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o/A

7 pages

From The Director General of Police,  
Haryana, Panchkula.

To The Registrar General,  
National Green Tribunal,  
New Delhi.  
(Through E-Mail ID judicial-ngt@gov.in)

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No. 15622 /L&O-4 dated 07.10.2022

Sub. O.A No. 362 of 2022 titled as Arvalli Baccaho Citizens Movement Vs. Union of India and others.

Memo.

In this connection, please find enclosed herewith an Affidavit of Sh. Sanjay Kumar, IPS, IGP/Law & Order, Haryana on behalf of Director General of Police, Haryana in compliance of order dated 23.05.2022 in O.A No. 362 of 2022 in the matter of Arvalli Baccaho Citizens Movement Vs. Union of India and others .

  
Superintendent  
for Director General of Police, Haryana

DTN1  
071900/10/22

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL AT NEW DELHI**

O.A No. 362 of 2022

Aravalli Bachao Citizens Movment

Versus

..... Petitioner

Union of India and others

..... Respondent

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Superintendent  
for Director General of Police, Haryana

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

O.A. No. 362 OF 2022

Aravalli Bachao Citizens Movement.

... Applicant

Versus

Union of India and Others.

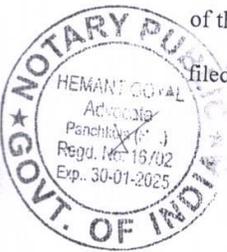
... Respondents

**AFFIDAVIT OF SANJAY KUMAR, I.P.S., INSPECTOR  
GENERAL OF POLICE, LAW AND ORDER, HARYANA ON BEHALF OF  
DIRECTOR GENERAL OF POLICE, HARYANA IN COMPLIANCE OF  
ORDER DATED 23.05.2022.**

**RESPECTFULLY SHOWETH:**

I, the above named deponent do hereby solemnly affirm and declare as under: -

1. That it is submitted that above captioned application is fixed for hearing on 10.10.2022. Earlier, the application came up for hearing before the Hon'ble Tribunal on 23.05.2022 and the Director General of Police, Haryana was directed to submit affidavit on following aspects:-
- (a) How many complaints were received on web portal or by post or otherwise regarding illegal mining in the area during last 5 years.
- (b) What action taken on such complaints, in how many cases FIRs were registered, in how many cases challans (Charge-sheet) under Section 173 (2) of the Code of Criminal Procedure, 1973/complaints under Section 22 of the Mines and Mineral (Development and Regulation) Act, 1957 were filed and in how many cases complaints were closed/no action was taken.



07 OCT 2022

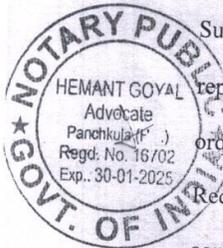


- (c) In how many cases vehicles were impounded and in how many cases the vehicles were confiscated or released after payment of the amount in accordance with order dated 05.09.2018 and 26.02.2021 passed by this Tribunal in O.A No. 44/2016 titled as Mushtakeem Vs. MoEF&CC & others and O.A No. 360/2015 titled as National Green Tribunal Bar Association Vs. Virender Singh (State of Gujarat) respectively.
- (d) In how many cases proceedings for recovery of penalty and environmental compensation were initiated; and.
- (e) What steps were taken for environmental restoration in the areas of illegal mining.

2. That it is submitted that vide this office memo. No. 9378-80/L&O-4 dated 08.06.2022 Commissioners of Police, Gurugram and Faridabad and Superintendent of Police, Nuh were asked to send point wise report/comments with regard to point No. 7 (a) to (e) mentioned in the order dated 23.05.2022 passed by this Hon'ble Tribunal.

Requisite comments have been received and point wise reply in compliance of direction issued by the Hon'ble Tribunal is submitted as under:-

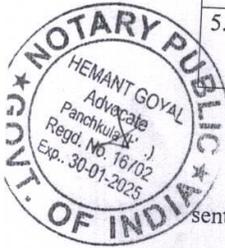
- he
- (a) That in total 542 complaints were received on web portal or by post or otherwise regarding illegal mining during last five years in Commissionrates of Gurugram, Faridabad and District Nuh.
- (b) That after compilation of data received from Commissionrates of Gurugram, Faridabad and District Nuh, reply to queries raised by the Hon'ble Tribunal is submitted in tabulated form as under:-



07 OCT 2022

001  
HEMANT GOYAL  
Advocate  
Panchkula (F.)  
16/02  
DIA

Sr. No.	Particulars	Nos.
1.	Complaints received.	542
2.	<b>FIRs registered.</b>	471
(a)	Final Reports (challans) submitted in Competent Court(s).	424
(b)	Cases still under investigation.	33
(c)	FIRs Cancelled.	07
(d)	Cases/FIRs found untraced.	07
3.	Complaints filed as no illegal mining was found to have taken place.	13
4.	Complaints which are still under enquiry.	14
5.	Complaints sent back to the Mining department as no action was required by the Police Department	44



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It would be pertinent to mention here that 44 complaints were sent back to Mining department as per Section 22 of Mines and Mineral & Development Corporation Act, 1957, after obtaining legal opinion from District Attorney, Nuh vide memo. No. 504 dated 31.03.2022 (copy enclosed).

(c) That 350 vehicles were impounded by the Police Department in Commissionrates Faridabad, Gurugram and District Nuh during last five years out of which 327 vehicles were released after receiving superdari orders from concerned Ld. Courts and 23 vehicles are still lying in the various Police Stations as per latest information. It is pertinent to mention here that amount in accordance with orders dated 05.09.2018 and 26.02.2021 passed by Hon'ble National Green Tribunal in O.A No.

20  
1/3  
10/11/2021

44/2016 and O.A No. 360/2015 is being deposited with the Department of Mines & Geology, Haryana as such complete details of vehicles impounded and amount deposited for release of those vehicles can be provided by said Department.

- (d) That, this particular issue does not relate to Police Department.
- (e) That, this particular issue does not relate to Police Department.

Above affidavit is submitted for kind consideration of the Hon'ble Tribunal.



Place: Panchkula  
Dated: 7 OCT 2022

DEPONENT

*he*  
(Sanjay Kumar)  
IGP/Law and Order  
for Director General of Police, Haryana

**VERIFICATION:**

Verified that the contents of paras No. 1 and 2 of the above affidavit are true and correct to my knowledge based upon information derived from official records. No part of it is false and nothing material has been concealed therein.

DEPONENT

*he*  
(Sanjay Kumar)  
IGP/Law and Order  
for Director General of Police, Haryana

Place: Panchkula  
Dated: 7 OCT 2022

✓  
This Affidavit/SPA/GPA/Deed has been executed by the deponents/executants contents of which have been read over & explained to him/her/them which he/she/they understand & admit to be correct.

ATTESTED

HEMANT GOYAL  
NOTARY PUBLIC  
Panchkula (Hrv.)

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Memo No :- 504

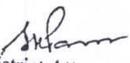
Dak- 31-3-2022

Legal Opinion:-

The case file has been perused. As per the record of case file as well as relevant Act, there is no dispute that an offence under Sub-Section 1 of Section 21 of the Act 1957 is cognizable as provided in Section 21(6) of the said Act, therefore in view of principles laid down by the Apex Court in case of Lalita Kumari (Supra), it is lawful for police to register the case and to investigate the same as per provisions of the Section 154 of Cr.P.C. If the act of the accused constitutes exclusively an offence under the Act 1957, it goes without saying that the police officer on completing the investigation cannot lay a police report under Section 173 of The Code of Criminal Procedure, because Court cannot take cognizance in view of the bar contained in Section 22 of the Act. If the act of accused makes out a cognizable offence under Indian Penal Code as well as an offence under Section 21 of the MMDR Act 1957, the registration of FIR under both the enactments is not illegal and the police can further investigate into such cases and file a police report under Section 173 of The Code of Criminal Procedure confining to the offence under Indian Penal Code alone. So far as offence under Section 21 of the Act 1957 is concerned, it is for the authorized person to file a complaint after investigation before the magistrate concerned, upon which cognizance can be taken by the magistrate concerned, because Section 22 of the Act 1957 prohibits taking cognizance being taken except upon a complaint in writing made by a person authorized either by the Central Govt. or the State Govt.

  
Dy. District Attorney  
Nuh.

I agree with the opinion of DDA, Nuh.

  
District Attorney  
Nuh