

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

.....

ORIGINAL APPLICATION NO. 184 OF 2013

(M.A. No. 865 of 2013, M.A. No. 669 of 2014, M.A. No. 881 of 2015 &
M.A. No. 882 of 2015)

IN THE MATTER OF:

Gurpreet Singh Bagga
S/o Sh. Jasbeer Singh Bagga
R/o Flat No. 11, Kailash Kung,
Gill Colony,
Distt: Saharanpur (U.P.)



.....Applicant

Versus

1. Ministry of Environment and Forests
Through the Secretary
Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi- 110003
2. State of Uttar Pradesh
Through the Secretary, Geology and Mining,
Civil Secretariat, Lucknow- 226001
3. Director, Geology and Mining
U.P. Khanji Bhawan, Lucknow- 226001
4. District Magistrate, Saharanpur
District of Saharanpur,
Uttar Pradesh- 247001
5. Mining Officer, District of Saharanpur
District of Saharanpur,
Uttar Pradesh- 247001
6. State Level Environment Impact
Assessment Authority, Uttar Pradesh
Directorate of Environment,
Dr. Bhim Rao, AMbedkar Paryavaran Parisar,
Vineet Khand- 1, Gomti Nagar
Lucknow- 226010 (UP)
7. M/s Pradhan Stone Crushers.
Village Kalubala Jahanpur,
Tehsil Behat, District Saharanpur.
8. State of Haryana.

.....Respondents

AND

ORIGINAL APPLICATION NO. 304 OF 2015

(CW No. 211 of 2011)

(M.A. No. 847 of 2015)

IN THE MATTER OF:

1. Jai Singh
S/o Sh. Phool Singh
R/o Vill. Nawazpur, P.O. Rampur Khadar,
Teh. Chhachhrauli, Distt: Yamuna Nagar
Haryana
2. Subhash Chand
S/o Sh. Chuhar Singh
R/o Vill. Sondhewas, P.O. Bartha Kayaasth,
Distt: Saharanpur,
Uttar Pradesh

.....Applicants

Versus

1. Union of India
Through the Secretary
Ministry of Environment & Forest
Shastri Bhavan,
New Delhi- 110003
2. State of Uttar Pradesh
Through its Chief Secretary,
Lucknow- 226001 (U.P.)
3. State of Haryana
Through its Chief Secretary,
Civil Secretariat
Chandigarh
4. Deputy Commissioner
District Yamuna Nagar,
Haryana
5. Deputy Commissioner
District Saharanpur,
Uttar Pradesh

.....Respondents

COUNSEL FOR APPLICANT:

Mr. Narender Hooda, Mr. Alok Garg and Mr. Aviral, Advocates.

COUNSEL FOR RESPONDENTS:

(IN O. A. NO. 184 OF 2013)

Mr. Vikas Malhotra, Adv. for Respondent No.1

Ms. Reena Singh AAG of UP, Adv. with Ms. Saumya Malik, Advs.
For Respondent No. 2 to 5

Ms. Savitri Pandey and Ms. Azma Parveen, Advs. For Respondent
No. 6

Mr. S.P. Singh, Sr. Adv. with Mr. Kalyan Dutt, Adv. for Respondent
No. 7.

Mr Neeraj Jain, Adv. with Mr. Anupar Mishra, Adv. Mr. Anil
Grover, AAG with Mr. Rahul Khurana, Advocate for State of
Haryana and HSPCB for Respondent No. 8

(IN O. A. NO. 304 OF 2015)

Mr. Panchajanya Batra Singh, Advs. For Respondent No. 1 - MoEF
& CC

Ms. Savitri Pandey & Ms. Azma Parveen, Advs. For Respondent No.
2 & 5

Mr. Anil Grover, AAG, Haryana with Mr. Rahul Khurana,
Advocates for Respondent No. 3, 4 & 7

Mr. Pradeep Misra and Mr. Daleep Kr. Dhyani, Adv. for
Respondent No. 6

Mr. Bhupender Kumar and Mr. Niti Chaudhary, LA, CPCB Ms.
Reena Singh, AAG with Ms. Saumya Malik, Advs.

JUDGMENT

PRESENT:

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)

Hon'ble Mr. Justice M.S. Nambiar (Judicial Member)

Hon'ble Prof. A.R. Yousuf (Expert Member)

Hon'ble Mr. Bikram Singh Sajwan (Expert Member)

Reserved on: 16th December, 2015
Pronounced on: 18th February, 2016

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

JUSTICE SWATANTER KUMAR, (CHAIRPERSON)

By this common judgment we shall dispose of Original
Application No. 184 of 2013 '*Gurpreet Singh Bagga vs. MoEF & Ors.*'
and Original Application No. 304 of 2015 '*Jai Singh & Anr. vs. Union*

of *India & Ors.*' as the subject matter of both these applications is common and similar issues arise for determination before Tribunal in both these cases.

CASE OF THE APPLICANT IN ORIGINAL APPLICATION NO. 184 OF 2013

2. The Applicant, resident of District Saharanpur, Uttar Pradesh is a social worker who claims to be involved in protecting the environment and ecology. He has filed various cases, particularly in relation to illegal sand mining in District Saharanpur. According to the Applicant, there is rampant illegal mining of minor minerals like sand, boulders, etc. in Saharanpur and more particularly on the river banks and river bed of river Yamuna. The said activity is being carried on in complete violation to the provisions of the Environment (Protection) Act, 1986 (for short, "Act of 1986"), the Rules framed therein and Environment Impact Assessment Notification, 2006 (for short, "Notification of 2006") causing large scale damage and huge environmental degradation. It is the case of the Applicant that the geographical location of District Saharanpur provides scope for such activity and the authorities have failed to regulate and/or control the illegal mining of minor minerals. District Saharanpur was declared as Saharanpur Division of State of UP, in the year 1997 and is primarily an agricultural district with 70% of land being under agricultural use. This district forms the most northerly position of the Doab land which stretches between the holy rivers, the Ganges and Yamuna. The Shivalik hills rise above it on the northern frontier. The Shivalik hills separate it from Dehradun district in the State of Uttaranchal on one side while on the other side, river Yamuna forms

its boundary in the west which separates it from Karnal and Yamuna Nagar districts of the State of Haryana. There are rivers like Solani, Hindon, Ratmau, Nagdev and more particularly river Yamuna in the physical reconstruction of the district. All these rivers submerge either in Yamuna or in the Ganges.

3. The Applicant filed a Public Interest Litigation being W.P. (C) No. 7672 (M/B) of 2012 titled *Gurpreet Singh Bagga v State of U.P. through the Secy. Geology & Mining & Ors* before the Hon'ble Allahabad High Court in relation to illegal sand mining in district Saharanpur at that time. The High Court passed certain directions for stopping such illegal activities. The Writ Petition is still stated to be pending before the High Court. It is stated by the applicant that the illegal mining activities have been going on for a considerable period of time but it increased manifold in the last 15 years because of large scale construction activities being carried on in the adjoining areas, particularly, the NCR. There is huge demand of sand and other minor minerals which the people are extracting both legally and illegally to earn profits at the cost of disturbing the river banks, weakening the river bed and disturbing the ecology. Mechanical mining in the river bed is not permissible but people have been carrying on illegal mechanical mining. Besides that, in certain areas stone crushers have been set up to crush such illegally mined boulders which have created havoc in terms of causing air pollution and reducing the agricultural land in villages and raising serious threat to life and health of the villagers. Even the stone crushers are

being operated without consent of the Uttar Pradesh Pollution Control Board (for short, "UPPCB").

4. The Applicant further submits that for mining operations in relation to minor minerals, the provisions of the Mines and Minerals (Development & Regulation) Act, 1957 (for short, "Act of 1957") and Rules framed therein are required to be mandatorily followed. It is necessary for every person to obtain mining lease/permit which is granted for a particular project and for fixed mining areas. Before the persons concerned can be permitted to operate their mining projects, obtaining Environmental Clearance (for short, "EC") in terms of Notification of 2006 is mandatory. The projects would fall under category 'B' of the Schedule to the said Notification. This Notification was issued by the Ministry of Environment, Forest & Climate Change (for short, "MoEF & CC") on 14th September, 2006. The application filed for obtaining EC for carrying on of such operations is to be dealt with in accordance with the provisions of this Notification and has to pass through the stages of screening, scoping, public consultation, and appraisal for grant or refusal of EC. Thus, a person desirous of carrying on mining operations has to obtain mining permit/lease in terms of the Notification of 2006 and consent of the UPPCB to establish/operate such mining. According to the Applicant, a handful of mining lease/permit holders are treating the entire district in the district Saharanpur as mining area irrespective of what is mentioned in their mining lease/permit and the EC. The mining activity is continued even without obtaining prior EC. In fact, anyone can undertake the mining operations of sand, boulders, etc.

in and around river Yamuna and transport the mined minerals without Form MM-11 to stone crushers which are located nearby on the river bed and after having crushed the same, the material is transported without any Form 'C'. There are exit 'toll booths' where dues are collected and Form MM-11 is issued. The Applicant states that the entire Saharanpur is treated as mining area where anyone can undertake mining operations. Transportation of mined material is being done without using Form MM-11 and crushed material is transported without using Form 'C'. Thus, there is complete violation of law.

5. The Hon'ble Supreme Court of India vide its order dated 25th November, 2011, in relation to rampant illegal mining in Uttar Pradesh, Haryana and Rajasthan without any environmental safeguards, had directed the Central Empowered Committee (for short, "CEC") to carry out site inspection with intimation to the MoEF&CC and the concerned State Governments and to submit its report. This order was passed in SLP (Civil) No. 19628-19629/2009 titled *Deepak Kumar v State of Haryana & Ors.* on 4th January, 2012. The CEC submitted a report informing that illegal mining of minor minerals is being carried out without any EC and with active connivance of State authorities. The Hon'ble Supreme Court of India after going through the CEC report dated 4th January, 2012 further passed an order dated 16th January, 2012 with certain directions, requiring the District Collector, District Superintendent of Police and the Additional Director (Mining Division) of Saharanpur to specifically ensure that no mining work is carried on any longer.

They were expected to take immediate steps to close down all illegally operating screening plants/crushers, etc. on both sides of river Yamuna. These authorities were also required to assess the quantity of illegal mining done in Saharanpur. Despite these directions, the illegal mining continued. There was close and clear nexus of State authorities with mining mafias. Other Writ Petitions were also filed being WP No. 9416 (MB) of 2010 and WP No. 10025 (MB) of 2010 where the Allahabad High Court had issued certain directions to the effect that no person anywhere in the State will carry out mining activity of minor minerals including sand/silica based on the mining lease, which do not have the EC in terms of Notification of 2006. The judgment of the High Court dated 29th April, 2011 passed in the case of *Mohd. Kausar Jah v Union of India & Ors* was challenged by the State of Uttar Pradesh before the Hon'ble Supreme Court of India which was dismissed vide order dated 18th January, 2013 observing that there was no merit in the case. Vide order dated 27th February, 2012, the Hon'ble Supreme Court of India in SLP No. 19628-19629 of 2009 *Deepak Kumar (supra)* had directed that the mining lease for minor minerals including sand, gravel, clay, marble and other minerals even in an area having less than five hectares would be granted only after EC is obtained by the Applicant. Even the Tribunal vide its order dated 5th February, 2013 in O.A. No. 171 of 2013, *National Green Tribunal Bar Association v Ministry of Environment, Forest & Climate Change*, had directed that the mining particularly in the river bed, should not be permitted without EC.

6. Even the CEC in its report dated 4th January, 2012 had noticed that large scale illegal mining was found to be taking place adjoining the Hathnikund Barrage whereas mining is specifically prohibited within a distance of 2.1 km from the Hathnikund Barrage. The Applicant also refers to the large scale of illegal sand mining and its adverse impacts thereof. It is even averred that this has a serious toll on the stability of the dams on river Yamuna. In the area of Chhajja Aht, there are two dams, namely, the Tajewala Dam and the Hathnikund barrage. River Yamuna has immense importance in terms of bio-diversity and the study conducted by the World Wide Fund for Nature in collaboration with the Thames River Trust, UK has documented the faunal diversity on a 194 km river stretch from Bateshwar Ghat in Agra to Dibholi Ghat in Etawah. They found the gharials nesting near the confluence of Yamuna and Chambal apart from other threatened species like the Gangetic dolphin and black-necked stork. The applicant submits that illegal mining activity has serious impact on ecology and bio-diversity as well as it causes destruction of flora and fauna including aquatic life, thus causing ecological imbalance and environmental degradation.

7. Referring to the persisting illegal, unauthorized and indiscriminate mining of sand and minerals, particularly at the river bed, the applicant has stated that there is a cartel that has been running now for more than last 10 years and carrying on this activity, causing serious environmental degradation. The Magazine Tehlka had conducted an independent investigation and published an article in its edition of 13th July, 2013 under the title 'Mining with

Impunity' which focused on the illegal mining in the District of Saharanpur. They even pointed out the nexus between the administration and the miners, particularly the noticees in the present case and their relations. Referring to the disaster in Uttarakhand it was stated that foundation for a similar disaster is being laid in the District Saharanpur (U.P.) because of the illegal mining and stone crushing activity.

The fact that stone crushers are operating in an illegal and unauthorized manner without the consent of the Board, evidently has long term serious impacts upon the stability and foundation of the Hathnikund Barrage and Tajewala dam. The emissions from the stone crushers could be classified into two types, Primary and Secondary Emissions. Primary Emissions are emissions of fine dust from crushing process generated during operation of stone crusher. These emissions are generated at the time of loading and unloading of raw material, jaw crushers, and screen transfer points. Secondary emissions are those where the fine dust settles on ground or on equipment or on stock piles and gets air borne due to wind or vehicle movement which remains in suspension for a long time. Both these emissions are stated to be causing serious air pollution and health hazards. It is averred by the applicant that the procedure of grant of EC by MoEF & CC as well as the consent by the Boards and lack of follow-up in compliance of conditions imposed in such clearance is further causing serious environmental hazards. The ECs are granted with such conditions which are either incapable of compliance or are actually not complied with. The

activity is being carried on terms contrary to the specified conditions. The conditions are primarily imposed to protect the environment around the mining area and in particular the river, its course, bank and the river bed. No inspections at regular intervals are carried out by any of the authorities to find out whether there is proper implementation of the conditions imposed. The applicant thus prays that strict guidelines should be laid down by the Tribunal. The applicant has even made reference to various cases including that of grant of EC to M/s Mohd. Inam and Mehboob Alam. It has been averred by the applicant that the situation arising from this illegal and unauthorized mining is so grave that even persons from outside are not permitted to enter the area. The experts are not willing to take up the assignment for fear of their life. The application according to the applicant raises substantial questions relating to the environment, particularly air pollution and damage to the flood plains, ecology and biodiversity of the water bodies.

On the above premise the applicant has prayed for the following reliefs-

“It is therefore most respectfully prayed that the Hon’ble Tribunal may graciously be pleased to:

- (A) Pass an order directing closure of all sand mining operations in the District of Saharanpur in the State of U.P. whether being done pursuant to grant of environmental clearance or not;
- (B) Pass an order directing closure of screening plants/stone crushers which are within 500 meters of the flood zone of river Yamuna in the District of Saharanpur in the State of U.P.
- (C) Pass an order framing strict guidelines to ensure compliance of the post-environmental clearance terms and conditions by the mining

lease holders in order to safeguard the environment around the mining area and to ensure compliance of the provisions of relevant laws relating to the environment in their letter and spirit.

- (D) Pass an order laying down strict guidelines to ensure accountability of the concerned statutory authorities under the laws enumerated in Schedule 1 to the National Green Tribunal Act, 2010 so that they perform their duties under the said law in order to safeguard the environment from aforesaid mining of minor minerals;
- (E) Direct respondents no. 1 and 6 to ensure strict compliance of terms and conditions of environmental clearances granted by the Ministry of Environment and Forests, New Delhi to the mining lease holders of minor minerals in the District of Saharanpur, Uttar Pradesh;
- (F) Pass an ad interim ex parte order in terms of prayers (a) and (b) above during the pendency of the present petition;
- (G) Pass an ad interim ex parte order directing stoppage of all transport of minor minerals from the mining site to the stone crushers without use of Form MM-11 during the pendency of the present petition.
- (H) Pass an ad interim ex parte order directing stoppage of all transport of minor minerals/ resultant materials from the stone crushers or mining site to the market for sale without use of Form C during the pendency of the present petition; and,
- (H) Pass any such other order or orders as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case.
- (I) Compliance and enforcement of the conditions imposed.

Further M.A. 865 of 2013 was filed by the Applicant praying for an order with direction to identify those persons who are directly or indirectly involved in illegal mining and/or responsible for the illegal mining in district of Saharanpur, an order to initiate civil and/or criminal proceeding against private persons under section 15 of Environment Protection Act, 1986 (for short "Act of 1986"), an order

to initiate civil and/or criminal proceeding against Government officials involved in illegal mining.

8. Vide order dated 13th February, 2014 the applicant had placed on record a video shot by him from 26th January, 2014 onwards which show that illegal and unauthorized mining activity was going on even on by the persons who do not have any license or lease granted by the Government. At this stage, we may notice that M/s Pradhan Stone Crushers was directed to be impleaded as respondent no. 7. Vide the same order the Tribunal had directed the State Government to provide names of the persons who had been found to be carrying on illegal mining. Keeping in view the CEC Report that was accepted by the Hon'ble Supreme Court of India, the Tribunal had directed issuance of notices to the persons who had been carrying on illegal mining activity. Vide order dated 18th September, 2014 the Tribunal had directed issuance of notice to M/s Mohd. Inam and Mahboob Aalam who were stated to be carrying on mining activity and whose names have been mentioned in the report of the CEC. These noticees were granted time to file objections to the reports before the Tribunal. When the matter was being heard on 17th August, 2015 it was found that in the facts and circumstances of the case, State of Haryana would be a necessary party for complete and final adjudication of this matter and it was directed that notice be issued to the State of Haryana as well. This is how respondent no. 8, the State of Haryana became party in this application.

Case of the Applicant/Facts of Original Application No. 304 of 2015

9. Jai Singh and Subhash Chand filed Writ Petition (Civil) No. 211 of 2011 before the Hon'ble Supreme Court of India with the following prayers:

- A. "Issue a writ of Mandamus or any other writ or direction to the Respondents for immediate closure of the Screening plants and mining operations on the bank of Yamuna River in Distt. Yamuna Nagar & Saharanpur affecting the villages Nawazpur, Lakkar Mepartappur, Mali Mazra, Bhilpura, Kanywala, Belgarh, Nathanpur, Rampur Khadar, Hasanpur, Ismilepur, Haldari, of Distt. Yamuna Nagar, Haryana and Villages Sondehbas, Bhudh and Gazdinpur of Distt. Saharanpur, U.P.
- B. Direct the Respondents to repair the damaged banks of the river Yamuna as mentioned in the map indicating villages of Haryana and UP and direct the State of Haryana to construct bandh on the bank of River Yamuna nearing the villages.
- C. Pass any other of further order meet the ends of justice."

10. The above prayers were founded on the averments that the Public Interest Litigation was being filed to save about 35 villages on either sides of river Yamuna in District Yamunanagar in the State of Haryana and Saharanpur in the State of UP. It was averred that large scale mining activity was going on and screening plants and stone crushers were operating round the clock in the river bed and on the bank of river Yamuna and were causing erosion of river bank while spreading air pollution and causing serious public health hazards. The Applicant had made large number of representations to the authorities and got no result. These illegal activities were being carried on in both the States (i.e. State of Haryana and State of Uttar Pradesh). State of Haryana was making some efforts for controlling

the same while the State of Uttar Pradesh was acting as a mere spectator and the officials seemed to be in hand-in-glove with the persons carrying on mining activity. It has been averred that these stone crushers and screening plants were set up in the immediate vicinity of villages Nawaspur, Lakkarme, Partapur and Malimajra, etc in State of Uttar Pradesh on either side of river Yamuna. The material is transported in an unscientific manner and through heavy commercial vehicles, including tipper, dumpers, tractors, trucks and trollies, etc. while even the roads in these villages/locality are not fit enough to carry such heavily loaded vehicles. The residents had made various complaints to the authorities including the Deputy Commissioner as back as on 20th October, 2010 and complaints were also filed thereafter to different authorities. Representations were made to the authorities in both the States as well as to the Haryana State Pollution Control Board (for short 'HSPCB') stating that screening plants and mining activities are totally illegal and are operating in violation of anti-pollution laws and the residents were suffering tremendously. The villagers even moved an application to the Chief Secretary of State of Uttar Pradesh on 5th March, 2011. It is averred that there was sharp erosion of river beds and health and houses of the residents of 35 villages were in jeopardy due to such illegal mining and the river would even change its course as a result. Furthermore, the heavy traffic was also hampering the day-to-day life of the villagers and the visitors to anganwadi, schools, temples and hospitals were finding it difficult to travel since these illegal activities were being carried on within 200 meter of village

population and there was every possibility of breach of peace in and around the villages. It is specifically averred by the applicant that there is noise pollution and tremendous pollution of air together with generation of lot of waste water. The screening plants are in operation without arrangement of water treatment and solid waste management which is fatal to the bio-diversity and eco-system in particular. The mining is being done mechanically by use of JCBs and is being done very deep inside the said river at some places. It is even beyond 15 to 25 feet which is not permissible. The cumulative effect of all this is on the environment, ecology, public health and the bio-diversity of the river.

11. In this writ petition both the States of Uttar Pradesh and Haryana had been impleaded as respondents. Notice on this application was issued by the Hon'ble Supreme Court of India vide its order dated 7th May, 2011. However, the Hon'ble Supreme Court of India vide its order dated 16th July, 2015 directed transfer of this writ petition to the Tribunal and directing the Tribunal to look into the grievance of the Petitioners as ventilated in the petition. Upon its transfer, this Writ Petition (C) No. 211 of 2011 came to be registered as Original Application No. 304 of 2015. The reliefs prayed for in this application are quite similar to the reliefs claimed by the Applicant in Original Application No. 184 of 2013. Thus, both these cases can appropriately be disposed of by a common judgment.

STANDS OF RESPONDENTS

12. The State of Uttar Pradesh has denied that the Applicant in Original Application No. 184 of 2013 is a public spirited social

worker concerned with the environment. According to them, the application does not disclose the credentials of the Applicant. The writ petition has been filed in the High Court of Allahabad at Lucknow Bench. Interim order was passed on 28th September, 2012 by the High Court which was stayed by the Hon'ble Supreme Court of India in SLP No. 19663-19664 of 2013 titled as '*Sunder Kumar v. State of UP*' vide order dated 14th June, 2013. The said SLP is pending before the Hon'ble Supreme Court of India.

The Ministry after framing the Environment (Protection) Rules, 1986 (for short 'Rules of 1986') had issued a Notification dated 14th September, 2006 stating the requirements of prior EC for carrying on of mining projects. One Kamlesh Verma had filed a Public Interest Litigation, namely, Writ Petition No. 5290 (MB) of 2009 titled *Kamlesh Verma v State of U.P. & Ors.* before the High Court of Allahabad for issuance of directions for stopping of mining activity in the State of Uttar Pradesh without prior EC in relation to minor minerals. The High Court vide its interim order dated 25th June, 2009 directed the Chief Secretary of the State to respond to the said petition. The Government had taken a stand that the mining of minor minerals was not covered under this Notification. The writ petition afore-noticed along with other petitions were disposed of by judgment dated 29th April, 2011 wherein the High Court passed the following directions:

“(A).In respect of mining leases whose period expired after coming into force of the notification dated 14.09.2006, as also in respect of new mining leases granted subsequent to 14.09.2006, it is mandatory to obtain environmental clearance under the Notification dated 14.09.2006. Many holders of

mining leases from the district Saharanpur have applied for environmental clearance and their applications are pending and as there was some dispute as to whether minor minerals, include sand/silica falling within the definition of mining minerals, we grant time till 30.06.2011 to carry on the mining operations.

(B). The State Government to ensure as on 1.7.2011 that no person anywhere in the State will carry out any mining activity of minor minerals including sand/silica based on the mining leases, which do not have the environmental clearance under the notification of 14.09.2006.

(C). The State to take steps to implement the report of the Committee appointed in Noor Mohammad vs. State of U.P. (Supra) pursuant to direction dated 6.3.2009 as referred in para 20 of the judgment and the letter dated 1st June, 2010 from the Ministry of Environment & Forest, Government of India.”

13. It is also submitted by the State of Uttar Pradesh that the case of *Deepak Kumar (supra)* was pending before the Hon'ble Supreme Court of India which was disposed of vide order dated 27th February, 2012 directing all the State Governments, Union Territories as well as Ministry of Mining to frame relevant rules in light of the recommendations made by a Group constituted by the MoEF, Government of India within six months. The State of Uttar Pradesh amended the Uttar Pradesh Minor Minerals (Concession) Rules, 1963 (for short, "Rules of 1963") by framing the Uttar Pradesh Minor Minerals (Concession) (Thirty-Fifth Amendment) Rules, 2012 (for short 'Rules of 2012'). According to the State of Uttar Pradesh only those mining activities are permitted in district Saharanpur for which the project proponent has got prior EC from the regulatory authority of the Central Government or SEIAA in terms of Notification of 2006. It is not disputed that river Yamuna is passing through the district Saharanpur and forms boundary of States of

Uttar Pradesh and Haryana. Geographical location of the district is also not a matter of dispute. The Writ Petition No. 9416 (MB) of 2010 titled as *Mohd. Kausar Jah v Union of India & Ors.* was disposed of by the High Court, Lucknow Bench vide its order dated 29th April, 2011 with the directions that it was mandatory to obtain EC in relation to mining lessees whose lease period had expired after coming into force of the Notification of 2006 and for the new leases which would be granted thereafter. It was further directed that the State would ensure that as on 1st July, 2011 no person anywhere in the State will carry out mining activity of minor minerals including sand/silica without EC under the Notification of 2006.

14. The State of Uttar Pradesh has averred that no person is permitted to remove the material from the lease hold area in violation of the terms and conditions mentioned in the EC. For the purpose of securing 100% royalty, on the minerals dispatched from district Saharanpur, all precautionary measures are being adopted by the district administration to check evasion of royalty. The boulders and gitti are crushed by the crusher plants and sold in the market. However, other minor minerals like bajri and boulders are sold in market from their place of origin. In relation to illegal mining, it is stated that the Commissioner, Saharanpur Division had been appointed as Enquiry Officer by the State Government for assessment of the quantity of illegally mined minor minerals as had been indicated by CEC in its report for the areas of village Nuniyari and other places. The Commissioner took assistance of some technical officers to prepare the report. However, final report had not

been received from the Commissioner, Saharanpur Division and the quantity of illegally mined material could not be ascertained as on the date of filing of the reply i.e. even on 7th October, 2013. It was also contended that the determination of price of the minerals is beyond the jurisdiction of the State of Uttar Pradesh and that the price of such minerals is governed by the principle of equilibrium on 'supply and demand'. Now-a-days, due to flourishing of construction industry the demand of sand, morrum, and other building material has increased manifolds and hence there has been a rise in their prices. The State Government always tries to demarcate all areas which are suitable for the purpose of removal of minor minerals without causing any air or water pollution and damage to the nearby forests or any harm to the environment of the area. According to the answering respondent, State of Haryana has not implemented the directives of the Hon'ble Supreme Court of India and has not implemented the recommendations of MoEF.

15. It is submitted that one mining lease, measuring 10.52 hectares, Lot no. 18, in village Chhajja Ahatmal was granted in favour of M/s. Mohd. Inam, and the Central Government has already given prior EC on 26th October, 2012. The EC has been granted only after Environmental Appraisal Committee (EAC) had examined all relevant aspects as well as the situation of the area. The Irrigation Department has not objected to the examination, and the lessee is also duty bound to conduct the mining operations in a skillful manner, without damaging any public property, dam, rail, road, ropeways, etc. The said lessee has been permitted to carry on mining

in accordance with terms and conditions of the lease-deed and the EC. The MoEF, vide their letter dated 25th October, 2012 had imposed a condition that there shall be no mining of any type within three meters radius or ten percent of the width, whichever is more and such area shall be left on both sides of banks (inwards) of river Yamuna to control and avoid erosion of river bank as provided in the Development Plan. Mining had to be done as per Development Plan prepared for the project. The lessees were required to undertake adequate safeguard measures during extraction of minerals from river bed and also to ensure that the hydro geological regime of the surrounding area was not affected.

The Hon'ble Supreme Court of India in the case of *Deepak Kumar (Supra)* had directed the Superintendent of Police, Saharanpur District Office, Saharanpur for stopping the functioning of those stone crushers which are situated within 500 meters radius from the river bed of river Yamuna. These were closed and a Committee was constituted with the representatives of Uttar Pradesh Pollution Control Board (for short, "UPPCB") for verifying the situation of the stone crushers and if any stone crusher was found functioning legally, the same was to be allowed, otherwise the stone crushers were to be closed and dismantled. The stone crushers that were situated in the prohibited zone and were operating without the consent of the board were ordered to be closed. The Government of Uttar Pradesh has submitted that it has complied with the order of the Hon'ble Supreme Court of India including order dated 27th February, 2012. Vide letter dated 12th August, 2013, the Government

had constituted two Committees of three members each one from Environment Directorate, Forest Department and Mining Department and they have been entrusted with the work of inspection of their areas in accordance with the terms and conditions of the EC. It was further stated that if these Committees found that any lessee is not conducting mining operations in accordance with the terms and conditions of prior EC, the matter was to be reported to the Department of Directorate of Environment and necessary action was required to be taken. It has been stated by the answering respondent that the Government of Uttar Pradesh is fully cautious and has framed the system of checking the working of the lessees in light of the above. The mining operations are going on in accordance with the terms and conditions of the lease-deed and with prior EC. No harm has been reported by any authenticated agency. According to the State, sustainable development is one of the means to achieve the objectives and purpose of the law as well as protection of life under Article 21 of the Indian Constitution. Due acknowledgment of these principles will breathe life into environmental jurisprudence and sustainable development can only be achieved by ensuring strict compliance of the law.

16. Vide order dated 5th November, 2014, the Tribunal had directed the State of UP to place on record the complete copy of the report dated 4th January, 2012 submitted by the CEC before the Hon'ble Supreme Court of India to enable the parties to answer the findings recorded therein. The State of UP was also directed to place

an affidavit on record stating the action taken on the basis of the reports dated 4th January, 2012 and/or 3rd August, 2012 of the Commissioner, Saharanpur Division addressed to the Principal Secretary, Geology and Mining Department of Uttar Pradesh. The State thus filed the compliance affidavit placing the report on record as annexure-1 to that affidavit and also stated the action taken by the Government. In the affidavit, it is stated that the District Magistrate, Saharanpur had issued notices to the lessees as per Uttar Pradesh Minor Mineral (Concession) Rules, 1963 (for short 'Rules of 1963') who are mining in the areas which have been marked illegal and to get their replies in order to take appropriate action. It was also stated that the figures of Commercial tax of stone crushers which had been reported to be storing illegally mined materials by the Expert Committee may be matched with the figures of minerals obtained from Mining Department under the Uttar Pradesh (Prevention of Illegal Mining Transportation and Storage) Rules, 2002. Fresh steps were to be taken at the regional level against persons guilty of conducting mining outside the legally permitted mining area. Separate instructions were given to the Director, Geology and Mining Department, to establish the liability of the Departmental Officers/Employees working during that period in Saharanpur.

Vide letter dated 11th December, 2014, the Principal Secretary, Geology and Mining Department had written to the Commissioner with reference to the report dated 3rd August, 2012 where it was

found that illegal mining had been committed in the district Saharanpur. The said letter reads as under:

Annexure No. 2

No. 1811/P.S. (M)/2014)

“From:
Dr. Gurpreet Singh,
Principal Secretary,
Geology and Mining Department
State of U.P.

To,
Commissioner,
Saharanpur Division,
Saharanpur.
Lucknow

Dated 11.12.2014

Sir,

Please refer to your letter No. 1693/R.P.-1 dated 03.08.2012. The committee constituted by the two Additional Commissioner has presented its inquiry report dated 10.12.2012 pertaining to the alleged illegal mining committed in district Saharanpur. Thereafter, the State has, after considering the recommendation of the Committee relating to the inquiry, constituted an Expert committee of officers of the concerned departments at State level, to evaluate the estimated loss caused to the State by mining undertaken in the mining area and illegal mining of minor mineral, transportation, establishment of crushing machinery in prohibited area, and to establish accountability of the guilty persons. In this relation, the High Level Committee, constituted by Department of Environment, has also, after its inquiry, submitted its report in July 2013. The inquiry report, specially the report of the Expert team, estimated the illegal mining conducted in 22 villages near district Saharanpur, 13 villages near river Yamuna, and agricultural field of 09 villages near Stone. Considering the amount of heavy mining undertaken, you recommended an advance probe in the matter, so that the accountability be established and legal action may be taken against the officers/employees and minors involved in the illegal mining .

1. In this reference I have been instructed that the State has, considering the inquiry report, has taken following decisions:
2. The Competent Officer/ District Magistrate Saharanpur, to issue notice, as per Rules, to the lessees under the mining lease of the areas which have been marked as illegal, subsisting at that time; and in this reference, after getting their reply, take appropriate legal action against them.
3. The figures of commercial Tax of stone crusher's, which have been reported by the Expert Committee to be storing illegally mined minerals, may be matched the figures of minerals obtained from Mining Department under the Storage Rules and mineral purchased from purchased from the lessees legally undertaking mining, as mentioned in letter MM-11 of the Mining department, so that it may become clear whether the illegally mined minerals have been stored through the stone crushers or not.

4. Fresh steps may be taken at regional level, as mentioned by the Expert Committee in its report, to find out and take action as per law against persons guilty of conducting mining, outside the legally permitted mining area.

Other than the aforesaid, separate instructions have been given to the Director, Geology and Mining Department to determining the liability of the Departmental Officers/Employees working at that period in Saharanpur.

Please take the aforesaid appropriate actions and intimate the action taken to the State as soon as possible.

Sincerely,

(Sd/-)

Dr. Gurpreet Singh
Principal Secretary”

17. While referring to the averments made by the Applicant in the rejoinder that quantity of minerals dispatched as mentioned in the transit pass (MM-11) does not match with the quantity received for the weighing machine, it shows that in collusion with the officers of the Government there is illegal mining and transportation of minerals going on. It is stated that the actual transit pass is filled-up by the actual lessees or their agents at the time of loading of mined minerals. It is the duty of carrier in-charge to pass vehicles through such road where the barriers are erected. It is then duty of the workers, deputed at the barriers, to check and compare the actual quantity loaded on such vehicles with the quantity as mentioned in the transit pass. It is also stated that the documents annexed to the rejoinder are doubtful as the applicant has not stated from where he got these documents since he is not supposed to possess these documents. The State further states that they require time to investigate into the matter and if anybody is found guilty, action would be taken in accordance with law. It is also stated that applicant himself has been found involved in illegal mining activity through JCB machines in the areas falling in district Saharanpur and an FIR has been lodged against him in the police station Behat

and the matter is under investigation. It is the case of respondents 2 to 5 that on perusal of the audio recorded in the DVDs/Videography and photographs produced by the applicant before this Tribunal, it appears that the persons shooting the video have tried to manipulate the DVD and on examination of the DVDs it has been found that trick photography has been used by the persons who shot the photographs.

According to the State, the Applicant is a name lending person and has without any proper study, acted merely on the basis of news items filed in the present application, which according to them, should be dismissed.

18. A separate reply was filed by the Deputy Director (Environment) State of Uttar Pradesh, Meerut on behalf of the Respondent No. 6 i.e. State Environment Impact Assessment Authority (for short, "SEIAA"). It is stated therein that EC shall be taken from the Central Government, MoEF, for category 'A' projects and from SEIAA at State level for category 'B' projects. The SEIAA shall base its decision on the recommendations of State Level Expert Appraisal Committee (for short, "SEAC") which has been constituted by MoEF through their Notification dated 12th October, 2010. It is also stated that the term of SEIAA and SEAC has expired on 12th October, 2013 and the matter in relation to constitution of new Authority/Committee is under consideration of the State Government. The Directorate of Environment, Government of Uttar Pradesh was declared to function as the Secretariat to the aforesaid statutory bodies. It is further submitted that MoEF vide Notification

of 2006 has made it mandatory to obtain prior EC for establishing new projects or for expansion of existing projects. All mining operations are to be carried on over the areas admeasuring up to 50 hectares falling in category 'B' and in respect of these the EC is to be obtained from and granted by SEIAA. No application regarding prior EC for mining operations in district Saharanpur has been received till date. The mining leases are granted by Mining Department and district administration, for which prior EC is a pre-requisite, even in cases of new leases or renewal of leases, post 14th September, 2006. Any mining activity/project specified in category 'B' will be treated as category 'A', if located in whole or part within 10 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted Areas as notified by the Central Pollution Control Board (for short, "CPCB") from time to time, (iii) notified Eco-Sensitive Areas, (iv) inter-State boundaries and international boundaries; the application for such projects for prior EC shall be made directly to MoEF, Government of India. Mining Leases in the State of Uttar Pradesh are issued by the Department of Geology & Mining which controls and regulates the actual mining work in the field. The number of cases of illegal mining/violations may be provided by that Department. The operations of stone crushers are monitored by the State Pollution Control Board which controls and regulates the actual operation work in the field. The SEIAA, Uttar Pradesh has granted EC to 214 sand/morrum mining project proposals upto 30th September, 2013 for carrying out the mining activity. The extent and quantum which, they have been

permitted under the said permissions are stated therein. In this reply, also a vague averment has been made that due care is being taken to protect the environment and ecology of the area.

19. The State also filed another affidavit dated 13th March, 2014 answering the queries raised by the Tribunal vide its order dated 21st January, 2014 and 19th February, 2014. It was stated therein that while conducting regular vigilance for ensuring that no illegal mining/transportation of minerals is being carried out in the mining areas, two JCB machines, driven by driver of Gurpreet Singh Bagga were found to be carrying on illegal mining activities on 23rd February, 2014 on the river bed of river Yamuna/jungle Lodhibas and a criminal case under section 379 of Indian Penal Code, 1860 and Section 4/21 of the Minor and Minerals (Development and Regulation) Act, 1957 (for short Act of 1957) had been registered against the applicant. In this affidavit, it is stated that CEC had conducted the inspection and submitted the report to the Hon'ble Supreme Court of India. Serious irregularities were brought to the forefront by that report and the Hon'ble Supreme Court of India issued directions which have been complied with. It is specifically stated that leases in respect of an area of 686.693 acres, granted by way of public auction in favour of Shri Amit Jain and Mahmood Ali were closed by 26th January, 2012 and were neither renewed nor extended any further. Further extension or renewal was not permissible under the statutory provisions. It is also submitted that only 13 leases who have been granted/renewed lease after obtaining prior EC are being permitted to carry on mining in district

Saharanpur and no case had been registered against the said lessees in the past relating to carrying on of mining activity in contravention of the Rules of 1963. Regarding the query related to action taken by the Government for recovery of revenue loss on account of illegal mining, it is stated that in the response of the department to the report dated 17th July, 2012, a Committee was constituted which was headed by Commissioner, Saharanpur Division, as already referred and the Government will take decision on the recommendations of the Commissioner and decide appropriate course of action to be adopted against the culprits as is permitted under law.

20. In this Affidavit it has also been stated that in compliance to the order of 8th May, 2012 passed by the Hon'ble Supreme Court of India the State Government vide its order dated 21st May, 2012 had directed the Directorate, Geology and Mining (UP) to conduct a public auction of the minor minerals seized. 3,71,47,761 Cubic meter of seized minor minerals was auctioned for a sum of Rs. 95,62,13,000 in favor of M/s Sand and Stone, the auction purchaser who deposited 50 per cent amounting to Rs. 47,81,06,500 in the government treasury. The rest of the bid amount was supposed to be deposited in two installments (of 25% amount each) which they defaulted. It is stated that generally after each rainy season the river bed gets fully charged however, data as to the measurement of gauge discharge, water quality etc. of the river is collected by the Central Water Commission of the Central Government and they needed time to provide the data. The State of Uttar Pradesh has also averred that

they have issued a Notification dated 23rd December, 2012 to the effect that mining activity shall not be carried out beyond the depth of 3 meters, or the water level, whichever is less. Before the insertion of the above provision, there was no digging or extraction of minor minerals from the river bed. It is stated that the inspection conducted on 7th March, 2014 had depicted that average mining depth of the leased mining pits is 2.25 meters and no violations have been noticed. In relation to transit passes issued by the State Government, a statement has been filed on record to show the type of vehicles permitted to carry on the said activity.

In response to the query raised by the Tribunal vide its order dated 19th February, 2014 with respect to the persons responsible for illegal mining of 1.41 lac cubic meters, reliance has been placed by the State on the inspection report of the Commissioner Saharanpur dated 3rd, August, 2012. In this regard, copy of the letter dated 3rd August, 2012 written by Commissioner, Saharanpur division to the Principal Secretary, U.P. Government has been placed on record along with a copy of the inspection report.

21. In the case of Original Application No. 304 of 2015 titled as *Jai Singh (supra)* another detailed Affidavit has been filed on behalf of the State. It will be appropriate to notice the averments made in that affidavit as well at this stage. It is stated on behalf of the State that the Act of 1957 came into force on 1st June, 1958. In exercise of the powers conferred under sub-section (1) of section 15 of the said Act of 1957, the Government of Uttar Pradesh framed Rules of 1963 to prescribe the procedure for grant of mining leases/mining permits in

respect of minor minerals. The mining leases are granted in two ways, firstly by inviting applications for grant of mining lease under the provisions of Chapter II of the said Rules of 1963, secondly by holding public auction or through auction-cum-tender system under the provisions of Chapter IV of the said Rules of 1963. In 2004 the Government of U.P. took a policy decision that the mining leases of the minor minerals, which are exclusively found in the river beds shall be granted under the provisions of Chapter II of the Rules of 1963 after declaring the availability of such areas as per the provisions of the Rule 72 of the Rules of 1963 in favour of the applicants who are found to be most deserving and suitable. Forty three mining lease covering an area of 1975.433 acres were granted in favor of different persons and at present 5 mining leases are closed and only 38 mining leases, covering an area of 1790.633 are in operation. Reference is made to the Notification issued by MoEF dated 27th January, 1994 which was amended by the Notification dated 14th September, 2006 in relation to grant of EC for such project or activity. It has also been averred that the rules framed by the State under Section 15(1A) of the Act of 1957 vide Notification dated 10th October, 1987 would prevail over other provisions including the Act of 1986. The legislature while framing rules under Section 15 (1A) was aware of the existence of Act of 1986 and therefore, the rules should get precedence over the provisions of the Act. In this affidavit reference has been made to the various judgments and orders passed by the Supreme Court of India as well as Allahabad High Court in different cases (which have been noticed by us above).

The EC was granted by the experts on the recommendations of the Expert Appraisal Committee on 23rd to 25th March, 2011 in Tehsil Behat District Saharanpur in terms of the Notification of 2006. It is submitted that adherence to the Principle of Sustainable Development is now a Constitutional requirement and the extent of damage to the Environment and Ecology has to be decided from the facts of each case. It is also stated that vide letter dated 29th June, 2011 UPPCB, Regional Office, Saharanpur had informed that due to restrictions on mining activity in the State of Haryana some screening units had shifted to the western side of the Yamuna river near Haryana border on the Revenue Land of Uttar Pradesh in village Naniyari and Jodhebans, Tehsil Behat, District Saharanpur. The Screening Units separates the mixed minor minerals collected from the river in to sand and stone boulders and supply the stone to the nearby crusher units of Haryana, and river coarse sand named as Bajri is utilized by the people of Haryana. Most of the units have been established by the people in the Haryana side. The 35 screening units have been inspected by the UPPCB Officials on 11th March, 2011 and during inspection these units were found closed. The units were established without obtaining prior 'No Objection Certificate' and consent for operation from the UPPCB hence notices of closure were served on the proprietors of these units. The Government of Uttar Pradesh is making serious efforts for regulating such type of industries by complete adherence to the environmental laws. It is further submitted that in Village Nuneyari of District Saharanpur, two mining leases were granted in favor of Shri Mahmood Ali, Shri

Puneet Jain and Mukesh Jain for an area of 60 acres. The Expert Appraisal Committee recommended the grant of EC; however, no appraisal order has been received from the Regulatory Authority. Hence, the mining operations are not being conducted on the lease hold area. It is stated that in the Village Jodhabas in District Saharanpur, no mining lease has been granted in favor of any person and no mining activity is being carried on. Notices even to the 35 screening units have been issued for closure. For establishing a crusher or a screening unit it has to be specified that the unit should be established about 500 meters away from the middle of the National Highway/State Highway, and 300 meters away from other roads. The minimum distance of such units from the habitations, public conveyance, schools/hospitals or any religious place will be 1 kilometer; minimum 3 km distance from National Wildlife Sanctuary and Sanctuary Park/Orchards. Minimum 500 meters distance from flood zone area for the purpose of prevention of illegal mining from the river bed, so that no stone crusher unit, screening units or pulverizer unit succeeds to get minor minerals from illegal mining or to utilize them illegally. Other conditions are also imposed for ensuring that there is no pollution caused by these units and they obtain 'No Objection Certificate' from the concerned authorities.

22. In this application, i.e., Original Application no. 304 of 2015, another counter affidavit was filed on behalf of the said respondents no. 2 and 5. In this affidavit it was averred that the screening plants which are in operation in District Saharanpur, are diligently following the Rules and Regulations and none of them are flouting

any norms. The State Government, on these specific averments, submitted that the application of the applicants deserves to be dismissed since the same is already under challenge before this Hon'ble Tribunal in the matter of *Gurpreet Singh Bagga (Supra)* and before the Hon'ble Supreme Court in the case of *Deepak Kumar (Supra)*. The UPPCB is a respondent only in Original Application no. 304 of 2015 and reply affidavit has not been filed on behalf of the Board but a Survey Report of screening plants/stone crushers situated in villages Sondhebans, Bhood and Gaziuddinpur on the western bank of River Yamuna in district Saharanpur was filed. According to this report, the survey in these three villages was conducted on 3rd September, 2015 and it was noticed that on the western bank of river Yamuna there was no screening plant, stone crusher installed or operational in this region. However, screening plants were in operation earlier without obtaining 'No Objection Certificate', consent to establish and consent to operate from the Board, in village Nuniyari and village Jodhebans in District Saharanpur on the western bank of river Yamuna. Thirty five screening plants were dismantled by the committee constituted by the D.M., Saharanpur in 2012. It was also noticed during survey of the western bank of river Yamuna near Tajewala that nine screening plants were found to be in operation in villages Alludinurbans/Kandewala/Lodhibans of District Saharanpur. All the screening plants at the time of inspection were found not in operation. However, the raw material and finished product was found in the premises showing that the plants were operational. List

thereof has also been filed along with the same. MoEF filed a separate counter affidavit in both the cases. It is submitted in this affidavit that in relation to minor minerals, the power of framing regulations is with the State Government which will be empowered to frame Rules under Section 15 of the Act of 1957 for mining of minor minerals. It is stated that MoEF had constituted a group under the Chairmanship of the Secretary, MoEF to look into the environmental aspects associated with mining of minor minerals vide order dated 24th March, 2009. The Group submitted its report, the main points of which are as follows-

- “(i) Minimum size of mine lease should be 5ha
- (ii) Minimum period of mine lease should be 5 years
- (iii) A cluster approach to mines should be taken in case of smaller mine leases operating currently.
- (iv) Mine plans should be made mandatory for minor minerals as well.
- (v) A separate corpus should be created for reclamation and rehabilitation of mined out areas.
- (vi) Hydro- geological reports should be prepared for mining proposed below groundwater table.
- (vii) For river bed mining, leases should be granted stretch wise, depth may be restricted to 3m/ water level whichever is less, and safety zones should be worked out.
- (viii) The present classification of minerals into major and minor categories should be re-examined by the Ministry of Mines in consultation with the States.”

23. The above report was sent to all the States in June, 2010 with the request for incorporating the same in the Rules of 1960. Subsequently, the Hon'ble Supreme Court of India vide its order dated 27th February, 2012 in *Deepak Kumar (Supra) inter-alia* directed the State Government to take immediate steps to frame necessary rules, taking into consideration the recommendations of aforesaid MoEF's report and model guidelines framed by Ministry of

Mines, Government of India and had also directed that even in the areas of less than 5 hectares at the time of renewal, all new leases of minor minerals should obtain EC. As regards monitoring mechanism, it is stated that the monitoring of conditions stipulated in the EC is done through MoEF's six Regional Offices, namely Bangalore, Bhubaneswar, Bhopal, Shillong, Lucknow and Chandigarh. Considering the large number of sand mining operations spread throughout the country, it is essential for the concerned State Government machinery to ensure that sand mining is allowed in the State only after required statutory clearances are granted and conditions are complied with. It is stated that the Chief Minister of Uttar Pradesh has been requested to intervene for controlling the menace of illegal sand mining in the State and to take following actions:

“(i) The State Government should ensure that no illegal sand mining including cluster mining takes place in the State by taking strict legal action under the MMDR Act and the rules framed therein and under the India Penal Code.

(ii) The State Government should ensure that no mining leases of minor minerals are granted without prior EC. For mining lease area less than 50 ha, the EC is to be granted by the Uttar Pradesh State Environment Impact Assessment Authority. For lease area equal to or more than 50ha, EC is to be granted by the Union Ministry of Environment & Forests.

(iii) The directions given by the Hon'ble Supreme Court vide order dated 27.02.2012 in Deepak Kumar case [SLP (C) Nos. 19628-19629 of 2009] and order dated 05.08.2013 of the National Green Tribunal in Application No. 171/2013 may be strictly followed.

(iv) There should be regular monitoring of the mining activities in the State to ensure effective compliance of stipulated EC conditions and of the provisions under the Minor Mineral concessions Rules framed by the State Government.”

24. In the Counter Affidavits filed in the Original Application No. 304 of 2015, it is only stated by MoEF that 'Consent To Establish' and 'Consent To Operate' for mining sand is in the purview of the concerned State Pollution Control Board. According to them, the petitioner should have approached the Ministry first before going to the Court for redressal of his grievances.

25. Reply Affidavits have also been filed on behalf of the State of Haryana and the HSPCB. It will be appropriate to notice the gist of the stand taken by these respondents in both the cases in relation to the matter in issue. First affidavit was filed on 30th August, 2015 in which it was averred that during the course of hearing on 17th August, 2015 it was stated on behalf of some of the respondents that CEC during its inspection of the area in question found illegal mining in Haryana side and not in district Saharanpur in the State of Uttar Pradesh. The State clearly stated that in furtherance of the order of the Hon'ble Supreme Court of India dated 25th November, 2011 in the case of *Deepak Kumar (Supra)*, CEC was directed to submit a report after carrying out the site inspection with intimation to MoEF, the concerned State Governments and the applicant therein. The CEC did not observe any mining activity in the State of Haryana during its visits. As regards the closure of mining operations in Haryana, it is stated that the same were lying closed because of the ongoing litigation on the issue as to who is to obtain the EC and the same was pending before the Punjab and Haryana High Court. The CEC on 9th December, 2011 during its unannounced site visit of the mining areas of district Saharanpur,

adjoining district Yamunanagar, Haryana found that large scale mining on Uttar Pradesh side was being undertaken in the garb of many of the mining leases without having EC, whereas no illegal mining on Haryana side was noticed. The CEC also inspected various areas identified by the State of Haryana for grant of mineral concessions in the districts of Yamunanagar, Panchkula and Ambala on 12th-13th November, 2011. During the site visit it was found that no illegal mining or signs of illegal mining were there on Haryana side. Further, considering the report of CEC dated 4th January, 2012, the Hon'ble Supreme Court of India vide its order dated 16th January, 2012 directed the State of Uttar Pradesh and Rajasthan to take action/proper measures against the illegal mining reported in the respective States. The allegation of the State of Uttar Pradesh that it had written various letters to the State of Haryana about illegal mining being carried on, in the Haryana side is specifically denied. It is stated that from the application filed before the Tribunal it was clear that these communications are nothing but Show Cause Notices issued by the Mining Officer, Saharanpur on 31st March, 2011 to some of the local persons residing in Haryana side directing them to explain as to why action against them for recovery of certain amount of penalty for alleged illegal mining being carried out by them within the area of Saharanpur side be not taken. None of the Show Cause Notices were endorsed to any authority of State of Haryana. Even in regard to the recovery alleged from the residents of Haryana, no action was taken and no letters were received by the state of Haryana. It is stated that even the State of Haryana had

been writing to the State of Uttar Pradesh that it should take action against the persons carrying illegal mining and as such it was State of Haryana which was pressing the matter for action being taken against the illegal miners. It is submitted that in District Yamunanagar a total of 124 stone crushers were existing out of which 56 have been closed by the HSPCB because of certain disputes relating to siting parameters. As on date, only 68 crushers are in existence. However, all of these crushers are operating at a very sub optimal capacity for want of required quantity of raw material. The crushers are procuring raw material mainly from the minor mineral mines operating in the adjoining district Saharanpur of U.P. It is stated that no mining activity had been carried on in district Yamunanagar since 1st March, 2010 as the State could not have granted mineral concessions till December, 2013 because of ongoing litigation on the process to be followed for obtaining prior EC for mining of minor minerals. A total of six mining units having total of 17 different blocks consisting of area of 67 villages were auctioned on 26th December, 2013. These six mining units attracted total bid of Rs. 328.82 crore per annum against the total reserve price of Rs. 77.12 crore per annum. However, contracts of four mining units out of above said, six units got cancelled as these bidders raised disputes ostensibly to run away from the contractual liabilities because of unreasonably high bids. The State Government has now again auctioned the said areas for granting fresh contracts. As on date, a total of 21 mining areas have been granted mineral concession for a

total area of 1074.55 hectares where the mining activity is being carried on.

26. A short reply affidavit dated 9th September, 2015 was also filed on behalf of the State of Haryana in the case of *Jai Singh (Supra)*. It is stated that there is no illegal mining going on in the State of Haryana on the river bed of river Yamuna falling on the side of Haryana. It is for this reason that there are no allegations made in the application in that behalf. In fact, no action was being taken by the authorities concerned in the State of Uttar Pradesh inspite of repeated request by the authorities of the State of Haryana which necessitated the filing of the present application. The Deputy Commissioner, Yamunanagar requested the Deputy Commissioner Saharanpur, Uttar Pradesh to take appropriate action in view of the rampant mining activity in Uttar Pradesh side which endangered the safety of public infructuous like Hathnikund Barrage. It was even before the Hon'ble Supreme Court of India when the matter was being heard on 25th November, 2011 the matters relating to illegal mining on Uttar Pradesh side of the river Yamuna in district Saharanpur was raised by the State of Haryana which in fact resulted in submission of CEC report and passing of the order by the Hon'ble Supreme Court of India in the cases including *Deepak Kumar (supra)*. The Hon'ble Supreme Court of India vide order dated 16th January, 2012 had directed the State of UP to stop illegal mining in the area and also to dismantle all illegally operating stone crushers/screening plants in view of the report of the CEC dated 4th January, 2012. It has already been stated on behalf of the State of

Haryana that mining activity was lying closed in view of the pendency of the proceedings before the Punjab & Haryana High Court. The screening plant/stone crushers which were located on the banks of river Yamuna started transporting the minerals by using the Kacha/Pacca link roads of the village Nawajpur, Lakarmai Partappur and Malimajra in district Yamunanagar, Haryana. The link roads were not found fit for plying of heavy commercial vehicles. The Deputy Commissioner, Yamunanagar prohibited the movement of Heavy Goods vehicles, Tractor Trolley, etc in these villages vide order dated 1st February, 2011 issued under section 144 of the Code of Criminal Procedure, 1973. In compliance to the order passed by the Punjab and Haryana High Court in CWP No. 21984/2011 titled *Ram Kumar & Ors. v. State of Haryana & Ors.* a report was submitted by the State Officers including police officers. As per the report, Police Nakas have been installed at village Lakar – Nawajpur and Nathanpur and total 13 Police Nakas have been established in Yamunanagar to keep a check on the vehicles carrying the mining materials. Because of these checks, the question of endanger to environment and human health hardly arises. The authorities in the State of Haryana have been taking all possible measures to check illegal mining and operations of screening plants/stone crushers in the State of UP by taking up the issue with the Deputy Commissioner, Saharanpur and even before the Hon'ble Supreme Court of India. Some miners towards the State of Uttar Pradesh have claimed that they have received the required EC from the competent

authority of MoEF and therefore, were carrying on even illegal mining as was noticed in the CEC's report.

27. In this very case (*Jai Singh*), the reply affidavit on behalf of the HSPCB was also filed. Besides stating what has been stated on behalf of the State of Haryana, the Board specifically submits that the area of Yamunanagar was inspected on 28th August, 2015 and it was found that no screening plant/stone crusher is operating in the territory of Haryana especially in villages situated near Yamuna River. The screening plants/stone crushers were operating in the territory of UP which are adjacent to the agricultural fields of the villagers of Haryana. The HSPCB, therefore, was not in a position to take any action as they were located in the State of UP. There were screening plants/stone crushers running in the State of UP which were spreading air as well as water pollution affecting agricultural crops and damaging the health of the villagers.

28. The CPCB had filed a short affidavit taking the stand that issues involved in the present case exclusively fall within the jurisdiction of State Boards and the State Governments and CPCB is not in a position to comment thereupon.

PRIVATE RESPONDENTS

28. Now, we may refer to the case put up by the private parties particularly Respondent No. 7 – M/s Pradhan Stone Crusher through its proprietor Mohammad Naushad. It is averred that the application has been filed at the behest of rival group of mining mafias who were unsuccessful in controlling the mining activity in district Saharanpur. It is stated that after coming into force of the

Notification of 2006, Allahabad High Court in the case of *Mohd. Kausar Jah (Supra)* vide order dated 29th April, 2011 had directed that no mining operations in the State of UP shall be carried out after 30th June, 2011 in terms of the said Notification. However, the District Magistrate Saharanpur had permitted mining activity to be carried on without EC in the areas which, as per his opinion, were not covered by the said order. However, in the meanwhile, the Hon'ble Supreme Court of India had passed an order in the case of *Deepak Kumar (supra)* wherein directions were issued in furtherance to the CEC report for dismantling the stone crushers/screening plants which were operating in violation of the guidelines issued by the UPPCB on both the sides of River Yamuna within the prohibited zone. The detailed directions that were made by the Hon'ble Supreme Court of India dated 16th January, 2012 was already been referred above. In the reply to the report of CEC, State of Uttar Pradesh on 18th January, 2012 had stated that in view of the Rules of 2002, the District Officer Saharanpur had informed that the Tehsildar Behat and Mines Officer Saharanpur had seized all the minor minerals stored in the said screening plant and all the 35 screening plants have been closed. Thereafter, several persons approached the Hon'ble Supreme Court of India by filing interlocutory application and the Hon'ble Supreme Court of India vide order dated 13th January, 2012 directed the District Magistrate, Saharanpur to examine the matter and pass appropriate orders. After seizure of the minerals, it was stated by the State of Uttar Pradesh before the Hon'ble Supreme Court of India that 5,05,497 cubic meters of Gitti

has been seized, 4,76,106 cubic meters of dust/sand has been seized and 28,90,125 cubic meter of boulder has been seized. An application for disposing of allegedly seized material was preferred which was disposed of by the order dated 8th May, 2012 directing the State to take action in accordance with law. The State of Uttar Pradesh issued an auction notice on 29th May, 2012 by which auction of seized minor minerals was scheduled to be held on 2nd July, 2012. The auction was held on 2nd July, 2012 and the same was finalized in favour of M/s. Sand and Stone 13 Pvt. Ltd. for Rs. 95,62,13,000/-. It is stated that Gurpreet Singh Bagga – the applicant herein, had filed a Writ Petition before the High Court of Allahabad being Writ Petition No. 7672 of 2012, several other Writ Petitions were filed before the Hon'ble High Court at Allahabad and Lucknow challenging the auction notice dated 29th May, 2012 and the auction held on 2nd July, 2012. Initially vide its order dated 12th September, 2012, Allahabad High Court had directed the auction proceedings to continue, but the same was to be done subject to the judgment in the case. Vide order dated 12th February, 2012 the auction purchaser was permitted to lift mineral and Writ Petition No. 7672 of 2012 was transferred to the High Court Bench at Allahabad; the auction purchaser namely, M/s. Sand and Stone Pvt. Ltd. did not deposit the entire bid amount, therefore, State of UP issued notice for recovering the bid amount. Thereafter M/s. Sand and Stone Pvt. Ltd. filed a Writ Petition being WP No. 793 of 2013 praying for quashing of the order demanding the bid price. Vide order dated 29th January, 2013, the High Court at Lucknow had stayed coercive

measures being taken by the State to recover the amounts. The writ petition filed by M/s. Sand and Stone Pvt. Ltd. was disposed of by the High Court on the basis of the information that order dated 12th September, 2012 had not been complied with as M/s Sand and Stone Pvt. Ltd was not allowed to lift the mineral in terms of the said order. The State Government had issued a letter on 28th May, 2013 allowing M/s Sand and Stone Pvt. Ltd. to undertake mining, which again came to be challenged before the High Court at Lucknow Bench vide W.P. No. 4709 of 2013 titled as *Laigue Ahmad Vs. State of UP and Ors* in which the order passed by the State was stayed. This writ petition has also been transferred to the Allahabad High Court. The order dated 12th September, 2012 passed by the High Court at Lucknow Bench was challenged before the Hon'ble Supreme Court of India and Hon'ble Supreme Court was pleased to stay the operation of the said order in the SLP (C) No. 19664 of 2013 titled as *Sudhir Kumar v. State of UP and Ors* in which present applicant was also a party. It is also averred that same Counsel is appearing for Gurpreet Singh Bagga, the applicant in the present application who also appeared for M/s. Sand and Stone Pvt. Ltd. before the Allahabad High Court. It is stated that applicant is filing proxy litigation in the name of M/s. Sand and Stone Pvt. Ltd. with whom he is completely hand-in-glove. Since M/s. Sand and Stone Pvt. Ltd. has failed in achieving success in any litigation permitting them to carry out mining in district Saharanpur. The Original Application has been instituted on 19th August, 2013 and lacks bonafide. It is averred that the Applicant has direct relations with the mining lobby and his

influence in the mining activity in district Saharanpur is apparent from the FIRs lodged on 23rd February, 2014 and 24th February, 2014. Though, the Applicant has been named in the first FIR but the subsequent FIR has been registered against unknown persons. It is further stated that the two JCB machines which were used for undertaking illegal mining were seized and the driver had informed that the JCB were of Gurpreet Singh Bagga – the Applicant. The machines were then released in his favour after payment of fine. According to this respondent, though applicant is claiming that he is trying to safeguard and protect the environment, his claims stand falsified by his own actions as he has been found indulged in illegal mining activity. The present application has been filed primarily to settle the personal scores and to derive financial benefits in favor of M/s. Sand and Stone Pvt. Ltd. and to carry out illegal mining. The Applicant and his other associates have been filing various applications and writ petitions either in public interest or otherwise to enter into mining activity in District Saharanpur, as the head of the caucus Mr. Ashok Chandak is having extensive mining benefits in the State of Haryana and State of Rajasthan as well. They just want to stop mining activity in district Saharanpur. Ashish Saini had also filed an application before Allahabad High Court in the name of a Society which was dismissed with the liberty to pursue his case before the Hon'ble Supreme Court of India. Now the present application has been filed when the matter is sub-judice before the Hon'ble Supreme Court of India. Gurpreet Singh Bagga the applicant and Shri Ashok Chandak are acting in collaboration with each other

by filing multiple applications. It is the case of this respondent that the Applicant has no *locus standi* to file Original Application. He has also not approached the Tribunal with clean hands and has withheld true and correct facts from the Tribunal. It is stated that the stone crusher/screening plants of the respondents are installed 500 meter away from the flood zone of river Yamuna and are installed as per guidelines laid down in this regard. The respondent has been following all norms laid down by the UPPCB. The business of respondent no. 7 is dependent on operation of mining lease, as the six stone crusher plants would be operational only when raw material for crushing is received and if the mining activity in district of Saharanpur is stopped, the stone crusher plant of respondent no. 7 shall have to be closed due to lack of raw material. After passing of the order dated 16th January, 2012, of the Hon'ble Supreme Court the stone crushing plant has become operational with great difficulty. During interregnum some leases have also started operating after obtaining EC. According to respondent no. 7, the present application has been filed with ulterior motive to make financial gains from the stone crusher owners and lease holders.

Respondent No. 7, M/s. Pradhan Stone Crushers had been carrying on the stone crushing business for a long time and as averred contrary to law and in a manner prejudicial to environment.

29. Notices were issued to the five persons namely Mr. Amit Jain, Mohd Inam, Mohd Ali, Mr. Vikal Agarwal and Wajid Ali as it was averred and even in the CEC Report stated that illegal, unauthorised, unscientific mining had been carried on in the areas under the lease

of these noticees. In the list filed by the State of Uttar Pradesh as well as others on record, it is clear that all the 13 mining leases had been granted to different partnerships which had partners only from the above noticed five persons. In other words, since decades only these five noticees had been carrying on the mining activity in one trade name or the other. These noticees have appeared before the Tribunal and filed reply and documents in support of their case, which have been examined by the Tribunal in greater detail under each of the issues. Mr. Amit Jain filed a detailed reply providing common submissions addressed on behalf of the Noticees. These Noticees had appeared in furtherance to the notice issued by the Tribunal and served by the Government upon these Noticees. Mr. Amit Jain and Company filed M.A. No. 669/2014 in Original Application No. 184 of 2013 praying that the short reply be accepted and they be provided copy of the CEC report. Thereafter, additional documents as well as written submissions were filed on behalf of these Noticees praying that they be discharged.

It is stated that on 3rd September, 2014, the Company received notice and thereupon went to the office of the District Magistrate, Saharanpur and tried to understand the matter before the Tribunal. The copy of Original Application No. 184 of 2013 was not given to the notice, however, he was shown the Memorandum of Application. The company was granted mining lease in accordance with terms and conditions of the Mining Policy of the State Government and also the Act of 1957 and Rules of 1963. The prayer in the application is stated to be relatable to other respondents and the

said company is not carrying on any illegal mining. Plot Nos. 7, 8, 13, 23, 28 and 30 were notified for the purpose of auction for mining of minor minerals under Chapter-4 of the Rules of 1963 for a period of three years on the basis of highest and satisfactory bid through public auction. Before executing mining lease it was sent to the State Government of Uttar Pradesh, for getting prior approval which was then subsequently accepted by the District Officer, Saharanpur. The area declared for mining lease auction was 686.963 acres. Subsequently, a lease deed dated 7th January, 2013 was executed giving rights to the noticee for a period of three years. There were litigations pending before different forums and courts. Finally, as a result of judgment of the High Court of Allahabad dated 11th June, 2009, the order was issued by the Divisional Authority.

30. The Applicant in Original Application No. 184 of 2013 has filed two different rejoinders, one to the counter affidavit filed by the respondent nos. 2 and 5 and other to the reply filed by the respondent no. 6. In the rejoinder filed to reply of respondent nos. 2 and 5, the Applicant reiterated the averments made in the application and denied the allegations made in the reply unless they were specifically admitted. It is stated that the issues raised in the reply have no bearing or relevancy to the disputes raised in the application. The orders passed by various Courts including the High Court have been disputed. According to the Applicant, in the present application, he has raised questions in relation to carrying on of illegal mining and consequential threat to the environment. It is

stated that respondents are completely wrong in saying that in District Saharanpur only those mines are operating which have obtained EC and are properly regulated by the concerned Regulatory Authorities. According to the Applicant even the persons who do not have EC are indulging in illegal and unauthorized mining. The chart furnished by the respondent no. 6 shows the applicants who are granted EC up to 30th September, 2013, but it does not specify a single mining lease with regard to district of Saharanpur which shows that no EC is given for the district of Saharanpur. A handful of mining lessees/permit holders are treating the entire district as mining area irrespective of what is mentioned in their respective mining lease/permit holders or the EC (if at all obtained). It is further submitted that from the last 15 years, only one family and their allies has got mining leases in district Saharanpur in UP and they are carrying on large scale illegal mining. The letter issued by the Director Geology and Mining to the Commissioner Saharanpur dated 20th July, 2012 shows the extent of illegal mining which runs into crores and lakhs of cubic meters. It is averred that despite the specific knowledge, the official respondents have failed to stop illegal and unauthorized mining. This illegal mining was duly confirmed by the CEC in its report dated 4th January, 2012. The persons carrying on mining activity with EC had not been adhering to the conditions as given in the EC as well as the conditions of lease. Various studies have been carried out to show serious threat to river, its bio-diversity and environment in the concerned areas as a result of illegal mining. The Applicant specifically disputed that there is pollution in excess of

the prescribed limits in district Saharanpur as a result of illegal and unauthorized mining and transportation of minor minerals. It is also stated that the illegal mining was widely publicized by the newspapers as well as the reports prepared by the different authorities or departments. As such the respondents cannot say that the news reports have no authenticity. The Applicant also disputes the averments that after the order of the Hon'ble Supreme Court all stone crushers were sealed. According to the Applicant despite such orders, the stone crushers were operating and the newspapers had stated several stories on sealed stone crushers which were operational and being used to facilitate illegal mining in district Saharanpur. According to the Applicant, the respondents should be put to strict proof of showing that illegal mining has stopped in district Saharanpur. Despite the mechanism for stopping such activity, there is no effective and proper implementation of the mechanism specified. No document or report has been produced by the respondents to show that only authorized and proper mining is going on in the area. On the contrary, there have been constant reports of rampant illegal mining being carried on without the grant of EC in district Saharanpur and its adverse impacts on environment cannot be ignored.

31. In relation to the reply of Respondent No. 6, it is stated that in annexure R-1 the details furnished for providing EC to all 214 applicants being granted EC upto 30th September, 2013, does not contain the name of any lease holder from district Saharanpur. In view of this record, it is pertinent to mention that no concrete effort

is being made either by Department of Mining or District Administration to ensure that no illegal mining is carried on in this district.

Independent rejoinder has been filed by Mr. Jai Singh in Original Application No. 304 of 2015 reiterating that there is flagrant violation of environmental laws and the rights of the people under Articles 21, 48A and 51A of the Constitution of India. It is adversely affecting life and property of the villagers, women, children and family. Thus, it is stated that the Tribunal had jurisdiction to entertain and decide the case. It is the inaction of respondent no. 2 and 5 that the petitioners are primarily aggrieved from. The respondents are obliged in law to protect the air, water and life of people of that area.

Mr. Jai Singh also filed a rejoinder to the counter affidavit filed by respondent nos. 2 and 5 in that case. It is submitted that before the Hon'ble Supreme Court, a prayer has been made that there is serious danger to the life and property of 35 villages of district Yamunanagar and district Saharanpur because of illegal activities of mining and stone crushing being carried out in that area. Heavy vehicular traffic resulting from such activity is further disturbing the quality of life and environment in that area and State of Uttar Pradesh is a mere spectator to this activity. According to the Applicant, no doubt 'sustainable development' is need of the hour but it should be done while keeping a close vigil on preservation of environment and ecology. A balanced approach has to be adopted to ensure benefits of intergenerational equity so

that unsustainable and excessive illegal mining does not result in exposure of the next generation to health and environmental hazards. The large scale mining and stone crushing activities are affecting around 35 villages drastically and adversely which will be perished in case the river changes its course because of soil erosion and mining. Even their agricultural fields would be completely affected. The State is virtually shying away from discharging its Constitutional functions. This activity has adversely affected the Tajewala Dam and road bridge at village Kalanaur and both have been damaged during recent floods in 2010. The reports even from the official departments have confirmed that the illegal mining will cause damage to Hathinikund Barrage which may then cause a greater disaster. This aspect has not even been dealt with by the official respondents.

32. It is also stated that the SDM, Shri Harikesh Chaurasia is not authorised or competent to file the counter affidavit as the reply ought to have been filed by the Chief Secretary of UP or by other authorised person particularly keeping in mind the seriousness of the issues involved in the present case. According to the Applicant, the allegations have not been specifically denied by the respondents and in fact have not even been dealt with, and should be taken to have been admitted. The respondents have failed to place on record the Policy Decision and the directions issued by it on 16th October, 2004 in terms of which lease for mining of minor minerals is being granted by the State. To further

support its case, the Applicant has filed certain documents annexure P-5 (Colly) which show that illegal mining in the said area is being carried on without authority while the officials of the administration are hand-in-glove with the mining mafias. It is further averred that evidence in the form of C.D. and visual photographs prove that even on the date of filing of this rejoinder illegal mining was being permitted in the area in question. The order of the District Magistrate dated 21st December, 2011 discussing the Report of the Committee which had visited the site on 9th December, 2011 also shows that the allegations and grievance of the petitioner are well founded and correct. The Ex-Sarpanch of the Village Lakkar on 31st January, 2011 had even made a representation that nefarious elements and goons of sand mafia have time and again threatened him against making any complaint about the illegal mining activity. On 19th January, 2011, Mr. Ashok Sanwan, IAS Yamunanagar had given a detailed communication about large scale mining and screening activities being done illegally in river Yamuna. Reports of the Committee dated 12th January, 2011 and 13th January, 2011 were annexed with the letter of the Deputy Commissioner, Yamunanagar. The report of the Tehsildar, Chacharauli dated 2nd March, 2011 clearly indicates that the roads for transportation of mining stock have been carved out and laid down on the agricultural fields of the villagers. Even in reply to the RTI inquiry, this information has been provided. The headmaster of G.H. School Lakkar, had also submitted complaint on 4th December, 2010 stating that it had

become difficult to run the school because of this illegal mining activity as there was total devastation of health, peace and tranquillity of the students. The Deputy Commissioner Yamunanagar had even imposed section 144 of Criminal Procedure Code, 1973 because of heavy vehicular traffic in the area.

33. In the rejoinder by Jai Singh, it is stated that since illegal and unauthorized mining and stone crushing activities are going on at a large scale, HSPCB should have also taken remedial steps and checked the illegal transportation of such excavated material from the State of Uttar Pradesh to Haryana. In the rejoinder filed to the reply of different respondents, it is also stated that the illegal mining is still being carried on in the area and the photographs which were taken on 10th October, 2015 of the Yamuna River Bed depict such illegal transportation through the villages is also going on. It is even averred that incorrect information has been furnished to the Supreme Court that illegal and unauthorized mining has been stopped after the orders of the Supreme Court dated 1st July, 2011. The Polluter Pays Principle requires the persons carrying on such unauthorized and illegal activities to pay for the damage done to the environment. It is reiterated that there is heavy traffic in the villages, making life of the villagers very difficult by polluting the environment. Large scale illegal mining is going on in village Nuniyari, Jodhebans and other villages falling in district Saharanpur. It is averred that no illegal mining activity is going on in the State of Haryana but it is carried on in the State of Uttar

Pradesh and then the mined mineral is transported to the State of Haryana which has not been stopped by the authorities of the State of Haryana.

34. The State of Uttar Pradesh has also filed reply affidavit to the counter affidavit of State of Haryana in compliance of order dated 18th August, 2015 passed by the Tribunal. In this reply affidavit, it was stated that it is wrong to say that application filed by Sh. Gurpreet Singh Bagga has been filed only regarding illegal mining done in district Saharanpur, Uttar Pradesh. It is reasserted that in compliance to the order dated 25th November, 2011 passed by the Supreme Court, the CEC inspected various sites of district Saharanpur and due to lack of prior EC, reported un-scientific and irregular mining activities in utter violation of the environmental laws, which was suitably replied on behalf of the State of Uttar Pradesh. It was also stated that they do not require prior EC till completion of the term of the lease. The CEC had pointed out in the report that there was use of transit permits by four crushers situated in district Yamunanagar and after analysing the details, opined that during the period of about two months 1469 transit permits were fraudulently used for illegal transportation of boulders to four crushers alone. 107 crushers were provided with illegal transportation of boulders located in district Yamunanagar. The CEC had also carried out site inspection of the areas identified for mining of minor minerals in district Saharanpur, Uttar Pradesh, district Alwar, Rajasthan and the areas identified for mining of construction material in district Yamunanagar, Panchkula and

Ambala in the State of Haryana. The CEC in its report also observed that it was seen that the transit permits were issued to Amit Jain & Co. for the transportation of sand/bajri which have been fraudulently used for the transport of boulders (illegally mined) to stone crushers. In the reply affidavit filed by State of Uttar Pradesh it was further averred that District Officer, Saharanpur has sent notices to ten persons stating that they are indulging in illegal mining activities in the territories of the State of Uttar Pradesh and when no person has replied to the said notices, vide order dated 3rd May, 2011, a team has been constituted for keeping vigil by videography on the activities carried out by the residents of the State of Haryana. State of Uttar Pradesh also took measurements of the pits created by the noticees but the State of Haryana has not taken any action against such persons and are alleging that lease holders of State of Uttar Pradesh legalise illegal mining activities carried out by residents of Haryana by issuing bills. The lessees can issue the bills only along with transit pass and unless and until any vehicle possesses a valid transit permit, transportation of the mineral cannot be said to be legal. It is stated that in the district of Yamunanagar, there is no availability of minor mineral, hence they are purchase the minor minerals from the lease holders of State of Uttar Pradesh, but under the garb of said purchasing, they also lifted boulders lying on the river-bed in the territory of district Saharanpur. Therefore, it is the duty of State of Haryana to check the purchases and dispatch of the material of each crusher. On 27th January, 2015, notices were issued to 74 stone crushers established

in district Yamunanagar and Sub-Divisional Magistrate, Behat issued notices to 53 stone crushers on 17th January, 2015 situated in district Yamunanagar. However, no reply has been received to the notices issued earlier to other stone crushers. The Haryana government has given the details showing that no mining activity is going on in district Yamunanagar but the stone crushers in district Yamunanagar are operating and are carrying on illegal mining activities in the territories of the mining areas situated in district Saharanpur. In view of this, persons from Haryana are carrying on the illegal mining in these areas.

In reply affidavit of the State of Haryana, it has been stated that illegal mining was being carried on in district Saharanpur, Uttar Pradesh and various letters were written by/to the District Officer. It was also averred that illegal mining in the State of Uttar Pradesh cannot be regularized by Haryana and there is no possibility to initiate action against the culprits. It is stated that vehicles which are carrying the minor minerals possess the bill issued by the mining lease holders of the State of Uttar Pradesh and it is the duty of the administration of Saharanpur that there is no legalization of the illegally excavated minor minerals by issuing transit passes.

35. Supplementary counter affidavit in the form of sur-rejoinder was filed on behalf of the respondents no. 2 to 5 in Original Application No. 184 of 2013 on the plea that new factual averments have been made in the rejoinder filed by the Applicant. In this sur-rejoinder, the State had also answered the queries

raised by the Tribunal in its orders. Although the averments are repetitive, however, it could be noticed that according to these respondents, with the regular vigilance for ensuring that no illegal mining/transportation of the mineral is carried out in the mining area, two JCB machines, driven by the drivers of Shri Gurpreet Singh Bagga were found to be conducting illegal mining on the river bed of Yamuna in village Lodhivas on 23rd February, 2014. A case was registered as already referred above. It is submitted that 13 mining lessees undertaking mine operations are those who have obtained the prior EC from MoEF and also got approval of their mining plan from Director, Geology and Mining, Lucknow Uttar Pradesh. The depth of mining pits of the aforesaid leases is not more than three meters and the lessees are permitted only to remove the minor minerals upto the limit of approved quantity by MoEF. The DVDs/Videography and photographs are stated to be fabricated ones. It is also averred that the controversy in relation to registration of FIRs against the drivers of the Applicant cannot be appropriately raised before this Tribunal. It is stated that State of Uttar Pradesh is fully conscious of its responsibilities and has not allowed any person to excavate any material from river bed of Yamuna or from any other place in district Saharanpur without having any mining lease or prior EC. In relation to the reports of the CEC, it is stated that out of five mining leases which were operational at the time of inspection, four mining leases are below 5 hectares. As already stated an area of 686.693 acres was granted in favour of Shri Amit Jain and Shri Mehmood Ali in different

villages and mining was allowed in compliance of the order dated 16th June, 2009 of the High Court at Lucknow. According to the State of Uttar Pradesh, expansion or enhancement of the production is applicable on other activities rather than mining activities. The matter is stated to be pending before the Hon'ble Supreme Court. According to the Notification of 2006, prior EC is required for 'new activities'. However, the mining activity by Shri Amit Jain and Shri Mehmood Ali was not a 'new activity' but were old activities carried on by the lessees. The applicant has given incorrect data. It is stated that the High Court of Allahabad vide its order dated 12th July, 2006 passed certain directions which have been carried out by the State Government and there is no mining mafia operating in the State of Uttar Pradesh. It is stated that if the applicant is threatened by any contractor, the lease in favour of such contractor is liable to be cancelled.

In regard to estimation of the quantity of illegal mining done in district Saharanpur and as pointed out by the Expert Survey Team, the Commissioner, Saharanpur Division, Saharanpur vide letter dated 3rd August, 2012, recommended to the State Government for making an enquiry by an independent agency. The matter is pending before the State Government and hence during the pendency period, it cannot be said that illegal mining is done by someone, unless and until it is proved by the Investigating Agency. The averments and assertions made to that effect by the Applicant are, therefore, denied. The High Court of Allahabad in Writ Petition No. 9416 (MB) of 2010 titled as *Mohd.*

Kausa Jah (Supra) had directed the Government to ensure that as on 1st July, 2011, no person in the State will carry out any mining activity of minor minerals, including sand/silica based on the mining lease without having EC. According to the State stray instances of illegal mining should not lead to a conclusion that there is regular and rampant illegal mining going on in the State. It has been stated by this answering respondent that mining and its transportation is regulated under the Acts. Form MM-11 for transportation is issued by the Mining Department to the Lessees during each year of the period for which the lease has been granted. The period of lease and the details of Form MM-11 that were issued during that period are stated in Annexure SCA-1 to this sur-rejoinder. Thirteen mining leases have been given in favour of following persons, namely, Mehmood Ali and Dilsahd, Md. Inam and Mahboob Alam, Shri Amit Jain and Naseem, Shri Vikas Agarwal and Wajid Ali. All mining leases were granted/renewed upto November, 2012 and valid till November, 2015. It is stated that in the order of the Hon'ble Supreme Court of India dated 16th January, 2012 the Court was *prima facie* satisfied with the submissions made by the CEC and it has been observed that if the production or excavation is enhanced, then under provisions of Notification of 2006, fresh EC is required. If the extension period is disallowed, it was held that such leases are not renewable. It has been denied that annual income of lessees in district Saharanpur itself is nearly Rs. 1200 crores per year. It has also been denied that the State Government has failed

to perform their duties in checking illegal mining and damage control to the environment. The Commissioner, Saharanpur Division has forwarded its report dated 17th July, 2012, though the recommendations and the said letter are pending with the Government for consideration. The Technical Team nominated by the Director of Geology and Mining, UP after surveying area and taking the measurements only pointed out the volume of the excavated mineral. It is also submitted that the decision of the State Government is awaited and whenever any order is issued by the State, appropriate action would be taken. In pursuance of the order dated 26th March, 2014, the Committee had prepared its report dated 11th April, 2014 and submitted its report before the Director, Geology and Mining, UP and the Committee has opined that the recharging capacity is always there at low gradient terrace areas, meander sites, high sediment and bed load in the river beds. Hence, the sand mining in a particular area should be proportionate to the annual re-charging of the sediments in that area. Lifting of the material from the river beds which is lying on the surface of the river bed is always quarried by the lease holders to that limit only, which is deposited on the bed after the rainy season, and is re-charged by transport of the material from the catchment area of said river bed. Form MM-11, i.e., the transit passes for transportation of mined material within the territorial jurisdiction of State of Uttar Pradesh is mandatory for transportation of the consignment to any destination. Due to the above procedure, there is an effective check on the illegal

transportation of the mineral and if any vehicle is found to be carrying the mineral without any valid transit pass, then necessary action is initiated against the person. Under Rule 70 of the Rules of 1963, the holder of mining lease or permit or a person authorised by him in this behalf may issue a pass in Form MM-11 to every person carrying a consignment of minor mineral by a vehicle, animal or any other mode of transport. Form MM-11 is given by the State and must be possessed by the in-charge of any carrier of a consignment of mineral transported in a vehicle, animal or any other mode of transport, otherwise, it would amount to be an illegal transportation of the mineral. According to the State, it would not be out of place to mention that there may have been some solitary instances of minor illegal mining have been taken place, but mass illegal mining cannot be done without the collusion of the responsible officers.

36. From the pleadings, documents, affidavits and the submissions made by the respective parties in the present case the following points fall for consideration before the Tribunal.

1. Whether the application as framed, is not maintainable as contended by the private respondents?
2. Whether illegal mining of minor minerals, such as sand and boulder etc. and transportation thereof is being carried on in both the States of Haryana and Uttar Pradesh?
3. Whether the States of Haryana and Uttar Pradesh were and are responsible and duty bound to prevent such illegal mining under the laws in force, particularly, the environmental laws?

4. Whether the lease holders and noticees are liable to pay environmental compensation for the damage or degradation resulting from such activities to the environment, ecology and biodiversity of the river and for its restoration?

5. Whether in the facts and circumstances of the case, the Tribunal should issue interim guidelines and directions. If so, to what effect?

ISSUE NO. 1: WHETHER THE APPLICATION AS FRAMED, IS NOT MAINTAINABLE AS CONTENDED BY THE PRIVATE RESPONDENTS?

37. The private respondents have questioned the maintainability of both these applications primarily on the ground that the application has been filed bereft of any scientific data or supporting material for grant of the prayers and it is their case that the application is beyond the purview and scope of Section 14 of the National Green Tribunal Act, 2010 (for short 'NGT Act'). The prayers made therein are beyond the jurisdiction of the Tribunal and in any case are incapable of being granted due to the very nature of the reliefs prayed for. Lastly, that the application is barred by time as the report by CEC was dated 4th January, 2012 while the application has been filed on 21st August, 2013.

38. In the application the applicant has prayed for various reliefs like closure of all illegally operating/functioning sand mining operations in District Saharanpur, closure of stone crushers which are within 500 meter of the floodplain zone of river Yamuna, framing of guidelines to ensure compliance to the conditions of grant of EC, strict compliance to the terms and conditions of the orders granting

EC and for reparation and restoration of the damaged banks of river Yamuna both in the States of Haryana and Uttar Pradesh and construction of a Bandh on the bank of river Yamuna. The prayers of the applicant are based on the premise that there has been large scale illegal and unauthorised mining and transportation of minor minerals causing tremendous environmental and ecological imbalance and damage, particularly, on the flood plains of river bed of River Yamuna. The averments regarding illegal and unauthorised mining can hardly be disputed and, in fact, have not been disputed, particularly, by the State Government. It is the burden of such activities that is being shifted from one State to another. Section 14 of the NGT Act vests the Tribunal with very wide jurisdiction enabling it to entertain and decide all Civil Cases where a 'substantial question relating to environment' is involved and such question is arises out of implementation of the enactment specified in Schedule 1 of the NGT Act. Such a remedy also includes enforcement of any legal right relating to environment. It is specifically stated by the applicant that, illegal and unauthorised mining is being carried on in violation of the environmental laws and regulation by the noticees/lease holders who do not have EC in terms of the Act of 1986 or wherever they have EC, they are violating the terms and conditions of the same. This would squarely attract the provisions of Section 14 of the NGT Act. Illegal and unauthorised mining has a direct adverse impact upon the environment/ecology, particularly, the biodiversity of river Yamuna. The activity is being carried on in both in States of Haryana and Uttar Pradesh. It is not

only the Report of the CEC dated 4th January, 2012 that is the foundation of the application filed by the applicant, it is one of the documents relied upon by the applicant to show and prove the factum of illegal mining, its extent and violation of the conditions of the EC. In our considered view, both the classes of cases specified under Section 14 of the NGT Act, i.e., 'a substantial question in relation to environment' as well as the enforcement of a legal right relating to environment are present in this case. Each act of illegal and unauthorized mining and each subsequent violation of the conditions of EC would give rise to a complete and recurring cause of action. Each cause of action in contradistinction to continuing cause of action would give rise to a fresh period of limitation. An act or an omission constituting a complete cause of action in itself would provide an applicant with a subsequent actionable right and, therefore, a fresh period of limitation would reckon.

According to the applicant, illegal and unauthorized mining and transportation of minor minerals is going on a day to day basis despite prohibitory orders passed by the Courts and the Tribunal. Consequently, the argument of the private respondents that the period of limitation would be computed from January, 2012, i.e., the date of the CEC report, is without any basis. As already indicated, it is just one of the reports relied upon by the applicant. Cause of action is bundle of facts as stated in the application. The entire application has to be read together to determine or construe the cause of action. This is the approach that has to be adopted by the Tribunal to examine if the case was within the ambit of the

expression 'cause of action first arose' as appearing in Section 14 of the NGT Act. Thus, the argument that it discloses no cause of action can hardly be accepted. Once the cause of action is a recurring cause of action which is complete in all respects, the application of the concept of 'cause of action first arose' would stand excluded. Such a principle would apply when there is a continuous or continuing cause of action. The limitation of 6 months as provided under Section 14 of the NGT Act would therefore be computed in view of Para 48 of the application from where it can be discerned that the application has been filed well within the period of 6 months. The limitation on recurring cause of action would be computed from each subsequent, independent event but constituting a complete cause of action in itself providing a right to an applicant to approach the Tribunal. While construing the law of limitation, this Tribunal must take a pragmatic view balancing the rights of the parties to the *lis*. When an objection of limitation is raised it renders a petition barred by time, thereby taking away the right of one and protecting the right of the other. One who raises the objection of limitation, the onus lies on him to show that the requirements of law, triggering the period of limitation, have been satisfied. The private respondents have failed to discharge the onus that was placed upon them to contend that the present application was barred by time (Reference can be made to the Judgment of the Tribunal in the case of *Forward Foundation v. State of Karnataka & ors*, 2015 ALL (I) NGT REPORTER (2) (DELHI) 81, *Save Mon Region Federation V. Union of India & ors*

2013 ALL (I) NGT PB 1 *and Medha Patekar & ors v. MoEF*, 2013 ALL (I) NGT REPORTER (DELHI) 285 *Padmabati Mohapatra v. Union of India* 2013 ALL (I) NGT REPORTER (DELHI) 475)

39. The objection taken by the private respondents that the application is bereft of any scientific data or specific details is as vague as it can be. The applicants have relied upon various reports in support of their contentions and have annexed copies thereof either with the petition or subsequently with the leave of the Tribunal. These reports have been mentioned in the respective applications and therefore, their contents or data need not be subsequently reproduced. Sufficient material has been placed on record by the applicant to show that there is illegal and unauthorized mining going on in violation of the environmental laws and therefore it raises a substantial and serious question relating to environment.

40. Another aspect that the Tribunal needs to examine while considering the objection in relation to limitation is that Original Application No. 304 of 2015 is a petition that had been instituted before the Supreme Court of India and was transferred to the Tribunal vide order dated 16th July, 2015 passed by the Hon'ble Supreme Court of India. In a matter which is transferred by the highest Court on Land (having been instituted under Article 32 of the Constitution of the India) the question of limitation can hardly be raised before the Tribunal. Still another aspect that requires to be considered in this regard is that in the reply filed by the private respondent these objections have not been specifically raised. They have been raised for the first time in the written submission filed on

behalf of the private respondents. For this reason the applicant never had a fair opportunity to meet these objections in accordance with law. These are not pure questions of law but are mixed questions of facts and law. They ought to have been raised by the private respondents in their respective replies. In any case for the reasons afore-recorded, we find no merit in the preliminary objections with respect to the maintainability of the application as raised by the respondents and hereby reject the same.

ISSUE- 2: WHETHER ILLEGAL MINING OF MINOR MINERALS, SUCH AS SAND AND BOULDER ETC. AND TRANSPORTATION THEREOF IS BEING CARRIED ON IN BOTH THE STATES OF HARYANA AND UTTAR PRADESH?

41. Illegal mining as opposed to mining in accordance with law, would take within its ambit rampant and indiscriminate mining, mining without lease or EC undertaken beyond the area specified in the license/lease and mechanical extraction of minerals beyond the specified depth of the river itself.

42. According to the applicant in Original Application No. 184 of 2013, the State of Haryana and Uttar Pradesh are divided by river Yamuna. On the one side, Karnal and Yamunanagar Districts fall in State of Haryana, while on the other side, District Saharanpur and Muzafarnagar fall in the State of Uttar Pradesh. The illegal and unauthorized mining activity of minor minerals like sand, boulders etc., according to this applicant is being majorly carried on in District Saharanpur in violation of the orders of the Court, High Courts and that of the Tribunal. It is averred that a handful of mining lease permit holders are treating the entire district as their

mining area irrespective of what is mentioned in their lease/permits or the EC. Actually the project proponent is not even involved in the process of mining rather anyone can undertake mining operations and transport the same using Form MM 11 to the screening plants/stone crushers causing serious pollution. They further transport the material for onwards sale using Form C. The illegal mining in Saharanpur in Uttar Pradesh, Haryana and Rajasthan is being carried on without any safeguards, mechanically and right in the river bed. Such activity is likely to have a serious toll on the environment, ecology and the dams on the river namely Tajewala Dam and Hathnikund Barrage. The head of the cartel of the mining mafia in district Saharanpur is an influential politician of the district and is a Member of the Legislative Council and has been carrying on illegal mining for more than 10 years, leading to serious and grave ecological imbalance, environmental degradation, thereby destroying the flora and fauna including the aquatic life. It is also causing destruction of forest cover of the region and change in the course of the river. There are no checks on carrying on of such activity. Also, there is no check and inspection as a follow up to the imposition of various conditions imposed by the concerned authorities including MoEF. The mining activity is being carried on in violation of the specific conditions and even the prohibitions imposed by the authorities in the lease permission/EC, if granted. The barrage diverts water in the western and eastern Yamuna Canals and the small reservoir created by the barrage also serves as a wetland for 35 species of water birds. It is a matter of fact and common knowledge

that there are turtle nesting zones around river Yamuna, Tajewala dam and Hathnikund Barrage, which are under serious threat due to this mining activity. This entire ecology along with the biodiversity of the river is being adversely affected. The State of Uttar Pradesh has taken the stand that they are making all possible efforts to stop illegal and unauthorized mining in the area in question. According to them, they have complied with the orders passed by various Courts, and have also taken steps to comply with the orders issued by the Supreme Court on the basis of the CEC Report dated 4th January, 2012. According to the State of Uttar Pradesh the mining lease/permits have been issued to some parties who also have the EC and are carrying on the mining activity in accordance with those conditions. The State of Uttar Pradesh largely blames State of Haryana for the persons who are carrying illegal activity in the area of Uttar Pradesh because the mining in the State of Haryana is completely stopped under the orders of the Court. The State of Uttar Pradesh has stated that it has also stopped mining activities and required the lessee to get EC in accordance with the Notification of 2006. The photos/video and other documentary evidences submitted by the applicant to show that illegal and unauthorized mining was still carried on in the State is an attempt to create a doubt on the State. It is also stated that they are doctored documents, and therefore cannot be relied upon. The State of Uttar Pradesh has also issued certain challans and issued notices to the persons living in the State of Haryana across the river and has also written to the Government of Haryana.

43. State of Haryana, on the other hand, has stated that no illegal and unauthorized mining is being carried on in the State of Haryana and it is in fact the illegal and unauthorized mining in the State of Uttar Pradesh that is bringing material to the State of Haryana. It is further stated that they have taken all measures to ensure that no illegal mining is being carried on in the State. Because of the litigation and pending orders of the Court, the mining operations were lying closed. However, the CEC in its Report dated 4th January, 2012 had noticed on 9th December, 2011 that there is large scale mining being undertaken in the garb of mining lease without EC. It was nowhere stated in the Report that there is illegal and unauthorized mining which is being carried on in the State of Haryana and in fact State of Rajasthan was stated to be another State where such activity was being carried on. State of Haryana had also written to State of Uttar Pradesh that it should take action against the persons carrying on illegal mining in the State of Uttar Pradesh and same was pressed from time to time. No mining activity had been carried on in State of Haryana since 3rd March, 2010 and no screening plant/ stone crusher is operating in the territory of Haryana especially in the villages near the river Yamuna since they are operating in the areas adjacent to the State of Haryana. As on date, total 21 mining areas have been granted a mineral concession for a total area of 1074.55 Ha where the mining activity is being carried out presently. Letters were written and exchanged between the authorities to that effect. It has been stated that the transportation and crushing activity was adversely affecting the

environment, health, agricultural produce and the health of the farmers in that belt. The noticees have taken the stand that they have been carrying the mining activity in accordance with law.

44. The Noticees having mining leases in their favour, have obtained ECs and are carrying on mining activity as per the conditions stated therein. The mining leases have been granted by the Mining Department after duly considering the eligibility of the private respondents. If the petitioner is aggrieved from the award of the lease to the private respondents, then he has to approach an appropriate forum to challenge such grant. It has also been stated that the observations of CEC are not definite and binding. In relation to Form MM-11, no complaints have ever been filed against the noticees/lease holders/private respondents and these are neither forged nor created documents.

It is also stated that none of the noticees was found to be involved in illegal mining by the vigilance enquiry that was departmentally conducted by State of Uttar Pradesh. On the basis of highest and satisfactory bid, through public auction, and with the approval of the State Government, leases have been granted to the noticee for a period of three years under the lease deed of 7th January, 2013 to carry out the mining activity.

45. The above mentioned stand of the parties partially admit that illegal mining is being carried on in the area. However, issue of shifting the responsibility, on others have to be examined in light of the Report of the CEC and other reports and documents placed before the Tribunal. As already noticed in furtherance to the

order of the Hon'ble Supreme Court of India dated 25th November, 2011, the CEC was directed to submit a report after carrying out the inspections with intimation to MoEF and the concerned State Governments. The CEC had conducted the said inspections between 12th to 14th December, 2011, which included an unannounced visit as well as an inspection after due intimation. These inspections specifically related to minor minerals (sand, bajri and boulders) in district Saharanpur, U.P. and district Alwar, Rajasthan and identified areas in district Yamunanagar, Panchkula and Ambala in the State of Haryana. In relation to illegal mining in district Saharanpur, the CEC noticed that five mining leases for sand, bajri and boulders were presently operating at the time of inspection. They related to village Faizabad, Fatehpur Pelo, Jaintipur, Aihatmal, Alipura, Kalannpur, Ranipur, Alhanpur, Jodhebans, Panchkula and Jainipur, etc. It was noticed that out of these five mining leases, four mining leases have been allowed to be operated by the State of Uttar Pradesh without EC on the ground that each of these mining leases are of an area of less than 5 ha and the 5th mining lease sanctioned in favour of Amit Jain and Company, the lease has been cancelled and no mining was done. However, thereafter, as per the orders of the Court they were permitted to operate for the remaining period of the lease. In addition to these five sanctioned operating mining leases there were about other 30 sanctioned mining leases for the collection of sand, bajri and boulders from river bed/canal beds of River Yamuna in district Saharanpur. Even though these lease

holders had applied for grant of EC they were still allowed to operate by the State Government without EC. The CEC noticed that as per the State of Uttar Pradesh, 30 mining leases have been closed with effect from 30th June, 2011 and no mining operations in the leased areas were carried on. The CEC also noticed that large scale illegal mining is going on in the river bed of River Yamuna and in areas outside the sanctioned lease areas for mining and crushers were also found to be operating. Although, on unannounced visit, illegal mining was found to be going on and the stone crushers and screening plants were in operation and heavy machinery was found to be used for the purpose of carrying on the illegal mining. However, on announced site visit no mining activity was found to be going on in the same area and all the screening plants/crushers were found to be closed. The extent of mining activity in all three minerals, i.e., sand, bajri and boulders was found to be 460300 cubic meters. It was further noticed that in some cases of transportation, no transit permits were issued, while in others, excess number of transit permits were issued. Correspondingly, excess illegal quantity of mined material was transported by use of transit permits for transportation of 2,40,704 cubic meters. Nearly, 60,176 transit permits have been issued by the Saharanpur Mining Department for the transportation of 2,40,704 cubic meter of illegally mined material. The actual quantity of illegally mined material is bound to be much more as each of these transit permits have been issued for the transportation of 4 cubic meter of mineral by tractor trolley

whereas most of the transportation has taken place by trucks/dumpers which have capacity to carry much heavier loads.

46. As per the transit permit issue register, no transit permits have been issued from 1st June, 2011 onwards for transportation of sand, bajri and boulders in different lots allotted to Amit Jain and Company in relation to Yamunanagar Haryana. It was found that the transit permits issued to Amit Jain and Company for transportation of sand/bajri have been fraudulently used for the transportation of boulders illegally mined to the crushers. During short period of two months, 1,469 transit permits were fraudulently used for transportation of illegally mined boulders to the four crushers alone. The annual illegal transportation of boulders to the 107 crushers located in district Yamunanagar will perhaps total to a staggering figure. Upon inspection of a temporary check post, established by the district administration Yamunanagar, it was found that the transit permits had been misused for transportation of illegally mined material to the crushers which were connected by any road. Nearly 9702 transit permits pertaining to 207 permit books were issued to and used by Amit Jain and Company. All the transit permits of these books were not collected at the temporary check post. On adding the balance transit permits pertaining to these 207 books, it is seen that about 20,637 transit permits were used between 3rd October, 2011 to 20th October, 2011 for the transportation of mineral on the basis of which it can be safely concluded that all the mineral were of illegal origin.

47. As per the report, there were nearly 107 crushers presently operating in district Yamunanagar, Haryana which are primarily dependent on the supply of construction material from district Saharanpur, Uttar Pradesh. Presuming that each crusher is using about 10 truck loads (each comprising 15 MT boulders) and is operational for 200 days in a year, the total quantity of boulders required by them is 32,10,000 MT/year. As against the above, the official production of boulders during the quarter July-September, 2011 in district Saharanpur UP was only 33,002 MT i.e. about 1% of the construction material actually used by the crushers. Because of closure of illegal mining activity in Haryana, the said material price was very high. According to the CEC Report, during inspection on 9th December, 2011, large scale illegal mining was found to be taking place adjoining the Hathinikund Barrage which is specifically prohibited to the extent of 2.1 km from the Hathinikund Barrage.

48. On the basis of the finding recorded by the CEC in its report, wherein it made certain recommendations indicating prohibited mining activity in that area, stopping of operation of crushers within 500 metre from the Yamuna flood plain and proper checks to be provided for inter-state transportation of the minor mineral. It will be useful to refer to the specific findings by the CEC which reads as under:

“8. However, during the unannounced site visit carried, out by the CEC along with Learned Amicus Curie on 9th December, 2011, it was seen that large-scale illegal mining is going on in the River Yamuna bed and in areas far outside the sanctioned lease areas. The photographs, taken during the

unannounced site visit, and which are self-explanatory are collectively enclosed at ANNEXURE-V1/1, Volume 1 to this Report. The latitude and longitude of the location from where the photographs have been taken are given along with the name of the village. The CEC found a large number of heavy machinery like JCB's and excavators operating feverishly excavation of boulders, sand and bajri from the river bed and loading the same in the vast numbers of tractor-trolleys, truck and dumpers moving around. A huge number of screening plants and at least two stone crushers were seen fully operational both sides of bed of River Yamuna. Ramps/roads have been constructed for to and fro movement of the vehicles from / to such screening plants/crushers and bed of River Yamuna. A very large number of vehicles were seen unloading illegally excavated mixture of sand, boulders and bajri in such screening plants and returning to the river beds. The screening plants were found to be operating with great efficiency for processing the illegally mined mineral and to separate them into heap of boulders, sand and bajri. Large quantities of unprocessed mineral as well as processed minerals were seen lying in the screening plants. The tractor-trolleys and trucks were seen carrying stone, bajri and boulders from the screening plants. The crushers, located at Doiwala, Yamunanagar, Haryana were found to be fully operational and huge quantities of boulder as well as bajri and dust (obtained after processing the boulders) were seen lying all around the stone-crushers. The photo of the crushers are enclosed at ANNEXURE-V1/2, Volume 1 to this Report. While returning in the evening, vast number of empty trucks were seen moving towards the screening plants / crushers apparently for loading of the processed material. The CEC, based on the observations made during the unannounced site visit, is of the view (and which is corroborated by the details of the transit permits and other documents dealt with in the subsequent paragraphs) that the illegal mining, illegal transportation and illegal processing in the illegally set up screening plants I crushers is going on a massive scale involving probably thousands of truck loads of mineral every day.

9. The same areas were visited again by the CEC on 12th December 2011 after the programme of site visit was formally intimated. This time the officers of the State of UP. and Haryana were present During this formal site visit no mining activity was found to be going on in the area wherein heavy illegal mining was

seen during the unannounced visit, and all the screening plants/ crushers were found to be closed, the owner / staff of none of the screening plants / crushers were present and no movement of vehicles was noted. The photographs of the same area taken on 12th December, 2011 are collectively enclosed at ANNEXURE V1/3, Volume 1 to this Report.

10. As per the guidelines issued in January, 2010 by the U.P. Pollution Control Board no stone crusher / screening plants can be established /allowed to operate within a distance of 500 meter from the flood zone of River Yamuna. As per the information provided to the CEC by the District Collector, Saharanpur as many as 35 screening plants, found to be illegally established in villages Nanyari and Jodhawas, were sealed in March, 2011 and were directed to immediately relocate to other areas. A copy of the letter dated 20th December, 2011 of the U.P. Pollution Control Board addressed in this regard to the Additional Collector, Saharanpur and which was provided to the CEC is enclosed at ANNEXURE-V/9, Volume 4 to this Report.

11. During the site visits more than 70 screening plants/crusher plants were found to have be illegally established on either side of bed of River Yamuna and were found to be functional therein. It is evident that the closure of the screening plants remained only on paper (that too only in respect of the 35 units located in village Nanyari and Jodhawas). Actually the so called sealed screening plants and many other plants continued to operate illegally with the connivance of the concerned officers. These screening plants / crushers have played a key role in hugely facilitating illegal mining as the mixture of boulders, sand and bajri excavated from the river bed is processed and separated in such plants into boulders, bajri and sand. Since the bajri as well as sand needs no further processing these are being dispatched directly to the end users.

The boulders are used as raw material by the crusher plants for production of bajri and dust. But for the illegal working of these screening plants the illegally mined material could not have been used on such a large scale.

12. The details of the production of boulders, sand and bajri from the four sanctioned and operating mining leases from 1st July, 2011 to 30th September 2011, as per the quarterly returns filed by the respective lease holders (Form No. MM 12), are as under:

S. No	Lot No.	Boulders (in cub. Met.)	Bajri(in cub. Met.)	Sand (in cub. Met.)	Total (incub.m et.)
1.	7	6,424	7,304	11,672	25,400
2.	16	9,768	12,144	14,705	36,617
3.	22	8,976	8,272	15,850	33,098
4	23	7,392	8,272	13,705	29,369
	Total	32,560	35,992	55,932	1,24,484
5.	Lot Nos. 440 7,8, 13,22,2 7,28, and 29 (686.69 3 acres)		1,36,716	1,99,100	3,35,816
	Grand Total	33,002	1,72,708	2,55,032	4,60,300

The copies of the relevant quarterly returns are enclosed at ANNEXURE-R-4 (Colly) to this Report.

13. However, the number of the transit permits (F.N. MM 12) issued in favour of the lease holders are far in excess of the permits required for the transportation of the material that is reported to have been produced. The lease-wise details of the transit permits issued between 1st July, 2011 to 30th September, 2011, in favour of the respective lease holders vis-à-vis the required number of permits are given below (each transit permit has been issued for the transportation of 4 cum boulder / sand / bajri.

Lot No.	Reported Production	No. of Transit Passes Required for Reported Production	No. of Transit Passes Issued	Excess No. of Transit Passed Issued	Corresponding excess (illegal quantity) transported
7	25,400	6,350	18,250	11,900	47,600
16	36,617	9,154	17,000	7,846	31,384
22	33,098	8,272	13,000	4,726	18,904
23	29,369	7,342	14,500	7,158	28,632
Total	1,24,484	31,120	62,750	31,630	1,26,520

Lot Nos. 7, 8, 22, 26, 27, 28 & 29	3, 35, 816	83,954	1,12,500	28,540	1,14,184
Grant Total	4,60,300	1,15,074	1,75,250	60,176	2,40,704

14. A total of 60,176 transit permits have been issued by the Saharanpur Mining Department for the transportation of 2,40,704 cubic meter of illegally mined material. The actual quantity of illegally mined material is bound to be much more as each of these transit permits have been issued for the transportation of 4 cubic meter of transportation have a capacity mineral by tractor trolley whereas most of the as taken place by trucks / dumpers and which to carry much heavier loads.

15. Copies of the relevant pages of the transit permit issue register for the period from 1st June, 2011 onwards in respect of Lot Nos. 7, 8, 13, 26, 27, 28 and 29 are enclosed at ANNEXURE V 5/1, Volume 5 to this Report while those for Lot Nos. 7, 16, 22 and 23 are closed at ANNEXURE-V 5/2, VOLUME 5 to this Report.

16. The break up of the transit permits issued for the transportation of boulders, sand and bajri between 1st June, 2011 to 30th September, 2011, in respect of Lot Nos. 7, 8, 22, 26, 27, 28 and 29, (refer Annexure V 5/1, Volume 5 of this Report) is as under:

Boulders	Nil	Permits
Bajri	23,000	Permits
Sand	89,500	Permits

While the minerals have been transported by trolleys, trucks and dumpers in varying quantities, each of the above transit permits have been specifically issued for transportation by tractor-trolley and for a quantity of 4 cubic meter of mineral. None of the permits carry the signature of the issuing Mining Officer and only the stamp of his signature is affixed, The screening plants from which the mineral has been transported, the place where-the mineral is to be transported, the type of vehicle used i.e. whether truck, tractor or dumper for transporting the mineral, the type of mineral i.e. whether sand, bajri or boulder are not mentioned in the transit permits though the same, was required to be specified. The mode of transportation from the mining site to the screening plant has not been mentioned. There is no

reason to doubt that blank permits have been issued to the lease holders. No verification has been done and none supervised the loading and the movement of vehicles transporting the mineral from the mining site to the screening plants and from the screening plants to the crushers and other places. Huge quantities of boulders have been transported to the crushers plants located at Doiwala, Yamunanagar, though no transit permits were issued for the transportation of the boulders (dealt with in subsequent paras).

17. The details of the crushers located and operating in the various districts in Haryana are given at ANNEXURE-R-5 to this Report. It is seen that there are 107 crushers operating in District Yamunanagar. Most of the crushers are located at Doiwala and adjoining District Saharanpur, U.P. These crushers, at present, are primarily dependent on the supply of the boulders from the mining leases located in the District Saharanpur, U.P. This is because no mining leases for construction material is operating in the nearby areas in Haryana.

18. The date-wise /permit-wise details of the boulders received from Lot No. 26 to 29 of Amit Jain & Co. by the four crushers located at Doiwala in District Yamunanagar during October/November, 2011 are given at ANNEXURE-R-V 4/3, Volume 4 to this Report. The crusher-wise abstract of the same is as under:

Sl. No.	Name of the Crusher	No. of permits of Amit Jain & Co. on which boulders have been received by the crusher during October / November, 2011
1.	Kurukshetra Stone Crusher	562
2.	J.K. Stone Crusher	151
3.	Ambey Stone Crusher	573
4.	Dillon Stone Crusher	183

However, as per the Transmit Permit Issue Register, no transit permit has been issued from 1st June, 2011 onwards for the transportation of boulders for Lot Nos. 7, 8, 13, 26, 27, 28 and 29 of the Amit Jain & Co.

19. On comparing the transit permit details recorded in the Transit Perm issue Register with the transit permits used for the transportation of boulders to the above said four crushers, it is seen that the transit

permits issued to Amit Jam & Co. for the transportation of sand / bajri have been fraudulently used for the transport of boulders (illegally mined) to the crushers. The statement showing the details of some of the transit permits used for the transportation of boulders to the crushers and the corresponding details recorded in the Transit Permit Issue Register is enclosed at ANNEXURE-V4/4, Volume 4 to this Report. The copies of the corresponding transit permits are enclosed at ANNEXURE-V 4/5, Volume 4 to this Report. It may be seen that during a period of about two months 1,469 transit permits were fraudulently used for the transportation of illegally mined boulders to the four crushers alone. The annual illegal transportation of boulders to the 107 crushers located in District Yamunangar will perhaps total to a staggering figure.

20. At a temporary check post, established by the district administration Yamuna Nagar 'on the road through which the sand, bajri and boulders processed in the illegal screening plants located in the villages Khor / Kandiwala were/are being transported by trolleys / truck/ dumper, a total of 9702 transit permits were collected from the vehicles between 3rd October, 2011 to 20th October, 2011. The datewise/transit permits details are given at ANNEXURE-V 4/1, Volume 4 to this Report. It is seen that each of these permit pertains to Amit Jain & Co. (Lot No. 26/27). The Lot No. 26/27, are located south of village Nanyari (refer the lease agreement enclosed at ANNEXURE V 4/10, Volume 1 to this Report) from where there is no road which leads to the screening plants/crushers located at Khori / Kandewala. It can therefore be that the transit passes issued for Lot No. 26/27 have been misused for the transportation of the illegally mined material. Incidentally, from the details of the boulders received by the four crushers dealt with at para 19 and 20 of this Report, it may be seen that a number of transit passes collected at the temporary check post were used for transportation of the boulders to these crushers. For example, the Kurukshetra Stone Crusher received illegally mined boulders and these were transported by using transit pass Nos. 416463, 416462, 416464 and 416486 (at SI Nos. 110, 111, 115 and 116 respectively) of the statement at Annexure V 4/3, Volume 4 of this Report) and which are at serial Nos. 512, 511, 513 and 531 of the transit passes collected at the ten check post on 5.10.2011.

21. The above said 9702 permits pertains to 207 permit books issued and used by Amit Jain & Co. All

the transit permits of these books were not collected at the temporary check post. On adding the balance transit permits pertaining to these 207 books, it is seen that about 20,637 transit permits were used between 3rd October, 2011 to 20th October, 2011 for the transportation of mineral. In these circumstances it is only reasonable to conclude that almost all of the mineral were of illegal origin. The details of the transit permit books used by Amit Jain & Co. are given at ANNEXURE-V 4/2, Volume 4 to this Report.

22. There are 107 crushers presently operating in District Yamunanagar, Haryana and which are primarily dependent on the supply of construction material from District Saharanpur, UP. Presuming that each crusher is using about 10 truck loads (each, comprising 15 MT boulders) and is operational for 200 days in a year, the total quantity of boulders required by them is 32,10,000 MT/year. As against the above, the official production of boulders during the quarter July-September, 2011 in District Saharanpur, UP. was only 33,002 MT i.e. about 1% of the construction material actually used by the crushers. The closure of legal mining in Haryana and the consequent sky rocketing of the construction material prices has enabled / continues to enable the persons involved in illegal mining to make windfall profits.

23. During the site visit carried out on 9th December, 2011 large scale mining was found to be taking place adjoining the Hathinikund Barrage whereas mining is specifically prohibited within a distance of 2.1 km. from the Hathinikund Barrage.

24. During the site visit undertaken on 9th December, 2011, the CEC verified one tractor carry bajri. It was found that the said tractor trolley was carrying the bajri on the strength of transit pass No. 0109004 issued in the name of Amit Jain for Lot No. 28 (copy enclosed at ANNEXURE-R-6 to this Report). On comparing the said transit permit with the Transit Permit Register, it is seen that the transit permit has actually been issued for the transportation of sand and has been misused for the transportation of bajri.

25. The Additional Collector, Saharanpur (Mining Division), following the unannounced site visit of the CEC, has issued notices dated 16th December, 2011 to a number of persons for the recovery of penalty for illegal mining allegedly done by them. The District Collector, Saharanpur, has vide his letter of the same date requested the Deputy Commissioner, Yamuna Nagar, Haryana to recover the penalty amount from the concerned persons (residents of Haryana) and deposit it in District Saharanpur. This belated action

by the District authorities establishes that illegal mining has been going on in the area.

26. To sum up, the CEC of the considered view that illegal mining on a massive scale has been taking place in District Saharanpur, UP. On the one hand, the leaseholders applied for grant of environment clearance while on the other hand the State Government has allowed the leaseholders to continue mining on the purported ground that the minor mineral lessees do not require environment clearance. The Hon'ble High Court permitted the lessees to continue operating upto 30.6.2011. On paper all such mining leases have been closed. Unfortunately the mining activities have continued unabated. A large number of illegal screening plants and crushers are located on both sides of the bank of River Yamuna in District Saharanpur and which were sealed and closed only on paper. In practice all of them are working feverishly. The material processed by them is being supplied to a large number of crusher plants located in District Yamuna Nagar, Haryana. The entire illegal mining has been legalized and facilitated by the concerned officers of the State of UP., mainly by providing a disproportionately large number of transit permits to sanctioned leaseholders and which have been misused and by allowing the illegally and crushers to continue operating. There is no effective system in place for checking illegal mining. The CEC is also of the view that the illegal mining has continued not because of lack of effective Rules and procedure but in spite of them. This has been mainly possibly because of the active connivance of the officers. The closure of the mining leases of sand, bajri and boulder in the State of Haryana and consequent scarcity of the material has provided a readymade market for the illegally mined material at exorbitant rates. A massive movement of very large number of vehicles has been taking place every day for the transportation of the illegally mined material to the screening plants located in U.P. and thereafter to the stone crushers and other places for meeting the raw material requirements of Haryana and Delhi.

27. In the above background, the CEC is of the considered view that massive illegal mining, with the active connivance of the concerned officers, have been taking place in District Saharanpur, UP. and which calls for immediate intervention of this Hon'ble Court. The CEC is of the view that:

(a) the mining of sand, bajri and boulders in District Saharanpur, U.P. and its transportation, including from the screening plants set up on both sides of the

Yamuna River should be prohibited with immediate effect.

(b) the crusher / screening plants located within 500 meters from the Yamuna flood should be directed to be physically dismantled;

(c) the quant of illegally mined construction material during the last 3 years should be directed to be assessed and in addition to its normative market price, ex-e penalty / compensation should be imposed on the persons responsible for the illegal mining;

(d) the responsibility for allowing illegal mining should be fixed on the concerned officers and others in a time bound manner; and

(e) the State of Haryana should be directed to take effective steps to ensure that no boulders, bajri and sand from District Saharanpur, U.P. is transported and / or used in the State of Haryana.”

49. In relation to State of Haryana, the CEC noticed that the mining operations were prohibited in Aravali Hills falling in district Faridabad and Gurgaon, including Mewat in the State of Haryana. Under the order of the Hon'ble Supreme Court of India dated 8th October, 2009, however, a limited area of 600 hectares in district Faridabad was permitted to be mined. During the inspection, four mining blocks were identified in district Yamunanagar, six blocks in district Panchkula and seven blocks in district Ambala. The CEC was of the view that the mining of sand, bajri and boulders from the identified mining blocks is not likely to cause damage to the Shivalik Hills as each of these blocks are located well away from the hill areas. In fact, if the removal of boulders, sand and bajri is carried out scientifically, it may improve the flow of the rivers by channelizing it and preventing it from changing its course. While noticing the matter with regard to Rajasthan, the CEC also noticed that massive illegal mining in reserved forest area falling in village Udhanwas and adjoining villages in the State of Rajasthan, and within a distance of 20 km in district Mewat, Haryana. These were

not sanctioned mining activities. At the instance of officers of State of Rajasthan, the CEC also visited sites in villages Kheda, Jalalpur in district Mewat, Haryana and observed that at this site illegal mining might have taken place in the recent past and a couple of truck loads appeared to have been illegally mined although minuscule as compared to the illegal mining taking place in village Udhanwas and in adjoining areas in the State of Rajasthan. Village Chakolka in district Mewat was also visited in the State of Haryana on the basis of information from Officers of State of Rajasthan that massive illegal mining was going on. On reaching the site, CEC found that there were no tell-tale signs of illegal mining having been taken place in the recent past in that area.

50. Besides the above report of the CEC, the authenticity of which can hardly be challenged, and in fact, the same has been accepted and certain directions passed by the Hon'ble Supreme Court of India. There are documents which clearly point towards the illegal and unauthorized mining being carried on, particularly in the areas falling in the territory of State of Uttar Pradesh. The report of one of the magazines, Tehelka dated 13th July, 2013 in Volume 10 Issue 28 placed on record by the Applicant as annexureA-8 dealt with an independent investigation being conducted with the title 'Mining with Impunity' and observed that despite the order of the Hon'ble Supreme Court of India in 2012 for stopping the mining activity on the banks of River Yamuna in district Saharanpur, mining business is being carried on as usual. Various photographs had been filed with this report showing large scale illegal and unauthorized mining

being carried out on the banks of river Yamuna as well as carrying on of illegally mined material to the screening and stone crusher plants in that area in both the States of Haryana and Uttar Pradesh. The mined material in large quantities is found to have been stored in these plants and heavy machinery is being used for mining. In this magazine, it is reported as under:-

“The reason for the district administration’s largesse could be gauged by checking the leaseholders’ list. Almost all the leases are owned by the brother, son and associates of Mohammad Iqbal, a BSP MLC. Eight of the 16 mining leases have been allotted to Iqbal’s brother Mohammad Ali; one has been allotted to Iqbal’s son Mohammad Wajid Ali and four leases are in the name of the Jain brothers, who are partners of Mohammad Ali.

“All the leases are with Iqbal’s people. He has a monopoly on all the mining activities in the district,” says a local resident on the condition of anonymity. “They carry out illegal mining on private as well as government land, and are so influential that they don’t allow allotment of leases to anybody else. They have caused losses of thousands of crores of rupees to the state. Obviously, the district administration gets a big share.”

The administration provides MM-11 forms to the leaseholders for selling the mined materials. Colloquially, these forms are referred to as *rawana* (transit permits). According to rules, the leaseholder has to issue a transit permit before sending any mineral outside his lease. This contains the type and quantity of the material. In this manner, the quantity of the material extracted from a lease gets recorded. There is a provision to stop the mining once the quantity of the extracted material reaches the prescribed limit. But these rules are seldom followed in reality.

The mining mafia has also set up nine check posts at Nuniyari, Gandevid, Raipur, Badshahi Bagh, Sunderpur, Tajewala, Jasmaur, Nanauli and Landa Pul in Saharanpur. According to TEHELKA’s investigation, any illegally mined material from the district can only be taken out through one of these posts. Trucks laden with illegally mined material come to these posts and get the transit permit after paying a bribe. In this manner, the illegally mined minerals become legal and the mafia

makes a big profit. When TEHELKA asked Havaldar Singh Yadav, the local mining officer, about these illegal posts, he said, "I have been here for less than a month, I have no knowledge of this."

Several irregularities are also seen in the mined material that comes out of the allotted leases. A member of the Saini Yuva Chetna Manch, a social organisation, says, "Truckloads of material are taken out of these leases but the quantity shown on the MM-11 form is less than what can be carried on a bullock cart. The officials accept these forgeries and issue them a new transit permit without raising any objection. The administration issues a challan to one or two trucks every month just to fulfil their responsibility."

Mahendra Singh admits that a lesser quantity is shown in the transit permit. "The minerals that the leaseholders are allowed to sell in their three years of lease, they sell in just 15 days," he says."

51. The survey report in relation to screening plants and stone crushers prepared in furtherance to the order of the Hon'ble Supreme Court of India dated 16th July, 2011 had also noticed that the screening plants were in operation earlier without obtaining NOC and 'consent to operate' in village Nuniyari and village Jodhebans of district Saharanpur on the western bank of river Yamuna. At the time of survey, heaps of sand were found on the banks of the river. During the survey of western bank of river Yamuna, near Tajewala (Haryana), 9 screening plants were found in operation in villages Alludinpurbans/ Kandaiwala/Lodhibans of district Saharanpur, though, at the time of inspection, they were not in production. In relation to district Saharanpur, UP, the Hon'ble Supreme Court of India after seeing the report submitted by the CEC passed following directions:

"1. The District Collector, District Superintendent of Police, and the Additional Director (Mining Division) of Saharanpur, would see that no illegal mining be carried on in the District.

2. They are directed to take immediate steps to close down all illegally operating screening plants/crushers etc. on both sides of the River Yamuna forthwith and the illegally mined sand, bajri and boulders and the vehicles be seized forthwith.

3. Screening plants/crushers located on either side of the River Yamuna within the prohibited zone and operating in violation of guidelines issued by the UPPCB and/or within the prescribed zone, shall be immediately dismantled.

4. State of UP would make available the details of the current mining leases granted District wise, the duration, area, with or without clearance from the State Pollution Control Board, MoEF and National Board for Wildlife.

5. Compliance report to that effect be filed before this Court within two weeks. The Chief Secretary of the State of UP shall ensure compliance of this order.”

52. It will be appropriate for us at this stage to refer to the letter dated 20th July, 2012 written by the Director, Geology and Mining Department of Uttar Pradesh to the Divisional Commissioner, Saharanpur Division regarding estimation of quantity of illegal mining in District Saharanpur. In this letter, it was stated that in furtherance to the orders of the Hon'ble Supreme Court of India dated 16th January, 2012 passed in the case of *Deepak Kumar (Supra)* investigation was to be conducted on the points indicated in the said letter. Amongst others, the activity of illegal mining carried on in various areas including Hathnikund Barrage was restricted. Form MM-11 was misused for the purpose of transportation of illegally mined material loaded from other places with reference to Mr. Amit Jain. The Technical Committee had conducted investigation and prepared a Joint Survey/Inspection Report dated 17th July, 2012 that was annexed to this letter. In the Joint Survey/Inspection Report, it was stated that all the mining lease areas and the illegal

mining areas had been marked on the Hopo map and Khasra map. In this report, the quantity of mining village-wise, river wise and lot wise in regard to 22 villages, the quantity of mining done in lease area as well as total quantity of illegal mining in the same village in cubic meter, was stated. Illegal mining was also found to have been carried on in fields and nearby towns of these villages. The extent of illegal mining in comparison to the mining of the mineral in the leased area was reflected in the Joint Survey/Inspection Report as follows:

“Illegal mining done/found in the following villages situated near Yamuna River, other than above, as follows:

Sl. No.	Name of village	Quantity of illegal mining (in cubic meters)
1.	Shahpur Bas	322630
2.	Mehmoodpur Nagli	394404
3.	Aragi Jawari	179994
4.	Masoodpur Garh	39044
5.	Nityanandpur	84966
6.	Sayed Mohammadpur Garh	90390
7.	Shahjadpur Bas	44789
8.	Abutalibpur Garh	5012095
9.	Pordha Karogi	577925
10.	Aalamgirpur	206600
11.	Pratap pur	73936
12.	Aulara	148363
13.	Jodhevaas	101016

Other than it illegal mining also found in fields and near by town.

Sl. No.	Name of village	Quantity of illegal mining (in cubic meters)
1.	Aarikpur	19050
2.	Fatehpur	160087
3.	Thido A	622460
4.	Matka	16081

5.	Akbarpur Bas Mu.	108147
6.	Sayed Mohammadpur Mu.	12581
7.	Murtazapur Suar	47530
8.	Allaudinpur Bas	26223
9.	Muhammadpur Nagli	28884

AUCTION AREA

LOT NO. 7,8,13,26,27,28,29, were in working in the period of restriction. It was found during the regional inspection that mining of sand found in quantity of 50535 cubic meter only in lot no. 7 situated at village Shahjhanpur and 'Sarouli Ahatmal'.

Therefore, total quantity of mining of minerals in lease area is 3162742 cubic meter and total quantity of illegal mining is submitted for necessary action."

53. From the above report, it is clear that large scale illegal mining had been carried on in these areas and the value thereof was many crores. A team of officers from UP had also prepared a report on 21st February, 2011 stating that there areas were near to Hathini Kund Barrage at the boarder of UP and Haryana some persons from Haryana were doing illegal mining. In this report, it was stated that the persons carrying on illegal mining extraction got annoyed upon enquiry and the officers had then lodged a report with the Mirzapur Police Station and requested the police to take appropriate action. Ten persons mostly from Yamunanagar, were found to be carrying on illegal mining and total 32,921 cubic meters of minerals were found to have been extracted from the mining pits. It was noticed that because of this illegal mining near Hathnikund Barrage, there is a possibility of damage to the barrage as well. There were violations of the Act of 1957 and Uttar Pradesh Regulation of 2005. The same was forwarded for action to the concerned authorities. The applicant has, besides filing affidavits to show that large scale illegal and unauthorised mining

of minor minerals and transportation being carried on with impunity and in collusion with the Government Officials in the concerned State, has also placed on record DVDs, photographs and other documents like copies of Form MM-11 and transit permits. The photographs shot were filed before the Tribunal in February, 2014. A full album containing photographs of illegal and unauthorised mining being carried on unscientifically and mechanically in the river bed and in fact in the river stream itself was also placed on record on 19th February, 2014. These photographs show the illegal mining activities which were being carried on from Hathnikund Barrage to Nanauli. These photographs also show areas of Gram Panchayat Sunderpur, Naurangpur, and Yamuna river bed in Badshahi Bagh where mining activities were being carried on unauthorisedly and by the use of JCBs. The carriage of the material mined is through heavy trucks and big tractor/trolleys. The State of Uttar Pradesh had stated that these photographs and DVDs are doctored ones. We have seen the album of photographs, and we are of the view that the photographs which are smaller in size are clear and cannot be said to be doctored ones, whereas the photographs which have been enlarged to A '5' size, there the images are little distorted but they show the same JCBs/trucks of which smaller snaps have also been filed on record. The photographs have been shot at day and night both and they might not have been taken by a professional. Furthermore, if these were the sole documentary evidences placed on record, there could have been a scope for doubting their

authenticity. However, there are other independent documentary evidences in the shape of the report of the CEC, joint survey report and other documents which fully substantiate that these photographs and DVDs are genuine.

54. Heavy reliance has been placed by the Applicant upon the documents filed by them along-with their rejoinder. Annexure P-15 is a copy of Form MM-11 which is in the name of Shri Amit Jain and Shri Naseem issued for vehicle no. UP-14DT-3807, the minerals loaded was stated to be 16 tonnes. This was dated 7th January, 2014. Thereupon, the weigh receipt which was issued by Vaishno Dharam Kanta declaring the net weight in the vehicle to be 42400 kg (i.e. 40 tonnes) of mineral material has been placed on record. Similarly, on 8th January, 2014, another Form MM-11 was issued in favour of Mehmood Ali and Dilshad in relation to vehicle no. UP-14-DT-4864 and on the same day, weight receipt was issued by the same Dharam Kanta (weigh bridge) for 39710 kgs of minerals showing the net weight to 39.7 tonnes as opposed to the weight of 16 tonnes as shown in Form MM-11. A number of such documents have been placed on record, i.e., Form MM-11 and weigh receipts issued by the Dharam Kanta in relation to different vehicles. In all of the Form MM-11, the weight showed was 16 tonnes while actual net weight as per the weighing receipts issued by Dharam Kanta (weigh bridge) varied from 40 to 52 tonnes of minor minerals.

55. It may also be noticed here that even after the order of Hon'ble Supreme Court of India, illegal mining was being carried

on in district Saharanpur. Referring to the order dated 16th January, 2012 and the letter of the Government dated 20th January, 2012, the Committee Members including officers from the Revenue Department, High Police Officials and District Officers had specifically stated in their report of 26th January, 2012 that illegal mining and transportation of minerals had been stopped in Saharanpur. A task force has been constituted and they were keeping vigil on such activity. They also stated that screening plant/stone crushers, which were working in violation of the laws in force, had been dismantled. A letter dated 21st January, 2012 written by the Deputy Commissioner, Saharanpur to the Advocate General stated that steps should be taken to stop this illegal mining and the operation of the screening plants/stone crushers in the areas on either side of the river. These documents, which are inter-departmental, clearly show that there was illegal mining and transportation of minor minerals as well as operation of illegal and unauthorised screening and crushing plants in violation of the laws in force. There is sufficient evidence placed before the Tribunal to show that, despite such stands being taken by the Government and other authorities that this activity had been stopped it was, in fact, never stopped completely. This activity was being carried on, if not at a large scale, then certainly on a limited scale. This entire evidence clearly shows illegal mining and transportation of minor minerals as well as operation of stone crushers/screening plants in district Saharanpur. Furthermore, it is also evident that this illegal mining was being carried on by the

lessees and/or the noticees, either in the areas beyond the areas specified in the mining lease/EC, or beyond the prescribed depth and also by incorrectly describing and under invoicing the quantity of the minerals in the transit permits used for transportation, which admittedly belong to and/or were under the control of the mine lease holders. Therefore, we conclude accordingly.

ISSUE NO. 3: WHETHER THE STATES OF HARYANA AND UTTAR PRADESH WERE AND ARE RESPONSIBLE AND DUTY BOUND TO PREVENT SUCH ILLEGAL MINING UNDER THE LAWS IN FORCE, PARTICULARLY, THE ENVIRONMENTAL LAWS?

56. It is undisputable that mining activity in relation to minor minerals or otherwise is a regulated and restricted activity. It can only be permitted in accordance with restrictions imposed under the laws in force. These restrictions may be in relation to mining and its various aspects and/or more importantly in relation to environment and ecology. This Tribunal is not really concerned with the grant of mining lease/transit permits for mining *per se*. It would primarily be concerned with the environmental issues arising therefrom. The former would be a relevant consideration for an appropriate adjudication of the latter.

The Act of 1957 is the central legislation that had been enacted to provide for development and regulation of mines and minerals under the control of the Union. Section 5 to 13 of this Act provides for different restrictions and regulations subject to which the mining lease/transit permits can be granted by the Central Government. However, these provisions are not applicable in terms of Section 14 of the Act of 1957 to the quarries/mining leases in

respect of minor minerals. Under Section 15 of the Act of 1957, the State Government is vested with powers to make Rules in respect of minor minerals by issuing a Notification in the Official Gazette. These Rules are for regulating the grant of quarry lease, mining lease or other issues pertaining to grant of/renewal of mineral concession in respect of minor minerals and for the purposes connected therewith or incidental thereto. Sub-section 1A of Section 15 of the Act of 1957, *inter-alia* provides fees that would be payable, the matters which should be stated in the application for quarry leases, mining leases or other mineral concessions and the fees to be paid therefor, conditions subject to which the authority grants/renews quarry leases, mining leases or other mineral concessions, the procedure for obtaining quarry leases etc and the manner in which rights of 3rd parties may be protected if prejudicially affected by any prospecting/mining operations, the manner in which rehabilitation of flora and other vegetation, such as trees, shrubs and the like may be destroyed by reason of any quarrying or mining operations shall be made, construction, maintenance and use of roads, power transmission lines, etc. and the period within which and the manner in which and the authority to which applications for revision of any order passed by any authority under the Rules may be made. Once the Rules are framed and notified by the State Government, the operation of quarry leases/mining leases or other mineral concessions is to be regulated and controlled in compliance of such Rules. The Central Government is also empowered to frame Rules in respect of

minerals in terms of Section 13 of the Act of 1957. In exercise of the powers conferred by Section 13 of the Act of 1957, the 'Mineral Concession Rules, 1960' (for short 'Rules of 1960') were framed by the Central Government. Under Chapter IV of the Rules of 1960, Rule 22, Sub-Rule 1 provides that an application for grant of a mining lease in respect of land in which the minerals vests in the Government shall be made to the State Government in Form-I through such officer or authority as the State Government may specify in this behalf. This application is to be processed and dealt with for grant/renewal of the lease by the State Government. Sub-Rule 4 of Rule 22 mandates that the State Government shall take a decision to grant precise area for mining lease and communicate such decision to the applicant. The applicant is required to submit a mining plan, on receipt of communication from State Government, within a period of six months or such other period as may be allowed by the State Government to the Central Government for its approval. Duly approved mining plan shall be submitted by the applicant to the State Government for grant of mining lease over that area. As per Sub-Rule 4A of Rule 22 notwithstanding anything contained in sub-rule 4, the State Government shall be competent to approve mining plan of open cast mines (mines other than underground mines). Under entry no. XXV of Sub-Rule 4A of Rule 22 Sand (others) is shown as one of the non-metallic or industrial minerals covered by the said Rules.

57. The State of Uttar Pradesh framed the Rules of 1963 and they were to all apply to the minor minerals available in the State. The

mining lease could be granted or renewed by the State Government on an application being addressed thereto subject to the restrictions contemplated in Rule-4. As per Rules 5 and 6, the application shall be filed along with fees and deposits as payable. Rule 7 makes it obligatory on the part of the District Officers to conduct or cause to be conducted an enquiry into all relevant matters in that regard and, within two months from the date of receipt of the application, two copies of the application along with his report prepared is to be forwarded to the State Government or the persons so authorised by the State Government to deal with the application for its final disposal. The application shall be dealt with and disposed of in accordance with Rule 8 by the State Government or the authority so authorised. The extent of areas for which the mining lease could be granted is dealt with in Rule 10. As per Rule 10(1) minimum area for grant of a mining lease for sand or morrum or bajri or boulder or any of these in mixed state exclusively found in river bed shall ordinarily be five hectares and mineral found in the form of rock and not displaced from the place of its origin and other minor minerals shall be one hectare. Rule 10(1) also provides that in case of non-availability of such extent of area, this sub-rule would not apply. Rule 10 (2) states that no mining lease shall be granted in respect of any area which is, neither compact nor contiguous, or is otherwise not suitable to scientific development. Under Rule 10(3) no person shall acquire in respect of any minor mineral, except sand or morrum or bajari or boulder or any of these in mixed state exclusively found in river bed exceeding three mining leases,

covering a total area of more than 25 hectares. It provides that mining leases in respect of sand or morrum or bajari or boulder or any of these in mixed state exclusively found in river bed in area exceeding 5 number or 400 hectares shall not be granted in favour of any person in the State of Uttar Pradesh. The Period of mining lease is provided by Rule-12. Rule 12(1) provides that a mining lease in relation to such minerals found exclusively in river bed shall not be granted for a period of less than three years and in respect of other minor minerals for a period of not less than five years and not more than ten years. Under Rule 12(2) the State Government could grant a mining lease if it is of the opinion that it is in the interest of mineral development, for any period exceeding 10 years but not exceeding 15 years, for reasons to be recorded in writing.

58. Rules of 1963 were amended by the Uttar Pradesh Minor Minerals (Concession) (Thirty-Eighth Amendment) Rules, 2015. They came into force on 14th July, 2015. Both Rules 8 and 12 were amended. Rule 8 under the old as well as the new Rules dealt with disposal of application. In terms of amended Rule 8(b), an application for renewal of a mining lease for whole or part of the area for such period, not exceeding the period of the original lease, as it may consider proper was to be made. It also contemplated that the State Government may permit second renewal only for those areas where minor mineral is found in mixed state exclusively in the river bed but the period of such renewal shall not exceed the period of the original lease. However, in case of second renewal of

mining lease, the lessee shall pay two times annual lease amount or dead rent. Rule 12 dealing with period of mining lease was also amended and in terms of the amended Rule 12 (1), a mining lease in respect of sand or morrum or bajari or boulder or any of these in mixed state exclusively found in the riverbed shall be granted for a fixed period of five years and in respect of other minor minerals for a period not less than five years and not more than ten years. Rule 12(2) is an exception to Rule 12 (1) as it states that if the State Government is of opinion that in the interest of mineral development, it is necessary so to do, it may, for reasons to be recorded in writing grant a mining lease for any period exceeding 10 years but not exceeding 15 years. It further provides that the State Government may allow to extend the period of existing mining leases in respect of sand or morrum or bajari or boulder or any of these in mixed state exclusively found in the riverbed from the current period of three years to five years.

In terms of Rule 70 dealing with restrictions on transport of the minerals, Form MM 11 is issued in the name of the holder of a mining lease or permit or person authorised by him in this behalf and may issue a pass in Form MM 11 to every person carrying a consignment of minor mineral by a vehicle, animal or any other mode of transport. It further provides that the State Government is to make arrangements for the supply of printed Form MM 11 books on payment basis. In terms of Rule 70 (2) transportation of minor minerals by any mode as afore stated except railways is prohibited within the State without carrying a pass in Form MM-11. The State

Government under Rule 70 (4) is expected to establish check posts for any area and give a public notice thereof by publication in the Gazette and a person cannot be permitted to transport the minerals without first presenting the minerals at the check posts for verification of the weight or measurement of the minerals. The officer authorised by the State Government under Rule 66 is to be shown the said pass thereby allowing him to verify the correctness of the particulars of the pass with reference to the quantity of the minor minerals.

59. Similarly, the State of Haryana also framed Rules with the aid of Section 15 of the Act of 1957. They are called Haryana Minor Mineral Concession, Stocking and Transportation of Minerals, and Prevention of Illegal Mining Rules, 2012. The Haryana Rules came to be amended by Notification dated 23rd January, 2013 and were called Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining (Amendment) Rules, 2013. As per these Rules, the procedure for dealing with an application for grant of mining lease was amended and District Level Environment Committee was established to consider the application on merits. It also provided for constitution of the District Level Environment Committee. Rule 71(A)(1) of the amended Rules provided that wherever a mineral concession is granted for excavation of minor minerals for an area less than five hectares, the mineral concession holder shall obtain EC from a District Level Environment Committee and the subsequent Rule provided the procedure thereof.

60. As per Rule 17 of the Haryana Minor Mineral Concession, Stocking and Transportation of Minerals, and Prevention of Illegal Mining Rules, 2012, a mining lease may be renewed only once over and above the lease period for maximum 10 years on expiry of the original lease period. However, it will be subject to strict compliance of the terms and conditions of the grant of lease agreement or other approvals or permissions for mining granted by Central or State agencies. In terms of Rule 40, a mining lease may be renewed by the lessor for one or two periods each not exceeding the period for which the mining lease was originally granted. Rule 41 deals with the conditions subject to which mining lease would be granted. In terms of Rule 41(iii), the period for which a mining lease may be granted shall be 10 years in the first instance.

61. We may notice here that we have referred to the statutory provisions and the Rules of Uttar Pradesh and Haryana only to the extent it was necessary for us and where such provisions are likely to have a bearing on the matters in issue before us. As already noted, we are primarily concerned with the issue of illegal mining and transportation of minor minerals particularly, from the riverbed of River Yamuna, mainly from the standpoint of environment, ecology, bio-diversity, damage and degradation thereof.

62. As is evident from the records before the Tribunal, the minor minerals are being extracted by unscientific and mechanical processes and in huge quantities contrary to the terms and conditions of the mining lease and the EC granted. This fact is also established in the report of the CEC dated 4th January, 2012 where

it was observed that 107 stone crushers were operating in State of Haryana and that there were trucks and JCB machines being deployed to carry out mining activity. The documents on record show that even carriage of the minerals so extracted is being done in complete violation of the environmental laws and regulations and no precaution is being taken to ensure that no air pollution is caused by continuation of such an activity. It is undisputable that during these operations, there is bound to be air pollution. The air pollution caused by dust and sand particles from the operation of screening plants or stone crushers, would attract the provisions of the Air (Prevention and Control of Pollution) Act, 1981 (for short, "Air Act"). The consent from the State of Uttar Pradesh and Haryana respectively to run such plants, thus, would be a pre-requisite of law. The provisions of the Air Act particularly Section 21, imposes restrictions upon the use of certain industrial plants under Section 21(1). Grant of consent is mandatory from the concerned State Board to establish or operate any industrial plant in an air pollution control area. It thus places an obligation upon the persons operating such plants on the one hand while on the other hand it mandates the State Board to ensure that no such industrial plant is permitted to operate if that falls within the air pollution control area. Section 17 enumerates the functions of the State Boards. Under Section 17 (1) (b) the State has to collect and disseminate information relating to air pollution, and under Section 17 (1) (e) to inspect, at all reasonable times, any control equipment, industrial plant or manufacturing process and to pass appropriate order

giving directions to ensure that there is prevention, control or abatement of air pollution. Section 18 vests with the Board the power of issuing appropriate directions in that behalf. In the present case, the residents of Haryana and even other persons made various complaints, from time to time, bringing to the notice of different authorities in the State the high emissions and its injurious effect thereof upon the health, property and agricultural activity of the complainants.

63. The holders of the mining lease and the noticees had been carrying on the extraction of minor minerals in violation of the Notification of 2006. Admittedly, none of them have obtained EC prior to the year 2012. It is only after the judgment of the Hon'ble Supreme Court of India in the case of *Deepak Kumar (supra)* that they had applied for obtaining EC in accordance with the terms and conditions of the Notification of 2006. The activity of mining, whether in an area in excess of or less than 5 hectares, is required to obtain prior EC in accordance with law. These EC had put various conditions upon the mine lease holders. There is no dispute raised before us that the conditions of EC, provision of Act of 1986 and the Notification of 2006 are not applicable to such projects. In fact, such an objection was raised before the CEC that the provisions of Notification of 2006 and order of the Hon'ble Supreme Court of India dated 27th February, 2012 did not cover such a case and in any case, it would not apply to the cases of renewal. The CEC in its report dated 4th January, 2012, submitted to the Hon'ble Supreme Court of India, had squarely dealt with this

contention. In the report, the CEC had relied upon the order of the High Court of Allahabad at Lucknow bench dated 29th April, 2011 passed in W.P. No. 10025 of 2010 (M/B) titled as *Shyam Bahadur Sakhya v. Union of India & Ors.* This report was accepted by the Hon'ble Supreme Court of India where-after it issued certain directions. The provisions of Notification of 2006 contemplate grant of EC subject to imposition of such terms and conditions as may be deemed necessary in the interest of environment and ecology. In terms of para 7 of Notification of 2006, complete process of Screening, Scoping and Appraisal of new projects/activities is undertaken at the time of granting EC. This is in addition to the requirement of public consultation/public hearing which is required to be conducted during this process. The Notification of 2006 takes care of all aspects including site selection, process to be adopted, its likely impact on environment and ecology, the manner and methodology that should be adopted for carrying on an activity to protect the environment and ecology. The requirement of public consultation has been provided a special significance under the scheme of Notification of 2006. The purpose is to resolve public objections, examine their merit and provide adequate safeguards and conditions for carrying on of such activity. In terms of Para 10 of the Notification of 2006, post EC monitoring is essential in order to ensure that the conditions imposed in the EC are carried out with certainty and in all respects.

64. In addition to the above mentioned provisions, the Central and the State Governments have been vested with wide powers under

Section 3 and 5 of the Act of 1986 to take appropriate measures and/or to issue appropriate directions to protect and improve the quality of the environment and to ensure that there is no environmental degradation and to prevent, control and abate environmental pollution resulting from carrying on of any activity. The authorities, in exercise of their powers and in performance of their functions under the Act of 1986 may issue certain directions and/or take certain measures not only to prevent and control pollution but even, where necessary and expedient, to improve the quality of the environment, and all persons/authorities would be bound by such directions. This is the ambit and scope of the responsibility of the Board and the authorities to ensure that there is no environmental degradation or damage resulting from any activity including the activity of mining. The activity of illegal mining is stated to have been carried on in these States now for years. Such illegal, unauthorised and unscientific mining is bound to have adverse impacts upon the environment, ecology and biodiversity, particularly, of the river. It is even apprehended that because of such an activity, the river may change its course. Keeping in view the seriousness of these environmental impacts, there can be no doubt that there was specific obligation placed upon the State Board and other concerned authorities to prevent such activity and to ensure that there was no degradation of the environment in that area. We can usefully refer to the judgment of the Tribunal in the case of *Manoj Misra v. Union of India* 2015 ALL (I) NGT Reporter (1) (Delhi) 139 where a larger bench of the Tribunal

discussed in greater detail the duties and responsibilities in relation to environment under the Constitution of India, under the NGT Act and under the Act of 1986 and upon detailed discussion, the Tribunal held as under:

“67. The concern of the framers of the Constitution for environment is not only exhibited by introduction of Article 48A by the 42nd Amendment Act of 1976, but also by Article 51A(g) of the Constitution, which places a fundamental duty upon the citizens to protect and improve the natural environment, including forests, rivers, wildlife and to have compassion for living creatures. Therefore, the law declared by the Supreme Court of India, mandate 64 of the Constitution and the statutory rights and obligations, are ad idem to the mandate that there has to be protection and improvement of environment and all must contribute to provide decent and clean environment. United Nations conference on Environment and Development held at Rio-de-Janeiro in June, 1992, in which India participated had also called upon the States to provide effective access to judicial administrative proceedings, including redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage. The States in discharge of their above obligation have enacted the National Green Tribunal Act, 2010, which provides for access to specialised environmental justice in the country. This Tribunal has been established for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources, including enforcement of any legal right relating to environment and giving relief and compensation for damage to the person and property and for matters connected therewith and incidental thereto. The primary object of establishing this Tribunal is to provide easy access and expeditious dispensation of environmental justice. The legislature in its wisdom has vested wide jurisdiction in the Tribunal to ensure that major spectrum of environmental jurisprudence are covered, so as to render effective and concerned decisions in the field of environment.”

65. The cumulative reading of the above provisions and enunciated principles of law clearly demonstrate that there was

unequivocal statutory obligation upon the States, its instrumentalities and authorities to check and prevent carrying on of illegal mining as well as protect the environment and ecology. There lay upon them, still a greater obligation to protect the river, river bed and its bio-diversity. This is more so in light of the constitutional mandate contained in Article 48A and 51(A)(G) of the Constitution of India.

ISSUE NO. 4: WHETHER THE LEASE HOLDERS AND NOTICEES ARE LIABLE TO PAY ENVIRONMENTAL COMPENSATION FOR THE DAMAGE OR DEGRADATION RESULTING FROM SUCH ACTIVITIES TO THE ENVIRONMENT, ECOLOGY AND BIODIVERSITY OF THE RIVER AND FOR ITS RESTORATION?

66. The most relevant document that we need to advert for discussion on the above issue is the CEC report. As already noticed, the CEC had submitted its report dated 4th January, 2012 in furtherance of the order of the Hon'ble Supreme Court of India dated 25th November, 2011. This report comprehensively dealt with the issue of illegal mining in district Saharanpur, Uttar Pradesh, district Alwar, Rajasthan and the areas identified for mining in Haryana. In relation to Saharanpur, it had concluded that there is large scale illegal mining and transportation of illegally excavated mixture of sand, bajari and boulder which was being used amongst others, in the crushers located in the States of Haryana and Uttar Pradesh, which again were operating in contravention of the laws in force. It was also noticed that not much illegal mining was being done in Haryana but in Saharanpur, Uttar Pradesh no illegal mining was noticed on the same places after intimation to all

concerned, although, earlier when the same site was visited unannounced, illegal mining and other allied activities were found to be going on. Referring to various documents, it was found that large quantity of unauthorised and illegal mining of minor minerals was going on and the mined mineral was being transported in a manner prejudicial to the environment and ecology. The stone crushers operating in district Yamunanagar, Haryana were primarily dependent upon the supplies from Saharanpur, Uttar Pradesh. The CEC also noticed that the transit permits/Form MM-11 were being misused for extraction and transportation of the minerals much in excess of quantities specified on the permit. The CEC had concluded and with some emphasis that 'illegal mining on a massive scale' had been undertaken in district Saharanpur, Uttar Pradesh. Furthermore, it was evident from the reading of the report that these mine lease holders were earlier operating without ECs. Later when they applied for seeking EC they were permitted to continue mining on the purported ground that minor mineral lease do not require prior EC. The CEC recommended complete regulation on mining activity, prohibition of mining of sand, bajri and boulder from Saharanpur and its transportation, including the regulation of operation of screening plants/stone crushers set up on both sides of River Yamuna. It further recommended that all crushers and screening plants within 500 meters of Yamuna Flood Plain should be physically dismantled and directed assessment of the quantity of illegally mined construction material, during the last 3 years in addition to its new normative market price. The CEC

observed that the responsibility for illegal mining should be fixed on the concerned officers of the States and State of Haryana should be specifically directed to ensure that such illegally mined minor minerals are not permitted to enter into its territory from the State of Uttar Pradesh. The CEC also recommended imposition of exemplary penalty and compensation upon the persons responsible for illegal mining.

67. Since the present petition before the Tribunal relates to both the States of Uttar Pradesh and Haryana, we would be dealing with the contentions raised on behalf of these two States and Private Respondents and/or Noticees/leaseholders only.

The orders passed by the Punjab and Haryana High Court, Allahabad High Court and the Hon'ble Supreme Court of India, have already been referred in some detail. The Allahabad High Court had on 15th December, 2015 passed the order directing that until the next date of hearing no further renewal of mining leases shall be granted in favour of the private respondents, acting on the basis of 2nd proviso of clause (b) of Sub-Rule 1 of Rule-8 of the Uttar Pradesh Minor Minerals (Concession) (Thirty-Eighth Amendment) Rules, 2015. The Allahabad High Court in Public Interest Litigation No. 35308 of 2015 vide its order dated 19th June, 2015, while following the dictum of the Hon'ble Supreme Court of India in the case of *Deepak Kumar (supra)* directed, that all the lease holders are bound by the mining plan sanctioned in their favour, in the matter of excavation of minor minerals as well as restoration of areas that had been subjected to mining operations and observed that the use

of JCB machines for excavation of the minor minerals, contrary to the mining plan, is not permissible. The lease holders were further restrained from using any JCB machine during mining operations. The Allahabad High Court had also passed an order in the case of *Kausar Jha v. Union of India* that the mine lessees must obtain EC from the Appropriate Authority in accordance with law. The Punjab and Haryana High Court had also passed Prohibitory Orders for carrying on of mining activity in the State of Haryana without obtaining EC in accordance with law. The MoEF as on 19th December, 2011 had received 31 sand mining proposals for obtaining EC for sand mining projects in district Saharanpur, Uttar Pradesh. The Allahabad High Court had directed in Writ Petition No. 9416 of 2010 that no mining would be permitted after 1st July, 2011 without prior EC. In some of the mining cases, it was also noticed by the Ministry that some mining leases were within 10 kms of the National Park which the project proponent had denied. The Wild Life Division of MoEF had issued a Guidance Manual in relation to carrying on of non-forest activities in wild life habitats on 15th March, 2011. In accordance with the said manual the project sites falling within the eco-sensitive zone or within 10 km, in absence of delineation of such zone, from the boundary of National Park Wild Life Sanctuary or elephant reserve would require prior clearance from the Standing Committee of National Board for Wildlife (for short 'NBWL') before seeking EC.

68. Prior to 2012, all the mine lease holders were carrying on the mining activity without taking prior EC, much less clearance from

the NBWL. This is despite the fact that the Notification of 2006 was already in force and was applicable. In any case, the entire controversy was put to an end by the Hon'ble Supreme Court of India in the case of *Deepak Kumar (supra)* on 27th February, 2012. The private respondents and noticees applied for obtaining the EC much thereafter and the EC was issued to them and to other persons during the period of October – November, 2012, excepting few of them, who were issued the ECs in the end of 2011. The applications for obtaining EC were filed in April, 2011 onwards and EC was issued to them from 9th April, 2012 to 26th October, 2012. These dates have been placed on record both by the private respondents as well as by MoEF. All these ECs came to an end during the period from 22nd May, 2014 to 18th November, 2015. It may be noticed that in terms of these statements in the case of Mehboob Ali, Puneet Jain and Mukesh Jain, the period of EC have expired on 22nd May, 2014 and in the case of Mahmood Ali, Dilshad, Amit Jain, Naseem, Mehboob Ali, Puneet Jain and Mukesh Jain it expired on 21st January, 2014. There is no document placed on record before us stating that the EC has been renewed or granted afresh after the date of expiry as stated in the statements filed by the parties.

69. Let us now examine the content and compliance of the ECs granted to these mine lease holders. The orders are more or less identical. We may refer for the purpose of convenience to the order dated 26th October, 2012 issued to Mahmood Ali for river bed mining of sand, bajri, boulders and allied minor minerals from river

Khalruonwala Rao for 7.69 hectare Lot no. 1. The EC refers to the orders of the Allahabad High Court dated 29th April, 2011 directing that there would be no mining permit after 1st July, 2011 without prior EC. The said mine lease holders submitted that mine is lying closed since 23rd May, 2011. The order granting EC imposed specific and general conditions upon the mining operations. It was directed that the miner shall ensure that there shall be no mining of any type within 3 meters or 10% of the width whichever is more and such area shall be left on both the banks (inward) of the river Yamuna to control and avoid erosion of river banks as directed in the Development plan. Necessary wild life clearance was also required to be obtained. The condition also provided that there shall be no over exploitation of minerals which may adversely affect the dynamics of the river. The State was also required to carry out a study through an expert agency to determine the capacity of the mine. The Project Proponent was required to prepare a plan of mining in conformity with the mining lease conditions and the rules prescribed in this regard clearly showing that there is no work zone in the mine lease. The project proponent was also required to take adequate and effective safeguard measures during extraction of river bed materials and ensure that due to this activity the Hydro Geological Regime of the surrounding area is not affected. Furthermore, regular monitoring of ground water level and quality was required to be carried out around the mine lease area by establishing a network of existing wells and installing new peizometer during mining operations. The project proponent was

required to obtain necessary prior permission of the competent authorities for requisite quantity of water (surface water and ground water) if any required for the project. Appropriate initiative measures were required to be taken to prevent pollution of river in consultation with State Pollution Control Board. Vehicular emissions had to be kept under control and regularly monitored. The mineral transportation was required to be carried out through covered trucks only and the vehicles carrying the minerals should not be overloaded. The mineral handling area was required to be provided with adequate number of high efficiency dust extraction system. Loading and unloading area including all the transfer points were required to have efficient dust control arrangements. Digital processing of entire lease area using remote sensing technique was required to be done regularly once in three years for monitoring the change of river course, if any, and report had to be submitted to MoEF. The critical parameters such as RSPM (Particulate Matter with size less than 10 micron), NO_x in ambient air within the impact zone had to be monitored periodically. Further, quality of discharged water was required to be monitored for TDS, DO, pH, Faecal Coliform and Total Suspended Solids. The monitored data had to be uploaded on the website of the company as well as displayed at the display board at the project site at suitable location near the main gate of the company so as to be in public domain. Under the general conditions, *inter-alia*, specific conditions were imposed that there shall be no change in mining technology and scope of working should be made without prior

approval of MoEF. The Regional office of the MoEF at Lucknow was required to monitor compliance of the stipulated conditions. It also provided that failure to comply with any of the conditions mentioned above may result in withdrawal of the clearance and attract action under the provisions of the Act of 1986.

70. The above conditions of the EC were required to be carried out strictly and without default. However, from the records placed before the Tribunal, it appears that the Private respondents and the noticees, whosoever of them were possessed of the order granting EC, failed to comply with the above conditions. They were expected to submit the compliance reports to MoEF at regular intervals, and also to prepare a study of critical parameters in regard to the emissions to be maintained. High efficiency dust extraction systems were to be provided and they were to ensure that the river bed geo-hydrological regime was not disturbed and ground water levels were maintained. At the time of arguments, Learned Counsel appearing for these parties had contended that they had been complying with the conditions of the EC. They have placed on record the order granting EC, the lists of other documents, but have not placed on record the copy of any compliance report submitted by them to the concerned authorities. The order of the State Pollution Control Boards granting permission to establish and/or operate has not been placed on record. Similarly, no permission from the NBWL has been placed on record.

71. In contradistinction to this, the CEC had not noticed whether any of these units or the mining activity therein had complied with

the provisions of the EC. The joint survey/ inspection report of the UPPCB had specifically noticed that the screening plants in Villages Nuniyari and Jodhebans of District Saharanpur on the western banks of River Yamuna were operating without obtaining the requisite consent of the Board. The MoEF has not filed any inspection report on record to show that the conditions of the order granting EC were strictly adhered to. There is nothing on record to show that the conditions, particularly in relation to carrying on of the mining activity in a semi mechanized manner, protecting the river bed, no overloading of trucks, no extraction of material beyond the prescribed limits, protection of hydro-geological regime of the areas, prior permission of the competent authority for drawl of adequate quantity of water and maintaining complete data in relation to critical parameters to be uploaded on the website and displayed on the display board of the Company have been satisfactorily complied with. From the records placed before the Tribunal, it is clear that these companies carrying on the mining activity have not adhered to any of these conditions. These conditions were intended to achieve the ends of protection of environment and ecology and protect the same from degradation and deterioration. There is ample evidence on record to show that the extraction of minor minerals was much in excess of the prescribed limits and weight. Furthermore, even the trucks were overloaded. These facts fully stand established by the documentary evidences, affidavits of the government authorities and more particularly, by the report of the CEC. The violations on the part of

these private parties do not end here. None of them have taken permission from the Central Ground Water Authority for extraction of ground water. Additionally, no permission was obtained from any competent authority to extract the river water. This activity cannot be carried on without regular supply of water. The private respondents and noticees have not obtained clearances from the NBWL. There are specific complaints pertaining to serious air pollution being caused by working of these industries and consequent transportation in an illegal and unauthorised manner, made by number of villages located on the passage through which the material is being transported. Onus is upon the miners to establish that they are carrying on the mining activity without causing pollution. In terms of clause XX of the EC, it was obligatory upon the private respondents to maintain data in relation to critical parameters like RSPM (PM₁₀), TDS, DO, pH, Faecal Coliform and TSS. In addition to this, they were supposed to display monitored data on their website as well as the display board of the company. This was the best evidence available to them which was in their power and possession; and failure to produce this evidence would normally result in drawing an adverse inference against the private parties. Reference in this regard can be made to the judgment of the Supreme Court in the case of *Tej Bhan Madan Vs. II Additional District Judge and Ors.* AIR 1988 SC 1413. The 'precautionary principle' places onus upon the industry, on the one hand, while on the other hand, it obligates the State Government, local authorities and State Pollution Control Boards to ensure

prevention and control of pollution. Lack of scientific knowledge would be an irrelevant consideration for determining such a factor. We may refer to the judgment of this Tribunal in the case of *Krishan Kant v. Triveni OA No. 317/2014* pronounced on 10th December, 2015 wherein the Tribunal while discussing the precautionary principle and its applicability held as under:-

“14. The Rule of ‘No Fault’ or ‘Strict Liability’ was enunciated by the House of Lords in the case of *Rylands v. Fletcher*, (1868) L.R. 3 H.L. 330, wherein it was stated that if the defendant was not negligent or rather, even if the defendant did not intentionally cause the harm, he could still be held liable under this Rule for the damage or adverse impact of his activity. To succeed in such an action in tort, the claimant was expected to show:

1. That the defendant brought something onto his land;
2. That the defendant made a "non-natural use" of his land (per Lord Cairns, LC);
3. The thing was something likely to do mischief if it escaped;
4. The thing did escape and cause damage.

The rationale behind the rule of Strict Liability is that the activity going within its fold are those entailing extraordinary risk to others, either in seriousness or the frequency of the harm threatened. Extending the basis of such liability, Blackburn, J. held as under:

“We think that the rule of law is, that the person who for his own purposes brings on his lands and keeps there anything likely to do mischief if it escapes, must keep it in at his peril, and if he does not do so, is prima facie answerable for all the damage which is the natural consequence of its escape. He can excuse himself by showing that the escape was owing to the plaintiff’s default; or perhaps that the consequence was of vis major, or the act of god; but as nothing of this sort exists here, it is unnecessary to inquire what excuse would be sufficient.”

In the recent past, there has been a basic shift in the approach to environment protection. Earlier, the concept was based on the ‘Assimilative Capacity’ Rule as is evident from Principle 6 of the Stockholm Declaration of United Nations Conference on Human

Environment in 1972. This principle assumed that science could provide policy makers with the information and means necessary to avoid encroaching upon the capacity of the environment to assimilative impacts and it also presumes that relevant technical expertise would be available when environmental harm was predicted and there would be sufficient time to avoid such harm. Under the 11th Principle of the United Nations General Assembly Resolution on World Charter for Nature, 1982, the emphasis shifted to the 'Precautionary Principle', which was then reiterated in the Rio Conference of 1992 in its Principle No. 15. The inadequacy of science is the real basis that has led to the 'Precautionary Principle'. It is based on the theory that it is better to err on the side of caution and prevent environmental harm which may indeed become irreversible.

The Precautionary Principle suggests that where there is identifiable risk of serious or irreversible harm, including, for example, extinction of species, widespread toxic pollution, in major threats to essential ecological processes, it may be appropriate to place the burden of proof on the person or the entity proposing the activity that is potentially harmful to the environment. In the event of uncertainty, presumption should operate in favour of environmental protection and primary onus would shift in light of the presumption in favour of the environment and statutory obligation of the industry as afore referred. The test to be applied is that of a 'reasonable person'.

The 'Precautionary Principle' thus, demonstrates that an activity which poses danger and threat to the environment is to be prevented. Under this Principle, the State Government and the Local Authorities are supposed to first anticipate and then prevent the cause of environmental degradation by checking the activity. Lack of scientific knowledge as to whether particular activity is causing degradation should not stand in the way of government in analysing such harm. 'Onus of Proof' under this Principle is on the actor or the developer to show that the action is environmentally friendly. We must notice here that the provisions of the Act of 2010 under Section 20 mandates that the Tribunal has to apply the 'Precautionary Principle' while adjudicating the cases under the environmental jurisprudence."

72. Man has changed the nature of many of the world's rivers by controlling their floods, constructing large impoundments, overexploitation of living and non-living resources and using rivers for disposal of wastes. Among these, indiscriminate extraction of non-living resources like sand and gravel from riverbed is the most disastrous as this activity threatens the very existence of the river ecosystem (Kondolf, 1994 supra). Indiscriminate extraction of river sand and gravel, many folds higher than natural replenishments, imparts serious offsite and onsite impacts, leading ultimately to changes in channel form, physical habitats and food webs, engineering structures associated with river channels and inland sediment supply to coastal and near-shore environments.

73. Sand is vital for sustenance of rivers. Sand mining is the removal of sand from their natural configuration. Sand and gravel are mined world-wide and account for the largest volume of solid material extracted globally. Formed by erosive processes over thousands of years, they are now being extracted at a rate far greater than their renewal. A conservative estimate for the world consumption of aggregates (sand and gravel) exceeds 40 billion tonnes a year. This is twice the yearly amount of sediment carried by all of the rivers of the world [Milliman and Syvitski (1992) in: *Journal of Geology* Vol. 100 (5): 525-544], making humankind the largest of the planet's transforming agent with respect to aggregates.

74. Determining the amount of sand that can be sustainably extracted from a particular stream reach requires site-specific topographic, hydrologic, and hydraulic information. This information is used to determine the amount of sand that can be removed from the area without causing undue erosion or degradation, either at the site or at a nearby location, upstream or downstream. In-channel or near-channel sand-and-gravel mining changes the quantity of that can be extracted vis-à-vis the sediment deposited sediment, and may result in substantial changes in the channel hydraulics. These interventions can have variable effects on aquatic habitat, depending on the magnitude and frequency of the disturbance, mining methods, particle-size characteristics of the sediment, the characteristics of riparian vegetation, and the magnitude and frequency of hydrologic events following the disturbance.

75. Temporal and spatial responses of alluvial river systems are a function of geomorphic thresholds, feedbacks, lags, upstream or downstream transmission of disturbances, and geologic/physiographic controls. Minimization of the negative effects of sand-and-gravel mining requires a detailed understanding of the response of the channel to mining disturbances. Decisions on where to mine, how much and how often require the definition of a reference state, i.e., a minimally acceptable or agreed-upon physical and biological condition of the channel. Present understanding of alluvial systems is generally not sufficient to enable the prediction of channel responses

quantitatively and with confidence; therefore, reference states are difficult to determine. Still, a general knowledge of fluvial processes can provide guidelines to minimize the detrimental effects of mining. Well-documented cases and related field data are required to properly assess physical, biological, and economic tradeoffs. (The Ojos Negros Research group: Sand Mining Facts, 2015).

76. Mining from, within or near a riverbed has a direct impact on the stream's physical characteristics, such as channel geometry, bed elevation, substratum composition and stability, in-stream roughness of the bed, flow velocity, discharge capacity, sediment transportation capacity, turbidity, etc. OWRRI (1995) report [Oregon Water Resources Research Institute(OWRRI), Gravel disturbance impacts on salmon habitat and stream health. 1995] points out that channel hydraulics, sediment transport, and morphology are directly affected by human activities such as gravel mining and bank erosion control. The immediate and direct effects are to reshape the boundary, either by removing or adding materials. The subsequent effects are to alter the flow hydraulics when water levels rise and inundate the altered features. This can lead to shifts in flow patterns and patterns of sediment transport. Local effects also lead to upstream and downstream effects.

77. Physical impacts of sand mining include reduction of water quality and destabilization of the stream bed and banks. The stability of sand-bed and gravel-bed streams depends on a delicate balance between stream flow, sediment supply from the watershed and stream channel form. This is partly because gravel armors the

bed, stabilizing banks and bars. Sand and gravel removal disrupts sediment supply, causes erosion and changes channel form that can result in a deepening of the channel over great distances upstream and downstream of the mine site as well as sedimentation of habitats downstream [Ashraf et al. (2011)in: Scientific Research and Essays Vol. 6(6): 1216-1231]. Channel instability and sedimentation from in-stream mining also can damage public infrastructure like bridges, roads, pipelines, and utility lines.

78. River that are fed by monsoon and snowmelt have large volumes of water, several fold of that during lean seasons, cause recharge of aquifers adjacent to banks and flood plains working as sponge and lift the water table during the monsoons. There is, however, reverse flow of sub-surface water from the aquifers to the river during the lean season. Excessive mining, both in stream and from river banks and flood plains will deplete the volume of water held in aquifers and the flow from the aquifer to the stream during the lean season impacting water availability for drinking and agricultural purposes besides affecting aquatic biodiversity. It can also increase flood frequency and intensity by reducing flood regulation capacity. Tributaries of major rivers dry up when sand mining reaches certain thresholds.

79. Unregulated and prolonged mining of sands from rivers may impact the ground water regime' in the following ways:

- i) Lowering of groundwater table in the floodplain area:
Sand acts like a sponge, which helps in recharging the

water table. Mining may cause progressive lowering of riverbed level as well as river water level, resulting in lowering of groundwater table due to excessive extraction and draining out of groundwater from the adjacent areas. This may cause shortage of water for the vegetation and human settlements in the vicinity.

- ii) Groundwater contamination: In case the river is recharging the groundwater, excessive mining will reduce the thickness of the natural filter materials (sediments) through which the groundwater is recharged. The pollutants due to mining, such as washing of mining materials, wastes disposal, diesel and vehicular oil lubricants and other human activities may pollute the groundwater.
- iii) Choking of filter materials for ingress of groundwater from river: Dumping of final material, compaction of filter zone due to movement heavy machinery and vehicles for mining purposes may reduce the permeability and porosity of the filter material through which the groundwater is recharging, thus resulting in steady decrease of groundwater resources. (Nandakumaran et al. : 2014).

80. Removing sediment from rivers causes the river to cut its channel through the bed of the valley floor (or channel incision) both upstream and downstream of the extraction site. This leads to coarsening of bed material and lateral channel instability. It can

change the riverbed itself (Kondolf, 1997 Supra). The removal of more than 12 million tonnes of sand a year from the Vembanad Lake catchment in India has led to the lowering of the riverbed by 7 to 15 cms a year [Padmalal et al. (2008) in: Environmental Geology vol. 54: 879-889].

81. According to Kondolf (1997) [supra] floodplain pit mining transforms riparian woodland or agricultural land into open pits, which typically intersect the water table at least seasonally. Floodplain pit mining can effectively transform large areas of floodplain into open-water ponds, whose water level commonly tracks that of the main river closely, and which are commonly separated from the active channel by only a narrow strip of unmined land. Because the pits are in close hydrologic continuity with the alluvial water table, concerns are often raised that contamination of the pits may lead to contamination of the alluvial aquifer.

82. The floodplain pits may capture the channel during floods, in effect converting formerly off-channel mines to in-channel mines. Pit capture occurs when the strip of land separating the pit from the channel is breached by lateral channel erosion or by overflowing floodwaters. In general, pit capture is most likely when flowing through the pit offers the river a shorter course than the currently active channel. When pit capture occurs, the formerly off-channel pit is converted into an in-channel pit, and the effects of in-stream mining, notably propagation of incision up- and down-stream of the pit, can be expected.

83. Stockpiles of overburden and gravel left or abandoned in the channel or floodplain can alter channel hydraulics during high flows. During high water, the presence of stockpiles can cause fish blockage or entrapment, and fine material and organic debris may be introduced into the water, resulting in downstream sedimentation. Wash-water discharge, storm runoff, and dredging activities from improper sand and gravel operations can increase the turbidity of streams. Turbidity is generally greatest at dredging sites or wash-water discharge points and decreases with distance downstream. Water temperature and dissolved oxygen of streams can be changed if in-stream mining reduces water velocity or spreads out the flow over shallow areas.

84. Bed degradation from in-stream mining lowers the elevation of stream flow and the floodplain water table which in turn can produce slower stream flow velocities and lower flow energies, causing sediments arriving from upstream to deposit at the mining site. As stream flow moves beyond the site and flow energies increase in response to the "normal" channel form downstream, the amount of transported sediment leaving the site is now less than the sediment carrying capacity of the flow. This sediment-deficient flow or "hungry" water picks up more sediment from the stream reach below the mining site, furthering the bed degradation process (Ashraf et al., 2011Supra).

85. In-stream roughness elements, including the gravel itself and large woody debris, play a major role in providing structural integrity and complexity to the stream or river ecosystem and

provide habitat critical for several fish and other aquatic organisms. Destruction of the riparian zone during sand and gravel extraction operations can have multiple deleterious effects on fish habitat. The riparian zone includes stream banks, riparian vegetation, and vegetative cover. Damaging any one of these elements can cause stream bank destabilization resulting in increased erosion, sediment and nutrient inputs, and reduced shading and bank cover leading to increased stream temperatures. Destruction of riparian trees also means a decrease in the supply of large woody debris. This results in a loss of in-stream habitat diversity caused by removing the source of materials partially responsible for creating pools and riffles that are critical for growth and survival of several fish species (OWRRI, 1995). In-stream mining can also result in loss of fertile streamside land, as well as valuable forest resources and wildlife habitats in the riparian areas besides the loss of biodiversity, and recreational potential. Severely degraded channels may lower land and aesthetic values.

86. Operation of heavy equipment like trucks, JCBs and excavators in the channel bed can directly destroy spawning habitat, rearing habitat, the juvenile fish themselves, and macro-invertebrates; can produce increased turbidity and suspended sediment downstream; and has the potential to cause toxic chemical spills.

87. All species require specific habitat conditions to ensure long-term survival. Native species in streams are uniquely adapted to the habitat conditions that existed before humans began large-

scale alterations. These have caused major habitat disruptions that favored some species over others and caused overall declines in biological diversity and productivity. In most streams and rivers, habitat quality is strongly linked to the stability of channel bed and banks. Unstable stream channels are inhospitable to most aquatic species.

88. Rampant mining of minor minerals in the flood plains of rivers as well as sea beaches has greatly affected the distribution and abundance of reptiles like turtles and crocodiles, which go for laying eggs in these areas. Similarly, river bed mining has resulted in significant reduction in the fish population, as many riverine species have their breeding grounds located in the shallow waters with sandy and/or gravelly areas. The breeding grounds of Snow Trout inhabiting the Jhelum and its tributaries in Kashmir Himalaya have got disturbed due to increased human interference through diversion of water, extraction of sand and gravel as well as encroachment of shallower areas, which has resulted in decline in their population to a great extent. (Zutshi & Yousuf (2014) [in: Lakes & Wetlands of Kashmir Himalaya: Ecology, Conservation & Management, Heritage Publishers, New Delhi, p 256].

89. Gharials are native to deep, fast-flowing rivers, but prefer calmer areas of these rivers such as river bends. Though they spend most of their time in water, sandy banks are essential for nesting and for basking. And, therefore, the destruction of these banks and bars by sand-mining, erosion, and changing river levels poses a serious threat to the species [Gharial Conservation

Alliance (2015). It is reported that sand mining in the National Chambal sanctuary, a rich habitat of Gharials at one time, reduced their population by 60% in five years (1998-2003), with only a small population remaining in the wild. The Gharials lay eggs in March/April and many of them are crushed underneath the miners' tractors. When the eggs hatch in monsoon, many juvenile Gharials are swept away by floodwaters. (River Mineral Major Mafia, The Hindu (2013)). River dolphins are threatened critically by widespread habitat degradation and habitat loss caused by pollution, deforestation, dam construction and other destructive river development, and over-fishing [Carpino (1994)].

90. On the analysis of the above studies, it is clear that such impacts can be divided into two different categories. First category can relate to general impacts of mining on river ecology and biodiversity which would include physical impacts as well as depletion of water level and recharging or restoration of the minerals. Second category deals with adverse impacts of excessive, more particularly, illegal and unscientific mining on river ecology and bio-diversity. Sand, bajri and boulders are important ingredients of ecology in themselves. It affects the factors of determination of feasibility of mining in relation to site and depth for which such mining should be permitted. Physical impacts of excessive mining include reduction of water quality and destabilization of stream and banks. It depletes water level, floodplain pit mining transforms riparian wood land or agricultural land into open pits which typically intersects the water table at-

least seasonally. It can even alter hydraulic continuity during high flows. River bed degradation is one of the most commonly known adverse impacts. Use of heavy equipments and totally mechanised mining on the river bed can produce, increased turbidity and suspended sediments downstream and has the potential to cause toxic chemical spills. These are not merely the indicators but are the adverse impacts which find due support from scientific studies over a long period. The evidence in the present case definitely suggests existence of these adverse impacts on the river bed and the surrounding areas.

91. All these omissions, commissions and violations render the private respondents, noticees and all other involved parties liable for payment of environmental compensation for degrading and damaging the environment, ecology and bio-diversity of the river and causing pollution of air and water with particular reference to river Yamuna and for restoration thereof. This is a question of law that arises for consideration and the extent to which such law should be made applicable on the basis of the facts stated herein. From the facts and figures on record it is evident that this activity has serious financial costs and implications. The revenue earned by the State for a limited period for which mining lease is granted for legal and limited mining, is an indicator of the revenue involved in such activity. In the present case, the illegal extraction of minor minerals and their transportation has been much in excess to the limits of permissible mining.

As already noticed, no mining activity is carried on since 2010 in the State of Haryana because of Court orders. However, large number of stone crushers had been working in Yamunanagar region in the State of Haryana. Stone Crushers for the entire period were in the range of 124 to 128. Out of them some have closed, while others had been operating all through this period. Except for the year 2012, when 31 crushers were operating during the period, stone crushers between 61 and 121 were regularly operating and even without consent of the Board, as alleged. However, it is stated by the Board that 69 stone crushers were operating with the consent of the Board in 2015-16 but they were not found to be complying with the prescribed norms and were operating without taking EC.

After the order of the Supreme Court dated 21st October, 2013, the State of Haryana auctioned six mining units in covering an area of 67 villages on 26th December, 2013. The bid received for all the six units was 328.28 crores per annum against the reserve price of Rs. 77.12 crores. Four mining units had to be cancelled as the awardees did not comply with the terms of the contract and raised a dispute. Finally the auction was cancelled vide order of the Punjab and Haryana High Court dated 15th January, 2015. The State Government again auctioned 33 mining blocks. 19 have already attracted bids. 14 have been re-notified for auction as on date of filing of affidavit. However, as of now, 24 blocks have been auctioned and nine are to be re-auctioned.

The trend of bids has increased with the passage of time to the extent that in the current year for six mining units the bid goes for

Rs. 328.82 crores. The extent of unlawful gains earned by these persons at the cost of degradation of environment is huge. To make quick money these persons have resorted to illegal mining, mechanized mining, illegal transportation, over-loading of trucks while causing serious damage to the river bed to the extent that it was genuinely apprehended that river may change its course and at the cost of its flow they have caused serious damage to the persons and property and the agricultural fields of the villagers particularly of villages Nuniyari and Jodhebans. Despite directions of the Court both the State Governments have failed to place on record any report which would define the damage caused due to the wrongful acts by these persons with exactitude and the exact money that would be required for restoration, restitution and revitalization of the environment, ecology and bio-diversity with particular reference to river Yamuna. It can safely but with certainty be concluded that there is large scale illegal mining, transportation and carrying on of screening/crusher plants by these persons. They have caused serious damage and degradation of the environment which they must make good of. However, with the help of documentary evidence and reports on record, the Tribunal would have to apply some guesswork while resolving this issue. Application of a limited guesswork is an accepted principle. The Supreme Court of India in the case of *Sterlite Industries (India) Ltd. v. Union of India (UOI) and Ors.*, (2013) 4 SCC 575, had applied this principle while imposing the compensation of Rs. 100 crores upon the industry which has been operating without the consent of the Board for long. This

principle was followed by the Tribunal in the case *Krishan Kant v. NGRBA* 2014 ALL (I) NGT REPORTER (3) (DELHI) 1 and *S.P. Muthuraman v. Union of India & Ors.* 2015 ALL (I) NGT REPORTER (2) (DELHI) 170 wherein after discussing the law in detail the Tribunal imposed a compensation of Rs. One crore and while applying these very principles, particularly the Polluter Pays Principle as enunciated in Section 20 of the NGT Act, the Tribunal held as under:

“153. Wherever anyone violates the law and flouts the directions issued by the regulatory authority and other concerned authorities, commences construction without even applying for Environmental Clearance and completes the project or activity extensively, two fold consequences would follow. First, that it would render itself liable for imposition of penalties for contravention of the Act, Rules, Orders and directions in terms of Section 15 of the Act of 1986. The other, for issuance of directions in regard to the demolition or grant of consent subject to such conditions as may be considered appropriate by the authorities or the Tribunal. Tribunal exercising its appellate power and Original jurisdiction in terms of Section 14 and 16 of the Act of 2010, has the powers of merit and judicial review and is competent to issue such directions as it may deem necessary in terms of the said provisions including Section 18 of the NGT Act, 2010. The Court and Tribunals, particularly, in such cases of *fait accompli* have adopted a more practical approach which would permit the remaining work of the project to be completed while providing stringent safeguards in the interest of the environment as well as issuing orders which would vest the Project Proponent with civil consequences. In the case of *Sterlite Industries (India) Ltd. v. Union of India (UOI) and Ors.*, (2013) 4 SCC 575, Supreme Court held that the appellant company was liable to pay compensation of Rs. 100 crores for polluting the environment and operating its industry without renewal of consent by the Board. In this case, industry had obtained consent to operate from the Board prior and subsequent to the period when it operated without consent of the Board. After passing of the judgment of the Supreme Court in this very case, the Tribunal directed the industry to take precautionary measures as well as directed the Pollution Control Board to impose more stringent conditions while permitting the industry to operate (M/s Sterlite Industries

(India) Ltd. v. Tamil Nadu Pollution Control Board, 2013
ALL (I) NGT REPORTER (DELHI) 368).”

92. Once the nexus between the activity, particularly illegal activities, and the consequential damage to the environment and ecology is established, the liability in terms of Section 15 and 17 of the NGT Act arises. There could be cases where it is not possible to determine such liability with exactitude but that by itself would not be a ground for absolving the defaulting parties from their liability. On reasonable basis, such defaulters could be called upon to pay the environmental compensation. In the present case, the parties opted not to lead any evidence except the documents and affidavit that they had filed in support of their respective cases. It is also evident that over exploitation of the sources has been done by the private respondents and the noticees to the extent that it is likely to cause environmental threats. Restoration thereof would be a long drawn process and the private parties would be required to pay compensation even for restorative purposes. At present, we are dealing with the damage caused on approximate basis for continuous defaults and violation of the laws and specific terms and conditions of the EC and for their operation without consent of the concerned authorities including the State Pollution Control Boards. We have already held that the private respondents/noticees are involved in illegal and unauthorised mining, which they have carried on without consent of the State Pollution Control Boards and without grant of EC. They have carried on excessive unauthorised mining in a manner that has caused substantial damage and degradation of environment,

ecology and biodiversity. Thus, a compensation of Rs. 50 Crores is to be paid by each of the private respondents/notices who are carrying on the extraction of minor minerals and Rs. 2.5 Crores respectively by each of the stone crushers/screening plants which had been running illegally, in an unauthorised manner, without consent of the concerned Pollution Control Board.

Issue No. 5: Whether in the facts and circumstances of the present case, the Tribunal should issue interim guidelines and directions. If so, to what effect?

93. The preceding paragraphs of the judgment demonstrate complete failure of the Government Machinery, and regulatory authorities in preventing and controlling pollution arising from illegal and unauthorised mining, transportation and running of screening plants/stone crushers on the one hand, while, on the other hand, the private respondents and noticees have violated the law and terms of the EC under which they claim right to carry on such activity with intent and impunity.

The activity must be brought within the control of legal and regulatory regime. The concerned authorities of the Government and Boards should not only realise their responsibility and statutory obligation but should ensure that there is no unregulated exploitation of the natural resources and degradation to the environment. Respondents, including the State Government, the Boards, MoEF and other concerned authorities have permitted such activity despite orders of the Hon'ble Supreme Court of India, the High Courts and the Tribunal. There is definite evidence on record to show that illegal mining has continued even after

recording the findings of the CEC report by the order of Hon'ble Supreme Court. Merely denying the authenticity of the photos, videos and other documentary evidences on the pretext that they were doctored would not amount to discharge of the onus placed upon the respondents, including the private and official respondents.

94. Permitting continuation of this illegal, unauthorised, unregulated and unscientific activity any further cannot be justified on any ground whatsoever. Economic interest of an individual or a group of individuals must not supersede the public interest. The Constitutional mandate of protecting the environment, ecology, rivers, water bodies and biodiversity must take precedence over financial gains. We are not oblivious of the fact that this activity provides construction material for development activity which is carried on a day to day basis. Firstly, we may notice that large scale illegal mining of minor minerals has already been taking place and such minerals are already available in the market. Thus, a temporary deferment would not cause any irreparable loss. Furthermore, the Governments of the respective States themselves have lost huge amounts of revenue which they would have received if this illegal, unauthorised, unregulated and unscientific mining and transportation of minor minerals would not have been permitted. Thus, it has even resulted in huge State revenue loss. The principle of Sustainable Development would come into play and temporary deferment of such activity can safely be directed in the interest of environment, requiring the authorities

to bring a definite regulatory regime and mechanism in place so as to ensure that there is no such illegal, unauthorised, unscientific and unregulated mining and there is no damage or degradation of environment, ecology and biodiversity. The persistence of this illegal activity further justifies passing of interim directions to bring the operation of such activity entirely in accordance with law. Few individuals must not be permitted to play with the provisions of law and tolerance of the nature should not be taken to be a licence to degrade the environment and ecology, more particularly, when the violations are coupled with lack of support from supervisory and regulatory authorities. Established judicial canons have permitted passing of interim directions wherever it is necessary and till the time a proper regulatory regime and mechanism becomes factually operative, to ensure prevention and control of pollution on the one hand, and degradation and damage to the environment, ecology and biodiversity on the other hand. We may refer to the Judgment of the Tribunal in the matter of *S.P. Muthuraman v. Union of India & Ors. (supra)* where the Tribunal has laid down the principle that it is not only permissible but essential for the Tribunal to pass appropriate interim directions in consonance with the scheme of the Act of 1986 read with provisions of the NGT Act, particularly its Preamble and Section 20 of the Act. One of the fundamental basis of Precautionary Principle is that all steps should be taken to protect the environment while permitting Sustainable Development. It is better to take precautions than restore the environment after its degradation.

The Tribunal enunciated on this principle in the case of *M/s Sterlite Industries (India) Ltd. v. Tamil Nadu Pollution Control Board*, 2013 ALL (I) NGT REPORTER (DELHI) 368 and held as under:

“120. Precautionary principle is one of the most important concepts of sustainable development. This principle essentially has the element of prevention as well as prohibition. In order to protect the environment, it may become necessary to take some preventive measures as well as to prohibit certain activities. These decisions should be based on best possible scientific information and analysis of risks. Precautionary measures may still have to be taken where there is uncertainty but potential risk exists. Ecological impact should be given paramount consideration, particularly when the end result would be irreversible. The decision making authority should assess the records and conclude whether it was a case of directing precautionary and preventive measures to be taken or that the information on which it has to reach a determination is inadequate. Informed decision is the essence of a preventive or a prohibitory decision. The principle of direction thereunder involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity which is based on scientific certainty. Environmental protection should not only aim at protecting health, property and economic interest but also the environment for its own sake. It is said that inadequacies of science is the basis that has led to change from an 'assimilating impact principle' to 'precautionary principle'. Availability of scientific data is one of the most essential features of environmental adjudication. The precautionary principle was stated in Article 7 of the Bergen Ministerial Declaration on Sustainable Development in the ECE Region, May, 1990, as incorporated in an article of Professor Ben Boer, which reads as follows:

Environmental measures must anticipate, prevent and attack the causes of environment degradation. Where there are threats of serious or irreversible damage, lack of scientific certainty should not be used as reason for postponing measures to prevent environmental degradation.”

95. In light of the above discussion, we pass the following directions:

1. There shall be complete prohibition on carrying on of any mining of minor minerals (Bajri, Sand and Boulders) in the flood plain of river Yamuna in the district Yamunanagar (Haryana) and Saharanpur (Uttar Pradesh) and all other villages situated on the bank of river Yamuna and rivers Kaluwala Rao, Solani and Badshahibagh Rao for a period of 45 days from the pronouncement of this Judgment.

2. For the same period, no screening plant/stone crusher would be permitted to operate in the entire district of Saharanpur in Uttar Pradesh and Yamunanagar in Haryana.

3. We constitute the following High Powered Committee to submit a report to the Tribunal in accordance with these directions:

1. Secretary, Ministry of Environment, Forests and Climate Change will be the Chairperson.

2. Secretary, Department of Environment and Minor Minerals of the State of Uttar Pradesh and similarly Secretary, Department of Environment and Minor Minerals of the State of Haryana.

3. Member Secretary, Central Pollution Control Board.

4. Member Secretaries of Haryana State Pollution Control Board and Uttar Pradesh Pollution Control Board.

5. Director of Mining, State of Uttar Pradesh and State of Haryana.

6. Deputy Commissioner and Superintendent of Police of District Yamuna Nagar (Haryana) and Saharanpur (Uttar Pradesh).

Both the States of Haryana and Uttar Pradesh would submit complete and comprehensive mining plan in consonance with the Act of 1957, Rules of 1960, the provisions of the Rules of 1963, Rules of 2012 and Notification of 2006 to this High Powered Committee within 2 weeks from the date of the judgment. This plan shall provide *inter-alia*, but specifically, the methodology which could be followed for permitting mining on the river bed and conditions which should be imposed. It should also provide a complete mechanism for establishing check posts to ensure that there is no illegal transportation of mined minerals in these areas. No over-loading should be permitted. Mining activity (if at all permitted) should be carried out in a semi-mechanised and scientific manner or totally non-mechanised manner. All other facets of extraction of minor minerals, mining, transportation and utilisation of these minerals should be strictly in an environment friendly manner.

4. In the event both the State Governments, State Boards, MoEF and other concerned parties are able to bring in force a complete regulatory regime and mechanism for ensuring on one hand, regulated and controlled mining in accordance with law, while on the other hand ensuring that there is no illegal and unauthorised mining or transportation of these minor minerals, the mining would be permitted after 45 days, subject to such orders of the Tribunal. During these 45 days, if any person is found to be violating these directions and carrying on mining of these minor minerals, mechanically or otherwise, their transportation and

utilisation thereof, such person responsible would be liable to pay Rs. 5 lakhs as environmental compensation for each such event. The vehicles, machines/plants used for this purpose, in violation to order of the Tribunal, would be liable to be seized.

5. The report should also specifically deal with as to how both the States would create an inter-state mechanism to completely stop illegal extraction and transportation of minor minerals.

6. The Committee shall also define the closed season for carrying on of mining activity and the stretches of the river which should be preserved, delineated and excluded from mining, being turtle nesting zones.

7. The comprehensive mining plan and comprehensive report stating the extent of illegal extraction of minor minerals, their impact on environment, ecology and particularly, on river Yamuna and recommendations for restoration thereof shall be submitted by each of the State to the Committee within the afore-stated period. The High Powered Committee would examine the same in accordance with Rules and laws in force and submit the final report to the Tribunal within 3 weeks thereafter.

8. The report will also examine the recommendations of the States in regard to the above and express its opinion. Restrictions, limitations and financial liability that should be fastened upon these private parties for the violations and defaults in the past as well as the cost of restoration and the steps required to be taken for restoration of the ecology and biodiversity, particularly, with reference to the flood plains of river Yamuna should be stated.

9. Upon receipt of the report, the same shall be placed before the Tribunal for final directions.

10. The operators of mines and stone crushers who have been operating without the consent of the State Boards, violating the laws, operating without EC, operating in violation of the conditions of the EC and operating without consent of the CGWA or any other Competent Authority as well as causing air and water pollution and have degraded and damaged the environment, ecology and biodiversity particularly, with reference to river Yamuna and its bed, and affected the lives of the residents of various villages, falling under these Districts on the bank of river Yamuna. In view of the undisputable fact that nearly 2,40,704 cubic meters of mined minerals were illegally extracted and transported, the private respondents and noticees are liable to pay Environmental Compensation.

We direct respondent no. 7 who falls in this category to pay Environmental Compensation of Rs. 2.5 crores. We further direct all the five noticees (Mr. Amit Jain, Mohd Inam, Mohd Ali, Mr. Vikal Agarwal and Wajid Ali) who with one another are constituting all the 13 partnership firms to whom mining leases have been granted now for decades, to pay Environmental Compensation of Rs. 50 crores, payable by each of the individual partners for and on behalf of all the 13 mine lease firms.

This compensation should be paid within 4 weeks from today in equal share to the respective State Governments and the State Pollution Control Boards of the respective States. This

Environmental Compensation shall be kept in a separate account by the State Governments and the Boards and will be utilised only for the purpose of restoration of the environment, ecology, biodiversity and for taking precautionary steps to control and prevent pollution in these two districts, subject to further orders of the Tribunal.

11. We further direct both the States (State of Uttar Pradesh and State of Haryana) to complete their investigation and enquiry as per the order of the Supreme Court and this judgement of the Tribunal and submit the report to the Tribunal within three months from today. It will identify each of the persons who were responsible for carrying on illegal, unauthorised, unscientific mining of minerals from the river or river bed and the surrounding villages. It will identify the screening plants/stone crushers in the district Saharanpur in State of Uttar Pradesh and district Yamunanagar in Haryana, where persons were carrying on such business illegally and unauthorisedly, particularly, in light of the fact that the mining had been stopped as per the orders of the Court.

The list of such violators along with their complete record shall be furnished to the Tribunal. They shall also be served with the notice explaining as to why they should not be asked to pay similar Environmental Compensation, as imposed by the Tribunal under para 9 of the directions. The report and reply to the notice as well will be placed before the Tribunal.

12. In the event any of the parties, liable to pay Environmental Compensation, fails to pay the same within the stipulated period

the State and the Boards would forthwith revoke the mining leases as well as the consents, EC, if granted. In the meanwhile, we also direct that the State Government, Board and MoEF will not extend or renew the mining leases, consents or the EC till final orders are passed by the Tribunal upon the receipt of the report of the High Powered Committee.

13. We do expect that in terms of the recommendations of the CEC and the orders of the Supreme Court of India, the respective State Governments, State Pollution Control Boards and MoEF would take action against the defaulting officers.

14. We direct that all the persons carrying on mining activity as well as the persons operating screening plants/stone crushers shall obtain the consent of the State Board immediately. They shall submit the applications for the same within two weeks from the date of pronouncement of this judgment which shall be dealt with immediately and consent should be refused/granted by the State Board within three weeks thereafter. The State Board shall decide the application on the basis of the joint inspection conducted by the team(s) constituted by the High Powered Committee involving the State Boards of the respective States. If the consent is granted, the State Board shall stipulate such conditions as are necessary for protecting the environment, ecology and the interest of the people of that area in relation to mining and transportation of mined material and processing at the respective plants.

15. The mining units, if any, which have obtained the consent of the Board and are operating would be subjected to inspection by the

Joint Inspection Team. They would be permitted to operate after expiry of 45 days only if the report of the Joint Inspection Team is favourable to them, subject to the orders of the Tribunal.

16. Whether the mine operator, lessee of the mine and owner of screening plant/stone crusher has been guilty of irregularities, or was involved in illegal mining, or operated without consent/EC and/or violated terms and conditions, rules and regulations, would be a relevant consideration for all the concerned authorities while examining the grant of mining lease, consent to establish/operate and grant of EC.

96. With the above directions, all the Original Applications and all the Miscellaneous Applications stand disposed of, however, without any order as to costs.

Swatanter Kumar
Chairperson

M.S. Nambiar
Judicial Member

Prof. A. R. Yousuf
Expert Member

B.S. Sajwan
Expert Member

New Delhi
18th February, 2016