

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

Original Application No. 542/2019

(I.A. No. 395/2019, I.A. No. 396/2019 & I.A. No. 418/2019)

Brijesh Pandey

..... **Applicant(s)**

Versus

M/s. Hari Shankar Stone Works & others

..... **Respondent (s)**

Factual and action taken report:-

1. That on the basis of letter dated 30.03.2019 written by Divisional Forest Officer, Obra the applicant by way of aforesaid original application prayed for action against the twelve mining leases which alleged to running on the forest area in violation of order of this Hon'ble Tribunal dated 13.07.2018 passed in O.A. No. 429 of 2016, *All India Kaimur People's Front Vs. The State of U.P. & others.*
2. That the description of those twelve mining leases are mentioning as under:-

Sl. No	Name of the lessee	Village	Gata No.	Area (in acre)
1	2	3	4	5
1.	M/s. Kaimuranchal Stone Crushing Company Partner Shri Sriram Pandey son of Shri Hanuman Prasad Pandey Resident Village- Sinduria, Tehsil Robertsganj, District Sonbhadra.	Bardiya	921ka	15.00
2.	Shri Sukh Sagar Upadhya son of Shri Girija Prasad Upadhya, Resident of Village-Kota, Dala, Tehsil- Robertsganj, District-Sonbhadra.	Billi Markundi	7536ga	1.25
3.	M/s. Maa Vindhya Stone Crushing Company, Bari Dala, Sonbhadra Partner- (i) Shri Praveen Kumar Son of late Baliram Prasad Resident - Mahmurganj, District - Varanasi,	Billi Markundi	7423ka, 7424ka, 7425kha, 7416, 7426, 7417mi, 7418mi, 7419mi, 7420ka, 7421ka, 7425ka	3.71

1	2	3	4	5
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(ii) Shri Mithilesh

Kumar son of Shri
Sundar Lal Agarhari
Resident – West
Mohal, Gopiganj,

Bhadohi, (iii) Shri
Dinesh Kumar son of
Jai Narayan

Resident- Chopan,
District- Sonbhadra
and (iv) Shri

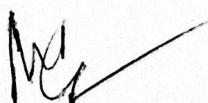
Satyapal Agrawal
son of Shri Shiv
Narayan Agrawal
Resident- Chopan,
District- Sonbhadra

4. Shri Rishi Kumar Bardiya 941ka 2.04
Tiwari Son of Shri
Maheshwari Tiwari
Resident –Chopan
Tehsil –Robertganj
District –Sonbhadra
5. M/s. Santosh Stone Billi 4949mi & 4.12
Crushing Works Markundi 5006
through Partner Shri
Krishna Nand Singh
Son of Shri Avadh
Narayan Singh
Resident Village-
Billi Markundi,
Tehsil-Robertsganj,
District-Sonbhadra.

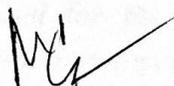
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1	2	3	4	5
6.	M/s. R.D.S. Minerals Partner Shri Dharmendra Kumar son of Shri Ramesh Kashyap, Resident of Village-Billi Markundi, Obra, Sonbhadra and Shri Subedar, son of Shri Jagannath Prasad, Resident of Village Hakuha Khokhipur, Tehsil and District Sultanpur.	Bardiya	451cha	2.74
7.	Shri Santosh Kumar Singh son of Shri Shivraj Singh, Resident of Shivpuri Colony, Station Road, District- Mirzapur and Shri Vijay Bahadur Singh son of late Shitala Singh, Shahpur District-Mirzapur.	Billi Markundi	7347ka	2.20
8.	Shri Rajesh Kumar son of late Kaliram Chopan, Sonbhadra District and Smt. Farida Begum wife of Imtiaz Ahmed	Billi Markundi	7586, 7590, 7584	1.85




1	2	3	4	5
	Resident Chopan, District-Sonbhadra.			
9.	Shri Ramkrit Singh son of late Nanhaku Singh Resident Sector-8, Obra, District-Sonbhadra.	Billi Markundi	5550 & 5580	1.53
10.	M/s. Ali Stone Works Partner Shri Akbar Ali Son of Shri Majnu Bhai Resident-Chopan, District-Sonbhadra and Smt. Geetanjali Wife of Shri Sanjit Kumar Resident Village-Billi Markundi, Susheela Niwas Obra, District-Sonbhadra	Bardiya	941kha	2.00
11.	Shri Dharmendra Kumar Singh son of Prem Narain Singh Resident - Chopan, Tehsil - Robertsganj, District - Sonbhadra.	Billi Markundi	7613	1.25
12.	Shri Ramesh Chandra Vaishya son of late Kapoor Chandra Vaishya Resident-17/203, Chopan Road, Obra, District-Sonbhadra.	Billi Markundi	4920mi, 4921mi, 4922mi, 4923, 4934, 4937mi, 4924mi	2.80




3. That on 05.08.2019 this Hon'ble Tribunal was pleased to pass following order in the above mentioned Original Application:-

"Grievance in this application is against mining leases in forest area in District Sonbhadra, Uttar Pradesh in violation of order of this Tribunal dated 13.07.2018 in O.A No. 429 of 2016, All India Kaimur People's Front v. The State of U.P. & Ors. The applicant has relied upon a letter dated 15.03.2019 by the Regional Forest Officer to the District Magistrate, Sonbhadra recommending action against the twelve mining leases to give effect to order of this Tribunal. The applicant has also filed a copy of representation dated 11.06.2019 pointing out the above facts to the District Magistrate.

In view of the above, we find it necessary to require a factual and action taken report from a joint Committee comprising of Divisional Commissioner, Mirzapur, District Magistrate, Sonbhadra and nominee of PCCF (HoFF), Uttar Pradesh, not lower than the rank of the Chief Conservator of Forest, within one month by email at judicial-ngt@gov.in. PCCF (HoFF) will be the nodal agency for coordination and compliance."

4. That in the compliance of order dated 05.08.2019 passed by this Hon'ble Tribunal an action taken report was filed on 03.12.2019 to the effect that only those mining leases which falling out side the forest area have been allowed to operate.
5. That this Hon'ble Tribunal vide order dated 04.12.2019 was pleased to direct the District Officer Sonbhadra in the following manner :-

"Learned Counsel for the applicant has made following submissions with reference to the report:

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- i. *The mines which were found to illegally operating have not been required to pay any environmental compensation to restore the benefits taken and the cost to the environment.*
- ii. *Even area falling outside the forest within 1km of the forest could not be subjected to mining as it will adversely affect the forest and, therefore, lease allowed are illegal.*
- iii. *The EC itself stood vitiated having been given on wrong factual basis for which SEIAA needs to take further action.*
- iv. *Action is required for violation of provisions of the Forest Conservation Act, 1980.*

Learned Counsel for State seeks time to examine the submissions and take further necessary action. Let further action be taken after following due process of law and compliance report furnished on or before 31.01.2020 by e-mail at judicial-ngt@gov.in."

6. That the final judgment and order dated 13.07.2018 passed in O.A. No. 429 of 2016, *All India Kaimur People's Front Vs. The State of U.P. & others* but this Hon'ble Tribunal has been challenged by way of Civil Appeal No. 12202 of 2018 (Dharmendra Kumar Singh Versus The State of Uttar Pradesh & others) before the Hon'ble Supreme Court along with other connected Civil Appeals.
7. That on the aforesaid Civil Appeal the Hon'ble Supreme Court on 05.06.2020 was pleased to pass the following order:-

"Mr. Tushar Mehta, learned Solicitor General appearing for the State of Uttar Pradesh submits




that the draft notification in pursuance to what was observed on the last date of hearing on 25.2.2020 is ready but has drawn our attention to an additional affidavit affirmed on 27.5.2020 filed by respondent Nos.2,3,8 and 9/State to the effect that there is some apprehension that in view of the order dated 20.11.1986 in Writ Petition (Crl.)No.1061 of 1982, the same may not be treated as a violation of the orders of this Court. Thus, a formal order is solicited from this Court for permission to issue notification.

We see no reason for any such apprehension but in any case in view of the State Government having volunteered to issue notification now, we formally permit the issuance of such notification under Section 20 of the Indian Forest Act, 1927 and an undertaking is given to this Court on behalf of the State that the same will be issued within a maximum period of one week from today.

The undertaking is taken on record.

Learned counsel for the appellant states that the only other issue which survives for consideration is that the period when the mining leases were not permitted to operate, the period of lease should be extended. In respect of the aforesaid, Mr. Mehta states that he will obtain the requisite instructions from the State Government, by which date the notification would also have been issued. List on 14.7.2020."

8. That the aforesaid civil Appeal was again listed on 10.08.2020 and the Hon'ble apex court was pleased to pass the following order:-

"Applications for exemption from filing official translation, and c/c of the impugned judgment are allowed. Applications for permission to file additional documents/facts/annexures and lengthy




list of dates are allowed. We have perused the additional affidavit filed by the State of Uttar Pradesh. The stand of the State of Uttar Pradesh in response to the order dated 15th July, 2020 is that no permission for mining can be granted for the obstructed period as there does not exist any provision for grant of permission for mining in case of disruption of mining operations under the Uttar Pradesh Mining Mineral (Concessions) Rules, 1963. The State Government seeks to rely upon certain judgments of the Allahabad High Court which have been annexed to the affidavit. On a Court query, learned senior counsel for the State of Uttar Pradesh, on instructions, states that the State is willing to refund the proportionate amount of the lease money for which period the lease has not been permitted to operate. On the other hand, learned senior counsel for the appellant states that there are judgments supporting the proposition that in such a situation the lease should be extended. At his request, two weeks' time is granted to file an affidavit with documents and the said judgments. In view of the aforesaid, the only aspect which will have to be examined by this Court is whether in view of the judicial pronouncements, the appropriate order to pass would be for refund of the lease amount for the period it was not permitted to operate or whether the lease is liable to be renewed for that period of time.

List on 26th August, 2020."

9. That the hearing of aforesaid Civil Appeal has been adjourned up to 23 September 2020 by the Hon'ble Supreme Court vide order dated 26.08.2020
10. That the Government of Uttar Pradesh, Environment, Forest and climate change section-2 vide notification No. 1136/81-2-2020-20 (s)/2019 dated 15 June 2020 declared 819.785

[Handwritten signatures]

Hectares land as 'Reserve forest land' situate at Billi Markundi out of proposed land for forest vide notification no. 3723/14 Kha-4 (67)-69 dated 05.11.1969 and No. 6865/14-2-4(11)-70 dated 21.12.1973. Hence except 819.785 Hectares land other land became civil land on 15 June, 2020.

11. That after notification dated 15 June 2020, restriction for not carrying mining operation has been lifted on 20 mining leases which has been found to situate out of 100 meters from the reserve forest land and remaining other areas, enquiry is on progress.
12. That in view of above it is evident that matter in which questions has been raised by the applicant is pending before the Hon'ble Supreme Court and the Hon'ble Supreme Court is looking all aspect as raised by the applicant Sri Brijesh Pandey and at this time in the District Sonbhadra no mining is being allowed on proposed forest land as notified U/s-4 of the Indian Forest Act. 1927 or against the terms and condition of Environmental Clearance or terms and conditions of the mining leases.
13. That whenever the Hon'ble Supreme Court shall pleased to decide the above mentioned civil Appeals arising out of final judgment and order dated 13.07.2018 passed by the Hon'ble National Green Tribunal in O.A. No. 429 of 2016, *All India Kaimur People's Front Vs. The State of U.P. & others* than all

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directions issued by the Hon'ble Court will be complied with by the authorities.

14. That in compliance of order dated 04.12.2019 passed by this Hon'ble Tribunal this Compliance report is being filed.

Place- Sonbhadra

Dated .09.2020



(Mohd. Mahboob)
Mines Officer
Sonbhadra.



(S. Rajalingam)
District Officer
Sonbhadra.