

N.D.H.:15.04.2025

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 09 OF 2025**

IN THE MATTER OF :

VINAY SHRIVASTAVA

.....APPLICANT

VERSUS

STATE OF U.P. & ORS.

.....RESPONDENTS

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Place: New Delhi**Date:** 10.04.2025

Filed by:-

**(GAURAV AGARWAL)**

Advocate for Respondent No.11

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REPLY ON BEHALF OF THE RESPONDENT NO. 11,
SATYAOM DEVELOPERS PRIVATE LIMITED

MOST RESPECTFULLY SHOWETH:

1. That the instant Original Application is pending before this Hon'ble Tribunal wherein the Applicant has challenged the DSR for District Hamirpur prepared in year 2024 on the ground that is has been prepared without conducting the replenishment study.
2. That the Applicant herein has sought a relief of quashing and setting aside the (i) District Survery Report 2024 for District Hamirpur, U.P., (ii) advertisement dated 09.11.20024 for e-tnder cum e-auction of mining lease, (iii) direction to State for conducting the replenishment study and (iv) to restrain them from auctioning the area for sand mining or granting the mining lease.

Preliminary Objection

3. That as a preliminary objection the answering Respondents submits that the relief sought in para (b) and (d) of the present Original Application deserves to be rejected on the ground of non joinder of necessary party. In view of Order 1

Rule 9 CPC no relief against an affected party being a necessary party can be granted in absence of the said party. The Applicant herein has sought a relief against the e-tender and auction without impleading the LOI holders, similarly placed as answering Respondent who are necessary party and the relief sought will directly affects their rights.

4. That it is trite law that no relief can be granted in a suit filed without impleading a necessary party. It is further submitted this Hon'ble Tribunal has issued notice in the said matter on 21.01.2025 considering that substantial questions of law relating to environment has arisen. No notices were issued to any of the LOI holders as they were not a party respondent. Hence, IA No. 235 of 2025 was filed by the answering Respondent whereby the order dated 02.04.2025 this Tribunal allowed the answering Respondent's to be impleaded a party respondent. However, as on the date of issuance of there were notice as many as 14 LOI holders and most of them have not been issued notice being not a impleaded as a party, relief sought in prayer (b) and (d) cannot be granted.
5. That the relief in para (a) of the prayer clause being a core of the relief (b) and (d) due to the the non-joinder of necessary parties the same also cannot be granted and deserves to be rejected. [**Prem Lal Nahata v. Chandi Prasad Sikaria, 2007 (2) SCC 551**]
6. That it is further submitted that Hon'ble Supreme Court has held in catena of cases against this Hon'ble Tribunal passing orders in absence of the project proponent who affected by the order passed by the Hon'ble Tribunal. That there are 14

LOI holders and out of that only some of the LOI holders have been impleaded on their own Application to the Tribunal. Hence, any order on relief passed by this Court will adversely affect the right of the LOI holders and will be in violation of the principles of natural justice. Therefore, in absence of the LOI holders, being impleaded as necessary parties, and notices issued to them no relief can be granted in the instant Original Application. **[Singhrauli Super Thermal Power Station v. Ashwani Kumar Dubey 2023(8) SCC 35; Veena Gupta v. Central pollution Control Board, [2024] 1 S.C.R. 1185]**

Reply to the Original Application

7. That the answering Respondent is a holder of LOI for two leases, i.e., (i) Tehsil Rath, Vill. Jigani, Khand No. 01 area 25 hct. and (ii) Tehsil Rath, Vill. Gadhar 01, 23/2 Khand 2, area 26 hct. The LOIs for the aforesaid leases was issued to the answering Respondent on 09.01.2025 and 17.01.2025 and consequently, it has also deposited the requisite amount of advance royalty vide challan dated 09.01.2025 and 17.01.2025.
8. That the original Application is based on incorrect, false and misleading facts. The Applicant herein has sought relief from the Hon'ble Tribunal, primarily against the DSR for year 2024 alleging that it was prepared without the replenishment study for year 2023. The other relief sought are merely consequential to the main prayer. However, in light of the replies filed by the state respondents the issue regarding the replenishment study before preparing the DSR 2024 does not survives.

9. That the the affidavit dated 03.03.2025 filed by the District Magistrate, Hamirpiur clearly mentions that firstly the Sub Division Committee has made assessment on the basis of the data collected in year 2022 for assessment, thereafter, in addition comprehensive field vists were conducted in year 2023, observing replenishment in all mining areas and that the said information was incorporated in the revised DSR for 2024. It is categorcially stated in the said affidavit that *replenishment study for all mining areas in District Hamirpur was conducted and completed by Sub Divisional Committee in the year 2023. The geo co-ordinates of all mining area have been explicitly recorded in DSR.*
10. That during the hearing on 05.03.2025 this Hon'ble Tribunal recorded the statement of the Mines Officer, Hamirpur, Mr. Vikas Singh Parmar that the replenishment study pre and post monsoon was conducted in year 2023 before preparation of DSR 2024. Thus, the Hon'ble Tribunal directed the SEAC and SEIAA to place the report of replenishment study.
11. That pursuant to the direction of this Tribunal SEIAA placed the copy of the report of replenishment study with its affidavit dated 24.03.2025. The perusal of the said report evidents and belies the contention of the applicant that no replemishment study was conducted in year 2023 by before the preparation of the DSR 2024.
12. That the said replenishment report for year 2023 provides for 119 leases existing and proposed as compared to 69 leases shown in the replenishment study in year 2022. The

said 119 leases coincides with the leases referred to in the DSR 2024. Hence, there is no illegality in the publication of the impugned e-tender cum e-auction notices as well as consequential process of auction and grant of LOI.

13. That the grievance of the Applicant pertaining to the absence of replenishment study prior to preparation and approval of the DSR 2024 does not remain survives in light of the above submitted facts. There has been no violation of the SSGM 2016 or EMGSM 2020 guidelines in preparation of the DSR 2024 by the State as evident from their replies/affidavits on record. Hence, the challenge to the e-tender notice or the auction proceedings is without any legal basis and unsustainable.
14. That so far as the allegations of the absence of geo-coordinates for the proposed mining sites in DSR is concerned, it is reiterated that the same is incorrect, false and misleading. The DSR 2024 clearly provides for the geo-coordinates for each of the mining sites along with the name of the village, tehsil and district.
15. That it is lastly submitted that there has been no grant of the mining lease as yet by the State as the tender process is a very initial stage and at present LOI has been granted. The execution of mining lease will take place only after the grant of the EC to the answering Respondent, which is likely to take sometime. Meanwhile, before the execution of the mining lease a fresh yearly replenishment study pre and post monsoon will be carried out for the year 2025. Hence, the permitted mineable quantity will depend upon the said study. Thus, the present original application seeking a relief

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against the grant of mining lease to the answering Respondent is premature.

16. That in the light of the reply/objections made in the preceeding paragraphs of this affidavit, the Original Application of the Applicant deserves to be dismissed without any relief.

SATYAOM DEVELOPERS PVT. LTD.
(Respondent No. 11)

Through


(GAURAV AGARWAL) {

Advocate for Respondent no. 11

GRV LEGAL

Advocates and Legal Consultants

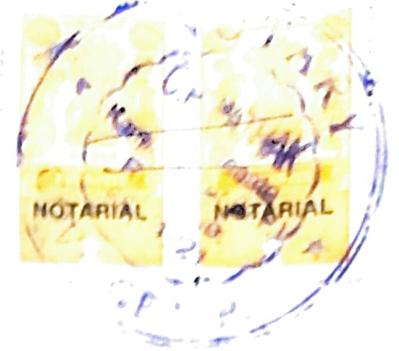
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VINAY SHRIVASTAV ...APPLICANT

VERSUS

STATE OF UTTAR PRADESH & ORS.RESPONDENTS

AFFIDAVIT

I, SATYA PRAKASH GUPTA, aged about 42 years, Son of Shri Om Prakash Gupta, R/o 128/346, H Block, Kidwai Nagar, Post Kidwai Nagar, District Kanpur, Uttar Pradesh- 208011, do hereby state on solemn affirmation as under:-

- 1. That the deponent is the Director of the Respondent in the present Original Application as such I am well conversant with the facts and circumstances of the present case and hence, competent to swear this affidavit.
2. That I have gone through the accompanying Reply from para 1 to 16 and day that the contents thereof are true and correct to the best of my knowledge and belief and I believe the same to be true.
3. That the Annexures R- and R- to the reply are true copy of the documents.

Solemnly affirmed on this day of April, 2025 at Kanpur, U.P.

[Signature]

DEPONENT

VERIFICATION :

Verified at Kanpur,U.P. on this day of April, 2025 that the contents of my above affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

[Signature]

DEPONENT

Satya Prakash Gupta 08-04-2025
08-04-2025

Reply on behalf of R-11 in O.A. No.09 of 2025 Vinay Shrivastav vs. State of U.P. & Ors.**From** <clerk@grvlegal.in>**To** <emailtogkb@gmail.com>, <ankit.scngtup@gmail.com>, <advpriyankaswami@gmail.com>, <danubeconsulting@gmail.com>**Date** 2025-04-10 00:58

REPLY R-11.pdf (~553 KB)

Sir/Mam,

Please find attached Reply on behalf of Respondent No.11 Satyaom Developers Pvt. Ltd. in O.A. No.09 of 2025 Vinay Shrivastav vs. State of U.P. & Ors. Kindly treat the same as proof of advance service.

Regards:

Nitesh Kumar

Clerk to

Mr. Gaurav Agarwal Adv.

for Respondent No.11

(M) 9958982328