



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
 PRINCIPAL BENCH, NEW DELHI
 ORIGINAL APPLICATION NO. 315/2022**

IN THE MATTER OF:

Saurabh Dev Pandey

...Applicant

Versus

State of M.P. & Ors

...Respondent

**REPLY/AFFIDAVIT ON BEHALF OF RESPONDENT NO. 6, MADHYA
 PRADESH POLLUTION CONTROL BOARD (MPPCB)**

I, Mukesh Shrivastava, S/o Kailash Narayan Srivastava, aged about 60 years working in the capacity of Regional Officer, M.P. Pollution Control Board having office at Singrauli, Madhya Pradesh, do hereby solemnly state and affirm as under:

1. I say that the present Counter Affidavit is being filed on behalf of the above-named Respondent No. 6 (hereinafter referred to as the "answering Respondent") in the present matter. In my capacity as the Regional Officer, Madhya Pradesh Pollution Control Board, I am the authorized representative of the answering Respondent in the present matter and am well conversant with the facts and circumstances of the present case and as such am competent to swear and file the present Reply in the captioned matter.
2. That I hereby submit this reply in compliance with the Order dated 09.01.2023 passed by the National Green Tribunal, Principal Bench

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(hereinafter "NGT") in the captioned matter. The relevant part of the Order is reproduced hereunder: -

"5. Learned Counsel for Respondents No. 1 to 5 and 7 and learned Counsel for Respondent No. 6 seek time to file their reply/response.

6. Reply/response on behalf of the above said respondents be filed within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF."

3. That I respectfully submit that the Hon'ble NGT after perusing the Joint Committee Report (pursuant to Committee's site visit on 05.07.2022) filed by the Committee comprising of Regional Office of MoEF & CC, Bhopal, Ministry of Coal, Government of India, PCCF (HOF), State of Madhya Pradesh, SEIAA, State of Madhya Pradesh, State PCB and Collector, Singrauli which was constituted by the NGT vide its order dated 09.05.2022 in the captioned matter, passed an Order dated 04.08.2022 with certain observations and concerns. The relevant part of the said Order is reproduced hereunder: -

"5. We have gone through the report. In the report, it has been mentioned that the mining site is away from Sanjay Tiger Reserve without giving the distance. Condition no. (xviii) in environmental clearance letter dated 12.04.2021 issued by Government of India, Ministry of Environment, Forest and Climate Change, Impact Forest Division reads as under: -

"(xviii) No National Parks, Wildlife Sanctuaries and Eco-Sensitive Zones have been reported with 10km


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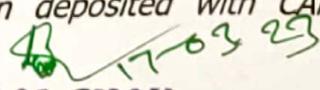
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boundary of the project except Sanjay Gandhi Tiger Reserve ESZ boundary wherein the project is at about 7.8 kms from ESZ boundary."

It is evident from the above said environmental clearance itself that the mining site is within 10 kms from Sanjay Gandhi Tiger Reserve ESZ boundary.

6. The Project was considered by the sectoral Environmental Appraisal Committee (EAC) in its 56th EAC meeting held on 30.06.2020 and 9th meeting held on 26.02.2021 which recommended for grant of environmental clearance. Copies of the EIA and EMP reports, on the basis of which clearance had been granted, be filed before this Tribunal.

7. As mentioned in para (xxi) of the above referred environmental clearance letter public hearing for the project of 5 MTPA capacity in an area of 1298 ha was conducted on 30.08.08.2019 at Playground of Government High School, Majhulipath (core zone). Major issues raised in the public hearing included (1) Land Acquisition and R & R (2) Employment to locals (3) Plantation, Green belt development, (4) Compensatory Afforestation (5) Conservation of biodiversity (6) Wildlife Conservation (7) Air Pollution. Appropriate action to address the issues raised in the Public hearing was proposed to be taken up. Since more than 45 percent population that is going to face displacement comprises of tribals, the clearance from the Ministry of Tribal Affairs, Government of India is also required. Amount of Rs. 9.9 crores has already been deposited with CAMPA for


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compensatory afforestation in lieu of the forest diverted i.e. 259 ha, but there is no mention of area/location where afforestation is to take place and the species to be planted. Copy of the detailed Action Plan prepared in this regard be furnished to this Tribunal. The project involves 1386 affected families and the Project Proponent has plan for Rehabilitation and Resettlement as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Copy of the detailed Action Plan about the Rehabilitation and Resettlement of the population which are likely to be displaced be filed before this Tribunal. The Action Plan should clearly spelt out the area where displaced persons will be resettled with details of civic amenities in the new villages, Rehabilitation and Resettlement package to be provided etc."

4. That the answering Respondent craves leave of this Hon'ble Tribunal to raise submissions in the present Original Application, addressing the concerns in the above-mentioned Orders. All the statements made in the Application, except those categorically admitted hereinbelow to be treated as denied by the answering Respondent.
5. That in response to the concern raised by this Hon'ble Tribunal regarding distance of the mining site from Sanjay Tiger Reserve, the answering Respondent respectfully submits that the said issue is beyond the authority of the answering Respondent being a State Pollution Control Board and hence the answering Respondent is devoid of the specific facts regarding the same. Hence, the said concerns do not merit any response from the answering Respondent.

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However, the relevant findings of the Joint Committee Report dated 05.07.2022 are reproduced hereunder:

"2.1 The Sulyari Mine is situated in the Saral Tehsil of the Singrauli district. The mine is situated on the Sulyari Dongri Road, which passes through the mine lease area, and is proposed to be shifted in due course of time. Mine coordinates are - Latitude: 23055' 30.23" N to 23058'17.12" N and Longitude: 82018' 46.09" E to 82020' 51.08" E. The mine is not situated in the designated Critically Polluted Area of Singrauli, the road distance is approximately 65-70 km while the aerial distance is approximately 30 km. An indicative google earth screenshot is placed as ENCLOSURE 1.

2.2. The forest area diverted for this mine neither comes under any National Park nor in any Wildlife Sanctuary. Mine area is away from Eco Sensitive Zone of Sanjay Tiger Reserve.

2.3 The mine lease area is 1298 hectares and it falls in 9 villages, namely Amadand, Amraikhoh, Bajaudi, Dhirauli, Jhalari, Majhaulipath and Seerswah."

6. That in response to the averment on the issue of Land Acquisition and Rehabilitation and Re-settlement (hereinafter "R & R") and Employment to locals, the answering Respondent respectfully submits that the matter pertains to the act(s) or omissions on the part of the industry i.e., M/s Andhra Pradesh Mineral Development Corporation Ltd (hereinafter "APMDC"), and hence, the answering Respondent is devoid of exact and up-to-date facts regarding the same. Hence, the said concerns do not merit any response from the answering Respondent.

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7. That the Answering Respondent, in response to the concerns raised with regard to Plantation and Compensatory Afforestation, respectfully submits that the following findings of the Joint Committee Report are relevant:

"3.1 The forest cover which falls in the mining lease area of the APMDC Suliyari mine is 259.239 hectares, which includes 226.349 hectares of forest area and 32.89 hectares of revenue forest. Out of this, 156.68 hectares is protected forest area while 69.669 hectares is reserve forest.

3.2 The final approval / stage II clearance for the diversion of 259.239 hectares of the forest land for Suliyari Open Cast Coal mining in favour of APMDC has been granted by MoEF&CC on 15-06-2021, a copy of which has been placed as ENCLOSURE 4."

It is therefore submitted that, after inspection, conducted by the Joint Committee, of which the answering Respondent was a part of, it has been concluded that the concerns raised regarding the number of trees felled and the destruction of thick and dense forest were found to be unfounded and misconceived by the Joint Committee. Furthermore, the answering Respondent submits the following:

a) Compensatory Afforestation

With regard to compensatory afforestation, it is submitted that the Joint Committee Report has unequivocally concluded that:

"3.5 Project Proponent has made available equivalent non forest land for the compensatory afforestation..."

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3.6 Thus, the notion of the complainant that trees, numbering 20 lacs will be fallen and cut, was not found to be correct during the inspection by the team and has been found to be highly exaggerated."

"S. ...

The number of tree felling and destruction of thick and dense forest were found to be unfounded and misconceived. As complained that 20 lac numbers of trees will be destroyed, the tree felling number is only around 50,000, against which compensatory plantation @ 1000 numbers per hectares will be undertaken in an area of approximately 259 hectares. Also mine management will plant trees within reclaimed mining lease area of 704 hectares approximately."

Therefore, as per the inspection conducted by the Joint Committee, the project proponent has been made available with equivalent non-forest land for the compensatory afforestation and contrary to the complaint that 20,00,000 (Twenty Lac) trees will be destroyed, the number of trees is approximately 50,000 against which compensatory plantation at the rate of 1000 numbers per hectares will be undertaken in an area of approximately 259 hectares.

b) Plantation

The answering Respondent submits that with regards to the issue of Plantation, the findings of the Joint Committee Report are explicit in stating that:

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"3.4 Felling of the trees after Stage II diversion of the forest land, has been started and around 7900 trees have been fallen. Approximately an area of 89 hectares of forest land and 32.89 hectares of revenue forest land has already been Page 6 of 8 handed over to the project proponent. During the forest inspection, the reserve forest density has been found to be better than the protected forest density. A few patches of diverted forest land is having moderate dense forest while most of the forest area is found to be open forest.

3.5 Project Proponent has made available equivalent non forest land for the compensatory afforestation. In addition to this, a sum of Rs. 9,93,51,319 has also been deposited in CAMPA account for undertaking plantation work. The area preparation work like fencing of area, pit digging etc for plantation has been started and plantation will be done in July, 2022."

"5. ... The number of tree felling and destruction of thick and dense forest were found to be unfounded and misconceived. As complained that 20 lac numbers of trees will be destroyed, the tree felling number is only around 50,000, against which compensatory plantation @ 1000 numbers per hectares will be undertaken in an area of approximately 259 hectares. Also mine management will plant trees within reclaimed mining lease area of 704 hectares approximately."

Therefore, it is respectfully submitted that as per the Joint Committee Report the mine management will plant trees within reclaimed mining lease area of 704 hectares approximately and that a sum of Rs. 9,93,51,319/- (Rupees Nine Crore Ninety-Three Lakhs

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Fifty-One Thousand Three Hundred Nineteen Only) has been deposited in the CAMPA account for undertaking plantation work.

8. That with regards to the concerns raised pertaining to green belt development, wildlife conservation, and conservation of biodiversity, the answering Respondent submits that the inspection conducted by the Joint Committee, resulted in the following finding:

"4.1 It is respectfully submitted that the working plan for this area was prepared way back in 2008. At that point in time, there would have been elephant movement in the area and provision had been made in the plan for conserving the elephant corridor.

4.2 However no movement of the elephant in the area has been noticed for the last 12-15 years by the forest department. During inspection, the senior and aged villagers have reported that they have also not seen or heard of the elephant movement in the nearby areas for last many years.

4.3 A new working plan for this region is under preparation and the contention of the complainant that the project of the Page 7 of 8 elephant has been shelved is misconceived and unfounded.

4.5 To mitigate the adverse effects of this mine on elephants, a Wildlife Management Plan has been prepared and this wildlife management plan is duly approved by Chief Wildlife Warden of Madhya Pradesh. A copy of approval dated 16-9-19 is enclosed as ENCLOSURE 6. User agency has deposited an amount of Rs. 31.05 Cr. in CAMPA fund for implementation of this management plan"

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Therefore, the answering Respondent humbly submits that, as per the Joint Committee Report and its findings, there has been no noticeable movement of elephants in the mining area for the last 12-15 years. However, a new working plan is currently under preparation, and a comprehensive Wildlife Management Plan has been developed to mitigate the impact of the mining activity on elephants. The user agency has already deposited a sum of Rs. 31.05 Cr. in the CAMPA fund for the implementation of this plan.

9. That in relation to the concerns raised pertaining to Air Pollution, the answering Respondent submits that as per the Joint Committee Report, the following findings were observed:

"2.4 The mine of the Andhra Pradesh Mineral Development Corporation (APMDC) has been granted Environmental Clearance (EC) as per the provisions of the EIA Notification, 2006 by MoEF&CC on 12-04-21, for a capacity of 5 MTPA. A copy of the EC is placed as ENCLOSURE 2. The mine has been granted CTO by the MPPCB, presently for the mining in 95 hectares of the land which is valid till 31-07-2022, a copy of which is placed as ENCLOSURE 3."

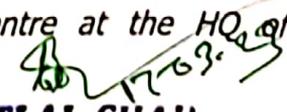
It is respectfully submitted that the Consent to Operate (hereinafter "CTO") issued by the answering Respondent provides the conditions of operation pertaining to Water (Prevention & Control of Pollution) Act 1974 and Air (Prevention & Control of Pollution) Act 1981, including but not limited to:

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- a) The effluent as well as sewage shall be treated up to prescribed Standards and reused in the process, for dust suppression, cooling and for green belt devolvement/gardening within premises. Hence zero discharge condition shall be practiced. In no case treated effluent shall be discharged outside of industry/mine premises. The proposed treatment systems for the treatment of workshop shall be completed within 3 months' time.*
- b) Nothing in this Consent shall be deemed to preclude the mine of any legal action nor relieve the applicant from any responsibilities, liabilities, or penalties to which the applicant is or may be subject to clauses. Nor does this consent absolves the mine from obtaining applicable permissions / sanctions/ consent/ NOC etc from any other department / authority.*
- c) The mine water should be treated in pucca siltation ponds which should be completed within 3 months' time. The quality of siltation pond water shall be regularly monitored and mitigation measure taken.*
- d) No OB dump shall be developed at the outskirts and boundary of the mining lease area for the stacking overburden from restricted mining area of 95 hectares. The OB dump as proposed, shall be internal in an area of 129 hectares. Similarly, the coal stack yard shall also be internal in an area of 8 hectares. The gradients of the OB slopes shall not exceed 280.*
- e) Stone pitched / pucca garland drains and siltation ponds in adequate numbers and appropriate size shall be constructed around the mine working, coal heaps & OB dumps to prevent runoff of water and flow of sediments directly into the Hurdul Nala or Gopad river and other water bodies.*

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- f) The mine shall also provide stone pitched / pucca garland drain all around the allotted mining lease area of 1298 hectares, with suitable arrangements of the siltation ponds and appropriately designed ETP(s) for the treatment and recycling of the mine water discharge as well as runoff during rains.*
- g) The mining lease area shall be properly fenced with chain link wire mesh of 2 meters height to prevent ingress of stray animals and unauthorized person and to avert any accidents.*
- h) Industry/Institute/mine management shall submit the information online through XGN in reference to compliance of consent conditions*
- i) Mine management shall install CAAQMS stations at suitable locations to monitor ambient air quality in the leased area and its vicinity and shall provide its suitable unhindered connectivity with Environment Surveillance Centre of the MPPCB and transmit the data within 3 months time. Till that time, the monitoring of the ambient air quality using high volume samplers shall be conducted daily at minimum 4 stations through NABL accredited agency and submit the report weekly to the Board.*
- j) No coal crushing shall be undertaken during the consent period and the coal mined through the high wall machine shall not be further subjected to crushing*
- k) Mine management shall install industrial grade HD IP (Internet Protocol) Pan-Tilt-Zoom (PTZ) Camera with minimum 5X zoom and night vision facility for remote surveillance and constant vigil of emission source and effluent discharge points. Mine management shall establish suitable connectivity of IP-Camera with Environment Surveillance Centre at the HQ. of M.P.*


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Pollution Control Board for monitoring and data transmission purpose.

- l) Mine management shall procure the road sweeping machines exclusively for this mine. Regular wetting and sweeping of road should be practiced during mine development phase by regular sweeping machine in the area.*
- m) Wind breaking wall around the coal stock yard shall be constructed up to 15 feet height for the dust spread control. Fixed type mist spray guns should be used for the suppression of dust*
- n) Dedicated pressurized mist spray fogger machine mounted on truck vehicle equipped with the GPS shall be procured for the mine for the control of dust during mine development phase.*
- o) The mine management shall ensure that the railway line development up to the mine area for the loading and transportation of the coal shall be completed within 5 years beyond which the transportation of coal by road from the mine to any external public railway siding may not be permitted.*
- p) The mine management shall also develop the external public railway siding which is to be used by it in an environmentally sound manner as per the guidelines of the CPCB "Inventorization of Railway Sidings and Guidelines for their Environment Management-March 2015", in absence of which the use of the external railway siding may not be permitted.*
- q) Controlled blasting with delay detonators should be used during blasting operations to avoid, noise, flying of debris and stones, air pollution and vibrations. Blast holes in the coal seam should be properly packed and stemmed with locking caps to harness*



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the maximum blast energy and at the same time to minimize and prevent dust, noise, vibrations and dispersal of fly rocks.

It is respectfully submitted that the Project Proponent is bound to follow the conditions mentioned in the CTO. It is further clarified that the consent is subject to fulfilment of all the conditions mentioned in the CTO. In event of non-compliance of any of the condition the consent granted will automatically be taken as cancelled and necessary action will be initiated against the industry (**stated at Page 31 of the the Joint Committee Report dated 05.07.2022**).

10. That in view of the facts indicated in earlier paragraphs, it is respectfully prayed that necessary directions be passed, and the Respondent No. 6 confirms that it shall abide by any order or direction, passed by the Hon'ble Tribunal.

Sig. of Deponent
Executant
DEPONENT



(Signature)
(Mukesh Srivastava)
Regional Officer
M.P. Pollution Control Board Singrauli (M.P.)

IDENTIFIED BY.

(Signature)
JAGATLAL SHAH
Advocate & Notary
Waidhan, Distt. Singrauli (M.P.)

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VERIFICATION

I, the above-named deponent does hereby verify that the contents of my above affidavit are true to my knowledge and belief based on official record. No part of it is false and no material has been concealed therein.
Verified at Singrauli (M.P.) on this _____ day of March, 2023.

DEPONENT
Sig. of Deponent
Executant


(Mukesh Srivastva)
Regional Officer

M.P. Pollution Control Board Singrauli (M.P.)




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