

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SITTING AT NEW DELHI**

**MEMORANDUM OF APPLICATION**

(Under Sec. 14 read with Sec. 15 and 18(1) of the National  
Green Tribunal Act, 2010)

**O.A. NO. 167 OF 2025**

Bhaiyan Prasad

..... APPLICANT

**VERSUS**

Ministry of Environment, Forest and Climate Change & Others

.....RESPONDENTS

**PAPER BOOK**

**REPLY ON BEHALF OF THE APPLICANT TO THE  
AFFIDAVIT FILED BY MEMBER SECRETARY, SEIAA**

**Compilation – I**

(FOR INDEX KINDLY SEE INSIDE)

**PALLAVI PRATAP**

Advocate for the Applicant  
ENROL NO. UP/1246/2010  
A-90, LGF South Ex-II, New Delhi  
Mob: 9999990078  
Email: [pallavipratap@hotmail.com](mailto:pallavipratap@hotmail.com)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
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**INDEX**

<b>Sl.No.</b>	<b>Particulars</b>	<b>Pages</b>
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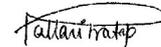
**COMPILATION I**

- |    |  |      |
|----|--|------|
| 1. | Reply to the affidavit/reply filed by the Member Secretary, SEIAA filed in connected O.A. No. 1220 of 2024 on behalf of the applicant alongwith affidavit. | 1-13 |
| 2. | Proof of service.  | 14   |

Place: New Delhi  
Dated: 21.11.2025

Applicant

Through



**PALLAVI PRATAP**

Advocate for the Applicant  
ENROL NO. UP/1246/2010  
A-90, LGF South Ex-II, New Delhi  
Mob: 9999990078  
Email: [pallavipratap@hotmail.com](mailto:pallavipratap@hotmail.com)

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**REPLY TO THE AFFIDAVIT/REPLY FILED BY THE  
MEMBER SECRETARY, SEIAA FILED IN CONNECTED O.A.  
NO. 1220 OF 2024 ON BEHALF OF THE APPLICANT**

**MOST RESPECTFULLY SHOWETH:**

The applicant above named most respectfully showeth as under:-

1. That the applicant has filed the instant Original Application challenging the District Survey Report Banda 2024 which has been prepared without carrying out an scientific replenishment study in accordance with the EMGSM 2020.

2. That the contents of paragraph 1 to 4 of the reply filed by the Member Secretary, SEIAA need no comments being matter of record.
3. That the contents of paragraph 5 of the reply filed by the Member Secretary, SEIAA are not accepted in the manner stated hence denied and in reply thereto it is submitted that it has been stated that the replenishment study for Banda has been carried out by respondent no. 6 i.e. District Magistrate, Banda in coordination with DGM.

A perusal of the replenishment study annexed in the reply shows that from *internal page 74* Table 9 starts which is showcasing the “*Details of replenishment study of functional leases in post-monsoon season (2024)*”.

It is pertinent to mention here that the table contains 16 functional leases and their data for post monsoon which means that data would have been collected only after September 2024. It is submitted that the District Survey Report for Banda was approved on 01.08.2024

and the contention of the respondent is that the said replenishment study was prepared at the time of approval of the impugned DSR. It is submitted that that when the post monsoon was carried out only after September 2024, then how at the time of approval of the DSR Banda, the data of post monsoon replenishment was available with the authorities.

It is pertinent to mention here that there is only one possibility that the said data has been prepared from back date because the replenishment study was never part of the original DSR which was uploaded on the portal.

4. That the contents of paragraph 6 of the reply filed by the Member Secretary, SEIAA are not accepted in the manner stated and in reply thereto it is stated that as per the directions of the Hon'ble Apex Court in the case of ***State of Bihar versus Pawan Kumar*** as reported in **(2022) 2 SCC 348** it has been specifically mentioned that a Sub Divisional Committee shall be

constituted which shall prepare the District Survey Report. the Hon'ble Court has held:

*“15. We further find that when the 2020 guidelines as well as the notification issued by MoEF and CC of 2016 itself provide for constitution of subdivisional committees comprising of the officers of the State Government from various Departments for identification of the potential sites for mining, there would be no necessity of the DSRs being prepared through private consultants as directed by the Tribunal in the impugned order. The subdivisional committee consists of various officers from Revenue Department, Irrigation Department, State Pollution Control Board, Forest Department and Geology Mining Department of the State Government. They are better equipped to visit the sites and prepare the draft DSR for the concerned district. Apart from that, preparation of DSR through private consultants would also unnecessarily burden the public exchequer. We are therefore of the view that the direction in that regard issued by the*

*Tribunal requires to be modified. We are further of the considered view that until the DSRs are finalized and granted approval by SEAC and SEIAA, it is appropriate that certain necessary arrangements are permitted so that the State can continue with legal mining activities. This apart from preventing illegal mining activities, would also ensure that the public exchequer is not deprived of its share in legalized mining.”*

It is pertinent to mention here that not only the impugned DSR but also the replenishment study has been prepared by the same private consultant DAS India which is in violation of the directions of the Hon'ble Apex Court.

5. That the contents of paragraph 7 of the reply filed by the Member Secretary, SEIAA are strongly denied and in reply thereto it is submitted a perusal of the replenishment study shows that there is no real time images of the area or the team which had gone to carry out the study of the lease areas. The report

merely consists of general literature about replenishment study and other categories and thereafter final data has been mentioned but there is not a whisper of how the team has determined the data and using what equipment and methodology as mentioned in the Enforcement and Monitoring Guidelines for Sand Mining 2020.

It is further submitted that there is not a single data, material or photo to shows that when did the inspection team visited the sites for assessment of the quantity and who are were physically present at the time of assessment process on the site during preparation of DSR as well as replenishment report.

6. That the contents of paragraph 8 and 9 of the reply filed by the Member Secretary, SEIAA are strongly denied and in reply thereto it is submitted that the impugned DSR has not been prepared in consonance with the SSMG 2016 and EMGSM 2020. It is pertinent to mention here that the methodology prescribed in the

EMGSM 2020 has not been adhered to while preparing the DSR.

The Hon'ble Apex Court in the case of ***Union Territory of J&K (previously State of Jammu & Kashmir) versus Raja Muzaffar Bhat and others*** in ***Civil Appeal No. 8055 of 2022*** vide its judgment and order dated 22.08.2025 has categorically held the following:

*“29. From the foregoing analysis, it is apparent that in light of Guidelines, 2016 and the Guidelines, 2020, the absence of a replenishment study renders a DSR fundamentally defective. These guidelines categorically require that any assessment of mineable mineral quantity must be premised on scientific estimation of replenishment rates, failing which the DSR lacks the foundational data necessary to determine sustainable extraction limits.*

*30. Over the past two decades, environmental statutory and regulatory law in India has undergone significant evolution, particularly in response to the*

*challenges posed by unregulated and unsustainable sand mining. Recognizing the adverse ecological impacts of such activities, successive legal and policy frameworks have progressively tightened the requirements for environmental compliance. In order to appreciate the present controversy, it was necessary to retrace the legal trajectory. Recently, this Court has discussed, in detail, the legal regime surrounding the preparation, nature, scope and importance of DSR in Gaurav Kumar (supra). However, the focal point for present discussion is the value that must be appended to replenishment study before EC is granted to mining operations.*

*31. Demand for construction-grade sand is growing at a tremendous rate and it is said that the world is expected to run out of this resource by 2050. Construction-grade sand, can be found in aquatic environments, such as rivers and is a provisioning ecosystem service. Even under controlled circumstances, the practice of extracting sand from the*

*riverbed and banks impacts the environment. In the physical environment, the primary effects are riverbed widening and lowering. In the biological environment, the overarching effect is a reduced biodiversity and stretches from the aquatic and shoreline flora and fauna to the whole floodplain area. Due to easy access, river sand and gravel have been used extensively in construction projects. Depending on the mining operation method as well as morphologic and hydraulic characteristics of the river, sand mining may cause bed and bank erosion or other negative consequences for the river eco-system. It is, therefore, necessary to conduct appropriate studies, including that of replenishment to explore sustainable and cost-effective methods for river mining.*

*32. Without a proper study of the existing position of the riverbed and its sustainability for further sand mining, grant of environmental clearances would be detrimental for the ecology. It has therefore been held that a detailed study leading to a preparation of the*

*replenishment report is an integral part of the DSR. If the DSR becomes the foundation for consideration of an application for environmental clearance, then it is compelling to ensure replenishment studies are undertaken in advance and the report forms an integral part of the DSR.*

*33. In view of the existing legal regime that mandates preparation of replenishment report in a scientific manner and such a report forming an integral part of the District Survey Report, we hold that a District Survey Report without a proper replenishment study is equally untenable.”*

7. That the contents of paragraph 10 to 12 of the reply filed by the Member Secretary, SEIAA are vehemently denied and in reply thereto the contents of preceding paragraphs are reiterated here being correct.
8. That the contents of paragraph 13 and 14 of the reply filed by the Member Secretary, SEIAA need no comments.

9. That the contents of paragraph 15 to 18 of the reply filed by the Member Secretary, SEIAA are strongly denied and in reply thereto it is submitted the irresponsible and non challant actions of the respondents show that merely for generation of state revenue, sham compliances of the orders of this Hon'ble Tribunal and the Hon'ble Apex Court are being done at the cost of environment.

For the foregoing reasons, none of the prayers/reliefs prayed by the applicant deserve to be granted. It is the respectful submission of the applicant that the present application filed before this Hon'ble tribunal deserves to be allowed.

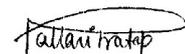
Pass any such other order or orders as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case.

Dated: 21.11.2025

Applicant

New Delhi

Through



**PALLAVI PRATAP**  
Advocate for the Applicant



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
SITTING AT NEW DELHI

**MEMORANDUM OF APPLICATION**

(Under Sec. 14 and 15 of the National Green Tribunal Act, 2010)

**ORIGINAL APPLICATION NO.167 OF 2025**

Bhaiyan Prasad

...APPLICANT

**VERSUS**

MINISTRY OF ENVIRONMENT, FORESTS  
AND CLIMATE CHANGE AND OTHERS

... RESPONDENTS

**AFFIDAVIT**

I, Bhaiyan Prasad, aged about 52 years, Son of Shri Kamuna Prasad, Resident of 83, Block Badokharkhurd, Kanwara, Banda, Uttar Pradesh – 210001, presently at Banda, do hereby solemnly affirm and declare as under:-

1. That I am the sole applicant and 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 application including facts in brief etc. from pages 1 to ..... and have understood the same.



Identified

महान प्रसाद

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 are stated above.

Verified at ..... On this ..... day of ..... 2025



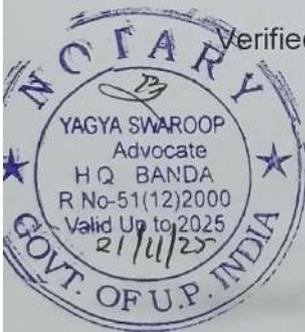
DEPONENT

गणेशचन्द्र

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 ..... on ..... day of ..... 2025.



DEPONENT

गणेशचन्द्र

I know Bhaiyan Prasad who has signed before me.

K. K. Dwivedi  
Advocate

8397  
Sl. No. Page No. 180  
**SWORN  
BEFORE ME**  
21/11/25  
**YAGYA SWAROOP  
NOTARY BANDA**

**942**

**PROOF OF SERVICE**

**14**

Service of REPLY in OA No. 167 of 2025 Bhaiyan Prasad Vs. MOEF and Ors

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From: Kunal Arya (m.arya16@ymail.com)

To: suhasini.sen@gmail.com; advpriyankaswami@gmail.com; ankit.scngtup@gmail.com; gaurav@grvlegal.in

Date: Friday, November 21, 2025 at 02:29 PM GMT+5:30

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Please find attached the copy of reply in the captioned matter.

Regards,

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

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