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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO. 726/2018

IN THE MATTER OF :

RUPESH PETHE

... APPLICANT

VS

STATE OF MP & ORS.

... RESPONDENT

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RSB

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. No.726 of 2018

IN THE MATTER OF:

RupeshPethe

...Applicant

Versus

State of MP &Anr.

... Respondents

AFFIDAVIT IN COMPLIANCE OF ORDER DATED 26.07.2019
PASSED BY THIS HON'BLE TRIBUNAL

I, Neeraj Mandloi, aged about 51 years, S/o Shri V. K Mandloi, presently working as Principal Secretary, Department of Mineral Resources, Government of Madhya Pradesh, office at Vallabh Bhawan, Mantralaya, Bhopal, Madhya Pradesh - 462004, do hereby solemnly affirm and state as under;

1. That vide order dated 26.07.2019 this Hon'ble Tribunal was pleased to direct the deponent to file an affidavit on behalf of State of Madhya Pradesh explaining about grant of mining leases, keeping in view the judgment passed by Hon'bleSupreme Court in the case of Deepak Kumar and order dated 4.9.2018 passed by this Hon'ble Tribunal in OA No. 186 of 2016, Satyendra Pandey versus Ministry of Environment Forest & Climate Change.
2. That so far as the allegation made in the application regarding illegal sand mining taking place in district

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Hoshangabad, Madhya Pradesh is concerned, it is respectfully submitted that after receiving the orders passed by this Hon'ble Tribunal, the deponent has instructed the District Magistrate, Hoshangabad regarding effective steps to curb illegal mining, if any, in the district. The District Magistrate Hoshangabad, after enquiry has informed that all vigil and efforts are continuously being made by the district authority to prevent any incident of illegal sand mining taking place in district Hoshangabad. However, as and when any such case is identified or reported, case of illegal mining is registered and penalties as per rules, are being imposed.

3. That so far as grievance of the applicant against the respondent No.2 is concerned, it is respectfully submitted that vide order dated 10.5.2018, Hon'ble Central Zone bench of this Hon'ble Tribunal had directed joint inspection by a team comprising of representatives of CPCB, MPPCB and District Mining Officer Hoshangabad.
4. That on 17.5.2018 the team conducted spot inspection and during the inspection, no mining operations were found on site. At present also, no mining operations are being carried out in the area in question. The Gram panchayats including Chaplasar, Balabhet and Pilikarar have been asked to submit EMP from SEIAA without which no mining activity is to be permitted to be done.



Am

5. It is submitted that during the inspection, it was found that the applicant before this Hon'ble Tribunal himself has been conducting illegal mining activities and he is working with M/s Shivam Enterprises.
6. In the reply filed on behalf of the state government in December 2018, list of cases of illegal mining against the applicant has been given in which four cases of illegal mining have been shown to be registered against the applicant. List of the cases of illegal mining registered against M/s Shivam enterprises and Rupesh Pethe is annexed for perusal of this Hon'ble Tribunal as **ANNEXURE : R/1.**
7. It is submitted that the (Sand) Mineral Policy of 2017 has been replaced by the new (Sand) Mineral Rules. Both the policies of 2017 and 2019 have been framed keeping in view various judgements of Hon'ble Supreme Court and NGT including the case of Deepak Kumar (supra). The order dated 4.9.2018 was passed by this Hon'ble tribunal in the case of Satyendra Pandey (Supra) wherein this Hon'ble tribunal had directed that the mining lease has to be granted only after Environmental Management Plan (EMP) is approved by the State Environment Impact Assessment Authority (SEIAA).
8. That prior to passing of the said order by this Hon'ble tribunal the District Environment Impact Assessment Authority (DEIAA) was in place. The order dated 4.9.2018



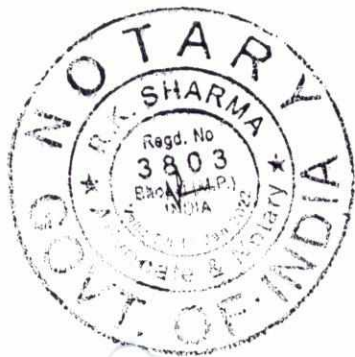
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passed by this Hon'ble tribunal is being fully complied with prospectively by SEIAA and DEIAA have become non-functional , however, orders and approvals granted by DIEAA, while in lawful existence, were not revoked or revived.

9. That after passing of the order dated 4.9.2018 by this Hon'ble Tribunal, the DEIAA in the State, has become non-functional and no new environmental clearances are being given by SEIAA including preparation of EMP wherever required. However, the approvals granted by DEIAA, while it will be reviewed/examined on case to case basis on the basis of violation found in EC conditions by SEIAA. Thus the orders passed by this Hon'ble Tribunal as well as by Hon'ble apex court are being fully complied with the state government, in the form of grant of EC only after review of EMP as directed in its order dated 04/09/2019 before issue of EC by SEIAA.

It is categorically submitted that no new mine is allowed to start operations without grant of EC by SEIAA after 04/09/2019.




DEPONENT

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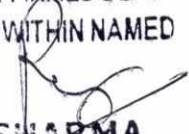
VERIFICATION

Verified at Bhopal on 23rd of October, 2019 that the contents of this affidavit true and correct to the best of my knowledge and nothing material has been concealed therefrom.


DEPONENT



SOLEMNLY AFFIRMED BEFORE
ME BY THE WITHIN NAMED


R.K. SHARMA
ADVOCATE & NOTARY,
Off. Opp. Old Vidhan Sabha, Bhopal

24 OCT 2019

IDENTIFIED BY.....

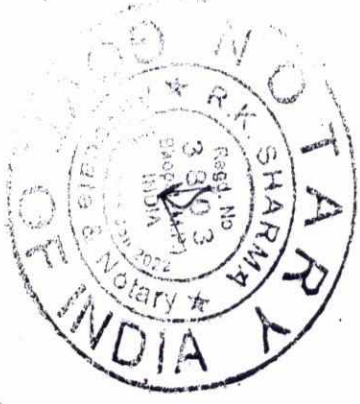

L.M. TIWARI ADVOCATE
CIVIL COURT, BHOPAL

Illegal Mining Cases of M/s Shivam Enterprises & Rupesh Pathe

ANNEXURE R/1

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(1) S. No.	(2) Case Reg. No.	(3) Case Reg. Date	(4) Name and address of person Involved in Illegal Transport.	(5) Seizure Details.	(6) Registration No.	(7) Mineral Seized.	(8) Mineral Quantity	(9) Mineral Royalty (Rs.)	Proposed Penalty	Imposed Penalty	Deposited Penalty	(13) Challan No.	(14) Challan Date	Remark
1	11/2017	19/6/2017	SHIVAM ENTERPRISES, BHOPAL HQL MUKAM RAYPUR	Machine/JCB Machines	POKLARIE	Sand	83,000 - Cubic Meter	8300	249000	249000				Appeal Pending at DGM Bhopal Stayed On Receiver.
2	30/2017	27/12/2017	M/S. SHIVAM ENTERPRISES, BHOPAL	Machine/JCB Machines	NEW	Sand	61,000 - Cubic Meter	6100	183000	183000	183000	10	30/01/2018	
3	39/18	15/3/2018	SHIVAM ENTERPRISES, BHOPAL	Machine/JCB Machines	MP05DB0298	Sand	35,000 - Cubic Meter	3500	105000					Pending at Collector Court Hoshangabad
4	20/2018	22/11/2018	RUPESH PETHI MANAGER SHIVAM ENTERPRISES, M.I.G. 23 FIRST FLOOR SHIVAJI NAGAR BHOPAL HAL TUKAM VIPASHA HOTEL KE PASS MALAKHEDI GADJAPADA HOSHANG	Vehicle/Tractor Trolley-02	MP05G4565	Sand	200,000 - Cubic Meter	20000	1200000					Pending at SCM Court Hoshangabad
5	86/19-20	24/6/2019	SHIVAM ENTERPRISES, BHOPAL			Sand	172475,000 - Cubic Meter	17247500	2069700000					Pending at ADM Court Hoshangabad



(Signature)
Anil Kumar Sharma

Item No. 16

Court No. 1

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

Original Application No. 726/2018
(M.A. No. 1632/2018)

Rupesh Pethe

Applicant(s)

Versus

State of M.P. & Ors.

Respondent(s)

(M.A. No. 1632/2018 for stay)

Date of hearing: 26.07.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):

Mr. Gaurav Chaudhary, Advocate

For Respondent (s):

Mr. Suryanarayan Singh, Sr. Advocate with Mr. Ankit Verma, Advocate

ORDER

Grievance in this application is against illegal sand mining taking place in District Hoshangabad, Madhya Pradesh. Though, particular grievance of the applicant is against respondent No. 2, Sarpanch of village Vikashkhand Babai, the material on record suggests that the regulatory regime under the Mineral Policy of 2017, does not meet the mandate of law laid down by the Hon'ble Supreme Court in *Deepak Kumar v. State of Haryana & Ors.*, (2012) 4 SCC 629 and by this Tribunal vide order dated 04.09.2018 in *Original Application No. 186/2016 - Satendra Pandey v. Ministry of Environment, Forest & Climate Change & Anr.* The mining lease has to be granted only after Environment Management Plan is reviewed by the State Environment Impact Assessment Authority (SEIAA)

following the Sustainable Sand Mining Guidelines, 2016 of the MoEF&CC of the year 2016. The matter has also been dealt with by an order today in *Original Application No. 360/2015, National Green Tribunal Bar Association v. Virender Singh (State of Gujarat)* in the light of earlier proceedings on 05.04.2019.

The stand of respondent No.2 is that applicant himself is engaged in illegal mining.

In view of the above, we direct the State of Madhya Pradesh to file an affidavit by the Principal Secretary, Mineral Resources, Madhya Pradesh explaining how mining leases are being allowed to be granted in violation of law. The State of Madhya Pradesh may ensure compliance of the judgement of the Hon'ble Supreme Court in *Deepak Kumar (Supra)* and of this Tribunal in *Satendra Pandey (Supra)* and permit mining only after Environment Management Plan is approved by the SEIAA. The Principal Secretary, Mineral Resources may furnish a factual and action taken report in the present case by email at judicial-ngt@gov.in.

List for further consideration on 31.10.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

July 26, 2019

Original Application No. 726/2018, (M.A. No. 1632/2018)

AK



Vidya Sagar <vidya.sagar@bobdekunwar.in>

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Rupesh Pethe Vs State of MP & Ors.

Message

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Shagufa Salim <shagufa.salim@bobdekunwar.in>, Nivesh Kumar <nivesh.kumar@bobdekunwar.in>

Tue, Jan 7, 2020 at 11:21 AM

Warm Regards,
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