

VIKAS KUMAR SINGH
ADVOCATE

Dated : 02.08.2022

To,
The Registrar,
National Green Tribunal,
Faridkot House,
New Delhi

Subject : *Original Application No. 61 of 2022*

Ref : *Objections / Reply / Submissions on behalf of the Applicant to the Joint Committee Report dated 21.05.2022 filed on 21.07.2022*

Sir/Madam,

This is to apprise you that on 21.07.2022 in the subject matter *Objections / Reply / Submissions on behalf of the Applicant to the Joint Committee Report dated 21.05.2022* has been filed in which some facts and annexures were wrongly averred and annexed respectively, so, now corrected *Objections / Reply / Submissions on behalf of the Applicant to the Joint Committee Report dated 21.05.2022* is being filed with correct averments and annexures.

Therefore, it is humbly requested to your honour direct the registry to take of the record document filed on 21.07.2022 and replaced it with and take on record the document filed on 02.08.2022 in the interest of justice.

Thanking you,

Your Faithfully



(Vikas Kumar Singh)

Advocate for the Applicant

(O) : 134, M.C. SETALWAD, SUPREME COURT OF INDIA, NEW DELHI – 110001.
(R) : E-33, GREATER KAILASH-III, NEW DELHI – 110048.
MOBILE: +91 9911111246, +91 9911011246
EMAIL: vksofficesc@gmail.com

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH :: NEW DELHI

ORIGINAL APPLICATION No. 61 of 2022

(Under Section 18 of the National Green Tribunal, Act, 2010)

IN THE MATTER OF:

All India Kaimur Peoples's Front Applicant

Vs.

The State of U.P. & Ors. Respondents

OBJECTIONS / REPLY / SUBMISSIONS ON BEHALF OF THE
APPLICANT TO THE JOINT COMMITTEE REPORT DATED
21.05.2022

Filed By :



(VIKAS KUMAR SINGH)

Enl. No. D-1762/07

Counsel for Applicant

134, New Lawyer's Chamber,

Supreme Court, New Delhi

Place : New Delhi

Dated : 02.08.2022

M. No. 9911111246

Email : vksofficesc@gmail.com

INDEX

S. No.	DESCRIPTION	PAGES
1.	Objections / Reply / Submissions on behalf of the Applicant to the Joint Committee Report dated 21.05.2022 with affidavit.	1 – 24
2.	<u>ANNEXURE-R-1:</u> A true copy of the order dated 22.01.2019 of the District Magistrate, Sonbhadra.	25 – 26
3.	<u>ANNEXURE-R-2:</u> A true copy of the photograph of mining site of Respondent No. 7.	27
4.	<u>ANNEXURE-R-3:</u> A true copy of Google Map photo showing outside mining near Railway Line.	28 – 30
5.	<u>ANNEXURE-R-4:</u> A true copy of Google Map photos showing distance from Railway Line & Abadi (Inhabited Site) of granted mining area.	31 – 32
6.	<u>ANNEXURE-R-5:</u> A true copy of Google Map photo showing illegal mining & illegal excavation in the surroundings of granted mining area of Respondent No. 8.	33
7.	<u>ANNEXURE-R-6:</u> A true copy of order dated 21.11.2019 of District Magistrate, Sonbhadra.	34
8.	<u>ANNEXURE-R-7:</u> True copies of Khatauni of Arazi Nos. 7577Kha and 7577Ka/2.	35 – 36
9.	<u>ANNEXURE-R-8:</u> A true copy of Google Map photo showing outside mining on Arazi No. 7577Ka/2.	37 – 38

**BEFORE THE NATIONAL GREEN TRIBUNAL
AT PRINCIPAL BENCH :: NEW DELHI
ORIGINAL APPLICATION NO. 61 OF 2022**

IN THE MATTER OF :

All India Kaimur Peoples Front Applicant

Versus.

The State of U.P. & Ors. Respondents

**OBJECTIONS / REPLY / SUBMISSIONS ON BEHALF OF THE
APPLICANT TO THE JOINT COMMITTEE REPORT DATED
21.05.2022**

MOST RESPECTFULLY SHOWETH:

I. That the present objections / reply / submissions are being filed on behalf of the applicant.

II. The Uttar Pradesh Minor Minerals (Concession) Rules, 1963 is now The Uttar Pradesh Minor Minerals (Concession) Rules, 2021, therefore, “35th Amendment of Rule 41-A in Column-2” is now Rule 42(e) of 2021, Rules which is mentioned as below :

“42. The holder of a lease shall exercise the liberties, power and privileges mentioned in Rule 41 subject to the following restrictions and conditions :

.....

(e) no mining operation shall be carried on at or to any point within a distance 50 metres from any railway line except with the previous written permission of the Railway Administration concern, or from any reservoir, canal or other public works, such as public roads and buildings or inhabited site except with the previous written permission of the District Officer or any other officer authorised by the State Government in this behalf and otherwise than in accordance with such instructions and conditions either general or special, which may be attached to such permission. The said distance of 50 metres shall be measured in case of railway, reservoir, canal or road horizontally from the outer toe of the Bank or the outer edge of the cutting, as the case may be, and in case of a building horizontally from plinth thereof;

Provided that the distance in the case of a village road shall be 10 metres from the outer edge of the cutting; and

Explanation: For the purpose of this sub-rule, the expression 'public road', shall mean a road which has been constructed after being artificially surfaced as distinct from a track resulting from repeated use, and 'village road' will include any track shown in the revenue record as village road;"

- 1. (i) Sh. Rajesh Kumar son of Late Kaliram, resident of Chopan, District-Sonbhadra, and (ii) Smt. Farida Begum wife of Imtiyaz Ahmad, resident of Chopan, District-Sonbhadra – (Respondent No. 7).**

GRANTED AREA TO MINING PROPONENTS RESPONDENT**NO. 7 (i) & (ii):**

Survey Plot Nos. 7586, 7590, 7584, Area 1.85 Acre (0.748 ha)
Village – Billi Markundi, Tehsil – Robertsganj, Sonbhadra, Lease
Period 10 years from 01.12.2016 to 30.11.2026.

ALLEGED ILLEGAL MINING AREA:

Illegal mining on plot nos. 7585 & 7587 (Dam Land), Arazi no. 7611 (Partial part of Nala), Arazi nos. 7589 (0.0510 ha) 7612 (0.0135 ha) and 7683 (0.30 acre) adjacent to granted mining areas. Formed deep pit of 50 meters by excavation of thousands of cubic meters Boulder (Dolo Stone)

OBJECTIONS/REPLY TO THE REPORT:

- i. That it is stated in Para 1(1) of the report, while inspection mining found to be closed in mining area which is wrong, hence denied as continuous mining, illegal excavation and illegal mining is being carried out by the mining proponents and daily around 50 tippers of material being supplied with illegal transport permit (MM-11).
- ii. That it is stated in Para 1(5) of the report, Arazi No. 7585 area 0.1010 ha in the north direction and Arazi No. 7587 area 0.0760 ha in the middle are adjacent to the approved

mining lease area which are mentioned in the category 6(4) of Dam Khata, so, admittedly Arazi No. 7585 & Arazi No. 7587 are Dam Lands, therefore, mining area within the periphery of 50 meters of Dam Land, hence Amended Rule 41-A of the U.P. Mines and Minerals (Concession) Regulations, 1963 (Now Rule 42(e) of 2021, Rules) squarely applicable where no mining operation can be carried out.

- iii. That it is stated in Para 1(4) of the report, Nala is not visible in the vicinity of mining area. Wrong, hence denied as Arazi No. 7611 (partial part of nala) is still recorded in revenue records and adjacent to granted mining area arazi no. 7584, therefore within the distance of 50 meters from Nala as well as due to illegal mining Nala is not visible.
- iv. That it is stated in Para 1(2) of the report, Abadi (Inhabited Site) is located within a radius of about 100 meter of the mining area, so, admittedly Abadi located within 100 meters radius of blasting mining site, which is violation of the order dated 21.07.2020 in OA No. 304/2019, where it has been held by this Hon'ble Tribunal that "*Minimum Distance should be 200 m. when blasting is involved from Residential, Public Building, Inhabited sites.*"
- v. That while inspection on 25.11.2018 by the Committee found mining proponent is carrying out illegal mining outside the granted mining area on Arazi No. 7612 (0.09

Acre) and 7583 (0.20 acre) by creating average depth of pit around 4 meters total illegal mining found 4693.36 cubic meter with regard to notice has been issued to the mining proponents on 28.11.2018, to which reply given by mining proponent on 27.12.2018, the reply has been rejected by DM, Sonbhadra and imposed penalty on 22.01.2019 of Rs. 35,20,020, whether penalty deposited or not to be clarified by authorities or by the mining proponents. A true copy of the order dated 22.01.2019 of the District Magistrate, Sonbhadra is annexed herewith as **ANNEXURE-R-1**.
(*Violation-1*)

- vi. That it is stated in Para 1(6) of the report, as per inspection Report dated 09.05.2019, illegal mining of 1821 cubic meter found to be carried out on Arazi Nos. 7590 & 7584 (left out area-not granted mining area) and on Arazi No. 7587 Dam Land and on Arazi No. 4419 (restricted area), for which notice issued on 22.05.2019 and on 23.07.2019 DM, Sonbhadra passed an order imposing penalty of Rs. 13,65,750 and till date penalty amount not deposited by the mining proponents. (*Violation-2*)
- vii. That it is stated in annexure-5 to the report, while inspection during 21.01.2021 to 25.01.2021 by the committee, illegal mining of 298 Cubic meter of minerals found to be carried out by the mining proponents, for which penalty was imposed by the District Magistrate, and the

said penalty was deposited by the mining proponents.
(*Violation-3*)

- viii. That with regard to the above *violation-3* complete details have not been provided as no inspection report provided, as to when notice was issued and how much penalty has been imposed, whether mining proponent given explanation or not and as to when the penalty was deposited by the mining proponent and its receipt.
- ix. That it is stated in Para 1(6) of the report, as per Inspection Report dated 04.02.2022, it is found, mining proponent created pits and carried out illegal mining of 3854 cubic meters on spot as well as not complying with the depth standards, for which notice issued on 05.03.2022 imposing penaltys of Rs. 37,49,840/- which has been deposited by the mining proponents. (*Violation-4*)
- x. That it is stated in Para 1(7) of the report, as per present inspection illegal mining of 15,150 cubic meters found to be carried out by the mining proponents outside the granted mining area in North on Dam Land Arazi No. 7585 (0.1010 ha) as well as 15 meters deep pit has been discovered and illegal mining of 15,200 cubic meters found to be carried out on centre of the Dam Land Arazi No. 7587 (0.0760 ha) further another deep pit of 25.5 meters has been discovered, so total depth of pit found to be 45.5 meters,

therefore illegal mining of around 30,350 cubic meters have found to be carried out outside the granted mining area, but no action has been shown to be taken by the authorities for this violation in the Joint Committee Report. *(Violation-5)*

- xi. That as stated above in recent inspection *(no date given)* 30,350 cubic meter illegal mining found to be carried out by the mining proponents, further it is appearing that the said illegal mining has been carried out within the duration of 4 months if calculated from the date of last inspection dated 04.02.2022 till the submission of this report dated 21.05.2022, which is appearing to be 6 times of the permitted limit mentioned in Environmental Clearance i.e., 15000 cubic meters per year only.
- xii. That as per *Violations-1, 2 & 5* mentioned above illegal mining found to be carried out by the mining proponents outside the granted area and also on dam land outside the granted mining area violating Clause-21 of the Mining Lease Deed which says that *“if any illegal mining is found outside the periphery of the approved mining lease area, the mining lease will be cancelled,”* as well as squarely attracts amended rule 41-A of 1963 Rules (Now Rule 42(e) of 2021, Rules) which prohibits mining operations within 50 meters from/on Dam land (reservoir).

- xiii. That in para 1(6) of the report it is mentioned depth standards are not being complied with and para 1(7) deep pits of around 15, 25 & 45.5 meters are found in mining areas and outside mining areas respectively, therefore it is apparent that depth standard are not being complied with by the mining proponents which is violation of Clause-8 of the Environment Clearance which says that “*the ultimate depth of mining will be restricted to 15 mtr/water level, whichever is less.*” A true copy of the photograph of mining site of Respondent No. 7 is annexed herewith as **ANNEXURE-R-2.**
- xiv. That further in the joint committee report dated 21.05.2022 it is not clarified as to whether mining proponent is touching the ground water level or not while violating the depth standards ?
- xv. That granted mining area is situated adjacent to the Dam Land as per joint committee report dated 21.05.2022, further illegal mining being carried out on dam land as well as on nala, also for the mining purposes blasting being done near abadi by the mining proponent which are violation of Clause 13 of General Condition of EC which says that “*special measures shall be adopted to prevent the nearby settlements from the impacts of mining activities.*”

- xvi. That despite numerous violations of illegal mining on outside / inside the granted mining area and imposition of penalties, no FIR has been lodged by the authorities against the mining proponent – respondent no. 7, which shows the malafide and connivance of authorities with mining proponents which encouraging / promoting them to continue illegal mining / excavation of minerals.
- xvii. That in the Joint Committee Report dated 21.05.2022 nothing has been said / mentioned with regard to Arazi No. 7589 (0.0510 ha) adjacent to granted mining area on which mining proponents are allegedly carrying out illegal mining?

2. M/s. BCS Enterprises, Proprietor – Sh. Chandra Bhushan Gupta son of Sh. Ram Lakhan Gupta, resident of Obra, District – Sonbhadra & Sh. Shafiq Ahmad son of Sh. Shagir Ahmad, resident of Obra, District – Sonbhadra – (Respondent No. 8).

GRANTED AREA TO MINING PROPONENTS RESPONDENT NO. 8:

Survey Plot Nos. 4419Kha, 4419Ga, 4422Ka Min., 4416Ka, 7576, 7577Kha, 4420 Min. Area 4.86 Acre (1.96 ha) Village – Billi Markundi, Tehsil – Robertsganj, Sonbhadra, Lease period 10 years from 26.05.2016 to 25.05.2026.

ALLEGED ILLEGAL MINING AREA:

Illegal mining on Plot nos. 4422Kha (0.063 ha) (Railway Pit) Arazi No. 4419Ka (0.025 ha) (Land of Dam) Arazi Nos. 4420 (0.0510 ha), 4422Ka (0.200 ha), adjoining to granted mining areas, Formed a deep pit of 50 meters by excavation of hundreds of cubic meters of Boulder (Dolo Stone).

OBJECTIONS/SUBMISSIONS/REPLY TO THE REPORT:

- i. That it is stated in Para 2(1) of the report, while inspection mining found to be closed in mining area, wrong, hence denied as continuous mining, illegal excavation and illegal mining is being carried out by the mining proponent and daily around 300-400 tons material being supplied with illegal transport permit (MM-11) issued by the mining department.
- ii. That it is stated in Para 2(2) of the report, Granted Mining Area of respondent no. 8 shown to be situated $(43+11) = 54$ meters from Railway Line and it is also stated mining granted and carried out in 43 meters till 2011 only, which is wrong hence denied as few months earlier illegal mining is being carried out in this area by the mining proponent – respondent no. 8.

- iii. That it is further denied 54 meters distance of granted mining area from railway line, as the distance of granted mining area Arazi No. 4422Ka Min. is less than 50 meters.
- iv. That the said Arazi No. 4422Ka Min. has neither been colored nor shown as granted mining area of mining proponent – respondent no. 8 on the Map annexed alongwith the joint committee report dated 21.05.2022 only to defend the mining proponent-respondent no. 8 and to mislead this Hon'ble Tribunal, otherwise it is apparently clear and admitted fact that distance of granted mining area Arazi No. 4422 Ka Min. is less than 50 meters from the Railway Line, which is crystal clear from the Map itself annexed with joint committee report dated 21.05.2022, hence granted mining area falls within 50 meters distance from Railway Line.
- v. That further Arazi No. 4422Kha (0.063 ha) recorded as Railway Pit in the revenue records which is adjacent to 4422Ka Min. the granted mining area, has also not been discussed / mentioned in the joint committee report dated 21.05.2022.
- vi. That further it is pertinent to mention here the mining proponent – respondent no. 8 in western direction in the mid of Railway Line and Granted Mining Area Arazi No. 7577 carrying out illegal mining outside the granted mining

area in around 0.92 acre which is also falls within the 50 meters of Railway Line. A true copy of Google Map photo showing outside mining near Railway Line is annexed herewith as **ANNEXURE-R-3**.

- vii. That despite Abadi being close inhabited and distance of which is only 40 meters from the granted mining area, has not been mentioned / discussed in the joint committee report dated 21.05.2022 due to malafide intent of authorities only to defend the mining proponent – respondent no. 8. A true copy of Google Map photos showing distance from Railway Line & Abadi (Inhabited Site) of granted mining area is annexed herewith as **ANNEXURE-R-4**.
- viii. That in para 2 of the report latitude and longitude of pillars A to K / 1 to 11 of the demarcated granted mining area has been mentioned on the basis of which measurement of granted mining area of respondent no. 8 has been taken through google map which is show by yellow line in the google map photo and in the same illegal mining done outside the surroundings eastern, western and southern sides of granted mining area by the respondent no. 8 also reflecting. A true copy of Google Map photo showing illegal mining & illegal excavation in the surroundings of granted mining area of Respondent No. 8 is annexed herewith as **ANNEXURE-R-5**.

- ix. That Arazi No. 4419 Kha is the granted mining area and Arazi No. 4419 Ka & 7587 are the recorded Dam Land in revenue records which is apparently and admittedly adjacent to the granted mining area, therefore granted mining area falls within the periphery of 50 meters of Dam land, the same has also not been mentioned / discussed in the joint committee report dated 21.05.2022.
- x. That in all the situations mentioned above depicting distance of granted mining area of the mining proponent – respondent no. 8 falls within the periphery of 50 metres of Railway Line, Abadi (Inhabited Site) and Dam squarely attracts amended rule 41-A of the U.P. Mines and Minerals (Concession) Regulations, 1963, (Now Rule 42(e) of 2021, Rules), where no mining activity can be carried out.
- xi. That it is stated in Para 2(2) of the report in Arazi No. 7576 & 7577 redressal work is being carried out under Sec. 22 (3) of Mines Act, 1952, so this is to apprise that in the mining area where redressal work under Sec. 22(3) is being carried out in that situation mining / transportation remain banned till the redressal work is over in that area which will resume only after when concerned DGMS on inspection inform the District Magistrate about completion of such redressal work, but in the present case mining proponent without removal of sec. 22(3) carrying out mining, illegal excavation, illegal mining and transportation. Further

mining department issuing transport permit (MM-11) in such situation to the mining proponent.

- xii. That it is stated in annexure-10 to the joint committee report dated 21.05.2022, while inspection during 16.11.2019 to 17.11.2019 illegal mining / excavation of 8175 cubic meter have been found further depth standards were also not being complied with in violation of granted mining plan. A true copy of order dated 21.11.2019 of District Magistrate, Sonbhadra is annexed herewith as **ANNEXURE-R-6**. (*Violation-1*)
- xiii. That further it is stated in annexure-10 to the joint committee report dated 21.05.2022, while inspection during 21.01.2021 to 25.01.2021 illegal mining / excavation of 676 cubic meter have been found, in granted mining area for which penalty has been imposed which has been deposited by the mining proponent. (*Violation-2*)
- xiv. That it is stated in Para 2(4) of the report, under granted area till 04.02.2022 total 2,34,805 cubic meter mining has been done and after deducting MM-11 total 2,739 cubic meter illegal mining was found to be carried out and penalty of Rs. 26,29,440 has been imposed on 15.03.2022, which has been deposited on 22.03.2022 by the mining proponent. (*Violation-3*)

- xv. That it is stated in Para 2(4) of the report, till inspection on 04.02.2022 total 2,34,805 cubic meter mining has been done but not mentioned from which date it has been done, if assumed from last inspection done on 25.01.2021 till inspection dated 04.02.2022 it comes to about one year and it is stated that total 2,34,805 cubic meter mining has been done within this one year, but permitted limit is 1,00,000 cubic meter per year as per Environmental Clearance, therefore, around 1,34,805 cubic meter should be an estimated quantity of illegal mining.

Therefore, incorrect estimation given by authorities to defend the mining proponent.

- xvi. That with regard to abovementioned violations committed by the mining proponent – respondent no. 8, complete details have not been provided as no inspection report provided, as to when notice was issued and how much penalty has been imposed, whether mining proponent given explanation or not and as to when the penalty was deposited by the mining proponent and its receipt.
- xvii. That it is also pertinent to mention here that in eastern direction Arazi No. 7577Kha is granted mining area of mining proponent – respondent no. 8 and Arazi No. 7577 Ka/2 is recorded in the name of Proprietor Chandra Bhushan Gupta – respondent no. 8 – mining proponent as

per revenue records, therefore taking advantage of it, under the guise of granted mining area carrying out illegal mining outside the granted mining area from Arazi No. 7577Kha (left out area) to Arazi No. 7577 Ka/2. True copies of Khatauni of Arazi Nos. 7577Kha and 7577Ka/2 is annexed herewith as **ANNEXURE-R-7** and a true copy of Google Map photo showing outside mining on Arazi No. 7577Ka/2 is annexed herewith as **ANNEXURE-R-8**.

- xviii. That further the above-mentioned illegal mining carrying out by the mining proponents on the outside area of granted mining area shown in photos of Google Map annexed herein, is apparently violation of Clause-21 of the Mining Lease Deed which says that *“if any illegal mining is found outside the periphery of the approved mining lease area, the mining lease will be cancelled.”*
- xix. That as per annexure-10 to the report, two pits of 26 meters and 8 meters respectively were discover in the mining area in which mining work found to be carried out by the mining proponents which is violation of Clause 8 of Specific Condition of EC which says that, *“no two pits shall be simultaneously worked,”* further it is stated that depth standards were also not being complied with by the mining proponents which is violation of restricted depth of mining mentioned in Clause 8 of the Environmental Clearance

which says *“the ultimate depth of mining will be restricted to 15 mtr/water level, whichever is less.”*

- xx. That further in the joint committee report dated 21.05.2022 it is not clarified as to whether mining proponent is touching the ground water level or not while violating depth standards ?
- xxi. That as per photo of Google Map annexed herein, Abadi (Inhabited Site) is located within a radius of about 200 meter of blasting mining site which is violation of the order dated 21.07.2020 in OA No. 304/2019 where it has been held by this Hon’ble Tribunal that *“Minimum Distance should be 200 m. when blasting is involved from Residential, Public Building, Inhabited sites.”*
- xxii. That granted mining areas are situated within the distance of 50 meters from the Railway Line as well as Dam Land, also for the mining purposes blasting being done within 50 meters from abadi (inhabited site) by the mining proponent which are violation of Clause 13 of General Condition of EC which says that *“special measures shall be adopted to prevent the nearby settlements from the impacts of mining activities.”*
- xxiii. That despite almost after three (3) known violations of illegal mining on outside / inside the granted mining area

committed by the mining proponent – respondent no. 8 and imposition of penalties, no FIR has been lodged by the authorities against the mining proponent – respondent no. 8, which shows the malafide and connivance of authorities with mining proponents which encouraging / promoting them to continue illegal mining / excavation of minerals.

xxiv. That in the Joint Committee Report dated 21.05.2022 nothing has been said / mentioned with regard to Arazi Nos. 4420 (0.0510 ha) and 4422Ka (0.200 ha) adjacent to granted mining area on which mining proponents are allegedly carrying out illegal mining ?

3. M/s. Ishana Construction Proprietor Smt. Afreena Khan wife of Sh. Ishtiyag Khan resident of Village – Billi Markundi, Obra, District – Sonbhadra.

GRANTED AREA TO MINING PROPONENTS RESPONDENT NO. 9:

Survey Plot Nos. 5355Ka, 5359, 5361, 5363Ka, 5351Ka, 5352, 5353, 5354, 5362, 5355Kha, 5356, 5357Kha and 5351Kha Area 5.80 Acre (2.34 ha) Village – Billi Markundi, Tehsil – Robertsganj, Sonbhadra for a period of 10 years from 27.05.2016 to 26.05.2026

ALLEGED ILLEGAL MINING AREA:

Illegal mining on Plot nos. 5363Kha (0.0640 ha) 5364 (0.0690 ha) 5365 (0.0060 ha) 5362 (0.0250 ha) (Dam Lands) Arazi no. 5360 adjoining to granted mining areas. Excavation of hundreds of cubic meters of minerals.

OBJECTIONS/SUBMISSIONS/REPLY TO THE REPORT:

- i. That it is stated in Para 3(1) of the report, on the date of inspection mining found to be running in mining area further, the mining proponent under the guise of granted mining area carrying out illegal excavation and illegal mining outside the granted mining area.
- ii. That it is stated in Para 3(2) of the report, No Railway Line, Nala and Chak Dam present in periphery of 50 meters. Wrong, hence denied contrary to the records.
- iii. That it is stated in Para 3(3) of the report, Arazi No. 5362 within the mining lease area is recorded in the name of Dam as category 6(4) in Revenue Records, admittedly Arazi No. 5362 is a Dam Land as per revenue record, therefore, granted mining area falls within the periphery of 50 meters of Dam Land, hence Amended Rule 41-A of the U.P. Mines and Minerals (Concession) Regulations, 1963 (Now Rule

42(e) of 2021, Rules) squarely applicable where no mining activity can be carried out.

- iv. That it is stated in Para 3(4) of the report, while inspection during 21.01.2021 to 25.01.2021 illegal mining / excavation of 637 cubic meter have been found in granted mining area for which penalty has been imposed which has been deposited by the mining proponent. (*Violation-1*)
- v. That it is also stated in Para 3(4) of the report, while inspection done on 04.02.2022 it is found mining proponent by creating Mining Pits carried out illegal mining / excavation of 817 cubic meter, without complying the depth standards for which penalty has been imposed of Rs. 8,34,320/- which has been deposited by the mining proponent. (*Violation-2*)
- vi. That it is further stated in Para 3(4) of the report, inspection done on 01.05.2022 found illegal mining of 15,732 cubic meter carried out by the mining proponent outside the granted mining area in Arazi No. 5363 in South Direction for which notice dated 05.05.2022 issued imposing penalty of Rs. 1,19,99,000/-. Further FIR No. 83/2022 registered against the mining proponent for illegal mining of 15,732 cubic meter found on 01.05.2022. (*Violation-3*)

- vii. That with regard to abovementioned violations committed by the mining proponent – respondent no. 9, complete details have not been provided as no inspection report provided, as to when notice was issued and how much penalty has been imposed, whether mining proponent given explanation or not and as to when the penalty was deposited by the mining proponent and its receipt.
- viii. That further the above-mentioned illegal mining carrying out by the mining proponents on the outside area of granted mining area is violation of the Clause-21 of the Mining Lease Deed which says that *“if any illegal mining is found outside the periphery of the approved mining lease area, the mining lease will be cancelled.”*
- ix. That in para 3(4) of the report it is mentioned depth standards are not being complied with by the mining proponent, which is violation of Clause-8 of the Environment Clearance which says that *“the ultimate depth of mining will be restricted to 15 mtr/water level, whichever is less.”*
- x. That in the Joint Committee Report dated 21.05.2022 nothing has been said / mentioned about the illegal mining within the periphery of 200 meters of Educational Institution (public place) located within the radius of blasting mining site which is violation of the order dated

21.07.2020 in OA No. 304/2019 where it has been held by this Hon'ble Tribunal that "*Minimum Distance should be 200 m. when blasting is involved from Residential, Public Building, Inhabited sites.*"

- xi. That granted mining area of the mining proponent situated within the distance where for the mining purposes blasting being done which are violation of Clause 13 of General Condition of EC which says that "*special measures shall be adopted to prevent the nearby settlements from the impacts of mining activities.*"
 - xii. That despite discovery of illegal mining, imposition of penalty, registration of FIR, the mining proponents in connivance of authorities continuously carrying out mining, illegal excavation and illegal mining till date.
 - xiii. That in the Joint Committee Report dated 21.05.2022 nothing has been said / mentioned with regard illegal mining on 5364 (0.0690 ha) 5365 (0.0060 ha) 5362 (0.0250 ha) which are admittedly recorded as Dam Lands in revenue records and Arazi no. 5360 (Land of High Tension Electricity Tower) adjoining to granted mining areas.
- III. That proper measurement should be done of the mining areas of the project proponents for proper assessment and imposition of penalty + environmental compensation for illegal

mining / excavation of minerals from the date of lease, which estimated to come in lakhs of cubic meters as all mining proponents in the present case are shown regular violators.

IV. Therefore, it is humbly prayed to this Hon'ble Tribunal to cancel the mining lease deeds of the mining proponents – respondent nos. 7 to 9 in view of violations (illegal mining outside the granted mining area) mentioned in joint committee report dated 21.05.2022.

APPLICANT

Through

Place : New Delhi
Dated : 02.08.2022



(Vikas Kumar Singh)
Counsel for the Applicant
134, M.C. Setalvad Block,
Supreme Court of India, New Delhi
M. No. 9911111246
Email : vksofficesc@gmail.com

**BEFORE THE NATIONAL GREEN TRIBUNAL, NEW DELHI
ORIGINAL APPLICATION No. 61 OF 2022**

IN THE MATTER OF
All India Kaimur People's Front Applicant
Versus
The State of U.P. & Ors. Respondents

AFFIDAVIT

I, Dheerendra Kumar Singh aged about 31 years S/o Sh. Kamlesh Singh R/o Village – Pusauli, Post – Shahijan Kala, Distt. – Sonbhadra, (U.P.) at present General Secretary of All India Kaimoor Peoples' Front, Village – Lodhi, Post – Robertsganj, District – Sonbhadra, (U.P.) and at present in New Delhi do hereby solemnly affirm and state as under :-

1. That I am sole applicant in the present Original Application and I have been dealing with the subject matter of this application and therefore I am well conversant with the facts and circumstances of the case and competent to file this affidavit.
2. The accompanying objection / submissions / reply to the report dated 21.05.2022 has been drafted under my instructions and the facts mentioned therein are true to my knowledge and the records obtained and the legal submissions are on the advice of the counsel believed to be true.

20 JUL 2022


DEPONENT

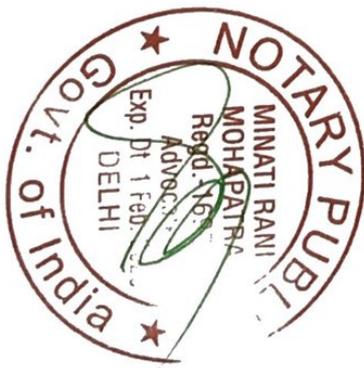
IDENTIFIED

VERIFICATION :

20 JUL 2022

I, the above named deponent do hereby verify that the contents of para 1 and 2 of the above affidavit are true to my knowledge.

Verified at New Delhi on this the 20th day of July, 2022



ATTESTED

NOTARY PUBLIC
GOVT. OF INDIA, DELHI


DEPONENT

IDENTIFIED
Sh. Smt. Kamlesh Singh
S/o. Sh. Dheerendra Kumar Singh
R/o. Village - Lodhi, Post - Robertsganj,
District - Sonbhadra, (U.P.)
identified by Shri Sm. [Signature]
has solemnly affirmed before me at Delhi
No. [Number]
that the contents of the affidavit which have
been read Over & explained to him are true
& correct to his knowledge.

आदेश

श्री राजेश कुमार पुत्र स्व० कलीराम निवासी चोपन, जनपद-सोनभद्र एवं श्रीमती फरीदा बेगम पत्नी श्री इम्तियाज अहमद निवासी चोपन, जनपद-सोनभद्र के पक्ष में जनपद-सोनभद्र के तहसील-रावर्टसगंज स्थित ग्राम-बिल्ली मारकुण्डी के हाल आराजी संख्या-7586, 7590, 7584 रकबा-1.85 एकड़ क्षेत्र पर गिट्टी/बोल्डर(डोलो स्टोन) का 10 वर्षीय खनन पट्टा दिनांक 01.12.2016 से दिनांक 30.11.2026 तक की अवधि के लिए स्वीकृत है। उक्त खनन पट्टा क्षेत्र की जांच खान अधिकारी, सोनभद्र खान निरीक्षक, सर्वेक्षक, खनिज विभाग एवं क्षेत्रीय लेखपाल द्वारा दिनांक 25.11.2018 को किया गया। जांच में पाया गया कि पट्टाधारक द्वारा अपने स्वीकृत क्षेत्र से बाहर आराजी संख्या-7612 रकबा-0.09 एकड़ एवं 7583 रकबा-0.20 एकड़, जो वर्तमान में रिक्त है, से औसत गहराई 04 मी० से कुल 4,693.36 घन मी० बोल्डर डोलो स्टोन का अवैध खनन तथा परिवहन किया गया है। पट्टाधारक का उक्त कृत्य उ०प्र० उपखनिज (परिहार) नियमावली, 1963 के नियम-3, 57 एवं 70 तथा खान एवं खनिज (विकास एवं विनियमन) अधिनियम, 1957 की धारा-4 व 21 का उल्लंघन व दण्डनीय अपराध है।

उक्त के क्रम में इस कार्यालय की नोटिस संख्या-2148/खनिज/2018 दिनांक 28.11.2018 द्वारा राज्य सरकार को रायल्टी की हुई क्षति की वसूली किये जाने हेतु श्री राजेश कुमार एवं श्रीमती फरीदा बेगम को नोटिस देकर स्पष्टीकरण मांगा गया था, जिसके क्रम में पट्टाधारक का स्पष्टीकरण दिनांक 27.12.2018 को प्राप्त हुआ। पट्टाधारिका श्रीमती फरीदा बेगम ने अपने स्पष्टीकरण में उल्लेख किया है कि-प्रार्थिनी के पति इम्तियाज अहमद की दिनांक 24.10.2018 की सुबह 6.00 बजे गोली मारकर हत्या कर दिये जाने के कारण प्रार्थिनी का खदान पर आना-जाना उस समय बन्द था। प्रार्थिनी के पार्टनर भी प्रार्थिनी के साथ भागदौड़ में व्यस्त थे। प्रार्थिनी के खनन पट्टा क्षेत्र का निरीक्षण खान अधिकारी, खान निरीक्षक, सर्वेक्षक एवं क्षेत्रीय लेखपाल द्वारा दिनांक 25.11.2018 को किया गया, जो प्रार्थिनी की उपस्थिति में नहीं किया गया। प्रार्थिनी के पति के हत्या हो जाने के पश्चात प्रार्थिनी का ध्यान काम-धंधा के प्रति कम हो गया था। प्रार्थिनी के द्वारा उक्त खनन पट्टा की चौहद्दी के बाहर पत्थर का अवैध खनन नहीं कराया गया है, प्रार्थिनी के पट्टे की जांच प्रार्थिनी की उपस्थिति में पुनः कराने का निर्देश दिया जाना न्यायहित में होगा। अन्त में श्रीमती फरीदा बेगम ने नोटिस संख्या-2148 दिनांक 28.11.2018 को मूल रूप में वापस लेते हुए उसके ऊपर लगाये गये अवैध खनन के सम्बन्ध में पुनः जांच करने की याचना की गयी है।

पट्टेधारिका ने अपने स्पष्टीकरण में लिखा है कि उनके पति की आकस्मिक मृत्यु हो जाने के कारण खदान में आना-जाना बन्द था। प्रार्थिनी के पार्टनर भी भाग-दौड़ में व्यस्त थे, स्वीकार नहीं है, क्योंकि खनन कार्य, ब्लास्टर, माइन्स मैनेजर की देख-रेख में मजदूरों द्वारा कराया जा रहा था तथा स्वीकृत क्षेत्र की आड़ में स्वीकृत क्षेत्र के बाहर आराजी संख्या-7612 एवं 7583 में अवैध खनन कार्य हुआ है, जिसका संज्ञान पट्टाधारक को था।

(2)

अतः श्री राजेश कुमार पुत्र स्व० कलीराम निवासी चोपन, जनपद-सोनभद्र एवं फरीदा बेगम पत्नी श्री इम्तियाज अहमद निवासी चोपन, जनपद-सोनभद्र द्वारा खनिज क्षेत्र के बाहर किये गये अवैध खनन मात्रा 4,693.36 घन मी० बोल्टडर (डोलो स्टोन) की रू० 125.00 प्रति घन मी० की दर से रायल्टी रू० 5,86,670.00, खनिमुख मूल्य रू० 33,350.00 अर्थात् कुल धनराशि रू० 35,20,020.00 (पैंतीस लाख बीस हजार बीस रुपये मात्र) खान एवं खनिज (विकास एवं विनियमन) अधिनियम, 1957 की धारा-21(5) के प्राविधानों के अनुसार श्री राजेश कुमार एवं श्रीमती फरीदा बेगम से वसूल की जाय। यदि उक्त धनराशि एक माह के अन्दर जमा नहीं किया जाता है तो उगकी वसूली, उ०प्र० उखनिज (परिहार) नियमावली, 1963 के नियम-58 के प्राविधानों के अनुसार श्री राजेश कुमार एवं श्रीमती फरीदा बेगम से भू-राजस्व की भौति की जाय। इस आदेश की एक प्रति श्री राजेश कुमार एवं श्रीमती फरीदा बेगम को भेज दी जाय।

(अमित कुमार सिंह)
जिलाधिकारी,
सोनभद्र।

पत्रांक व तद दिनांक:-

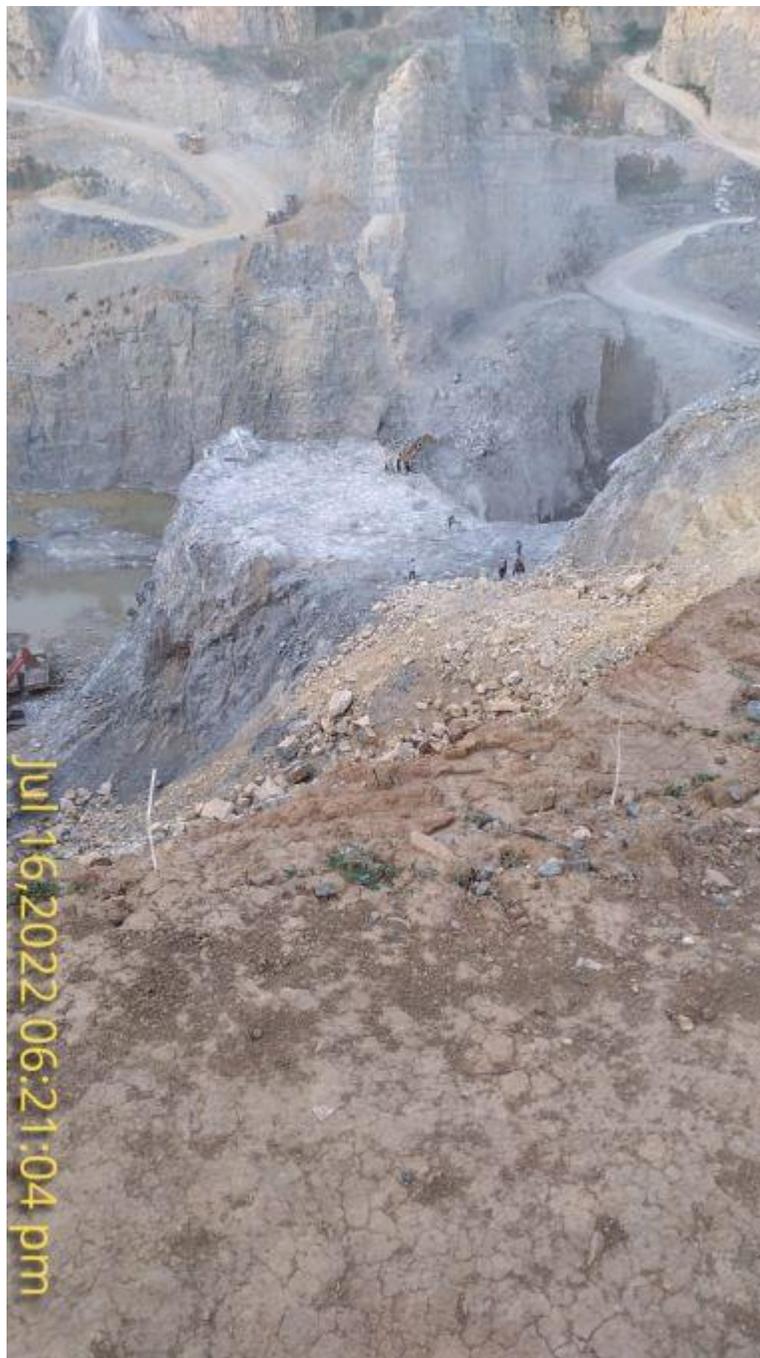
प्रतिलिपि:- श्री राजेश कुमार पुत्र स्व० कलीराम निवासी चोपन, जनपद-सोनभद्र एवं श्रीमती फरीदा बेगम पत्नी श्री इम्तियाज अहमद निवासी चोपन, जनपद-सोनभद्र को अनुपालनार्थ प्रेषित।

22/01/19
जिलाधिकारी,
सोनभद्र।

// TRUE COPY //

ANNEXURE-R-2

MINING AREA OF RESPONDENT NO. 7



A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by several horizontal strokes.

// TRUE COPY //

ANNEXURE-R-3

**SHOWING OUTSIDE MINING NEAR RAILWAY LINE BY
RESPONDENT NO. 8**



Perimeter ⓘ

339 m ▼



Area

0.92 ac ▼





Perimeter ⓘ

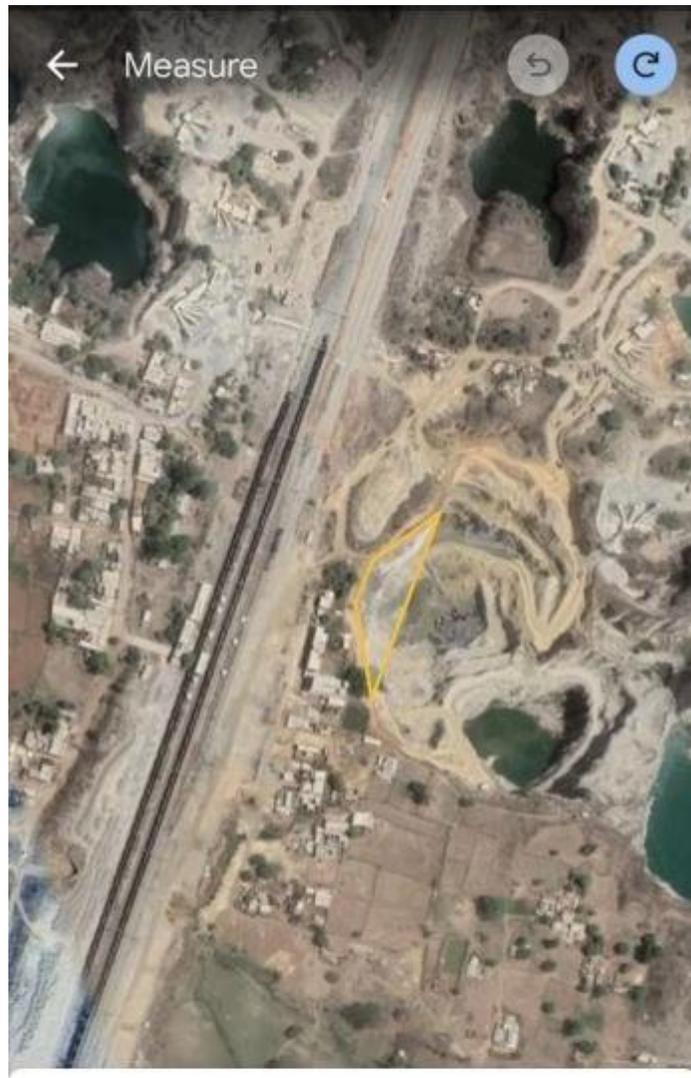
339 m ▾



Area

0.92 ac ▾





Perimeter ⓘ

339 m ▼



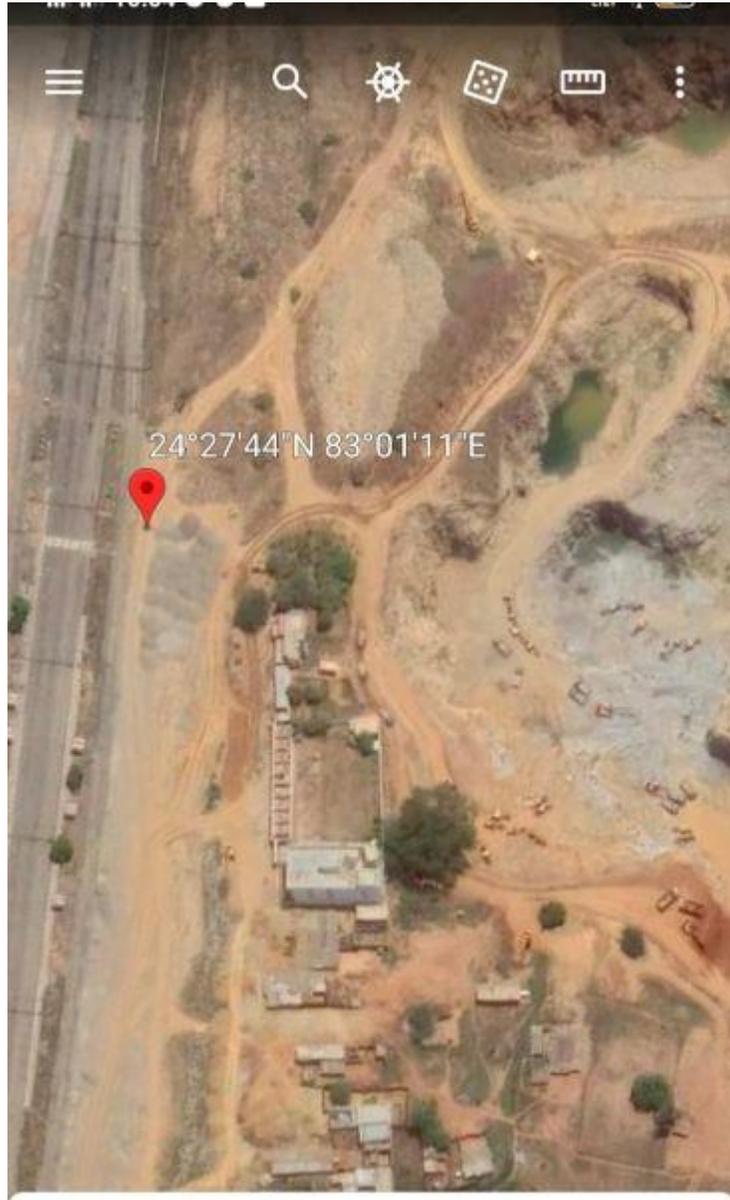
Area
0.92 ac ▼



// TRUE COPY //

ANNEXURE-R-4

MINING AREA OF RESPONDENT NO. 8 WITHIN WITHIN 50 METERS FROM RAILWAY LINE



Dropped Pin



24°27'44\"/>

// TRUE COPY //

MINING AREA OF RESPONDENT NO. 8 WITHIN APPROX 40 METERS FROM ABADI



Dropped Pin



24°27'39"N 83°01'12"E • 204 m

// TRUE COPY //

ANNEXURE-R-5

SHOWING ILLEGAL MINING & ILLEGAL EXCAVATION IN THE SURROUNDINGS OF GRANTED MINING AREA OF RESPONDENT NO. 8



// TRUE COPY //

कार्यालय जिलाधिकारी, सोनभद्र।

ANNEXURE-R-6

(खनिज अनुभाग)

पत्रांक १००३ / खनिज / 2019

दिनांक 21/11/2019

नोटिस

मे० बी०सी०एस० इण्टर प्राइजेज
पा०-श्री चन्द्र भूषण गुप्ता पुत्र श्री राम लखन गुप्ता
निवासी-ओबरा, जनपद-सोनभद्र
एवं श्री शफीक अहमद पुत्र श्री सागीर अहमद निवासी-ओबरा,
जनपद-सोनभद्र।

आपके पक्ष में जनपद-सोनभद्र के तहसील-रावर्टसगंज स्थित ग्राम-बिल्ली मारकुण्डी के आराजी संख्या-4419ख, 4419ग, 4422क मि०, 4416क, 7576, 7577ख, 4420मि० रकबा-4.86 एकड़ क्षेत्र पर गिट्टी/बोल्डर (डोलो स्टोन) का 10 वर्षीय (दिनांक 26.05.2016 से 25.05.2026 तक) खनन पट्टा स्वीकृत है। उक्त खनन पट्टा क्षेत्र की जांच निदेशक, भूतत्व एवं खनिकर्म निदेशालय द्वारा गठित जांच दल द्वारा संयुक्त रूप से दिनांक 16.11.2019 को की गयी। मौके पर किये गये खनन की पैमाईश की गयी, जिसके अनुसार 75 मी० × 25 मी० × 09 मी० = 16,875 घन मी० पत्थर का खनन होना पाया गया। कार्यालय अभिलेखानुसार माह-अगस्त, 2019 से दिनांक 15.11.2019 तक आप द्वारा कुल 8,700 घन मी० के लिए परिवहन प्रपत्र ई-एम०एम०-11 जनरेट किया गया है। इस प्रकार आप द्वारा निर्गत ई०एम०एम०-11 के सापेक्ष 8,175 घन मी० पत्थर का अवैध खनन एवं परिवहन किया गया है। निरीक्षण में यह भी पाया गया कि आप द्वारा अपने खनन पट्टा क्षेत्र में बेंच का निर्माण कर खनन कार्य नहीं किया जा रहा है, गहराई के मानको का अनुपालन भी नहीं किया जा रहा है, जो अनुमोदित खनन योजना की शर्तों का उल्लंघन है। निदेशक महोदया के निर्देशानुसार आपके खनन पट्टा क्षेत्र से सम्बन्धित ओ०टी०पी० को, नियमानुसार कार्यवाही किये जाने तक निदेशालय द्वारा प्रतिबन्धित कर दिया गया है, इसलिए प्रकरण के निस्तारण तक अपने खनन क्षेत्र में खनन/परिवहन कार्य बन्द रखें।

आपका उक्त कृत्य अनुमोदित खनन योजना में निर्धारित शर्तों एवं पर्यावरण स्वच्छता प्रमाण पत्र में दी गयी शर्तों के उल्लंघन के साथ-साथ खान एवं खनिज (विकास एवं विनियमन) अधिनियम, 1957 की धारा-4/21 तथा उ०प्र० उपखनिज (परिहार) नियमावली, 1963 के नियम-34/59 का स्पष्ट उल्लंघन एवं दण्डनीय अपराध है।

अतः एतद्वारा नोटिस प्राप्ति के 15 दिन के अन्दर अधोहस्ताक्षरी के समक्ष इस आशय का स्पष्टीकरण प्रस्तुत करें कि नियमावली, 1963 के उक्त नियमों एवं अधिनियम की धाराओं के उल्लंघन के आरोप में क्यों न आपके द्वारा अवैध रूप से किये गये खनन/परिवहित 8,175 घन मी० पत्थर (डोलो स्टोन) की रायल्टी, खनिमुख मूल्य की वसूली अधिनियम, 1957 की धारा-21(6) के प्राविधानों के अनुसार की जाय तथा क्यों न नियमावली, 1963 के नियम-34/59 के प्राविधानों के अनुसार आपसे अर्थदण्ड की वसूली की जाय। यदि निर्धारित समयावधि में आपका कोई संतोषजनक उत्तर प्राप्त नहीं होता है तो यह मान लिया जायेगा कि आपको इस सम्बन्ध में कुछ नहीं कहना है, तदनुसार आपके विरुद्ध नियमानुसार अग्रिम कार्यवाही कर दी जायेगी जिसके लिए आप स्वयं जिम्मेदार होंगे।

(एस० राजलिंगम)
जिलाधिकारी,
सोनभद्र।

पत्रांक व तद दिनांक:-

प्रतिलिपि:- निदेशक, भूतत्व एवं खनिकर्म निदेशालय, उ०प्र०, लखनऊ को निदेशालय के पत्र संख्या-1337/एम-प्रवर्तन(सोनभद्र) दिनांक 20.11.2019 के क्रम में सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

जिलाधिकारी,
सोनभद्र।

// TRUE COPY //



खाता विवरण (अप्रमाणित प्रति)

ग्राम का नाम : बिल्ली मारकुण्डी परगना : (अगोरी) तहसील : ओबरा जनपद : सोनभद्र फसली वर्ष : 1428-1433 (01 जुलाई, 2020 से 30 जून, 2026) भाग : 1 खाता संख्या : 03187

खातेदार का नाम / पिता पति संरक्षक का नाम / निवास स्थान	खसरा संख्या	क्षेत्रफल (हे.)	आदेश	टिप्पणी
श्रेणी : 1-क / भूमि जो संक्रमणीय भूमिधरो के अधिकार में हो।				
शफीक अहमद / सगीर अहमद / नि. ग्रामवासी	7577ख	2.1240		
चन्द्रभूषण गुप्ता / रामलखन गुप्ता / नि. 20/91 सेक्टर 8 ओबरा	7578	0.1260		
अजय कुमार सिंह / ओंकारनाथ सिंह / नि. 5बी018 बिल्ली मारकुण्डी ओबरा	7579	0.2020		
	7580	0.1140		
योग	4	2.5660		

कृपया उक्त खसरे की प्रस्थिति (भूखंड (गाटा) के वाद ग्रस्त / विक्रय / भू-नक्शा / नामांतरण बही) हेतु खसरा संख्या पर क्लिक करें

Disclaimer: उक्त आँकड़े मात्र अवलोकनार्थ हैं, उक्त विवरण अद्यतन है, तहसील कम्प्यूटर केन्द्र एम.सी.एस.सी./लोकवाणी केन्द्र से उद्घरण की प्रमाणित प्रति प्राप्त की जा सकती है।

Software Powered By: National Informatics Center, Uttar Pradesh State Unit, Lucknow.





BHULEKH
Uttar Pradesh



खाता विवरण (अप्रमाणित प्रति)

ग्राम का नाम : बिल्ली मारकुण्डी परगना : (अगोरी) तहसील : ओबरा जनपद : सोनभद्र फसली वर्ष : 1428-1433 (01 जुलाई, 2020 से 30 जून, 2026) भाग : 1 खाता संख्या : 02046				
खातेदार का नाम / पिता पति संरक्षक का नाम / निवास स्थान	खसरा संख्या	क्षेत्रफल (हे.)	आदेश	टिप्पणी
श्रेणी : 1-क / भूमि जो संक्रमणीय भूमिधरो के अधिकार में हो।				
माँ पिताम्बरा सेवा संस्थान / 00 / 0 बिल्ली मारकुण्डी सचिव / 00 / 0 चन्द्रकान्त द्विवेदी / श्री आर0एल0द्विवेदी / नि0ग्रामवासी	7577क/2	0.2530	मुं००टी202016660104382 सन 2020 अंधारा 35 उ०प्र०रा०संहिता 2006 तहसीलदार न्यायिक रा०गंज सोनभद्र ता०फै०16-10-2020 मौजा बिल्लीमारकुण्डी परगना अगोरी तहसील रावटर्सगंज जिला सोनभद्र सन् फसली वर्ष 1422-1427 के खाता सं० 1944(वर्तमान खाता सं०2046) के आ० नं० 7577क/2 रकबा 0.2530हे० व लगान परता खाता से विक्रेता माँ पिताम्बरा सेवा संस्थान सचिव चन्द्रकान्त द्विवेदी पुत्र आर०एल० द्विवेदी निवासी बिल्लीमारकुण्डी पर० अगोरी तह० रा०गंज जिला सोनभद्र का नाम निरस्त करके बैनामा के आधार पर क्रेतागण सफीक अहमद पुत्र स्व० सर्गिर अहमरद निवासी 8 द्वितीय 233 ओबरा कालोनी बिल्लीमारकुण्डी पर० अगोरी तह० रा०गंज जिला सोनभद्र व चन्द्रभूषण गुप्ता पुत्र रामलखन गुप्ता निवासी 20/91 अयप्पा मन्दिर सेक्टर 8 बिल्लीमारकुण्डी पर० अगोरी तह० रा०गंज जिला सोनभद्र व अजय कुमार सिंह पुत्र ओमकार नाथ सिंह निवासी 18/188 वार्ड नं० 18 ओबरा कालोनी पर० अगोरी तह० रा०गंज जिला सोनभद्र का नाम संक्रमणीय भूमिधर अंकित हो। ह०र०का०20-11-2020	
योग	1	0.2530		

कृपया उक्त खसरे की प्रस्थिति (भूखंड (गाटा) के वाद ग्रस्त /विक्रय /भू-नक्शा /नामांतरण बही) हेतु खसरा संख्या पर क्लिक करें

Disclaimer: उक्त आँकड़े मात्र अवलोकनार्थ हैं, उक्त विवरण अद्यतन है, तहसील कम्प्यूटर केन्द्र एवम सी.एस.सी/लोकवाणी केन्द्र से उद्घरण की प्रमाणित प्रति प्राप्त की जा सकती है।

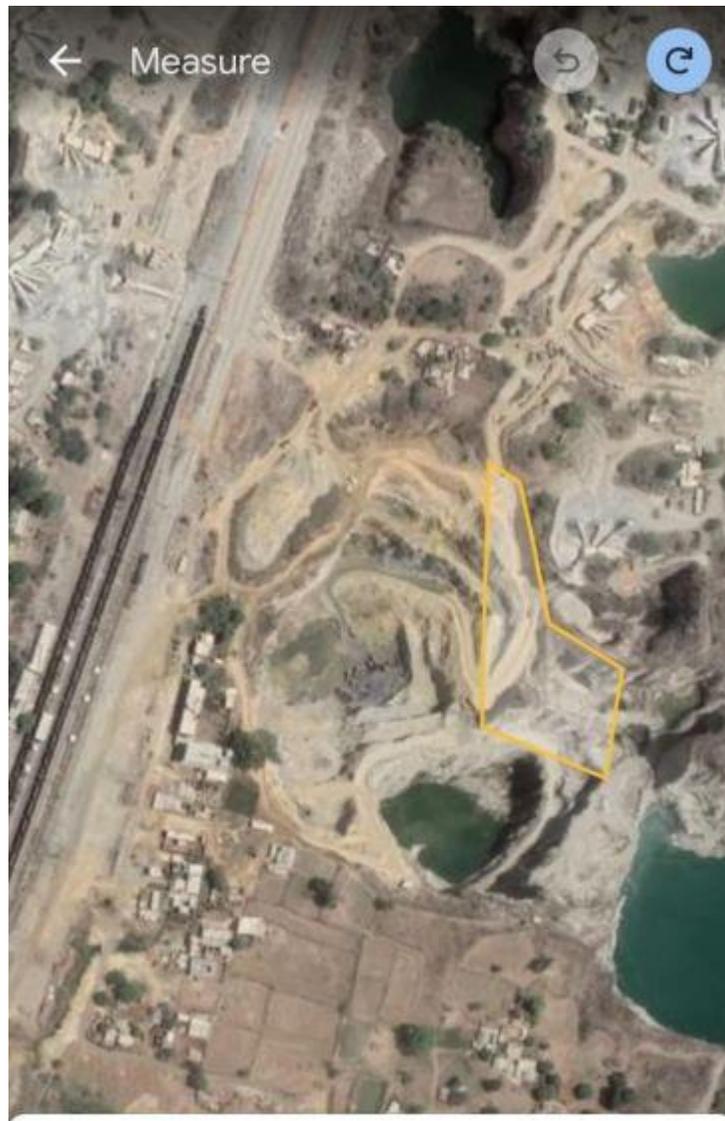
Software Powered By: National Informatics Center, Uttar Pradesh State Unit, Lucknow.



// TRUE COPY //

ANNEXURE-R-8

**SHOWING OUTSIDE MINING ON ARAZI NO. 7577Ka/2 BY
RESPONDENT NO. 8**



Perimeter ⓘ

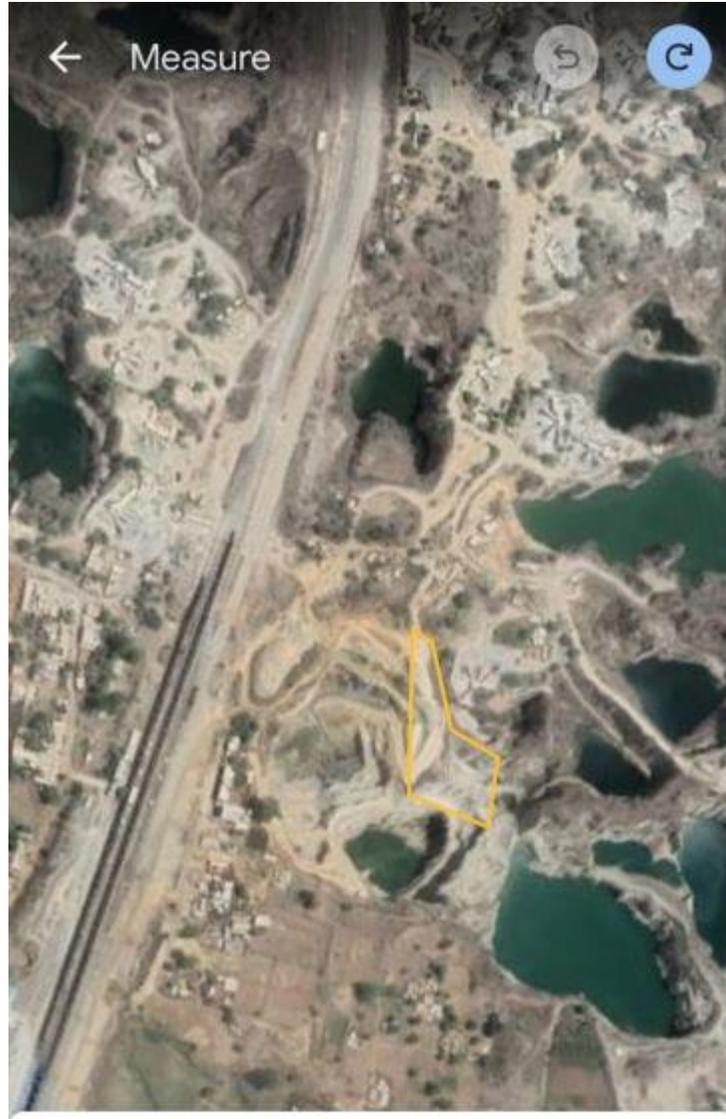
487 m ▼



Area

2.26 ac ▼





Perimeter ⓘ

487 m ▾



Area

2.26 ac ▾



// TRUE COPY //