

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH,  
KOLKATA**

.....  
**ORIGINAL APPLICATION No. 62/2021/EZ**

**IN THE MATTER OF:**

**Sri Subrata Bhattacharya,  
R/o Village-Balihati, P.O.-Krishnanagar,  
Via-Madpur, District-Paschim Medinipur,  
Pin – 721149,**

**....Applicant(s)**

**Versus**

- 1. Directorate of Mines and Minerals,  
Through its Director,  
4, Abanindranath Tagore Sarani,  
2<sup>nd</sup> Floor, Kolkata,  
Pin – 700016,**
- 2. Department of Environment, Govt. of West Bengal,  
Through its Chief Environmental Engineer,  
Prani Sampad Bhaban, Block-LB-II,  
5<sup>th</sup> Floor, Salt Lake, Sector-3, Kolkata,  
Pin – 700106,**
- 3. The District Magistrate & Collector, Paschim Medinipur,  
P.O. & District-Paschim Medinipur,  
Pin – 721101,**
- 4. The Additional District Magistrate and District Land and  
Land Reforms Officer, Paschim Medinipur,  
P.O. & District-Paschim Medinipur,  
Pin – 721101,**
- 5. The State of West Bengal,  
Through its Principal Secretary,**

**Shilpa Sadan, 5<sup>th</sup> Floor,  
4 No. Abanindranath Tagore Sarani (Camac Street),  
Kolkata – 700016,**

- 6. The Ministry of Environment, Forests and Climate Chang,  
Govt. of India, Integrated Regional Office,  
Through its Secretary,  
Kolkata, IB-198, Sector-III, Salt Lake City,  
Kolkata – 700106,**
- 7. Central Pollution Control Board,  
Through its Chairman,  
Parivesh Bhawan, East Arjun Nagar,  
Delhi – 110032,**
- 8. SEIAA,  
Through its Chairman,  
Prani Sampad Bhavan,  
LB-2, Sector-III, Salt Lake,  
Kolkata – 700106,**
- 9. West Bengal Pollution Control Board,  
Through its Chairman,  
10A, LA Block, Sector-3,  
Bidhannagar, Kolkata,  
Pin – 700106,**

**....Respondent(s)**

**WITH  
ORIGINAL APPLICATION No. 63/2021/EZ**

**IN THE MATTER OF:**

**Sri Samiran Bhattacharya,  
R/o Village-Balihati, P.O.-Krishnanagar,  
Via-Madpur, District-Paschim Medinipur,  
Pin – 721149,**

**Versus**

- 1. Directorate of Mines and Minerals,  
Through its Director,  
4, Abanindranath Tagore Sarani,  
2<sup>nd</sup> Floor, Kolkata,  
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- 2. Department of Environment, Govt. of West Bengal,  
Through its Chief Environmental Engineer,  
Prani Sampad Bhaban, Block-LB-II,  
5<sup>th</sup> Floor, Salt Lake, Sector-3, Kolkata,  
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- 3. The District Magistrate & Collector, Paschim Medinipur,  
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- 4. The Additional District Magistrate and District Land and  
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- 6. The Ministry of Environment, Forests and Climate Chang,  
Govt. of India, Integrated Regional Office,  
Through its Secretary,  
Kolkata, IB-198, Sector-III, Salt Lake City,  
Kolkata – 700106,**
- 7. Central Pollution Control Board,**

**Through its Chairman,  
Parivesh Bhawan, East Arjun Nagar,  
Delhi – 110032,**

**8. SEIAA,**

**Through its Chairman,  
Prani Sampad Bhavan,  
LB-2, Sector-III, Salt Lake,  
Kolkata – 700106,**

**9. West Bengal Pollution Control Board,**

**Through its Chairman,  
10A, LA Block, Sector-3,  
Bidhannagar, Kolkata,  
Pin – 700106,**

**....Respondent(s)**

**WITH  
ORIGINAL APPLICATION No. 64/2021/EZ**

**IN THE MATTER OF:**

**Smt. Anupama Chakraborty,  
W/o Late Joydev Chakraborty,  
R/o Village-Mohanpur, P.O.-Matkatpur,  
District-Paschim Medinipur,  
Pin – 721305,**

**....Applicant(s)**

**Versus**

**1. Directorate of Mines and Minerals,  
Through its Director,  
4, Abanindranath Tagore Sarani,  
2<sup>nd</sup> Floor, Kolkata,  
Pin – 700016,**

**2. Department of Environment, Govt. of West Bengal,**

- Through its Chief Environmental Engineer,  
Prani Sampad Bhaban, Block-LB-II,  
5<sup>th</sup> Floor, Salt Lake, Sector-3, Kolkata,  
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- 3. The District Magistrate & Collector, Paschim Medinipur,  
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Pin – 721101,**
  - 4. The Additional District Magistrate and District Land and  
Land Reforms Officer, Paschim Medinipur,  
P.O. & District-Paschim Medinipur,  
Pin – 721101,**
  - 5. The State of West Bengal,  
Through its Principal Secretary,  
Shilpa Sadan, 5<sup>th</sup> Floor,  
4 No. Abanindranath Tagore Sarani (Camac Street),  
Kolkata – 700016,**
  - 6. The Ministry of Environment, Forests and Climate Chang,  
Govt. of India, Integrated Regional Office,  
Through its Secretary,  
Kolkata, IB-198, Sector-III, Salt Lake City,  
Kolkata – 700106,**
  - 7. Central Pollution Control Board,  
Through its Chairman,  
Parivesh Bhawan, East Arjun Nagar,  
Delhi – 110032,**
  - 8. SEIAA,  
Through its Chairman,  
Prani Sampad Bhavan,  
LB-2, Sector-III, Salt Lake,  
Kolkata – 700106,**

**9. West Bengal Pollution Control Board,  
Through its Chairman,  
10A, LA Block, Sector-3,  
Bidhannagar, Kolkata,  
Pin – 700106,**

**....Respondent(s)**

**WITH**

**ORIGINAL APPLICATION No.65/2021/EZ**

**IN THE MATTER OF:**

**Sri Arun Ghosh,  
S/o Sri Gopal Chandra Ghosh,  
R/o Village-Balihati, P.O.-Krishnanagar,  
P.S.-Kharagpur (Local), District-Paschim Medinipur,  
Pin – 721149,**

**....Applicant(s)**

**Versus**

- 1. Directorate of Mines and Minerals,  
Through its Director,  
4, Abanindranath Tagore Sarani,  
2nd Floor, Kolkata,  
Pin – 700016,**
- 2. Department of Environment, Govt. of West Bengal,  
Through its Chief Environmental Engineer,  
Prani Sampad Bhaban, Block-LB-II,  
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P.O. & District-Paschim Medinipur,  
Pin – 721101,**
- 4. The Additional District Magistrate and District Land and  
Land Reforms Officer, Paschim Medinipur,**

**P.O. & District-Paschim Medinipur,  
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- 5. The State of West Bengal,  
Through its Principal Secretary,  
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- 6. The Ministry of Environment, Forests and Climate Chang,  
Govt. of India, Integrated Regional Office,  
Through its Secretary,  
Kolkata, IB-198, Sector-III, Salt Lake City,  
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- 7. Central Pollution Control Board,  
Through its Chairman,  
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Through its Chairman,  
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LB-2, Sector-III, Salt Lake,  
Kolkata – 700106,**
- 9. West Bengal Pollution Control Board,  
Through its Chairman,  
10A, LA Block, Sector-3,  
Bidhannagar, Kolkata,  
Pin – 700106,**

**....Respondent(s)**

**COUNSEL FOR APPLICANT:**

**Ms. Paushali Banerjee, Advocate**

**COUNSEL FOR RESPONDENTS :**

**Mr. Sibojyoti Chakraborty, Advocate R-1 & 2,  
Mr. Samrat Sen, Sr. Advocate a/w Mr. Nayan Chand Bihani,  
Advocate and Mr. Sibojyoti Chakraborty, Advocate for R-3 to 5,  
Mr. Soumitra Mukherjee, Advocate for R-6,  
Mr. Dipanjan Ghosh, Advocate for R-7,  
Ms. Susmita Chatterjee, Advocate for R-8,  
Mr. Prithwish Basu, Advocate for R-9,**

**JUDGMENT**

**PRESENT:**

**HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)  
HON'BLE MR. SAIBAL DASGUPTA (EXPERT MEMBER)**

**Reserved On:- August 29<sup>th</sup>, 2022  
Pronounce On:- September 06<sup>th</sup>, 2022**

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|---|------------|
| 1. Whether the Judgment is allowed to be published on the net?          | <b>Yes</b> |
| 2. Whether the Judgment is allowed to be published in the NGT Reporter? | <b>Yes</b> |
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**JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)**

Heard the learned Counsel for the parties and perused the documents on record.

2. These four Original Applications raise common questions of law and fact and, therefore, being taken up together.

3. The allegation of the Applicant in the present Original Application is that the illegal mining is being carried on over an area of 38.25 acre (12.91 Ha) in respect of Plot No. 840(P), J. L. No. 203, situated in Village and Mouza Dakshin Bengai, P.S. Kotwali, in



the river bed of 'Kangsabati' River, District Paschim Medinipur, State of West Bengal, as well as in the Plot Nos. 230(P) & 232(P), 229 (P), 228(P), 164 (P), 165(P), 166 (P), 163(P), 169(P), 171(P), 172(P), 174 (P), 173 (P), 186(P), 185(P), 1867(P) & 167 (P), J.L. 129, within the Mouza-Nekramara, P. S. Keshiary, Paschim Medinipur, over an area of 4.70 (11.61 acres) in the river bed of Subarnarekha River with the use of JCB machines and suction pumps. Photographs by way of evidence have also been filed from pages 29 to 30 of the Original Application.

4. It is also alleged that though Environmental Clearance was granted on August 07, 2017, but no work order has been issued. Despite that sand mining is going on illegally in the area. Photographic evidence show that mining is going on with the use of JCB machines and suction pumps, which is in violation of the Sustainable Sand Mining Management Guidelines, 2016 & the Enforcement and Monitoring Guidelines for Sand Mining, 2020 issued by the Ministry of Environment, Forests and Climate Change.

5. In Original Application No. 63/2021/EZ, the allegation of the Applicant is that illegal mining is being carried on over an area of 23.00 acre in respect of Plot No. 215, P.S. Keshpur, J.L. No. 564 in the river bed of 'Kangsabati', District Paschim Medinipur, State of West Bengal as well as the Plot Nos. 230(P) & 232(P), 229 (P), 228(P), 164 (P), 165(P), 166 (P), 163(P), 169(P), 171(P), 172(P), 174 (P), 173 (P), 186(P), 185(P), 1867(P) & 167 (P), J.L. 129, within

Mouza-Nekramara, P.S. Keshiary, Paschim Medinipur, over an area of 4.70 (11.61 acres) in the river bed of Subarnarekha with the use of JCB machines and suction pumps. Photographs by way of evidence have also been filed from pages 29 to 30 of the Original Application.

6. It is also alleged that though Environmental Clearance was granted on August 08, 2017, but no work order has been issued. Despite that sand mining is going on illegally in the area. Photographic evidences show that mining is going on with the use of JCB machines and suction pumps, which is in violation of the Sustainable Sand Mining Management Guidelines, 2016 & the Enforcement and Monitoring Guidelines for Sand Mining, 2020 issued by the Ministry of Environment, Forests and Climate Change.

7. In Original Application No. 64/2021/EZ, the allegation of the Applicant is that illegal mining is being carried on over an area of 30.50 acres in respect of Plot No. 840(P), P.S. Kotwali, J.L. No. 203 situated at Dakshin Bengal in the river bed of 'Kangsabati', District Paschim Medinipur, State of West Bengal as well as the Plot Nos. 230(P) & 232(P), 229 (P), 228(P), 164 (P), 165(P), 166 (P), 163(P), 169(P), 171(P), 172(P), 174 (P), 173 (P), 186(P), 185(P), 1867(P) & 167 (P), J.L. 129, within Mouza-Nekramara, P.S. Keshiary, Paschim Medinipur over an area of 4.70 (11.61 acres) in the river bed of Subarnarekha with the use of JCB machines and

suction pumps. Photographs by way of evidence have also been filed from pages 29 to 30 of the Original Application.

8. It is also alleged that though Environmental Clearance was granted on August 08, 2017, but no work order has been issued. Despite that sand mining is going on illegally in the area. Photographic evidences show that mining is going on with the use of JCB machines and suction pumps, which is in violation of the Sustainable Sand Mining Management Guidelines, 2016 & the Enforcement and Monitoring Guidelines for Sand Mining, 2020 issued by the Ministry of Environment, Forests and Climate Change.

9. In Original Application No. 65/2021/EZ, the allegation of the Applicant is that illegal mining is being carried on over an area of 30.00 acres in respect of Plot No. 211/271 of Mouza- Jamsole, P.S. Kotwali, (presently within Gurguripal P.S.) J.L. No. 137 in the river bed of 'Kangsabati', District Paschim Medinipur, State of West Bengal as well as the Plot Nos. 230(P) & 232(P), 229 (P), 228(P), 164 (P), 165(P), 166 (P), 163(P), 169(P), 171(P), 172(P), 174 (P), 173 (P), 186(P), 185(P), 1867(P) & 167 (P), J.L. 129, within Mouza- Nekramara, P.S. Keshiary, Paschim Medinipur over an area of 4.70 (11.61 acres) in the river bed of Subarnarekha with the use of JCB machines and suction pumps. Photographs by way of evidence have also been filed from pages 29 to 30 of the Original Application.

10. It is also alleged that though Environmental Clearance was granted on August 08, 2017, but no work order has been issued.

Despite that sand mining is going on illegally in the area. Photographic evidences show that mining is going on with the use of JCB machines and suction pumps, which is in violation of the Sustainable Sand Mining Management Guidelines, 2016 & the Enforcement and Monitoring Guidelines for Sand Mining, 2020 issued by the Ministry of Environment, Forests and Climate Change.

11. At the time of admission, the Tribunal constituted a Committee comprising of the following Members:-

- i. Scientist/Officer from the Integrated Regional Office of Ministry of Environment, Forests and Climate Change, Kolkata;*
- ii. The District Magistrate, Paschim Medinipur;*
- iii. Senior Scientist from the Central Pollution Control Board, Regional Office, Kolkata;*
- iv. Senior Scientist from the State Environment Impact Assessment Authority, West Bengal;*
- v. The District Mining Officer, Paschim Midnapur, West Bengal;*

12. The Committee was required to inspect the plots in question, particularly with reference to the photographs which have been filed along with the Original Application and submit its report with regard to the amount of sand illegally mined, assessment of Environmental Compensation on account of degradation of the river bed, cost of restoration of environment and river bed, penalty imposed and loss of revenue to the State exchequer due to illegal sand mining and recommend remedial measures as well as

initiation of criminal proceedings against the persons involved in illegal sand mining within a period of one month.

13. The State Environment Impact Assessment Authority ('SEIAA' for short), West Bengal, was directed to be the Nodal Office for filing the Report of the Committee and the District Magistrate, Paschim Medinipur, was also directed to provide all logistic support.

14. In the meantime, the Tribunal stayed further operations of sand mining with regard to the plots in question in the river beds of Kangsabati and Subarnarekha in the District Paschim Medinipur, West Bengal.

15. In response, an affidavit dated 09.12.2021 has been filed on behalf of the Respondent No.8, SEIAA, West Bengal. Along with this affidavit, an Inspection Report of inspections carried out on 29.09.2021, 17.11.2021 and 18.11.2021 by the Joint Committee was filed. The Overall Observations and Recommended Actions of the Committee's Report read as under:-

<b>8.0</b>	<b>Overall Observations</b>	<i>i. Most of the area mentioned in the order/original application are water logged/submerged. Therefore, only a few points could be approached under the guidance of the local authorities.</i>  <i>ii. It has been observed that no mining was being done at the time of inspection at any of the plots visited mentioned in the OAs. However, there was ample evidence of sand</i>
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		<p><i>mining being carried out using heavy earth moving machines on the left bank of the river Kangsabati which was observed while approaching the JL 137, 211/271 (Fig 2 and Fig 3 above) and also on the Bhasra area.</i></p> <p><i>iii. As far as the amount of sand mine out illegally is concerned the same can only be assessed by concerned district authorities when it is dry.</i></p> <p><i>iv. It was reported that the District Survey Report (DSR) as per Sustainable Sand Mining Management Guidelines-2016 is still under preparation and no lease has been granted and therefore any mining without proper approval is illegal and need to be stopped as per the order of the Hon'ble Supreme Court (dated 27.02.2012 in Deepak Kumar case) and Hon'ble NGT order (dated 05.08.2021 in application no. 171/2013).</i></p> <p><i>v. None of the plots/ even the lease hold areas are demarcated on the ground.</i></p> <p><i>vi. The photographs which have been given in the original application could not be certified after such a such long time when most of the area is water logged and since the photographs have not reported the latitude and longitude of the site from where those photographs were taken.</i></p>
<b>9.0</b>	<b>Recommended</b>	1.All the illegal sand mining activity

	<p><b>Action</b></p>	<p><i>should be immediately stopped.</i></p> <p><i>2.No sand mining to be allowed without proper approval from competent authority and in violation of Sustainable Sand Mining Management Guidelines-2016 and Enforcement &amp; Monitoring Guidelines for Sand Mining 2020 as per rule.</i></p> <p><i>3.It must be ensured by the concerned authorities that the compliance of the order of the Hon'ble Supreme Court (dated 27.02.2012 in Deepak Kumar case) and Hon'ble NGT order (dated 05.08.2012 in application no. 171/2013) are implemented to prevent illegal mining in true spirit and necessary action be taken against the wrong doers.</i></p> <p><i>4.All the plots/lease hold area mentioned on the order should be properly demarcated on the ground with proper latitude &amp; longitude when it is dry. The quantity of sand reserve, mined out sand (legally/illegally) be assessed by the concerned district mining department.</i></p> <p><i>5.The concerned departments (i.e. District Mining Authority, District Land &amp; Land Reforms Authority) should provide necessary information regarding the extent of illegal sand mining activity i.e., mining area, duration of mining, royalty collected &amp; the name of the persons carrying out the activity. This information will</i></p>
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		<p><i>be required for calculation of environmental compensation.</i></p> <p><i>6.The District Survey Report consisting of restoration plant should be prepared at the earliest.</i></p>
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16. This Inspection Report notes that although at the time of visit of the Inspection Team, no sand mining was being carried out but there was ample evidence of use of heavy earth moving machines on the left bank of river Kangsabati while approaching the J. L. No. 137 Plot Nos. 211/271 and also on Bhasra area. It is also stated that the amount of sand mined out illegally needed to be determined by the District Authorities when the area becomes dry. However, the Inspection Team in its report did not identify as to who were the persons who have carried out the illegal mining.

17. On 24.01.2022, the Tribunal observed that if there was illegal mining in the area in question, it would have been within the knowledge of the Tahasildar of the area concerned. In the recommendations, the Inspection Team had recommended that the concerned departments, namely, District Mining Authority and District Land and Land Reforms Authority, should provide necessary information regarding the extent of illegal sand mining activity, the royalty collected and the name of the persons carrying out the activity for computation of Environmental Compensation. The Tribunal also observed that the Respondent No.4, Additional District Magistrate and District Land and Land Reforms Officer, Paschim Medinipur, was a Member of the Inspection Team and in



view of the findings recorded by the Inspection Team, the Respondent No.3, District Magistrate & Collector, Paschim Medinipur, was directed to determine as to who were the illegal miners and what was the extent of sand illegally mined and what amount of royalty/penalty had been collected from the illegal sand miners. This process was to be completed within four weeks and the District Magistrate and Collector, Paschim Medinipur, was also directed to file his personal affidavit in this regard and also determine the role played by the then Tahasildar of the area concerned and if he was found to have been negligent in the discharge of his official duties in checking illegal sand mining, he was also required to initiate departmental proceedings against the concerned Tahasildar.

18. The Tribunal further observed that illegal sand mining amounts to theft of royalty to the Government Revenue and all persons responsible for such theft shall be liable for prosecution under the provisions of Indian Penal Code and Prevention of Money Laundering Act, 2002.

19. In the affidavit of the District Magistrate and Collector, Paschim Medinipur, dated 29.03.2022, a date of enquiry has been mentioned as 24.02.2022 (at page no. 61 of the paper book) and under the heading, 'Note of Observation', it is mentioned that the sand bank on Subarnarekha River is mostly water-logged to demarcate and from that it was observed that the said Respondent was trying to say that the demarcation was not possible since the

bank of Subarnarekha River is mostly water logged. The photographs which have been filed along with the affidavit, however, do not show any flooding in the Subarnarekha River. There is nothing on record to show that on 24.02.2022, there were any major floods in the Subarnarekha River or that there were unprecedently heavy rains to cause water-logging in the area. The photographs also do not show any water-logging except the normal presence of water in the river at a distance. The Synopsized Facts Chart filed along with the affidavit reads as under:-

<b>SYNOPSISIZED FACTS</b>					
<b>Land Schedule</b>		<b>Date of Enquiry</b>	<b>Note of Observation</b>	<b>Action taken</b>	<b>evidence</b>
Block	: Keshiary	24.02.2022	<ul style="list-style-type: none"> <li>• Sandbank on Subarnarekha is mostly water logged to demarcate.</li> <li>• No trace/old signature of machines observed on bank of riverbed.</li> <li>• No mining during monsoon.</li> <li>• No illegal sand mining.</li> <li>• Frequent visits by way of raids are maintained.</li> </ul>	<ul style="list-style-type: none"> <li>• Regular monitoring of raid operation.</li> <li>• Frequent visits on ghats.</li> <li>• FIRs lodged against illegal miners/offenders</li> <li>• Penalty is realized each and every defaulters/illegal miners/illegal carriers of vehicles as and when caught and or confiscated.</li> </ul>	<ul style="list-style-type: none"> <li>• Photographs of site location including geo-coordinates and date &amp; time.</li> <li>• Copy of FIRs.</li> <li>• Report of ground level observations.</li> </ul>
Mouza	: Nekramara				
J.L. No.	: 129				
Plot No.	: 230 (P), 232 (P), 229 (P), 228 (P), 164 (P), 165 (P), 166, 163 (P), 168 (P), 169 (P), 171 (P), 172 (P), 174 (P), 173 (P), 186 (P), 185 (P), 167(P),				
Area	: 11.61 acre				
P.S.	: Keshiary				
District	: Paschim Medinipur				

20. A perusal of the Synopsized Facts Chart further reveals that there was no illegal sand mining although it is evident from the affidavit of the Collector & District Magistrate, that FIRs have been lodged and penalty was also imposed on vehicles carrying illegal sand.

21. In the affidavit, it is further stated that on grounds of unauthorized carrying of sand, earth and other minor minerals, penalty has been imposed on 123 transporting vehicles for various reasons including overloading and/or illegal stacking and/or otherwise and a sum of Rs. 20,43,900/- (Rupees Twenty Lakhs Forty Three Thousand Nine Hundred only) has been realized by way of penalty from April, 2017 till date. Different FIRs have also been lodged against the persons involved in illegal sand mining activities. It is also stated that a sum of Rs. 22,00,000/- (Rupees Twenty Two Lakhs only) has also been realized in terms of royalty as penalty till date in 2022.

22. The Tribunal on 06.04.2022, after carefully examining the contents of this affidavit, observed that the affidavit is silent with regard to action taken against the Block Land and Land Reforms Officer of the Block concerned within whose jurisdiction this illegal sand mining took place and who was responsible for monitoring the same. The Tribunal further raised a query that since the amount of illegally mined sand had also not been computed by the District Magistrate concerned for each of the miners, therefore, without

computing the quantity of sand how could penalty or royalty be assessed and collected from the illegal miners. The District Magistrate, Paschim Medinipur, was, therefore, directed to file a fresh affidavit giving the necessary details in this regard.

23. In response, an affidavit dated 11.05.2022 has been filed by the District Magistrate and Collector, Paschim Medinipur, Respondent No.3. Along with this affidavit, a compliance report has been filed wherein it is stated that at the time of demarcation, the following matters have been observed i.e., there are 17 (seventeen) plots full or partly involved in above Original Applications in Mouza-Nerkamara, J.L. No. 129 and the involved full or partly plots are 163, 164, 165, 166, 167, 169, 171, 172, 173, 174, 185, 186, 187, 176/228, 159/229, 159,/230 and 351/232. It is also stated that the entire demarcated plots are bounded by six bamboo pegs as mentioned at point 1 which falls on plot no. 187, point 2 falls on plot no. 229, point 3 falls on plot no. 232, point 4 falls on plot no. 232, point 5 falls on plot no. 229 and point 6 falls on plot no. 171.

24. It is also stated that at the time of demarcation it was observed in the case of Original Application No. 62/2021/EZ with regard to Mouza-Dakshin Bengai, J.L. No. 203, the involved part admeasuring is in Plot No. 840 of which 2 points have been inspected out of 4 points and demarcated properly according to its latitude and longitude while the other 2 points were submerged and could not be identified properly.

25. As regards the Original Application No. 64/2021/EZ with regard to Mouza-Dakshin Bengai, J. L. No. 203, it is stated that the involved part of the Plot No. is 840 of which 2 points have been inspected out of 4 points and demarcated properly according to its latitude and longitude while the other 2 points of the sand block was submerged and could not be identified properly.

26. As regards the Original Application No. 65/2021/EZ with regard to Mouza-Jamsole, J. L. No. 137, it is stated that the involved part of the Plot No. is 211/271 of which 3 points have been inspected out of 4 points and demarcated properly according to its latitude and longitude while the remaining one point of the sand block was under plantation area as such the same could not be identified properly.

27. As regards the Original Application No. 63/2021/EZ with regard to Mouza-Rupnarayanpur, J. L. No. 564, it is stated that the involved part of the Plot No. is 215 of which 4 points have been inspected and demarcated properly according to its latitude and longitude.

28. One more affidavit dated 12.07.2022 has been filed on behalf of the Respondent No.3, District Magistrate & Collector, Paschim Medinipur, wherein it is stated that the Committee in its report has stated that there was no mining being done at the time of inspection at any of the plots in question as mentioned in the Original Applications and that most of the areas are water logged/submerged, therefore, only a few points could be

approached under the guidance of the local authorities. There was no mining of sand at the time of inspection or in recent past. Decayed traces of old evidences of sand mining, if any, can be assessed only by concerned District Authorities when the area in question is dry.

29. In the affidavit, it is also stated that a letter was communicated to the Deputy Secretary to the Government of West Bengal, Department of Industry, Commerce and Enterprises ('ICE' for short), Mines Branch, Kolkata-16, seeking modification of the draft District Survey Report ('DSR' for short) dated 23.09.2021 and by another letter dated 25.05.2022 to the Secretary to the Government of West Bengal, Department of Industry, Commerce and Enterprises, Mines Branch, Kolkata-16, a request was made to update the draft DSR to be published or uploaded in the Paribesh Portal. It is also stated that by another letter dated 11.07.2022, the Respondent No.3, had requested the Secretary to the Government of West Bengal, Department of Industry, Commerce and Enterprises, Mines Branch, Kolkata-16, to instruct M/s Global Management and Engineering Consultants, NABAT/QCI accredited consultant, to prepare DSR as per the guidelines issued by the Ministry of Environment, Forests and Climate Change, Govt. of India.

30. The District Magistrate & Collector, Paschim Medinipur, has also filed affidavit dated 27.08.2022, stating therein that there was ample evidence of sand mining being carried out on the left bank of the river Kangsabati by using heavy earth moving machines while

approaching J. L. No. 137, Plot Nos. 211/271 and also in the Bhasra area.

31. Along with this affidavit, a Status Report has also been filed with regard to Blocks Keshiary, Keshpur and Midnapur Sadar for 2016-17 upto 2021-22, showing the amount of penalty realized on account of unauthorized mining/unauthorized transportation of minor minerals which reads as under:-

<i>Information regarding Collection/ Penalty realized under the jurisdiction of <b>Keshiary/Keshpur/Midnapore Sadar Block</b> regarding unauthorized mining/ transportation from 2016-2017 onwards</i>		
<b>Block Name</b>	<b>Financial year</b>	<b>Amount collected (in Rupees)</b>
<b>Keshiary</b>	2016-17	34,600
	2017-18	2,71,900
	2018-19	90,000
	2019-20	1,56,000
	2020-21	15,26,000
	2021-22	0
	01/04/2022 onwards	0
	<b>Total</b>	<b>20,78,500</b>

<b>Block Name</b>	<b>Financial year</b>	<b>Amount collected (in Rupees)</b>
<b>Keshpur</b>	2016-17	1,63,400
	2017-18	4,92,000
	2018-19	13,49,500
	2019-20	9,96,000
	2020-21	14,54,000
	2021-22	1,34,000
	01/04/2022 onwards	47,000
	<b>Total</b>	<b>46,35,900</b>

<b>Block Name</b>	<b>Financial year</b>	<b>Amount collected (in Rupees)</b>
<b>Midnapore Sadar</b>	2016-17	26,71,221
	2017-18	6,97,865
	2018-19	11,90,680
	2019-20	40,80,000

	2020-21	31,77,610
	2021-22	4,22,500
	01/04/2022 onwards	0
	<b>Total</b>	<b>1,22,39,876</b>

<i>Information regarding collection/penalty realized under the jurisdiction of <b>Keshiary/Keshpur/Midnapore Sadar Block</b> regarding unauthorized mining/transportation from 2021-22 and onwards</i>			
<b>Block Name</b>	<b>Financial year</b>	<b>Amount collected (in Rupees)</b>	<b>Remarks</b>
<b>Keshiary</b>	2021-22	0	
	01/04/2022	0	
	<b>Total</b>	<b>0</b>	

<b>Block Name</b>	<b>Financial year</b>	<b>Amount collected (in Rupees)</b>	<b>Remarks</b>
<b>Keshpur</b>	2021-22	1,34,000	
	01/04/2022	47,000	
	<b>Total</b>	<b>1,81,000</b>	

<b>Block Name</b>	<b>Financial year</b>	<b>Amount collected (in Rupees)</b>	<b>Remarks</b>
<b>Midnapore Sadar</b>	2021-22	4,22,500	
	01/04/2022	0	
	<b>Total</b>	<b>4,22,500</b>	

32. In the affidavit, it is also stated that no illegal or unauthorized sand mining activity is going on or is underway or in progress at any of the plots in question. It is also categorically stated in para 6 of the affidavit that there is no District Survey Report (DSR) for Paschim Medinipur District. It is further stated that previously District Environment Impact Assessment Authority ('DEIAA' for short) Committee was the competent authority to prepare the DSR but after the judgment of the Principal Bench of the Tribunal dated 11.12.2018 passed in Original Application No. 186 of 2016 (Vikrant Tongad Vs. Union of India), DEIAA became non-functional.



33. It is also stated in the affidavit that in the Paschim Medinipur District, no lease deed has been registered without prior Environmental Clearance and in no case has prior Environmental Clearance been considered or granted by the DEIAA Committee after 12.12.2018. It is also stated that letter dated 11.02.2020 has been issued by the West Bengal Mineral Development & Trading Corporation Limited ('WBMDTCL' for short) to the District Authorities to extend full support to M/s Global Management and Engineering Consultants ('GMEC' for short), a National Accreditation Board for Education and Training/Quality Council of India, accredited consultant, duly enlisted by the Ministry of Environment, Forests and Climate Change, Govt. of India, for preparation of DSRs. Thereafter, correspondence ensued between the Industry, Commerce and Enterprise (ICE) Department and the District Authorities and finally the draft DSR was published by the Department and put in the public domain on 12.08.2021 seeking comments and suggestions over the same. Thereafter, the said draft DSR was provisionally accepted by the Department of ICE, Govt. of West Bengal, and a letter was communicated to the District Magistrate, Paschim Medinipur on 12.08.2021 inviting comments and suggestions from different organizations and public. In this DSR some rectifications were made and communicated to the ICE Department, Govt. of West Bengal by the District Authorities and thereafter the ICE Department, Govt. of West Bengal, vide its letter dated 25.05.2022 communicated to the District Authority of Paschim Medinipur for publication of the Final DSR. The said DSR

of Paschim Medinipur was apprised in the 49<sup>th</sup> meeting of State Level Expert Appraisal Committee ('SEAC' for short) and forwarded to the State Level Environment Impact Assessment Authority (SEIAA) on 24.08.2022.

34. The affidavit further discloses that after the order of the Tribunal dated 13.07.2022, the Committee from the IEST, Shibpur, was ordered to provide assistance to enquire into the cases of old line signature of sand mining along the left bank of river Kangsabati and Bhasra area to compute the Environmental Compensation. Accordingly, the Committee visited the four sites namely, (i) Plot No. 840(P), Mouza-Dakshin Bengai (203), P.S.-Kotwali, (ii) Plot No. 215(P), Mouza-Rupnarayanpur (564), P.S.-Keshpur, (iii) Plot No. 840(P), Mouza-Dakshin Bengai (203), P.S.-Kotwali and (iv) Plot No. 211/271(P), Mouza-Jamsole (137), P.S.-Gurguripal and reported that no sand mining activities were observed at the time of site visit in the four locations mentioned above.

35. A fresh report of the Committee dated 12.08.2022 has also been filed as Annexure-R-10 (page no. 457 of the paper book) along with the affidavit, wherein it is mentioned that after site visit and discussion with the district representatives, it appears that the required background Digital Elevation Model (DEM) data of 0.5 m or higher resolution and 0.1 m or higher resolution for the dry seasons for the study duration of the site to carry out the work in GIS framework, were not be available with the district administration

and under the circumstances it is not possible to conduct the proposed work.

36. A similar letter expressing inability to demarcate old line signatures of sand mining, has also been written by the Senior Geologist, G. P. Branch Bankura, on 17.08.2022 to the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Medinipur. The Report dated 12.08.2022 reads as under:-

**Department of Civil Engineering  
Institute of Engineering Science and Technology,  
Shibpur  
(Formerly Bengal Engineering College, Estd. In 1856)**

**Report on site visit at Paschim medinipore in order  
to assess sand mined out**

*The Additional district Magistrate and District land and Land Reforms Officer (ADM, DL & LRO), Paschim Medinipore approached (vide memo no.1130/G/OA/NGT/SAD/170-20/2021 dated 11.07.2022) to the Director, IEST, Shibpur with a request to provide needful assistance to examine all the evidences in case of old-line signatures of sand mining along the years till the date of inspection dated 17.11.2021 on the concerned left bank of river Kansabati and also on the Bhasra area in order to assess sand mined out.*

*Subsequently, the Head of the Civil Engineering Department, IEST, Shibpur had constituted a four-faculty member committee comprising of Dr. Sujata Biswas, Associate professor, Dr. Asok Adak, Associate Professor, Dr. Sandip Chakraborty, Assistant professor, And Dr. Ujjwal Saha, Assistant professor, to look into the matter and make a site visit for feasibility study of the said work. Accordingly, a site visit was arranged in consultation with the ADM, DL & LRO, Paschim Medinipore, on August, 09,2022.*

*Prior to the site visit, a meeting was held at the Circuit House, Paschim Medinipore District where the ADM, DL & LRO), Paschim Medninpore, Sri Saumitra Mudli, Special Revenue Officer & OC (Mines), Paschim Medinipur, Sri Debnath Patra, Special Revenue Officer & OC (Law, Vesting, Appeal), Paschim Medinipur, other officials of distric administration and team members of IEST. Shibpur (Dr. Ashok Adak, Dr. Sandip Chakraborty, and Dr. Ujjwal Saha) were present. The district representatives explained the scope of the work and various other information such as source and background data availability to carry out the work.*

*The team members of IEST, Shibpur, and the officials of the district administration visited four different sites in spite of heavy rainfall. The four sites were (i) Plot no.840 (P), Mouza-Dakshin Bengal (203), P.S.-Midnapore (ii) Plot No.215 (P) Mouza-Rupnarayanpur (JL-564) P.S.-Keshpur (iii) Plot No.840 (P) Mouza-Dakhsin Bengal P.S.-Midnapore (iv) Plot No. 211/271, Mouza-Jamsole (J.L. No.137) P.S.-Gururipal. No. sand mining activities were observed at the time of site visit at the four locations mentioned above.*

*After the site visit and discussion with the district representatives, it appeared that the required background DEM data of 0.5 m or higher resolution and 0.1 m or higher resolution for the dry seasons for the study duration of the sites to carry out the work in GIS framework, were not be available with the district administration. Under these circumstances, it is not possible to conduct the proposed work.”*

37. In our opinion, once the illegal mining has been established in the river beds in question by use of JCB machines and other machines, the State Respondents cannot express their helplessness in determining the quantity of sand illegally mined from the plots in

question mentioned in the present Original Applications. Even if the Geologist of the Department of Mines and Minerals is not sufficiently equipped with requisite technical expertise and equipment for purposes of determination of illegally mined sand, the same can still be garnered through the Satellite Imagery/Digital Elevation Model (DEM) by the Department of Civil Engineering, Institute of Engineering Science and Technology (IEST), Shibpur.

38. We may also observe that the Hon'ble Supreme Court vide its judgment and order dated 10.11.20221 passed in Civil Appeal Nos. 3661-3662/2020 (*State of Bihar & Ors. Vs. Pawan Kumar*), has constituted a Committee for determining the DSRs and even though the case of *Pawan Kumar* (Supra) was with regard to sand mining blocks in the State of Bihar, however, in view of the universal applicability of the Ministry of Environment, Forests and Climate Change Guidelines of 2016 and 2020 with regard to sand mining for preparation of DSRs, being an all India requirement applicable to every State for mining sand blocks, the directions given in *Pawan Kumar* (Supra) are also applicable to the State of West Bengal for purposes of preparation of DSRs. The directions of the Hon'ble Supreme Court given in the case of *Pawan Kumar* (Supra) read as under:-

- i. *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;*

*ii. 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;*

*iii. 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.”*

39. We, therefore, direct the SEIAA, West Bengal, Respondent No.8, to expedite the process for finalization of District Survey Report for the Paschim Medinipur District, West Bengal, within a period of two months in the light of the directions given by the Hon'ble Supreme Court in *Pawan Kumar (Supra)* and the Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement and Monitoring Guidelines for Sand Mining, 2020, issued by the Ministry of Environment, Forests and Climate Change.

40. The State Respondents in consultation with the Institute of Engineering Science and Technology (IEST), Shibpur, shall also determine the amount of illegally mined sand and compute Environmental Compensation and thereafter take steps to recover the same from the violators of environmental laws within four months and file affidavit of compliance by **16.01.2023**.

41. The District Magistrate & Collector, Paschim Medinipur, is also directed to ensure that strict vigil is maintained over sand mining operations within the District of Paschim Medinipur and he shall also ensure that no illegal mining allowed in his district in violation of environmental norms as well as the Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement and Monitoring Guidelines for Sand Mining, 2020, issued by the Ministry of Environment, Forests and Climate Change.

42. The Original Applications are disposed of accordingly with the aforesaid directions.

43. There shall be no order as to costs.

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**B. AMIT STHALEKAR, JM**

.....  
**SAIBAL DASGUPTA, EM**

**Kolkata,**  
**September 06<sup>th</sup>, 2022,**  
**Original Application No.62/2021/EZ**  
**With**  
**Original Application No.63/2021/EZ**  
**With**  
**Original Application No.64/2021/EZ**  
**With**  
**Original Application No.65/2021/EZ**  
**AK**