

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 974/2024**

IN THE MATTER OF:

Jitendra Nishad

Applicant

Versus

State of Uttar Pradesh

Respondent(s)

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**Filed by Adv. Atif Suhrawardy
Counsel for Central Pollution Control Board**

Date: - 28.11.2024

Place: Delhi

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 974/2024**

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Reply on behalf of Respondent No. 8, Central Pollution Control Board (CPCB)

1. That, Hon'ble National Green Tribunal, Principal Bench (hereinafter referred to as Hon'ble Tribunal) vide order 04.11.2024 has sought the reply of Answering Respondent No. 8 i.e., Central Pollution Control Board (hereinafter referred to as CPCB) in the instant matter. Thereby, the reply is made in succeeding paragraphs.
2. That at the very outset, the answering Respondent deny all claims, contentions, allegations and averments against answering respondent CPCB in the above Original Application (OA) contrary to anything stated or submitted in this reply. Nothing in the OA may be deemed to have been accepted or admitted by the answering Respondent for want of a specific denial, save any averment which has been expressly admitted hereinafter.
3. That, CPCB is a statutory Board constituted under Section 3 of the Water (Prevention and Control of Pollution) Act, 1974. It performs the functions under The Water (Prevention and Control of Pollution) Act (hereinafter Water Act), 1974, The Air (Prevention and Control of Pollution) Act, 1981 (hereinafter Air Act) and The Environment (Protection) Act, 1986.



4. That the Hon'ble NGT (PB) has taken Suo-moto cognizance in case no. OA No. 974 of 2024 (PB) on the basis of letter petition dated 13.12.2023 sent by one Jitendra Nishad alleging that illegal sand mining has been carried out in river bed and river stream of Yamuna in sand blocks Vidyapeeth and Mahewa Baswar as also Madaripur and Sadiyapur.
5. That the Hon'ble NGT vide order dated 27.09.2024 directed for constitution of joint committee comprising District Magistrate, Prayagraj, UP PCB, CPCB and IRO MoEF&CC Lucknow.
6. That, the joint committee in compliance of the aforesaid order dated 27.09.2024 had submitted its report on 02.11.2024.
7. That, the joint committee through its report observed that mining activities were allowed in the district at 03 mining leases and reported violation of environmental laws and norms with regard to the three mining leases. As the news item pertains to Prayagraj, Uttar Pradesh, therefore ACS (Environment, Forest and Climate Change Department, Uttar Pradesh), MS SEIAA (Uttar Pradesh), MS UPPCB, Director Geology & Mining Directorate (Uttar Pradesh), MoEF&CC, District Magistrate Prayagraj, Police Commissioner Prayagraj and PPs have also been made respondents in this matter and they are required to file their respective responses with regard to the observations and recommendations made by the joint committee its aforesaid report.
8. That, under the provisions of the Mines and Minerals (Development & Regulation), Act, 1957 (hereinafter called as "MMDR Act, 1957"), the States are empowered to make the rules for regulating the grant of prospecting licenses or mining leases in respect of minor minerals and making rules for



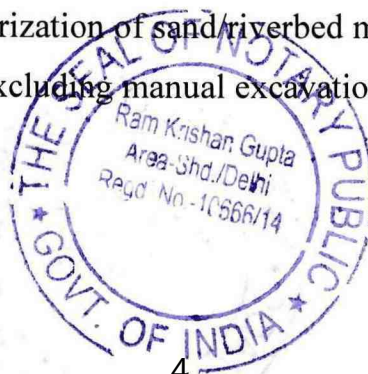
preventing illegal mining, transportation and storage of minerals. The Section of 23(C) of MMDR Act 1957, empowered States to make rules for preventing illegal mining, transportation and storage of minerals. All such mining which qualifies illegal, shall be dealt with in the provision of MMDR Act, 1957 by the concerned state authorities.

9. That Central Government has made it mandatory to obtain Environmental Clearance for mining of minerals. MoEF&CC published EIA Notification 2006 and its amendments regarding Environmental Clearance to be obtained by mine owner for mining activities, which includes Environment Impact Assessment/Environment Management Plan Reports. Impact of riverbed / sand mining on the water resources is assessed and necessary conditions for safeguarding the environment are stipulated while granting necessary environmental clearances required as per law.
10. That MoEF&CC issued “Sustainable Sand Mining Management Guidelines 2016” to promote scientific mining of sand and encourage environmental friendly management practices.
11. That for enforcement of the regulatory provisions related to river sand mining for effective monitoring and ensuring sustainable sand mining, MoEF&CC has issued “Enforcement and Monitoring Guidelines for Sand Mining” in January 2020.
12. That in a previous matter this Hon’ble Tribunal in OA No. 360/2015 titled as National Green Tribunal Bar Association vs. Virendra Singh (State of Gujarat), a report was prepared by an expert committee formed pursuant to order of this Hon’ble Tribunal comprising of representatives of Ministry of Environment, Forest and Climate Change, Central Pollution Control Board,



Indian Institute of Forest Management-Bhopal, Institute of Economic Growth-New Delhi and Madras School of Economics, Chennai to recommend a scale of compensation to NGT (PB) to deal with cases of illegal sand mining in whole of country and the report was submitted to NGT on 30.01.2020.

13. That Hon'ble NGT in the abovesaid O.A. vide order dated 26.02.2021 accepted the recommendations of the expert committee and directed that the scale of operation of compensation as per report dt.-30.01.2020 (Approach II) to be adopted by all States/UTs and Environment Secretary to evolve an appropriate mechanism for assessment of compensation in all Districts of the State and for utilisation of recovered compensation for restoration of environment by preparing appropriate action plan.
14. That as directed by this Hon'ble Tribunal vide order dated-26.02.2021 in the above said O.A., CPCB vide letter dated-11.06.2021 also issued directions to Environment Secretaries of States/UTs to evolve an appropriate mechanism for assessment of compensation in all Districts of the State and for utilisation of recovered compensation for restoration of environment by preparing appropriate action plan as per order dated-26.02.2024.
15. That the SPCBs/PCCs are empowered to regulate the industrial activity through grant of Consent to Establish and Consent to Operate including closure of of any industry, operation or process under the Water Act and Air Act.
16. That CPCB vide letter 22.09.2023 directed all SPCBs/PCCs to adopt and implement the categorization of sand/riverbed material mining from riverbed and its floodplains (excluding manual excavation) into consent mechanism.



17. The answering respondent No. 8 craves leave of this Hon'ble Tribunal for filing additional reply, if required, in future.

18. That, in light of the above submission, it is respectfully submitted that this Answering respondent i.e. CPCB, shall abide by any order(s) or direction(s) passed by this Hon'ble tribunal in the instant OA and render justice.



(Nazimuddin)
Scientist 'F'

Central Pollution Control Board



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 974/2024

IN THE MATTER OF:

Jitendra Nishad

Applicant

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AFFIDAVIT

I, Nazimuddin, working as Scientist 'F' in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi, the Respondent No. 8, in the above matter, do hereby solemnly affirm, declare on oath and state as under:-

1. That I, the deponent herein is the authorized representative to represent the Respondent CPCB in the present case, and as such, I am well conversant with the facts and circumstances of the present case on the basis of the information derived from the official records, and hence, I am competent to verify, sign and swear this affidavit on behalf of the Respondent CPCB.
2. That the accompanying reply may be read part and parcel of the present affidavit.
3. That the accompanying reply has been drafted and filed under my instructions and authority the contents thereof are true and correct on the basis of the records maintained during ordinary course of business of CPCB and available records and documents and the contents of the same are read over and explained to me and are not repeated herein for the sake of brevity.



A handwritten signature in blue ink, appearing to be "Nazimuddin".

DEPONENT

नाज़िमउद्दीन / Nazimuddin
वैज्ञानिक 'एफ' / Scientist 'F'
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(M/o Environment, Forest And Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

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VERIFICATION

Verified at Delhi on this day of 28 NOV 2024 2024 that the contents of the above reply are correct and true on the basis of the record of the cases as mentioned in the day to day affairs of the CPCB. Nothing has been concealed therefrom or mis-stated.




DEPONENT

नाज़िमउद्दीन / Nazimuddin
वैज्ञानिक 'एफ' / Scientist 'F'
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(M/o Environment, Forest And Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

ATTESTED


NOTARY
DELHI (INDIA)

28 NOV 2024

Item No. 15

Court No. 2

**BEFORE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 974/2024

Jitendra Nishad

Applicant

Versus

State of Uttar Pradesh

Respondent(s)

Date of hearing: 04.11.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None

Respondents: Mr. Mukesh Verma, Advocate for DM and Mining Department (through VC)
Mr. Atif Suhrawardy and Mr. Pankaj Kumar, Advocates for CPCB

ORDER

1. A letter petition dated 13.12.2023 sent by Jitendra Nishad was registered as Original Application (hereinafter referred to as '**OA**') under Section 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') in exercise of *suo-moto* jurisdiction in view of law laid down by Supreme Court in "**Municipal Corporation of Greater Mumbai vs. Ankita Sinha & Ors.**" reported in 2021 SCC Online SC 897. 2.

2. Complainant had said that in Sand Block Vidyapeeth and Mahewa Baswar as also Madaripur and Sadiyapur, illegal sand mining was being carried on in river bed and river stream of Yamuna in utter violation of environmental laws causing damage to aquatic animals/environment besides public revenue. No CCTV camera has been installed. The violators

are not being checked by concerned authorities and openly illegal mining is being carried out on river bank and stream by using hundreds to boats.

3. Tribunal after being *prima facie* satisfied that a substantial question relating to environment has arisen, found it appropriate to obtain a factual report and thus constitute a Joint Committee comprising:-

- i. District Magistrate, Prayagraj;
- ii. Uttar Pradesh Pollution Control Board (hereinafter referred to as 'UPPCB');
- iii. Central Pollution Control Board (hereinafter referred to as 'CPCB') and;
- iv. Integrated Regional Office, Ministry of Environment, Forest and Climate Change, Lucknow.

4. Joint Committee has submitted its report through CPCB, vide letter dated 02.11.2024. Report shows that mining activities were allowed to three mining leaseholders separately at village Vidyapit, Maheva, District Prayagraj, village Baswar, Tehsil Karchana, District Prayagraj and village Adampur (Madaripur to Sadiapur), District Prayagraj. Serious violations of environmental laws and norms have been found and even mid-stream mining has been found in Joint Committee report. Observations mentioned in Joint Committee report and recommendations reads as under:-

***“2.1. Inspection of mining activity at Village Vidyapeeth,
\lahewa***

2.1.1. Observations:

Observations based on Joint inspection and available records with RO-MOEF&CC and RO-UPPCB are as follows:

1. *The mining department has granted a mining lease of 8 Hectares total area for sand mining from the River Yamuna at Khand-16 near Village—Madauka, Mirakpur and Mahewa (West) Shri Ravishankar Shok12, S o Shri Pramanand Shukia, Resident—Saraykaji Kadan Urf Miyanpur, Thana—Line Bazar, District- Jaunpur.*
2. *Notice for e-tendering along with e-auction for the lease was issued by the District Magistrate, Prayagraj on 30.05.2020. (A copy of the e-auction notice is annexed as Annexure No. 2)*
3. *Letter of Intent (LoI) for the lease was issued by the District Administration to the Project Proponent (PP) on 11.08.2020. The LoI was issued for 8-hectare mine lease area (Quantity- 92973 m³ per year) for 5 years. (A copy of LoI is annexed as Annexure No. 3)*
4. *The public hearing for the said mining project was conducted on 20.10.2021.(Copy of MoM of public hearing is annexed as Annexure No. 4)*
5. *Environmental Clearance (EC) has been granted for sand mining in the lease area by State Level Environment Impact Assessment Authority (SEIAA), Uttar Pradesh on 08.03.2018 to Smt. Sunita Singh w/o Shri Raviraj Singh, Allahabad, vide letter no. 222/Parya/SEAC./3987/2018 dated 08.03.2018, which was further transferred on 15.10.2020 to Shri Ravi Shankar Shukla S/o Shri Pramanand Shukia, Resident- Saraykaji Kadan Urf Miyanpur, Thana- Line Bazar, District-Jaunpur for period up to 07.03.2023. Further EC was granted/renewed to the Project Proponent on 09.10.2023 for a period up to 30.11.2026. (A copy of EC is annexed as Annexure No. 5)*
6. *The above-mentioned mining lease has been granted by District Magistrate, Prayagraj (Mining Department) for the duration of 01.12.2021 to 30.11.2026.*
7. *The PP was granted Consent to Operate (CTO) under the Water (PCP) Act, 1974, and the Air (PCP) Act, 1981 on 17.11.2023, which is valid from 17.11.2023 to 31.12.2027. (Copy of CTO is annexed as Annexure No. 6)*
8. *As per the mining department. Prayagmys total of 174744 m³ of River Bed Material (RBM) has been excavated by the project proponent (from December 2021 to June 2024). Year wise quantity of mining details is as below:*

Year	Quantity excavated Permitted (m ³)	quantity (m ³)
Dec-2021-Dec 2022	56236	92973
Jan-2023 -Dec- 2023	58691	92973
Jan-2024-June 2024	59S17	92973

9. During the visit, it was observed that the mining operation had not started post-monsoon and preparation for carrying out the mining operation was going on. The representative of the project proponent has informed us that the mining process will begin as soon as the water level on the river banks decreases. Also, no mining operation was observed beyond the lease area at this site.

10. However, the satellite image shows that mining was conducted within and near the above lease area of 8 ha on 09.06.2024 in an unsaturated zone by river boats etc. which is against the Sustainable Sand Mining Guidelines, 2020 and Mining plan, etc. A related satellite image is enclosed as Annexure-7.

11. During the visit, all machinery was found removed from the site. Construction of a temporary camp office was under process. No weighing bridge and display board with mining lease information was available on site.

12. During the visit, following violation with respect to EC & CTO conditions, Mining Plan, Mining guideline etc were observed:

- a) No PTZ camera was found installed at the mining site. It is informed by the representative of the Project Proponent that the PTZ camera will be installed when the mining operation starts.
- b) During the visit, no pillar was found in the lease area. It was informed by the representative of the project proponent that all pillars have been removed due to the monsoon and will be reinstalled when the mining operation starts. Necessary action may be taken by the Mining Department to ensure the installation of a pillar within the lease area.
- c) The project proponent (PP) has been irregular in the submission of the six monthly compliance reports to the Regional Office, SELAA-JP.
- d) The PP has not carried out adequate plantation in compliance with CTO & EC conditions
- e) The PP has not carried out the hydro-geological study.
- f) The PP has not conducted a replenishment study of the area.
- g) The PP has not conducted third-party monitoring of various parameters including ambient air quality etc.
- h) The PP has yet not set up a solar power-mediated lighting system in their site office.
- i) The PP has yet not constructed two toilets and one hand pump in the mine office.
- j) During the visit, it was observed that roads used for the transportation of sand were unpaved and no dust control measures such as water sprinkling, plantation on both sides of the road, etc have been carried out.
- k) The PP has yet not conducted the digital processing of the entire lease area so far.

2.2. Inspection of sand mining activity at Village Baswar 2.2.1. Observations:

Observation based on Joint inspection and available records with RO-MOEF&CC and RO-UPPCB is as follows:

1. Mining lease of total area 4.69 Hectare has been granted for sand mining from River Yamuna at IChand-14 near Village- Baswar, Tehsil- Karchhana, District-Prayagraj to Shri Surendra Kumar S/o Shri Shivinurti Bharatiy, Resident-village-Bemi, Post- Garapur Thana- Tharwai, Tehsil- Phulpur, District-Prayagraj by Mining department.
2. Notice for E- tendering along with E- auction for the lease was issued by the District Magistrate, Prayagraj on 07.09.2017. (E- auction notice is annexed as Annexure No. 8)
3. Letter of Intent (LoI) for the lease was issued by the District Administration to the Project Proponent (PP) on 11.05.2022. The LoI was issued for 4.69 hectares mine lease area (Quantity- 70454 m³ per year) for the period of 5 years. (Copy of LoI is annexed as Annexure No. 9)
4. Environmental Clearance (EC) has been granted for mining in the lease area by State Level Environment Impact Assessment Authority (SEIAA), Uttar Pradesh on 08.03.2018 as amended on 21.12.2022. Further, EC is extended on 29.05.2023 for a period up to the revised LoI/ approved mining plan whichever is earliest. (A copy of EC is annexed as Annexure No. 10)
5. The PP was granted Consent to Operate (CTO) under the Water (PCP) Act, 1974, and the Air (PCP) Act, 1981 on 24.04.2023, which is valid from 24.04.2023 to 31.12.2027. (Copy of CTO is annexed as Annexure No. 11)
6. The above-mentioned mining lease has been granted by District Magistrate, Prayagraj (Mining Department) for the duration of 09.01.2023 to 08.01.2028.
7. As per the mining department, Prayagraj, total of 108517 m³ of minerals has been excavated by the project proponent (from January 2023 to October 2024). Year-wise quantity of mining details are as below:

Year	Quantity excavated Permitted (m ³)	quantity (m ³)
Jan, 2023-Dec, 2023	70453	'0454
Jan, 2024-Oct, 2024	38064	'045.1

8. During the visit, no pillar was found in the lease area. It is informed by the representative of the project proponent that all pillars have been

removed due to the monsoon and will be reinstalled when the mining operation starts. Necessary action may be taken by the District Mining Department to ensure the installation of a pillar within the lease area.

9. During the visit, it was observed that the mining operation had not started post-monsoon and preparation for carrying out the mining operation was going on. It is informed by the representative of the project proponent that the mining process will begin as soon as the water level on the river banks decreases. Also, no mining operation was observed beyond the lease area at this site.

10. However, the satellite image on dated 09.06.2024 shows that mining was conducted within and near the above lease area of 4.69 ha, which is against the Sustainable Sand Mining Guidelines, 2020 and Mining plan, etc. A related satellite image is enclosed as Annexure-7.

11. Satellite image dated 09.06.2024, clearly reflected that the mining was conducted within the lease area and outside of the lease area (within the river) by using large number of river boats, etc.. which is against the mining plan.

12. During the visit, all machinery was found removed from the site except the weighing bridge. Temporary camp office was installed at the site with a computer. A display board with the name of Project Proponent was available on camp office

13. During the visit, following violation with respect to EC & CTO conditions. Mining Plan, Mining guideline etc were observed:

- a) No PTZ camera was found installed at mining site. It is informed by the representative of the Project Proponent that the PTZ camera will be installed when the mining operation starts.
- b) The project proponent (PP) has been irregular in the submission of the six monthly compliance reports to the Regional Office. SELAA-UP. and UPPCB.
- c) The PP has not carried out adequate plantation in compliance of CTO & EC conditions.
- d) The PP has yet not carried out the hydro-geological study so far.
- e) The PP has not conducted a replenishment study of the area.
- f) The PP has not conducted third-party monitoring of various parameters including ambient air quality etc.
- g) Roads used for the transportation of sand were unpaved and no dust control measures such as water sprinkling, plantation on both sides of the road. etc have been carried out.
- h) As per the EC 2018, it is stated that the CSR plan with a minimum
Its 5 Lakh work to be executed with the installation of five

hand pump. solar light in the village of street and construction of the two toilets at the primary school, etc." No such work has been done so far.

- i) The PP has yet not conducted the digital processing of the entire lease area so far.

2.3. Inspection of sand mining activity at Village Adampur (Madaripur to Sadiyapur)

2.3.1. Observations:

Observation based on Joint inspection and available records with RO-MOEF&CC and RO-UPPCB is as follows:

1. Mining lease of total area 5 Hectare has been granted for sand mining from River Yamuna at Ithand -21 in Village- Adampur (Madaripur to Sadiyapur) to M/s Ram Ratan Construction. Shri Ram Ratan Nishad S o Late Lallu Lal, Resident- 6/41 Nai Jhunsi Bazar. Thana- Jhunsi. Tehsil Phulpur. District-Prayagraj by Mining department.
2. Notice for e-tendering along with e-auction for the lease was issued by the District Magistrate. Prayagraj on 20.05.2020. (e-auction notice is annexed as Annexure No. 12)
3. Letter of Intent (LoI) for the lease was issued by the District Administration to the Project Proponent (PP) on 24.12.2020. The LoI was issued for 5-hectare mine lease area (Quantity- 15000 m³ per year) for the period of 5 years. (A copy of LoI is annexed as Annexure No. 13)
4. First Environmental Clearance (EC) has been granted for mining in the lease area by State Level Environment Impact Assessment Authority (SEIAA), Uttar Pradesh on 10.01.2018 which was further transferred on 19.10.2021 to M/s Ram Ratan Construction for a period up to one year. Further EC was granted to the Project Proponent on 15.12.2023. (A copy of EC is annexed as Annexure No. 14)
5. The Project Proponent has not obtained Consent to Operate (CTO) under the Water (PCP) Act, 1974. and the Air (PCP) Act, 1981.
6. The above-mentioned mining lease has been granted by District Magistrate, Prayagraj (Mining Department) for the duration of 01.12.2021 to 30.11.2026.
7. As per the Mining department, Prayagraj total 15675 m³ of River Bed Material (RBM) has been excavated by the project proponent (from December 2021 to June 2024). Year-wise quantity of mining details are as below:

<i>Year</i>	<i>Quantity excavated (m³)</i>	<i>Permitted quantity (m³)</i>
<i>Dec, 2021-Dec, 2022</i>	<i>8175</i>	<i>15000</i>
<i>Jan, 2023-Dec, 2023</i>	<i>6438</i>	<i>15000</i>
<i>Jan, 2024-June 2024</i>	<i>1062</i>	<i>15000</i>

8. No mining operation was observed during the site visit. Path preparation for the movement of the vehicle was also observed at the site. It is informed by the representative of the project proponent that the mining process has not started yet. However, a small heap of sand was found stored in the lease area. No mining operation was observed beyond the lease area at this site.

9. However, the satellite image on dated 09.06.2024 shows that mining was conducted within and near the above lease area of 5 ha, which is against the Sustainable Sand Mining Guidelines, 2020 and Mining plan, etc. A related satellite image is enclosed as Annexure-7

10. During the visit, no machinery was found on site. No temporary camp office was found on site. No weighing bridge and display board with mining lease information was available on site.

11. During the visit, following violation with respect to EC & CTO conditions. Mining Plan, Mining guideline etc were observed:

- a) No PTZ camera was found installed at the mining site. It is informed by the representative of the Project Proponent that the PTZ camera will be installed when the mining operation starts.
- b) During the visit, no pillar was found in the lease area. It is informed by the representative of the project proponent that all pillars have been removed due to the monsoon and will be reinstalled when the mining operation starts. Necessary action may be taken by the Mining Department to ensure the installation of a pillar within the lease area.
- c) The project proponent (PP) has been irregular in the submission of the six monthly compliance reports to the Regional Office, SEIAA-UP, and UPPCB.
- d) The PP has not carried out adequate plantation in compliance with CTO & EC conditions.
- e) The PP has not carried out the hydro-geological study as per the EC condition.
- f) The PP has not accrued out replenishment study of the area.
- g) The PP has not conducted third-party monitoring of various parameters including ambient air quality etc.

- h) *During the visit, it was observed that roads used for the transportation of sand were unpaved and no dust control measures such as water sprinkling, plantation on both sides of the road, etc have been carried out as per EC condition.*
- i) *The PP has yet not conducted the digital processing of the entire lease area so far.*

3. Other Observations:

1. *District Survey Report (DSR) has been prepared for minor mineral excavation by the District Environment Impact Assessment Authority, Allahabad, and District Mining Officer- Allahabad, Department of Geology and Mining Uttar Pradesh on 05.09.2017. Updation of DSR is under process. A copy of the DSR report is annexed as Annexure-15.*

2. *The mining department carried out a Replenishment Study in rivers Vamuna & Ganga at Prayagraj through Central Planning & Design Institute Limited in December 2022. No replenishment study has been carried out in subsequent years i.e. 2023 & 2024. A copy of the Replenishment Study (December 2022) is enclosed as Annexure-16.*

3. *It is informed by the mining department that Mining Form-MM11 is generated when any vehicle is transported from the mining site and Form-NLM11 is checked at the check post by the task force constituted by the mining department from time to time. The camera is also installed at the checkpoint.*

4. *During the visit, storage of sand within the 5 km from the lease area was observed. In this regard, it is informed by the mining department that some stored sand within the 5 km of lease area has been seized earlier. However, the committee observed that more actions are required by the Mining Department to stop the illegal storage of sand. A copy of the Action taken by the Mining Department is annexed as Annexure-17.*

5. *Satellite image showed that significant mining activity was found within the lease and outside of the lease area by using large number of boats etc to excavate better quality of sand from the main stream of the river, which is completely against the mining plan, EC. CTO stipulations.*

6. *As per the specific condition of the EC the "Number of mining projects are coming up in district, department of Geology and mines can carry out Regional EIA-EMP report including carrying capacity of environmental components to assess the capacity of further bear the pollution load for such area within 1 year and submit the same to SEIAA-UP for evaluation". It has been found that no such study has been done so far.*

7. As per the specific condition of the EC the "Department of Geology & Mines. GoUP in consultation with the UPPCB will establish the required number of CAAQMS in the district within the period of one year and submit ego-referenced map of these station along with data. Details of existing CAAQMS. if any. be submitted within the period of three months. It has been found that no such action has been taken so far.

8. As per the specific condition of the EC the "Large number of mining projects are ongoing as well as new mining leases are coming up in the district. A reference be sent to DGM and MS. SPCB for preparing mitigation plan for controlling air pollution in the district especially in mining areas". It has been found that no such action has been taken so far.

The Directorate of Geology and Mining will ensure the conduct of replenishment study from reputed institutes for subsequent years in compliance of Hon'ble NGT order. The quantity mentioned in LoI or quantity mentioned in the replenishment study, whichever is less, would be the maximum quantity that the project proponent may extract. It will be ensured by the District Administration and Geology and Mining Department.

4. Recommendations:

Based upon the above observations, Joint Committee recommends as below:

1. Mining Department shall take necessary action against all leases, who have done mining not as per the approved mining plan and illegal mining found near the lease area in River l'amuna.

2. Based on the above observation, it has been found that the yearly Replenishment study of the area has not been done either by the Mining Department or the concerned project. SEIAA-UP has already stipulated related conditions in the Environmental Clearance issued to above listed project. The Mining Department to take cognizance and submit the report before SEIAA-UP at the earliest.

3. The Mining Department should take necessary action against all the illegal storage of sand around the mining lease area.

4. UPPCB shall take necessary action against all three Project Proponents for violation of CTO conditions. UPPCB should take necessary action against the lessee M/s Ram Ratan Construction, who has operated the mine without valid Consent to Operate (CTO) under the Water (PCP) Act, 1974, and the Air (PCP) Act, 1981.

5. Non-compliance has been observed by the Joint Committee during the inspection of the area. SEIAA-UP should take immediate actions (issue SHOW CAUSE), as MoEF&CC delegated the power to SEIAA-UP vide notification no. S.O.637 (E) dated 28.02.2014.

It has been observed that the lessee Shri Surender Kumar, Village: Baswar (Khand 14) obtained first EC vide letter no. 229/Parya/SEAC/3989/2018

dated 08.03.2018, which has been amended vide letter no. 315/Parya/SEIAA/3989/2022 dated 21.12.2022 and EC validity extension was done vide letter no. 62/Pluya/SEIAA/3989/2022 dated 29.05.2023. Overall, the above project was discussed and amended in SEIAA-UP three times within five years, whereas, compliance, of various stipulations made under this has not been considered, and found worse on ground. Because of the above SEIAA-UP may obtain certified compliance report (CCR) of project before appraisal for actual improvement of compliance.

7. *Mining Department, LTPPCB. SEIAA may ensure proper compliance of Sustainable Sand Mining Guideline, 2020.*

8. *All three project proponents should comply the following:*

- a) Project Proponents should make necessary arrangements for water sprinkling for dust control on the road for transportation. NOC from the State Ground Water Authority is required if project proponents meet their water requirement through bore-well.*
- b) Project Proponents should carry out a hydro-geological study and submit a report to the concerned authorities.*
- c) In compliance with the MoEF&CC order dated 14.06.2024, Project Proponents are requested to upload six monthly compliance reports on the PARIVESH 2.0 portal.*
- d) Project Proponents should provide adequate plantation as per the condition of the CTO and EC.”*

5. The report also shows serious lapses on the part of District Mining Authorities as also Officials of Pollution Control Board in as much as District Mining Authorities have not cared to ensure mining activities on the part of Proponents strictly in accordance with mining plan and authorities of UP Pollution Control Board and SEIAA have not cared to ensure compliance of the conditions of environmental Clearance and Consent. Lapses on the part of SEIAA, UP is more serious in as much as in respect of Proponent- Surendra Kumar who has carried out mining activities at village Baswar, it has been found that in a period of five years his EC was amended and extension was allowed three times without caring as to whether conditions of initial EC granted have been complied with or

not and this is a serious lapse and non-application of mind on the part of SEIAA.

6. In these facts and circumstances, we find it appropriate to implead following as respondents:-

1. State of UP through additional Chief Secretary, Environment, Forest and Climate Change, 101, 'B' Block, Lok Bhawan, U.P. Secretariat, Lucknow - 226001.
2. State Level Environment Impact Assessment Authority, State of UP through Member Secretary, 101, 'B' Block, Lok Bhawan, U.P. Secretariat, Lucknow - 226001.
3. UP Pollution Control Board through Member Secretary, Building No. TC-12 V, Vibhuti Khand, Gomti Nagar, Lucknow - 226010.
4. Ministry of Environment, Forest and Climate Change, New Delhi through its Secretary, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi - 110003.
5. District Magistrate, Prayagraj, District Magistrate Office, Collectorate, Prayagraj - 211002, Uttar Pradesh.
6. Director Geology and Mining, UP, Lucknow, Directorate of Geology and Mining, Khanij Bhawan, 27/8, Ram Mohan Rai Marg, Lucknow - 226001.
7. Police Commissioner, Prayagraj, 35, M.G. Marg, Civil Lines, Prayagraj - 211001, Uttar Pradesh.
8. CPCB through Member Secretary, Parivesh Bhawan, East Arjun Nagar, Shahdara, Delhi - 110032.
9. Ravi Shankar Shukla, son of Parmanand Shukla, R/o of Sarai Kaji, Kadam urf Miyapur, PS line Bazaar District Jaunpur

10. Surender Kumar, son of Shivmurthy Bharti R/o village Berui, post Garapur Thana Tharbai, Taehil Phoolpur, District Prayagraj
 11. M/s Ram Ratan Construction, Proprietor Sri Ramjatan Nishad, Son of late Lallu Lal, R/o 6 /41, Nai Jhosi Bazaar, Thana Jhosi, Tehsil Phoolpur, District Prayagraj.
7. On behalf of District Magistrate, Prayagraj i.e respondent 5 and Director Geology and Mining, UP i.e. respondent 6, notice has been accepted by Sh. Mukesh Verma, Advocate.
8. On behalf of CPCB, i.e. respondent 8, Mr. Atif Suhrawardy, Advocate has accepted notice.
9. The office shall issue notices to all the respondents except respondent 5 and 8.
10. Respondents may file their response within 2 weeks after receipt of notice.
11. Respondents 9, 10 and 11, in addition to normal mode of service to be served by the registry, notices shall also be served upon them through District Magistrate, Prayagraj and he shall file service report within 10 days.
12. Considering serious violations and extent of damage being caused to river hydrology and ecology as also flora and fauna by carrying out even mid stream mining, other serious violations and following 'Precautionary' principle as enshrined under section 20 of NGT Act, 2010 to protect environment from any further damage, we direct that respondents 9, 10

and 11 shall not be allowed any mining activities until further orders of this Tribunal.

13. District Magistrate, Prayagraj and Police Commissioner, Prayagraj shall ensure compliance of this order with respect of restraint on mining activities by respondents 9, 10 and 11.

14. List on 29.11.2024.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

November 04, 2024
Original Application No. 974/2024
AB