

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT
NEW DELHI

MEMORANDUM OF APPLICATION
ORIGINAL APPLICATION NO. 481 OF 2023

Balbir Sandhu and Others

..... APPLICANT

VERSUS

State of Uttar Pradesh & Others

..... RESPONDENTS

IN THE MATTER OF:

Mohit Kumar,
Son of Sri Rajan,
Resident of Kukri Kheda, Kaluwala,
Jahanpur, District Saharanpur,
Uttar Pradesh-247129



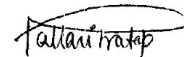
... APPLICANT No. 05

PAPER BOOK

**REPLY ON BEHALF OF APPLICANT No. 5 TO THE I.A. No.
467 of 2025**

Compilation – I

(FOR INDEX KINDLY SEE INSIDE)



PALLAVI PRATAP

Advocate for the Applicant No.5

ENROL NO. UP/1246/2010

A-90, LGF South Ex-II, New Delhi

Mob: 9999990078

Email: pallavipratap@hotmail.com

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT
NEW DELHI

MEMORANDUM OF APPLICATION

ORIGINAL APPLICATION NO. 481 OF 2023

Balbir Sandhu and Others

..... APPLICANT

VERSUS

State of Uttar Pradesh & Others

..... RESPONDENTS

IN THE MATTER OF:

Mohit Kumar,
Son of Sri Rajan,
Resident of Kukri Kheda, Kaluwala,
Jahanpur, District Saharanpur,
Uttar Pradesh-247129



... APPLICANT No. 05

INDEX

<u>Sl.No.</u>	<u>Particulars</u>	<u>Pages</u>
---------------	--------------------	--------------

COMPILATION I

- | | |
|--|------|
| 1. Reply on behalf of Applicant No.5 to the
IA No. 467/2025 | 1-19 |
| 2. Proof of service. | 20 |

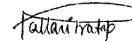


Place: New Delhi

APPLICANT No. 5

Dated: 11.07.2026

Through



PALLAVI PRATAP

Advocate for the Applicant No. 5

ENROL NO. UP/1246/2010
A-90, LGF South Ex-II, New Delhi
Mob: 9999990078
Email: pallavipratap@hotmail.com

BEFORE THE NATIONAL GREEN TRIBUNAL
SITTING AT NEW DELHI
MEMORANDUM OF APPLICATION
ORIGINAL APPLICATION NO. 481 OF 2023

Balbir Sandhu and Others

..... APPLICANT

VERSUS

State of Uttar Pradesh & Others

..... RESPONDENTS

IN THE MATTER OF:

Mohit Kumar,
Son of Sri Rajan,
Resident of Kukri Kheda, Kaluwala,
Jahanpur, District Saharanpur,
Uttar Pradesh-247129

... APPLICANT No. 05



**REPLY ON BEHALF OF APPLICANT No. 5 TO THE I.A. No.
467 of 2025**

MOST RESPECTFULLY SHOWETH:

The applicant no. 5 above named most respectfully showeth as under:-

1. That the answering applicant has been impleaded as applicant no. 5 in the above noted Original Application

vide order dated 20.03.2024 passed by this Hon'ble Tribunal.

2. That the applicant no. 5 is a resident of Gram Kurdi Kheda, Kaluwala, Jahanpur, Saharanpur and the applicant is a farmer and carrying out agricultural work on his agricultural field bearing Khata No. 429, 421, 140, 422, 423 and 385 as a co-sharer in the aforesaid land.
3. That the contents of paragraph 1 of the application need no reply being matter of record.
4. That the contents of paragraph 2 of the application is not accepted in the manner stated hence denied and in reply thereto it is submitted that the present case is not in regard to removal of sand but removal of sand without environmental clearance as the entire process is a commercial activity. It is submitted that if the sole purpose of the mining permit and the exemption from the environmental clearance for the grant of such permit is to allow the farmers to only remove the mineral from its land then there should not be any

realization of royalty from the farmers because the moment State creates a monetary transaction in the entire process, it does not remain a customary practice.

5. That the contents of paragraph 3 and 4 of the reply need no comment being correct.
6. That the contents of paragraph 5 of the reply are not accepted in the manner stated hence denied and in reply thereto it is submitted that it is the State Government which has failed to create mechanism for the farmers to remove the silt after flood from the agricultural land and are granting mining permits upon realization of royalty.

It is further submitted that if the said mineral is removed by paying royalty by the farmer and the sand so extracted is sold commercially, the said act cannot be termed as de-silting and once the commercial sand mining is involved, the same can be done only by obtaining Environmental Clearance.

7. That the contents of paragraph 6 of the reply are vehemently denied and in rely thereto it is submitted that it is the applicant in the I.A. No. 467 of 2025 who has sought a permit under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 which is a grant of mining permit on agricultural land. It is further submitted that there is no mention of the term "flood" in Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 but the State of Uttar Pradesh is granting mining permits and allowing mining activity without the requirement of obtaining environmental clearance from SEIAA, U.P. It is submitted that the benefit of *Appendix-IX* of the EIA Notification 28.03.2020 is being obtained under the garb of agricultural mining permit and these grants of permits have defeated the purpose of the exemption granted by the *Appendix-IX* of the EIA Notification 28.03.2020.
8. That the contents of paragraph 7 of the reply is not accepted in the manner stated hence denied and in

reply thereto it is submitted that in the instant case the farmer is also selling the same mineral which has accumulated in the agricultural fields after floods and depositing advance royalty prior to selling the minerals therefore to state that livelihood is dependent from the agriculture activity is not true.

9. That the contents of the paragraph 8 and 9 of the reply are strongly denied and in reply thereto it is submitted that the Rule 52 of the Rules of 2021 has omitted the mandate as contained in Rule 52 A (2) of the U.P. Minor Minerals (Concession) Rules, 1963 and the said omission is in gross violation to the SSMG 2016 and the EMGSM-2020 and further taking advantage of such omission, the private landowners are used as proxy bidders in order to evade the regular procedure involved in the grant of a mining lease such as the procurement of environmental clearance etc.
10. That the contents of the paragraph 10 and 11 of the reply are strongly denied and in reply thereto it is submitted that the exemption from requirement of

environmental clearance is under serial no. 3 of the Appendix IX of EIA Notification dated 28.03.2020 is for the purpose of *removal of sand deposits on agricultural field after flood by farmers* but the applicant in the I.A. No. 467 of 2025 has sought the mining permit under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 which has no mention of the word "flood" and is merely a short term mining permit for agricultural land therefore, question of exemption from obtaining environmental clearance do not arise.

11. That the contents of the paragraph 12 of the reply are not accepted in the manner stated hence denied and in reply thereto it is submitted that the exemption is granted only in the case of removal of mineral accumulated after flood on agricultural field whereas the Rule 52 is grant of mining permit on agricultural land.

It is pertinent to mention here that as a matter of fact the State of Uttar Pradesh grants short term mining

permit on private land for a maximum period of six months through e-tender/e-auction/e-tender-cum-e-auction under Rule 23(2)(e) of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021.

It is further submitted that the difference between the mining permits granted under Rule 52 and Rules 23(2)(e) is that the former is granted for agriculture land through application and for a maximum period of three months whereas the latter is granted for private land through e-tender/e-auction/e-tender-cum-e-auction for a period of six months.

12. That the contents of paragraph 14 to 20 of the reply are strongly denied and in reply thereto it is submitted that there is a crystal clear difference in short term mining permits and the permission to remove deposited silt after flood from the agricultural land but the framework recommended by the respondent no. 1 is completely silent on that distinction and has somewhat merged them.

The Rule 52 of the Rules of 2021 has omitted the mandate as contained in Rule 52 A (2) of the U.P. Minor Minerals (Concession) Rules, 1963 and the said omission is in gross violation to the SSMG 2016 and the EMGSM-2020 and further taking advantage of such omission, the private landowners are used as proxy bidders in order to evade the regular procedure involved in the grant of a mining lease such as the procurement of environmental clearance etc.

It is submitted that on one hand the respondents are terming the process as a customary right of the farmers but whereas on the other hand the State of Uttar Pradesh under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 is granting the mining permit only after realizing double the amount of royalty in advance from the farmers.

The Hon'ble Supreme Court in the case of ***Bhagwan Das v. State of Uttar Pradesh and others*** as reported in ***(1976) 3 SCC 784*** has observed that the act of 'winning' a mineral not always mean hazardous

or perilous activity, but the word simply means extracting a mineral and is used generally to indicate any activity by which a mineral is secured. Thus, from the aforesaid observation it becomes apparent that's the removal of mineral from the upper surface of land also comes under a mining operation. Moreover, once the question of royalty is involved and the preparation of mining plan is required and the act involves mining which includes lifting from the surface, the entire operation becomes a mining operation as opposed to desilting.

There is a crystal clear difference in short term mining permits and the permission to remove deposited silt after flood from the agricultural land but the State Government of Uttar Pradesh is completely silent on that distinction and has somewhat tried to merge them. By granting the agricultural permits upon realisation of double the royalty from the farmers under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021, the State of Uttar Pradesh

has defeated the very purpose of the entire process as well as the reason for which the exemption from obtaining environmental clearances is granted under *Appendix-IX* of the EIA Notification dated 28.03.2020.

13. That the contents of paragraph 21 to 31 of the reply are not accepted as stated hence denied and the reply is being submitted in light of the State Specific Regulatory Framework recommended by respondent no. 1 as the issue is pending adjudication before this Hon'ble Tribunal. It is submitted that the respondent no. 1 in the State Specific Regulatory Framework at *Internal Page 9* of the additional affidavit dated 20.05.2026 has recommended real time monitoring and digital surveillance mechanisms including GPS tracking of vehicles and machinery engaged in sand removal and transportation which shows that the process of removal of sand from the agricultural lands is being compared to commercial mining.

The SSMG 2016 in Chapter 20 titled "*Management of Sand deposited after Flood on Agricultural Field of*

Farmers" at internal Page 58 while making a distinction between a 'mining operation' and 'desilting' states that the agricultural land of farmer is destroyed and rendered infertile. Further the farmer loses his livelihood as the produce of his land is destroyed by flood and become unsalable. The farmer is also deprived of the right of lifting sand from his land. He is therefore, left helpless and destitute and leave their land in search of job.

14. That it is clear that the SSMG 2016 only envisages the disposal the sand accumulated over the land of farmers post flood so that the farmer isn't left helpless and destitute. That further, the said act of removal of the mining is not considered under the ambit of a mining operation but is only considered as desilting. Further, the aforesaid chapter of SSMG 2016 envisages for removal of sand deposited on agricultural field only after a mapping of deposition is done by the Land Management Committee of the Gram Panchayat,

It is pivotal to state here that once the question of royalty is involved, the said act in itself comes under the ambit of a mining operation as opposed to de-silting. Furthermore, if the said mineral is removed by paying royalty by the farmer and the sand so extracted is sold commercially, the said act cannot be termed as de-silting and once the commercial sand mining is involved, the same can be done only by obtaining Environmental Clearance.

15. That there is no mention of the term "*flood*" in Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 but the State of Uttar Pradesh is granting mining permits and allowing mining activity without the requirement of obtaining environmental clearance from SEIAA, U.P. It is submitted that the benefit of *Appendix-IX* of the EIA Notification 28.03.2020 is being obtained under the garb of agricultural mining permit and these grants of permits have defeated the purpose of the exemption granted by the *Appendix-IX* of the EIA Notification 28.03.2020.

The Rule 52 of the Rules of 2021 has omitted the mandate as contained in Rule 52 A (2) of the U.P. Minor Minerals (Concession) Rules, 1963 and the said omission is in gross violation to the SSMG 2016 and the EMGSM-2020 and further taking advantage of such omission, the private landowners are used as proxy bidders in order to evade the regular procedure involved in the grant of a mining lease such as the procurement of environmental clearance etc. It is submitted that on one hand the respondents are terming the process as a customary right of the farmers but whereas on the other hand the State of Uttar Pradesh under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 is granting the mining permit only after realizing double the amount of royalty in advance from the farmers.

16. That, the Hon'ble Supreme Court of India in the case of ***Noble M. Paikada v Union of India*** as reported in 2024 SCC OnLine SC 369 while striking down item 6 of the substituted Appendix-IX forming part of the 2020 notification and item 6 of the amended 2023 notification

issued by Ministry of Environment and Forests which provided for exemption from the requirement of obtaining the Environmental Clearance in case of dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management, has observed that granting blanket exemption from the requirement of obtaining Environmental Clearance is unconstitutional as it violates Article 14 of the Constitution of India.

17. That by granting the agricultural permits upon realisation of double the royalty from the farmers under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021, the State of Uttar Pradesh has defeated the very purpose of the entire process as well as the reason for which the exemption from obtaining environmental clearances is granted under *Appendix-IX* of the EIA Notification dated 28.03.2020.
18. That the process of commercial mining and removal of silt/mineral deposited after flood on agricultural land is

completely distinct from another and the same cannot be treated as same.

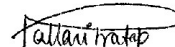
19. That once the value of mineral and royalty is realised from the farmer, it is obvious that the farmer shall himself make the sale of the mineral to recover the cost, therefore it is essential that environmental clearance be obtained from the SEIAA, U.P. prior to grant of mining permit.
20. That in view of these glaring facts, it is the respectful submission of the Applicant No. 5, that no mining permit under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 be issued without prior procurement of a valid Environmental Clearance from SEIAA, U.P.

Dated: 11.07.2026

New Delhi


Applicant No. 5

Through



PALLAVI PRATAP

Advocate for the Applicant No. 5

ENROL NO. UP/1246/2010

A-90, LGF South Ex-II, New Delhi

Mob: 9999990078

Email: pallavipratap@hotmail.com

VERIFICATION

I, Mohit Kumar, aged about 27 years, Son of Shri Rajan, Resident of Village Kukri Kheda, Kaluwala, Jahanpur, District Saharanpur, Uttar Pradesh- 247129, presently at Saharanpur, do hereby verify that the contents of paragraph 1 to .19 are true to my personal knowledge and para.20..believed to be true on legal advice and that I have not suppressed any material facts.



Place: **New Delhi**

Dated: **11.07.2026**

Signature of the Applicant No. 5

BEFORE THE NATIONAL GREEN TRIBUNAL
SITTING AT NEW DELHI

MEMORANDUM OF APPLICATION
ORIGINAL APPLICATION NO. 481 OF 2023



Balbir Sandhu and Others

..... APPLICANT

VERSUS

State of Uttar Pradesh & Others

..... RESPONDENTS

AFFIDAVIT

I, Mohit Kumar, aged about 27 years, Son of Shri Rajan,
Resident of Village Kukri Kheda, Kaluwala, Jahanpur, District
Saharanpur, Uttar Pradesh- 247129, presently at Saharanpur,
do hereby solemnly affirm and declare as under:-

1. That I am the Applicant No. 5 as such I am conversant
with the facts of the case and thus competent to affirm
this affidavit.

2. That I have read the contents of the accompanying Reply including facts in brief, grounds etc. from pages 1 to 20 and have understood the same.
3. That the facts stated therein are true and correct to the best of my knowledge and belief and nothing material has been suppressed.
4. That I have instructed by Advocate and the Application has been prepared by my Advocate on my instructions as stated above.
5. That the Annexures filed herewith are true and correct copies/ English translations of their respective originals.

Verified at Lucknow on day of November 2025

DEPONENT

[Signature]
21/12/11

VERIFICATION

I above named deponent do hereby verify that the contents of the above affidavit are true and correct to the best



of my knowledge and belief and nothing material has been
concealed there from.

Verified at Lucknow on day of June 2026

IDENTIFIED BY

DEPONENT





PROOF OF SERVICE

20

3340

kunal arya <kunalarya16111989@gmail.com>

Service of Reply on behalf of Applicant No.5 Mohit Kumar in OA No. 481/2023 Balbir Sandhu vs State of UP

1 message

kunal arya <kunalarya16111989@gmail.com>

Sun, Jul 12, 2026 at 10:09 PM

To: csup@nic.in, psecforest-up@nic.in, dgmupexp@gmail.com, feedback@uppch.com, dmsah@nic.in, cs@hry.nic.in, haryana-envis@hry.gov.in, me.mines-hry@nic.in, "hspcbho@gmail.com" <hspcbho@gmail.com>, ctmynr@hry.nic.in

Please find attached the copy of reply on behalf of Applicant No.5 in the captioned matter.

Regards,

Office of Pallavi Pratap
Advocate
A-90, LGF South Ex-II New Delhi
Mob: 9999990078
Email: pallavipratap@hotmail.com



Reply Balbir Sandhu Mohit Kumar 11 07 2026.pdf
5826K