

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL PRINCIPAL
BENCH, NEW DELHI

O.A. NO. 137/2024

IN THE MATTER OF:

VIJAY CHANDEL

....APPLICANT

VERSUS

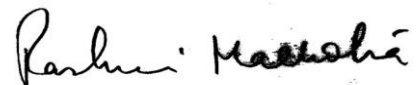
STATE OF H.P. & ORS.

...RESPONDENTS

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FILED BY:



DATE - 06.12.2024

RASHMI MALHOTRA

(ADVOCATE FOR THE RESPONDENT NO. 7, 8, 50 & 51)

26, JANGPURA ROAD, BHOGAL, NEW DELHI -110014

MOB. N. – 9818539397

E-MAIL- rasmmimalhotra@gmail.com

**BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI**

O.A. NO. 137/2024

IN THE MATTER OF:

VIJAY CHANDEL

....APPLICANT

VERSUS

STATE OF H.P. & ORS.

...RESPONDENTS

ADDITIONAL REPLY ON BEHALF OF THE RESPONDENT NO. 7,8

MOST RESPECTFULLY SHOWETH:

1. That the reply filed earlier on 16.10.2024 may be taken as part of this reply.
2. That the earth being used for construction of embankment has been legally procured through mining permits issued by competent authorities.
3. That the mining permits issued by the competent State authorities did not refer to any requirement regarding Environmental clearance for taking up the mining work.
4. That in compliance to directions issued by this Hon'ble court on 24.10.2024 respondents personally approached DC Panchkula on 20.11.2024, DC Solan on 21.11.2024 and Regional officer, Pollution Control Board, Baddi on 22.11.2024. to seek their NOC for execution of construction work of this project. Letters to DC/Panchkula, to DC/Solan and to RO/HPPCB/Baddi, were also written to concerned officers in this regard.

True copies of Email along with letter dated 21.11.2024 addressed to DC/Panchkula, Email along with letter dated 21.11.2024 addressed to DC/Solan as well as true copy of Email along with letter dated 25.11.2024 addressed to RO/HPPCB/Baddi are enclosed as **Annexure R-27 (Colly), R-28 (Colly) and R-29**


Rashmi Maishri

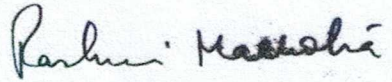
respectively.

5. Section 11 of Railway Act,1989 empowers railways to take up any construction work on railway land.
6. MoEFCC vide their OM: F-No. IA3-12/3/2023-IA.III(E-220190) Dated 06.10.2023 have also clarified that Railways are not under any statutory compulsion to obtain environmental clearances.
True copy of the OM. dated 06.10.2023 are enclosed as **Annexure R-30**
7. That the answering Respondents are always willing to abide by any further instructions as this Hon'ble Tribunal may deem fit and will always be proper in the facts and circumstances of the case to curb the menace of illegal mining and any possibility of environmental degradation on account of the same in respect of the supplies made by any contractor towards execution of any railway project.

THROUGH COUNSEL:

DATE - 06.12.2024


RESPONDENTS
Dy. Chief Engineer/Const-II
उप मुख्य अभियन्ता/निर्माण-द्वितीय
N. Railway, Chandigarh
उत्तर रेलवे, चण्डीगढ़



RASHMI MALHOTRA

(ADVOCATE FOR THE RESPONDENT NO. 7, 8, 50 & 51)

26, JANGPURA ROAD, BHOGAL, NEW DELHI -110014

MOB. N. – 9818539397

E-MAIL- rasmmimalhotra@gmail.com

BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI

O.A. NO. 137/2024

IN THE MATTER OF:

VIJAY CHANDEL

....APPLICANT

VERSUS

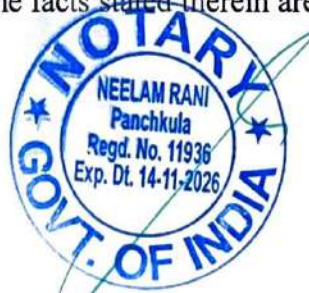
STATE OF H.P. & ORS.

...RESPONDENTS

AFFIDAVIT

I, Abhishek Kumar Singh S/o Sh. Anand Veer Singh aged about 34 years working as Deputy Chief Engineer (Construction-II) in the office at Chief Project Manager, Northern Railway presently at Chandigarh do hereby solemnly affirm and state as under:-

1. That I am working as working as Deputy Chief Engineer (Construction-II), office situated at Chandigarh and I am well conversant with the facts and circumstances of the present case as per the information derived from the official records and as such, I am fully competent to swear the present affidavit.
2. That the contents of the accompanying reply have been drafted by my counsel under my instructions and the facts stated therein are true and correct to my knowledge.




Dy. Chief Engineer/Const-II
उप मुख्य अभियंता/निर्माण-द्वितीय
N. Railway, Chandigarh
उत्तर रेलवे, चण्डीगढ़

VERIFICATION:-

Verified at Chandigarh on this 5th day of December, 2024 that the contents of my above affidavit are true and correct to my knowledge, no part of it is false and nothing has been concealed therefrom.

ATTESTED
NEELAM RANI
NOTARY PUBLIC
Panchkula, Haryana

05 DEC 2024


Dy. Chief Engineer/Const-II
उप मुख्य अभियंता/निर्माण-द्वितीय
N. Railway, Chandigarh
उत्तर रेलवे, चण्डीगढ़

Issuance of consent/clearance & NOC to execute the work by procuring the soil and other mineral for construction of Chandigarh-Baddi new Broad Gauge Railway line project.

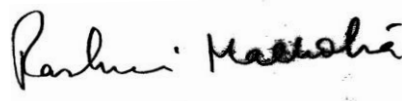
DyCEC2CDG <dycec2cdg@gmail.com>
To: dcpkl@hry.nic.in

Thu, Nov 21, 2024 at 5:51 PM

Kindly find an attachment, please.

--
सादर,
With Regards,
अभिषेक सिंह, भारतीय रेल इंजीनियरिंग सेवा
Abhishek Singh, IRSE
उप-मुख्य इंजीनियर, निर्माण-II
Dy. Chief Engineer, Construction-II,
उत्तर रेलवे, चंडीगढ़ - 160102
Northern Railway, Chandigarh - 160102

 **DC Panchkula letter dated 21.11.2024.pdf**
5235K



TRUE COPY



उत्तर रेलवे
NORTHERN RAILWAY

कार्यालय
उप-मुख्य अभियंता
निर्माण-II, चंडीगढ़
P & T No. - 0172-2732613
Mobile No- +91-9779230217
Email:- dycec2cdg@gmail.com

No. 74-A/CS/C-II/CDG

Dated: 21.11.2024

**Deputy Commissioner,
Panchkula.**

Sub: Issuance of consent/clearance & NOC to execute the work by procuring the soil and other mineral for construction of Chandigarh-Baddi new Broad Gauge Railway line project.

Ref: Principal Bench, New Delhi, NGT orders dated: 24.10.2024.

With reference to the above subject, it is to inform you that the work of construction of Chandigarh-Baddi new Broad Gauge Rail Line project is in progress. It is a jointly funded project of Govt. of India (Railway) and State of Himachal Pradesh on 50::50 cost sharing basis. The construction work for this project is already in progress using all the raw materials being procured after obtaining mandatory permissions from concerned authorities.

Detailed statement showing the permissions obtained for procurement of earth is attached herewith for your kind perusal please.

Date of Permit	Mining Permits Obtained (MT)	Mining Permits Obtained (Cum)	Authority issuing Permits	Agency to whom permits issued
16.12.2022	14782	9204	Mining officer, Panchkula	M/s SCL
13.01.2023	49992	31128	Director of Industries, H.P., Shimla	Sh. Gurdyal Singh
20.01.2023	26730	16644	Mining officer, Panchkula	M/s SCL
03.03.2023	5940	3699	Mining officer, Panchkula	Rajinder Kumar
28.03.2023	48460	30174	Mining officer, Panchkula	M/s SCL
31.03.2023	2864	1783	Mining officer, Panchkula	Sai Carriage Cont.
03.04.2023	29273	18227	Mining officer, Panchkula	Sai Carriage Cont.
04.05.2023	24502	15257	Mining officer, Panchkula	M/s SCL
11.05.2023	5940	3699	Mining officer, Panchkula	Rajinder Kumar
12.05.2023	11640	7248	Mining officer, Panchkula	M/s Neel Kanth
31.05.2023	23814	14828	Mining officer, Panchkula	M/s SCL
03.07.2023	58212	36247	Mining officer, Panchkula	M/s Neel Kanth
11.10.2023	7457	4643	Mining officer, Panchkula	M/s Neel Kanth
09.07.2024	27000	16812	Mining officer, Solan	M/s SCL

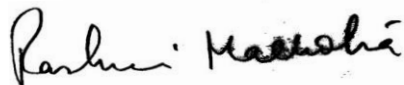
Hon'ble NGT, taking the cognizance of the complaint made by Sh. Vijay Chandel s/o Sh. Dasaundi Ram, for alleged illegal mining along Baddi-Sheetalpur road, on 24.10.2024 passed an order stating that:

Pankaj Kishore

333
"However, since *ex-facie* we are satisfied that in the present case, Railway Authorities in execution of project in question have utilized mineral procured without complying with Environmental Laws, we hereby direct that in execution of project in question, no mineral of whatever kind shall be utilized by Railway Authorities unless concerned Regional Officer, Pollution Control Board and concerned District Magistrate are satisfied that mineral has been procured by complying with all Environmental Laws in respect of requisite consent, Clearance and No Objection Certificate, as the case may be, from concerned competent Authorities".

Therefore, it is requested that in compliance to the directions of Hon'ble NGT, the consent/clearance and NOC as the case may kindly be issued at the earliest, so that the execution of work is not stalled on this account.


21/11/24
उप-मुख्य अभियंता
निर्माण-II, चंडीगढ़



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I am sharing 'DC solan.pdf' with you from WPS Office

DyCEC2CDG <dycec2cdg@gmail.com>
To: dc-sol-hp@nic.in

Thu, Nov 21, 2024 at 3:17 PM

Please check the attachment

Get WPS Office for Free:
<https://kso.page.link/wps>

 **DC solan.pdf**
805K

Parul K. Mahesh

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उत्तर रेलवे
NORTHERN RAILWAY

कार्यालय
उप-मुख्य अभियंता
निर्माण-II, चंडीगढ़
P & T No. - 0172-2732613
Mobile No- +91-9779230217
Email:- dycec2cdg@gmail.com

No. 74-A/CS/C-II/CDG

Dated: 21.11.2024

**Deputy Commissioner,
Solan.**

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28.03.2023	48460	30174	Mining officer, Panchkula	M/s SCL
31.03.2023	2864	1783	Mining officer, Panchkula	Sai Carriage Cont.
03.04.2023	29273	18227	Mining officer, Panchkula	Sai Carriage Cont.
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Rajinder Kumar

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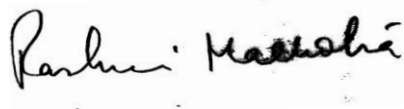
336
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ABHISHEK
KUMAR SINGH

Digitally signed by
ABHISHEK KUMAR SINGH
Date: 2024.11.21
13:48:45 +05'30'

उप-मुख्य अभियंता
निर्माण-II, चंडीगढ़



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Issuance of consent/clearance & NOC to execute the work by procuring the soil and other mineral for construction of Chandigarh-Baddi new Broad Gauge Railway line project.

DyCEC2CDG <dycec2cdg@gmail.com>
To: pcbrobaddi@gmail.com

Mon, Nov 25, 2024 at 6:13 PM

Kindly find an attachment, please.

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सादर,
With Regards,
अभिषेक सिंह, भारतीय रेल इंजीनियरिंग सेवा
Abhishek Singh, IRSE
उप-मुख्य इंजीनियर, निर्माण-II
Dy. Chief Engineer, Construction-II,
उत्तर रेलवे, चंडीगढ़ - 160102
Northern Railway, Chandigarh - 160102

 RO, HPPCB.pdf
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Parul K. Mahesh

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उप-मुख्य अभियंता
निर्माण-II, चंडीगढ़
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उत्तर रेलवे

Mobile No- +91-9779230217

NORTHERN RAILWAY

Email:- dycec2cdg@gmail.com

No. 74-A/CS/C-II/CDG

Dated: 26.11.2024

**Regional Officer,
Himachal Pradesh Pollution Control Board,
Baddi**

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Ranbir Maheshi


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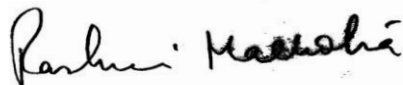
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"However, since ex-facie we are satisfied that in the present case, Railway Authorities in execution of project in question have utilized mineral procured without complying with Environmental Laws, we hereby direct that in execution of project in question, no mineral of whatever kind shall be utilized by Railway Authorities unless concerned Regional Officer, Pollution Control Board and concerned District Magistrate are satisfied that mineral has been procured by complying with all Environmental Laws in respect of requisite consent, Clearance and No Objection Certificate, as the case may be, from concerned competent Authorities".

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DA/- As above


उप-मुख्य अभियंता
निर्माण-II, चंडीगढ़



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F.No. IA3-12/3/2023-IA.III (E-220190)
Government of India
Ministry of Environment, Forest and Climate Change
IA-III Section (CRZ)

Indira Paryavaran Bhawan
Jor Bagh Road,
New Delhi - 110003
Dated: 06th October, 2023

OFFICE MEMORANDUM

Subject: Clarification on exemption of Railway Projects from the requirement of Environmental Clearance (EC) and Coastal Regulation Zone (CRZ) Clearance as per Section 11 of Railways Act 1989- regarding.

The Ministry is in receipt of a request for clarification received from Ministry of Railways, regarding exemption from the application of the provisions of Environment Protection Act, 1986 including its sub-legislations to Railway Projects as per Section 11 of Railways Act, 1989.

2. Railway Projects are exempted from prior environmental clearance in term of Section 11 of Railway Act 1989 which overrides every other law in force with the phrase "Notwithstanding anything contained in any other law for the time being in force". The Ld. Attorney General of India has also inter-alia opined that the Section 11 of the Act overrides every other law in force.

3. In this context, Hon'ble High Court, Bombay in the Goa Foundation Vs Konkan Railway (Writ Petition No. 170 of 1992 decided on 29th April 1992) has inter-alia held that:

...the provisions of the Environment Act have no application in respect of work undertaken in exercise of powers conferred under Section 11 of the Railways Act, 1989. The wide ambit of the provisions of Section 11 and the non-obstante Clause makes it extremely clear that the provisions of the Environment Act do not bind the construction or maintenance of a railway line. The Railways Act (1989) is a legislation enacted subsequent to the Environment Act (1986) and the Corporation is right in claiming that for the purpose of providing railway line, clearance is not required even though the line passes over the railways, rivers, creeks, etc. in view of the specific provisions of Section 11 of the Railways Act.

4. Further, Hon'ble High Court of Bombay vide order dated 3rd August 2022, in WP No.15 of 2021 in the matter of Ganv Bhavancho Ekvott & Ors vs South West Railways & Ors inter-alia stating that South Western Railway and Rail Vikas Nigam Limited (RVNL) are not under any statutory compulsion to obtain environmental clearance from the GCZMA or any building permissions or other permissions from any uthority under the diverse legislation.

Ranbir Mahesh

5. Ministry vide OM 19-172/2018-IA.III dated 28th May 2020 has also clarified the non-requirement of Environment Clearance for the Commercial development of the Railway Stations, subject to preparation of comprehensive Environmental Management Plan (EMP) by the Environment and Housekeeping Management (EnHM) Directorate of the Ministry of Railways and fulfilling the standard environmental safeguards as prescribed in the OM dated 28th May 2020.

6. The matter has been once again examined in the Ministry. Based on the facts mentioned above, it is clarified that Railway Projects, covered under Railways Act 1989, shall not attract CRZ Clearance. However, other statutory clearances, as applicable, need to be obtained.

7. This is issued with the approval of the Competent Authority.



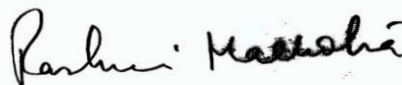
(Dr. H. Kharkwal)
Scientist 'E'

To

1. Chairman/Member Secretary, CPCB.
2. Chairperson/Member Secretaries of all the State/UT, PCBs/PCCs
3. Chairperson/Member Secretaries of all the EACs.
4. Chairperson/Member Secretaries of all the SEIAAs/ SEACs.
5. All Officers of IA Division

Copy to:

1. PS to Hon'ble MEFCC
2. PS to Hon'ble MoS (EF&CC)
3. Sr PPS to Secretary (EF&CC)
4. Sr PPS to DGF&SS (EF&CC)
5. PPS to AS(TK)/Sr PPS to JS(SKB)
6. Website, MoEF&CC/Guard File



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12/6/24, 11:53 AM

Gmail - Service in the matter of Vijay Chandel vs State of HP & Ors in OA No. 137/2024



Lawoffice RashmiMalhotra <lawofficerashmimalhotra@gmail.com>

Service in the matter of Vijay Chandel vs State of HP & Ors in OA No. 137/2024

1 message

Lawoffice RashmiMalhotra <lawofficerashmimalhotra@gmail.com>

Fri, Dec 6, 2024 at 11:51 AM

To: pebroadbadi1@gmail.com, judicial-ngt@gov.in

Cc: office1.mslaw@gmail.com Respected

sir

Kindly find the additional reply filed on behalf of the Respondent No. 7 & 8 duly attached herewith.

Regards,
Rashmi Malhotra,
Advocate for Petitioner,
26 GF, Jangpura Road, Bhogal,
New Delhi - 110014

**NGT ADDITIONAL REPLY (2).pdf**

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