

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 & ORS.

... RESPONDENTS

INDEX

SI. No.	Particulars	Page No.
1	Rejoinder to Reply Affidavit by Respondent No. 6 dated 30.10.2024 on behalf of the Applicant	637-642

Proof of service

643

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

COUNSELS FOR THE APPLICANT

N-73, Lower Ground Floor

Greater Kailash-I,

New Delhi- 110048

Phone:- 9312407881

Email: Litigation@dclawchambers.com

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



**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 & ORS.

...RESPONDENTS

REJOINER TO REPLY AFFIDAVIT BY RESPONDENT NO. 6 DATED

30.10.2024 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. 6, Commissioner of Mines and Geology dated 30.10.2024 (hereinafter referred to as 'Mining Department'). At the outset, the Applicant denies the contents of the Reply filed by the Respondent No. 6 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 1-6 are a matter of record and do not require a response from the Applicant.

Togadiya

4. That the contents of Para 7-9 are denied. It is submitted that on a perusal of the permit annexed in the Reply Affidavit (**Annexure R-3, Pg 568**), it can be clearly observed that nowhere in the Permit has the term 'dredging' mentioned. The permit mentions 'Quarry Permit' everywhere which is in essence, sand mining, and hence, a prohibited activity under the Para 3(x), CRZ Notification, 2011. Hence, the permits are clearly giving permission to the Project Proponent to undertake sand mining and not dredging. Further, no sand mining activity can be allowed to be undertaken under the guise of dredging. This Hon'ble Tribunal in ***Udaya Suvarna & Anr. 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**). Also, this Hon'ble Tribunal in the case of ***Tribunal on its own motion Suo Motu based on the news item published in The Hindu Newspaper dated 30.05.2020, "Kerala Forest Department told to permit sand removal from Pampa" v. Chief Secretary of Kerala*** (O.A. No. 75 of 2020) (SZ), by order dated 19.04.2022 had held that if excess sand removed due to dredging is sold for commercial purposes, it will amount to mining (**Para 20, Pg No. 25, Original Application**).

5. That the contents of Para 10-13 are denied. It is submitted that the Mining Department has stated Clause 20 of the Quarry Permit as annexed in the Reply Affidavit (**Pg No. 568, 592**) which is reproduced below:

As soon as the removal of the material granted under the permit is over, the permit holder shall furnish to the District Geologist/District Assistant Geologist a complete statement showing the quantities removed, details of transport and usage. Parties to whom this material has been sold and prices obtained therefore, and shall produce any details, books etc., for the scrutiny to the District Geologist/District Assistant Geologist as may be called for by him."

Here, it can be clearly seen that the Mining Department is allowing selling of the excavated sand which depicts that the permits are for sand mining and not dredging as per the judgements mentioned above.

6. That the contents of Para 14 are denied. It is submitted that on perusing the translated copy of the NOC from the Fisheries Department to Respondent No. 7



Taxi

provided in the Reply Affidavit (**Annexure 2-A, Reply Affidavit of Respondent**

No. 5, 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 submitted 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. 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.

7. That the contents of Para 15 are denied. It is irrelevant whether any relevant guideline or SOP for granting permissions for dredging or not. The CRZ Notification has been in effect since 2011 and has distinctly prohibited sand mining activity, and has mandated the permission requirement for dredging activity. Since, the concerned areas are CRZ-I B and CRZ II areas, due caution must have been exercised before granting permits and not mechanically issued such permits. Sand mining permits cannot be issued in a CRZ area, which in this case, has been clearly issued and is illegal.
8. That the contents of Para 16 are denied. Firstly, the Mining Department has not annexed any relevant documents to show any kind of Inspection undertaken or temporary check posts established.

Toshiba D



9. 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

APPLICANTRAHUL CHOUDHARY
ADVOCATES

COUNSELS FOR THE APPLICANT
N-73, LOWER GROUND FLOOR,
GREATER KAILASH-I,
NEW DELHI-110048
MOBILE NO: 9312407881
Email: litigation@dclawchambers.com

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 9 are true to my personal knowledge and nothing material has been concealed therefrom.

APPLICANT

Place: Pune/New Delhi

Date: 15.1.2025



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 & ORS.

...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:

1. 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.



Jigneshbhai 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.

Jigneshbhai Togadiya
DEPONENT

Atested By

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



Solemnly affirmed before me by
Shri. Shamjibhai Chhuganbhai who is
Identified by Shri. S. S. Shekheda
Advocate Who is Personally Known to
me on this 15-10-2025


SHAMJIBHAI J. SHEKHDA
ADV. & NOTARY



Page No. 16/2025
Serial No. 278
Receipt No. 278
Date 15/01/2025



643

Litigation . <litigation@dclawchambers.com>

Copy of Rejoinder to reply R-5 and R-6 on behalf of the Applicant in OA No. 81 of 2023 Jigneshbhai Chhaganbhai Togadiya Versus. State of Gujarat & Ors.

1 message

Litigation . <litigation@dclawchambers.com>

Wed, Jan 15, 2025 at 6:16 PM


To: Saurabh Kulkarni <sdkadvocate@gmail.com>, Kamlesh Ode <kamlesh22713@gmail.com>, maulik@nanavatico.com

Dear Sir,


Please find attached- Copy of Rejoinder to reply R-5 and R-6 on behalf of the Applicant in OA No. 81 of 2023 Jigneshbhai Chhaganbhai Togadiya Versus. State of Gujarat & Ors.

Thanks & Regards

Counsel for the Applicant

2 attachments **Rejoinder Reply R-6 on behalf of the Applicant.pdf**

2083K

 **Rejoinder to Reply R-5 on behalf of applicant.pdf**

1678K