

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH

INDEX

IN

ORIGINAL APPLICATION NO. 203/ 2021

IN THE MATTER OF :

DEVIDAS KHATRI

.....APPLICANT

VERSUS


UNION OF INDIA & ORS.

.....RESPONDENTS

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THROUGH


 SRISHTI GUPTA
 ENROLL NO. UP 12648/2021
 CHAMBER NO. 4, HIGH COURT, ALLAHABAD
 MOB. NO. 7388151087

DATE: 19.03.2024
 PLACE: ALLAHABAD

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH

ORIGINAL APPLICATION NO. 203/ 2021

IN THE MATTER OF :

DEVIDAS KHATRI

.....**APPLICANT**

VERSUS

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.....**RESPONDENTS**

OBJECTIONS IN REPLY TO THE JOINT COMMITTEE REPORT ON

BEHALF OF OM LAXMI INDUSTRIES

MOST RESPECTFULLY SHOWETH

I, Chandra Prakash Kesarwani, S/o Late Sri Om Prakash Gupta aged about 60 years, R/o 242/91 Muir Road Ashok nagar, Allahabad do solemnly affirm on oath as under:

1. That the deponent is the proprietor of "Om Laxmi Industries" and is well conversant with the facts of the case and as such is competent to swear the present affidavit on behalf of "Om Laxmi Industries". The deponent vide this affidavit is only bringing on record its objections to the Action Taken Report dated 17.01.2024 filed by the joint Committee before this Hon'ble Tribunal. The answering deponent reserves its right to file a Para wise reply to the present application, additional reply to any facts, observation if need arises.
2. That the answering respondent i.e Om Laxmi Industries, has been impleaded as a Respondent in the above noted original application vide order dated 19.01.2024 passed by this Hon'ble Tribunal.
3. That at the outset, answering respondent herein denies all the averments, allegations, assertions and statements made by the applicant in the instant original

3.

application and the joint committee report dated 17.01.2024 filed by the Uttar Pradesh Pollution Control Board, except matters of record and unless specifically admitted.

PRELIMINARY SUBMISSIONS

4. That on 08.08.2001, a mining lease was executed in favour of the answering respondent for a period of 20 years i.e. till 07.08.2021 for mining of silica sand over the private land bearing Gata nos. 143-148, 309-318, 402- 405, 408, 561 admeasuring 8.397 hectares, situated at Village Kachari, Tehsil Bara, District- Allahabad.
5. That it is humbly submitted that the answering respondent has not carried out any mining activity since the expiry of original grant lease period i.e. 07.08.2021 and since then the mining activity is lying closed.

Further, it is submitted that litigation in a similar matter with regards to extension of mining lease is pending before the Hon'ble Allahabad High Court in Civil Misc. Writ Petition No. 23491 of 2022 (Vijay Lakshmi Kesarwani *versus* State Of U.P. & Ors.) for adjudication, in the light of *Section 8A (3) of Mines and Minerals (Development and Regulation) Act, 1957 as amended in 2015* which is as follows:-

“All mining leases granted before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 shall be deemed to have been granted for a period of fifty years.”

REPLY/ OBJECTION TO JOINT COMMITTEE REPORT DATED 17.01.2024

6. That a point wise reply against the alleged observations made by the joint committee on Pg. 32 (Sno.9) of the report dated 17.01.2024, against the answering respondent is as follows:
 - That in reply to the contents of paragraph no.1.4 of the observation it is submitted that the answering respondent has not carried out any mining

4.

activity since the expiry of original grant lease period i.e. 07.08.2021 and since then the mining activity is lying closed. Therefore, the alleged observation with regards to *signs of mining (small scale) activities* is false, misleading, misconceived and hence vehemently denied.

Further, with reference to photographs no. (4-7) as annexed on Page no. 59 to 60 of the report, it is submitted that photograph no. 4 & 5 is not accepted in the light of the fact that they are not of the mines of answering respondent, hence the same is presumptive based on inspection carried out at other mines, which itself shows how negligently and in due haste the report has been prepared by the joint committee.

- That the contents of paragraph no.1.5 of the observation is not admitted as stated and hence denied. In reply thereto it is submitted that as and when the material/ silica sand is procured by the answering respondent from other bonafide existing silica sand lease holders, it is stored within the mineral storage licence area as granted by the Office of District Magistrate, Prayagraj (Mines Department) to the answering respondent vide licence no. NOC/ST/2022/8/28/148260 dated 04.01.2023 which is valid till 03.01.2026. A true copy of storage licence dated 04.01.2023 is being filed herewith and marked as **ANNEXURE R-1 (Colly)** to this affidavit.
- That in reply to contents of paragraph no.1.6 of the observation it is submitted that no prior information of site visit was given to answering respondent/ deponent so as to enable him or his representative to be present during inspection, hence the deponent denies all the allegations made in report on basis of such inspection in violation of principles of natural justice. And therefore, the report of joint committee submitted on alleged site visit in absolute secrecy without any prior information to the answering respondent is unreliable.

- That in reply to contents of paragraph no. 1.7 of the observation that the ROM (run of mine) is procured from other leases, it is submitted that all the material/ ROM is purchased by the answering respondent from the existing active lease holders as and when required through e Form- C and the details of such quantity received/ procured is reflected on (the answering respondent Licensee ID 31452312990055), departmental portal (<https://upmines.upsdc.gov.in/>), Directorate of Geology and Mining, Uttar Pradesh and for this a requisite tax invoice is issued by the lease holder and payments of the same is done by the answering respondent only through banking channel.

A true copy of chart showing the details of material procured from active lessee by the answering respondent during the period from 01.04.2023 to 31.12.2023 is as follows:

SNO.	NAME OF LESSEE/ PERMIT HOLDER	LESSEE ID	GSTN	QUANTITY (M.T.)
1.	Darshan Lal Chawla (M/s. Chawla Silica Sand Trading Company)	314523120639	09AADFC8117F2ZK	3447.000
2.	Parerhat Chemicals Pvt. Ltd. (Ashok Kumar Bajpai)	314523120652	09AABCP4694H1Z2	7802.000
3.	M/s. Modi Minerals (Smt. Amita Gupta)	314523120616	09ADCPG8405A1Z2	632.840

Hence, the aforesaid quantity so procured through e-MM11/ e-form C can be verified from the lessee's portal as well, and therefore, in this regard no written agreement has been made between the parties.

7. That therefore, in view of the submissions stated above by the deponent in his favour, it is humbly prayed that this Hon'ble Tribunal may be pleased to accept the present affidavit as part of the record and in light thereof reject the observations made by the joint committee against the answering respondent and may dismiss the

instant original application, otherwise the answering respondent shall suffer irreparable loss and injury.

Whatever stated hereinabove, from paragraph nos.1 to 7 of this affidavit are true to the best of my knowledge, information, belief and legal advice received, which I believe to be true.


DEPONENT

VERIFICATION

The deponent above named do hereby solemnly affirm and verify that what is stated in the affidavit is true to my knowledge based on the records of the case and I believe the same to be true.

Verified at Allahabad on this 19 day of March 2024


DEPONENT



कार्यालय जिलाधिकारी, Prayagraj

(खनन-अनुभाग)
प्रपत्र - ख
खनिजों के भण्डारण हेतु अनुज्ञप्ति
{ नियम - ६ देखिये }

MINES MITRA

संख्या: NOC/ST/2022/8/28/148260

दिनांक: 04-01-2023

आवेदक एवं अवधि

अनुज्ञप्तिधारी का नाम	OM LAXMI INDUSTRIES	अनुज्ञप्तिधारी का पता	242/91 MUJIR ROAD ASHOK NAGAR ALLAHABAD
अनुज्ञा की अवधि	अवधि 04-01-2023 से 03-01-2026 तक	भण्डारण का प्रयोजन	

भण्डारण के लिए अनुज्ञा प्राप्त उपखनिज का विवरण

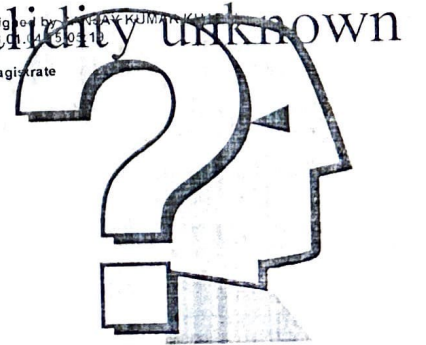
नाम	मात्रा
Silica sand	6000.000 मीट्रिक टन
कुल	6000.000 मीट्रिक टन

खनिज भण्डारण की अनुज्ञप्ति हेतु उपयोग होने वाली भूमि की अवस्थिति

जनपद	वहसील	ग्राम / नगर	मोहल्ला	अवस्थिति(गाटा संख्या/ क्षेत्रफल)
Prayagraj	Bara	KACHARI	SHANKARGADH	157 114 115 116 136 137 153 154 309 303

आवेदक द्वारा अनुलग्नक-1 की शर्तों का अनुपालन किया जाना अनिवार्य होगा।

Digitally signed by Prayagraj District Magistrate
Date: 2023.01.04 15:03:11
Prayagraj
District Magistrate



सहमति पत्र की शर्तें निम्नवत हैं।

1. अनुसंधान को भण्डारण स्थल पर प्रमुखता से विक्रय मूल्य प्रदर्शित करना होगा।
2. अनुसंधान को भण्डारण के समुचित अनुभव हेतु सी टी डी की कैमरा और जॉब द्वार अभिनियोजित करना होगा।
3. भण्डारण स्थल में उप खनिजों का परिवहन ई प्रपत्र मी के द्वारा किया जायेगा।
4. अनुसंधान द्वारा प्राप्त उपखनिजों एवं परिवहन किये गए खनिजों की शुद्ध और बोधगम्य लेखा अनुसंधान करना होगा जो विधिमान्य अभिवहन पास, जिसके माध्यम से अनुसंधान ने सन्निज प्राप्त किया हो, की मात्रा के अनुरूप होगा।
5. अनुसंधान को अनुवर्ती माह के प्रथम सप्ताह के भीतर प्रत्येक माह हेतु क्रमशः खण्ड (दो) तथा (तीन) के अधीन अनुसंधान प्रपत्र 'ड' में मासिक विवरणी जिला अधिकारी को प्रस्तुत करना होगा।
6. सम्पूर्ण रिपोर्ट, विवरणियां और रजिस्टर अनुसंधान द्वारा अनुसंधान किये जायेंगे और कारोबार-स्थल पर रखे जायेंगे तथा निरीक्षणकर्ता अधिकारी को उपलब्ध कराये जायेंगे।
7. अनुसंधान खनिजों को भण्डारित करने हुए अथवा उन्हें प्रसंस्करण संयंत्र या मज्जीकरण संयंत्र या कारखाना में उपयोग करते समय पर्यावरण को प्रदूषित नहीं करेगा।
8. अनुसंधान को खान निदेशालय के निरीक्षणकर्ता अधिकारियों को खनिज स्टॉक का सत्यापन करने और नमूना तथा अभिलेखों का उद्घरण ग्रहण करने हेतु भण्डार, कारखाना, प्रसंस्करण संयंत्र तथा मज्जीकरण संयंत्र का निरीक्षण करने देना होगा।
9. जिला अधिकारी ऐसी अग्रतर शर्तें अधिरोपित कर सकता है, जो लोकहित में आवश्यक हो।



VAKALATNAMA

IN THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

... ORIGINAL APPLICATION NO. 203 OF 2021

DISTRICT-.....

Devidas Khatai PETITIONER(S)

VERSUS

Union of India & Others RESPONDENT(S)

I/WE OM LAXMI INDUSTRIES proprietor
Chandra Prakash Kesarwari
.....
..... Petitioner

/Respondent in the above Petition/Appeal/Revision, do hereby appoint and retain.

(SRISHTI GUPTA)

Advocate

Enroll. No. UP 12648/2021

A.R. No. A/S 0657/22

Chamber No. 4, High Court, Allahabad

Mob. No. 7388151087

R/o 242/91, Muir Road, Ashok Nagar, Allahabad

To act and appear for me/us in the above Petition/Suit/Appeal/Revision and on my behalf to conduct and prosecute or (defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceeding in taxation and application for Review, to file and obtain return of documents, and to deposit and receive money on me/our behalf in the said Suit/Appeal/Petition/Reference and in application of Review and to represent me/us and to take all necessary steps on my behalf in above matter. I/We agree to rectify acts done by the aforesaid Advocate in pursuance of this authority.

I/We appoint the said lawyer(s) with the above mentioned authorities after setting the fee and agree that whatever shall be done by the said lawyer(s) in connection with the said proceeding shall be binding on me/us.

Dated this of 19 Day of March 2024

Client(s): Signature 

..... Witnesses: Signature

“ACCEPTED”


(SRISHTI GUPTA)

Advocate

Counsel For Respondent (OM LAXMI INDUSTRIES)