

**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING
AT PUNE**

MEMORANDUM OF APPLICATION

(Under Sections 14&15 read with Section 18 of The National
Green Tribunal Act, 2010)

APPLICATION NO. 39 OF 2023

Yogesh Pratap Singh ... APPLICANT

AND

Secretary, Environment Department, Government of
Maharashtra and others ... RESPONDENTS

**REJOINDER TO THE REPLY OF RESPONDENT NO. 5 –
Maharashtra Pollution Control Board**

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**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING
AT PUNE**

MEMORANDUM OF APPLICATION

(Under Sections 14&15 read with Section 18 of The National Green
Tribunal Act, 2010)

APPLICATION NO. 39 OF 2023

Yogesh Pratap Singh **... APPLICANT**

AND

Secretary, Ministry of Environment, Forests and Climate Change
and others **... RESPONDENTS**

**REJOINDER TO AFFIDAVIT-IN-REPLY OF
RESPONDENT NO.5, (Maharashtra Pollution Control
Board)**

I, Yogesh Pratap Singh, the Applicant above-named, residing
at Mumbai, do hereby solemnly affirm and state as under:

- 1.** The Applicant, has gone through the copy of the Affidavit-in-Reply of the above-mentioned Respondent i.e. Respondent No. 6 – NAREDCO West Foundation (hereinafter addressed to as ‘The Answering Respondent’) and tenders his Rejoinder as under:
- 2.** At the very outset the Applicant submits that this entire Rejoinder is evasive and ***does not specifically address the 16***

Specific legal points raised in the Original Application.

Instead, the Answering Respondent has narrated his own presumptive position, which accordingly, defeats the essence of the rules of natural justice, where the issues raised have to be specifically addressed vis-à-vis the specific legal averments.

3. The Applicant submits that the Affidavit-in-Reply of the Answering Respondent has omitted to even touch upon the aforesaid referred to 16-specific law points, enumerated in a specific and self-contained manner. This conspicuous omission to even respond to these specific violations of law implicitly renders this Affidavit-in-Reply as being the one which implicitly admits the averments presented in the Original Application.

4. The Applicant further submits that the only ground taken by the Answering Respondent is that the Ministry of Environment, Forests and Climate Change has taken the position that mining for basement would not be considered as mining activities and hence no Environment Clearance is required.

5. The Applicant submits that his contention of this Respondent is untenable for the following reasons:

(A) Maharashtra Pollution Control Board is a statutory body of experts. It is the Board which takes decisions based on independent evaluation of the legal provisions. Just because an Administrative Authority, i.e. the Ministry of Environment, Forests and Climate Change considers that excavation of minor minerals for basement is not mining, whereas other excavations are mining, such an

approach has to be evaluated by the expert body with its own application of mind, considering the legal provision and the letter and intent of the ruling of the Hon'ble Supreme Court in the case of Deepak Kumar.

(B) The Board ought to have exercised application of mind on the elementary fact that wherever mining activity is a mining activity irrespective of its user. To what use the minor minerals are being put to use is immaterial. Whether the mining is for sale of stones and sand in the market or it is for making basement, the environmental consequence is identical.

7. In view of the above, more particularly, the surrender of discretion by the Maharashtra Pollution Control Board to the discretion of the administrative officials of the Ministry of Environment, Forests and Climate Change, this would not be consistent with environmental equity.

8. Accordingly, the Applicant prays that the contentions put forward by the Answering Respondent be rejected and the prayers made in the Original Application, be made absolute.


APPLICANT

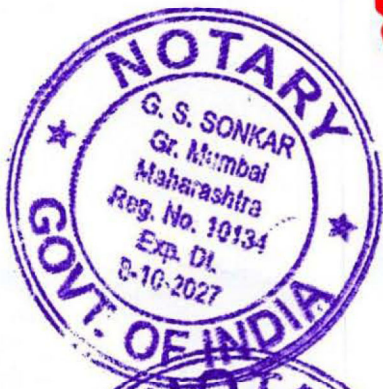
VERIFICATION

I, Yogesh Pratap Singh, the Applicant above-named, Yogesh Pratap Singh, having his address as 501, Harisiddhi Heights, Khan Abdul Gaffar Khan Road, Mumbai – 400030, hereby verify that the contents of aforesaid paras of this Rejoinder are true to my personal knowledge and belief and that I have not suppressed any material fact.

Yogesh Pratap Singh
APPLICANT

DATE: 10th October, 2023

PLACE: Mumbai



BEFORE ME

G. S. Sonkar
G. S. SONKAR
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NOTARY GR. MUMBAI
MAHARASHTRA
(Govt. of India)

G. S. SONKAR (Govt. of India)
NOTARIAL REGISTER
SR. No. 1972 - 2024

10 OCT 2024

