

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**  
**WESTERN ZONE BENCH AT PUNE**  
**ORIGINAL APPLICATION NO.78 OF 2022**  
**(EARLIER APPEAL NO. 17 OF 2022)**

**IN THE MATTER OF**

NEWVIDHARBHAFUNDATION ...APPLICANT

V/S

STATE ENVIRONMENT IMPACT ASSESSMENT

AUTHORITY (SEIAA)

MAHARASHTRA, AND ORS. ...RESPONDENTS

**N.D.o.H.21.07.2023**

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Date: 20.07.2023

Place: Pune

FILED BY:



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**WRITTEN SUBMISSIONS ON BEHALF OF THE ORIGINAL  
APPLICANT**

1. This Tribunal is presently seized of the aforementioned matter and is at the stage of final hearing and is next listed for 21.07.2022. This matter concerns itself with a substantial question of environment arising out of large scale sand mining without following the letter of the law. Initially, the Applicant filed Appeal No.17 of 2022. This Tribunal vide order dated 29.08.2022 was pleased to convert the appeal into an original application. **Relevant extract of the order dated 29.08.2022 is recorded hereinbelow:-**

*3. Therefore, we allow this interlocutory application and accordingly, the present appeal shall be treated as an application. The Appellant is directed to move consequential amendment application within a period of*

*one week from today. Copy of the amended application shall be provided to all the Respondents. If they like, they would file fresh reply affidavits within a period of two weeks thereafter*

2. Pursuant to which, the **amended original application which is available from pages 990- 1797** was brought on record and the Respondents filed their Replies. **Respondent No.1 has filed a reply which is available at pages 1798-1802 of the Court file and Respondent No.2 and No.3 have filed a common reply which is available at pages 1803-2835 of the Court file along with Pages 2873-3339, which includes translation of some pages of the documents. Rejoinder to Respondent No.1's reply is on pages 2836-2842 and Rejoinder to common Reply of Respondent No.2 and No.3 is on 3584-3816. Respondent No.2 and No.3 pursuant to direction of this Hon'ble Tribunal vide order dated 25.04.2023 have filed a copy of the DSR which is claimed to be the final DSR by the said Respondents. This is available on pages 3340- 3584.**
3. It is pertinent to note that the Applicant had filed the present Original Application in order to bring to the fore the illegal sand mining existing in Akola, Maharashtra, India and non-compliance of the notifications, office memorandums, circulars, etc of the Ministry of Environment, Forest Climate Change and the judgements of the Hon'ble Supreme Court of India and the Hon'ble National Green Tribunal.
4. There are mainly the following environmental issues that are to be decided which are listed hereinbelow:-

**A. WHETHER A DISTRICT SURVEY REPORT WHICH IS UNSCRUTINIZED BY SEAC/SEIAA AND HAS NOT BEEN APPROVED IS LIABLE TO BE DECLARED ILLEGAL?**

**5. (i) ESSENTIALITY OF DISTRICT SURVEY REPORT**

It is pertinent to mention that a District Survey Report is a precondition for beginning the process of identifying mining sites/khasra numbers along with detailed mining potential in a district.

6. That the Ministry of Environment, Forest and Climate Change through notification on 15.01.2016, had prescribed a procedure for preparation of District Survey Report for conducting sand mining whereby after sub-paragraph 7 (ii), the following sub-paragraph was inserted, namely:- “7 (iii) Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minor Minerals. The Notification also created the District Environmental Impact Assessment Authority in all districts of the country. **(KINDLY SEE PAGE NUMBER 1087 OF THE COURT FILE).**

7. That the Sustainable Sand Mining Guidelines were brought about by the Ministry of Environment, Forest and Climate Change in the year 2016 which has not only emphasized the importance of District Survey Report as an essential first step but has also detailed out the structure of the report to be prepared.

*The report can have following structure:*

- 1. Introduction*
- 2. Overview of Mining Activity in the District*
- 3 The List of Mining Leases in the District with location, area and period of validity*
- 4. Details of Royalty or Revenue received in last three years*

5. *Detail of Production of Sand or Bajari or minor mineral in last three years*
6. *Process of Deposition of Sediments in the rivers of the District*
7. *General Profile of the District*
8. *Land Utilization Pattern in the district: Forest, Agriculture, Horticulture, Mining etc.*
9. *Physiography of the District*
10. *Rainfall: month-wise*
11. *Geology and Mineral Wealth*
12. *Drainage System with description of main rivers (with area drained in Sq. Km and % of Area Drained.*
13. *Salient Features of Important Rivers and Streams*
14. *Methodology adopted for Calculating Mineral Potential.*

**(KINDLY SEE PAGE 1122 OF THE COURT FILE)**

8. That on 08.12.2017, the Hon'ble National Green Tribunal in *Anjani Kumar vs State of U.P.* [MANU/GT/0132/2017] which stated that data collection and declared for preparation of DSR shall take precedent over other data and form the foundation for providing mining lease. It further stated that Environmental Clearance shall be a condition precedent for carrying on mining activity.

*94. The information or data collected by the authorized officer of the State Government under Mining Act for inviting tenders would not be and cannot be the base for compliance of Appendix- x as it is not a substitute for the District Survey Report referred to which must be prepared by District Environment Impact Assessment Authority the body in terms of Appendix-x. In light of the above discussion we pass the following orders and directions:*

1. *We have already held that we are not concerned in deciding the merit or otherwise of the Mining Policy, 2017 framed by the State of UP and inviting of e-tender and e-auction as it falls beyond the jurisdiction of this Tribunal.*
2. *The data collection and declared for preparation of DSR shall take precedent over other data and would form the foundation for*

*providing mining lease in terms of Appendix- x to the Notification dated 15th January, 2016 must be prepared by the statutory authority stated therein i.e. DEIAA prior to awarding of permits for carrying on mining activity in any part of the State of UP.*

*3. Upon finalization of the DSR in the manner prescribed 21 days notice shall be provided and objections if any file shall be considered in accordance with law.*

*4. Obtaining of Environmental Clearance shall be a condition precedent to the carrying on of the mining activity/execution of the lease. This be so for the environmental laws afore-referred and even stipulated in the Rule 34(iv) of the Mining Rule, 2017*

*5. The State Government and all its agencies and instrumentalities would ensure that the protection and replenishment of natural resources including sand is duly provided for in the mining lease that would be granted by the State Government as required under Appendix-x to the notification dated 15th January, 2016.*

*6 . The State Government and its instrumentalities shall also ensure that the terms and conditions of the Mining Lease would contain all the relevant clauses as stated in Appendix-x and Notification dated 15th January, 2016 for carrying out sustainable mining.*

**(KINDLY SEE PAGE NUMBER 1225 OF THE COURT FILE)**

9. That on 25.07.2018, the MoEF&CC released a Notification being S.O. 3611(E) which amended the procedure for preparation of district survey report for sand mining or river bed mining in the earlier Notification dated 15.01.2016. It has included within its ambit the structure of how the report must be like.

*The report shall have the following structure:*

- (1) Introduction;*
- (2) overview of Mining Activity in the District;*
- (3) the List of Mining Leases in the District with location, area and period of validity;*
- (4) details of Royalty or Revenue received in last three years;*

*(5) detail of Production of Sand or Bajri or minor mineral in last three years;*

*(6) process of Deposition of Sediments in the rivers of the District; (7) general Profile of the District;*

*(8) land Utilization Pattern in the district: Forest, Agriculture, Horticulture, Mining etc.;*

*(9) physiography of the District;*

*(10) rainfall: month-wise;*

*(11) geology and Mineral Wealth.*

*In addition to the above, the report shall contain the following: (a) District wise detail of river or stream and other sand source;*

*(b) District wise availability of sand or gravel or aggregate resources;*

*(c) District wise detail of existing mining leases of sand and aggregates.*

**(KINDLY SEE PAGE NUMBER 1228 AND 1229 OF THE COURT FILE)**

10. That the Hon'ble National Green Tribunal, Principal Bench in *Satendra Pandey vs Union of India & Ors.* on 13.09.2018 examined the legality of the EIA Amendment Notification dated 15.01.2016 and called for the revision of procedure as per the judgement passed by the Hon'ble Supreme Court in the matter of Deepak Kumar vs. State of Haryana. By way of judgement, it has cancelled the constitution of District Environmental Impact Assessment Authority (DEIAA) and the District Environmental Appraisal Committee (DEAC) in the Districts. It has also emphasized on evaluation by SEAC/SEIAA as constitution of DEAC/DEIAA was cancelled, henceforth.

**(KINDLY SEE PAGE NUMBER 1254 OF THE COURT FILE)**

11. In January, 2020, the Ministry of Environment, Forest and Climate Change brought out guidelines for Enforcement & Monitoring

Guidelines for Sand Mining. These guidelines have emphasized on the importance of the District Survey Report.

- a) *District Survey Report for sand mining shall be prepared before the auction/e-auction/grant of the mining lease/Letter of Intent (LoI) by Mining department or department dealing the mining activity in respective states*
- c) *District Survey Report is to be prepared in such a way that it not only identifies the mineral-bearing area but also define the mining and no mining zones considering various environmental and social factors.*

**(KINDLY SEE PAGE NUMBER 1272 AND 1273 OF THE COURT FILE)**

12. On 14.10.2020, the Hon'ble Principal Bench NGT in *Pawan Kumar Vs State of Bihar* [2020 SCC OnLine NGT 2848], had provided certain guidelines for the preparation of District Survey Report. The findings are listed below:-

*103. In the light of the above findings, we direct as follows:*

*(i) Having regard to the findings at (a), (b) and (c) above, we direct the State to undertake further exercise for preparation of a fresh DSR for the Banka district.*

*(ii) As the DEIAA is not functioning as a consequence of the decision of the Tribunal in Satendra Pandey (supra), the DSR shall be prepared through a consultant(s) accredited by the National Accreditation Board of Education and Training/Quality Control Council of India in terms of O.M. of MoEF&CC dated 16.03.2010.*

*(iii) The DSR so prepared shall be submitted to the District Magistrate who shall verify the DSR only in respect of the relevant facts pertaining to the physical and geographical features of the district which shall be distinct from the scientific findings based on the parameters prescribed in the SSMMG-2016. After such verification, the District Magistrate shall*

*forward the DSR for examination and evaluation by the State Expert Appraisal Committee (SEAC) having regard to the fact that the SEIAA comprises of technical/scientific experts. The SEAC after appraisal of the report shall forward it to the SEIAA for consideration and approval if it meets all scientific/technical requirements.*

*(iv) While preparing the DSR, the MoEF&CC Accredited Agency/Consultant shall scrupulously follow the procedure and the parameters laid down under the SSMMG-2016 and EMGSM-2020 read in sync with each other.*

**(KINDLY SEE PAGE NUMBER 1378 OF THE COURT FILE)**

### **13.(ii) CURRENT LEGAL POSITION**

It is pertinent to understand that the District Survey Report, and its preparation have been set out in detail in the judgement passed by the Hon'ble Supreme Court of India in *State of Bihar and Others Vs Pawan Kumar and Others* [(2022) 2 SCC 348] decided on 10.11.2021. Other judgements of the Hon'ble National Green Tribunal have subsequently reiterated the position taken up by the Hon'ble Supreme Court which can be seen from the following paragraphs.

**14.** That the Hon'ble Supreme Court in *State of Bihar and Others Vs Pawan Kumar and Others* [(2022) 2 SCC 348] decided on 10.11.2021, modified the conditions for the preparation of the District Survey Report, with an important criterion that all draft DSR's prepared by erstwhile District Environmental Impact Assessment Authorities be scrutinized by State Expert Appraisal Committee and then the State Environmental Impact Assessment Committee within a period of 6 weeks. Findings are listed below:-

16. We therefore find it appropriate to substitute the directions issued by the Tribunal vide judgment and order dated 14<sup>th</sup> October 2020, with the following directions:

16.1. The exercise of preparation of DSR for the purpose of mining in the State of Bihar in all the districts shall be undertaken afresh. The draft DSRs shall be prepared by the sub-divisional committees consisting of the Sub-Divisional Magistrate, Officers from Irrigation Department, State Pollution Control Board or Committee, Forest Department, Geological or mining officer. The same shall be prepared by undertaking site visits and also by using modern technology. The said draft DSRs shall be prepared within a period of 6 weeks from the date of this order. After the draft DSRs are prepared, the District Magistrate of the concerned District shall forward the same for examination and Evaluation by the SEAC. The same shall be examined by the SEAC within a period of 6 weeks and its report shall be forwarded to the SEIAA within the aforesaid period of 6 weeks from the receipt of it. The SEIAA will thereafter consider the grant of approval to such DSRs within a period of 6 weeks from the receipt thereon;

16.2. Needless to state that while preparing DSRs and the appraisal thereof by SEAC and SEIAA, it should be ensured that a strict adherence to the procedure and parameters laid down in the policy of January 2020 should be followed;

16.3. Until further orders, we permit the State Government to carry on mining activities through Bihar State Mining Corporation for which it may employ the services of the contractors. However, while doing so, the State Government shall ensure that all environmental concerns are taken care of and no damage is caused to the environment.

**(KINDLY SEE PAGE NUMBER 1531 OF THE COURT FILE)**

15. That in Prabhat Mohan Pandey vs MPSEIAA (with Appeal No 25 to 27 of 2021, Appeal No. 29 to 65 of 2021 and Appeal No. 67 of 2021 & other connected matters (CZ) ) in a five judge bench with order dated 22.02.2022 has again highlighted the applicability of the law laid down by Hon'ble Supreme Court in State of Bihar and Others Vs Pawan Kumar and Others [(2022) 2 SCC 348]

34. The applicability of the law laid down by the Hon'ble Supreme Court of India in State of Bihar Vs Pawan Kumar. We have gone through the orders and directions passed by the Hon'ble Supreme Court of India vide order dated 10th November, 2021 in Civil Appeal No. 3661-3662 of 2020 in State

*of Bihar Vs Pawan Kumar & Ors, where in the case of Bihar, certain directions were issued and substituted with reference to preparation of DSR. We deem it appropriate that the guidelines and directions issued by the Hon'ble Supreme Court of India vide order referred above are fully applicable in the present matter and State authorities are directed to act in accordance with direction issued by the Apex Court till the finalization of the DSR. In view of the above reference and in light of the directions issued in Goa Foundation case and the guidelines issued by the MoEF & CC in 2016, 2018 and 2020 referred above, the respondents, the State Authorities and the Mining Department are bound to prepare a District Survey Report.*

**(KINDLY SEE PAGE 3665 OF THE COURT FILE)**

16. Similarly in Ram Babu Gour vs State of Madhya Pradesh and Ors (O.A. No. 10 of 2022 (CZ) in a two judge bench with order dated 12.04.2022 has reiterated the applicability of the judgement passed by the Hon'ble Supreme Court in State of Bihar and Others Vs Pawan Kumar and Others [(2022) 2 SCC 348].

*16. Accordingly in light of the contentions raised by the Learned Counsel for the applicant and in view of the directions issued by the Hon'ble Supreme Court, we direct the respondents to act in accordance with the provisions of law and in accordance with the directions issued by the Hon'ble Supreme Court and we caution respondents for auctioning the Ghats as per Notice Inviting Tender dated 26.11.2021 till they are not in-consonance with the DSR prepared in terms of the notifications of MoEF&CC, Sustainable Sand Mining Management Guidelines, 2016 and The Enforcement and Monitoring Guidelines for Sand Mining, 2020 and Respondents/Collector Raisen is directed to act in accordance with directions of Hon'ble Supreme Court and strictly observe, follow and enforce the directions issued by the Hon'ble Supreme Court of India.*

*17. We further direct SEIAA to strictly follow the guidelines mentioned above and to ensure strict compliance of the rules and the environmental laws. We further direct the State Pollution Control Board to enforce the rule of law and environmental laws and in-case of any violation immediate strict legal action should be initiated in addition to realisation of environmental compensation in accordance with the parameters laid down by the CPCB.*

**(KINDLY SEE PAGE NUMBERS 3672 AND 3673 OF THE COURT FILE)**

17. Further, this has been reiterated by the judgement of the Hon'ble National Green Tribunal in *Ajit Kumar vs State of Madhya Pradesh and Ors.* (OA No. 38 of 2022) (CZ) dated 17.10.2022 where the question about appraisal of the District Survey Report was talked about in detail and the Hon'ble National Green Tribunal (CZ) has provided answers. Relevant para is reproduced hereinbelow:-

*45. The main questions raised in this petition are as follows: -*

*Question No. 1 : Requirement of DSR and its finality.*

*Answer: The Sustainable Sand Mining Management Guideline, 2016 & 2020 provides for the preparation of DSR and MoEF has issued necessary directions. It is settled Law that District Survey Report for Sand Mining shall be prepared before the auction/eauction/grant of mining lease by the Mining Department or department dealing with the mining activities in the respective States. DSR is to be approved at the level of SEIAA with the help of SEAC. The DSR becomes final on the date when it is approved by the SEIAA. With regard to the DSR relating to the district Raisen it was approved on 23.05.2022. Thus, the valid DSR/approved DSR came into existence on 23.05.2022 district Raisen, the question is replied accordingly.*

*ii. Question no. 2: Sanctity of NIT in absence of DSR or DSR duly approved by SEIAA.*

*Answer: In view of the discussion made above and in view of Prabhat Mohan Pandey case (Supra) and the direction issued in the Pawan Kumar Case, the action of NIT in absence of valid DSR is in violation of Sand Mining Guidelines issued in 2016 & 2020, it becomes final only after the approval of the SEIAA. Any NIT before the date of approval of DSR by SEIAA is in contravention of the Rules, Guidelines and the directions issued by the Hon'ble Supreme Court. The question is replied accordingly*

**(KINDLY SEE PAGE 3812 AND 3813 OF THE COURT FILE)**

**18.(III) FACTUAL MATRIX IN THE DISTRICT OF AKOLA,**

**MAHARASHTRA**

That the District Collector/District Mining Officer issued the draft District Survey Report for the district of Akola on 22.09.2021 which has been erroneously made, without following the guidelines set out for the preparation of District Survey Report as issued by the Ministry of Environment, Forest and Climate Change through Notifications and the judgements of the Hon'ble National Green Tribunal and the Supreme Court of India. It has been erroneously prepared with a total lack of application of mind. The DSR shows that only 0.98 MT of sand quantity is left to be mined. Out of this, a significant quantity representing over half the sand is supposed to be mined, without any replenishment rate mentioned in the District Survey Report. The draft DSR has not been approved by the SEAC and the SEIAA. The locations where sand is to be mined versus those where the impugned EC's are granted are not similar in quantity to be mined, with vastly different numbers, indicating that the DSR has merely been a copy pasting exercise from previous years.

19. That on 13.01.2022, twenty-six Environmental Clearances were granted by the State Environmental Impact Assessment Authority, Maharashtra in respect of sand ghats. Subsequently, other ghats were also granted Environmental Clearance.

20. A notice inviting tender was subsequently issued for the sand mines and sand was auctioned, while the environmental clearance remained with the District Mining Officer, Akola arrayed as Respondent No.3.

20. In reply filed on 10th November, 2022, Respondent No.1 has said that SEAC and SEIAA have no mandate to approve the DSR. According to Respondent No.1, the approving authority for DSR is the Department of Geology and Mines, Government of Maharashtra.

Relevant para is reproduced hereinbelow:-

*7. The Applicant has further alleged that the DSR has not been approved by SEAC & SEIAA. As per the EIA Notification, 2006 there is no mandate imposed on SEAC & SEIAA to approve the DSR. SEIAA scrutinizes the applications for EC by going through the DSR, but it does not approve the DSR. For approval mechanism, the appropriate authority is the Department of Geology and Mines, Government of Maharashtra.*

**(KINDLY SEE POINT NO. 7, PAGE NO.4 OF REPLY FILED BY R-1 WHICH IS AVAILABLE AT PAGE NO 1801 OF THE COURT FILE)**

21. The Respondents No.2 and No.3 have said that DSR was submitted to SEAC and SEIAA. Relevant para is reproduced hereinbelow:-

*However, answering respondents have submitted DSR to SEAC & SEIAA committees during the consolidated power point presentation including DSR prior environmental clearances in order to grant 30 environmental clearances which had been complied as per the Enforcement and monitoring Guidelines for Sand Mining, January, 2020.*

(KINDLY SEE PARA 14, PAGE 17 OF COMMON REPLY OF R2 AND R3- WHICH IS AVAILABLE AT PAGE 1825 OF THE COURT FILE)

22. Such conjectures and surmises, especially by Governmental authorities does not present a handsome picture for sand mining in the District of Akola, Maharashtra. It is a matter of record that DSR has not been appraised by SEAC/SEIAA. It is a further matter of record that there is a mandatory requirement of appraisal of District Survey Report, which has been recognised repeatedly by the Hon'ble Supreme Court in State of Bihar and Others Vs Pawan Kumar and Others [(2022) 2 SCC 348] and reiterated by other aforementioned decisions of the Hon'ble National Green Tribunal.

23. Subsequently, vide directions of this Hon'ble Tribunal dated 25.04.2023, the final DSR was called to be placed before this Hon'ble Tribunal. The relevant portion of the directions is reproduced hereinbelow:-

*ii. From the side of Respondent Nos. 2 & 3, we find that no final DSR has been submitted before us. We direct that the final DSR be placed on record and a copy of the same shall be served upon the learned Counsel for the Applicant well in time so that no adjournment would be required on the next date*

24. That Respondents No.2 and No.3 have filed a District Survey Report on 18.07.2023 which has not been approved by the SEAC/SEIAA and has been labelled as a final DSR by the said Respondents. This DSR is in total contravention of the notifications of the Ministry of Environment, Forest and Climate Change including the decisions of

the Hon'ble Supreme Court of India and the National Green Tribunal.

**(KINDLY SEE PAGES 3346-3583 OF THE COURT FILE)**

**25.**It is pertinent to note that the DSR placed before the Hon'ble Tribunal including the affidavit on record by Respondents No.2 and Respondents No.3 places firmly on record the fact that the DSR has not been appraised by SEAC/SEIAA. **(KINDLY SEE PAGE NUMBERS 3340 TO 3344 OF THE COURT FILE WHICH MAKES IT CLEAR THAT THE DSR HAS NOT BEEN APPRAISED BY SEAC/SEIAA)**

**26.**Further, this point has been reiterated in the DSR annexed by Respondents No.2 and No.3 where the approval mechanism is solely with the District Collector/ District Mining Officer, Akola. **(KINDLY SEE PAGE NUMBER 3351 OF THE COURT FILE)**

**27.**Hence, the District Survey Report for District of Akola, Maharashtra for the year 2021-2022 is liable to be declared illegal as it is in contravention of the law of the land.

**B. WHETHER WITH INADEQUATE REPLENISHMENT RATE CAN SAND BE MINED AND WHETHER SUCH MINING WOULD BE ILEGAL?**

**28.**It is submitted that Respondents No.2 and No.3 have admitted that no replenishment study has been carried out within the District Survey Report and no sand replenishment is mentioned within DSR. **(KINDLY SEE PARA 18, REPLY TO PARA 20 ON PAGE NO. 36 AND PAGE NO.37 OF THE COMMON REPLY-AVAILABLE ON 1843-1845 OF THE COURT FILE).**

29. The Respondents have also provided a point-wise explanation on the Replenishment study (**KINDLY SEE ANNEXURE L FROM PAGES 750-756 OF THE COMMON REPLY FILED BY R2 AND R3- AVAILABLE ON PAGES 2556-2562 OF THE COURT FILE**). It is pertinent to note that the Annexure L as has been cited by the Respondents No.2 and No.3 admits and is reproduced hereinbelow

*No river has replenishment rate to replenish excavated sand from the river bed, excess excavation will impact groundwater affecting bank erosion and stability of banks and that there is no certainty that excavated sand can suit back to back year excavation of sand.*

It has further said that since the replenishment rate is not certain considering the data available, as rivers in the district are unstable. This poses a fundamental question; In light of the material presented by R2 and R3, whether sand mining itself should be permitted in an ecologically fragile area such as Akola, Maharashtra? It is verily believed by the Applicant that replenishment study has not been carried out in accordance with Enforcement and Monitoring Guidelines, 2020. It is submitted that the data presented in Annexure L lays bare to the fact that only two surveys have been mentioned in the preparation of the Replenishment Study; one in May and the other in October. No replenishment study has been annexed by the Respondents No.2 and No.3. It is submitted that guidelines state that four surveys have to be carried out initially and subsequently three surveys can be carried out.

Relevant portion of the E&M Guidelines, 2020 is produced hereinbelow:-

*5.1 Generic Structure of Replenishment Study Initially replenishment study requires four surveys. The first survey needs to be carried out in the month of April for recording the level of mining lease before the monsoon*

*Xxxx*

*For the subsequent years, there will be a requirement of only three surveys.*

*xxxx*

**30.** It is the Applicant's contention that this was the first survey carried out and that it should have had four surveys. Be that as it may, not even three full surveys have been carried out. Even in that limited capacity, the point wise explanation has itself pointed out that sand must not be excavated on account of no possibility of replenishment. Yet, Respondents have carried out sand mining.

**C. WHETHER WITHOUT FRESH STUDY/SURVEY CAN AMENDMENTS BE MADE WITHIN THE DISTRICT SURVEY REPORT?**

**31.** The most glaring problem with the District Survey Report is the absence of a fresh study in the preparation of a draft DSR for FY 2021-2022. A fresh survey must have been carried out in order to ensure that there is correct demarcation of ghats and corresponding values. Yet, very cleverly, an amendment was included by adding and subtracting survey numbers from one sand ghat to the other. The new proposed amendment of sand ghats contains values which are inconsistent with those in the District Survey Report which has been highlighted in detail in the OA. In all the auctioned sites, survey numbers are inconsistent with those present in the District Survey Report and quantities far in excess to those that are permissible according to DSR. This is primarily the reason that no appraisal has

been carried out by the SEAC/SEIAA of the DSR. Further, since replenishment is not possible, sand lifting itself has been illegally carried out.

**32.**It is submitted that within the Structure of the District Survey Report as specified in the SSMG-2016, under Point 3 that there must be a list of mining leases in the District with location, area and period of validity. No amendment as proposed cannot be outside the main text of the DSR. **(KINDLY SEE PAGE NUMBER 1122 OF THE COURT FILE)**

**33.**Further, even if an amendment is sought to be made, it should be approved by the SEAC/SEIAA as has been specified in the foregoing paragraphs. Here, the amendment was carried out with the approval of only the District Collector/Additional District Collector/District Mining Officer)**(KINDLY SEE PAGE NUMBER 3351 OF THE COURT FILE)**

**34.**It is submitted that the prayers made by the Applicant are as follows:-

1. Prohibit illegal mining of sand in the district of Akola, Maharashtra.
2. Declare the District Survey Report for the District of Akola, Maharashtra in the year 2021-2022 as illegal and direct Respondent No.2 and 3 to prepare a fresh district survey report in compliance of applicable law.
3. Declare the twenty-six Environment Clearances granted to DMO Akola dated 13.01.2022 by SEIAA, Maharashtra in District Akola, Maharashtra as illegal.
4. Direct the Respondents to pay compensation for the damage done to the environment, due to illegal mining.

5. Direct Respondents to compensate, rehabilitate and retribute the area under Section 15 of the NGT Act, 2010 for damage done to the environment.
6. Direct the setting up of a Special Task force Committee for oversight and monitoring of illegal sand mining.
7. Pass such other order/orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

**(KINDLY SEE PAGE 1025 AND 1026 OF THE COURT FILE)**

**35.**That it is further humbly prayed that the destroyed areas are rehabilitated with immediate effect and huge exemplary environmental compensation be charged on the regulatory authorities as a deterrence, so that sustainable sand mining be carried out.

**36.**That the Applicant, therefore, humbly prays that the Original Application be allowed.

Date: 20.07.2023

Place: Pune

FILED BY:



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20/07/2023, 10:50

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**Advance Copy of Written Submissions on behalf of Applicant in OA 78/2022**

Akshar Bhatt &lt;akshar@outlook.com&gt;

Thu 7/20/2023 10:51 AM

To: Aniruddha Kulkarni <aniruddha1488@gmail.com>; Adv Deshpande <nitindeshpande0311@gmail.com>; dmoakola2@gmail.com <dmoakola2@gmail.com>; Adv Deshpande <advnitinpdeshpande@gmail.com>

 1 attachments (364 KB)

Written Submissions .pdf;

Dear Sir/Madam,

Kindly find attached advanced copy of the Written Submissions in OA78/2022 next listed for 21.07.2023.

This service through mail shall constitute as effective service.

Regards,

Akshar Bhatt

Advocate for Applicant