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भारत सरकार
Government of India
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest & Climate Change
क्षेत्रीय कार्यालय, लखनऊ
Regional Office, Lucknow



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File No. XXI/ENV/NGT/CC/127/2023 / 180

Dated: 10.08.2024

EMAIL

To,

The Registrar General,
Principal Bench,
Hon'ble National Green Tribunal,
Copernicus Marg,
New Delhi-110001
Email: judicial-ngt@gov.in

Sub: Submission of Additional Affidavit in Original Application No. 462 of 2023, Raja Ram Singh V/s State of U.P. & Ors before Hon'ble NGT, P.B., New Delhi reg:

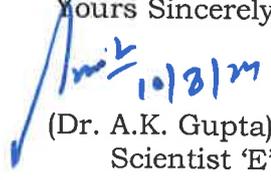
Sir,

In compliance of the direction dated 24.04.2024 passed by this Hon'ble National Green Tribunal in O.A. 462 of 2023 in the matter of Raja Ram Singh Vs. State of Uttar Pradesh & Ors.

I am directed to enclosed herewith an additional affidavit with this letter with a request to put up before Hon'ble Tribunal for kind perusal and consideration.

Encl: As above

Yours Sincerely


(Dr. A.K. Gupta)
Scientist 'E'

Copy to:

1. Dr. Sapna Agarwal, Advocate, Counsel of MoEF&CC.
Email: saadv607@gmail.com

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 462/2023



IN THE MATTER OF:

Raja Ram Singh

...Applicant

Versus

State of U.P. & Ors.

...Respondent

ADDITIONAL AFFIDAVIT ON BEHALF OF THE MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE.

MOST RESPECTFULLY SHOWETH:

I, Dr. A.K. Gupta, currently working as Scientist 'E' at the Ministry of Environment, Forest and Climate Change (MoEF&CC), Regional Office, Lucknow, do hereby solemnly affirm and state as under:



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1. That I, in my official capacity in the Ministry of Environment, Forest and Climate Change, in the above mentioned matter, am conversant with the facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.
2. It is submitted that a short affidavit is being filed by the answering respondent at this stage and craves leave and liberty to file a detailed Counter Affidavit to the aforesaid application, as and when required
3. It is submitted that an additional affidavit is being filed in compliance to the direction issued by this Hon'ble Tribunal vide order dated 24.04.2024. The Answering Respondent at this stage craves leave and liberty to file a detailed Affidavit to the aforesaid application, as and when required.

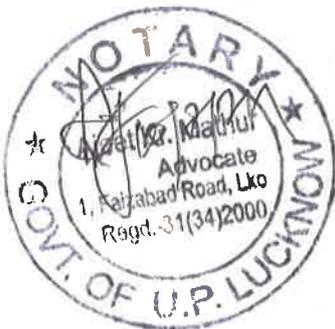


It is submitted that, Hon'ble Tribunal vide order dated 24.04.2024 directed the Director, Mining and Geology, Uttar Pradesh, Member Secretary, Uttar Pradesh Pollution Control Board, Central Pollution Control Board and Ministry of Environment, Forest and Climate Change as follows;

“42... The matter needs to be examined in the context of applicability to all States and UTs and formulation of appropriate guidelines imposing requisite environmental safe guards for grant and execution of short term permits for removal of sand deposited by flood on agricultural land.

43. The Director, Mining and Geology, U.P. and the Member Secretary, UPPCB and CPCB and MoEF & CC are directed to file their responses in this regard within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF...”

5. It is submitted that, the Standing Committee on Water Resources on issues, concerning flood management, compensation, and status of ownership of submerged and eroded land in the country including compensation to farmers for loss of their crops destroyed by floods and right to disposal of the sand left in the fields of farmers in its meeting held on 29.04.2015 made observations on this subject. The Committee observes that, the *“mining operation”* means any operation undertaken for the purpose of winning any mineral. Accordingly, if desilting is undertaken perse with the objective of winning a mineral then only it will be construed as a mining operation. Apparently, if the desilting is undertaken not for



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winning any mineral, it will not be construed as mining operation and therefore, the farmer can remove the sand from the land without requiring the requisite permits. However, the Committee strongly feels that the farmer be given the right to use and dispose-off the sand accumulated over their land post flood, by incorporating the necessary provisions in the Mines and Mineral (Development and Regulation) Act, 1957..."

6. It is most respectfully stated that, the Ministry has formulated the guidelines Sustainable Sand Management Guidelines 2016 (SSMG-2016). And Enforcement & Monitoring Guidelines for Sand Mining" (EMGSM-2020). It is pertinent to mention herein that, the Sustainable Sand Management Guidelines 2016 (SSMG-2016) mandates the, "...Removal of sand from the agricultural field by the owner farmer of the land from environment point of view will not be considered as mining operation and its removal and disposal can be allowed without the requirement of environment clearance till it is done only to the extent of reclaiming the agricultural land. The sand deposited after flood only be removed, so no mining / digging below the ground level is allowed. For removing sand in case where private land has gone into the river due to erosion, the requirement of mining lease and environment clearance will



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continue. This operation of removal of sand deposited on agricultural field should be done after a mapping of deposition is done by the Land Management Committee of the Gram Panchayat. The sand so deposited post flood can be removed by the farmer owning the land / group of farmers affected by this post flood sand deposition or the Gram Panchayat. Customary rights to remove and dispose of the sand should be given to the farmer affected by deposition of sand on account of sudden flood in his agricultural land..."

7. That, Ministry vide Notification S.O.1224(E) dated 28.03.2020 para (3) exempts certain cases from being considered as mining for the purposes of requirement of Environmental Clearance i.e., *"...Removal of sand deposits on agricultural field after flood by farmers..."* It is further submitted that, in order to avert misapplication, the Hon'ble NGT may consider following points;

- i. It should be ensured that natural ground level of the area should not be changed during removal of the flood deposited sand.
- ii. Prior Environmental Clearance will be required for excavation of old deposits below the ground level.



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iii. Short-term permits for digging of old deposits below the ground level should not be considered by state governments without Environmental Clearance.

8. That in view of the aforementioned facts and circumstances, this Hon'ble Tribunal may kindly be pleased to pass appropriate order(s)/directions as the Hon'ble Tribunal may deem fit and proper in the interest of justice.



DEPONENT

VERIFICATION

Verified at Lucknow on this 10th day of August, 2024 that the contents of this affidavit based on official record(s) maintained and information available in the office are true and correct, no part of it is false and nothing has been concealed there from.



EXECUTION ADMITTED
BEFORE ME
Ajeet Kumar Mathur
Ajeet Kumar Mathur
Advocate Notary
1, Faizabad Road, Lucknow



DEPONENT

Identify the deponent/executionary who has signed/put T.I. before me
Ajeet Kumar Mathur