

**IN THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
I.A NO. 68/2022
ORIGINAL APPLICATION NO. 142/2022**

JAYANT KUMAR

...APPLICANT

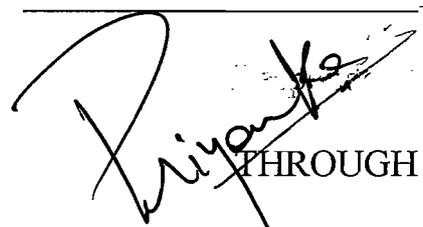
VERSUS

**MINISTRY OF ENVIRONMENT, FOREST
AND CLIMATE CHANGE & ORS.**

...RESPONDENTS

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THROUGH
PRIYANKA SWAMI

**Advocate
Counsel for SEIAA, U.P.
Chamber 10, Satpura Tower
Kaushambi, Ghaziabad**

Date: __.08.2022

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Reply On Behalf Of Respondent No. 2- State Level Environment Impact
Assessment Authority (SEIAA), Uttar Pradesh.

MOST RESPECTFULLY SHOWETH: -

1. That this Hon'ble Tribunal vide order dated 13.09.2018 Passed in O.A No. 186 of 2016 titled as "*Satendra Pandey vs. Ministry Of Environment, Forest and Climate Change & Anr.*" it was Directed that procedure laid down in Notification dated. 15.01.2016 be brought in consonance and in accord with the directions passed in Deepak Kumar's case by undertaking following:-

- (i) providing for EIA, EMP and therefore, Public Consultation for all areas from 5 to 25 ha falling under category B-2 at par with

category B-1 by SEAC/SEIAA as well as for cluster Situation wherever it is not provided;

- (ii) Form-1 be made more Comprehensive for areas of 0 to 5 ha by dispensing with the Requirement for Public Consultation to be evaluated by SEAC for Recommendation of grant of EC by SEIAA instead of DEAC/DEIAA;
 - (iii) If a cluster or an individual lease size exceeds 5 ha, the EIA/EMP be Made applicable in the process of grant of Environmental Clearance;
 - (iv) EIA and/or EMP be prepared for the entire cluster in terms of Recommendation 5 of the guidelines for the purpose of Recommendations 6,7 and 8 thereof;
 - (v) revise the procedure to also Incorporate procedure with respect to annual rate of replenishment After mining closure in the area;
 - (vi) the MoEF & CC to prepare Guidelines for calculation of cost of restitution of damage caused to Mined-out areas along with the Net Present Value of Ecological Services forgone because of illegal or unscientific mining
2. That MoEF&CC, Govt. of India vide OM No L-11011/175/2018-IA-II(M) dated. 12.12.2018 had issued directions in compliance of order passed by Hon'ble Tribunal vide order dated 13.09.2018.
 3. It is necessary to mention here that the related issue has already been considered in the joint meeting of SEIAA and SEAC held on 05/02/2019 wherein the Authority and the Committee members went through the O.M. dated 12/12/2018 issued by the MoEF&CC in compliance of the judgment of the Hon'ble National Green Tribunal order dated 13/09/2018 ie. for those leases in question which are hit by the order of this Hon'ble

Tribunal dated 13.09.2018 in *Satendra Pandey Vs. Ministry of Environment, Forest and Climate Change & Anr., O.A. No. 186/2016*.

4. MoEF&CC, GoI, OM dated 12/12/2018, it is decided that all mining cases of minor minerals having 0 to 5 ha area will be appraised by UP-SEIAA for Environmental Clearance. All concerned project proponents will apply to UP SEIAA in Form-1 with other required supporting documents on the online MoEF&CC website www.environmentalclearance.nic to process the application for grant of prior environmental clearance with immediate effect till further order. It has also been decided that mining area from 05 ha to 25 ha earlier falling under category B-2 will be treated as category B-1 as per NGT order dated 13/09/2018 and MoEF&CC, Govt. of India O.M. dated 12/12/2018 and shall follow all the aspects of EIA including Public Hearing/Public Consultation, etc." Concerned copy of Joint meeting minutes dated 05/02/2019 is attached as Annexure no.01.
5. That the Ministry of Environment and Forest, Govt. of India through its notification dated 14/09/2006 (as amended), and had made it mandatory to obtain Prior Environmental Clearance prior to establishment or expansion of any such project or activity which is listed in the schedule of notification.
6. That the Environmental clearance shall be required for:
 - i. All new projects or activities listed in the Schedule to this notification.
 - ii. Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;

- iii. Any change in product-mix in an existing manufacturing unit included in Schedule beyond the specified range.
7. That Objective of this process is to impose certain restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts.
 8. That the environmental clearance shall be taken from Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level, the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity.
 9. That The State Environment Impact Assessment Authority (SEIAA) shall base its decision on the recommendations of a State level Expert Appraisal Committee (SEAC).
 10. That The SEIAA and SEAC, Uttar Pradesh have been constituted by Ministry of Environment and Forest & CC, Govt. of India vide notification bearing no. S.O 3338(E) dated. 16.10.2017 and subsequently reconstituted through notification bearing no. S.O. 2276(E) dated 11/06/2021
 11. That Directorate of Environment, Govt. of U.P. has been declared to function as Secretariat to these statutory bodies i.e. SEIAA and SEAC by State Government.
 12. That all such project proposals received to the SEIAA, UP for Prior Environmental Clearance are dealt according to the EIA Notification, 2006 (as amended).

13. That, the Environmental Clearance for the concerned leases namely Khand No.01 and Khand No.03 were issued by the District Level Environmental Assessment Authority, Sonbhadra on 23.10.2018.
14. That as per the report of the committee constituted by this Hon'ble Tribunal and the statutory provisions like rule 10 of UP Minor Minerals (concession) Rules, 2021 *inter alia*, it is pertinent to bring to the notice of this Hon'ble Tribunal that on 23.10.2018 the District Level Environmental Assessment Authority, Sonbhadra was legally working and the EC Issued to respondent no 5 and 6 is valid as well as in accordance with law.
15. Briefing the above mentioned facts, it is utmost to state that these blocks are homogeneous in nature but heterogeneous for purpose of mining looking the topography of the area and capability of bidders interested for mining.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to:

- i. Dismiss the Original Application No. 142/2022 with Exemplary cost Or
- ii. Pass any such other order as may deem fit.

Respondent

THROUGH

PRIYANKA SWAMI

**Advocate
Counsel for SEIAA, U.P.
Chamber 10, Satpura Tower
Kaushambi, Ghaziabad**

Date: __.08.2022

IN THE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH, NEW DELHI****I.A NO. 68/2022****ORIGINAL APPLICATION NO. 142/2022****JAYANT KUMAR****...APPLICANT****VERSUS****MINISTRY OF ENVIRONMENT, FOREST****AND CLIMATE CHANGE & ORS.****...RESPONDENTS****AFFIDAVIT**

Affidavit of Sh. ANURAG KUMAR YADAV, aged about 46 years s/o Sh. P.N.Singh, presently posted as DEPUTY DIRECTOR, DIRECTORATE OF ENVIRONMENT U.P., having office at E-12/1, NOIDA, Uttar Pradesh.

1. That I am posted as stated above and well conversant with the facts of the present case on the basis of official record and as such competent to swear this affidavit before this Tribunal.
2. That the accompanying reply has been drafted by our counsel upon my instructions based on official records.
3. That the contents of the accompanying reply are true and correct and the knowledge has been derived from official records and nothing material has been concealed there from.




DEPONENT

VERIFICATION

Verified on solemn affirmation at New Delhi on this 31st day of August, 2022, that the contents of the foregoing affidavit are true and correct to the best of my knowledge and no part of it is false and nothing material has been concealed there from.



DEPONENT

I Identify the Deponent who has signed in my presence.

I Identify the Deponent who has signed in my presence.



ATTESTED



NOTARY PUBLIC

31 AUG 2022

Joint meeting minutes of SEIAA and SEAC held on 05/02/2019

A Joint meeting of SEIAA and SEAC was held on 05/02/2019 for deciding the strategy related to the Hon'ble NGT, Principal Bench, New Delhi order dated 13/09/2018 and MoEF&CC, GoI O.M. No. L-11011/175/2018-IA-II (M) dated 12/12/2018. The SEIAA and SEAC gone through these orders and found that Hon'ble NGT (PB), New Delhi vide order dated 13/09/2018 in OA No. 186/2016-Satyendra Pandey V/s MoEF&CC, GoI and others has inter-alia directed as follows:

- (i) Providing for EIA, EMP and therefore, Public Consultation for all areas from 5 to 25 ha falling under Category B-2 at par with Category B-1 by SEAC/SEIAA as well as for cluster situation wherever it is not provided;
- (ii) Form-1M be made more comprehensive for areas of 0 to 5 ha by dispensing with the requirement for Public Consultation to be evaluated by SEAC for recommendation of grant EC by SEIAA instead of DEAC/DEIAA;
- (iii) If a cluster or an individual lease size exceeds 5 ha the EIA/EMP be made applicable in the process of grant of prior environmental clearance;
- (iv) EIA and/or EMP be prepared for the entire cluster in terms of recommendation 5 (supra) of the Guidelines for the purpose of recommendations 6, 7 and 8 thereof;
- (v) Revise the procedure to also incorporate procedure with respect to annual rate of replenishment and timeframe for replenishment after mining closure in an area;
- (vi) The MoEF&CC to prepare guidelines for calculation of the cost of restitution of damage caused to mined-out areas along with the Net Present Value of Ecological Services forgone because of illegal or unscientific mining.

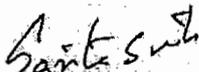
As per above order of Hon'ble NGT (Principal Bench), Ministry of Environment, Forest & Climate Change (MoEF&CC), Govt. of India vide Office Memorandum F.No. L-11011/175/2018-IA-II (M) dated 12/12/2018, had directed the compliance of the above direction of Hon'ble NGT. Beside this, Hon'ble NGT (Principal Bench) in its order dated 11/12/2018 in OA 520/2016 has suspended the activities of issuing EC by DEIAA/DEAC for minor minerals as per MoEF&CC Notification dated 15/01/2016 till a fresh Notification is issued by Ministry.

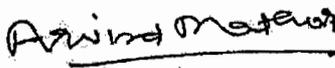
Therefore, in compliance of MoEF&CC, GoI, OM dated 12/12/2018, it is decided that all mining cases of minor minerals having 0 to 5 ha area will be appraised by UP-SEIAA for Environmental Clearance. All concerned project proponents will apply to UP-SEIAA in Form-1 with other required supporting documents on online MoEF&CC website www.environmentclearance.nic.in to process the application for grant of prior environmental clearance with immediate effect till further order.


(Shri Ashish Tiwari, IFS)
Member-Secretary, SEIAA


(Dr. (Smt.) Madhu Bharadwaj)
Member, SEIAA

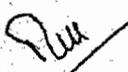

(Prof. Rana Pratap Singh),
Chairman, SEIAA

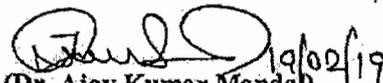

(Dr. Sarita Sinha)
Member

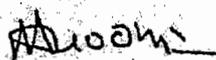

(Dr. Arvind Mathur)
Member


(Dr. Virendra Mishra)
Member

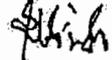

(Dr. Pramod Kumar Mishra)
Member


(Dr. Richhpal Singh Sangu)
Member


(Dr. Ajoy Kumar Mandal)
Member


(Shri Meraj Uddin)
Member


(Shri Rajive Kumar)
Member


(Dr. (Prof.) S. N. Singh)
Chairman, SEAC

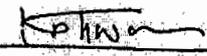
ADDENDUM

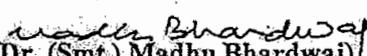
SUBJECT:- Joint meeting minutes of SEIAA and SEAC held on 05/02/2019

This is for information that following Addendum are being made in last Paragraph of joint meeting Minutes of SEIAAUP and SEACUP held on 05.02.2019.

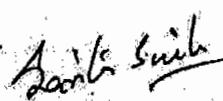
In the last Paragraph, i.e. "Therefore, in compliance of MoEF&CC, GoI, OM dated 12/12/2018, it is decided that all mining cases of minor minerals having 0 to 5 ha area will be appraised by UP-SEIAA for Environmental Clearance. All concerned project proponents will apply to UP-SEIAA in Form-1 with other required supporting documents on online MoEF&CC website www.environmentclearance.nic.in to process the application for grant of prior environmental clearance with immediate effect till further order." should be read as below-

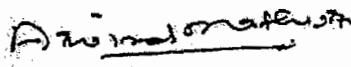
"Therefore, in compliance of MoEF&CC, GoI, OM dated 12/12/2018, it is decided that all mining cases of minor minerals having 0 to 5 ha area will be appraised by UP-SEIAA for Environmental Clearance. All concerned project proponents will apply to UP-SEIAA in Form-1 with other required supporting documents on online MoEF&CC website www.environmentclearance.nic.in to process the application for grant of prior environmental clearance with immediate effect till further order. It has also been decided that mining area from 05 ha to 25 ha earlier falling under category B-2 will be treated as category B-1 as per NGT order dated 13/09/2018 and MoEF&CC, Govt. of India O.M. dated 12/12/2018 and shall follow all the aspects of EIA including Public Hearing/Public Consultation etc."


(Shri Ashish Tiwari, IFS)
Member-Secretary, SEIAA

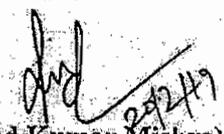

(Dr. (Smt.) Madhu Bhardwaj)
Member, SEIAA

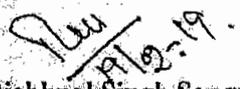

(Prof. Rana Pratap Singh),
Chairman, SEIAA

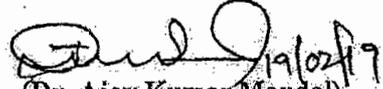

(Dr. Sarita Sinha)
Member

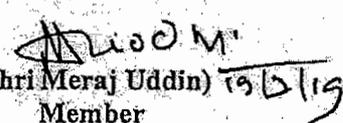

(Dr. Arvind Mathur)
Member

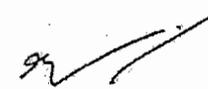

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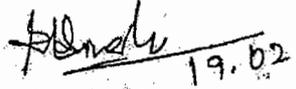

(Dr. Pramod Kumar Mishra)
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