

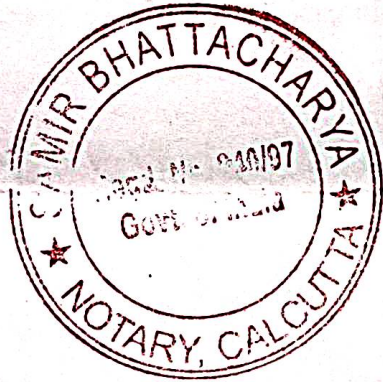


SBEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 167/2024/EZ

In The Matter of:

News Item Titled 'Threat to Tea
Garden From Mining Gang'.
Appearing in the Telegraph dated
12.06.2024

... Suo Motto/Applicant



Versus

State of West Bengal & Ors.

... Respondents

COMMITTEE REPORT IN THE FORM OF AFFIDAVIT ON BEHALF OF THE
RESPONDENT NUMBER 04, DISTRICT MAGISTRATE & COLLECTOR,
DARJEELING DISTRICT.

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Filed by

Sibojyoti Chakrabarti

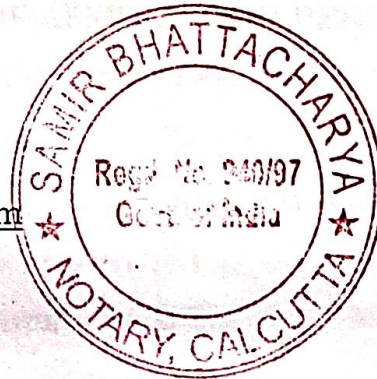
SIBOJYOTI CHAKRABARTI

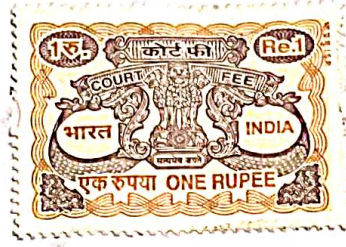
Advocate

For The State of West Bengal

Email: subho.advocate@gmail.com

(M): 9007035534





BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 167/2024/EZ

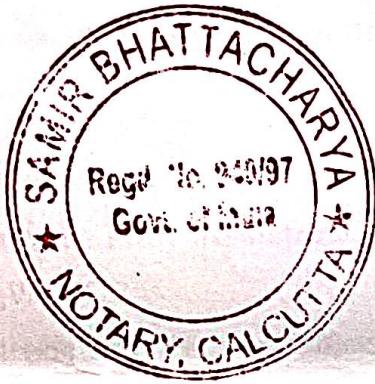
In The Matter of:

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... Respondents

COMMITTEE REPORT IN THE FORM OF AFFIDAVIT ON BEHALF OF THE RESPONDENT NUMBER 04, DISTRICT MAGISTRATE & COLLECTOR, DARJEELING DISTRICT.

I, Dr. Preeti Goyal, D/o Narinder Goyal, aged about 39 years, by faith-Hindu and by occupation-Service, presently posted as District Magistrate, Darjeeling district having office at Kutchery Compound, Lebong Cart Road, District: Darjeeling, Pin: 734101, West Bengal, do hereby solemnly affirm and submit as follows:-

1. That I am presently posted as the District Magistrate, Darjeeling district having office at Kutchery Compound, Lebong Cart Road, District: Darjeeling, Pin: 734101, West Bengal.

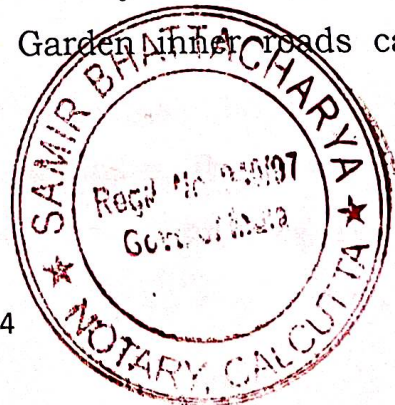
05 NOV 2024

2. That this Committee Report is filed in compliance to the Solemn Order dated 24.09.2024 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata. That in the said Solemn Order the Hon'ble Tribunal has been interalia pleased to constitute a committee and direct the committee to submit its report and the District Magistrate & Collector has been designated as the Nodal office for filing the Committee report on affidavit.

That in compliance and obedience to the above mentioned order accordingly an inspection has been carried out on 20.10.2024 at the alleged locations by the Committee comprising of the following members:

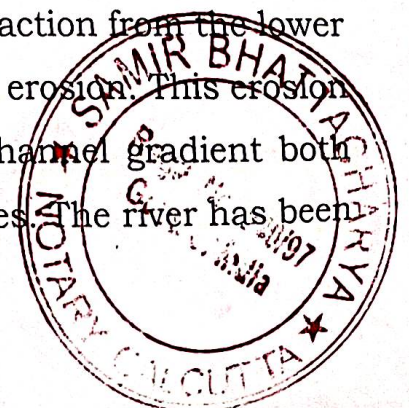
- i) Abhijit Pathak, Scientist - D, Central Pollution Control Board
- ii) Biswajit Pan, Assistant Environmental Engineer, Siliguri Regional Office, WBPCB
- iii) Sirshendu Saha, Officer-in-Charge, Environment, Darjeeling, as representative of Additional District Magistrate

3. That the findings of the inspecting team are listed below: -
 Putinbarie Tea Estate is surrounded by two rivers namely Balason and Rakti. The field inspection team met the manager of the Putinbarie Tea Estate, which is presumably the worst affected area due to alleged illegal sand and stone mining. He has informed that previously mounds of earth & sand were extracted forcibly from the vacant stretches of the leasehold land of the Putinbari Tea Estate bordering the river Rakti. Not only this, minerals were being transported through the Tea Garden inner roads causing severe damage to the garden roads.



At present after police action, transportation of minerals through the garden roads has been stopped. But the uncontrolled digging of soil at the land of tea garden at the river side is continued to facilitate extraction and transportation of material to temporary storage area in nearby villages. The Committee has inspected the alleged affected areas of the Putinbarie Tea Garden at both east side (river Rakti) & west side (river Balason). It is observed that rampant illegal mining is being carried out at riverbed of river Rakti for extraction of riverbed materials like sand, stone & gravel using excavators & tractors. The mining activities are not restricted to the riverbed only; it stretches towards floodplains & adjacent Tea Garden land.

Similar unscientific mining practices have been observed at river Balason adjacent to the boundary of Putin barie Tea garden and at both downstream and upstream side extended to a stretch in kilometers. The extracted river bed minerals are stocked in the nearby villages. It seems such mining activities have become the source of livelihood of the residents of the villages. River Balason rises from the Jorebunglow, below Tiger hill, Sukhia, about 18 Km from Darjeeling town and flows towards the south east into the plains of North Bengal, where it joins the Mahananda River. Rakti khola is a minor tributary having hilly origin. Both these rivers carry good quality gravels and stones having high demand for construction work. The high gradient causes abrasion and help in carrying stones, pebbles and gravels to the lower plain. In-stream and floodplain extraction of sediments may increase the possibility of physical alterations to the channel and floodplain. It may destabilize the riverbed morphology. It may lower the ground water table, erode the river banks internally & thus increase flooding tendency due to bed lowering. The prolonged bed-materials extraction from the lower Balason River and Rakti khola have caused bed erosion. This erosion is migrating annually with variations in the channel gradient both upstream and downstream of the extraction sites. The river has been

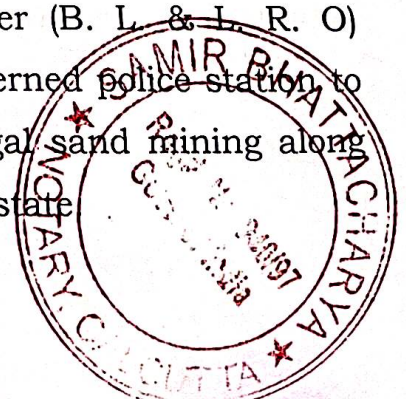


adjusting with changes in its morphology and with maximum coarse materials (gravel and boulders) being extracted from the river bed. The balance between sediment transport and the supply capacity of the river is being largely altered. Human settlements near the banks and adjacent flood plains were established for easy access to the riverbed. Roads were also constructed near banks for transporting extracted bed materials. Both of these factors have reduced the vegetation, triggering the exposed banks to retreat further. The narrow channel width has caused flow retention. Such destruction is one of the effects of the river's adjustment under changing fluvial characteristics. It appears that the illegal mining activities are not only restricted to Putinbarie tea estate the river bed has already suffered from impact of uncontrolled digging, diversion of stream, expansion of flood plain and steep embankment including erosion of vegetative land. Even in the village side the danger of landslides are looming. Any incident of rainfall above average within/a short spell may cause huge environmental as well as financial damage including land erosion, flood, and loss of vegetative land.

It has been recommended by the Committee that the mining activities need to be stopped.

Photocopy of the Committee report dated 22.10.2024 along with photographs taken during the visit are collectively annexed herewith and marked with the letter 'R-1'.

4. That subsequent to the visit by the members of the Committee the District Magistrate, Darjeeling vide letter dated 21.10.2024 had requested the Commissioner of Police, Siliguri Police Commissionerate along with Block Land & Land Reforms Officer (B. L. & L. R. O) Matigara with the Officer-in-Charge of the concerned police station to conduct a joint raid regarding stopping of illegal sand mining along Balason and Rakhti river beside Putinbari Tea estate



Photocopy of the letter dated 21.10.2024 written by the District Magistrate Darjeeling to the Commissioner of Police, Siliguri Police Commissionerate is annexed herewith and marked with the letter 'R-2'.

5. That subsequently vide letter dated 23.10.2024 the Block Land & Land Reforms Officer (B. L. & L. R. O) Matigara had informed the Additional District Magistrate (LR) Darjeeling that a joint raid was held by the Block Land & Land Reforms Officer (B. L. & L. R. O) Matigara with the police personnel of Matigara police station on 22.10.2024 and the following was observed:

That on 22.10.2024 a joint raid was made by the officials of Matigara block and police personnel of Matigara Police Station at the bank of river Balasun at Mouza Pataner Chhat(L.J. No 61) near Putinbari Tea Garden and it found that being Tuesday, no lorry was found operating in the Ghat. Moreover police have been vigilant on the scene as per the Duty Officer from office of IC Matigara. However, small stacks of river bed materials (approximately 60,000 cft were seen scattered at different places of the river banks and the police could not seize it as it was lying near the river line and scattered throughout indiscriminately. Regarding this matter, the Inspector-in-Charge (IC) Matigara has informed that round the clock surveillance is being conducted by the police personnel for tracking of unauthorized carrying of river bed material and to prevent illegal extraction.

Photocopy of the letter dated 23.10.2024 written by the the Block Land & Land Reforms Officer (B. L. & L. R. O) Matigara to the Additional District Magistrate (LR) Darjeeling is annexed herewith and marked with the letter 'R-3'.



6. That it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to pass necessary Order/Orders as is deemed fit for the ends of justice and that the deponent has high regard to the Order/Orders as passed by this Hon'ble Tribunal.

Identified by me

Sibojyoti Chakrabarti
Advocate

State of West Bengal

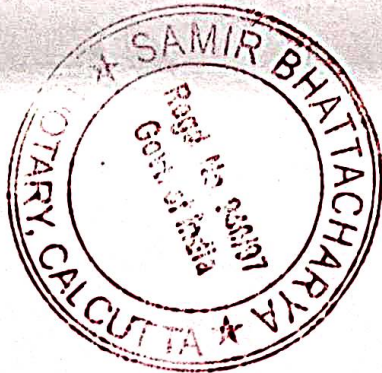
05/11/2024

Deponent

Solemnly Affirmed and
Declared before me U/S 139
CPC, U/S 297 (C) CrPC

05.11.24

Notary



Samir Bhattacharya
Notary Govt. of India
Regd. No. 940/97
City Civil Court, Calcutta

05 NOV 2024



VERIFICATION:

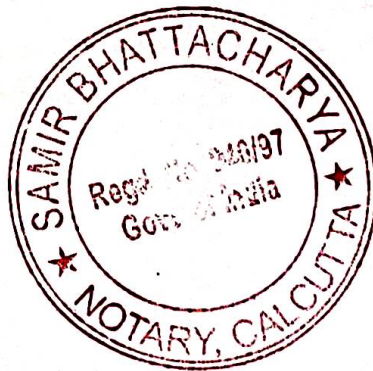
I, the deponent do hereby verify and declare that the statements made in the aforesaid paragraphs are true and correct to the best of my knowledge and information and I believe that nothing material has been concealed there from.

Verified at Kolkata on the ^{5th} Day of ^{November} ~~October~~, 2024. ^{1/2}

Identified by me

Sibojyoti Chakrabarti
Advocate
State of West Bengal
05/11/2024

[Signature]
Deponent



10 ² Annexure - R-1 ⁴

Inspection Report w.r.t. the NGT case in O.A. No. 167/2024/EZ (Threat to tea garden from mining gang vs Central Pollution Control Board):

The Original Application No. 918/2024/PB was registered as suo moto by the New Delhi Bench of the Tribunal on the basis of a news item titled "Threat to tea garden from mining gang" appearing in The Telegraph dated 12.06.2024. Thereafter, the said Original Application was transferred by the New Delhi Bench of the Tribunal vide its order dated 25.07.2024 to the Eastern Bench of the Tribunal at Kolkata and the case has now been re-numbered as Original Application No.167/2024/EZ.

In the article it is stated that there is an ongoing illegal extraction of minor minerals like sand and stone from the Balason river and Rakti river near Siliguri, West Bengal. It is also stated that those who are engaged in extracting minor minerals are using the Putinbari Tea Estate and are taking away mounds of earth from the vacant stretches on the plantation. These activities are affecting the garden's road. Illegal mining activities were not only damaging the Putinbari tea estate's roads but also affecting tea production due to flooding from the rivers. Workers at the Tea Estate claimed that they faced threats and intimidation from the mining mafia when they tried to restrict the activities. The article further highlights that because of unscientific digging of vacant land which is close to the riverbank, water from the river is flooding the tea plantations and eventually affecting the production of tea. It is also alleged in the article that the garden is already under distress because of low yield and some other issues and now if such activities continue in the garden, it would pose a question over the sustenance of Putinbari Tea Estate.

The Hon'ble NGT, New Delhi Bench has taken the cognizance of the allegations made and served notices to the concerned departments including West Bengal Pollution Control Board (WBPCB) to file their counter affidavits. The Hon'ble NGT, Eastern Zone Bench, vide its order dated 24.09.2024 constituted a Committee comprising of the following members:

- i) Central Pollution Control Board
- ii) State Pollution Control Board
- iii) District Magistrate, Darjeeling, or his representative not below the rank of Additional District Magistrate

The committee shall carry out inspection of the various sites in reference to the allegation made and submit its report within four weeks. The Committee is also directed that in case illegal mining of sand and stone is being carried out, it shall identify the violator's so that the same can be impleaded in the present proceedings and be given an opportunity of being heard. The said report shall be submitted before Eastern Zone Bench, Kolkata of the Hon'ble NGT.

The District Magistrate, Darjeeling shall be the nodal agency of coordination and compliance of this order.

Accordingly, an inspection has been carried out on 20/10/2024 at the alleged locations by the Committee comprising of the following members: -

- i) Abhijit Pathak, Scientist – D, Central Pollution Control Board
- ii) Biswajit Pan, Asst. Environmental Engineer, Siliguri Regional Office, WBPCB
- iii) Dr. Sirshendu Saha, OC, Environment, Darjeeling, as representative of Additional District Magistrate

The findings of the inspecting team are listed below: -

Putinbarie Tea Estate is surrounded by two rivers namely Balason and Rakti. The field inspection team met the manager of the Putinbarie Tea Estate, which is presumably the worst affected area due to alleged illegal sand and stone mining. He has informed that previously mounds of earth & sand were extracted forcibly from the vacant stretches of the leasehold land of the Putinbarie Tea Estate bordering the river Rakti. Not only this, minerals were being transported through the Tea Garden inner roads causing severe damage to the garden roads. At present after police action, transportation of minerals through the garden roads has been stopped. But the uncontrolled digging of soil at the land of tea garden at the river side is continued to facilitate extraction and transportation of material to temporary storage area in nearby villages.

The Committee has inspected the alleged affected areas of the Putinbarie Tea Garden at both east side (river Rakti) & west side (river Balason). It is observed that rampant illegal mining is being carried out at riverbed of river Rakti for extraction of riverbed materials like sand, stone & gravel using excavators & tractors. The mining activities are not restricted to the riverbed only; it stretches towards floodplains & adjacent Tea Garden land. The illegal mining activities are being carried out violating sustainable mining practices without any techno-scientific protocol. Due to these unscientific mining at Rakti River & digging of lands of the Putinbarie Tea Estate, a portion of tea garden land has already been eroded, river stream has been shifted & encroached into Tea Garden land, and the boundary edge of Tea Garden becomes shortened & ecologically fragile. At anytime landslide due to soil erosion may take place and the flood plan of river may engulf tea garden.

Similar unscientific mining practices have been observed at river Balason adjacent to the boundary of Putinbarie Tea garden and at both downstream and upstream side extended to a stretch in kilometers. The extracted river bed minerals are stocked in the nearby villages. It seems such mining activities have become the source of livelihood of the residents of the villages.

Threat to the Environment

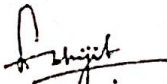
River Balason rises from the Jorebunglow, below Tiger hill, Sukhia, about 18 Km from Darjeeling town and flows towards the south east into the plains of North Bengal, where it joins the Mahananda River. Rakti khola is a minor tributary having hilly origin. Both these rivers carry good quality gravels and stones having high demand for construction work. The high gradient causes abrasion and help in carrying stones, pebbles and gravels to the lower plain.


Due to these unsustainable mining practices severe environmental damage may be caused. In-stream and floodplain extraction of sediments may increase the possibility of physical alterations to the channel and floodplain. It may destabilize the riverbed morphology. It may lower the ground water table, erode the riverbanks laterally & thus increase flooding tendency due to bed lowering. The prolonged bed-material extraction from the lower Balason River and Rakti khola have caused bed erosion. This erosion is migrating annually with variations in the channel gradient both upstream and downstream of the extraction sites. The river has been adjusting with changes in its morphology and with maximum coarse materials (gravel and boulders) being extracted from the river bed. The balance between sediment transport and the supply capacity of the river is being largely altered. Human settlements near the banks and adjacent flood plains were established for easy access to the riverbed. Roads were also constructed near banks for transporting extracted bed materials. Both of these factors have reduced the vegetation, triggering the exposed banks to retreat further. The narrow channel width has caused flow retention. Such destruction is one of the effects of the river's adjustment under changing fluvial characteristics.


It appears that the illegal mining activities are not only restricted to Putinbarie tea estate the river bed has already suffered from impact of uncontrolled digging, diversion of stream, expansion of flood plain and steep embankment including erosion of vegetative land. Even in the village side the danger of landslides are looming. Any incident of rainfall above average within a short spell may cause huge environmental as well as financial damage including land erosion, flood, and loss of vegetative land.

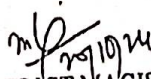
Recommendation:

Mining activities need to be stopped.


ABHUIJIT PATHAK
Scientist - D
CPCB

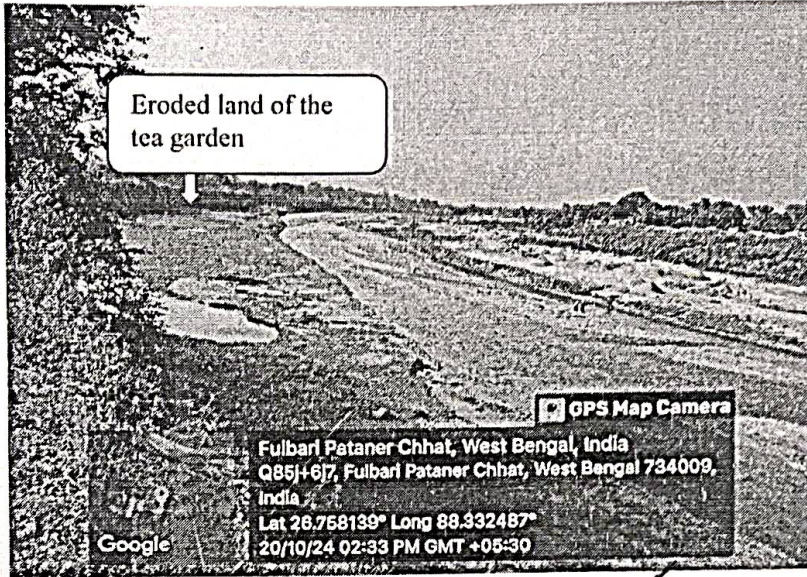

BISWAJIT PAN
Asst Env Engr, WBPCB,
Siliguri Regional Office

 - 20/10/24
SIRSHENDU SAHA
O/C, Environment
Darjeeling


ADDITIONAL DISTRICT MAGISTRATE(LR)
Darjeeling
Nodal Officer
Additional District Magistrate
&
District Land & Land Reforms Officer
Darjeeling

Photographs taken during inspection on 20.10.2024

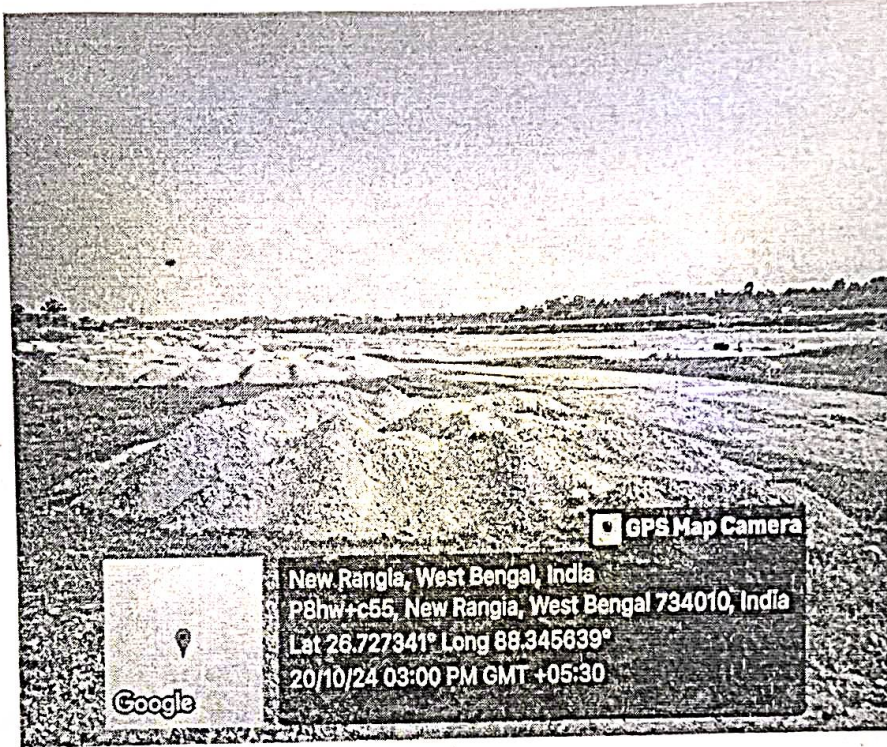
Rampant illegal mining is being carried out at riverbed of river Rakti & Balason



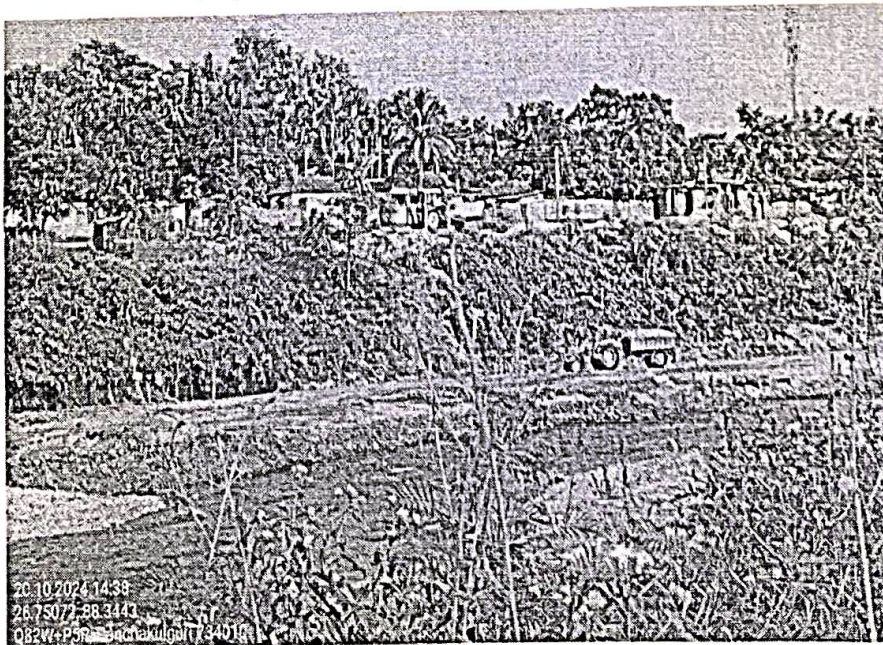
At river Rakti



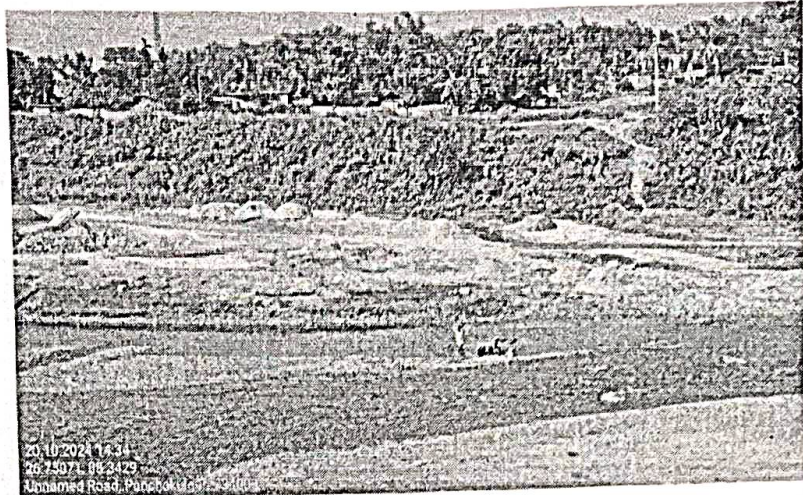
At river Balason



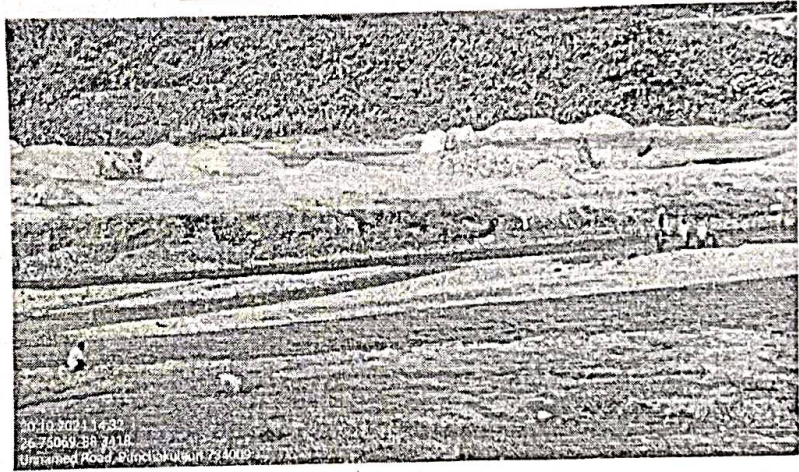
Huge quantity of river bed minerals is piled up



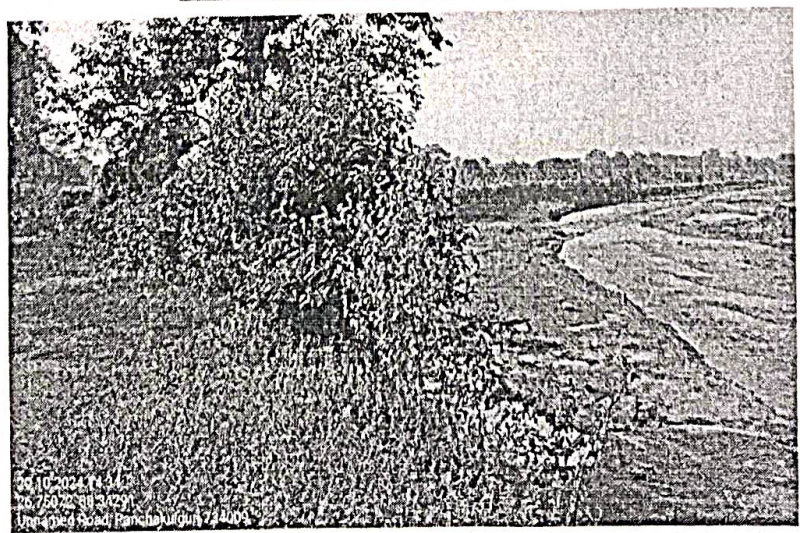
River bed is reaching habitation due to illegal mining



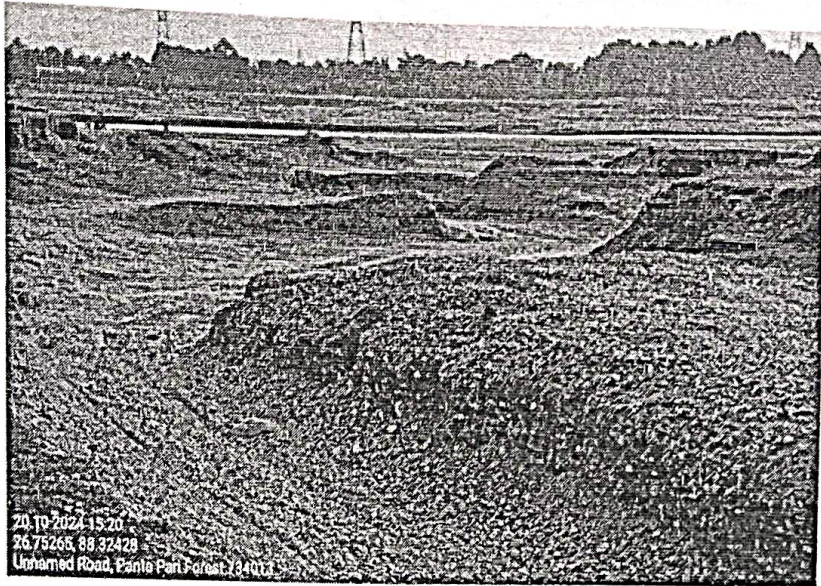
Diversion of Stream due to illegal mining



Diversion of Stream due to illegal mining



Erosion and Engulfment of land of Putingbari Tea estate due to illegal mining



River Embankment is cut for transportation for illegal mining activities

17



Amesure-R-2

GOVERNMENT OF WEST BENGAL
OFFICE OF THE DISTRICT MAGISTRATE,
(Environment Section)
DARJEELING

Memo No. 112 / Env/24

Date: 21/10/24

To
The Commissioner of Police,
Siliguri Police Commissionerate
Siliguri

Sub: Conducting joint raid with BLLRO Matigara along Balason & Rakti River, beside Putinbari Tea Estate for stopping illegal sand mining.

Sir,

This is to inform you that an NGT Case has been registered bearing OA No 167/2024/EZ regarding illegal sand mining at the abovementioned area you are, therefore, requested to arrange to cause a joint raid with the BLLRO Matigara and to seize sand/stone and the vehicles, if found during the raid programme. Further, you are requested to ask concerned IC/OC to keep vigil of the area 24X7 and to stop further illegal activities along the entire area.

Encl: As stated.

Yours faithfully,

District Magistrate
Darjeeling

Memo No. 112(1)/11 Env/24

Date: 21/10/2024

Copy forwarded for information and with the request to cause joint raid with police by 22.10.2024 and to submit detailed report to;

1. The BLLRO, Matigara.

District Magistrate
Darjeeling

18

Annexure-R-3



Government of West Bengal
Office of the Block Land and Land Reforms Officer
Matigara, Darjeeling

Memo No. 4582/BL&LRO-MTG/24

Dated: 23/10/2024

To
The ADM & District Land & Land Reforms Officer
Darjeeling

Sub: Report regarding joint raid conducted on 22/10/24 at Putinbari

Respected Sir,

The undersigned would like to inform you that a joint raid was conducted on 22/10/2024 by the Officials of Matigara Block along with the Police personnel at the bank of river Balasun at Mouza Pataner Chhat (J.L. No 61) near Putinbari Tea Garden and it found that being Tuesday, no lorry was found operating in the Ghat. Moreover police have been vigilant on the scene as per the Duty Officer from office of IC Matigara.

However, small stacks of river bed materials (approximately 60,000 cft) were seen scattered at different places of the river banks and the police could not agree to seize it as it was lying near the river line and scattered throughout indiscriminately and it would not be possible for them to deploy such a huge force to protect individual stacks of sand.

Regarding this matter, the IC Matigara has informed that round the clock surveillance is being conducted by the police personnel for tracking of unauthorized carrying of river bed material and to prevent illegal extraction.

This is for your kind information and perusal.

Memo No. 4582/1/1/BL&LRO-MTG/24


Copy forwarded for information to:

1. The Sub-Divisional Land & Land Reforms Officer, Siliguri


23/10/24
Block Land & Land Reforms Officer

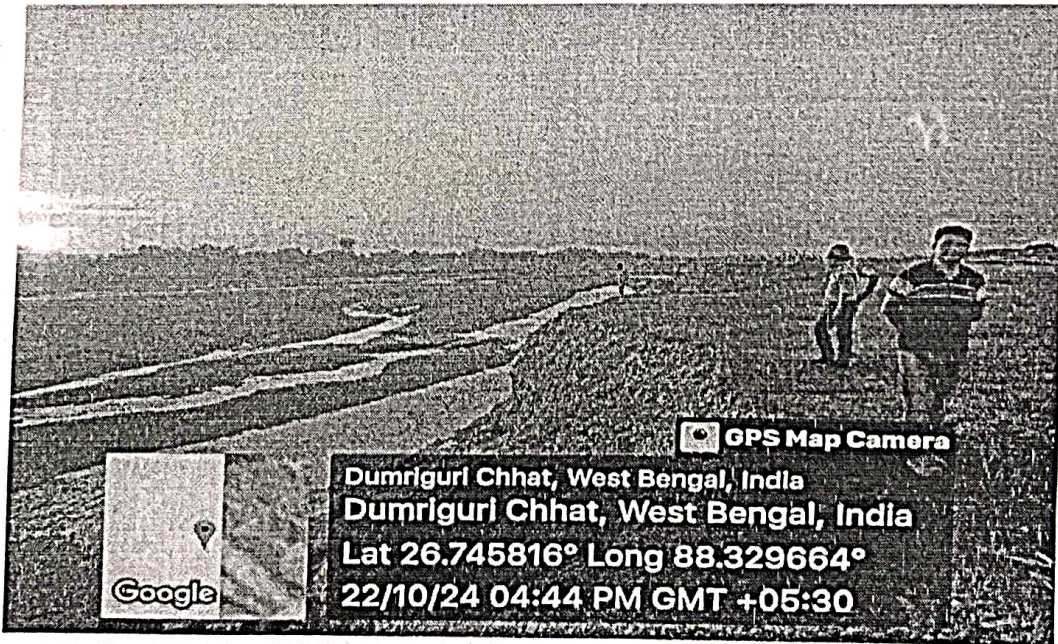
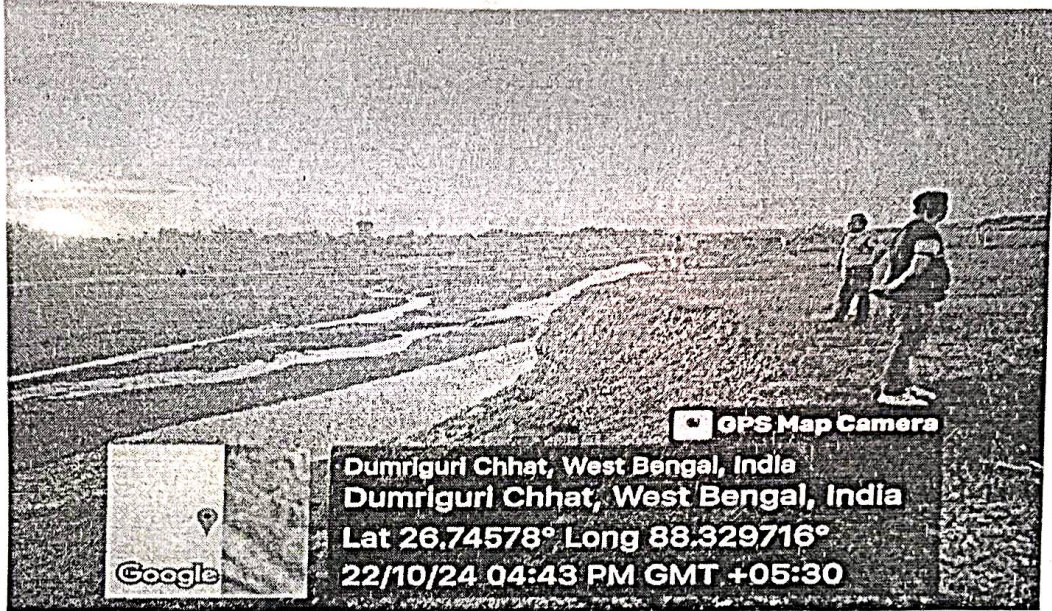
Block Land & Land Reforms Officer

Dated: 23/10/2024


23/10/24
Block Land & Land Reforms Officer
Matigara

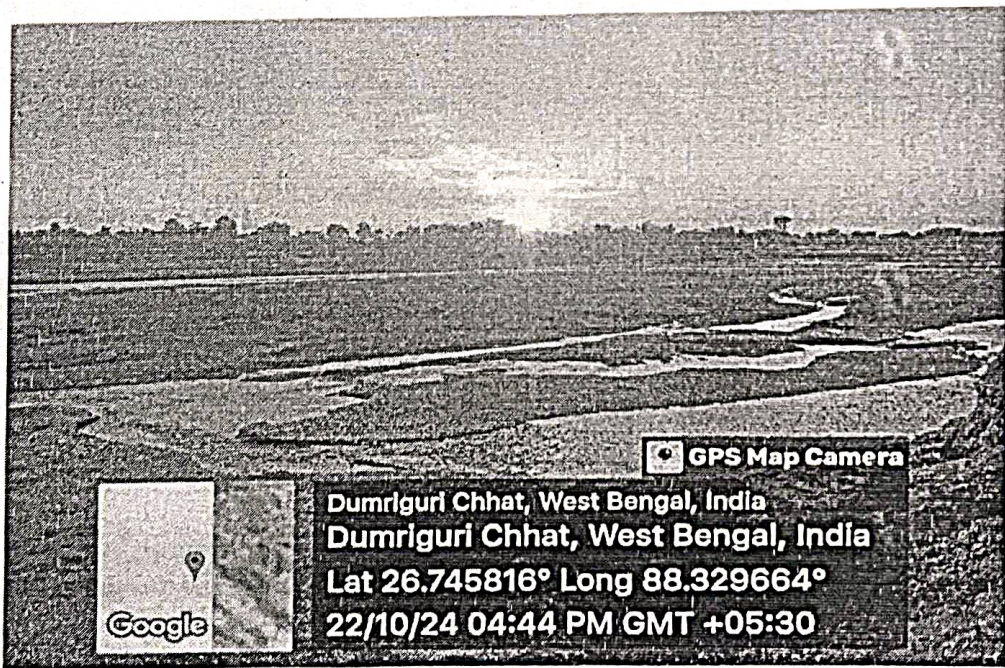
Block Land & Land Reforms Officer
Matigara Block

Photograph taken during Raid Program on 22/10/2024





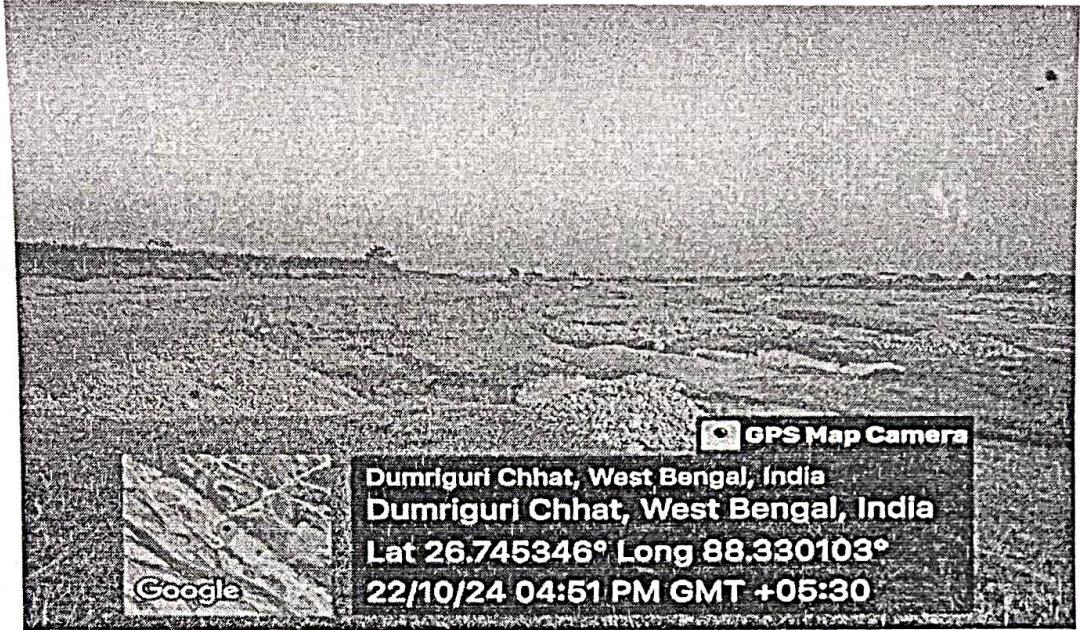
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734013, India
Lat 26.74731° Long 88.32135°
22/10/24 04:43 PM GMT +05:30



Dumriguri Chhat, West Bengal, India
Dumriguri Chhat, West Bengal, India
Lat 26.745816° Long 88.329664°
22/10/24 04:44 PM GMT +05:30







 **GPS Map Camera**

Dumriguri Chhat, West Bengal, India
Dumriguri Chhat, West Bengal, India
Lat 26.745346° Long 88.330103°
22/10/24 04:51 PM GMT +05:30



Google

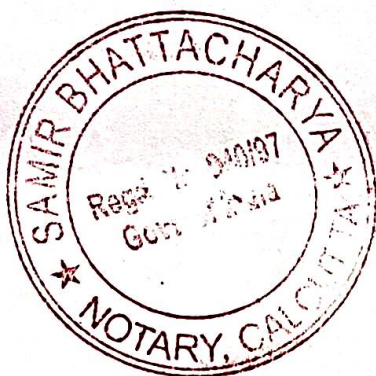
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... Suo Motto/Applicant



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... Respondents

COMMITTEE REPORT IN THE
FORM OF AFFIDAVIT ON
BEHALF OF THE RESPONDENT
NUMBER 04, DISTRICT
MAGISTRATE & COLLECTOR,
DARJEELING DISTRICT.

SIBOJYOTI CHAKRABARTI

Advocate

For The State of West Bengal

Email: subho.advocate@gmail.com

(M): 9007035534.