

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE  
EXECUTION PETITION NO. 02 OF 2022  
IN  
ORIGINAL APPLICATION NO. 99 OF 2019**

IN THE MATTER OF:

LAXMAN DHONDIBA THOMBARE

...APPLICANT

VERSUS

CHIEF SECRETARY, GOVT. OF MAHARASHTRA & ORS.

...RESPONDENTS

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N.D.O.H.-31.03.2023

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THROUGH

PLACE: New Delhi

DATE: 01.03.2023



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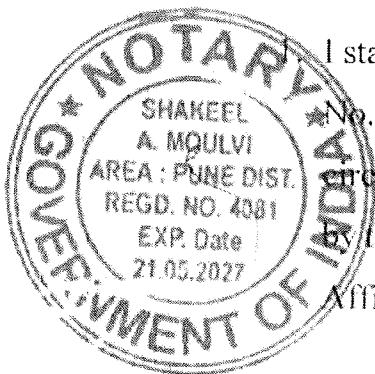
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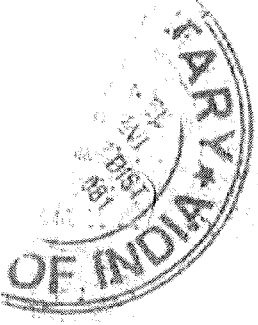
...RESPONDENTS

**AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 7  
REGARDING OBJECTIONS TO THE EXECUTION  
APPLICATION NO. 02 OF 2022.**

I, Pushkar Shrinivas Vaidya, aged 36 years, S/o Shrinivas Vaidya, Authorized Representative of the Respondent No. 7, M/s Roadway Solutions India Pvt. Ltd., having its registered office at S. N-29, H.N-20, Nr. Kubex Soc. Nr. Shera School, Kondhwa (KD), Pune, Maharashtra- 411048, do hereby solemnly affirm and state as follows:

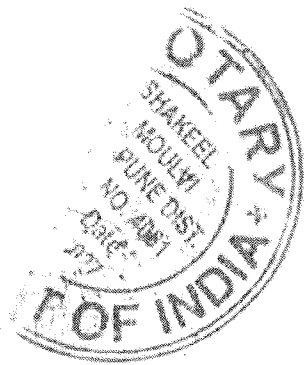


I state that I am the Authorized Representative of the Respondent No. 7 and as such being fully conversant with the facts and circumstances of the present case, based on records maintained by the Respondent No. 7 Company, I am competent to affirm this Affidavit on behalf of the Respondent No. 7.



2. The brief facts of the matter are as follow:

- a. I state that the Maharashtra State Road Development Corporation (hereinafter referred to as “MSRDC”) awarded the bid of rehabilitation and upgradation of National Highway 753 F section from Pune to Male village, 1+275 KM. to 31+400KM. vide an Engineering Procurement and Construction Agreement (hereinafter referred to as “EPC Agreement”) dated 02.05.2018 to the Respondent No. 7.
- b. I state that the Respondent No. 7 obtained a No Objection Certificate dated 07.06.2018 from the Gram Panchayat, Jamgaon-Dasli to carry out the work in the region relating to the work awarded.
- c. I state that to perform the work awarded, availability of stone and murmur was essential. Therefore, the Respondent No. 7 vide its letter dated 16.11.2018 applied to the Mining Branch, Office of the District Collector, Pune, Maharashtra for permission to excavate pebbles/ soft stones (hereinafter referred to as “short-term quarry permit”) in the region of Jamgaon, Pune Maharashtra. Subsequently, the Office of the District Collector Pune, Maharashtra vide its two (02) letters both dated 10.12.2018 granted permission to the Petitioner to excavate pebbles/ soft stones.
- d. I state that the Respondent No. 7 herein on receiving the above said letters dated 10.12.2018 noted that the Respondent No. 7



inadvertently left out the word “stone” while seeking permission to excavate. Thereby, the Respondent No. 7 vide its letter dated 21.01.2019 requested the Office of the District Collector, Pune, Maharashtra to grant permission for excavation of stone as well. Acceding to the request of the Respondent No. 7, the Office of the District Collector, Pune, Maharashtra granted permission to excavate sand, stone and pebbles/ soft stone vide its two (02) letters both dated 02.02.2019.

- e. I state that the Respondent No. 7 had also obtained a Consent to Operate bearing no. RO-PUNE/ CONSENT/ 1908000426 dated 14.08.2019 from the Maharashtra Pollution Control Board to run the RMC Plant, Hot Mix Plant, Crushers and other machineries.
  - f. I state that the Respondent No. 7 had purchased land from several individuals which were near the project site to avoid any hindrances. The Applicant herein was one of the sellers of the land and was satisfied with the consideration amount as it was higher than the market value. However, the ulterior motives of the Applicant came to light when he started to cause hindrance at site by beating the workers, stealing equipment, damaging the plant and giving life threats to the Director of the Respondent No. 7 just to extort money.
3. I state that it is the case of the Applicant that the Respondent No.7 was undertaking the mining activities illegally without any

Environmental Clearance and was damaging the surrounding environment.

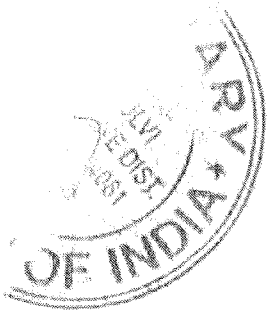


4. I state that the short-term quarry permit was granted to the Respondent No. 7 in accordance with Rule 58 and Rule 59 of the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013, to fulfil the work awarded by MSRDC. It is pertinent to mention herein that as per Rule 59 of the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013, an Environmental Clearance is not required for granting a short-term quarry permit. It is further pertinent to mention herein that one of the many purposes of Rule 58 and 59 was to boost the infrastructural development of National Highways in the State of Maharashtra.

5. I state that the Ministry of Environment, Forest and Climate Change issued a notification bearing no. S.O. 1224 (E) dated 28.03.2020 wherein certain cases were exempted from requirement of Environmental Clearance. The relevant case exempted from requirement of Environmental Clearance is reiterated hereunder:

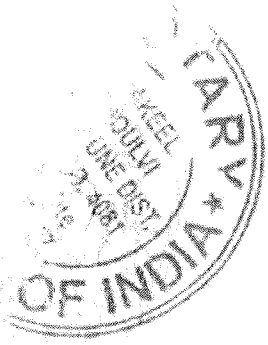
*“6. Extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines etc.”.*

6. I state that the work awarded to the Respondent No. 7 falls under the purview of the above said notification and hence in view of the said notification, Environmental Clearance was not required



for execution of the work. It is pertinent to mention that the concerned authorities awarded the permit for mining as per the said notification read with Rule 58 and 59 of the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013 that makes it clear that there is no requirement of Environmental Clearance.

7. I state that, furthermore, an Environmental Clearance is required in cases of quarry lease, however, the case in hand involves a short-term quarry permit granted in accordance with Rule 58 and Rule 59 of the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013.
8. I state that it is evident that the case in hand involves grant of short-term quarry permit and is not a case of grant of quarry lease, as alleged by the Applicant. It is submitted herein that the Respondent No. 7 was granted a short-term quarry permit to carry out the work awarded. Had it been the case of quarry lease as alleged by the Applicant, the minimum term of such lease should have been five (05) years as per Rule 18 of the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013. Therefore, the present case shall not be treated as a case of quarry lease and hence no Environmental Clearance is required.
9. I state that the statute and notification mentioned above have been upheld by the Hon'ble High Court of Bombay wherein it was held that no Environmental Clearance is required in cases of



short-term quarry permit granted under Rule 58 and 59 of the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013. The Hon'ble High Court of Bombay has further held that the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013 have been established by the State of Maharashtra after considering the guidelines laid down in the Hon'ble Supreme Court's Judgment, *Deepak Kumar & Ors. Versus State of Maharashtra* and in accordance with Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957. It is pertinent to mention herein that the Hon'ble High Court of Bombay has even highlighted the fact that the statute, Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013 has not been challenged or declared as unconstitutional till date and hence, it is very much in place. Therefore, in light of the recent Judgment of the Hon'ble High Court of Bombay and statute in place, it is fair to say that no Environmental Clearance was ever required by the Respondent No. 7.

10.I state that the Respondent No. 7 was granted a short-term quarry permit for excavation of stone and murmur and as per the records maintained by the Respondent No. 7, it has not excavated anything in excess of the permitted limit. Furthermore, without prejudice, it is submitted herein that a bare perusal of the report dated 23.10.2020 submitted by the District Collector to the State PCB which is also reiterated in this Hon'ble Tribunal's Order dated 20.12.2021 shows that 80,491 brass remains to be excavated out of the permitted limit of 1,15,000 brass. In the

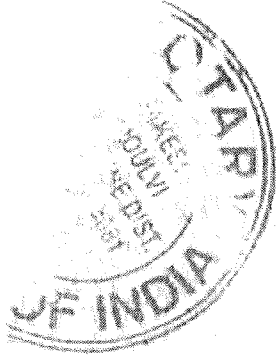


same report, the District Collector has also submitted that 52,112 brass has been excavated without any authorization, however, no basis of calculation or proof has been submitted in this regard. The Respondent No. 7 vide its reply to the Joint Committee Report vehemently denied the calculations and fine imposed in the report dated 23.10.2020 as the entire report suffered from various irregularities as proper procedure was not followed in ascertaining the fine imposed, excavation done without authorization and furthermore, no show cause notice was ever issued to the Respondent No. 7 which is mandatory as per the Government Circular VPM 2015/ Q. No. 306/ PR-4 issued by the State Government of Maharashtra.

11.I state that it is also alleged that the mining was ongoing on a land area of about ten (10) hectares, however, the mining was being undertaken in an area of only two (02) hectares. It is pertinent to mention herein that as per the Notification dated 14.09.2006 issued by the Ministry of Environment, Forest and Climate Change, Environmental Clearance is not mandatory for the excavation of minor mineral in an area less than five (05) hectares area.

12.I state that the Respondent No. 7 has not violated the short-term quarry permit granted and has not excavated anything in excess of the permitted quantity. Without Prejudice, it is submitted that this Hon'ble Tribunal in the Original Application bearing no. 99 of 2019 has not gone into the issue of quantifying the excessive quantity excavated as it has held that Environmental Clearance

was mandatory to carry out any excavation work and hence any excavation done is illegal.



13. I state that this Hon'ble Tribunal vide its Order dated 20.12.2021 directed the Chief Secretary, Maharashtra to enquire about the conduct of the persons responsible for granting consent to operate without Environmental Clearance. Furthermore, this Hon'ble Tribunal directed to establish a committee consisting of CPCB, SEIAA, Maharashtra, State PCB and Divisional Commissioner, Pune to ascertain the amount of compensation for mining without Environmental Clearance.

14. I state that, however, the Respondent Nos. 1, 2, 4 and 5 filed a Civil Appeal in the Hon'ble Supreme Court seeking to set aside the Order dated 21.12.2021 passed by this Hon'ble Tribunal on the following grounds:

*“A. Because, the Appellant submit that the activity, i.e. carried out by the Respondent No. 4 Roadways does not amount to mining. The earth, which is dug up for the purpose of widening the road and strengthening it cannot be characterized as one of excavation of minor mineral. The said activities do not amount to mining operations, because mere digging of earth does not amount to mining operation, so as to attract EC.”*

*“B. Because, under the Mines and Minerals (Department & Regulation) Act, 1957, ‘Mining’ means operation for the*

*purpose of winning minerals. In this particular activity, the object is not to win minerals. Therefore, no EC is required.”*

*“C. Because, apart under the Notification of the Central Government dt. 28.3.2020, no EC is required in case of Linear Projects. Widening and strengthening of road is a linear project, therefore, such project is exempted from EC.”*

*“D. Because, the Tribunal ought to have noted that the Government Officers granting temporary permit for the activities of the Respondent Company under Rule 58 of the Maharashtra Mines & Minerals Extraction (Development & Regulation) Rules, 2013. Therefore, the direction of the Tribunal to the higher administrative authorities to take an appropriate action against the officers responsible for permitting illegal mining and granting Consent to Operate without requisite EC is illegal and unjustified.”*

*“E. Because, for the above reason, the direction of the Tribunal to the Chief Secretary, State of Maharashtra to enquire about the conduct of the persons responsible for getting Consent to Operate without EC in violation of the directions of the Hon’ble Supreme Court is illegal and unjustified.”*

*“F. Because, the officers granted temporary permit of mining in exercise of powers under Rule 58 of the Maharashtra Mines & Minerals Extraction (Development & Regulation) Rules, 2013 have power to issue temporary permits. Therefore, the*



*direction to constitute a joint Committee to assess the amount of compensation and damages is illegal.”*

*“G. Because, under the Notification dt. 3.2.2000 issued u/s 3 (e) of the 1957 Act, ordinary earth used in the activities of road widening is minor minerals.”*

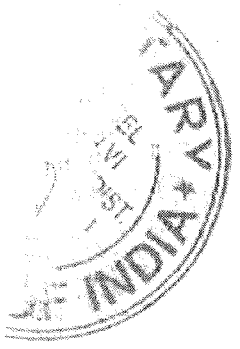
*“H. Because the Hon’ble Tribunal has erred in not appreciating that under the Notification dated 28.03.2020, Extraction of Minor-Mineral for Lien or Projects is exempted, so the activities of the Respondent carried out as per permission of the Appellant was legally valid.”*

*“I. Because, the Tribunal failed to note that under Rule 58 and 59 temporary permits can be granted for the purpose of Mining of Minor-Minerals.”*

*“J. Because, the Tribunal failed to note that if EC is made compulsory even for temporary permit, it will create lot of practical hurdles in development work.”*

*“K. Because, the Temporary Permits are issued for mining activities of captive consumption like construction of roads, buildings etc. It is also issued for other government projects as well. It is also issued for Semi-Government projects, which are essentially developmental in nature. Under the circumstances, if prior EC is made compulsory, then the person seeking permit will have to prepare a mining plan, which caused quite a*





*fortune. It is a time consuming process. This may result in illegal mining, resulting in damage to EC and loss of revenue. After the mining plan is submitted, the Committee namely SEAC (State Level Expert Appraisal Committee) and SEIIAA (State Level Environment Impact Assessment Authority) also take time to grant EC, because both the Authorities are overburdened. Resultantly, development is hampered. Needless to add that, the revenue is badly affected. Under the circumstances, the State Government must have power to grant temporary permits without EC.”*

*“L. Because the Tribunal has committed an error in inferring that the mining activity is carried out in area admeasuring more than 10 hectares.”*

The Civil Appeal is being annexed herewith as ANNEXURE A-1.

15. The Hon'ble Supreme Court vide its Order dated 11.11.2022, granted stay on the Order dated 20.12.2021 as far as the “Appellants” are concerned. The questions of law before the Hon'ble Supreme Court which are also a part of this Hon'ble Tribunal's Order dated 07.02.2023 are:

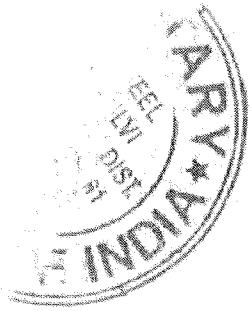
A. Whether the National Green Tribunal was right in holding that the Mining Activity under question was illegal despite notification dated 28.03.2020 that lays down that extraction


or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines etc. are exempted from EC?

- B. Whether the Tribunal is holding that the prior EC is necessary even for temporary permit for excavation?
- C. Whether the Tribunal was right in directing an enquiry of the officers, who had been issuing temporary permit without prior EC?

16. I state that it is vital that the above said questions are first decided by the Hon'ble Supreme Court to ascertain if the Respondent No. 7 has violated any laws in place. Since, if this Hon'ble Tribunal decides to proceed against the Respondent No. 7 during the pendency of the matter in the Hon'ble Supreme Court and the Hon'ble Supreme Court on considering the relevant laws and notifications in place holds that no Environmental Clearance was ever required, grave prejudice shall be caused to the Respondent No. 7 which cannot be reversed in future.

17. I state that in view of the above stated facts and circumstances, it is essential that the Hon'ble Supreme Court first decide if the Environmental Clearance was ever required and then a Joint Committee may be formed to ascertain the compensation payable as otherwise the resources and efforts of the Joint Committee would be futile.





18.I state that it is pertinent to mention herein that the Environment Department is also an Appellant in the Civil Appeal filed in the Hon'ble Supreme Court and as per the Hon'ble Supreme Court's Order dated 11.11.2022, there is stay on the Order dated 20.12.2021 of this Hon'ble Tribunal "insofar as the Appellants are concerned". Hence in view of the Order dated 11.11.2022 passed by the Hon'ble Supreme Court, the Joint Committee consisting of CPCB, SEIAA, Maharashtra, State PCB and Divisional Commissioner, Pune cannot not be established unless the Hon'ble Supreme Court vacates the stay or disposes of the Civil Appeal as *SEIAA* is a body under the Environment Department. Therefore, the Applicant shall not demand to constitute a fragmented Joint Committee.

19.I state that the Applicant before this Hon'ble Tribunal on 07.02.2023 had sought a prayer that a Joint Committee shall be formed to ascertain if the Respondent No. 7 has excavated resources in excess of the permitted limit and the amount of the same which admittedly granted in view of the submissions made herein.

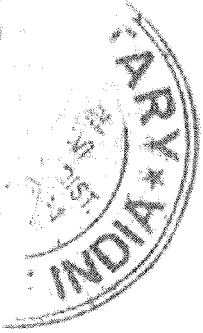
20.I state that it is pertinent to mention herein that this Hon'ble Tribunal in its Order dated 20.12.2021 has not gone into the issue of deciding whether the Respondent No. 7 has excavated resources in excess of the permitted limit. This Hon'ble Tribunal has held that the entire mining was illegal and to ascertain the compensation payable for the entire mining, a committee was to be constituted. Therefore, the primary question before this

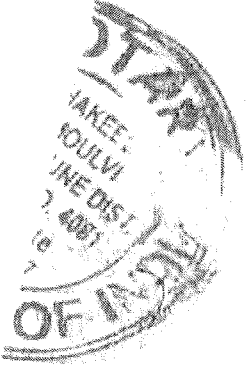
Hon'ble Tribunal was whether an Environmental Clearance was required and not if the minerals have been excavated in excess of the permitted limit. The relevant portions of the Order dated 20.12.2021 are reiterated hereunder:

*“14. In view of the undisputed fact that no EC has been obtained and no environment impact assessment conducted as required, the entire mining undertaken by the PP is illegal.”*

*“15. Accordingly, we direct the Chief Secretary, Maharashtra to enquire about the conduct of the persons responsible for granting consent to operate without EC and permitting mining without EC in violation of directions of the Hon'ble Supreme Court. A joint committee of CPCB, SEIAA, Maharashtra, State PCB and Divisional Commissioner, Pune may assess the amount of compensation and oversee recovery, in accordance with law.”*

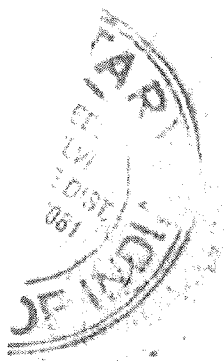
21.I state that it is pertinent to mention that an Order dated 30.06.2022 was passed by the Ld. Tehsildar Mulshi wherein it has been founded that as per Electronic Total Station Machine (hereinafter referred to as “**ETS Machine**”) 97,840 brass has been mined in Gat Nos. 366, 367, 368 and 369 and there has been no mining in Gat Nos. 254, 264, 265, 267, 271 and 273. The Ld.Tehsildar, Mulshi has further held that 2,840 brasses have been mined in excessive of the permitted quantity in Gat Nos. 366, 367, 368 and 369. However, the Ld. Tehsildar Mulshi has concluded that as per Maharashtra Government Decision No.





Gaukh/ 10/ 0416/ Pr. No. 302B dated 14.06.2017, if the Contractor deposits the amount of proprietary money for additional mining within thirty (30) days, no penal action shall be taken against him as per Section 48 (7) of the Maharashtra Land Revenue Code, 1966. Therefore, as the Respondent No. 7 had deposited the said amount, the Ld. Tehsildar, Mulshi was pleased to close the issue pending against the Respondent No. 7 of any actions. The Order dated 30.06.2022 passed by the Ld. Tehsildar, Mulshi is annexed herewith as **ANNEXURE A-2**.

22.I state that the Applicant has prayed that the Respondent No. 1 shall be directed to conduct enquiry of the persons responsible for acting in violation of directions of the Hon'ble Supreme Court. However, as the Respondent No. 1 has filed a Civil Appeal in the Hon'ble Supreme Court wherein a stay has been granted, the Respondent No. 1 as on date cannot conduct any such enquiry. Furthermore, it is relevant to highlight herein that the Respondent No. 1 in its Civil Appeal has submitted that the Respondent No. 7 had obtained all permissions required and no Environmental Clearance was ever required to carry out the work in terms of the laws and notifications in place. Therefore, the stand of the Respondent No. 1 is crystal clear that there was no violation of law and order in place and the Respondent No. 7 has abided by all the rules and regulations in carrying out the work, hence, no enquiry is required. The relevant portions of the Civil Appeal wherein the Respondent Nos. 1, 2, 4 and 5 have explicitly stated that there was no violation of laws in place by the Respondent No. 7 are being reiterated hereunder:




*“C. Because, apart under the Notification of the Central Government dt. 28.3.2020, no EC is required in case of Linear Projects. Widening and strengthening of road is a linear project, therefore, such project is exempted from EC.”*

*“H. Because the Hon’ble Tribunal has erred in not appreciating that under the Notification dated 28.03.2020, Extraction of Minor-Mineral for Lien or Projects is exempted, so the activities of the Respondent carried out as per permission of the Appellant was legally valid.”*

*“L. Because the Tribunal has committed an error in inferring that the mining activity is carried out in area admeasuring more than 10 hectares.”*

23.I state that the Applicant has even prayed for Closure Order against the ready-mix concrete/ hot mix plant at Jamgaon, however, the same cannot be granted as no regular mining or excavation is being carried out by the Respondent No. 7 at the said plant for its own gain. Furthermore, the Order dated 20.12.2021 passed by this Hon’ble Bench does not mention any corrective measure by closing of the ready-mix concrete/ hot mix plant at Jamgaon as the activities done at the site were only for development purposes being carried out for the government departments. Whereas the direction of this Hon’ble Bench was that a joint committee shall be formed consisting of CPCB, SEIAA, Maharashtra, State PCB and Divisional Commissioner,

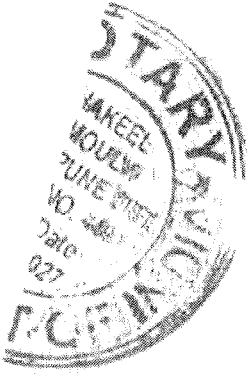


Pune which shall determine the amount of compensation. Hence, in view of the stated facts, the Applicant cannot pray for execution of a direction which was never granted. Therefore, by any stretch of imagination, the said prayer cannot be granted to the Applicant.

24.I state that as a matter of fact, requisite permissions had been granted by the concerned authorities to the Respondent No. 7 and it is further an admitted fact that the Respondent No. 7 obtained all the necessary permissions and did not violate any terms of the short-term quarry permit. The said submission is backed by the contention of the Respondent No. 1, 2, 4 and 5 in their Civil Appeal wherein they state that, "*H. Because...Extraction of Minor Mineral for Lien or Projects is exempted, so the activities of the Respondent carried out as per the permission of the Appellant was legally valid.*".

25.I state that it is pertinent to mention herein that the activity in question was being carried out by the Respondent No. 7 solely for the purpose of construction of the National Highway and not for any of its personal use or gain. Therefore, the said work was being conducted in the interest of the Nation and in accordance with all the laws in place.

26.I state that the Applicant is acting with *mala fide* intentions and is trying to circumvent the Order passed by the Hon'ble Supreme Court by demanding execution of reliefs which were never granted by this Hon'ble Tribunal. The Applicant is well aware of



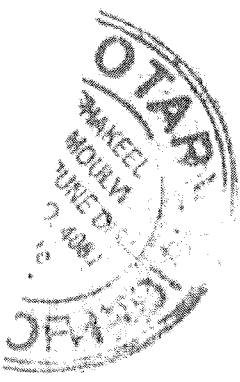
the fact that if the Hon'ble Supreme Court decides that no Environmental Clearance was ever required, the entire claim of the Applicant shall become infructuous as its only contention was that the Respondent No. 7 was operating without requisite permissions.

Para-wise Reply:

1. That the contents of the Para No. 1 are a matter of record and needs no reply.
2. That the contents of the Para No. 2 are false, vexatious and vehemently denied. It is denied that the mining was being undertaken on an area of ten (10) hectares. It is submitted in this regard that the mining was being undertaken on an area of two (02) hectares and as per the laws and notifications in place, no Environmental Clearance was ever required. It is further submitted herein that the Respondent No. 7 has obtained all requisite permissions and has abided by all the laws in place. The same facts are confirmed by the Respondent Nos. 1, 2, 4 and 5 in their Civil Appeal wherein it is stated that,

*“L. Because the Tribunal has committed an error in inferring that the mining activity is carried out in area admeasuring more than 10 hectares.”*

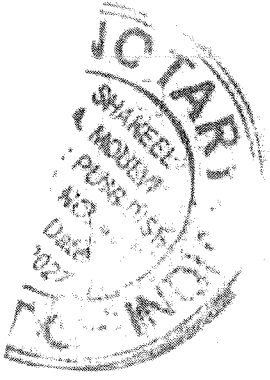
*“H. Because the Hon'ble Tribunal has erred in not appreciating that under the Notification dated 28.03.2020,*



*Extraction of Minor-Mineral for Lien or Projects is exempted, so the activities of the Respondent carried out as per permission of the Appellant was legally valid.”*

The contents of the preliminary objections are not being repeated herein for the sake of brevity.

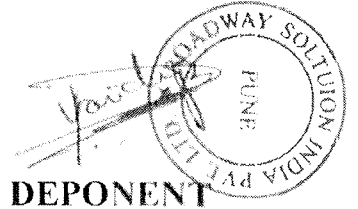
3. That the contents of the Para No. 3 are denied for being incorrect and wrong expect those that are matter of record.
4. That the contents of the Para No. 4 are false, vexatious and vehemently denied. It is denied that the environmental damage and health hazard to the villagers and agriculture is continuing. It is pertinent to mention herein that no such hazard is being caused to the villagers and agriculture as the Respondent No. 7 is not undertaking regular activity at the site. The contents of the preliminary objections are not being repeated herein for the sake of brevity. Moreover, the Original Application was filed by the Applicant herein only with *mala fide* intentions to usurp illegal monies from Respondent No. 7.
5. That the contents of the Para No. 5 are a matter of record and needs no reply. However, it is vehemently denied herein that health hazard is being caused to the villagers and the environment is also being hampered. It is submitted in this regard that no actions of the Respondent No. 7 are causing such negative impact on the villagers or the environment as the project in question is not being operated at the moment.



6. That the contents of Para 6, Prayer are vehemently denied on the following grounds:
- a. The Applicant has wrongfully prayed for Closure Order against the Ready-Mix Concrete/ Hot Mix Plant at Jamgaon as the same was neither prayed nor granted in the Order dated 20.12.2021. Therefore, the execution cannot be sought for a relief which was never granted. Furthermore, it is an admitted fact that the Respondent No. 7 has not violated any environment norms in place.
  - b. The Applicant has prayed for directions to be given to the Respondent No. 1 to conduct enquiry of the persons responsible for acting in violation of the directions of the Hon'ble Supreme Court. It is pertinent to mention herein that the same shall not be granted as the Respondent No. 1 has preferred a Civil Appeal which is pending before the Hon'ble Supreme Court in which the Respondent No. 1 has clearly mentioned that an Environmental Clearance was never required and all permissions were duly obtained by the Respondent No. 7. Therefore, it is clear that as per the stand of Respondent No. 1, there was no violation of the law in place.
  - c. The prayer of the Applicant seeking constitution of a Joint Committee comprising of CPCB, SEIAA, Maharashtra, SPCB and Divisional Commissioner, Pune cannot be granted



as on date as the SEIAA is under the Environment Department and the Environment Department is an Appellant in the Civil Appeal filed in the Hon'ble Supreme Court wherein a stay has been granted on operation of this Hon'ble Tribunal's Order dated 20.12.2021. Therefore, a fragmented Committee cannot be formed without the presence of SEIAA.

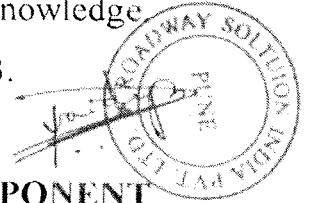


DEPONENT

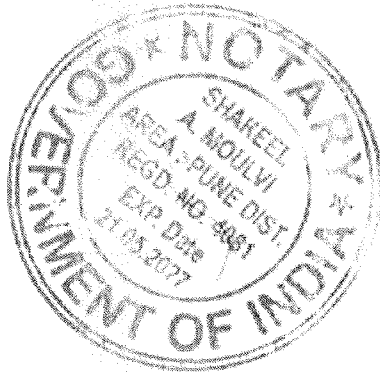
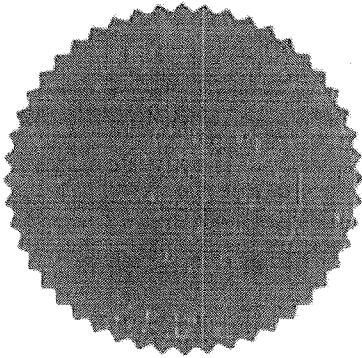
VERIFICATION

I, Pushkar Shrinivas Vaidya, aged 36 years, S/o Shrinivas Vaidya, Authorized Representative of the Respondent No. 7, do hereby verify that the contents of this Affidavit are true and correct to my knowledge

Verified at Pune on this \_\_\_\_\_ day of February, 2023.



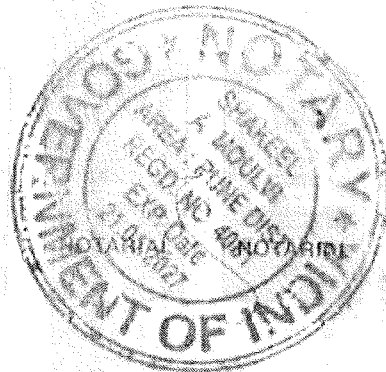
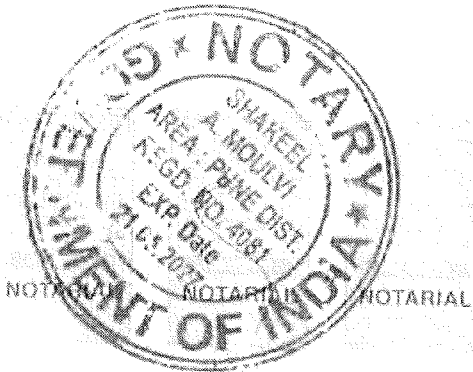
DEPONENT



BEFORE ME

*Shakeel A. Mouli*  
SHAKEEL A. MOULVI  
NOTARY, GOVT. OF INDIA  
PUNE, MAHARASHTRA  
Noted and Registered  
Serial number 397/2023

1 MAR 2023



Delivery Mode: Registered

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
(RULE 8 OF ORDER XIX, SCR 2013)

CIVIL APPEAL No. 8074 OF 2022

CHIEF SECRETARY GOVT. OF  
MAHARASHTRA AND  
OTHERS

... Petitioner(s)/Appellant(s)

VERSUS

LAXMAN DHONDIBA  
THOMBARE AND OTHERS

... Respondent(s)

To,

1 LAXMAN DHONDIBA THOMBARE,  
FARMER R/O THOMBRE VASTI,  
JAMGAON, MULSHI, PUNE,  
DISTRICT- PUNE, MAHARASHTRA -  
412108

PID: 162031/2022 FOR R[1] IN  
C.A. NO.8074/2022 (SEC XVII)

2 MAHARASHTRA POLLUTION  
CONTROL BOARD THR. ITS  
MEMBER SECRETARY,  
3RD FLOOR, LALPTARU POINT  
BUILDING, MUMBAI 400022,  
MAHARASHTRA

PID: 162032/2022 FOR R[2] IN  
C.A. NO.8074/2022 (SEC XVII)

3 MAHARASHTRA POLLUTION  
CONTROL BOARD THR. ITS  
REGIONAL OFFICER,  
JOG CENTRE, MUMBAI PUNE,  
WAKDEWADI PUNE 411003,  
MAHARASHTRA

PID: 162033/2022 FOR R[3] IN  
C.A. NO.8074/2022 (SEC XVII)

4 ROADWAYS SOLUTIONS INDIA PVT.  
LTD.,  
THR. ITS MANAGING DIRECTOR  
GAT NO. 266, 274, AND NUMBER OF  
OTHER GAT NUMBERS FROM  
VILLAGE JAMGAON TAL. MULSHI  
DIST. PUNE MAHARASHTRA

PID: 162034/2022 FOR R[4] IN  
C.A. NO.8074/2022 (SEC XVII)

WHEREAS the appeal above-mentioned (copy enclosed) filed in the Registry by **Mr. AADITYA ANIRUDDHA PANDE**, Advocate, on behalf of the Appellant above-named was listed for hearing before this Court on the **11th November, 2022**, when the Court was pleased to pass the following Order :

" Issue notice.

Tag with C.A. No. 6558 of 2022.

Until further orders, operation and execution of the impugned order shall remain stayed insofar as the appellants are concerned. "

NOW, THEREFORE, TAKE NOTICE that the above appeal above-mentioned will be posted for hearing before this Court in due course along with the Civil Appeal no. 6558 of 2022 when you may appear before the Court either in person or through an Advocate-on-record of this Court duly appointed by you and show cause to the Court on the day that may subsequently be specified as to why the ~~leave to~~ appeal may not be admitted.

You may file your affidavit in opposition to the petition hence forthwith but shall do so only by setting out the grounds in opposition to the questions of law or grounds set out in the Appeal and may produce such pleadings and documents filed before the Tribunal against whose order the appeal is filed.

TAKE FURTHER NOTICE that if you fail to enter appearance as aforesaid, no further notice shall be given to you and the matter above-mentioned shall be disposed of in your absence.

Dated :18th November, 2022

  
ASSISTANT REGISTRAR

Copy to :-Mr. Aaditya Aniruddha Pande, adv.

  
ASSISTANT REGISTRAR

### Important Notice LEGAL AID

(1) Legal Services of an advocate is provided by the Supreme Court Legal Services Committee and the Supreme Court Middle Income Group Legal Aid Society to eligible litigants.

For further information, please contact the Secretary, Supreme Court Legal Services Committee or the Member Secretary, Supreme Court Middle Income Group Legal Aid Society, 107-108, Lawyers' Chambers, R.K. Jain Block - Near Post Office, Supreme Court Compound, Tilak Marg, New Delhi-110001 (Tel Nos. 011-23116353,23116354 (Additional Building Complex) and 011-23381257 (Front Office))

### MEDIATION

(2) The facility of amicable settlement of disputes by trained mediators in cases pending in the Supreme Court is now available in the Supreme Court.

For further information, please contact the Coordinator, Supreme Court Mediation Centre, 109, Lawyers' Chambers, R.K. Jain Block - Near Post Office, Supreme Court Compound, Tilak Marg, New Delhi-110001 (Tel No. 011-23071432)

D.No.  
17615/2022

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. \_\_\_\_\_ OF 2022

D.No.  
17615/2022

(UNDER SECTION 22 OF THE NATIONAL  
GREEN TRIBUNAL ACT, 2010)

(Arising out of the impugned judgement and final order dated 20.12.2021 in Original Application No.99 of 2019 (WZ) passed by the National Green Tribunal, Special Bench)

**IN THE MATTER OF**

Chief Secretary, Govt. of Maharashtra & Ors. ...Appellants

Versus

Laxman Dhondiba Thombare & Ors. ...Respondents

WITH

I.A. NO. \_\_\_\_\_ OF 2022  
APPLICATION FOR STAY

WITH

I.A. NO. \_\_\_\_\_ OF 2022  
APPLICATION FOR EXEMPTION FROM FILING CERTIFIED  
COPY OF THE IMPUGNED ORDER

WITH

I.A. NO. \_\_\_\_\_ OF 2022  
APPLICATION FOR EXEMPTION FROM FILING OFFICIAL  
TRANSLATION

WITH

I.A. NO. \_\_\_\_\_ OF 2022  
APPLICATION FOR CONDONATION OF DELAY IN REFILEING  
THE CIVIL APPEAL

**PAPER BOOK  
(FOR INDEX, KINDLY SEE INSIDE)**

**ADVOCATE FOR APPELLANT: SACHIN PATIL**

**GOVERNMENT OF MAHARASHTRA**

Out Ward No.  
Office of the Govt. Advocate  
Government of Maharashtra  
New Maharashtra Sadan  
Kasturba Gandhi Marg  
New Delhi-110 001  
Tel: 011-23385212  
011-23385934  
Fax: 011-23385212  
E-mail: govtadvdelhi@gmail.com

---

Dated : \_\_\_\_ .06.2022

**DECLARATION**

**Diary No. \_\_\_\_\_/2022**

All defects have been duly cured. Whatever has been added/deleted/modified in the petition is the result of curing of defects and nothing else. Except curing the defects, nothing has been done. Paper books are complete in all respect.

**Signature:**  
Advocate-on-Record/  
Petitioner(s): SACHIN PATIL, C.C. 2088  
Date: \_\_\_\_ .06.2022  
Contact No: 9873901982, I.C. No.4690

RECORD OF PROCEEDINGS

Serial No.	Date of Record of Proceedings	Remarks
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
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17.		
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**A**

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. \_\_\_\_\_ OF 2022

**IN THE MATTER OF :**

Chief Secretary, Govt. of Maharashtra & Ors. ...Appellants

Versus

Laxman Dhondiba Thombare & Ors. ...Respondents

**OFFICE REPORT ON LIMITATION**

1. The Petition is/are within time.
2. The Petition is barred by time and there is delay of \_\_\_\_\_ days in filing the same against the order dated \_\_\_\_\_ and petition for condonation of \_\_\_\_\_ days delay is filed.
3. There is delay of \_\_\_\_\_ days in refilling the petition and petition for condonation of \_\_\_\_\_ days delay in refilling has been filed.

New Delhi  
Date: 01.06.2022

BRANCH OFFICER

A-1

## PROFORMA FOR FIRST LISTING

## SECTION : XVII

The case pertains to (Please tick/check the correct box):		
Central Act:		Mines and Minerals (Development and Regulation) Act, 1957
Section :		Section 15
Central Rule :		N/A
Rule No(s):		N/A
State Act:		N/A
Section :		N/A
State Rule :		Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013
Rule No(s):		Rule 58 and 59
Impugned Interim Order :		N/A
Impugned Final Order/Decree :		20.12.2021
High Court:		N/A
Names of Judges:		Hon'ble Mr. Justice Adarsh Kumar Goel, Chairperson Hon'ble Mr. Justice Sudhir Agarwal, Judicial Member Hon'ble Dr. Nagin Nanda, Expert Member Hon'ble Dr. Arun Kumar Verma, Expert Member
Tribunal/Authority :		National Green Tribunal, Special Bench
1.	Nature of matter:	Civil
2.	(a) Petitioner/appellant No. :	Chief Secretary, Govt. of Maharashtra & Ors.
	(b) e-mail ID:	N/A
	(c) Mobile phone number:	
3.	(a) Respondent No. 1:	Laxman Dhondiba Thombare & Ors.
	(b) e-mail ID:	N/A
	(c) Mobile phone number:	N/A
4.	(a) Main category classification:	
	(b) Sub classification:	

5.	Not to be listed before:	N/A
6.	(a) Similar disposed of matter with citation, if any, & Case:	No similar matter is disposed of
	(b) Similar pending matter with case details	No similar matter is pending
7.	<b>Criminal Matters:</b>	
	(a) Whether accused/convict has surrendered:	N/A
	(b) FIR No. Date:	N/A
	(c) Police Station:	N/A
	(d) Sentence Awarded:	N/A
	(e) Period of Sentence undergone including period of Detention/Custody.	N/A
8.	<b>Land Acquisition Matters:</b>	
	(a) Date of Section 4 notification:	N/A
	(b) Date of Section 6 notification:	N/A
	(c) Date of Section 17 notification:	N/A
9.	<b>Tax Matters:</b> State the tax effect:	N/A
10.	<b>Special Category</b> (first petitioner/appellant only):	N/A
Senior citizen > 65 years <input type="checkbox"/> SC/ST <input type="checkbox"/> Woman/child <input type="checkbox"/> Disabled <input type="checkbox"/> Legal Aid case <input type="checkbox"/> In custody		
11.	Vehicle Number (in case of Motor Accident Claim matters):	N/A

Date: 01.06.2022

**SACHIN PATIL**

Advocate for petitioner/respondent

Supreme Court of India

SUKHVINDER

Mob.: 9873901982

**Code No.2088, I.C. No. 4690**Email: [govtadvdelhi@gmail.com](mailto:govtadvdelhi@gmail.com)

**B**SYNOPSIS

Impugned Order of the NGT is unsustainable in the eyes of law as it completely overlooked provisions of Rule 58 and 59 of Maharashtra Minor Minerals Rules, 2013 which provides as follows:-

*"Rule 58. District Committee. - There shall be a committee in every district under the Chairmanship of District Collector to prepare the District Mining Plan and ensure that the short term quarry permits are granted in accordance with the District Mining Plan. The District Level Committee shall consist of the following:-*

- |       |  |                      |
|-------|--|----------------------|
| (i)   | District Collector   | ...Chairman;         |
| (ii)  | District level Officer of the Maharashtra Pollution Control Board        | ...Member;           |
| (iii) | Deputy Conservator of Forest   | ...Member;           |
| (iv)  | District level Officer of the Ground Water Survey and Development Agency | ...Member;           |
| (v)   | District Mining Officer  | ...Member secretary. |

*Rule 59. Grant of short term permits for minor minerals.-*

*(1) Notwithstanding anything contained in the foregoing rules, the Competent Officer, on an application made to him may grant a quarry permit to any person to extract or remove from any specified land within the limits of his jurisdiction any minor mineral not exceeding in quantity as mentioned under any one permit on payment of advance royalties calculated at the rate specified by the Government, from time to time, and on such rents and fees assessable for such extraction: Provided that, no permits shall be granted in case of any specified minor mineral without prior approval of the Director.*

*(2) The Competent Officer shall grant permit for specific time and specific volume.*

*(3) The Competent Officer may refuse to grant such permit for reasons to be recorded in writing."*

C

Rule 58 makes provision that in every district there shall be a Committee headed by District Collector to prepare the District Mining Plan for permitting short term quarry. The said Committee includes District Level Officer of State Pollution Control Board, Deputy Conservator of Forest, District Level Officer of Ground Water Survey and Development Agency and District Mining Officer.

Rule 59 permits that Competent Officer may on application grant short term permit for excavation of particular minor mineral of fixed quantity from the land which is included in the District Mining Plan.

It is submitted that, NGT has committed gross error in understanding leases of minor minerals and short term permits for excavation of particular minor mineral for fixed quantity within specified period. It is submitted that, there is specific object behind enacting these provisions in the Rules. The provision of Rule 58 and 59 is enacted to permit use of minor minerals like stone, murrum, clay / soil etc. for public purposes like construction of roads, construction of railway tracks, for pitching of dam walls, irrigation canals, construction of farm ponds, deepening of water body etc. Moreover, short term permit for excavation of stone, murrum, clay in small private construction projects. It is submitted that, State of Maharashtra has a policy to permit traditional occupationers of stone belongs to Wadar community to excavate stone upto 200 bras per year without any royalty. It is submitted that, the State has also policy to permit excavation of clay / soil upto 500 bras to traditional potter (Kumbhar) Community without payment of royalty.

**D**

It is submitted that, as these permits are given only to the private lands which are included in the District Mining Plan, which is approved by the officials of District Level Officer of State Pollution Control Board, Deputy Conservator of Forest, District Level Officer of Ground Water Survey and Development Agency and District Mining Officer.

It is submitted that, these short term permits for excavation of minor mineral never been given for the area more than 5 hectares. It is submitted that, as per MoEF Notification dated 14.09.2006, no environment clearance is mandatory for the excavation of minor mineral before 5 hectares area. It is submitted that, therefore, short term permits granted for excavation of minor mineral for aforesaid purposes under Rule 59 does not required environment clearance.

It is submitted that, as per the MoEF Notification dated 28.03.2020, following cases are exempted from requirement of environment clearance :

*"13. Activities declared by the State Government under legislations or rules as non-mining activity".*

It is submitted that, short term permit granted in the present case under Rule 59 was for excavation of stones and murrum for the construction of Pune Jamgaon Tamini Road (Kokan to Western Maharashtra – NH 753F) which is exempted from the requirement of environment clearance as per MoEF Notification dated 28.03.2020.

It is submitted that, in the light of provisions under Rule 58 and 59, State by the letter dated 12.12.2013 directed to all Divisional Commissioners and Collectors to grant short term permits. It was clarified that, for those permits environment

**E**

clearance is not necessary. It is submitted that, these short term permits are given for a specific project, for specific period. It is submitted that, these are not mining leases and these are permits given for the period of 7 days, 15 days, 1 month, 3 months, 4 months, 6 months etc.

NGT has wrongly applied judgment of Deepak Kumar case which is the case of granting mining leases for the period of 5 years. But present case pertains to granting short term permit for the period of 90 days only. Therefore, NGT has committed gross error.

Now, effect of impugned order is that by making requirement of EC for granting short term permits, various public purpose projects are stalled. Now, theft of minor mineral is increased in the State. Illegal mining is increased. There is a loss of almost Rs. 500 Crores per month to the public exchequer. Therefore, impugned order is unsustainable in the eyes of law. It is submitted that, due to impugned order, State Authorities are precluded from its power to grant short term permits, thereby, the work of Pune Jamgaon Tamini Road (Kokan to Western Maharashtra - NH 753F) is completely stalled and the project cost is increasing every passing day.

It is submitted that, NGT has committed gross error of fact that, excavation of minor mineral is undertaken in 10 hectares of land. It is submitted that, as per the Annexure-P-14, map excavation is only in the area of 2 hectares of land. It is submitted that, NGT has committed gross of error of fact that, plant is located within prohibited distance from Tamini Wildlife Sanctuary at Jamgaon. It is submitted that, village Jamgaon is not within the Tamini Wildlife Sanctuary.

**F**

It is submitted that, Project Proponent has been granted short term permit for excavation of stone and murrum of 1,15,000 brass. It is submitted that, for installation of his hotmix plant, redimix plant, crusher and office and labour quarters. He has excavated and levelled certain other adjacent Gat Nos. and it is submitted that, due to these reasons report of Joint Committee shows that, certain illegal excavation made by the Project Proponent. It is submitted that, out of 1,15,000 brass permission, Project Proponent has excavated only 52,112 brass and his 84,494 brass excavation was still pending. It is submitted that, NGT has erroneously presumed that, Project Proponent has committed huge illegal excavation. It is submitted that, the permission granted by the State official by exercising powers under Rule 59 of Maharashtra Minor Mineral Extraction Rule, 2013 is legal and valid. NGT has committed gross error in directing the enquiry against the State officials when these permissions are granted for the public purpose of construction of the road.

The present statutory appeal under Section 22 of the National Green Tribunal Act, 2010 (hereinafter referred to as "the Act") is against impugned judgement and final order dated 20.12.2021 in Original Application No. 99 of 2019 (WZ) passed by the Special Bench of National Green Tribunal, (WZ) (By Video Conferencing (hereinafter referred to as "the Tribunal").

The Respondent No.1 filed an application u/s 14 and 16 r/w Sec.17, 18 and 20 of the National Green Tribunal Act, 2010 as aggrieved persons, complaining about the mining and stone crushing activities, carried out as per the temporary permit granted between 17.06.2017 to 31.03.2021 to excavate 1,15,000

G

Brass minor-mineral from land Gat Nos. 272, 354, 365, 366, 368, 369 situated at village Jamgaon, Tal. Mulshi, Dist. Pune. Though, the cause of action arose on 14.06.2017, the Original Application was filed belatedly on 28.08.2019.

This Original Application came up for hearing consideration before the National Green Tribunal (WZ) Bench Pune on 12.02.2020. On that day, the Tribunal was pleased to issue notice returnable on 18.03.2020. The Maharashtra Pollution Control Board (MPCB) and the District Collector, Pune were directed to jointly inspect the area in question, verify on factual position and submit a report.

Thereafter, the Tribunal considered the report and disposed of the application on 20.12.2021. The Tribunal has taken a view that, in view of the Judgment of this Hon'ble Court in the cases of "Deepak Kumar & Ors Vs. State of Haryana & Ors: (2012) 4 SCC 629 and Goa Foundation Vs. Union of India, and Common Cause Vs. Union of India has held that Environmental Clearance (EC) was necessary, because, the area for which, mining was undertaken was 10 hectares. The Tribunal failed to note that, what was issued was temporary permit under the Rule 58 and 59 of the Maharashtra Minor Mineral Excavation Rules, 2013.

Being aggrieved and dissatisfied by the Judgement of the National Green Tribunal, the Appellant begs to prefer this instant appeal under section 22 of the Act.

#### LIST OF DATES

Before 2013 The following rules were in operation the State of Maharashtra pertaining to the Minor Minerals

1. The Rules Regulating the Working of

H

Minor Mineral, 1954.

2. The Bombay Minor Mineral Extraction Rules, 1955

3. Maharashtra Minor Mineral Extraction (Vidarbha Region) Rules, 1966.

14.09.2006

The Central Government issued Notification bearing No. SO 1533 (E). This Notification makes it obligatory to obtain EC with regard to the projects and activities mentioned in Para 2 and the Schedule appended to the said Notification. As per this Notification, No EC was required if mining was undertaken in an area of less than 5 Hectares

27.2.2012

When it was brought to the notice of this Hon'ble Court that the Department of Mines and Geology, Govt. of Haryana issued an Auction Notice dated 03.06.2011 proposing to auction the extraction of Minor Minerals , Boulders, Gravels and sand queries of an area not exceeding 4.5 Hec. this Hon'ble Court took the view that EC is necessary even if Mining is undertaken in an area less than 05 hec. This Hon'ble Court directed all the States , Union Territories, MoEF, and the Ministry of Mines to give effect to the recommendations made by the MoEF in its Report of March, 2010 and the Model guidelines framed by the Ministry of Mines.

14.12.2012

Pursuant to the above directions, the State of

**I**

18.07.2013

Maharashtra started the process of framing new rules on the lines of Model Guidelines, 2010

The State Government took into account the judgment in Deepak Kumar's case, views of all the concerned Departments and brought into effect Notification No. Gaukhani - 10 / 0812 / C.R.613 / KH i.e. The Maharashtra Minor Mineral Extraction (Development & Regulation) Rules, 2013. (Note: These Rules envisaged granting quarry lease and quarry permit. The provisions of Rule 11 insisted for EC Certificate to be accompanied by Application of Quarry Lease. However, Chapter IV deals with grant of Quarry Permit. Rule 59 empowers the competent officer to grant short term permits for Minor Minerals. Rule 61 deals with application for quarry permits. None of the provisions of this Chapter insist for prior EC in case of grant of temporary quarry permit.

18.07.2013

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J

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- 12.12.2013 The State Government issued a clarification that there is no requirement for EC in respect of temporary permits granted under Chapter IV of the Maharashtra Minor Minerals Rules, 2013
- 14.06.2017 The Revenue Department granted permission for supply of the raw material for the project of strengthening and widening of Highway starting from Pune and meeting the Mumbai Goa National Highway.
- 07.06.2018 The Gram Panchayat Jamgaon Shere, Tal. Mulshi, Dist. Pune gave NOC to the Respondent No.7 Roadways Solutions India Pvt. Ltd. for Readymix Plan and other connected activities (Note: though it was alleged before the Tribunal that no such NOC was given, Gram Panchayat was not made party.
- 07.06.2018 The Gram Panchayat Jamgaon Shere, Tal. Mulshi, Dist. Pune gave NOC to the Respondent No.7 Roadways Solutions India

K

- Pvt. Ltd. for Readymix Plan and other connected activities (Note: though it was alleged before the Tribunal that no such NOC was given, Gram Panchayat was not made party.
- 09.11.2018 The respondent No.7 executed Sale Deed with the landowner
- 16.11.2018 The Mining Department granted mining permission.
- 10.12.2018, The Additional Collector, Pune granted  
02.02.2019 & temporary mining permit under Rule 58 of the  
02.02.2020 2013 Rules
- Forest Department granted permission for felling trees .
- 28.08.2019 The Respondent No.1 filed Original Application No.99/ 2019 before the National Green Tribunal, (WZ), Pune. u/s 14 & 16 r/w 17, 18 and 20 of the National Green Tribunal Act, 2010 praying that --
- a) The District Collector Pune, CCF (Territorial) and MPCB be directed to revoke EC given in favour of the Respondent No.7.
  - b) The Respondent No.7 may be directed to shift its activities to the notified industrial area away from Tamhini Wildlife Sanctuary and till then to suspend its activities.
  - c) The Officers concerned be held responsible for granting permission without EC.
  - d) The Damage caused may be assessed

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through an independent authority for imposition of cost of fine etc.

e) The Respondents be directed to initiate action against Respondent No.7 for the alleged violations.

- 12.02.2020 The Hon'ble Tribunal issued Notices returnable in three weeks and directed MPCB and the District Collector, Pune to jointly inspect the area in question, verify on factual position and submit a report before 18.03.2020 with advance copy to other side.
- 28.03.2020 The Central Government has issued Notification bearing No.SO-1224(E), whereunder extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines etc are exempted from the requirement of EC
- 23.10.2020 The Sub-Divisional Officer, Maval-Mulshi Sub-Division, Pune submitted his report to MPCB
- 27.09.2021 The MPCB submitted an Affidavit of compliance to the Tribunal
- 20.12.2021 The Hon'ble Tribunal was pleased to dispose of the application and decided to deal with the issue of Mining and Stone crusher activities in violation of Environment Norms. It relied upon the Judgements of this Hon'ble Court in case of Deepak Kumar V State of Haryana &

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Ors: (2012) 4 SCC 629, Goa Foundation Vs. Union of India & Ors: (2014) 6 SCC 590 and Common Cause Vs. U.O.I. & Ors: (2017) 9 SCC 499 The Tribunal held that -

- In Deepak Kumar, it was held that though as per EIA Notification dated 14.09.2006, requirement of EC applies when Mining is undertaken in an area of more than 05 hec., there should be EIA even for Mining in lesser area with Mining Plans, incorporating rehabilitation of Mined out area and other safeguards. Since, the area on which mining is undertaken is 10 hectares, the mining activity is illegal, because there is no EC
- Consequential remedial action needs to be taken
- **The Tribunal has issued the following directions.**
  - The officers responsible for permitting illegal mining and granting consent to operate without requisite EC need to be dealt with by the concerned higher Administrative Authorities.
  - The Appellants No.1 Chief Secretary to enquire about the conduct of the persons responsible for getting

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consent to operate without EC in violation of the directions of this Hon'ble Court

- Joint Committee CPCB, SEIAA, MPCB, and Divisional Commissioner, Pune to assess the amount of compensation.

**Other relevant orders :**

- Order dated 03.02.2022 passed by the NGT , Pune bench in 'Sidharth Developers & Suppliers Vs. Union of India & Ors , wherein a Reference is made to the order dated 6.12.2021 in Para 3 where, prima facie the system of temporary leases /licenses without requisite prior EC /Consents was illegal
- The order dated 17.02.2022 in O.A. No.68/2020 (WZ) Rajiv Waman Vs. MoEF & Others, in this order, a reference is made to the order in 'Sidharth Developers' and Shri. Bharat Kathrani and it is observed that according to the Tribunal requirement of EC has to be followed irrespective of the Circular of the State of Maharashtra dated 12.12.2013,

01.06.2022

Hence this Civil Appeal.

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Impugned Order

Item No. 05

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 99/2019(WZ)

Laxman Dhondiba Thombare

Applicant

Versus

Chief Secretary, Govt. of  
Maharashtra & Ors.

Respondent(s)

Date of hearing: 20.12.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER  
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

Applicant: Ms. Supriya Dangare Advocate  
Respondent(s): Ms. Mansi Joshi, Advocate for R-3 & 6  
Ms. Swati Pandit, Advocate for Collector Pune  
Mr. Sandeep Sharma, Advocate for R-7

**ORDER**

1. Issue for consideration is the remedial action against illegal mining without the requisite EC and illegal operation of a RMC/Hot Mix Plant by Respondent No. 7 - Roadways Solutions India Pvt. Ltd. (Project Proponent - PP) in violation of environmental norms.
2. Case of the applicant is that the PP does not have valid EC for mining which has been undertaken on 10 hectares of land and the plant is located within the prohibited distance from 'Tamhivi' Wild Life Sanctuary at Jamgaon, Tal-Mulshi, District-Pune, Maharsashtra. The same is within 60 meters from the national highway, 100 meters from a

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settlement and 400 meters from the village in violation of environmental norms.

3. The application was filed on 05.09.2019. The Tribunal issued notice to which response has been filed by State PCB, Forest Department, District Collector, Pune as well as the Project Proponent (PP).

4. Stand of the State PCB is that analysis results of the AAQM are exceeding the consent standards and mining is in excess of permissions. Absence of EC for mining is not denied. It is also stated that consent to operate was granted on 14.08.2019 which is valid upto 30.11.2023, subject to grant of EC and following conditions:

“xxx .....xxx.....xxx

2). The Maharashtra Pollution Control Board has granted consent to operate to M/s Roadways, Gat No. 265, 266, 271, 274, 309, 366, 367 Mouje Jamgaon, Tal. Mulshi, Distt. Pune for stone crushing unit only vide consent no. Ro-PUNE/CONSENT/1908000426 dated 14/08/2019; which is valid up to 30.11.2023. The said consent is valid for manufacturing of following prouductions:

Sr. No.	Product name	Maximum Quantity	UoM
1	Stone Metal	450.0	MT/Day
2	Stone Dust	50.	MT/Day
3	Hot Mix Plant	120.0	MT/Day
4	Real Mix Concrete	200.0	M <sup>3</sup> /Day ”

xxx .....xxx.....xxx

12. This consent is issued for stone crushing unit only. Industry shall obtain Environmental Clearance for Stone Quarry from competent authority.”

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5. Further reply of the State PCB is that at the time of visits, the Hot Mix Plant was found non-operational.

6. The stand of the District Collector in its letter dated 23.10.2020 addressed to the State PCB is that the PP has excavated excess mineral of the value of Rs. 26,96,73,634/- from 05.07.2019 to 17.09.2020.

Extract from the said letter is as follows:

"...Same is annexed herewith for your perusal. The Collector office (Mining Branch) has given permission to Roadways Solution Pvt. Ltd. situated at Jamgaon, Tal. Mulshi, Dist. Pune for excavation in the ready-mix plant. Group Grampanchayat Village Jamgaon-Disli have issued no objection certificate to M/s Roadways Solution Pvt. Ltd. situated at Jamgaon, Tal. Mulshi, Dist. Pune by their resolution no.5/1, Dated 07/06/2018. The same is annexed herewith.

The status of excavations carried out by M/s Roadways Solution Pvt. Ltd. is as follows:-

Sr. No	Gat No.	Permission By Collector office, Unit (Brass)	First Measurement through ETS, Date 04/07/2020 Measurement (Brass)	Second Measurement through ETS, Date 18/09/2020 Measurement (Brass)	Third Measurement through ETS, Date 22/09/2020 Measurement (Brass)	Final Illegal excavation through ETS Unit (Brass)	Remaining excavation (brass) with permission from Collector office
1	2	3	4	5	6	7	8
1.	254	-	-	-	557	557	-
2.	257	-	-	-	-	-	-
3.	258	-	-	-	-	-	-
4.	259	-	-	-	-	-	-
5.	264	-	-	-	679	679	-
6.	266	-	-	-	-	-	-
7.	271	-	-	1267	1267	1267	-
8.	272	10000	7285	350	349	-	2715
9.	274	-	-	-	-	-	-
10.	275	-	-	-	-	-	-
11.	276	-	-	-	-	-	-
12.	277	-	-	-	-	-	-
13.	309	-	-	-	-	-	-
14.	354	25000	-	-	-	-	25000
15.	365	5000	-	-	-	-	5000
16.	366	25000	-	2224	2223	-	22776
17.	367	-	-	28335	28335	28335	-
18.	368	25000	40579	-	29611	15579	-
19.	369	25000	-	-	-	-	25000

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20.	265	-	4157	-	2850	4157	-
21.	267	-	-	-	400	400	-
22.	273	-	-	-	437	437	-
23.	374	-	-	-	701	701	-
Total	115000	52021	32176	67408	52112	80491	

**Note:-**

1. According to the table above, the concerned were allowed to excavate 1,15,000 brass under column No. 3. However, according to column No. 7, 52,112 Brass has been unauthorized excavated.

2. A total of 1,15,000 brasses have been excavated and 34,509 brasses have been excavated as per column 3 above. Therefore, out of the permission, as per column No.8, 80,491 Brass remains to be excavated.

The Tahsildar Mulshi issued notices to Roadways Solutions Pvt. Ltd. respectively dated 05/07/2019 and 17/09/2020 amounting of total fine of Rs 26,96,73,634/- It is submitted that, Revenue Authorities are taking precaution to recover the fine amount in view of the above mentioned provision against the illegal excavation done by Roadways Solution Pvt. Ltd."

7. The PP has filed two identical replies – one to the application and another to the report filed by the statutory authorities.

8. In reply to the application, though the PP has denied that it had no EC, no EC has been produced in absence of which mining is illegal. It is stated that the project is connected to the highway construction connecting Konkan to Western Maharashtra and also to Greenfield Dighi port. The Revenue Department, Maharashtra granted permission on 14.06.2017 for supply of the raw material for the project. Bid of the PP was accepted by Maharashtra State Road Development Corporation (MSRDC). Agreement was entered into between the PP and MSRDC for various constructions. NOC was granted by the Panchayat on 07.06.2018. Mining Department granted mining permission on 16.11.2018. Felling of trees was permitted by the Forest Department on application of the MSRDC. Consent to operate was granted on 14.08.2019 by the State PCB. The plant is 200 meters away from the highway and closest village is 1 km away. Jamgaon is not part of the eco-

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sensitive zone as per Notification of the Forest Department dated 26.03.2021. Mining permissions have been granted by the Collector, Pune. The mining undertaken is less than the quantity permitted to be excavated.

9. We have heard learned Counsel for the parties.

10. Main issue for consideration is whether the mining and stone crusher activities in question are in violation of environmental norms.

11. It has not been shown that the requisite EC has been granted. Consent to operate has been granted subject to EC but no EC is shown. The matter has been dealt with by the Hon'ble Supreme Court *inter-alia* in *Deepak Kumar v. State of Haryana & Ors.*, (2012) 4 SCC 629, *Goa Foundation v. Union of India & Ors.*, (2014) 6 SCC 590 and *Common Cause Vs. U.O.I. & Ors.*, (2017) 9 SCC 499.

12. In *Deepak Kumar*, supra, it was held that though as per EIA notification dated 14.9.2006, requirement of EC applies when mining is undertaken in an area of more than 5 ha, there should be EIA even for mining in lesser area with mining plans, incorporating rehabilitation of mined out area and other safeguards. In the present case, the area on which mining is undertaken is 10 hectares. Accordingly, the mining undertaken by the PP is clearly illegal and in violation of environmental norms. Requirement of prior EC is mandatory. Reference may be made to *Alembic Chemicals vs. Rohit Prajapati*, 2020 SCC online 347.

13. In the reply to the report dated 13.08.2021 filed by the State PCB, it is stated that the report on the issue of violation of air quality norms cannot be acted upon as the PP has not been put to notice thereof. The levy of penalty of Rs. 26,96,73,634/- for illegal excavation is without

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show cause notice. The PP has already paid royalty amounting to Rs. 5,83,69,800/-.

14. In view of the undisputed fact that no EC has been obtained and no environment impact assessment conducted as required, the entire mining undertaken by the PP is illegal. Consequential remedial action needs to be taken in the light of judgments of the Hon'ble Supreme Court inter-alia in *Deepak Kumar, Goa Foundation* and *Common Cause, supra*. The value of mined material needs to be recovered, apart from the compensation for damage to the environment on 'Polluter Pays' principle, having regard to the environmental services forgone forever and deterrent element, having regard to the financial capacity of the PP. The officers responsible for permitting illegal mining and granting consent to operate without requisite EC need to be dealt with by the concerned higher administrative authorities. Since absence of EC per se renders mining illegal, other issues need not be gone into.

15. Accordingly, we direct the Chief Secretary, Maharashtra to enquire about the conduct of the persons responsible for granting consent to operate without EC and permitting mining without EC in violation of directions of the Hon'ble Supreme Court. A joint Committee of CPCB, SEIAA, Maharashtra, State PCB and Divisional Commissioner, Pune may assess the amount of compensation and oversee recovery, in accordance with law.

The application is disposed of.

A copy of this order be forwarded to Chief Secretary, Maharashtra, CPCB, SEIAA, Maharashtra, State PCB and Divisional Commissioner, Pune by e-mail for compliance.

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Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. Nagin Nanda, EM

Dr. Arun Kumar Verma, EM

December 20, 2021  
Original Application No. 99/2019(WZ)  
DV

*/True Copy/*

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**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELLATE JURISDICTION**  
**CIVIL APPEAL NO. \_\_\_\_\_ OF 2022**

(Arising from the impugned judgement and final order dated 20.12.2021 in Original Application No.99 of 2019 (WZ) passed by the National Green Tribunal, Special Bench)

**IN THE MATTER OF:****Position of Parties**

	<b>Before the National Green Tribunal</b>	<b>In this Hon'ble Court</b>
1. Chief Secretary, Govt. of Maharashtra, Mantralaya, Mumbai – 32, Maharashtra	Respondent No. 1	Appellant No. 1
2. Principal Secretary, Environment Department, Room No.20, Annex Building, Mantralaya, Mumbai-32. Maharashtra	Respondent No. 2	Appellant No. 2
3. District Collector, Collector Office Building, Opp. Sasoon Hospital, Station Road, Pune-411 001, Maharashtra	Respondent No. 4	Appellant No. 3
4. Chief Conservator of Forests (Territorial), Vanbhavan, Bhamburda Van Vihar, Gokhle Nagar, Pune-411 016. Maharashtra	Respondent No. 5	Appellant No. 4

Versus

1. Laxman Dhondiba Thombare, Age 62 years, Occu. : Farmer, R/O : Thombre Vasti, Jamgaon, Mulshi, Pune-412 108 Maharashtra	Applicant No. 1	Respondent No. 1
2. Maharashtra Pollution Control Board Through its Member Secretary, 3 <sup>rd</sup> Floor, Kalptaru Point Building, Mumbai-400 022, Maharashtra	Respondent No. 3	Respondent No. 2

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3. Maharashtra Pollution Control Board Respondent Respondent  
Through its Regional officer, Jog Centre, No. 6 No. 3  
Mumbai-Pune Wakdewadi, Pune-411  
003, Maharashtra

4. Roadways Solutions India Pvt. Ltd. Respondent Respondent  
through its Managing Director, Gat No. 7 No. 4  
No.266, 274, and number of other Gat  
numbers from village Jamgaon , Tal.  
Mulshi, Dist. Pune, Maharashtra

(All are contesting Respondents)

**AN APPEAL UNDER UNDER SECTION 22 OF THE  
NATIONAL GREEN TRIBUNAL ACT, 2010**

TO,  
HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS  
LORDSHIP'S COMPANION JUDGES OF THE  
HON'BLE SUPREME COURT OF INDIA  
HUMBLE CIVIL APPEAL OF THE  
APPELLANT ABOVE NAMED

**MOST RESPECTFULLY SHEWETH:**

1. The present Civil Appeal is being filed under Section 22 of the National Green Tribunal Act, 2010 (hereinafter referred to as "the Act") against the impugned judgement and final order dated 20.12.2021 in Original Application No.99 of 2019 (WZ) passed by the National Green Tribunal, Special Bench whereby the Hon'ble Tribunal was pleased to dispose of the application and decided to deal with the issue of Mining and Stone crusher activities in violation of Environment Norms.

1(A). That the Appellant-State Government has taken project of strengthening and widening of Pune-Tamhini Ghat National Highway For this purpose, the State Government has exempted payment of royalty for the excavation that is carried out for the National Highway. It is submitted that under the notification dated 14.09.2006 as amended on 28.03.2020 no EC is required

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for 13 items, enlisted in Appendix -IV. The Item no.6 runs as under:-

*Excavation or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc.*

Accordingly, the Collector, Pune had granted permit to temporarily excavate for the purpose of project of National Highway No.753-F. The Tribunal has held that, this excavation without EC to be illegal and has further held that, no temporary permit can be granted by the State Government for the purpose of excavation.

2. The brief facts of the case are hereunder:
  - 2.1 On 14.09.2006, the Central government issued Notification bearing No.SO-1533(E). This Notification makes it obligatory to obtain EC with regard to the projects and activities mentioned in para 2 and the schedule appended to the said notification. As per this notification, no EC was required, if mining was undertaken in an area of less than 5 Hectares. A true copy of the notification bearing No.SO-1533(E) dated 14.09.2006 issued by the Central Government is annexed herewith and marked as **Annexure-A-1 (Page No. 30 – 74)**.
  - 2.2 Then, on 27.02.2012 this Hon'ble Court delivered Judgement in the case of 'Deepak Kumar & Ors Vs. State of Haryana & Ors: (2012) 4 SCC 629. This Hon'ble Court noted that the *Department of Mines & Geology, Govt. of Haryana* had issued an auction notice dated 03.06.2011 proposing to auction the extraction of minor-minerals, boulders and gravels, and sand quarries of an area not

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exceeding 4.5 hectares. It is held that, the requirement of EC for area more than 5 Hectares as per the aforementioned notification cannot be circumvented in this fashion. A true copy of the Judgment dated 27.02.2012 passed by this Hon'ble Court in the in I.A Nos. 12-13 of 2011 in Special Leave Petition (C) No. 19628-19629 of 2009 is annexed herewith and marked as **Annexure-A-2 (Page No. 75 – 101)**.

- 2.3 Thereafter, the Appellant Government started the processing of framing new rules on the lines of Model Guidelines, 2010. Ultimately, the Appellant took into account the Judgements in the 'Deepak Kumar's case, views of all concerned departments and brought into effect the notification dated 18.07.2013 bearing No.Gaukh-10/0812/CR-613/KH i.e. the Maharashtra Minor Mineral Extraction (Development & Regulation) Rules, 2013. A true copy of the notification dated 18.07.2013 bearing No.Gaukh-10/ 0812/CR-613/KH issued by the Maharashtra Minor Mineral Extraction (Development & Regulation) Rules, 2013 is annexed herewith and marked as **Annexure-A-3 (Page No. 102 – 184)**.
- 2.4 These Rules envisaged two different permissions; 1) quarry lease and the other 2) quarry permit. Quarry Lease is for the period of 5 years and more, whereas the Quarry Permit is temporary in nature. Under Rule 59, Competent Officer can grant quarry permit for short term. Both these concepts are defined under Rule 2(r) to mean 'lease to mine the stated Articles'. Further Rule 2 (t) defines, 'quarry permit to mean, 'a permit granted under Chapter

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IV of these Rules to extract and remove any minor mineral, *in specified quantities and specified time*'. Accordingly, on 12.12.2013 the State Government issued a Clarification that there is no requirement for EC in respect of temporary permits granted under Chapter IV of the Maharashtra Minor Miner Rules, 2013. A true translated copy of the Clarification dated 12.12.2013 issued by the Revenue and Forest Department, Government of Maharashtra is annexed herewith and marked as **Annexure-A-4 (Page No. 185 – 186)**.

- 2.5 On 14.06.2017, the Revenue Department granted permission for supply of the raw material for the project of strengthening and widening of Highway starting from Pune (Chandni Chowk) and meeting the Mumbai-Goa National Highway.
- 2.6 Thereafter, on 07.06.2018 Gram Panchayat Jamgaon Sheri, Tal. Mulshi, dist. Pune gave NOC to the Respondent No.7 Roadway Solutions (I) Pvt. Ltd. for Readymix plant and other connected activities. Though it was alleged before the Tribunal that no such NOC was given Gram Panchayat was not made party.
- 2.7 On 16.11.2018 the Mining Dept. granted Mining permission under Rule 58 of the 2013 Rules and it continued to renew it on 10.12.2018, 02.02.2019, 21.08.2019. This was followed by the permission by the Forest Department for felling trees. A true translated copy of the permissions granted by the Additional Collector dated 16.11.2018, 10.12.2018, 02.02.2019 and 21.08.2019

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is annexed herewith and marked as **Annexure-A-5 (Page No. 187 – 205 )**.

2.8 It is submitted that the cause of action had arisen on 14.06.2017 when first permission was granted. yet the respondent no.1 filed O.A. No.99 of 2019 before the National Green Tribunal, (WZ), Pune u/s 14 and 16 r/w 17, 18 and 20 of the National Green Tribunal Act, 2010 praying that:-

- a. The District Collector Pune, CCF (Territorial) and MPCB be directed to revoke EC given in favour of the Respondent No.7.
- b. The Respondent No.7 may be directed to shift its activities to the notified industrial area away from Tamhini Wildlife Sanctuary and till then to suspend its activities.
- c. The Officers concerned be held responsible for granting permission without EC.
- d. The Damage caused may be assessed through an independent authority for imposition of cost of fine etc.
- e. The Respondents be directed to initiate action against Respondent No.7 for the alleged violations. A true copy of the memo of the Original Application No.99 of 2019 filed by the Respondent No. 1, dated 28.08.2019 is annexed herewith and marked as **Annexure-A-6 (Page No. 206 – 217 )**.

2.9 On 12.02.2020 the Hon'ble Tribunal issued notices returnable in three weeks and directed MPCB and the District Collector, Pune to jointly inspect the area in

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question, verify on factual position and submit a report before 18.03.2020 with advance copy to the other side. A true copy of the order passed by the Hon'ble National Green Tribunal, dated 12.02.2020 in Original Application No. 99/2019 (WZ) is annexed herewith and marked as **Annexure-A-7 (Page No. 218 – 219 )**.

2.10 Thereafter, this notification was amended on 28.03.2020, thereby exempting extraction or sourcing or borrowing of ordinary earth for the liener projects such as roads, pipelines etc. A true copy of the amended notification issued by the Ministry of Environment, Forest and Climate Change bearing dated 28.03.2020 is annexed herewith and marked as **Annexure-A-8 (Page No. 220 – 222 )**.

2.10 Thereafter, on 27.09.2021, the MPCB submitted an Affidavit of compliance to the Tribunal. A true copy of the Affidavit of Compliance submitted by the MPCB on 27.09.2021 is annexed herewith and marked as **Annexure-A-9 (Page No. 223 – 225 )**.

Project Proponent has filed a detailed Reply to the OA No. 99/2019 (WZ) and Joint Committee Report. A true copy of the Affidavit in reply filed by the Project Proponent in OA No. 99/2019, dated 19.12.2021 is annexed herewith and marked as **Annexure-A-10 (Page No. 226 – 256 )**. A true copy of the Affidavit in Reply filed by the Project Proponent to Joint Committee Report, dated 19.12.2021 is annexed herewith and marked as **Annexure-A-11 (Page No. 257 – 265 )**.

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2.11 On 20.12.2021, the Tribunal has held that, the Mining and Stone crusher activities are in violation of Environmental norms.

The Tribunal decides to deal with the issue of Mining and Stone crusher activities in violation of Environmental Norms. It relied upon the Judgements of this Hon'ble Court in case of Deepak Kumar V State of Haryana & Ors: (2012) 4 SCC 629, Goa Foundation Vs. Union of India & Ors: (2014) 6 SCC 590 and Common Cause Vs. U.O.A. & Ors: (2017) 9 SCC 499 The Tribunal held that -

- In Deepak Kumar, it was held that though as per EIA Notification dated 14.09.2006, requirement of EC applies when Mining is undertaken in an area of more than 05 hec., there should be EIA even for Mining in lesser area with Mining Plans, incorporating rehabilitation of Mined out area and other safeguards. Since, the area on which mining is undertaken is 10 hectares, the mining activity is illegal, because there is no EC
- Consequential remedial action needs to be taken

The Tribunal has issued the following directions.

- The officers responsible for permitting illegal mining and granting consent to operate without requisite EC need to be dealt with by the concerned higher Administrative Authorities.
- The Appellants No.1 Chief Secretary to enquire about the conduct of the persons responsible for getting consent to operate without EC in violation of the directions of this Hon'ble Court

## 16

- Joint Committee CPCB, SEIAA, MPCB, and Divisional Commissioner, Pune to assess the amount of compensation.

Other relevant orders :-

- a) Order dated 03.02.2022 passed by the National Green Tribunal, Pune bench in 'Sidharth Developers & Suppliers Vs. Union of India & Ors', wherein a Reference is made to the order dated 6.12.2021 in Para 3 where, *prima facie* the system of temporary leases/licenses without requisite prior EC/Consents was illegal. A true copy of the order dated 03.02.2022 passed by the National Green Tribunal, Pune Bench in Original Application No. 36/2021 (WZ) is annexed herewith and marked as **Annexure-A-12 (Page No. 266 – 269)**.
- b) The order dated 17.02.2022 in O.A. No.68/2020 (WZ) Rajiv Waman Vs. MoEF & Others, in this order, a reference is made to the order in 'Sidharth Developers' and Shri. Bharat Kathrani and it is observed that according to the Tribunal requirement of EC has to be followed irrespective of the Circular of the State of Maharashtra dated 12.12.2013.

2.12 Pursuant to these directions, the parties filed their Affidavits. The Collector relied upon the Maharashtra Minor Minerals Extraction (Development & Regulation) Rules, 2013, which were brought into force after Deepak Kumar's Judgement. Under these Rules, particularly Chapter IV Rule 58, it is provided that there shall be District Level Committee in every district under the

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Chairmanship of District Collector. The said Committee shall prepare the District Mining Plan and shall issue short-term quarry permits as per the District Mining Plan. Rule 59 provides for short-term permits. However, while disposing of the Original Application finally, the Tribunal has held that the said Rules and the Circular of the State Government are contrary to the Judgement of this Hon'ble Court in Deepak Kumar's case. A true copy of the Judgement dated 17.02.2022 passed in Original Application No.68 of 2020 (WZ) by the Principal bench of the National Green Tribunal, New Delhi is annexed herewith and marked as **Annexure-A-13** (Page No. 270 – 275 ).

- 2.13 The Tribunal has observed in para no. 12 of the impugned judgment that, the mining is undertaken in the land admeasuring 10 hectares and therefore, the mining undertaken by the P.P is clearly illegal. Infact, the activities carried out in area admeasuring 2 Hectares only. A true translated copy of the map showing that the mining area is not more than 2 hectares is annexed herewith and marked as **Annexure-A-14** (Page No. 276 ). It is submitted that, separate permission was granted for each Gat of land. Each permission did not exceed for the land admeasuring more than 5 hectares.
- 2.14 Feeling aggrieved and dissatisfied by the impugned order dated 17.02.2022, the appellant prefers this instant appeal under section 22 of the Act on the following, amongst other, grounds.
3. **QUESTION OF LAW:**

## 18

The following questions of law arise in the present Civil Appeal:

- I Whether the National Green Tribunal was right in holding that the Mining activity under question was illegal despite notification dated 28.03.2020 that lays down that extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc. are exempted from EC.
- II Whether the Tribunal is holding that, the prior EC is necessary even for temporary permit for excavation?
- III Whether the Tribunal was right in directing an inquiry of the officers, who had been issuing temporary permit without prior EC?

4. **GROUND:**

The Impugned Order is liable to be set aside for the following reasons:

- A. Because, the Appellants submit that the activity i.e. carried out by the Respondent No.4 Roadways does not amount to mining. The earth, which is dug up for the purpose of widening the road and strengthening it cannot be characterised as one of excavation of minor mineral. The said activities do not amount to mining operations, because mere digging of earth does not amount to mining operation, so as to attract EC.
- B. Because, under the Mines and Minerals (Development & Regulations) Act, 1957, 'Mining' means operation for the purpose of winning mineral. In this particular

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activity, the object is not to win minerals. Therefore, no EC is necessary.

- C. Because, apart under the Notification of the Central Government dt. 28.3.2020, no EC is required in case of Linear Projects. Widening and strengthening of road is a linear project, therefore, such project is exempted from EC.
- D. Because, the Tribunal ought to have noted that the Government Officers granting temporary permit for the activities of the Respondent Company under Rule 58 of the Maharashtra Mines & Minerals Extraction (Development & Regulation) Rules, 2013. Therefore, the direction of the Tribunal to the higher administrative authorities to take an appropriate action against the officers responsible for permitting illegal mining and granting Consent to Operate without requisite EC is illegal and unjustified.
- E. Because, for the above reason, the direction of the Tribunal to the Chief Secretary, State of Maharashtra to enquire about the conduct of the persons responsible for getting Consent to Operate without EC in violation of the directions of the Hon'ble Supreme Court is illegal and unjustified.
- F. Because, the officers granted temporary permit of mining in exercise of powers under Rule 58 of the Maharashtra Mines & Minerals Extraction (Development & Regulation) Rules, 2013 have power to issue temporary permits. Therefore, the direction to constitute

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a joint Committee to assess the amount of compensation and damages is illegal.

- G. Because, under the Notification dt. 3.2.2000 issued u/s 3(e) of the 1957 Act, ordinary earth used in the activities of road widening is minor minerals.
- H. Because the Hon'ble Tribunal has erred in not appreciating that under the Notification dated 28.03.2020, Extraction of Minor-Mineral for Lien or Projects is exempted, so the activities of the Respondent carried out as per the permission of the Appellant was legally valid.
- I. Because, the Tribunal failed to note that under Rules 58 and 59 temporary permits can be granted for the purpose of Mining of Minor-Minerals.
- J. Because, the Tribunal failed to note that if EC is made compulsory even for temporary permit, it will create lot of practical hurdles in development work.
- K. Because, the Temporary Permits are issued for mining activities of captive consumption like construction of roads, buildings etc. It is also issued for other government projects as well. It is also issued for Semi-Government projects, which are essentially developmental in nature. Under the circumstances, if prior EC is made compulsory, then the person seeking permit will have to prepare a mining plan, which causes quite a fortune. It is a time consuming process. This may result in illegal mining, resulting in damage to EC and loss of revenue. After the mining plan is submitted, the

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Committee namely SEAC (State Level Expert Appraisal Committee) and SEIIAA (State level Environment Impact Assessment Authority) also take time to grant EC, because, both the Authorities are overburdened. Resultantly, development is hampered. Needless to add that, the revenue is badly affected. Under the circumstances, the State Government must have power to grant temporary permits without EC.

- L. Because, the Tribunal has committed an error in inferring that the mining activity is carried out in area admeasuring more than 10 Hectares.
- M. Because, the Tribunal failed to appreciate that the proceedings before it were time-barred.
- N. The Appellant further craves leave to add, alter or amend all or any of the aforesaid grounds at the time of hearing of the civil appeal, at any later stage if so advised or as the circumstances may require.
- 5. That the Appellant herein has not filed any other Appeal in this Hon'ble Court or any other Court of Law for these or similar relief against the impugned judgment and final order dated 20.12.2021 in Original Application No.99 of 2019 (WZ) passed by Special bench of National Green Tribunal, (WZ) and there are no matters pending in any Court with regard to this case.

**PRAYER**

- 6. It is most respectfully prayed that this Hon'ble Court may kindly be pleased to:

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- a) Admit and allow the present Civil Appeal and set aside the impugned judgement and final order dated 20.12.2021 in Original Application No.99 of 2019 (WZ) passed by the National Green Tribunal, Special Bench.
- b) Pass such other or further order(s) as this Hon'ble Court deems fit and proper in the facts and circumstances of the present case.

FOR WHICH ACT OF KINDNESS THE APPELLANT  
AS IN DUTY BOUND SHALL EVER PRAY

Drawn & Filed by:

(SACHIN PATIL)  
ADVOCATE FOR APPELLANT

PLACE: NEW DELHI  
FILED ON 01.06.2022

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. \_\_\_\_\_ OF 2022

IN THE MATTER OF:-

Chief Secretary, Govt. of Maharashtra & Ors. ...Appellants

Versus

Laxman Dhondiba Thombare & Ors. ...Respondents

CERTIFICATE

Certified that the Civil Appeal is confined only to the pleadings before the Court/Tribunal whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Civil Appeal. Except facts brought on record by filing application for permission to file Additional document. It is further certified that the copies of the documents/annexures attached to the Civil Appeal are necessary to answer the question of law raised in the Appeal or to make out grounds urged in the Appeal for consideration of this Hon'ble Court. This certificate is given on the basis of instructions given by the Appellant /Person authorized by the Appellant whose Affidavit is filed in support of this Civil Appeal.

(SACHIN PATIL)  
Advocate for the Appellant

Drawn on : 01.06.2022  
Filed on : 01.06.2022  
Place : New Delhi

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. \_\_\_\_\_ OF 2022

IN THE MATTER OF:-

Chief Secretary, Govt. of Maharashtra & Ors. ...Appellants

Versus

Laxman Dhondiba Thombare & Ors. ...Respondents

AFFIDAVIT

I, Sanjay Mahadeo Bamane, Aged 56 Years, Occ: Service as District Mining Officer, Collector office Pune, Dist. Pune, Maharashtra, do Hereby Solemnly Affirm and Sincerely State as Under:-

1. That I am fully conversant with the facts and circumstances of the case and therefore, competent to swear this affidavit for myself as well as for the Appellant.
2. That I have read and understood the contents of the para 1 to 6 and pages 8 to 25 of the accompanying Appeal for special Leave to Appeal, IA'S., and List of Dates at Pages B to N are true and correct to my knowledge and belief.
3. That the annexure filed with the Civil Appeal are true and correct copies of their respective originals.

(Sanjay Mahadeo Bamane)  
DEPONENT

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VERIFICATION:-

I, the above named deponent, do hereby state on solemn affirmation that what is stated in para No. 1 to 3 of this Affidavit is true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified at New Delhi on this 01<sup>st</sup> day of June, 2022.

(Sanjay Mahadeo Bamane)  
**DEPONENT**

# अभय चव्हाण, तहसिलदार मुळशी (पौड) यांचे न्यायालय

के.क.गौ.ख./२५८/एसआर/०५/२०२१ व २३/२०२२



मेरोडवेज सोल्युशन इंडिया प्रा.लि.,  
प्लॉट नं. २० धनीज भोई सो.सेरा,  
स्कूलच्या बाजूला एनआयवीएम,  
रोड पुणे ४११०४८कंपनी, पुणे

...वादी

## विरुद्ध

१. मंडल अधिकारी माले

२. कामगार तलाठी जामगाव

...प्रतिवादी

महाराष्ट्र जमिन महसूल अधिनियम १९६६ चे कलम २५८ अन्वये फेरचौकशी

:- दावा जमिनीचा तपशिल :-

अ.क्र.	गावाचे नाव	स.नं./ ग.नं.
१	जामगाव	३६६, ३६७, ३६८, ३६९ व इतर

## निकालपत्र

मौजे जामगाव ता.मुळशी येथील गट नंबर २५४, २६४, २६५, २६७, २७१, २७३ ३६६, ३६७, ३६८, ३६९ या गटामध्ये परवानगी पेक्षा ९३६२७ ब्रास चे उत्खनन केले आहे. या कार्यालयाकडील क्र. गौख/ एसआर/२३/२०२२ या दिनांक ३ जून २०२२ रोजीच्या आदेशाविरुद्ध अपिलार्थी यांनी प्रस्तुतचा अपिल अर्ज दिनांक ०९/०६/२०२२ रोजी दाखल केला आहे. आवाहानित आदेशाद्वारे अपिलार्थी कंपनीने परवानगी न घेता त्यांच्या मालकीच्या जमिनीमधून परवानगीपेक्षा जास्त आणि अन्य खाजगी व्यक्तींच्या जमिनीमधून परवानगीपेक्षा जास्त असे एकूण ९३,६२७ ब्रास इतक्या माती/मुरुम या गौण खनिजाचे उत्खनन केल्याने स्वामित्वधन + पाचपट दंड + टी.डी.एस + अर्ज फी + भूपृष्ठ भाडे अशी एकूण रक्कम ४०,८५,७९,७०२/- (चाळीस कोटी, पंच्याऐंशी लाख, एकोणऐंशी हजार, सातशे दोन) इतक्या दंडात्मक

रकमेची आकारणी केली असून त्यामुळे व्यथित होऊन अपिलार्थी यांनी प्रस्तुतचा अपिल अर्ज दाखल केला आहे. त्यावर मा.उपविभागीय अधिकारी मावळ मुळशी यांचेकडील आदेश क्रमांक. हने/कावि/१३५६/२०२२ दिनांक १०/६/२०२२ रोजी महाराष्ट्र जमिन महसूल अधिनियम १९६६ चे कलम २५८ अन्वये पुनर्विलोकनामध्ये मंजूरी देण्यात आलेली आहे

प्रस्तुत प्रकरणाची पार्श्वभूमी खालीलप्रमाणे आहे

तदनंतर संबंधित कंपनीला दिनांक १४/०६/२०२२ रोजी सुणावणी कामी नोटीस देण्यात आलेली होती. अपिलार्थी कंपनीला पुणे ते मौजे माले हे गाव ( शेंद्रा पाटील वाडा ) संक्शन NH ७५३F आणि मौजे माले हे गाव ते पुणे रायगड जिल्हयाच्या हद्दीपर्यंत सेक्शन NH- ७५३F आणि रायगड जिल्हयाच्या हद्दीपासून माणगाव येथील सेक्शन NH ७५३ F या रस्त्यांचे उन्नतीकरण आणि पुनःस्थापन याचे काम राष्ट्रीय महामार्ग प्राधिकरणाकडून देण्यात आले आहे.

अपिलार्थी कंपनीने स्वतःच्या मालकीच्या जमिनीतून काही गौण खनिज हे मा. जिल्हाधिकारी सो. पुणे यांची कोणतीही पूर्वपरवानगी न घेता उत्खनन करून वापरले. काही गौण खनिज हे आपल्या मालकीच्या जमिनीमधून मंजुर परिमाणापेक्षा अधिक उत्खनन करून वापरले. तसेच काही गौण खनिज हे इतर खाजगी व्यक्तींच्या जमिनीमधून मंजुर परिमाणापेक्षा अधिक उत्खनन करून वापरले किंवा परवानगी नसताना वापरले अशा आशयाच्या तक्रारी या कार्यालयाकडे प्राप्त झाल्या होत्या.

या कार्यालयाकडून यासंदर्भात मंडळ अधिकारी, माले यांचेकडून सदर मिळकतीची इलेक्ट्रॉनिक टोटल स्टेशन मशिनद्वारे मोजणी करून घेतली. दि. २० ऑक्टोबर २०२० रोजी मंडळ अधिकारी यांनी त्यांचा मोजणी अहवाल सादर केला

मोजणी अहवालाद्वारे प्राप्त झालेल्या उत्खननाच्या तपशीलाचा ताळमेळ हा मा. जिल्हाधिकारी, पुणे यांच्या खनिकर्म शाखेने दि. ४ जुलै २०१९ रोजी केलेल्या गटनिहाय मोजणीशी तुलनात्मक स्वरूपात पडताळणी करण्यात आला. त्यानंतर अपिलार्थी कंपनीला त्यांची बाजू मांडण्याची संधी देण्यात आली. अंतिमतः या कार्यालयाकडून आव्हानित आदेश पारित केले आहेत.

प्रस्तुत प्रकरणी रोजनाम्यात दर्शविल्यानुसार, वेळोवेळी सुनावणी आयोजित करण्यात आली, सुनावणीवेळी अपिलार्थी कंपनीने त्यांचा अपिल अर्ज हाच त्यांचा युक्तिवाद समजण्यात यावा अशी विनंती केली. त्यानंतर प्रकरण निर्णयासाठी बंद करण्यात आले.

अपिलार्थी यांनी सादर केलेल्या युक्तिवादाचा सारांश असा आहे की, अपिलार्थी यांनी आवश्यक त्या सर्व परवानग्या प्राप्त करून घेतल्यानंतरच उत्खनन केलेले आहे. स्थानिक राजकारणी यांच्या खोट्या तक्रारीवरून कार्यवाही करण्यात आली आहे. दि. ३० ऑगस्ट २०२१ रोजी इलेक्ट्रॉनिक टोटल स्टेशन मशिनद्वारे मोजणी करण्यात आली. त्यानंतर उपअधीक्षक भूमि अभिलेख, मुळशी यांनी तहसिलदार, मुळशी यांना असे कळविले की, सादर मिळकतींची अंतिमतः मोजणी दिनांक २ सप्टेंबर २०२१ रोजी करण्यात येणार आहे. दिनांक २ सप्टेंबर २०२१ रोजीचा मोजणी नकाशा अपिलार्थी यांनी अपिलालगत सादर केला आहे. या नकाशाचे अवलोकन केले असता अपिलार्थी यांनी केवळ गट क्र. ३६७, ३६८ आणि ३६९ या मिळकतींमधूनच आणि अगदी अल्प प्रमाणामध्ये गट क्र. २७४ या मिळकतीमधून खोदकाम करून गौण खनिजाचे उत्खनन केले आहे. मोजणी नकाशावरून अपिलार्थी कंपनीने गट क्र. २५४, २६४, २६५, २६७, २७१, २७३ आणि ३७४ या मिळकतींमधून कोणतेही उत्खनन केलेले नाही. गट क्र. २७२ मधून केलेल्या उत्खननापोटी अपिलार्थी कंपनीने दिनांक २६ जुलै २०१९ रोजी रुपये ४०,११,७५०/- इतक्या रक्कमेची स्वामित्वधनाची अदायगी केली आहे. गट क्र. ३६७ मधून केलेल्या उत्खननापोटी अपिलार्थी कंपनीने यापूर्वीच दिनांक २० जुलै २०१९ रोजी रुपये १,२०,४३,७५०/- इतक्या रक्कमेच्या स्वामित्वधनाची अदायगी केली आहे. त्याचप्रमाणे गट क्र. ३६८ या मिळकतीमधून अपिलार्थी यांनी दिनांक २६ जुलै २०१९ आणि दिनांक ३१ मार्च २०२१ रोजी रुपये १,००,५०,५००/- इतक्या रक्कमेच्या स्वामित्वधनाची अदायगी करून उत्खनन केले आहे. त्यानुसार अपिलार्थी कंपनीने आता पावेतो रुपये ५,८३,६९,८००/- इतकी रक्कम स्वामित्वधनापोटी शासनास अदा केलेली आहे. मा. सर्वोच्च न्यायालयाने दिवाणी दावा क्र. ३३००२/२०१० दिनांक १० डिसेंबर २०१४ या निर्णयामध्ये ही बाब स्पष्ट केली आहे की, कोणतीही कार्यवाही करण्यापूर्वी गौणखनिजाचे उत्खनन कोणत्या उद्देशाने करण्यात आले होते हे तपासणे आवश्यक आहे. राज्य शासनाच्या महसूल व वन विभागाने शासन परिपत्रक क्र. गौखनि १०/०४१६/प्र.क्र. ३०२/क दिनांक १४ जून २०१७ रोजीच्या

परिपत्रकीय सूचनांद्वारे ही वाव स्पष्ट केली आहे की, राष्ट्रीय दृष्टीने महत्वाच्या अशा पायाभूत सुविधांच्या कामासाठी गौणखनिजांचे उत्खनन हे मंजूर परिमाणापेक्षा अधिकचे केले गेल्यारा त्यासाठी दंडात्मक आकारणी न करता अशा अधिकच्या परिमाणासाठी वाढीव स्वामित्वधनाची रक्कम ३० दिवसांच्या आत शारानजमा करण्याबाबत ठेकेदारास कळविण्यात यावे व अशी रक्कम विहित मुदतीत जमा न केल्यासच ते दंडात्मक कार्यवाहीस पात्र राहतील. अपिलार्थी यांनी प्राप्त करून घेतलेल्या सर्व गौणखनिज उत्खननाच्या परवानग्याच्या प्रती अपिलासोबत जोडल्या आहेत. या सर्व पार्श्वभूमीवर आढावित आदेश रद्द करण्याची विनंती अपिलार्थी यांनी केली.

अपिलार्थी यांचा अपील अर्ज, पक्षकारांचे युक्तिवाद, आढावित आदेश, प्रकरणातील कागदपत्रे या सर्व बाबींचे अवलोकन केले असता निष्कर्ष खालीलप्रमाणे आहेत.

वाद आढावित आदेशाचे अवलोकन केले असता त्यामध्ये विविध परिमाणे नमूद करण्यात आलेली आहेत. तथापि, त्यासंदर्भात नोंदविण्यात आलेल्या निष्कर्षांचे अवलोकन केले असता आढावित आदेशामध्ये नमूद केलेली विविध परिमाणे व अंतिमतः आढावित आदेश हे ज्या परिमाणासाठी पारित करण्यात आले ते परिमाणे यामध्ये भिन्नता आढळून येते. अपिलार्थी यांनी सादर केलेल्या कागदपत्रांचे अवलोकन केले असता अपिलार्थी यांनी प्रत्यक्ष ज्या परिमाणासाठी गौणखनिज उत्खननापोटी स्वामित्वधनाची रक्कम अदा केली आहे, त्या परिमाणाची बेरीज पाहता आढावित आदेशातील तपशील संयुक्तिक नसल्याचे दिसून येते.

तदनंत या कार्यालयाकडील पत्र क्रमांक.गौख/कावि/५२८/२०२२ दि.१४/०६/२०२२ अन्वये मंडळ अधिकारी माले यांना पुन्हा ETS मोजणी करून अहवाल सादर करणे बाबत कळविण्यात आले होते. त्यांअनुषंगाने मंडळ अधिकारी माले यांचा दिनांक १५/०६/२०२२ रोजी अहवाल खालील प्रमाणे असे. मे.रोडवेज सोल्युशन इंडिया लि.पुणे यांच्या ताब्यात असलेले मौजे जामगाव ता.मुळशी येथील गट नंबर ३६६,३६७,३६८,३६९ या गटाची ETS द्वारे हदी-खुणा निश्चित करून मौजे जामगाव ता.मुळशी येथील खाणपटा गट नंबर ३६६,३६७,३६८,३६९ ETS मोजणी केली असता ९७८४० ब्रास चे उत्खनन झालेचे दिसून येत आहे. त्यांचे विवरण खालील प्रमाणे असे.

अ.क्र	गट नंबर	मा.जिल्हाधिकारी पुणे यांनी परवानगी दिनांक	परव 166	परवानगी पेक्षा जास्त उत्खनन केलेले ब्रास दिनांक १५/०६/२०२२ रोजीच्या ईटीएस मोजणी चे ब्रास खालील प्रमाणे
१	३६६	०९/१०/२०२०	२५०००/-	९७८४०/- ब्रास
		०८/०४/२०२१	५०००/-	
२	३६७	०८/०४/२०२१	५०००/-	
३	३६८	२१/०८/२०१९	२५०००/-	
		०८/०४/२०२१	५०००/-	
४	३६९	१०/१२/२०१८	२५०००/-	
		०८/०४/२०२१	५०००/-	
एकुण			९५०००/-	

प्रस्तुत प्रकरणी वरील प्रमाणे ETS मोजणीचा अहवाल आहे परंतु मा.जिल्हाधिकारी पुणे सो यांचेकडील मे.रोडवेज सोल्युशंस कंपनीने ३६६,३६७,३६८,३६९ या गटामध्ये परवानगी पेक्षा २८४० ब्रास चे उत्खनन केलेचे दिसून येत आहे. तसेच उर्वरीत गट क्र. २५४,२६४,२६५,२६७,२७१,२७३ या गटामध्ये उत्खनन नाही असा अहवाल मंडळ अधिकारी माले यांनी सादर केलेला आहे.

प्रस्तुत प्रकरणी मे.रोडवेज सोल्युशंस कंपनी यांनी मौजे जामगाव ता.मुळशी येथील गट नंबर ३६६,३६७,३६८,३६९ मध्ये परवानगी पेक्षा २८४० ब्रास चे उत्खनन केले आहे. त्यानुसार महाराष्ट्र शासन निर्णय क्रमांक गौ.ख/१०/०४१६/ प्र.क्र.३०२ ख दिनांक १४/०६/२०१७ अन्वये ठेकेदाराने ३० दिवसाच्या आत गौण खनिजाच्या वाढीव उत्खननापोटी/वापरापोटी स्वामित्वधनाची रक्कम शासनजमा केल्यास एक विशेष बाब म्हणून त्यांच्याविरुद्ध महाराष्ट्र जमिन महसूल संहिता,१९६६ मधील कलम ४८ (७) नुसार दंडात्मक कारवाई करण्यात येऊ नये, मात्र संबंधित ठेकेदाराने ३० दिवसाच्या आत गौणखनिजाच्या वाढीव उत्खननापोटी स्वामित्वधनाची रक्कम शासनासजमा न केल्यास तो दंडात्मक कारवाईस पात्र राहिल असे शासन परिपत्रकामध्ये आहे. त्यानुसार या कार्यालयाकडील पत्र क्रमांक गौख/कावि/२३/२०२२ दि.१६/०६/२०२२ अन्वये मे.रोडवेज सोल्युशंस कंपनी यांना २८४० ब्रास चे चलन रक्कम १७,२९,५००/- देण्यात आले

होते, सदर कंपनी यांनी दिनांक २०/६/२०२२ रोजी GRSS NO.MH००३६७६७७९२०२२३E

Defacement no ००२०४३६१७२०२२२३ अन्वये शासन खजिनामध्ये जमा केले आहे.

वर नमुद केलेल्या पार्श्वभूमीवर आव्हानित आदेश क्रमांक गौख/एसआर/२३/२०२२ दिनांक०३/०६/२०२२ रोजीचा आदेश रद्द करेण क्रम प्राप्त ठरत आहे. व आपिलार्थी यांचा विनंती अर्ज अंशतः मंजुर करण्यात येत आहे. तसेच महाराष्ट्र शासन निर्णय क्रमांक गौ.ख/१०/०४१६/ प्र.क्र.३०२ ख दिनांक १४/०६/२०१७ अन्वये ठेकेदाराने ३० दिवसाच्या आत गौण खनिजाच्या वाढीव उत्खननापोटी/वापरापोटी स्वामित्वधनाची रक्कम शासनजमा केल्यास एक विशेष बाब म्हणून त्यांच्याविरुद्ध महाराष्ट्र जमिन महसूल संहिता,१९६६ मधील कलम ४८ (७) नुसार दंडात्मक कारावाई करता येणार नाही. सबब मी तहसिलदार मुळशी खालील प्रमाणे आदेश पारित करीत आहे.

### आदेश

१. अपिल अंशतः मंजुर करण्यात येत आहे.
२. या कार्यालयाकडील गौख/एसआर/२३/२०२२ दिनांक०३/०६/२०२२ रोजीचा आदेश रद्द करेण येत आहे. तसेच सदर प्रकरणामध्ये महाराष्ट्र जमिन महसूल संहिता,१९६६ मधील कलम ४८ (७) नुसार दंडात्मक कारावाई करता येणार नाही.सदरचे प्रकरण विनाकार्यवाही निकाली काढण्यात येत आहे.
३. खर्चाबाबत आदेश नाही.

ठिकाण :- मुळशी (पौड)

दिनांक : ३०/०६/२०२२



*(Handwritten signature)*

(अभय चव्हाण)

तहसिलदार मुळशी (पौड)

प्रत:- /- गाव कामगार तलाठी जामगाव यांचेकडे नाहितीसाठी व पुढील कार्यवाहीसाठी रवाना.