

**BEFORE THE NATIONAL GREEN TRIBUNAL****WESTERN ZONE BENCH AT PUNE****ORIGINAL APPLICATION NO. 81 OF 2023****IN THE MATTER OF:**

JIGNESHBHAI CHHAGANBHAI TOGADIYA

... APPLICANT

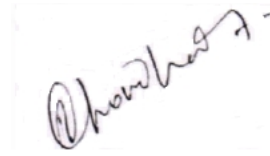
VERSUS

STATE OF GUJARAT &amp; ORS.

... RESPONDENTS

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**THROUGH****RITWICK DUTTA****RAHUL CHOUDHARY  
ADVOCATES**

COUNSELS FOR THE APPLICANT

N-73, Lower Ground Floor

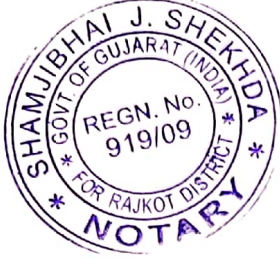
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**PLACE: PUNE/NEW DELHI****DATE:- 15.01.2025**



**BEFORE THE NATIONAL GREEN TRIBUNAL  
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**REJOINER TO REPLY AFFIDAVIT BY RESPONDENT NO. 5 DATED  
12.12.2024 ON BEHALF OF THE APPLICANT ALONG WITH AFFIDAVIT**

**MOST RESPECTFULLY SHOWETH:**

1. That the above-titled Original Application is filed under Section 14 and 15 read with Section 20 of the National Green Tribunal Act, 2010 raising substantial question relating to the environment arising out of the illegal sand mining happening in the CRZ area of Tapi River in village Dumas, Taluka Majura of Surat district in Gujarat, in violation of the Coastal Regulation Zone Notification, 2011, EIA Notification, 2006, Sustainable Sand Mining Management Guidelines, 2016 (SSMMG) and Enforcement and Monitoring Guidelines for Sand Mining, 2020 (ESMGSM) issued by MoEF&CC and orders and directions passed by this Hon'ble Tribunal.
2. That the present Rejoinder is being filed in response to the Reply Affidavit filed by the Respondent No. 5, Commissioner of Fisheries dated 30.10.2024 (hereinafter referred to as 'Fisheries Department'). At the outset, the Applicant denies the contents of the Reply filed by the Respondent No. 5 unless expressly admitted or are a matter of record. The Applicant reiterates that all facts and submissions made in the Original Application and Response to the Joint Committee Report to be true and correct and same may be read as part of the instant rejoinder and are not being repeated for the sake of brevity.

**PARA WISE REPLY:**

3. That the contents of Para 1 to 5 do not require a reply from the Applicant.

*Togadiya*

4. That the contents of Para 6 and 7 are denied. In response to Para 7, it is submitted that on perusing the translated copy of the NOC from the Fisheries Department to Respondent No. 7 provided in the Reply Affidavit (**Annexure 2-A, Pg. 592**), the following condition has been mentioned:

*"3. Silt, sediment, and gravel extracted during sand excavation, desilting and dredging shall have to be spread out on the riverbank without disturbing the river flow and affecting adjacent properties at their own expense and by themselves."*

It is that from the above-mentioned condition, it can be clearly seen that the Fisheries Department has issued permits for all activities- sand mining, dredging and desilting. That in response to both Para 6 and 7, it is submitted that firstly, there is no clarity as to which activity has been given permission to because all three activities have separate purposes. Sand Mining is a commercial activity where the excavated sand is sold for commercial purposes and is not permissible according to Para 3(x) of the CRZ Notification, 2011. Dredging is undertaken to bring out excess mud or other objects from river and sea bed for maintenance and clearing of waterways whereas De-silting is removal of excessive fine sand, clay or other material carried by running water. Both dredged and de-silted sand are not used for commercial purpose, and deposited back into other stretches of the water body, and they require CRZ Clearance under Para 3(iv)(c) of the CRZ Notification, 2011. Secondly, the above-mentioned Condition, clearly gives permission for sand mining meaning that the 'dredged' sand can be sold for commercial purpose, which is not permissible.

5. That the contents of Para 8 and 9 are denied. As stated in the above-mentioned Para, the NOC from Fisheries Department ought not to have been issued considering there is no clarity as to what permission is being given to the Project Proponent. It can be clearly seen that all three permissions were granted i.e. sand excavation which is sand mining, dredging and de-silting. Further, the Condition No. 6 of the NOC (**Annexure 2-A, Pg. 593**) states that:

*"6. It is required to pay premium charges which may be determined by the Commissioner of Fisheries at the Commissionerate of Fisheries, in addition to the royalty charges and other taxes to the Mines and Minerals Department."*

From the above-mentioned Condition, it can be clearly seen that royalty has been imposed on the Project Proponent. This Hon'ble Tribunal in **Udaya Suvarna & Anr.**

Tosadiya



*v. Udupi District Sand Monitoring Committee & Ors. (O.A. No. 252 of 2017)(SZ)*, by order dated 18.05.2022 had observed that royalty charged and allowing the permit holder to sell the sand is sand mining. (Para 21, Pg No. 26, Original Application).

6. That therefore, this Hon'ble Tribunal may consider the above-mentioned submissions on behalf of the Applicant for further adjudication of the matter.



THROUGH

**RITWICK DUTTA**

*Togadiya*  
**APPLICANT**

**RAHUL CHOUDHARY**  
**ADVOCATES**

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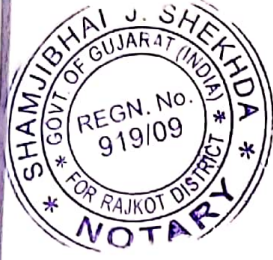
**VERIFICATION**

Verified by Jigneshbhai Chhaganbhai Togadiya, S/o Chhaganbhai Mavajibhai Togadiya, aged about 40 years, R/o Shriram Shiv Shraddha Park-1, Behind Nehru Nagar, 80 Foot Road, Near Lala Park, Bhakti Nagar Kotda, Sangani, Rajkot, Gujarat-360002, do hereby verify that the contents of Paragraphs 1 to 6 are true to my personal knowledge and nothing material has been concealed therefrom.

*Togadiya*  
**APPLICANT**

**Place: Pune/New Delhi**

**Date: 15-1-2025**



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...APPLICANT

VERSUS

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...RESPONDENTS

**AFFIDAVIT**

I, Jigneshbhai Chhaganbhai Togadiya, S/o Chhaganbhai Mavajibhai Togadiya, aged about 40 years, R/o Shriram Shiv Shraddha Park-1, Behind Nehru Nagar, 80 Foot Road, Near Lala Park, Bhakti Nagar Kotda, Sangani, Rajkot, Gujarat-360002, do hereby solemnly affirm and declare as under:

That I am the Applicant in the above titled Original Application and conversant with the facts and circumstances of the case and competent to swear this affidavit.

2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.



*Togadiya*  
DEPONENT

**VERIFICATION**

Verified on this 15 day of Janu., 2025 that the contents of the present Original Application are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

*Togadiya*  
DEPONENT

**Atested By**

*S J S*  
(Shamjibhai J. Shekhda)  
ADV. & NOTARY PUBLIC  
Govt. of Gujarat  
Rajkot Taluka  
Regn. No. 919/09



Solemnly affirmed before me by  
Shri. Suresh Chhaya who is  
Identified by Shri. S. S. Shekhda  
Advocate Who is Personally Known to  
me on this 15/01/2025 2025

*[Signature]*

SHAMJIBHAI J. SHEKHDA  
ADV. & NOTARY



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Receipt No. 279  
Date. 15/01/2025

