

IN THE SUPREME COURT OF INDIA
[CIVIL ORIGINAL JURISDICTION]
WRIT PETITION (CIVIL) NO. 1342 OF 2018
PUBLIC INTEREST LITIGATION

AND IN THE MATTER OF:

M Alagarsamy ... Petitioner
Versus

Union of India & Ors ... Respondents

AMENDED WRIT PETITION

To,

**THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS COMPANION JUDGES
OF THE HON'BLE SUPREME COURT OF INDIA**

The Humble Petition of the
Petitioners above-named

MOST RESPECTFULLY SHEWETH:

1. The Petitioner is filing the instant writ petition under article 32 of the Constitution of India for issuance of a writ of mandamus or any other appropriate writ *inter alia* directing the respondents to cease all river and beach sand mining activities owing to the non-implementation of 'Sustainable sand mining management guidelines, 2016' & 'Office memorandum dated 24.12.2013'; and to direct MoEF to constitute a committee for monitoring all such implementations; further to direct the CBI to investigate and register cases against illegal mining.
- 1A. The Petitioner herein is an Advocate and a public-spirited person who has actively organized and participated in various agitations in relation to public issues. The Petitioner has also filed/appeared in Public Interest Litigations for various issues such as illegal opening of liquor shops, illegal opening of new bus stops, illegal purported construction on a park etc. Petitioner has also participated in various agitations against illegal implementation of fees, various sand mafias operating in State of Tamil Nadu, against illegal opening of wine shops etc. Petitioner UID number is 864337490356, his PAN is ALAPA9379F and his annual income is about Rs. 4,30,000/-.

The petitioner has also made various representations to the respondents regarding the matter in issue and also regarding illegal mining activities. However, till date no action whatsoever has been taken in regard. In this regard Annexure P34-39 has been attached as annexures with the petition.

The petitioner has no personal interest, or any private or oblique motive, in filing the instant petition. There is no civil, criminal, revenue or any other litigation involving the petitioner, which has or could have a legal nexus with the issues involved in this PIL.

2. Respondent No. 1 is the Ministry of Environment and Forest, through its Secretary since it is in charge under the Central Government to enact guidelines to regulate sand mining. Respondent No. 2 is the Ministry of Mines, through its Secretary. Ministry of Mines is responsible for survey and exploration of all minerals, other than natural gases, petroleum and atomic minerals, for mining and metallurgy of non-ferrous metals like aluminium, copper, zinc, lead, gold, nickel, etc. and for administration of the Mines and Minerals (Regulation and Development) Act, 1957 in respect of all mines and minerals other than coal, natural gas and petroleum.
3. Respondent No. 3 is the State of Tamil Nadu, through its Secretary. The State of Tamil Nadu has been made party to this petition since as per media articles, the report of the special investigation team, headed by senior IAS officer, revealed illegal mining of 1 crore metric tonne of beach sand from Tirunelveli, Thoothukudi and Kanyakumari district by 52 leases in the State of Tamil Nadu.

A copy of the news article by DNA India dated 25th July, 2018 is annexed hereto and marked as **ANNEXURE -P1** (Pg 35-36).

4. Respondent No.7 is State of Andhra Pradesh Department of Mines and Geology through its Director. Andhra Pradesh is one of the 29 states of India, situated on the country's southeastern coast. The rivers flowing through the state are the Godavari, Krishna, Penna, Mahanadi, Tungabhadra, Vamsadhara, Nagasaki, Bahuda and Mahendratana. In all the river basins sand reaches are allotted. Indiscriminate sand mining Illegal sand mining is rampant in all the districts of Andhra Pradesh. Illegal sand mining is noticed all along the river Krishna in Guntur district. A study published in an International Journal of Recent Scientific Research documents the various villages in which sand mining is prevalent.

Table – 2 Illegal sand mining in various districts of Andhra Pradesh

Districts Villages

S. No	Districts	Villages
1	Srikakulam	Mabugam(Polanki Mandal), Muddapet(Echherla Mandal), Gopalapenta (Narasanna pet Mandal), Chenuvalasa, Singuru(Ponduru Mandal)
2	Vijayanagaram	Burkhaloni Revu (Sitanagaram Mandal)
3	Visakhapatnam	Kolimeru revu (Tuni Mandal), Penugollum (S.Rayavaram Mandal) Kasimkota, Tegada, Somavaram, Perantalapalem.
4	East Godavari	Ainavilli,Mamidikuduru,Malikipuram,Sa khinetipalli, Ipolavaram, Rajolu, Allavaram, Katrenikona Mandals.
5	West Godavari	Siddantam, Kagorumilli, Vadapalli, Gonguratippalakam,Nagireddigudem, Yenuguvanilanka, Aurangabad.
6	Krishna	Along the Krishna River
7	Guntur	Vundavalli reach (Tadepalli mandal), Vaikunthapuram (Amaravathi mandal), another reach in Amaravathi village, Didugu, Munugodu, Kastala (Atcham pet mandal), Krosur, Taduvali, K.V. Palem (Tenali mandal),Chamaru, Challagarika and Regulagadda (Machavaram mandal), Rayapudi revu, Penumaka, Penumudi, Kogantivaripalem
8	Prakasam Mallavaram	Vikkiralapeta, Bhimavaram, Dondapadu, Maddiralapadu (Kothapatnam Mandal), Manneru, Paleru (Kandukur Division)
9	Nellore	Loading 14 cu.m loading instead of 9 cu.m
10	Kadapa	Tanguturu (Nandaluru Mandal), Seshamambapuram(Razampet Mandal), Komatharajupuram (Penagaluru Mandal), Gandikota Reservoir.
11	Kurnool	Emmiganuru, Mantralayam
12	Ananthapuram	Chinnachigulla revu(Tadimarri Mandal), Devunuppalapadu(Pedda Pappur Mandal),Chinnayakluru, Ganguapuram(Kanikel Mandal),Banduru Bommanhal Mandal,

		Hindupuram,, Rayadurgam, Tadipatri
13	Chittoor	Kuppam, V-kota, Santhipuram, Ramakuppam, Gangavaram, Palamaneru,, PTM, Tottambedu, Pitchтуру Mandal

A copy of the research article “ Status of Sand Mining in Andhra Pradesh, India” by Sankara Pitchaiah P in International Journal of Recent Scientific Research Research Vol. 7, Issue, 1, pp. 8255-8260, January, 2016 is annexed hereto and marked as **ANNEXURE P-2** (Pg 37-43)

5. Respondent No.6 is State of Maharashtra, Directorate of Geology and Mining through its commissioner/secretary. The State of Maharashtra has been made a Respondent in the present petition since as per news articles, Maharashtra recorded 1,39,706 illegal mining cases between 2013 and 2017, the highest number in the country, revealed data submitted by the Union environment ministry before the Rajya Sabha on January 3. However, the state had one of the lowest numbers of prosecutions in such cases. The state filed 712 first information reports (FIR) and one court case, while seizing around 1,39,000 vehicles used in illegal mining operations and collecting Rs 267 crores as fines from offender.

A copy of the Hindustan Times Article dated 04.01.2018 is annexed hereto and marked as **ANNEXURE P-3** (Pg 44-46)

6. Respondent No.5 is State of Madhya Pradesh Department of Mines and Geology through its Director. As per media reports, a total of 42,152 cases of illegal mining for major and minor minerals were registered in the state from 2009 to 2015. “When it comes to Chambal and Sindh rivers only approximately there is business of 25 to 30 lakh per day involved in illegal mining,” said Sudhir Sapra, a Gwalior-based environmentalist.

A copy of the Hindustan Times Article dated 6th September, 2018 is annexed hereto and marked as **ANNEXURE P-4** (Pg 47-50)

7. Respondent No 4 is the State of Punjab through its Director. Documents prepared by Punjab’s mining wings show that 5,549 criminal cases of illegal mining have been reported between 2013-17. The accused have

been charged with theft, obstructing officers and sections of the Minerals Act, 1957. This translates into roughly 92 FIRs every month across Sutlej, Beas and Ravi river basin. The Punjab police is yet to submit challans in 2,277 cases in various courts. The documents also reveal that 8,904 vehicles were seized while ferrying illegally mined sand.

A copy of the media news article by Times of India dated 24th April, 2017 is annexed hereto and marked as **ANNEXURE P-5** (Pg 51-52).

8. Respondent No. 8 is the Central Bureau of Investigation through its Directors since the CBI has the jurisdiction to look into illegal sand mining cases. Further, the illegal sand mining activities involve the local mafia which also uses arms and weapons to run the racket of illegal sand mining and such illegal operations lead to the loss of around thousands of crores to the public exchequer. Hence, there is requirement for the personnel such as the CBI to look into the illegal sand mining cases.
9. The present writ petition pertains specifically to sand mining in rivers and beaches. Sand is an important mineral for our society in protecting the environment, buffer against strong tidal waves and storm, habitat for crustacean species and marine organisms, used for making concrete, filling roads, building sites, brickmaking, making glass, sandpapers, reclamations, and in our tourism industry in beach attractions. Sand mining is the process of removal of sand and gravel where this practice is becoming an environmental issue as the demand for sand increases in industry and construction. In almost every mineral bearing region, soil mining and land degradation have been inseparably connected. Unscientific mining has caused degradation of land, accompanied by subsidence and consequential mine fires and disturbance of the water table leading to topographic disorder, severe ecological imbalance and damage to land use patterns in and around mining regions.

Laws governing sand mining activities in India

10. Entry 54 of List 1 or the Union List to the VIIth Schedule to the Constitution of India, reads as: '54 (List 1): regulation of mines and mineral development to the extent to which such regulation and development under the control of Union is declared by the Parliament by Law to be expedient in "public interest"'. Entry 23 of List 2 of the State List to the VIIth Schedule to the Constitution of India, reads as:

‘regulation of mines and mineral development subject to the provisions of List 1 with respect to the regulation and development under the control of the Union’. Rivers, forests, minerals, and other such sources constitute a nation’s natural wealth.

- 11.** The Parliament, therefore, has declared that it is expedient in ‘public interest’ that the Union should take under its control the regulation of mines and development of minerals. This was done by enacting the Mines and Minerals (Development and Regulation) Act, 1957, which is a ‘Law’ as contemplated by Entry 54 of List 1 to the VIIth Schedule to the Constitution of India. The Act takes over the control of regulation of mines and development of minerals to the Union, of course, to the extent provided. In respect of minor minerals, the powers have been conferred upon the state government to make rules for regulating the grant of prospecting licences, mining leases and the purposes connected therewith.
- 12.** There are a number of legislations, rules, and regulations governing mining activities in India. The most prominent being the Mines and Minerals (Development and Regulation) Act, 1957 and Mines Act, 1952; the Mineral Concession Rules, 1960; and Mineral Concessions and Development Rules, 1998. The Mines Act, 1952; the Mines Rescue Rules, 1985; and the Payment of Wages (Mines) Rules, 1956 are the legislations dealing with the mines safety and labour welfare.
- 13.** Sand is a ‘minor mineral’ as defined under the section 3(e) of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act). Section 15 of the MMDR Act gives powers to the respective state Government regarding the formation of rules related to the grant of mining leases of minor minerals. Further, section 23C of the MMDR Act, 1957 empowers state governments to frame rules to prevent illegal mining, transportation and storage of mineral sand for purposes connected therewith. Control of illegal mining is, therefore, under the legislative and administrative jurisdiction of state governments. Therefore, it is the onus of the State to minimize the illegal mining activities and inasmuch the states have been made Respondents in the present petition.
- 14.** Also, Section 20A of the MMDR Act gives power to the Central government to issue directions to the state governments for the

conservation of mineral resources, or on any policy matters in the national interest, and for the scientific and sustainable development and exploitation of mineral resources. As specified in the Act, Central government may issue directions in respect of the following matters: (i) improvement in procedure for grant of mineral concessions and to ensure co-ordination among agencies entrusted with according statutory clearances; (ii) maintenance of internet-based databases including development and operation of a mining tenement system; (iii) implementation and evaluation of sustainable development frameworks; (iv) reduction in waste generation and related waste management practices and promotion of recycling of materials; (v) minimizing and mitigating adverse environmental impacts particularly in respect of ground water, air, ambient noise and land; (vi) ensuring minimal ecological disturbance, in terms of bio-diversity, flora, fauna and habitat; (vii) promoting restoration and reclamation activities so as to make optimal use of mined out land for the benefit of the local communities; and (viii) such other matters as may be necessary for the purposes of implementation of this Act

15. Ministry of Environment and Forest and Climate Change, hereinafter referred to as MOEF, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, issued a notification *inter alia* directing that from the date of its publication the construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to the said notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the Environment Protection Act, in accordance with the procedure specified hereinafter in this notification.

It is pertinent to point out here that the said Notification classified the projects of mining of minerals into two categories:

- Category A Projects - wherein the area of mining lease was equal to or greater than 50 ha.

- Category B Projects - wherein the area of mining lease was less than 50 ha. but greater than 5 ha.

Further, Clause 2 of the said Notification contemplated that ECs for Category 'A' Projects were to be given by MOEF and ECs for Category 'B' Projects were to be given by SEIAA. The clearance process/stages for grant of EC were set out in Clause 7 of the Notification. Clause 10 of the Notification provided for Post Environmental Clearance Monitoring *inter alia* stating that it shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions in hard and soft copies to the regulatory authority concerned, on 1st June and 1st December of each calendar year. A copy of the Notification issued by Ministry of Environment & Forest dated 14.09.2006 is marked and annexed herewith as **ANNEXURE P-6** (Pg.53-61)

16. Thereafter, this Hon'ble Court in the case of **Deepak Kumar v. State of Haryana, reported in (2012) 4 SCC 629**, *inter alia* held that leases of minor minerals, for an area less than 5 ha., as well as their renewal, was to be granted only after getting environmental clearance. The relevant paragraph is reproduced herein below:

"26. We are of considered view that it is highly necessary to have an effective framework of mining plan which will take care of all environmental issues and also evolve a long term rational and sustainable use of natural resources base and also the bio-assessment protocol. Sand mining, it may be noted, may have an adverse effect on biodiversity as loss of habitat caused by sand mining will affect various species, flora and fauna and it may also destabilise the soil structure of river banks and often leaves isolated islands. We find that, taking note of those technical, scientific and environmental matters, MoEF, Government of India, issued various recommendations in March 2010 followed by the Model Rules, 2010 framed by the Ministry of Mines which have to be given effect to, inculcating the spirit of Article 48A and Article 51-A(g) read with Article 21 of the Constitution.

27. The State of Haryana and various other States have not so far implemented the above recommendations of MoEF or the guidelines issued by the Ministry of Mines before issuing auction notices granting short term permits by way of auction of minor minerals boulders, gravels, sand etc. in the riverbeds and elsewhere of less than 5 ha. We, therefore, direct all the States, Union Territories, MoEF and the Ministry of Mines to give effect to the recommendations made by MoEF in its Report of March 2010 and the model guidelines framed by the Ministry of Mines, within a period

of six months from today and submit their compliance reports. ”

A copy of the order passed in *Deepak Kumar v. State of Haryana*, reported in (2012) 4 SCC 629 is annexed herewith and marked as **ANNEXURE P-7** (Pg. 62-74)

17. Pursuant to the order passed in *Deepak Kumar v. State of Haryana*, reported in (2012) 4 SCC 629, MOEF issued an Office Memorandum dated 18.05.2012 *inter alia* holding that all mining projects of minor minerals including renewal, irrespective of the size, would require prior ECs. The Office Memorandum further clarified that projects having mining area less than 5 ha. would be treated as Category 'B' projects.

A copy of Office Memorandum issued by Ministry of Environment and Forest dated 18.05.2012 is annexed herewith and marked as **ANNEXURE P-8** (Pg.75-76).

18. The MoEFCC has categorized the sand mining projects upto 25 hectares as Category B2 project under the EIA Notification 2006 which do not require EIA, EMP or require public consultation before the EC is granted. In the Sustainable Sand Mining Management Guidelines, 2016, it is observed that the same defeats the objective of the judgment passed by this Hon'ble Court and also "*does not serve the purpose of environment clearance which is to ensure environmentally sustainable and socially responsible mining*". The MoEF issued Sustainable Sand Mining Management Guidelines, 2016 in consultation with the State governments and stakeholders keeping in view the need for sustainable sand mining and environmental friendly management practices in order to restore and maintain the ecology of the river and checking illegal and indiscrete mining. It is pertinent to point out here that the Sustainable Guidelines, 2016 have either not been adopted or not properly implemented in the various States.

A copy of Sustainable Sand Mining Management Guidelines, 2016 is annexed herewith and marked as **ANNEXURE P-9** (Pg. 77-143).

The respondents have violated the direction passed by this Hon'ble Court that mining lease and environmental clearance should only be given to those entities who have an approved mining plan from the competent authority in accordance with the regulations framed for sustainable mining. However, despite the aforesaid direction, the

respondents have not made the existence of mining plan a prerequisite for obtaining a mining lease or environmental clearance. The need for having an approved mining plan has been reiterated in the Sustainable Sand Mining Management Guidelines 2016. Moreover, the Union of India has not brought into force the Minor Minerals Conservation and Development Rules, 2010, despite the clear direction passed by this Hon’ble Court in its 2012 judgment.

19. It is important to note that under the Sustainable Sand Mining Management Guidelines, 2016, different authorities are in charge of different processes of sand mining. The first table shows the basic functions under the guidelines and the authorities in charge of it. The second table tabulates the authorities in charge of implementation of guidelines and grant of environment clearances based on the cluster sizes. The third table shows the different functions with reference to the enforcement of the guidelines and the various authorities in charge of the same.

Table 1: General functions to be performed by corresponding authorities

Serial No.	<u>Respective functions under the Sustainable Sand Mining Management Guidelines, 2016</u>	<u>Implementing authorities/agencies</u>
1.	Preparation of District Survey Report	District Environment Impact Assessment Authorities (DEIAA), <u>with assistance of:</u> State Geology Department, State Irrigation Department, State Forest Department, State Public Works Department, State Ground Water Boards, State Remote Sensing Department and Mining Department
2.	Grant of size and period of the land	States Government depending on the local situation

	mining leases	
3.	Action Plan to divide the river/stream/other sources of the district	DEIAA
4.	Formation of a Sub-Divisional Committee for visiting each site for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof	Sub-Divisional Magistrate, Officers from State Irrigation department, State Pollution Control Board or Committee, State Forest department, Geology or mining officer
5.	Preparation of a Management Plan	State Authorities, such as the department of Geology and Mining
6.	Preparation of an Annual Status and Trends Report	State Authorities
7.	Establishing a Long Term Monitoring Program (should provide date illustrating any impacts and assess any reclamation or restoration possible)	State Authorities
8.	Preparation of a Reclamation Plan	State Authorities
9.	Reducing Consumption of Sand	Central Government to make amendments to Mines and Mineral (Development and Regulation), 1957 (“ MMDR Act, 1957 ”) so as to enable the farmer to use and

		dispose-off the sand post flood. Land Management Committee of the Gram Panchayat to map the deposition of sand.
10.	Approval of a Mining Plan	Competent Authority designated by the States
11.	Evaluating /Monitoring the impact of sand mining	Monitoring / documentation to be done by the EC holders and to be regularly checked and assessed by the DEIAA or the State Environment Impact Assessment Authority (“ SEIAA ”),
	For re-examining minerals into major and minor categories:	Ministry of Mines , Indian Bureau of Mines, <i>in consultation with:</i> State Governments
	For facilitating implementation of Environment Management Plans in cluster of small mines.	State Governments, Mine Owners Associations
	For taking decision regarding restriction on depth of mining for any area.	Central Ground Water Authority, State Ground Water Boards
	Protection of customary rights	State Authorities
	Evaluation of the Impact of Sand Mining	Environment Clearance (EC) Holders and to be reviewed by DEIAA once in a year
	Activities declared as non-mining activity	State Government with the concurrence of the Ministry of Environment, Forest and Climate Change, Government of India.

Table 2: Authorities in charge of EC based on cluster size

Environmental Clearance of Sand Mining including cluster situation		
Area of Lease (Hectare)	Authority to appraise/ grant EC	Authority to monitor EC Compliance
Cluster area of mine leases up to 5 ha	District Level Expert Appraisal Committees (DEAC)/District Environment Impact Assessment Authorities (DEIAA)	DEIAAs, SEIAAs, State Pollution Control Boards (SPCB), Central Pollution Control Board (CPCB), Ministry of Environment, Forest and Climate Change (MoEFCC), Agency Nominated by MoEFCC
Cluster area of Mine leases > 5 ha and < 25 ha with no Individual lease > 5 ha	District Level Expert Appraisal Committees (DEAC)/ District Environment Impact Assessment Authorities (DEIAA)	DEIAAs, SEIAAs, State Pollution Control Boards (SPCB), Central Pollution Control Board (CPCB), Ministry of Environment, Forest and Climate Change (MoEFCC), Agency Nominated by MoEFCC
Cluster of mine leases of area > 25 hectares with Individual lease size < 50ha	State Expert Appraisal Committees (SEAC)/ State Environment Impact Assessment Authorities (SEIAA)	DEIAAs, SEIAAs, State Pollution Control Boards (SPCB), Central Pollution Control Board (CPCB), Ministry of Environment, Forest and

		Climate Change (MoEFCC), Agency Nominated by MoEFCC
Cluster of any size with any of the individual lease > 50ha	Expert Appraisal Committee (EAC)/ MoEFCC	DEIAAs, SEIAAs, State Pollution Control Boards (SPCB), Central Pollution Control Board (CPCB), Ministry of Environment, Forest and Climate Change (MoEFCC), Agency Nominated by MoEFCC

Table 3: Authorities in charge of enforcement of Sustainable Sand Mining

<i>Monitoring System for Sustainable Sand Mining</i>	
For printing Transport Permits or Receipts with security features and issuing them to the mine lease holders through District Collectors.	State Mining Departments
Monitoring of mined out mineral, environmental clearance conditions and enforcement of Environment Management Plan.	DEIAA,SEIAA, State Pollution Control Board or Committee
Monitoring of enforcement of environmental clearance conditions.	Central Pollution Control Board, Ministry of Environment, Forest and Climate Change , agency nominated by the Ministry for the purpose

20. In exercise of power conferred by section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), the state governments have made rules for minor minerals in their respective

states. It has been observed that most of the states have amended the rules from time to time and have even brought out significant revisions in the rules. Eleven out of the fourteen analyzed states have changed their concession rules in the state recently in last 3-4 years and the remaining four i.e. Tamil Nadu, Telangana, and Andhra Pradesh have not changed their concession rules but have issued amendments from time to time the same. Also Andhra Pradesh and Telangana has separate policy for managing sand mining activities. The regulation related to sand is governed by the Department of Mines and Geology in most of the states except for Assam and Maharashtra. In Assam, Environment and Forest Department regulates sand mining activities. In Maharashtra, Revenue and Forest Department has control over the sand mining. In Gujarat and Punjab, matters related to sand mining is taken care of by the Industries and Commerce department and in Uttarakhand, by the Department of Industries. Specific Sand Mining Policy Apart from the Minor Mineral Concession Rules, some of the states have a separate sand policy applicable in the state that govern the regulation related to sand mining. Despite being a minor mineral, the processes involved in sand mining are very different from those in other minor minerals considering high demand-supply deficit. Also sand is different from other minor minerals in its usage by the general public.

21. Majority of the states have completely revised their minor mineral concession rules or have come up major amendments in the recent years. The responsibility of sand mining in most of the states is with the department which is competent of handling the challenges of the mining industry. The disadvantage of not having the control with the mining department is the staff in other department are not well versed with mining and consequently gap is there between the regulating body and those taking care of operations.
22. Despite the fact that the states have onus to regulate sand mining, they have been unable to regulate sand mining activities and the Courts and other authorities have had to intervene in lieu of the same.

Judicial Intervention and Reports by various committees to curb illegal sand mining

23. Pursuant to the order passed in Deepak Kumar v. State of Haryana, the National Green Tribunal vide its order dated 5th August, 2013, the

Hon'ble NGT restrained any person, company, authority to carry out any mining activity or removal of sand, from river beds anywhere in the country without obtaining Environmental Clearance from MoEF/SEIAA and license from the competent authorities.

A copy of the order dated 5th August 2013 passed in Deepak Kumar v. State of Haryana, the National Green Tribunal is annexed hereto and marked as **ANNEXURE P-10** (Pg. 144-145).

24. As per the Ministry of Environment & Forest office order no. Z-11013/170/2013- IA.II(M) dated 6th August, 2013 a three member Committee comprising of Dr. Saroj, Director, MoEF, New Delhi, Shri G.C. Meena, Deputy Collector of Mines, Incharge Dehradun Office of IBM, Dehradun, Dr. K. K. Garg, Director, Regional Office of MoEF, Lucknow was constituted to enquire into the adverse environmental impact of the alleged illegal sand mining in Gautam Budh Nagar, Uttar Pradesh. The Committee produced several guidelines that could be adopted to ensure sustainable sand mining.

“In view of the observations of the Committee, existing legal frame work and the directions given by the various courts for mining of minor minerals it is evident that rampant, unscientific and illegal mining has been going on at various locations in the Gautam Budh Nagar District along the Yamuna River. This is in violation of the environmental regulations, the Mines and Minerals (Development and Regulation) Act, 1957 and the directions given by the Hon'ble Supreme Court, Hon'ble High Court of Allahabad and NGT New Delhi.

7. Suggested further course of action:

(i) As per the directions given by the Hon'ble Supreme Court on 27th February, 2012 all State Governments need to frame Minor Mineral Concession Rules within a period of six months and submit their compliance report. The recommendation for river bed mining need to be adopted:

(a) In the case of mining leases for riverbed sand mining, specific river stretches should be identified and mining permits/lease should be granted stretch wise, so that the requisite safeguard measures are duly implemented and are effectively monitored by the respective Regulatory Authorities.

(b) The depth of mining may be restricted to 3m/water level, whichever is less.

(c) For carrying out mining in proximity to any bridge and/or embankment, appropriate safety zone should be worked out on case to case basis, taking into account the structural parameters, locational aspects, flow rate etc. and no mining should be carried out in the safety zone so worked out.

(ii) As per Minor Mineral Concession Rules of U.P., the State Govt. Is required to grant mine lease area with Khasra Nos. for undertaking mining activities. The mine lease granted should have coordinates identified (Latitude and Longitude).

(iii) The proponent should also prepare a mine plan which should be duly approved by the State Department of Mines & Geology.

(iv) As per the Hon'ble Supreme Court's order dated 27th February, 2012, all mine leases irrespective of area should obtain EC as per EIA Notification, 2006.

(v) While seeking environmental clearance for carrying out sand mining activity the following should be adopted:

- Prior environmental clearance is mandatory from MoEF/SEIAA irrespective of the mine lease area.

- Need to undertake a study for cumulative impact due to sand mining and adopt cluster approach. 'Cluster Approach' to be adopted for collection of baseline data, which shall adequately cover every single Lease Area under consideration before seeking Environmental Clearance. The cumulative impact study should emphasise on pollution load due to transportation, available infrastructure for transportation, details of transportation of mined out materials as per the Indian Road Congress for both the ways (Loaded as well as unloaded trucks) rate of sedimentation etc.

- Need to undertake an annual replenishment study from recognised institution. In case the replenishment is low the mining activity / production levels shall accordingly be decreased / stopped.

- No in-stream mining should be permitted as it affects the aquatic life.

In case the State Govt. wishes to undertake in-stream mining they need to have a study conducted from recognised Institution to examine the impact of mining of plankton, benthic flora and fauna, turbidity downstream and other related environmental parameters.

(vi) Regular monitoring of the mining activity to ensure that effective compliance of stipulated environmental conditions and are abiding to the Minor Mineral Concession Rules of the State Govt."

A copy of the report dated 08.08.2013 produced by the committee appointed by the MOEF is annexed hereto and marked as **ANNEXURE P-11** (Pg. 146-153)

25. A research study titled "Impact of sand mining on local ecology" by Sangeeta Sonak, Prajwala Pangam, Mahesh Sonak, Deepak Mayekar was published by TERI, the Energy and Resources Institute. The study sought to analyze the various adverse impacts of sand mining on the

environment. Excerpts of the study with reference to the negative impact sand mining has on the environment are produced below.

“Although sand extraction is a profitable business, which also provides sustenance to local people living below the poverty line, its impacts are seen on the environment due to overexploitation of sand.

Sand mining operation may invoke profound ecological changes that could affect the entire ecosystem. It can affect local ecology physically, biologically, and chemically.

Turbidity results due to particles of the mined deposit becoming suspended in the water column. Water turbidity has a variety of impacts, ranging from biological productivity to smothering seabed benthos as the particles settle (Ellis 2001).

Disturbance of sand along the coast gives rise to the process of artificial accretion and erosion (Photo 5) (which otherwise are natural at some places), causing several harmful effects to coastal and marine flora as well as coastal population. Damage to coastal properties due to floods increases. Traditional users of the coast suffer.

Benthic population is at greatest disadvantage. It is immobile and hence environmental impacts at local level are most harmful to this population.

During the process of mining, the functional ecosystem, whether natural or disturbed, is destroyed. Sand dune vegetation gets severely affected. Rehabilitation of coastal dunes following mining has been recommended by Lubke, Avis, and Moll (1996). They further suggest that rehabilitation after dune mining results in bare and shifting sand that requires stabilization and management. Coastal sand can be used for construction purposes. Mining is done to a depth of up to 6 m within 10 m from the high tide line. These operations have the potential to cause severe sea erosion. The disappearance of sand dunes owing to indiscriminate mining makes coastal land vulnerable to storms and cyclones. These operations and the resultant coastal erosion may have an adverse impact on the fishing communities on the coast. The encroachment by miners deprive fisherfolk of the space they have used traditionally to land their catch and keep the fishing equipment. In several places, sea water intrusion has resulted in the salinization of well water and depletion of groundwater resources.

The exposure of the river bed to solar radiation following deep mining has resulted in its drying up. Water availability may, therefore, considerably fall and even the available water may turn saline in several places. Sand mining causes changes in river channel capacity and obstruction in water flow; impairs drainage system; and affects groundwater flow.

It is reported that continued sand mining has led to obstruction in the free flow of water during the monsoon, and the volume of water that flows into the Pulicat lake has dwindled. This reduction in the availability of sweet water has brought down the fish catch substantially, thus affecting the livelihood of hundreds of families of fisherfolk. The sand mining has also hindered the flow of water into the heavily

silted Red Hills and Cholavaram lakes, thereby posing a serious threat to Chennai's water supply system. The illegal removal of sand leads to loss of revenue to the government. Unhygienic dwelling of the migrant labourer is another cause of concern."

A copy of the research study titled "Impact of sand mining on local ecology" by Sangeeta Sonak, Prajwala Pangam, Mahesh Sonak, Deepak Mayekar as published by TERI, the Energy and Resources Institute is annexed hereto and marked as **ANNEXURE P-12** (Pg. 154-174).

26. In the meantime, a research paper titled as '*Environmental impact of soil and sand mining: A review*' was published on the impact of sand mining on the environment by International Journal of Science, Environment and Technology, authored by noted M. Naveen Saviour (Research Scholar, Department of Soil Science and Agricultural Chemistry, Tamil Nadu Agricultural University, Coimbatore, Tamil Nadu, India- 641 003). The relevant paragraph is reproduced herein below:

"...In Tamil Nadu, with a view to drawing the attention of the government to the magnitude of the problem and sensitising people about the risks involved, the Campaign for the Protection of Water Resources-Tamil Nadu arranged a State-level "public hearing" on the impact of sand mining (on river basins, streams, coastal areas and hill regions). After intense studies in different regions and interaction with the affected people, the Campaign for the Protection of Water Resources, Tamil Nadu has identified 15 adverse consequences of sand mining. They include the depletion of groundwater; lesser availability of water for industrial, agricultural and drinking purposes; destruction of agricultural land; loss of employment to farm workers; threat to livelihoods; human rights violations; and damage to roads and bridges. Representatives of victims from 13 of the 28 districts of the State gave evidence on the damage caused to the environment and livelihoods in these districts. The affected river basins included those of the Palar and its tributaries Cheyyar, Araniyar and Kosathalaiyar (Kanchipuram and Thiruvallur districts); the Cauvery (Karur district); the Bhavani (Erode district); the Vellar (Perambalur district); the Vaigai (Madurai and Theni districts); and the Thamiraparani (Tirunelveli district) ..."

A copy of the research paper titled as '*Environmental impact of soil and sand mining: A review*' published by International Journal of Science, Environment and Technology, authored by noted M. Naveen Saviour dated 13.06.2012 is annexed herewith and marked as **ANNEXURE P-13** (Pg. 175-184).

27. On March, 2015, another report/article was published which highlighted the issue of impact of sand mining on the environment. The report/article titled as "*Sand Quarry Locations on the Segment of Kollidam River and its Impact on Rural Environment Using Spatial Information Technology*" published by "International Journal of Recent Scientific Research", authored by "Thirumalai. P, Anand PH, Sudha D, Manivel P and Senthilkumar. R (Department of Geography, Government Arts College (A), Kumbakonam, Tamil Nadu, India)", discussed in detail the impact of sand mining on Kollidam river. The relevant paragraph is reproduced herein below:

"...A field investigation reveals that the Kollidam basin is one of the most affected river basins in Tamil Nadu by overexploitation of sand. Removal of sand for the extensive illegal mining for silicon sand had resulted in depletion of groundwater and consequently affects agriculture activities in the nearby villages. With drain canals blocked, agricultural lands were getting flooded in several places due to Sand mining and riverbed encroachment.

...In the study area as per the survey there are 4 legal and 14 illegal sand mining areas in the river. The illegal miners will normally operate after hours and they collect and transport heavy load, which will affect the rural connecting roads and also they create unnecessary noise during night time. The legal land mining areas are well defined with proper intermittent gaps over the river bed, where as the illegal has no binding on this. They are the sole responsible for the ground water depletion in that area and also when they dig out the sand large number of river beds also dug and hence the water is being let out from these gaps and affects the rural population, like this area.

...The study concluded with the problems associated with the uncontrolled sand mining for construction industries brings other social problems along the river beds. The study also indicate from the GPS maps about the legal and illegal land quarrying.

...Although Sand is required for development of Human being, but at the same time the threats posed due to sand mining can't be ignored..."

A copy of report/article titled as 'Sand Quarry Locations on the Segment of Kollidam River and its Impact on Rural Environment Using Spatial Information Technology' published by "International Journal of Recent Scientific Research", authored by Thirumalai. P, Anand PH, Sudha D, Manivel P and Senthilkumar. R dated March, 2015 is annexed herewith and marked as **ANNEXURE P-14** (Pg. 185-190).

28. Despite judicial interventions and the measures undertaken by the Central government and the state governments, issues of illegal mining, environmental damage and high sand prices, which are interlinked with each other, remain across many states. In view of this, a committee chaired by the Union Secretary, Ministry of Mines comprising of officials of state governments has been constituted vide order dated 18th May 2017 to study the existing system of sand mining in various states and prepare a uniform set of guidelines that can be followed by states. The deliberations held by the Committee so far stressed on the need for preparation of District Survey Report (DSR), as prescribed in the Sustainable Sand Mining Management Guidelines 2016 of MoEFCC so that river resources are prudently managed and developed for the benefit of the present and future generations. Further, the Committee engaged the Indian Bureau of Mines (IBM) who along with the consultant team were asked to visit various states to understand the existing policies and processes in sand mining and suggest the guidelines, as mentioned earlier. This report presents the findings emanating from the various state visits and also proposes a common set of recommendations for streamlining sand mining policies and processes in states

A copy of the report dated 15th February, 2018 released by the Ministry of Mines is annexed hereto and marked as **ANNEXURE P-15** (Pg. 191-223).

Various media reports on instances of illegal sand mining

29. That the Times of India published an article on 13.10.2016 wherein it was reported that over 300 persons protesting against the illegal sand mining activity in Cauvery River, Tamil Nadu, were arrested.

A copy of article published by The Times of India on 13.10.2016 is annexed herewith and marked as **ANNEXURE P-16** (Pg. 124-225).

- 30.** That India Today published an article on 09.07.2017 which reported an event in the State of Tamil Nadu wherein close to 500 villagers held three officers of the Public Works Department hostage to protest against illegal sand mining activities. The protestors also captured 47 trucks which were allegedly being loaded with sand before getting a permit.

A copy of article published by India Today on 09.07.2017 is annexed herewith and marked as **ANNEXURE P-17** (Pg. 226-228).

- 31.** The Times of India published an article on 12.07.2017 wherein it was reported that illegal sand mining activities were being carried out unchecked in the Puducherry.

A copy of article published by Time of India on 12.07.2017 is annexed herewith and marked as **ANNEXURE P-18** (Pg. 229-230).

- 32.** That Down to Earth published an article on 16th October, 2017 where the negative impacts of illegal sand mining on the construction business was reported.

A copy of article published by Down to Earth on 16.10.2017 is annexed herewith and marked as **ANNEXURE P-19** (Pg. 231-243).

- 33.** That the Hans India published an article on 01.12.2017 wherein it was reported that illegal sand mining was rampant in Kurnool, Andhra Pradesh and “...*Despite taking several steps to curb the illegal sand mining from river belts, sand transportation from Tungabhadra and Hundri Rivers is going unabated under the watchful eyes of the police personnel...*”

A copy of article published by The Hans India on 01.12.2017 is annexed herewith and marked as **ANNEXURE P-20** (Pg. 244-253).

- 34.** The Hindu published an article on 08.01.2018 reporting rampant illegal sand mining at the Thenpanniyar river bed, Puducherry.

A copy of article published by The Hindu on 08.01.2018 is annexed herewith and marked as **ANNEXURE P-21** (Pg. 254-255)

35. The Asian Age published an article on 10.02.2018 wherein it was *inter alia* reported that illegal sand mining was still rampant at Kihim and that “...*Maharashtra has highest number of cases of non-compliance of sustainable sand mining management guidelines, 2016. According to data submitted in the Lok Sabha on Friday, the ministry received seven major complaints regarding noncompliance last year, out of which six were from Maharashtra and one from Himachal Pradesh...*”

A copy of article published by The Asian Age on 10.02.2018 is annexed herewith and marked as **ANNEXURE P-22** (Pg. 256-257).

36. The Times of India published an article on 16.03.2018 wherein it was *inter alia* reported that Maharashtra lacked a policy to identify sand reaches, which was revealed in a study conducted by the Centre on existing sand mining practice. It was also reported that “...*Unchecked sand mining has caused much harm to nature and ecology, a concern raised by greens...*”

A copy of article published by The Times of India on 16.03.2018 is annexed herewith and marked as **ANNEXURE P-23** (Pg. 258-261).

37. That the Hindustan Times published an article on 27.03.2018 *inter alia* reporting that Madhya Pradesh is still the hotbed of illegal sand mining.

A copy of article published by The Hindustan Times on 27.03.2018 is annexed herewith and marked as **ANNEXURE P-24** (Pg. 262-264).

38. The Hindu published an article on 11.04.2018 *inter alia* reporting the seizure of illegal sand stock at Sankarabarani river bank in Pudhucherry.

A copy of article published by The Hindu on 11.04.2018 is annexed herewith and marked as **ANNEXURE P-25** (Pg. 265-266).

39. Times of India published an article on 27.04.2018 wherein it was reported that illegal mining is rampant in the State of Madhya Pradesh.

A copy of article published by The Times of India on 27.04.2018 is annexed herewith and marked as **ANNEXURE P-26** (Pg. 267-268).

40. That the Deccan Chronicle published an article on 05.05.2018 *inter alia* reporting the incident of suspension of a Tahsildar in the Union Territory of Puducherry for aiding the sand mafia.

A copy of article published by the Deccan Chronicle on 05.05.2018 is annexed herewith and marked as **ANNEXURE P-27** (Pg. 269-271).

41. The Times of India published on 05.05.2018 an article which categorically reported illegal and indiscriminate sand mining in Puducherry.

A copy of article published by The Times of India on 05.05.2018 is annexed herewith and marked as **ANNEXURE P-28** (Pg. 272-273).

42. The Hindu published an article on 08.05.2018 wherein the murder of a police constable in the State of Tamil Nadu was reported.

A copy of article published by The Hindu on 08.05.2018 is annexed herewith and marked as **ANNEXURE P-29** (Pg. 274-276)

43. The Times of India published an article on 08.05.2018 wherein it was *inter alia* stated/reported that illegal and indiscriminate mining of sand is thriving in the State of Tamil Nadu.

A copy of article published by The Times of India on 08.05.2018 is annexed herewith and marked as **ANNEXURE P-30** (Pg. 277-279).

44. The Hindu published an article on 12.05.2018 wherein the indiscriminate and illegal sand mining in the State of Tamil Nadu was reported.

A copy of article published by The Hindu on 12.05.2018 is annexed herewith and marked as **ANNEXURE P-31** (Pg. 280-289).

45. The New Indian Express published an article on 25.06.2018 wherein the illegal sand mining in Srikakulam, Andhra Pradesh was reported.

A copy of article published by The New Indian Express on 25.06.2018 is annexed herewith and marked as **ANNEXURE P-32** (Pg. 290-293).

46. Hindustan Times published an on 25.06.2018 article wherein it was reported that Maharashtra accounts 33.5% of all cases of illegal mining in the country, however, it has “...*one of the lowest number of prosecutions in such cases...*”

A copy of article published by The Hindustan Times on 25.06.2018 is annexed herewith and marked as **ANNEXURE P-33** (Pg. 294-295).

47. The Petitioner on 28.06.2018 addressed a representation to Respondent No.2 *inter alia* requesting Respondent No.2 to cease all river sand mining activities till such time a proper mechanism was implemented to ensure that no excessive, illegal, mechanized, in-stream, and/or unchecked/ uncontrolled sand mining is carried out.

A copy of the Representation dated 28.06.2018 addressed by the Petitioner to Respondent No.2 is annexed herewith and marked as **ANNEXURE P-34** (Pg. 296-301).

48. That the Petitioner on 01.07.2018 addressed a representation to Respondent No.5 *inter alia* requesting Respondent No.5 to cease all river sand mining activities till such time a proper mechanism was implemented to ensure that no excessive, illegal, mechanized, in-stream, and/or unchecked/uncontrolled sand mining is carried out.

A copy of the Representation dated 01.07.2018 addressed by the Petitioner to Respondent No.5 is annexed herewith and marked as **ANNEXURE P-35** (Pg. 302-305).

49. The Petitioner on 02.07.2018 addressed a representation to Respondent No.4 *inter alia* requesting Respondent No.4 to cease all sand mining activities till such time a proper mechanism was implemented to ensure that no excessive, illegal, and/or unchecked/uncontrolled sand mining is carried out. A copy of the Representation dated 02.07.2018 addressed by the Petitioner to Respondent No.4 is annexed herewith and marked as **ANNEXURE P-36** (Pg. 306-308).

50. The Petitioner on 03.07.2018 addressed a representation to Respondent No.3 *inter alia* requesting Respondent No.3 to cease all river sand mining activities till such time a proper mechanism was implemented to ensure that no excessive, illegal, mechanized, in-stream, and/or unchecked/ uncontrolled sand mining is carried out. A copy of the Representation dated 03.07.2018 addressed by the Petitioner to Respondent No.3 is annexed herewith and marked as **ANNEXURE P-37** (Pg. 309-313).

51. The Petitioner on 05.07.2018 addressed a representation to Respondent No.6 *inter alia* requesting Respondent No.6 to cease all sand mining activities till such time a proper mechanism was

implemented to ensure that no excessive, illegal, mechanized, in-stream, and/or unchecked/uncontrolled sand mining is carried out. A copy of the Representation dated 05.07.2018 addressed by the Petitioner to Respondent No.6 is annexed herewith and marked as **ANNEXURE P-38** (Pg. 314-317).

- 52.** The Petitioner on 05.07.2018 addressed a representation to Respondent No.1 *inter alia* requesting for the formulation and implementation of a proper mechanism for adequate monitoring, management and control of sand mining activities. A copy of the Representation dated 05.07.2018 addressed by the Petitioner to Respondent No.1 is annexed herewith and marked as **ANNEXURE P-39** (Pg.318-320).

Recommendations

- 53.** It is evidently clear from the instances of illegal sand mining reported that the current legal framework is fraught with legal loopholes and has been poorly implemented.
- 54.** It is important to note that the Sustainable Guidelines, 2016 have either not been adopted or not properly implemented in the various States. Further, the Petitioner submits that from the multiple instances of illegal sand mining, issuance of Sustainable Guidelines, 2016 is not sufficient to deal with the issue of illegal and indiscriminate sand mining and consequently, in addition to the Sustainable Guidelines, the following steps may also be considered to ensure effective monitoring, management and control of sand mining activities:-
- Installation of CCTV camera at mining quarries and loading docks;
 - Transportation of sand by only government authorised and licensed transportation agencies;
 - Transportation of sand using only GPS enabled vehicles;
 - Installation of checkpoints on arterial roads connecting sand mining quarries;
 - Constitution of committee to monitor and keep a regular check on the mining activities of licensed mining quarries;
 - Formation of a dedicated law enforcement team to deal with the offences of illegal sand mining;
 - Periodic checks/patrolling by such law enforcement team; and

- Frequent tests be conducted to ascertain the damage to the river due to sand mining activities.

55. The Petitioner has not filed any other writ petition seeking similar reliefs before this Hon'ble Court or any other Court.

GROUND

- A. Because the non-implementation of sustainable sand mining practices, 2016, lack of an effective policy and/or mechanism to curb the illegal and indiscriminate sand mining activities has led to the rampant growth of such illegal, indiscriminate and excessive sand mining activities in the country. Inasmuch the right to life of the citizens of the country is being gravely affected as not only is the environment being adversely affected, but even the law and order situation in the country has worsened. There are frequent clashes between the protestors/farmers/ villagers etc. & the authorities and/or the goons and any person agitating or reporting against illegal river sand mining is threatened of dire consequences.
- B. Because the MoEFCC has categorized the sand mining projects upto 25 hectares as Category B2 project under the EIA Notification 2006 which do not require EIA, EMP or require public consultation before the EC is granted. In the guidelines it is observed that the same defeats the objective of the judgment passed by this Hon'ble Court and also *"does not serve the purpose of environment clearance which is to ensure environmentally sustainable and socially responsible mining"*.
- C. Because the respondents have violated the direction passed by this Hon'ble Court that mining lease and environmental clearance should only be given to those entities who have an approved mining plan from the competent authority in accordance with the regulations framed for sustainable mining. However, despite the aforesaid direction, the respondents have not made the existence of mining plan a prerequisite for obtaining a mining lease or environmental clearance. The need for having an approved mining plan has been reiterated in the Sustainable Sand Mining Management Guidelines 2016. Moreover, the Union of India has not brought into force the Minor Minerals Conservation and Development Rules, 2010, despite the clear direction passed by this Hon'ble Court in its 2012 judgment.
- D. Because section 23C of the MMDR Act, 1957 empowers state governments to frame rules to prevent illegal mining, transportation and

storage of mineral sand for purposes connected therewith. Control of illegal mining is, therefore, under the legislative and administrative jurisdiction of state governments. Inasmuch it is the onus of the State to minimize the illegal mining activities and ensure that the rules issued by them do not contain any legal loopholes of which persons can take illegal advantage of.

- E. Because despite MoEF issuing Sustainable Sand Mining Management Guidelines, 2016 has either not been adopted or implemented by the respondent states. The guidelines were formulated in consultation with the State governments and stakeholders keeping in view the need for sustainable sand mining and environmental friendly management practices in order to restore and maintain the ecology of the river and checking illegal and indiscrete mining. Issuing of Sustainable Guidelines, 2016 alone may not be sufficient to deal with the issue of illegal and indiscriminate sand mining and consequently, in addition to the Sustainable Guidelines other steps as suggested may also be considered to ensure effective monitoring, management and control of sand mining activities
- F. Because Respondent No.1 had issued an Office Memorandum dated 24th December, 2013, whereby, for river sand mining projects with mining lease of area more than 5 ha. but less than 25 ha. only manual mining was permitted and no in-stream mining was allowed. However, various news publications such as the Indian Expresses and Times of India have categorically reported that mechanised mining is carried out in areas admeasuring less than 25 ha.
- G. Because due to the lack of implementation of guidelines by the States, various sand mining scams have taken place across different parts of the country.
- H. Because the illegal sand mining activities have adversely impacted the natural ecological system of the adjoining areas. The entire Chambal river in Dhaulpur region in Rajasthan was declared a protected gharial sanctuary in 1979 and no mining is allowed along the banks of the river. But huge mounds of recently excavated sand can be seen along the banks of the river in Dhaulpur. "Some of the best nesting sites—where

the female lays eggs—have been ruined due to illegal sand mining,” says Jyoti Badkotiya, in-charge of Deori Rearing Centre for Gharial, an artificial hatchery for the critically endangered reptile in Morena district, Madhya Pradesh.

- I. Because this Hon’ble Court in the case of Deepak Kumar v. State of Haryana, reported in (2012) 4 SCC 629, *inter alia* held that leases of minor minerals, for an area less than 5 ha., as well as their renewal, was to be granted only after getting environmental clearance. This Hon’ble Court held that *“26. We are of considered view that it is highly necessary to have an effective framework of mining plan which will take care of all environmental issues and also evolve a long term rational and sustainable use of natural resources base and also the bio-assessment protocaol. Sand mining, it may be noted, may have an adverse effect on biodiversity as loss of habitat caused by sand mining will affect various species, flora and fauna and it may also destablise the soil structure of river banks and often leaves isolated islands. We find that, taking note of those techinacal, scientific and environmental matters, MoEF, Government of India, issued various recommendations in March 2010 followed by the Model Rules, 2010 framed by the Ministry of Mines which have to be given effect to, inculcating the spirit of Article 48A and Article 51-A(g) read with Article 21 of the Constitution.*

27. The State of Haryana and various other States have not so far implemented the above recommendations of MoEF or the guidelines issued by the Ministry of Mines before issuing auction notices granting short term permits by way of auction of minor minerals boulders, fravels, sand etc. in the riverbeds and elsewhere of less than 5 ha. We, therefore, direct all the States, Union Territories, MoEF and the Ministry of Mines to give effect to the recommnedations made by MoEF in its Report of March 2010 and the model guidelines framed by the Ministry of Mines, wihtin a period of six months from today and submit their compliance reports. ”

- J. Because although the present legal regime provides for certain checks (such as the mandatory requirement of Environmental Clearances), the same are not very effective on account of the fact that no strict measures have been adopted/implemented to ensure the subsequent

monitoring and control of sand mining activities. For instance, Clause 10 of the Notification dated 14th September, 2006 issued by The Ministry of Environment and Forest and Climate Change (whereby the prior Environmental Clearance was made mandatory) only mandates the submission of half-yearly compliance reports by the project management. However, no responsibility has been fastened on the Respondents to ensure that the conditions so imposed and the prevalent rules and regulations are not being flouted and the data submitted vide the compliance reports are correct and not fabricated.

K. Because illegal sand mining leads to reduction in the level of ground water available which is a violation of right to life under Article 21 of the Constitution since right to drinking water is a prerequisite to life. Sand acts as an aquifer, and as a natural carpet on the bottom of the river. Stripping this layer leads to downstream erosion, causing changes in channel bed and habitat type, as well as the deepening of rivers and estuaries, and the enlargement of river mouths. As the river system lowers, local groundwater is affected, which leads to water scarcities aggravating agriculture and local livelihoods. In terms of legal measures, ground water shortages have been noted as the patent problem with river sand mining. Less considered in legal action, but centrally relevant, experts also note substantial habitat and ecological problems, which include “direct loss of stream reserve habitat, disturbances of species attached to streambed deposits, reduced light penetration, reduced primary production, and reduced feeding opportunities”.

L. Because illegal and indiscriminate sand mining have a range of effects such as degradation of rivers, lowering the stream bottom, which may lead to bank erosion, deepening of rivers and estuaries and the enlargement of river mouths and coastal inlets. Since construction activities are happening at an escalating rate, the demand for sand has also increased and thus it is even more vital that a strict policy is formulated and implemented. Various protests and agitations are carried out on a regular basis against such mining activities but to no effect as the situation has not yet improved.

M. Because the Respondents are guilty of dereliction of duty as the Respondents despite being entrusted with the task of protection of the environment and the country's natural resources have completely failed to do so in as much as a lack of formulation and implementation of an effective mechanism for monitoring, management and control of sand mining has resulted in illegal, indiscriminate, excessive, unchecked and uncontrolled sand mining activities. Inaction/failure of the Respondents to safeguard the environment and curb the illegal and excessive mining activities is violative Article 48-A of the Constitution of India. Respondents have a duty to protect the environment as well as to ensure that the country's/state's natural resources are not abused. Needless to state that the situation can only improve with the implementation of a strict and effective mechanism/policy. Further, it is the Petitioner's fundamental duty as set out under Article 51-A (g) of the Constitution of India that it shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures.

N. Because the inaction of the Respondents resulting in non-formulation/non-implementation of sustainable sand mining practices, lack of an effective policy and/or mechanism to curb the illegal and indiscriminate sand mining activities and the rampant growth of such illegal, indiscriminate and excessive sand mining activities has also resulted in the violation of Article 21 of the Constitution of India. In the case of *M.C. Mehta vs. Union of India*, AIR 1987 1 SCC 395, it has been categorically held at Para 6 that this Hon'ble Court has a constitutional obligation to protect the fundamental rights of the people. The right to life as set out under Article 21 of the Constitution of India ought to be given the widest possible meaning and would include the right of the future generations to use and enjoy the environment. Further, indisputably the right to healthy environment is important attribute of right to live with human dignity.

PRAYERS

It is most respectfully and humbly prayed that this Hon'ble Court may be pleased to:

- a) Issue appropriate writ directing that no Environment Clearance (EC) would be accorded to any sand mining project without a proper Environmental Impact Assessment (EIA), Environmental Management Plan (EMP) and Public Consultation, and appraisal as per the EIA Notification 2006.
- b) Issue appropriate writ directing all existing sand mining lease-holders to submit for the EIA, EMP, public consultation as per the EIA Notification 2006, and direct that no mining would be allowed until the requisite environment clearance after due process is obtained.
- c) Issue appropriate writ directing the Union of India to not grant any EC for sand mining project without taking into account the cumulative impact of the sand mining in the entire area/region.
- d) Issue appropriate writ directing the respondents to make the existence of an approved Mining Plan under MMDR Act, 1957 mandatory for all sand mining projects.
- e) Issue appropriate writ directing the Union of India to bring into force Minor Minerals Conservation and Development Rules, 2010.
- f) Issue appropriate writ directing the respondents to adopt, implement and strictly enforce Sustainable Sand Mining Management Guidelines, 2016.
- g) Issue appropriate writ directing the respondents to prosecute and terminate the leases of entities who have been found to have committed illegal sand mining.
- h) Issue appropriate writ directing the CBI to register and investigate sand mining scams that have been highlighted in the present petition
- i) Issue any other appropriate writ, order or direction that that this Hon'ble Court may deem fit in the interests of justice.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER, AS DUTY BOUND,
SHALL EVER PRAY.

PETITIONER THROUGH:

PRANAV SACHDEVA
Counsel for the Petitioner

Drawn & filed on: 29.11.2018
NEW DELHI