

**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

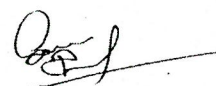
UNION OF INDIA AND OTHERS

...RESPONDENTS

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DRAWN AND FILED BY



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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. 9**

**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**

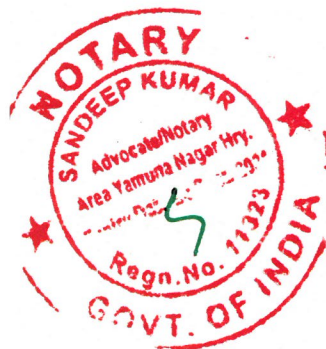
Ref. No. 474 of 2024  
Date: 30.09.2024



1. That the present rejoinder is being filed on behalf of Balbir Sandhu *“Applicant”*, in response to the Reply filed by *“Respondent 9”* 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. 9 in connection with the filing of their written statement.

Upon review of the Written Submission submitted by Respondent No. 9, 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 15.03.2024, and this date is consistently mentioned in the document, including in the end of the written statement, 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. 9, affirming that the document was executed on 15.03.2024.

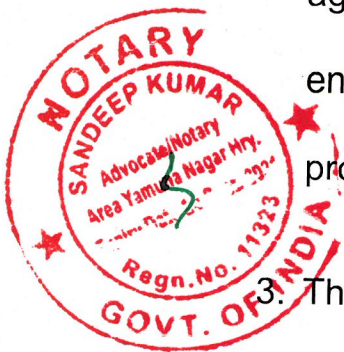


However, to the Applicant's utter shock, the affidavit accompanying the written statement is verified on the back date i.e. 12.01.2024, raising doubts regarding the authenticity and credibility of the document.

From the facts presented, it is crystal clear that Respondent No. 9 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 Honourable Court. In light of these grave irregularities, the Applicant humbly prays that this Honorable Court to take cognizance of the written statement submitted by Respondent No. 9 as the same is bad in law.

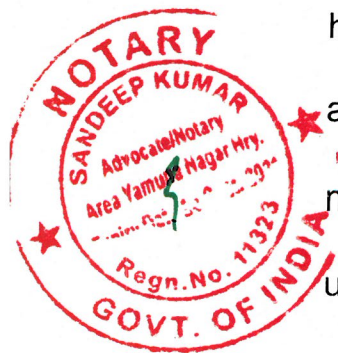
The Applicant further requests that the Honourable Court direct the State of Haryana to initiate appropriate penal action against Respondent No. 9 for attempting to deceive the court and engaging in conduct that undermines the sanctity of the judicial process.

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.

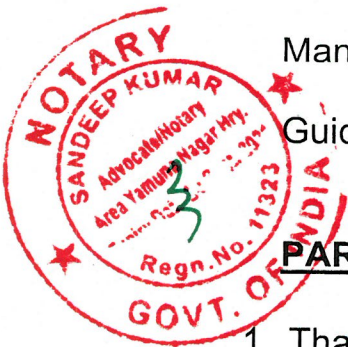
4. It is submitted that the detailed submissions made by the Applicant in the Original Applicant may be read as part and parcel of the present Rejoinder and the same is not being reiterated herein for the sake of brevity.
5. That the Applicant submits this rejoinder in response to the Reply filed by the Respondents 9, refuting the Respondents' contentions and reiterating the significant environmental violations resulting from approval of excessive mineral extraction and approval of excessive mineable area, 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 39.636 hectares . The magnitude of this overextension, beyond the permitted limits, undeniably violates the DSR.



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. 9 alone being permitted to extract 15 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 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:**

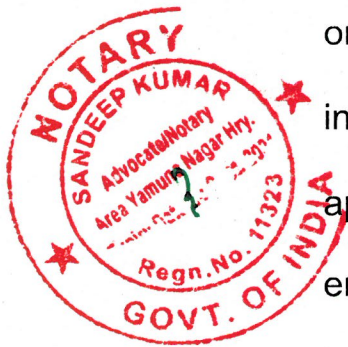
1. That the contents of the Para 1, Para 2, and Para 3 are Matter of Record.



2. That the contents of the Para 4 doesn't require any reply.
3. That the contents of Para 5 are incorrect and the same are hereby denied. That the applicant reiterates all the facts and circumstances stated in the the Original Application.

**REPLY TO PRELIMINARY SUBMISSION:**

4. That the contents of para no.06 are incorrect and the same are herein by deined. 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.

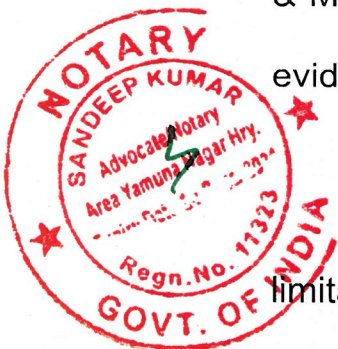


In *Forward Foundation v. State of Karnataka* (O.A. No. 222/2014), the Hon'ble Tribunal elaborated on the concept of a recurring cause of action, noting that recurring events that breach rights can constitute fresh causes of action, even if they are linked to earlier wrongs. In *M.R. Gupta v. Union of 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. 9 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

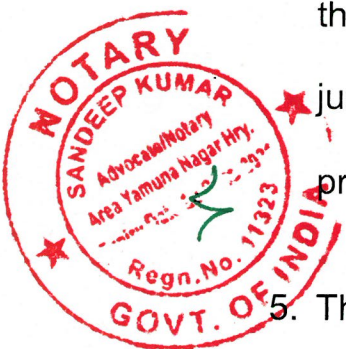


substantial rights of a litigant should not be defeated by procedural defects.

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."

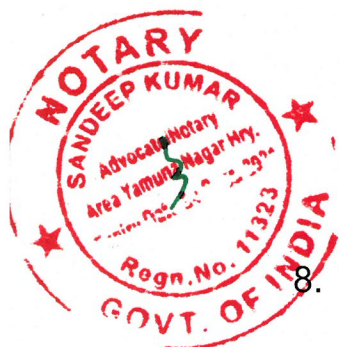
The Honb'le Supreme Court also observed in State Of Punjab And Another vs Shamlal Murari & Anr (1976 (1) SCC 719) "We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the 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."

5. That the contents of Para 7 are incorrect and the same are hereby denied. That the Applicant, as a concerned citizen, has every right to raise issues concerning environmental degradation and violations of statutory provisions, irrespective of the geographical



proximity to the project site. The Hon'ble Supreme Court, in various *judgments, has consistently held that in matters related to the public interest, the concept of locus standi is to be interpreted liberally to allow for the protection of the environment, which is of public interest. Environmental harm transcends district boundaries, and activities such as mining have a far-reaching impact on ecosystems, water bodies, and public health, which are not limited to the immediate vicinity of the project.*

6. That the contents of the Para 8 are Matter of Record.
7. That the Applicant contends that the concerns raised are indeed substantive and highlight significant violations of environmental laws and regulations, rather than mere procedural discrepancies. The concerns raised about exceeding extraction limits and mineable area and non-compliance with statutory guidelines directly impact local ecosystems and public health. The validity of the DSR and the mining plan approvals must adhere to both procedural and substantive environmental requirements.
8. That the contents of para 10 and 11 are incorrect and the same are hereby denied. That the concerned authority admitted to errors in the DSR only after the applicant raised concerns, including



discrepancies in the mineable area, total mineral potential. Their defence of inadvertent error to include Gravel In the DSR and the misnomer regarding the Sukroon River are post-facto justifications that far exceeds what was initially stated by them. 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.

9. That the contents of para 12 are incorrect and the same are hereby denied. The approval of the Respondent's mining plan, even as the first among three project proponents, does not mitigate the fact that the original DSR it is based on is flawed , which has been acknowledged in the Joint committee report as well. The Respondent cannot rely on a Mining Plan that is based on an erroneous DSR to justify the permissible limits of extraction. Consequently, the approval of the Respondent's mining plan remains legally questionable and should be revisited in light of the revised DSR.



10. That the contents of the para 13 , para 14, para 15, para 16 and para 17 are Matter of Record.

11. That the contents of para 18 are incorrect and the same are hereby denied. That the applicant reiterates the facts and circumstances stated in the Original Application.

**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



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