

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. No. 599 of 2024

IN THE MATTER OF:

Surinder Singh Manhas & Anr.

...Applicants

Versus

Union Territory of Jammu & Kashmir & Ors.

...Respondents

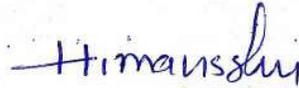
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Through

Place: New Delhi

Dated:1/9/2025

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Enrolment No. D/1012/1997

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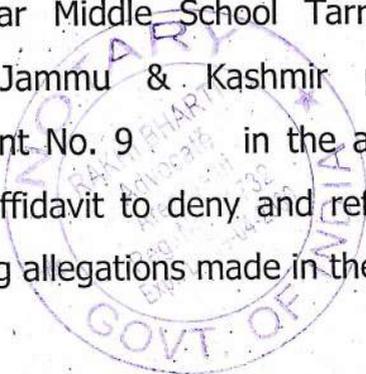
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COUNTER AFFIDAVIT ON THE BEHALF OF THE
RESPONDENT NO. 9**MOST RESPECTFULLY SUBMITTED AS FOLLOWS:****PRELIMINARY SUBMISSIONS:**

1. I, Himani Chaudhary W/o Bhanu Pratap Singh, R/o Ward No.7, Near Middle School Tarroh, Tarrah, Mehtrab Pur, Kathua, Jammu & Kashmir presently at New Delhi, Respondent No. 9 in the above matter, am filing this counter affidavit to deny and refute all false, baseless, and misleading allegations made in the Original Application.
2. The petition is misconceived, factually incorrect, and filed with the sole intention of creating a false narrative against a lawful mining leaseholder. All the contents of the application are wrong and denied unless the same are duly admitted by the answering Respondent in the Reply submission.

*Himani*

3. All mining activities undertaken under my lease were carried out strictly in accordance with law, within the lease boundaries, and in compliance with the terms of valid statutory approvals, including Environmental Clearance (EC) and Consent to Operate (CTO).
4. The answering Respondent most respectfully submits that the present Original Application (OA) is wholly misconceived, vague, and not maintainable in law or on facts as against it. The Respondent has not engaged in any form of illegal mining activity, nor has it operated any stone crushers near the river or in the vicinity, as alleged by the Applicant. The OA proceeds on baseless presumptions without producing any cogent material to demonstrate even a remote violation attributable to the Respondent. Indeed, it is a private interest litigation and is highly motivated.
5. That the Respondent is solely engaged in lawful processing operations of raw materials at its plant situated in District Kathua, Jammu & Kashmir. Said plant was established long ago, only after obtaining requisite statutory Environment clearances and permissions under the applicable laws. The Respondent reiterates that it neither owns nor operates any mining activity, whether near the river. Its business is confined strictly to processing material purchased from duly authorised mining contractors from the Jammu and have valid proofs of transportation of material.



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6. That the raw material processed by the Respondent is procured exclusively from duly licensed and legally authorised suppliers, namely: Rakesh Kumar Chaudhary, Singh Minerals, Neer Kali Mali Nandi, Chaudhary Power Projects Pvt. Ltd., Jammu, and Sai Mines, Samba. these suppliers hold lawful licences under the relevant mining regulations and operate under the direct supervision and control of the competent regulatory authorities. The Respondent merely purchases such legally extracted raw material for processing purposes. Thus, any attempt to link the Respondent with alleged illegal mining is factually incorrect and legally untenable.

7. That the allegations of illegal mining at Kathua are demonstrably baseless, inasmuch as riverbed mining at Kathua is physically impossible. Due to the accumulation of about 6 to 8 feet of water in the said area, wherein any such mining activity is not feasible. The Respondent submits that such factual impossibility further exposes the frivolous nature of the present OA.



That it is a matter of record that around 150 stone crushers are operating in the broader region of Punjab, but none of them are legally operated by the owner. The attempt by the Applicant to cast a wide net of allegations only safe guard the interest of illegal mining activity who will get benefit if any adverse action is taken on the crusher of Kathua, Jammu and

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Kashmir and thus the selective approach of the Applicant seems to be motivated.

9. That the Respondent has always acted in compliance with all statutory provisions relating to environmental protection, mining regulations, and conditions imposed by competent authorities. Regular inspections have been carried out by concerned departments, and at no point has the Respondent been found guilty of any violation.

10. That the present OA is nothing but a Private Interest Litigation camouflaged as a Public Interest Litigation, filed with ulterior and oblique motives. The Applicant, under the guise of environmental concern, is seeking to promote personal or business rivalries. Such proceedings, when allowed to continue, not only burden judicial resources but also unfairly tarnish the reputation of law-abiding entities such as the Respondent.

11. That the answering Respondent had filed the complaints against the illegal mining near the area and sent the representations to get against the illegal mining.



Objection as to Maintainability

12. That the Hon'ble Supreme Court has consistently held that the extraordinary remedy of Public Interest Litigation (PIL) is not to be misused for advancing private interests. In **Subhash Kumar v. State of Bihar (1991) 1 SCC 598**, the Court cautioned that PIL is maintainable only where public

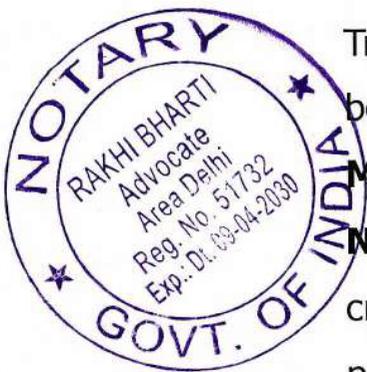
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interest is directly involved and not for vindicating personal grievances.

In **Ashok Kumar Pandey v. State of West Bengal (2004) 3 SCC 349**, it was held that courts must be vigilant against petitions filed for extraneous considerations under the garb of PIL. Similarly, in **State of Uttaranchal v. Balwant Singh Chaufal (2010) 3 SCC 402**, the Supreme Court laid down guidelines emphasising that bona fides and genuine public interest must be established before entertaining such matters. Recently, in **Tehseen S. Poonawalla v. Union of India (2018) 9 SCC 501**, the Court reiterated that PIL jurisdiction cannot be allowed to degenerate into a weapon for private vendetta.

13. That the Hon'ble National Green Tribunal (NGT) has also consistently ruled that applications lacking any substantial environmental question or filed with mala fide motives are liable to be dismissed at the threshold. For instance, in **Rajeev Suri v. DDA & Ors., OA No. 268/2015 (NGT, 2016)**, the Tribunal emphasised that environmental jurisdiction must not be misused for advancing private disputes. Similarly, in **Meghwanshi Seva Sansthan v. State of Rajasthan, OA No. 294/2017 (NGT)**, it was held that unless there is credible material showing violation of environmental norms, proceedings cannot be maintained.

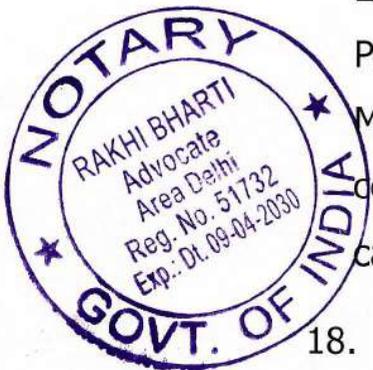
14. That in light of the above authorities, the present OA is a classic case of abuse of process. It is not motivated by genuine environmental concerns but by private considerations.



Accordingly, it deserves to be dismissed in limine as a Private Interest Litigation lacking bona fides.

Factual Clarifications

15. That the competent authorities have duly notified and earmarked areas where mining activity is lawfully permissible. These areas include Sersani, Bedia, Madhopur, and Pathankot. Mining outside such notified zones is impermissible and is strictly regulated by the State authorities.
16. That the plant of the Respondent at Kathua is situated far away from the above-notified mining zones and functions purely as a processing unit. No extraction, excavation, or mining of riverbed material is undertaken by the Respondent at or near the said plant. This distinction between extraction and processing is critical and has been overlooked by the Applicant.
17. That the Respondent further submits that mining permissions and environmental clearances are granted only after rigorous scrutiny by statutory bodies such as the State Environmental Impact Assessment Authority (SEIAA), the State Pollution Control Board, and the Department of Geology and Mining. The Respondent has consistently adhered to such compliance requirements, thereby ensuring that its operations cause no adverse environmental impact.
18. That the Respondent reiterates that its lawful operations cannot be confused with illegal riverbed mining, which is the real subject matter of concern. In the absence of any material



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to connect the Respondent with illegal activity, the present OA is liable to be dismissed with exemplary costs.

Para-wise Reply to the OA

1-3. That the contents of para 1-3 of the OA are a matter of record. Hence, needs no reply.

Allegation: EC granted without replenishment study

4. The corresponding allegation is vehemently denied. The EC dated 16.07.2021 (No. JKEIAA/2020/232/1813-27) was granted after appraisal by the J&K Expert Appraisal Committee (JKEAC) in its 36th Meeting on 15.04.2021, in full compliance with the Sustainable Sand Mining Guidelines, 2016 and MoEFCC Notification S.O. 3611(E) dated 25.07.2018. The copy of the EC dated 16.07.2021 are annexed and marked as **'Annexure R-1'**.

5. As clarified by JKEIAA in its reply dated 29.10.2024, for States like Jammu & Kashmir, where perennial rivers exist, replenishment studies are not mandatory at the EC application stage and are to be conducted within two years of EC grant, as per MoEFCC EAC decision dated 24-25 October 2016. The copy of the Reply dated 29.10.2024 are annexed and marked as **'Annexure R-2'**.

In compliance, a replenishment report was submitted on 05.01.2023. While the JKEAC found certain methodological deficiencies and advised resubmission, the revised District



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Survey Report (DSR) including replenishment data was duly approved by JKEIAA on 17.09.2024. The copy of the revised District Survey Report (DSR) including replenishment data was duly approved by JKEIAA dated 17.09.2024 are annexed and marked as '**Annexure R-3**'.

Allegation: Lease area is "Gair Mumkin Darya"

7. All the allegations are wrong and denied. No mining was ever carried out in any area marked as "Gair Mumkin Darya."

7. The lease for 9.98 hectares at Taraf Tajwal, Kathua was granted after due process, including land verification by competent authorities before lease execution and obtaining NOCs from all stakeholder departments. The copy of the NOCs from all stakeholder departments are annexed and marked as '**Annexure R-4**'.

8. The J&K PCC's report dated 23.10.2024 confirms that mining permission was lawfully issued following the approved mining plan, EC, and CTO. Title verification of land is outside the jurisdiction of the Mining Department. No competent authority has recorded or confirmed that the leased land is classified as "Gair Mumkin Darya" in any official revenue record. The copy of are the J&K PCC's report dated 23.10.2024 annexed and marked as '**Annexure R-5**'.



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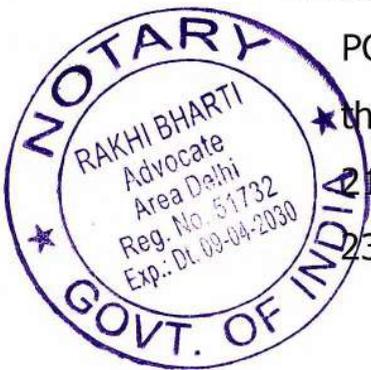
Allegation: No DSR at time of EC grant

9. The allegations is wrong and thus denied. The EC was granted in accordance with Sustainable Sand Mining Guidelines, 2016 and MoEFCC Notification S.O. 3611(E) dated 25.07.2018. At the relevant time, the absence of replenishment data in the initial DSR was permissible under MoEFCC guidelines for States with perennial rivers, with replenishment study required within two years. The copy of the Sustainable Sand Mining Guidelines, 2016 and MoEFCC Notification S.O. 3611(E) dated 25.07.2018 are annexed and marked as '**Annexure R-6**'.

10. The DSR process was duly undertaken, placed in the public domain for the prescribed period, and later updated to include replenishment data, which was approved on 17.09.2024. The copy of the DSR which was approved on 17.09.2024 are annexed and marked as '**Annexure R-7**'.

Allegation: Illegal sand mining in Kathua

11. All the allegations are wrong and vehemently denied. The J&K PCC inspection report dated 23.10.2024, categorically records that no mining activity was found at my site of Respondent on 21.10.2024. The copy of the J&K PCC inspection report dated 23.10.2024 are annexed and marked as '**Annexure R-8**'.



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12. The PCC further confirms that I had a valid EC up to 16.07.2024, a valid CTO for M/s Om Sai Stone Crusher up to January 2025 (Annexure R-5), and that stone crushers in the area procure raw material only from legal leases such as mine. The copy of the EC up to 16.07.2024 are annexed and marked as '**Annexure R-9**'.
12. The JKEIAA reply dated 29.10.2024 confirms that no illegal mining by the respondent has been recorded, and indeed it reflect to and confirm that the respondent No.9 and respondent 10 is not acted illegally and in contrary to the law. The copy of the JKEIAA reply dated 29.10.2024 are annexed and marked as '**Annexure R-10**'.
13. The Mining Department has also confirmed strict enforcement measures in Kathua, Jammu including heavy penalties and seizure of vehicles/machinery for illegal operations, with no such action recorded against the answering Defendant. The copy of the report cannot be disputed and the complainant cannot act at presume.

Additional Clarifications

16. I have always operated strictly under the approved mining plan, EC, and CTO, in compliance with the MMDR Act, 1957, Sustainable Sand Mining Guidelines, 2016, and Enforcement & Monitoring Guidelines for Sand Mining, 2020.



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17.I specifically deny each and every statement, allegation, and inference in Paras 1 to XXIII of the OA, except what is expressly admitted herein.

REPLY TO GROUNDS OF THE OA-

A. The contents of para-A of the grounds are denied in toto. The answering Respondent submits that the instant Application does not raise any "substantial question relating to environment" as defined under Section 2(m) of the NGT Act, 2010, in so far as it concerns this Respondent. The Respondent reiterates that it is not engaged in mining or extraction of any kind. Its plant at Kathua is only a processing unit, which utilises raw materials legally purchased from authorised suppliers. Thus, there is no direct violation of any statutory obligation attributable to this Respondent. The vague allegations of illegal mining in collusion with Government machinery are completely unfounded, unsubstantiated, and denied.

B. The contents of para-B are denied. The Respondent has never undertaken any mining operations nor violated any provision of the MMDR Act, the EIA 2006, SSMMG 2016, EMGSM 2020, or any State Rules. The plant is confined to processing operations alone. The question of the Respondent granting leases, preparing DSRs, or allowing mining does not arise, as the Respondent has no statutory authority or role in such matters. These are functions of the State Government and its designated agencies. Hence, the allegations are misconceived and not maintainable against this Respondent.



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C. The contents of para-C are Denied. The Respondent is not the authority entrusted with duties under the MMDR Act or the J&K Minor Mineral Concession Rules, 2016. It is a private processing unit, not a regulatory body. Thus, the allegation of failure to perform statutory duties is wholly misplaced.

D. The contents of para-D Denied. The answering Respondent has no role in preparation of the District Survey Report (DSR), nor any authority to appoint agencies for the same. The appointment of M/s RSP Green Development and Laboratories Pvt. Ltd. is a decision taken by the competent Government authority. The answering Respondent neither influenced nor benefited from such appointment. Its operations are limited to processing raw materials purchased lawfully from licensed suppliers.

E. The contents of para-E are Denied. The Respondent has not granted, nor has it been granted, any lease in erosion zones or otherwise. The Respondent is not involved in mining, but only in downstream processing. Hence, the allegation of violation of SSMMG 2016 does not pertain to it.

F. The contents of para-F are Denied. The Respondent is not responsible for implementation of public hearings or stakeholder consultations. Such matters fall exclusively within the domain of the State authorities and the project proponents of mining leases. The Respondent, as a processor of legally procured material, has no nexus with the alleged violation.

G. The allegations contained in para-G are denied for want of knowledge and for being irrelevant to the Respondent. The



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grant of NOCs, allotment of land, and alleged extraction from Khasra No. 2254/1936 at Village Taraf Tajwal are matters between the Government and individual lease holder for mining. The Respondent neither holds nor operates any lease for mining at the said location. It is a matter of record with the competent authorities.

H. The contents of para-H are Denied. The Respondent has not undertaken any mining operations and therefore is not responsible for river audit, replenishment studies, or environmental audits. Such obligations are of the lease holders for mining and regulatory authorities. The Respondent has never violated EMGSM 2020.

I. The contents of para-I are Denied. The allegations of mining mafia and collusion with private individuals are vague, generalised, and without evidence. The Respondent has no nexus whatsoever with the alleged individuals named by the Applicant. No authority has ever found the Respondent involved in illegal mining.

J. The contents of para-J are Denied. The Respondent has no statutory duty to produce information on mining status. That is solely the responsibility of the Government's mining and regulatory departments. The Respondent has never withheld or concealed any information from the authorities.

K. The Respondent respectfully submits that it is fully aware of and abides by the law laid down by the Hon'ble Supreme Court in *Deepak Kumar v. State of Haryana (2012) 4 SCC 629*, wherein it was held that all mining projects involving minor



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minerals require prior Environmental Clearance. However, the said judgment is not applicable to the answering Respondent as it does not conduct mining operations, but only runs a lawful processing unit, for which it holds the necessary consents under law.

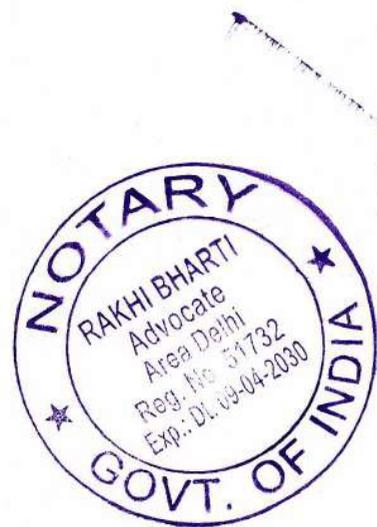
L. The contents of para-L are denied. The Respondent is not involved in illegal mining nor shielded by any authority. Media reports and general allegations cannot substitute evidence, rather the reporting is totally motivated and are paid news to grant the relief to the illegal mining work in operation in Punjab. The Respondent operations have been subject to inspections by Pollution Control Board and other authorities, and no violation has ever been recorded.

M. The allegations in para-M are denied. The Respondent submits that it has always maintained compliance with environmental safeguards in its processing operations. It does not extract from riverbeds, does not alter river courses, and does not contribute to erosion, biodiversity loss, or flood risks. The attempt to attribute general environmental concerns of illegal mining in the region to this Respondent is unjustified and mala fide.

PRAYER

In view of the above submissions and the official findings of both JKEIAA and PCC confirming my compliance and absence of illegal mining, it is respectfully prayed that this Hon'ble Tribunal may be pleased to:

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- a) Dismiss the Original Application as devoid of merit; and
- b) Pass such other order(s) as deemed fit in the interest of justice.

Himani
DEPONENT

VERIFICATION

01 SEP 2025

I, Himani Chaudhary W/o Bhanu Pratap Singh, R/o Ward No.7, Near Middle School Tarroh, Tarrah, Mehtrab Pur, Kathua, Jammu & Kashmir presently at New Delhi, do hereby verify that the contents of this affidavit are true and correct to my knowledge and belief.

Date: 1.9.2025

Place: New Delhi

01 SEP 2025

Himani
DEPONENT

Himanshu

Identify the deponent
who has signed in my Presence

CERTIFIED THAT THE DEPONENT

Shri / Smt. / Km. *Himani* Age *26*
 S/o. W/o. D/o. *Bhanu Pratap Singh*
 R/o. *Ward No. 7*
 Identified by Shri/Smt. *Himanshu*
 has solemnly affirmed before me at Delhi
 on *01/09/2025* SI. No. *100/2025*
 that the contents of the affidavit which
 have been read over & explained to him/her
 are true and correct to his/her knowledge



NOTARY PUBLIC GOVT. OF INDIA

Himani
Himanshu
Saket

LETTER OF AUTHORIZATION

I, Bhanu Pratap Singh, son of Payar Singh, resident of Taraf Tajwal, Kathua, do hereby authorize, Smt. Himani Choudhary to represent me and to file, verify all the pleadings and evidence on my behalf in the matter pending before the Hon'ble National Green Tribunal, Principal Bench, New Delhi, pertaining to O.A. No. 599 of 2024.

I further confirm that I have full knowledge of the facts and circumstances of the case and I have authorized her to sign, verify, file, appear and appoint advocates and to take all necessary steps for and on my behalf in the said proceedings pending before the Hon'ble Tribunal.

This authorization is given voluntarily, without any undue influence, and shall remain valid for all purposes connected with the above proceedings until specifically revoked by me in writing.

Place: Pathankot

Date: 18.08.2025

LTI

(Signature of Authorizing Person)

Bhanu Pratap Singh

only LTI
ATTESTED

Dy. Superintendent
Sub Jail Pathankot

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