

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

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WESTERN ZONE AT PUNE

Original Application No. 68 of 2020 (WZ)

IN THE MATTER OF

Rajiv Babasaheb Waman And Ors.APPLICANTS

Versus

Ministry of Environment, Forest &
Climate Change & Ors.RESPONDENTS

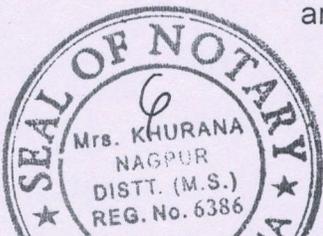
AFFIDAVIT ON BEHALF OF MINISTRY OF ENVIRONMENT,

FOREST AND CLIMATE CHANGE i.e. RESPONDENT NO. 1

MOST RESPECTFULLY SHOWETH:

I, Suresh Kumar Adapa S/o Shri. Ramulu Adapa, currently working as Scientist 'D' in the Ministry of Environment, Forest and Climate Change (MoEFCC), Integrated Regional Office, Nagpur, do hereby solemnly affirm and state as under: -

1. That I, in my official capacity as Scientist 'D' in the Ministry Environment, Forest and Climate Change, Integrated Regional Office Nagpur i.e. Respondent No. 1 in the above mentioned matter, am conversant with the facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.



A. Khurana

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2. It is submitted at the very outset that the Respondent No.1 denies each averment and/or submission made in the application which is contrary to and inconsistent with the averments made and facts stated in the present reply. It is submitted that the nothing stated in the application may be deemed to have been admitted by the Respondent No. 1 unless and until the same is expressly admitted in the present reply.
3. That a short affidavit is being filed by the answering respondent at this stage and craves leave and liberty to file a detailed Counter Affidavit to the aforesaid Petition, as and when required.
4. That the Applicant in the present matter has alleged that rampant illegal stone mining and stone crushing in an agricultural land Gat. No. 313 and 314 at Village-Hasanabad (Talegaon Dighe), Tal-Sangamner, District Ahmednagar has been raised. Further, it is also alleged that these illegal mining are being done without any statutory permission and without prior environmental clearance and permission from Maharashtra State Pollution Control Board (SPCB).
5. That the applicant has inter-alia prayed that the Hon'ble Tribunal may please direct the respondents to close the illegal stone quarry and stone crushing activity, to take appropriate legal action against illegal stone mining and stone crushing being done without any statutory permission, to conduct the cumulative impact study and assess the damage and to



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reinstate environmental damage and pay compensation to nearby residents.

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6. That it is further submitted that respondent Ministry issued EIA Notification dated 14th September 2006 which requires certain projects to obtain prior Environmental Clearance ("EC") before any construction work in case of new projects or expansion and modernization of existing projects or activities. The Schedule to the Notification details the categories or projects or activities which require prior Environmental Clearance.
7. That it is further submitted that all projects and activities are broadly categorized into two categories - Category "A" and Category "B", based on the potential impacts on spatial extent and human health and natural and man-made resources.
8. That it is further submitted that all projects or activities included as Category 'A' in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment, Forest and Climate Change (MoEF&CC) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification.
9. That it is further submitted that all projects or activities included as Category 'B' in the Schedule, including expansion and modernization of existing projects or activities as specified in sub paragraph (ii) of paragraph 2, or change in product mix as specified in sub paragraph (iii) of paragraph 2, but excluding



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those which fulfil the General Conditions (GC) stipulated in the Schedule, will require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory level Expert Appraisal Committee (SEAC) as to be constituted for in this notification. In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project.

10. That it is submitted that the in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government made further amendments in the Environment Impact Assessment Notification, 2006 vide S.O.3977(E) dated 14th August,2018 wherein, Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation in Appendix-XI and entries relating thereto, the following item and entries shall be substituted. The copy of the Notification S.O.3977 (E) dated 14th August, 2018 is attached herein and marked as **ANNEXURE R/1**.

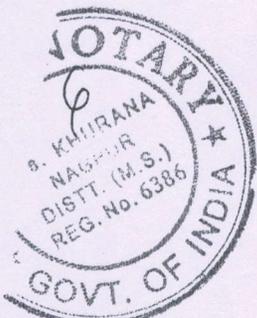
11. That it is submitted that the Hon'ble Apex Court vide order dated 27th February, 2012 in Special Leave Petition (C) No.19628-19629 of 2009, in the matter of "**Deepak Kumar etc. Vs. State of Haryana and Others etc**" has ordered that



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prior environmental clearance has now become mandatory for mining of minor minerals irrespective of the area of mining lease. Therefore, the area of less than five hectare must also be brought into purview of EIA Notification, 2006 so that prior Environmental Clearance is made mandatory for mining activity for less than five hectare of lease area.

12. That as per the provision of 23(C) of MMDR Act, the State Government is empowered to make rules for preventing illegal mining, and transportation & storage of Illegal minerals. All such mining which qualifies under illegal shall be dealt with in the provision of MMDR Act by the concern authorities.
13. That the State Pollution Control Board (SPCB) is the nodal authority in the State for dealing with cases related to pollution or environment management coming under the purview of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment Protection Act 1986. SPCB shall initiate appropriate action under the provision of these acts for non-compliance of violation of the provisions.
14. That it is humbly submitted that no action of the Ministry of Environment, Forest and Climate Change is being challenged in the present matter and hence the answering respondent has no role to play in regard to the relief sought by the applicant in the present matter.



A. Khirana

15. That in view of the aforementioned facts and circumstances,
this Hon'ble Tribunal may kindly be pleased to pass
appropriate order(s).

A. Surash Kumar
12/10/2011

DEPONENT

NOTARY PUBLIC
NAGPUR
REGISTRATION NO. 1000/2008
National Office (N.O.)
Nagpur - 440001

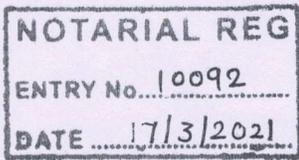


VERIFICATION

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I, the above named deponent do hereby verify that the contents of the above affidavit are true and correct on the basis of official record maintained by the Respondent No. 1 in daily course of its business, no part of it is false and nothing material has been concealed there from.

Verified at Nagpur on this the 17th day of March, 2021.



A. Suresh Kumar
12/3/21
DEPONENT

SWORN BEFORE ME ON THIS... 17...
DAY OF March 20... 21. NAGPUR BY
SHRI/SMT./Ku. Suresh... Kumar... Adapa
R/o NAGPUR WHO HAS BEEN IDENTIFIED BY
SHRI/SMT.
ADVOCATE, NAGPUR

[Signature]
NOTARY
GOVT. OF INDIA
NAGPUR (M.S.) INDIA



21. का.आ. 1142(अ), तारीख 17 अप्रैल, 2015 ;
22. का.आ. 1141(अ), तारीख 29 अप्रैल, 2015 ;
23. का.आ. 1834(अ), तारीख 6 जुलाई, 2015 ;
24. का.आ. 2571(अ), तारीख 31 अगस्त, 2015,
25. का.आ. 2572(अ), तारीख 14 सितंबर, 2015,
26. का.आ. 141(अ) 15 जनवरी, 2016,
27. का.आ. 648(अ) तारीख 3 मार्च, 2016 ;
28. का.आ. 2269(अ) तारीख 1 जुलाई, 2016 ;
29. का.आ. 2944(अ), तारीख 14 सितम्बर, 2016;
30. का.आ. 3518(अ), तारीख 23 नवंबर, 2016 ;
31. का.आ. 3999(अ), तारीख 9 दिसंबर, 2016;
32. का.आ. 4241(अ), तारीख 30 दिसम्बर, 2016; और
33. का.आ. 3611(अ), तारीख 25 जुलाई, 2018 ।

ANNEXURE R/1

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MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 14th August, 2018

S.O. 3977(E).— Whereas, by notification of the Government of India in the erstwhile Ministry of Environment and Forests vide number S.O.1533 (E), dated the 14th September, 2006 issued under sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government directed that on and from the date of its publication, the required construction of new projects or activities or the expansion or modernisation of existing projects or activities listed in the Schedule to the said notification entailing capacity addition with change in process or technology or product mix shall be undertaken in any part of India only after prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified therein;

And whereas, the said Ministry has received requests, for delegation of more powers to State Environment Impact Assessment Authority (SEIAA) and District Environment Impact Assessment Authority (DEIAA) with respect to grant of Environment Clearances;

And whereas clause (a) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 provides that, whenever the Central Government considers that prohibition or restrictions of any industry or carrying on any processes or operation in any area should be imposed, it shall give notice of its intention to do so;

And whereas, a draft notification for making amendments in the Environment Impact Assessment Notification, 2006 in exercise of the powers conferred under sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 was published, vide number S.O.3933 (E) dated the 18th December 2017, inviting objections and suggestions from all the persons likely to be affected thereby, within a period of sixty days from the date of publication of said notification in the Gazette of India;

And whereas, copies of the said notification were made available to the public on 18th December 2017;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the Environment Impact Assessment Notification, 2006 namely:-

In the said Notification, in the SCHEDULE, for item 1(a), 1(c), and the Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation in Appendix-XI and entries relating thereto, the following item and entries shall be substituted, namely:

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Project or Activity		Category with threshold limit		Conditions if any
		A	B	
1		Mining, extraction of natural resources and power generation (for a specified production capacity)		
(1)	(2)	(3)	(4)	(5)
1(a)	(i) Mining of minerals	> 100 ha. of mining lease area in respect of non-coal mine lease. > 150 ha of mining lease area in respect of coal mine lease Asbestos mining irrespective of mining area.	≤ 100 ha of mining lease area in respect of non-coal mine lease. ≤ 150 ha of mining lease area in respect of coal mine lease.	General Conditions shall apply except: (i) for project or activity of mining of minor minerals of Category 'B2' (up to 25 ha of mining lease area); (ii) for project or activity of mining of minor minerals of Category 'B1' in case of cluster of mining lease area; and (iii) River bed mining projects on account of inter-state boundary. Note: (1) Mineral prospecting is exempted; (2) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI;
	(ii) Slurry pipelines (coal, lignite and other ores) passing through national parks / sanctuaries / coral reefs, ecologically sensitive areas.	All projects.		
1(c)	(i) River Valley projects	(i) ≥ 50 MW hydroelectric power generation;	(i) ≥ 25 MW and < 50 MW hydroelectric power generation;	General Condition shall apply.
	(ii) Irrigation projects	(ii) ≥ 50,000 ha. of culturable command area	(ii) > 2000 ha. and < 50,000 ha. of culturable command area.	Note:- (i) Category 'B' river valley projects falling in more than one state shall be appraised at the central Government Level.
			Irrigation system	(ii) Change in irrigation technology having environmental benefits (eg. From flood irrigation to Drip irrigation etc.) by an existing project, leading to increase in Culturable Command Area but without increase in dam height and submergence, will not require amendment/ revision of EC.
			(a) Minor Irrigation system (≤ 2000 Ha)	Exempted
			(b) Medium irrigation system (> 2000 and < 10,000 ha.)	Required to prepare EMP and to be dealt at State Level (B ₂ category).

			(c) Major irrigation system (≥10,000 to < 50,000 ha.)	Required to prepare EIA/EMP and to be dealt at State Level (B ₁ category).	
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Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation in Appendix-XI:

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Area of Lease (Hectare)	Category of Project	Requirement of EIA / EMP/ DSR	Requirement of Public Hearing	Requirement of EC	Who can prepare EIA/ EMP	Who will apply for EC	Authority to appraise/ grant EC	Authority to monitor EC compliance
EC Proposal of Sand Mining and other Minor Mineral Mining on the basis of individual mine lease								
0 – 5ha	'B2'	Form –IM, PFR, DSR and Approved Mine Plan	No	Yes	Project Proponent	Project Proponent	DEAC/ DEIAA	DEIAA SEIAA SPCB CPCB MoEFCC
> 5 ha and < 25 ha	'B2'	Form –I, PFR, DSR and Approved Mine Plan and EMP	No	Yes	Project Proponent	Project Proponent	SEAC / SEIAA	Agency nominated by MoEFCC
≥ 25ha and ≤ 100ha	'B1'	Form –I, PFR, DSR and Approved Mine Plan and EIA and EMP	Yes	Yes	Project Proponent	Project Proponent	SEAC / SEIAA	
> 100 ha	'A'	Form –I, PFR, DSR and Approved Mine Plan and EIA and EMP	Yes	Yes	Project Proponent	Project Proponent	EAC/ MoEFCC	
EC Proposal of Sand Mining and other Minor Mineral Mining in cluster situation								
Cluster area of mine leases up to 5 ha	'B2'	Form –IM, PFR, DSR and Approved Mine Plan	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA/	DEIAA SEIAA SPCB CPCB MoEFCC Agency nominated by MoEFCC
Cluster area of Mine leases > 5 ha and < 25 ha with no individual lease > 5 ha	'B2'	Form –I, PFR, DSR and Approved Mine Plan and one EMP for all leases in the Cluster	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA/	
Cluster area of Mine leases > 5 ha and < 25 ha with any individual lease > 5 ha	'B2'	Form –I, PFR, DSR and Approved Mine Plan and one EMP for all leases in the Cluster	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	SEAC/ SEIAA	

Cluster of mine leases of area ≥ 25 hectares with individual lease size ≤ 100 ha	'B1'	Form -I, PFR, DSR and Approved Mine Plan and one EIA/EMP for all leases in the Cluster	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	SEAC/SEIAA
Cluster of any size with any of the individual lease > 100 ha	'A'	Form -I, PFR, DSR and Approved Mine Plan and one EIA/EMP for all leases in the Cluster	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	EAC/MoEFCC

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[F. No. 19-2/2013-IA.III (Pt.II)]

GYANESH BHARTI, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) *vide* number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended *vide* the following numbers: -

1. S.O. 1949 (E) dated the 13th November, 2006
2. S.O. 1737 (E) dated the 11th October, 2007;
3. S.O. 3067 (E) dated the 1st December, 2009;
4. S.O. 695 (E) dated the 4th April, 2011;
5. S.O. 156 (E) dated the 25th January, 2012;
6. S.O. 2896 (E) dated the 13th December, 2012;
7. S.O. 674 (E) dated the 13th March, 2013;
8. S.O. 2204 (E) dated the 19th July 2013;
9. S.O. 2555 (E) dated the 21st August, 2013;
10. S.O. 2559 (E) dated the 22nd August, 2013;
11. S.O. 2731 (E) dated the 9th September, 2013;
12. S.O. 562 (E) dated the 26th February, 2014;
13. S.O. 637 (E) dated the 28th February, 2014;
14. S.O. 1599 (E) dated the 25th June, 2014;
15. S.O. 2601 (E) dated the 7th October, 2014;
16. S.O. 2600 (E) dated the 9th October, 2014
17. S.O. 3252 (E) dated the 22nd December, 2014;
18. S.O. 382 (E) dated the 3rd February, 2015;
19. S.O. 811 (E) dated the 23rd March, 2015;
20. S.O. 996 (E) dated the 10th April, 2015;
21. S.O. 1142 (E) dated the 17th April, 2015;
22. S.O. 1141 (E) dated the 29th April, 2015;
23. S.O. 1834 (E) dated the 6th July, 2015;
24. S.O. 2571 (E) dated the 31st August, 2015;
25. S.O. 2572 (E) dated the 14th September, 2015;
26. S.O. 141 (E) dated the 15th January, 2016;
27. S.O. 648 (E) dated the 3rd March, 2016;
28. S.O. 2269(E) dated the 1st July, 2016;
29. S.O. 2944(E) dated the 14th September, 2016;

DEEPAK M.GUPTE
ADVOCATE
HIGH COURT,BOMBAY
3, LAXMAN APARTMENT
25/26 OLD TOPHKHANA
S'NAGAR,PUNE 411 005
MOBILE: 9422317884
email.:advgupte@gmail.com

Date:10/08/2021

BEFORE THE NATIONAL GREEN TRIBUNAL ,WESTERN ZONE,PUNE

Original Application No. 68 of 2020(WZ)

Raajiv Babasaheb Waman & Ors.

...Applicants

Versus

Ministry of Environment ,Forest & climate change

...Respondents

Note of appearance for Respondent No.1,

The Registrar
National Green Tribunal(WZ),
Pune

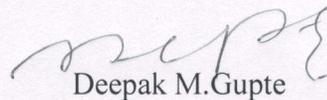
Sir,

I am instructed to appear on behalf of **Respondent No.1, Ministry of Environment, Forest & climate Change.**

The copy of appointment letter on behalf of Respondent No.1 is attached.

The copy of Reply affidavit on behalf of Respondent No.1 is filed separately.

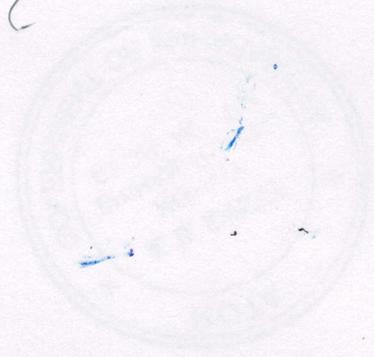
Be pleased to direct the office to record my appearance on behalf of
Respondent No.1


Deepak M. Gupte

Advocate

Email: advgupte@gmail.com

9422317884



Government of India
Ministry of Environment, Forest and Climate Change
Legal Monitoring Cell

Date: 16/10/2020

Subject: Engagement of Panel Counsel

Respected Sir,

Mr. Deepak M. Gupte (9422317884)

You are engaged to appear and conduct the case mentioned below for all purposes on behalf of this Ministry till the disposal of the case or expiry of your term of engagement or until further orders, whichever is earlier.

2. Details of the case are as follows:-

Court: NGT (WZ), Pune

Case No.: OA No. 68/2020/WZ

Title of the Case: **Rajiv Babasaheb Waman & Ors. Vs. MoEF & CC & ors.**

Concerned Division of the Ministry: **IA (Non-Coal Mining)**

Name and contact of the Divisional Head: **JS (SKB) & 011-24695324**

Email ID: **sujit.baju@gov.in**

Name and contact of the dealing Legal Assistant: **Ms. Shruti Mishra, Mr. Vishal Tripathi**

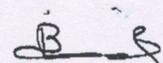
Ph.No. **7760777594, 9611348615**

Email ID: **shruti05mishra@gmail.com, vishaltripath@gmail.com**

Next Date of hearing: **18/01/2021**

3. **This engagement is subject to the following conditions:-**

- i. The engagement is governed by O.M. No. 17(19)/2013-PL/NGT Dated 01.09.2015, 19.12.2016, 21.12.2016 and O.M. No. 17(21)/2017-PL/NGT on dated 01.12.2017, Policy and Law Division, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, New Delhi read with relevant circulars/instructions issued by this Ministry from time to time.
- ii. In case you are unable to attend the case for some reason, sufficient advance intimation should be given to the concerned Division.
- iii. To return the brief on expiry of your term/disposal of the case to the Ministry of Environment, Forest and Climate Change, or till further orders.
- iv. To intimate the Ministry the progress of the case regularly including obtaining and forwarding certified copy of the Order/Judgement to the concerned Division whenever necessary.
- v. To appear on behalf of this Ministry in person, and **not through a junior counsel** in the matters marked to you.
- vi. The engagement is acknowledged.


(B.L. CHOUDHARY)
Advisor (Legal)

MoEF&CC, New Delhi

बी. एल. चौधरी/B. L. CHOUDHARY

सलाहकार (विधि)
Advisor (Legal)

पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Forest and Climate Change