

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 491 OF 2022**

IN THE MATTER OF :

ABHISHEK PANDEY

..... APPLICANT

VERSUS

MoEF&CC AND ORS.

..... RESPONDENTS

NDOH : 24.01.2023

**COMMON REPLY ON BEHALF OF APPLICANT TO REPLIES
FILED BY RESPONDENT NOS. 3, 16 & 17**

APPLICANT

THROUGH



(VIKAS KUMAR SINGH)

ADVOCATE

Place : New Delhi

Date : 23.01.2023

134, NEW LAWYER'S CHAMBER

(M.C. SETALVAD BLOCK)

SUPREME COURT OF INDIA

BHAGWAN DAS ROAD, NEW DELHI-110001

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MOST RESPECTFULLY SHOWETH :

1. That with regard to DSR it is submitted here the Mining Site in question is operational since 2018 and the same was not included in DSR prepared for year 2018-2019 admitted by Respondent No. 16 and now DSR dated 26.08.2022 has been prepared including Thatara Sand Mine but not included in the list of Villages coming under Eco-Sensitive Zone of Son Gharial Wildlife Sanctuary in the DSR as well as which appears to be submerged area in Son River and falls in State of Uttar Pradesh as per GPS Coordinates mention in DSR which are as follows :

Village Name	Khasra No.	Area	Tehsil	Lat, Long	River Name
Thatara	1	4.95	Chitrangi	N-24°35'58.47" E-82°47'51.67" N-24°35'58.51" E-82°47'44.29" N-24°35'50.22" E-82°47'50.91" N-24°35'50.19" E-82°47'44.50"	Son River

A true copy of Google Map indicating Thatara Sand Mine area according to GPS Coordinates mentioned in DSR dated 26.08.2022 is annexed herewith as **ANNEXURE-1** (Page 762).

A true copy of Google Map showing distance between area included in DSR and notified ESZ which comes to 747 meters only is annexed herewith as **ANNEXURE-2** (Page 763).

2. That with regard to Annual Replenishment Study it is stated by Respondent No. 16 in its reply, the Replenishment Study submitted by Project Proponent alongwith its Mining Plan which is blatant false as no Annual Replenishment Study has been prepared for ascertaining annual sand excavation volume.
3. That with regard to E-tender it is stated by Respondent No. 17 in its reply, previously the sand mining was operated by Village Panchayat Thatara through E-tender which is factually wrong as neither Sand Mine granted to Village Panchayat Thatara through E-tender nor E-tender process followed while granted to Respondent No. 17.
4. That with regard to Environmental Clearance it is submitted here, in Environment Clearance dated 07.12.2020 it is mentioned there is no National Park / Sanctuary area within 10 Kms which is false as Sand Quarry mentioned in EC dated 07.12.2020 falls in notified Eco-Sensitive Zone of Son Gharial Wildlife Sanctuary as well as in 465th SEAC meeting relied upon Ekal Pramana Patra wherein it is mentioned that the proposed site is located 1138 meters from ESZ of Son Gharial Wildlife Sanctuary wrongly recorded as no such fact is mentioned in Ekal Pramana Patra dated

03.09.2020, therefore Environmental Clearance dated 07.12.2020 issued on false declarations.

5. That with regard to Geographical region of Thatara Sand Mine it is submitted here, Respondent No. 16 admitted the Mining Site is in fact on the river bed of Son River, relied upon letter dated 07.03.2018 & 01.05.2018 and Respondent No. 17 relied upon letter dated 12.01.2019 in which distance of Thatara Sand Mine from ESZ is mentioned as 1138 meters and 1500 meters respectively, wrong hence denied for the reasons mentioned below :
 - a. According to Notification dated 13.12.2016 of MoEF&CC Son Gharial Wildlife Sanctuary is located in Singrauli district and 200 meters width on both River Banks of Son River, therefore entire stretch of Son River situated in Singrauli district is area of Son Gharial Wildlife Sanctuary upto 200 meters from both edge of Son River and thereafter one kilometer is Eco-Sensitive Zone from boundary of Son Gharial Wildlife Sanctuary, therefore 1200 meters is prohibited area.
 - b. Also, according to Notification dated 13.12.2016 of MoEF&CC Village Thatara is a notified Village as Eco-Sensitive Zone of Son Gharial Wildlife Sanctuary, therefore entire area of Village Thatara is prohibited area and no measurement is required.
 - c. According to Mining Plan and 465th SEAC meeting applied area said to be Son River Bed area and part of lease submerged in river water respectively, therefore Thatara Sand Mine located on Son

River of Village-Thatara, District-Singrauli which is prohibited area for excavation of sand being Eco-Sensitive Zone of Son Gharial Wildlife Sanctuary.

Therefore, as stated above distance of Thatara Sand Mine from Eco Sensitive Zone of Son Gharial Wildlife Sanctuary is neither 1138 meters nor 1500 meters nor 950 meters.

6. That further, with regard to distance from Kaimur Wildlife Sanctuary it is submitted here, respondent nos. 16 & 17 relied upon letter dated 16.05.2019 in which it is mentioned as below:

“Joint Demarcation Measurement has been done on 05.05.2019 in presence of Minerals Department, Singrauli, Revenue Department, Tehsil-Chitrangi (M.P.) and Tehsil-Ghorawal, Sonbhadra, Minerals Department, Sonbhadra and Regional Forest Officer, Gurma-Range of area Khasra No. 1 area 4.95 ha. of Village-Thatara (M.P.) situated in Tehsil-Chitrangi of District – Singrauli.

During Joint demarcation it is found that boundary pillar no. 119 of wildlife sanctuary is GPS N-24⁰36'57.078" E-82⁰47'54.579". Eastern-Northern Pillar of approved mining site whose GPS reading N-24⁰36'00.420" E-82⁰47'45.00" and Western-Northern Pillar whose GPS reading N-24⁰36'01.29" E-82⁰47'36.77", whose aerial distance is 1740 meter and distance of said approved mining site from nearest boundary of Kaimur Wildlife Sanctuary on measurement by tape found 1950 meters. By Notification No. 891 dated 20.03.2017 of Ministry of Environment, Forest and Climate

Change, Government of India 1 Km. boundary of Eco Sensitive Zone has been determined from Kaimur Wildlife Sanctuary.”

A true copy of Google Map indicating abovementioned GPS Coordinates is annexed herewith as **ANNEXURE-3** (Page 764) where Point-1 is *boundary pillar no. 119 of wildlife sanctuary*; Point-2 is *Eastern-Northern Pillar of approved mining site*; Point-3 is *Western-Northern Pillar* and Point-4 is GPS Coordinates of Kudari a notified Eco-Sensitive Zone of Kaimur Wildlife Sanctuary as per *Notification No. 891 dated 20.03.2017 of Ministry of Environment, Forest and Climate Change, Government of India.*

It is pertinent to mention here that in Google Map Point-1 is Silapi a notified forest area of Kaimor Sanctuary within 10 Kms and Point-4 is Kudari a notified Eco-Sensitive Zone of Kaimur Wildlife Sanctuary whose distance shown to be 994 meters from approved mining site, therefore approved mining site falls in Eco-Sensitive Zone of Kaimur Wildlife Sanctuary and not situated at a distance of 1740 and 1950 meters from Kaimur Wildlife Sanctuary.

7. That with regard to Rule 2 Chapter 2 of the Madhya Pradesh Sand (Mining, Transportation, Storage and Trading) Rule, 2019 relied upon by the Respondent No. 17, it is submitted here Rule 2 Chapter 2 not applicable in the present case in hand as the Sand Mine is not a new sand mine because earlier allotted to Gram Panchayat Thatara and not a vacant sand mine because in operation by Gram Panchayat Thatara earlier.

8. That Respondent No. 3 – MPSEIAA issued Environment Clearance dated 07.12.2020 in favour of Project Proponent on false declarations without any verification and filed an affidavit to the effect that written a letter to MoEF&CC seeking clarification with regard to Geographical region of mining site in question, which MoEF&CC already clarified in its reply.
9. That the Respondent-State Authorities are misleading this Hon'ble Tribunal by various correspondences mentioning different distances of Mining Site in question from ESZ and making false submissions with regard to the Geographical Region of Sand mine in question to benefit the Respondent No. 17, who is carrying out commercial activity in prohibited Eco-Sensitive Zone harming aquatic animals, flora and fauna putting environment on stake.
10. That as on dated Project Proponent is still continuing commercial activity of excavation of sand at mining site in question in mid-stream and submerged area of Son River by heavy machineries and obstructing the Son River Stream by illegally constructing a bridge/ramp for transportation. A true copy of Photograph showing bridge/ramp constructed on Son River and a true copy of Electronic Transit Pass for Sand Mine dated 10.01.2023, where loading done from Thatara Sand Mine by R.K. Transport & Construction Ltd. are annexed herewith as **ANNEXURE-4 (Colly)** (Pages 765 to 770).
10. That specific allegation made in Original Application with regard to construction of bridge/ramp obstructing Son River stream by Respondent No. 17 and heavy machineries being used for excavation of sand from mid-

stream and sub-merged area of Son River but no reply has been given with regard to same by any of the respondents.

11. That the Project Proponent-Respondent No. 17 is carrying out illegal sand mining/excavation in an unapproved outside area under the guise of granted Mining Lease of Sand Mine in connivance of Respondent-Authorities which is neither approved area for which forest NOC has been issued nor being sanctioned area mentioned in Mining Plan, in this regard also no reply has been given by any of the respondent authorities.
12. That present common reply on behalf of applicant to reply of respondents is being filed for kind consideration by this Hon'ble Tribunal.
13. That an affidavit in support is filed herewith.

APPLICANT

THROUGH

NEW DELHI
DATED 23.01.2023


(VIKAS KUMAR SINGH)
ADVOCATE

134, NEW LAWYER'S CHAMBER
(M.C. SETALVAD BLOCK)
SUPREME COURT OF INDIA
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ORIGINAL APPLICATION NO. 491 OF 2022

IN THE MATTER OF:

Abhishek Pandey

..Applicant

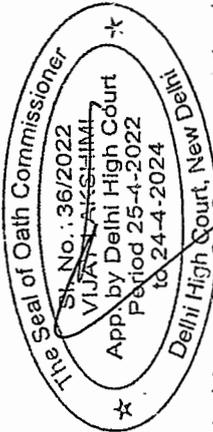
Versus

MoEF & CC and Others

..Respondents

AFFIDAVIT

I, Abhishek Pandey aged about 32 years S/o Late Kanhaiya Prasad R/o Village- Lodhi, Post - Robertsganj, Distt.- Sonbhadra, (U.P.) and at present in New Delhi do hereby solemnly affirm and state as under :-



1. That I am sole applicant in the present Original Application and I have been dealing with the subject matter of this original application and therefore I am well conversant with the facts and circumstances of the case and competent to file this affidavit.

2. The accompanying Reply has been drafted under my instructions and the facts mentioned therein are true to my knowledge and the legal submissions are on the advice of the counsel believed to be true and correct to my personal knowledge.

3. That the annexures attached to this reply are true to my personal knowledge and belief.

Abhishek Pandey
DEPONENT

U. K. Sharma
~~VERIFICATION:-~~

Is above- named, deponent do hereby verify that the contents of paras 1 to 3 of this my affidavit are true and correct to my personal knowledge and belief being based on record and nothing has been concealed therefrom.

Verified at New Delhi on this the 13th day of January, 2023.

13 JAN 2023

I S/o D/o / W/o
Verified by Ms. *U. K. Sharma*
do hereby solemnly affirm before
on 13/1/23 Sl. No. *7*
true and correct of my knowledge.

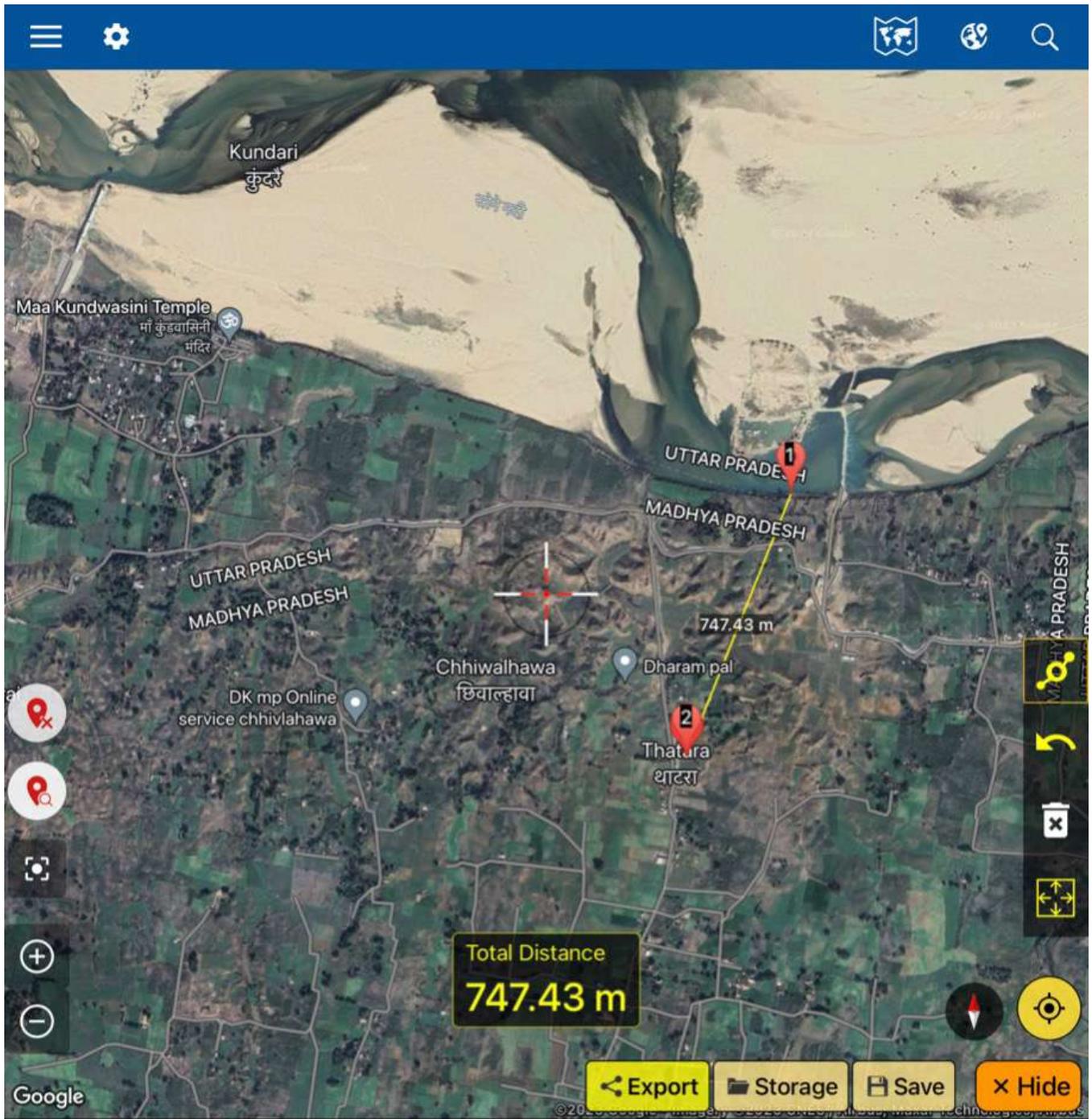
U. K. Sharma
Oath Commissioner, New Delhi

Abhishek Pandey
DEPONENT



1	24°35'58.5" N, 82°47'51.7" E Angle (5,1,2) = 132.96°	EDIT	X
2	24°35'58.5" N, 82°47'44.3" E Angle (1,2,3) = 88.35°	EDIT	X
3	24°35'50.2" N, 82°47'44.5" E Angle (2,3,4) = 91.02°	EDIT	X
4	24°35'50.2" N, 82°47'50.9" E	EDIT	X

// TRUE COPY //



1	24°35'50.2" N, 82°47'44.5" E	EDIT	X
2	24°35'27.7" N, 82°47'34.7" E	EDIT	X

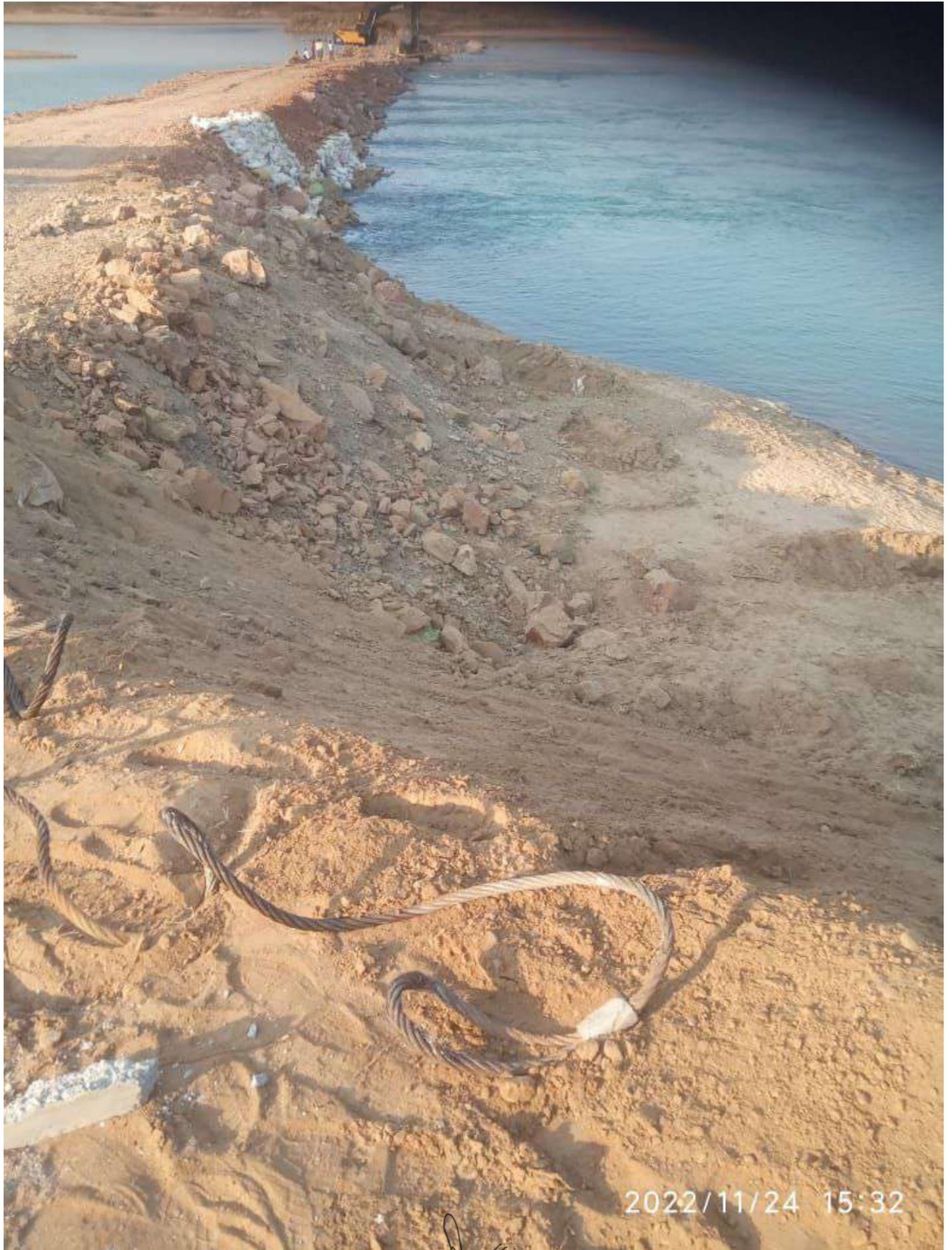


1	24°36'57.1" N, 82°47'54.6" E Angle (4,1,2) = 28.95°	EDIT	X
2	24°36'0.4" N, 82°47'45.0" E Angle (1,2,3) = 92.11°	EDIT	X
3	24°36'1.3" N, 82°47'36.8" E Angle (2,3,4) = 162.47°	EDIT	X
4	24°35'55.2" N, 82°47'2.0" E	EDIT	∨











Mineral Resources Department, Govt. Of Madhya Pradesh
खनिज साधन विभाग, मध्यप्रदेश शासन

mining.mp.gov.in

Electronic Transit Pass(e-TP) for Sand Mine (For Contractor)



Travel time exceeded



इसकी वैधता जांचने के लिये QR Code स्कैन करें !

Lease Details & Sand QTY to be Transported:

e-TP No. 0717167281	Date & Time of Transportation 10-01-2023 07:46:00	District Singrauli	Tehsil Chitrangi
Village Thatara	Lessee R K TRANSPORT AND CONSTRUCTIONS LIMITED (CP Singh)		Sand Quantity 29.82 Cubic Meter
Purpose Sale	Buyer's Details SURENDER SAMBHAL UP		Loading From Mine THATARA
State Uttar Pradesh	Destination To SAMBHAL	Route Details/Via CHOPAN	
Distance(Approx) 799.36 KM	Traveling Duration(Approx) 28 hours 39 mins	e-TP Generated On 10-01-2023 07:46:17	e-TP Valid Upto 11-01-2023 12:25:00
Driver Name RAMSWAR		Driver Mobile No. 9984826623	

Details of Registered Vehicle:

Vehicle No UP53GT8846	Carrier Type Truck	Load Capacity(Cubic Meter): 29.82	Registered With RTO GORAKHPUR
State UTTAR PRADESH	Owner Name & Address SANJAY YADAV-PRAHAN HAPUR UTTAR PRADER		
Registered With MRD District KATNI	MRD Registraion ID No 363267/KATN/2022		Registration Date 15-03-2022

1. This eTP is valid, for Transportation of declared Mineral QTY on the date & time issued for
2. The Vehicle registered with MRD for Mineral Transportation & for which this eTP is generated, may only be used for the transportation of the specified Mineral QTY
3. It is mandatory to carry the eTP with the Vehicle during transportation of mineral.

Points to be Noted:

- The authenticity of an eTP may be checked/verified from the website of the department(mining.mp.gov.in) using its unique eTP NO.

- The required Mineral quantity is booked in advance by paying Royalty & Other charges. Out of this quantity specified mineral is transported against eTP
- In reference to the gazette notification, issued by the Mineral Resource Department (MRD), GoMP for Prevention of Illegal Mining, Illegal Transportation & Storage Rules 2006 dated 6th April 2012, all the Vehicles engaged/being used for mineral transportation are required to be registered with MRD for Mineral Transportation.
- The procedure of Vehicle Registration is simple & Vehicle Registration may be obtained ONLINE from the Official website (ekhanij.mp.gov.in) of the department
- It is mandatory to carry out the documents of Vehicle Registration, with the vehicle during transportation of mineral.
- Overloading a Vehicle is against the transportation rules. Use the Vehicle to transport the Mineral Quantity as per its loading capacity.
- The Amount paid for booked mineral QTY, includes Royalty, DMF, NMET and Income Tax as applicable for the Lease.



// TRUE COPY //