

BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL
PRINCIPLE BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 481 OF 2023

Balbir Sandhu & Ors.

...Applicant

Versus

State of Uttar Pradesh

...Respondents

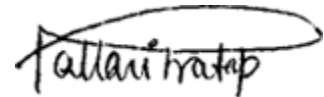
IN THE MATTER OF:

Mohit Kumar,
Son of Sri Rajan,
Resident of Kukri Kheda, Kaluwala,
Jahanpur, District Saharanpur,
Uttar Pradesh-247129

... APPLICANT No. 05

NDOH: 16.07.2026

WRITTEN OBJECTIONS ON BEHALF OF THE APPLICANT NO. 05
PAPER BOOK
FOR INDEX KINDLY SEE INSIDE



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New Delhi

Dated: 16.06.2026

Signature

Applicant No. 05

Through

Pallavi Pratap

PALLAVI PRATAP

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... APPLICANT No. 05

WRITTEN OBJECTIONS ON BEHALF OF THE APPLICANT NO. 05
TO THE ADDITIONAL AFFIDAVIT ON BEHALF OF RESPONDENT
NO. 01- MINISTRY OF ENVIRONMENT, FOREST & CLIMATE
CHANGE (MoEF&CC)

MOST RESPECTFULLY SHOWETH:

The applicant no. 05 above named most respectfully showeth as
under: -

1. That the respondent no. 1 have filed the instant additional affidavit in compliance of the order dated 12.02.2026 passed by

this Hon'ble Tribunal and the applicant no. 5 is submitting the objections to the above mentioned additional affidavit.

2. That the contents of paragraph no. 01 to 9 of the Additional Affidavit on behalf of Respondent no. 01 need no reply being matter of record.
3. That the contents of paragraph no. 10 of the Additional Affidavit are not accepted in the manner stated hence denied and in reply thereto it is submitted that the framework recommended by EAC for the removal of sand from agricultural field by landowners/farmers does not take into consideration the ultimate utilization of mineral and that it is amounting to commercial mining activity requiring environmental clearance as has been held by Hon'ble Supreme Court in the case of ***Noble M. Paikada v Union of India*** reported in **2024 SCC OnLine SC 369** and the Hon'ble High Court at Nainital in ***Satyendra Kumar Tomar v. State of Uttarakhand*** in ***Writ Petition (M/S) No. 2909 of 2021***.
4. That it is pertinent to mention here that the respondent no. 1 in the State Specific Regulatory Framework at *Internal Page 9* of the additional affidavit dated 20.05.2026 has recommended real time monitoring and digital surveillance mechanisms including

GPS tracking of vehicles and machinery engaged in sand removal and transportation which shows that the process of removal of sand from the agricultural lands is being compared to commercial mining.

It is submitted that the use of machinery is even otherwise prohibited for carrying out mining and here the purpose is to remove the sand deposits from agricultural field after flood which is not a mining activity. It is further submitted that all it is required by the farmers is to remove the sand deposits manually accumulated in their agricultural fields after flood for which neither any machinery nor transportation is required. The purpose is to make the land fit for farming and not engage in mining activity.

5. That the SSMG 2016 in Chapter 20 titled "*Management of Sand deposited after Flood on Agricultural Field of Farmers*" at internal Page 58 while making a distinction between a 'mining operation' and 'desilting' states that the agricultural land of farmer is destroyed and rendered infertile. Further the farmer loses his livelihood as the produce of his land is destroyed by flood and become unsalable. The farmer is also deprived of the right of lifting sand from his land. He is therefore, left helpless

and destitute and leave their land in search of job. Internal Page 58 of the SSMG 2016 reads as follows:

"The Committee observes that "mining operation" means any operation undertaken for the purpose of winning any mineral. Accordingly, if desilting is undertaken per se with the objective of winning a mineral then only it will be construed as a mining operation. Apparently, if the desilting is undertaken not for winning any mineral, it will not be construed as mining operation and therefore, the farmer can remove the sand from the land without requiring the requisite permits. However, the Committee strongly feels that the farmer be given the right to use and dispose-off the sand accumulated over their land post flood, by incorporating the necessary provisions in the Mines and Mineral (Development and Regulation) Act, 1957.

Removal of sand from the agricultural field by the owner farmer of the land from environment point of view will not be considered as mining operation and its removal and disposal can be allowed without the requirement of environment clearance till it is done only to the extent of reclaiming the agricultural land. The sand deposited after flood only be removed, so no mining / digging below the ground level is

allowed. For removing sand in case where private land has gone into the river due to erosion, the requirement of mining lease and environment clearance will continue. This operation of removal of sand deposited on agricultural field should be done after a mapping of deposition is done by the Land Management Committee of the Gram Panchayat. The sand so deposited post flood can be removed by the farmer owning the land / group of farmers affected by this post flood sand deposition or the Gram Panchayat. Customary rights to remove and dispose off the sand should be given to the farmer affected by deposition of sand on account of sudden flood in his agricultural land.”

6. That from a plain reading of the aforesaid chapter of SSMG 2016 it is clear that the SSMG 2016 only envisages the disposal the sand accumulated over the land of farmers post flood so that the farmer isn't left helpless and destitute. That further, the said act of removal of the mining is not considered under the ambit of a mining operation but is only considered as desilting. Further, the aforesaid chapter of SSMG 2016 envisages for removal of sand deposited on agricultural field only after a

mapping of deposition is done by the Land Management Committee of the Gram Panchayat.

7. That the EMGSM-2020 in Chapter No. 8.2 titled "*Mining of Sand from Agricultural Fields*" at internal Page 46 states that the provision for sand mining in agricultural field may be permitted, whenever replenishment of sand occurs due to natural phenomena and that the permission may also be granted by competent authority (District administration) for excavation of sand/Soil from agricultural fields, after due diligence of this prevailing condition in order to avoid any unacceptable impact on the environment and nearby livelihood from agriculture provided such objective of such excavation mining of Soil/Sand in limited increase the productivity of sand agricultural field.
8. That in the State of Uttar Pradesh under the Uttar Pradesh Minor Minerals (Concession) Rules, 1963, Rule 52-A dealt with grant of mining permit on agricultural land which was inserted Thirty Seventh Amendment, dated 22.10.2014.
9. That the Rule 52A (2) as contained in the erstwhile U.P. Minor Minerals (Concession) Rules, 1963 contained a detailed

provision with respect to the aforesaid. Rule 52-A of the U.P.

Minor Minerals (Concession) Rules, 1963 is quoted as under:

"52-A. Procedure for grant of mining permit on agricultural land.

*(1)****

(2) The District Officer shall cause an enquiry, if deemed necessary, through concerned Tahsildar and Mines Officer/Mines Inspector on the following point-

(a) Whether the sand and morrum have been accumulated on the applied land due to floods;

(b) Whether the name of the applicant/applicants is/are recorded as bhumidars on the applied area;

(c) Whether due to accumulation of sand and morrum, the applicant/applicants is/are suffering loss on account of non-utilization of such applied land;

(d) Whether such land was utilized for agricultural purposes during the past years;

(e) Whether the quantity of the minor mineral, applied by the applicant, is available on the applied area.

(f) Whether the applied area for mining area is suitable for mining.

*(3)****

(4)*** "

10. That subsequently the Uttar Pradesh Minor Minerals (Concession) Rules, 1963 were superseded by Uttar Pradesh Minor Minerals (Concession) Rules, 2021 vide Notification No. 1157/86-2021-03(Sa)/2021 dated 29.10.2021.

11. That Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 was amended. Rule 52 is reproduced herein under for your kind perusal:

"52. Procedure for grant of mining permit on agricultural land.

(1) Notwithstanding anything contained in Rule 74, the bhumidar of agricultural land may apply for grant of mining permit for removal of sand or morrum or bajri or boulder or any of these in mixed state deposited on his land in Form MM-8, in triplicate to the District Officer, accompanied by a non-refundable fee of Rs. 2,000/- (Rupees Two Thousand) only, and two copies of a cadastral survey map on which the area, applied for, is clearly marked. The District Officer shall cause an enquiry, if deemed necessary, through Revenue and Geology & Mining Departments regarding the title of the land and availability of minor mineral on the applied area.

(2) In the light of the report submitted by the concerned Officer, may grant the mining permit for a period not exceeding three months in favor of the Bhumidar, after realizing double the amount of royalty in advance.

(3) Except above mentioned provisions, the other provisions of these rules will apply mutatis mutandis to the mining permit granted under this rule."

12. That it is pivotal to state here that once the question of royalty is involved, the said act in itself comes under the ambit of a mining operation as opposed to de-silting.
13. That furthermore, if the said mineral is removed by paying royalty by the farmer and the sand so extracted is sold commercially, the said act cannot be termed as de-silting and once the commercial sand mining is involved, the same can be done only by obtaining Environmental Clearance.
14. That it is germane to state here that there is no mention of the term "flood" in Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021 but the State of Uttar Pradesh is granting mining permits and allowing mining activity without the requirement of obtaining environmental clearance from SEIAA, U.P. It is submitted that the benefit of *Appendix-IX* of

the EIA Notification 28.03.2020 is being obtained under the garb of agricultural mining permit and these grants of permits have defeated the purpose of the exemption granted by the *Appendix-IX* of the EIA Notification 28.03.2020.

15. That the Rule 52 of the Rules of 2021 has omitted the mandate as contained in Rule 52 A (2) of the U.P. Minor Minerals (Concession) Rules, 1963 and the said omission is in gross violation to the SSMG 2016 and the EMGSM-2020 and further taking advantage of such omission, the private landowners are used as proxy bidders in order to evade the regular procedure involved in the grant of a mining lease such as the procurement of environmental clearance etc.
16. That it is also pertinent to mention here that there is no requirement of vehicles to transport the minerals by the farmer as their sole purpose is to remove the sand from the agricultural land and thereafter the State may auction the said mineral by means of notice inviting tender.
17. That the requirement in the framework to check the vehicles shows that emphasis on turning the practice of removal of sand from the agricultural land into commercial mining is being made by both the State and the respondent no. 1.

18. That the Hon'ble Supreme Court in the case of *Bhagwan Das v. State of Uttar Pradesh and others* as reported in (1976) 3 SCC 784 has observed that the act of 'winning' a mineral not always mean hazardous or perilous activity, but the word simply means extracting a mineral and is used generally to indicate any activity by which a mineral is secured. Thus, from the aforesaid observation it becomes apparent that's the removal of mineral from the upper surface of land also comes under a mining operation. Moreover, once the question of royalty is involved and the preparation of mining plan is required and the act involves mining which includes lifting from the surface, the entire operation becomes a mining operation as opposed to desilting.
19. That there is a crystal clear difference in short term mining permits and the permission to remove deposited silt after flood from the agricultural land but the framework recommended by the respondent no. 1 is completely silent on that distinction and has somewhat merged them.
20. That it is pertinent to mention here that as a matter of fact the State of Uttar Pradesh grants short term mining permit on private land for a maximum period of six months through e-

tender/e-auction/e-tender-cum-e-auction under Rule 23(2)(e) of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021.

21. That it is submitted that the difference between the mining permits granted under Rule 52 and Rules 23(2)(e) is that the former is granted for agriculture land through application and for a maximum period of three months whereas the latter is granted for private land through e-tender/e-auction/e-tender-cum-e-auction for a period of six months.
22. That by granting the agricultural permits upon realisation of double the royalty from the farmers under Rule 52 of the Uttar Pradesh Minor Minerals (Concession) Rules, 2021, the State of Uttar Pradesh has defeated the very purpose of the entire process as well as the reason for which the exemption from obtaining environmental clearances is granted under *Appendix-IX* of the EIA Notification dated 28.03.2020.
23. That the process of commercial mining and removal of silt/mineral deposited after flood on agricultural land is completely distinct from another and the same cannot be treated as same.
24. That once the value of mineral and royalty is realised from the farmer, it is obvious that the farmer shall himself make the sale

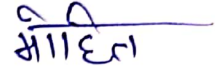
of the mineral to recover the cost, therefore it is essential that environmental clearance be obtained from the SEIAA, U.P. prior to grant of mining permit.

25. That it is also submitted that the SSMG 2016 in its Chapter 2020 has recommended that either the farmer/group of farmers or the Gram Panchayat can remove the deposited sand after flood from the agricultural land.
26. That it is pertinent to mention here that instead of individual farmer removing the sand from his fields, Gram Panchayats can remove the sand deposited in any and all agricultural lands within their jurisdiction and thereafter dispose the mineral by auction.
27. That a perusal of the recommended framework shows that the Expert Appraisal Committee has prepared the framework keeping in mind the mining activity and not the sand removal from agricultural land.
28. That it is pertinent to mention here that the respondent no. 1 cannot shift the onus of preparing and following their own framework without any supervision on the States as already the States are granting mining permits without environmental

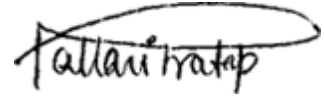
clearance under the garb of removal of silt from agricultural land.

29. That instead of State preparing their respective frameworks and following it without any supervision, it is submitted that the States may prepare their framework and present it before the respondent no. 1 which shall then be published in public domain for inviting comments/objections and subsequently after addressing the received comments/objections approve the framework in accordance with law.
30. That it is also submitted that for better scrutiny the SEIAA and SEAC should also scrutinise the draft framework prior to submission before the respondent no.1 as they are the expert bodies of each respective states.
31. That it seems the entire focus of these frameworks prepared by the Expert Appraisal Committee is to ensure mining activity and generation of revenue without determining the consequences of such unscientific mining.
32. That in the view of the averments made above, it is in the interest of justice that the written objections filed by the applicant be allowed.

New Delhi
Dated: 16.06.2026



Applicant No. 05
Through



PALLAVI PRATAP

Advocate

Enrol No. UP/1246/2010

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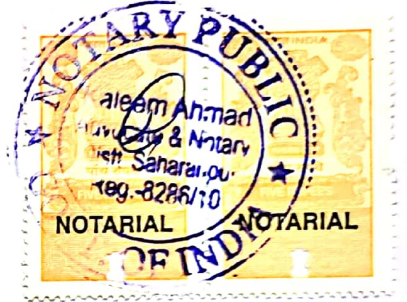
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... APPLICANT No. 05

AFFIDAVIT

I, Mohit Kumar, aged about 27 years, son of Sri Rajan, resident of Kukri Kheda, Jahanpur, District Saharanpur, Uttar Pradesh-247129, presently at New Delhi, do hereby solemnly affirm and declare as under:

1. That I am the applicant no. 5 and as such I am fully conversant with the facts and circumstances of the case and thus competent to swear this affidavit.
2. That the contents of the accompanying written submissions and other I.As have been explained to me in vernacular by my counsel and the same are true and



correct to my knowledge and belief and nothing material
has been concealed therefrom.

Handwritten signature

Deponent

Verification:

Verified at New Delhi on this ____^{th/st} day of ____ month, 2026 that
the contents of paragraph 1 & 2 of this affidavit are true and correct to
my knowledge and belief and nothing material has been concealed
therefrom.

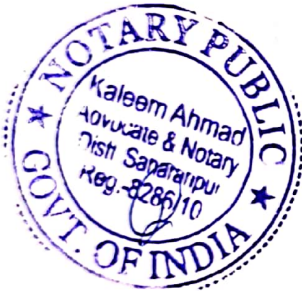
IDENTIFIED BY

KALEEM AHMAD

Advocate
Reg. No.-10533/01
Ch.-63, Civil Court, SRE
Mob.-9359206239

Handwritten signature

Deponent



sk 1371

This affidavit is made before me during
my office
By *Mohit Kumar / Rajan*
and is witnessed by *Kaleem Ahmad*
The verification of the affidavit is
satisfactory to the Deponent who is
to understand the a.
12/01/2026

3317



PROOF OF SERVICE

18

kunal arya <kunalarya16111989@gmail.com>

Service of Written Objections on behalf of Applicant No.5 Mohit Kumar in OA No. 481/2023 Balbir Sandhu vs State of UP

1 message

kunal arya <kunalarya16111989@gmail.com>

Wed, Jun 17, 2026 at 1:39 PM

To: csup@nic.in, psecforest-up@nic.in, dgmupexp@gmail.com, feedback@uppch.com, dmsah@nic.in, cs@hry.nic.in, haryana-envis@hry.gov.in, me.mines-hry@nic.in, "hspcbho@gmail.com" <hspcbho@gmail.com>, ctmynr@hry.nic.in

Please find attached the copy of written objections on behalf of Applicant No.5 in the captioned matter.

Regards,

Office of Pallavi Pratap
Advocate
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