

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH, NEW DELHI****ORIGINAL APPLICATION NO. 142 OF 2022****IN THE MATTER OF:**

JAYANT KUMAR

....APPLICANT

VERSUS

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE

CHANGE & ORS.

....RESPONDENTS

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1.	Written Submissions on behalf of Respondent Nos. 5 and 6	

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**WRITTEN SUBMISSIONS ON BEHALF OF RESPONDENT
NOS. 5 AND 6**

MOST RESPECTFULLY SHOWETH:

PRELIMINARY SUBMISSIONS

1. It is pertinent to mention that the Applicant herein is an extortionist, associated with an organization by the name of All India Kaimur People's Front, who has been blackmailing Respondent Nos. 5 and 6 since a long time and has been threatening them that he will somehow get their Environmental Clearances cancelled if a huge sum of money is not paid to him. The present Original Application is a manifestation of the said threat and the misleading, extraneous and ill-conceived grounds and submissions which have been pleaded in the Original Application and the Interlocutory Applications by the Applicant, both written and oral, shall make it clear that the Applicant has been

proceeding with a vindictive mindset and has been acting with an oblique motive to somehow shut the mining leases of Respondent Nos. 5 and 6 and saddle them with some unjustified liability.

- 2.** That it is respectfully submitted that in the present case, there has been absolutely no violation of the judgment dated 13.09.2018 rendered by this Hon'ble Tribunal in Original Application No. 186/2016, titled Satendra Pandey vs Ministry of Environment, Forest and Climate Change & Anr., wherein this Hon'ble Tribunal did not set aside or stay the EIA Notification dated 15.01.2016 and only directed that the procedure laid down in the EIA Notification dated 15.01.2016 be brought in consonance and in accord with the directions passed in the case of Deepak Kumar case.
- 3.** Pursuant to the directions passed by this Hon'ble Tribunal, it was only on 11.12.2018 that this Hon'ble Tribunal passed an order in Execution Application No. 55/2018 in Original Application No. 520/2016 directing that till a fresh notification is issued by MoEF&CC in terms of the Satendra Pandey order, the Notification dated 15.01.2016 shall not be acted upon. Subsequently, on 12.12.2018, an Office Memorandum was also issued by the MoEF&CC, directing the authorities concerned all over the country to abide by the directions contained in the order passed by this Hon'ble Tribunal and to follow the regime indicated therein for grant of EC's. Acting in compliance of O.M. dated 12.12.2018

issued by MoEF&CC, in a joint meeting of the State Environment Impact Assessment Authority [SEIAA], Uttar Pradesh and State Expert Appraisal Committee [SEAC], Uttar Pradesh, held on 05.02.2019, a decision was taken that all mining cases of minor minerals, having area of 0 to 5 Hectares, will be appraised by UP-SEIAA for grant of Environment Clearance.

- 4.** It is respectfully submitted that neither in the O.M. dated 12.12.2018 issued by MoEF&CC nor in the decision taken by UP-SEIAA and UP-SEAC on 05.02.2019, has a mention been made regarding retrospective effect being given to these directions or any of these directions having any sort of effect on the validity of the EC's which already stand granted by DEIAA in accordance with the earlier prevalent legal regime. It is no longer res-integra that unless specifically indicated, even if a legal regime is changed subsequently, that has no bearing whatsoever on the validity of the decisions taken under the earlier legal regime.
- 5.** Thus, between 13.09.2018 and 12.12.2018 and for sometime even thereafter, DEIAA's continued to function all over the country and continued to grant EC's.
- 6.** It is respectfully submitted that the stand adopted by the MoEF, in its Affidavits filed in compliance of various orders passed by this Hon'ble Tribunal, to the extent that it accords protection to the DEIAA EC's granted only during the period from 15.01.2016 to 13.09.2018 and not to those issued

between 14.09.2018 to 12.12.2018, is ex-facie erroneous and based on a completely fallacious understanding of the legal position. The fact of the matter is that vide its judgment dated 13.09.2018, this Hon'ble Tribunal left it to MoEF to take appropriate corrective action to bring the EIA Notification in consonance with the Deepak Kumar judgment and the first step towards that exercise was taken by the MoEF only on 12.12.2018 by issuance of an O.M. Hence, the MoEF cannot take advantage of its own inaction and cause prejudice to the leaseholders, who had validly applied under the then existing legal regime and had been granted EC's by DEIAA.

- 7.** It is also submitted that during the pendency of the present Original Application, a fresh EC has already been granted in favour of Respondent No. 5 by UP-SEIAA on 11.01.2024 [Pg Nos. 1011-1021].
- 8.** It is further submitted that Paragraph 8 of the Report dated 02.08.2019, submitted by the Committee comprising of the Regional Officer, UPPCB, Sonbhadra and Member, SEAC, before this Hon'ble Tribunal in O.A. No. 474/2019 [Surendra Singh vs MoEF & CC & Ors], on which heavy reliance has been placed by the Applicant, is reflective only of the opinion of that particular Committee, as is clearly evident from the language contained in the said Paragraph, and the said opinion of the Committee did not culminate in any general

binding direction being issued by either SEIAA or this Hon'ble Tribunal.

- 9.** The question of whether the lease blocks of Respondent Nos. 5 and 6 fall in the reserved forest or not has been conclusively settled with the issuance of the Notification under Section 20 of the Indian Forest Act by the State Government, with the division of Gata No. 7536 Ga and the manner of carving out of four blocks on which leases had been granted [with the said exercise having been conducted by the State] having also been categorically explained in the Joint Committee Report at Pg. 160. Hence, baseless attempts made by the Applicant to project that the lease blocks of Respondent Nos. 5 and 6 are falling in reserved forest is nothing but a malicious ploy to mislead and prejudice the mind of this Hon'ble Tribunal.
- 10.** The reasons for the delay in registration of the mining leases of Respondent Nos. 5 and 6 has already been explained in detail in the Reply filed by the said Respondents and is not being repeated here for the sake of brevity. In summary, it is submitted that orders dated 13.07.2018 passed in Original Application No. 429/2016 and 25.03.2019 passed in Original Application No. 781/2018 [by relying on order dated 13.07.2018], were challenged before the Hon'ble Supreme Court in a batch of Appeals, with the lead matter being Civil Appeal No. 12202/2018 and the Civil

Appeal filed by the Answering Respondents being Civil Appeal No. 5093/2019.

- 11.** During the pendency of the Civil Appeals, pursuant to the orders of the Hon'ble Supreme Court, a Notification under Section 20 of the Indian Forest Act was issued by the State Government of Uttar Pradesh in respect of the concerned area on 15.06.2020, whereafter it became categorically clear that the land, in respect of which mining leases were granted to the Answering Respondents, was not forest land. It was only after this that the decks were cleared for registration of the mining leases of the Answering Respondents, which came to be registered on 05.10.2020 and 06.11.2020 respectively, with it also being observed by the Hon'ble Supreme Court in its judgment dated 28.10.2010 rendered in the batch of Appeals that no fault could be attributed to the mining leaseholders. In any event, delay in registration of the mining leases is an aspect covered by the Mines and Minerals (Development and Regulation) Act, 1957, which is not a statute covered under the Schedule of the National Green Tribunal Act, 2010.
- 12.** That the aspect of surrender of the mining lease by Respondent No. 6 and the fact that no mining has taken place on the said lease and no E MM-11 has been generated since 02.11.2021 is borne out from the Reply dated 16.01.2024 submitted by the District Magistrate, Sonbhadra [Pgs 1026-1027]. It is respectfully submitted that pendency

of some litigation in relation to the outstanding dues to be paid by the leaseholder in relation to the said lease, with an interim order having been granted by the Hon'ble High Court in favour of Respondent No. 6, has got no bearing on or relation with the present case, as it is an admitted fact that no mining has been done on the lease block since 02.11.2021.

13. That in such circumstances, it is respectfully prayed that there is no cause or reason for grant of any indulgence to the Applicant by this Hon'ble Tribunal and the Original Application may kindly be dismissed.

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