

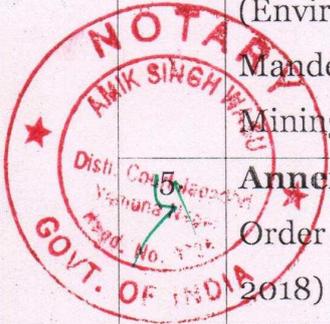
BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 593 of 2023

Mursaleen Versus State of Haryana and others

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PLACE: NEW DELHI

DATED: 24.05.2024

Respondent No. 27

Through Counsel

(M.F. KHAN, B. KRISHNA)
Advocates for the Respondent
MFK & Co.

Ch. No. 417, Additional Building, Block D,
Gate No. 03, Supreme Court of India,
New Delhi- 110001

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

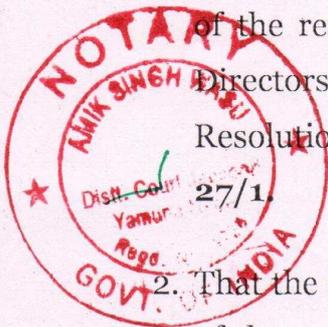
Original Application No. 593 of 2023

Mursaleen Versus State of Haryana and others

Reply by way of affidavit on behalf of respondent No. 27 i.e. M/s Saharanpur Mines Management Services Pvt. Ltd., Office at Shop No. 12, Mukund Market, Janakpur Chowk, Saharanpur (Uttar Pradesh).

I, Sushil Kumar aged 51 years S/o Sh. Rajbir Singh R/o Village Ganganpur, Tehsil Barara, District Ambala, Haryana do, hereby, solemnly affirm and declare as under:

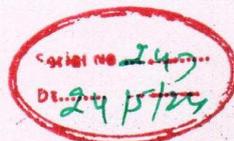
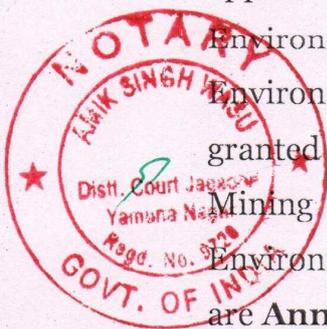
1. That the deponent has been authorized to file the present affidavit on behalf of the answering respondent on the basis of the resolution dated 01.09.2021 passed by the Board of Directors of the answering respondent. A copy of the Board Resolution dated 01.09.2021 is attached as **Annexure R-**
2. That the deponent is the filing the present affidavit on behalf of the answering respondent being the authorized signatory and on the basis of the knowledge derived from the records maintained by the answering respondent.



3. That as per the knowledge of the deponent, the answering respondent had participated in the e-auction dated 06.07.2015 and 07.07.2015 which was conducted by Mines and Geology Department, Government of Haryana in pursuance of e-auction notice dated 15.06.2015. The answering respondent had submitted the bid for the grant of mining contract for “**Mandewala Mining Block/YNR B-38**” and “**Jaidhar Mining Block/YNR B-34**” located at District Yamunanagar, Haryana. On account of being the highest bidder, the Department had issued letter of intent dated 19.06.2015 (Mandewala Block) and 20.07.2015 (Jaidhar Block) in favour of the answering respondent. A copy of the Letter of Intent dated 19.06.2015 and 20.07.2015 is **Annexure R-27/2**.

4. That after the approval of the respective mining plans as well as the execution of the mining contracts for the respective mining blocks, the answering respondent had submitted applications for grant of environmental clearance with State Environment Impact Assessment Authority, Haryana. Environmental Clearance for Mandewala Mining Block was granted vide Letter dated 27.06.2016; and for Jaidhar Mining Block, vide Letter dated 20.08.2018. A copy of the Environmental Clearance dated 27.06.2016 and 20.08.2018 are **Annexure R-27/3**.

5. That it shall be imperative to state that after the grant of Environmental Clearance dated 27.06.2016 for Mandewala

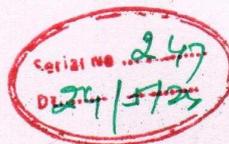
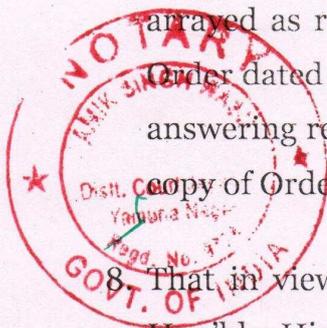


Mining Block, the answering respondent had approached Haryana State Pollution Control Board for the purpose of grant of consent under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. The Consent to Operate for Mandewala Mining Block was granted on 12.01.2018.

6. That it shall be imperative to state that the business rivals had initiated proxy litigation against the answering respondent by abusing the process of law and the mining contracts granted in favour of answering respondent were sought to be canceled by leveling allegations of shell Company as well as pendency of criminal prosecution against the answering respondent. The litigation was initiated before Hon'ble Punjab and Haryana High Court, Chandigarh vide CWP No. 1010 of 2018.

7. That in the said writ petition, the answering respondent was arrayed as respondent No. 5. The Hon'ble High Court, vide Order dated 16.02.2018, had granted interim stay against the answering respondent from conducting mining operations. A copy of Order dated 16.02.2018 is **Annexure R-27/4**.

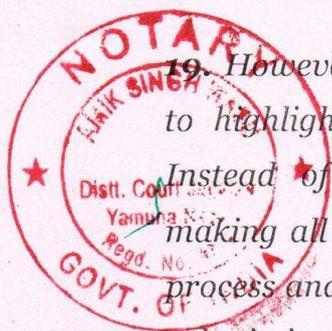
8. That in view of the Order dated 16.02.2018 passed by the Hon'ble High Court, the answering respondent could not initiate any process for the purpose of seeking the necessary clearances and permissions in order to commence the mining operations.



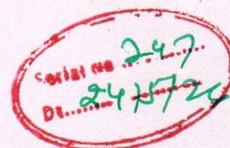
9. That the aforesaid writ petition was disposed off vide Order dated 14.01.2020 and direction was issued to State of Haryana to pass a speaking order within a period of 3 months and the interim was ordered to continue till such time. A copy of Order dated 14.01.2020 is **Annexure R-27/5**.

10. That in pursuance of the Order dated 14.01.2020 passed by the Hon'ble High Court, the State of Haryana proceeded to pass the Orders dated 13.09.2021 (for both the mining blocks). As per Order dated 13.09.2021, the Director General, Mines and Geology Department, Haryana had upheld the grant of mining contracts in favour of the answering respondent. A copy of Orders dated 13.09.2021 is **Annexure R-27/6**.

11. That it shall be imperative to state that while issuing the Orders dated 13.09.2021, the Director General had made the following observations:



19. However, before concluding the case I would like to highlight that the conduct of Sh. Sajjan Singh. Instead of having fair submissions he had been making all out efforts to ensure derailing the normal process and browbeating of the authorities. He has his submissions on record which he sent letters dated 28.06.2021 and 29.06.2021, the same were examined at length. It was found that the submissions relating to

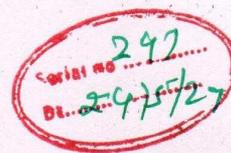
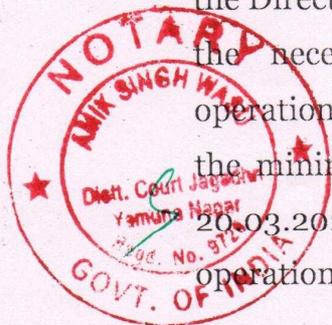


cases pending/filed against the Directors by the SFIO were being repeated despite that same were not found admissible in earlier similar cases. Sh. Sajjan Singh clearly had some hidden agenda to harm the interests of state and others for his or some other persons unlawful gains.

12. That it shall be imperative to state that the Orders dated 13.09.2021 passed by the Director General were challenged before the Hon'ble Punjab and Haryana High Court, Chandigarh in CWP No. 19286 of 2021. However, the writ petition was dismissed vide Order dated 28.09.2021. A copy of the Order dated 28.09.2021 is **Annexure R-27/7**.

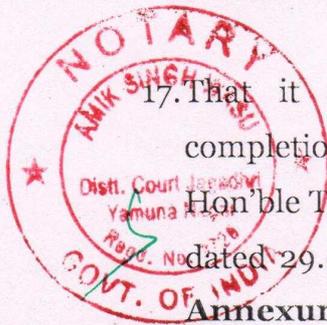
13. That in compliance of the Orders dated 13.09.2021 passed by the Director General, the answering respondent had obtained the necessary clearances and permissions for mining operations at Mandewala Mining Block; and had commenced the mining operations at Mandewala Mining Block around 20.03.2024. The permissions and clearances for mining operations at Jaidhar Mining Block were still awaited.

14. That after the failure of the first round of proxy litigation against the answering respondent, the business rivals resorted to filing petition before this Hon'ble Tribunal vide OA No. 306 of 2022 titled as Harbans Singh v/s State of Haryana and others.



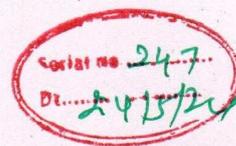
15. That this Hon'ble Tribunal, vide Order dated 06.05.2022 passed in OA No. 306 of 2022, had issued notice of motion and had granted interim stay against the answering respondent from conducting mining operations at the aforesaid mining blocks. A copy of the Order dated 06.05.2022 is **Annexure R-27/8**.

16. That it shall be pertinent to mention that in compliance of the order dated 06.05.2022 passed by this Hon'ble Tribunal, the answering respondent had immediately stopped the mining operations at Mandewala Mining Block. However, it is clarified that since the clearance/permissions for Jaidhar Mining Block were still awaited, no mining operations were being conducted at the said block.



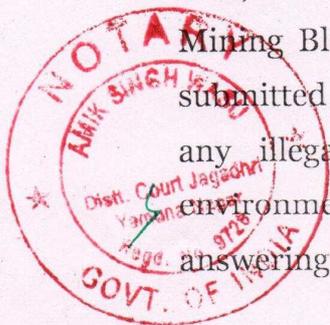
17. That it shall be pertinent to mention that after the completion of the pleadings, arguments were heard by this Hon'ble Tribunal and the final order was reserved vide Order dated 29.05.2023. A copy of the Order dated 29.05.2023 is **Annexure R-27/9**.

18. That thereafter, this Hon'ble Tribunal, vide Order dated 18.08.2023, had constituted two separate committees and sought report on various issues relating to conduct of mining activities from agricultural lands. In this regard, a copy of the Order dated 18.08.2023 is **Annexure R-27/10**.

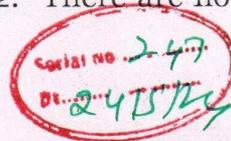


19. That presently, the aforesaid matter is pending adjudication before this Hon'ble Tribunal for 09.07.2024. In this regard, a copy of the Order dated 21.03.2024 passed by this Hon'ble Tribunal is attached herewith as **Annexure R-27/11**.

20. That it shall be pertinent to mention that the applicant, in the present case, has raised issues relating to illegal mining at District Yamunanagar. However, in so far as the allegations relating to illegal mining is concerned, the same are vehemently denied being false and without any basis. It is submitted that right since the issuance of Letter of Intent in favour of the answering respondent, the answering respondent has been embroiled into proxy litigation as mentioned herein above. The answering respondent has not conducted any mining operations at Jaidhar Mining Block till date; and had conducted mining operations at Mandewala Mining Block for a very brief period as stated above. It is submitted that the answering respondent has not conducted any illegal mining and there is no violation of any environmental law or any other law on the part of the answering respondent.



21. That even as per the status report dated 11.02.2024 submitted by respondent No. 6 before this Hon'ble Tribunal, it has been stated that the mining lease granted in favour of the answering respondent for the aforesaid mining blocks was stopped in view of the Order dated 06.05.2022 passed by this Hon'ble Tribunal in OA No. 306 of 2022. There are no



adverse remarks/findings against the answering respondent in the status report submitted by respondent No. 6.

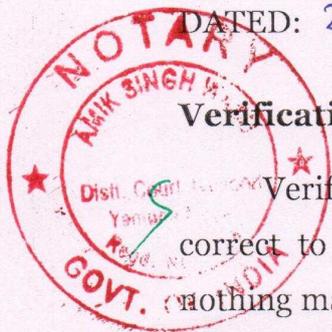
22. That in the light of the submissions made herein above, it is humbly prayed that the Original Application No. 593 of 2023 is without any merits and the same is liable to be dismissed.

PLACE: YAMUNANAGAR

DATED: 24.05.2024

Sushil Kumar

DEPONENT



Verification

Verified that the contents of my above affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

PLACE: YAMUNANAGAR

DATED: 24.05.2024

Sushil Kumar

DEPONENT



ATTESTED
Amik Singh Wastu
AMIK SINGH WASTU
B.A. (Honours) M.A. LL.B
Advocate & Notary
Dist. Court Jagadhri, Yamunanagar

-9-

ANN. A/1

**SAHARANPUR MINES MANAGEMENT SERVICES
PRIVATE LIMITED**

Shop No. 12, Mukund Market, Janakpur Chowk, Saharanpur (Uttar Pradesh)

Ref. No. NIL

Dated: 01.09.2021

Certified true copy of the resolution passed at the meeting of the Board of Directors of M/s Saharanpur Mines Management Services Private Limited held on 01.09.2021 at 12:30 (PM) at Saharanpur, Uttar Pradesh.

RESOLVED THAT the company has resolved to authorize Mr. Sushil Kumar, Director, M/s Saharanpur Mines Management Services Private Limited (DIN No. 7976161) to sign/execute all documents, agreements, covenants etc. on behalf of M/s Saharanpur Mines Management Services Private Limited. The acts done and documents signed/executed by the above named director, henceforth, shall be binding on the Company.

It is further resolved that the address for the purpose of correspondence for/on behalf of the Company shall be *C/o Sh. Sushil Kumar s/o Sh. Rajbir Singh r/o Village Ganganpur, Tehsil Barara, District Ambala, Haryana.*

Note: *The place of the meeting was decided on the basis of convenience of the Directors and keeping in view the prevailing situation on account of COVID-19 pandemic.*

Signed and Sealed by:

1. Anand Kumar (Anand Kumar Ray, DIN No. 06656863).
2. Sushil Kumar (Sushil Kumar, DIN No. 07976161).
3. Liaque Ahmed Khan (Liaque Ahmed Khan DIN No. 01905067).
4. Mohd. Javed (Mohd. Javed DIN No. 01637461)

Registered

From

The Director General,
Mines & Geology Department, Haryana
30 Bays building, Sector-17,
Chandigarh.

To

Saharanpur Mines Management Services Private Limited,
Shop No. 12, Mukund Market, Janakpur Chowk,
Saharanpur-247121 (Uttar Pradesh).

Memo No. DMG/HY/Cont/Jaidhar Block/YNR B 34/2015/7086
Dated Chandigarh, the 20.07.2015

Subject:

Acceptance of the highest bid/ in respect of the Boulder, Gravel and Sand minor mineral mines of "Jaidhar Block/YNR B 34" having Tentative Area of 25.60 hectares in the district Yamuna Nagar, offered in e- auction held on 06.07.2015 and 07.07.2015 and issue of Letter of Intent (LoI) - regarding.

You participated in the in the e- auction held on 06.07.2015 and 07.07.2015 on the State Government web portal <https://haryanaeprocurement.gov.in> after accepting the terms and conditions of the auction notice DMG/HY/e Auction/YNR/2015/3793 dated 15.06.2015 in order to obtain mining contracts of minor mineral mines/block of the district Yamuna Nagar. You offered the highest bid of Rs. 06,72,00,000/- [Rs. Six Crore seventy two lakhs only] per annum, against the Reserve Price of Rs. 06,71,00,000/- per annum, for obtaining the Mining Contract of Minor Mineral block namely 'Jaidhar Block/YNR B 34' for extraction of Boulder, Gravel and sand having tentative area of 25.60 hectares. The details of the khasra numbers of the tentative area under above said Mining Block is attached as Annexure 'A'.

2. You are hereby informed that the State Government has accepted the highest bid of Rs. 06,72,00,000/- [Rs. Six Crore seventy two lakhs only] offered by you in respect of the above said minor mineral block of 'Jaidhar Block/YNR B 34' under the provisions of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals & Prevention of Illegal Mining Rules-2012 (State Rules). Accordingly, you have become the successful bidder in respect of 'Jaidhar Block/YNR B 34' of the district Yamuna Nagar.

3. The State Government having accepted the aforementioned highest bid offered by you, the Department is pleased to issue this Letter of Intent (LoI) in your favour in respect of the Mining Block/area namely 'Jaidhar Block/YNR B 34' subject to the following terms and conditions:

- (i) The period of contract shall be 08 years and the same shall commence with effect from the date of grant of environmental clearance by competent authority or on



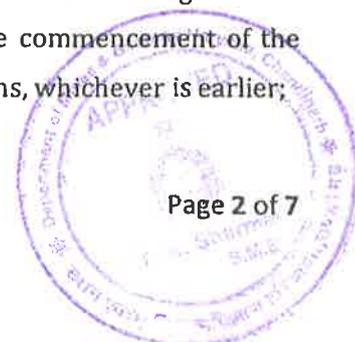
Director General, Mines and Geology Department Haryana
30-Bays Building, Sector-17, Chandigarh.

expiry of a period of 12 months from the date of this communication of acceptance of highest bid/ issuance of "Letter of Intent", whichever is earlier;

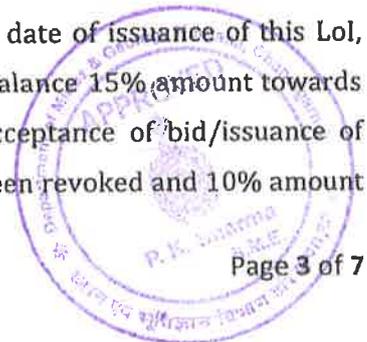
- (ii) You may note that the detail of the area of the mining blocks is tentative and was notified "on as is where is basis" (refer condition no. 4 of the notice). In case of any inadvertent mistake, if any, the same would be rectified/ corrected before execution of the agreement (refer condition no. 3 of the notice).;
- (iii) No request regarding reduction in bid amount on account of reduction in land/area of the Mining block, including due to change in description of khasra numbers/location etc. at any stage will be entertained on any ground including loss/reduction of area for mining on account of compliance of applicable laws/restrictions. Needless to state that this also includes the changes, if any, as per condition no. 3 of auction notice.
- (iv) The amount of the highest successful bid i.e. **Rs. 06,72,00,000/-** [Rs. Six Crore seventy two lakhs only] per annum shall be the "Annual Contract Money" payable by you as the contractor in the manner prescribed in the contract agreement to be executed on form MC-1 appended to State Rules;
- (v) The above said annual contract money shall be increased at the rate of 25% on completion of each block of three years. Accordingly, the year-wise amount of the annual contract money shall be as per details given below:

Sr. No.	Year of the Contract Period	Annual contract Money
1	First Year	Rs. 06,72,00,000/-
2	Second Year	Rs. 06,72,00,000/-
3	Third Year	Rs. 06,72,00,000/-
4	Fourth Year	Rs. 08,40,00,000/-
5	Fifth Year	Rs. 08,40,00,000/-
6	Sixth Year	Rs. 08,40,00,000/-
7	Seventh Year	Rs. 10,50,00,000/-
8	Eighth Year	Rs. 10,50,00,000/-

- (vi) As per the terms and conditions of the grant, you are liable to deposit **Rs. 01,68,00,000/-** i.e. equal to 25% of the annual bid amount as "security deposit" out of which you have already deposited an amount of **Rs. 67,20,000/-** (Rs. Sixty seven lakh twenty thousand only) i.e. equal to 10% of the annual bid amount as 'initial bid security' after the conclusion of e-auction. The balance amount of **Rs. 01,00,80,000/-** of the bid security i.e. 15% of the annual bid amount alongwith one month's advance contract money shall be deposited before commencement of the mining operations or before expiry of the period of 12 months, whichever is earlier;



- (vii) You shall execute an Agreement Deed in Form MC-I appended to the Haryana Minor Mineral Concession, Stocking, Transportation of Mineral & Prevention of Illegal Mining Rules-2012 (the State Rules 2012) within a period of 90 days from the date of issuance of this communication/ grant of Lol;
- (viii) It may be pointed out that as per existing applicable rates the contract agreement had to be executed on **Non Judicial Stamp papers worth Rs. 24,88,500/- (Rs. Twenty four lakh eighty eight thousand five hundred only)**. However, you are aware that M/s Om Minerals, one of the Lol holders (who participated in the auctions held in December 2013) has filed a CWP No.7991 of 2014, before the Hon'ble Punjab & Haryana High Court. Further a few other similarly situated Lol holders have also filed separate CWP's before the Hon'ble Punjab and Haryana High Court challenging demand/ levy of Stamp Duty on execution of 'Contract Agreement'. The said matter is still pending for adjudication. Accordingly, the present auction was conducted subject to outcome of said cases. **Therefore, the charging of stamp duty for the execution of contract agreement shall be as per final outcome of the said CWP's.**
- (ix) The Contract Agreement would also be required to be got Registered on payment of the applicable Registration fee;
- (x) In case you fail to execute the Agreement Deed within the prescribed period of 90 days, this Lol shall be deemed to have been revoked and the amount of initial bid security deposited at the time of auction shall be forfeited. Further, the balance amount of 15% towards the bid security, amounting to **Rs. 01,00,80,000/-** being the 15% of the annual bid amount, shall be recovered as arrears of land revenue and, you, as the Lol holder/ defaulter, shall be debarred from participation in any future auctions for a period of 5 years;
- (xi) You shall also furnish a solvent surety for a sum equal to the amount of the annual bid for execution of the Agreement. In case the surety offered by the contractor(s) during the subsistence of the contract is not found solvent, the contractor(s) shall offer another solvent surety and a supplementary deed shall be executed to this effect;
- (xii) After execution of Agreement, either before commencement of the mining operation or before expiry of the period of 12 months from the date of issuance of this Lol, whichever is earlier, in case of failure to deposit the balance 15% amount towards security [as required under clause (v) above] the acceptance of bid/issuance of Lol/execution of agreement shall be deemed to have been revoked and 10% amount



Director General, Mines and Geology Department Haryana
30-Bays Building, Sector-17, Chandigarh.

deposited towards as initial bid security at the time of auction shall stand forfeited. Further, un-paid 15% amount towards security shall be recovered as arrears of land revenue and you shall be debarred from participation in any subsequent bids for a period of 5 years;

- (xiii) You shall be liable to deposit the contract money in advance at monthly intervals as per provisions of Contract Agreement i.e. from the date of commencement of the contract Agreement;
- (xiv) You shall also deposit/ pay an additional amount equal to 10% of the due contract money along with the monthly installments towards the '**Mines and Minerals Development, Restoration and Rehabilitation Fund**'.
- (xv) You shall also be liable to pay advance income tax as per provisions of Section 206(c) of income tax act in addition to contract money, payable as per terms and conditions of contract agreement.
- (xvi) On enhancement of the contract money with the expiry of every three years period, you shall deposit the balance amount of security so as to upscale the security amount equal to 25% of the revised annual contract money as applicable for one year with respect to the next block of three years. No interest, whatsoever, shall be payable on the security amount deposited under the prescribed security head of the government;
- (xvii) You shall prepare a Mining Plan along with the Mine Closure Plan (Progressive & Final) as per chapter 10 of the State Rules for the "Mining Block" and shall not commence mining operations in any area except in accordance with such Mining Plan duly approved by an officer authorised by the Director, mines & Geology, in this behalf.
- (xviii) Further, the actual mining will be allowed to be commenced only after prior Environmental Clearance is obtained by you as the Lol holder/mining contractor for the Mining Block from the Competent Authority as permitted by the competent Authority required under EIA notification dated 14/9/2006, as amended from time to time by the MoE&F, GoI and guidelines/ circulars issued in this behalf;
- (xix) The Mining contractor to whom mining rights have been granted through this contract would also be liable to pay the following to the landowners to undertake mining operations:
 - (a) Annual rent in respect of the land area blocked under the concession but not being operated, and



**Director General, Mines and Geology Department Haryana
30-Bays Building, Sector-17, Chandigarh.**

- (b) Rent plus compensation in respect of the area used for actual mining operations.
- (xx) The amount of annual rent and the compensation shall be settled mutually between the landowner and the mining contractor. In case of non-settlement of the rent and compensation, the same shall be decided by the District Collector concerned in accordance with the provisions contained in Chapter 9 of the "Haryana Minor Mineral Concession, Stocking, and Transportation of Minerals and Prevention of Illegal Mining Rules, 2012";
- (xxi) The total mineral excavated and stacked by the concession holder within the area granted on mining contract shall not exceed two times of the average monthly production as per approved Mining Plan at any point of time;
- (xxii) The Mining Contractor shall not stock any mineral outside the concession area granted on mining contract, without obtaining a valid license as per provisions contained in Chapter 14 of the State Rules;
- (xxiii) The contractor shall not carry out any mining operations in any reserved/ protected forest or any area prohibited by any law in force in India, or prohibited by any authority without obtaining prior permission in writing from such authority or officer authorized in this behalf. In case of refusal of permission by such authority or officer authorized in this behalf, contractor(s) shall not be entitled to claim any relief in payment of contract money on this account;
- (xxiv) Following are the general/ special conditions applicable for excavation of minor mineral(s) from river beds in order to ensure safety of river-beds, structures and the adjoining areas:
- (a) No mining would be permissible in a river-bed up to a distance of five times of the span of a bridge structure on up-stream side and ten times the span of such bridge structure on down-stream side, subject to a minimum of 250 meters on the up-stream side and 500 meters on the down-stream side;
- (b) There shall be maintained an un-mined block of 50 meters width after every block of 1000 meters over which mining is undertaken or at such distance as may be directed by the Director or any officer authorised by him;
- (c) The maximum depth of mining in the river-bed shall not exceed three meters from the un-mined bed level at any point in time with proper bench formation;
- (d) Mining shall be restricted within the central 3/4th width of the river/ rivulet;



- (e) No mining shall be permissible in an area up to a width of 500 meters from the active edges of embankments in case of river Yamuna, 250 meters in case of Tangri, Markanda and Ghaggar and 100 meters on either side of all other rivers/ rivulets. (This clause is applicable for mining outside river bed area);
- (f) Any other condition(s), as may be required by the Irrigation Department of the state from time to time for river-bed mining in consultation with the Mines & Geology Department, may be made applicable to the mining operations in river-beds.
- (xxv) A safety margin of two meters (2m) shall be maintained above the ground water table while undertaking mining and no mining operations shall be permissible below this level unless a specific permission is obtained from the competent authority in this behalf. Further, the depth of excavation of mineral shall not exceed nine meters (9m) at any point of time. (This clause is applicable for mining outside river bed area);
- (xxvi) The contractor shall not undertake any mining operations in the area granted on mining contract without obtaining requisite permission from the competent authority as required for undertaking mining operations under relevant laws;
- (xxvii) The contractor shall be under obligation to carry out mining in accordance with all other provisions as applicable under the Mines Act, 1952, Mines and Minerals (Development and Regulation) Act, 1957, Indian Explosives Act, 1884, Forest (Conservation) Act, 1980 and Environment (Protection) Act, 1986 and the rules made thereunder, Wild Life (Protection) Act, 1972, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981;
4. Accordingly, for the time being you are advised to submit the Draft Contract Agreement on Form MC-I (in Five copies) appended to the State Rules-2012, on **plain papers** along with other requisite documents including a solvent surety(s) for a sum equal to the amount of the annual bid for execution of the agreement, within a period of 90 days from the date of issue of this bid acceptance letter and the Lol. You should also furnish an affidavit to the effect that you will immediately deposit the requisite stamp duty as per out of the related Court cases as stated under para 3(viii) above.
5. Please note that one Sh. Rajbir Singh had filed a CWP bearing No. 27700 of 2013 before the Hon'ble Punjab & Haryana High Court challenging (i) commencement of contract period after 12 months from the date of acceptance of highest bid/issuance of "Letter of Intent" or from date of obtaining of environmental clearance from competent authority



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which ever is earlier and (ii) payment of rent and compensation to surface right holder/land owners from where mining operations are to be carried out. Therefore, commencement of period of contract & payment of compensation to land owners shall be as per final outcome of court order in said CWP. Accordingly, the auction was conducted subject to outcome of above case, hence this acceptance /LoI is being issued subject to the outcome in CWP No. 27700 of 2013 pending before Hon'ble Punjab & Haryana High Court.



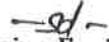
State Mining Engineer,
for Director General Mines & Geology, Haryana.

Endst.No. DMG/HY/Cont/Jaidhar Block/YNR B 34/2015/

Dated:

A copy is forwarded to the following for information and necessary action please:-

1. The Chairman, Haryana State Pollution Control Board, Panchkula.
2. The Deputy Commissioner, Yamuna Nagar.
3. The Mining Officer, Mines & Geology Department, Yamuna Nagar.



State Mining Engineer,
for Director General Mines & Geology, Haryana.



CONSENT LETTER FROM APPLICANT (Annexure-2)

The Mining Plan & Progressive Mine Closure Plan in respect of Sand Minor Mineral Mines of "Jaidhar Block /YNR B 34" having area – 25.60 Ha. in District - Yamuna Nagar by M/s. Saharanpur Mines Management Services Pvt. Ltd., has been prepared by S.N. Sharma bearing "Recognized Qualified Person" registration no. RQP/DDN/0135/2001-A.

We request "The Director Mines and Geology, Haryana" to make further correspondence regarding modification of the Mining Plan with the said RQP on the following address:-

Mr. S.N. Sharma
RQP/DDN/0135/2001-A.
First Floor, 282 sector 11 D, DLF,
Faridabad -121006 (Haryana)
Mobile: 09560848579
E-mail: snsharma@jbbtechnocrat.com

We also authorize Mr. S.N. Sharma to make correspondence with your office.

I hereby undertake that the Mining Plan in respect of the above area prepared by RQP be deemed to have been made with my knowledge and consent and shall be acceptable to me and binding on me in all respects.

Place:

Saharanpur Mines Management Services Pvt. Ltd.

Mohd Javed

Date:

(Authorized Signatory) **Director**



**Director General, Mines and Geology Department Haryana
30-Bays Building, Sector-17, Chandigarh.**

Registered

From

The Director General,
Mines & Geology Department, Haryana
30 Bays building, Sector-17,
Chandigarh.

To

Saharanpur Mines Management Services Private Limited,
Shop No. 12, Mukund Market, Janakpur Chowk,
Saharanpur-247121 (Uttar Pradesh).

Memo No. DMG/HY/Cont/Mandewala Block/YNR B 38/2015/3937
Dated Chandigarh, the 19.06.2015

Subject: Acceptance of the highest bid/ in respect of the Boulder, Gravel and Sand minor mineral mines of "Mandewala Block/YNR B 38" having Tentative Area of 15.00 hectares in the district Yamuna Nagar, offered in e- auction held on 10.06.2015 and 11.06.2015 and issue of Letter of Intent (LoI) - regarding.

You participated in the in the e- auction held on 10.06.2015 and 11.06.2015 on the State Government web portal <https://haryanaeprocurement.gov.in> after accepting the terms and conditions of the auction notice DMG/HY/e Auction/YNR/2015/2150 dated 27.04.2015 and Corrigendum DMG/HY/e-Auction/YNR/Corr./2015/3358 dated 19.05.2015 in order to obtain mining contracts of minor mineral mines of the district Yamuna Nagar. You offered the highest bid of Rs. 16,55,50,000/- [Rs. Sixteen crore fifty five lakh fifty thousand only] per annum, against the Reserve Price of Rs. 07,10,00,000/- per annum, for obtaining the Mining Contract of Minor Mineral Mines namely 'Mandewala Block/YNR B 38' for extraction of Boulder, Gravel and sand having tentative area of 15.00 hectares. The details of the khasra numbers of the tentative area under above said Mining Block is attached as Annexure 'A'.

2. You are hereby informed that the State Government has accepted the highest bid of Rs. 16,55,50,000/- [Rs. Sixteen crore fifty five lakh fifty thousand only] offered by you in respect of the above said minor mineral mines of 'Mandewala Block/YNR B 38' under the provisions of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals & Prevention of Illegal Mining Rules-2012 (State Rules). Accordingly, you have become the successful bidder in respect of Mandewala Block/YNR B 38 of the district Yamuna Nagar.

3. The State Government having accepted the aforementioned highest bid offered by you, the Department is pleased to issue this Letter of Intent (LoI) in your favour in respect of the Mining Block/area namely 'Mandewala Block/YNR B 38' subject to the following terms and conditions:

**Director General, Mines and Geology Department Haryana
30-Bays Building, Sector-17, Chandigarh.**

- (i) The period of contract shall be **08 years** and the same shall commence with effect from the date of grant of environmental clearance by competent authority or on expiry of a period of 12 months from the date of this communication of acceptance of highest bid/ issuance of "**Letter of Intent**", whichever is earlier;
- (ii) You may note that the detail of the area of the mining blocks is tentative and was notified "on as is where is basis" (**refer condition no. 4 of the notice**). In case of any inadvertent mistake, if any, the same would be rectified/ corrected before execution of the agreement (**refer condition no. 3 of the notice**);
- (iii) No request regarding reduction in bid amount on account of reduction in land/area of the Mining block, including due to change in description of khasra numbers/location etc. at any stage will be entertained on any ground including loss/reduction of area for mining on account of compliance of applicable laws/restrictions. Needless to state that this also includes the changes, if any, as per condition no. 3 of auction notice.
- (iv) The amount of the highest successful bid i.e. **Rs. 16,55,50,000/-** [Rs. Sixteen crore fifty five lakh fifty thousand only] per annum shall be the "**Annual Contract Money**" payable by you as the contractor in the manner prescribed in the contract agreement to be executed on form MC-1 appended to State Rules;
- (v) The above said annual contract money shall be increased at the rate of 25% on completion of each block of three years. Accordingly, the year-wise amount of the annual contract money shall be as per details given below:

Sr. No.	Year of the Contract Period	Annual contract Money
1	First Year	Rs. 16,55,50,000/-
2	Second Year	Rs. 16,55,50,000/-
3	Third Year	Rs. 16,55,50,000/-
4	Fourth Year	Rs. 20,69,37,500/-
5	Fifth Year	Rs. 20,69,37,500/-
6	Sixth Year	Rs. 20,69,37,500/-
7	Seventh Year	Rs. 25,86,71,875/-
8	Eighth Year	Rs. 25,86,71,875/-

- (vi) As per the terms and conditions of the grant, you are liable to deposit **Rs. 04,13,87,500/-** i.e. equal to 25% of the annual bid amount as "security deposit" out of which you have already deposited an amount of **Rs. 01,65,55,000/-** (Rs. One crore sixty five lakh fifty five thousand only) i.e. equal to 10% of the annual bid amount as 'initial bid security' after the conclusion of e-auction. The balance amount of **Rs. 02,48,32,500/-** of the bid security i.e. 15% of the annual bid amount alongwith one month's advance contract money shall be deposited before

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commencement of the mining operations or before expiry of the period of 12 months, whichever is earlier;

- (vii) You shall execute an Agreement Deed in Form MC-I appended to the Haryana Minor Mineral Concession, Stocking, Transportation of Mineral & Prevention of Illegal Mining Rules-2012 (the State Rules 2012) within a period of 90 days from the date of issuance of this communication/ grant of Lol;
- (viii) It may be pointed out that as per existing applicable rates the contract agreement had to be executed on **Non Judicial Stamp papers worth Rs. 61,30,600/- (Rs. Sixty one lakh thirty thousand six hundred fifty only)**. However, you are aware that M/s Om Minerals, one of the Lol holders (who participated in the auctions held in December 2013) has filed a CWP No.7991 of 2014, before the Hon'ble Punjab & Haryana High Court. Further a few other similarly situated Lol holders have also filed separate CWP's before the Hon'ble Punjab and Haryana High Court challenging demand/ levy of Stamp Duty on execution of 'Contract Agreement'. The said matter is still pending for adjudication. Accordingly, the present auction was conducted subject to outcome of said cases. **Therefore, the charging of stamp duty for the execution of contract agreement shall be as per final outcome of the said CWP's.**
- (ix) The Contract Agreement would also be required to be got Registered on payment of the applicable Registration fee;
- (x) In case you fail to execute the Agreement Deed within the prescribed period of 90 days, this Lol shall be deemed to have been revoked and the amount of initial bid security deposited at the time of auction shall be forfeited. Further, the balance amount of 15% towards the bid security, amounting to **Rs. 02,48,32,500/-** being the 15% of the annual bid amount, shall be recovered as arrears of land revenue and, you, as the Lol holder/ defaulter, shall be debarred from participation in any future auctions for a period of 5 years;
- (xi) You shall also furnish a solvent surety for a sum equal to the amount of the annual bid for execution of the Agreement. In case the surety offered by the contractor(s) during the subsistence of the contract is not found solvent, the contractor(s) shall offer another solvent surety and a supplementary deed shall be executed to this effect;
- (xii) After execution of Agreement, either before commencement of the mining operation or before expiry of the period of 12 months from the date of issuance of this Lol, whichever is earlier, in case of failure to deposit the balance 15% amount towards

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security [as required under clause (v) above] the acceptance of bid/issuance of Lol/execution of agreement shall be deemed to have been revoked and 10% amount deposited towards as initial bid security at the time of auction shall stand forfeited. Further, un-paid 15% amount towards security shall be recovered as arrears of land revenue and you shall be debarred from participation in any subsequent bids for a period of 5 years;

- (xiii) You shall be liable to deposit the contract money in advance at monthly intervals as per provisions of Contract Agreement i.e. from the date of commencement of the contract Agreement;
- (xiv) You shall also deposit/ pay an additional amount equal to 10% of the due contract money along with the monthly installments towards the '**Mines and Minerals Development, Restoration and Rehabilitation Fund**'.
- (xv) You shall also be liable to pay advance income tax as per provisions of Section 206(c) of income tax act in addition to contract money, payable as per terms and conditions of contract agreement.
- (xvi) On enhancement of the contract money with the expiry of every three years period, you shall deposit the balance amount of security so as to upscale the security amount equal to 25% of the revised annual contract money as applicable for one year with respect to the next block of three years. No interest, whatsoever, shall be payable on the security amount deposited under the prescribed security head of the government;
- (xvii) You shall prepare a Mining Plan along with the Mine Closure Plan (Progressive & Final) as per chapter 10 of the State Rules for the "Mining Block" and shall not commence mining operations in any area except in accordance with such Mining Plan duly approved by an officer authorised by the Director, mines & Geology, in this behalf.
- (xviii) Further, the actual mining will be allowed to be commenced only after prior Environmental Clearance is obtained by you as the Lol holder/mining contractor for the Mining Block from the Competent Authority as permitted by the competent Authority required under EIA notification dated 14/9/2006, as amended from time to time by the MoE&F, GoI and guidelines/ circulars issued in this behalf;
- (xix) The Mining contractor to whom mining rights have been granted through this contract would also be liable to pay the following to the landowners to undertake mining operations:

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30-Bays Building, Sector-17, Chandigarh.**

- (a) Annual rent in respect of the land area blocked under the concession but not being operated, and
 - (b) Rent plus compensation in respect of the area used for actual mining operations.
- (xx) The amount of annual rent and the compensation shall be settled mutually between the landowner and the mining contractor. In case of non-settlement of the rent and compensation, the same shall be decided by the District Collector concerned in accordance with the provisions contained in Chapter 9 of the "Haryana Minor Mineral Concession, Stocking, and Transportation of Minerals and Prevention of Illegal Mining Rules, 2012";
- (xxi) The total mineral excavated and stacked by the concession holder within the area granted on mining contract shall not exceed two times of the average monthly production as per approved Mining Plan at any point of time;
- (xxii) The Mining Contractor shall not stock any mineral outside the concession area granted on mining contract, without obtaining a valid license as per provisions contained in Chapter 14 of the State Rules;
- (xxiii) The contractor shall not carry out any mining operations in any reserved/ protected forest or any area prohibited by any law in force in India, or prohibited by any authority without obtaining prior permission in writing from such authority or officer authorized in this behalf. In case of refusal of permission by such authority or officer authorized in this behalf, contractor(s) shall not be entitled to claim any relief in payment of contract money on this account;
- (xxiv) Following are the general/ special conditions applicable for excavation of minor mineral(s) from river beds in order to ensure safety of river-beds, structures and the adjoining areas:
- (a) No mining would be permissible in a river-bed up to a distance of five times of the span of a bridge structure on up-stream side and ten times the span of such bridge structure on down-stream side, subject to a minimum of 250 meters on the up-stream side and 500 meters on the down-stream side;
 - (b) There shall be maintained an un-mined block of 50 meters width after every block of 1000 meters over which mining is undertaken or at such distance as may be directed by the Director or any officer authorised by him;
 - (c) The maximum depth of mining in the river-bed shall not exceed three meters from the un-mined bed level at any point in time with proper bench formation;

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- (d) Mining shall be restricted within the central 3/4th width of the river/ rivulet;
- (e) No mining shall be permissible in an area up to a width of 500 meters from the active edges of embankments in case of river Yamuna, 250 meters in case of Tangri, Markanda and Ghaggar and 100 meters on either side of all other rivers/ rivulets. (This clause is applicable for mining outside river bed area);
- (f) Any other condition(s), as may be required by the Irrigation Department of the state from time to time for river-bed mining in consultation with the Mines & Geology Department, may be made applicable to the mining operations in river-beds.
- (xxv) A safety margin of two meters (2m) shall be maintained above the ground water table while undertaking mining and no mining operations shall be permissible below this level unless a specific permission is obtained from the competent authority in this behalf. Further, the depth of excavation of mineral shall not exceed nine meters (9m) at any point of time.(This clause is applicable for mining outside river bed area);
- (xxvi) The contractor shall not undertake any mining operations in the area granted on mining contract without obtaining requisite permission from the competent authority as required for undertaking mining operations under relevant laws;
- (xxvii) The contractor shall be under obligation to carry out mining in accordance with all other provisions as applicable under the Mines Act, 1952, Mines and Minerals (Development and Regulation) Act, 1957, Indian Explosives Act, 1884, Forest (Conservation) Act, 1980 and Environment (Protection) Act, 1986 and the rules made thereunder, Wild Life (Protection) Act, 1972, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981;
4. Accordingly, for the time being you are advised to submit the Draft Contract Agreement on Form MC-I (in Five copies) appended to the State Rules-2012, on **plain papers** along with other requisite documents including a solvent surety(s) for a sum equal to the amount of the annual bid for execution of the agreement, within a period of 90 days from the date of issue of this bid acceptance letter and the Lol. You should also furnish an affidavit to the effect that you will immediately deposit the requisite stamp duty as per out of the related Court cases as stated under para 3(viii) above.
5. Please note that one Sh. Rajbir Singh had filed a CWP bearing No. 27700 of 2013 before the Hon'ble Punjab & Haryana High Court challenging (i) commencement of contract

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period after 12 months from the date of acceptance of highest bid/issuance of "Letter of Intent" or from date of obtaining of environmental clearance from competent authority which ever is earlier and (ii) payment of rent and compensation to surface right holder/land owners from where mining operations are to be carried out. Therefore, commencement of period of contract & payment of compensation to land owners shall be as per final outcome of court order in said CWP. Accordingly, the auction was conducted subject to outcome of above case, hence this acceptance /Lol is being issued subject to the outcome in CWP No. 27700 of 2013 pending before Hon'ble Punjab & Haryana High Court.


Mining Officer,
for Director General Mines & Geology, Haryana

Endst.No. DMG/HY/Cont/Mandewala Block/YNR B 38/2015/

Dated:19.06.2015

A copy is forwarded to the following for information and necessary action please:-

1. The Chairman, Haryana State Pollution Control Board, Panchkula.
2. The Deputy Commissioner, Yamuna Nagar.
3. The Mining Officer, Mines & Geology Department, Yamuna Nagar.


Mining Officer,
for Director General Mines & Geology, Haryana.

STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY HARYANA
Bay No. 55-58, Prayatan Bhawan, Sector-2, PANCHKULA.

No. SEIAA/HR/2016/500

Dated: 27-06-2016

To

M/s Saharanpur Mines Management Services Pvt. Ltd.,
Shop No. 12, Mukund Market, Janakpur Chowk,
Saharanpur-247121 (UP)

Subject: Environmental Clearance for Mining of Boulder, Gravel and Sand (Minor Minerals) Mines namely "Mandewala Block/YNR B-38" over an area of 15.00 Ha. Falling in Village-Mandewala, Tehsil-Chhachhrauli, District Yamuna Nagar, Haryana.

This has reference to your application transferred online by MoEF & CC, GoI to M. S. SEIAA on 16.04.2016; hard copy received on 21.04.2016 and subsequent letter dated 01.06.2016 seeking prior environmental clearance for the above project under the EIA Notification, 2006. The proposal has been appraised as per prescribed procedure in the light of provisions under the EIA Notification, 2006 and subsequent amendments on the basis of the mandatory documents enclosed with the application viz., Form-1, Pre-feasibility report, copy of approved Mining Plan, EIA/EMP on the basis of approved TOR and the additional clarifications furnished in response to the observations of the LAC of MoEF & CC, GoI and State Expert Appraisal Committee (SEAC) constituted by MOEF & CC, GOI vide their Notification 21.08.2015, in its meetings held on 06.05.2016 and 01.06.2016.

[2] The SEAC has examined the application and noted that the proposal is for Mining of Boulder, Gravel and Sand (Minor Minerals) Mines namely "Mandewala Block/YNR B-38" falling in Village-Mandewala, Tehsil-Chhachhrauli, District Yamuna Nagar, Haryana over an area of 15.00 Ha. The Mines & Geology Department, Haryana has granted lease for an area of 15.00 Ha "Mandewala Block/YNR B-38" at Village-Mandewala, Tehsil-Chhachhrauli, District Yamuna Nagar vide LOI dated 19.06.2015. The project proponent has submitted approved mining plan dated 10.03.2016. The public hearing was conducted by HSPCB on 10.03.2016. The SEAC has appraised this project as category B-1. NOC from Forest Department has been obtained. It was noticed that the lease area is less than 25 Ha. The EAC of MoEF & CC, GoI and SEAC have appraise this project under category B-1 requiring approval of TOR, Public Consultation as per procedure prevalent at that time. The MoEF & CC, GoI on 15.01.2016 amended the Notification and as per amended Notification this project activity now falls under category B 2.

Brief details of the project:

1.	Category/Item no. (in schedule):	1 (a) B-1 (B-2 as per amended Notification)
2.	Location of Project	Village-Mandewala, Tehsil-Chhachhrauli, District Yamuna Nagar, Haryana

3.	Project Details Khasra No.	"Mandewala Block/YNR B-38" over an area of 15.00 Ha																
	Production capacity	2,40,000 TPA @40 Trips/day (25 MT)																
4.	Project Cost	7 Crore																
5.	Water Requirement & Source	26 KLD through Tankers																
		Dust suppression	15 KLD															
		Plantation	10 KLD															
		Drinking	1 KLD															
6.	Environment Management Plan Budget	26 lakh																
7.	CSR Activates Budget	15 Lakh																
8.	Production	The proposed production for the five years is @ 2,40,000 TPA. The ultimate pit limit is 3 m bgl or 2 meter above water table which ever comes first in riverbed mining.																
9.	Corner Coordinates of the lease area	<table border="1"> <thead> <tr> <th>Corners</th> <th>Latitudes</th> <th>Longitudes</th> </tr> </thead> <tbody> <tr> <td>Mandewala,</td> <td>N 30⁰ 15'57.4"</td> <td>E77⁰ 30'31.7"</td> </tr> <tr> <td></td> <td>N 30⁰ 15'46.2"</td> <td>E77⁰ 30'32.1"</td> </tr> <tr> <td></td> <td>N 30⁰ 15'41.9"</td> <td>E77⁰ 30'25.9"</td> </tr> <tr> <td></td> <td>N 30⁰ 15'41.5"</td> <td>E77⁰ 30'38.4"</td> </tr> </tbody> </table>		Corners	Latitudes	Longitudes	Mandewala,	N 30 ⁰ 15'57.4"	E77 ⁰ 30'31.7"		N 30 ⁰ 15'46.2"	E77 ⁰ 30'32.1"		N 30 ⁰ 15'41.9"	E77 ⁰ 30'25.9"		N 30 ⁰ 15'41.5"	E77 ⁰ 30'38.4"
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11.	Machinery required	Excavator, JCB, Tipers/Trucks, Water Tanker Light Vehicles/Geep and Maintaniance Van																

The Authority in its 92nd meeting held on 15.06.2016 decided to agree with the recommendations of SEAC to accord Environment Clearance to this project under category B2 in view of amendment to the Notification dated 15.01.2016, by imposing the following conditions:-

A SPECIFIC CONDITIONS:

- [1] This Environment Clearance is granted for the proposed production of Boulder, Gravel and Sand (Minor Minerals) for the five years @ 2,40,000 TPA. The ultimate pit limit is 3 m bgl or 2 meter above water table which ever comes first in riverbed mining. The Corner Coordinates of the leased area are:

Corners	Latitudes	Longitudes
Mandewala,	N 30 ⁰ 15'57.4"	E77 ⁰ 30'31.7"
	N 30 ⁰ 15'46.2"	E77 ⁰ 30'32.1"
	N 30 ⁰ 15'41.9"	E77 ⁰ 30'25.9"
	N 30 ⁰ 15'41.5"	E77 ⁰ 30'38.4"

- [2] The project proponent shall carry out mining activity strictly as per the approved Mining Plan.
- [3] Environmental Clearance is subject to obtaining clearance, under the Wildlife (Protection) Act, 1972 from the National Board of Wildlife, as applicable to the project.
- [4] No mining activities will be allowed in forest area, if any, for which the Forest Clearance is not available.
- [5] The Project proponent shall obtain consent to Operate from the State Pollution control Board, Haryana and effectively implement all the conditions stipulated therein.
- [6] Project Proponent shall appoint an Occupational Health Specialist for Regular and Periodical medical examination of the workers engaged in the project and records maintained; also, Occupational health check-ups for workers having some ailments like BP, diabetes, habitual smokers, etc. shall be undertaken once in six months and necessary remedial/preventive measures taken accordingly. Recommendations of National Institute for labour for ensuring good occupational environment for mine workers would also be adopted.
- [7] Project Proponent shall appoint a Monitoring Committee to monitor the replenishment study, traffic management, levels of production, River Bank erosion and maintenance of Road etc.
- [8] The number of trips of the trucks shall not exceed 40 Trips/day (25 Ton/Trip). Transport of minerals shall be done either by dedicated road or it should be ensured that the trucks/dumpers carrying the mineral should not be allowed to pass through the villages.
- [9] Project Proponent shall ensure that the road may not be damaged due to transportation of the mineral; and transport of minerals will be as per IRC Guidelines with respect to complying with traffic congestion and density.
- [10] Excavation will be carried out up to a maximum depth of 3 meters from surface of river bed one meter above from the ground water level of the River channel whichever is reached earlier.
- [11] The pollution due to transportation load on the environment will be effectively controlled & water sprinkling will also be done regularly. Vehicles with PUC only will be allowed to ply. The mineral transportation shall be carried out through covered trucks only and the vehicles carrying the mineral shall not be overloaded. Project should obtain 'PUC' certificate for all the vehicles from authorized pollution testing centre.
- [12] Washing of all transport vehicles should be done inside the mining lease.

- [13] Permanent pillars has to be constructed to demarcate width of extraction of Reserve of Minerals leaving 25% of River width from the bank with depth of 1.5m below the ground and 1.2 m above the ground to observe its stability.
- [14] There shall be planning, developing and implementing facility of rainwater harvesting measures on long term basis in consultation with Regional Director, Central Groundwater Board and implementation of conservation measures to augment ground water resources in the area in consultation with Central Ground Water Board.
- [15] The Project Proponent shall also take all precautionary measures during mining operation for conservation and protection of endangered flora/fauna, if any, spotted in the study area.
- [16] Main haulage road in the mine should be provided with permanent water sprinklers and other roads should be regularly wetted with water tankers fitted with sprinklers.
- [17] Provision shall be made for the housing of construction for labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The housing may be in the form of temporary structures to be removed after the completion of the project.
- [18] No River sand mining shall be allowed in flowing water and no mining is allowed in rainy season.
- [19] The project proponent shall submit annual replenishment report certified by an authorized agency. In case the replenishment is lower than the approved rate of production, then the mining activity/ production levels shall be decreased/ stopped accordingly till the replenishment is completed.
- [20] The project proponent shall ensure that no natural water course/water body shall be obstructed due to any mining operations.
- [21] The dumping site selected and proposed shall be used for over burden dump at the designated site within the lease area as per the approved mine plan. In no case the overburden should be dumped outside the lease area.
- [22] Garland drains shall be constructed to prevent the flow of the water in the dumps.
- [23] Green belt should be developed as per the proposed plantation as given in the proposal. Plantation should be carried out in phased manner.
- [24] Regular water sprinkling shall be carried out in critical areas prone to air pollution and having high levels of SPM and RPM such as haul road, loading and unloading point and transfer points. It shall be ensured that the Ambient Air Quality Parameters conform to the norms prescribed by the CPCB.
- [25] Regular monitoring of ground water level and quality shall be carried out in and around the mine lease. The monitoring shall be carried out four times in a year-pre

- monsoon (April-May), monsoon (August), post monsoon (November); winter (January) and the data thus collected may be sent regularly to MOEF Regional Office, Chandigarh and Regional Director CGWB.
- [26] Data on ambient air quality and stack emissions shall be submitted to Haryana Pollution Control Board once in six months carried out by MOEF/NABL/CPCB/ Government approved lab.
- [27] Vehicular emissions shall be kept under control and regularly monitored. Measures shall be taken for maintenance of vehicles used in mining operations and in transportation of mineral. The vehicles shall be covered with a tarpaulin and shall not be overloaded. The project proponent shall ensure that the vehicle must have pollution under control certificate.
- [28] The project proponent shall take all precautionary measures during mining operations for conservation and protection of endangered fauna, if any, spotted in the study area. A plan for conservation shall be drawn and got approved from the Chief Wildlife Warden of the State before start of mining operations. Necessary allocation of funds for implementation of the conservation plan shall be made and the funds so allocated shall be included in the project cost. All the safeguard measures brought out in the wildlife conservation plan so prepared specific to the project site shall be effectively implemented. A copy of action plan may be submitted to the HSPCB and MOEF, Regional Office, Chandigarh within 3 months..
- [29] As envisaged, the Project Proponent shall invest at least an amount of Rs. 26.0 lakh as cost for implementing various environmental protection measures including recurring expenses per year.
- [30] A sum of Rs. 15.0 lakh shall be earmarked by the Project proponent for investment as CSR on socio economic up-liftment activities of the area particularly in the area of habitat, health or education, training programme of rural women & man provide the kit for employment generation. The proposal should contain provision for monthly medical camps, distributions of medicines and improvement in educational facilities in the nearby schools. Details of such activity along with time bound action plan be submitted to HSPCB/SEIAA Haryana before the start of operation.
- [31] Budgetary provision of Rs. 5.0 lakh per year earmarked for the labours working in the Mine for all necessary infrastructure facilities such as health facility, sanitation facility, fuel for cooking, along with safe drinking water, medical camps and toilets for women, crèche for infants should be made and submitted to HSPCB at the time of CTE/CTO/SEIAA Haryana. The housing facilities should be provided for mining labours.

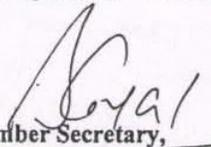
- [32] A Final Mine Closure Plan along with details of corpus fund shall be submitted to the SEIAA well within the stipulated period as prescribed in the minor mineral concession rules 2012.
- [33] The project proponent shall ensure that the Environment Clearance letter as well as the status of compliance of Environment Clearance conditions and the monitoring data are placed on company's website and displayed at the project site.
- [34] The project proponent shall ensure that loading in Trucks do not exceed the norms fixed by the Transport Department as per relevant rules.
- [35] The project proponent shall ensure approach roads are widened and strengthened as per requirements fixed by PWD and district administration before the start of the work.
- [36] The project proponent shall ensure supply of drinking water through RO.
- [37] The project proponent shall strictly adhere to the Sustainable Sand Mining Management guidelines issued by MoEF & CC, GoI on 15.03.2016 and shall ensure the compliance of the standard environmental conditions prescribed for the sand mining in the said guidelines; in addition to the conditions imposed in the environment clearance letter.
- [38] The project proponent shall carry out mining in semi mechanized manner using manpower, tractor, trucks, JCB and excavator for king transportation.

GENERAL CONDITIONS:

- [i] Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of the Environment (Protection) Act, 1986.
- [ii] Any change in mining technology/scope of working shall not be made without prior approval of the SEIAA.
- [iii] Any change in the calendar plan including excavation, quantum of mineral and waste shall not be made.
- [iv] Periodic monitoring of ambient air quality shall be carried out for PM_{10} , $PM_{2.5}$, SO_2 and NO_x monitoring. Location of the stations (minimum 6) shall be decided based on the meteorological data, topographical features and environmentally and ecologically sensitive targets and frequency of monitoring shall be decided in consultation with the Haryana State Pollution Control Board (HSPCB). Six monthly reports of the data so collected shall be regularly submitted to the HSPCB/CPCB including the MOEF, Regional office, Chandigarh.
- [v] Personnel working in dusty areas shall wear protective respiratory devices they shall also be provided with adequate training and information on safety and health aspects.

- [vi] Occupational health surveillance program of the workers shall be undertaken periodically to observe any contractions due to exposure to dust and take corrective measures, if needed.
- [vii] The funds earmarked for environmental protection measures shall be kept in separate account and shall not be diverted for other purpose. Year wise expenditure shall be reported to the HSPCB and the Regional office of MOEF located at Chandigarh.
- [viii] The project proponent shall also submit six monthly reports on the status of compliance of the stipulated Environment Clearance conditions including results of monitored data (both in hard copies as well as by e-mail) to the northern Regional Office of MoEF, the respective Office of CPCB, HSPCB and SEIAA Haryana.
- [ix] The above conditions will be enforced, inter alia, under the provision of the Water (Prevention & Control of Pollution) Act, 1974 the Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the Public Liability Insurance Act 1991 (all amended till date) and rules made hereunder and also any other orders passed by the Honb'le Supreme Court of India/High Court of Haryana and other Court of law relating to the subject matter.
- [x] The Project proponent should inform the public that the project has been accorded Environment Clearance by the SEIAA and copies of the clearance letter are available with the Haryana State Pollution Control Board & SEIAA. This should be advertised within 7 days from the date of issue of the clearance letter at least in two local newspapers that are widely circulated in the region and the copy of the same should be forwarded to SEIAA Haryana. A copy of Environment Clearance conditions shall also be put on project proponent's web site for public awareness.
- [xi] All the other statutory clearances such as the approvals for storage of diesel from the Chief Controller of Explosives, Fire department, Civil Aviation Department, Forest Conservation Act, 1980 etc. shall be obtained, as may be applicable, by Project Proponent from the competent authority before the start of mining operation.
- [xii] That the grant of this Environment Clearance is issued from the environmental angle only, and does not absolve the project proponent from the other statutory obligations prescribed under any other law or any other instrument in force. The sole and complete responsibility, to comply with the conditions laid down in all other laws for the time being in force, rests with the industry/unit/project proponent. Any appeal against this environmental clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under section 16 of National Green Tribunal Act, 2010.

- [xiii] The methodology of mining shall be strictly as per orders passed by Hon'ble NGT/ Hon'ble Supreme Court from time to time.
- [xiv] The Project Proponent shall not disturb/damage the position of studs in river bed and also not to damage the river banks and not to degrade the river bed in any manner.
- [xv] Any area which has been banned by any authority/courts shall not be used for mining activity.
- [xvi] Distance of mining to be maintained from Pucca Hydraulic structure/ Bridges shall be as per approved mining plan/ guideline issued by MoEF & CC/ Court Orders.
- [xvii] Quantum mining allowed in the river will be actual replenishment or mining allotted whichever is less.
- [xviii] The Project Proponent should set the Probable replenishment checked from the reputed institution.


Member Secretary,
State Level Environment Impact
Assessment Authority, Haryana, Panchkula.

Endst. No. SEIAA/HR/2016/

Dated:.....

A copy of the above is forwarded to the following:

1. The Director (IA Division), MoEF&CC, GoI, Indra Paryavaran Bhavan, Zor bagh Road-New Delhi.
2. The Regional office, Ministry of Environment, Forests & Climate Change, Govt. of India, Bay's no. 24-25, Sector 31-A, Dakshin Marg, Chandigarh.
3. The Chairman, Haryana State Pollution Control Board, C-11, Sector-6, Pkl.
4. The Director General, Mines & Geology Department Haryana, Chandigarh.


Member Secretary,
State Level Environment Impact
Assessment Authority, Haryana, Panchkula.

STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY HARYANA
 Bay No. 55-58, Prayagrah Bhawan, Sector-2, PANCHKULA.

No. SEIAA/HR/2018/1072

Dated: 20-8-18

To

M/s Saharanpur Mines Management Services Pvt. Ltd,
 Shop No. 12, Mukund Market, Janakpur Chowk,
 Saharanpur-247121, Uttar Pradesh

Subject: Environmental Clearance for proposed Sand Minor Mineral Mines at Jaidhar Block /YNR B-34 over an area of 25.60 ha. in Tehsil- Chhachhrauli, District Yamuna Nagar.

This has reference to your application no. nil dated 30.07.2015 addressed to M. S. SEIAA Haryana received on 23.11.2015 and subsequent letter dated 31.05.2016, 21.07.2016, 06.09.2016, 25.07.2018 and 07.08.2018 seeking prior environmental clearance for the above project under the EIA Notification, 2006. The proposal has been appraised as per prescribed procedure in the light of provisions under the EIA Notification, 2006 on the basis of the mandatory documents enclosed with the application viz., Form-1, Pre-feasibility report, copy of approved Mining Plan, EIA/EMP on the basis of approved TOR and the additional clarifications furnished in response to the observations of the State Expert Appraisal Committee (SEAC) constituted by MOEF, GOI vide their Notification 21.08.2015, in its meetings held on 12.01.2016, 09.07.2016 and 03.08.2016

[2] The SEAC has examined the application and noted that the proposal is Sand Minor Mineral Mines at Jaidhar Block /YNR B-34 over an area of 25.60 ha. in Tehsil- Chhachhrauli, District Yamuna Nagar. The Letter of Intent (LOI) dated 20.07.2015. The lease has been granted for an area of 25.60 ha having Village- Jaidhar Block /YNR B-34. The project proponent on 23.11.2015 uploaded online application along with copy of approved Mining Plan under category B-1. The validity of Mining Scheme in the Mining plan is for 5 years. NOC from Forest Department has been obtained. The Mines and Geology Department has granted lease for a period of 08 years. The SEAC in its 125th meeting held on 12.01.2016 approved the TOR for EIA study. The public hearing was held on 09.04.2016.

Brief details of the project:

1.	Category/Item no. (in schedule):	1 (a) B-1
2.	Location of Project	Jaidhar Block /YNR B-34 in Tehsil- Chhachhrauli, District Yamuna Nagar
3.	Project Details Khasra No. Jaidhar Block /YNR B-34	Mining of Sand Minor Mineral Mines at Jaidhar Block /YNR B-34 in Tehsil- Chhachhrauli, District Yamuna Nagar over an area of 25.60 ha.

		24,25,26//25/1,25,2,33//5,32//1/1,1/2,2,3,4/1,4/2, 4/3,5,6,7,8,9,10,13,14,15,16,17,31//1,2,3,6,7/1,7/2, 8,9,10,11,12/1,12/2,13/1,13/2,14/1,14/2,15 16/1,16/2,17,18,19,20,21,22,23,24,25/1,25/2,43//2, 3,4,4/1,4/2,5,6, 30//11,19,20/1,20/2,21,22,23,44//1,2,3															
	Production capacity	4,60,000 TPA @ 61 Trips/day (25 Ton/Trip)															
4.	Project Cost	9 crores															
5.	Water Requirement & Source	36 KLD through Tankers															
		<table border="1"> <tr> <td>Dust suppression</td> <td>24.50 KLD</td> </tr> <tr> <td>Plantation</td> <td>10.00 KLD</td> </tr> <tr> <td>Drinking</td> <td>1.5 KLD</td> </tr> </table>	Dust suppression	24.50 KLD	Plantation	10.00 KLD	Drinking	1.5 KLD									
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6.	Environment Management Plan Budget	24.50 lakh															
7.	CSR Activates Budget	16.25 Lakh															
8.	Production	The proposed production for the five years is @ 4,60,000 TPA. The ultimate depth of Mining will be 9 meter. The alivation range of mine site is 282 amsl to 283 amsl.															
9.	Corner Coordinates of the lease area	<table border="1"> <thead> <tr> <th>Block</th> <th>Latitude</th> <th>Longitude</th> </tr> </thead> <tbody> <tr> <td>Jaidhar Block</td> <td>30°13'42"N</td> <td>77°24'30"E</td> </tr> <tr> <td>/YNR B-34</td> <td>30°13'50"N</td> <td>77°24'42.5"E</td> </tr> <tr> <td></td> <td>30°13'36"N</td> <td>77°24'06"E</td> </tr> <tr> <td></td> <td>30°13'44"N</td> <td>77°24'52.5"E</td> </tr> </tbody> </table>	Block	Latitude	Longitude	Jaidhar Block	30°13'42"N	77°24'30"E	/YNR B-34	30°13'50"N	77°24'42.5"E		30°13'36"N	77°24'06"E		30°13'44"N	77°24'52.5"E
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11.	Machinery required	Excavator/ JCB Tippers/Trucks, Water Tanker Light Vehicles/Geep and Maintaniance Van															

The Authority in its 116th meeting held on 16.08.2018 decided to agree with the recommendations of SEAC to accord Environment Clearance to this project after submission of satisfactory reply by imposing the following conditions.

A. SPECIFIC CONDITIONS:

- [1] This Environment Clearance is granted for the proposed production for the five years @ 4,60,000 TPA. The ultimate depth of Mining will be 9 meter. The alivation range of mine site is 282 amsl to 283 amsl. The Corner Coordinates of the leased area are:

Block	Latitude	Longitude
Jaidhar Block	30°13'42"N	77°24'30"E
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- [2] The project proponent shall carry out mining activity strictly as per the approved Mining Plan.
- [3] Environmental Clearance is subject to obtaining clearance, under the Wildlife (Protection) Act, 1972 from the National Board of Wildlife, as applicable to the project.
- [4] No mining activities will be allowed in forest area, if any, for which the Forest Clearance is not available.
- [5] The Project proponent shall obtain consent to Operate from the State Pollution control Board, Haryana and effectively implement all the conditions stipulated therein.
- [6] Project Proponent shall appoint an Occupational Health Specialist for Regular and Periodical medical examination of the workers engaged in the project and records maintained; also, Occupational health check-ups for workers having some ailments like BP, diabetes, habitual smokers, etc. shall be undertaken once in six months and necessary remedial/preventive measures taken accordingly. Recommendations of National Institute for labour for ensuring good occupational environment for mine workers would also be adopted.
- [7] Project Proponent shall appoint a Monitoring Committee to monitor the replenishment study, traffic management, levels of production, River Bank erosion and maintenance of Road etc.
- [8] The number of trips of the trucks shall not exceed the estimated quantity @ 61 Trips/day (25 Ton/Trip). Transport of minerals shall be done either by dedicated road or it should be ensured that the trucks/dumpers carrying the mineral should not be allowed to pass through the villages.
- [9] Project Proponent shall ensure that the road may not be damaged due to transportation of the mineral; and transport of minerals will be as per the Guidelines with respect to complying with traffic congestion and density.
- [10] Excavation will be carried out up to a maximum depth of 3 meters from surface of mineral deposit and not less than one meter from the water level of the River channel whichever is reached earlier.
- [11] The pollution due to transportation load on the environment will be effectively controlled & water sprinkling will also be done regularly. Vehicles with PUC only will be allowed to ply. The mineral transportation shall be carried out through covered trucks only and the vehicles carrying the mineral shall not be overloaded. Project should obtain 'PUC' certificate for all the vehicles from authorized pollution testing centre.
- [12] Washing of all transport vehicles should be done inside the mining lease.

- [13] Permanent pillars has to be constructed to demarcate width of extraction of ROM leaving 25% of River width from the bank with depth of 1.5m below the ground and 1.2 m above the ground to observe its stability.
- [14] There shall be planning, developing and implementing facility of rainwater harvesting measures on long term basis in consultation with Regional Director, Central Groundwater Board and implementation of conservation measures to augment ground water resources in the area in consultation with Central Ground Water Board.
- [15] The Project Proponent shall also take all precautionary measures during mining operation for conservation and protection of endangered flora/fauna, if any, spotted in the study area.
- [16] Main haulage road in the mine should be provided with permanent water sprinklers and other roads should be regularly wetted with water tankers fitted with sprinklers.
- [17] Provision shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The housing may be in the form of temporary structures to be removed after the completion of the project.
- [18] No River sand mining shall be allowed in rainy season.
- [19] The project proponent shall submit annual replenishment report certified by an authorized agency. In case the replenishment is lower than the approved rate of production, then the mining activity/ production levels shall be decreased/ stopped accordingly till the replenishment is completed.
- [20] In River flood plain mining a buffer of 3 meter to be left from the River bank for mining.
- [21] The project proponent shall ensure that no natural water course/water body shall be obstructed due to any mining operations.
- [22] The dumping site selected and proposed shall be used for OB dump at the designated site within the lease area as per the approved mine plan. In no case the overburden should be dumped outside the lease area.
- [23] Garland drains shall be constructed to prevent the flow of the water in the dumps.
- [24] Green belt should be developed as per the proposed plantation as given in the proposal. Plantation should be carried out in phased manner. The green belt should be developed in the safety zone around the mining lease by planting the native species around lease boundary and haul roads, backfilled and reclaimed around water body, road etc. in consultation with the local DFO/Agriculture Department.

- [25] Regular water sprinkling shall be carried out in critical areas prone to air pollution and having high levels of SPM and RPM such as haul road, loading and unloading point and transfer points. It shall be ensured that the Ambient Air Quality Parameters conform to the norms prescribed by the CPCB.
- [26] Regular monitoring of ground water level and quality shall be carried out in and around the mine lease. The monitoring shall be carried out four times in a year-pre monsoon (April-May), monsoon (August), post monsoon (November); winter (January) and the data thus collected may be sent regularly to MOEF Regional Office, Chandigarh and Regional Director CGWB.
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- [30] As envisaged, the Project Proponent shall invest at least an amount of Rs. 24.25 lakh as cost for implementing various environmental protection measures including recurring expenses per year.
- [31] A sum of Rs. 16.25 lakh shall be earmarked by the Project proponent for investment as CSR on socio economic up-liftment activities of the area particularly in the area of habitat, health or education, training programme of rural women & man provide the kit for employment generation. The proposal should contain provision for monthly medical camps, distributions of medicines and improvement in educational facilities in the nearby schools. Details of such activity along with time bound action plan be submitted to HSPCB/SEIAA Haryana before the start of operation.
- [32] Budgetary provision of Rs. 15.00 lakh per year earmarked for the labours working in the Mine for all necessary infrastructure facilities such as health facility.

sanitation facility, fuel for cooking, along with safe drinking water, medical camps and toilets for women, crèche for infants should be made and submitted to HSPCB at the time of CTE/CTO/SEIAA Haryana. The housing facilities should be provided for mining labours.

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- [35] The project proponent shall ensure that loading in Trucks do not exceed the norms fixed by the Transport Department as per relevant rules.
- [36] The project proponent shall ensure approach roads are widened and strengthened as per requirements fixed by PWD and district administration before the start of the work.
- [37] The project proponent shall ensure supply of drinking water through RO.
- [38] No mining would be permissible in river bed up to a distance of five times of the span of a bridge on up-stream side and ten times the span of such bridge on down-stream side, subject to a minimum of 250 meters on the up-stream side and 500 meters on the down-stream side.
- [39] There shall be maintained an un-mined block of 50 meters width after every block of 1000 meters over which mining is undertaken or at such distance as may be directed by the Director or any officer authorized by him.
- [40] Mining shall be restricted within the central 3/4th width of the river/rivulet.
- [41] No mining shall be permissible in an area up to a width of 500 meters from the active edges of embankments in case of river Yamuna, 250 meters in case of Tangri, Markanda and Ghaggar and 100 meters on either side of all other rivers/rivulets;
- [42] Any other condition(s) as may be required by the Irrigation Department of the state from time to time for river-bed mining in consultation with the Mines & Geology Department may be made applicable to the mining operations in river bed.

GENERAL CONDITIONS:

- [i] Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of the Environment (Protection) Act, 1986.
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- [x] The Project proponent should inform the public that the project has been accorded Environment Clearance by the SEIAA and copies of the clearance letter are available with the Haryana State Pollution Control Board & SEIAA. This should be advertised within 7 days from the date of issue of the clearance letter at least in two local newspapers that are widely circulated in the region and the copy of the same should be forwarded to SEIAA Haryana. A copy of Environment Clearance conditions shall also be put on project proponent's web site for public awareness.
- [xi] All the other statutory clearances such as the approvals for storage of diesel from the Chief Controller of Explosives, Fire department, Civil Aviation Department, Forest Conservation Act, 1980 and Wildlife (protection) Act, 1972 etc. shall be

obtained, as may be applicable, by Project proponent from the competent authority before the start of mining operation.

- [xii] That the grant of this EC is issued from the environmental angle only, and does not absolve the project proponent from the other statutory obligations prescribed under any other law or any other instrument in force. The sole and complete responsibility, to comply with the conditions laid down in all other laws for the time being in force, rests with the industry/unit/project proponent. Any appeal against this environmental clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under section 16 of National Green Tribunal Act, 2010.
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- [xx] The project proponent should intimate to the Authority well before shifting their address of communication.

Chairman,
State Level Environment Impact
Assessment Authority, Haryana, Panchkula.

Endst. No. SEIAA/HR/2018/1072

Dated:..... 20-8-2018

A copy of the above is forwarded to the following:

1. The Additional Director (IA Division), MoEF&CC, GoI, Indra Paryavaran Bhavan, Zor bagh Road-New Delhi.
2. The Regional office, Ministry of Environment, Forests & Climate Change, Govt. of India, Bay's no. 24-25, Sector 31-A, Dakshin Marg, Chandigarh.
3. The Chairman, Haryana State Pollution Control Board, C-11, Sector-6, Pk1.
4. The Director General, Mines & Geology Department Haryana, Chandigarh


Chairman,
State Level Environment Impact
Assessment Authority, Haryana, Panchkula.

Sr. No.202

CWP no. 1010 of 2018 (O&M)

Sajjan Singh vs. State of Haryana and ors

Present:- Mr.Shailendra Jain, Sr. Advocate with
Mr. Harman Jivtesh Singh, Advocate for the petitioner

Mr. Amar Vivek, Addl. AG, Haryana

Mr. Akshay Bhan, Sr. Advocate with
Mr. Abhishek Sanghi, Advocate for respondents no. 4 to 6

CM nos. 1931-CWP of 2018, 2339-CWP of 2018 and 2350-CWP of 2018

Notice of the applications to the non-applicants for 6.3.2018.

Main case

We notice from the order of the Haryana State Pollution Control Board dated 12.9.2016 that certain observations were made by the Hon'ble Supreme Court regarding the present respondent-Company M/s Apar Mines Managements Services Limited, being a dubious company, apart from certain other Companies whose names also find mention therein. This would raise a serious question as to whether the State examined this aspect while granting consent to companies to operate mines which may possibly be under a cloud.

List on 6.3.2018.

Let entire records be produced by the State before us on the date fixed.

Till next date of hearing, mining shall remain stayed.

(MAHESH GROVER)
JUDGE

16.02.2018
rekha

(RAJBIR SEHRAWAT)
JUDGE

For Subsequent orders see CM-7223-CWP-2018, CM-9947-CWP-2018, -- and 1 more.

CWP-1010-2018 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1010-2018 (O&M)

Date of decision : 14.01.2020

Sajjan Singh

....Petitioner

V/s

State of Haryana & ors.

....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Shailendra Jain, Sr. Advocate with
Mr. Sidharath Goyal, Advocate for the petitioner.
Mr. Ankur Mittal, Addl. A.G. Haryana.
Mr. Abhay Gupta, Advocate for
Mr. Amar Vivek, Advocate for respondent no. 3.
Mr. Balkar Singh, Advocate and
Mr. Anshul Mangla, Advocate for the respondents no. 4 to 6.

RAJAN GUPTA J. (ORAL)

With the consent of learned counsel, main case is taken up for hearing today itself.

During the course of hearing, Mr. Jain, learned senior counsel for the petitioner submits that petitioner shall be satisfied if a direction be given to respondent no. 1 to look into the entire matter in view of certain reports that companies i.e. respondents no. 4 & 5 have dubious background. According to him, while awarding the mining contract all these aspects need to be considered by the concerned authority.

Learned State counsel, on the other hand, submits that contract was awarded after conducting an open auction in which respondents no. 4 & 5 were successful. He, however, submits that State has no objection to consider the matter in light of contentions made by the petitioner and the materials on record.

In view of above, present petition is disposed off with the direction that State of Haryana may look into the matter and pass a speaking order at the earliest but not later than three months from today.

Till then interim order dated 16.02.2018 passed by this court would continue to operate.

As the main petition has been disposed off, no order needs to be passed in the accompanying application(s).

(RAJAN GUPTA)
JUDGE

January 14, 2020
Ajay

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No

Touu cop

2

Director General, Mines and geology,
Haryana, Panchkula

ORDER

Subject: Mandewala Block/YNR B- 38, district Yamuna Nagar of M/s Saharanpur Mines Management Services Pvt. Ltd.

The mining contract of minor mineral mine namely **Mandewala Block/YNR B-38**, district Yamunanagar was granted over an area of **15 hectares** to **M/s Saharanpur Mines Management Services Pvt. Ltd.** for a period of 08 years through e-auction held on 11.06.2015 after accepting their highest bid of Rs 16,55,50,000 per annum against the reserve price of Rs.7,10,00,000. The bid was accepted and letter of Intent (LoI) was issued in their favor on 19.06.2015. The contract was granted subject to condition that mining shall be commenced only after obtaining prior Environmental Clearance (EC) from the competent authority. Further, the contract was granted subject to condition that period shall commence w.e.f. the date of grant of EC or on expiry of the period of 12months from the date of issuance of LoI, whichever is earlier. The contractor company also executed an agreement on 09.06.2016 on Form MC-1 appended to the Haryana Minor Mineral Concession, Stocking and Transportation of Minerals, and Prevention of Illegal Mining Rules, 2012(the State Rules,2012).

2. The contractor company obtained Environmental Clearance from State Environment Impact assessment authority (SEIAA) on **27.06.2016**. The copy of same is placed at **Flag D**. As per terms of grant the period of 12 months from the date of issuance of LoI expired on 18.06.2016 so the period of contract commenced from **19.06.2016**. The contractor company after obtaining EC were also required to have Consent to Establish (CTE)/ Consent to Operate (CTO) from the Haryana State Pollution Control Board (HSPCB). On submission of application for grant of CTE, the HSPCB vide its order dated 12.09.2016, refused/ rejected the consent to establish.

3. The facts of the case are that the HSPCB refused CTE in 03 similar cases [02 in respect of M/s Apar Mines Management Services Private Limited and 01 of M/s Saharanpur Mines Management Services Pvt. Ltd.] mainly on the issues related to some pending cases against the bidder/ contractor on alleged financial irregularities or violations of Environmental laws / rules and regulation in

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Haryana, Panchkula**

undertaking mining in the State of UP and the adverse orders against the Directors or their related persons passed by the Hon'ble NGT orders were referred. In the light of refusal of CTE by the HSPCB the mining operations could not have been commenced by the mining contractor company/s. M/s Saharanpur Mines Management Services Pvt. Ltd was also granted a mining contract of **Jaidhar mine** through e-auction held on 7.07.2015 and in said case matter relating to grant of EC was pending for decision, so in said case at that stage refusal of CTE by the HSPCB at that stage not aroused. However, the fate of same would have also been same being case of same company.

4. Keeping in view that the HSPCB rejected the CTE applications and further action are common in nature so historical background being interlinked and the related facts of the case/s are under:

- A. The HSPCB in all of the 03 cases [02 in respect of M/s Apar Mines Management Services Private Limited and 01 of M/s Saharanpur Mines Management Services Pvt. Ltd.] refused CTE on alleged financial irregularities or violations of Environmental laws / rules and regulation in undertaking mining in the State of UP and the adverse orders against the Directors or their related persons passed by the Hon'ble NGT orders.
- B. The contractor company/s against the refusal of CTE by the HSPCB - firstly filed **CWP no.6094 of 2017** before the Hon'ble Punjab and Haryana High Court. The Hon'ble High Court vide orders dated **27.04.2017** directed the company to file appeal before the Appellant Authority. The Appellant Authority on filing of appeal under Air Act, vide orders dated **03.07.2017** directed to the HSPCB to grant CTE to the said companies. Though However, initially the HSPCB filed appeal before the Hon'ble NGT and later decided to grant CTE/ CTO in favor of them.
- C. M/s Apar Mines Management Services Private Limited for **Lapra Mine** was granted CTE on 11.08.2017 and CTO on 08.12.2017. The said company commenced mining in **Lapra mine** on **21.12.2017**.
- D. On the other hand, M/s Saharanpur Mines Management Services Pvt. Ltd for were granted CTE /CTO on 12.01.2018. **However, before M/s**

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Saharanpur Mines Management Services Pvt. Ltd could have commenced mining in Mandewala mine the CTE/CTO granted to them and M/s Apar Mines Management Services Pvt. Ltd were challenged by on Sh. Sajjan Singh by way of filing a CWP no. 1010 of 2018 before the Hon'ble High Court. It was alleged that they are/were shell companies and that their Directors were indulged in various fraudulent activities. The grant of 'Consent to Operate' by the Haryana State Pollution Control Board and mining contracts granted by Mines & Geology Department were sought to be cancelled on the basis same. It was also that the contractor company changed its Directors even before execution of contract agreement which was not permissible as per terms of auction notice

- E.** The Hon'ble High Court vide interim orders dated 16.02.2018 stayed the mining operation. In the light of same the mining operations commenced by M/s Apar Mines Management Services Private Limited in **Lapra Block B-10 got stopped.** M/s Saharanpur Mines Management Services Private Limited to whom CTE/ CTO for Mandewala mine was granted could not have commenced operation.
- F.** The Hon'ble High Court finally vide orders dated **14.01.2020** disposed of the above CWP No. 1010 of 2018-Sajjan Singh Vs State of Haryana with direction to the State to look into the matter and pass a speaking order at the earliest. **The orders of stay on mining were continued till such time.**
5. In compliance of the order dated 14.01.2020, passed by the Hon'ble Punjab and Haryana High Court, the then DGMG after hearing all concerned noted that there were two main issues raised by the petitioner Sh. Sajjan Singh through his advocate:
- a. Seeking cancellation of the contract based on the claim that investigation against the Directors of the said company by the Serious Fraud Investigation Office (SFIO)/ pending of related cases;
 - b. The company its Directors in violation even prior to execution of contract agreement which was not permissible a per stipulation imposed **vide**

condition no. C (ii) of the auction notice, as per which that no transfer or addition or deletion of the Directors will be permissible before the execution of the contract agreement.

6. It was held that the pendency of the cases filed by SFIO against the Directors (existing or past) of the company was not valid ground to cancel the contracts of M/s Apar Mines Management Services Private Limited. However, in the said case it was found that in M/s Apar Mines Management Services Private Limited changed its Directors before execution of the Contract agreement. Because the contract agreements in respect of **Nandgarh** and **Lapra** Blocks were executed by M/s Apar Mines on 09.06.2015 whereas even before that one Director namely Mohd. Inam left the company on 31.03.2016 and one Laique Ahmad Khan was inducted as a Director on 01.04.2016. In the light of same in said case it was held that M/s Apar Mines changed the Directors of the Company before the execution of the mining contract in violation of the conditions mentioned in the auction notice.
7. In view of violation relating to change of Directors even before execution of contract agreements, the then DGMG after approval of the then PSMG cancelled both the contracts held by M/s Apar Mines Management Services Private Limited vide orders dated 22.06.2020 and 02.07.2020 respectively. The cancellation of contracts in said cases had been challenged by M/s Apar Mines and Management Pvt Ltd by way of CWP No. 19995 of 2020 and same is pending for adjudication but there is no interim orders/ stay.
8. The matter relating to that of two cases/ contracts (Mandewala mine and other of Jaidher mine) held by M/s Saharanpur Mines Management Services Private Limited, also required to be decided. The then DGMG afforded opportunity of hearing to M/s Saharanpur Mines Management Services Private Limited on 28.07.2020 as per records Sh. Sushil Kumar Director of the company submitted their written submissions and further sought hearing to explain their case.
9. In the light of same the undersigned afforded opportunity of hearing to the M/s Saharanpur Mines Management Services Private Limited holding mining

**Director General, Mines and geology,
Haryana, Panchkula**

contract of Mandewala mine on 15.06.2021. Sh. Sajjan Kumar (petitioner in CWP No. 1010 of 2018) vide letter dated 14.06.2021 submitted that the Director/s of the contractor company and company which had given surety are is facing cases filed by the SFIO. He further stated that the said companies are shell company. He sought that the contract held by said M/s Saharanpur Mines Management Services Private Limited be cancelled.

10. Sh. Sushil Kumar Director of the **M/s Saharanpur Mines Management Services Private Limited** appeared along with his counsel appeared on 15.06.2021. Sh. R.S. Thakran Mining Engineer was present for Department.

11. Sh. Sushil Kumar, at the outset, submitted that since the grant of contract a few vested interests through Sh. Sajjan Singh were creating all kind of hurdles for the firm and preventing them to undertake mining. He submitted that after grant of mining contract through transparent mode of e-auction conducted by the Department, they took steps to seek EC. Despite hurdles created they could obtain EC on 27.06.2016 and when they applied for grant of CTE to the HSPCB, some persons mislead the authorities in the HSPCB. They could manage in getting their CTE refused based on frivolous grounds. Due to which they could not commence mining operations.

12. He further submitted that they had to run from pillar to post to getting the litigation settled to get orders for grant of CTE/ CTO resulting in huge financial losses and lost opportunity of business. They could get CTE/ CTO after a period of more after more than about 18 months from date of grant of EC. Even after getting the same could not have commenced mining operations as Sh. Sajjan Singh filed CWP no 1010 of 2018 and obtained stay on mining on 16.02.2018. The matter remained pending before the Hon'ble High Court till 14.01.2020 when the state was directed to decide the related issues and pass speaking orders. In view of said litigation also they lost further time of about 2 years. Moreover, after passing of orders dated 14.01.2020 their case still not got decided. He submitted that as and when their case is taken up for consideration vested interests one way or other not let the authorities decide the same.

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Director General, Mines and geology,
Haryana, Panchkula

13. He submitted that Sh. Sajjan Kumar is not any public-spirited person and in fact is an interested party in mining and related works who was trying to derail their mining contract in order to perpetuate the virtual monopoly of existing mining contractors operating near the mining block in question. He claimed that even now he thought has no locus standi is trying to interfere in the process.

14. Sh. Sushil Kumar stated that the even during earlier hearings held before the then DGMG, it was clarified that the cases, if any pending before the SFIO or any other court against the Directors of the Company or company have any bearing on the operation of the mining contract awarded to them through the e-Auction. He pointed out that in two other cases / contracts of M/s Apar Mines and Management Services Pvt. Ltd., where few of the Directors of the present company were common, the matter has already been adjudicated by the Department. It has been held that same had no impact on grant or operation of mines by the company in the State of Haryana. Hence, on said part no further submissions may be required to justify his claim in this case also being of similar nature and is matter of record.

15. On the other issue relating to change of Directors of the company before execution of contract agreement in contravention of the condition of the auction notice, Sh. Sushil Kumar stated that of **the Auction Notice dated 27.04.2015 for e-auction to be held on 11.06.2015, has no such condition that the Directors of the company as were exiting at the time of submissions of the bidding could not have been changed before execution of contract agreement.** He stated that notwithstanding the same they executed the agreement on 09.06.2016 and they had not even changed the Directors before execution of the agreement. Hence, firstly in the case of Mandewala mine there was no such stipulation and even if the same had been there they not changed the Directors as their Directors as were prevailing at the time of auction and execution of agreement were same. At this stage he pressed that in case of any private limited company the change of Directors are regulated as per provisions of the Company Act 1956 and change of Directors before or after execution of contract agreement has no impact on any company registered under Company

**Director General, Mines and geology,
Haryana, Panchkula**

Act. The Department in cases where the contractor company changed Directors before execution of contract agreements cancelled the contract agreement in the case of **M/s Apar Mines**. But the same is under challenge in CWP No. 19995 of 2020 before the Hon'ble High Court.

16. He stated that irrespective of said litigation or cases the facts of the present case are entirely different no **Directors** of the company were changed before execution of contract agreement. He submitted that at the time of auction held and contract was executed on 09.06.2016 at that time also the Directors were same. It was informed and also confirmed as per records that at the time of auction held on 11.06.2015 the Directors of the Company were (1) Mohd. Javed and (2) Laique Ahmed Khan. At the time of execution also only these 02 persons were Director. So even if the said condition had been prevailing in the case also the company had not violated the same.

17. It was however, clarified that after execution of agreement on 17.11.2017 he (Sh. Sushil Kumar) joined as Director and thereafter Sh. Anand Kumar Ray on 15.01.2018 joined as another Director. He stated that change of Directors in any company registered under Companies Act, 1956 is dealt by the MCA. The changes as above were made for day-to-day workings of the Company with the consent / procedure prescribed by MCA. The same is not violation of the State Rules, 2012. Sh. Sushil Kumar clarified that change in Directors or induction of any new Director to look after operations/ workings of the company, the same is not transfer of company so no permission of Department was required.

18. The facts of the case as explained above make it clear that the company has not violated only of the condition auction notice as was claimed by Sh. Sajjan Singh the petitioner in the CWP No 1010 of 2018. It is not disputed that they had added 02 new Directors in the Company which is not a case of transfer of contract and only the appointment of Directors is regulated by the Companies Act, 1956. Further it is also not case where the changes were not in public domain as these details are available on MCA website.

17. In view of above stated facts that the mining contract was sought to be cancelled firstly that an investigation against the Directors of the said company

by the Serious Fraud Investigation Office (SFIO)/ pending of related cases. The said matter already stands adjudicated in the other cases of M/s Apar Mines - that there is no such condition in the auction notice or rules that on such grounds contract cannot be granted or the bidders were not eligible to participate in the auction. The other ground was that the company changed its Directors in violation even prior to execution of contract agreement which was not permissible as per stipulation imposed vide *condition no. C (ii) of the auction notice, as per which that no transfer or addition or deletion of the Directors will be permissible before the execution of the contract agreement.* Whereas in the present case there was no such condition in the auction notice and it is otherwise clear that Directors of the company were not changed prior to execution of the contract agreement. Hence it is clear that in the present case the contract is not liable to be cancelled on this ground. Hence none of the grounds raised by Sh. Sajjan Singh in CWP no. 1010 of 2018 were found valid to cancel the contract granted to M/s Saharanpur Mines Management Services Pvt. Ltd.

18. Notwithstanding the above, the contract is had valid subject to condition that the contractor company shall provide fresh surety because veracity and solvency of the company namely M/s India Pacific Infrastructure Pvt. Ltd who stood as surety for the contractor company cannot be considered further due to the fact that the said company is in dispute/ litigation. In this regard it is noted that as per Rule 26(3) of the State Rules, 2012 in case the surety offered by the contractor(s) during the subsistence of the contract is not found solvent, the contractor(s) shall offer another solvent surety and a supplementary deed to this effect shall be executed. Accordingly, it is also directed that M/s Saharanpur Mines Management Services Pvt. Ltd shall furnish fresh surety and execute supplementary deed within 10 days.

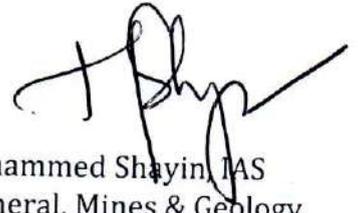
19. However, before concluding the case I would like to highlight that the conduct of Sh. Sajjan Singh. Instead of having fair submissions he had been making all out efforts to ensure derailing the normal process and browbeating of the authorities. He has his submissions on record which he sent letters dated 28.06.2021 and 29.06.2021, the same were examined at length. It was found that the submissions relating to cases pending / filed against the Directorates by the

**Director General, Mines and geology,
Haryana, Panchkula**

SFIO were being repeated despite that same were not found admissible in earlier similar cases. Sh. Sajjan Singh clearly had some hidden agenda to harm the interests of state and others for his or some other persons unlawful gains.

20. In the light of above the mining contractor is allowed to undertake mining after having all approvals including getting their CTO extended from the HSPCB in case the validity of same stands expired. However, before commencement of mining shall provide the fresh surety and execute supplementary contract agreement. It is also clarified that all terms and conditions of the contract and liabilities arising out of said contract shall remain same

21. It is also noted that orders of the Hon'ble High Court vide orders dated **14.01.2020** while disposing of the CWP No. 1010 of 2018-Sajjan Singh Vs State of Haryana with direction to the respondent to look into the matter and pass a speaking order and also ordered that the orders of stay on mining shall continue till such time. Hence it is clear that with passing of speaking orders the same also stands vacated, so mining strictly as per rules and regulations can be undertaken.



Mohammed Shayin, IAS
Director General, Mines & Geology,
Haryana.

Dated Panchkula, the
13.09. 2021.

3693

Endst. No.: DMG/HY/Cont./Mandewala B/VNR-38/205 Dated: 17-09-2021.

A copy is forwarded to M/s Saharanpur Mines Management Services Pvt. Ltd. for information and necessary action.



Mining Engineer
for Director General, Mines & Geology,
Haryana.

ORDER

The mining contract of minor mineral mine namely Jaidhar Block/YNR B-34, district Yamunanagar was granted over an area of 25.60 hectares to M/s Saharanpur Mines Management Services Pvt. Ltd. for a period of 08 years through e-auction held on 07.07.2015 after accepting their highest bid of Rs 6,72,00,000 per annum against the reserve price of Rs. 6,71,00,000. The bid was accepted and letter of Intent (LoI) was issued in their favor on 20.07.2015. The contract was granted subject to condition that mining shall be commenced only after obtaining prior Environmental Clearance (EC) from the competent authority. Further, the contract was granted subject to condition that period shall commence w.e.f. the date of grant of EC or on expiry of the period of 12 months from the date of issuance of LoI, whichever is earlier. The contractor company also executed an agreement on 09.06.2015 on Form MC-1 appended to the Haryana Minor Mineral Concession, Stocking and Transportation of Minerals, and Prevention of Illegal Mining Rules, 2012 (the State Rules, 2012). The contractor company could not obtain Environmental Clearance within 12 months and as per terms of grant the period of 12 months from the date of issuance of LoI expired on 10.07.2016 so the period of contract commenced from 20.07.2016. M/s Saharanpur Mines Management Services Pvt. Ltd were also granted another contract of Mandewala mine in district Yamunanagar itself in another auction held on 11.06.2015 and Letter of Intent was issued in said case on 19.06.2015. The company for Mandewala mine obtained Environmental Clearance from State Environment Impact assessment authority (SEIAA) on 27.06.2016. The company after obtaining EC were also required to have Consent to Establish (CTE)/ Consent to Operate (CTO) from the Haryana State Pollution Control Board (HSPCB). On submission of application for grant of CTE, the HSPCB vide its order dated 12.09.2016, refused/ rejected the consent to establish.

2 HSPCB refused CTE in 03 similar cases [02 in respect of M/s Apar Mines Management Services Private Limited and 01 of M/s Saharanpur Mines Management Services Pvt. Ltd.] mainly on the issues related to:

-
- pending cases against the bidder/ contractor on alleged financial irregularities or
 - violations of Environmental laws / rules and regulation in undertaking mining in the State of UP and
 - adverse orders against the Directors or their related persons passed by the Hon'ble NGT.

In the light of refusal of CTE by the HSPCB, the mining operations could not be commenced by M/s Saharanpur Mines Management Services Pvt. Ltd. which was also granted a mining contract of **Mandewala mine** through e-auction held on 07.07.2015. In said case, matter relating to grant of EC was pending for decision, so in said case at that stage refusal of CTE by the HSPCB at that stage not relevant. However, the fate of same would have also been same being case of same company.

3. Keeping in view that the HSPCB rejected the CTE applications and further action are common in nature so historical background being interlinked and the related facts of the case/s are under:

- A. The HSPCB in all of the 03 cases [02 in respect of M/s Apar Mines Management Services Private Limited and 01 of M/s Saharanpur Mines Management Services Pvt. Ltd.] refused CTE on alleged financial irregularities or violations of Environmental laws / rules and regulation in undertaking mining in the State of UP and the adverse orders against the Directors or their related persons passed by the Hon'ble NGT orders.
- B. The contractor company/s against the refusal of CTE by the HSPCB – firstly filed CWP no. 6094 of 2017 before the Hon'ble Punjab and Haryana High Court. The Hon'ble High Court vide orders dated 27.04.2017 directed the company to file appeal before the Appellant Authority. The Appellant Authority on filing of appeal under Air Act, vide orders dated 03.07.2017 directed to the HSPCB to grant CTE to the said companies. Though initially the HSPCB filed appeal before the Hon'ble NGT and later decided to grant CTE/ CTO in favor of them.



- C. M/s Apar Mines Management Services Private Limited for Lapra Mine was granted CTE on 11.08.2017 and CTO on 08.12.2017. The said company commenced mining in Lapra mine on 21.12.2017.
- D. On the other hand, M/s Saharanpur Mines Management Services Pvt. Ltd for were granted CTE /CTO on 12.01.2018. However, before M/s Saharanpur Mines Management Services Pvt. Ltd could have commenced mining in Mandewala mine the CTE/CTO granted to them and M/s Apar Mines Management Services Pvt. Ltd were challenged by on Sh. Sajjan Singh by way of filing a CWP no. 1010 of 2018 before the Hon'ble High Court. It was alleged that they are/were shell companies and that their Directors were indulged in various fraudulent activities. The grant of 'Consent to Operate' by the Haryana State Pollution Control Board and mining contracts granted by Mines & Geology Department were sought to be cancelled on the basis same. It was also that the contractor company changed its Directors even before execution of contract agreement which was not permissible as per terms of auction notice
- E. The Hon'ble High Court vide interim orders dated 16.02.2018 stayed the mining operation. In the light of same the mining operations commenced by M/s Apar Mines Management Services Private Limited in Lapra Block B-10 got stopped. M/s Saharanpur Mines Management Services Private Limited to whom CTE/ CTO for Mandewala mine was granted could not have commenced operation.
- F. The Hon'ble High Court finally vide orders dated 14.01.2020 disposed of the above CWP No. 1010 of 2018-Sajjan Singh Vs State of Haryana with direction to the State to look into the matter and pass a speaking order at the earliest. The orders of stay on mining were continued till such time.
4. In compliance of the order dated 14.01.2020, passed by the Hon'ble Punjab and Haryana High Court, the then DGMG after hearing all concerned noted that there were two main issues raised by the petitioner Sh. Sajjan Singh through his advocate:

Director General, Mines and geology,
Haryana, Panchkula

- a. Seeking cancellation of the contract based on the claim that investigation against the Directors of the said company by the Serious Fraud Investigation Office (SFIO)/ pending of related cases;
 - b. The company its Directors in violation even prior to execution of contract agreement which was not permissible a per stipulation imposed vide condition no. C (ii) of the auction notice, as per which that no transfer or addition or deletion of the Directors will be permissible before the execution of the contract agreement.
5. It was held that the pendency of the cases filed by SFIO against the Directors (existing or past) of the company was not valid ground to cancel the contracts of M/s Apar Mines Management Services Private Limited. However, in the said case it was found that in M/s Apar Mines Management Services Private Limited changed its Directors before execution of the Contract agreement. Because the contract agreements in respect of **Nandgarh** and **Lapra** Blocks were executed by M/s Apar Mines on 09.06.2015 whereas even before that one Director namely Mohammed Inam left the company on 31.03.2016 and one Laique Ahmad Khan was inducted as a Director on 01.04.2016. In the light of same in said case it was held that M/s Apar Mines changed the Directors of the Company before the execution of the mining contract in violation of the conditions mentioned in the auction notice.
6. In view of violation relating to change of Directors even before execution of contract agreements, the then DGMG after approval of the them PSMG cancelled both the contracts held by M/s Apar Mines Management Services Private Limited vide orders dated 22.06.2020 and 02.07.2020 respectively. The cancelation of contracts in said cases had been challenged by M/s Apar Mines and Management Pvt Ltd by way of CWP No. 19995 of 2020 and same is pending for adjudication but there is no interim orders/ stay.
7. The matter relating to that of two cases / contracts (Mandewala mine and other of Jaidher mine) held by M/s Saharanpur Mines Management Services Private Limited, also required to be decided. The then DGMG afforded opportunity of hearing to M/s Saharanpur Mines Management Services Private



Limited on 28.07.2020 as per records Sh. Sushil Kumar Director of the company submitted their written submissions and further sought hearing to explain their case.

8. In the light of same the undersigned afforded opportunity of hearing to the M/s Saharanpur Mines Management Services Private Limited holding mining contract of Jaidhar mine on 15.06.2021. Sh. Sajjan Kumar (petitioner in CWP No. 1010 of 2018) vide letter dated 14.06.2021 submitted that the Director/s of the contractor company and company which had given surety are is facing cases filed by the SFIO. He further stated that the said companies are shell company. He sought that the contract held by said M/s Saharanpur Mines Management Services Private Limited be cancelled.
9. Sh. Sushil Kumar, Director of the M/s Saharanpur Mines Management Services Private Limited appeared along with his counsel appeared on 15.06.2021. Sh. Sushil Kumar at the outset submitted that few vested interests through Sh. Sajjan Singh were creating all kind of hurdles in let them undertake mining. He submitted that after grant of mining contract through transparent mode of e-auction conducted by the Department, they took steps to seek EC. Despite hurdles created they could obtain EC on 27.06.2016 and when they applied for grant of CTE to the HSPCB, some persons mislead the authorities in the HSPCB. They could manage in getting their CTE refused based on frivolous grounds. Due to which they could not commence mining operations.
10. He further submitted that they had to run from pillar to post to getting the litigation settled to get orders for grant of CTE/ CTO resulting in huge financial losses and lost opportunity of business. They could get CTE/ CTO after a period of more after more than about 18 months from date of grant of EC. Even after getting the same could not have commenced mining operations as Sh. Sajjan Singh filed CWP no 1010 of 2018 and obtained stay on mining on 16.02.2018. The matter remained pending before the Hon'ble High Court till 14.01.2020 when the state was directed to decide the related issues and pass speaking orders. In view of said litigation also they lost further time of about 2 years. Moreover, after passing of orders dated 14.01.2020 their case still not got

decided. He submitted that as and when their case is taken up for consideration vested interests one way or other not let the authorities decide the same.

11. He submitted that Sh. Sajjan Kumar is in fact is an interested party in mining and related works who was trying to derail their mining contract in order to perpetuate the virtual monopoly of existing mining contractors operating near the mining block in question. He claimed that even now he thought has no locus standi is trying to interfere in the process.

12. Sh. Sushil Kumar stated that the even during earlier hearings held before the then DGMG, it was clarified that the cases, if any pending before the SFIO or any other court against the Directors of the Company or company have any bearing on the operation of the mining contract awarded to them through the e-Auction. He pointed out that in two other cases / contracts of M/s Apar Mines and Management Services Pvt. Ltd., where few of the Directors of the present company were common, the matter has already been adjudicated by the Department. It has been held that same had no impact on grant or operation of mines by the company in the State of Haryana. Hence, on said part no further submissions may be required to justify his claim in this case also being of similar nature and is matter of record.

13. On the other issue relating to change of Directors of the company before execution of contract agreement in contravention of the condition of the auction notice, Sh. Sushil Kumar stated that they executed the agreement on 09.06.2016 and they had not changed the Directors before execution of the agreement. Hence, they not changed the Directors as their Directors as were prevailing at the time of auction and execution of agreement were same. At this stage he also pressed that in case of any private limited company the change of Directors are regulated as per provisions of the Company Act 1956 and change of Directors before or after execution of contract agreement has no impact on any company registered under Company Act. The Department in cases where the contractor company changed Directors before execution of contract agreements cancelled the contract agreement in the case of M/s Apar Mines. But the same is under challenge in CWP No. 19995 of 2020 before the Hon'ble High Court.



14. He stated that irrespective of said litigation or cases, the facts of the present case are entirely different as none of the Directors of the company were changed before execution of contract agreement. He submitted that at the time of auction held and contract was executed on 09.06.2016 at that time also the Directors were same. It was informed and also confirmed as per records that at the time of auction held on 07.07.2015 the Directors of the Company were (1) Mohammed Javed and (2) Laique Ahmed Khan. At the time of execution also only these 02 persons were Director. So even if the said condition had been prevailing in the case also the company had not violated the same.

15. It was however, clarified that after execution of agreement on 17.11.2017 he (Sh. Sushil Kumar) joined as Director and thereafter Sh. Anand Kumar Ray on 15.01.2018 joined as another Director. He stated that change of Directors in any company registered under Companies Act, 1956 is dealt by the MCA. The changes as above were made for day-to-day workings of the Company with the consent / procedure prescribed by MCA. The same is not violation of the State Rules, 2012. Sh. Sushil Kumar clarified that change in Directors or induction of any new Director to look after operations/ workings of the company, the same is not transfer of company so no permission of Department was required.

16. The facts of the case as explained above make it clear that the company has not violated only of the condition auction notice as was claimed by Sh. Sajjan Singh the petitioner in the CWP No 1010 of 2018. It is not disputed that they had added 02 new Directors in the Company which is not a case of transfer of contract and only case of the appointment of Directors is regulated by the Companies Act, 1956. Further it is also not case where the changes were not in public domain as these details are available on MCA website.

17. In view of above stated facts that the mining contract was sought to be cancelled firstly that an investigation against the Directors of the said company by the Serious Fraud Investigation Office (SFIO)/ pending of related cases. The said matter already stands adjudicated in the other cases of M/s Apar Mines - that there is no such condition in the auction notice or rules that on such grounds contract can not be granted or the bidders were not eligible to participate in the

**Director General, Mines and geology,
Haryana, Panchkula**

auction. The other ground was that the company changed its Directors in violation even prior to execution of contract agreement which was not permissible as per stipulation imposed vide *condition no. C (ii) of the auction notice, as per which that no transfer or addition or deletion of the Directors will be permissible before the execution of the contract agreement.* Whereas in the present case it is clear that Directors of the company were not changed prior to execution of the contract agreement. Hence it is clear that in the present case the contract is not liable to be cancelled on this ground. Hence none of the grounds raised by Sh. Sajjan Singh in CWP no. 1010 of 2018 were found valid to cancel the contract granted to M/s Saharanpur Mines Management Services Pvt. Ltd.

18. In the light of above facts, it can be held that the mining contract of minor mineral mine namely Jaidhar Block/YNR B- 34, district Yamunanagar granted over an area of 25.60 hectares to M/s Saharanpur Mines Management Services Pvt. Ltd. for a period of 08 years w.e.f. 20.07.2016 is valid and the contractor company is legally eligible to undertake mining after having all approvals such as EC and CTO. In case the CTO had expired they shall get the same extended from the HSPCB. In view of above the contract granted in favour of the M/s Saharanpur Mines Management Services Pvt. Ltd is held as valid. However, the findings as above shall not have any finding with regards to contractual liabilities on the contractor company which commenced from 19.06.2016.

19. Notwithstanding the above, the contract is valid subject to condition that the contractor company shall provide fresh surety because veracity and solvency of the company namely M/s India Pacific Infrastructure Pvt. Ltd. who stood as surety for the contractor company cannot be considered further due to the fact that the said company is in dispute/ litigation. In this regard it is noted that as per Rule 26(3) of the State Rules, 2012 in case the surety offered by the contractor(s) during the subsistence of the contract is not found solvent, the contractor(s) shall offer another solvent surety and a supplementary deed to this effect shall be executed. Accordingly, it is also directed that M/s Saharanpur Mines Management Services Pvt. Ltd shall furnish fresh surety and execute supplementary deed within 10 days.

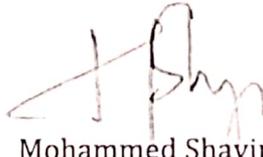

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20. However, before concluding the case I would like to highlight that the conduct of Sh. Sajjan Singh. Instead of having fair submissions he had been making all out efforts to ensure derailing the normal process and browbeating of the authorities. He has his submissions on record which he sent letters dated 28.06.2021 and 29.06.2021, the same were examined at length. It was found that the submissions relating to cases pending / filed against the Directorates by the SFIO were being repeated despite that same were not found admissible in earlier similar cases. Sh. Sajjan Singh clearly had some hidden agenda to harm the interests of state and others for his or some other persons unlawful gains.

21. In the light of above the mining contractor is allowed to undertake mining after having all approvals including getting their CTO extended from the HSPCB in case the validity of same stands expired. However, before commencement of mining shall provide the fresh surety and execute supplementary contract agreement. It is also clarified that all terms and conditions of the contract and liabilities arising out of said contract shall remain same.

22. It is also noted that orders of the Hon'ble High Court vide orders dated 14.01.2020 while disposing of the CWP No. 1010 of 2018-Sajjan Singh Vs State of Haryana with direction to the respondent to look into the matter and pass a speaking order and also ordered that the orders of stay on mining shall continue till such time. Hence it is clear that with passing of speaking orders the same also stands vacated, so mining strictly as per rules and regulations can be undertaken.

Dated Panchkula, the
13.09. 2021.


Mohammed Shayin, IAS
Director General, Mines & Geology,
Haryana.

Director General, Mines and geology,
Haryana, Panchkula

Endst. No.: DMG/HY/Cont./

Dated:

A copy is forwarded to M/s Saharanpur Mines Management Services Pvt. Ltd. for information and necessary action.

-sd-

Mining Engineer
for Director General, Mines & Geology,
Haryana.

Endst. No.: DMG/HY/Cont./ 3600

Dated: 14-09-2021.

✓ A copy is forwarded to Assistant Mining Engineer, Mines & Geology Department, Yamunanagar for information.



Mining Engineer
for Director General, Mines & Geology,
Haryana.

110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.19286 of 2021 (O&M)
Date of decision : 28.09.2021

Sajjan Singh Petitioner

versus

Union of India & ors. Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MRS.JUSTICE ALKA SARIN**

Present : Mr. Shailendra Jain, Senior Advocate with
Mr. Peeyushi Diwan Jain, Advocate for the petitioner.

Mr. Anand Chhibbar, Sr. Advocate with
Mr. Anshul Mangla, Advocate
for respondent No.5-caveator.

AJAY TEWARI, J. (Oral)

After arguing for sometime, learned counsel for the petitioner prays for permission to withdraw the present petition with liberty to file a Public Interest Litigation on the same cause of action.

Allowed as prayed for.

Dismissed as withdrawn with the aforesaid liberty.

Since the main case has been decided, the pending Miscellaneous Application, if any, also stands disposed of.

**(AJAY TEWARI)
JUDGE**

**(ALKA SARIN)
JUDGE**

28.09.2021

pooja sharma-I

Whether speaking/reasoned Yes/No

Whether Reportable : Yes/No

Item No.2

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

(By Video Conferencing)

Original Application No. 306/2022
(I.A. No. 102/2022)

Harbans Singh

Applicant

Versus

State of Haryana & Ors.

Respondents

Date of hearing: 06.05.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Ajit Sharma, Adv

ORDER

1. The applicant has filed present application under Section 14 read with Section 18 of the National Green Tribunal Act, 2010 *inter alia* seeking issuance of directions to State of Haryana to stop any mining activity at fertile agricultural lands in villages Jaidhar and Mandewal District Yamuna Nagar, Haryana, quash CTO dated 23.10.2021 and CTE dated 25.10.2021 issued by Haryana State Pollution Control Board (HSPCB) with respect to mining sites at villages Mandewala and Jaidhar respectively and environmental clearance dated 20.08.2018 issued by Haryana State Environment Impact Assessment Authority (HSEIAA) with respect to mining activity at village Jaidhar in favour of respondent no.9.

2. The applicant has challenged CTO dated 23.10.2021 and CTE dated 25.10.2021 issued by HSPCB and environmental clearance dated

20.08.2018 issued by HSEIAA in favour of respondent no.9 inter alia on the following grounds:

- a) The mining site located in village Jaidar falls in controlled area notified by the State Government vide notification dated 21.12.1981 issued under Section 4 of the Punjab Scheduled Roads and Controlled Areas (Restriction of Unregulated Development) Act, 1963. No mining activity can be carried out without prior permission from the Director, Department of Town & Country Planning, Haryana. Such prior permission has not been granted to respondent No.9.
- b) As per report of the Hydrologist, G.W.C, Ambala submitted to Mining Officer, Department of Mines and Geology, Yamuna Nagar vide his letter no. 326 dated 27.07.2016 the depth of water table below ground level in village Jaidhar was 1.80 meters. Mining is allowed up to 02 meters above the ground water level as per Gazette Notification of Mining and Geology Department dated 27.04.2015 and no mining activity could be permitted within two meters of water table.
- c) HSPCB hurriedly granted CTO on 25.10.2021 with regard to mining in village Mandewala whereas environmental clearance dated 27.06.2016 in respect thereof had already expired on 26.06.2021 and no fresh environmental clearance had been given by HSEIAA which is investigating into the complaint of illegal mining by respondent No.9 on the site.
- d) Both the mining sites were auctioned to respondent No.9 which is accused by the Serious Fraud Investigating Office for illegal mining and is facing prosecution before Special Court (Companies Act), Dwarka.

- e) The Executive Engineer, Water Service Division Dadupur had vide letter dated 12.10.2021 opposed mining activity in village Jaidhar district Yamuna Nagar by stating that WJC MLU which runs from Hathnikund Barrage to Dadupur Pond has sandy strata and any mining activity in the area may adversely affect the stability of the channel and bridges over it and no mining activity be allowed in the area so as to safeguard the interest of the I & WR Department and to protect the agricultural lands of the farmers from high water table.
- f) The mining sites are admittedly located in fertile agricultural areas with there being no possibility of replenishment and mining in the said area will not be permissible being in violation of clauses 4.1.1 (m) and 4.3 (s) of the EMGSM Guidelines 2020 issued by MoEF & CC.
- g) The mining site in village Mandewala is at the distance of 1.5 kilometers from Yamuna river and as per EMGSM Guidelines 2020 issued by MoEF & CC no mining can be carried on within 5 kilometers of a river bed.

3. We have heard learned Counsel for the applicant and gone through the relevant record.

4. The averments made in the petition raise substantial questions relating to environment arising out of the implementation of the enactments specified in Schedule-I to the National Green Tribunal Act, 2010 and validity of mining leases allegedly granted in violation of the environmental norms, notifications, rules and regulations.

5. Let notice be issued to Respondents requiring them to file replies specifically responding to all material averments made in the application within two months. The applicant is directed to take requisite steps for service of notices on the respondents and file his affidavit regarding the same by email at judicial-ngt@gov.in.

6. In the meanwhile no mining activities be allowed in the mining sites in question in villages Jhaidhar & Mandewala respectively and Deputy Commissioner and Superintendent of Police, Yamuna Nagar shall take requisite steps for ensuring prevention of any illegal mining.

7. List the matter for further consideration on 28.07.2022.

8. A copy of this order, along with a copy of the application and its annexures be forwarded to the Deputy Commissioner and Superintendent of Police, Yamuna Nagar by e-mail for compliance.

Arun Kumar Tyagi, JM

Dr.Afroz Ahmad, EM

May 6, 2022
Original Application No. 306/2022
AG

Item No.3

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(Through Physical Hearing with Hybrid VC Option)

Original Application No.306/2022
(I.A. No. 102/2022 & I.A No. 299/2022)

Harbans Singh

...Applicant

Versus

State of Haryana & Ors.

...Respondents

Date of hearing: 29.05.2023

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: Mr. Ajit Sharma, Advocate for the applicant.

Respondents: Mr. Rahul Khurana, Advocate for respondents no. 1 to 7. With Mr. Rajesh, Assistant Mining Engineer, Yamuna Nagar.
Mr. Gi. Gi. C. George, Advocate for respondent no. 8.
Mr. Anand Chhibber, Sr. Advocate (through VC) with Mr. Anshul Mangla, Mr. Fuzail Khan and Mr. Deep Prabhu, Advocates for respondent no. 9

Application under Section 14 read with Section 18 of the National Green Tribunal Act, 2010.

ORDER

1. The applicant has filed present application under Section 14 read with Section 18 of the National Green Tribunal Act, 2010 *inter alia* seeking issuance of directions to State of Haryana to stop any mining activity at fertile agricultural lands in villages Jaidhar and Mandewala in District Yamuna Nagar, Haryana, quash CTO dated 23.10.2021 and CTE dated 25.10.2021 issued by Haryana State Pollution Control Board (HSPCB) with respect to mining sites at villages Mandewala and Jaidhar respectively and environmental clearance dated 20.08.2018 issued by

O.A No. 306/2022

Harbans Singh Vs. State of Haryana &
Ors.

2

Haryana State Environment Impact Assessment Authority (HSEIAA) with respect to mining activity at village Jaidhar in favour of respondent no.9.

2. The matter was last heard on 08.05.2023 and vide order dated 08.05.2023 respondent no. 2 was directed to provide the detailed information regarding the following aspects: (a) Name of the farmers to whom the agricultural land in which mining is to be carried out belongs; (b) Details of compensation to be paid by the mining leaseholders to the farmers and the modalities for making of such payments; (c) Cropping pattern adopted for the last five years in the land in question where mining is to be carried out; and (d) Whether the agricultural land where mining is to be carried out falls under any command area and Respondent no. 9 was directed to file copies of minutes/orders regarding extension of period of the ECs of both the mining leases. Respondent no.2-Director, Mining and Geology, Government of Haryana, Yamuna Nagar was also directed to file copy of the survey report whereby the land in question was identified for mining.

3. In compliance thereof Report has been filed by respondent no. 2 vide email dated 25.05.2023.

4. Applicant has also filed documents regarding illegal mining vide email dated 27.05.2023.

5. Arguments heard. The order is reserved. The order will be uploaded on the website on or before 31.07.2023.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 29, 2023
AG

Item No.1

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(Through Physical Hearing with Hybrid VC Option)

Original Application No.306/2022
(I.A. No. 102/2022 & I.A No. 299/2022)

Harbans Singh

...Applicant

Versus

State of Haryana and others

...Respondents

Date of Hearing:- 18.08.2023

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: None for the applicant.

Respondents: Mr. Rahul Khurana, Advocate for respondents no. 1 to 7.
Mr. Gi. Gi. C. George, Advocate for respondent no. 8.
Mohd. Fuzail Khan, Mr. Anshu Mangla, Mr. Bihuti
Krishna and Mr. Aman Anand, Advocates for respondent
no. 9.

**Application under Section 14 read with Section 18 of the National
Green Tribunal Act, 2010.**

1. Feeling aggrieved by the auction of fertile agriculture land as sand mining sites at villages Jaidhar and Mandewala, District Yamuna Nagar, Haryana, the Applicant, a resident of Village Dadupur, Tehsil Chachrauli District Yamuna Nagar, Haryana, has filed the present application under Section 14 read with Section 18 of the National Green Tribunal Act, 2010 seeking the following reliefs:-

a. Direct the State of Haryana to stop any mining activity at fertile agricultural lands in Villages Jaidhar and Mandewala, District Yamuna Nagar, Haryana;

- b. Appoint a Committee or Court Commissioner to inquire into the objections raised by the Irrigation Department to mining operations in Villages Jaidhar and Mandewala;*
- c. Appoint a Committee or Court Commissioner to inquire into the rushed manner in which the Haryana State Pollution Control Board issued CTO dt. 23.10.2021 on a holiday/ Saturday and direct disciplinary action against erring officers;*
- d. Quash the CTO dt. 23.10.2021 and CTE dt. 25.10.2021 issued by Haryana State Pollution Control Board to private respondent w.r.t. mining sites at Villages Mandewala and Jaidhar, respectively;*
- e. Quash the environmental clearance dt. 20.08.2018 issued to private response w.r.t. mining activity at Village Jaidhar;*
- f. Quash the auction notice dt. 27.04.2015 in so far as it permits auction of mining sites located at Villages Jaidhar and Mandewala, Dst. Yamuna Nagar;*
- g. Direct Respondents to pay the costs of the present Application to the Appellant; and*
- h. Pass any other order that this Hon'ble Tribunal may deem fit.*

Applicant's grounds of challenge to mining

2. The applicant has filed the present application on the following grounds:-

(i) Report of State Irrigation Dept. dated 12.10.2021 requesting for no mining ignored.

On 30.11.2020 and 15.12.2020 letters were written by Mr. Ashok Sangwan, IAS, Dy. Collector showing the seriousness of the problem of water seepage at Village Jaidhar where water is often pumped out using pump sets which shows that the area is flood prone and not conducive for mining. The Irrigation Dept., Haryana vide its report dated 12.10.2021 specifically requested the District Administration to not permit mining activities at Villages Jaidhar and Mandewala since the same would affect the stability of Western Jamuna Canal bund and the Dadupur Head Works.

(ii). Discrepancy in GPS coordinates of mining sites.

As per the auction notice the area of mining sites at Village Jaidhar is 25.60 Hectares and at Village Mandewala is 15 Hectares. Environmental clearances issued for both mining sites also contain the GPS coordinates of the proposed mining site. However, a simple verification of the GPS coordinates on Google Maps shows that the area of these coordinates is only 11 Hectares and 1.50 Hectares, respectively. Further, these GPS coordinates contain village homes and roads as revealed by the maps annexed with the Application.

(iii). **Report of State Hydrologist, Ground Water Cell, Ambala, Haryana dated. 27.07.2016 showing low water table at Vill. Jaidhar ignored.**

On 19.04.2016 the Dy. Commissioner, District Yamuna Nagar conducted public consultation w.r.t. mining site at Village Jaidhar. Various villagers objected on the ground that the water table is within 4-5 feet in the area and as such mining activity cannot be permitted being within 2 meters of water table. This objection was over-ruled by the Dy. Commissioner on the ground that the general report of the Central Water Commission for entire Tehsil Chachrauli shows water table at 9 meters while ignoring to observe/record water table measurements on site. On 27.07.2016 the Hydrologist, Ground Water Cell, Ambala in his report dated 27.07.2016 categorically stated that the pre-monsoon water table at Village Jaidhar is 1.80 meters, which falls further during the monsoon months. Village Jaidhar is located very close to the Dadupur Water Head Works and the Western Jamuna Canal and as such water table is available at 4-5 feet only. As such, this is violative of Clause 30 of the auction notice, which restricts mining within 2 meters of water table and therefore this site ought not to have been auctioned in the first place.

(iv). **Both sites were auctioned to a company, which is accused by the Serious Fraud Investigation Office (“SFIO”) for illegal mining and is facing prosecution at Delhi Courts pursuant to orders of the Hon’ble Supreme Court of India.**

Both the mining sites at Villages Jaidhar and Mandewala are auctioned to M/s Saharanpur Mines Management Services P. Ltd., which is accused by the Serious Fraud Investigation Office (“SFIO”) for illegal mining and is facing prosecution in Criminal Complaint No. 720/ 2017 filed by Serious Fraud Investigation Office (SFIO) in the Court of Special Judge (Companies Act), Dwarka, New Delhi against 176 persons and companies, including M/s Saharanpur Mines Management Services Pvt. Ltd. (Accused No. 118) pursuant to order dated 16.08.2017 of the Hon’ble Supreme Court of India passed in Writ Petition (C.) No. 818/ 2015. Grant of mining permission to a company, which is accused of being part of the mining syndicate/ mafia is a disturbing development which fact has been completely ignored by the administration.

(v) **No mining permitted on an area notified as a “Controlled Area” u/s 7 of the Punjab Scheduled Roads & Controlled Areas Restriction of Unregulated Development Act, 1963).**

Mining site located in Village Jaidhar falls within the area notified as a controlled area vide notification dated 21.12.1981 issued u/s 4 of the Punjab Scheduled Roads & Controlled Areas Restriction of Unregulated Development Act, 1963. Section 7 of the Punjab Scheduled Roads & Controlled Areas Restriction of Unregulated Development Act, 1963 prohibits mining activity without the prior permission of the Director, Town & Country Planning Dept., Haryana. Admittedly, the Director, Town Planning has not permitted any mining activity in Village Jaidhar and as such the mining site could not have been auctioned.

(vi) **Violation of Clause 4.1.1 (m) and 4.3 (s) of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM, 2020) which restricts sand mining in agricultural areas where there is no possibility of replenishment.** The mining sites are admittedly located in fertile agricultural areas and there is no possibility of annual replenishment of sand. Mining operations will entail removal of the fertile top layer, which will render the lands unfit for agricultural purposes and cause irreversible environmental harm. Large tracts of land in villages located near River Yamuna have been rendered unfit for agriculture due to large scale illegal mining by the local mafia. No study has been conducted to measure rate of replenishment at the mining sites. The Enforcement and Monitoring Guidelines for Sand Mining issued by MoEF & CC in the Year 2020 prohibit mining activity within 5 kms of a river bed and on an area where no replenishment is possible. Admittedly both the mining sites at Villages Jaidhar and Mandewala are located on fertile agricultural lands away from the river bed where no replenishment is possible. Further, the site at Village Mandewala being 1.5 kms away from River Yamuna falls within 5 kms of a river bed and in view of the Enforcement and Monitoring Guidelines for Sand Mining, 2020 no mining is permissible there.

(vii) **Environmental clearance dated 27.06.2016 (valid for 5 years) for Village Mandewala site has already expired on 26.06.2021 and SEIAA has refused renewal pending an internal investigation.**

The Environmental clearance dated 27.06.2016 issued for the mining site at Village Mandewala was valid for 5 years which period has already expired on 26.06.2021. SEIAA refused renewal pending an internal investigation SEAC was investigating into allegations of illegal mining.

The Senior Environmental Engineer, HSPCB objected to issuance of CTO on this ground but this objection was over-ruled and CTO was issued in a rushed manner on a holiday/ Saturday dated 23.10.2021. The site inspection was carried out by HSPCB on 22.10.2021 at 8:40 PM and six minutes later at 8:46 PM a detailed report was uploaded. Then on 23.10.2021 (Saturday) at 7:48 AM approval was granted for issuance of CTO. The mala fides of the HSPCB in grant of CTO are evident from the manner in which the CTO was issued. On 25.10.2021 the Haryana State PCB issued a Consent to Establish ("CTE") to the project proponent w.r.t. mining site at Village Jaidhar ignoring all objections of the Applicants and the fact that the mining site lies in a "Controlled Area" where mining activity is not permitted.

3. The applicant has further submitted that the applicant raised the above grounds in representations dated 04.10.2021, 18.10.2021, 26.10.2021 and 03.12.2021 but no action has been taken on the same. Cause of action in the present case arose on 04.10.2021 and 18.10.2021 on failure to take action on his representations. Hon'ble Supreme Court in the matter of In Re.: Cognizance for Extension of Limitation (Suo Moto Writ Petition (C) No. 3/ 2020) vide orders dt. 23.03.2020, 27.03.2021 and 10.01.2022 has extended the period of limitation. As such the present Application is within limitation as prescribed in the National Green Tribunal Act, 2010.

4. Vide order dated 06.05.2022 notices were ordered to be issued to the respondents requiring them to file replies specifically responding to all averments made in the application.

5. Pursuant to notice replies have been filed by Respondent no. 1- State of Haryana and 2- Assistant Mining Engineer vide email dated

30.11.2022; by Respondent no. 4- HSPCB vide email dated 30.11.2022; by Respondent no. 5- Hydrologist, Ground Water Cell, Ambala vide email dated 30.11.2022; by Respondent no. 6-Irrigation and Water Resource Department vide email dated 30.11.2022; by Respondent no. 7-SEIAA, Haryana vide email dated 09.11.2022; by respondent No.8 vide email dated 26.12.2022 and by Respondent no. 9-M/s Saharanpur Mines Management Services Pvt. Ltd, vide email dated 18.08.2022. No reply has been filed by respondent No.3 Town & Country Planning Department.

6. The Applicant has filed additional affidavit vide email dated 12.01.2023 . Reply to the additional affidavit of the applicant has been filed by respondent no. 9 vide email dated 04.02.2023.

Reply by Respondents no. 1 and 2- State of Haryana and Assistant Mining Engineer, Mines & Geology Department, Yamunanagar, Haryana

7. In their reply Respondents no. 1 and 2 have taken objections to maintainability of the application. Respondents No.1 and 2 have submitted that remedy against grant of EC was filing of an appeal under section 16 of the National Green Tribunal Act, 2010 within 30 days. Reliefs claimed by the applicant are hopelessly barred by limitation. The application is not maintainable in view of Rule 14 of the National Green Tribunal (Practices and procedures) Rules, 2011 as instead of seeking one or more reliefs consequential to each other based on single cause of action, permissions granted by different authorities at different times in respect of two different mining sites at different villages have been sought. The present application has been filed at the belated stage only to stop the legal mining in pursuance of the permissions granted by concerned statutory authorities. Respondents No. 1 and 2 have controverted the grounds of challenge and submitted that Respondent

No.9 obtained NOC from District Town Planner, Yamuna Nagar vide memo dated 8.10.2021 Annexure R/3. Nowhere in the District Yamuna Nagar depth of water table is less than 3.10 meter. The areas where these mines are located, depth of water table is 10-20 meters as per figure 2 of report on Aquifer Mapping and Management Plan Annexure R/4 given by the Ministry of Water Resources, River Development and Ganga Rejuvenation, Government of India in 2016.

Reply by Respondent No. 4- Haryana State Pollution Control Board

8. In its reply Respondent no. 4-HSPCB has taken objection that remedy against grant of CTE/CTO was statutory appeal before the Appellate Authority and the present application is not maintainable. Respondent No.4 has mentioned the status of both the mining blocks and submitted that CTE/CTO were granted after following due procedure and as per policy of HSPCB. Respondent No.4 has also mentioned that in view of ad-interim injunction order the mining sites are lying closed.

Reply by Respondent No. 5- Hydrologist, Ground Water Cell, Ambala, Haryana

9. Respondent no. 5- Hydrologist, Ground Water Cell, Ambala Haryana has submitted in his reply that the office of Hydrologist, Ground Water Cell, Ambala had provided tentative water level of the village Jaidhar, Devdhar, Begumpur, Pipli Majra, Malikpur Khadar of District-Yamunanagar to Mining Officer, Department of Mines & Geology, Yamunanagar during the year 2016. Ground Water Cell, Haryana has established groundwater observation points at distance of 20 sq. km. grid pattern. The Ground Water Cell does not have groundwater observation points in the mentioned villages. The tentative water level of the village Jaidhar, Devdhar, Begumpur, Pipli Majra, Malikpur Khadar of District-

Yamunanagar during June, 2022 (Pre-monsoon period) on the basis of groundwater contouring and nearby observation points is as under:

Sr. No.	District	Village	Water Level during June, 2022 (in mtrs)
1	Yamunanagar	Jaidhar	10.50
2		Devdhar	05.96
3		Begaumpur	12.50
4		Pipli Majra	14.50
5		Malikpur Khadar	15.00

”

Reply by Respondent No. 6- Irrigation & Water Resources Department State of Haryana

10. Respondent no. 6-Irrigation & Water Resources Department, State of Haryana has submitted in its reply that a committee comprising of District Revenue Officer, Yamuna Nagar, District Mining Officer, Yamuna Nagar and Executive Engineer, Water Services Dadupur was constituted by the Deputy Commissioner Yamunanagar to report on the complaint of Shri Ranbir Singh. The committee considered all the issues raised in the complaint pertaining to environmental aspects concerning mining blocks i.e. Jaidhar and Mandewala and concluded vide report dated 27.09.2022 that the Project Proponent will maintain level of 2 meters of ground water. If this condition is violated, mining will be closed. The committee also observed that Lease has been allotted to the Project Proponent by the department after verifying all the documents as per the lease conditions for open auction. Also, public consultation (hearing) was conducted under the chairmanship of Deputy Commissioner Yamuna Nagar on dated 05.04.2016. Inquiry with regard to objections raised by the irrigation Department to mining operations in villages Jaidhar and Mandewala, was got conducted by the Deputy Commissioner and the same has been concluded vide report dated 27.09.2022.

Reply by Respondent no. 7- SEIAA

11. In its reply respondent no. 7-SEIAA, Haryana has reiterated the factual position regarding grant of EC for mining Mandewala and Jaidhar mining blocks on 27.06.2016 and 20.08.2018 respectively on recommendations of SEAC on the basis of Mining Plan approved by the Director General, Mines and Geology, Mines and Geology Department on 10.03.2016 and 12.01.2016. EC dated 20.08.2018 was issued before issuance of EMGSM, 2020. The GPS coordinates mentioned in the EC were as per the mining plans approved by the Director General, Mines & Geology Department, Haryana. In its reply Respondent no. 7-SEIAA, Haryana also mentioned pendency of the matter of extension of validity of EC.

Reply by Respondent No.8-Central Water Commission under the Ministry of Jal Shakti.

12. Respondent no. 8-Central Water Commission under the Ministry of Jal Shakti has submitted that Respondent No. 8 has no role to play in the current issues and not being a necessary party may be ordered to be deleted from the array of parties.

13. Subsequently, in compliance with order dated 16.01.2023 Report on the measured distance between mining blocks at Mandewala and Jaidhar to River Yamuna was filed by Respondent No.8 vide email dated 28.01.2023.

Reply by Respondent No. 9- M/s Saharanpur Mines Management Services Private Limited

14. In its reply Respondent no. 9 has submitted that the business rivals initiated proxy litigation against respondent No. 9 by abusing the

process of law and the mining contracts granted in favour of respondent No. 9 were sought to be cancelled by leveling allegations of Shell Company as well pendency of criminal prosecution against respondent No. 9. The litigation was initiated before Hon'ble Punjab & Haryana High Court, Chandigarh vide CWP No. 1010 of 2018 and CWP No. 19286 of 2021. After the failure of the first round of proxy litigation initiated against respondent No. 9, the business rivals resorted to the present litigation and filed the Original Application before this Tribunal by raising fabricated issues relating to the environmental norms. The application has been filed with a malafide intention without any just cause or reason. The Respondent no. 9 has further submitted that auction was conducted by respondent No. 1 after following the due procedure and the mining contracts were granted in favour of respondent No. 9 by following the due procedure. As per the letter dated 08.10.2021 issued by Director, Town & Country Planning, Haryana it has been clarified that land in all the khasra numbers except one Khasra number which comprise Jaidhar Mining Block does not fall in any Urban Area or Controlled Area declared by Department of Town & Country Planning, Haryana. In so far as the land in one khasra number is concerned, respondent No. 9 shall not conduct any mining operations therein. With respect to objection regarding water level in Jaidhar mining block Respondent No.9 has submitted that during the course of public consultation, one of the residents raised the issue regarding the water table at Village Jaidhar and the same was duly addressed by the Environment Consultant on the basis of Report of CGWB, Yamunanagar (2012) wherein it was stated that the water table is more than 10 meters. It was further stated that the lease holder shall be bound to stop the mining operations 2 meters above the water table at any given stage. Respondent No.9 has further submitted that the mining lease area is

allocated by respondent No. 1 on the basis of the khasra numbers mentioned in the revenue record and respondent No. 9 shall not conduct any mining activities beyond the mining lease area and any discrepancy in the geo-coordinates, though denied, shall not have any effect on the mining contract and mining operations. Respondent No.9 has admitted that respondent No. 9 has been arrayed as one of the accused but submitted that the trial is still pending and there is presumption of innocence until proven guilty. Moreover, the mining contracts were executed in June, 2016 and the prosecution was launched in 2017 which shall not have any retrospective effect. The credentials of respondent No. 9 have been verified by respondent No. 1. Respondent No.9 has submitted that Mandewala and Jaidhar Mining Blocks have been classified as outside riverbed mining blocks. As per the Sustainable Sand Mining Management Guidelines, 2016 (SSMMG, 2016), extraction of minor minerals from agricultural fields in the State of Haryana has been duly recognized and it has also been recognized that there is replenishment of the land due to various agricultural processes. The replenishment of minerals has also been recognized in the respective mining plans approved by respondent No. 1. There is Joint Verification Report and all the structures are at a safe distance from the mining lease area. There was absolutely no illegality in the grant of CTE/CTO by respondent No. 7 in favour of respondent No. 9.

Reply by Respondent No. 9- M/s Saharanpur Mines Management Services Private Limited to the Additional Affidavit dated 10.01.2023 filed by the applicant

15. In its reply to the Additional Affidavit dated 10.01.2023 filed by the applicant, the respondent no. 9 submitted that the Enforcement and Monitoring Guidelines for Sand Mining 2020 (EMGSM, 2020) are not applicable in the present case on account of the fact that the auctions

were conducted in 2015 and the LOI were issued in favour of the answering respondent on 19.06.2015. There is no provision of law authorizing retrospective application of the guidelines. Even the tone and tenor of the EMGSM, 2020 shall reveal that the guidelines are prospective in nature.

16. This Tribunal observed in its order dated 26.04.2023 that questions regarding possibility of replenishment justifying mining and rehabilitation /reclamation and user of the land under Mining Closure Plan are also involved for adjudication in the present case and the parties were given opportunity to submit documents and address arguments in respect of above referred questions and also to file written arguments regarding the same, if so desired.

17. In compliance of order dated 26.04.2023 respondent no. 9 has filed affidavit vide email dated 03.05.2023 the relevant part of which reads as under :-

“Additional Affidavit on behalf of Respondent no. 9-M/s Saharanpur Mines and Management Services Pvt. Ltd.

X X X X

2. That in pursuance of the directions issued by this Hon'ble Tribunal, it is submitted as follows:

i) That as per mining plan (Annexure R-9/6), Jaidhar and Mandewala mining blocks have been classified as “outside riverbed blocks”. The land comprised in the aforesaid blocks is agricultural land.

ii) That as per mining plan (Annexure R-9/6), Jaidhar mining block is located at Village Jaidhar, District Yamunanagar with a total area of 25.60 hectares. The details of the Khasra numbers are also provided in the mining plan.

iii) That as per mining plan (Annexure R-9/6), Mandewala mining block is located at Village Mandewala, District Yamunanagar with a total area of 15 hectares. The details of the Khasra numbers are also provided in the mining plan.

iv) That as per the mining plan (Annexure R-9/6), the mining operations are to be conducted on a pre-determined area of the mining block at a given point of time. In view thereof, after determining the specific portion of the mining block for the purpose of extraction of minerals, agreement is to be executed with the owner of the particular piece of land for the purpose of

payment of compensation which is decided by way of mutual settlement. After payment of compensation as per agreed terms and conditions, area shall be used for the purpose of extraction of minerals.

v) That respondent No. 9 shall conduct mining operations after executing agreement for compensation with the concerned land owners.

vi) That as per the mining plan (Annexure R-9/6), the mining shall be carried out by open cast semi-mechanized method. The average permitted depth of mineral is around 9 meters. Out of which there is over burden of about 1 meter thick soil and remaining 8 meter depth is of mineral i.e. boulder, gravel and sand. The mining shall be conducted hectare wise by way of bench formation. The top layer of around one meter depth shall be removed through excavators which will be stacked nearby for back filling. This shall leave a bench of one meter depth and atleast 20 meter wide. The minerals below this bench shall be extracted. The removal of soil precedes the winning of sand. Once a pre-determined area has been exhausted, the land shall be given back to the land owners for their use which is mainly agriculture. In this way, the use of the land shall remain the same after the extraction of minerals.

vii) That the reclamation of mined out area is provided under the Environment Management Plan appended with the mining plan (Annexure R-9/6). It has been stated as follows: In case of outside riverbed mining, top soil will be removed in advance of the actual mining and will be stacked in a temporary stack yard. The same will be utilized for reclamation once the mining of minerals in 1/2 hectare area is over. This practice of continuous and simultaneous reclamation shall be continued during the mining operations. About 10,000 cubic meters of soil will be needed for each hectare area mind outside the riverbed. The yearly generation of over burden will be 28,750 cubic meters. This over burden will be used for reclamation. When working in each hectare area is completed, the same will be reclaimed simultaneously. Working in the next hectare area will be shifted only after reclamation of the mined out one hectare area. This practice will be continued simultaneously.

viii) That it shall be imperative to state that Mines and Mineral Development Restoration and Rehabilitation Fund has been established as per Haryana State Mining Rules, 2012. One of the purpose of the fund is to provide funding of the restoration or reclamation or rehabilitation works in the sites affected by mining operations.

ix) That as per the terms and conditions of the mining contract as well as the mandate of Haryana State Mining Rules, 2012, respondent No. 9 shall deposit an amount equal to 10 % of the contract money towards the fund by way of installments.

x) That for the purpose of safeguarding the lands adjoining the mining area, the mining plan (Annexure R-9/6) provides for

“restricted safety zone” of 7.5 meters from the boundary of the mining block. The total land in the restricted safety zone shall be 2.56 hectares for Jaidhar mining block and 0.75 hectares for Mandewala mining block. The area available for mining at Jaidhar mining block shall be 23.04 hectares out of 25.60 hectares; and the area available for mining at Mandewala mining block shall be 14.25 hectares out of 15 hectares.

3. That respondent No. 9 shall conduct the mining operations strictly in accordance with the respective mining plans and shall abide by all the terms and conditions of the mining contract as well as the applicable laws.”

18. Vide order dated 05.05.2023 this Hon’ble Tribunal directed respondent No. 9 to provide the details regarding the validity of environmental clearance granted in favour of respondent No. 9 with regards to Mandewala and Jaidhar Mining Blocks.

19. In compliance thereof respondent no. 9 has filed additional affidavit vide email dated 19.05.2023 the relevant part of which reads as under :-

“Additional Affidavit on behalf of Respondent no. 9-M/s Saharanpur Mines and Management Services Pvt. Ltd.

X X X X

2. That in pursuance of the directions issued by this Hon’ble Tribunal, it is submitted as follows:

Mandewala Mining Block:

i) That respondent No. 7 i.e. State Environment Impact Assessment Authority Haryana had granted environmental clearance to respondent No. 9 regarding Mandewala Mining Block vide Letter No. SEIAA/HR/2016/500 dated 27.06.2016 for a period of 5 years i.e. till 27.06.2021. The same is attached alongwith the Original Application vide Annexure A-5.

ii) That as per notification dated 18.01.2021 (Annexure R-9/7) issued by MoEF & CC, GOI, the validity of the environmental clearance was extended for a period of one year. In view thereof, the EC was valid till 27.06.2022.

iii) That respondent No. 9 had submitted an application dated 02.07.2021 with respondent No. 7 for the purpose of seeking extension of the environmental clearance. Respondent No. 7, after due consideration and deliberation, has extended the environmental clearance vide Letter bearing Memo No. SEIAA/HR/2023/23 dated 17.01.2023. The extension has been granted till 18.06.2024 and the same is subject to the final outcome of the Original Application No. 306 of 2022. Copy of EC extension Letter dated 17.01.2023, is attached herewith as Annexure R-9/10.

Jaidhar Mining Block:

iv) That respondent No. 7 i.e. State Environment Impact Assessment Authority Haryana had granted environmental clearance to respondent No. 9 regarding Jaidhar Mining Block vide Letter No. SEIAA/HR/2016/1072 dated 20.08.2018 for a period of 5 years i.e. till 20.08.2023. A copy of Environmental Clearance dated 20.08.2018 is attached herewith as Annexure R-9/11.

v) That as per notification dated 18.01.2021 (Annexure R-9/7), the validity of the environmental clearance was extended for a period of one year.

vi) That it shall be imperative to state that the mining contract granted in favour of respondent No. 9 qua Jaidhar Mining Block is valid till 18.07.2024. In view of the notification dated 18.01.2021 coupled with the duration of the mining contract, the environmental clearance dated 20.08.2018 is valid till 18.07.2024.”

20. Vide order dated 08.05.2023 Respondent no. 2 was directed to provide the detailed information regarding the following aspects:

- a) Name of the farmers to whom the agricultural land in which mining is to be carried out belongs;
- b) Details of compensation to be paid by the mining leaseholders to the farmers and the modalities for making of such payments;
- c) Cropping pattern adopted for the last five years in the land in question where mining is to be carried out; and
- d) Whether the agricultural land where mining is to be carried out falls under any command area.

21. Report has been filed by the respondent no. 2- Department of Mines and Geology, Uttar Pradesh vide email dated 25.05.2023. The relevant part of the report on behalf of respondent no. 2 is reproduced below:-

“REPORT ON BEHALF OF DEPARTMENT OF MINES & GEOLOGY IN COMPLIANCE OF ORDER DATED 08-05-2023”

2. That pointwise information is as follow:

a).Name of the farmers to whom the agricultural land in which mining is to be carried out belongs:

The details of the land owners with Khasra Nos falling in Mandewala and Jaidhar Mining Blocks have been provided by the concerned revenue officers i.e., Naib Tehsildar of Tehsil Partap Nagar and Naib- Tehsildar of Tehsil Chhachhrauli, District Yamunanagar. As per the information provided, the ownership details and cropping pattern as per Girdvari Report of village Mandewala mining block (Provided through letter dated 12.05.2023 of Naib Tehsildar, Pratapnagar) is enclosed herewith as **Annexure R-1** and village jaidhar mining block (through letter dated 24.05.2023 of Tehsildar, Chhachhrauli giving details of land owners and cropping pattern i.e Girdavari report) is enclosed herewith as **Annexure-R2**.

X X X X X

b).Details of compensation to be paid by the mining lease holders to the farmers and the modalities for making of such payments:

It is humbly submitted that Chapter-9 of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 deals with 'Payment of Rent and Compensation to the landowners and determination thereof'. The Chapter 9 contains Rule No.62 to 65. The relevant Rules as amended upto date are being reproduced below:

Rule 62. (1) *Where a mineral concession is granted under these rules over any land in respect of which minor mineral rights vest in the State Government, the rights of the landowner shall be subordinate to that of the State Government for extraction of the mineral, access to the quarry/ mine, stacking of minerals and other subsidiary purpose. The landowner is entitled to a fair rent and compensation for such use of the land and any damage or injury caused to such land.*

(2) *A mineral concession holder, who is granted the mineral concession under these rules, is entitled to use the land/area for extraction of mineral in respect of which the said concession is granted. The mineral concession holder shall be liable to pay (a) the annual rent in respect of the land area blocked under the concession but not being operated, and (b) the rent plus compensation in respect of the area used for actual mining operations.*

(3) *In case the landowner is allowed to use part of the area granted under the mineral concession for his normal operations for which it was being used prior to the grant of mineral concession, concurrent with the concession grant, no rent shall be payable in respect of such portion of land which is not being used for actual mining operations for such period as it remains available to the landowner for his normal use. In case where the mineral concession holder blocks the entire concession area as a result of which the landowner is not able to use such land or part thereof for his normal operations, the rent shall be payable in respect of the entire blocked area.*

Rule 63. *The amount of annual rent and the compensation shall be settled mutually between the landowner and the mineral concession holder.*

Sub Rule 63A. *Fixation of annual rent and compensation by Government- In case where no agreement is reached by way of mutual settlement between land owner and mineral concession holder, the Government may fix and notify the rate of annual rent and compensation, to be paid by the mineral concession holders to the landowners for area granted on mineral concession for mining under these rules.*

Rule 64.(1) *Where no agreement is reached by way of mutual settlement between the landowner and the mineral concession holder regarding the rate of rent, the mineral concession holder shall offer to pay an amount equal to two percent of the Collector rate or at such rate as may be notified by the Government as per rule 63A in respect of such land/area, whichever is higher, as rent.*

(2)*Where the land owner is not agreeable for a mutual settlement under rule 63 and is also not satisfied with the rent offered to be paid under sub-rule (1) above, the landowner or the concession holder may apply to the officer-in-charge of the concerned district to make a reference to the District Collector for determination of the fair rent payable in respect of such land.*

(3) Where either of the parties prefer a reference to the District Collector under sub-rule (2) above, the officer-in-charge of the concerned district shall forward the reference to the District Collector for determination of the fair market rent in respect of such land. The mining officer-in-charge of the district shall also require the mineral concession holder to deposit the rent for one year as prescribed under sub-rule (1) above as a tentative rent with the collector. Upon so doing, the mineral concession holder shall be entitled to commence mining operations over the land area.

(4) Upon a reference from the mining officer-in-charge of the district concerned, the District Collector may call upon the parties to furnish the details of their claims and counter claims, inter alia, containing information on the parameters prescribed under sub- rule (5) of this rule and afford an opportunity of hearing to the parties.

(5) (I) Pursuant to the hearing granted to the parties to the reference, the District Collector shall determine the fair market rent of the land keeping in view the following:

(i) Nature/character of the land i.e arable (single crop or multiple crop) or barani or banjar;

(ii) Use to which such land was being put immediately before the grant of mineral concession;

(iii) Annual net income that the landowner was able to derive/ earn from such land use;

(iv) Normal increase in the income level that would have taken place in such net income during the intervening period;

(v) Amount so worked out shall be added an amount equal to thirty percent in lieu of compulsory use of the land;

(II) While determining the fair market rent, the collector shall also decide the rate at which such rent would be increased on year-to – year basis during the currency of the mineral concession.

(6) *Notwithstanding the parameters prescribed for determining the fair market rent under sub-rule (5) above, Collector shall not determine the rent at a rate lesser than the amount as prescribed under sub-rule (1) or rate of rent fixed and notified, if any, by the Government in respect of such area/land, whichever is higher.*

(7) *The District Collector shall order parties and the mineral concession holder to pay such rent to the landowner from time to time, as determined by him.*

(8) *Any appeal against the order of the District Collector shall lie with the Government.*

Rule 65 (1) *In addition to the rent settled between the parties under rule 63 or determined and payable under rule 64, the landowner would also be entitled to payment of fair and reasonable compensation for any damage caused to such land in respect of the area under actual mining operations.*

(2) *In cases where the amount of compensation is not mutually settled between the parties under rule 63, the tentative amount of compensation shall be equal to an amount 0.5 % of the collector rate in case of riverbed mining and /or 1% of collector rate in all other cases (except Riverbed mining) or at the rate of an amount of compensation, as notified by the Government under rule 63 A, whichever is higher.*

(3) *Where the landowner or the mineral concession holder is not agreeable to accept the amount of compensation prescribed under sub-rule (2) above, either of them may seek reference through mining officer-in -charge to the District Collector for determination of fair and reasonable compensation with reference to the damage or injury caused to such land. Pending a decision by the District Collector on such reference by either of the parties, the mineral concession holder shall deposit the tentative compensation amount for one year with the District Collector in accordance with sub-rule (2) above, where after the concession holder shall be entitled to operate the area.*

(4) Upon a reference from the officer-in-charge, of the district concerned, the District Collector shall proceed to determine the fair compensation amount on account of any damage likely to be caused to such land on account of the mining operations. The Collector shall invite claims and counter claims and afford an opportunity of hearing to the parties before determining the compensation amount.

(5) (I) The collector shall determine the fair compensation for the damage or injury caused to such land keeping in view the following:

(i) nature or character of land i.e arable (single crop or multiple crop) or barani or banjar;

(ii) economic activity for which such land was being used immediately before the grant of mineral concession;

(iii) nature and extent of damage caused and as to whether such land is fully or partially reclaimable after closure of the mining operations or the damage is irreversible;

(iv) economic activity for which such land can be used after mine closure, with or without any investment, and the kind of returns it is capable of yielding after such restoration.

(v) extent of efforts and expenditure proposed to be made by the mineral concession holder for restoration or reclamation or rehabilitation of the land as per the mine closure plan for its eventual use by the landowner;

(II) While determining the compensation amount, the Collector shall keep in view the total rent and the estimated compensation amount payable to the landowner throughout the concession period. In case the sum total of the rent and the compensation amount assessed is more than the prevailing market value of land, the mineral concession holder may be given an option to buy the land at such rates subject to the landowner agreeing to the same. Alternatively, the Collector may determine the compensation amount keeping in view that the landowner would continue to retain the ownership of land after the closure of mining operations.

(III) *In case the mineral concession holder and the landowner (s) are able to settle the compensation mutually in respect of a portion of the land required for actual mining operations, compensation for such portion of the land shall not be a subject for settlement. However, the amount of compensation already settled in respect of part of the operating area shall be kept in view while settling the compensation for the disputed area.*

(6) *Where the amount of final compensation determined by the Collector works out to be more than the tentative amount of compensation already deposited as per sub-rule (2), the mineral concession holder shall deposit immediately on demand by the Collector, the additional amount of compensation within fifteen days:*

Provided that in case the amount of final compensation works out to be less than the amount already deposited by the contractor/lessee, the excess amount shall be refunded to him within fifteen days.

(7) *The compensation amount determined by the District Collector shall be final and binding on the parties and the mineral concession holder shall be liable to pay such compensation amount to the landowner annually during the currency of the mineral concession.*

(8) *An appeal against the order of the Collector shall lie with the Government.*

It is humbly submitted that no reference as mentioned in Rule 64 (2) and 65(3) has been made to the District Collector, Yamunanagar in respect of Mining Blocks in question.

It is also submitted that agreement as referred in above stated rules are to be executed before the commencement of mining operations.

c) Cropping pattern adopted for the last five years in the land in question where mining is to be carried out:

As per the Girdawari report obtained from the revenue department, the crops grown during the Kharif and Rabi season

are mainly the Zeeri (Paddy) and Gehu (Wheat) crops respectively. Copy of Girdawari reports are part of Annexure - R1 and- R2.

d) Whether the agricultural land where mining is to be carried out falls under any command area

As per the information provided by the Executive Engineer, Water Services Division, Dadupur (Yamunanagar), None of the Khasra Nos of village Jaidhar fall in the command area of any of the channels. However, all khasra Nos in village Mandewala except Khasra No 15//21/8 fall in the commands of the channels.

*Copy of letter dated 11.05.2023 of Executive Engineer, Water Services Division, Dadupur is annexed as **Annexure-R/3**).....”*

22. Written Submissions have been filed by the applicant vide email dated 24.04.2023 and by Respondent no. 9- M/s Saharanpur Mines and Management Services Pvt. Ltd. vide email dated 21.03.2023.

23. We heard learned Counsel for the parties and reserved the matter for disposal by passing of detailed order. However, on carefully examining the matter we consider further hearing/enquiry to be necessary for the reasons stated hereinafter.

24. Even though no appeals challenging validity of ECs granted by SEIAA in favour of Respondent No.9 were filed by the applicant or any one else, yet prima facie the questions as to the mining leases being violative of the provisions of the Environment (Protection) Act, 1986 and the Guidelines issued under the same being integral to operation of the mines in compliance with environmental norms can be gone into by this Tribunal on the present Application.

25. In Civil Writ Petition No.8470 of 2004 Ajeet Singh and Others vs State Of Haryana and Others and connected writ petitions filed by Ajeet

Singh and other farmers belonging to District Karnal challenging mining in agricultural land in the State of Haryana, Hon'ble High Court of Punjab and Haryana had, by an order dated 31.08.2005, elicited the views of specialists in the agriculture sector and impleaded the Haryana Agriculture University, Hisar as a party to one of the petitions, to determine the environment hazards, if any, involved in mining of sand from agriculture land in the State of Haryana. A Committee comprising seven experts from different disciplines constituted by the Vice Chancellor of the University, submitted a report to Hon'ble High Court of Punjab and Haryana pursuant to the said order, in which it was, inter-alia, opined that sand mining in agriculture lands had destroyed the natural soil profile and resulted in land degradation due to soil erosion in the fields adjacent to the mined area. It was also pointed out that the sand mining has adversely affected the texture, structure, organic matter and available nutrients status of the soil, which would obviously decrease crop productivity in the affected area. Hon'ble High Court of Punjab and Haryana was, on perusal of the said report, prima facie of the view that the situation arising out of mining of sand from fertile agriculture lands was alarming and that in case remedial steps were not taken, such mining operations may adversely affect the environment and accordingly stopped the on-going mining activity in the villages in question by an order dated 05.04.2006.

26. The Director of Mines and Geology, Haryana in reference to the above said case requested the Director, Central Soil Salinity Research Institute (CSSRI) Karnal, to study different mining sites in Karnal, Panipat and Sonapat districts so as to know the impact of sand mining on soil properties and crop yield in comparison to the un-mined fields so as to provide guidelines for framing sand mining policy in the State. A team

of scientists from the CSSRI under a consultancy project studied the mined and adjacent un-mined sites at several places in Karnal, Panipat and Sonapat districts to ascertain the impact of sand mining on soil properties and crop growth. The CSSRI Committee recorded its Salient findings, some recommendations and conclusions as under :-

“SALIENT FINDINGS AND SOME RECOMMENDATIONS

1. *Sand is an integral part of soil composition and also an important aggregate used in bulk in construction industry.*
2. *Small sized sand pits spoil surface configuration of the landform and are difficult to rehabilitate. Therefore, large contiguous areas should be earmarked for sand mining.*
3. *Depth of sand mining, which used to be about 5-6 m earlier, has now increased to about 10 m. this has direct bearing on soil erosion especially when side slopes of mines bear an angle of 45° or more. Restricting mining depth and decreasing degree of side slopes are recommended to prevent erosion of adjoining lands and silting of the bottoms of sand pits. The mining depth and degree of slope shall vary from site to site depending upon soil texture and other site characteristics.*
4. *Width of buffer zone around the sand mine pit should be sufficiently wide to save any form of loss accruing from sand mine to the land and property of the neighbouring farmer. Side slopes and buffer zones are the most fragile components of rehabilitation, their stabilization is extremely important. Therefore, regular maintenance and monitoring by a team of experts and other stakeholders is recommended.*
5. *Rehabilitated sand mines have responded well to soil development and improvements in soil physical, chemical, microbiological and nutritional properties. However, the resulting lighter soil textures are likely to induce higher infiltration rates causing loss of water and plant nutrients through enhanced leaching. To prevent such losses and also to keep down cost of crop production, state of the art and location specific soil and water management measures are recommended.*
6. *Lighter soil textures have opened new options for crop-diversification. A host of commercial crops like tubers, vegetables, flowers, fruits and herbal plants etc hold good promise in these soils.*
7. *Crop yields remained subdued until 4-5 years of rehabilitation. Afterwards, the yields were comparable or even better than those obtained from the original un-mined soils.*

This has happened due to nutrient transformation, weathering of sand minerals and adoption of best management practices.

8. Cultivation of sugarcane that produces abundantly dense root system and leaf-trash for recycling into soil was found the most useful crop to improve soil during initial years of rehabilitation.

9. Research studies to fine-tune various aspects of sand mining and rehabilitation of mined areas to agriculture and other profitable land use are recommended. Scope of mine areas for ground water recharge and rain water harvest needs exploitation.

10. Sufficient scientific literature addressing problems arising due to sand mining and their solution including packages of practices for quick rehabilitation of land be prepared and disseminated to the concerned officials and farmers.

Conclusions

Sand mining apparently is a land degradation process which disturbs soil profile spoils surface configuration and considerably alters topography of the land. Rehabilitation of sand mines starts with spreading mixing and leveling of topsoil with sand. The resulting loose mass contains about 60 to 70 percent lesser clay and silt in comparison to topsoil but most importantly they inherit some useful genetic characteristics that favour soil profile development. Commencement of agricultural operations for crop production causes soil cohesion, which further lead to improvements in soil properties. The reclaimed soils produce significantly lesser yields in the first few years but picks up gradually to reach almost at par by 5th year of reclamation. The processes of soil formation like profile development; physical, chemical, biological and nutritional properties of soil improve simultaneously. Depending upon the method and process of rehabilitation, the breakeven point in crop production and soil improvement is reached between 5th and 12th years of reclamation. It is, therefore, concluded that sand mining from agricultural fields in Yamuna basin should be permitted but regulated and managed in scientific manner to enable concurrent reclamation of sand mines for immediate return to agriculture.”

27. On 22.05.2007 the attention of Hon’ble High Court of Punjab and Haryana was drawn to the report submitted by Central Soil Salinity Research Institute, Karnal and the comments offered by the said institute regarding the report submitted by the Haryana Agriculture University which were at variance with each other. In order to resolve the conflict, Hon’ble High Court of Punjab and Haryana directed the

Committee of Experts, earlier constituted by the Haryana Agriculture University, to visit three other districts of Haryana also, namely Yamunanagar, Sonipat and Panipat in order to evaluate the hazards of mining of sand of agricultural land. On the submission of the said report, Hon'ble High Court of Punjab and Haryana forwarded the report submitted by the Central Soil Salinity Research Institute, Karnal as also the report submitted by Haryana Agriculture University to Haryana State Pollution Control Board as also to the Central Pollution Control Board for their comments regarding the same. The respondents were also directed to examine whether the matter could be referred to the Central Environment Impact Assessment Authority constituted by the Central Government.

28. However on 22.07.2009 Mr. Randhir Singh, learned counsel appearing for the State of Haryana submitted that the mining for removal of sand in the State of Haryana had all expired by efflux of time and that the Government had after proper examination of the environmental concerns expressed in certain quarters, taken a decision that while granting fresh leases, the lessee shall have to obtain prior environmental clearance from the competent authority in terms of Notification dated 14.09.2006 issued by the Government of India, Ministry of Environment and Forests, before they commence the mining activity. In support, he placed on record a copy of Auction Notice dated 10.03.2008. and submitted that auction of leases for mining of sand would be subject to proper evaluation of the environmental hazards and clearance by the State Level Environmental Impact Assessment Authority, constituted by the Government of India in terms of Notification dated 14.09.2006 and all issues regarding the possible environmental degradation of the area on account of mining activities would have to be addressed and proper

clearance obtained from the above authority constituted by Government of India in terms of Notification dated 21.04.2008, before the lessees are allowed to commence their mining activities. Learned Counsel for the State of Haryana further submitted that since a specialized expert Committee would grant environmental clearance before the mining activity started, the apprehension expressed by the petitioners that the continued mining of sand from the agricultural land would result in irreparable damage to the quality of the soil or productivity of the land, would also be addressed and examined by the Authority concerned. In the light of the terms and conditions stipulated by the State Govt. and the fact that all issues relating to the impact of mining on environment would be examined by the State Level Committee, the petitions could be disposed of with a direction that the mining operations shall conform to the requirements of the Auction Notice and the Notification dated 14.09.2006 issued by the Government of India.

29. Hon'ble Punjab and Haryana High Court disposed of the writ petition accordingly with the following observations:-

"In the circumstances, therefore, and keeping in view the submissions made at the bar, we see no reason to keep these proceedings pending with us any longer. In view of the change, that has been introduced by the State Government during the pendency of these proceedings, in the approach to be adopted towards grant of leases and the care, that has to be taken while allowing the lessees to undertake mining operations, as also the fact that an expert Authority constituted by the Government shall have to grant clearance before the mining of sand starts, we see no reason to assume that all these safeguards notwithstanding, there will be any danger to the environment on account of unregulated and unabated mining operations. All that we need say is that the respondent State Government and its agencies shall ensure that the terms of the Auction Notice are strictly adhered to by the lessees concerned and no mining activity is allowed to be carried out, except after obtaining proper clearance from State Level Environment Impact Assessment Authority constituted in terms of the notifications mentioned above. Needless to say that in case any violation of the above policy of the State Government and the legal framework provided for the mining activities is noticed, the petitioners shall be free to re-agitate the matter in appropriate

proceedings before this Court. These petitions are disposed of with the above observations.”

30. In its report ‘Sand Mining or no mining in agricultural fields in Haryana’ CSSRI Committee observed as under:-

“Yamuna basin is bordered by river Yamuna from Yamunanagar to Delhi and National Highway No. 1 from Nilokheri to Delhi. Between Nilokheri and Delhi the National Highway No. 1 is aligned on the levee of River Yamuna and acts as water divide between the ancient River Saraswati and Yamuna. The Riverine action deposited several meter thick sand layers in the riverbed. Slow shifting of river Yamuna towards east left behind several meter deep sand deposits, which was subsequently covered by alluvium consisting sand, silt and clay to form topsoil. The Yamuna basin (Figure 1) measuring around 1700 sq km is estimated to have 300 billion cu m sand deposits lying below agricultural land.”

31. In its report CSSRI Committee also made the following observations:

“Sand mines have definite impact on surface configuration and topography of the land. Small sized mines are prone to flooding and erosion and a permanent threat to the adjoining lands. While large sized sand mines by virtue of their size are less threatened by floods, rather these could play vital role of a large ground water recharging or water harvesting body in the event of unusually large floods feared in future due to global warming. Highly sloping edges and buffer zones were found the most fragile components in sand mining. High degree of priority must be accorded to preserve them by computing appropriate width of buffer zone and suitable degree and shape of slopes with long term stabilization under vegetation adopting site-specific soil and water conservation measures...”

32. In the present case the Respondents have not produced any material to show that State of Haryana has framed any policy regarding permitting of sand, boulder, gravel mining in non-governmental agricultural land by considering the environmental concerns flagged in the report of Committee constituted by the Vice Chancellor, Hisar Agricultural University and observations/recommendations made in the report of the CSSRI Committee. The Respondents have not produced copies of environment impact assessment report prepared/considered by

the SEAC/SEIAA to show that such environmental concerns /recommendations were considered by SEAC/SEIAA. There is urgent and mandatory requirement of due consideration of the environmental aspects referred in the above said Committee reports.

33. The SSMG, 2016 provide for management of sand deposited after flood on agricultural field of farmers and the relevant part thereof is reproduced hereunder:-

“MANAGEMENT OF SAND DEPOSITED AFTER FLOOD ON AGRICULTURAL FIELD OF FARMERS

The Standing Committee on Water Resources on issues, concerning flood management, compensation, and status of ownership of submerged and eroded land in the country including compensation to farmers for loss of their crops destroyed by floods and right to disposal of the sand left in the fields of farmers in its meeting held on 29.04.2015 made observations on this subject.

The Committee observed that pursuant to Hon'ble Supreme Court of India decision in "Deepak Kumar Case" in 2012, regulations were framed by the Ministry of Mines to guide environmental clearance of minor minerals. ... The Committee, therefore, desires the Ministry of Water Resources, River Development and Ganga Rejuvenation to work in close coordination with the Ministry of Mines and Environment, Forest and Climate Change to frame regulations / Guidelines in this regard expeditiously.

Mining of Sand

The Committee further observed that due to the floods, 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.

The Committee observes that "mining operation" means any operation undertaken for the purpose of winning any mineral. Accordingly, if desilting is undertaken perse with the objective of winning a mineral then only it will be construed as a mining operation. Apparently, if the desilting is undertaken not for winning any mineral, it will not be construed as mining operation and therefore, the farmer can remove the sand from the land without requiring the requisite permits. However, the Committee strongly feels that the farmer be given the right to use and dispose-off the sand accumulated over their land post

flood, by incorporating the necessary provisions in the Mines and Mineral (Development and Regulation) Act, 1957".

Removal of sand from the agricultural field by the owner farmer of the land from environment point of view will not be considered as mining operation and its removal and disposal can be allowed without the requirement of environment clearance till it is done only to the extent of reclaiming the agricultural land. The sand deposited after flood only be removed, so no mining / digging below the ground level is allowed. For removing sand in case where private land has gone into the river due to erosion, the requirement of mining lease and environment clearance will continue. This operation of removal of sand deposited on agricultural field should be done after a mapping of deposition is done by the Land Management Committee of the Gram Panchayat. The sand so deposited post flood can be removed by the farmer owning the land / group of farmers affected by this post flood sand deposition or the Gram Panchayat. Customary rights to remove and dispose off the sand should be given to the farmer affected by deposition of sand on account of sudden flood in his agricultural land."

34. However, the mining leases in the present case do not fall in the category of mining of sand deposited after flood on agricultural field of farmers.

35. The SSMG, 2016 also noticed the practice of Mining of Sand from Agricultural Field in the State of Haryana and made recommendations regarding the same. Relevant part thereof is reproduced hereunder:-

“MINING OF SAND FROM AGRICULTURAL FIELD

This practice is prevalent in Haryana, where the top layer of soil varying between 1 and 2 meters is removed and stacked separately and thereafter the sand deposit which may be 10-15 meter deep is mined. After removing the sand layer up to a maximum depth of 09 meters, the top soil stacked is spread out on the field and the same is brought under the cultivation. Though the level of this land (mined out area) is lowered to the depth of the excavation and in initial years of cultivation the productivity is low, but the productivity of the fields improves with continued cultivation and addition of organic manure in the field. In Haryana some leases are of large area (ranging from 1000 hectare to 2000 hectare) the agricultural fields and river bed both are included in the same lease for mining.

The following recommendations should be kept in mind for mining in such leases:

1. *Mining of sand in such mine leases will require environment clearance.*

2. The lease should be of sand mining either from the agricultural field or river. In same lease both type of area should not be included.

3. The sand mining from agricultural field is being done in Haryana for a long time and it can be done in a more sustainable manner without adverse impact on agricultural productivity, if proper environmental safeguards are taken.

4. The slope of mining area adjacent to agricultural fields should be proper (preferably 45-60 degree) and adequate gap (minimum 10 feet) be left from adjacent agricultural field to avoid erosion and scouring.”

36. The EMGSM, 2020 also acknowledged that practice of mining of Sand from Agricultural Fields is prevalent in Haryana and also made recommendations regarding the same. The relevant part thereof is reproduced hereunder:-

“8.2 Mining of Sand from Agricultural Fields

This practice is prevalent in Haryana; to ensure that mining from outside doesn't affect rivers, no mining is permitted in an area up to a width of 100 meters from the active edge of embankments or distance prescribed by Irrigation department whichever is critical. The top layer of soil varying between 1 and 2 meters is removed and stacked separately and thereafter the sand deposit which maybe 10-15 meter deep is mined. After removing the sand layer up to a maximum depth of 09 meters or the maximum mineable minerals, as permitted by competent authority. The topsoil stacked is spread out on the field and the same is brought under the cultivation. Though the level of this land (mined out area) is lowered to the depth of the excavation and in initial years of cultivation the productivity is low, but the productivity of the fields improves with continued cultivation and addition of organic manure in the field. In Haryana, some leases are of large area (ranging from 1000 hectare to 2000 hectare) and agricultural fields and river bed both are included in the same lease for mining.

The following recommendations should be kept in mind for mining in such leases:

1. Mining of sand in such mine leases will require environment clearance.

2. The lease should be of sand mining either from the agricultural field or river. In the same lease, both types of area should not be included.

3. The sand mining from the agricultural field is being done in Haryana for a long time and it can be done in a more sustainable manner without adverse impact on agricultural productivity if proper environmental safeguards are taken.

4. The slope of mining area adjacent to agricultural fields should be proper (preferably 45 degree) and adequate gap

(minimum 10 feet) be left from adjacent agricultural field to avoid erosion and scouring.

The provision for sand mining in agricultural field may be permitted, whenever replenishment of sand occurs due to natural phenomena.

Permission may also be granted by competent authority (District administration) for excavation of sand/Soil from agricultural fields, after due diligence of this prevailing condition in order to avoid any unacceptable impact on the environment and nearby livelihood from agriculture provided such objective of such excavation mining of Soil/Sand in limited increase the productivity of sand agricultural field."

37. It may be observed here that in both the SSMG, 2016 and the EMGSM, 2020, it is mentioned that sand mining from agricultural land can be done in a more sustainable manner without adverse impact on agricultural productivity, if proper environmental safeguards are taken but the requisite environmental safeguards, other than 'slope' and 'gap', are not enlisted in the SSMG, 2016 and the EMGSM, 2020.

38. The question as to what 'proper' environmental safeguards are required to be taken for carrying out sand mining in agricultural land in a more sustainable manner without adverse impact on agricultural productivity also needs to be also considered.

39. In these facts and circumstances, we consider it appropriate that a Joint Committee be constituted to look into all relevant aspects of sand mining in non-governmental/private agricultural land and make its recommendations regarding environmental safeguards/ measures for mining on agricultural land with the objectives to ensure sustainable development. Accordingly, we constitute a Joint Committee comprising of one representative of Secretary, Ministry of Environment, Forest and Climate Change (MoEF & CC), Central Pollution Control Board (CPCB), Indian Agricultural Research Institute (IARI), Indian Institute of Soil and Water Conservation, (IISWC), Dehradun, Chaudhary Charan Singh

Haryana Agricultural University (CCHAU), Hisar, Central Soil Salinity Research Institute (CSSRI), Karnal and Haryana State Pollution Control Board (HSPCB) and direct the same to meet within two weeks, undertake requisite visits to the mining sites including the mining blocks in Jaidhar and Mandewala as may be considered necessary, look into all relevant aspects concerning sand mining in agricultural land in the State of Haryana, take into consideration both the reports submitted by the HAU Committee and CSSRI Committee for ascertaining as to (i) whether the practice of sand mining in agricultural land adversely affects fertility/value of agricultural land and damages environment; and (ii) whether the practice of sand mining in agricultural land needs to be permitted/continued and (iii) in case the practice of sand mining in agricultural land is allowed/continued what are the environmental safeguards/measures required to be undertaken for ensuring sustainable agriculture and achieving sustainable development and make its recommendations regarding the same including environmental safeguards/measure for undertaking mining, reclamation/rehabilitation of mined land for making it suitable for sustainable agriculture and achieving sustainable development. For this purpose, the Committee may also co-opt any other expert as may be considered appropriate and may receive representation from and/or give opportunity of being heard to the applicant, representative of the project proponent and any NGO/voluntary agencies or association of land owners or mining lease holders as may be considered appropriate. The HSPCB will be the nodal agency for coordination and compliance and will bear all travel and other expenses of the Committee out of the amount of the environmental compensation lying deposited with it. The Report of the Committee be submitted within two months by e-mail at judicial-ngt@gov.in preferably

in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

40. So far as the question of permissibility of sand mining in agricultural land under the present regime of environmental norms is concerned, Guideline 4.1(m) of the Enforcement and Monitoring Guidelines for Sand Mining 2020 provides as under:-

“m) The mining outside the riverbed on Patta land/Khatedari land be granted when there is possibility of replenishment of material. In case, there is no replenishment then mining lease shall only be granted when there is no riverbed mining possibility within 5 KM of the Patta land/Khatedari land. For government projects, mining could be allowed on Patta land/Khatedari land but the mining should only be done by the Government agency and material should not be used for sale in the open market. Cluster situation as mentioned in para k above is also applicable for the mining in Patta land/Khatedari land.”

41. Guideline 4.3 (s) of the Enforcement and Monitoring Guidelines for Sand Mining 2020 provides as under:-

“s) Mining Plan for the mining leases (non-government) on agricultural fields/Patta land shall only be approved if there is a possibility of replenishment of the mineral or when there is no riverbed mining possibility within 5 KM of the Patta land/Khatedari land. For Government Projects mining could be allowed on Patta land/Khatedari land but the mining should only be done by the Government agency and material should not be used for sale in the open market.”

42. Thus, the Enforcement and Monitoring Guidelines for Sand Mining 2020 stipulate that mining leases (non-government) on agricultural fields/Patta land shall only be approved (i) if there is a possibility of replenishment of the mineral or (ii) when there is no riverbed mining possibility within 5 KM of the Patta land/Khatedari land.

43. The Applicant has claimed that there is no possibility of replenishment of sand in both the mining sites at Villages Jaidhar and Mandewala and mining site at Village Mandewala is located at a distance of 1.62 to 2.02 kms from River Yamuna and there is riverbed mining

possibility within 5 KMs and 12 mining areas fall within 5 kms of mining site at Village Mandewala and mining leases are in clear violation of 2020 Guidelines. The applicant has submitted that EMGSM, 2020 guideline are applicable to mining by respondent no. 9 and the applicant has relied on Judgment of Hon'ble Supreme Court in the case of the State of Bihar Vs. Pawan Kumar reported at (2022) 2 SCC 348.

44. In their replies respondents no. 1 and 2, 4 and 7 have not specifically replied to the aspects as to (i) whether there is a possibility of replenishment of the mineral in mining sites in villages Jaidhar and Mandewala and (ii) whether there is riverbed mining possibility within 5 KMs of mining site in village Mandewala. In his reply Respondent No.9 has submitted that it has been recognized in EMGSM, 2020 that there is replenishment of the land due to various agricultural processes. The replenishment of minerals has also been recognized in the respective mining plans approved by Respondent no. 1. Respondent no. 9 has further submitted that the EMGSM, 2020 are not applicable in the present case on account of the fact that the auctions were conducted in 2015 and the LoI were issued in favour of the answering respondent on 19.06.2015. There is no provision of law authorizing retrospective application of the guidelines. Even the tone and tenor of the EMGSM, 2020 shall reveal that the guidelines are prospective in nature. Respondent no. 9 has further submitted that the EMGSM, 2020 are mandatory but with prospective effect. The guidelines laid down under the EMGSM, 2020 cannot be taken into consideration for the purpose of cancellation/termination of mining contract which was auctioned/granted way back in 2015/2016. The guidelines shall be applicable to Respondent No. 9 only for the purpose of the same being

followed with regards to the conduct of mining operations in future which shall include aspects like replenishment study, environmental audit etc.

45. The questions as to (i) whether the EMGSM, 2020 are applicable to the mining leases in question (ii) if yes whether there is a possibility of replenishment of the mineral in mining sites in villages Jaidhar and Mandewala or (ii) whether there is riverbed mining possibility within 5 KMs of mining site in villages Jaidhar Mandewala have to be determined in the present case and response of MoEF & CC, respondents no. 1 and 2, 4 and 7 in this regard is essentially required and factual position in this regard also needs to be verified.

46. Accordingly, MoEF & CC being necessary/proper party is ordered to be impleaded as respondent no. 10. Memo of parties be amended accordingly and notice be issued to respondent no. 10 requiring it to file its response.

47. Specific detailed response by respondents no. 1 and 2, 4, 7 and 10 be filed within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

48. Further both the SSMG, 2016 and the EMGSM, 2020 acknowledge that the Sand mining in agricultural land (i) lowers the level of mined out land to the depth of the excavation and (ii) lowers the productivity in initial years of cultivation. In its report the CSSRI Committee had mentioned that sand mining is a land degradation process which disturbs soil profile, spoil surface configuration and considerably alters topography of the land. The reclaimed soil produce significantly lesser yields in the first few years and breakeven point in crop production and soil improvement is reached between 5th and 12th year of reclamation. In

its report the CSSRI Committee noted favorable response of some land owners in view of the fact that sand mining for 2 to 3 years fetched an amount of Rs. 6 to 8 lakhs per hectare. However, in the present case the respondents no. 1 and 2 and respondent no. 7 have not mentioned anything about the amount payable to the land owners. Reference has been made to Rules 62 to 65 the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 (Haryana State Mining Rules, 2012) under which the quantum of rent and compensation is left to mutual agreements between the land owners and mining lease holder and in case of failure of /grievance against mutual settlement, to reference to the District Collector. In the present case leases were granted in the years 2016/2018 but such rent and compensation agreements have not been executed so far. Further the entire agricultural land to be mined does not abut public roads and does not have passage for transportation of mined minor minerals. The aspect of providing passage for transportation is also left to mutual agreement between the concerned land owners and mining lease holder. Again reclamation of mined agricultural land under mining plan seems to have been left to mutual settlement between the concerned land owners and mining lease holder. Even though, Respondent No. 9 has submitted that Mines and Mineral Development Restoration and Rehabilitation Fund has been established as per the Haryana State Mining Rules, 2012 and one of the purpose of the fund is to provide funding for the restoration or reclamation or rehabilitation works in the sites affected by mining operations and as per the terms and conditions of the mining contract as well as the mandate of the Haryana State Mining Rules, 2012, respondent No. 9 shall deposit an amount equal to 10 % of the contract money towards the fund by way of installments. However, respondents no. 1 and 2 have not mentioned that

in case of default by the mining lease holder the State of Haryana is under any obligation for reclamation of the land mined by utilizing the Fund or at its own cost with or without liberty to recover the same from the mining lease holder.

49. In these facts and circumstances, the Director General, Mining and Geology Department, Haryana is directed to file an additional affidavit providing information in tabular form with respect to the following aspects:-

- (i) number of mining leases for sand mining in agricultural land already completed;
- (ii) number of mining leases for sand mining in agricultural land currently in operation;
- (iii) number of mining leases for sand mining in agricultural land which are yet to commence operation;
- (iv) the quantum of rent and compensation per hectare paid/agreed to be paid under agreement between the land owners and mining lease holders under mining leases already closed and mining leases nearing completion;
- (v) amount lying deposited in Mines and Mineral Development Restoration and Rehabilitation Fund; and
- (vi) amount spent on reclamation/restoration out of the Mines and Mineral Development Restoration and Rehabilitation Fund.

It be also mentioned in the affidavit as to whether the State of Haryana has carried out reclamation of any mined agricultural land by utilizing the Mines and Mineral Development Restoration and Rehabilitation Fund or at its own cost with or without liberty to recover the same from the mining lease holder.

50. In the present case, Report on the measured distance between mining blocks at Mandewala and Jaidhar to River Yamuna was filed by respondent no. 8 and relevant part thereof is reproduced below:

“Report on the measured distance between mining blocks at Mandewala and Jaidhar to River Yamuna:

The latitude and longitude of the corners of Mandewala Mining Block have been taken from the Environment Clearance Order dated 27/06/2016 given at Annexure 5 of OA no. 306/2022. Latitude and Longitude of corners of Jaidhar Mining Block have been taken from Environment clearance Order dated 20/08/2018. Latitudes and Longitudes given below, have been considered for measuring maximum and minimum distance from the river Yamuna:

Mandewala Block	Latitude	Longitude
Corner 1	30°15' 57.4" N	77°30'31.7" E
Corner 2	30°15'46.2" N	77°30'32.1" E
Corner 3	30°15'41.9" N	77°30'25.9" E
Corner 4	30°15'11.5" N	77°30'38.4" E

Jaidhar Block	Latitude	Longitude
Corner 1	30°13'42" N	77°24'30" E
Corner 2	30°13'50" N	77°24'42.5" E
Corner 3	30°13'36" N	77°24'06" E
Corner 4	30°13'44" N	77°24'52.5" E

Maximum and minimum distances have been measured using Google Earth.

Distance from Mandewala Block to river Yamuna is between 1.62 km to 2.02 km. Map showing location of Mandewala mining block and its distance from river Yamuna is attached.

Distance from Jaidhar Block to river Yamuna is between 8.0 km to 8.98 km. Map showing location of Jaidhar mining block and its distance from river Yamuna is attached.”

51. The Mining Officer, Yamuna Nagar and Tehsildar Chhachhrauli submitted Joint siting verification report dated 19.10.2021 in respect of mining site at village Jaidhar the relevant part of which is as under:-

Sr. No	Siting Parameter	Actual Distance (Kilometer)

1	<i>The minimum distance of the mining block from Dadupur Head Works</i>	<i>01 K.M</i>
2	<i>The minimum distance of the mining block from Bhoruka Power Plant at Dadupur</i>	<i>01.50 K.M</i>
3	<i>The minimum distance of mining block from WJC MLU which runs from Hathni Kund Barrage to Dadupur Pond</i>	<i>0.300 K.M</i>

52. The Mining Officer, Yamuna Nagar and Naib Tehsildar, **Partap Nagar** submitted Joint siting verification report dated 19.10.2021 in respect of mining site at village Mandewal the relevant part of which is as under:-

Sr. No	Siting Parameter	Actual Distance (Kilometer)
1	<i>The minimum distance of the mining block from the nearest river bed</i>	<i>2 ¼ K.M</i>
2	<i>The minimum distance of the mining block from X-Regulator and Head Regulator at RD 2758 of WJC main line lower for diversion of water supply to Hedel Channel</i>	<i>6 K.M</i>
3	<i>The minimum distance of mining block from RLDSE bund downstream of Tajewala</i>	<i>5 K.M</i>
4.	<i>The minimum distance of mining block from WJC MLU which runs from Hathni Kund Barrage to Dadupur Pond</i>	<i>1 K.M</i>

53. The Applicant has objected to mining in village Jaidhar district Yamuna Nagar on the ground that letter no. 6958-62/117-M dated 12.10.2021 was sent by the Executive Engineer, Water Service Division, Dadupur to the Deputy Commissioner, Yamuna Nagar for not permitting mining activities at village Jaidhar which has been ignored.

54. The Respondents have submitted that the issue was considered by the Committee comprising of (i) District Officer, Yamuna Nagar, (ii)

District Mining Officer, Yamuna Nagar and (iii) Executive Engineer, Water Service Division, Dadupur constituted by the Deputy Commissioner, Yamuna Nagar vide letter no. 18/MA dated 04.01.2022 which submitted Report dated 27.09.2022 that the aforesaid structures were found to be at safe distance.

55. However, a perusal of report dated 27.09.2022 shows that the above said Committee did not make any such observations. On the other hand the Committee observed that the issue raised by Water Service Department is specific issue and has to be decided by the Department of Mining and Irrigation at highest level whether mining is permissible or not in the area for which complaint has been made. The relevant part of the report reads as under:-

“XEN, Water Services Division, Dadupur vide letter dated 12-10-2021(Annexure-16) apprised Deputy Commissioner, Yamuna Nagar that Dadupur Head Works exists in the vicinity of village Jaidhar and therefore the area around it has been notified as controlled area vide notification no. 12038-10-DP-81/21145 dated 21-12-1981. Section 7(i) of The Punjab Schedule Roads and Controlled Area Restrictions of Unregulated Development Act 1963 states as:

"No land within the controlled area shall, except with the permission of the Director, (and on payment of such conversion charges as may be prescribed by the Govt. from time to time) be used for purposes other than those for which it was used on the date of publication of the notification under Subsection-I of Section-4, and no land within such controlled area shall be use for the purposes of a charcoal kiln, pottery kiln, lime-kiln, brick-kiln or brick field or for quarrying stone, bajri, surkhi, kankar or for other similar extractive or ancillary operation accept under and in accordance with the conditions of a license from the Director on payment of such fees and under such conditions as may be prescribed."

He further elaborated that construction of Bhoruka Power Plant Dadupur problem of seepage and water logging has been witnessed. The water level in this area is around 1.8 meter and mining is allowed up to 2 meter above the ground water level as per Gazette notification of Mining and Geology Department dated 27-05-2015. The Area between Hathni Kund Barrage to Dadupur pond has sandy strata and mining activity in this area may affect the stability of the channel and the bridge. Mining activates are not advisable in this area.

XEN, Water Services Division, Dadupur vide dated 12-10-2021(Annexure-17) appraised Deputy Commissioner regarding mining notice and violation of Environment Clearance of village Mandewala and reported that:

" 1. The Mandewala mining lot is located at a distance of 1.5 Km from the river bed whereas as per condition 'm' on page 15(page 18) of Enforcement & Monitoring Guidelines for sand mining it is clearly mentioned (copy enclosed):-

"The mining outside the riverbed on Patta land/ Khatedari land be granted when there is possibility of replenishment of material. In case, there is no replenishment then mining lease shall only be granted when there is no riverbed mining possibility within 5 Km of the Patta Land/Khatedari land. For Government projects, mining should only be done by the Government agency and material should not be used for sale in the open market..."

Since there is no possibility of replenishment of material after mining in this area, it would not be advisable to give mining contract.

2. There exists a X-Regulator and Head Regulator at RD 2758 of WJC Main Line Lower for diversion of water supply to Hydrel channel which is at a distance of about 150 Mtr. Therefore any mining activity in this area may affect the stability of these structures.

3. RLDSE bund Downstream of Tajewala was constructed a long time ago for the protection of Village Tajewala/Mandewala and other villages in close vicinity. The work for strengthening of this bund was undertaken in the year 2011-12 for an estimated amount of 40.00 Crores. The Natural Surface Level (NSL) in the mining lot is lower than the bed level of the river Yamuna. Therefore, any mining activity in this area will further lower the NSL which may damage the RLDSE bund and banks of the river resulting into endangering the safety of the above named villages.

In this regard a report on the joint demarcation of the river bed mining area falling under the revenue estate of village Tajewala to Deputy Commissioner, Yamuna Nagar with a copy each to superintending Engineer, HathniKund Barrage Circle, Jagadhri and the Mining Officer, Yamuna Nagar vide endst No. 8510-12/117-M dated 13/11/2020(copy enclosed).

4. WJC MLU which runs from HathniKund Barrage to Dadupur Pond has sandy strata and therefore any mining activity in this area may adversely affect the stability of the channel and the bridges over it. Therefore no mining activities are advisable in this area.

Therefore, in view of the above, it is requested that no mining activities be allowed in this area so as to safeguard the interests of I&WR Deptt and to protect the agricultural lands of the farmers from high water table."

Department has auctioned the area i.e. Jaidhar Block/YNR B 34 and Mandewala Block/YNR B 38 to the Company by considering all the points raised in the complaint and by Water Services Department. Clearance certificate has been granted by the Haryana State Pollution Control Board. Moreover, DG Mining and Geology Department has passed detailed orders for the operation of mining by the Company. This Company is a Private Limited Company and DGMG has passed orders in favour of the Company on dated 13-09-2021. DGMG has passed two detailed orders on 13-09-2021 in which all the issues such as EMG guidelines for sand mining 2020, mining plan, NOCs issued by HSPCB etc. were considered. Moreover, complainant was heard during the proceeding by the DGMG. The matter was elaborated in detail in the report of RO,HSPCB dated 26-04-2022 while deciding a complaint in the office of RO,HSPCB. The matter raised by XEN, Irrigation has been addressed wherein it is stated that report has been obtained from a joint committee of Revenue and Mining Officer by Deputy Commissioner. After consideration of various factors, SEIAA has issued Environment Clearance for mining. Moreover, mining blocks are selected, finalized after field research and NOC from the concerned deptts. Mining monitoring is being done by as per the mining plan and compliance of conditions of LOI is being done by the Mines & Geology Deptt. Mine LOI has already been issued by the Mines & Geology Deptt. and DGMG has allowed the mining for operation in Mandewala and Jaidhar area. **The Issue raised by Water Services Department is specific Issue and has to be decided by the department of Mining and Irrigation at highest level whether mining is permissible or not In the area for which complaint has been made.** Likewise, no prohibition of operation of petrol pump has been pointed out by mining department on issuing of the LOI. The site was inspected by the committee on dated 09-03-2022 (Annexure-18). The land included In the mining plan is a plan cultivable stretch of land having thick plantation of poplar trees and other fruit trees as per the khasra girdawari of village Jaidhar (Annexure-19). As per the site map, the mining area is situated around 1 Km from WJC and about 1.5 Km from Dadupur Head work whereas distance from hydel canal is 0.3 Km (Annexure-20). However, in the present case DG, Minerals and Geology has issued LOI to the Company with condition that Company will maintain the level of 2 meter of ground water. If this condition is violated, mining will be closed.”

(Emphasis Added)

56. In these facts and circumstances, the question of safety of above said structures needs to be examined.

57. The Applicant has objected that as per report dated 27.07.2016 of the Hydrologist, Ground Water Cell, Ambala the pre-monsoon water table at Village Jaidhar is 1.80 meters and mining in village Jaidhar will be

violative of Clause 9.4(3) of the EMGSM, 2020 which requires that a safety margin of two meters above groundwater table be maintained while mining in areas located outside river bed.

58. The Applicant has also submitted that the Respondents have tried to mislead this Tribunal by citing low water table of 18 meters at Khizrabad water well while concealing that Khizrabad is located 10.6 kms away (aerial distance) from mining site at village Jaidhar whereas another water well at Harewa, located 1.9 kms from mining site at village Jaidhar has a much lower water table of 4.50 meters.

59. Relevant part of Report dated 27.07.2016 of the Hydrologist, Ground Water Cell, Ambala is reproduced hereunder:-

“Subject: Appeal No. 33 of 2016- Tufel Ahmed and Ors Vs MoEF and Ors-

Reference:- Your letter No. Mining/ YNR/NGT/Appeal No. 33 of 2026/ 1955 dated Chandigarh the 06-07-2016

Memo:- With reference to the subject cited above, it is to inform you that the required information of water table of the villages mentioned in the letter is observed in the month of July 2016 is as under:-

<i>Sr. No.</i>	<i>Name of Village</i>	<i>Block</i>	<i>Depth to Water Table (meters) Below Ground Level</i>	<i>Remarks</i>
1	Jaidhar	Chhachhrauli	1.80	Reported (in mining area)
2	Devdhar	Chhachhrauli	7.85	Observed (in Village Boundar)
3	Begumpur	Chhachhrauli	7.24	Interpolation by inverse distance square method using October data of 2015
4	Pipli Majara	Chhachhrauli	6.20	Interpolation by inverse distance square method using October data of 2015
5	Malikpur Khadar	Chhachhrauli	6.55	Observed (in village Boundary)

These above water table data having 0.5 to 1.0 meter water table rise after monsoon period i.e after September month and this water table may be 2 to 2.5 meter less in the mining area which is low lying area. This is for your information and n/a please”

60. In its reply respondent no. 5- Hydrologist Ground Water Cell, Ambala has submitted as under:-

“ 5. It is humbly submitted that the office of Hydrologist, Ground Water Cell, Ambala had provided tentative water level of the village Jaidhar, Devdhar, Begumpur, Pipli Majra, Malikpur Khadar of District-Yamunanagar to Mining Officer, Department of Mines & Geology, Yamunanagar during the year 2016. (The said list is annexed as Annexure 6 in the OA.).

6. It is further submitted that Ground Water Cell, Haryana has established groundwater observation points at distance of 20 sq. km. grid pattern. The Ground Water Cell does not have groundwater observation points in the mentioned villages. The tentative water level of the village Jaidhar, Devdhar, Begumpur, Pipli Majra, Malikpur Khadar of District-Yamunanagar during June, 2022 (Pre-monsoon period) on the basis of groundwater contouring and nearby observation points is as under:

<i>Sr No.</i>	<i>District</i>	<i>Village</i>	<i>Water Level during June, 2022 (in mtrs_</i>
<i>1</i>	<i>Yamuna Nagar</i>	<i>Jaidhar</i>	<i>10.50</i>
<i>2</i>		<i>Devdhar</i>	<i>5.96</i>
<i>3</i>		<i>Begumpur</i>	<i>12.50</i>
<i>4</i>		<i>Pipli Majara</i>	<i>14.50</i>
<i>5</i>		<i>Malikpur Khadar</i>	<i>15.00</i>

”

61. In their reply Respondents No. 1 and 2 have submitted as under:-

“12. That a report on Aquifer Mapping and Management Plan by the Ministry of Water Resources, River Development and Ganga Rejuvenation Government of India was given in 2016. Relevant portion of the report (regarding water level observations regarding Toposheet, Latitude, Longitude, Depth of water level etc) of the report is annexed herewith as Annexure R/4.

It is also pertinent to mention here that as per Table- 2 of Water table data, it is clear that nowhere in the District Yamunanagar depth of water level is less than 3.10 meter. However, the areas where these mines are located, depth of water level is 10-20 meter as per figure 2 of Annexure R/4.”

62. The relevant part of report on Aquifer Mapping and Management Plan by the Ministry of Water Resources, River Development and Ganga Rejuvenation Government of India relied upon by Respondents no. 1 and 2 reads as under:-

“2.2 Ground Water Level Behavior:

Depth to ground water level of district Yamunanagar ranges from 3.10 mbgl at Bilaspur to 50.00 mbgl at Jhiwarheri during Pre monsoon 2015 (Fig-2). The water level data of all Ground Water Monitoring Wells of 2015 are shown in Table-2. Groundwater level is shallow in northern part and deeper in south-western parts of the district which are adjacent to district Karnal and Kurukshetra.

Table-2 Water level data (2015) Ground Water Observation Wells of district Yamunanagar

Location	Toposheet	Latitude	Longitude	Depth to water level	RL of GL (mamsl)	WTE (mains')
Choli	53 F/7	30°16'45" N	77°20'30" E	10.50	300.28	289.78
Harewa	53 F/7	30°14'00" N	77°23'00" E	4.50	279.87	275.37
6- Khizrabad	53 F/7	30°18'00" N	77°29'15" E	18.00	302.39	284.39
Nagal Patti	53 F/7	30°19'00" N	77°31'00" E	29.50	313.28	283.78
Dhalaur	53 F/3	30°19'00" N	77°12'00" E	6.00	288.12	282.12
Dhanaura	53 F/4	30°26'00" N	77°23'10" E	14.50	-	-
Bilas Pur	53 F/7	30°18'00" N	77°18'00" E	3.10	305	301.90

Location	Toposheet	Latitude	Longitude	Depth to water level	RL of GL (mamsl)	WTE (mamsl)
Ramgarh	53 F/4	30°23'00" N	77°21'00" E	8.70	311.39	302.69
Amadalpur	53 F/8	30°08'15" N	77°22'00" E	14.50	278.00	263.50
Shadipur	53 F/8	30°06'00" N	77°16'45" E	14.50	-	-
Mustafabad	53 F/4	30°11'45" N	77°08'45" E	8.50	279.62	271.12
Radaur S	53 F/4	30°01'30" N	77°09'00" E	35.00	260.52	-
Jhiwarheri	53 F/4	30°07'30" N	77°05'10" E	50.00	-	-
Hayeli	53 F/3	30°26'00" N	77°13'00" E	7.50	318.96	311.46
Rasulpur	53 F/3	30°26'50" N	77°13'00" E	14.50	-	-
Sabri	53 F/3	30°21'30" N	77°14'45" E	14.50	-	-
Sadhaura	53 F/3	30°24'00" N	77°13'15" E	15.00	306.78	291.78
Salehpur	53 F/3	30°27'00" N	77°14'00" E	15.00	323.02	308.02

63. In his additional reply filed vide email dated 04.02.2023 respondent no. 9 has submitted as under:-

*“It is submitted that as per the report vide Annexure 13, the Figure 2 (at page 190) represents the depth to water level map at District Yamunanagar. A comparison of the location of the location of Jaidhar Mining Block (through Google Earth) with Figure 2 shows that the Jaidhar Mining Block falls within the area where the minimum depth to water level is 10 meters. In this regard, the Google Earth map and the Figure 2 (extracted from the report vide Annexure 13) are attached herewith as **Annexure R-9/11**.*

It shall be imperative to state that the stand of the answering respondent is further fortified by the averments made in the reply submitted by respondent No. 1 & 2 wherein it is categorically mentioned that the groundwater table is at a depth of 10-20 meters. Respondent No. 1 & 2 had also placed reliance of the said report.

*It is further submitted that **latest data regarding the groundwater table at Jaidhar is provided by respondent No. 5. i.e. Hydrologist, Ground Water Cell, Ambala. As per the reply submitted by respondent No. 5, the water level for June, 2022 at Village Jaidhar, District Yamunanagar is 10.50 meters.** Furthermore, it has been specifically stated by respondent No. 5 that the data provided by way its office letter dated 27.07.2016 (Annexure A-6) was only tentative and there are no groundwater observation wells at those villages including Village Jaidhar.*

It is further submitted that the issue of the groundwater table at Village Jaidhar was duly addressed at the time of Public Consultation dated 19.04.2016 vide Annexure A-4. As per the Public Consultant dated 19.04.2016, the concerned Environment Consultant had submitted that as per the report of CGWB, 2012 (Yamunanagar), the depth of ground water at Tehsil Chhachhrauli (which includes Village Jaidhar) is more than 10 meters.”

64. However, it may be observed that in Mining Plan and Progressive Mine Closure Plan Boulder, Gravel and Sand Mine (Mining Mineral), Jaidhar Block (YNR B-34) prepared by Mr. S. N. Sharma on behalf of respondent no. 9 the Water Table of the Project area was mentioned to range from 5.0 m bgl to 10.0 m bgl. The relevant part thereof is reproduced as under:-

“Depth to Water Level

The depth to water level during pre-monsoon period in the district ranges between 2.07m bgl at Choli and 15.32m bgl at Khizrabad. However, in major part of district water level ranges

between 5.0m bgl and 10.0m bgl. The Depth to water level during pre-monsoon period in the district ranges between 1.57m bgl at Choli and 18.41m bgl at Bahadurpur. However, in major part of district water level ranges between 5.0m bgl and 15.0m bgl. Appraisal of water level data of May and November reveals that some parts of the district have experienced water level decline whereas in other parts rise in water level has been recorded. Maximum decline of -0.43m has been observed in area around Khizrabad and maximum rise of 0.39m was recorded at Sabri village. During last ten years, majority of observation points in the district have shown declining trends ranging from 0.00013 m/yr to 0.389m/yr, however, area as not recorded any significant rise during last ten years. The discharge of the shallow tubewells tapping unconfined aquifers is tube wells ranges from 100 lpm to 500 lpm with moderate Drawdown values. Near Manakpur, a phreatic aquifer extending down to 88.0m bgl has Transmissivity value of 2500m²/day, lateral hydraulic conductivity of 31m / day,

However, Water table of the “Project Area” ranges from 5.0mbgl to 10.0m bgl” (Emphasis added)

65. *Prima facie* the respective stands of Respondents No. 1 and 2, respondent No.5 and Respondent No.9 as to water Table in mining block Jaidhar being contradictory and also improbable due to territorial proximity of the Jaidhar Mining Block to Western Yamuna Canal do not warrant acceptance/credence particularly as the water table in Jaidhar Mining Block was not ascertained by appropriate tests on the site.

66. Even though Respondent No.9 has submitted that respondent No. 9 shall conduct mining operations 2 meters above the ground water table but the matter of permissibility of mining in the Project area cannot be made dependent on execution of said under taking.

67. In these facts and circumstances the question as to what is the water table in the mining site in village Jaidhar needs to be determined by conducting of the requisite tests at the Project site and the question of permissibility of mining at the Project site has to be determined on the basis thereof.

68. The Applicant has submitted that ECs issued for both the mining sites also contain the GPS coordinates thereof and simple verification thereof on Google Maps shows that the area of these coordinates is only 11 Hectares and 1.50 Hectares and the same also contain village houses and roads area which cannot be mined.

69. In his reply Respondent No.9 has submitted that the mining lease area is allocated by Respondent No. 1 on the basis of the khasra numbers mentioned in the revenue record and respondent No. 9 shall not conduct any mining activities beyond the mining lease area.

70. In EC dated 20.08.2018, the Khasra numbers of Jaidhar Mining Block/YNR B-34 and geo coordinates are mentioned as under:-

3	Project Details Khasra No. Jaidhar Block/YNR B-34	Mining of Sand Minor Mineral Mines at Jaidhar Block/YNR B-34 in Tehsil-Chhachhrauli, District Yamuna Nagar over an area of 25.60 ha comprised in khasra no 24,25,26//25/1,25,2,33//5,32//1/1,1/2,2,3,4/1,4/2,4/3,5,6,7,8,9,10,13,14,15,16,17,31//1,213,6,7/1,7/2,8,9,10,11,12/1,12/2,13/1,13/2,14/1,14/2,15,16/1,16/2,17,18,19,20,21,22,23,24,25/1,25/2, 43/2,3,4,4/1,4/2, 5, 6, 30//11, 19,20/1,20/2, 21,22,23,44//1,2.3
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Block	Latitude	Longitude
Jaidhar Block YNR B-34	30°13'42" N	77°24'30" E
	30°13'50" N	77°24'42.5" E
	30°13'36" N	77°24'06" E
	30°13'44" N	77°24'52" N

In EC dated 27.06.2016 the Khasra numbers of Mandewala Mining Block/YNR B-38 are not mentioned but geo coordinates are mentioned as under:-

3	Project Details Khasra No.	Mining of Boulder, Gravel and Sand (Minor Minerals) Mines namely "Mandewala Block/YNR B-38" over an area of 15.00 Ha
---	-------------------------------	--

Corners	Latitudes	Longitudes
Mandewala,	N 30° 15'57.4"	E77° 30'31.7"
	N 30° 15'46.2"	E77° 30'32.1"
	N 30° 15'41.9"	E77° 30'25.9"
	N30° 15'41.5"	E77° 30'38.4"

71. The khasra numbers and geo-coordinates of mining sites need to be tallied and the land which cannot be mined has to be excluded.

72. The Applicant has submitted that mining site located in village Jaidhar falls within the area notified as a controlled area vide notification dated 21.12.1981 issued under Section 4 of the Punjab Scheduled Roads & Controlled Areas Restriction of Unregulated Development Act, 1963 and no mining can be done on an area notified as a "Controlled Area" without permission of the Director Town and Country Planning Department, Haryana under Section 7 of the above said Act.

73. Respondent No. 9 has submitted that the land under Jaidhar Mining Block except one khasra number does not fall in any Urban Area or Controlled Area declared by Department of Town and Country Planning, Haryana as per letter dated 08.10.2021 and there can be no embargo on mining activity over the land excluding one khasra number.

74. Notification dated 21.12.1981 relied upon by the Applicant reads as under:-

“No. 12038-10 DP-81/21145-In exercise of the powers conferred by sub-section (i)(b) of section 4 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 and all other powers enabling him, the Governor of Haryana is pleased to declare the area around Dadu Pur Head works at village Dadu Pur Cantt., Tehsil Jagadhri, Distt. Ambala as specified in the Schedule given below and shown in the plan appended hereto, to be a controlled area for the purposes of the said Act, namely:-

SCHEDULE

Schedule of boundaries for the Controlled Area around Dadu Pur Head works at village Dadu Pur Cantt., Tehsil Jagadhri, Distt. Ambala to be read with drawing No. DTP (A) 2336/81 dated 21 August, 1981.

North: Starting from Point ‘A’, i.e. the North-Western corner of Rect. no. 22 of village Sherpur, thence moving towards East along the Northern boundaries of Rect. No. 22 of village Sherpur, 22, 23, 24 and 25 of village Jaidhar up to point ‘B’, the North-Eastern corner of Rect. No. 25.

East: Thence moving towards South-East along the Eastern boundary of Rect. No. 25, Northern boundary of Rect. No. 33, Eastern boundary of Rect. No. 33 and 41 of village Jaidhar, Northern boundary of Rect. No. 16 of village Tapu Jaidhar upto Point ‘C’, i.e., North-Eastern corner of Rect. No.16, thence moving towards South along the Eastern boundaries of Rect. No. 16 and 19 of village Tapu Jaidhar, Rect. No. 1, 7, 9, 18 and 21 of village Nandgarh upto point ‘D’ the South- Eastern corner of Rect.no 21, thence moving from point ‘D’ towards Sourth-West along the Sourthern boundary of Rect. No. 21 of village Nandgarh and Eastern boundary of Rect. No. 28 and 24 of village Nandgarh and Khadri respectively. Then along the Sourthern boundary of Rect. No. 24 and Eastern boundary of Rect. No. 35 of village Khadri upto point ‘E’, i.e., the South Eastern corner of Rect. No,35.

South: Thence moving from point ‘E’ towards West along the Southern boundary of Rect .no. 35, 34, 33,32 and 31 of village Khadri upto point ‘F’.

West: Thence moving from point ‘F’ towards North-West along the Western boundary of Rect. No. 17, Southern boundary of Rect. No. 12, Western boundary of Rect. No. 12 of village of Dadpur Cantt. and Southern boundary of Rect. No. 9, Western boundary Rect. No. 9, Southern boundary of Rect. No. 5, of village Bhagwanpur upto point ‘G’,i.e., the South-West corner of Rect.no. 5 of village Bhagwanpur, thence towards North along the Western boundary of Rect. No. 5 of village Bhagwanpur, Western boundary of Rect. No.22 and 19 of village Kharwan, Western boundary of Rect. No. 99, 91, 78 and 70, Northern boundary of Rect. No.70 upto point ‘H’, i.e. the North-West corner Rect. No. 70 of village Balachaur, thence moving towards North-East along the Northern boundary of Rect. No.70,Western boundary of Rect. No.49, 43, Northern boundary of Rect. No. 43 of village Balachaur, Northern Western boundary of Rect. No. 20 of village Balachaur. Thence towards North along the Western boundary of Rect. No. 22 of village Sherpur upto point ‘A’ i.e. the point of start.”

75. The relevant part of clarification dated 30.06.2016 issued by District Town Planner, Yamuna Nagar in respect of Mandewala Mining Block reads as under: -

“It is intimated that the Mining of "Boulder, Gravel and Sand"(Minor Mineral) at Mandewala Block/YNR B-38 over and tentative area of 15.00 Ha. (Khasra No. 11//13, 17, 18, 23/1, 23/2, 24, 25/1, 25/2, 15/11, 35/1, 9, 10, 11/1, 11/2, 12, 19, 20/1, 20/2, 21/8, 14//3/1, 3/2, 4/1, 4/2, 5/1, 5/2, 6/1, 6/2, 7, 8, 13, 14, 15/1, 15/2, 16/1, 16/2, 17, 18, 19, 20/1, 20/2, 21, 22, 23, 24/1, 24/2, 25/1, 25/2, 20//4/1, 4/2, 5/1, 5/2, 6, 7, 19//1 in Teh. Chhachhrauli, Distt. Yamuna Nagar does not fall in any of the Urban Area or Controlled Area declared by Department of Town and Country Planning, Haryana. Thus, this information is given subject to the following conditions: -

1. *That you will obtain the necessary permission from mining department before initiating any activity at site.*
2. *That it does not provide any immunity to the site from other Acts and Rules as may be applicable on it.*
3. *That you will abide by the provisions of Controlled Areas Act No. 41 of 1963/Urban Area Act No. 8 of 1975, when it comes into force at site.*
4. *That you will abide by the provisions of NBC/BIS code for any type of construction at site.*
5. *That in case of non fulfillment of the above, this letter shall stand cancelled automatically.”*

76. The relevant part of clarification dated 08.10.2021 issued by District Town Planner, Yamuna Nagar in respect of Jaidhar Mining Block reads as under: -

“It is intimated that the land falling in Khasra No. 27/12, 13, 14, 16, 2, 17, 18/1, 18/2, 19, 20, 21, 22, 23, 24. 25. 26//25/1, 25/2, 32//1/1, 32/1/2, 2, 3,4,5, 6,7,8, 9, 10, 13, 14, 15, 16, 17, 31//1, 2,3,6,7,8,9,10, 11, 12, 13, 14, 15, 16, 31//17, 18, 19, 20, 21, 22, 23, 24, 25, 43//2, 3, 4, 5, 6, 30//11, 19, 20/1, 20/2, 21, 22, 23, 44//1, 44//2, 3 situated in the revenue estate of VIII. Jaidhar, (H.B. No:- 82), Tehsil. Khijarbad, Distt. Yamuna Nagar does not fall in any of the Urban Area or Controlled Area declared by Department of Town and Country Planning, Haryana, Thus, this information is given subject to the following conditions:-

1. *That you will obtain the necessary permission from mining department before initiating any activity at site.*
2. *That it does not provide any immunity to the site from other Acts and Rules as may be applicable on it_*

3. *That you will abide by the provisions of Controlled Areas Act No. 41 of 1963/Urban Area Act No, 8 of 1975, when it comes into force at site.*
4. *That you will abide by the provisions of NBC/BIS code for any type of construction at site.*
5. *That in case of non fulfillment of the above, this letter shall stand cancelled automatically. Beside above, in Model form for execution of mining contract dated 09.06.2016 Khasra no. 335 falls inside the Controlled Area Around Dadu Pur Head Works At VIII. Dadu Pur Cantt. Hence you are directed to take license fur this khasra on before starting excavation work/construction any type of building etc.”*

77. The question as to whether the land under Jaidhar Mining Block falls in Controlled Area notified by Department of Town and Country Planning, Haryana needs to be verified. The facts regarding these aspects have to be verified by preparation of maps showing (i) the land notified as controlled area and the land comprised in Jaidhar and Mandewala Mining Blocks and (ii) the land falling in khasra numbers comprised in Jaidhar and Mandewala Mining Blocks and land covered by geo-coordinates mentioned in EC/Mining Plans in contrast colours with depiction/demarcation of boundaries in different colours .

78. For the purpose of ascertaining the factual position with respect to the above mentioned aspects, we constitute a Committee comprising of representatives of CPCB, HSPCB, CGWA, Director General, Mining and Geology Department and District Magistrate, Yamuna Nagar, District Town Planner and Executive Engineer, Water Service Division, Dadupur and direct the same to meet within one month and (a) verify the factual position with respect to the following aspects:-

- (i) Whether mining activities at village Jaidhar will affect the stability of Western Jamuna Canal bund and the Dadupur Head Works;
- (ii) Whether the Khasra numbers mentioned in mining plan and lease deeds correspond to/match with the geo-coordinates mentioned in ECs;

- (iii) whether there is any difference/discrepancy in the geo-coordinates and the Khasra numbers of the mining sites;
- (iv) whether the difference/discrepancy in the geo-coordinates and the Khasra numbers requires any remedial action by SEIAA due to material change in particulars of the mining sites;
- (v) ascertain by conducting requisite tests at the mining sites as to what is the water table in Jaidhar Mining Block and whether mining upto the depth of 9 meters is permissible in Jaidhar Mining Block;
- (vi) Whether any part of the mining sites in village Jaidhar falls within controlled area notified under section 7 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963;
- (vii) Whether there is possibility of replenishment at mining site at village Jaidhar and Mandewala; and
- (viii) Whether there is possibility of riverbed mining (going on or likely to be undertaken) within 5 kilometers of mining site in village Mandewala and (b) suggest remedial measures required to be taken with requisite particulars of the Authority/organization required to implement the same. HSPCB will be the Nodal Agency for coordination and compliance.

79. Report be submitted by the Joint Committee within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

80. The District Magistrate, Yamuna Nagar and the Director General, Mining and Geology, Haryana shall provide the relevant record and extend requisite cooperation to both the Committees.

81. Mining in Jaidhar and Mandewala Mining Blocks has been stopped in view of ad interim injunctive order dated 06.05.2022 passed by this Tribunal which shall continue till further orders to the contrary.

However, it is well settled that a party cannot be made to suffer due to any interim order passed by Court/Tribunal. Therefore, in the eventuality of dismissal of the present application the period during which the mining in Jaidhar and Mandewala remained stayed under ad interim injunctive order passed by this Tribunal will be liable to be excluded from the period of the ECs granted in favour of respondent no.

82. List for further consideration on 30.10.2023.

83. A copy of this order be sent to the Secretary, Ministry of Environment, Forest and Climate Change (MoEF & CC), Central Pollution Control Board (CPCB), Indian Agricultural Research Institute (IARI), Indian Institute of Soil and Water Conservation, (IISWC), Dehradun, Chaudhary Charan Singh Haryana Agricultural University (CCHAU), Hisar, Central Soil Salinity Research Institute (CSSRI), Karnal, Central Ground Water Authority (CGWA), Director General, Mining and Geology Department, District Magistrate, Yamuna Nagar, District Town Planner and Executive Engineer, Water Service Division, Dadupur and Haryana State Pollution Control Board (HSPCB) for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

August 18th, 2023
AG

Item No.06

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPALBENCH, NEW DELHI.**

(Through Physical Hearing with Hybrid VC Option)

Original Application No.306/2022
(I.A. No. 102/2022 & I.A. No. 299/2022)

Harbans Singh ...Applicant

Versus

State of Haryana and Ors. ...Respondents

Date of Hearing: 21.03.2024

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: Mr. Ajit Sharma, Mr. Kanchan Kumar and Mr. A. Renganath, Advocates for Applicant.

Respondents: Mr. Rahul Khurana, Advocate for respondent no. 1 to 7.
Mr. Gi. Gi. C. George, Advocate for respondent no. 8.
Mr. Fuzail Khan, Mr. Bibhuti Krishna, Mr Mohd. Faiz,
Mr. Aafreen Azim, Mr. Swapnil A. Walde and Mr. Rajan, Advocates for Respondent No. 9.

**Application under Section 14 read with Section 18 of the National
Green Tribunal Act, 2010.**

1. Vide order dated 18.08.2023, this Tribunal constituted two distinct Committees as mentioned in para no. 40, para 39 and para no. 78 and directed them to submit separate reports with respect to the aspects mentioned therein within two months and Director, Mining and Geology was directed to file affidavit as mentioned in para 49.

2. Reply has been filed by HSPCB vide email dated 20.03.2024 alongwith copy of the report of the Joint Committee.

3. We find that HSPCB which acted as the nodal agency for coordination and compliance failed to comply with our order and single report of the Joint Committee has been casually prepared without any proper scientific study just on the basis of single site visit on 05.03.2024

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and even the report of the Joint Committee was not prepared, deliberated upon and signed in Joint Meeting and the report does not conform to the directions given by this Tribunal as the requisite tests have not been conducted and information has not been obtained. Since the reply was filed very late on 20.03.2024 at 01:32 PM the same cannot be examined in detail and the case has to be adjourned. The reply and report will be examined/considered in detail on the date of hearing hereby fixed.

4. The Director, Mining and Geology, Haryana has not filed any additional affidavit as directed vide order dated 18.08.2023.

5. Show cause notices be issued to the Member Secretary, HSPCB and the Director, Mining and Geology, Haryana as to why heavy costs be not imposed on them for non-compliance of order dated 18.08.2023 passed by this Tribunal.

6. List for further consideration 09.07.2024.

7. Objections, if any, to the report of the Joint Committee may be filed by the applicant and respondents by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF **at least one week before the date of hearing hereby fixed.**

8. A copy of this order be sent to the Member Secretary, HSPCB and the Director, Mining and Geology, Haryana by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

March 21st, 2024

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