

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

BRIEF NOTES OF ARGUMENTS BY

MR. PINAKI MISHRA

SENIOR ADVOCATE FOR STATE OF U.P.

Original Application No. 09/2025 (IA No. 32/2025)

WITH

Original Application No. 100/2025 (IA No. 37/2025)

<u>S. NO.</u>	<u>APPLICANTS' ALLEGATION/ISSUE RAISED BY THE APPLICANTS</u>	<u>RESPONDENT'S REPLY</u> (DM- HAMIRPUR) (STATE OF UP)	<u>SUPPORTING RECORD/ LEGAL POSITION</u>
1.	SEAC approved the Hamirpur DSR along with 9 other DSRs on 10.10.2024 with the same terms and conditions. SEIAA approved it on 25.10.2024 along with 14 other DSRs in a single sitting — all using a mechanical, copy-paste approach without independent examination.	<p>The DSR for District Hamirpur was placed before the Joint Meeting of SEAC-1 and SEAC-2 on 10.10.2024. After detailed deliberations and thorough scrutiny of all relevant records, it was recommended for approval. Subsequently, in SEIAA's 849th Meeting dated 25.10.2024, the recommendation was examined and a conscious, reasoned decision was taken to approve the DSR, subject to incorporation of uniform Terms and Conditions governing sand/morrum mining areas in strict adherence to SSMG-2016 and EMGSM-2020.</p> <p>The approval of multiple DSRs in a single session does not render it mechanical — each DSR was independently considered. Procedural efficiency is not synonymous with non-application of mind. It is a matter of</p>	<p>Supplementary Affidavit filed by DM Hamirpur on Dt. 08-04-2026, Page No 1056-1057 @ Para 6 , 7 & 8 (OA 100/2025 Amit Kumar Yadav).</p> <p>Affidavit Filed by Member Secretary SEIAA dt. 24.03.2025, Page No 681 @ Para 11 & 12 (OA 09/2025 Vinay Srivastava)</p>

		established practice and scientific understanding that mining operations in riverbeds are governed by a uniform methodology, premised upon the principle of replenishment, which remains consistent across all river systems. It is in this backdrop that uniform terms and conditions have been incorporated, so as to ensure regulatory consistency and environmental sustainability.	
2.	SEAC/SEIAA failed to even refer to the SSMG, 2016 and EMGSM, 2020 which are mandatorily required to be followed while preparing and appraising a DSR.	The DSR was prepared in full compliance with SSMG-2016 and EMGSM-2020. SEAC/SEIAA formulated a Standard Operating Procedure (SOP) under these guidelines and MoEF Notifications dated 15.01.2016 and 25.07.2018. This SOP was forwarded to all District Magistrates via the Directorate on 12.02.2024. The DSR has been prepared strictly in accordance with this SOP. The approval orders of SEAC/SEIAA explicitly reference these guidelines.	Additional Affidavit filed by DM Hamirpur on Dt 01-04-2025 Page No 722-723 @ Para 11 (OA 100/2025 Amit Kumar Yadav).
3.	The Impugned DSR is absolutely silent on a Replenishment Study. Neither the study nor pre/post monsoon quantities are mentioned. SEIAA itself noted in its MOM (25.10.2024) that the Replenishment Study had not been made part of the DSR — yet approved it anyway.	<p>The Replenishment Study 2023 was duly conducted by the Sub-Divisional Committee for 119 mining areas — covering both pre-monsoon (June 2023) and post-monsoon (October & November 2023) surveys. The study was submitted to the Directorate of Environment and SEIAA vide letter No. 1838 dated 11.03.2025 and received on 12.03.2025. A full presentation on the DSR and Replenishment Study was made before Directorate officials on 12.03.2025 by the Mining Officer, Hamirpur.</p> <p>The Replenishment Study 2023 was uploaded on the District NIC portal on 25.03.2025 (Annexure-3).</p> <p>SEIAA, through its affidavit filed on 24.03.2025, has formally accepted the Replenishment Study (Para 6 of Additional Affidavit). The Replenishment Study data forms the very basis of DSR-2024, and the post-monsoon total replenishment volume in both documents is identical.</p>	<p>Additional Affidavit filed by DM Hamirpur on dt. 01.04.2025 Page No 711 & 722 @ Para 4, 5, 6 & 10 (OA 100/2025 Amit Kumar Yadav).</p> <p>Written Submissions filed by DM Hamirpur on dt. 28.05.2026 Page No. 1241-1242 @ Para 3-4 (OA 100/2025 Amit Kumar Yadav).</p>

4.	SEAC/SEIAA ought to re-appraise the DSR in line with MOEF Guidelines 2016 & 2020 and after perusing the Replenishment Study.	<p>The DSR has already been prepared in compliance with SSMG-2016 and EMGSM-2020. The Replenishment Study 2023 data is the very foundation of DSR-2024. SEAC/SEIAA have already accepted and taken the Replenishment Study on record. Re-appraisal is neither warranted nor legally mandated.</p> <p>The Hon'ble Supreme Court in Bihar v. Pawan Kumar (Para 14(i)) mandated the SDC Committee approach — which has been precisely followed here. No re-appraisal direction is called for.</p>	<p>Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1060 @ Para 17-18 (OA 100/2025 Amit Kumar Yadav).</p> <p>SC Bihar v. Pawan Kumar Para 14(i) — reproduced in Additional Affidavit filed by DM Hamirpur on dt. 04.01.2025 Page No. 723 @ Para 12. (OA 100/2025 Amit Kumar Yadav).</p>
5.	Google Earth images enclosed with the DSR itself reveal that Mining lease areas are wholly or substantially submerged under water. This is per se illegal as settled by this Tribunal in Medha Patkar v. State of MP.	<p>The geomorphological condition of rivers is inherently dynamic, undergoing continuous change particularly after each monsoon season. Rivers may at times flow beyond their originally demarcated course, causing variations between actual ground conditions and geo-imagery. Minor variations between geo-images and field conditions are both expected and scientifically explicable.</p> <p>Crucially, out of 183 mining areas from DSR-2017, 73 areas have been excluded in DSR-2024 specifically on account of waterlogging and environmental unsuitability. The DSR retains only those areas confirmed as suitable through field survey. Google Earth images capture a momentary state — often post-monsoon flooding — and cannot be treated as evidence of permanent submergence.</p>	<p>Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1062-1063 @ Para 25-26 (OA 100/2025 Amit Kumar Yadav).</p> <p>Written Submissions filed by DM Hamirpur on dt. 28.05.2026 Page No. 1244-1245 @ Para 8-9 (OA 100/2025 Amit Kumar Yadav).</p>
6.	The principal reason for including submerged water areas (including entire river bed) in total mining	This allegation is factually incorrect. As stated above, 73 areas have been excluded precisely due to waterlogging and environmental factors. There is no artificial inflation of area. The DSR's Annexure-V clearly presents both 100% Geological Reserve and 60% Mineable	Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1063 @ Para 26 (OA 100/2025 Amit Kumar Yadav).

	area is to artificially increase the Total Area and thereby circumvent the 60% mining restriction under Clause 4.3(r) of EMGSM, 2020.	Reserve for each block. Mining is auctioned and permitted only to the extent of 60% of the Geological Reserve — no circumvention of Clause 4.3(r) has occurred or is intended.	Written Submissions filed by DM Hamirpur on dt. 28.05.2026 Page No. 1246-1247 @ Para 10-11 (OA 100/2025 Amit Kumar Yadav).
7.	The DSR permits mining of the total available quantity which is impermissible. As per EMGSM, 2020 Clause 4.3(r), only 60% of the mine lease area can be mined; and as per SSMG, 2016 & EMGSM, 2020, only a volume equal to the replenished quantity should be extracted. The permissible quantity =	<p>Table No. 7.0 of the Replenishment Study Report-2023 has been prepared on the basis of the available mineable quantity as assessed through the Replenishment Study — i.e., the figures already reflect the permissible/mineable component and do not require further reduction by 60%.</p> <p>For complete transparency, Table No. 8.0 of the Replenishment Study Report-2023 separately displays 100% Geological Reserve and the corresponding 60% Mineable Reserve.</p> <p>Under Rule 42(j) of the UP Minor Mineral (Concession) Rules, 2021, mining is permitted only up to a maximum depth of 3 meters. Geological Reserve = Total Area x 3 meters. Mining lease extraction is permitted only up to 60% of this Geological Reserve.</p> <p>DSR-2024 Annexure-V presents both the 'Total Excavation in Tonnes' (100%) and 'Mineral to be Mined' (60%) columns for every lease block. Auctions are conducted only for the 60% quantity.</p>	<p>Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1065-1066 @ Para 33-36 (OA 100/2025 Amit Kumar Yadav).</p> <p>Written Submissions filed by DM Hamirpur on dt. 28.05.2026 Page No. 1246-1247 @ Para 10-11 (OA 100/2025 Amit Kumar Yadav).</p>
8.	Clause 4.1.1(b) [@203] — Detailed River survey/audit to identify source of River bed material	The SDC Committee conducted detailed pre-monsoon and post-monsoon field surveys of all river stretches in District Hamirpur. The Replenishment Study 2023 comprehensively documents the source, quantum, and quality of river bed material for all 119 mining areas. A formal presentation on the DSR and Replenishment Study was Environment presented Directorate officials on 12.03.2025 by the Mining Officer,	Additional Affidavit filed by DM Hamirpur on dt. 01.04.2025 Page No 711 @ Para 4-5 (OA 100/2025 Amit Kumar Yadav).

		Hamirpur. This squarely satisfies Clause 4.1.1(b).	
9.	Clause 4.1.1(c) & (g) [203, 205] — Identification of No Mining Zones considering Environmental and Social factors	73 mining areas from DSR-2017 have been removed from DSR-2024 precisely on account of waterlogging, environmental unsuitability, and other social/ecological factors — these constitute the No Mining Zones. The committee thoroughly evaluated the environmental and ecological impact of mining activities in each identified area. Stakeholder consultations, including inputs from local governing bodies, environmental experts, and affected communities, were incorporated to enhance the transparency of the DSR.	Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1067-1068 @ Para 41 & 42 (OA 100/2025 Amit Kumar Yadav).
10.	Clause 4.1.1(e) [204] — Survey of entire river bed; 3/4th to be mapped; 1/4th to remain as 'No Mining Zone'. Cl. 4.3(r) & (m) — mining restricted to 3/4th or 7.5 m from bank	That it is most respectfully submitted that, as has been categorically stated in Paragraphs 22 and 28 of the Affidavit filed by the District Magistrate, in strict compliance with Clause 4.1.1 of the Enforcement and Monitoring Guidelines for Sand Mining, 2020 (EMGSM-2020), the Sub-Divisional Committee undertook comprehensive Pre-Monsoon and Post-Monsoon surveys, coupled with detailed field inspections of all identified mining areas, as an integral part of the process for preparation and approval of the District Survey Report (DSR). During the said exercise, the delineation of mining areas was carried out with due diligence, ensuring that one-fourth of the total area, along with a mandatory buffer zone of 7.5 meters from the riverbank, was excluded from permissible mining activities. That it is further submitted that, at the stage of preparation and approval of the Mining Plan, it is mandatorily ensured that no mining activity is permitted within a distance of 7.5 meters from the riverbank and that at least one-fourth of the total river area is excluded from mining operations.	Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1062 @ Para 23-24 (OA 100/2025 Amit Kumar Yadav).

11.	<p>Clause 4.1.1(j) [@205] & Cl. 4.6 [@213] — Mining lease to cover entire deposition area; avoid splitting into smaller pieces which promotes illegal mining</p>	<p>That as a matter of practical and administrative necessity, it is neither feasible nor advisable to constitute a single mining block encompassing the entire available mineral-bearing area within a region. The creation of such an extensive and consolidated block would render the process commercially unviable due to exorbitant operational costs, thereby adversely affecting participation in the tendering process. Moreover, such an approach would significantly enhance the risk of unregulated extraction, illegal mining activities, and consequent environmental degradation.</p> <p>That it is, therefore, a well-established and rational practice to demarcate mining areas into blocks of reasonable and workable dimensions having regard to their length, width, and overall area so as to ensure viability, promote competitive participation in public tenders, and facilitate effective monitoring and regulation.</p> <p>That it is categorically submitted that the area of any existing mining block has not been arbitrarily reduced at any stage. On the contrary, the mining areas have been conceptualized and delineated ab initio, keeping in view the principles of sustainability, feasibility, and regulatory compliance.</p> <p>That it is further submitted that the grant of mining rights is undertaken through a transparent and competitive process of e-tendering and e-tender-cum-e-auction, whereby mining leases are allotted in favour of the highest eligible bidder, strictly in accordance with the applicable statutory framework.</p>	<p>Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1070 @ Para 49, 50, 51, 52 (OA 100/2025 Amit Kumar Yadav).</p>
12.	<p>Clause 4.1.1(k) [@206] — Distance between any two clusters ≥ 2.5 km; total area per cluster ≤ 10 ha Clause</p>	<p>That with regard to the fact that out of the 119 Mining Leases in the District (total area of 2495 ha), 106 leases are a part of 22 Clusters having a total Area of 2130, it is most respectfully submitted that the mining areas have been delineated strictly in accordance with the directions contained in Clause 4.1.1(j) of the Enforcement and Monitoring Guidelines for Sand Mining, 2020 (EMGSM-2020).</p> <p>That it is further submitted that Clauses 4.1.1(l) and 4.1.1(k) of EMGSM-2020, when read in isolation, may appear</p>	<p>Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1073 @ Para 54, 55, 56, (OA 100/2025 Amit Kumar Yadav).</p>

		<p>to operate at cross purposes; however, the same are required to be harmoniously construed and implemented in a pragmatic manner, keeping in view the ground realities and the overarching objectives of sustainable mining and environmental protection.</p> <p>That it is also submitted that, in practical and physical terms, mining areas have been delineated in select stretches of riverbeds with a view to ensuring regulated availability of minor minerals, minimizing the likelihood of illegal and unscientific mining, and preventing environmental degradation. The said delineation is also guided by considerations of effective monitoring, administrative feasibility, and lawful revenue generation.</p>	
13.	<p>4.1.1(n) [@206] — Transportation routes to be defined to prevent truck movement through village habitation Clause</p>	<p>That the contention that no such Transportation Routes have been identified in the Impugned DSR, it is submitted that the transportation routes pertaining to all identified mining areas have been clearly delineated and duly reflected in the District Survey Report (DSR)-2024 of the district.</p> <p>That it is further submitted that, in strict adherence to the guidelines prescribed under the Enforcement and Monitoring Guidelines for Sand Mining, 2020 (EMGSM-2020), the transportation routes have been carefully identified, mapped, and incorporated in the DSR-2024, so as to ensure regulated and monitored movement of minor minerals.</p> <p>That it is also submitted that, in instances where all mining areas are not directly connected through pre-existing Government Roads, the leaseholder is required to develop temporary link roads at its own cost and expense, strictly in accordance with the applicable rules, environmental safeguards, and requisite permissions from the competent authorities.</p>	<p>Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1073 @ Para 58, 59, 60 (OA 100/2025 Amit Kumar Yadav).</p>
14.	<p>4.3(f) [@210] — Sand/gravel not to be extracted at concave bank (erosion risk) Clause</p>	<p>That the averment that the concave bank have been included with the Mining leases areas in the DSR which is evident from the Google earth images enclosed therewith, it is categorically stated that no mining activity is permitted from the concave bank of the river, in accordance</p>	<p>Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1074-1075 @ Para 62, 63, 64 (OA 100/2025 Amit</p>

		<p>with the applicable environmental safeguards and regulatory guidelines.</p> <p>That in order to prevent bank erosion and associated environmental degradation, appropriate mitigation measures are mandatorily incorporated at the stage of preparation and approval of the Mining Plan. Mining operations are permitted only after maintaining a safe and reasonable distance from the concave bank, as specifically stipulated in the approved Mining Plan.</p> <p>That the aforesaid safeguards are designed to ensure stability of the riverbanks, preservation of the natural morphology of the river system, and adherence to the principles of sustainable mining.</p>	Kumar Yadav).
15.	<p>4.3(h) [@210] — No extraction within 1 km of major bridges and highways on both sides Clause</p>	<p>That it is further submitted that, in strict compliance with the applicable guidelines and to ensure protection of critical infrastructure, mining permissions are granted only upon maintaining a safe and prescribed buffer distance from any crucial hydraulic structure. Specifically, a minimum distance of 250 meters on the upstream side and 500 meters on the downstream side of such structures is mandatorily maintained.</p> <p>That the aforesaid safeguards are implemented to prevent any adverse impact on hydraulic structures, ensure structural integrity, and uphold the principles of sustainable and regulated mining.</p>	Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1075 @ Para 66, 67 (OA 100/2025 Amit Kumar Yadav).
16.	<p>4.3(r) [@212] — Area for mineral removal shall not exceed 60% of mine lease area</p>	<p>That the contention that Clause 4.3 (r) requires that the area for removal of minerals shall not exceed 60% of the mine lease area is admitted and further it is stated that in strict compliance with Clause 4.3(r) of the Enforcement and Monitoring Guidelines for Sand Mining, 2020 (EMGSM-2020), the Mineable Reserve for any mining area delineated in the District Survey Report is restricted to not more than 60% of the total Geological Reserve. It thus follows that the permissible annual extraction is capped at 60% of the total Geological Reserve of the concerned mining area, thereby ensuring adherence to the principles of</p>	Supplementary Affidavit filed by DM Hamirpur on dt 08.04.2026 Page No. 1076 @ Para 68 (OA 100/2025 Amit Kumar Yadav).

		sustainable mining and environmental conservation.	
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- That it is respectfully submitted that the contentions advanced on behalf of the Applicants proceed on a complete misconception of the applicable legal framework and stem from a manifest misreading of both the statutory notification and the relevant guidelines governing the field.
- That it is further submitted that the structure, format and contents of the District Survey Report in question have been prepared strictly in conformity with the framework prescribed under the notification dated 15.01.2016. The Applicants have failed to demonstrate any deviation whatsoever from the statutory format or any mandatory requirement prescribed therein.
- That the Applicants have also failed to appreciate the true scope and purpose of the Sustainable Sand Mining Management Guidelines and the Enforcement and Monitoring Guidelines. The said guidelines are not confined merely to the preparation of the District Survey Report. Rather, they provide a broader framework governing the assessment, management, replenishment studies, monitoring and sustainable extraction of minor minerals. Therefore, the guidelines are required to be read holistically and not in isolation with reference to a single document, namely, the DSR.
- That it is further submitted that the preparation of a replenishment study necessarily involves a detailed examination of the river system within the district, including hydrological characteristics, geomorphological features, sediment availability, natural and geographical conditions, mining leases, river stretches and other relevant environmental parameters. Such an exercise was, in fact, undertaken in the present case.
- That the Replenishment Study prepared for District Hamirpur comprises six comprehensive volumes supported by extensive scientific data, hydrological assessments, natural and geographical analyses, identification of lease areas and a complete profile of the river systems within the district. The replenishment figures and mineral availability assessments derived

therefrom form the very foundation for the subsequent preparation of the District Survey Report.

- That the figures relating to replenishment, mineral availability and mineral assessment constitute an integral and inseparable part of the District Survey Report. Accordingly, the DSR has been prepared on the basis of the scientific data, material and findings collected during the replenishment studies. The supporting documents, raw data and technical analyses naturally form part of the Replenishment Study and related records and are not required to be mechanically reproduced within the body of the DSR itself.
- That it is further submitted that when the District Survey Report is placed before the State Environment Impact Assessment Authority (SEIAA) and the State Expert Appraisal Committee (SEAC) for consideration and approval, the matter is not examined in isolation. Detailed presentations are made by the District Mining Officer and officers of the Directorate of Geology and Mining, supported by the underlying technical records, studies and relevant documentation. The appraisal process involves active interaction, clarification and examination of the supporting material.
- That lastly, it is submitted that neither the SEAC nor the SEIAA is expected, under law, to render an elaborate or verbose judgment akin to a judicial pronouncement. The requirement is that the competent authorities apply their mind to the material placed before them and arrive at a reasoned decision. The law does not mandate a detailed reproduction of every document, study, data set or technical consideration examined during the appraisal process. The validity of the decision must be judged on the existence of due consideration and application of mind and not on the length or verbosity of the order passed by the expert bodies.
- That it is further submitted that the exercise of assessing mineral availability, replenishment potential, river morphology, hydrological characteristics and sustainable extraction limits is a highly specialized and technical exercise, which is necessarily undertaken by qualified experts possessing domain knowledge and technical expertise in the fields of geology, hydrology, mining and environmental sciences. The conclusions arrived at through such

assessments are founded upon scientific methodologies, field investigations, technical studies and empirical data.

- That it is a settled principle of law that courts and tribunals ordinarily accord due deference to the opinions and recommendations of duly constituted expert bodies in matters involving technical and scientific evaluation. In this regard, reliance may be placed upon the judgment of the Hon'ble Supreme Court in the case concerning the Central Vista Project, wherein the Hon'ble Court reiterated that in matters requiring specialized technical expertise, a significant degree of latitude and due regard must be accorded to the assessment and conclusions of expert bodies, unless the same are demonstrated to be arbitrary, perverse, mala fide or contrary to any statutory mandate.
- That once it is demonstrated that the statutory notification dated 15.01.2016 has been duly complied with, that the requisite replenishment studies were undertaken, that the District Survey Report has been prepared on the basis of the scientific data and findings emerging from such studies, and that the proposal has been duly examined by the competent expert authorities, no ground survives for interference by this Hon'ble Tribunal.
- That in view of the foregoing facts and circumstances, the challenge mounted to the District Survey Report is wholly misconceived, devoid of merit and unsustainable in law. The same is liable to be rejected, and the objections raised by the Applicants deserve to be dismissed accordingly.