

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

Original Application No.78/2023

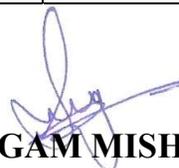
Durga Singh Pawar & Ors. ...Applicants

Versus

Rajendra Singh Dafoti & Ors. ...Respondents

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SUGAM MISHRA
 Counsel for Respondent No.5
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 New Delhi -110024
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PLACE: New Delhi
DATE: 17.11.2023

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

Original Application No.78/2023

Durga Singh Pawar & Ors. ...Applicants

Versus

Rajendra Singh Dafoti & Ors. ...Respondents

**ADDITIONAL REPLY ON BEHALF OF RESPONDENT NO.5
IN COMPLIANCE OF ORDER DATED 26.09.2023 & 31.10.2023**

MOST RESPECTFULLY SHOWETH:

1. That vide order dated 26.09.2023, this Hon'ble Tribunal passed an order directing the respondent no.5 to file additional reply mentioning the details regarding compliance with EC/consent conditions and also with recommendations made by the joint committee.

However, since all the details and photographs pertaining to the construction of the retaining wall and other activities done by the respondent No., 5 at the site, was not available with the counsel for the respondent No. 5, the additional reply could not be filed in compliance of order dated 26.09.2023.

2. Thereafter, when the matter was further listed on 31.10.2023, this Hon'ble tribunal was pleased to grant further time to the respondent No. 5 to file an additional reply, a copy of which shall be sent to the District Magistrate Pithoragarh, Mining Officer and regional officer PCB who shall submit a report before this

Hon'ble tribunal after verifying the compliance made by the respondent No. 5.

3. That, the response of the respondent No. 5 with regard to the recommendations of the joint committee is as under;
4. **The committee made recommendation that an action may be taken against lease holder according to conditions mentioned in consent/ NoC.**

In this regard this is respectfully submitted that an action was taken. A penalty of Rs.14,74,200/- was imposed by DM, Pithoragarh vide order dated 25.04.2023, which was deposited by the Respondent No.5 vide receipts dated 29.04.2023 & 11.07.2023. The receipts dated 29.04.2023 for Rs. 7,72,200 and dated 11.07.2023 for Rs. 7,00,000/- have already been annexed as annexure: R5/3 (colly) with the reply dated 23.09.2023.

The Forest Department also registered a case U/s 32 & 33 of Indian Forest Act on 15.03.2023 against the respondent No.5 for illegal felling of trees in the mining area. Thereafter, on 16.03.2023, the Forest Department, imposed a penalty of Rs.3,21,778/ upon the Respondent No.5. A copy of the order dated 16.03.2023 passed by Forest Range Officer, Munsiyari imposing penalty has already been annexed as annexure: R5/4 (colly) with the reply dated 23.09.2023.

The respondent No. 5 has deposited the said penalty on 18.03.2023 and 21.09.2023 for a sum of Rs. 105000 and 216778/- respectively. A copy of the letter dated 21.09.2023 issued by the Forest Range Officer, Munsiyari have already been annexed as annexure: R5/5 (colly) with the reply dated 23.09.2023.

It is important to bring to notice of this Hon'ble Tribunal that the Respondent No.5, as of now, has conducted the mining activity for only a period of 4 and a half months i.e. from October 2022 to first week of Feb, 2023.

5. **The committee made recommendation that before starting further mining activity, a retaining wall should be constructed to retain over burden.**

In this regard this is respectfully submitted that the respondent No. 5 has constructed a retaining wall in the mining area where ever it was required.

It is further submitted that not only the retaining wall has been constructed but the respondent NO. 5 has also strengthened the demarcation pillars properly as per the plan. The alleged illegal mining area has been replenished and plantation has been done after replenishment in the alleged illegal mining area. The photographs of the alleged illegal mining area after replenishment and plantation and newly constructed retaining wall are annexed as **ANNEXURE: R5/12 (colly)**.

The alleged over burden which fell on the *Gochar, Panghat* and on the path way, have been removed by the respondent. Thereafter, the respondent No. 5 sent a letter dated 04.11.2023 to the District Magistrate Pithoragarh with a CC to Mining Officer and RO, PCB with regard to the compliance made by the respondent No.5 in pursuant to the recommendation of the joint committee and EC. A copy of the letter dated 04.11.2023 sent to the District Magistrate Pithoragarh is annexed as **ANNEXURE : R5/13**.

Thereafter the DM Pithoragarh has issued an order dated 08.11.2023 nominating the SDM Munsiyari to conduct a verification of the details provided by the respondent No. 5 and submit a report on or before 18.11.2023. A copy of the order dated 08.11.2023 issued by District Magistrate Pithoragarh is annexed as **ANNEXURE : R5/14**.

6. That on 16.11.2023 a team of the officials from the office of DM Pithoragarh and other departments inspected the site and verified the information given by respondent No.5 on 04.11.2023 regarding compliance as directed by this Hon'ble Tribunal. The officials have found everything in order except that a suggestion has come that respondent No.5 shall increase the height of retaining wall by 2 feets and shall also conduct plantation activity in a separate forest land which shall be allocated to him by 17.11.2023.

7. That there has been a delay of 7 days in filing this additional reply, however, the same has happened because the respondent No.5 was waiting for the outcome of the verification of the information of compliance already submitted to DM Pithoragarh on 04.11.2023 and the same has been received only on 16.11.2023 and this additional reply is being filed on the very next day i.e. 17.11.2023 without any further delay.
8. **The committee made recommendation that for disposal of rain water, suitable arrangement should be made so that the nearest water body and river Bhujgarh is not affected.**

As stated above, the respondent No.5 has already removed the over burden which was allegedly fallen on the *Gochar, Panghat* and on the path way. Everything has been cleared. Thus, there is no possibility of any further falling of over burden from the mining area on the nearest water body river Bhujgarh.

9. **The committee made recommendation that for balancing the environmental issues, an action plan may be prepared and plantation may be done in the unutilized land of revenue and Van panchayat.**

As stated herein above, the plantation has already been done in the entire area including the area of replenishment of the alleged illegal mining and the letter dated 04.11.2023 has already been written to the

DM Pithoragarh for its verification. Thereafter, on 08.11.2023 DM Pithoragarh had already directed SDM Munsiyari to conduct verification and submit a report before 18.11.2023.

In July 2023 also, the respondent No.5 had carried extensive plantation activity on the Van Panchayat land and unutilized land near the mining site in an area of approx. 2 to 2.5 hectares about 1000 trees. Further to this, the respondent No.5 also distributed plants to the villagers for plantation on their land which is in their use and control near the mining site. Further, the respondent No.5 has also made an arrangement to ensure that the tree planted are protected. For this purpose the respondent No.5 has employed 2 persons namely Govind Pawar and Kuwar Singh Koranga.

10. **The committee made recommendation that the District Level task force may be constituted to look after the illegal mining and regular inspection may be ensured.**

The Govt. has already constituted special task force to ensure stoppage of any illegal mining in the entire state of Uttarakhand which has become functional. However, no mining activity has been conducted by the Respondent no.5 i.e. first week of February, 2023.

11. That the Respondent No.5 started mining activity in October 2022 and continued the same till first week of

February 2023. Thus, the total period of mining conducted by the Respondent No.5 is 4 months.

12. That so far as the observation made in the Joint Committee Report that maximum area of Distt-Pithoragarh comes in Geotectonic zone is concerned, it is submitted that as per District Survey Report (Soapstone) of Distt-Pithoragarh, Uttarakhand, there are more than 27 operational soap stone mines in the Distt. with due permission of all the concerned departments of the State as well as Central Government. A copy of the District Survey Report (Soapstone) of Distt-Pithoragarh, Uttarakhand prepared by Geology and Mining Unit, Directorate of Industry, Uttarakhand 2023, has already been annexed as annexure: R5/7 to the reply dated 23.09.2023.
13. That the respondent No.5 is meeting the conditions of EIA and EMP. A copy of relevant Chapter 4 i.e. Anticipate Environmental Impacts and Mitigation Measures mentioned in EIA Report and EMP have already been annexed as annexure: R5/8 & 9 to the reply dated 23.09.2023.
14. That the route of transportation of the mined mineral and approach road to the mining site is different and separate. There is a distance of about 2 kms from the pit head to the approach road at Village Bajeta. The mined material is transported from pit head to approach road through mules.

15. That so far as the carrying out activity by the Respondent No.5 under CSR/ CER are concerned, the Respondent No.5 has done several works for public welfare for the area of about 8.5 lacs, which has been duly acknowledged by the Village Pradhan Bajeta in letter dated 18.09.2023. A copy of the letter dated 18.09.2023 issued by the Village Pradhan has already been annexed as annexure: R5/11 to the reply dated 23.09.2023.
16. That the Respondent No.5 undertakes before this Hon'ble Tribunal that it shall be abide by all the conditions of EC, EMP and EIA in letter and spirit. No mining activity shall be conducting at the site without ensuring that adequate measures including making of retaining walls, wherever, it is required.
17. That in view of the aforesaid facts the restraint order passed against the respondent No.5 applying the precautionary principals, may kindly be vacated and the respondent No.6 may be allowed to carry out mining activity strictly in accordance with law, for which act of kindness the Respondent No.5 shall ever be grateful. It is prayed accordingly.



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adv.sugammishra@gmail.com

PLACE: New Delhi
DATE: 17.11.2023



BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 78 OF 2023

IN THE MATTER OF :

Durga Singh Pawar & Ors. ... Petitioners

Versus

Rajendra Singh Dafoti & Ors. ... Respondent

AFFIDAVIT

I, Rajender Singh Dafoti S/o Shri Nandan Singh Dafoti, aged about 42 years R/o B-54, Judge Farm, Chhoti Mukhani, Mukhani Nainital, Uttarakhand - 263139, do hereby solemnly affirm and states as under;

1. That I am the respondent No. 1 and proprietor of the respondent No. 5 and as such is well conversant with the facts and circumstances of the present case and is competent to swear this present affidavit.
2. That I have gone through the contents of the accompanying additional reply. The same has been drafted as per my instructions. The contents of the same are true and correct to the best of my knowledge and nothing material has been concealed there from.
3. That the annexures annexed to the reply are true copy of their respective original.

DEPONENT

IDENTIFIED BY



VERIFICATION



I, the deponent above named do hereby verify that the contents of this affidavit are true and correct to the best of my knowledge derived from the records and nothing relevant has been concealed therefrom. Verified at Haldwani on this _____ day of November, 2023.

DEPONENT

Certified that Sri/Smt..... Rajendra Singh Dafoti
 the deponent identified by..... Nitin
 searched & verified the contents of the
 affidavit at..... Haldwani
 on date 17/11/2023 time 11:6 A.M.
 Dhan Singh Bhat
 Advocate
 Notary, Haldwani
 Distt. Nainital U.K. India
D. S. Bisht
17/11/2023

ANNEXURE: R5/12 (Colly)









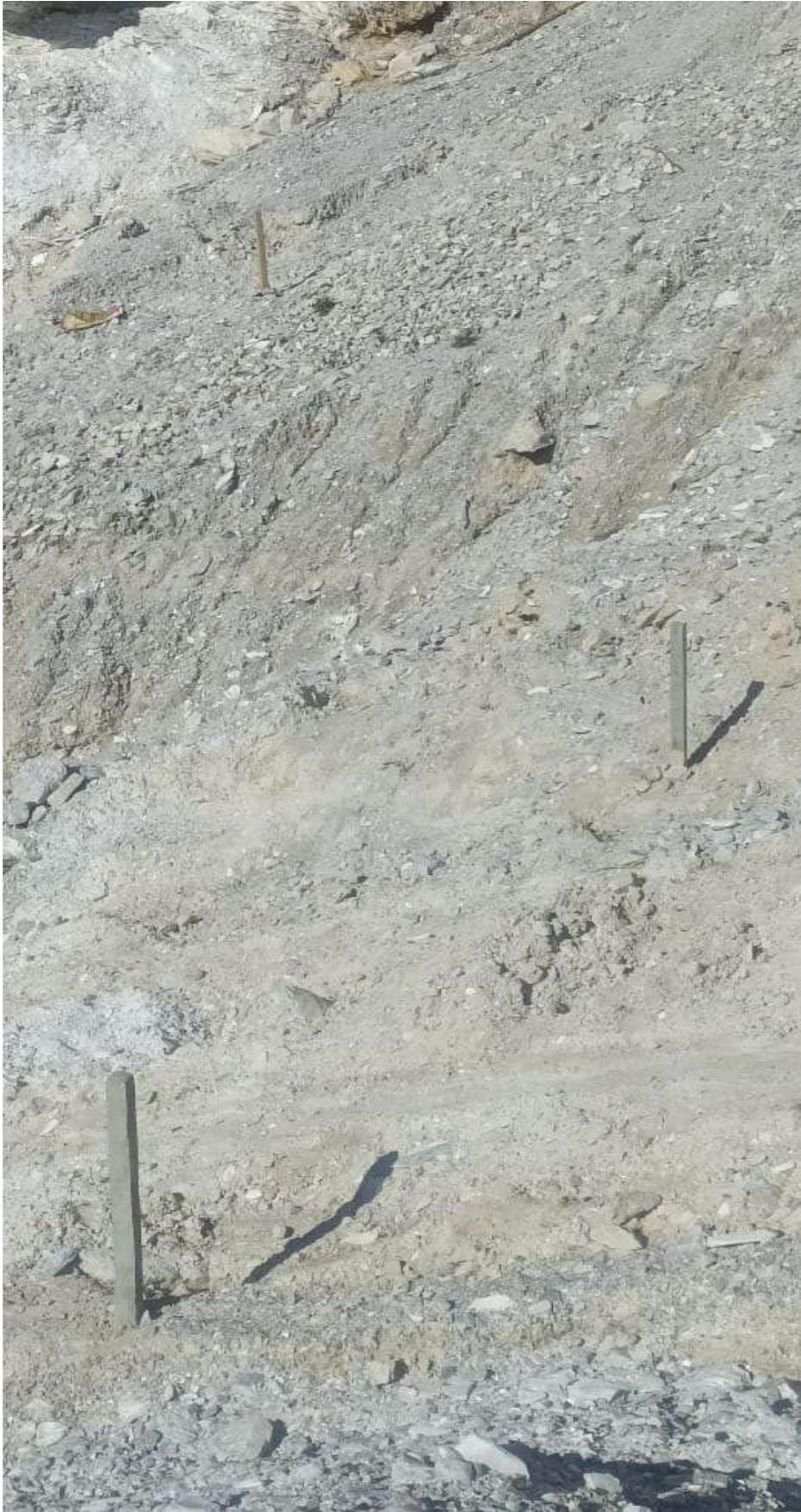




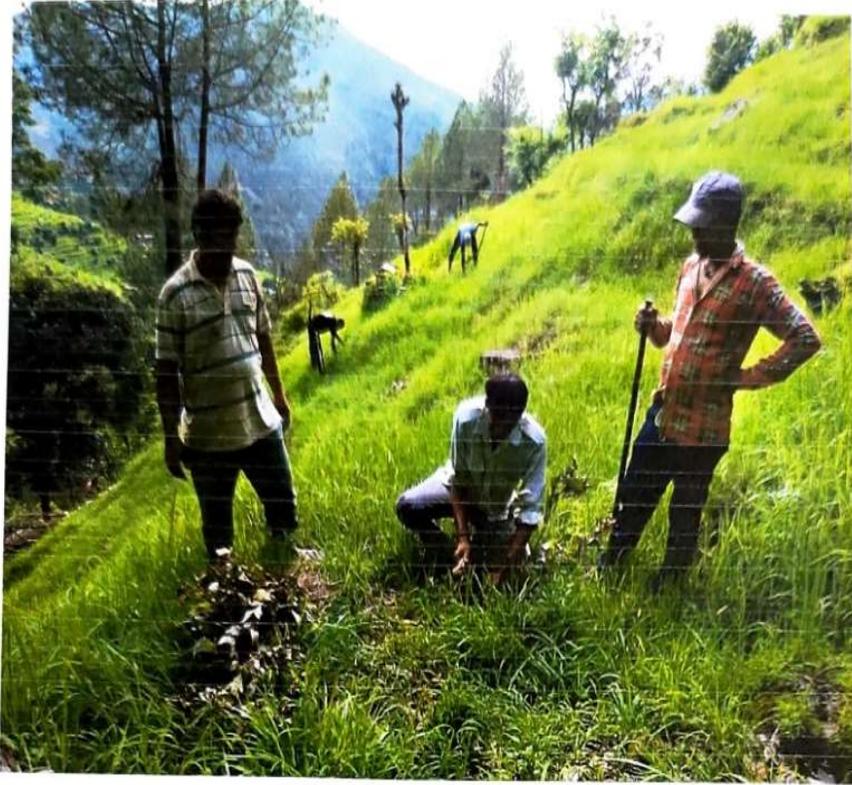
























ANNEXURE: R5/13

To,

Dated: 04/11/2023

The District Collector

Pithoragarh

Uttarakhand

Subject: Regarding our case at Hon'ble NGT court Principal Bench Delhi case no- 78/2023.

Respected Mam,

This is in concern that, according to notice & hearing from NGT Court dated -06/09/2023, We have completed all the compliances.

- 1- According to the Dm imposing penalty order Rs-1474200.00 Paid out & challan enclosed.
- 2- Total quantity of mined minerals details filled out & provided to Hon'ble Court.
- 3- Copy of EMP & EIA provided to NGT court.
- 4- Photograph & quantity of plantation done provided to NGT Court.
- 5- Retaining wall is constructed & Photograph is attached with this letter.
- 6- Forest penalty for cutting of trees had been paid out letter enclosed.

Now it's our humble request kindly consider our matter & verify our activities done at mining site to allow us permission to commence mining at our site.

Enclosed hereby: Photographs of work done at site.**Documents related to penalty.****CC To : 1-District Mine officer Pithoragarh.****2-Regional Officer Pollution control board Haldwani.**

Thanking you in Anticipation

For J. D. MineralsAuth. Signatory
Rajendra Singh Darpt

Mine Owner

M/S J D MINERALS

Bajeta Soap Stone Mine.

Haldwani- Nainital

Uttarakhand

Mob.no -9870880465

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ANNEXURE R5/14

ORDER

Hon'ble NGT New Delhi has passed the following order dated 31.10.2023 in pending OA No. 78/2023, pertaining to the soap stone mining lease area in village Bajeta, Tehsil Munsiyari (Tejam) in an area of 17.967 Hectare;

“Additional reply be filed by the respondent no. 5-Project Proponent on or before 10.11.2023 and a copy thereof be sent to the District Magistrate, Pithoragarh and concerned District Mining Officer, Regional Officer, UKPCB who shall on receipt thereof verify the compliance by the project proponent and submit report to this Tribunal on or before 25.11.2023 by way of email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF. List for further consideration on 30.11.2023.”

2. In furtherance to the aforesaid order passed by Hon'ble NGT, Prop. Rajendra Singh Dafoti of M/s JD Minerals, Bajeta soap stone mine Haldwani has submitted a compliance letter dated 04.11.2023.
3. Therefore, in furtherance to the compliance letter submitted by Prop. Rajendra Singh Dafoti of M/s JD Minerals, Bajeta soap stone mine Haldwani, the undersigned hereby nominates SDM Munsiyari to conduct the verification on the same and submit report.
4. In compliance of the aforesaid order the SDM Munsiyari, along with the officials nominated by the Hon'ble NGT, shall conduct site inspection on 16.11.2023 and verify the facts pointwise, as stated by the lease holder in his compliance letters and submit a report along with the evidence before 18.11.2023

compulsorily.

In this regard the District Mining Officer Pithoragarh shall ensure coordination between the departments in the given time.

Dated 08.11.2023

Sd/-
Reena Joshi
District Magistrate, Pithoragarh

Office of the District Magistrate Pithoragarh

No. 307/xxx-khanan/2022-23 dated 08.11.2023 Copy for information and necessary action to ;

1. SDM Munsiyari
2. District Mining Officer Pithoragarh
3. Member secretary Uttarakhand PCB Dehradune
4. Regional officer Uttrakhand PCB Haldwani
5. Sri Rahul Verma Adv. SC/NGT for state of Uttarakhand
6. M/s J.D Minerals thorough prop. Rajendra Singh Dafoti Bajeta soap stone mine, B-54, Judge farm, Chhoti Mukhani, Haldwani (through tehsildar Munsiyari)

TRUE TRANSLATED COPY

आदेश

मा0 राष्ट्रीय हरित प्राधिकरण, नई दिल्ली द्वारा ग्राम बजेता, तहसील मुनस्यारी (तेजम) क्षेत्रान्तर्गत 17.967 है0 भूमि पर स्वीकृत सोपस्टोन पट्टा क्षेत्र के सम्बन्ध में विचाराधीन मूल आवेदन संख्या- 78/2023 में दिनांक 31.10.2023 को निम्न आदेश पारित किये गये हैं- 'Additional reply be filed by the respondent no. 5-Project Proponent on or before 10.11.2023 and a copy thereof be sent to the District Magistrate, Pithoragarh and concerned District Mining Officer, Regional Officer, UKPCB who shall on receipt thereof verify the compliance by the Project Proponent and submit report to this Tribunal on or before 25.11.2023 by way of email at judicial-ngt@gov.in preferably in the form of Searchable PDF/OCR supported PDF and not in the form of Image PDF. List for further consideration on 30.11.2023.'

2- मा0 राष्ट्रीय हरित प्राधिकरण द्वारा पारित आदेश के क्रम में मै0 जे0डी0 मिनरल्स, प्रो0 राजेन्द्र सिंह दफौटी, बजेता सोपस्टोन माईन, हल्द्वानी द्वारा अनुपालन आख्या/प्रत्युत्तर दिनांक 04.11.2023 उपलब्ध करायी गयी है।

3- अतः मै0 जे0डी0 मिनरल्स, प्रो0 राजेन्द्र सिंह दफौटी, बजेता सोपस्टोन माईन, हल्द्वानी द्वारा प्रस्तुत अनुपालन आख्या/प्रत्युत्तर की जांच/सत्यापन हेतु एतद्वारा अधोहस्ताक्षरी की ओर से उपजिलाधिकारी, मुनस्यारी को नामित किया जाता है।

4- उपजिलाधिकारी, मुनस्यारी प्राप्त उक्त निर्देशों के अनुपालन में मा0 राष्ट्रीय हरित प्राधिकरण द्वारा नामित सम्बन्धित अधिकारियों के साथ दिनांक 16.11.2023 को स्थलीय निरीक्षण कर पट्टाधारक की ओर से प्रस्तुत आख्या में वर्णित तथ्यों का सत्यापन कर बिन्दुवार सुस्पष्ट आख्या आवश्यक साक्ष्यों सहित दिनांक 18.11.2023 को अनिवार्य रूप से प्रस्तुत करेंगे। इस सम्बन्ध में जिला खान अधिकारी, पिथौरागढ़ द्वारा विभागीय समन्वय स्थापित कर करते हुए, यथासमय कार्यवाही सुनिश्चित की जायेगी।

दिनांक : 08.11.2023


(रीना जोशी)

जिलाधिकारी, पिथौरागढ़।

कार्यालय जिलाधिकारी, पिथौरागढ़।

संख्या : 307 /XXX-खनन/2022-23

दिनांक 08 नवम्बर, 2023

प्रतिलिपि निम्नांकित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित-

1. उपजिलाधिकारी, मुनस्यारी।
2. जिला खान अधिकारी, पिथौरागढ़।
3. सदस्य सचिव, उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड, देहरादून।
4. क्षेत्रीय अधिकारी, उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड, हल्द्वानी।
5. श्री राहुल वर्मा, अधिवक्ता, मा0 सर्वोच्च न्यायालय/मा0 एन0जी0टी0, उत्तराखण्ड राज्य।
6. मै0 जे0डी0 मिनरल्स, प्रो0 राजेन्द्र सिंह दफौटी, बजेता सोपस्टोन माईन, बी-54 जज फार्म, छोटी मुखानी, हल्द्वानी। (द्वारा- तहसीलदार, मुनस्यारी)


(रीना जोशी)

जिलाधिकारी, पिथौरागढ़।

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