

NO. 1463
 Date 5-8-25 1

BEFORE THE NATIONAL GREEN TRIBUNAL
 EASTERN ZONE BENCH, KOLKATA

Original Application No. 76/2025/EZ



IN THE MATTER OF:

Rahul Kumar

...Applicant

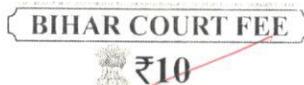
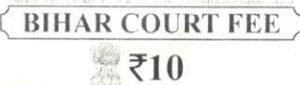
Versus

The District Magistrate,
 Banka & Ors.

...Respondents

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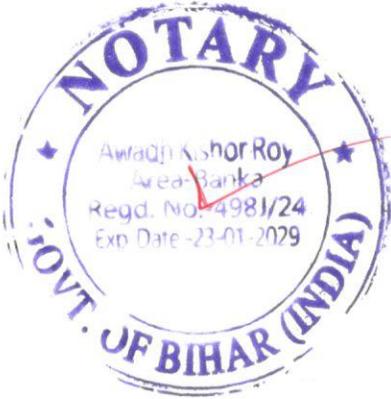
...Applicant

Versus

The District Magistrate,

Banka & Ors.

...Respondents



REJOINDER ON BEHALF OF THE APPLICANT TO THE AFFIDAVIT
FILED BY MOEF&CC BEING RESPONDENT NO 5 HEREIN

I, Rahul Kumar, Son of Viswanath Das, aged about 36 years, resident son of Matru Yadav, residing at Village & PO - Manjira, Banka, Bihar - 813102, do hereby solemnly affirm and state as follows:

1. That I am the Applicant herein. I am competent to affirm the present affidavit. That the contents of the present affidavit are based on personal knowledge, records, and legal advice, and the same are true and correct to the best of my knowledge and belief.
2. That the averments made in the Reply Affidavit filed on behalf of Respondent No. 5, the Ministry of Environment, Forest and Climate Change (MoEFCC), are vehemently denied, save and except those expressly admitted herein.
3. That it is submitted that the present application was filed with the bona fide intent to seek judicial intervention against the unlawful

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issuance of the e-tender dated 27.02.2025 bearing NIT No. 03/2024-25 and the corrigendum dated 08.04.2025, which were issued in blatant violation of the mandatory Replenishment Study requirement as per the Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM-2020), and contrary to the directions of this Hon'ble Tribunal in OA No. 99 of 2022 (EZ).

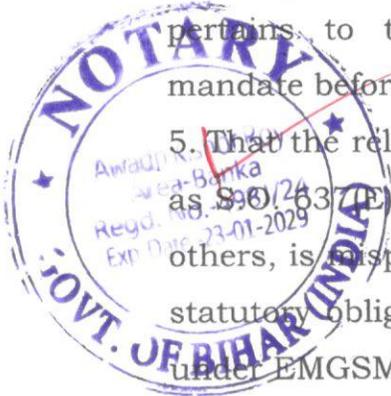
4. That the submissions made by Respondent No. 5 regarding the delegation of powers to the State Level Environment Impact Assessment Authority (SEIAA) and the procedural aspects of Environmental Clearance (EC) under the EIA Notification, 2006, are irrelevant to the core issue raised in the Original Application, which pertains to the non-compliance with the Replenishment Study mandate before initiating commercial dredging operations.

5. That the reliance placed by Respondent No. 5 on notifications such as S.O. 637(E) dated 28.02.2014, S.O. 1886(E) dated 20.04.2022, and others, is misplaced and does not absolve the Respondents from their statutory obligation to conduct a Replenishment Study as mandated under EMGSM-2020 and reiterated by this Hon'ble Tribunal.

6. That the guidelines cited by Respondent No. 5, including EMGSM-2020 and SSMG-2016, explicitly require a Replenishment Study to assess the ecological impact of sand mining, and the Respondents' failure to adhere to these guidelines constitutes a clear violation of environmental norms and judicial directives.

7. That the exemption claimed under Notification S.O. 1224(E) dated 28.03.2020 and its subsequent amendment vide S.O. 3840(E) dated 30.08.2023 is inapplicable to the present case, as the proposed dredging operation is commercial in nature and not for maintenance, upkeep, or disaster management.

8. That the District Survey Report (DSR), as emphasized by the Hon'ble Supreme Court in State of Bihar vs. Pawan Kumar (Civil Appeal No. 3661 of 2020), is a foundational requirement for any mining activity, and the Respondents' failure to prepare a



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comprehensive DSR before issuing the tender further vitiates the impugned actions.

9. That as per Clause 4 of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 ("2020 Guidelines") issued by the Government of India, the District Survey Report (DSR) must comprehensively identify all potential sand mining sites, including riverbeds, reservoirs, and other permissible sources. However, the DSR for District Banka admittedly excluded Chandan Dam as a site fit for sand mining.

10. That the 2020 Guidelines are binding in nature, as held by the Hon'ble Supreme Court in **State of U.P. vs. Gaurav Kumar & Ors. [2025 INSC 650]**, wherein it was categorically ruled that Environmental Clearance (EC) cannot be granted in the absence of a valid and complete DSR.

11. That further, Clause 5 of the 2020 Guidelines mandates a replenishment study to determine the permissible quantity of sand that can be mined sustainably. However, no such study has been conducted in District Banka, rendering the tender and the mining activities illegal and ecologically harmful.

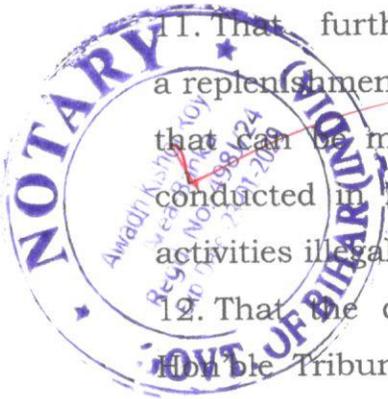
12. That the deponent prays for appropriate directions from this Hon'ble Tribunal to halt any illegal mining activities in the garb of desiltation in District Banka until full compliance with the 2020 Guidelines is ensured.

13. That the averment made in the Original Application are reiterated in their entirety, and the Applicant reserves the right to raise additional grounds and contentions during the course of proceedings.

14. That the present affidavit is filed without prejudice to the rights and contentions of the Applicant and with the liberty to seek further reliefs as may be deemed necessary in the interest of justice.

15. That it is most respectfully prayed that this Hon'ble Tribunal may be pleased to allow the prayers as sought forth in the OA.

16. That I do hereby declare and say that the statements made in paragraphs 1 to 9 herein are true to my personal knowledge and belief and that I have not suppressed any material facts and those



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contained in paragraph nos. 9 and 10 are my respectful submissions before this Hon'ble Tribunal.

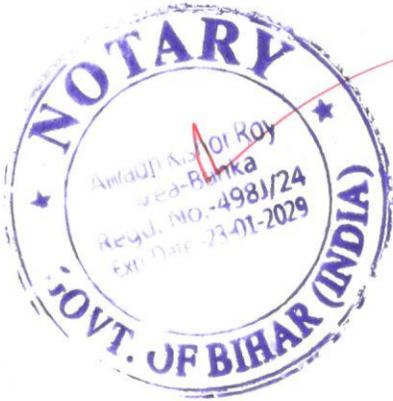
✓ राहुल कुमार

Identified by me

Deponent

Subodh Kumar Mishra
Advocate

Adv.
5/08/2025
Enr. No. 1954/01



VERIFICATION

Verified at Banka on this 5th of August 2025, that the contents of the above affidavit are true and correct to the best of my knowledge, information, and belief, and no part of it is false and nothing material has been concealed therefrom.

Shri/Smt. Rahul Kumar
Who was identified by
Shri/Smt. Subodh Kumar Singh
Advocate Banka Solemnly
Affirmed declare before me

✓ राहुल कुमार
DEPONENT
(Rahul Kumar)
Applicant
Identified by me
Subodh Kumar Mishra Adv.
Advocate
Enrolment no. 1954/01
5/08/2025

Awadh Kishor Roy
Notary Public
Banka
Reg. No. 498J/24



राहुल कुमार