

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI

APPEAL NO. 57 OF 2020

IN THE MATTER OF:

Manendra Pratap

... Appellant

-VERSUS-

Ministry of Environment, Forest And
Climate Change & Ors.

... Respondents

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Dated: 21.06.2020

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ADDITIONAL REPLY ON BEHALF OF STATE LEVEL ENVIRONMENT
IMPACT ASSESSMENT AUTHORITY, UTTAR PRADESH.

RESPECTFULLY SHOWETH: -

PRELIMINARY SUBMISSION: -

1. It is submitted that the issue of cluster certificate, geo-coordinate and public hearing in respect of Sand/Morrum Mining at Khand No.1, Gata No.1, Village Unchagaon Khadar, Tehsil Dibai, District Bulandshahr, Uttar Pradesh has already been adjudicated upon by this Hon'ble Tribunal in Appeal No.52 of 2020 titled as "Sanjay Kumar Sharma vs. Ministry of Environment, Forest & Climate Change &Ors." on 02.06.2021 wherein this Hon'ble Tribunal upon consideration of report of the District

Magistrate, Bulandshaher was pleased to observe that there is no ground to interfere in with the impugned EC. The copy of the order dt. 02.06.2021 is Annexure A1.

ADDITIONAL REPLY -

1. The captioned appeal challenging the grant of Environment Clearance dt.15.10.2020 by the SEIAA, Uttar Pradesh for the proposed Sand/Morrum Mining at Khand No.1,Gata No.1,Village Unchagaon Khadar, Tehsil Dibai, District Bulandshahr, Uttar Pradesh in favour of Sh. Girish Chandra is pending adjudication before this Hon'ble Tribunal. The main grievance of the appellant is that the project falls in the Critically Polluted Industrial Areas (CPAs). It is further contended that since the project falls in critically polluted area, in view of General Condition appended to EIA Notification dt. 14.09.2006, respondent no.1 could not have granted EC to the project.

2. Upon consideration of the matter, this Hon'ble Tribunal vide order dt. 24.12.2020 issued notice and sought response from respondent no.1. The reply was filed by the answering respondent that stating that the captioned project does not fall within the range of 5 kms from the boundary critically polluted area. It was

submitted that the captioned project is situated at a distance more than 60 kms from the boundary of critically polluted area and therefore the EC has been granted by the answering respondent in accordance with law. The EC has also been challenged on the basis of order dt. dt. 20.11.2020 passed by this Hon'ble Tribunal in Appeal No. 04/2020 titled as "Abhinav Gramodyog & Seva Sansthan vs. State Level Environment Impact Assessment Authority, UP & Ors."

3. It is submitted that the matter was listed before the Hon'ble Tribunal on 07.06.2021 along with other appeals involving same question of law and facts. It was pointed out by counsels for parties that this Hon'ble Tribunal vide order dt. 05.03.2021 passed in Review Application No. 7/2021 titled as "Abhinav Gramodyog & Seva Sansthan vs. State Level Environment Impact Assessment Authority, UP & Ors." has constituted a joint committee and sought response on the issue CEPI score and the matter is listed on 17.06.2021 and therefore all these petitions may be listed on 17.06.2021. This Hon'ble Tribunal was pleased to fix all matters for hearing on 17.06.2021. It is submitted that during the course of hearing, an enquiry had been made by this Hon'ble Tribunal with regard to cluster formation upon which the

counsel for answering respondent had sought time for taking instructions.

4. It is submitted that project proponent had made an application on 28.06.2018 for issuance of Terms of Reference for the captioned project. The same was considered by SEAC and SEIAA. Pursuant thereto, since the project formed part of a cluster, public hearing was also conducted. The project proponent submitted an application for issuance of EC ON 19.02.2020.

5. It is submitted that SEAC in its meeting dt. 15.05.2020 considered the application and observed that a complaint has been received from Mr. Sanjay Kumar Sharma alleging issues of of correction of map and overlapping of leases. In this regard, the SEAC considered the issue and observed that the grant of EC to be considered only after obtaining factual report from the District Magistrate and the District Mines officer, Bulandshaher who were directed to provide revised cluster certificate of the total area, Geo-Coordinates and workable and non-workable area. A letter in this regard was also sent to the District Magistrate and the District Mines Officer. It is submitted that the SEIAA also considered the matter and decided that the matter shall be

considered only after obtaining the factual report as sought by SEAC.

6. It is submitted that the District Magistrate vide his letter dt. 23.07.2020 provided corrected copies of cluster certificate along with Geo-coordinates. The SEAC considered the complaints preferred by Mr. Sanjay Kumar Sharma and the report of the District Magistrate dt.23.07.2020 observed that the complaint of Mr. Sanjay Kumar Sharma is baseless and devoid of any merit. The SEAC thereafter decided to recommend grant of EC to project.

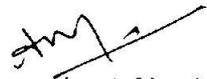
7. It is submitted that thereafter the matter was considered by answering respondent in its meeting dt. 16.09.2020. It is submitted that while considering the application preferred by project proponent for grant of EC, answering respondent did consider Form-1, mining plan issued by Director, Directorate of Mines and Minerals, Govt. of Uttar Pradesh and the cluster certificate issued by the Office of District Magistrate wherein it was specifically mentioned that four leases are within the periphery of 500 metres of the project area. It is only after being satisfied that the project has complied with all requirements of

EIA Notification including public hearing etc. that the answering respondent granted the impugned EC.

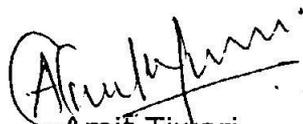
8. As submitted above in the preliminary objection, this Hon'ble Tribunal has already considered the issue of public hearing, cluster and geo-coordinates in respect of this project only in Appeal No.52 of 2020 titled as "Sanjay Kumar Sharma vs. Ministry of Environment, Forest & Climate Change &Ors." on 02.06.2021 and was pleased to observe that there is no ground to interfere in with the impugned EC. The copy of the order dt. 02.06.2021 is Annexure A1.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to dismiss the Appeal with Exemplary cost. Or such other order as deem fit may be passed.


Respondent No.1

Through



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Dated: 21.06.2020

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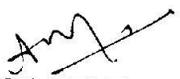
AFFIDAVIT

AFFIDAVIT OF SH. ANURAG KUMAR YADAV S/O SH. P N SINGH
AGED ABOUT 45 YEARS POSTED AS DEPUTY DIRECTOR HAVING
OFFICE AT E-12/1, SECTOR -1, NOIDA, UTTAR PRADESH.

1. That I am posted as stated above and well conversant with the facts of the present case and as such competent to swear this affidavit before this Tribunal.
2. That the accompanying reply has been drafted by our counsel upon my instructions.
3. That the contents of the accompanying reply are true and correct and the knowledge has been derived from official records and nothing material has been concealed there from.



VERIFICATION:


DEPONENT

12 1 JUN 2021

Verified on solemn affirmation at New Delhi on this ___ day June. 2021, that the contents of the foregoing affidavit are true and correct to the best of my knowledge and no part of it is false and nothing material has been concealed there from.

[Signature]
DEPONENT

[Signature]
I solemnly affirm that the contents of the foregoing affidavit are true and correct to the best of my knowledge and no part of it is false and nothing material has been concealed there from.



deponent has sworn before the Oath Commissioner & explained to the deponent admitted to be correct.
[Signature]
Oath Commissioner, New Delhi

12 1 JUN 2021

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Annexure A1
Court No. 1

Item No. 01

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

(By Video Conferencing)

Appeal No. 52/2020

(I.A. No. 386/2020 & I.A. No. 387/2020)

Sanjay Kumar Sharma

Appellant

Versus

Ministry of Environment, Forest & Climate Change & Ors.

Respondent

Date of hearing: 02.06.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Appellant: Ms. Pallavi Pratap, Advocate

Respondent: Mr. Apoorva Mishra, Advocate for R-7

ORDER

1. This Appeal has been preferred against Environmental Clearance (EC) granted by the SEIAA in favour of respondent No.07, Girish Chandra for Sand/ morrum mining at Khand No. 01, Gata No.1, Village Uchagaon Khadar, Tehsil Bibai, District Bulandshahr, U.P (Lease area 9.897 ha).

2. The matter was earlier considered on 26.11.2020 and after noting objections of the appellant, a response was sought from the SEIAA, UP and District Magistrate, Bulandshahr as follows:-

"1.....xxx.....xxx.....xxx"

2. The appellant has raised two objections: (i) public hearing was held on 23.10.2018, while EIA report was filed on 19.02.2020. (ii)

Geo-coordinates mentioned by the District Magistrate in the letter dated 23.07.2020 do not match with those mentioned by the project proponent in the EIA. The map is flawed on account of which demarcation could not be done.

3. With reference to the above, let the SEIAA, U.P and the District Magistrate, Bulandshahr give their response within one month by email at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”

3. Accordingly, District Magistrate, Bulandshahr has filed its response vide letter dated 28.01.2021 *inter-alia* stating as follows:-

“9. Point 9- The draft Environmental Assessment report was received at UP Pollution Control Board, Headquarter, Lucknow for Environment clearance to conducting the public hearing at Village Uchagaon Khadar, Tehsil Dibai, District Bulandshahr for sand mining project of river Ganga. In this regards, Member Secretary, Uttar Pradesh Pollution Control Board, Lucknow issued the vide letter number H26013/C-4NOC/211/2018 dated 13/09/2018 photocopy is enclosed (Annexure-2). Subsequently, **Public hearing was held on 23/10/2018 under the Chairmanship of Additional District Magistrate (Judicial) Bulandshahr.** (Annexure-3)

The State environment Impact Assessment Authority UP, Lucknow has grant Environment Clearance vide letter number 459/Parya/SEIAA/4374/2020 dated 15/10/2020 to Shri Girish Chandra S/o Shri Maharaj Singh for Block Number-01, Gata Number-01, Village Uchagaon Khadar, Tehsil Dibai, District Bulandshahr. (Annexure-4). According this EC, final Environment Impact Assessment Report has been received on dated 19/02/2020.

10. The statement of point 10 is partially accepted. As far as the question of violation of the rules of notification, dated 14/09/2006 is concerned, it is to clarify in this regard that the according to the Government Order number 532/55-Parya-2/2018-103(Parya) 2017 dated 23/04/ 2018 that arrangement is given in Office Memorandum number J112002/14/2006-IA-11 (1) (1-Part) dated 29/08/2017 of MoEF&CC that the collection of the baseline data for environmental impact assessment / environmental prenatal project can be done before submitting the application for environmental clearance or before the

20. The statement of point 20 partially accepted. The geo coordinate Environmental Clearance Terms of Reference (ToR), demarcation report and registry are given. These geo coordinates are correct, which are as follows.

Cordinante No.-1

Name of Pillars	Latitute	Longitute
A-	28° 7'7.53"N	78° 28' 0.32" E

B-	28°7'13.41"N	78° 28' 4.12" E
C-	28° 7'4.92"N	78° 28' 18.42" E
D-	28° 6'58.99"N	78° 28' 14.26" E

The statement of the appellant is that the following coordinate has been made available by the defendant-Cordinante No.-2

A	28°	78° 28'
B	28°	78° 28'
C	28°	78° 28'
D	28°	78° 27'

*A letter related to the said geo coordinate-2 is available on the page number 318, on which the Mining Officer has written that Geo Fencing has been done in PGRS Practical Laboratory of Khanij Bhawan, Lucknow. Khasra maps are provided from over all UP on which the PGRS determines the potential mining areas and makes available to the potential geo-coordinate related districts of the area, which the District Mining Officer goes to on the spot and verifies the geo-co-ordinates **The Geo Coordinate that are received after verification are considered to be the right Geo Coordinate of that area. The said Geo Coordinates has been made available for possible search, which has not been verified on the spot. The said Geo Coordinates was made available for exploration of potential mining area, those who have not been verified on the spot. The said Geo Coordinates is not related to the matter in question nor has the said Geo Coordinates been made available to anyone.***

4. We thus find that the objections of the appellant against EC stand explained. Public hearing has been duly conducted and there is no contradiction in verified geo-coordinates. In these circumstances, we do not find any ground to interfere with the impugned EC. However, the compliance of EC conditions may be ensured during mining. If there is any grievance on that count, it will be open to the aggrieved parties to take remedies in accordance with law.

The appeal is disposed of.

In view of order in the main matter, all pending I.A.s also stand disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

June 02, 2021
Appeal No. 52/2020
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