

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

I.A. NO. 85 OF 2024

IN

ORIGINAL APPLICATION NO. 214 OF 2024

IN THE MATTER OF:

RAS MOHAN THAKUR

...APPLICANT

VERSUS

STATE LEVEL EXPERT APPRAISAL
COMMITTEE (SEAC), BIHAR & ORS

...RESPONDENTS

INDEX

S. No.	Particulars	Page Nos.
1.	Index	1
2.	Application for and on behalf of the applicant for interim directions with affidavit.	2-7

Filed By:



[VANSHDEEP DALMIA]

ADVOCATE

COUNSELS FOR THE APPLICANT

206, Jor Bagh, New Delhi-110003

M.No. 9810077085

Place: New Delhi

Filed on:23.10.2024

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**APPLICATION FOR AND ON BEHALF OF THE APPLICANT
FOR INTERIM DIRECTIONS**

TO,

THE HON'BLE CHAIRPERSON
AND HIS HON'BLE COMPANION MEMBERS
NATIONAL GREEN TRIBUNAL

THE HUMBLE APPLICATION OF THE APPLICANT

MOST RESPECTFULLY SHEWETH:

1. The instant application is filed under Section 14 and Section 15 of the National Green Tribunal Act, 2010, raising a “*substantial question relating to the environment*”, by challenging the Agenda 12 in the MOM of the Respondent No. 1, SEAC Bihar dated 3.08.2024 whereby the Authority has recommended the case of the Respondent No. 6 for grant of Environmental Clearance in respect of Sand Mining Project Unit-II (Sand Block 3,4 & 5) on Cheer

River, District Banka Bihar, without any application of mind, by exercising favoritism and nepotism in favor of the said Respondent No. 6. who was ironically not represented (absent) during the Impugned MOM held on 3.08.2024, in an arbitrary, perfunctory and capricious manner which is blatant and apparent.

The SEAC vide its MOM dated 3.08.2024 was *inter-alia* appraising the EC sought by the Respondent No. 6 in respect of Sand Mining Project at Cheer Unit II (Sand Block 3, 4 & 5) on Cheer River, District Banka Bihar, having an area of 67 ha and wrongly recommend for grant of a Common EC for all the three Sand Blocks, without considering the following:

- A.** Replenishment Studies have admittedly not been conducted in respect of any of three Sand Blocks 3, 4 and 5 in in complete violation of the provisions of the EMGSM, 2020 and in dissonance of the Judgments passed by this Hon'ble Court in *Raj Kumar, Pramod, Junaid Ayubi, Shokeen Ali* wherein it has been repeatedly held that a prior Replenishment study is a mandatory pre-requisite, and grant of EC in the absence thereof is illegal and unsustainable in law.
- B.** The Entire process initiated for grant of EC under the EIA, 2006 is vitiated, in as much as, the three distinct and independent Sand Blocks (not constituting a Cluster) have applied for grant of EC under a Common Application (Form 1/IA) whereinafter a Common TOR, Common Public hearing and Common EIA Study has been undertaken which

is *per se* impermissible and not contemplated under the EIA, 2006 and thus grossly illegal.

2. The conduct of the SEAC while recommending the project of the Respondent No. 6 for grant of EC ostensible establishes favoritism and nepotism by the SEAC, whereby at the very first instance that the project of the Respondent No. 6 came before the SEAC, Bihar, it positively appraised the three Sand Ghats in the absence of the Respondent No. 6 or his representative in stark deviation from the general practice followed by the SEAC, Bihar itself wherein at the time of appraisal for EC if a project proponent is absent/ not represented his case is '*DEFERRED*' to a subsequent date to enable the project proponent to make a presentation and answer queries of the SEAC/ Expert Committee qua the project. This general practice is evident from other MOM of the SEAC itself and also the Impugned MOM dated 3.08.2024 itself.
3. That the SEAC failed to record any reasons or conduct a proper evaluation/ appraisal before recommending the said Mines for grant of EC, as required under Clause 7(IV) of the EIA, 2006. Apropos, the Hon'ble Supreme Court in *BDA v. Sudhakar*, 2020 (15) SCC 63 has held that the role of the SEAC being an Expert body is crucial and it is thus under an obligation to conduct a proper evaluation of the project and to record specific reasons upon which it recommends the grant of an EC. The Apex Court further held that the SEAC must speak in the manner of an expert and remit itself to apply every relevant aspect of the project, including being duty

bound to analyse the EIA Report in terms of the requirements under law.

4. That the detailed facts and circumstances leading to the filing of the present Application has been set out in detail in the body of the Petition and the same are not being repeated herein for the sake of brevity and to avoid prolixity. The Applicant craves leave of this Hon'ble Court to refer to and rely upon the averments and submissions made in the body of the Petition and the same may be read as part and parcel of the present Application also.
5. That, the Applicant is a resident of District Banka, State of Bihar whose right to life along with that of the other residents of the District is directly and immediately affected due to the illegal recommendation made by the SEAC, Bihar for grant of EC in the absence of a replenishment study, in a submerged water area, whereinafter the mining sought to be carried in the said mines, would be deleterious to the environment and have serious ramifications on the Riverine Environment.
6. The Applicant prays that the Impugned MOM dated 3.08.2024 in respect of Agenda 12 be stayed by this Hon'ble Tribunal for the reasons mentioned in the OA, and in furtherance of the Precautionary Principle and the Doctrine of Sustainable Development statutorily incorporated in Section 20 of the NGT Act. It is submitted that the issue stands at a preventive stage and both the Applicant and the Respondents ought to be safeguarded to prevent undue future hardship, illegal mining beyond the

replenished rate, and obliterate the need for curative and reparatory measures.

7. That the Application is made bonafide and in the interest of the Riverine Environment.

PRAYER

In view of the above facts and circumstances and reasons stated above, it is humbly prayed that this Hon'ble Tribunal may be pleased to:

- a) pass *ex party* ad interim Order staying the Minutes of Meeting dated 03.08.2024 (Agenda 12) issued by the Respondent No. 1, SEAC, Bihar in favour of the Respondent No. 6; and
- b) Pass an interim Order restraining the Respondent No. 2, SEIAA Bihar to consider the proposal for grant of EC in respect of the Sand Mining Project Unit-II (Sand Block 3,4 & 5) on Cheer River, District Banka Bihar till the final disposal of the present application; and
- c) Pass any other orders as the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.

**AND FOR THIS ACT OF KINDNESS THE APPLICANT AS
IN DUTY BOUND SHALL EVER PRAY.**

Filed By:

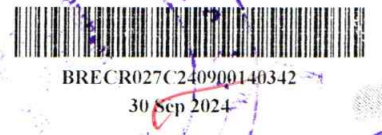


[VANSHDEEP DALMIA]
COUNSELS FOR THE APPLICANT

Place: New Delhi
Filed on: 23.10.2024



BIHAR COURT FEE
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...APPLICANT

Versus

STATE LEVEL EXPERT APPRAISAL
COMMITTEE (SEAC), BIHAR & ORS

...RESPONDENTS

SL.No. - 2542
Date: 30/9/24

AFFIDAVIT

I, Ras Mohan Thakur, S/o Shri Narendra Mohan Thakur, R/o Village Panjwara, District Banka, Bihar – 813110, do hereby solemnly affirm and declare as under:

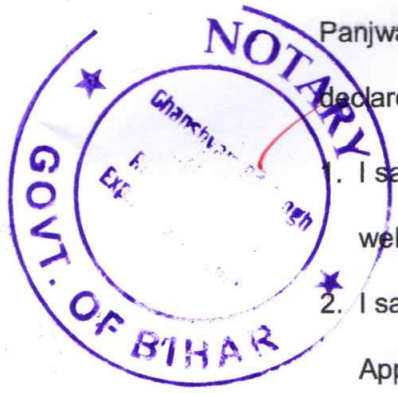
- I say that I am the Applicant in the above Original Application and I am well conversant with the facts and circumstances of the case.
- I say that I have read and understood the contents of the accompanying Application, which has been drafted, on my instructions and I say that the facts stated therein are true to my knowledge.
- I say that the averments of facts stated herein above are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Subodh Kumar Singh
Advocate
30.09.2024
Ras Mohan Thakur
DEPONENT

VERIFICATION:-

Verified at Banka on this 30th day September 2024, that the contents of the present affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Subodh Kumar Singh
Advocate
30.09.2024
DEPONENT
Ras Mohan Thakur



श्री/श्रीमती Ras Mohan Thakur
जिनका पता है
Subodh
Kumar Singh
Advocate Banka
इस दस्तावेज को मैंने
निष्ठापूर्वक पढ़ लिया है और
सत्यापन के लिए साक्षात्कार किया है।

W.P.S. Pd. Singh
Ghanshyam Pd. Singh
NOTARY PUBLIC
R.N. 368/19
Banka (Bihar)
30/9/24