

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA

ORIGINAL APPLICATION NO. 196 /2024/EZ
(Under Section 18(1) read with Section 14 and 15 of the
National Green Tribunal Act, 2010)

IN THE MATTER OF:

Arup Jyoti Das & Ors.

: Applicants

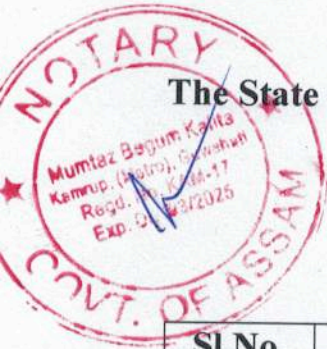
Vs.

The State of Assam & Ors.

: Respondents

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Date: 16.09.2024

Place: Guwahati

DRAWN & FILED BY:

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Vikram Rajkhowa

Advocate for the Applicants

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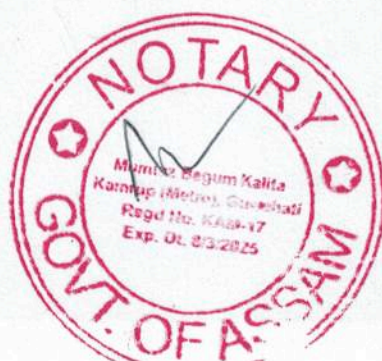


SYNOPSIS

That the applicants seek to raise serious and substantial question relating to the environment before the Hon'ble National Green Tribunal, more particularly, regarding illegal sand mining on the Kaldiya river located at Chaibari village, in the district of Bajali, Assam.

The aforesaid illegal sand mining is going on by using JCB excavators, dumpers, etc., on the riverbed of Kaldiya river and within a distance of 200 meters from the Chaibari bridge in gross violation of the Enforcement & Monitoring Guidelines for Sand Mining, 2020, of the Ministry of Environment, Forests & Climate Change as well as in violation of the directions of this Hon'ble Court vide order dated 23.07.2024 passed in O.A No. 86/2024/EZ Pradeep Singh Shekhawat v. Union of India & Ors.

That there has been no evidence to suggest that the mandatory District Survey Report pertaining to Bajali district was prepared by the concerned authorities before the mining approval was issued to the project proponent. Therefore, the failure to conduct a District Survey Report prior to granting the mining lease, illegal mechanized sand mining on the riverbed within 200 meters from the concrete Chaibari bridge, coupled with the ongoing erosion of the Kaldiya River, poses a significant risk to the environment and local communities. Under such circumstances, the applicants are preferring the present application seeking adequate relief from this Hon'ble Court.



LIST OF DATE & EVENTS

| DATE | EVENTS |
|---------------|---|
| January, 2020 | Enforcement & Monitoring Guidelines for Sand Mining, 2020 |
| 14.03.2024 | Letter of Director, Directorate of Geology and Mining, Assam, granting approval of Mining Plan of the project proponent |
| 10.07.2024 | Representation of the villagers of Chaibari village with the District Commissioner, Bajali |
| 15.07.2024 | Report of the Circle Officer, Bajali Revenue Circle submitted with the District Commissioner, Bajali |
| 23.07.2024 | Order of this Hon'ble Court passed in O.A No. 86/2024/EZ Pradeep Singh Shekhawat v. Union of India & Ors. |
| 30.08.2024 | RTI reply of SPIO cum ACF, O/o The Divisional Forest Officer, North Kamrup Division, Rangia |



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH AT KOLKATA

MEMORANDUM OF APPLICATION
(Under Section 18(1) read with Section 14 and 15 of the
National Green Tribunal Act, 2010)

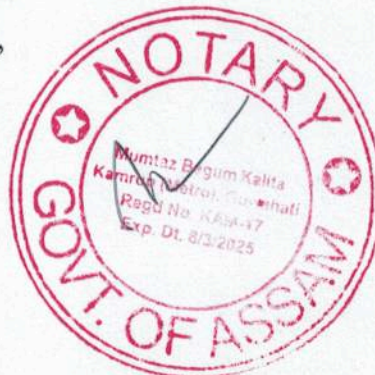
ORIGINAL APPLICATION NO. OF 2024/EZ

IN THE MATTER OF:

- 1. Arup Jyoti Das**
S/o Sri. Manoranjan Das
R/o H.No. 17, Lakhi Mandir
Beltola, Guwahati 781028
Assam

- 2. Arup Das**
S/o Late Tarini Das
R/o Village – Chaibari,
District – Bajali
Assam

- 3. Pranjal Das**
S/o Sri. Jaleswar Das
R/o Village – Chaibari,
District – Bajali
Assam



4. Paresh Das

S/o Sri. Subal Das
R/o Village – Chaibari,
District – Bajali
Assam

5. Himangshu Das

S/o Late Haren Das
R/o Village – Chaibari,
District – Bajali
Assam

6. Nitul Das

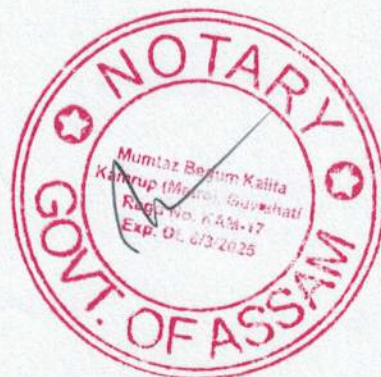
S/o Sri. Chandra Kanta Das
R/o Village – Chaibari,
District – Bajali
Assam

Applicants

Versus

1. The State of Assam,

Represented by the Chief Secretary
Government of Assam
Dispur, Guwahati 781006
ASSAM
Email: cs-assam@nic.in



2. The Secretary

Department of Environment & Forest
Government of Assam
Dispur, Guwahati 781006
ASSAM
Email: environmentforestassam@gmail.com

3. The Director

Directorate of Geology & Mining, Assam
Kahilipara, Guwahati 781019
ASSAM
Email: dgmassam@gmail.com

4. The District Commissioner, Bajali

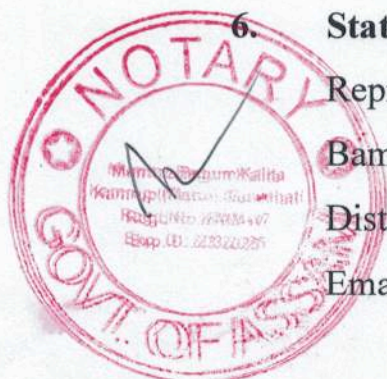
Madan Rauta Nagar, Pathsala
District – Bajali,
ASSAM
Email: dc-bajali@assam.gov.in

5. The Divisional Forest Officer

North Kamrup Division, Rangia 781354
District – Kamrup, ASSAM
Email: dfo.t.northkamrup@gmail.com

6. State Environmental Impact Assessment Authority, Assam

Represented by the Member Secretary
Bamunimaidam, Guwahati 781021
District – Kamrup (Metro), ASSAM
Email: neera.acs@assam.gov.in



7. Assam State Pollution Control Board

Represented by the Member Secretary

Bamunimaidam, Guwahati 781021

ASSAM

Email: membersecretary@pcbassam.org

8. Ministry of Environment, Forest and Climate Change

Government of India

Represented by the Secretary

India Paryavaran Bhawan, Jorbagh,

New Delhi 110003

Email: secy-moef@nic.in

9. Kishor Kalita

S/o Lankeshwar Kalita

R/o Chaibari village (Pama Chupa)

P.O – Pub Rehabari, District - Bajali

Assam

Email: kishorkalita143@gmail.com

Respondents

I. The addresses of the Applicants are given above for the service of notices of this application.

II. The addresses of the Respondents are given above for the service of notices of this application.



MOST RESPECTFULLY SHOWETH:

1. That the applicants seek to raise serious and substantial question relating to the environment before the Hon'ble National Green Tribunal, more particularly in regard to illegal sand mining on the river Kaldiya located at Bajali district of Assam.

The aforesaid illegal sand mining is going on by using JCB excavators, dumpers, etc., and within 200 metres from a concrete bridge, in gross violation of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 (in short EMGSM, 2020) of the Ministry of Environment, Forests & Climate Change (in short MoEF&CC) as well as the order dated 23.07.2024 passed by this Hon'ble Court in O.A No. 86/2024/EZ Pradeep Singh Shekhawat v. UOI & Ors., among violations of other laws.

2. That the applicants No. 2 to 6 are all residents of the above-mentioned locality in village Chaibari, located near the Kaldiya river, in the district of Bajali, Assam. And, applicant No. 1 being authorized by the other applicants, is presently residing in Guwahati, but his parental home and permanent residence is at Bajali district of Assam and hence they are all entitled to the rights, protections and privileges guaranteed under the Constitution of India and the laws framed thereunder.

Furthermore, it is also the duty of the applicants as citizens under Article 51-A(g) of the Constitution of India, to protect and improve the natural environment including forests, lakes, rivers, and wild life, and to have compassion for living creatures.



Facts of the Case

3. That the Kaldiya river has its origin from the neighbouring country of Bhutan, and flows through several villages in Lower Assam, including Chaibari, Rihabari, Golagaon, Kaochmari, Gondhaligaon, Jalaghat, Akaya, Bhaluki, etc. The confluence of the Kaldiya and Pahumara rivers gives rise to the Chawlkhowa river. While the construction of a bridge over the river has improved access to Chaibari, it has also encouraged unregulated mining activities in the river, exacerbating environmental degradation.

4. That respondent No. 3 Director, Directorate of Geology and Mining, Assam, vide letter No. GM/MM/86-B(40)/Pt.III/6813-I dated 14.03.2024 granted approval of Mining Plan, along with a Progressive Mine Closure Plan, in respect of Chaibari Govt. Land Ordinary Clay Mining Permit Area (Area 0.47 hectare), located on the Kaldiya River in favour of the project proponent, i.e., respondent No. 9 Sri Kishor Kalita subject to conditions contained therein, including the following conditions:
 - 5) This approval is restricted in respect of the proposals contained within the mining lease area and the maximum quantity of ordinary clay recommended for extraction is 8692 cum within 2 years from the date of approval of EC to be used for construction purposes subject to all statutory compliance and clearances for the mining activities to be carried out within the mining leasehold area.

 - 7)Lessee shall take all necessary steps time to time so as to ensure the stability of ground, barrier, bench/escarpment to safe and stable condition & DFO, North Kamrup Division shall supervise the same, so that land subsidence or erosion does not happen.



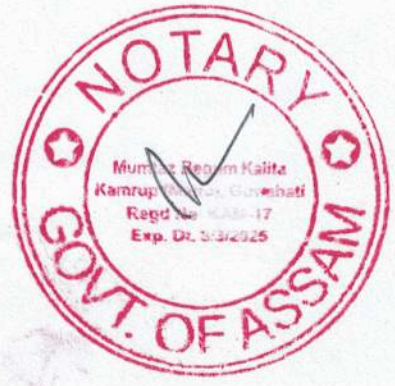
- 8) Violations of any kind regarding the provisions of the Mining Plan will lead to the cancellation of the Mining Plan.

- 10) Environmental clearance must be obtained from the competent authority before execution except in certain cases mentioned in Appendix IX of MOEF&CC Notification S.O. 1224(E) dated 28th March, 2020.

- 12) No fully mechanized extraction shall be done.

A copy of the above-mentioned letter dated 14.03.2024 is annexed as **ANNEXURE – A.**

5. That thereafter in the month of July 2024 when the flood water started receding the project proponent started sand mining activities in the Kaldiya river by using JCB excavator, dumper, etc., within around 200 meters from the Chaibari Bridge. The dumpers carrying river sand also damaged around two culverts of the village road as well as damaging the road. Therefore the villagers of Chaibari village submitted a complaint petition dated 10.07.2024 with the respondent No. 4 D.C Bajali district against the sand mining activities of respondent No. 9 on the Kaldiya river, causing damage to the embankment, including compounding the problem of erosion as well as threat to the river bank and the bridge.



A copy of the representation dated 10/07/2024 is annexed herewith as **ANNEXURE – B.**

6. That subsequent to above-mentioned complaint dated 10.07.2024, the Circle Officer, Bajali Revenue Circle, Patacharkuchi, submitted an inquiry report with respondent No. 4 D.C Bajali district, vide letter No. BJC-02/2024/3980 letter dated 15.07.2024, rejecting the complain of the villagers of the Chaibari village holding that there is no substantial ground for the cancellation of the mining plan.

The Circle Officer further observed as follows – “1. *As per discussion with water resources department, the removal of the deposited silt from left bank will not cause damage to the river and will only be beneficial for the opposite bank which is facing erosion.*” Be it stated that when the applicants made enquiry with the water resources department regarding the instant matter, the officials of the said department denied having any such discussions.

A copy of the above-mentioned letter dated 15.07.2024 is annexed herewith as **ANNEXURE – C**

7. That applicant No. 2 had submitted an RTI application dated 06.08.2024 seeking information regarding the mining plan, etc., of the project proponent, and the respondent No. 5 Divisional Forest Officer, North Kamrup Division, Rangiya, replied vide his letter No. B/RTI Act,05/2303 dated 30.08.2024, stating as follows:

“Sl. 1. *As per direction of the O/o the District Commissioner, Bajali District vide letter no. BJAD/07/2019/Pt-I/2980 dt-17.10.2023 this office has been process for preparation of Mining Plan. But Mining Plan is not submitted to this office till date. Hence, this office could not process for further communication.*”

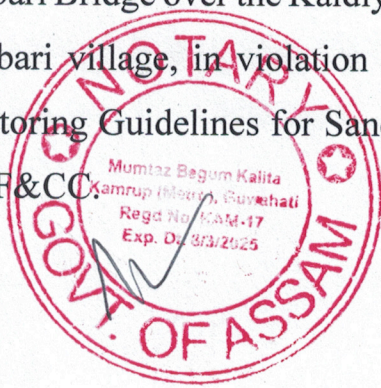


Be it stated that the approval letter dated 14.03.2024 of respondent No. 3 Director, Directorate of Geology and Mining, Assam, clearly stated at Sl.No. 7 that – “*Lessee shall take all necessary steps time to time so as to ensure the stability of ground, barrier, bench/escarpment to safe and stable condition & DFO, North Kamrup Division shall supervise the same, so that land subsidence or erosion does not happen.*”

Therefore, it is indeed surprising that not to mention supervision by the respondent No. 5 Divisional Forest Officer, North Kamrup Division, Rangiya, the said officer do not even have a copy of the mining plan as highlighted by the aforesaid RTI reply dated 30.08.2024. The said aspect clearly demonstrate that the project proponent is conducting illegal mining without the knowledge and supervision of the concerned Divisional Forest Officer, North Kamrup Division, Rangiya, thereby violating condition No. 7 of the approval letter dated 14.03.2024 of respondent No. 3 Director, Directorate of Geology and Mining, Assam.

A copy of the above-mentioned letter dated 30.08.2024 is annexed herewith as
ANNEXURE – D

8. That the project proponent is also conducting sand mining by using JCB excavators on the riverbed area, which is in violation of condition No. 12 of the approval letter dated 14.03.2024 of respondent No. 3. Furthermore, the illegal sand mining is being conducted within 200 metres from the concrete Chaibari Bridge over the Kaldiya river, which connects Chaibari village with Rehabari village, in violation of provision 4.3 (h) of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 (in short EMGSM, 2020) of MoEF&CC.



The relevant portion of the above-mentioned EMGSM, 2020 and photographs is annexed herewith as ANNEXURE – E and F. ^(COLLY.) The applicants further crave leave of this Hon'ble Court to submit the entire EMGSM, 2020, if so required.

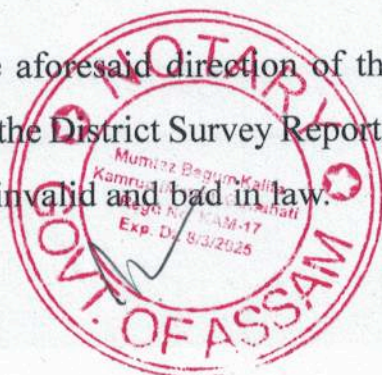
9. That this Hon'ble Court in O.A No. 86/2024/EZ (I.A. No. 32/2024/EZ) Pradeep Singh Shekhawat v. Union of India & Ors. vide order dated 23.07.2024 has explicitly held that:

“6. “Enforcement & Monitoring Guidelines for Sand Mining (EMSGM-2020)” para 4.1.1 and para (a) thereof clearly stipulates that “District Survey Report for sand mining shall be prepared before the auction/e-auction/grant of the mining lease/Letter of Intent (LoI) by Mining department or department dealing the mining activity in respective States”.

This Hon'ble Court further directed as follows –

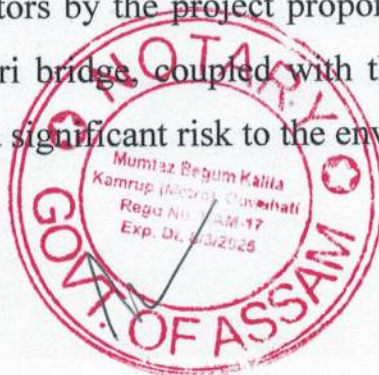
“12. We, therefore direct that there shall be a stay on mining activities in respect of the e-auction/auction of the minor minerals in the District of Goalpara and Lakhimpur and such other districts which do not have duly approved District Survey Report.”

That the aforesaid direction of the Hon'ble NGT is abundantly clear that without the District Survey Report, any e-auction/auction, or grant of mining lease is invalid and bad in law.



A copy of the aforesaid order dated 23.07.2024 passed by the Hon'ble NGT is annexed as ANNEXURE – G

10. That as per the information sought for by the applicants, there has been no evidence to suggest that the mandatory District Survey Report pertaining to Bajali district was prepared by the concerned authorities before the mining approval was issued to the project proponent. Be it stated that even after the order dated 23.07.2024 was passed by this Hon'ble Court granting stay on mining activities in respect of the e-auction/auction of the minor minerals in the districts which do not have duly approved District Survey Report, the sand mining activity of the project proponent was going on in the Kaldiya river under the very nose of the district administration in violation of the directions of this Hon'ble Court.
11. That the applicants respectfully seek leave of this Hon'ble Court to further emphasize the deficiencies arising from the State's failure to conduct the required District Survey Report as well as to place on record materials to highlight the environmental damages caused by the mining activities and the adverse impact of the same on their lives at a later stage and/or as and when the same is required before this Hon'ble Court.
12. That the failure to conduct a District Survey Report prior to granting the mining lease, illegal sand mining on the riverbed being undertaken with JCB excavators by the project proponent, within 200 metres from the concrete Chaibari bridge, coupled with the ongoing erosion of the Kaldiya River, poses a significant risk to the environment and local communities.



13. Therefore, under the facts and circumstances as mentioned herein above, the applicants are filing the instant application upon the grounds given here under:

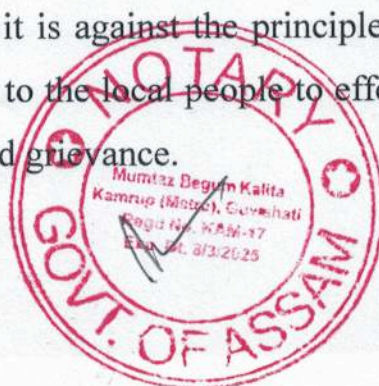
GROUND

That the applicant is filing the present application on the following, among other grounds, which the applicants may take at the time of hearing of the matter:

- A. BECAUSE the approval of the Mining Plan vide letter dated 14.03.2024 of the Director, Directorate of Geology & Mining, Assam, was issued without adherence to the statutory requirement of conducting a District Survey Report, as stipulated by the Enforcement & Monitoring Guidelines for Sand Mining, 2020.
- B. BECAUSE mining is being conducted by the project proponent in violation of this Hon'ble Court's order dated 23.07.2024 passed in O.A No. 86/2024/EZ (I.A. No. 32/2024/EZ) Pradeep Singh Shekhawat v. Union of India & Ors., which has put a stay on mining activities in respect of the e-auction/auction of the minor minerals in the District of Goalpara and Lakhimpur and such other districts, which do not have duly approved District Survey Report.
- C. BECAUSE the project proponent has violated the provision of 4.3 (h) of the Enforcement & Monitoring Guidelines for Sand Mining, 2020, by conducting illegal sand mining within 200 metres from the concrete Chaibari Bridge over the Kaldiya river.



- D. BECAUSE the project proponent violated the conditions of the approval letter dated 14.03.2024 issued by the Director, Directorate of Geology & Mining, Assam, more particularly conditions No. 5, 6, 7, 8, 9, 10, 11 and 12.
- E. BECAUSE the project proponent conducted sand mining without the supervision of the Divisional Forest Officer, North Kamrup Division, Rangiya.
- F. BECAUSE Divisional Forest Officer, North Kamrup Division, Rangiya, submitted in their RTI reply dated 30.08.2024 that a copy of the mining plan is not submitted to this office till date.
- G. BECAUSE the lack of a District Survey Report raises significant concerns about the environmental impact and regulatory oversight of the mining activities, potentially leading to adverse consequences for the Kaldiya River and its surrounding areas.
- H. BECAUSE the grant of the mining lease without a proper District Survey Report is an irregularity that undermines the integrity of the approval process and the validity of the mining lease.
- I. BECAUSE the inquiry report of the Circle Officer dismissing the complaints without addressing the lack of a District Survey Report further highlights procedural deficiencies and a lack of due diligence in addressing environmental and regulatory issues.
- J. BECAUSE it is against the principle of natural justice not to give proper opportunity to the local people to effectively participate and ventilate their concerns and grievance.



K. BECAUSE under Article 48-A of the Constitution of India it states that –
“The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.”

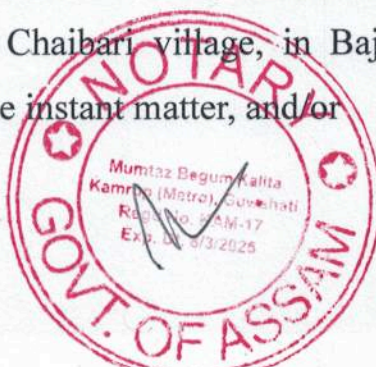
LIMITATION

That the present application is being filed within the limitation period as there is illegal sand mining going on in the Kaldiya river adjacent to the Chaibari village in violation of the directions of the Hon’ble NGT dated 23.07.2024 passed in O.A No. 86/2024/EZ (I.A. No. 32/2024/EZ) Pradeep Singh Shekhawat v. Union of India & Ors. as well as violation of the provisions of the Enforcement & Monitoring Guidelines for Sand Mining, 2020, therefore it is a continuing cause of action. Furthermore, the applicants who are from Bajali district, had to collect information through RTI as well as from other sources and thereafter engage advocate in Guwahati, who can appear before the Hon’ble NGT, therefore the Hon’ble NGT may grant further time as per proviso to section 14 of the NGT Act, 2010, if so required.

INTERIM PRAYER

In view of the above facts and circumstances, it is most respectfully submitted that the applicants have a good *prima facie* case, and in consideration of said facts and circumstances, this Hon’ble Court in the interim, may be pleased to -

- (i) direct a stay on the sand mining activities of the project proponent in the Kaldiya river at Chaibari village, in Bajali district of Assam, till the adjudication of the instant matter, and/or



- (ii) direct a stay on all sand mining activities in Bajali district till a proper District Survey Report is conducted and submitted, in compliance of this Hon'ble Court's order dated 23.07.2024 passed in O.A No. 86/2024/EZ (I.A. No. 32/2024/EZ) Pradeep Singh Shekhawat v. Union of India & Ors., and/or
- (iii) direct a fact-finding Committee to ascertain the illegal sand mining conducted on the Kaldiya river at Chibari village, in the district of Bajali, Assam, including other parts of the said river, and/or
- (iv) direct the concerned authorities to take necessary actions against the project proponent for illegal mechanized sand mining on the Kaldiya river and within 200 metres from the Chaibari bridge, in violation of law.

PRAYER

In view of the above said facts and circumstances it is therefore most respectfully prayed by the applicants that this Hon'ble Court may be pleased to -

- (i) to declare the approval dated 14.03.2024 by the Director, Directorate of Geology & Mining, Assam, in favour of the project proponent (respondent No. 9) as invalid and illegal, being in violation of the provisions of the Enforcement & Monitoring Guidelines for Sand Mining, 2020, as well as the direction of this Hon'ble Court vide order dated 23.07.2024 in O.A No. 86/2024/EZ (I.A. No. 32/2024/EZ) Pradeep Singh Shekhawat v. Union of India & Ors., and/or



- (ii) direct the concerned authorities to take necessary actions against the project proponent for conducting illegal mechanized sand mining on the riverbed of Kaldiya river and within 200 metres from the Chaibari bridge, and/or
- (iii) to direct the project proponent to take necessary steps for the restoration of the area of illegal sand mining on the Kaldiya river as well as to the roads culverts and embankments, and to pay appropriate environmental compensation for the damages, and/or
- (iv) to provide any other reliefs deemed fit and proper by this Hon'ble Court to address the procedural deficiencies and environmental concerns associated with the sand mining activities on the Kaldiya River, and/or
- (v) to pass any other such order(s)/direction(s) as this Hon'ble Court seem fit and proper in the facts and circumstances of the present case.

Date: 16th September 2024

Place: Guwahati

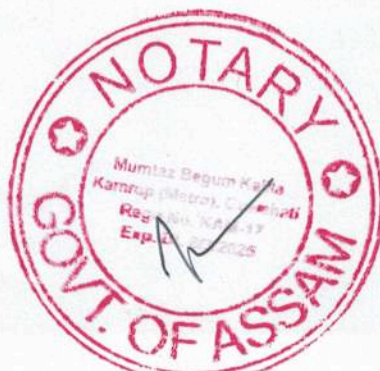
Drawn and filed by:

Vikram Rajkhowa

Vikram Rajkhowa

Advocate for the Applicants

504, Amazing Grace Apartment,
S.K Bhuyan Road, Dighalipukhuri(E)
Guwahati – 7810001, ASSAM
vikram.rajkhowa@gmail.com
(+91) 9954348258



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH AT KOLKATA

ORIGINAL APPLICATION No. OF 2024/EZ

IN THE MATTER OF:

Arup Jyoti Das & Others

: Applicants

Vs.

State of Assam, & Ors.

: Respondents

AFFIDAVIT

I, Sri. Arup Jyoti Das, son of Sri. Manoranjan Das, aged around 48 years, resident of House No. 17, By-lane 2, Lakhi Mandir Beltola, Guwahati, in the district of Kamrup(M), Assam, do hereby solemnly affirm and state as under:

1. That I am the applicant in the present application, and as such I am fully conversant with the facts and circumstances of the case, and I am also authorized by the other applicants of the instant petition, hence I am competent to swear this affidavit on their behalf.

2. That the accompanying application has been drafted by my counsel on my/our instructions and I/we have read and understood the contents of the same and nothing material has been concealed therefrom.

Arupjyoti Das

DEPONENT

VERIFICATION:

I, the above named, deponent do hereby verify that all the facts mentioned in the affidavit are true to my knowledge and no part thereof is false and nothing material has been concealed therefrom.

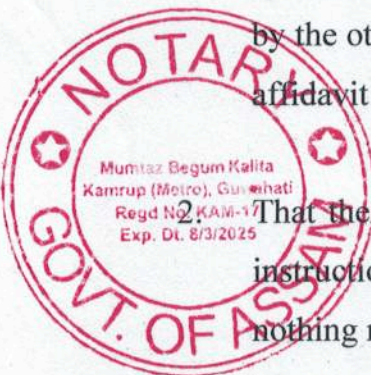
Arupjyoti Das

DEPONENT

IDENTIFIED BY
Arupjyoti Das
ADVOCATE, GUWAHATI
ENR. 629 of 2023
Date 16.09.2024

16 SEP 2024

NOTARY
Mumtaz Begum Kalita
Kamrup (Metro), Guwahati
Regd No. KAM-17



VAKALATNAMA

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA

ORIGINAL APPLICATION No. OF 2024/EZ

IN THE MATTER OF:

Arup Jyoti Das &Ors.

: Applicants

Vs.

The State of Assam &Ors.

: Respondents

Know all men by these presents that the above, named
Arup Jyoti Das, Arup Das, Pranjal Das, Parush Das,
Himangshu Das and Nitul Das

do hereby nominate, constitute and appoint Mr. Vikram Rajkhawa and Ms. Elizabeth Chongneihoi, Advocates, as shall accept this Vakalatnama to be his/their true and lawful Advocates to appear and act for him/them in the matter noted above and in connection therewith and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deeds of composition, etc., for him/them and on his/their behalf and I/We agree to ratify and confirm all acts to be done by the said Advocates as mine/ours for all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear and act on my/our behalf. In witness whereof I/we hereunto set my hand on thisday of September 2024.

Received from the executants
Satisfied and accepted as I/We
Hold no brief for the other side.

1. Arup Das.
2. Pranjal Das
3. Parush Das
4. Himangshu Das
5. Nitul Das
6. Arupjyoti Das.

Vikram Rajkhawa
(Advocate)

Elizabeth Chongneihoi
(Advocate)



Signature of Executant/s

AUTHORIZATION LETTER

We, hereby nominate, constitute and appoint Sri. Arup Jyoti Das, son of Sri. Manoranjan Das, permanent resident of House No.17, Bye Lane-2, Lakhi Mandir, Beltola, Guwahati, Dist.-Kamrup Metropolitan, Assam, as our authorized representative to do the following acts, things or deeds as given below in regard to illegal sand mining in the Kaldiya river located at Bajali district of Assam:

1. To file original application, interlocutory application, miscellaneous application and/or any other application/petition, before the Hon'ble National Green Tribunal and/or Gauhati High Court and/or Supreme Court of India and/or any other forum.
2. To engage or appoint any advocate, lawyer, solicitor or counsel to conduct the cases in the National Green Tribunal, Gauhati High Court, Supreme Court of India and/or any other forum.
3. To sign and verify all complaints, pleadings, applications, petitions or documents before the court and to deposit, withdraw and receive documents from the court or from the respondents.
4. To do generally all other acts and things for the conduct of aforementioned case(s) as we could have done the same if we were personally present.
5. We further undertake to jointly bear/pay all expenses towards the aforementioned case(s), including advocates/lawyers fee, travel and accommodation expenses, and all other expenses incidental thereto.

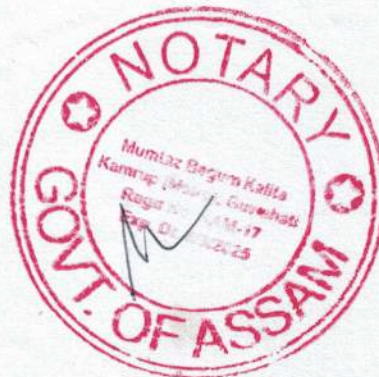
Signed and delivered by the within named on 16/09/2024, (date)

| <u>Sl.No.</u> | <u>Name</u> | <u>Signature</u> |
|---------------|--|-------------------------|
| 1. | Sri Arup Das. S/o Lt. Tarini Das. R/o Vill. - Chaibari, Dist. - Bajali Assam | age - 35 Arup Das. |
| 2. | Sri Pranjal Das. S/o Sri Jaleswar Das. R/o Vill. - Chaibari, Dist. - Bajali Assam | age - 35 Pranjal Das |
| 3. | Sri Parash Das S/o Sri Subal Das. R/o Vill. - Chaibari, Dist. - Bajali Assam | age - 35 Parash Das. |



4. Himangshu Das. age - 42 Himangshu Das
S/o Lt. Haren Das.
R/o Vill. - Chaibari, Dist. - Bajali
Assam

5. Sri Nitul Das. age - 35 Nitul Das.
S/o Sri Chandria Kanta Das.
R/o Vill. - Chaibari, Dist. - Bajali
Assam





খনিজ সম্পদৰ
অন্বেষণত

GOVERNMENT OF ASSAM
DIRECTORATE OF GEOLOGY AND MINING
BHU-BIGYAN BHAWAN
DAKHINGAON,KAHILIPARA,GUWAHATI-19
Email: dgmassam@gmail.com
dgm.assam@gov.in

No. GM/MM/86-B (40)/ Pt.III/ 6813-1

Dtd. Guwahati, the 14th March, 2024.

From :- Shri N. Anand, IFS,
Director,
Directorate of Geology & Mining, Assam,
Kahilipara, Guwahati-19.

To :- The District Commissioner, Bajali,
Bajali.

Sub: - Approval of Mining Plan along with progressive Mine Closure Plan in respect of **Chaibari Govt. Land Ordinary Clay Mining Permit Area** (Area-0.47 hec.) under The District Commissioner, Bajali, submitted under Rule 51 & 52 of Assam Minor Mineral Concession Rules,2013. **GPS Locations** are:

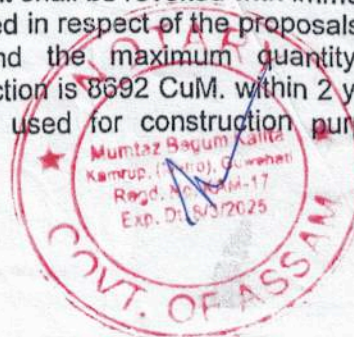
| Latitude | Longitude |
|-------------------|-------------------|
| 26° 35' 40.583" N | 91° 12' 59.300" E |
| 26° 35' 39.944" N | 91° 12' 58.158" E |
| 26° 35' 37.386" N | 91° 13' 0.411" E |
| 26° 35' 38.257" N | 91° 13' 1.465" E |

Ref :-Your letter No. B/ PMT/ MP/ 4126-29, dtd. 03.11.2023
The Mining Plan No. 4932

Sir/ Madam,

In exercise of the power conferred under Rule 51 & 52 of Assam Minor Mineral Concession Rules,2013, the aforesaid Mining Plan (including Progressive Mine Closure Plan) prepared by RQP Dr. Abhijit Bora in favour of the project proponent/consenting applicant Sri Kishor Kalita is approved subject to the conditions below:

- 1) The Map of the proposed Ordinary Clay Permit Area is based on the lease map/sketch submitted by the lessee and verified by RQP is applicable from the date of approval.
- 2) It is to clarify that the approval of aforesaid Mining Plan along with Progressive Mine Closure Plan is in accordance with the powers conferred by sub-section (1) of section 15 and section 23C of the Mines & Minerals (Development & Regulation) Act,1957 (67 of 1957).
- 3) The GPS coordinates of the said Mining Plan are provided from the O/o the Divisional Forest Officer, North Kamrup Division and the RQP prepared the mining plan keeping in view of the given coordinates. Any extraction outside the geo-coordinates will entail cancellation of this mining plan approval.
- 4) At any stage, if it is observed that the information furnished data incorporated in the documents are incorrect or misrepresent facts, the approval of the document shall be revoked with immediate effect.
- 5) This approval is restricted in respect of the proposals contained within the mining lease area and the maximum quantity of **ordinary clay** recommended for extraction is 8692 CuM. within 2 years from the date of approval of EC to be used for construction purposes subject to all



- statutory compliance and clearances for the mining activities to be carried out within the mining leasehold area.)
- 6) Adequate measures should be taken to prevent any anticipated detrimental impact on water regime.
 - 7) "Safety Berm" of adequate dimension shall be kept at all the places in the vicinity of statutory barrier, bench/escarpment. Lessee shall take all necessary steps time to time so as to ensure the stability of ground, barrier, bench/escarpment to safe and stable condition & DFO, North Kamrup Division shall supervise the same, so that land subsidence or erosion does not happen. Violations of any kind regarding the provisions of the Mining Plan including Progressive Mine Closure Plan will lead to the cancellation of the Mining Plan.
 - 8) Violations of any kind regarding the provisions of the Mining Plan will lead to the cancellation of the Mining Plan.
 - 9) The royalty is to be deposited at O/o Directorate of Geology and Mining under the Head of Account "0853-102-2295" through the portal of account assamgras.gov.in as per SOP of Govt. of Assam vide Letter No. PEM.50/2020/pt./21 dtd.21st August, 2021.
 - 10) Environmental clearance must be obtained from the competent authority before execution except in certain cases mentioned in Appendix IX of MOEF & CC Notification S.O. 1224(E) dated 28th March, 2020.
 - 11) The Circle Officer, Bajali Rev. Circle should ensure that no additional quantity is to be extracted.
 - 12) No fully mechanized extraction shall be done.

Encl: Approved Mining Plan along with Progressive Mine Closure Plan.

[Handwritten Signature]
14.3.24

Director,
Directorate of Geology & Mining, Assam.

No. GM/MM/86-B (40)/ Pt.III/

Dtd. Guwahati, the March, 2024.

- Copy to :-
- 1) The Divisional Forest Officer, North Kamrup Division, Rangia for information and necessary action.
 - 2) Sri Kishor Kalita, Chaibari, P.O. Pub Rehabari, Dist. Bajali, Assam
 - 3) Office copy.

Director,
Directorate of Geology & Mining, Assam



(TYPED/TRANSLATED COPY OF ORIGINAL DOCUMENT)

To

Date : 10.07.2024

Respected District Commissioner
Bajali, Assam

1. Letter No : GM/MM/86-B(40)/Pt.III/6813-1
2024
2. The Mining plan No. 4932

Dtd. Ghty. The 14th March,

Sub : Application regarding cancellation of the abovemention mining plan to save the Chaibari Village from flood and erosion also saving the concrete bridge upon the Kaldia River which is at the Westside of the village.

Sir,

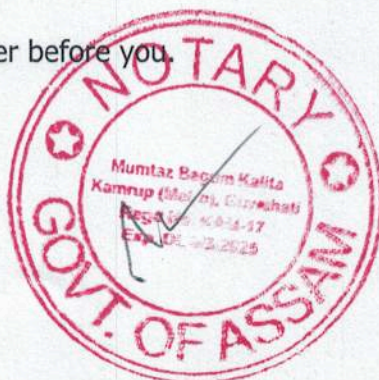
With respectfully begs to state that, we the undersigned are the villagers of Chaibari Village. Approx three fourth (North, West and South) area of our village has surrounded by Kaldia River. Flood and Erosion are our main problem. The levee which was made few years ago, is not repair till now which creates struggles for us. Till now, three to four kilometers of levee on the bank of the river is broken down and there are not any Bolder pitching. Till now , no steps taken to repair the levee here. We want to inform you that, even after multiple complaints made before the district authority, the contractor Mr. Kishore Kalita has mined various times on the river near the bridge which is at the east side of the Kaldia river without paying any royalty. And now he conspiring for sand mining through the abovementioned mining plan after taking your permission for mining. We inform you that, starting of this mining will lead to flood and erosion problems in our village. Also, security of the east side levee and nearby bridge will be under threat.

We mentioned that, the contractor Kishor Kalita has running the JCB and Dumper day and night which lead to break some portion of levee and also it breaks the east and west side PWD road of the bridge. Also it already breaks two culverts inside our village. Also contractor Kishore Kalita has used the sands for personal purpose which are import for road works.

Sir, therefore, may cancel the abovementioned mining plan to protect us from flood and erosion.

This is our humble prayer before you.

Sd/- illegible



Gram Pradhan
Village- Chaibari, Chemariya
Mouza- Manikpur, (not clear)

Villagers Signature

Sd/-

Copy to:-

1. The Director, Directorate of Geology and Mining Assam, Kahilipara, Guwahati -19 is requested to canceled the same mining plan as complaint regards.
2. For the reference and execution to Respected Circle Officer, Patacharkuchi, Bajali



প্রতি,

দিনাংক : ১০ জুলাই, ২০২৪ ইং

সন্মানীয় জিলা আয়ুক্ত মহোদয়, বজালী (অসম)।

Ref. 1. Letter No : GM/MM/86-B(40)/Pt.III/6813-1

Dtd. Ghty. the 14th March. 2024

2. The Mining plan No : 4932.

বিষয় : ওপৰত উল্লেখ কৰা Mining plan খন নাকচ কৰি গৰাখহনীয়া আৰু বানপানীৰ পৰা তথা চৈবাৰী গাঁওৰ পশ্চিমপাৰৰ কালদিয়া নদীৰ পকী দলংখন বচোৱাৰ বাবে আবেদন।

মহাশয়,

সন্মানপূৰ্বকভাৱে আপোনাক জনাওঁ যে, আমি তলত স্বাক্ষৰকাৰীসকল চৈবাৰী গাঁওৰ গঞা বাইজ। আমাৰ গাঁওখনৰ প্ৰায় ৪ ভাগৰ ৩ ভাগেই (উত্তৰ, পশ্চিম আৰু দক্ষিণ) কালদিয়া নৈয়ে আওৰি আছে। বানপানী আৰু গৰাখহনীয়া আমাৰ প্ৰধান সমস্যা। আজি কিছুবছৰ আগতে বন্ধা মথাউৰিবোৰ বৰ্তমান মেৰামতি নোহোৱাৰ বাবে বানপানীয়ে আমাক বহুত জুৰুলা কৰি আছে। বৰ্তমানলৈকে তিনি-চাৰি কিঃমিঃ মান নৈৰ পাৰত মথাউৰিৰ জৰাজীৰ্ণ অবস্থা আৰু একেবাৰে Bolder pitching নাই। আজিলৈকে ইয়াত মথাউৰিৰ নিৰ্মাণৰ কোনো কাম নহ'ল। আপোনাক জনাওঁ যে, ইয়াত আমাৰ বাইজৰ বানপানী আৰু গৰাখহনীয়া সমস্যাৰ সমাধানৰ পৰিৱৰ্তে প্ৰশাসনক আপত্তি দৰ্শোৱাৰ পিছতো ঠিকাদাৰ কিশোৰ কলিতাই কালদিয়া নৈৰ পূৰ্বপিনে দলঙৰ নিচেই কাষত আগতেও কেইবাবাৰো Royalty নিদিয়াকৈ খনন কাৰ্য সংঘটিত কৰিছে। এতিয়া আকৌ ওপৰত উল্লেখ কৰা Mining planৰ জৰিয়তে আপোনাৰ অনুমতি লৈ বালি খনন কাৰ্য কৰাৰ কু-অভিসন্ধি বচনা কৰিছে। আপোনাক জনাওঁ যে, এই খনন কাৰ্য সংঘটিত হ'লে আমাৰ বানপানী আৰু গৰাখহনীয়াৰ সমস্যা বাঢ়িব। লগতে আমাৰ পূৰ্বপিনৰ মথাউৰি আৰু ওচৰত থকা পকী দলংখনৰ নিৰাপত্তা নাথাকিব।

উল্লেখ থাকিল যে ঠিকাদাৰ কিশোৰ কলিতাই দিনে-নিশাই ডাম্পাৰ আৰু জে.চি.বি. চলাই ইতিমধ্যে নৈৰ পাৰৰ আমাৰ কিছু মথাউৰি ভাঙিছে তথা কালদিয়াৰ দলংখনৰ পৰা পূৰ আৰু পশ্চিমপিনৰ PWD পথটো ভাঙি জৰাজীৰ্ণ কৰিছে। তাৰোপৰি গাঁওৰ ভিতৰৰ দুটিকে কালভাৰ্ট ভাঙি আমাৰ বাইজৰ বহুত অনিষ্ট কৰিছে। ঠিকাদাৰ কিশোৰ কলিতাই বাস্তৱ নামত বালি লাগে বুলি বাৰে বাৰে এই বালিবোৰ ব্যক্তিগত মানুহৰ ঘৰৰ ভিঠা ভৰোৱাৰ কামত ব্যৱহাৰ কৰে।

মহাশয়, গতিকে ওপৰত উল্লেখ কৰা Mining plan নাকচ কৰি আপুনি আমাক গৰাখহনীয়া আৰু বানপানীৰ সমস্যাৰ পৰা ৰক্ষা কৰিব বুলি আমি আশাবাদী।

এইয়ে দয়ালু মহোদয়ৰ ওচৰত আমাৰ সৰল মিনতি।

Forwarded.

Bram Parbat

Vill.- Charban, Charmanva

Mouza- Manikpur, L. range

Dist.- Bajal.

Date :- 10/07/24

Copy to :-

1. The Director, Directorate of Geology & Mining Assam.

Kahilipara, Guwhati -19 is requested to canceled the same mining plan as public complaint regards.

2. সন্মানীয় চক্ৰ বিষয়া, পাটাছাৰকুছি, বজালীৰ জ্ঞাতার্থে আৰু কাৰ্যকৰণৰ বাবে।

ইতি-

বাইজৰ চহী

- ১ শ্ৰী অক্ষয় চৌধুৰী
- ২ শ্ৰী মলেশ দাস
- ৩ শ্ৰী বিপুল চৌধুৰী
- ৪ Shri. Anjan Das
- ৫ শ্ৰী ব্ৰজেন দাস



(TYPED COPY OF ORIGINAL DOCUMENTS)

GOVT. OF ASSAM

OFFICE OF THE CIRCLE OFFICER:.....BAJALI REVENUE CIRCLE

PATACHARKUCHI

.....

No. BJC-02/2024/1980

Date: 15.07.2024

To

The District Commissioner,
Bajali.

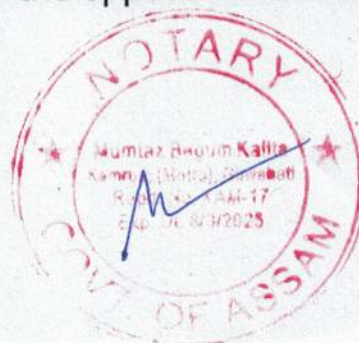
Sub: Report on complain submitted by Nabajit Medhi and others on
mining plan near Kaldia River

Ref: Letter No : GM/MM/86-B(40)/Pt.III/6813-I

Respected Sir,

With due respect to subject cited above, I have the honor to submit herewith the report on the field inquiry done by the undersigned along with LRA, field officer in presence of the complainants along with the complainant Munna Das on the matter. As per the inquiry done, the complain does not have substantial grounds for cancellation of mining plan because:

1. As per discussion with water resource department, the removal of the deposited silt from left bank will not cause damage to the river nad will only be beneficial for the opposite bank which is facing erosion.

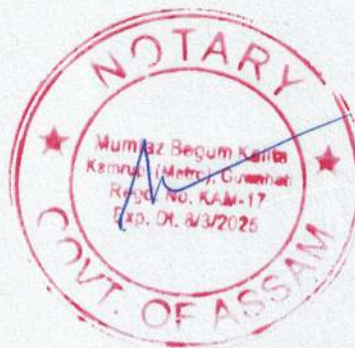


- Deposition of silt in the river bed is up to a horizontal distance of around 50 ft from the left bank of the river.(as shown in the photo)
2. The residents of left bank have submitted application requesting this removal of silt on the left bank for reducing force for erosion on right bank.
 3. The complainants in presence of the undersigned could not explain what problems the removal of the silt will desilation will only be beneficial for the river bed and mining plan is not for the bank but only the silt.
 4. The removal of silt is to be done only in the demarcated area as per previously approved JV and mining plan.
 5. The silt from this mining plan is required for Govt. Project works of as per work order mentioned in annexure-I
 6. The root cause of the complaint is probably the land demarcation of Mr. Munna Das vis a vis the nearby government khas land and this road usage will require area demarcation of land of Munna Das and the government Khas land. Mr. Munna Das has mobilized the other complaints of the area for submitting complain with him as demarcation of the land might provide details of encroachment by him.
 7. Also, the undersigned has verified the damage to the embankments of other side of the river however no evidence of damage done by Mr. Kishore Kalita could be ascertained because:
 - a. *In absence of Mr. Kishore Kalita the complainant, Munna das had specified an area of damage but when Mr. Kishore Kalita was called on the spot by undersigned Mr. Munna Das could not specifically point out the area of damage bin his presence. The Gaonburah report is attached.*
 - b. *The concerned gau bura has submitted the rept that no damage to embankments has been done.*
 8. The undersigned has directed the LRA to undertake the boundary assessment of the area on 15/07/2024 in respect to Government Khas Land as per the mining plan.



The complain of Munna Das others could not be proved to be accurate or substantial because of aforementioned reasons.

Sd/- Illegible
Circle Officer
Bajali Revenue Circle
Patacharkuchi



ADCL/Adm-31-
[Signature]



GOVT.OF ASSAM
OFFICE OF THE CIRCLE OFFICER.....BAJALI REVENUE CIRCLE
PATACHARKUCHI

No.BJC-02/2024/3980

Date: 15/07/2024

To

The District Commissioner,
Bajali.

Sub: Report on complain submitted by Nabajit Medhi and others on mining plan near Kaldia River

Ref: Letter No : GM/MM/86-B(40)/Pt.III/6813-I

Respected Sir,

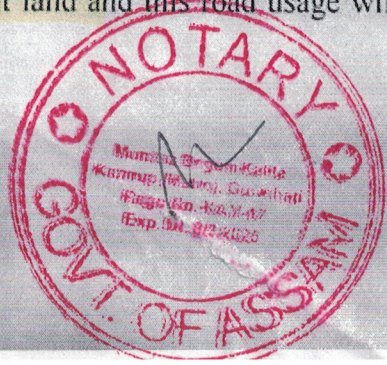
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1. As per discussion with water resource department, the removal of the deposited silt from left bank will not cause damage to the river and will only be beneficial for the opposite bank which is facing erosion. Deposition of silt in the river bed is upto a horizontal distance of around 50 ft from the left bank of the river (as shown in the photo)
2. The residents of left bank have submitted application requesting this removal of silt on the left bank for reducing force of erosion on right bank.
3. The complainants, in presence of the undersigned could not explain what problems the removal of the silt will cause as desiltation will only be beneficial for the river bed and mining plan is not for the bank but only the silt .
4. The Removal of silt is to be done only in the demarcated area as per previously approved JV and mining plan.
5. The silt from this mining plan is required for Govt. Project works of as per work order mentioned in annexure I
6. The root cause of the complaint is probably the land demarcation of Mr. Munna Das vis a vis the nearby government khas land. The transportation of silt out of the area would be through a government land and this road usage will require area demarcation of land of

Govt. of Assam
Deputy Commissioner Bajali
Madan Rauta Nagar, Pathsala

15 JUL 2024

Received



Munna Das and the government Khasland. Mr. Munna Das has mobilized the other complainants of the area for submitting complain with him as demarcation of the land might provide details of encroachment by him.

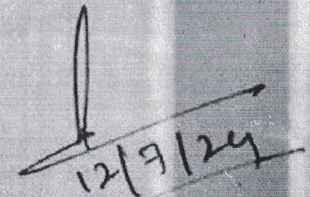
7. Also ,the undersigned has verified the damage to the embankments of other side of the river however no evidence of damage done by Mr. Kishore Kalita could be ascertained because:

a. *In absence of Mr. Kishore Kalita the complainant, Munna Das had specified an area of damage but when Mr. Kishore Kalita was called on the spot by undersigned Mr. Munna Das could not specifically point out the area of damage in his presence. The Gaonburah report is attached.*

b. *The concerned gau bura has submitted the report that no damage to embankments has been done*

8. The undersigned has directed the LRA to undertake the boundary assessment of the area on 15/07/2024 in respect to Government Khas Land and as per the mining plan.

The complain of Munna Das and others could not be proved to be accurate or substantial because of aforementioned reasons.


12/7/24

Circle Officer
Bajali Revenue Circle
Patacharkuchi





GOVERNMENT OF ASSAM

OFFICE OF THE DIVISIONAL FOREST OFFICER::NORTH KAMRUP DIVISION::RANGIA

Letter No. B/RTI Act,05/ 2303

Date: 30/08/2024

To,

Sri Arup Das,
S/o-Lt. Tarani Das
Vill-Chaibari, PO-Pub Rehabari,
Pin-781329, Dist-Bajali(Assam).

Sub: Regarding Assistance sought under section 5(4) of the RTI Act,05

Ref:- Your RTI Application dt-06.08.2024.

D/Sir,

With reference to the subject cited above, I am furnishing herewith the information as per RTI Act, 2005 asked from your end which has been forwarded by the Addl. District Commissioner, Bajali, Pathsala vide receipt no. 934 & 935 as follows:-

| Sl | Application receipt no. 934 | Sl | Application receipt no. 935 |
|----|---|----|-----------------------------|
| 1. | As per direction of the O/o the District Commissioner, Bajali District vide letter no. B/JAD/07/2019/Pt-I/2980, dt-17.10.2023 this office has been process for preparation of Mining Plan. But Mining Plan is not submitted to this office till date. Hence, this office could not process for further communication. | 1 | No. |
| 2. | Nil | 2. | Nil |
| 3. | No. | 3. | Nil. |
| 4. | Mining plan is not submitted to this office till date. | 4. | Nil. |
| 5. | If any illegal activities found by the department legal action will be taken as per law. | 5. | No. |

Yours sincerely

State Public Information Officer Cum ACF,
O/o the Divisional Forest Officer,
North Kamrup Division, Rangia

Copy to the Addl. District Commissioner, Bajali, Pathsala for favour of his kind information.



State Public Information Officer Cum ACF,
O/o the Divisional Forest Officer,
North Kamrup Division, Rangia



Enforcement & Monitoring Guidelines for Sand Mining



Ministry of Environment, Forest and Climate change

January, 2020

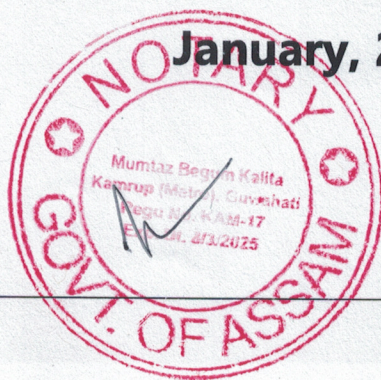


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4.0 REQUIREMENTS FOR MONITORING & ENFORCEMENT

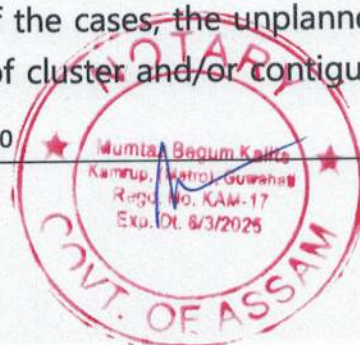
Sustainable Sand Mining Management Guidelines (SSMMG) 2016 and past experience suggest that the source of sand in India are through

- a) River (riverbed and flood plain),
- b) Lakes and reservoirs,
- c) Agricultural fields,
- d) Coastal / marine sand,
- e) Palaeo-channels and
- f) Manufactured Sand (M-Sand).

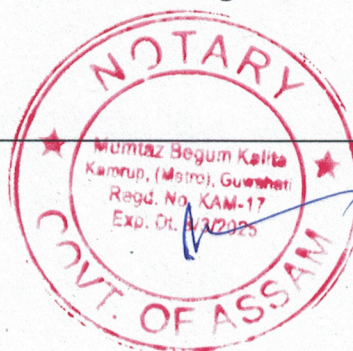
The SSMMG-2016 highlights the identification of the sand mining sources, replenishment of the River Bed Material (Sand, Boulder, Gravel, Cobble etc.), preparation of Districts Survey Report, and Standard Environmental Conditions suitable for sand mining projects.

The necessary requirements to comply with the direction of Hon'ble NGT and to facilitate effective monitoring and enforcement of regulatory provision for sand mining in the country are as follows:

- i) Identification of sand mining sources, its quantification and feasibility for mining considering various environmental (proximity of protected area, wetlands, creeks, forest etc.) and other factors such as important structures, places of archaeological importance, habitation, prohibited area etc.
- ii) The mining lease auctioned by State government as per their Minor Mineral Concession Rules are granted of Letter of Intent (LoI), but it has been observed that many of the sites are not suitable w.r.t environmental aspects. In most of the cases, the unplanned grant of mining lease leads to formation of cluster and/or contiguous cluster



- of small mining leases which sometimes is difficult to regulate and monitor. In order to address such issues, more emphasis is required on the preparation of District Survey Report and its format for reporting,
- iii) Mining Plan is an important document to assist the mine owner to operate the mine in a scientific manner. States have their own format for preparation of mining plan and it is observed that recording of the initial level of mining lease at shorter interval say 25m X 25 m grid interval is not present.
 - iv) There is no practice for regular replenishment study to ascertain the rate of depositing, plan and section needs to be prepared based on the restrictions provided in letter of intent and provisions of Sustainable Sand Mining Management Guidelines 2016.
 - v) Environmental Clearance is a process wherein the regulatory authorities after considering the potential environment impact of mining clearance is granted with a set of specific & standard conditions to carry out mining operations, but often it is observed that letter of intent is granted for a location which has less potential for mining and not feasible for environment-friendly mining. This leads to an unnecessary financial burden on the mine owners and litigations. Thus, Lol should be preferably granted for those locations which have the least possibility of an impact on the environment and nearby habitation.
 - vi) It is the responsibility of the mine owner to obtain all the statutory clearance and comply with the conditions stipulated in the clearance letter. Mining should be carried out within the mining lease area as per



approved mining plan or mining plan concurred by other regulatory authorities.

- vii) Mining operation also involves transportation of mineral from the mining area to end-user and its necessary that movement of the mineral needs to be monitored.

The State Government already have power under section 23c of MMDR, Act 1957 to make rules for preventing illegal mining, transportation and storage of minerals. However, there are instances of illegal mining which shows that there is a need for strengthening the system of mineral dispatch and its monitoring. This document provides good practices already under implementation by various states for regulating the mineral sale, dispatch, storage, transportation and use.

- viii) The river reaches with sand provide the resource and thus it is necessary to ascertain the rate of replenishment of the mineral. Regular replenishment study needs to be carried out to keep a balance between deposition and extraction. This document provides the procedure to be followed for conducting replenishment study.
- ix) Even after all the regulatory procedure and policy being in place, there are instances where illegal mining is taking place. There is a need for regular surveillance of the sand mining reaches. The monitoring agencies can monitor the sites remotely by using Unmanned Artificial Vehicles (UAVs)/Drone which is now a viable option. The drone can also be used for reserves estimation, quantity estimation, land use monitoring. This document highlights possible use of IT/Satellite/Drone technology for effective monitoring of sand mining.



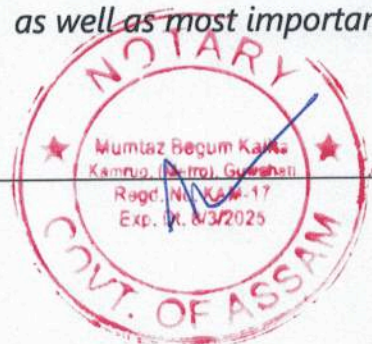
4.1 Identification of possible sand mining sources and preparation of District Survey Report (DSR)

4.1.1 Preparation of District Survey Report.

“Sustainable Sand Mining Guidelines, 2016” issued by MoEF&CC requires preparation of District Survey Report (DSR), which is an important initial step before grant of mining lease/Lol. The guidelines emphasize detailed procedure to be followed for the purpose of identification of areas of aggradation/ deposition where mining can be allowed and identification of areas of erosion and proximity to infrastructural structures and installation where mining should be prohibited. Calculation of annual rate of replenishment, allowing time for replenishment after mining, identification of ways of scientific and systematic mining; identifying measures for protection of environment and ecology and determining measures for protection of bank erosion, benchmark (BM) with respect to mean Sea Level (MSL) should be made essential in mining channel reaches (MCR)⁺ below which no mining shall be allowed.

The Hon’ble NGT in its Judgment dated 08.12.2017 in the matter of Anjani Kumar vs State of Uttar Pradesh & Ors. inter-alia mentioned the following regarding sand mining in the Uttar Pradesh.

“It states that the main object of preparation of District Survey Report is to ensure identification of areas of aggradation/deposition where mining can be allowed and identification of areas of erosion and proximity to infrastructural structures and installation where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining area. Thus, the environmental protection requires a strictly regulated mining in terms of area, quantity as well as most importantly replenishment thereof.”



"The data collection and declared for preparation of DSR shall take precedence over other data and would form the foundation for providing mining lease in terms of Appendix- x to the Notification dated 15th January 2016 must be prepared by the statutory authority stated therein i.e. DEIAA prior to awarding of permits for carrying on mining activity in any part of the State of UP."

The Hon'ble High Court of Jharkhand at Ranchi in its orders dated the 11th April 2018 and 19th June 2018 in W.P. (PIL) No. 1806 of 2015, in the matter of Court on its Own Motion Versus the State of Jharkhand & Others with W.P. (PIL) No. 290 of 2013, in the matter of Hemant Kumar Shilkarwar Versus the State of Jharkhand & Others, has inter-alia directed the preparation of District Survey Report for minor minerals other than Sand and Bajri or delegation of the powers for preparation of format of District Survey Report of minor minerals other than sand and Bajri to the State Government and/or District Environment Impact Assessment Authority and District Expert Appraisal Committee. To comply with the direction of Hon'ble High Court the Ministry has issued S.O. 3611(E) dated 25.07.2018, wherein, the procedure of preparation of DSR is mentioned. But it is felt that still there is other information that needs to be reported in DSR to make it a comprehensive DSR.

Therefore, preparation of District Survey Report is a very important step and sustainable sand mining in any part of the country will depends on the quality of District Survey Report.

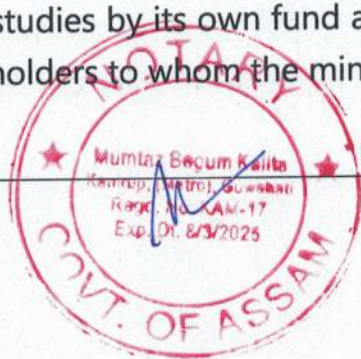
Considering the importance of district survey report, the Ministry of Environment Forest and climate change, after consultation with experts dealing with mining-related matters, formulated the following guidelines for the preparation of comprehensive District Survey Report for sand mining.



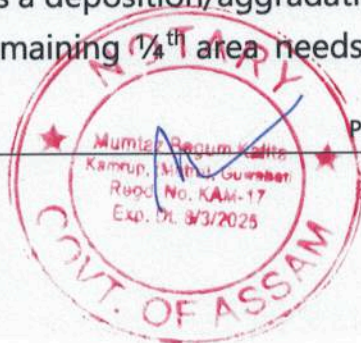
- a) District Survey Report for sand mining shall be prepared before the auction/e-auction/grant of the mining lease/Letter of Intent (LoI) by Mining department or department dealing the mining activity in respective states.
- b) The first step is to develop the inventory of the River Bed Material and Other sand sources in the District. In order to make the inventory of River Bed Material, a detailed survey of the district needs to be carried out, to identify the source of River Bed Material and alternative source of sand (M-Sand). The source will include rivers, de-siltation of reservoir/dams, Patta lands/Khatedari Land, M-sand etc.

The revenue department of Kerala already conducted river mapping and sand auditing of around 20 rivers of Kerala which is a good example wherein the profile of rivers was created at regular intervals and aggradation/deposition was identified along with water level. In the same study, benchmarks were also created at a prominent location at regular interval for future surveying. Such study helps the mining departments to identify the source of sand.

Thus, it is proposed that for preparation of district survey report, the auditing of rivers needs to be carried out. There is already a provision under MMDR Act 2015 for National Mineral Exploration Trust (MET) wherein a 2% of royalty amount to be deposited in the trust. This fund is used for mineral exploration in the country. The Sand Auditing is also a sort of identification of mineral and State Government may request Central Govt. for proving funds for river auditing. The Central Govt. (Ministry of Mines) may also explore the possibilities for providing the funds for river auditing. The other option is that State Govt. may conduct such studies by its own fund and the same may be recovered from the leaseholders to whom the mining lease will be allocated.



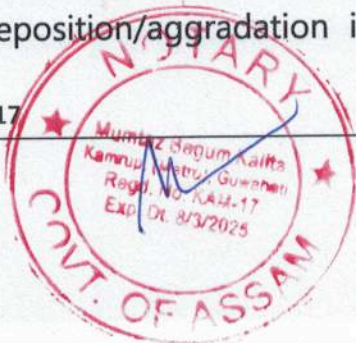
- c) District Survey Report is to be prepared in such a way that it not only identifies the mineral-bearing area but also define the mining and no mining zones considering various environmental and social factors.
- d) Identification of the source of Sand & M-Sand. The sources may be from Rivers, Lakes, Ponds, Dams, De-silting locations, Patta land/Khtedari lands. The details in case of Rivers such as [name, length of river, type (Perennial or Non-Perennial), Villages, Tehsil, District], in case of Lakes, Ponds, Dams, De-silting locations [Name, owned/maintained by (State Govt./PSU), area, Villages, Tehsil, District] in case of Patta land/Khtedari lands [Owner Name, Sy No, Area, Agricultural/Non-Agricultural, Villages, Tehsil, District], in case of M-Sand Plant [Owner Name, Sy No, Area, Quantity/Annum, Villages, Tehsil, District], needs to be recorded as per format given in **Annexure-I**.
- e) Defining the sources of Sand/M-Sand in the district is the next step for identification of the potential area of deposition/aggradation wherein mining lease could be granted. Detailed survey needs to be carried out for quantification of minerals. The purpose of mining in the river bed is for channelization of rivers so as to avoid the possibility of flooding and to maintain the flow of the rivers. For this, the entire river stretch needs to be surveyed and original ground level (OGL) to be recorded and area of aggradation/deposition needs to be ascertained by comparing the level difference between the outside riverbed OGL and water level. Once the area of aggradation/deposition are identified, then the quantity of River Bed Material available needs to be calculated. The next step is channelization of the river bed and for this central $\frac{3}{4}$ th part of the river, width needs to be identified on a map. Out of the $\frac{3}{4}$ th part area, where there is a deposition/aggradation of the material needs to be identified. The remaining $\frac{1}{4}$ th area needs to be kept as no mining zone for the



protection of banks. The specific gravity of the material also needs to be ascertained by analyzing the sample from a NABL accredited lab. Thus, the quantity of material available in metric ton needs to be calculated for mining and no mining zone.

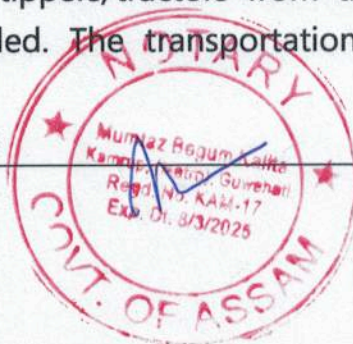
Note: As physical survey with conventional method is time-consuming, use of unmanned aerial vehicle (UAV) may be explored to carry out the survey and finalizing the original ground level and for developing a 3D model of the area.

- f) The permanent boundary pillars need to be erected after identification of an area of aggradation and deposition outside the bank of the river at a safe location for future surveying. The distance between boundary pillars on each side of the bank shall not be more than 100 meters.
- g) Identifying the mining and no mining zone shall follow with defining the area of sensitivity by ascertaining the distance of the mining area from the protected area, forest, bridges, important structures, habitation etc. and based on the sensitivity the area needs to be defined in sensitive and non-sensitive area.
- h) Demand and supply of the Riverbed Material through market survey needs to be carried out. In addition to this future demand for the next 5 years also needs to be considered.
- i) It is suggested that as far as possible the sensitive areas should be avoided for mining, unless local safety condition arises. Such deviation shall be temporary & shall not be a permanent feature.
- j) The final area selected for the mining should be then divided into mining lease as per the requirement of State Government. It is suggested the mining lease area should be so selected as to cover the entire deposition area. Dividing a large area of deposition/aggradation into smaller



mining leases should be avoided as it leads to loss of mineral and indirectly promote illegal mining.

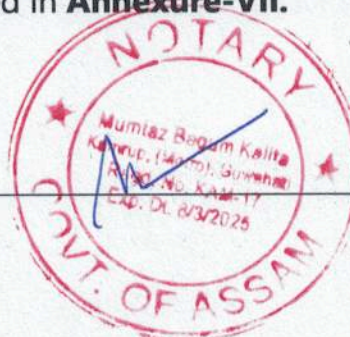
- k) Cluster situation shall be examined. A cluster is formed when one mining lease of homogenous mineral is within 500 meters of the other mining lease. In order to reduce the cluster formation mining lease size should be defined in such a way that distance between any two clusters preferably should not be less than 2.5 Km. Mining lease should be defined in such a way that the total area of the mining leases in a cluster should not be more than 10 Ha.
- l) The number of a contiguous cluster needs to be ascertained. Contiguous cluster is formed when one cluster is at a distance of 2.5 Km from the other cluster.
- m) The mining outside the riverbed on Patta land/Khatedari land be granted when there is possibility of replenishment of material. In case, there is no replenishment then mining lease shall only be granted when there is no riverbed mining possibility within 5 KM of the Patta land/Khatedari land. For government projects, mining could be allowed on Patta land/Khatedari land but the mining should only be done by the Government agency and material should not be used for sale in the open market. Cluster situation as mentioned in para k above is also applicable for the mining in Patta land/Khatedari land.
- n) The State Government should define the transportation route from the mining lease considering the maximum production from the mines as at this stage the size of mining leases, their location, the quantity of mineral that can be mined safely etc. is available with the State Government. It is suggested that the transportation route should be selected in such a way that the movement of trucks/tippers/tractors from the villages having habitation should be avoided. The transportation route so



selected should be verified by the State Government for its carrying capacity.

- o) Potential site for mining having its impact on the forest, protected area, habitation, bridges etc, shall be avoided. For this, a sub-divisional committee may be formed which after the site visit shall decide its suitability for mining. The list of mining lease after the recommendation of the Committee needs to be defined in the following format given in as **Annexure-II**. The Sub-Divisional Committee after the site visit shall make a recommendation on the site for its suitability of mining and also records the reason for selecting the mining lease in the Patta land. The details regarding cluster and contiguous cluster needs to be provided as in **Annexure-III**. The details of the transportation need to be provided as in **Annexure IV**.

- p) **Public consultation**-The Comments of the various stakeholders may be sought on the list of mining lease to be auctioned. The State Government shall give an advertisement in the local and national newspaper for seeking comments of the general public on the list of mining lease included in the DSR. The DSR should be placed in the public domain for at least one month from the date of publication of the advertisement for obtaining comments of the general public. The comments so received shall be placed before the sub-divisional committee for active consideration. The final list of sand mining areas [leases to be granted on riverbed & Patta land/Khatedari land, de-siltation location (ponds/lakes/dams), M-Sand Plants (alternate source of sand)] after the public hearing needs to be defined in the final DSR in the format as per **Annexure-V**. The details regarding cluster and contiguous cluster needs to be provided in **Annexure-VI**. The details of the transportation need to be provided in **Annexure-VII**.

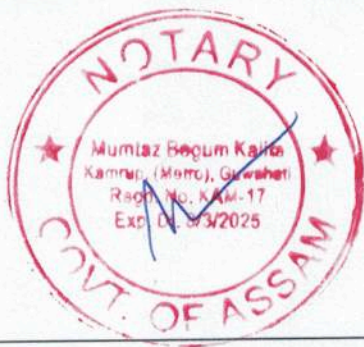


4.2 Grant of Letter of Intent to those mining leases which are falling in potential mining zone

The State Government shall issue letter of intent as per procedure laid down in their Minor Mineral Concession Rules with due consideration of final district survey report. The State Government shall ensure that all the letter of intent shall have complete details of the mining lease including geo-coordinate of the corner points, the involvement of forest land, distance from the forest land, distance from the protected area, distance from other sites of archaeological importance, details of the cluster situation etc. The demarcation of the boundaries of Lol/Lease area shall be placed in public domain along with Lol/lease deed details.

The LOI should not be granted for mining area falling on both riverbed and outside riverbed. Therefore, in the same lease, both types of area should not be included.

The authority responsible for grant of lease for sand mining shall ensure that annual audit of the sand mining process, production and compliance of the imposed conditions by regulatory authority (Environmental clearance or mine plan) shall be one of the essential condition of the lease agreement. The annual audit report shall be submitted to the district administration, which shall be put in public domain through the district website. Any deviation observed shall be appropriately and in accordance with applicable law shall be dealt by the concerned authority and corrective measures shall also be taken to restoration of ecological/environmental damage, if observed.

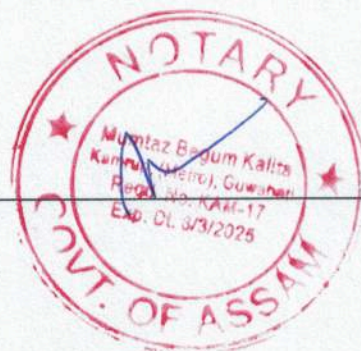


4.3 Mining Plan

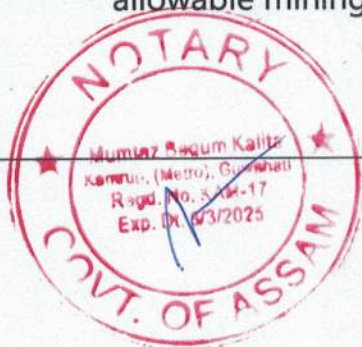
The preparation of Mining Plan is also very important. The mining plan should include the original ground level recorded at an interval not more than 10M x 10M along & across the length of the river. In addition to this-levels, outside the mining lease and bank of the river up to meters needs to be recorded. In the mining plan, there should be 3 plates for each year production & development planning (pre-monsoon, monsoon and post-monsoon). The time period of monsoon should be defined in the DSR. At the time of review of the mining plan, the details of the replenishment study conducted for all the years needs to be included in the mining plan. The Mining Plan should include the certificate from PCCF on forest land, distance from the protected area, past production details for mining leases seeking expansion.

Following considerations shall be kept in mind for sand/gravel mining while approving mining plan

- a) Parts of the river reach that experience deposition or aggradation shall be identified. The Leaseholder/ Environmental Clearance holder may be allowed to extract the sand and gravel deposit in these locations to manage aggradation problem.
- b) The distance between sites for sand and gravel mining shall depend on the replenishment rate of the river. Sediment rating curve for the potential sites shall be developed and checked against the extracted volumes of sand and gravel.
- c) Sand and gravel may be extracted across the entire active channel during the dry season.



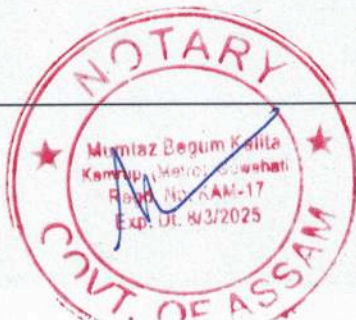
- d) Abandoned stream channels on the terrace and inactive floodplains be preferred rather than active channels and their deltas and flood plains. The stream should not be diverted to form the inactive channel.
- e) Layers of sand and gravel which could be removed from the river bed shall depend on the width of the river and replenishment rate of the river.
- f) Sand and gravel shall not be allowed to be extracted where erosion may occur, such as at the concave bank.
- g) Segments of the braided river system should be used preferably falling within the lateral migration area of the river regime that enhances the feasibility of sediment replenishment.
- h) Sand and gravel shall not be extracted up to a distance of 1 kilometre (1 km) from major bridges and highways on both sides, or five times (5x) of the span (x) of a bridge/public civil structure (including water intake points) on up-stream side and ten times (10x) the span of such bridge on down-stream side, subjected to a minimum of 250 meters on the upstream side and 500 meters on the downstream side.
- i) The sediment sampling should include the bed material and bed material load before, during and after the extraction period. Develop a sediment rating curve at the upstream end of the potential reach using the surveyed cross-section. Using the historical or gauged flow rating curve, determine the suitable period of high flow that can replenish the extracted volume. Calculate the extraction volume based on the sediment rating curve and high flow period after determining the allowable mining depth.



- j) Sand and gravel could be extracted from the downstream of the sand bar at river bends. Retaining the upstream one to two-thirds of the bar and riparian vegetation is accepted as a method to promote channel stability.
- k) The flood discharge capacity of the river could be maintained in areas where there is a significant flood hazard to existing structures or infrastructure. Sand and gravel mining may be allowed to maintain the natural flow capacity based on surveyed cross-section history. Alternatively, off-channel or floodplain extraction is recommended to allow rivers to replenish the quantity taken out during mining.
- l) The Piedmont Zone (Bhabhar area) particularly in the Himalayan foothills, where riverbed material is mined, this sandy-gravelly track constitutes excellent conduits and holds the greater potential for groundwater recharge. Mining in such areas should be preferred in locations selected away from the channel bank stretches.
- m) Mining depth should be restricted to 3 meters and distance from the bank should be $\frac{1}{4}$ th or river width and should not be less than 7.5 meters.
- n) The borrow area should preferably be located on the riverside of the proposed embankment because they get silted in the course of time. For low embankment, less than 6 m in height, borrow area should not be selected within 25 m from the toe/heel of the embankment. In the case of the higher embankment, the distance should not be less than 50 m. In order to obviate the development of flow parallels to the embankment, crossbars of width eight times the depth of borrow pits spaced 50 to 60 meter center-to-center should be left in the borrow pits.



- o) Demarcation of mining area with pillars and geo-referencing should be done prior to the start of mining.
- p) A buffer distance /un-mined block of 50 meters after every block of 1000 meters over which mining is undertaken or at such distance as may be the directed/prescribed by the regulatory authority shall be maintained.
- q) A buffer distance /unmined block of 50 meters after every block of 1000 meters over which mining is undertaken or at such distance as may be the directed/prescribed by the regulatory authority shall be maintained.
- r) River bed sand mining shall be restricted within the central 3/4th width of the river/rivulet or 7.5 meters (inward) from river banks but up to 10% of the width of the river, as the case may be and decided by regulatory authority while granting environmental clearance in consultation with irrigation department. Regulating authority while regulating the zone of river bed mining shall ensure that the objective to minimize the effects of riverbank erosion and consequential channel migration are achieved to the extent possible. In general, the area for removal of minerals shall not exceed 60% of the mine lease area, and any deviation or relaxation in this regard shall be adequately supported by the scientific report.
- s) Mining Plan for the mining leases(non-government) on agricultural fields/Patta land shall only be approved if there is a possibility of replenishment of the mineral or when there is no riverbed mining possibility within 5 KM of the Patta land/Khatedari land. For government projects mining could be allowed on Patta land/Khatedari land but the mining should only be done by the Government agency and material should not be used for sale in the open market.



The minerals reserve for river bed area is calculated on the basis of maximum depth of 3 meters and margins, width and other dimensions as mentioned in para (s) above. The area multiplied by depth gives the volume and volume multiplied with bulk density gives the quantity in Metric Ton. In case of river bed, mineable material per hectare area available for actual mining shall not exceed the maximum quantity of 60,000 MT per annum.

4.4 Obtaining Environmental & Other Statutory Clearance

The LOI Holder/Lease Holder to obtain Environmental and Other Statutory Clearances from the concerned authorities as per provision of applicable laws.

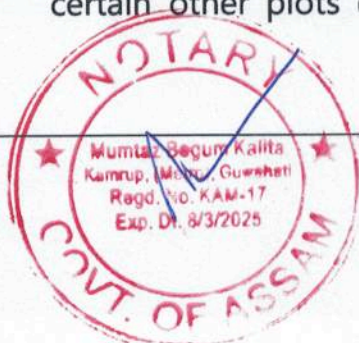
4.5 Baseline date before Commencement of Mining Operations

Baseline data in respect of the initial level of mining lease in the interval not more than 25 X 25 meters shall be collected for record by leaseholder. The level of river bed upstream and downstream up to 100 meters also needs to be recorded. The area outside the mining lease/river bank (if lease boundary coincides with mining lease) up to 100 meters from both the banks/mining lease needs to surveyed for initial level.

4.6 Additional measures where project proponent is selected by a bidding

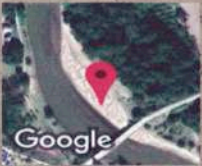
In those states where sand plots are auctioned to the highest bidder, the following is suggested:

It has been observed that bidders try to form a cartel and bids are received for certain plots where legal mining is done, and bids for certain other plots don't elicit any response. Sand from these un-

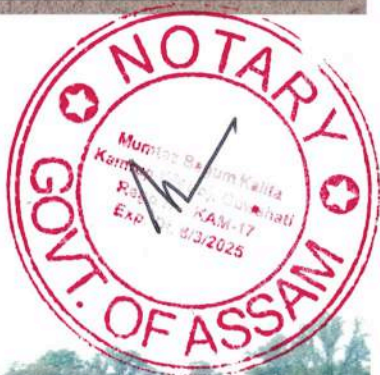
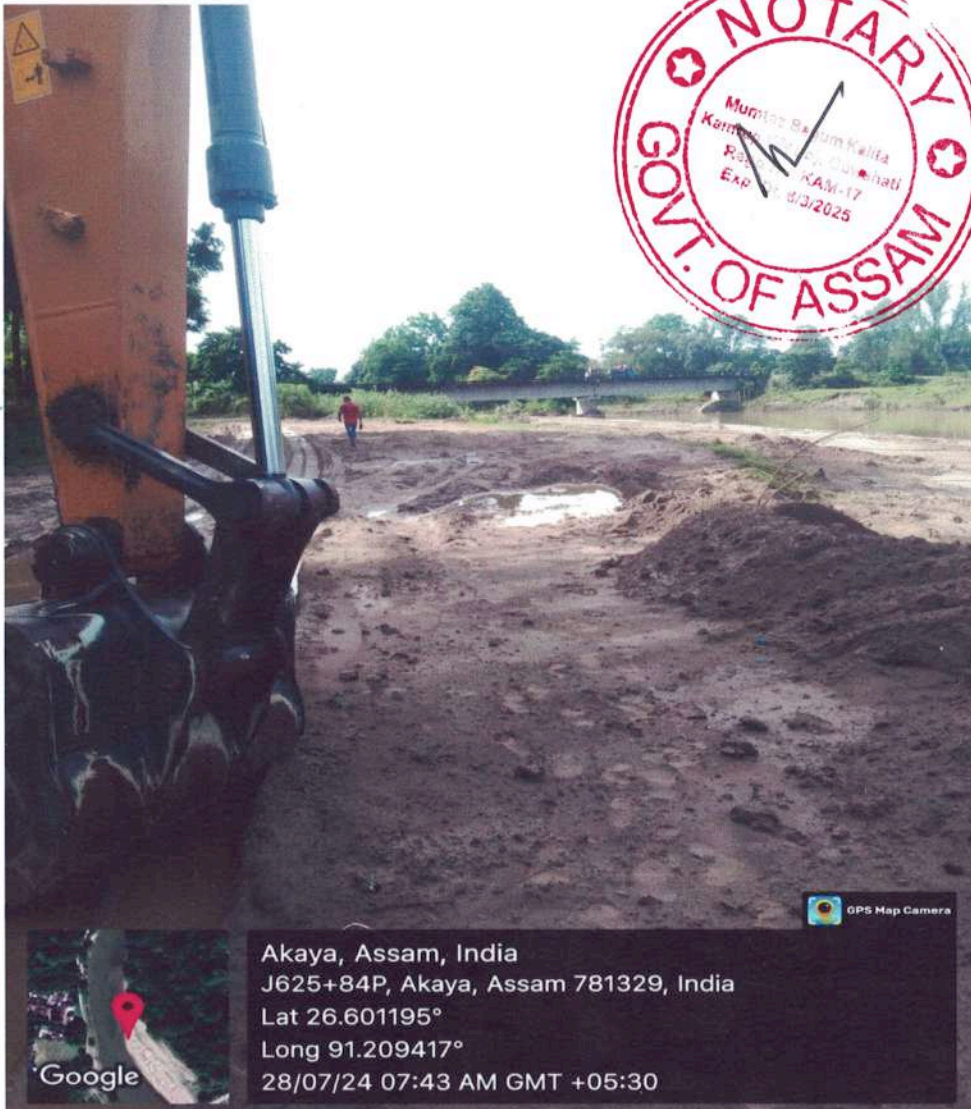


auctioned plots is then excavated using the same machinery deployed for the excavation of adjacent plot which might have been auctioned off. It is not easily possible for the field machinery to prevent such illegal activities. This may be prevented by having plot of larger size. plots are large in size as possible are identified for auction. Care may be taken to ensure that no continuous stretch of plot in the river bed is divided for auction. A continuous stretch of plot shall be preferred for auction, and the attempt may not be made to auction it off in pieces.





GPS Map Camera
Akaya, Assam, India
H6X5+WX3 Rihabari - Chaibari Bridge, Akaya, Assam 781329, India
Lat 26.60059°
Long 91.20986°
28/07/24 07:44 AM GMT +05:30



GPS Map Camera
Akaya, Assam, India
J625+84P, Akaya, Assam 781329, India
Lat 26.601195°
Long 91.209417°
28/07/24 07:43 AM GMT +05:30

Rihabari H.S. School



Rihabari Shiva



Item No.03

Court No.1

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

Original Application No.86/2024/EZ
(I.A. No.32/2024/EZ)

Pradeep Singh Shekhawat

Applicant(s)

Versus

Union Of India & Ors.

Respondent(s)

Date of hearing: 23.07.2024

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

For Applicant(s) : Mr. A.D.N. Rao, Sr. Adv. a/w
Mr. Madhav Bhatia, Adv.

For Respondent(s): Ms. Amrita Pandey, Adv. for R-1 & 5 (in Virtual Mode),
Mr. Santanu Bora, Adv. for R-2,3,6 to 14 (in Virtual Mode),
Mr. Surendra Kumar, Adv. for R-4

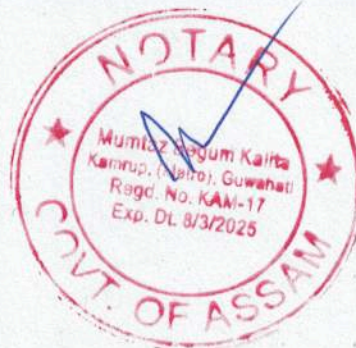
ORDER

1. Mr. A.D.N. Rao, learned Senior Counsel assisted by Mr. Madhav Bhatia is present on behalf of the Applicant.
2. Notices in this case were issued on 26.04.2024 and the Counsel for the State Respondents had accepted notices also. Thereafter, the case was again listed on 28.05.2024 and four weeks time was again sought and granted. Thereafter, case was listed on 16.07.2024 but no counter affidavit was filed. Today also no counter affidavit has been filed.
3. Mr. A. D. N. Rao, learned Senior Counsel assisted by Mr. Madhav Bhatia, learned Counsel has placed before us a letter of the Divisional Forest Officer (DFO), Goalpara Division (T) bearing No. B/GLP(T)/NGT/Misc/2024-25/1620 dated 11.07.2024 addressed to the District Commissioner, Goalpara. Para 3 of the letter reads as under: -



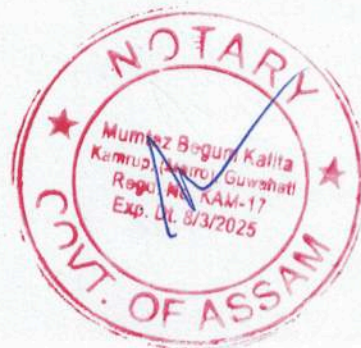
"3. The process for engagement of NABET accredited agency is being carried out by the division for preparation of District Survey Report. The proposal with funding requirement is submitted to the competent authority for sanctioning".

4. This communication dated 11.07.2024 clearly shows that the District Survey Report (D.S.R.) has not been prepared for District Goalpara and is not in existence as of today.
5. This letter has been placed before us by Mr. A.D.N. Rao, learned Senior Counsel as it was communicated to Mr. Madhav Bhatia, his Assisting Counsel by the District Commissioner, Goalpara, vide his letter No.GDG-37/2024/13 dated the 16th July, 2024.
6. The Ministry of Environment, Forests and Climate Change (MoEF&CC) has filed affidavit dated 17.05.2024 and in para 8 thereof reference has been made to the **"Enforcement & Monitoring Guidelines for Sand Mining (EMGSM-2020)" para 4.1.1 and para (a)** thereof clearly stipulates that *"District Survey Report for sand mining shall be prepared before the auction/e-auction/grant of the mining lease/Letter of Intent (LoI) by Mining department or department dealing the mining activity in respective States"*. This shows that without District Survey Report, the State Respondents cannot proceed with auction/e-auction/grant of mining lease or Letter of Intent (LoI).
7. Mr. Santanu Bora, learned Counsel for the State Respondents, Government of Assam prays for and is granted four weeks time for filing counter affidavit.
8. With the consent of the learned Counsel for the parties, **list on 30.09.2024.**



I.A. No.32/2024/EZ

9. Interlocutory Application No.32/2024/EZ has been filed by the Applicant praying for stay of e-auction/auctions of the Minor Minerals as mentioned in **Annexure-A-17 (COLLY)** of the present Original Application No.86/2024/EZ in the district of Cachar, Tinsukia, Udalguri, Goalpara, Golaghat, Kamrup (Metro), Lakhimpur and Nagaon without the preparation of the District Survey Report.
10. The Respondents have not filed any counter affidavit till date. however, the letter of the Divisional Forest Officer, letter No.B/GLP(T)/NGT/Misc/2024-25/1620 dated 11.07.2024 clearly discloses that District Survey Report has not yet been prepared for District Goalpara.
11. Mr. A.D.N. Rao, learned Senior Counsel has also placed before us the parawise narrative which has been communicated to him and which is prepared by the District Commissioner, Lakhimpur in which it is in fact admitted that *"District Survey Report pertaining to Lakhimpur District is under the process of preparation"*. This shows even for the District of Lakhimpur, there is no District Survey Report as of today.
12. We, therefore direct that there shall be a stay on mining activities in respect of the e-auction/auction of the minor minerals in the District of Goalpara and Lakhimpur and such other districts which do not have duly approved District Survey Report.
13. **I.A. No.32/2024/EZ** is disposed of.



14. There shall be no order as to costs.

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B. Amit Sthalekar, JM

July 23, 2024,
Original Application No.86/2024/EZ
(I.A. No.32/2024/EZ)
SKB

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Dr. Arun Kumar Verma, EM

