

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

**COUNTER AFFIDAVIT ON BEHALF OF
M/s BALAJI 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**

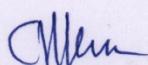
I N D E X

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T H R O U G H

NEW DELHI

DATE: MARCH , 2020


**(MANOJ KUMAR)
ADVOCATE**

(U.P. 1502/78)

Counsel for the Respondent No. 17
G.F.-1, Shubh Apartment,
Vivekanandpuri, Faizabad Road,
Lucknow

Mobile: 09532100117

E-mail : manojkumar.dgm@gmail.com

2147/2020

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IN THE MATTER OF:

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Appellant

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**State Level Environmental Impact Assessment Authority, Uttar Pradesh
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Respondents

I, Navneet Kumar Pandey, aged about 40 years, son of Shri Vinay Kumar Pandey, resident of House No.271, Vishws Khand - 3, Gomti Nagar, Lucknow, the deponent, do hereby solemnly affirm and state on oath, as under:-

1. That the deponent is partner of M/s Balaji Enterprises, and the mining lease was granted in its favour by the District Officer, Hamirpur, on 19.01.2019, for excavation of sand & morrum over an area of 12.145 Hectares, situate in Village Bheri Kharka, Tehsil Sarila, District Hamirpur with effect from 19.01.2019 up to 18.01.2024. The annual estimated quantity of the said mining area is 1,94,304 cubic metre; and the State Level Environmental Impact Assessment Authority, Uttar Pradesh, Lucknow (hereinafter referred as SEIAA, Lucknow) issued the

Navneet Pandey

Notary Mahoba
U.P. GOVT.
Reg No -52(09)2009

prior environmental clearance under the provisions of EIA Notification question, before excavation of the mining lease deed.

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 the 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.

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

"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.

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.



No pmdy

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

List for further consideration on 26.03.2020."

4. That in pursuance of the order dated 23.01.2020, passed by this Hon'ble Tribunal, the District Officer, Hamirpur informed the order dated 23.01.2020, passed by this Hon'ble Tribunal to the answering respondent, vide letter dated 23.02.2020.

5. That in compliance of the order dated 23.01.2020, passed by this Hon'ble Tribunal as informed by the District Officer, Hamirpur, 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.

6. That this Hon'ble Tribunal, vide order dated 25.09.2019, was pleased to quash all the environmental clearances, subjected in the appeal and such order dated 25.09.2019 was communicated by the District Officer, Hamirpur, vide its letter dated 30.09.2019, and the answering respondent was prohibited to conduct the mining operations on the area, then the answering respondent stopped the mining operations and again applied for environmental clearance vide application dated 23.01.2020 before SEIAA, U.P., Lucknow, which is still pending for disposal.

7. That the answering respondent started the mining operations with effect from 20.01.2019, and stopped the mining operations on 30.09.2019, and during this period has transported only 94,770 Cubic



Nar Pandey

metres sand & morrum by generating form e-MM-11 and the remaining quantity for removal is 99,534 cubic metres only.

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, and he may be declared to be liable for payment of bid amount, as per cubic metre, multiplied by excavated quantity during the period, he respondent was allowed to do the mining operation.

9. That the District Officer, Hamirpur was not competent to grant the mining lease in favour of the answering respondent without having 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 that quantity of mineral, which was excavated in pursuance of the environmental clearance, in the interest of justice, otherwise may declare the lease agreement null and void.

10. That it is submitted that the answering respondent has already again applied for environmental clearance, before the concerned authority, which is still pending for disposal, hence it is most respectfully prayed to this this Hon'ble Tribunal to direct the SEIAA, U.P., Lucknow for disposal of same and may kindly also be pleased to pass an order prohibiting the District Officer, Hamirpur for not demanding the installment of such obstructed period, during which no mining operations could be carried out due to order passed by this Hon'ble Tribunal.



No pending
DEPONENT

VERIFICATION

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.

Verified at on thisday of March, 2020.

Na Pandey
DEPONENT

IDENTIFIED BY

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





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 Naimeet Kumar

Randey the above-named Respondent do hereby appoint,

Manoj Kumar, Advocate (En. U.P. 1502/178)
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.....day of.....

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

Naimeet Kumar



उत्तर प्रदेश UTTAR PRADESH

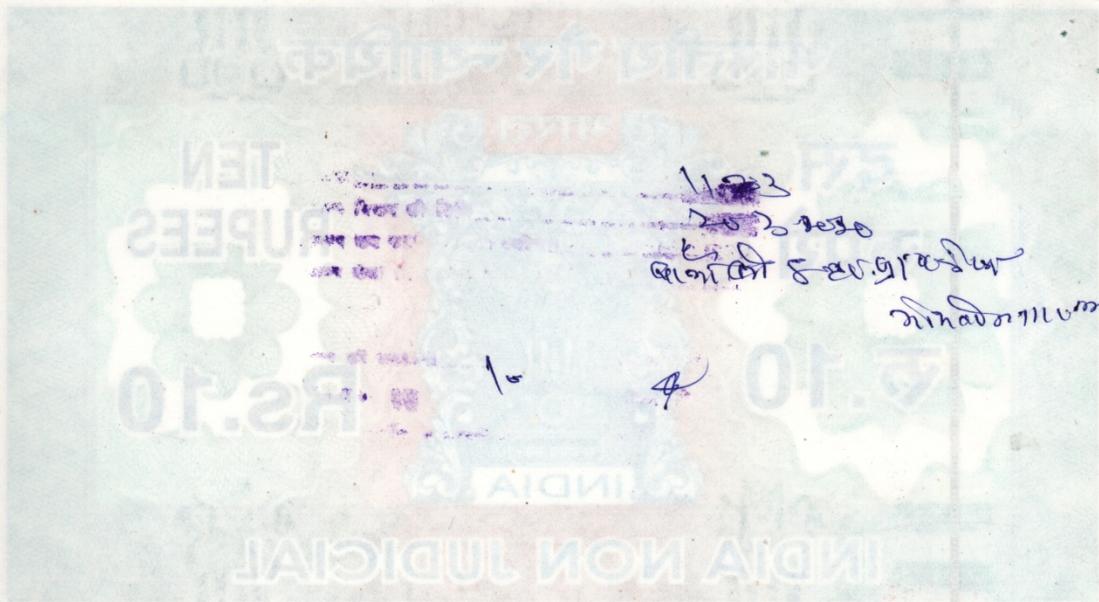
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Handwritten signature
21/3/20



Affidavit Document Sworn/put up
by *Balraj Singh*
in presence of *...*
the contents of the document have
been read and explained to him/them
which is admitted by them they is/are
identified by *Motilal*
as prescribed in the charge

Motilal
Notary & Advocate
Mahoba (U.P.)



Handwritten notes in Hindi: 'महाराज साहब' and 'महाराज साहब'.

Handwritten numbers '1' and '4'.

Red text at the top: 'UTTAR PRADESH' and '144E 025056'.

Handwritten signature and date '01/3/20'.



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