

COMMITTEE REPORT

The Hon'ble National Green tribunal in 'O.A. 60/2021' "Nature Club Of Rajasthan vs G.O.I. and others wide order dated 04.08.2021 has constituted a joint committee of described to submitted a report on matter. The Committee consists of following members/departments:-

1. Director, Mines and Geology Department.
2. State Level Environment Impact Assessment Authority.
3. Rajasthan State Pollution Control Board.

A Virtual meeting of the following members of the committee was held on 31.08.2021

1. Shri K.B. Pandya, Director Mines and Geology.
2. Shri Rajneesh Jain, Member Secretary, SEAC.
3. Shri K.C. Gupta, GIC (Mines), RSPCB.

The members of the Committee discussed the issues raised in the O.A. as well as the issues pointed out by the Hon'ble N.G.T. in order dated 04.08.2021 and after detailed deliberation, the committee submits its report as under -

- A. Regarding issues of illegal excavation of mineral bajri, misuse of ravanas by private Khatedari lease holders while making excavation from riverbed.
- B. The fact is that mining department has taken strict action against erring mine owners.

Taking in to account the various complaints of bajri lease holders regarding illegal mining and misuse of eRavana and carrying out mining in the river bed in place of their respective lease areas, the State Government, carried out, first-of-its-kind, Drone Survey of the 46 mining leases of sand situated in khatedari lands in Gotan area of Nagaur district (Tehsil Riyabadi). Further, the physical verification of the pits situated in the lease areas was carried out to calculate the quantity of mineral excavated from the pits, and it was compared with the dispatch shown by the each leaseholder through eRavanas. The figures mismatched to the tune of thousands of tons of sand, and a huge penalty of around 30.84 crores has been imposed on the the 45 leaseholders of sand/bajri granted in agriculture land on 26.08.2021. The details of penalties is enclosed herewith and marked as ANNEXURE-1.

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- C. Regarding issue of ravanas for a distance of 600 to 700 km for a truck having capacity of almost 20 to 30 tons, whereas mineral allegedly being filled is hardly 2-3 tons to legitimize the irregularity, it is submitted that -

"There were some instances of ravanas being issued of very small quantities of mineral in the year 2017, when the online issuance of Ravana that is "eRavana" was introduced for the first time by the Mines department and due to the lack of knowledge in lease holders, these irregularities took place, however, the erring 15 leaseholders in Nagaur district were not spared and a huge penalty of rupees 1138.72 lacs has been imposed. The detail of penalty imposed is enclosed at ANNEXURE 2"

- D. Further to curb the practice of misuse of eRavanas, the State government has issued a "Three-Weigh-Bridges circular".

At present there is a provision in the RMMCR 2017 that the lease holder shall dispatch the mineral from its lease area through unconfirmed e Ravana and it will be confirmed on any of the departmental empaneled weighbridges situated anywhere. The department received manifold complaints of misuse of eRavannas by way of getting it confirmed at distantly placed weighbridges and meanwhile transporting the illegal sand from the rivers or providing eRavannas to the persons/vehicles involved in illegal mining of sand, thereby dressing up them in a legal form. To stop this unscrupulous activity, the State Government has made it mandatory for each lease holder of sand/bajri to get the eRavanna confirmed at any one of the the nearest situated three weighbridges around his/her lease, and for this purpose notices containing the list of nearest three weighbridges of each mining lease of sand/bajri situated in khatedari/land has been issued by all the offices of the department. Copy of the circular dated 18.08.2021 and sample copy of the notice to lessee is enclosed and marked as ANNEXURE 3 and 4 respectively.

Similar action has been taken against mining lease owners of mineral bajri involved in illegal mining/misuse of Ravanas in Barmer (13 lease holders), Jalore (24 lease holders), Sirohi (2 lease holders), Sojat (6 lease holders), Jodhpur (10 lease holders), Rajsamand (4 lease holders) and Bhilwara (4 lease holders) districts. The details of statewide action taken against bajri lease holders is enclosed at ANNEXURE-5.

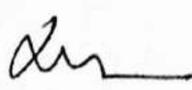
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E. The State Government after ban on river sand mining by Hon'ble Apex court, has taken strict action against illegal mining, transportation and illegal stock of Bajri/ sand and total of 38101 cases were detected, 3507 FIRs have been registered, 2186 persons have been arrested and penalty has been imposed and a total of 247.09 Crores rupees have been recovered as penalty till 15.09.2021. District wise details of the action taken against illegal mining and transportation of mineral Bajri/river sand is enclosed herewith and marked as **ANNEXURE 6**

F. Regarding issue of mining lease areas falling within 5 kms of riverbed, non-compliance of Enforcement and Monitoring Guidelines for Sand Mining - 2020, it is submitted that the State government in compliance of guidelines 2020 has stopped the process of granting mining leases within 5 kms distance from river bed. SEIAA is also not processing the application for grant of E.C. wherein the applicant is not in compliance of Guidelines - 2020 issued by the MoEFCC.

G. Regarding mining being undertaken in monsoon season, which created pits in the khatedari lands and stops recharge/replenishment of the riverbed by the water being flown from adjoining fields and permission of mining without any replenishment study, it is submitted that in agriculture land since water flow is very limited and there is hardly any recharge of sand. As per SUSTAINABLE SAND MINING MANAGEMENT GUIDELINES, 2016 under chapter management plan, at point 1(k) for river bed mining recommendations, it is recommended that no river bed mining should be permitted during rainy seasons. Thus, there is restriction on river bed sand mining in monsoon seasons but the same is not applicable for bajri/sand mining in agriculture and private land. The copy of related pages 28 to 30 are enclosed at **ANNEXURE 7**.

It is also pertinent to submit that the sand mining activities in agriculture land in the State were challenged before Hon'ble High court Rajasthan Jaipur in D.B. Civil Writ Petition No. 9458/2018 Sanjay Kumar Garg vs. State of Rajasthan. The Hon'ble Court while dismissing the above writ petition vide judgment dated 27.11.2018, at para, 24 and 25 regarding applicability of replenishment study in agriculture/private khatedhari land has observed as under:-

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"24. We are not concerned in the instant writ petition with mining of bajri in river beds. We are concerned with mining of bajri on private agricultural land and two instances of mining of bajri on Government land. From the tabular chart noted above, mining license on Government land is in the District of Bikaner where there are no rivers.

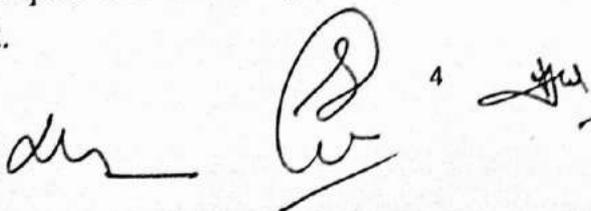
25. **Though learned counsel for the writ-petitioner repeatedly laid emphasis on lack of replenishment studies being shown to this Court while granting the necessary environmental clearances, but the argument overlooks the fact that replenishment of bajri can only take place in riverbeds and not in private khatedari lands or Government lands which are far away from river beds. The reason is obvious. No silt or gravel flows onto or into said lands. Thus, the contention premised on lack of replenishment studies not being conducted is rejected."**

The Hon'ble High Court further observed at para 38 of the judgement as follows:-

"38. **Thus, since we are not concerned with grant of mining leases on river beds; as already held above, the requirement of replenishment study is inherently not applicable to the sites in question. On the second contention urged i.e. of environmental clearance not being granted as per law, we hold that the requirements of law pertaining to District Survey Reports and environmental clearances being granted in terms of the rules has been complied with, we reject the contentions advanced on behalf of the petitioner."**

From above submissions it is clear that the sand mining activities going on in khatedhari land was upheld by the Hon'ble High court in above mentioned matter vide order dated 27.11.2018 (copy enclosed at ANNEXURE 8). The order dated 27.11.2018 is under challenge before Hon'ble Apex Court and is pending for considerations in SLP 31848/2018 Sanjay Garg vs State of Rajasthan without any interim order.

H. The recommendations mentioned in the report of the Hon'ble Central empowered committee (CEC) dated 23.12.2020 are still under considerations of Hon'ble Apex Court in SLP 10587/2019 Bajri lease Holder welfare society vs State of Rajasthan and Others and connected matters. The State government after getting approved from the State Cabinet has filed detailed reply to the CEC report and same is pending for consideration before the Hon'ble Apex Court.

The bottom of the page features several handwritten signatures and initials. On the left, there is a signature that appears to be 'dr'. In the center, there is a large, stylized signature or initial, possibly 'B'. To the right of this, there is a small number '4' followed by another signature or set of initials.

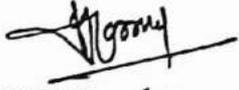
It is worthwhile to mention that the applicant is also a party in the above matter in SLP 34134/2013 State of Rajasthan vs Nature club of Rajasthan which is tagged with SLP 10587/2019. Thus, the applicant is raising the same issues in O.A., which are already pending for adjudication before the Hon'ble Apex Court.

The fact is that the department has not granted any mining lease of Bajri in private khatedari land after the issuance of the Enforcement and Monitoring Guidelines for Sand Mining - 2020 in January 2020 by the MoEFCC.

The factual report and the details of action taken is being placed before the Hon'ble Tribunal for perusal.


KC Gupta
GIC (Mines)
(RSPCB)


Rajneesh Jain
Member Secretary
(SEAC)
(Representative of SEIAA)


KB Pandya
Director
(DMG)

ANNEXURE 1**Details of penalty imposed & recovered in mineral bajri Leases in compliance of
directorate order no 2318 dated 26-08-021**

Sno	M.L. No.	Name of Lessee	Imposed Penalty (In Lacs)	Recovered Penalty(In Lacs)
1	19/2014	Shri Budha Ram	215.96	—
2	9/2014	Shri Ujjwal	47.06	—
3	11/2014	Shri Shiv Kumar	2.10	—
4	18/2014	Shri Dinesh Singh	244.79	—
5	20/2014	Shri Hanuman Ram	15.87	—
6	5/2019	Smt. Keshar Devi	68.92	—
7	6/2019	Shri Babu Lal	74.36	—
8	7/2019	Smt. Priyanka Jingar	50.56	—
9	10/2019	Shri Jabid Huasen	93.74	—
10	12/2019	Shri Kailashchand Tanwar	123.71	—
11	13/2019	Shri Omprakash	61.65	—
12	14/2019	Shri Laxman Ram	128.34	—
13	15/2019	Shri Sureshchand	4.08	4.08
14	16/2019	Shri Rambux Karwasra	195.64	—
15	17/2019	Shri Ravindra	152.97	—
16	22/2019	Shri Hansraj	74.45	—
17	23/2019	Shri Gulab Singh	119.09	—
18	24/2019	Shri Gulab Singh	26.89	—
19	25/2019	Shri Jivan Ram	119.56	—
20	28/2019	Shri Tara Ram	77.29	—
21	34/2019	Shri Ramkishore	26.07	—
22	35/2019	Shri Munna Ram	58.02	—
23	36/2019	Shri Bhinya Ram	17.02	—
24	38/2019	Shri Rajesh Kumar Garva	23.70	—
25	39/2019	Smt. Shanti Devi	86.32	—
26	40/2019	Smt. Shanti Devi	29.10	—
27	43/2019	Shri Nema Ram	65.21	—
28	6/2014	Shri Jitendra	4.27	—
29	45/2019	Shri Anil Kumar	40.79	—
30	51/2019	Shri Dhanna Ram	43.67	—
31	53/2019	Shri Gautamnath	30.35	—
32	54/2019	Shri Joga Ram	123.06	—
33	59/2019	Smt. Presta Devi	61.72	—
34	11/2019	Shri Ummeda Ram	26.09	—
35	4/2019	Shri Mahendra Godara	81.50	—
36	63/2019	Shri Mukesh Khatik	8.44	—
37	64/2019	Shri Mukesh Khatik	9.91	—
38	68/2019	Shri Kalu Ram	30.44	—
39	69/2019	Shri Jitendra Chanwariya	48.72	—
40	75/2019	Shri Kalpit Jakhar	1.76	—
41	77/2019	Shri Abdul Vahid	43.70	—
42	86/2019	Shri Yashvardhan Singh	69.55	—
43	92/2019	Shri Nirmal Singh	12.55	12.55
44	52/2019	Shri Dhanna Lal	180.6	—
45	21/2014	Shri Sita Ram	65.31	—
		Total	3084.9	

**The details of penalty imposed on bajri lease holders
of Gotan area for misuse of eRavana mentioning less
weight of mineral**

S. no	M.L.No	Name Lease Holder	Demand (In Rs)	Stay Order Of Court	Penalty recovered
1	06/2014	Jitendra Kumar	163.88	05/12/2019	-
2	09/2014	Ujjwal Dadel	23.26	11/12/2019	-
3	18/2014	Dinesh Singh	161.52	05/12/2019	-
4	19/2014	Budha Ram	140.66	19/12/2019	-
5	20/2014	Hanuman Ram	41.39	17/12/2019	-
6	21/2014	Sita Ram	195.21	19/12/2019	-
			69.51	03/02/2021	-
7	05/2019	Keshar Devi	0.208	-	0.208
8	39/2019	Shanti Devi	4.05	-	4.05
9	47/2019	Karishna Property Driling Company	5.42	-	5.42
10	69/2019	JitendraChanwariya	1.87	-	1.87
11	09/2019	Ramkuwar Dukiya	274.99	-	0
12	11/2019	Lakharam	2.30	-	2.30
13	06/2019	Omprakash	3.64	-	3.64
			44.89	-	0
14	10/2019	Nemaram	2.65	-	2.65
15	36/2019	Nathuram	3.21	-	0
Total			1138.72		20.16

राजस्थान सरकार
Government of Rajasthan
निदेशालय, खान एवं भू विज्ञान विभाग
DIRECTORATE OF MINES & GEOLOGY,
खनिज भवन / Khanij Bhawan, उदयपुर / Udaipur-313001.
दूरभाष / Phones: 2415091-95, फैक्स / Fax: (0294)-2410526

क्रमांक: निदे/प-2/कारा/नियम/2021/ 677-678 दिनांक: 18.08.2021

समस्त खनि अभियन्ता

समस्त सहायक खनि अभियन्ता

विषय: खनिज यजरी के खातेदारी भूमि में रिथत खनन पट्टों के पट्टेधारियों के वाहनों को राजस्थान अप्रधान खनिज रियायत नियम, 2017 के नियम 60(8) के तहत तुलायंत्र पर तुलवाये जाने के संबंध में।

महोदय,

उपरोक्त विषयान्तर्गत लेख है कि राजस्थान अप्रधान खनिज रियायत नियम, 2017 के नियम 28(2)(iv)(c) के अनुसार किसी भी खान धारक द्वारा खनन पट्टा क्षेत्र से बिना बंध रचना के खनिज का निर्गमन नहीं किया जा सकता है। इसी प्रकार नियम 73 के अनुसार प्रत्येक खान धारक को खनिज के निर्गमन हेतु ऑनलाईन ई-रचना जारी करना आवश्यक है। खान धारक के खनन पट्टा क्षेत्र में तुला यंत्र स्थापित नहीं होने की रिथति में खनिज के निर्गमन हेतु खनन पट्टा क्षेत्र से ऑनलाईन अन-कन्फर्म रचना जारी करने के पश्चात् उक्त रचना को विभाग द्वारा ऐम्पेनल्ड तुला यंत्र पर कन्फर्म किया जाता है। उक्त अन-कन्फर्म रचना को किसी तुला यंत्र विशेष पर कन्फर्म करवाने की वर्तमान में कोई बाध्यता नहीं होने से खनिज के अवैध निर्गमन की संभावना बनी रहती है। खातेदारी भूमि से यजरी के निर्गमन के दौरान ई-रचना के दुरुपयोग के मामले भी सामने आये हैं।

खनिजों के बंध निर्गमन हेतु आवश्यक है कि अन-कन्फर्म रचना के साथ खनिज का निर्गमन कम से कम दूरी तक हो, यह तभी संभव है कि जब प्रत्येक खान धारक खनन पट्टा क्षेत्र के निकटस्थ विभाग द्वारा ऐम्पेनल्ड तुला यंत्र पर रचना को कन्फर्म करवाये।

अतः खातेदारी भूमि में यजरी के स्वीकृत खनन पट्टों से खनिज के निर्गमन के दौरान ई-रचना को कन्फर्म करने के संबंध में निर्देशित किया जाता है कि:-

- (1) खनन पट्टा क्षेत्र के निकटस्थ विभाग द्वारा ऐम्पेनल्ड अधिकतम तीन तुला यंत्र पर ई-रचना को कन्फर्म करवाने हेतु प्रत्येक पट्टेधारी को पाबंद/निर्देशित किया जावे। खान धारक इन तुला यंत्रों के अतिरिक्त अन्य तुला यंत्र पर ई-रचना को कन्फर्म नहीं करवा सकेगा। उक्त कार्यवाही सात दिवस में पूर्ण कर निदेशालय को अवगत कराया जाना सुनिश्चित करावे।
- (2) पट्टाधारी को बिन्दु संख्या एक में अंकित अनुसार पाबंद/निर्देशित करने एवं इन तुला यंत्रों के सारते से वाहन के निकलने के पश्चात् खनिज यजरी का अन-कन्फर्म रचना के निर्गमन पाये जाने पर इस अवैध गानते हुए नियमानुसार शास्त्रि राशि वसूली की कार्यवाही की जावे। इन मामलों में संबंधित खान धारक को नोटिस जारी कर नियमानुसार आगामी कार्यवाही सुनिश्चित की जावे।



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उपरोक्त के अतिरिक्त अन्य अप्रधान खनिजों के लिए जिन क्षेत्रों में अधिक अधिशुल्क संग्रहण के ठेके दिये हुए हैं, उनमें यथा संगव ठेकेदार के अधिशुल्क संग्रहण हेतु विभाग द्वारा अनुमोदित बैंक पोस्ट/नाफा एवं ई-रयन्ता का कन्फर्मेशन विभाग द्वारा ऐम्पेनल्ड एक ही तुला यंत्र पर करवाया जाने के संबंध में संबंधित खान धारकों को पावंद/निर्देशित किया जावे।

भवदीय,

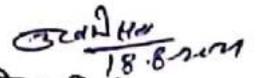


(डॉ. के.वी. पण्ड्या) ज/१९९१
निदेशक

क्रमांक: निदे/प-2/कास/नियम/2021/ 679-685 -
प्रतिलिपि निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु:-

दिनांक: 18.08.2021

1. निजी सचिव, अतिरिक्त मुख्य सचिव, खान एवं पेट्रोलियम विभाग, जयपुर।
2. वित्तीय सलाहकार, को०का० उदयपुर।
3. नोडल अधिकारी, डी०एम०जी०ओ०एम०एस०।
4. समस्त अतिरिक्त निदेशक (खान), जोन/सतर्कता।
5. समस्त अधीक्षण खनि अभियंता, वृत्त/सतर्कता।
6. सहायक नोडल अधिकारी, डी०एम०जी०ओ०एम०एस० को निर्देशित किया जाता है कि विन्तु संख्या एक में दिये गये निर्देशानुसार विभागीय ऑनलाईन सिस्टम में आवश्यक प्रावधान किया जावे।
7. समस्त खनि अभियंता/सहायक खनि अभियंता(सतर्कता), खण्ड/उपखण्ड।



(अनिल खिमेसरा)
अधीक्षण खनि अभियंता(मु०गा)

Government Of Rajasthan

कार्यालय सहायक खनि अभियन्ता खान एवं भू विज्ञान विभाग, गोटन

Office of the Assistant Mining Engineer, Department of Mines & Geology, Gotan

Phone & Fax No: 01591-231266, Email Id- AME.GOTAN@RAJASTHAN.GOV.IN

कमांक-सखअ/गोटन/बजरी/2021-22/1080

दिनांक:- 25/8/2021

प्रेषिति - श्री राजेश कुमार गर्वा पुत्र श्री माधूलाल
निवासी राठियो का वास, रियांबड़ी,
तहसील रियांबड़ी, जिला नागौर।

विषय- आपके पक्ष में प्रभावशील खननपट्टा सं 38/2019 श्री राजेश कुमार गर्वा वास्ते खनिज बजरी निकट ग्राम रोहिसा तहसील रियांबड़ी जिला नागौर से जारी ई रवन्ना को राजस्थान अप्रधान खनिज रियायत नियम, 2017 के नियम 60(8) के तहत तुलायंत्र पर तुलवाये जाने के संबंध में।

महोदय,

उपरोक्त विषयान्तर्गत लेख है कि निदेशालय खान एवं भू विज्ञान विभाग, राजस्थान, उदयपुर के आदेश कमांक निदे/प.2/कारा/नियम/2021/677-78 दिनांक 18.08.2021 से खातेदारी भूमि में खनिज बजरी के स्वीकृत खननपट्टा क्षेत्र के निकटस्थ विभाग द्वारा एम्पेनल्ड अधिकतम 03 तुलायंत्रों पर ई रवन्ना कन्फर्म करवाने हेतु निर्देश प्राप्त हुए है।

अतः इस संबंध में आपको निर्देशित किया जाता है कि आपके पक्ष में प्रभावशील खननपट्टे से जारी ई रवन्नाओं को खननपट्टे के निकटस्थ निम्नांकित 03 तुलायंत्रों पर ही कम्फर्म करवाया जाना सुनिश्चित करें।

क्रसं	तुलायंत्र का नाम	रजिस्ट्रेशन न0	निकट ग्राम
1	शान्ति धर्मकांटा	2020022702595	आलनियावास
2	आलनियावास धर्मकांटा	2020070802707	आलनियावास
3	मातेश्वरी धर्मकांटा	2019092902385	आलनियावास

विदित रहे उपरोक्त तुलायंत्रों के अतिरिक्त अन्य तुलायंत्रों पर ई रवन्ना को कम्फर्म नहीं करवाया जावे तथा उपरोक्त तुलायंत्रों के रास्ते से वाहन के निकलने के पश्चात खनिज बजरी के अन-कन्फर्म ई रवन्ना के निर्गमन पाये जाने पर इसे अवैध मानते हुए नियमानुसार शास्ति राशि वसूली की कार्यवाही की जावेगी। सो सूचित रहे।



(जयप्रकाश गोदारा)
सहायक खनि अभियन्ता,
गोटन

ANNEXURE 5

Detail of actions taken against Bajri Leases situated in private lands						
Dist. Name	Action Against Lease No.	Penalty Imposed (In Lacs)	Penalty Deposited (In Lacs)	No. of Lease Under Consideration for Cancellation	No. Of Leases Canceled	Remark
Barmer	13	387.98	26.5	0	-	-
Jalore	24	1432.23	1.46	2	-	-
Sirohi	2	22.56	20.76	0	-	-
Sojat	6	25.02	25.02	0	-	-
Jodhpur	10	120.08	11.02	2	-	-
Rajsamand	4	661.04	10.05	3	-	There is stay from hon'ble High Court, Jodhpur on cancellation process of 3 leases
Bhilwara	4	262.75	6.41	0	-	-
Nagaur	48 (45 of Gotan + 3 of Nagaur Area)	3888.95	36.78	2	-	Cancellation is under process for two leases and recovery in 7 leases is under stay from hon'ble High Court, Jodhpur
Total	111	6800.61	138	9	-	-

Action Taken Against Illegal Mining after Supreme Court Order Dated 16.11.2017 to 15.09.2021

ANNEXURE -6

Office	No. of Cases			Total No. of Cases	Cost of Mineral Recovered (in Rs.)	Compound Fee Recovered (in Rs.)	Total Recovered	No. of F.I.R	Total Person	No. of	No. of Seizures		
	Illegal Mining	Illegal Transport	Illegal Stock						Arrested	Complaint Lodged	Seized Vehicles	Seized Machines	Seized Tools
Jaipur	39	6024	21	6084	41290159.75	333159065.5	374449225.3	731	872	0	6286	43	0
Tonk	26	2526	5	2557	12934978	99598602	112533580	82	67	0	2560	26	0
Sikar	7	261	3	271	2660688	23515000	26175688	2	1	0	265	2	14
Alwar	18	349	5	372	1547195	24262500	25809695	43	13	0	371	5	25
Jhunjhunu	32	499	12	543	2923890	30620000	33543890	17	6	0	503	35	0
AME,Dausa	22	1012	13	1047	7162717	38620000	45782717	120	0	0	1059	15	28
Ajmer	41	1854	50	1945	11908996.5	111270850	123179846.5	196	92	0	1980	15	0
Nagaur	23	1297	5	1325	17345248.25	102571500	119916748.3	213	149	0	1336	21	0
Jodhpur	68	968	33	1069	18545530	76445137.5	94990667.5	41	19	0	1058	34	0
ME,Sirohi	4	708	23	735	2122244	23855000	25977244	4	1	0	739	1	0
Pali	89	1798	42	1929	8414653	117503350	125918003	12	4	0	1876	36	15
ME,Jalore	34	1130	7	1171	5355665	43265750	48621415	2	0	0	1180	33	5
ME,Barmer	38	1089	24	1151	5900503	79694998	85595501	9	0	0	1103	29	0
Bikaner	13	515	8	536	7611745	48257750	55869495	76	69	0	522	6	0
ME,Shri Ganganagar	0	141	0	141	2314735	11000000	13314735	45	20	0	146	0	0
Jaisalmer	1	136	0	137	476882	7400000	7876882	14	12	0	138	1	0
AME,Churu	0	42	0	42	332620	2900000	3232620	6	0	0	42	0	0
AME,Hanumangarh	0	32	0	32	494286.5	2500000	2994286.5	8	10	0	32	0	0
Udaipur	66	2179	71	2316	21474387.6	161437880	182912267.6	260	154	0	2345	60	4
Banswara	9	233	9	251	1076940	13719100	14796040	54	0	0	239	3	13
ME,Dungarpur	3	135	3	141	668634	9275000	9943634	19	5	0	140	3	0
ME,Pratapgarh	1	208	12	221	2441229	16990000	19431229	0	0	0	208	1	0
Bhilwara	122	3719	296	4137	25569521.15	309701573	335271094.2	878	40	0	4349	66	4
Chittorgarh	15	1237	53	1305	9766471	131376500	141142971	133	162	0	1273	15	0

Rajsamand	56	1367	62	1485	7891061	74270550	82161611	44	15	0	1377	49	11
Kota	2	733	37	772	8834582	59300150	68134732	95	215	0	880	1	0
Bundi	0	698	18	716	7558220	40471000	48029220	143	145	0	712	0	0
Jhalawar	29	554	42	625	12201930.75	30957500	43159430.75	63	56	0	577	32	0
AME,Baran	1	395	55	451	4743380	13112650	17856030	12	10	0	396	1	0
Bharatpur	2	336	6	344	2695832	20920000	23615832	37	19	0	339	1	0
Dholpur	1	176	6	183	1757360	12426600	14183960	2	1	0	177	2	0
Karuli	6	976	36	1018	6524515	37105000	43629515	57	26	0	977	5	0
Sawaimadhopur	11	3001	37	3049	10062250	90885000	100947250	89	3	0	3090	8	0
Grand Total	779	36328	994	38101	272609049.5	2198388006	2470997056	3507	2186	0	38275	549	119



MANAGEMENT PLAN

1. River Bed Mining Recommendations:

a) Permit Mining Volume Based on Measured Annual Replenishment

In the first year following adoption of the management plan, a volume equal to the estimated annual replenishment could be extracted from the reach of channel. Replenishment (up to the elevation of the selected channel configuration) would need to occur before subsequent extraction could take place. The concept of annual replenishment accounts for the episodic nature of sediment transport. For example, during wet periods with high stream flows, and a high contribution of sediment from hill slopes and tributaries, monitoring data would show that sand and gravel bars are replenished quickly. During drought periods with low stream flow, and little sediment supply or transport, monitoring data would likely show that bars were replenished at a slower rate.

The use of monitoring data is essential in measuring when actual replenishment occurs. The use of the concept of annual replenishment protects long-term channel stability as well as aquatic and riparian habitat by extracting a volume sustainable by watershed processes.

b) Establish an Absolute Elevation below Which No Extraction May Occur (Minimum Enveloped Level or Redline).

The absolute elevation below which no mining could occur or "redline" would be surveyed on a site-specific basis in order to avoid impacts to structures such as bridges and to avoid vegetation impacts associated with down-cutting due to excessive removal of sediment. An extraction site can be determined after setting the deposition level at 1 m above natural channel thalweg elevation, as determined by the survey approved by mine plan approving authority.

c) Limit River Bed Extraction Methods to Bar Skimming

If mining is limited to the downstream end of the bar with a riparian buffer on both the channel and hill slope (or floodplain) side, bar skimming would minimise impacts. Other methods such as excavation of trenches or pools in the low flow channel lower the local base level, and maximise upstream (head cutting and incision) and downstream (widening and braiding) impacts. In addition, direct disturbance of the substrate in the low flow channel should be avoided. Trenching on bars may be beneficial in the future if the river becomes severely aggraded, flat, shallow and braided. Trenching of bars may initially impact a smaller area of riparian habitat than skimming - as a result of excavating deeper rather than shallow skimming of a large area. However, over the



long-term, the upstream and downstream effects of a trench on the bar or in the channel may offset any short-term benefit derived from this method.

d) Extract Sand and Gravel from the Downstream Portion of the Bar:

Retaining the upstream one to two thirds of the bar and riparian vegetation while excavating from the downstream one to two third of the bar is accepted as a method to promote channel stability and protect the narrow width of the low flow channel necessary for aquatic life. Sand and gravel would be re-deposited in the excavated downstream one to two thirds of the bar (or downstream of the widest point of the bar) where an eddy would form during sediment transporting flows. In contrast, if excavation occurs on the entire bar after removing existing riparian vegetation, there is a greater potential for widening and braiding of the low flow channel.

e) Concentrate Activities to Minimise Disturbance:

River bed extraction activities should be concentrated or localised to a few bars rather than spread out over many bars. This localisation of extraction will minimise the area of disturbance of upstream and downstream effects. Skimming decreases habitat and species diversity - these effects should not be expanded over a large portion of the area.

f) Review Cumulative Effects of Sand and Gravel Extraction:

The cumulative impact of all mining proposals should be reviewed on an annual basis to determine if cumulative riverine effects or effects to the estuary are likely.

g) Maintain Flood Capacity:

Flood capacity in the river should be maintained in areas where there are significant flood hazards to existing structures or infrastructure.

h) Establish a Long-term Monitoring Program:

Monitoring of changes in bed elevation and channel morphology, and aquatic and riparian habitat upstream and downstream of the extraction would identify any impacts of sand and gravel extraction to biologic resources. Long-term data collected over a period of decades as sand and gravel extraction occurs will provide data to use in determining trends.

i) Minimise Activities That Release Fine Sediment to the River:

No washing, crushing, screening, stockpiling, or plant operations should occur at or below the streams "average high water elevation," or the dominant discharge. These and similar activities have the potential to release fine sediments into the stream, providing habitat conditions harmful to local fish.



j) Retain Vegetation Buffer at Edge of Water and Against River Bank:

Riparian vegetation performs several functions essential to the proper maintenance of geomorphic and biological processes in rivers. It shields river banks and bars from erosion. Additionally, riparian vegetation, including roots and downed trees, serves as cover for fish, provides food source, works as a filter against sediment inputs, and aids in nutrient cycling. More broadly, the riparian zone is necessary to the integrity of the ecosystem providing habitat for invertebrates, birds and other wildlife.

k) The River Bed mining should only be allowed during the dry season.

No River bed mining should be permitted during rainy season (see Appendix 9).

l) An Annual Status and Trends Report:

This report should review permitted extraction quantities in light of results of the monitoring program, or as improved estimates of replenishment become available. The report should document changes in bed elevation, channel morphology, and aquatic and riparian habitat. The report should also include a record of extraction volumes permitted, and excavation location. Finally, recommendations for reclamation, if needed should be documented.

2. Off-Channel or Floodplain Extraction Recommendations

a) Floodplain Extraction should be set back from the Main Channel

In a dynamic alluvial system, it is not uncommon for meanders to migrate across a floodplain. In areas where sand and gravel occurs on floodplains or terraces, there is a potential for the river channel to migrate toward the pit. If the river erodes through the area left between the excavated pit and the river, there is a potential for "river capture," a situation where the low flow channel is diverted through the pit. In order to avoid river capture, excavation pits should set back from the river to provide a buffer, and should be designed to withstand the 100-year flood (100-year ARI). Adequate buffer widths and reduced pit slope gradients are preferred over engineered structures which require maintenance in perpetuity. Hydraulic, geomorphic, and geotechnical studies should be conducted prior to design and construction of the pit and bund. In addition to river capture, extraction pits create the possibility of stranding fish.

b) The maximum depth of Floodplain Extraction should remain above the Channel Thalweg

Floodplain pits should not be excavated below the elevation of the thalweg in the adjacent channel. This will minimise the impacts of potential river capture by limiting the potential for head cutting and the potential of the pit to trap sediment. A shallow excavation (above the water table) would provide a depression that would fill with



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Writs No.9458/2018

Sanjay Kumar Garg S/o Shri Bhagwati Lal Garg, aged about 48 years, R/o 225, Mohan Nagar, Hindaun City, Karauli, Rajasthan.

----Petitioner

Versus



1. State of Rajasthan through Principal Secretary to Government of Rajasthan, Mines Department, Government Secretariat, Jaipur.
2. Jt. Secretary to Government, Mines Gr. 2 Department, Government Secretariat, Jaipur.
3. Director, Department of Mines & Geology, Udaipur.
4. Superintending Mining Engineer Group-III, Department of Mines & Geology, Jaipur Circle, Jaipur.
5. Union of India through Secretary, Ministry of Environment & Forest & Climate Change, Government of India, "Paryavran Bhawan", C.G.O. Complex, Lodhi Road, New Delhi-110003.
6. M/s Hema Construction, Sukh Sadan, I-R-56, Gayatri Nagar, H.M. Sector-5, Udaipur (Rajasthan) through its Proprietor Harish Gaurav.
7. M/s Himmat Lal Prajapat, Sardar Bazar, Lasadiya, Udaipur, (Raj.) Through its Proprietor Himmat Lal Prajapat.
8. Dinesh Singh S/o Suraja Singh, aged about 60 years, by caste Yadav, Resident of Village Tehala, Tehsil Reyabadi, District Nagaur (Rajasthan).
9. Budharam S/o Bikhchand Mehtra By Caste Jat, Aged about 40 Years, Resident of Village Kahajvana, Tehsil Mundva District Nagaur (Raj.).
10. Sitaram S/o Rajjakram, aged about 40 years, by caste Meghwal, Resident of Village Tarnau, Tehsil Jayal District Nagaur (Raj.).
11. Jitendra S/o Bikharam aged about 25 years, by caste Jat, Resident of Village Kapdiwas, Tehsil Merta District Nagaur (Raj.).
12. Hanuman Ram Hadman S/o Bhura Ram Jat, R/o Village Dhadriya kala, Tehsil Digana, District Nagaur (Rajasthan).



13. Kailash Chand Meena S/o Shiv Sahay, R/o Village & Post Bankho, Tehsil Bassi, District Jaipur (Rajasthan).

14. M/s R.R. Minerals, House no. 225, Baniyon ka Mohalla, Nalbadi, Bikaner through partner Shri Ravindra Singh S/o Shri Mohan Singh.

15. Yudvir Singh S/o Shri Madan Singh, aged about 37 years, by caste Rajput, R/o Hadla Rawlotan, Kolayat, Bikaner (Rajasthan).

16. Bhanwar Lal Bishnoi S/o Shri Gopi Ram, aged about 57 years, by caste Bishnoi, R/o Khariya (Malinath), Kolayat, Bikaner (Rajasthan).

17. Karna Ram Jat S/o Shri Bhanwara Ram Jat, aged about 44 years, by caste Jat, R/o Near old Transfarmer, Karnisar, Bikaner (Rajasthan).

18. Smt. Vijay Devi W/o Late Shri Krishan Gopal Gurjar, aged about 58 years, R/o 11, Aadarsh Colony, Bikaner (Raj.).

19. M/s Patel Infrastructure Ltd. Having its Corporate Office at Patel House, Beside Prakruti Resort, Channi Road, Channi Vadodara-391740 (Gujrat). Present office K.M. Stone, 72 to 500, Kishangarh, Gulabpura Highway (NH 79) Village Bhagwanpura- Sathana, Tehsil Bijai Nagar, District Ajmer-325624 (Rajasthan) through its authorized signatory Shri Pravin Ramprasad Kahar (POA).

20. Bajri Lease LOI Holders Welfare Society through its President, Shri Nawal Singh Ratnawat s/o Shri Narayan Singh Ratnawat, aged about 62 years having its registered office at A-24, Ambabari, Jaipur.

-----Respondents

For Petitioner(s)	: Mr. K.K. Sharma Senior Advocate assisted by Mr. S. S. Shekhawat Ms. Alankrita Sharma Mr. Madhusudan S. Rajpurohit
For Respondent(s)	: Mr. Anurag Sharma AAG with Mr. Krishnaveer Singh, Mr. Anirudh Mathur, Mr. Gaurav Bhardwaj Mr. R.N. Mathur, Sr. Advocate assisted by Mr. Prateek Mathur Mr. Ashwini Chobisa, Mr. Vimal Choudhary Mr. Yogesh Kumar Mr. Gaurav Choudhary, Mr. Punit Singhvi Mr. A.K. Sharma, Senior Advocate assisted by Mr. Rachit Sharma



Mr. Manish Gupta
Mr. Rajendra Prasad AAG with
Mr. M. Shiromani Sharma

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE G R MOOLCHANDANI

Judgment Reserved on :::: 01/11/2018

Judgment Pronounced on :::: 27/11/2018

BY THE COURT(PER HON'BLE THE CHIEF JUSTICE):

1. The petitioner filed the above captioned writ petition informing that he was issued a Letter of Intent for mining Bajri in Tehsil Mozamabad, District Jaipur. In paragraph 1 of the petition he pleads that he is aggrieved by the action of the respondents in permitting mining of sand without there being any scientific replenishment study; granting short term permits under Rule 51 of the Rajasthan Minor Mineral Concession Rules, 2017 and granting mining lease on agricultural land.

2. Case pleaded in the writ petition is that mining of bajri in the State of Rajasthan was hither-to-fore governed by the Rajasthan Minor Mineral Concession Rules, 1986 and as per proviso to Rule 63(3), no permission was required to mine bajri. Only royalty had to be paid. It is pleaded that vide notification dated 21/05/2012 the rules were amended. (the nature of amendments not being pleaded in the writ petition). It is pleaded that the Letter of Intent holders applied to the Ministry for being granted the necessary permission but on account of non-grant of environmental clearances, permissions have not been granted. It is pleaded that law requires scientific replenishment study to be



conducted. It is pleaded that vide order dated 16/11/2017 the Supreme Court prohibited mining of bajri without scientific replenishment study. Pleading that as an effect thereof the petitioner has been prohibited from mining bajri, grievance start from paragraph 12 of the writ petition. It is pleaded that to circumvent the direction issued by the Supreme Court the respondents have started granting short term permits (STPs) for mining of bajri as per Rule 51 of the Rajasthan Minor Mineral Concession Rules, 2017 as amended vide notification dated 28/12/2017. In paragraph 13 of the writ petition it is pleaded that the petitioner is not challenging the rules or notification, but is aggrieved by the fact that the short term permits are being granted without scientific replenishment study as well as environmental clearance. Names of 22 entities have been disclosed in paragraph 13 of the writ petition as the ones to whom short term permits have been granted. None of them have been impleaded as respondents. Pleading that in terms of a notification dated 15/01/2016 short term permits to mine bajri have been granted in areas of less than 5 hectares based on assessment by the District Environment Impact Assessment Authority, it is highlighted once again that this is sans a scientific replenishment study. It is pleaded that the notification dated 28/12/2017 allowing short term permits on agricultural land was challenged before the Supreme Court by an NGO but the challenge was withdrawn. The pleading in the writ petition take a dour. As noted hereinabove, the petitioner challenged grant of short term permits without a scientific replenishment study being granted and without environmental clearance certificate being granted, but in



paragraph 18 pleads that the environmental clearance by the District Environment Impact Assessment Authority, being in a cyclostyle manner, were contrary to the spirit of the law. Further pleadings show that challenge to the grant of mining leases for bajri on agricultural land is once again on the premise that a scientific replenishment study was not conducted. Referring to certain decisions by the Ministry of Environment and Forest as to in what manner scientific replenishment study has to be conducted, it is pleaded that the scientific replenishment study would thus be required to be given a statutory flavour.

3. Prayer made is that the respondents should be prohibited from permitting mining activity of bajri without scientific replenishment study, be it for a short term permit on private agricultural lands.

4. The writ petition was filed before a learned Single Judge who, on 03/05/2018 passed a blanket order prohibiting mining of bajri in agricultural land or through short term permits. Applications came to be filed by persons to whom short term permits were granted or to whom permissions were granted to excavate bajri from agricultural land. The stay was not vacated. The applicants were permitted to intervene but were not impleaded as respondents. In a batch of appeals, lead matter being DBSAW No.863/2018, noting that the claim of the petitioner was to espouse a public cause the writ petition was transferred to the division bench seized of public interest litigations. The applicants were impleaded as respondents.

5. In the original writ petition there were five respondents for State of Rajasthan, Joint Secretary of the Mines Department,



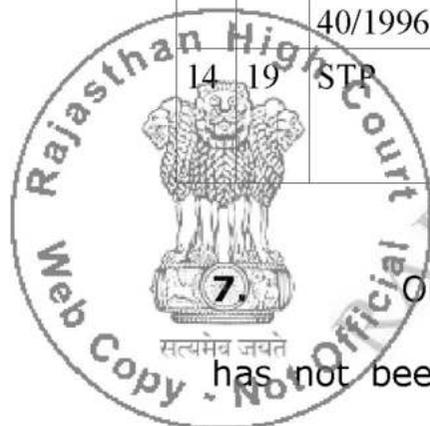
State of Rajasthan, Director Mines, Superintending Mining Engineer and the Union of India. 14 respondents came to be impleaded as respondents No.6 to 19.

6. Pertaining to respondents No.6 to 19, put in a tabular form – their names, whether they were granted short term permits or were issued mining licenses, with reference to the date of the mining license, type of land qua which STP or mining licenses have been granted, including date of environmental clearance and the quantity of minor mineral bajri to be mined as also distance from the nearest river in meters, the position is as under:

S. No.	Res pon dent No.	ML. No./STP	Type of Land	Areas in Hect.	E.C. Date	Quantity of S.T.P./Annual Production Capacity of Mining Lease (In Tonnes)	Distance from nearest river (in mts)
1	6	STP	Private Agriculture Land	0.968	27.02.2018	16000	534
2	7	STP	Private Agriculture Land	0.2124	27.03.2018	14500	45
3	8	M.L. No. 18/2014	Private Agriculture Land	5.2805	09.04.2017	62624	1400
4	9	M.L. No. 19/2014	Private Agriculture Land	2.0741	17.06.2015	71652	2000
5	10	M.L. No. 21/2014	Private Agriculture Land	1.4068	17.05.2016	45696	700
6	11	M.L. No. 6/2014	Private Agriculture Land	3.00	03.06.2016	63040	1500
7	12	M.L. No. 20/2014	Private Agriculture Land	2.00	08.06.2016	47008	49000
8	13	M.L. No. 09/2013	Gair Mumkin Nalah	17.37	13.07.2016	23100	Falls in Nalah
9	14	M.L. No. 01/2010	Private Agriculture	3.00	24.05.2016	150000	There is no river in



			Land				Bikaner District
10	15	M.L. No. 183/2008	Private Agriculture Land	2.26	27.02.2018	200000	
11	16	M.L. No. 17/2013	Private Agriculture Land	4.00	14.10.2016	107427	
12	17	M.L. No. 177/2009	Private Agriculture Land	3.00	24.05.2016	200000	
13	18	M.L. No. 40/1996	Govt. Land	3.79	04.01.2016	120000	
14	19	STP	Private Agriculture Land	0.7734	28.03.2018	50000	12000



One more applicant of Application No.81245/2018 who has not been formerly impleaded as a party but was heard as M/s.Daulat Singh and Sons. There issues raised by them is on the premise of the fact that applicants were granted a mining lease to mine Ball Clay, Fire Clay, Red & Yellow Ochre upto 50,000 metric a year. The environmental clearance was granted to said applicant by Mines of Environment, Forest & Climate Change on 21.01.2006. A by-product of the minor mineral clay as a result of excavation is Gravel and Friable Sand Stone which is a form of Bajri along Reddish Brown Colour Silica Sand. It sought environment clearance in the form of STP for selling this Friable Sand Stone. Mining Department granted the necessary permissions on 18.06.2018. Grievance is that in view of said order granted by the learned Single Judge the department is not processing the matter any further.

8. Mr. Kamlakar Sharma, learned Senior Counsel for the writ-petitioner conceded during arguments that pleadings in the writ petition were cryptic but requested the Court to keep in mind



that an issue of environment i.e. of deep public concern arose for consideration and thus requested the Court not to take resort to a pedantic approach and particularly when submissions which he proposed to advance were based on a decision rendered by the Supreme Court and the legal provisions. Thus, we heard learned counsel for the parties on the three issues which were finally raised during arguments.

9. The first contention urged was that in terms of a notification dated 15.01.2016 the process of environmental clearance for leases less than 5 hectares was assigned to the District Level Environmental Impact Assessment Authority. The Central Government had prepared guidelines on Sustainable Sand Mining-2016 detailing the provisions for environmental clearance for clusters, creation of District Environment Impact Assessment Authority and proper monitoring of sand mining using information technology. The preparation of the District Survey Report was as per Appendix-X to the notification dated 15.01.2016. It was urged that no mining activity could be undertaken in any district without identification of areas of aggravations or depositions after conducting proper study. It was urged that the District Survey Reports contained survey only of the river beds and of no other area and thus the environmental clearances granted were liable to be struck down.

10. The second contention urged was that without a scientific replenishment study mining in isolated patches including an agricultural land was illegal. Referring to a decision taken by the Ministry of Environment and Forest on 22.08.2016 concerning mining operations in agricultural lands it was urged that the



drainage pattern resulting into ponding effect had to be considered, which was not so done.

11. The third submission advanced was concerning short term permits and the argument was that short term permits could not be granted on principles analogous to grant of mining leases for parcels of land less than 4 hectare.

12. To deal with the three contentions advanced we proceed by noting the various legislative provisions and the decision of the Supreme Court reported as (2012) 2 SCC 629, Deepak Kumar & Ors. Vs. State of Haryana & Ors.

13. In the State of Rajasthan, mining of bajri was governed by the Minor Mineral Concession Rules, 1986 and as per the proviso to sub-rule (3) of Rule 63 no permission to mine bajri was required in the State of Rajasthan. A vehicle carrying bajri had to pay royalty at the departmental check post. In Deepak Kumar's case (supra) said practice was deprecated.

14. In Deepak Kumar's case (supra) the Supreme Court was considering proposed auctions by the Government of Haryana of mining mineral including gravel and sand on an area not exceeding 4.5 hectares in various districts in the State of Haryana. Illegal mining in State of Rajasthan and Uttar Pradesh also drew the attention of the Supreme Court in said decision. On the issue of breaking the homogeneous area into pieces of less than 5 hectares, the Supreme Court observed that same appeared to be to overcome the EIA notification dated 14.09.2006. The Supreme Court noted that the stand of the State of Haryana was that it had taken adequate and effective precautions to maintain 1 km.



separation between mining blocks of less than 5 hectares each and had imposed restrictions on quarrying in the river beds.

15. In paragraph 11 of the opinion the Supreme Court considering the extraction of bajri within or near a river bed in blocks of less than 5 hectares separated by 1 km. observed that possibility of collective impact may be significant and hence there was a necessity for a proper environmental assessment plan.

16. In the next paragraph i.e. paragraph 12 the Supreme Court highlighted that only in cases of isolated discontinued mineral deposits in less than 5 hectares such mining leases may be granted.

17. In paragraph 17 the Supreme Court once again highlighted that though individual mines of minor minerals which are small in size may have insignificant impact but their collective impact on a regional scale may be significantly adverse.

18. In paragraph 19 the Supreme Court noted that different States had prescribed different minimum size of mining leases and in sub-para 4.2 of said paragraph suggested that there was a need to consider minimum size of a mining lease to be 5 hectares. In sub-para 4.4, the Supreme Court dealt with cluster approach for small size mines and the likely difficulties which could be faced by the Regulatory Authorities in monitoring the environmental impact and thus highlighted a desirability to adopt cluster approach in cases of smaller mine leases being operated.

19. The position therefore was that till the decision in Deepak Kumar's case (supra) was pronounced by the Supreme Court no environmental clearances for minor mineral leases less than 5 hectares was required. After the decision in Deepak



Kumar's case (supra), vide notification dated 09.09.2013 environmental clearances for mining leases of less than 5 hectares was provided for.

20. On 13.01.2015 the National Green Tribunal directed environmental clearances to be obtained by existing lease holders for mines less than 5 hectares.

21. On 24.12.2013, an Office Memorandum was issued by the Ministry of Environment and Forests providing for appraisal for category-B projects which include the leases for minor minerals as well. A pre-feasibility report of the project with mine plan approved by the authorized agency of the State Government were the two documents required to grant the necessary permission.

22. The Rajasthan Minor Mineral Concession Rules, 1986 were amended on 23.05.2012 requiring environmental clearances for mining of the minor mineral bajri. On 21.06.2012 the Rules of 1986 were amended by providing a relaxation under Rule 65A. The same provided granting short term permit.

23. The issue concerning mining of bajri under short term permits on river beds concerning the notification dated 21.06.2012 became a subject matter of challenge in D.B. Civil Writ Petition(PIL) No.13189/2012. Vide order dated 21.10.2013 the Division Bench did not permit the State Government to continue with the existing scheme in the absence of replenishment study being conducted. The decision of the Division Bench was challenged before the Supreme Court in SLP(C) No.34134/2013. The Supreme Court initially directed that permit holders could continue with mining operations but vacated its interim order on



16.11.2017 directing that unless a scientific replenishment study was completed no mining in river beds could continue.

24. We are not concerned in the instant writ petition with mining of bajri in river beds. We are concerned with mining of bajri on private agricultural land and two instances of mining of bajri on Government land. From the tabular chart noted above, mining license on Government land is in the District of Bikaner where there are no rivers.

25. Though learned counsel for the writ-petitioner repeatedly laid emphasis on lack of replenishment studies being shown to this Court while granting the necessary environmental clearances, but the argument overlooks the fact that replenishment of bajri can only take place in river beds and not in private khatedari lands or Government lands which are far away from river beds. The reason is obvious. No silt or gravel flows onto or into said lands. Thus, the contention premised on lack of replenishment studies not being conducted is rejected.

26. On the issue of adverse environmental impact in the form of ponding effect suffice it to state that the decision of the Ministry of Environment and Forests relied upon pertained to large tracts of land where mining activity was proposed to be undertaken and in this context the Ministry highlighted the requirement of considering ponding effect. As noted above, in the instant case the areas of the leases are small.

27. We find that on 19.06.2012 in exercise of powers conferred by Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957, the Government of Rajasthan amended the Rajasthan Minor Mineral Concession Rules, 1986 and in sub-



rule (1) of Rule 3 of the Rules of 1986, after existing clause (viii) and before existing clause (ix) clause (viii-a) was inserted, which reads as under:-

"(viii-a) "Cluster" means the geographical boundary declared by the Director comprising of mining leases/quarry licences/short term permits which already exists or to be granted in future. The area of a cluster declared by the Director, as far as possible, shall not exceed 50 sq. kms. and mineral concessions area at the time of formation of cluster shall not exceed 100 hectare."

28. The vires of said rule has not been challenged. A perusal of the rule shows that the concern expressed by the Supreme Court in Deepak Kumar's case (supra) has been attended to. The apprehension expressed by the Supreme Court where mining blocks were of less than 5 hectares with a distance of 1 km. maintained and thus since the mining was in a small area possibility of it having adverse environment impact has been taken care of. The Supreme Court highlighted that though individually impact may be minimum or 'nil', but as a cluster the impact may be severe.

29. The rule in question specifies 50 sq. kms. area as the area of a cluster, which is fairly significant. By limiting mineral concessions area to not exceeding 100 hectares, the rule strikes a balance between sustained development and conservation of environment. 100 hectares equals to 1 sq. km. Thus, the rule in question limits the area of mineral concessions for mining leases/quarry licences/short term permits to only 1 sq. km., which would be 2% of the area of the cluster.

30. Notification dated 15.01.2016 incorporates Rule 3A in the Environmental Impact Assessment Notification dated



14.09.2006. It provides for a District Level Environment Impact Assessment Authority. The rule reads as under:-

"3 A. District Level Environment Impact Assessment Authority:-

(1) A District Level Environment Impact Assessment Authority hereinafter referred to as the DEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of four members including a Chairperson and a Member-Secretary.

(2) The District Magistrate or District Collector shall be the Chairperson of the DEIAA.

(3) The Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter of the concerned district of the State shall be the Member-Secretary of the DEIAA.

(4) The other two members of the DEIAA shall be the senior most Divisional Forest Officer and one expert. The expert shall be nominated by the Divisional Commissioner of the Division or Chief Conservator of Forest, as the case may be. The term and qualifications of the expert fulfilling the eligibility criteria are given in Appendix VII to this notification.

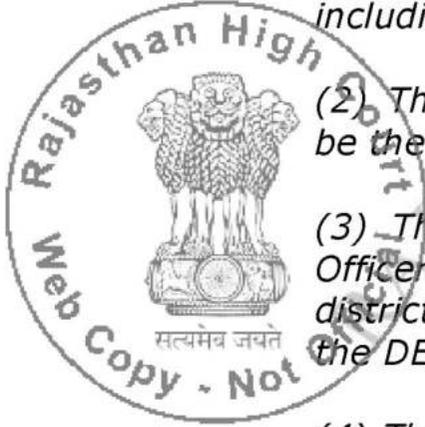
(5) The members of the DEIAA who are serving officers of the concerned State Government or the Union territory Administration shall be ex-officio members except the expert member.

(6) The District Level Expert Appraisal Committee hereinafter referred to as the DEAC shall comprise of eleven members, including a Chairman and a Member-Secretary.

(7) The senior most Executive Engineer, Irrigation Department in the district of respective State Governments or Union territory Administration shall be the Chairperson of the DEAC.

(8) The Assistant Director or Deputy Director of the Department of Mines and Geology or District Mines Officer or Geologist of the district shall be the Member-Secretary of the DEAC in that order.

(9) A representative of the State Pollution Control Board or Committee, senior most Sub-Divisional Officer (Forest) in the district, representative of Remote Sensing Department or Geology Department or State Ground Water Department, one occupational





health expert or Medical Officer to be nominated by the District Magistrate or District Collector, Engineer from Zila Parishad, and three expert members to be nominated by the Divisional Commissioner or Chief Conservator of Forest, as the case may be, shall be the other members of the DEAC. The term and qualifications of the experts fulfilling the eligibility criteria are given in Appendix VII to this notification.

(10) The members of the DEAC who are serving officers of the concerned State Government or the Union territory Administration shall be ex-officio members except the expert members.

(11) The District Magistrate or District Collector shall notify an agency to act as Secretariat for the DEIAA and the DEAC and shall provide all financial and logistic support for their statutory functions.

(12) The DEIAA and DEAC shall exercise the powers and follow the procedure as specified in the said notification, as amended from time to time.

(13) The DEAC shall function on the principle of collective responsibility and the Chairman shall endeavor to reach a consensus in each case and if consensus cannot be reached, the view of the majority shall prevail."

31. Appendix-VII to the Rule stipulates the qualifications and the terms for the Experts constituting the District Level Environment Impact Assessment Authority. The same reads as under:-

**"APPENDIX VII
(See paragraph 3 A)**

Qualifications and terms for the Experts in DEIAA and DEAC

1. Qualification: The person should have at least (i) 5 years of formal University training in the concerned discipline leading to a MA or M Sc Degree or (ii) in case of Engineering/ Technology/ Architectural discipline, 4 years formal training course together with prescribed practical training in the field leading to a B. Tech/ B.E./ B. Arch. Degree, or (iii) Other professional degree (e.g. MBA etc.) involving a total of 5 years of formal University training and prescribed practical training, or (iv) Prescribed apprenticeship/ article ship and pass examinations conducted by the concerned professional associations (e.g. Chartered Accountancy) or (v) a



University degree, followed by two years of formal training in a University or Service Academy (e.g. MBA/MPA etc.). In selecting the individual professionals, experience gained by them in their respective fields will be taken note of.

2. **Expert:** A professional fulfilling the above eligibility criteria with at least 10 years of relevant experience in the field or with an advanced degree (e.g. Ph. D) in a concerned field with at least 5 years of relevant experience.

3. **Age:** Below 70 years. However, in the event of non-availability of paucity of experts in a given field, the maximum age of a member may be allowed up to 75 years.

4. **Fields:** Experts in Mining, Geology, Hydrology, Remote Sensing, Environment Quality, Environment Impact Assessment Process, Risk Assessment, Life Sciences, Marine Sciences, Forestry and Wildlife, Environmental Economics, Bio-diversity, and River Ecology.

5. **Tenure:** The maximum tenure of expert members shall be for two terms of three years each.

6. The Expert Members may not be removed prior to expiry of the tenure without cause and proper enquiry."

32. Appendix-VIII highlights the particulars by providing the application for mining of minor minerals under category 'B2' i.e. for land less than or equal to 5 hectares. The same reads as under:-

**"APPENDIX VIII
(See paragraph 6)
FORM 1 M**

**APPLICATION FOR MINING OF MINOR MINERALS UNDER
CATEGORY 'B2' FOR LESS THAN AND EQUAL TO FIVE
HECTARE.**

(II) Basic Information

(viii) Name of the Mining Lease site:

(ix) Location / site (GPS Co-ordinates):

(x) Size of the Mining Lease (Hectare):



(xi) Capacity of Mining Lease (TPA):

(xii) Period of Mining Lease:

(xiii) Expected cost of the Project:

(xiv) Contact Information:

Environmental Sensitivity

Sl. No.	Areas	Distance in kilometer/ details
1.	Distance of project site from nearest rail or road bridge over the concerned River, Rivulet, Nallah etc.	
2.	Distance from infrastructural facilities Railway line National Highway State Highway Major District Road Any Other Road Electric transmission line pole or tower Canal or check dam or reservoirs or lake or ponds In-take for drinking water pump house Intake for Irrigation canal pumps	
3.	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	
4.	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests	
5.	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	
6.	Inland, coastal, marine or underground waters	
7.	State, National boundaries	
8.	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas	



9.	<i>Defence installations</i>	
10.	<i>Densely populated or built-up area, distance from nearest human habitation</i>	
11.	<i>Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)</i>	
12.	<i>Areas containing important, high quality or scarce resources (ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)</i>	
13.	<i>Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)</i>	
14.	<i>Areas susceptible to natural hazard which could cause the project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)</i>	
15.	<i>Is proposed mining site located over or near fissure / fracture for ground water recharge</i>	
16.	<i>16. Whether the proposal involves approval or clearance under the following Regulations or Acts, namely:- (a) The Forest (Conservation) Act, 1980; (b) The Wildlife (Protection) Act, 1972; (c) The Coastal Regulation Zone Notification, 2011. If yes, details of the same and their status to be given.</i>	
17.	<i>Forest land involved (hectares)</i>	
18.	<i>Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (a) Name of the Court (b) Case No. (c) Orders or directions of the Court, if any, and its relevance with the proposed project.</i>	



**(Signature of Project Proponent
Along with name and address) "**

33. Appendix-X provides for the procedure for preparation of the District Survey Report. It reads as under:-

**APPENDIX - X
[See paragraph 7 (iii) (a)]**

PROCEDURE FOR PREPARATION OF DISTRICT SURVEY REPORT

The main objective of the preparation of District Survey Report (as per the Sustainable Sand Mining Guideline) is to ensure the following:

Identification of areas of aggradations or deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining in that area.

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 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 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.

A survey shall be carried out by the DEIAA with the assistance of Geology Department or Irrigation Department or Forest Department or Public Works Department or Ground Water Boards or Remote Sensing Department or Mining Department etc. in the district.



Drainage system with description of main rivers

S.No.	Name of the River	Area drained (Sq. Km.)	% Area drained in the District

Salient Features of Important Rivers and Streams:

S.No.	Name of the River or Stream	Total Length in the District (in Km)	Place of origin	Altitude at Origin

Portion of the River or Stream Recommended for Mineral Concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meters)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)

Mineral Potential

Boulder (MT)	Bajari (MT)	Sand(MT)	Total Mineable mineral Potential (MT)

Annual Deposition

S.No.	River or Stream	Portion of the river or stream recommended for mineral concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)
<i>Total for the District</i>						

A Sub-Divisional Committee comprising of Sub-Divisional Magistrate, Officers from Irrigation department, State Pollution Control Board or Committee, Forest department, Geology or mining officer shall visit each site



for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof.

Methodology adopted for calculation of Mineral Potential:

The mineral potential is calculated based on field investigation and geology of the catchment area of the river or streams. As per the site conditions and location, depth of minable mineral is defined. The area for removal of the mineral in a river or stream can be decided depending on geo-morphology and other factors, it can be 50 % to 60 % of the area of a particular river or stream. For example in some hill States mineral constituents like boulders, river born Bajri, sand up to a depth of one meter are considered as resource mineral. Other constituents like clay and silt are excluded as waste while calculating the mineral potential of particular river or stream.

The District Survey Report shall be prepared for each minor mineral in the district separately and its draft shall be placed in the public domain by keeping its copy in Collectorate and posting it on district's website for twenty one days. The comments received shall be considered and if found fit, shall be incorporated in the final Report to be finalised within six months by the DEIAA.

The District Survey Report shall form the basis for application for environmental clearance, preparation of reports and appraisal of projects. The Report shall be updated once every five years."

- 34.** Appendix-XI lays down the policy to be followed for environmental clearance for mining of minor minerals including cluster situation for areas upto or less than 5 hectares. The same reads as under:-

**"APPENDIX - XI
[See paragraph 7 (iii) (b)]**

PROCEDURE FOR ENVIRONMENTAL CLEARANCE FOR MINING OF MINOR MINERALS INCLUDING CLUSTER

The following policy shall be followed for environmental clearance of mining of minor minerals including cluster situation:-

- (1). The data provided by the States (Sustainable Sand Mining Guidelines) shows that most of the mining leases for minor minerals are of lease area less than 5 hectare. It is



also reported that in hill States getting a stretch in river with area more than 5 hectare is very uncommon. So the size of lease for minor minerals including river sand mining will be determined by the States as per their circumstances.

(2). The mining of minor minerals is mostly in clusters. The Environment Impact Assessment or Environment Management Plan are required to be prepared for the entire cluster in order to capture all the possible externalities. These reports shall capture carrying capacity of the cluster, transportation and related issues, replenishment and recharge issues, geo-hydrological study of the cluster area. The Environment Impact Assessment or Environment Management Plan shall be prepared by the State or State nominated Agency or group of project proponents in the Cluster or the project proponent in the cluster.

(3). There shall be one public consultation for entire cluster after which the final Environment Impact Assessment or Environment Management Plan report for the cluster shall be prepared.

(4). Environmental clearance shall be applied for and issued to the individual project proponent. The individual lease holders in cluster can use the same Environment Impact Assessment or Environment Management Plan for application for environmental clearance. The cluster Environment Impact Assessment or Environment Management Plan shall be updated as per need keeping in view any significant change.

(5). The details of cluster Environment Impact Assessment or Environment Management Plan shall be reflected in each environmental clearance in that cluster and DEAC, SEAC, and EAC shall ensure that the mitigative measures emanating from the Environment Impact Assessment or Environment Management Plan study are fully reflected as environmental clearance conditions in the environmental clearance's of individual project proponents in that cluster.

(6). A cluster shall be formed when the distance between the peripheries of one lease is less than 500 meters from the periphery of other lease in a homogeneous mineral area.

(7). Form 1M, Pre-Feasibility Report and mine plan for Category 'B2' projects for mining of minor minerals shall be prepared by the Registered Qualified Person or Accredited Consultants of Quality Council of India, National Accreditation Board for Education and Training. The Environment Impact Assessment or Environment Management Plan for Category 'A' and Category 'B1' projects shall be prepared by the accredited consultants of



Quality Council of India, National Accreditation Board for Education and Training.

(8). The SEIAAs shall have supervisory jurisdiction over the DEIAAs and decisions of DEIAA shall be reviewed by the SEIAA without prejudice to any provisions under any existing law.

Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation

Area of Lease (Hectare)	Category of Project	Requirement of EIA/ EMP	Requirement of Public Hearing	Requirement of EC	Who can prepare EIA/ EMP	Who will apply for EC	Authority to appraise/ grant EC	Authority to monitor EC compliance
EC Proposal of Sand Mining and other Minor Mineral Mining on the basis of Individual mine lease								
0-5ha	'B2'	Form-1M PFR and Approved Mine Plan	No	Yes	Project Proponent	Project Proponent	DEAC/ DEIAA	DEIAA SEIAA SPCB CPCB MoEFCC Agency
> 5 ha and < 25 ha	'B2'	Form-I, PFR and Approved Mine Plan and EMP	No	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	Nominated by MoEFCC
≥ 25 ha < 50 ha	'B1'	Yes	Yes	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	
≥50 ha	'A'	Yes	Yes	Yes	Project Proponent	Project Proponent	EAC/ MoEFCC	
EC Proposal of Sand Mining and other Minor Mineral Mining in cluster situation								
Cluster area of mine leases upto 5 ha	'B2'	Form-1M PFR and Approved Mine Plan	No	Yes	State, State Agency, Group of Project Proponents Project Proponent	Project Proponent	DEAC/ DEIAA	DEIAA SEIAA SPCB CPCB MoEFCC Agency nominated by MoEFCC
Cluster area of Mine leases > 5 ha and < 25 ha with no individual lease > 5 ha	'B2'	Form-1M PFR and Approved Mine Plan and one EMP for all leases in the Cluster	No	Yes	State, State Agency, Group of Project Proponents Project Proponent	Project Proponent	DEAC/ DEIAA/	
Cluster of mine leases of area ≥25 hectares with individual lease size < 50 ha	'B1'	Yes	Yes	Yes	State, State Agency, Group of Project Proponents Project Proponent	Project Proponent	SEAC/ SEIAA	
Cluster of any size with	'A'	Yes	Yes	Yes	State, State Agency,	Project Proponent	EAC/ MoEFCC	



any of the individual lease \geq 50 ha					Group of Project Proponents Project Proponent			
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35. A perusal of the three Appendixes would show that complete concern to balance the environment and mining of bajri and boulders has been taken care of. Thus, as regards the requirements of law are concerned we find that the legal provisions in the State of Rajasthan concerning mining of bajri on private khatedari lands and Government lands away from river beds, conforms to the principles of sustainable development and takes care of the environment.

36. Data provided by the State of Rajasthan shows that in the State of Rajasthan environmental clearance has been granted for mining of bajri in private khatedari lands in various Tehsils of District Bikaner. The number is 49. The lease area varies between 2 hectares to a maximum of 4.96 hectares. In District Nagaur 14 mining leases for bajri in private khatedari lands with environmental clearance have been granted. The area varies between 1 hectare to 5.28 hectares. On Government lands bajri mining leases with environmental clearance has been granted to 12 persons in District Bikaner. In Districts Barmer, Nagaur, Rajsamand, Kota, Bhilwara and Sawai Madhopur 15 short term permits on private lands have been granted with environmental clearance. In Districts Rajsamand, Nagaur, Bikaner and Chittorgarh 14 short term permits on Government lands have been granted with environmental clearance.

37. With reference to Appendix-VIII, environmental sensitivity requires distance from road, bridges, river and nallahs



to be taken into account. The ecology sensitive areas such as wetlands, watercourses, biospheres, mountains and forests have also to be taken into account. Similarly areas where sensitive species of flora or fauna breeding and nesting from migratory birds have also to be taken into account. In the absence of specific challenge to the District Survey Reports we are not inclined to hold a roving and fishing enquiry into the District Survey Reports in these areas based whereon environmental clearance has been granted. It is trite that there is a presumption that official acts and decisions are legal unless shown to be to the contrary.

38. Thus, since we are not concerned with grant of mining leases on river beds; as already held above, the requirement of replenishment study is inherently not applicable to the sites in question. On the second contention urged i.e. of environmental clearance not being granted as per law, we hold that the requirements of law pertaining to District Survey Reports and environmental clearances being granted in terms of the rules has been complied with, we reject the contentions advanced on behalf of the petitioner.

39. We also highlight that in respect of mining leases environmental clearances were by and large granted in the year 2016. Mining leases were granted much prior. Environmental clearances were granted in the year 2016 on account of the notification issued in January, 2016 requiring existing leases to be considered from the point of view of environmental clearances.

40. Pertaining to short term permits, the rules as noted above permit so. In respect of short term permits we additionally highlight that even otherwise adverse environmental impact would



be minimal on account of the fact that the quantity of bajri which can be excavated has been specified. The short term permits have been granted because bajri is required for Government projects of great public importance.

41. As held by the Supreme Court in the decision reported as (2002) 10 SCC 606, T.N. Godavarman Thirumulpad Vs. Union of India & Ors., it cannot be disputed that no development is possible without some adverse effect on the ecology and environment and the projects of public utility cannot be abandoned and it is necessary to adjust the interest of the people as well as the necessity to maintain the environment. A balance has to be struck between the two interests. Where the commercial ventures bring in results, which are far more useful for the people, difficulty of a small number of people has to be by-passed. The comparative hardships have to be balanced and the convenience and benefit to a large section of the people has to be given preference over comparatively less hardships.

42. As observed by the Supreme Court in the decision reported as (2009) 9 SCC 737, Tirupur Dyeing Factory Owners Vs. Noyyal Rivers Ayacutdars Protection Association, the concept of sustained development covers the development that meets the needs of the person without compromising the ability of the future generation to meet their own needs. It means the development that can take place and which can be sustained by nature/ecology with or without mitigation. Therefore in such matters, the required standard is that the risk of harm to the environment or to the human health is to be decided in public interest according to a reasonable persons test.



43. Concerning M/s Daulat Singh and sons, suffice it to state that mining lease was to mine Ball Clay, Fire Clay, Red & Yellow Ochre. Gravel and friable sand stone which is a form of bajri is a by-product. Necessary permission has been granted by the Mining Department to sell the same. Remaining codal formalities came to be halted in view of the stay order granted by the learned Single Judge. Since the writ petition is being dismissed the authorities shall process the application of said applicant as per law.

44. The writ petition is dismissed.

(G R MOOLCHANDANI),J

(PRADEEP NANDRAJOG),CJ

KKC/Anil Goyal/ (Reserved)(s-45)

