

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA NO. 292 OF 2024

IN THE MATTER OF:

ABHISHEK SHUKLA

...APPLICANT

VERSUS

M/S SRI BAJRANG ROAD LINES

...RESPONDENT

I N D E X

NDOH:20.05.2024

S.NO.	PARTICULARS	PG. NO.
1.	Affidavit on behalf of the Respondent in response to the updated action report dated 11.03.2024 filed by Director General of Mines and Safety.	1-10
2.	ANNEXURE A-1 (COLLY) Copies of letter dated 10.05.2024, 10.05.2024 and 10.05.2024 addressed by the Respondent to DGMS.	11-14

RESPONDENT



THROUGH

S. C. LADI AND COMPANY

Deeksha L. Kakar and Dhruv Kakar

ADVOCATES

B-6/58, LGF, SAFDARJUNG ENCLAVE

NEW DELHI – 110029.

Ph. 9313119255 | deeksha.kakar@scladi.com

Enrol.No.D/1154/2008

Place: New Delhi

Dated: 14.05.2024



Abhishek Shukla

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA NO. 292 OF 2024

IN THE MATTER OF:

ABHISHEK SHUKLA

...APPLICANT

VERSUS

M/S SRI BAJRANG ROAD LINES

...RESPONDENT

AFFIDAVIT ON BEHALF OF THE RESPONDENT, M/S SRI BAJRANG ROAD LINES (KHAND NO. 04), IN RESPONSE TO THE UPDATED ACTION REPORT DATED 11.03.2024 FILED BY DIRECTOR GENERAL OF MINES AND SAFETY.

I, Suresh Pratap Singh, S/o Mr. Tej Pratap Singh, R/o Village and Post Mau, 584, Katra Lalganj, Tehsil Gauriganj, District Amethi, Uttar Pradesh 227409, aged about __ years, Partner in the Firm M/S SRI BAJRANG ROAD LINES, solemnly affirm and declare as under:

1. The Deponent is the Respondent in the above-mentioned case and is well conversant with the facts of the case and as such competent to swear and depose this Affidavit.
2. The present Affidavit is being filed in terms of the Order dated 18th March, 2024 passed by this Hon'ble Tribunal in the captioned Application. That the answering respondent has already filed a detailed reply on 07.12.2023 before this Hon'ble Tribunal in the erstwhile Original Application No. 422 of 2023 titled as Abhishek Shukla vs State of UP & Ors along with a compilation of documents on 06.02.2024.



[Handwritten signature in blue ink]

Pursuant thereto, the matters have been segregated by this Hon'ble Tribunal vide order dated 08.02.2024 and a new Original Application No.292 of 2024 has been registered for the Respondent.

3. The Deponent is filing the present Affidavit to supplement the submissions made under the Reply/Affidavit dated 07.12.2023, the contents of which are not being repeated herein for the sake of brevity. Pursuant to the approved Mining Plan dated 27.11.2020, the Deponent has been granted mining lease for an area of 1.21 Hectares situated at Gata No.1876, Khand No. 04, Village Girwan, Tehsil Naraini and District Banda, Uttar Pradesh, for a period of ten years commencing from 03.01.2022 to 02.01.2032, on the terms and conditions specifically stated under the Lease Deed.
4. The mining lease of the answering Respondent is a Minor Mineral which is governed by the provisions of the Mines and Mineral Regulation and Development Act, 1957 read with the U.P.Minor Mineral Concession Rules, 1963 subsequently superseded by the U.P. Minor Mineral Concession Rules, 2021.
5. That as per Rule 42(e) of U.P.Minor Mineral Concession Rules, 2021, no mining is permitted to be carried out within a distance of 50 meters of any human habitation. It is respectfully submitted that prior to the execution of the Lease Deed, a thorough inspection is undertaken by the concerned authorities to ensure that the surrounding areas of the allotted leases are in terms of the requisite statutory guidelines. Only thereafter the mining plan is approved and allotment for the mining lease is undertaken.
6. With respect to the observations under the Report dated 11.03.2024, of the hutments and houses being within 50m of the Lease, it is respectfully



— Rajendra Singh

submitted that the same are temporary sporadic structures and liable to be removed. The submission of the Deponent is further fortified from the fact that no such habitation/structures were found under a distance of 90m under the earlier report of the Joint Committee dated 08.09.2023. However, the same are reflecting under the updated report. Even otherwise, it is respectfully submitted that the it was also the recommendation of the Joint Committee to relocate such habitants, if any, beyond the minimum distance of 50 meters, as permitted under Rule 42(e) of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021.

7. It may be relevant to mention here that in the adjacent lease of the Deponent, i.e. Khand 03, by the Order dated 11th March, 2024, passed by the District Magistrate, Banda, the Deponent has been directed to leave a portion of 0.17 Hectares, on the side of the mining plot, which is found close to such hutments, and undertake mining activity only within the remaining 1.24 hectares. In view thereof, it is respectfully submitted that the issue stands resolved in terms of the relevant provisions. It may also be relevant to state here that there is also a categorical observation of the Joint Committee that no cracks were found in any of the homes in the vicinity at the time of the inspection conducted by the Joint Committee.
8. With respect to the permission from the Director General of Mines and Safety, it is respectfully submitted that pursuant to the Application of the Respondent dated 11.03.2024, the Respondent has been issued the requisite permission, for deployment of Earth Moving Machinery, drilling and blasting at the mining site, without deep hole blasting, on 24.03.2024.
9. Under paragraph no.4 of the report dated 11.03.2024, it is observed by the DGMS that the following permissions are required to be obtained from DGMS under the MMR, 1961 in the following special circumstances:



[Handwritten signature in blue ink]

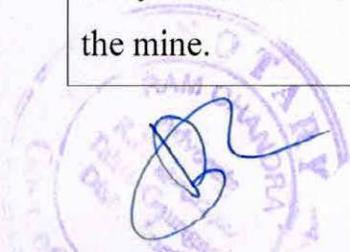
- (i) Permission for conducting deep hole blasting (blasting with holes more than 3m in depth), as required under Regulation 106(2)(b) of the MMR 1961;
 - (ii) Permission for using explosive in non-cartridge form or for using more than one type of explosives (other than fuse or detonator) in the same hole (for example use of ANFO, SMS, SME along with cast booster), as required under Regulation 155(1) and 162(5) of the MMR 1961; and
 - (iii) Permission for blasting within danger zone of 300m from any permanent building or structure of permanent nature, not belonging to the owner of the mine, by using more than 2 kg of aggregate maximum explosive charge in all holes fired at one time or more than 2 kg of maximum explosive charge in each hole where blasting is done with delay detonators or other means and that there is a delay of at least half a second between successive shots fired, as required under Regulation 164 (1B). However, if the shortest distance from the place of firing to any part of such building or structure is less than 50 metres, prior permission for blasting is required to be obtained under Regulation 164(18) of the MMR 1961 irrespective of the amount of the charge used.
10. It is further stated under the said report that that for blasting in mine under circumstances other than the above, **no permission is required to be obtained from DGMS under the MMR 1961 and the blasting may be carried out in the mine by observing the precautions as prescribed under the provisions of Regulations 153-170 and other provisions of the MMR 1961.**



Handwritten signature in blue ink.

11. It is respectfully submitted that the answering Respondent has not carried out any mining using any of the blasting techniques as mentioned in the 8(i)-(iii) above, and is only using the manual hand broking technique for mining operations. The Respondent undertakes to carry out any further activities in terms of the permission now issued by the DGMS.
12. Furthermore, please find below the response of the Deponent/Respondent, to the deficiencies observed under the updated action report was filed by Director General of Mines and Safety dated 11.03.2024.

Remarks	Reply by the Respondent
<p>Hutments and houses not belonging to the owner of the mine were found existing at about 45m, 10m, 105m away from north east, east and south boundary of the mine respectively within the blasting danger zone of 300m. A temple and school were found existed at about 180m and 240m away from the south boundary of the mine. A pond was found existing at about 70m from the south boundary of the mine. A well and temple were also found existed at about 235m and 270m away from the north boundary of the mine.</p>	<p>1. No such habitation/structures were found under a distance of 90m under the earlier report of the Joint Committee dated 08.09.2023. However, the same are reflecting under the updated report.</p> <p>2. The hutments and houses found within 50m of the Lease, are temporary sporadic structures and liable to be removed as per the recommendation of the Joint Committee.</p> <p>3. The Respondent will carry out blasting activities within the designated danger zone of 300m and 100m, ensuring that all</p>



Handwritten signature in blue ink.

<p>NE-45m Hutments and House E-10m Hutments and House and 240m pond S-105m Hutments and House and 70m pond, 180m temple and 240m school N-235 well and 270m temple.</p>	<p>blasting parameters are strictly adhered to.</p> <p>4. The danger zone will be clearly demarcated by a qualified surveyor to prevent any unauthorized entry.</p> <p>5. The Respondent is also in the process of relocating or removing any structures that are in close proximity to the mine site. Until this relocation is completed, no blasting activities will take place in this area.</p> <p>6. By the Order dated 11th March, 2024, passed by the District Magistrate, the adjacent lease of Deponent (Khand 03) has been directed to leave a portion of 0.17 Hectares, on the side of the mining plot, which is found close to such hutments, and undertake mining activity only within the remaining 1.24 hectares.</p>
<p>The sides of the opencast were not properly benched, sloped and secured to prevent dangers due to fall of sides. In pit-1 the north, south, east and west sides were</p>	<p>It is respectfully submitted that prior to the allotment of the Lease/mining rights to the Deponent, the area in question was under mining rights for many</p>



— अरवि चण्डा

<p>developed in a single bench of height of about 11m, 26m, 13m, and 13m respectively. In pit-2 the north was developed in a single bench of height about 33m.</p>	<p>years to different allottees. Due to extent of deep excavation, the Deponent was unable to maintain the slope of the mining bench and ultimate pit despite best efforts.</p> <p>The Respondent is in the process of forming 6m benches, as well as width adjustments in Pit1 in the North, East and West of the mine. Rest assured; the Respondent will promptly inform the respected directorate once these improvements are completed.</p> <p>The Mines Manager and Mining Mate are overseeing the efforts to ensure that they are carried out effectively and efficiently. The Respondent assures and undertakes to complete these tasks in a timely manner whilst upholding the highest safety standards, at all times.</p>
<p>Impressions were observed that the mine was being worked with use of Heavy Earth Moving Machineries (excavators and tippers) without obtaining permission from this Directorate.</p>	<p>It is worthwhile to mention here that no heavy earth moving machinery has ever been deployed by the answering Respondent. During the limited operations, manual hand broking technique</p>



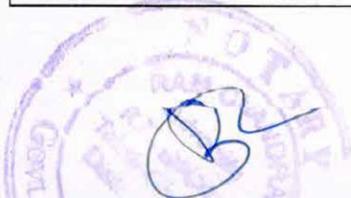
Handwritten signature in blue ink, possibly reading 'Rajendra Singh'.

<p>No HEMM shall be used in the mine without obtaining permission from this Directorate.</p>	<p>for mining operations was used. The impressions on the rocky surfaces of HEMM may be of the earlier lease holders. It is relevant to mention here that no HEMM has ever been found or reported used in any of the fact finding reports till date.</p> <p>Any further operations will be carried out in terms of the permission issued by the DGMS on 24.03.2024.</p>
<p>The boundary of the lease/mine was not found demarcated/fixed on the ground by providing permanent pillars.</p>	<p>The Respondent has taken the necessary measures by deputing a qualified surveyor to physically demarcate the boundary pillars. The demarcation process has been successfully completed, and permanent pillars have been put in place to mark the boundaries accurately.</p>
<p>Excavation was found extended within 7.5m of the lease boundary of the mine on north and west sides of the mine. All such excavations shall be immediately stopped.</p>	<p>It is clarified that the mentioned workings have not been carried out by the Respondent and were a resultant of the previous operations. The Respondent assures and undertakes that it will not extend mining work within</p>



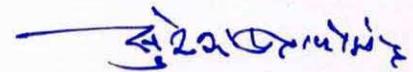
Handwritten signature in blue ink

	7.5m of the boundary.
Persons employed in the mine were not undergone initial or periodical medical examination.	The answering respondent has prepared a list of workmen who require the initial/periodical medical examination and are in the process of having those workmen medically examined by a qualified doctor, which process is likely to be completed within 45 days.
Persons employed in the mine were not imparted vocational training.	Being a small mining firm, the Deponent is currently in the process of arranging vocational training for the workmen. Unfortunately there is no GVT centre available in the vicinity for the purpose. Assistance of the DGMS has been requested for this purpose. Once a suitable centre is identified, we will promptly arrange for the vocational training of our workmen, with the guidance of the relevant authorities. It is assured that the safety and well-being of the employees is a top priority, and the Deponent is committed to providing them with the necessary training.



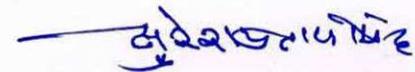
Handwritten signature in blue ink

13. That the above report dated 11.03.2024 and the notices/violations pointed out have also been replied by the Respondent to the DGMS by way of three separate communications, all dated 10.05.2024. Copies of the said replies to DGMS are being filed herewith as **Annexure "A-1(colly)"**.
14. It is further submitted that the details of the CSR/CER activities undertaken by the Deponent have also been filed before this Hon'ble Tribunal under the Index dated 15.03.2024 filed in the main OA No. 422 of 2023.
15. The answering Respondent is committed to and undertakes to endeavor to comply with any further conditions/deficiencies or recommendations that may be prescribed by the relevant authorities or this Hon'ble Tribunal, in a time bound manner.


DEPONENT

VERIFICATION

Verified on this 13 day of May, 2024 at New Delhi that the contents of the above Affidavit have been explained to be me in vernacular language and are true and correct to my knowledge, no part thereof is false and nothing material has been there from.


DEPONENT



1191
Solemnly affirmed before me today at my office Sri. सुरम प्रसाद सिंह, SIO राज प्रसाद सिंह नि.म.क.
r/o ... गीरीश चंद मौरि
The affidavit has been read & explained to the deponent or by ...
Date ... Ram Chandran
 13.5.2024
District Office

ANNEXURE 45-1 (COLLY)

11

BRL/GGM/DGMS/2024-25/004

Date: 10/05/2024

To,
The Director of Mines Safety,
Varanasi Region, Varanasi (UP)

Subject: -Inspection by Shri Kumar Rajeev Krishna Kumar, DDMS Varanasi Region on 26.02.2024 & Imposition of Notice under Section 22A(1) of Mine Act, 1952 at Girwan Granite Mine, Gata No. 1876, Block 04, Area 1.21 Ha of M/s Bajarang Road Lines, owner Shri Suresh Pratap Singh, located at Village- Girwan, Tehsil- Naraini, District- Banda, Uttar Pradesh.

Reference: - Your office letter No. S 29013/V.R.(NZ)/BN-23/2024/Banda/463 dated 01/03/2024.

Respected Sir,

Firstly, we want to assure you that we take our legal obligations seriously and are fully committed to complying with all relevant laws and regulations.

We have carefully reviewed the guidelines provided by the Directorate General of Mines Safety (DGMS) and are fully aware of the regulations outlined in Regulation 106 (2a) & 3 of the MMR, 1961.

Our team is currently implementing advanced safety measures and conducting regular inspections to ensure compliance. We are also in the process of forming 6m benches, as well as width adjustments in the Pit 1 North-East, and West sides. Rest assured, we will promptly inform the respected directorate once these improvements are completed.

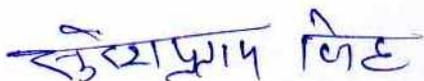
Please note that our Mines Manager and Mining Mate are overseeing these efforts to ensure that they are carried out effectively and efficiently. We are committed to completing these tasks in a timely manner and upholding the highest safety standards at all times.

We value the safety and well-being of our employees, as well as the surrounding community, and will continue to prioritize compliance with all regulatory requirements. Please rest assured that we are taking the necessary steps to address the violation and prevent any future incidents.

We appreciate the concerns that led to the imposition of this order; however, we firmly believe that the steps we have taken demonstrate our commitment towards rectifying any shortcomings identified during inspections. We would be grateful if you could review our records in light of these efforts.

Thanking You

Yours faithfully,



Suresh Pratap Singh
Mine's Owner

Giwan Granite Mine, Gata No. 1876, Block 04, Area 1.21 Ha.
Village- Girwan, Tehsil- Naraini, District- Banda, Uttar Pradesh

Encl: as above

BRL/GGM/DGMS/2024-25/005

Date:10/05/2024

To,

The Director of Mines Safety,
Varanasi Region, Varanasi (UP)

Subject: -Inspection by Shri Kumar Rajeev Krishna Kumar (DDMS Varanasi Region) on 26.02.2024 & Imposition of Order under Section 22(3) of Mine Act, 1952 at Girwan Granite Mine, Gata No. 1876, Block 04, Area 1.21 Ha of M/s Bajarang Road Lines, owner Shri Suresh Pratap Singh, located at Village- Girwan, Tehsil- Naraini, District- Banda, Uttar Pradesh.

Reference: - Your office letter No. S 29013/V.R.(NZ)/BN-22/2024/Banda/470 dated 07/03/2024.

Respected Sir,

Firstly, we want to assure you that we take our legal obligations seriously and are fully committed to complying with all relevant laws and regulations.

We have carefully reviewed the guidelines provided by the Directorate General of Mines Safety (DGMS) and are fully aware of the regulations outlined in Regulation 164(1B) of the MMR, 1961. In order to address the violation, we will be implementing the following measures:

1. We will carry out blasting activities within the designated danger zone of 300 meters and 100 meters, ensuring that all blasting parameters are strictly adhered to.
2. The danger zone will be clearly marked and demarcated by a qualified surveyor to prevent any unauthorized entry.
3. We are in the process of relocating or removing any structures that are in close proximity to the mine site. Until this relocation is completed, no blasting activities will take place in this area.

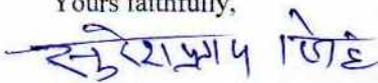
We value the safety and well-being of our employees, as well as the surrounding community, and will continue to prioritize compliance with all regulatory requirements. Please rest assured that we are taking the necessary steps to address the violation and prevent any future incidents.

We appreciate the concerns that led to the imposition of this order; however, we firmly believe that the steps we have taken demonstrate our commitment towards rectifying any shortcomings identified during inspections. We would be grateful if you could review our records in light of these efforts.

We eagerly await your favourable response to grant us permission to commence the mining operations in the partial area of the mine. We assure you that we will continue to prioritize safety and compliance in all our endeavours.

Thanking You

Yours faithfully,



Suresh Pratap Singh
Mine's Owner

Giwan Granite Mine, Gata No. 1876, Block 04, Area 1.21 Ha.
Village- Girwan, Tehsil- Naraini, District- Banda, Uttar Pradesh

Encl: as above

BRL/GGM/DGMS/2024-25/006

Date: 10/05/2024

To,
The Director of Mines Safety,
 Varanasi Region, Varanasi (UP)

Subject: -Violations pointed out by Shri Kumar Rajeev Krishna Kumar, DDMS Varanasi Region during their inspection on 26.02.2024 at Girwan Granite Mine, Gata No. 1876, Block 04, Area 1.21 Ha of M/s Bajarang Road Lines, owner Shri Suresh Pratap Singh, located at Village- Girwan, Tehsil- Naraini, District- Banda, Uttar Pradesh.

Reference: - Your office letter No. S 29013/V.R.(NZ)/BN-22/2024/Banda/461 dated 07/03/2024.

Respected Sir,

We would like to acknowledge the receipt of your letter regarding the above-captioned subject. We have thoroughly reviewed the violations that were pointed out and would like to provide you with a point-by-point reply/compliance on the matter: -

S. No.	Violation	Compliance Status
1.0	Reg.106 (2)(b) of MMR, 1961: Impressions were observed that the mine was being worked with use of Heavy Earth Moving Machineries (excavators and trucks/tippers) without obtaining permission from this Directorate. No heavy earth moving machinery shall be used in the mine without obtaining permission from this Directorate.	We would like to inform you that we have obtained the required permissions from the Directorate under letter no. 303119/NZ/VaranasiRegion/Perm/2024/264009 dated 24/03/2024. We assure you that we take compliance with regulations seriously and will continue to adhere to all necessary protocols.
2.0	Reg. 111 (1) of MMR, 1961: The boundary of the lease / mine was not found demarcated/fixed on the ground by providing permanent pillars.	We have taken necessary measures by deputing a qualified surveyor to physically demarcate the boundary pillars. The demarcation process has been successfully completed, and permanent pillars have been put in place to mark the boundaries accurately.
3.0	Reg. 111 (2) of MMR 1961: Excavation was found extended within 7.5m of the lease boundary of the mine on north and south of the mine. All such excavations shall be immediately stopped.	We would like to clarify that the mentioned workings do not belong to our operations. It is old working. However, we assure that the mine working will not be extend within 7.5 m of mines boundary.
4.0	Rule 29B of Mines Rules, 1955: The persons employed in the mine were not undergone initial or periodical medical examination.	We wanted to inform you that we have prepared a list of workmen who require the initial/periodical medical examination. We are currently in the process of finding a qualified doctor to complete these examinations. Kindly provide us with 45 days to ensure that all workmen undergo the necessary medical examinations. Your cooperation in this matter is greatly appreciated.

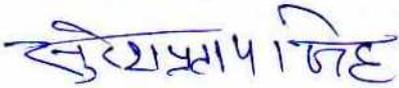
5.0	Rule 6 of MVTR, 1966: The persons employed in the mine were not imparted vocational training.	As a small mining firm, we are currently in the process of arranging vocational training for our workmen. Unfortunately, we do not have a dedicated GVT centre in our vicinity for this purpose. If there is a GVT Centre that is easily accessible near our area, we would greatly appreciate it if you could provide us with the necessary information. Once we have identified a suitable centre, we will promptly arrange for the vocational training of our workmen.
-----	--	---

Submitted the same for your kind perusal and order.

Thank you for your attention to this matter. We remain committed to upholding the highest standards of compliance within our organization and look forward to your guidance.

Thanking You

Yours faithfully,



Suresh Pratap Singh

Mine's Owner

Giwan Granite Mine, Gata No. 1876, Block 04, Area 1.21 Ha.
Village- Girwan, Tehsil- Naraini, District- Banda, Uttar Pradesh

Encl: as above