

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH KOLKATA
(UNDER SECTION 18(1) READ WITH SECTIONS 14 AND 15
OF THE NATIONAL GREEN TRIBUNAL ACT, 2010)**

I.A. NO. /2024

IN

ORIGINAL APPLICATION NO. /2024

IN THE MATTER OF:

PRADEEP SINGH SHEKHAWAT

...APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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THROUGH



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DATE: 24.04.2024

PLACE: KOLKATA

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APPLICATION SEEKING INTERIM RELIEF

1. The present Original Application is being filed to raise a substantial question relating to the environment under Section 14 of the National Green Tribunal Act, 2010, arising out of the failure of the Respondents to curb the concerning surge in the illegal mining of minor minerals including sand, gravel, clay and stone in the State of Assam, without obtaining the requisite permissions under the Air (Prevention and Control of Pollution) Act, 1981 ('**Air Act**'), The Water (Prevention and Control of Pollution) Act, 1974 ('**Water Act**') and the Environment (Protection) Act, 1986 ('**EP Act**'). Further, the Applicant also seeks directions against the Respondents to prohibit conducting auctions of Minor Mineral Concession Areas

(MMCA) in various districts of State of Assam such as Cachar, Tinsukia, Udalguri, Goalpara, Golaghat, Kamrup Metro, Lakhimpur and Nagaon without following the mandatory procedure for preparation of a District Survey Report ('**DSR**') which is a pre-requisite and a *sine qua non* for granting any mining leases(s)/permit under the provisions of the Environment Impact Assessment Notification dated 14.09.2006 ('**Notification dated 14.09.2006**') issued by Union Ministry of Environment, Forest and Climate Change ('**Respondent No. 1**') and as amended by way of Notification dated 15.01.2016

2. It is submitted that the concerning surge in the illegal mining of minor minerals in the State of Assam is exacerbating environmental degradation, and endangering public health of the people of State of Assam as such illegal mining activities is resulting in the destruction of natural habitats, soil erosion, and contamination of water bodies as well as alarming depletion of ground water levels in the State of Assam. Furthermore, the use of heavy machinery and equipment in such illegal mining operations without obtaining the necessary permissions under the Air and the Water Act contributes to air, water and noise pollution, endangering the health of nearby communities. Additionally, this actions also leads to a depletion of natural resources which can lead to land subsidence and increased vulnerability to natural disasters such as floods and landslides.
3. Furthermore, the Respondents are conducting auctions of minor minerals in various district of State of Assam without even the preparation of a District Survey Report. It is submitted that the conducting auctions of such minor minerals without the preparation

of the DSR contravenes the various decisions passed by the Hon'ble Supreme Court and this Hon'ble Tribunal such as *State of Bihar v. Pawan Kumar*, (2022) 2 SCC 348, *Anjani Kumar v. State of U.P.*, 2017 SCC OnLine NGT 979, *Dinesh Bothra v. Union of India*, 2023 SCC OnLine NGT 490 and *Subhash Bhai Ishwar Bhai Parmar v. State of Gujarat*, 2022 SCC OnLine NGT 3854, as well as the Sustainable Sand Mining Management Guidelines, 2016 ('**SSMMG, 2016**') and Enforcement Monitoring Guidelines for Sand Mining, 2020 ('**EMGSM 2020**') issued by the Respondents.

4. This Hon'ble Tribunal in the case of *Dinesh Bothra v. Union of India*, 2023 SCC OnLine NGT 490 reaffirmed the principle that the preparation of the DSR is mandatory as it is not merely a technical step but is an intricate study to conform to the Precautionary Principle and the Principle of Sustainable Development which are enshrined under Article 21 of the Constitution of India. Accordingly, this Hon'ble Tribunal directed that no activity pursuant to the Notice Inviting Bid would be conducted without obtaining the necessary environmental clearances including the DSR Report.
5. That the present OA also seeks directions for setting aside and quashing the e-auction/auctions of the minor minerals (Annexure A-14) being conducted in the district of Cachar, Tinsukia, Udalguri, Goalpara, Golaghat, Kamrup Metro, Lakhimpur and Nagaon without the preparation of the District Survey Report. The Applicant has also prayed for directions constituting a Court monitored committee to submit a report regarding the extent and the impact of the illegal mining being conducted in the State of Assam.

6. That on 20.07.2022, the Hon'ble Supreme Court passed an interim order in the case of Mangal Singh Bundela v State of Madhya Pradesh & Ors, Civil Appeal No. 4593 of 2022, directing that no mining shall be carried out in terms of the e-auction without finalizing the District Survey Report.

7. That it has come to the knowledge of the Applicant that the State of Assam has been conducting auctions of Minor Mineral Concession Areas (MMCA) without obtaining the mandatory District Survey Report (DSR), which represents a significant regulatory oversight that further exacerbates the challenges associated with illegal mining in Assam. It is submitted that the Petitioner has obtained a list of live tenders with respect to minor minerals from the website: <https://assamforestonline.in/index2.php> in various districts of the State of Assam such as Districts of Cachar, Tinsukia, Udalguri, Goalpara, Golaghat, Kamrup Metro, Lakhimpur, and Nagaon which are being conducted without the preparation of a DSR

8. That failure of the Respondents to take steps in preparing District Survey Reports (DSRs) before auctioning of Minor Mineral Concession Areas (MMCA) in various districts of the State of Assam such as Districts of Cachar, Tinsukia, Udalguri, Goalpara, Golaghat, Kamrup (Metro), Lakhimpur, and Nagaon represents a serious dereliction of duty of the Respondents to comply with the environmental laws of the country, which needs to be addressed by this Hon'ble Tribunal at the earliest.

9. Thus the Applicant is preferring the present application seeking interim stay of the Live tenders being issued without the preparation of a DSR.
10. That the Applicant has a *prima facie* case as the said E-Auction/Tenders have been issued without the preparation of the DSR as has been mandated by the various decisions in State of Bihar v. Pawan Kumar, (2022) 2 SCC 348, Anjani Kumar v. State of U.P., 2017 SCC OnLine NGT 979, Dinesh Bothra v. Union of India, 2023 SCC OnLine NGT 490 and Subhash Bhai Ishwar Bhai Parmar v. State of Gujarat, 2022 SCC OnLine NGT 3854, as well as the SSMMG, 2016 and EMGSM 2020.
11. That irreparable damage would be caused to the environment as well as to the Applicant if the said E-auction/Tenders are not stayed. That the balance of convenience lies in favour of the Applicant/Environment and no prejudice would be caused to any person since the auctions have not been conducted yet.
12. That the present application is bonafide and has been filed at the earliest opportunity.

PRAYER

In view of the aforesaid facts and circumstances, the Hon'ble tribunal may be pleased the cognizance of the issues highlighted above and pass the following directions

- a. Issue suitable order/directions staying the e-auction/auctions of the minor minerals as mentioned in **Annexure A-17 (COLLY) in OA of 2024** being conducted in the district of Cachar, Tinsukia, Udalguri, Goalpara,

Golaghat, Kamrup (Metro), Lakhimpur and Nagaon without the preparation of the District Survey Report and all consequential proceedings emanating therefrom till the pendency of the present Application;

- b. Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case

FILED

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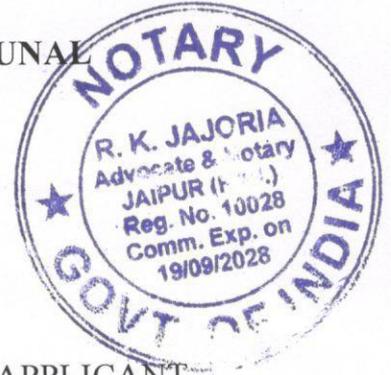
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AFFIDAVIT

I, Pradeep Singh Shekhawat, S/o Govind Singh, R/o A-34, A, Vivekanand Colony, Naya Khera, Jaipur, Rajasthan – 302023, aged about 37 Years, do hereby solemnly affirm and state on oath as under:

1. That I am the Applicant in the captioned matter and as such am fully conversant with the facts and circumstances of the case and competent to swear this Affidavit.
2. That I have gone through the contents of the accompanying application that has been drafted by my counsel according to my instructions and the contents of the same are true and correct to my knowledge.

DEPONENT

VERIFICATION

Verified on this 12 day of March 2024 that the contents of the present Affidavit are true and correct to my knowledge and nothing material has been concealed.

DEPONENT

Attested

Notary Public
Jaipur (Raj.) India

12 MAR 2024