

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,**  
**CENTRAL ZONE, BHOPAL**

**Original Application No. 63/2024**

**IN THE MATTER OF:**

**Applicant** Abdul Kumar

**Versus**

**Respondents** State of Madhya Pradesh & Ors.

**I N D E X**

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**Date: 04.11.2024**

**Place: Bhopal**

  
**Through Counsel**  
**Prashant M. Harne**  
**Standing Counsel**  
**State of Madhya Pradesh**

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,**  
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**IN THE MATTER OF:**

**Applicant** Abdul Kalam

**Versus**

**Respondents** State of Madhya Pradesh & Ors.

**REPLY ON BEHALF OF RESPONDENT STATE**  
**OF MADHYA PRADESH**

IT IS MOST RESPECTUFULLY SUBMITTED HEREINUNDER :

1. That the present Original Application pertains to the alleged illegal operation of stone crushers and mining quarries unit in Niwari District. The area being eco sensitive zone and declared as Orchha Wildlife Sanctuary on dated 2nd January, 2018, the operation of the units threatens the existence of rich flora and fauna, as well as is adversely affecting the health of people and fauna of the region. The continuous operation of the mining units till date is in blatant violation of the Forest Conservation Act, 1980, Madhya Pradesh Minor Mineral Rules, 1996,

Water (Prevention & Control of Pollution) Act, 1974 as well as Air (Prevention & Control of Pollution) Act, 1981.

2. It is submitted that this Hon'ble Tribunal vide Order dated 20.03.2024 constituted a Joint Committee comprising of, 1) One representative from Collector, Niwari, MP; 5) One representative form Madhya Pradesh Pollution Control Board. That in compliance of the aforementioned directions a joint committee was constituted and the Joint Committee Report was submitted before this Hon'ble Tribunal on 09.07.2024.
3. That the answering respondent being a member of the committee, undertakes the Joint Committee Report *in toto* and that for the convenience of this Hon'ble Tribunal the observations are reproduced hereinbelow :

*"B. Observations*

*1. The mining leases operating in the village Prataprura, Bhojpura, Sitapura, Jijora and Baberi forest situated near the MP-UP Border have valid environmental clearance. The necessary permissions for mining from various departments like Directorate General of Mine Safety, MPPCB, SEIAA, etc. The list of mining leases operating as per the records of Mining Division, District Niwari in this area is filed herewith as Annexure A-3.*

*2. That the distance of the village Prataprura and Bhojpura, Sitapura, Jijora and Baberi forest from the*

*Rama raja Temple in Orrcha is almost ten kilometers. That the Mining Department, State of Madhya Pradesh has allotted and permitted the stone mines only after evaluating the necessary permissions as required under the law. These allotments were granted only after the permissions from the Forest Department, Revenue and the Gram Panchayat and the consent under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 from the State PCB was granted.*

*3. That the contentions raised in para 4.4 of the OA that the “Respondent no. 12 (PP) Shri Kailash Narayan Gupta is operating stone mines adjacent to Sainik School Jhansi, interstate boundary at Khasra No. 1/ 1 Village Pratap Pura District Niwari” is factually incorrect since the mine of Shri Kailash Narayan Gupta is situated 300 metres away from the School. This distance is in compliance of the order dated 09.07.2020 by Hon’ble NGT (PB) passed in OA No. 304/2019(M. Haridasan & Others Vs State of Kerala). A copy of this order is filed herewith as Annexure A-4. A copy of the supporting panchnama and map are filed herewith as Annexure A-5*

*4. The stone mining has a 30 feet overburden bund has been made in the direction of the Sainik School, Jhansi. A stone crusher of Shri Sanjeev Bajpayi operating in the vicinity of the Sainik School has already been closed. The mine of Shri Vinod Kumar Agarwal has also been closed. The relevant photographs of the closed crusher unit are filed herewith as Annexure A-6.*

*5. During the inspection the Deputy District Forest Ranger of the Forest Department was present. It was observed that mines situated in the Prataprura and Bhojpura, Sitapura, Jijora villages and Baberi forest are not within 2 kms which is the notified range of the Eco-Sensitive Zone of the Orchha Wildlife Sanctuary. The copy of the*

*MOEF&CC notification S.O. 35(E) dated 02.01.2018 is filed herewith as Annexure A-7. The distance of the mines situated in these villages is about 3.5 km away from the Eco-Sensitive Zone of the Orchha Wildlife Sanctuary.*

*6. The contention of the applicant in para 4.6 of the OA that the natural flow of the Babedi Nala has been obstructed is factually incorrect. The natural flow of the nallah has been not changed. However, a bridge has been contracted over the nallah which is for the movement of the local villages and vehicles. The relevant photographs depicting the natural flow of the nallah are filed herewith as Annexure A-8.*

*7. That there is no permission for mining granted within the Eco-Sensitive Zone of the Orchha Wildlife Sanctuary and there was no mining being carried out in this range.*

*8. The applicant in para 4.9 of the OA had stated "That at Khasra no. 4,6,7,8 of village Bhojpura district Niwari, in the state of Madhya Pradesh and Khasra no. 267/1/1, 268/2, 269/2 in village Pratap Pura, Niwari mines are also in full swing and operating beside National Highway Jhansi-Khajuraho in state of Madhya Pradesh. In fact, these crusher units are operating close to National Highway and also creating air pollution. Needless, to state here that such mining activities beside being in violation of the above-said environmental laws, are also affecting visibility in winter season due to air dust coming out of mines while driving vehicles cannot be ignored."*

*The mines situated in Khasra no. 267/2, 268/2 and 269/2 in Village Pratap Pura and Khasra no. 04, 06, 07 and 08 in Village Bhojpura had permissons prior to the construction of the National Highway which is year 2021-22. At present also the mines suited in Khasra no. 268/2 and 269/2 in Village Pratap Pura and Khasra no. 04 and 06 in Village*

*Bhojpura are more than 100 metre away from the National Highway. The mines situated in Khasra no. 267/2 Village Pratap Pura and Khasra no. 07 and 08 in Village Bhojpura were renewed only after allowing the mining at the distance of 100 metre away from the National Highway. It is pertinent to mention that as per rule 30 (21) of the Madhya Pradesh Minor Mineral Rules 1996 in order to ensure safety there has been a construction of overburdened bed between the mines and the National Highway thereby ensuring that there is no problems on the Highway due to the operation of mines. The copy of the relevant photographs and the map is filed herewith as Annexure A-9.*

*9. In the Prataprura and Bhojpura, Sitapura, Jijora villages and Baberi forest villages there is no mine operating in the forest area and the applicant has not produced any document in order to establish the same. The mining activities are conducted in the private and revenue areas after the necessary permission from the respective departments have been provided in the Khajuraho Jhansi Four-Lane Highway the renewal of mining leases of the four mines were done as per rules and the mine situated before the construction of the highway have made overburden bund as well as the pollution control measures. That the Madhya Pradesh Mineral Policy 2010 came into force on 28.03.2013 and the mines under challenge were operating before the policy came into force, however the air pollution measures have been undertaken by the mines.*

*10. That the Blasting activities undertaken in these mines are conducted only after the necessary permissions from the Directorate General of Mineral Safety. This permission is granted only after the permissions from the Forest Department, Revenue and the Gram Panchayat. The copy of this permission is hereby filed as Annexure A-10.*

11. That the mines mentioned in the original application have valid CTO under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 from the State PCB was granted. The mine leases of Shri Rahul Agarwal and Shri Pradeep Kumar Sahu had already expired. The other private respondents in the OA from Respondent No. 7 To Respondent No. 23 (Except Respondents No. 10 and No. 22) have valid consent and operating as per the terms and conditions of the CTO granted. The copy of the CTOs is filed herewith as Annexure A-11.

12. That the Rule 5(2)d of the Madhya Pradesh Minor Mineral Rules 1996 state that

“5. Restrictions on the grant of [trade quarry] or quarry lease –

(1) No quarry lease, or [tradequarry] shall be granted to any person unless such person is an Indian National or a company as defined in sub-section (1) of Section 3 of tire Companies Act, 1956(No. 1 of 1956) and satisfies such conditions prescribed in these rules.

*Explanation.* - In case of a firm or any other association of individuals, for the purpose of this sub rule, a person shall be deemed to be an Indian National only, if all the members of the firm or association are citizens of India.

(2) No quarry lease, or [trade quarry] shall be granted in respect of an area :—

(d) except for the mineral sand or bajri, within a distance of 100 metres from river banks, reserviour, canal dam any natural water course or nay water impounding structure and 50 metres from the nalla.”

The Committee found that the mines mentioned in the OA are not situated within 100 meters of any river or lake. The Betwa River is almost 700 meters away from these mines. With regards to the nallah the distance of these mines is more than 50 metres from the nallah.

13. That the mine of Shri Sunil Gupta had expired and the Collector vide letter dated 20.09.2023 had order for a inspection of this mine. After the inspection a case of the illegal mining has been registered against Shri Sunil Gupta. The mine has received renewal within the stipulated period and the order of the renewal dated 06.05.2022 is hereby filed as Annexure A-13.

14. That one Ramesh Khangar was conducting illegal mining activities and a case was registered against him. The relevant document is hereby marked as Annexure A-13.

15. That the land situated on Khasra no. 267/ 1/ 1, 268/2, 269/2 Village Pratap Pura, Niwari is private land where after the consent of the land owner the land is being used to store minerals. This land is separate from the mining activities. The consent letter from the land owner and the order of storage by Collector Office (Mining Division), District Niwari is hereby filed as Annexure A-14.

16. That only controlled blasting activities is undertaken in limited capacity conducted by a Registered Blaster. As per rule 30(24) of the Minor Mineral Rules 1996 the blasting activity is allowed only after seeking proper from office of DGMS, Gwalior, Madhya Pradesh.

17. That as per the Ministry of Environment, Forest and Climate Change Office Memorandum J11011/15/2012-1A.II(M) dated 20.03.2015 there is no need to take a fresh EC after due consideration and examination of relevant judicial pronouncements and the OMs issued in this regards, it is clarified that the Project Proponent which has a valid and subsisting EC for their mining project either under EIA Notification 1994 or EIA Notification 2006, will not be required to obtain fresh EC at the time of renewal of the lease. This is subject to the maximum period of validity of the EC being for mining lease for 30 years. A copy of this office memorandum is hereby filed as Annexure A-15.

18. That in the present case the mines were operating after taking valid CTO from MP PCB. In compliance of the order dated 13.09.2023 passed by the Hon'ble NGT (CZ) in OA 36/2023 Brijendra Kumar Mala v State of MP & Ors. The compliance report of Mining Division, Collector office District Niwari in compliance of order dated 13.09.2023 passed in OA 36/2023 Brijendra Kumar Mala v State of MP & Ors. By Hon'ble NGT(CZ) is filed herewith as Annexure A-16.

19. These mines restarted their operation only after the issuance MOEF&CC notification. F. No. IA 3-22/11/2023-IA. III (E-208230) dated 03.11.2023 which was subsequently modified by notification F. No IA 3-22/11/2023-IA. III (E 208230) dated 15.03.2024. The copy of both these notifications are filed herewith and marked as Annexure A-18 and A-19 respectively. The mining activities for minor minerals was allowed in light of the letter no. 2359 of State Environment Impact Assessment Authority (SEIAA) dated 21.12.2023. The copy of this letter is filed herewith as Annexure A-17.

20. That with regards to the contentions raised in para 4.22 the former OIC Mining Officer, District Collector Office Niwari (Respondent No. 6) had submitted the action taken on the complaint filed by the applicant. The copy of the the action taken by the concerned officer is filed herewith as Annexure A-20.

21. That the Hon'ble Tribunal may take this joint committee on record.”

4. In view of the above submissions, the answering respondent is not filing a para-wise reply, however the same shall be filed if the Hon'ble Tribunal may so direct

5. Hon'ble Tribunal may kindly be pleased to take the aforesaid reply on record. An Affidavit in support is filed herewith.

**Date: 04.11.2024**

**Place: Bhopal**



**Through Counsel  
Prashant M. Harne  
Standing Counsel  
State of Madhya Pradesh**

**BEFORE THE NATIONAL GREEN TRIBUNAL  
CENTRAL ZONAL BENCH BHOPAL  
Original Application No. 63/2024**

**IN THE MATTER OF:**

**ABDUL KALAM**

**APPLICANT(=,**

**VERSUS**

**STATE OF MP & ORS**

**RESPONDENT(S)**

**AFFIDAVIT**

I, Dr. Ajay Kumar Mishra, S/o Shri Shrikant Mishra, Aged about 37 Years, posted as Asst. Mining Officer, Niwari, office at Collectorate Niwar (M.P.), do hereby state on oath and solemnly affirm as under :

1. That, I have been appointed as the Officer In-Charge to represent this case on behalf of State of MP and as such I am well conversant with the facts of the case and therefore, competent to swear this affidavit.
2. That, the accompanying Reply has been prepared and filed as per my instructions and has also been explained to me.
3. That, the contents of para 1 to \_\_\_ and Prayer of the accompanying Reply are true to my knowledge based upon official records and legal averments made therein are true on the legal advice and believed to be true.



*[Signature]*  
**DEPONENT**

**VERIFICATION**

I, above-described deponent do hereby verify that the contents of para 1 to 3 of the affidavit are true to my personal knowledge and belief.

Verified and signed on this 04 day of 11 2024 at Bhopal (M.P.)

संज्ञी पंजी. क्र 165 प.क्र. 29 दि. 04/11/2024

*[Signature]*  
**DEPONENT**

**IDENTIFIED BY ME**

NAME.....  
ADDRESS.....  
.....  
SIGNATURE.....

**SWORN BEFORE ME  
BY THE WITHIN NAMED**  
*[Signature]*  
**GOPAL KRISHAN BAJPAI**  
**NOTARY-ADVOCATE BHOPAL (INDIA)**



**VAKALATNAMA**  
**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**CENTRAL ZONAL BENCH BHOPAL**

**Original Application No. 63 /2024**

**IN THE MATTER OF:**

**ABDUL KALAM**

**APPLICANT(S)**

**VERSUS**

**STATE OF MP & ORS.**

**RESPONDENT(S)**

I, the Petitioner/ Appellant/ Applicant/ Claimant/ Respondent/ Non-Applicant/ Defendant named below do hereby appoint, engage and authorise advocate(s) named below to appear, act and plead in aforesaid case proceedings which shall include applications for restoration, setting aside of ex parte orders, corrections, modifications, review and recall of orders passed in these proceedings, in this Court or in any other court in which the same may be tried heard/proceeded with and also in the appellate, revisional or executing court in respect of proceedings arising from this case proceedings as per agreed terms and conditions and authorise them to sign and file pleadings, appeal, cross objection for the prosecution defence of the said case in all its stages and also agree to ratify and confirm acts done by them as if done by us.

In witness whereof we do hereunto set our hand to these presents, the contents of which have been duly understood by us, this day of, \_\_\_\_\_.

**Particulars (in block letters) of each Party Executing Vakalatnama**

Name & Father's/ Husband Name	Registered Address	E-Mail address (if any)	Telephone No. (if any)	Status in the case	Full Signature/ Thumb Print
<b>DR. AJAY KUMAR MISHRA S/O SHRI SHRIKANT MISHRA</b>	<b>ASST. MINING OFFICER, NIWAR OFFICE ADDRESS- COLLECTORATE NIWARI, (M.P.)</b>			<b>RESPONDENT</b>	

Accepted:

**Particulars (in block letters) of each Advocate Accepting Vakalatnama**

Name and Enrollment No. in State Bar Council	Address for Service	E-Mail Address (if any)	Telephone Number	Full Signatures
<b>PRASHANT M. HARNE MP/610A/1995</b>			<b>9425041311</b>	
<b>MEHUL BHARADWAJ</b>	<b>240, UCI LAWYERS CHAMBERS, ARERA HILLS, BHOPAL</b>		<b>9827520642</b>	