

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 546 OF 2023

IN THE MATTER OF:

PURAN SINGH

.... PETITIONER

VERSUS

VINOD KUASAL

.... RESPONDENTS

Paper Book / Cover Page

NDOH:02.02.2024

REPLY AFFIDAVIT ON BEHALF OF RESPONDENT

PROJECT PROPONENT: M/s. MAA SANTOSHI KHANIJ UDYOG.

ADVOCATE FOR RESPONDENT: ABHISHEK TRIPATHI

M-9311557178

Filed on: 31.01.2024.

Place: Delhi

OA No. 546 OF 2023

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 514 OF 2023**

IN THE MATTER OF :

SHISHRAM

PETITIONER

VERSUS

VINOD KUASAL

RESPONDENTS

AND

ORIGINAL APPLICATION NO. 546 OF 2023

IN THE MATTER OF :

PURAN SINGH

PETITIONER

VERSUS

VINOD KUASAL

RESPONDENTS

REPLY AFFIDAVIT ON BEHALF OF RESPONDENT

PROJECT PROPONENT: M/S. MAA SANTOSHI KHANIJ

UDYOG

MOST RESPECTFULLY SHEWETH:

I, Arman Solchal, S/o. Shri Vinod Kumar, aged about 30 yrs R/o. B-74, Shakti Apartments, sector-9, Rohini, Delhi, do hereby solemnly affirm and state as under:

1. That I am the partner of Respondent Project Proponent in the instant OA. I am well aware of the facts and circumstance of



the instant case and hence competent and authorized to swear this affidavit.

2. That at the outset it is respectfully submitted that the contents of the letter petitions (both in OA No. 514 of 2023 and OA No. 546 of 2023), Joint Committee Report dated 27.10.2023 in OA No. 514 of 2023 and Joint Committee Report dated 04.12.2023, to the extent such contents are inconsistent with the submissions made in this Reply, are denied as incorrect. Specifically, the Respondent prays that all facts, averments or contentions set forth may kindly be treated as denied by the Respondent, unless any such fact, averment or contention is specifically admitted or traversed in this Reply hereinafter.
3. That both the OA No. 514 of 2023 and OA No. 546 of 2023 arise out of similar letter petitions and make similar allegations. Vide order dated 05.12.2023 in OA No. 546 of 2023 this Hon'ble Tribunal was pleased to tag both the Original Applications. Therefore, the answering Respondent herein, the project proponent, is filing a common reply in both these Original Applications (OA No. 514 of 2023 & O.A. No. 546 of 2023).

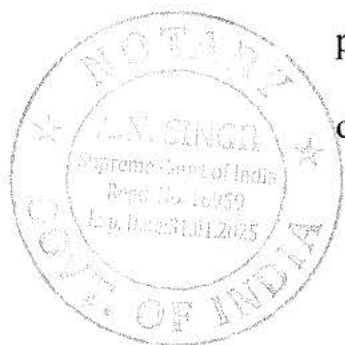


PRELIMINARY OBJECTIONS:

4. That the letter petitions made before this Hon'ble Tribunal lack *bona fide*. First the letter petition was made by one "Shishram" alleging that: "*illegal mining is being done by Maa Santoshi Khanij Udyog lease by cutting the trees and causing environmental hazard*", "*due to heavy blasting, residential houses are damaged and the agricultural fields are effected*" and "*about 200-250 mtrs. away from the mining area, there is a primary school and the education of the children is affected*". This Hon'ble Tribunal took cognizance vide order dated 23.08.2023 and registered O.A. No. 514 of 2023 Shishram v. Vinod Kuasal and constituted a committee comprising of District Magistrate, Mahendragarh, Haryana and Haryana State Pollution Control Board to look into the allegations made in the letter petition. During the subsistence of the mandate of the Committee established in O.A. No. 514 of 2023, a second letter petition was moved before this Hon'ble Tribunal by one "Puran Singh" alleging the very same thing as were alleged in letter petition earlier made by "Shishram" i.e.: "*on account of heavy blasting there are*

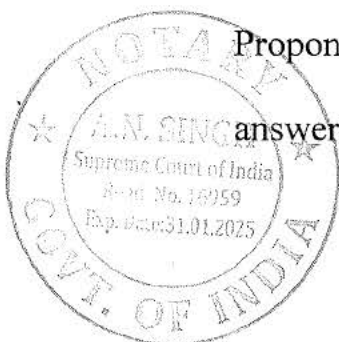


cracks coming in the houses of nearby villagers and there is a threat to life of person and cattle” and that *“the mine is situated only 200-300 meters away from the residential houses and that illegal felling of trees has been done resulting into damage to the environment.”* It is respectfully submitted that the second letter petition made by “Puran Singh” did not disclose the factum of the first letter petition moved by “Shishram” or the Committee established thereafter. This deliberate concealment by the letter petitioners, lead to this Hon’ble Tribunal taking cognizance of the second letter petition as well by registering O.A. No. 546 of 2023 (Puran Singh v. Vinod Kaushal) and vide order dated 12.09.2023 establishing another Committee comprising of Director deputed by Member Secretary, CPCB, Member Secretary, Haryana State Pollution Control Board, Director, Mining, State of Haryana, concerned Divisional Forest Officer and District Magistrate, Mahendergarh, with the same mandate as the first Committee. It is respectfully submitted that the letter petitioners have filed similar letters without making necessary disclosures that has resulted in constitution of two committees



with same mandate. Further, the letter petitioners have taken the route of letter petitioner on one hand and on the other hand have engaged counsel to represent them before this Hon'ble Tribunal after the Committees have submitted their reports. All this shows collusion and clear *malafide*.

5. That the answering Respondent (Project Proponent: M/s. Maa Santoshi Kanij Udyog) has always been complaint with law, statutory rules and terms of various statutory clearances granted to it. All the allegations made against the answering Respondent (Project Proponent: M/s. Maa Santoshi Kanij Udyog) are denied in totality.
6. That it is respectfully submitted that this Hon'ble Court established the Joint Committee vide order dated 23.08.2023 in O.A. No. 514 of 2023 (Shishram v. Vinod Kuasal) and the said Joint Committee submitted its report dated 27.10.2023 (uploaded on 29.10.2023) before this Hon'ble Tribunal. It is respectfully submitted that the authorities below have already initiated action against the answering Respondent (Project Proponent: M/s. Maa Santoshi Kanij Udyog) and the answering Respondent (Project Proponent: M/s. Maa Santoshi



Kanij Udyog) is contesting the same before appropriate authorities/forums. The details and status of the actions taken against the answering Respondent (Project Proponent: M/s. Maa Santoshi Kanij Udyog) are:-

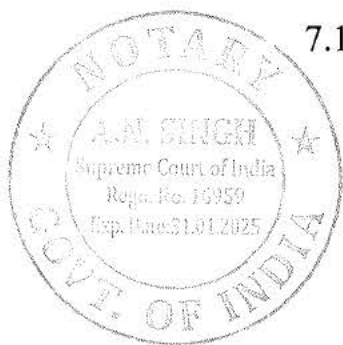
<u>SNO.</u>	<u>AUTHORITY</u>	<u>ACTION</u>	<u>STATUS</u>
1.)	Divisional Forest Officer, Mahendragarh	• Filed Forest Offence Report dated 02.10.2023 u/s. 32-33 of the Indian Forest Act, 1927 • Granted sanction for prosecution case against Partner of Project Proponent in Special Environment Court at Faridabad	Pending Adjudication
2.)	Mining Officer, Mines & Geology Department, Narula	• Issued demand notice (u/s. 21(5) of the MMDR Act, 1957 r/w. Rule 104 (1) of the Haryana Minor Minerals Concession, Stocking, Transportation of Mineral & Prevention of Illegal Mining Rules, 2012) dated 17.10.2023 on the project proponent demanding a total of Rs. 42,28,125/- towards price of mined mineral, royalty and penalty for alleged illegal mining at Khasra No. 487 & 551.	Appeal against the said demand notice has been filed by project proponent under Rules 109(1) of the Haryana Minor Minerals Concession, Stocking, Transportation of Mineral & Prevention of Illegal Mining Rules, 2012 and is pending adjudication before the Director General, Mines & Geology, Haryana.
3.)	Mining Officer, Mines & Geology Department, Narula	• Notice dated 13.10.2023 regarding the blasting at the site	Fully Compliant.



The authorities have initiated actions against the answering Respondent (Project Proponent: M/s. Maa Santoshi Kanij Udyog) and the answering Respondent (Project Proponent: M/s. Maa Santoshi Kanij Udyog) is legally contesting the said actions before concerned authorities/forums under different statutory regimes. It is thus respectfully submitted that any observation, findings or adjudication on the issue by this Hon'ble Tribunal will prejudice the statutory rights of the answering Respondent (Project Proponent: M/s. Maa Santoshi Kanij Udyog) to contest the actions taken by the authorities below.

7. That this Hon'ble Court vide order dated 12.09.2023 in O.A. No. 546 of 2023 (Puran Singh v. Vinod Kaushal) constituted second Joint Committee (with the same mandate as was given to the earlier Joint Committee established vide order dated 23.08.2023 in O.A. No. 514 of 2023) and the same submitted its report dated 04.12.2023 (uploaded on 04.12.2023) . It is respectfully submitted that:-

- 7.1) The establishment of the 2nd Joint Committee vide order dated 12.09.2023 in O.A. No. 456 of 2023 (Puran



Singh v. Vinod Kaushal) happened only due to willful and intentional concealment, by the letter petitioner, of the fact of establishment of constitution of 1st Joint Committee vide order dated 23.08.2023 in O.A. No. 514 of 2023 (Shishram v. Vinod Kuasal). Both the committees have been established with common mandate. In fact the mandate of the 1st Joint Committee (established via vide order dated 23.08.2023 in O.A. No. 514 of 2023 Shishram v. Vinod Kuasal) is slightly broader. It is therefore respectfully submitted reports of two committees on the same subject matter cannot be considered and the mandate of the subsequent committee becomes infructuous and invalid by virtue of the existence of the 1st Joint Committee and the fact that the 2nd Joint Committee is a product of willful and intentional concealment by the letter petitioner.

- 7.2) That even otherwise the 2nd Joint Committee (established via order dated 12.09.2023 in O.A. No. 546 of 2023 Puran Singh v. Vinod Kaushal) has itself relied upon the report of the 1st Joint Committee (established



via vide order dated 23.08.2023 in O.A. No. 514 of 2023 Shishram v. Vinod Kuasal) and further requested that both the matters be heard together. This Hon'ble Tribunal vide order dated 05.12.2023 has tagged both the matters together.

- 7.3) That the 2nd Joint Committee inspected the mining site of the project proponent when the mine was closed due to GRAP orders. The 2nd Joint Committee records this fact. Therefore, the report of the 2nd Joint Committee lacks necessary enquiry.
- 7.4) That a Show Cause Notice dated 21.11.2023 has been issued to the project proponent by the Haryana Pollution Control Board pursuant to the inspection done by the 2nd Joint Committee. The project proponent vide reply dated 05.12.2023, *inter alia*, informed the Haryana State Pollution Control Board that on the day of the inspection the mine was closed due to GRAP orders and therefore the project proponent/its representatives were neither present nor heard. Further it is submitted that the project proponent is fully



compliant as far as the alleged lacunas pointed out therein.

FACTUAL BACKGROUND:

8. That the Khasra Nos. 427, 428, 429, 430/1, 433, 484, 485, 486, **487**, 488, **550** & **551** of village Musnota, District Mohindergarh, Haryana totaling to 40.56 ha were under mining since 16.11.1994. One Shri. Ashok Kumar Gupta was the lease holder from 16.11.1994 to 03.02.2009 for mining calcite from Khasra Nos. 427, 428, 429, 430/1, 433, 484, 485, 486, **487**, 488, **550** & **551** of village Musnota, District Mohindergarh, Haryana.
9. That in the year 2009 the mining lease was transferred to M/s. Maa Santoshi Khanij Udyog (project proponent) vide transfer deed dated 03.02.2009 (Form 'O' Model form for Transfer of Mining Lease under Rules 37A of the Mineral Concession Rules, 1960). At the relevant time the partners of M/s. Maa Santoshi Khanij Udyog (project proponent) were:-



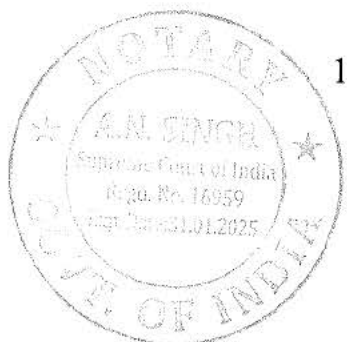
- (i) M/s. Mewat Grit Udyog through Shri. N.K. Gupta
(Partner);
- (ii) Shri. Ashok Somani S/o Late Shri. R.D. Somani;
- (iii) Shri. Rajesh Kumar S/o. Shri. Prem Nath;
- (iv) Shri. Amit Kumar S/o. Shri. Inderjeet.

The incumbent partners of M/s. Maa Santoshi Khanij Udyog (project proponent) were not partner at that time. The mining lease for mining calcite from Khasra Nos. 427, 428, 429, 430/1, 433, 484, 485, 486, **487**, 488, **550** & **551** of village Musnota, District Mohindergarh, Haryana thus stood transferred to M/s. Maa Santoshi Khanij Udyog (project proponent) on 03.02.2009.

Copy of the transfer deed dated 03.02.2009 (Form 'O' Model form for Transfer of Mining Lease under Rules 37A of the Mineral Concession Rules, 1960) in favour of M/s. Maa Santoshi Khanij Udyog (project proponent) is annexed herewith and marked as

ANNEXURE R-1.

10. That in the process of obtaining Environmental Clearance M/s. Maa Santoshi Khanij Udyog (project



proponent) applied for 'No Objection Certificate' from the Forest Department. The 'No Objection Certificate' was denied by the Forest Department as a Committee under the Chairpersonship of D.C., Mahendrergerh in its report dated 05.04.2007 stated that a number of khasras in village Musnota were under plantation done under Aravali Project and because some khasras in the mining lease were included in the list therefore no mining could be allowed in said khasras. As a result M/s. Maa Santoshi Khanij Udyog (project proponent) made an application dated 17.06.2013 to surrender a total of 32.45 hectares falling in Khasra Nos. 427, 428, 429, 430/1. 433, 484, 486, **487**, 488 & **551** out of the total 40.56 hectare land granted under the transferred mine lease dated 03.02.2009. Further, M/s. Maa Santoshi Khanij Udyog (project proponent) proposed to retain only 8.107 hectares of land of Khasra No. 550 of Village Musnota, Distrcit Mahendergarh. The Director, Mines & Geology, Haryana vide order dated 06.09.2013 accepted the surrender of the Khasra Nos.



427, 428, 429, 430/1. 433, 484, 486, **487**, 488 & **551** out of the total 40.56 hectare land granted under the transferred mine lease dated 03.02.2009 and retention of only 8.107 hectares of land of Khasra No. 550 of Village Musnota, District Mahendergarh by M/s. Maa Santoshi Khanij Udyog (project proponent).

Copy of the order dated 06.09.2013 issued by the Director, Mines & Geology, Haryana is annexed herewith and marked as **ANNEXURE R-2.**

11. That the initial mining lease dated 16.11.1994, transferred to M/s. Maa Santoshi Khanij Udyog (project proponent) in the year 2009, was for a period of 20 years. Therefore, M/s. Maa Santoshi Khanij Udyog (project proponent) applied for renewal of mining lease for 8.107 hectare in Kharsa No. 550 of Village Musnota, District Mahendergarh on 27.06.2013. The same was approved by the State Government on 12.08.2014 and the mining lease stood extended to 10 years w.e.f. 16.11.2014. Accordingly a renewed mining lease was executed on 24.02.2015. However, because of



the promulgation of *the Mines and Minerals (Development and Regulation) (Amendment) Ordinance, 2015* (which later became Act on 27.03.2015) all the leases granted prior to 12.01.2015 and therefore the lease stood extended to 15.11.2044.

12. That further, vide Central Government Notification dated 10.02.2015 around 31 minerals (including Calcite) were classified as 'minor minerals' and hence the mining lease held by the project proponent came to be regulated by the Haryana Minor Minerals Concession, Stocking, Transportation of Mineral and Prevention of Illegal Mining Rules, 2012 (hereinafter referred to as '**Rules, 2012**').
13. That the Ministry of Environment, Forest & Climate Change, Government of India granted Environmental Clearance to M/s. Maa Santoshi Khanij Udyog (project proponent) on 14.05.2015. Consent to operate was issued by the Haryana State Pollution Control Board in September, 2016. However despite this the mining operation could not commence. There were operational



difficulties qua the huge overburden and hence the mining could only start in 2018.

14. That because of a lot of overburden (which itself was a minor mineral – ‘stone’) the mining was getting difficult and therefore on 04.07.2018 M/s. Maa Santoshi Khanij Udyog (project proponent) made an application before the Director, Mines & Geology, Haryana for addition of associated minor mineral: ‘Stone’ to the lease deed. The permission was granted by the Director, Mines & Geology, Haryana vide order dated 06.08.2018.

Copy of the order of the Director, Mines & Geology, Haryana dated 06.08.2018 is annexed herewith and marked as **ANNEXURE R-3.**

15. That the mining that commenced for first time by M/s. Maa Santoshi Khanij Udyog (project proponent) in 13.06.2018 and continued till 31.10.2019 when it was stopped because the project proponent was in the process of obtaining statutory clearances because of addition of minor mineral ‘stone’.



16. That accordingly in the year 2019 new mining plan of M/s. Maa Santoshi Khanij Udyog (project proponent) was approved for extraction of associate minor mineral 'stone'. Consent to operate was granted by the Haryana State Pollution Control Board on 07.08.2019 for a period of 01.10.2019 to 30.09.2021. Environmental Clearance was granted by State Environment Impact Assessment Authority, Haryana on 20.10.2020 and consent to operate was issued by the Haryana State Pollution Control Board dated 04.01.2021 for a period of 04.01.2021 to 30.09.2025.
17. That the mining re-commenced from 02.02.2021 and continued till 09.02.2021. After 09.02.2021 all mining activity remained closed till 26.05.2023. The mining again commenced from 26.05.2023 and continued till 20.11.2023 when the same was stopped due to the imposition of GRAP order. The project proponent vide letter dated 26.05.2023 informed the Mining Officer, Narula about the commencement of mining activity. Again mining happened from 28.11.2023 to 25.12.2023



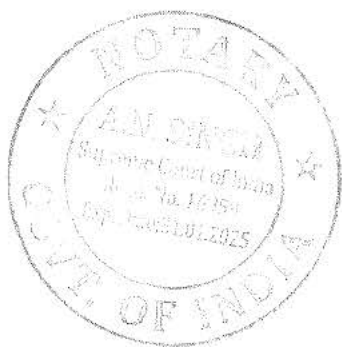
and was again closed due to imposition of GRAP orders. Again the mining recommenced from 31.12.2023 to 16.01.2024 and was closed for imposition of GRAP orders.

Copy of the letter dated 26.05.2023 written by the project proponent to the Mining Officer, Narula is annexed herewith and marked as **ANNEXURE R-4.**

Copy of the chart depicting the closure and commencement of mining activity by the project proponent is annexed herewith and marked as **ANNEXURE R-5.**

REPLY ON MERITS:

18. That pursuant to the inspection of the 1st Joint Committee (established via order dated 23.08.2023 in O.A. No. 514 of 2023 Shishram v. Vinod Kuasal) the Divisional Forest Officer, Mahendragarh filed Forest Offence Report dated 02.10.2023 u/s. 32-33 of the Indian Forest Act, 1927 and granted sanction for prosecution case against Partner of Project Proponent in

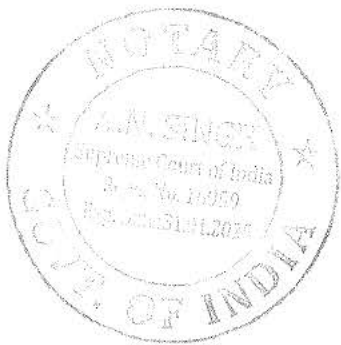


Special Environment Court at Faridabad for alleged illegally mining on Khasra No. 487 & 551 and allegedly damaging shrubs like muskat. It is respectfully submitted that the said case is pending adjudication and any observation, findings or adjudication on the issue by this Hon'ble Tribunal will prejudice the statutory rights of the answering Respondent (Project Proponent: M/s. Maa Santoshi Kanij Udyog) to contest its prosecution.

19. That pursuant to the inspection of the 1st Joint Committee (established via order dated 23.08.2023 in O.A. No. 514 of 2023 Shishram v. Vinod Kuasal) the Mining Officer, Mines & Geology Department, Narula issued demand notice (u/s. 21(5) of the MMDR Act, 1957 r/w. Rule 104 (1) of the Haryana Minor Minerals Concession, Stocking, Transportation of Mineral & Prevention of Illegal Mining Rules, 2012) dated 17.10.2023 on the project proponent demanding a total of Rs. 42,28,125/- towards price of mined mineral, royalty and penalty for alleged illegal mining on Khasra



No. 487 & 551. It is submitted that Appeal against the said demand notice has been filed by the project proponent under Rules 109(1) of the Haryana Minor Minerals Concession, Stocking, Transportation of Mineral & Prevention of Illegal Mining Rules, and is pending adjudication before the Director General, Mines & Geology, Haryana. The factum of alleged illegal mining is a subject matter of the said adjudication process. The authorities have initiated actions against the answering Respondent (Project Proponent: M/s. Maa Santoshi Kanij Udyog) and the answering Respondent (Project Proponent: M/s. Maa Santoshi Kanij Udyog) is legally contesting the said actions before concerned authorities/forums under different statutory regimes. It is thus respectfully submitted that any observation, findings or adjudication on the issue by this Hon'ble Tribunal will prejudice the statutory rights of the answering Respondent (Project Proponent: M/s. Maa Santoshi Kanij Udyog) to contest the actions taken by the authorities below.



20. That, without prejudice to the rights of the project proponent and the submissions made hereinabove, it is submitted that the finding *qua* illegal mining by the 1st Joint Inspection Committee (established via order dated 23.08.2023 in O.A. No. 514 of 2023 Shishram v. Vinod Kuasal) is unsustainable because:-

20.1 The Project Proponent has only been carrying on mining activity on Khasra No. 550 (which is rightfully under the ambit of the lease granted to the project proponent). It is absolutely incorrect to allege that Khasra No. 487 and 551 has been exploited by the project proponent, on the contrary, the project proponent itself vide application dated 17.06.2013 surrendered a total of 32.45 hectares falling in Khasra Nos. 427, 428, 429, 430/1. 433, 484, 486, **487**, 488 & **551** out of the total 40.56 hectare land granted under the transferred mine lease dated 03.02.2009, because it came to the knowledge of the project proponent that the same was under Aravali plantation. The project proponent only started mining activity for the



first time in the year 2018 much after the surrender of the said Khasras.

20.2 As stated hereinabove the project proponent has been able to operate the mine at Khasra No. 550 for a limited period in totality since 2009 because of different reasons. Thus the project proponent has not been able to exploit fully the Khasra allotted and retained by it. Monthly statements of the minerals mined by the Project Proponent have been duly submitted with the Director Mines.

20.3 It is respectfully submitted that the Khasra No. 487 & 551 were under mining from 1994 to 2009. Even the project proponent was handed over the said khasras as part of the mining lease in the year 2009 and the project proponent surrendered the said khasras along with other khasras as the same were allegedly part of aravali plantation. The mining activity was only started by the project proponent in the year 2018 and only at Khasra No. 500. Even during the inspections it was pointed out by the project



proponent/representatives that the pits on the said khasras (487 & 551) were old. It is further submitted that during the inspections too no machinery, tools or personnel belonging to the project proponent were found at the Khasra No. 487 & 551.

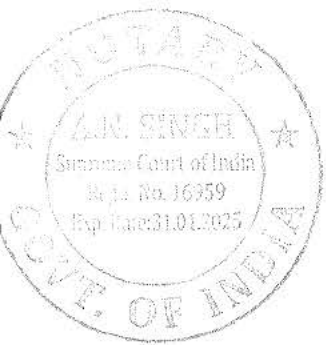
20.4 That it is inconceivable that the project proponent, as alleged, mined around 24,812.50 MT of mineral illegally from Khasra No. 487 & 550 because such a huge amount cannot be mined in a single day/slot and mining and transportation of such a huge quantity of illegally mined mineral cannot go un-noticed. Further, in presence of E-Ravana system it is virtually impossible to transport such a huge quantity without being caught.

20.5 That, without prejudice to the averments/contentions made hereinabove, it is submitted that the 1st joint committee (established via order dated 23.08.2023 in O.A. No. 514 of 2023 Shishram v. Vinod Kuasal) as well as authorities below have heavily relied on the *pamaish* report (demarcation report) dated



16.09.2023 of the revenue authorities to arrive at the conclusion that the project proponent has illegally mined at Khasra No. 487 and 550. The said demarcation report is not only violative of the principles of natural justice but is also beyond the legal mandate of such demarcations done by the revenue authorities. Be that as it may, the project proponent if in the process of challenging the said demarcation report under the provisions of the Punjab Land Revenue Act, 1887.

21. That the project proponent has been conducting blasting at the site as per law and within the stipulated guidelines and the necessary permission has been obtained. The allegations in the letter petition have been refuted by the findings of the Committee.
22. That this Hon'ble Court vide order dated 12.09.2023 in O.A. No. 546 of 2023 (Puran Singh v. Vinod Kaushal) constituted second Joint Committee (with the same mandate as was given to the earlier Joint Committee established vide order dated 23.08.2023 in O.A. No.



514 of 2023) and the same submitted its report dated 04.12.2023 (uploaded on 04.12.2023) . It is respectfully submitted that:-

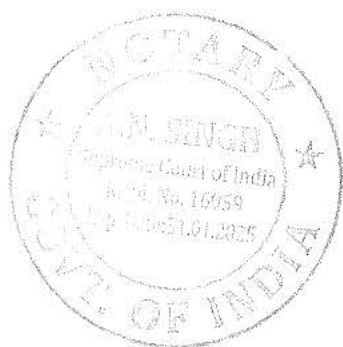
22.1. The establishment of the 2nd Joint Committee vide order dated 12.09.2023 in O.A. No. 456 of 2023 (Puran Singh v. Vinod Kaushal) happened only due to willful and intentional concealment, by the letter petitioner, of the fact of establishment of constitution of 1st Joint Committee vide order dated 23.08.2023 in O.A. No. 514 of 2023 (Shishram v. Vinod Kuasal). Both the committees have been established with common mandate. In fact the mandate of the 1st Joint Committee (established via vide order dated 23.08.2023 in O.A. No. 514 of 2023 Shishram v. Vinod Kuasal) is slightly broader. It is therefore respectfully submitted reports of two committees on the same subject matter cannot be considered and the mandate of the subsequent committee becomes infructuous and invalid by virtue of the existence



of the 1st Joint Committee and the fact that the 2nd Joint Committee is a product of willful and intentional concealment by the letter petitioner.

22.2. That even otherwise the 2nd Joint Committee (established via order dated 12.09.2023 in O.A. No. 546 of 2023 Puran Singh v. Vinod Kaushal) has itself relied upon the report of the 1st Joint Committee (established via vide order dated 23.08.2023 in O.A. No. 514 of 2023 Shishram v. Vinod Kuasal) and further requested that both the matters be heard together. This Hon'ble Tribunal vide order dated 05.12.2023 has tagged both the matters together.

22.3. That the 2nd Joint Committee inspected the mining site of the project proponent when the mine was closed due to GRAP orders. The 2nd Joint Committee records this fact. Therefore, the report of the 2nd Joint Committee lacks necessary enquiry.



22.4. That a Show Cause Notice dated 21.11.2023 has been issued to the project proponent by the Haryana Pollution Control Board pursuant to the inspection done by the 2nd Joint Committee. The project proponent vide reply dated 05.12.2023, *inter alia*, informed the Haryana State Pollution Control Board that on the day of the inspection the mine was closed due to GRAP orders and therefore the project proponent/its representatives were neither present nor heard. Further it is submitted that the project proponent is fully compliant as far as the alleged lacunas pointed out therein.

23. That the answering Respondent Project proponent seeks liberty of this Hon'ble Tribunal to file supplementary affidavit and supply necessary information if and when the same is required.



Amrinder Singh
DEPONENT

VERIFICATION:

Abhishek
I Identify the deponent who has
Signed/put T.I in my presence

Verified at New Delhi on this 31 JAN 2024 day of January, 2024 that
the contents of the above affidavit are true and correct to the best of
my knowledge and belief. No part of it is false and nothing material
has been concealed therefrom.

Amar Singh

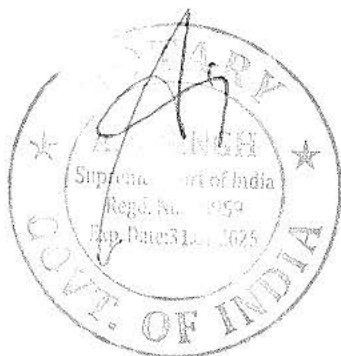
DEPONENT

FILED BY:

*Abhishek***ABHISHEK TRIPATHI**

(Advocate For Answering Respondent: Project Proponent: M/s.

Maa Santoshi Khanij Udyog)



A.N. Singh
ATTESTED
A.N. Singh, Adv.
Notary Public
Govt. of India, New Delhi

31 JAN 2024

Annexure R-1

Form - O
Model form for transfer of mining lease

(See rule 37 A)

The indenture made this ^{3rd} day of ~~Feb~~, 2009 between Shri Ashok Kumar Gupta S/o Sh. Om Prakash Gupta, Resident of Jalberia Niwas, Rewari Road, Narnaul, Distt. Mahendragarh. (hereinafter referred to as the "transferor" which expression shall where the context so admits be deemed to include his heirs, executors, administrators, representatives and permitted assigns) of the first part.

And

Maa Santoshi Khanij Udyog, Behind Old PNB Building, Qutubpur, Rewari through its Partners namely 1. M/s Mewat Grit Udyog through Sh. N.K.Gupta (Partner), 2. Sh. Ashok Somani S/o Late Sh. R.D.Somani, 3. Sh. Rajesh Kumar S/o Sh. Prem Nath and 4. Sh. Amit Kumar S/o Sh. Inderjeet (No. 3 & 4 through their attorney in favour of Sh. Ashok Somani) (hereinafter referred to as the "transferor" which expression shall where the context so admits be deemed to include their respective heirs, executors, administrators, representatives and permitted assigns) of the second part.

And

The Governor of Haryana through Sh. Arun Kumar, IAS, Director, Mines and Geology, Haryana (hereinafter referred to as the "State Government" which expression shall where the context so admits be deemed to include the successors and assigns) of the third part.

Whereas by virtue of an indenture of lease dated the 16.11.1994 (hereinafter referred to as lease) the original whereof is attached hereto and marked 'A' entered into between the State Government (therein called the lessor) and the transferor (therein called the lessee), the transferor is entitled to search for, win and work mines and minerals in respect of Calcite in the lands described in Schedule thereto and also in Schedule annexed hereto for the term and subject to the payment of the rents and royalties and observance and performance of the lessee's covenant and conditions in the said deed of lease reserved and contained including a covenant not to assign the lease or any interest there under without the previous sanction of the State Government.

And whereas the transferor is now desirous of transferring and assigning the lease to the transferee and the State Government has, at the request of the transferor, granted (with the prior approval of the Central Government) permission to the transferor vide order conveyed through the Director Mines and Geology Haryana vide Memo. No. G/O/MT/E-678/264 dated 13.1.2009 to such a transfer and assignment of the lease upon the condition of the transferees entering into an agreement is and containing the terms and conditions hereinafter set forth.

Now this Deed Witnesseth as follows;

(1.- Omitted)

2. The transferee hereby covenants with the State Government that from and after the transfer and assignment of the lease the transferee shall be bound by, and be liable to perform, observe and conform and be subject to all the provisions of all the covenants, stipulation and conditions contained in said hereinbefore recited lease in the same manner in all respects as if the lease had been granted to the transferee as the lessee there under and he had originally it as such.

3. It is further hereby agreed and declared by the transferor of the one part and the transferee of the other part that

(i) The transferor and the transferee declare that they have ensured that the mineral rights over the area for which the mining lease is being transferred vest in the State Government.

(ii) The Transferor hereby declares that he has not assigned subject, mortgaged or in any other manner transferred the mining lease now being transferred and that no other persons has any right, title or interest where under in the present mining lease being transferred.

(iii) The transferor further declares that he has not entered into or made any agreements contract or understanding where by he had been or is being directly or indirectly financed to a substantial extent by or under which the transferor's operation or understanding were or are being substantially controlled by any person or body of persons other than the transferor.

(iv) The transferee hereby declares that he/she has accepted all the conditions and liabilities which the transferors was having in respect of such mining lease.

(v) The transferee further declares that he is financially capable of and will directly undertake mining operations.

(vi) The transferee further declares that he has filed an affidavit stating that he has filed up-to-date income tax returns, paid the income tax assessed on him and paid the income tax on the basis of self-assessment as provided in the Income Tax Act, 1961, (43 of 1961).

(vii) The transferor has supplied to the transferee the original or certified copies of all plans of abandoned workings in the area and in a belt 65 metres wide surrounding it.

(viii) the transferee hereby further declares that as a consequence of this transfer, the total area while held by him under mineral concessions are not in contravention of Section 6 of the Mines and Minerals (Regulation and Development) Act, 1957 or rule 35 of the Mineral Concession Rules, 1960.

(ix) The transferor has paid all the rent, royalties, and other dues towards Government till the date, in respect of this lease.

In witness whereof the parties hereto have signed on the , date and year first above written.

SCHEDULE

Location and area of the lease

All that tract of lands situated at village Musnota district Mohindergarh
bearing khasra nos. 427, 428, 429, 430, 433, 484,
485, 486, 487, 488, 550, 551 containing an area of
40.56 hectare or thereabout delineated on the plan hereto annexed.

Signed by


 Director

Mines & Geology, Haryana

For and on behalf of the State Govt. in the presence of

1. Shanti Jodhi o/o D M G Haryana
2. Shival Singh o/o D M G Haryana

ASHOK GUPTA

Signature of Transferor in the presence of witnesses

1. 52/01

2. Rajesh Kumar

For Mewat Grit Udyog

Signature of transferee in the presence of

on behalf of Partner 3 + 4

1. 52/01 village Chitlawali Nuh Mewat

2. Rajesh Kumar 5/01 Balharsan
Saini Vikas Puch II # 1170
Baltara

From

The Director,
Mines and Geology, Haryana.

Annexure R-2

To

M/s Maa Santoshi Khanij Udyog
Old PNB building, Kutabpur
Rewari 123401

Memo No. Glg/HY/E-678/ 6008
Dated Chandigarh, the 6-9-13

Subject: Surrender of lease area of calcite mine in village Musnota district Mohindergarh held by M/s Maa Santoshi Khanij Udyog, -regarding

Kindly refer to your application dated 17.06.2013 on the subject cited above.

1. Vide above said representation/application you had requested to surrender a part area of 32.45 hectares of lease area out of total area of 40.56 hectares granted on lease in village Musnota village Mohindergarh for extraction of Calcite, a major mineral. Your application indicated that you intent to retain a part area of **8.107 hectares of Khasra No. 550** and surrender the remaining part of lease area which is either reported under Aravalli Project Plantation or is not forming contiguous part with the area proposed to be retained.
2. The state government, acceding to your request, has accorded sanction for surrender of part lease area of 32.45 hectares falling in the Khasra Nos. **427,428,429,430/1, 433,484,485, 486,487,488 & 551** and to retain only an area of 8.107 hectares in Khasra No. 550 in respect of the calcite mining lease granted in your favor in village Musnota for the remaining period of lease **subject to the conditions, that you will not be entitled to claim any right over the surrendered area, in case after fresh ground truthing exercise qua Aravalli Plantation, any area is found free for mining.**
4. Further you are advised that:
 - i) The lease hold area surrendered and to be retained by you shall be properly surveyed/demarcated on ground;
 - ii) The boundary pillars at requisite distance over the area of mining lease to be retained shall be got erected and the GPS readings of each of the pillar shall also be recorded and intimated to the department;
 - ii) The Final Mine Closure Plan for the area surrendered i.e. 32.45 hectares shall be got prepared through RQP and got approved from the competent

authority and implemented. The certificate as required under rule 29 A of MCR 1960 is obtained;

- iii) The Scheme of Mining for the area of 8.107 hectares retained shall be got prepared and got approved
- iv) On approval of the revised mining plan/scheme of mining for the area of 8.107 hectares to be retained, you may submit requisite papers for execution/modification of the lease deed.

5. You are, therefore, advised to take further necessary action in order to fulfill the aforesaid conditions as stated above so that further necessary action could be taken in this behalf.

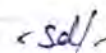


State Mining Engineer,
for Director Mines Geology, Haryana.

Endst. No. Glg/HY/E-678/

Dated

A copy is forwarded to Assistant Geologist, Narnaul along with a copy of representation dated 17.06.2013 and map submitted by the mine lease holder for surrender of the part area of 32.45 hectares for information and necessary action. He is advised to get the area surveyed and demarcated i.e the area surrendered and the area retained by the lease holder M/S Maa Santoshi Khanij Udyog.



Encls:As above.

State Mining Engineer,
for Director Mines Geology, Haryana.

Endst. No. Glg/HY/E-678/

Dated

A copy is forwarded to Deputy Commissioner, Narnaul for information and necessary action and request to direct the concerned Revenue Officials for making arrangements for survey/demarcation of the lease area.



State Mining Engineer,
for Director Mines Geology, Haryana.

Registered**Annexure R-3**

From

The Director,
Mines and Geology Department, Haryana,
30-Bays Building, Sector-17, Chandigarh.

To

M/s Maa Santoshi Khanij Udhyog,
Behind Old PNB Building,
Quatabgarh, Rewari.

Memo No. Glg/Hy/E-678/3952
Dated Chandigarh, the 8/8/2018

Subject: Addition of Associated Minor Mineral (Stone) in the mining lease granted for mining of Calcite over an area 8.107 hectares in village Musnota, District Mahendergarh.

Reference your letter dated 04.07.2018 on the above noted subject.

2. You are aware that initially the mining lease was granted in favour of Shri Ashok Kumar over an area of 40.56 hectares for mining of Calcite as a major mineral on 16.11.1994 as per provisions of prevailing Mines and Mineral (Development & Regulation) Act 1957 and rules framed thereunder namely Mineral Concession Rules, 1960 for a period of 20 years in village Musnota, district Mahendergarh. Subsequently the lease was allowed to be transferred in your favour (M/s Maa Santoshi Khanij Udhyog) and in this behalf, a Transfer Lease Deed was also executed on 03.02.2008.
3. You surrendered a part area of 32.45 hectares of the lease not available for mining as the said part was covered under restrictions and retained an area of 8.107 hectares in village Musnota, district Mahendergarh for mining of Calcite mineral.
4. Subsequently, you submitted application for renewal of lease over an area of 8.107 hectares on 27.06.2013. The State Government allowed the same and this office on 12.08.2014 communicated the renewal to you for a period of 10 years w.e.f. 16.11.2014. Accordingly, renewal deed was also executed on 24.02.2015.
5. It would be relevant to state here that the Central Government vide amendment ordinance dated 12.01.2015 (which also became Act on 27.03.2015) amended the related provisions and provided that all leases granted prior to

12.01.2015 shall be deemed to have been for 50 years from the date of grant. In view of the same, the period of your lease under question otherwise became for the period upto 15.11.2044.

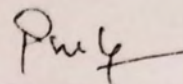
6. Subsequently, the Central Government vide notification dated 10.02.2015 notified about 31 minerals (including Calcite) as minor minerals. Hence, the mining lease held by you being for minor mineral thereafter, is being regulated as minor mineral lease under the provisions of the Haryana Minor Mineral Concession, Stocking, Transportation of Mineral and Prevention of Illegal Mining Rule, 2012 (the state rules, 2012). Accordingly, the rate of dead rent from 10.02.2015 onward is being paid/recovered as per provisions of the State Rules, 2012 @ Rs. 1.00 Lakh per hectare per annum.

7. You in your application under reference has referred to Rule 10 of the State Rules, 2012 as per which the major mineral lease holders are/ were entitled for the grant of mining lease of associated minor mineral found in the lease hold area on the principle of "one area one lessee". You also referred to the provisions of Rule 56(17) of the State Rules, 2012 as per which any minor mineral not specified in the lease/ concession, the lessee shall obtain a separate lease from the Director, Mines and Geology, Haryana before disposal of such mineral. You have informed that Stone, a minor mineral is to be extracted being inextricable mixed. The same has been sought to be added in the lease deed already executed with the Government.

8. Your above referred application has been considered by the authority and keeping in view that presently your lease is being regulated as minor mineral lease, your case is covered by Rule 56(17) read with clause 8 Part-III of the lease deed dated 24.02.2015, therefore, it has been decided to grant you permission to add newly discovered mineral namely Stone in the mining lease held by you over an area of 8.107 hectares in village Musnota, district Mahendergarh. It is clarified here that you would be liable to deposit royalty for the said newly added minor mineral (Stone) at the rate of 25% over and above the rates prescribed under the State Rules, 2012 as amended from time to time.

9. In the light of above, you are hereby directed to execute a Supplementary Lease Deed with regard to addition of newly discovered minor mineral namely stone in the lease already granted in your favour. You shall also required to deposit security amounting to Rs. 50.00 Lakh as per requirement of Rule 11 of the State

Rules, 2012 and also to furnish solvent surety amounting to Rs. 8,10,700/- i.e. equal to annual dead rent @ Rs. 1.00 Lakh per hectare per annum as per provisions of Rule 21(3) of the State Rules, 2012. You are reminded that you should also get the modified Mining Plan prepared for additional minor mineral (stone) and get the same approved from the competent authority and also obtain required approval as may be applicable for mining of the same.



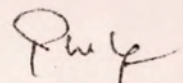
State Mining Engineer
For Director, Mines and Geology,
Haryana

Endst. No. Glg/11y/E-678/3951-52

Dated: 9/8/2018

A copy is forwarded to the following for information and necessary action:-

1. The Deputy Commissioner, Mahendergarh at Narnaul.
2. The Mining Officer, Mines and Geology Department, Narnaul.



State Mining Engineer
For Director, Mines and Geology,
Haryana.

TRUE TYPED COPY**ANNEXURE-R/3****Registered**

From
The Director,
Mines and Geology Department, Haryana
30-Bays Building Sector-17, Chandigarh

To
M/s Maa Santoshi Khanij Udyog
Behind Old PNB Building
Quatabgarh, Rewari.
Memo No.Glg/Hy/E-678/3950
Dated Chandigarh, the 6/8/2018

Subject: Addition of Associated Minor Mineral (Stone) in the
 mining lease granted for mining of Calcite over an
 area 8.107 hectares in village Musnota, district
 Mahendergarh.

Reference you letter dated 04.07.2018 on the above noted
subject.

2. You are aware that initially the mining lease was granted in
 favour of Shri Ashok Kumar over an area of 40.56 hectares for
 mining of Calcite as a major mineral on 16.11.1994 as per
 provision of prevailing Mines and Mineral (Development &
 Regulation) Act 1957 and rules framed thereunder namely
 Mineral Concession Rules, 1960 for a period of 20 years in village

Musnota, District Mahendergarh. Subsequently, the lease was allowed to be transferred in your favour (M/s Maa Santoshi Khanji Udhyog) and in this behalf, a Transfer Lease Deed was also executed on 03.02.2008.

3. You surrendered a part are of 32.45 hectares of the lease not available for mining as the said part was covered under restrictions and retained an area of 8.107 hectares in Village Musnota, District Mahendergarh for mining of Calcite Mineral.
4. Subsequently, you submitted application for renewal of lease over an area of 8.104 hectares on 27.06.2013. The State Government allowed the same and this office on 12.08.2014 communicated the renewal to you for a period of 10 years w.e.f. 16.11.2014. Accordingly, renewal deed was also executed on 24.02.2015.
5. It would be relevant to state here that the Central Government vide amendment ordinance dated 12.01.2015 (which also became Act on 27.03.2015) amended the related provisions and provided that all leases granted prior to 12.01.2015 shall be deemed to have been for 50 years from the date of grant. In view of the same, the period of your lease under question otherwise became for the period upto 15.11.2044.
6. Subsequently, the Central Government vide notification dated 10.02.2015 notified about 31 minerals (including Calcite) as

minor minerals. Hence, the mining lease held by you being for minor mineral thereafter, is being regulated as minor mineral lease under the provisions of the Haryana Minor Mineral Concession, Stocking, Transportation of Mineral and Prevention of illegal Mining Rule, 2012 (the state rules, 2012). Accordingly, the rate of dead rent from 10.02.2015 onward is being paid/recovered as per provisions of the State Rules, 2012 @ Rs.1.00 Lakh per hectare per annum.

7. You in your application under reference has referred to Rule 10 of the State Rules, 2012 as per which the major mineral lease holders are/were entitled for the grant of mining lease of associated minor mineral found in the lease hold area on the principle of "one area one lessee". You also referred to the provisions of Rule 56(17) of the State Rules, 2012 as per which any minor mineral not specified in the lease/concession, the lessee shall obtain a separate lease from the Director, mines and Geology, Haryana before disposal of such mineral. You have informed that Stone, a minor mineral is to be extracted being inextricable mixed. The same has been sought to be added in the lease deed already executed with the Government.
8. Your above referred application has been considered by the authority and keeping in view that presently your lease is being regulated as minor mineral lease, your case is covered by Rule 56(17) read with clause 8 Part-III of the lease deed dated

24.02.2015, therefore, it has been decided to grant your permission to add newly discovered mineral namely Stone in the mining lease held by you over an area of 8.107 hectares in village Musnota, District Mahendergarh. It is clarified here that you would be liable to deposit royalty for the said newly added minor mineral (Stone) at the rate of 25% over and above the rates prescribed under the State Rules, 2012 as amended from time to time.

9. In the light of above, you are hereby directed to execute a Supplementary Lease Deed with regard to addition of newly discovered minor mineral namely stone in the lease already granted in your favour. You shall also required to deposit security amounting to Rs.50.00 Lakh as per requirement of Rule 11 of the State Rules, 2012 and also to furnish solvent, surety amounting to Rs.8,10,700/- i.e. equal to annual dead rent @ Rs.1.00 Lakh per hectare per annum as per provisions of Rule 21(3) of the State Rules, 2012. You are reminded that your should also get the modified Mining Plan prepared for additional minor mineral (stone) and get the same approved from the competent authority and also obtain required approval as may be applicable for mining of the same.

Sd/-Illegible
State Mining Engineer
For Director, Mines and Geology,
Haryana

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Endst. No. Glg/Hy/E-678/3951-52

Dated: 6/8/2018

A copy is forwarded to the following for information and necessary action:

1. The Deputy Commissioner, Mahendergarh at Narnaul.
2. The Mining Officer, Mines and geology Department, Narnaul.

Sd/-Illegible
State Mining Engineer
For Director, Mines and Geology,
Haryana

TRUE TYPED COPY

M/s Maa Santoshi Khanij Udyog

ADD. KHASRA No. 550, VILL. MUSNOTA
TEH. NANGAL CHOUDHARY, DISTT. MOHINDERARH (HARYANA)

Ref. No.....

Dated. 26/05/2023.....

To

The Mining Officer

Narnaul, Haryana

Sub: Starting of mining operation loading & Transportation.

Sir

I hereby inform you that M/s Maa Santoshi
Khanij Udyog Khasra No. 550. we are going
to start mining operation loading & transporting
from date 26/05/2023. (w.e.f. 26/05/2023)

Kindly be informed. Thanks

Sincerely Yours

Recd

26/05/23

S. P. Choudhary
(Manager Mines)



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ANNEXURE-R/4**M/s Maa Santoshi Khanij Udyog**

Add. Khasra No.550, Vill. Musnota

The. Nangal Choudhary, Distt. Mohindergarh (Haryana)

=====

Ref. No.....

Dated 26.05.2023

To

The Mining Officer

Narnaul, Haryana

Sub: Starting of Mining Operation Loading of Transportation.

Sir,

I hereby inform you that M/s Maa Santoshi Khanij Udyog
Khasra No.550. We are going to start mining operation loading &
transporting from date 26.05.2023. (w.e.f. 26.05.2023)

Kindly be informed.

Thanks.

Sincerely Yours

Sd/- Illegible

26.05.2023

S.P. Choudhary
(Manager Mines)**TRUE TYPED COPY**

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ANNEXURE R-5Chart

Closure	Reason for Closure	Re-opening	Reason for Re-opening
2009	Seeking statutory clearances and after 2016 because of huge overburden	13 th June, 2018	Steps taken to address the issue of huge overburden
31 st October, 2019	Statutory clearance sought afresh due to addition of associated mineral 'stone'	2 nd February, 2021	Statutory clearances granted
9 th February, 2021	Covid-19 Restrictions/Lockdown	26 th May, 2023	Post pandemic
20 th November, 2023	GRAP	28 th November, 2023	GRAP Lifted
25 th December, 2023	GRAP	31 st December, 2023	GRAP Lifted
16 th January, 2024	GRAP	17 th January, 2024	GRAP Lifted



ramesh kumar <rkumar2188@gmail.com>

Advance Service OA No. 514/2023 and OA No. 456/2023 pending before Hon'ble National Green Tribunal

1 message

Abhishek Tripathi <abhishek.legum@gmail.com>

Wed, Jan 31, 2024 at 2:47 PM

To: mscb.cpcb@nic.in, hspcbho@gmail.com, hspcb@hry.nic.in, dcnrl@hry.nic.in

Cc: rkumar2188 <rkumar2188@gmail.com>

Dear All,

PFA the reply affidavit filed by the pp in the above captioned matter. Kindly treat this as advance service.

Abhishek Tripathi
Advocate-on-Record, Supreme Court
+91-9311557178.

 **Reply Affidavit OA 514 and 546 2023.pdf**
9577K