

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL****PRINCIPAL BENCH, NEW DELHI****Original Application No. 532 of 2023****IN THE MATTER OF:**

BALBIR SANDHU

...APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

**INDEX**

<b>S.No.</b>	<b>Particulars</b>	<b>Page No.</b>
1.	Rejoinder on behalf of the Applicant to the reply filed by the Respondent 10	1-21

DRAWN AND FILED BY



Gaurav Kumar Bansal  
Advocate  
For  
Applicant  
A26, Basement  
Jangpura Extension  
New Delhi-14

New Delhi  
28/09/2024

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**PRINCIPAL BENCH, NEW DELHI**

**Original Application No. 532 of 2023**

**IN THE MATTER OF:**

BALBIR SANDHU

...APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

**REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANT**

**IN RESPONSE TO THE REPLY FILED BY RESPONDENT**

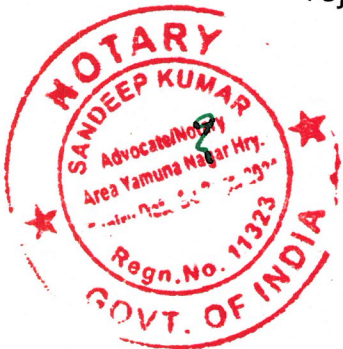
**NO. 10**

**MOST RESPECTFULLY SHOWETH:**

I, Balbir Sandhu, applicant in the present Original Application do hereby solemnly swear, affirm and state as hereunder:

1. That the deponent is the applicant in the above-mentioned Original Application and as such fully conversant with the facts and circumstances of the case, hence competent to swear the present rejoinder affidavit.

**PRELIMINARY OBJECTIONS**



Ref. No. 474  
Date. 30-09-2024

1. That the present rejoinder is being filed on behalf of Balbir Sandhu "Applicant", in response to the Reply filed by "Respondent 10" to the present Original Application.
2. The Applicant respectfully submits this reply to bring to the attention of this Honourable Court the serious legal irregularities committed by Respondent No. 10 in connection with the filing of their written statement.

Upon review of the Written Submission submitted by Respondent No. 10, it is apparent that there has been a deliberate and deceptive manipulation of dates, which not only constitutes a violation of legal procedure but also amounts to an attempt to mislead this Honourable Court.

Specifically, the index of the written statement clearly indicates that it was prepared on 14.03.2024, and this date is consistently mentioned in the document, including after the prayer clause, thus establishing that the finalization and signing of the written statement occurred on that date. Furthermore, the written statement contains the signature of Respondent No. 10, affirming that the document was executed on 14.03.2024.

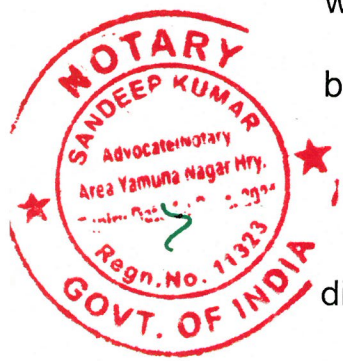


However, to the Applicant's utter shock, the affidavit accompanying the written statement is attested on 12.03.2024, which predates the preparation and finalization of the written statement by two days. This discrepancy is further compounded by the fact that the verification clause of the affidavit, dated 12.03.2024, does not mention any date of verification, raising further doubts regarding the authenticity and credibility of the document.

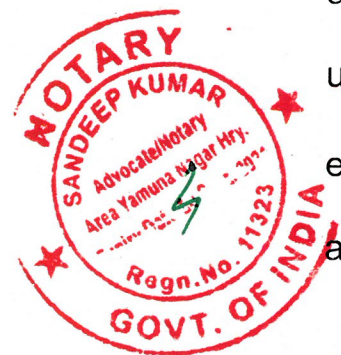
From the facts presented, it is crystal clear that Respondent No. 10 has relied upon a backdated affidavit, which is not only impermissible under the law but also constitutes a gross violation of legal procedure, amounting to fraud upon this Honorable Court.

In light of these grave irregularities, the Applicant humbly prays that this Honourable Court to not to take cognizance of the written statement submitted by Respondent No. 10 as the same is bad in law.

The Applicant further requests that the Honourable Court direct the State of Haryana to initiate appropriate penal action against Respondent No. 10 for attempting to deceive the court and engaging in conduct that undermines the sanctity of the judicial process.



3. That at the very outset, the Applicant denies each averment stated in the Respondent's Reply except for those that are a matter of record and/or explicitly admitted herein. It is clarified that there shall be no admission on the part of the Applicant for want of specific denial and/or traverse.
4. It is submitted that the detailed submissions made by the Applicant in the Original Applicant may be read as part and parcel of the present Rejoinder and the same is not being reiterated herein for the sake of brevity.
5. That the Applicant submits this rejoinder in response to the Reply filed by the Respondents 10, refuting the Respondents' contentions and reiterating the significant environmental violations resulting from approval of excessive mineral extraction, approval of mining in unlisted areas, and non-compliance with statutory requirements as established under the District Survey Report (herein after referred as DSR).
6. That the Respondent's assertion that there is no violation of DSR is factually incorrect. The DSR for Ambala clearly identifies 10.11 hectares as suitable for mining, yet the respondent has been approved for operations over an area around 42.70 hectares



hectares. The magnitude of this overextension, beyond the permitted limits, undeniably violates the DSR and MoEF Notification dated 15.01.2016, MoEF Notification dated 25.07.2018, Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement & Monitoring Guidelines for Sand Mining, 2020.

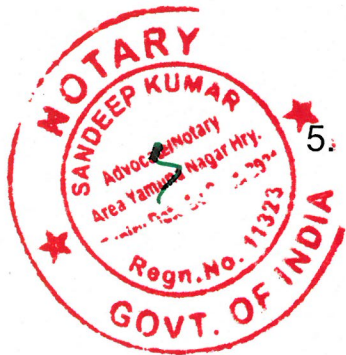
7. As per the DSR of Ambala District, the total mineable mineral reserves have been assessed at 38.29 lakh MT. However, a total extraction of 71 lakh MT has been authorized, with Respondent No. 10 alone being permitted to extract 12 lakh MT. Both the quantity of mineable minerals and the area authorized for mining far exceed the limits prescribed in the DSR, thus constituting a clear violation of the DSR.
8. The respondent's repeated reference to "typographical errors" and inadvertent mistakes in the original DSR demonstrates the flawed foundation upon which this mining plan was approved. However, these are not inadvertent clerical errors but are rather significant oversight which suggests their negligence and have direct and material impact on the legal foundation of the approvals granted for mining and thus is in violation of MoEF Notification dated 15.01.2016, MoEF Notification dated 25.07.2018, Sustainable



Sand Mining Management Guidelines, 2016 and the Enforcement & Monitoring Guidelines for Sand Mining, 2020.

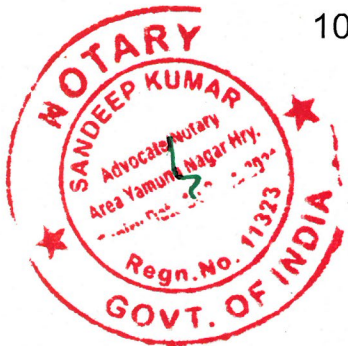
**PARAWISE REPLY:**

1. That the contents of the Para 1 are Matter of Record.
2. That the contents of the Para 2 are incorrect and the same are hereby denied. There is a substantial question relating to the Environment in the present case.
3. That the contents of the Para 3 are Matter of Record.
4. That the contents of the Para 4 are incorrect and the same are hereby denied. That the e-auction notice dated 31.05.2022 for the purpose of granting of mining contracts for extraction of minor minerals namely "Boulder, Gravel and sand" from the mineral mines located at District Ambala, Haryana issued by respondent No. 5 is bad in law as the same is in violation of DSR.
5. That the contents of the Para 5 are incorrect and the same are hereby denied. The e-auction notice dated 31.05.2022 was issued not in consonance but in violation of the DSR.
6. The contents of Para 6 are incorrect and are hereby denied. The Department has failed to exercise due diligence, as evident by



the fact that the DSR for Ambala restricts the mining area to 10.11 hectares and the total mineable mineral reserves to 38.29 lakh MT. However, Respondent No. 10 has been authorized for mining over approximately 42.70 hectares and permitted to extract 12 lakh MT, contributing to the total authorized extraction of 71 lakh MT, both of which are in clear violation of the DSR.

7. That the contents of the Para 7 and Para 8 are Matter of Record.
8. That the contents of the Para 9 are Matter of Record. That the case of the Petitioner is that the Mining Plan and the Progressive Mining closure Plan are in violation of the DSR.
9. That the contents of the Para 10 are incorrect and the same are hereby denied. That the Mining Plan is violation of the Enforcement and Monitoring Guidelines for Sand Mining, 2020.
10. That the contents of Para 11 are incorrect and the same are hereby denied. There has been no careful analysis of the Mining Plan and the same is clear from the fact that the DSR for Ambala limits mining area to 10.11 hectares and total mineable mineral reserve at 38.29 lakh MT, yet Respondent No. 10 has been authorized for mining over approximately 42.70 hectares and permitted to extract 12 lakh MT, contributing to the total



authorized extraction of 71 lakh MT, both of which are in clear *violation of the DSR.*

11. That the contents of the Para 12 are Matter of Record.
12. That the contents of Para 13 are incorrect and the same are hereby denied. That there has been significant violation of the DSR while granting approval to the Mining Plan. That these are not inadvertent clerical errors but substantial oversight suggesting their negligence, with a direct and material impact on the legal foundation of the approvals granted for mining, in clear violation of MoEF Notification dated 15.01.2016, MoEF Notification dated 25.07.2018, Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement & Monitoring Guidelines for Sand Mining, 2020.
13. That the contents of Para 14 are incorrect and the same are hereby denied. There is violation of the DSR in the present case and there is substantial question relating to the environment.

**PARAWISE REPLY OF REPLY ON MERITS:**



1. That the Para 1 doesn't require any reply. That the applicant reiterates the facts and circumstances stated in the para 1 of the Original Application.
2. That the Para 2 doesn't require any reply. That the applicant reiterates the facts and circumstances stated in the para 2 of the Original Application.
3. That the contents of Para 3 are incorrect and the same are hereby denied. That the applicant reiterates the facts and circumstances stated in the para 3 of the Original Application.
4. That the contents of Para 4 are incorrect and the same are hereby denied. That the contents of the Para 4 in the Original application are not false and there is substantial question relating to environment in the present case.
5. That the contents of Para 5 are incorrect and the same are hereby denied. That there is substantial question relating to environment in the present case and this Hon'ble Tribunal has the jurisdiction to adjudicate the present Original Application.
6. That the contents of Para 6 are incorrect and the same are hereby denied. That the applicant reiterates the facts and circumstances stated in the para 6 of the Original Application.



7. That the contents of Para 7 are incorrect and the same are hereby denied. That The Mining Plan is not prepared as per the prescribed procedure but was prepared in violation of the DSR. That the due diligence was not exercised and the same is clear from the fact that the DSR for Ambala limits mining area to 10.11 hectares and total mineable mineral reserve at 38.29 lakh MT, yet Respondent No. 10 has been authorized for mining over approximately 42.70 hectares and permitted to extract 12 lakh MT, contributing to the total authorized extraction of 71 lakh MT, both of which are in clear violation of the DSR.

8. Reply to sub-paragraphs of para 8

I. That the contents of sub-para I are incorrect and the same are hereby denied. The Applicant reiterates the judgment of the Hon'ble Supreme Court referenced in sub-para I of the Original Application, and asserts that the same is fully applicable to the present case.

II. That the contents of sub-para II are incorrect and the same are hereby denied. Mining Plan was prepared in contravention of the said Guidelines.



- III. That the contents of sub-para III are incorrect and the same are hereby denied. The Applicant reiterates the judgment of the Hon'ble Supreme Court referenced in sub-para III of the Original Application, and asserts that the same is fully applicable to the present case.
- IV. That the contents of sub-para IV are incorrect and the same are hereby denied. Mining Plan was prepared in contravention of the said Guidelines.
- V. That the sub-para V doesn't require any reply.
- VI. That the contents of the sub-para VI are Matter of Record.
- VII. That the contents of sub-para VII are incorrect and the same are hereby denied. That the DSR was not duly taken into consideration while issuing the e-auction notice dated 31.05.2022 and the Mining Plan is in clear violation of the DSR.
- VIII. That the contents of sub-para VIII are Matter of Record.
- IX. That the contents of sub-para IX are incorrect and the same are hereby denied. That the recalculated



mineable area of 373.35 hectares and mineral potential of 224 lacs MT per annum and the defence of the misnomer regarding the Sukroon River are post-facto justifications that far exceeds what was initially stated. These are not inadvertent clerical errors but substantial oversight suggesting their negligence, with a direct and material impact on the legal foundation of the approvals granted for mining, in clear violation of MoEF Notification dated 15.01.2016, MoEF Notification dated 25.07.2018, Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement & Monitoring Guidelines for Sand Mining, 2020.

- X. That the contents of sub-para X are Matter of Record.
- XI. That the contents of sub-para XI are incorrect and the same are hereby denied. That the contents of the sub-para XI in the Original application are not false. That the applicant reiterates the facts and circumstances stated in the sub-para XI of the Original Application.
- XII. That the sub-para XII, XIII, XIV, XV, XVI, XVII doesn't require any reply.



- XIII. That the contents of the sub-para XVIII, XIX, XX are Matter of Record.
- XIV. That the sub-para XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII doesn't require any reply.
- XV. That the contents of sub-para XXIX, XXX, XXXI, XXXII, XXXIII are Matter of Record.
- XVI. That the contents of the sub-para XXXIV are incorrect and are hereby denied. That there is violation of DSR and the Green laws are applicable. That the applicant reiterates the facts and circumstances stated in the sub para XXXIV of the Original Application.
- XVII. That it is denied that the contents of the sub para XXXV of the Original Application are false. That the contents of sub-para XXXV of the reply are incorrect and the same are hereby denied. It is further respectfully submitted that the Mining Plan of the Respondent is in violation of the DSR. **That** the DSR for Ambala limits mining area to 10.11 hectares and total mineable mineral reserve at 38.29 lakh MT yet Respondent No.10 has been authorized for mining over approximately



42.70 hectares and permitted to extract 12 lakh MT, contributing to the total authorized extraction of 71 lakh MT, both of which are in clear violation of the DSR. That after the Applicant brought the issue to light, the Respondent engaged a NABL-recognised laboratory. However, at the time of approval of the Mining Plan, no such consultant had been engaged, which is a mandatory requirement under the MoEF Notification dated 15.01.2016, MoEF Notification dated 25.07.2018, Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement & Monitoring Guidelines for Sand Mining, 2020. Hence, the Mining Plan is vitiated and liable to be set aside.

XVIII. That the sub-para XXVIII doesn't require any reply.

XIX. That the contents of sub-para XXXVII of the reply are incorrect and the same are hereby denied. That no due diligence is followed and the Mining Plan is in violation of the DSR.

XX. That the contents of sub-para XXXVIII of the reply are incorrect and the same are hereby denied. That no due



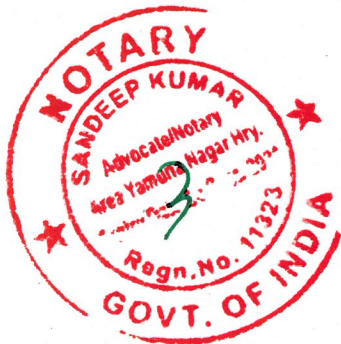
diligence is followed and the Mining Plan is in violation of the DSR.

9. That the Applicant reiterates contents of the Para 9 of the Original Application.
10. That the contents of Para 10 of the reply are incorrect and the same are hereby denied. That the contents of the Para 10 of the Original Application are reiterated.

**REPLY TO THE GROUNDS:**

A. That the Applicant reiterates the judgment of this Hon'ble Tribunal referenced in Para A of the Original Application, and asserts that the same is fully applicable to the present case. It is further submitted that there is a violation of the notification dated 15.01.2016.

B. That the Applicant reiterates the judgment of this Hon'ble Tribunal referenced in Para B of the Original Application, and asserts that the same is fully applicable to the present case. It is further submitted that there is a violation of the notification dated 15.01.2016.



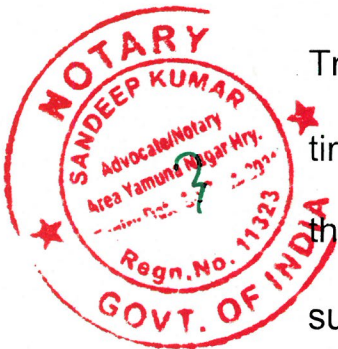
- C. That the Applicant reiterates the judgment of the Hon'ble High Court referenced in Para C of the Original Application, and asserts that the same is fully applicable to the present case. That it is further respectfully submitted that the auction notice is in contravention of the DSR.
- D. That the Applicant reiterates the judgment of this Hon'ble High Court referenced in Para D of the Original Application, and asserts that the same is fully applicable to the present case.
- E. That the Applicant reiterates the judgment of the Hon'ble High Court referenced in Para E of the Original Application, and asserts that the same is fully applicable to the present case.
- F. That the Applicant reiterates the judgment of this Hon'ble Tribunal referenced in Para F of the Original Application, and asserts that the same is fully applicable to the present case.
- G. That the Applicant reiterates the judgment of the Hon'ble Supreme Court referenced in Para G of the Original Application, and asserts that the same is fully applicable to the present case. That the Mining Plan is in violation of the DSR.



- H. That the Applicant reiterates the content of the Para H of the Original Application.
- I. That the Applicant reiterates the content of the Para I of the Original Application.

### LIMITATION

That in reply to the limitation clause it is respectfully submitted that the Applicant has filed the present application well within the prescribed limitation period. To elucidate, the cause of action in this case cannot be confined to a singular date but must be understood through the lens of continuous and recurring infringements. The doctrine of recurring cause of action has been expansively dealt with by the Principal Bench of this Hon'ble Tribunal in the *Doaba Paryavaran Samiti* case (OA No. 327 of 2015). There, the Hon'ble Tribunal held that when a series of acts or omissions continue over time, each instance constitutes an independent cause of action. In the same vein, the present application pertains to ongoing and successive violations of environmental norms and statutory

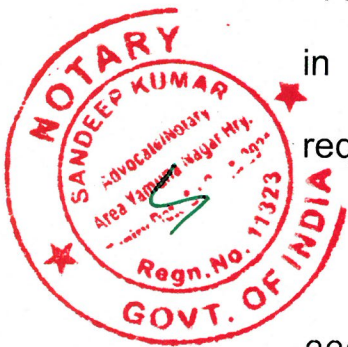


guidelines, which are not bound by a solitary moment in time but perpetuate a continuous breach of the Applicant's rights.

Moreover, the Hon'ble Supreme Court in *Hanumanthappa's* case examined the phrase "first arose" under Article 58 of the Limitation Act, 1963, concluding that where a claim is based on recurring wrongs, the limitation period does not solely begin from the first instance of harm. The present matter aligns with this reasoning, where each new breach, each violation of the District Survey Report (DSR), and each failure to comply with statutory obligations rekindles the Applicant's right to seek legal remedy.

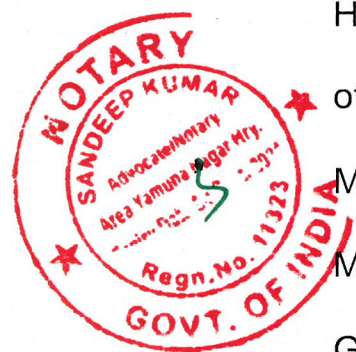
The term "cause of action" in legal parlance refers to a collection of essential facts necessary for a claimant to establish their case before the court to obtain relief. All facts asserted in the application need to be considered as a whole rather than piecemeal in determining what prompted the applicant to seek the relief requested.

In *Forward Foundation v. State of Karnataka* (O.A. No. 222/2014), the Hon'ble Tribunal elaborated on the concept of a recurring cause of action, noting that recurring events that breach rights can constitute fresh causes of action, even if they are linked



to earlier wrongs. In *M.R. Gupta v. Union of India* (1995) 5 SCC 628, the Hon'ble Supreme Court held that recurring wrongs, such as salary miscalculations in that case, give rise to new causes of action each time they occur, and the period of limitation would renew with each such breach.

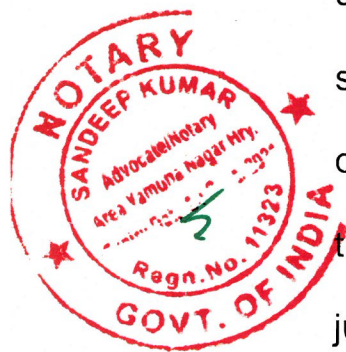
In the present case, the DSR was prepared in considering the Ministry of Environment, Forest and Climate Change (MoEF) Notification dated 15.01.2016. But, Subsequently, the Joint Committee report acknowledged that the original DSR was flawed. The cause of action arose when the Mines and Geology Department, through its letter dated 25.10.2023, formally admitted the deficiencies in the original DSR and indicated the necessity for its revision. Given the factual circumstances of the case, and the material fact that the Director of Mines and Geology, Government of Haryana, has approved the mining plans of Respondent No. 10 and others in clear violation of the MoEF Notification dated 15.01.2016, MoEF Notification dated 25.07.2018, Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement & Monitoring Guidelines for Sand Mining, 2020 and the DSR, it is evident that the illegality has been ongoing. Therefore, the present petition falls within the prescribed limitation period. It is also pertinent to note that



the Hon'ble Supreme Court has time and again expressly held that *the substantial rights of a litigant should not be defeated by procedural defects.*

The Honb'le Supreme Court in *Bhagwan Swaroop And Ors. vs Mool Chand And Ors. ( (1983)2SCC132)* Observed that “in the larger interests of administration of justice the Court may and the Court in fact does, excuse or overlook a mere irregularity or a trivial breach in the observance of any procedural law for doing real and substantial justice to the parties and the Court passes proper orders which will serve the interests of justice best.”

The Honb'le Supreme Court also observed in *State Of Punjab And Another vs Shamlal Murari & Anr (1976 (1) SCC 719)* “We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice. After, all Courts are to do justice, not to wreck this end product on technicalities.”



**PRAYER**

In light of the aforementioned submissions, the Applicant respectfully prays that this Hon'ble Tribunal may be pleased to allow the Prayer clause of the Original Application.

*Balbir*  
DEPONENT

474  
Ref. No. 204  
30-09-2024  
Date

**VERIFICATION**

Verified on 28/09/2024 that the contents of the present rejoinder affidavit are true and correct and nothing material has been concealed herein.

*Balbir*  
DEPONENT



**ATTESTED**

*Sandeep*  
**SANDEEP KUMAR**  
Advocate & Notary  
Distt Courts Jagadhri (YNR)  
30/09/2024