopy of the order dated 13.03.2024 of National Green Tribunal, Eastern Zone Bench, Kolkata in O.A. No. 134/2023/EZ is annexed herewith and marked as **Annexure-G** to this Appeal

13. Appellant is highly aggrieved and dissatisfied with Environmental Compensation Order No. B-672 dated 11.03.2024 of JSPCB, Ranchi without giving any opportunity of hearing to Amit Gupta and as such the appellant herein filed a representation before the Member Secretary, Jharkhand State Pollution Control Board, Ranchi on 20.03.2024 to keep the order No. B-672 dated 11.03.2024 in abeyance and provide a real opportunity of hearing to the Appellant and thereafter pass a reasoned and speaking order.

Photocopy of the representation dated 20.03.2024 of Appellant filed before JSPCB, Ranchi is annexed herewith and marked as **Annexure-H** to this Appeal.

14. That no response has been received from the Member Secretary, Jharkhand State Pollution Control Board, Ranchi upon representation dated 20.03.2024 of Appellant and hence this Appeal with following grounds.

15. That the Appellant states that the principle of natural justice demands that there should be fair determination of a question by quasi-judicial authority. The basis of rule of natural justice requires

recording of reasons in support of the order. It is a tool for judging the validity of the order under challenge. It gives opportunity to the higher court to see whether or not the adjudicator has proceeded on the relevant consideration, material and evidence. —[Shivsagar Veg. Restaurant v. ACIT and another (2009) 317 ITR 433 (Bom.)]

16. That the Appellant states that the rule of natural justice that is *Audi alteram partem* means that a reasonable opportunity of hearing which is *sine qua non* and imperative for the statutory authority to afford before passing the order or decision is violated by the respondent herein by not giving an opportunity of hearing to the Appellant before passing an order of Environmental compensation.

17. That the Appellant states that In the Seven Judge Constitution Bench of this Court, A.R. Antuley v. R.S. Nayak & Anr. 1988 (2) SCC 602] it has been observed in paragraph 55 thereof: "so also the violation of the principles of natural justice renders the act a nullity".

18. That the Appellant states the respondent authority failed to appreciate that the Proceedings of Committee dated 28/30.05.2022 of Deputy Commissioner, Garhwa, Superintendent of Police, Garhwa, Representative of State Level Environment Impact Assessment Authority (SEIAA) , Representative of Jharkhand State Pollution Control Board in Para 4/ Para 5 of the report of the committee dated

30.05.2022 does not name the Appellant responsible for illegal mining. The said report of the Committee dated 28/30.05.2022 does not allege that the production capacity has been violated by the Appellant and as such the issuance of show cause notice to Appellant for Environmental Compensation is an abuse of process of law as this notice should have been issued to illegal miners against whom FIRs for illegal mining have been filed by competent officers as claimed by authorities.

19. **LIMITATION**

That the present Application is being filed within the period of limitation as given under Section 16 of the National Green Tribunal Act, 2010. The copy of the Affidavit including the impugned order dated 11/03/24 of the State Board was served upon the Advocate of the Appellant on 12/03/24 late in the evening.

20. **GROUND OF APPEAL**

A. That The respondent authority failed to appreciate that the said letter No. B-1942 dated 16.09.2022 of JSPCB was received

by the Appellant on 26.09.2022 three days after the so called date fixed for hearing.

- B. That the respondent authority failed to appreciate that the delayed delivery of letter No. B-1942 dated 16.09.2022 of JSPCB was communicated to JSPCB vide communication dated 28.09.2022 by the Appellant which is acknowledged by JSPCB while supplying copies of inspection reports of committee vide communication No. B-2675 dated 21.12.2022 of JSPCB (Annexure-D).
- C. that the Appellant states the respondent authority failed to appreciate that the Proceedings of Committee dated 28/30.05.2022 of Deputy Commissioner, Garhwa, Superintendent of Police, Garhwa, Representative of State Level Environment Impact Assessment Authority (SEIAA) , Representative of Jharkhand State Pollution Control Board in Para 4. Para 5 of the report of the committee dated 30.05.2022 does not name Appellant responsible for illegal mining. The said report of the Committee dated 28/30.05.2022 does not allege that the production capacity has been violated by the Appellant.

- D. That the respondent authority acted arbitrarily by passing the Impugned order dated 11.03.2024 as the impugned order did not mention this fact that Appellant has already reported late delivery of show cause notice No. 16.09.2022 vide reply dated 28.09.2022 (Annexure-9).
- E. That the respondent authority acted arbitrarily by passing the impugned order dated 11.03.2024 that claimed a second opportunity of hearing on 21.11.2023 issued vide letter No. B-2556 dated 14.11.2023 of JSPCB. Appellant has not received this letter No. B-2556 dated 14.11.2023 of the respondent. The respondents have proceeded to pass final order without verifying service of notice dated 14.11.2023 to the Appellant under tearing hurry.
- F. The respondent authority failed to appreciate that service report of letter No. B-2556 dated 14.11.2023 of respondent authority have not been mentioned anywhere in the impugned order dated 11.03.2024.
- G. The respondent authority failed to understand that no environmental compensation could be fixed upon the Appellant

for the acts done by others after expiry of mining lease on 08.12.2021 which is proved from report of committee dated 16.04.2022 recording registration of First Information Report on illegal sand mining from this sand ghat after expiry of mining lease of Lessee (Annexure-D).

- H. That the respondent authority failed to appreciate that the committee in the report dated 16.04.2022 /30.05.2022 never observed that approach road of 18 ft width x 3 ft height x 900 ft long was built by the Appellant as sand mining in this sand ghat is being settled by the State since decades.
- I. That the respondent authority failed to appreciate that the Impugned order dated 11.03.2024 have relied upon some report of Regional Officer, JSPCB, Ranchi vide Letter No. 431 dated 21.09.2023, while the fact of the matter is that Regional Officer, JSPCB, Ranchi has never approached/served noticed to the Appellant for a joint inspection of ex-lease area neither sought any reply from the Appellant. Moreover, the said report of Regional Officer, JSPCB, Ranchi Letter No. 431 dated 21.09.2023 have not been served upon the appellant.
- J. That the respondent authority failed to appreciate that the committee nowhere recorded in report dated 16.04.2022

/30.05.2022 that the Appellant has violated some provisions of approved mining plan or environment clearance or Consent to Operate requiring imposition of environmental compensation.

- K. That the respondent authority failed to appreciate that that environmental compensation cannot be imposed on mere conjecture and surmises.
- L. The respondent authority did not apply its mind while passing order of imposition of environmental compensation in a hurried manner as it can be seen from the fact that the impugned order has been passed on 11.03.2024 to hurriedly swear an affidavit dated 11.03.2024 for hearing date fixed before NGT on 13.03.2024 in O.A. No. 134/2023/EZ.
- M. That Hon'ble Supreme Court of India has passed order dated 30.01.2024 in Civil Appeal No. 1865-1866/2022 in the matter of Veena Gupta Versus Central Pollution Control Board whose effective part is reproduced below for ready reference-

“.....

The practice of ex parte orders and imposition of damages amounting to crores of rupees, have proven to be a

counterproductive force in the broader mission of environmental safeguarding.....”

(Annexure-8)

- N. That the Appellant has preferred this Appeal primarily on the basis of violation of natural justice by the respondent authority, passing the impugned order dated 11.03.2024.

INTERIM PRAYER

The Hon'ble Tribunal may direct that the impugned order No. B-672 dated 11.03.2024 of JSPCB imposing environmental compensation without providing any opportunity of hearing be stayed till the disposal of the Application

PRAYER

In view of the facts mentioned in paragraphs above the Appellant prays for the following reliefs :

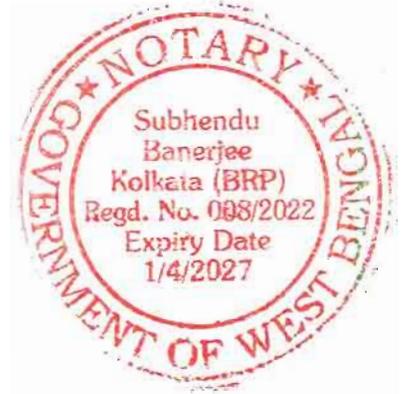
It is therefore prayed that the impugned order No. B-672 dated 11.03.2024 of JSPCB imposing environmental compensation without providing any opportunity of hearing be set aside and matter be remanded to Member Secretary, Jharkhand State

Pollution Control Board, Ranchi to provide opportunity of hearing to the appellant and thereafter pass a reasoned and speaking order.

And for this act of kindness the appellant shall ever pray.

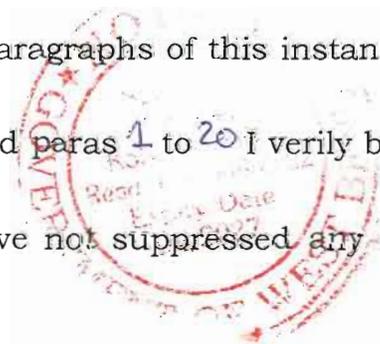
SL. No. 14/24

21



VERIFICATION

I, Amit Gupta aged about 39 years S/o Shri Jagnarayan Gupta resident of Abadganj, P.O. Daltonganj P.S -Daltonganj District-Palamau PIN-822101 do verify the contents of the paragraphs of this instant Appeal are true to my personal knowledge and paras 1 to 20 I verily believe to be true on legal advice and that I have not suppressed any material fact;



अमित गुप्ता

Date: 9/4/24

Place: Identified by me

Signature of the Appellant

Painkeli Ganguly
Scholar
E. NO. - WB/142/2006

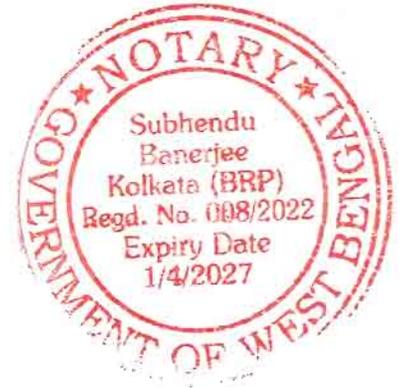
Solemnly Affirmed and
Declared before me U/S
139 CPC & U/S 297 Cr. P.C.

[Signature] 09.04.2024
Notary

Govt. of West Bengal

SUBHENDU BANERJEE
Notary, Govt. of W.B.
Regd. No.-008/2022
Advocate, High Court, Calcutta

09 APR 2024



A F F I D A V I

I, Amit Gupta, S/o Shri Jagnarayan Gupta, aged about 39 years, by faith-Hindu, by occupation- *Business* resident of Abadganj, P.O. Daltonganj P.S -Daltonganj District-Palananu PIN-822101 , do hereby solemnly affirm and state as follows:-

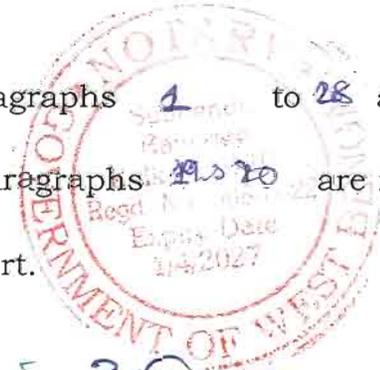
1. That I am appellant abovenamed in this instant application as such I am well acquainted with the facts and circumstances of the above case and I am competent to affirm this affidavit.

2. That the statements contained in paragraphs *1* to *28* are true to my knowledge and those made in paragraphs *1 to 20* are my humble submissions before this Hon'ble Court.

Identified by me
Prepared in my office

Ranabir Banerjee
Advocate

E.NO. - WB/142/2024



अमित गुप्ता

DEPONENT

Solemnly Affirmed and
Declared before me U/S
139 CPC & U/S 297 Cr. P.C.

Ranabir Banerjee
Notary
09.04.2024

Govt. of West Bengal

SUBHENDU BANERJEE
Notary, Govt. of W.B.
Regd. No.-008/2022
Advocate, High Court, Calcutta

09 APR 2024

VAKALATNAMA

IN THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

District: Jharkhand

Appeal OA/MA/RA/Contempt No.

of 20 24

Amit Gupta

{Appellant
{Petitioners

- Versus -

Jharkhand State Pollution Control Board

{Respondent
{Opposite Party

Vakalatnama on behalf of Appellant

Know all men by these presents that by Vakalatnama, I/We appoint the Advocates noted below or any one of them my/our lawful Advocate or Advocates for filling the memorandum or answer or petition of entering appearance

in the above matter for appearing conducting and arguing the same for depositing or withdrawing any money in connection therewith for moving the Court in any matter connected therewith, for preparing the paper book in the case and for putting in papers, petitions etc. On my/ our behalf for filing, taking back any documents for withdrawing suits or appeals or petitions with permission to institute fresh suit etc. For signing and filling petitions of compromise in connections with the said matter and for taking copies of paper from the Record and I / We further say that any act. Done by my / our said Advocate or Advocates or by any one of them after accepting this Vakalatnama, shall be considered as my/our own true and lawful act.

13/06/24
P/15/15

And I/We further hereby agree and undertake to pay the said Advocates his or their fees as settled and all others sums that may be necessary to carry out the requisition of the Court and otherwise to enable the said Advocates to conduct the case properly. Failing which the said Advocates after notice to me/us will be at liberty to withdraw from further conducting the case.

IN WITNESS WHERE OF I/WE sign and execute this Vakalatnama on this the 10th day of April, 2024

Pamshali Banerjee
Advocate
7A, K.S. Roy Rd,
NPS Business centre,
Gr. Floor, KOLKATA - 700001.
M. No. 9433253274
Enroll no. - WB/142/2006

Pamshali Banerjee
Advocate

सेवा में,

जिला खनन पदाधिकारी
गढ़वा।

विषय :- बेलचम्पा बालू घाट के संबंध में।

महाशय,

उपर्युक्त विषय के संबंध में निवेदनपूर्वक कहना है कि मैं अमित गुप्ता पिता जगनारायण गुप्ता मिसन स्कूल के पीछे आबादगंज वार्ड नं० 24 डालटनगंज पलामू 822101 का निवासू हूँ तथा बेलचम्पा बालू घाट का धारक था जो दिनांक 07.12.2021 को समाप्त हो चुका है।

अतः श्रीमान से निवेदन है कि बेलचम्पा बालू घाट पर अब मेरे द्वारा कोई कार्य नहीं किया जा रहा है। मेरे निलामी घाट में कोई खनन उपकरण का खनिज स्टॉक नहीं है।

“ सादर सूचनार्थ ”

गुप्ता बिलारीवादी
के स्थल पर क्षेत्राधिकार
सरकार के पक्ष में सोप के
21
11.12.21

विश्वासभाजन
अमित गुप्ता
11/12/2021
(अमित गुप्ता)
बालू घाट निलामीधारक
बेलचम्पा बालू घाट

दिनांक-14/12/2021

सेवा में

उपायुक्त

गढ़वा, झारखण्ड

विषय : राजस्व गढ़वा जिला के ग्राम- बेलचम्पा, अंचल - गढ़वा, जिला- गढ़वा बालूघाट के प्लोट सं0 - 01 (पार्ट) रकबा- 4.20 H कोयल नदी स्थित बालूघाट मेरे नाम पर बंदोबस्त बेलचम्पा बालू घाट का कब्जा सरकार को सौंपने के संबंध में।

महाशय,

1. उपरोक्त विषय के संबंध में कहना है कि राजस्व गढ़वा जिला के ग्राम-बेलचम्पा, अंचल- गढ़वा, जिला-गढ़वा बालू घाट के प्लोट सं0-01(पार्ट) रकबा- 4.20 H क्षेत्रपर बेलचम्पा बालू घाट की बंदोबस्ती दिनांक 26.06.2015 को सम्पन्न अनुबंध में दिनांक 8.12.2018 से 7.12.2021 तक मेरे नाम से बंदोबस्त किया गया था।
2. उक्त बालू घाट कि बंदोबस्ती दिनांक 7.12.2021 से परिसमाप्त हो चुकी है। मेरे द्वारा दिनांक 8. 12.2021 से उक्त बालू में किसी भी प्रकार का उत्खनन, ढुलाई का कार्य पूर्णतः बन्द किया जा चुका है।
3. उक्त बालू घाट में मेरे किसी प्रकार का मशीन, संयंत्र निर्माण आदि नहीं है।
4. झारखण्ड लघु खनिक समुदान नियमावाली 2004 तथा समय-समय पर यथा संशोधित के सुसंगत नियम तथा अनुबंध कि कण्डिका भाग (7) के आलोक में अनुबंध अवधि कि परिसमाप्ति के फलस्वरूप विषयांकित बालू घाट बेलचम्पा बालू घाट की बंदोबस्तधारी के रूप में प्राप्त स्वतंत्रता सक्रिय तथा विशेषाधिकार सहः क्षेत्र का कब्जा दिनांक 8.12.2021 से सरकार सक्षम पदाधिकार को सौंपता हूँ। उक्त तिथि से संबंधित बालू घाट क्षेत्रपर मेरा कोई अधिकार नहीं है। तथा किसी घटना आदि के लिए मेरी कोई जिम्मेवारी नहीं है।
5. अनुबंध का भाग (VI) के अनुपालन में मुझे सुरक्षित जमा राशी (प्रतिभुति राशि) 1252500 (बारह लाख बावन हजार पाँच सौ रुपये मात्र) मुझे वापस करने की कृपा की जाए।

अतः अनुरोध है कि उपरोक्त पर अग्रतर कार्यवाई करने की कृपा की जाए।

प्रतिलिपी
जिला खनन पदाधिकारी, गढ़वा

विश्वासभाजन

अमित गुप्ता

अमित गुप्ता

पिता : जगनारायण गुप्ता

ग्राम : अबादगंज

पोस्ट+ थाना : मेदिनीनगर,

जिला : पलामू (झारखण्ड)



झारखण्ड राज्य प्रदूषण नियंत्रण पर्वद
JHARKHAND STATE POLLUTION CONTROL BOARD

T.A. DIVISION BUILDING (GROUND FLOOR), H.E.C., DHURWA, RANCHI - 834004

Phone : 0651-2400851/2400852/2400979/2401847. Fax-0651-2400850/138.

Web site : www.jspcb.nic.in; e-mail : ranchijspcb@gmail.com

Ref.No. B-1942

Ranchi, dated- 16/9/2022

From.

Yatindra Kumar Das
Member Secretary

To,

Sri Amit Gupta,
S/o Sri Jagnarayan Gupta,
M/s. Belchampa Sand Mining Project
Vill.-Awadganj, P.O.-Medninagar,
Dist.-Palamau

Sub:- Show Cause Notice under section 25 of the Water (Prevention & Control of Pollution) Act, 1974 and under section 21 of the Air (Prevention & Control of Pollution) Act, 1981-Regarding.

Whereas, you have been granted Environmental Clearance (EC) by DEIAA, Garhwa vide Ref. No. EC/DEIAA/2016-17/26 dated 17.01.2018.

Whereas, you have been granted Consent-to-Establish (CTE) Board's vide Ref. No. JSPCB/RO/RNC/CTE-10576833/2021/04 dated 05.06.2021.

Whereas, you have been granted Consent-to-Operate (CTO) Board's vide Ref. No. JSPCB/RO/RNC/CTO-10770011/2021/146 Dated 09.10.2021

Whereas, you have obtained mining lease dated 08.12.2018 at Mauza-Belchampa, Khata No. 56, Plot No. 01P, Area-4.20 Ha., valid up to 07.12.2021.

Whereas, Hon'ble NGT, Principal Bench, New Delhi in O.A. No. 430/2021 in the matter of Sonu Sharma Vrs. State of Jharkhand vide order dated 27.01.2022 has constituted a five member committee comprising of the SEIAA, Mining & Mineral Department, Jharkhand, State Pollution Control Board, District Magistrate, Garhwa and Superintendent of Police, Garhwa, Jharkhand.

Whereas the Deputy Commissioner, Garwha has submitted the inspection report of the Committee and the recommendation of which is as follows "Based on the above observations the Committee has recommended to impose Environment Compensation to Project Proponent"

Whereas, the Deputy Commissioner, Garwha has submitted the inspection report of the Committee vide letter no. 1221/M dated 08.09.2022 which was emailed to JSPCB on 09.09.2022

Whereas, in light of the above recommendation the Environmental Compensation of the unit has been Computed as per report of the CPCB in house Committee on methodology for assessing Environmental Compensation and action plan to utilize the fund. The calculation of which is below:-

Nature of violation – Obstruction of flow of river.

Basis to levy the Environmental Compensation – Pollution Index

The environmental compensation is based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

Where,

EC – Environmental Compensation

PI – Pollution Index of Industrial Sector

N – Number of days of violation took place

R – A factor in rupees for EC

S – Factor of scale of operation

LF – Location Factor

New in this case,

PI is to be taken as 50 as the industry belongs to Orange category (Excavation of sand from the river bed (excluding manual excavation) as per CPCB's industrial Classification

N is to be taken as 1096 days by assuming the period of obstruction of flow of river from 08/12/2018 to 07/12/2021.

R is to be taken as 250 (as per CPCB's guidelines).

S is to be taken 1.0 as the unit belongs to Medium Scale as per Notification No. - S.O. 1702(E).—dated 01/06/2020 of Ministry of Micro, Small and Medium Enterprises (S could be 0.5 for micro or small, 1.0 for medium and 1.5 for large units as per CPCB Guidelines).

LF is to be taken as 1.0 as the population of Garhwa town is < 1 million. (District Census Handbook, Garhwa of 2011).

Therefore,

$$\begin{aligned}
 \text{EC (Per day)} &= \text{PI} \times \text{R} \times \text{S} \times \text{LF} \\
 &= 50 \times 250 \times 0.5 \times 1.00 \\
 &\text{INR } 6,250.00/-
 \end{aligned}$$

Henceforth, the Environmental Compensation for one day comes out to be INR 6,250.00/- So the total Environmental compensation for 1096 days comes out to be INR 68,50,000.00 (i.e. Rupees Sixty Eight Lakhs Fifty Thousand Only).

Now, therefore in view of above facts a show cause notice is being issued to your unit & you are given an opportunity of being heard/explain your part in the Committee Report in person or through an authorized representative on **23/09/2022 at 11.00. AM** in the Office Chamber of Member Secretary that why not an environment compensation of **INR 68,50,000.00 (i.e. Rupees Sixty Eight Lakhs Fifty Thousand Only)** be imposed against the unit for the reason mentioned. In case of failure to do so legal action may be initiated.

Yours faithfully

(Yatindra Kumar Das)
Member Secretary

(Signature)

- 29 - Annexure 'C'

To,

28 th September 2022

The Member Secretary

Jharkhand State Pollution Control Board

Dhurwa, Ranchi-834004

Sub: Show Cause Notice under section 25 of the Water (Prevention & Control of Pollution) Act 1974 and under section 21 of the Air (Prevention & Control of Pollution) Act, 1981- Regarding

Ref: No. B-1942 dated 16.09.2022

Sir,

1. I have received your above referred letter No. B-1942 dated 16.09.2022 by post on 26.09.2022 wherein I have been directed to file show cause with opportunity of being heard on date fixed 23.09.2022.
2. The show cause notice appears to be based upon the inspection report of the committee submitted by Deputy Commissioner, Garhwa vide letter No. 1221/M dated 08.09.2022, however the said inspection report of the committee has not been annexed with the show cause notice No. 1942 dated 16.09.2022.
3. You are requested to supply me a copy of the said inspection report of the committee by e mail or post and thereafter fix a new date for filing show cause with opportunity of hearing.

Yours faithfully

अमित गुप्ता

28/9/2022

Amit Gupta

S/o Sri Jagnarayan Gupta

vill- Abadgunj Po- Medininagar

Dist-Palamu

e-mail- amritaguptadtg123@gmail.com

Enclosed - India post delivered date.



-30-



AA



हिन्दी



You are here Home >> Track Consignment



Track Consignment

Quick help

* Indicates a required field.

* Consignment Number

EJ251703508IN



Event Details For : EJ251703508IN

Current Status : Item Delivered [To: amit gupta (Addressee)]

Date	Time	Office	Event
26/09/2022	12:15:28	Daltonganj HO (Beat Number:9)	Item Delivered [To: amit gupta (Addressee)]

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Annexure-D



झारखण्ड राज्य प्रदूषण नियंत्रण पर्वद JHARKHAND STATE POLLUTION CONTROL BOARD

T. A. DIVISION BUILDING (GROUND FLOOR), H.E.C., DHURWA, RANCHI -834004

Phone.: 0651-2400851/2400852/2400979/2401847. Fax-0651-2400850/138.

Web site : www.jspcb.nic.in; e-mail : ranchijspcb@gmail.com

पत्रांक: B-2675

राँची, दिनांक:-21/12/2022

प्रेषक,

यतीन्द्र कुमार दास

सदस्य सचिव

सेवा में,

Shri Amit Gupta,

S/o Shri Jagnarayan Gupta,

Vill.-Abadgunj, P.O.-Medininagar,

Dist.-Palamau

E-mail-amritaguptadtg123@gmail.com

विषय:- समिति का निरीक्षण प्रतिवेदन उपलब्ध कराने के संबंध में।

प्रसंग:- आपका पत्रांक शुन्य दिनांक 28.09.2022

महाशय,

उपर्युक्त विषयक प्रसंगाधीन समिति का निरीक्षण प्रतिवेद संलग्न कर भेजी जा रही है।

अनु० यथोः

विश्वासभाजन्

(यतीन्द्र कुमरि दास)
सदस्य सचिव

माननीय National Green Tribunal द्वारा दिनांक [redacted] 2 को
 Original Application No 430/2021 (सोनू शर्मा Vs झारखण्ड सरकार) में पारित आदेश के आलोक में तथ्यात्मक स्थिति प्राप्त करने हेतु गठित संयुक्त समिति को उपायुक्त गढ़वा तथा अपर समाहर्ता, गढ़वा द्वारा प्राप्त निदेश के आलोक में समर्पित किये जाने वाले भूमि संबंधित मापी प्रतिवेदन:-

माननीय National Green Tribunal द्वारा दिनांक 27.01.2022 को Original Application No 430/2021 (सोनू शर्मा Vs झारखण्ड सरकार) में पारित आदेश के आलोक में तथ्यात्मक स्थिति प्राप्त करने गठित संयुक्त समिति को उपायुक्त गढ़वा तथा अपर समाहर्ता, गढ़वा द्वारा प्राप्त निदेश के आलोक में मौजा वेलचम्पा खाता सं० 56 प्लॉट सं० 01 रकबा 4.20 हे० क्षेत्र का निरीक्षण एवं मापी किया गया। निदेशानुसार मापी के दौरान शिकायतकर्ता श्री सोनू शर्मा उर्फ सोनू सिंह उपस्थित थे। मापी एवं निरीक्षण में संबंधित अंचल अमीन, संबंधित हल्का के राजस्व उप निरीक्षक, अंचल निरीक्षक, गढ़वा अंचल अधिकारी, गढ़वा एवं जिला खनन पदाधिकारी, गढ़वा उपस्थित हुए। इस खनन पट्टा क्षेत्र पर श्री अमित गुप्ता पिता श्री जगनारायण गुप्ता, साकिन आबादगंज, पलामू के नाम दिनांक 08.12.2018 से 07.12.2021 तक बालू घाट की बन्दोबस्ती की गई थी। निरीक्षण के क्रम में शिकायतकर्ता श्री सोनू शर्मा उर्फ सोनू सिंह को बुलाकर उनका पक्ष सुना गया। श्री अमित गुप्ता को इस क्षेत्र पर अनुमोदित खनन योजना एवं प्रदुषण नियंत्रण पर्वद रॉन्ची से CTE एवं CTO दिनांक 07.12.2021 तक प्राप्त था। बन्दोबस्ती अवधि समाप्ति के बाद भी इस बालू घाट से यदा-कदा बालू की चोरी का मामला पकड़ा गया है जिसके विरुद्ध प्राथमिकी भी दर्ज की गई है तथा कुछ वाहनों से जुमाना की वसूली की गई है।

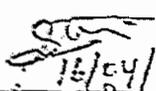
माननीय राष्ट्रीय हरित न्यायाधिकरण द्वारा दिनांक 27.01.2022 को पारित आदेश के आलोक में मापी तथा निरीक्षण उपरांत विन्दुवार प्रतिवेदन निम्नवत है:-

1. पट्टाधारी श्री अमित गुप्ता द्वारा अवैध बालू उत्खनन के कारण कोयल एवं दानरो नदी के अस्तित्व पर संकट उत्पन्न हुआ है। इस संबंध में पट्टा क्षेत्र एवं आस-पास के क्षेत्रों का मापी एवं निरीक्षणोपरांत पाया गया कि बन्दोबस्त क्षेत्र में पहुँचने के लिए लगभग 18 फीट चौड़ा 03 फीट उँचा एवं 900 फीट लम्बा रास्ता बनाया गया है जिससे नदियों के पानी के बहाव पर असर पड़ा है तथा इनका मार्ग परिवर्तन हुआ है।
2. माननीय न्यायालय राष्ट्रीय हरित न्यायाधिकरण द्वारा पारित आदेश में उल्लेखित है कि श्री अमित गुप्ता द्वारा अवैध खनन करने के कारण खनन पट्टा क्षेत्र में 10-12 फीट गहरा तथा 50-60 मीटर गहरा वाला खाई का निर्माण हुआ है, जिससे भू-जल स्तर गिरने से गंभीर जल संकट व्याप्त हो गया है। इस संबंध में क्षेत्र का निरीक्षण करते हुए बालू घाट बन्दोबस्ती के अनुरूप क्षेत्र का सिमांकन किया गया जिसमें पता चला कि खनन पट्टा क्षेत्र गढ़वा रेहला रोड पर बने पुल से 507 मीटर एवं नदी के किनारे से 69 मीटर दूर स्थित है। बन्दोबस्त क्षेत्र में या आस-पास आदेश में उल्लेखित आकार का कोई गढ़ा नहीं पाया गया। उक्त क्षेत्र वर्तमान में समतल है तथा कोई ठोस आधार नहीं है जिससे पता चल सके कि नदी में कितने गहराई तक बालू का खनन किया गया है। जहाँ-तहाँ पानी के बहाव से अपेक्षाकृत 01-1.50 फीट गढ़ा बना हुआ है। इस क्षेत्र के दक्षिण लगभग 150 फीट की दूरी पर लगभग 2-2.50 फीट उँचाई में बालू का जमाव पाया गया जिससे अनुमान लगाया जा सकता है कि इस पूरे क्षेत्र में लगभग 2-2.50 फीट बालू का उठाव हुआ है।

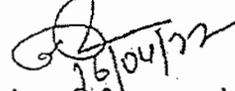
[Handwritten signatures and initials]

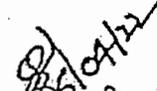
3. जहाँ तक नदी का जल स्तर नीचे जाने से गंभीर जल संकट उत्पन्न होने का प्रश्न है, इस संबंध में विशेषज्ञ तथा संबंधित विभाग से जाँच कराई जा सकती है।

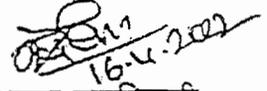
अंचल अमीन द्वारा चम्बोवरा क्षेत्र के गालू खनन पट्टा का ट्रेसिंग नक्शा तैयार किया गया जिसे इस प्रतिवेदन के साथ संलग्न किया गया है। साथ ही मापी एवं निरीक्षण के क्रम में कुछ फोटोग्राफ्स/विडियो क्लिप्स भी लिया गया है जो सुलभ संदर्भ हेतु इस प्रतिवेदन के साथ संलग्न है।


14/04/2022
अंचल अमीन
गढ़वा


16/04/22
राजेश उप निरीक्षक
गढ़वा


16/04/22
अंचल निरीक्षक
गढ़वा।


16/04/22
अंचल अधिकारी
गढ़वा


16.4.2022
जिला खनन पदाधिकारी
गढ़वा।

मा० National Green Tribunal में दाखिल वाद OA No. 430/2021 में दिनांक-27/01/2022 के आदेशानुसार गठित कमिटी की दिनांक 28/05/2022 की बैठक की कार्रवाही ।

1. उपस्थित :-

1. उपायुक्त, गढ़वा
2. पुलिस अधीक्षक, गढ़वा
3. आ० कृति अग्निषेक, SEIAA, राँची
4. श्री गोपाल कुमार, रा० प्रदूषण नि० पदा, राँची,
(ग्रीडल पदाधिकारी)

2. सर्वे प्रथम उपायुक्त गढ़वा द्वारा उपस्थित सदस्यों का स्वागत करते हुए बैठक की कार्रवाही प्रारम्भ की गई।

3. दिनांक-06/04/2022 को कमिटी की गत बैठक में लिए गये निर्णय के अनुसार अपर समाहर्ता गढ़वा के पर्यवेक्षण में अंचल अमीन, राजस्व निरीक्षक, अंचल निरीक्षक, अंचलाधिकारी गढ़वा एवं जिला खनन पदाधिकारी, गढ़वा का निरीक्षण सह मापी प्रतिवेदन दिनांक-16/04/2022 पर चर्चा की गई।

4. मा० National Green Tribunal में दाखिल OA No. 430/2021 में दिनांक-27/01/2022 के आदेश में कहा गया है कि बालू बंदोबस्तधारी श्री अमित कुमार द्वारा अवैध बालू खनन कर 10 से 12 फीट गहरा एवं 50 से 60 मीटर व्यास का गढ़ा बना दिया गया है।

जाँच प्रतिवेदन से स्पष्ट होता है कि वर्तमान में उक्त आकार का कोई गढ़ा बालू घाट या इसके आस-पास नहीं है। दिनांक-06/04/2022 को कमिटी द्वारा भी जाँच के क्रम में कोई उक्त आकार का गढ़ा नहीं देखा गया।

5. मा० National Green Tribunal के आदेश में कहा गया है कि अवैध खनन के कारण कोयल एवं दानरो नदियों को काफी क्षति पहुँचाई गयी है।

जाँच दल द्वारा प्रतिवेदन किया गया है कि बालू बंदोबस्त क्षेत्र में पहुँच पथ के लिए लगभग 900 फीट लम्बा, 18 फीट चौड़ा एवं 3 फीट कच्चा सड़क बना दिया गया है जिसके कारण दानरो नदी के जल प्रवाह परिवर्तित हुआ है। उक्त कार्य से पर्यावरण को क्षति पहुँची है जिसका पर्यावरणीय क्षतिपूर्ति का आकलन झारखण्ड राज्य प्रदूषण नियंत्रण पर्वद, राँची से कराने का निर्णय लिया गया। समिति ने निर्णय लिया कि इस संबंध में प्रदूषण नियंत्रण पर्वद के प्रतिनिधि पर्यावरणीय क्षतिपूर्ति आकलन संबंधि झारखण्ड राज्य प्रदूषण नियंत्रण पर्वद, राँची से आवश्यक पत्राचार/ कार्रवाई कर प्रतिवेदन समिति को तथा माननीय NGT में प्रस्तुत करेंगे।

अनुपालन :- क्षेत्रिय प्रदूषण नियंत्रण पर्वद राँची।



6. मा0 National Green Tribunal के आदेश में कहा गया है कि बालू खनन से आस-पास के क्षेत्रों में जल स्तर नीचे चला गया है तथा पीने का पानी की कमी हो गयी है।

इस सम्बन्ध में कार्यपालक अभियंता, पेयजल एवं स्वच्छता विभाग गढ़वा से जाँच कराने का निर्णय लिया गया। समिति के द्वारा जिला खनन पदाधिकारी को निदेश दिया गया कि कार्यपालक अभियंता, पेयजल एवं स्वच्छता, विभाग गढ़वा से पत्राचार कर इस संबंध में प्रतिवेदन प्राप्त कर समिति के समक्ष रखें।

अनुपालन :- जिला खनन पदाधिकारी, गढ़वा।

7. बैठक में निर्णय लिया गया कि भविष्य में उक्त नदी क्षेत्र में किसी भी तरह का अवैध बालू उठाव न हो इसके लिए जिला खनन पदाधिकारी समय-समय पर औचक निरीक्षण करें यदि इसमें संलिप्त व्यक्ति मिलते हैं तो उन पर सख्त कानूनी कार्रवाई कराना सुनिश्चित करेंगे।

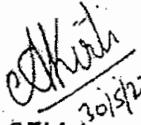
अनुपालन:- जिला खनन पदाधिकारी, गढ़वा।

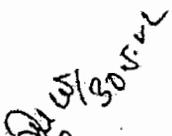
8. माननीय NGT के द्वारा आदेश में यह अंकित है कि "The state PCB will be nodal agency for Coordination and compliance" अतः समिति के द्वारा यह निर्णय लिया गया कि NGT के उक्त आदेश के आलोक में अब तक की गई कार्रवाई के संदर्भ में State PCB द्वारा factual तथा कृत कार्रवाई संबंधि प्रतिवेदन तैयार कर माननीय NGT द्वारा पारित आदेश में वर्णित E-mail/Id पर निर्देशित formate में तथा शीघ्र भेजना सुनिश्चित करेंगे।

अनुपालन :- राज्य प्रदूषण नियंत्रण पर्वद, राँची।

अंत में सधन्यवाद सभा की कार्रवाही की समाप्ती की घोषणा की गयी।


30/5/2022
रा0प्र0नि0 पर्वद
राँची


30/5/22
SEIAA
राँची


30/5/22
पुलिस अधीक्षक
गढ़वा


30/5/22
उपायुक्त
गढ़वा

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Annexure-EE

13/2.Feb, 2023

To,

The Member Secretary

Jharkhand State Pollution Control Board

Dhurwa, Ranchi-834004

Sub: Show Cause Notice under section 25 of the Water (Prevention & Control of Pollution) Act, 1974 and under section 21 of the Air (Prevention & Control of Pollution) Act, 1981

Ref: JSPCB Ref. No. B-1942 dated 16.09.2022 and B-2675 dated 21.12.2022

Sir,

1. The Noticee has carefully examined the show cause Notice dated 16.09.2022 along with report of the committee dated 30.05.2022 and hereby submits the reply herein below.
2. That the sand settlement deed over this area was executed by the Deputy Commissioner, Garhwa on 08.12.2018 for a period of three years which expired on 08.12.2021 (**Annexure-1**). The lessee thereafter reported the expiry of time period of sand ghat to the District Mining Officer, Garhwa on 11.12.2021 wherein I was directed to handover possession of sand ghat (**Annexure-2**). Accordingly, I handed over possession of this sand ghat to Deputy Commissioner, Garhwa on 14.12.2021/18.12.2021 with a copy to District Mining Officer, Garhwa (**Annexure-3**). As such the ex-lessee is not responsible for any activity in and around the sand ghat with effect from 18.12.2021 and onwards. It is the responsibility of State and its competent officers to protect their sand ghat with effect from 18.12.2021 and onwards.



3. The environment clearance (EC) dated 17.01.2018 and the consent to operate (CTO) dated 09.10.2021 became infructuous on 08.12.2021 upon expiry of mining lease deed dated 08.12.2018. Your special attention is invited to Para 2 (3) of CTO dated 09.10.2021 (**Annexure-4**) which is reproduced below for ready reference-

2. Documents Relied Upon

.....
2. The content of registered Mining lease deed valid from 08.12.2018 to 07.12.2021.

-”
4. The committee report dated 16.04.2022 has observed that there have been cases of illegal mining/transportation of sand from this sand ghat even after 07.12.2021 against which First Information Report has also been registered together with realisation of penalty from commercial vehicles carrying sand illegally. However, the copy of First Information Report and list of commercial vehicles carrying sand has not been presented before committee on 28.05.2022 creating suspicion that the competent officers and members of the committee are not interested in disclosing their names for reasons best known to them only.
 5. The ex-lessee of this area Amit Gupta categorically states that there is no First Information Report against him with the Garhwa Police regarding any illegal sand mining/transportation from Belchampa Sand Mines neither any commercial vehicle in the name of Amit Gupta has ever been fined on account of illegal transportation of sand from Belchampa Sand Mines. In fact, there is no commercial vehicle registered in the name of Amit Gupta anywhere in India.
 6. As such the report of the committee dated 16.04.2022/30.05.2022 fixing responsibility on ex-lessee after 4/6 months of expiry of his mining lease is not only illegal, null and void but mischievous also as the competent officers/concerned public servants have shamelessly tried to save the real culprits for reasons best known to them only. The ex-lessee Amit Gupta was never called by the committee or during so called inspection and/or

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measurement which is against the principle of natural justice as laid down by Hon'ble High Court of Jharkhand in order dated 24.02.2020 passed in W.P. (C) No. 5118/2019 with batch cases(Annexure-5).

7. The fallacy of the report of committee dated 16.04.2022/30.05.2022 fixing responsibility on ex-lessee Amit Gupta is contradicted by the inspection report of Regional Officer, Jharkhand State Pollution Control Board, Ranchi dated 09.10.2021 conducted during the currency of the mining lease of Amit Gupta and duly recorded at Para 2.5 of CTO dated 09.10.2021 (Annexure-4) wherein every compliances were fine till 09.10.2021. As such a fully compliant lessee cannot become non-compliant in just two months.
8. The report of the committee dated 30.05.2022 is fit to be rejected on this score only that the fixation of responsibility on account of illegal mining of sand as per First Information Report and recovery of penalty etc as mentioned in report dated 16.04.2022 was not commented /discussed in the final report of the committee dated 30.05.2022.
9. In the light of aforesaid legal and factual matrix, you are requested to accept the show cause as the same is based upon documentary evidences annexed herewith. Accordingly, you are requested to withdraw your *ex-parte* notice for environment compensation to the tune of INR 68,50,000.00 as the ex-lessee has not violated any environmental Act, Rules, conditions of environment clearance, consents and/or approved mining plan during the currency of the mining lease. The illegal conduct of illegal miners after expiry of the lease cannot be shifted on the shoulders of ex-lessee to save the skin of public servants. You are further requested to apprise your comments to the National Green Tribunal, Principal Bench, New Delhi in Original Application No. 430/2021 Sonu Sharma Versus State of Jharkhand on hearing date fixed on 24.02.2023.
10. A copy of this reply is being submitted to the Deputy Commissioner, Garhwa for furnishing his comments before National Green Tribunal, Principal Bench, New Delhi in Original Application No. 430/2021 Sonu Sharma Versus State of Jharkhand on hearing date fixed on 24.02.2023.

11. Should you require any further clarification in the matter of environment compensation, I may be given an opportunity of personal hearing to present my case.

Yours faithfully

अमित गुप्ता

Amit Gupta
S/o Sri Jagnarayan Gupta
At-Abadganj PO-Medininagar
Dt-Palamau

Enclosures: As abovePages

Copy to: Deputy Commissioner, Garhwa in compliance to his Letter No. 188 dated 07.02.2023 for onward communication to NGT, Principal Bench, New Delhi for hearing date fixed on 24.02.2023 in OA No. 430/2021.

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 5118 of 2019

With

W.P.(C) No. 5119 of 2019

With

W.P.(C) No. 5122 of 2019

With

W.P.(C) No. 5161 of 2019

Grands Mining (a partnership firm), Bokaro Steel City, Bokaro through its Partner Bhupendra Kumar Singh ... **Petitioner (in all cases)**

Versus

1. The State of Jharkhand through the Secretary, Department of Mines and Geology, Doranda, Ranchi
2. The Deputy Commissioner, Pakur
3. The Additional Collector, Pakur
4. The District Mining Officer, Pakur
5. The Surveyor, District Geology Office, Department of Mines and Geology, Dumka **Respondents (in all cases)**

CORAM: HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr. Sumeet Gadodia, Advocate
Mr. Shailendra Kumar Singh, Advocate
Ms. Shilpi John, Advocate

For the Respondents : Mr. Gaurav Abhishek, AC to AG

Order No. 07

Dated: 24.02.2020

The present batch of writ petitions have been filed for quashing and setting aside the orders contained in Letter No. 1561/M in [W.P.(C) 5118 of 2019], Letter No. 1563/M in [W.P.(C) 5119 of 2019], Letter No. 1562/M in [W.P.(C) No. 5122 of 2019] and Letter No. 1564/M in [W.P.(C) No. 5161 of 2019] all dated 16.09.2019, whereby the petitioner has been directed to show cause as to why the remaining period of its mining lease pertaining to stone mines be not terminated on the ground of suppression of actual production carried out in its mine and has further been directed to pay penalty for doing illegal mining as well as fine for wrong submission of monthly statement to the extent of Rs.32,67,800/-, Rs.6,84,72,798/-,

transportation of mineral with respect to its mining lease area till the petitioner makes the aforesaid payment of the amount of penalty along with fine, which is contrary to the provisions of Jharkhand Minor Mineral Concession Rules, 2004 (hereinafter referred to as "JMMC Rules, 2004") and conditions of lease deeds.

2. The factual background of the case as stated in the writ petitions is that the petitioner was granted mining lease for extraction of minor mineral (stone) from the respective mining leased area situated at different plots of Khata No. 56 in Mouza-Golpur, District-Pakur. The lease deeds were also executed in favour of the petitioner. Thereafter, the consent to operate (CTO) permitting the petitioner for carrying out the said mining activities with respect to the concerned mining leased area was given by the Jharkhand State Pollution Control Board on 23.05.2016 and was renewed from time to time. The petitioner regularly filed monthly statements in statutory Form-K before the respondent no. 4 in compliance of its statutory obligation under Rule 48(3) of the JMMC Rules, 2004. Earlier, sectional measurement in the petitioner's mines was taken by the officials of the Mining Department of the Government of Jharkhand and thereafter, the petitioner was directed to pay penalty alleging that it had shown excavation of minerals without excavating the same from the concerned mining lease area with an intention to obtain transit challan which was used by it for the purpose of transportation of mineral illegally excavated from some other area. The demands raised by the respondents were challenged by the petitioner before this Court by filing W.P.(C) No. 3178 of 2018, W.P.(C) No. 3182 of 2018, W.P.(C) No. 3186 of 2018 and W.P.(C) No. 3189 of 2018. The petitioner claimed in the said writ petitions that the measurement in the mining lease area was done in absence of its representative and there were several infirmities in the said measurement. This Court, vide order dated 30.08.2018 having found that the impugned

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abovementioned letters giving rise to filing of the present writ petition.

3. The learned counsel for the petitioner submits that while issuing the impugned letters, the respondents failed to comply the direction of this Court dated 30.08.2018 in its true letter and spirit. It is further submitted that neither single opportunity of hearing was given to the petitioner by the respondent no. 2 – the Deputy Commissioner, Pakur nor the copies of the relevant documents were furnished to the petitioner, rather the impugned letters were issued hurriedly. From bare perusal of the impugned letters all dated 16.09.2019, it would be evident that the same have been issued in a pre-judged and pre-decided manner. It has been mentioned in the impugned letters that the work of the sectional measurement was undertaken by the Committee constituted by the respondent no. 2 under the Chairmanship of the respondent no. 3 – the Additional Collector, Pakur between the period from 06.06.2019 to 31.07.2019. However, the said period mentioned in the impugned letters on the face of it, is incorrect as sectional measurement was not taken during the aforesaid period as would be evident from the earlier communication dated 24.07.2019 itself, wherein the respondent no. 4 had informed that a meeting was convened in the office of the respondent no. 3 on 25.07.2019 for discussion on Sectional Measurement Report prepared by the Surveyors. It is further submitted that it has been stated in the impugned letters that on sectional measurement of the mineral excavated by the petitioner, it was found that the mineral excavated from the mining area is lesser than the monthly statements, thus the petitioner illegally excavated minerals from some other areas. However, the said allegation against the petitioner shows complete non-application of mind on the part of the respondent no. 2. If the petitioner has made less excavation than the alleged excavation shown in its monthly statements, then in such

utilized the same to the extent of the mineral shown by it in its monthly returns excavated from its mining area and it did not obtain any excess challan. Thus, the first allegation levelled in the impugned order is untenable, both in the facts and in law. Mining challans were being issued to the petitioner by the office of the respondent no. 4 only after verifying the relevant facts relating to excavation of mineral from the mining lease area of the petitioner. Thus, the allegation against the petitioner that it excavated minerals from outside its mining lease area and utilized its transport challan for transportation of the said mineral on the face of it becomes untenable in view of the fact that mining challans were being issued only after proper verification by the office of the respondent no. 4. The allegation against the petitioner is based on the measurement report of the respondent no. 5 – Surveyor, however, the said measurement report was agreed to be corrected by the concerned authorities of the State of Jharkhand in the meeting dated 25.07.2019 as evident from the letter no. 1220/M dated 26.07.2019 (Annexure-13 to the writ petition). In the impugned letters, reference has been made to the provisions of Rule 27(2) of the JMMC Rules, 2004 as well as Part-IX, Clause 3 of the lease deeds, however, under the said provisions, no such power has been given to the Deputy Commissioner to restrain the petitioner from carrying out mining activity till such time the amount of penalty is not deposited.

4. On the contrary, the learned counsel for the respondents submits that subsequent to the order of this Court dated 30.08.2018, a Committee was constituted vide memo no. 623/M dated 12.04.2019 issued by the respondent no. 2 which was headed by the respondent no. 3 consisting of the respondent no. 4 and the Mining Surveyor of the District Geology Office, Dumka to conduct re-measurement. A preparatory meeting to conduct the re-measurement was called by the respondent no. 3 on 25.05.2019 and it was decided to carry out

re-measurement work. The sectional measurement was conducted between 06.06.2019 to 31.07.2019 with prior intimation to the petitioner with a direction to be present during the measurement work. After re-measurement of the leased area, it was found that the petitioner had actually extracted less quantity of mineral, however, had shown higher amount in the monthly returns which attracts the provision of Rule 54(1) and Rule 42(1) of the JMMC Rules, 2004. The re-measurement works were conducted in presence of the petitioner and its representative, but they didn't put their signature on the measurement report. The petitioner has violated the rules, regulation as well as the terms and conditions of lease deed by doing illegal mining outside the leased area. Apart from that, it has also misplaced the facts by furnishing wrong production figure of the mineral in its monthly returns which was actually not extracted from the leased mine, but tried to give it a legal shape by using transport challans which is totally wrong and attracts rule 42(1) of the JMMC Rules, 2004. The petitioner has also not availed its legal remedy available to it by filing an appeal before the Appellate Authority as provided under rule 65(1) of the JMMC Rules, 2004.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. Earlier, the petitioner had moved before this Court by filing writ petitions being W.P.(C) No. 3178 of 2018, W.P.(C) No. 3182 of 2018, W.P.(C) No. 3186 of 2018 and W.P.(C) No. 3189 of 2018 challenging the demand of penalties with regard to its respective mines. The said writ petitions were disposed of by a common order dated 30.08.2018. Paragraph-14 of the said judgment reads as under:

14. In view of the discussions made herein above, the impugned letters to the extent of imposition of penalty are hereby quashed/set aside. However, the respondents are directed to treat the said impugned letters as show cause notices, both, for penalty as well

7. At the outset, the learned counsel for the petitioner has contended that the respondents did not comply the order of this Court dated 30.08.2018 and again issued demand letters without giving any opportunity of hearing to the petitioner and on this score alone, the impugned letters may be quashed.

8. On the contrary, the claim of the respondents is that after the order of this Court, a Committee was formed for re-measurement and thereafter, the mines were re-measured in presence of the representative of the petitioner and the allegation against the petitioner was found true and thus, no good ground is made out to interfere with the demand letters. In support of the said contention, the learned counsel for the respondents has produced measurement report of the mines which have been signed by all the members of the Committee. Since, according to the respondents, the petitioner's representative refused to sign on the report, their signature is not present in the report.

9. To appreciate the contention of the learned counsel for the parties, I have perused the records of the case and have also gone through the sequential steps which were followed by the parties after the order of this Court dated 30.08.2018. The petitioner vide letters dated 01.11.2018 and 05.01.2019 requested the respondent no. 2 to carry out fresh inspection in the mining lease area of the petitioner and to pass order after giving it personal hearing on providing relevant documents to it. Thereafter, the respondent no. 2 vide memo no. 623/M dated 12.04.2019 constituted a Committee headed by the respondent no. 3 which also consisted of the Assistant Mining Officer, Pakur and Mining Surveyor of Geology Office, Dumka to conduct fresh measurement. Vide Office Order as contained in memo no. 836 dated 30.05.2019 issued by the respondent no. 3, five persons namely, Sri Surendra Paswan – Surveyor, Sri Vibhash Kumar – Surveyor. Sri Subhash Yadav – Circle Inspector, Sri Dhan Marandi –

from 06.06.2019 till completion of the said work. It is evident from letter no. 1214/M dated 24.07.2019 issued by the respondent no. 4 that the Circle Officer, Pakuria, Surveyors and the authorized representative of the petitioner were called to attend the meeting going to be held on 25.07.2019 at 11.00 am for discussion on the measurement report. Again, letter no. 1220/M dated 26.07.2019 was issued by the respondent no. 4 to the Circle Officer, Pakuria, Surveyors and the authorized representative of the petitioner stating therein that a meeting was held on 25.07.2019 for discussion on the measurement report, wherein it was suggested to rectify the report submitted by Surveyor – Shri Surendra Paswan, which was accepted unanimously and thereafter, the Surveyor was asked to suggest amendment and the matter was again to be taken up on 31.07.2019 at 11.00 am.

10. On consideration of the aforesaid facts, it would be evident that the re-measurement was already done by 24.07.2019 and all the members of the Committee were called to discuss on the measurement report in the meeting dated 25.07.2019. Thus, I find substance in the argument of the learned counsel for the petitioner that only two persons namely, Surveyor – Surendra Paswan and Surveyor – Vibhas Kumar carried out the inspection and/or measurement in the mining lease area of the petitioner and as such, I am of the view that the measurement report placed before this Court by the learned counsel for the respondents alleged to have been signed on 30.07.2019 is merely a table work and the same has not been prepared at the spot. Moreover, in the said report, the signature of the petitioner's representative is missing. Though the learned counsel for the respondents submits that the representative of the petitioner refused to sign the report, yet the same cannot be believed since there appears serious doubt in the manner of preparation of the said report.

however, without serving the report and making discussion in the matter, the respondent no. 2 straightway issued the impugned letters directing the petitioner to pay the penalty. The said contention of the learned counsel for the petitioner has some substance keeping in view the sequence of events mentioned hereinabove.

12. One of the arguments of the learned counsel for the respondents is that the petitioner has straightway moved before this Court without availing its statutory remedy by filing an appeal before the Appellate Authority as provided in Rule 65(1) of the JMMC Rules, 2004.

13. In the case of "*Joshi Technologies International Inc. Vs. Union of India & Ors.*" reported in *(2015) 7 SCC 728*, the Hon'ble Supreme Court has held as under:

70. Further, the legal position which emerges from various judgments of this Court dealing with different situations/aspects relating to contracts entered into by the State/public authority with private parties, can be summarised as under:

70.1. At the stage of entering into a contract, the State acts purely in its executive capacity and is bound by the obligations of fairness.

70.2. State in its executive capacity, even in the contractual field, is under obligation to act fairly and cannot practise some discrimination.

70.3. Even in cases where question is of choice or consideration of competing claims before entering into the field of contract, facts have to be investigated and found before the question of a violation of Article 14 of the Constitution could arise. If those facts are disputed and require assessment of evidence the correctness of which can only be tested satisfactorily by taking detailed evidence, involving examination and cross-examination of witnesses, the case could not be conveniently or satisfactorily decided in proceedings under Article 226 of the Constitution. In such cases the Court can direct the aggrieved party to resort to alternate remedy of civil suit, etc.

contractual obligation. Occurrence of commercial difficulty, inconvenience or hardship in performance of the conditions agreed to in the contract can provide no justification in not complying with the terms of contract which the parties had accepted with open eyes. It cannot ever be that a licensee can work out the licence if he finds it profitable to do so: and he can challenge the conditions under which he agreed to take the licence, if he finds it commercially inexpedient to conduct his business.

70.6. Ordinarily, where a breach of contract is complained of, the party complaining of such breach may sue for specific performance of the contract, if contract is capable of being specifically performed. Otherwise, the party may sue for damages.

70.7. Writ can be issued where there is executive action unsupported by law or even in respect of a corporation there is denial of equality before law or equal protection of law or if it can be shown that action of the public authorities was without giving any hearing and violation of principles of natural justice after holding that action could not have been taken without observing principles of natural justice.

70.8. If the contract between private party and the State/instrumentality and/or agency of the State is under the realm of a private law and there is no element of public law, the normal course for the aggrieved party, is to invoke the remedies provided under ordinary civil law rather than approaching the High Court under Article 226 of the Constitution of India and invoking its extraordinary jurisdiction.

70.9. The distinction between public law and private law element in the contract with the State is getting blurred. However, it has not been totally obliterated and where the matter falls purely in private field of contract, this Court has maintained the position that writ petition is not maintainable. The dichotomy between public law and private law rights and remedies would depend on the factual matrix of each case and the distinction between the public law remedies and private law field, cannot be demarcated with precision. In fact, each case has to be examined, on its facts whether the contractual relations between the parties bear indicia of public element. Once on

equitable or that relevant factors are taken into consideration and irrelevant factors have not gone into the decision-making process or that the decision is not arbitrary.

70.10. Mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirements of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness.

70.11. The scope of judicial review in respect of disputes falling within the domain of contractual obligations may be more limited and in doubtful cases the parties may be relegated to adjudication of their rights by resort to remedies provided for adjudication of purely contractual disputes.

14. It may thus be construed that a writ can be issued if the action of the public authorities is found to have suffered from violation of the principles of natural justice and the said argument of the learned counsel for the respondents has no leg to stand.

15. It appears that the Committee headed by the respondent no. 3 did not comply the order of the respondent no. 2 as contained in memo no. 623/M dated 12.04.2019 much less the order of this Court, rather prepared a table report, that too, in absence of the representative of the petitioner as also the said report was not supplied to it so as to sufficiently respond to the same.

16. Under the aforesaid circumstance, the present batch of writ petitions are disposed of with following observations:

(i) The impugned letters being Letter No. 1561/M in [W.P.(C) 5118 of 2019], Letter No. 1563/M in [W.P.(C) 5119 of 2019], Letter No. 1562/M in [W.P.(C) No. 5122 of 2019] and Letter No. 1564/M in [W.P.(C) No. 5161 of 2019] are hereby quashed and set-aside not having been in accordance with the direction of this Court dated 30.08.2018 as well

Commissioner, Pakur shall call a meeting in presence of the representative of the petitioner on any suitable date within a period of 15 days from the date of receipt/production of this order to fix a date of inspection/measurement of the respective leased premises of the petitioner.

(iii) At the time of inspection/measurement, all the members of the Committee including the Additional Collector, Pakur as well as the representative of the petitioner shall remain present at the spot and after the inspection, a report shall be prepared at the spot in which all the persons present shall sign and a copy of the report shall be served to the representative of the petitioner so as to enable it to respond to the said report.

(iv) The respondent no. 2 is directed to pass an appropriate order after duly considering the measurement report and other relevant documents as well as the reply of the petitioner and providing a reasonable opportunity of hearing to its representative.

(Rajesh Shankar, J.)

दिनांक-14/12/2021

सेवा में

उपायुक्त

गढ़वा, झारखण्ड

विषय : राजस्व गढ़वा जिला के ग्राम- बेलचम्पा, अंचल - गढ़वा, जिला- गढ़वा बालूघाट के प्लोट सं0 - 01 (पार्ट) रकबा- 4.20 H कोयल नदी स्थित बालूघाट मेरे नाम पर बंदोबस्त बेलचम्पा बालू घाट का कब्जा सरकार को सौंपने के संबंध में।

महाशय,

1. उपरोक्त विषय के संबंध में कहना है कि राजस्व गढ़वा जिला के ग्राम-बेलचम्पा, अंचल- गढ़वा, जिला-गढ़वा बालू घाट के प्लोट सं0-01(पार्ट) रकबा- 4.20 H क्षेत्रपर बेलचम्पा बालू घाट की बंदोबस्ती दिनांक 26.06.2015 को सम्पन्न अनुबंध में दिनांक 8.12.2018 से 7.12.2021 तक मेरे नाम से बंदोबस्त किया गया था।
2. उक्त बालू घाट कि बंदोबस्ती दिनांक 7.12.2021 से परिसमाप्त हो चुकी है। मेरे द्वारा दिनांक 8.12.2021 से उक्त बालू में किसी भी प्रकार का उत्खनन, ढुलाई का कार्य पूर्णतः बन्द किया जा चुका है।
3. उक्त बालू घाट में मेरे किसी प्रकार का मशीन, संयंत्र निर्माण आदि नहीं है।
4. झारखण्ड लघु खनिक समुदान नियमावाली 2004 तथा समय-समय पर यथा संशोधित के सुसंगत नियम तथा अनुबंध कि कण्डिका भाग (7) के आलोक में अनुबंध अवधि कि परिसमाप्ति के फलस्वरूप विषयांकित बालू घाट बेलचम्पा बालू घाट की बंदोबस्तधारी के रूप में प्राप्त स्वतंत्रता सक्रिय तथा विशेषाधिकार सहः क्षेत्र का कब्जा दिनांक 8.12.2021 से सरकार सक्षम पदाधिकार का सौंपता हूँ। उक्त तिथि से संबंधित बालू घाट क्षेत्रपर मेरा कोई अधिकार नहीं है। तथा किसी घटना आदि के लिए मेरी कोई जिम्मेवारी नहीं है।
5. अनुबंध का भाग (VI) के अनुपालन में मुझे सुरक्षित जमा राशी (प्रतिभुति राशि) 1252500 (बारह लाख बावन हजार पाँच सौ रुपये मात्र) मुझे वापस करने की कृपा की जाए।
अतः अनुरोध है कि उपरोक्त पर अग्रतर कार्यवाई करने की कृपा की जाए।

प्रतिलिपी
जिला खनन प्रदाधिकारी, गढ़वा

विश्वासभाजन
अमित गुप्ता
अमित गुप्ता
पिता : जगनारायण गुप्ता
ग्राम : अबादगंज
पोस्ट-स्थाना : मेदिनीनगर,
जिला : पलामू (झारखण्ड)

-#6- 52-

सेवा में,

जिला खनन पदाधिकारी
गढ़वा।

विषय :- बेलचम्पा बालू घाट के संबंध में।

महाशय,

उपर्युक्त विषय के संबंध में निवेदनपूर्वक कहना है कि मैं अमित गुप्ता पिता जगनारायण गुप्ता मिसन स्कूल के पीछे आबादगंज वार्ड नं० 24 डालटनगंज पलामू 822101 का निवासू हूँ तथा बेलचम्पा बालू घाट का धारक था जो दिनांक 07.12.2021 को समाप्त हो चुका है।

अतः श्रीमान से निवेदन है कि बेलचम्पा बालू घाट पर अब मेरे द्वारा कोई कार्य नहीं किया जा रहा है। मेरे निलामी घाट में कोई खनन उपकरण का खनिज स्टॉक नहीं है।

" सादर सूचनार्थ "

कृपया निलामीघाट
के स्कूल पर क्षेत्राधिकार
सरकार के पक्ष में शेष है
21/12/21

विश्वासभाजन

अमित गुप्ता

11/12/2021

(अमित गुप्ता)

बालू घाट निलामीधारक

बेलचम्पा बालू घाट

- 77-53-

JHARKHAND STATE POLLUTION CONTROL BOARD

TOWNSHIP ADMINISTRATION BUILDING, HEC COMPLEX, DHURWA, RANCHI 834004

Telephone: 0651-2400850 (Fax)/ 2400851/2400852/2401847/2400979/2400139

RefNo. JSPCB/RO/RNC/CTO-10770011/2021/146

Dated : 2021-10-09

Consent to operate (CTO) under section 25 /26 of the Water (Prevention & Control of Pollution) Act, 1974 and under section 21 of the Air (Prevention & Control of Pollution) Act, 1981

1. Application (s) dated 2021-09-06 of BELCHAMPA SAND MINING PROJECT, Occupier Name :AMIT GUPTA for consent under section 25 (1)(b)/25 (1) (c)/26 of the Water (Prevention & Control of Pollution) Act, 1974 and under section 21(1) of the Air (Prevention & Control of Pollution) Act,1981..

2. Documents Relied Upon:

1.The CTE RefNo.-JSPCB/RO/RNC/CTE-10576833/2021/4, date-05.06.2021 accorded under section 25 (I) (a) of the water (Prevention & Control of Pollution) Act, 1974 and under section 21 (I) of the Air (Prevention & Control of Pollution) Act, 1981.

2. The content of registered Mining lease deed valid from 08.12.2018 to 07.12.2021.

3. The content of the Environmental clearance letter no.- EC/DEIAA/2016-17/26 dated-17.01.2018 issued by DEIAA, Garhwa.

4. The content of letter no.-2520 dated-23.09.2015 issued by DFO, Garhwa North Division, Garhwa regarding Forest Distance Certificate.

5. The content of inspection report, Ref No.-Nil, date-09.10.2021 of Regional Office, Ranchi.

3. The consent is granted under section 25 / 26 of the Water (Prevention & Control of Pollution) Act, 1974 and under section 21 of the Air (Prevention & Control of Pollution) Act, 1981 to operate the project in Mauza -BELCHAMPA , P S -GARHWA , District -GARHWA , as follows:

Project	Site-Area		Investment (Rs)	Product & Capacity	Period of CTO
	Plot Nos.	Area			Date of issue To
Before Expansion	Khata no.-56, Plot no.-01(P), Mauza- Belchampa.	4.20 Ha.	135.25 Lakh	Sand-102197 MT/year (As per E.C)	07/12/2021

(A) Specific Conditions:

- 78 - 54 -

1. That, the occupier shall ensure no mining activity beyond 3m depth from the bed level or upto subsurface water level whichever is less in the issue of sand mining or sand/gravel mining should be raised 15m away from the river side or mining should be restricted from the distance equal or more than 1/5 module of river width shall be left on both the banks of precise area to control and avoid erosion of river bank.
2. That, the occupier shall take proper mitigative measure to prevent pollution of river particularly from oily discharge from machinery & transport vehicles.
3. That, the occupier shall do sand mining in such a way that there shall not be any obstruction in flow of the river stream and minimum flow as per the guideline of concerned authority must be maintained at any point of time.
4. That, the occupier shall transport the material in fully covered vehicle and an agreement shall be made with transporter to this effect with the condition that if found transporting the material uncovered, transport contract shall be terminated with immediate effect.
5. That, the occupier shall monitor A.A.Q. within 1.0 K.M. of approach road and work area on quarterly basis and report to the Board accordingly.
6. That, the occupier shall make the sand mining in such a way that the bed-creature system of the river should not get changed within 100 m of the lease hold area either side in its longitudinal section and 10m of its lateral section.
7. That, the occupier shall comply the E.C. conditions issued vide letter no.- EC/DEIAA/2016-17/26 dated- 17.01.2018 and shall submit six monthly report of E.C conditions to the Board.
8. That, the occupier shall not do mining during monsoon season.
9. The Board may review CTO as per DSR & if required necessary modifications shall be made.
10. That, the occupier shall submit applications for renewal of consent under section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 and under section 21 of the Air (Prevention & Control of Pollution) Act, 1981 again 120 days prior to the date of expiry of this consent i.e. 07.12.2021 with requisite fee and documents showing compliance of all of the above conditions.
11. CTO issued vide letter no.-JSPCB/RO/RNC/CTO-7170866/2019/284 dated- 24.12.2019 shall be treated as cancelled.

(B) **General Conditions :**

- (1) That, the occupier shall maintain the **National Ambient Air Quality Standard** given below:

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S N	Pollutant	Time Weighted Average	Concentration in Ambient Air	
			Industrial, Residential, Rural and Other Area	Ecologically Sensitive Area (notified by Central Govt.)
(1)	(2)	(3)	(4)	(5)
1.	Sulphur Dioxide (SO ₂), µg/m ³	Annual 24 hours	50 80	20 80
2.	Nitrogen Dioxide (NO ₂), µg/m ³	Annual 24 hours	40 80	30 80
3.	Particulate Matter (size less than 10 µm) or PM ₁₀ , µg/m ³	Annual 24 hours	60 100	60 100
4.	Particulate Matter (size less than 2.5 µm) or PM _{2.5} , µg/m ³	Annual 24 hours	40 60	40 60
5.	Ozone(O ₃), µg/m ³	8 hours 1 hour	100 180	100 180
6.	Lead (Pb) µg/m ³	Annual 24 hours	0.50 1.0	0.50 1.0
7.	Carbon Monoxide (CO) mg/m ³	8 hours 1 hour	02 04	02 04
8.	Ammonia (NH ₃) µg/m ³	Annual 24 hours	100 400	100 400
9.	Benzene (C ₆ H ₆) µg/m ³	Annual	05	05
10.	Benzo(a) Pyrene(BaP) Particulate Phase only ng/m ³	Annual	01	01
11.	Arsenic (As) ng/m ³	Annual	06	06
12.	Nickel (Ni) ng/m ³	Annual	20	20

Note : Serial no. 1 to 4 – Mandatory
Serial no. 5 to 12 As applicable for specific type of industry.

(2) That, the occupier shall maintain the emission quality within the standard and the quantity, as follows:

S N	Parameter	Standard
1	Particulate Matter	NA

(3) That, the occupier shall keep process effluent in close-circuit and the quality of effluent from other sources in conformity with the standard (s) and the discharge quantity as below:

S N	Parameter	Standard
1	Total Suspended Solids	100mg/L
2	BOD	30mg/L
3	COD	250mg/L
4	Oil & Grease	10mg/L

(4) That, the occupier shall dispose of solid wastes as follows:

S N	Waste Type	Mode of Disposal
1	Hazardous Carbonaceous Wastes	In co-processing in high temperature furnaces or Kilns
2	Hazardous Non-Carbonaceous Wastes	In TSDF
3	Non-Carbonaceous Non-Hazardous solid wastes/ Mine Over Burden	As a substitute of Soil or Mineral

(5) That, the occupier shall keep D G Set(s) within acoustic enclosure and shall keep the height(s) of exhaust pipe(s) as per Central Pollution Control Board norm.

(6) That, the occupier shall install and maintain Central Ground Water Board/ State Ground Water Directorate approved system of rain water harvesting-cum-ground water recharge and submit the photographic view of the structures within a month.

(7) That, the occupier shall grow and maintain greenery of the project in the periphery and other available spaces and shall continue enhancing its plant density and biodiversity.

(8) That, the occupier shall submit environmental statement with supporting stoichiometric calculations analyses reports, every year latest by 30th September of the next financial year.

(9) That, the occupier shall submit report(s) duly monitored and issued by an NABL accredited / ISO 9001:2008 and OHSAS 18001:2007 certified laboratory in compliance sub-para (2), (3), (4) and (5) of paragraph 3 of this CTO yearly at required periodicity.

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- (10) That, this CTO is valid subjected to the validity of mining Lease/Mining Plan/Ecofriendly/Environmental Clearance, if applicable. In case of no renewal of Mining Lease/Mining Plan, this consent shall be treated as revoked automatically.
- (11) That, this CTO is issued from the environmental angle only and does not absolve the occupier from other statutory obligations prescribed under any other law or any other instrument in force. The sole and complete responsibility to comply with these conditions laid down in all other laws for the time-being in force, rests with the industry/ unit/ occupier.
- (12) That, this CTO shall not in any way, adversely affect or jeopardize the legal proceeding , if any, instituted in the past or that could be , instituted against you by the State Board for violation of the provisions of the Act or the Rules made there under.
- (13) That, the occupier shall comply with all applicable provisions of the Water (Prevention & Control of Pollution) Act, 1974; the Water (Prevention & Control of Pollution) Cess Act, 1977; the Air (Prevention & Control of Pollution) Act, 1981; and the Environment (Protection) Act, 1986 and Rules made there under.
4. **That, this CTO shall not absolve the occupier from making compliance of other statutory prescribed under any law or direction of courts or any other instrument for the time being in force.**
5. **That, this CTO is being issued on the basis of information/ documents/ certificate submitted by the unit. This CTO will be revoked if any of the information/documents/certificates/undertaking given by the occupier is found false/fictitious/forged in future.**
6. **The Order shall be valid subject to compliance of all other legal requirements applicable to the unit.**
7. **The State Board reserve the right to revoke, withdraw or make any reasonable variation / change / alteration in conditions of this consent.**

This is issued with the approval of the Competent authority

RAGHVEN, Digitally signed
by RAGHVENDRA
DRA NARAYAN
NARAYAN KASHYAP
Date: 2021.10.09
KASHYAP 17:20:27 +05'30'

(R.N. Kashyap)

Regional Officer

Regional Office, Ranchi.

Memo No. : JSPCB/RO/RNC/CTO-
10770011/2021/146

Dated : 2021-10-09

Copy to: M/s Belchampa Sand Mining Project, Sri Amit Gupta, Prop., Mauza-Belchampa, Po-Belchampa, Dist. -Garhwa/ Member Secretary, JSPC Board, Ranchi/ Deputy Commissioner, Garhwa/ D.F.O., Garhwa/ D.M.O., Garhwa for information and necessary action.

RAGHVEND, Digitally signed
by RAGHVENDRA
RA NARAYAN
NARAYAN KASHYAP
Date: 2021.10.09
KASHYAP 17:21:18 +05'30'

(R.N. Kashyap)

Regional Officer

Regional Office, Ranchi.

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झारखण्ड JHARKHAND

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मॉडल प्रपत्र-[सी]
(देखें संशोधित नियम-12)
अनुबंध

यह अनुबंध आज दिनांक 2018 को

झारखण्ड सरकार (इसके बाद राज्यपाल के रूप में जिस अभिव्यक्ति में जहाँ ऐसा संदर्भ लिया जाता है उनके कार्यालय का उत्तराधिकारी भी शामिल है) को एक पक्ष

तथा

श्री अमित गुप्ता पिता श्री जगनारायण गुप्ता ग्राम- अवादगंज, पो0 मेदिनीनगर थाना मेदिनीनगर जिला- पलामू

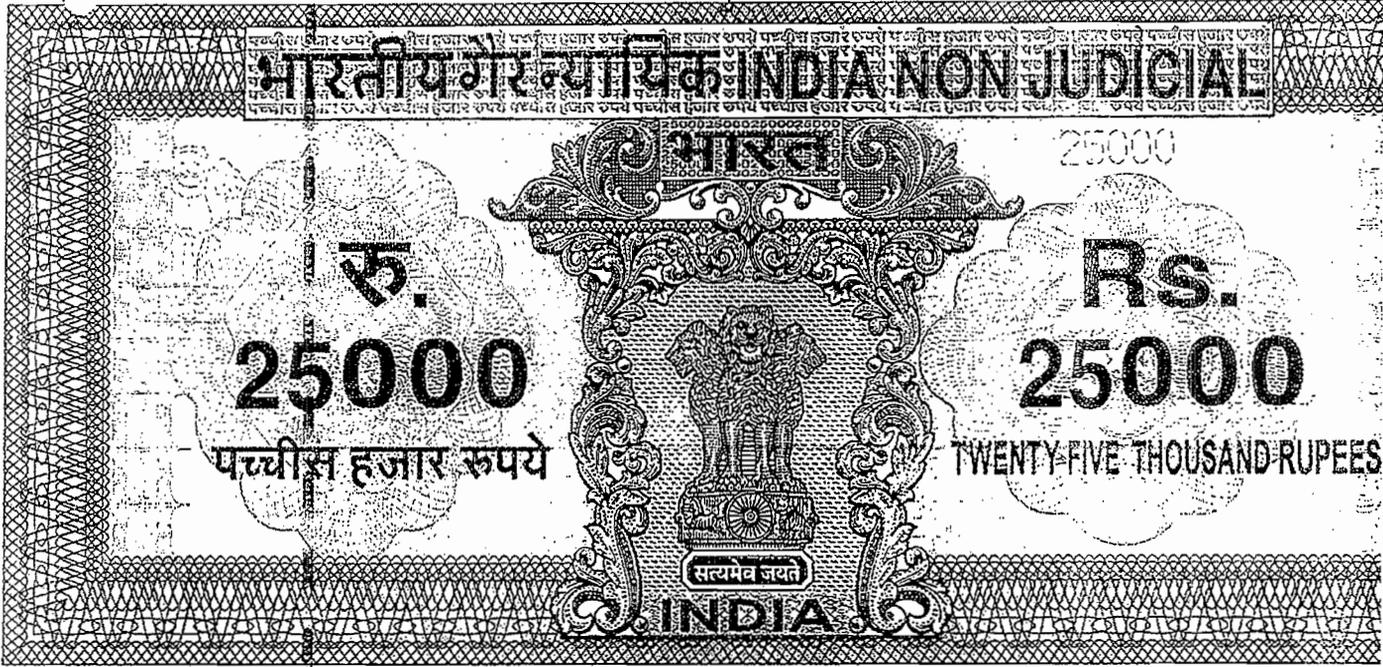
(इसके बाद से दूसरे पक्ष के पट्टेदार के रूप में उल्लेखित किए जायेंगे, के बीच सम्पन्न किया जाता है)।

अमित गुप्ता
बन्दोबस्तीधारी

जिला अधिकारी,
DISTRICT MARKING OFFICE,
GARHWARA

08/12/18
उपायुक्त,
गढ़वा।

- 88 - 59 -



झारखण्ड JHARKHAND

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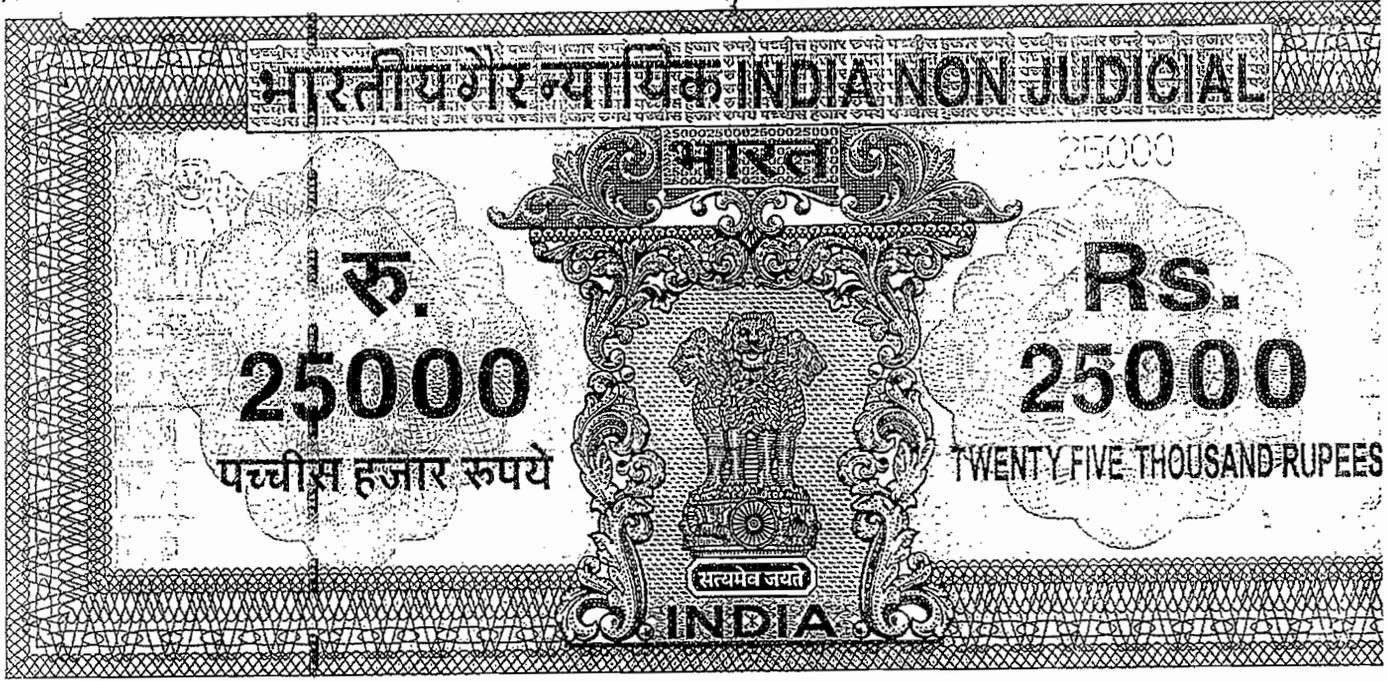
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जहाँ दिनांक 26-06-15 को पूर्ण की गई एक नीलामी में जिसमें सबसे ज्यादा बोली रु0 1,25,25,000.00 (एक करोड़ पच्चीस लाख पच्चीस हजार रुपये मात्र) बोलने वाले (इसके बाद से उन्हें, जहाँ भी मामला हो, बन्दोबस्तीधारी/बन्दोबस्तीधारीगण कहा जाएगा) व्यक्ति/व्यक्तियों के साथ बालू के उत्खनन (लघु खनिज के रूप में) झारखण्ड लघु खनिज समनुदान नियमावली-2004 के नियम-12(सभी संशोधन सहित) इसके बाद से उक्त नियमावली के रूप में निर्देशित अनुरूप इस लिखित अनुबंध (इसके बाद से उक्त नियमावली के रूप में निर्देशित) के भाग (1) में वर्णित भूमि के लिए ^{अज्ञित क्षेत्र} एक बार नामा की तिथि से 3 (तीन) वर्षों तक के बोली के लिए नोटिस दी गई परिस्थियों के अनुसार बोली गई डाक की कुल राशि का 40% राशि का 20% राशि, जिला/सहायक खनन पदाधिकारी, गढ़वा, के पदनाम से तथा 40% राशि का 80% राशि संबंधित ग्राम पंचायत/अधिसूचित क्षेत्र/जिला परिषद/नगर पंचायत/नगर निगम के पदाधिकारी के पदनाम से जमा की गई है।

अज्ञित क्षेत्र


 DISTRICT MINING OFFICER
 GARHWA

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झारखण्ड JHARKHAND

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भाग-I

पंचायत - बेलचपा मौजा - बेलचपा, थाना - गढ़वा अंचल गढ़वा, अनुमण्डल गढ़वा जिला - गढ़वा झारखण्ड के अन्तर्गत - कोयल नदी में खाता संख्या 56 प्लॉट संख्या - 01 अंश, कुल रकबा - 4.20 हे० क्षेत्र स्थित भूमि का सभी खण्ड।

भाग-II

बन्दोवस्तीधारी / बन्दोवस्तीधारीगण को स्वतंत्रता, शक्तियाँ तथा विशेषाधिकार।
बन्दोवस्तीधारी / बन्दोवस्तीधारीगण झारखण्ड लघु खनिज रियायत नियमावली-2004 (सभी संशोधनों सहित) तथा भाग-1 में उल्लेखित नदी तल से बालू का उत्खनन एवं प्रेषण करेंगे।

भाग-III

भाग-2 में स्वतंत्रता :

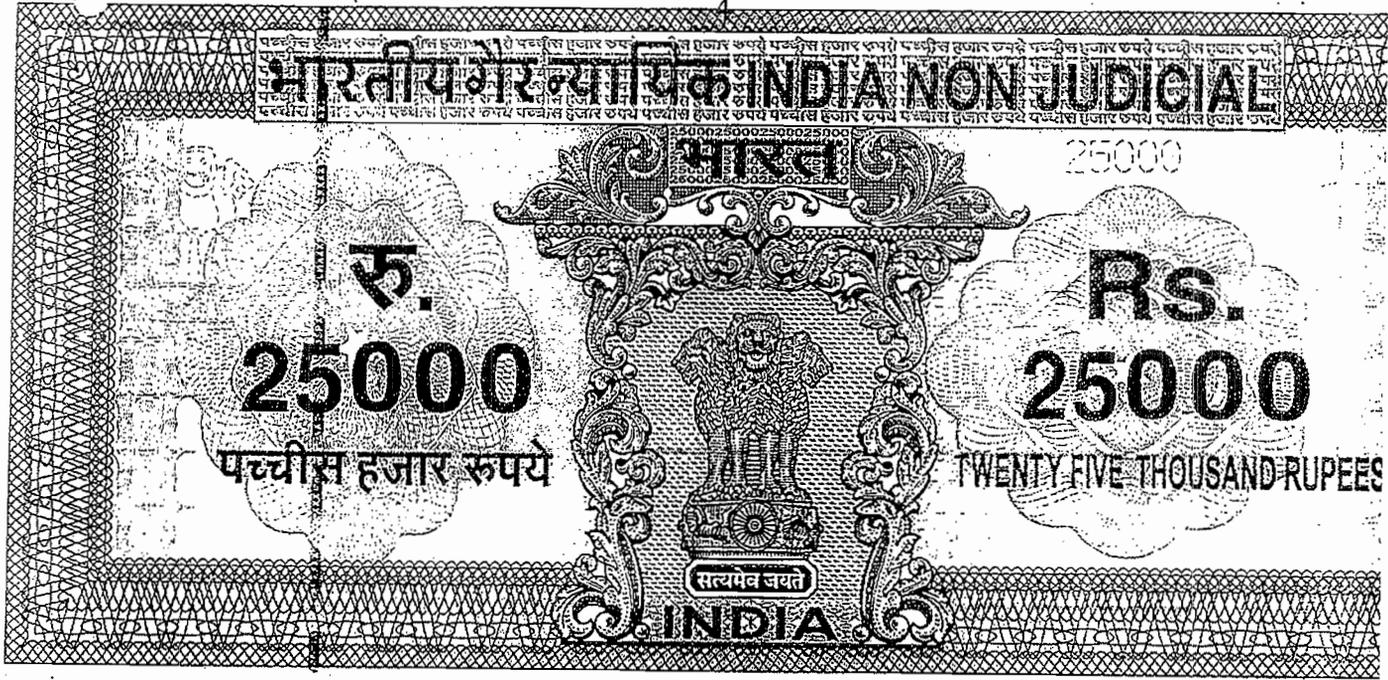
शक्ति तथा विशेषाधिकार के प्रयोग में निषेध एवं शर्तें :-

- (1) रैयत की अनुमति के बिना रैयती भूमि में बालू से संबंधित कोई कार्य करना, उत्खनन अथवा प्रेषण का कार्य नहीं किया जाएगा। बन्दोवस्तीधारी / बन्दोवस्तीधारीगण इन नियमों के अन्तर्गत प्रतिनियुक्त समाहर्ता / उपायुक्त द्वारा निर्दिष्ट अथवा निर्धारित क्षतिपूर्ति की राशि का भुगतान रैयत को करेंगे।

अमित शुक्ल

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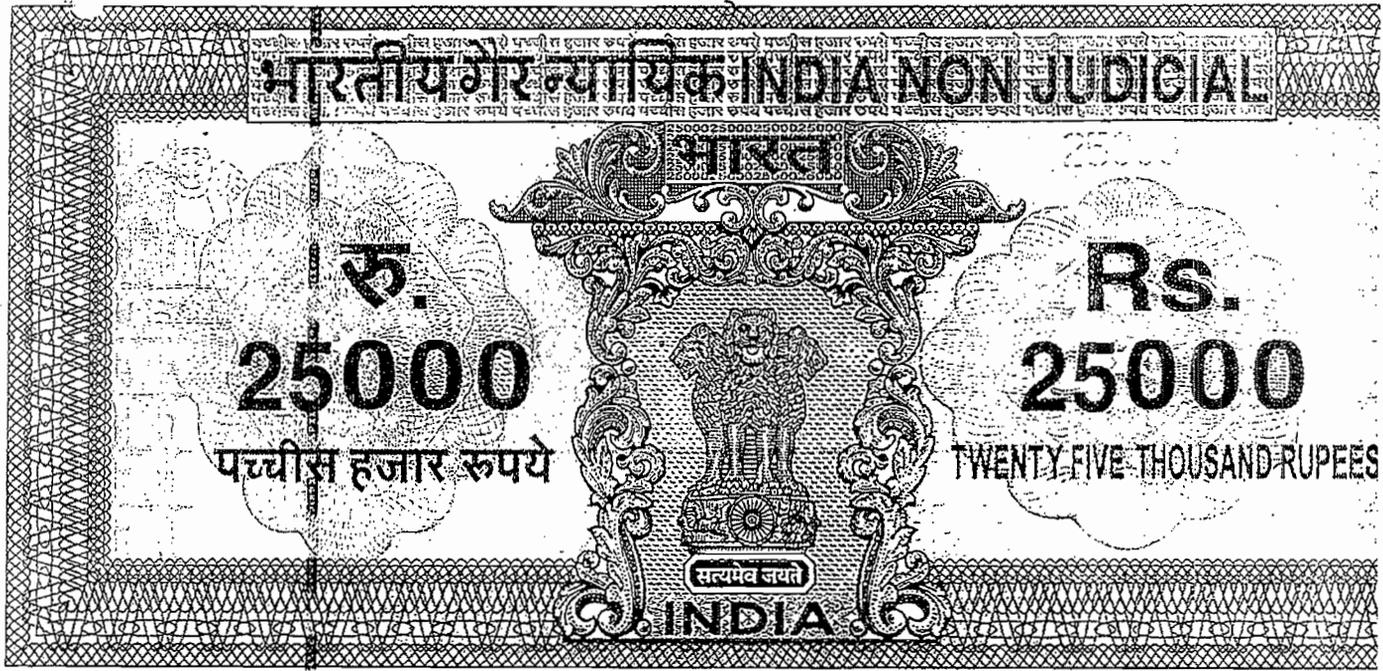
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अमित शुभा

- (2) बन्दोबस्तीधारी/बन्दोबस्तीधारीगण को क्षतिपूर्ति अथवा परिवहन में होने वाली किसी बाधा के कारण खनिजों की अनुपलब्धता के कारण नुकसान के लिए राज्य सरकार के उपर कोई दावा नहीं कर सकेंगे।
- (3) उच्चतम डाकवक्ता को बिक्रीकर के लिए निबंधन कराकर बन्दोबस्ती के तीन माह के अन्दर बिक्रीकर का निबंधन संख्या कार्यालय में दाखिल करना होगा, अन्यथा बिना कारण दिखाए बन्दोबस्ती निरस्त कर दी जाएगी तथा जमा राशि जप्त कर ली जाएगी।
- (4) बालूघाटों की बन्दोबस्ती के पश्चात् बालू के प्रेषण करने में किसी प्रकार का अड़चन यथा पहुँच पथ वगैरह के कारण या किसी अन्य कारण वश मालामीधारी नीलामी किए गए बालूघाट से प्रेषण नहीं कर पाते हैं तो इसकी जिम्मेवारी सरकार की नहीं होगी तथा भुगतान की गई राशि के विरुद्ध किसी भी प्रकार का दावा/कटौती मान्य नहीं होगा।
- (5) पर्यावरणीय स्वीकृति के पश्चात् पर्यावरण की सुरक्षा हेतु उपाय करना होगा एवं केन्द्र तथा राज्य सरकार द्वारा निर्धारित नियमों/मापदण्डों का अनुपालन आवश्यक रूप से करना होगा।
- (6) पूल के दोनों तरफ निर्धारित सुरक्षित क्षेत्र की दूरी यथा 500 मीटर दूरी को छोड़कर ही बालू का उठाव करना होगा।
- (7) सिंचाई हेतु नदी में स्थापित किए गए कूप एवं पम्पिंग सेट के आस-पास सुरक्षित क्षेत्र के बाहर बालू का उठाव करना होगा।


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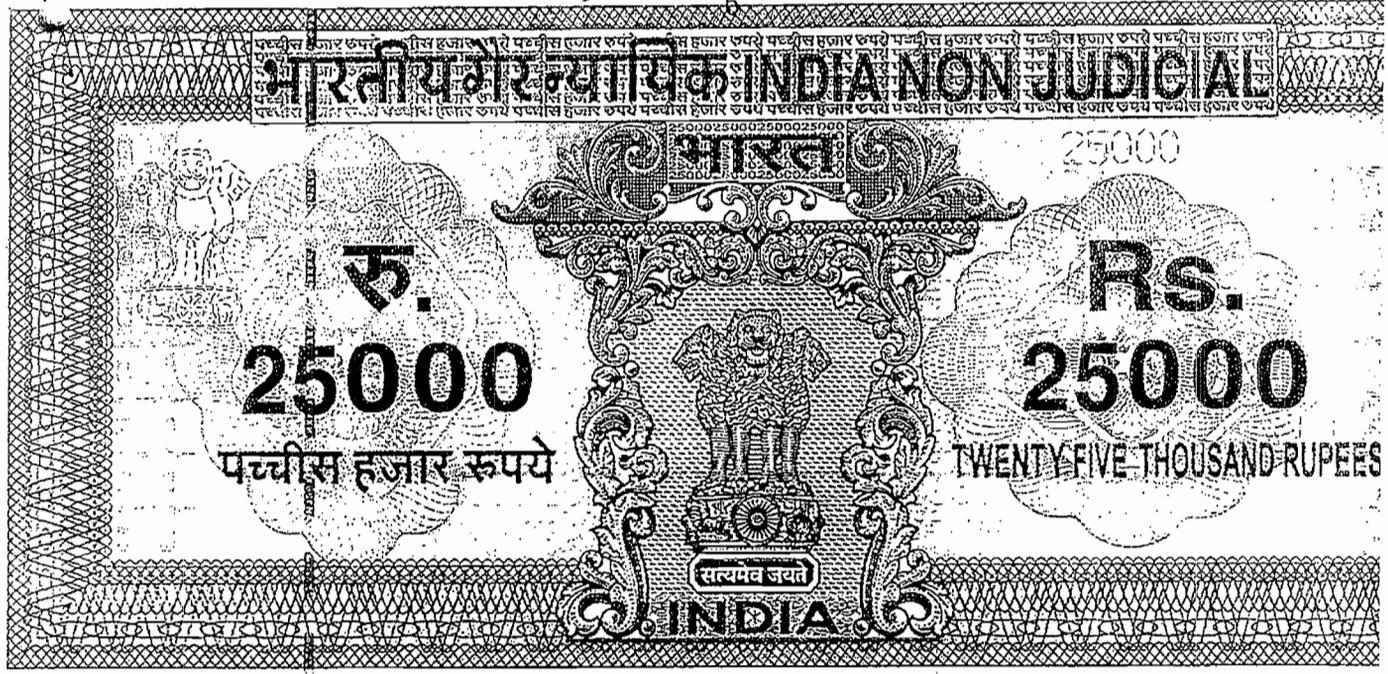
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- (8) ज्ञान-कार्य यथा छठ-घाट, श्मशान घाट अन्य धार्मिक स्थल नदी में निर्मित बराज डैम, पूल, सिंचाई अथवा पेय जल हेतु निर्मित इनटेक कुँआ (Intake well), झालको आदि से चारों दिशा से 50 मीटर की दूरी छोड़कर बालू का उठाव करना होगा।
- (9) घाट से बालू उठाव के लिए अगर स्थानीय मजदूर उपलब्ध रहेंगे तो बन्दोबस्त बालूघाट से बालू का उठाव एवं लदाई मशीन द्वारा नहीं किया जाएगा, ताकि उन्हें रोजगार मिल सके एवं उनका पलायन नहीं हो, परन्तु जाँच से आश्वस्त होने पर अगर मजदूरों के उपलब्धता में कमी होगी तो वहाँ मशीन का प्रयोग इस हद तक ही किया जा सकेगा कि उस क्षेत्र के मजदूर बेरोजगार नहीं हों एवं नदी के जल स्तर के नीचे जाने का कुप्रभाव उस पर नहीं पड़ेगा।
- (10) अन्य शर्त एवं बंधेज झारखण्ड लघु खनिज समनुदान नियमावली-2004 (सभी संशोधनों सहित) झारखण्ड खनिज बिक्रेता नियमावली-2007 एवं झारखण्ड खनिज परिवहन पारगमन चालान विनियमन-2005 के प्रावधानों के अनुसार होगा।
- (11) नीलामी धारी को झारखण्ड लघु खनिज समनुदान नियमावली-2004 (प्रथा संशोधित) नियमों के अनुसार बालू उत्खनन एवं प्रेषण से संबंधित मासिक विवरणी बन्दोबस्तीधारी द्वारा जिला खनन कार्यालय, गढ़वा में मृत्युक अनुवर्ती माह के 15 तारीख तक दाखिल करना होगा तथा बालू

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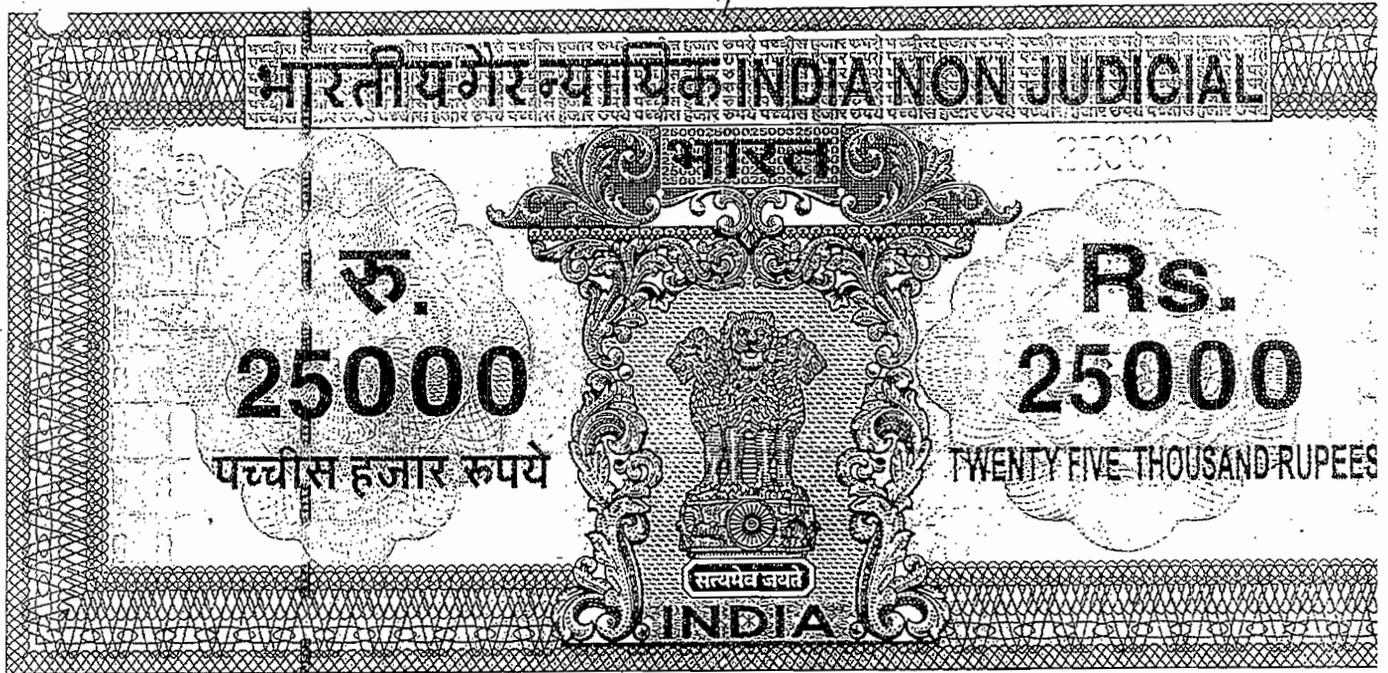
का प्रेषण खनिज परिवहन चालान (e. Challan) के माध्यम से करना होगा।

- (12) बन्दोबस्तीधारी को सरकार द्वारा समय-समय पर दिए गए निर्देशों का अनुपालन करना होगा।
- (13) सक्षम पदाधिकारी के प्रतिवेदन के आधार पर उपायुक्त विचार करते हुए अनिहित में किसी भी खनिज का मूल्य निर्धारण कर सकते हैं।
- (14) बालू की बिक्री उपायुक्त द्वारा निर्धारित दर से करना होगा। समय-समय पर उपायुक्त द्वारा संशोधित दर से बालू की बिक्री की जा सकेगी। किसी भी हालत में उपायुक्त द्वारा निर्धारित बालू के मूल्य से अधिक मूल्य पर बालू की बिक्री नहीं की जाएगी।
- (15) बालूघाटों से संबंधित अभिलेखों का संधारण/प्रस्तुतीकरण/नियंत्रण एवं राजस्व वसूली हेतु जिला/सहायक खनन पदाधिकारी सक्षम होंगे।
- (16) बालूघाटों से संबंधित समय-समय पर विभागीय स्तर से प्राप्त दिशा-निर्देशों का अनुपालन करना होगा।
- (17) Approved Mining Plan (अनुमोदित खनन योजना) एवं E.C. (पर्यावरणीय स्वीकृति) के Terms & Conditions के अनुसार ही बालू का उत्खनन एवं प्रेषण बन्दोबस्तीधारी द्वारा किया जा सकेगा। किसी भी हालत में आवंटित रकबा के बाहर बालू का उत्खनन एवं प्रेषण बन्दोबस्तीधारी द्वारा नहीं किया जा सकेगा।

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भाग-IV

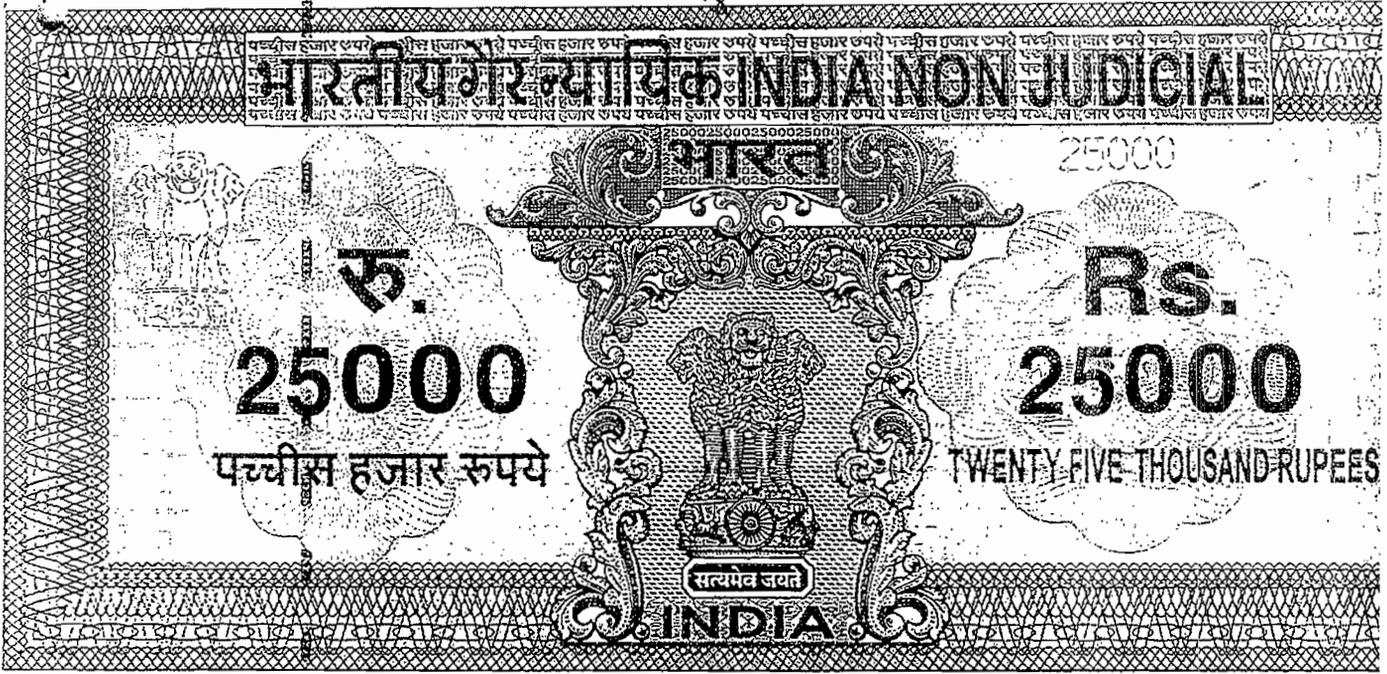
भुगतान का तरीका :

- (1) बन्दोबस्तीधारी/बन्दोस्तीधारीगण की बोली यदि 25000/- (पच्चीस हजार रु०) से अधिक नहीं हो तो अनुबंध पूर्ण होने के पूर्व इस राशि को पूर्ण रूप से भुगतान किया जाएगा।
- (2) बन्दोबस्तीधारी/बन्दोबस्तीधारीगण जिनकी बोली गई राशि 25000/-रुपये से अधिक है, वह निम्न प्रकार से राशि जमा करेंगे:-
 - (क) डाक की राशि का 10% (दस प्रतिशत) प्रतिभूति राशि के रूप में डाक की समाप्ति के तुरन्त बाद जिला/सहायक खनन पदाधिकारी के पदनाम से ड्राफ्ट, जिला खनन कार्यालय, गढ़वा में जमा करना होगा।
 - (ख) डाक की राशि का 40% नीलामी समाप्ति के 10 दिनों के अन्दर जमा करना होगा। राशि का भुगतान निम्न प्रकार करना होगा :-
 - (i) 40% राशि का 20% राशि जिला/सहायक खनन पदाधिकारी, गढ़वा के पदनाम से डिमाण्ड ड्राफ्ट जिला खनन कार्यालय में जमा करना होगा।

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- (ii) 40% राशि का 80% राशि संबंधित ग्राम पंचायत/अधिसूचित क्षेत्र/जिला परिषद्/नगर पंचायत/नगर निगम के पदाधिकारी के पदनाम से डिमाण्ड ड्राफ्ट जिला खनन कार्यालय, गढ़वा में जमा करना होगा।
- (iii) 40 % राशि पर देय आयकर देना होगा।
- (ग) डाक की राशि का 30% राशि का भुगतान अगामी वित्तीय वर्ष के 28 फरवरी तक जमा करना होगा। राशि का भुगतान निम्न प्रकार करना होगा:-
- (i) 30% राशि का 20% राशि, डिमाण्ड ड्राफ्ट जिला/सहायक खनन पदाधिकारी, गढ़वा के पदनाम से बनवा कर जिला खनन कार्यालय, गढ़वा में जमा करना होगा।
- (ii) 30% राशि का 80% राशि, डिमाण्ड ड्राफ्ट संबंधित ग्राम पंचायत/अधिसूचित क्षेत्र/जिला परिषद्/नगर पंचायत/नगर निगम के पदाधिकारी के पदनाम से बनवा कर जिला खनन कार्यालय, गढ़वा में जमा करना होगा।
- (iii) 30 % राशि पर देय आयकर देना होगा।
- (घ) शेष 30% राशि का भुगतान दूसरे वर्ष के समाप्ति के उपरान्त आगामी वित्तीय वर्ष के 28 फरवरी तक जमा करना होगा।

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- (i) 30% राशि का 20% राशि, डिमाण्ड ड्राफ्ट जिला/सहायक खनन पदाधिकारी, गढ़वा के पदनाम से बनवा कर जिला खनन कार्यालय, गढ़वा में जमा करना होगा।
- (ii) 30% राशि का 80% राशि, डिमाण्ड ड्राफ्ट संबंधित ग्राम पंचायत/अधिसूचित क्षेत्र/जिला परिषद/नगर पंचायत/नगर निगम के पदाधिकारी के पदनाम से बनवा कर जिला खनन कार्यालय, गढ़वा में जमा करना होगा।
- (iii) 30 % राशि पर देय आयकर देना होगा।
- (3) नीलूघाटों के नीलामी से प्राप्त आय का 80% राशि, संबंधित ग्राम पंचायत/अधिसूचित क्षेत्र/जिला परिषद/नगर पंचायत/नगर निगम को एवं शेष 20% राशि, राज्य सरकार को प्राप्त होगा। जिसके लिए नियमानुसार 80% राशि एवं 20% राशि का भुगतान अलग-अलग बैंक ड्राफ्ट के माध्यम से करना आवश्यक होगा।
- (4) उपर्युक्त शर्तों का अनुपालन नहीं करने पर बन्दोबस्ती के साथ-साथ जमा राशि तथा प्रतिभूति की राशि जप्त करते हुए पुनः बन्दोबस्ती के लिए आगे की कार्रवाई की जाएगी।
- (5) किसी भी किस्त को जमा नहीं किए जाने या शर्तों का उल्लंघन करने पर बिना कोई पूर्व सूचना के नीलामी रद्द कर दी जाएगी।

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- (6) किस्तों की राशि का भुगतान करने में असफल रहने अथवा किसी उपबंधों के उल्लंघन होने की स्थिति में बिना कोई नोटिस दिए हुए नीलामी को रद्द कर दिया जाएगा एवं जैसा भी मामला हो बन्दोबस्तीधारीगण द्वारा जमा की गई सुरक्षित जमा राशि को पूर्ण अथवा आंशिक रूप से प्राप्त कर लिया जाएगा।

भाग - V

बन्दोबस्तीधारी / बन्दोबस्तीधारीगण के कर्तव्य :

एक बन्दोबस्तीधारी अथवा बन्दोबस्तीधारीगण निम्न कर्तव्य करेंगे :-

- (1) नीलामी क्षेत्र के कार्य का निरीक्षण करने कि अनुमति देंगे।
- (2) किसी प्रकार का दुर्घटना होने पर उसकी सूचना देंगे।
- (3) झारखण्ड लघु खनिज समनुदान नियमावली-2004 (यथा संशोधित) के प्रावधानों के अन्तर्गत विहित प्रपत्र में उत्पादन एवं प्रेषण के संबंध में अभिलेख एवं लेखा संधारित करेंगे।
- (4) ट्रक, ट्रैक्टर, नाव तथा अन्य यातायात साधनों से खनिजों के वाहकों को झारखण्ड लघु खनिज समनुदान नियमावली-2004 (यथा संशोधित) के प्रावधानों के अन्तर्गत अन्तर्गत Online परिवहन चालान निर्गत करेंगे।
- (5) उपायुक्त द्वारा लगाए गए अन्य अतिरिक्त राशि जमा करेंगे।

अमित कुमार


DISTRICT MINING OFFICER
GARHWA

- 92 - 68 -



झारखण्ड JHARKHAND

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- (6) यदि बन्दोबस्तीधारी/बन्दोबस्तीधारीगण अन्यत्र बालू का भण्डारण करते हैं तो खनिज बिक्रेता नियमावली-2007 के तहत अनुज्ञप्ति प्राप्त करने के उपरान्त ही भण्डारण करेंगे।
- (7) सूक्ष्म पदाधिकारी को नीलामी की अवधि के समापन के पश्चात्, नीलामी क्षेत्र का कब्जा सौंप देंगे, ऐसा करने में असफल रहने पर कब्जा वाली अधिक अवधि के लिए यथानुपात आधार पर बोली राशि की दुगुनी राशि की बराबर की राशि दण्ड स्वरूप वसूली जाएगी।
- (8) बलूघाट के संचालन में किसी प्रकार की अनियमितता पाए जाने पर बन्दोबस्ती आदेश रद्द कर दी जाएगी।
- (9) बिक्री कर के लिए निबंधन करारकर बन्दोबस्ती के तीन माह के अन्दर बिक्रीकर का निबंधन संख्या जिला खनन कार्यालय में दाखिल करना होगा अन्यथा बिना कारण बताएं बन्दोबस्ती निरस्त कर दी जाएगी तथा प्रामा राशि जप्त कर ली जाएगी।
- (10) Minimum wages Act. & Labour Law के प्रावधानों का अनुपालन करना होगा।

अमित कुमार

[Signature]
 DISTRICT MINING OFFICER
 GARHWA

- 93 - 69 -



झारखण्ड JHARKHAND

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भाग-VI

सुरक्षित जमा की वापसी :

नीलामी के समय, जैसा भी मामला हो बन्दोबस्तीधारी/बन्दोबस्तीधारीगण द्वारा जमा किए गए सुरक्षित जमा की वापसी उपायुक्त/जिला/सहायक खनन पदाधिकारी द्वारा बन्दोबस्ती अवधि समाप्त होने के छः माह के भीतर, जो नीलामी में उल्लेखित शर्तों के अनुरूप और अधिक नहीं बढ़ाई जा सकती है, उसे जैसा भी मामला हो, बन्दोबस्तीधारी/बन्दोबस्तीधारीगण को वापस करेंगे तथा इस पर कोई सूद देय नहीं होगा।

अमित गुप्ता


DISTRICT MINING OFFICER
GARHWA

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झारखण्ड JHARKHAND

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भाग-VII

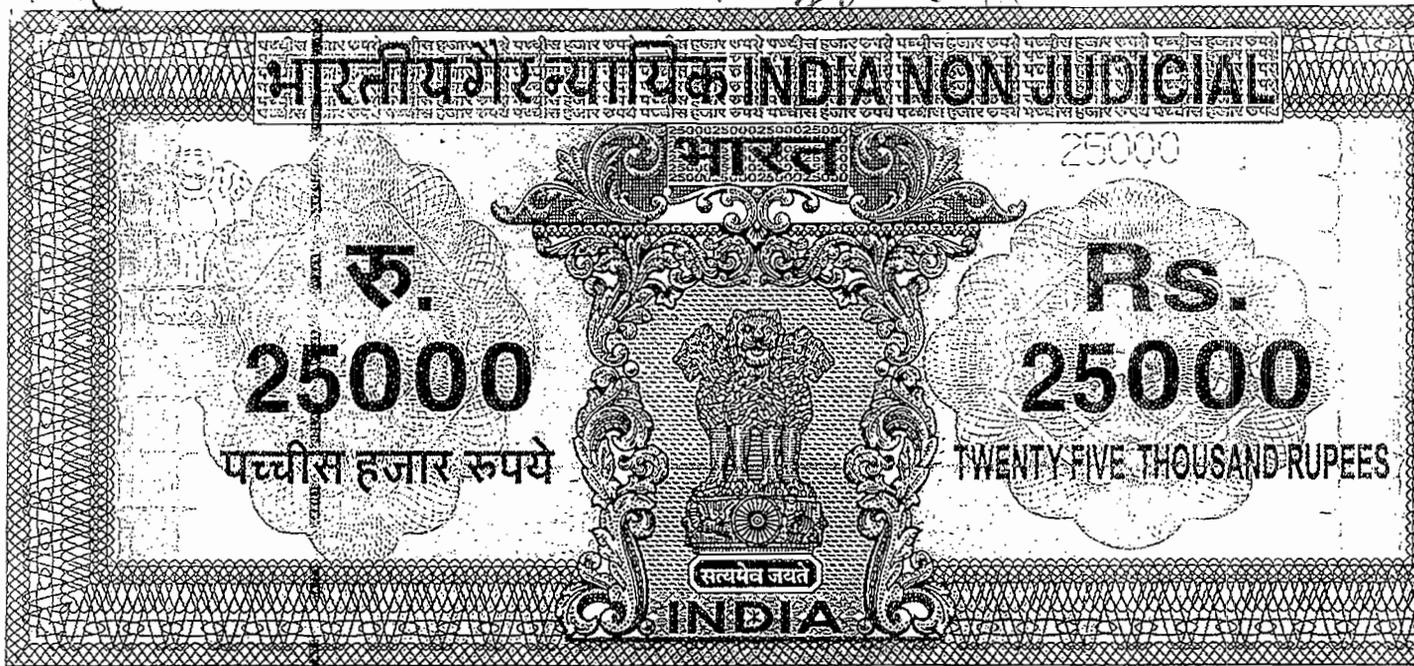
अन्य शर्तें जो इस अनुबंध में शामिल नहीं हैं वह वहीं होंगी जो झारखण्ड लघु खनिज समनुदान नियमावली-2004 (यथा संशोधित) में हैं।

- (1) बन्दोबस्तीधारी/बन्दोबस्तीधारीगण के उपर सभी केन्द्रीय तथा राज्य कानून लागू होंगे। इन कानूनों को अन्य मामले में बन्दोबस्तीधारी/बन्दोबस्तीधारीगण के कर्मचारियों की सुरक्षा, स्वस्थ्य तथा सुविधा को प्रभावित करने वाले मामलों अथवा जनहित में भी लागू किया जा सकता है। किसी खान में गैर कानूनी कार्य अथवा अनियमित कार्य होने पर राज्य सरकार अथवा सक्षम पदाधिकारी से सूचना प्राप्त करने के बाद, जैसा भी मामला है बन्दोबस्तीधारी/ बन्दोबस्तीधारीगण द्वारा किसी गैर कानूनी अथवा अवैध कार्य से राज्य सरकार को होने वाली क्षति के लिए क्षतिपूर्ति का भुगतान करने के लिए बाध्य होंगे।

अभि
सुजा


DISTRICT MINING OFFICER
GARHWARA

- 98 - 71 -



झारखण्ड JHARKHAND

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अभि सुधा

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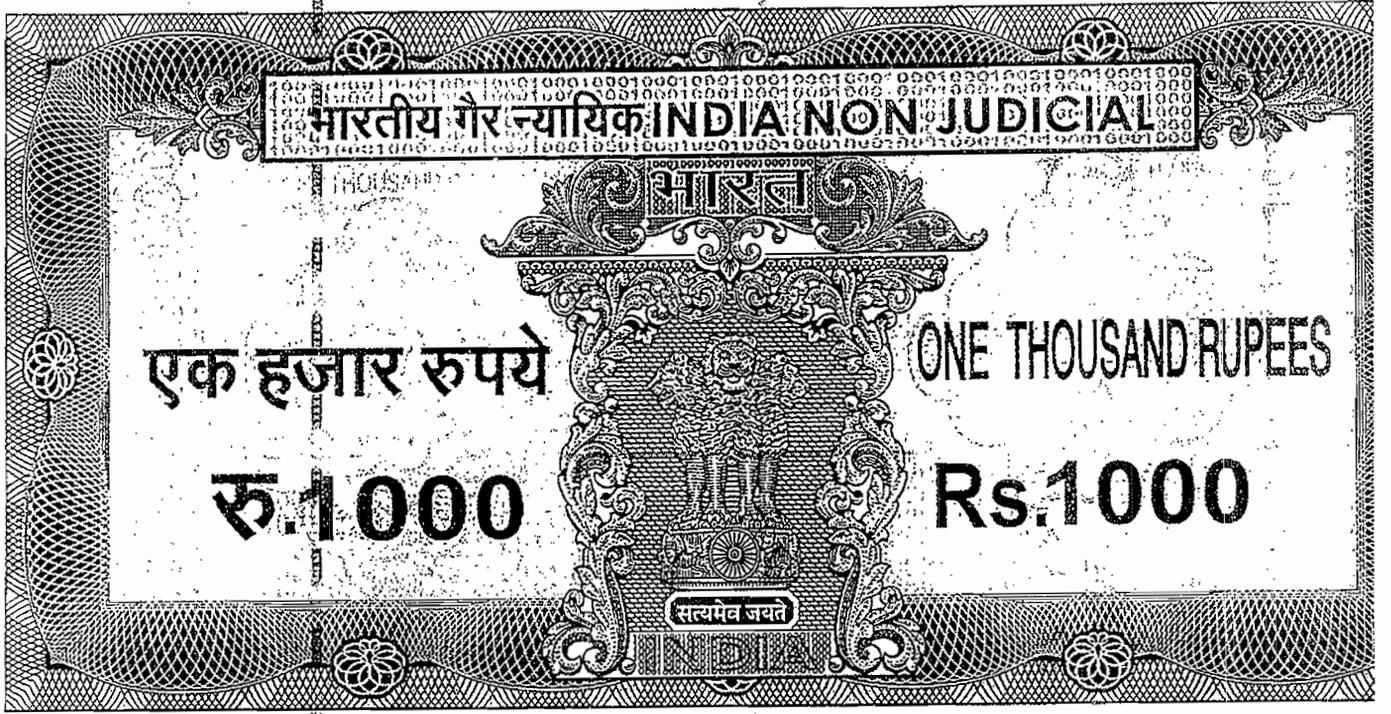
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भारत

एक हजार रुपये

ONE THOUSAND RUPEES

रु. 1000

Rs. 1000



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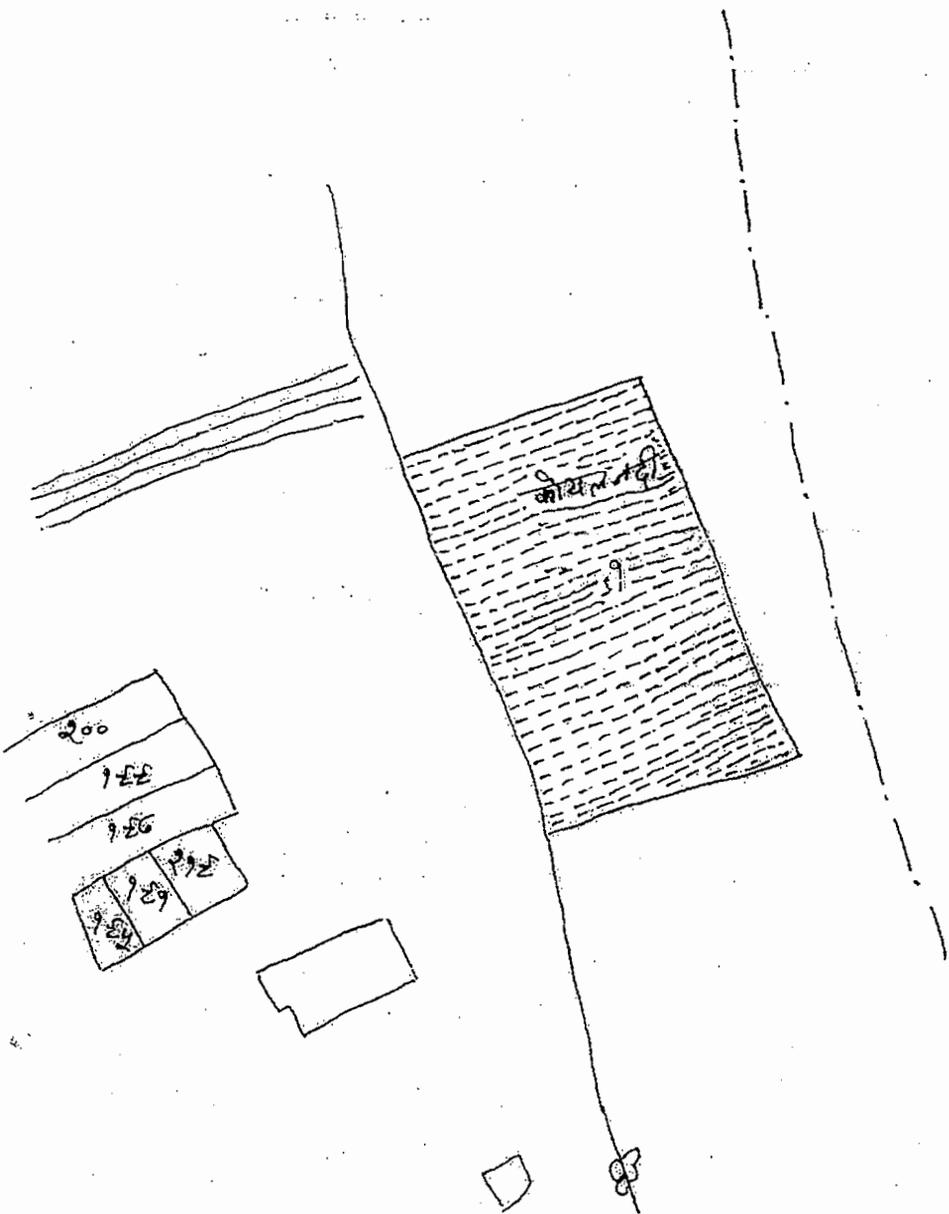
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अमित शुभा

 SIGN OF APPLICANT

[Signature]
 DISTRICT MINING OFFICER
 GARHWA

08/12/14
 उपायुक्त
 उदवा



-79-36- Amexure-1/F (5)

झारखण्ड राज्य प्रदूषण नियंत्रण पर्वद
JHARKHAND STATE POLLUTION CONTROL BOARD

T.A. DIVISION BUILDING (GROUND FLOOR), H.E.C., DHURWA, RANCHI -834004
Phone : 0651-2400851/2400852/2400979/2401847, Fax-0651-2400850/138,
Web site : www.ispcb.nic.in; e-mail : ranchijspcb@gmail.com

Ref.No. B-672

Ranchi, dated- 11/03/2024

From,

Yatindra Kumar Das
Member Secretary

To,

Sri Amit Gupta,
S/o Sri Jagnarayan Gupta,
M/s. Belchampa Sand Mining Project
Vill.-Awadganj, P.O.-Medninagar, Dist.-Palamau

Sub:- Direction for submission of imposed Environmental Compensation of INR 68,50,000/- under section 33A of the Water (Prevention & Control of Pollution) Act, 1974 and under section 31A of the Air (Prevention & Control of Pollution) Act, 1981-Regarding.

Whereas, you have been granted Environmental Clearance (EC) by DEIAA, Garhwa vide Ref. No. EC/DEIAA/2016-17/26 dated 17.01.2018.

Whereas, you have been granted Consent-to-Establish (CTE) Board's vide Ref. No. JSPCB/RO/RNC/CTE-10576833/2021/04 dated 05.06.2021.

Whereas, you have been granted Consent-to-Operate (CTO) Board's vide Ref. No. JSPCB/RO/RNC/CTO-10770011/2021/146 Dated 09.10.2021

Whereas, you have obtained mining lease dated 08.12.2018 at Mauza-Belchampa, Khata No. 56, Plot No. 01P, Area-4.20 Ha., valid up to 07.12.2021.

Whereas, Hon'ble NGT, Principal Bench, New Delhi in O.A. No. 430/2021 in the matter of Sonu Sharma Vrs. State of Jharkhand vide order dated 27.01.2022 has constituted a five member committee comprising of the SEIAA, Mining & Mineral Department, Jharkhand, State Pollution Control Board, District Magistrate, Garhwa and Superintendent of Police, Garhwa, Jharkhand.

Whereas the Deputy Commissioner, Garhwa has submitted the inspection report of the Committee and the recommendation of which is as follows "Based on the above observations the Committee has recommended to impose Environment Compensation to Project Proponent"

Chandan/Show Cause/RNC/201



11 MAR 2024

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(6)

Whereas, the Deputy Commissioner, Garhwa has submitted the inspection report of the Committee vide letter no. 1221/M dated 08.09.2022 which was emailed to JSPCB on 09.09.2022

Whereas, in light of the above recommendation the Environmental Compensation of the unit has been Computed in the term of the report of the CPCB in house Committee on methodology for assessing Environmental Compensation and action plan to utilize the fund. The calculation of which is below:-

Nature of violation – Deliberately causing abstraction to the natural flow of river.

Basis to levy the Environmental Compensation – Pollution Index

The environmental compensation is based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

Where,

EC – Environmental Compensation

PI – Pollution Index of Industrial Sector

N – Number of days of violation took place

R – A factor in rupees for EC

S – Factor of scale of operation

LF – Location Factor

Now in this case,

PI is to be taken as 50 as the industry belongs to Orange category (Excavation of sand from the river bed (excluding manual excavation) as per CPCB's industrial Classification

N is to be taken as 1096 days by assuming the period of obstruction of flow of river from 08/12/2018 to 07/12/2021.

R is to be taken as 250 (as per CPCB's guidelines).

S is to be taken 1.0 as the unit belongs to Medium Scale as per Notification No. - S.O. 1702(E).—dated 01/06/2020 of Ministry of Micro, Small and Medium Enterprises (S could be 0.5 for micro or small, 1.0 for medium and 1.5 for large units as per CPCB Guidelines).

LF is to be taken as 1.0 as the population of Garhwa town is < 1 million. (District Census Handbook, Garhwa of 2011).

Therefore,



$$\begin{aligned} \text{EC (Per day)} &= \text{Pl} \times \text{R} \times \text{S} \times \text{LF} \\ &= 50 \times 250 \times 0.5 \times 1.00 \\ &\text{INR } 6,250.00/- \end{aligned}$$

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Henceforth, the Environmental Compensation for one day comes out to be INR 6,250.00/- So the total Environmental compensation for 1096 days comes out to be INR 68,50,000.00 (i.e. Rupees Sixty Eight Lakhs Fifty Thousand Only).

Whereas, you were provided an opportunity to be heard on 23.09.2022 issued vide letter no. B-1942 dated 16.09.2022.

Whereas, you have submitted your reply vide letter dated 13.02.2023;

Whereas, the Regional Officer, Regional Office, JSPCB, Ranchi was directed to give their opinion vide letter no. B-1800 dated 18.07.2023 on the reply submitted by the unit;

Whereas, the Regional Officer, Regional Office, JSPCB, Ranchi has submitted the opinion vide Ref. No. 431 dated 21.09.2023 that *"The lessee has said nothing about the approach road which was found in the river during the inspection of the committee. Hence his plea may be rejected and Environmental Compensation may be imposed."*

Whereas, in view of the above you were granted another opportunity to be heard on 21.11.2023 issued vide letter no. B-2556 dated 14.11.2023 .

Whereas, you were neither present nor submitted any reply with relevant supporting documents, which clearly shows that you have nothing to say in this regard.

Now, therefore, in view of the above facts and in suppression to the Board's Ref. No. B-656 dated 09.03.2024, it is, hereby directed to deposit the Imposed Environmental Compensation of INR 68,50,000.00 (Rupees Sixty Eight Lakhs Fifty Thousand Only) within 15 days of issuance of this letter. In case of failure to do so, legal action may be initiated against you and your unit.

This issues with the approval of competent authority.

Yours faithfully

Sd/-

(Yatindra Kumar Das)
Member Secretary

Ranchi, dated: 11/03/2024

Memo No.: B-672

Copy to: The Deputy Commissioner, Garhwa for implementation of the same./Regional Officer, Regional Office, Ranchi for information and necessary action from his end.



(Yatindra Kumar Das)
Member Secretary

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Item No.03

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.134/2023/EZ
(Earlier O.A. No.430/2021/PB)

IN THE MATTER OF:

Sonu Sharma,
R/o Garhwa, Jharkhand,

...Applicant(s)

Versus

1. State of Jharkhand,
Through Chief Secretary, Govt. of Jharkhand,
1st Floor, Project Building, Dhurwa, Ranchi,
Pin - 834004,
2. State Environment Impact Assessment Authority, Jharkhand,
Dhurwa Nursery Complex,
Near Dhurwa Bus Stand, Ranchi,
Jharkhand - 834004,
3. Mining and Mineral Department, Jharkhand,
Yojna Bhawan, 3rd Floor, Nepal House, Doranda,
Ranchi - 834002.
4. Jharkhand State Pollution Control Board,
H.E.C., Dhurwa, Ranchi,
Pin - 834004,
5. District Magistrate, Garhwa,
Collectorate Building, Garhwa,
Pin - 822114,
6. Superintendent of Police, Garhwa, Jharkhand,
S.P. Office, Garhwa,
7. Mr. Amit Gupta,
S/o Jaganannarayan,
Abadganj, Paluma,

...Respondent(s)

Date of hearing: 13.03.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : None

For Respondent(s): Ms. Aishwarya Rajyashree, Adv. for R-1,3,5&6, (in Virtual Mode)
Mr. Ashok Prasad, Advocate for R-2,

Mr. Kumar Anurag Singh, Advocate (in Virtual Mode) a/w
Mr. Surendra Kumar, Advocate for R-4, (in Virtual Mode)
Ms. Paushali Banerjee, Advocate for R-7,

ORDER

1. Case called out. No one is present on behalf of the Applicant.
2. Cognizance of the Original Application No.430/2021/PB was taken up by the Delhi Bench of the National Green Tribunal on 27.01.2022 on the basis of a complaint sent by one Mr. Sonu Singh resident of Garhwa, Jharkhand, complaining about illegal mining of sand from Koel and Danro Rivers (life of Village-Garhwa, Jharkhand) from the sand ghat at Belchampa, Garhwa, Jharkhand, by the lessee one Mr. Amit Gupta.
3. It is stated that due to illegal sand mining by Mr. Amit Gupta, the existence of Koel and Danro rivers stands threatened. It is also stated that about 10 to 13 feet deep trenches and 50 to 60 meters diameter ditches have been dug which has lowered the water level and has resulted in scarcity of drinking water.
4. Thereafter the said Original Application was transferred to this Bench of the Tribunal and re-numbered as Original Application No.134/2023/EZ and vide order dated 26.09.2023 the Tribunal issued notice to the Applicant, returnable within three weeks, for filing his response to the Action Taken Report filed by the Jharkhand State Pollution Control Board, Respondent No.4.
5. Along with the Action Taken Report of the Jharkhand State Pollution Control Board filed before the New Delhi Bench of the Tribunal, an order dated 16.09.2022 has been filed as Annexure-5, (page no.53 of the paper book), stating therein that Environmental Compensation of Rs.68,50,000/- (Rupees Sixty Eight Lakhs Fifty

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Thousand only) has been determined against the violator (Respondent No.7).

6. The Respondent No.7 has filed affidavit dated 01.02.2024 stating that the State Government has already received back possession of the Sand Ghat in question vide their letters dated 11.12.2021 and 14.12.2021 whereas the inspection of the Sand Ghat was carried out on 06.04.2022 after almost four months of return of the sand block to the Government. It is also stated that the time period of operation of the Belchampa Sand Ghat at Plot No.01 (P), Khata No.56, Area 4.20 hectares situate at Village-Belchampa, Thana-Garhwa, District-Garhwa, had expired way back on 07.12.2021 and that the said Respondent was having valid Consent to Operate, Environmental Clearance and Mining Plan.
7. A further affidavit dated 01.03.2024 has been filed on behalf of the Respondent No.4, Jharkhand State Pollution Control Board, bringing on record an order dated 11.03.2024 (Annexure-A to the affidavit), whereby the Environmental Compensation of Rs.68,50,000/- (Rupees Sixty Eight Lakhs Fifty Thousand only) has been imposed against the Respondent No.7.
8. Ms. Paushali Banerjee, learned Counsel for the Respondent No.7 submitted that before passing the said order, no opportunity of hearing has been given to the Respondent No.7.
9. However, the order dated 11.03.2024 refers to a reply dated 13.02.2023 submitted by the Respondent No.7. This order also indicates that an opportunity of hearing was provided to the Respondent No.7 on 23.09.2022 vide letter No. B-1942 dated 16.09.2022. The Regional Office of the Jharkhand State Pollution Control Board, Ranchi, also submitted its opinion vide reference

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No.431 dated 21.09.2023 stating that *'The lessee has said nothing about the approach road which was found in the river during the inspection of the committee. Hence his plea may be rejected and Environmental Compensation may be imposed.'*

10. The order of 11.03.2024 further shows that the Respondent No.7 was granted another opportunity of hearing on 21.11.2023 issued vide letter No. B-656 on 14.11.2023 but thereafter the said Respondent neither appeared before the Board nor submitted any reply with supporting documents. It is thereafter that the order dated 11.03.2024 has been passed imposing Environmental Compensation of Rs.68,50,000/- (Rupees Sixty Eight Lakhs Fifty Thousand only) directing the Respondent No.7 to deposit the same within fifteen days of issuance of the said order.
11. Ms. Paushali Banerjee, learned Counsel further submitted that since the order of 11.03.2024 has been passed under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974, (hereinafter referred to as 'the Water Act, 1974'), the Respondent No.7 has a statutory remedy of appeal against the said order.
12. Section 33B of the Water Act, 1974, provides that any person aggrieved by an order under Section 33A passed by the State Board may prefer an appeal before the National Green Tribunal.
13. In this view of the matter, we dispose of the Original Application No.134/2023/EZ with liberty to the Respondent No.7 to pursue such statutory remedies as may be available to him under the law.
14. We also restrain ourselves from making any observations on the quantum of Environmental Compensation determined against the Respondent No.7.

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15. There shall be no order as to costs.

.....
B. Amit Sthalekar, JM

March 13, 2024,
Original Application No.134/2023/EZ
(Earlier O.A. No.430/2021/PB)
AK

.....
Dr. Arun Kumar Verma, EM

~~11/11~~ 87 Annexure-ii

20th March, 2024

To,

The Member Secretary

Jharkhand State Pollution Control Board

Dhurwa, Ranchi-834004

Sub: Direction for submission of imposed Environmental Compensation of INR 68,50,000/- under section 33A of the Water (Prevention & Control of Pollution) Act 1974 and under section 31A of the Air (Prevention & Control of Pollution) Act, 1981-Regarding

Ref: Your communication Ref No. B—672 dated 11.03.2024

Sir,

1. Though I have not yet received your above referred communication Ref. No. B-672 dated 11.03.2024 addressed to Amit Gupta at my address of Medininagar, Palamau till date, however I have been served a copy of your affidavit No. 914 dated 11.03.2024 filed before National Green Tribunal, Eastern Zone Bench, Kolkata on hearing date 13.03.2024 wherein a copy of your Communication Ref No. B—672 dated 11.03.2024 is annexed fixing an Environmental Compensation of INR 68,50,000/- (**Annexure-1**).
2. That relying on your affidavit dated 11.03.2024, the National Green Tribunal, Eastern Zone Bench, Kolkata has been pleased to pass order dated 13.03.2024 in Original Application No. 134 of 2023 a copy of which is annexed herewith and marked as **Annexure-2**.
3. Member Secretary of Jharkhand State Pollution Control Board, Dhurwa, Ranchi (JSPCB) has claimed in communication Ref No. B—672 dated 11.03.2024 that Amit Gupta was provided opportunity of hearing on 23.09.2022 vide communication of JSPCB No. B-1942 dated 16.09.2022. However, the hard fact is that your hearing notice dated 16.09.2022 was

Page 1 | 2
20/03/2024

- 4B - 88 -

received by me through India Post on 26.09.2022 (**Annexure-3**) making it impossible for me to attend the hearing date of 23.09.2022.

4. You have further recorded in your communication Ref No. B—672 dated 11.03.2024 that you have provided a second opportunity of hearing to Amit Gupta on 21.11.2023 vide communication No. B-2556 dated 14.11.2023. Undersigned has not received this communication dated 14.11.2023 either.
5. So, it appears that you have passed final order dated 11.03.2024 without verifying the service report of your second communication No. B-2556 dated 14.11.2023 which is a pre-requisite before initiating or closing any hearing.
6. In aforesaid facts and circumstances the final order dated 11.03.2024 fixing the environmental compensation of Rs. 68,50,000.00 has been passed without providing any real opportunity of hearing to Amit Gupta and this conduct of Member Secretary, JSPCB is against the Supreme Court order dated 30.01.2024 passed in Civil Appeal No. 1865-1866 /2022 in the matter of Veena Gupta Versus Central Pollution Control Board (**Annexure-4**).
7. You are therefore requested to keep your order No. B-672 dated 11.03.2024 in abeyance and provide me a real opportunity of hearing and thereafter be pleased to pass a reasoned and speaking order on my submissions.

Yours faithfully

अमित गुप्ता
Amit Gupta

S/o Jagnarayan Gupta

Abadganj, Daltonganj, Palamau, PIN-822101

Email- guptajiamit6060@gmail.com



झारखण्ड राज्य प्रदूषण नियंत्रण पर्वद (5)
JHARKHAND STATE POLLUTION CONTROL BOARD
 T.A. DIVISION BUILDING (GROUND FLOOR), H.E.C., DHURWA, RANCHI -834004
 Phone: 0651-2400851/2400852/2400979/2401847 Fax-0651-2400850/138
 Web site : www.ispcb.nic.in; e-mail : ranchiispcb@gmail.com

Ref.No. B-672

Ranchi, dated- 11/03/2024

From,

Yatindra Kumar Das
 Member Secretary

To,

Sri Amit Gupta,
 S/o Sri Jagnarayan Gupta,
 M/s. Belchampa Sand Mining Project
 Vill.-Awadganj, P.O.-Medninagar, Dist.-Palamau

Sub:- Direction for submission of imposed Environmental Compensation of INR 68,50,000/- under section 33A of the Water (Prevention & Control of Pollution) Act, 1974 and under section 31A of the Air (Prevention & Control of Pollution) Act, 1981-Regarding.

Whereas, you have been granted Environmental Clearance (EC) by DEIAA, Garhwa vide Ref. No. EC/DEIAA/2016-17/26 dated 17.01.2018.

Whereas, you have been granted Consent-to-Establish (CTE) Board's vide Ref. No. JSPCB/RO/RNC/CTE-10576833/2021/04 dated 05.06.2021.

Whereas, you have been granted Consent-to-Operate (CTO) Board's vide Ref. No. JSPCB/RO/RNC/CTO-10770011/2021/146 Dated 09.10.2021

Whereas, you have obtained mining lease dated 08.12.2018 at Mauza-Belchampa, Khata No. 56, Plot No. 01P, Area-4.20 Ha., valid up to 07.12.2021.

Whereas, Hon'ble NGT, Principal Bench, New Delhi in O.A. No. 430/2021 in the matter of Sonu Sharma Vrs. State of Jharkhand vide order dated 27.01.2022 has constituted a five member committee comprising of the SEIAA, Mining & Mineral Department, Jharkhand, State Pollution Control Board, District Magistrate, Garhwa and Superintendent of Police, Garhwa, Jharkhand.

Whereas the Deputy Commissioner, Garhwa has submitted the inspection report of the Committee and the recommendation of which is as follows "Based on the above observations the Committee has recommended to impose Environment Compensation to Project Proponent"

Chandan/Show Cause/RNC/201



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$$\begin{aligned}
 \text{EC (Per day)} &= \text{PI} \times \text{R} \times \text{S} \times \text{LF} \\
 &= 50 \times 250 \times 0.5 \times 1.00 \\
 &\text{INR 6,250.00/-}
 \end{aligned}$$

Henceforth, the Environmental Compensation for one day comes out to be INR 6,250.00/- So the total Environmental compensation for 1096 days comes out to be INR 68,50,000.00 (i.e. Rupees Sixty Eight Lakhs Fifty Thousand Only).

Whereas, you were provided an opportunity to be heard on 23.09.2022 issued vide letter no. B-1942 dated 16.09.2022.

Whereas, you have submitted your reply vide letter dated 13.02.2023;

Whereas, the Regional Officer, Regional Office, JSPCB, Ranchi was directed to give their opinion vide letter no. B-1800 dated 18.07.2023 on the reply submitted by the unit;

Whereas, the Regional Officer, Regional Office, JSPCB, Ranchi has submitted the opinion vide Ref. No. 431 dated 21.09.2023 that *"The lessee has said nothing about the approach road which was found in the river during the inspection of the committee. Hence his plea may be rejected and Environmental Compensation may be imposed."*

Whereas, in view of the above you were granted another opportunity to be heard on 21.11.2023 issued vide letter no. B-2556 dated 14.11.2023 .

Whereas, you were neither present nor submitted any reply with relevant supporting documents, which clearly shows that you have nothing to say in this regard.

Now, therefore, in view of the above facts and in suppression to the Board's Ref. No. B-656 dated 09.03.2024, it is, hereby directed to deposit the Imposed Environmental Compensation of INR 68,50,000.00 (Rupees Sixty Eight Lakhs Fifty Thousand Only) within 15 days of issuance of this letter. In case of failure to do so, legal action may be initiated against you and your unit.

This issues with the approval of competent authority.

Yours faithfully

Sd/-

(Yatindra Kumar Das)
Member Secretary

Ranchi, dated: 11/03/2024

Memo No.: B-672

Copy to: The Deputy Commissioner, Garhwa for implementation of the same./Regional Officer, Regional Office, Ranchi for information and necessary action from his end.



(Yatindra Kumar Das)
Member Secretary

ST

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Annexure - 2

Item No.03

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.134/2023/EZ
(Earlier O.A. No.430/2021/PB)

IN THE MATTER OF:

Sonu Sharma,
R/o Garhwa, Jharkhand,

...Applicant(s)

Versus

1. State of Jharkhand,
Through Chief Secretary, Govt. of Jharkhand,
1st Floor, Project Building, Dhurwa, Ranchi,
Pin - 834004,
2. State Environment Impact Assessment Authority, Jharkhand,
Dhurwa Nursery Complex,
Near Dhurwa Bus Stand, Ranchi,
Jharkhand - 834004,
3. Mining and Mineral Department, Jharkhand,
Yojna Bhawan, 3rd Floor, Nepal House, Doranda,
Ranchi - 834002.
4. Jharkhand State Pollution Control Board,
H.E.C., Dhurwa, Ranchi,
Pin - 834004,
5. District Magistrate, Garhwa,
Collectorate Building, Garhwa,
Pin - 822114,
6. Superintendent of Police, Garhwa, Jharkhand,
S.P. Office, Garhwa,
7. Mr. Amit Gupta,
S/o Jaganannarayan,
Abadganj, Paluma,

...Respondent(s)

Date of hearing: 13.03.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : None

For Respondent(s) : Ms. Aishwarya Rajyashree, Adv. for R-1,3,5&6, (in Virtual Mode)
Mr. Ashok Prasad, Advocate for R-2,

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Mr. Kumar Anurag Singh, Advocate (in Virtual Mode) a/w
Mr. Surendra Kumar, Advocate for R-4, (in Virtual Mode)
Ms. Paushali Banerjee, Advocate for R-7,

ORDER

1. Case called out. No one is present on behalf of the Applicant.
2. Cognizance of the Original Application No.430/2021/PB was taken up by the Delhi Bench of the National Green Tribunal on 27.01.2022 on the basis of a complaint sent by one Mr. Sonu Singh resident of Garhwa, Jharkhand, complaining about illegal mining of sand from Koel and Danro Rivers (life of Village-Garhwa, Jharkhand) from the sand ghat at Belchampa, Garhwa, Jharkhand, by the lessee one Mr. Amit Gupta.
3. It is stated that due to illegal sand mining by Mr. Amit Gupta, the existence of Koel and Danro rivers stands threatened. It is also stated that about 10 to 13 feet deep trenches and 50 to 60 meters diameter ditches have been dug which has lowered the water level and has resulted in scarcity of drinking water.
4. Thereafter the said Original Application was transferred to this Bench of the Tribunal and re-numbered as Original Application No.134/2023/EZ and vide order dated 26.09.2023 the Tribunal issued notice to the Applicant, returnable within three weeks, for filing his response to the Action Taken Report filed by the Jharkhand State Pollution Control Board, Respondent No.4.
5. Along with the Action Taken Report of the Jharkhand State Pollution Control Board filed before the New Delhi Bench of the Tribunal, an order dated 16.09.2022 has been filed as Annexure-5, (page no.53 of the paper book), stating therein that Environmental Compensation of Rs.68,50,000/- (Rupees Sixty Eight Lakhs Fifty

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Thousand only) has been determined against the violator (Respondent No.7).

6. The Respondent No.7 has filed affidavit dated 01.02.2024 stating that the State Government has already received back possession of the Sand Ghat in question vide their letters dated 11.12.2021 and 14.12.2021 whereas the inspection of the Sand Ghat was carried out on 06.04.2022 after almost four months of return of the sand block to the Government. It is also stated that the time period of operation of the Belchampa Sand Ghat at Plot No.01 (P), Khata No.56, Area 4.20 hectares situate at Village-Belchampa, Thana-Garhwa, District-Garhwa, had expired way back on 07.12.2021 and that the said Respondent was having valid Consent to Operate, Environmental Clearance and Mining Plan.
7. A further affidavit dated 01.03.2024 has been filed on behalf of the Respondent No.4, Jharkhand State Pollution Control Board, bringing on record an order dated 11.03.2024 (Annexure-A to the affidavit), whereby the Environmental Compensation of Rs.68,50,000/- (Rupees Sixty Eight Lakhs Fifty Thousand only) has been imposed against the Respondent No.7.
8. Ms. Paushali Banerjee, learned Counsel for the Respondent No.7 submitted that before passing the said order, no opportunity of hearing has been given to the Respondent No.7.
9. However, the order dated 11.03.2024 refers to a reply dated 13.02.2023 submitted by the Respondent No.7. This order also indicates that an opportunity of hearing was provided to the Respondent No.7 on 23.09.2022 vide letter No. B-1942 dated 16.09.2022. The Regional Office of the Jharkhand State Pollution Control Board, Ranchi, also submitted its opinion vide reference

No.431 dated 21.09.2023 stating that *'The lessee has said nothing about the approach road which was found in the river during the inspection of the committee. Hence his plea may be rejected and Environmental Compensation may be imposed.'*

10. The order of 11.03.2024 further shows that the Respondent No.7 was granted another opportunity of hearing on 21.11.2023 issued vide letter No. B-656 on 14.11.2023 but thereafter the said Respondent neither appeared before the Board nor submitted any reply with supporting documents. It is thereafter that the order dated 11.03.2024 has been passed imposing Environmental Compensation of Rs.68,50,000/- (Rupees Sixty Eight Lakhs Fifty Thousand only) directing the Respondent No.7 to deposit the same within fifteen days of issuance of the said order.
11. Ms. Paushali Banerjee, learned Counsel further submitted that since the order of 11.03.2024 has been passed under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974, (hereinafter referred to as 'the Water Act, 1974'), the Respondent No.7 has a statutory remedy of appeal against the said order.
12. Section 33B of the Water Act, 1974, provides that any person aggrieved by an order under Section 33A passed by the State Board may prefer an appeal before the National Green Tribunal.
13. In this view of the matter, we dispose of the Original Application No.134/2023/EZ with liberty to the Respondent No.7 to pursue such statutory remedies as may be available to him under the law.
14. We also restrain ourselves from making any observations on the quantum of Environmental Compensation determined against the Respondent No.7.

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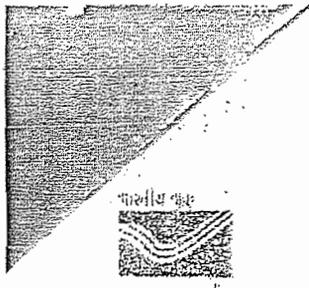
15. There shall be no order as to costs.

.....
B. Amit Sthalekar, JM

March 13, 2024,
Original Application No.134/2023/EZ
(Earlier O.A. No.430/2021/PB)
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.....
Dr. Arun Kumar Verma, EM

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Track Consignment

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Event Details For : EJ251703508IN

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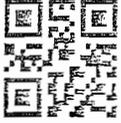
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26/09/2022	12:15:28	Daltongan] HO (Beat Number:9)	Item Delivered [To: amit gupta (Addressee)]

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2024 INSC 89

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 1865-1866/2022

VEENA GUPTA & ANR.

Appellant(s)

VERSUS

CENTRAL POLLUTION CONTROL BOARD & ORS.

Respondent(s)

J U D G M E N T

PAMIDIGHANTAM SRI NARASIMHA, J.

1. These appeals arise out of two orders passed by the National Green Tribunal ("Tribunal" for short). The main order arises out of an ex parte order in suo motu proceedings holding the appellants to be guilty and directing payment of compensation. The second order is the dismissal of the review petition filed by the appellant No.2 alleging that he had not been given an opportunity before an adverse order was passed against him. For the reasons to follow, we set aside the orders and remand the matter back to the Tribunal to issue notice to all the affected parties, hear them and pass

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appropriate orders.

2. The relevant portion of the order impugned¹ is as under:

"7. Even though no notice was issued by the Tribunal to the PP in absence of particulars, the Joint Committee has visited the site. Notice has been issued to the PP under the Employees Compensation Act for death of a person. Remedial measures have been suggested for future. The PP has been found to be operating without statutory consents in non-conforming area without safety precautions, endangering life and health of others. In these circumstances, reserving liberty to the PP to move this Tribunal, we do not consider it necessary to defer the matter and to proceed by notice to the PP in view of established facts, duly verified by the statutory authorities who are themselves competent to take the recommended measures.

8. In view of the above, further action may be taken by the Statutory Authorities, following due process. The compensation assessed may be recovered and if not paid within one month, coercive measures be taken against the concerned persons as well as against the property involved. We request the Member Secretary, Delhi State Legal Services Authority to ensure legal aid to the heirs of the deceased to enable due compensation to be paid to them. If the owners/tenant or other persons against whom action is taken are aggrieved, they are at liberty to take their remedies, including moving this Tribunal. The Authorities may also maintain vigil and take measures to prevent such incidents in future. We have noted the constitution of zone wise STF to check the illegal industrial activities and godowns in residential/non-conforming areas and are of the view that the same should be manned by officers of higher rank than the constitution now proposed. The Chief Secretary, Delhi may review the constitution accordingly."

3. It is evident from the above that the Tribunal itself has noted that notices were not issued to the Project Proponents. The Tribunal, in fact, considers it unnecessary to hear the Project Proponent to verify the facts in issue. The Tribunal thought it appropriate to adopt this method in view of a Joint Inspection Report that had been submitted. The persons who were prejudiced by the order of the Tribunal naturally filed Review Petitions before the Tribunal. Appellant No. 2 is one amongst them. The Review Petition was taken up and dismissed by the Tribunal on 26.11.2021.

4. The National Green Tribunal's recurrent engagement in unilateral decision making, provisioning ex post facto review hearing and routinely dismissing it has regrettably become a prevailing norm. In its zealous quest for justice, the Tribunal must tread carefully to avoid the oversight of propriety. The practice of ex parte orders and the imposition of damages amounting to crores of rupees, have proven to be a counterproductive force in the broader mission of environmental safeguarding.

5. Significantly, these orders have consistently faced stays from this Court, resulting in the unraveling of the commendable efforts put forth by the learned Members, lawyers,

and other stakeholders². It is imperative for the Tribunal to infuse a renewed sense of procedural integrity, ensuring that its actions resonate with a harmonious balance between justice and due process. Only then can it reclaim its standing as a beacon of environmental protection, where well-intentioned endeavors are not simply washed away.

6. It appears that the appellants did not have a full opportunity to contest the matter and place all their defenses before the Tribunal. They filed this appeal and by order dated 04.03.2022, this Court stayed the judgment and order passed by the Tribunal. This was inevitable. Two years have passed by and the stay is still operating. We have no other alternative except to set aside the orders dated 31.08.2021 and 26.11.2021 and remand the matter back to the Tribunal. The Tribunal issue notices to all the necessary parties, hear them in detail, and pass appropriate orders. Needless to say that the Tribunal shall hear the case, uninfluenced by the observations and conclusions drawn in the orders dated 31.08.2021 and 26.11.2021.

² *Singrauli Super Thermal Power Station v. Ashwani Kumar Dubey & Ors.*, (2023)8 SCC 35. This Court has already noticed the practice of the Tribunal in not providing an opportunity of hearing to the affected party and consequently set aside its orders and remanded the matter to the Tribunal for reconsideration after following principles of natural justice.

7. We make it clear that this order does not deal with the merits of the matter and the actions of those guilty of statutory and environmental violation will have to be subject to strict scrutiny and legal consequences.

8. The Civil Appeals are allowed with these directions.

9. Pending applications, if any, shall stand disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ARAVIND KUMAR]

New Delhi
January 30, 2024.