

1531

IN THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA No.306/2022

IN THE MATTER OF :

Harbans Singh

Applicant

Versus

State of Haryana and others

Respondents

INDEX

Sr. No	Particulars	Page
1	Reply on behalf of Haryana State Pollution Control Board	1 - 5
2.	NGT order dated 18.08.2023 Annexure-R1.	6 - 61
3.	Executive Engineer, Dadupur Division, Irrigation Department, Yamunanagar letter dated 27.10.2023 Annexure-R/2.	62
4.	Mining Officer, Yamunagar letter dated 27.10.2023 Annexure-R/3.	63

Place: Yamuna Nagar

Dated: 27/10/2023.....

FILED BY: -



Regional Officer,
HSPCB, Yamuna Nagar

1532

IN THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA No.306/2022

IN THE MATTER OF :

Harbans Singh

Applicant

Versus

State of Haryana and others

Respondents

Reply on behalf of respondent No. 4 i.e. Haryana State Pollution Control Board through Sh. Virender Singh Punia, Regional Officer, HSPCB, Yamuna Nagar.

MOST RESPECTFULLY SHOWETH

1. The Hon'ble NGT vide orders dated 18.08.2023 (**Annexure-R/1**) passed the following directions:-

"77. The question as to whether the land under Jaidhar Mining Block falls in Controlled Area notified by Department of Town and Country Planning, Haryana needs to be verified. The facts regarding these aspects have to be verified by preparation of maps showing

- (i) the land notified as controlled area and the land comprised in Jaidhar and Mandewala Mining Blocks and*
- (ii) the land falling in khasra numbers comprised in Jaidhar and Mandewala Mining Blocks and land covered by geocoordinates mentioned in EC/Mining Plans in contrast colours with depiction/demarcation of boundaries in different colours .*

78. For the purpose of ascertaining the factual position with respect to the above mentioned aspects, we constitute a Committee comprising of representatives of CPCB, HSPCB,

CGWA, Director General, Mining and Geology
Department and District Magistrate, Yamuna Nagar,
District Town Planner and Executive Engineer, Water
Service Division, Dadupur and direct the same to meet
within one month and (a) verify the factual position with
respect to the following aspects:-

(i) Whether mining activities at village Jaidhar will affect the
stability of Western Jamuna Canal bund and the Dadupur
Head Works;

(ii) Whether the Khasra numbers mentioned in mining plan
and lease deeds correspond to/match with the geo-
coordinates mentioned in ECs; O.A No. 306/2022 Harbans
Singh Vs. State of Haryana & Ors.

(iii) whether there is any difference/discrepancy in the geo-
coordinates and the Khasra numbers of the mining sites;

(iv) whether the difference/discrepancy in the geo-coordinates
and the Khasra numbers requires any remedial action by
SEIAA due to material change in particulars of the mining
sites;

(v) ascertain by conducting requisite tests at the mining sites
as to what is the water table in Jaidhar Mining Block and
whether mining upto the depth of 9 meters is permissible in
Jaidhar Mining Block;

(vi) Whether any part of the mining sites in village Jaidhar
falls within controlled area notified under section 7 of the
Punjab Scheduled Roads and Controlled Areas Restriction
of Unregulated Development Act, 1963;

(vii) Whether there is possibility of replenishment at mining
site at village Jaidhar and Mandewala; and

(viii) Whether there is possibility of riverbed mining (going on
or likely to be undertaken) within 5 kilometers of mining site
in village Mandewala and (b) suggest remedial measures
required to be taken with requisite particulars of the
Authority/organization required to implement the same.
HSPCB will be the Nodal Agency for coordination and
compliance.

79. Report be submitted by the Joint Committee within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

80. The District Magistrate, Yamuna Nagar and the Director General, Mining and Geology, Haryana shall provide the relevant record and extend requisite cooperation to both the Committees.

81. Mining in Jaidhar and Mandewala Mining Blocks has been stopped in view of ad interim injunctive order dated 06.05.2022 passed by this Tribunal which shall continue till further orders to the contrary.

However, it is well settled that a party cannot be made to suffer due to any interim order passed by Court/Tribunal. Therefore, in the eventuality of dismissal of the present application the period during which the mining in Jaidhar and Mandewala remained stayed under ad interim injunctive order passed by this Tribunal will be liable to be excluded from the period of the ECs granted in favour of respondent no.

82. List for further consideration on 30.10.2023.

83. A copy of this order be sent to the Secretary, Ministry of Environment, Forest and Climate Change (MoEF & CC), Central Pollution Control Board (CPCB), Indian Agricultural Research Institute (IARI), Indian Institute of Soil and Water Conservation, (IISWC), Dehradun, Chaudhary Charan Singh Haryana Agricultural University (CCHAU), Hisar, Central Soil Salinity Research Institute (CSSRI), Karnal, Central Ground Water Authority (CGWA), Director General, Mining and Geology Department, District Magistrate, Yamuna Nagar, District Town Planner and Executive Engineer, Water Service Division, Dadupur and Haryana State Pollution Control Board (HSPCB) for requisite compliance."

2. That the Joint Committee comprising of Sh Gurnam Singh, Scientist F, Regional Director, CPCB, Chandigarh , Sh Omdutt Sharma, Mining Officer, Yamunanagar, Sh Vijay Garg, Executive Engineer, Dadupur Division, Irrigation Department, Yamunanagar and Sh Virender Punia, Regional Officer, HSPCB, Yamunanagar had inspected the site on dated 25.10.2023.
3. Executive Engineer, Dadupur Division, Irrigation Department, Yamunanagar has submitted reply on the points related to irrigation department vide letter dated 27.10.2023(**Annexure-R/2**). Relevant portion of the reply is as below :-

78 (i). *Since the area between Hathnikund Barrage and Dadupur Pond has sandy strata any mining activities in this area may affect the stability of Western Yamuna Canal and Dadupur Headworks.*

(vi) *Dadupur Headworks fall in the vicinity of Village Jaidhar and the area around Dadupur Headworks stands notified as controlled area by the Govt. vide notification No. 12038-10DP-81/21145 dated 21/12/1981 in exercise of the powers conferred by Sub section (i) (b) of section 4 of the Punjab Scheduled Road and controlled Area Restriction of unregulated Development Act 1963.*

In this regard, detailed reports were submitted to Deputy Commissioner Yamuna Nagar vide this office letter Nos. 6958-62/117-M dated 12/10/2021 and No. 6963-67/117-M dated 12/10/2021.

1536

4. Mining Officer, Yamunagar has requested for time in filling of reply vide his letter No. 2366 dated 27.10.2023 (Annexure-R/3).

In view of the facts and circumstances mentioned herein above, it is humbly prayed that time period of 3 weeks may be provided to file the complete reply.



Regional Officer
HSPCB, Yamuna Nagar

Place: Yamuna Nagar
Dated: 27/10/2023

Item No.1

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.306/2022
(I.A. No. 102/2022 & I.A No. 299/2022)

Harbans Singh

...Applicant

Versus

State of Haryana and others

...Respondents

Date of Hearing:- 18.08.2023

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: None for the applicant.

Respondents: Mr. Rahul Khurana, Advocate for respondents no. 1 to 7.
Mr. Gi. Gi. C. George, Advocate for respondent no. 8.
Mohd. Fuzail Khan, Mr. Anshu Mangla, Mr. Bihuti
Krishna and Mr. Aman Anand, Advocates for respondent
no. 9.

**Application under Section 14 read with Section 18 of the National
Green Tribunal Act, 2010.**

1. Feeling aggrieved by the auction of fertile agriculture land as sand mining sites at villages Jaidhar and Mandewala, District Yamuna Nagar, Haryana, the Applicant, a resident of Village Dadupur, Tehsil Chachrauli District Yamuna Nagar, Haryana, has filed the present application under Section 14 read with Section 18 of the National Green Tribunal Act, 2010 seeking the following reliefs:-

a. Direct the State of Haryana to stop any mining activity at fertile agricultural lands in Villages Jaidhar and Mandewala, District Yamuna Nagar, Haryana;

- b. Appoint a Committee or Court Commissioner to inquire into the objections raised by the Irrigation Department to mining operations in Villages Jaidhar and Mandewala;*
- c. Appoint a Committee or Court Commissioner to inquire into the rushed manner in which the Haryana State Pollution Control Board issued CTO dt. 23.10.2021 on a holiday/ Saturday and direct disciplinary action against erring officers;*
- d. Quash the CTO dt. 23.10.2021 and CTE dt. 25.10.2021 issued by Haryana State Pollution Control Board to private respondent w.r.t. mining sites at Villages Mandewala and Jaidhar, respectively;*
- e. Quash the environmental clearance dt. 20.08.2018 issued to private response w.r.t. mining activity at Village Jaidhar;*
- f. Quash the auction notice dt. 27.04.2015 in so far as it permits auction of mining sites located at Villages Jaidhar and Mandewala, Dst. Yamuna Nagar;*
- g. Direct Respondents to pay the costs of the present Application to the Appellant; and*
- h. Pass any other order that this Hon'ble Tribunal may deem fit.*

Applicant's grounds of challenge to mining

2. The applicant has filed the present application on the following grounds:-

(i) Report of State Irrigation Dept. dated 12.10.2021 requesting for no mining ignored.

On 30.11.2020 and 15.12.2020 letters were written by Mr. Ashok Sangwan, IAS, Dy. Collector showing the seriousness of the problem of water seepage at Village Jaidhar where water is often pumped out using pump sets which shows that the area is flood prone and not conducive for mining. The Irrigation Dept., Haryana vide its report dated 12.10.2021 specifically requested the District Administration to not permit mining activities at Villages Jaidhar and Mandewala since the same would affect the stability of Western Jamuna Canal bund and the Dadupur Head Works.

(ii). Discrepancy in GPS coordinates of mining sites.

As per the auction notice the area of mining sites at Village Jaidhar is 25.60 Hectares and at Village Mandewala is 15 Hectares. Environmental clearances issued for both mining sites also contain the GPS coordinates of the proposed mining site. However, a simple verification of the GPS coordinates on Google Maps shows that the area of these coordinates is only 11 Hectares and 1.50 Hectares, respectively. Further, these GPS coordinates contain village homes and roads as revealed by the maps annexed with the Application.

(iii). **Report of State Hydrologist, Ground Water Cell, Ambala, Haryana dated. 27.07.2016 showing low water table at Vill. Jaidhar ignored.**

On 19.04.2016 the Dy. Commissioner, District Yamuna Nagar conducted public consultation w.r.t. mining site at Village Jaidhar. Various villagers objected on the ground that the water table is within 4-5 feet in the area and as such mining activity cannot be permitted being within 2 meters of water table. This objection was over-ruled by the Dy. Commissioner on the ground that the general report of the Central Water Commission for entire Tehsil Chachrauli shows water table at 9 meters while ignoring to observe/record water table measurements on site. On 27.07.2016 the Hydrologist, Ground Water Cell, Ambala in his report dated 27.07.2016 categorically stated that the pre-monsoon water table at Village Jaidhar is 1.80 meters, which falls further during the monsoon months. Village Jaidhar is located very close to the Dadupur Water Head Works and the Western Jamuna Canal and as such water table is available at 4-5 feet only. As such, this is violative of Clause 30 of the auction notice, which restricts mining within 2 meters of water table and therefore this site ought not to have been auctioned in the first place.

(iv). **Both sites were auctioned to a company, which is accused by the Serious Fraud Investigation Office (“SFIO”) for illegal mining and is facing prosecution at Delhi Courts pursuant to orders of the Hon’ble Supreme Court of India.**

Both the mining sites at Villages Jaidhar and Mandewala are auctioned to M/s Saharanpur Mines Management Services P. Ltd., which is accused by the Serious Fraud Investigation Office (“SFIO”) for illegal mining and is facing prosecution in Criminal Complaint No. 720/ 2017 filed by Serious Fraud Investigation Office (SFIO) in the Court of Special Judge (Companies Act), Dwarka, New Delhi against 176 persons and companies, including M/s Saharanpur Mines Management Services Pvt. Ltd. (Accused No. 118) pursuant to order dated 16.08.2017 of the Hon’ble Supreme Court of India passed in Writ Petition (C.) No. 818/ 2015. Grant of mining permission to a company, which is accused of being part of the mining syndicate/ mafia is a disturbing development which fact has been completely ignored by the administration.

(v) **No mining permitted on an area notified as a “Controlled Area” u/s 7 of the Punjab Scheduled Roads & Controlled Areas Restriction of Unregulated Development Act, 1963).**

Mining site located in Village Jaidhar falls within the area notified as a controlled area vide notification dated 21.12.1981 issued u/s 4 of the Punjab Scheduled Roads & Controlled Areas Restriction of Unregulated Development Act, 1963. Section 7 of the Punjab Scheduled Roads & Controlled Areas Restriction of Unregulated Development Act, 1963 prohibits mining activity without the prior permission of the Director, Town & Country Planning Dept., Haryana. Admittedly, the Director, Town Planning has not permitted any mining activity in Village Jaidhar and as such the mining site could not have been auctioned.

(vi) **Violation of Clause 4.1.1 (m) and 4.3 (s) of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM, 2020) which restricts sand mining in agricultural areas where there is no possibility of replenishment.** The mining sites are admittedly located in fertile agricultural areas and there is no possibility of annual replenishment of sand. Mining operations will entail removal of the fertile top layer, which will render the lands unfit for agricultural purposes and cause irreversible environmental harm. Large tracts of land in villages located near River Yamuna have been rendered unfit for agriculture due to large scale illegal mining by the local mafia. No study has been conducted to measure rate of replenishment at the mining sites. The Enforcement and Monitoring Guidelines for Sand Mining issued by MoEF & CC in the Year 2020 prohibit mining activity within 5 kms of a river bed and on an area where no replenishment is possible. Admittedly both the mining sites at Villages Jaidhar and Mandewala are located on fertile agricultural lands away from the river bed where no replenishment is possible. Further, the site at Village Mandewala being 1.5 kms away from River Yamuna falls within 5 kms of a river bed and in view of the Enforcement and Monitoring Guidelines for Sand Mining, 2020 no mining is permissible there.

(vii) **Environmental clearance dated 27.06.2016 (valid for 5 years) for Village Mandewala site has already expired on 26.06.2021 and SEIAA has refused renewal pending an internal investigation.**

The Environmental clearance dated 27.06.2016 issued for the mining site at Village Mandewala was valid for 5 years which period has already expired on 26.06.2021. SEIAA refused renewal pending an internal investigation SEAC was investigating into allegations of illegal mining.

The Senior Environmental Engineer, HSPCB objected to issuance of CTO on this ground but this objection was over-ruled and CTO was issued in a rushed manner on a holiday/ Saturday dated 23.10.2021. The site inspection was carried out by HSPCB on 22.10.2021 at 8:40 PM and six minutes later at 8:46 PM a detailed report was uploaded. Then on 23.10.2021 (Saturday) at 7:48 AM approval was granted for issuance of CTO. The mala fides of the HSPCB in grant of CTO are evident from the manner in which the CTO was issued. On 25.10.2021 the Haryana State PCB issued a Consent to Establish ("CTE") to the project proponent w.r.t. mining site at Village Jaidhar ignoring all objections of the Applicants and the fact that the mining site lies in a "Controlled Area" where mining activity is not permitted.

3. The applicant has further submitted that the applicant raised the above grounds in representations dated 04.10.2021, 18.10.2021, 26.10.2021 and 03.12.2021 but no action has been taken on the same. Cause of action in the present case arose on 04.10.2021 and 18.10.2021 on failure to take action on his representations. Hon'ble Supreme Court in the matter of In Re.: Cognizance for Extension of Limitation (Suo Moto Writ Petition (C) No. 3/ 2020) vide orders dt. 23.03.2020, 27.03.2021 and 10.01.2022 has extended the period of limitation. As such the present Application is within limitation as prescribed in the National Green Tribunal Act, 2010.

4. Vide order dated 06.05.2022 notices were ordered to be issued to the respondents requiring them to file replies specifically responding to all averments made in the application.

5. Pursuant to notice replies have been filed by Respondent no. 1- State of Haryana and 2- Assistant Mining Engineer vide email dated

30.11.2022; by Respondent no. 4- HSPCB vide email dated 30.11.2022; by Respondent no. 5- Hydrologist, Ground Water Cell, Ambala vide email dated 30.11.2022; by Respondent no. 6-Irrigation and Water Resource Department vide email dated 30.11.2022; by Respondent no. 7-SEIAA, Haryana vide email dated 09.11.2022; by respondent No.8 vide email dated 26.12.2022 and by Respondent no. 9-M/s Saharanpur Mines Management Services Pvt. Ltd, vide email dated 18.08.2022. No reply has been filed by respondent No.3 Town & Country Planning Department.

6. The Applicant has filed additional affidavit vide email dated 12.01.2023 . Reply to the additional affidavit of the applicant has been filed by respondent no. 9 vide email dated 04.02.2023.

Reply by Respondents no. 1 and 2- State of Haryana and Assistant Mining Engineer, Mines & Geology Department, Yamunanagar, Haryana

7. In their reply Respondents no. 1 and 2 have taken objections to maintainability of the application. Respondents No.1 and 2 have submitted that remedy against grant of EC was filing of an appeal under section 16 of the National Green Tribunal Act, 2010 within 30 days. Reliefs claimed by the applicant are hopelessly barred by limitation. The application is not maintainable in view of Rule 14 of the National Green Tribunal (Practices and procedures) Rules, 2011 as instead of seeking one or more reliefs consequential to each other based on single cause of action, permissions granted by different authorities at different times in respect of two different mining sites at different villages have been sought. The present application has been filed at the belated stage only to stop the legal mining in pursuance of the permissions granted by concerned statutory authorities. Respondents No. 1 and 2 have controverted the grounds of challenge and submitted that Respondent

No.9 obtained NOC from District Town Planner, Yamuna Nagar vide memo dated 8.10.2021 Annexure R/3. Nowhere in the District Yamuna Nagar depth of water table is less than 3.10 meter. The areas where these mines are located, depth of water table is 10-20 meters as per figure 2 of report on Aquifer Mapping and Management Plan Annexure R/4 given by the Ministry of Water Resources, River Development and Ganga Rejuvenation, Government of India in 2016.

Reply by Respondent No. 4- Haryana State Pollution Control Board

8. In its reply Respondent no. 4-HSPCB has taken objection that remedy against grant of CTE/CTO was statutory appeal before the Appellate Authority and the present application is not maintainable. Respondent No.4 has mentioned the status of both the mining blocks and submitted that CTE/CTO were granted after following due procedure and as per policy of HSPCB. Respondent No.4 has also mentioned that in view of ad-interim injunction order the mining sites are lying closed.

Reply by Respondent No. 5- Hydrologist, Ground Water Cell, Ambala, Haryana

9. Respondent no. 5- Hydrologist, Ground Water Cell, Ambala Haryana has submitted in his reply that the office of Hydrologist, Ground Water Cell, Ambala had provided tentative water level of the village Jaidhar, Devdhar, Begumpur, Pipli Majra, Malikpur Khadar of District-Yamunanagar to Mining Officer, Department of Mines & Geology, Yamunanagar during the year 2016. Ground Water Cell, Haryana has established groundwater observation points at distance of 20 sq. km. grid pattern. The Ground Water Cell does not have groundwater observation points in the mentioned villages. The tentative water level of the village Jaidhar, Devdhar, Begumpur, Pipli Majra, Malikpur Khadar of District-

Yamunanagar during June, 2022 (Pre-monsoon period) on the basis of groundwater contouring and nearby observation points is as under:

Sr. No.	District	Village	Water Level during June, 2022 (in mtrs)
1	Yamunanagar	Jaidhar	10.50
2		Devdhar	05.96
3		Begaumpur	12.50
4		Pipli Majra	14.50
5		Malikpur Khadar	15.00

”

Reply by Respondent No. 6- Irrigation & Water Resources Department State of Haryana

10. Respondent no. 6-Irrigation & Water Resources Department, State of Haryana has submitted in its reply that a committee comprising of District Revenue Officer, Yamuna Nagar, District Mining Officer, Yamuna Nagar and Executive Engineer, Water Services Dadupur was constituted by the Deputy Commissioner Yamunanagar to report on the complaint of Shri Ranbir Singh. The committee considered all the issues raised in the complaint pertaining to environmental aspects concerning mining blocks i.e. Jaidhar and Mandewala and concluded vide report dated 27.09.2022 that the Project Proponent will maintain level of 2 meters of ground water. If this condition is violated, mining will be closed. The committee also observed that Lease has been allotted to the Project Proponent by the department after verifying all the documents as per the lease conditions for open auction. Also, public consultation (hearing) was conducted under the chairmanship of Deputy Commissioner Yamuna Nagar on dated 05.04.2016. Inquiry with regard to objections raised by the irrigation Department to mining operations in villages Jaidhar and Mandewala, was got conducted by the Deputy Commissioner and the same has been concluded vide report dated 27.09.2022.

Reply by Respondent no. 7- SEIAA

11. In its reply respondent no. 7-SEIAA, Haryana has reiterated the factual position regarding grant of EC for mining Mandewala and Jaidhar mining blocks on 27.06.2016 and 20.08.2018 respectively on recommendations of SEAC on the basis of Mining Plan approved by the Director General, Mines and Geology, Mines and Geology Department on 10.03.2016 and 12.01.2016. EC dated 20.08.2018 was issued before issuance of EMGSM, 2020. The GPS coordinates mentioned in the EC were as per the mining plans approved by the Director General, Mines & Geology Department, Haryana. In its reply Respondent no. 7-SEIAA, Haryana also mentioned pendency of the matter of extension of validity of EC.

Reply by Respondent No.8-Central Water Commission under the Ministry of Jal Shakti.

12. Respondent no. 8-Central Water Commission under the Ministry of Jal Shakti has submitted that Respondent No. 8 has no role to play in the current issues and not being a necessary party may be ordered to be deleted from the array of parties.

13. Subsequently, in compliance with order dated 16.01.2023 Report on the measured distance between mining blocks at Mandewala and Jaidhar to River Yamuna was filed by Respondent No.8 vide email dated 28.01.2023.

Reply by Respondent No. 9- M/s Saharanpur Mines Management Services Private Limited

14. In its reply Respondent no. 9 has submitted that the business rivals initiated proxy litigation against respondent No. 9 by abusing the

process of law and the mining contracts granted in favour of respondent No. 9 were sought to be cancelled by leveling allegations of Shell Company as well pendency of criminal prosecution against respondent No. 9. The litigation was initiated before Hon'ble Punjab & Haryana High Court, Chandigarh vide CWP No. 1010 of 2018 and CWP No. 19286 of 2021. After the failure of the first round of proxy litigation initiated against respondent No. 9, the business rivals resorted to the present litigation and filed the Original Application before this Tribunal by raising fabricated issues relating to the environmental norms. The application has been filed with a malafide intention without any just cause or reason. The Respondent no. 9 has further submitted that auction was conducted by respondent No. 1 after following the due procedure and the mining contracts were granted in favour of respondent No. 9 by following the due procedure. As per the letter dated 08.10.2021 issued by Director, Town & Country Planning, Haryana it has been clarified that land in all the khasra numbers except one Khasra number which comprise Jaidhar Mining Block does not fall in any Urban Area or Controlled Area declared by Department of Town & Country Planning, Haryana. In so far as the land in one khasra number is concerned, respondent No. 9 shall not conduct any mining operations therein. With respect to objection regarding water level in Jaidhar mining block Respondent No.9 has submitted that during the course of public consultation, one of the residents raised the issue regarding the water table at Village Jaidhar and the same was duly addressed by the Environment Consultant on the basis of Report of CGWB, Yamunanagar (2012) wherein it was stated that the water table is more than 10 meters. It was further stated that the lease holder shall be bound to stop the mining operations 2 meters above the water table at any given stage. Respondent No.9 has further submitted that the mining lease area is

allocated by respondent No. 1 on the basis of the khasra numbers mentioned in the revenue record and respondent No. 9 shall not conduct any mining activities beyond the mining lease area and any discrepancy in the geo-coordinates, though denied, shall not have any effect on the mining contract and mining operations. Respondent No.9 has admitted that respondent No. 9 has been arrayed as one of the accused but submitted that the trial is still pending and there is presumption of innocence until proven guilty. Moreover, the mining contracts were executed in June, 2016 and the prosecution was launched in 2017 which shall not have any retrospective effect. The credentials of respondent No. 9 have been verified by respondent No. 1. Respondent No.9 has submitted that Mandewala and Jaidhar Mining Blocks have been classified as outside riverbed mining blocks. As per the Sustainable Sand Mining Management Guidelines, 2016 (SSMMG, 2016), extraction of minor minerals from agricultural fields in the State of Haryana has been duly recognized and it has also been recognized that there is replenishment of the land due to various agricultural processes. The replenishment of minerals has also been recognized in the respective mining plans approved by respondent No. 1. There is Joint Verification Report and all the structures are at a safe distance from the mining lease area. There was absolutely no illegality in the grant of CTE/CTO by respondent No. 7 in favour of respondent No. 9.

Reply by Respondent No. 9- M/s Saharanpur Mines Management Services Private Limited to the Additional Affidavit dated 10.01.2023 filed by the applicant

15. In its reply to the Additional Affidavit dated 10.01.2023 filed by the applicant, the respondent no. 9 submitted that the Enforcement and Monitoring Guidelines for Sand Mining 2020 (EMGSM, 2020) are not applicable in the present case on account of the fact that the auctions

were conducted in 2015 and the LOI were issued in favour of the answering respondent on 19.06.2015. There is no provision of law authorizing retrospective application of the guidelines. Even the tone and tenor of the EMGSM, 2020 shall reveal that the guidelines are prospective in nature.

16. This Tribunal observed in its order dated 26.04.2023 that questions regarding possibility of replenishment justifying mining and rehabilitation /reclamation and user of the land under Mining Closure Plan are also involved for adjudication in the present case and the parties were given opportunity to submit documents and address arguments in respect of above referred questions and also to file written arguments regarding the same, if so desired.

17. In compliance of order dated 26.04.2023 respondent no. 9 has filed affidavit vide email dated 03.05.2023 the relevant part of which reads as under :-

“Additional Affidavit on behalf of Respondent no. 9-M/s Saharanpur Mines and Management Services Pvt. Ltd.

X X X X

2. That in pursuance of the directions issued by this Hon’ble Tribunal, it is submitted as follows:

i) That as per mining plan (Annexure R-9/6), Jaidhar and Mandewala mining blocks have been classified as “outside riverbed blocks”. The land comprised in the aforesaid blocks is agricultural land.

ii) That as per mining plan (Annexure R-9/6), Jaidhar mining block is located at Village Jaidhar, District Yamunanagar with a total area of 25.60 hectares. The details of the Khasra numbers are also provided in the mining plan.

iii) That as per mining plan (Annexure R-9/6), Mandewala mining block is located at Village Mandewala, District Yamunanagar with a total area of 15 hectares. The details of the Khasra numbers are also provided in the mining plan.

iv) That as per the mining plan (Annexure R-9/6), the mining operations are to be conducted on a pre-determined area of the mining block at a given point of time. In view thereof, after determining the specific portion of the mining block for the purpose of extraction of minerals, agreement is to be executed with the owner of the particular piece of land for the purpose of

payment of compensation which is decided by way of mutual settlement. After payment of compensation as per agreed terms and conditions, area shall be used for the purpose of extraction of minerals.

v) That respondent No. 9 shall conduct mining operations after executing agreement for compensation with the concerned land owners.

vi) That as per the mining plan (Annexure R-9/6), the mining shall be carried out by open cast semi-mechanized method. The average permitted depth of mineral is around 9 meters. Out of which there is over burden of about 1 meter thick soil and remaining 8 meter depth is of mineral i.e. boulder, gravel and sand. The mining shall be conducted hectare wise by way of bench formation. The top layer of around one meter depth shall be removed through excavators which will be stacked nearby for back filling. This shall leave a bench of one meter depth and atleast 20 meter wide. The minerals below this bench shall be extracted. The removal of soil precedes the winning of sand. Once a pre-determined area has been exhausted, the land shall be given back to the land owners for their use which is mainly agriculture. In this way, the use of the land shall remain the same after the extraction of minerals.

vii) That the reclamation of mined out area is provided under the Environment Management Plan appended with the mining plan (Annexure R-9/6). It has been stated as follows: In case of outside riverbed mining, top soil will be removed in advance of the actual mining and will be stacked in a temporary stack yard. The same will be utilized for reclamation once the mining of minerals in 1/2 hectare area is over. This practice of continuous and simultaneous reclamation shall be continued during the mining operations. About 10,000 cubic meters of soil will be needed for each hectare area mind outside the riverbed. The yearly generation of over burden will be 28,750 cubic meters. This over burden will be used for reclamation. When working in each hectare area is completed, the same will be reclaimed simultaneously. Working in the next hectare area will be shifted only after reclamation of the mined out one hectare area. This practice will be continued simultaneously.

viii) That it shall be imperative to state that Mines and Mineral Development Restoration and Rehabilitation Fund has been established as per Haryana State Mining Rules, 2012. One of the purpose of the fund is to provide funding of the restoration or reclamation or rehabilitation works in the sites affected by mining operations.

ix) That as per the terms and conditions of the mining contract as well as the mandate of Haryana State Mining Rules, 2012, respondent No. 9 shall deposit an amount equal to 10 % of the contract money towards the fund by way of installments.

x) That for the purpose of safeguarding the lands adjoining the mining area, the mining plan (Annexure R-9/6) provides for

“restricted safety zone” of 7.5 meters from the boundary of the mining block. The total land in the restricted safety zone shall be 2.56 hectares for Jaidhar mining block and 0.75 hectares for Mandewala mining block. The area available for mining at Jaidhar mining block shall be 23.04 hectares out of 25.60 hectares; and the area available for mining at Mandewala mining block shall be 14.25 hectares out of 15 hectares.

3. That respondent No. 9 shall conduct the mining operations strictly in accordance with the respective mining plans and shall abide by all the terms and conditions of the mining contract as well as the applicable laws.”

18. Vide order dated 05.05.2023 this Hon’ble Tribunal directed respondent No. 9 to provide the details regarding the validity of environmental clearance granted in favour of respondent No. 9 with regards to Mandewala and Jaidhar Mining Blocks.

19. In compliance thereof respondent no. 9 has filed additional affidavit vide email dated 19.05.2023 the relevant part of which reads as under :-

“Additional Affidavit on behalf of Respondent no. 9-M/s Saharanpur Mines and Management Services Pvt. Ltd.

X X X X

2. That in pursuance of the directions issued by this Hon’ble Tribunal, it is submitted as follows:

Mandewala Mining Block:

i) That respondent No. 7 i.e. State Environment Impact Assessment Authority Haryana had granted environmental clearance to respondent No. 9 regarding Mandewala Mining Block vide Letter No. SEIAA/HR/2016/500 dated 27.06.2016 for a period of 5 years i.e. till 27.06.2021. The same is attached alongwith the Original Application vide Annexure A-5.

ii) That as per notification dated 18.01.2021 (Annexure R-9/7) issued by MoEF & CC, GOI, the validity of the environmental clearance was extended for a period of one year. In view thereof, the EC was valid till 27.06.2022.

iii) That respondent No. 9 had submitted an application dated 02.07.2021 with respondent No. 7 for the purpose of seeking extension of the environmental clearance. Respondent No. 7, after due consideration and deliberation, has extended the environmental clearance vide Letter bearing Memo No. SEIAA/HR/2023/23 dated 17.01.2023. The extension has been granted till 18.06.2024 and the same is subject to the final outcome of the Original Application No. 306 of 2022. Copy of EC extension Letter dated 17.01.2023, is attached herewith as Annexure R-9/10.

Jaidhar Mining Block:

iv) That respondent No. 7 i.e. State Environment Impact Assessment Authority Haryana had granted environmental clearance to respondent No. 9 regarding Jaidhar Mining Block vide Letter No. SEIAA/HR/2016/1072 dated 20.08.2018 for a period of 5 years i.e. till 20.08.2023. A copy of Environmental Clearance dated 20.08.2018 is attached herewith as Annexure R-9/11.

v) That as per notification dated 18.01.2021 (Annexure R-9/7), the validity of the environmental clearance was extended for a period of one year.

vi) That it shall be imperative to state that the mining contract granted in favour of respondent No. 9 qua Jaidhar Mining Block is valid till 18.07.2024. In view of the notification dated 18.01.2021 coupled with the duration of the mining contract, the environmental clearance dated 20.08.2018 is valid till 18.07.2024.”

20. Vide order dated 08.05.2023 Respondent no. 2 was directed to provide the detailed information regarding the following aspects:

- a) Name of the farmers to whom the agricultural land in which mining is to be carried out belongs;
- b) Details of compensation to be paid by the mining leaseholders to the farmers and the modalities for making of such payments;
- c) Cropping pattern adopted for the last five years in the land in question where mining is to be carried out; and
- d) Whether the agricultural land where mining is to be carried out falls under any command area.

21. Report has been filed by the respondent no. 2- Department of Mines and Geology, Uttar Pradesh vide email dated 25.05.2023. The relevant part of the report on behalf of respondent no. 2 is reproduced below:-

“REPORT ON BEHALF OF DEPARTMENT OF MINES & GEOLOGY IN COMPLIANCE OF ORDER DATED 08-05-2023”

2. That pointwise information is as follow:

a).Name of the farmers to whom the agricultural land in which mining is to be carried out belongs:

The details of the land owners with Khasra Nos falling in Mandewala and Jaidhar Mining Blocks have been provided by the concerned revenue officers i.e., Naib Tehsildar of Tehsil Partap Nagar and Naib- Tehsildar of Tehsil Chhachhrauli, District Yamunanagar. As per the information provided, the ownership details and cropping pattern as per Girdvari Report of village Mandewala mining block (Provided through letter dated 12.05.2023 of Naib Tehsildar, Pratapnagar) is enclosed herewith as **Annexure R-1** and village jaidhar mining block (through letter dated 24.05.2023 of Tehsildar, Chhachhrauli giving details of land owners and cropping pattern i.e Girdavari report) is enclosed herewith as **Annexure-R2**.

X X X X X

b).Details of compensation to be paid by the mining lease holders to the farmers and the modalities for making of such payments:

It is humbly submitted that Chapter-9 of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 deals with 'Payment of Rent and Compensation to the landowners and determination thereof'. The Chapter 9 contains Rule No.62 to 65. The relevant Rules as amended upto date are being reproduced below:

Rule 62. (1) *Where a mineral concession is granted under these rules over any land in respect of which minor mineral rights vest in the State Government, the rights of the landowner shall be subordinate to that of the State Government for extraction of the mineral, access to the quarry/ mine, stacking of minerals and other subsidiary purpose. The landowner is entitled to a fair rent and compensation for such use of the land and any damage or injury caused to such land.*

(2) *A mineral concession holder, who is granted the mineral concession under these rules, is entitled to use the land/area for extraction of mineral in respect of which the said concession is granted. The mineral concession holder shall be liable to pay (a) the annual rent in respect of the land area blocked under the concession but not being operated, and (b) the rent plus compensation in respect of the area used for actual mining operations.*

(3) *In case the landowner is allowed to use part of the area granted under the mineral concession for his normal operations for which it was being used prior to the grant of mineral concession, concurrent with the concession grant, no rent shall be payable in respect of such portion of land which is not being used for actual mining operations for such period as it remains available to the landowner for his normal use. In case where the mineral concession holder blocks the entire concession area as a result of which the landowner is not able to use such land or part thereof for his normal operations, the rent shall be payable in respect of the entire blocked area.*

Rule 63. *The amount of annual rent and the compensation shall be settled mutually between the landowner and the mineral concession holder.*

Sub Rule 63A. *Fixation of annual rent and compensation by Government- In case where no agreement is reached by way of mutual settlement between land owner and mineral concession holder, the Government may fix and notify the rate of annual rent and compensation, to be paid by the mineral concession holders to the landowners for area granted on mineral concession for mining under these rules.*

Rule 64.(1) *Where no agreement is reached by way of mutual settlement between the landowner and the mineral concession holder regarding the rate of rent, the mineral concession holder shall offer to pay an amount equal to two percent of the Collector rate or at such rate as may be notified by the Government as per rule 63A in respect of such land/area, whichever is higher, as rent.*

(2)*Where the land owner is not agreeable for a mutual settlement under rule 63 and is also not satisfied with the rent offered to be paid under sub-rule (1) above, the landowner or the concession holder may apply to the officer-in-charge of the concerned district to make a reference to the District Collector for determination of the fair rent payable in respect of such land.*

(3) Where either of the parties prefer a reference to the District Collector under sub-rule (2) above, the officer-in-charge of the concerned district shall forward the reference to the District Collector for determination of the fair market rent in respect of such land. The mining officer-in-charge of the district shall also require the mineral concession holder to deposit the rent for one year as prescribed under sub-rule (1) above as a tentative rent with the collector. Upon so doing, the mineral concession holder shall be entitled to commence mining operations over the land area.

(4) Upon a reference from the mining officer-in-charge of the district concerned, the District Collector may call upon the parties to furnish the details of their claims and counter claims, inter alia, containing information on the parameters prescribed under sub-rule (5) of this rule and afford an opportunity of hearing to the parties.

(5) (I) Pursuant to the hearing granted to the parties to the reference, the District Collector shall determine the fair market rent of the land keeping in view the following:

(i) Nature/character of the land i.e arable (single crop or multiple crop) or barani or banjar;

(ii) Use to which such land was being put immediately before the grant of mineral concession;

(iii) Annual net income that the landowner was able to derive/earn from such land use;

(iv) Normal increase in the income level that would have taken place in such net income during the intervening period;

(v) Amount so worked out shall be added an amount equal to thirty percent in lieu of compulsory use of the land;

(II) While determining the fair market rent, the collector shall also decide the rate at which such rent would be increased on year-to – year basis during the currency of the mineral concession.

(6) *Notwithstanding the parameters prescribed for determining the fair market rent under sub-rule (5) above, Collector shall not determine the rent at a rate lesser than the amount as prescribed under sub-rule (1) or rate of rent fixed and notified, if any, by the Government in respect of such area/land, whichever is higher.*

(7) *The District Collector shall order parties and the mineral concession holder to pay such rent to the landowner from time to time, as determined by him.*

(8) *Any appeal against the order of the District Collector shall lie with the Government.*

Rule 65 (1) *In addition to the rent settled between the parties under rule 63 or determined and payable under rule 64, the landowner would also be entitled to payment of fair and reasonable compensation for any damage caused to such land in respect of the area under actual mining operations.*

(2) *In cases where the amount of compensation is not mutually settled between the parties under rule 63, the tentative amount of compensation shall be equal to an amount 0.5 % of the collector rate in case of riverbed mining and /or 1% of collector rate in all other cases (except Riverbed mining) or at the rate of an amount of compensation, as notified by the Government under rule 63 A, whichever is higher.*

(3) *Where the landowner or the mineral concession holder is not agreeable to accept the amount of compensation prescribed under sub-rule (2) above, either of them may seek reference through mining officer-in -charge to the District Collector for determination of fair and reasonable compensation with reference to the damage or injury caused to such land. Pending a decision by the District Collector on such reference by either of the parties, the mineral concession holder shall deposit the tentative compensation amount for one year with the District Collector in accordance with sub-rule (2) above, where after the concession holder shall be entitled to operate the area.*

(4) Upon a reference from the officer-in-charge, of the district concerned, the District Collector shall proceed to determine the fair compensation amount on account of any damage likely to be caused to such land on account of the mining operations. The Collector shall invite claims and counter claims and afford an opportunity of hearing to the parties before determining the compensation amount.

(5) (I) The collector shall determine the fair compensation for the damage or injury caused to such land keeping in view the following:

(i) nature or character of land i.e arable (single crop or multiple crop) or barani or banjar;

(ii) economic activity for which such land was being used immediately before the grant of mineral concession;

(iii) nature and extent of damage caused and as to whether such land is fully or partially reclaimable after closure of the mining operations or the damage is irreversible;

(iv) economic activity for which such land can be used after mine closure, with or without any investment, and the kind of returns it is capable of yielding after such restoration.

(v) extent of efforts and expenditure proposed to be made by the mineral concession holder for restoration or reclamation or rehabilitation of the land as per the mine closure plan for its eventual use by the landowner;

(II) While determining the compensation amount, the Collector shall keep in view the total rent and the estimated compensation amount payable to the landowner throughout the concession period. In case the sum total of the rent and the compensation amount assessed is more than the prevailing market value of land, the mineral concession holder may be given an option to buy the land at such rates subject to the landowner agreeing to the same. Alternatively, the Collector may determine the compensation amount keeping in view that the landowner would continue to retain the ownership of land after the closure of mining operations.

(III) *In case the mineral concession holder and the landowner (s) are able to settle the compensation mutually in respect of a portion of the land required for actual mining operations, compensation for such portion of the land shall not be a subject for settlement. However, the amount of compensation already settled in respect of part of the operating area shall be kept in view while settling the compensation for the disputed area.*

(6) *Where the amount of final compensation determined by the Collector works out to be more than the tentative amount of compensation already deposited as per sub-rule (2), the mineral concession holder shall deposit immediately on demand by the Collector, the additional amount of compensation within fifteen days:*

Provided that in case the amount of final compensation works out to be less than the amount already deposited by the contractor/lessee, the excess amount shall be refunded to him within fifteen days.

(7) *The compensation amount determined by the District Collector shall be final and binding on the parties and the mineral concession holder shall be liable to pay such compensation amount to the landowner annually during the currency of the mineral concession.*

(8) *An appeal against the order of the Collector shall lie with the Government.*

It is humbly submitted that no reference as mentioned in Rule 64 (2) and 65(3) has been made to the District Collector, Yamunanagar in respect of Mining Blocks in question.

It is also submitted that agreement as referred in above stated rules are to be executed before the commencement of mining operations.

c) Cropping pattern adopted for the last five years in the land in question where mining is to be carried out:

As per the Girdawari report obtained from the revenue department, the crops grown during the Kharif and Rabi season

are mainly the Zeeri (Paddy) and Gehu (Wheat) crops respectively. Copy of Girdawari reports are part of Annexure - R1 and- R2.

d) Whether the agricultural land where mining is to be carried out falls under any command area

As per the information provided by the Executive Engineer, Water Services Division, Dadupur (Yamunanagar), None of the Khasra Nos of village Jaidhar fall in the command area of any of the channels. However, all khasra Nos in village Mandewala except Khasra No 15//21/8 fall in the commands of the channels.

*Copy of letter dated 11.05.2023 of Executive Engineer, Water Services Division, Dadupur is annexed as **Annexure-R/3**).....”*

22. Written Submissions have been filed by the applicant vide email dated 24.04.2023 and by Respondent no. 9- M/s Saharanpur Mines and Management Services Pvt. Ltd. vide email dated 21.03.2023.

23. We heard learned Counsel for the parties and reserved the matter for disposal by passing of detailed order. However, on carefully examining the matter we consider further hearing/enquiry to be necessary for the reasons stated hereinafter.

24. Even though no appeals challenging validity of ECs granted by SEIAA in favour of Respondent No.9 were filed by the applicant or any one else, yet prima facie the questions as to the mining leases being violative of the provisions of the Environment (Protection) Act, 1986 and the Guidelines issued under the same being integral to operation of the mines in compliance with environmental norms can be gone into by this Tribunal on the present Application.

25. In Civil Writ Petition No.8470 of 2004 Ajeet Singh and Others vs State Of Haryana and Others and connected writ petitions filed by Ajeet

Singh and other farmers belonging to District Karnal challenging mining in agricultural land in the State of Haryana, Hon'ble High Court of Punjab and Haryana had, by an order dated 31.08.2005, elicited the views of specialists in the agriculture sector and impleaded the Haryana Agriculture University, Hisar as a party to one of the petitions, to determine the environment hazards, if any, involved in mining of sand from agriculture land in the State of Haryana. A Committee comprising seven experts from different disciplines constituted by the Vice Chancellor of the University, submitted a report to Hon'ble High Court of Punjab and Haryana pursuant to the said order, in which it was, inter-alia, opined that sand mining in agriculture lands had destroyed the natural soil profile and resulted in land degradation due to soil erosion in the fields adjacent to the mined area. It was also pointed out that the sand mining has adversely affected the texture, structure, organic matter and available nutrients status of the soil, which would obviously decrease crop productivity in the affected area. Hon'ble High Court of Punjab and Haryana was, on perusal of the said report, prima facie of the view that the situation arising out of mining of sand from fertile agriculture lands was alarming and that in case remedial steps were not taken, such mining operations may adversely affect the environment and accordingly stopped the on-going mining activity in the villages in question by an order dated 05.04.2006.

26. The Director of Mines and Geology, Haryana in reference to the above said case requested the Director, Central Soil Salinity Research Institute (CSSRI) Karnal, to study different mining sites in Karnal, Panipat and Sonapat districts so as to know the impact of sand mining on soil properties and crop yield in comparison to the un-mined fields so as to provide guidelines for framing sand mining policy in the State. A team

of scientists from the CSSRI under a consultancy project studied the mined and adjacent un-mined sites at several places in Karnal, Panipat and Sonapat districts to ascertain the impact of sand mining on soil properties and crop growth. The CSSRI Committee recorded its Salient findings, some recommendations and conclusions as under :-

“SALIENT FINDINGS AND SOME RECOMMENDATIONS

1. *Sand is an integral part of soil composition and also an important aggregate used in bulk in construction industry.*
2. *Small sized sand pits spoil surface configuration of the landform and are difficult to rehabilitate. Therefore, large contiguous areas should be earmarked for sand mining.*
3. *Depth of sand mining, which used to be about 5-6 m earlier, has now increased to about 10 m. this has direct bearing on soil erosion especially when side slopes of mines bear an angle of 45° or more. Restricting mining depth and decreasing degree of side slopes are recommended to prevent erosion of adjoining lands and silting of the bottoms of sand pits. The mining depth and degree of slope shall vary from site to site depending upon soil texture and other site characteristics.*
4. *Width of buffer zone around the sand mine pit should be sufficiently wide to save any form of loss accruing from sand mine to the land and property of the neighbouring farmer. Side slopes and buffer zones are the most fragile components of rehabilitation, their stabilization is extremely important. Therefore, regular maintenance and monitoring by a team of experts and other stakeholders is recommended.*
5. *Rehabilitated sand mines have responded well to soil development and improvements in soil physical, chemical, microbiological and nutritional properties. However, the resulting lighter soil textures are likely to induce higher infiltration rates causing loss of water and plant nutrients through enhanced leaching. To prevent such losses and also to keep down cost of crop production, state of the art and location specific soil and water management measures are recommended.*
6. *Lighter soil textures have opened new options for crop-diversification. A host of commercial crops like tubers, vegetables, flowers, fruits and herbal plants etc hold good promise in these soils.*
7. *Crop yields remained subdued until 4-5 years of rehabilitation. Afterwards, the yields were comparable or even better than those obtained from the original un-mined soils.*

This has happened due to nutrient transformation, weathering of sand minerals and adoption of best management practices.

8. Cultivation of sugarcane that produces abundantly dense root system and leaf-trash for recycling into soil was found the most useful crop to improve soil during initial years of rehabilitation.

9. Research studies to fine-tune various aspects of sand mining and rehabilitation of mined areas to agriculture and other profitable land use are recommended. Scope of mine areas for ground water recharge and rain water harvest needs exploitation.

10. Sufficient scientific literature addressing problems arising due to sand mining and their solution including packages of practices for quick rehabilitation of land be prepared and disseminated to the concerned officials and farmers.

Conclusions

Sand mining apparently is a land degradation process which disturbs soil profile spoils surface configuration and considerably alters topography of the land. Rehabilitation of sand mines starts with spreading mixing and leveling of topsoil with sand. The resulting loose mass contains about 60 to 70 percent lesser clay and silt in comparison to topsoil but most importantly they inherit some useful genetic characteristics that favour soil profile development. Commencement of agricultural operations for crop production causes soil cohesion, which further lead to improvements in soil properties. The reclaimed soils produce significantly lesser yields in the first few years but picks up gradually to reach almost at par by 5th year of reclamation. The processes of soil formation like profile development; physical, chemical, biological and nutritional properties of soil improve simultaneously. Depending upon the method and process of rehabilitation, the breakeven point in crop production and soil improvement is reached between 5th and 12th years of reclamation. It is, therefore, concluded that sand mining from agricultural fields in Yamuna basin should be permitted but regulated and managed in scientific manner to enable concurrent reclamation of sand mines for immediate return to agriculture.”

27. On 22.05.2007 the attention of Hon’ble High Court of Punjab and Haryana was drawn to the report submitted by Central Soil Salinity Research Institute, Karnal and the comments offered by the said institute regarding the report submitted by the Haryana Agriculture University which were at variance with each other. In order to resolve the conflict, Hon’ble High Court of Punjab and Haryana directed the

Committee of Experts, earlier constituted by the Haryana Agriculture University, to visit three other districts of Haryana also, namely Yamunanagar, Sonipat and Panipat in order to evaluate the hazards of mining of sand of agricultural land. On the submission of the said report, Hon'ble High Court of Punjab and Haryana forwarded the report submitted by the Central Soil Salinity Research Institute, Karnal as also the report submitted by Haryana Agriculture University to Haryana State Pollution Control Board as also to the Central Pollution Control Board for their comments regarding the same. The respondents were also directed to examine whether the matter could be referred to the Central Environment Impact Assessment Authority constituted by the Central Government.

28. However on 22.07.2009 Mr. Randhir Singh, learned counsel appearing for the State of Haryana submitted that the mining for removal of sand in the State of Haryana had all expired by efflux of time and that the Government had after proper examination of the environmental concerns expressed in certain quarters, taken a decision that while granting fresh leases, the lessee shall have to obtain prior environmental clearance from the competent authority in terms of Notification dated 14.09.2006 issued by the Government of India, Ministry of Environment and Forests, before they commence the mining activity. In support, he placed on record a copy of Auction Notice dated 10.03.2008. and submitted that auction of leases for mining of sand would be subject to proper evaluation of the environmental hazards and clearance by the State Level Environmental Impact Assessment Authority, constituted by the Government of India in terms of Notification dated 14.09.2006 and all issues regarding the possible environmental degradation of the area on account of mining activities would have to be addressed and proper

clearance obtained from the above authority constituted by Government of India in terms of Notification dated 21.04.2008, before the lessees are allowed to commence their mining activities. Learned Counsel for the State of Haryana further submitted that since a specialized expert Committee would grant environmental clearance before the mining activity started, the apprehension expressed by the petitioners that the continued mining of sand from the agricultural land would result in irreparable damage to the quality of the soil or productivity of the land, would also be addressed and examined by the Authority concerned. In the light of the terms and conditions stipulated by the State Govt. and the fact that all issues relating to the impact of mining on environment would be examined by the State Level Committee, the petitions could be disposed of with a direction that the mining operations shall conform to the requirements of the Auction Notice and the Notification dated 14.09.2006 issued by the Government of India.

29. Hon'ble Punjab and Haryana High Court disposed of the writ petition accordingly with the following observations:-

"In the circumstances, therefore, and keeping in view the submissions made at the bar, we see no reason to keep these proceedings pending with us any longer. In view of the change, that has been introduced by the State Government during the pendency of these proceedings, in the approach to be adopted towards grant of leases and the care, that has to be taken while allowing the lessees to undertake mining operations, as also the fact that an expert Authority constituted by the Government shall have to grant clearance before the mining of sand starts, we see no reason to assume that all these safeguards notwithstanding, there will be any danger to the environment on account of unregulated and unabated mining operations. All that we need say is that the respondent State Government and its agencies shall ensure that the terms of the Auction Notice are strictly adhered to by the lessees concerned and no mining activity is allowed to be carried out, except after obtaining proper clearance from State Level Environment Impact Assessment Authority constituted in terms of the notifications mentioned above. Needless to say that in case any violation of the above policy of the State Government and the legal framework provided for the mining activities is noticed, the petitioners shall be free to re-agitate the matter in appropriate

proceedings before this Court. These petitions are disposed of with the above observations.”

30. In its report ‘Sand Mining or no mining in agricultural fields in Haryana’ CSSRI Committee observed as under:-

“Yamuna basin is bordered by river Yamuna from Yamunanagar to Delhi and National Highway No. 1 from Nilokheri to Delhi. Between Nilokheri and Delhi the National Highway No. 1 is aligned on the levee of River Yamuna and acts as water divide between the ancient River Saraswati and Yamuna. The Riverine action deposited several meter thick sand layers in the riverbed. Slow shifting of river Yamuna towards east left behind several meter deep sand deposits, which was subsequently covered by alluvium consisting sand, silt and clay to form topsoil. The Yamuna basin (Figure 1) measuring around 1700 sq km is estimated to have 300 billion cu m sand deposits lying below agricultural land.”

31. In its report CSSRI Committee also made the following observations:

“Sand mines have definite impact on surface configuration and topography of the land. Small sized mines are prone to flooding and erosion and a permanent threat to the adjoining lands. While large sized sand mines by virtue of their size are less threatened by floods, rather these could play vital role of a large ground water recharging or water harvesting body in the event of unusually large floods feared in future due to global warming. Highly sloping edges and buffer zones were found the most fragile components in sand mining. High degree of priority must be accorded to preserve them by computing appropriate width of buffer zone and suitable degree and shape of slopes with long term stabilization under vegetation adopting site-specific soil and water conservation measures...”

32. In the present case the Respondents have not produced any material to show that State of Haryana has framed any policy regarding permitting of sand, boulder, gravel mining in non-governmental agricultural land by considering the environmental concerns flagged in the report of Committee constituted by the Vice Chancellor, Hisar Agricultural University and observations/recommendations made in the report of the CSSRI Committee. The Respondents have not produced copies of environment impact assessment report prepared/considered by

the SEAC/SEIAA to show that such environmental concerns /recommendations were considered by SEAC/SEIAA. There is urgent and mandatory requirement of due consideration of the environmental aspects referred in the above said Committee reports.

33. The SSMG, 2016 provide for management of sand deposited after flood on agricultural field of farmers and the relevant part thereof is reproduced hereunder:-

“MANAGEMENT OF SAND DEPOSITED AFTER FLOOD ON AGRICULTURAL FIELD OF FARMERS

The Standing Committee on Water Resources on issues, concerning flood management, compensation, and status of ownership of submerged and eroded land in the country including compensation to farmers for loss of their crops destroyed by floods and right to disposal of the sand left in the fields of farmers in its meeting held on 29.04.2015 made observations on this subject.

The Committee observed that pursuant to Hon'ble Supreme Court of India decision in "Deepak Kumar Case" in 2012, regulations were framed by the Ministry of Mines to guide environmental clearance of minor minerals. ... The Committee, therefore, desires the Ministry of Water Resources, River Development and Ganga Rejuvenation to work in close coordination with the Ministry of Mines and Environment, Forest and Climate Change to frame regulations / Guidelines in this regard expeditiously.

Mining of Sand

The Committee further observed that due to the floods, the agricultural land of farmer is destroyed and rendered infertile. Further the farmer loses his livelihood as the produce of his land is destroyed by flood and become unsalable. The farmer is also deprived of the right of lifting sand from his land. He is therefore, left helpless and destitute and leave their land in search of job.

The Committee observes that "mining operation" means any operation undertaken for the purpose of winning any mineral. Accordingly, if desilting is undertaken perse with the objective of winning a mineral then only it will be construed as a mining operation. Apparently, if the desilting is undertaken not for winning any mineral, it will not be construed as mining operation and therefore, the farmer can remove the sand from the land without requiring the requisite permits. However, the Committee strongly feels that the farmer be given the right to use and dispose-off the sand accumulated over their land post

flood, by incorporating the necessary provisions in the Mines and Mineral (Development and Regulation) Act, 1957".

Removal of sand from the agricultural field by the owner farmer of the land from environment point of view will not be considered as mining operation and its removal and disposal can be allowed without the requirement of environment clearance till it is done only to the extent of reclaiming the agricultural land. The sand deposited after flood only be removed, so no mining / digging below the ground level is allowed. For removing sand in case where private land has gone into the river due to erosion, the requirement of mining lease and environment clearance will continue. This operation of removal of sand deposited on agricultural field should be done after a mapping of deposition is done by the Land Management Committee of the Gram Panchayat. The sand so deposited post flood can be removed by the farmer owning the land / group of farmers affected by this post flood sand deposition or the Gram Panchayat. Customary rights to remove and dispose off the sand should be given to the farmer affected by deposition of sand on account of sudden flood in his agricultural land."

34. However, the mining leases in the present case do not fall in the category of mining of sand deposited after flood on agricultural field of farmers.

35. The SSMG, 2016 also noticed the practice of Mining of Sand from Agricultural Field in the State of Haryana and made recommendations regarding the same. Relevant part thereof is reproduced hereunder:-

“MINING OF SAND FROM AGRICULTURAL FIELD

This practice is prevalent in Haryana, where the top layer of soil varying between 1 and 2 meters is removed and stacked separately and thereafter the sand deposit which may be 10-15 meter deep is mined. After removing the sand layer up to a maximum depth of 09 meters, the top soil stacked is spread out on the field and the same is brought under the cultivation. Though the level of this land (mined out area) is lowered to the depth of the excavation and in initial years of cultivation the productivity is low, but the productivity of the fields improves with continued cultivation and addition of organic manure in the field. In Haryana some leases are of large area (ranging from 1000 hectare to 2000 hectare) the agricultural fields and river bed both are included in the same lease for mining.

The following recommendations should be kept in mind for mining in such leases:

1. *Mining of sand in such mine leases will require environment clearance.*

2. The lease should be of sand mining either from the agricultural field or river. In same lease both type of area should not be included.

3. The sand mining from agricultural field is being done in Haryana for a long time and it can be done in a more sustainable manner without adverse impact on agricultural productivity, if proper environmental safeguards are taken.

4. The slope of mining area adjacent to agricultural fields should be proper (preferably 45-60 degree) and adequate gap (minimum 10 feet) be left from adjacent agricultural field to avoid erosion and scouring.”

36. The EMGSM, 2020 also acknowledged that practice of mining of Sand from Agricultural Fields is prevalent in Haryana and also made recommendations regarding the same. The relevant part thereof is reproduced hereunder:-

“8.2 Mining of Sand from Agricultural Fields

This practice is prevalent in Haryana; to ensure that mining from outside doesn't affect rivers, no mining is permitted in an area up to a width of 100 meters from the active edge of embankments or distance prescribed by Irrigation department whichever is critical. The top layer of soil varying between 1 and 2 meters is removed and stacked separately and thereafter the sand deposit which maybe 10-15 meter deep is mined. After removing the sand layer up to a maximum depth of 09 meters or the maximum mineable minerals, as permitted by competent authority. The topsoil stacked is spread out on the field and the same is brought under the cultivation. Though the level of this land (mined out area) is lowered to the depth of the excavation and in initial years of cultivation the productivity is low, but the productivity of the fields improves with continued cultivation and addition of organic manure in the field. In Haryana, some leases are of large area (ranging from 1000 hectare to 2000 hectare) and agricultural fields and river bed both are included in the same lease for mining.

The following recommendations should be kept in mind for mining in such leases:

1. Mining of sand in such mine leases will require environment clearance.

2. The lease should be of sand mining either from the agricultural field or river. In the same lease, both types of area should not be included.

3. The sand mining from the agricultural field is being done in Haryana for a long time and it can be done in a more sustainable manner without adverse impact on agricultural productivity if proper environmental safeguards are taken.

4. The slope of mining area adjacent to agricultural fields should be proper (preferably 45 degree) and adequate gap

(minimum 10 feet) be left from adjacent agricultural field to avoid erosion and scouring.

The provision for sand mining in agricultural field may be permitted, whenever replenishment of sand occurs due to natural phenomena.

Permission may also be granted by competent authority (District administration) for excavation of sand/Soil from agricultural fields, after due diligence of this prevailing condition in order to avoid any unacceptable impact on the environment and nearby livelihood from agriculture provided such objective of such excavation mining of Soil/Sand in limited increase the productivity of sand agricultural field."

37. It may be observed here that in both the SSMG, 2016 and the EMGSM, 2020, it is mentioned that sand mining from agricultural land can be done in a more sustainable manner without adverse impact on agricultural productivity, if proper environmental safeguards are taken but the requisite environmental safeguards, other than 'slope' and 'gap', are not enlisted in the SSMG, 2016 and the EMGSM, 2020.

38. The question as to what 'proper' environmental safeguards are required to be taken for carrying out sand mining in agricultural land in a more sustainable manner without adverse impact on agricultural productivity also needs to be also considered.

39. In these facts and circumstances, we consider it appropriate that a Joint Committee be constituted to look into all relevant aspects of sand mining in non-governmental/private agricultural land and make its recommendations regarding environmental safeguards/ measures for mining on agricultural land with the objectives to ensure sustainable development. Accordingly, we constitute a Joint Committee comprising of one representative of Secretary, Ministry of Environment, Forest and Climate Change (MoEF & CC), Central Pollution Control Board (CPCB), Indian Agricultural Research Institute (IARI), Indian Institute of Soil and Water Conservation, (IISWC), Dehradun, Chaudhary Charan Singh

Haryana Agricultural University (CCHAU), Hisar, Central Soil Salinity Research Institute (CSSRI), Karnal and Haryana State Pollution Control Board (HSPCB) and direct the same to meet within two weeks, undertake requisite visits to the mining sites including the mining blocks in Jaidhar and Mandewala as may be considered necessary, look into all relevant aspects concerning sand mining in agricultural land in the State of Haryana, take into consideration both the reports submitted by the HAU Committee and CSSRI Committee for ascertaining as to (i) whether the practice of sand mining in agricultural land adversely affects fertility/value of agricultural land and damages environment; and (ii) whether the practice of sand mining in agricultural land needs to be permitted/continued and (iii) in case the practice of sand mining in agricultural land is allowed/continued what are the environmental safeguards/measures required to be undertaken for ensuring sustainable agriculture and achieving sustainable development and make its recommendations regarding the same including environmental safeguards/measure for undertaking mining, reclamation/rehabilitation of mined land for making it suitable for sustainable agriculture and achieving sustainable development. For this purpose, the Committee may also co-opt any other expert as may be considered appropriate and may receive representation from and/or give opportunity of being heard to the applicant, representative of the project proponent and any NGO/voluntary agencies or association of land owners or mining lease holders as may be considered appropriate. The HSPCB will be the nodal agency for coordination and compliance and will bear all travel and other expenses of the Committee out of the amount of the environmental compensation lying deposited with it. The Report of the Committee be submitted within two months by e-mail at judicial-ngt@gov.in preferably

in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

40. So far as the question of permissibility of sand mining in agricultural land under the present regime of environmental norms is concerned, Guideline 4.1(m) of the Enforcement and Monitoring Guidelines for Sand Mining 2020 provides as under:-

“m) The mining outside the riverbed on Patta land/Khatedari land be granted when there is possibility of replenishment of material. In case, there is no replenishment then mining lease shall only be granted when there is no riverbed mining possibility within 5 KM of the Patta land/Khatedari land. For government projects, mining could be allowed on Patta land/Khatedari land but the mining should only be done by the Government agency and material should not be used for sale in the open market. Cluster situation as mentioned in para k above is also applicable for the mining in Patta land/Khatedari land.”

41. Guideline 4.3 (s) of the Enforcement and Monitoring Guidelines for Sand Mining 2020 provides as under:-

“s) Mining Plan for the mining leases (non-government) on agricultural fields/Patta land shall only be approved if there is a possibility of replenishment of the mineral or when there is no riverbed mining possibility within 5 KM of the Patta land/Khatedari land. For Government Projects mining could be allowed on Patta land/Khatedari land but the mining should only be done by the Government agency and material should not be used for sale in the open market.”

42. Thus, the Enforcement and Monitoring Guidelines for Sand Mining 2020 stipulate that mining leases (non-government) on agricultural fields/Patta land shall only be approved (i) if there is a possibility of replenishment of the mineral or (ii) when there is no riverbed mining possibility within 5 KM of the Patta land/Khatedari land.

43. The Applicant has claimed that there is no possibility of replenishment of sand in both the mining sites at Villages Jaidhar and Mandewala and mining site at Village Mandewala is located at a distance of 1.62 to 2.02 kms from River Yamuna and there is riverbed mining

possibility within 5 KMs and 12 mining areas fall within 5 kms of mining site at Village Mandewala and mining leases are in clear violation of 2020 Guidelines. The applicant has submitted that EMGSM, 2020 guideline are applicable to mining by respondent no. 9 and the applicant has relied on Judgment of Hon'ble Supreme Court in the case of the State of Bihar Vs. Pawan Kumar reported at (2022) 2 SCC 348.

44. In their replies respondents no. 1 and 2, 4 and 7 have not specifically replied to the aspects as to (i) whether there is a possibility of replenishment of the mineral in mining sites in villages Jaidhar and Mandewala and (ii) whether there is riverbed mining possibility within 5 KMs of mining site in village Mandewala. In his reply Respondent No.9 has submitted that it has been recognized in EMGSM, 2020 that there is replenishment of the land due to various agricultural processes. The replenishment of minerals has also been recognized in the respective mining plans approved by Respondent no. 1. Respondent no. 9 has further submitted that the EMGSM, 2020 are not applicable in the present case on account of the fact that the auctions were conducted in 2015 and the LoI were issued in favour of the answering respondent on 19.06.2015. There is no provision of law authorizing retrospective application of the guidelines. Even the tone and tenor of the EMGSM, 2020 shall reveal that the guidelines are prospective in nature. Respondent no. 9 has further submitted that the EMGSM, 2020 are mandatory but with prospective effect. The guidelines laid down under the EMGSM, 2020 cannot be taken into consideration for the purpose of cancellation/termination of mining contract which was auctioned/granted way back in 2015/2016. The guidelines shall be applicable to Respondent No. 9 only for the purpose of the same being

followed with regards to the conduct of mining operations in future which shall include aspects like replenishment study, environmental audit etc.

45. The questions as to (i) whether the EMGSM, 2020 are applicable to the mining leases in question (ii) if yes whether there is a possibility of replenishment of the mineral in mining sites in villages Jaidhar and Mandewala or (ii) whether there is riverbed mining possibility within 5 KMs of mining site in villages Jaidhar Mandewala have to be determined in the present case and response of MoEF & CC, respondents no. 1 and 2, 4 and 7 in this regard is essentially required and factual position in this regard also needs to be verified.

46. Accordingly, MoEF & CC being necessary/proper party is ordered to be impleaded as respondent no. 10. Memo of parties be amended accordingly and notice be issued to respondent no. 10 requiring it to file its response.

47. Specific detailed response by respondents no. 1 and 2, 4, 7 and 10 be filed within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

48. Further both the SSMG, 2016 and the EMGSM, 2020 acknowledge that the Sand mining in agricultural land (i) lowers the level of mined out land to the depth of the excavation and (ii) lowers the productivity in initial years of cultivation. In its report the CSSRI Committee had mentioned that sand mining is a land degradation process which disturbs soil profile, spoil surface configuration and considerably alters topography of the land. The reclaimed soil produce significantly lesser yields in the first few years and breakeven point in crop production and soil improvement is reached between 5th and 12th year of reclamation. In

its report the CSSRI Committee noted favorable response of some land owners in view of the fact that sand mining for 2 to 3 years fetched an amount of Rs. 6 to 8 lakhs per hectare. However, in the present case the respondents no. 1 and 2 and respondent no. 7 have not mentioned anything about the amount payable to the land owners. Reference has been made to Rules 62 to 65 the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 (Haryana State Mining Rules, 2012) under which the quantum of rent and compensation is left to mutual agreements between the land owners and mining lease holder and in case of failure of /grievance against mutual settlement, to reference to the District Collector. In the present case leases were granted in the years 2016/2018 but such rent and compensation agreements have not been executed so far. Further the entire agricultural land to be mined does not abut public roads and does not have passage for transportation of mined minor minerals. The aspect of providing passage for transportation is also left to mutual agreement between the concerned land owners and mining lease holder. Again reclamation of mined agricultural land under mining plan seems to have been left to mutual settlement between the concerned land owners and mining lease holder. Even though, Respondent No. 9 has submitted that Mines and Mineral Development Restoration and Rehabilitation Fund has been established as per the Haryana State Mining Rules, 2012 and one of the purpose of the fund is to provide funding for the restoration or reclamation or rehabilitation works in the sites affected by mining operations and as per the terms and conditions of the mining contract as well as the mandate of the Haryana State Mining Rules, 2012, respondent No. 9 shall deposit an amount equal to 10 % of the contract money towards the fund by way of installments. However, respondents no. 1 and 2 have not mentioned that

in case of default by the mining lease holder the State of Haryana is under any obligation for reclamation of the land mined by utilizing the Fund or at its own cost with or without liberty to recover the same from the mining lease holder.

49. In these facts and circumstances, the Director General, Mining and Geology Department, Haryana is directed to file an additional affidavit providing information in tabular form with respect to the following aspects:-

- (i) number of mining leases for sand mining in agricultural land already completed;
- (ii) number of mining leases for sand mining in agricultural land currently in operation;
- (iii) number of mining leases for sand mining in agricultural land which are yet to commence operation;
- (iv) the quantum of rent and compensation per hectare paid/agreed to be paid under agreement between the land owners and mining lease holders under mining leases already closed and mining leases nearing completion;
- (v) amount lying deposited in Mines and Mineral Development Restoration and Rehabilitation Fund; and
- (vi) amount spent on reclamation/restoration out of the Mines and Mineral Development Restoration and Rehabilitation Fund.

It be also mentioned in the affidavit as to whether the State of Haryana has carried out reclamation of any mined agricultural land by utilizing the Mines and Mineral Development Restoration and Rehabilitation Fund or at its own cost with or without liberty to recover the same from the mining lease holder.

50. In the present case, Report on the measured distance between mining blocks at Mandewala and Jaidhar to River Yamuna was filed by respondent no. 8 and relevant part thereof is reproduced below:

“Report on the measured distance between mining blocks at Mandewala and Jaidhar to River Yamuna:

The latitude and longitude of the corners of Mandewala Mining Block have been taken from the Environment Clearance Order dated 27/06/2016 given at Annexure 5 of OA no. 306/2022. Latitude and Longitude of corners of Jaidhar Mining Block have been taken from Environment clearance Order dated 20/08/2018. Latitudes and Longitudes given below, have been considered for measuring maximum and minimum distance from the river Yamuna:

Mandewala Block	Latitude	Longitude
Corner 1	30°15' 57.4" N	77°30'31.7" E
Corner 2	30°15'46.2" N	77°30'32.1" E
Corner 3	30°15'41.9" N	77°30'25.9" E
Corner 4	30°15'11.5" N	77°30'38.4" E

Jaidhar Block	Latitude	Longitude
Corner 1	30°13'42" N	77°24'30" E
Corner 2	30°13'50" N	77°24'42.5" E
Corner 3	30°13'36" N	77°24'06" E
Corner 4	30°13'44" N	77°24'52.5" E

Maximum and minimum distances have been measured using Google Earth.

Distance from Mandewala Block to river Yamuna is between 1.62 km to 2.02 km. Map showing location of Mandewala mining block and its distance from river Yamuna is attached.

Distance from Jaidhar Block to river Yamuna is between 8.0 km to 8.98 km. Map showing location of Jaidhar mining block and its distance from river Yamuna is attached.”

51. The Mining Officer, Yamuna Nagar and Tehsildar Chhachhrauli submitted Joint siting verification report dated 19.10.2021 in respect of mining site at village Jaidhar the relevant part of which is as under:-

Sr. No	Siting Parameter	Actual Distance (Kilometer)

1	<i>The minimum distance of the mining block from Dadupur Head Works</i>	<i>01 K.M</i>
2	<i>The minimum distance of the mining block from Bhoruka Power Plant at Dadupur</i>	<i>01.50 K.M</i>
3	<i>The minimum distance of mining block from WJC MLU which runs from Hathni Kund Barrage to Dadupur Pond</i>	<i>0.300 K.M</i>

52. The Mining Officer, Yamuna Nagar and Naib Tehsildar, **Partap Nagar** submitted Joint siting verification report dated 19.10.2021 in respect of mining site at village Mandewal the relevant part of which is as under:-

Sr. No	Siting Parameter	Actual Distance (Kilometer)
1	<i>The minimum distance of the mining block from the nearest river bed</i>	<i>2 ¼ K.M</i>
2	<i>The minimum distance of the mining block from X-Regulator and Head Regulator at RD 2758 of WJC main line lower for diversion of water supply to Hedel Channel</i>	<i>6 K.M</i>
3	<i>The minimum distance of mining block from RLDSE bund downstream of Tajewala</i>	<i>5 K.M</i>
4.	<i>The minimum distance of mining block from WJC MLU which runs from Hathni Kund Barrage to Dadupur Pond</i>	<i>1 K.M</i>

53. The Applicant has objected to mining in village Jaidhar district Yamuna Nagar on the ground that letter no. 6958-62/117-M dated 12.10.2021 was sent by the Executive Engineer, Water Service Division, Dadupur to the Deputy Commissioner, Yamuna Nagar for not permitting mining activities at village Jaidhar which has been ignored.

54. The Respondents have submitted that the issue was considered by the Committee comprising of (i) District Officer, Yamuna Nagar, (ii)

District Mining Officer, Yamuna Nagar and (iii) Executive Engineer, Water Service Division, Dadupur constituted by the Deputy Commissioner, Yamuna Nagar vide letter no. 18/MA dated 04.01.2022 which submitted Report dated 27.09.2022 that the aforesaid structures were found to be at safe distance.

55. However, a perusal of report dated 27.09.2022 shows that the above said Committee did not make any such observations. On the other hand the Committee observed that the issue raised by Water Service Department is specific issue and has to be decided by the Department of Mining and Irrigation at highest level whether mining is permissible or not in the area for which complaint has been made. The relevant part of the report reads as under:-

“XEN, Water Services Division, Dadupur vide letter dated 12-10-2021(Annexure-16) apprised Deputy Commissioner, Yamuna Nagar that Dadupur Head Works exists in the vicinity of village Jaidhar and therefore the area around it has been notified as controlled area vide notification no. 12038-10-DP-81/21145 dated 21-12-1981. Section 7(i) of The Punjab Schedule Roads and Controlled Area Restrictions of Unregulated Development Act 1963 states as:

"No land within the controlled area shall, except with the permission of the Director, (and on payment of such conversion charges as may be prescribed by the Govt. from time to time) be used for purposes other than those for which it was used on the date of publication of the notification under Subsection-I of Section-4, and no land within such controlled area shall be use for the purposes of a charcoal kiln, pottery kiln, lime-kiln, brick-kiln or brick field or for quarrying stone, bajri, surkhi, kankar or for other similar extractive or ancillary operation accept under and in accordance with the conditions of a license from the Director on payment of such fees and under such conditions as may be prescribed."

He further elaborated that construction of Bhoruka Power Plant Dadupur problem of seepage and water logging has been witnessed. The water level in this area is around 1.8 meter and mining is allowed up to 2 meter above the ground water level as per Gazette notification of Mining and Geology Department dated 27-05-2015. The Area between Hathni Kund Barrage to Dadupur pond has sandy strata and mining activity in this area may affect the stability of the channel and the bridge. Mining activates are not advisable in this area.

XEN, Water Services Division, Dadupur vide dated 12-10-2021(Annexure-17) appraised Deputy Commissioner regarding mining notice and violation of Environment Clearance of village Mandewala and reported that:

" 1. The Mandewala mining lot is located at a distance of 1.5 Km from the river bed whereas as per condition 'm' on page 15(page 18) of Enforcement & Monitoring Guidelines for sand mining it is clearly mentioned (copy enclosed):-

"The mining outside the riverbed on Patta land/ Khatedari land be granted when there is possibility of replenishment of material. In case, there is no replenishment then mining lease shall only be granted when there is no riverbed mining possibility within 5 Km of the Patta Land/Khatedari land. For Government projects, mining should only be done by the Government agency and material should not be used for sale in the open market..."

Since there is no possibility of replenishment of material after mining in this area, it would not be advisable to give mining contract.

2. There exists a X-Regulator and Head Regulator at RD 2758 of WJC Main Line Lower for diversion of water supply to Hydrel channel which is at a distance of about 150 Mtr. Therefore any mining activity in this area may affect the stability of these structures.

3. RLDSE bund Downstream of Tajewala was constructed a long time ago for the protection of Village Tajewala/Mandewala and other villages in close vicinity. The work for strengthening of this bund was undertaken in the year 2011-12 for an estimated amount of 40.00 Crores. The Natural Surface Level (NSL) in the mining lot is lower than the bed level of the river Yamuna. Therefore, any mining activity in this area will further lower the NSL which may damage the RLDSE bund and banks of the river resulting into endangering the safety of the above named villages.

In this regard a report on the joint demarcation of the river bed mining area falling under the revenue estate of village Tajewala to Deputy Commissioner, Yamuna Nagar with a copy each to superintending Engineer, HathniKund Barrage Circle, Jagadhri and the Mining Officer, Yamuna Nagar vide endst No. 8510-12/117-M dated 13/11/2020(copy enclosed).

4. WJC MLU which runs from HathniKund Barrage to Dadupur Pond has sandy strata and therefore any mining activity in this area may adversely affect the stability of the channel and the bridges over it. Therefore no mining activities are advisable in this area.

Therefore, in view of the above, it is requested that no mining activities be allowed in this area so as to safeguard the interests of I&WR Deptt and to protect the agricultural lands of the farmers from high water table."

Department has auctioned the area i.e. Jaidhar Block/YNR B 34 and Mandewala Block/YNR B 38 to the Company by considering all the points raised in the complaint and by Water Services Department. Clearance certificate has been granted by the Haryana State Pollution Control Board. Moreover, DG Mining and Geology Department has passed detailed orders for the operation of mining by the Company. This Company is a Private Limited Company and DGMG has passed orders in favour of the Company on dated 13-09-2021. DGMG has passed two detailed orders on 13-09-2021 in which all the issues such as EMG guidelines for sand mining 2020, mining plan, NOCs issued by HSPCB etc. were considered. Moreover, complainant was heard during the proceeding by the DGMG. The matter was elaborated in detail in the report of RO,HSPCB dated 26-04-2022 while deciding a complaint in the office of RO,HSPCB. The matter raised by XEN, Irrigation has been addressed wherein it is stated that report has been obtained from a joint committee of Revenue and Mining Officer by Deputy Commissioner. After consideration of various factors, SEIAA has issued Environment Clearance for mining. Moreover, mining blocks are selected, finalized after field research and NOC from the concerned deptts. Mining monitoring is being done by as per the mining plan and compliance of conditions of LOI is being done by the Mines & Geology Deptt. Mine LOI has already been issued by the Mines & Geology Deptt. and DGMG has allowed the mining for operation in Mandewala and Jaidhar area. **The Issue raised by Water Services Department is specific Issue and has to be decided by the department of Mining and Irrigation at highest level whether mining is permissible or not In the area for which complaint has been made.** Likewise, no prohibition of operation of petrol pump has been pointed out by mining department on issuing of the LOI. The site was inspected by the committee on dated 09-03-2022 (Annexure-18). The land included In the mining plan is a plan cultivable stretch of land having thick plantation of poplar trees and other fruit trees as per the khasra girdawari of village Jaidhar (Annexure-19). As per the site map, the mining area is situated around 1 Km from WJC and about 1.5 Km from Dadupur Head work whereas distance from hydel canal is 0.3 Km (Annexure-20). However, in the present case DG, Minerals and Geology has issued LOI to the Company with condition that Company will maintain the level of 2 meter of ground water. If this condition is violated, mining will be closed.”

(Emphasis Added)

56. In these facts and circumstances, the question of safety of above said structures needs to be examined.

57. The Applicant has objected that as per report dated 27.07.2016 of the Hydrologist, Ground Water Cell, Ambala the pre-monsoon water table at Village Jaidhar is 1.80 meters and mining in village Jaidhar will be

violative of Clause 9.4(3) of the EMGSM, 2020 which requires that a safety margin of two meters above groundwater table be maintained while mining in areas located outside river bed.

58. The Applicant has also submitted that the Respondents have tried to mislead this Tribunal by citing low water table of 18 meters at Khizrabad water well while concealing that Khizrabad is located 10.6 kms away (aerial distance) from mining site at village Jaidhar whereas another water well at Harewa, located 1.9 kms from mining site at village Jaidhar has a much lower water table of 4.50 meters.

59. Relevant part of Report dated 27.07.2016 of the Hydrologist, Ground Water Cell, Ambala is reproduced hereunder:-

“Subject: Appeal No. 33 of 2016- Tufel Ahmed and Ors Vs MoEF and Ors-

Reference:- Your letter No. Mining/ YNR/NGT/Appeal No. 33 of 2026/ 1955 dated Chandigarh the 06-07-2016

Memo:- With reference to the subject cited above, it is to inform you that the required information of water table of the villages mentioned in the letter is observed in the month of July 2016 is as under:-

Sr. No.	Name of Village	Block	Depth to Water Table (meters) Below Ground Level	Remarks
1	Jaidhar	Chhachhrauli	1.80	Reported (in mining area)
2	Devdhar	Chhachhrauli	7.85	Observed (in Village Boundar)
3	Begumpur	Chhachhrauli	7.24	Interpolation by inverse distance square method using October data of 2015
4	Pipli Majara	Chhachhrauli	6.20	Interpolation by inverse distance square method using October data of 2015
5	Malikpur Khadar	Chhachhrauli	6.55	Observed (in village Boundary)

These above water table data having 0.5 to 1.0 meter water table rise after monsoon period i.e after September month and this water table may be 2 to 2.5 meter less in the mining area which is low lying area. This is for your information and n/a please”

60. In its reply respondent no. 5- Hydrologist Ground Water Cell, Ambala has submitted as under:-

“ 5. It is humbly submitted that the office of Hydrologist, Ground Water Cell, Ambala had provided tentative water level of the village Jaidhar, Devdhar, Begumpur, Pipli Majra, Malikpur Khadar of District-Yamunanagar to Mining Officer, Department of Mines & Geology, Yamunanagar during the year 2016. (The said list is annexed as Annexure 6 in the OA.).

6. It is further submitted that Ground Water Cell, Haryana has established groundwater observation points at distance of 20 sq. km. grid pattern. The Ground Water Cell does not have groundwater observation points in the mentioned villages. The tentative water level of the village Jaidhar, Devdhar, Begumpur, Pipli Majra, Malikpur Khadar of District-Yamunanagar during June, 2022 (Pre-monsoon period) on the basis of groundwater contouring and nearby observation points is as under:

Sr No.	District	Village	Water Level during June, 2022 (in mtrs_
1	Yamuna Nagar	Jaidhar	10.50
2		Devdhar	5.96
3		Begumpur	12.50
4		Pipli Majara	14.50
5		Malikpur Khadar	15.00

”

61. In their reply Respondents No. 1 and 2 have submitted as under:-

“12. That a report on Aquifer Mapping and Management Plan by the Ministry of Water Resources, River Development and Ganga Rejuvenation Government of India was given in 2016. Relevant portion of the report (regarding water level observations regarding Toposheet, Latitude, Longitude, Depth of water level etc) of the report is annexed herewith as Annexure R/4.

It is also pertinent to mention here that as per Table- 2 of Water table data, it is clear that nowhere in the District Yamunanagar depth of water level is less than 3.10 meter. However, the areas where these mines are located, depth of water level is 10-20 meter as per figure 2 of Annexure R/4.”

62. The relevant part of report on Aquifer Mapping and Management Plan by the Ministry of Water Resources, River Development and Ganga Rejuvenation Government of India relied upon by Respondents no. 1 and 2 reads as under:-

“2.2 Ground Water Level Behavior:

Depth to ground water level of district Yamunanagar ranges from 3.10 mbgl at Bilaspur to 50.00 mbgl at Jhiwarheri during Pre monsoon 2015 (Fig-2). The water level data of all Ground Water Monitoring Wells of 2015 are shown in Table-2. Groundwater level is shallow in northern part and deeper in south-western parts of the district which are adjacent to district Karnal and Kurukshetra.

Table-2 Water level data (2015) Ground Water Observation Wells of district Yamunanagar

Location	Toposheet	Latitude	Longitude	Depth to water level	RL of GL (mamsl)	WTE (mains')
Choli	53 F/7	30°16'45" N	77°20'30" E	10.50	300.28	289.78
Harewa	53 F/7	30°14'00" N	77°23'00" E	4.50	279.87	275.37
6- Khizrabad	53 F/7	30°18'00" N	77°29'15" E	18.00	302.39	284.39
Nagal Patti	53 F/7	30°19'00" N	77°31'00" E	29.50	313.28	283.78
Dhalaur	53 F/3	30°19'00" N	77°12'00" E	6.00	288.12	282.12
Dhanaura	53 F/4	30°26'00" N	77°23'10" E	14.50	-	-
Bilas Pur	53 F/7	30°18'00" N	77°18'00" E	3.10	305	301.90

Location	Toposheet	Latitude	Longitude	Depth to water level	RL of GL (mamsl)	WTE (mamsl)
Ramgarh	53 F/4	30°23'00" N	77°21'00" E	8.70	311.39	302.69
Amadalpur	53 F/8	30°08'15" N	77°22'00" E	14.50	278.00	263.50
Shadipur	53 F/8	30°06'00" N	77°16'45" E	14.50	-	-
Mustafabad	53 F/4	30°11'45" N	77°08'45" E	8.50	279.62	271.12
Radaur S	53 F/4	30°01'30" N	77°09'00" E	35.00	260.52	-
Jhiwarheri	53 F/4	30°07'30" N	77°05'10" E	50.00	-	-
Hayeli	53 F/3	30°26'00" N	77°13'00" E	7.50	318.96	311.46
Rasulpur	53 F/3	30°26'50" N	77°13'00" E	14.50	-	-
Sabri	53 F/3	30°21'30" N	77°14'45" E	14.50	-	-
Sadhaura	53 F/3	30°24'00" N	77°13'15" E	15.00	306.78	291.78
Salehpur	53 F/3	30°27'00" N	77°14'00" E	15.00	323.02	308.02

63. In his additional reply filed vide email dated 04.02.2023 respondent no. 9 has submitted as under:-

*“It is submitted that as per the report vide Annexure 13, the Figure 2 (at page 190) represents the depth to water level map at District Yamunanagar. A comparison of the location of the location of Jaidhar Mining Block (through Google Earth) with Figure 2 shows that the Jaidhar Mining Block falls within the area where the minimum depth to water level is 10 meters. In this regard, the Google Earth map and the Figure 2 (extracted from the report vide Annexure 13) are attached herewith as **Annexure R-9/11**.*

It shall be imperative to state that the stand of the answering respondent is further fortified by the averments made in the reply submitted by respondent No. 1 & 2 wherein it is categorically mentioned that the groundwater table is at a depth of 10-20 meters. Respondent No. 1 & 2 had also placed reliance of the said report.

*It is further submitted that **latest data regarding the groundwater table at Jaidhar is provided by respondent No. 5. i.e. Hydrologist, Ground Water Cell, Ambala. As per the reply submitted by respondent No. 5, the water level for June, 2022 at Village Jaidhar, District Yamunanagar is 10.50 meters.** Furthermore, it has been specifically stated by respondent No. 5 that the data provided by way its office letter dated 27.07.2016 (Annexure A-6) was only tentative and there are no groundwater observation wells at those villages including Village Jaidhar.*

It is further submitted that the issue of the groundwater table at Village Jaidhar was duly addressed at the time of Public Consultation dated 19.04.2016 vide Annexure A-4. As per the Public Consultant dated 19.04.2016, the concerned Environment Consultant had submitted that as per the report of CGWB, 2012 (Yamunanagar), the depth of ground water at Tehsil Chhachhrauli (which includes Village Jaidhar) is more than 10 meters.”

64. However, it may be observed that in Mining Plan and Progressive Mine Closure Plan Boulder, Gravel and Sand Mine (Mining Mineral), Jaidhar Block (YNR B-34) prepared by Mr. S. N. Sharma on behalf of respondent no. 9 the Water Table of the Project area was mentioned to range from 5.0 m bgl to 10.0 m bgl. The relevant part thereof is reproduced as under:-

“Depth to Water Level

The depth to water level during pre-monsoon period in the district ranges between 2.07m bgl at Choli and 15.32m bgl at Khizrabad. However, in major part of district water level ranges

between 5.0m bgl and 10.0m bgl. The Depth to water level during pre-monsoon period in the district ranges between 1.57m bgl at Choli and 18.41m bgl at Bahadurpur. However, in major part of district water level ranges between 5.0m bgl and 15.0m bgl. Appraisal of water level data of May and November reveals that some parts of the district have experienced water level decline whereas in other parts rise in water level has been recorded. Maximum decline of -0.43m has been observed in area around Khizrabad and maximum rise of 0.39m was recorded at Sabri village. During last ten years, majority of observation points in the district have shown declining trends ranging from 0.00013 m/yr to 0.389m/yr, however, area as not recorded any significant rise during last ten years. The discharge of the shallow tubewells tapping unconfined aquifers is tube wells ranges from 100 lpm to 500 lpm with moderate Drawdown values. Near Manakpur, a phreatic aquifer extending down to 88.0m bgl has Transmissivity value of 2500m²/day, lateral hydraulic conductivity of 31m / day,

However, Water table of the “Project Area” ranges from 5.0mbgl to 10.0m bgl” (Emphasis added)

65. *Prima facie* the respective stands of Respondents No. 1 and 2, respondent No.5 and Respondent No.9 as to water Table in mining block Jaidhar being contradictory and also improbable due to territorial proximity of the Jaidhar Mining Block to Western Yamuna Canal do not warrant acceptance/credence particularly as the water table in Jaidhar Mining Block was not ascertained by appropriate tests on the site.

66. Even though Respondent No.9 has submitted that respondent No. 9 shall conduct mining operations 2 meters above the ground water table but the matter of permissibility of mining in the Project area cannot be made dependent on execution of said under taking.

67. In these facts and circumstances the question as to what is the water table in the mining site in village Jaidhar needs to be determined by conducting of the requisite tests at the Project site and the question of permissibility of mining at the Project site has to be determined on the basis thereof.

68. The Applicant has submitted that ECs issued for both the mining sites also contain the GPS coordinates thereof and simple verification thereof on Google Maps shows that the area of these coordinates is only 11 Hectares and 1.50 Hectares and the same also contain village houses and roads area which cannot be mined.

69. In his reply Respondent No.9 has submitted that the mining lease area is allocated by Respondent No. 1 on the basis of the khasra numbers mentioned in the revenue record and respondent No. 9 shall not conduct any mining activities beyond the mining lease area.

70. In EC dated 20.08.2018, the Khasra numbers of Jaidhar Mining Block/YNR B-34 and geo coordinates are mentioned as under:-

3	Project Details Khasra No. Jaidhar Block/YNR B-34	Mining of Sand Minor Mineral Mines at Jaidhar Block/YNR B-34 in Tehsil-Chhachhrauli, District Yamuna Nagar over an area of 25.60 ha comprised in khasra no 24,25,26//25/1,25,2,33//5,32//1/1,1/2,2,3,4/1,4/2,4/3,5,6,7,8,9,10,13,14,15,16,17,31//1,213,6,7/1,7/2,8,9,10,11,12/1,12/2,13/1,13/2,14/1,14/2,15,16/1,16/2,17,18,19,20,21,22,23,24,25/1,25/2, 43/2,3,4,4/1,4/2, 5, 6, 30//11, 19,20/1,20/2, 21,22,23,44//1,2.3
---	-------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Block	Latitude	Longitude
Jaidhar Block YNR B-34	30°13'42" N	77°24'30" E
	30°13'50" N	77°24'42.5" E
	30°13'36" N	77°24'06" E
	30°13'44" N	77°24'52" N

In EC dated 27.06.2016 the Khasra numbers of Mandewala Mining Block/YNR B-38 are not mentioned but geo coordinates are mentioned as under:-

3	Project Details Khasra No.	Mining of Boulder, Gravel and Sand (Minor Minerals) Mines namely "Mandewala Block/YNR B-38" over an area of 15.00 Ha
---	-------------------------------	----------------------------------------------------------------------------------------------------------------------

Corners	Latitudes	Longitudes
Mandewala,	N 30° 15'57.4"	E77° 30'31.7"
	N 30° 15'46.2"	E77° 30'32.1"
	N 30° 15'41.9"	E77° 30'25.9"
	N30° 15'41.5"	E77° 30'38.4"

71. The khasra numbers and geo-coordinates of mining sites need to be tallied and the land which cannot be mined has to be excluded.

72. The Applicant has submitted that mining site located in village Jaidhar falls within the area notified as a controlled area vide notification dated 21.12.1981 issued under Section 4 of the Punjab Scheduled Roads & Controlled Areas Restriction of Unregulated Development Act, 1963 and no mining can be done on an area notified as a "Controlled Area" without permission of the Director Town and Country Planning Department, Haryana under Section 7 of the above said Act.

73. Respondent No. 9 has submitted that the land under Jaidhar Mining Block except one khasra number does not fall in any Urban Area or Controlled Area declared by Department of Town and Country Planning, Haryana as per letter dated 08.10.2021 and there can be no embargo on mining activity over the land excluding one khasra number.

74. Notification dated 21.12.1981 relied upon by the Applicant reads as under:-

“No. 12038-10 DP-81/21145-In exercise of the powers conferred by sub-section (i)(b) of section 4 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 and all other powers enabling him, the Governor of Haryana is pleased to declare the area around Dadu Pur Head works at village Dadu Pur Cantt., Tehsil Jagadhri, Distt. Ambala as specified in the Schedule given below and shown in the plan appended hereto, to be a controlled area for the purposes of the said Act, namely:-

SCHEDULE

Schedule of boundaries for the Controlled Area around Dadu Pur Head works at village Dadu Pur Cantt., Tehsil Jagadhri, Distt. Ambala to be read with drawing No. DTP (A) 2336/81 dated 21 August, 1981.

North: Starting from Point ‘A’, i.e. the North-Western corner of Rec. no. 22 of village Sherpur, thence moving towards East along the Northern boundaries of Rect. No. 22 of village Sherpur, 22, 23, 24 and 25 of village Jaidhar up to point ‘B’, the North-Eastern corner of Rect. No. 25.

East: Thence moving towards South-East along the Eastern boundary of Rect. No. 25, Northern boundary of Rect. No. 33, Eastern boundary of Rect. No. 33 and 41 of village Jaidhar, Northern boundary of Rect. No. 16 of village Tapu Jaidhar upto Point ‘C’, i.e., North-Eastern corner of Rect. No.16, thence moving towards South along the Eastern boundaries of Rect. No. 16 and 19 of village Tapu Jaidhar, Rect. No. 1, 7, 9, 18 and 21 of village Nandgarh upto point ‘D’ the South- Eastern corner of Rect.no 21, thence moving from point ‘D’ towards Sourth-West along the Sourthern boundary of Rect. No. 21 of village Nandgarh and Eastern boundary of Rect. No. 28 and 24 of village Nandgarh and Khadri respectively. Then along the Sourthern boundary of Rect. No. 24 and Eastern boundary of Rect. No. 35 of village Khadri upto point ‘E’, i.e., the South Eastern corner of Rect. No,35.

South: Thence moving from point ‘E’ towards West along the Southern boundary of Rect .no. 35, 34, 33,32 and 31 of village Khadri upto point ‘F’.

West: Thence moving from point ‘F’ towards North-West along the Western boundary of Rect. No. 17, Southern boundary of Rect. No. 12, Western boundary of Rect. No. 12 of village of Dadpur Cantt. and Southern boundary of Rect. No. 9, Western boundary Rect. No. 9, Southern boundary of Rect. No. 5, of village Bhagwanpur upto point ‘G’,i.e., the South-West corner of Rect.no. 5 of village Bhagwanpur, thence towards North along the Western boundary of Rect. No. 5 of village Bhagwanpur, Western boundary of Rect. No.22 and 19 of village Kharwan, Western boundary of Rect. No. 99, 91, 78 and 70, Northern boundary of Rect. No.70 upto point ‘H’, i.e. the North-West corner Rect. No. 70 of village Balachaur, thence moving towards North-East along the Northern boundary of Rect. No.70,Western boundary of Rect. No.49, 43, Northern boundary of Rect. No. 43 of village Balachaur, Northern Western boundary of Rect. No. 20 of village Balachaur. Thence towards North along the Western boundary of Rect. No. 22 of village Sherpur upto point ‘A’ i.e. the point of start.”

75. The relevant part of clarification dated 30.06.2016 issued by District Town Planner, Yamuna Nagar in respect of Mandewala Mining Block reads as under: -

“It is intimated that the Mining of "Boulder, Gravel and Sand"(Minor Mineral) at Mandewala Block/YNR B-38 over and tentative area of 15.00 Ha. (Khasra No. 11//13, 17, 18, 23/1, 23/2, 24, 25/1, 25/2, 15/11, 35/1, 9, 10, 11/1, 11/2, 12, 19, 20/1, 20/2, 21/8, 14//3/1, 3/2, 4/1, 4/2, 5/1, 5/2, 6/1, 6/2, 7, 8, 13, 14, 15/1, 15/2, 16/1, 16/2, 17, 18, 19, 20/1, 20/2, 21, 22, 23, 24/1, 24/2, 25/1, 25/2, 20//4/1, 4/2, 5/1, 5/2, 6, 7, 19//1 in Teh. Chhachhrauli, Distt. Yamuna Nagar does not fall in any of the Urban Area or Controlled Area declared by Department of Town and Country Planning, Haryana. Thus, this information is given subject to the following conditions: -

1. *That you will obtain the necessary permission from mining department before initiating any activity at site.*
2. *That it does not provide any immunity to the site from other Acts and Rules as may be applicable on it.*
3. *That you will abide by the provisions of Controlled Areas Act No. 41 of 1963/Urban Area Act No. 8 of 1975, when it comes into force at site.*
4. *That you will abide by the provisions of NBC/BIS code for any type of construction at site.*
5. *That in case of non fulfillment of the above, this letter shall stand cancelled automatically.”*

76. The relevant part of clarification dated 08.10.2021 issued by District Town Planner, Yamuna Nagar in respect of Jaidhar Mining Block reads as under: -

“It is intimated that the land falling in Khasra No. 27/12, 13, 14, 16, 2, 17, 18/1, 18/2, 19, 20, 21, 22, 23, 24. 25. 26//25/1, 25/2, 32//1/1, 32/1/2, 2, 3,4,5, 6,7,8, 9, 10, 13, 14, 15, 16, 17, 31//1, 2,3,6,7,8,9,10, 11, 12, 13, 14, 15, 16, 31//17, 18, 19, 20, 21, 22, 23, 24, 25, 43//2, 3, 4, 5, 6, 30//11, 19, 20/1, 20/2, 21, 22, 23, 44//1, 44//2, 3 situated in the revenue estate of VIII. Jaidhar, (H.B. No:- 82), Tehsil. Khijarbad, Distt. Yamuna Nagar does not fall in any of the Urban Area or Controlled Area declared by Department of Town and Country Planning, Haryana, Thus, this information is given subject to the following conditions:-

1. *That you will obtain the necessary permission from mining department before initiating any activity at site.*
2. *That it does not provide any immunity to the site from other Acts and Rules as may be applicable on it_*

3. *That you will abide by the provisions of Controlled Areas Act No. 41 of 1963/Urban Area Act No, 8 of 1975, when it comes into force at site.*
4. *That you will abide by the provisions of NBC/BIS code for any type of construction at site.*
5. *That in case of non fulfillment of the above, this letter shall stand cancelled automatically. Beside above, in Model form for execution of mining contract dated 09.06.2016 Khasra no. 335 falls inside the Controlled Area Around Dadu Pur Head Works At VIII. Dadu Pur Cantt. Hence you are directed to take license fur this khasra on before starting excavation work/construction any type of building etc.”*

77. The question as to whether the land under Jaidhar Mining Block falls in Controlled Area notified by Department of Town and Country Planning, Haryana needs to be verified. The facts regarding these aspects have to be verified by preparation of maps showing (i) the land notified as controlled area and the land comprised in Jaidhar and Mandewala Mining Blocks and (ii) the land falling in khasra numbers comprised in Jaidhar and Mandewala Mining Blocks and land covered by geo-coordinates mentioned in EC/Mining Plans in contrast colours with depiction/demarcation of boundaries in different colours .

78. For the purpose of ascertaining the factual position with respect to the above mentioned aspects, we constitute a Committee comprising of representatives of CPCB, HSPCB, CGWA, Director General, Mining and Geology Department and District Magistrate, Yamuna Nagar, District Town Planner and Executive Engineer, Water Service Division, Dadupur and direct the same to meet within one month and (a) verify the factual position with respect to the following aspects:-

- (i) Whether mining activities at village Jaidhar will affect the stability of Western Jamuna Canal bund and the Dadupur Head Works;
- (ii) Whether the Khasra numbers mentioned in mining plan and lease deeds correspond to/match with the geo-coordinates mentioned in ECs;

(iii) whether there is any difference/discrepancy in the geo-coordinates and the Khasra numbers of the mining sites;

(iv) whether the difference/discrepancy in the geo-coordinates and the Khasra numbers requires any remedial action by SEIAA due to material change in particulars of the mining sites;

(v) ascertain by conducting requisite tests at the mining sites as to what is the water table in Jaidhar Mining Block and whether mining upto the depth of 9 meters is permissible in Jaidhar Mining Block;

(vi) Whether any part of the mining sites in village Jaidhar falls within controlled area notified under section 7 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963;

(vii) Whether there is possibility of replenishment at mining site at village Jaidhar and Mandewala; and

(viii) Whether there is possibility of riverbed mining (going on or likely to be undertaken) within 5 kilometers of mining site in village Mandewala and (b) suggest remedial measures required to be taken with requisite particulars of the Authority/organization required to implement the same. HSPCB will be the Nodal Agency for coordination and compliance.

79. Report be submitted by the Joint Committee within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

80. The District Magistrate, Yamuna Nagar and the Director General, Mining and Geology, Haryana shall provide the relevant record and extend requisite cooperation to both the Committees.

81. Mining in Jaidhar and Mandewala Mining Blocks has been stopped in view of ad interim injunctive order dated 06.05.2022 passed by this Tribunal which shall continue till further orders to the contrary.

However, it is well settled that a party cannot be made to suffer due to any interim order passed by Court/Tribunal. Therefore, in the eventuality of dismissal of the present application the period during which the mining in Jaidhar and Mandewala remained stayed under an interim injunctive order passed by this Tribunal will be liable to be excluded from the period of the ECs granted in favour of respondent no.

82. List for further consideration on 30.10.2023.

83. A copy of this order be sent to the Secretary, Ministry of Environment, Forest and Climate Change (MoEF & CC), Central Pollution Control Board (CPCB), Indian Agricultural Research Institute (IARI), Indian Institute of Soil and Water Conservation, (IISWC), Dehradun, Chaudhary Charan Singh Haryana Agricultural University (CCHAU), Hisar, Central Soil Salinity Research Institute (CSSRI), Karnal, Central Ground Water Authority (CGWA), Director General, Mining and Geology Department, District Magistrate, Yamuna Nagar, District Town Planner and Executive Engineer, Water Service Division, Dadupur and Haryana State Pollution Control Board (HSPCB) for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

August 18th, 2023
AG

No. 5496/117-M

Dated 27/10/2023

To

AnnexureR-2

Regional Officer,
HSPCB, SCO No. 131,
Sector-17, Huda, Jagadhri

Subject:- Original Application No. 306/2022 titled as Harbans Singh V/s State of Haryana & Ors. Pending before Hon'ble NGT, New Delhi.

Ref: - Your office letter No. HSPCB/YR/2023/1392-96 dated 23/10/2023.

In this context, the reply to the points relating to this office raised vide your letter under reference is as under please: -

- 78 (i). Since the area between Hathnikund Barrage and Dadupur Pond has sandy strata any mining activities in this area may affect the stability of Western Yamuna Canal and Dadupur Headworks.
- (vi) Dadupur Headworks fall in the vicinity of Village Jaidhar and the area around Dadupur Headworks stands notified as controlled area by the Govt. vide notification No. 12038-10DP-81/21145 dated 21/12/1981 in exercise of the powers conferred by Sub section (i) (b) of section 4 of the Punjab Scheduled Road and controlled Area Restriction of unregulated Development Act 1963.

In this regard, detailed reports were submitted to Deputy Commissioner Yamuna Nagar vide this office letter Nos. 6958-62/117-M dated 12/10/2021 and No. 6963-67/117-M dated 12/10/2021.

This is for your information and necessary action please.

J. Tharone 27/10/23
Executive Engineer
Water Services Division,
Dadupur.

From

Mining Officer,
Mines & Geology Deptt.,
Yamuna Nagar.

To

The Director General,
Mines & Geology Deptt.,
Haryana, Panchkula.

Memo No./MO/YNR/ 2366

Dated:- 27/10/23

Subject:- Original Application No. 306/2022 titled as Harbans Singh Vs State of Haryana & Ors. pending before the Hon'ble NGT, New Delhi.

Kindly refer to the Regional Officer, HSPCB, Yamunanagar letter memo no. HSPCB/YR/2023/1392-96 dated 23.10.2023.

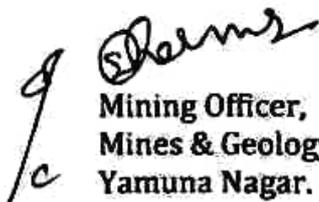
In this regard it is submitted that Original Application No. 306/2022 titled as Harbans Singh Vs State of Haryana & Ors. is pending before the Hon'ble NGT, New Delhi which is fixed for hearing on dated 30.10.2023.

In recent orders dated 18.08.2023 of above said case, as per para no. 49 an additional affidavit has been sought from the Director General, Mines & Geology Haryana and as per para no. 78 for the purpose of ascertaining the factual position report has been sought from the committee in which the points no. (ii), (iii), (iv), (vii) & (viii) are related to mining department which is related to the survey branch of the department.

In view of above you are requested to kindly provide the technical assistance by deputing map officer & surveyor in the above said matter so that the reply may be filed accordingly.

This is for your kind information and further necessary action, please.

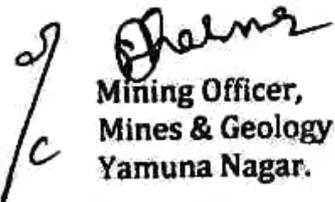
Enclosed: As Above.


Mining Officer,
Mines & Geology Deptt.,
Yamuna Nagar.

Endst. No./MO/YNR 2367

Dated: 27/10/23

A copy is forwarded to Regional Officer, HSPCB, Yamunanagar with a request to kindly take next date in the above said case so that a satisfactory reply could be filed before the Hon'ble NGT, New Delhi.


Mining Officer,
Mines & Geology Deptt.,
Yamuna Nagar.