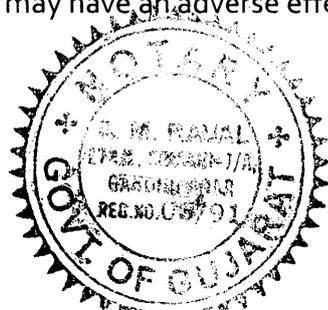


rivers, which may have serious environmental impact on ephemeral, seasonal and perennial rivers and riverbeds and sand extraction may have an adverse effect on biodiversity as well. Further, it may also lead to bed degradation and sedimentation having a negative effect on the aquatic life. The rivers mentioned in the auction notices are on the foothills of the fragile Shivalik Hills. Shivalik Hills are the source of rivers like Ghaggar, Tangri, Markanda, etc. River Ghaggar is a seasonal river which rises up in the outer Himalayas between Yamuna and Satluj and enters Haryana near Pinjore, District Panchkula, which passes through Ambala and Hissar and reaches Bikaner in Rajasthan. River Markanda is also a seasonal river like Ghaggar, which also originates from the lower Shivalik Hills and enters Haryana near Ambala. During monsoon, this stream swells up into a raging torrent, notorious for its devastating power, as also, River Yamuna.

11. We find that it is without conducting any study on the possible environmental impact on/in the riverbeds and elsewhere the auction notices have been issued. We are of the considered view that when we are faced with a situation where extraction of alluvial material within or near a riverbed has an impact on the river's physical habitat characteristics, like river stability, flood risk, environmental degradation, loss of habitat, decline in biodiversity, it is not an answer to say that the extraction is in blocks of less than 5 ha, separated by 1 km, because their collective impact may be significant, hence the necessity of a proper environmental assessment plan.

26. We are of the considered view that it is highly necessary to have an effective framework of mining plan which will take care of all environmental issues and also evolve a long-term rational and sustainable use of natural resource base and also the bio-assessment protocol. Sand mining, it may be noted, may have an adverse effect on biodiversity as loss

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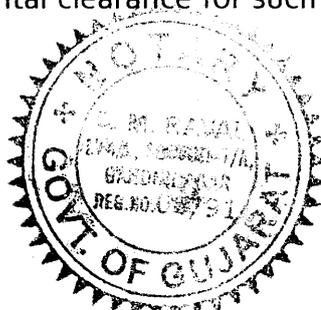
of habitat caused by sand mining will affect various species, flora and fauna and it may also destabilise the soil structure of river banks and often leaves isolated islands. We find that, taking note of those technical, scientific and environmental matters, MoEF, Government of India, issued various recommendations in March 2010 followed by the Model Rules, 2010 framed by the Ministry of Mines which have to be given effect to, inculcating the spirit of Article 48-A and Article 51-A(g) read with Article 21 of the Constitution.

29. We, in the meanwhile, order that leases of minor minerals including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting environmental clearance from MoEF. Ordered accordingly.” (emphasis added)

A copy of judgment dated 27.02.2012 delivered by the Hon'ble Supreme Court of India in the case of Deepak Kumar has been annexed to the application at page 72.

5. The Ministry of Environment, Forest and Climate Change, Government of India issued Office Memorandum dated 18.05.2012 requiring all mining projects of minor minerals with mining lease area of less than 5 hectares to obtain prior environmental clearance. A copy of notification dated 18.05.2012 has been annexed to the application at page 85.
6. Subsequently, the Ministry of Environment, Forest and Climate Change, Government of India issued a notification dated 15.01.2016 classifying project or activity of mining of minor minerals for mining areas of 0-25 hectares as 'B2' category projects. Application for obtaining environmental clearance for such project or activity was to be made to

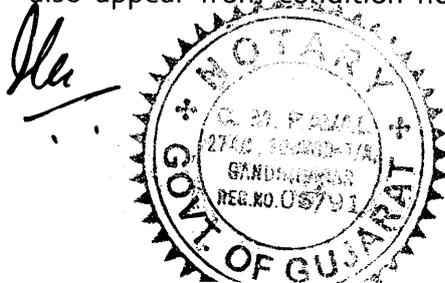
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therefore, necessary if the rampant exploitation of the minor minerals is to be curbed. This apparently was also the view of the Hon'ble Supreme Court in the case of Deepak Kumar (supra).

22. For all these reasons, we direct that the procedure laid down in the impugned Notification be brought in consonance and in accord with the directions passed in the case of Deepak Kumar (supra) by (i) providing for EIA, EMP and therefore, Public Consultation for all areas from 5 to 25 ha falling under Category B-2 at par with Category B-1 by SEAC/ SIEAA as well as for cluster situation wherever it is not provided; (ii) Form-1M be made more comprehensive for areas of 0 to 5 ha by dispensing with the requirement for Public Consultation to be evaluated by SEAC for recommendation of grant EC by SEIAA instead of DEAC/DEIAA; (iii) if a cluster or an individual lease size exceeds 5 ha the EIA/EMP be made applicable in the process of grant of prior environmental clearance; (iv) EIA and/or EMP be prepared for the entire cluster in terms of recommendation 5 (supra) of the Guidelines for the purpose of recommendations 6, 7 and 8 thereof; (v) revise the procedure to also incorporate procedure with respect to annual rate of replenishment and timeframe for replenishment after mining closure in an area; (vi) the MoEF&CC to prepare guidelines for calculation of the cost of restitution of damage caused to mined-out areas along with the Net Present Value of Ecological Services forgone because of illegal or unscientific mining.

23. We have permitted retention of 0-5 ha as a category keeping in view that some States grant isolated single lease of 5 ha and less not falling in cluster situation for which stringent requirements in Form-1M will serve the purpose of providing safeguards for protection of the environment and sustainable mining of minor minerals. This is particularly true in smaller and mountainous States as will also appear from condition no. 2 under "The Issues and



Management of Mining in Cluster" referred to earlier in para 20 of this order.

24. It is reiterated that any attempt to split the lease area for the purpose of avoiding the applicable regulatory regime shall be viewed seriously. This in our view will be in the interest of the environment as deliberated in detail in the case of Deepak Kumar (supra) and would also satisfy the Precautionary Principle and the Principle of Sustainable Development contemplated under Section 20 of the National Green Tribunal Act, 2010.

25. The MoEF&CC shall, therefore, take appropriate steps to revise the procedure laid down in the impugned Notification dated 15th January, 2016 in terms of the above directions and observations so that it is conformity with the letter and spirit of the directions passed by the Hon'ble Supreme Court in Deepak Kumar (supra). The applications stand disposed of..." (emphasis added)

A copy of order dated 13.09.2018 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi in Original Application No. 186 of 2016 and connected matters has been annexed to the application at page 125.

8. In line with the directions contained in the order dated 13.09.2018 passed by the Hon'ble National Green Tribunal in Original Application No. 173 of 2018 and allied matters, the Ministry of Environment, Forest and Climate Change, Government of India issued an Office Memorandum dated 12.12.2018 incorporating the directions. A copy of Office Memorandum dated 12.12.2018 has been annexed to the application at page 133.

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DEIAA shall be reappraised through SEAC/SEIAA in compliance to the order of the Hon'ble NGT in O.A. 142 of 2002" and has directed the State Expert Appraisal Committee to "re-appraise the ECs issued by DEIAAs between 15.01.2016 and 13.09.2018 (including both dates)". This exercise is directed to be completed within a period of 01 year.

14. In terms of the directive of the Ministry of Environment, Forest and Climate Change, Government of India, the State Environment Impact Assessment Authority together with the State Expert Appraisal Committee shall re-appraise all the Environmental Clearances issued by the District Environment Impact Assessment Authority between the period 15.01.2016 to 13.09.2018.
15. I further declare that in case it is found that any Environmental Clearance has been issued by District Environment Impact Assessment Authority between the period 13.09.2018 to 12.12.2018, the same too shall be taken for re-appraisal by the State Expert Appraisal Committee, as if the same is also covered under the Office Memorandum dated 28.04.2023 issued by Ministry of Environment, Forest and Climate Change, Government of India.
16. I submit that in view of the issuance of Office Memorandum dated 28.04.2023 by the Ministry of Environment, Forest and Climate Change, Government of India and the declaration made by the State Environment Impact Assessment Authority assuring to reappraise all the Environmental Clearances that may have been issued by the District Environment Impact Assessment Authority between the period

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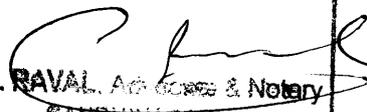


15.01.2016 to 13.09.2018 and even up to 12.12.2018, the cause of action for maintaining the present application does not survive. I, therefore, humbly submit that the Hon'ble Tribunal may be pleased to dispose of the application by making suitable observations and discharge notice with no order as to costs.


DEPONENT

VERIFICATION

Verified at Gandhinagar on this ^{12th} day of July, 2023 that the contents of the above affidavit are true and correct, nothing stated therein is false and nothing material has been concealed therefrom.

Entered in Notary Register at
Serial No. 400 Vol. No. 1

C. M. RAVAL, Advocate & Notary
GANDHINAGAR

12 JUL 2023


C. M. RAVAL
NOTARY
Govt. of Gujarat

12 JUL 2023


DEPONENT

