

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

ORIGINAL APPLICATION NO. 188 OF 2023

IN THE MATTER OF:

GAURAV KUMAR

...APPLICANT

VERSUS

STATE OF UTTAR PRADESH & ORS.

...RESPONDENTS

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VANSHDEEP DALMIA

ADVOCATE FOR THE ANSWERING RESPONDENT

DOON MINES AND MINERALS

206, Jor Bagh, New Delhi-110003

M. No. 9810077085

DATE: 22.02.2024

PLACE: NEW DELHI

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PRINCIPAL BENCH, AT NEW DELHI**

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...RESPONDENTS

**REPLY TO OA NO. 188 OF 2023 ON BEHALF OF
RESPONDENT, M/s DOON MINES AND MINERALS**

TO,

THE HON'BLE CHAIRPERSON AND HIS COMPANION
JUDGES OF THE LEARNED NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.

THE HUMBLE REPLY OF THE ANSWERING
RESPONDENT HEREIN:

MOST RESPECTFULLY SHOWETH:

1. That the present Original Application is filed challenging the District Survey Report (DSR) for District Saharanpur dated 13.01.2023 which was prepared by the Sub-Divisional Committee but is yet to be approved by the Expert bodies, i.e. SEAC/SEIAA, UP, and the subsequent Auction Notice dated 13.02.2023, which has been issued on the basis of the said DSR.

2. This Hon'ble Tribunal vide order dated 8.11.2023 impleaded the Applicant/ intended lease holders along with 11 others to whom LOIs had been issued and further directed that *“ECs will not be issued to the above newly added respondents by the competent authority without the leave of the Tribunal”*.
3. The answering Respondent, *M/s Doon Mines and Minerals* was thus impleaded pursuant to the Orders dated 8.11.2023 passed by this Hon'ble Tribunal, and is filing the present Reply in furtherance of the Order dated 25.01.2024.
4. At the very outset the answering Respondent submits that the averments made in the present OA are concocted, misleading, baseless and factually incorrect and are thus denied in *toto* except specifically admitted hereinafter.

BRIEF FACTS:

5. The brief facts and circumstances, relevant for the purposes of the present Reply and to enable this Hon'ble Tribunal to effectively and efficaciously adjudicate the present matter, are as under:

- i. That in September 2006, the MOEF issued the parent EIA Notification dated 14.09.2006 (*“hereinafter referred to as EIA, 2006”*) under Section 3 of the Environment (Protection) Act, 1986 *inter-alia* providing a substantive legal framework and comprehensive procedural mechanism for evaluation, assessment and monitoring of the Environmental impact on land, air and water due to various projects undertaken by persons in all sectors throughout the territory of India. The Schedule to the EIA regulated multifarious activities including mining of major and minor minerals.
- ii. The MOEF issued Notification dated 15.01.2016 and 20.01.2016 which amended the EIA, 2006 by *inter-alia* mandating the Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minerals, the procedure for obtaining Environmental Clearance (EC) for mining including those mines in Cluster (Appendix XI), and also the procedure for conducting an Annual Replenishment study.

The District Survey Reports (DSRs) were to be prepared by a newly constituted District Environmental Impact Assessment Authority (*hereinafter referred to as "DEIAA"*) and District Expert Appraisal Committee (*hereinafter referred to as "DEAC"*) at the District level in each State.

A Copy of the Notifications dated 15.01.2016 and 20.01.2016 issued by the Respondent MOEF is enclosed herewith as **Annexure R-1 (Colly) [at pages 28 to 41]**.

- iii.** That a DSR was prepared by the DEAC, DEIAA, UP in terms of the MOEF Notifications dated 15.01.2016 and 20.01.2016, and the SSMG, 2016 Guidelines, for the District Saharanpur in the year 2018.
- iv.** This Hon'ble Tribunal, Principal Bench vide its Judgment dated 13.09.2018 in the case titled '*Satender Pandey v. UOI*', partly quashed the Notifications dated 15.01.2016 and 20.01.2016, including quashing DEIAA and DEAC as the said DEIAA & DEAC comprised of mostly officers/ bureaucrats (eg. District Magistrate/ Collector) who being

lacked expertise, experience and scientific knowledge in matters of environment and were incapable of assessing the potential implications to the environment, which was considered by the Hon'ble Tribunal to be a serious dilution of environmental standards.

- v. This Hon'ble Tribunal vide its Order dated 11.12.2018 in Execution Petition No. 55 of 2018 (*arising out of Judgment dated 13.09.2018 in the case of Satender Pandey*) re-iterated that the DEIAA & DEAC do not possess the expertise and scientific knowledge to assess environmental implications and the same are not consistent with the Sustainable Sand Mining Management Guidelines, 2016. Accordingly, the MOEF was directed to take steps to revise the procedure laid down in the Notification dated 15.01.2016.

A true copy of the Order dated 11.12.2018 passed by the Hon'ble NGT in Execution Application No. 55 of 2018 in O.A. No. 520 of 2016 titled '*Vikrant Tongad v. UOI*' is enclosed herewith as **Annexure-R-2** [at page 42 to 44].

- vi. The MOEF in supplement and addition to the Sustainable Sand Mining Management Guidelines, 2016 issued the Enforcement & Monitoring Guidelines for Sand Mining, 2020 (*hereinafter referred to as 'the EMGSM, 2020'*) which also stipulated for preparation of a DSR and Replenishment study.

It is submitted that subsequent to the quashing of the DEAC/DEIAA by this Hon'ble Tribunal in *Satender Pandey*, the MOEF despite the directions issued in *Vikrant Tongad* to modify the procedure under the 15.01.2016 Notification, has till date not issued any clarification or Office Memorandum or revised instructions in respect of the procedure which is required to be followed for preparation of a DSR throughout the Country. It is relevant to mention that though this Hon'ble Tribunal in *Satender Pandey* in the context of issuance of ECs for Mining leases below 5ha stated that the same would be granted by SEAC/ SEIAA instead of DEAC/ DEIAA, however nowhere mentioned the procedure for preparation

of a DSR which was even otherwise not the subject matter of discussion, contention and dispute in *Satender Pandey*.

- vii.** The Hon'ble Supreme Court vide its Judgment dated 10.11.2021 in *Pawan Kumar*, modified the procedure for preparation of a DSR and directed that the same be prepared by a Sub-Divisional Committee comprising of (i) Sub-Divisional Magistrate, (ii) Officers from Irrigation Department (iii) SPCB (iv) Forest Department (v) Geology or Mining Officer.

A Copy of the Judgment dated 10.11.2021 passed by the Hon'ble Supreme Court in *State of Bihar v. Pawan, (2022) 2 SCC 348* is enclosed herewith as **Annexure R-3** [at page 45 to 51].

- viii.** This Hon'ble Tribunal, Principal Bench in the case of *Raj Kumar v. State of U.P., OA No. 140/2021*, vide its Judgment dated 6.05.2022 accepted that a Replenishment Study is mandatorily to be conducted prior to e-Auctions in future and also for all current leases; and directed such replenishment studies to be expedited and completed in a time bound manner i.e. by 31st December 2022 for all

Districts in U.P failing which no Mining shall be permitted. The Hon'ble Supreme Court vide its Order dated 29.11.2022 dismissed the Civil Appeal No. 8035-8036 of 2022 filed by the State of UP being aggrieved by the abovementioned Judgment dated 6.05.2022, and clarified that the State authorities shall undertake Replenishment studies for both years i.e. year ending 31.12.2021 as well as the then current year ending 31.12.2022.

A Copy of the Judgment dated 06.05.2022 passed by this Hon'ble Tribunal, Principal Bench in the case titled '*Raj Kumar v. State of U.P.*', OA No. 140/2021 is enclosed herein and marked as **Annexure R-4** [at page 52 to 60].

A Copy of the Order dated 29.11.2022 passed by the Hon'ble Supreme Court in Civil Appeal No. 8035-8036 of 2022 titled '*State of U.P. & Ors. v. Raj Kumar & Anr.*' is enclosed herein and marked as **Annexure R-5** [at page 61 to 62].

- ix.** In accordance with the directions passed in *Raj Kumar*, Replenishment studies were conducted in District Saharanpur by a Sub-Divisional Committee in 2022 and 2023 (*pre and post monsoon*), as is clear from the Joint Committee Report dated 10.07.2023 filed in the present matter.
- x.** The Govt. of UP vide Order dated 1.06.2022 constituted a Sub-Divisional Committee to prepare and finalize the DSR in District, Saharanpur. The said Sub Divisional Committee duly prepared the updated the DSR for District Saharanpur which was forwarded on 18.01.2023 and 1.02.2023 to the Special Secretary, Geology and Director, Mining Department, UP for approval. The said DSR was further uploaded on the District website portal on 13.01.2023 and also sent to District Administration, Yamunanagar, for public comments.
- The Director, Geology and Mining Department vide its letter dated 27.03.2023 approved the updated DSR for Saharanpur, and the same is mentioned and enclosed as Annexure-12 of the Joint Committee Report.

- xi.** That the District Collector, Saharanpur issued an E-Auction Notice dated 13.02.2023 for mining of RBM in 14 Sand Ghats in District Saharanpur in accordance with the DSR prepared by the Sub-Divisional Committee.
- xii.** That the Applicant filed the present Original Application dated 28.02.2023 challenging the DSR dated 13.01.2023 prepared by the Sub-Divisional Committee and the said Auction notice dated 13.02.2023.
- xiii.** That this Hon'ble Tribunal vide its Order dated 13.03.2023 constituted a Joint Committee comprising CPCB, State PCB and District Magistrate, Saharanpur who were directed to visit the sites and collect relevant information and submit a factual report.
- xiv.** That in pursuance of the Order dated 13.3.2023, the Joint Committee submitted its Report dated 10.07.2023 wherein it concluded that *“updated DSR report and replenishment study report of Saharanpur has been prepared and approved by the Government of UP”*.
- xv.** The District Magistrate, Saharanpur issued a Letter of Intent (LOI) dated 21.05.2023 in favour of the answering

Respondent, Doon Mines and Minerals in respect of Gata No. 1/1, Rasoolpur urf Rasooli, Behat, Saharanpur (UP) for a royalty amount of Rs. 29 Crores (approx.) payable per year, whereunder the answering Respondent has already deposited the earnest money amount of Rs. 7.31 Crores along with the First installment of Rs. 5.85 Crores, i.e. a total of more than 13 Crores.

A true translated copy of the Letter of Intent (LOI) dated 21.05.2023 issued to the answering Respondent, Doon Mines and Minerals is enclosed herewith as **Annexure R-6** [at page 63 to 67].

xvi. The Mining Plan submitted by the answering Respondent was approved vide letter dated 18.10.2023 by the Directorate of Geology and Mining, UP.

A true translated copy of the letter dated 18.10.2023 by Directorate of Geology and Mining, UP is enclosed herewith as **Annexure R-7** [at page 68 to 70].

xvii. This Hon'ble Tribunal vide the Order dated 8.11.2023 impleaded the Applicant/ intended lease holder along with 11 others to whom LOIs had been issued and further

directed that *“ECs will not be issued to the above newly added respondents by the competent authority without the leave of the Tribunal”*.

This Hon’ble Tribunal further directed the Original Applicant to serve the newly added Respondents and file an Affidavit of service.

- xviii.** The SEAC, UP vide its 811th Meeting dated 30.11.2023 considered the Application filed by the answering Respondent for grant of prior EC and recommended issuance of a Terms of Reference (TOR) for the preparation of EIA with the remarks that EC will not be granted till the disposal of the present OA No. 188/2023 by this Hon’ble Tribunal. The committee also stipulated additional TOR conditions.

It is submitted that it is only pursuant to the said SEAC Minutes of Meeting which referred to the Order dated 8.11.2023 passed by this Hon’ble Tribunal that the answering Respondent came to know of the present proceedings, in as much as, despite the Order passed by this Hon’ble Tribunal the answering Respondent was

neither served nor any Affidavit of service was filed before this Hon'ble Tribunal.

A copy of the Relevant Extracts of the Minutes of 811th Meeting dated 30.11.2023 of SEAC, UP is enclosed herewith as **Annexure R-8** [at page 71 to 75].

xix. Pursuant to the Order dated 8.11.2023, the SEIAA, UP wrote a letter on 16.11.2023 to the MOEF seeking clarification on the procedure to be followed for preparation of a District Survey Report.

xx. The Respondent No. 5 MOEF vide letter dated 4.12.2023 clarified the position regard DSR, and stated that the DSR is prepared by the District Authorities as per the MOEF Notification dated 25.07.2018, and further stated that the DSR ought to be submitted to SEAC for examination and evaluation and then to SEIAA for approval in consonance with the Judgment dated 10.11.2021 passed by the Hon'ble Supreme Court in *Pawan Kumar*.

A true typed copy of the letter dated 4.12.2023 sent by MOEF to SEIAA, UP is enclosed herewith as **Annexure R-9** [at page 76 to 77].

- xxi.** That the Respondent No. 4, District Magistrate, Saharanpur vide his letter dated 18.12.2023 forwarded the DSR for Saharanpur for the approval to SEAC/ SEIAA UP in terms of the MOEF letter dated 4.12.2023 along with NOCs received from the Forest Department and the Irrigation department.
- A typed copy of the letter dated 18.12.2023 sent by the District Magistrate Saharanpur to SEAC, UP is enclosed herewith as **Annexure R-10 [at Pages 78 to 79]**.
- xxii.** That Respondent No. 3, SEIAA, UP vide its 787th Meeting dated 29.12.2023 opined to refer back the application seeking prior EC preferred by the answering Respondent to the SEAC for appraisal as per the DSR.
- A copy of the Relevant Extracts of the Minutes of 787th Meeting dated 29.12.2023 of SEIAA, UP is enclosed herewith as **Annexure R-11 [at page 80 to 81]**.
- xxiii.** The SEAC, UP vide its 826th Meeting dated 23.01.2024, after referring to the Minutes of the 787th meeting of SEIAA dated 29.12.2023 opined that the matter will be

discussed after receipt of final approved DSR of District Saharanpur.

A copy of the Relevant Extracts of the Minutes of 826th Meeting dated 23.01.2024 of SEAC, UP is enclosed herewith as **Annexure R-12** [at page 82 to 83].

- xxiv.** That the SEIAA and SEAC, UP held a Joint Meeting on 2.02.2024 which was attended by 17 members to discuss the issue regarding the procedure for approval of DSR. The SEAC/SEIAA in the said Joint Meeting adopted a detailed Standard Operating Procedure (SOP) regarding preparation and updation of DSR for Sand mining or R.B.M which was formulated and made effective with immediate effect throughout the State of UP.

A copy of the Minutes of the Joint meeting of SEIAA and SEAC, UP dated 2.2.2024 along with SOP for Sand mining is enclosed herewith as **Annexure R-13** [at Pages 84 to 95].

- xxv.** That SEAC, UP in its Meeting held on 22.02.2024 were slated to appraise the DSR for Saharanpur prepared by the

Sub-Divisional Committee, and the Minutes of the same are awaited.

REPLY ON MERITS

That in furtherance of the abovementioned facts and circumstances, the answering Respondent seeks to place its Reply on the grounds and issues raised in the present OA.

ON THE ISSUE OF DSR

6. The issue pertaining to the updated DSR for Saharanpur including restraining the State from auctioning mining leases pursuant to the said DSR was a subject matter before this Hon'ble Tribunal in OA No. 403/2022, '*Daljeet Singh v State of UP*'. This Hon'ble Tribunal vide Order dated 25.1.2023 disposed off the said OA without passing any orders as prayed for, and the same is duly extracted in the Report of the Joint Committee.

A Copy of the Order dated 25.01.2023 passed by this Hon'ble Tribunal in OA No. 403/2022, '*Daljeet Singh v State of UP*' is enclosed herewith as **Annexure R-14** [at Pages 96 to 97].

7. That the DSR for Saharanpur was duly prepared and updated by the Sub Divisional Committee on 13.01.2023 & uploaded

on the District website on 31.1.2023 and approved by the mining department on 27.3.2023.

8. Thereafter, District Magistrate Saharanpur after obtaining a clarification from MOEF on 4.12.2023, vide letter dated 18.12.2023 forwarded the DSR for the approval of SEAC, UP.
9. The SEAC/SEIAA, UP in its Joint Meeting dated 2.02.2024 for the **first time** adopted a procedure and formulated a detailed Standard operating procedure (SOP) for preparation of DSR. In terms of the said SOP, the DSR for Saharanpur was listed before the SEAC, UP for appraisal on 22.02.2024 and the decision of the SEAC, UP thereof is awaited.
10. That the Hon'ble Supreme Court vide its order dated 20.07.2022 in '*Mangal Singh Bundela v State of MP*', CA No. 4593 of 2022 in a similar case where the e-auction dated 16.11.2021 was issued before the draft DSR dated 4.3.2022 considered the judgment in *Pawan Kumar* and directed that that no mining shall be carried out in the terms of the e-auction without finalizing the DSR. It is pertinent to mention that the

Hon'ble Supreme Court without quashing the NIT or staying the process of grant of EC, stayed mining under the said NIT.

11. This Hon'ble Tribunal vide judgment dated 17.10.2022 in *Ajit Kumar*, OA No. 38/2022 (CZ) quashed the action taken on the basis of the NIT issued prior to the approval of DSR by MPSEIAA in district Raisen. The Hon'ble Supreme Court vide Order dated 21.11.2022 in '*The MP State Mining Corporation Limited v. Ajit Kumar*', Civil Appeal No. 8551/2022, stayed the operation of the judgment dated 17.10.2022 and permitted mining for a period of 6 months to ensure availability of Sand stock.
12. It is submitted that even in the case of *Pawan Kumar*, the Hon'ble Supreme Court pending the preparation of DSR, had permitted mining activities in the *interim* to prevent mushrooming of illegal mining and further to prevent loss to the public exchequer and ensure availability of sand which is required for public and private construction projects.

The Relevant portion of the Judgment passed in Pawan Kumar is extracted hereinbelow

“7. It cannot be in dispute that though the developmental activities are not stalled, the environmental issues are also required to be addressed. A balanced approach of sustainable development ensuring environmental safeguards, needs to be resorted to. At the same time, it also cannot be ignored that when legal mining is banned, it gives rise to mushroom growth of illegal mining, resulting into clashes between sand mafias, criminalization and at times, loss of human lives. It also cannot be disputed that sand is required for construction of public infrastructural projects as well as public and private construction activities. A total ban on legal mining, apart from giving rise to illegal mining, also causes huge loss to the public exchequer.”

13. It is submitted that subsequent to the quashing of the DEAC/DEIAA by this Hon’ble Tribunal in *Satender Pandey*, the MOEF despite the directions issued in *Vikrant Tongad* to modify the procedure under the 15.01.2016 Notification, has not issued any clarification or OM in respect of the procedure which is required to be followed for preparation of a DSR throughout the Country. For the State of UP, for the first time a clarification has been given by the MOEF, only on 4.12.2023.

In the meanwhile, approximately 214 e-tenders have been floated between 2020-2024 in the State of UP for various districts without a duly finalized/ approved DSR by SEAC/SEIAA, UP, and quashing all such E-tenders which are

in parity with the issuance of the Impugned Auction notice dated 13.02.2023 would seriously affect the availability of sand and ensue the dangers highlighted by the Hon'ble Supreme Court in the case of *Pawan Kumar*.

A Tabular Chart indicating the E-tenders/ Auction Notices issued District wise in the State of UP between 2020-2024 is enclosed herewith as **Annexure R-15** [at page 98]

**DRAFT DSR PREPARED IN CONSULTATION WITH DISTRICT
YAMUNANAGAR**

14. It is submitted that the updated DSR was duly sent to the District Magistrate Yamunanagar vide letter dated 1.2.2023 for their comments and inputs and the same has been stated in the Joint Committee Report. Thus, the requirement of Clause 9.3 of EMGSM, 2020 is substantially complied with.

It is relevant to mention that the challenge to the DSR for non-compliance of Clause 9.3 of EMGSM, 2020 was also raised in OA No. 403 of 2022. This Hon'ble Tribunal vide Order dated 25.1.2023 disposed off the said OA without passing any orders as prayed for therein.

ON THE ISSUE OF CLUSTER

15. It is submitted that Appendix XI of the MOEF Notification dated 15.1.2016 by virtue of which the concept of Cluster was first introduced, does not cap the total area in a Cluster, and in fact specifically provides for the procedure for obtaining EC in a cluster situation of a size more than 50 ha.

16. The MOEF Notification dated 15.1.2016 which amended the EIA, 2006 is a measure under Section 3 of the EP Act and is statutory in nature which would prevail over the EMGSM, 2020 which are guidelines issued by the MOEF, that though are mandatorily required to be adhered to, however in case of a conflict in terms of the Notification and guideline, the Notification in law shall prevail.

Be that as it may, Clause 4.1.1 (k) of the EMGSM, 2020 is merely recommendatory and suggestive in nature and does not prohibit clusters exceeding 10 ha and is thus even otherwise not in conflict with the Notification dated 15.01.2016.

**ON THE ISSUE OF CONTINUOUS STRETCH OF RIVER BED BEING
AUCTIONED IN PIECES**

17. It is submitted that Clause 4.6 of the EMGSM, 2020 itself clarifies that it is suggestive in nature and thus not mandatory.

The said Clause 4.6 of the EMGSM, 2020 reads as under:

“In those states where sand plots are auctioned to the highest bidder, the following is suggested:

It has been observed that bidders try to form a cartel and bids are received for certain plots where legal mining is done, and bids for certain other plots don't elicit any response. Sand from these unauctioned plots is then excavated using the same machinery deployed for the excavation of adjacent plot which might have been auctioned off. It is not easily possible for the field machinery to prevent such illegal activities. This may be prevented by having plot of larger size. plots are large in size as possible are identified for auction. Care may be taken to ensure that no continuous stretch of plot in the river bed is divided for auction. A continuous stretch of plot shall be preferred for auction, and the attempt may not be made to auction it off in pieces.”

18. Apropos, it is further submitted that the decision to determine the size of the mining lease (whether by a continuous stretch of plot/river bed or divided) is at the discretion of the State Government under Rule 10 of the UP Minor Mineral Concession Rules, 2021.

It is trite to mention that this Hon'ble Tribunal in the case of *Pashupati Rice Mills [OA No. 62/2019 (EZ)]* vide Judgment

dated 12.12.2019 had upheld the power of the State Government to divide the lease areas as per its Policy decision, and rejected the submission that it ought to be auctioned contiguously as a single stretch.

ON THE ISSUE OF REPLENISHMENT STUDY

19. This Hon'ble Tribunal, Principal Bench in the case of ***Raj Kumar v. State of U.P.***, OA No. 140/2021, vide its Judgment dated 6.05.2022 accepted that a Replenishment Study is mandatorily to be conducted prior to e-Auctions in future and also for all current leases; and directed such replenishment studies to be expedited and completed in a time bound manner i.e. by 31st December 2022 for all Districts in U.P failing which no Mining shall be permitted. The Hon'ble Supreme Court vide its Order dated 29.11.2022 dismissed the said Civil Appeal No. 8035-8036 of 2022 filed by the State of UP being aggrieved by the abovementioned Judgment dated 6.05.2022, and clarified that the State authorities shall undertake Replenishment studies for both years i.e. year ending 31.12.2021 as well as the current year ending 31.12.2022.

20. In pursuant thereof, Replenishment studies for District Saharanpur was duly conducted *pre and post monsoon* for the years 2022 and 2023 as is clear from the Joint Committee Report.
21. It is pertinent to mention that this Hon'ble Tribunal vide Order dated 25.1.2023 in OA No. 403 of 2022 recorded that Replenishment study has been conducted in District Saharanpur prior to preparation of the DSR and disposed of the said OA.

**ON THE ISSUE OF RIVER CHANNEL PASSING THROUGH THE
AREA OF IDENTIFIED MINING SITES**

22. The Corresponding submissions made in the OA are speculative, evasive and based on conjectures and surmises without furnishing any details whatsoever. The mining sites have been identified by the Sub Divisional Committee after conducting a field survey and after following the guidelines of the MOEF.

Therefore, in view of the averments made hereinabove, the answering Respondent humbly prays that the present OA be disposed off with directions to the Respondents (State of UP, SEAC/SEIAA, UP) to

finalize the DSR for District Saharanpur, UP and for all other Districts in the State of UP, **in a time bound manner** in strict consonance with the MOEF Notification dated 15.01.2016 and 25.07.2018, the MOEF Sand Mining Guidelines 2016 & 2020, and the Judgment and Order passed by the Hon'ble Supreme Court in *Pawan Kumar and Mangal Singh Bundela*.

This Hon'ble Tribunal may also be pleased to direct, if it deems fit and proper, that though the Auction Notice dated 13.02.2023 for District Saharanpur (*and 214 Auction notices in other Districts in the State of UP*) have been issued in accordance with the DSR duly approved by the Sub-Divisional Committee; post the approval of the said DSRs by the SEAC/SEIAA, UP if there are any modifications or amendments of Lease area or permissible quantities etc..., the same may be simultaneously effected in the LOIs issued in favour of the successful bidders including the answering Respondent herein, so as to ensure that the Mining is conducted strictly in accordance with the DSRs and within the prevalent legal framework.

It is submitted that the answering Respondent is filing the present Reply, reserving its right to file a detailed para-wise Reply/

Additional Reply to bring on record subsequent events, as and when directed and required by this Hon'ble Tribunal.

Filed by:



[VANSHDEEP DALMIA]

Advocate for the Answering Respondent,
Doon Mines and Minerals

Place: New Delhi
Filed on: 22.02.2024



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

ORIGINAL APPLICATION NO. 188 OF 2023

IN THE MATTER OF:

GAURAV KUMAR

...APPLICANT

VERSUS

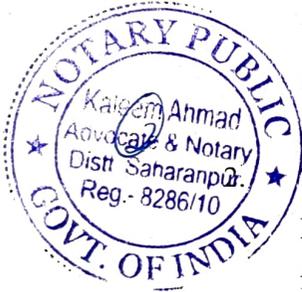
STATE OF UP & ORS

...RESPONDENTS

AFFIDAVIT

I, Priya Jaiswal D/o Rajesh Jaiswal, R/o F1/502, Usha Colony, Pacific Golf Estate, Dehradun, Uttarakhand - 248001, do hereby solemnly affirm and declare as under:

- That I am the Partner in Respondent Doon Mines and Minerals firm in the above Original Application and I am well conversant with the facts and circumstances of the case and competent to depose the present Affidavit.
- That I have read and understood the contents of the accompanying Reply which has been drafted on my instructions and I say that the facts stated therein are true to my knowledge.
- That the averments of facts stated herein above are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.



[Signature]
DEPONENT

For M/S Doon Mines and Minerals

Partner

VERIFICATION:-

Verified at SH on this 29 day February 2024, that the contents of the present affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.

SM 655
This affidavit is made before me today
12.11.2024
at Saharanpur
The contents of the affidavit are correct
to my knowledge.
Signature of Notary
Kabeem Ahmad
Advocate & Notary
Distt Saharanpur
Reg. - 8286/10

[Signature]
IDENTIFIED BY

[Signature]
DEPONENT

For M/S Doon Mines and Minerals

Partner

- 10 का.आ. 562(अ) तारीख 26 फ़रवरी 2014;
11. का.आ. 637(अ) तारीख 28 फ़रवरी 2014;
12. का.आ. 1599(अ) तारीख 25 जून 2014;
13. का.आ. 2601(अ) तारीख 7 अक्टूबर 2014;
14. का.आ. 2600(अ) तारीख 9 अक्टूबर 2014
15. का.आ. 3252(अ) तारीख 22 दिसम्बर 2014;
16. का.आ. 382(अ) तारीख 3 फरवरी, 2015;
17. का.आ. 811(अ) तारीख 23 मार्च, 2015;
18. का.आ. 996(अ) तारीख 10 अप्रैल 2015;
19. का.आ. 1142(अ) तारीख 17 अप्रैल 2015;
20. का.आ. 1141(अ) तारीख 29 अप्रैल 2015;
21. का.आ. 1834(अ) तारीख 6 जुलाई 2015;

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 15th January, 2016

S.O. 141(E).—Whereas in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), a draft notification for making certain amendments in the Environment Impact Assessment Notification, 2006, issued *vide* number S.O. 1533(E), dated the 14th September 2006, was published under sub-rule (3) of rule (5) of the Environment (Protection) Rules, 1986, *vide* number S.O. 2588(E), dated 22nd September, 2015, inviting objections and suggestions from all persons likely to be affected thereby, within a period of sixty days from the date of publication on which copies of Gazette containing the said notification were available to the public;

And whereas, copies of said notification were made available to the public on 22nd September 2015;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

And whereas, in pursuance to the order of Hon'ble Supreme Court dated the 27th February, 2012 in I.A. No.12-13 of 2011 in Special Leave Petition (C) No.19628-19629 of 2009, in the matter of Deepak Kumar etc. Vs. State of Haryana and Others etc., prior environmental clearance has now become mandatory for mining of minor minerals irrespective of the area of mining lease;

And whereas, as a result of the above said Order of Hon'ble Supreme Court, the number of cases which are now required to obtain prior environmental clearance has increased substantially;

And whereas, the Hon'ble National Green Tribunal, *vide* its order dated the 13th January, 2015 in the matter regarding sand mining has directed for making a policy on environmental clearance for mining leases in cluster for minor minerals;

And whereas, the State Governments have represented for streamlining the process of environmental clearance for mining of minor mineral;

And whereas, the Ministry of Environment, Forest and Climate Change in consultation with State Governments has prepared Guidelines on Sustainable Sand Mining detailing the provisions on environmental clearance for cluster, creation of District Environment Impact Assessment Authority and proper monitoring of sand mining using information technology and information technology enabled services to track the mined out material from source to destination;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification, namely:-

In the said notification,-

(a) in paragraph 2, after the words “in the said Schedule”, the following words shall be inserted, namely:-
“and at District level, the District Environment Impact Assessment Authority (DEIAA) for matters falling under Category ‘B2’ for mining of minor minerals in the said Schedule”;

(b) after paragraph 3, the following paragraph shall be inserted, namely:-

“3 A. District Level Environment Impact Assessment Authority:-

- (1) A District Level Environment Impact Assessment Authority hereinafter referred to as the DEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of four members including a Chairperson and a Member-Secretary.
 - (2) The District Magistrate or District Collector shall be the Chairperson of the DEIAA.
 - (3) The Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter of the concerned district of the State shall be the Member-Secretary of the DEIAA.
 - (4) The other two members of the DEIAA shall be the senior most Divisional Forest Officer and one expert. The expert shall be nominated by the Divisional Commissioner of the Division or Chief Conservator of Forest, as the case may be. The term and qualifications of the expert fulfilling the eligibility criteria are given in Appendix VII to this notification.
 - (5) The members of the DEIAA who are serving officers of the concerned State Government or the Union territory Administration shall be *ex-officio* members except the expert member.
 - (6) The District Level Expert Appraisal Committee hereinafter referred to as the DEAC shall comprise of eleven members, including a Chairman and a Member-Secretary.
 - (7) The senior most Executive Engineer, Irrigation Department in the district of respective State Governments or Union territory Administration shall be the Chairperson of the DEAC.
 - (8) The Assistant Director or Deputy Director of the Department of Mines and Geology or District Mines Officer or Geologist of the district shall be the Member-Secretary of the DEAC in that order.
 - (9) A representative of the State Pollution Control Board or Committee, senior most Sub-Divisional Officer (Forest) in the district, representative of Remote Sensing Department or Geology Department or State Ground Water Department, one occupational health expert or Medical Officer to be nominated by the District Magistrate or District Collector, Engineer from Zila Parishad, and three expert members to be nominated by the Divisional Commissioner or Chief Conservator of Forest, as the case may be, shall be the other members of the DEAC. The term and qualifications of the experts fulfilling the eligibility criteria are given in Appendix VII to this notification.
 - (10) The members of the DEAC who are serving officers of the concerned State Government or the Union territory Administration shall be *ex-officio* members except the expert members.
 - (11) The District Magistrate or District Collector shall notify an agency to act as Secretariat for the DEIAA and the DEAC and shall provide all financial and logistic support for their statutory functions.
 - (12) The DEIAA and DEAC shall exercise the powers and follow the procedure as specified in the said notification, as amended from time to time.
 - (13) The DEAC shall function on the principle of collective responsibility and the Chairman shall endeavor to reach a consensus in each case and if consensus cannot be reached, the view of the majority shall prevail.”;
- (c) in paragraph 4, after sub-paragraph (iii), the following sub-paragraph shall be inserted, namely:-
“(iv) The ‘B2’ Category projects pertaining to mining of minor mineral of lease area less than or equal to five hectare shall require prior environmental clearance from DEIAA. The DEIAA shall base its decision on the recommendations of DEAC, as constituted for this notification.”;
- (d) for paragraph 5, the following paragraph shall be substituted, namely:-

“5. Screening, Scoping and Appraisal Committees:-

The same Expert Appraisal Committees (EACs) at the Central Government, SEACs at the State or Union territory level and DEAC at the district level shall screen, scope and appraise projects or activity in category ‘A’, ‘B1 and B2’ and ‘B2’ projects for mining of minor minerals of lease area less than and equal to five hectare respectively. EAC, SEACs and DEACs shall meet at least once every month.

(a) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union

territory Administration with identical composition. DEAC at the district level shall be constituted by the Central Government as per the composition given in paragraph 3 A.

(b) The Central Government may with the prior concurrence of the concerned State Governments or the Union territory Administration constitute one SEAC for more than one State or Union territory for reasons of administrative convenience and cost.

(c) The EAC and SEAC shall be reconstituted after every three years.

(d) The authorised members of the EAC, SEACs and DEACs concerned, may inspect any site connected with the project or activity in respect of which the prior environmental clearance is sought for the purpose of screening or scoping or appraisal with prior notice of at least seven days to the project proponent who shall provide necessary facilities for the inspection.

(e) The EAC, SEACs and DEACs shall function on the principle of collective responsibility. The Chairperson shall endeavor to reach a consensus in each case and if consensus cannot be reached the view of the majority shall prevail.”;

(e) for paragraph 6, the following paragraph shall be substituted, namely:-

“6. Application for Prior Environmental Clearance (EC):-

An application seeking prior environmental clearance in all cases shall be made by the project proponent in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II after the identification of prospective site (s) for the project and/or activities to which the application relates; and in Form 1M for mining of minor minerals up to five hectare under Category ‘B2’ projects, as given in Appendix VIII, before commencing any construction activity, or preparation of land, or mining at the site by the project proponent. The project proponent shall furnish along with the application, a copy of the pre-feasibility project report, in addition to Form 1, Form 1A, and Form 1M; and in case of construction projects or activities (item 8 of the Schedule), a copy of the conceptual plan shall be provided instead of pre-feasibility report.”;

(f) in paragraph 7,-

(i) in sub-paragraph (i), under the heading “I. Stage (1)- Screening:”, the existing sub-paragraph shall be lettered as sub-paragraph “(A)” and after sub-paragraph as so lettered, the following sub-paragraph shall be inserted, namely:-
“(B) The cases as specified in Appendix IX shall be exempted from prior environmental clearance.” ;

(ii) after sub-paragraph 7 (ii), the following sub-paragraph shall be inserted, namely:-

“7 (iii) Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minor Minerals:

(a) The prescribed procedure for preparation of District Survey Report for sand mining or river bed mining and mining of other minor minerals is given in Appendix X.

(b) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.”;

(g) in paragraph 8,-

(i) for the letters and word “EAC or SEAC”, the words and letters “EAC or SEAC or DEAC” shall be substituted;

(ii) for the words “Expert Appraisal Committee or State Level Expert Appraisal Committee” wherever they occur, the words “Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee” shall be substituted;

(h) in paragraph 9, in sub-paragraph (i),-

for the words “Expert Appraisal Committee or State Level Expert Appraisal Committee”, the words “Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee” shall be substituted;

(i) in paragraph 10, after sub-paragraph (iii), the following sub-paragraph shall be inserted, namely:-

“(iv) The prescribed procedure for sand mining or river bed mining and monitoring is given in Appendix XII.”;

(j) in paragraph 11, -

for the words “Expert Appraisal Committee or State Level Expert Appraisal Committee”, the words “Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee” shall be substituted;

(k) in the Schedule,-

(i) for item 1 (a) and the entries relating thereto, the following item and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)
“1(a)	(i) Mining of minerals	≥50 ha of mining lease area in respect of non-coal mine lease >150 ha of mining lease area in respect of coal mine lease Asbestos mining	<50 ha of mining lease area in respect of non-coal mine lease ≤150 ha of mining lease area in respect of coal mine lease	General Conditions shall apply except: (i) for project or activity of mining of minor minerals of Category ‘B2’ (up to 25 ha of mining lease area); (ii) River bed mining projects on account of inter-state boundary.

	(ii) Slurry pipelines (coal lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive areas.	irrespective of mining area All projects.		<p>Note:</p> <p>(1) Mineral prospecting is exempted. ”;</p> <p>(2) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.”;</p> <p>(3) The mining leases which have obtained environmental clearance under Environment Impact Assessment Notification, 1994 and Environment Impact Assessment Notification, 2006 shall not require fresh environmental clearance during renewal provided the project has valid and subsisting environmental clearance.</p>
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(l) after Appendix VI, the following appendices shall be inserted, namely:-

“APPENDIX VII

(See paragraph 3 A)

Qualifications and terms for the Experts in DEIAA and DEAC

- Qualification:** The person should have at least (i) 5 years of formal University training in the concerned discipline leading to a MA or M Sc Degree or (ii) in case of Engineering/ Technology/ Architectural discipline, 4 years formal training course together with prescribed practical training in the field leading to a B. Tech/ B.E./ B. Arch. Degree, or (iii) Other professional degree (e.g. MBA etc.) involving a total of 5 years of formal University training and prescribed practical training, or (iv) Prescribed apprenticeship/ article ship and pass examinations conducted by the concerned professional associations (e.g. Chartered Accountancy) or (v) a University degree, followed by two years of formal training in a University or Service Academy (e.g. MBA/MPA etc.). In selecting the individual professionals, experience gained by them in their respective fields will be taken note of.
- Expert:** A professional fulfilling the above eligibility criteria with at least 10 years of relevant experience in the field or with an advanced degree (e.g. Ph. D) in a concerned field with at least 5 years of relevant experience.
- Age:** Below 70 years. However, in the event of non-availability of paucity of experts in a given field, the maximum age of a member may be allowed up to 75 years.
- Fields:** Experts in Mining, Geology, Hydrology, Remote Sensing, Environment Quality, Environment Impact Assessment Process, Risk Assessment, Life Sciences, Marine Sciences, Forestry and Wildlife, Environmental Economics, Bio-diversity, and River Ecology.

5. **Tenure:** The maximum tenure of expert members shall be for two terms of three years each.
6. The Expert Members may not be removed prior to expiry of the tenure without cause and proper enquiry.

APPENDIX VIII

(See paragraph 6)

FORM 1 M

APPLICATION FOR MINING OF MINOR MINERALS UNDER CATEGORY 'B2' FOR LESS THAN AND EQUAL TO FIVE HECTARE

(II) Basic Information

- (viii) Name of the Mining Lease site:
 (ix) Location / site (GPS Co-ordinates):
 (x) Size of the Mining Lease (Hectare):
 (xi) Capacity of Mining Lease (TPA):
 (xii) Period of Mining Lease:
 (xiii) Expected cost of the Project:
 (xiv) Contact Information:

Environmental Sensitivity

Sl. No.	Areas	Distance in kilometer / Details
1.	Distance of project site from nearest rail or road bridge over the concerned River, Rivulet, Nallah etc.	
2.	Distance from infrastructural facilities Railway line National Highway State Highway Major District Road Any Other Road Electric transmission line pole or tower Canal or check dam or reservoirs or lake or ponds In-take for drinking water pump house Intake for Irrigation canal pumps	
3.	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	
4.	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests	
5.	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	
6.	Inland, coastal, marine or underground waters	
7.	State, National boundaries	
8.	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas	
9.	Defence installations	
10.	Densely populated or built-up area, distance from nearest human habitation	
11.	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)	
12.	Areas containing important, high quality or scarce resources (ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)	
13.	Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)	
14.	Areas susceptible to natural hazard which could cause the project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)	

15.	Is proposed mining site located over or near fissure / fracture for ground water recharge	
16.	Whether the proposal involves approval or clearance under the following Regulations or Acts, namely:- (a) The Forest (Conservation) Act, 1980; (b) The Wildlife (Protection) Act, 1972; (c) The Coastal Regulation Zone Notification, 2011. If yes, details of the same and their status to be given.	
17.	Forest land involved (hectares)	
18.	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (a) Name of the Court (b) Case No. (c) Orders or directions of the Court, if any, and its relevance with the proposed project.	

(Signature of Project Proponent
Along with name and address)

APPENDIX – IX

[See paragraph 7(i) (B)]

EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE

The following cases shall not require prior environmental clearance, namely:-

1. Extraction of ordinary clay or sand, manually, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs.
2. Extraction of ordinary clay or sand, manually, by earthen tile makers who prepare earthen tiles.
3. Removal of sand deposits on agricultural field after flood by farmers.
4. Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.
5. Community works like de-silting of village ponds or tanks, construction of village roads, ponds, bunds undertaken in Mahatama Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes, and community efforts.
6. Dredging and de-silting of dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management.
7. Traditional occupational work of sand by Vanjara and Oads in Gujarat *vide* notification number GU/90(16)/MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat.
8. Digging of well for irrigation or drinking water.
9. Digging of foundation for buildings not requiring prior environmental clearance.
10. Excavation of ordinary earth or clay for plugging of any breach caused in canal, nala, drain, water body, etc., to deal with any disaster or flood like situation upon orders of District Collector or District Magistrate.
11. Activities declared by State Government under legislations or rules as non-mining activity with concurrence of the Ministry of Environment, Forest and Climate Change, Government of India.

APPENDIX - X

[See paragraph 7 (iii) (a)]

PROCEDURE FOR PREPARATION OF DISTRICT SURVEY REPORT

The main objective of the preparation of District Survey Report (as per the Sustainable Sand Mining Guideline) is to ensure the following:

Identification of areas of aggradations or deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining in that area.

The report shall have the following structure:

1. Introduction
2. Overview of Mining Activity in the District
3. The List of Mining Leases in the District with location, area and period of validity
4. Details of Royalty or Revenue received in last three years
5. Detail of Production of Sand or Bajari or minor mineral in last three years
6. Process of Deposition of Sediments in the rivers of the District
7. General Profile of the District
8. Land Utilization Pattern in the district: Forest, Agriculture, Horticulture, Mining etc.

9. Physiography of the District
10. Rainfall: month-wise
11. Geology and Mineral Wealth

In addition to the above, the report shall contain the following:

- (a) District wise detail of river or stream and other sand source.
- (b) District wise availability of sand or gravel or aggregate resources.
- (c) District wise detail of existing mining leases of sand and aggregates.

A survey shall be carried out by the DEIAA with the assistance of Geology Department or Irrigation Department or Forest Department or Public Works Department or Ground Water Boards or Remote Sensing Department or Mining Department etc. in the district.

Drainage system with description of main rivers

S. No.	Name of the River	Area drained (Sq. Km)	% Area drained in the District

Salient Features of Important Rivers and Streams:

S. No.	Name of the River or Stream	Total Length in the District (in Km)	Place of origin	Altitude at Origin

Portion of the River or Stream Recommended for Mineral Concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)

Mineral Potential

Boulder (MT)	Bajari (MT)	Sand (MT)	Total Mineable Mineral Potential (MT)

Annual Deposition

S. No.	River or Stream	Portion of the river or stream recommended for mineral concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)
Total for the District						

A Sub-Divisional Committee comprising of Sub-Divisional Magistrate, Officers from Irrigation department, State Pollution Control Board or Committee, Forest department, Geology or mining officer shall visit each site for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof.

Methodology adopted for calculation of Mineral Potential:

The mineral potential is calculated based on field investigation and geology of the catchment area of the river or streams. As per the site conditions and location, depth of minable mineral is defined. The area for removal of the mineral in a river or stream can be decided depending on geo-morphology and other factors, it can be 50 % to 60 % of the area of a particular river or stream. For example in some hill States mineral constituents like boulders, river born Bajri, sand up

to a depth of one meter are considered as resource mineral. Other constituents like clay and silt are excluded as waste while calculating the mineral potential of particular river or stream.

The District Survey Report shall be prepared for each minor mineral in the district separately and its draft shall be placed in the public domain by keeping its copy in Collectorate and posting it on district's website for twenty one days. The comments received shall be considered and if found fit, shall be incorporated in the final Report to be finalised within six months by the DEIAA.

The District Survey Report shall form the basis for application for environmental clearance, preparation of reports and appraisal of projects. The Report shall be updated once every five years.

APPENDIX - XI

[See paragraph 7 (iii) (b)]

PROCEDURE FOR ENVIRONMENTAL CLEARANCE FOR MINING OF MINOR MINERALS INCLUDING CLUSTER

The following policy shall be followed for environmental clearance of mining of minor minerals including cluster situation:-

- (1). The data provided by the States (Sustainable Sand Mining Guidelines) shows that most of the mining leases for minor minerals are of lease area less than 5 hectare. It is also reported that in hill States getting a stretch in river with area more than 5 hectare is very uncommon. So the size of lease for minor minerals including river sand mining will be determined by the States as per their circumstances.
- (2). The mining of minor minerals is mostly in clusters. The Environment Impact Assessment or Environment Management Plan are required to be prepared for the entire cluster in order to capture all the possible externalities. These reports shall capture carrying capacity of the cluster, transportation and related issues, replenishment and recharge issues, geo-hydrological study of the cluster area. The Environment Impact Assessment or Environment Management Plan shall be prepared by the State or State nominated Agency or group of project proponents in the Cluster or the project proponent in the cluster.
- (3). There shall be one public consultation for entire cluster after which the final Environment Impact Assessment or Environment Management Plan report for the cluster shall be prepared.
- (4). Environmental clearance shall be applied for and issued to the individual project proponent. The individual lease holders in cluster can use the same Environment Impact Assessment or Environment Management Plan for application for environmental clearance. The cluster Environment Impact Assessment or Environment Management Plan shall be updated as per need keeping in view any significant change.
- (5). The details of cluster Environment Impact Assessment or Environment Management Plan shall be reflected in each environmental clearance in that cluster and DEAC, SEAC, and EAC shall ensure that the mitigative measures emanating from the Environment Impact Assessment or Environment Management Plan study are fully reflected as environmental clearance conditions in the environmental clearance's of individual project proponents in that cluster.
- (6). A cluster shall be formed when the distance between the peripheries of one lease is less than 500 meters from the periphery of other lease in a homogeneous mineral area.
- (7). Form 1M, Pre-Feasibility Report and mine plan for Category 'B2' projects for mining of minor minerals shall be prepared by the Registered Qualified Person or Accredited Consultants of Quality Council of India, National Accreditation Board for Education and Training. The Environment Impact Assessment or Environment Management Plan for Category 'A' and Category 'B1' projects shall be prepared by the accredited consultants of Quality Council of India, National Accreditation Board for Education and Training.
- (8). The SEIAAs shall have supervisory jurisdiction over the DEIAAs and decisions of DEIAA shall be reviewed by the SEIAA without prejudice to any provisions under any existing law.

Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation

Area of Lease (Hectare)	Category of Project	Requirement of EIA / EMP	Requirement of Public Hearing	Requirement of EC	Who can prepare EIA/ EMP	Who will apply for EC	Authority to appraise/ grant EC	Authority to monitor EC compliance
EC Proposal of Sand Mining and other Minor Mineral Mining on the basis of individual mine lease								
0 - 5ha	'B2'	Form -1M, PFR and Approved Mine Plan	No	Yes	Project Proponent	Project Proponent	DEAC/ DEIAA	DEIAA SEIAA SPCB CPCB MoEFCC Agency

> 5 ha and < 25 ha	'B2'	Form -I, PFR and Approved Mine Plan and EMP	No	Yes	Project Proponent	Project Proponent	SEAC / SEIAA	nominated by MoEFCC
≥ 25ha and < 50ha	'B1'	Yes	Yes	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	
≥ 50 ha	'A'	Yes	Yes	Yes	Project Proponent	Project Proponent	EAC/ MoEFCC	
EC Proposal of Sand Mining and other Minor Mineral Mining in cluster situation								
Cluster area of mine leases up to 5 ha	'B2'	Form -IM, PFR and Approved Mine Plan	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA/	DEIAA SEIAA SPCB CPCB MoEFCC Agency nominated by MoEFCC
Cluster area of Mine leases > 5 ha and < 25 ha with no individual lease > 5 ha	'B2'	Form -I, PFR and Approved Mine Plan and one EMP for all leases in the Cluster	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA/	
Cluster of mine leases of area ≥ 25 hectares with individual lease size < 50ha	'B1'	Yes	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	SEAC/ SEIAA	
Cluster of any size with any of the individual lease ≥ 50ha	'A'	Yes	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	EAC/ MoEFCC	

APPENDIX - XII

[See paragraph 10 (iv)]

PROCEDURE FOR MONITORING OF SAND MINING OR RIVER BED MINING

1. The security feature of Transport Permit shall be as under:

- (a) Printed on Indian Banks' Association (IBA) approved Magnetic Ink Character Recognition (MICR) Code paper.
- (b) Unique Barcode.
- (c) Unique Quick Response (QR) code.
- (d) Fugitive Ink Background.
- (e) Invisible Ink Mark.
- (f) Void Pantograph.
- (g) Watermark.

2. Requirement at Mine Lease Site:

- (a) Small Size Plot (Up to 5 hectare): Android Based Smart Phone.

- (b) Large Size Plots (More than 5 hectare): CCTV camera, Personal Computer (PC), Internet Connection, Power Back up.
- (c) Access control of mine lease site.
- (d) Arrangement for weight or approximation of weight of mined out mineral on basis of volume of the trailer of vehicle used.

3. Scanning of Transport Permit or Receipt and Uploading on Server:

- (a) Website: Scanning of receipt on mining site can be done through barcode scanner and computer using the software;
- (b) Android Application: Scanning on mining site can be done using Android Application using smart phone. It will require internet availability on SIM card;
- (c) SMS: Transport Permit or Receipt shall be uploaded on server even by sending SMS through mobile. Once Transport Permit or Receipt get uploaded, an unique invoice code gets generated with its validity period.

4. Proposed working of the system:

The State Mining Department should print the Transport Permit or Receipt with security features enumerated at Paragraph 1 above and issue them to the mine lease holder through the District Collector. Once these Transport Permits or Receipts are issued, they would be uploaded on the server against that mine lease area. Each receipt should be preferably with pre-fixed quantity, so the total quantity gets determined for the receipts issued.

When the Transport Permit or Receipt barcode gets scanned and invoice is generated, that particular barcode gets used and its validity time is recorded on the server. So all the details of transporting of mined out material can be captured on the server and the Transport Permit or Receipt cannot be reused.

5. Checking On Route:

The staff deployed for the purpose of checking of vehicles carrying mined mineral should be in a position to check the validity of Transport Permit or Receipt by scanning them using website, Android Application and SMS.

6. Breakdown of Vehicle:

In case the Vehicle breakdown, the validity of Transport Permit or Receipt shall be extended by sending SMS by driver in specific format to report breakdown of vehicle. The server will register this information and register the breakdown. The State can also establish a call centre, which can register breakdowns of such vehicles and extend the validity period. The subsequent restart of the vehicle also should be similarly reported to the server or call centre.

7. Tracking of Vehicles:

The route of vehicle from source to destination can be tracked through the system using check points, RFID Tags, and GPS tracking.

8. Alerts or Report Generation and Action Review:

The system will enable the authorities to develop periodic report on different parameters like daily lifting report, vehicle log or history, lifting against allocation, and total lifting. The system can be used to generate auto mails or SMS. This will enable the District Collector or District Magistrate to get all the relevant details and shall enable the authority to block the scanning facility of any site found to be indulged in irregularity. Whenever any authority intercepts any vehicle transporting illegal sand, it shall get registered on the server and shall be mandatory for the officer to fill in the report on action taken. Every intercepted vehicle shall be tracked.

The monitoring of mined out mineral, environmental clearance conditions and enforcement of Environment Management Plan will be ensured by the DEIAA, SEIAA and the State Pollution Control Board or Committee. The monitoring arrangements envisaged above shall be put in place not later than three months. The monitoring of enforcement of environmental clearance conditions shall be done by the Central Pollution Control Board, Ministry of Environment, Forest and Climate Change and the agency nominated by the Ministry for the purpose.”.

[No. Z-11013/98/2014-IA-II (M)]

MANOJ KUMAR SINGH, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) *vide* number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended *vide* the following numbers :-

1. S.O. 1737 (E) dated the 11th October, 2007;
2. S.O. 3067 (E) dated the 1st December, 2009;
3. S.O. 695 (E) dated the 4th April, 2011;
4. S.O. 2896 (E) dated the 13th December, 2012;
5. S.O. 674 (E) dated the 13th March, 2013;
6. S.O. 2204 (E) dated the 19th July 2013;
7. S.O. 2555 (E) dated the 21st August, 2013;
8. S.O. 2559 (E) dated the 22nd August, 2013;
9. S.O. 2731 (E) dated the 9th September, 2013;
10. S.O. 562 (E) dated the 26th February, 2014;
11. S.O. 637 (E) dated the 28th February, 2014;
12. S.O. 1599 (E) dated the 25th June, 2014;
13. S.O. 2601 (E) dated the 7th October, 2014;
14. S.O. 2600 (E) dated the 9th October, 2014
15. S.O. 3252 (E) dated the 22nd December, 2014;
16. S.O. 382 (E) dated the 3rd. February, 2015;
17. S.O. 811 (E) dated the 23rd March, 2015;
18. S.O. 996 (E) dated the 10th April, 2015;
19. S.O. 1142 (E) dated the 17th April, 2015;
20. S.O. 1141 (E) dated the 29th April, 2015;
21. S.O. 1834 (E) dated the 6th July, 2015.

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1.	ज्येष्ठतम कार्य पालक इंजीनियर, सिंचाई विभाग	अध्यक्ष
2.	ज्येष्ठतम उप प्रभागीय अधिकारी (वन)	सदस्य
3.	सुदूर संवेदन विभाग या जियोलोजी विभाग या राज्य भूजल विभाग का जिला मजिस्ट्रेट या जिला कलक्टर द्वारा नामनिर्दिष्ट किया जाने वाला प्रतिनिधि	सदस्य
4.	जिला मजिस्ट्रेट या जिला कलक्टर द्वारा नामनिर्दिष्ट किया जाने वाला व्यवसायिक स्वास्थ्य विशेषज्ञ या चिकित्सा अधिकारी	सदस्य
5.	जिला परिषद् से इंजीनियर	सदस्य
6.	राज्य प्रदूषण नियंत्रण बोर्ड या समिति का प्रतिनिधि	सदस्य
7.	प्रभागीय आयुक्त या मुख्य वन परिरक्षक द्वारा नामनिर्दिष्ट किया जाने वाला विशेषज्ञ	सदस्य
8.	प्रभागीय आयुक्त या मुख्य वन परिरक्षक द्वारा नामनिर्दिष्ट किया जाने वाला विशेषज्ञ	सदस्य
9.	प्रभागीय आयुक्त या मुख्य वन परिरक्षक द्वारा नामनिर्दिष्ट किया जाने वाला विशेषज्ञ	सदस्य
10.	ज्येष्ठतम सहायक इंजीनियर, लोक निर्माण विभाग	सदस्य
11.	जिले में सहायक निदेशक या उप निदेशक या जिला खान अधिकारी या भूगर्भविद, उसी क्रम में	सदस्य-सचिव

6. डीईएसी के अध्यक्ष और सदस्य जिले में अपनी पदावधि के दौरान पद धारण करेंगे तथा गैर शासकीय सदस्यों सक्षम प्राधिकारी द्वारा उनके नामनिर्देशन की तारीख से तीन वर्ष की अवधि के लिए पद धारण करेंगे।

7. डीईएसी ऐसी शक्तियों का प्रयोग करेगी और ऐसी प्रक्रिया का अनुसरण करेगी जो उक्त राजपत्र की अधिसूचना में विनिर्दिष्ट हैं।

8. डीईएसी सामूहिक उत्तरदायित्व के सिद्धांत पर कार्य करेगी और अध्यक्ष प्रत्येक मामले में सर्वसम्मति पर पहुंचने का प्रयास करेगा और यदि सर्वसम्मति पर नहीं पहुंचा जा सकता है तो बहुमत का मत अभिभावी होगा।

9. जिले का जिला मजिस्ट्रेट या जिला कलक्टर डी.ई.ए.सी. के लिए सचिवालय के रूप में कार्य करने के लिए किसी अभिकरण को अधिसूचित करेगा और अभिकरण सभी संभार तंत्र समर्थन जिसके अंतर्गत परिवहन, वास-सुविधा और इसके सभी कानूनी कृत्यों के संबंध में ऐसी अन्य सुविधाएं भी हैं, उपलब्ध कराएगी।

10. जिलों के लिए प्राधिकरण के गैर शासकीय सदस्य बैठक के लिए फीस, यात्रा भत्ता और महंगाई भत्ता के हकदार होंगे जिसका संदाय संबंधित राज्य सरकार के नियमों के अनुसार किया जाएगा।

[सं. जेड-11013/98/2014-आईए-II (एम)]

मनोज कुमार सिंह, संयुक्त सचिव

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 20th January, 2016

S.O.190(E).—In exercise of the powers conferred by sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986) and in pursuance of the notification of the Government of India in the erstwhile Ministry of Environment and Forest number S.O. 1533 (E), dated the 14th September 2006 (hereinafter referred to as the said notification), the Central Government hereby constitutes the District Level Environment Impact Assessment Authority (DEIAA), for grant of environmental clearance for Category 'B2' Projects for mining of minor minerals, for all the districts in the country (hereinafter referred to as Authority for the districts) comprising of the following members, namely:—

1. District Magistrate or District Collector of the district —Chairperson
2. Senior most Divisional Forest Officer in the district —Member
3. An expert member to be nominated by the Divisional Commissioner or Chief Conservator of the Forest —Member
4. Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter —Member-Secretary

2. The Chairperson and official members of the Authority for the districts shall hold office during their tenure in the district on said posts and the expert member shall hold office for a period of three years from the date of nomination by the competent authority.

3. The Authority for the districts shall exercise such powers and follow the procedures as specified in the said notification.

4. The Authority for the districts shall base its decision on the recommendations of the District Level Expert Appraisal Committee constituted under paragraph 5 of this notification.

5. For the purposes of assisting the Authority for the districts, the Central Government hereby constitutes the District Level Expert Appraisal Committee for all the districts of the country (hereinafter referred to as DEAC for the district) comprising of the following members, namely:-

1.	Senior most Executive Engineer, Irrigation Department	—Chairperson
2.	Senior most Sub-Divisional Officer (Forest)	—Member
3.	A representative of Remote Sensing Department or Geology Department or State Ground Water Department to be nominated by the District Magistrate or District Collector	—Member
4.	Occupational health expert or Medical Officer to be nominated by the District Magistrate or District Collector	—Member
5.	Engineer from Zila Parishad	—Member
6.	A representative of State Pollution Control Board or Committee	—Member
7.	An expert to be nominated by the Divisional Commissioner or Chief Conservator of Forest	—Member
8.	An expert to be nominated by the Divisional Commissioner or Chief Conservator of Forest	—Member
9.	An expert to be nominated by the Divisional Commissioner or Chief Conservator of Forest	—Member
10.	Senior most Assistant Engineer, Public Works Department	—Member
11.	Assistant Director or Deputy Director or District Mines Officer or Geologist in the district in that order	—Member- Secretary

6. The Chairperson and the official members of the DEAC shall hold office during their tenure in the district and the non-official members shall hold office for three years from the date of their nomination by the competent authority.

7. The DEAC shall exercise the powers and follow the procedures as specified in the said notification.

8. The DEAC shall function on the principles of collective responsibility and the Chairperson shall endeavor to reach a consensus in each case, and if consensus cannot be reached, the view of the majority shall prevail.

9. The District Magistrate or District Collector of the district shall notify an agency to act as Secretariat for the Authority for the districts and DEAC. The agency shall provide all logistic support including transportation, accommodation, and such other facilities in respect of all its statutory functions.

10. The non-official members of the Authority for districts and the DEAC shall be entitled to such sitting fees, travelling allowance and dearness allowance which shall be paid in accordance with the concerned rules of the respective State Governments.

[No. Z-11013/98/2014-IA-II (M)]

MANOJ KUMAR SINGH, Jt. Secy.

Item No. 04

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHIExecutive Application No. 55/2018
IN
Original Application No. 520/2016

Vikrant Tongad

Applicant(s)

Versus

Union of India

Respondent(s)

Date of hearing: 11.12.2018

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**For Applicant(s): Mr. Rahul Choudhary, Advocate and Mr. Sany Antony,
Advocate**ORDER**

1. Grievance in this application is that there is non-compliance of the judgment of this Tribunal dated 13.09.2018 in *Original Application No. 186/2016, Satendra Pandey Vs. Ministry of Environment, Forest & Climate Change & Anr.* The Hon'ble Supreme Court, vide judgment in *Deepak Kumar Vs. State of Haryana & Ors.: (2012) 4 SCC 629*, required proper Environmental Clearance before grant of lease of minor minerals, including sand mining. Vide Notification dated 15.01.2016 issued by MoEF&CC, environmental clearance was to be given by the District Environment Impact Assessment Authority (DEIAA) which defeat the direction of the Hon'ble Supreme Court.
2. This Tribunal noted that the Notification dated 15.01.2016 issued by the Ministry of Environment, Forest and Climate Change (MoEF&CC) was not consistent with the mandate in *Deepak Kumar (supra)*.
3. The District Expert Appraisal Committee (DEAC) comprised officers having no expertise or scientific knowledge to assess environment implications. Permitting DEAC to make assessment

was also not consistent with the Sustainable Sand Mining Management Guidelines, 2016. Accordingly, MoEF&CC was directed to take steps to revise the procedure laid down in the Notification dated 15.01.2016.

4. According to the applicant, the MoEF&CC failed to issue appropriate Notification. Moreover, the State of Uttar Pradesh vide the letter dated 25.10.2018 and State of Kerala vide the letter dated 29.10.2018 directed Environmental Clearance to be given in accordance with the Notification dated 15.01.2016 in violation of the judgment of this tribunal dated 13.09.2018 which in turn is to implement the direction of the Hon'ble Supreme Court in Deepak Kumar (*supra*).
5. Accordingly, we direct the MoEF&CC to comply with the order dated 13.09.2018 forthwith and furnish a report of compliance on or before 31.12.2018 failing which coercive measures may have to be taken. We also make it clear that till a fresh Notification is issued by the MoEF&CC, Notification dated 15.01.2016 will not be acted upon.
6. Since our attention has been drawn to letter dated 29.10.2018 issued by the State Environment Impact Assessment Authority, Kerala addressed to the District Environment Impact Assessment Authorities of various districts in Kerala that Notification dated 15.01.2016 having not being stayed, the same be followed. This interpretation is clearly contrary to the order of this Tribunal disapproving the Notification dated 15.01.2016 and requiring the same to be revised. The direction that 15.01.2016 should still be acted upon is clearly illegal and in violation of judgment of this Tribunal. The same will stand suspended till a fresh Notification is issued by the MoEF&CC as directed hereinabove.
7. This direction will apply to all the State Environment Impact Assessment Authorities/State Governments.

8. List for further consideration along with the report of the MoEF&CC on 14.01.2019.
9. Copy of this order be sent to the MoEF&CC by e-mail.
10. The report may also be furnished to this Tribunal by e-mail at ngt.filing@gmail.com.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

December 11, 2018
Executive Application No. 55/2018
in Original Application No. 520/2016
R



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3J

(BEFORE L. NAGESWARA RAO, SANJIV KHANNA AND B.R. GAVAI, JJ.)

STATE OF BIHAR AND OTHERS

.. Appellants;

Versus

PAWAN KUMAR AND OTHERS

.. Respondents.

Civil Appeals Nos. 3661-62 of 2020[†], Order dated November 10, 2021

Environment Law — Mining and Industries — Mining lease — Grant of — Preparation of District Survey Report (DSRs) through private consultants for identification of potential sites for mining — Whether necessary

— In view of provision for constitution of Sub-Divisional Committees comprising of officers of State Government from various Departments for identification of potential sites for mining in the Enforcement and Monitoring Guidelines for Sand Mining, 2020, and notification issued by MoEF and CC of 2016, held, there was no necessity of DSRs being prepared through private consultants — It would also unnecessarily burden public exchequer

— Ministry of Environment, Forest and Climate Change (MoEF and CC) in accordance with directions of National Green Tribunal, had issued Enforcement and Monitoring Guidelines for Sand Mining (2020 Guidelines) — In accordance with 2020 Guidelines, DSR is required to be prepared before auction/e-auction/grant of mining lease by Mining Department or Department dealing with mining activity in respective States — For this, a Sub-Divisional Committee is required to be formed which, after site visit, is required to decide regarding suitability of sites for mining — Sub-divisional committee is further required to record its reasons for selecting mining lease in patta land — With advent of modern technology, various technological gadgets like drones and satellite imaging, etc. can be used for identification of potential sites and preparation of DSR and also to check misuse and unauthorised mining

— Therefore, when 2020 Guidelines as well as notification issued by MoEF and CC of 2016 itself provide for constitution of Sub-Divisional Committees comprising of officers of State Government from various Departments for identification of potential sites for mining, there would be no necessity of DSRs being prepared through private consultants as directed by Tribunal — Sub-divisional committee consists of various officers from Revenue Department, Irrigation Department, State Pollution Control Board, Forest Department and Geology and Mining Department of State Government — They are better equipped to visit sites and prepare draft DSR for district concerned — Apart from that, preparation of DSR through private consultants would also unnecessarily burden public exchequer — Exercise of preparation of DSR for purpose of mining in State in all the districts directed to be undertaken afresh — Draft DSRs shall be prepared by Sub-Divisional Committees — Further until DSRs are finalised and granted

[†] Arising from the Judgment and Order in *Pawan Kumar v. State of Bihar*, 2020 SCC OnLine NGT 2848 (National Green Tribunal, Original Application No. 40 of 2020, dt. 14-10-2020) [Modified]

STATE OF BIHAR v. PAWAN KUMAR

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approval by State Expert Appraisal Committee and State Environment Impact Assessment Authority, State Government permitted to continue with legal mining activities (Paras 10 to 16)

a

Pawan Kumar v. State of Bihar, 2020 SCC OnLine NGT 2848, modified

Satendra Pandey v. Ministry of Environment, Forest & Climate Change, 2018 SCC OnLine NGT 2388; *Deepak Kumar v. State of Haryana*, (2012) 4 SCC 629, referred to

RM-D/68186/C

b *Chronological list of cases cited*

on page(s)

1. 2020 SCC OnLine NGT 2848, *Pawan Kumar v. State of Bihar*

349d, 350a-b, 350f, 350g-h, 351a, 353d, 353f-g

2. 2018 SCC OnLine NGT 2388, *Satendra Pandey v. Ministry of Environment, Forest & Climate Change*

349e-f, 350c-d, 351d-e, 351e

c

3. (2012) 4 SCC 629, *Deepak Kumar v. State of Haryana*

351e

ORDER

Per Court

1. The present appeals challenge the judgment and order dated 14-10-2020, passed by the National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as “the Tribunal”) in *Pawan Kumar v. State of Bihar*¹, thereby issuing the following directions: (SCC OnLine NGT para 103)

d

“103. ... (i) Having regard to the findings at (a), (b) and (c) above, we direct the State to undertake further exercise for preparation of a fresh DSR for the Banka District.

e

(ii) As DEIAA is not functioning as a consequence of the decision of the Tribunal in *Satendra Pandey*², the DSR shall be prepared through a consultant(s) accredited by the National Accreditation Board of Education and Training/Quality Control Council of India in terms of OM of MoEF & CC dated 16-3-2010.

f

(iii) The DSR so prepared shall be submitted to the District Magistrate who shall verify the DSR only in respect of the relevant facts pertaining to the physical and geographical features of the district which shall be distinct from the scientific findings based on the parameters prescribed in the SSMMG-2016. After such verification, the District Magistrate shall forward the DSR for examination and evaluation by the State Expert Appraisal Committee (“SEAC”) having regard to the fact that SEIAA comprises of technical/scientific experts. SEAC after appraisal of the report shall forward it to SEIAA for consideration and approval if it meets all scientific/technical requirements.

g

h

¹ 2020 SCC OnLine NGT 2848

² *Satendra Pandey v. Ministry of Environment, Forest & Climate Change*, 2018 SCC OnLine NGT 2388

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(iv) While preparing the DSR, the MoEF & CC accredited agency/ consultant shall scrupulously follow the procedure and the parameters laid down under the SSMMG-2016 and EMGSM-2020 read in sync with each other.” a

2. The appellant State of Bihar has assailed the said judgment and order dated 14-10-2020¹, on various grounds.

3. Shri Atmaram Nadkarni, learned Senior Counsel appearing on behalf of the State of Bihar submitted that the Tribunal has grossly erred in holding that unless the State Expert Appraisal Committee (hereinafter referred to as “SEAC”) and the State Environment Impact Assessment Authority (hereinafter referred to as “SEIAA”) grants approval to the District Survey Report (hereinafter referred to as “DSR”) for the purpose of mining of sand, the same cannot be carried out. He submitted that the Tribunal has further held that the very invitation of the tenders without preparing the DSR in accordance with the judgment of the Tribunal in *Satendra Pandey v. Ministry of Environment, Forest & Climate Change*² could not have been done. He submitted that after the tenders are invited in accordance with the DSR prepared by the District Level Committee, the successful bidder will be required to prepare a mining plan and unless such a mining plan is approved by SEAC and SEIAA, the environmental clearance would not be granted and in turn, mining activities cannot be carried out. He submitted that the finding of the Tribunal is like putting the cart before the horse. b c d

4. Shri Nadkarni further submitted that the Tribunal has also grossly erred in holding that the DSRs prepared by the State were without following the requisite procedure and without considering the relevant factors. He submitted that not only the procedure as prescribed under the relevant rules and regulations was complied with, but the voluminous material in support of the same was also placed on record before the Tribunal. He submitted that the Tribunal has not taken into consideration the said material. He therefore submitted that the judgment and order passed by the Tribunal dated 14-10-2020¹, needs to be set aside and the State needs to be permitted to finalise the tenders received by it. e f

5. Shri Nadkarni further submitted that on account of the orders passed by the Tribunal, the old lessees are continuing with the mining activities by paying a meagre amount to the State Government. He therefore submitted that on account of this, a huge loss would be caused to the public exchequer. In the alternative, he submitted that the State, at least, needs to be permitted to undertake mining activities through Bihar State Mining Corporation until the DSRs are finalised in accordance with the judgment¹ of the Tribunal. g

1 *Pawan Kumar v. State of Bihar*, 2020 SCC OnLine NGT 2848

2 2018 SCC OnLine NGT 2388

h

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6. Shri P.S. Patwalia, learned Senior Counsel appearing on behalf of the original applicant vehemently opposed the appeals. He submitted that the Tribunal has rightly held¹ that the DSRs are not prepared in accordance with the relevant rules as well as policy guidelines. He submitted that it is apparently clear that the State has taken into consideration only financial enrichment without considering the environmental aspects.

7. Though, we have heard the learned counsel for both the parties at length on merits, we find that it will be appropriate that the appeals are kept pending for further consideration and till then, certain interim orders are passed.

8. It cannot be in dispute that though the developmental activities are not stalled, the environmental issues are also required to be addressed. A balanced approach of sustainable development ensuring environmental safeguards, needs to be resorted to. At the same time, it also cannot be ignored that when legal mining is banned, it gives rise to mushroom growth of illegal mining, resulting into clashes between sand mafias, criminalisation and at times, loss of human lives. It also cannot be disputed that sand is required for construction of public infrastructural projects as well as public and private construction activities. A total ban on legal mining, apart from giving rise to illegal mining, also causes huge loss to the public exchequer.

9. Taking into consideration these aspects of the matter, we propose to issue certain interim directions.

10. The Tribunal, in *Satendra Pandey*², has found that the Notification dated 15-1-2016, which provided environmental clearance to be given by the District Environment Impact Assessment Authority (hereinafter referred to as “the DEIAA”) was not in consonance with the judgment of this Court in *Deepak Kumar v. State of Haryana*³. The Tribunal therefore in *Satendra Pandey*², had directed Ministry of Environment, Forest and Climate Change (hereinafter referred to as “MoEF and CC”) to take steps to revise the procedure laid down in the Notification dated 15-1-2016. It is to be noted that MoEF and CC, in accordance with the directions of the Tribunal, had issued Enforcement and Monitoring Guidelines for Sand Mining (hereinafter to referred to as “the 2020 Guidelines”) in the month of January 2020.

11. Chapter 4 of the 2020 Guidelines deals with identification of possible sand mining sources and preparation of DSR. It will be relevant to refer to Clauses 4.1.1(a), (o) and (p) of the 2020 Guidelines:

“4.1. Identification of possible sand mining sources and preparation of District Survey Report (DSR)

4.1.1. Preparation of District Survey Report.

* * *

¹ *Pawan Kumar v. State of Bihar*, 2020 SCC OnLine NGT 2848

² *Satendra Pandey v. Ministry of Environment, Forest & Climate Change*, 2018 SCC OnLine NGT 2388

³ (2012) 4 SCC 629

(a) District Survey Report for sand mining shall be prepared before the auction/e-auction/grant of the mining lease/ Letter of Intent (“LoI”) by Mining Department or department dealing the mining activity in respective states. a

* * *

(o) Potential site for mining having its impact on the forest, protected area, habitation, bridges, etc. shall be avoided. For this, a Sub-Divisional Committee may be formed which after the site visit shall decide its suitability for mining. The list of mining lease after the recommendation of the Committee needs to be defined in the following format given in as *Annexure II*. The Sub-Divisional Committee after the site visit shall make a recommendation on the site for its suitability of mining and also records the reason for selecting the mining lease in the Patta land. The details regarding cluster and contiguous cluster needs to be provided as in *Annexure III*. The details of the transportation need to be provided as in *Annexure IV*. b c

(p) *Public consultation*—The comments of the various stakeholders may be sought on the list of mining lease to be auctioned. The State Government shall give an advertisement in the local and national newspaper for seeking comments of the general public on the list of mining lease included in the DSR. The DSR should be placed in the public domain for at least one month from the date of publication of the advertisement for obtaining comments of the general public. The comments so received shall be placed before the Sub-Divisional Committee for active consideration. The final list of sand mining areas [leases to be granted on riverbed & patta land/khatedari land, de-siltation location (ponds/lakes/dams), M-Sand Plants (alternate source of sand)] after the public hearing needs to be defined in the final DSR in the format as per *Annexure V*. The details regarding cluster and contiguous cluster needs to be provided in *Annexure VI*. The details of the transportation need to be provided in *Annexure VII*.” d e f

12. It could thus be seen that in accordance with the 2020 Guidelines, the DSR is required to be prepared before the auction/e-auction/grant of mining lease by Mining Department or Department dealing with mining activity in the respective States. It is further provided that the potential site for mining having its impact on the forest, protected area, habitation and bridges should be avoided. For this, a Sub-Divisional Committee is required to be formed which, after the site visit, is required to decide regarding the suitability of the sites for mining. The Sub-Divisional Committee is further required to record its reasons for selecting the mining lease in the patta land. Various details are required to be given in the annexures appended to the said policy. g h

13. It is further to be noted that Appendix X of the Notification dated 15-1-2016, issued by MoEF and CC also provides for composition of the Sub-Divisional Committee:

a “A Sub-Divisional Committee comprising of Sub-Divisional Magistrate, Officers from Irrigation Department, State Pollution Control Board or Committee, Forest Department, Geology or Mining Officer shall visit each site for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof.”

b **14.** It is to be noted that with the advent of modern technology, various technological gadgets like drones and satellite imaging, etc. can be used for identification of the potential sites and preparation of the DSR and also to check misuse and unauthorised mining.

c **15.** We further find that when the 2020 Guidelines as well as the notification issued by MoEF and CC of 2016 itself provide for constitution of Sub-Divisional Committees comprising of the officers of the State Government from various Departments for identification of the potential sites for mining, there would be no necessity of the DSRs being prepared through private consultants as directed by the Tribunal in the impugned order¹. The Sub-Divisional Committee consists of various officers from Revenue Department, Irrigation Department, State Pollution Control Board, Forest Department and Geology and Mining Department of the State Government. They are better equipped to visit the sites and prepare the draft DSR for the district concerned. Apart from that, preparation of DSR through private consultants would also unnecessarily burden the public exchequer. We are therefore of the view that the direction in that regard issued by the Tribunal requires to be modified. We are further of the considered view that until the DSRs are finalised and granted approval by SEAC and SEIAA, it is appropriate that certain necessary arrangements are permitted so that the State can continue with legal mining activities. This apart from preventing illegal mining activities, would also ensure that the public exchequer is not deprived of its share in legalised mining.

d **16.** We therefore find it appropriate to substitute the directions issued by the Tribunal vide judgment and order dated 14-10-2020¹, with the following directions:

e **16.1.** The exercise of preparation of DSR for the purpose of mining in the State of Bihar in all the districts shall be undertaken afresh. The draft DSRs shall be prepared by the Sub-Divisional Committees consisting of the Sub-Divisional Magistrate, Officers from Irrigation Department, State Pollution Control Board or Committee, Forest Department, Geological or Mining Officer. The same shall be prepared by undertaking site visits and also by using modern technology. The said draft DSRs shall be prepared within a

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¹ *Pawan Kumar v. State of Bihar*, 2020 SCC OnLine NGT 2848

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SUPREME COURT CASES

(2022) 2 SCC

period of 6 weeks from the date of this order. After the draft DSRs are prepared, the District Magistrate of the district concerned shall forward the same for examination and evaluation by SEAC. The same shall be examined by SEAC within a period of 6 weeks and its report shall be forwarded to SEIAA within the aforesaid period of 6 weeks from the receipt of it. SEIAA will thereafter consider the grant of approval to such DSRs within a period of 6 weeks from the receipt thereon.

16.2. Needless to state that while preparing DSRs and the appraisal thereof by SEAC and SEIAA, it should be ensured that a strict adherence to the procedure and parameters laid down in the policy of January 2020 should be followed.

16.3. Until further orders, we permit the State Government to carry on mining activities through Bihar State Mining Corporation for which it may employ the services of the contractors. However, while doing so, the State Government shall ensure that all environmental concerns are taken care of and no damage is caused to the environment.

17. List the matter after 20 weeks.

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Item No. 03 & 04

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 140/2021

(With report dated 31.03.2022)

Raj Kumar

Applicant

Versus

State of U.P. & Ors.

Respondent(s)

WITH

Original Application No. 141/2021

Ramkaran Karn

Applicant

Versus

State of U.P. & Ors.

Respondent(s)

Date of hearing: 06.05.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Vanshdeep Dalmia, Advocate

Respondent: Dr. Roshan Jacob, Secretary, Geology & Mining with Mr. Pradeep Misra,
Advocate for the State of Uttar Pradesh & UPPCB

ORDER

1. Grievance in these two identical applications is against illegal mining. In O.A. No. 140/2021, mining is in the submerged water area at Gata No. 28 (Part) and 29, Khand No. 1, village Kanwara, District Banda, UP by M/s Durge Trading Company and in O.A. No. 141/2021 it is in the submerged water area at Gata No. 2/4, 2/23, 2/24 and 2/28, Khand No. -4, village-Bendakhadar, District Banda, UP by Ashish Kumar Gautam,

S/o Suresh Kumar Gautam. Common stand in both the matters is that the mining is in violation of Sustainable Sand Mining Management Guidelines (SSMMG), 2016 and Enforcement and Monitoring Guidelines for Sand Mining (EMGSM), 2020 and binding orders of this Tribunal, including order dated 30.05.2017 in O.A. No. 78/2015 (CZ) reported in 2017 SCC OnLine NGT 1097, holding as follows: -

“In the light of the above, we answer the question that has been referred to us that no river sand mining is permitted in the submerged area in accordance with the Sustainable Sand Mining Guidelines 2016 alternatively in so far as the issue whether it can be permitted in the submergence areas is concerned our answer to the same is that in submergence area which may be a wider area than the one actually submerged as a submergence area would encompass the full reservoir level of the river or the high flood level of the river recorded by in any case where the mineral is exposed and not in stream such sand mining in accordance with the Sand Mining Guidelines 2016 and the conditions imposed in the environmental clearance may be carried out.”

2. Further order of this Tribunal relied upon by the applicants is order dated 26.02.2021 in O.A. No. 360/2015, *NGT Bar Association v. Virender Singh (State of Gujarat) and other connected matters*. Therein, on exhaustive review of the issues relating to sand mining, this Tribunal has issued directions, including the mechanism for enforcement of environmental norms, inter-alia as follows:-

“1to26..xxx.....xxx.....xxx

27. We direct all the States/UTs to strictly follow the SSMG-2016 read with EMGSM-2020 reinforced by mechanism for preparation of DSRs (in terms of directions of this Tribunal dated 14.10.2020 in Pawan Kumar, supra and 04.11.2020 in Rupesh Pethe, supra), Environment Management Plans, replenishment studies, mine closure plans, grant of EC (in terms of direction dated 13.09.2018 in Satendra Pandey, supra), assessment and recovery of compensation (as per discussion in Para 25), seizure and release of vehicles involved in illegal mining (in terms of order dated 19.02.2020 in Mushtakeem, supra), other safeguards against violations, grievance redressal, accountability of the designated officers and periodical review at higher levels. As already noted,

EMGSM-2020 contemplates extensive use of digital technology, including remote sensing.

28. We further direct that periodic inspection be conducted by a five-members Committee, headed and coordinated by the SEIAA and comprising CPCB (wherever it has regional office), State PCB and two expert members of SEAC dealing with the subject. Where CPCB regional office is not available, if MoEF&CC regional office is available, its Regional Officer will be included in the Committee. Where neither CPCB nor MoEF&CC regional office exists, Chairman, SEIAA will tie up with the nearest institution of repute such as IIT to nominate an expert for being included in the Committee. Such inspection must be conducted at least thrice for each lease i.e. after expiry of 25% the lease period, then after 50% of the period and finally six months before expiry of the lease period for midway correction and assessment of damage, if any. The reports of such inspections be acted upon and placed on website of the SEIAA. Every lessee, undertaking mining, must have an environment professional to facilitate sustainable mining in terms of the mining plan and environmental norms. This be overseen by the SEIAA. Environment Departments may also develop an appropriate mobile App for receiving and redressing the grievances against the sand mining, including connivance of the authorities and also a mechanism to fix accountability of the concerned officers. Recommendations of the Oversight Committee for the State of UP quoted earlier may be duly taken into account.

The mechanism must provide for review at the level of the Chief Secretary at least once in every quarter, in a meeting with all concerned Departments in the State. The Chief Secretary UP may ensure further action in the light of the report of the Oversight Committee.

Similarly, at National level, such review needs to be conducted atleast once in a year by the Secretary, Environment in coordination with the Secretaries Mining and Jalshakti Ministries the CPCB.”

3. It is submitted that no steps are being taken by the State of UP for compliance of directions of this Tribunal.

4. Vide order dated 02.07.2021 on consideration of the matter, the Tribunal directed Additional Chief Secretary, Mining, UP to furnish a report about the compliance status including the status of DSR and replenishment studies for Banda District and also in-stream mining in submerged water and monitoring mechanism.

5. The matter was last considered on 08.03.2022 and finding that no response was being filed by the Additional Chief Secretary, Mining, Uttar Pradesh, the Tribunal directed personal appearance of the ACS, Mining by V.C. and also directed the District Magistrate and State PCB to file a factual report. If anything, adverse was noticed, the PP was to be put to notice of these proceedings.

6. In pursuance of above, the ACS, Mining, UP is present in person by V.C. and report has been filed by the District Officer, Banda on 31.03.2022 as follows:

“xxxxxx.....xxx

10. *That for Environmental impact assessment (E.I.A.) study ministry of environment and forest and climate change (MoEF&CC) has propounded Sustainable sand mining management guidelines 2016 and enforcement and monitoring guidelines for sand mining 2020. In compliance of this Guidelines Government of Uttar Pradesh has issued a Government order no 790(1)/86-2020 dated 01.06.2020. As per this Government order, Government of Uttar Pradesh has constituted a team of officials of Department of Geology and Mining, Revenue Department, Forest Department and Irrigation Department, who give recommendation for any new area to be included or any change in D.S.R.(District survey report). Till November 2022 a total of 296 areas has been added in District survey report (D.S.R.) in different districts of Uttar Pradesh.*

That in district Banda after proper study of replacement of Sand/Morrum on the areas the District Survey Report' (herein after referred as DSR) was prepared and loaded on District Administration Portal and objection of the public domain were also invited and after considering the objection the DSR finalised by the committee constituted by the Government of Uttar Pradesh on 23.11.2017.

11. *That in Compliance of Hon'ble NGT order dated 02.07.2021 OA no. 140/2021 Raj Kumar Versus State of UP and OA no. 141/2021 Ram Karan karn Versus State of UP, D.M Banda has authorised C.M.P.D.I (Central mine planing and Design Institute limited), a public sector enterprise of Government of India to do the replenishment study of rivers flowing in district Banda on dated 28.10.2021 C.M.P.D.I has started the replenishment study of rivers of banda district and the work is on progress. Its report will be soon provided to the hon'ble NGT.*

The copy of the order of D.M Banda dated 11.10.2021 and consent letter of C.M.P.D.I dated 19.10.2021 being annexed herewith as Annexure No.1, to this compliance report.

12. *That if the bid found to be highest and satisfactory per cubic metre then a letter of intent is issued in favour of such bidder and thereafter, the applicant should obtain approval on its mining plan and environmental clearance from the competent authority and thereafter the mining lease is executed in his favour.*
13. *That in the lease deed, the following terms are specifically mentioned:-*
 - i. *The mining operations are to be carried only up to the depth of 3 metres, or up to the water level, whichever is less;*
 - ii. *The safety zone should be worked out;*
 - iii. *The mining operations will be done in accordance with the scheme mentioned in the Mining Plan;*
 - iv. *The lessee will be bound to obey the terms and conditions of the environmental clearance;*
 - v. *The mining will be done after sun-rise till sun-set;*
 - vi. *In the monsoon season, no mining will be done;*
 - vii. *Heavy machinery and Suction Machines will not be used for excavation of the mineral;*
 - viii. *No temporary bridge or hinderance will be created in the flow of river water during the lease period;*
 - ix. *That the Central Government framed Sustainable Sand Mining Management Guidelines 2016 with object of managing un-controlled sand mining in India.*
14. *That the Ministry of Environment, Forests & Climate Change, Government of India also framed Enforcement and monitoring Guidelines for Sand Mining in January 2020.*
15. *That list of mining leases, granted in District Banda for excavation of sand & morrum, at present, is being annexed herewith as Annexure No.2, to this compliance report.*
16. *That at the time, total 17 mining leases are in operation in Banda district and they have proper environmental clearances, as well as the consent issued by UPPB Lucknow under the provisions of "Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention Control of Pollution) Act, 1981."*
17. *That in compliance of the order dated 26.02.2021, passed by this Hon'ble Tribunal in O.A. No.360 of 2015 (National Green Tribunal Bar Associations. Veerendra Singh (State of Gujarat & others), 5 members Committee has been constituted by the District Officer, Banda, vide office order No.2892/Khanij-30 Banda, dated 14.12.2021. In the said Monitoring Committee, the members as under:*

1. *Divisional Forest Officer, Banda Chairman*
2. *Mines Officer/Mines Inspector/ Surveyor, Mines Department, Banda Member*
3. *Executive Engineer, Irrigation & Water Resources department, Banda- Member*
4. *Concerned Tehsildar Member*
5. *Regional Officer, Pollution Control Board, Banda Member Secretary.*

A copy of the said office order dated 14.12.2021 issued by the District Officer, Banda, is being annexed herewith as Annexure No.3, to this compliance report.

18. *That the said Enforcement Committee is regularly watching the mining activities of 17 areas and if any lessee is found to violate the above mentioned terms and conditions, then after issuing the notice, necessary proceedings are initiated against him.*
- 19 *That in the Headquarters, Lucknow, as well as in the districts, Surveillance Systems have also been installed for prevention of over-loading of minerals, as well as without transit passes, and due to this so many electronic challans are automatically created and served on the lessees for recovery of Government dues of such mineral.*
20. *That this Hon'ble Tribunal has also directed for submission of the status report of the following sand, morrum areas*

S. No.	Area	Status
a)	<i>Khand No.1 Village Kanwara, Banda M/s Durga Trading Co.</i>	<i>mining activities are not being done by the lessee due to preparation of approach road</i>
b)	<i>Khand No.4 Village Banda Khadar, District Banda Ashish Kumar Gautam, S/o Shri Suresh Kumar Gautam</i>	<i>matter is pending before the Hon'ble Supreme court. (Ravi kumar vs State of U.P. Dairy No. 3177/2022) No mining activities are being done.</i>

7. A report has also been filed on 06.04.2022 by the Geology and Mining Department, UP which is by and large similar to the report of the District Officer, Banda referred to above.

8. We have heard learned Counsel for the Applicants and interacted with the ACS present in person by VC.

9. We find that replenishment study as required under the SSMG-2016 and EMGSM-2020 has not been undertaken prior to the auction in terms of para 5.1 of the EMGSM, 2020 which is reproduced below:

“5.0 REPLENISHMENT STUDY

The need for replenishment study for river bed sand is required in order to nullify the adverse impacts arising due to excessing sand extraction. Mining within or near riverbed has a direct impact on the stream's physical characteristics, such as channel geometry, bed elevation, substratum composition and stability, in-stream roughness of the bed, flow velocity, discharge capacity, sediment transport capacity, turbidity, temperature etc. Alteration or modification of the above attributes may cause an impact on the ecological equilibrium of the riverine regime, disturbance in channel configuration and flow-paths. This may also cause an adverse impact on instream biota and riparian habitats. It is assumed that the riparian habitat disturbance is minimum if the replenishment is equal to excavation for a given stretch. Therefore, to minimize the adverse impact arising out of sand mining in a given river stretch, it is imperative to have a study of replenishment of material during the defined period.

5.1 Generic Structure of Replenishment Study

*Initially replenishment study requires four surveys. The first survey needs to be carried out in the month of April for recording the level of mining lease before the monsoon. The second survey is at the time of closing of mines for monsoon season. This survey will provide the quantity of the material excavated before the offset of monsoon. The third survey needs to be carried out after the monsoon to know the quantum of material deposited/replenished in the mining lease. The fourth survey at the end of March to know the quantity of material excavated during the financial year. For the subsequent years, there will be a requirement of only three surveys. The results of year-wise surveys help the state government to establish the replenishment rate of the river. **Based on the replenishment rate future auction may be planned.***

The replenishment period may vary on nature of the channel and season of deposition arising due to variation in the flow. Such period and season may vary on the geographical and precipitation characteristic of the region and requires to be defined by the local agencies preferable with the help of the Central Water Commission and Indian Meteorological Department. The excavation will, therefore, be limited to estimated replenishment estimated with consideration of other regulatory provisions.”

10. With regard to the allegation of instream mining in submerged water, it has been orally stated by the ACS that no such instream mining is permitted. However, in the reports filed before this Tribunal, no such statement has been made on behalf of the State.

11. Accordingly, the ACS, Mining, UP has fairly stated that replenishment study will be conducted prior to auctions in future and with regard to the current leases, ongoing replenishment study will be expedited. In the light thereof, the leases will be renewed, if necessary. Such studies for all Districts in UP will be completed by December 31, 2022 and for Banda by June 30, 2022. She has further stated that the allegation of instream mining will be verified and if found true, the same will be discontinued.

12. In view of above, let the Replenishment studies be completed by credible institutions, following due procedure, in accordance with para 5 of EMSG, 2020. Further, no mining be permitted till replenishment studies are completed beyond the schedule laid down above. The State may ensure that the Regulatory authorities are adequately equipped and capable to assess quantities of mined material. With regard to instream mining, it may be ensured that the machineries permitted or used otherwise comply with "Semi mechanised" mining operations in true sense. In all mining potential districts, environmental damage assessment be carried out and annual assessment reports placed in public domain on the websites of the Mining Department as well as the PCB. Compliance of SSMG, 2016 and EMGSM, 2020 and earlier directions of this Tribunal may be ensured by an effective monitoring mechanism.

The applications are disposed of accordingly.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

May 06, 2022
Original Application No. 140/2021
Original Application No. 141/2021
DV

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 8035-8036 OF 2022

STATE OF UTTAR PRADESH & ORS. APPELLANTS

VERSUS

RAJ KUMAR & ANR. ETC. RESPONDENTS

O R D E R

While we do not find any good ground and reason to interfere with the impugned judgment, we clarify that the state authorities shall undertake the replenishment study for both years i.e., year ending 31.12.2021 as well as the current year (i.e., year ending 31.12.2022).

It is pointed out that the National Green Tribunal had granted time for undertaking the replenishment study for District Banda till 30.06.2022. The replenishment study for the said area is being conducted and the report would be submitted on or before 31.12.2022. We accept the said request, as it is stated that no mining/excavation is being conducted/undertaken in District Banda since 01.07.2022.

Recording the aforesaid, the appeals are disposed of.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(M.M. SUNDRESH)

NEW DELHI;
NOVEMBER 29, 2022.

ITEM NO.23

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 8035-8036/2022

STATE OF UTTAR PRADESH & ORS.

Appellant(s)

VERSUS

RAJ KUMAR & ANR.

Respondent(s)

(IA No.164158/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.164161/2022-STAY APPLICATION)

Date : 29-11-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Appellant(s)

Ms. Garima Prasad Sr. Adv.
Mr. Pradeep Misra, AOR
Mr. Bhuwan Chandra, Adv.
Mr. Manoj Kumar Sharma, Adv.
Mr. Suraj Singh, Adv.

For Respondent(s)

Mr. Vanshdeep Dalmia, AOR
Ms. Natasha Dalmia, Adv.
Mr. Suchakshu Jain, Adv.
Mr. Amit Upadhyay, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

The appeals are disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(BABITA PANDEY)
COURT MASTER (SH)

(KAMLESH RAWAT)
COURT MASTER (NSH)

(Singed order is placed on the file)

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**OFFICE OF DISTRICT MAGISTRATE SAHARANPUR
LETTER OF INTENT**

Ref. LOI/2023/5/21-05-2023 00;00;00/217413

DT: 21.05.2023

LOI ISSUED UNDER RULE 23 OF THE UP MINOR MINERALS
(CONCESSION) RULES 2021

DETAILS OF LEASE HOLDER	
Name	DOON MINES AND MINERALS (MSTC/DOON MINES AND MINERALS/396113)
Address	F1 502 USHA COLONY PACIFIC GOLF ESTATE, DEHRADUN
Mobile No.	9634700492
Period	60 months OR quantity completed earlier

DETAILS OF LAND					
Area Code	District	Tehsil	Village	Gata No	Area/Qty
1089910501	Saharanpur	Behat	Rasoolpur alias Rasooli 108991	1/1	34.0000 Ha/ 612000.00 Cubic Meter

AMOUNT PAYABLE									
Minerals	License d Qty.	Highest Rate	Amount payable Ist year	Earnest Money (Ist year 25% of amount payable)	Ist instalment (Ist year amount 20%)	Previous adjusted amt.	DMF	TCS	Oth ers
Sand/Bajri/Boulder (RBM)	612000.00 Cubic Meter	478.00	292536000.0000	73134000.0000	58507200.00	114811200.00	29253600.00	5850720.00	5850720.00
TOTAL			292536000.0000	73134000.0000	58507200.00	114811200.00	29253600.00	5850720.00	5850720.00

You are advised to pay the above amount within 3 days and deposited the original copy of challan on upminemitra.in portal from your login.
The Enclosed instructions have to be complied.

ENCLOSURE -1

The terms of the MOU are as follows: -

1. To comply with the terms & conditions, 25% of the gross amount of sowing for the first year of security i.e. Rs.7,31,34,000/- and 20% amount of Rs.5,85,07,200/- as first installment. It will have to be deposited in the Mining Office within two working days through Bank Draft or Online portal UPRAJKOSH. After adjusting the pre- bid earnest money of Rs.1,68,30,000/- already deposited by Afarvana, the remaining amount will have to be deposited by Rs.11,48,11,200/-. If you fail to deposit the remaining amount within two working days of issuing the Letter of Intent, then the earnest money deposited by you will be confiscated in favor of the State Government and no complaint or representation submitted by the offeror in this regard will be considered, will go.
2. Within one month of the issue of Letter of Intent, the new mining plan along with the security payable and proof of deposit of the first installment amount will be presented to the Director of Geology and Mining for approval. It will be mandatory to submit the proposal for environmental sanitation certificate to the competent authority within one month of receiving the approved mining plan, otherwise under the provisions of Rule 60(1), a fine of Rs. 10000/- per day will be imposed on the proponent.
3. The duration of the approved lease will be 5 years, but the bid/tender amount will be considered for the Ist year. In each subsequent year, the lease amount payable in the next year will be increased by 10% from the previous year. First year. And for the subsequent years, the lease amount will be deposited by the lease holder as per the 5th Schedule of Rules 2021.
4. Theremaining80%oftheleaseamountfortheIstyearandthelease amount for the subsequent years will be recovered by the lease holder along with interest as per the procedure prescribed from time to time by the State Govt. as per the 5th schedule prescribed in the rules will be deposited. In case of not depositing the due amount as per the date stipulated in the said schedule, the due amount will be payable as per Rule 59.5.
5. The lease holder will get the area demarcated as per the provisions of Rule 17 (in which the GO ordinance of the boundary points will also be indicated) and the rules. according to Article 36, Bhimastambha will be installed and its maintenance will be done.

6. Mining operations will have to be started immediately after getting the lease deed executed within a month of obtaining the environmental no objection certificate.
7. Environmental approval Under Rule 35(4) During the process of approval, it will be mandatory for the project proponent to resolve the objections raised by the competent authority within the required time period. Violation of Rule 35(4). In case of District Magistrate, the letter of Intent issued U/R 60(7) can be cancelled will be. In case of violation of Rule 35(5), the first installment deposited by the proposer.
8. Under Rule 35(5) it is mandatory to execute the lease deed within one month after the issue of environmental No objection certificate and the letter of intent issued by paying the earnest money will be changed.
9. The nominated applicant should submit the Mining plan, Mines closure Plan and Notification of Ministry of Forest & Environment of Govt. of India dated 14.9.2006 within the prescribed period Under the provisions of Rule 35. Notification dt. 15.1.2016 Sustainable Sand Mining Management Guideline 2016 (SSMG 2016) and Enforcement and Monitoring Guidelines for Sand Mining 2020 will obtain environmental clearance and submit it as per the guidelines published by MoEF and CC and the provisions as amended from time to time.
10. According to Rule 35, every lease holder will deposit the amount of land reclamation and reclamation of the area in the prescribed manner.
11. The lease has to deposit the tax prescribed from time to time by the State Govt. or the Central Govt. and dry i.e. two percent of Income Tax Deptt., TMM, District Mineral Foundation (DMF) etc. as per the rules will be done.
12. At the time of survey & measurement of the area given under the lease, the lessee will mark the coordinates of the mining lease area on the demarcated map and before executing the lease deed, the lessee will, at his own expenses. Demarcation will install the mark and pole which will be necessary to indicate the measurement shown in the map from the lease deed. Without any deliberate adjournment, such mining mines are staged by skilled artisans in a proper and efficient manner.
13. On the date of execution of the Lease agreement, the lease holder will start mining operations and will do like.
14. Constructions of check post/Gate including installation of 4 CCTV cameras capable of recording visibility at 360 degree angle at the lease holder's own expense as per Rule 36 to Monitor the entry and exit of vehicles. The lease holder will also keep an RFID scanner at the said check post/gate, which will facilitate reading and safe keeping of the barcode data on the e-form MM-11 issued in respect of each vehicle used for transportation of minerals from the concerned mining lease area and will maintain it properly and will keep it in working condition. A CCTV cameras and RFID scanners will

- keep all the recordings made by the scanners safe for at least 30 days and will share the said recordings on demand by the authorized officer under the provisions of Rule 67 will provide.
15. The lessee will issue E-MM 11 monthly statement to each vehicle. RFID will be provided to each vehicle for entering the barcode generate don e-MM-11 at the check gate and saving the recorded date shall install and maintain the Fanners at all times and keep them in good and working conditions. In case of non compliance of the above, there will be penalty UR 60 of Rules- 2021.
 16. In compliance with the order dated 5.9.2018 of the Hon'ble National Green Tribunal the Oil Machine will be installed on the extraction pump provided by the lease holder and will be integrated into the artificial intelligence software used in the Command Mentor installed in the Directorate. The Naul machine located in Integratun must have the following features:
 17. 1-The weigh bridge device should use the MQTT protocol to transmit data.
 18. 2- The weigh bridge divide should transmit data over the internet to IOT Infrastructure in cloud.
 19. The lessee will not carry out mining operations at a depth greater than 3 meters or the ground level, whichever is less.
 20. Mining will not be done in the safe area identified by the District Magistrate.
 21. Mining work will not be done by machines like suction machine, lifter etc. In the river water stream.
 22. Where the transport form is issued within the designated area, the selling price of the minerals will be displayed.
 23. If the lessee violates the rules and conditions of the mining lease, environmental sanitation certificate, mining plan etc., then after providing the lessee an opportunity to explain his case. The lease can be cancelled by the D.M. or the State Govt.
 24. Loading of minerals will be done by the lessee as per the Standards prescribed by the Government of India.
 25. If any suit or criminal process is filed as a result of violation of terms and conditions, the entire responsibility for the same will be that of the lease holder and if there is any justice in this regard, then his sister concern will be done by the lessee.
 26. If any amendment is to be made in this rules/acts or any rule or law is to be promulgated by the State Govt. or the Central Govt., then it will be acceptable to the lease holders.
 27. After the lease holder submits the environmental cleanliness certificate to the Office, permission is obtained. Mining work will be started.
 28. Orders passed by the Hon'ble High Court, National Green Tribunal or Supreme Court will be followed.

29. Uttar Pradesh Pollution Control under the Water (Prevention and Control of Pollution) Act, 1974 as amended and the Air Pollution Prevention and Control Act, 1981 as amended Consent will have to be obtained from the board.

ANNEXURE R-7

From: Director,

Directorate of Geology and Mining, U.P Mineral Building, Lucknow

To

District Magistrate

Saharanpur

No. 2023/110/1/274339

Dated: 18.10.2023

Subject: Sanctioned in favor of lease holder Doon Mines and Minerals Authorized Partner – Priya Jaiswal in Saharanpur District, Tehsil Behat Village Rasoolpur alias Rasooli; Gata No. 1/1, Area 34.000 Hectares mixed with mineral sand/gravel/boulder (RBM) regarding the approval of the mining plan received for the mining lease.

Sir,

In the context of the above mentioned subject, it is to be informed that the approval of the mining plan submitted by the Lease Holder Doon Mines & Minerals Authorized Partner- Priya Jaiswal in relation to the above referred area is as per the sub-rule of Rule 35 of Uttar Pradesh Minor Minerals (Concession) Rules, 2021 has been done on 18.10.2023 in exercise of the rights granted under:

1. The “Mining Plan” has been approved subject to the following conditions: -
 - (a) The Mining Plan is approved for the net 60 months period from the date of execution of the Mining lease deed. 612000.00 Cubic meters of mineral annually from the mining area Production has been permitted.

- (b) After inspection of the mining work done within the approved period, if orders are given for amendment in the mining plan, then it will be the full responsibility of lessee to submit the revised mining plan.
- (c) All efforts are being made to provide protective equipment to bonded laborers and to carry out safe mining work.
- (d) It will be the responsibility of the lessee to take necessary precautions.
- (e) It will also be the responsibility of the lessee to submit one certified copy of the approved mining plan to the concerned District Magistrate's office and the regional office of the Directorate as soon as possible for records.
- (f) If the lessee is found not carrying out the mining work as per the procedure laid down in the approved mining plan, it will be considered a violation of the lease condition against the lessee and action will be taken accordingly.

The mining plan is approved subject to the following additional conditions: -

1. The height of the bench should be maximum 1 meter and width should be minimum 10 meter. Mining work will be done from zero level upwards.
2. First aid boxes and stretchers should be kept at the mining lease site.
3. Proper arrangements should be made for workers like labor rest houses, drinking water etc.
4. Regular spraying of water on the access road (unpaved road) leading from the mining area to the main road. This will be

done so that the dust generated due to vehicular traffic can be prevented from flying.

5. Use of heavy machines and explosives will be done as per the rules and with the approval given by the competent department.
6. The guidelines issued from time to time by the Government of India/Govt. of State and orders of Hon'ble Court regarding environmental cleanliness will be followed by the lessee.

Therefore, you are requested to provide the attached original copy of the approved mining plan to the concerned lessee for compliance and obtain receipt from them and send it to the Directorate.

Yours truly

State Government

Kamlesh Kumar Rai,

Senior Mines Officer as Director

Copy to:

1. Mines Officer, Geology and Mining Deptt., UP, Distt. Saharanpur
2. Lease Holder Doon Mines and Minerals Authorized Partner Priya
3. Mining Department, Geology and Mining Directorate, UP, Lucknow.

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The 811th meeting of SEAC-1 was held in the Directorate of Environment, U.P. through dual-mode (physically/virtually) at 10:00 AM on 30/11/2023. Following members participated in the meeting:

- | | | |
|----|----------------------------|----------------|
| 1. | Shri Rajive Kumar, | Chairman, SEAC |
| 2. | Dr. Ratan Kar, | Member, SEAC-1 |
| 3. | Dr. Brij Bihari Awasthi, | Member, SEAC-1 |
| 4. | Shri Umesh Chandra Sharma, | Member, SEAC-1 |
| 5. | Dr. S.K. Goyal, | Member, NEERI |

The Chairman welcomed the members to the 811th SEAC-1 meeting which was conducted via dual-mode (virtually/physically). Nodal Officer, SEAC-1 informed the committee that the agenda has been approved by the Member Secretary, SEAC-1/Director Directorate of Environment.

1. Residential Group Housing Project at plot No- GH-01 Sector – 22A, Yamuna Expressway Industrial Development Authority District- Gautam Budh Nagar, Santosh Gupta, M/s Omnis Developers Pvt. Ltd., 8385/SIA/UP/INFRA2/450103/2023

The consultant informed the committee that they are strictly following the rules, regulations and other instructions of QCI/NABET. A presentation was made by the project proponent along with their consultant M/s Ind Tech House Consult, Delhi. Based on the documents submitted and presentation made by the project proponent along with the consultant, the following facts have emerged:

1. The terms of reference is sought for Residential Group Housing Project at plot No- GH-01 Sector – 22A, Yamuna Expressway Industrial Development Authority District- Gautam Budh Nagar, U.P., M/s Omnis Developers Pvt. Ltd.
2. The Plot area for the project is 104436.46 m² and total built-up area will be 5,46,336.81 m².
3. Expected population will be 10482.
4. Maximum number of floors will be 2B+ST+37 and maximum height of the building will be 145.9 m (up to terrace).
5. Total Saleable Dwelling Units are 1372 nos.
6. Salient Features Details:

S. N.	Description	Quantity	Unit
GENERAL			
1	Plot Area	104436.46	m2
2	Proposed Built Up Area	5,46,336.81	m2
3	Total no of Saleable DU's	1372	No.
4	Max Height of Building (Upto terrace)	145.9	M
5	Max No of Floors	2B+S+37	No.
6	Expected Population (Fix 8104+Floating 2378)	10482	No.
7	Cost of Project	1882.13	CR
8	Proj Activity: Group Housing with shopping & community Cent		
AREAS			
9	Permissible Ground Coverage Area	41,775	m2
10	Proposed Ground Coverage Area	14,998.13	m2
11	Permissible FAR Residential + Commercial)	3,32,107.94	m2
12	Proposed FAR Residential + Commercial)	3,31,840.2	m2
13	Permissible Facility & Services FAR	46,996.407	m2
14	Proposed Facility & Services FAR	43,984.61	m2
15	Non FAR	1,70,512	m2
16	Proposed Total Built Up Area	5,46,336.81	m2
WATER			

14. Water requirement details along with source of water and the permission/ agreement with the concerning authority/ person to be submitted at the time of EIA presentation.
15. Proponent/consultant shall present TOR specific/additional conditions compliance, observation/suggestions raised during the public hearing and commitment made by the project proponent in a tabular form with a time bound plan at the time of EIA presentation.
16. Corporate Social Responsibility (CSR) to be prepared as per the MoEF guidelines and present it at the time of EIA presentation.
17. Submit the hydrological study report of lease area that the quantity given in LoI will be mined without affecting the geo-hydrology of the River.

14. “Sand/ Bajri/ Boulder in mix Form (RBM) Mining Project” at Gata No. – 1/1, Village- Rasoolpur Urf Rasooli, Tehsil- Behat & District Saharanpur, Smt. Priya Jaiswal, Area 34.0 Ha., 8411/SIA/UP/MIN/450570/2023

The consultant informed the committee that they are strictly following the rules, regulations and other instructions of QCI/NABET. A presentation was made by the project proponent along with their consultant M/s Environmental Research and Analysis, Lucknow (U.P.). Based on the documents submitted and presentation made by the project proponent along with the consultant, the following facts have emerged: -

1. The terms of reference is sought for “Sand/ Bajri/ Boulder in mix Form (RBM) Mining Project” at Gata No. – 1/1, Village- Rasoolpur Urf Rasooli, Tehsil- Behat & District Saharanpur, U.P., (Leased Area- 34.0 Ha.).
2. Salient features of the project as submitted by the project proponent:

1.	On-line proposal No.	SIA/UP/MIN/450570/2023	
2.	File no. allotted by SEIAA, UP	8411	
3.	Name of proponent	M/s Doon Mines and Minerals. Authorized Partner-Priya Jaiswal,	
4.	Full correspondence address of proponent.	Address- F1 / 502 Pacific Golf Estate, Sahastradhara road, Usha Colony, Marautha Dehradun, Uttarakhand-248001	
5.	Name of Project	Sand /Bajri/ Boulder (RBM) Mine	
6.	Project location (Plot / Khasra / Gata No.)	Gata No. 1 /1	
7.	Name of Village	Rasoolpur Urf Rasooli	
8.	Tehsil	Behat	
9.	District.	Saharanpur (U.P.)	
10.	Name of Minor Mineral	Sand /Bajri/ Boulder (RBM) Mine	
11.	Sanction Lease Area (in Ha.)	34.0 Ha.	
12.	Max. & Min mRL within lease area	Maximum & Minimum mRL 298 mRL & 295 mRL respectively	
13.	Pillar Coordinates (Verified by DMO)	Pillar	Latitude(N) Longitude(E)
		A	30° 12'17.09"N 77° 30'18.81"E
		B	30° 12'16.42"N 77° 30'17.32"E
		C	30° 12'05.34"N 77° 30'13.17"E
		D	30° 11'59.82"N 77° 30'01.24"E
		E	30° 11'46.33"N 77° 29'58.50"E
		F	30° 11'59.32"N 77° 29'43.47"E
		G	30° 12'21.10"N 77° 30'16.04"E
14.	Total Geological Reserves	11,30,928 m3	
15.	Total Mineable Reserves	7,01,875 m3	
16.	Total Proposed Production (in five year)	30,60,000 m3 in 5 years.	
17.	Proposed production / year	6,12,000 m3 per year	
18.	Sanction Period of Mine lease	5 years	
19.	No. of workers	Approximately 36 workers	
20.	Type of Land	Government Land	
21.	Ultimate depth of mining	3.0 m as per approved mining plan	

22.	Nearest metalled road from Site	About 5.16 km SE major district road present near the site.	
23.	Water requirement	PURPOSE	REQUIREMENT (KLD)
		Drinking water	0.46 KLD
		Dust suppression	1.80 KLD
		Plantation	0.17KLD
		Others (if any)	-
Total	2.43 KLD approx.		
24.	Name of QCI Accredited Consultant with QCI No. and period of validity.	Environmental Research and Analysis, Lucknow (U.P) Certificate No. NABET/ EIA/ 1922/RA 0200 (REV-01) Valid up to 21/01/2024.	
25.	Any litigation pending against the project or land in any court.	No	
26.	Detail of 500 m Cluster certificate verified by mining officer	Letter No.1900/ Khanij /(2023-24 Date-16/09/2023	
27.	Detail of Lease Area in approved DSR	letter no- 1935/M-228 /2017(Khanan Niti)-DSR Dated 27/03/2023 Page 02 Serial No 11	
28.	Proposed EMP cost	Rs. 15,41,660/-	
29.	Length and breadth of Haul Road	200 m length and 6m width	
30.	No. of Trees to be planted.	170	
31.	Monitoring Period.	1 October 2023 to 31 Dec 2023	

3. The mining would be restricted to unsaturated zone only above the phreatic water table and will not intersect the ground water table at any point of time.
4. This project does not attract any of the general conditions applicable on mining projects specified in EIA Notification 14/09/2006.
5. The mining operation will not be carried out in safety zone of any bridge or embankment or in eco-fragile zone such as habitat of any wild fauna.
6. There is no litigation pending in any court regarding this project.
7. The project proposal falls under category-1(a) of EIA Notification, 2006 (as amended).

The project proponent also submitted a letter dated 04/09/2023 at the Secretariat through which they have informed that the collection of baseline monitoring data for the said project has already been started for post-monsoon season (October to December, 2023) as per provision of MoEFCC, OM dated 08/06/2022.

The consultant (EIA Coordinator) also submitted an affidavit dated 29/11/2023 mentioning is as follows:

1. I Vishnu Kumar Awasthi S/o Lt. R G Awasthi is EIA Coordinator of M/s Environmental Research and Analysis, Lucknow (U.P.), Accreditation Certificate No. NABET/ EIA/ 1922/RA 0200 (Rev 01), valid till- 21/01/2024.
2. I have prepared TOR for the Proposal No. SIA/UP/MIN/450570/2023 (FILE No. 8411) M/s Doon Mines and Minerals. Authorized Partner-Priya Jaiswal, Address- F1 / 502 Pacific Golf Estate, Sahastradhara road, Usha Colony, Marautha Dehradun, Uttarakhand-248001. Proposed Project of riverbed "Sand / Bajri / Boulder (RBM) Mining Project" on the riverbed Gata No. – 1/1, Village – Rasoolpur Urf Rasooli, Tehsil - Behat & District - Saharanpur (U.P.) with my team.
3. I have personally visited the site of proposal and certify that no Mining activity has been undertaken on the project site for the present proposal.
4. I have satisfied with that all the necessary data/information required for TOR presentations are true and correct.
5. I certify that this project proposal has been uploaded for the first time on Parivesh Portal.

6. I certify that there will be no mismatch between information/data provided on the online application submitted on Parivesh Portal and the hard copy/presentation which will be submitted after acceptance of application.

RESOLUTION AGAINST AGENDA NO. 14

The committee discussed the matter and gone through the Hon'ble NGT order dated 08/11/2023 passed in O.A. No. 188/2023 Gaurav Kumar Vs. State of U.P. & Ors. SEAC recommended to issue the standard terms of reference for the preparation of EIA as annexed at annexure-3 to the minutes, with the remarks that the EC will not be granted till the disposal of the said order. The committee also stipulated following additional TOR Points:

Additional TOR:

1. Project proponent should present latest drone videography (not older than 07 days) of the project site mentioning the date, time and geo coordinates at the time of EIA presentation.
2. Cluster EMP for all the mining lease area should be prepared by submitted along with EIA report.
3. NOC from Irrigation Department/Concerning Authority regarding river bed mining to be submitted at the time of EIA presentation.
4. To ensure proper monitoring, the project proponent/consultant should provide evidence in form of (A) Raw Data (B) Logbook of their site visit along with activities carried out during monitoring (C) Real time photographs showing monitoring machine, public, lab person etc. Proprietor/proprietor representative should be present at the time of monitoring and monitoring should be conducted as per CPCB SOP/NABET/QCI guidelines. Lab responsible person should be present at the time of EIA presentation.
5. EIA coordinator & FAE should give a notarized affidavit during EIA presentation that they have personally visited the site & they have also taken all the mitigating measures for any critical issues involved in the project.
6. The project proponent will have to inform the schedule of monitoring/data collection programme to the SEIAA/SEAC, UP before start of data collection. In case of failure, the collected baseline monitoring data will be treated as null and void.
7. The details of equipment used for baseline monitoring alongwith its photograph mentioning date, time and geo coordinates for preparation of EIA report should be clearly displayed to the people present during public hearing and the complete details related to monitoring period must be mentioned in the minutes of public hearing.
8. Original lab analysis report of the project proposal along with EIA report should be uploaded on Parivesh Portal.
9. Combined KML of all mines in a cluster should be submitted at the time of EIA.
10. The project proponent/Consultant should identify the core & buffer zone (2.5 km) of the mining site.
11. Agreement/ Consent between project proponent and competent authority/ landowner for haulage road from lease site to link road to be submitted at the time of EIA presentation.
12. Proponent/ Consultant should submit the plan/information along with technology (photographs of water sprinklers/ tankers) to be implemented for mitigating dust at source points in lease area and haulage road during operation activity/vehicular movement. Technology should be displayed at the time of EIA presentation.
13. Proposed plantation plan with area specific plant species, number of plants to be planted and place of plantation along with a proper map to be submitted at the time of EIA presentation.
14. Water requirement details along with source of water and the permission/ agreement with the concerning authority/ person to be submitted at the time of EIA presentation.
15. Proponent/consultant shall present TOR specific/additional conditions compliance, observation/suggestions raised during the public hearing and commitment made by the project proponent in a tabular form with a time bound plan at the time of EIA presentation.

16. Corporate Social Responsibility (CSR) to be prepared as per the MoEF guidelines and present it at the time of EIA presentation.
17. Submit the hydrological study report of lease area that the quantity given in LoI will be mined without affecting the geo-hydrology of the River.

15. Sand/Morrum Mining Project on Dhasan River, Gata No. 1419, Khand No. 01, Village-Motikatra, Tehsil- Garautha, District- Jhansi, Shri Sanjeev Kumar Gupta, Area 24.0Ha., 7831/6687/SIA/UP/MIN/427673/2023

RESOLUTION AGAINST AGENDA NO. 15

The project proponent/consultant did not appear. The committee discussed and deliberated that the project file should be closed and be opened only after request from the project proponent. The file shall not be treated as pending at SEAC. The matter will be discussed only after submission of online requests on prescribed online portal.

16. श्री पूरन चन्द डावर, गोवर्धन आवास प्रा0 लि0, डायरेक्टर के पत्र संख्या – 001, दिनांक 16.11.2023 के विषय "मै0 श्री गोवर्धन रिसोर्ट एवं स्पा पता मौजा – मियांपुर, आगरा, उत्तर प्रदेश की पर्यावरणीय क्लीयरेंस को abeyance से हटाने के सम्बन्ध में।" पर विचार-विमर्श।

In compliance of Hon'ble Supreme Court order dated 08/12/2021 in Writ Petition (Civil) No. 13381/1984, NEERI has nominated Dr. S.K. Goyal as a representative/member in SEAC, U.P. to appraise the proposal under the TTZ area. The above project proposal comes under the TTZ area and Dr. S.K. Goyal, representative of NEERI was present during the meeting through video conferencing for the appraisal of projects.

The project proponent Shri Pooran Chand Dawar was also present during the meeting through video conferencing along with their consultant Dr. Manoj Garg, M/s Environmental Technical and Research Centre present before SEAC. The chronology of the project is given below:

- The project proponent submitted an online application on Parviesh Portal for the environmental clearance of "Proposed 5-Star Resort & Hotel Project "Shree Goverdhan Resort & SPA" at Village - Myapur, Agra, U.P., M/s Shree Goverdhan Awas Private Limited" vide proposal no. SIA/UP/MIS/238485/2021, dated 13/11/2021.
- The matter was listed for appraisal in 617th SEAC meeting dated 06/01/2022 and the committee decided that in view of Hon'ble Supreme Court judgment dated 08/12/2021 in the matter of M.C. Mehta Vs. Union of India & Ors. the matter may be taken up only after nomination of representative of NEERI in SEAC meeting.
- In compliance of Hon'ble Supreme Court order dated 08/12/2021 Dr. Atul N Vaidya, Director, NEERI vide letter dated March 15, 2022 nominated Dr. S.K. Goyal, Chief Scientist & Head, CSIR-NEERI, Delhi Zonal Center as representative in meeting of SEAC regarding the matters related to TTZ area.
- After nomination of NEERI Member the matter was again listed in 642nd SEAC meeting dated 06/04/2022 and Dr. S.K. Goyal, representative of NEERI present during the meeting through video conferencing. The committee discussed the matter in the meeting and recommended to grant the environmental clearance on the project proposal along with EC conditions.
- Subsequently, the matter was discussed by the SEIAA in its 592nd meeting dated 27/04/2022 and agreed with the recommendation of SEAC with some additional EC conditions.
- Environmental clearance for the project was issued by SEIAA, U.P. vide EC Identification no. EC22B038UP177937, dated 06/05/2022.
- A compliant letter dated 17/06/2022 of Dr. Sharad Gupta received through email and the SEIAA refer back the letter to SEAC-1 for review/comments.

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F.No. L-11011/13/2021-IA-II (M)
Government of India
Ministry of Environment, Forest and Climate Change
Impact Assessment Division
2nd Floor, Prithvi Wing,
Indira Paryavaran Bhawan,
Jorbagh Road, Aliganj,
New Delhi-110 003
Dated: 4th December, 2023

To,
The Member Secretary
State Level Environment Impact Assessment Authority
Directorate of Environment
Vineet Khand 1, Gomti Nagar,
Lucknow, Uttar Pradesh 226010
Email: doeuplko@yahoo.com

Sub: Clarification regarding District Survey Report-reg.

Sir,

This is with reference to the letter no. 656/Civil Appeal no. 6463/2021 dated 16.11.2023 regarding seeking clarification on District Survey Report (DSR).

2. The matter has been examined in the Ministry. In this context, it is informed that, as per Ministry's notification dated 25.07.2018, the DSR is prepared by the District Authorities and it should be in sync with Sustainable Sand Management Guidelines 2016 & Enforcement and Monitoring Guidelines for sand mining 2020.
3. Further, the Hon'ble NGT vide its order dated 29/9/2022 in OA No. 34 of 2022 titled Subhash Bhai Ishwar Bhai Parmar vs State of Gujarat & Ors. Observed that they would like to follow the principle laid down by the Hon'ble Supreme Court in order

dated 10.11.2021 in Civil Appeal Nos. 3661-3662 of 2020 titled State of Bihar v/s Pawan Kumar. The above-referred order of Hon'ble SC mandates submission of DSR to State Expert Appraisal Committee (SEAC) for examination and evaluation and State Environment Impact Assessment Authority (SEIAA) for approval.

4. This is issued with the approval of the Competent Authority.

Yours faithfully,
(Dr. Saurabh Upadhyay)
Scientist C
E-mail: saurabh.upadhyay85@gov.in

Copy to:

- Scientist E(PV)/ Guard File

ANNEXURE R-10

From: District Magistrate
SAHARANPUR

To

Member Secretary,
State Level Expert Appraisal Committee (SEAC)
Environment Directorate, U.P.
Lucknow.

Ref. No. 2613/Khanan Deptt/DSR/2023-24 Dated: 18.12.2023

Subject: Regarding Testing and approval of District Survey Report (DSR) of 22 mining areas available in Sand, Gravel, Boulder in mixed State) in Saharanpur District.

Sir,

Kindly take reference of the letter No. 1665/M-228/Mining Policy-2017 DSR dated 15.12.2023 of the Director, Geology and Mining Directorate, U.P. Khanij Bhawan, Lucknow on the above subject, by which the Ministry of Environment and Climate change, Impact Assessment Division New Delhi's letter dated 4.12.2023 and Civil Appeal No. 3661-3662 of 2020 titled State of Bihar V/s Pawan Kumar. In accordance with the order dated 10.11.2021 passed by the Hon'ble Supreme Court, instructions have been given to conduct the proceedings of the District Survey Report (DSR)

In connection with the above, it is respectfully informed that a total of 21 mining areas of sand, boulders (in mixed state) available in the river bed and 01 area of ordinary sand, a total of 22 areas, have been developed. Under Uttar Pradesh Mineral Avoidance Rules, 2021, suitability of the area for approval on mining lease and assessment of minerable quantity in view of environment and ecology, report of Revenue Department, Joint report of Mining Department and report of Irrigation Department and Divisional Director, Social Forestry. The process of district survey report has been completed only after receiving the report along with the recommendation.

Therefore, a copy of the District Survey Report (DSR) and enclosures (1-7) in respect of the above 22 areas are attached with this letter with this letter with the intention that the District Survey Report (DSR) prepared for the above 22 mining lease areas will be examined and please try to get approval.

Enclosures:

1. Photocopy of Updated DSR.
2. Photocopy of the No Objection Certificate obtained from the Forest Deptt.
3. Photocopy of the No Objection Certificate received from the Irrigation Deptt.

Yours faithfully,
District Magistrate,
Saharanpur

Copy to the following for information and necessary action, please.

1. President, SEAC Lucknow.
2. President, SEAC Lucknow.
3. Directorate of Geology and Mining Deptt. UP Lucknow.
4. Chief Secretary, do
5. Member Secretary, SEAC Lucknow.

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Directorate of Environment, U.P.

Vineet Khand-1, Gomti Nagar, Lucknow - 226 010

Phone : 91-522-2300 541, Fax : 91-522-2300 543

E-mail : doeuplko@yahoo.com

Website : www.seiaaup.com

**Minutes of the 787th Meeting of the State Level Environment Impact Assessment Authority, UP (SEIAA)
held on 29-12-2023**

The meeting of 787th State Level Environment Impact Assessment Authority, UP (SEIAA) was held on-line on 29.12.2023 the Directorate of Environment. The following were present in the meeting:-

1. Smt. Mamta Sanjeev Dubey,
2. Shri Paras Nath,
3. Shri Sanjeev Kumar Singh,

Chairman, SEIAA, U.P
Member, SEIAA, U.P
Member Secretary, SEIAA, U.P

General Discussion-

SEIAA noted that as per MoEFCC notification S.O. 141(E) dated 15th January, 2016:-

The mining of minor minerals is mostly in clusters. The Environment Impact Assessment or Environment Management Plan are required to be prepared for the entire cluster. The Environment Impact Assessment or Environment Management Plan shall be prepared by the State or State nominated Agency or group of project proponents in the Cluster or the project proponent in the cluster.

Hence SEIAA opined to send a letter to Additional Chief Secretary, Environment advising to send a letter to Mining Department U.P. regarding the above suggesting to conduct Environment Impact Assessment or Environment Management Plan for clusters in the State to reduce time taken to grant EC to individual lease area.

Agenda-A - Minutes of 811th SEAC-1 Meeting Dated 30/11/2023

1. Residential Group Housing Project at plot No- GH-01 Sector – 22A, Yamuna Expressway Industrial Development Authority District- Gautam Budh Nagar, Santosh Gupta, M/s Omnis Developers Pvt. Ltd., 8385/SIA/UP/INFRA2/450103/2023.

SEIAA agreed with the recommendation of SEAC to issue the additional ToR to the title proposal for conducting EIA studies. SEIAA also added following points to ToR:-

- 1- All pages of technical documents/EIA/EMP etc. should be signed by the consultant and project proponent both.
- 2- Copy of all the analysis reports duly signed by analyst approved by NABL or MoEF&CC shall be annexed with the EIA report and original analysis reports should be presented at the time of presentation.
- 3- MOU signed between the project proponent and the consultant should be submitted.
- 4- A certificate from Forest Department shall be obtained that no forest land is involved and if forest land is involved the project proponent shall obtain the forest clearance and permission of Central and State Government as per law under the provisions of Forest (conservation) Act, 1980 and submit along with EIA.
- 5- Provision for charging of electric vehicles as per the guidelines of GoI / GoUP should be submitted.
- 6- Along with the EIA-EMP report, PP / consultant will also submit in tabular form as to how they have addressed entire ToR a presentation to this effect should be made before SEAC at the time of EIA-

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capacity to further bear the pollution load for such areas within a period of 1 year and submit the same to SEIAA, UP for evaluation.

14. Department of Geology & Mines, GoUP in consultation with UPSPCB will establish required number of CAAQMS in district within a period of one year and submit geo-referenced map of these stations along with data. Details of existing CAAQMS, if any, be submitted within a period of three months.
 15. Large number of mining projects are ongoing as well as new mining leases are coming up in the district. A reference be sent to DGM and MS, SPCB for preparing mitigation plan for controlling air pollution in the district especially in mining areas.
 16. If the air quality deteriorates due to mining, then District Administration & Directorate of Mining should ensure that mining be stopped immediately. Adequate measures be taken for restoring air quality and mining should commence only when air quality attains the prescribed standards.
 17. The project proponent shall construct toilets especially in girls school and install rooftop solar plant in the vicinity of project area under CER activity.
13. **"Sand/ Bajri/ Boulder (RBM) Mining Project" at Gata No.- 1 व 1, Village Arazi Zevari Aht, Tehsil – Behat & District - Saharanpur, Smt. Neelam Pundir, Area 13.80 Ha., 8409/SIA/UP/MIN/450544/2023.**
- SEIAA noted that SEAC has commented that the committee discussed the matter and gone through the Hon'ble NGT order dated 08/11/2023 passed in O.A. No. 188/2023 Gaurav Kumar Vs. State of U.P. & Ors. SEAC recommended to issue the standard terms of reference for the preparation of EIA as annexed at annexure-3 to the minutes, with the remarks that the EC will not be granted till the disposal of the said order. SEIAA opined to refer back the project to SEAC for appraisal and recommendation of DSR as per MoEFCC letter no. F. No. L-11011/13/2021-IA-II (M) dated 04.12.2023.
14. **"Sand/ Bajri/ Boulder in mix Form (RBM) Mining Project" at Gata No. – 1/1, Village- Rasoolpur Urf Rasooli, Tehsil- Behat & District Saharanpur, Smt. Priya Jaiswal, Area 34.0 Ha., 8411/SIA/UP/MIN/450570/2023.**
- SEIAA noted that SEAC has commented that the committee discussed the matter and gone through the Hon'ble NGT order dated 08/11/2023 passed in O.A. No. 188/2023 Gaurav Kumar Vs. State of U.P. & Ors. SEAC recommended to issue the standard terms of reference for the preparation of EIA as annexed at annexure-3 to the minutes, with the remarks that the EC will not be granted till the disposal of the said order. SEIAA opined to refer back the project to SEAC for appraisal and recommendation of DSR as per MoEFCC letter no. F. No. L-11011/13/2021-IA-II (M) dated 04.12.2023.
15. **Sand/Morrum Mining Project on Dhasan River, Gata No. 1419, Khand No. 01, Village- Motikatra, Tehsil- Garautha, District- Jhansi, Shri Sanjeev Kumar Gupta, Area 24.0Ha., 7831/6687/SIA/UP/MIN/427673/2023.**
- SEIAA agreed with the recommendations of SEAC to close/delist the file as the project proponent did not appear and open only after submission of online request on prescribed online portal.
16. **श्री पूरन चन्द डावर, गोवर्धन आवास प्रा0 लि0, डायरेक्टर के पत्र संख्या – 001, दिनांक 16.11.2023 के विषय "मै0 श्री गोवर्धन रिसोर्ट एवं स्पा पता मौजा – मियांपुर, आगरा, उत्तर प्रदेश की पर्यावरणीय क्लीयरेन्स को abeyance से हटाने के सम्बन्ध में।" पर विचार-विमर्श।**
- SEIAA noted the comments of SEAC. SEIAA also gone through the letter of project proponent dated 28.12.2023 regarding withdrawal of EC issued to 5-Star Resort & Hotel project at Khasra No.-29, 30, 27, 23, 19, 18, 17, 16, 26, 20, 22, 25 Mauja Myapur, Fatehabad Road, District-Agra, Shri Puran Chand Dawar, M/s Shree Goverdhan Awas Private Limited due to change in proposal. SEIAA opined that application should be made online.

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Minutes of 826th SEAC-1 Meeting Dated 23/01/2024 ANNEXURE R-12

The 826th meeting of SEAC-1 was held in the Directorate of Environment, U.P. through dual-mode (physically/virtually) at 10:00 AM on 23/01/2024. Following members participated in the meeting:

- | | | |
|----|-----------------------------|-----------------------------|
| 1. | Dr. Ratan Kar, | Vice Chairman, |
| 2. | Dr. Ajai Mishra, | Member, SEAC-1 |
| 3. | Shri Om Prakash Srivastava, | Member, SEAC-1 (through VC) |
| 4. | Dr. Brij Bihari Awasthi, | Member, SEAC-1 (through VC) |
| 5. | Shri Umesh Chandra Sharma, | Member, SEAC-1 (through VC) |
| 6. | Shri Ashish Tiwari, | Member-Secretary, SEAC-1 |

The Chairman welcomed the members to the 826th SEAC-1 meeting which was conducted via dual-mode (virtually/physically). Nodal Officer, SEAC-1 informed the committee that the agenda has been approved by the Member Secretary, SEAC-1/Director, Directorate of Environment.

1. Building stone Sand Stone Mining Project at Gata No.-997mi, Sl. No.- 09, Village- Sindhora, Tehsil- Sadar, District- Mirzapur, Smt. Nilama Singh, Area 1.010 ha., 8567/7600/SIA/UP/MIN/453801/2023

The consultant informed the committee that they are strictly following the rules, regulations and other instructions of QCI/NABET. A presentation was made by the project proponent along with their consultant M/s Cognizance Research India Pvt. Ltd. Based on the documents submitted and presentation made by the project proponent along with the consultant, the following facts have emerged: -

- The environmental clearance is sought for Building Stone/ Sandstone Mining Project at Gata No. 997 Mi, S. No. 09, Village- Sindhora, Tehsil- Sadar, District- Mirzapur (U.P.) (Leased Area-1.01Ha).
- The Terms of Reference in the matter were issued by SEIAA, U.P vide Letter No. 55/Parya/SEIAA/7600/2022 Dated 24/05/2023.
- The Public Hearing was organized on 30/09/2023. Final EIA report submitted by the project proponent on 07/12/2023.
- Salient features of the project as submitted by the project proponent:

1.	On-line proposal No.	SIA/UP/MIN/453801/2023		
2.	File No. allotted by SEIAA, UP	8567/7600		
3.	Name of Proponent	Prop. Smt Nilma Singh		
4.	Full correspondence address of proponent	R/o Village- Choukiya, Tehsil- Chunar, District- Mirzapur, State- U.P.		
5.	Name of Project	Sindhora Building Stone/ Sandstone Mining Project		
6.	Project location (Plot/Khasra/Gata No.)	Gata No. 997 Mi, S. No. 09		
7.	Name of Village	Sindhora		
8.	Tehsil	Sadar		
9.	District	Mirzapur		
10.	Name of Minor Mineral	Building Stone/ Sandstone		
11.	Sanctioned Lease Area (in Ha.)	1.01 Ha		
12.	Max & Min mRL within lease area	Max- 95 mRL and Min- 91 mRL		
13.	Pillar Coordinates (Verified by DMO)	Pillar No	Latitude (N)	Longitude (E)
		A	25° 05'40.8"N	82°48'33.3"E
		B	25° 05'38.6"N	82°48'36.0"E
		C	25°05'36.5"N	82°48'35.6"E
		D	25° 05'36.9"N	82°48'32.9"E
14.	Total Geological Reserves	3,31,500 Cum		
15.	Total Mineable Reserves	1,40,562 Cum		
16.	Total Proposed Production(in five year)	50,500 Cum		

examined because in mining plan total Mineable Reserves is mentioned as 7,12,662 cum/year. Hence SEIAA opined to refer back the project to SEAC for review and show cause notice be send to consultant."

As per the above decision of SEIAA, the matter was listed in 826th SEAC meeting dated 24/01/2024. The project proponent submitted the following reply of the queries raised by SEIAA:

"We are hereby clarify the query of the above mentioned project tin MoM the 7,12,662 is geological reserve as per mining plan referred point no. 3.5 and table no. 04 and details are:

<i>Items</i>	<i>As per MoM</i>	<i>As per LoI</i>	<i>As per mining plan</i>
<i>Total mineable reserve</i>	<i>3,60,000 in cum/year</i>	<i>3,60,000 in cum/year</i>	<i>3,60,000 in cum/year</i>
<i>Total proposed production</i>	<i>3,60,000 in cum/year</i>	<i>3,60,000 in cum/year</i>	<i>1,80,000 in cum</i>
<i>Proposed production/year</i>	<i>3,60,000 in cum</i>	<i>3,60,000 in cum</i>	<i>3,60,000 in cum</i>

RESOLUTION AGAINST AGENDA NO. 17

The committee has gone through the file and documents and opined that the reply submitted by the project proponent seems to be satisfactory and recommended grant of environmental clearance for the project proposal along with environmental clearance conditions as earlier prescribed in 810th SEAC meeting dated 20/11/2023.

18. "Sand/ Bajri/ Boulder in mix Form (RBM) Mining Project" at Gata No. – 1/1, Village-Rasoolpur Urf Rasooli, Tehsil- Behat & District Saharanpur, Uttar Pradesh, Area 34.0 Ha., 8411/SIA/UP/MIN/450570/2023

The Secretariat informed the committee that the matter was earlier discussed in 787th SEIAA meeting dated 29/12/2023 wherein:

"SEIAA noted that SEAC has commented that the committee discussed the matter and gone through the Hon'ble NGT order dated 08/11/2023 passed in O.A. No. 188/2023 Gaurav Kumar Vs. State of U.P. & Ors. SEAC recommended to issue the standard terms of reference for the preparation of EIA as annexed at annexure-3 to the minutes, with the remarks that the EC will not be granted till the disposal of the said order. SEIAA opined to refer back the project to SEAC for appraisal and recommendation of DSR as per MoEFCC letter no. F. No. L-11011/13/2021-IA-II (M) dated 04.12.2023."

As per the above decision of SEIAA, the matter was listed in 826th SEAC meeting dated 24/01/2024. The committee has gone through the above observation of SEIAA and opined that the above matter will be discussed after receipt of DSR of District-Saharanpur.

(Dr. Brij Bihari Awasthi)
Member

(Umesh Chandra Sharma)
Member

(Dr. Ajai Mishra)
Member

(Ashish Tiwari)
Member-Secretary, SEAC

(Dr. Ratan Kar)
Vice-Chairman

Nodal, SEAC-1

MoM prepared by Secretariat in consultation with Chairman & Members on the basis of decisions taken by SEAC-1 during the meeting.

ANNEXURE R-13

Minutes of the Joint meeting of SEIAA and SEAC, U.P. held on 02.02.2024

The Joint Meeting of State Environment Impact Assessment Authority (SEIAA) & State Expert Appraisal Committee (SEAC-1&2) was held in Directorate of Environment, U.P. on 02.02.2024, following members were present in the meeting:

1. Smt. Mamta Sanjeev Dubey	Chairman, SEIAA, U.P
2. Shri Rajive Kumar	Chairman, SEAC-1
3. Dr. Harikesh Bahadur Singh	Chairman, SEAC-2
4. Shri Ashish Tiwari	Member Secretary, SEAC-1&2
5. Shri Sanjeev Kumar Singh	Member Secretary, SEIAA, U.P
6. Shri Paras Nath	Member, SEIAA, U.P
7. Dr. Brij Bihari Awasthi	Member, SEAC-1
8. Shri Umesh Chandra Sharma	Member, SEAC-1
9. Dr. Ratan Kar	Member, SEAC-1
10. Shri Om Prakash Srivastava	Member, SEAC-1
11. Dr. Amrit Lal Halidar	Member, SEAC-2
12. Dr. Dineshwar Prasad Singh	Member, SEAC-2
13. Shri Tanzar Ullah Khan	Member, SEAC-2
14. Prof. Jaswant Singh	Member, SEAC-2
15. Dr. Shiv Om Singh	Member, SEAC-2
16. Shri Amit Kaushik	Joint Director, Mining Directorate, UP
17. Dr. Raji Mishra	MEMBER SEAC-1

In the joint committee following agenda were discussed and resolved:-

Agenda-1 - Regarding procedure for approval of D.S.R. (District Survey Report)

1. The detailed Standard Operating Procedure (S.O.P.) regarding preparation and modification of D.S.R. for Sand Mining or R.B.M. and for in-situ rocks were discussed and formulated.
2. It was resolved that the Secretariat shall forward the approved SOP for preparation and modification of D.S.R. for Sand Mining or R.B.M. and for in-situ rocks to Director – Geology & Mining for its effective implementation by respective Districts. (SOP attached as Annexure1 &2)
3. It was further resolved that all DSR received by SEIAA/SEAC shall be forwarded to D.G.M. by Member Secretary/Nodal officer SEAC for comments and suggestions.

Agenda-2 - Regarding grant of Standard-TOR as per MoEF&CC O.M. dated 6-May-2022

1. It was deliberated that Standard-TOR issued by MoEF&CC can be issued by MS-SEAC adding some additional conditions approved by SEIAA/SEAC, on the basis of experience gained in past 1 to 2 years.
2. In case of Mining of Minor Mineral Projects, the Standard-TOR can be granted on case to case basis, as per MoEFCC circular F. No. IA3-22/15/2022-IA-3 dated 06.05.2022 Mining Department, UP will certify whether the case under consideration is a green field project or a brown field project. If the case under consideration is a brown field project then details of previous E.C. should also be submitted by Mining Department.



(Shri Sanjeev Kumar Singh)
Member Secretary, SEIAA



(Shri Ashish Tiwari)
Member Secretary, SEAC-1&2

STANDARD OPERATING PROCEDURE

**Preparation/Modification of D.S.R. for Sand Mining or R.B.M. by
District Level Sub-Divisional Committee and
its Appraisal/Approval by SEAC/SEIAA, U.P.**

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Issued by – Joint Committee of SEAC, SEIAA and DGM, U.P.

Background and Scope of Work: - The SOP has been prepared as per MoEF&CC, GoI, Notification No. S.O. 141(E), dated 15-Jan-2016, S.O. 3611 (E), dated 25-July-2018, Sustainable Sand Mining Management Guidelines 2016 and Enforcement & Monitoring Guidelines for Sand Mining 2020 & Hon'ble Supreme Court Judgement passed in Civil Appeal – 3661-3662 of 2020 in the matter of State of Bihar and Others Vrs. Pawan Kumar and MoEF&CC, GoI letter dated 04/12/2023 regarding DSR.

Short Titles:-

Detailed Title	Short Title to be read hereafter
Sustainable Sand Mining Management Guidelines 2016	SMMMG-2016
Enforcement & Monitoring Guidelines for Sand Mining -2020	EMGSM-2020
District Level Sub-Divisional Committee	SDC
Hon'ble Supreme Court Judgement delivered in Civil Appeal – 3661-3662 of 2020 in the matter of State of Bihar and Others Vs. Pawan Kumar and Others Etc.	Pawan Kumar
State Level Expert Appraisal Committee	SEAC
State Level Environment Impact Assessment Authority	SEIAA
District Survey Report	DSR

• Procedure for Preparation of DSR by respective District of Uttar Pradesh

Sl. No / Step	Details	Action Required
1	<p>Formation of Sub-Divisional Committee (SDC) in the district by District Magistrate comprising Sub-Divisional Magistrate, Officers from Irrigation Department, State Pollution Control Board or Committee, Forest Department, Geological or Mining Officer.</p> <p><i>Reference – Para 14(i) of the Hon'ble Supreme Court Judgement delivered in Civil Appeal – 3661-3662 of 2020 in the matter of State of Bihar and Others Vs. Pawan Kumar and Others Etc.</i></p>	<ul style="list-style-type: none"> • D.M. shall issue an Office Memorandum regarding nomination and formation of Sub-Divisional committee in the district.
2	<p>Preparation of DSR – DSR which is a technical document shall be prepared in line with the MoEF&CC Notification, dated 15/01/20216, dated 25-July-2018 and ESMMG 2020. The contents of DRAFT DSR shall be as under:-</p> <ul style="list-style-type: none"> • Contents of Report <ol style="list-style-type: none"> 1. Introduction 2. Overview of Mining Activity in the District (brief history of old working, pre-existing and proposed mining activities). 3. List of Mining Leases in the District with location, area and period of validity. 4. Details of Royalty or Revenue received in last three years. 5. Detail of Production of Sand/Morrum/RBM or other minor mineral in last three years. 	<ul style="list-style-type: none"> • The sub-divisional committee (SDC) will prepare the draft DSR. If required the SDC may take help/assistance of QC/INABET Consultants, DGM Approved Exploration Agencies as per Government Order ref. no 1659/86-2023 dated 17-May-2023 issued by Secretary Geology & Mining. • Additionally, the SDC may also take help/assistance of renowned academic institutions/ Universities

<p>6. Process of deposition of sediments in the Rivers of the District (River Geometry).</p> <p>7. General Profile of the District.</p> <p>8. Land utilization Pattern in the district: Forest, Agriculture, Horticulture, Mining etc.</p> <p>9. Physiography of the District.</p> <p>10. Rainfall: month-wise.</p> <p>11. Geology and Mineral Wealth.</p> <p>12. The report shall also contain:-</p> <ol style="list-style-type: none"> District wise detail of river or stream and other sand source; District wise availability of sand or gravel or aggregate resources; District wise detail of existing mining leases of sand and aggregates. <p>13. Drainage system with description of main rivers</p> <ol style="list-style-type: none"> Name of the river. Area drained (sq. km) Percentage area drained in the District. <p>14. Salient Features of Important Rivers and Streams:-</p> <ol style="list-style-type: none"> Name of the river or stream. Total length in the district.(in Km.) Place of origin. Altitude at origin. Portion of the river or stream recommended for mineral concession. 	<p>having domain expertise in Environment/ Geology and Mining.</p> <ul style="list-style-type: none"> It will be the responsibility of SDC/hired agency to collect primary and secondary data, DSR drafting with Annexure-I to Annexure-VII and conduct presentation before SEAC/SEIAA and DGM. Whenever a new lease is identified for adding in the DSR, the SDC/hired agency will follow the entire procedure every time on the basis of existing DSR. The validity of amended or modified DSR will be upto the validity of the original DSR. The SDC/hired agency will update the data in the revised DSR with reference to the primary DSR. Special focus on collection of latest data will be done w.r.t. landuse pattern,
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<p>f) Length of area recommended for mineral concession.(in Kms)</p> <p>g) Average width of area recommended for mineral concession (in meters)</p> <p>h) Area recommended for mineral concession (in square meter)</p> <p>i) Mineable mineral potential (in metric tonne) (60% of total mineral potential)</p> <p>15. Mineral Potential:-</p> <p>a) Boulder (MT)</p> <p>b) Bajari (MT)</p> <p>c) Sand (MT)</p> <p>d) Total Mineable Mineral Potential (MT)</p> <p>16. Annual Deposition:-</p> <p>a) River or Stream.</p> <p>b) Portion of the river or stream recommended for mineral concession.</p> <p>c) Length of area recommended for mineral concession.(in Kms)</p> <p>d) Average width of area recommended for mineral concession (in meters)</p> <p>e) Area recommended for mineral concession (in square meter)</p> <p>f) Mineable mineral potential (in metric tonne) (60% of total mineral potential)</p> <p>g) Total for the District</p> <ul style="list-style-type: none"> • After this Annexure-I to Annexure-IV shall also be prepared as per the format provided in Enforcement & Monitoring Guidelines for Sand Mining-2020, which will be enclosed as annexure to the Draft DSR 	<p>rainfall, IMD data, river geometry, updated geology (if any), water table, population data etc. as such parameters generally change in every 5 years.</p> <ul style="list-style-type: none"> • The source of secondary data used in DSR should have proper citation reference and in case primary data has been collected, then the name and details of experts involved in collection and synthesis and interpretation of data will be mentioned in the DSR. • It should be specifically ensured that DSR is the district specific environmental document in which all the environmental and safety parameters as per the guidelines and notifications should be covered and reflected in the DSR document. • For this a district specific mineral resource map shall be prepared in
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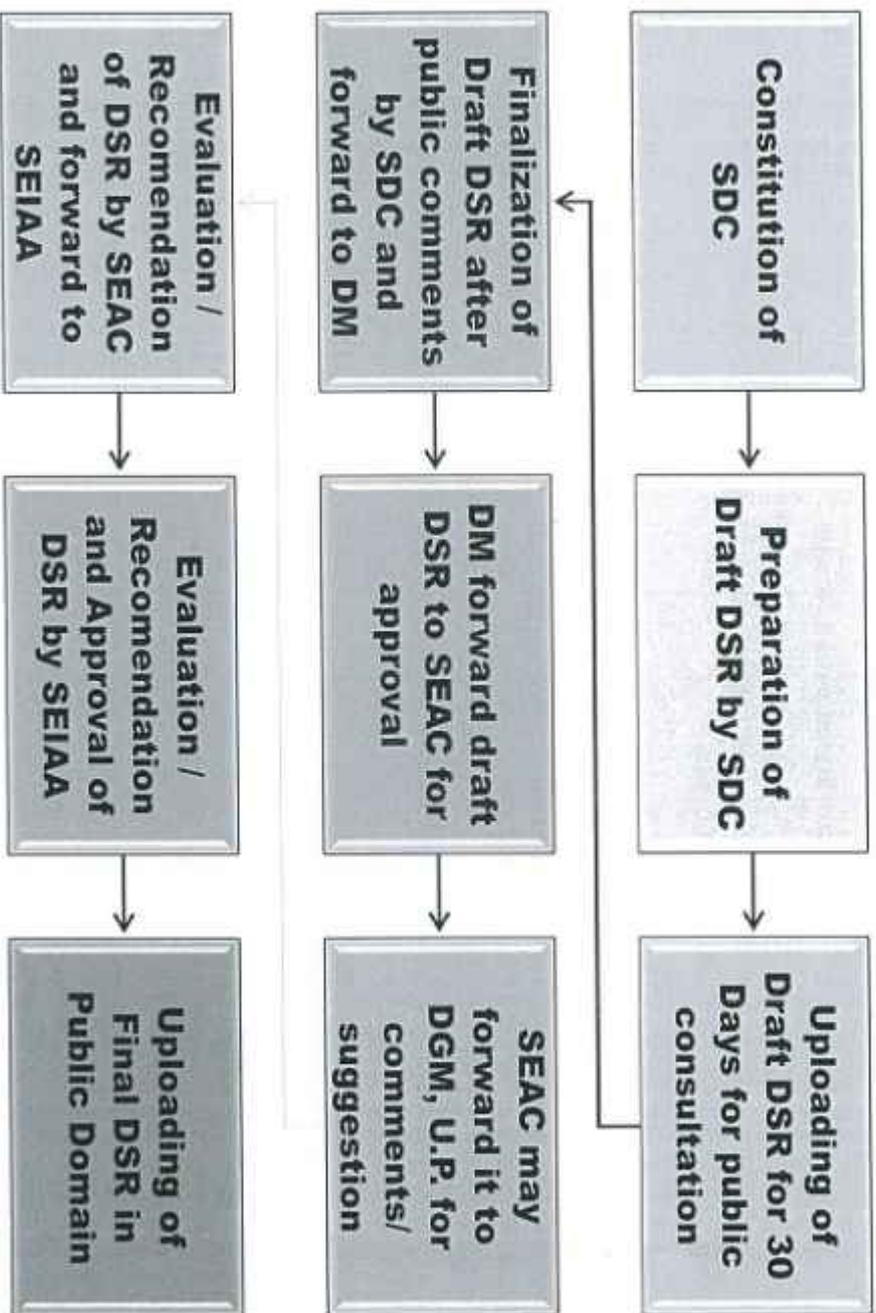
	<p><i>(Reference – Page- 64 to 67 of EMGSM-2020)</i></p> <ul style="list-style-type: none"> • Lease wise NOC will be taken from Irrigation and Forest Department and Deposit Verification/Estimation reports shall also be prepared by SDC. • The proposed lease should clearly identify and mark the mineable deposit on satellite image/drone image. • The mineable resource is to be calculated based on field investigation, geology of the catchment area, site conditions locations, depth of mineral availability and other geomorphic features. The mineable resource should be 50 to 60 % of the total resource available. 	<p>which the drainage patterns of rivers along with explored mineral resources shall be reflected.</p>
3	<p>Once the Draft DSR and Annexure 1 to IV is prepared, then all the SDC members evaluate and approve it, which will be uploaded in the District Website for 30 days for public comments/objections as well as DM/ADM/MO office.</p> <p><i>For this the notification should be issued by District Authority about draft DSR for suggestions/comments /objections from public in minimum two newspapers having wide circulation. Date of uploading and last date of receiving suggestions/comments/objections should be clearly mentioned in the notification.</i></p> <p><i>(Reference - EMGSM- -2020, Para 4.1.1 (clause – O & P; Page-19)</i></p>	<p>For this a letter to the District Information Office will be issued for uploading the draft DSR in District Website for 30 days.</p>
4	<p>The Draft DSR shall be withdrawn from District Website after 30 days and SDC Members shall conduct a joint meeting to mitigate/resolve the public comments/objections received, if any. <i>(Reference - EMGSM- -2020, Para 4.1.1 (clause – p; Page-19)</i></p>	<p>For this a joint meeting of SDC Members is required for final draft DSR examination/evaluation.</p>

	<i>In case no objection/comments are received then Mining Officer will issue a Certificate that no comments/objections have been received in the period of uploading.</i>	
5	Thereafter, the draft DSR shall be finalized including Annexure-I to Annexure-VII which will be signed by all SDC Members and then forwarded to D.M. for perusal and approval.	For this a recommendation of SDC Members is required who will finalize the draft DSR and forward it to the D.M.
6	<ul style="list-style-type: none"> • The DM shall forward the proposed DSR to SEAC for examination and approval. • The Member Secretary/Nodal Officer will forward it to DGM, U.P. for comments and suggestions. The SEAC will evaluate after getting the comments and suggestions of DGM, U.P. • The SEAC may invite a representative of DGM, U.P. to assist SEAC in appraisal of the draft DSR. • The SEAC will evaluate and recommend for approval of the draft DSR on the basis of SDC recommendations as well as DGM, U.P. comments/suggestions. • The SEIAA may approve the draft DSR on the basis of recommendations of SEAC. 	<ul style="list-style-type: none"> • The DM of respective district shall send the draft DSR, along with following documents <p>Following shall be the Annexures of the DM letter:-</p> <ol style="list-style-type: none"> 1. Primary DSR which requires addition/modification. 2. Draft Modified/ Revised DSR Document. 3. Annexure-1 to VII. 4. Lease wise NOC from Irrigation and Forest Department. 5. Revenue report and resource evaluation/ reserve estimation. 6. Notification regarding the constitution of the SDC. 7. Minutes of the SDC about draft

Reference – (Para 141 & ii) of the Hon'ble Supreme Court Judgement delivered in Civil Appeal – 3661-3662 of 2020 in the matter of State of Bihar and Others Vrs. Pawan Kumar and Others Etc.)

		<p>DSR.</p> <p>8. Office order for uploading the draft DSR in the district website for a period of 30 days along with newspaper notification.</p> <p>9. Minutes of the SDC recommending draft DSR.</p>
7	<ul style="list-style-type: none"> • The SEAC shall examine the draft DSR within a period of 6 weeks and its report shall be forwarded to SEIAA. • The SEIAA on receipt of SEAC recommendation report shall consider the grant of approval of DSR within a period of 6 weeks. <p><i>Reference – (Para 14(i) & ii) of the Hon'ble Supreme Court Judgement delivered in Civil Appeal – 3661-3662 of 2020 in the matter of State of Bihar and Others Vrs. Pawan Kumar and Others Etc.)</i></p>	<p>The DSR being a public document after approval shall be signed with seal (<i>in each page of DSR</i>) by the competent authority of SEIAA and will be uploaded in the respective district portal within a week.</p>

Process Flow Chart



Checklist for examination / approval of DSR by SEAC/SEIAA of Uttar Pradesh

Sl. No	Checklist/ Examination Details	Yes / No
1	Office Order of DM/ADM regarding formation of Sub-Divisional Committee in District	
2	DSR technical document signed by all the Sub-Divisional Members having following annexure: 1. Primary DSR which requires addition/modification. 2. Draft Modified/ Revised DSR Document. 3. Annexure-1 to VII. 4. Lease wise NOC from Irrigation and Forest Department. 5. Revenue report and resource evaluation/ reserve estimation. 6. Notification regarding the constitution of the SDC. 7. Minutes of the SDC about draft DSR. 8. Office order for uploading the draft DSR in the district website for a period of 30 days along with newspaper notification. 9. Minutes of the SDC recommending draft DSR.	
4	Office Order of DM/ADM/Competent Authority regarding uploading of Draft DSR in District Website for 30 days for public comments/objections.	
5	Period/Dates of DSR uploaded in District Website.	
6	Minutes of joint meeting of Sub-Divisional Members to mitigate/resolve the public comments/objections received, if any. After 30 days.	
7	Lease wise NOC from Irrigation and Forest Department.	
8	Deposit verification/estimation Report, Revenue report	

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ANNEXURE R-14

Item No. 07

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI****(By Hybrid Mode)**Original Application No. 403/2022
(I.A. No. 133/2022, I.A. No. 13/2023 &
I.A. No. 19/2023)

Daljeet Singh

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondent(s)

Date of hearing: 25.01.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Ajit Sharma, Advocate for Applicant

Respondent(s):

Mr. Mukesh Verma, Advocate for the Mining Department, State of
UP
Ms. Priyanka Swami, Advocate for SEIAA, UP**ORDER**

1. Grievance in this application is against submission of District Survey Report dated 03.12.2021 by the District Magistrate, Saharanpur to the Director, Geology and Mines, U.P. Main ground against the said report is that it has been submitted without replenishment study of the river in terms of Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMSGM, 2020).

2. Vide order dated 30.05.2022, notice was issued and interim injunction was granted against grant of any mining lease before completing replenishment study.

3. Reply has been filed by the Mining Department, U.P to the effect that replenishment study had been conducted prior to the Draft Survey Report for Saharanpur River Bed Mining 2022. The DSR is at draft stage and is yet to be finalized.

4. In view of above, no further order is necessary.

The application is disposed of. All IAs also stand disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

January 25, 2023
Original Application No. 403/2022
(I.A. No. 133/2022, I.A. No. 13/2023 &
I.A. No. 19/2023)
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Sl. No	District	Total Number of 5 Year E-Tender Floated Tender Period – Year 2020 till 2024
1.	Aligarh	2
2.	Ambedkar Nagar	2
3.	Ayodhya	5
4.	Baghpat	3
5.	Ballia	8
6.	Balrampur	1
7.	Banda	18
8.	Bareilly	1
9.	Basti	6
10.	Budohi	3
11.	Bijnor	6
12.	Bulandshaher	4
13.	Chandauli	2
14.	Chitrakoot	7
15.	Deoria	2
16.	Etawah	3
17.	Farrukhabad	2
18.	Fatehpur	8
19.	GBN	1
20.	Gazipur	4
21.	Gorakhpur	9
22.	Hamirpur	9
23.	Hardol	3
24.	Jalaun	15
25.	Jhansi	3
26.	Kannauj	2
27.	Kanpur Dehat	5
28.	Kanpur Nagar	5
29.	Kasganj	1
30.	Kaushambhi	11
31.	Kheri	1
32.	Kushinagar	1
33.	Lakhimpur Kheri	2
34.	Lalitpur	5
35.	Mirzapur	5
36.	Moradabad	2
37.	Pilibhit	2
38.	Prayagraj	18
39.	Rampur	2
40.	Saharanpur	3
41.	Sant Kabir Nagar	4
42.	Shravasti	2
43.	Siddharth Nagar	5
44.	Sonbhadra	11
Total		214

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\\TRUE COPY\\

PROOF OF SERVICE

Service of Reply on behalf of Respondent M/s Doon Mines and Minerals in OA No. 188 of 2023 titled 'Gaurav Kumar v State of UP'

Dalmia Law Office <dalmialawoffices@gmail.com>

Thu, Feb 22, 2024 at 10:20 PM

To: Ajit Sharma <sharma.ajit@gmail.com>, "dgmupexp@gmail.com" <dgmupexp@gmail.com>, "chairman@uppcb.in" <chairman@uppcb.in>, "msseiaaup@gmail.com" <msseiaaup@gmail.com>, dmsah@nic.in, secy-moef@nic.in

Sir

Kindly find the Reply on behalf of Respondent M/s Doon Mines and Minerals in the above captioned matter.

Chambers of Vanshdeep Dalmia
Advocate on Record
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 **GAURAV KUMAR REPLY.pdf**
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