

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI  
ORIGINAL APPLICATION NO. 780 OF 2024**

**IN THE MATTER OF:**

PARMJEET SINGH AND OTHERS

.....Appellant(s)

Versus

UNION OF INDIA&amp; ORS.

.....Respondent(s)

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Place: New Delhi

Date: 28.11.2024

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
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**SHORT REPLY ON BEHALF OF THE RESPONDENT NO. 10 TO THE  
ORIGINAL APPLICATION**

**MOST RESPECTFULLY SHOWETH:**

1. The present short reply is being preferred by the answering Respondent No. 10/ Stone Crusher Unit. The present Original Application/ OA has been filed *inter* aliachallenging and seeking quashing of the Environmental Clearances and the CTEs granted to the answering Respondent No. 10. In this regard, the EC of the answering Respondent No. 10 issued by the Ministry of Environment, Forests, and Climate Change (issued by the State Environment Impact Assessment Authority (SEIAA), Uttarakhand) is dated **01.02.2024** and placed on record by the Original Applicant in the OA as **Annexure A/14**. Similarly, the answering Respondent No. 10 was also issued the Consent to Establish dated **18.01.2024**, by the Uttarakhand State Pollution Control Board, and has been placed on record by the Original Applicant in the OA as **AnnexureA/15**.

2. In the present OA, the Original Applicant is aggrieved with the issuance of the CTE and the EC granted to the answering Respondent No. 10, and to that extent has raised several legal issues with the permits and clearances granted by the various state authorities. The present OA under Section 14 and 15 of the NGT Act is not maintainable and is barred by limitation. The answering Respondent No. 10 is also filing an application challenging the maintainability of the present OA under Section 14 of the NGT Act and the OA being barred in law. Without prejudice to the submissions in the aforesaid application challenging the maintainability of the present OA, and reiterating the same herein for the sake of brevity, the answering Respondent No. 10 is filing the present short reply to the OA.
3. The answering Respondent No. 10 has not undertaken a para wise response, but dealing with the primary submission of the Original Applicant, however untenable, that the answering Respondent's plant is within the eco-sensitive zone of Rajaji Tiger Reserve, requiring necessary clearance from the National Board for Wildlife (NBWL). As per the Original Applicant, having failed to obtain the NBWL, the answering Respondent's EC dated 01.02.2024 is liable to be quashed. The Original Applicant further, *inter alia*, contends that the answering Respondent No. 10's stone crusher plant is contrary to the Doon Valley Notification of 1989, and the reclassification of stone crusher plants from "red" to "orange" by the Uttarakhand State Pollution Control Board was a regulatory escape route.
4. The contents of the OA are completely untenable, misconceived and unsupported by facts and law. The present OA is nothing but vendetta litigation and nothing

but a misadventure. All the allegations/ assertions / submissions in the OA are vehemently and unqualifiedly denied. Nothing shall be deemed to be admitted on account of specific non-traversal.

**Re: Non-requirement of NBWL clearance**

5. At the outset, it is submitted that there is no requirement of any clearance from the NBWL in so far as the answering Respondent No. 10 is concerned, given that the **elephant reserve/ corridor on account of which the Original Applicant has filed the present OA, are not even notified under the Wild Life (Protection) Act, 1972, necessitating any requirement of any NBWL clearance.** The Wild Life (Protection) Act, 1972 has been enacted with a view to ensure the ecological and environmental security and for the conservation, protection and management of wild life of the Country. As per section 26A (1) (b) of the Wild Life (Protection) Act, 1972, when any area comprised within any reserve forest or any part of the territorial waters, which is considered by the State Government to be of adequate ecological faunal floral geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wild life or its environment, is to be included in a sanctuary, the State Government shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be sanctuary on and from such date as may be specified in the notification. **The entire premise of the Original Applicant that the answering Respondent No. 4 does not have the necessary clearance from the NBWL in view of the proximity to the**

**Shivalik Elephant Reserve is *ex facie* untenable, as the same has not been notified under Section 26A (1) (b) of the Wild Life (Protection) Act, 1972.**

6. In fact, the answering Respondent No. 10, as a stone crushing unit, does not require EC. This emerges from the Office Memorandum vide dated 22.09.2008 issued by the Ministry of Environment and Forests, provides that “...*crushing and screening (sizing of ore) without upgrading of quality of ore is not covered by the provisions of the EIA Notification, 2006....*”. On the other said, the said Office Memorandum vide dated 22.09.2008 provides that the stone crushing units such as the answering Respondent No. 10 will require necessary clearances only under the Air Act, 1981 and the Water Act, 1974. Therefore, evidently, stone crushing units do not even require ECs. A copy of the Office Memorandum vide dated 22.09.2008 is enclosed as **Annexure R1**. Furthermore, the gazetted notification of the MoEF dated 13.07.2007 makes it clear that “*All those projects which are not covered under the EIA notification but which fall under the orange category shall be considered by the State level Environment Impact Assessment Authority...*”. A copy of the gazetted notification of the MoEF dated 13.07.2007 is enclosed as **Annexure R2**.

7. In this regard, it is notable that the stone crushing is an “orange category” /permissible activity in Uttarakhand, and answering Respondent No. 10 has been granted permission by SEIAA Uttarakhand vide EC no. EC09(93)/2023 dated 01.02.2024. In this regard, it is pertinent to apprise this Hon’ble Tribunal of the following:

- a. The Hon'ble Supreme Court in the case of *Rural Litigation & Entitlement Kendra vs. State of U.P. & Ors.* (AIR 1988 SC 2187), aggrieved by the unsustainable mining operations in Doon Valley area had issued directions prohibiting limestone mining and quarrying. Stone Crushing was neither prohibited nor restricted by the Hon'ble Supreme Court, which was deemed to be a separate activity.
  
- b. Pursuant to the said judgment of the Hon'ble Supreme Court, the MOEF in exercise of powers under Section 3(2)(v) of the Environment (Protection) Act, 1986 and Rule 5(3)(d) of the Environment Protection Rules, 1986 issued a notification dated 01.02.1989 imposing restrictions on the location of industries, mining operations and other developmental activities in Doon Valley. Notably, there was no reference to stone crushers in the said notification as well.
  
- c. Pursuant thereto, the MoEF issued a Notification dated 14.09.2006 ("**EIA Notification 2006**"), amending the previous EIA Notification dated 27.01.1994, with a view to bring in the requirement and/ or norm of obtaining prior environmental clearance from the Central Government, or as the case maybe, by the State Level Environmental Impact Assessment Authority ("**SEIAA**"), duly constituted by the Central Government under Section 3(3) of the Environment Protection Act, 1986. Furthermore, the said EIA Notification 2006 prescribed the procedure for obtaining the environmental clearance from the SEIAA,

and also prescribed the projects and activities requiring mandatory environmental clearance from either, the Central Government (matters falling under Category A in the Schedule to the said Notification), or in other cases the SEIAA (matters falling under Category B in the Schedule to the said Notification), before initiation of any construction work or preparation of land by the project management, except for securing the land.

- d. Subsequently the aforesaid Notification dated 01.02.1989 was amended vide MoEF notification dated 13.12.2007 whereby it was directed that industries which are not covered under the EIA Notification, 2006 but fall under the Orange Category shall be considered by the State Environment Impact Assessment Authority before the grant of the No-Objection Certificate by the State Pollution Control Board.
- e. As such, the answering Respondent No. 10's unit is to be governed by the afore stated position, as Stone Crushing Activity was not covered under the A or B categories prescribed in the Schedule to the said EIA Notification, 2006, and being an Orange Category Industry, had to be considered by the SEIAA constituted by the State of Uttarakhand. The Notification dated 13.12.2007 further provided that till such time as the State Level Impact Assessment Authority (SEIAA) is constituted for the State of Uttarakhand, the proposals for EC will be examined by the Central Government, without referring them to the Appraisal Committee after obtaining the comments of the State Pollution Control Board.

- f. It is imperative to state that the Stone Crushing Activity was duly classified in the Orange Category by the CPCB Directions dated 07.03.2016, after the deliberations by the Working Group which was constituted to revisit the criteria of categorization of industries and to suggest rationale based on pollution potential for categorization of industrial sectors in a pragmatic manner and adopting it for implementation of pollution control plan. In view thereof, the Working Group had developed its criteria based on the concept of 'Pollution Index' of an industrial sector (premised upon the emissions, effluents and hazardous wastes generated and the consumption of resources). Pollution Index ("PI") is a number from 0 to 100 and the increasing value of PI denotes the increasing degree of pollution load from industrial sector.
- g. That it is on the aforesaid basis, and after due application of mind that the CPCB decided to put the activity of stone crushing into the Orange Category. Stone Crushing, unlike mining, involves nil to negligible emissions and hazardous wastes being discharged as compared to the mining activities. In the Stone Crushing Plants set up by the answering Respondent No. 10 herein, the answering Respondent No. 10 complied with all the environmental norms and conditions imposed on them, to ensure preservation of the environment in the surrounding areas. The answering Respondent No. 10 put in place highly sophisticated and technologically advanced systems to prevent effluents and emissions

being discharged into the water and air, and the same are filtered and processed within the confines of their plants itself.

- h. The Notification dated 06.01.2020 was subsequently issued by the MoEF to harmonize the classification of Industries in red/orange/green/white as per the CPCB direction dated 07.03.2016 regarding the 'Revised Classification of Industrial Sectors'. According to the said Revised Classification of Industrial Sectors, Stone Crushers have been categorized as 'Orange Category Industries' under item no. 64 of the list.
8. That accordingly, the answering Respondent No. 10 herein, having identified that they are permitted to set up stone crushing units in the Doon Valley as an orange category activity, applied for and obtained necessary approvals for the same, such as the CTE and the EC, and obtained the EC by SEIAA Uttarakhand vide EC no. EC09(93)/2023 dated 01.02.2024, and the CTE by the Uttarakhand State Pollution Control Board on 18.03.2024.
9. As such, it is clear that there is no merit in the OA filed by the Original Applicant, which is even otherwise, not maintainable. The Original Applicant are incorrectly placing reliance on the Office memorandum dated 02.12.2009 which deals with primarily those cases wherein EC has to be granted in areas involving forestland or wildlife habitat. In the present case, not only is the answering Respondent's stone crushing unit not in the forest area, even otherwise, the answering Respondent does not even require any EC as elaborated above. Additionally, even the requirement of NBWL clearance is nothing but a figment of the Original Applicant's imagination.

10. In view of the aforesaid, the present OA apart from being not maintainable, is also meritless and liable to be dismissed.

  
Respondent No. 10

Through





**Bani Dikshit and Uddhav Khanna**  
**Advocates for the Applicant**

D0161, LGF, New Friends Colony,

New Delhi-110025

Mob: 9810993368

Email: [uddhavkhanna.advocate@gmail.com](mailto:uddhavkhanna.advocate@gmail.com)

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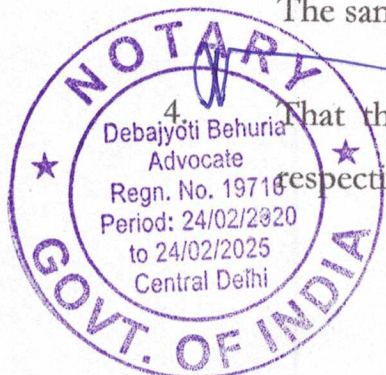
.....Respondent(s)

**AFFIDAVIT**

I, Mr. Kuldeep Singh Dhiman, S/O Sh. Trilok Singh, R/O, Ward No. 12, Resham Majri, Doiwala, Dehradun, Uttrakhand - 248140 aged about 48 years, present at New Delhi, do hereby solemnly affirm and state as under:

1. That I am the authorized representative of Respondent No. 10 in the accompanying Application and as such I am fully acquainted with the facts and circumstances of the instant case and thus competent to swear this Affidavit.
2. That I further state that the contents of the accompanying reply have been thoroughly read and understood by me and I declare that the reply has been prepared on my instructions.
3. That the contents of the accompanying reply are all true to my knowledge. The same has been read over to me and understood by me to be true.

4. That the annexures to the accompanying reply are true copies of their respective originals.



*[Handwritten Signature]*

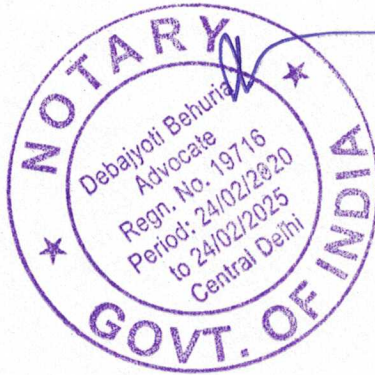
*[Signature]*  
DEPONENT

**VERIFICATION**

I, the deponent above named, do hereby verify and state that the contents of the foregoing paragraphs of the above affidavit are true and correct to the best of my knowledge and belief and that no part of it is false and nothing material has been concealed therefrom. Verified by me at New Delhi on this \_\_\_\_\_ of 28 NOV 2024, 2024

*[Signature]*  
DEPONENT

*[Signature]*  
I identified the deponent who has signed in my presence.



CERTIFIED THAT THE DEPONENT  
Shri/Smt./Km. *[Signature]*  
S/o, W/o, D/o *[Signature]*  
W/o *[Signature]*  
identified by Shri/Smt. *[Signature]*  
has Solemnly affirmed before me at  
New Delhi on 28 NOV 2024 A. No. *[Signature]*  
That the Contents of the affidavit which have  
been read & explained to him are true and  
Correct to this knowledge.

*[Signature]*  
Notary Public

No. J-11013/41/2006-IA.II(I)  
Government of India  
Ministry of Environment and Forests  
I.A. Division

Paryavaran Bhawan,  
CGO Complex, Lodi Road,  
New Delhi-11003

Dated the 22<sup>nd</sup> September, 2008

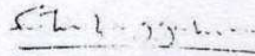
**CIRCULAR**

**Subject: Clarification regarding applicability of EIA Notification, 2006 in respect of the Beneficiation Plant-regarding.**

State Pollution Control Board, Orissa has sought clarification regarding applicability of EIA Notification dated 14<sup>th</sup> September, 2006 to stand alone iron ore crusher, when the process involves crushing and screening (sizing of ore only) through dry route without upgrading the quality of ore. The matter has been examined in the Ministry.

It is clarified that crushing and screening (sizing of ore) without upgrading of quality of ore is not covered by the provisions of the EIA Notification, 2006. However, necessary clearance under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981 and any other Acts as may be applicable to such projects should be obtained.

This issues with the approval of the competent authority.

  
(Dr. S.K. Aggarwal)  
Director

To:

- (1) The Member Secretary, All SPCBs/ UT Pollution Control Committees.
- (2) The Secretary, Department of Environment of all States/ UTs.
- (3) The Member Secretary of all SEIAAs
- (4) All Officers of IA Division
- (5) All Regional Offices of the Ministry of Environment and Forests.

Copy to:

1. PS to MOS (E).
2. PPS to Secretary (E&F).
3. PPS to AS(JMM).

  
**True Copy**

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99



# भारत का राजपत्र

## The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 1539]  
No. 1539]नई दिल्ली, बृहस्पतिवार, दिसम्बर 13, 2007/अग्रहायण 22, 1929  
NEW DELHI, THURSDAY, DECEMBER 13, 2007/AGRAHAYANA 22, 1929पर्यावरण एवं वन मंत्रालय  
आदेश

नई दिल्ली, 13 दिसम्बर, 2007

का.आ. 2125(अ) —जबकि, पर्यावरण (सुरक्षा) नियमावली, 1986 के नियम 5 के उप-नियम (3) के खण्ड (घ) के तहत दून घाटी, उत्तराखण्ड में उन गतिविधियों जिनके लिए केन्द्रीय सरकार ने पर्यावरणीय प्रभाव के परीक्षण के लिए अनुमति दे दी है, को छोड़कर विभिन्न गतिविधियों पर प्रतिबंध लगाने के लिए दिनांक 1 फरवरी, 1989 के सं. का.आ. 102(अ) के तहत एक अधिसूचना जारी की गई थी;

और, जबकि, उक्त अधिसूचना में उद्योगों को तीन श्रेणियों अर्थात् ग्रीन, ओरेंज और रेड में वर्गीकृत किया गया है और दून घाटी क्षेत्र में औद्योगिक इकाइयों को अनुमति देने और उन पर प्रतिबंध लगाने के लिए दिशानिर्देश भी निर्धारित किए गए हैं;

और, जबकि, ओरेंज श्रेणी के अंतर्गत आने वाले उद्योगों का मूल्यांकन राज्य के प्रदूषण नियंत्रण बोर्ड द्वारा किया जाना तथा उन्हें अनापत्ति प्रमाण-पत्र देने से पहले संबंधित प्रस्ताव को केन्द्र सरकार, पर्यावरण एवं वन मंत्रालय के पास भेजा जाना अपेक्षित है;

और, जबकि, यह परिकल्पना की गई थी कि ओरेंज श्रेणी के अंतर्गत शामिल प्रस्तावों के मामले में वही प्रक्रिया अपनाई जाएगी जो कि दिनांक 4 जुलाई, 2005 के का.आ. 943(अ) के तहत जारी पर्यावरण प्रभाव मूल्यांकन अधिसूचना, 1994 के अंतर्गत उद्योग क्षेत्र की परियोजनाओं को पर्यावरणीय मंजूरी देते समय अपनाई जाती है;

और, जबकि, दिनांक 27 जनवरी, 1994 के का.आ. 60(अ) के तहत जारी उक्त पर्यावरण प्रभाव मूल्यांकन अधिसूचना को दिनांक

14 सितम्बर, 2006 के का.आ. 1533(अ) के तहत जारी अधिसूचना द्वारा अधिक्रमित हुआ माना जाएगा;

अतः, अब, पर्यावरण (सुरक्षा) अधिनियम, 1986 की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा, यह निर्देश दिया जाता है कि दून घाटी, उत्तराखण्ड में विकास कार्यों से संबंधित सभी प्रस्तावों की निम्नलिखित प्रक्रिया अपनाते हुए जांच की जाएगी :-

- (i) ऐसी सभी परियोजनाएं जो 14 सितम्बर, 2006 के सं. का.आ. 1533(अ) के तहत जारी पर्यावरण प्रभाव मूल्यांकन अधिसूचना के अंतर्गत अनुसूची में शामिल की गई हैं, के लिए उक्त अधिसूचना में निर्धारित प्रक्रिया ही अपनाई जाएगी।
- (ii) ऐसी सभी परियोजनाएं जो उक्त पर्यावरण प्रभाव मूल्यांकन अधिसूचना के अंतर्गत शामिल नहीं हैं, और ओरेंज श्रेणी के अंतर्गत आती हैं उन पर राज्य स्तर के पर्यावरण प्रभाव मूल्यांकन प्राधिकरण द्वारा विचार किया जाएगा।
- (iii) उत्तराखण्ड राज्य के लिए राज्य स्तरीय प्रभाव मूल्यांकन प्राधिकरण का गठन होने तक, प्रस्तावों की जांच, राज्य प्रदूषण नियंत्रण बोर्ड की टिप्पणियां प्राप्त होने के पश्चात्, उन्हें मूल्यांकन समिति के पास भेजे बिना, केन्द्र सरकार द्वारा की जाएगी।

[सं. जे-11013/25/2005-आई ए-II (1)]

रा. आनन्दकुमार, वैज्ञानिक 'जी'

MINISTRY OF ENVIRONMENT AND FORESTS  
ORDER

New Delhi, the, 13th December, 2007

S.O. 2125 (E).—Whereas, a notification under clause (d) of sub-rule (3) of rule 5 of the Environment (Protection)

4970 GI/2007

(1)

True Copy

Rules, 1986, imposing restrictions on various activities in Doon Valley Uttarakhand, except those activities which are permitted by the Central Government for examining the environmental impacts, was issued *vide* No. S.O. 102(E) dated the 1st February, 1989;

And, whereas, the said notification classified industries into three categories; namely, green, orange and red and also prescribed guidelines for permitting and restricting industrial units in Doon Valley Area;

And, whereas, industries falling in the orange category are required to be assessed by State Pollution Control Board and referred to the Central Government in the Ministry of Environment and Forests before granting 'No Objection Certificate';

And, whereas, it was envisaged that the proposals covered under orange category shall follow the same procedure as is being followed for the environment clearance of industry sector projects under Environment Impact Assessment Notification, 1994, issued *vide* S.O. 943(E) dated the 4th July, 2005;

And, whereas, the said Environment Impact Assessment notification issued *vide* S.O. 60(E) dated the 27th January, 1994 has been superseded by the notification *vide* number S.O. 1533(E) dated 14th September, 2006;

Now, therefore, in exercise of the powers conferred by Section 5 of the Environment (Protection) Act, 1986, it is hereby directed that all proposals, relating to development in Doon Valley will be examined as per the following procedure :—

- (i) All those projects which are covered in the schedule under the Environment Impact Assessment notification issued *vide* number S.O. 1533(E) dated the 14th September, 2006 will follow the procedure laid down in that notification.
- (ii) All those projects which are not covered under the EIA notification but which fall under the orange category shall be considered by the State level Environment Impact Assessment Authority.
- (iii) Till such time as the State level Impact Assessment Authority is constituted for the State of Uttarakhand, the proposals will be examined by the Central Government, without referring them to the Appraisal Committee, after obtaining the comments of the State Pollution Control Board.

[No. J-11013/25/2005-IA-II(I)]

R. ANANDAKUMAR, Scientist 'G'

  
**True Copy**



Deepak mehra &lt;mehradeep1997@gmail.com&gt;

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**CASE NO (OA 780 OF 2024) TITLE AS PARMJEET SINGH & ANR. VS UNION OF INDIA & ORS.**

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Deepak mehra &lt;mehradeep1997@gmail.com&gt;

Thu, Nov 28, 2024 at 4:52 PM

To: imc.moefcc@gov.in, secy-moef@nic.in, dwii@wii.gov.in, chiefsecyuk@gmail.com, pccfuk@gmail.com, msukpcb@yahoo.com, roueppcb@gmail.com, dm-deh-ua@nic.in, director.rajaji@gmail.com, advocatenandita@gmail.com, emailtogkb@gmail.com, "office@marklegal.co.in" <office@marklegal.co.in>  
Cc: banidikshit.advocate@gmail.com, uddhavkhanna.advocate@gmail.com

Dear Sir/Ma'am,

Kindly Find attached herewith the Short Reply on behalf of Applicant.

Thank you.

Regards,  
Deepak MehraOffice of Ms. Bani Dikshit  
Advocate**Short Reply final for fling.pdf**

1914K