

**BEFORE THE NATIONAL GREEN TRIBUNAL,**  
**PRINCIPAL BENCH, NEW DELHI**  
**ORIGINAL APPLICATION NO. 429 OF 2022**

**IN THE MATTER OF :**

RIDDHIMA PANDEY ... Applicant

Versus

STATE OF UTTARAKHAND & ORS ... Respondents

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New Delhi

Dated 06.02.2023

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**ORIGINAL APPLICATION NO. 429 OF 2022**

**IN THE MATTER OF:**

Riddhima Pandey ... Applicant

Versus

STATE OF UTTARAKHAND & ORS ... Respondents

**ADDITIONAL REPLY ON BEHALF OF MINING DEPARTMENT, STATE OF UTTARAKHAND IN COMPLIANCE TO THE DIRECTIONS PASSED VIDE ORDER DATED 16.10.2023 BY THIS HON'BLE TRIBUNAL.**

Most respectfully showed:

Affidavit of Laxman Singh (Male), Aged about 57 years, S/o Late Shri Anand Singh Presently posted as Additonal Secretary, Industrial Development, Department (Mining), Govt. of Uttarakhand, do hereby solemnly affirm on oath and state as under:

1. That in my above mentioned official capacity, I am acquainted with the facts and circumstances of the present case, and I am fully competent to file present Additional Reply by way of Affidavit on behalf of Industrial Development Department (Mining), Government of Uttarakhand.



07/02/2024

*[Handwritten signature]*

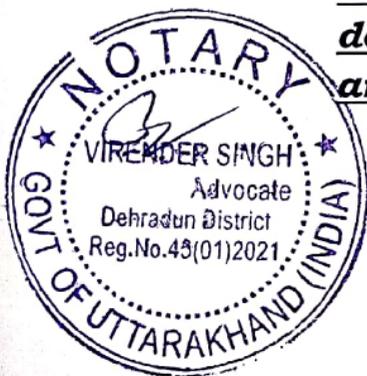
2. That vide order dated 16.10.2023 this Hon'ble Tribunal was pleased to issue following directions:

*12. Respondent no. 1-State of Uttarakhand and 3-District Magistrates, Champawat and Nainital are directed to file additional replies giving requisite details regarding all relevant aspects of permits issued, dredging activities carried out in execution thereof, amounts deposited by respondents no. 4 and 6, refunds if any made, remedial measures taken, action taken by the State of Uttarakhand in compliance of the orders passed by the Hon'ble High Court of Uttarakhand, regarding modification of river dredging policy and revocation of permits issued and SOP issued for carrying out of dredging by Governmental agencies within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR support PDF and not in the form of Image PDF.*

3. That in compliance of the above it is stated that Hon'ble has raised following issues

**1. Relevant aspects of permits issues dredging activities carried out in execution thereof, amounts deposited by respondents no. 4 and 6, refunds if any made:**

- a. It is submitted herein that on 07.01.2023 vide office order M/S APS Infra Engineers Pvt. Ltd. short term permit of 6 months was granted to the District Magistrate, Nainital, for dredging work, clearance of debris/RBM deposited in Upper Nandhaur Chorgaliya area (Upper Nanchaur River) of Tehsil Haldwani of Nainital district for the



*[Handwritten signature]*

construction work of NH-87. That due to lack of demarcation of the area specified in the short term permit issued to APS Infra Engineer Pvt. Ltd. in Upper Sandhir Chorgaliya area (Upper Nandhor River) of Tehsil Haldwani of Nainital district, no river dredging work has been done partially or completely in the said area till date and no amount has been deposited by the license holder in relation to the said approved river dredging permit. That the said permit has already lapsed.

- b. A short term permit was issued to M/s Shiv Shakti Traders on 26 February 2021 in Khasra no 335/2, area 2.00 hectare, Sharda River in Uchouli Goth Village for removing 60000 cubic meter mineral for a period of 4 months or extraction of 60,000 cubic meter whichever is earlier. That the same has already expired on 26 June 2021. It is also submitted herein that Ms Pinki, Tehsildar Pithoragarh, then in-charge Tehsildar, Poornagiri has verified that from 26 February 2021 to 26 June 2021 (permit period) due to the opposition from villager's, mining/river dredging work was not carried out at the site in question by M/s Shiv Shakti Traders. That copy of the letter dated 14 December 2023 bearing no 4113/K.sa/khanan/2023-2024 is annexed herewith as **Annexure A**. That M/S Shiv Shakti Traders have deposited a total amount Rs. 2,08,31,400.00/- on different dates (25.2.2021, 26.2.2021 and 04.03.2021) by way of challan payment.
- c. It is submitted that in compliance of the order dated 14.02.2023 of Hon'ble High Court of Uttarakhand, Nainital, no permission has been granted to any private parties in forest land.



*[Handwritten signature]*

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**2. Remedial measures taken, action taken by the State of Uttarakhand in compliance of the orders passed by the Hon'ble High Court of Uttarakhand, regarding modification of river dredging policy and revocation of permits issued and SOP issued for carrying out of dredging by Governmental agencies**

- a. It is submitted herein that the after order dated 14.02.2023 passed by Hon'ble high court of Uttarakhand in case titled as Dinesh Kumar Chandola Versus State of Uttarakhand and orsbearing no Writ Petition (PIL) no. No 47 of 2022, and pursuant to the queries posed by this Hon'ble Tribunal, SOP was formulated by the government keeping in mind that no illegal mining is done under the garb of dredging and ensuring the safeguards enumerated therein are strictly enforced.
- b. Subsequently the SOP along with an application for modification of orders 19.12.2022 passed in case titled as Gagan Parashar Versus State of Uttarakhand &ors bearing no 169 of 2022 was filed in the Hon'ble High court after going through the same passed order dated 14, December 2023 and the SOP was approved by the Hon'ble court. In para 16 it is stated that:
- "In this SOP certain safeguards have been provided to ensure that no illegal Mining is done under the garb of Dredging."*
- SOP dated 05.12.2023 as discussed and approved by the Hon'ble court was and amended River Dredging Policy, 2021 on 16.01.2024. That the copy of the order dated 14.12.2023 is annexed herewith as **Annexure B**.
- c. That after the SOP was approved by the Hon'ble High court the sate government adopted the said





SOP and vide Office memo no 28/VII-A-1/2024-05(28) 2021 dated 16.01.2024 issued the Uttarakhand River Dredging (Amendment) Policy 2024. That the copy of the amended Policy is Annexed herewith as **Annexure C**.

d. It is also submitted herein that River Dredging (amendment) Policy 2024 is formulated with a intention to regulate dredging process and to avoid/assure that no illegal mining is carried out in guise of Dredging.

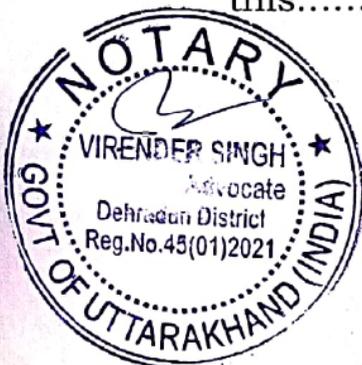
4. That in compliance of the order dated 16.10.2023 passed by this Hon'ble Tribunal; the Present additional response/reply is filed on behalf of State of Uttarakhand for kind perusal of this Hon'ble Tribunal.

  
Deponent

**Verification:**

I, the deponent above named do hereby verify and say that the contents of my above report by way of affidavit are true and correct to my knowledge based on record, no part of it is false and nothing material has been concealed therefrom. That legal submissions are further true as per legal advice received and believed to be true and correct

Verified by me on.... Dehradun..... at... 12:53 P.M.... on this..... 07... day of February, 2024



SR. No. .... 110 .....  
Date... 07-02-2024 .....

  
Deponent

This affidavit is sworn before me by  
shri... Jaxman Singh .....  
who is identified by Shri. Self  
at Dehradun on 07/02/2024  
Virender Singh  
Advocate & Notary, Dehradun

## ANNEXURE-A

कार्यालय तहसीलदार पिथौरागढ़।  
संख्या-<sup>4113</sup>/क0सहा10/खनन/2023-24

दिनांक 14 दिसम्बर (12) 2023

सेवा में,

जिलाधिकारी,  
चम्पावत।

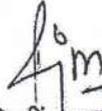
विषय- माननीय राष्ट्रीय हरित प्राधिकरण नई दिल्ली में योजित मूल आवेदन संख्या 429/2022 रिधिमा पाण्डे बनाम उत्तराखण्ड राज्य के सम्बन्ध में।

महोदय,

उपरोक्त विषयक अपने कार्यालय के पत्र संख्या 1219/तीस खनन/2023-24 दिनांक 14 दिसम्बर 2024 का सन्दर्भ ग्रहण करने का कष्ट करें। जिसके द्वारा माननीय राष्ट्रीय हरित प्राधिकरण नई दिल्ली में योजित मूल आवेदन संख्या 429/2022 रिधिमा पाण्डे बनाम उत्तराखण्ड राज्य के सम्बन्ध में मै0 शिवशक्ति ट्रेडर्स को ग्राम उचौलीगोठ अन्तर्गत सारदा नदी के खसरा संख्या 365/क्षेत्रफल 2.00 हे0 क्षेत्रफल में 6 हजार घनमीटर उप खनिज हटाये जाने की अनुमति चार माह या अनुज्ञा मात्रा (छः हजार घन मीटर) से हटाये जाने से पूर्व अवधि जो पहले हो हेतु अल्प अनुज्ञा पत्र जिसकी अवधि दिनांक 26 जून 2021 को पूर्ण हो गयी हो के सम्बन्ध में उक्त अवधि दिनांक 26 फरवरी 2021 से 26 जून 2021 तक प्रश्नगत स्थल पर रिवर ड्रेजिंग का कार्य हुआ या नही के सम्बन्ध में सूचना उपलब्ध कराये जाने के निर्देश दिये गये है।

उक्त निर्देशों के सम्बन्ध में सादर अवगत कराना है कि दिनांक 26 फरवरी 2021 से 26 जून 2021 तक प्रश्नगत स्थल पर ग्रामीणों के बिरोध के कारण खनन/रिवरड्रेजिंग का कार्य नही हुआ है।

अतः उक्तानुसार सूचना महोदय को सादर प्रेषित है।

  
(पिकी आर्या)  
तहसीलदार  
पिथौरागढ़।

## ANNEXURE-B

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**  
**THE ACTING CHIEF JUSTICE SHRI MANOJ KUMAR TIWARI**  
**AND**  
**JUSTICE SHRI VIVEK BHARTI SHARMA**  
**WRIT PETITION (PIL) NO.169 OF 2022**  
**14<sup>TH</sup> DECEMBER, 2023**

Gagan Parashar ..... Petitioner

Vs.

State of Uttarakhand and Others ..... Respondents

Present:

Mr. Dushyant Mainali, learned counsel for the petitioner.

Mr. C.S. Rawat, learned Chief Standing Counsel along with Mr. Gajendra Tripathi and Mr. B. S. Parihar, Standing Counsel for the State.

Mr. S.N. Babulkar, learned Senior Counsel assisted by Mr. V.K. Kaparuwan, learned counsel for the intervener.

**JUDGMENT:** (per the Acting Chief Justice Shri Manoj Kumar Tiwari)

Heard.

2. For the reasons stated, intervention application (IA No.6 of 2023) is allowed.

3. In this writ petition, filed in public interest, petitioner contends that as per the guidelines/instructions, issued by the Central Government, minor minerals should be collected manually by using hand tools and use of heavy machinery for collection of minor minerals should be avoided, however, in the State of Uttarakhand, river bed material (hereinafter referred to as "RBM") is mined by using heavy machines, which is causing environmental degradation and also posing threat to biodiversity.

3.1 Reliance has been placed upon the minutes of meeting of Forest Advisory Committee held on 6<sup>th</sup>-7<sup>th</sup> April, 2011, wherein a resolution was passed that minor

minerals may be collected only manually from certain rivers of Uttarakhand. Petitioner has also placed reliance upon a letter, issued by the Ministry of Environment & Forests, Govt. of India, on 20/21 January, 2003 to the Secretary (Forests) Govt. of Uttarakhand, Dehradun, wherein it is mentioned that collection of boulders, bajri, sand, etc. from Song River shall be done by hands only. Various other communications, issued by different authorities, have been relied upon by the petitioner, in which similar condition of hand picking of river bed material is mentioned. Based on aforesaid documents, petitioner had contended that the heavy machinery cannot be used for collection of river bed material.

4. A Coordinate Bench, vide order dated 19.12.2022, had restrained all the lessees, who were operating their respective mining lease in the State of Uttarakhand in river beds and other water bodies, from undertaking mining activities by resort to use of mechanical means.

5. Additional Secretary, Industrial Development (Mining), Government of Uttarakhand has filed counter affidavit on behalf of State Government. Para 5 of the said counter affidavit is extracted below:-

*"5. That the main issue which is being raised by the petitioner in the present writ petition are: (a) use of gigantic machine alleged to be used for the digging the river beds and; (b) different rate of royalties for the same river bed material (RBM) from the mechanized mining sites. Dealing with the first issue raised by the petitioner, it is most humbly submitted that in exercise of provisions*

*contained under Section 15(1) of the Mines and Minerals (Development and Regulation) Act, 1957, the Govt. of Uttarakhand vide Notification No. 1561 / VII -1/80-Kha/2016 dated 30.09.2016 promulgated the Uttarakhand Minor Minerals (Balu, Bajri, Boulder) Picking Policy, 2016. Point No. 9(B) provides the meaning of word 'picking' as removal of minor minerals (Balu, Bajri, Boulder) deposited by the river manually for the purposes of channelizing the follow of the river to its center. On 10.11.2021 vide Notification No. 1873/ VII-A-1/2021-05(28), the Uttarakhand River Training Policy was promulgated for the purposes of removal of Silt, RBM from the river, which is not earmarked/ sanctioned for picking of minor minerals and further by superseding the earlier Policies, Govt. Orders/Orders, the Uttarakhand River Dredging Policy was promulgated for the purpose of removal of Silt/Debris/RBM, which get deposited in the river, water-bodies and canals and is causing danger to the life and property of the habitants of the area by soil erosion. River dredging is defined in Clause 2(>) as an activity undertaken for the purposes of keeping the flow of the river as far as to its natural central course. Point No. 8 of the said Policy provides for disposal of Debris/ RBM/ Silt should be expedited keeping in view the geographical location of the area identified for cleaning work, nature and size of boulders/ stones for the purposes of channelizing the river/ canal and keeping in view the speedy disposal of work for the purposes of disaster management on the recommendation of the Committee constituted leaving 1/4 part of both side of river/canal and leaving 100 meters*

*upstream and downstream from the bridge as per the requirement by machines such as JCB, Poclain etc., can be used."*

6. From the stand taken by the State Government, it is revealed that 'Mining' and 'Dredging' are two different processes, which are governed by different policies.

7. Learned Chief Standing Counsel contended that Mining is governed by Uttarakhand Minor Mineral (Concession) Rules 2001 (now, 2023), while Dredging is governed by Uttarakhand River Dredging Policy, 2021.

8. Learned Chief Standing Counsel further submits that dredging is necessary to channelize the course of river as the silt and RBM, deposited on the river bed during rainy season, blocks the flow of water, resulting in floods, which many a times causes huge damage to the life and property of the people living in nearby towns and villages. Thus, he submits that dredging has to be done on regular intervals to contain the river within their banks, lest rivers may change their course, which at times may prove disastrous.

9. Learned Chief Standing Counsel has supplied the English translations of Uttarakhand River Dredging Policy, 2021. Definition of 'River Dredging' and "RBM/Silt disposal", as given in Clauses 2 (i) & (j) of the same, are reproduced below:-

*"(i) "River dredging" means the work related to concentrating the river water flow in the middle of the river/reservoir/canal as naturally as possible;  
(j)'RBM/silt disposal' means cleaning/removal of debris/RBM/silt deposited in the river/reservoir/canal to concentrate the river water*

*flow in the middle of the river;”*

10. Other relevant provisions of the Uttarakhand River Dredging Policy, 2021 are reproduced below for ready reference:-

**Marking of river dredging areas, verification and of quantity assessment**

*3.(1) Areas where debris/RBM/silt has been deposited/accumulated in excessive quantity by river/gadhera/reservoir/canal and whose accumulation is likely to cause erosion and danger to life and property, For marking, verification of the site and estimation of the quantity of silt/RBM deposited, a committee under the chairmanship of the Deputy Collector of the concerned area by the District Magistrate, will be constituted as follows:-*

- (a) Sub-Divisional Magistrate- President*
- (b) Representative of Divisional Forest Officer-Member*
- (c) Assistant Engineer of Irrigation Department- Member*
- (d) Geologist/Mining Officer- Member*
- (e) Other departments, which are considered necessary- Member*

*(2) The assessment of the amount of deposited / accumulated debris / RBM / Silt in the identified areas and the time period for the clearance / disposal of the said quantity will be determined by the constituted committee in its report.*

**Procedure for removing debris/RBM/Silt accumulated in identified places**

*4. For the removal/disposal of deposited/deposited debris/RBM/silt in the areas identified by the committee, the District Magistrate will issue a release of open auction for receiving applications from interested persons/organizations at the district level. To participate in the open auction for the removal/disposal of debris, it will be mandatory for the applicant to have the following documents:-*

- 1. Permanent residence certificate.*
- 2. Latest no dues certificate issued by Mines Officer.*
- 3. GST No.*
- 4. Affidavit regarding not being blacklisted.*
- 5. Bank draft of a nationalized bank for 25 percent of the assessed amount. Provided that the above provision shall not apply to the Central / State Government projects of national importance.*

**Timeline for dredging work**

*5. (a) The work of identification of disaster affected/potential areas will be completed by 15th November every year by the District*

*Magistrate of the concerned district.*

*(b) Open auction work order will be issued, completing the process of removal/disposal of debris/RBM/silt from the identified areas compulsorily by the month of December.*

*(c) The work of removal/disposal of debris/RBM/silt will be compulsorily completed by 30th June after the Work Order.*

*(d) After the Work Order, before the start of the dredging work and at an interval of every 30 days, the work of drone survey will be done by the District Mines Officer at the expense of the license holder, information about which will be made available to the concerned District Magistrate and Director General, Geology and Mining along with the drone photograph.*

**Procedure and method for removal of Debris/RBM/Silt**

**8.** *Disposal of debris/RBM/Silt: The geographical position of the areas identified for cleaning work, the nature of the size of stones/boulders and the actualization of channelization of the river/canal and in view of disaster management, for the purpose of quick disposal of the work, on the recommendation of the committee constituted, leaving one-fourth of the area from both the banks of the river/canal and leaving 100-100 meters upstream and downstream from the river bridge, use of machines like JCB Pokeland etc. will be permissible as per requirement.*

11. State has filed an application for stay vacation/modification of the order dated 19.12.2022. Along with its affidavit filed in support of the said application, a Notification dated 28.03.2020, issued by the Ministry of Environment, Forest and Climate Change, is enclosed. Appendix IX to the said Notification enumerates certain cases, which shall not require prior environmental clearance, and Item (7) thereof provides dredging and de-silting of dams, reservoirs, weirs, barrages, rivers and canals for the purpose of their maintenance, upkeep and disaster management. Item (13) of said Appendix further provides that activities declared by the State Government under legislations or

rules as non-mining activities shall also be exempted from requirement of prior environmental clearance.

12. Based on said Notification, learned Chief Standing Counsel contends that 'dredging' is not synonymous with 'mining', and the Central Government itself has treated dredging as an activity different from mining. He further submits that when the Central Government itself has exempted dredging and de-silting of rivers and dams from environmental clearance, therefore, the guidelines against use of mechanized mining, issued by the Central Government, cannot have any application to dredging operations.

13. Learned Chief Standing Counsel further contends that as per the policy guidelines, known as "Sustainable Sand Mining Management Guidelines, 2016", issued by the Central Government, there is no absolute ban on mechanized mining and the only condition imposed therein is that preference should be given to manual mining. Clause 19 of the said guidelines is extracted below:-

*"19. Depending upon the location, thickness of sand, deposition, agricultural land/river bed, the method of mining may be manual, semi-mechanized or mechanized; however, manual method of mining shall be preferred over any other method."*

14. Learned Chief Standing Counsel for the State submits that the RBM removed during dredging process is used in nation building activities, like construction of national highways, rail projects and other projects where

concrete is used like tunnels, stadiums, buildings, etc. Thus, he submits that due to the restraint order, passed by this Court, not only the likelihood of natural disaster during heavy rains has increased but the various infrastructure projects, going on in the State of Uttarakhand, are affected due to scarcity of boulders, stones, sand, bajri, etc. Thus he submits that the restraint, put on use of machines for dredging rivers, deserves to be lifted.

15. Mr. S.N. Babulkar, learned Senior Advocate and Mr. V.K. Kaparuwan, learned counsel for the intervener (Rail Vikas Nigam Limited) also submit that due to non-availability of river bed material, the construction activity in various rail projects of strategic importance, within the State of Uttarakhand, has come to a grinding halt.

16. Learned Chief Standing Counsel for the State has drawn our attention to the Standard Operating Procedure (SOP), framed by the State Government, regarding use of machines in dredging operations, which is enclosed with its supplementary affidavit dated 13.12.2023. In this SOP, certain safeguards have been provided to ensure that no illegal mining is done under the garb of dredging. Learned State Counsel submits that the State and its authorities will ensure that all the safeguards, as have been provided in paragraphs 6, 7 & 8 of this supplementary affidavit, are strictly enforced.

17. Paragraphs 6, 7 & 8 of the supplementary affidavit dated 13.12.2023 are extracted below for ready reference:-

"6. That it is further submitted that in the said S.O.P. dated 5-12-2023, a provision has also been made that the dredging license holder will deposit an amount of Rs. 5 lakh in the shape of FDR as security with the Director, Geology & Mining, Uttarakhand for the use of machine for carrying out dredging work and if the license holder is found to be guilty in using the machine while carrying out dredging, then the said amount will be forfeited by the Director, Geology & Mining, Uttarakhand and the said license holder will be black listed for the next one year and will also be debarred for the next one year from getting any type of permit/ lease within the State. In the said S.O.P. it has also been provided that before carrying out the dredging activity through mechanical mode, drone photography of the concerned area will be done by the concerned license holder and the same will be submitted by the concerned license holder in the office of the concerned District Magistrate and also in the office of Geology and Mining Directorate and also at an interval of 30 days (i.e. one month) and also on the end of the license period, the drone photography of the concerned area will be submitted by the concerned license holder in the office of the concerned District Magistrate and also in the office of Geology and Mining Directorate. True photocopy/ correct typed version of the Standard Operating Procedure (S.O.P.) dated 5-12-2023 is annexed as ANNEXURE NO. 1 to this affidavit.

7. That it is respectfully submitted before the Hon'ble Court that for the collection/ lifting of the deposited Silt/ RBM/ Debris from the river bed, the

*machine to be used for performing the dredging activity will be 'Tyre Mounted Front End Loader' and the 'Tyre Mounted Excavator' of maximum 80 horse power having bucket capacity of 1 cubic meter.*

*8. That it is further submitted before the Hon'ble Court that wherever the dredging work for the collection/ lifting of the deposited Silt/ RBM/ Debris from the river bed would not possible by the use of 'Tyre Mounted Front End Loader' and the 'Tyre Mounted Excavator', then only the 'Chain Mounted Excavators' of maximum 150 horse power having bucket capacity of 1.5 cubic meter will be used that too with the prior permission of the competent authority i.e. the Director, Geology & Mining, Uttarakhand and after verifying all the aspect of the issue for the use of the 'Chain Mounted Excavator' that too in the specific circumstances."*

18. Learned Chief Standing Counsel gives an assurance that excavators (loosely known as 'JCB Machine'), having 80 horse power engine capacity and bucket capacity of 1 cubic meter, would be used during dredging operations and excavators up to bucket capacity of 1.5 cubic meter would be used only when the excavator with 1 cubic meter bucket capacity become unworkable. He further assures the Court that for using excavators having bucket capacity of more than 1 cubic meter, written permission of Director, Geology and Mining would be necessary in which Director will record reasons for permitting use of excavator above bucket capacity of 1 cubic meter. He further assures that the District Mining Officer will not only maintain the record of RBM removed but will also issue weekly statement of

RBM removed and once the RBM found excess in the river bed is removed/dredged, dredging operation will be immediately stopped.

19. Learned Chief Standing Counsel for State of Uttarakhand and learned Senior Counsel appearing for Rail Vikas Nigam Limited submit that dredging cannot be carried out without the use of machines, mainly due to the fact that limited window period is available for dredging, which has to be completed before onset of rainy season; and huge workforce would be needed if dredging is to be done only manually, which is not available in the State during summer months. They further submitted that manual dredging may also pose threat to the life and limbs of the workers involved in the dredging operations due to the rough terrain and size of boulders.

20. We posed a pointed query to the learned Counsel for the petitioner as to whether there is any statute which prohibits use of machines for carrying out dredging operations, however, no statutory provision could be placed by him which prohibits use of machines in dredging. He relied upon the guidelines and environmental clearance, issued by the Central Government, which deal with mining, and not dredging.

21. After considering the rival submissions raised by learned Counsel for the parties and on perusal of materials available on record, we are of the considered opinion that the order dated 19.12.2022, passed by this Court, deserves to be modified. Absolute ban on use of machinery in dredging operations may not be in public interest. However, we make it clear that use of heavy

machinery during dredging cannot be left unregulated and the State Government is under a duty to devise ways and means to ensure that biodiversity is maintained in the river bed and no environmental degradation is caused. The State Government shall issue necessary instructions to check the menace of illegal mining and to regulate the use of heavy machinery in dredging operations. State Government shall also consider imposition of cess on the sale proceeds of RBM for creating a fund, which shall be utilized for restoring ecology/biodiversity, flora, fauna, etc. of the areas affected by dredging operations.

22. Having regard to the assurance given by the learned Chief Standing Counsel on behalf of the State, as noted above, and also the safeguards mentioned in the SOP, which is enclosed with the supplementary affidavit filed by the State on 13.12.2023, we modify the order dated 19.12.2022 and lift the ban imposed on use of machines till further orders. We, however, make it clear that this modification will apply to dredging operations only and violation of the assurances given to us by learned Chief Standing Counsel shall be viewed seriously.

23. List this matter on 04.04.2024.

24. Modification application (IA/7/2023) and misc. application (IA/8/2023) as well as clarification application (IA/3/2023) stand disposed of accordingly.

**(VIVEK BHARTI SHARMA, J.) (MANOJ KUMAR TIWARI, A.C.J.)**

Dated: 14<sup>th</sup> DECEMBER, 2023

BSB



उत्तराखण्ड शासन  
औद्योगिक विकास (खनन) अनुभाग-1  
संख्या-26 /VII-A-1/2024-05(28)2021  
देहरादून: दिनांक: 16 जनवरी, 2024

कार्यालय ज्ञाप

राज्यपाल, उत्तराखण्ड रिवर ड्रेजिंग नीति, 2021 में निम्नानुसार संशोधन किये जाने की सहर्ष स्वीकृति प्रदान करते हैं:-

उत्तराखण्ड रिवर ड्रेजिंग (संशोधन) नीति, 2024

- |   |   |  |                              |  |   |   |
|---|---|--|------------------------------|--|---|---|
| संक्षिप्त नाम और प्रारम्भ   | 1   | (1) इस नीति का संक्षिप्त नाम उत्तराखण्ड रिवर ड्रेजिंग (संशोधन) नीति, 2024 है।<br>(2) यह तुरन्त प्रवृत्त होगी।  |                              |  |   |   |
| बिन्दु 2 के उपबिन्दु 1 (च) का संशोधन  | 2   | उत्तराखण्ड रिवर ड्रेजिंग नीति, 2021 (जिसे आगे मूल नीति कहा गया है) में नीचे स्तम्भ-1 में दिये गये वर्तमान बिन्दु 2.1(च) के स्थान पर स्तम्भ-2 में दिया गया प्रावधान रख दिया जायेगा, अर्थात:-  |                              |  |   |   |
|   |   | <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; text-align: center;">स्तम्भ-1<br/>वर्तमान प्रावधान</td> <td style="width: 50%; text-align: center;">स्तम्भ-2<br/>एतद्वारा प्रतिस्थापित प्रावधान</td> </tr> <tr> <td style="vertical-align: top;">2.1(च) "महानिदेशक द्वारा प्राधिकृत अधिकारी" से जिला स्तर पर तैनात सहायक भूवैज्ञानिक/खान अधिकारी, उप निदेशक/भूवैज्ञानिक, उप निदेशक/ज्येष्ठ खान अधिकारी अभिप्रेत है;</td> <td style="vertical-align: top;">2.1(च) "महानिदेशक द्वारा प्राधिकृत अधिकारी" से भूतत्व एवं खनिकर्म विभाग के सक्षम अधिकारी अभिप्रेत हैं;</td> </tr> </table>   | स्तम्भ-1<br>वर्तमान प्रावधान | स्तम्भ-2<br>एतद्वारा प्रतिस्थापित प्रावधान | 2.1(च) "महानिदेशक द्वारा प्राधिकृत अधिकारी" से जिला स्तर पर तैनात सहायक भूवैज्ञानिक/खान अधिकारी, उप निदेशक/भूवैज्ञानिक, उप निदेशक/ज्येष्ठ खान अधिकारी अभिप्रेत है;  | 2.1(च) "महानिदेशक द्वारा प्राधिकृत अधिकारी" से भूतत्व एवं खनिकर्म विभाग के सक्षम अधिकारी अभिप्रेत हैं;  |
| स्तम्भ-1<br>वर्तमान प्रावधान  | स्तम्भ-2<br>एतद्वारा प्रतिस्थापित प्रावधान  |  |                              |  |   |   |
| 2.1(च) "महानिदेशक द्वारा प्राधिकृत अधिकारी" से जिला स्तर पर तैनात सहायक भूवैज्ञानिक/खान अधिकारी, उप निदेशक/भूवैज्ञानिक, उप निदेशक/ज्येष्ठ खान अधिकारी अभिप्रेत है;  | 2.1(च) "महानिदेशक द्वारा प्राधिकृत अधिकारी" से भूतत्व एवं खनिकर्म विभाग के सक्षम अधिकारी अभिप्रेत हैं;  |  |                              |  |   |   |
| बिन्दु 5 (घ) का संशोधन  | 3   | मूल नीति के नीचे स्तम्भ-1 में दिये गये वर्तमान बिन्दु 5(घ) के स्थान पर स्तम्भ-2 में दिया गया प्रावधान रख दिया जायेगा, अर्थात:-   |                              |  |   |   |
|   |   | <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; text-align: center;">स्तम्भ-1<br/>वर्तमान प्रावधान</td> <td style="width: 50%; text-align: center;">स्तम्भ-2<br/>एतद्वारा प्रतिस्थापित प्रावधान</td> </tr> <tr> <td style="vertical-align: top;">5(घ) कार्य आदेश के उपरान्त ड्रेजिंग कार्य आरम्भ होने के पूर्व एवं प्रत्येक 30 दिन के अन्तराल पर ड्रोन सर्वे का कार्य अनुज्ञाधारक के व्यय पर जिला खान अधिकारी द्वारा कराया जायेगा, जिसकी सूचना मय ड्रोन फोटोग्राफ संबंधित जिलाधिकारी एवं महानिदेशक, भूतत्व एवं खनिकर्म को उपलब्ध करायी जायेगी।</td> <td style="vertical-align: top;">5 (घ) ड्रेजिंग अनुज्ञा स्वीकृति के उपरान्त व ड्रेजिंग कार्य प्रारम्भ करने से पूर्व अनुज्ञाधारक के द्वारा स्वीकृत अनुज्ञा क्षेत्र का ड्रोन फोटोग्राफ की एक प्रति जिलाधिकारी कार्यालय, भूतत्व एवं खनिकर्म निदेशालय व जनपदीय कार्यालय में प्रस्तुत करना अनिवार्य होगा, जिसके उपरान्त ही ड्रेजिंग कार्य हेतु मशीनों का प्रयोग किया जायेगा तथा प्रत्येक 30 दिन (01 माह) के अन्तराल व अनुज्ञा समाप्ति पर स्वीकृत अनुज्ञा क्षेत्र का ड्रोन फोटोग्राफ की एक प्रति जिलाधिकारी कार्यालय, भूतत्व एवं खनिकर्म निदेशालय व जनपदीय कार्यालय में प्रस्तुत</td> </tr> </table> | स्तम्भ-1<br>वर्तमान प्रावधान | स्तम्भ-2<br>एतद्वारा प्रतिस्थापित प्रावधान | 5(घ) कार्य आदेश के उपरान्त ड्रेजिंग कार्य आरम्भ होने के पूर्व एवं प्रत्येक 30 दिन के अन्तराल पर ड्रोन सर्वे का कार्य अनुज्ञाधारक के व्यय पर जिला खान अधिकारी द्वारा कराया जायेगा, जिसकी सूचना मय ड्रोन फोटोग्राफ संबंधित जिलाधिकारी एवं महानिदेशक, भूतत्व एवं खनिकर्म को उपलब्ध करायी जायेगी। | 5 (घ) ड्रेजिंग अनुज्ञा स्वीकृति के उपरान्त व ड्रेजिंग कार्य प्रारम्भ करने से पूर्व अनुज्ञाधारक के द्वारा स्वीकृत अनुज्ञा क्षेत्र का ड्रोन फोटोग्राफ की एक प्रति जिलाधिकारी कार्यालय, भूतत्व एवं खनिकर्म निदेशालय व जनपदीय कार्यालय में प्रस्तुत करना अनिवार्य होगा, जिसके उपरान्त ही ड्रेजिंग कार्य हेतु मशीनों का प्रयोग किया जायेगा तथा प्रत्येक 30 दिन (01 माह) के अन्तराल व अनुज्ञा समाप्ति पर स्वीकृत अनुज्ञा क्षेत्र का ड्रोन फोटोग्राफ की एक प्रति जिलाधिकारी कार्यालय, भूतत्व एवं खनिकर्म निदेशालय व जनपदीय कार्यालय में प्रस्तुत |
| स्तम्भ-1<br>वर्तमान प्रावधान  | स्तम्भ-2<br>एतद्वारा प्रतिस्थापित प्रावधान  |  |                              |  |   |   |
| 5(घ) कार्य आदेश के उपरान्त ड्रेजिंग कार्य आरम्भ होने के पूर्व एवं प्रत्येक 30 दिन के अन्तराल पर ड्रोन सर्वे का कार्य अनुज्ञाधारक के व्यय पर जिला खान अधिकारी द्वारा कराया जायेगा, जिसकी सूचना मय ड्रोन फोटोग्राफ संबंधित जिलाधिकारी एवं महानिदेशक, भूतत्व एवं खनिकर्म को उपलब्ध करायी जायेगी। | 5 (घ) ड्रेजिंग अनुज्ञा स्वीकृति के उपरान्त व ड्रेजिंग कार्य प्रारम्भ करने से पूर्व अनुज्ञाधारक के द्वारा स्वीकृत अनुज्ञा क्षेत्र का ड्रोन फोटोग्राफ की एक प्रति जिलाधिकारी कार्यालय, भूतत्व एवं खनिकर्म निदेशालय व जनपदीय कार्यालय में प्रस्तुत करना अनिवार्य होगा, जिसके उपरान्त ही ड्रेजिंग कार्य हेतु मशीनों का प्रयोग किया जायेगा तथा प्रत्येक 30 दिन (01 माह) के अन्तराल व अनुज्ञा समाप्ति पर स्वीकृत अनुज्ञा क्षेत्र का ड्रोन फोटोग्राफ की एक प्रति जिलाधिकारी कार्यालय, भूतत्व एवं खनिकर्म निदेशालय व जनपदीय कार्यालय में प्रस्तुत |  |                              |  |   |   |

करना अनिवार्य होगा।

परन्तु ड्रेजिंग कार्य प्रारम्भ करने से पूर्व अनुज्ञाधारक के द्वारा प्रस्तुत किये गये ड्रोन फोटोग्राफ व अनुज्ञा समाप्ति के उपरान्त प्रस्तुत किये गये ड्रोन फोटोग्राफ का परीक्षण किये जाने पर कोई अनियमतिता दर्शित/ पाये जाने पर सम्बन्धित ड्रेजिंग अनुज्ञाधारक के विरुद्ध सुसंगत प्रावधानों के अनुसार दण्डात्मक कार्यवाही की जायेगी।

बिन्दु 6 का 4 मूल नीति के नीचे स्तम्भ-1 में दिये गये वर्तमान बिन्दु 6 के स्थान पर स्तम्भ-2 में संशोधन दिया गया प्रावधान रख दिया जायेगा, अर्थात्:-

**स्तम्भ-1**

**वर्तमान प्रावधान**

6. रिवर ड्रेजिंग अनुज्ञा की स्वीकृति एवं अनुज्ञा अवधि-

आपदा प्रबन्धन अधिनियम, 2005 में प्रदत्त अधिकारों के अन्तर्गत जिलाधिकारी द्वारा गठित समिति की संस्तुति के उपरान्त मलवा/आर0 बी0एम0/सिल्ट निस्तारित किये जाने हेतु अल्प अवधि की अनुज्ञा संबंधित जिलाधिकारी के द्वारा अधिकतम 06 माह की अवधि हेतु स्वीकृत की जायेगी।

**स्तम्भ-2**

**एतद्वारा प्रतिस्थापित प्रावधान**

6. रिवर ड्रेजिंग अनुज्ञा की स्वीकृति एवं अनुज्ञा अवधि-

आपदा प्रबन्धन अधिनियम, 2005 में प्रदत्त अधिकारों के अन्तर्गत जिलाधिकारी द्वारा गठित समिति की संस्तुति के उपरान्त मलवा/आर0बी0एम0/सिल्ट निस्तारित किये जाने हेतु अल्प अवधि की अनुज्ञा संबंधित जिलाधिकारी के द्वारा अधिकतम 06 माह की अवधि हेतु स्वीकृत की जायेगी। समिति द्वारा निर्धारित/संस्तुत अवधि ही अनुज्ञा हेतु मान्य होगी।

परन्तु ऐसे लम्बित प्रकरणों, जिनमें अनुज्ञाधारक द्वारा सम्पूर्ण रायल्टी की धनराशि समस्त देयकों सहित विभागीय लेखा शीर्षक में पूर्व में ही तत्समय जमा कर दी गयी हो तथा सम्बन्धित के पक्ष में निर्गत कार्यादेश के बाद भी अपरिहार्य कारणवश समय पर उपखनिज की निकासी का कार्य प्रारम्भ न हो सका हो अथवा उपखनिज की सम्पूर्ण मात्रा की निकासी हेतु पर्याप्त समय न मिला हो, में उपखनिज की निकासी कार्य की अपरिहार्यता की स्थिति में जिला खान अधिकारी की आख्या एवं भूतत्व एवं खनिकर्म निदेशालय की संस्तुति पर प्रश्नगत क्षेत्र/अनुज्ञा के रिक्त होने की दशा में उपखनिज की निकासी हेतु अधिकतम 03 माह की अवधि तक के लिए अनुमति प्रदान किये जाने पर शासन द्वारा गुणावगुण के आधार पर विचार किया जायेगा।

बिन्दु 8 का 5 मूल नीति के नीचे स्तम्भ-1 में दिये गये वर्तमान बिन्दु 8 के स्थान पर स्तम्भ-2 में संशोधन दिया गया प्रावधान रख दिया जायेगा, अर्थात्:-

स्तम्भ-1  
वर्तमान प्रावधान

8. मलवा/आर0बी0एम0/सिल्ट निस्तारित किये जाने की विधि एवं पद्धति-

मलवा/आर0बी0एम0/सिल्ट का निस्तारण सफाई के कार्य हेतु चिन्हित क्षेत्रों की भौगोलिक स्थिति, पत्थरों/बोल्डर्स के आकार की प्रकृति एवं नदी/नहर के चैनेलाईजेशन को वास्तविक रूप देने तथा आपदा प्रबन्धन के दृष्टिगत त्वरित गति से कार्य के निस्तारण के उद्देश्य से नदी/नहर के दोनों किनारों से एक चौथाई भाग छोड़ते हुए गठित समिति की संस्तुति पर नदी पुल से अपस्ट्रीम एवं डाउन स्ट्रीम में 100-100 मीटर छोड़ते हुए आवश्यकतानुसार मशीनों यथा जे0 सी0बी0 पोकलेण्ड आदि का उपयोग अनुमन्य होगा।

स्तम्भ-2  
एतद्वारा प्रतिस्थापित प्रावधान

8. मलवा/आर0बी0एम0/सिल्ट निस्तारित किये जाने की विधि एवं पद्धति-

ड्रेजिंग अनुज्ञाधारक द्वारा स्वीकृत क्षेत्रान्तर्गत जमा मलवा/आर0बी0एम0/सिल्ट, जिसके जमा होने से भू-कटाव एवं जान-माल का खतरा होने की सम्भावना है, का निस्तारण, tyre mounted loader and tyre mounted excavator मशीनों (अधिकतम 80 Horse power, bucket capacity अधिकतम 1 cubic meter) तथा विशेष परिस्थितियों में जहां ड्रेजिंग कार्य उक्त मशीनों से सम्भव नहीं हो रहा हो, वहां Chain mounted excavators मशीनों (अधिकतम 150 Horse power, bucket capacity अधिकतम 1.5 cubic meter) की सहायता से अधिकतम 03 मीटर की गहराई अथवा ग्राउन्ड वाटर लेवल, जो भी अन्यून हो, एवं नदी के दोनों किनारों से एक चौथाई भाग को छोड़ते हुए सीमाबन्धित क्षेत्रान्तर्गत खनन विभाग, राजस्व विभाग एवं सिंचाई विभाग के अधिकारियों की देखरेख में मलवा/आर0बी0एम0/सिल्ट का निस्तारण उक्त मशीनों के माध्यम से किये जाने हेतु अनुमति भूतत्व एवं खनिकर्म निदेशालय के द्वारा प्रदान की जायेगी।

(ख) ड्रेजिंग अनुज्ञा क्षेत्रों में मलवा/आर0 बी0एम0/सिल्ट का निस्तारण मशीनों की सहायता से किये जाने हेतु भूतत्व एवं खनिकर्म निदेशालय के द्वारा निम्न शर्तों के अधीन अनुमति प्रदान की जायेगी:-

1. ड्रेजिंग अनुज्ञाधारक के द्वारा स्वीकृत क्षेत्रान्तर्गत जमा मलवा/आर0बी0एम0/सिल्ट के निस्तारण में मशीनों के उपयोग

हेतु प्रति मशीन रू0 5.00 लाख की एफ0 डी0आर0 भूतत्व एवं खनिकर्म निदेशालय के पक्ष में बन्धक रखी जायेगी तथा ड्रेजिंग अनुज्ञाधारक के द्वारा मशीनों से कार्य करने में अनियमिता करने/पाये जाने पर उक्त बन्धक एफ0डी0आर0 की धनराशि को निदेशक द्वारा जब्त करते हुए सुसंगत प्रावधानानुसार दण्डात्मक कार्यवाही की जायेगी।

2. ड्रेजिंग अनुज्ञाधारक द्वारा स्वीकृत अनुज्ञा क्षेत्र के अन्तर्गत मशीनों द्वारा ड्रेजिंग कार्य की अनुमति हेतु निर्धारित प्रपत्र पर मय संलग्नक सहित आवेदन निदेशक, भूतत्व एवं खनिकर्म निदेशालय को प्रस्तुत किया जायेगा।

3. जिला खान अधिकारी द्वारा स्वीकृत ड्रेजिंग अनुज्ञा अवधि के प्रत्येक सप्ताह स्वीकृत क्षेत्र का स्थलीय निरीक्षण किया जायेगा, जिसकी आख्या निदेशालय व जिलाधिकारी कार्यालय को प्रेषित की जायेगी।

4. जिला खान अधिकारी से प्राप्त आख्या में मशीनों के संचालन में, यदि किसी प्रकार की अनियमितता पायी जाती है तो निदेशक द्वारा मशीनों के संचालन की अनुमति को निरस्त कर बंधक धनराशि को जब्त करते हुए रिवर ड्रेजिंग अनुज्ञाधारक को 01 वर्ष की अवधि हेतु काली सूची (Black List) में दर्ज किया जा सकेगा तथा उक्त अवधि में राज्य में खनन पट्टा/अनुज्ञा प्राप्ति की कार्यवाही में प्रतिभाग करने से वंचित रखा जायेगा तथा ड्रेजिंग अनुज्ञा की स्वीकृति को निरस्त करने की संस्तुति की जा सकेगी।

आज्ञा से,  
  
 (बृजेश कुमार संत)  
 सचिव