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BEFORE THE NATIONAL GREEN TRIBUNAL

SITTING AT NEW DELHI

MEMORANDUM OF APPLICATION

ORIGINAL APPLICATION NO. 481 OF 2023

BalbirSandhu and Others APPLICANT

VERSUS

State of Uttar Pradesh &Others RESPONDENTS

PAPER BOOK

**REPLY ON BEHALF OF APPLICANT No. 5 TO THE
ADDITIONAL AFFIDAVIT DATED 03.09.2025 FILED ON
BEHALF OF MINISTRY OF ENVIRONMENT, FOREST AND
CLIMATE CHANGE**

Compilation – I

(FOR INDEX KINDLY SEE INSIDE)

PALLAVI PRATAP

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ENROL NO. UP/1246/2010

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3080

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INDEX

Sl.No. Particulars Pages

COMPILATION I

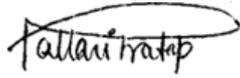
- | | | |
|----|---|------|
| 1. | Application for taking reply to the Original Application on record alongwith affidavit. | 1-13 |
| 2. | Proof of service. | 14 |

Place: New Delhi

Dated: 08.11.2025


APPLICANT No. 5

Through


PALLAVI PRATAP

Advocate for the Respondent No. 5

ENROL NO. UP/1246/2010

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1
3081

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ADDITIONAL AFFIDAVIT DATED 03.09.2025 FILED ON
BEHALF OF MINISTRY OF ENVIRONMENT, FOREST AND
CLIMATE CHANGE

MOST RESPECTFULLY SHOWETH:

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

1. That the answering applicant has been impleaded as applicant no. 5 in the above noted Original Application *vide* order dated 20.03.2024 passed by this Hon'ble Tribunal.

2. That the applicant no. 5 is a resident of Gram KurdiKheda, Kaluwala, Jahanpur, Saharanpur and the applicant is a farmer and carrying out agricultural work on his agricultural field bearing Khata No. 429, 421, 140, 422, 423 and 385 as a co-sharer in the aforesaid land.
3. That it is pertinent to mention here that the a perusal of the additional affidavit shows that at internal page 8 the practice to remove and dispose the sand from the agricultural field has been opined as customary rights of the farmers.
4. That it is pertinent to mention here that the exemption from requirement of environmental clearance is under serial no. 3 of the Appendix IX of EIA Notification dated 28.03.2020 is for the purpose of *removal of sand deposits on agricultural field after flood by farmers.*
5. That the MOEF&CC has not used the word customary rights in the Item 3 of the Appendix IX of the EIA Notification dated 28.03.2020 while exempting

requirement of Environmental Clearance for removal of sand deposits on agricultural field after flood by farmers.

6. That it is submitted that on one hand the respondents are terming the process as a customary right of the farmers but whereas on the other hand the State of Uttar Pradesh under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 is granting the mining permit only after realizing double the amount of royalty in advance from the farmers.
7. That it is pertinent to mention here that if the sole purpose of the mining permit and the exemption from the environmental clearance for the grant of such permit is to allow the farmers to only remove the mineral from its land then there should not be any realization of royalty from the farmers because the moment State creates a monetary transaction in the entire process, it does not remain a customary practice.

8. That it is pertinent to mention here that this Hon'ble Tribunal in the case of ***SarvabhounBagali v. State of Karnataka and Others*** held in explicit terms that even dredging and desilting of dams is not exempted from obtaining prior Environmental Clearance as the sand is being extracted for commercial purpose.
9. That it is submitted that when the State at the time of granting of permit is charging double the amount of royalty from the farmers/permit holder, then it is natural the same shall be recovered by the farmers also by further selling the mineral making a commercial transaction.
10. That furthermore, the Hon'ble Supreme Court of India in the case of ***Noble M. Paikada v Union of India*** as reported in **2024 SCC OnLine SC 369** while striking down item 6 of the substituted Appendix-IX forming part of the 2020 notification and item 6 of the amended 2023 notification issued by Ministry of Environment and Forests which provided for exemption from the requirement of obtaining the Environmental Clearance

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

11. That the Hon'ble Supreme Court of India in Special Leave Petition (Civil) having SLP(C) No. 11510/2023 titled *State of Uttarakhand v. Satyendra Kumar Tomar* has also observed in clear terms that while the commercial sale of earth boulder etc. will not be permitted, the *bhoomidhars* will be permitted to utilize the boulders etc. for their self-use within their land.
12. That it is pertinent to mention here that internal page 9 of the additional affidavit mentions *Environmental safeguards for removal of sand from agricultural fields* covering 11 sub points of discussion. A perusal of the category shows that EAC (NCM) has

recommended certain safeguards some of which are as:

"extraction shall not exceed below the top soil, constant sprinkling of water on all pathways and dust prone areas within and around the agricultural land, installation of temporary barriers around the agricultural field to prevent erosion during and after sand removal from the agricultural field"

13. That it is submitted that the conditions/safeguards mentioned in the additional affidavit are already in the existence but even then the grant of these mining permits only lead to illegal mining causing damage to biodiversity and environment.
14. That it has come to the knowledge of the answering applicant that the against the mining permits granted under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 by the District Magistrate, Saharanpur, proceedings for illegal mining has been initiated which itself shows that neither the district authority nor the State Government has been able to

curb illegal mining being carried out under the garb of mining permit under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021.

15. That it is also pertinent to mention here that the Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 under the garb of which mining permits are being issued by the state has not a whisper about the word flood.
16. That it is germane to state here that the purpose of grant of mining permit is to remove the minerals deposited on the agricultural field after flood but the Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021, fails even to mention about it and only states grant of mining permit for removal of sand or morrum or bajri or boulder or any of these in the mixed state deposited in the land.
17. That the occasion to grant to mining permit under Rule 52 shall arise only once it has been confirmed that the area has been flooded and minerals in the mixed state

which has to be first verified by the district administration and only then permission be given.

18. That it is submitted that no measures have been ever adopted by the respondent authorities in order to properly monitor and check whether the permit holders are even complying with the conditions of the mining permit.
19. That the permit holders are operating in blatant disregard of the environmental norms and the observations laid down by this Hon'ble Tribunal in various judicial pronouncements.
20. That in view of these glaring facts, it is the respectful submission of the Applicant No. 5, that no mining permit under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 be issued without prior procurement of a valid Environmental Clearance from SEIAA, U.P.

For the foregoing reasons, none of the prayers/reliefs prayed by the applicant deserve to be granted. It is the

respectful submission of the Applicant No. 5 that the present application filed before this Hon'ble tribunal deserves to be allowed and no mining permit under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 be issued without prior procurement of a valid Environmental Clearance from SEIAA, U.P.

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

Dated: 08.11.2025

New Delhi


Applicant No. 5

Through



PALLAVI PRATAP

Advocate for the Applicant No. 5

ENROL NO. UP/1246/2010

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

Mob: 9999990078

Email: pallavipratap@hotmail.com

VERIFICATION

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



Place: New Delhi
Dated: 08.11.2025

Mohit

Signature of the Applicant No. 5

IDENTIFIED BY

KALEEM AHMAD
Advocate
Reg. No. 10533/01
Ch-63, Civil Court, SRE
Mob. 9359206239

9/11/2025

This statement is made before me to
at my office, ...
By Shri. *Mohit Kumar son of Shri Rajan*
who is identified by Shri. *Kaleem Ahmad*
The contents of the statement have been
explained to the applicant who stated
to understand them.

Saharanpur
SHARANPUR

Kaleem Ahmad
Advocate & Notary

11
3091

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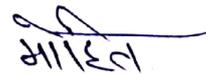
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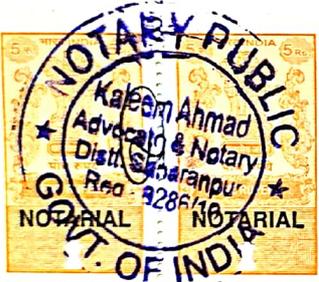
State of Uttar Pradesh &Others RESPONDENTS

AFFIDAVIT

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

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





2. That I have read the contents of the accompanying application including facts in brief, grounds etc. from pages 1 to 10...and have understood the same.
3. That the facts stated therein are true and correct to the best of my knowledge and belief and nothing material has been suppressed.
4. That I have instructed by Advocate and the Application has been prepared by my Advocate on my instructions as stated above.
5. That the Annexures filed herewith are true and correct copies/ English translations of their respective originals.



Verified at Lucknow on day of November 2025

DEPONENT

VERIFICATION

[Handwritten signature]

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

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

Verified at Lucknow on day of November 2025



IDENTIFIED BY

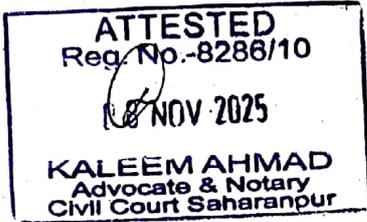
A handwritten signature in blue ink, appearing to be "Kaleem Ahmad".

KALEEM AHMAD
Advocate
Reg. No.-10533/01
Ch.-63, Civil Court, SRE
Mob.-9359206239

A handwritten signature in blue ink, appearing to be "Kaleem Ahmad".

DEPONENT

8/11/25





PROOF OF SERVICE
3094

14

kunal arya <kunalarya16111989@gmail.com>

Service of Reply on behalf of applicant/Respondent no.5 in OA No. 481/2023 Balbir Sandhu vs State of UP & ors

1 message

kunal arya <kunalarya16111989@gmail.com>

Mon, Nov 10, 2025 at 9:49 AM

To: "Dalmialawoffices@gmail.com" <dalmialawoffices@gmail.com>, hasil jain <advjain25@gmail.com>

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

Regards,

Office of Pallavi Pratap
Advocate for the Respondent No.5
A-90, LGF South Ex-II, New Delhi
Mob: 9999990078
Email: pallavipratap@hotmail.com

 **Reply to Appln 10 11 2025.pdf**
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