

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

In the matter of
Appeal No. 23 OF 2024

M/S RAJAL PAHARIA

.....**APPELLANT**

//VERSUS//

UNION OF INDIA AND OTHERS &ORS.

.....**RESPONDENTS**

INDEX

Sr. No.	Particulars	Annexure	Pg Nos.
1	Interim Reply on behalf of R/3 and R/4 (RSEIAA & RSEAC)		2-7
2	Affidavit in support of Reply		8

Place :: New Delhi
Date :: 05.07.2024



Rohit Sharma
Counsel for R/3 & R/4

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**INTERIM REPLY ON BEHALF OF RESPONDENT NO. 3 AND 4 (RSEIAA
& RSEAC)**

It is humbly submitted by Respondent No. 3 and 4 as under:

1. That without averting on the parawise reply to the Memo of Appeal, the answering Respondent craves leave of the Hon'ble Tribunal to file an Interim Reply covering all the legal issues raised in the instant Appeal.
2. That the Appellant has applied vide application dated 22.3.2024 for Reappraisal of EC issued by DEIAA dated 26.11.2018.
3. The Appellant has made averment regarding decision of Authority and refer some directions issued by Hon'ble Court in following matters:

Jayant Kumar v/s MoEF&CC in OA no: 142/2022

In this matter the Hon'ble Court has observed as under-

"In view of the affidavit filed vide email dated 03.01.2024 MoEF & CC is directed to issue O.M. prohibiting continuance of mining all over India under mining leases executed on the basis of ECs granted by DEIAA after 13.09.2018 with the exception in respect

of cases where ECs granted by DEIAA for such mining leases have been reappraised and found valid by SEIAA or fresh ECs have been granted by SEIAA. CPCB is directed (a) to obtain and compile information regarding (i) mining leases executed on the basis of ECs granted by DEIAA from 15.01.2016 to 13.09.2018 all over India and (ii) mining leases executed on the basis of ECs granted by DEIAA after 13.09.2018 all over India from the concerned SPCBs and UTPCCS within one week and (b) direct SPCBS and UTPCC (i) to send status report in compiled tabulated form regarding reappraisal by SEIAA of all the mining leases executed on the basis of ECs granted by DEIAA from 15.01.2016 to 13.09.2018 all over India within two weeks and (ii) to revoke consent and issue closure orders in respect of mining leases executed on the basis of ECs granted by DEIAA after 13.09.2018 with the exception in respect of cases where ECs granted by DEIAA for such mining leases have been reappraised and found valid by SEIAA or fresh ECs have been granted by SEIAA and send compliance report in respect thereof to CPCB within two weeks."

Rakesh Kumar v/s State of Rajasthan in O.A. No. 26 of 2023 -In this OA, the Hon'ble Tribunal has observed as under:

"Before parting with Issue I, we find it expedient to observe that Respondents 7 to 11 all have applied for reappraisal of EC by SEIAA concerned and it is not necessary for SEIAA that in every case, it must take months together for appraisal/re-appraisal and to take a decision whether EC should be granted or not. Decision of concerned SEIAAs in such matters should

be in a reasonable period and in our view, it would be appropriate to direct SEIAA Rajasthan in the present case to complete its steps for appraisal/re-appraisal of ECs of respondents 7 to 11 expeditiously, and in any case, within 3 months from, it shall take a decision in accordance with law and communicate the same to respondents 7 to 11 within one week after expiry of three months as directed above."

IA 262/2024 & 263/2024 in Appeal no: 22/2024 (IA no: 267/2024) M/s Rahul Paharia Mine Vs Union of India &Ors and in Appeal no: 23/2024 (IA no: 268/2024) M/s Rajal Paharia Mine Vs Union of India &Ors - Hon'ble Tribunal has observed as under:

"In view of the above and looking to facts and circumstances of this case, both these IA's are disposed of with a direction to SEIAA, Rajasthan to consider and take a final decision on the applications of these applicants who have filed these IA's with regard to appraisal/re appraisal of their mining leases, within two months from date of communication of this order to the said authority."

4. That after receipt of the Application for reappraisal by the Appellant, SEAC reappraised the proposal in its 5A.130th meeting held on 30 April 2024 and 1 May 2024 wherein SEAC gave the following recommendations: *"EC in the project was issued by DEIAA, Dausa vide letter dated 26.11.2018. The Committee took note of OM dated 28.04.2023 wherein it has been directed that all SEAC shall reappraise the ECs issued by DEIAAs between 15.01.2016 and 13.09.2018 (including both dates). The Committee resolved that since the EC to*

the project was issued by DEIAA, Dausa vide letter dated 26.11.2018 therefore continuance of mining activity on the basis of ECs granted by DEIAA after 13.09.2018 cannot be allowed.

Thus, SEAC resolved to recommend to SEIAA for closure and delisted the case on basis of the above observation.

5. That, SEIAA consider the proposal in its 5.124th meeting held on 27.05.2024. The Authority considered the recommendation of SEAC-1 and, resolved to close & delist the proposal. Also, the ECs issued by DEIAA on 26.11.2018, were for expansion over and above the capacity granted by the competent authority i.e. SEIAA on 19.07.2015 and 17.07.2015 respectively. Since the ECs issued by DEIAA were without jurisdiction, such ECs with the expanded capacity stands null & void. Appellant was directed to restrict the production to the capacity as approved in the ECs issued by SEIAA dated 19.7.2015 and 17.7.2015 respectively.
6. That in addition to the above, it is pertinent to point out that DEIAAs were set up vide notification no. S.O.141(E) dated 15.01.2016 and thereafter Notification/ OM No. S.O. 190 (E) dated 20-1-2016. Based on such authorization, DEIAAs commenced functioning and started granting ECs in B2 cases.
7. That, thereafter, the Hon'ble NGT vide its order dated 13-9-2018 observed that appraisal and grants of EC should be done by SEACs and SEIAAs only. Accordingly, MoEFF & CC issued OM dated **12-12-2018** wherein it was

stated that appraisal of all cases and grant of ECs in B2 cases also would be done by SEACs and SEIAAs respectively.

8. That, thereafter, Hon'ble Tribunal vide its order dated 07.12.2022 observed that all ECs issued by DEIAAs be re-appraised by SEACs / SEIAA and fresh EC be granted. Accordingly, MoEFF & CC vide its OM no. IA3-22/11/2023-IA.III [E-208230] dated 28.04.2023 directed that all ECs issued by DEIAA during the period between **15-1-2016 and 13-9-2018** be re-appraised. The Hon'ble Tribunal further observed in its order of 07.12.2022 "All such mining leases in which environmental clearance was granted by DEIAA need to be brought in consonance with the directions given by Hon'ble Supreme Court in Deepak Kumar (supra) and order dated 13.09.2018 by this Tribunal in Satendra Pandey (supra) by re-appraisal by SEIAA and only such mining leases may be continued which have been on re-appraisal granted environmental clearance by SEIAA". The same was observation was reiterated by MoEF & CC in its OM no IA3-22/11/2023-IA.III [E-208230] dated 28.04.2023.
9. That, it is noteworthy to point out that the mandate given to SEIAAs vide OMs issued by MoEFF & CC is to re-appraise ECs issued between 15-01-2016 and 13-09-2018 ONLY. It remains a fact that DEIAAs were authorized to issue ECs vide government Notification no. dated 15-1-206 read with 20-01-2016. It was only vide MoEFF & CC OM dated 12-12-2018 that this work was assigned back to SEIAAs. Hence, it needs

clarification about the status of ECs issued in the period between 14-09-2018 to 12-12-2018 and in case these are also to be re-appraised, a clear mandate in this regard needs to be given to SEIAAs in context of modification of the OM no. IA3-22/11/2023-IA.III [E-208230] dated 28.04.2023 issued by MoEFF & CC whereby such mandate was restricted for the period between 15-1-2016 to 13-9-2018 only.

10. That the legal issue raised by the Appellant has been explicitly covered in the preceding paragraphs and the answering Respondent craves leave of the Hon'ble Tribunal to file additional parawise reply, in case the need so accrue in future.
11. That the instant reply is supported by way of an affidavit.

PRAYER

In view of the foregoing facts and circumstances, the Hon'ble Tribunal may be pleased to take the Interim Reply of Respondent No. 3 & 4 (RSEIAA & RSEAC) on record and pass appropriate orders, in the interest of justice and for fair adjudication of the matter.

Place :: New Delhi
Date :: 05.07.2024



Rohit Sharma
Counsel for R/3 & R/4

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, CENTRAL
ZONAL BENCH, BHOPAL (MP)

IN THE MATTER OF
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M/S RAJAL PAHARIA

... APPELLANT

//VERSUS//

UNION OF INDIA & ORS

... RESPONDENT

AFFIDAVIT

I, Amit Juyal, S/o Shri CS Juyal, aged adult, currently posted as Member Secretary, State Expert Appraisal Committee - 2, Rajasthan having office at Jhalana Dhongri, Jaipur, Rajasthan do hereby solemnly affirm on oath as under:

1. That I am the Officer-in-Charge on behalf of Respondent No. 3 & 4 and fully conversant with the facts of the case and hence, competent to swear on this Affidavit.
2. That I am filing a Reply to the Original Application, the contents of which are true and correct to the best of my knowledge and belief and no material fact has been concealed thereof.

That the instant reply has been drafted by my counsel on my instruction.

VERIFICATION

The above-named Deponent do hereby that the contents of this Affidavit from Para 1 to 3 are true and correct to the best of my knowledge and belief,

Verified and Signed on this 5th Day of June, 2024 at Bhopal (MP)

WITNESSED

**STATE PUBLIC WORKS
RAJASTHAN**

05 JUL 2024

Member Secretary
State Level Expert Appraisal Committee-2
Rajasthan

DEPONENT

Member Secretary
State Level Expert Appraisal Committee-2
Rajasthan

