

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

Original Application No. 08/2024

In the matter of:

Dheeraj Singh

...Applicant

Versus

State of State of Uttar Pradesh & Ors.

...Respondents

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NDOH-02.05.2024

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MAYANK PANDEY

Advocates for Respondent No. 5

A-329 2nd Floor Defence Colony

New Delhi—110024

Mobile-9971830872

E-mail:advocatemayank@outlook.com

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**REPLY ON BEHALF OF RESPONDENT NO. 5 CHANDER
SHEKHAR CHAURASIA**

1. The present reply is being filed on behalf of Respondent no. 5 Chander Shekhar Chaurasia, 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 allegations 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

- i. **Allegation No. 1:** It is alleged by the applicant that through e-tendering system, the mining lease of Mauja-Agorikhas river bed (Arazi No. -824 ka) in Morang, has been allotted to Chand Shekhar Chaurasia, resident of 9A, Paramount Pila, Ansal Apartment, Mopal, Madhya Pradesh, who has been overloading on a large scale along with illegally mining.

Reply: It is stated by Respondent no 5 Chand Shekhar Chaurasia that the above-mentioned mine in the application (Azari No. 824 k) wherein illegal mining and overloading is said to be taking place, doesn't belong to him.

Pertinently, the mine allotted to the Respondent no 5 is Azari No. 824 kha (Khand -01), village- Aghori Khas, Tehsil- Obra, District- Sobhadra on the right bank of River Son. The said fact is confirmed by the report (Pg 4/11 of the report) filed by the Joint Committee wherein it stated that '*M/s Shri Chander Shekhar Chaurasia is operating Sand/Morrum Mining sites at Arazi no. 824 Kha (Khand-*

01), village-Aghori Khas, Tehsil-Obra, District- Sobhadra on the right bank of River Son.'

In addition, the joint committee also stated that '*As per record submitted by Revenue Department the Arazi number-824 Ka is not pertaining to lease holder M/s Chander Shekhar Chaurasia.*' Rather it pertains to a local land owner namely Shri Badku/Kishore, according to the Revenue Department document.

- ii. **Allegation no. 2:** The respondent no. 5 Chand Shekhar Chaurasia gives EMM-11 and GST Bills of other lessees, including ND Pharma Pvt Ltd (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 approximately 28 kms for instance (distance between mining site of respondent no. 5 and 6) without passing through the check

points or without any eMM-11 no. being generated or without being caught at the established multiple check points. Therefore, the allegation is created just to harass the Respondent no. 5. In addition, the applicant has not provided any evidence or proof to support the allegation. Further, the Joint Committee report states that the allegation is not proved.

- iii. **Allegation no. 3:** That on 09.04.2023, the applicant reached leasehold of Chand 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 applicant has reiterated a different Azari Number i.e. 824 k where the overloaded vehicle is alleged to have been spotted.

The respondent no. 5 is a lease holder of **Azari no. 824 kha**, thereby he denies to have any knowledge regarding

the aforestated vehicles and the allegation is malicious in intent as the lease holder of Azari no. 824 k, is a different person (Shri Badhu/Kishore) than the respondent (@pg 5/11 of the joint committee report). In addition, the lease did not belong to the Respondent no. 5 and any vehicle spotted on alleged Azari no. 824 k, does not belong to him.

- iv. **Allegation no. 4:** It is alleged that Chander Shekhar Chaurasia has given GST bill and EMM-11 belonging to other firms, which is against the rules. On checking the online records of lease holder, Chand Shekhar Chaurasia, it was alleged that his firm initiated the mining work from 10.05.2022 before obtaining clearances. as stated above allegation against patently false and misleading and infact sufficient evidence on record as noted by joint committee that emm 11 genearted for own site, allegation abot initiation is false and allegation is bellied by its own statement.

Reply: The allegation is a hearsay and based solely on the statement of the applicant. However, no evidence or any supporting documents have been submitted by the applicant in this regard. In addition, the applicant has abstained himself from participating in the present proceedings. Further, the applicant was not even present on the day of the joint inspection undertook in accordance with the guidelines of the Hon'ble tribunal bench despite being notified vide a letter and WhatsApp intimation. The Joint Committee has noted the absence of the applicant in its report @ pg 3/11. Thereby, the allegation cannot be

considered without any proof or evidence supplementing it.

In addition, according to the joint committee report (@pg 8/11) the lease holder i.e., Chander Shekhar Chaurasia has a valid Environmental Clearance issued by SEIAA vide dated 28.04.2022 and CTO issued by UP Pollution Control Board vide dated 07.05.2022. Thereby, the allegation that the respondent no. 5 initiated mining before obtaining clearances, is totally false and misleading and rather it is bellied against the statement of the applicant as environment clearance was obtained on 28.04.2022 and the mining started thereafter on 10.05.2022.

- v. **Allegation no. 5:** It is further alleged that the applicant verified the EMM-11 form on the spot using GPS Map camera at Jogail, UP, India, Bharhari, Chopan Road, Jogail, UP-231205 at 11:34 am, on 09.04.2023 and the GST Bill at 11:39 am. This shows that, the Respondent's firm violates rules as they are using EMM-11 and GST Bill of other firms.

Reply: The veracity of the photograph is questionable. The allegation is based on the photograph clicked the Applicant itself and its credibility is doubted from the very fact that the Applicant has not come forward to prove it. The respondent has not received a copy of the photographs filed by the applicant as the application has been registered by the Hon'ble bench on the basis of a letter sent by the applicant. The Report obtained by the Hon'ble NGT

clearly that there is no misuse of eMM-11 by the Respondent as alleged by the Applicant.

- vi. **Allegation no. 6:** That the lease holder Chand Shekhar Chaurasia, is mining against the standards ascribed on the allotted lease site and in addition, illegal excavation of moram is being done from the depth of the river bed from the allotted area. Further, he is also doing illegal mining in village Bijora and Kargara, which is beyond the prescribed and permissible limits. The aforestated fact can be confirmed by the photo taken by the applicant from GPS Map Camera at 09:58 am on 09.04.2023. The applicant took several photographs of Poklan machine doing illegal mining at the same place.

Reply: The allegation has no rational basis as the Joint Committee Report (@Pg 6/11) clearly states that the mining activity carried out by the Respondent no.5, is within the lease area. In addition, the local residents and visitors informed the inspecting officials that the mining outside the lease area, is being carried out by the local land owners who carry out the excavations. Further, no heavy machine was found at the site by the inspecting officials on their visitation as stated by the joint committee in its report).

Pertinently, as stated above the veracity of the photograph is questionable as the respondent has not received a copy of the photographs filed by the applicant as the application

has been registered by the Hon'ble bench on the basis of a letter sent by the applicant.

- vii. Allegation no. 7:** It is further alleged that trucks of different capacities are being overloaded more than the approved permit and the actual weight of the overloaded vehicles is not being shown in the weighing scale installed at the lease site. The details of the overloading on trucks with different load capacity are being shown by the applicant, below:

Srl No.	Truck	Accepted	Overloading load
1	6 wheel	7 cubic meters	More than 15 cubic meters
2	10 wheel	11 cubic meters	25-30 cubic metres
3	12 flywheel	14 cubic meters	30-35 cubic meters
4	14 flywheel	18 cubic meters	35-40 cubic meters

Reply: The allegation is denied by the respondent as neither are the trucks owned by the Respondent nor is he in control of the trucks as none of the said trucks belong to him. Pertinently, it is the transporters' responsibility to operate and manage the trucks. Thereby, the respondent denies the allegation for lack of authority over the trucks.

- viii. **Allegation no. 8:** It is alleged that after loading of the vehicles at Morang, the number plates of the respective trucks are removed to avoid paying challans as the check gates at Sinduria, Lodhi and Sukrit (Sonbhadra district) are equipped with CCTV cameras.

Reply: The Respondent denies the allegation as as neither are the trucks owned by the Respondent nor is he in control of the trucks as none of the said trucks belong to him. Pertinently, it is the transporters' responsibility to operate and manage the trucks. Thereby, the respondent denies the allegation for lack of authority over the trucks.

- ix. **Allegation no. 9:** It is alleged by the applicant that the Mining Department processes e-challan/seizures of about 20-30 overloaded vehicles every day and the remaining overloaded vehicles are left without any consequences.

Reply: The allegation is denied for a lack of authority to comment of the functioning of the Mining Department and their issuance of the challans to overloaded vehicles, selectively.

Compliances:

9. **CTO:** That the Respondent no. 5 has duly complied with all prescribed compliances. The lease holder **Chand Shekhar Chaurasia obtained CTO** from the State Pollution Control Board **vide reference no. 155855/UPPCB/Sonbhadra (UPPCBRO)/CTO/both/Sonbhadra/2022 dated 07.05.2022 which was valid from 07.05.2022 to 31.12.2023** initially. The

CTO was renewed vide reference no. **196159/UPPCB/Sonbhadra(UPPCBRO)/CTO/both/Sonbhadra/2023** which is valid from **01.01.2024** till **31.12.2026** for 2,59,104 cubic metre/year mining of Sand/Morrum.

10.Environmental Clearance: The Respondent no. 5 **has duly obtained an Environmental Clearance (EC)** from the SEIAA U.P. vide letter no. EC22B001UP123382 dated 28.04.2022. The veracity of the clearance is affirmed by the Joint committee report.

11.CSR/CER activities: As per the Environmental Clearance (EC) obtained ‘Corporate Environmental Responsibility (CER) plan with minimum Rs.2,15,878 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 No. 22-65/2017- IA.III dated 01/05/2018’. However, the Respondent has earmarked Rs. 2,96,457/- for activities related to CER.

Consequently, the Respondent has undertaken various initiatives to fulfil his responsibilities under CSR & CER. Some of the activities undertaken are:

- i.** Drinking water supply for villagers of Agori Khas;
- ii.** Repair and painting of school building and construction of toilets for girls;
- iii.** In addition, providing fertilizers for farmers of Agori Khas Village;
- iv.** Distribution of solar lanterns in villages of the surrounding areas, wherever they are needed.

- v. Gave away blankets to needy people, during the winter season.

12.**Green Belt:** The Respondent is a law abiding citizen and is equally concerned about the well- being of the surrounding environment. The Respondent has planted more than 7 thousand saplings around haul road and river bank. Pertinently, the species selected for greenbelt development are chosen as per CPCB guidelines and after necessary consultation with local forest division. In addition, native plants like Neem, Ashok, Bel and other local species are being planted. In addition, an amount has been earmarked for green belt development and similarly, an amount has been deposited for covering the recurring cost.

New Delhi
Date: 29.04.2024

FILED BY:



MAYANK PANDEY
Advocates for Respondent No. 5
A-329 2nd Floor Defence Colony
New Delhi—110024
Mobile-9971830872
E-mail:advocatemayank@outlook.com

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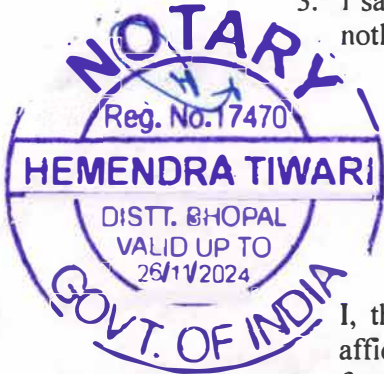
State of State of Uttar Pradesh & Ors.

...Respondents

AFFIDAVIT

I, Chander Shekhar Chaurasia, S/o residing at 9A, Paramount Villa, Ansal Apartment, Bhopal, Madhya Pradesh, do hereby solemnly affirm and state as under:

1. That I am the Respondent no. 5 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. 5 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.



Chander Shekhar

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.

Chander Shekhar

DEPONENT

IDENTIFY BY

SIGNATURE *[Signature]*
NAME ... *Raja Kumar* ...
ADDRESS ... *H: NO. 10* ...
Laxmi Nagar Bhopal

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 Chander Shekhar Chaurasia (Respondent No. 5), do hereby appoint **Mayank Pandey (UP/01224/2010)** 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

Chander Shekhar Chaurasia

Respondent No. 5
I Identify the Client(s) signature.

Mayank Pandey

Mayank Pandey
Advocate for the Respondent No. 5
A-329, 2nd Floor, Defence
Colony, New Delhi-110024
Email: advocatemayank@outlook.com
Tel: 9971830872

