

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

Original Application No. 08/2024

In the matter of:

Dheeraj Singh

...Applicant

Versus

State of Uttar Pradesh & Ors.

...Respondents

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NDOH:02.05.2024

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**REPLY ON BEHALF OF RESPONDENT NO. 6 M/S ND
PHARMA PVT. LTD.**

1. The present reply is being filed on behalf of Respondent no. 6 M/s ND Pharma Pvt Ltd, to the present Original Application No. 08 of 2024 (hereinafter referred to as “**the OA**” filed by the Applicant.
2. At the outset it is submitted that all the contents, averments and contentions raised by the Applicant in the OA are denied in seriatim except to the extent specifically admitted hereinafter. It is submitted that no question or issue relating to environment, much less any substantial question relating to environment, has been raised by the Applicant requiring consideration of this Hon’ble Tribunal.
3. The Respondent states that the contents of OA are wholly devoid of merit and deserve to be dismissed by this Hon’ble Tribunal. It is submitted that the Applicant has suppressed material facts and attempted to mislead this Hon’ble Tribunal on facts as well as in law. The Respondents submits that the Applicant has no cause of

action in its favour and the present OA filed by it are vexatious, frivolous and without merit.

4. That the National Tribunal Bench has jurisdiction under Section 14 of the National Green Tribunal Act, 2010 to deal with cases where a substantial question relating to environment is involved. However, the present application does not raise substantial questions related to the environment. Rather, the applicant has alleged **revenue loss** due to mining and overloading of the vehicles. Thereby, the Hon'ble Tribunal Bench has no jurisdiction to deal with the application as the primary issue of revenue loss does not fall within the ambit of a substantial question relating to the environment, as envisaged by the above-mentioned act.
5. That before giving the para-wise reply to the averments made by the applicant, the Respondent seeks to give a brief background about the present OA.

Brief background:

6. That the present O.A no. 08/2024 was registered, based on a letter sent by the applicant to the tribunal alleging revenue loss due to mining and overloading in Morang lease mines in Sonbhadra district.
7. That the tribunal registered the application and constituted a Joint Committee comprising of representatives of Integrated Regional Office MoEF & CC at Lucknow, CPCB, UPPCB and District Magistrate, Sonbhadra vide its order dated 13.02.2024, to undertake visits to the site, look into the grievances of the applicant; to verify the factual position and take appropriate

remedial action by following due course of law and to submit a report within 15 days.

8. Subsequently, the Joint Committee submitted a report dated 16.03.2024 in compliance of the order dated 13.02.2024 after the committee members undertook filed visits.

ALLEGATIONS AND REPLY

1. **Allegation no. 1:** The respondent no. 5 Chand Shekhar Chaurasia gives EMM-11 and GST Bills of other lessees, including ND Pharma Pvt Ltd, Respondent no. 6 herein (the lessee of Arazi no. 385 located at Village barhmori, 61, Kanhakunj, Kolar Road, Bhopal, MP), M/s Minerals Ventures, LLP Registered (1/58, Vishal Khand, Gomti Nagar, Lucknow, UP), Rameshwar, leasee of Arazi no. 21 kha (khand-1) and Arsad Ali bazaar, Varanasi are involved. The act of the above mentioned leaseholders, is contrary to the provisions of UP Minor Minerals Avoidance Regulations, 2021; Mine Minerals (Regulation of Development) Act 1957 and Prevention of Damage to Public Property Act, 1984.

Reply: The allegation is without any rationale at the outset as eMM-11 forms are generated outside the mining site of the leaseholders, at the established check points. Thereby, it is impossible for a vehicle to travel for several kms without passing the check points. Pertinently, the distance between the mining area of Respondent no. 5 and Respondent no. 6 is more than

25 kms, which makes it nearly impossible for any vehicle to go unnoticed or without generating an EMM-11. Therefore, the allegation is created just to harass the Respondent no. 6 as no lessee would pay a royalty for mining and allow any other mining lessee to generate eMM-11 on its behalf and generate profits.

In addition, the applicant has not provided any evidence or proof to support the impossible allegation. Further, the Joint Committee report states that the allegation is not proved.

2. **Allegation no. 2:** That on 09.04.2023, the applicant reached leasehold of Chander Shekhar Chaurasia (Arazi no. 824 k) where a vehicle no. UP 54 T7 442 was found overloaded with morrum. While conversing with driver of the vehicle, the applicant asked him to show EMM-11 and GST bill. On being asked, the driver showed a GST bill tax invoice no: BKN/M/23-24/1418 on which M/s Minerals Ventures, LLP Registered (1/58, Vishal Khand, Gomti Nagar, Lucknow, UP) is registered. Afterwards, the said driver showed EMM-11 bearing number: 31632307043811144 which is registered to M/s ND Pharma Pvt Ltd, 61, KanhaKunj, Kolar Road, Bhopal, M.P.

Reply: The aforementioned allegation is without any logical rationale as no mining firm would pay royalty for mining rights and allow any other mining holder to

use its EMM-11 number and avail profits. The allegation is contrary in itself as the allegation is against earnings by the mining leaseholders however, it is alleged that one mining leaseholder is paying royalty and is allowing other lease holder to pocket profits. In addition, there is no evidence provided by the applicant, to supplement the above-stated allegation.

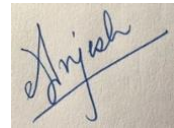
Compliances:

- 9. CTO:** That the Respondent no. 6 has duly complied with all prescribed compliances. The Respondent **obtained CTO** from the State Pollution Control Board **vide reference no. 172622/UPPCB/Sonebhadra(UPPCBRO)/CTO/both/SONB HADRA/ 2022 dated 21/12/2022 which is valid from 21/12/2022 to 31/12/2026** for 2,43,000 cum/year cubic metre/year mining of Sand/Morrum.
- 10.Environmental Clearance:** The Respondent no. 6 had applied for an Environmental Clearance (EC) in respect of project submitted to the SEIAA vide proposal number SIA/UP/MIN/66707/2021 dated 20 May 2022. The respondent has duly obtained an Environmental Clearance (EC) from the SEIAA U.P. vide letter no. **EC22B001UP110505** dated 29.08.2022.
- 11.CSR/CER activities:** As per the Environmental Clearance (EC) obtained 'Corporate Environmental Responsibility (CER) plan with minimum Rs.2,00,000 per annum shall be prepared by the project proponent and the details of the various heads of expenditure to be submitted as per the guidelines provided in the

recent CER notification. Consequently, the Respondent has undertaken various initiatives to fulfil his responsibilities under CSR & CER and has earmarked Rs. 2,00,000/- to undertake activities for the welfare of the surrounding villages and for upliftment and betterment of the vulnerable people.

12. **Green Belt:** The Respondent no. 6 is continuously working to achieve the envisaged limit of green belt under the Environmental Clearance norms. The respondent has planted a significant number of saplings including the local varieties of flora including trees like Neem and others. In addition, the respondent has consulted the local DFO regarding the varieties of plants that can be planted to achieve the prescribed green belt area according to the climate of the said area.

FILED BY:



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AFFIDAVIT

I, Satyendra Singh Pawar , residing at Ansal Apartment, Bhopal, Madhya Pradesh, do hereby solemnly affirm and state as under:

1. That I am the authorized representative of M/s ND Pharma Pvt Ltd, Respondent no. 6 in the above-captioned matter and as such am conversant with the facts and circumstances of the present case and competent to depose to and affirm the present affidavit.
2. That I have read and understood the contents of the accompanying Reply, which has been drafted under my instructions. I state and affirm that the contents of the accompanying reply in so far as they relate to facts are true and correct to my knowledge which is based on the information derived from the record of the case maintained by the Respondent no. 6 and the legal submissions herein are based on legal advice received by me and is believed to be correct.
3. I say that the annexures are true copies/photocopies of their respective originals and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION

I, the above-named Deponent, do hereby verify that the facts stated in the above affidavit are true to the best of my knowledge on the basis of information derived from the record of the advice received by me and believed to be correct.

Verified at Bhopal this day 29th day of April 2024.

DEPONENT

IDENTIFY BY

SIGNATURE

NAME

ADDRESS

SOLEMNLY AFFIRMED BEFORE ME
BY THE WITHIN NAMED

29 APR 2024

HEMENDRA TIWARI
NOTARY ADVOCATE, BHOPAL M. P. (INDIA)

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KNOW ALL the whom these presents shall come that Satyendra Singh Pawar, the authorized representative of M/s ND Pharma Pvt Ltd (Respondent No. 6), do hereby appoint **Anjesh Dahiya(D/12960/2022)** hereinafter called the advocate to be our advocate in the above-noted case and authorize them:

To act appear and plead in the above-noted case in this court, or in any other court in which the same may be tried or heard and also in the appellate courts. To sign, file and present pleadings, appeals, cross-objections, or petitions, of execution, review, revision, restoration, withdrawal compromise, or other petitions reply objections or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages. To file and take back documents.

To withdraw, or compromise the said case, or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said cause. To take our execution proceedings. To deposit, draw and receive money and grant receipts thereof, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said cause. To appoint and instruct any other legal practitioner authorizing him to exercise the powers and authorities hereby conferred upon the advocate whenever they may think fit to do so.

And we, the undersigned do hereby agree to ratify and confirm all acts, done by the advocate or his substitute in the matter as our own acts, as if done by me/us to all intents and purposes. And we, the undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said cause in consequence of their absence from the court when the said cause is called up for hearing, for any negligence of the said advocate or his substitute. And we, the undersigned do hereby agree that we agree to pay the costs, charges and expenses including your fees which may be raised by you from time to time and in the event of the whole or any part of the fee agreed by me/us to be paid to the advocate remaining unpaid, he shall be entitled to withdraw from the prosecution of the said cause until the same is paid up, if any costs are allowed for an adjournment, the advocate would be entitled to the same,

In Witness whereof, we do here up to set our hand to these presents the contents which have been understood by me/us this day of

Singh

Respondent No. 6
I Identify the Client(s) signature.

Anjesh

Anjesh Dahiya
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