

0

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, AT NEW DELHI

O.A. NO. 137 OF 2024

IN THE MATTER OF:

VIJAY CHANDEL

...Applicant

VERSUS

STATE OF H.P & ORS.

... Respondents

INDEX

S.No.	Particulars	Page
1.	Note by Advocate Ritwik Parikh, Amicus Curiae in O.A. No. 137 of 2024	1-7
2.	Annexure A-1: Opinion Note dt. 17.10.2024	8-12



**RITWIK PARIKH ADVOCATE  
AMICUS CURIAE**

Address: 102, New Lawyers Chambers,  
Setalvad Block, Supreme Court of India,  
New-Delhi-110001

Mobile No:9999320409

Email: ritwikoff@outlook.com

**PLACE: NEW DELHI**

**DATED: 30.04.2025**

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, AT NEW DELHI

O.A. NO. 137 OF 2024

IN THE MATTER OF:

VIJAY CHANDEL

...Applicant

VERSUS

STATE OF H.P & ORS.

... Respondents

NOTE BY AMICUS

The note is being filed by the Ld. Amicus in terms of the following issue:

**Issue.** *Whether prior Environmental Clearance (EC) is required for mining of minor minerals (sand and soil) at Khasra Nos. 466, 468, and 469, located in Mauza Khol, Tehsil Baddi, District Solan, H.P., where the proposed extraction involves approximately 29,995 MT of sand and 19,997 MT of soil, spread over an area measuring 13–17 bighas (approximately 2.5–3 acres, i.e., around 1.0–1.2 hectares)?*

1. The regulation of mining activities in India stems primarily from the Environment (Protection) Act, 1986. Pursuant to this statute, the Ministry of Environment and Forests (MoEF) issued the *Environmental Impact Assessment (EIA) Notification, 2006*, which mandates that no mining activity can commence without obtaining **prior Environmental Clearance**.
2. Initially, the EIA Notification, 2006, as amended, requires mining projects (new projects, expansion or modernization of existing projects as also at the stage of renewal of mine lease) with lease

## 2

area of 5 ha and above, irrespective of the mineral (major or minor} to obtain prior environment clearance under the provisions thereof. Mining projects with lease area of 5 ha and above and less than 50 ha are categorized as category 'B' whereas projects with lease area of 50 ha and above are categorized as category 'A'. The **category 'A' projects** are considered at the central level in the Ministry of Environment & Forests while **category 'B' projects** are considered by the respective State/UT Level Environment Impact Assessment Authority, notified by MoEF under the EIA Notification, 2006.

3. It is pertinent to note that the Hon'ble Supreme Court, vide its order dated 27.02.2012 in I.A. No. 12-13 of 2011 in SLP (C) No. 19628-19629 of 2009 titled "*Deepak Kumar and Ors. vs. State of Haryana and Ors*", directed that lease of minor minerals, including their renewal for areas of less than 5 hectares, shall be granted by the States/Union Territories only after obtaining prior Environmental Clearance (EC) from the MoEF. The Hon'ble Supreme Court inter-alia directed as under:

*We in the meanwhile, order that leases of minor mineral including their renewal for an area of less than 5 ha be granted by the States / UTs only after getting environmental clearance from the MoEF."*

4. Subsequently, in compliance of the aforesaid order of the Hon'ble Supreme Court, the MoEF vide *office memorandum No. L-11011/47/2011-IA.II(M) dt. 18<sup>th</sup> May*, in compliance of the said order issued the following direction:

*“In order to ensure compliance of the above referred order of the Hon'ble Supreme Court dated 27.2.2012, it has now been decided that all mining projects of minor minerals including their renewal, irrespective of the size of the lease would henceforth require prior environment clearance. **Mining projects with lease area up to less than 50 ha including projects of minor mineral with lease area less than 5 ha would be treated as category 'B' as defined in the EIA Notification, 2006 and will be considered by the respective SEIAAs notified by MoEF and following the procedure prescribed under EIA Notification, 2006.**”*

5. Thereafter, in 2016 the MOEF issued the Sustainable Sand Mining Management Guidelines, 2016 (hereinafter referred to as SMMG, 2016), interalia, with an endeavor to ensure that sand and gravel mining is done in an environmentally sustainable and socially responsible manner, and to further ensure the conservation of river equilibrium and its natural environment by protection and restoration of the ecological system. The same was again updated in 2020. One of the key and nodal objectives enumerated in the SMMG, 2016 was having an environmental clearance prior to grant of mining lease. The Sand Mining Guidelines are applicable even to mining leases measuring **less than 5 hectares**.
6. Accordingly, the Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement and Monitoring Guidelines for Sand Mining, 2020 apply universally to all sand and minor mineral mining activities, whether the mining lease area is below or above 5 hectares.

**Opinion:**

In light of the applicable legal framework and judicial pronouncements, it is evident that prior Environmental Clearance (EC) is mandatory for all mining activities involving minor minerals, including sand and soil, irrespective of the size of the lease area. The Environmental Impact Assessment (EIA) Notification, 2006 (as amended), the binding directions of the Hon'ble Supreme Court in *Deepak Kumar v. State of Haryana* (2012), and subsequent Office Memoranda and Guidelines issued by the Ministry of Environment, Forest and Climate Change (MoEF & CC), including the Sustainable Sand Mining Management Guidelines, 2016 and Enforcement & Monitoring Guidelines for Sand Mining, 2020, collectively make it abundantly clear that no mining activity—whether for areas less than 5 hectares or more—can be carried out without prior EC.

In the present case, the proposed extraction of approximately 29,995 MT of sand and 19,997 MT of soil over an area of 1.0–1.2 hectares at Khasra Nos. 466, 468, and 469 in Mauza Khol, Tehsil Baddi, District Solan, H.P., falls squarely within the scope of these requirements. The grant of mining rights to Mr. Gurdyal Singh without obtaining prior Environmental Clearance is thus illegal and in contravention of the prevailing environmental laws.

Furthermore, **M/s Singla Construction**, having engaged a sub-contractor for procuring sand and soil without verifying the necessary statutory clearances, has acted negligently and in violation of due diligence requirements. **The responsibility also extends to the Railways**, as the

project authority, who were under an obligation to ensure that all materials sourced by their contractor were compliant with environmental regulations. Failure to ensure the production of the required EC certificates renders the entire chain of extraction, supply, and use of the said minor minerals legally unsustainable and environmentally non-compliant.

**Therefore, the mining activity carried out by Sh. Gurdyal Singh/ Respondent No.6 in question is entirely unlawful, having been undertaken without the requisite *Environmental Clearance*. The mining permission granted by the Director of Industries, Himachal Pradesh is void ab initio, and both M/s Singla Construction/ Respondent No. 52 and the Railways/Respondent No. 7 & Respondent No. 8 are liable for failing to ensure compliance with mandatory environmental safeguards.**

**OTHER ADDITIONAL ISSUES:**

The present matter before this Hon'ble Tribunal arises from the illegal mining of soil from the roadside hill slope along the Sheetalpur–Dashomajra road (“**Incident Site**”). Pursuant to the letter petition filed by Mr. Vijay Chandel, registered as O.A. No. 137/2024, this Hon'ble Tribunal vide order dated 19.04.2024 was pleased to constitute a Joint Committee to verify the factual position and suggest remedial measures.

The Joint Committee submitted its Final Report on 08.08.2024, disclosing that approximately 210.195 cubic metres of soil was illegally excavated, as confirmed by the Himachal Pradesh Public Works

Department (HPPWD), and an Environmental Compensation of ₹1,08,00,000/- was levied by the Mining Department.

The undersigned was appointed as Amicus Curiae on 16.08.2024 to assist this Hon'ble Tribunal. Accordingly, an initial Opinion Note dated 17.10.2024 was submitted, which is annexed hereto and marked as **Annexure A-1**.

In pursuance of that opinion note and the directions of this Hon'ble Tribunal, the following facts are now respectfully submitted for further consideration:

**I. COMPLIANCE WITH EARLIER DIRECTIONS – DEPOSIT OF ENVIRONMENTAL COMPENSATION:**

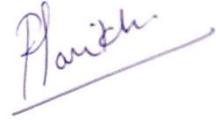
It is respectfully apprised that pursuant to the directions of this Hon'ble Tribunal vide order dated 10.12.2024, the Director of Industries, Government of Himachal Pradesh, has confirmed in its reply dt. 05.04.2025 that the sum of Rs.1,08,00,000/- has been deposited with the Department of Environment, Science & Technology for the purpose of environmental restoration of the incident site.

However, no further status report has been filed by the Department of Environment, Science & Technology confirming the actual execution of restoration work utilizing the deposited funds.

**Recommendation:**

It is respectfully prayed that this Hon'ble Tribunal may be pleased to direct the Department of Environment, Science & Technology, Government of Himachal Pradesh, to file a detailed action taken report,

including the proposed plan and timeline for restoration of the site, ensuring that the compensation is used exclusively for remediation.



**RITWIK PARIKH ADVOCATE**  
**AMICUS CURIAE**

Address: 102, New Lawyers Chambers,  
Setalvad Block, Supreme Court of India,  
New-Delhi-110001  
Mobile No:9999320409  
Email: ritwikoff@outlook.com

**PLACE: NEW DELHI**

**DATED: 30.04.2025**

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, AT NEW DELHI  
IN  
O.A. NO. 137 OF 2024**

**IN THE MATTER OF:**

**VIJAY CHANDEL**

**...Applicant**

**VERSUS**

**STATE OF H.P & ORS.**

**... Respondents**

**OPINION NOTE BY ADVOCATE RITWIK PARIKH, AMICUS CURIAE**

**BACKGROUND:**

The present matter before this Hon'ble Tribunal arises from the illegal mining of soil from the roadside hill slope along the road leading from Sheetalpur to Dashomajra ("**Incident Site**"). The Joint Committee, appointed by the Hon'ble Tribunal vide order dated 19.04.2024, had submitted its report on 08.08.2024, revealing that the total quantity of soil illegally excavated (mucked) amounted to 210.195 sqm as confirmed by the Himachal Pradesh Public Works Department ("**HPPWD**"), and the total Environment Compensation applicable for the illegal mining activity in the concerned area stands at ₹1,08,00,000/- as confirmed by the Mining Department. Following is the List of Dates encapsulating the facts of the present matter:

<b>DATE</b>	<b>EVENT</b>
	Mr. Vijay Chandel sent by post the present letter petition to this Hon'ble Tribunal which was registered as O.A. No. 137/2024.
<b>19.04.2024</b>	Joint Committee was constituted to verify the factual position and take appropriate remedial actions.

*Ranith*

<b>20.05.2024</b>	Progress Report filed by the Joint Committee seeking extension of timeline upto 30/06/2024 for filing of final report by the Joint Committee.
<b>08.08.2024</b>	Final Report Submitted by the Joint Committee in terms of compliance of Order dated 19.04.2024
<b>16.08.2024</b>	Mr. Ritwik Parikh was appointed as the Amicus Curiae in the present matter to assist this Hon'ble Tribunal.
<b>17.10.2024</b>	Hence, the present opinion note by Amicus Curiae

**ACTIONS TAKEN BY THE JOINT COMMITTEE:**

**1. ASSESSMENT OF ILLEGAL MINING AT THE INCIDENT SITE:**

The Committee confirmed the illegal extraction of soil from the incident site; however, it did not provide any definitive conclusion regarding the end-use of the illegally mined soil. Given the proximity of the Chandigarh-Baddi Railway Line Project to the excavation site, there are concerns about the potential involvement of Northern Railways, though conclusive evidence has yet to be established. **(Page 6 Para 1 of Report)**

**2. COORDINATION WITH LOCAL AUTHORITIES:**

Local authorities, including the HPPWD, DFO Nalagarh Division, and District Mining Officer Solan, assisted in identifying the scale of the violation and its environmental impact. A total of **41 violations** were recorded, and Environment Compensation notices amounting to **₹1,08,00,000/-** were issued to the defaulters. Sub-divisional Magistrate has issued notices to 41 individuals, based on the violations observed by the Mining Department and Police Department. to deposit the Environmental Compensation. **(Pg 3 of the Report)**

*Ritwik*

### **3. RESTORATION EFFORTS:**

A plantation drive was undertaken along the Sheetalpur-Dashomajra Road to mitigate the environmental damage caused by the illegal mining. As per the report 100 Saplings were planted. (***Pg 6 para 3 of the Report***)

### **ACTIONS RECOMMENDED BY THE AMICUS CURIAE FOR CONSIDERATION BY THIS HON'BLE TRIBUNAL:**

In light of the Joint Committee's findings, the following actions are proposed for consideration by this Hon'ble Tribunal:

#### **A.) STATUS OF CRIMINAL PROCEEDINGS:**

Only 41 individuals have been so far observed by the Mining Department and Police Department to have committed this environmental damage and thus fines have been imposed on them, however, the 41 individuals only include the tractors and tippers involved in the illegal mining operations, while failing to identify the main contractors or other key individuals responsible for orchestrating the illegal activity.

According to the Joint Committee's report, Mr. Gurdial ("**Alleged Contractor**") has not carried out any excavation at the Incident Site. However, in light of the serious allegations raised in the Complaint submitted as Letter Petition No. 1998/LP/2023 dated 06.09.2023 by Mr. Vijay Chandel, this warrants closer scrutiny. The Complaint details instances where Mr. Gurdial allegedly misbehaved, threatened to cause their death, and tried to kidnap the complainants, which casts significant doubt on his claimed non-involvement. The relevant excerpt of the Complaint is reproduced hereinbelow in its true and correct translation in English Language:

*"After which I and my colleague Vijay Chandel, son of Dasondi Ram resident of Malpur, who is posted as Bureau Chief, went to the spot. We*

*Pranith*

*also videographed the haphazard mining of soil here for reporting. Meanwhile, Gurdayal, son of Chajju Ram resident of Kalyanpur, post office Haripur Sandoli, reached the spot and he, his brother Gurdev and the JCB tipper drivers present there started abusing us and tried to snatch our mobile cameras and said that if we report, we will kill both of you. These people even took away the keys of our car and tried to make us hostage. We have lodged a complaint about this in the Baddi Police Station last evening” (Para 2 of the Letter Petition)*

In order to ascertain the true extent of involvement, including identifying the actual perpetrators including government officials, if any, who connived in this activity, it is essential that this Hon'ble Tribunal is informed of the status of the ongoing criminal proceedings, if any.

**Therefore, I respectfully pray that Notice be issued to the Superintendent of Police, Police District Baddi, directing them to provide a detailed report on the status of the criminal proceedings and steps taken by the Police Department to identify the contractors, government officials and other individuals including but not limited to the 41 violators.**

**B.) SOIL SAMPLE ANALYSIS:**

Since as per the report submitted by the Joint Committee, there is no conclusive proof which establishes that the illegally mined soil was used for Chandigarh-Baddi Railway Line Project, it is opined by the Amicus Curiae that the Mining Department, Solan/ PWD Department, Nalgarh collect and compare soil samples from both the sites in order to determine whether the illegally mined soil was indeed used for the railway construction.

To ensure the integrity of this process and eliminate any possibility of tampering, it is respectfully prayed that the soil sample collection and analysis should be conducted in the presence of the Amicus Curiae

*Parith*

and Joint Committee. This will ensure transparency and accuracy in establishing the source of the soil.

Therefore, **the Amicus Curiae respectfully seeks the permission of this Hon'ble Tribunal to visit both the incident site and the Chandigarh-Baddi Railway Line Project site to oversee the soil sample collection and comparison process, ensuring that the findings are accurate and uncontested.**

C.) **RESTORATION OF ENVIRONMENT:**

It is well-established that the primary objective of the National Green Tribunal (NGT) is the preservation and protection of the environment. In the present case, the illegal mining activities have caused significant environmental degradation at the incident site, warranting immediate and comprehensive restoration efforts since restoration of the environment is the foremost priority.

Given the extent of the damage, it is believed that the plantation of 100 saplings—as undertaken so far—will not suffice to restore the environment to its original state. **Therefore, I respectfully pray that the Divisional Forest Officer (DFO), Nalagarh Division, be directed to file a report recommending appropriate measures for the restoration of the environment at the incident site.**

Filed Through:-



ADVOCATE RITWIK PARIKH  
AMICUS CURIAE

Address: 102, New Lawyers Chambers,  
Setalvad Block, Supreme Court of India,  
New-Delhi-110001  
Mobile No:9999320409  
Email: ritwikoff@outlook.com

PLACE: NEW DELHI

DATED: 17.10.2024