

Factual and action taken report regarding
O.A. no.405/2019 Gopal Chandra Sinha V/s Union of
India & Others

1. The prayer of said O.A. preferred by the applicant is as follow -:

In view of the facts and circumstances of the instant case, it is humbly prayed that this Hon'ble Tribunal may be pleased to,

- i. Direct UP Forest Department & UP Forest Corporation to duly carry out the decision dated 27.03.2018 taken by the Governing body of UP Forest Corporation for eco-restoration of rivers in the 12 forest divisions of U.P. mentioned in the Application;*
- ii. Grant the above prayer in accordance with the directions of the Hon'ble Supreme Court order dated 14.01.1998, 28.03.2008 and 09.05.2008 in T.N. Godavarman Thirumalpad Vs Union of India case and Order dated 15.09.2017 in State of Uttarakhand Vs Kumaon Stone Crushers and O.M. dated 05.02.2009 of MoEF & CC which allows and promotes eco-restoration of rivers.*
- iii. Allow re-storation of all rivers of Uttar Pradesh passing through forest areas through scientifically validated eco-restoration plans;*
- iv. Pass any other order (s)/directions (s) that it deems fit and proper in the facts and circumstances of this case.*

2. The operative portion of the order dated 26.04.2019 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi is as follow -:

"According to the applicant, working plan for forests for scientific management requires reduction of siltation of water and reservoirs. This requires collection of boulders/silt from the river beds in the forest area. National Working Plan Code-2014 provides for sustainable management of forest and bio-diversity which requires controlled dredging to maintain e-flow.

Before considering the issue further, we find it necessary to seek factual and action taken report from the Principal Secretary (forests), Government of Uttar Pradesh. Report may be furnished within three months to this Tribunal by e-mail at ngt.filing@gmail.

A copy of this order be sent to the Principal Secretary (Forests) by e-mail.

The applicant may furnish complete set of papers to the Principal Secretary (Forest), U.P. and file an affidavit of service within one week.

3. It is worth mentioning that :-

- a) The applicant Gopal Chandra Sinha, Assistant Conservator of Forest in the state forest department, who had joined the Uttar Pradesh Forest Corporation as divisional manager retired from government service on 30.04.2019. Petitioner neither aggrieved nor concerned with this matter. Hence there is no locus standi to present this application.
- b) Non-Forestry works are prohibited in forest area, as per provisions of Indian Forest Act, 1927. Mining is prohibited under Section-26 of this Act.

Provision of Section-26 of Indian Forest Act, 1927 is mentioned below :-

1) Any person who

- a) *makes any fresh clearing prohibited by section 5, or*
- b) *sets fire to a reserved forests, or in contravention of any rules made by the State Government in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest*

- c) *kindles, keeps or carries any fires except at such seasons as the forest-officer may notify in this behalf,*

- d) *trespasses or pastures cattle, or permits cattle to trespass*

- e) *causes any damage by negligence in felling any tree or cutting or dragging any timber*

- f) *fells, girdles, lops, or burns any tree or strips off the bark or leaves from, or otherwise damages, the same*

- g) *quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce*

- h) *clears or breaks up any land for cultivation or any other purpose*
- i) *in contravention of any rules made in this behalf by the State Government hunts, shoots, fishes, poisons water or sets traps or snares; or*
- j) *in any area in which the Elephants Preservation Act, 1879 (6 of 1879), is not in force, kills or catches elephants in contravention of any rules so made, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.*

- c) *As per provisions of Forest Conservation Act, 1980, prior approval of central government is required for non- forestry works including mining, in any forest area. Section -2, restricts the de-reservation of forest or use of forest land for non-forest purpose.*

Provisions of Section-2 of Forest Conservation Act, 1980, is as follow:-

Section-2- Restriction on the de-reservation of forests or use of forest land for non- forest purpose:

Not with standing anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing.

- (i) that any reserved forest (within the meaning of the expression reserved forest in any law for the time being in force in that State) or any portion thereof , shall cease to be reserved;
- (ii) that any forest land or any portion thereof may be used for any non forest purpose;

- (iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government;
- (iv) that any forest land or any portion thereof may be cleared of trees which have grown natural in that land or portion, for the purpose of using it for re-forestation. Explanation-For the purpose of this section, "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for;
 - (a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;
 - (b) any purpose other than re-forestation; but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check posts, fire lines, wireless communication and construction of fencing, bridges any culverts, dams waterholes, trench marks, boundary marks, pipelines or other like purposes.

- d) Hon'ble Supreme court order dated 12.12.1996 Writ Petition (civil) No- 171/96 T.N. Godawarman Thirumulpad Vs Union of India & others, prohibits all sort of non-forestry as well as mining operation in forest area, without prior approval of Central Government.

Relevant portion of Hon'ble Supreme court order dated 12.12.1996 Writ Petition (civil) No-171/96 T. N Godawarman Thirumulpad Vs Union of India & others, is as follow :-

".....General: 1. In view of the meaning of the word "forest" in the Act, it is obvious that prior approval of the Central Government is required for any non-forest activity within the area of any "forest".In accordance with Section-2 of the act all on-going activity within any forest in any State throughout the country, without the prior approval of Central Government, must cease forthwith. It is, therefore clear that the running of saw mills of any kind including veneer or plywood mills, and mining of any mineral are non-forest purposes and are, therefore, not permissible without prior approval of the Central Government Accordingly, any such activity is prima facie violation of the provisions of the Forest Conservation Act, 1980. Every State Government must promptly ensure total cessation of all such activities forthwith".

- e) National Working Plan Code-2014, chapter-1, Para-3 prohibits any sort of work without approved working plan prescription by competent authority.

Para-3 of chapter-1 National Working Plan code -2014, mentions :-

"All forest are to be sustainable managed under the prescription of a working plan/scheme. The National Forest Policy clearly states "No forests should be permitted to be worked without an approved working plan by the competent authority". It is the duty of the manager or owner of the forest area to ensure the preparation of the working plan/scheme. The authority as designated by the MoEF, will approve the working plan and ensure its implementation. Even working schemes have all major elements of a working plan and these schemes also need the sanction of the competent authority".

- f) There is so such provision for de-silting the rivers running across the reserve forests in any of working plans of concerned divisions.

- g) It is pertinent to say that said work, i.e. scrape minor minerals from rivers flowing through the forest as non- forestry work and to carry such activities prior approval under Forest Conservation Act, 1980 and clearance under Environment Conservation Act, 1986 is required.
- h) Uttar Pradesh State Forest Policy -2017 is in force and it envisages "No commercial mining activity will be encouraged in forest land".
- i) The applicant Gopal Chandra Sinha is not associated with Uttar Pradesh Forest Corporation as on date. He retired from Government Service on 30.04.2019. Petitioner is neither aggrieved nor concerned in this matter. Uttar Pradesh Forest Corporation is not authorised to do such work as de-silting the rivers, without prior permission from authorised officer.

4. Other Facts :-

- a) Hon'ble Supreme court decision dated 14.01.1998 " The Hon'ble Supreme Court in the case of T.N. Godawarman Vs Union of India & ors WP (c) 202 of 1995 directed all states to prepare working plans for all forest divisions which was to be approved by government of India for scientific management of forest."
- b) OM issued by vide letter no. F.No. 5-3/2007-FC dated 05.02.2009 of MoEF & CC is not related with this issue. It is a guidelines for diversion of forest land for non-forestry purpose under Forest conservation Act, 1980 and guidelines for collection of Net Present Value (NPV).
- c) Hon'ble Supreme court decision dated 15.09.2017 (state of Utrakhand & others V/s Kumaon Stone Crusher)
The Hon'ble Supreme court while considering the issue whether by manufacturing process/chemical treatment as claimed by the writ petitioners, the forest produce loses its character of forest produce, the Court concluded that the definition of the Forest Produce, scientific and botanical sense has to be taken into consideration and commercial parlance test may not be adequate in such cases. The Court came to a conclusion that coal (and its various varieties), lime stone

dolomite, fly ash, clinker, gypsum, veneer and plywood are forest produce.

d) Hon'ble Supreme court decision dated 28.03.2008 states that "certain activities in the reserve forest areas have been exempted from the payment of Net Payment Value (NPV) partially or totally by the Supreme Court in T.N. Godawarman Case and among other activities the Supreme Court specifically exempted activities necessary for the "ecological management".

e) Hon'ble Supreme court decision dated 09.05.2008 :

"Three judges bench of Hon'ble Supreme court in T.N. Godawarman while clarifying the 28.03.2008 order substituted the said order and specifically included the issue of collection of boulders/ silt from the river beds in the forest area and provided full exemption to works including sale of boulders/silt are carried out departmentally or through Government undertaking or through the Economic Development Committee; the activity is necessary for conservation and protection of forests and the sale proceeds are used for protection/ conservation of forests".

5. Parawise Narrative :-

1. Not admitted -

Office memorandum issued vide letter no. F.No. 5-3/2007-FC dated 05.02.2009 of MoEF & CC is not concerned with this issue. It is a guideline for diversion of forest land for non-forestry purpose under Forest Conservation Act, 1980 and guideline for collection of net present value (NPV).

The applicant Gopal Chandra Sinha, Assistant Conservator of Forest in the state forest department, who had joined the Uttar Pradesh Forest Corporation as divisional manager retired from government service on 30.04.2019. Petitioner neither aggrieved nor concerned with this matter. Hence there is no locus standi to present this application.

Hon'ble Supreme Court judgement dated 15.09.2017 in Civil Appeal no. 14874/2007 (State of Uttarakhand and others Vs Kumaon Stone Crusher) is not concerned with removing sand, bajari, morrung, boulders etc. from forest area. This judgement is concerned with Uttar Pradesh timber and other forest produce (4th amendment) Rules 2010 and Uttar Pradesh timber and other forest produce (5th amendment) Rules 2011.

2. Nothing relevant has been mentioned in this para.
U.P. Forest corporation act, 1974 mentions various activities to be carried out by the U.P. Forest corporation. But nowhere it mentions to carry works which contravenes the provision of existing rules.
3. Data related to Uttar Pradesh forestry sector, from Indian State of Forest report 2017, published by Forest Survey of India has been mentioned in this para. Nothing relevant has been mentioned.

Some important data related to Uttar Pradesh forestry Sector, from Indian States of Forest report 2017 is being mentioned below :-

- Total geographical area of the state - 2,40,928 sq. km.
- Total forest cover in the state - 14,679 sq.km.
- Forest canopy density classes :
 - a. Very dense forest - 2,617 sq.km.
 - b. Moderately dense forest - 4,069 sq.km.
 - c. Open forest - 7,993 sq.km.

4. Not acceptable.
- (i) Non- Forestry works are prohibited in forest area, as per provisions of Indian Forest Act, 1927. Mining is prohibited under section 26 of this Act.
- (ii) As per provisions of Forest Conservation Act, 1980, prior approval of central government is required for non-forestry works including mining, in any forest area. Section-2 of this act, restricts the de-reservation of forests or use of forest land for non-forest purpose.

(iii) Hon'ble Supreme court order dated 12.12.1996 WP (C) No- 171/96 T.N. Godawarman Thirumulpad Vs Union of India & others, prohibits all sort of non-forestry as well as mining operation in forest area, without prior approval of central government.

(iv) National Working Plan Code- 2014, Chapter - 1, Para-3 prohibits any sort of work without approved working plan prescription by competent authority.

5. National Working Plan Code - 2014, Chapter 1, Para -3 clearly states -:

"All forest area to be sustainable managed under the prescription of a working plan/scheme. The National Forest Policy clearly states "No forests should be permitted to be worked without an approved working plan by the competent authority". It is the duty of the manager or owner of the forest area to ensure the preparation of the working plan/scheme. The authority as designated by the MoEF, will approve the working plan and ensure its implementation. Even working schemes have all major elements of a working plan and these schemes also need the sanction of the competent authority."

There is no such provision for de-silting the rivers running across the reserve forests in any of working plans of concerned forest divisions.



It is pertinent to say that said work, i.e, scrape minor minerals from rivers flowing across the forest is non-forestry work and to carry such activities prior approval under Forest Conservator Act, 1980 and clearance under Environment Conservation Act, 1986 is required.

As on date Uttar Pradesh State Forest Policy-2017 is in force and it envisages "No commercial mining activity will be encouraged in forest land".

6. In this para applicant has mentioned some of the objectives of the National Forest Policy of 1988. Nothing is relevant or important to his prayer. National Working Plan Code - 2014 takes care of provisions of National Forest Policy and it clearly states -:

"All forest area to be sustainable managed under the prescription of a working plan/scheme. The National Forest Policy clearly states "No forests should be permitted to be worked without an approved working plan by the competent authority". It is the duty of the manager or owner of the forest area to ensure the preparation of the working plan/scheme. The authority as designated by the MoEF, will approve the working plan and ensure its implementation. Even working schemes have all major elements of a working plan and these schemes also need the sanction of the competent authority."



7. There is no such provision for de-silting the rivers running across the reserve forests in any of working plans of concerned forest divisions.
8. It is pertinent to say that said work, i.e, scrape minor minerals from rivers flowing across the forest is non-forestry work and to carry such activities prior approval under Forest Conservator Act, 1980 and clearance under Environment Conservation Act, 1986 is required.
9. Nothing relevant has been mentioned in this para. The fact regarding preparation of working plans for all forest divisions and its approval by Government of India, is not mentioned in the Hon'ble Supreme Court order dated 14.01.1998 as stated by the applicant in this para.
Of course, preparation of working plan for each division is mandatory and it should be approved by the competent authority. Even working schemes have all major elements of a working plan and these schemes also need the sanction of the competent authority.
10. Not admitted.
As on date Uttar Pradesh State Forest Policy - 2017 is in force and it envisages "No commercial mining activity will be encouraged in forest land".

11. Facts mentioned by the applicant in this para is totally misleading. The Hon'ble Supreme Court orders dated 28.03.2008 and 09.05.2008 are specific to a department/ agency and it does not match with the intension mentioned in this para.

12. Not admitted.

MoEF & CC's letter F.No. 5-3/2007-FC, dated 05.02.2009 mentions guidelines for diversion of forest land for non-forestry purpose under Forest Conservation, Act, 1980 and guidelines for collection of Net Present Value (NPV).

13. Not admitted.

The applicant is mentioning about environment flow of river Yamuna by controlled dredging. It does not seem to be related with the prayer made by the applicant.

As mentioned in above para's "All forest are to be sustainable managed under the prescription of a working plan/scheme". The National Forest Policy clearly states, "No forests should be permitted to be worked without an approved working plan by the competent authority".

14. Not admitted.

Said notification is concerned with streamlining the process of environmental clearance for mining of minor minerals.

15. Not admitted.

The applicant Gopal Chandra Sinha is not associated with Uttar Pradesh Forest Corporation as on date. He retired from government service on 30.04.2019. Petitioner is neither aggrieved nor concerned with this matter. Uttar Pradesh Forest Corporation is not authorised to do such work as de-silting the rivers, without prior permission from competent authority.

16. Facts mentioned in this para (is) misleading, hence it is denied. Minutes of 259th meeting held on 07.09.2017 attached as Annexure No-7 in the writ petition states :-

Item no. 259(26) - Proposal regarding diversification the works of U.P. Forest Corporation Lucknow to scrape minor minerals from rivers of the state by obtaining mining leases as is being done by Uttarakhand Forest Development Corporation.

Governing body approved the above proposal and directed to act in time bound manner and apprise the Governing body of progress made in this work in the next meeting of Governing body.

Besides above the Governing body expected form the Managing Director UPFC to monitor the disposal of the pending matters at the government level.

It is very much clear from above that Governing body does not meant to by - pass the prescription of working plan and its approval by the competent authority. Governing body only intends to carry forward the proposal in time bound manner and expedite the various related pending matters at different level. Hence saying of the applicant that it is approved with full majority is totally misleading.

17. Facts mentioned in this para is refuted. Principal Chief Conservator of Forest is not empowered to give permission for extraction of sub - minerals from the rivers passing through forest area. Hon'ble Supreme court order dated 12.12.1996 WP(C) No-171/96 T.N. Godavarman Thirumulpad Vs Union of India & Others, prohibits all sort of non - forestry as well as mining operation in forest area without prior approval of central government.

Letter dated 25.09.2017 mentioned by the applicant and annexed as no.8 only seeks compile information of minor minerals available in rivers flowing across forest.

18. Nothing relevant.

The applicant has mentioned that the Managing Director, U.P. Forest Corporation issued a letter to Principal Secretary to issue orders regarding extraction of sub-minerals from the rivers over-clogged with sub- minerals flowing from the forest area of nine forest divisions of U.P. namely Obra, Renukoot, Banda, Hamirpur, Orai, Saharanpur, Shivalik, Najibabad and Bijnour.

19. The applicant Gopal Chandra Sinha, Assistant Conservator of Forest in the state forest department, who had joined the Uttar Pradesh Forest Corporation as divisional manager retired from government service on 30.04.2019. Petitioner neither aggrieved nor concerned with this matter. Hence there is no locus standi to present this application.

Further, non-forestry works are prohibited in forest area, as per provision of Indian Forest Act, 1927. Mining is prohibited under section 26 of this act. As per provisions of Forest Conservation Act, 1980, prior approval of central government is required for non-forestry works including mining, in any forest area. Section-2 of this act restricts the dereservation of forest or use of forest land for non- forest purpose.

20. The applicant, in this para has quoted a letter from Divisional Forest Officer Obra, stating dangerous scenario of the river Son, and based upon this, he states that de-silting is immediate need of the hour and should be promoted for saving the forest of the state.

As mentioned in para - 13 of this narrative, "All forest are to be sustainable managed under the prescription of a working plan/scheme. The National Forest Policy clearly state, "No forest should be permitted to be worked without an approved working plan by the competent authority".

21. Nothing relevant is mentioned in this para. The applicant states that again a request was made by the MD UPFC to the Principal Secretary, Forest vide letter dated 30.11.2017 to issue letter of intent for extraction of minor- mineral from river beds within reserve forest.

22. Nothing relevant is mentioned in this para. The applicant once again as stated in above para mentioned that Managing Director, UP Forest Corporation sought opinion to confirm the legal understanding regarding transfer of lots of clogged river beds of forest area.

It is evident from above para that "All forest area to be sustainable managed under the prescription of a working plan/scheme duly approved by the competent authority".

23. Fact regarding "over clogged river beds of reserve forest areas might be de-clogged without taking mining-lease under MMRD Act,1957", is not acceptable. Non-Forestry works are prohibited in forest area, as per provision of India Forest Act, 1927. Mining is prohibited under section 26 of this act. As per provisions of Forest Conservation Act, 1980, prior approval of central government is required for non-forestry works including mining, in any forest area. Section-2 of this act restricts the de-reservation of forest or use of forest land for non-forest purpose.
24. Not acceptable as, "All forest are to be sustainable managed under the prescription of a working plan/scheme. No such provision regarding de-clogging or extraction of sand, morang, bajri, boulders etc. are is mentioned in present working plan in force in any of the forest divisions.
25. Not relevant to the prayer made by the applicant. Same point is repeated by the applicant.

26. Not acceptable at all. The statement is misleading. No proof or minutes of meeting has been attached with this writ petition.
27. The issue raised in this para is denied for the reason stated below :-

In this para, along with its annexure no. 10 the applicant has mentioned Eco-Restoration of river in forest/ wild life sanctuaries/ national park to be done at war level immediately. It is also mentioned that Forest corporation is presently undertaking the felling and disposal of trees/timber. It further states legal status of work of Eco-Restoration. This para also reminds the duty of every citizen of India to protect and improve the natural environment including forest, lakes, rivers and wild life and to have compassion for living creatures. The applicant goes on mentioning the provisions from The National Forest Policy 1988 and provisions from National working plan code.

As it is mentioned in relevant above para's

National working plan code - 2014, prohibits any sort of work without approval of working plan prescription approved by competent authority.

National working plan code - 2014, para-3 of chapter - 1, mention as follow -:

"All forest area to be sustainable managed under the prescription of a working plan/scheme. The National working plan code clearly states, "No forests should be permitted to be worked without an approved working plan by the competent authority". It is the duty of the manager or owner of the forest area to ensure the preparation of the working plan/scheme.

The authority as designated by the MoEF, will approve the working plan and ensure its implementation. Even working schemes have all major elements of a working plan and these schemes also need the sanction of the competent authority.

There is no such provision for de-silting the rivers running across the reserve forests in any of working plans of concerned forest divisions.

It is pertinent to say that said work, i.e, scrape minor minerals from rivers flowing across the forest is non-forestry work and to carry such activities prior approval under Forest Conservator Act, 1980 and clearance under Environment Conservation Act, 1986 is required.

As on date Uttar Pradesh State Forest Policy-2017 is in force and it envisages "No commercial mining activity will be encouraged in forest land".

28. This issue relates to UPFC and its internal working. Without approval from competent authority, this act of UPFC, to procure consultant to select service-provider for logistic support in the work of Eco-Restoration of the rivers in reserve forest areas cannot be said a good initiative.
29. UP Forest Corporation, without prior approval of the state government, appointed UPICO as procurement consultant for calling technical and financial bid for selecting the service provider. This act of UPFC is not par with the established practice of law. Tender notice for selecting the service provider was advertised in Times of India.

30. Procurement consultant UPICO circulated the tender document on NIC website for selecting the service provider. Again this act of UPFC is not par with the established law because without prior approval of the State government, this act is not said to be proper.

An FIR (FIR no. 0404) was lodged in P.S. Ghazipur in Lucknow district on 05.05.2018 against the applicant Gopal Chandra Sinha along with two other officers of U.P. Forest Corporation on ground of planning criminal conspiracy by violating provisions of Indian Forest Act, 1927, Forest (conservation) Act, 1980, National working plan code 2014 and order of the Hon'ble Supreme court dated 12.12.1996 by uploading tender and publishing tender notice in newspapers regarding doing mining in forest area, without waiting government approval on proposal send to the government for legal opinion and approval from competent officer. A disciplinary action against Gopal Chandra Sinha was also initiated after suspension under U.P. government servant (Disciplinary and appeal rules, 1999).

31. Chief Conservator of Forest (Working Plan) issued direction to Divisional Forest Officers of 12 Forest Divisions to prepare working scheme and submit through concerned CCF.



Letter No.- memo/camp, dated 27.05.2018 of the office of Principal Chief Conservator of Forest, Monitoring and Working plan reveals that no Working Schemes proposals from any of forest divisions were sent in pursuance of above letter of Chief Conservator of forest (Working Plan).

32. No such study was conducted by U.P. Forest Department. The letter enclosed as annexure A/12 is addressed to Mr. Pravin Singh, Managing Director UPICO, by Mr. Javed N. Malik of Indian Institute of Technology Kanpur, department of earth science. Subject of this letter is preliminary draft observations on re-storing the flow of major rivers/re-storing the eco-system.
33. Letter annexed as annexure A/13, (letter written by Shri S.K. Sharma Managing Director, U.P. Forest corporation) rightly mentions that in Indian Forest Act, 1927, mining is prohibited in RF areas. There is a ban on extraction of morang, sand, gravel and boulder from the floor or banks of river in RF. Letter also mentions that working plan has not been sent to government of India for approval and hence all tender process which is not in accordance with law is cancelled.

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34. Gopal Chandra Sinha, the applicant was the Assistant conservator of Forest in the State forest department, who retired from government service on 30.04.2019.

An FIR (FIR No. 0404) was lodged in P.S. Ghazipur in district Lucknow on 05.05.2018 under sections 420, 120-B, 425, 408 of IPC and sec 51 of IFA, 1927 and sec 3A, sec 3B of Forest (conservation) Act, 1980 and section -3 of prevention of damage to public property Act, 1984. Rest of the thing, mentions in this para are the bare facts and hence needs no comment.

35. Nothing relevant has been mentioned in this para.

The applicant during his tenure in U.P. Forest corporation as divisional logging manager, was suspended on ground of planning criminal conspiracy by violating provisions of Indian Forest Act, 1927, Forest (conservation) Act, 1980, National Working Plan code - 2014 and order of the Hon'ble Supreme Court dated 12.12.1996 by uploading tender and before this publishing tender notice in newspaper regarding doing mining in forest area. He did not wait for government approval on proposal send to the government for legal opinion and approval from competent officer.

36. Nothing relevant to the writ petition is mentioned.

In annexure A/16, a copy of the police report dated 05.06.2018 has been attached.

37. In writ petition (s) (civil) No. (s) 820/2018 the Hon'ble Supreme court of India in order dated 24.07.2018 dismissed the stated writ on ground that petitioner wants to withdraw the writ petition, he says that he would like to approach the National Green Tribunal.

Copy of the stated writ is not attached with this writ petition. Motive of mentioning this order of Hon'ble Supreme Court is not clear.

38. Non- Forestry works are prohibited in forest area, as per provisions of Indian Forest Act, 1927. Mining is prohibited under sec -26 of this act. As per provision of Forest Conservator Act, 1980 prior approval of central government is required for non- forestry works including mining, in any forest area. Secton-2 of this act, restricts the de-reservation of forest or use of forest land for non- forest purpose. There is no such provisions for de-silting the rivers running across the reserve forests in any working plans of concerned divisions.



6. Summary

- a) The applicant Gopal Chandra Sinha, Assistant Conservator of Forest in the state forest department, who had joined the Uttar Pradesh Forest Development Corporation as divisional manager retired from government service on 30.04.2019. Petitioner neither aggrieved nor concerned with this matter. Hence there is no locus standai to present this application.
- b) Non- Forestry works are prohibited in forest area, as per provisions of Indian Forest Act, 1927. Mining is prohibited under section 26 of this Act.
- c) As per provisions of Forest Conservation Act, 1980, prior approval of central government is required for non-forestry works including mining, in any forest area. Section-2, restricts the de-reservation of forests or use of forest land for non-forest purpose.
- d) Hon'ble Supreme court order dated 12.12.1996 WP (C) No- 171/96 T.N. Godavarman Thirumulapad Vs Union of India & others, prohibits all sort of non-forestry as well as mining operation in forest area, without prior approval of central government.

- e) National Working Plan Code-2014, chapter-1, Para-3 prohibits any sort of work without approved working plan prescription by legally competent authority.
- f) There is no such provision for de-silting the rivers running across the reserve forests in any of working plans of concerned divisions.
- g) It is pertinent to say that said work i.e scrape minor minerals from rivers flowing through the forest as non-forestry work and to carry such activities prior approval under Forest Conservation Act, 1980 and clearance under Environment Conservation Act 1986 is required.
- h) As on date Uttar Pradesh State Forest Policy-2017 is in force and it envisages" No commercial mining activity will be encouraged in forest land".
- i) The applicant Gopal Chandra Sinha is not associated with Uttar Pradesh Forest Corporation as on date. He retired from government service on 30.04.2019. Petitioner is neither aggrieved nor concerned in this matter. Uttar Pradesh Forest Corporation is not authorised to do such work as de-silting the rivers, without prior permission from authorised officer.