

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

(Under Section 14 and 15 read with Section 18 of the National Green Tribunal)

ORIGINAL APPLICATION NO. 235 OF 2022

IN THE MATTER OF

**RAMSARIKHA SUDESHWARI SOCIAL WELFARE FOUNDATION
APPLICANT**

VERSUS

STATE OF UTTAR PRADESH AND ORS. ...RESPONDENTS

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APPLICANT

Through Authorized Representative



DATE: 06.12.2022

Er. Sarath Kumar Vyas

PLACE: New Delhi

6306709996/ saarath@gmail.com

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**RAMSARIKHA SUDESHWARI SOCIALWELFARE FOUNDATION
... APPLICANT**

VERSUS

STATE OF UTTAR PRADESH AND ORS.

... RESPONDENTS

NDOH: 07.12.2022

MEMO OF PARTIES

In The Matter Of

RamsarikhaSudeshwari Social

Welfare Foundation

H23, Lajpat Nagar Part – I,

New Delhi – 110024

Through Authorized Representative

Er. Sarath Kumar Vyas

6306709996/ saarathth@gmail.com

Applicant

Versus

1. State of Uttar Pradesh

Through Chief Secretary

Government of Uttar Pradesh,

1stFloor, Room No. 110,

LalbahadurSashtriBhawan,

Uttar Pradesh Secretariat,

Lucknow – 226001

csup@nic.in

91-522 2221599

9454404444 (UP Govt Hotline number) Respondent No. 1

2. Secretary-cum-Director

Department of Geology and Mining

Raja, KhanijBhawan 27/8,

Ram Mohan Rai Marg, Lucknow,

Uttar Pradesh – 226001

dgmupexp@gmail.com

8887534724

Respondent No. 2

3. Chairman,

Uttar Pradesh Pollution Control Board

Building.No. TC-12V

VibhutiKhand, Gomti Nagar

Lucknow- Uttar Pradesh 226 010

Feedback@uppcb.com

91-522 2720831

Respondent No. 3

4. District Magistrate

Collectorate, Mahoba

Uttar Pradesh -210427

dmmab@nic.in

9454417534

Respondent No. 4

5. Superintendent of Police

MakaniyaPurva, Mahoba

Uttar Pradesh 210427

sp-mba@nic.in

9454400293

Respondent No. 5

6. ShabraKhatoon

W/o Late Shoeb Ahmad,

R/o Vivek Nagar, Kabrai,

Tehsil & District Mahoba

Uttar Pradesh 210427

Respondent No. 6

APPLICANT

Through Authorized Representative

DATE: 06.12.2022

PLACE: New Delhi

Er. Sarath Kumar Vyas

6306709996/ saarath@gmail.com

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

OBJECTION TO REPORT OF JOINT INSPECTION COMMITTEE
APPOINTED UNDER HON'BLE NGT ORDER DATED 29.09.2022

IN

ORIGINAL APPLICATION NO. 235 OF 2022

IN THE MATTER OF

RAMSARIKHA SUDESHWARI SOCIAL WELFARE FOUNDATION
APPLICANT

VERSUS

STATE OF UTTAR PRADESH AND ORS. ... RESPONDENTS

MOST RESPECTFULLY SHOWETH;

A. That the original application OA 235/2022 was filed on 22nd of February 2022 by the Applicant for issuance of directions to the authorities to assess environmental damage, prevent illegal mining, register criminal cases for offenses involved, ensure seizure of vehicles involved in illegal mining and take action for cancellation of

lease in favour of respondent no. 6 for violations. The applicant has also sought interim injunction restraining respondent no. 6 from carrying on the mining operations in the disputed site.

B. That on 29.09.2022 Hon'ble NGT ordered that a Joint Committee be constituted to verify the factual position. Accordingly, Hon'ble NGT constituted a Joint Committee comprising of representatives of Regional Office of Archeological Survey of India, Lucknow, Uttar Pradesh and State PCB, DFO and District Magistrate, Mahoba and directed the same to meet within three weeks, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representatives of the project proponent, verify the factual position and submit its report within six weeks by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF. The State PCB will be the nodal agency for coordination and compliance. The Applicant nominated Er. Sarath Kumar Vyas as Authorized Representative on 30.09.2022. Board Resolution is annexed as **Annexure R1**.

C. That in compliance of the Order of Hon'ble NGT the Joint Inspection Committee (*Hereinafter JIC*) was constituted on **28.10.2022** vide letter 1186/NGT/OA-235/2022 from the office of Districts Magistrate, Mahoba. All JIC members, Representatives of Applicant and Project

Proponents were directed to meet at project site at 1400 HRS, 03.11.2022 but JIC, for the reason and intention known to them visited the site at 1645 HRS, 03.11.2022, concluded the visit in 45 minutes and did not take care of applicant's grievances. It is submitted that within 1400 HRS to 1600 HRS the project proponent and her associates uninstalled Heavy Water Pump and transported outside the project site. These heavy pumps are used to splash water from deep mining pits so that the further Blasting can be done on exposed granites. (*The photographs depicting the location and the time, 1443 hrs showing the Water Pumps uninstillation and transportation are annexed as ANNEXURE -R2, Colly.*)

- D. That this is pertinent to mention that when the JIC arrived they were already been accompanied by local goons, mafias, their armed accomplices and union leaders standing by some Ateeque Ahmed, the representative of project proponent. Hence the undue influence of the project proponent cannot be ruled out as their muscle power were in great display when they accompanied the JIC members to the site. Applicant's repeatedly questioned the purpose and authority of these unrelated elements and objected multiple times before JIC to keep them outside the project site but some of the local members of JIC were hand in gloves with these rogue elements.

E. That it is deeply regretted to report that not only JIC displayed utmost disregards to comply with the Hon'ble NGT's order dated 29.09.2022 but also tried to mislead the Hon'ble NGT with false, frivolous, incorrect and incomplete report. Their impartiality and neutrality is highly questionable. Furthermore it is submitted that JIC completed the site inspection within 45 minutes on 03.11.2022 and submitted its findings, observations and report by 05.11.2022 before Hon'ble NGT which itself makes it quite evident that the JIC was predetermined with its report to be submitted.

**POINT WISE OBJECTION TO ENCLOSURE -2 OF REPORT BY
JOINT INSPECTION COMMITTEE**

MOST RESPECTFULLY SHOWETH;

1. That point 1 only describes the order of the Hon'ble NGT to be complied by the JIC and hence doesn't require any reply.
2. That point 2 describes the formation of the JIC members and hence no comment required.
3. That point 3 comprises of list of documents, letters, certificates etc given to project proponent to carry on mining operation on project site. It is highly relevant to take note of the fact that the documents also contain a **Mining Plan dated 13.06.2022** which triggers a valid and

pertinent question as to the fact how the State Government or the concerned department allow lease of the mining areas without a valid Mining Plan. **There is a gross violation of Section 5(2)(b) of the MINES AND MINERAL (DEVELOPMENT AND REGULATION) ACT, 1957.**

(2) No mining lease shall be granted by the State Government unless it is satisfied that—

³[(a) there is evidence to show the existence of mineral contents in the area for which the application for a mining lease has been made in accordance with such parameters as may be prescribed for this purpose by the Central Government;]

(b) there is a mining plan duly approved by the Central Government, or by the State Government, in respect of such category of mines as may be specified by the Central Government, for the development of mineral deposits in the area concerned;]

⁴[Provided that a mining lease may be granted upon the filing of a mining plan in accordance with a system established by the State Government for preparation, certification, and monitoring of such plan, with the approval of the Central Government.]

Therefore there was no mechanism available with the concerned department to check how mining was done prior to approval of the Mine Plan.

Secondly, copy of this Mine Plan was never shared despite of repeated requests and RTI which was filed on 11.01.2022 (*Annexure A6 of the original application filed before this Hon'ble NGT*). **It is a matter of record that the fresh lease was granted in favour of the Respondent 6 on 08.01.2019 for a period of 10 years without an approved Mining Plan.**

Another document referred in Para 3 of the Enclosure 2 of the JIC Report is “Environment Clearance Certificate” issued by the District

Level Environment Impact Assessment Authority, Mahoba dated 01.12.2018 (*Annexure-1, Page no. 13-19 of the Reply filed on behalf of Respondents No. 1, 2, 4 & 5 before this Hon'ble NGT*), which clearly imposes restrictions and mandatory conditions for environment friendly mining operations. Despite of clear and visible violation of restrictions and conditions imposed in Environment Clearance the respondent no 3 i.e. state PCB failed to periodically monitor the norms and take statutory actions in case of violations. Furthermore it is to submit that Environment Clearance granted on inhabited land by District Level Impact Assessment Authority is impugned, arbitrary and not just before eyes of law.

In *Sandeep Mittal vs Ministry of Environment, Forests and Climate Change & Ors, OA 837/2018 dated 01.02.2021*, Chairperson Bench of this Hon'ble Tribunal has clearly emphasized

2. *Faced with the grievance that there was flagrant violation of conditions of Environmental Clearance and adequate monitoring was not taking place, vide order dated 30.10.2018, the Tribunal observed that **compliance of conditions of Environmental Clearance must be monitored on periodical basis, atleast once in a quarter.** Accordingly, the Ministry of Environment, Forest and Climate Change (MoEF&CC)*

was directed to review and strengthen the mechanism for the purpose and furnish a report...

4. That point 4 and 5 of the Enclosure 2 of JIC report are matter of record hence no comment. However it is submitted that there have been continual Encroachment into the prohibited green areas outside the purview of the Mining lease agreement resulting in the irreparable damage to the Environment and local ecology. Despite of many objections by native villagers and aggrieved persons state machinery, to its full extent, grossly misused power vested to them and openly supported illegal objectives of wrongdoers.
5. That in reply to point 6 it is humbly submitted that a copy of Environment Clearance dated 01.12.2018 by District Impact Assessment Authority, Mahoba was annexed as Annexure -1, Pages 13 to 19 in the counter filed on behalf of Respondents 1, 2, 4 & 5. It **clearly restricts the project proponent to not mine beyond 12 meter of depth** or exposure of ground water, whichever is earlier. The present average depth at project site is more than 50 meter against sanctioned norm depth of 12 meter while the JIC itself submits that depth of mining exceeded 25 meter depth yet authority failed to take any action. Hence there is a clear violation of the prescribed norms by the Respondent No. 6 and also the failure on the part of Respondent No. 3 & 4 to take any action against such gross violations.

6. That in reply to point 7 of enclosure 2 of JIC report it is submitted that fencing work has recently done. Whereas, as submitted by the applicant/aggrieved villagers that the project proponent has further encroached into the prohibited green areas in the pretext of fencing work. When the villagers raised objections against this fresh encroachments, the project proponent and her cohorts wriggled out of the situation by blaming the Lekhpal in the month of October, 2022.
7. That the contents of point 8 of Enclosure 2 of JIC report are misleading, improper and incorrect which itself contradicts the submissions made in point 6 of Enclosure 2 of JIC report. Whereas, the applicant submits that there was evidence of continuously mining happening at the project site.
8. That the contents of point 9 of enclosure 2 of JIC report are misleading, improper and incorrect. This is submitted by the Applicant that the project site was blasted randomly in all three sides without creating any bench or any such similar structures from the top to bottom. But the Project Proponent only created a makeshift rampto enter into and to blast into and transport material illegally from the prohibited green area. **(Photographs Annexed As ANNEXURE R3, Colly.)**
9. That the contents of point 10 of enclosure 2 of JIC report are misleading, improper and incorrect. This is to report that the

Respondent No. 6 has developed a large scale dumping site on agricultural land purchased by project proponent and same is operating as Dump for illegally mined granites from the mining site. Even on the day of JIC inspection the dump was holding huge stock of excavated granites and also there were many other small dumps of freshly blasted granite but JIC member Sh. Shailendra Kumar Singh then submitted that project proponent can operate such dump on her own land. Later the JIC falsely reported it to be small dump for Debris and top swivel **(Photographs Annexed As ANNEXURE R4, Colly.)**

10. That the contents of point 11 of enclosure 2 of JIC report are misleading, improper and incorrect. Furthermore, JIC heavily relied on project proponent's version, reported the same arbitrarily in its JIC report and gave a clean chit to project proponent by showing utmost carelessness and disregard to order of Hon'ble NGT dated 29.09.2022. However, it is submitted that the current photographs depicts a different picture all together.

11. That the contents of point 12 of enclosure are incorrect and misleading. This is to submit that alongwith a room for workmen of project proponent there are at least half a dozen other rooms constructed beside the above said workmen's room to station the muscle power of the project proponent. However, for the reason,

influence and intention best known to JIC members another discrepancy is manipulated and reported incorrectly.

12. That the contents of point 13 of enclosure are contradictory, incorrect and misleading. Furthermore, point 8 and point 11 clearly state that No Mining is going on since the filing of this application before Hon'ble NGT. However, it is evident from the project site that Illegal mining and excavation in prohibited green area have not stopped till date.
13. That the contents of point 14, 15 and 16 of enclosure are contradictory, incorrect and misleading. JIC is safeguarding the illegal acts of project proponent to keep the factual situation and truth wrapped in such paper entries.
14. That the contents of point 17 of enclosure are contradictory, incorrect and misleading hence strongly objected. It is most respectfully submitted that major Blasting, Excavation and Transportation of granites happen in night time which is not just in the eyes of law.
15. That the contents of point 18 of enclosure are wrong, incorrect and misleading hence strongly objected. This is to submit that water wells belonging to Gram Sabha land are located within 100 meter of site and are already damaged and contaminated by the project proponent.
16. That the contents of point 19 are misleading and improper. This is to submit that reports on Air Pollution, Noise pollution etc are arbitrary

and possibly a manipulated one, prepared specially to hide the factual situation.

17. That the contents of point 20 are misleading and improper. This is to submit that the project site was always blessed with lush greenery since time unknown and so-called plantation done by project proponent is incorrect. However, this is to submit that JIC failed to report that thousands of full grown trees, plants, herbs etc are blasted and removed from project site during lease period itself.

18. That the contents of point 21 are misleading and improper. This is to report with deep regret that recently project proponent has heavily blasted into natural cave systems to tamper crucial evidence. However, the cave system is still there amidst buried deep in fresh blasting. Same wise, the existence of Chaupra Kund is very much at project site. First time in the memory of villagers it has been dried. Furthermore, the project proponent has tried to fill the Kund with debris and rocks to hide her wrongdoings in the prohibited green area. A photograph depicting Chaupra Kund is annexed as **ANNEXURE R5**

19. That the contents of point 22 are incorrect, contradictory and based on surmises and conjecture. Furthermore, no signatures obtained from even a single person from the aggrieved villagers. Further, with deep regret it is to report that a face of mountain is tightly occupied by

houses of inhabitants. Distance between such houses and mountain is literally zero meters. It is just and fair in the eyes of law to enquire authority why mining lease was granted and was carried forward for three decades while damage to Environment was evident.

20. That the contents of point 23, 24 and 25 are incorrect, contradictory and misleading. This is to report with regret that JIC Relied entirely on the inputs given by the alleged offending party without assessing the factual reality.

21. That the contents of point 26 are admitted to the extent that Local deity (Gram Devta) 'Siddha Baba' is there since the time unknown and villagers in mass perform Worshipping etc as per local traditions and customs. Furthermore, there are many sites in the Village Singhanpur Baghari where archeological remains are scattered here and there. Same was submitted to JIC during inspection yet JIC reported incompletely. Furthermore, it is interesting to see that 4-members Committee constituted by Commissioner – Chitrakoot Dham Mandal-Banda previously denied the existence of Siddha Baba in December 2021. Furthermore, DM –Mahoba and Sr. Mine officer were members of this committee and further were part of JIC constituted by Hon'ble NGT.

22. The contents of point 27 and point 28 of Enclosure 2 of Joint Inspection Committee report are misleading and improper. Furthermore, the systematic corruption of local authority is evident from the sequence of events and facts acknowledged so far. It is to be reported with deep regret that despite of so many discrepancies observed by and reported to JIC no any action is taken on Project Proponent till date.

It is regretted to report that not only was the Joint Committee report submitted in hurry misleading the Hon'ble NGT but also it did not address the core issue of verifying the factual aspect of the case as directed under the NGT order. Since the Joint Investigation Report had already been submitted to NGT - it seems that unfortunately the Statutory Authority & JIC members, in their wisdom, have decided to leave it to the Honorable Tribunal to retrieve the situation. Attitude and non-cooperation of statutory authority is evident from response from Regional Office – Pollution Control Board wherein for proven faults of Project Proponent the Authority is asking to wait Judgment from **Hon'ble National Green Tribunal** (*Annexed as Annexure – R6*)

RECOMMENDATIONS

- i. In the light of above revelation it is humbly submitted that to fulfill the order of Hon'ble NGT dated 29.09.2022 , in letter and spirit , The competent authority may be requested to review deficiencies in JIC report
- ii. Further, as the project proponent has already submitted that Mining Activities are totally put on halt since the application is filed before Hon'ble NGT while in the nefarious designs of the defendant no. 6 the project site is heavily blasted and irreparable damage already incurred to applicant and aggrieved villagers, it is most respectfully submitted that Hon'ble NGT should order interim injunction restraining respondent no. 6 from carrying on the mining operations in the disputed site till the final disposal of this application
- iii. Furthermore, the defendants willfully and deliberately violated the lawful order of Hon'ble NGT dated 29.09.2022. The irreparable damage done to the applicants, aggrieved villagers and Environment and Wrongs perpetrated by the Contemnors in contumacious disregards of the Order of Hon'ble NGT should not be permitted in the eyes of law. It is, thus, most respectfully, submitted that this Hon'ble Tribunal may kindly be pleased to initiate contempt proceedings against the Respondents and JIC members for Non-

compliance of Hon'ble NGT Orders dated 29.09.2022, in the interest of justice.

APPLICANT

Through Authorized Representative



DATE: 06.12.2022

PLACE: New Delhi

Er. Sarath Kumar Vyas

6306709996/ saarath@gmail.com

ANNEXURE R1 – APPOINTMENT OF AUTHORIZED REPRESENTATIVE

**RAMSARIKHA SUDESHWARI SOCIAL WELFARE
FOUNDATION TRUST**
(Registered Under Indian Trusts Act, 1882)

RESOLUTION OF THE TRUST

Executive Committee meeting held on 30-09-2022 chaired by the managing trustee for appointment of authorized representative for the purpose of representing & acting on behalf of the trust held at New Delhi.

APPOINTMENT AND AUTHORIZATION OF AUTHORIZED REPRESENTATIVE

Resolved that authorisation be and is hereby given to **Er. Sarath Kumar Vyas, S/o Sh. Sant Sharan Vyas, R/o D – 43, 1st Floor, Jawahar Park, New Delhi – 110080** to present the Trust and the concerned branches in all Civil, Criminal, Consumer, Writ and all other cases before the Courts, Tribunals and authorities in Delhi or any other City across India and to file suits/complaints/petitions/appeals, sign documents, to give oral and documentary evidence, to defend, settle the cases against the Trust and other connected matters in the Court of Law on behalf of the company."

Certified True Copy



IN WITNESS WHEREOF, I have hereunto set my hand on this day 30th of September 2022 at New Delhi.


Er. Sarath Kumar Vyas
AR Signature appended

**RAMSARIKHA-SUDESHWARI SOCIAL
WELFARE FOUNDATION TRUST**

Amitabh Singh
Authorized Signatory
Managing Trustee

***ANNEXURE – R2: WATER PUMPS UNINSTALLATION AND
TRANSPORTATION IN MINING SITE***



FWQR+F4W, Sindhanpur Baghari, Uttar Pradesh 210424,
India

Latitude
25.48807219°

Longitude
79.94001331°

Local 02:43:21 PM
GMT 09:13:21 AM

Altitude 254.03 meters
Thursday, 03 Nov 2022



FWQR+F4W, Sindhanpur Baghari, Uttar Pradesh 210424,
India

Latitude
25.48808399°

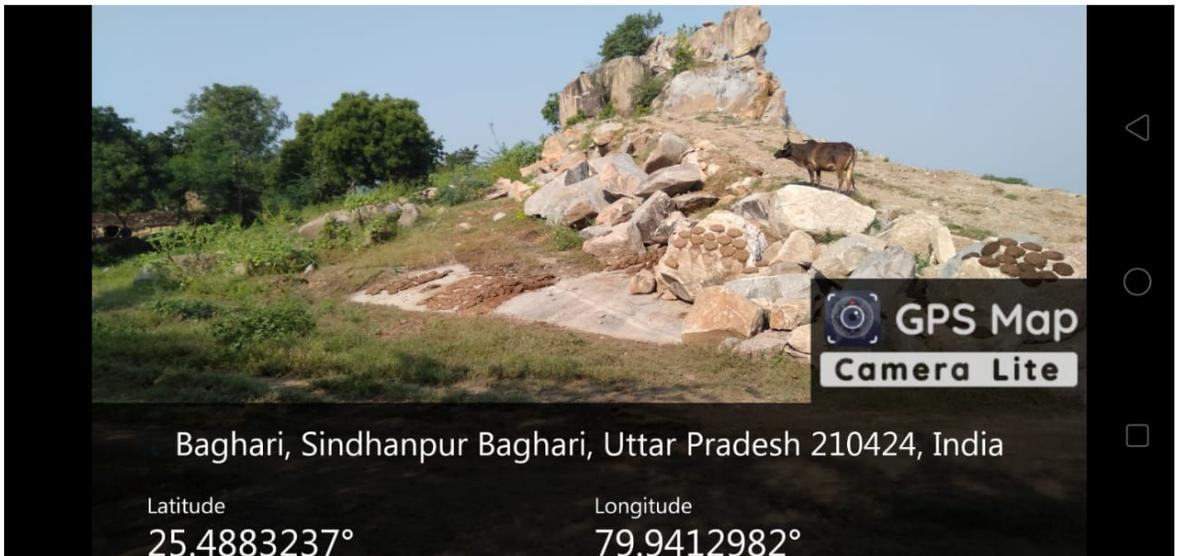
Longitude
79.9400458°

Local 02:43:30 PM
GMT 09:13:30 AM

Altitude 251.34 meters
Thursday, 03 Nov 2022

ANNEXURE – R3: MINING SITE,



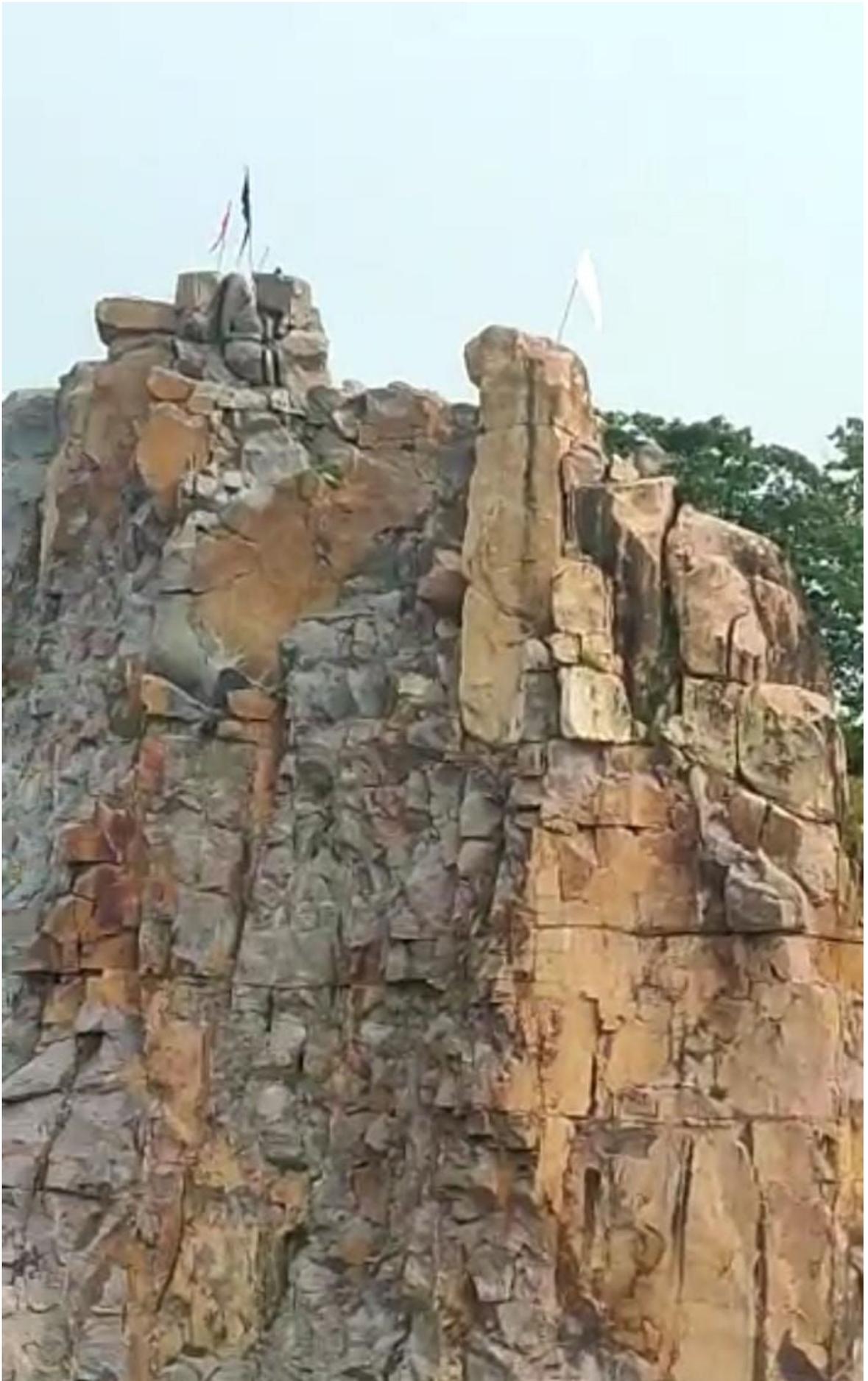






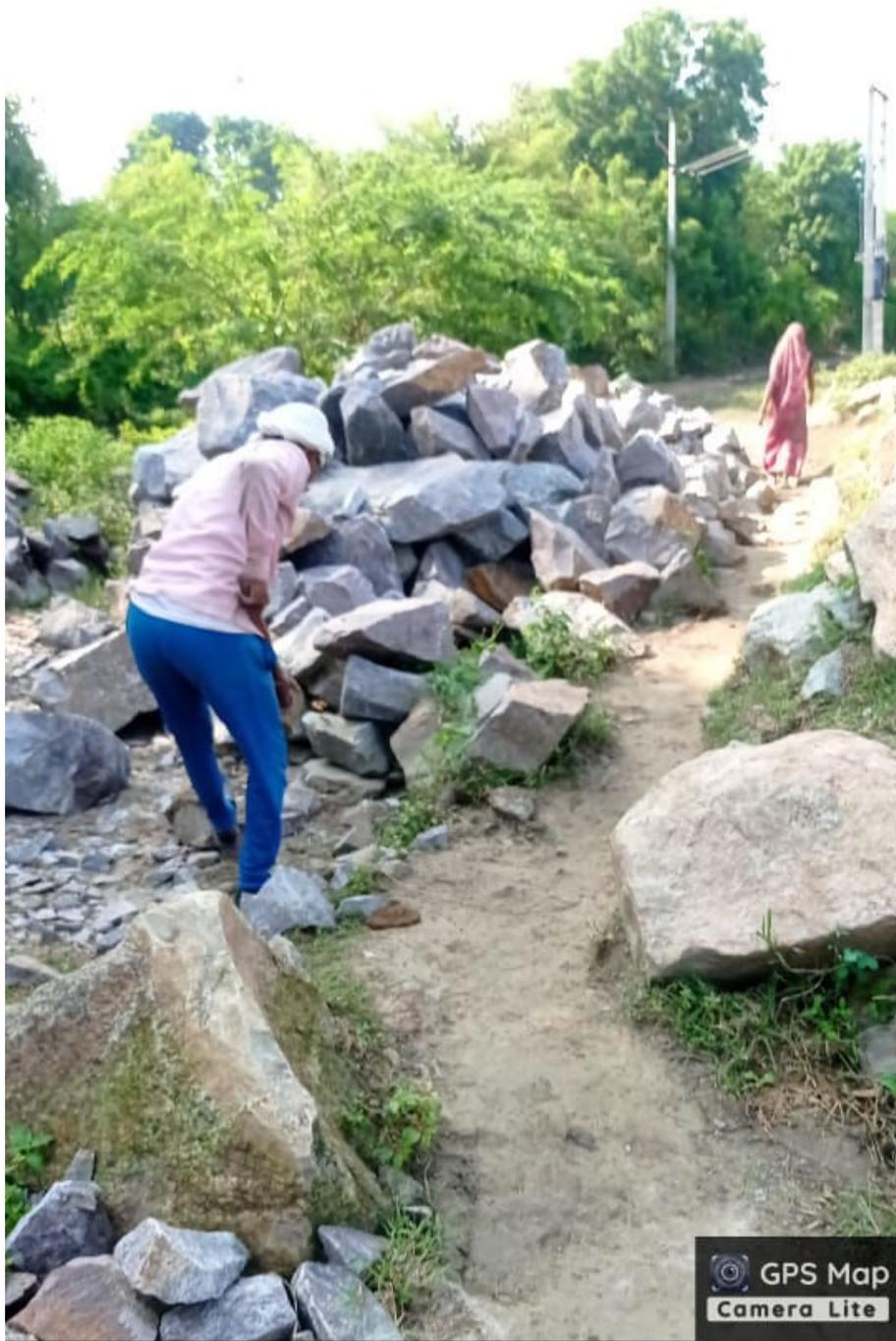
SHOT ON REDMI Y3
AI DUAL CAMERA

2021/10/4 06:52



ANNEXURE – R4: DUMP IN MINE SITE





GPS Map
Camera Lite

Baghari, Sindhanpur Baghari, Uttar Pradesh 210424, India

Latitude
25.488283333333335°

Longitude
79.941128333333334°

Local 09:21:40 AM
GMT 03:51:40 AM

Altitude 11.81 meters
Thursday, 13.10.2022

ANNEXURE – R5: CHAUPRA KUND OF SIDDHA BABA



ANNEXURE – R6: UP PCB REPLY Dated 14.11.2022

दूरभाष-05192 297470
ई-मेल- upbanda@uppcb.in

क्षेत्रीय कार्यालय : उ० प्र० प्रदूषण नियंत्रण बोर्ड,
34ए, निकट संत तुलसी पब्लिक स्कूल, न्यू बिल्डिंग, इन्दिरा नगर गेट नं० 2
बौदा उ०प्र० 210001

संदर्भ संख्या : 1244/ओ०ए० सं०-235/2022 / राम सरीखा सुदेश्वरी / एनजीटी / 22 दिनांक 14 / 11 / 2022

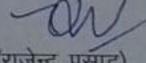
पंजीकृत

सेवा में
श्री विनल कुमार शर्मा,
राष्ट्रीय अध्यक्ष, बुन्देलखण्ड किसान यूनियन (अराज०)
हरदोली घाट, क्वेटरा बौदा, (उ०प्र०)

विषय: जनपद-महोबा के ग्राम-सिंघनपुर, बघारी, तहसील सदर, जनपद-महोबा के गाटा नं०-482 पर श्रीमती शाबरा खातून पत्नी स्व० सुऐब अहमद निवासी-विवेक नगर, कबरई, जनपद-महोबा द्वारा किये जा रहे बिल्डिंग स्टॉन (खण्डा बोल्टर, ब्लास्ट(गिट्टी)) खनन कार्य के विरुद्ध की गयी शिकायत के सम्बन्ध में।

महोदय,
कृपया उपरोक्त विषयक संदर्भ ग्रहण करने का कष्ट करें, जिसके माध्यम से आपके द्वारा पत्र दिनांक 31.10.2022 के माध्यम से प्रेषित शिकायती पत्र में जनपद-महोबा के ग्राम-सिंघनपुर, बघारी, तहसील सदर, जनपद-महोबा के गाटा नं०-482 पर श्रीमती शाबरा खातून पत्नी स्व० सुऐब अहमद निवासी-विवेक नगर, कबरई, जनपद-महोबा द्वारा किये जा रहे बिल्डिंग स्टॉन (खण्डा बोल्टर, ब्लास्ट(गिट्टी)) खनन कार्य के विरुद्ध कार्यवाही किये जाने की अपेक्षा की गयी है।

उक्त के सम्बन्ध में अवगत कराया जाना है कि उक्त खनन स्थल पर किये जा रहे खनन कार्य के विरुद्ध माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली द्वारा ओ०ए० सं०-235/2022 (आई.ए.नं. 78/2022) राम सरीखा सुदेश्वरी सोसल वेलफेयर फाउण्डेशन बनाम स्टेटस आफ उ०प्र० व अन्य में याचिका योजित एवं विचाराधीन है। ततकम में माननीय अधिकरण द्वारा पारित आदेश के अनुसार ही कार्यवाही किया जाना सम्भव होगा। सूचनार्थ प्रेषित।

भवदीय

(राजेन्द्र प्रसाद)
क्षेत्रीय अधिकारी

प्रतिलिपि : निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

1. जिलाधिकारी महोदय, महोबा को सादर सूचनार्थ।
2. सदस्य सचिव महोदय, उ०प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ।
3. मुख्य पर्यावरण अधिकारी (वृत्त-2) उ०प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ।
4. वरिष्ठ खान अधिकारी, भूतत्त्व एवं खनिकर्म विभाग, जनपद-महोबा।

क्षेत्रीय अधिकारी