

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

**COUNTER AFFIDAVIT ON BEHALF OF
M/s HARIHAR MINERALS LLP**

**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: JUNE 10, 2020



**(MANOJ KUMAR)
ADVOCATE**

(U.P. 1502/78)

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5059/2020

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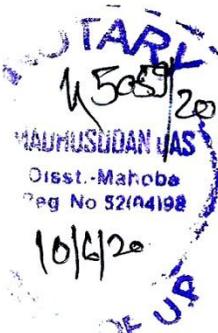
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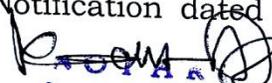
Respondents

I, Chandra Bhan Singh, aged about 37 years, son of Shri Ram Autar Singh, resident of 405, Kha, New Patel Nagar, Town - Orai, District - Jalaun, the deponent, do hereby solemnly affirm and state on oath, as under:-

1. That the deponent is proprietor of M/s Harihar Minerals LLP, and the mining lease was granted in its favour by the District Officer, Hamirpur, on 27-12-2018, for excavation of sand & morrum over an area of 12.145 Hectares, situate in Village - Bheri Kharka, Tehsil - Sarila, District - Hamirpur with effect from 07.12.2018 up to 26.12.2023. 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 prior environmental clearance under the provisions of EIA Notification dated 14.09.2006, vide its letter dated



CB Singh


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

2. That the appellant, by way of aforesaid appeal, has 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.

3. That 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.



Cb Singh

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, 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 answering respondent will suffer from irreparable loss and injury.

5. That in compliance of the order dated 25.09.2019, 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.

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 in compliance of the order dated 25.09.2019, the mining operation was not started with effect from 01.10.2019. The District Officer, Hamirpur, vide order no. 2083/ Khanij - MMC- Tees - Vividh (2019-20), dated 06.02.2020, allowed the answering respondent to do the mining operations with effect from 15.02.2020 up to 25.02.2020.

7. That in compliance of the order passed by the Hon'ble Supreme Court, the District Officer, Hamirpur again permitted the answering respondent for doing mining operations, vide order dated 26.02.2020; and, thereafter the

NOTARY
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District Officer, Hamirpur cancelled the mining lease on the ground that the petitioner is taking help of heavy machines in his excavation work, vide order dated 23.03.2020. The answering respondent is challenging the order dated 23.03.2020 before an appropriate authority.

8. That the answering respondent started the mining operations with effect from 08.12.2018, and stopped the mining operations on 25.02.2020; and during this period has transported only 88,713 Cubic metres sand & morrum by generating form e-MM-11 and the remaining quantity for removal is 1,54,167 cubic metres only till the period of closure of mining operations.

9. That the purpose of answering respondent, for submitting reply before this Hon'ble Tribunal is limited only to the extent that the financial responsibility of the respondent must be decided, and he may be declared to be liable for payment of bid amount per cubic metre, multiplied by the excavated quantity during the period in which the respondent was allowed to do the mining operation.

10. 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 that quantity of mineral, which was excavated in pursuance of the environmental clearance dated 24.11.2018, in the interest of justice, otherwise may declare the lease agreement null and void, as per directions of Hon'ble Supreme Court in the case of Deepak Kumar.

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11. That it is also submitted that the answering respondent has already again applied for the prior environmental clearance before the concerned authority. Hence, it is most respectfully prayed to this Hon'ble Tribunal that may kindly be pleased to direct the SEIAA, U.P., Lucknow for disposal of the same, and this Hon'ble Tribunal may also kindly be pleased to pass an order to prohibit the District Officer, Hamirpur from 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.

CBS-01
DEPONENT

VERIFICATION

I, the above named deponent, do hereby verify that the contents of the paragraphs no. 1 to 11 of this counter affidavit are true to the best of my knowledge, and I have not suppressed any material fact.

Verified at *Mahabubnagar* on this *10th* day of *June 2020*

CBS-01
DEPONENT

IDENTIFIED BY

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



Chandrabhan Singh *Ramavtar Singh*
Hem Patel *Nagar Ghat*
Devi Jabou
Manoj Kumar
Advocate
Lucknow
10.6.2020

VAKALATNAMA



IN THE COURT OF Hon'ble National Green Tribunal New Delhi

No. Appeal No. 263 / 264 of 2018

Amit Upadhyaya

Pff./Petition/Appellant

Versus

State Level Environmental Impact

Defdt./Respondent

Assessment Authority U.P. Lucknow & ors

Know all to whom these presents shall come that I/we Chandra Bhan Singh

the above-named respondent do hereby appoint,

Sri Manoj Kumar, Advocate En no. U.P. 1502/78
G-1, Shubh Apartment, Vivekanandpuri
Faizabad Road, Lucknow. Ph. No. 9532
100117 (Email manojkumar.dgm@gmail.com)

(hereinafter called the Advocates) to be my/our Advocate in the above-note case and authorise him :-

To act, appear and pleaded 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 be 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.....10th.....day of.....June.....2020

Accepted

MANOJ KUMAR

Advocate

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

Client