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BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH KOLKATA  
OA No. 84/2024/EZ  
(Earlier OA No. 319/2024/PB)

**IN THE MATTER OF:**

News item titled "Bermo ke mahuatand mai avaidh balu ke khel mai saikaro tractor se aam log ho rahe pareshaan" appearing in News Wing dated 19.12.2023."

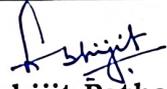
**VERSUS**

**State Of Jharkhand and others**

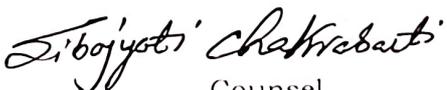
**...RESPONDENTS**

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**Abhijit Pathak**  
Scientist D,  
CPCB, Kolkata

Filed through

  
Counsel

Dated: 24/5/2024

Place: Kolkata

24 MAY 2024

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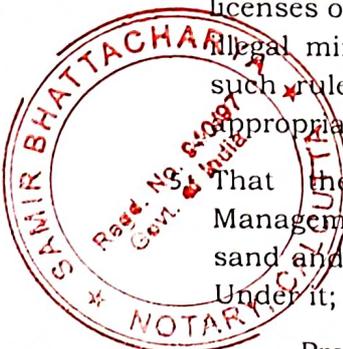
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**REPLY ON BEHALF OF CENTRAL POLLUTION CONTROL BOARD i.e.  
RESPONDENT NO. 02**

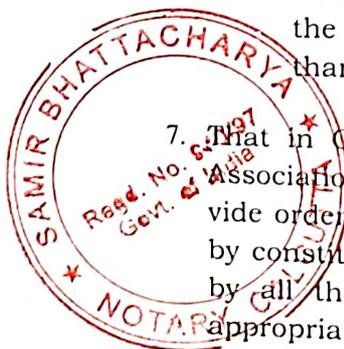
I, Abhijit Pathak S/o Late Shri Ranjit Kumar Pathak, aged about 59 years, having office at the Regional Directorate, Central Pollution Control Board, Southend Conclave, Block No.502, 5<sup>th</sup> & 6<sup>th</sup> floor, 1582, Rajdanga Main Road, Kolkata-700107, do hereby state as follows:

1. That, I am presently working as Scientist-'D' Regional Directorate, Central Pollution Control Board (hereinafter referred to as CPCB), Kolkata and have been authorized to file the present Counter affidavit. I am fully conversant with the facts of the case and hence, competent and authorize to submit the present reply.
2. That, nothing contained in this Reply shall be construed as admission of any statement unless specifically admitted by me. I reserve the right to deal with legal position of the matter at the time of hearing.
3. That the instant case has been started *suo-moto* on the basis of a news article published in the news paper by the Hon'ble NGT, Principal Bench and subsequently the matter has been transferred to the Hon'ble NGT Eastern Zone Bench. The news item is related to the illegal sand mining in Bermo, Bokharo District of Jharkhand.
4. That the matter in issue relates to illegal sand mining, and under the provisions of the MMDR Act 1957, the State Government are empowered to make the rules for regulating the grant of prospecting licenses or mining leases in respect of minor minerals and preventing illegal mining, transportation and storage of minerals and enforce such rules, therefore the concerned respondents may submit an appropriate reply regarding the action taken in the instant matter.  
That the MoEF&CC has issued "Sustainable Sand Mining Management Guidelines 2016" to promote scientific mining of river sand and to encourage environment friendly management practices.  
Under it;

- Preparation of District Survey Report (DSR) for identification of area suitable for mining is required.



- It is required that no stream should be diverted for the purpose of sand mining and no natural water course/ water resources are to be obstructed due to mining operations.
  - Restoration of flora affected by the mining should be done immediately.
6. That the MoEF&CC has issued "Enforcement and Monitoring Guidelines for Sand Mining" in January 2020 for effective monitoring and ensuring sustainable sand mining. Under it;
- The Central Government has made it mandatory to obtain Environment Clearance for mining of minor minerals from the respective state government and mining operations (for sale, dispatch, storage, reserve, reconciliation and transportation) should be strictly carried out as defined by concerned state government in its monitoring guidelines.
  - It is mandatory for EC Holder to comply with the Environment Clearance conditions and upload the Six-monthly report on the website of Ministry. For the category 'A' mines (> 100 Ha individual & cluster) Regional office of MoEF&CC are entrusted to carry out the EC monitoring and for the Category 'B' Mines by SEIAA.
  - That as per the Hon'ble NGT order dated 04.09.2018 in OA No. 173/2018 Sudarsan Das vs State of West Bengal & Ors. Inter alia directed that there will be independent environmental audit at least once in a year by reputed third party entity and report of such audit be placed in the public domain.
  - For monitoring of Sale and purchase of Sand, the Ministry of Mines issued Sand Mining Framework 2018 wherein it has proposed two mechanisms for the online sale of sand. There are 3 different levels of monitoring mentioned in the Sand mining Framework 2018 that can be implemented to curb illegal mining.
  - Appropriate actions that can be taken against the illegal excavation and transport in illegal sand mining are mentioned under para no. 9.6 on page no.61 of the aforesaid guidelines.
  - Mining depth should be restricted to 3 meters and distance from the bank should be ¼th or river width and should not be less than 7.5 meters.



7. That in OA No. 360/2015 titled as National Green Tribunal Bar Association vs. Virendra Singh (State of Gujarat), Hon'ble NGT (PB) vide order dated- 26.02.2021 directed that, as per report submitted by constituted committee on 30.01.2020, Approach-2 to be adopted by all the States/UTs and Environment Secretary to evolve an appropriate mechanism for assessment of Compensation in cases of illegal sand mining in all the districts of the state and for utilization of the recovered compensation for restoration of environment by preparing appropriate action plan.

8. That a direction dated 11.06.2021 under Section 5 of The Environment (Protection) Act, 1986 regarding the development of mechanism for assessment and recovery of compensation for violation of norms for mining on polluter pays principle as per Hon'ble NGT order dated 26.02.2021 in OA No. 360/2015 has been issued by CPCB to Environment Secretaries of states (Copy given at Annexure I)
9. That, in view of the submissions made above, it is humbly submitted that CPCB shall abide all the directions/orders passed by Hon'ble Tribunal in this matter.

*S. Shijit*

DEPENDENT

Identified by Me  
*S. Sujata Chakrabarti*  
Advocate  
for CPCB  
24/05/2024



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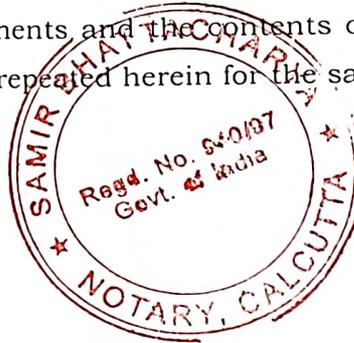
**AFFIDAVIT**

I, Abhijit Patak, son of Late Shri Ranjit Kumar Pathak, aged about 59 years, having office at the Regional Directorate, Central Pollution Control Board, Southend Conclave' Block No.502, 5<sup>th</sup> & 6<sup>th</sup> Floor, 1582, Rajdanga Main Road, Kolkata-700107, do hereby solemnly affirm and sincerely state as follows: -

1. That the accompanying reply may be read part and parcel of the present affidavit as I am competent to swear this affidavit.
2. That the contents of reply are true and correct on the basis of the record maintained during ordinary course of business of CPCB and available records and documents and the contents of the same are read over to me and are not repeated herein for the sake of brevity.

Identified by Me

*Sibojyoti Chakrabarti*  
Advocate. 24/05/2024



*Abhijit*  
**DEPENDENT**

**Verification**

I, Abhijit Pathak, working as Scientist 'D' and posted at Regional Directorate, Central Pollution Control Board, Kolkata-700107, the respondent No.2 herein does hereby verify that the contents of the above paragraphs are true and correct to the best of my knowledge, information and belief.

Verified at Kolkata on this the <sup>24<sup>th</sup></sup> Day of May, 2024.

Identified by Me

*Sibojyoti Chakrabarti*  
Advocate. 24/05/2024

*Samir Bhattacharya*  
Notary Govt. of India  
Regd. No.- 940 / 97  
CITY CIVIL COURT, CALCUTTA

*Abhijit*  
**DEPENDENT**

Solemnly Affirmed and  
Declared before me U/S 139  
CPC; U/S 297 (C) CRPC

24.5.24  
Notary