

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Reply Affidavit on behalf of Project Proponent

In ref.

Original Application No.288 of 2024

Abhishek Shukla

..... Applicant

Versus

State of UP & Others

..... Respondents

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Dated : 27 August, 2024


(MANOJ KUMAR)
Advocate

Counsel for project proponent
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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No.288 of 2024**

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

..... Applicant

Versus

State of UP & Others

..... Respondents

REPLY AFFIDAVIT ON BEHALF OF PROJECT PROPONENT

I, Jasmit Kour Malhotra, wife of Sri Rasmeet Singh Malhotra, aged 45 years, resident of Nehru ward, Near Alka Talkies, Tahsil Pipariya, District Hoshangabad (M.P.), the deponent do hereby solemnly affirm and State on oath as under :-

1. That the deponent is the permanent resident of Nehru ward, Near Alka Talkies, Tahsil Pipariya District Hoshangabad (M.P.) and also lease holders of the mining area measuring 1.21 Hector, situate at Gata No. 1878 (Khand No. 05) Village Girwan, Tahsil-Naraini, District-Banda for excavation of building stone (Khand, Gitti & Boulder) for a period of 10 years w.e.f. 22-10-2020 to 21-10-2030 for quantity of 12,100 cubic meter per annum.

Jasmit Kour

2. That this Hon'ble Tribunal vide order dated 20-05-2024 constituted Joint Committee comprising the nominee of Ministry of Environment, Forest and Climate Changes, UPPCB, Central Pollution Control Board and representative of Wadia Institute of Geology, Dehradun. The said committee was required to submit its reports with regard to the following aspects :-

“-----whether for the purpose of mining, cutting of hills which may result in ultimate extinction of hills can be allowed and whether it may not affect the environment and ecology permanently and have detrimental effect on the ecology.”

3. That in compliance of the order dated 20-05-2024 passed by this Hon'ble Tribunal the joint committee submitted the report dated 31-07-2024 which does not touch on the said aspects at all and is totally silent, then this Hon'ble Tribunal vide order dated 02-08-2024 was pleased to direct the members of the said committee to explain, why above mentioned aspect has not been examined though that was the only aspect on which they were required to address. It is

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further directed that the members of the committee also explain why appropriate action may not be taken against them for non-compliance of the order of this Tribunal. However, this Hon'ble Tribunal leave it open to the Committee to submit supplementary report covering the aspect on which they were required to submit report vide order dated 20-05-2024.

4. That this Hon'ble Tribunal vide order dated 02-08-2024 allow two weeks time to file objection on the joint inspection report dated 31-07-2024, if any to the project proponent.

5. That in compliance of the order dated 02-08-2024 passed by this Hon'ble Tribunal the observation of joint committee mentioned in the report dated 31-07-2024 are replied as under:-

Sl. No.	Observation of the committee	Reply on behalf of project proponent
A	a) A list of projects including Gata Number, EC, CTO Mining plan etc.	No reply required
B	b) The J.C has not been found any mining activity on the day of the joint inspection dated 19-07-2024	No reply required
C	c) None of the lease holder has properly erected all boundary pillars as per.....	It is not correct in respect of the project proponent and boundary marks has

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		<p>already erected by the project proponent.</p> <p>The photograph is being annexed here with as Annexure no.-1</p>
D	<p>D) It has been found that the various mine lease areas are very close to human habitation, primary Schools, Higher Secondary School, Temples, Hindu cremation areas, Gausala, well etc.</p>	<p>That it is also pertain to mention here that the provision of rule 42(e) of the Uttar Pradesh Minor Minerals (Concession) Rules 2021 is permitted to the lessee to do the mining operation out of distance of 50 meters from any public pleasure ground and the lease of the project proponent is situate to much far distance from habitation of Village Girwan and all norms are being followed by the deponent and there are no complaint regarding working of the project proponent.</p>
E	<p>e) It has been found that almost all lessee conducted mining activity not within their lease area, which is also confirmed by the satellite imagery of all leases.</p>	<p>It is wrong to observe in respect of project proponent (in OA No. 288/ 2024) and project proponent is doing mining operation within the area granted in her favor.</p>
F	<p>f) None of the leases have been developing green belts within the lease area.</p>	<p>Plantation are being done in the nearby area in each year by the project proponent.</p>



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G	g) Lessee has not submitted the six monthly compliance report to the Regional Office, Lucknow. Few of them have submitted their six monthly compliance report to RO-UPPCB Banda.	Compliance report dated 08-08-2023, 18-07-2024 and dated 22-07-2024 have already been submitted to the UPPCB (Annexure no.- 2))
H	h) Lease has not submitted their Environmental Statement to the RO-UPPCB Banda, which is required to submit to UPPCB on completion of every financial year.	The project proponent is preparing Environmental Statement and may submit soonly.
I	i) During the visit Joint Committee found that none of the lease owners placed a proper signage board at their lease site.	Signage Board already established. The photograph is being annexed as Annexure no.- 3
J	j) During the visit Joint Committee found that none of the lease owners placed signage boards regarding Environment, safety, health, etc. on site.	It is not required in respect of project proponent.
K	k) During discussion with the lessee, it has come to our notice that the blasting timing in the mines area is between 2 to 2:30 PM, record states that around 15 leases are located in very close	Time for conducting blasting has already fixed by the District Administration and other averment are denied.



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	<p>proximity, if all lessees doing blasting in almost the same time, it can give excessive noise level, dust emission and vibration within the same area, which certainly give adverse impact to human habitation, which is residing in very close proximity of the various leases.</p>	
L	<p>l) Number of lessees located in the same area where the unpaved road is being used for the transportation of the mineral.</p>	<p>Water sprinkling regularly done by the project proponent.</p> <p>The photo of Hand Pump is being annexed here with as Annexure no.4</p>
M	<p>m) the Joint Committee observed that none of the leases has placed PTZ camera and weighing Bridge at their lease site/near to lease site. Mine Inspector, stated that "as per the issued mining guidelines, installation of weighing Bridge and PTZ camera is not applicable in the mining area (khanda, Boulder)".</p>	<p>The extention of lease area is 1.21 hectares and according to Rule 36 of sub rule (2) of the Uttar Pradesh Minor Minerals (Concession) Rules 2021. The following provision the statue Book.</p> <p>"(2) The mining lease holder whose mining lease area is more than five hectare will construct at his own expenses, check post/gate for observation of the vehicles transportation</p>



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		with accommodations/installation of four C.C.T.V. cameras capable of recording visuals at the 360 degree angle.”
N	n) The Joint Committee has also observed a group of avian species made their house in one of the lease hills, further, conservation, etc. has been required along with necessary action from the Wildlife Department of the Uttar Pradesh Government. (photograph enclosed)	Not applicable in the case of project proponent.
O	o) The Joint Committee has observed that the heavy machinery is being used by all mining lease holders, which is neither permitted under EC nor in the mining plane.	According to condition No.4 (b) of the approved Mining Plan :- “Excavator L&T shall also be used for breaking big boulder with detectable hammer device to avoid secondary blasting.” And clause (c) of rule 41 of the Uttar Pradesh Minor Minerals (Concession) Rules 2021 provide as under :- “(c) The lessee may quarry with the help of machine except in the stream of water, and may also use machine for loading and



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		<p>unloading as per the condition specified in the Environmental Clearance Certificate. With prior approval from the District Magistrate the lessee may erect and construct on the land any machinery, plant dressing, floors, furnaces, brick kiln, workshop, store house and other building of like nature.”</p>
P	<p>p) The Joint Committee has observed that none of the lessees have complied with the following conditions imposed under EC and CTO including a developed green belt, rainwater harvesting measures, occupational health surveillance, first aid facility, water sprinkling system, toilet facility, soak pit, proper shelter facility, use of solar power, vibration study, proper boundary pillars, etc. on site.</p>	<p>On the rocky area the development of green belt is developed by plantation of Beri, Bumber trees only which already done by the project proponent. According to geography of the area surrounding villages have numbers of well & bores, which provide drinking water to villagers Ken canal serve the water demand for irrigation in the region. First aid facility water sprinkling system and toilet facility has completed by the project proponent.</p> <p>A photo is being annexed here with as Annexure no.5</p>



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R	r) It has been observed that in public hearing of almost all lessees, it has been mentioned that no mining work has been conducted during rainy seasons, which is contrary to the gitti boulder mining.	Mining work in rainy seasons is restricted only for sand and morrum and other river bed minerals but not for building stone.
S	s) Intensive mining in the concerned area, may certainly impact on the local environment, as above lessees have also not complying the various condition imposed by the mining Department, Environmental Clearance, CTO and DGMS etc.	It is not correct it is submitted that all terms and condition are being complied by the project proponent without any default.

6. That in view of objection mentioned in the foregoing paragraphs, it is evident that all the mining areas are notified by the District Officer Banda after getting approval on the 'District Survey Report' by the state level committee, hence after settlement of the mining leases for such approved areas the question for suitability of the area does not required for again consideration, but the compliance of the term and conditions of the environmental clearance



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and other law is required monitoring by the officers of the concern departments.

7. That in view of above respectful submission of the project proponent, that aforesaid Original Application is liable to be dispose of in the interest of justice.

VERIFICATION:

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

Verified at Banda on this 27 day of August 2024.

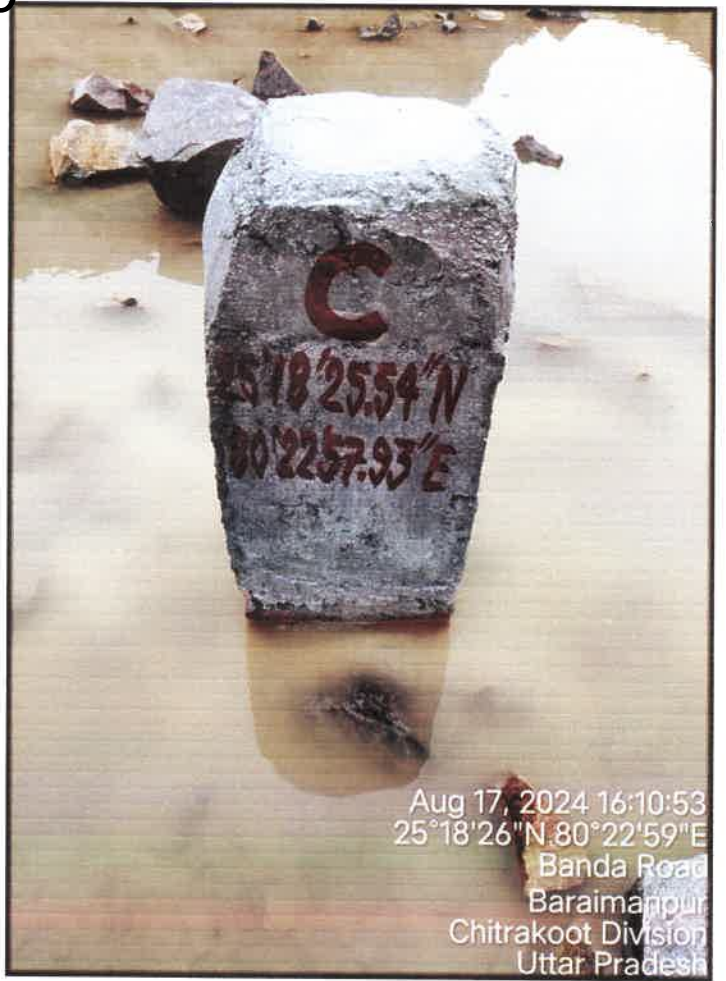
Jasmit Kumar

Deponent



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 Solemnly Affirmed by Sri. *Jasmit Kumar Malhotra*
 whom the Contents of this Affidavite have been read over satisfactory who is Identified by Sri. *Vivek Rangan Choudhary (Adv)*
 Received Rs. *05* as my Fees
 Dated *27/8/2024*
 A.C. No *1*

Jasmit Kumar



Date: 18/07/2024

From,

Smt. Jasmeet Kaur Malhotra W/o Shri Rasmeat Singh Malhotra
R/o Nehru Ward, Near Alka Talkies, Teh- Pipariya,
District- Hoshangabad, M.P.

To,

Member Secretary,
Uttar Pradesh Pollution Control Board (U.P.P.C.B.),
Lucknow, U.P.

Compliance Report: *Period June 2024.*

Subject: Submission of Six Monthly compliance report (June 2024) for the project "Building Stone (Khanda, Gitti & Boulder) Mine" Project at Gata No.- 1876, Khand No.- 05, Village- Girwan, Tehsil- Naraini, District- Banda, U.P. (Applied Area : 1.21 ha.). The conditions mentioned in the Environmental Clearance Letter EC Ref. No. - 143/Parya/SEIAA/5492-4833/2019, Date of Issue EC - 23/06/2020.

Respected Sir,

Kindly refer to the Environmental Clearance Letter EC Ref. No. - 143/Parya/SEIAA/5492-4833/2019, Date of Issue EC - 23/06/2020 against which as per the MoEF&CC guidelines, I am submitting here the detailed Six Monthly compliance report for the project "Building Stone (Khanda, Gitti & Boulder) Mine" Project at Gata No.- 1876, Khand No.- 05, Village- Girwan, Tehsil- Naraini, District- Banda, U.P. supported by the relevant documents.

Yours Faithfully,



(Jasmeet Kaur Malhotra)
Authorized Signatory

C.C. to

1. Regional Office, Uttar Pradesh Pollution Control Board, Banda, U.P.
2. The Joint Director, MoEF&CC, Lucknow, U.P.
3. Director, Directorate of Environment, Lucknow, U.P.

जाक प्राप्ति प्रसिद्ध
प्राप्ति दिनांक... 18/07/24
प्राप्तकर्ता के हस्ताक्षर...
उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड, लखनऊ



Date: 08/08/23

From,

Smt. Jasmeet Kaur Malhotra W/o Shri Rasmeet Singh Malhotra
R/o- Nehru Ward, Near Alka Talkies, Teh- Pipariya,
District- Hoshangabad, M.P.

To,

Member Secretary,
Uttar Pradesh Pollution Control Board (U.P.P.C.B.),
Lucknow, U.P.

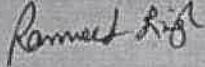
Compliance Report: Period December 2022 to June 2023.

Subject: Submission of Six Monthly compliance report (December 2022 to June 2023) for the project "Building Stone (Khanda, Gitti & Boulder) Mine" Project at Gata No.- 1876, Khand No.- 05, Village- Girwan, Tehsil- Naraini, District- Banda, U.P. (Applied Area : 1.21 ha.). The conditions mentioned in the Environmental Clearance Letter EC Ref. No. - 143/Parya/SEIAA/5492-4833/2019, Date of Issue EC - 23/06/2020

Respected Sir,

Kindly refer to the Environmental Clearance Letter EC Ref. No. - 143/Parya/SEIAA/5492-4833/2019, Date of Issue EC - 23/06/2020 against which as per the MoEF&CC guidelines, I am submitting here the detailed Six Monthly compliance report for the project "Building Stone (Khanda, Gitti & Boulder) Mine" Project at Gata No.- 1876, Khand No.- 05, Village- Girwan, Tehsil- Naraini, District- Banda, U.P. supported by the relevant documents.

Yours Faithfully,



(Jasmeet Kaur Malhotra)

Authorized Signatory

C.C. to-

1. Regional Office, Uttar Pradesh Pollution Control Board, Banda, U.P.
2. The Joint Director, MoEF&CC, Lucknow, U.P.
3. Director, Directorate of Environment, Lucknow, U.P.

डाक प्राप्ति रसीद

प्राप्ति दिनांक... 08/08/23
प्राप्तकर्ता के हस्ताक्षर...
उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड, लखनऊ



Date: 22.07.2024

From

Smt. Jasmeet Kaur Malhotra W/o Shri Rasmeet Singh Malhotra
No. Nehru Ward, Near Alka Talkies, Teh. Pipariya,
District- Hoshangabad, M.P.

To

The Member Secretary
Uttar Pradesh Pollution Control Board (U.P.P.C.B.)
Vidhan Bhawan, Ganga Nagar,
Lucknow-226010
Uttar Pradesh.

Subject: Compliance report of Consolidated Consent to Operate and
Authorization hereinafter referred to as the CCA (Consolidated Consent &
Pollution) Act, 1974 and under Section-25 of the Water (Prevention & Control of
Pollution) Act, 1974 and under Section-21 of the Air (Prevention & Control of
Pollution) Act, 1986 issued vide letter No.-
MUS/UPPCB/Banda/UPPCBRO/CTO/both/BANDA/2022 Date: 09/06/2022.

Respected Sir,

Kindly refer to the above mention subject I am hereby submitting the
compliance report of the issued CTO for the project "Building Stone (Khanda,
Gum & Boulder Mine) Project at Gate No. 1276, Khand No. 05, Village-
Ghawan, Tehsil- Naraini, District- Banda, U.P. (Leased Area: 1.21 ha.)

Copy for Regional Office, UPPCB, Banda

Yours faithfully,

Jasmeet Kaur Malhotra

(Jasmeet Kaur Malhotra)

Authorized Signatory



Handwritten notes and signature in the bottom right corner.

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