

IN THE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO. 172 OF 2022

IN THE MATTER OF:

Jaswinder Singh.

.....Applicant

Versus

State of Uttarakhand.

... Respondent

REPORT BY WAY OF AFFIDAVIT ON BEHALF OF STATE OF  
UTTARAKHAND IN COMPLIANCE OF ORDER DATED 07.07.2022  
PASSED BY THIS HON'BLE TRIBUNAL IN THE ABOVEMENTIONED  
MATTER

P A P E R - B O O K

I N D E X

<u>Srl.</u>	<u>Particulars</u>	<u>Pages</u>
1.	Report by way of Affidavit on behalf of State of Uttarakhand in compliance of order dated 07.07.2022 passed by this Hon'ble Tribunal	1-8
2.	<u>ANNEXURE R-1</u> : A true copy of the order dated 07.07.2022 passed by this Hon'ble Tribunal.	9-11
3.	<u>ANNEXURE R-2</u> : A true copy of the W.P. No. 2512 (M/S) of 2021- Jasvinder Singh -Versus State of Uttarakhand&Ors. filed before Hon'ble High Court of Uttarakhand at Nainital	12-32
4.	<u>ANNEXURE R-3</u> : A true copy of the Counter Affidavit filed on behalf of District Magistrate, Haridwar, in W.P. No. 2512 (M/S) of 2021 before Hon'ble High Court of Uttarakhand at Nainital	33-41
5.	<u>ANNEXURE R-4</u> : A true copy of the order dated 07.04.2022 passed by the Hon'ble High Court of Uttarakhand at Nainital	42-43
6.	<u>ANNEXURE R-5</u> : A true copy of Show Cause Notice dt.1.12.2021	44
7.	<u>ANNEXURE R-6</u> : A true copy of Show Cause Notice dt.2.12.2021	45

Filed by:

*Rahul Verma*

[RAHUL VERMA]

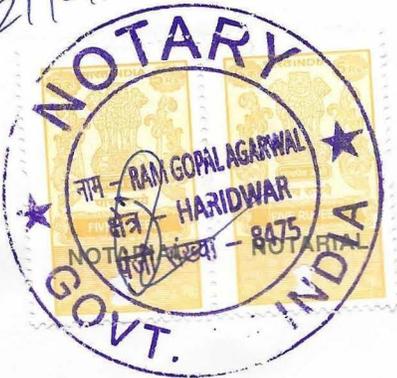
Additional Advocate General for State of Uttarakhand/Respondent  
137, Tower No.10, Supreme Enclave, MayurVihar Phase-I, Delhi-110091  
Mobile No. 9717706032  
Email- [advrahulverma9999@gmail.com](mailto:advrahulverma9999@gmail.com)

IN THE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO.172 OF 2022

IN THE MATTER OF:

Jaswinder Singh. ....Applicant  
Versus  
State of Uttarakhand. ... Respondent

337  
21/09/2022



REPORT BY WAY OF AFFIDAVIT ON BEHALF OF  
STATE OF UTTARAKHAND IN COMPLIANCE OF  
ORDER DATED 07.07.2022 PASSED BY THIS  
HON'BLE TRIBUNAL IN THE ABOVEMENTIONED  
MATTER

I, Prateek Jain S/o Shri Rajendra Jain aged about 29 years, presently posted as Chief Development Officer, Haridwar, Uttarakhand, Today holding charge District Magistrate, Haridwar do hereby solemnly affirm on oath and state as under:

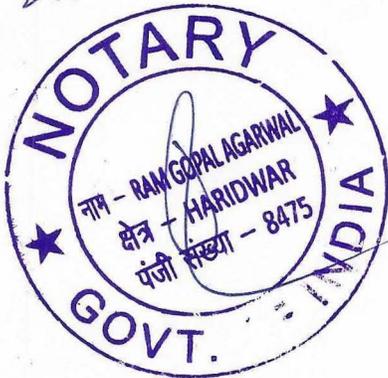
1. That in my above mentioned official capacity, I am acquainted with the facts and circumstances of the present matter, and I am fully competent and duly authorised to file present Report by way of Affidavit on behalf of State of Uttarakhand.
2. That this Hon'ble Tribunal vide its order dated 18.04.2022

*(Handwritten signature)*

passed the following directions:-

*"The grievance in this letter petition is against illegal mining which is being carried out by use of heavy machinery in private reserved forest land situated in village RasoolPur MethiBeri, District Haridwar. About 1 km length of River Ramasan, a tributary of river Ganga, falls under the above said village surrounded by forest land of Rajaji National Park on one side of River and Khair and Sagon trees forest on the other. It is stated that illegal mining has caused big ditches in about 10 acres land of River which is already 20 feet deep from ground level. The illegal mining is being carried out in the above said village Khasra No. 1890 to lift 8000 m<sup>3</sup> of minerals in view of River Training Policy prepared in the year 2018. The illegal mining which is being carried on within 2 kms from Rajaji National Park and is causing severe damage to biodiversity and environment of the sensitive area*

337  
21/09/2022



2. Having regard to the seriousness of the allegations, it appears necessary to ascertain the factual position in the matter through a Joint Committee of the State PCB, Divisional Forest Officer, Haridwar and District Magistrate, Haridwar. The State PCB will be the Nodal agency for coordination and compliance. The Joint Committee may meet within four weeks and undertake site visit and look into the grievance of the applicant. Factual

2

3

and action taken report may be furnished within two months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

List the matter for consideration on 07/07/2022.

A copy of this order, along with a copy of the complaint, be forwarded to the State PCB, Divisional Forest Officer, Haridwar and District Magistrate, Haridwar by e-mail for compliance.”

3. That in compliance of the above mentioned directions passed by this Hon'ble Tribunal vide its order dated 18.04.2022, a report by way of Affidavit dated 05<sup>th</sup> July, 2022 was submitted before this Hon'ble Tribunal.

4. That thereafter the matter was listed on 07.07.2022, after hearing, the Hon'ble Tribunal was pleased to pass the following directions:-

“1. ....

5. We have gone through the report. Vide order dated 18.04.2022, this Tribunal also directed the Joint Committee to look into the grievances of the applicant but on perusal of the report, we find that the relevant aspects highlighted in the application have not been gone into by

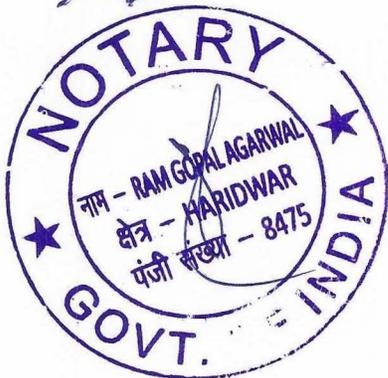
337  
21/09/2022



A

the Joint Committee. Deputy Conservator of Forest had written letter no. 4654/1-6 Haridwar, dated 17.06.2018 to the project proponent with copy to District Magistrate, Haridwar raising the questions as to whether the mining area fall within the prohibited 10 km area of Rajaji Tiger Reserve and whether mining was permissible in the area but the answers to the questions and response of the project proponent and District Magistrate, Haridwar to the same has not been ascertained by the Joint Committee. The Project Proponent is stated to have carried on illegal mining beyond permitted area and also below permitted depth but the magnitude of illegal mining, extent of the area illegally mined, quantum illegally extracted and market value thereof are not specifically reported to by the Joint Committee. Further, no proceedings for assessment of environmental compensation payable by the Project proponent have been under taken by the Uttarakhand Environment Protection and Pollution Control Board.

337  
21/09/2022



6. Report by way of affidavit has been filed on behalf of State of Uttarakhand. In the affidavit reference has been made to Writ Petition No. WPMS 2512 of 2021 and order dated 07.04.2022 passed by Hon'ble High Court of Uttarakhand on the same but copies of the petition and the orders passed have not been attached with the reply.

7. Learned State Counsel seeks time for filing of an additional reply and placing on record copies of the

*[Handwritten signature]*

5

relevant documents including copies of the writ petition and orders passed by Hon'ble High Court of Uttarakhand. Learned Counsel representing Uttarakhand SPCB also seeks time to file its response in the matter. The same be filed within two months.

8. Let notice be also issued to the project proponent namely Shri Alok Devedi son of Chandra Prakash R/o Rasoolpur Bada, Nalowala, Tehsil & District Haridwar requiring him to file reply within two months specifically responding to all material averments made in the application as well as observations in the Report of the Joint Committee.

9. The Registry is directed to issue and get the notice along with copy of the application and report served on the Project Proponent- Shri Alok Devedi son of Chandra Prakash R/o Rasoolpur Bada, Nalowala, Tehsil & District Haridwar.

10. State PCB and District Magistrate, Haridwar are directed to take further remedial action as mandated by law by following due process and file further action taken report in the matter within two months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

11. List for further consideration on 23.09.2022.

.....”

A copy of the order dated 07.07.2022 is annexed hereto and marked as ANNEXURE R-1.



R

5. That in compliance of the above mentioned directions passed by this Hon'ble Tribunal vide its order dated 07.07.2022, it is respectfully submitted that all the relevant facts had already been narrated in earlier report dated 05.07.2022, and with regard to writ petition filed before the Hon'ble High Court of Uttarakhand at Nainital, as directed by this Hon'ble Tribunal a true photocopy of the Writ Petition being W.P. No. 2512 (M/S) of 2021- Jasvinder Singh –Versus State of Uttarakhand and others and Counter Affidavit filed on behalf of District Magistrate, Haridwar, Uttarakhand and order dated 07.04.2022 passed by the Hon'ble High Court of Uttarakhand at Nainital are annexed hereto and marked as ANNEXURE R-R-2, R-3&R-4 respectively.

337  
21/09/2022



6. That it is respectfully submitted that with regard to illegal mining done by the project proponent Show Cause Notices 1.12.2021 and 2.12.2021 by the District Magistrate, Haridwar, Uttarakhand in Case No.335 of 2021 and 336 of 2021 pending in the office/court of District Magistrate is issued with

*[Handwritten signature]*

7

regard to penalty of 21,56,000/- (Rupees Twenty Lakhs fifty six thousand only) and 17,00,156/- (Rupees seventeen Lakhs and one hundred and sixty only). True photocopies of the said Show Cause Notices are annexed hereto and marked as ANNEXURE R-5 & R-6 respectively.

7. It is respectfully submitted that the District Magistrate, Haridwar, Uttarakhand issued directions to the Additional District Magistrate to dispose the matter immediately and recover the amount of penalty. It is also informed that with regard to the environmental damages, the Mining Department has already informed to the Uttarakhand Pollution Control Board.



8. That the present Report by way of Affidavit in compliance of direction passed by this Hon'ble Tribunal is being filed on behalf of State of Uttarakhand for kind perusal of this Hon'ble Tribunal.

  
DEPONENT

**VERIFICATION**

I, the deponent above named do hereby verify and say that the contents of my above report by way of affidavit are true and correct to my knowledge based on record, no part of it is false and nothing material has been concealed there from. The legal submissions are further true as per legal advice received and believed to be true and correct.

Verified by me at Haridwar, Uttarakhand on this 21 day of September, 2022.

*[Signature]*  
DEPONENT

Filed through:

*Rahul Verma*

[RAHUL VERMA]

Additional Advocate General for State of Uttarakhand  
/Respondent

137, Tower No.10, Supreme Enclave,  
MayurVihar Phase-I,  
Delhi-110091

Mobile No. 9717706032

Email- [advrahulverma9999@gmail.com](mailto:advrahulverma9999@gmail.com)

337  
21/09/2022



Execution of the *Affidavit*  
admitted and signed before me by  
Sri/Smt. *Prateek Jain / Shri Rajendra Jain*  
Which identified by Shri. *Prateek Kumar (DMO) Haridwar*  
In the Distt. Court premises of  
Office at Haridwar  
at *5:45* *A.M./P.M.* *22-9-22*

Ram Gopal Agarwal  
Notary Advocate  
Government of India  
Distt. Court Haridwar (Uttarakhand)

ANNEXURE R-1

9

Item No.1

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH**

(By Video Conferencing)

Original Application No. 172/2022

Jaswinder Singh

Applicant

Versus

State of Uttarakhand

Respondent

Date of hearing: 07.07.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None.

Respondent:

Mr. Mukesh Verma, Advocate for State PCB.

Mr. Rahul Verma, AAG for State of Uttarakhand.

**ORDER**

1. Jaswinder Singh filed the present application ventilating the grievances that illegal mining is being carried out by use of heavy machinery in private reserved forest land situated in village Rasulpur Meethiberi, District Haridwar. About 1 km length of River Ramasan, a tributary of river Ganga, falls under the above said village surrounded by forest land of Rajaji National Park on one side of River and Khair and Sagon trees forest on the other. It is stated that illegal mining has caused big diches in about 10 acres land of River which is already 20 feet deep from ground level. Illegal mining is being carried out in Khasra No.1890 of the above said village to lift 8000 m<sup>3</sup> of minerals in view of River Training Policy prepared in the year 2018. The said illegal mining is being carried on within 2 kms from Rajaji National Park and is causing severe damage to biodiversity and environment in the eco-sensitive area.



*B*

4. The Forest Division, Haridwar has also observed illegal mining in the area other than permitted area and after due ingestion and report of Investigating Officer, the forest department has filed forest crime case before the Chief Judicial Magistrate, Haridwar vide letter ref no. 4243/29-3 dated 04.05.2022 against the lessee i.e. Aalok Trivedi. Matter of forest crime is under trial before the court of the Chief Judicial Magistrate, Haridwar.

**III. CONCLUSION:**

1. Based on observation of the Joint Committee, it is evident that Shri Aalok Trivedi i.e. lessee of Khasra No. 1890, Village Rasulpur Meethiberi, District Haridwar has undertaken illegal mining in the area other than the permitted area and also below the permitted depth. District Magistrate, Haridwar has already initiated penalty action against the lessee under the provisions of the Uttarakhand Illegal mining and Storage Rules, 2020.

2. The Forest Division, Haridwar has also filed forest crime case against the lessee before the court of the Chief Judicial Magistrate, Haridwar. Matter of forest crime is under trial before the court of the Chief Judicial Magistrate, Haridwar.”

5. We have gone through the report. Vide order dated 18.04.2022, this Tribunal also directed the Joint Committee to look into the grievances of the applicant but on perusal of the report, we find that the relevant aspects highlighted in the application have not been gone into by the Joint Committee. Deputy Conservator of Forest had written letter no. 4654/1-6 Haridwar, dated 17.06.2018 to the project proponent with copy to District Magistrate, Haridwar raising the questions as to whether the mining area fall within the prohibited 10 km area of Rajaji Tiger Reserve and whether mining was permissible in the area but the answers to the questions and response of the project proponent and District Magistrate, Haridwar to the same has not been ascertained by the Joint Committee. The Project Proponent is stated to have carried on illegal mining beyond permitted area and also below permitted depth but the magnitude of illegal mining, extent of the area illegally mined, quantum illegally extracted and market value thereof are not specifically reported to by the Joint Committee. Further, no proceedings for assessment of environmental compensation payable by the Project



*[Handwritten signature]*

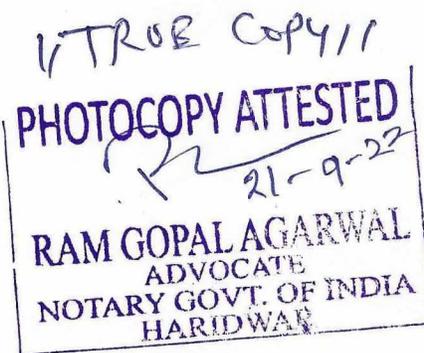
- 11. List for further consideration on 23.09.2022.
- 12. A copy of this order be sent to State PCB and District Magistrate Haridwar by e-mail for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

July 07, 2022  
Original Application No. 172/2022

- 1. Writ Scope
- 2. Court



*[Handwritten signature]*

12 ANNEXURE R-2

IN THE HON'BLE HIGH COURT OF UTTARAKHAND AT  
NAINITAL

WRIT PETITION NO. 2512 OF (M/S) 2021

(District: Haridwar)

Jasvinder Singh, aged about 40 years, Son of Shri Lakha Singh,  
Resident of Samaspur, Katarbarh, Haridwar, Uttarakhand - 246763

.....Petitioner

Versus

1. State of Uttarakhand through Secretary, Geology and Mining Unit,  
Government of Uttarakhand, Civil Secretariat, Dehradun,  
Uttarakhand.
2. Additional Director, Geology and Mining Unit, Directorate of  
Industries, Government of Uttarakhand, Dehradun, Uttarakhand.
3. District Magistrate, Haridwar, Uttarakhand.
4. Additional District Magistrate (Finance/Revenue), Haridwar,  
Uttarakhand.
5. Shri Alok Dwivedi, Son of Shri Chandra Prakash, Resident of  
Rasoolpur Bada Nalowala, Tehsil and District Haridwar.

.....Respondents



**WRIT PETITION UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA**



To,

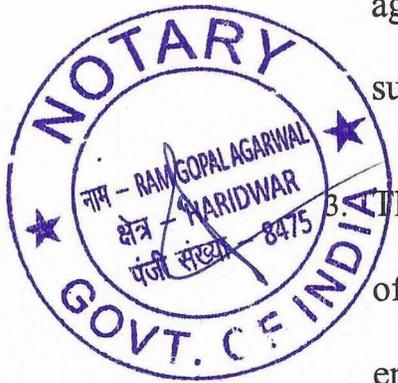
^

The Hon'ble the Chief Justice and his other companion  
Judges of the aforesaid court.

The humble petition of the above named petitioner most  
respectfully showeth as under:

1. That by means the present writ petition the petitioner is seeking a writ, order or direction in the nature of certiorari quashing the order dated 28.10.2021 issued by respondent no. 2 vide which the extension of 2 months by means of a work order has been granted to respondent no. 5 for the disposal/extraction of remaining 6402.16 cubic meter of R.B.M. in respect of Khasra No. 1890 situate in Village Rasoolpur, Tehsil and District Haridwar, admeasuring 8,000 square meter. True copy of the work order dated 28.10.2021 is filed herewith as **Annexure No. 1.**

2. That this is the first writ petition being preferred by the petitioner against the present cause of action no writ petition on the same subject matter has been filed before this Hon'ble Court.



3. That the State Government of Uttarakhand for the disposal/removal of the excessive R.B.M./debris post monsoon from the river to ensure safeguard against the loss of life and property framed the Uttarakhand River Training Policy, 2016. True copy of the Uttarakhand River Training Policy, 2016 is filed herewith as

**Annexure No. 2.**

- 14
4. That the petitioner preferred an application dated 03.08.2017 before respondent no. 3 under the Uttarakhand River Training Policy 2016 to procure the permit for disposal/extraction of 10,000 cubic meter R.B.M. at Khasra No. 1890 situate at Village Rasoolpur, Tehsil and District Haridwar. True copy of the application dated 03.08.2017 is filed herewith as **Annexure No. 3.**
  5. That a team was constituted by the order of respondent no. 3 and as per Clause 6 of the Uttarakhand River Training Policy 2016 and the Letter of the State Government of Uttarakhand bearing No. 944/2018/90Kha/16 dated 13.04.2018 for the area situate at Village Rasoolpur Meethiberi, Tehsil and District Uttarakhand and the report of the inspection carried out by the inspection team was submitted on 08.06.2018.
  6. That an advertisement bearing Letter No. 673/KhananSaha. (Nilami)-2018-19 dated 09.06.2018 was issued for open auction by respondent no. 4 for the area at Khasra No. 1890 situate at Village Rasoolpur Meethiberi, Tehsil and District Uttarakhand, admeasuring 8,000 square meter with quantity of 8,000 cubic meter of R.B.M. for two months. True copy of the advertisement dated 09.06.2018 is filed herewith as **Annexure No. 4.**



7. That the petitioner also participated in the open auction and thereafter the open auction was concluded on 12.06.2018 by the order dated 12.06.2018 passed by respondent no. 3.

8. That the respondent no. 5 i.e. Shri Alok Dwivedi, Son of Shri Chandra Prakash, Resident of Rasoolpur Bada Nalowala, Tehsil and District Haridwar who also participated in the aforesaid open auction, submitted the highest bid of Rs. 1,40,00,000/- (Rupees One Crore and Forty Lacs) and thereafter was given the permit for the disposal of R.B.M. for the aforesaid area vide Letter No. 684/Khanan Sah. (Nilami) – 2018 dated 13.06.2018. True copy of the Letter No. 684/Khanan Sah. (Nilami) – 2018 dated 13.06.2018 is filed herewith as Annexure No. 5.

9. That the respondent no. 5 was granted time from 13.06.2018 to 30.06.2018 to excavate/remove the R.B.M. vide order bearing Letter No. 684/Khanan Sahayak Nilami 2018 passed by respondent no. 3 (Annexure No. 5 to the writ petition).

That the respondent no. 5 deposited Rs. 32,00,000/- (Rupees Thirty Two Lacs) against the total auction amount of Rs. 1,40,00,000/- (Rupees One Crore and Forty Lacs) and e-pass was issued for 1,828 cubic meter of R.B.M but the respondent no. 5 was unable to remove the R.B.M from the aforesaid area within the allotted time as per the order dated 13.06.2018.



11. That the respondent no. 5 filed a Writ Petition (M/S) No. 1874 of 2018 (Alok Dwivedi v. State of Uttarakhand and others) before the Hon'ble High Court Nainital for extension of time to remove/dispose the R.B.M. from the aforesaid site but the same was rejected vide order dated 10.07.2018 passed by the Hon'ble High Court Nainital on the ground that the temporary stoppage of work of extraction of RBM material the responsibility of it was to be absolutely shouldered by the respondent no. 5 himself. True copy of the order dated 10.07.2018 passed by the Hon'ble High Court Nainital is file herewith as Annexure No. 6.

12. That the respondent no. 5 being aggrieved by the order dated 10.07.2018 passed by the Hon'ble High Court filed a Special Appeal No. 540 of 2018 before the Division Bench of this Hon'ble Court. The Division Bench of this Hon'ble Court, vide order dated 06.09.2018 allowed the Special Appeal and granted only seven days' time w.e.f. 01.10.2018 to 07.10.2018 for the removal/disposal of remaining R.B.M. True copy of the order dated 06.09.2018 passed in the Special Appeal is filed herewith as Annexure No. 7.

13. That the respondent no. 5 could not lift the R.B.M. despite the extension of seven days which was granted vide order dated 06.09.2018 and thus, filed yet another Writ Petition No. 206 (M/S)



of 2021 (*Alok Dwivedi vs. District Magistrate, Haridwar and another*) before this Hon'ble Court for enforcement of his rights for extracting riverbed material under Uttarakhand River Training Policy 2016.

14. That the respondent no. 5 vide application dated 15.01.2020 has requested for extension of time to extract/remove R.B.M. from the aforesaid area. In respect of the application dated 15.01.2020 submitted by the respondent no. 5 the Deputy Director, Geology and Mining Unit, Haridwar vide its Report No. 642/Bhu.KhaNi.E/Hari./2018-19 dated 22.02.2020 has held that there is no provision for extension of time under Uttarakhand Minor Mineral Rules, 2001 and Uttarakhand River Training Policy 2020.

15. That the Hon'ble High Court Nainital in Writ Petition No. 206 (M/S) of 2021 (*Alok Dwivedi vs. District Magistrate, Haridwar and another*) vide order dated 28.01.2021 held "For the reason being that it would amount to be an invocation of a writ petition, consecutively by filing a second writ petition, for the same cause of action, which already stood adjudicated earlier by the learned Single judge and later on by the Division bench too. The reference to the report which has been made by the learned Senior Counsel for the petitioner dated 22.02.2020 and I am, yet again constrained



Handwritten mark resembling a stylized 'A' or '1'.

Handwritten mark resembling a stylized 'A' or '1'.

to not to accept the argument in relation thereto, for the reasons being that it was a privileged communication between the office of the District Magistrate, which was submitted by way of a report and that too way back on 20.02.2020. This report was not for the purposes of consumption or creation of right, for petitioner to establish his case for filing a subsequent writ petition.” The Hon’ble High Court dismissed the writ petition on the grounds that the rights have already been determined and crystallized, by the earlier Division Bench’s judgment. True copy of the order dated 28.01.2021 passed by the Hon’ble High Court Nainital is filed herewith as **Annexure No. 8.**

16. That once again the respondent no. 5 vide application dated 12.06.2021 requested to grant one month for removal/extraction of R.B.M. against the remaining deposited amount, as the respondent no. 5 has only removed 1,597 cubic meter of R.B.M. out of the total 8,000 cubic meter.

17. That despite the order dated 28.01.2021 vide which the Hon’ble High Court has rejected the petition of the respondent no. 5 for extension of time for removal of R.B.M., it has come to the knowledge of the petitioner that the respondent no. 1 vide Letter No. 1702/VIII-A-1/2021-90(kha)/2016T.C.-III dated 14.10.2021 has given consent to the respondent no. 3 to provide extension of 2

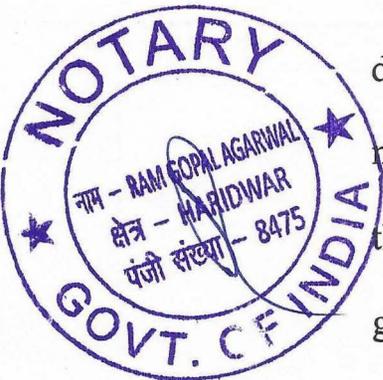


months to respondent no. 5 for removal of R.B.M, which order is right in the teeth of the orders passed by this Hon'ble Court. True copy of the Letter No. 1702/VIII-A-1/2021-90(kha)/2016T.C.-III dated 14.10.2021 is filed herewith as Annexure No. 9.

18. That the respondent no. 1 in its letter dated 14.10.2021 has relied on clause 5 of the Uttarakhand River Training Policy 2020 which provides the tenure for removal/extraction of the R.B.M./Silt/Mineral Accumulated but the respondent no. 5 has been issued the permit under Uttarakhand River Training Policy 2016, therefore, the reference of clause 5 of the Uttarakhand River Training Policy 2020 cannot be admitted in the case of the respondent no. 5.

19. That in pursuance of the Letter dated 14.10.2021, the respondent no. 2 vide Order No. 2736/Khanan/Bhu.KhaNi.E./Portal/2021-22 dated 28.10.2021 has granted extension of 2 months to respondent no. 5 for removal of R.B.M. from 28.10.2021 to 27.12.2021, and thus, has been given an extension, which ought not have been given.

20. That it is pertinent to mention here that the respondent no. 5 had already been granted an extension of seven days vide order dated 06.09.2018 passed by the Hon'ble High Court Nainital and still could not complete the disposal/removal of R.B.M. and now in



pursuance of the letter dated 14.10.2021 issued by the respondent no. 1, the respondent no. 2 vide order dated 28.10.2021 has further granted an extension of 2 months from 28.10.2021 to 27.12.2021, under the garb of earlier auction, despite the fact that this Hon'ble High Court vide order dated 28.01.2021 has rejected the plea of the respondent no. 5 in Writ Petition No. 206 (M/S) of 2021 (*Alok Dwivedi vs. District Magistrate, Haridwar and another.*)

Further, it is germane to state here that there is no provision in the Uttarakhand River Training Policy 2016 which provides extension of time for disposal/removal of R.B.M/Silt/accumulated mineral. The respondent no. 5 was granted permission to remove the R.B.M. from the aforesaid area under Uttarakhand River Training Policy 2016 and therefore the extension of 2 months granted by the respondent no. 2 vide order dated 28.10.2021 is illegal, wrong and arbitrary.

21. That despite the Letter dated 19.06.2020 of the Deputy Conservator of Forest, Haridwar, Forest Division and the report dated 17.06.2021 submitted from the office of respondent no. 2, the respondent no. 1 vide its letter dated 14.10.2021 has granted permission for extension of 2 months to remove/extract R.B.M. from the aforesaid area, in pursuance of which respondent no. 3



vide order dated 28.10.2021 has permitted the extension of time for extraction of R.B.M. to respondent no. 5.

22. That till date the respondent no. 5 is carrying out mining in the aforesaid area using mechanized machines without Form e-mm-11. True copy of the photographs showing mining in the aforesaid area is filed herewith as **Annexure No. 10**.

23. That it is pertinent to mention here that the respondent no. 1 should have issued a fresh advertisement for river training in respect of Khasra No. 1890 situate at Village Rasoolpur Meethiberi, Tehsil and District Uttarakhand, instead the respondent no. 5 has been granted the extension for extraction/disposal of the remaining R.B.M. vide impugned order dated 28.10.2021 under the grab of which illegal mining is being carried out.

24. That the extension of time granted to respondent no. 5 for extraction/removal of R.B.M. from the aforesaid area is in violation of the Uttarakhand River Training Policy 2016, as there is no provision in the Uttarakhand River Training Policy 2016, for extension of time to extract the R.B.M./Silt/Accumulated Mineral.

25. That the respondent no. 2 vide order dated 28.10.2021 has infringed the rights of the petitioner as the extension to extract/remove the remaining R.B.M. has been illegally granted to the respondent no. 5. Had there been a fresh auction then the Petitioner could have also participated in the same and could have



even submitted the highest bid and as such the rights of the petitioner and like people have been infringed by the respondents, who have acted handed in glove with the respondent no.5.

26. That when the permission for river training has to be granted after putting the same on auction then the government cannot give the largesse in its arbitrary discretion or according to its sweet-will. It is a well settled law that distribution of State largesse should not be marred by any arbitrariness and public interest should be paramount in the matter of award of contracts. The State should invited public at large in an auction/ tender process as larger participation will invite more attractive bids. Here is the case of giving an undue benefit to a chosen person for the reasons best known to the respondents.

27. That the Mines and Minerals Regulation and Development Act does not provide any concessions contrary to the rules, which has been done in the present case in hand as despite the expiry of the lease period the respondent no. 5 has been given extension, which has not been provided under the provisions of law and as such the act of the respondents is arbitrary and in contravention of Article 14 of the Constitution of India.

28. That the action of the respondents is per se illegal as the period of contract was extended without adoption of any fair competition or by following normal procedure as prescribed by law.



29. That further it is pertinent to mention here that the respondent no. 5 was issued the permit for extraction/removal of R.B.M. under Uttarakhand River Training Policy 2016 in 2018, thereafter in January 2020, the State Government of Uttarakhand vide Letter No. 137/VII-A-1/2020/90kha/16 dated 31.01.2020 adopted Uttarakhand River Training Policy, 2020. The respondent no. 5 has never been issued any permit under the Uttarakhand River Training Policy, 2020 whereas in the Letter dated 14.01.2021 issued by respondent no. 1, reliance for time duration for extraction/removal of R.B.M./Mineral/Silt has been made on Clause 5 of the Uttarakhand River Training Policy, 2020.

30. That the respondent no. 2 vide order dated 28.10.2021 has illegally issued the permission for extension of 2 months for extraction/removal of R.B.M as there is no provision in both Uttarakhand River Training Policy, 2016 and Uttarakhand River Training Policy, 2020 and therefore has infringed the right of the petitioner to participate in the process of open auction under the Uttarakhand River Training Policy 2020.

31. That the order dated 28.10.2021 passed by respondent no. 2 is illegal, wrong and arbitrary and therefore cannot be sustained.

32. That the order dated 28.10.2021 passed by the respondent no. 2 is in the teeth of the directions of this Hon'ble High Court passed in the order dated 28.01.2021.



GROUNDS

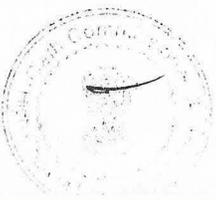
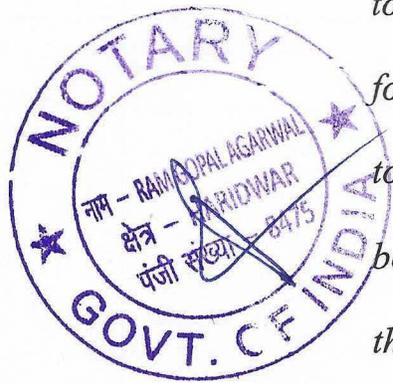
24

- A. Because the respondent no. 5 was granted time from 13.06.2018 to 30.06.2018 to excavate/remove the R.B.M. vide order bearing Letter No. 684/Khanan Sahayak Nilami 2018 passed by respondent no. 3.
- B. Because the respondent no. 5 was unable to remove the R.B.M from the aforesaid area within the allotted time.
- C. Because the respondent no. 5 filed a Writ Petition (M/S) No. 1874 of 2018 (Alok Dwivedi v. State of Uttarakhand and others) before the Hon'ble High Court Nainital for extension of time to remove/dispose the R.B.M. from the aforesaid site but the same was rejected vide order dated 10.07.2018 passed by the Hon'ble High Court Nainital on the ground that that temporary stoppage of work of extraction of RBM material the responsibility of it was to be absolutely shouldered by the respondent no. 5 himself.
- D. Because the respondent no. 5 being aggrieved by the order dated 10.07.2018 passed by the Hon'ble High Court filed a Special Appeal No. 540 of 2018 before the Division Bench. The Division Bench vide order dated 06.09.2018 allowed the Special Appeal and granted seven days' time w.e.f. 01.10.2018 to 07.10.2018 for the removal/disposal of remaining R.B.M.



E. Because the respondent no. 5 could not lift the R.B.M. despite the extension of seven days which was granted vide order dated 06.09.2018 passed by the Hon'ble High Court Nainital and filed a Writ Petition No. 206 (M/S) of 2021 (*Alok Dwivedi vs. District Magistrate, Haridwar and another*) before the Hon'ble High Court Nainital for enforcement of his rights for extracting riverbed material under Uttarakhand River Training Policy 2016.

F. Because the Hon'ble High Court Nainital in Writ Petition No. 206 (M/S) of 2021 (*Alok Dwivedi vs. District Magistrate, Haridwar and another*) vide order dated 28.01.2021 held "*For the reason being that it would amount to be an invocation of a writ petition, consecutively by filing a second writ petition, for the same cause of action, which already stood adjudicated earlier by the learned Single judge and later on by the Division bench too. The reference to the report which has been made by the learned Senior Counsel for the petitioner dated 22.02.2020 and I am, yet again constrained to not to accept the argument in relation thereto, for the reasons being that it was a privileged communication between the office of the District Magistrate, which was submitted by way of a report and that too way back on 20..02.2020. This report was not for the purposes of consumption or creation of right, for petitioner to establish his case for filing a subsequent writ petition.*" The Hon'ble High Court dismissed the writ petition on the grounds that

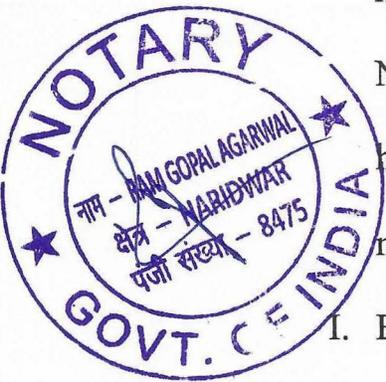


the rights have already been determined and crystallized, by the earlier Division Bench's judgment.

G. Because the respondent no. 5 vide application dated 15.01.2020 has requested for extension of time to extract/remove R.B.M. from the aforesaid area. In respect of the application dated 15.01.2020 submitted by the respondent no. 5 the Deputy Director, Geology and Mining Unit, Haridwar vide its Report No. 642/Bhu.KhaNi.E/Hari./2018-19 dated 22.02.2020 has held that there is no provision for extension of time under Uttarakhand Minor Mineral Rules, 2001 and Uttarakhand River Training Policy 2020.

H. Because despite the order dated 28.01.2021 vide which the Hon'ble High Court has rejected the petition of the respondent no. 5 for extension of time for removal of R.B.M., it has come to the knowledge of the petitioner that the respondent no. 1 vide Letter No. 1702/VIII-A-1/2021-90(kha)/2016T.C.-III dated 14.10.2021 has given consent to the respondent no. 3 to provide extension of 2 months to respondent no. 5 for removal of R.B.M.

I. Because the respondent no. 1 in its letter dated 14.10.2021 has relied on the clause 5 of the Uttarkhand River Training Policy 2020 which provides the tenure for removal/extraction of the R.B.M./Silt/Mineral Accumulated but the respondent no. 5 has been issued the permit under Uttarakhand River Training Policy

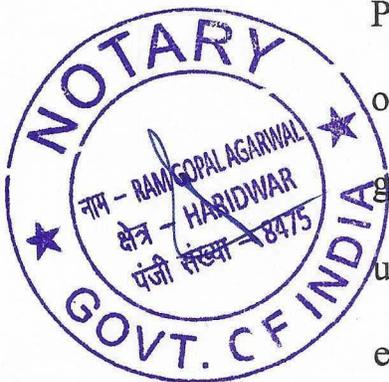


2016 therefore the reference of clause 5 of the Uttarakhand River Training Policy 2020 cannot be admitted in the case of the respondent no. 5.

J. Because the respondent no. 5 has already been granted an extension of seven days vide order dated 06.09.2018 passed by the Hon'ble high Court Nainital and still couldn't complete the disposal/removal of R.B.M. and now in pursuance of the letter dated 14.10.2021 issued by the respondent no. 1, the respondent no. 2 vide order dated 28.10.2021 has further granted an extension of 2 months from 28.10.2021 to 27.12.2021, despite the fact that this Hon'ble High Court vide order dated 28.01.2021 has rejected the plea of the respondent no. 5 in Writ Petition No. 206 (M/S) of 2021 (*Alok Dwivedi vs. District Magistrate, Haridwar and another.*)

K. Because there is no provision in the Uttarakhand River Training Policy 2016 which provides extension of time for disposal/removal of R.B.M/Silt/accumulated mineral. The respondent no. 5 was granted permission to remove the R.B.M. from the aforesaid area under Uttarakhand River Training Policy 2016 and therefore the extension of 2 months granted by the respondent no. 2 vide order dated 28.10.2021 is illegal, wrong and arbitrary.

L. Because despite the Letter dated 19.06.2020 of the Deputy Conservator of Forest, Haridwar, Forest Division and the report



dated 17.06.2021 submitted from the office of respondent no. 2, the respondent no. 1 vide its letter dated 14.10.2021 has granted permission for extension of 2 months to remove/extract R.B.M. from the aforesaid area, in pursuance of which respondent no. 3 vide order dated 28.10.2021 has permitted the extension of time for extraction of R.B.M. to respondent no. 5.

M. Because till date the respondent no. 5 is carrying out mining in the aforesaid area using mechanized machines without Form e-mm-11. till date the respondent no. 5 is carrying out mining in the aforesaid area using mechanized machines without Form e-mm-11.

N. Because the respondent no. 1 should have issued a fresh advertisement for the area at Khasra No. 1890 situate at Village Rasoolpur Meethiberi, Tehsil and District Uttarakhand, instead the respondent no. 5 has been granted the extension for extraction/disposal of the remaining R.B.M. vide impugned order dated 28.10.2021.

O. Because the extension of time granted to respondent no. 5 for extraction/removal of R.B.M. from the aforesaid area is in violation to the Uttarakhand River Training Policy 2016, as there is no provision in the Uttarakhand River Training Policy 2016, for extension of time to extract the R.B.M./Silt/Accumulated Mineral.

P. Because the respondent no. 2 vide order dated 28.10.2021 has infringed the rights of the petitioner as the extension to



extract/remove the remaining R.B.M. has been illegally granted to the respondent no. 5. the respondent no. 2 vide order dated 28.10.2021 has infringed the rights of the petitioner as the extension to extract/remove the remaining R.B.M. has been illegally granted to the respondent no. 5.

Q. Because the respondent no. 5 was issued the permit for extraction/removal of R.B.M. under Uttarakhand River Training Policy 2016 in 2018, thereafter in January 2020, the State Government of Uttarakhand vide Letter No. 137/VII-A-1/2020/90kha/16 dated 31.01.2020 adopted Uttarakhand River Training Policy, 2020. The respondent no. 5 has never been issued any permit under the Uttarakhand River training Policy, 2020 whereas in the Letter dated 14.01.2021 issued by respondent no. 1, reliance for time duration for extraction/removal of R.B.M./Mineral/Silt has been made on Clause 5 of the Uttarakhand River Training Policy, 2020.

R. Because the respondent no. 2 vide order dated 28.10.2021 has illegally issued the permission for extension of 2 months for extraction/removal of R.B.M as there is no provision in both Uttarakhand River Training Policy, 2016 and Uttarakhand River Training Policy, 2020 and therefore has infringed the right of the petitioner to participate in the process of open auction under the Uttarakhand River Training Policy 2020.



S. Because the order dated 28.10.2021 passed by respondent no. 2 is illegal, wrong and arbitrary and therefore cannot sustain. the order dated 28.10.2021 passed by respondent no. 2 is illegal, wrong and arbitrary and therefore cannot sustain.

T. Because the order dated 28.10.2021 passed by the respondent no. 2 is in the teeth of the directions of this Hon'ble High Court passed in the order dated 28.01.2021.

U. Because had there been a fresh auction then the Petitioner could have also participated in the same and could have even submitted the highest bid and as such the rights of the petitioner and like people have been infringed by the respondents, who have acted handed in glove with the respondent no.5.

V. Because when the permission for river training has to be granted after putting the same on auction then the government cannot give the largesse in its arbitrary discretion or according to its sweet-will.

It is a well settled law that distribution of State largesse should not be marred by any arbitrariness and public interest should be paramount in the matter of award of contracts. The State should invited public at large in an auction/ tender process as larger participation will invite more attractive bids. Here is the case of giving an undue benefit to a chosen person for the reasons best known to the respondents.



Handwritten marks at the bottom of the page, including a blue 'd' and a blue 'D'.

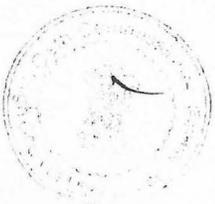
W. Because the Mines and Minerals Regulation and Development Act does not provide any concessions contrary to the rules, which has been done in the present case in hand as despite the expiry of the lease period the respondent no. 5 has been given extension, which has not been provided under the provisions of law and as such the act of the respondents is arbitrary and in contravention of Article 14 of the Constitution of India.

X. Because the action of the respondents is per se illegal as the period of contract was extended without adoption of any fair competition or by following normal procedure as prescribed by law.

**PRAYER**

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- (I) Issue a writ, order or direction in the nature of certiorari quashing the Order No. 2736/Khanan/Bhu.KhaNi.E./Portal/2021-22 dated 28.10.2021, vide which the extension of 2 months has been granted to respondent no.5 to extract/remove the R.B.M. as contained in Annexure No.1 to the writ petition after summoning the same in original from the Geology and Mining Unit, Directorate of Industries, Government of Uttarakhand, Dehradun.



- (II) Issue a writ, order or direction in the nature of certiorari quashing the letter/order dated 14.10.2021 issued by respondent no.1 as contained in Annexure no. 9 to the writ petition after summoning the same in original from the office of respondent no.1.
- (III) Issue a writ, order or direction in the nature of certiorari quashing the orders issued by respondents in pursuance to the order dated 14.10.2021 and order dated 28.10.2021 after summoning the same in original from the respective authorities/respondents.
- (IV) Issue writ, order or direction in the nature of mandamus commanding the respondents to hold a fresh auction for river training in respect of Khasra No. 1890 situate in Village Rasoolpur Meethiberi, Tehsil and District Haridwar, admeasuring 8,000 square meter.
- (V) Mould, grant, issue any other order writ or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.
- (VI) Award the cost of petition may be awarded in favour of petitioner.

Nainital

Dated: 21/11/2021



(Menkaa Tripathi)

Advocate  
Counsel for the Petitioner



TRUE COPY

IN THE HON'BLE HIGH COURT OF UTTARAKHAND  
AT NAINITAL  
COUNTER AFFIDAVIT  
On behalf of  
Respondent No. 3  
IN  
WRIT PETITION NO. 2512 (M/S) OF 2021

(District: Haridwar)

Jasvinder Singh, aged about 40 years, S/o. Sri. Lakha Singh,  
R/o. Samaspur, Katarbarh, Haridwar, Uttarakhand-246763.  
.....Petitioner

Versus

1-State of Uttarakhand through Secretary, Geology and Mining Unit,  
Government of Uttarakhand, Civil Secretariat, Dehradun, Uttarakhand.

2-Additional Director, Geology and Mining Unit, Directorate of  
Industries, Government of Uttarakhand, Dehradun, Uttarakhand.

3-District Magistrate, Haridwar, Uttarakhand.

4-Additional District Magistrate (Finance/ Revenue), Haridwar,  
Uttarakhand.

5-Shri. Alok Dwivedi, S/o. Shri. Chandra Prakash, R/o. Rasoolpur  
Bada, Nalowala, Tehsil & District Haridwar.

.....Respondents

489  
20/12/2021

Affidavit of Vinay Shankar Pandey  
(Male)  
Aged about 53 Years,  
S/o. Sri. Ram Prakash Pandey  
Presently posted as District Magistrate,  
Haridwar.

(Deponent)



*[Handwritten signature]*

*[Handwritten signature]*



I, the deponent above named do hereby solemnly affirm and state on oath as under:-

1. That the deponent is presently posted as District Magistrate, Haridwar who has been arrayed as respondent no. 3 in the present writ petition. The deponent is well conversant with the facts of the case and as such is in a position to file this counter affidavit, as here under.
2. That the deponent has read and understood the contents of present writ petition with affidavit and annexures filed in support thereto, to which he has understood, and as such being well conversant with the facts of the case is in a position to file this counter affidavit; as here under.
3. That the contents of paragraph no. 1 of the writ petition as stated are not admitted, hence denied. It is submitted that the application of respondent no. 5-Mr. Alok Dwivedi was received in the Office of the District Magistrate, Haridwar on 14-9-2021, pursuant to which the Office of District Magistrate, in order to sought necessary guidance from the Government, forwarded its report dated 25-9-2021 to the Government. The Government vide letter no. 1702/VII-A-1/2021-90(ख)/2016 TC-III dated 14-10-2021 issued direction for extension of time limit in special circumstances in order to recover the balance amount to the tune of Rs. 87,31,500/-

489  
20/12/2021



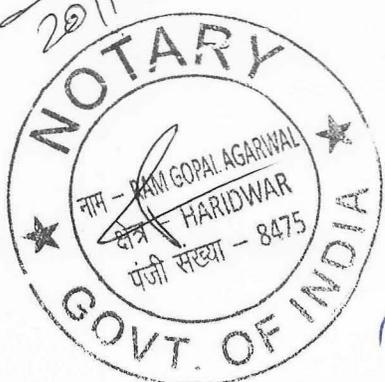
*[Handwritten signature]*



*[Handwritten signature]*

and charge Rs. 26,00,000/- for the disposal/ extraction of remaining 6402.16 cubic meter of R.B.M. to respondent no. 5-Mr. Alok Dwivedi, S/o. Sri. Chandra Prakash, R/o. Rasoolpur, Bada Narowala, Tehsil & District Haridwar under balance work limit sanctioned earlier for river training in the area under Village Rasoolpur Mitiberi. In compliance of the aforesaid direction, the Office of the District Magistrate Haridwar vide office memo no. 2019/खनन सहा0 (नीलामी)-2021 dated 25-10-2021 subject to certain conditions for a period of two months or for the period for removal of licensed quantity, whatever may be balance/remaining, accorded permission. In compliance of the same, pursuant to the report dated 26-10-2021 of the Assistant Geology and Mining Officer, Geology & Mining Unit, District Haridwar, vide office memo no. 2736/खनन/भू0ख0नि0ई0/पोर्टल/2021-22 dated 28-11-2021 the Directorate of Mining, as per earlier license granted to the petitioner, made an amendment to the extent by providing 02 months time period from 28-10-2021 to 27-12-2021 for extraction of balance/residue RBM having quantity 6402.16 cubic meter in the Log-in ID No. Mo. 68011625 of departmental E-Ravanna Portal.

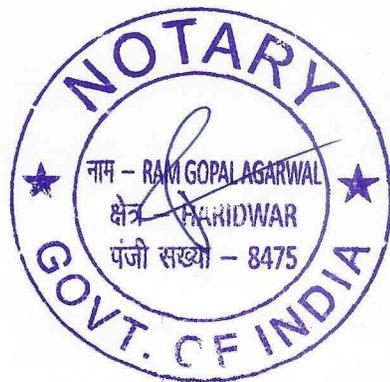
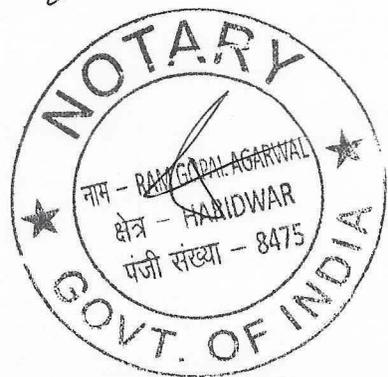
4. That the contents of paragraph nos. 2, 3 & 4 of the writ petition as stated are matters of record, as such need no comments.
5. That in reply to the contents of paragraph nos. 5, 6, 7, 8 & 9 of the writ petition it is submitted that as per the provisions of River Training Policy 2016, the demarcation of the concerned area in question was made by the Committee duly constituted in this regard



at the relevant point of time, and the advertisement for open auction was published on 9-6-2018 and the process of auction was completed on 12-6-2018, wherein the petitioner also participated as a bidder. Being the highest bidder, who offered bid amounting Rs.1,40,00,000/-, the concerned bid was awarded to Mr. Alok Dwivedi and the office order in this regard was issued by the District Office on 13-6-2018 (already annexed as Annexure No. 5 to the present writ petition). Rest of the contents made by the petitioner in the paragraph under reply as stated are matters of record, as such need no comments.

6. That the contents of paragraph no. 10 of the writ petition as stated need no comments.
7. That the contents of paragraph nos. 11, 12 & 13 of the writ petition as stated are concerned with the orders passed by the Hon'ble Court and need no comments on behalf of answering respondent.
8. That the contents of paragraph no. 14 of the writ petition as stated are not admitted, hence denied. It is submitted that in the matter under question, the Deputy Director/ Geologist, Geology & Mining Unit, Haridwar vide letter no. 642/भूखनि0ई0/हरि0/2018-19 dated 22-2-2020 furnishing its report informing therein that under the provisions of the Uttarakhand Minor Mineral Concession Rules 2001 and Uttarakhand River Training Policy 2020, there is no mention of extension of time limit, subsequent to which the Assistant Geologist, Geology and Mining Unit, Haridwar vide letter

489  
20/12/2021



37

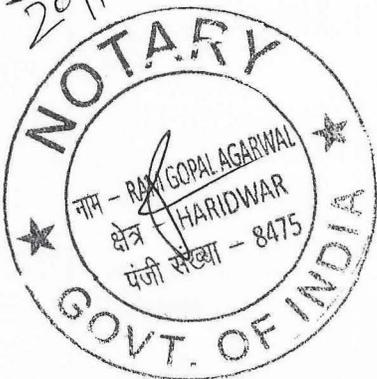
no. 307 / भूखण्डनिर्देश-हरिद्वार / रीवर ट्रेनिंग / 2001 dated 18-9-2021 proposed the matter for seeking guidance from the Government pursuant to which the Office of District Magistrate, Haridwar vide letter no. 1668 dated 25-9-2021 requested for taking advice from the Government. The Government vide letter no. 1702/VII-A-1/2021-90(ख)/2016 TC-III dated 14-10-2021 issued direction for extension of time limit in special circumstances in order to recover the balance amount to the tune of Rs. 87,31,500/- and charge Rs.26,00,000/- for the disposal/ extraction of remaining 6402.16 cubic meter of R.B.M. to Mr. Alok Dwivedi, S/o. Sri. Chandra Prakash, R/o. Rasoolpur, Bada Narowala, Tehsil & District Haridwar in balance work limit sanctioned earlier for river training in the area under Village Rasoolpur Mitiberi. Detailed reply in regard to the same has already been given in the preceding paragraphs of this counter affidavit, contents whereof are reiterated.

9. That the contents of paragraph no. 15 of the writ petition relates to the order dated 28-1-2021 passed by the Hon'ble Court in Writ Petition No. 206 (M/S) of 2021 "Alok Dwivedi Vs. District Magistrate, Haridwar & Another", and being legal in nature, need no comments on behalf of answering respondent.

10. That the contents of paragraph no. 16 of the writ petition as stated need no comments on behalf of answering respondent/ deponent.

11. That the contents of paragraph nos. 17, 18 & 19 of the writ petition as stated need no further comments in view of the detailed reply

489  
20/12/2021



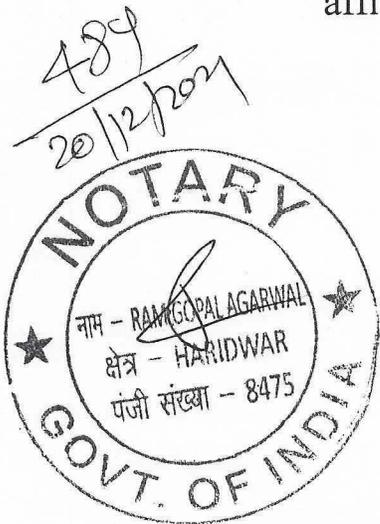
A

LC



submitted in preceding paragraphs of this counter affidavit, contents whereof are reiterated.

12. That the contents of paragraph no. 20 of the writ petition as stated need no further comments in view of the detailed reply submitted in preceding paragraphs of this counter affidavit, contents whereof reiterated.
13. That the contents of paragraph nos. 21, 22 & 23 of the writ petition as stated need no comments.
14. That the contents of paragraph nos. 24, 25 & 26 of the writ petition as stated are not admitted in view of the detailed reply submitted in preceding paragraphs of this counter affidavit, contents whereof are reiterated.
15. That the contents of paragraph no. 27 of the writ petition as stated need no further comments in view of the detailed reply submitted in preceding paragraphs of this counter affidavit, contents whereof are reiterated.
16. That the contents of paragraph no. 28 of the writ petition as stated are not admitted, hence denied. Detailed reply in regard to the same has already been given in the preceding paragraphs of this counter affidavit, contents whereof are reiterated.



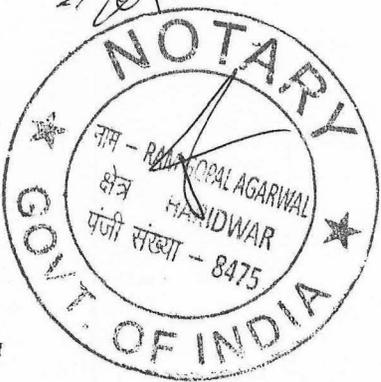
Handwritten signature/initials.

Handwritten signature/initials.



17. That the contents of paragraph no. 29 of the writ petition as stated need no comments on behalf of answering respondent/ deponent.
18. That the contents of paragraph no. 30 of the writ petition as stated need no further comments in view of the detailed reply already submitted in preceding paragraphs of this counter affidavit, contents whereof are reiterated.
19. That the contents of paragraph nos. 31 of the writ petition as stated are not admitted in view of the detailed already submitted in preceding paragraphs of this counter affidavit, contents whereof are reiterated.
20. That the contents of paragraph no. 32 of the writ petition as stated need no further comments in view of the detailed reply already submitted in preceding paragraphs of this counter affidavit, contents whereof are reiterated. It is further submitted that the grounds set forth are mere repetition of the contents of paragraph of the writ petition which have already been replied by the answering respondent. In view of the facts mentioned above, present writ petition being devoid of merit is liable to be dismissed.

I, the above named deponent do hereby verify that the contents of para nos. .... of this affidavit are true to my personal knowledge, those of para nos. .... of this affidavit are



Handwritten signature in blue ink.

Handwritten signature in blue ink.

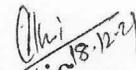


based on records, those of para nos. ....  
..... of this affidavit are as per the  
legal advice received, those of para nos. ....  
.....of this affidavit are as per  
the information received which all I believe to be true. That no  
part of this affidavit is false and nothing material has been  
concealed.

So Help Me God

  
Deponent

I, Ravi Negi, Mines Officer, Haridwar do hereby declare  
that the person making this affidavit and alleging himself to be  
the deponent is known to me from the perusal of records in this  
case.

  
Identifier

  
L. T. J. - Sh. V. S. Pandey

Solemnly affirmed before me today, the  
<sup>20<sup>th</sup></sup>.....day of December, 2021 at <sup>2:45</sup>.....am/pm, by the  
deponent who has been identified by the aforesaid person.

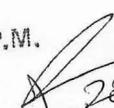
I have satisfied myself by examining the deponent that he  
understands the contents of this affidavit, which have been read  
over and explained to him by me.

OATH COMMISSIONER

489  
20/12/2021

Execution of the Comter Affidavit  
admitted and signed before me by  
Sri/Smt. Vinay Sham Kar Pandey S/O Shri Ram Prakash Pandey  
Which identified by Shri. Ravi Negi Mines officer Haridwar.  
In the Distt. Court premises of my  
Office at Hardwar  
at 2:45 A.M./P.M.



  
Ram Gopal Agarwal  
Notary Advocate  
Government of India  
Distt. Court Haridwar (U.K.)



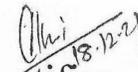


based on records, those of para nos. ....  
..... of this affidavit are as per the  
legal advice received, those of para nos. ....  
.....of this affidavit are as per  
the information received which all I believe to be true. That no  
part of this affidavit is false and nothing material has been  
concealed.

So Help Me God

  
Deponent

I, Ravi Negi, Mines Officer, Haridwar do hereby declare  
that the person making this affidavit and alleging himself to be  
the deponent is known to me from the perusal of records in this  
case.

  
Identifier

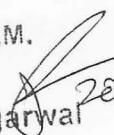
Solemnly affirmed before me today, the  
<sup>20th</sup>.....day of December, 2021 at ~~2:45~~.....am/pm, by the  
deponent who has been identified by the aforesaid person.

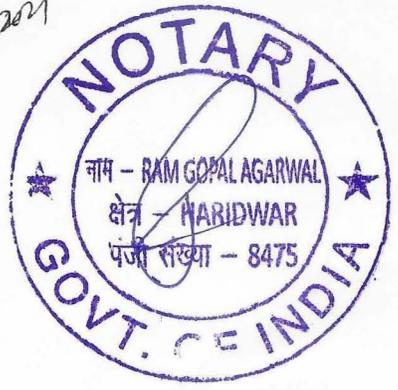
  
L-1-Sh-V-S (Ravi Negi)

I have satisfied myself by examining the deponent that he  
understands the contents of this affidavit, which have been read  
over and explained to him by me.

OATH COMMISSIONER

Execution of the Comter Affidavit  
admitted and signed before me by  
Sri/Smt. Vinay Shankar Pandey S/o Shri Ram Prakash Pandey  
Which identified by Shri. Ravi Negi Mines officer Haridwar  
In the Distt. Court premises of my  
Office at Haridwar  
at 2:45 A.M./P.M.

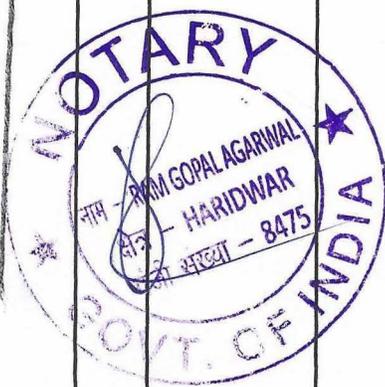
  
Ram Gopal Agarwal  
Notary Advocate  
Government of India  
Distt. Court Haridwar (U.K.)



489  
20/12/2021



SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	07.4.2022		<p>WPMS No. 2512 of 2021  <b><u>Hon'ble Sharad Kumar Sharma, J.</u></b></p> <p>Ms. Menka Tripathi, Advocate, for the petitioner.</p> <p>Mr. N.S. Pundir, Deputy Advocate General, for the State of Uttarakhand.</p> <p>Mr. Ajay Veer Pundir, Advocate, for respondent No.5.</p> <p>The petitioner in the present Writ Petition has raised his grievance, as against the order No. 2736/Khanan/Bhu.KhaNi.E./Portal/2021-22 dated 28<sup>th</sup> October, 2021, by virtue of which, the respondent No.5, was granted an extension of time period for the excavation of the RBM, as per the order, which was put to challenge.</p> <p>The petitioner had also simultaneously sought a prayer, that instead of continuing with the orders of extension as granted on 28<sup>th</sup> October, 2021, the respondents may be directed to hold the fresh auction for river training, in respect of Khasra No. 1890, situated in Village Rasoolpur Meethiberi, Tehsil and District Haridwar.</p> <p>The learned counsel for the respondent No. 5 had submitted, that when the Writ petition was heard by the Coordinate Bench on 2<sup>nd</sup> December, 2021, the effect and operation of the period of extension was stayed and the order dated 14<sup>th</sup> October, 2022, was kept in abeyance.</p> <p>But, since by that time, sufficient time has lapsed, as a consequence of the extension order which stood initially granted in favour of respondent No. 5, for two months, he contends that he had already completed almost 85% of work, which he was supposed to perform under the extension order and for the remaining work, he has not undertaken any mining activities, because of the interim order granted by this Court.</p> <p>In that eventuality, since the time period, which was extended, permitting respondent No. 5 to</p>



undertake the mining activities in pursuance of the order of 24<sup>th</sup> October, 2021, which was under challenge, the cause of action, as such, after the expiry of the extended period, now no more survives.

The only apprehension, which the petitioner has at the moment is that, the land in question, over which, the mining activities was permitted to be carried, a fresh bid may be invited by the respondents under the river training policies.

In that view of the matter, so far as the relief Nos.1, 2 and 3 are concerned, no cause of action as such, now survives, because of the lapse of extended time period of mining activities in favour of respondent No. 5. So far as relief No.4 is concerned, as already observed, the respondents are directed to hold a fresh auction for the grant of mining lease, qua khasra number mentioned in relief No.4, as per law.

Subject to the above observations, the Writ Petition stands disposed of.

*Sd.*  
(Sharad Kumar Sharma, J.)

Dated 07.04.2022

Shiv

*WTR JB COPY 11*



*Confirmed by: Harib*  
PHOTOSTAT  
TRUE-COPY

*12/05/2022*  
Assistant Registrar (Copying)  
High Court of Uttarakhand

Notaral

संख्या- 01 / खनन सहा0-2021 दिनांक 01/12/2021

कार्यालय / न्यायालय जिलाधिकारी, हरिद्वार।

संख्या: 335 / 2021

सरकार

बनाम

धारा-विविध / नियम 14-5(क)(ख)(ग)  
उत्तराखण्ड खनिज(अवैध खनन,  
परिवहन एवं भण्डारण का निवारण) नियमावली 2021  
आलोक द्विवेदी पुत्र चन्द्रप्रकाश,  
निवासी रसूलपुर बडा नलोवाला एवं श्री चरत सिंह,  
जगराम सिंह, महावीर सिंह, बलबीर व राजबीर सिंह  
पुत्रगण श्री रामप्रसाद, नि0-ग्राम डण्डियानवाला, रसूलपुर  
मीठीबेरी, तहसील व जिला हरिद्वार।

कारण बताओ नोटिस

1-आलोक द्विवेदी पुत्र चन्द्रप्रकाश,  
निवासी रसूलपुर बडा नलोवाला,  
तहसील व जनपद हरिद्वार।

2-श्री चरत सिंह, जगराम सिंह, महावीर सिंह,  
बलबीर व राजबीर सिंह पुत्रगण श्री रामप्रसाद,  
नि0-ग्राम डण्डियानवाला, रसूलपुर मीठीबेरी,  
तहसील व जिला हरिद्वार।

द्वारा- तहसीलदार हरिद्वार।

सहायक भू-वैज्ञानिक भूतत्व एवं खनिकर्म इकाई हरिद्वार के पत्रांक-485/भू0खनि0ई0-  
हरि0/अवैध खनन/2021 दिनांक 25.11.2021 द्वारा यह आख्या प्रस्तुत की गई कि दिनांक 23.11.2021 को अवैध  
खनन की शिकायत प्राप्त होने पर राजस्व विभाग, खनन विभाग एवं वन विभाग द्वारा ग्राम रसूलपुर मीठीबेरी  
क्षेत्रान्तर्गत औचक निरीक्षण किया गया। उक्त पत्र के साथ संलग्न संयुक्त निरीक्षण आख्या दिनांक 23.11.2021 के  
अनुसार आलोक द्विवेदी पुत्र श्री चन्द्र प्रकाश निवासी रसूलपुर, बडा नरोवाला तहसील व जनपद हरिद्वार को  
प्रदत्त रीवर ट्रेनिंग नीति के अन्तर्गत अनुज्ञा क्षेत्र से बाहर उत्तर दिशा में लगभग 300 मी0 की नदी के अपस्ट्रीम  
में खसरा संख्या-1875 के आपके द्वारा निजी नाप भू-भागों में अवैध खनन किया गया है, जिसकी मौका पैमाइश  
निम्नवत् पाई गई है:-

1. 70X35X2 = 4900 घ0मी0
2. 30X35X2 = 2100 घ0मी0

कुल- 7000 घ0मी0

उक्तानुसार रीवर ट्रेनिंग स्थल से बाहर कुल 7000 घ0मी0 उपखनिज का अवैध रूप से खनन  
किया जाना पाया गया जिस पर उत्तराखण्ड खनिज (अवैध खनन, परिवहन एवं भण्डारण का निवारण) नियमावली  
2021 के नियम 14 (5) (क) के प्राविधानानुसार अवैध रूप खनन किये गये 7000 घ0मी0 उपखनिज पर रायल्टी  
का दो गुना अर्थात्  $154 \times 2 \times 7000 = 21,56,000.00$  (रु0 इक्कीस लाख छप्पन हजार मात्र) अर्थदण्ड अधिरोपित  
कर, उक्त अनुज्ञा निरस्त किये जाने की संस्तुति तथा तदनुसार अनुज्ञाधारक एवं सम्बन्धित कास्तकारों पर अर्थदण्ड  
अधिरोपित किये जाने हेतु आख्या उपलब्ध कराई गई है।

उक्त कृत्य के लिए क्यों न आपके विरुद्ध उत्तराखण्ड खनिज (अवैध खनन, परिवहन एवं भण्डारण  
का निवारण) नियमावली 2021 के नियम 14 (5)(क) के प्राविधानानुसार अवैध रूप खनन किये गये 7000 घ0मी0  
उपखनिज पर रायल्टी का दो गुना अर्थात्  $154 \times 2 \times 7000 = 21,56,000.00$  (रु0 इक्कीस लाख छप्पन हजार मात्र)  
अर्थदण्ड की राशि अधिरोपित कर दी जाये?

अतः आपको निर्देशित किया जाता है कि आप उक्त के सम्बन्ध में अपना उत्तर नोटिस प्राप्ति  
के 15 दिन के प्रस्तुत करना सुनिश्चित करें। यदि निर्धारित समयावधि में आपका आपका उत्तर प्राप्त नहीं होता है  
अथवा संतोषजनक नहीं पाया जाता है, तो प्रकरण में अग्रेत्तर कार्यवाही गुण-दोष के आधार पर की जायेगी।

(विनय शंकर पाण्डेय)  
जिलाधिकारी  
हरिद्वार।

प्रतिलिपि  
1-तहसीलदार हरिद्वार को इस निर्देश के साथ प्रेषित कि उक्त नोटिस की तामील सम्बन्धित को तत्काल  
तामील कराकर तामिली आख्या इस कार्यालय को उपलब्ध कराना सुनिश्चित करें।

2-सहायक भू-वैज्ञानिक भूतत्व एवं खनिकर्म इकाई हरिद्वार को इस निर्देश के साथ संबंध में नियमानुसार अग्रेत्तर कार्यवाही सुनिश्चित  
करने हेतु प्रेषित।

PHOTOCOPY ATTESTED

RAM GOPAL AGARWAL

(विनय शंकर पाण्डेय)  
जिलाधिकारी  
हरिद्वार।

बाद संख्या: 336 / 2021

कार्यालय / न्यायालय जिलाधिकारी, हरिद्वार।

सरकार

बनाम

धारा-विविध / नियम 14-5(क)(ख)(ग)  
उत्तराखण्ड खनिज(अवैध खनन,  
परिवहन एवं भण्डारण का निवारण) नियमावली 2021  
आलोक द्विवेदी पुत्र चन्द्रप्रकाश,  
निवासी रसूलपुर बडा नलोवाला,  
तहसील व जनपद हरिद्वार।

कारण बताओ नोटिस

आलोक द्विवेदी पुत्र चन्द्रप्रकाश,  
निवासी रसूलपुर बडा नलोवाला,  
तहसील व जनपद हरिद्वार।

द्वारा- तहसीलदार, हरिद्वार।

सचिव, औद्योगिक विकास(खनन) अनुभाग-1 उत्तराखण्ड शासन देहरादून के पत्र संख्या-1702 / VII-A-1 / 2021-90(ख) / 2016TC-III दिनांक 14.10.2021 के क्रम में आपको इस कार्यालय ज्ञाप संख्या-2019 / खनन सहायक(नीलामी)-2021 दिनांक 25.10.2021 के द्वारा जनपद हरिद्वार की तहसील हरिद्वार के ग्राम रसूलपुर भीठीबेरी क्षेत्रान्तर्गत खसरा संख्या-1890 क्षेत्रफल 8000वर्गमीटर क्षेत्र में 8000घनमीटर भूमि से अवशेष आर0बी0एम0 / मलवा निस्तारण किये जाने हेतु 02 माह की अवधि अथवा अनुज्ञात मात्रा हटाने की अनुमति जो भी पूर्व घटित हो, की अनुमति निर्धारित शर्तों / प्रतिबंधों के अधीन प्रदान की गयी थी।

इस संबंध में सहायक भू-वैज्ञानिक भूतत्व एवं खनिकर्म इकाई हरिद्वार के पत्रांक-485 / भूखनि0ई0-हरि0 / अवैध खनन / 2021 दिनांक 25.11.2021 द्वारा यह आख्या प्रस्तुत की गई कि दिनांक 23.11.2021 को अवैध खनन की शिकायत प्राप्त होने पर राजस्व विभाग, खनन विभाग एवं वन विभाग द्वारा ग्राम रसूलपुर भीठीबेरी क्षेत्रान्तर्गत औचक निरीक्षण किया गया, जिसमें आपको प्रदत्त रीवर ट्रेनिंग नीति के अन्तर्गत उक्त अनुज्ञा से बाहर अवैध खनन किया जाना पाया गया। उक्त प्रस्तुत संयुक्त निरीक्षण आख्या के अनुसार मौका पैमाईश निम्नवत् दी गई है:-

- (1) 1. 40X25X1.5 = 1500 घ0मी0
2. 40X35X1.5 = 2100 घ0मी0
3. 30X32X2 = 1920 घ0मी0

कुल-5520 घ0मी0

उक्त रीवर ट्रेनिंग स्थल से बाहर कुल 5520 घ0मी0 उपखनिज का अवैध रूप से खनन किया जाना पाया गया जिस पर उत्तराखण्ड खनिज (अवैध खनन, परिवहन एवं भण्डारण का निवारण) नियमावली 2021 के नियम 14 (5)(क) के प्राविधानानुसार अवैध रूप खनन किये गये 5520 घ0मी0 उपखनिज पर रायल्टी का दो गुना अर्थात् 154X2X5520= 17,00,160.00 ( रू0 सत्रह लाख एक सौ साठ मात्र ) अर्थदण्ड अधिरोपित कर, उक्त अनुज्ञा निरस्त किये जाने की संस्तुति की गई है।

उक्त कृत्य के लिए क्यों न आपके विरुद्ध उत्तराखण्ड खनिज (अवैध खनन, परिवहन एवं भण्डारण का निवारण) नियमावली 2021 के नियम 14 (5)(क) के प्राविधानानुसार अवैध रूप खनन किये गये 5520 घ0मी0 उपखनिज पर रायल्टी का दो गुना अर्थात् 154X2X5520= 17,00,160.00 ( रू0 सत्रह लाख एक सौ साठ मात्र ) अर्थदण्ड अधिरोपित अधिरोपित कर दी जाये?

अतः आपको निर्देशित किया जाता है कि आप उक्त के सम्बन्ध में अपना उत्तर नोटिस प्राप्त के 15 दिन के प्रस्तुत करना सुनिश्चित करें। यदि निर्धारित समयावधि में आपका आपका उत्तर प्राप्त नहीं होता है अथवा उत्तर प्रस्तुत नहीं पाया जाता है, तो प्रकरण में अग्रतत्तर कार्यवाही गुण-दोष के आधार पर की जायेगी।

PHOTOCOPY ATTESTED

RAM GOPAL AGARWAL  
ADVOCATE  
NOTARY GOVT. OF INDIA  
HARIDWAR

(विनय शंकर पाण्डेय)  
जिलाधिकारी  
हरिद्वार।

- 1-तहसीलदार हरिद्वार को इस निर्देश के साथ प्रेषित कि उक्त नोटिस की तामील सम्बन्धित को तत्काल तामील कराकर तामिली आख्या इस कार्यालय को प्राप्त कराना सुनिश्चित करें।
- 2-सहायक भू-वैज्ञानिक भूतत्व एवं खनिकर्म इकाई हरिद्वार इस संबंध में नियमानुसार अग्रतत्तर कार्यवाही सुनिश्चित करने हेतु प्रेषित।



जिलाधिकारी,  
हरिद्वार।