

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

**Original Application No. 44 of 2016
And**

**Original Application No. 517 of 2015
(M.A. No. 1247 of 2015 & M.A. No. 1288 of 2015)**

And

**Original Application No. 550 of 2015
(M.A. No. 1311 of 2015)**

IN THE MATTER OF:

Mushtakeem Vs. MoEF & CC & Ors.

And

Sandeep Kumar Vs. Ministry of Environment & Forest, & CC & Ors.

And

Virender Kumar Vs. Ministry of Environment, Forests & Climate Change & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE PROF. DR. R. NAGENDRAN, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER**

Original Application No. 44 of 2016

Present: **Applicant :** **Mr. Vikram Singh Punia, Adv.**
 Respondent No. 1: **Mr. Attin Shankar Rastogi, and Mr. Harsh Pratap Shah, Adv.**

 Respondent No. 2: **Ms. Savitri Pandey, Adv.**
 Respondent Nos. 3to10: **Mr. Ankit Verma, Adv.**
 Respondent No. 26: **Mr. Shaurya Sharma, Adv.**
 Respondent No. 27: **Mr. Sidhartha Bambha and Ms. Ayiala, Adv.**
 Respondent No. 29 & 30: **Mr. Tarun Singla, Adv.**
 Mr. Virender Rana, Adv.
 Mr. Anil Grover, AAG and Mr. Rahul Khurana, Adv.

Original Application No. 517 of 2015

Present: **Applicant :** **Mr. Suraj Prakash Singh, Adv.**
 Respondent No. 1: **Mr. Attin Shankar Rastogi, Adv.**
 Respondent Nos. 2 to 6: **Mr. Anil Grover, AAG and Mr. Rahul Khurana, Adv.**

 Respondent No. 7: **Mr. Ankit Verma, Adv. for State of U.P.**
 Mr. Pradeep Misra, Mr. Daleep Kr. Dhyani, Adv.

Original Application No. 550 of 2015

Present: **Applicant:** **Mr. Kapil Joshi, Adv.**
 Respondent No. 1: **Ms. Divya Prkash Pande, Adv.**
 Respondent Nos. 2 to 6: **Mr. Anil Grover, AAG and Mr. Rahul Khurana, Adv.**
 Respondent No. 7 : **Mr. Vishwendra Verma, Adv.**
 Respondent No. 3 to 10 : **Mr. Ankit Verma, Adv.**
 Mr. Attin Shankar Rastogi, Adv. for MoEF

	Date and Remarks	Orders of the Tribunal
	Item Nos. 15 to 17 April 21, 2016 ss	The entire controversy in the present case revolves around what is the mechanised, semi-mechanised and manual mining, particularly in the river bed. In order to have a proper assistance from different parties to the lis as

		<p>well as the expert agencies vide order dated 25th February, 2016 the States of Haryana, Uttar Pradesh and Ministry of Environment & Forest, & CC was directed to file affidavits as to what they understand to these terms. As the Ministry or the said authorities vested with the function of regulating mining activities. The mining is a State subject undoubtedly but the river is not a State subject and vide notification issued by the Ministry of Environment & Forest, & CC in November, 2014. The river bed on the basis of content are to vest in Ministry of Environment & Forest, & CC, how and what kind of mining should be permitted on the river bank particularly in the river bed. The assistance of Ministry of Environment & Forest, & CC was absolutely essential. A meeting and was directed to be held by the Secretary which was hold, but there is no clear answer provided to the queries raised by the Tribunal. It was stated that they have issued guidelines in this behalf. The guidelines have been issued for the purpose of issuance of Environmental Clearances wherever laws so required these guidelines would not define or even explain much less interpretatively as to what is the meaning of these expressions of mechanised, semi-mechanised and manual mining. In our order dated 02nd March, 2016 matter had adjourned and it was noticed that the State mining policy more often in a frustrated by imposition of condition in the Environmental Clearance granted by the Ministry of Environment & Forest, & CC. Thus a further direction was issued to comply with the earlier order and to file a appropriate affidavit, again adjournment was asked for</p>
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		<p>Ministry of Environment & Forest, & CC vide order dated 15th March, 2016, 23rd March, 2016 and finally on 05th April, 2016. We had again direct the State of Haryanan and Uttar Pradesh and Ministry of Environment & Forest, & CC to file clear affidavit and take a clear stand as to the mining and scope of these three expressions. Today again no affidavit have been filed on behalf of Ministry of Environment & Forest, & CC, however Learned Counsel appearing for State of Haryana submits that he would file affidavit during the course of the day in the registry. The Learned Counsel appearing for State of Uttar Pradesh submits that they would file affidavit positively within one week from today. However, the Learned Counsel appearing for Ministry of Environment & Forest, & CC submits that they have issued guidelines and affidavit have already been filed. These affidavits of subject matters of deliberation before the Tribunal and thereafter three orders have been passed directing Ministry of Environment & Forest, & CC to file a specific affidavit, but no plausible reason have been given for non-compliance of the directions of the Tribunal. In the normal way we impose cost and direct senior officer to be present before the Tribunal, however in the interest of justice we grant one week time to MoEF to file affidavit. The affidavit should be filed by the Officer not below the rank of Joint Secretary in the Ministry who shall take expert opinion from the concerned experts from the Ministry and explain the above three terms as directed. This is absolutely essential that affidavit of the all concerned stakeholders should come before the Tribunal before the next date and</p>
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take its final view. In the event now, the State of Uttar Pradesh and Ministry of Environment & Forest, & CC do not file the affidavits and as prayed by the Uttar Pradesh, we will impose heavy cost and direct the presence of senior officer before the Tribunal.

This order is called for in view of the fact that on the one hand the proceedings before the Tribunal in these matters and the other connected matters are being unduly delayed on the other hand there is a serious revenue loss to the State as well as to the private interpreneur on the ground of staying mechanised, semi-mechanised and manual as well as illegal and unauthorised mining that the being carried out in the State, before the Tribunal can take final view in this regards. It is absolutely indefensible that stand and opinion of the expert authority and respective stakeholders should be placed before the Tribunal. We have already notice the guideline are vague and uncertain and it is the case of the state that are causing more confusion then the query and serious mining activity is being carried in by the State through its private miners etc. In exercise of the power vested in the Tribunal under Section 19(4) of the NGT Act, 2010 read with rule 24 of the National Green Tribunal (Practices and Procedure) Rules, 2011. We direct Ministry of Environment & Forest, & CC to file affidavit within one week from today.

List these matters for hearing on 04th May, 2016 when other connected matters are also listed.

.....,CP
(Swatanter Kumar)

		<p>.....,JM (M.S. Nambiar)</p> <p>.....,EM (Prof. Dr. R. Nagendran)</p> <p>.....,EM (Prof. A.R. Yousuf)</p> <p>.....,EM (B.S. Sajwan)</p>
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