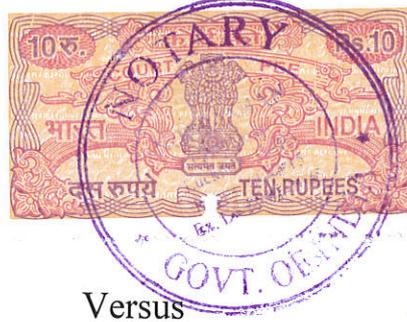


**BEFORE THE NATIONAL GREEN TRIBUNAL,
(PRINCIPAL BENCH) NEW DELHI**

Original Application No. 160/2022

IN THE MATTER OF:

Om Pal & Ors.



Versus

State of U.P. & Ors.



....Appellant

....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.
2. That this Hon'ble Tribunal in above mentioned case vide its order dated 26.04.2023 has directed that:-

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“3.In compliance of above referred order, Ms. Roshan Jacob, Director, Mining and Geology, U.P. and Mr. Ajay Sharma, Member Secretary, UPPCB have appeared before this Tribunal through VC and we have interacted with them. Ms. Roshan Jacob, Director Mining and Geology, U.P and Mr. Ajay Sharma, Member Secretary, UPPCB have submitted that NoC/ consent from UPPCB was not required by the Project Proponent for sand mining.

4.Ms. Roshan Jacob, Director, Mining and Geology, U.P. and Mr. Ajay Sharma, Member Secretary, UPPCB are directed to file their detailed response affidavits in this regard on or before 18.05.2023 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. In their affidavits they shall also incorporate their response to the averments made by the applicant and the observations made by the Joint Committee regarding violations of environmental norms by the Project Proponent and also regarding the aspects referred to by this Tribunal in order dated 27.03.2023.”

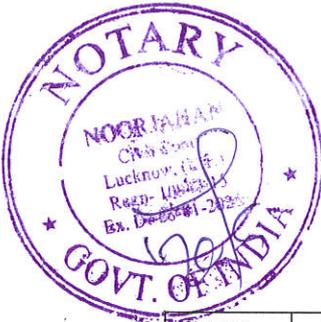


3. That, regarding obtaining NoC/consent from UPPCB for sand mining, it is humbly submitted that For harmonization of Classification of Industries under Red/Orange/Green/White



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

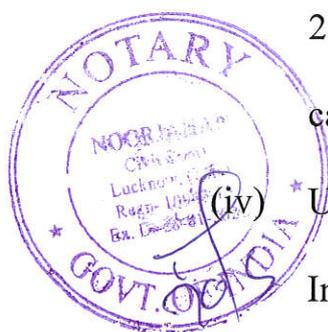
- (i) That is further worthwhile to mention here that in compliance to the directions issued by CPCB, UPPCB in its meeting dated 29.03.2016 adopted the same categorizations of industries and issued letter dated 18.04.2016 to all concerned controlling officers of the UPPCB and Regional officers of the UPPCB to comply the same. A true copy of the letter dated 18.04.2016. 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 from the River Bed (excluding manual excavation)	O	Since such type of activities cause ecological disturbances, the instructions issued by the Government from time to time be followed. To be categorized by MoEF&CC

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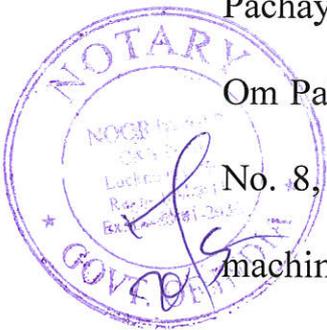
- (ii) That at Serial No. 1 which was originally at SI.No 24 regarding excavation of Sand from the riverbed (excluding manual excavation), it has been mentioned in remark column that such type of activities cause ecological disturbances, the instructions issued by the Government (MoEF&CC) from time be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



- (iv) 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.

4. That, regarding response to the averments made by the applicant and the observation made by the joint committee regarding violations of environmental norms by the project proponent and also regarding the aspects referred to by this Tribunal in order dated 27.03.2023, it is humbly submitted that a lease was executed in favour of Sri Mumtaj Ali S/O Late Fakir Mohd. R/O Mohamadabad, District Jyotiba Phule Nagar for a period of 5 years in Khand No. 1, Gata No. 8mi, 9mi, 10mi, 11mi, 12mi, 13mi, 17mi, 18, 19, 20mi, 21mi, 22mi, 25mi, 26mi, 27mi, 30mi, 37mi, 38mi, 39mi, 40mi, 41mi, 53mi, 54mi, 55mi, 56mi, 57mi, 237mi, 238mi, 239mi, 240mi, area 16.183 Hectare Vill.-Pachayara, Teh.-Loni, District Ghaziabad. It was alleged by Sri Om Pal that Sri Mumtaj Ali was doing illegal mining in Khasra No. 8, 9, 10, 11, 12, 13, 37 and 38 and was also using heavy machines for loading the minerals and thus has led to shifting of bank of river Yamuna. It was also alleged that no pillars, no cameras were installed in the lease area. It was also alleged that one death occurred due to drowning.

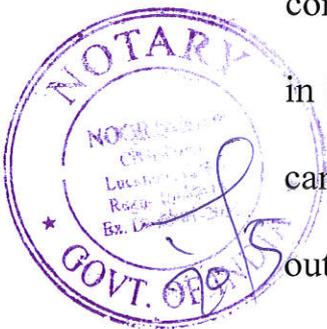


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Regarding the above allegation Hon'ble Tribunal vide order dated 10.03.2022 constituted a joint committee to inspect the area and submit the report. The a joint committee inspected the area on 03-11-2022 and found that no mining activities were going on. The Joint Committee found that no pillars and cameras were installed. Regarding the death due to drowning, no such incident came to the knowledge of Joint committee.

5. That, it is further submitted that Hon'ble Tribunal vide order dated 27.03.2023 directed

“14. In view of the mandate in Section 20 of the National Green Tribunal Act, 2010 requiring this Tribunal to apply precautionary principle and also the provisions made in Section 19 (4) (j) of the National Green Tribunal Act, 2010 empowering this Tribunal to require any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I thereof, respondent no. 5 is directed to desist from carrying out any further mining activity in the mining site leased out to it and environmental clearance if any granted by SEIAA, Uttar Pradesh to respondent no. 5 in respect of the above said mining site shall also remain in abeyance till further orders to the contrary.



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15. The District Magistrate and the Senior Superintendent of Police, Ghaziabad are also directed to take appropriate steps to ensure that no illegal mining takes place in the mining site in question.”

6. That, in compliance of the above direction the District Magistrate, Ghaziabad vide letter dated 15.04.2023 instructed the concerned SDM and SHO to ensure that no mining activity should take place in the concerned area. Recently on 19.04.2023 officials of Revenue Dept. and Mining Dept. visited the concerned area and found that no mining activity is undergoing.

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 Lucknow this the 20 day of May, 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.

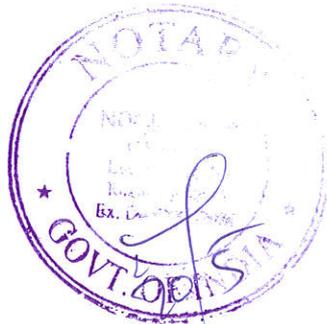
Deponent

I have & identify the deponent/Executioner who has signed/put his T.I. before me
S.J. Tural Advocate
Re No. 60/43/1999
Adv Ue

Sworn and Verified before me.

Signature
NOOR JAHAN
Advocate & Notary
Court, Lucknow
Registration No. 10943/15

<p>Place: New Delhi Date: May, 2023</p>	<p>Filed by:</p> <p>MUKESH VERMA Advocate for respondent Ch. No.50, Old Block Supreme Court of India New Delhi-110001 (M) 9810108098 E-mail: mvermadv@gmail.com</p>
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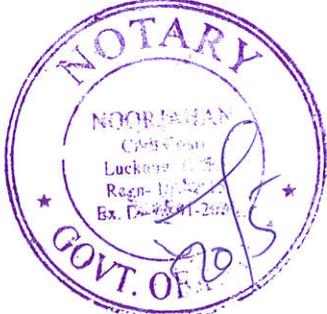
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INDEX

S.NO.	PARTICULARS	PAGES
1	AFFIDAVIT OF COMPLIANCE IN COMPLIANCE OF ORDER DATED 26.04.2023 OF THIS HON'BLE TRIBUNAL	1 –

<p>Place: New Delhi Date: May, 2023</p> <div style="text-align: center;">  </div>	<p style="text-align: right;">Filed by:</p> <p style="text-align: center;">MUKESH VERMA Advocate for respondent Ch. No.50, Old Block Supreme Court of India New Delhi-110001 (M) 9810108098 E-mail: mvermadv@gmail.com</p>
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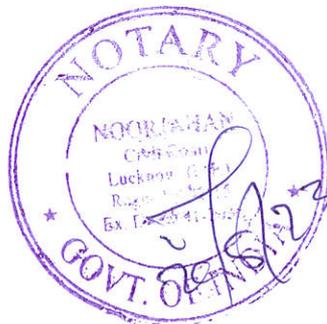
....Respondents

AFFIDAVIT OF COMPLIANCE IN COMPLIANCE OF ORDER

DATED 26.04.2023 OF THIS HON'BLE TRIBUNAL

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)



ADVOCATE FOR THE RESPONDENT:

[MUKESH VERMA]