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NOTARIAL REGISTER
VOL No.
SL No. 692 Date 12/5/26

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

APPEAL No. 03/2025/EZ

(I.A. No. 35/2025/EZ & I.A. No. 36/2025/EZ)

Ras Mohan Thakur

.....APPELLANT

VERSUS

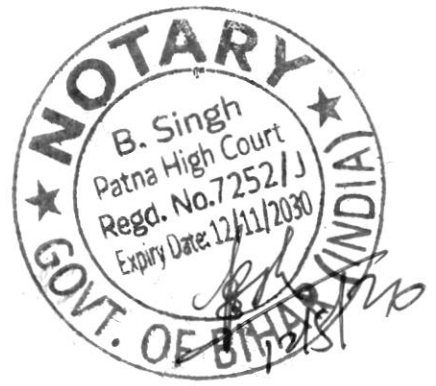
State Expert Appraisal Committee (SEAC), Bihar & Ors.

.....RESPONDENTS

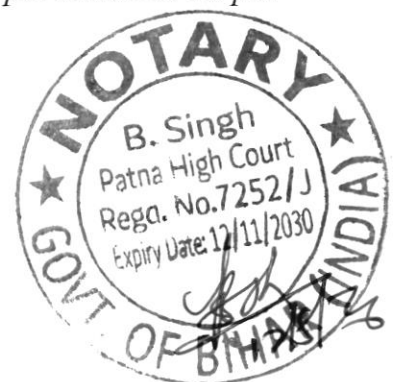
STATEMENT OF FACTS FOR FILING COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT No.3.

1. I, Piyush Kumar Singh, son of Late G.S. Singh, aged about 56, presently posted as Under Secretary at present working in Mines & Geology Dept. having my office at New Secretariat, Vikash Bhawan, Patna do hereby solemnly affirm and say as follows:
2. That I am Respondent No.3 in the above captioned matter and as such, am well acquainted with the facts and circumstances of the case and am competent and authorized to swear this Affidavit

SL. No. 692 Dated 12/5/26
Authorised U/S & (1) (a) of the rotaries
at 53 of 1952 & rule 11 (3) (4) of the
notary rules 1956



3. I have been advised to traverse and/or to deal with only those statements and/or allegations contained in the said Affidavit and Affidavit affirmed on 1/11/24 and to refer to such facts as may be material and/or relevant for the disposal of the Original Application
4. As such, save what would be borne out by the admitted records or what may be specifically admitted by me hereinafter, all statements and/or allegations contained in the said Affidavit should be deemed to have been denied and disputed by me as if each one has been set out hereunder and denied in seriatim
5. Before dealing with the statements and/or allegations contained in the instant OA, I beg to place the following facts and contentions on record:-
- i. I say that the Original Application is not maintainable and is liable to be dismissed. The prayer of the Applicant in this instant Original Application is
- “ Pass an order restraining the Respondents No. 1 and 2 from granting an EC in respect of Sand Mining Project of Area 67 Ha at Cheer Unit-II (Sand Block 3,4 & 5) unless a Replenishment study is undertaken of the area for the purposes of mining so as to determine the extend of environmentally sustainable mining permissible as per the EMGSM, 2020;*



and Pass an Order quashing EC, if any subsequently granted by the Respondent No. 2, SEIAA in furtherance of the recommendation made by SEAC under the MOM dated 3.08.2024;”

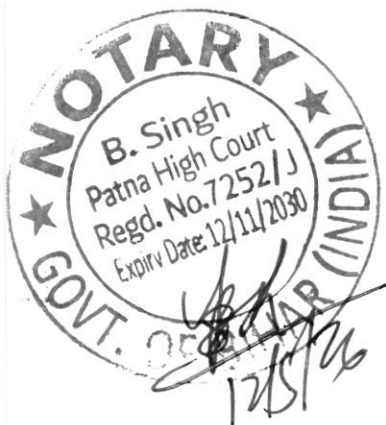
Section 16 of the NGT Act 2010 says that “Tribunal to have appellate jurisdiction.—Any person aggrieved by,—

(g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under section 5 of the Environment (Protection) Act, 1986 (29 of 1986);

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);

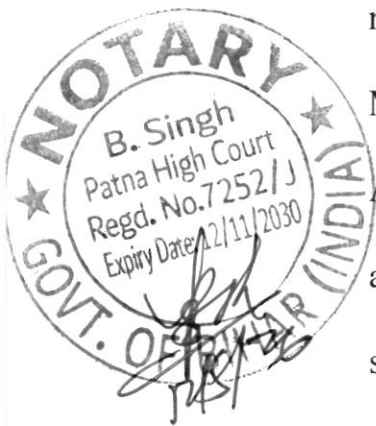
(i) an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986 (29 of 1986)”

Therefore the present Application is therefore not maintainable as availability of alternative remedy of Appeal before this Hon’ble Tribunal operates as bar to the invocation of the Original Jurisdiction .That there are catena of judgement of this Hon’ble



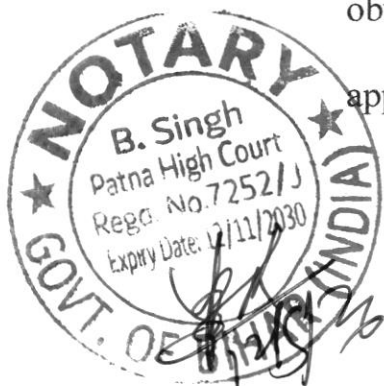
Tribunal wherein the Original Applications are dismissed on ground of maintainability whereby the Applicants chose to challenge the Environment Clearance by invoking Original Jurisdiction of this Tribunal and not by way of Appeal.

- ii. That it is humbly stated that the present Memo of Appeal has been filed by Appellant namely Ras Mohan Thakur under Section 16(h) of the National Green Tribunal Act, 2010 against the Common Environmental Clearance (EC) dated 17.01.2025 granted by State Environment Impact Assessment Authority (SEIAA), Bihar, in favor of Respondent No.6, in respect of three Sand Mining Project Units-II (Sand Blocks 3, 4 & 5) on the Cheer River, District Banka, Bihar, covering an area of 67 hectares.
- iii. That it is stated that without prejudice to the generality of the statements made hereinafter, the answering Respondent denies and refutes all contentions and allegations made by the Appellant in the Memo of Appeal under reply, which are either against provisions of Acts/Rules/Government decisions or are contrary to the interest of the answering Respondent except to the extent that the same are specifically admitted hereinafter.
- iv. That at the outset, it is humbly submitted that the relief sought by the Appellant is with regard to the Common Environmental Clearance



(EC) dated 17.01.2025 granted by Respondent No.2 i.e. The State Environment Impact Assessment Authority (SEIAA), Bihar, in favor of Respondent No.6, in respect of three Sand Mining Project Units-II (Sand Blocks 3, 4 & 5) on the Cheer River, District Banka, Bihar, covering an area of 67 hectares and as such a Counter Affidavit has already been filed by the Respondent No.5 i.e. District Magistrate, Banka in the present case giving detailed and comprehensive response to the statements made by the Appellant vide Affidavit dated 09.02.2026.

- v. That it is humbly submitted that the present Appeal may kindly be dismissed as it is a product of an afterthought and misconceived application. Further, the Appellant has no locus standi to maintain the present appeal. The Appellant has failed to demonstrate any specific injury or violation of his legal rights arising from the grant of EC to heproject in question.
- vi. That it is further stated that the Appellant appears to be acting at the behest of vested interests who wish to prevent lawful sand mining operations after the grant of Environmental Clearance. There is a clear tendency and pattern wherein certain project proponents, after obtaining Environmental Clearance, are using third parties as appellants to get the EC quashed to avoid their mining obligations.

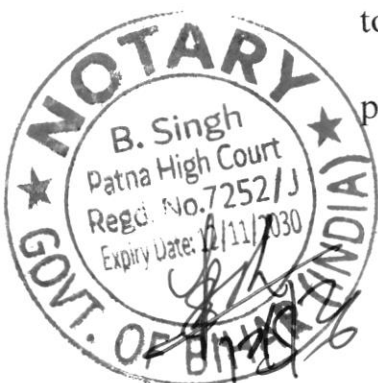


vii. That in response to the contentions raised by the Appellant, it is humbly submitted at the outset that the Environmental Clearance (EC) was duly granted by State Environment Impact Assessment Authority (SEIAA), Bihar, Patna on 17.01.2025 for Sand Ghat Cheer Unit-II involving Sand Blocks 3, 4 & 5 on the Cheer River in the Banka District over an area of 67 hectares strictly in accordance with the EIA Notification and Office Memoranda (OMs) issued from time to time by the Ministry of Environment, Forest and Climate Change (MoEF&CC).

viii. That it is pertinent to mention here in this context that the appraisal of the project was conducted in a comprehensive and detailed manner with the following safeguards:

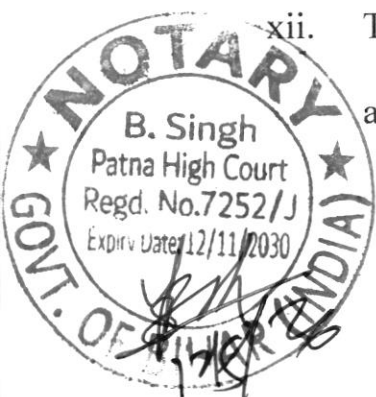
- (a) EIA study report was duly prepared and submitted;
- (b) Public Hearing was conducted in accordance with law;
- (c) The appraisal was based on detailed examination of Letter of Intent (LoI), Mining Plan and other foundational documents;
- (d) All environmental parameters were duly considered before grant of EC.

ix. That it is humbly submitted that the detailed appraisal process leading to grant of EC is equally applicable for cluster situations such as the present case. The three mineable blocks (Blocks 3, 4 & 5) have been



appropriately treated as a single Sand Ghat Unit for purposes of environmental assessment and clearance.

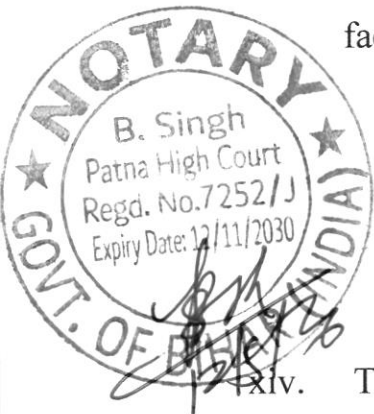
- x. That it is humbly stated that the contention of the Appellant that separate EC was required for each block is legally untenable and contrary to established practice. It is submitted that EC can be lawfully granted for the entire District or for cluster of blocks. In the past, MOEF&CC had granted EC for the entire District in the State of Bihar for Category A sand mining projects. The clustering of Blocks 3,4 & 5 as a single Sand Ghat Unit (Cheer Unit-2) was done for valid reasons of administrative efficiency, sustainable sand mining and better environmental oversight. The formation of single Sand Ghat comprising three mineable blocks was duly approved by the Nine Member District Level Committee. (*Annexure-A of Counter Affidavit of Respondent No.5*)
- xi. That it is humbly stated that the District Survey Report (DSR) was duly prepared and approved by SEIAA, Bihar, Patna in strict accordance with the orders of the Hon'ble Supreme Court of India to ensure compliance with the Enforcement and Monitoring Guidelines for Sand Mining (EMGSM), 2020.
- xii. That it is stated that all the environmental safeguards, mining limits, and sustainable mining practices as mandated under the EMGSM



Guidelines, 2020 have been duly incorporated in the project design and Environmental Clearance conditions.

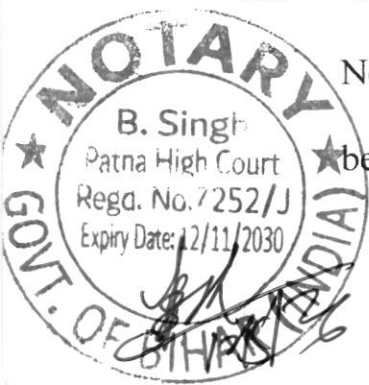
- xiii. That contrary to the allegations made by the Appellant in the Memo of Appeal under reply, it is humbly submitted that there has been no mining of sand in the area in question since 01.07.2023 as reported by the Mineral Development Officer, Banka vide letter no. 797/M dated 24.07.2024. Since 01.07.2023, two fully rainy seasons have passed during which natural replenishment of sand has occurred in the Cheer River, therefore, any contention regarding lack of replenishment is factually incorrect and opposed to the ground realities.

A copy of the letter no. 797/M dated 24.07.2024 is annexed herewith and marked as **Annexure-R3/A** to this Affidavit.



- xiv. That it is humbly submitted that for the first time in the Cheer River, the proposed mining is spread over five blocks covering a total area of 93 hectares, whereas prior to this, mining was confined only to a very small area of 17.39 hectares in the Cheer River.
- xv. That it is stated that the mining operations in the past were conducted on a very limited scale and have been completely stopped since 01.07.2023. This prolonged period of non-mining has resulted in sufficient natural replenishment of sand deposit due to monsoon flows and riverine processes which is a natural process.

- xvi. That it is humbly stated that there is sufficient replenishment of sand in the river due to natural processes during the rainy seasons, and the river system has had adequate time to recover since the cessation of mining activities on 01.07.2023.
- xvii. That the e-auction and tender related aspects are duly regulated under the specific orders of the Hon'ble Supreme Court of India, and all procedures have been followed in accordance with law.
- xviii. That during any intervening period, mining operations, if any, were permitted strictly under the laws of the Hon'ble Supreme Court of India and were conducted within the legal framework prescribed by the Hon'ble Court.
- xix. That the SEIAA, Bihar granted the Environmental Clearance on 17.01.2025 after thorough examination of:
- (a) Documents uploaded on the SEIAA portal by the project proponent;
 - (b) Various Environmental parameters including impact on water quality, air quality, biodiversity, and local ecology;
 - (c) Mining plan and sustainable extraction methodology;
 - (d) Environmental Management Plan and mitigation measures;
 - (e) Public consultation feedback and objections.
- xx. That it is stated that all statutory requirements under the EIA Notification, 2006 (as amended) and relevant Office Memoranda have been duly complied with before grant of Environmental Clearance.

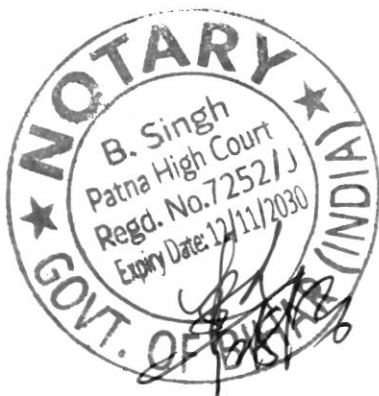


xxi. Without waiving the aforesaid, but fully relying thereon, I now deal with the statements and/or allegations contained in the said Affidavit as under:

- i. With regard to paragraph I,II,III,IV,V & VI save and except the facts that are matter of record I deny and dispute all the allegations as alleged by the applicant,I say that replenishment have not been conducted with regard to the sand ghats in Sand Mining Project at Cheer Unit II (Sand Block 3, 4 & 5) on Cheer River, District Banka Bihar, having an area of 67 ha (herein after referred to as the said sand blocks). I repeat that Appellant appears to be acting at the behest of vested interests who wish to prevent lawful sand mining operations after the grant of Environmental Clearance. The Applicant without any evidence have alleged blindly that no replenishment study of the sand blocks were conducted.I repeat that EIA study have been conducted in accordance with the EIA notification 2006 and replenishment study was conducted in consonance with the relevant the Sustainable Sand Mining Management Guidelines, 2016 & 2020.



- ii. With regard to paragraph VIII the questions of law raised by the Applicant can be raised by invoking the Appellate Jurisdiction of this Hon'ble Tribunal and not before the Original Jurisdiction of this Hon'ble Tribunal.
- iii. With regard to paragraph IX save and except save and except the facts that are matter of record I deny and dispute all the allegations as alleged by the applicant. Appendix-XI of the EIA notification 2016 says that —A cluster shall be formed when the distance between the peripheries of one lease is less than 500 meters from the periphery of other lease in a homogeneous mineral area which shall be applicable to themine leases or quarry licenses granted on and after 9th September,2013. If further it necessary to highlight that MoEF&CC has directed through EIA Notification 2006, to form clusters if the peripheries of one lease is less than 500 meters from the periphery of other lease in a homogeneous mineral area for the leases granted post 9th Sep'2013. The Notification dated 15/1/16 that is annexure A-3 to the Original Application provides the
- PROCEDURE FOR ENVIRONMENTAL

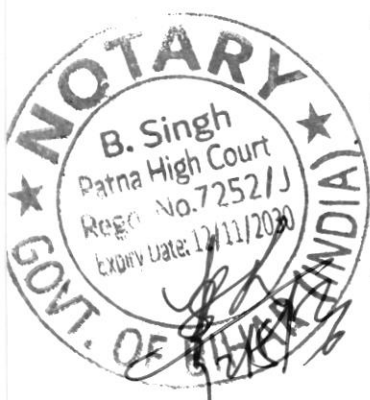


CLEARANCE FOR MINING OF MINOR MINERALS
INCLUDING CLUSTER which states that

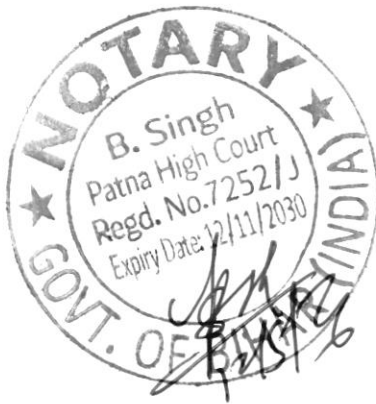
“.....2.The mining of minor minerals is mostly in clusters. The Environment Impact Assessment or Environment Management Plan are required to be prepared for the entire cluster in order to capture all the possible externalities. These reports shall capture carrying capacity of the cluster, transportation and related issues, replenishment and recharge issues, geo-hydrological study of the cluster area. The Environment Impact Assessment or Environment Management Plan shall be prepared by the State or State nominated Agency or group of project proponents in the Cluster or the project proponent in the cluster.

3. There shall be one public consultation for entire cluster after which the final Environment Impact Assessment or Environment Management Plan report for the cluster shall be prepared.

4. Environmental clearance shall be applied for and issued to the individual project proponent. The individual lease holders in cluster can use the same Environment Impact Assessment or Environment Management Plan for application for environmental clearance. The cluster Environment Impact Assessment or Environment Management Plan shall be updated as per need keeping in view any significant change....”



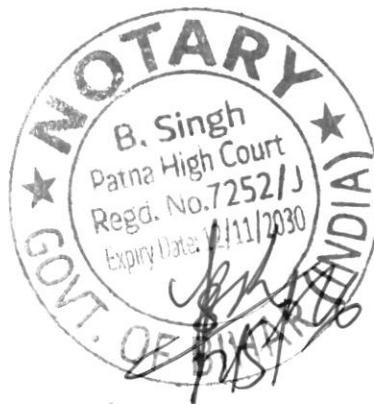
iv. I say that the proposals for Environmental clearances that is Annexure A15 to the Original Application show that separate EC Applications were made before the competent authority and that as the Project Proponent was absent. Therefore, the Committee deferred the proposal for next meeting. The proposals show that separate EC are applied by *individual project proponent* for the cluster. I repeat that the provision of proper EIA and EMP for the cluster block are already complained with, hence there are no irregularities in following the sandmining guidelines 2016 & 2020 and EIA notification 2006.



It is also relevant from the MOM that is Annexure 14 & 15 to the Original Application that SEIAA could not proceed with the applications as the Project Proponent was absent, so the applications were deferred, it clearly show that the Project Proponent are not interested to proceed with the sand mining block and in guise of the Original Applicant have approached this tribunal to sabotage the proceedings.

V. With regard to paragraph IX the grounds are a repetition of paragraph VIII and therefore need not be dealt separately.

- (f) That in the light of the facts and circumstances as stated herein above it is humbly submitted that no case is made out by the Applicant the Applicant is not entitled to any relief and none of the players are maintainable in the eye of law and the Original Application should be dismissed in limine.
- (g) That the deponent craves leave of this Hon'ble Court to file Supplementary Counter Affidavit as and when required or so directed by this Hon'ble Court.
- (h) That the statements made in foregoing paragraphs are true to my knowledge, those made paragraphs nos. are true to my information derived from records which I verily belief to be true and rest are my respectful submissions before this Learned Tribunal



Piyush Kumar Singh
12/5/26

Sr/ Smt. Piyush Kumar Singh
Who is Identified by Sr. V. Pathan
Advocate Solemnly affirmed and
Declared before me

B. Singh
Reg. No. 7252/J
Notary Public, Advocate
Patna High Court, Patna

I Identify the deponent who has
Signed/ Put LTI in my presence

Global Shrivastava, Adv.
E.No. 7285/04
Advocate

12/04/26

जिला खनन कार्यालय, बाँका।

पत्रांक- 797 / एम0, दिनांक- 24 / 07 / 2024

प्रेषित,


SANDEEP CHANDAK (SHIVA1314)
SHIVA ASSOCIATES,
ADDRESS- 3B, 22-23 SUKHADIYA NAGAR,
SRI GANGANAGAR RAJASTHAN- 335001

विषय :- बाँका जिलान्तर्गत चीर नदी यूनिट सं0-02 बालूघाट मौजा- मोहानी, चण्डीडीह एवं डाँकी, अंचल- बाराहाट, जिला- बाँका कुल रकबा 67 हेक्टेयर के क्षेत्र पर पूर्व से संचालित बालूघाट का Overlapping की स्थिति एवं Overlapped क्षेत्र से खनन/प्रेषण की विवरणी उपलब्ध कराने के संबंध में।

पसंग :- SEIAA, Bihar Patna Proposal No: SIA/BR/MIN/422445/2023
महाशय,

उपर्युक्त विषय के संबंध में कहना है कि राज्य पर्यावरण समाघात निर्धारण प्राधिकार (SEIAA, Bihar, Patna) द्वारा दिनांक- 11.05.2023 को निर्गत ToR के Additional Specific Condition No.-02 के आलोक में सूचित किया जाता है कि विषयांकित बालूघाट चीर नदी यूनिट-02 में दिनांक- 01.07.2023 से अद्यतन तिथि तक बालू का खनन/प्रेषण नहीं हुआ है।

विश्वासभाजन


24/07/2024
खनिज विकास पदाधिकारी,
बाँका।