

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Reply Affidavit on behalf of Respondent no. 21

In ref.

Original Application No.422 of 2023

Abhishek Shukla

..... Applicant

Versus

State of UP & Others

..... Respondents

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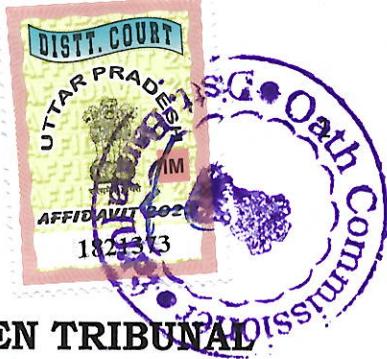
Dated : 04-December, 2023



(MANOJ KUMAR)

Advocate

Counsel for Respondent No.21
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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No.422 of 2023**

**Abhishek Shukla
S/O Sri Keshav Prasad Shukla,
R/O Village Jarar, PS-Girwan,
Tahsil Naraini, District-Banda,
Mob. No.-9532378463**

..... Applicant

Versus

State of UP & Others

..... Respondents

REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 21

I, Samir Kumar Singh, S/o Sri Phool Singh, aged 53 years, resident of in the front of G.I.C. Ground, Civil Lines, Town-Banda, District-Banda (U.P.), the deponent do hereby solemnly affirm and State on oath as under :-

1. That the deponent is the permanent resident of in the front of G.I.C. Ground, Civil Lines, Town-Banda, District-Banda (U.P.) and Carrying the business in the name and style M/s Maa Bindhyavasni Stone Works and lease holders of mining area 0.40 Hector, situate at Gata No. 332 Khand No. 05 Village Badokhar Khurd Tahsil -Naraini, District-Banda for excavation of building stone (Khanda, Gitti & Boulder) for a period of 10

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years w.e.f. 04-01-2020 to 03-01-2030 for quantity of 4,000 cubic meter per annum.

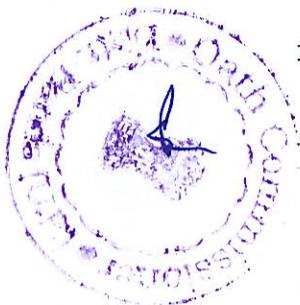
2. That the deponent had get the approval on the mining plan from the Director, Geology & Mining U.P. Lucknow and thereafter obtained the environmental clearance from State Level Environment Impact Assessment Authority, Uttar Pradesh Lucknow "(hereinafter called as 'SEIAA') and thereafter the mining lease deed was executed on 04-01-2020 by the District Officer Banda in favour of the deponent and deed was registered on 08-01-2020 in the office of the Sub Registrar Naraini,
3. That by way of present letter petition the applicant complaining about illegal mining blasting and crushing in violation of environmental norms in villages Jarar, Chhaneha Purwa, Raghwa Purwa, Girwan. Patraha Tehsil Naraini, District Banda.
4. That the applicant vide complaint dated 12-03-2023 has also submitted that six mining leases have been allotted in two hills in the area situate of village Jarar and five crushers have been established in Village Jarar and Chhaneha Purwa and mining is being done by resorting to illegal blasting which has resulted in



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damage to the houses of villagers, the applicant further alleged that the crushers are being operated day and night and the crushers do not have any boundary wall. There is no sprinkling of water during operation thereof. The crushers are causing dust and noise pollution due to which the residents are suffering from 'Asthma' and other diseases. Illegal blasting has also affected old temples located on the hills. Illegal mining and blasting are also adversely affecting the wildlife in the area. The roads to the above said villages have been damaged by the over loaded vehicles used for transportation of excavated minor minerals.

5. That on the application dated 12-03-2023, submitted by the applicant, this Hon'ble Tribunal vide order dated 01-08-2023 constituted a joint committee comprising of representative of Director, Geology & Mining U.P. Pollution Control Board, Lucknow. District Magistrate, Banda to verify the factual position and take appropriate remedial action and factual and action taken report may be submitted within one month by e-mail before this Hon'ble Tribunal.



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6. That in compliance of order dated 01-08-2023 the joint committee visited the field from 17-08-2023 to 18-08-2023 and vide his joint inspection report 30-08-2023 following recommendation have been made :-

“21.1) The mining department can be asked to restrict the mining activities in those mines wherein the required minimum distance criteria are not meeting. If mining is allowed on allotted near vicinity of habitant, habitant will be relocated to other specific place with consultation of nearby villagers/ civil society.

21.2) The mining department can be asked to restrict the mining activities in part of hill where temple is located. If mining is permitted at this place, the temple and habitant will be relocated to other specific place with consultation of nearby villagers/ civil society/priest of temple.

21.3) The mining department can be asked to restrict the mining activities through blasting in those mines who have not taken permission by DGMS for use blasting and mechanical instrument/machine.



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21.4) *The mining department can be asked to restrict the provision made for construction the main village road by DMF fund.*

21.5) *UPPCB can be asked to take necessary action against the stone crusher who have not operated the dust suppression system during the operation of stone crusher.*

21.6) *The Project proponent can be asked to maintain the village road near these mining sites.*

21.7) *The Project proponent can be asked for blasting will be done in allowed time duration with one-inch holes and proper safety arrangement after obtaining the valid permission of the DGMS and Department of Mines.*

21.8) *The Project proponent of mining lease and stone crusher can be asked to strictly comply with the conditions prescribed in the Environmental Clearance/ consent/ mining lease allotment letter and submit the status to the concerned authorities regularly.”*



That in the case of Special Leave Petition (c) No.-19628-19629 of 2009, Deepak Kumar etc Vs. State of Hariyana and other etc

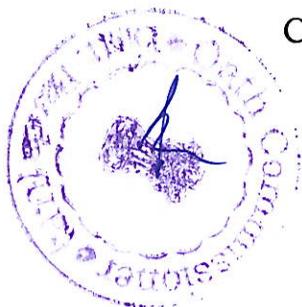
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the Hon'ble Supreme Court vide order dated 27-02-2012 was pleased to pass following direction :-

“19. We in the meanwhile, order that leases of minor mineral including their renewal for an area of less than five hectares be granted by the States/Union Territories only getting environmental clearance from MOEF.”

In compliance of the aforesaid direction dated 27-02-2012 of the Hon'ble Supreme Court the deponent after getting approval of the Director, Geology & Mining U.P. Lucknow on the mining plan applied for environmental clearance before SEIAA which was granted after conducting Public hearing vide letter No.-347/Parya/SEIAA/ 6033-5062/2020 dated 19-11-2019.

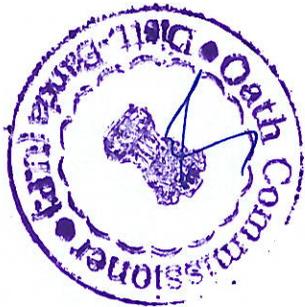
8. That after execution of lease deed the deponent also obtained consolidated consent to operate the mines under section-25 of the water (Prevention & Control of Pollution) Act 1974 and section-21 of the Air (Prevention & Control of Pollution) Act 1981 vide letter dated 29-08-2023 from Uttar Pradesh Pollution Control Board Lucknow.



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9. The deponent is conducted mining operation manually only excavating Khanda because Crusher Plant has not been established till today.
10. That the deponent is excavating the mineral in accordance with the terms and condition of the E.C and consolidated consent under Section-25 of the water (Prevention & Control of Pollution) Act 1974 and Section-21 of the Air (Prevention & central of Pollution) Act 1981.
11. That the committee interacted with the applicant & villagers and also visited the point of concerns raised in the application. It was observed by the committee during the site visist, details are given as below :-

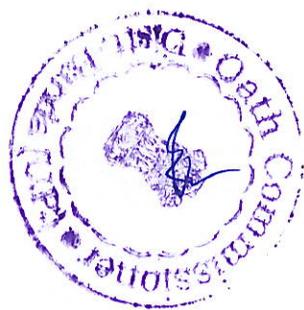
"7.1) The main habitation of village-Jarar is situated 135 meters away from the nearest allotted lease mining on hill of village-Jarar, but some houses are made near the allotted lease M/s Safdar Ali S/o Late Shri Farzand Ali, Gata No.-2450, Khanda No.-03, at Village-Jarar. Temple is situated 235 meters away from the allotted lease mining on other part of hill of village-Jarar.



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7.2) The main habitation of village-Girwan is situated 175 meters away from the allotted lease Bundelkhand Rocks, Gata No.-1876, (Khand No.09, Village-girwan), 36 meters away from the allotted lease (Sangram Singh, Gata No.1876, Khand No. 01, Vill-Girwan), 139 meters away from the allotted lease (Bajrang Road Lines, Gata No.-1876, Khand No,-03, Village-Girwan) and 90 meters away from the allotted lease (Bajrang Road Lines, Gata No.-1876, Khand No.-04, Village-girwan) on hill of village-Girwan but some houses are made near the allotted lease M/s Sangram Singh, Gata No.-1876, Khand Mo.-01, Vill. Girwan, Bajrang Road Lines, Gata No.-1876, Khand No.-03, Village-Girwan.

Temple is situated 70 meters away from the allotted lease (Bundelkhand Rocksa, Gata No.-1876, Khand No.-09, Village-Girwan). Temple is situated 53 meters away from the allotted lease mining (M/s Sangram Singh, Gata No.-1876, Khand No.-01, Village-Girwan) on other part of hill of village-Girwan. It is reported by Mine Officer, Banda that mining lease of



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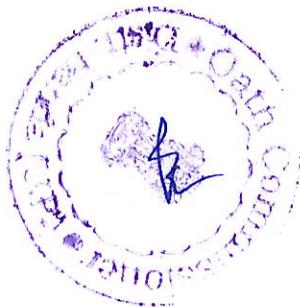
M/s Sangram Singh, Gata No.-1876, Khand No.-01, Vill- Girwan, Gata is allotted on same hill part where temple is made but mining is not in operation.

7.3) Gaushala is situated 100 meters away from the allotted lease mining area on hill of village-Girwan.

7.4) The main habitation of village-Badokhar Khurd (Pataraha) is situated 75 meters away from the nearest allotted lease mining on hill of village-Badokhar Khurd (Pataraha), Temple is situated 100 meters away from allotted lease mining Kuwar Vinod Raja, Gata No.-332, Khand No.-01, Vill. Badokhar Khurd on hill of village Badokhar Khurd.

7.5) It was informed by the villagers to committee member during the visit that blasting work in lease area is done in any time with 4 inches holes by lessee and stone pieces are falling on his home and effected the animal and human being. But it was informed by lease holders that blasting is done in allowed time duration between 2.0 PM to 3.0 PM with one-inch holes and proper safety.

7.6) Crack in home could not been shown by applicant to committee members.



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7.7) During the committee visit, stone pieces were not found in agriculture field and habitant area. The possibility of vibrations due the blasting at nearby houses of villagers and falling the stone pieces in nearby agriculture field and habitant area during blasting cannot be ruled out.

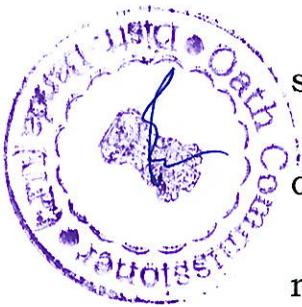
7.8) During the committee visit, village Road was not found in good condition due to movement of heavy vehicles.

7.9) Wild animal was not appeared on hill/lease area during committee visit.

7.10) The Agricultural lands are surrounded by most of these mining lease areas and the mining activities in such close vicinity can affect the crop yield in these areas. Similarly, the boulder stones can be thrown into these crop during the blasting operations for mining.

7.11) 05 stone crushers were identified in village-Jarar (Chhaneha Purwa, Raghwapurwa), out of 5 stone crushers 4 stone crushers were found in operation and one stone crusher was found under construction.”

12. That from the perusal of the recommendations of the joint committee it is undisputed fact that 75 meter is far from habitation of village Badokhar Khurd (Pataraha) and Temple is situated 100 meter away from allotted lease area of the deponent. It is also pertain to mention here that the provision of rule 42(e) of the Uttar Pradesh Minor Minerals (Concession)



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Rules 2021 is permitted to the lessee to do the mining operation out of distance of 50 meters from any public pleasure ground and the lease of the deponent is situate to much far distance from habitation of Village Badokhar Khurd (Pataraha) and all norms are being followed by the deponent and there are no complaint regarding working of the deponent.

13. That in view of aforesaid averment there is no violation which require interference of this Hon'ble Tribunal against the deponent as per reports submitted before this Hon'ble Tribunal by the joint committee.

VERIFICATION:

I, the above named deponent do verify that the content of my above affidavit are true to the best of knowledge and belief and there is nothing concealed therefrom.

Verified at Banda on this 04 day of December 2023.

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Deponent



Sl. No. (40) From
 Solemnly Affirmed Presented before me
 by Sri. समीर सिंह
 whom the Contents of this
 Affidavite have been read over satisfactory
 Who is Identified by Sri. विवेक कुमार पटेल
 Received Rs. 500 as my Fees
 Dated 04.12.23
 O. C. No. 600/23

**V A K A L A T N A M A****BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No.422 of 2023****Abhishek Shukla****..... Applicant****Versus****State of U.P. & others****..... Respondents**

KNOW ALL to whom these present shall come that We, Samir Kumar Singh, S/o Sri Phool Singh, aged 53 years, resident of in the front of G.I.C. Ground, Civil Lines, Town-Banda, District-Banda (U.P.), the above named respondents, do hereby appoint (herein after called the advocate to be out Advocate in the above noted case authorise him:-

MANOJ KUMAR, Advocate (U.P.1502/78), COP No. 193761, GF-1, Shubh Apartment, Vivekanandpuri, Faizabad Road, Lucknow, Mobile no.09532100117

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court, including High Court subject to payment of fees separately for each Court by us. To sign, file, and present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents, as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents of admit and/or deny the documents of opposite party.

To withdraws or compromise the said case or submit to arbitration any differences or disputes that jay arise touching or in any manner relating to the said case. To take execution proceedings. The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things, which may be necessary to be done for the progress and in the course of the prosecution of the said case. To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

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And we the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as our own acts, as if done by us to all intents and purposes.

And we undertake that we or our duly authorized agent would appear in the Court on all hearings and will inform the Advocate for appearance when the case is called.

And we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate, which he shall receive and retain himself.

And we the undersigned do hereby agree that in the even of the whole or part of the fee agreed by us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. We hereby agree that once the fee is paid, we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition of three years or part thereof.

IN WITNESS WHEREOF We do hereunto set our hand to these presents the contents of which have been understood by us on this04..... day of December, 2023.

Accepted subject to the terms of fees.


Advocate

1-

Client

MANOJ KUMAR
Advocate
G.F.-1, Shubh Apartment,
489/211, Vivekanandpuri,
Faijabad Road, Lucknow-226007



2-

Client