

**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

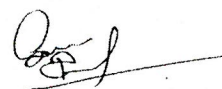
UNION OF INDIA AND OTHERS

...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:**

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UNION OF INDIA AND OTHERS ...RESPONDENTS

**REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANT****IN RESPONSE TO THE REPLY FILED BY RESPONDENT****NO. 3, 4, 5 and 7****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.

Ref. No. 474  
Date. 30-9-2024



2. That the present rejoinder is being filed on behalf of Balbir Sandhu *"Applicant"*, in response to the Joint Reply filed by *"Respondent 3, 4, 5 and 7"* to the present Original Application.
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.
4. It is submitted that the detailed submissions made by the Applicant in the Original Application 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 3, 4, 5 and 7, 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 Respondents 3, 4, 5, and 7 have admitted to significant errors in the DSR of Ambala District, only after the applicant raised concerns, including discrepancies in the mineable area, total mineral potential. The recalculated mineable area of 373.35 hectares and mineral potential of 224 lacs MT per annum and their defence of 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.

7. That Clause 4.1.1(a) of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 (the "2020 Guidelines") requires that DSR shall be prepared before Grant of mining lease/letter of Intent (LOI).

Clause 4.1.1(a) reads as follows:

*"District Survey Report for sand mining shall be prepared before the auction/e-auction/grant of the mining lease/Letter*



*of Intent (LoI) by Mining department or department dealing the mining activity in respective states.”*

8. That the Mining Plan and the Letters of Intent are based on original erroneous DSR. The errors were acknowledged in the Joint committee report and were also admitted by Respondent 3, 4,5 and Respondent No. 07.

9. That as stated above the 2020 Sand Mining Guidelines mandate that the District Survey Report for sand mining must be prepared prior to auction/e-auction, grant of mining leases/Letters of Intent (Lols). In present case, the auction, grant of mining plans and Letters of Intent (LoI) were all based on the original DSR with acknowledged errors. The revised DSR was prepared only after the grant of the mining leases and Letters of Intent (LoI). This post-facto revision is contrary to the 2020 Guidelines and renders the Auction, Mining Plan and Letters of Intent invalid.



10. The entire process of granting mining approvals, including the issuance of Letters of Intent (Lols) and mining plans, must be revisited, as they cannot be retroactively validated.

11. That in the matter of Dinesh Kumar vs. Mining Officer, Seoni & Ors. in O.A. No. 41/2022 (CZ) decided on 13.09.2022 wherein the

Tribunal after taking note of the Sand Mining Guidelines, 2020 had held as under:-

*“20. State of Madhya Pradesh in its rules named Madhya Pradesh Sand (Mining, Transportation, Storage and Trading) Rules, 2019 has provided the procedure for procurement of mining leases in State with the statutory permissions in accordance with the environmental rules as contained in Chapter-6 Section 12 which has been quoted above. In addition to above, the MoEF & CC, in supplement and addition to the Sustainable Sand Mining Management Guidelines, 2016 issued the Sustainable Sand Mining Management Guidelines, 2020 giving importance to the DSR and monitoring mechanism. The guidelines issued in 2020 in point no.4.1.1 (A) requires that DSR for sand mining shall be prepared before the auction/e-auction/ grant of the mining lease/ Letter of Intent (LOI) by Mining Department or department dealing in the mining activity in the respective state. The DSR is to be prepared in such a way that it not only identified the 7 mineral bearing area but also define the mining and no mining zones considering various environmental and*



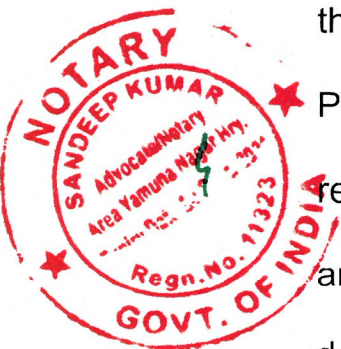
*social factors. The State Government shall issue Letter of Intent as per procedure laid down in there Mine and Mineral Concession Rules with due consideration of final DSR and that all districts have been required to prepare a comprehensive mining plan as per the provisions of District Survey Report and these report shall be put on the website of district administration. No mining shall be allowed in the area which had not been identified in the comprehensive mining plan of the district.”*

12. That in the matter of Gaurav Kumar vs. State of U.P & Ors. in O.A. No. 188/2023 (Principal Bench) decided on 20.08.2024 wherein the Hon'ble Tribunal after taking note of the Sand Mining Guidelines, 2020 had held as under:-

*19. Hence, we find that in view of Sand Mining Guidelines of 2020 and the judgment of the Hon'ble Supreme Court in the case of Pawan Kumar (Supra) the auction of the sand mines cannot be done in the absence of the valid DSR, therefore, an auction notice issued without there being a valid DSR is bad in law and cannot be sustained.*



13. That the river Markanda traverses through Sirmur District, Ambala District, and Kurukshetra District. Clause 9.3 of the 2020 Sand Mining Guidelines mandates that the draft District Survey Report (DSR) be made available for public consultation in all concerned districts through the respective district administration's website. However, in the present case, the draft of the revised DSR was published solely on the Ambala district website for public consultation, thereby failing to comply with the guidelines requiring its publication in all relevant districts.
14. That the Applicant also challenges the validity of revised DSR as it doesn't comply with the Clause 5 of the 2020 Guidelines. Clause 5 of the 2020 Guidelines, titled "Replenishment Study," provides a detailed mechanism for determining the rate of sand deposition during the monsoon season. This replenishment study is vital to ensure that the rate of sand extraction remains lower than the rate of deposition, thereby protecting the riverine ecosystem. Permitting mining operations without ascertaining the exact replenishment rate would lead to irreversible ecological damage, and may even result in the river changing its natural course, placing downstream villages and towns at heightened risk of flooding during the monsoon season. Clause 5.1 requires that help be taken of the



Central Water Commission etc. for preparation of replenishment *study, the report of Joint committee or the reply of the respondents* nowhere states that the replenishment study has been conducted.

15. Furthermore, Clause 5.2 mandates that samples must be analysed exclusively by a NABL-recognized laboratory. Despite this being a revised DSR, they have still failed to conduct the required replenishment study, which forms the foundation of any scientifically sound riverbed mining operation. The failure to conduct a replenishment study is not only bad in law but also poses a serious risk of causing irreparable harm to the sensitive riverine ecosystem.
16. That the applicant again submits that the approvals granted by the Director, Mines and Geology, Government of Haryana for the Mining Plans of RM Mines, SCP Commodities, and Reliable Mining Corporation are in clear violation of the DSR for Ambala District. The DSR specifies that the total mineable mineral reserves (boulders, gravel, and sand) are 38.29 lakh MT, and the total permissible mining area is 10.11 hectares. However, the Director has authorized extraction of approximately 71 lakh MT of minerals—far exceeding the DSR limit—across a mining area of 180 hectares. Specifically, RM Mines (Respondent 8) has been authorized 44.60 lakh MT over 99.9 hectares, SCP Commodities (Respondent 9) 15 lakh MT over



39.636 hectares, and Reliable Mining Corporation (Respondent 10) 12 lakh MT over 42.70 hectares. This gross overextension of both the mineable mineral quantity and mining area not only violates the DSR but also 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.

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



**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

Balbir  
DEPONENT

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