

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 532 of 2023**

IN THE MATTER OF:

Balbir Sandhu

...Applicant

Versus

State of Haryana & Others

...Respondents

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PLACE: -NEW DELHI

DATE: - 28.11.2024

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**WRITTEN SUBMISSIONS ON BEHALF OF RESPONDENT NO. 9 -
M/S SCP COMMODITIES**

1. That Respondent No. 9- M/s SCP Commodities, a Proprietorship Firm, is engaged in the business of sand mining. The M/s SCP Commodities- Respondent No.9 is the highest bidder for the Sand Mining Mineral of District Ambala for which e-auction was held on 05.07.2022 vide E-Auction Notice (DMG/HY/e-Auction/Amb. /2022/ dated 09.06.2022. Thereafter on 28.07.2022, a *Letter of Intent* was issued by the Director General, Mines & Geology, Haryana vide Memo No DMG/HY/Cont./Gadauli-Ambli Block/AMB/2022/4862, for Mining of Sand (Miner Mineral) in revenue village of Gadauli -Ambli over an area of 99.06 acres (39.636 hectares) in District-Ambala, Haryana for a period of 08 Years. That M/s SCP Commodities-Answering Respondent was the first among the other Respondents, whose Mining Plan was approved by the Director, Mines and Geology, Haryana vide approval letter dated 25.01.2023 and process for obtainment of EC and other requisite approval was initiated and replenishment study was duly conducted from recognised institute in accordance with the rules.
2. The Present Original Application No. 532/2023 was filed by one Balbir Sandhu *inter-alia* challenging the mining plan dated 25.01.2023 (**@prayer at page 52**) of the Respondent No.9 herein on the pretext that the same has not been approved in accordance with the approved DSR (DSR at page 138 to 196).
3. It was specifically alleged that the total area for Mining of Miner Minerals is around 10.11 Hectares Area (Aprox.) in District Ambala and the annual capacity of mineable minerals in District Ambala is 38.29 lacs MT. Contrary to the District Survey Report, Ambala, the Director, Mines and Geology, Government of Haryana has authorized Respondent No.8, Respondent No.9- Answering Respondent, Respondent No.10, to extract around 71 Lacs MT of Mineable Minerals in District Ambala. Similarly, as far as area identified for Mining of Minor Minerals in District Ambala is concerned, the Director (Mines and Geology), Government of Haryana has authorized around 180 Hectare area to the Project Proponents for extracting of Mineable Minerals.

4. That this Hon'ble Tribunal vide order dated 29.08.2023 constituted a joint Committee comprising of the Director, Central Pollution Control Board (CPCB) deputed by Member Secretary, CPCB, Member Secretary, Haryana State Pollution Control Board (HSPCB) and District Magistrate, Ambala to carry-out the inspection, examine the concerned record and submit the report before the Tribunal. Thereafter report dated 27.10.2023 was filed by the joint Committee which clearly demonstrate the error occurred and also depicts that the mining of Respondent No.9 was well within the old approved DSR.

PRELIMINARY SUBMISSIONS

5. At the outset, it is submitted that the Applicant has only challenged the approved mining plan dated 25.01.2023 (@ page 270-271) granted to the M/s SCP Commodities-Respondent No.9 herein However, the present Application has been filed on on 17.08.2023 which is **beyond the limitation period i.e., 6 months as permissible under Section 14 of the NGT Act, 2010. Hence the present Application is liable to be rejected at the threshold as being barred by limitation.** Moreover, the Applicant herein has not even filed any condonation of delay application along with the present Original Application, hence the Original Application shall be dismissed on this ground alone.
6. It is submitted that the Hon'ble Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment is involved, but in the present case there is no violation of any kind of environment and the present Application has been filed majorly pointing out the rectifiable error which was rectified by the State Government by issuing the corrigendum. Hence the entire process cannot be turned on issue of calculation mistakes particularly when in the case of answering Respondent there is no mistake at all and has been dragged with the other project proponent unnecessarily.
7. It is pertinent to note that the present Applicant has only challenged the mining plan that to is barred by limitation however, the present Applicant has not raised any objections in both the DSR when the same was uploaded online and moreover the DSR's (Old and Rectified) has also not been challenged by the Applicant in the present case. Hence, no relief may be given to the Applicant qua the DSR. Further, the Applicant was unable to show any environmental degradation and in fact nothing has been placed on record in the rejoinder of the Applicant to counter the averments of the answering Respondent.
8. It is further submitted that the present Original Application has been filed on 17.08.2023 and affidavit has been signed and attested by the Applicant Balbir Sandu on 19.08.2023 which clearly shows that the averment made in the Original Application is not known to the Applicant and it's only an abuse of process of law. Hence, same is also liable to be dismissed. Moreover, the Applicant herein has raised the argument of supporting Affidavit filed along with the reply of the Respondent No.9 herein. In this regard, it is submitted that the Affidavit was signed by the client when the same was prepared however later the reply was rectified due to mistakes and filed with the supporting

Affidavit after showing it to the client and the issue of dates cannot be a ground for not considering the reply of the answering Respondent. In fact, according to the Indian Notaries Act, 1952, there is no specific time limit for the validity of an affidavit.

SUBMISSIONS ON MERITS

9. It is also important to submit here that M/s SCP Commodities-Answering Respondent was the first, whose Mining Plan was approved by the Director, Mines and Geology, Haryana vide approval letter dated 25.01.2023(@ page 270-271) at river Markanda in area area/block at Gadali and Ambli for mining of sand for 15 Lakhs metric ton (@ pg 487 Column no.3 of committee report) which was well within the old DSR calculation and now as well within the Rectified DSR limit.
10. It is important to submit here that the concerned authority/body which has prepared the District Survey Report mistakenly/inadvertently left the one of the minerals i.e. Gravel and also left to include the Mineable portion of River Sukroon (which is also known as Trilokpur River) during the compilation & preparation of DSR. That the Mining Officer, Ambala has undertaken the fact that the DSR of District Ambala needs to be revised and after revision of the same, issue in difference in mineable mineral quantity shall be resolved.
11. It is submitted that the Mineable portion of River Sukroon (which is also known as Trilokpur River) shown at Sr. No. 5 of Table no. 1 of Para no. 12 of District survey report (DSR) is inadvertently left to be mentioned at table no. 4 & 5 showing Mineral potential of District Ambala during the compilation & preparation of DSR. [Page No. 487, (ii)]
12. It is submitted that joint committee further justified that the total quantity of Mineable Mineral should have been calculated as per total mining area which is mentioned alongwith detail of Khasra no. in the last pages of DSR resulting to total more than 1100 Acres≈445.1542 Hectares [Page No. 487, (iii)]. It is submitted that Mining Officer, Ambala himself admitted the fact that the DSR of District Ambala is having some shortcomings. [Page No. 488]. It is submitted that Mining Department has undertaken to cured the clerical mistake committed at the time of preparation of the DSR and which was done and filed before this Hon'ble Tribunal on 16.03.2024 (@pg 1330 to 1470) and hence the present Application after curing of the error in DSR, has become **technically infructuous as there is no violation of the environmental laws and error inadvertently made has been rectified as per law.**
13. It is submitted that in the case of Respondent No.9/ SCP Commodities, there is no shortcoming has been found. It is submitted that only shortcomings are with respect to River Sukroon (which is also known as Trilokpur River) and **mineral Gravel** which were not included during the preparation of the DSR. It is further submitted the Respondent No.9/ SCP Commodities has only mining of "Sand" and area allotted to the Respondent No.9/ SCP Commodities falls under the **River Markanda**, which were **duly incorporated during the preparation of**

- old DSR**, hence there is no discrepancy/shortcoming with respect to Respondent No.9/ SCP Commodities.
14. It is further submitted that the Respondent No.9 herein has been allotted mines in the area/block at Gadali and Ambli which were already mentioned in the old DSR (**page no. 191, area Gadali and pg 193 area Ambli**) with respect to Respondent No.9/ SCP Commodities and the same Khasra number mentioned in the Corrigendum DSR(**page no. 1455, Serial no. 40, area Gadali and page no. 1456, Serial no. 53**) with respect to Respondent No.9/ SCP Commodities and thus it has no change in the rectified DSR. Hence qua the Respondent No.9, the present Application may be dismissed as it does not have legs to stand in the court of law as there is no discrepancies qua the mining lease allotted to the Respondent No.9 herein.
15. It is submitted that 03 Units/Blocks which have been impleaded as party in this application, the total area granted in favors of 3 of the mining Blocks of Respondent No. 8, 9 and 10 is 159.38 Hectares (398.45 Acres) along with ancillary area of 27.42 Hectares (68.55 Acres) and total mineral potential for said area @ 60,000 M.T. per hectare comes out to be 95.63 lacs M.T. (**Page No. 1336, para h**). It is further submitted that approved Mining Plan allowed to extract Mineable Minerals of 71 lacs MT (which is far less than the available Mineable Minerals) to Respondent No. 8, 9 and 10.
16. It is submitted mined pot during permissible period gets refilled with minerals brought from hilly area because of the fluvial action which is a physical interaction between water and the natural channels through it flows like rivers and streams. That the fluvial processes are responsible for shaping the landscape by transporting sediment, and depositing it to create new landforms and in this way minerals get replenished.
17. From the foregoing submissions, it is patently evident that Respondent No.9 has a good case on merits and the Original Applicant has made bald allegation without any proofs/evidence to substantiate its allegation hence, the present original Application may be dismissed qua the Respondent No.9 herein.

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