

NDOH: 14.11.2024

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

O.A. NO. 754 OF 2023

In the matter of –

Vipul Kumar ...Applicant

Versus

Uttarakhand Pollution Control Board & Ors. ...Respondents

INDEX

SL.NO.	PARTICULARS	PAGES
1.	Rejoinder of the Respondent No.5 to the Appellant's Reply dated 02.08.2024	1-12
2.	ANNEXURE R-1: True copy of O.M. dated 11.02.2014	13-16
3.	ANNEXURE R-2: True copy of OM dated 19.11.2014	17-23
4.	ANNEXURE R-3: True copy of MOEFCC notification dated 28.03.2020	24-25
5.	Vakalatnama	26-27
6.	Proof of Service	28

New Delhi

Date: 23.08.2024



(ROHAN THAWANI)
 Advocate for the Petitioner
 C-64, BASEMENT
 DEFENCE COLONY
 NEW DELHI 110024
 9810802319
rohantawani@gmail.com
 D-1061/2002

|

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
O.A. NO. 754 OF 2023**

In the matter of –

Vipul Kumar

...Applicant

Versus

Uttarakhand Pollution Control Board & Ors.

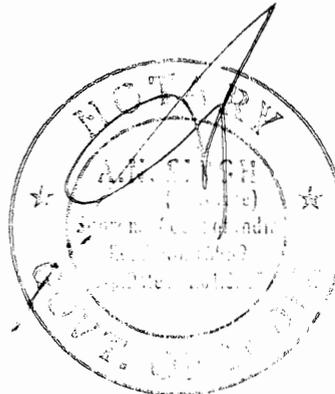
...Respondents

**REJOINDER OF RESPONDENT NO. 5 BALAJI BRICK FIELD
TO THE APPLICANT'S REPLY DATED 02.08.2024**

Most respectfully showeth –

I, Anuj Kumar, son of Shri Karn Pal Singh, aged 46 years, resident of Mohammadpur Jat, Gurukul Narsan, Roorkee, Haridwar, Uttarakhand 247670, owner of Respondent No.5 Balaji Brick Field, hereby affirm and state on oath as under -

1. I say that I am the owner of the Respondent No.5 Balaji Brick Field and I am aware of the facts of the case and am competent to swear the present affidavit.
2. The Respondent No.5 Balaji Brick Field is filing this rejoinder to Reply affidavit dated 02.08.2024 filed by the Applicant, pursuant to liberty granted by the Hon'ble Supreme Court of India vide its order dated 08.07.2024 passed in Civil Appeal No. 6366 of 2024.



2

3. At the very outset, it is submitted that all averments and contentions made in the reply by the Applicant are denied by the Respondent No.5, save and except what is specifically admitted to herein.
4. The Respondent No.5 also begs to point out that it has already filed a detailed reply dated 19.02.2024 to the captioned O.A. All the averments and contentions made therein are reiterated herein as well, and the same are not being reproduced herein for the sake of brevity. The Respondent No.5 shall rely upon both the reply dated 19.02.2024 as well as the present rejoinder during the course of hearing of the O.A.

PARA WISE REJOINDER

1. That the contents of para 1 need no reply.
2. That the contents of para 2 need no reply.
3. That the contents of para 3 are false and denied. The Applicant is estopped from claiming that the Consent to Establish dated 06.11.2020 granted to the Respondent No.5 for establishment of its brick kiln is illegal, for the simple reason that the OA does not contain any prayer to quash the said Consent to Establish dated 06.11.2020. This is already noted by this Hon'ble Tribunal in its order dated 20.02.2024.

Without prejudice to the above or any other submission, it is submitted that the argument of the Applicant is fallacious, because at the time the Respondent No.5 submitted its application for grant of Consent to Establish i.e. 28.10.2020, as well as on date of grant



3

of Consent to Establish i.e. 06.11.2020, as well as on the present date, there is no requirement in the State of Uttarakhand to obtain E.C. for excavating clay/earth soil as raw material for brick manufacturing. This is established by the following –

- i) On 11.02.2014, the Industries Department of the State of Uttarakhand issued an Office Memorandum exempting extraction of brick soil and ordinary soil for road filling from the definition of mining activity as per the Uttarakhand Minor Mineral Concession Rules 2001. True copy of O.M. dated 11.02.2014 is **Annexure R-1**.
- ii) Following this OM, another OM was issued on 19.11.2014 amending the relevant provisions of the Uttarakhand Minor Mineral Concession Rules, 2001, in the same terms. True copy of OM dated 19.11.2014 is **Annexure R-2**.
- iii) Thereafter on 28.03.2020, the Ministry of Environment, Forest & Climate Change (MOEFCC) issued a notification amending the EIA notification dated 14.09.2006, and Appendix IX was inserted, which states that – *“The following cases shall not require Prior Environmental Clearance, namely –*

13. Activities declared by the State Government under legislation or rules as non-mining activity.”
True copy of MOEFCC notification dated 28.03.2020 is **Annexure R-3**.

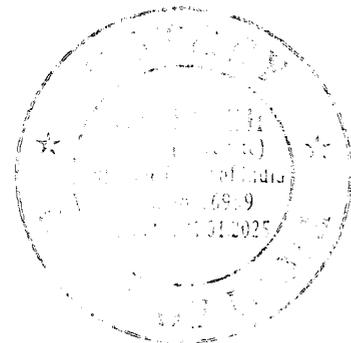


4

A combined reading of the OM's issued by the State of Uttarakhand in 2014, read with the MOEFCC notification dated 28.03.2020, would show that extraction of brick earth is a non mining activity in the State of Uttarakhand and no prior E.C. is needed. Hence, the submission of the Applicant that the Consent to Establish dated 06.11.2020 is void ab initio and non est for want of E.C. is totally fallacious and ought to be rejected by this Hon'ble Tribunal.

With respect to the letters submitted by Respondent No.5 at the time of applying for grant of Consent to Establish, as annexed by the Applicant in the reply, the same were issued in ignorance of the law and cannot bind the Respondent No.5. It later came to the knowledge of the Respondent No.5 that prior E.C. is not needed for brick kilns. Thus, the Applicant cannot bind the Respondent No.5 to its letters when the law provides otherwise.

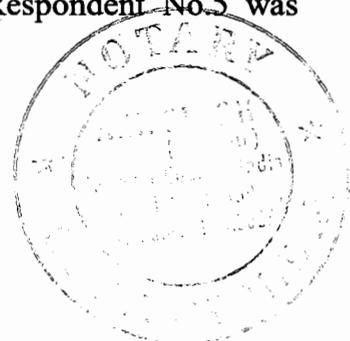
4. That the contents of para 4 are misleading and denied. The Applicant is misreading Clause 9 of the Consent to Establish. The period of one year which is mentioned therein is the outer time limit granted to the Respondent No.5 to actually construct and set up its brick kiln. It does not mean that the Consent to Establish is valid only for one year. The Consent to Establish is a permanent grant and is not to be renewed after lapse of one year. The only effect of clause 9 is that if the Respondent No.5 had failed to actually construct and establish its brick kiln within one year from grant of Consent to Establish, then the Consent to Establish would lapse and the Applicant would have to apply again. It is denied that the said clause 9 provides that the Respondent No.5 should "ensure to



5

obtain environmental approval as per rules for carrying out excavation of soil as raw material for brick kilns". There is no such requirement contained in clause 9 even as per the document annexed by the Applicant itself. This is a totally false submission without any basis in the document itself. It is thus denied that the Consent to Establish can be said to be void ab initio or non est. Again, without prejudice, It is reiterated that the Applicant has not challenged the validity of the Consent to Establish itself and hence it cannot make any such submission.

5. That the contents of para 5 are misleading and denied. For the reasons already stated, it cannot be said that the Consent to Establish was void, especially when there is no challenge to the Consent to Establish per se. Thus, the Applicant cannot contend that the CCA granted to the Respondent No.5 on 03.01.2023 is invalid because there is no Consent to Establish. Remaining averments relating to CPCB and MOEFCC requirements are also not correct since they proceed on the incorrect footing that the Respondent No.5 does not have a valid Consent to Establish.
6. That the contents of para 6 are misleading and denied. It is denied that the Respondent No.5 was operational since 2020 and the same is proved by its letter dated 02.12.2023, whereas CCA was granted on 03.01.2023. The Respondent No.5 through its letter of 02.12.2023 had only sought to convey to the UKPCB that it was validly established since 2020/2021 and hence should not have been arbitrarily shut down. Without prejudice, it is the own submission of the Applicant that if the Respondent No.5 was



6

illegally operating, the consequence of imposition of Environmental Compensation should have followed. If the UKPCB is of the view that the Respondent No.5 was illegally operating since 2020/21, the compensation may very well be imposed, which the Respondent No.5 will contest on its own merits. This submission of the Applicant has no relevance to the matter at hand.

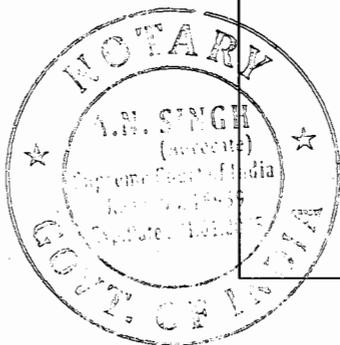
7. That the contents of para 7 are false and denied. Averments made above are reiterated herein. It is denied that the Respondent No.5 was operating illegally without obtaining CCA till 03.01.2023. In any event, the Respondent No.5 had a valid Consent to Establish dated 06.11.2020 which is not impugned by the Applicant in this O.A. Once the Applicant has a valid Consent to Establish, and is legally established prior to the notification dated 22.02.2022 coming into force, the said notification cannot have retrospective effect on the Respondent No.5. This is in complete contrast to the case of the Applicant itself, which was admittedly operating without any Consent to Establish, much less CCA, and hence it was held by this Hon'ble Tribunal on 12.10.2023 in OA No. 341 of 2023 that the Applicant cannot take advantage of its illegal establishment, and the notification dated 22.02.2022 is very much applicable to it. Thus, the siting criteria contained in notification dated 22.02.2022 is inapplicable to the Respondent No.5 which was validly established prior to the coming into force of the said notification.



7

8. That the contents of para 8 are not within the knowledge of Respondent No.5 and hence cannot be answered by it.
8. That the contents of para 8 (wrongly numbered) are denied. It is denied that the Respondent No.5 is operating in violation of the siting criteria specified in notification dated 22.02.2022. The Respondent No.5 has already submitted in its previous reply dated 19.02.2024 that is fully compliant with the siting criteria as per notification dated 22.02.2022, and this was even supported by the UKPCB in its affidavit filed before this Hon'ble Tribunal. This Hon'ble Tribunal in its order dated 20.02.2024 has also noted the compliance of siting criteria, and the said data is again being extracted herein for convenience of this Hon'ble Tribunal -

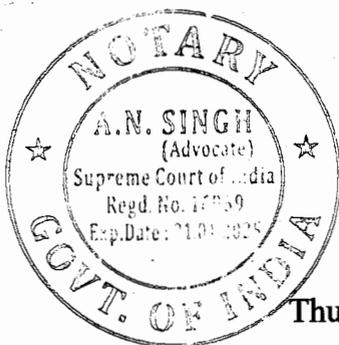
Sl.No.	Alleged violation by R-5	Correct facts
1.	It is located within 653.943 meters from Jai Mata Brick Field	<p>i) In order dated 22.09.2023 in <i>Vipin Kumar</i> OA No. 341 of 2023, Jai Mata Brick Field was found by this Hon'ble Tribunal to have been illegally established in 2020 and consent was granted for first time to it on 13.01.2023</p> <p>ii) on the other hand Respondent No.5 was legally established through Consent to Establish granted on 06.11.2020, thus the</p>



		<p>illegal establishment of Jai Mata Brick Field cannot be used to allege violation of siting criteria by Respondent No.5.</p> <p>iii) Following the judgment of this Hon'ble Tribunal dated 22.09.2023 whereby the consent granted to Jai Mata Brick Field was revoked, it is no longer in operation and thus there is no question of Respondent No.5 being situated within 1 km from an existing brick kiln.</p>
2.	It is located within 534.603 meters from nearby Pokhar (or pool)	This is no violation of Notification dated 22.02.2022, which does not speak of pokhar/pool at all. It only speaks of habitation/fruit orchard/existing brick kilns. Hence, existence of brick kiln close to pokhar/pool is not illegal.
3.	It is located within 722.346 meters from Harchandpur Village.	This is factually incorrect. The Respondent No.5 is located 850 meters from Harchandpur village and Google



		Map print out showing the distance is Annexure R-11. Thus, being located more than 800 meters away from habitation, it does not fall within the prohibited distance under clause 6.
4.	It is located within 815.321 meters of Chaudhary Bharat Singh High School	Even if Chaudhary Bharat Singh High School is considered to be within the definition of 'habitation' as used in para 6 of Notification dated 22.02.2022, still there is no violation as the prohibited distance is 800 meters. Here, Applicant himself is admitting that the distance is more than 800 meters hence no violation has occurred.



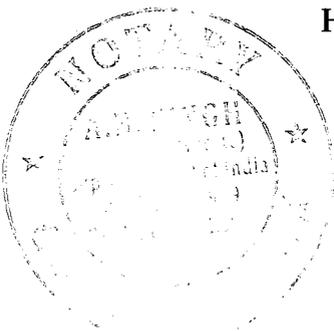
Thus, there is no violation of siting criteria as per notification dated 22.02.2022. Without prejudice, it is again submitted that since the Applicant was validly established on 06.11.2020, the siting criteria as per notification dated 22.02.2022 is inapplicable to the Respondent No.5.

9. That the contents of para 9 are denied and It is reiterated that the Respondent No.5 was legally established and the notification dated

10

22.02.2022 is inapplicable to the Respondent No.5. Even otherwise, Respondent No.5 is in compliance with the siting criteria as per notification dated 22.02.2022. Averments relating to the State PCB cannot be answered by the Respondent No.5.

10. That the contents of para 10 pertain to the UKPCB and cannot be answered by Respondent No.5.
11. That the contents of para 11 are false and denied. It is reiterated that the distance from the Applicant Jai Mata Brick Field is not relevant as the same is illegal as found by the judgment of this Hon'ble Tribunal dated 12.10.2023. Further, pokhar (water body/pond) is not part of the siting criteria as per notification dated 22.02.2022 and distance from pokhar is not material.
12. That the contents of para 12 are misleading and denied. In the first place, the orders passed by the Hon'ble Supreme Court in Civil Appeal D. No. 18213 of 2024 are in respect of Delhi and NCR districts only. The Respondent No.5 brick kiln is not located within Delhi NCR. Further, as already submitted above, the Respondent No.5 brick kiln was validly established as per law vide Consent to Establish dated 06.11.2020 and thus the siting criteria as per notification dated 22.02.2022 cannot be retrospectively applied to it. The submissions of the Applicant are misplaced.
13. That the contents of para 13 are false and denied. Respondent No.5 stands by the data placed by it on record, which is confirmed by the UKPCB itself, that it is located more than 850 meters from Village Harchandpur. If it is the contention of the Applicant that the



11

Respondent No.5 is located less than 800 meters from Village Harchandpur, it is for the Applicant to bring material before this Hon'ble Tribunal to prove its contention. It cannot seek to prove the Respondent No.5 wrong merely by disputing the statement of the Respondent No.5. The burden of proof is entirely on the Applicant which it has miserably failed to discharge. Submissions relating to UKPCB cannot be answered by the Respondent No.5.

14. That the contents of para 14 are a mere repetition of foregoing paras, and averments made above are reiterated herein as well.
15. That the contents of para 15 are false and denied. Even though the CCA was granted on 03.01.2023, the Respondent No.5 was validly established as per law prior to 22.02.2022, on the basis of Consent to Establish dated 06.11.2020 which is not even challenged before this Hon'ble Tribunal. Thus, the notification dated 22.02.2022 cannot be retrospectively applied to the Respondent No.5.
16. That the contents of para 16 are denied. The order dated 06.12.2023 passed by the UKPCB is not challenged before this Hon'ble Tribunal by the Applicant, and hence the Applicant cannot dispute its validity. In any event the said order was correctly passed as the operation of the Respondent No.5 was wrongly shut by the UKPCB without any basis in law or facts.
17. That the contents of para 17 are a mere repetition of foregoing paras, and averments made above are reiterated herein as well.



18. That the contents of para 18 are false and denied. The Applicant cannot read pokhar/water body as coming within the definition of flora/fauna/habitat. This is nothing but an absurd attempt of the Applicant to expand the plain words of the notification dated 22.02.2022 and read into it something which is not there. Since the words pokhar/pond/water body are absent from clauses 6 and 7 of the notification dated 22.02.2022, the same cannot be said to be part of the siting criteria. Further, the averment that clause 6 permits the State PCB's to make siting criteria even more stringent is of no avail to the Applicant since the UKPCB has not come out with any rule/order/notification including pokhar/water body within the siting criteria.

19. That the contents of para 19 are false and denied and it is prayed that this OA be dismissed forthwith by this Hon'ble Tribunal with exemplary costs, as the same is nothing but an abuse of the process of law and is nothing but a counter blast to OA No. 341 of 2023 in which the Applicant suffered adverse order and was shut down.

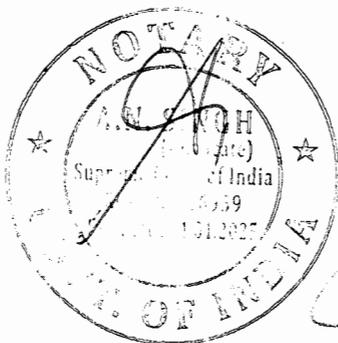
[Handwritten Signature]
DEPONENT

VERIFICATION 23 AUG 2024

I, the deponent above named do hereby verify and state that the contents of the affidavit are true and correct to the best of my knowledge and belief.

Verified on this 23rd Day of August 2024 at New Delhi

[Handwritten Signature]
DEPONENT



[Handwritten Signature]
ATTESTED
A. N. Singh Adv.
New Delhi

23 AUG 2024

Identified
[Handwritten Signature]
I Identify the deponent who has
Signed/Put T.I. in my presence

13

ANNEXURE: R-1**Industrial Development****Order No. 315/VID-14/11-Writ/2012 T.C.- 01****Dehradun; Dated: 11, February, 2014****Office Memorandum**

After the damage caused by the terrible disaster in the state, there is an urgent need for brick soil and ordinary soil for road filling in the state for renovation and masonry construction and mining is a very small process. In view of the purpose of exempting the mining from environmental clearance or simplifying the process and keeping the development works moving smoothly, clarification in Rule-3 of Uttarakhand Minor Mineral Avoidance Rules, 2001 and sub-rule (1-A) after Rule-21-1) In view of abolishing the obligation of environmental clearance, Shri Governor gladly approves the following addition-

1. Explanation - Extraction of brick soil and ordinary soil for road filling will not come under mining operations

14

unless the depth of the mining site is more than 02 meters.

2. (1-a) Notwithstanding anything to the contrary contained in Rule 3, brick kiln owners and road construction organizations will have to pay royalty at the rates specified for the time being in the First Schedule of the Rules.

Sd/-xxx

RAKESH SHARMA

Additional Chief Secretary

Page No: 315(1)/VII-1-14/11-Writ/2012 T.C.-01, So noted.

1. Principal Secretary/Secretary to the Chief Minister, Government of Uttarakhand.
2. Private Secretary, Hon'ble Ministers, Uttarakhand for the cognizance of the Measurement Ministers.

15

3. Registrar, Hon'ble National Green Tribunal, Faridkot House, Copornicus Marg, Principal Bench, New Delhi-110001 for the cognizance of the Honorable Tribunal.
4. All Principal Secretaries/Secretaries/Incharge Secretaries, Government of Uttarakhand.
5. Private Secretary, Chief Secretary, Uttarakhand Government for the cognizance of the Chief Secretary
6. Divisional Commissioner, Kumaun Garhwal, Uttarakhand.
7. Director, Geology and Mining Unit, Directorate of Industries Uttarakhand, Bhopalpani, Dehradun.
8. All District Magistrates, Uttarakhand.
9. Senior Mine Officer, Garhwal Division/Kumaon Division, Geology and Mining Unit.
10. Secrecy (Council of Ministers) Section, Government of Uttarakhand.
11. To the Director, N.I.C, Secretariat Complex, Dehradun for publication in the departmental website.

16

12. Sent to Additional Director, Government Press, Roorkee with instructions to inform the same in the upcoming Gazette. While publishing it, ensure to make 100 copies available to the government.
13. Guard File.

Sd/-xxx

(Shailesh Bangoli)

Additional Secretary

Bhuvan Thakur
True Copy

Government of Uttarakhand**Industrial Development Section**

No. 1490/VII-1/2014/146-B/2010

Dehradun: Dated: 19 November, 2014

Office Memorandum

Uttarakhand Mineral Avoidance Rules regarding keeping the soil/stones extracted during hill cutting, digging of basement free from mining operations and environmental permission for the purpose of development of site on one's own private land in the hilly and plain areas of Uttarakhand. In 2001, Shri Governor gladly approves the substitution of additional provisions along with the existing provisions as follows:

S. NO.	Current Provision	In addition to the current provision hereby substituted provision:
1.	In order to simplify the process of mining of	Explanation in Rule 3 of Uttarakhand Minor Mineral

	<p>brick clay and ordinary clay and keep the development works moving smoothly, after the clarification in Rule-3 of Uttarakhand Minor Mineral Avoidance Rules, 2001 and Rule-21-1, the obligation of sub-rule 1A environmental approval has been abolished. For the purpose of doing so, the following has been added:</p> <p>(1) Explanation brick soil and road to remove ordinary soil for filling</p>	<p>Avoidance Rules, 2001 and sub-rule 1A environmental approval after Rule 21-1, with the aim of simplifying the process of mining of brick soil and ordinary soil and ensuring smooth progress of development works. For the purpose of eliminating the obligation, the following has been added:</p> <p>(1) Explanation: Extraction of brick soil and ordinary soil for road filling will not be covered under mining operations unless the</p>
--	--	---

	<p>will not be covered under mining operations Unless the depth of the mining site is 02 metres.</p> <p>Do not exceed.</p> <p>(2) (1-a) Notwithstanding anything contained in Rule 3, Despite being unfavorable, brick kiln owners and the road construction organization has to follow the rules for the first time.</p> <p>Royalty at the rates for the time being specified</p>	<p>depth of the mining site is more than 02 meters.</p> <p>(2) (1-a) Notwithstanding anything to the contrary contained in Rule 3, brick kiln owners and the road construction organization has to follow the rules for the first time.</p> <p>Royalty at the rates specified for the time being in the Schedule will have to pay. additional substituted provisions.</p> <p>Hilly areas and plains of Uttarakhand site in own private land in areas cutting of hills for the</p>
--	--	---

20

	<p>in the Schedule will have to pay.</p>	<p>purpose of development, Excavation of basement or leveling of land simple clay to the same private land plot or own if it is taken to any other plot, then it will not come under the category of mining and thus there will be no obligation of EIA in this regard, for this JCB can be used and it will be ensured that this process is done only on its own. The private measurement will be applicable only on the ordinary soil taken out for the purpose of land. This</p>
--	--	---

21

		<p>will not apply to other grinding operations.</p> <p>If as mentioned above, ordinary soil is transported from a plot of private land to some other place for commercial use, then the said person will have to pay royalty at the rates specified for the time being in the first schedule of the rules. Prior permission under paragraph 7 of point number 2 of Uttarakhand Mineral Policy, 2011 will have to be obtained.</p>
--	--	---

Sd-xxx
(Rakesh Sharma)

22

Additional Chief Secretary.

Page No.: 1490 (1)/VII-1/2014/146-B/2010, dated the same.

Copy sent to the following for information and necessary action.

- 1 Principal Secretary/Secretary, Honorable Chief Minister, Government of Uttarakhand.
- 2 To the Private Secretary, Hon'ble Ministers, Uttarakhand for the cognizance of the Hon'ble Ministers.
- 3 All Principal Secretaries/Secretaries/Incharge Secretaries, Government of Uttarakhand.
- 4 Private Secretary, Chief to the Secretary, Government of Uttarakhand for the cognizance of the Chief Secretary.
- 5 Private Secretary, Additional Chief Secretary, Government of Uttarakhand for the cognizance of Additional Chief Secretary.
- 6 Divisional Commissioner, Kumaon/Garhwal, Uttarakhand.
- 7 Director, Geology and Mining Unit, Directorate of Industries Uttarakhand, Bhopalpani, Dehradun.

23

- 8 All District Magistrates, Uttrakhand.
- 9 Secrecy (Council of Ministers) Section, Government of Uttarakhand.
- 10 Sent to Additional Director, Government Press, Roorkee with instructions to publish the above in the upcoming Gazette. While publishing, ensure to make 100 copies available to the government.
11. Director, NIC, Secretariat Complex, Dehradun.
- 12 Guard File.

Praveen Thakur
True Copy

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 28th March, 2020

S.O. 1224(E).—WHEREAS, *vide* the Mineral Laws (Amendment) Act, 2020 (2 of 2020), the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) (hereinafter referred to as MMDR Act) has been amended with effect from the 10th day of January, 2020 and, *inter alia*, new section 8B relating to the provisions for transfer of statutory clearances has been inserted;

AND WHEREAS, sub-section (2) of section 8B of the MMDR Act provides that notwithstanding anything contained in this Act or any other law for the time being in force, the successful bidder of mining leases expiring under the provisions of sub-sections (5) and (6) of section 8A and selected through auction as per the procedure provided under this Act and the rules made thereunder, shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like vested with the previous lessee for a period of two years;

AND WHEREAS, sub-section (3) of section 8B of the MMDR Act provides that notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the new lessee to continue mining operations on the land, in which mining operations were being carried out by the previous lessee, for a period of two years from the date of commencement of the new lease;

AND WHEREAS, in pursuance of the aforesaid amendment to the MMDR Act, the Central Government deems it necessary to align the relevant provisions of the notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 1533 (E), dated the 14th September, 2006 (hereinafter referred to as the EIA Notification, 2006);

AND WHEREAS, the Ministry of Environment, Forest and Climate Change is in the receipt of representations for waiver of requirement of prior environmental clearance for borrowing of ordinary earth for roads; and manual extraction of lime shells (dead shell), shrines, etc., within inter tidal zone by the traditional community;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government, after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of the rule 5 of the said rules, in public interest, and in supersession of the notification number S.O. 4307(E), dated the 29th November, 2019, hereby makes the following further amendments in the EIA Notification, 2006, namely:-

In the said notification,-

(i) in paragraph 11, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:-

“(3) The successful bidder of the mining leases, expiring under the provisions of sub-sections (5) and (6) of section 8A of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and selected through auction as per the procedure provided under that Act and the rules made thereunder, shall be deemed to have acquired valid prior environmental clearance vested with the previous lessee for a period of two years, from the date of commencement of new lease and it shall be lawful for the new lessee to continue mining operations as per the same terms and conditions of environmental clearance granted to the previous lessee on the said lease area for a period of two years from the date of commencement of new lease or till the new lessee obtains a fresh environmental clearance with the terms and conditions mentioned therein, whichever is earlier.

Provided that the successful bidder shall apply and obtain prior environmental clearance from the regulatory authority within a period of two years from the date of grant of new lease.”;

(ii) in the Schedule, against the item 1(a), in the column (5), after clause (2) of the Note, the following clause shall be inserted, namely:-

“(3) The evacuation or removal and transportation of already mined out material lying within the mining leases expiring under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), by the previous lessee, after the expiry of the said lease, shall not form the part of the mining capacity so permitted to the successful bidder, selected through auction as per the procedure provided under that Act and the rules made thereunder.”;

(iii) for Appendix-IX, the following Appendix shall be substituted, namely:-

"APPENDIX-IX

EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE

The following cases shall not require Prior Environmental Clearance, namely:-

1. Extraction of ordinary clay or sand by manual mining, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs.
2. Extraction of ordinary clay or sand by manual mining, by earthen tile makers who prepare earthen tiles.
3. Removal of sand deposits on agricultural field after flood by farmers.
4. Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.
5. Community works, like, de-silting of village ponds or tanks, construction of village roads, ponds or bunds undertaken in Mahatma Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes and community efforts.
6. Extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc.
7. Dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management.
8. Traditional occupational work of sand by Vanjara and Oads in Gujarat vide notification number GU/90(16)/MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat.
9. Manual extraction of lime shells (dead shell), shrines, etc., within inter tidal zone by the traditional community.
10. Digging of wells for irrigation or drinking water purpose.
11. Digging of foundation for buildings, not requiring prior environmental clearance, as the case may be.
12. Excavation of ordinary earth or clay for plugging of any breach caused in canal, nallah, drain, water body, etc., to deal with any disaster or flood like situation upon orders of the District Collector or District Magistrate or any other Competent Authority.
13. Activities declared by the State Government under legislations or rules as non-mining activity."

[F. No. Z-11013/47/2018-IA.II (M)]

GEETA MENON, Jt. Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended vide the following numbers:-

1. S.O. 1949 (E), dated the 13th November, 2006;
2. S.O. 1737 (E), dated the 11th October, 2007;
3. S.O. 3067 (E), dated the 1st December, 2009;
4. S.O. 695 (E), dated the 4th April, 2011;
5. S.O. 156 (E), dated the 25th January, 2012;
6. S.O. 2896 (E), dated the 13th December, 2012;
7. S.O. 674 (E), dated the 13th March, 2013;
8. S.O. 2204 (E), dated the 19th July, 2013;
9. S.O. 2555 (E), dated the 21st August, 2013;
10. S.O. 2559 (E), dated the 22nd August, 2013;
11. S.O. 2731 (E), dated the 9th September, 2013;
12. S.O. 562 (E), dated the 26th February, 2014;
13. S.O. 637 (E), dated the 28th February, 2014;

Geeta Menon

TRUE COPY

26

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH
AT NEW DELHI

ORIGINAL APPLICATION NO. 754 OF 2023

Vipul Kumar ...Applicant
Versus
Uttarakhand Pollution Control Board & Ors. ...Respondents

I, Proprietor of Respondent No. 05, the above
named do hereby appoint

ROHAN THAWANI
Advocate

Off: C-64, LGF, Defence Colony, New Delhi - 110024

To be my/our Advocate in the above noted case. I / We authorize them to act, appear and plead in the above-noted case in this Court in which the same may be tried or heard and also in the appellate Court.

To sign, file, verify any present pleadings, replication, appeals, cross-objections or petitions for executions, review, revision, restoration, or other documents as may be deemed necessary or proper for the prosecution of the case in all its stages.

To file and take documents.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take out execution proceedings.

To deposit, draw and receive moneys, cheques and grant receipts, thereof, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

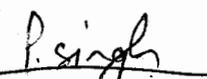
To appoint and instruct any other Legal Practitioner authorizing them to exercise the powers and authorities hereby conferred upon the Advocate when-ever he may think fit to do so and to sign the power of attorney on my/our behalf.

And I / We, the undersigned do hereby agree to ratify and confirm the acts, done by the said Advocate and / or his substitute in the matter as my/our own acts as if done by me / us to all intents and purposes.

27

IN WITNESS WHEREOF I / We do hereunto set my / our hand to these presents
this 23rd day of August, 2024

Accepted, Identified & Certified

				
ROHAN THAWANI D/10612002	POOJA DHAR D/1413/2003	AAKRITI VIKAS D/12958/22	S. AMBICA D/1063/22	PRATUL PRATAP SINGH D/1125/22

Advocates for Applicant
 Off: C-64, LGF, Defence Colony, New Delhi-110024
 Mob. No. 9810802319
 Email : rohanthawani@gmail.com

Identified
Rohan Thawani
Advr. **RESPONDENT NO. 05**
BALAJI BRICK FIELD
THROUGH PROPRIETOR





28

Krishna Veer <krishnaveer100@gmail.com>

Advance service of Rejoinder of the Respondent No. 05 to the Appellant's Reply dated 02.08.2024 in the matter of : Vipul Kumar Vs. Uttarakhand Pollution Control Board & Ors.

1 message

Krishna Veer <krishnaveer100@gmail.com>

Fri, Aug 23, 2024 at 1:07 PM

To: msukpcb@yahoo.com, ajayaggarwal.cpcb@nic.in, dm-har-ua@nic.in, mcfcc@gov.in, "neerajsharmaaorsc@gmail.com" <neerajsharmaaorsc@gmail.com>, first.legal17@gmail.com

Sir

Kindly find attached herewith the scanned copy of Rejoinder of the Respondent No. 05 to the Appellant's Reply dated 02.08.2024 in the matter of : Vipul Kumar Vs. Uttarakhand Pollution Control Board & Ors.

Regards

Krishna Veer, Clerk
of Mr. Rohan Thawani, Adv.
9953497729

**Rejoinder of R5 to Appellant Reply dtd. 02.08.2024.pdf**

550K