

**Before the Hon'ble National Green Tribunal, Principal Bench,
New Delhi**

O.A No. 924/2024

**News Item titled "Sand Mafia Destroys Jhelum Embankment,
Puts Thousands at Risk" appearing in Daily Excelsior dated
09.07.2024**

Applicant

Vs

Central Pollution Control Board & others

Respondents

In the matter of: -

I N D E X

S. No.	Particulars	Page no.
1.	Affidavit	1-5
2.	Annexure R-I	6
3.	Annexure R-II	7-8
4.	Annexure R-III	9

FILED BY:-

Dated: .06.2026
Place:

Respondents/Deponent
(Through Counsel)

Gautam Singh
Advocate,
Supreme Court of India

Before the Hon'ble National Green Tribunal, Principal Bench, New
Delhi

O.A No. 924/2024

News Item titled "Sand Mafia Destroys Jhelum Embankment, Puts
Thousands at Risk" appearing in Daily Excelsior dated 09.07.2024

Applicant

Vs

Central Pollution Control Board & others

Respondents.

In the matter of:-

Affidavit on behalf of the Chief Secretary, Union Territory of Jammu and Kashmir, in terms of order dated 26.02.2026 passed by this Hon'ble Tribunal in the above-titled Original Application.

May it please Your Lordships:-

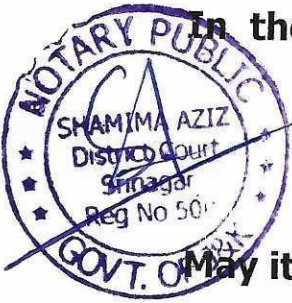
I, Atal Dulloo, aged about 59 years, presently posted as Chief Secretary, Union Territory of Jammu and Kashmir, do hereby solemnly affirm and state on oath as under:-

1. That this Hon'ble Tribunal, vide order *dated 26.02.2026* passed in the instant Original Application, was pleased to pass the following directions:

1. Tribunal in the proceedings dated 09.02.2026 it was noted the Notification dated 15.11.2022 amending the Rules of 2016 and granting exemption from requirement of environmental clearance for manual customary extraction of sand, silt and clay by local Hanjis, Khanias, Muleteers etc.

2. Learned Senior Counsel appearing for MoEF&CC has submitted that similar clause contained in the EIA Notification, 2006 was struck down by the Patna, High Court in the judgment dated 07.03.2024 in Civil Writ Jurisdiction Case No.11181/2021 in the matter of Abhay Kumar vs. Union of India & Ors. Whereby Clause

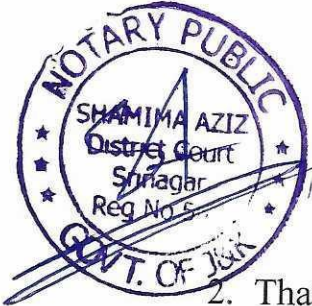
Chief Secretary
UT of J&K



13 of Appendix-IX of EIA Notification, 2006 was set-aside. This judgment of the Patna, High Court has been affirmed by the Hon'ble Supreme Court by the order dated 27.05.2024 passed in SLP (C) No. 11272/2024 in the matter of General Secretary Bihar Bricks Manufacturing Association vs. The Union of India & Ors. and thereafter, MoEF&CC, Government of India has also issued a O.M dated 09.08.2024. She submits that it is for the State to explain as to how such a clause has been incorporated.

3. The above submissions reveal that impugned exemption appears to be in clear violation of the Judgment of the Patna, High Court as also the order of the Hon'ble Supreme Court by which the said judgment has been affirmed.

4. In such circumstances, we require, Chief Secretary, UT of J&K to file an affidavit explaining as to why such a Notification is in force in UT of J&K contrary to the orders of the High Court and Supreme Court. Let this affidavit be filed within two weeks.



2. That pursuant to the aforesaid order, the deponent filed I.A No. 202/2026 before this Hon'ble Tribunal seeking extension of six week's time for filing the affidavit in terms of order dated 26.02.2026.

3. That this Hon'ble Tribunal, vide order dated 19.03.2026, allowed the said I.A and was pleased to pass the following directions:-

1. IA No.202/2026 has been filed on behalf of Chief Secretary, UT of J&K seeking extension of six weeks' time to file the affidavit in terms of the order of the Tribunal dated 26.02.2026. Prayer is allowed.

2. Learned Counsel for UT of J&K submits that in the meanwhile authorities in the UT of J&K are complying with the Judgement of Patna High Court dated 07.03.2024 passed in Civil Writ Jurisdiction Case No. 11181/2021 in the matter of Abhay Kumar Vs. Union of India & Ors as affirmed by Hon'ble Supreme Court by order dated 27.05.2024 passed in SLP (C) No. 11272/2024 in the matter of General Secretary Bihar Bricks Manufacturing Association Vs. the Union of India & Ors. and the notification of the MoEF&CC dated 09.08.2024.

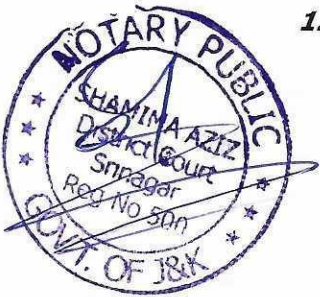
AM
Chief Secretary
UT of J&K

3. *Learned Counsel for UT of J&K further submits that no short-term permits are being issued.*

4. *List on 03.07.2026.*

4. That it is submitted that the Hon'ble Patna High Court, in *Abhay Kumar vs. Union of India & Ors., vide judgment dated 07.03.2024*, had set aside Clause 13 of Appendix-IX of the Environmental Impact Assessment (EIA) Notification, 2006, which granted exemption from Environmental Clearance for certain minor mineral extraction activities. The Hon'ble Court held that such exemption defeated the object of environmental regulation and was contrary to the statutory scheme of the EIA Notification, 2006.
5. That the aforesaid judgment of the Hon'ble Patna High Court was affirmed by the Hon'ble Supreme Court of India in *SLP (C) No.11272/2024 titled General Secretary Bihar Bricks Manufacturing Association vs. Union of India & Ors., which came to be dismissed vide order dated 27.05.2024*.
6. That in compliance with the aforesaid judgment, the Ministry of Environment, Forest and Climate Change, Government of India, vide Office Memorandum *dated 09.08.2024*, issued the following directions:-

1. *The Ministry, issued a Notification dated 15.01.2016 which was subsequently amended vide notification dated 28.03.2020. The amended notification inter-alia under clause 13 of Appendix IX provides an exemption from the requirement of obtaining Environmental Clearance to such category of cases that are specifically declared by the State Government under legislation or rules as non-mining activity.*
2. *The Hon'ble High Court of Patna, vide its judgment dated 07.03.2024, in C.W.J.C No. 11181 of 2021 in the matter titled Abhay Kumar vs. Union of India & Ors., has set aside clause 13 of Appendix IX in the Environmental Impact Assessment Notification, 2006.*
3. *The copy of the order which is self-explanatory is enclosed herewith for compliance.*
4. *This is issued with the approval of the Competent Authority.*

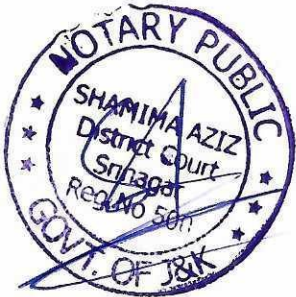


Adl
Chief Secretary
UT of J&K

7. That taking note of the aforesaid position, this Hon'ble Tribunal observed that the exemption granted under Notification dated 15.11.2022 appeared, prima facie, to be contrary to the judgment of the Hon'ble Patna High Court and the order passed by the Hon'ble Supreme Court.
8. That the Mining Department had issued *S.O. 138 dated 19.04.2021*, copy of the said S.O is enclosed herewith as **Annexure R-I**, whereby clause (vii) of Rule 2 of the J&K Minor Mineral Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining Rules, 2016 was amended. The amended clause reads as under:-

"(vii) "Brick earth" means earth used for making bricks and shall include all types of earths used for construction of dams, canals, roads, rail embankments and other identical purposes:

Provided that the extraction of brick earth in an area up to 02 (two) hectares and up to a depth of 02 (two) meters for making bricks in Brick Kilns shall be declared as non-mining activity."



9. That it is submitted that the Mining Department, Government of Jammu and Kashmir, had also *vide S.O. 599 dated 15.11.2022*, copy of which is enclosed herewith as **Annexure R-II** amended Rules 13, 56, 58, 94, 95 and 107 of the J&K Minor Mineral Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining Rules, 2016.
10. The amended Rule 13 reads as under:-

- i. *after clause (b) to first proviso, the following proviso shall be added as second proviso; namely:-*

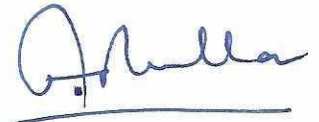
"Provided further that the cases as listed in Appendix-IX of notification S.O 1224 (E) dated 28th March 2020 issued by the Ministry of Environment, Forest & Climate Change, Govt, shall be exempted from the requirement of Environmental Clearances."

- ii. *Second proviso shall be re-numbered as third proviso and substituted by the following; namely:-*

"Provided also the manual customary extraction of sand, silt and clay by local Hanjis, Khanias, Muleteers etc shall be exempted from the requirement of Environmental Clearances."

AM

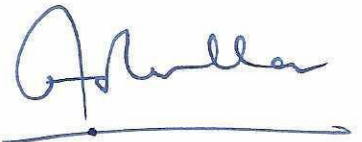
11. That in view of the aforesaid position, the matter was examined in depth, particularly with regard to the legal sustainability of the exemptions granted under *Notification S.O. 138 dated 19.04.2021* and *Notification S.O. 599 dated 15.11.2022* in light of the binding judicial precedents of the Hon'ble Patna High Court, as affirmed by the Hon'ble Supreme Court of India, as well as the Office Memorandum *dated 09.08.2024* issued by the Ministry of Environment, Forest and Climate Change, Government of India. In compliance with the aforesaid directions, the Mining Department, vide *Notification S.O. No.119 dated 22.04.2026*, has omitted the aforesaid provisions. A copy of the said *S.O dated 22.04.2026* is enclosed herewith as **Annexure R-III** for kind perusal of the Hon'ble Tribunal.
12. That the deponent is duty bound to take all necessary steps for rectification of the issue and to ensure effective implementation of the aforesaid directions in letter and spirit.



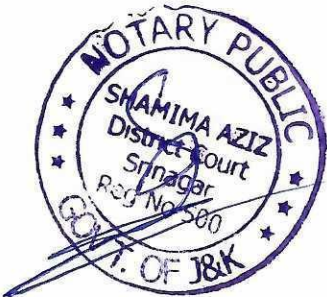
Deponent
Chief Secretary
UT of J&K

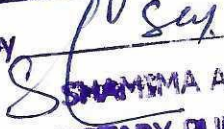
Verification:-

Verified at Srinagar on this 11th day of June, 2026, that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.



Deponent
Chief Secretary
UT of J&K



~~Certified that the statement declared~~
on oath ~~before me~~ at Srinagar on this
day of 11th - 6 - 2026
by Sardar Majid
who is identified by Say

SHAMIMA AZIZ
NOTARY PUBLIC

Notification

Jammu, 19th of April 2021

S.O. 134.-In exercise of the powers conferred by section 15 read with section 23C of the Mines & Minerals (Development & Regulation) Act, 1957 (Central Act No.67 of 1957), the Government hereby directs that the clause (vii) of rule 2 of the Jammu and Kashmir Minor Mineral Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining Rules, 2016; shall be substituted by the following; namely:-

"(vii) **"Brick earth"** means earth used for making bricks and shall include all types of earths used for construction of dams, canals, roads, rail embankments and other identical purposes:

Provided that the extraction of brick earth in an area up to 02 (two) hectares and up to a depth of 02 (two) meters for making bricks in Brick Kilns shall be declared as non-mining activity."

By order of the Government of Jammu and Kashmir.

Sd/-

(Manoj Kumar Dwivedi) IAS,
Commissioner/Secretary to the Government

No: MNG/Crusher/15/2021

Dated: 19.04.2021

1. All Financial Commissioners.
2. Director General of Police, J&K.
3. Principal Secretary to the Lieutenant Governor.
4. All Principal Secretaries to the Government.
5. Principal Resident Commissioner, J&K Government, New Delhi.
6. Chief Electoral Officer, J&K.
7. All Commissioner/Secretaries to the Government.
8. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
9. Divisional Commissioner, Jammu/Kashmir.
10. Director General, J&K Institute of Management, Public Administration and Rural Development.
11. Chairman, J&K Special Tribunal.
12. All Heads of Departments/Managing Directors.
13. All Deputy Commissioners.
14. Director, Information, J&K.
15. Secretary, J&K Public Service Commission.
16. Director Estates, J&K.
17. Director, Archives, Archaeology and Museums, J&K.
18. Director, Geology and Mining, J&K.
19. Director, Panchayati Raj, J&K.
20. Secretary, J&K Services Selection Board.
21. General Manager, Government Press, Jammu/ Srinagar.
22. Private Secretary to the Hon'ble Lieutenant Governor.
23. Private Secretary to the Chief Secretary.
24. Private Secretary to Commissioner/Secretary to the Government, Mining Department/GAD.
25. Incharge Website, Mining/GAD.
26. Government Order file/Stock file.


(Aamir A. Rather), 19.04

Under Secretary to the Government

Notification,

Jammu, the 15th of November, 2022

S.O. 599- In exercise of the powers conferred by section 15 read with section 23C of the Mines & Minerals (Development and Regulation) Act, 1957 (Central Act No. 67 of 1957), the Government hereby makes the following amendments in the Minor Mineral Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining Rules, 2016; namely:-

1. In rule 13.-

- (i) after clause (b) to first proviso, the following proviso shall be added as second proviso; namely:-

"Provided further that the cases as listed in Appendix-IX of notification S.O 1224 (E) dated 28th March 2020 issued by the Ministry of Environment, Forest & Climate Change, GoI, shall be exempted from the requirement of Environmental Clearances."

- (ii) Second proviso shall be re-numbered as third proviso and substituted by the following; namely:-

"Provided also the manual customary extraction of sand, silt and clay by local Hanjis, Khanias, Muleteers etc shall be exempted from the requirement of Environmental Clearances."

2. In rule 56, in clause (vi) of sub-rule(1), the following shall be added as second proviso; namely:-

"Provided further that Short Term Permits / Disposal Permits shall also be granted for manual customary extraction of sand, silt, clay by local Hanjis, Khanias, Muleteers etc."

3. In rule 58, the following shall be added as second proviso; namely:-

"Provided further that the cases as listed in Appendix-IX of notification S.O 1224 (E) dated 28th March 2020 issued by the Ministry of Environment, Forest & Climate Change, GoI, shall be exempted from the requirement of Environmental Clearances."

4. In rule 94, after clause (iii) of sub-rule (2), the following clause shall be added; namely:-

"(iv) River bed material shall not be extracted up to a distance of five times (5) of the span (x) of a bridge / public civil structure (including water intake points) on up-stream side and ten times (10) the span of such bridge on down-stream side, subject to a minimum of 250 meters on the upstream side and 500 meters on the downstream side."



5. Rule-95 shall be substituted by the following; namely:-

"95. Simple Interest at the rate of 15% shall be charged per annum on any rent, royalty or other sum due to the Government under the Act and rules made there under or terms and conditions of any mineral concession from the sixteenth (60) day of the expiry of the date fixed by the Government for payment of such royalty, rent, fee or other sum and until payment of such royalty, rent, fee or other sum is made."

6. In rule 107, after sub Rule (2), the following sub-rule shall be added; namely:-

"(3) Notwithstanding anything contained in these rules, extraction or digging of ordinary earth / clay used for filling, leveling or embankment of roads or railways, cement plants up to depth of two (02) meters, removal of overburden, free flowing material shall not be treated as mining operations:

Provided that such operations shall be carried out under proper Short Term / Disposal Permit with payment of royalty and other applicable charges."

By order of the Government of Jammu and Kashmir.

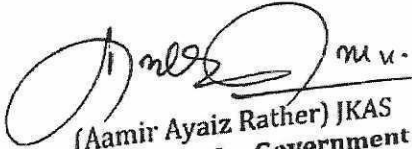
Sd/-
(Amit Sharma) IAS
Secretary to the Government

Dated: 15.11.2022

No: GM-MNG/281/2022-04

Copy to the:

1. All Financial Commissioner(s) (Additional Chief Secretaries).
2. Director General of Police, J&K.
3. All Principal Secretaries to the Government.
4. Director General, J&K, IMPARD.
5. All Commissioner/ Secretaries to the Government.
6. Joint Secretary (Jammu and Kashmir/Ladakh), Ministry of Home Affairs, Gol.
7. Divisional Commissioner, Kashmir/ Jammu.
8. All Heads of Departments/ Managing Directors.
9. All Deputy Commissioners.
10. Director, Information and Public Relations, J&K.
11. Director, Geology and Mining, J&K.
12. Director, Achieves, Archeology and Museums, J&K.
13. Principal Private Secretary to the Hon'ble Lieutenant Governor.
14. General Manager, Government Press, Jammu/ Srinagar.
15. Private Secretary to the Chief Secretary, J&K.
16. Private Secretary to Secretary to the Government, GAD.
17. Private Secretary to Secretary to the Government, Mining Department.
18. In-charge Website, Mining Department.


(Aamir Ayaiz Rather) JKAS 15.11.2022
Under Secretary to the Government

Notification

Jammu, the 22nd of April, 2026

S.O. 119.- In exercise of the powers conferred by section 15 read with section 23C of the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act No. 67 of 1957), the Government of Jammu and Kashmir hereby makes the following amendments in the Jammu and Kashmir Minor Mineral Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining Rules, 2016, namely:-

1. In Rule 2, in clause (vii), the proviso thereto shall be omitted.
2. In Rule 13, the second and third proviso shall be omitted.

By order of the Hon'ble Lieutenant Governor.

Sd/-

(Ashwani Kumar) IAS,
Financial Commissioner (Additional Chief Secretary)

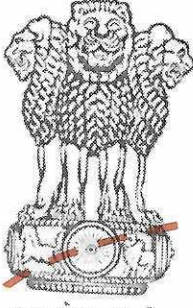
No: GM-LEG/73/2024-04

Dated: 22.04.2026

Copy to the:-

1. All Financial Commissioner(s) (Additional Chief Secretaries).
2. Director General of Police, J&K.
3. Principal Secretary to the Hon'ble Lieutenant Governor.
4. All Principal Secretaries to the Government.
5. All Commissioner/ Secretaries to the Government.
6. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
7. Divisional Commissioner, Kashmir/ Jammu.
8. All Heads of Departments/ Managing Directors.
9. All Deputy Commissioners.
10. Director, Achieves, Archeology and Museums, J&K.
11. Director, Geology and Mining, J&K.
12. All Senior Superintendent of Police.
13. Managing Director, J&K Mineral Limited Corporation.
14. General Manager, Government Press, Jammu / Srinagar.
15. Private Secretary to Financial Commissioner (ACS), Mining Department.
16. All concerned officers.
17. In-charge Website, Mining Department.


(Mohammad Ashraf Wani) JKAS
Under Secretary to the Government



INDIA NON JUDICIAL

Government of Jammu and Kashmir

सत्यमेव जयते

e-Stamp

Certificate No.

: IN-JK31239341930435Y

Certificate Issued Date

: 15-Jun-2026 03:41 PM

Account Reference

: NEWIMPACC (SV)/ jk12583304/ DIST COURT COMPLEX
SRINAGA/ JK-SN

Unique Doc. Reference

: SUBIN-JKJK1258330444689870485371Y

Purchased by

: ATAL DULLOO

Description of Document

: Article 4 Affidavit

Property Description

: Not Applicable

Consideration Price (Rs.)

: 0
(Zero)

First Party

: ATAL DULLOO

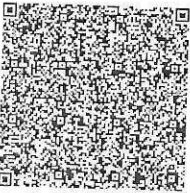
Second Party

: Not Applicable

Stamp Duty Paid By

: ATAL DULLOO

Stamp Duty Amount(Rs.)

: 10
(Ten only)

Please write or type below this line

عرفان احمد
اشٹام فروش

لائسنس نمبر: DCS/LRA/31

صدر کوٹ سرینگر

ACC NO:- JK12583304

Cell No:- 7006147136