

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

OA No. 791 of 2024

Ajit Pal Singh

Applicant

Versus

Union of India

Respondent

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PLACE: NEW DELHI

DATED: 14.08.2025


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WRITTEN SUBMISSIONS

(On behalf of Respondent No. 10 i.e. M/s P.S. Buildtech)

1. BRIEF FACTS:

- Respondent No. 10 was granted mining contract (sand minor mineral) for Jathlana Mining Block (YNR B-12), District Yamunanagar for an area admeasuring 101.27 hectares for a period of 10 years. The LOI was issued on 30.11.2015 (**R-10/1**); the mining contract was executed on 26.07.2016 (**R-10/2**); mining plan was approved on 10.06.2016 (**R-10/3**) and EC was granted on 17.03.2017 (**R-10/4**).

2. RELIEF CLAIMED IN OA:

- a. Constitute a Joint Committee comprising of the Member Secretary, Central Pollution Control Board, Director, Department of Mines and Geology, State of Haryana, Haryana State Pollution Control Board and Representative of Inspector General Vigilance Department, State of Haryana for carrying out of Joint Inspection, examine the relevant record and submit the report relating to extent of illegal mining by M/s P.S. Buildtech.
- b. Direct Respondents and in particular the Department of Mines and Geology, State of Haryana to immediately stop all mining

activities carrying out by M/s P.S. Buildtech at Mine Lease Area of 101.27 Ha situated at Village Jathlanaand Dhakwala, Tehsil, Radaur, District Yamunanagar, Haryana.

- c. Impose Exemplary Environmental Compensation on M/s P.S. Buildtech for carrying out illegal mining activities at Mine Lease Area of 101.27 Ha situated at Village Jathlanaand Dhakwala, Tehsil, Radaur, District Yamunanagar, Haryana in accordance with Polluter Pays Principle as enshrined under Section 20 of the National Green Tribunal Act 2010.
- d. Pass any other or further orders, as this Hon'ble Court may deem fit and proper in the circumstances of the present case.

3. STAND OF THE APPLICANT IN OA:

- The applicant has placed reliance upon the Sustainable Sand Mining Management Guidelines, 2016 and has contended that the EC dated 17.03.2017 issued in favour of Respondent No. 10 was valid for a period of 5 years i.e. till 17.03.2022. Specific reliance is placed upon the aforesaid guidelines at Page No. 99 of the paperbook.

4. STAND OF RESPONDENT NO. 10 (M/S P.S. BUILDTECH):

- As per the Reply dated 25.09.2024, it has been submitted that the EC dated 17.03.2017 granted in favour of Respondent No. 10 was valid for a period of 10 years since the Project life was 10 years as per the Lease Agreement and Approved Mining Plan.
- In so far as the validity of the EC is concerned, it has been stated that as per Clause No. 9 of EIA Notification dated 14.09.2006 (**R-10/5**), the validity of the EC for mining projects is the Project life estimated by EAC or SEAC subject to a maximum of 30 years.

- In so far as the category of the mining project is concerned, at the time of grant of submission of application dated 11.06.2016 for EC as well as the grant of EC dated 17.03.2017, the mining project granted to Respondent No. 10 was under “Category A” since the area of the lease was more than 50 hectares. Reliance was further placed upon Notifications dated 15.01.2016 (**R-10/10**), 14.08.2018 (**R-10/11**) to show that Category B was further divided into Category B1 and B2 on the basis of the area of the mining lease.

5. STAND OF RESPONDENT NO. 3 & 7 (HSPCB):

- At paragraph No. 5 (running Page No. 387), it has been stated that the EC dated 17.03.2017 granted in favour of Respondent No. 10 was valid for a period of 10 years in view of the Notifications issued by MoEF & CC and considering the life of the mining project to be 10 years.

6. STAND OF RESPONDENT NO. 2 (CPCB):

- As per paragraph No. 8 (running Page No. 408) of the Status Report dated 10.10.2024, it has been stated that the EC dated 17.03.2017 issued in favour of Respondent No. 10 was valid for a period of 5 years i.e. till 17.03.2022 as per the Sustainable Sand Mining Management Guidelines, 2016.

7. STAND OF RESPONDENT NO. 4 & 5 (MINES AND GEOLOGY DEPARTMENT, HARYANA):

- As per paragraph No. 5 (running Page No. 418) of the Reply dated 14.11.2024, it has been stated that the EC dated 17.03.2017 granted in favour of Respondent No. 10 was valid for a period of 10 years.

- At Paragraph No. 8 (running Page No. 419) of the Reply, reliance has been placed upon Office Memorandum dated 03.11.2023 issued by MoEF & CC whereby it has been stated that the EC granted for mining projects shall be valid for the project life as laid down in the mining plan approved and renewed by competent authority, from time to time, subject to maximum of 30 years whichever is earlier; and the same can be extended for another 20 years.

8. STAND OF RESPONDENT NO. 1 (MOEF & CC):

- At paragraph No. 6 (running Page No. 439) of the Reply dated 17.12.2024, the life of mine has been defined as the period between the initiation of the mining operations and the closure of mining operations on exhaustion of mineable reserve.
- At paragraph No. 7 (running Page No. 439) of the Reply, it has been stated that irrespective of the life of mine, the Project life refers to the period of the operation of a mining project.
- At paragraph No. 9 (running Page No. 440), reference is made to Clause No. 9 of EIA Notification dated 14.09.2006 whereby it has been stated that the validity of EC in case of mining projects is the Project life as estimated by EAC or SEAC subject to maximum of 30 years.
- At Paragraph No. 10 (running Page No. 440), reference is made to Clause No. 4 of EIA Notification dated 14.09.2006 i.e. Categorization of Project and Activities into “Category A” and “Category B” based upon their spatial extent of potential impacts.
- At paragraph No. 11 (running Page No. 441), reference is made to Office Memorandum dated 24.12.2013 to highlight the categorization of the projects into B2 Category (Mining Lease

Area between 5 hectares and 25 hectares) and the maximum period of validity of EC for such category of projects for 5 years.

- At paragraph No. 13 (running Page No. 443), reference is made to Notification dated 12.04.2022 whereby Clause No. 9 of the EIA Notification dated 14.09.2006 was amended and it was stated that the EC granted for mining projects shall be valid for the Project life as per approved mining plan subject to maximum of 30 years whichever is earlier and further extension of 20 years.
- At paragraph No. 14 (running Page No. 444), reference is made to Office Memorandum dated 13.12.2022 which clarifies that the validity of the EC, which has not expired on the date of publication of Notification dated 12.04.2022, shall stand automatically extended to respective increased validity as Para No. 1 Column No. C.

9. SUBMISSIONS:

A. The contents of SSMG, 2016 (at Page No. 98-99) are a mere reproduction of the Office Memorandum dated 24.12.2013 issued by MoEF & CC; and the same was considered by this Hon'ble Tribunal in Himmat Singh Shekhawat vs. State of Rajasthan 2015 (1) All India NGT 44:

- The contents of the SSMG, 2016, at page No. 98-99 of the paperbook, are a reproduction of the Office Memorandum dated 24.12.2013 issued by MoEF & CC.
- Office Memorandum dated 24.12.2013 is attached as Annexure R-1/2 (running Page No. 520) alongwith the Reply of MoEF & CC.
- Office Memorandum dated 24.12.2013 came up for consideration before this Hon'ble Tribunal in Himmat Singh

Shekhawat vs. State of Rajasthan 2015 (1) All India NGT 44 wherein it was held as follows:

60. In the case before the Tribunal, specific challenge has been raised to the Office Memorandum dated 24th December, 2013 on the ground that it violates the above stated principles, in as much as by an Office Memorandum, guidelines for 'B1', 'B2' categories cannot be provided and thus, it runs contra to the statutory provisions. We may also notice here that vide this memorandum, besides providing guidelines for categorisation of 'B1', 'B2' projects under Clause (iii) of paragraph 2, MoEF has taken a decision that river sand mining project with mine lease area of less than 5 hectares may not be considered for grant of Environmental Clearance and river sand mining projects with mining lease areas of equal or more than 5 hectares but less than 25 hectares will be categorized 'B2', that too subject to the restrictions stated in that Office Memorandum.

Though, the applicants have primarily raised a challenge in regard to the former only, but bare reading of the Notification has brought before us the question in regard to the latter as well. Dealing with the former challenge afore-noticed, it is clear that Clause 7 of the Notification of 2006 provides for further categorisation of projects falling under Category 'B' into 'B1' and 'B2'. Though Clause 2 of the said Notification does not contemplate any classification other than 'A' and 'B', but, there is no challenge raised before us to the Notification of 2006 and we see no reason to go into that aspect. The Notification of 2006 ex facie permits classification of Category 'B' projects and that discretion has been vested in State Level Expert Appraisal Committee, which, upon scrutiny of the applications has to take the decision. This discretion vested in the Committee is ought to be controlled by the issuance of guidelines by MoEF.

MoEF had issued two guidelines, one on 24th June, 2013 and the other on 24th December, 2013 in relation to further classification and criteria which is to be adopted in that regard. Since the Office Memorandum dated 24th June, 2013, only relates to brick earth and ordinary earth and

as per that Office Memorandum, such projects where the excavation area was less than 5 hectares were to be categorized as 'B2' projects, subject to the guidelines stated therein they were to be screened in accordance with the Notification of 2006. Under Paragraph 4(b) of this Memorandum, restrictions were laid down prohibiting any excavation of brick earth or ordinary earth within one km of national parks and wild life sanctuaries as well as it intended to elaborate the cluster situation. If the periphery of one borrow area is less than 500 m from the periphery of another borrow area and the total borrow area equals or exceeds 5 hectares, the activity shall become Category 'B1' project in terms of the Notification of 2006 and such activity will be permitted only if the Environmental Clearance has been obtained in respect of the cluster.

If we examine these two Office Memorandums in the light of the well settled legal principles that we have referred above, partially both these Office Memorandums cannot stand scrutiny of law. As far as guidelines or instructions in relation to classification of projects falling under Category 'B' into 'B1' and 'B2' is concerned, the exercise of such power would be saved on the strength of Clause 7(1) of the Notification of 2006 because it is an Office Memorandum which provides guidelines for exercise of discretion by the State Level Expert Committee for such categorization. Thus, it is an exercise of executive power contemplated under the Notification of 2006. Hence the contention of the applicant on that behalf cannot be accepted and deserves to be rejected. However, in so far as the Office Memorandum dated 24th June, 2013 placing a prohibition under paragraph 4(b) (i) is concerned, it apparently is beyond the scope of such guidelines. Prohibition of carrying on of mining activity or excavation activity which is otherwise permitted by the Notification of 2006 cannot be done by an Office Order, because it would apparently run contra to the provisions of Notification of 2006. In other words, such restriction is not only beyond the scope of the power vested in MoEF but in fact imposition of absolute restriction in exercise of delegated power is not permissible.

Similarly, the Office Memorandum dated 24th December, 2013 in so far as it declares that river sand mining of a lease area of less than 5

hectares would not be considered for grant of Environmental Clearance is again violative of the above settled principles. No such restriction has been placed under the Notification of 2006 or under the provisions of the Act and the Rules of 1986. The executive therefore, cannot take away the right which is impermissible under the principle or subordinate legislation. Of course, part of the same Paragraph 2(iii), in so far as it categorizes 'B2' projects, covering the mine lease area equal to or more than 5 hectares but less than 25 hectares is concerned, the same cannot be faulted in view of the fact that it only provides a criteria or a guiding factor for determining the categorisation of projects. It neither vests any substantive right, nor any obligation in relation to any matter that is not squarely or effectively covered under the Notification. This only furthers the cause of fair classification of projects, which is the primary purpose of the Notification. For these reasons, we quash paragraph 4(b)(i) of the Office Memorandum dated 24th June 2013 and part of paragraph 2(iii) in so far as it prohibits grant of Environmental Clearance to the mine area of less than 5 hectares as being violative of the Notification of 2006 and the Rules of 1986.

The MoEF has no jurisdiction in exercise of its executive power to issue such prohibitions, impose restrictions and/or create substantive rights and obligations. It ex facie is not only in excess of powers conferred upon them, but, is also in violation of the Notification of 2006. As already noticed, this Notification has been issued by MoEF in exercise of powers conferred upon it under Clause 5 of sub section 2 of section 3 of the Act of 1986 read with sub rule 4 of rule 5 of the Rules of 1986. Vide this Notification, the Central Government substituted item no. 1(a) and entries relating thereto. A Clause stating that the projects relating to non-coal mine lease and where the mining area was less than 50 hectares equal or more than 5 hectares was to be treated as Category 'B' projects, in addition to that, the minor mineral lease projects, where the mine lease area was less than 50 hectares, were also to be treated as Category 'B' projects, also, the general conditions with provisos were also substituted.

- The perusal of the aforesaid paragraphs shall reveal that this Hon'ble Tribunal had held that any office memorandum which is contrary to the provisions of EIA Notification dated 14.09.2006 is not sustainable. This Hon'ble Tribunal had acknowledged the mining projects under Category B2 as those whose area is more than equal to 5 hectares but less than 25 hectares.

B. The provision of the Office Memorandum dated 24.12.2013, quoted in SSMG, 2016, with regards to the validity of EC is violative of Clause No. 9 of EIA Notification dated 14.09.2006 and subsequent amendments:

- OM dated 24.12.2013 states *“EC will be valid for mine lease period subject to a ceiling of 5 years”*.
- Clause No. 9 of EIA Notification dated 14.09.2006 (R-10/5) reads as follows:

9. Validity of Environmental Clearance (EC):

The “Validity of Environmental Clearance” is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 7 above, to the start of production operations by the project or activity, or completion of all construction operation in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers. The prior environmental clearance granted for a project or activity shall be valid for a period of ten years in the case of River Valley projects (item 1(c) of the Schedule), project life as estimated by Expert Appraisal Committee or State Level Expert Appraisal Committee subject to a maximum of thirty years for mining projects and five years in the case of all other projects and activities. However, in the case of Area Development projects and Townships [item 8(b)], the validity period shall be limited only to such activities as may be the responsibility of the applicant as a

developer. This period of validity may be extended by the regulatory authority concerned by a maximum period of five years provided an application is made to the regulatory authority by the applicant – within the validity period, together with an updated Form I, and Supplementary Form IA, for Construction projects or activities (item 8 of the Schedule). In this regard the regulatory authority may also consult the Expert Appraisal Committee or State Level Expert Appraisal Committee as the case may be.

➤ **EIA Notification dated 12.04.2022 (R-10/8) reads as follows:**

In the said notification –

(i) In paragraph 9,-

(a) For sub paragraphs (i) and (ii), the following sub-paragraphs shall be substituted, namely:-

(i) The “Validity of Environmental Clearance” is meant the period from which a prior Environmental Clearance is granted by the regularly authority, or may be presumed by the applicant to have been granted under sub-paragraph (iii) of paragraph 8, to the start of production operations by the project or activity; or completion of all construction operations in case of construction projects relating to item 8 of the Schedule, to which the application for prior environmental clearance refers: -

Provided that in the case of mining projects or activities, the validity shall be counted from the date of execution of the mining lease.

(ii) Xxxxx

(iii) Xxxxx

(iv) The prior Environmental Clearance granted for mining projects shall be valid for project life as laid down in the mining plan approved and renewed by competent authority, from time to time, subject to a maximum of thirty years, whichever is earlier:

Provided that the period of validity of Environmental Clearance with respect to projects or activities included in this sub-paragraph may be extended by another twenty years, beyond thirty years, subject to the condition that the adequacy of the existing environmental safeguards

laid down in the existing Environmental Clearance shall be examined by concerned Expert Appraisal Committee every five years beyond thirty years, on receipt of such application in the laid down proforma from the Project Proponent within the maximum validity period of Environmental Clearance of thirty years, and subsequently on receipt of such application in the laid down proforma from the Project Proponent within the validity period of the extended Environment Clearance, every five years for incorporating such additional environment safeguards in the Environmental Management Plan, as may be deemed necessary, till the validity of the mining lease or end of life of mine or fifty years, whichever is earlier.”;

(b) For the brackets, figures and words “(iii) Where the application for extension under sub-paragraphs (i) and (ii) has been filed”, the following shall be substituted, namely: -

(v) Xxxxx

- The bare perusal of the Notifications dated 14.09.2006 and 12.04.2022 shall reveal that the validity of the EC is co-terminus with the Project life as mentioned in the approved mining plan subject to a maximum of 30 years.
- A comparative analysis of the provisions of the aforesaid notifications and the provisions of Office Memorandum dated 24.12.2013 with respect to the “validity period of the EC” shall reveal that the office memorandum is violative of the aforesaid notifications and is not sustainable in the eyes of law. Reliance is placed upon the judgment of this Hon’ble Tribunal in Himmat Singh Shekhawat vs. State of Rajasthan 2015 (1) All India NGT 44.

C. The validity of the EC granted in favour of Respondent No. 10 is 10 years since the Project life is 10 years:

- Condition No. 6 of the EC dated 17.03.2017 reads as follows:

6. *The copy of LOI is issued by Department of Mines & Geology, Govt. of Haryana vide Letter No. DMG/HY/Cont./Jathlana Block/ YNR B-12/2015/10070 dated 30.11.2015. Life of mine is 10 years. The Mine Plan was approved by Department of Mines and Geology, Haryana vide Letter No. DMG/HY/MP/Jathlana Block/YNR B-12/2015/3110 dated 10.06.2016. The proposed project is for mining of Sand by open cast semi-mechanized at Yamuna River Tehsil-Radaur and Distt. Yamuna Nagar, Haryana with proposed production capacity of 45,00,000 TPA of Sand. The total geological reserve is 60,76,200 Metric Tons and total mineable reserve is 45,40,200 Metric Tons. Mine lease area will be worked in blocks and the ultimate depth will be 3 m. The replenishment with respect to the production capacity was analysed as per the Dandy-Bolton's equation. Sand will be transported by trucks of 25 Tons capacity and 200 dumpers will be deployed for transportation of minerals. Total water requirement for the project is 70 KLD. Total man power requirement for the project is 120.*

- The bare perusal of Condition No. 6 shall reveal that the Project life is 10 years. Hence, in view of the Notification dated 14.09.2006 and subsequent amendments, the validity period of the EC dated 17.03.2017 granted in favour of Respondent No. 10 is 10 years and not 5 years.
- The provisions of Office Memorandum dated 24.12.2013, as quoted in SSMG, 2016 at Page No. 98-99, are not applicable in the present case for the purpose of ascertaining the validity period of the EC since the said provision is violative of the provisions of the Notifications.

D. Even otherwise, the provision with regards to the validity period of EC, as mentioned in Office Memorandum dated 24.12.2013, is not applicable to the project of Respondent No. 10 since the same is “Category A” Project and not “Category B2” Project:

- The perusal of the Office Memorandum dated 24.12.2013, as quoted in SSMG, 2016 at Page No. 99, shall reveal that the same is applicable only with respect to the mining projects under Category B2 i.e. the mining projects whose mining lease area is greater than equal to 5 hectares and less than 25 hectares.
- As per EIA Notification dated 14.09.2006, there are two categories of mining projects i.e. Category A (where the mining lease area is greater than equal to 50 hectares) and Category B (where the mining lease area is less than 50 hectares but greater than equal to 5 hectares).
- In the present case, at the time of grant of EC, the mining project of Respondent No. 10 was under Category A since the mining lease area was 101.27 hectares and the EC was granted by MoEF & CC. Hence, though denied, even if assumed that the provisions of Office Memorandum dated 24.12.2013 with regards to validity period of EC are valid in terms of the Notifications, the same is not applicable in the present case.

10. PRAYER:

In the light of the submissions made herein above, it is most respectfully prayed that the Original Application may kindly be dismissed.

PLACE: NEW DELHI

DATED: 14.08.2025


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P/2238/2011

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**Written Submissions on behalf of Respondent No. 10 in OA No. 791 of 2024 titled as
Ajit Pal Singh v/s Union of India and others**

1 message

ANSHUL MANGLA <anshul.mangla16@gmail.com>

Thu, Aug 14, 2025 at 7:41 PM

To: rkhuranalegal@gmail.com, Gaurav Bansal <advocategauravkumarbansal@gmail.com>, "advocatenandita@gmail.com" <advocatenandita@gmail.com>

Respected sir

Please find attached herewith the Written Submissions on behalf of Respondent No. 10 in the captioned matter.

Regards,

Anshul Mangla, Advocate

 **Written Submissions R-10.pdf**
327K