

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, SITTING AT NEW DELHI**

COUNTER AFFIDAVIT ON BEHALF OF
M/s VIKAS ENTERPRISES

**In Ref:
APPEAL Nos. 263/264 OF 2018**

IN THE MATTER OF:

Amit Upadhya **Appellant**

Versus

**State Level Environmental Impact Assessment Authority, Uttar Pradesh
& others**

..... **Respondents**

I N D E X

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T H R O U G H

NEW DELHI

DATE: MARCH , 2020


**(MANOJ KUMAR)
ADVOCATE**

(U.P. 1502/78)

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Respondents

NOTARY

I, Vikas Sachan, aged about 34 years, son of Shri Ashok Kumar, resident of Village Kaloliteer Dada, Tehsil & District Hamirpur, the deponent, do hereby solemnly affirm and state on oath, as under:-

NOTARY

NOTARY

1. That the deponent is proprietor of M/s Vikas Enterprises, and the mining lease was granted in his favour by the District Officer, Hamirpur, on 04.12.2018, for excavation of sand & morrum over an area of 36.437 Hectares, situate in Village Pataura, Tehsil Hamirpur, District Hamirpur with effect from 04.12.2018 up to 03.12.2023. The annual estimated quantity of the said mining area is 728.640 cubic metre; and the State Level Environmental Impact Assessment Authority, Uttar Pradesh, Lucknow (hereinafter referred as SEIAA, Lucknow) issued the prior environmental clearance under the provisions of EIA Notification dated 14.09.2006, vide its letter dated

NOTARY



Amit Upadhya

NOTARY

24.11.2018, for the area in question before excavation of the mining lease deed.

NOTARY

NOTARY

2. That the appellant, by way of aforesaid appeal, challenged the validity of procedure adopted by the State Level Environmental Impact Assessment Authority, Uttar Pradesh, Lucknow for issuing the prior environmental clearance in favour of the respondent and others before this Hon'ble Tribunal, but the answering respondent is only concerned to apply for obtaining the prior environmental clearance before execution of the mining lease deed and the State Level Environmental Impact Assessment Authority, Lucknow is competent to examine the application of the respondent, and thereafter issue the prior environmental clearance in accordance with the procedure prescribed in the EIA Notification dated 14.09.2006; and such authority is also competent to justify its decision for granting the prior environmental clearance, for the area in question, before this Hon'ble Tribunal.

NOTARY

NOTARY

3. That this Hon'ble Tribunal, in the above mentioned appeal, vide order dated 23.01.2020, was pleased to direct as under:-

NOTARY

NOTARY

"Since it is stated that as per order of the Hon'ble Supreme Court, the applicant has to serve all the parties, the applicant may do so by email as well as by speed post and file an affidavit of service within two weeks. Paper books may also be served by email.

NOTARY

NOTARY

The State of Uttar Pradesh may also notify all the said parties within two weeks for which list may be given by the applicant. The response of all such parties may be filed by email before the next date.

NOTARY



रामेश प्रसाद

It

NOTARY is made clear that no adjournment will be granted on any ground on the next date.

List for further consideration on 26.03.2020." **NOTARY**

NOTARY 4. That in pursuance of the order dated 23.01.2020, passed by this Hon'ble Tribunal, the Advocate of the appellant informed the order dated 23.01.2020, passed by this Hon'ble Tribunal to the answering respondent. **NOTARY**

NOTARY 5. That in compliance of the order dated 23.01.2020, passed by this Hon'ble Tribunal as informed by the Advocate of the appellant, this reply is being filed before this Hon'ble Tribunal, with the prayer that the financial liability of the respondent may also be determined, in the interest of justice, otherwise the respondent will suffer from irreparable loss & injury. **NOTARY**

NOTARY 6. That in compliance of the order dated 25.09.2019, passed by this Hon'ble Tribunal, as communicated by the District Officer, Hamirpur, vide its letter dated 30.09.2019, the answering respondent was prohibited to conduct any mining operations on the area, and, thereafter, the answering respondent is still waiting for the direction for applying again for environmental clearance before the competent authority, i.e., the State Level Environmental Impact Assessment Authority, Lucknow, but till date no direction has been received by the answering respondent from any competent authority and due to this he is waiting justice only, after investment of huge amount. **NOTARY**

NOTARY 7. That the answering respondent started the mining operations with effect from 07.12.2018, and stopped the mining operations on 24.06.2019, and during this period has transported only 250.307 Cubic metres sand & morrum by generating form e-MM-11 and the remaining



Amit Kumar

NOTARY

NOTARY

quantity for removal is 468.333 cubic metres only during first year of the mining lease. **NOTARY**

NOTARY

8. That the purpose of answering respondent, for submitting reply, before this Hon'ble Tribunal is limited to the extent only that the financial responsibility of the respondent must be decided for payment, as per bid amount, multiplied by used cubic metre of sand & morrum, during the period on which the respondent was allowed to do the mining operation as per law and remaining period of the lease, must be declared as un-payable period. **NOTARY**

NOTARY

9. That the District Officer, Hamirpur was not competent to grant the mining lease in favour of the answering respondent without prior environment clearance issued by the Regulatory Authority and the environmental clearance dated 24.11.2018, related to the area in question, is subject matter of this Appeal. Hence this Hon'ble Tribunal also made a clear cut direction to the District Officer, Hamirpur for realizing the amount to the extent only of those quantity of mineral, which was excavated in pursuance of the environmental clearance dated 24.01.2018, in the interest of justice, otherwise may declare the lease agreement null and void, as per directions of Hon'ble Supreme Court in the Deepak Kumar's case. **NOTARY**

NOTARY

10. That it is also submitted that the answering respondent may be allowed to apply for the prior environmental clearance afresh, in accordance with law, and may kindly be pleased to pass a prohibition order for not demanding the installment of such obstructed period, during which no mining operations could be carried out by the respondent due to order passed by this Hon'ble Tribunal, in the interest of justice. **NOTARY**



(Handwritten signature)

DEPONENT

VERIFICATION

NOTARY I, the above named deponent, do hereby verify that the contents of the paragraphs no. 1 to 10 of this counter affidavit are true to the best of my knowledge, and I have not suppressed any material fact.

NOTARY Verified at Hamirpur on this 23 day of March, 2020.

DEPONENT

IDENTIFIED BY

विक्रमसचिव

विक्रमसचिव

Identified
by Vikas Sachan
who has
signed
before



23.3.20
208/07

Subscribed by the Affiant
and Signed Before Me By Shri Vikas Sachan
in the Court Promises My Office
Hamirpur on this 23-3-20
RAMESH PRASAD
NOTARY

व्यक्तिगत विवरण
2020/20



उत्तर प्रदेश UTTAR PRADESH

37AD 251418



विकास सचिव



VAKALATNAMA

IN THE COURT OF HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPAL
BENCH, NEW DELHI
Appeal NO. 263 of 2018 Appellant

Amrit Upadhaya

Versus

State Level Environment Impact Assessment Defdt./Respondent
Authority & others
Know all to whom these presents shall come that I/we Vikash Sachan

the above-named Respondent do hereby appoint,

Manoj Kumar, Advocate (En. U.P. 1502/78)
G.F.-1, Shubh Apartment, Vivekanand
Puri, Faizabad Road, Lucknow.
Mob. no. 09 532 10017



(hereinafter called the Advocates) to be my/our Advocate in the above-noted case and authorise him :-
To act, appear and plead in the above-noted case in the Court, or in any other Courts in which the same may be tried or heard and also in the appellate Courts.

To sign, file and present pleading, appeals, Cross-objections or petitions of execution, review, revision, restoration, withdrawal, Compromise or other petitions, replies, objections, or affidavits or other documents as may be deemed necessary or proper for the prosecutions of the said case in all its stages.

To file and take back documents.

To withdraw, or compromise the said case, or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said cause.

To take out execution proceedings.

To deposit draw and receive moneys and grant, receipts there for and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said cause.

To appoint and instruct any other legal Practitioner authorising him to exercise the power and authorities hereby conferred upon the advocate whenever they may think fit to do so.

And I/We, the undersigned to hereby agree ratify and confirm all acts done by the Advocate or his substitute in the matter as my /our own acts, as if done by me/us to all intents and purposes.

And I/We, undertake that I/we or my/our duly authorised agent would appear in the Court on all hearings.

And I/we, the undersigned, do hereby agree not to hold the advocate or his substitute responsible for the result of the said cause in consequence of their absence from the court when the said cause is called up for hearing, or for any negligence of the said Advocate or his substitute.

And I/We, the undersigned, do hereby agree that in the event of the whole or any part of the fee agreed by me / us to be paid to the Advocate remaining unpaid they shall be entitled to withdraw from the prosecution of the said cause until the same is paid up. If any costs are allowed from an adjournment, the Advocate would be entitled to the same.

In witness where of I/We hereun to set my/our hand to these presents the contents of which have been understood by me/us this 23 day of March 2020

Accepted

Manoj

MANOJ KUMAR
Advocate
G.F.-1, Shubh Apartment,
489/211, Vivekanandpuri,
Faizabad Road, Lucknow-226007

विकास सचान