

# 1297

**IN THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO. 306/ 2022**

**IN THE MATTER OF:**

HARBANS SINGH

..... Applicant

-Versus-

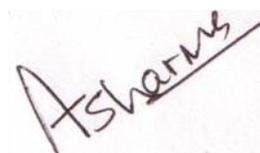
STATE OF HARYANA & ORS.

..... Respondents

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Drawn and filed by:



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SUPREME COURT OF INDIA  
NEW DELHI 110001

Place: New Delhi

Dated: 18.04.2023

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**WRITTEN SUBMISSIONS ON BEHALF OF THE APPLICANT**

*Most respectfully showeth*

1. That the Applicant has filed the present Application to challenge mining activity on Agricultural lands located at Villages Jaidhar and Mandewala, both in District Yamuna Nagar, Haryana. Pertinently, there is no possibility of replenishment of top layer of soil in these two areas.

**LEASE AT VILLAGE JAIDHAR.**

2. Lease area at Vill. Jaidhar is located only 300 meters from the Western Yamuna Canal thus mining operations may affect its structural stability [*page XIII of Reply filed by R-6 dt. 30.11.2022*]
3. Clause 9.4(3) of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 requires that a safety margin of two meters above groundwater table be maintained while mining in areas located outside river bed. [*page 228 of O.A.*]
4. Report of Govt. Hydrologist dt. 27.07.2016 states that water table at the lease site, i.e. mining area in Village Jaidhar is 1.80 meters. [*pg 351 of O.A.*] Since water table is within 2 meters, mining activity is in breach of Clause 9.4(3) of 2020 Guidelines.

5. Report of Executive Engineer, Haryana dt. 12.10.2021 also reiterates the problems of farmers due to high water table in the area. Report notes that mining may adversely affect structural stability of canal works. [*page 347 of O.A.*] Report recommends that no mining activity be permitted at Vill. Jaidhar.
6. This Hon'ble Tribunal may seek a factual on ground report from a neutral agency to ascertain water table.
7. The private Respondent sought to mislead this Hon'ble Tribunal by citing low water table of 18 meters at Khizrabad water well while concealing that Khizrabad is located 10.6 kms away (aerial distance) from mining site at Vill. Jaidhar. [*see pages 189 (table) & 192 of Application for Additional Documents filed by Applicant*]
8. In fact another water well at Harewa, located 1.9 kms from mining site at Vill. Jaidhar has a much lower water table of 4.50 meters. [*pages 189 (table) and 191 of Appln. for Addl. Documents*]
9. This conclusively establishes the fact of very low water table at Village Jaidhar due to its close proximity with Western Yamuna Canal.

#### **LEASE AT VILLAGE MANDEWALA.**

10. Proviso to Clause 8.2 of 2020 Guidelines states that mining on agricultural fields in Haryana be permitted only when replenishment of sand occurs due to natural phenomenon. [*page 222 of O.A.*]
11. Admittedly, there is no possibility of replenishment of sand at Vill. Mandewala. [*see Reply of R-6 dt. 30.11.2022, middle of page XVII*] Further, the surface altitude at mining site is even lower than bed level of River Yamuna resulting in low water table. [*same page as above*]
12. Clause 4.1.1(m) of 2020 Guidelines permits mining on agricultural lands only when:

- a. There is possibility of replenishment of sand; or
  - b. In case there is no possibility of replenishment then lease shall be granted only when there is no riverbed mining possibility within 5 kms of lease area.
13. Admittedly, mining site at Vill. Mandewala is located at a distance of 1.62 to 2.02 kms from River Yamuna. [*see Additional Affidavit of R-8 (CWC) dt. 28.01.2023, page 2*]
14. Admittedly, 12 mining areas fall within 5 kms of mining site at Vill. Mandewala. [*see page 12 of Additional Affidavit filed by Applicant dt. 10.01.2023 for list of mining leases along with their auction notices and Envi. Clearances containing exact GPS coordinates*] No one has disputed this assertion. Mining lease here is in clear violation of 2020 Guidelines.
15. Hon'ble Supreme Court of India in Bajri Lease LoI Holders Welfare Society vs. the State of Rajasthan (2021) SCC OnLine SC 1043 cancelled sand mining leases located within 5 kms of another mining lease in the river bed by relying upon 2020 Guidelines.

**LEASES GIVEN TO A COMPANY ACCUSED OF LARGE SCALE ILLEGAL SAND MINING IN A PENDING PROSECUTION PURSUANT TO ORDERS OF HON'BLE SUPREME COURT OF INDIA.**

16. Private leaseholder, i.e. M/s Saharanpur Mines Mgmt. Services Pvt. Ltd., is Accused No. 118 in Criminal Complaint No. 720/ 2017 filed by Serious Fraud Investigation Office (SFIO) before Special Court, Dwarka, New Delhi for large scale illegal mining and laundering of funds.
17. This criminal investigation was monitored by Hon'ble Supreme Court of India in Writ Petition (C.) No. 818/ 2015 and therefore must have some

sanctity. Mining permission should not be mechanically given to a company accused of illegal mining.

**2020 GUIDELINES ARE BINDING ON THE PRIVATE LEASEHOLDER.**

18. Pertinently, R-8, i.e. private leaseholder, has submitted that 2020 Guidelines do not apply to it. In this regard it is submitted that the 2020 Guidelines were formulated pursuant to judgments of the Hon'ble Supreme Court of India and this Hon'ble Tribunal. Reliance is also placed on decision of Hon'ble Supreme Court of India in State of Bihar vs. Pawan Kumar [(2022) 2 SCC 348] in support of the proposition that the 2020 Guidelines are binding and applicable on all sand mining leases.