

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

APPEAL NO. 150 OF 2025 (WZ)

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PAGE NO. — 11 —
SR. NO. — 47 —
DATE. 09/02/2026,


NILESH R. PANDYA
NOTARY
GOVT. OF INDIA

IN THE MATTER OF:

PRAKASH H VAGADIYA

... APPELLANT

9 JAN 2026

VERSUS

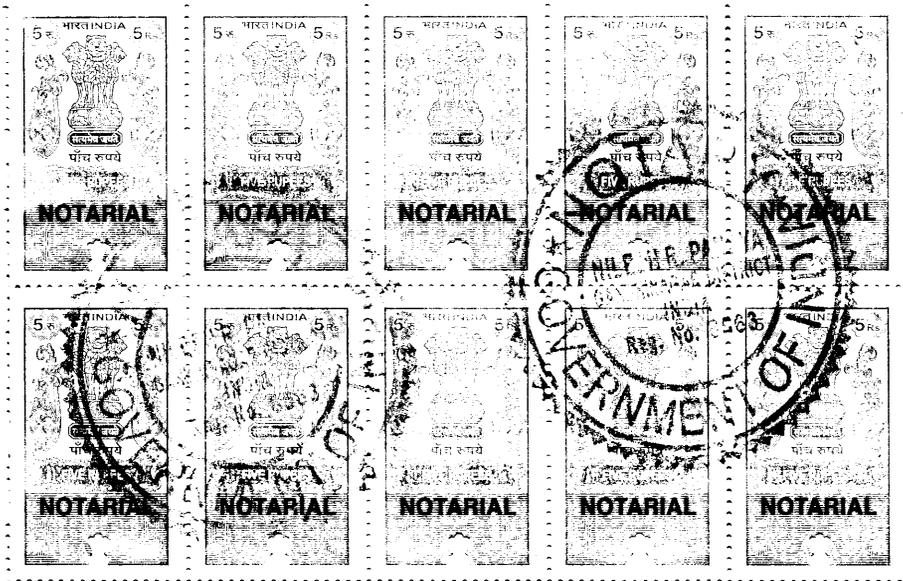
STATE ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY, GUJARAT & ANR.

...RESPONDENT

**REPORT ON BEHALF OF STATE ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY – RESPONDENT NO. 1**

I, Dipali Tank, adult, having my office at Paryavaran Bhavan, Sector 10A, Gandhinagar 382 010 in the State of Gujarat, do hereby solemnly affirm and state on oath as under:

1. I am presently serving as Member Secretary, Gujarat State Environment Impact Assessment Authority – the respondent no. 1 in the present appeal. I am authorized to swear the present report being filed by way of an affidavit on behalf of the Gujarat State Environment Impact Assessment Authority and am otherwise competent to make the present affidavit.
2. State Environment Impact Assessment Authority (SEIAA / respondent authority) reappraised the Environment Clearance granted by District Environment Impact Assessment Authority (DEIAA), Kachchh to the appellant in terms of the directions issued by this Hon'ble Tribunal in its order dated 7.12.2022 passed in Original Application No. 142 of 2022 [Jayant Kumar vs. Ministry of Environment, Forest and Climate Change]



and in light of the check points contained in the Office Memorandum dated 28.04.2023 issued by the Ministry of Environment, Forest and Climate Change, Government of India. SEIAA found that the environment clearance granted by DEIAA ignores the restriction put on conducting mining activity in and around protected forest area, be it a sanctuary or a national park, and the eco sensitive zone surrounding such protected or reserved area, the District Survey Report and the many orders passed by the Constitutional Courts as well as this Tribunal on subject of restriction on mining activity in and immediately outside forest area, strict adherence to environmental norms and compliance of environmental laws. Accordingly, SEIAA did not approve and instead rejected the environmental clearance granted by DEIAA.



3. Aggrieved by the decision of SEIAA in not approving the environment clearance, a statutory appeal has been preferred by the appellant before this Hon'ble Tribunal. In the appeal, this Hon'ble Tribunal after hearing the parties passed an order on 28.07.2025 containing the following direction:

“7. There are several other grounds mentioned in the affidavit-reply of respondent No.1 – SEIAA, but the learned counsel for SEIAA made a statement in open court that respondent No.1 – SEIAA is ready to give an opportunity of hearing to the appellants in order to provide an opportunity to demonstrate that the impugned order passed by the SEIAA suffers from any infirmity, if at all and the same may be considered at their end.

8. In view of the aforesaid statement made by learned counsel Mr. Maulik Nanavati, appearing for respondent No.1 – SEIAA, we deem it appropriate to keep these appeals pending and direct the appellants to approach respondent No.1 – SEIAA within fifteen days from the date of uploading of this order and place their grievances before the SEIAA, which shall be considered extensively by the SEIAA after giving an appropriate opportunity of hearing and thereafter, a communication shall be made to us as to what was the outcome of the hearing given to the appellants and thereafter, we will pass the appropriate orders giving an opportunity of hearing to the parties.”



In terms of the aforesaid directive of this Hon'ble Tribunal, the appellant in the present appeal as well as the appellant of other appeals, which involve similar challenge and which are being heard together, appeared before SEIAA and made oral submissions. Some of the appellants produced documents of dates subsequent to the decision taken by SEIAA.

4. SEIAA has carefully examined the oral submissions made and written documents produced before it on behalf of the appellant(s) of the respective appeals, Every point argued by the appellant(s) in support of their request for reconsideration of the decision has been considered by SEIAA. In most cases, the submissions and the produced material has not been found worthy to warrant reconsideration of the decision of not approving the environmental clearance granted by DEIAA.



The submissions made by the appellant(s) and the reasoning of SEIAA for not accepting the said submission are detailed hereinbelow for examination and scrutiny by this Hon'ble Tribunal:

- 5A. Order dated 21.07.2020 made by National Green Tribunal, Principal Bench, Delhi in Original Application No. 304 of 2019 approving the distance criteria for mining from road or bridge or monument suggested by Central Pollution Control Board has been set aside by the Hon'ble Supreme Court of India, and the application is ordered to be heard afresh by the Tribunal after giving an opportunity of hearing to all parties. Therefore, no reliance can be placed upon the order dated 21.07.2020 of the Tribunal passed in Original Application No. 304 of 2019. Further, the suggested distance criteria by the Central Pollution Control Board cannot be said to have been approved and hence does not partake the status of "guidelines". Consequently, the same is not binding law.
- 5A.1 The aforesaid submission of the appellant(s) is fallacious and suffers from an improper and rather erroneous understanding of the facts and the law.

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5A.2 Central Pollution Control Board has suggested minimal distance standard for permitting stone quarrying by the State Pollution Control Boards, and the same is reproduced hereinbelow:

“6.0 Conclusion: In view of available information, following minimum distance criteria may be considered for permitting stone quarrying by SPCBs:

Mining Type		Minimum Distance	Locations
A	When Blasting is not involved	100 m	Residential/Public buildings, Inhabited sites, Protected monuments, Heritage sites, National / State Highway, District roads, Public roads, Railway line/area, Ropeway or Ropeway trestle or station, Bridges, Dams, Reservoirs, River, Canals, Lakes or Tanks, or any other locations to be considered by States.
B	When Blasting is involved 200 m	200 m	

Note: The regulations for danger zone (500 m) prescribed by Directorate General of Mines Safety also have to be complied compulsorily and necessary measures should be taken to minimise the impact on environment.

However, if any states is already having stringent criteria than the above for minor mineral mining (i.e. more prescribed distances than the above), the same shall be applicable.”

5A.3 A copy of this suggested criteria was communicated to the State Pollution Control Board by letter dated 21.05.2020.

5A.4 The suggestion was also placed before the Tribunal in Original Application No. 304 of 2019. The Tribunal accepted the minimal standards suggested by the Central Pollution Control Board. This order of the Tribunal became a subject matter of challenge before the High Court of Kerala and even eventually before the Supreme Court of India.

The Hon'ble Supreme Court ordered the Tribunal to pass a fresh order after hearing the parties.

5A.5 The appellant(s) are right in contending that the judicial approval given to the minimal distance criteria suggested by the Central Pollution Control Board possibly stands effaced since the matter has been remanded back to the Tribunal for passing fresh order after granting an opportunity of hearing to all the parties. Therefore, it is arguable that as on date there is no judicial sanctification of the distance criteria suggested by the Central Pollution Control Board.

5A.6 SEIAA, however, maintains that lack of judicial endorsement of the minimal standard suggested by the Central Pollution Control Board does not render the proposed or recommended parameters to be legally invalid and inoperative in law. Absence of judicial sanction only means that the suggested standards do not stand elevated to the status of binding criterion and become compulsorily applicable or obligatory, as being the declared law. Judicial imprimatur is not a precondition or a sine qua non for existence, recognition and acceptance of the standards suggested by an expert body. Sans judicial nod or support, the suggested standards do not become non-existent or invalid or unworthy, either in fact or in law. The suggested standards continue to remain recommendatory, and in that sense optional. Any State Pollution Control Board can elect to adopt the proposed norm as a benchmark and apply it at its discretion. Alternatively, they continue to retain the character of being a lodestar and provide inspiration or guidance to the State Pollution Control Board to charter and prescribe own standards by taking the suggested standards as a base. There is and cannot be any legal bar to voluntary adoption or placement of reliance by the State Pollution Control Board of any metric or measure suggested or recommended by Central Pollution Control Board. As held in a series of decisions, both of the Constitutional Courts as also this Tribunal, State Pollution Control Board cannot relax the standards prescribed by the Central Pollution Control Board but can always make them more stringent in their applicability to curb possible pollution in

the State. State of Gujarat has chosen not to dilute the suggested standards, but has opted to adopt the recommended criterion. If the standard suggested by the Central Pollution Control Board is accepted as it is tomorrow by the Tribunal or any other Court of Law then also the fixation by the State Pollution Control Board of similar benchmark, without dilution, will not render the criteria adopted and fixed by the State Pollution Control Board to be bad in law. If the suggested criteria is not judicially accepted or is accepted with dilution then also it is always open for a State Pollution Control Board or the local regulatory authority to fix stringent standards. Thus, on every count the decision of the regulatory authorities in the State of Gujarat to prescribe distance criteria for mining with blasting or without blasting is within jurisdictional competence and otherwise in consonance with law.

5A.7 The District Survey Reports prepared by the District Geologist for every district and approved by SEIAA also contains the same distance norm. There is no challenge to the approved District Survey Report on account of lack of competence or arbitrary fixation of distance criteria by the appellant(s) before this Hon'ble Tribunal.

5A.8 For each of the above reasons, the contention of the appellant(s) about the order dated 21.07.2020 passed by the Principal Bench of this Tribunal in Original Application No. 304 of 2019 being erased by order of the Hon'ble Supreme Court and therefore not having any existence or efficacy in the eyes of law stand reduced to insignificance, both on facts and in law. The order dated 21.07.2020 passed by the Principal Bench of this Tribunal, or its non-existence today, will have no bearing, direct or indirect, on the applicability of the distance criteria which has been voluntarily fixed for the State of Gujarat and which also finds mention in the District Survey Report for all districts across the State of Gujarat. It is reiterated that even without there being judicial blessing to the distance criteria recommended by the Central Pollution Control Board, it always remained open for the State regulatory authority to elect / adopt any norm suggested by the Central Pollution Control Board, including by making such norm stricter, and apply it uniformly to all

cases. This has been done in the State of Gujarat. No fault can be found with the fixation of distance criteria, which determination is otherwise within the competence of the regulatory authorities of the State, on any legally sustainable count, and consequently its applicability to the facts of the present case cannot be complained or faulted in law.

5B. District Survey Report does not officially demarcate or delineate 'No Mining Zone'. Lease area of the appellant(s) do not fall within any such defined or outlined 'no go zone' in the report. Without therefore being any formal inclusion and designation of lease of the appellant(s) in the prohibited or restricted area in the District Survey Report, the rejection of environmental clearance is bad.

5B.1 The submission of the appellant(s) is mischievous and misleading and in any case is without any factual or legal merit.

5B.2 The District Survey Report, prepared by the District Geologist, for every district has marked certain area in the district map as being prohibited or restricted areas, where no mining activity is permitted. The Report also specifies the distance criteria from landmarks - be it installations, bridges, roads, water bodies, rivers, monuments, etc. as also the forests / eco sensitive zones within which area mining activity is prohibited or not permitted. There is no challenge to the legality and correctness of the District Survey Report in this appeal or otherwise.

5B.3 Every appellant(s) is fully aware of the geographical location of his respective lease. The geographical coordinates - latitude and longitude, of the lease area are available with the appellant(s). They also find mention in the approved mining plan possessed by and available with each appellant(s), having been obtained at the relevant point of time for grant of environmental clearance from DEIAA. These geographical coordinates, without any alteration, have been specified by the appellant(s) at the time of making application for reappraisal of their environmental clearance granted by DEIAA on PARIVESH portal. The geographical coordinates and KML (Keyhole Markup Language) file

furnished by the appellant(s) superimposes their lease area on the district map available on PARIVESH portal and delivers the precise geographical location of the lease area against the backdrop of clear or restricted area for mining activity. In each case, the geographical coordinates of the lease area provided by the appellant(s) has shown overlapping or impermissible proximity of the lease area to the prohibited or restricted zone marked in the District Survey Report.

5B.4 It has not been the case of any appellant(s), set up either during the hearing before SEIAA or in the pleadings before this Hon'ble Tribunal, that there has been a mistake in identification of the actual geographical location of their lease or that there is an error in superimposition of their lease area over the map on the PARIVESH portal. No material, much less credible material, has been placed by any appellant(s) demonstrating that the position of their lease superimposed on the district map available on the PARIVESH portal is incorrect and/or that their lease is situated at a different geographical location. Under the circumstances, the non-demarcation of individual lease area in the District Survey Report is of no relevance and does not in any manner help or assist the appellant(s) in contending that their lease area does not fall within or is not within impermissible proximity to the identified and delineated prohibited or restricted area in the District Survey Report. Similarly, the request of the appellant(s) for physical site inspection is also meaningless as it is the location of the lease that is determinative for the purpose of grant or non-grant of environmental clearance on account of violation of distance criteria prescribed in the District Survey Report and not the actual situation obtaining on and around the leased area.

5C. Gujarat Minor Mineral Concession Rules, 2017 will prevail for determining the distance criteria and Rule 18(6) thereof prescribes different distance limitation from public road.

5C.1 This contention of the appellant(s) is also fallacious and suffers from a complete non-understanding of the position of law.

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5C.2 Gujarat Minor Mineral Concession Rules, 2017 have been framed by the State Government in exercise of power under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957. The Mines and Minerals (Development and Regulation) Act, 1957 provides for "development and regulation of mines and minerals". Rule 15 of the Act confers power on the State Governments to make rules in respect of minor minerals. The said section reads as under:

"15. Power of State Governments to make rules in respect of minor minerals.

(1) The State Government may, by notification in the Official Gazette, make rules for, regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith.

(1A) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

- (a) the person by whom and the manner in which, applications for quarry leases, mining leases or other mineral concessions may be made and the fees to be paid therefor;
- (b) the time within which, and the form in which, acknowledgement of the receipt of any such applications may be sent;
- (c) the matters which may be considered where applications in respect of the same land are received within the same day;
- (d) the terms on which, and the conditions subject to which and the authority by which quarry leases, mining leases or other mineral concessions may be granted or renewed;
- (e) the procedure for obtaining quarry leases, mining leases or other mineral concessions;
- (f) the facilities to be afforded by holders of quarry leases, mining leases or other mineral concessions to persons deputed by the Government for the purpose of undertaking research or training in matters relating to mining operations;
- (g) the fixing and collection of rent, royalty, fees, dead rent, fines or other charges and the time within which and the manner in which these shall be payable;

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92

- (h) the manner in which rights of third parties may be protected (whether by way of payment of compensation or otherwise) in cases where any such party is prejudicially affected by reason of any prospecting or mining operations;
- (i) the manner in which rehabilitation of flora and other vegetation such as trees, shrubs and the like destroyed by reason of any quarrying or mining operations shall be made in the same area or in any other area selected by the State Government (whether by way of reimbursement of the cost of rehabilitation or otherwise) by the person holding the quarrying or mining lease;
- (j) the manner in which and the conditions subject to which, a quarry lease, mining lease or other mineral concession may be transferred;
- (k) the construction, maintenance and use of roads power transmission lines, tramways, railways, serial rope ways, pipelines and the making of passage for water for mining purposes on any land comprised in a quarry or mining lease or other mineral concession;
- (l) the form of registers to be maintained under this Act;
- (m) the reports and statements to be submitted by holders of quarry or mining leases or other mineral concessions and the authority to which such reports and statements shall be submitted;
- (n) the period within which and the manner in which and the authority to which applications for revision of any order passed by any authority under these rules may be made, the fees to be paid therefore, and the powers of the revisional authority; and
- (o) any other matter which is to be, or may be, prescribed.

- (2) Until rules are made under sub-section (1), any rules made by a state Government regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals which are in force immediately before the commencement of these Act shall continue in force.

- (3) The holder of a mining lease or any other mineral concession granted under any rule made under sub-section (1) shall pay royalty or dead rent, whichever is more] in respect of minor minerals removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee at the rate prescribed for the time being in the rules framed by the State Government in respect of minor minerals. Provided that the State Government shall not enhance the rate of royalty or dead rent in respect of any minor mineral for more than once during any period of three years.
- (4) Without prejudice to sub-sections (1), (2) and sub-section (3), the State Government may, by notification, make rules for regulating the provisions of this Act for the following, namely:
- (a) the manner in which the District Mineral Foundation shall work for the interest and benefit of persons and areas affected by mining under sub-section (2) of section 9B;
 - (b) the composition and functions of the District Mineral Foundation under sub-section (3) of section 9B; and
 - (c) the amount of payment to be made to the District Mineral Foundation by concession holders of minor minerals under section 15A."

A plain reading of the above quoted section makes it abundantly clear that the power conferred upon the State Government to make rules is limited to minor minerals and restricted to "regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith". The said rule making power confines the legislative competence of the State Government to framing rules only for the purpose of grant of mining leases. The Act and the Rules framed thereunder do not confer any power to the Central or State Government to determine or regulate mining activity in the context of environmental protection and compliance with environmental laws. This distinct aspect is governed by environmental laws, particularly the Environment (Protection) Act,

1986 and the notifications issued by the Central Government under the said Act.

5C.3 Separately, Rule 18 of the Gujarat Minor Gujarat Minor Mineral Concession Rules, 2017 does not begin with a non obstante clause. There is no statutory provision contained in the Gujarat Minor Gujarat Minor Mineral Concession Rules, 2017 giving it primacy or supremacy over other enactments or statutory provisions. In fact, even the Mines and Minerals (Development and Regulation) Act, 1957 does not contain any provision giving overriding effect to the provisions of the Act and thereby the actions taken under the Act. On the contrary, Rule 59 provides that "mining operations will be undertaken only pursuant to a valid environmental clearance in accordance with the provisions of the Environment (Protection) Act, 1986 and the rules and notifications issued thereunder, including the Environment Impact Assessment Notification, 2006", thereby indicating that the conducting of mining activity shall actually be regulated and governed by the provisions of the Environment (Protection) Act and the notifications issued under the said Act.

5C.4 The contention of the appellant(s) that the distance criteria must be as per the provisions of the Gujarat Minor Gujarat Minor Mineral Concession Rules, 2017 is thoroughly misconceived and not tenable in the eyes of the law.

5D. Forest Department have given a certificate in some cases stating that the mining lease area is beyond the restrictive distance limits from the protected forest or the buffer zone of the eco sensitive area.

5D.1 Reliance has been placed by the appellants on some documents authored by the Forest Department which say that the area of land leased to the appellants for conducting mining activity is beyond the minimum prohibitive or restrictive distance specified by the State Government or the Central Government or even the Hon'ble Supreme Court of India.

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Firstly, each of these certificates or communications bear a date which is subsequent to the order of rejection of the environmental clearance by the SEIAA. These certificates or letters from the Forest Department were not obtained and/or produced at the time of making the application for reappraisal.

Be that as it may, SEIAA has examined these documents. They state that the mining lease area is beyond a specified distance from the forest boundary. None of the communications indicate the basis for such certification. This assumes importance as ordinarily the Forest Department would only know and be aware of its own boundary. The officials of the Forest Department do not have any reason to travel beyond forest area, demarcate the location of a private land outside the forest area and then measure the distance of such private land from the boundary of the forest area. Possibly, such exercise would not even be within the scope and jurisdiction of the officials of the Forest Department. Therefore, the certification prima facie does not inspire confidence.

Nevertheless, since the communication has been made by a governmental officer, SEIAA has not outrightly discarded the same and has instead written back to the concerned officer asking them to furnish the material on the basis of which they have determined the location of the mining area and concluded that such mining area is beyond the restricted distance from the boundary line of the forest area.

Simultaneously, SEIAA has instructed the appellant(s) to get their mining area demarcated as per the coordinates mentioned by them in the approved mining plan through the District Inspector of Land Record and then have the distance of the said demarcated land measured from the boundary line of the protected / reserved forest or the eco sensitive zone.

6. Upon receipt of authenticated maps from the District Inspector of Land Record and confirmation thereupon from the Forest Department about the mining lease area falling outside the prohibited or restricted zone, SEIAA shall place the said information before this Hon'ble Tribunal for passing of appropriate directions.

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7. Separately, some of the appellant(s) have accepted the fact that a portion of their existing mining area falls in the prohibited or restricted zone, being within a distance of 50 meter from the forest area or within the buffer zone of the eco sensitive area. They have, therefore, made a request for grant of revised environmental clearance, by deducting the area of lease which falls within the prohibited or restricted zone. In other words, they have sought permission to undertake and carry out mining activity over the leased area which is outside the prohibited or restricted zone and over which area there is no legal bar in carrying out mining activity. All the appellants have been informed by SEIAA that it does not have jurisdictional competence while undertaking reappraisal of the environmental clearance granted by DEIAA to revise the said environmental clearance. However, SEIAA has educated all the appellant(s) that it would be open for each project proponent to individually make a fresh application for grant of environmental clearance for a reduced area along with the requisite documents, including a fresh mining plan for such reduced area. Such application has to be made on PARIVESH portal. SEIAA assures that as and when such application is made, the same shall be duly considered in accordance with law.

8. I submit that no other submissions have been made by the appellant(s) at the time of hearing or thereafter before SEIAA.

9. I submit that the environment clearance granted by DEIAA to the appellant(s) permitted appellant(s) to undertake mining activity in an area which is delineated as prohibited or restricted zone. For this reason, the environmental clearance granted by DEIAA has not been approved by SEIAA. No material has been produced by the appellant(s) demonstrating that any error, much less a patent error, has been committed by SEIAA in not approving the environmental clearance granted by DEIAA. The reasons assigned by SEIAA are cogent and do not offend any provision of law. On the contrary, any continuance of the environmental clearance granted by DEIAA would amount to allowing or permitting the appellant(s) to carry out mining in an area where

mining activity is strictly prohibited and thereby perpetuate an illegality. That apart, sustaining and retaining the environmental clearance granted by DEIAA would result in barefaced and wanton violation of the the law declared by the Hon'ble Supreme Court of India.

- 10. For each of these reasons, the decision of SEIAA in not approving the environmental clearance granted by DEIAA is just and proper and does not call for any interference by this Hon'ble Tribunal. The appeal assailing the decision of SEIAA in rejecting the environmental clearance granted by DEIAA is meritless and the same does not deserve acceptance by this Hon'ble Tribunal. It is therefore humbly prayed that the Hon'ble Tribunal may be pleased to dismiss the appeal.



Dipali Tamb
DEPONENT

VERIFICATION

Verified at Gandhinagar on this 09th day of January, 2026 that the contents of the above affidavit are true and correct to the best of my knowledge and information derived from records, that nothing stated therein is false and that nothing material has been concealed therefrom.



Dipali Tamb
DEPONENT



IDENTIFIED BY ME
 ADVOCATE/PERSON
 NAME: SINAGH
 ADDRESS: GANDHINAGAR
 DATE: 09/01/26
 09 JAN 2026

SIGNED BEFORE ME
[Signature]
 NILESH R. PANDYA
 NOTARY
 GOVT. OF INDIA
 9 JAN 2026

