

BEFORE THE NATIONAL GREEN TRIBUNAL,

(PRINCIPAL BENCH) NEW DELHI

Original Application No. 176/2022

IN THE MATTER OF:

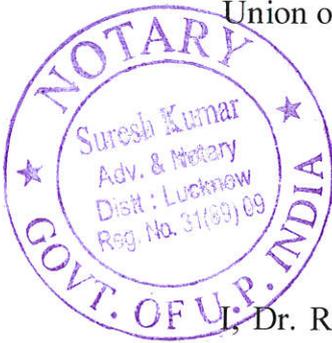
Aman Chaudhary

....Appellant

Versus

Union of India &Ors.

....Respondents



**AFFIDAVIT OF COMPLIANCE**

I, Dr. Roshan Jacob, aged about 44 years, D/o Shri T.K. Jacob presently posted as Director, Geology and Mining, Uttar Pradesh presently at Lucknow do hereby solemnly affirm and state as under:

1. That the deponent is presently posted as Director, Geology and Mining, Uttar Pradesh as such is competent to sign and swear in the instant affidavit.

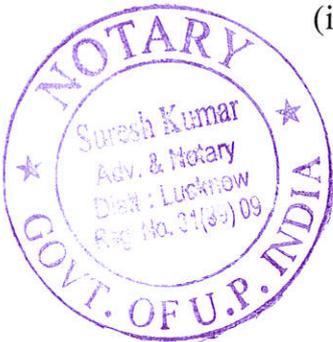
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Before Me

  
**SURESH KUMAR**  
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2. That this Hon'ble Tribunal in above mentioned case vide its order dated 17.03.2023 has directed that "Affidavits in terms of order dated 29.09.2022 be filed by the Director, Directorate Mining and Geology, Government of Uttar Pradesh and the Member Secretary, UPPCB personally within three weeks" on following four points which are reproduced below:-

- (i) Whether copy of environmental clearance /mining lease agreement was sent to UPPCB, if yes when and if no, why the same was not sent?
- (ii) Whether any periodical returns were submitted by the project proponent, any audit/periodical inspection was made by designated third party/departmental agency regarding compliance with environmental clearance and consent to operate conditions and environmental norms by the project proponent, if yes produce copies of the same if not the reasons for the same?



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- (iii) Whether the project proponent was entitled to and could commence mining before of CTO by UPPCB if not why the project proponent was allowed to commence such mining without CTO from UPPCB and
- (iv) Whether any notice for non-compliance with environmental clearance /consent to operate /environmental norms was issued to the project proponent before initiation of the present proceedings and what action was taken against the project proponent on the basis thereof?

3. That in compliance of above direction of this Hon'ble Tribunal, it is submitted that in Chapter - 4 of U.P. Minor Mineral (Concession) Rules 2021 (previously Rule 1963) the lease deed of normal sand mining area, plot no.2m rakba 10.50 hectare of village Katri Sunada, Tehsil Billaur situated at the bank of Ganga River of the district was executed in favor of lease holder M/s Vaishnavi Enterprises Proprietor Nagendra Singh R/o 113 MIG-2, Mahabali Puram, Kalyanpur, Kanpur

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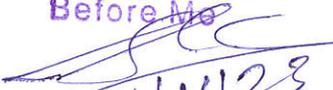
Nagar on 7.4.2018 for the period of 05 years from 07.04.2018 to 06.04.2023. Now the lease has been expired.

4. Point no. (i) - Whether copy of environmental clearance /mining lease agreement was sent to UPPCB, if yes when and if no, why the same was not sent?

With reference to above point, it is submitted that the copy of environmental clearance certificate issued by State Environment Impact Assessment Authority (SEIAA) in favor of project proponent/lease holder vide letter no.174/environment/SEAC/4026/2017 dated 12.02.2018 was forwarded to 07 persons/authorities, in which through S.No. 04 same was forwarded to Member Secretary, U.P. Pollution Control Board, Environment Bhawan, Vibhuti Khand, Lucknow. It is also pertinent to mention that a copy of environmental clearance certificate is available on Parivesh Portal which is in public domain. After issuance of environmental clearance certificate, it is considered that the lease deed will be executed and mining operation will start. Therefore, sending a copy of lease deed



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separately to UPPCB will be duplication of the same.

Considering this, it is not customary to send the copy of deed to UPPCB.

5. Point no.(ii) - Whether any periodical returns were submitted by the project proponent, any audit/periodical inspection was made by designated third party/departmental agency regarding compliance with environmental clearance and consent to operate conditions and environmental norms by the project proponent, if yes produce copies of the same if not the reasons for the same?

In compliance of above direction of this Hon'ble Tribunal it is submitted that the lease holder /project proponent has not filed any periodical returns and in compliance of conditions of environment, the project proponent has not got any audit /periodical inspection done from any third party /departmental agency. It is mentioned in letter no.NGT-509/81-7-2022 dated 05.01.2023 of Secretary, Environment, Forest and Climate Change Section-7, U.P. Lucknow that the relevant part of the order dated 26.02.2021 passed by this Hon'ble Tribunal in O.A. no.360/2015 titled as



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National Green Tribunal Bar Association Vs. Virendra Singh (State of Gujarat & Ors.) is as follows:-

“....28. We further direct that periodic inspection be conducted by a five members Committee, headed and coordinated by the SEIAA and comprising CPCB (wherever it has regional office), State PCB and two expert members of SEAC dealing with the subject. Where CPCB regional office is not available, if MoEF&CC regional office is available, its Regional officer will be included in the Committee. Where neither CPCB nor MoEF&CC regional office exists, Chairman, SEIAA will tie up within the nearest institution of repute such as IIT to nominate an expert for being included in the Committee. Such inspection must be conducted at least thrice for each lease i.e. after expiry of 25% the lease period, then after 50% of the period and finally six months before expiry of the lease period for midway correction and assessment of damage, if any. The reports of such inspections be acted upon and placed on website of the SEIAA. Every lessee, undertaking mining, must have and environmental



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professional to facilitate sustainable mining in terms of the mining plan and environmental norms. This be overseen by the SEIAA. Environment Departments may also develop and appropriate mobile app for receiving and redressing the grievances against the sand mining, including connivance of the authorities and also mechanism to fix accountability of the concerned officers. Recommendations of the Oversight Committee for the State of U.P. quoted earlier may be duly taken into account...”



It is pertinent to mention here that site has been inspected from time to time for compliance of conditions of lease deed and UPMPCR, 2021 by the lease holder M/s Vaishnavi Enterprises Proprietor Nagendra Singh for the ordinary sand mining area village Katari Sunadha Plot no.2 Miarea 10.50 hectare of Tehsil Bilhaur.

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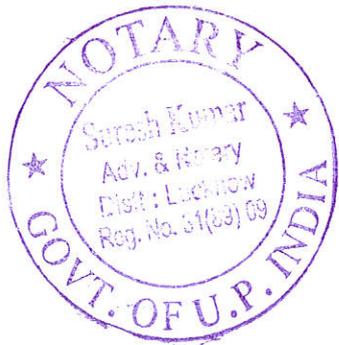
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It is respectfully submitted that due to non-installation of CCTV Camera in mining area and violation of Rule 59(3), a penalty of Rs.25,000.00 has been imposed vide notice dated 05.09.2019 against the Lease holder.

Sub Divisional Magistrate Bilhaur inspected the site on 07.12.2020, a passage of height same as water level was removed and an FIR was registered in concerned police station against unknown persons.

Vide letter no.446/ST-Misc./20 dated 12.12.2020 of Sub Divisional Magistrate, Bilhaur it was informed that the above lease holder has done illegal mining and transportation of ordinary sand of about 54219 cubic mtr. from plot no.01m of area 5.4219 hectare outside the approved mining area. With reference to above, a notice was issued on 22.12.2020 and direction was given to place its case within 15 days.



Director, Directorate of Geology and Mining, Lucknow inspected the area on 11.01.2021 and henceforth constituted a team for correct demarcation of boundary pillar of mining area and for detailed survey

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of the mined-out quantity. The joint inspection team ratified the Sub Divisional Magistrate Billaur report dated 12.12.2020. In light of above the lease holder was again issued a notice on 03.02.2021 to deposit total amount of Rs.2,39,06,360.00 in Govt. Treasury within 15 days in lieu of illegal mining and transportation. Against above notice the lease holder filed Revision No.48(R)/SM/2021 to the Govt. which was dismissed by the Govt. on 09.08.2021. Thereafter, the lease holder filed Writ Petition No.18966/2021 in Hon'ble High Court of Allahabad Lucknow Bench. In compliance of order dated 22.09.2021 passed by Hon'ble High Court, permission was given to lease holder for mining and transportation of ordinary sand. Writ Petition No. 18966 of 2021 is pending before the High Court.



It is respectfully submitted that again in pursuance of joint inspection report dated 05.12.2021 notice dated 09.12.2021, a fine of Rs.72,500.00 was imposed on lease holder due to constructing passage /road without permission.

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On the basis of inspection by DM, Kanpur Nagar on 31.05.2022 and report dated 21.06.2022 of inspection team constituted by DM, a notice dated 10.8.2022 was issued to the lease holder for depositing total amount of Rs.11,55,837.00.

Thus periodical inspection of the lease has been constantly done by the District Administration, Kanpur and Director, Geology and Mining, Govt. Of Uttar Pradesh.

6. Point no.(iii) -Whether the project proponent was entitled to and could commence mining before of CTO by UPPCB if not why the project proponent was allowed to commence such mining without CTO from UPPCB?

In pursuance to this, it is humbly submitted that

- i. For harmonization of Classification of Industries under Red/Orange/Green/White Categories CPCB vide letter dated 19.08.2015 forwarded a copy of draft document on revised concept of categorization of industrial sectors to all SPCBs, PCCs and concerned ministries. CPCB further issued modified directions to

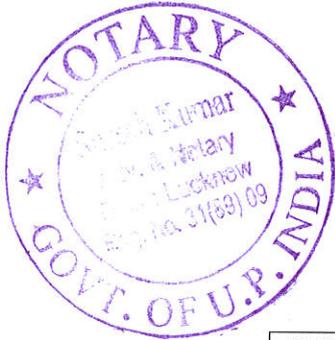


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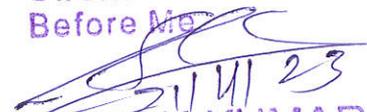
revise/prepare categories of industrial sector in Red, Orange, Green and White as per final report to all SPCBs/PCCs on 07.03.2016.

ii. That is further worthwhile to mention here that in compliance to the directions issued by CPCB, UPPCB in its meeting dated 29.03.2016 adopted the same categorizations of industries and issued letter dated 18.04.2016 to all concerned controlling officers of the UPPCB and Regional officers of the UPPCB to comply the same. A true copy of the letter dated 18.04.2016 is being annexed herewith as **Annexure No-1**.



iii. That there are two additional notes in the list of Industrial Sectors mentioned in the final report and Note (ii) is being quoted as below;

Sl.No.	Origin at Sl. No.	Industry Sector	Original Category	Remarks
1	24	Excavation of sand form the River Bed (excluding manual	O	Since such type of activities cause ecological disturbances, the instructions issued by

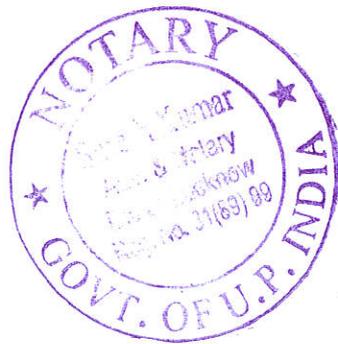
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		excavation)		the Government from time to time be followed. To be categorized by MoEF&CC
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iii. That at Serial No. 1 which was originally at SI.No 24 regarding excavation of Sand from the riverbed (excluding manual excavation), it has been mentioned in remark column that such type of activities cause ecological disturbances, the instructions issued by the Government (MoEF&CC) from time be followed. So, excavation of Sand from the riverbed (excluding manual excavation) has to be categorized by MoEF&CC separately.

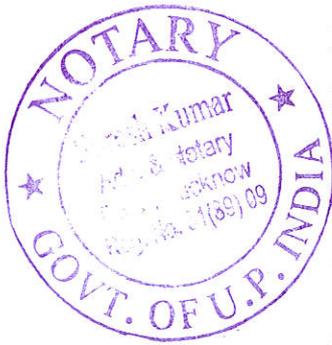
iv. That pursuant to remarks made in categorization of sector up till now no categorization has been made by the MoEF&CC for excavation of sand from the riverbed therefore the sand mining is not covered under the categorization of the industrial Sector. It is also submitted that as per the MOEF&CC, EIA notification 2006, EC has been obtained in this particular case and also in cases of Sand Mining across the state.



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v. Under the provision of Water Act 1974 and Air Act 1981, Industries, which causes underground/surface water and Air pollution, requires CTE /CTO from concerning SPCB. But in the case of Sand Mining no fugitive emissions are released. It is to be mentioned that neither permanent structure of any kind is erected during the mining operations of Sand/Morrum situated in the river bed nor heavy machinery are used in the mining operations. In the said mining operations, neither anything is added to the water nor is anything released, so water or air does not get polluted.

8. Point no. (iv) – Whether any notice for non-compliance with environmental clearance /consent to operate /environmental norms was issued to the project proponent before initiation of the present proceedings and what action was taken against the project proponent on the basis thereof?



In compliance Regular inspection was done by district authorities for compliance of the UPMMCR 2021 and the conditions of the lease deed. Notices were issued to project proponent when any irregularities were found during inspection, details are mentioned in point no. 06.

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As per the facts mentioned in point no.07, there is no requirement to obtain CTO.

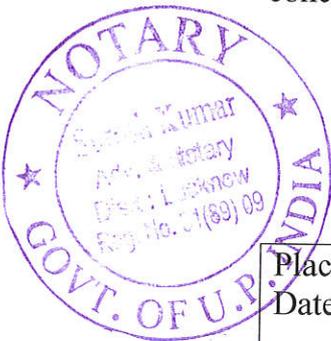
That the facts stated in the above affidavit are true and correct as per my personal knowledge and belief. No part of same is false and nothing material has been concealed therefrom.

  
Deponent

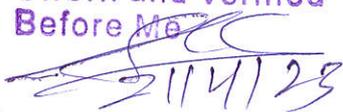
**VERIFICATION:-**

Verified at this the day of April, 2023 that the contents of above affidavit are based on the information derived from the official record and as such true and correct as per my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

  
Deponent



Place: New Delhi Date: April, 2023	Filed by:  <b>MUKESH VERMA</b> Advocate for respondent Ch. No.50, Old Block Supreme Court of India New Delhi-110001 (M) 9810108098 E-mail: <a href="mailto:mvermadv@gmail.com">mvermadv@gmail.com</a>
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Sworn and Verified  
Before Me  
  
21/4/23  
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I identify the deponent/executor who  
has/have signed before me  
  
21/4/23

**BEFORE THE NATIONAL GREEN TRIBUNAL,**

**(PRINCIPAL BENCH) NEW DELHI**

Original Application No. 176/2022

IN THE MATTER OF:

Aman Chaudhary

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Place: New Delhi Date: April, 2023	Filed by:  <b>MUKESH VERMA</b> Advocate for respondent Ch. No.50, Old Block Supreme Court of India New Delhi-110001 (M) 9810108098 E-mail: <a href="mailto:mvermadv@gmail.com">mvermadv@gmail.com</a>
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**AFFIDAVIT OF COMPLIANCE IN COMPLIANCE OF**  
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**ADVOCATE FOR THE RESPONDENT:**

**[MUKESH VERMA]**